
ATTACHMENT F.

CDP APPROVAL DOCUMENTATION

RESOLUTION NO. PC 2021-44

A RESOLUTION OF THE CITY OF ENCINITAS PLANNING COMMISSION APPROVING A COASTAL DEVELOPMENT PERMIT TO CONSTRUCT STORMWATER IMPROVEMENTS FOR THE NORTH COAST HIGHWAY 101 DRAINAGE IMPROVEMENTS PROJECT LOCATED WITHIN NORTH COAST HIGHWAY 101 BETWEEN BASIL STREET TO LA COSTA AVENUE, AND LEUCADIA ROADSIDE PARK.

(CASE NO. CDPNF-004271-2020; APN: Public Right-of-Way and 256-013-01)

WHEREAS, City of Encinitas submitted an application for a Coastal Development Permit to construct stormdrain improvements on North Coast Highway 101 between Basil Street and La Costa Avenue, and within Leucadia Roadside Park for the North Coast Highway 101 Drainage Improvement project, including construction staging areas to be removed prior to the completion of the project; and

WHEREAS, the Planning Commission conducted a noticed public hearing on the application on November 4, 2021, at which time all those desiring to be heard were heard; and

NOW, THEREFORE, BE IT RESOLVED that the Encinitas Planning Commission hereby APPROVES CDPNF-004271-2020 based on the following Environmental Determination and Findings:

Section 1. California Environmental Quality Act (CEQA) Determination

An addendum to the project's Environmental Impact Report (Case No.10-035 DR/CDP/EIR) has been prepared for changes to the proposed project. City Council certified the Final Environmental Impact Report for the original project on March 21, 2018. The City of Encinitas previously prepared the Environmental Impact Report No. 10-035 for the project. A Notice of Determination (State Clearinghouse No. 2015091084) was filed for the Addendum on November 13, 2020.

Based upon a review of the proposed project revisions, it has been determined that:

1. The previously certified EIR retains continuing informational value with respect to the proposed project revisions; and
2. With respect to the previously certified EIR:
 - (A) No substantial changes are proposed in the project which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
 - (B) No substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
 - (C) No new information of substantial importance, which was not known and

could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified, shows any of the following:

- (1) The project will have one or more significant effects not discussed in the previous EIR;
- (2) Significant effects previously examined will be substantially more severe than shown in the previous EIR;
- (3) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measures or alternative; or
- (4) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects.

Section 2. Discretionary Actions Findings

Based on Encinitas Municipal Code Section 30.80.090, findings for a Coastal Development Permit and the aforementioned analysis, the Planning Commission has made the following findings to support the approval, with conditions:

Finding for Coastal Development Permit	Explanation of Finding
1. The project is consistent with the certified Local Coastal Program of the City of Encinitas; and	<p>The project proposes new underground pipeline varying in size, bioretention, dispersion and landscape areas to disconnect runoff from entering the storm drain until it passes through these treatment areas via overland flow or curb openings. The project design would also enhance the existing storm drain system by providing additional storage capacity during storm events, thereby reducing the frequency of flooding events within the project corridor.</p> <p>The project is consistent with the policies of the City's certified Local Coastal Program including the provisions of the General Plan and the Municipal Code.</p>
2. The proposed development conforms with Public Resources Code Section 21000 and following (CEQA) in that there are no feasible mitigation measures or feasible alternatives available which would substantially lessen any significant adverse impact that the activity may have on the environment; and	An addendum to the project's Environmental Impact Report (Case No.10-035 DR/CDP/EIR) has been prepared for changes to the proposed project. City Council certified the Final Environmental Impact Report for the original project on March 21, 2018. The project will not have a significant adverse impact on the environment.

Finding for Coastal Development Permit	Explanation of Finding
3. For projects involving development between the sea or other body of water and the nearest public road, approval shall include a specific finding that such development is in conformity with the public access and public recreation policies of Section 30200 et. seq. of the Coastal Act.	<p>Public access is currently available along the 101 Corridor with Multiple access points to the Ocean on Grandview, Beacon's Beach and south of the project.</p> <p>In accordance with Section 30212 of the Coastal Act, public beach access already exists and is available south of the site at Ponto Beach, Grandview and Beacon's with public access located from the project location. Pursuant to the requirements in Section 30212 of the Coastal Act, recreational opportunities are already adequately available to allow the public to access the beach and shore.</p>

BE IT FURTHER RESOLVED that based on the Environmental Determination and Findings hereinbefore adopted by the Planning Commission, Case No. CDPNF-004271-2020 is hereby approved subject to the conditions in Exhibit A hereto.

PASSED AND ADOPTED this 4th day of November, 2021, by the following vote, to wit:

AYES: Ryan, Ehlers, Dalton
 NOES: Sherod
 ABSTAIN: None
 ABSENT: Doyle


 Bruce Ehlers, Chair

ATTEST:

Anna Colamussi
 Anna Colamussi, Secretary

NOTE: This action is subject to Chapter 1.04 of the Municipal Code, which specifies time limits for legal challenges.

EXHIBIT "A"
Resolution No. PC 2021-44
Case No. CDPNF-004271-2020

Applicant: City of Encinitas
Location: Citywide (APNs: City right-of-way on North Coast Highway 101 and 256-013-01)

SPECIFIC CONDITIONS:

SCA The following conditions shall be completed and/or fulfilled to the satisfaction of the Development Services Department – Engineering related:

1. As designed the project has been designed to meet USEPA Green Streets standards and has been found by the City Engineer to be exempt from Priority Development Project Status. However, future phases of the project shall be designed in compliance with the most current MS4 NPDES permit in effect at time of construction to the satisfaction of the City Engineer.
2. The construction drawings shall show all record survey monuments within the bounds of the project. All monuments, property corners, centerline monuments, survey control points, etc. shall be preserved or reset by a licensed land surveyor. It is likely that a large number of these monuments are going to get destroyed. A preconstruction Record of Survey shall be prepared to document these points and facilitate the replacement of them. Additionally, new M-10 centerline monuments shall be installed at the intersection of all road centerlines with Coast Highway 101.
3. The project shall obtain coverage under the California State General Construction Permit. A SWPPP and NOI shall be filed and a QSP be contracted to ensure construction stormwater compliance during construction.
4. The applicant shall implement construction-phase erosion and sediment control BMPs to minimize erosion and sediment discharge, including:
 - a. Erosion control BMPs (such as mulch, soil binders, blankets or mats, or temporary seeding) to prevent soil from being eroded by water or wind.
 - b. Sediment control BMPs (such as fiber rolls, silt fences, straw bales, or sediment basins) to trap and remove eroded sediments from runoff.
 - c. Tracking control BMPs (such as a stabilized construction entrance/exit or street sweeping) to prevent vehicles leaving the construction area from tracking sediment offsite.
5. The use of temporary erosion and sediment control products (such as fiber rolls, erosion control blankets, mulch control netting and silt fences) that incorporate plastic netting shall be prohibited, to minimize wildlife entanglement and plastic debris pollution. Only 100 percent biodegradable natural fiber netting shall be allowed.
6. The applicant implements pollutant control BMPs. These are BMPs to minimize the discharge of pollutants resulting from construction activities (such as chemicals, vehicle fluids, petroleum products, asphalt and cement compounds, debris and trash) into runoff or coastal waters, including:

- a. Materials management and waste management BMPS (such as stockpile management and a debris disposal plan) to minimize the discharge of pollutants from staging, storage and disposal of construction chemicals and materials.
- b. Site management BMPS (e.g. clean up all leaks, drips, and spills immediately, keep materials covered and out of the rain; cover exposed soil stockpiles; dispose of all wastes properly; and cover open trash receptacles during wet weather) to minimize the discharge of pollutant from construction activities.

SCB The following conditions shall be completed and/or fulfilled to the satisfaction of the Development Services Department – Planning related:

1. Cultural Resource Mitigation Monitoring Program shall be conducted to provide for the identification, evaluation, treatment, and protection of any cultural resources that are affected by or may be discovered during project construction. The monitoring shall consist of the full-time presence of a qualified archaeologist and a traditionally and culturally affiliated (TCA) Native American monitor (San Luis Rey Band of Mission Indians) who shall be retained to monitor all ground-disturbing activities associated with project construction, including vegetation removal, clearing, grading, trenching, excavation, or other activities that may disturb original (pre-project) ground, including the placement of imported fill materials and related roadway improvements (i.e., for access).
 - a. The requirement for cultural resource mitigation monitoring shall be noted on all applicable construction documents, including demolition plans, grading plans, etc.
 - b. The qualified archaeologist and TCA Native American monitor shall attend all applicable pre-construction meetings with the Contractor and/or associated Subcontractors.
 - c. The qualified archaeologist shall maintain ongoing collaborative consultation with the TCA Native American monitor during all ground disturbing or altering activities, as identified above.
 - d. The qualified archaeologist and/or TCA Native American monitor may halt ground disturbing activities if archaeological artifact deposits or cultural features are discovered. In general, ground disturbing activities shall be directed away from these deposits for a short time to allow a determination of potential significance, the subject of which shall be determined by the qualified archaeologist and the TCA Native American monitor, in consultation with the San Luis Rey Band of Mission Indians (“San Luis Rey Band”). Ground disturbing activities shall not resume until the qualified archaeologist, in consultation with the TCA Native American monitor, deems the cultural resource or feature has been appropriately documented and/or protected. At the qualified archaeologist’s discretion, the location of ground disturbing activities may be relocated elsewhere on the project site to avoid further disturbance of cultural resources.
 - e. The avoidance and protection of discovered unknown and significant cultural resources and/or unique archaeological resources is the preferable mitigation for the project. If avoidance is not feasible a Data Recovery Plan may be authorized by the City as the lead agency under CEQA. If a data recovery is required, then the San Luis Rey Band shall be notified and consulted in drafting and finalizing any such recovery plan.

- f. The qualified archaeologist and/or TCA Native American monitor may also halt ground disturbing activities around known archaeological artifact deposits or cultural features if, in their respective opinions, there is the possibility that they could be damaged or destroyed.
 - g. The landowner shall relinquish ownership of all tribal cultural resources collected during the cultural resource mitigation monitoring conducted during all ground disturbing activities, and from any previous archaeological studies or excavations on the project site to the San Luis Rey Band for respectful and dignified treatment and disposition, including reburial, in accordance with the Tribe's cultural and spiritual traditions. All cultural materials that are associated with burial and/or funerary goods will be repatriated to the Most Likely Descendant as determined by the Native American Heritage Commission per California Public Resources Code Section 5097.98.
- 2. A monitoring report and/or evaluation report, which describes the results, analysis and conclusions of the cultural resource mitigation monitoring efforts (such as, but not limited to, the Research Design and Data Recovery Program) shall be submitted by the qualified archaeologist prior to final inspection, along with the TCA Native American monitor's notes and comments, to the City's Development Services Director for approval.
- 3. As specified by California Health and Safety Code Section 7050.5, if human remains are found on the project site during construction or during archaeological work, the person responsible for the excavation, or his or her authorized representative, shall immediately notify the San Diego County Coroner's office by telephone. No further excavation or disturbance of the discovery or any nearby area reasonably suspected to overlie adjacent remains (as determined by the qualified archaeologist and/or the TCA Native American monitor) shall occur until the Coroner has made the necessary findings as to origin and disposition pursuant to Public Resources Code 5097.98. If such a discovery occurs, a temporary construction exclusion zone shall be established surrounding the area of the discovery so that the area would be protected (as determined by the qualified archaeologist and/or the TCA Native American monitor), and consultation and treatment could occur as prescribed by law. As further defined by State law, the Coroner would determine within two working days of being notified if the remains are subject to his or her authority. If the Coroner recognizes the remains to be Native American, he or she shall contact the Native American Heritage Commission (NAHC) within 24 hours. The NAHC would make a determination as to the Most Likely Descendant. If Native American remains are discovered, the remains shall be kept in situ ("in place"), or in a secure location in close proximity to where they were found, and the analysis of the remains shall only occur on-site in the presence of the TCA Native American monitor.
- 4. Prior to initiation of construction activities, the project contractor shall retain a qualified paleontologist to carry out the monitoring program outlined here. A qualified paleontologist is defined as an individual with an M.S. or Ph.D. in paleontology or geology who is experienced in paleontological procedures and techniques.
 - a. The qualified paleontologist shall be at the pre-construction meeting to consult with the excavation contractor and City staff.

- b. A paleontological monitor shall be onsite during the original cutting of previously undisturbed deposits of moderate and high sensitivity geologic units (the Bay Point Formation and Santiago Formation) to inspect exposures for any contained fossils. A paleontological monitor is defined as an individual who has documented experience in the collection and salvage of fossil materials. The paleontological monitor shall work under the direction of a qualified paleontologist. An adaptive approach is recommended, which involves initial part-time paleontological monitoring (i.e., up to 4 hours per day). As the project proceeds, the qualified paleontologist shall evaluate the monitoring results and, in consultation with the City and subject to the City's consent, may revise the monitoring schedule (e.g., maintain part-time monitoring, increase to full-time monitoring, or cease all monitoring).
- c. When fossils are discovered, the qualified paleontologist (or paleontological monitor) shall recover them. In most cases, this fossil salvage can be completed in a short period of time. However, some fossil specimens (such as a complete skeleton) may require an extended salvage period. In these instances, the qualified paleontologist (or paleontological monitor) shall be allowed to temporarily direct, divert, or halt grading/trenching to allow recovery of fossil remains in a timely manner. Because of the potential for the recovery of small fossil remains, such as rodent and primate teeth, it may be necessary to set up a screen-washing operation at the site.
- d. Fossil remains collected during the monitoring and salvage portion of the monitoring program shall be cleaned, repaired, sorted, and cataloged by the qualified paleontologist.
- e. Subject to the approval of the City, the qualified paleontologist shall donate and/or deposit prepared fossils, along with copies of all pertinent field notes, photos, and maps, in a scientific institution with permanent paleontological collections, such as the San Diego Natural History Museum. Donation of the fossils shall be accompanied by appropriate financial support from the City to accommodate initial specimen storage.
- f. Prior to final inspection, the qualified paleontologist shall prepare and submit to the City a final paleontological monitoring report that outlines the results of the monitoring program. This report shall include discussions of the methods used, stratigraphic section(s) exposed, any fossils collected, and significance of any recovered fossils.

SCC A traffic control plan shall be required prior to issuance of a permit. The traffic control plan shall include proposed staging areas and shall be approved by both Development Services Department and the Fire Department.

SCD The Fire Department and the Sheriff's Department shall be notified 48 hours in advance of any road/lane closures or major traffic delays throughout the length of the project.

STANDARD CONDITIONS:

CONTACT THE DEVELOPMENT SERVICES DEPARTMENT REGARDING COMPLIANCE WITH THE FOLLOWING CONDITION(S):

- A 01 **Approval - General:** At any time after two years from the date of this approval, on *November 4, 2023* at 5 p.m., or the expiration date of any extension granted in accordance with the Municipal Code, the application shall be deemed expired as of the above date.
- A 02 This approval may be appealed to the City Council within 15 calendar days from the date of this approval in accordance with Chapter 1.12 of the Municipal Code.
- A 03 This project is located within the California Coastal Commission's Appeal Jurisdiction of the Coastal Zone and may be appealed to the California Coastal Commission pursuant to Coastal Act Section 30603 and Chapter 30.04 of the City of Encinitas Municipal Code. An appeal of the City's decision must be filed with the Coastal Commission within 10 working days following the Coastal Commission's receipt of the Notice of Final Action. Applicants will be notified by the Coastal Commission as to the date the Commission's appeal period will conclude. Appeals must be in writing to the Coastal Commission, San Diego Coast District office.
- A 04 This project is conditionally approved as set forth on the application and project drawings stamped received by the City on February 16, 2021, consisting of 34 sheets including North Coast Highway 101 Drainage Improvements, all designated as approved by the Planning Commission on November 4, 2021, and shall not be altered without express authorization by the Development Services Department.
- A 08 Approval of this request shall not waive compliance with any sections of the Municipal Code and all other applicable City regulations in effect at the time of Building Permit issuance unless specifically waived herein.
- A 09 Prior to any use or issuance of final occupancy of the project site pursuant to this permit, all conditions of approval contained herein shall be completed or secured to the satisfaction of the Development Services Department.
- A 10 **Approval - General:** Permits from other agencies will be required as follows:
Leucadia Wastewater District.
- CT/SO 01 Any and all temporary construction trailers or sales offices, used during the course of development, shall be removed prior to the issuance of Certificate of Occupancy to the satisfaction of the Development Services Department.

ENGINEERING CONDITIONS:

CONTACT THE ENGINEERING SERVICES DEPARTMENT REGARDING COMPLIANCE WITH THE FOLLOWING CONDITIONS:

- DRAIN 01 Drainage – Erosion Control:** An erosion control system shall be designed and installed onsite during all construction activity. The system shall prevent discharge of sediment and all other pollutants onto adjacent streets and into the storm drain

system. The City of Encinitas Stormwater Standards Manual shall be employed to determine appropriate stormwater pollution control practices during construction.

- GRD 01 Grading – Regulations:** All City Codes, regulations, and policies in effect at the time of building/grading permit issuance shall apply.
- GRD 02 Grading – Datum:** All drawings submitted for Engineering permits are required to be based on the NAVD 88 datum; the NGVD 29 datum will not be accepted.
- STORM 01 Stormwater – SWPPP:** Grading projects with a disturbed area of greater than one (1) acre must also meet additional requirements from the State Water Resources Control Board (SWRCB) and shall obtain coverage under the California State General Construction Permit. Those additional requirements may include filing a Notice of Intent (NOI) and preparing a Stormwater Pollution Prevention Plan (SWPPP), or a Small Site Low Erosivity Waiver to be submitted to the Water Board's Stormwater Multiple Application and Report Tracking System (SMARTS).
- STORM 06 Stormwater – Green Streets:** The project proposes utilizing the "Green Streets" exemption for Priority Development Projects permitted by the BMP Design Manual. A Green Streets PDP Exempt SWQMP shall be prepared and on file with the Development Services Department prior to permit issuance.

SAN DIEGUITO WATER DISTRICT CONDITIONS:

CONTACT THE SAN DIEGUITO WATER DISTRICT (SDWD) REGARDING COMPLIANCE WITH THE FOLLOWING CONDITIONS:

- SDWD WS 02 Water System – Fees/Charges:** The developer shall comply with SDWD's fees, charges, rules and regulations.
- SDWD WS 04 Water System – Grading/Improvement Plans:** The developer shall show all existing and proposed water facilities on improvement and/or grading plans for SDWD Approval.
- SDWD WS 07 Water System – Water Agencies' Standards:** The developer shall install the water system according to Water Agencies' (WAS) standards.
- SDWD Ad-Hoc 01 Water System – Water Main Relocation:** All proposed WATER MAIN RELOCATIONS SHALL BE DESIGNED IN A MANNER WHERE THE NEW SEGMENT OF MAINLINE IS CONSTRUCTED AND TESTED WHILE THE EXISTING MAINLINE IS STILL IN SERVICE. WATER MAIN RELOCATIONS SHALL TAKE PLACE PRIOR TO THE START OF CONSTRUCTION ON THE ADJACENT SEGMENT OF STORM DRAIN. ALL WATER MAIN RELOCATIONS SHALL BE DESIGNED TO THE SATISFACTION OF SDWD AND SUBJECT TO SDWD APPROVAL.
- SDWD Ad-Hoc 02 Water System – Highline:** The developer will be required to keep all existing SDWD customers in water during the entire duration of construction. If a highline is necessary, it will be subject to all District rules and regulations. Minimum highline size shall not to be less than what is required to achieve required

fire flow. A highline plan shall be reviewed and approved by SDWD prior to implementation.

SDWD **Ad-Hoc 03 Water System – Clearances:** All proposed storm drain inlets shall be designed to provide adequate clearance from the outside edge of the existing water main to the outside edge of the storm drain inlet. Inlet locations and clearances shall be to the satisfaction of SDWD AND SUBJECT TO SDWD APPROVAL.

SDWD **Ad-Hoc 04 Water System – Shoring Plan:** All proposed storm drain inlets which require a shoring plan shall be reviewed and approved by SDWD prior to plan approval. Shoring plans shall provide adequate support and protection to existing SDWD infrastructure. All shoring plans shall be reviewed and approved by SDWD prior to implementation.