

**CALIFORNIA COASTAL COMMISSION**

South Coast District Office  
301 E Ocean Blvd., Suite 300  
Long Beach, CA 90802-4302  
(562) 590-5071



# F11a

**5-21-0023 (City of Seal Beach)**

**April 16, 2021**

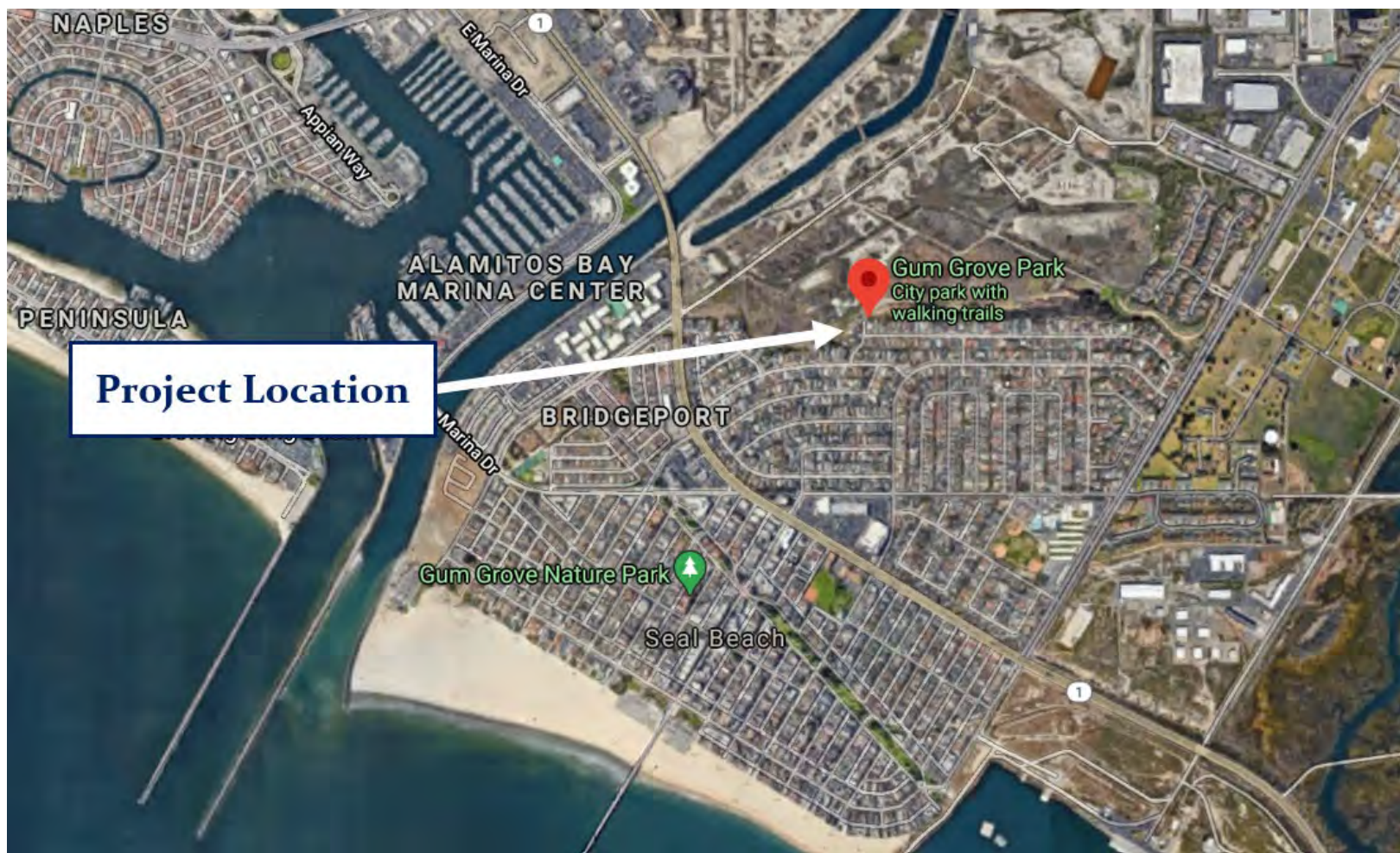
## **EXHIBITS**

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Dated October 15, 2020**





# GUM GROVE PARK – TREE REPLACEMENT LOCATIONS



**X** = Tree Planting Locations

**CALIFORNIA COASTAL COMMISSION**

SOUTH COAST AREA OFFICE  
301 E. OCEAN BLVD, SUITE 300  
LONG BEACH, CA 90802  
(562) 590-5071



Sent Via Email

October 15, 2020

Les Johnson  
Director  
Community Development  
City of Seal Beach  
211 Eighth Street  
Seal Beach CA, 90740

**Re: Planting of Oak Trees in Gum Grove Park and Protection of Native American Cultural Resources**

Dear Mr. Johnson:

Commission staff would like to thank you for continuing to work with us to site and design the City of Seal Beach's ("City") tree planting project in Gum Grove Park in a manner that avoids further impacts to Gabrielino/Tongva San Gabriel Band of Mission Indians ("Gabrielino/Tongva") cultural resources. We would also like to thank the City for stopping work on the site until such time as a coastal development permit ("CDP") is obtained to authorize the oak tree planting project in a manner that is consistent with the archeological protection policies of the Coastal Act. Our staff understands that it was the intent of the City to plant mature oak trees to resolve municipal code violations, which also constituted Coastal Act violations, associated with the unpermitted removal of Brazilian Pepper trees from Gum Grove Park in 2017 by an adjacent property owner.

However, as we discussed during our telephone conference on August 14, 2020, our staff was very concerned to learn of the extent of the grading and excavation, as well as potential impacts to cultural resources, in Gum Grove Park that had occurred at the initiation of the City's tree planting project, and we are confident that the City shares our concern that any further activity avoid impacts and to cultural resources, including midden<sup>1</sup>. As you may know, Gum Grove Park encompasses a portion of the Gabrielino/Tongva sacred site and ancestral village of Motuuchevngna, which is documented to be a resting place of the Gabrielino/Tongva. Furthermore, Motuuchevngna was added to the Native American Heritage Commission Sacred Lands File as Site Number N-ORA-46 on May 9, 2019 in order to identify and catalog the site as a place of special religious or social significance to the Gabrielino/Tongva tribe (Attachment 1).

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<sup>1</sup> Middens are a type of archaeological feature, consisting of localized patches of dark-colored earth and concentrated artifacts which resulted from the deliberate discard of refuse, food remains, and domestic materials such as broken and exhausted tools and crockery (K Kris Hirst, University of Iowa).

For these reasons, and as discussed in more detail below, our staff cannot recommend approval for the City's oak tree planting project as it is currently designed – in large part because of the amount of excavation and ground disturbance associated with the planting of mature trees. We are also aware, through our conversations with City staff, that the City is committed to rectifying this matter to the extent that is possible. Therefore, the purpose of this letter is to provide you with some direction for a comprehensive resolution to these violations. Therefore, we would hope to resolve this as quickly as possible, including by putting some immediate measures in place, and coming to agreement about how to site and design a restoration project in a manner that protects Gabrielino/Tongva cultural resources through the coastal development permit process.

### Unpermitted Development

Our staff has confirmed that development, including the grading of an access road and excavation of a pit to plant a mature tree, has occurred in Gum Grove Park, which is located within the Coastal Zone. Commission staff has researched our permit files and concluded that no coastal development permit has been issued for the development described above. Pursuant to Section 30600 (a) of the Coastal Act, any person wishing to perform or undertake development in the Coastal Zone must obtain a coastal development permit, in addition to any other permit required by law. Any development activity conducted in the Coastal Zone, unless otherwise exempt, which is not the case here, without a valid CDP constitutes a violation of the Coastal Act.

### Protection of Gabrielino/Tongva Tribal and Archeological Resources

On October 6, 2020 Commission staff met on site at Gum Grove Park with representatives from the Gabrielino/Tongva tribe, including Chief Anthony Morales. We toured the area with Chief Morales and evaluated the impacts caused by the grading to widen the access path for heavy machinery and subsequent earth removal to plant the first mature oak tree. As you may know, the Coastal Act affords protection to archeological and paleontological resources. In relevant part, 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.*

During the site visit we discussed options to both protect tribal and archeological resources and allow for the planting of trees to continue. In consultation with the tribal representatives, our staff believes that in order for the tree planting project to be consistent with the archeological protection policies of the Coastal Act, the City must: 1) discontinue the use of heavy machinery at Gum Grove Park for the planting project, 2) plant younger or smaller native trees that do not require an area larger than 6 ft. by 6 ft.

by 3 ft. deep to plant<sup>2</sup>, 3) plant the remaining smaller trees by hand to minimize soil disturbance, 4) seed with a native seed mix or install native container plants in all areas that have been disturbed by the grading at issue, 5) hire an archeological monitor to screen the soil for cultural resources, and 6) ensure that a tribal member from the Tongva/Gabrielino is on-site to monitor all remaining work. That being said, our staff and the Gabrielino/Tongva tribe understand that earth removal has already occurred to plant the first mature oak tree and in the interest of minimizing further disturbance, we will recommend approval for that one tree to be planted as is, so long as an archeological monitor screens the removed earth for archeological/tribal resources and if a tribal member is also present to monitor.

We believe that the above described resolution balances both the City's requirement to plant trees and the archeological resource protection policies of the Coastal Act in a manner that protects tribal resources.

### Resolution

We would like to thank you for stopping the grading and excavation associated with the planting project, and we would like to work with the City to resolve these violations as quickly as possible. In order to ensure that the City is moving with alacrity to a resolution of this matter, please provide Commission staff with written commitment to resolve these violations in the manner described herein, by no later than **October 30, 2020**. Finally, please submit a coastal development permit application to resolve the violation as described above by **December 1, 2020**.

Thank you for your attention to this matter. If you have any questions regarding this letter, please feel free to contact me at [Jordan.Sanchez@coastal.ca.gov](mailto:Jordan.Sanchez@coastal.ca.gov).

Sincerely,

  
Jordan Sanchez  
Enforcement Officer

cc: Lisa Haage, Chief of Enforcement, CCC  
Andrew Willis, Enforcement Supervisor, CCC  
Karl Schwing, District Director, CCC  
Amber Dobson, District Manager, CCC  
Zach Rehm, Planning Supervisor, CCC  
Anthony Morales, Chief, Gabrielino/Tongva Band of Mission Indians

**California Coastal Commission**  
**CDP No. 5-21-0023**  
**Exhibit 3**  
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<sup>2</sup> For instance, there is a native landscaping project immediately at the entrance of the park, which includes younger trees, that is an appropriate model for restoration of the disturbed areas.