

**CALIFORNIA COASTAL COMMISSION**

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# F16a

Filed: 1/17/24  
270<sup>th</sup> Day: 10/13/24  
Staff: S. Amitay – LB  
Staff Report: 7/25/24  
Hearing Date: 8/9/24

## STAFF REPORT: PERMIT AMENDMENT

**Application No.:** 5-91-141-A12

**Applicants:** County of Los Angeles Department of Beaches and Harbors and Gladstones Legacy Group, LLC

**Agents:** Gary Jones, Director, County of Los Angeles Department of Beaches and Harbors and Jim Harris, General Manager of Gladstones Legacy Group, LLC (dba Gladstones)

**Project Location:** 17300 Pacific Coast Highway, Pacific Palisades, City of Los Angeles, Los Angeles County and 18800 Pacific Coast Highway, Los Angeles County (adjacent to Topanga Lagoon)

**Description of Amendment:** Request for the continued use of the State-owned public beach parking lot and beachfront public viewing deck by restaurant from January 13, 2022 to January 13, 2027, implementation of a public deck and parking management plan to address previous public access violations, and reopening of a public beach parking lot adjacent to Topanga Lagoon, Los Angeles County.

**Original Project Description:** Expansion of indoor and outdoor dining areas of existing Gladstone's-for-Fish Restaurant. Erection of signs and a 300 square foot seasonal tent cover, and the placement of 320 square foot pre-fabricated storage container on a coastal bluff for restaurant dry goods storage.

**Staff Recommendation:** Approval with conditions

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## SUMMARY OF STAFF RECOMMENDATION

The applicants request the continued use of one of the Will Rogers State Beach parking lots and beach front public observation deck by the existing restaurant called Gladstones, operated by Gladstones Legacy Group, LLC under a concession agreement with Los Angeles County, from January 13, 2022 to January 13, 2027. The term of the underlying permit for the restaurant's use of the parking lot and deck, as authorized through previous amendments, expired on January 13, 2022. In order to better implement requirements of the existing coastal development permit (CDP) and improve public access, the applicants also propose implementation of a public deck management plan and a parking management plan.

Violations of the Coastal Act have occurred on the subject site including, but not necessarily limited to, interference with public access to the public viewing deck, as well as excluding the public from using the deck when it is closed for private use/events; valet operators not parking two vehicles in tandem spaces (thereby reducing the number of vehicles that can use the lot); the removal of required signs and the addition of unapproved signs; the allocation of public parking spaces in the public parking lot for certain visitors; submittal of incomplete parking monitoring data; and an increase in parking rates inconsistent with the terms and conditions of the underlying CDP, as previously amended.

As a result of the onsite violations and the associated impacts to public access, Commission staff worked closely with the applicants to develop public deck and parking management and public access signage plans to correct the non-compliance moving forward and, moreover, in order to improve public access, to expand public parking hours and limit public parking rates. In addition, the applicants propose to improve for public use and reopen an existing dirt public parking lot located adjacent to, and west of, Topanga Lagoon, seaward of the Santa Monica Mountains area of Los Angeles County, approximately two miles upcoast from the Gladstones site ([Exhibit 8](#)). The parking lot is proposed to have 53 parking spaces that will charge parking rates in accordance with the going rates of the Los Angeles County Department of Beaches and Harbors (LADBH) parking lot located on the east side of Topanga Lagoon (18700 Pacific Coast Highway).

As the restaurant is currently located on and uses public lands, the key Coastal Act issues raised by the restaurant's ongoing use of the public parking lot and public observation deck are the potential impacts to public access to the coast. To minimize and mitigate these impacts, staff recommends modifications to the underlying conditions resulting in thirteen special conditions.

**Special Condition 1** extends the restaurant's use of the parking lot and public observation deck term for five years after Commission approval (until August 9, 2029), or until the restaurant is redeveloped and reopened to the public pursuant to a future CDP, whichever comes first. During this term, the restaurant operator and LADBH are responsible for conducting a parking lot and beach access monitoring program to assess potential access

impacts. To minimize impacts to visual resources, **Special Condition 2** requires the restaurant to screen the existing storage container. **Special Condition 3** requires that the public restrooms remain available to the public at the Gladstones site, especially beach users, and that the portable restrooms further downcoast within Will Rogers State Beach be maintained in good condition at all times. **Special Condition 4** requires a new CDP or CDP amendment for future improvements. **Special Condition 5** is reserved and reincorporated as specific timing requirements for the applicants to satisfy the conditions imposed by this permit, as amended. **Special Condition 6** maintains the requirement that the applicants work jointly with the City of Los Angeles to develop a feasible route and design for the Pacific Coast Beach Bike Path. **Special Condition 7** requires the restaurant to implement a public deck management program to enhance public access to the public deck including new table signage welcoming guests to Will Rogers State Beach and the public viewing deck, and prohibits the installation of a host stand at the entrance of the public deck. **Special Condition 8** maintains the requirement that the restaurant have a seating capacity of no more than 707 seats including indoor and outdoor seating to prevent further expansion of the private restaurant use. **Special Condition 9** requires the applicants to incorporate several parking management requirements to enhance public access to the coast including early-bird parking and dedicating lanes to self-park visitors. To record the changes to the parking lot, **Special Condition 10** requires the applicant to provide a revised site plan of the parking lot layout with each parking space identified, including the tandem spaces, the total available parking spaces and the identification of the self-park and valet lanes. **Special Condition 11** requires the applicants to submit a signage and monitoring plan to prioritize and enhance public awareness of the public amenities onsite. To minimize the risk of marine debris, **Special Condition 12** requires the applicant to submit and implement a Plastic Pollution Reduction Plan, which includes a service plan for trash bins downcoast of the Gladstones site. Finally, **Special Condition 13** memorializes the applicants' plan to reopen the LADBH parking lot adjacent to Topanga Lagoon to the general public, until such time that parking lot is redeveloped as part of the larger Topanga Lagoon restoration effort in the future.

Staff believes that, as conditioned, the restaurant's temporary ongoing use of the public parking lot and public observation deck is consistent with the Chapter 3 policies of the Coastal Act. Staff also believes that, as conditioned, the Topanga Lagoon Parking Plan is consistent with the Santa Monica Mountains LCP and the Chapter 3 public access and recreation policies. Thus, staff recommends **APPROVAL** of the amendment request, as conditioned to enhance public access and ensure the restaurant complies with all previously approved conditions of the permit, as amended. The motion and resolution can be found on Page 5.

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### EXHIBITS

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

[Exhibit 2 – Site and Project Plans](#)

[Exhibit 3 – Site Visit Photos](#)

[Exhibit 4 – Public Deck Entrance Locations](#)

[Exhibit 5 – PCH Deck](#)

[Exhibit 6 – Public Observation Deck](#)

[Exhibit 7 – Driveway Lanes](#)

[Exhibit 8 – Topanga Lagoon Parking Plan](#)

[Exhibit 9 – Comment Letter from Surfrider Foundation \(dated July 22, 2024\)](#)

## I. MOTION AND RESOLUTION

### Motion:

I move that the Commission approve the proposed amendment to Coastal Development Permit 5-91-141 pursuant to the staff recommendation.

Staff recommends a **YES** vote. Passage of this motion will result in approval of the 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 a coastal development permit amendment on grounds that the development, as amended and subject to conditions, will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

## II. STANDARD AND SPECIAL CONDITIONS

**NOTE:** Appendix B, attached, includes all standard and special conditions that apply to this permit, as approved by the Commission in its original action and modified and/or supplemented by all subsequent amendments, including this amendment number 5-91-141-A12. All of the Commission's adopted special conditions, and any changes in the project description proposed by the permittees and approved by the Commission in this or previous actions, continue to apply in their most recently approved form unless explicitly changed in this action. Modifications to existing conditions imposed in this action on CDP Amendment 5-91-141-A12 are shown in the following section. Appendix B includes one set of adopted special conditions.

Unless specifically altered by this amendment, all regular and special conditions attached to Coastal Development Permit 5-91-141, as amended, remain in effect. Some existing conditions are relocated, revised, or renumbered to clarify requirements. Language to be deleted is shown in ~~**bold**~~ and new language is shown in **bold, underlined**.

**SPECIAL CONDITIONS**

**1. Approval Term Limit and Beach Access Monitoring Program [Imposed under 5-91-141, amended by A1, A2, A4, A5, A6, A8, A9 and A12]**

The term of this amended permit is limited to a ~~five year~~ term commencing January 13, 201722, and terminating ~~January 13, 2022~~ August 9, 2029, or until the restaurant is redeveloped and reopened to the public, whichever occurs first.

During the entire ~~five year~~ term the restaurant or its contracted parking lot operator must conduct a parking lot and beach access monitoring program to determine the ability of the public to use the public parking lot adjacent to the restaurant for beach access during peak beach use days and hours. The monitoring program shall be conducted at 11 a.m., 1 p.m., and 3 p.m. daily on all Saturdays, Sundays, and holidays between May 1st and October 30th of each year. The monitoring report shall include the **following**:

- ~~A. The~~ total number of cars parked in the public parking lot.
- ~~B. A parking lot layout showing what spaces are physically filled at the given time. Spaces that are double parked by the valet shall be shown as tandem spaces (e.g., one car parked in a space capable to accommodate two cars using the valet should show one filled space and one vacant space).~~
- ~~C.~~ The monitoring figures shall be submitted annually to the Commission's South Coast District office ~~at the end of each month by December 31st for the duration of the applicable term limit of the permit of the program~~ for placement in Coastal Development Permit file 5-91-141-A612. Failure to submit the program's figures in a timely manner will constitute a violation of this condition.
- ~~D.~~ Prior to the end of the ~~five year~~ term, the applicants may request an amendment to Coastal Development Permit 5-91-141-~~A6~~ in order to extend the Commission's approval for an additional term. The Commission will then reexamine the project's effects on coastal resources and public access, using the figures obtained from the ~~beach public~~ access monitoring program, to determine whether an extension of the permit term is consistent with the Chapter 3 policies of the Coastal Act.

**2. ~~Parking Lot Operations [Imposed under 5-91-141 and reincorporated by A12 into Special Condition 9]~~**

~~The applicants shall provide a valet parking service for the state park and restaurant parking lot during all restaurant operating hours in order to maximize the available parking spaces and enhance public beach access.~~

**3. Signage [~~Imposed under 5-91-141 and reincorporated by A12 into Special Condition 11~~]**

~~Prior to the issuance of a Coastal Development Permit, the existing large parking lot sign at the entrance of the parking lot must be removed. A new sign, approved by Commission staff, must be erected which states: "Public Parking for Will Rogers State Beach and Gladstone's 4-Fish Restaurant", and may not say: "Private Property No Trespassing". All signs on the property, except for the existing main neon-lighted sign, must conform to the sign condition of Coastal Permit P-B1-7894, which states:~~

~~"No signs shall be higher than 12 feet above average finished grade, and their total dimensions shall not exceed 3 feet by 6 feet. The signs shall not be visible from the highway (except for the parking lot entrance sign), but from the beach."~~

**4.2. Storage Container [~~Imposed under 5-91-141~~]**

Prior to issuance of a Coastal Development Permit, the applicant shall provide landscaping to screen the storage container located at the western end of the restaurant on the coastal bluff. The landscaping may be in the form of potted plants. Compliance with this condition shall be confirmed by Commission staff.

**5. ~~Public Deck~~ [~~Imposed under 5-91-141, reincorporated by A12 into Special Condition 7~~]**

~~The applicants shall not deny access to any persons (excepting those conducting illegal activities) who wish to utilize the public observation deck at the state park. The public deck area should be posted with small (8.5"x11") signs which indicate that the deck is for public use. Managers and employees of the restaurant should be informed that the deck is for public use.~~

**6.3. Public Restrooms [~~Imposed under 5-91-141, amended by A12~~]**

Public restrooms must remain available to public at the Gladstones site, especially beach users. ~~The public restrooms shall be posted with signs that indicate that the restrooms are available for public use. Additionally, any portable public restrooms managed by the County serving Will Rogers State Beach in the vicinity of the project site shall be consistently maintained in good working order.~~

**7.4. Future Improvements [~~Imposed under 5-91-141, amended by A3 and A12~~]**

~~Prior to issuance of a Coastal Development Permit, the restaurant operators shall submit a Written Letter of Agreement, in a form and content acceptable to the Executive Director, which provides that Coastal Development Permit 5-91-141 is for the approved development only, and that any future additions, intensifications, or improvements to the property or restaurant will require a new Coastal Development Permit from the Coastal Commission or its successor agency. This permit is only for the development described in coastal development permit (CDP) 5-91-141, as amended through A12. Pursuant to Title 14 California Code of Regulations (CCR) Section 13253(b)(6), the exemptions otherwise provided in Public Resources Code (PRC) Section 30610(b) shall not apply to the development governed by the CDP 5-91-141, as amended through A12. Accordingly, any future improvements to the development authorized by this permit, as amended through A12, shall require an amendment to CDP 5-91-141 from the Commission or shall require an additional CDP from the Commission or from the applicable certified local government. In addition thereto, an amendment to CDP 5-91-141 from the Commission or an additional CDP from the Commission or from the applicable certified local government shall be required for any repair or maintenance identified as requiring a permit in PRC Section 30610(d) and Title 14 CCR Sections 13252(a)-(b).~~

~~8.5. Condition Compliance [Imposed under 5-91-141, amended by A4 and A5, and reincorporated by A12 as condition compliance timing requirements in Special Conditions 7, 9, 10, 11, 12, and 13]~~

~~[Reserved]~~

~~9.6. Pacific Coast Beach Bike Path [Imposed under 5-91-141-A2]~~

~~The applicants shall **agree to** work jointly with the City of Los Angeles to develop a feasible route and design for the Pacific Coast Beach Bike Path for that portion of the path which passes by or through the site.~~

~~10.7. Public Deck Management Program [Imposed under 5-91-141-A3, amended by A12]~~

~~Prior to issuance of a coastal development permit, ~~t~~he applicant permittees shall implement ~~submit~~ a public deck management program, ~~subject to the review and approval of the Executive Director~~, that protects the rights of the public to enter and be seated on the public viewing deck.~~

~~WITHIN 30 DAYS OF COMMISSION APPROVAL OF THIS COASTAL DEVELOPMENT PERMIT AMENDMENT, the applicants shall submit a revised public deck management program that ~~program shall~~ incorporate the following:~~

~~A. Signage shall be placed at the outdoor entrance to the deck area from the parking lot to indicate that:~~



- ~~i. The outdoor deck is a public viewing deck~~
  - ~~ii. The location of the public deck~~
  - ~~iii. Food or beverage purchase is not required. It may say that food service is available.~~
- ~~A. The sign-up (host/hostess stand) shall be located at the outdoor entranceway the deck area from the adjacent parking lot (See Exhibit E). The restaurant shall not install a host stand at the entrance of the public deck area (Exhibit 4), and public deck visitors shall not be required to check in to sit at the public deck.~~
  - ~~B. The applicant shall use no more than one sign-up list. That list will not distinguish between food customers and people who want to visit the deck for viewing.~~
  - B. The permittees shall not deny access to any persons (excepting those conducting illegal activities) who wish to utilize the public observation deck at the state park.**
  - C. No table settings for dining shall be placed on the public deck tables unless food service is requested by a visitor.**
  - D. The public deck shall not be reserved or rented for dining or semi-private or private events. Any language inferring the public deck may be reserved or rented must be removed from the premises and the restaurant website. The restaurant website shall state: "No reservations or rental bookings of the public deck and parking areas are permitted."**
  - E. No lines or queues for restaurant dining shall impede the entrances to the public deck or the beach access path adjacent to the public deck and parking lot.**
  - F. The public deck hours and a photo of the public deck shall be included on the restaurant website. The restaurant website shall state, "The public deck remains open to the public for passive recreation use (no purchase required) and outdoor dining."**
  - G. Restaurant staff shall be trained on the public deck management program upon hire and twice a year thereafter. Evidence of such training shall be submitted annually to the South Coast District office.**

- H. The public observation deck area consists of approximately 3,100 square feet of outdoor ocean-fronting deck area located between the sandy beach and the restaurant.
- I. The restaurant shall conduct a deck monitoring program to determine the ability of the public to use the public observation deck for public recreation during peak beach use days and hours. The monitoring program shall be conducted on all Saturdays, Sundays, and holidays between May 1<sup>st</sup> and October 30<sup>th</sup> of each year. The monitoring report shall include the dates visitors (non-restaurant patrons) occupied the public observation deck during the monitoring period. The monitoring report shall be submitted annually to the Commission's South Coast District office by December 31st for the duration of the applicable term limit of the permit for placement in the Coastal Development Permit file 5-91-141-A12. Failure to submit the monitoring report in a timely manner will constitute a violation of this condition.

Strict compliance with the final approved public deck management program by the restaurant concessionaire is required. Failure to comply with any term or condition of the revised public deck management program, including any deadline contained in the program, unless the Executive Director grants an extension, will constitute a violation of this permit and shall result in the non-compliant party or parties being liable for stipulated penalties in the amount of \$500 per day per violation. The non-compliant party or parties shall pay stipulated penalties within 15 days of the date of the written demand by the Executive Director of the Commission for such penalties, regardless of whether the non-compliant party subsequently complies.

~~11. Revised plans [Imposed under 5-91-141-A3]~~

~~Prior to issuance of a coastal development permit, the applicant shall submit revised plans that indicate the following;~~

- ~~A. The restaurant will have a seating capacity of no more than 707 seats. That includes all indoor and outdoor seating including seating on the viewing deck.~~
- ~~B. The plans shall indicate the location of the signs and the proposed host/hostess stand.~~

~~128. Site Visit Seating Capacity [Imposed under 5-91-141-A3, amended by A12]~~

~~Prior to issuance of a coastal development permit, the Executive Director shall certify in writing that:~~

a) ~~The restaurant applicant has shall have a seating capacity of no more than removed all seats that are in excess of a total of 707 seats, including (indoor and outdoor seating on the public deck).~~

b) ~~The applicant has placed all signs required in the Commission's prior actions.~~

~~The total number of seats and the adequacy of signage shall be verified by coastal Commission staff before permit may issue.~~

~~13. Prior Conditions [Imposed under 5-91-141-A4, amended by A5 and A6, and reincorporated by A12 into Special Condition 4]~~

~~Unless specifically altered by this amendment, all conditions imposed on the previously approved permit and/or amendments thereto shall remain in effect (See Exhibits No. 4 through 9).~~

~~14.9. Will Rogers State Beach Public Parking Lot [Imposed under 5-91-141-A4, amended by A5, A6, and A12]~~

~~Prior to the Issuance of the Coastal Development Permit amendment, UPON COMMISSION APPROVAL OF THIS COASTAL DEVELOPMENT PERMIT AMENDMENT, the applicant/permittees shall incorporate agree in writing, for the review and approval of the Executive Director, to the following parking management requirements:~~

A. ~~The public parking lot shall remain open to the general public. No exclusive right shall be given to any patron of the beach parking lot, including, but not limited to, employees or patrons of Gladstones-4-Fish-R the restaurant. No "private property" signs shall be located anywhere in the public parking lot.~~

B. ~~Valet parking signs shall be allowed on the subject property. The valet signs shall be placed in a conspicuous location and indicate that both valet and self parking are available. The permittees shall provide a valet parking service for the state park and restaurant parking lot to maximize the available parking spaces and enhance public beach access. Valet service shall be available during the operating hours of the lot.~~

~~C. Parking Management~~

C. ~~The parking valet shall utilize the "tandem" parking spaces before parking vehicles in the "single" spaces. Non-valet visitors shall pay the appropriate parking fee at the parking kiosk and be directed to park in a "single" space. If the "single" spaces are filled, a parking valet shall park additional vehicles in a tandem space at no additional cost.~~

- ~~D. The permittee shall undertake development in accordance with the approved final plans. 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.~~
- D. The parking lot shall open no later than 6 a.m. and shall close no earlier than 9 p.m. year-round. Early-bird parking from 6 a.m. to 9 a.m. may be provided as self-parking.
- E. The parking rate structure shall be as shown in [Exhibit 2](#). The maximum valet rate shall be \$13 on weekdays and \$15 on weekends.
- F. The public parking lot hours and the parking rate shall be stated on the restaurant's website and valet kiosks.
- G. Any change to the parking lot hours or the parking rate shall require a new CDP amendment.
- H. Valet operators must use any available tandem spaces before using single spaces. Parking cones may only be placed around the "tandem" parking spaces to reserve spaces for valet operators to park cars in those spaces.
- I. Half of the driving lanes shall be dedicated to self-park visitors.
- J. Valet staff shall be informed of the parking lot management program upon hire and twice a year thereafter. Evidence of such training shall be submitted annually to the South Coast District Office.
- K. If the restaurant closes and ceases operations prior to the end of the authorized term, the parking lot shall remain open and operate in a manner similar to other public beach lots.

**15. Revised Signage Plan [Imposed under 5-91-141-A4 and reincorporated by A12 into Special Condition 11]**

- ~~A. The "Gladstone's" archway sign is not approved and the applicant is required to remove it.~~
- ~~B. Prior to issuance of the Coastal Development Permit amendment, the applicant shall submit a signage plans for the review and approval of the Executive Director. The signage plans shall eliminate all "private property" signs from the public deck and the public parking lot. As proposed, the applicants shall remove the "Gladstone's" painted signs located on the~~

~~public viewing deck facing the State Beach from the signage plan and also as proposed, place a public access/public deck sign on one of the pillars supporting the "Gladstone's" archway sign. In addition, the applicants shall place a public access/public deck sign on the second pillar supporting the "Gladstone's" archway sign. Finally, the signage plan shall include public parking lot signs visible from both eastbound and westbound traffic along Pacific Coast Highway.~~

- ~~C. The permittee shall undertake development in accordance with the approved final plans. 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 required.~~

**16.10. Revised Site Plans *[Imposed under 5-91-141-A5, amended by A12]***

~~**A. PRIOR TO ISSUANCE WITHIN 90 DAYS OF COMMISSION APPROVAL OF THIS COASTAL DEVELOPMENT PERMIT AMENDMENT**, the applicants ~~shall will~~ submit, for the review and written approval of the Executive Director, a revised site plan showing ~~the elimination of the storage container.;~~~~

- ~~A. A maximum seating capacity of 707 seats for indoor and outdoor seating combined.~~
  - ~~B. The parking lot layout with each parking space including the "tandem" spaces identified, the total available parking spaces including the "tandem" spaces, and the self-park and valet lanes identified.~~
  - ~~C. Removal or relocation of the host stand away from the parking lot including, for example, relocation indoors or, as shown in [Exhibit 4](#), near the second entrance to the public deck.~~
- ~~**B. D.** The permittees shall undertake the development in accordance with the approved plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.~~

**11. Signage and Monitoring Plan *[Imposed under 5-91-141-A12]***

~~**WITHIN 90 DAYS OF COMMISSION APPROVAL OF THIS COASTAL DEVELOPMENT PERMIT AMENDMENT**, the applicants shall submit a Signage and Monitoring Plan, for the review and written approval of the Executive Director. The restaurant shall implement a Signage and Monitoring Plan to prioritize and enhance public~~

**awareness of the amenities available to the public. The Signage and Monitoring Plan shall include the following:**

- A. The size, language, location, and mock-up of all signs relating to coastal access, the public deck, the parking lot, valet, and the public restrooms.**
- i. One large sign shall be placed on the interior of the parking lot that states “Public Parking for Will Rogers State Beach and Gladstones” and the top of the sign shall be no higher than 12 feet above average finished grade, and dimensions shall not exceed 3 feet by 6 feet, except as specifically set forth in this condition.**
  - ii. A minimum of two directional signs shall be placed on the interior of the parking lot, one near the entrance to the parking lot and another near the restaurant prior to the lane splits. Each sign shall indicate which lanes are for “Self-Park” and which lanes are for “Valet”, and they shall indicate the applicable parking rates and hours.**
  - iii. Signs shall be placed in a conspicuous location at each kiosk on 2’ x 3’ signs, and each sign shall state: “Public Parking for Will Rogers State Beach and Gladstones Restaurant. Choose either Self-Parking or Valet. See parking attendant and posted signs for rates. Lot Hours: 6 a.m. to 9 p.m.”**
  - iv. Two 3’ x 2’ signs shall be attached to the public deck railing next to each side of the outdoor entrance to the deck area closest to the parking lot and four additional signs shall be attached to the public deck railing fronting the beach. The public deck railing signs shall say “Free Public Observation / Picnic Deck This Way – No Purchase Required” with a directional arrow pointing to the entrance of the deck area. No restaurant branding (e.g., “Gladstones” flags) is allowed on the public deck or public parking lot, except as specifically set forth in this condition.**
  - v. The public restrooms shall be posted with signs that indicate that the restrooms are available for public use. The public restroom signs shall state: “Public Restroom – No Purchase Required.”**
  - vi. A small table sign on each table in the public deck area shall say “Welcome to the Will Rogers State Beach Public Observation / Picnic Deck – No Purchase Required” and shall be visible at all times.**
- B. Only signs specifically included in this condition and/or in the final approved Signage and Monitoring Plan are allowed.**

- C. All signs shall be permanently installed except for the valet kiosk signs.
- D. The existing public access/public deck sign on the two pillars at the entrance to the restaurant from the parking lot shall be retained.
- E. The existing main neon-lighted sign is allowed to remain as is.
- F. Signage may not say “Private Property” or “No Trespassing.” The tops of all signs on the property shall be no higher than 12 feet above average finished grade, and their total dimensions shall not exceed 3 feet by 6 feet.
- G. To ensure compliance with the approved signage program, time-stamped photographic evidence of all signs must be submitted annually to the Commission's South Coast District office by December 31st for the duration of the applicable term limit of the permit for placement in Coastal Development Permit file 5-91-141-A12.
- H. The permittees shall undertake development in accordance with the approved Signage and Monitoring Plan. Any proposed changes to the approved Signage and Monitoring Plan shall be reported to the Executive Director. No changes to the Signage and Monitoring Plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

**12. Plastic Pollution Reduction Program [Imposed under 5-91-141-A12]**

**WITHIN 90 DAYS OF COMMISSION APPROVAL OF THIS COASTAL DEVELOPMENT PERMIT AMENDMENT, the permittees 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, single-use plastic items and expanded polystyrene foodware, containers, and packaging). The plan shall include at a minimum, all of the following, and the applicants shall implement the approved version of the plan:**

- A. The permittees shall install and maintain smoke-free signage in all rooms and/or areas of the restaurant.
- B. The permittees 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. Adhere to the following criteria:
  - i. Only use reusable foodware (including dinnerware, drinkware, silverware, and ramekins/containers) for on-site dining, specifically

- prohibiting the use of single-use 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 items (aka Styrofoam).
  - iv. Prohibit the use of plastic bags on-site or for takeout/to-go orders.
  - v. Only provide single-use utensils, straws, condiments, containers, and other accessory items made from naturally occurring materials upon request for takeout/to-go orders. Alternatively, implement a reusable take-out program.
  - vi. Prohibit the sale of all beverages in plastic bottles.
  - vii. Follow proper recycling (and composting, if available) practices.
- D. All waste resulting from restaurant activities should be exported outside the Coastal Zone.
- E. 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 Commission’s approval of this CDP amendment, the permittees shall participate in an established program to reduce waste and single-use plastic foodware and packaging on-site and for takeout orders. The applicants shall be responsible for the fees needed to participate in the program.
- F. The permittees shall provide an annual report for the review and approval of the Executive Director of the Coastal Commission, program scope and metrics, and total outcome of the selected program referenced in Section E. The report shall be provided annually, no later than December 31st, for the preceding calendar year and shall be provided for the lifetime of the development.
- G. The permittees shall provide a service plan for recycling, trash bins, and compost within the Gladstones site and along the road shoulder further downcoast within Will Rogers State Beach. The plan shall specify the amount of trash and recycling bins in the area, 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 overfilled bins that might result in adverse impacts to nearby natural resources.

- H. No changes to the approved plan shall occur without a Commission amendment to this coastal development permit or a new coastal development permit, unless the Executive Director determines that no amendment or new permit is legally required.

**13. Topanga Lagoon Parking Plan [Imposed under 5-91-141-A12]**

A. Revised Final Plans. WITHIN 90 DAYS OF COMMISSION APPROVAL OF THIS COASTAL DEVELOPMENT PERMIT AMENDMENT, the applicants shall submit, for the review and written approval of the Executive Director, two (2) sets of revised final plans for the parking lot adjacent to Topanga Lagoon that have been reviewed by the County of Los Angeles and substantially conform with the preliminary plans submitted by the County of Los Angeles, Department of Beaches and Harbors on July 24, 2024, except that they shall be modified as required below:

- i. Plans shall include final materials for all stall surfacing, delineation, and signage.
- ii. Provide a minimum 50-foot setback between the top of the bank of Topanga Lagoon and any proposed parking spaces and surfaces, as depicted on [Exhibit 8](#) of this staff report.
- iii. Ensure that the proposed parking aisle allows for safe ingress and egress of vehicles that avoids the 50-foot Lagoon setback outlined in (ii) above, as depicted on [Exhibit 8](#) of this staff report.
- iv. All parking spaces and surfaces shall be located 10 feet or more from the bluff edge, and no parking spaces or surfaces shall result in the removal or alteration of major vegetation (as determined by the Executive Director), including trees and shrubs located near or on the bluff.
- v. Any storage or staging of materials or equipment associated with this development shall be located outside the Lagoon and bluff setback areas.
- vi. The proposed parking lot may be expanded to encompass areas outside the 50-foot Lagoon setback (ii. above) and 10-foot bluff setback (iv. above). The parking lot shall contain no fewer than 53

spaces and shall remain operational and open to the public until and unless superseded by a future CDP.

- vii. A vehicular safety fence or gate with shallow footings no taller than 5 feet in height may be located landward of the 50-foot Lagoon setback in (ii) above in order to restrict vehicular access to the existing emergency vehicle access ramp and helicopter landing area, provided that it shall allow openings for pedestrian access and shall not adversely impact public views to the ocean or Lagoon.
  - viii. Remnants (e.g., retaining walls, stairs, foundations) of previous residential uses within the parking lot site may be demolished and removed to the extent necessary to complete construction and ensure operational safety. Where remnants are buried and require excavation, the applicants shall implement the Tribal Cultural Resource Treatment and Monitoring Plan in (E) below.
  - ix. All areas disturbed/affected by construction activities not occupied by new development shall be re-vegetated with drought tolerant plants native to the Santa Monica Mountains region for habitat enhancement and erosion control purposes. No permanent irrigation of any kind shall be permitted after establishment of plantings.
- B. Runoff Control Plans. WITHIN 90 DAYS OF COMMISSION APPROVAL OF THIS COASTAL DEVELOPMENT PERMIT AMENDMENT, the applicants shall submit for the review and written approval of the Executive Director runoff control plans prepared by a licensed engineer that incorporate Best Management Practices (BMPs), designed to reduce both the volume and pollutant load of runoff from the proposed development to the maximum extent practicable. The plans shall be in conformance with the following requirements:**
- i. During and after construction, development shall minimize site runoff and erosion through the use of BMPs and shall minimize the discharge of sediment and other potential pollutants resulting from construction activities (e.g., chemicals, vehicle fluids, petroleum products, cement, debris, and trash) into Topanga Lagoon or open coastal waters, or the public beach.
  - ii. Opportunities for directing runoff to permeable spaces for infiltration shall be utilized to the maximum extent practicable. Where this is infeasible, maintain post-development peak runoff rate and average volume at levels that are similar to pre-development levels.

- iii. Development shall minimize soil compaction to retain the natural stormwater infiltration capacity of the soil.
- iv. Appropriate site design, source control and treatment control BMPs shall be implemented to minimize the amount of polluted runoff from all surfaces and activities on the development site.
- v. Development shall implement soil stabilization BMPs (such as mulching, soil binders, erosion control blankets, or temporary re-seeding) on graded or disturbed areas as soon as feasible during construction, where there is a potential for soil erosion to lead to discharge of sediment off-site or to coastal waters.
- vi. The use of erosion and sediment control products (such as mulch/compost, fiber rolls, erosion control blankets, mulch control netting, and silt fences) that incorporate recycled plastic or plastic netting (such as polypropylene, nylon, polyethylene polyester, or other synthetic fibers) is prohibited, in order to minimize wildlife entanglement and plastic debris pollution.
- vii. Post-construction structural BMPs (or suites of BMPs), must be designed to treat, infiltrate or filter the amount of storm water runoff produced by all storms up to and including the 85th percentile, 24-hour storm event for volume-based BMPs, and/or the 85th percentile, 1-hour storm event, with an appropriate safety factor (i.e., 2 or greater), for flow-based BMPs.
- viii. Conduct fueling and maintenance of construction equipment and vehicles off site if feasible. No heavy machinery shall be allowed within the setback areas required in (A) or on the beach. Any fueling and maintenance of mobile equipment conducted on site shall take place at a designated area located at least 50 feet from coastal waters, drainage courses, and storm drain inlets, if feasible (unless these inlets are blocked to protect against fuel spills). The fueling and maintenance area shall be designed to fully contain any spills of fuel, oil, or other contaminants. Equipment that cannot be feasibly relocated to a designated fueling and maintenance area (such as cranes) may be fueled and maintained in other areas of the site, provided that procedures are implemented to fully contain any potential spills.
- ix. Covered trash receptacles and, if smoking is allowed on the property, cigarette butt disposal receptacles shall be included.

- C. Parking Rates. If a parking fee is demonstrated to be required in order to operate and maintain the lot, then the parking rate shall be no more than the Commission-approved parking rates at the existing parking lot located on the opposite side of Topanga Lagoon, pursuant to CDP 4-01-227. All parking spaces shall be self-parked, and no valet shall be allowed. If pay and display stations, staffed kiosks, or other physical structures are proposed to collect parking fees, they shall be included in the revised final plans pursuant to (A) above, and to the extent feasible, an hourly payment option shall be provided.
- D. Nesting Bird Monitoring and Avoidance Plan. WITHIN 90 DAYS OF COMMISSION APPROVAL OF THIS COASTAL DEVELOPMENT PERMIT, the applicants shall submit to the Executive Director for review and written approval, a Nesting Bird Monitoring and Avoidance Plan that shall include but not be limited to the following provisions: if project activities must occur during bird nesting season (February 1 through September 15), a qualified biologist, with experience conducting bird surveys, shall survey for active nests within 7 days prior to commencement of project activities, and once a week thereafter during construction, to detect any such activity within 500 feet of the project area. If an active songbird nest(s) is located within 300 feet of construction activities (500 feet for raptors), the qualified biologist shall halt construction activities to enable the applicants to employ best management practices (BMPs) to ensure that construction activities do not disturb or disrupt nesting activities. Noise levels at active nest sites must not exceed 65 dB unless a noise study has determined that ambient noise in the immediate area exceeds that level. If this is the case, noise levels at the nest site must not exceed the ambient noise level measured. Noise reducing BMPs may include using alternative equipment, equipment noise buffering, sound blankets, etc. Alternatively, construction activities and schedules may be adjusted to avoid active nest areas until the respective young birds have fledged. Unrestricted construction activities may resume when no active nests remain in the construction area. Results of nesting bird surveys, ambient noise surveys, and any follow-up construction avoidance measures shall be documented in monthly reports by the qualified biologist and submitted to the Coastal Commission Executive Director throughout the bird breeding season.
- E. Protection of Archaeological and Tribal Cultural Resources. The permittee shall undertake development in compliance with the following mitigation measures to protect archaeological, including tribal cultural resources:

- i. **AT LEAST ONE MONTH PRIOR TO COMMENCEMENT OF ANY GROUND-DISTURBING CONSTRUCTION ACTIVITIES, the permittee shall (a) notify in writing, email, and/or phone calls, as necessary, the representatives of Gabrieleño-affiliated and Chumash Native American Tribes listed on an updated Native American Heritage Commission (NAHC) contact list for the area; (b) invite all affiliated Tribal representatives on that list to be present and to monitor ground-disturbing activities; and (c) 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. A qualified archaeologist means an individual who meets the Secretary of the Interior’s Professional Standards for an Archaeological Principal Investigator and/or is listed as Registered Professional Archaeologist. 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. Evidence of written notification shall be made available to the Executive Director upon request.**
- ii. **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 (iv) hereof, and the permittee shall retain a qualified archaeologist and a tribal cultural resource specialist qualified to analyze the significance of the find in consultation with the Gabrieleño-affiliated and Chumash Native American Tribes listed on the NAHC list. Significance testing may be carried out only if acceptable to the affected Native American Tribe(s), in accordance with a Significance Testing Plan. The specialist(s) shall immediately notify the affiliated 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.**
- iii. **Should human remains be discovered on-site during the course of the project, immediately after such discovery, the on-site archaeologist and Native American monitor(s) 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. An “exclusion**

zone” may be established around the discovery area. If the county coroner determines that the human remains are those of a Native American, the coroner shall contact the NAHC within 24 hours, pursuant to Health and Safety Code Section 7050.5. The NAHC shall deem the Native American most likely descendant (MLD) to be invited to participate in the identification process pursuant to Public Resources Code Section 5097.98. The permittees shall comply with the requirements of Section 5097.98 and work with the MLD person(s) to preserve the remains in place, move the remains elsewhere onsite, relinquish the remains to the descendants for treatment, or determine other culturally appropriate treatment. Within five (5) calendar days of notification to NAHC, the permittee shall notify the Coastal Commission’s Executive Director of the discovery of human remains and identify any changes to the proposed development or mitigation measures that may be needed related to the inadvertent discovery. The Executive Director shall maintain confidentiality regarding the presence of human remains on the project site. The Executive Director shall determine whether the identified changes are de minimis in nature and scope.

- iv. A permittee seeking to recommence construction within an exclusion zone (excluding the discovery of human remains, which shall follow Section 5097.98 as noted in (iii) above), following discovery of the archaeological resources shall submit a Supplementary Archaeological Plan (SAP) prepared by the project archaeologist in consultation with the Gabrieleño-affiliated Native American Tribes listed on the NAHC list for the review and written approval of the Executive Director. If there is disagreement regarding the method(s) of protection of resources, the methods that are most protective of coastal resources shall be selected. 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.

- F. Compliance. Within 7 months of approval of this CDP amendment, the permittees shall undertake development in accordance with the approved final plans, unless the Executive Director grants an extension for good cause. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved plan shall occur without a Commission amendment to this coastal development permit or a new coastal development permit, unless the Executive Director determines that no amendment or new permit is legally required.**

### **III. FINDINGS AND DECLARATIONS**

#### **A. Project Description, Location, and Background**

The applicants request an amendment to Coastal Development Permit 5-91-141 for the continued use of the existing public parking lot and beach front public observation deck for shared restaurant use from January 13, 2022 to January 13, 2027. The term of the underlying permit as amended previously, expired on January 13, 2022. In addition, the applicants propose a public deck management plan and a parking management plan in order to better implement previous CDP requirements and improve public access. Further, the applicants are proposing to offer additional public parking (53 spaces) and associated safety fencing in a previously closed lot adjacent to Topanga Lagoon. Pavement and other proposed hardscape is necessary to ensure that the proposed parking spaces are compliant with the American with Disabilities Act (ADA) and the County's design requirements.

#### **Project Location**

Gladstones,<sup>1</sup> a private restaurant concession with a public observation deck, and the adjacent public beach parking lot located at 17300 Pacific Coast Highway, are located within Will Rogers State Beach in the Pacific Palisades area of the City of Los Angeles in Los Angeles County ([Exhibit 1](#)). The restaurant is situated in the middle of the four-mile-long State beach bordered by Topanga State Beach on the northwest and Santa Monica State Beach on the southeast. Will Rogers State Beach is an easily accessible beach area. Regional connectors, such as the I-10 Freeway and Sunset Boulevard, link inland areas directly to PCH and the beach. The subject parking lot adjacent to Gladstone's is one of the five large parking lots located in this State Beach. Will Rogers State Beach contains restroom and concession facilities, playground areas, volleyball courts, and a regional bike and pedestrian path. The regional bike path, the Marvin Braude Bicycle Trail, connects Torrance Beach to the Pacific Palisades, crossing every coastal city/town in the Santa Monica Bay (except for Malibu).

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<sup>1</sup> Gladstones Legacy Group, LLC is the concessionaire for the restaurant and is currently doing business as Gladstones 4 Fish. In short, the restaurant is informally known as Gladstones.

The location of the restaurant (with public observation deck) and the parking lot are situated between the narrow sandy beach and Pacific Coast Highway. Access to the parking lot for Will Rogers State Beach and Gladstones restaurant is taken directly from Pacific Coast Highway at the terminus of Sunset Boulevard. The restaurant (with public observation deck) and parking lot is on public land owned by the State and managed by Los Angeles County Department of Beaches and Harbors (LADBH). The City of Los Angeles does not have a certified Local Coastal Program for the Pacific Palisades area. The standard of review is the Chapter 3 policies of the Coastal Act for the portion of development located within the Pacific Palisades area.

As further discussed in Sections III.B (Public Access and Recreation) and III.D (Coastal Act Violation) below, the applicants propose to open an existing closed parking lot to the public located adjacent to Topanga Lagoon at Topanga Beach in Los Angeles County, approximately two miles upcoast from the Gladstones site ([Exhibit 8](#)). The lot is located between Pacific Coast Highway and the beach and is separated from the paved Topanga Beach public parking lot and associated amenities by Topanga Lagoon. The upcoast boundary of the lot is fronted by private development. Access to the parking lot is taken from Pacific Coast Highway upcoast of the intersection with Topanga Canyon Boulevard, but bollards and chain currently block access to non-emergency vehicles. Like the lot at Will Rogers State Beach used by Gladstones, the parking lot is on public land owned by the State and managed by LADBH. The site is located within the Santa Monica Mountains area, and as such, the parking lot is subject to the County of Los Angeles Santa Monica Mountains certified LCP. The standard of review for the portion of development adjacent to Topanga Lagoon is the certified LCP and the Chapter 3 public access and recreation policies.

### **Relevant Site History**

In 1976, the County had a seasonal concession agreement that allowed the summer operation of a restaurant, two snack bars, and a mobile refreshment unit at Will Rogers State Beach. The concessionaire at that time was having difficulty turning a profit.

In 1978, the County entered into a new concession agreement with Robert Morris and Douglas Badt. These new concession operators embarked upon an aggressive marketing plan, and the restaurant showed signs of success. Soon there was a need to expand the restaurant capacity because of the increased popularity of the restaurant. In July 1979, Los Angeles County issued a Negative Declaration for the improvement and expansion of the restaurant, and later that year, a new lease was agreed upon between the County and the restaurant operators. There was no coastal development permit application filed for the change and intensification of use. At the end of 1979, the restaurant burned down, and the restaurant operators rebuilt the restaurant.



In April 1981, Los Angeles County Department of Beaches and Harbors (County) entered into a new concession agreement<sup>2</sup> with Robert Morris (Sea View Restaurants, Inc.) to provide beach goers with refreshments, food, and beach equipment while they enjoyed the use of the State Beach. These services were provided to enhance the beach visitors' recreational experience. This has gradually changed over the years as more and more people travel to Will Rogers State Beach, not to spend the day at the beach, but to eat at the restaurant now known as Gladstones.

On May 1, 1981, Robert Morris and the Los Angeles County Department of Beaches and Harbors submitted CDP application P-81-7894 for the further expansion of the existing restaurant. This is the first submittal of any kind to the Coastal Commission on record for the concession operations at this site. The application included a 1,650 square foot outdoor dining area with 50 seats overlooking the beach, public restrooms, a fast-food take-out stand, and a public observation deck. On January 26, 1983, Robert Morris and the County submitted amendment request 5-83-57A to amend CDP P-81-7894. On April 16, 1985, Robert Morris and the County submitted CDP application 5-85-083 for a 1,250 square foot addition to the public deck. The applicants stated in their application that there would be no service area or seating added to the restaurant.

On February 15, 1991, Robert Morris and the County submitted the underlying CDP application 5-91-141 to resolve several alleged violations on the site. The application included the expansion of the indoor and outdoor dining areas, erection of signs and a seasonal tent cover,<sup>3</sup> and the placement of a storage container on a coastal bluff. Through CDP 5-91-141 the Commission approved the expansion of dining areas, the placement of new signs, use of a seasonal tent cover, placement of a storage container on the bluff, and required a three-year term limit and a beach access monitoring program.

Subsequent amendments (CDP 5-91-141-A1, A2, A4, A5, A6, A8 and A9) approved extensions of the authorization term with the most recent approved term limit ending on January 13, 2022, as well as some additional development as follows: CDP 5-91-141-A3 approved the renovation of the restaurant and a change to the management of access to the public viewing deck; CDP 5-91-141-A4 approved the implementation of a parking lot management plan, sign program and extension of the term limit (as previously mentioned); CDP 5-91-141-A5 approved the implementation of a parking lot management plan, sign program, redesign of the parking lot and extension of the term limit (as previously mentioned); and CDP 5-91-141-A7 approved changes to seating area arrangements to create an oyster bar. On December 6, 2021, the County and Sea View Restaurants, Inc. submitted an amendment application (5-91-141-A10) to extend the term limit an additional five years and implement a public deck and parking lot management plan. On July 28,

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<sup>2</sup> The current concession agreement terminated on March 27, 2024 and must be extended in six-month increments to continue operating until the Gladstones site is redeveloped in the future.

<sup>3</sup> The restaurant no longer uses the seasonal tent cover.

2022, the applicants withdrew their application. On August 1, 2022, the applicants resubmitted an amendment application, CDP Amendment No. 5-91-141-A11. On September 16, 2023, Sea View Restaurants, Inc. ceased operations, and a new and separate entity, Gladstones Legacy Group, LLC, began operating. CDP Amendment No. 5-91-141-A11 was subsequently withdrawn and resubmitted on January 17, 2024 as the subject CDP Amendment No. 5-91-141-A12.

CDP Amendment No. 5-91-141-A12 contains a new proposal for reopening a parking lot located adjacent to, and upcoast of, Topanga Lagoon, approximately two miles upcoast from Gladstones. According to historic aerial photography, the site was previously developed with residences and a restaurant, which were demolished in the 1970s to make way for public access improvements to Topanga Beach. After demolition of the structures, the site was used informally for vehicular parking by beachgoers for subsequent decades, as acknowledged in the Commission's approval of CDP 5-81-312. At some point prior to 1987, the County restricted non-emergency vehicular access to the parking lot using bollards and chain, and vehicular entry by members of the public from Pacific Coast Highway was blocked. Pedestrian public access to the beach remains available through a narrow entry to the lot. LADBH indicates that the County has retained use of the site for emergency rescue and safety operations, for filming purposes, and as a construction staging area, as necessary.<sup>4</sup> Today, the site remains comprised of a flat and open graded dirt lot that is devoid of vegetation and is underlain with remnants of impervious pavement and structure fragments (from previous uses) under accumulated sediment and gravel. On the eastern (downcoast) side of the lot, closest to Topanga Lagoon, an informal emergency vehicle access ramp and helicopter landing area are still used by first responders during emergency situations. As discussed in later sections of this staff report, the applicants are proposing to reopen the site to the public for beach parking to help address the historic impacts to public access and recreation caused by the various unpermitted developments and Coastal Act violations at the Gladstones site.

#### Public Parking Lot at Will Rogers State Beach

In 1991, the Commission conditionally approved CDP 5-91-141 for the authorization of an unpermitted expansion of the restaurant onto both the public observation deck and a portion of the adjacent public parking lot, bringing the total seating capacity to 707. As a condition of approval, the restaurant expansion was limited to a three-year term. During that term, the restaurant was required to conduct a parking lot and beach access monitoring program to determine the ability of the public to use the parking lot for beach

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<sup>4</sup> For example, the Commission approved CDP Waiver No. 4-13-0252-W for use of the unimproved open dirt/gravel lot as a temporary construction staging area for the construction of the parking lot, viewing deck, and vertical seawall just downcoast at Will Rogers State Beach (previously approved in CDP No. 5-10-120). Pursuant to this permit waiver, the site was required to be restored to previous condition, and no grading or vegetation removal was allowed.

access during peak beach use days and hours. The restaurant was required to survey the parking lot and provide the number of empty parking spaces at 11 a.m., 1 p.m., and 3 p.m. on all Saturdays, Sundays, and holidays between June 1<sup>st</sup> and September 30<sup>th</sup> of each year. At the end of the three years, Commission approval of the seating expansion per CDP 5-91-141 would expire and the applicant could file an amendment to extend the approval for an additional three-year term based on the monitoring figures obtained from the beach access monitoring program. The Commission also required the restaurant to provide a valet parking service for the State-owned parking lot during all restaurant operating hours to maximize the available parking spaces and enhance public beach access. Additionally, the Commission required that existing parking lot signage be removed and replaced with a new sign stating: "Public Parking for Will Rogers State Beach and Gladstone's-4-Fish Restaurant" and prohibited the use of signs stating, "Private Property-No Trespassing." The Commission also required signs to conform to specific size dimensions.

In the past, both the County and the valet operators have stated that the parking lot has filled up on busy weekends, and the surplus of cars has caused the eastbound lanes of Pacific Coast Highway to become blocked by people attempting to fit into the parking lot. Restaurant customers and beach visitors alike were denied access to the parking lot if it filled to capacity. During that time, visitors were parked by the valet operators unless the valet was specifically told by the visitor to not park the vehicle. To assure that equal access to the lot was prioritized and did not discourage beachgoers from parking in the public parking lot, CDP 5-91-141-A4 required that signs be in a conspicuous location indicating that both valet and self-parking were available and that no private property signs be located anywhere in the public parking lot. The Commission also required that the applicant agree to a parking management plan for valets to park cars in the "tandem" parking spaces and non-valet visitors to park in the "single" spaces to assure efficient utilization of all parking spaces and limit impacts on public access. During that time, the restaurant was charging beach visitors \$7.00 and restaurant visitors \$4.25 regardless of whether they valet or self-park, and the rate difference was approved by the Commission, per the applicant's request, in CDP amendment 5-91-141-A4. Today, the rates for restaurant patrons (valet parking) is \$13.00 on weekdays and \$15.00 on weekends and \$7.00 daily for beach visitors (self-parking).

#### Public Observation Deck

The Commission approved the construction of a public observation deck with a fast-food take-out stand in 1981 (Ref: CDP P-81-7894). In 1985, the Commission approved a proposed 1,250 square foot addition to the public deck with no increase in restaurant seating or service capacity (Ref: CDP 5-85-283). Approximately 60 seats were added to the deck soon after permit issuance in violation of the 1985 permit. The deck is approximately 3,100 square feet and currently contains approximately 55 restaurant tables. The public deck is located on State-owned land adjacent to the sandy beach between the public parking lot and the restaurant facility. The deck partially cantilevers

over the sandy beach and is separated from the beach by a plexiglass railing. In addition to managing the public State-owned parking lot, Gladstones' lease with the County also allows the restaurant to manage the public outdoor observation deck.

In 1991, the Commission approved CDP 5-91-141 for the after-the-fact expansion of restaurant seating on the public observation deck and required that the public not be denied access to the public deck; that managers and employees of the restaurant would be informed that the deck is for public use; and that the public deck be posted with signs to indicate that the deck is for public use. Gladstones applied for a CDP amendment (Ref: CDP 5-91-141-A) requesting to extend the three-year term limit indefinitely and to eliminate the special condition of the underlying permit which required a parking lot and beach access monitoring program. The Commission acted to only extend the term limit for another three years, until January 1998, and continued to require the beach access monitoring program. In 1998, Gladstones returned to the Commission for an amendment (Ref: CDP 5-91-141-A3)<sup>5</sup> citing concerns over arguments between guests about available dining seats, delays in customer service, and that self-seating on the deck overwhelmed restaurant staff.

In 1998, the Commission conditionally approved CDP amendment 5-91-141-A3 for the interior and exterior renovation of the restaurant as well as a change to the management of the public observation deck. The Commission required the restaurant to submit a public deck management program that protects the rights of the public to enter and be seated on the public deck. The plan submitted to the Commission included seating guests in the order of arrival; that signs would be posted at a host stand stating that the deck is public and that service is available upon request; and that the host would place a white flag on the table to help restaurant staff distinguish between public deck visitors and restaurant visitors.

Following approval of CDP amendments 5-91-141-A2 and 5-91-141-A3, the Commission's enforcement unit was notified of alleged violations on the site, including the restaurant's continued use of the public deck and public parking lot after the term expired in 2001 (Ref: CDP 5-91-141-A2), the installation of an arched monument sign, restaurant signs on the public deck, and failure to post signage stating that the public deck and outside restrooms were available for public use. In response to the violations, the applicants requested a fourth amendment (Ref: CDP 5-91-141-A4) regarding the public deck. The amendment request included, but was not limited to, the ongoing use of the public observation deck, the placement of one public access sign on the entryway pillar, the implementation of a

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<sup>5</sup> CDP amendment no. 5-91-141-A2 was heard by the Commission in May 1998, one month after the Commission acted on 5-91-141-A3. CDP amendment application no. 5-91-141-A2 requested to extend the authorization term indefinitely and eliminate the special condition of the underlying permit that required a parking lot and beach access monitoring program. In this case, the Commission continued to require a term limit of three years and the continuance of beach access monitoring.

public deck management plan, and the removal of painted “Gladstone’s” signs on the public deck. On June 11, 2003, the Commission approved CDP amendment 5-91-141-A4 and required the applicants to submit a revised signage plan to ensure that the restaurant signs would not dominate the public area and give the impression that the public deck and parking lot were private (see Signage discussion below). The applicants have complied with those requirements. However, violations have still occurred with respect to previous public deck requirements, including but not limited to, the exclusion of the public from the deck area in favor of private use and the lack of public deck signage.

### Signage

The Commission has regularly required specific requirements for signs at this site. For example, in 1981 under CDP P-81-7894, the Commission required “no signs shall be higher than 12 feet above average finished grade, and their total dimension shall not exceed 3 feet by 6 feet...” In 1991, the underlying CDP 5-91-141, carried over the same signage requirements under CDP P-81-7894 and further required a new sign stating, “Public Parking for Will Rogers State Beach and Gladstone’s-4-Fish Restaurant” and that no sign may say “Private Property-No Trespassing.” CDP 5-91-141 also required the public restrooms and public deck area be posted with signs to indicate that the public restrooms and public deck were for public use.

In 1998, in CDP amendment 5-91-141-A3, the Commission required the applicant to implement a public deck management program that included the placement of signage at the entrance to the deck area to indicate the outdoor deck is a public viewing deck, the location of the public deck and that food or beverage is not required. The public deck management program condition was necessary to ensure that public access to the deck would not be adversely impacted. Furthermore, in 2003, CDP amendment 5-91-141-A4 required a new signage plan that included the removal of all “private property” signs from the public deck and the public parking lot; to add two additional public access/public deck signs on the entryway pillars; and to remove the “Gladstone’s” painted signs located on the public viewing deck facing the State Beach. The new signage plan would have reduced psychological barriers associated with the restaurant advertising and improve the public’s ability to use the deck. In a separate condition, CDP 5-91-141-A4 also allowed valet parking signs placed in a conspicuous location and to indicate that both valet and self-parking were available. The restaurant has regularly violated signage requirements regarding the size, language, and location of signs ([Exhibit 3](#)). The absence of required signage has also been an issue.

## **B. Public Access and Recreation**

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 30213 of the Coastal Act states, in part:

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

Section 30221 of the Coastal Act states:

Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

Section 30252 states, in part:

The location and amount of new development should maintain and enhance public access to the coast by... (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation...

Section 30604(c) of the Coastal Act requires that every coastal development permit issued for any development between the nearest public road and the sea include a specific finding that the development is in conformance with the public access and recreation policies of Chapter 3 of the Coastal Act. The Coastal Act places a priority on providing both public access and public recreation opportunities.

The most recent five-year term for the shared use of the public observation deck and public beach parking lot expired on January 13, 2022 (Ref: CDP Amendment No. 5-91-141-A9). On December 6, 2021, prior to the term limit expiration, the Commission received an amendment application for the request to extend the term limit for another five years that would terminate on January 13, 2027 (Ref: CDP Amendment No. 5-91-141-A10). During the review process of amendment application 5-91-141-A10, Commission staff determined it was necessary to visit the site to confirm if the restaurant was following the requirements of the underlying CDP and subsequent CDP amendments. On March 21, 2022, Commission staff visited the restaurant and found that the restaurant was non-

compliant with several conditions relating to public access, including but not limited to the following:

- The restaurant continued to manage and operate the public parking lot and public deck beyond the expiration of the term limit in violation of CDP amendment 5-91-141-A9.
- The parking rates for public use of the State-owned public parking lot were increased.
- Many of the parking spaces closest to the restaurant and beach access road were divided by cones and appeared to be reserved spaces in the parking lot.
- There were several unapproved signs in the parking lot, including signs with language that could mislead the public to think the public parking lot was private ([Exhibit 3](#)).
- After approaching the host stand and inquiring about the public deck, Commission staff was told the deck was for restaurant customers and was denied access to the public deck.
- A restaurant manager stepped in to help and indicated that the small deck adjacent to Pacific Coast Highway was the public deck ([Exhibit 5](#)). Based on Commission records, the public deck consists of the large deck area adjacent to the sandy beach. Therefore, the restaurant was in violation of Special Condition 5 of CDP 5-91-141.
- The restaurant did not have deck signage required by CDP 5-91-141-A3 or bathroom signage required by CDP 5-91-141. For example, there was no deck signage that indicated that the deck is a public observation deck, the location of the deck and that no purchase was required. There were no public restroom signs that indicate that the restrooms were available for public use.
- Staff also inspected the storage container located upcoast of the restaurant. The Commission previously required the storage container be screened with landscaping that could be in the form of potted plants. The storage container was not screened with landscaping.
- Valet operators were not utilizing the tandem spaces efficiently as only one vehicle was parked in a tandem space capable of parking two vehicles, thereby reducing the number of non-valet parking spaces available.

After Commission staff notified the applicants of the violations onsite and a need to provide adequate mitigation for the long-standing violations, the applicants withdrew their application on July 28, 2022. On August 1, 2022, the applicants re-submitted an amendment application. Commission staff worked with the applicants to address non-compliance with the special conditions of the underlying CDP and subsequent amendments. For example, the restaurant added a public deck sign at the host stand to indicate the deck is public and no purchase is required. The restaurant also installed two public restroom signs, one at the host stand and one at the railing along the path to the restroom. The bathroom signs indicate the restrooms are for the public and include arrows

pointing in the direction of the restrooms. Commission staff also received evidence that the storage container has been painted blue and landscaped with potted plants. On a follow-up visit to the site on June 21, 2022, Commission staff recognized the restaurant's attempt to inform their staff that the public deck is available to the public with no purchase necessary. Staff were seated on the public deck, and restaurant waitstaff acknowledged that staff were public deck visitors. During that site visit, staff also noticed that the unapproved parking lot signs had not been removed, that parking cones still separated many of the parking spaces closest to the restaurant and beach, and that the parking stripes within the parking cone area were colored differently than the rest of the lot, which could be perceived as designated parking areas.

Given that the restaurant also increased the parking rates without a CDP, staff reviewed the parking rates of nearby beach parking lots<sup>6</sup> and found that those lots charge \$13.00 to \$15.00 per day (including County holidays) during weekend peak<sup>7</sup> summer times and \$4.00 to \$7.00 per day (including County holidays) during weekend off-peak<sup>8</sup> summer times. The restaurant currently charges \$7.00 daily for beach visitors (self-parking), and \$13.00 on weekdays and \$15.00 on weekends for restaurant visitors (valet parking). In addition, staff took note of the hours of those nearby beach parking lots and discovered that those lots open at 6 a.m., much earlier than the subject parking lot, which opens at 9 a.m.

Not only do the physical barriers to public access (full parking lot and restricted or denied access to the public deck) prevent beachgoers from fully enjoying this portion of Will Rogers State Beach, but psychological barriers, such as the appearance of privatization of the site due to restaurant signs, valets, parking cones, varied-colored striping, and the outdoor host stand, further inhibit public access, inconsistent with access policies of the Coastal Act. As a result of the perpetual onsite violations and the associated impacts to public access, Commission staff evaluated whether the existing management of onsite signage, the parking lot and the public deck have been effective in maximizing access to the coast and recreation opportunities consistent with Coastal Act Section 30210.

### **Public Observation Deck**

Barriers to public access to the public deck include, but are not limited to, the ability to book the public deck for private or semi-private events, which excludes the public from use of all or portions of the deck and is not allowed by the underlying CDP or any of the amendments; the location of the host stand obscuring the entrance to the public deck and

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<sup>6</sup> Will Rogers Lot 5 (17580 Pacific Coast Highway) opens at 6 a.m. year-round and Will Rogers Lot 2/3 (15800 Pacific Coast Highway) opens at 6 a.m. year-round.

<sup>7</sup> 8:00 a.m. to 6:00 p.m. for Will Rogers Lot 5 and 9:00 a.m. to 5:00 p.m. for Will Rogers Lot 2/3.

<sup>8</sup> 6:00 a.m. to 8:00 a.m. for Will Rogers Lot 5 and 6:00 a.m. to 9:00 a.m. for Will Rogers Lot 2/3.



requiring anyone who wants to enjoy the deck without restaurant service to approach the host and request to be seated; misunderstanding of the public's ability to use the public deck by the restaurant staff; flags with the name "Gladstones" along the perimeter of the deck that promotes the appearance of a private deck; and the lack of required signage identifying the public deck and that no purchase is required to use the public deck. After analyzing these barriers to access, the Commission requires **Special Conditions 7** and **11. Special Condition 11** requires a new Signage and Monitoring Plan to prioritize and enhance public awareness of the amenities available to the public. The plan requires two public deck signs near the entrance to the public deck (one on each side) and four additional signs along the public deck railing fronting the sandy beach. This special condition requires these signs be permanently attached. Each public deck railing sign shall say "Free Public Observation / Picnic Deck This Way – No Purchase Required" along with a directional arrow pointing toward the entrance of the deck area. Additionally, a small table sign on each table in the public deck area shall say "Welcome to the Will Rogers State Beach Public Observation / Picnic Deck – No Purchase Required" and shall be visible at all times. The required additional signs along the deck railing and on the outdoor dining tables will further inform the public of their ability to use the deck without any purchase necessary while visiting the State beach.

In order to correct and prevent the restaurant operation and use of the public deck from interfering with the public's ability to use the deck, **Special Condition 7** requires the restaurant to implement a public deck management program. The public deck management program includes the removal or relocation of the host stand to the second public deck entrance farthest from the parking lot and requires the restaurant to ensure that no lines or queues of restaurant guests impede the entrances to the public deck ([Exhibit 6](#)). **Special Condition 10** also requires the applicant include the new location of the host stand on a revised site plan should the restaurant decide to keep the host stand. Additionally, restaurant staff shall not deny access to any persons who wish to utilize the public deck or require the public to check in at the stand to use the public deck. The restaurant is also prohibited from accepting dining reservations, including but not limited to bookings for semi-private or private events, in the public deck area. No language inferring the public deck may be reserved or rented is allowed on the restaurant premises or the restaurant website. In addition, the restaurant website must state "No reservations or rental bookings of the public deck and parking areas are permitted." As a result, the public shall be able to see the entrance to the public deck and freely approach the deck without the requirement to interact with restaurant staff first or be deterred by private use of the public deck.

Furthermore, to improve the perception that the deck area is for public use, **Special Condition 7** also prohibits restaurant staff from placing any table settings on the public deck tables unless and until food service is requested by a guest. Additionally, the condition requires that the restaurant update their website to include a photo of the public deck, the public deck hours, and state that the public deck remains open to the public for passive recreation use (no purchase required) and outdoor dining. Since restaurant staff

have not always been aware of the public's ability to use the public deck without any purchase necessary, the restaurant is also required to train its staff on the public deck management program upon hire and at least twice a year thereafter and to submit evidence of such training annually. To monitor use of the public deck, the restaurant is required to report the dates visitors (non-restaurant patrons) occupied the public observation deck on Saturdays, Sundays, and holidays during the months of May through October, and submit the monitoring report annually, no later than December 31<sup>st</sup> of each year, for the duration of the applicable term limit.

Should the applicants request another amendment to CDP 5-91-141 to extend the authorization for use of the public deck and parking lot for an additional term, the Commission will then examine the project's effects on coastal resources and public access, and use the figures obtained from the public deck monitoring program to determine whether an extension of the permit term is consistent with the Chapter 3 policies of the Coastal Act.

### **Public Beach Parking Lot**

A conflict currently exists between the use of the public parking lot for a private commercial use and use of the lot for beach visitors. Due to the intensification of the restaurant use over the years, the public parking lot has absorbed the additional restaurant customers at the expense of beach visitors. Additionally, access to the lot has historically been negatively impacted by the placement of signs perceived to indicate that the parking lot is privately-owned. Additionally, the valet operator is not efficiently parking cars in the "tandem" parking as required by CDP Amendment No. 5-91-141-A4. The valet operator either allows visitors to self-park or valet park vehicles, upon request, without regard for tandem parking. As a result, the parking lot is underutilized.

Barriers to public access for the public parking lot have included, but are not limited to, unapproved signage and valet service<sup>9</sup> creating the appearance that the lot is for the private use of the restaurant; charging higher parking fees for beach visitors than nearby lots; and parking lot hours inconsistent with nearby public beach lots. Thus, after analyzing the access impacts related to the public parking lot, the Commission requires **Special Conditions 9** through **11** to enhance public access to the coast. **Special Condition 9** requires the State-owned and LADBH-operated parking lot remain open to the public and that no exclusive parking preference shall be given to any patron to the parking lot; that the parking lot open no later than 6 a.m. each morning and close no earlier than 9 p.m. each evening, where the early-bird hours (6 a.m. to 9 p.m.) may be provided as self-parking; that the parking fees shall be the same for all people who park there, regardless if they are going to the beach, restaurant, or somewhere else, and that the rate schedule (valet service and incidental fees included) charged for vehicles reflect the applicants' proposed

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<sup>9</sup> Valet service was previously required to avoid impacts to the management of the lot and maximize the number of parking spaces by use of the tandem spaces.

fees in [Exhibit 2](#); that valet service be provided for the state park and restaurant parking lot to maximize available parking by parking two vehicles in the tandem spaces; that the new parking rates and new parking lot hours be updated on the restaurant's website; that all parking spaces be striped with the same color and parking cones may only be placed around the "tandem" parking spaces for use by valet operators to efficiently park cars in the lot; that a minimum of two of the four driveway lanes be clearly marked and dedicated to self-park visitors without any interference by the valet service ([Exhibit 7](#)); and that valet operators be informed of the parking lot management program upon hire and at least twice a year thereafter and evidence of such training be submitted annually.

To ensure the efficacy of the requirement of **Special Condition 9** that the restaurant dedicate a minimum of half of the driveway lanes be allocated for self-park visitors, the Commission also requires **Special Condition 11** for the placement of two directional signs that shall be placed on the interior of the parking lot to identify the lanes dedicated for self-parking and the lanes dedicated for valet service. Furthermore, to ensure the public is aware of the changes to the rates, hours, and the public's ability to use the parking lot to access the coast, **Special Condition 11** also requires valet parking signs at each valet kiosk to state, "Public Parking for Will Rogers State Beach and Gladstones Restaurant. Choose either Self-Parking or Valet. See parking attendant and posted signs for rates. Lot Hours: 6 a.m. to 9 p.m." Finally, the condition also requires one large parking lot sign, also on the interior of the parking lot, that states, "Public Parking for Will Rogers State Beach and Gladstones."

To record and confirm the changes to the parking lot, **Special Condition 10** requires the applicant to provide a revised site plan of the parking lot layout with each parking space identified, including the tandem spaces, the total parking capacity of the lot, and the identification of the self-park and valet lanes. No changes to the plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

### **Term Limit and Beach Access Monitoring**

In 1991, when the Commission approved Coastal Development Permit 5-91-141, it allowed the continuation of the shared use of the Will Rogers State Beach public parking lot under the condition that valet service be provided to increase the lot's capacity and that the parking lot operators conduct a monitoring program. The purpose of the monitoring program was to determine whether the use of the Will Rogers State Beach public parking lot by the restaurant reduced the public's ability to use the public parking supply for coastal recreation purposes on peak beach use days and hours.

Gladstones provided parking monitoring reports for years 2017 through June 2022. Staff would note that no monitoring report was provided for 2020 due to the lockdown as a result of the COVID-19 pandemic. The parking monitoring reports indicate there was adequate space for the shared use of the lot between the restaurant and beach visitors. In fact, the

parking monitoring reports indicate a low utilization of the lot, contrary to the high traffic the parking lot has experienced in the past. In discussing the low utilization of the lot with Gladstones, the parking monitoring reports were deemed to be inaccurate and included only the number of beach visitors rather than the total number of visitors utilizing the lot. Gladstones worked with the valet operator to provide complete reports for the May through October 2021 and May through June 2022. The updated reports indicate that the lot is operating at near capacity by 3 p.m. on weekends and holidays. There was one day during August 2021 where the lot had no available parking at 3 p.m. In many cases, available parking is less than ten spaces by 3 p.m.

Therefore, to monitor and ensure the restaurant's private use of the Will Rogers State Beach public parking lot does not negatively impact the public's ability to access the coast, the proposed term of this permit amendment is five years from the expiration date of CDP amendment 5-91-141-A9, which expired on January 13, 2022. However, the five-year term ending on January 13, 2027 will not allow the applicant sufficient time to continue to monitor the additional public access enhancements required in this permit amendment or to provide that information to the Commission, which will be considered for any future permit application submittals. As such, **Special Condition 1** extends the restaurant's use of the parking lot and public observation deck to five years from Commission action (August 9, 2029) or until the restaurant is redeveloped pursuant to a CDP, whichever occurs first. During the remainder of the term, the restaurant operator is responsible for conducting the parking lot and beach access monitoring program during the summer months from May through October. Pursuant to **Special Condition 1**, the restaurant is required to provide the total number of cars parked in the parking lot at 11 a.m., 1 p.m., and 3 p.m. daily on all Saturdays, Sundays, and holidays between May 1<sup>st</sup> through October 31<sup>st</sup> of each year. The monitoring program shall be submitted annually by December 31<sup>st</sup> for the duration of the term limit.

Prior to the end of the term, the applicants may request another amendment to CDP 5-91-141 to extend the Commission's authorization for use of the public deck and parking lot for an additional term. The Commission will then reexamine the project's effects on coastal resources and public access, and using the figures obtained from the beach access monitoring program to determine whether an extension of the authorization term is consistent with the Chapter 3 policies of the Coastal Act.

### **Additional Requirements**

Currently, the restaurant is operating with 569 seats for both indoor and outdoor seating due to public health guidelines. As previously imposed by CDP Amendment No. 5-91-141-A3, **Special Condition 8** retains the requirement that the restaurant have a seating capacity of no more than 707 seats including indoor and outdoor seating, consistent with past approvals at the site. **Special Condition 2** requires the restaurant to screen the existing storage container to protect public views to and along the ocean and scenic coastal areas consistent with Coastal Act Section 30251. **Special Condition 3** requires

that the public restrooms remain available to the public at the Gladstones site, especially beach users and, per the recommendation of the Surfrider Foundation in a letter dated July 22, 2024 ([Exhibit 9](#)) to which the applicants are amenable, that any portable public restrooms managed by the County serving Will Rogers State Beach in the vicinity of the project site be consistently maintained in good working order. **Special Condition 5** is reserved and reincorporated as specific timing requirements for the applicants to satisfy the conditions imposed by this permit, as amended. **Special Condition 6**, which requires the restaurant to work jointly with the City of Los Angeles to develop a feasible route and design for the Pacific Coast Beach Bike Path, was previously required and shall remain in effect. Currently, the bike portion of the path ends at Temescal Canyon, approximately a mile downcoast from the restaurant. A pedestrian portion of the path continues on and ends approximately a half mile from the restaurant. Furthermore, the proposed project raises concerns that future development of the project site potentially may result in a development that is not consistent with the Chapter 3 policies of the Coastal Act. To assure that future development is consistent with the Chapter 3 policies of the Coastal Act, the Commission finds that **Special Condition 4** regarding future improvements must be imposed.

In addition, the applicants propose to open an existing closed parking lot to the public located adjacent to Topanga Lagoon near Topanga Beach in Los Angeles County, approximately two miles upcoast from the Gladstones site ([Exhibit 8](#)). The lot is located within the Santa Monica Mountains area and as such, is subject to the County of Los Angeles Santa Monica Mountains certified LCP. The standard of review for the portion of development adjacent to Topanga Lagoon is the certified LCP, and, based on its location, the Chapter 3 public access and recreation policies.

The reopened parking lot is proposed to have 53 parking spaces subject to parking rates in accordance with the going rates of the Los Angeles County Department of Beaches and Harbors (LADBH) parking lot located on the other side of Topanga Lagoon (18700 Pacific Coast Highway). It is important to note that this proposal addresses the historic public access impacts caused by the various unpermitted developments at the Gladstones site and does not address the impacts to public access that will result from authorization and continued use of the restaurant and public deck moving forward. The applicants' proposal is memorialized as **Special Condition 13**. To ensure that previous adverse public access impacts are adequately mitigated and the parking lot adjacent to Topanga Lagoon is actually constructed and made available to the public, the condition requires the applicants to undertake the proposed improvements to the parking lot within seven months of Commission action, and ensure its operation until such time as the parking lot is redeveloped pursuant to a future superseding CDP. Finally, the condition requires that the parking rates for this lot, should they be required for continued operation and maintenance, be no higher than the Commission-approved fees associated with the parking lot located on the opposite side of Topanga Lagoon (at 18700 Pacific Coast Highway), pursuant to CDP 4-01-227, which will avoid further public access impacts due to high parking rates.

## **Conclusion**

The Commission finds that, as conditioned, the continued use of the public parking lot and public observation deck by Gladstones for a limited term is consistent with the public access and recreation policies of Chapter 3 of the Coastal Act. In addition, given previous violations on the site that resulted in adverse impacts on public access and recreation, the applicants' additional proposal to open the parking lot adjacent to Topanga Lagoon would further mitigate against past impacts and improve coastal access and recreation moving forward.

### **C. Water Quality and Biological, Archaeological, and Tribal Cultural Resources**

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:

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, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Section 30240 states, in part:

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

Sections 30230 and 30231 of the Coastal Act require protection of marine resources for both terrestrial and marine development. Section 30240(b) requires that development in areas adjacent to environmentally sensitive habitat areas, parks, and recreation areas to be sited and designed to prevent adverse impacts thereon. Much of the pollutants entering the ocean originate from land-based development. The project's proximity to the

beachfront renders it especially important for the applicants to incorporate measures to minimize the production of polluted runoff and plastic debris, as these could be otherwise be directly introduced to open coastal waters and public recreation areas.

Restaurants can be a major source for single-use plastics, in the form of plastic to-go containers, plastic utensils, and Styrofoam containers that can pollute storm drains and end up in open waters. To minimize the risk of marine debris, the Commission imposes **Special Condition 12**, which requires the applicants to submit a Plastic Pollution Reduction Plan for Executive Director approval within 90 days of Commission action. The plan shall prohibit the applicants from providing patrons with single-use foodware (unless specifically requested for take-out orders), plastic straws, plastic bags, and other specified plastic products. The applicants must install smoke-free and educational recycling signage and, within six months of Commission action, participate in an existing Marine Debris Reduction Program, such as the ReThink Disposable Program or Surfrider's Ocean Friendly Restaurants. Additionally, 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. Finally, per a suggestion from the Surfrider Foundation in a letter dated July 22, 2024 ([Exhibit 9](#)), to which the applicants are amenable, the condition requires a service plan for trash and recycling bins downcoast of the Gladstones site along the road shoulder within Will Rogers State Beach, which specifies the amount of trash and recycling bins in the area, weekend maximum usage statistics to ensure that an adequate number of bins are being deployed, and measures to avoid overfilled bins that might result in adverse impacts to nearby natural resources.

The applicants' proposed Topanga Lagoon Parking Plan could also result in adverse impacts to biological resources, archaeological and tribal cultural resources, and water quality. The following Santa Monica Mountains certified LUP policies apply to the parking lot site adjacent to Topanga Lagoon:

CO-2 Site, design, and manage new development and improvements, including – but not limited to – landscaping, to protect coastal waters from non-point source pollution by minimizing the introduction of pollutants in runoff and minimizing increases in runoff rate and volume. Review new development and improvements for potential degradation of water quality, and ensure that they meet the requirements of the NPDES Municipal Stormwater Permit's Low Impact Development (LID) Requirement, included as part of the Local Implementation Program.

CO-3 To reduce runoff and erosion and provide long-term, post-construction water quality protection in all physical development, prioritize the use of Best Management Practices (BMPs) in the following order: 1) site design BMPs, 2) source control BMPs, 3) treatment control BMPs. When the combination of site design and source control BMPs is not sufficient to protect water quality, require treatment control BMPs, in addition to site design and source control measures. Design, construct,

and maintain any required treatment control BMPs (or suites of BMPs) so that they treat, infiltrate, or filter the amount of storm water runoff produced by all storms up to and including the 85<sup>th</sup> percentile, 24-hour storm event for volume-based BMPs, and/or the 85<sup>th</sup> percentile, 1-hour storm event (with an appropriate safety factor of 2 or greater) for flow-based BMPs. Prioritize the use of Low Impact Development in project design to preserve the natural hydrologic cycle and minimize increases in storm water or dry weather flows.

CO-4 Minimize impervious surfaces in new development, especially directly-connected impervious areas. Require redevelopment projects to increase the area of pervious surfaces, where feasible.

CO-5 Infiltrate development runoff on-site, where feasible, to preserve or restore the natural hydrologic cycle and minimize increases in stormwater or dry weather flows.

CO-6 Require development to protect the absorption, purification, and retention functions of natural drainage systems that exist on the site. Where feasible, site and design development, including drainage, to complement and utilize existing drainage patterns and systems, conveying drainage from the developed area of the site in a non-erosive manner. Disturbed or degraded natural drainage systems should be restored where feasible.

CO-7 Protect water quality by limiting maximum potential buildout in sensitive watersheds, including: [...] Lower Topanga Canyon.

CO-10 Limit grading, soil compaction and removal of locally-indigenous vegetation to the minimum footprint needed to create a building site, allow access, and provide fire protection for the proposed development. Monitor grading projects to ensure that grading conforms to approved plans.

CO-21 Natural vegetation buffer areas that protect riparian habitats shall be maintained. Buffers shall function as transitional habitat and provide a separation from developed areas to minimize adverse impacts. Buffers shall be of a sufficient size to ensure the biological integrity and preservation of the riparian habitat, but in no case shall the buffer be less than 100 feet, except when it is infeasible to provide the 100 foot buffer in one of the following circumstances: (1) to provide access to development approved in a coastal development permit on a legal parcel where no other alternative is feasible; (2) for public works projects required to repair or protect existing public roads when there is no feasible alternative; (3) for a development on a legal parcel that is the minimum development necessary to provide a reasonable economic use of the property and where there is no feasible alternative. Water quality BMPs required for new development shall be located outside the 100-foot buffer, except for non-structural BMPs (e.g. vegetated berms/swales, bioengineered velocity reducers). Water quality BMPs proposed to improve the water quality of



runoff from existing development without adequate BMPs shall be located outside the 100-foot buffer to the maximum extent feasible. The County encourages the restoration of streams that had previously been channelized or otherwise significantly altered. Existing legally-established development within the required 100-foot buffer of such a restored stream shall be considered a lawfully non-conforming use subject to the non-conforming development provisions of the LCP.

CO-55 New development adjacent to H1 habitat shall provide native vegetation buffer areas to serve as transitional habitat and provide distance and physical barriers to human intrusion. Buffers shall be of a sufficient size to ensure the biological integrity and preservation of the H1 habitat areas they are designed to protect. New development shall provide a buffer of no less than 100 feet from H1 habitat. Variances or modifications to the required H1 habitat buffer width shall not be granted, except for a permitted use included in Policy CO-56. For streams and riparian habitat, the buffer shall be measured from the outer edge of the canopy of riparian vegetation. Where riparian vegetation is not present, the buffer shall be measured from the outer edge of the bank of the subject stream. For woodland habitat, the buffer shall be measured from the outer edge of the woodland tree canopy. For coastal bluff habitat, the buffer shall be measured from the bluff edge. For wetlands, the buffer shall be measured from the upland limit of the wetland. For all other H1 habitat, the buffer shall be measured from the outer extent of the vegetation that makes up the habitat.

CO-56 New development, including but not limited to vegetation removal, vegetation thinning, or planting of non-native or invasive vegetation, shall not be permitted within the H1 habitat buffer with the exception of resource-dependent uses and the following uses in very limited circumstances: (1) public works projects required to repair or protect existing public roads when there is no feasible alternative, as long as impacts to H1 habitat are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated; (2) an access road to a proposed use which could be found consistent with the LCP when there is no other feasible alternative to provide access to public recreation areas or development on a legal parcel, as long as impacts to H1 habitat are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated; (3) a development on a lawfully-created parcel that is the minimum development necessary to provide a reasonable economic use of the property and where there is no feasible alternative, as long as impacts to H1 habitat are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated, and (4) continued use and maintenance of an existing, lawfully-established road or driveway to an existing, lawfully-established use.

CO-57 New non-resource-dependent development shall also provide an additional 100-foot "Quiet Zone" from H1 habitat where feasible (measured from the outer edge of the 100-foot H1 habitat buffer required above). New development is not

permitted in the H1 habitat Quiet Zone except resource-dependent uses, non-irrigated fuel modification required by the Fire Department for lawfully-established structures, and the following other uses in very limited circumstances: (1) public works projects required to protect existing public roads when there is no feasible alternative, as long as impacts to H1 habitat and the H1 buffer are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated; (2) an access road to a lawfully-permitted use when there is no other feasible alternative to provide access to public recreation areas or development on a legal parcel, as long as impacts to H1 habitat and H1 buffer are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated; (3) a development on a lawfully-created parcel that is the minimum development necessary to provide a reasonable economic use of the property and where there is no feasible alternative, as long as impacts to H1 habitat and H1 buffer are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated; (4) equestrian pasture outside of the fuel modification zone, consistent with the requirements of the LCP, where the development is sited and designed to ensure that no required fuel modification extends into H1 habitat or H1 buffer, it will not significantly degrade H1 habitat, and will not adversely affect wildlife usage, including movement patterns, of the local area or region. Additionally, if existing fuel modification for the principal use is located within the Quiet Zone, confined animal facilities may be established within the Quiet Zone on slopes of 3:1 or less only if the facilities will not require fuel modification to extend into H1 habitat or the H1 habitat buffer, and subject to ERB review. Furthermore, public recreational facilities may also be located within this quiet zone, if it is developed and/or disturbed by historic use (e.g., recreational).

CO-66 Protection of H1 and H2 habitat and public access shall take priority over other development standards, and where there is any conflict between general/other development standards and the biological resource and/or public access protection provisions, the standards that are most protective of H1 and H2 habitat and public access shall have precedence.

CO-204 Protect and preserve archaeological, historical, and paleontological resources from destruction, and avoid impacts to such resources where feasible. Where avoidance is not feasible, minimize impacts to resources to the maximum extent feasible.

CO-205 Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required. Mitigation shall be designed to accord with guidelines of the State Office of Historic Preservation and the State of California Native American Heritage Commission.

CO-206 Regulate landform alteration to ensure minimal disturbance of known archaeological and historic cultural sites. New development on sites identified as archaeologically sensitive shall include onsite monitoring of all grading, excavation, and site preparation that involve earthmoving operations by a qualified archaeologist(s) and appropriate Native American consultant(s).

CO-208 New development within archaeologically-sensitive areas shall implement appropriate mitigation measures, designed in accord with guidelines of the State Office of Historic Preservation and the State of California Native American Heritage Commission.

CO-209 Preserve and protect cultural resources and traditions that are of importance to Native Americans, including the Chumash and Gabrieliño/Tongva peoples.

CO-210 Prohibit the unauthorized collection of paleontological and historic cultural artifacts.

CO-211 Notify all appropriate agencies, including Native American tribes, and the Department of Regional Planning of archaeological or paleontological resources discovered during any phase of development construction to ensure proper surface and site recordation and treatment

This public access mitigation project, as proposed, would not involve any new development outside of the footprint of the existing parking area and, thus, conforms with many of the LUP policies stated above.

Dr. Jonna Engel, the Commission's staff ecologist, and Dr. Hollie Hall, the Commission's water quality specialist, reviewed the facts of the applicants' proposal and determined that, as submitted, it could result in potential adverse impacts to adjacent environmentally sensitive habitat areas, to marine resources, and to water quality. For example, there are existing parking surfaces that would be less than 20 feet from the upper bank of Topanga Lagoon, and the parking lot could result in the removal of vegetation close to the bluff on the south side of the site that has the potential to support nesting birds. Additionally, the applicants propose 1,200 cu. yds. of grading (removal and recompaction of soils) and resurfacing of the entire parking lot for ADA compliance, which could increase the amount of discharge and runoff from the site, and thus, has the potential to adversely impact coastal waters, including the nearby Lagoon, which is a protected watershed per LUP Policy CO-7.

To reconcile these deficiencies, the Commission is imposing **Special Condition 13**, which memorializes the applicants' proposal to provide additional public parking and requires the applicants to submit revised final plans for the parking lot adjacent to Topanga Lagoon. The revised final plans must include a 50-foot setback from the top of the bank of Topanga

Lagoon for any proposed parking spaces and surfaces, as well as a 10-foot setback from the bluff edge above the beach. These setbacks were determined by the Commission's ecologist and water quality specialist to be fully protective of biological and marine resources in the vicinity of the site. A turnaround area outside those setback within the proposed parking aisle must also be provided to allow for safe ingress and egress. A vehicular safety fence or gate a certain distance from the Lagoon could ensure that vehicles are restricted from entering the area closest to the Lagoon; therefore, the condition would allow a vehicular safety fence or gate that minimizes visual impacts landward of the 50-foot Lagoon setback to ensure that no vehicles enter the buffer area. Such a fence or gate would be a resource-dependent use and would be protective of biological resources and water quality and, thus, it is an allowable use within the LCP's required biological buffers and "quiet zones."

As mentioned, the applicants are proposing 1,200 cu. yds. of grading (removal and recompaction of soils), and the condition memorializes the applicants' proposal to allow such site preparation and the restoration of pavement for parking stalls and a drive aisle, including the removal of remnants of structures that were onsite previously. Since additional grading will be necessary to excavate buried structural elements where they occur, **Special Condition 13** also requires the applicants reach out to the representatives of the Chumash and Gabrieleño-affiliated Native American Tribes listed on the Native American Heritage Commission contact list and invite them to consult on the project and monitor any ground-disturbing activities alongside an archaeological monitor should they accept the invitation in accordance with LUP Policies CO-204 through CO-206, and CO-208 through CO-211. Should resources be discovered, **Special Condition 13** ensures adequate protection and/or treatment of the resources is conducted in a manner most protective of coastal resources. The applicants propose to resurface the site with materials that are compatible with existing conditions (e.g., asphalt, concrete) for ADA compliance, therefore the Commission also requires that the Runoff Control Plans be prepared in conformity with the requirements of the LCP, including LUP Policies CO-2 through CO-7 and CO-10. Finally, the proposed development may adversely affect sensitive species in the vicinity, including nesting birds; the applicants are required to retain a biological monitor during bird nesting season (February 1<sup>st</sup> to September 15<sup>th</sup>) that will survey the site and surrounding areas for nesting birds and halt project activities, as necessary. The incorporation of these requirements will ensure that runoff is controlled, erosion and sediment avoided, impacts to archaeological and tribal cultural resources are minimized and appropriately treated if discovered, and the biological productivity and the quality of coastal waters maintained consistent with the certified resource protection policies of the Santa Monica Mountains LCP.

In summary, as conditioned, the proposed development will not have an adverse impact on any sensitive habitat, will adequately treat and monitor archaeological and tribal cultural resources during grading, and will not result in erosion or adverse impacts to water quality and marine resources, as adequate pollution prevention measures and temporary and permanent erosion controls (including BMPs) will be provided. Thus, the portion of the

project located in the Pacific Palisades area is consistent with Sections 30230, 30231, and 30240(b) of the Coastal Act, and the portion of the project located adjacent to Topanga Lagoon is consistent with the certified LCP.

#### **D. Coastal Act Violation**

On March 21, 2022, Commission staff conducted a site visit to determine if the restaurant followed previously required conditions regarding the public deck, the parking lot, and the storage container. As discussed above, staff noticed that the restaurant was in violation of several requirements.

Violations of the Coastal Act that have occurred on the subject site mainly relate to the management of the public deck and public parking lot. Violations related to the public deck include but are not necessarily limited to, the restaurant's use of the public deck for service area beyond the expiration of the term limit, the lack of required signage indicating the deck is for public viewing without any purchase required, the exclusive and private use of the public deck, and restaurant staff denying the public access to the public. Today, the restaurant continues to use the public deck for restaurant dining but has informed their staff of the public's ability to use the deck. During a site visit on June 21, 2022, Commission staff was not denied access to the public deck. The restaurant has also added additional signage to advertise the public deck to visitors. Furthermore, as conditioned, additional requirements, above and beyond what the restaurant has proposed for the public deck, will reduce future impediments to the public's use of the public deck. Violations related to the parking lot include but are not necessarily limited to, the restaurant's use of the public parking lot for restaurant visitors beyond the expiration of the term limit; the lack of or removal of required parking signage and the placement of unapproved signs, including signs with language that could mislead the public to think the public parking lot was private; apparent reservation of parking spaces closest to the restaurant and beach for restaurant use; failure of valet operators to park two vehicles in tandem spaces, thereby not maximizing the parking capacity of the lot as previously required; delivery of incomplete parking monitoring data; and an increase in parking rates, without benefit of a necessary coastal development permit (CDP) and inconsistent with the terms and conditions of the underlying CDP.

On July 27, 2022, enforcement staff sent the applicants a letter identifying the violations, as previously described, and requested correction of the violations and to discuss mitigation options for the longstanding violations. The applicants subsequently worked with Commission staff to resolve the enforcement issues, and, to that end, the applicants agreed to comply with existing permit requirements and also propose public deck and parking lot management and signage plans in order to more effectively provide and advertise public access opportunities. The restaurant has also added additional signage to advertise the public deck to visitors. Furthermore, as conditioned, additional requirements for signage, use of the deck and parking lot, above and beyond what the applicants have proposed, will reduce future impediments to the public accessing the coast.

The mitigation proposed by the applicants would reopen to the public an existing closed dirt parking lot that is located adjacent to Topanga Lagoon seaward of the Santa Monica Mountains area of Los Angeles County, approximately two miles upcoast from the Gladstones site ([Exhibit 8](#)). This proposed mitigation is for past adverse public access impacts and is separate and distinct from the impacts of the proposed continued use of the public parking lot and public deck by the restaurant, which requires additional evaluation and mitigation for ongoing adverse public access impacts, as further discussed above. The reopened parking lot is proposed to have 53 parking spaces that will charge parking rates in accordance with the going rates of the Los Angeles County Department of Beaches and Harbors (LADBH) parking lot located on the other side of Topanga Lagoon (18700 Pacific Coast Highway). The proposed mitigation would open parking facilities that are currently unavailable to the public and, thereby, increases opportunities for the public to access to the coast.

Upon issuance of the permit, the subsequent performance of the work authorized by the permit in compliance with all of the terms and conditions of the permit will result in resolution of the violations described above.

Although the development has taken place prior to, and after, submission of this amendment application, consideration of this permit amendment request by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Commission review and action on this permit amendment does not constitute a waiver of any legal action with regard to the alleged violations (or any other violations), nor does it constitute an implied statement of the Commission's position regarding the legality of the development undertaken on the subject site without a CDP, or of any other development, except as otherwise expressed herein. In fact, approval of this permit amendment is possible only because of the conditions included herein, and the applicants' presumed subsequent compliance with said conditions, and failure to comply with these conditions in conjunction with the exercise of this permit amendment would also constitute a violation of this permit and of the Coastal Act. Accordingly, unless and until this amendment is fully implemented, the applicants remain subject to enforcement action just as they were prior to this permit approval for engaging in the unpermitted development described herein.

## **E. Local Coastal Program**

Coastal Act Section 30604(a) states, in relevant part:

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 subject 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).

The City of Los Angeles does not have a certified LCP or a certified Land Use Plan for the Pacific Palisades planning subarea where the development subject to the underlying permit, as amended by the proposed development, is located. The Commission's standard of review for the subject development within the Pacific Palisades area is the Chapter 3 policies of the Coastal Act. As conditioned, the subject development within the Pacific Palisades area is consistent with Chapter 3 of the Coastal Act. As such, approval of the project, as conditioned by the Commission, 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.

The applicants are also proposing to improve public access to the coast by reopening and enhancing an existing parking lot located adjacent to Topanga Lagoon, as mitigation for past Coastal Act violations at the Gladstones site in Pacific Palisades. The development to occur adjacent to Topanga Lagoon is subject to the County of Los Angeles Santa Monica Mountains certified LCP.

Section 30604(b) of the Coastal Act states:

(b) After 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 certified local coastal program.

Section 30604(c) of the Coastal Act states:

(c) Every coastal development permit issued for any development between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone shall include a specific finding that the development is in conformity with the public access and public recreation policies of Chapter 3 (commencing with Section 30200).

The Santa Monica Mountains LCP is comprised of two portions that were approved by the Commission in two separate actions. The Land Use Plan (LUP) portion of the LCP (LUP Amendment No. LCP-4- LAC-14-0108-4) was approved with suggested modifications by the Commission at the April 10, 2014 hearing. On July 10, 2014, the Commission approved the Local Implementation Plan (LIP) portion of the LCP (LIP No. LCP-4-LAC-14-0109-4) with suggested modifications. On August 26, 2014, the Los Angeles County Board of Supervisors held one hearing regarding both the LUP Amendment and the LIP in which it adopted a Resolution acknowledging receipt of the Commission's certification of the LCP and accepting and agreeing to all modifications suggested by the Commission. The Executive Director determined the County's action accepting the suggested modifications to be legally adequate and the Commission concurred with this determination on October 10, 2014, resulting in effective certification of the entire LCP.

The Commission's standard of review for those portions of development located adjacent to Topanga Lagoon is the Santa Monica Mountains LCP. Since this portion of development is located between the first public road and the sea, the project must also be consistent with the Chapter 3 public access and recreation policies of the Coastal Act. As conditioned, the subject development within the adjacent to Topanga Lagoon is consistent with the Santa Monica Mountains LCP and Chapter 3 public access and recreation policies of the Coastal Act. As such, approval of the project, as conditioned by the Commission, will not prejudice the future interpretations of the Santa Monica Mountains LCP.

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

Section 13096(a) of the Commission's regulations requires Commission approval of Coastal Development Permit 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 subject project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. As conditioned, there are no feasible alternatives or additional feasible mitigation measures available which would substantially lessen any significant adverse effect which the development may have on the environment. Therefore, the Commission finds that the subject project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative, has no remaining significant environmental effects, either individual or cumulative, and complies with the applicable requirements of the Coastal Act to conform to CEQA.



## **APPENDIX A – PREVIOUS PERMIT AMENDMENTS AND SUBSTANTIVE FILE DOCUMENTS**

**Description of Coastal Development Permit 5-91-141:** Expansion of indoor and outdoor dining areas of existing Gladstone's-4-Fish Restaurant. Erection of signs and a 300 square foot seasonal tent cover, and the placement of 320 square foot pre-fabricated storage container on a coastal bluff for restaurant dry goods storage.

**Description of Amendment #1:** Extension of the term limit for the existing public parking lot and beach front public viewing deck from January 13, 1995 to January 13, 1998.

**Description of Amendment #2:** Extension of the term limit for the existing public parking lot and beach front public viewing deck from January 13, 1998 to January 13, 2001.

**Description of Amendment #3:** Renovation of the 707 seat restaurant, adding 1600 square foot kitchen, handicapped public restrooms, remove outside bar, service bar, and mobile kitchen; change office to restaurant seating; replace roof top equipment with decorative screen 21 feet above PCH; replace storage containers with walled service yard; and change management of access to public viewing deck.

**Description of Amendment #4:** Extension of the term limit for the existing public parking lot and beach front public viewing deck from January 13, 2001 to January 13, 2004; and implementation of a parking lot management plan and sign program.

**Description of Amendment #5:** Extension of the term limit for the continued use of the existing public parking lot and beach front public viewing deck for restaurant use from January 13, 2004 to January 13, 2006; implementation of a parking lot management plan, sign program; and redesign of the parking lot exit to allow right-hand turns only onto Pacific Coast Highway.

**Description of Amendment #6:** Extension of the term limit for the continued use of the existing public parking lot and beach front public viewing deck for restaurant use from January 13, 2006 to January 13, 2011.

**Description of Amendment #7:** Addition of a 250 square foot oyster bar by converting 140 square feet of indoor seating area and 110 feet of outdoor area and adding a canopy over the bar on the south side (main entrance) of the restaurant. There will be no net change in the existing number of restaurant seats.

**Description of Amendment #8:** Extension of the term limit for the continued use of the existing public parking lot and beach front public viewing deck for restaurant use to January 13, 2017.

**Description of Amendment #9:** Extension of the term limit for the continued use of the existing public parking lot and beach front public viewing deck for restaurant use from January 13, 2017 to January 13, 2022.

**Description of Amendment #10:** Request for the continued use of the public parking lot and beach front public viewing deck for restaurant use from January 13, 2022 to January 13, 2027 and implementation of a public deck and parking management plan. Submitted on December 6, 2021 and withdrawn on July 28, 2022.

**Description of Amendment #11:** Request for the continued use of the public parking lot and beach front public viewing deck for restaurant use from January 13, 2022 to January 13, 2027 and implementation of a public deck and parking management plan. Submitted on August 1, 2022 and withdrawn on January 17, 2024.

**Substantive File Documents:**

1. Coastal Development Permit staff reports for P-81-7894, 5-83-57A, 5-85-283, 5-91-141 and CDP amendment nos. 5-91-141-A through 5-91-141-A9.

## **APPENDIX B – ALL STANDARD AND SPECIAL CONDITIONS THAT APPLY TO THIS CDP AS AMENDED**

**NOTE:** This Appendix B provides a list of all standard and special conditions imposed pursuant to Coastal Development Permit 5-91-141, as approved by the Commission in its original action and modified and/or supplemented by all subsequent CDP amendments through Amendment No. 5-91-141-A12. Typographical and formatting errors have been corrected for consistency and references to specific amendments are noted in [brackets]. All special conditions have been assigned numbers sequentially based on the permit amendments they were imposed under. 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 permittees 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 this permit is reported to the Commission. 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 term or 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 permittees to bind all future owners and possessors of the subject property to the terms and conditions.

### **SPECIAL CONDITIONS**

This permit is granted subject to the following special conditions:

1. **Approval Term Limit and Beach Access Monitoring Program** [*Imposed under 5-91-141, amended by A1, A2, A4, A5, A6, A8, A9 and A12*]

The term of this amended permit is limited to a term commencing January 13, 2022, and terminating August 9, 2029, or until the restaurant is redeveloped and reopened to the public, whichever occurs first.

During the entire term the restaurant or its contracted parking lot operator must conduct a parking lot and beach access monitoring program to determine the ability of the public to use the public parking lot adjacent to the restaurant for beach access during peak beach use days and hours. The monitoring program shall be conducted at 11 a.m., 1 p.m., and 3 p.m. daily on all Saturdays, Sundays, and holidays between May 1st and October 30th of each year. The monitoring report shall include the total number of cars parked in the public parking lot.

The monitoring figures shall be submitted annually to the Commission's South Coast District office by December 31st for the duration of the applicable term limit of the permit for placement in Coastal Development Permit file 5-91-141-A12. Failure to submit the program's figures in a timely manner will constitute a violation of this condition.

Prior to the end of the term, the applicants may request an amendment to Coastal Development Permit 5-91-141 in order to extend the Commission's approval for an additional term. The Commission will then reexamine the project's effects on coastal resources and public access, using the figures obtained from the public access monitoring program, to determine whether an extension of the permit term is consistent with the Chapter 3 policies of the Coastal Act.

**2. Storage Container** *[Imposed under 5-91-141]*

Prior to issuance of a Coastal Development Permit, the applicant shall provide landscaping to screen the storage container located at the western end of the restaurant on the coastal bluff. The landscaping may be in the form of potted plants. Compliance with this condition shall be confirmed by Commission staff.

**3. Public Restrooms** *[Imposed under 5-91-141, amended by A12]*

Public restrooms must remain available to public, especially beach users at the Gladstones site. Additionally, any portable public restrooms managed by the County serving Will Rogers State Beach in the vicinity of the project site shall be consistently maintained in good working order.

**4. Future Improvements** *[Imposed under 5-91-141, amended by A3 and A12]*

This permit is only for the development described in coastal development permit (CDP) 5-91-141, as amended through A12. Pursuant to Title 14 California Code of Regulations (CCR) Section 13253(b)(6), the exemptions otherwise provided in Public Resources Code (PRC) Section 30610(b) shall not apply to the development governed

by the CDP 5-91-141, as amended through A12. Accordingly, any future improvements to the development authorized by this permit, as amended through A12, shall require an amendment to CDP 5-91-141 from the Commission or shall require an additional CDP from the Commission or from the applicable certified local government. In addition thereto, an amendment to CDP 5-91-141 from the Commission or an additional CDP from the Commission or from the applicable certified local government shall be required for any repair or maintenance identified as requiring a permit in PRC Section 30610(d) and Title 14 CCR Sections 13252(a)-(b).

**5. Condition Compliance** *[Imposed under 5-91-141, amended by A4 and A5, and reincorporated by A12 as condition compliance timing requirements in Special Conditions 7, 9, 10, 11, 12, and 13]*

[Reserved]

**6. Pacific Coast Beach Bike Path** *[Imposed under 5-91-141-A2]*

The applicants shall work jointly with the City of Los Angeles to develop a feasible route and design for the Pacific Coast Beach Bike Path for that portion of the path which passes by or through the site.

**7. Public Deck Management Program** *[Imposed under 5-91-141-A3, amended by A12]*

The permittees shall implement a public deck management program that protects the rights of the public to enter and be seated on the public viewing deck.

WITHIN 30 DAYS OF COMMISSION APPROVAL OF THIS COASTAL DEVELOPMENT PERMIT AMENDMENT, the applicants shall submit a revised public deck management program that incorporates the following:

- A. The restaurant shall not install a host stand at the entrance of the public deck area ([Exhibit 4](#)), and public deck visitors shall not be required to check in to sit at the public deck.
- B. The permittees shall not deny access to any persons (excepting those conducting illegal activities) who wish to utilize the public observation deck at the state park.
- C. No table settings for dining shall be placed on the public deck tables unless food service is requested by a visitor.
- D. The public deck shall not be reserved or rented for dining or semi-private or private events. Any language inferring the public deck may be reserved or rented must be removed from the premises and the restaurant website. The

restaurant website shall state: "No reservations or rental bookings of the public deck and parking areas are permitted."

- E. No lines or queues for restaurant dining shall impede the entrances to the public deck or the beach access path adjacent to the public deck and parking lot.
- F. The public deck hours and a photo of the public deck shall be included on the restaurant website. The restaurant website shall state, "The public deck remains open to the public for passive recreation use (no purchase required) and outdoor dining."
- G. Restaurant staff shall be trained on the public deck management program upon hire and twice a year thereafter. Evidence of such training shall be submitted annually to the South Coast District office.
- H. The public observation deck area consists of approximately 3,100 square feet of outdoor ocean-fronting deck area located between the sandy beach and the restaurant.
- I. The restaurant shall conduct a deck monitoring program to determine the ability of the public to use the public observation deck for public recreation during peak beach use days and hours. The monitoring program shall be conducted on all Saturdays, Sundays, and holidays between May 1<sup>st</sup> and October 30<sup>th</sup> of each year. The monitoring report shall include the dates visitors (non-restaurant patrons) occupied the public observation deck during the monitoring period. The monitoring report shall be submitted annually to the Commission's South Coast District office by December 31st for the duration of the applicable term limit of the permit for placement in the Coastal Development Permit file 5-91-141-A12. Failure to submit the monitoring report in a timely manner will constitute a violation of this condition.

Strict compliance with the final approved public deck management program by the restaurant concessionaire is required. Failure to comply with any term or condition of the revised public deck management program, including any deadline contained in the program, unless the Executive Director grants an extension, will constitute a violation of this permit and shall result in the non-compliant party or parties being liable for stipulated penalties in the amount of \$500 per day per violation. The non-compliant party or parties shall pay stipulated penalties within 15 days of the date of the written demand by the Executive Director of the Commission for such penalties, regardless of whether the non-compliant party subsequently complies.

**8. Seating Capacity** *[Imposed under 5-91-141-A3, amended by A12]*

The restaurant shall have a seating capacity of no more than 707 seats, including indoor and outdoor seating on the public deck

**9. Will Rogers State Beach Public Parking Lot** *[Imposed under 5-91-141-A4, amended by A5, A6, and A12]*

UPON COMMISSION APPROVAL OF THIS COASTAL DEVELOPMENT PERMIT AMENDMENT, the permittees shall incorporate the following parking management requirements:

- A. The public parking lot shall remain open to the general public. No exclusive right shall be given to any patron of the beach parking lot, including, but not limited to, employees or patrons of the restaurant.
- B. The permittees shall provide a valet parking service for the state park and restaurant parking lot to maximize the available parking spaces and enhance public beach access. Valet service shall be available during the operating hours of the lot.
- C. The parking valet shall utilize the “tandem” parking spaces before parking vehicles in the “single” spaces. Non-valet visitors shall be directed to park in a “single” space. If the “single” spaces are filled, a parking valet shall park additional vehicles in a tandem space at no additional cost.
- D. The parking lot shall open no later than 6 a.m. and shall close no earlier than 9 p.m. year-round. Early-bird parking from 6 a.m. to 9 a.m. may be provided as self-parking.
- E. The parking rate structure shall be as shown in [Exhibit 2](#). The maximum valet rate shall be \$13 on weekdays and \$15 on weekends.
- F. The public parking lot hours and the parking rate shall be stated on the restaurant’s website and valet kiosks.
- G. Any change to the parking lot hours or the parking rate shall require a new CDP amendment.
- H. Valet operators must use any available tandem spaces before using single spaces. Parking cones may only be placed around the “tandem” parking spaces to reserve spaces for valet operators to park cars in those spaces.
- I. Half of the driving lanes shall be dedicated to self-park visitors.
- J. Valet staff shall be informed of the parking lot management program upon hire and twice a year thereafter. Evidence of such training shall be submitted annually to the South Coast District Office.

- K. If the restaurant closes and ceases operations prior to the end of the authorized term, the parking lot shall remain open and operate in a manner similar to other public beach lots.

**10. Revised Site Plans** *[Imposed under 5-91-141-A5, amended by A12]*

WITHIN 90 DAYS OF COMMISSION APPROVAL OF THIS COASTAL DEVELOPMENT PERMIT AMENDMENT, the applicants shall submit, for the review and written approval of the Executive Director, a revised site plan showing:

- A. A maximum seating capacity of 707 seats for indoor and outdoor seating combined.
- B. The parking lot layout with each parking space including the “tandem” spaces identified, the total available parking spaces including the “tandem” spaces, and the self-park and valet lanes identified.
- C. Removal or relocation of the host stand away from the parking lot including, for example, relocation indoors or, as shown in [Exhibit 4](#), near the second entrance to the public deck.
- D. The permittees shall undertake the development in accordance with the approved plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

**11. Signage and Monitoring Plan** *[Imposed under 5-91-141-A12]*

WITHIN 90 DAYS OF COMMISSION APPROVAL OF THIS COASTAL DEVELOPMENT PERMIT AMENDMENT, the applicants shall submit a Signage and Monitoring Plan, for the review and written approval of the Executive Director. The restaurant shall implement a Signage and Monitoring Plan to prioritize and enhance public awareness of the amenities available to the public. The Signage and Monitoring Plan shall include the following:

- A. The size, language, location, and mock-up of all signs relating to coastal access, the public deck, the parking lot, valet, and the public restrooms.
  - i. One large sign shall be placed on the interior of the parking lot that states “Public Parking for Will Rogers State Beach and Gladstones” and the top of the sign shall be no higher than 12 feet above average finished grade, and dimensions shall not exceed 3 feet by 6 feet, except as specifically set forth in this condition.



- ii. A minimum of two directional signs shall be placed on the interior of the parking lot, one near the entrance to the parking lot and another near the restaurant prior to the lane splits. Each sign shall indicate which lanes are for "Self-Park" and which lanes are for "Valet", and they shall indicate the applicable parking rates and hours.
  - iii. Signs shall be placed in a conspicuous location at each kiosk on 2' x 3' signs, and each sign shall state: "Public Parking for Will Rogers State Beach and Gladstones Restaurant. Choose either Self-Parking or Valet. See parking attendant and posted signs for rates. Lot Hours: 6 a.m. to 9 p.m."
  - iv. Two 3' x 2' signs shall be attached to the public deck railing next to each side of the outdoor entrance to the deck area closest to the parking lot and four additional signs shall be attached to the public deck railing fronting the beach. The public deck railing signs shall say "Free Public Observation / Picnic Deck This Way – No Purchase Required" with a directional arrow pointing to the entrance of the deck area. No restaurant branding (e.g., "Gladstones" flags) is allowed on the public deck or public parking lot, except as specifically set forth in this condition.
  - v. The public restrooms shall be posted with signs that indicate that the restrooms are available for public use. The public restroom signs shall state: "Public Restroom – No Purchase Required."
  - vi. A small table sign on each table in the public deck area shall say "Welcome to the Will Rogers State Beach Public Observation / Picnic Deck – No Purchase Required" and shall be visible at all times.
- B. Only signs specifically included in this condition and/or in the final approved Signage and Monitoring Plan are allowed.
- C. All signs shall be permanently installed except for the valet kiosk signs.
- D. The existing public access/public deck sign on the two pillars at the entrance to the restaurant from the parking lot shall be retained.
- E. The existing main neon-lighted sign is allowed to remain as is.
- F. Signage may not say "Private Property" or "No Trespassing." The tops of all signs on the property shall be no higher than 12 feet above average finished grade, and their total dimensions shall not exceed 3 feet by 6 feet.
- G. To ensure compliance with the approved signage program, time-stamped photographic evidence of all signs must be submitted annually to the Commission's South Coast District office by December 31st for the duration of

the applicable term limit of the permit for placement in Coastal Development Permit file 5-91-141-A12.

- H. The permittees shall undertake development in accordance with the approved Signage and Monitoring Plan. Any proposed changes to the approved Signage and Monitoring Plan shall be reported to the Executive Director. No changes to the Signage and Monitoring Plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

**12. Plastic Pollution Reduction Program** *[Imposed under 5-91-141-A12]*

WITHIN 90 DAYS OF COMMISSION APPROVAL OF THIS COASTAL DEVELOPMENT PERMIT AMENDMENT, 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, single-use plastic items and expanded polystyrene foodware, containers, and packaging). The plan shall include at a minimum, all of the following, and the permittees shall implement the approved version of the plan:

- A. The permittees shall install and maintain smoke-free signage in all rooms and/or areas of the restaurant.
- B. The permittees 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. Adhere to the following criteria:
- i. Only use reusable foodware (including dinnerware, drinkware, silverware, and ramekins/containers) for on-site dining, specifically prohibiting the use of single-use 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 items (aka Styrofoam).
  - iv. Prohibit the use of plastic bags on-site or for takeout/to-go orders.
  - v. Only provide single-use utensils, straws, condiments, containers, and other accessory items made from naturally occurring materials upon request for takeout/to-go orders. Alternatively, implement a reusable take-out program.
  - vi. Prohibit the sale of all beverages in plastic bottles.

- vii. Follow proper recycling (and composting, if available) practices.
- D. All waste resulting from restaurant activities should be exported outside the Coastal Zone.
- E. 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 Commission's approval of this CDP amendment, the permittees shall participate in an established program to reduce waste and single-use plastic foodware and packaging on-site and for takeout orders. The permittees shall be responsible for the fees needed to participate in the program.
- F. The permittees shall provide an annual report for the review and approval of the Executive Director of the Coastal Commission, program scope and metrics, and total outcome of the selected program referenced in Section E. The report shall be provided annually, no later than December 31st, for the preceding calendar year and shall be provided for the lifetime of the development.
- G. The permittees shall provide a service plan for recycling, trash bins, and compost within the Gladstones site and along the road shoulder further downcoast within Will Rogers State Beach. The plan shall specify the amount of trash and recycling bins in the area, 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 overfilled bins that might result in adverse impacts to nearby natural resources.
- H. No changes to the approved plan shall occur without a Commission amendment to this coastal development permit or a new coastal development permit, unless the Executive Director determines that no amendment or new permit is legally required.

**13. Topanga Lagoon Parking Plan** *[Imposed under 5-91-141-A12]*

- A. Revised Final Plans. WITHIN 90 DAYS OF COMMISSION APPROVAL OF THIS COASTAL DEVELOPMENT PERMIT AMENDMENT, the applicants shall submit, for the review and written approval of the Executive Director, two (2) sets of revised final plans for the parking lot adjacent to Topanga Lagoon that have been reviewed by the County of Los Angeles and substantially conform with the preliminary plans submitted by the County of Los Angeles, Department of Beaches and Harbors on July 24, 2024, except that they shall be modified as required below:

- i. Plans shall include final materials for all stall surfacing, delineation, and signage.
- ii. Provide a minimum 50-foot setback between the top of the bank of Topanga Lagoon and any proposed parking spaces and surfaces, as depicted on [Exhibit 8](#) of this staff report.
- iii. Ensure that the proposed parking aisle allows for safe ingress and egress of vehicles that avoids the 50-foot Lagoon setback outlined in (ii) above, as depicted on [Exhibit 8](#) of this staff report.
- iv. All parking spaces and surfaces shall be located 10 feet or more from the bluff edge, and no parking spaces or surfaces shall result in the removal or alteration of major vegetation (as determined by the Executive Director), including trees and shrubs located near or on the bluff.
- v. Any storage or staging of materials or equipment associated with this development shall be located outside the Lagoon and bluff setback areas.
- vi. The proposed parking lot may be expanded to encompass areas outside the 50-foot Lagoon setback (ii. above) and 10-foot bluff setback (iv. above). The parking lot shall contain no fewer than 53 spaces and shall remain operational and open to the public until and unless superseded by a future CDP.
- vii. A vehicular safety fence or gate with shallow footings no taller than 5 feet in height may be located landward of the 50-foot Lagoon setback in (ii) above in order to restrict vehicular access to the existing emergency vehicle access ramp and helicopter landing area, provided that it shall allow openings for pedestrian access and shall not adversely impact public views to the ocean or Lagoon.
- viii. Remnants (e.g., retaining walls, stairs, foundations) of previous residential uses within the parking lot site may be demolished and removed to the extent necessary to complete construction and ensure operational safety. Where remnants are buried and require excavation, the applicants shall implement the Tribal Cultural Resource Treatment and Monitoring Plan in (E) below.
- ix. All areas disturbed/affected by construction activities not occupied by new development shall be re-vegetated with drought tolerant plants native to the Santa Monica Mountains region for habitat enhancement and erosion control purposes. No permanent irrigation of any kind shall be permitted after establishment of plantings.

- B. Runoff Control Plans. WITHIN 90 DAYS OF COMMISSION APPROVAL OF THIS COASTAL DEVELOPMENT PERMIT AMENDMENT, the applicants shall submit for the review and written approval of the Executive Director runoff control plans prepared by a licensed engineer that incorporate Best Management Practices (BMPs), designed to reduce both the volume and pollutant load of runoff from the proposed development to the maximum extent practicable. The plans shall be in conformance with the following requirements:
- i. During and after construction, development shall minimize site runoff and erosion through the use of BMPs and shall minimize the discharge of sediment and other potential pollutants resulting from construction activities (e.g., chemicals, vehicle fluids, petroleum products, cement, debris, and trash) into Topanga Lagoon or open coastal waters, or the public beach.
  - ii. Opportunities for directing runoff to permeable spaces for infiltration shall be utilized to the maximum extent practicable. Where this is infeasible, maintain post-development peak runoff rate and average volume at levels that are similar to pre-development levels.
  - iii. Development shall minimize soil compaction to retain the natural stormwater infiltration capacity of the soil.
  - iv. Appropriate site design, source control and treatment control BMPs shall be implemented to minimize the amount of polluted runoff from all surfaces and activities on the development site.
  - v. Development shall implement soil stabilization BMPs (such as mulching, soil binders, erosion control blankets, or temporary re-seeding) on graded or disturbed areas as soon as feasible during construction, where there is a potential for soil erosion to lead to discharge of sediment off-site or to coastal waters.
  - vi. The use of erosion and sediment control products (such as mulch/compost, fiber rolls, erosion control blankets, mulch control netting, and silt fences) that incorporate recycled plastic or plastic netting (such as polypropylene, nylon, polyethylene polyester, or other synthetic fibers) is prohibited, in order to minimize wildlife entanglement and plastic debris pollution.
  - vii. Post-construction structural BMPs (or suites of BMPs), must be designed to treat, infiltrate or filter the amount of storm water runoff produced by all storms up to and including the 85th percentile, 24-hour storm event for volume-based BMPs, and/or the 85th percentile, 1-hour storm event, with an appropriate safety factor (i.e., 2 or greater), for flow-based BMPs.

- viii. Conduct fueling and maintenance of construction equipment and vehicles off site if feasible. No heavy machinery shall be allowed within the setback areas required in (A) or on the beach. Any fueling and maintenance of mobile equipment conducted on site shall take place at a designated area located at least 50 feet from coastal waters, drainage courses, and storm drain inlets, if feasible (unless these inlets are blocked to protect against fuel spills). The fueling and maintenance area shall be designed to fully contain any spills of fuel, oil, or other contaminants. Equipment that cannot be feasibly relocated to a designated fueling and maintenance area (such as cranes) may be fueled and maintained in other areas of the site, provided that procedures are implemented to fully contain any potential spills.
  - ix. Covered trash receptacles and, if smoking is allowed on the property, cigarette butt disposal receptacles shall be included.
- C. Parking Rates. If a parking fee is demonstrated to be required in order to operate and maintain the lot, then the parking rate shall be no more than the Commission-approved parking rates at the existing parking lot located on the opposite side of Topanga Lagoon, pursuant to CDP 4-01-227. All parking spaces shall be self-parked, and no valet shall be allowed. If pay and display stations, staffed kiosks, or other physical structures are proposed to collect parking fees, they shall be included in the revised final plans pursuant to (A) above, and to the extent feasible, an hourly payment option shall be provided.
- D. Nesting Bird Monitoring and Avoidance Plan. WITHIN 90 DAYS OF COMMISSION APPROVAL OF THIS COASTAL DEVELOPMENT PERMIT, the applicants shall submit to the Executive Director for review and written approval, a Nesting Bird Monitoring and Avoidance Plan that shall include but not be limited to the following provisions: if project activities must occur during bird nesting season (February 1 through September 15), a qualified biologist, with experience conducting bird surveys, shall survey for active nests within 7 days prior to commencement of project activities, and once a week thereafter during construction, to detect any such activity within 500 feet of the project area. If an active songbird nest(s) is located within 300 feet of construction activities (500 feet for raptors), the qualified biologist shall halt construction activities to enable the applicants to employ best management practices (BMPs) to ensure that construction activities do not disturb or disrupt nesting activities. Noise levels at active nest sites must not exceed 65 dB unless a noise study has determined that ambient noise in the immediate area exceeds that level. If this is the case, noise levels at the nest site must not exceed the ambient noise level measured. Noise reducing BMPs may include using alternative equipment, equipment noise buffering, sound blankets, etc. Alternatively, construction activities and schedules may be adjusted to avoid active nest areas until the respective young

birds have fledged. Unrestricted construction activities may resume when no active nests remain in the construction area. Results of nesting bird surveys, ambient noise surveys, and any follow-up construction avoidance measures shall be documented in monthly reports by the qualified biologist and submitted to the Coastal Commission Executive Director throughout the bird breeding season.

- E. Protection of Archaeological and Tribal Cultural Resources. The permittee shall undertake development in compliance with the following mitigation measures to protect archaeological, including tribal cultural resources:
- i. AT LEAST ONE MONTH PRIOR TO COMMENCEMENT OF ANY GROUND-DISTURBING CONSTRUCTION ACTIVITIES, the permittee shall (a) notify in writing, email, and/or phone calls, as necessary, the representatives of Gabrieleño-affiliated and Chumash Native American Tribes listed on an updated Native American Heritage Commission (NAHC) contact list for the area; (b) invite all affiliated Tribal representatives on that list to be present and to monitor ground-disturbing activities; and (c) 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. A qualified archaeologist means an individual who meets the Secretary of the Interior's Professional Standards for an Archaeological Principal Investigator and/or is listed as Registered Professional Archaeologist. 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. Evidence of written notification shall be made available to the Executive Director upon request.
  - ii. 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 (iv) hereof, and the permittee shall retain a qualified archaeologist and a tribal cultural resource specialist qualified to analyze the significance of the find in consultation with the Gabrieleño-affiliated and Chumash Native American Tribes listed on the NAHC list. Significance testing may be carried out only if acceptable to the affected Native American Tribe(s), in accordance with a Significance Testing Plan. The specialist(s) shall immediately notify the affiliated 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.

- iii. Should human remains be discovered on-site during the course of the project, immediately after such discovery, the on-site archaeologist and Native American monitor(s) 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. An “exclusion zone” may be established around the discovery area. If the county coroner determines that the human remains are those of a Native American, the coroner shall contact the NAHC within 24 hours, pursuant to Health and Safety Code Section 7050.5. The NAHC shall deem the Native American most likely descendant (MLD) to be invited to participate in the identification process pursuant to Public Resources Code Section 5097.98. The permittees shall comply with the requirements of Section 5097.98 and work with the MLD person(s) to preserve the remains in place, move the remains elsewhere onsite, relinquish the remains to the descendants for treatment, or determine other culturally appropriate treatment. Within five (5) calendar days of notification to NAHC, the permittee shall notify the Coastal Commission’s Executive Director of the discovery of human remains and identify any changes to the proposed development or mitigation measures that may be needed related to the inadvertent discovery. The Executive Director shall maintain confidentiality regarding the presence of human remains on the project site. The Executive Director shall determine whether the identified changes are de minimis in nature and scope.
- iv. A permittee seeking to recommence construction within an exclusion zone (excluding the discovery of human remains, which shall follow Section 5097.98 as noted in (iii) above), following discovery of the archaeological resources shall submit a Supplementary Archaeological Plan (SAP) prepared by the project archaeologist in consultation with the Gabrieleño-affiliated Native American Tribes listed on the NAHC list for the review and written approval of the Executive Director. If there is disagreement regarding the method(s) of protection of resources, the methods that are most protective of coastal resources shall be selected. 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.



- F. Compliance. Within 7 months of approval of this CDP amendment, the permittees shall undertake development in accordance with the approved final plans, unless the Executive Director grants an extension for good cause. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved plan shall occur without a Commission amendment to this coastal development permit or a new coastal development permit, unless the Executive Director determines that no amendment or new permit is legally required.