

CALIFORNIA COASTAL COMMISSION

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STAFF REPORT: CONSENT CALENDAR

Application No.: 6-24-0571

Applicant: 3891 Garfield Street LLC

Agent: Matt Gomes

Location: 718-732 Stevens Ave, Solana Beach, San Diego County (APNs: 298-164-10-00 & 298-164-13-00)

Project Description: Demolition of two existing three-story duplex structures and two existing two-story duplex structures, and construction of a three-story thirteen-unit multi-family attached residential development with attached two-car garages, visitor parking, patio area, landscaping, grading, and site improvements at two existing lots to be consolidated into one approx. 32,000 sq. ft. lot.

Staff Recommendation: Approval with conditions.

SUMMARY OF STAFF RECOMMENDATION

The project proposes the demolition of existing two- and three-story duplex structures on two adjacent lots, consolidating the two lots into one, and constructing a new attached multi-family residential structure with thirteen units, two of which will be affordable ([Exhibit 2](#)). The existing structures were built in 1969 and 1972 and there is no Commission permit history for the site. The project site is located on Stevens Avenue in the City of Solana Beach adjacent to the existing La Colonia public park. The site is approximately 0.8 miles from the shoreline and there is no existing coastal access, via a public path or parking, adjacent to the site ([Exhibit 1](#)). The site is not within or adjacent to environmentally sensitive habitat area (ESHA) and is not within a Very High Fire

Severity Zone, meaning no fuel modification or buffers from ESHA are required. The site is not mapped in the City's Hillside Overlay Zone, however there is approximately 1,000 sq. ft. of steep slopes greater than 25% existing on the site that will be graded. **Special Condition No. 2** requires the applicant to create a construction pollution prevention plan prior to issuance of the coastal development permit to establish best management practices (BMPs) and manage runoff during construction, and **Special Condition No. 1** requires the submittal of final plans. The project also proposes the removal of several trees and large shrubs; therefore, in order to ensure nesting birds are not disturbed, **Special Condition No. 3** requires to permittee to monitor for nesting birds prior to removing trees. Of the thirteen proposed units, eleven will be sold at market rate and two will be affordable as required through the Solana Beach Municipal Code. To ensure the proposed provisions of the affordable units are met, **Special Condition No. 4** requires the permittee to agree that the two affordable units onsite shall be maintained as affordable units for the 99 years and that they shall provide evidence that the applicants have recorded the deed restriction required by the City of Solana Beach for the creation of affordable rental units.

Given the proposed grading of the site and potential cultural significance, Commission staff conducted tribal consultation. Two responses were received from tribal representatives requesting Kumeyaay cultural monitoring during grading activities and that Tribes be notified if cultural resources are discovered. As a result of these consultation efforts, staff have incorporated **Special Condition No. 5**, which ensures that a Kumeyaay cultural monitor will be present on site and that any cultural resources unearthed will receive proper protections. Finally, **Special Condition No. 6** requires the applicant to record a deed restriction to impose the special conditions against the subject property.

Commission staff recommend that the Commission **APPROVE** coastal development permit application 6-24-0571, as conditioned. The motion is on page 4. The standard of review is Chapter 3 of the Coastal Act with the City of Solana Beach Land Use Plan (LUP) used as guidance.

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EXHIBITS

[Exhibit 1 – Vicinity Map](#)

[Exhibit 2 – Project Plans](#)

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 recommendation.

Staff recommends a **YES** vote. Passage of this motion will result in approval of all the permits included on the consent calendar. 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 ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for review and written approval of the Executive Director, a full-size set of the following final plans:
 - a) Final construction plans that conform with the plans titled “3rd CCC Submittal Set” and received January 14, 2025.
 - b) Final landscape plans that conform with the plans submitted to the Commission on January 14, 2025, titled “Landscape Concept plan for Stevens 13 Townhomes.”
 - c) The permittee shall undertake development in conformance with the approved final plans unless the Commission amends this permit or the Executive Director provides a written determination that no amendment is legally required for any proposed minor deviations.

2. **Construction Pollution Prevention Plan. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the written approval of the Executive Director, a Construction Pollution Prevention Plan that demonstrates that all construction, including, but not limited to, clearing, grading, staging, storage of equipment and materials, or other activities that involve ground disturbance; building, reconstructing, or demolishing a structure; and creation or replacement of impervious surfaces, complies with the following requirements:
 - a) **General Construction-Phase Best Management Practices**
 - (1) Best Management Practices (BMPs) designed to minimize adverse impacts resulting from construction and demolition activities shall be implemented prior to the onset of such activity, including BMPs to minimize erosion and sedimentation, minimize the discharge of pollutants and non-stormwater runoff, and minimize land disturbance and soil compaction, as applicable. The plan shall specify the description and location of all BMPs to be implemented during construction and demolition.
 - (2) Appropriate protocols shall be implemented to manage all construction-phase BMPs (including installation and removal, ongoing operation, inspection, maintenance, and staff training), to protect coastal water quality.
 - (3) All BMPs shall be maintained in a functional condition throughout the duration of the construction and demolition activities and shall be promptly removed when no longer required.
 - (4) The damage or removal of non-invasive vegetation (including trees, native vegetation, and root structures) during construction shall be minimized, to achieve water quality benefits such as transpiration, interception of rainfall, pollutant uptake, shading of waterways, and erosion control.
 - (5) Soil compaction due to construction activities shall be minimized, to retain the natural stormwater infiltration capacity of the soil.

- (6) Minimize Erosion and Sediment Discharge. During construction, erosion and the discharge of sediment off-site or to coastal waters shall be minimized through the use of appropriate Best Management Practices (BMPs), including:
- (a) Land disturbance during construction (e.g., clearing, grading, and cut-and-fill) shall be minimized, and grading activities shall be phased, to avoid increased erosion and sedimentation.
 - (b) Where possible, grading shall be avoided during the rainy season (from November 15th to April 15th). If grading during the rainy season cannot be avoided, the applicant shall notify the Executive Director, who will determine if an amendment is legally required.
 - (c) Erosion control BMPs (such as mulch, soil binders, geotextile blankets or mats, or temporary seeding) shall be installed as needed to prevent soil from being transported by water or wind. Temporary BMPs shall be implemented to stabilize soil on graded or disturbed areas as soon as feasible during construction, where there is a potential for soil erosion to lead to discharge of sediment off-site or to coastal waters.
 - (d) Sediment control BMPs (such as silt fences, fiber rolls, sediment basins, inlet protection, sandbag barriers, or straw bale barriers) shall be installed as needed to trap and remove eroded sediment from runoff, to prevent sediment from construction-related activities from entering coastal waters or the storm drain system.
 - (e) Tracking control BMPs (such as a stabilized construction entrance/exit, or street sweeping) shall be installed or implemented as needed to prevent vehicles leaving the construction area from tracking sediment off-site.
 - (f) To minimize wildlife entanglement and plastic debris pollution, the use of temporary erosion and sediment control products that contain plastic netting (such as fiber rolls, erosion control blankets, and mulch control netting) shall be prohibited. Heavy-duty silt fences reinforced by plastic or metal netting shall also be prohibited. Only products that contain natural-fiber netting, or that do not contain netting, shall be allowed.
 - (g) Minimize Discharge of Construction Pollutants. The discharge of other pollutants resulting from construction and demolition activities (such as chemicals, paints, vehicle fluids, petroleum products, asphalt and cement compounds, debris, and trash) into runoff or coastal waters shall be minimized through the use of appropriate BMPs, including:
 - (i) Stockpile and Debris Management
 - a. All stockpiles, demolition and construction materials, debris, and waste shall be covered during rain events, protected from stormwater runoff using temporary perimeter barriers, and located a

- minimum of 50 feet from coastal waters and storm drain inlets.
- b. Demolition or construction waste and debris shall be removed from work areas as soon as feasible, to prevent the accumulation of debris, sediment, and other pollutants that may potentially be discharged into coastal waters or the storm drain system. Adequate disposal facilities shall be provided for solid waste produced during demolition or construction activities.
 - c. Trash receptacles shall be provided on-site and covered during rain events, and all trash shall be disposed of in the proper trash and recycling receptacles by the end of every construction day.
 - d. 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.
- (ii) Spill Prevention and Equipment Maintenance
- a. Spill prevention and control measures shall be implemented to ensure the proper handling and storage of construction products or materials that may have adverse environmental impacts. The discharge of any construction products or materials into coastal waters, drainage courses, or the storm drain system shall be prohibited.
 - b. Leaks or spills of fuel, oil, grease, lubricants, hydraulic fluid, chemicals, preservatives, paints, or other construction products or materials shall be immediately contained on-site and disposed of in an environmentally safe manner as soon as feasible.
 - c. Construction vehicles operating at the project site shall be inspected daily to ensure there are no leaking fluids and shall be serviced immediately if a leak is found.
 - d. Fueling and maintenance of construction equipment and vehicles shall be conducted off-site, if feasible. Any fueling and maintenance of mobile equipment conducted on site shall take place at a designated area located at least 50 feet from coastal waters, drainage courses, and storm drain inlets (unless these inlets are blocked to protect against fuel spills). The fueling and maintenance area shall be designed to fully contain any spills of fuel, oil, or

other pollutants. Equipment that cannot be feasibly relocated to a designated fueling and maintenance area (such as cranes) may be fueled and maintained in other areas of the site, provided that procedures are implemented to fully contain any potential spills.

- e. Equipment, machinery, and vehicles shall be washed only in designated areas specifically designed to contain runoff and prevent discharges into storm drain inlets. Thinners, oils, and solvents shall not be discharged into the sanitary sewer or storm drain systems.

(iii) Control of Non-Stormwater Runoff

- a. Runoff control BMPs (such as a concrete washout facility or a dewatering tank) shall be installed or implemented to retain, infiltrate, or treat non-stormwater runoff resulting from demolition and construction activities.

(iv) Construction Site Map and Narrative Description. The Construction Pollution Prevention Plan shall include a construction site map and a narrative description addressing, at a minimum, the following required components:

- a. A map delineating the construction site, construction phasing boundaries, and the location of all temporary construction-phase BMPs (such as silt fences, inlet protection, and sediment basins).
- b. A description of the BMPs that will be implemented to minimize land disturbance activities, minimize the project footprint, minimize soil compaction, and minimize damage or removal of non-invasive vegetation. Include a construction phasing schedule, if applicable to the project, with a description and timeline of significant land disturbance activities.
- c. A description of the BMPs that will be implemented to minimize erosion and sedimentation, minimize the discharge of other pollutants resulting from construction and demolition activities, and control non-stormwater runoff. Include calculations that demonstrate proper sizing of BMPs, as applicable.
- d. A description and schedule for the management of all construction-phase BMPs (including installation and removal, ongoing operation, inspection, maintenance, and staff training). Identify any temporary BMPs that will be converted to permanent post-development BMPs.

- 3. Nesting Bird Survey.** Should tree removal occur during the bird nesting season, February 15 to September 15, a qualified biologist with experience in conducting bird surveys shall conduct a survey no more than 72 hours prior to removal of the tree in order to determine the presence or absence of nesting birds. If any active nests are detected, the tree will be flagged and mapped, and removal of the tree will be prohibited until the nesting cycle is complete.
- 4. Provision of Affordable Units.**

 - a) BY ACCEPTANCE OF THIS PERMIT, the permittees agree that the 2 affordable units onsite shall be maintained as affordable units for the 99 years.
 - b) PRIOR TO COMMENCEMENT OF CONSTRUCTION, the applicants shall provide evidence to the Executive Director that the applicants have recorded the deed restriction required by the City of Solana Beach for the creation of affordable rental units.
- 5. Archeological and Tribal Cultural Resources Mitigation.** The permittee shall undertake development in compliance with the following mitigation measures to protect archaeological resources, including tribal cultural resources:

 - a) AT LEAST ONE MONTH PRIOR TO COMMENCEMENT OF ANY GROUND-DISTURBING CONSTRUCTION ACTIVITIES, the permittee shall (i) notify in writing, email, and/or phone calls, as necessary, the representatives of Native American Tribes listed on an updated Native American Heritage Commission (NAHC) contact list; (ii) invite all Tribal representatives on that list to be present and to monitor ground-disturbing activities; and (iii) arrange for any invited Tribal representative that requests to monitor and a qualified archaeological monitor to be present to observe project activities with the potential to impact archaeological and/or tribal cultural resources. A qualified archaeological monitor means qualified at a minimum by the California Office of Historic Preservation (OHP) standards. The monitor(s) shall have experience monitoring for archaeological resources of the local area during excavation projects, be competent to identify significant resource types, and be aware of recommended Tribal procedures for the inadvertent discovery of archaeological resources and human remains. Evidence of written notification shall be made available to the Executive Director upon request.
 - b) A Kumeyaay Cultural Monitor shall be on site for all ground disturbing activities.
 - c) If an area of tribal cultural and/or archaeological resources is discovered during ground-disturbing activities, all construction shall cease and shall not recommence except as provided in subsection (f) hereof, and the permittee shall immediately notify and retain a tribal cultural resource specialist and a qualified archaeologist to analyze the significance of the find in consultation with the Native American Tribes listed on the NAHC list. The archaeologist and tribal cultural resource specialist shall immediately

notify the Tribes on the NAHC list, including the Viejas Band of Kumeyaay Indians and the Rincon Band of Luiseno Indians (not to exceed 48 hours). Significance testing may be carried out only if acceptable to the affected Native American Tribe(s), in accordance with a Significance Testing Plan. An "exclusion zone" where unauthorized equipment and personnel are not permitted shall be established (e.g., taped off) around the discovery area that includes a reasonable buffer zone recommended by the monitor(s), but shall be no less than 100 feet. Project activities may continue outside of the exclusion zone.

- d) The Kumeyaay Cultural Monitor and the tribal representatives shall make recommendations on the measures to be implemented to protect the newly discovered cultural resource(s), including but not limited to, avoidance in place, excavation, and relocation. The Viejas Band of Kumeyaay Indians and the Rincon Band of Luiseno Indians shall be consulted with to determine significance and culturally appropriate disposition. Any cultural resources recovered as a result, excluding items covered by the provisions of applicable Treatment Plans or Agreements, shall be repatriated to the affiliated tribes.
- e) Should human remains be discovered on-site during the course of the project, immediately after such discovery, the on-site archaeologist and/or Kumeyaay cultural monitor shall notify the county coroner within 24 hours of such discovery, and all construction activities shall be temporarily halted until the remains can be identified. An "exclusion zone" of 100 feet shall be established around the discovery area. If the county coroner determines that the human remains are those of a Native American, the coroner shall contact the Viejas Band of Kumeyaay Indians, the Rincon Band of Luiseno Indians, and the NAHC within 24 hours, pursuant to Health and Safety Code Section 7050.5. The NAHC shall deem the Native American most likely descendant (MLD) to be invited to participate in the identification process pursuant to Public Resources Code Section 5097.98. The landowner/permittee shall comply with the requirements of Section 5097.98 and work with the MLD person(s) to preserve the remains in place, move the remains elsewhere onsite, relinquish the remains to the descendants for treatment, or determine other culturally appropriate treatment. Within five (5) calendar days of notification to NAHC, the permittee/ landowner shall notify the Coastal Commission's Executive Director of the discovery of human remains and identify any changes to the proposed development or mitigation measures that may be needed related to the inadvertent discovery. The Executive Director shall maintain confidentiality regarding the presence of human remains on the project site. The Executive Director shall determine whether the identified changes are de minimis in nature and scope.
- f) A permittee seeking to recommence project activities within an exclusion zone following discovery of tribal cultural and/or archaeological resources (excluding the discovery of human remains, which shall follow Section 5097.98 as noted in (e) above) shall submit a Supplementary

Archaeological Plan (SAP) prepared by the permittee in consultation with the Kumeyaay cultural monitor, the Viejas Band of Kumeyaay Indians, the Rincon Band of Luiseno Indians, or any other affiliated Tribes. The SAP shall be submitted for the review and written approval of the Executive Director. If the Executive Director approves the SAP and determines that the SAP's recommended changes to the proposed development or mitigation measures are de minimis in nature and scope, construction may recommence after this determination is made by the Executive Director in writing. If the Executive Director approves the SAP 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.

- 5. Deed Restriction. PRIOR TO THE ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for review and written approval documentation demonstrating that the applicant has executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property subject to the terms and conditions that restrict the use and enjoyment of that property, and (2) imposing the special conditions of this permit as covenants, conditions, and restrictions on the use and enjoyment of the property. The deed restriction shall include a legal description of the entire parcel, or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence or with respect to the subject property.

IV. FINDINGS AND DECLARATIONS

A. Project Description and Background

The project proposes the demolition of the existing two- and three-story duplex structures on two adjacent lots, consolidating the two lots into one, and construction of a new attached multi-family residential structure with thirteen units ([Exhibit 2](#)). Two of those units will be affordable for-sale units. The project also includes site improvements such as grading, landscaping, construction of a trash enclosure, common drive aisle, and patio areas. The existing structures were built in 1969 and 1972, and there is no Commission permit history for the site. The proposed project is consistent with the City of Solana Beach certified Land Use Plan (LUP). Additionally, the site is within an area of original jurisdiction where the Chapter 3 policies of the Coastal Act are the standard of review and the City's certified LUP is used as guidance.

The project site is located on Stevens Avenue in the City of Solana Beach adjacent to the existing La Colonia public park. The site is approximately 0.8 miles from the

shoreline and there is no existing coastal access in the form of a public path or public parking adjacent to the site ([Exhibit 1](#)). The site is not within or adjacent to environmentally sensitive habitat area (ESHA) and is not within a Very High Fire Severity Zone, meaning no fuel modification or buffers from adjacent ESHA are required. The site is not mapped in the City's Hillside Overlay Zone, a zone intended to protect natural slopes throughout the City, however there is approximately 1,000 sq. ft. of steep slopes greater than 25% existing on the site that will be graded. **Special Condition No. 2** requires the applicant to create a construction pollution prevention plan prior to issuance of the coastal development permit to establish best management practices (BMPs) and manage runoff during construction.

The project is consistent with the requirements of the LUP. The City approved a deviation from the maximum height to allow for increased density because the proposed structures will exceed the height limit of 25 feet, resulting in a maximum building height of 29 feet 10 inches. The City did not receive applications from the public for a view assessment at this site and therefore was able to make the findings to allow for the deviation from the maximum height limit. There are no anticipated coastal resource impacts, such as blockage of public views of the shoreline and ocean, from the proposed height of the structure. The City also approved a deviation from the allowable floor area ratio (FAR) to allow for increased density. Similar to the deviation from the height, the deviation from the FAR maximum does not pose impacts to coastal resources at this site.

As mentioned previously, two of the proposed thirteen units will be affordable units. While there are no existing affordable units at the site, the City of Solana Beach Municipal Code Section 17.70.020 requires developers of for-sale residential projects providing five or more dwelling units to construct and set aside fifteen percent of all units or lots for sale to very low- or low-income households (as defined by Health and Safety Code Sections 50105 and 50079.5, respectively) at sales prices affordable to such persons or households. The applicant proposes to construct thirteen for-sale residential units and will set aside fifteen percent (two units) for-sale as affordable for a term of 99 years, as defined in the City's code. The affordable units will be similar in size and scale to the market rate units.

There are several factors used to calculate the affordable sale price. The Monthly Housing Cost includes property taxes and assessments, property insurance, mortgage interest rate and homeowners' association dues. The Maximum Sales Price is then calculated as the purchase price, which would result in a Monthly Housing Cost, as determined by San Diego Housing Commission (SDHC), which does not exceed 1/12th of the product of 30% times the AMI level per Resale Restriction of the particular property, and as adjusted for household size appropriate for the property. The two affordable units will not be set to the same sale price since one is a three bedroom unit and the other is a four bedroom unit. The sale price of the affordable units will be based on the composition of the unit and the level of affordability and will be determined by SDHC. Additionally SDHC will determine the sale price of the affordable units during any sale that occurs within the 99-year term.

The City of Solana Beach has a condition on the local approval to offer the sale of affordable units to certain qualified individuals first before offering them for sale to other members of the public who qualify based on income. This condition is a result of several past actions by the City and Commission that have displaced or otherwise affected these individuals. These include the City's closure of a mobile home park around 1990, and a project approved in 2014 by the Commission (REF: CDP #6-14-1033) that included construction of ten additional affordable housing units but was not constructed. In 2019 the Commission and City also approved the Solana Highlands project (REF: CDP #6-19-0109), which is currently under construction. This project demolished 198 units to construct 260 units with 32 units reserved as affordable senior units. Individuals affected by these projects will be offered the affordable units constructed as a result of this project. Additionally, those displaced by the redevelopment of this project will be offered affordable units prior to qualified members of the public.

The City's LUP Policy 5.29 sets standards for parking for affordable units. This project, as proposed, is compliant with the parking standards in the City's LUP. Additionally, Coastal Act Section 30604 states that it is important for the Commission to encourage the provision of new affordable housing opportunities for people of low and moderate income in the coastal zone. Therefore, **Special Condition No. 4** requires the applicant to agree that the two affordable units onsite shall be maintained as affordable units for the 99 years and that they provide evidence that the applicants have recorded the deed restriction required by the City of Solana Beach for the creation of affordable units.

The proposed landscaping includes the removal of several existing trees and shrubs and planting approximately 33 trees, several large screen shrubs, smaller plants, and ground cover. The applicant is required through **Special Condition No. 1** to provide a final landscape plan and final overall project plan. Additionally, a nesting bird survey is required through **Special Condition No. 3** to ensure trees and existing vegetation are monitored for nesting birds prior to being removed.

As mentioned previously, the project proposes grading on a site that may have cultural significance to Native American Tribes. In adherence to the Commission's 2018 Tribal Consultation Policy, Commission staff sent emails and letters offering consultation to 22 tribal representatives identified by the Native American Heritage Commission (NAHC) as traditionally and culturally affiliated with the geographic area of the project. Staff received two responses. One was from Mr. Ray Teran of the Viejas Band of Kumeyaay Indians, notifying the Commission that the proposed project is in an area with cultural significance or ties to the Viejas Band, and requesting both that a Kumeyaay Cultural Monitor be on site for all ground disturbing activities, as well as that the tribe will be notified if any inadvertent discovery of cultural artifacts, cremation sites, or human remains occurs.

Another response was received from Ms. Cheryl Madrigal of the Rincon Band of Luiseno Indians requesting that the affiliated tribes be notified within 48 hours of any findings of Native American origin and be consulted with to determine significance and culturally appropriate disposition. Ms. Madrigal additionally requested that ground disturbing activities within 100 feet of the inadvertent discoveries must temporarily halt

so that they may be evaluated by an archaeologist and representatives of the affiliated tribes. Finally, Ms. Madrigal requested that the cultural monitor and representatives of the affiliated tribes shall be included in determining the cultural significance of discovered items and that the monitor and representatives make recommendations to the Executive Director on how to protect the identified resources.

Therefore, **Special Condition No. 5** requires the permittee to obtain a Kumeyaay Cultural Monitor that will be present during ground disturbing activities and inform the Viejas Band of Kumeyaay Indians and the Rincon Band of Luiseno Indians, as well as the other tribes traditionally and culturally affiliated with the area according to NAHC, of inadvertent discoveries of cultural artifacts, cremation sites, or human remains, within 48 hours of discovery. The condition also requires that the Viejas Band of Kumeyaay Indians and the Rincon Band of Luiseno Indians are to be consulted with to determine significance and culturally appropriate disposition. Additionally, if cultural resources are discovered, an “exclusion zone” is required to be established at least 100 feet around the discovery site so that significant testing can be conducted. The special condition also incorporates requirements should human remains be discovered and instructions to prepare a Supplementary Archaeological Plan should a discovery be made and the permittee proposes to re-commence project activities. Finally, **Special Condition No. 6** requires the applicant to record a deed restriction to impose the special conditions as part of this permit against the subject property.

B. Biological Resources

Coastal Act policies 30240 and 30251 restrict the alteration of natural landforms and protects sensitive habitats. Section 30231 of the Coastal Act requires that coastal waters are protected, and runoff minimized.

The proposed development will not have an adverse impact on any sensitive habitat, and, as conditioned, will not result in erosion or adverse impacts to water quality, as adequate temporary erosion controls (construction BMPs) will be provided. Thus, the project is consistent with the resource protection policies of Chapter 3 of the Coastal Act.

C. Community Character/Visual Quality

The development is located within an existing developed area and as conditioned, will be compatible with the character and scale of the surrounding area and will not impact public views. Therefore, the Commission finds that the development, as conditioned, conforms to Section 30251 of the Coastal Act.

D. Cultural Resources

As conditioned, the proposed development will not have an adverse impact on archeological, cultural or paleontological resources. Grading will be monitored, and a cultural resources plan will ensure proper procedures if any prehistoric or cultural resources are identified during construction. Therefore, as conditioned, the proposed development conforms to Section 30244 of the Coastal Act.

E. Local Coastal Planning

The City of Solana Beach has certified LUP but does not have a certified Implementation Plan (IP) at this time. Thus, the Coastal Commission retains permit jurisdiction and Chapter 3 of the Coastal Act remains the legal standard of review. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act. 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.

F. 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 Solana Beach exempted the project under Section 15332.

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 construction BMPs, nesting birds, and cultural 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

- CDP 6-14-1033
- CDP 6-19-0109
- City of Solana Beach Land Use Plan