

CALIFORNIA COASTAL COMMISSION

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Filed: 9/23/08
49th Day: 11/11/08
180th Day: 3/22/09
Staff: Al Padilla-LB
Staff Report: 10/21/08
Hearing Date: 1/7-9/09
Commission Action:



W22c

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 5-08-251

APPLICANT: Los Angeles Unified School District

PROJECT LOCATION: 3210 South Alma, San Pedro

PROJECT DESCRIPTION: Construction of a 810 seat high school, with 30 classrooms, administrative buildings, gymnasium, library, food service, multi-purpose room, amphitheater, sports fields, swimming pool, and 113 surface parking spaces. In addition the project will include up to 36 electric generating wind turbines, a green roof system and photovoltaic panels.

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends approval with special conditions on the basis that the project, as conditioned, conforms with the public access and resource protection policies of the Coastal Act. Special Conditions include: 1) Submit revised plans to remove wind turbines from construction plans; 2) Future Development; 3) Lighting plans; 4) Landscape plans; 5) Water Quality Management Plan; 6) Drainage and Erosion Control Plan; and 7) Archaeological resource recovery plan.

SUBSTANTIVE FILE DOCUMENTS: Final Environmental Impact Report, South Region High School No. 15, , SC#2008031020;

RECOMMENDATION:

MOTION: *I move that the Commission approve Coastal Development Permit No.5-08-251 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

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

RESOLUTION TO APPROVE THE PERMIT:

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

II. **STANDARD CONDITIONS:**

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee 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 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 permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. Special Conditions.

1. Revised Plans to Remove Wind Turbines.

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and written approval of the Executive Director, two full size sets of final project plans showing the elimination of the proposed wind turbines from the final plans.

B. The permittees shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required. The applicant may submit an amendment for the construction and operation of wind turbines once a one year avian survey, designed in consultation with the California Coastal Commission, United States Fish and Wildlife Service (USFWS) and California Department of Fish and Game (CDFG), has been conducted for the site, and the survey and turbine design has been reviewed and approved by the USFWS and the CDFG.

2. Future Development

This permit is only for the development described in coastal development permit No. 5-08-251. Except as provided in Public Resources Code section 30610 and applicable regulations, any future development as defined in PRC section 30610, including, but not limited to, a change in the density or intensity of use land, or change from the project description, as proposed by the applicant, shall require an amendment to Permit No. 5-08-251 from the California Coastal Commission or shall require an additional coastal development permit from the California Coastal Commission or from the applicable certified local government.

3. Lighting

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and written approval of the Executive Director, a lighting plan for the proposed facility. The Plan shall indicate that all lighting from the facility will be directed downward and onto the facility, and all light shall be shielded from the surrounding areas to the maximum extent feasible by use of hoods, filters, etc. No night lighting of the athletic field shall be allowed, except for security lighting purposes only using low-intensity lights.

B) The permittee shall undertake development in accordance with the approved plans. Any proposed changes to the approved plans shall be reported to the Executive Director in order to determine if the proposed change shall require a permit amendment pursuant to the requirements of the Coastal Act and the California Code of Regulations.

4. Landscape Plan

A. Prior to issuance of the coastal development permit, the applicant shall submit, for review and approval of the Executive Director, a landscaping plan. The plan shall be prepared by a licensed landscape architect. To minimize the need for irrigation and minimize encroachment of non-native plant species into adjacent areas, all landscaping shall consist of native and/or drought tolerant non-invasive plant species. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council (formerly known as the California Exotic Pest Plant Council), or as may be identified from time to time by the State of California shall be utilized on the property. No plant species listed as a 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized within the property. All plants employed on the site shall be drought tolerant (low water use) plants identified by U. C Davis and the Water Resources Board. Ornamental planting with non-indigenous and non-invasive plant species is permitted within the garden areas.

B. The permittee shall undertake development in accordance with the final plans approved by the Executive Director pursuant to this condition. Any proposed changes to the approved plans shall be reported to the Executive Director in order to determine if the proposed change shall require a permit amendment pursuant to the requirements of the Coastal Act and the California Code of Regulations.

5. Water Quality Management Plan

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for the review and approval of the Executive Director, a Water Quality Management Plan (WQMP) for the post-construction project site, prepared by a licensed water quality professional, and shall incorporate structural and non-structural Best Management Practices (BMPs) designed to reduce, to the maximum extent practicable,

the volume, velocity and pollutant load of storm water and nuisance flow leaving the developed site. In addition to the specifications above, the plan shall be in substantial conformance with the following requirements:

Water Quality Goals

- a. Appropriate structural and non-structural BMPs shall be designed to treat, infiltrate, or filter the runoff from all surfaces and activities on the development site.
- b. Post-construction structural BMPs (or suites of BMPs) should 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.
- c. Runoff from all roofs, parking areas, maintenance areas, and driveways shall be collected and directed through a system of appropriate structural and/or non-structural BMPs. Filter elements shall be designed to 1) trap sediment, particulates and other solids and 2) remove or mitigate contaminants through filtration and/or biological uptake. The drainage system shall also be designed to convey and discharge runoff in excess of this standard from the building site in a non-erosive manner.

B. Monitoring and Maintenance

All BMPs shall be operated, monitored, and maintained for the life of the project and at a minimum, all structural BMPs shall be inspected, cleaned-out, and where necessary, repaired, at the following minimum frequencies: (1) prior to October 15th each year; (2) during each month between October 15th and April 15th of each year and, (3) at least twice during the dry season (between April 16 and October 14).

- a. Debris and other water pollutants removed from structural BMP(s) during clean-out shall be contained and disposed of in a proper manner.
- a. All inspection, maintenance and clean-out activities shall be documented in an annual report submitted to the Executive Director no later than June 30th of each year. This report shall be submitted for the first three years following the completion of development, biannually thereafter unless the executive director determines that no additional reports are necessary.
- c. It is the applicant's responsibility to maintain the drainage system and the associated structures and BMPs according to manufacturer's specification.

C. The permittee shall undertake development in accordance with the approved final plan and schedule and other requirements. 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.

6. Demolition, Grading, Drainage, and Erosion and Siltation Control Plan

A. PRIOR TO ISSUANCE OF THE PERMIT, THE APPLICANT SHALL PROVIDE PLANS FOR THE REVIEW AND APPROVAL OF THE EXECUTIVE DIRECTOR for control of the discharge of waste sediments, debris, dusts and pollutants during demolition of the existing structures, site preparation, grading and construction. These plans shall be prepared by a professional engineer and shall include proposed erosion and sediment prevention and control BMPs, both structural and non-structural, and the following information:

- (1) Location of all staging and stockpiling areas;
- (2) Measures to control dust and debris during demolition;
- (3) Locations and cross sections of all proposed retaining structures and temporary and permanent cut-and-fill slopes;
- (4) Area (square feet) and volume (cubic yards) of all grading (identify cut, fill, import, export volumes separately), and the locations where sediment will be stockpiled or disposed of;
- (5) Elevation of finish contours to be achieved by the grading, and related construction;
- (6) A drainage plan;
- (7) A grading schedule.

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

7. Archaeological Resources

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for the review and approval of the Executive Director an archeological monitoring plan prepared by a qualified professional, that shall incorporate the following measures and procedures:

1. The monitoring plan shall ensure that any prehistoric or historic archaeological or paleontological cultural resources that are present on the site and could be impacted by the approved development will be identified so that a plan for their protection can be developed. To this end, the cultural resources monitoring plan shall require that archaeological and Native American monitors be present during all grading

operations unless the applicant submits evidence, subject to the review and approval of the Executive Director, that a more complete survey of cultural resources adjacent to and within a one-half mile radius of the project site finds no cultural resources. If cultural resources are found adjacent to, or within a one-half mile radius of the project site, the applicant may choose to prepare a subsurface cultural resources testing plan, subject to the review and approval of the Executive Director, in-lieu of proceeding with development with the presence of archaeological and Native American monitors on the site during grading activities. If the subsurface cultural resources testing plan results in the discovery of cultural resources, the applicant shall prepare a mitigation plan, which shall be peer reviewed and reviewed by designated representatives of the appropriate Native American tribe, and shall apply for an amendment to this permit in order to carry out the mitigation plan.

There shall be at least one pre-grading conference with the project manager and grading contractor at the project site in order to discuss the potential for the discovery of archaeological or paleontological resources.

2. Archaeological monitor(s) qualified by the California Office of Historic Preservation (OHP) standards, Native American monitor(s) with documented ancestral ties to the area appointed consistent with the standards of the Native American Heritage Commission (NAHC), and the Native American most likely descendent (MLD) when State Law mandates identification of a MLD, shall monitor all project grading, if required in the approved cultural resources monitoring plan required above.
3. If required by the above cultural resources monitoring plan to have archeological and Native American monitors present during grading activities, the permittee shall provide sufficient archeological and Native American monitors to assure that all project grading that has any potential to uncover or otherwise disturb cultural deposits is monitored at all times;
4. If any archaeological or paleontological, i.e. cultural deposits, are discovered, including but not limited to skeletal remains and grave-related artifacts, artifacts of traditional cultural, religious or spiritual sites, or any other artifacts, all construction shall cease within at least 50 feet of the discovery, and the permittee shall carry out significance testing of said deposits in accordance with the attached "Cultural Resources Significance Testing Plan Procedures" (see Appendix 1 attached to staff report). The permittee shall report all significance testing results and analysis to the Executive Director for a determination of whether the findings are significant.
5. If the Executive Director determines that the findings are significant, the permittee shall seek an amendment from the Commission to determine how to respond to the findings and to protect both those and any further, cultural deposits that are encountered. Development within at least 50 feet of the discovery shall not recommence until an amendment is approved, and then only in compliance with the provisions of such amendment.

IV. Findings and Declarations.

The Commission hereby finds and declares as follows:

A. Project Description, Location and Background

The applicant, Los Angeles Unified School District (LAUSD), proposes to construct an 810 seat high school, with 30 classrooms, 77 full and part-time faculty and staff members, administrative buildings, gymnasium, library, food service, multi-purpose room, amphitheater, sports fields, swimming pool, and 193 surface parking spaces. The school will be developed as a green demonstration project with a goal to be 75-100% energy self-sufficient. The project will include features to enhance energy efficiency, such as, up to 36 (maximum of 60-foot high) wind turbines, photovoltaic panels for the roof of the gymnasium, and green roofs for the two lunch shelters and classroom buildings.

The proposed school facility will consist of approximately 107,627 square feet of building area within 2 to 3 story buildings, with a maximum height of 43 feet. The project will occupy approximately 28.5 acres of the LAUSD 47 acre property (see Exhibits No. 2).

The project site is located in the San Pedro community of the City of Los Angeles at 3200 South Alma Street, on the southeast corner of 30th Street and South Alma Street, and is bounded on the north by West 30th Street, on the east by Cabrillo Street, on the south by West 36th Street, and on the west by South Alma Street. The project site is approximately 1/3 of a mile from Paseo del Mar, which is the first public road paralleling the coastal bluffs.

The site is located on the Fort MacArthur Upper Reservation. Fort MacArthur was an active military base from 1910 to 1975. Historical uses of the site consisted of fixed and mobile artillery batteries and various structures for housing, training, administration, and other activities. The Upper Reservation occupies 111 acres, 47 acres of which are currently owned and used by LAUSD. Current uses on the 47 acres include the Angels Gate Continuation High School, which currently has 51 students in three modular classrooms; the Wilmington/San Pedro Early Education and Skills Center; American Red Cross; an auto repair facility; Point Fermin Outdoor Education Center (CDP No. 5-04-392); Marine Mammal Rescue Center; and the Marine Oiled Bird Center. The continuation high school and education and skill center will be relocated to the adjacent Marine Mammal Rescue and Marine Oiled Bird Centers.

The remaining 64 acres of the Upper Reservation are currently owned by the City of Los Angeles Department of Recreation and Parks. Facilities within this portion of the Upper Reservation include: the Angels Gate Cultural Center; the Korean Bell of Friendship Monument; the Battery Osgood-Farley Historical Museum; various recreational facilities; and a youth hostel. The area outside and surrounding the Upper Reservation area is developed with single-family residences.

The LAUSD site was previously approved by the Commission in 1991 for the construction of a multi-faceted educational facility, which included demolition of all existing military buildings and

construction of 111,553 square feet of new buildings and the marine animal care center (CDP No. 5-91-252). The only portion of the project that went forward pursuant to that permit was the construction of the marine animal care center.

The South Coast District office has received a number of letters objecting to the project. A number of the letters are attached as Exhibit No. 10. Issues raised in objection to the project include inadequate parking, traffic proximity of facilities near residents, noise generation by school activities and impact to residents, wind turbine impacts, and visual compatibility. These issues as they relate to the Coastal Act are addressed below.

B. Coastal Access

The Commission has consistently found that a direct relationship exists between the provision of adequate parking and the availability of public access to the coast. Section 30211 of the Coastal Act states that:

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 30252 of the Coastal Act requires that new development should maintain and enhance public access to the coast by providing adequate parking facilities. Section 30252 of the Coastal Act 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. . .

Therefore, in order to conform to the requirements of the Coastal Act, the proposed project must provide adequate support parking and/or public transit opportunities in order not to negatively impact parking for coastal access. The applicant is proposing to provide a total of 193 on-site parking spaces for the proposed high school. Through past Commission permit action the Commission has established for high school development a parking ratio of 7 parking spaces per teaching station. Based on this parking ratio, the 30 classroom school would require 210 parking spaces. Therefore, with the proposed provision of 193 spaces, the project would be 17 spaces short of the Commission's parking requirements.

Although the project is short of the Commission's parking requirement, parking deficiencies can be mitigated with alternative transportation, such as public and private bus service, time of use where conflicts with public beach access is minimized, and by the location of the project in relation to beach and recreational facilities.

In the immediate area surrounding the project site there are four separate bus lines: Metropolitan Transportation Authority, Los Angeles Department of Transportation-DASH, and the Municipal Area Express. In addition, the school will provide school bus service for

the outlying areas. Therefore, there is adequate local and regional bus service in the area, as well as the school bus service, to serve the school as alternative transportation that will help reduce the demand for parking by students and teachers.

There is also on-street parking surrounding the project site to accommodate overflow parking demand. The use of the on-street parking will not have an adverse impact on beach access due to the distance (over 1/3 mile) from the coastal bluffs, park, or access down to the rocky beach below the bluffs. The surrounding area is residentially developed and due to the distance from the bluff, it is not used for beach parking. Furthermore, school use is mainly during the weekday and peak beach use is during the summer weekends, so there will not be a conflict between the uses. However, even if the school was used during the weekend, the distance from beach area and location of the coastal recreational areas, such as Point Fermin Park and White Point Beach Park (see Exhibit No. 2) will minimize any potential beach access parking conflicts.

Traffic generated by the proposed project will also have minimal effect on coastal access since the school will operate mainly during the week.

The Commission, therefore, finds that as proposed the project will not adversely impact coastal access and will be consistent with Section 30211 and 30252 of the Coastal Act and with the applicable policies of the City's certified LUP.

C. Biological Resources

Section 30240 of the Coastal Act states in part:

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

(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.

The proposed project site consists of approximately 28.5 acres. Of the 28 acres 12.88 acres or 45% of the site is developed with buildings, roads, pads, storage areas, utilities, and other infrastructure associated with the former military use and with the current educational uses. The remaining non-developed area of 15.6 acres consists of ruderal and ornamental plantings. According to the EIR, the existing landscape is dominated by non-native annual and biennial herbs, non-native grasses, and ornamental plant species. These areas have been historically and currently maintained through periodic mowing and trimming.

Plant and mammal surveys have been conducted on and surrounding the site. According to the EIR, no endangered, threatened or sensitive species were found on the site or in the surrounding area, and are not anticipated due to the history of development on the site and lack of suitable habitat. However, the project site is located along within the Pacific Flyway. The Pacific Flyway is the path that migratory birds follow along the Pacific Coast during their annual migrations. Millions of shorebirds and waterfowl travel between northern breeding grounds and southern wintering sites. The Pacific Flyway originates in Western Alaska, around the Yukon River Delta, and extends as far south as Latin America. The peak periods for bird migration through southern California are March through May and August through October.

Both migratory shorebirds and neotropical songbirds either come to this general area to breed or pass through here on their way to other locations. Wetlands and coastal bays are stopover sites for resting and feeding birds. According to reports, a list of approximately 340 species of birds that have been seen at or near Ken Malloy Harbor Regional Park (located about 5 miles north of the project site) has been compiled from a variety of sources (Heindel, 2000). This list was cross-checked with a list of neotropical migrant birds (Rappole, 1995) to identify the migrant species that are likely to fly in the vicinity of the area. Exhibit No. 9 provides a list of birds likely to be found in the area.

Although no specific studies on migrant species composition, number of migrants, and migrant flight patterns (temporal and spatial) are available for the harbor area, approximately 100,000 to 1,000,000 birds use the Seal Beach area, which is approximately 20 miles to the south, as a major stopover, according to the following Caltrans technical report; LA-47/Vicent Thomas Br. Lighting, Natural Environment Study Memo, May 2003.

a. Wind Turbines

The proposed project includes up to 36 vertical axis wind turbines with maximum heights of 60 feet. The issue that the proposed project raises is the potential impact the proposed wind turbines may have on the various bird species that migrate through the San Pedro and harbor area, and resident bird species within the harbor. There have been many studies and reports that indicate that wind turbines can pose a problem for birds and cause mortalities among these birds.

The United States Fish and Wildlife Service (USFWS) has issued interim guidance documentation for siting wind turbines and reducing impacts to avian species and has established a protocol to conduct a site evaluation and wildlife use surveys for use in developing a wind turbine project while reducing the avian risk. Consistent with the USFWS guidelines, the California Energy Commission (CEC), in coordination with the California Department of Fish and Game (CDFG) has issued wind project guidelines for reducing impacts to birds and bats (*California Energy Commission California Guidelines for Reducing impacts to Birds and Bats from Wind Energy Development, 2007*). According to the applicant these guidelines will be used in designing and siting the wind turbines and include the following:

- a. Perform quarterly avian surveys for a minimum of one year prior to the construction of the wind turbines.
- b. Formally consult with CDFG
- c. Restrict the use of outdoor project lighting.
- d. Perform two years of mortality counts post-project construction.
- e. Report the data results and consult with CDFG regarding the post-project data conclusions;
- f. Implement an optional custom protective cage design to prevent or minimize turbine rotor impacts with birds.
- g. Implement an optional turbine shut-down plan during peak migratory season or during inclement weather situations.

Furthermore, according to the EIR, direct impact to individual birds resulting from collisions with wind turbine blades would be expected to be very low in this area due to the lack of suitable habitat, low vegetation cover, and the size of the proposed wind turbines.

The proposed project is located on a hill near the southern edge of the Palos Verdes Peninsula, less than .5 miles from the shoreline. Because of the location, this site may include areas that migratory avian species typically use in large numbers at specific times during the year, and according to the EIR, potential impact to avian species may vary through the year and direct impacts to migratory avian species in general may be possible as populations increase temporally and spatially. The potential for impacts is also dependent on the number of turbines, heights, configuration, environmental conditions, and species specific avoidance behavior.

The CEC guidelines for wind turbines recommends a one-year pre-permitting survey to document how birds use the area; types of birds, number of birds; and flight patterns. All of these variables, including the design, location, and number of the wind turbines, can affect the potential impact the wind turbines could have on avian species. The EIR states that due to the long history of disturbances and on-going maintenance practices that have modified the landscape and reduced the habitat value, direct impacts to individual birds resulting from collisions with wind turbine blades would be expected to be very low in this local environment. However, in reference to a study on bird mortality and wind turbines (The Effect of Avoidance Rates on Bird Mortality Predictions made by Wind Turbine Collision Risk Models, Chamberlain, DE., Rehfisch, M.R., Fox, A.D. Desholm, M. & Anthony, S, 2006), the EIR includes the following:

“Where terrestrial birds, as well as water birds, can be shown to migrate in very low densities, the local collision risk can be considered very much lower than in cases where large densities of birds migrate at turbine height through a proposed site.”

Although the applicant is proposing to incorporate a pre-construction avian survey and implement mitigation measures to address potential future impacts, at this time, the applicant has not submitted any information to show avian migration patterns, flight

elevations, densities, and types of birds that fly over this area in compliance with CEC guidelines. It is not known what the bird densities are over this area, and as inferred by the above reference, in the event densities are high, the collision risk will be greater. Therefore, without an avian survey and the information it would provide the potential impact the wind turbines may have on avian species cannot be determined. Furthermore, although CDFG has commented on the DEIR and supports the incorporation of the California Energy Commission guidelines and the mitigation measures (see CDFG letter, Exhibit No. 8), they and USFWS, have not reviewed the specific design of this project and have not had the opportunity to review avian data for the area. The applicant has indicated that both agencies support the use of renewable energy alternatives that are incorporated into the project, and the choice of vertical axis wind turbines, that are considered to have a substantially less impact on birds and bats than horizontal axis turbines; however, the Commission has not received any documentation from USFWS or CDFG that indicates that they approve, or support, the specific design and location of the wind turbines.

Although the Commission supports the use of alternative energy and the District's proposed energy self-sufficient project, without a one year avian species survey report and specific project support from USFWS and CDFG for the wind turbines, the Commission, in unable to determine what impact the wind turbines will have on migratory bird species that may use the site as habitat, or as a migratory resting area, or determine the potential impacts to State and Federally listed species that may be found in the area. Therefore, the Commission cannot approve the wind turbine component of the project at this time. Special Condition No. 1 requires revised plans that eliminate the wind turbines from the proposed project. Once the one-year avian species survey has been completed and reviewed and approved by the USFWS and CDFG, Special Condition No. 1 allows the applicant to submit an amendment to this permit for Commission review and approval of the construction and operation of wind turbines on the site. The amendment application shall include, but not be limited to, the one-year pre-construction avian species survey report, review and approval of the turbine design and location by USFWS and CDFG, and incorporation of possible mitigation measures. Special Condition No. 2 requires that any future development will require a new permit or amendment to this permit.

b. Lighting

The proposed project will include lighting throughout the facility. Lighting could also affect avian species and other wildlife. However the proposed project will include hoods, filtering louvers, glare shields and/or landscaping to minimize light escaping into the surrounding area. Furthermore, the athletic fields will not be lighted for nighttime usage. To ensure that the lighting will minimize illuminating the surrounding area, including the night sky, the applicant shall submit a lighting plan, as required in Special Condition No.3 showing the location and types of lights and measures to be incorporated into the lighting to minimize escaping light.

c. Landscaping

The proposed landscaping will be designed to provide a visual buffer and to control erosion. The plant materials will include plant species that are native and indigenous to the project area (except for the grass play fields), and all plants will be drought tolerant to minimize water use. The proposed landscaping will be consistent with the landscaping approved for the adjacent LAUSD Outdoor Education Center approved by the Commission in 2004, and a 102 acre restoration project (CDP No. 5-02-128) on a former military base, located approximately ½ mile to the west. To ensure that the project incorporates plantings that will minimize water usage and will not have an adverse impact surrounding areas, Special Condition No. 4 requiring the submittal of landscaping plans showing the use of native plants and drought tolerant and non-invasive plants is necessary.

d. Noise

The proposed project will not generate a significant amount of noise or have a significant impact on biological or marine resources due to an increase in noise levels. The site is currently in use as a small school, along with other uses, and there are no significant biological resources in the area. A potential noise impact can be from the proposed wind turbines; however the proposed turbines are designed for quiet operation and are projected to generated noise that is no louder than the ambient noise levels. Furthermore, the wind turbines are being recommended by Commission staff to be eliminated from the project proposal.

e. Conclusion

The Commission finds that, only as conditioned, will the project avoid or minimize any substantial adverse environmental impacts from wind turbines, lighting and landscaping, and be consistent with Section 30230 and 30240 of the Coastal Act.

D. Control of Polluted Runoff

Section 30230 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 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.

The proposed project poses a potential source of pollution due to contaminated runoff from the proposed construction, parking areas and other hardscape. The proposed project will incorporate best management practices with extensive recommendations and measures to reduce or prevent contaminants from running off the site and will incorporate urban runoff measures to reduce runoff from the site. To ensure that the proposed project incorporates best management practices during construction and post construction activities, Special Condition No. 5 and 6 are necessary to require the applicant to submit a drainage and urban runoff control plan.

The project will also include native and drought tolerant landscaping to minimize water use and will be compatible with the adjacent Point Fermin Outdoor Education Center (CDP No. 5-04-392) which incorporated native and drought tolerant landscaping. To ensure that landscaping consists of native and drought tolerant non-invasive plants and minimizes the need for irrigation, Special Condition No. 4 requires that all landscaping shall consist of native and/or drought tolerant non-invasive plant species. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council (formerly known as the California Exotic Pest Plant Council), or as may be identified from time to time by the State of California shall be utilized on the property. No plant species listed as a 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized within the property. All plants employed on the site shall be drought tolerant (low water use) plants identified by U. C Davis and the Water Resources Board.

As conditioned, the Commission, therefore, finds that the development will be consistent with Section 30230 and 30231 of the Coastal Act.

E. Visual Resources

Section 30250 of the Coastal Act states in part that:

(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.

Section 30251 of the Coastal Act states in part that:

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

The proposed development consists of numerous buildings ranging from 1 to 3 stories, with a maximum height of 43 feet on a hilly area that generally slopes to the south and west towards the Pacific Ocean. Due to past development, the project area is generally flat with terraces created throughout the area to accommodate building areas and roads.

The surrounding area is developed with low-density residential housing with open space recreational areas composing parts of Angels Gate Park to the southeast. Multi-family residential housing is located just north of the proposed site and along the east side of Gaffey Street.

Because the site sits on a hill and is higher in elevation than the surrounding area views out to the ocean are available from the site; however, these views are from the school property which is restricted to school use only. There are no designed areas on the site where the public is free to access for coastal viewing.

Views to the site from Paseo del Mar, which parallels the coastal bluffs, are generally blocked by existing development between the project site and the public areas along the coastal bluffs, which are at least 1/3 of a mile away. Views that are available are limited and restricted to a few streets that run from the site down to Paseo del Mar. Furthermore, public coastal views to and along the ocean from Paseo del Mar and other public streets are along the coast and out to the ocean horizon, as opposed to inland where the project is located. Therefore, due to the distance and location of the proposed school from the coastal bluffs and public viewing areas along the coast, and existing intervening development, the proposed project will not have a significant impact to public coastal views from any public viewing areas. The Commission, therefore, finds that the proposed project will be compatible with the character and scale of the surrounding uses and with Sections 30240, 30250 and 30251 of the Coastal Act.

F. Cultural Resources

Section 30244 of the Coastal Act states:

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

According to the Draft Environmental Impact Report, the Upper Reservation area contains numerous historical buildings, archeological sites, and paleontological sites. The area was surveyed by an architectural historian and archaeologist to evaluate potential historical,

archaeological, and paleontological features. Based on these surveys there were no known archaeological or paleontological resources found on the site.

There were a total of 15 buildings and one non-building (stone wall) within the project area considered eligible for the California Registry of Historic Resources (CRHR). The proposed project will include an area in the southeastern portion of the project site to relocate and accommodate historical resources. Other designated buildings will be moved off site to the adjacent Fort MacArthur Museum.

The Native American Heritage Commission (NAHC) indicated that no known sacred areas exist within the project area. However, Mr. Anthony Morales, chairperson for the Gabrieleno/Tongva Tribal Council and Mr. Sam Bunlap, tribal secretary of the Gabrieleno/Tongva Council/Gabrieleno Tongva Nation, both stated in the past that although they were not aware of any specific resources of concern within the project area, the project is located within traditional Gabrieleno tribal boundaries and any project construction in the area should be monitored by a Native American representative and a qualified archaeologist.

In past permit action, the Commission has required the applicants to monitor all grading and construction activities and has required appropriate recovery and mitigation measures, regarding excavation, reporting and curation. To ensure that the project is consistent with Past Commission action, special conditions are necessary to ensure consistency with the Coastal Act. To assure that the proposed project remains sensitive to the concerns of the affected Native American groups, a Native American monitor should be present at the site during all excavation activities to monitor the work, and be present in case artifacts or remains are discovered. The monitor should meet the qualifications set forth in the Native American Heritage Commission (NAHC's) guidelines. Therefore, as conditioned, the proposed project is consistent with Section 30244 of the Coastal Act which requires reasonable mitigation measures to be provided to offset impacts to archaeological resources.

Once a site is determined to contain significant cultural resources a Treatment Plan (Mitigation Plan) will be prepared and reviewed by the appropriate Federal and State reviewing agencies. The Treatment Plan will outline actions to be implemented to mitigate impacts to the cultural resources found at the site(s). To determine whether the Treatment Plan is consistent with the proposed permit or if an amendment to this permit is required, the applicant is required by Special Condition No. 7 to submit a copy of the Treatment Plan to the Commission. The Executive Director, after review of the Treatment Plan, will determine if an amendment will be required. The Executive Director will require an amendment if there is significant additional excavation required or there is a significant change in area of disturbance or change in the type of excavation procedures.

In the event that grave goods are found, the Los Angeles County Coroner's Office will be notified in compliance with state law, and they in turn will request the Native American Heritage Commission to determine the cultural affiliation.

The Native American Heritage Commission's Archaeological Guidelines also recommend that the research design include arrangements for curation of collections when appropriate, and dissemination of the research findings. Regarding curation, there must be some assurance that

the collection and related field records, catalogs and reports will be properly curated. Without proper curation there is no assurance that the value of information obtained will be retained in perpetuity. A qualified curation facility is one that meets the State Historic Preservation Office (SHPO) guidelines, such as the San Bernardino County Museum. However, there is no guarantee that the facility will be able to accept the collections once the artifacts are ready for curation. Consequently, if another facility is available that meets SHPO's guidelines, it would also be appropriate to allow curation to occur there. In any case, curation of any significant artifacts must be assured in order to find that the proposed project meets Section 30244 of the Coastal Act's requirement for reasonable mitigation. Therefore, as a condition of approval, artifacts of significant cultural value collected as a result of this project at the archaeological sites shall be curated at a qualified curation facility. If no qualified curation facility is available at the time the project is complete, an amendment to this permit shall be required to determine the appropriate curation process. The Commission finds, therefore, that as conditioned, the proposed project is consistent with Section 30244 of the Coastal Act.

G. Local Coastal Program

Section 30604(a) of the Coastal Act states that:

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

On September 12, 1990, the Commission certified, with suggested modifications, the land use plan portion of the San Pedro segment of the City of Los Angeles' Local Coastal Program. The certified LUP contains polices to guide the types, locations and intensity of future development in the San Pedro coastal zone. The Upper Reservation and the White Point Reservation were excluded from certification at the time because the property was previously owned by the Federal government and the City did not have adequate time to plan for and include a master plan for these two areas.

The Commission finds it can approve the development as conditioned. The proposed development is consistent with the policies of the certified LUP. As conditioned the project will not adversely impact coastal resources or access. The Commission, therefore, finds that the project as conditioned will be consistent with the Chapter 3 policies of the Coastal Act and will not prejudice the ability of the City to prepare Land Use Plan policies for the area (deferred area) and a Local Coastal Program implementation program consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

H. California Environmental Quality Act.

The applicant is the lead agency for the purposes of California Environmental Quality Act (CEQA) review. The applicant certified an environmental impact report for the project. The EIR

includes mitigation measures to address potential impacts created by the proposed development and included a few significant unavoidable environmental impacts, as listed below:

- Aesthetic impacts related to massing and height of the wind turbines,
- Short-term construction-related air quality impacts
- Cultural resources impacts
- Noise impacts associated with crowd noise from proposed bleachers
- Pedestrian safety impacts related to sidewalk improvements.

Section 13096 of the Commission's administrative regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(i) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available, which would substantially lessen any significant adverse impact which the activity may have on the environment.

The proposed project, as conditioned, is consistent with the applicable policies of the Coastal Act. There are no feasible alternatives or mitigation measures available, which would substantially lessen any significant adverse impact, which the activity may have on the environment. Therefore, the proposed project is found consistent with CEQA and the policies of the Coastal Act.

APPENDIX 1**CULTURAL RESOURCES SIGNIFICANCE TESTING PLAN PROCEDURES**

A. An applicant seeking to recommence construction following discovery of the cultural deposits shall submit a Significance Testing Plan for the review and approval of the Executive Director. The Significance Testing Plan shall identify the testing measures that will be undertaken to determine whether the cultural deposits are significant. The Significance Testing Plan shall be prepared by the project archaeologist(s), in consultation with the Native American monitor(s), and the Most Likely Descendent (MLD) when State Law mandates identification of a MLD. The Executive Director shall make a determination regarding the adequacy of the Significance Testing Plan within 10 working days of receipt. If the Executive Director does not make such a determination within the prescribed time, the plan shall be deemed approved and implementation may proceed.

1. If the Executive Director approves the Significance Testing Plan and determines that the Significance Testing Plan's recommended testing measures are de minimis in nature and scope, the significance testing may commence after the Executive Director informs the permittee of that determination.

2. If the Executive Director approves the Significance Testing Plan but determines that the changes therein are not de minimis, significance testing may not recommence until after an amendment to this permit is approved by the Commission.

3. Once the measures identified in the significance testing plan are undertaken, the permittee shall submit the results of the testing to the Executive Director for review and approval. The results shall be accompanied by the project archeologist's recommendation as to whether the findings are significant. The project archeologist's recommendation shall be made in consultation with the Native American monitors and the MLD when State Law mandates identification of a MLD. The Executive Director shall make the determination as to whether the deposits are significant based on the information available to the Executive Director. If the deposits are found to be significant, the permittee shall prepare and submit to the Executive Director a supplementary Archeological Plan in accordance with subsection D of this condition and all other relevant subsections. If the deposits are found to be not significant, then the permittee may recommence grading in accordance with any measures outlined in the significance testing program.

B. An applicant seeking to recommence construction following a determination by the Executive Director that the cultural deposits discovered are significant shall submit a supplementary Archeological Plan for the review and approval of the Executive Director. The supplementary Archeological Plan shall be prepared by the project archaeologist(s), in consultation with the Native American monitor(s), the Most Likely Descendent (MLD) when State Law mandates identification of a MLD, as well as others identified in subsection E of this condition. The supplementary Archeological Plan shall identify proposed investigation

and mitigation measures. The range of investigation and mitigation measures considered shall not be constrained by the approved development plan. Mitigation measures considered may range from in-situ preservation to recovery and/or relocation. A good faith effort shall be made to avoid impacts to cultural resources through methods such as, but not limited to, project redesign, capping, and placing cultural resource areas in open space. In order to protect cultural resources, any further development may only be undertaken consistent with the provisions of the Supplementary Archaeological Plan.

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

C. Prior to submittal to the Executive Director, all plans required to be submitted pursuant to this special condition, except the Significance Testing Plan, shall have received review and written comment by a peer review committee convened in accordance with current professional practice that shall include qualified archeologists and representatives of Native American groups with documented ancestral ties to the area. Names and qualifications of selected peer reviewers shall be submitted for review and approval by the Executive Director. The plans submitted to the Executive Director shall incorporate the recommendations of the peer review committee. Furthermore, upon completion of the peer review process, all plans shall be submitted to the California Office of Historic Preservation (OHP) and the NAHC for their review and an opportunity to comment. The plans submitted to the Executive Director shall incorporate the recommendations of the OHP and NAHC. If the OHP and/or NAHC do not respond within 30 days of their receipt of the plan, the requirement under this permit for that entities' review and comment shall expire, unless the Executive Director extends said deadline for good cause. All plans shall be submitted for the review and approval of the Executive Director.

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