CALIFORNIA COASTAL COMMISSION
South Coast District Office
301 E Ocean Blvd., Suite 300
Long Beach, CA 90802-4830
(562) 590-5071

F6b

Filed	5/14/24
180th Day:	10/14/24
Staff:	ETP-LB
Staff Report:	7/19/24
Hearing Date:	8/9/24

STAFF REPORT: CONSENT CALENDAR

Application No.:	**5-23-0727**
Applicant:	**Daniel and Melinda Berman (Daniel and Melinda Berman Living Trust 2010)**
Agent:	Crest Real Estate, Attn: Benjamin Eshaghian
Project Location:	607 Muskingum Ave., Pacific Palisades, City of Los Angeles, Los Angeles County (APN: 4414010013)
Project Description:	Addition of 65 sq. ft. of exterior deck space and 65 sq ft. of interior habitable space below the deck in association with modifications to an approx. 3,721 sq. ft. single-family residence, demolition and reconfiguration of an existing pool/spa and retaining wall, and 172 sq. ft. of landscaping with approx. 126 c.y. of cut and 105 c.y. of fill.
Staff Recommendation:	Approval with conditions.

SUMMARY OF STAFF RECOMMENDATION

The applicant is proposing an addition of 65 sq. ft. of exterior deck space and 65 sq ft. of interior space below the deck, demolition and reconfiguration of an existing 440 sq. ft. pool to a 447 sq. ft. pool at the rear of the property, the demolition of an existing 5 ft. 3 in. retaining wall and construction of a new 5 ft. 1 in. retaining wall and additional extension of an existing retaining wall located towards the middle of the property, and the addition of 172 sq. ft. of landscaping consisting of low water use vegetation for a total of 1,180 sq. ft. of landscaping at the project site. The project site is located at 607

Muskingum Ave. in Pacific Palisades, approximately 0.5 mi. inland from Pacific Coast Highway (Exhibit 1). The proposed work, located in the Dual Permit Jurisdiction of the City of Los Angeles, is associated with a remodel of the single-family residence located within the Single Permit Jurisdiction of the City of Los Angeles approved under local CDP No. DIR-2022-7823-CDP.

The project site is located on the eastern side of Las Pulgas Canyon in the Pacific Palisades area of the City of Los Angeles (Exhibit 1**)**. A stream exists on the canyon floor below the applicant's property, but the proposed project does not include any alteration or disturbance of the stream course. Directly adjacent to the project site, there is approximately 1.03 acres of disturbed Coast Live Oak Woodland and approximately 2.57 acres of ornamental landscaping (Exhibit 2). The vegetation within the area is a mix of native and non-native species that is disturbed due to fuel modification activity in the area. While there were no special status species with the project site itself, there is a 16 in. Coast Live Oak that is located approximately 15 ft. beyond the existing retaining wall at the rear of the property, and there remains potential for special status species, including protected migratory birds, to nest in the surrounding area. Additionally, the uncertified City of Los Angeles Ordinance #186873 requires protection of the Coast Live Oak tree. To address potential impacts to biological resources, the applicant proposes to limit development to within the existing retaining wall at the rear of the property. To address potential impacts to nesting birds, the applicant proposes to follow regulations per the Migratory Bird Treaty Act and implement bird-safe construction measures throughout the project site. To further minimize potential impacts to biological resources, staff also recommends the Commission impose **Special Condition 5**, which requires Nesting Bird surveys and **Special Condition 2,** which requires that lighting be directed away from the canyon.

The applicant also proposes reconfiguring the existing 440 sq. ft. pool/spa, which would result in a larger 447 sq. ft. pool, and installing an additional 172 sq. ft. of landscaping for a total of 1,180 sq. ft. landscaping on the project site. The existing and proposed pool and landscaping are all positioned within the boundaries of an existing retaining wall at the rear of the property; however, it is important to manage water flow and address the potential for pool leakage in the area to reduce the potential of water infiltration in the surrounding soil near the canyon slope or drainage into the adjacent stream. Management of water flow in the area may be achieved by various methods, including having the pool double-lined to prevent the infiltration of water into the soil near the canyon slope, installing a pool leak detection system to quickly warn of any possible pool problems that could lead to such infiltration, and managing landscaping drainage and water flow by directing water away from the slope and towards the front of the property and using low water use native or non-invasive plants for landscaping. Much of the pollutants entering the water bodies within the coastal zone come from land-based development. To address potential impacts to water quality, the applicant has submitted a drainage and runoff control plan that includes the installation of a sump pump to redirect water away from the slope and back towards the front of the property towards City drains. To ensure protection of water quality, staff recommends the

Commission impose **Special Condition 1**, which requires that landscaping consists of non-invasive and drought tolerant plants to minimize the use of water (and preferably native to coastal Los Angeles County). Additionally, staff recommends the Commission impose **Special Condition 4,** which requires adherence to construction best management practices to protect against water quality impacts. To protect against water infiltration from the pool into the surrounding soils, staff recommends the Commission impose **Special Condition 3,** which requires adherence to a pool leakage protection plan.

While the project is located in an area that has not had significant landslides or erosion and there is an existing retaining wall at the rear of the property, the site is located adjacent to an inland canyon slope, where there are inherent risks associated with development. As such, staff recommends the Commission impose **Special Condition 6** which requires the applicant to assume the risks of the development.

There is no certified LCP for this area; thus, the standard of review is Chapter 3 of the Coastal Act. If approved with conditions to preserve marine resources and water quality and public access and recreation, staff recommends that the Commission find that the proposed project will conform with the Chapter 3 policies of the Coastal Act. Thus, staff is recommending **APPROVAL** of the coastal development permit with **six (6) special conditions**. The motion to approve the coastal development permit application is on **Page 5**.

Table of Contents

I. MOTION AND RESOLUTION 5

II. STANDARD CONDITIONS 5

III. SPECIAL CONDITIONS 5

IV. FINDINGS AND DECLARATIONS 9

A. Project Description and Background 9
B. Biological Resources 9
C. Water Quality 11
D. Hazards 12
E. Local Coastal Program 14

EXHIBITS

Exhibit 1 – Project Plans and Vicinity Map

Exhibit 2 –Plant Communities and Land Cover (Biological Resources Report, South Environmental)

I. MOTION AND RESOLUTION

Motion:

I move that the Commission approve the coastal development permit applications included on the consent calendar in accordance with the staff recommendations.

Staff Recommendation of Approval:

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

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 Landscaping Plan.** BY ACCEPTANCE OF THIS PERMIT the applicant agrees to the following:

    1. Vegetated landscaped areas shall consist of native plants 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 California Department of Water Resources (See:http://www.water.ca.gov/wateruseefficiency/docs/wucols00.pdf).

2. All irrigation systems shall limit water use to the maximum extent feasible. Use of reclaimed water (“gray water “systems) and rainwater catchment systems for irrigation are encouraged. If permanent irrigation systems using potable water are included in the landscape plan, they shall use water conserving emitters (e.g., microspray) and drip irrigation only. Other water conservation measures shall be considered, including use of weather-based irrigation controllers.

3. The use of rodenticides containing any anticoagulant compounds is prohibited.

2. Lighting Plan. BY ACCEPTANCE OF THIS PERMIT the applicant agrees that all lighting within the proposed development shall be directed and shielded so that light is directed away from the canyon slopes. Furthermore, no skyward-casting lighting shall be used. The lowest intensity lighting shall be used that is appropriate for safety purposes. The lighting plan shall serve to protect the sensitive and other canyon habitat areas from light generated by the project.

3. Swimming Pool/Spa Protection Plan. BY ACCEPTANCE OF THIS PERMIT, the applicant agrees to mitigate for the potential of leakage from the proposed swimming pool/spa, including: 1) installation of a pool leak detection system such as, but not limited to, a leak detection system/moisture sensor with alarm and/or a separate water meter for the pool which is separate from the water meter for the house to allow for the monitoring of water usage for the pool; 2) use of materials and pool design features such as, but not limited to, double linings, plastic linings or specially treated cement, to be used to waterproof the undersides of the pool and spa to prevent leakage, along with information regarding the past and/or anticipated success of these materials in preventing leakage; and 3) installation of a sub drain or other equivalent drainage system under the pool that conveys any water leakage to an appropriate drainage outlet into City drains. The permittee shall comply with the mitigation plan approved by the Executive Director.

4. Water Quality - Construction Responsibilities and Debris Removal. BY ACCEPTANCE OF THIS PERMIT, the applicant agrees to the following:

1. No demolition or construction materials, equipment, debris, or waste shall be placed or stored where it may enter sensitive habitat including the

adjacent stream bed to the rear of the property, receiving waters or a storm drain, or be subject to wave, wind, rain or tidal erosion and dispersion;

2. Any and all debris resulting from demolition or construction activities, and any remaining construction material, shall be removed from the project site within 24 hours of completion of the project;

3. 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 or the adjacent stream bed to the rear of the property;

4. Any debris discharged into the adjacent stream bed to the rear of the property will be recovered using non-mechanic equipment immediately;

5. All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day;

6. The permittee shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition and construction;

7. 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;

8. 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;

9. 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;

10. The discharge of any hazardous materials into the adjacent stream bed to the rear of the property or drains is prohibited;

11. 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 adjacent stream bed to the rear of the property and storm drain inlets as possible;

12. 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; and

13. All BMPs shall be maintained in a functional condition throughout the duration of construction activity.

5. **Nesting Bird Survey.** BY ACCEPTANCE OF THIS PERMIT, the applicant agrees that if project activities must occur during bird nesting season (February 1 through August 31), a qualified biologist, with experience conducting bird surveys, shall survey for active nests within 7 days prior to commencement of project activities, and once a week thereafter during construction, to detect any such activity within 500 feet of the project area. If an active songbird nest(s) is located within 300 feet of construction activities (500 feet for raptors), the qualified biologist shall halt construction activities to enable the permittee to employ best management practices (BMPs) to ensure that construction activities do not disturb or disrupt nesting activities. Noise levels at active nest sites must not exceed 65 dB unless a noise study has determined that ambient noise in the immediate area exceeds that level. If this is the case, noise levels at the nest site must not exceed the ambient noise level measured. Noise reducing BMPs may include using alternative equipment, equipment noise buffering, sound blankets, etc. Alternatively, construction activities and schedules shall be adjusted to avoid active nest areas until the respective young birds have fledged. Unrestricted construction activities may resume when no active nests remain in the construction area. Results of nesting bird surveys, ambient noise surveys, and any follow-up construction avoidance measures shall be documented in monthly reports by the qualified biologist and submitted to the Coastal Commission Executive Director throughout the bird nesting season.

6. **Assumption of Risk, Waiver of Liability and Indemnity.** BY ACCEPTANCE OF THIS PERMIT, the applicant acknowledges and agrees (i) that the site may be subject to hazards from bluff and slope instability, erosion, and landslides; (ii) to assume the risks to the permittee and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

IV. FINDINGS AND DECLARATIONS

A. Project Description and Background

The proposed project is located at 607 Muskingum Avenue in the Pacific Palisades community of the City of Los Angeles (Exhibit 1). The project site is approximately 0.5 miles inland from Pacific Coast Highway on the top and eastern slope of Las Pulgas Canyon. The subject lot is approximately 7,766 sq. ft., is zoned R1-1 (Low Residential) according to the uncertified City of Los Angeles Brentwood- Pacific Palisades Community Plan and is bisected by the Single and Dual permit jurisdiction areas of the City. On June 15, 2023, the City approved DIR-2022-7823-CDP for the partial demolition, substantial remodel, and addition to an existing 3,261 square-foot, two-story single-family dwelling; resulting in a 3,480 square-foot, two-story single-family dwelling with a basement and two-car garage, new landscaping, a new pool, and one new retaining wall. The project involves approximately 87 cubic yards of cut and 105 cubic yards of fill, with a net import of 18 cubic yards of grading. The City's approval was not appealed to the Commission during the appeal period, which closed June 30, 2023. The subject application is only for the portion of the development within the Dual Permit jurisdiction.

The applicant proposes an addition of 65 sq. ft. of exterior deck space as well as 65 sq ft. of interior space below the deck, demolition and reconfiguration of an existing 440 sq. ft. pool to a 447 sq. ft. pool at the rear of the property, demolition of an existing 5 ft. 3 in. retaining wall, construction of a new 5 ft. 1 in. retaining wall, and extension of an existing retaining wall, and addition of 172 sq. ft. of landscaping consisting of low water use vegetation for a total of 1,180 sq. ft. of landscaping. The proposed project will result in 126 c.y. of cut, 105 c.y. of fill, and 21 c.y. of import into the coastal zone.

The existing residence (prior to action pursuant to recent City approval) and pool was constructed in the 1950s, prior to the enactment of the Coastal Act. The existing 6 ft. tall, 68 ft. long retaining wall and associated eleven 2-ft. caissons along the rear of the property was approved by the Commission in 2003 via Coastal Development Permit 5-03-136. The proposed project scope does not include any development beyond the existing retaining wall and thus is anticipated to comply with the special conditions and protections outlined in Coastal Development Permit 5-03-0136.

Standard of Review

The City of Los Angeles does not have certified Local Coastal Plan (LCP) or Land Use Plan (LUP) for the Pacific Palisades segment; Chapter 3 of the Coastal Act is the standard of review for the proposed project.

B. Biological Resources

While there is no proposed development beyond the existing retaining wall along the rear property line, there is a significant patch of mature trees, including a protected Coast Live Oak (16 in. in diameter), and vegetation that could potentially provide habitat

for coastal species along the canyon slope in close proximity to the proposed development. Despite the area being deemed “disturbed” pursuant to the Biological Resources Report completed by South Environmental in September 2022 and submitted by the applicant, there remains potential for migratory birds of Conservation Concern as designated by the U.S. Fish and Wildlife Service to nest in the area. Potential species include Allen’s hummingbird, California thrasher, Lawrence’s goldfinch, Nuttall’s woodpecker, Oak titmouse, and Wrentit. In addition to being important species to coastal ecology in this area, all the aforementioned species are protected under the Migratory Bird Species Act.[1] Additionally, Allen’s hummingbird, Lawrence’s goldfinch, Nuttall’s woodpecker and Oak titmouse are classified as Birds of Management Concern and Focal Species by the U.S. Fish and Wildlife Service.[2] Given the potential for nesting for these protected and ecologically important species, **Special Condition 5** requires that the applicant to conduct a nesting bird survey if construction would occur during nesting bird season from February 1st through August 31st and avoid impacts to nesting birds should any be found.

Given the potential for nesting birds to be in proximity to the project site it is important to minimize adverse long-term impacts to avian species. This can be achieved in a number of ways including, but not limited to, using bird-safe glass and shielding and directing exterior lighting away from biological resources (i.e., minimize direct upward light, spill light, glare and artificial night sky glow). Glass walls are known to have adverse impacts upon a variety of bird species. Birds are known to strike glass walls causing their death or stunning them, which exposes them to predation. Some authors report that such birds strikes cause between 100 million to one billion bird deaths per year in North America alone. Birds strike the glass because they either don't see the glass, or there is some type of reflection in the glass which attracts them (such as the reflection of bushes or trees that the bird might use for habitat). The applicant has proposed to implement avian protections including using bird-safe glass railings along the proposed deck on site pursuant to the final Director’s Determination made by the City of Los Angeles and issued on June 15, 2023. **Special Condition 2** ensures further protection of the biological resources within the canyon area through the minimization of light pollution impacts generated by the project and the shielding of direct exterior lighting away from the canyon slope, where the protection and enhancement of its vegetation and habitat values is sought.

Therefore, as proposed and conditioned, the development would minimize potential impacts to biological resources and be compatible with the continuance of those habitat areas, consistent with Coastal Act section 30240.

---

[1] List of Birds Protected by the Migratory Bird Treaty Act (2023) | FWS.gov

[2] Birds of Management Concern and Focal Species | FWS.gov

C. 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.

Construction Impacts to Water Quality

The above policies of the Coastal Act require protection of marine resources, including the protection of coastal waters or streams by controlling runoff and preventing spillage of hazardous materials. 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 or streams via rain or wind would result in adverse impacts upon the marine environment that would reduce the biological productivity of coastal waters or streams. For instance, construction debris entering coastal waters or streams may cover and displace soft bottom habitat. Sediment discharged into coastal waters or streams may cause turbidity, which can inhibit light penetration and reduce habitat quality and foraging success for avian and marine species. In order to avoid adverse construction-related impacts upon marine resources, the Commission imposes **Special Condition 4**, which outlines construction-related requirements to provide for the safe storage of construction materials and the safe disposal of construction debris. This condition requires the applicant to remove all debris resulting from construction activities within 24 hours of completion of the project. In addition, construction materials shall be covered

and enclosed on all sides, and as far away from a storm drain inlet and receiving waters as possible.

Post-Construction Impacts to Water Quality

The proposed project has the potential to adversely impact the water quality of the nearby stream at the base of Las Pulgas Canyon if there is infiltration of water into the surrounding soil or should water drain or seep down the canyon slope into the adjacent streambed. Many of the pollutants entering the coastal waters from inland 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. Such impacts could be exacerbated by leakage from the proposed pool or by improper drainage from landscaping. To address post construction water quality impacts, the applicant has submitted a drainage and runoff control plan which was received on March 22, 2024, that minimizes impacts to water quality the proposed project may have after construction. However, protection from leakage from the proposed pool is still required. As such, **Special Condition 3**, requires that the applicant employ a swimming pool/spa protection plan.

The applicant submitted an updated drainage and landscaping plan for the addition of 172 sq. ft. of landscaping on March 22, 2024. While the submitted drainage plan includes safeguards to manage runoff, including a sump pump system to divert water away from the canyon slope and towards the front of the property and City drains, the currently proposed plant palette includes two non-drought tolerant plant species. Specifically, *Farfugium japonicum* var. *giganteum* (Giant Leopard Plant), which is a medium to high water use plant, and *miscanthus sinensis 'Adagio'* (Maiden Grass), which is a medium water use plant. For water conservation, any plants in the landscape plan must be drought tolerant to minimize the use of water (and preferably native to coastal Los Angeles County). To ensure that any onsite landscaping minimizes the use of water to prevent drainage that may impact water quality and minimize the spread of invasive vegetation, **Special Condition 1** requires that vegetated landscaped areas shall only consist of native plants or non-native drought tolerant plants, which are non-invasive.

Conclusion

Thus, as conditioned, the Commission finds that the proposed project is consistent with Sections 30230, 30231, and 30233 of the Coastal Act.

D. Hazards

Coastal Act Section 30253 states, in part:

> New development shall do all of the following:

> (a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
>
> (b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. …

The proposed project includes the reconfiguration of an existing 440 sq. ft. pool to a 447 sq. ft. pool, the demolition of an existing 5 ft. 3in. retaining wall, the construction of a new 5 ft. 1 in. retaining wall, an extension of an existing retaining wall, the addition of 65 sq. ft. of interior habitable space underneath the addition of 65. sq. ft. of exterior deck space, the addition of 172 sq. ft. of landscaping, and 126 c.y. of cut, 105 c.y. of fill, and 21 c.y. of import of sediment into the coastal zone to accommodate the new pool and residential modifications. Coastal Act Section 30253 mandates that new development minimize risks to life and property in areas of high geologic and flood hazard and assure stability and structural integrity and not in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. All proposed work is sited within the boundaries of an existing retaining wall along the rear of the property that was approved via Coastal Development Permit 5-03-136. However, the project is located along an inland canyon slope and, thus, there are inherent risks associated with the development. As stated in the geology report titled Geologic and Soils Engineering Exploration Proposed Residence Remodel, Additions, Pool, and Decking Lot 14; Block 124; Tract 9300 607 Muskingum Avenue Los Angeles, California for Daniel and Melinda Berman dated July 26, 2022, “Preserving proper surface drainage Is extremely important...Positive drainage along the retaining walls should be maintained. Any other measure that will facilitate positive surface drainage should be employed.” To address this, the applicant proposes to adhere to geologic stability recommendations of their geology consultants (Grover Hollingsworth and Associates, Inc.), which include controlling waterflow in the area by directing irrigation/drainage runoff away from the slope and waterproofing pool and retaining wall components to minimize pooling or seepage into the soil. However, development along bluffs and canyons is subject to increased hazards, and such risk should be borne by the party proposing and benefitting from the development. Thus, the Commission imposes **Special Condition 6,** which requires the applicant to assume the risks of the development and waive liability and indemnify the Commission against damages that might result from the proposed development. To minimize the risk of seepage, which could cause erosion or landslides, **Special Condition 3** requires a swimming pool/spa protection plan and **Special Condition 1** requires a landscaping plan that limits irrigation to the maximum extent feasible.

E. Local Coastal Program

Coastal Act section 30604(a) states that, prior to certification of a Local Coastal Program ("LCP"), a coastal development permit can only be issued upon a finding that the proposed development is in conformity with Chapter 3 of the Act and that the permitted development will not prejudice the ability of the local government to prepare an LCP that is in conformity with Chapter 3. The Pacific Palisades area of the City of Los Angeles has neither a certified LCP nor a certified Land Use Plan. As conditioned, the proposed development will be consistent with Chapter 3 of the Coastal Act. Thus, approval of the project, as conditioned, 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 of the Coastal Act.

F. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 13096 of Title 14 of the California Code of Regulations requires Commission approval of coastal development permit applications to be supported by findings showing the approval, 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 Commission's regulatory program for reviewing and granting CDPs has been certified by the Resources Secretary to be the functional equivalent of CEQA. (14 CCR § 15251(c)).

In this case, the City of Los Angeles Department of City Planning is the lead agency . The City of Los Angeles determined that the proposed project is categorically exempt from CEQA pursuant to CEQA Guidelines, Sections 15301 (Class 1) and 15303 (Class 3), per Notice of Exemption for case number ENV-2022-7824-CE and City approval DIR-2022-7823-CDP dated June 15, 2023.

The findings in this staff report, incorporated herein by reference, have analyzed the relevant coastal resources issues raised by the subject proposal. As conditioned, there are no feasible alternatives or additional feasible mitigation measures available that would substantially lessen any significant adverse effect, individual or cumulative, that the activity 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 and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

APPENDIX A – SUBSTANTIVE FILE DOCUMENTS

- Biological Resources Report for 607 Muskingum Ave prepared by South Environmental, September 2022
- Geologic and Soils Engineering Exploration Proposed Residence Remodel, Additions, Pool, and Decking Lot 14; Block 124; Tract 9300 607 Muskingum

Avenue Los Angeles, California for Daniel and Melinda Berman prepared by Grover Hollingsworth and Associates, Inc., July 26,2022

- Additional Recommendations, Proposed Retaining Wall, Lot 14, Block 123, Tract 9300, 607 N. Muskingum Ave, Pacific Palisades Area of Los Angeles, California prepared by Grover Hollingsworth and Associates, Inc., December 7, 2022
- CDP Application File No. 5-03-136