

**CALIFORNIA COASTAL COMMISSION**

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# W20c

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## STAFF REPORT: REGULAR CALENDAR

**Application No.:** 6-22-0106

**Applicant:** City of San Diego

**Agent:** Mayra Medel

**Location:** Southeast intersection of North Torrey Pines Road and Genesee Avenue, west of North Point Lane, La Jolla, San Diego, San Diego County. (APN: 760-228-7400)

**Project Description:** Subdivision of an existing 240-acre lot to create a separate 34,447 sq. ft. parcel; demolition of an existing university tennis court and construction of an approx. 14,664 sq. ft. 2-story City of San Diego fire station.

**Staff Recommendation:** Approval with conditions.

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## SUMMARY OF STAFF RECOMMENDATION

The proposed project consists of the removal of a tennis court and ornamental landscaping and the construction of a new City of San Diego fire station on North Torrey Pines Road on land currently owned by the University of California San Diego (UCSD). The proposed municipal fire station would include a new civic plaza built near the entrance to the building, parking spaces for visitor and staff, bicycle stalls, emergency fuel tanks, an apron/vehicle wash area, and installation of retaining walls along both the southern and eastern limits of the site. The project also includes improvements within the North Torrey Pines Road right-of-way such as grading, the installation of utility lines,

median modifications a new emergency signal, and street traffic improvements to allow for the ingress and egress of fire apparatus and privately owned vehicles. Finally, the project includes a lot split process to separate the 34,447 sq. ft. (0.79 acre) site from the existing approximately 240 acre legal parcel owned by UCSD. The land for the site is in the process of being transferred to City ownership.

The project is being implemented to meet the gap in fire protection coverage at the UCSD campus. No public views to the shoreline would be impeded. The existing tennis court being removed is a UCSD court that is one of eight that were constructed in 2001 for use by UCSD students, alumni, and members of the public who join the UCSD Recreation program; no significant adverse impact on lower-cost recreation will result from the removal of this one court. **Special Condition #1** requires the applicant to submit final plans that are in conformance with the plans reviewed by staff and ensure the project will be built accordingly. **Special Condition #2** requires the applicant to submit final landscaping plans to ensure that all plantings on site after construction are non-invasive and drought-tolerant. **Special Condition #3** requires the applicant to submit a Best Management Practice (BMP) Operations and Maintenance Plan to ensure that all proposed BMPs reviewed by staff are included and will be maintained where appropriate for the lifetime of the project in order to protect coastal waters. **Special Condition #4** requires a nesting bird survey during appropriate times of the year, with noise attenuation measures in the event that noise levels at a nesting site become too high. Finally, **Special Condition #5** requires the applicant to adhere to a Cultural Resources Treatment and Monitoring Plan that addresses on-site monitoring by a Cultural Resource Monitor, as well as follow-up procedures and testing plans in the event that cultural resources are uncovered during the course of construction.

Commission staff recommends that the Commission **APPROVE** coastal development permit application 6-22-0106, as conditioned. The motion is on page 4. The standard of review is Chapter 3 of the Coastal Act.

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## EXHIBITS

[Exhibit 1 – Vicinity Map](#)

[Exhibit 2 – Location Maps](#)

[Exhibit 3 – Site Plan](#)

[Exhibit 4 – Landscaping Plan](#)

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## I. MOTION AND RESOLUTION

### Motion:

I move that the Commission approve Coastal Development Permit 6-22-0106 pursuant to the staff recommendation.

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

### Resolution:

The Commission hereby approves the Coastal Development Permit for the proposed project and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

## II. STANDARD CONDITIONS

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

### **III. SPECIAL CONDITIONS**

#### **1. Final Plans.**

PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit for the review and written approval of the Executive Director, revised final plans that are in substantial conformance with the plans prepared by Level 10 Construction and received by our office on January 28, 2022.

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

#### **2. Final Landscaping Plans.**

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for review and written approval by the Executive Director, a full-size set of final landscaping plans that are in substantial conformance with the plans prepared by Level 10 Construction and received by the San Diego office on January 28, 2022. The consulting landscape architect or qualified landscape professional shall certify in writing that the final Landscaping plans are in conformance with the following requirements:

- a) It shall include a planting schedule that indicates that the planting plan shall be implemented within sixty (60) days of completion of construction. Within ninety (90) days of completion of construction, the Permittee shall submit for the review and written approval of the Executive Director, a landscaping implementation report, prepared by a licensed Landscape Architect or qualified resource specialist that certifies whether the on-site landscaping is in conformance with the landscape plan approved pursuant to this special condition. The implementation report shall include photographic documentation of plant species and plant coverage.
- b) All cut and fill slopes shall be stabilized with planting at the completion of final grading. Such planting shall be adequate to provide 90 percent coverage within two (2) years, and this requirement shall apply to all disturbed soils.
- c) All landscaping shall be drought tolerant, non-invasive (preferably native) plant species. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Exotic Pest Plant Council, or identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as "noxious weed" by the State of California or the U.S. Federal Government shall be utilized within the property. No cultivars shall be utilized within the property. If using potable water for irrigation, the project shall use water-conserving emitters (e.g. microspray) and

drip irrigation. Use of weather-based irrigation controllers and reclaimed water for irrigation is encouraged.

- d) All landscaped areas on the project site shall be maintained in a litter-free, weed-free, and healthy growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape requirements.
- e) Five years from the date of the issuance of the coastal development permit, the Permittee shall submit for the review and written approval of the Executive Director a landscaping monitoring report, prepared by a licensed Landscape Architect or qualified resource specialist, that certifies whether the on-site landscaping is in conformance with the landscape plan approved pursuant to this special condition. The monitoring report shall include photographic documentation of plant species and plant coverage.

If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the performance standards specified in the landscaping plan approved pursuant to this permit, the Permittee shall submit a revised or supplemental landscape plan for the review and written approval of the Executive Director. The revised landscaping plan must be prepared by a licensed Landscape Architect or qualified resource specialist and shall specify measures to remediate those portions of the approved landscaping plan that have failed or are not in conformance with the original approved plan.

- f) The use of rodenticides containing any anticoagulant compounds is prohibited, and the use of fertilizer shall be minimized to the greatest extent feasible.
- g) All irrigation systems shall limit water use to the maximum extent feasible. Use of reclaimed water for irrigation is encouraged. If permanent irrigation systems using potable water are included in the landscape plan, they may only use water conserving emitters (e.g., microspray) or drip irrigation. Use of reclaimed water ("gray water" systems) and rainwater catchment systems is encouraged. Other water conservation measures shall be considered, including use of weather-based irrigation controllers.

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

### **3. BMP Operations and Maintenance Plan.**

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and written approval of the Executive Director,

a BMP Operations and Maintenance Plan that demonstrates the project complies with the following requirements:

- a) **Implement Source Control BMPs.** Appropriate and feasible long-term Source Control BMPs, which may be structural features or operational practices, shall be implemented to minimize the transport of pollutants in runoff from the development by controlling pollutant sources and keeping pollutants segregated from runoff. Use strategies such as covering outdoor storage areas; using efficient irrigation; proper application and clean-up of potentially harmful chemicals and fertilizers; and proper disposal of waste.
- b) **Manage BMPs for the Life of the Development.** Appropriate protocols shall be implemented to manage BMPs (including ongoing operation, maintenance, inspection, and training) to keep the water quality provisions effective for the life of the development.
- c) **Site Plan and Narrative Description.** The BMP Operations and Maintenance Plan shall include a site plan and a narrative description addressing, at a minimum, the following required components:
  - i. A site plan, drawn to scale, showing the property boundaries, building footprint, runoff flow directions, relevant drainage features, structural BMPs, impervious surfaces, permeable pavements, and landscaped areas.
  - ii. Identification of pollutants potentially generated by the proposed development that could be transported off the site by runoff.
  - iii. An estimate of the proposed changes in (1) impervious surface areas on the site, including pre-project and post-project impervious coverage area and the percentage of the property covered by impervious surfaces; (2) the amount of impervious areas that drain directly into the storm drain system without first flowing across permeable areas; and (3) site coverage with permeable or semi-permeable pavements.
  - iv. A description of the BMPs that will be implemented, and the Low Impact Development approach to stormwater management that will be used. Include a schedule for installation or implementation of all post-development BMPs.
  - v. A description and schedule for the ongoing management of all post-development BMPs (including operation, maintenance, inspection, and training) that will be performed for the life of the development, if required for the BMPs to function properly.
  - vi. Written agreement by the applicant that in order to minimize wildlife entanglement and plastic debris pollution, the use of temporary erosion and sediment control products (such as fiber rolls, erosion control blankets, and mulch control netting) that contain plastic netting, including photodegradable plastic netting, shall be prohibited. Only products that contain loose-wave natural-fiber netting, or that do not contain netting, shall be allowed. Heavy-duty fences reinforced by plastic or metal netting

shall also be prohibited. All temporary erosion and sediment control products shall be promptly be removed when no longer required.

The permittee shall undertake development in accordance with the approved BMP Operations and Maintenance Plan unless the Commission amends this permit or the Executive Director issues a written determination that no amendment is legally required for any proposed minor deviations.

4. **Timing of Construction and Bird Nesting Surveys.** By acceptance of this permit, the applicant agrees to avoid, to the maximum extent feasible, construction activities that generate noise greater than 65 dB(A) or ambient noise levels, whichever is greater, at the project edge during bird nesting season, from February 15<sup>th</sup> through September 15<sup>th</sup>. If project construction is necessary during bird nesting season, a qualified biologist with experience in conducting bird nesting surveys shall conduct a minimum of one survey within 72 hours of initiating construction activities. If during preconstruction surveys, active nests of any passerine species are identified within a minimum buffer distance of 150 feet of the project limits, or a greater distance determined by the monitoring biologist, noise monitoring shall be conducted and construction activities shall not occur until a qualified biologist determines that the young have fledged, the nest has been abandoned, or noise monitoring indicates that noise levels remain below a 65 dB(A) equivalent continuous noise level, or ambient noise levels, at the location of the nest. If the monitoring biologist determines that the 150-foot buffer should be extended in some areas due to bird activity, then the buffer shall be extended based on the professional opinion of the biologist.

If the 65 dB(A) equivalent continuous noise level, or ambient noise level, is exceeded, feasible noise attenuation measures shall be implemented to reduce noise levels at active nests to at or below 65 dB(A) or ambient levels. The permittee shall halt construction activities if the monitoring biologist determines that the construction activities may be disturbing or disrupting the nesting activities. The monitoring biologist shall make practicable recommendations to reduce the noise or disturbance in the vicinity of the active nests or birds. This may include recommendations such as (1) turning off vehicle engines and other equipment whenever possible to reduce noise, (2) installation of temporary sound barriers or sound blankets, and (3) utilizing alternative construction methods and technologies to reduce the noise of construction machinery. The monitoring biologist shall review and verify compliance with these avoidance boundaries and shall verify that the nesting effort has finished in a written report. Unrestricted construction activities may resume when the biologist confirms no active nests are found. Bird nesting surveys shall be provided to the Executive Director of the Commission and to the California Department of Fish and Wildlife and U.S. Fish and Wildlife offices within 72 hours of locating any nests.

## **5. Cultural Resources Treatment and Monitoring Plan.**

- a. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for the review and approval of the Executive Director an archaeological/cultural resources monitoring plan prepared by a qualified professional, which shall incorporate the following measures and procedures:
  - i. The monitoring plan shall ensure that any prehistoric archaeological or paleontological or Native American 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 (including a Kumeyaay Cultural monitor) be present during all grading operations and subsurface construction activity that has the potential to impact cultural resources.
  - ii. 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, cultural, or paleontological resources. A Kumeyaay Cultural Monitor and archaeological monitor(s) shall be included and present at this meeting.
  - iii. If a pre-construction meeting is held, a Kumeyaay Cultural Monitor and archaeological monitor(s) shall be included and present at this meeting, as well as the Resident Engineer and Mitigation Monitoring Coordination.
  - iv. Archaeological monitor(s) qualified by the California Office of Historic Preservation (OHP) standards, a Kumeyaay Cultural monitor, and the Native American most likely descendent (MLD) when State Law mandates identification of a MLD, shall monitor all project grading and subsurface construction activity (such as trenching for utilities) that has the potential to impact cultural resources, as required in the approved cultural resources monitoring plan required above.
  - v. The permittee shall provide sufficient archaeological and Native American monitors to assure that all project grading and subsurface construction activities that has any potential to uncover or otherwise disturb cultural deposits is monitored at all times.
  - vi. 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" (Appendix B). The permittee shall report all

significance testing results and analysis to the Executive Director for a determination of whether the deposits are significant.

- vii. The permittee shall report all discoveries, such as cultural artifacts, cremation sites, or human remains, to the Viejas Band of Kumeyaay Indians.
  
- b. If the Executive Director determines that the discovery is significant, the permittee shall follow the procedures in Appendix B of this staff report to determine if an amendment to this permit is required. If an amendment to this CDP is required, 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**

### **A. Project Description**

The subject property currently contains a tennis court owned and operated by the University of California San Diego (UCSD), and ornamental landscaping, all of which will be demolished for the construction of a new 2-story, 3-bay, 14,664 sq. ft. fire station. The proposed fire station would include a new civic plaza built near the entrance to the building and three visitor parking spaces, as well as bicycle stalls, emergency fuel tanks, an apron/vehicle wash area located at the rear on the building on its eastern side, 16 staff parking spaces, and installation of retaining walls along both the southern and eastern limits of the site. The site is located southwest of the intersection of North Torrey Pines Road and Genesee Avenue in the City of San Diego. Because UCSD does not have a certified Long Range Development Plan, the site is within the Commission's permit jurisdiction and Chapter 3 of the Coastal Act is the standard of review ([Exhibits 1 and 2](#)).

On-site improvements associated with the station include site lighting, fire alarm systems, surface parking for fire-rescue personnel apparatus bays, hardscape improvements, drought-tolerant landscaping, and utility connections ([Exhibit 3](#)). Off-site improvements within the right-of-way of North Torrey Pines Road are also proposed, and include grading, utility lines, a new emergency signal, and street traffic improvements to allow for the ingress and egress of fire apparatus and privately owned vehicles, as well as possible median modifications to allow for ingress and egress of fire apparatus and privately-owned vehicles. The project includes a lot split process to separate the 34,447 sq. ft. (0.79 acre) project site from the existing approximately 240 acre legal parcel owned by UCSD. The project is being implemented to meet the gap in fire protection coverage at the UCSD campus as identified in the San Diego Fire-

Rescue Department Standards of Response Cover Review prepared by Citygate Associates, LLC (Citygate) in February 2017.<sup>1</sup>

The fire station would be designed with a theme to complement the adjacent UCSD campus buildings and would not block any public views or be incompatible with character of the surrounding area. **Special Condition #1** requires the applicant to submit final plans that are in conformance with the plans reviewed by staff and ensure the project will be built accordingly.

## **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.

The project includes the demolition of an existing tennis court that is one of eight constructed in 2001 for use by UCSD students, alumni, and members of the public who join the UCSD Recreation program. No significant adverse impact on lower-cost recreation will result from the removal of this one court.

The project as proposed will not block or alter any existing accessway to the coast and as proposed will not take up any public parking spaces for staging or storage. Construction activities are anticipated to take place from August 2022 to October 2023, and while construction will take place through the summer season, public access to the coast will be minimally affected by work within the right-of-way along North Torrey Pines Road.

The project does not propose any full road closures, but partial lane closures are anticipated for limited periods during the right-of-way construction duration along North Torrey Pines Road. Off-site sewer work is anticipated to last roughly one month with night work, and installation of sewer laterals to the site is estimated to take approximately one and a half months of night work. No work is anticipated to take place on weekends or holidays. Certain segments of sidewalk will be closed along North Torrey Pines Road to give the contractor adequate space to complete the work while ensuring pedestrian safety. Pedestrians will be detoured to the other side of the road from one intersection to the next, so they will always have access around the work zone.

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<sup>1</sup> The review is available at <https://www.sandiego.gov/fire/about/citygate>.

Bike lanes will generally remain open for the on-site, median, and private driveway work, but will be closed during construction of the sewer. During sewer work, the buffered bike lane will be closed and “share the road” signage will be installed. The buffered bike lane will be maintained during on-site work and driveway work. The sharing of lanes for vehicles and bikes is allowed per the City of San Diego Municipal Code for a temporary condition.

Thus, as conditioned, the project is consistent with the coastal access protection policies of Chapter 3 of the Coastal Act.

## C. Biological Resources

Section 30240 of the Coastal Act states, in relevant part:

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.

Conversion of the site from a tennis court to a fire station will result in the removal of approximately 14,321 sq. ft of non-native and native shrubs/groundcover as well as 45 trees, half of which are invasive species such as eucalyptus and acacia trees. The City will plant 12 new trees on-site upon completion of the project. Ideally, tree removal should result in at least the same number of new trees planted; however, in the current case, the 45 existing trees are mostly invasive and small in size, and have little habitat value. The City also adopted a five-year plan for its Urban Forestry program in 2017, with one of the explicit goals being an increase in the City’s urban tree cover and support the City’s Climate Action Plan. The draft Climate Action Plan Update (currently out for public comment) identifies specific measures and actions related to increasing tree canopies; in particular, creating a street tree master plan that would include the planting of 100,000 trees by 2035. Overall, City improvement projects result in an increase in the number of trees, for example, the recent redevelopment of the Tecolote Shores playground located at De Anza Cove (CDP #6-20-0188) resulted in a net gain of 28 trees. Per **Special Condition #2**, the site will be replanted with non-invasive, drought-tolerant landscaping ([Exhibit 4](#)).

For the protection of bird species on the project site, **Special Condition #4** will require the applicant to avoid construction activities that generate noise greater than either 65 decibels or ambient noise levels (whichever is greater) from the project edge during the bird nesting season (February 15<sup>th</sup> to September 15<sup>th</sup>). If project construction occurs during the bird nesting season, a qualified biologist will be required to conduct at least one survey within 72 hours of initiating construction, and if nests are discovered within a minimum buffer distance of 150 feet of the project site, noise monitoring and attenuation measures are required as necessary. The biologist may also halt construction activities if he or she determines construction is disturbing nesting activities. Bird nesting surveys shall be provided to the Executive Director within 72 hours of locating any nests.

Thus, as conditioned, the project is consistent with the biological resource protection policies of Chapter 3 of the Coastal Act.

## D. Marine Resources and Water Quality

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 waterflow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

The project will include new permanent storm drain improvements (i.e., new storm drains, curb and gutter, etc.) which, in addition to compliance with all applicable storm water permits, plans, and regulations, would ensure that potential impacts associated with alteration of drainage patterns would not occur. The majority of the runoff from the project site will be captured in the proposed private storm drains and sent to stormwater quality, hydromodification and flood control facilities located on-site. The remainder of the runoff is in the public driveway cuts and public sidewalks which are required to slope down towards the street at North Torrey Pines Road. The project has been reviewed by the Commission's water quality staff, and to ensure that BMPs are properly installed and maintained for the life of the development, **Special Condition #3** requires the submittal of a BMP operations and maintenance plan for review by the Executive Director prior to issuance of the Coastal Development Permit.

Thus, as conditioned, the project is consistent with the water quality protection policies of Chapter 3 of the Coastal Act.

## E. Visual Resources

Section 30251 of the Coastal Act states:

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

The proposed development is similar in height, bulk, and scale to the surrounding residential development, and will comply with the 30-foot Coastal Height Limit Overlay Zone as defined in the San Diego Municipal Code ([Exhibit 5](#)). The proposed project is also consistent with the development standards contained in the City's certified Local Coastal Program (LCP).

All exterior lighting on the site with the exception of one flagpole fixture will be shielded, and all exterior fixtures will be controlled through a timeclock for on/off function. Pole top

lights will also have a motion sensor for auto dimming. All external lights are 3000 Kelvin (K) color temperature. Lighting that is 3000K is typically the highest color temperature recommended by Commission staff. Lighting with lower color temperatures has less blue in its spectrum and is referred to as being “warm.” The Commission’s ecologist has reviewed the project’s proposed lighting and agrees it will not have significant impacts on biological resources.

Thus, as conditioned, the project is consistent with the visual resource protection policies of Chapter 3 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.

The project site is within a previously disturbed footprint where tennis courts and manufactured slopes currently exist above an area of imported fill soil, however, the Mitigated Negative Declaration (MND) identifies the project site as located within an area of high archaeological and tribal cultural resource sensitivity. One cultural site is mapped abutting the southwest corner of the project area. Subsequent surveys and monitoring efforts in the area concluded that the site has been previously destroyed by campus-related construction activities; however, it is unknown whether any intact remnants of the recorded site remain within the public right-of-way, or associated with fill soils from prior construction activities. Based on records search results and associated survey performed by Helix for a similar project back in January 2016 on the same site, only one *Donax* shell was observed. Prior surveys for campus properties in this area did not encounter any remnants of the archaeological site described above, and no mitigation was required.

Because the site is located within an area of high archaeological and tribal cultural resource sensitivity, the City conducted tribal consultation in accordance with AB 52. This included meeting with representatives from the Lipay Nation of Santa Ysabel, and Jamul Indian Village on May 11, 2018. Consultation concluded with all parties in agreement with a recommendation for Native American Kumeyaay monitoring during all construction-related activities in the project area. A letter was also received from the Viejas Band of Kumeyaay Indians that requested a Kumeyaay Cultural Monitor be on site for ground disturbing activities and to be informed of any inadvertent discoveries of cultural resources or human remains.

In adherence to the Commission’s 2018 Tribal Consultation Policy, Commission staff sent emails and letters offering consultation to 13 tribes identified by the Native American Heritage Commission as traditionally and culturally affiliated with the geographic area of the project. Staff received two responses. One was from the Viejas Band of Kumeyaay Indians notifying the Commission that the proposed project is

located in area with cultural significance or ties to the Viejas Band and requesting that a Kumeyaay Cultural Monitor be on site for all ground disturbing activities and that will be notified if any inadvertent discovery of cultural artifacts, cremation sites, or human remains occurs. Another response was received from the Jamul Indian Village requesting project updates as well as clarification on the site selection process.

As a result of these consultation efforts, staff has incorporated **Special Condition #5**, which ensures that any prehistoric, archaeological, or paleontological cultural resources that may be present on site receive proper protections. The special condition requires the applicant to submit a cultural resources treatment and monitoring plan, which includes provisions for both professional archaeologists and Native American monitors (including, specifically a Kumeyaay monitor) to be present during construction activities and to stop work if cultural deposits are discovered so that significant testing can be conducted. If an approved Significance Testing Plan reveals that cultural deposits found are significant, a Supplementary Archaeological Plan shall be prepared in order to identify proposed investigation and mitigation measures. This Supplementary Archaeology Plan will be reviewed and be available for written comment by a peer review committee made up of qualified archaeologists. Representatives of traditionally and culturally affiliated Tribes included on an updated NAHC list shall also be given an opportunity to review and submit written comments on the required plans. This special condition language has been reviewed and approved by the Viejas Band as well as the Jamul Indian Village.

Thus, as conditioned, the project is consistent with the cultural resource protection policies of Chapter 3 of the Coastal Act.

## **G. Local Coastal Planning**

Section 30604(a) also requires that a coastal development permit shall be issued only if the Commission finds that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program (LCP) in conformity with the provisions of Chapter 3 of the Coastal Act. In this case, such a finding can be made.

The project site is located on the UCSD campus, which is not subject to the City of San Diego's LCP. UCSD currently has an uncertified Long Range Development Plan (LRDP) that was approved by the UC Regents on November 15, 2018. While UCSD does have the option of submitting its LRDP for Commission review and certification, UCSD does not intend to at this time and thus it cannot serve as the standard of review.

As stated previously, the Chapter 3 policies of the Coastal Act are the standard of review for UCSD projects in the absence of a certified LRDP. Because the proposed development, as conditioned, has been found consistent with all applicable Chapter 3 policies, the Commission finds that approval of the proposed project will not prejudice the ability of UCSD to prepare a certifiable LRDP for its campus.

## **H. California Environmental Quality Act**

Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment. The City of San Diego adopted a Mitigated Negative Declaration for the project in January 2019.

The proposed project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. Mitigation measures, including conditions addressing archaeological and tribal cultural resources, paleontological resources, and geological resources will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally-damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

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

- City of San Diego Planning Department. Final Mitigated Negative Declaration. “New Fire Station at UCSD.” Project No. 619013. SCH No. 2018061017. Adopted by the City of San Diego City Council on January 8, 2019.
- San Diego Fire-Rescue Department. Standards of Response Cover Review. February 22, 2017. <https://www.sandiego.gov/fire/about/citygate>

## **APPENDIX B – CULTURAL RESOURCES SIGNIFICANCE TESTING PROCEDURES**

A. An applicant seeking to recommence construction following discovery of 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), the consulting Tribes(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 30 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 testing measures 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 both the Kumeyaay Cultural Monitor's recommendation and the project archaeologist's recommendation as to whether the deposits are significant. The project archaeologist's recommendation shall be made in consultation with the Native American monitors, the consulting Tribe(s), 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.
  - i. If the deposits are found to be significant, the permittee shall prepare and submit to the Executive Director and the Kumeyaay Cultural Monitor/MLD a supplementary Archaeological Plan in accordance with subsection B of this condition and all other relevant subsections.
  - ii. 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. All unearthened archaeological resources or tribal cultural resources will be collected and temporarily stored in a secure location onsite (or as otherwise agreed upon by the archaeological monitor and the traditionally and culturally affiliated Tribe(s)) for later reburial onsite.

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 Archaeological Plan for the review and approval of the Executive Director. The Supplementary Archaeological Plan shall be prepared by the project archaeologist(s), in consultation with the Native American monitor(s), the consulting Tribe(s), the Most Likely Descendent (MLD) when State Law mandates identification of a MLD, as well as others identified in subsection C below. The Supplementary Archaeological 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 made up of qualified archaeologists convened in accordance with current professional practice. Representatives of traditionally and culturally affiliated Tribes included on an updated NAHC list shall also be given an opportunity to review and submit written comments on the required plans. 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 and Native American representatives or explain why the recommendations were rejected. Furthermore, upon completion of the 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.