

**CALIFORNIA COASTAL COMMISSION**

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# W15c

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## STAFF REPORT: REGULAR CALENDAR

**Application Numbers:** 5-22-0658

**Applicant:** Rafi Girgis

**Location:** 8100 S Calabar Avenue, Playa Del Rey, City of Los Angeles, Los Angeles County (APN: 4115-014-025)

**Project Description:** Construction of a 36 ft.-high, 3 story over basement, 3,897 sq. ft. single-family residence with a 2-car garage, swimming pool, and rain garden on a vacant 7,334 sq. ft. lot. Grading consists of 985 c.y. of cut to be exported outside coastal zone.

**Staff Recommendation:** Approval with Conditions

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## SUMMARY OF STAFF RECOMMENDATION

The project site (8100 S Calabar Avenue) is located atop a bluff approximately 0.75 mile inland of the beach and approximately 600 ft. from the Ballona Wetlands in a residential neighborhood of Playa Del Rey within the City of Los Angeles Dual Permit Jurisdiction area. The subject site is a vacant 7,334 sq. ft., sloping lot that cascades the opposite direction from the ocean and is zoned R1-1 for Low Residential land uses by the City of Los Angeles uncertified zoning code ([Exhibit 1](#)).

The applicant proposes to construct a three-story over basement, 3,897 sq. ft. single-family residence with a two-car garage, and a swimming pool at the toe of the slope fronting Falmouth Avenue. The proposed project is designed to cascade down the sloping hillside with vehicular access provided via Calabar Avenue, consistent with the development pattern in this area ([Exhibit 4](#)). The proposed project includes 985 cubic yards of grading (cut) for the basement excavation, which will be exported outside of the

coastal zone. The applicant also proposes a rain garden at the toe of the slope, which is designed to absorb and filter rainwater that runs off of the project site.

The primary coastal resource issues raised by the proposed project includes its impact on community character, public views, and archeological and tribal cultural resources.

For community character analysis, staff independently reviewed 25 structures fronting Tuscany Avenue and Calabar Avenue, which are similarly situated on downward sloping lots as the subject lot ([Exhibit 3](#)). These homes are approximately 3,136 sq. ft. in size on average, and four of the twenty-five residences were greater in size than the proposed 3,897 sq. ft. structure. The largest existing home within the study area is 6,430 sq. ft. Thus, while larger than the average, the proposed 3,897 sq. ft. home will not be out of character with the surrounding development.

The surveyed properties on Tuscany Avenue and Calabar Avenue drape down the hillside, giving the appearance of single-story and two-story homes from the street level. However, when viewing these homes from the toe of the slope, these homes range from two to three stories. When viewed from the toe of the slope, the visible stories of the twenty-five structures were either two or three stories except for one single-story structure, and 17 of the 25 homes featured three visible stories. The proposed project plans depict a basement that will be fully below grade and not visible. As such, the residence will appear to be three stories as viewed from the toe of the slope, and one story as viewed from the top of the slope, which is consistent with the majority of development in project vicinity ([Exhibit 4](#)). Thus, the proposed three-story over basement home will not be out of character with the surrounding development as there are other residences that have three visible stories in the survey area.

With regard to public view, the proposed project height ranges from approximately 10 feet (as viewed from Calabar Avenue at the top of the bluff) to 36 feet (as viewed from Falmouth Avenue at the bottom of the bluff) across the sloping lot, which is comparable to the surrounding developments. The subject site is in a densely developed residential area, and the proposed development will be located on the landward side of Calabar Avenue, sloping landward toward Falmouth Avenue. When viewed from the Ballona Wetlands (Culver Blvd), the project site is blocked from view by the home on the adjacent property at 8101 Tuscany Avenue. Therefore, the project will not be visible from any coastal scenic areas and will not have any public view impacts to the coastline.

With regard to archeological and tribal cultural resources, the project site is in close proximity to Ballona Wetlands, which is considered an important cultural resource for its major place of residence and activity for Native Americans and is sacred to numerous tribal entities. In addition, the project site is located atop the bluff overlooking the wetland, which has the potential to contain archeological and tribal cultural resources. In accordance with the Commission's Tribal Consultation procedures, staff notified all tribal representatives listed on the Native American Heritage Commission contact list via email and received comments from two tribal entities raising the project site's potential for sacred land. In response to this concern, staff recommends the Commission impose **Special Condition 4**, which requires the applicant to submit a Cultural Resource Treatment and Monitoring Plan that must be reviewed and approved by the Executive Director prior to issuance of the permit. This plan will ensure that appropriate Native

American monitors and archeological professionals are present during all ground-disturbing activities and that any resources found are treated in accordance with best practices, including best practices identified through consultation with the appropriate tribal government(s).

Commission staff recommends **approval** of the coastal development permit application with four (4) special conditions. **Special Condition 1** requires the project conforms to the submitted drainage and run-off control plan to address post construction water quality impacts. To avoid adverse construction-related impacts upon marine resources, staff recommends **Special Condition 2**, which outlines construction-related requirements to provide for the safe storage of construction materials and the safe disposal of construction debris. To ensure that any onsite landscaping minimizes the use of water and the spread of invasive vegetation and to ensure water quality standards are adhered to, staff recommends **Special Condition 3** to require drought-tolerant, non-invasive landscaping. In order to ensure that appropriate Native American monitors and archeological professionals are present during all ground-disturbing activities and that any resources found are treated in accordance with best practices, staff recommends **Special Condition 4**, which requires the applicant to submit a Cultural Resource Treatment and Monitoring Plan.

The Playa Del Rey segment of Los Angeles does not have a certified Local Coastal Program (LCP); therefore, the Chapter 3 Coastal Act policies constitute the standard of review for this project. Staff recommends the Commission find that the project, as proposed by the applicant and further conditioned by the Commission, is consistent with the Chapter 3 policies of the Coastal Act. Therefore, Commission staff recommends that the Commission APPROVE coastal development permit application 5-22-0658 with four special conditions. The motion and resolution can be found on Page 5.

## TABLE OF CONTENTS

I. MOTION AND RESOLUTION.....	5
II. STANDARD CONDITIONS.....	5
III. SPECIAL CONDITIONS .....	6
IV. FINDINGS AND DECLARATIONS .....	9
A. Project Location and Description .....	9
B. Development and Community Character.....	10
C. Archeological and Tribal Cultural Resources .....	12
D. Visual Resources .....	13
E. Biological Resources & Water Quality .....	13
F. Local Coastal Program.....	15
G. California Environmental Quality Act.....	15
<b>Appendix A – Substantive File Documents .....</b>	<b>16</b>
<b>Appendix B – Cultural Resources Significance Testing Procedures..</b>	<b>17</b>

## **EXHIBITS**

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

[Exhibit 2 – Project Plans](#)

[Exhibit 3 – Survey Area Map](#)

[Exhibit 4 – Streetscape Views](#)

## I. MOTION AND RESOLUTION

### Motion:

I move that the Commission **approve** Coastal Development Permit Application No. 5-22-0658 pursuant to the staff recommendation.

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:

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 and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program that conforms to the provisions 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 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 on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
- 3. Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
- 4. Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
- 5. Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

### III.SPECIAL CONDITIONS

#### 1) Drainage Plans.

- a) The applicant shall undertake development in accordance with the drainage and run-off control plan received by Commission staff on July 26, 2022, showing that roof and surface runoff will be captured with permeable pavers, downspouts, trench drains, and a rain garden, and redirected to the public right-of-way and municipal storm drain.
- b) Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plan shall occur without an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

#### 2) Construction BMPs and Water Quality. By acceptance of this permit, the permittee shall comply with the following construction-related requirements:

- a) Construction Responsibilities and Debris Removal
  - i) No demolition or construction materials, equipment, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wave, wind, rain or tidal erosion and dispersion;
  - ii) No demolition or construction equipment, materials, or activity shall be placed in or occur in any location that would result in impacts to environmentally sensitive habitat areas, streams, wetlands or their buffers;
  - iii) Any and all debris resulting from demolition or construction activities shall be removed from the project site within 24 hours of completion of the project;
  - iv) Demolition or construction debris and sediment shall be removed from work areas each day that demolition or construction occurs to prevent the accumulation of sediment and other debris that may be discharged into coastal waters;
  - v) All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day;
  - vi) The applicant(s) shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction;
  - vii) Debris shall be disposed of at a legal disposal site or recycled at a recycling facility. If the disposal site is located in the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place unless the Executive Director determines that no amendment or new permit is legally required;

- viii) All stock piles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil;
- ix) Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems;
- x) The discharge of any hazardous materials into any receiving waters is prohibited;
- xi) Spill prevention and control measures shall be implemented to ensure the proper handling and storage of petroleum products and other construction materials. Measures shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. The area shall be located as far away from the receiving waters and storm drain inlets as possible;
- xii) Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of demolition or construction-related materials, and to contain sediment or contaminants associated with demolition or construction activity, shall be implemented prior to the on-set of such activity;
- xiii) All BMPs shall be maintained in a functional condition throughout the duration of construction activity.

b) Drainage and Water Quality

- i) During construction of the proposed project, no runoff, site drainage or dewatering shall be directed from the site into the lagoon or street that drains into the lagoon unless specifically authorized by the California Regional Water Quality Control Board;
- ii) All equipment and materials shall be stored and managed in a manner to minimize the potential of pollutants to enter the beach and surrounding sensitive areas;
- iii) All runoff leaving the site shall be directed into the City storm drain system.

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

- a) Vegetated landscaped areas shall consist only of native plants and/or non-native drought-tolerant plants, which are non-invasive. No plant species listed as problematic and/or invasive by the California Native Plant Society

(<http://www.CNPS.org/>), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (<http://www.cal-ipc.org/>), or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a “noxious weed” by the State of California or the U.S. Federal Government shall be utilized within the property. All plants shall be low water use plants as identified by the California Department of Water Resources (See: <https://cimis.water.ca.gov/Content/PDF/wucols00.pdf>).

- b) Use of reclaimed water for irrigation is encouraged. If using potable water for irrigation, only drip or micro-spray irrigation systems may be used. Other water conservation measures shall be considered, such as 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.

#### **4) 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, a Cultural Resources and Treatment 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. The methods of protection of Tribal Cultural Resources shall be developed in consultation with the appropriate Native American tribal government(s). To this end, the cultural resources monitoring plan shall require that archaeological and Native American monitors 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 to discuss the potential for the discovery of archaeological/cultural or paleontological resources. Prior to grading operations, a copy of all archeological documents and reports shall be provided to the Native American monitors.
  - iii) 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(s) (MLD) when State Law mandates identification of an 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.

- iv) The permittee shall provide sufficient archaeological and Native American monitors to assure that all project grading and subsurface construction activities that have any potential to uncover or otherwise disturb cultural deposits are monitored at all times.
- v) If any archaeological or paleontological, or 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 relating to the use or habitation sites, all construction shall cease. Treatment of the discovery shall be determined by the appropriate monitor or the MLD. Significance testing may be carried out only if acceptable to the affected Native American Tribe(s), in accordance with the attached "Cultural Resources Significance Testing Plan Procedures" (Appendix B). The permittee shall report all discovered resources as soon as possible, by phone and/or by email to the Executive Director. The permittee shall provide the significance testing results and analysis to the Executive Director, if applicable.
- b) If the Executive Director determines that the discovery is significant or that the treatment method preferred by the affected Native American tribe(s) is in conflict with the approved development plan, the permittee shall seek an amendment from the Commission to determine how to respond to the discovery and to protect both those and any further cultural deposits that are encountered. Development 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 LOCATION AND DESCRIPTION**

The project site (8100 S Calabar Avenue) is located atop a bluff approximately 0.75 mile inland of the beach and approximately 600 ft. from the Ballona Wetlands in a residential neighborhood of Playa Del Rey ([Exhibit 1](#)) within the City of Los Angeles Dual Permit Jurisdiction area. The subject site is a sloping lot that faces the opposite direction from the ocean, thus not subject to wave action or other coastal hazards. The 7,334 sq. ft. lot is zoned R1-1 for Low Residential land uses by the City of Los Angeles uncertified zoning code and is currently vacant.

The applicant proposes to construct a three-story over basement, 3,897 sq. ft. single-family residence with a two-car garage, and a swimming pool at the toe of the slope fronting Falmouth Avenue ([Exhibit 2](#)). The proposed project is designed to cascade down the sloping hillside with vehicular access provided via Calabar Avenue, consistent with the development pattern in this area. The proposed project includes 985 cubic yards of grading (cut) for the basement excavation, which will be exported outside of the coastal zone to a disposal site in the City of Gardena. The applicant also proposes a rain

garden at the toe of the slope, which is designed to absorb and filter rainwater that runs off of the project site.

The local CDP was approved by the City under Case No. ZA-2019-2104-ZV-CDP-MEL on April 18, 2022. On May 13, 2022, the Commission received the Notice of Final Action (NOFA) for the local CDP, opened the Commission's appeal period for the project, and received no appeal within the specified appeal period. As stated above, the project site is within the Dual Permit Jurisdiction area of the City, thus, a second (or dual) CDP is required from the Commission. The Playa Del Rey segment of Los Angeles does not have a certified Land Use Plan (LUP) or LCP; therefore, the Chapter 3 Coastal Act policies constitute the standard of review for this project.

## **B. DEVELOPMENT AND COMMUNITY CHARACTER**

Section 30250 of the Coastal Act states, in relevant part:

(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 30253 of the Coastal Act states, in relevant part:

(d) Minimize energy consumption and vehicle miles traveled.

### **Residential Density**

Section 30250 of the Coastal Act requires concentration of development in existing developed areas able to accommodate it. This reduces vehicle miles traveled (required by Coastal Act Section 30253(d)), preserves open spaces that might otherwise be developed, provides more opportunities for people to live near the places where they work and recreate, and thereby, reduces impacts to coastal resources. The proposed construction of a single-family residence on a vacant lot zoned as Low Residential will not materially change housing density. The development concentrates new development in an already developed urban neighborhood and is not in a hazardous area. As proposed and conditioned, the development conforms with Sections 30250 and 30253 of the Coastal Act.

### **Community Character**

Staff independently reviewed the structures fronting Tuscany Avenue and Calabar Avenue, which are similarly situated on downward sloping lots as the subject lot. A total of 25 homes were reviewed ([Exhibit 3](#)). These homes are approximately 3,136 sq. ft. in size on average. Four<sup>1</sup> of the twenty-five residences are greater in size than the

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<sup>1</sup> 8125, 8123, 8113, and 8101 Tuscany Ave

proposed 3,897 sq. ft. structure. The largest existing home within the study area is 6,430 sq. ft.<sup>2</sup> Thus, while larger than average, the proposed 3,897 sq. ft. home will not be out of character with the surrounding development.

The surveyed properties on Tuscany Avenue and Calabar Avenue drape down the hillside, giving the appearance of single-story and two-story homes from the street level. However, when viewing these homes from the toe of the slope, these homes range from two to three stories ([Exhibit 4](#)). When viewed from the toe of the slope, the visible stories of the twenty-five structures were either two or three stories except for one single-story structure, and 17 of the 25 homes featured three visible stories. The proposed project plans depict a basement that will be fully below grade and not visible. As such, the residence will appear to be three stories as viewed from the toe of the slope, and one story as viewed from the top of the slope, which is consistent with the majority of development in project vicinity ([Exhibit 4](#)). Thus, the proposed three-story over basement home will not be out of character with the surrounding development as there are other residences that have three visible stories<sup>3</sup> in the survey area.

In addition, staff looked outside of the survey area to the greater Playa Del Rey neighborhood for examples of recent Commission approvals of larger homes. There are four recent examples of Commission-approved projects<sup>4</sup> of similar size and scope in the Playa Del Rey community that granted the construction of three- and four-story single-family homes. The heights range from 37 feet to 45 feet, sizes range from 4,468 sq. ft. to 6,866 sq. ft., and three of the four homes include subterranean portions, all of which is consistent with the proposed home.

The proposed project is under the City's 45-foot maximum height for the area and meets the City's setback requirements that together contribute to a reduction in potential visual impacts. The Coastal Act does not impose any setback standards or height requirements.

### **Cumulative Effects**

To evaluate the potential cumulative impacts of the proposed residence, the incremental effects of the proposed development on community character, mass, and scale are considered in connection with the effects of the past, current, and probable future projects within the subject area. Commission staff reviewed residential developments along Tuscany Avenue and Calabar Avenue ([Exhibit 3](#)). This survey included 25 multi-story single-family residences and considered the year of development, number of stories and the habitable area. Four of the twenty-five homes in the survey area were greater than 4,000 sq. ft., which were constructed in the 1960s and 1971. There was no clear indication of increase in home size, mass, or scale with the passage of time. Regarding future probable projects, staff is not aware of any current or known future projects in the area, other than the adjacent project at 8104 Calabar Avenue that is

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<sup>2</sup> 8125 Tuscany Ave

<sup>3</sup> 8151, 8123, 8113, 8101 Tuscany Avenue, and 8110, 8116, 8126, 8128, 8130, 8134, 8140, 8200, 8204, 8208, 8214, 8218, 8224 Calabar Avenue.

<sup>4</sup> Reference CDP No. 5-21-0244 (7012 Vista Del Mar Lane), 5-21-0081 (210 E. Montreal Street), 5-14-0997 (7829 Veragua Drive), and 5-09-081 (6209 Ocean Front Walk).

similar in scope and nature and which will be heard at the same Commission meeting. Because the two projects are consistent with the character, mass, and scale of the area, approval of the two projects would not result in cumulative impacts.

As discussed above, the proposed development conforms to the mass, scale, height, setbacks, and design of the surrounding homes. Additionally, the home would be sited in a neighborhood with a mix of home sizes and architectural styles. In summary, the project, as proposed and conditioned, is unlikely to contribute to any adverse cumulative effect on community character, mass and scale, and visual resources of the surrounding area in combination with past and potential future projects. Thus, the project will not have a significant adverse effect, individually or cumulatively, on the community character of the area, consistent with Chapter 3 of the Coastal Act.

### **C. ARCHEOLOGICAL AND TRIBAL 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 California coastal zone has been home to native populations for thousands of years. The project site is in close proximity to Ballona Wetlands, which is considered an important cultural resource for its major place of residence and activity for Native Americans and is sacred to numerous tribal entities. In addition, the project site is located atop the bluff overlooking the wetland, which has the potential to contain archeological and tribal cultural resources.

In accordance with the Commission's Tribal Consultation procedures, staff notified all tribal representatives listed on the Native American Heritage Commission contact list via email on December 5, 2022 and included a narrative description of the proposed project and maps depicting the described site. On December 15, 2022, the Commission received a letter from Sandonne Goad, Tribal Council Chairwoman of Gabrielino/Tongva Nation, raising concerns about the potential for the project site to be sacred land and contain tribal cultural resources given its vicinity to the Ballona Wetlands. Chairwoman Goad also requested that project activities be monitored by a Native American Resource Monitor and appropriate mitigation measures be imposed if archeological and/or tribal cultural resources are found. In addition, on December 16, 2022, the Commission received an email from a representative of the Gabrielino Tongva Indians of California, echoing the assessment of the project site's high potential sensitivity for tribal cultural resources.

In response to these concerns, the Commission imposes **Special Condition 4**, which requires the applicant to submit a Cultural Resource Treatment and Monitoring Plan that must be reviewed and approved by the Executive Director prior to issuance of the permit. This plan will ensure that appropriate Native American monitors and archeological professionals are present during all ground-disturbing activities and that any resources found are treated in accordance with best practices, including best practices identified through consultation with the appropriate tribal government(s), including but not limited to

the Gabrielino/Tongva Nation and Gabrielino Tongva Indians of California. As conditioned, the project can be found consistent with Section 30244 of the Coastal Act.

#### **D. 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. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

The proposed project height ranges from approximately 10 feet (as viewed from Calabar Avenue at the top of the bluff) to 36 feet (as viewed from Falmouth Avenue at the bottom of the bluff) across the sloping lot. The subject site is in a densely developed residential area, and the proposed development will be located on the sloping lot facing landward. When viewed from the Ballona Wetlands (Culver Blvd), the project site is blocked from view by the home on the adjacent property at 8101 Tuscany Avenue. Therefore, the project will not be visible from any coastal scenic areas and will not have any public view impacts to the coastline. The proposed project is under the City's 45-foot maximum height for the area, applies an encroachment plane of 45 degrees, and meets the City's setback requirements that, together, contribute to a reduction in any potential public visual impacts. Furthermore, the proposed project is similar to the size and scale of existing development and is consistent with the character of the surrounding development. Therefore, the proposed project is in conformance with the visual resource protection policies of the Coastal Act.

#### **E. BIOLOGICAL RESOURCES & WATER QUALITY**

Section 30230 of the Coastal Act states:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231 of the Coastal Act states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste

water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Section 30232 of the Coastal Act states:

Protection against the spillage of crude oil, gas, petroleum products, or hazardous substances shall be provided in relation to any development or transportation of such materials. Effective containment and cleanup facilities and procedures shall be provided for accidental spills that do occur.

Section 30230 of the Coastal Act requires that marine resources, including biological productivity, be protected. Section 30231 of the Coastal Act requires that the biological productivity of coastal waters be maintained, and where feasible, restored. In addition, Sections 30230 and 30231 require that the quality of coastal waters be maintained and protected from adverse impacts. Section 30232 of the Coastal Act requires protection against the spillage of crude oil, gas, petroleum products, or hazardous materials in relation to any development.

### **Construction**

The proposed development has a potential for a discharge of polluted runoff from the project site into coastal waters and nearby Ballona Wetlands. Storage or placement of construction materials, debris, or waste in a location subject to erosion and dispersion or which may be discharged into coastal water via rain or wind would result in adverse impacts upon the marine environment that would reduce the biological productivity of coastal waters. For instance, construction debris entering the storm drain system and then coastal waters may cover and displace soft bottom habitat. To avoid water quality impacts during construction, **Special Condition 3** requires the applicant to implement best management practices onsite that prevent construction activities and construction-related debris from entering and impacting coastal waters.

### **Drainage and Landscaping**

The proposed project has the potential to adversely impact the water quality of the nearby Pacific Ocean and Ballona Wetland. Much of the pollutants entering the ocean and wetland come from land-based development. The Commission finds that it is necessary to minimize to the extent feasible within its jurisdiction the cumulative adverse impacts on water quality resulting from incremental increases in impervious surface associated with additional development. To address post construction water quality impacts, the applicant proposes a drainage system with permeable pavers for incidental rainfall, trench drain, roof gutters and downspouts that collect onsite runoff that drain into drainpipes that gravitate to the 90 sq. ft. rain garden filtration system at the bottom of the slope, where excess runoff would be directed to the public right-of way and storm drain. The Commission imposes **Special Condition 4**, which ensures that the project conforms to the drainage and run-off control plan received on July 26, 2022.

Invasive species have the potential to overcome native plants and spread quickly. Invasive plants are generally those identified by the California Invasive Plant Council

(<http://www.cal-ipc.org/>) and California Native Plant Society ([www.CNPS.org](http://www.CNPS.org)) in their publications, and they should be avoided in order to prevent impacts to native vegetation. Additionally, any plants in the landscape plan should be drought tolerant to minimize the use of water (and preferably native to coastal Los Angeles County). In order to ensure that any onsite landscaping minimizes the use of water and the spread of invasive vegetation, the Commission imposes **Special Condition 3**, which imposes landscape controls that require that all vegetated landscaped areas consist of native or non-native, drought tolerant plants, which are non-invasive and to implement the proposed drainage plan so that water is captured and filtered on site.

The development, as proposed and as conditioned, incorporates design features and construction measures to minimize the effect of construction and post-construction activities on the marine environment, biological productivity, and coastal water quality. Therefore, the Commission finds that the proposed development, as conditioned, conforms to Sections 30230, 30231 and 30232 of the Coastal Act regarding the protection of water quality to protect marine resources, promote the biological productivity of coastal waters and protect human health.

## **F. LOCAL COASTAL PROGRAM**

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

(a) 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).

Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal development permit only if the proposed project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program (LCP) that conforms to the Chapter 3 policies of the Coastal Act. The City of Los Angeles does not have a certified Local Coastal Program for the Playa Del Rey area. The Commission's standard of review for the proposed development is the Chapter 3 policies of the Coastal Act.

The Commission finds that the proposed project, as conditioned, is consistent with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government to prepare an LCP that is in conformity with the provisions of Chapter 3 of the Coastal Act.

## **G. CALIFORNIA ENVIRONMENTAL QUALITY ACT**

The City of Los Angeles is the lead agency for purposes of CEQA. As noted on the City's staff report dated April 18, 2022, the City determined that the proposed development was categorically exempt from CEQA requirements pursuant to CEQA Guidelines Sections 15303 (Class 3) and 15332 (Class 32).

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

Under Section 15251(c) of Title 14 of the California Code of Regulations, the Commission's CDP regulatory process has been certified as the functional equivalent to the CEQA process. As a certified regulatory program, Section 21080.5(d)(2)(A) of CEQA still applies to the Commission's CDP regulatory process and prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available, which would substantially lessen any significant adverse effect that the activity may have on the environment.

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

## **Appendix A – Substantive File Documents**

Coastal Development Permit Application No. 5-22-0658 and associated file documents.



## **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 unearthed 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.