CALIFORNIA COASTAL COMMISSION
SAN DIEGO AREA
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4421
(619) 767-2370

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Filed:	November 4, 2008
49th Day:	Waived
Staff:	G. Cannon-SD
Staff Report:	January 15, 2009
Hearing Date:	February 4-6, 2009

STAFF REPORT AND RECOMMENDATION ON APPEAL
SUBSTANTIAL ISSUE

LOCAL GOVERNMENT: City of Encinitas

DECISION: Approved with conditions

APPEAL NO.: A-6-ENC-08-106

APPLICANT: City of Encinitas Parks and Recreation Department

PROJECT DESCRIPTION: Construct 44 acre Special Use Park to include softball/baseball fields, multi-use turf fields, a teen center, 419 parking spaces, a dog park, an amphitheatre, a skate park, aquatic facility, gardens, picnic areas, trails and a scenic overlook.

PROJECT LOCATION: 425 Santa Fe Drive, Encinitas, San Diego County
APN 260-183-01 to 08, 260-183-24 to 33 and 260-650-01.

APPELLANTS: Peter Stern and Citizens for Quality of Life

SUMMARY OF STAFF RECOMMENDATION:

The staff recommends that the Commission, after public hearing, determine that no substantial issue exists with respect to the grounds on which the appeal has been filed. The appellants have raised a number of issues including night-time sports field lighting, traffic congestion, impacts to community character, scenic visual impacts and protection of natural environmental areas. After review of the appellants' applications, it has been determined that the concerns are not of regional or statewide significance and that the project is fully consistent with the certified LCP.

I. Appellants Contend That: The proposed development is inconsistent with the policies of the certified LCP which pertain to sports field lighting, traffic congestion, excess of recreational facilities in one location instead of spread throughout the City, the balance of uses, development of parks in concert with schools, requirements for leaving areas in their natural state, ability to provide facilities and services, preservation of significant

environmental areas, prohibition of development before access and services are available and protection of community character.[1]

II. Local Government Action: The project was denied by the City of Encinitas Planning Commission on September 9, 2008. On appeal the City Council approved the project on October 22, 2008. Specific conditions were attached which, among other things, require implementation of BMPs and other measures to control erosion and treat runoff from the site; installation of 6 ft.-high masonry walls around the dog park to mitigate noise; adequate landscaping and a prohibition in use of invasive plants; requirements that general park lighting be shielded and directed so as to prevent glare; mitigation for traffic impacts that include various street improvements, adequate onsite parking and offsite parking and shuttle service for special events. The proposed project represents a Major Public Works facility and as such is subject to appeal to the Commission.

SUBSTANTIVE FILE DOCUMENTS: Certified City of Encinitas Local Coastal Program, City of Encinitas Staff Report dated October 20, 2008 and City Resolution dated October 22, 2008, Final EIR dated August 22, 2008 by EDAW, Inc.; Appeal applications from Peter Stern dated 11/4/08 and Citizens for Quality of Life dated 11/18/08.

III. Appeal Procedures/Substantial Issue Analysis.

After certification of a Local Coastal Program (LCP), the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits.

Section 30604(b)(1) of the Coastal Act states:

> *The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program or the public access policies set forth in this division.*

Coastal Act Section 30625(b) states that the Commission shall hear an appeal unless it determines:

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[1] One of the appellants also claims that the City's approval violates CEQA because of deficiencies in the City's certified Environmental Impact Report (EIR). The Commission's standard of review when determining whether an appeal raises a Substantial Issue is whether the project, as approved, is consistent with the relevant certified LCP. The Commission does not review the adequacy of a local government's compliance with CEQA. This staff report therefore does not address the concerns raised by the appellant, Citizens for Quality of Life, that relate to the adequacy of the City's EIR.

> *With respect to appeals to the commission after certification of a local coastal program, that no substantial issue exists with respect to the grounds on which an appeal has been filed pursuant to Section 30603.*

If the staff recommends "substantial issue" and no Commissioner objects, the Commission will proceed directly to a de novo hearing on the merits of the project then, or at a later date. If the staff recommends "no substantial issue" or the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have 3 minutes per side to address whether the appeal raises a substantial issue. It takes a majority of Commissioners present to find that no substantial issue is raised. If substantial issue is found, the Commission will proceed to a full public hearing on the merits of the project then, or at a later date. If the Commission conducts the de novo portion of the hearing on the permit application, the applicable test for the Commission to consider is whether the proposed development is in conformity with the certified Local Coastal Program.

In addition, for projects located between the sea and the first public road paralleling the sea, Section 30604(c) of the Act requires that a finding must be made by the approving agency, whether the local government or the Coastal Commission on appeal, that the development is in conformity with the public access and public recreation policies of Chapter 3. In other words, in regard to public access questions, the Commission is required to consider not only the certified LCP, but also Chapter 3 policies when reviewing a project on appeal.

The only persons qualified to testify before the Commission at the "substantial issue" stage of the appeal process are the applicant, persons who opposed the application before the local government (or their representatives), and the local government. Testimony from other persons must be submitted in writing. At the time of the de novo portion of the hearing, any person may testify.

The term "substantial issue" is not defined in the Coastal Act or its implementing regulations. The Commission's regulations indicate simply that the Commission will hear an appeal unless it "finds that the appeal raises no significant question" (Cal. Code Regs. titl. 14 section 13155(b). In previous decisions on appeals, the Commission has been guided by the following factors:

1. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the certified LCP;

2. The extent and scope of the development as approved or denied by the local government;

3. The significance of the coastal resources affected by the decision;

4. The precedential value of the local government's decision for future interpretations of its LCP; and

5. Whether the appeal raises only local issues, or those of regional or statewide significance.

Even when the Commission chooses not to hear an appeal, appellants nevertheless may obtain judicial review of the local government's coastal permit decision by filing petition for a writ of mandate pursuant to the Code of Civil Procedure, section 1094.5.

In this case, for the reasons discussed further below, the Commission exercises its discretion and determines that the development approved by the City does not raise a substantial issue with regard to the appellants' contentions regarding coastal resources.

IV. Staff Recommendation On Substantial Issue.

The staff recommends the Commission adopt the following resolution:

MOTION: ***I move that the Commission determine that Appeal No. A-6-ENC-08-106 raises NO substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.***

STAFF RECOMMENDATION OF NO SUBSTANTIAL ISSUE:

Staff recommends a **YES** vote. Passage of this motion will result in a finding of No Substantial Issue and adoption of the following resolution and findings. If the Commission finds No Substantial Issue, the Commission will not hear the application de novo and the local action will become final and effective. The motion passes only by an affirmative vote by a majority of the Commissioners present.

RESOLUTION TO FIND NO SUBSTANTIAL ISSUE:

The Commission finds that Appeal No. A-6-ENC-08-106 does not present a substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

V. Findings and Declarations.

The Commission finds and declares as follows:

1. Project Description. The proposed development involves the construction of a 44 acre Special Use Park to include softball/baseball fields, multi-use turf fields, a teen center, a dog park, an amphitheatre, a skate park, aquatic facility, gardens, picnic areas, trails and a scenic overlook. Active uses within the park are generally sited on the

northern and eastern sections of the site near Interstate 5 and commercial development and away from residential developments. The park is proposed to be open from 5:00 a.m. to 10:00 p.m. daily, however, the dog park and athletic fields will not be available until 8:00 a.m. daily. Athletic field use would be limited to daylight hours. The project as approved by the City does not include night-time sports field lighting.

The proposed 44 acre park is located in the Residential 3 (R-3) zone in the community of Cardiff. A public park is allowed in the R-3 Zone with approval of a use permit. The site had historically been used for greenhouse agriculture which ceased operations in 2002. The City acquired the site in 2001 with the intent of developing a multi-use park facility on the site. The City's LCP identifies the need to provide between 5.0 and 8.0 acres of Community Parks and/or Special Use Parks per 1,000 residents. Currently the City provides only about 1.5 acres per 1,000 residents. The proposed project will result in an increase of parkland to 2.2 acres per 1,000 residents which would still be below the level anticipated by the LCP.

The project site is located near the southwest corner of Interstate 5 and Santa Fe Drive in the City of Encinitas approximately ½ mile west of the shoreline. The proposed park site is bounded by commercial development and Santa Fe Drive on its north side, residential development on the west and south sides and Interstate 5 along the east side. Although the project is located only about ½ mile from the shoreline, Santa Fe Drive does not provide direct access to the shoreline.

2. Sports Field Lighting. One of the primary contentions raised by the appellants is that the project approved by the City will result in the installation of 90 ft.-high sports field lighting for the proposed five sports fields. They claim that installation of these lights would be inconsistent with the LCP. The concern raised by the appellants is that lighting of the five sports fields will have an adverse impact on the night time skies and vistas as well as potential adverse impacts to the resources contained in nearby Rossini Creek. The appellants site the following LCP policies:

> Land Use 1: The preservation and maintenance of the existing character of the five individual communities that comprise the City
>
> GOAL 9: Preserve the existence of present natural open spaces, slopes, bluffs, lagoon areas, and maintain the sense of spaciousness and semirural living within the I-5 View Corridor and within other view corridors, scenic highways and vista/view sheds as identified in the Resource Management Element.
>
> POLICY 9.2: Encourage retention of buffer zones such as natural vegetation or earth barriers, bluffs, and canyons to protect adjacent areas of freeway corridor from pollutants of noise, exhaust, and light.
>
> POLICY 9.5: Discourage development that would infringe upon scenic views and vistas within the I-5 corridor.

The project site is located ½ mile inland of the shoreline adjacent to residential development on the west and south, a commercial development on the north side and Interstate 5 on the east. Interstate 5 is designated as a scenic corridor in the City's LCP, but views along this section of Interstate 5 are of residential and commercial developments; there are no views across the site to the ocean or shoreline.

The approved EIR for the subject park has evaluated the effects of sports field lighting and has identified measures that could mitigate any adverse impacts. The EIR has also identified that in order to provide adequate night lighting the light standards would need to be 90 ft. in height. However, the City's LCP currently limits recreational field lighting standards to no more than 30 ft. in height. Because of the City's height limit on recreational field lighting, the project as approved by the City did not include sports field lighting. Although not part of the project, the appellants contend the City's goal is to install 90 ft.-high sports field lighting and, therefore, they assert the project is inconsistent with the LCP policies listed above.

Goal 9 and Policy 9.2, as cited above, require the preservation and protection of natural open space and vegetated areas. The subject site is not a natural open space or vegetated area such that it is not considered a scenic area. As a result of this project, the City will create a park with extensive landscaping and open areas which would not be inconsistent with Goal 9 and Policy 9.2 of the Land Use Plan. In addition, mitigation measures in the form of masonry walls and landscaping trees will serve to mitigate the effects of freeway noise, exhaust and light over what currently exists.

The City is currently processing a Local Coastal Program (LCP) amendment to allow for an increase in height for sports field lighting. If and when such an amendment is approved locally, the LCP amendment will require approval by the Commission to assure that any change to the Land Use Plan is consistent with the Coastal Act and any change to the Implementation Plan is consistent with the certified Land Use Plan. In addition, if an LCP amendment is subsequently approved by the Commission to allow for 90 ft.-high sport field lights, incorporation of sports field lighting at the subject park site will also require an amendment to the subject coastal development permit, which will be subject to appeal to the Commission. The appropriate time to challenge the installation of night-time sports field lighting is during the LCP amendment process and/or after the subject coastal development permit has been amended to include night-time sports field lighting. Because the current project does not include night-time sports field lighting, this issue is not yet before the Commission, so the Commission cannot find the appellants have raised a Substantial Issue based on the possible future installation of sports field lighting.

It should be noted however, that approval of the park without sports lighting does not in any way prejudice the ability to deny such lighting in the future. In fact, when asked, the City project manager has stated that the park project is a "viable" project whether or not sports field lighting is approved. In other words, if sports lighting is not approved in the future, the park and its facilities will still be able to operate. Thus, the project is not dependent upon future approval of the sports lighting.

In addition, the project as approved by the City is fully consistent with the LCP policies cited above by the appellants. Nothing in the City approval changes the character of the Cardiff community in a way that was not anticipated by the LCP. The LCP specifically encourages the development of Special Use Parks throughout the City as proposed by the subject development. Page RE-15 of the Recreation Element of the LCP specifically identifies that the Community Park acreage standard for the City should be between 5.0 to 8.0 acres per 1,000 residents. The City does not currently meet this standard for Community Parks, as the City has found that there are currently 1.5 acres of Community Park per 1,000 residents. While Neighborhood Parks and Community Park standards are not included in the LCP, Special Use Parks standards are:

> Special Use Parks
>
> Special Use Parks are those which are developed for a specific type of use, rather than a broader range of multiple park and open space uses. The Lake Drive Sports Complex is an example of this type of park, which is developed specifically for field athletics. Special Use Parks which provide major facilities usually found at Community Parks (athletic fields, community center, game courts) will be considered as Community Park acreage because they provide facilities serving the entire City or a major portion of the City; the acreage of each special use park providing such community park facilities will be used in meeting the Community Park acreage standard of 5.0 to 8.0 acres per 1,000 population and the overall provision of 333 to 533 acres. Special use parks may also be established for primarily preservation purposes, such as the County San Elijo Lagoon preserve area. The acreage of this type of special use park will not be counted toward the community park standard, but will count toward the goal of 15 acres of park/open space for each 1000 population. No specific site requirement is established as a standard for special use parks. (Emphasis added)

Since Neighborhood and Community Park standards are not included as part of the LCP and Special Use Parks are, the development of Special Use Parks have been given special emphasis in the LCP. Development of the proposed 44 acre Special Use Park is fully consistent with the Recreation Policies goals of the LCP. In addition, as cited above, RE-15 of the Recreation Element allows for special use parks such as that proposed herein, to be considered as community park acreage. As a result of the proposed development, recreational land per 1,000 residents will increase in ratio from 1.5 to 2.2, which is a step towards meeting the requirements and goals of the LCP cited above.

3. Traffic/Public Access and Community Character. The appellants assert that the traffic added to surrounding roads and the required mitigation measures to address traffic impacts are inconsistent with LCP requirements involving preservation of community character and scenic areas. The following LCP policies are cited:

> Land Use Element

Introduction: Land Use 1: The preservation and maintenance of the existing character of the five individual communities that comprise the City

Circulation Element

Policy 4.1: Design roads to enhance scenic areas.

Recreation Element

Policy 1.4: Establish a balance of natural open space and "improved" recreational open space and implement measures to preserve, and maintain the natural environment.

Generally, the concern raised by the appellants involves traffic impacts to a residential neighborhood that does not provide parking or prime accessways to the ocean. Therefore these traffic impacts are more of a local concern, not a concern of regional or statewide importance. The EIR for the subject project estimates that the proposed park will generate an increase in traffic which will require mitigation. The project as approved by the City requires mitigation for increased traffic impacts, such as the installation of roundabouts, new traffic signals, stop signs, turn lanes and a financial contribution to Caltrans for street improvements associated with the project and the future widening of Interstate 5.

The traffic study performed for the project shows that while there will be some impacts to traffic in the area, the proposed development will not adversely affect public access to the shoreline or result in a change of the Level of Service on roadways that provide access to the beach above that which exists today. In addition, Santa Fe Drive, the major access street to the proposed park, does not provide direct access to the shoreline such that most beachgoers would use alternate east/west routes from Interstate 5 to access the shoreline. Therefore, while traffic might increase in the commercial and residential areas surrounding the park, traffic mitigation measures are proposed and any adverse traffic impact would be a local concern, not one of regional or statewide importance.

The appellants identify that Santa Fe Drive is a designated view corridor street in the City's LCP. Actually the LCP designates Interstate 5 as a scenic view corridor at this location, but Santa Fe Drive is designated as scenic highway. However, looking from I-5 or Santa Fe Drive across this site, there are currently no views of the ocean or shoreline. Views in the area are of residential and commercial developments within the Cardiff community of Encinitas. The existing site is generally flat and barren as a result of the removal of greenhouse operations in 2003. The existing site is not scenic and would not likely be considered from an aesthetic point of view a "natural environment". The project as approved by the City incorporates extensive landscaping and park features which will enhance the visual appearance of the site over what currently exists. Therefore, the Commission finds that the appeal does not raise a substantial issue regarding the proposed development's consistency with the certified LCP as it relates to traffic, scenic or community character.

4. Recreation. The appellants assert that the project is inconsistent with the Community Park standards in the City's General Plan, because it focuses on active recreation uses to the exclusion of all others. The appellants assert that the project as approved by the City has placed too many recreational amenities in one location, rather than spreading them throughout the City, thereby damaging the community character. In addition, the appellants assert that the City failed to establish a balance of open space and improved recreational open space so as to maintain the natural environment. The appellants further assert that the proposed park does not leave the site in its natural state and does not maintain natural resources. Finally, the appellants assert that the City failed to consider developing recreational opportunities in conjunction with schools.

The appellants cite the following policies from the Recreation Element of the Land Use Plan:

> Policy 1.4: Establish a balance of natural open space and "improved" recreational open space and implement measures to preserve, and maintain the natural environment.
>
> Policy 1.9: Develop parks in conjunction with schools wherever possible and encourage joint use of facilities.
>
> Policy 2.4: Leave appropriate areas of neighborhood and community parks in a natural state, retaining natural topography and vegetation where preservation is feasible.
>
> Policy 2.6: Encourage the provision of a full range of recreational facilities distributed throughout the area

Appellants also cite to the Community Park standards of the General Plan, but these standards are not part of the LCP, so they are not relevant to the Commission's determination of whether this appeal raises a substantial issue with respect to conformity with the City's certified LCP. In addition, as previously identified in Section 1 above, while Community Park standards are not part of the LCP, Special Use Park standards that include active and passive recreation uses, such as proposed herein, are part of the LCP. Because Special Use Parks are identified and encouraged in the LCP, while Community Park standards are omitted, it can be argued that the LCP gives emphasis to the development of Special Use Parks which might provide larger regional uses than those provided in Community Parks. In any event, on this issue, the appellant has not raised a Substantial Issue.

The appellants assert that the project includes too many recreational amenities in one location is therefore inconsistent with Policy 2.6 of the Recreation Element as cited above. Policy 2.6 is designed to encourage a full range of recreational facilities throughout the area, which means throughout the City. Special Use Parks as required by the LCP are anticipated to include "athletic fields, community center, game courts". In

developing the proposed multi-purpose park, the City is not congregating all needed park facilities in one location, but instead is taking advantage of 44 acres of City owned property to develop some additional recreational facilities. Even with the proposed 44 acre Special Use Park, the City will still need to develop approximately 173 acres of additional recreational facilities throughout the City to meet the minimum standard for Community Park/Special Use Parks of 5 acres per 1,000 residents required in the LCP. Nothing in Policy 2.6 prohibits the City from providing a full range of recreational facilities at the subject park site. As proposed, the park will include active sports fields, a dog park, picnic areas, skatepark, a teen center, gardens and trails. In addition, even it there were too many facilities in one location, the level of park facilities does not raise a concern of regional or statewide importance. Therefore, the appellants have not raised a Substantial Issue as it relates to Policy 2.6.

Another contention of the appellants is that Recreation Policies 1.4 and 2.2 maintain that parks require a balance of open space and improved areas and that the existing natural environment be maintained and left in its natural state. In this case, the proposed project includes both open space areas (trails, gardens, picnic areas, scenic overlook, sports fields) and improved recreational areas (amphitheatre, a skate park, aquatic facility). Therefore, the City is providing a balance of open space and improved areas. In addition, the existing site is not in its natural state and does not contain any natural topography or vegetation. The 44 acre project site was formerly a greenhouse nursery and in 2003 the greenhouse structures were removed. Today the site is barren and visually unattractive. Therefore, the appellants' assertion that the City failed to maintain the project site in its natural state as required by Recreation Policy 1.4 and 2.2 is without merit. On this question as well, the appellants have failed to raise a Substantial Issue.

Finally, the appellants assert that the City has failed to develop the park in conjunction with schools to encourage joint use of facilities per Recreation Policy 1.9. First, Policy 1.9 is not an absolute requirement since it says "wherever possible". Second, and more significant, is that the appellants have not identified that schools will be discouraged in any way from using the proposed facilities. According to the City, the City has existing joint-use agreements with local school districts, and there is no evidence that these agreements would not also pertain to the proposed park facilities. Thus, while the proposed park will not be adjacent to a school, there will most likely be joint use of the facility, consistent with Policy 1.9. Therefore, on this assertion as well, the appellants have failed to raise a Substantial Issue.

5. Growth Management. The appellants assert that the proposed development is premature in that adequate services and facilities do not currently exist to support the proposed park facilities. In addition, the appellants assert that the project fails to ensure preservation of significant environmental areas. The appellants cite the following LCP policies from the Land Use Element of the certified Land Use Plan:

Land Use Element.

> In a community that has experienced rapid development such as that which has occurred in Encinitas, it is important to establish measures to properly manage new growth. Premature development can strain a city's ability to provide essential services and infrastructure as well as adversely impacting the natural environment. The following goal and supporting policies underscore the City's resolve in ensuring that new development does not occur at the expense of the natural environment, existing development, or before adequate infrastructure and services are in place to accommodate any new development.
>
> Policy 2.3: Growth will be managed in a manner that does not exceed the ability of the City, special districts and utilities to provide a desirable level of facilities and services.
>
> Policy 2.7: Implement mechanisms to ensure the preservation of significant environmental areas of the City. These mechanisms might include establishing development standards encouraging developers to maximize open space, transfers of development rights (TDR's), land banking, purchase, etc.
>
> Policy 2.10: Development shall not be allowed prematurely, in that access, utilities, and services shall be available prior to allowing the development.

On these assertions, the appellants have failed to identify what City services, infrastructures or utilities are lacking such that the proposed development is premature. City services and infrastructures such as water supply, sewer, and electrical already exist to support the proposed facility. Some additional traffic mitigation measures will also be included as part of the project to mitigate traffic impacts on local roadways. Finally, in terms of preservation of significant environmental areas, there are no significant environmental areas on the subject site that have been identified by either the appellants or the subject EIR. There is an offsite riparian area (Rossini Creek) south of the subject site, but the proposed development will not adversely impact the creek and may actually improve the riparian area by providing additional water. In addition, with proposed BMP measures to effectively filter all polluted runoff from the site, the proposed development has been designed to protect the water quality resources of Rossini Creek and ultimately San Elijo Lagoon and the Pacific Ocean. These BMP measures will represent a significant improvement over runoff that currently enters the creek from the former greenhouse operation site.

Based on the above, the appellants have failed to identify a Substantial Issue as it relates to growth management and the preservation of the natural environment pursuant to Land Use Element 2.3, 2.7 and 2.10 of the LCP.

6. Conclusion. In summary, appellants have raised a series of local concerns related to the proposed park such as an increase in traffic and activity that is more intense than currently exists. In addition, the appellants' concern with night-lighting of the sports field is not relevant since night-lighting of the sports field is not part of the subject project. None of the concerns raised are of regional or statewide significance. In

addition, the development as approved by the City is consistent with all applicable LCP Land Use and Implementation Plan policies and requirements. Therefore, the Commission finds that the appeal does not raise a substantial issue with regard to the project's consistency with the certified LCP.

7. Substantial Issue Factors. As discussed above, there is strong factual and legal support for the City's determination that the proposed development is consistent with the certified LCP. The other factors that the Commission normally considers when evaluating whether a local government's action raises a substantial issue also support a finding of no substantial issue. The proposed project will result in the construction of a multi-use park facility that will not adversely affect coastal resources, and the approval will not create an adverse precedent for interpretation of the City's LCP. The objections to the project suggested by the appellants do not raise any substantial issues of regional or statewide significance.

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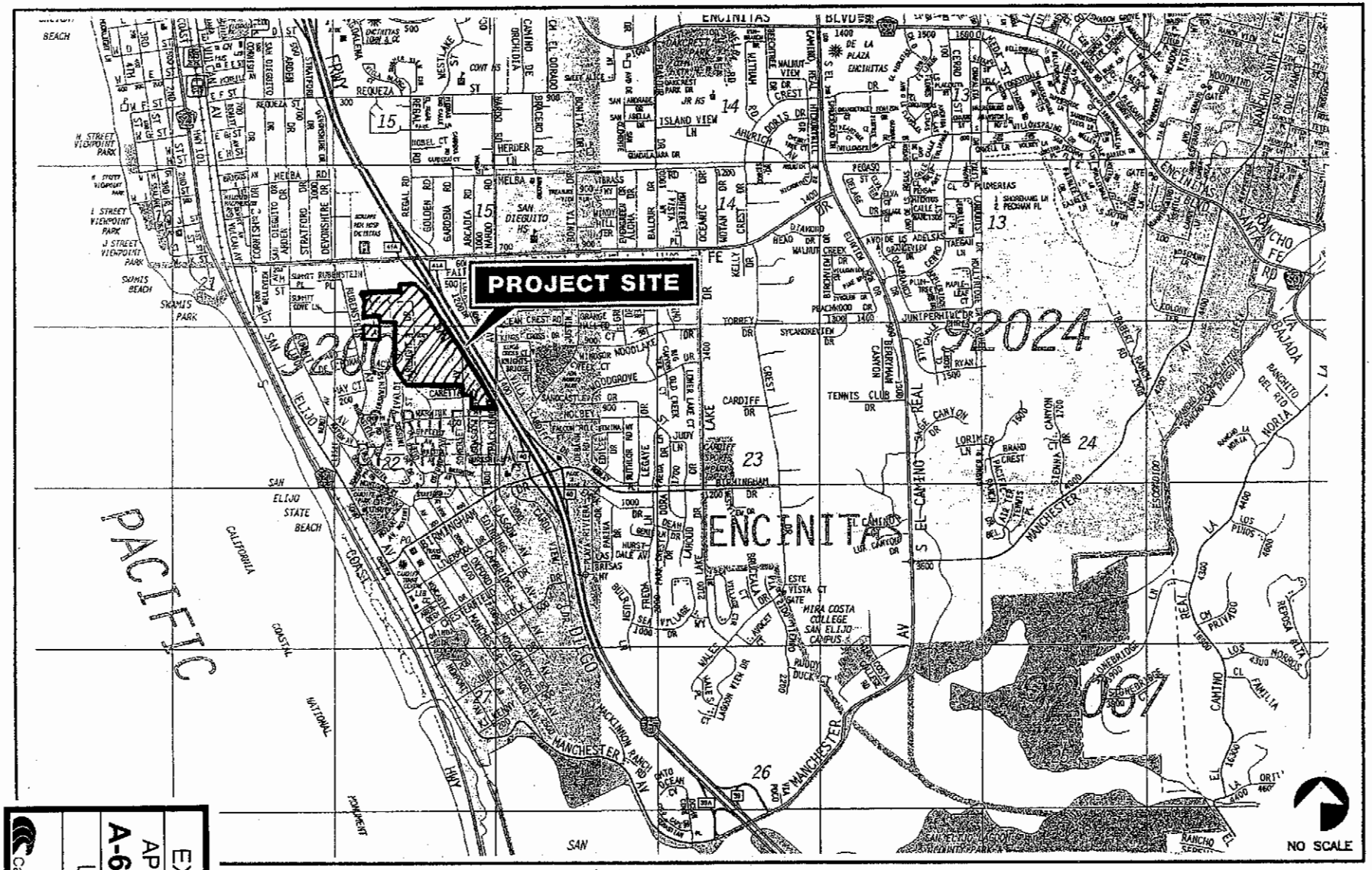


EXHIBIT NO. 1
APPLICATION NO.
A-6-ENC-08-106
Location Map

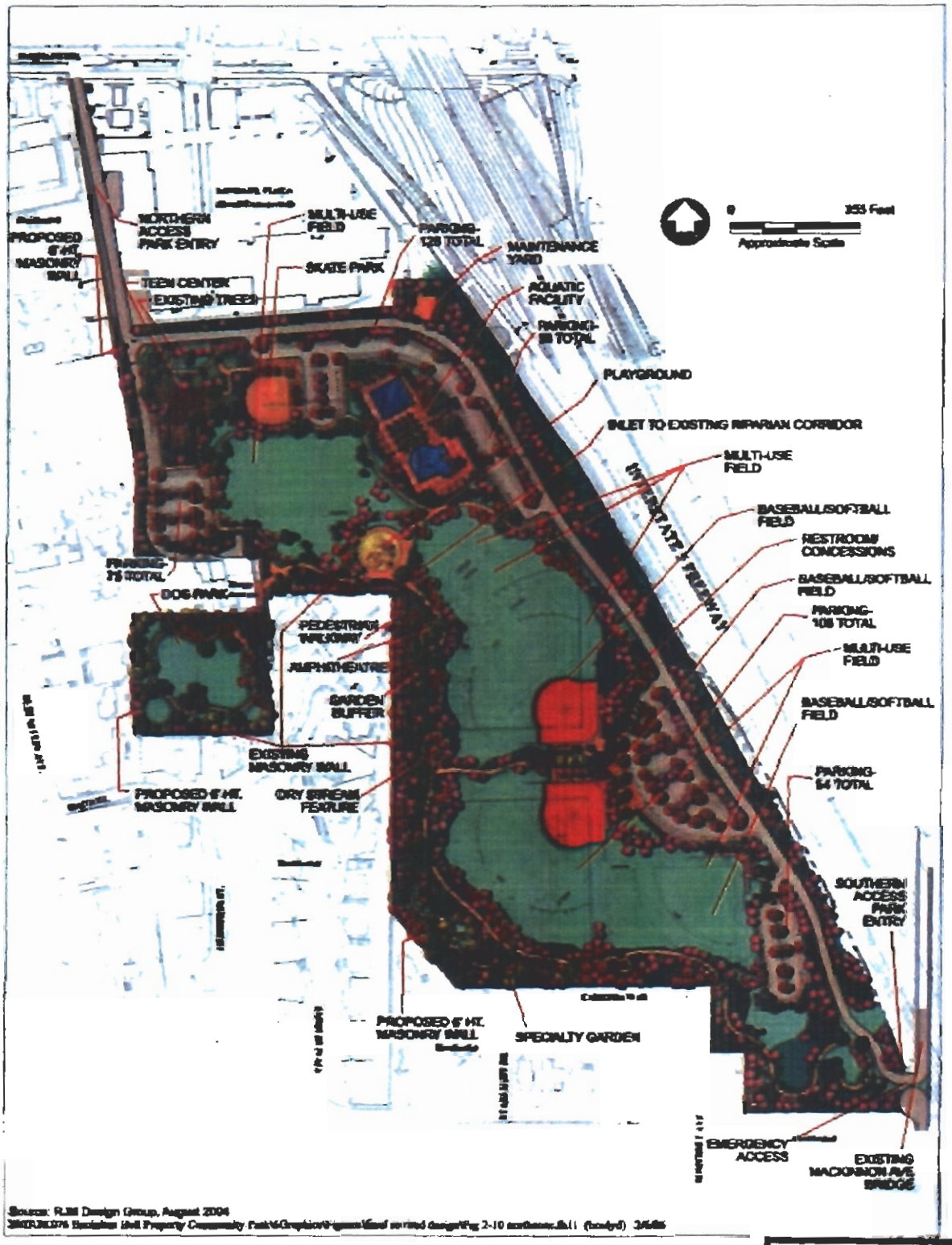
California Coastal Commission

PROJECT AREA MAP

HALL PROPERTY COMMUNITY PARK

Figure 2-2
Project Site

EXHIBIT NO. 2
APPLICATION NO.
A-6-ENC-08-106
Project Footprint
California Coastal Commission



Source: RJM Design Group, August 2004

Figure 2-4
Proposed Project and Conceptual Landscape Plan

EXHIBIT NO. 3
APPLICATION NO.
A-6-ENC-08-106
Conceptual Site Plan
California Coastal Commission

CALIFORNIA COASTAL COMMISSION
NORTH COAST DISTRICT OFFICE
710 E STREET, SUITE 200
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OCT 3 1 2008

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Peter Stern

Mailing Address: 1232 Rubenstein Ave.

City: Cardiff Zip Code: 92007 Phone: 760-944-9355

SECTION II. Decision Being Appealed

1. Name of local/port government:

City Council of Encinitas

2. Brief description of development being appealed:

Determination to build the Hall Property Community Park Santa Fe Drive Cardiff, Ca.

3. Development's location (street address, assessor's parcel no., cross street, etc.):

Santa Fe Drive Cardiff, Ca.

4. Description of decision being appealed (check one.):

☐ Approval; no special conditions

☒ Approval with special conditions:

☐ Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-6-ENC-08-106

DATE FILED: 11/4/08

DISTRICT:

EXHIBIT NO. 4
APPLICATION NO.
A-6-ENC-08-106
Peter Stern Appeal
Page 1 of 4
California Coastal Commission

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

☐ Planning Director/Zoning Administrator

☒ City Council/Board of Supervisors

☐ Planning Commission

☐ Other

6. Date of local government's decision: 10/22/08

7. Local government's file number (if any): 04-197 MUP/DR/CDP/EIA

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

City of Encinitas

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) Citizens for Quality of Life, Encinitas, Ca.

(2) Encinitas Soccer League

(3) City of Encinitas

(4) Various citizens within 500 yards of the proposed Park

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal.** Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

I appeal the following: 1) The project contemplates the installation of ninety foot (and shorter) light towers. The proposed lights are so tall that they will require (and have been slated for amendment) the amendment of the City's zoning and munipal code to permit structures this tall. The lights will horribly affect the surrounding community's peace, tranquility and lovely dark night sky. The five soccer fields stadium like sports complex will be lit until 10:00 pm. Darkness will be converted into daylight. The magnificant vista of the ocean and Cardiff that is visable from Route 101 traveling North from Solana Beach to Cardiff will be ruined, especially when the marine layer is in deflecting the light further. This vista must be seen to be appreciated. The ocean, stars and Cardiff hill will be drowned by the lights of the Park. The Park should be dawn to dusk. It violates the Local Coastal Program Land Use Policy Goal 9, Land Use Policy 9.2, Land Use Policy 9.5 and Land Use-1 requiring: "preservation & maintenance of the existing character of the 5 individual communities that comprise the City."

2) The intensity of the use of the park will require the installation of two additional "traffic control" devices (lights or round abouts) which are contemplated between an exiting round about at Santa Fe Drive and the Freeway some two tenths of a mile away. This will total four traffic control devices within a two tenths of a mile roadway. This short stretch of road is also the only road to the Santa Fe shoping Plaza, Scripps Memorial Hospital (which has file a major use permit to expand) and the proposed Park. Santa Fe Drive is a view corridor street, per City designation, as well as the primary road to the Composer District seaside residential district. The proposed Park's proposed use(s) are too intensive for Santa Fe Drive to accomodate the traffic and traffic control mitigation devices. It violates the Local Coastal Program Land Use Goal 1, page 6, Policy 4.1, page 14 all requiring the City to "design roads to enhance scenic areas."

3) The number of soccer fields, five, are too many for this Park and the use of them will overwhelm the surrounding street(s) especially Santa Fe Drive (designated a "local street)" which provides primary access to the Park via an alleyway. It violates the Local Coastal Program Recreation Policy 1.4.and #2 above.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signature on file

Signature of Appellant(s) or Authorized Agent

Date: 10/27/08

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize _____
to act as my/our representative and to bind me/us in all matters concerning this appeal.

_____
Signature of Appellant(s)

Date: _____

CALIFORNIA COASTAL COMMISSION
SAN DIEGO COAST DISTRICT OFFICE
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4421
VOICE (619) 767-2370 FAX (619) 767-2384

RECEIVED
NOV 18 2008
CALIFORNIA COASTAL COMMISSION SAN DIEGO COAST DISTRICT

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Citizens for Quality of Life

Mailing Address: C/O Law Offices of Everett L. DeLano, III, 220 West Grand Avenue

City: Escondido Zip Code: 92025 Phone: (760) 510-1562

SECTION II. Decision Being Appealed

1. Name of local/port government:

City of Encinitas

2. Brief description of development being appealed:

An application for a Major Use Permit, Design Review, and Coastal Development Permit for the proposed construction of a community park on the approximately 44-acre "Hall Property" site to include a mixture of active and passive uses. Active components in the park would include softball/baseball fields, multi-use turf fields, a teen center, a dog park, an amphitheatre, a skate park, and a possible aquatic facility. Passive elements of the park would include gardens, picnic area, trails and a scenic overlook.

3. Development's location (street address, assessor's parcel no., cross street, etc.):

425 Santa Fe Drive (APN 260-183-01 to -03, -05 to -08, -24 to -33; 260-650-01.

4. Description of decision being appealed (check one.):

☐ Approval; no special conditions

☒ Approval with special conditions:

☐ Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-6-ENC-08-106

DATE FILED: 11/18/08

DISTRICT: San Diego

EXHIBIT NO. 5
APPLICATION NO.
A-6-ENC-08-106
Citizens for Quality of Life Appeal

California Coastal Commission

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

☐ Planning Director/Zoning Administrator

☒ City Council/Board of Supervisors

☐ Planning Commission

☐ Other

6. Date of local government's decision: 10/22/08

7. Local government's file number (if any): 04-197 MUP/DR/CDP/EIA

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

City of Encinitas Parks and Recreation Department
505 S. Vulcan Avenue
Encinitas, California 92024-3633

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) More than 60 people testified at the City Council hearing regarding this project, and many others submitted written comments. Appellant does not know the names and addresses of those who testified.

(2)

(3)

(4)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

Please see attached statement of Reasons for Appeal.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signature on file

Signature of Appellant(s) or Authorized Agent

Date: 11-17-08

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize Everett L. DeLano III
to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature on file

Signature of Appellant(s)

Date: Nov. 14, 2008

LAW OFFICES OF EVERETT L. DELANO III

220 W. Grand Avenue
Escondido, California 92025
(760) 510-1562
(760) 510-1565 (fax)

November 17, 2008

VIA FEDERAL EXPRESS

California Coastal Commission
San Diego Coast District Office
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4421

Re: Appeal of City of Encinitas Decisions Concerning the Hall Property Community Park Project and Final Environmental Impact Report; Case No. 04-197 MUP/DR/CDP/EIA

Dear California Coastal Commission:

Pursuant to the California Public Resources Code, Citizens for Quality of Life hereby appeals the October 22, 2008 decisions of the Encinitas City Council concerning the proposed Hall Property Community Park Project ("Project") and related Final Environmental Impact Report ("FEIR"). The Project includes development of softball/baseball fields, multi-use turf fields, a teen center, a dog park, an amphitheatre, a skate park, and an aquatic facility on the 44-acre Hall Property site, located south of Santa Fe Drive and west of I-5. City staff also discussed allowing field lighting for night games at the park site, providing for several light standards as tall as 90 feet. City staff supported field lighting of the five athletic fields until 10:00 p.m.

ISSUES APPEALED

In order to issue a Coastal Development Permit, Encinitas Municipal Code Section 30.80.090(A) requires the City to issue written findings that demonstrate: (1) the project is consistent with the Local Coastal Program ("LCP") and (2) the project conforms with the California Environmental Quality Act ("CEQA") and "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." The Project fails on both counts.

I. The Project is Inconsistent with Requirements of the City's LCP

Encinitas Municipal Code Section 30.80.030 contains requirements for a coastal development permit application, including "information sufficient to determine whether the project complies with all policies and standards contained in the certified Local Coastal Program." The application does not contain this information. Indeed, as discussed below, the Project is inconsistent with the LCP.

The Project is inconsistent with the City's LCP. Consider, for example, several policies in the Recreation Element:

- 1.4 – requiring a balance of uses;
- 1.9 – developing and using parks in concert with schools;
- 2.4 – leaving areas in a natural state; and
- 2.6 – a full range of recreational facilities throughout the area

These policies were not respected by the Project approval, as the Project loads recreational facilities into one area and one community and fails to provide an adequate balance of uses.

Similarly, examples in the Land Use Element of the General Plan show the same theme of balancing and protection. In addition to its goals of balanced development, preservation, and community character, the Land Use Element contains, among others, the following relevant policies:

- 2.3 – not to exceed ability to provide facilities and services;
- 2.7 – ensure preservation of significant environmental areas; and
- 2.10 – no development before access and services are available.

The Project fails on all of these aspects. The Project is inconsistent with the community park standards in the City's General Plan; instead, it contains a primary focus of active recreation uses to the exclusion of other uses. Indeed, the Project objectives developed by the City call for "predominantly active park uses" and maximizing the number and hours of athletic field use. And, as discussed below and admitted by the FEIR, the Project will exceed the abilities of City facilities and services. It is partly for these reasons that the City's Planning Commission rejected the Project at its September 18, 2008 meeting.

II. The Environmental Review is Inadequate

"Coastal Commission review is a substitute for an EIR. Its review is 'the functional equivalent of the EIR process.'" *McAllister v. County of Monterey* (2007) 147 Cal.App.4th 253, 296 (citing Pub. Res. Code §§ 21080.5(a) & (e)(1); CEQA Guidelines §§ 15002(l) & 15251(c) & (f); *Kaczorowski v. Mendocino County Bd. of Supervisors* (2001) 88 Cal.App.4th 564, 569) (emphasis in original) (footnote omitted). As such, the Coastal Commission must ensure adequate environmental analysis, since its "review [is] the final step in a sequential process of CEQA proceedings, which started with the [City's] planning commission." *Id.*

A. Project Description

The description of the Project is misleading and confusing. *County of Inyo v. City of Los Angeles*, 71 Cal. App. 3d 185, 198 (1977). There is no drainage plan outlining

retention and water filtration. There is no phasing plan showing what will be built and when, and what and when mitigation will be implemented. The configuration of traffic control mitigation on both Santa Fe Drive and Birmingham Drive is not identified. The Project described in the FEIR is different than the Project being considered. The FEIR also lacks a grading plan and a soils management plan.

At the last minute, City staff indicated that it considered the park to be a Special Use Park, yet the FEIR discusses the Project only as a Community Park.

B. Land use impacts

"The EIR shall discuss any inconsistencies between the proposed project and applicable general plans…" CEQA Guidelines § 15125(d). As discussed above, the Project is inconsistent with existing land use requirements. *Oro Fino Gold Mining Corp. v. County of El Dorado* (1990) 225 Cal. App. 3d 872, 884 (noting that the "fundamental problem" of siting a mining operation near residences was a "land use conflict"). The FEIR fails to discuss these inconsistencies. In fact, in responses to comments, the EIR preparers claimed that considering applicable standards from the Municipal Code was unnecessary. Furthermore, the FEIR fails to discuss the fact that the park is taking land that would otherwise be used for homes. This impact should be discussed in relation to the City's ability to meet the Housing Element of the City's General Plan, which is hereby incorporated by reference.

At the last minute, City staff indicated that it considered the park to be a Special Use Park, yet the FEIR discusses the Project only as a Community Park. The City's approach as a Special Use Park is inconsistent with the Community Park standards in the General Plan and LCP.

The General Plan also contains provisions for the protection of views and view corridors, yet the Project will negatively affect views. For example, Recreation Element Policy 1.19 discussions the protection of views. Similarly, Resource Management Element Policy 4.10 provides that the City will strive to remove obstacles to views, not add more. Other elements of the General Plan, including the Land Use Element, also discuss the preservation and protection of both public and private views.

C. Community character/aesthetic/visual impacts

As the Planning Commission determined, the proposed uses are inconsistent with the residential and other uses in the area. Furthermore, the Project will affect views in the vicinity of the site. *Quail Botanical Gardens Foundation, Inc. v. City of Encinitas* (1994) 29 Cal. App. 4th 1597, 1603.

D. Construction impacts

The Project proposes a substantial amount of cut and fill and demolition activities. Impacts to traffic, noise and other areas associated with construction will be significant, yet the FEIR did not adequately address them. *Galante Vineyards v. Monterey Peninsula Water Management Dist.* (1997) 60 Cal. App. 4th 1109, 1123.

E. Traffic impacts

The FEIR's analysis of traffic and parking is insufficient. Peak traffic and normal traffic projections are understated. The FEIR's assumptions about traffic and parking are unsupported.

The FEIR assumes that traffic from parks in other parts of San Diego County are comparable, yet no discussion is provided to demonstrate that this coastal area has similar park needs to these other locations. Nor does the FEIR discuss whether these other communities have a shortage of parks to a degree comparable to the City of Encinitas.

The FEIR's analysis of traffic impacts is insufficient. For example, the EIR preparers refused to analyze Project conditions in relation to existing substandard street conditions. *See* Response to Comment # B4-16. *See Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 719 (warning against using the magnitude of the current problem to trivialize impacts of the project). Impacts to residential streets were not adequately addressed.

Similarly, neighborhood parking impacts were ignored. The assumption that Project users would not utilize neighborhood streets for parking lacked foundation. The FEIR also fails to consider parking impacts during normal (as opposed to special events) usage.

And the EIR preparers refused to consider the environmental impacts of realignment of the roadways. *See* Response to Comment # S1-4.

The FEIR's proposed traffic mitigation is unfeasible and unsupported. The FEIR illegally defers traffic mitigation. The FEIR fails to establish an adequate mitigation program for traffic impacts.

The FEIR failed to consider safety impacts to pedestrians. The FEIR also failed to consider public transit access. And it used old traffic data.

F. Noise impacts

The FEIR's analysis fails to address noise impacts from traffic, recreation and other activities associated with the Project. The FEIR inappropriately attempts to discount noise impacts by averaging noise. DEIR at 3.4-7; *see Berkeley Keep Jets Over*

the Bay Comm. v. Board of Port Commissioners (2001) 91 Cal. App. 4th 1344, 1381 ("the fact that residential uses are considered compatible with a noise level of 65 decibels for purposes of land use planning is not determinative in setting a threshold of significance under CEQA"). Without an improper averaging of noise levels, the Project would exceed applicable noise standards.

The FEIR also fails to adequately analyze the existing noise problems in the area. *See Los Angeles Unified School District v. City of Los Angeles* (1997) 58 Cal.App.4th 1019, 1025 ("the relevant issue to be addressed in the EIR ... is not the relative amount of traffic noise resulting from the project when compared to existing traffic noise, but whether any additional amount of traffic noise should be considered significant in light of the serious nature of the traffic noise problem already existing around the schools").

And while the FEIR stated that the Project should provide a buffer from residential uses nearby, the Project as proposed has no buffers along the Northwest portion of the site and very small buffers along the southeast side. Again, the impacts of this situation were not adequately explored in the FEIR.

G. Lighting impacts

The FEIR failed to provide adequate analysis of lighting of the night sky. It also failed to consider impacts to the riparian setting of Rosini Creek. The FEIR presents conflicting information about the impacts of lighting from the Project.

The FEIR also fails to provide the appropriate threshold of significance for lighting impacts. Pub. Res. Code § 21082.

H. Air and water quality impacts

The FEIR fails to provide adequate analysis of air and water quality impacts. . "The relevant question to be addressed in the EIR is not the relative amount of precursors emitted by the project when compared with preexisting emissions, but whether any additional amount of precursor emissions should be considered significant in light of the serious nature of the ozone problems in the air basin." *Kings County Farm Bureau*, 221 Cal.App.3d at 718. The FEIR discusses contaminated soils, but fails to discuss the potential impacts to surface and ground water.

The FEIR's analysis and assumptions about air direction and wind speed were not supported by substantial evidence in the record. Additionally, the assumptions about truck and other traffic on I-5 and related air quality of the site were unsupported.

I. Greenhouse Gas impacts

The FEIR's analysis of greenhouse gas emissions was insufficient. The FEIR failed to acknowledge impacts associated with emissions from vehicles. The FEIR also

avoids considering mitigation and alternatives to reduce these impacts. The FEIR inappropriately failed to consider health impacts, particularly where they are compounded by the proximity to I-5 and the on-site contamination, all of which may lead to respiratory and other health problems.

J. Growth inducing impacts

The Project will have growth inducing effects. Development of the site is the first link in development of the area. *See Stanislaus Audubon Society v. County of Stanislaus* (1995) 33 Cal. App. 4th 144, 153. The FEIR fails to address these impacts.

K. Public Services impacts

The FEIR acknowledges that even with the addition of another park, the City will be significantly below the General Plan standards, yet the DEIR fails to discuss other possible strategies to address those deficiencies.

L. Water Supply impacts

The Project is likely to lead to water supply impacts. There is no showing of the adequacy of water supply for the Project. The California Supreme Court recently identified three "principles for analytical adequacy under CEQA":

> (1) "CEQA's informational purposes are not satisfied by an EIR that simply ignores or assumes a solution to a problem of supplying water to a proposed land use project";
> (2) "an adequate environmental impact analysis for a large project, to be built and occupied over a number of years, cannot be limited to the water supply for the first stage or the first few years"; and
> (3) "the future water supplies identified and analyzed must bear a likelihood of actually proving available .... An EIR for a land use project must address the impacts of likely future water sources, and the EIR's discussion must include a reasoned analysis of the circumstances affecting the likelihood of the water's availability."

Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova (2007) 40 Cal.4th 412, 430 – 32 (emphasis in original) (citations omitted). The FEIR failed to provide such analysis.

M. Toxins impacts

The FEIR fails to adequately address impacts from toxins and hazardous chemicals. Experts have noted these failures. For example, on-site toxins exceed California Hazardous Waste Criteria, yet the FEIR fails to discuss this. The FEIR also inappropriately discounted the impacts of toxins through improper use of statistical

analyses. Mitigation of airborne exposure to contaminated soils was inadequate, and impacts to groundwater were inadequately explored.

The FEIR inappropriately used a "recreational" standard of exposure, where no such exposure level exists. The FEIR also ignored acknowledged levels above applicable thresholds of significance, and made up different thresholds without adequate support in the record.

The FEIR failed to provide adequate consideration of the effects of grading and movement of contaminated soils and fines. Inhalation from airborne contaminants and other exposures are greatly increased as the soils and fines are disturbed, yet the FEIR fails to adequately discuss these potential exposures.

The FEIR failed to consider potential impacts to Rosini Creek associated with the on-site contaminants, including contamination via surface and groundwater connections.

The FEIR failed to address the increased levels of arsenic and other compounds, including the likelihood that at least some of these contaminants were the result of on-site chemicals and structures.

The FEIR also failed to consider the requirements of, and implications associated with, Health and Safety Code Chapter 6.5, Article 11, relating to Border Zone properties. Health & Safety Code § 25221(a). It is undisputed that the land has been contaminated, yet the FEIR did not address these requirements or the impacts on neighboring uses.

The FEIR fails to provide adequate analysis of the standards discussed in the "Air Quality Handbook on Land Use" ("CARB Handbook"), prepared by the California Air Resources Board ("CARB") and California Environmental Protection Agency ("CalEPA"). The CARB Handbook, which is available on CARB's website and hereby incorporated by reference, provides important benchmarks for considering uses that may be inconsistent or incompatible, such as park uses and children recreation near freeways.

Additionally, the discussion of toxins is overly limited. As the Supreme Court held in *Laurel Heights Improvement Assoc. v. Regents of the University of California* (1988) 47 Cal.3d 376, an agency may not precommit to a project because a fundamental purpose of CEQA "is to provide decision makers with information they can use in deciding <u>whether</u> to approve a proposed project, not to inform them of the environmental effects of projects that they have already approved." *Id.* at 394 (emphasis in original); *see also Natural Resources Defense Council*, 103 Cal.App.4th at 271 – 72. The FEIR presents no information regarding options to address the contamination and prior activities on the site.

N. Cumulative impacts

"The full environmental impact of a proposed … action cannot be gauged in a vacuum." *Whitman v. Board of Supervisors* (1979) 88 Cal. App. 3d 397, 408. CEQA requires consideration and analysis of cumulative impacts. CEQA Guidelines 15130. Among other things, the City should provide a "summary of the expected environmental effects to be produced … with specific reference to additional information stating where that information is available" and it should "examine reasonable options for mitigating or avoiding any significant cumulative effects …." *Id.* § 15130(b). The FEIR has failed to consider the cumulative impacts of the Project in relation to other approved projects, which are likely to be significant.

O. Alternatives

CEQA requires that an EIR "produce information sufficient to permit a reasonable choice of alternatives so far as environmental aspects are concerned." *San Bernardino Valley Audubon Society v. County of San Bernardino* (1984) 155 Cal.App.3d 738, 750 – 51. "[T]he discussion of alternatives shall focus on alternatives to the project or its location which are capable of avoiding or substantially lessening any significant effects of the project, even if these alternatives would impede to some degree the attainment of the project objectives, or would be more costly." CEQA Guidelines § 15126.6(b). "Without meaningful analysis of alternatives in the EIR, neither the courts nor the public can fulfill their proper roles in the CEQA process." *Laurel Heights Improvement Assoc. v. University of California* (1988) 47 Cal.3d 376, 404.

Here, the Project and its objectives are defined too narrowly, thereby resulting in a narrowing of the consideration of alternatives to the Project. *See Rural Landowners Assoc. v. City Council* (1983) 143 Cal.App.3d 1013, 1024 ("Responsibility for a project cannot be avoided merely by limiting the title or description of the project"). The Project objectives listed on page 2-4 of the FEIR emphasize athletic fields and "active park uses" to such an extent that there is no ability to consider alternatives that provide a balance between recreational uses and other park uses. In fact, five of the six Project objectives focus on athletic uses. Also, the objectives emphasize maximizing the number and use of athletic fields and maximizing use of recreational facilities during park hours. The only reference to non-athletic uses is a vague reference to "other desired features of the park site."

Additionally, CEQA contains a "substantive mandate" that agencies refrain from approving a project with significant environmental effects if "there are feasible alternatives or mitigation measures" that can substantially lessen or avoid those effects. *Mountain Lion Foundation v. Fish and Game Comm.* (1997) 16 Cal.4th 105, 134; Pub. Res. Code § 21002. It "requires public agencies to deny approval of a project with significant adverse effects when feasible alternatives or feasible mitigation measures can substantially lessen such effects." *Sierra Club v. Gilroy* (1990) 222 Cal.App.3d 30, 41. The DEIR fails to consider a viable reduced ball field intensive alternative. It is

insufficient to assert that the Reduced Intensity Alternative does not meet all the Project objectives. FEIR at 7-38. "Because an EIR must identify ways to mitigate or avoid the significant effects that a project may have on the environment [], the discussion of alternatives shall focus on alternatives to the project or its location which are capable avoiding or substantially lessening any significant effects of the project, even if these alternatives would impede to some degree the attainment of the project objectives, or would be more costly." CEQA Guidelines § 15126.6(b) (emphasis added). The FEIR should provide sufficient evidence, including an analysis of other scenarios to address the alleged "need for athletic fields in Encinitas," showing why and how a reduced intensity alternative is impracticable. "An environmentally superior alternative cannot be deemed infeasible absent evidence the additional costs or lost profits are so severe the project would become impractical." *Kings County Farm Bureau*, 221 Cal.App.3d at 736.

The FEIR fails to consider another location for the Project. CEQA Guidelines § 15126.6(f)(2). It also fails to consider an alternative that would reduce traffic trips and address greenhouse gases and other impacts by siting and/or improving sports fields in other locations. Reducing the number of athletics events at this site, while providing sports venues at other sites, could reduce impacts associated with traveling farther distances. Multiple sports fields throughout the City and the region would allow for people to travel shorter distances to a field near their own home. Indeed, the Godbe Report indicated that there are over 25 soccer fields within the City alone and an even greater number in the area. An alternative that allowed for the use of these other fields, perhaps with the City providing maintenance services or other means to defray the costs associated with the use of fields at area schools, could greatly reduce traffic, noise, greenhouse emissions and other impacts.

Additionally, CEQA requires that the "no project" alternative "discuss the existing conditions ..., as well as what would be reasonably expected to occur if the project were not approved, based on current plans and consistent with available infrastructure and community services." CEQA Guidelines § 15126.6(e)(2). The FEIR does not consider a "no project" alternative consistent with this requirement. For example, the No Project-Development of Residential Per Zoning Alternative assumes development at a level that is inconsistent with available infrastructure and community services.

P. Mitigation

The FEIR's analysis and deferral of mitigation was unsupported. Deferring the preparation of mitigation is improper under CEQA, except in limited circumstances where "practical considerations prohibit devising measures early in the planning process (e.g., at the general plan amendment or rezone stage)." *Sacramento Old City Assn. v. City Council of Sacramento* (1991) 229 Cal. App. 3d 1011, 1028; *see also* CEQA Guidelines § 15126.4(a)(1)(B).

Traffic mitigation proposed for the alley off Santa Fe Drive does not address west bound traffic turning into the site uncontrolled against the steady east bound traffic. There is no mitigation proposed for traffic on MacKinnon.

Q. Responses to Comments

The responses to comments were insufficient in many instances, refusing to address important comments. For example, when faced with comments about traffic impacts, the EIR preparers claimed that it is "standard [City] practice not to build a church for Easter Sunday." Response to Comment # B4-14; *see also* Response to Comment # B4-3. "Where comments from responsible experts or sister agencies disclose new or conflicting data or opinions that cause concern that the agency may not have fully evaluated the project and its alternatives, these comments may not simply be ignored. There must be good faith, reasoned analysis in response." *Cleary v. County of Stanislaus* (1981) 118 Cal.App.3d 348, 357 (emphasis in original).

R. Recirculation

Recirculation of an EIR is required whenever the lead agency adds significant new information. Pub. Res. Code § 21092.1. The Project and FEIR have been revised significantly and the FEIR should be recirculated. Among other things, the Project now contains certain proposed mitigation related to intersection improvements and additional information has been placed in the FEIR in this regard. *See* Response to Comment # A1-5. The City's failure to recirculate the EIR prior to certification would deny the public "an opportunity to test, assess, and evaluate the data and make an informed judgment as to the validity of the conclusions to be drawn therefrom." *Sutter Sensible Planning, Inc. v. Board of Sup.* (1981) 122 Cal.App.3d 813, 822.

CONCLUSION

For the foregoing reasons, Citizens for Quality of Life requests that the Coastal Commission amend the City Council's decisions regarding the Project and FEIR. Thank you for your consideration of this appeal.

Sincerely,

Signature on file

Everett DeLano

LAW OFFICES OF EVERETT L. DELANO III

220 W. Grand Avenue
Escondido, California 92025
(760) 510-1562
(760) 510-1565 (fax)

December 11, 2008

RECEIVED
DEC 15 2008
CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

VIA E-MAIL AND U.S. MAIL

California Coastal Commission
San Diego Coast District Office
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4421

Re: Appeal of City of Encinitas Decisions Concerning the Hall Property Community Park Project and Final Environmental Impact Report; Case No. 04-197 MUP/DR/CDP/EIA

Dear California Coastal Commission:

I write on behalf of Citizens for Quality of Life hereby regarding its appeal of the October 22, 2008 decisions of the Encinitas City Council concerning the proposed Hall Property Community Park Project ("Project") and related Final Environmental Impact Report ("FEIR").

As the appeal notes, the Project is inconsistent with the City's LCP. It places an intensive, highly impacted use in a residential neighborhood on busy streets in the Coastal Zone. Indeed, it is precisely for those reasons that the majority of the Planning Commission and two members of the five-member City Council voted to deny the Project. All noted that the Project site was unsuitable for the type and intensity of use, with concerns for the surrounding residential area, buffering, traffic, lighting and noise.

Contrary to Recreation Element Policy 1.4, the Project does not establish a balance of natural open space and "improved" recreational open space. Although at the hearing staff tried to minimize the extent of active recreational use of the Project site, the Project objectives clearly and specifically call for "predominantly active park uses" and maximizing the number and hours of athletic field use.

Contrary to Recreation Element Policy 1.9, there was no consideration given to developing recreational opportunities in conjunction with schools.

Contrary to Recreation Element Policy 2.4, the Project does not leave appropriate areas of the park site in a natural state, retaining natural topography and vegetation. Indeed, the site is predominantly planned for recreational use with only a buffer provided for some vegetation, while existing topography and vegetation are not preserved.

Contrary to Recreation Element Policy 2.7, the Project does not maintain natural resources.

Contrary to Land Use Element goals and policies, the Project does not preserve natural resources and does not preserve and maintain the existing character of the Cardiff community.

Furthermore, while the Project approvals did not approve lighting directly, there was no question but that staff and the Council members who voted in favor of the Project were considering lighting as an essential element of the park uses they envisioned. As such, in essence the Project approvals piecemealed lighting considerations from the rest of the approvals.

If you have any questions or need additional information, please contact me. Thank you for your consideration of the appeal.

Sincerely,

Signature on file

Everett DeLano

City of Encinitas

January 13, 2009

California Coastal Commission
San Diego District Office
7575 Metropolitan Drive, Suite 103
San Diego CA 92108-4421

Re: Appeal No. A-6-ENC-08-106

Commissioners:

The two appeals filed under the referenced appeal number request that the Coastal Commission overturn the City of Encinitas approval of a Coastal Development Permit for the Hall Property Park ("proposed project"), an approximately 44-acre special-use park with playing fields, a teen center, an aquatic center, a dog park, a small amphitheater, a skateboard park, walking trails, and extensive landscaped areas (City of Encinitas Case No. 04-197 MUP/DR/CDP/EIA).

As the City will explain in this letter, the proposed project is in full compliance with the City's certified Local Coastal Program (LCP), the Coastal Act, and all other applicable laws, and the two appeals are therefore without merit.

The Proposed Project:

The proposed park would be a 44-acre, special-use park with playing fields, a teen center, an aquatic center, a small amphitheater, a skateboard park, walking trails, and extensive landscaped areas. The park would be located just west of Interstate 5, south of Santa Fe Drive, on City property zoned Residential 3 (R-3). The R-3 zone is a single-family residential zone with a maximum density of three (3) dwelling units per net acre. A public recreational facility may be allowed in the R-3 zone with the approval of a use permit. The proposed park facility would provide recreational opportunities and open space in a public park within the Coastal Zone of the City. Provision of public parkland and open space in the Coastal Zone is considered a higher priority coastal land use than single-family, residential development – the likely alternative to developing the proposed park due to the current residential zoning (R-3). Opportunities to develop recreation facilities are difficult to find in the City, especially within the Coastal Zone. Development of the project would implement Coastal Act policies favoring recreational and open space development over residential development.

A vicinity map of the project site and surrounding area is attached hereto as Attachment A. The project site is located over 2,300 feet from the Encinitas coastline. The project

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would not impede access to the coastal area of the City or directly affect the shoreline areas of the City. The project site is located adjacent to a property that includes a riparian area called Rossini Creek. The creek begins just to the west of the subject property where a drainage pipe opens into a natural drainage channel This drainage pipe carries water collected from the Cardiff area east of Interstate 5, Interstate 5 in the vicinity of Santa Fe Drive and the project site, and areas just to the north of the project site. The City Council approved the proposed park with conditions, including all of the mitigation measures described in the certified EIR. The Environmental Impact Report (EIR) describes extensive mitigation measures to ensure implementation of proper measures and procedures to protect Rossini creek, both during construction of the project and on a permanent basis.

The Appeals:

Local Coastal Plan:

Contrary to appellants' claims, the proposed Hall Park project complies with the City's Local Coastal Program (LCP) and the Land Use Plan (LUP) of the LCP. The City's Land Use Plan is comprised of certain Policies and Goals in the City's General Plan. A reading of the relevant Goals and Policies shows that the project carries out the mandates of the LCP by expanding the availability and range of recreational opportunities in the Coastal Zone of the City.

For example, the proposed park is consistent with Recreation Element Goal 3 (part of the City's LUP), which states: "The Coastal Areas will continue to play a dominant role in providing residents with open spaces for recreation." The project is also consistent with Recreational Policy 3.1, which states: "The City shall continue to support the acquisition and improvement through outright purchase, private donations, establishment of tax benefits, living trusts, etc., of additional local park sites." The project is also consistent with Recreation Policy 1.4, which requires the City to "Establish a balance of natural open space and 'improved' recreational open space and implement measures to preserve and maintain the natural environment." The proposed project furthers this policy by addressing a documented shortage of improved recreational facilities in the City, and by ensuring that 44 acres in the Coastal Zone are dedicated to public recreation rather than private development. Other relevant policies are addressed in Attachment B.

Each of the LCP Land Use Plan Policies and Goals mentioned in the two appeals are addressed in Attachment B of this letter. For each Policy or Goal, a brief discussion is provided to demonstrate why the proposed project complies with that Policy or Goal. Some General Plan policies cited in the appeals are not part of the City's LUP, but are nevertheless discussed in Attachment B.

Environmental Impact Report:

Contrary to appellants' assertions, the environmental review performed for the proposed project is adequate. The City prepared an EIR for the project, in conformance with the California Environmental Quality Act (Pub. Resources Code, §§ 21000, *et seq*; "CEQA")

and the CEQA Guidelines (14 Cal. Code Regs., §§ 15000 *et seq*), to identify the significant effects of the project on the environment, to identify alternatives, and to indicate the manner in which the significant effects can be mitigated or avoided. Specific responses to each of the issues raised in the appeals related to the environmental review process can be found in Attachment C of this letter. The responses in Attachment C were prepared by EDAW, the environmental consultant that prepared the EIR, and Scott Vurbeff, Environmental Coordinator for the City. The document includes the appeals on the left side of the page and corresponding responses on the left side of the page.

The Citizen's for Quality of Life cite many court cases throughout their appeal. The City's special environmental counsel reviewed the court cases to determine the cases' applicability to the Coastal Act. All of the citations in the appeal address issues related to CEQA; none of the cases pertain to the Coastal Act. The citations present CEQA's general requirement for environmental review, with which the City has fully complied, and none of the cases demonstrate a deficiency in the environmental review of the proposed project.

Summary:

In summary, the project:

1. Provides recreational opportunities and open space in a public park on 44 acres within the Coastal Zone.
2. Is located near General Plan Circulation Element roads and Interstate 5, providing good access to the project and not impacting or interfering with coastal access.
3. Does not have any direct impacts to coastal resources and is conditioned to implement measures to ensure the protection of the off-site riparian area of Rossini Creek during construction and on a permanent basis.
4. Complies with the City's Local Coastal Program and the Coastal Act.

If you have any questions or concerns regarding this matter, please do not hesitate to contact me by telephoning (760) 633-2696.

Sincerely,

Signature on file

Patrick Murphy
Planning and Building Director

C: Phil Cotton, City Manager
Chris Hazeltine, Director, Parks and Recreation Department
Kerry Kusiak, Senior Planner

Enclosures:
Attachment A: Vicinity map
Attachment B: Local Coastal Program and General Plan policy compliance
Attachment C: Environmental review responses

Attachment A

Vicinity Map

January 13, 2009

Hall Property Vicninity Map

DISCLAIMER:

This map should not be used for Engineering, Survey, or Site-Specific Analysis.

Every reasonable effort has been made to assure the accuracy of the data provided, nevertheless, some information may not be accurate. The City of Encinitas assumes no liability or responsibility arising from the use of or reliance upon this information.

- Map Coordinates: Stateplane NAD83 Feet, CA Zone 6
- Parcel lines are not survey accurate, and some parcels can be positionally off up to +/- 40 feet
- Photo flight dates: April 2005. 3 inch pixel resolution.
- Orthophoto and Topo positional accuracy meet the precision adequate to support National Map Accuracy Standards for 1" = 100' mapping.

N

0

1 inch equals 257 feet

Attachment B

Local Coastal Program and General Plan compliance

January 13, 2009

Local Coastal Program policies referenced in the Peter Stern appeal

***NOTE*: Except where indicated, the General Plan Policies and Goals discussed below are part of the City's LCP Land Use Plan.**

Appeal item 1: The appellant asserts that the installation of athletic field lighting would affect the surrounding community's peace, tranquility, and nighttime dark skies, especially during times of marine layer conditions. The appellant states that this violates "Local Coastal Program Land Use Policy Goal 9, Land Use Policy 1.2, Land Use Policy 9.5 and Land Use-1 requiring: "preservation & maintenance of the existing character of the 5 individual communities that comprise the City.""

Applicable General Plan Policies and Goals with *City Responses*:

Land Use Element

GOAL 9: Preserve the existence of present natural open spaces, slopes, bluffs, lagoon areas, and maintain the sense of spaciousness and semirural living within the I-5 View Corridor and within other view corridors, scenic highways and vista/view sheds as identified in the Resource Management Element. (Coastal Act/30240/30251)

> ***City Response:*** *Development of the park as proposed, which has substantial open areas, would maintain the sense of spaciousness within the freeway corridor. Substantial landscape plantings will enhance the scenic quality of the site as seen from the I-5 corridor and other areas east of the project site.*

POLICY 9.2: Encourage retention of buffer zones such as natural vegetation or earth barriers, bluffs, and canyons to protect adjacent areas of freeway corridor from pollutants of noise, exhaust, and light. (Coastal Act/30240/30251)

> ***City Response:*** *The project includes a vegetated landscape buffer between Interstate 5 and the project driveway along the easterly project boundary. The width of the vegetated area varies from approximately 40 feet to over 80 feet. Additional landscaped areas would be provided on the westerly side of the project driveway between the driveway and the use areas of the park.*

POLICY 9.5: Discourage development that would infringe upon scenic views and vistas within the I-5 corridor.

> ***City Response:*** *The project would enhance the appearance of the site and the freeway corridor in the area of the project. The project site is currently vacant, unimproved, and somewhat unsightly. The development of the park project would provide substantial landscaping and open grassy field areas, and would significantly increase the aesthetic visual quality of the site and area. No scenic views would be impacted by development of the project.*

INTRODUCTION TO THE LAND USE ELEMENT ("Land Use-1")

Purpose of this Element

The Land Use Element is the single most important element of this General Plan in that it serves as a guide for future development in the City. The Land Use Element also affects a number of key issues that are addressed in the remaining elements. For example, land use policies have a direct bearing on the local system of streets and roadways which are planned for in the Circulation Element. Housing issues and needs identified in the Housing Element are linked to land use policies for both existing and future residential development. Even issues related to safety, noise, and the environment are directly related to the policies contained in this element. The Land Use Technical Report provides background information and acts as a supporting document for the Element. The City seeks to accomplish the following with the implementation of the goals and policies in this Element:

- The establishment of a balanced and functional mix of development consistent with the long-range goals, objectives, and values of the City;
- Providing guidance for both public and private investments indicating where new development is permitted and the nature, density, and intensity of that development;
- The identification of opportunities for the redevelopment and new development in the City, as well as any constraints that might affect this development;
- The reduction of loss of life, injury, and property damage that might result from flooding, seismic hazards and other natural and man-made hazards that need to be considered in future land use planning and decision making;
- The preservation of those undeveloped portions of the City that are of value to the residents due to the natural and cultural resources found there; and
- The preservation and maintenance of the existing character of the five individual communities that comprise the City.

City Response: *The appellant specifically references the last bullet item of the above. The appellant notes that "ninety foot (and shorter) light towers" associated with the park would affect the character of the Cardiff community. The project considered and approved by the Encinitas City Council and before the Coastal Commission on appeal does not propose the installation of light towers. In anticipation that the City Council might direct staff to proceed with the necessary steps to provide lighting for proposed sports fields, the EIR prepared for the project did consider the potential environmental impacts of lighting for the sports fields with light standards as tall as 90 feet. If the City decides to provide lighting for the park, it will be necessary for the City to process a zoning amendment and an amendment to the General Plan. Please see Attachment C of this letter, a response to environmental issues raised in the appeals, for a more detailed discussion of potential environmental impacts of sports field lighting. The project does help the City accomplish some of the goals listed above, including contributing to a balanced mix of development, providing redevelopment of vacant, disturbed property, avoiding any impacts to natural or cultural resources of the City, and providing development within the nature of the existing character of the Cardiff community. The final goal is accomplished through the provision of a substantial landscape palette throughout the project site, particularly in a wide, landscaped buffer adjacent to*

residential development. The landscaped site at maturity would provide a smooth transition from the heavily vegetated residential areas just to the south and west of the project site.

Appeal Item 2: The appellant claims the proposed park uses would be too intensive for Santa Fe Drive, a view corridor street, to accommodate proposed traffic improvements. The appellant states that this "violates the Local Coastal Program Land Use Goal 1, page 6, Policy 4.1, page 14 all requiring the City to "design roads to enhance scenic areas.""

Applicable General Plan Policies and Goals with *City Responses*:

Land Use Element:

GOAL 1: Encinitas will strive to be a unique seaside community providing a balance of housing, commercial light industrial/office development, recreation, agriculture and open space compatible with the predominant residential character of the community.

City Response: *General Plan Land Use Element Goal 1 is* ***not a part of the City's certified LCP****. The proposed park would provide additional open space and recreational opportunity in compliance with this goal. Over 1,500 acres of natural open space is provided in the City. This does not include required open space areas in residential developments. However, the City is deficient in provision of community and special use parks. The proposed park would help to balance the recreational opportunities available in the City for its residents.*

Land Use Element, page 6:

Growth Management:

In a community that has experienced rapid development such as that which has occurred in Encinitas, it is important to establish measures to properly manage new growth. Premature development can strain a city's ability to provide essential services and infrastructure as well as adversely impacting the natural environment. The following goal and supporting policies underscore the City's resolve in ensuring that new development does not occur at the expense of the natural environment, existing development, or before adequate infrastructure and services are in place to accommodate any new development.

City Response: *No impact to the natural environment is anticipated from development of the proposed park. (See Final EIR, Table S-1.) The proposed project site was formerly used for greenhouse agriculture, and is now highly disturbed and barren. (See Final EIR, p. 3.9-1.) The site is adjacent to Interstate 5 and is bordered by commercial development to the north. There are no naturally vegetated areas on the project site. The proposed park development includes measures to ensure protection of the adjacent, off-site, natural riparian area (Rossini Creek). (See Final EIR, p. 3.9-8.) The project includes substantial buffer areas between active use areas and adjacent residential development. Additionally, active use areas, parking areas, and the project drive are located closer to adjacent commercial development and Interstate 5, and farther from the adjacent residential development. The project would not occur at the expense of adjacent, existing development. Infrastructure and services to support the proposed project are in place. Avoidable environmental impacts are*

properly mitigated through project design and conditions of approval. The proposed park project, and any of the alternatives presented in the EIR and/or supported by the appellant, would have significant and unavoidable traffic impacts at freeway ramps in 2010. However, these impacts are expected to be fully mitigated by the year 2030 by future improvement to Interstate 5 by Caltrans. Adequate infrastructure and services exist to serve the project or would be provided with implementation of the project.

Circulation Element

POLICY 4.1: Design roads to enhance scenic areas. (Coastal Act/30251)

City Response: *The project will have access to Santa Fe Drive, which is a Scenic View Corridor identified in the City's General Plan. The project includes current improvements and participation in future improvements to Santa Fe Drive. The portion of Santa Fe Drive in question is short, as noted by the appellant, but the scenic quality of the street and surrounding area is relatively limited. Current improvements to the roadway include improvement of the access point to the project, which would have a minimal positive impact on the scenic quality of the roadway. The positive visual impact would be accomplished with a fully improved entry with associated landscaping that would be visible from the roadway. Future improvements to the roadway would provide further visual enhancement of the area with new hardscape and opportunities for landscaped areas, especially if roundabouts are pursued.*

Land Use Element Page 14

Land use conflicts often arise when newer projects are insensitive to the use, character, or scale of existing development. These conflicts can over time lead to both deterioration and blight of both the older and newer homes or businesses. There are a number of ways potential conflicts can be resolved through proper planning in the early stages of project design. In addition, code enforcement is an important tool in ensuring that property is maintained. The following policies include measures to ensure that the existing character of development is maintained and that future development is compatible with existing land uses.

City Response: *The proposed project provides substantial landscaped buffers between active use areas of the park and adjacent residential development. The active use areas, proposed buildings, parking areas, and project driveway are located on the portions of the site nearest the freeway and commercial development to the north and further from residential development to the south and west. The site planning for the project will avoid potential conflicts with adjacent uses and will not create deterioration or blight of adjacent uses. Ongoing maintenance of the property will be ensured through code enforcement.*

Appeal Item 3: The appellant asserts that the 5 proposed fields are too many and the use of them would overwhelm surrounding streets, especially Santa Fe Drive. The appellant states that this "violates the Local Coastal Program Recreation Policy 1.4 and #2 above."

Applicable General Plan Policies and Goals with *City Responses*:

Recreation Element

POLICY 1.4: Establish a balance of natural open space and "improved" recreational open space and implement measures to preserve, and maintain the natural environment. (Coastal Act/30252)

> ***City Response:*** *Approximately 325 acres of improved recreational area, including the Encinitas Ranch Golf Course, approximately 50 acres of beaches, and approximately 1,100 acres of open space area, including 1,000 acres in the San Elijo Lagoon Preserve are provided in the City. Not included in this figure are privately maintained natural open space areas associated with residential developments and the approximately 125-acre mitigation bank located along Manchester Avenue. However, the City does not currently meet the General Plan's objective of providing between 5.0 and 8.0 acres of special use park area per 1,000 residents (See Recreation Element, Table 2). The City currently provides 196 acres of special use park area, or 3.2 acres per 1,000 residents. The proposed park would increase this figure to 240 acres, or 3.9 acres per 1,000 residents. In seeking to establish a balance of natural open space and improved recreational areas, the City finds that there is a large amount of natural open space areas but that there is a deficiency in improved areas. The proposed park project would increase the amount of improved recreational area and move the City toward the balance envisioned in this policy.*

Local Coastal Program policies referenced in the Citizens for Quality of Life (CQL) appeal

***NOTE*: Except where indicated, the General Plan Policies and Goals discussed below are part of the City's LCP Land Use Plan.**

Appeal Section I: The following is an excerpt from Section I of the CQL appeal:

The Project is inconsistent with the City's LCP. Consider, for example, several policies in the Recreation Element:

- 1.4 – requiring a balance of uses;
- 1.9 – developing and using parks in concert with schools;
- 2.4 – leaving areas in a natural state; and
- 2.6 – a full range of recreational facilities throughout the area

These policies were not respected by the Project approval, as the Project loads recreational facilities into one area and one community and fails to provide an adequate balance of uses.

Similarly, examples in the Land Use Element of the General Plan show the same theme of balancing and protection. In addition to its goals of balanced development, preservation, and community character, the Land Use Element contains, among others, the following relevant policies:

- 2.3 – not to exceed ability to provide facilities and services;
- 2.7 – ensure preservation of significant environmental areas; and
- 2.10 – no development before access and services are available.

The Project fails on all of these aspects. The Project is inconsistent with the community park standards in the City's General Plan; instead, it contains a primary focus of active recreation uses to the exclusion of other uses. Indeed, the Project objectives developed by the City call for "predominantly active park uses" and maximizing the number and hours of athletic field use. And, as discussed below and admitted by the FEIR, the Project will exceed the abilities of City facilities and services. It is partly for these reasons that the City's Planning Commission rejected the Project at its September 18, 2008 meeting.

Applicable General Plan Policies and Goals with *City Responses*:

Recreation Element

POLICY 1.4: Establish a balance of natural open space and "improved" recreational open space and implement measures to preserve, and maintain the natural environment. (Coastal Act/30252)

> ***City Response:*** *Approximately 325 acres of improved recreational area, including the Encinitas Ranch Golf Course, approximately 50 acres of beaches, and approximately 1,100 acres of open space area, including 1,000 acres in the San Elijo Lagoon Preserve, are provided in the City. Not included in this figure are privately maintained natural open space areas associated with residential developments and the approximately 125-acre mitigation bank located along Manchester Avenue. However, the City does not currently meet the General Plan's objective of providing between 5.0 and 8.0 acres of special use park area per 1,000 residents (See Recreation Element, Table 2). The City currently provides 196 acres of special use park area, or 3.2 acres per 1,000 residents. The proposed park would increase this figure to 240 acres, or 3.9 acres per 1,000 residents. In seeking to establish a balance of natural open space and improved recreational areas, the City finds that there is a large amount of natural open space areas but that there is a deficiency in improved areas. The proposed park project would increase the amount of improved recreational area and move the City toward the balance envisioned in this policy.*

POLICY 1.9: Develop parks in conjunction with schools wherever possible and encourage joint use of facilities. (Coastal Act/30252)

> ***City Response:*** *The Parks and Recreation Department currently utilizes school facilities to the full extent possible. City recreation leagues utilize school facilities in the City on a regular basis to conduct activities. The City has long standing joint-use agreements with the Cardiff, Encinitas, and San Dieguito School Districts. However the City has no jurisdiction or control over maintenance practices for these fields. The condition of the fields owned by school districts is not subject to City maintenance standards; thus the reliability and adequate condition of these fields cannot be guaranteed.*

POLICY 2.4: Leave appropriate areas of neighborhood and community parks in a natural state, retaining natural topography and vegetation where preservation is feasible. (Coastal Act/30240)

> ***City Response:*** *The project site is completely disturbed and there are no areas in a natural state or with natural topography or vegetation. (See Final EIR, p. 3.9-1.) The site has been graded into large, flat areas to accommodate the former agriculture operation and the proposed project would provide a more natural appearing topography and vegetative palette than currently exists on the site.*

POLICY 2.6: Encourage the provision of a full range of recreational facilities distributed throughout the area. (Coastal Act/30212.5)

City Response: *The park project was developed in compliance with this policy. This policy is intended to ensure provision of a variety of recreational facilities throughout the City and is not intended to apply to a specific park site (the proposed project does, however, provide a wide range of active and passive recreational opportunities). Encinitas provides a full range of recreational facilities distributed throughout the City. However, as noted in the discussion of Recreation Element Policy 1.4 above, the City currently suffers from a lack of improved recreational facilities, including athletic fields. (See "Park Needs Within the City," Final EIR, p. 2-6.) Land suitable for athletic fields is limited and location specific. The proposed park site provides an opportunity to increase the amount of improved recreational facilities in the City in accordance with the City's LCP and General Plan. The proposed park would serve the entirety of the City, and would provide a wider range of activities than provided at the nearby Cardiff Sports Park.*

Land Use Element

POLICY 2.3: Growth will be managed in a manner that does not exceed the ability of the City, special districts and utilities to provide a desirable level of facilities and services. (Coastal Act/30250)

City Response: *All City services, facilities, and utilities are available for development of the park. (See Final EIR, pp. 3.11-15.) The City's existing public services, including police and fire protection, sewer and solid waste, and water supply are all sufficient to serve the proposed project. The proposed park project, and any of the alternatives presented in the EIR and/or supported by the appellant, would have significant and unavoidable traffic impacts at freeway ramps in 2010. However, these impacts are expected to be fully mitigated by the year 2030 by future improvement to Interstate 5 by Caltrans. The project will enhance the ability of the City to provide adequate recreational facilities and services.*

POLICY 2.7: Implement mechanisms to ensure the preservation of significant environmental areas of the City. These mechanisms might include establishing development standards encouraging developers to maximize open space, transfers of development rights (TDR's), land banking, purchase, etc. (Coastal Act/30240)

City Response: *The proposed park would be developed on a highly disturbed site, adjacent to Interstate 5 and with commercial development to the north, and was formerly used for greenhouse agriculture. There are no naturally vegetated areas and no significant environmental areas on the project site. The park development includes measures to ensure protection of the off-site, adjacent natural riparian area (Rossini Creek). Because of the disturbed nature of the site and lack of existing natural vegetation and with the implementation of measures to protect adjacent natural resources, no impact to the natural environment is anticipated.*

POLICY 2.10: Development shall not be allowed prematurely, in that access, utilities, and services shall be available prior to allowing the development. (Coastal Act/30252)

City Response: *Access, utilities, and services are available to serve the proposed project. (See Final EIR, pp. 3.11-15.) The project site has two access points, one at Santa Fe Drive*

and one at MacKinnon Avenue. All utilities exist in the area and can be extended to serve the project site. All services are available to serve the project site, which is located in an urbanized area.

Appeal Section II.B: The following is excerpted from Section II.B of the CQL appeal:

The General Plan also contains provisions for the protection of views and view corridors, yet the Project will negatively affect views. For example, Recreation Element Policy 1.19 discussions the protection of views. Similarly, Resource Management Element Policy 4.10 provides that the City will strive to remove obstacles to views, not add more. Other elements of the General Plan, including the Land Use Element, also discuss the preservation and protection of both public and private views.

Applicable General Plan Policies and Goals with *City Responses*:

Recreation Element:

POLICY 1.19: The City shall develop standards for protection of views along and down public corridors, particularly from inland areas such as the crest of Santa Fe Drive.

City Response: *General Plan Recreation Element Policy 1.19 is* ***not a part of the City's certified LCP****. Public view corridors are those down and along public rights-of-way, such as Santa Fe Drive mentioned in the policy and appropriate to discussion of the park project. The project site is several hundred feet south of Santa Fe Drive and improvement of the project site would have no impact whatsoever on the view down and along the Santa Fe Drive public corridor. The project site would be within view of this area, but is not itself within the public corridor to which the policy applies. Even with the installation of lights (lights are not currently proposed), which would appear very small from the distant public corridor view areas noted in the policy, the park project would not have view impacts.*

Resource Management Element

POLICY 4.10: The City will develop a program to preserve views that also preserves the appropriate vegetation and removes obstacles that impact views. Trees and vegetation which are themselves part of the view quality along the public right-of-way will be retained. (Coastal Act/30251)

City Response: *The proposed park project would not have any significant impacts on views. Significant views in the area would generally be to the west and southwest toward the ocean. The general lay of the land in the area is such that those areas east of the project site with views over the project site sit much higher than the project site and are hundreds of feet, at a minimum, from the project site. When looking toward the ocean and western horizon from these areas, the project site sits below the horizon. The likelihood of the park project impacting views across the project site is minimal in consideration of these factors. Even with the installation of lights (lights are not currently proposed), which would appear very small from these areas, the park project would not have view impacts.*

Attachment C

Environmental review responses

January 13, 2009

STATE OF CALIFORNIA – THE RESOURCES AGENCY

ARNOLD SCHWARZENEGGER, Governor

CALIFORNIA COASTAL COMMISSION
NORTH COAST DISTRICT OFFICE
710 E STREET, SUITE 200
EUREKA, CA 95501
VOICE (707) 445-7833 FAX (707) 445-7877

OCT 3 1 2008

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Peter Stern

Mailing Address: 1232 Rubenstein Ave.

City: Cardiff Zip Code: 92007 Phone: 760-944-9355

SECTION II. Decision Being Appealed

1. Name of local/port government:

City Council of Encinitas

2. Brief description of development being appealed:

Determination to build the Hall Property Community Park Santa Fe Drive Cardiff, Ca.

3. Development's location (street address, assessor's parcel no., cross street, etc.):

Santa Fe Drive Cardiff, Ca.

4. Description of decision being appealed (check one.):

☐ Approval; no special conditions

☒ Approval with special conditions:

☐ Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-6-ENC-08-106

DATE FILED: 11/4/08

DISTRICT:

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

☐ Planning Director/Zoning Administrator

☒ City Council/Board of Supervisors

☐ Planning Commission

☐ Other

6. Date of local government's decision: 10/22/08

7. Local government's file number (if any): 04-197 MUP/DR/CDP/EIA

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

City of Encinitas

b. Names and mailing addresses as available of those who testified (either verbally or in writin the city/county/port hearing(s). Include other parties which you know to be interested and sh receive notice of this appeal.

(1) Citizens for Quality of Life, Encinitas, Ca.

(2) Encinitas Soccer League

(3) City of Encinitas

(4) Various citizens within 500 yards of the proposed Park

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

Stern 1

I appeal the following: 1) The project contemplates the installation of ninety foot (and shorter) light towers. The proposed lights are so tall that they will require (and have been slated for amendment) the amendment of the City's zoning and munipal code to permit structures this tall. The lights will horribly affect the surrounding community's peace, tranquility and lovely dark night sky. The five soccer fields stadium like sports complex will be lit until 10:00 pm. Darkness will be converted into daylight. The magnificant vista of the ocean and Cardiff that is visable from Route 101 traveling North from Solana Beach to Cardiff will be ruined, especially when the marine layer is in deflecting the light further. This vista must be seen to be appreciated. The ocean, stars and Cardiff hill will be drowned by the lights of the Park. The Park should be dawn to dusk. It violates the Local Coastal Program Land Use Policy Goal 9, Land Use Policy 9.2, Land Use Policy 9.5 and Land Use-1 requiring: "preservation & maintenance of the existing character of the 5 individual communities that comprise the City."

Stern 2

2) The intensity of the use of the park will require the installation of two additional "traffic control" devices (lights or round abouts) which are contemplated between an exiting round about at Santa Fe Drive and the Freeway some two tenths of a mile away. This will total four traffic control devices within a two tenths of a mile roadway. This short stretch of road is also the only road to the Santa Fe shoping Plaza, Scripps Memorial Hospital (which has file a major use permit to expand) and the proposed Park. Santa Fe Drive is a view corridor street, per City designation, as well as the primary road to the Composer District seaside residential district. The proposed Park's proposed use(s) are too intensive for Santa Fe Drive to accomodate the traffic and traffic control mitigation devices. It violates the Local Coastal Program Land Use Goal 1, page 6, Policy 4.1, page 14 all requiring the City to "design roads to enhance scenic areas."

Stern 3

3) The number of soccer fields, five, are too many for this Park and the use of them will overwhelm the surrounding street(s) especially Santa Fe Drive (designated a "local street)" which provides primary access to the Park via an alleyway. It violates the Local Coastal Program Recreation Policy 1.4.and #2 above.

Stern Appeal Responses

Stern1

The FEIR contains analysis of visual effects of the project impacts in Section 3.5, Aesthetics and Lighting. It should be noted that the FEIR includes analysis of athletic field lighting even though this lighting feature is not part of the proposed project. The athletic field lighting was included in the FEIR to analyze and disclose any potential impacts of the lighting so that decision makers and the public would be fully informed regarding this topic. The appellant is correct that installation of the athletic field lighting would require additional action by City decision makers to be implemented.

The FEIR addresses nighttime lighting impacts from both walkway and parking lot lights as well as athletic field lights. A specific lighting analysis was prepared for the project and is Appendix G to the FEIR. The lighting analysis evaluated potential impacts such as glare and trespass and considered applicable regulations and policies regarding night lighting. As shown in Table 3.5-2 of the FEIR, lighting would result in less than 0.5 foot-candles of light at the project property boundary and diminishes to 0 within 25 feet (e.g., the light levels on properties adjacent to the Hall property would not increase beyond existing conditions). The minimal glare and light trespass from the athletic field lights is achieved through the proposed use of modern lighting technology to direct the lighting and use of shielding to cutoff light from spilling in undesired directions. The height of the light standards is necessary to achieve this directional lighting and avoid light trespass onto adjacent areas.

As outlined in the FEIR, a potentially significant impact related to lighting was identified as Impact Visual-1. Mitigation is provided as Mitigation Measure Visual-1 that would reduce the impact to less than significant through requirements such as measurements once lighting is in place and immediate adjustments as well as ongoing monitoring and readjustments of the lights if necessary.

In addition, the setting surrounding the project site is urban in nature and includes existing nighttime lighting. Substantial sources of existing lighting in the immediate vicinity of the project site include the commercial shopping center and hospital, located directly to the north. Because the lighting impacts would be reduced to less than significant, the project would not be in violation of City land use policies, including policies comprising the Local Coastal Program (LCP).

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signature on file

Signature of Appellant(s) or Authorized Agent

Date: 10/27/08

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize _____
to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date: _____

Stern2
The appellant is correct that the Traffic Analysis prepared for the proposed project lists two options for mitigation at both the Interstate 5 ramps and alley intersections on Santa Fe Drive. Tables 17-14 and 17-16 of the Traffic Analysis show that with either mitigation solution, the resulting traffic operations would be an acceptable Level of Service C or better.

It is correct that Santa Fe Drive is designated as a Scenic View Corridor by the City's General Plan; however, the immediate scenic quality of the Santa Fe Drive segment under discussion is limited. Visual elements surrounding this segment of road include a commercial shopping center, hospital complex, and Interstate 5.

The mitigation proposed by the project to reduce traffic impacts on Santa Fe Drive would not result in a violation with General Plan or LCP policies.

Stern3
Traffic generation from the proposed park, including all sports fields was calculated and used in the Traffic Analysis. As outlined in Section 3.2 of the FEIR, significant traffic impacts are anticipated. For significant traffic impacts that are avoidable, the FEIR's traffic mitigation measures identified in Section 3.2.5 are feasible and supported by the analyses presented in the project's traffic analysis (Appendix B to the EIR). The Mitigation Monitoring and Reporting Program specifies timing requirements that ensure traffic mitigation measures are implemented before the significant traffic impact occurs. The traffic impacts identified as significant and unavoidable would be associated with any of the alternatives presented in the EIR and are expected to be fully mitigated by future improvements to I-5 by Caltrans. These impacts are considered significant and unavoidable only because the City does not have direct control over the timing of the roadway improvements.

The current alleyway entrance to the property off of Santa Fe Drive would be appropriately designed to serve as a park entrance and accommodate traffic as well as meet ADA requirements. In addition, a second park entrance would be provided off of Mackinnon Avenue on the south side of the park.

The traffic generated by the proposed project would not result in a violation of the City's General Plan or LCP policies.

STATE OF CALIFORNIA – THE RESOURCES AGENCY
CALIFORNIA COASTAL COMMISSION
SAN DIEGO COAST DISTRICT OFFICE
7575 METROPOLITAN DRIVE SUITE 103
SAN DIEGO, CA 92108-4421
VOICE (619) 767-2370 FAX (619) 767-2384

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NOV 1 8 2008
CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

ARNOLD SCHWARZENEGGER, Governor

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Citizens for Quality of Life

Mailing Address: C/O Law Offices of Everett L. DeLano, III, 220 West Grand Avenue

City: Escondido Zip Code: 92025 Phone: (760) 510-1562

SECTION II. Decision Being Appealed

1. Name of local/port government:

City of Encinitas

2. Brief description of development being appealed:

An application for a Major Use Permit, Design Review, and Coastal Development Permit for the proposed construction of a community park on the approximately 44-acre "Hall Property" site to include a mixture of active and passive uses. Active components in the park would include softball/baseball fields, multi-use turf fields, a teen center, a dog park, an amphitheatre, a skate park, and a possible aquatic facility. Passive elements of the park would include gardens, picnic area, trails and a scenic overlook.

3. Development's location (street address, assessor's parcel no., cross street, etc.):

425 Santa Fe Drive (APN 260-183-01 to -03, -05 to -08, -24 to -33; 260-650-01.

4. Description of decision being appealed (check one.):

☐ Approval; no special conditions

☒ Approval with special conditions:

☐ Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-6-ENC-08-106

DATE FILED: 11/18/08

DISTRICT: San Diego

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

☐ Planning Director/Zoning Administrator

☒ City Council/Board of Supervisors

☐ Planning Commission

☐ Other

6. Date of local government's decision: 10/22/08

7. Local government's file number (if any): 04-197 MUP/DR/CDP/EIA

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

City of Encinitas Parks and Recreation Department
505 S. Vulcan Avenue
Encinitas, California 92024-3633

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) More than 60 people testified at the City Council hearing regarding this project, and many others submitted written comments. Appellant does not know the names and addresses of those who testified.

(2)

(3)

(4)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal.** Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

Please see attached statement of Reasons for Appeal.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signature on file

Sig

Date: 11-17-08

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize Everett L. DeLano III
to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature on file

Date: Nov. 14, 2008

LAW OFFICES OF EVERETT L. DELANO III
220 W. Grand Avenue
Escondido, California 92025
(760) 510-1562
(760) 510-1565 (fax)

November 17, 2008

VIA FEDERAL EXPRESS

California Coastal Commission
San Diego Coast District Office
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4421

Re: Appeal of City of Encinitas Decisions Concerning the Hall Property Community Park Project and Final Environmental Impact Report; Case No. 04-197 MUP/DR/CDP/EIA

Dear California Coastal Commission:

Pursuant to the California Public Resources Code, Citizens for Quality of Life hereby appeals the October 22, 2008 decisions of the Encinitas City Council concerning the proposed Hall Property Community Park Project ("Project") and related Final Environmental Impact Report ("FEIR"). The Project includes development of softball/baseball fields, multi-use turf fields, a teen center, a dog park, an amphitheatre, a skate park, and an aquatic facility on the 44-acre Hall Property site, located south of Santa Fe Drive and west of I-5. City staff also discussed allowing field lighting for night games at the park site, providing for several light standards as tall as 90 feet. City staff supported field lighting of the five athletic fields until 10:00 p.m.

ISSUES APPEALED

In order to issue a Coastal Development Permit, Encinitas Municipal Code Section 30.80.090(A) requires the City to issue written findings that demonstrate: (1) the project is consistent with the Local Coastal Program ("LCP") and (2) the project conforms with the California Environmental Quality Act ("CEQA") and "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." The Project fails on both counts.

1. The Project is Inconsistent with Requirements of the City's LCP

CQL1 Encinitas Municipal Code Section 30.80.030 contains requirements for a coastal development permit application, including "information sufficient to determine whether the project complies with all policies and standards contained in the certified Local Coastal Program." The application does not contain this information. Indeed, as discussed below, the Project is inconsistent with the LCP.

Citizens for Quality of Life Appeal Responses

CQL1

The park project as proposed complies with all applicable development standards and would be developed in compliance with the provisions of the Municipal Code, including the Zoning Regulations. The proposed project would be in compliance with the applicable policies of the General Plan, the Zoning Regulations, and the Scenic/Visual Corridor Overlay Zone, and therefore would be consistent with the City's certified Local Coastal Program (LCP). The appellant states that sufficient information is not supplied to make a determination on compliance with the LCP; however, compliance with the LCP as noted above, is documented throughout the Final Environmental Impact Report (FEIR) and staff reports.

The Project is inconsistent with the City's LCP. Consider, for example, several policies in the Recreation Element:

CQL 2

- 1.4 – requiring a balance of uses;
- 1.9 – developing and using parks in concert with schools;
- 2.4 – leaving areas in a natural state; and
- 2.6 – a full range of recreational facilities throughout the area

These policies were not respected by the Project approval, as the Project loads recreational facilities into one area and one community and fails to provide an adequate balance of uses.

Similarly, examples in the Land Use Element of the General Plan show the same theme of balancing and protection. In addition to its goals of balanced development, preservation, and community character, the Land Use Element contains, among others, the following relevant policies:

CQL 3

- 2.3 – not to exceed ability to provide facilities and services;
- 2.7 – ensure preservation of significant environmental areas; and
- 2.10 – no development before access and services are available.

The Project fails on all of these aspects. The Project is inconsistent with the community park standards in the City's General Plan; instead, it contains a primary focus of active recreation uses to the exclusion of other uses. Indeed, the Project objectives developed by the City call for "predominantly active park uses" and maximizing the number and hours of athletic field use. And, as discussed below and admitted by the FEIR, the Project will exceed the abilities of City facilities and services. It is partly for these reasons that the City's Planning Commission rejected the Project at its September 18, 2008 meeting.

II. The Environmental Review is Inadequate

CQL 4

"Coastal Commission review is a substitute for an EIR. Its review is 'the functional equivalent of the EIR process.'" *McAllister v. County of Monterey* (2007) 147 Cal.App.4th 253, 296 (citing Pub. Res. Code §§ 21080.5(a) & (e)(1); CEQA Guidelines §§ 15002(l) & 15251(c) & (f); *Kaczorowski v. Mendocino County Bd. of Supervisors* (2001) 88 Cal.App.4th 564, 569) (emphasis in original) (footnote omitted). As such, the Coastal Commission must ensure adequate environmental analysis, since its "review [is] the final step in a sequential process of CEQA proceedings, which started with the [City's] planning commission." *Id.*

A. Project Description

CQL 5

The description of the Project is misleading and confusing. *County of Inyo v. City of Los Angeles*, 71 Cal. App. 3d 185, 198 (1977). There is no drainage plan outlining

CQL2

The proposed project is consistent with the Recreational Element policies listed by the appellant. The park would provide a variety of active and passive recreational facilities, including walking trails and paths, skate park, gardens and picnic areas, athletic fields, and a dog park among many others. The City has long standing joint-use agreements with the Cardiff, Encinitas, and San Dieguito School Districts. However, the City has no jurisdiction or control over maintenance practices for these fields. The condition of the fields owned by school districts is not subject to City maintenance standards; thus, the reliability and adequate condition of these fields cannot be guaranteed. The project site is currently not in a natural state as it has been previously developed with greenhouse nursery operations. However, the park design includes large vegetated buffer areas and other natural elements, such as a dry streambed feature, throughout the property.

Development of the park would help the City to provide a full balanced range of recreation opportunities throughout the area.

CQL3

The FEIR provides full analysis of the City's ability to provide services for the proposed project. Services are available; however, some traffic impacts are noted as significant and unavoidable. These traffic impacts would be associated with any of the alternatives presented in the EIR and are expected to be fully mitigated by future improvements to I-5 by Caltrans. These impacts are considered significant and unavoidable only because the City does not have direct control over the timing of the roadway improvements.

There are no environmentally sensitive areas within the project site. The offsite Rossini Creek is considered to be environmentally sensitive and the FEIR provides mitigation for all potential impacts to the creek, its habitat, or other downstream resources.

Section 3.1.1 of the FEIR describes that the Encinitas General Plan designates the project as a Special Use park per the General Plan. Any mention of "community park" is simply a reference to the Hall Property Community Park name has no bearing on the environmental analyses or applicable policies. The project is consistent with the General Plan standards associated with a Special Use park.

CQL4
The EIR prepared for the project meets all requirements of CEQA and addresses all environmental issues pertaining to the project, including those identified through public comment. The City of Encinitas Planning Commission and City Council both found the EIR to be complete and adequate.

CQL5
The FEIR provides an adequate project description. The project description is detailed throughout Chapter 2 of the FEIR. Park components are detailed in Section 2.5, construction of the park is outlined in Section 2.6, and operation and maintenance is discussed in Section 2.7. The textual description of the project is supplemented with photos, rendered graphics, and tables.

Chapter 2, Project Description of the FEIR does not contain a drainage plan; however this plan is included as Figure 3.7-2, Proposed Site Drainage, within the Hydrology and Water Quality section (Section 3.7). Page 3.7-7 indicates that dry streambed features are incorporated as part of the park plan along the western and eastern borders of the project. These drainage features would serve to dissipate flow on the project site and provide water quality enhancement opportunities. Hydrology and water quality mitigation measures provided in Section 3.7.5 include more detailed design elements that would be required as part of the drainage plan, such as a vegetated detention basin that would be installed to detain flow within Basin 1 to maintain runoff discharge rates below pre-project levels (Mitigation Measure Hydrology-2).

Section 2.6 (pages 2-21 and 2-24) of the project description describes the project phasing that is known at this time. The FEIR considers the impacts of the park as a whole, rather than in phases, to accurately evaluate impacts of complete construction and operation of all park facilities. Mitigation measures are not included in the project description. They are provided throughout the resource impact analyses sections for each environmental issue addressed in Chapter 3, as well as the Mitigation Monitoring and Reporting Program (MMRP). The FEIR and MMRP include a description of the specific elements of each mitigation measure, as well as the timing and responsibility for implementation of that specific measure. This is considered an adequate description for the decision-makers to understand the scope and effectiveness of the measures, and to ensure proper implementation of mitigation measures during project development.

Traffic mitigation measures are provided in Section 3.2.5 of the FEIR. This section indicates that project impacts at the Santa Fe Drive and Birmingham Drive freeway interchange intersections would be mitigated by improving the

intersections with roundabouts or traffic signals. The FEIR further indicates that these improvements would be designed, approved, and implemented by Caltrans. The exact configuration of the traffic control improvements is not known at this time. Section 3.2.5 has determined that the project's direct and near-term cumulative impacts at these intersections would be significant and not mitigated below a level of significance.

The appellant indicates that the FEIR's project description "is different than the project being considered"; however, no evidence is provided to support this assertion. It should be noted that the FEIR includes analysis of athletic field lighting. This lighting feature is not part of the proposed project and would require additional action by City decision makers to be implemented. The athletic field lighting was included in the FEIR to analyze and disclose any potential impacts of the lighting so that decision makers and the public would be fully informed regarding this topic. This issue is explained in Section 2.5.12 of the FEIR.

A preliminary grading plan is included in the Project Description as Figure 2-9. The soils management plan is not included in the project description because it is a mitigation measure provided in Section 3.6.5 of the FEIR.

CQL 5 con't

retention and water filtration. There is no phasing plan showing what will be built and when, and what and when mitigation will be implemented. The configuration of traffic control mitigation on both Santa Fe Drive and Birmingham Drive is not identified. The Project described in the FEIR is different than the Project being considered. The FEIR also lacks a grading plan and a soils management plan.

CQL 6

At the last minute, City staff indicated that it considered the park to be a Special Use Park, yet the FEIR discusses the Project only as a Community Park.

B. Land use impacts

CQL 7

"The EIR shall discuss any inconsistencies between the proposed project and applicable general plans..." CEQA Guidelines § 15125(d). As discussed above, the Project is inconsistent with existing land use requirements. *Oro Fino Gold Mining Corp. v. County of El Dorado* (1990) 225 Cal. App. 3d 872. 884 (noting that the "fundamental problem" of siting a mining operation near residences was a "land use conflict"). The FEIR fails to discuss these inconsistencies. In fact, in responses to comments, the EIR preparers claimed that considering applicable standards from the Municipal Code was unnecessary. Furthermore, the FEIR fails to discuss the fact that the park is taking land that would otherwise be used for homes. This impact should be discussed in relation to the City's ability to meet the Housing Element of the City's General Plan, which is hereby incorporated by reference.

CQL 8

At the last minute, City staff indicated that it considered the park to be a Special Use Park, yet the FEIR discusses the Project only as a Community Park. The City's approach as a Special Use Park is inconsistent with the Community Park standards in the General Plan and LCP.

CQL 9

The General Plan also contains provisions for the protection of views and view corridors, yet the Project will negatively affect views. For example, Recreation Element Policy 1.19 discussions the protection of views. Similarly, Resource Management Element Policy 4.10 provides that the City will strive to remove obstacles to views, not add more. Other elements of the General Plan, including the Land Use Element, also discuss the preservation and protection of both public and private views.

C. Community character/aesthetic/visual impacts

CQL 10

As the Planning Commission determined, the proposed uses are inconsistent with the residential and other uses in the area. Furthermore, the Project will affect views in the vicinity of the site. *Quail Botanical Gardens Foundation, Inc. v. City of Encinitas* (1994) 29 Cal. App. 4th 1597, 1603.

CQL6

The appellant states that City staff indicated at the last minute that the park is considered to be a Special Use Park. However, Section 3.1.1 of both the Draft EIR and FEIR acknowledge that the Encinitas General Plan designates the project as a special use park. Furthermore, the EIR's references to Hall Property Community Park name has no bearing on the environmental analyses and conclusions provided in the EIR.

CQL7

The FEIR includes a complete discussion of both land use policies as well as land use compatibility in Section 3.1. A full policy consistency analysis is provided in the FEIR in Table 3.1-1 and the compatibility of the project with surrounding land uses is discussed on Page 3.1-15 under the heading Land Use Compatibility. The FEIR analyses identified no significant land use inconsistencies regarding policies applicable to the site or inconsistencies with the surrounding land uses.

The determination of whether the project is consistent with the City's Municipal Code standards is provided as part of the findings made for the Major Use Permit and Coastal Development Permit. The resolution for these findings has determined that the project would meet applicable Municipal Code standards.

The project site is zoned R-3, which is a land use designation provided for single-family residential uses. Single-family residential uses are consistent with the suburban residential character found throughout the City. The use of the property for park land would not prevent city-wide policies of the City's Housing Element from being implemented.

CQL8

As discussed above, the project's designation as a Special Use Park per the Encinitas General Plan guidelines has been clearly disclosed in both the Draft and FEIR. This designation is based upon the project site's acreage, which is larger than the standard community park area of 10 to 20 acres. The project is also anticipated to provide a larger service area than that associated with community parks. The General Plan indicates that special use parks providing major facilities usually found at community parks will be considered as community park (City of Encinitas General Plan, Recreation Element, page RE 15). Other than its total size and expected service area, the project as proposed is consistent with standard facilities and the primary active function as described for community parks in the General Plan (see Figure 1 and Table 2 of the Recreation Element). Although the project is designated as a special use park, it has the typical facilities and use characteristics defined by the General Plan for a community park. For these reasons, the project's

designation as a Special Use Park is consistent with applicable General Plan standards.

CQL9

The FEIR contains analysis of visual effects of the project in Section 3.5, Aesthetics and Lighting. The Regulatory Setting for Visual Resources section of the FEIR (starting on page 3.5-3) describes the applicable policies and regulations addressing visual resources. The analysis considered multiple viewpoints surrounding the proposed park site as well as visual resource regulations and plans. Though the park would alter the existing visual environment, the FEIR found that the addition of park components within the surrounding urbanized setting would result in less than significant visual impacts.

CQL10

Land use compatibility with the surrounding area is discussed on Page 3.1-15 under the heading Land Use Compatibility. The FEIR determined that the project would not have significant impacts related to land use compatibility or consistency. The FEIR acknowledges that the project would alter existing views in the area; however, the analysis found that the resulting changes to the visual environmental would not cause a significant visual impact.

D. Construction impacts

CQL 11 The Project proposes a substantial amount of cut and fill and demolition activities. Impacts to traffic, noise and other areas associated with construction will be significant, yet the FEIR did not adequately address them. *Galante Vineyards v. Monterey Peninsula Water Management Dist.* (1997) 60 Cal. App. 4th 1109, 1123.

E. Traffic impacts

CQL 12 The FEIR's analysis of traffic and parking is insufficient. Peak traffic and normal traffic projections are understated. The FEIR's assumptions about traffic and parking are unsupported.

CQL 13 The FEIR assumes that traffic from parks in other parts of San Diego County are comparable, yet no discussion is provided to demonstrate that this coastal area has similar park needs to these other locations. Nor does the FEIR discuss whether these other communities have a shortage of parks to a degree comparable to the City of Encinitas.

CQL 14 The FEIR's analysis of traffic impacts is insufficient. For example, the EIR preparers refused to analyze Project conditions in relation to existing substandard street conditions. *See* Response to Comment # B4-16. *See Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 719 (warning against using the magnitude of the current problem to trivialize impacts of the project). Impacts to residential streets were not adequately addressed.

CQL 15 Similarly, neighborhood parking impacts were ignored. The assumption that Project users would not utilize neighborhood streets for parking lacked foundation. The FEIR also fails to consider parking impacts during normal (as opposed to special events) usage.

CQL 16 And the EIR preparers refused to consider the environmental impacts of realignment of the roadways. *See* Response to Comment # S1-4.

CQL 17 The FEIR's proposed traffic mitigation is unfeasible and unsupported. The FEIR illegally defers traffic mitigation. The FEIR fails to establish an adequate mitigation program for traffic impacts.

CQL 18 The FEIR failed to consider safety impacts to pedestrians. The FEIR also failed to consider public transit access. And it used old traffic data.

F. Noise impacts

CQL 19 The FEIR's analysis fails to address noise impacts from traffic, recreation and other activities associated with the Project. The FEIR inappropriately attempts to discount noise impacts by averaging noise. DEIR at 3.4-7; *see Berkeley Keep Jets Over*

CQL11
As described in Section 2.6 of the FEIR, Project Construction, the proposed project would have an onsite balanced grading plan and no substantial import/and or export of soils would be required. Though truck trips associated with soil import/export would not occur, a complete discussion of traffic generated by other components of park construction is included on pages 3.2-19 and 20 under the heading Construction Traffic. As detailed in the analysis, truck trips would only be necessary for removal of demolition debris and material deliveries and most vehicle activity would occur outside of peak traffic hours and no significant traffic impacts would result.

Construction noise is analyzed in Section 3.4.3 under the heading Construction-Related Noise Effects and as detailed in the analysis, identified no significant construction noise impacts. Other topic areas that may have impacts resulting from construction activities, such as air quality, water and hydrology, etc., have specific construction impact discussions included within their respective analysis sections in the FEIR.

CQL12
The traffic analysis and FEIR fully address traffic and parking impacts. The traffic analysis used a trip generation rate over 20% higher than any published rate and consistent with counts at three similar parks in the nearby area provides a conservative analysis. Future traffic volumes were obtained from the SANDAG Series 10 Traffic Demand Model and freeway forecasted volumes were provided by Caltrans. Separate analyses were prepared for both normal park operations as well as larger special events.

CQL13
The park facilities used for traffic counts are not identical in size, location, or exact facilities as the proposed project; however, they have comparable facilities and uses which provide adequate representation of general park visitation. In addition, the trip generation number per acre used in the FEIR traffic analysis that resulted from these traffic counts is 20 percent higher than any published trip rate, including the trip generation rate suggested by SANDAG and thus, provides a conservative analysis. For these reasons, consideration of coastal versus inland location or park demand would not alter the trip generation numbers used in the traffic analysis of the proposed park.

CQL14
There are residential streets surrounding the project site that do not meet standard street geometries. However, these street segments do not operate at substandard traffic levels. These residential streets were not

included in the traffic analysis as the project would not generate substantial traffic (over 50 peak hour trips) that would exceed the capacity and cause a significant degradation of acceptable operating conditions on those roads. The amount of traffic using residential streets would not be high or frequent and therefore no vehicular, pedestrian or safety impacts would be determined.

CQL15

As addressed in Section 2.5.11, the project provides adequate onsite parking. By providing adequate on-site parking during normal park operations, park users are not anticipated to park offsite. In addition, there is limited pedestrian access from the residential areas surrounding the project site, making off-site parking less appealing for park users. The FEIR acknowledges that during special events anticipated 3 or 4 times a year, on-site parking may not accommodate all park visitors. To address the lack of available parking and any related secondary impacts that may result during special events as park users search for off-site parking, Mitigation Measure Traffic-8 is provided in the FEIR.

CQL16

The realignment of the Mackinnon Avenue bridge, as referenced in Response to Comment S1-4 in the FEIR, is not part of the proposed park project and plans for any realignment have not been finalized as part of the I-5 North Coast Corridor Project. The proposed park is planned to operate completely independent of any alterations Caltrans may choose to make to the overcrossing. Implementation of the park is not dependent upon the alignment of Mackinnon Avenue bridge and any impacts associated with realignment of Mackinnon Avenue will be addressed by Caltrans as part of the environmental review process for the I-5 North Coast Corridor Project.

CQL17

For significant traffic impacts that are avoidable, the EIR's traffic mitigation measures identified in Section 3.2.5 are feasible and supported by the analyses presented in the project's traffic study (Appendix B to the EIR). The Mitigation Monitoring and Reporting Program provides timing requirements that ensure traffic mitigation measures are implemented before the significant traffic impact occurs.

CQL18

The project would not introduce any elements that, in conjunction with project traffic, would create unusual or unsafe conditions for pedestrians and bicyclists. Safety hazards for bicyclists and pedestrians that may use the proposed Hall Property Community Park would be similar to any potential hazards that would be present for these modes of transportation in any other location within the city. In addition, the amount of traffic

using residential streets will not be high or frequent and therefore no vehicular, pedestrian or safety impacts would be determined. The project would provide a pedestrian sidewalk to the park along the driveway access that extends from Santa Fe Drive.

Existing public transit in the area includes a bus stop on eastbound and westbound Santa Fe Drive, just east of the project's northern entrance. No public transit is provided along Mackinnon Avenue or Birmingham Drive. Implementation of the park project would not impact public transit. As indicated in Mitigation Measure Traffic-8, off-site parking would be provided, on an as-needed basis, as part of any necessary traffic management plan for special events. Under this scenario, the traffic management plan would include the use of shuttle to transport park users to and from the designated off-site parking areas.

The FEIR addressed traffic impacts under worst-case conditions that included an evaluation of project impacts on the study area under 2030 (build-out) conditions. Furthermore, the FEIR used baseline traffic data that accurately reflects the conditions that existed at the time that the Notice of Preparation was published, as required by CEQA.

CQL19

Section 3.4 of the FEIR addresses noise impacts and summarizes Appendix E, which contains the detailed noise analysis prepared for the project. The noise analysis evaluates noise related to construction, general park operation, early morning park maintenance, amplification at multi-use fields, and traffic. Each of these noise generating activities is discussed under separate headings in Section 3.4.3. of the FEIR.

The descriptor for the average one-hour exposure is the Hourly Equivalent Sound Level, abbreviated here as L_{eq}. It is an hourly measure that accounts for the moment-to-moment fluctuations in A-weighted sound levels due to all sound sources during that hour, combined. The word average leaves many people with the impression that the maximum levels, which attract their attention, are devalued or ignored when using the L_{eq} descriptor. They are not. All sounds are included in the one-hour noise exposure. The L_{eq} noise exposure descriptor includes all events and all noise levels that occur during the measurement period without exception. Scientific evidence strongly indicates that total noise exposure is the truest measure of noise impact.

Noise measurements of park activities used in the evaluation included the measurement of peak noise level events such as whistles blowing during soccer games, skateboards slapping the ground and other surfaces, crowds cheering, children yelling, and other similar events. Thus, these

noise events are not ignored as part of the evaluation of potential impacts of the park.

The EIR for the Hall Property Community Park assesses impacts to residences surrounding the park using the Hourly Sound Level Equivalent (L_{eq}) as appropriately required by the City City's Municipal Code (Chapter 30.40.010) for determining impacts from adjoining properties. A 24-hour noise descriptor would be inappropriate for assessing daytime impacts from the park, as the identified activities would not occur between 10:00 p.m. and 7:00 a.m. and would generally last for a few hours during the daytime. Furthermore, unlike the project in the court case referenced by the commentor appellant, the proposed project would not include activities over a 24-hour period, as the outdoor use of the park would close at 10:00 PM.

CQL 19 con't

the Bay Comm. v. Board of Port Commissioners (2001) 91 Cal. App. 4th 1344, 1381 ("the fact that residential uses are considered compatible with a noise level of 65 decibels for purposes of land use planning is not determinative in setting a threshold of significance under CEQA"). Without an improper averaging of noise levels, the Project would exceed applicable noise standards.

CQL 20

The FEIR also fails to adequately analyze the existing noise problems in the area. *See Los Angeles Unified School District v. City of Los Angeles* (1997) 58 Cal.App.4th 1019, 1025 ("the relevant issue to be addressed in the EIR ... is not the relative amount of traffic noise resulting from the project when compared to existing traffic noise, but whether any additional amount of traffic noise should be considered significant in light of the serious nature of the traffic noise problem already existing around the schools").

CQL 21

And while the FEIR stated that the Project should provide a buffer from residential uses nearby, the Project as proposed has no buffers along the Northwest portion of the site and very small buffers along the southeast side. Again, the impacts of this situation were not adequately explored in the FEIR.

G. Lighting impacts

CQL 22

The FEIR failed to provide adequate analysis of lighting of the night sky. It also failed to consider impacts to the riparian setting of Rosini Creek. The FEIR presents conflicting information about the impacts of lighting from the Project.

CQL 23

The FEIR also fails to provide the appropriate threshold of significance for lighting impacts. Pub. Res. Code § 21082.

H. Air and water quality impacts

CQL 24

The FEIR fails to provide adequate analysis of air and water quality impacts. . "The relevant question to be addressed in the EIR is not the relative amount of precursors emitted by the project when compared with preexisting emissions, but whether any additional amount of precursor emissions should be considered significant in light of the serious nature of the ozone problems in the air basin." *Kings County Farm Bureau*, 221 Cal.App.3d at 718. The FEIR discusses contaminated soils, but fails to discuss the potential impacts to surface and ground water.

CQL 25

The FEIR's analysis and assumptions about air direction and wind speed were not supported by substantial evidence in the record. Additionally, the assumptions about truck and other traffic on I-5 and related air quality of the site were unsupported.

I. Greenhouse Gas impacts

CQL 26

The FEIR's analysis of greenhouse gas emissions was insufficient. The FEIR failed to acknowledge impacts associated with emissions from vehicles. The FEIR also

CQL20

The proposed project was assessed using the appropriate standards taken from the City General Plan, Noise Element. Policy 1.1 of the Noise Element, in part, states that mitigation must be evaluated for a project that would increase traffic and results in a relative increase in noise levels of 5 dBA where noise levels at affected residential properties will exceed 55 Ldn or when a 3 dBA relative increase would occur where noise levels at affected residential properties will exceed 60 Ldn. The 3 dBA criterion was conservatively used to assess impacts at all locations regardless of the existing or future noise environments. The case cited in the appellant's comment was related to the absolute noise level at specific locations exceeding the State Department of Health's Noise Compatibility Guidelines for residential uses, i.e., 70 dBA CNEL, which is also used by the City. Based on the noise impact analysis, no future residences affected by the proposed project would be exposed to noise levels in excess of 70 dBA CNEL, with the exception of modeled receptor 21. Receptor 21 represents a residence on Loch Lomond Drive, on the opposite side of I-5 from the project. Based on measurements and modeling, this receptor is currently exposed to noise levels in excess of 70 dBA CNEL, however, as shown in Table 13 of the project's noise analysis, the projects contribution at this location in 2010 and 2030 would be 0. Thus, the proposed project would not alter the ambient noise levels at this location.

CQL21

As analyzed in the FEIR, the proposed project includes a 6-foot high masonry wall along the entire northwest border of the project site as shown in Figure 3.4-1 of the FEIR. In the FEIR, there is no wall proposed along the southeast border of the site but there is a landscaping buffer provided in this area which is shown in Figure 2-4. As shown in Table 3.4-3, significant noise impacts were not identified near either of these locations. Landscape buffers were not considered in the noise analysis as their effectiveness is variable due to the changing size and density of the vegetation over time. However, as per conditions of project approval, a masonry wall will be provided along all southern and western boundaries of the site. This wall would provide a buffer for all residential uses adjacent to the project site, including the northwest and southeast corners. No wall is proposed along the eastern project boundary as the only adjacent land use to the east is Interstate 5.

CQL22

Section 3.5 of the FEIR addresses nighttime lighting impacts from both walkway and parking lot lights as well as athletic field lights. The lighting analysis prepared for the project is attached as Appendix G to the FEIR. The analysis of park lights evaluated potential light impacts such as glare and trespass and considered applicable regulations and policies regarding

night lighting. As outlined in the FEIR, a potentially significant impact related to lighting was identified as Impact Visual-1 and mitigation is provided as Mitigation Measure Visual-1 that would reduce the impact to less than significant. The appellant does not clarify what information regarding lighting is conflicting within the FEIR.

Habitat associated with Rossini Creek begins offsite of the western boundary of the proposed project in a residential development and provides suitable migration habitat and potential nesting habitat for the least Bell's vireo and other riparian scrub-associated wildlife. As shown in Table 3.5-2, lighting would result in less than 0.5 foot-candles of light at the project property boundary and diminishes to 0 within 25 feet (e.g., the light levels on properties adjacent to the Hall property, including Rossini Creek, would not increase beyond existing conditions). Assurance of this limitation would be effectuated through the implementation of Mitigation Measure Visual-1 as detailed in the FEIR.

CQL23

In Section 3.5.2 of the FEIR, the thresholds for lighting were developed based on City of Encinitas regulations, County of San Diego regulations, and recommendations from the Illuminating Engineering Society of North America. The FEIR refined a lighting threshold from the Draft EIR to be more stringent by requiring that project lighting be no more than 0.5 foot-candles at the property line, rather than 25 feet beyond the property line. This threshold is consistent with the residential lighting performance standard provided in Section 30.40.010I of the Municipal Code, which actually exempts public recreational facilities from meeting this standard when located adjacent to residential uses.

CQL24

Impacts related to air quality are discussed in Section 3.3 of the FEIR. This section includes a thorough discussion of emissions and associated air quality impacts that could result during construction of the park, operation of the park, as well as potential air quality impacts to park users due to the proximity to Interstate 5. The FEIR air quality analysis does not compare project emissions with pre-existing emissions (e.g., total emissions in the San Diego Air Basin) as was the concern in the King County Farm Bureau case referenced by the appellant.

Water quality impacts are discussed in Section 3.7 of the FEIR. Water quality impacts specifically related to soil contamination are discussed in Section 3.6, Hazardous Materials under the heading Groundwater Contamination. Also, Mitigation Measures Hydrology 2 and 3 require additional measures to ensure all water leaving the project site is property filtered.

CQL25

Multiple sources of meteorological and air quality data were used in preparation of the air quality studies completed for the Hall project, dependant upon the data requirements necessary for each individual model. Specific details regarding the appropriateness of wind data used for the various air quality and health studies prepared for the project are detailed in Response to Comment S15-2, S15-3, S15-4, and S15-5, contained in Volume 3 of the FEIR. Meteorologists at the San Diego Air Pollution Control District were of the opinion that the wind data used in each of the various air quality studies were the most suitable information available.

The assumptions regarding traffic on Interstate 5 used in the air quality studies were based on traffic data from Caltrans and future estimates were provided by SANDAG and Caltrans. Forecast future traffic volumes provided by SANDAG and Caltrans are based on complex modeling processes preformed by professional traffic engineers and are considered the best available source from which to obtain traffic data used for air quality studies.

CQL26

Greenhouse gas emissions are analyzed in Section 5.5 of the FEIR, Global Climate Change. Emissions from vehicle trips are specifically discussed, beginning on page 5-34 of the FEIR, and calculations of park-generated vehicle trips and the associated greenhouse gas emissions are provided in Table 5-4. As noted in the FEIR, the quantitative estimate of project trip-related GHG emissions is considered a conservative analysis because the park is intended to serve the surrounding community, the residents of which may currently travel outside the community to access existing parks and recreation facilities such as swimming pools and athletic fields. Some residents will be able to drive shorter distances and/or walk or bike to access park and recreation facilities than under the existing condition. Thus, the project could reduce the mass of GHG emissions associated with the vehicle trips community members make to access parks and recreation facilities below current levels. Nonetheless, since this reduction cannot be accurately quantified without detailed study that is beyond the scope of this FEIR, the quantitative analysis assumes that the project as designed would result in a level of CO_2 emissions from vehicle trips consistent with a conservative business-as-usual scenario.

The greenhouse gas emissions analysis evaluates the project as proposed and recommends mitigation measures that could be implemented, specific to the proposed project as designed, to reduce emissions. Chapter 7 of the FEIR addresses project alternatives that would reduce GHG emissions of the park project. The FEIR acknowledges that less intense alternatives

having reduced traffic volumes would reduce transportation generated greenhouse gas emissions as compared to the proposed project.

In Section 3.3.3, the FEIR provides specific analysis of potential health effects to park users due to the proximity of Interstate 5. These studies include the Air Toxics Risk Evaluation, which addresses potential cancer risks and the Children's Health Risk Analysis, which addresses children's health issues such as asthma and lung function, and other respiratory concerns due to the adjacent interstate. The FEIR determined that air pollutants from Interstate 5 would not result in significant health risks on park users. Health risks related to on-site contamination is discussed in Section 3.6.3 of the FEIR under the heading Health Risks to Adult and Child Park Users from Soil Contamination. This analysis found that park users would not be subject to significant health risks associated with contaminated soils.

CQL 26 con't

avoids considering mitigation and alternatives to reduce these impacts. The FEIR inappropriately failed to consider health impacts, particularly where they are compounded by the proximity to I-5 and the on-site contamination, all of which may lead to respiratory and other health problems.

J. Growth inducing impacts

CQL 27

The Project will have growth inducing effects. Development of the site is the first link in development of the area. *See Stanislaus Audubon Society v. County of Stanislaus* (1995) 33 Cal. App. 4th 144, 153. The FEIR fails to address these impacts.

K. Public Services impacts

CQL 28

The FEIR acknowledges that even with the addition of another park, the City will be significantly below the General Plan standards, yet the DEIR fails to discuss other possible strategies to address those deficiencies.

L. Water Supply impacts

The Project is likely to lead to water supply impacts. There is no showing of the adequacy of water supply for the Project. The California Supreme Court recently identified three "principles for analytical adequacy under CEQA":

CQL 29

(1) "CEQA's informational purposes are not satisfied by an EIR that simply ignores or assumes a solution to a problem of supplying water to a proposed land use project";
(2) "an adequate environmental impact analysis for a large project, to be built and occupied over a number of years, cannot be limited to the water supply for the first stage or the first few years"; and
(3) "the future water supplies identified and analyzed must bear a likelihood of actually proving available .... An EIR for a land use project must address the impacts of likely future water sources, and the EIR's discussion must include a reasoned analysis of the circumstances affecting the likelihood of the water's availability."

Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova (2007) 40 Cal.4th 412, 430 – 32 (emphasis in original) (citations omitted). The FEIR failed to provide such analysis.

M. Toxins impacts

CQL 30

The FEIR fails to adequately address impacts from toxins and hazardous chemicals. Experts have noted these failures. For example, on-site toxins exceed California Hazardous Waste Criteria, yet the FEIR fails to discuss this. The FEIR also inappropriately discounted the impacts of toxins through improper use of statistical

CQL27
Growth inducement is discussed in Section 6.4 of the FEIR. This analysis found that the project would not be growth inducing because the site is located within the developed portion of the City, already surrounded by existing urban land uses. The site is not the first link to development in the area. The project site is currently served by existing roads, utilities, and public services. In addition, the project is being developed to serve the existing Encinitas community and help fill the current documented shortage of recreational facilities in the City.

CQL28
The purpose of the FEIR is to evaluate the project as proposed which serves to partially alleviate the current shortage of parks in the City of Encinitas. The project itself can not fully achieve the parkland ratios identified in the City's General Plan. It is beyond the scope of the FEIR to develop solutions to fully implement the City's parkland ratio goals outside of the proposed project.

CQL29
Water demand and supply for all components of park use is provided in the Section 3.11.3 of the Public Services and Utilities Section. Water demand is divided into potable and recycled water (see Tables 3.11-3 and 3.11-4 of the FEIR) and the ability of the local service providers to have adequate supply available for park use follows each table. The total average annual potable water use is estimated to be approximately 6.3 acre-feet per year (approximately 5,628 gpd). This is a very small amount compared to San Dieguito Water District's (SDWD) average potable water demand for 2000-2005, which was 7,300 acre-feet per year (approximately 6.52 mgd) and SDWD has indicated they would be able to meet the park's potable water and fire flow demands. A substantial portion of the park's water requirements, approximately 96 percent, would be met through the use of recycled water. All recycled water would be provided from the San Elijo Water Reclamation Facility. The San Elijo Water Reclamation Facility currently has 980,000 gpd (0.98 mgd) excess capacity to provide recycled water and is actively looking for new recycled water users. Thus the San Elijo Water Reclamation Facility would be able to serve the recycled water demands of the proposed park.

Additional information was added to page 5-32 of the FEIR regarding the future reliability of water supply in light of increasingly dry years and overall reduction in water availability as a result of climate change.

In addition, a memo dated July 14, 2008 was prepared by EDAW and provided to City with specifications as to why a water supply analysis was not necessary for this project per Senate Bill 610.

CQL30

California Hazardous Waste Criteria values are not health risk-based standards; rather, they are concentrations at which a constituent of concern (CoC) would be considered a hazardous waste if excavated and exported from a property. They apply only to contaminated media (i.e., soil or water) that are actually removed from the site as waste material. If soil is left in place (i.e., not excavated and removed from a property), then California Hazardous Waste Criteria do not apply. The project proposes to have a balanced grading plan onsite and soil would not be exported from the site.

With respect to the assertion that the FEIR "discounted the impacts of toxins through improper use of statistical analyses", the appellant may be referring to comment B3-5 on the Draft EIR regarding the use of a 95% upper confidence level in the soil sampling analysis. As indicated in the response to this comment, this statistical procedure is recommended for use by the USEPA and most state environmental agencies.

Water quality impacts on groundwater are addressed on page 3.6-12 of the FEIR under the heading Groundwater Contamination. This analysis determined that the potential of hazards related to groundwater contamination is considered less than significant.

CQL 30 con't analyses. Mitigation of airborne exposure to contaminated soils was inadequate, and impacts to groundwater were inadequately explored.

CQL 31 The FEIR inappropriately used a "recreational" standard of exposure, where no such exposure level exists. The FEIR also ignored acknowledged levels above applicable thresholds of significance, and made up different thresholds without adequate support in the record.

CQL 32 The FEIR failed to provide adequate consideration of the effects of grading and movement of contaminated soils and fines. Inhalation from airborne contaminants and other exposures are greatly increased as the soils and fines are disturbed, yet the FEIR fails to adequately discuss these potential exposures.

CQL 33 The FEIR failed to consider potential impacts to Rosini Creek associated with the on-site contaminants, including contamination via surface and groundwater connections.

CQL 34 The FEIR failed to address the increased levels of arsenic and other compounds, including the likelihood that at least some of these contaminants were the result of on-site chemicals and structures.

CQL 35 The FEIR also failed to consider the requirements of, and implications associated with, Health and Safety Code Chapter 6.5, Article 11, relating to Border Zone properties. Health & Safety Code § 25221(a). It is undisputed that the land has been contaminated, yet the FEIR did not address these requirements or the impacts on neighboring uses.

CQL 36 The FEIR fails to provide adequate analysis of the standards discussed in the "Air Quality Handbook on Land Use" ("CARB Handbook"), prepared by the California Air Resources Board ("CARB") and California Environmental Protection Agency ("CalEPA"). The CARB Handbook, which is available on CARB's website and hereby incorporated by reference, provides important benchmarks for considering uses that may be inconsistent or incompatible, such as park uses and children recreation near freeways.

CQL 37 Additionally, the discussion of toxins is overly limited. As the Supreme Court held in *Laurel Heights Improvement Assoc. v. Regents of the University of California* (1988) 47 Cal.3d 376, an agency may not precommit to a project because a fundamental purpose of CEQA "is to provide decision makers with information they can use in deciding whether to approve a proposed project, not to inform them of the environmental effects of projects that they have already approved." *Id.* at 394 (emphasis in original); *see also Natural Resources Defense Council*, 103 Cal.App.4th at 271 – 72. The FEIR presents no information regarding options to address the contamination and prior activities on the site.

CQL31
It is standard practice in the field of human health risk assessment to evaluated chemical-related risks at a property based on the expected future use of the property. The expected future use of this property is not residential; rather it is recreational which would result in a different user exposure. Unlike the residential and commercial use exposure settings, no state or federal agency has standardized the human exposure assumptions for a recreational use in any formal, published guidance document. In the absence of formalized guidance, the risk assessor must make reasonable assumptions about the likely exposures occurring to individuals on the site. To do this the risk assessor may rely on information obtained from published scientific articles or unpublished information available from state agencies. This approach for developing recreational use risk estimates is standard practice until such time as a set of standardized recreational use exposure parameters are issued by USEPA or state agencies.

CQL32
The potential for health risks due to airborne contaminates during construction was evaluated in the FEIR on page 3.6-12. It was determined that temporary exposure to residual contaminates via inhalation, ingestion or dermal exposure could be potentially significant as described in Section 3.6.4. Appropriate mitigation is provided to reduce this potential impact in Mitigation Measure Hazardous Materials-1 and includes requirements and performance measures for a soils management plan, community health and safety plan, worker health and safety plan, and dust control measures.

CQL33
No evidence would suggest that the project would significantly exacerbate any potential effects that existing on-site contaminated soils may have on Rossini Creek. Rather, it is reasonable to expect that the project's mitigation measures provided Sections 3.6.5 and 3.7.5 would result in beneficial water quality effects on Rossini Creek. The project would not have significant water quality impacts associated with groundwater contamination as addressed on page 3.6-12 of the FEIR under the heading Groundwater Contamination.

CQL34
Arsenic and all other constituents of concern were appropriately addressed in the hazardous materials investigations prepared for the project and attached as Appendix H to the FEIR. Specifically, arsenic occurs naturally throughout the United States (including California) at levels that virtually always exceed risk-based soil cleanup levels and that are also associated with some cancer risk. Still, the maximum arsenic

level at the project site is quite low. The maximum level of arsenic at this site of 3 mg/kg is at the low end of naturally occurring mean levels in the western United States (2.8-10.9 mg/kg) and typical of naturally occurring levels in California. The maximum arsenic level at the project site of 3 mg/kg is below background levels.

CQL35

Health and Safety Code 25117.4 defines a Border Zone Property as any property designated as a Border Zone Property pursuant to Section 25229 which is within 2,000 feet of a significant disposal of hazardous waste, and the wastes so located are a significant existing or potential hazard to present or future public health or safety on the land in questions. Based upon the findings of the Phase I Environmental Site Assessment (Appendix H of the FEIR), the project site is not considered a Border Zone Property nor is it located within 2,000 feet of a Hazardous Waste Property. All known and reported release cases within the ASTM required search radius were reviewed as part of the Phase I Environmental Site Assessment and no known and reported release in the project site vicinity was determined to impact the site.

CQL36

The CARB Air Quality and Land Use Handbook is specifically discussed on page 3.3-15 of the FEIR and provides discussion of the sensitive land use siting recommendations contained within the handbook. This CARB handbook is cited again on page 3.3-19. The handbook is referenced a third time on page 3.3-22 in the discussion of reasons why potential health impacts to children were found to be less than significant. Additional details and discussion of the CARB handbook and its recommendations can be found in the Children's Health Risk Analysis attached as Appendix D to the FEIR. It should be noted that the handbook provides "advisory recommendations" for the siting of land uses next to freeways. These recommendations are based upon studies referenced in the handbook that were conducted to assess the health risks for children and other sensitive individuals living in residential areas or attending schools adjacent to freeways. The handbook's recommendations are not based upon studies conducted for public park uses adjacent to freeways. The handbook acknowledges that the guidelines are not regulatory or binding on local agencies, and that a more qualitative approach was taken by CARB in developing the distance based recommendations. In addition, the handbook states that the recommendations are only guidelines and are not designed to substitute for more specific information if it exists. Although the handbook recommends against siting playgrounds within 500 feet of a freeway, it also states that the association of traffic-related emissions with adverse health effects is strongest within 300 feet of a freeway. Based upon analyses provided in the handbook, the relative exposure and health risk dropped substantially within the first 300 feet. As

discussed on page 3.3-22 of the FEIR, more site-specific meteorological information demonstrates that prevailing coastal winds across the site would ensure that health risks on park users are not significant. The FEIR's analysis determined that the freeway is downwind of the park approximately 80% of the time when the park is operating. Furthermore, the majority of active use areas are located more than 300 feet from the freeway, beyond the area where CARB considers potential adverse health risks to be greatest for sensitive individuals. The park has been redesigned to remove the playground and basketball courts from the area within 300 feet of the freeway.

CQL37

Section 3.6.5 of the FEIR provides the project's mitigation measures that reduce potential significant impacts associated with hazardous materials onsite due to previous site use. These significant effects are described in Section 3.6.4. The mitigation measures address effects related to on-site soil contamination that resulted from prior use of the project site.

N. Cumulative impacts

"The full environmental impact of a proposed ... action cannot be gauged in a vacuum." *Whitman v. Board of Supervisors* (1979) 88 Cal. App. 3d 397, 408. CEQA requires consideration and analysis of cumulative impacts. CEQA Guidelines 15130. Among other things, the City should provide a "summary of the expected environmental effects to be produced ... with specific reference to additional information stating where that information is available" and it should "examine reasonable options for mitigating or avoiding any significant cumulative effects ...." *Id.* § 15130(b). The FEIR has failed to consider the cumulative impacts of the Project in relation to other approved projects, which are likely to be significant.

CQL 38

O. Alternatives

CEQA requires that an EIR "produce information sufficient to permit a reasonable choice of alternatives so far as environmental aspects are concerned." *San Bernardino Valley Audubon Society v. County of San Bernardino* (1984) 155 Cal.App.3d 738, 750 – 51. "[T]he discussion of alternatives shall focus on alternatives to the project or its location which are capable of avoiding or substantially lessening any significant effects of the project, even if these alternatives would impede to some degree the attainment of the project objectives, or would be more costly." CEQA Guidelines § 15126.6(b). "Without meaningful analysis of alternatives in the EIR, neither the courts nor the public can fulfill their proper roles in the CEQA process." *Laurel Heights Improvement Assoc. v. University of California* (1988) 47 Cal.3d 376, 404.

CQL 39

Here, the Project and its objectives are defined too narrowly, thereby resulting in a narrowing of the consideration of alternatives to the Project. *See Rural Landowners Assoc. v. City Council* (1983) 143 Cal.App.3d 1013, 1024 ("Responsibility for a project cannot be avoided merely by limiting the title or description of the project"). The Project objectives listed on page 2-4 of the FEIR emphasize athletic fields and "active park uses" to such an extent that there is no ability to consider alternatives that provide a balance between recreational uses and other park uses. In fact, five of the six Project objectives focus on athletic uses. Also, the objectives emphasize maximizing the number and use of athletic fields and maximizing use of recreational facilities during park hours. The only reference to non-athletic uses is a vague reference to "other desired features of the park site."

Additionally, CEQA contains a "substantive mandate" that agencies refrain from approving a project with significant environmental effects if "there are feasible alternatives or mitigation measures" that can substantially lessen or avoid those effects. *Mountain Lion Foundation v. Fish and Game Comm.* (1997) 16 Cal.4th 105, 134; Pub. Res. Code § 21002. It "requires public agencies to deny approval of a project with significant adverse effects when feasible alternatives or feasible mitigation measures can substantially lessen such effects." *Sierra Club v. Gilroy* (1990) 222 Cal.App.3d 30, 41. The DEIR fails to consider a viable reduced ball field intensive alternative. It is

CQL 40

CQL38
Chapter 5 of the FEIR addresses cumulative impacts of the project and expected cumulative environmental effects in conjunction with existing, pending, and reasonably foreseeable projects in the study area. Where significant cumulative effects occur, Chapter 5 provides mitigation measures to address these impacts. The list of other projects analyzed in conjunction with the proposed project is included in Section 5.3 of Chapter 5. All relevant projects in the surrounding area were included in the analysis.

CQL39
The project objectives are intended to address the shortage of active park uses within the City, Section 2.4.1 of the FEIR describes the current shortage of active park uses in the City. It should be noted that Chapter 7 of the FEIR evaluates the Reduce Intensity Alternative and Citizens for Quality of Life Alternatives, whose design provides significantly more passive uses than the proposed project. Chapter 7 thus presents a range of alternatives that offer differing balances of active and passive uses.

The project objectives do not necessarily rule out the provision of passive uses and the assertion that 5 of the 6 project objective focus on athletic uses is inaccurate. Two of the six project objectives (Objectives #1 and #2) emphasize the need for active park use of the project. Other desired features in Objective #2 include passive uses. Objectives #3 and #4 do not focus on the provision of active uses. Recreational facilities, as described in Objective #5, may consist of active or passive park uses. Although the park buffer cited in Objective #6 is a passive use, it is necessary for the active uses.

CQL40
Two of the alternatives included in Chapter 7 of the FEIR specifically reduce the number of ballfields and overall intensity of park use. One of these alternatives is the Reduced Intensity Alternative and the second is the Citizen's for Quality of Life Alternative. Both of these alternatives were found to reduce some project impacts and attain the project objectives, though not to the same extent as the proposed project.

insufficient to assert that the Reduced Intensity Alternative does not meet all the Project objectives. FEIR at 7-38. "Because an EIR must identify ways to mitigate or avoid the significant effects that a project may have on the environment [], the discussion of alternatives shall focus on alternatives to the project or its location which are capable avoiding or substantially lessening any significant effects of the project, even if these alternatives would impede to some degree the attainment of the project objectives, or would be more costly." CEQA Guidelines § 15126.6(b) (emphasis added). The FEIR should provide sufficient evidence, including an analysis of other scenarios to address the alleged "need for athletic fields in Encinitas," showing why and how a reduced intensity alternative is impracticable. "An environmentally superior alternative cannot be deemed infeasible absent evidence the additional costs or lost profits are so severe the project would become impractical." *Kings County Farm Bureau*, 221 Cal.App.3d at 736.

CQL 41

The FEIR fails to consider another location for the Project. CEQA Guidelines § 15126.6(f)(2). It also fails to consider an alternative that would reduce traffic trips and address greenhouse gases and other impacts by siting and/or improving sports fields in other locations. Reducing the number of athletics events at this site, while providing sports venues at other sites, could reduce impacts associated with traveling farther distances. Multiple sports fields throughout the City and the region would allow for people to travel shorter distances to a field near their own home. Indeed, the Godbe Report indicated that there are over 25 soccer fields within the City alone and an even greater number in the area. An alternative that allowed for the use of these other fields, perhaps with the City providing maintenance services or other means to defray the costs associated with the use of fields at area schools, could greatly reduce traffic, noise, greenhouse emissions and other impacts.

CQL 42

Additionally, CEQA requires that the "no project" alternative "discuss the existing conditions ..., as well as what would be reasonably expected to occur if the project were not approved, based on current plans and consistent with available infrastructure and community services." CEQA Guidelines § 15126.6(e)(2). The FEIR does not consider a "no project" alternative consistent with this requirement. For example, the No Project-Development of Residential Per Zoning Alternative assumes development at a level that is inconsistent with available infrastructure and community services.

CQL 43

P. Mitigation

The FEIR's analysis and deferral of mitigation was unsupported. Deferring the preparation of mitigation is improper under CEQA, except in limited circumstances where "practical considerations prohibit devising measures early in the planning process (e.g., at the general plan amendment or rezone stage)." *Sacramento Old City Assn. v. City Council of Sacramento* (1991) 229 Cal. App. 3d 1011, 1028; *see also* CEQA Guidelines § 15126.4(a)(1)(B).

CQL 44

CQL41
Chapter 7, Alternatives, of the FEIR includes a total of seven project alternatives which either avoid or reduce project impacts. The FEIR indicates that the Reduced Intensity Alternative and the Citizen's for Quality of Life Alternative are both equally considered to be the environmentally superior alternative. These alternatives were found to be the environmentally superior alterative because they both reduce the same number of environmental impacts when compared to the proposed project as summarized in Table 7-2 of the FEIR. The FEIR states that these two alternatives would both meet the project objectives, though not to the same degree as the proposed project.

CQL42
Section 7.7 of the FEIR evaluates the off-site Strawberry Fields Alternative. The appellant's suggestion for the City to utilize other off-site locations having sports fields has been considered and is currently ongoing. The City has long standing joint-use agreements with the Cardiff, Encinitas and San Dieguito School Districts. The City has no jurisdiction or control over maintenance practices for these fields. The community uses these fields due to a lack of fields owned and operated by the City. The condition of the fields owned by school districts is not subject to City maintenance standards. Because the City cannot control the maintenance practices of other existing fields in the Encinitas community, the reliability and adequate condition of these fields cannot be guaranteed. In addition, the City developed, maintains and operates Paul Ecke Sports Park under a 25-year lease agreement. The current lease expires On August 1, 2014 and has the options to extend the lease for an additional 10-year period, upon mutual consent. The City has had preliminary discussions with the YMCA and all indications are that the lease will be extended.

CQL43
Existing conditions for the No Project-Development of Residential Per Zoning Alternative are identical to the environmental setting conditions described in Section 2.1 of the FEIR. For this project alternative, it is anticipated that available infrastructure and community services would be developed to serve the project. The appellant provides no evidence to support the conclusion that this alternative is inconsistent with available infrastructure and community service levels.

CQL44
The FEIR does not defer mitigation measures. The FEIR and Mitigation Monitoring and Reporting Program provide timing requirements that ensure mitigation measures are implemented before the significant impacts occur.

CQL 45 Traffic mitigation proposed for the alley off Santa Fe Drive does not address west bound traffic turning into the site uncontrolled against the steady east bound traffic. There is no mitigation proposed for traffic on MacKinnon.

Q. Responses to Comments

CQL 46 The responses to comments were insufficient in many instances, refusing to address important comments. For example, when faced with comments about traffic impacts, the EIR preparers claimed that it is "standard [City] practice not to build a church for Easter Sunday." Response to Comment # B4-14; *see also* Response to Comment # B4-3. "Where comments from responsible experts or sister agencies disclose new or conflicting data or opinions that cause concern that the agency may not have fully evaluated the project and its alternatives, these comments may not simply be ignored. There must be good faith, reasoned analysis in response." *Cleary v. County of Stanislaus* (1981) 118 Cal.App.3d 348, 357 (emphasis in original).

R. Recirculation

CQL 47 Recirculation of an EIR is required whenever the lead agency adds significant new information. Pub. Res. Code § 21092.1. The Project and FEIR have been revised significantly and the FEIR should be recirculated. Among other things, the Project now contains certain proposed mitigation related to intersection improvements and additional information has been placed in the FEIR in this regard. *See* Response to Comment # A1-5. The City's failure to recirculate the EIR prior to certification would deny the public "an opportunity to test, assess, and evaluate the data and make an informed judgment as to the validity of the conclusions to be drawn therefrom." *Sutter Sensible Planning, Inc. v. Board of Sup.* (1981) 122 Cal.App.3d 813, 822.

CONCLUSION

For the foregoing reasons, Citizens for Quality of Life requests that the Coastal Commission amend the City Council's decisions regarding the Project and FEIR. Thank you for your consideration of this appeal.

Sincerely,

Signature on file

CQL45
Table 3.2-12 of the FEIR indicates that, with the traffic mitigation measure provided at the Santa Fe Drive/Alley intersection, level of service operating conditions would be acceptable. Pages 122 and 123 (Table 17-19/17-20) as well as corresponding worksheets in (Appendix T) of the FEIR's traffic study (Appendix B) provides the analyses that support this conclusion.

CQL46
The City responded to over 1,600 individual comments on the Draft EIR and Recirculated Draft EIR. In accordance with CEQA, the City provided a good faith, reasoned analysis in responding to the comments. In addition, where comments identified areas requiring additional analysis not previously provided in the EIR, that analysis and information was added to the FEIR.

CQL47
The City recirculated the Draft EIR to provide the public with opportunity to review and comment on additional analysis that was conducted regarding greenhouse gas emissions and health risk impacts related to air quality. Subsequent to circulation of the Draft EIR, the project's site plan was modified to remove the playground and basketball courts in the southern portion of the project site; however, these minor revisions reduced the intensity of the project design and did not result in the need to modify the FEIR's conclusions on environmental effects of the project. No new impacts were created and the severity of impacts was not increased. Other revisions that were made to the Draft EIR were minor and are reflected in underline and strikeout in the FEIR. These changes thus did not warrant recirculation.

Furthermore, the mitigation measures proposed for the Santa Fe Drive/Alley intersection were included in the project's traffic study (Appendix B) that was circulated for public review. The respective mitigation measures in the Draft EIR were modified to be consistent with measures contained in the traffic study. In response to Caltrans' comment letter on the Draft EIR, the provision of fair-share contributions toward future Interstate 5 freeway interchange improvements were added to the traffic mitigation measures. The addition of the fair-share contributions to the mitigation measures merely supplements the measures provided in the Draft EIR. The City's financial contribution to future interchange improvements does not result in significant impacts on the environment. The modification of these mitigation measures did not result in any new significant impacts or an increase in the severity of the project's impacts and thus do not warrant recirculation.

RESOLUTION NO. 2008-61

A RESOLUTION OF THE CITY OF ENCINITAS CITY COUNCIL APPROVING A MAJOR USE PERMIT, DESIGN REVIEW, AND COASTAL DEVELOPMENT PERMIT FOR THE PROPOSED CONSTRUCTION OF A COMMUNITY PARK TO INCLUDE A MIXTURE OF ACTIVE AND PASSIVE USES INCLUDING SOFTBALL/BASEBALL FIELDS, MULTI-USE TURF FIELDS, A TEEN CENTER, A DOG PARK, AN AMPHITHEATRE, A SKATE PARK, A POSSIBLE AQUATIC FACILITY, GARDENS, PICNIC AREAS, TRAILS, AND A SCENIC OVERLOOK, FOR THE PROPERTY LOCATED AT 425 SANTA FE DRIVE

(CASE NO. 04-197 MUP/DR/CDP/EIA;
APN: 260-183-01 to -03, -05 to -08, -24 to -33; 260-650-01)

WHEREAS, a request for consideration of a Major Use Permit, Design Review, and Coastal Development Permit was filed by the City of Encinitas Parks and Recreation Department to allow the construction of a community park to include a mixture of active and passive uses including softball/baseball fields, multi-use turf fields, a teen center, a dog park, an amphitheatre, a skate park, a possible aquatic facility, gardens, picnic areas, trails, and a scenic overlook, in accordance with Chapters 23.08 (Design Review), 30.74 (Use Permit), and 30.80 (Coastal Development Permit) of the Encinitas Municipal Code, for the property located in the Residential 3 (R-3) zone, the Scenic/Visual Corridor Overlay Zone, and the Coastal Zone, with portions of the property within the appeal jurisdiction of the California Coastal Commission, legally described as:

ALL THAT REAL PROPERTY IN THE CITY OF ENCINITAS, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, GRANTED TO THE CITY OF ENCINITAS AS DESCRIBED IN THE GRANT DEEDS RECORDED IN THE SAN DIEGO COUNTY RECORDER'S OFFICE AS DOCUMENT NO. 2001-0339389, NO. 2001-0339390, NO. 2001-0339391, AND NO. 2001-0339392, ALL RECORDED MAY 25, 2001; DOCUMENT NO. 2001-0621427, RECORDED AUGUST 30, 2001; AND DOCUMENT NO. 2002-0007241, RECORDED JANUARY 4, 2002.

WHEREAS, the Planning Commission conducted a public hearing on the application on September 3, 2008 and September 9, 2008; and

WHEREAS, the Planning Commission voted to deny the application and certify the Final EIR for the project on September 9, 2008; and

WHEREAS, the Planning Commission adopted Resolution No. PC 2008-28 denying the proposed project and adopted Resolution No. PC 2008-29 to certify the Final EIR on September 18, 2009; and

WHEREAS, appeals of the Planning Commission decisions were filed by the Parks and Recreation Department on September 22, 2008, by the Encinitas Soccer League on October 2, 2008, and by the Law Offices of Everett L. DeLano III on behalf of Citizens for Quality of Life on October 6, 2008, all filed with the City Clerk in a timely manner prior to the expiration of the 15-day appeal period; and

EXHIBIT NO. 8
APPLICATION NO.
A-6-ENC-08-106
City Resolution of Approval 2008-61
Page 1 of 28
California Coastal Commission

WHEREAS, the City Council conducted a noticed public hearing on the application on October 20, 2008 and October 22, 2008, at which time all those desiring to be heard were heard; and

WHEREAS, the City Council considered, without limitation:

1. The October 20, 2008 agenda report to City Council with attachments;

2. The General Plan, Local Coastal Program, Municipal Code, and associated Land Use Maps;

3. Oral evidence submitted at the hearing;

4. Written evidence submitted at the hearing;

5. Project plans consisting of three (3) sheets, including Site Plan, Grading Plan, and Landscape Plan, all dated received by the City of Encinitas on August 11, 2008; and

WHEREAS, the City Council made the following findings pursuant to Chapters 23.08, 30.74, and 30.80 of the Encinitas Municipal Code:

(SEE ATTACHMENT "A")

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Encinitas hereby approves application Case No. 04-197 MUP/DR/CDP/EIA subject to the following conditions:

(SEE ATTACHMENT "B")

BE IT FURTHER RESOLVED that the City Council, in its independent judgment, finds the project to be consistent with the Environmental Impact Report prepared for the project and certified as complete by the City Council on October 22, 2008, Resolution No. 2008-62.

PASSED AND ADOPTED this 22nd day of October, by the following vote, to wit:

AYES: Bond, Dalager, Stocks

NAYS: Barth, Houlihan

ABSENT: None

ABSTAIN: None

Signature on file

Jerome Stocks, Mayor

ATTEST:

Signature on file

Deborah Cervone
City Clerk

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

I, Deborah Cervone, City Clerk of the City of Encinitas, California do hereby certify under penalty of perjury that the above and foregoing is a true and correct copy of this document on file in my office. In witness whereof, I have set my hand and the Seal of the City of Encinitas this 23rd day of Oct, 2008.
Deborah Cervone, City Clerk *Signature on file*

ATTACHMENT "A"
Resolution No. 2008-61
Case No. 04-197 MUP/DR/CDP/EIA

FINDINGS FOR A USE PERMIT

STANDARD: In accordance with Section 30.74.070 of the Municipal Code, a use permit application shall be approved unless findings of fact are made, based upon the information presented in the application or during the hearing, which support one or more of the following conclusions:

1. The location, size, design or operating characteristics of the proposed project will be incompatible with or will adversely affect or will be materially detrimental to adjacent uses, residences, buildings, structures or natural resources, with consideration given to, but not limited to:

a. The inadequacy of public facilities, services and utilities to serve the proposed project;

b. The unsuitability of the site for the type and intensity of use or development which is proposed; and

c. The harmful effect, if any, upon environmental quality and natural resources of the city;

Facts: The applicant proposes the construction of a community park to include a variety of active and passive uses on the approximately 44-acre project site. Active components in the park will include softball/baseball fields, multi-use turf fields, a teen center, a dog park, an amphitheatre, a skate park, and a possible aquatic facility. Passive elements of the park will include gardens, picnic areas, trails, and a scenic overlook. Grading for the project will generally maintain the existing topography and drainage patterns. Expected traffic from the proposed park will have direct and cumulative significant impacts on several intersections and street segments in the area. Mitigation measures for the project require street improvements to offset these impacts. Impacts to the freeway interchanges at Santa Fe Drive and Birmingham Drive are expected to be mitigated by the future improvement and widening of Interstate 5 by Caltrans, but are considered significant and unavoidable impacts since the City cannot ensure that the improvements will take place. Vehicular access will be provided at the southeastern corner of the park at MacKinnon Avenue and at the northwestern corner to the park an existing alley to the west of the shopping center would be developed into an access drive for the park. Both access points will comply with Engineering and Fire Department standards for vehicular and emergency access. A park access road and parking lots will be located along the northerly and easterly park boundaries. A total of 419 parking spaces will be provided on the park site in several lots, with larger lots next to larger park features. As demonstrated in the Traffic Impact Analysis for the project, included as Appendix B of the EIR, the proposed parking spaces would exceed the minimum of 264 parking spaces required to meet the typical expected peak

parking demand. For special events that may have a parking demand in excess of the 419 parking spaces provided, off-site parking and shuttle service will be a requirement addressed through the special event operations permit application process. Pedestrian access will be provided at each vehicular entry and another pedestrian access would connect to the existing City trail through the riparian area of the Cardiff Glen residential development to the west of the project. General park lighting will be provided for safety and security throughout the park on buildings, along trails, within the dog park, and within parking lots. No athletic field lighting is currently proposed. All necessary public services and utilities are available to serve the project, including recycled water for irrigation use.

The surrounding neighborhood consists of Interstate 5 to the east, a shopping center and Santa Fe Drive to the north, and residential development to the west and south. Active uses within the park are generally sited on the northern and eastern portions of the site, closer to the freeway and commercial uses and further from the residential areas. A six-(6) foot masonry wall will be provided around the dog park area to mitigate potential noise impacts. Additionally, new or existing masonry walls will be located along the northern park boundary to separate the site from the commercial center and along the majority of the southern and western boundaries of the park to provide a buffer and separation from the adjacent residential areas. Extensive landscape buffer areas would be provided along the western and southern park boundaries, and between the park access road and the freeway on the eastern park boundary.

The park will be open from 5:00 AM to 10:00 PM, seven (7) days a week. Active uses such as the dog park and athletic fields will not open until 8:00 AM and special events will not occur until after 8:00 AM. The amphitheatre use hours would begin at 10:00 AM and end at 9:00 PM Sunday through Thursday and at 10:00 PM on Friday and Saturday. Special events could occur at the park with the issuance by the City of a special event operations permit until 12:00 AM (midnight) on Fridays and Saturdays. These types of events would occur indoors such as at the proposed teen center. Outdoor events would be limited to daylight hours unless athletic field lighting were proposed and approved, in which case events would be limited to the allowed lighting hours, until 10:00 PM. The park site would be staffed with a Park Host, expected to live onsite in a recreational vehicle to monitor park use and activities and to contact the appropriate authorities in the event of suspicious activities. The Park Host trailer is anticipated to be located near the teen center in the northwest corner of the park. Part-time staff to supervise events and activities would be expected with development of the teen and aquatic centers. Contracted maintenance of the park would occur 7 days a week with use of motorized maintenance equipment limited to between the hours of 7:00 AM and 3:00 PM Monday through Saturday and prohibited on Sundays and holidays. A 60-foot by 60-foot maintenance yard for equipment storage and a refuse collection enclosure would be located in the northeast corner of the park on the northern side of the access road and adjacent to the freeway. The yard would include a 1,200 square-foot enclosed structure

Discussion: The project site is relatively flat and open and is well suited to accommodate athletic fields and recreation areas. Grading for the park will be balanced on the project site and no significant import or export of soils is expected. The site design for the park places

active uses generally closer to the commercial areas and freeway and further from adjacent residential uses to reduce the potential of any impact or disturbance of the residential areas by park use. Generous landscaping buffers and masonry walls, both new and existing, will be placed along park boundaries with residential areas and will provide visual and noise barriers. Park hours and use hours of certain uses and special events would be restricted to ensure compatibility with the adjacent residential areas. Park maintenance would also occur during restricted time periods to avoid disturbance of park neighbors. Parking provided will meet expected demand and off-site parking with shuttle service will be required for larger events. The project site provides ample room to develop and accommodate the proposed uses while providing a substantial and effective buffer to the adjacent residential development. Other than freeway interchange impacts, traffic and circulation impacts will be reduced below levels of environmental significance with implementation of mitigation measures for street improvements. Freeway interchange improvements are expected to be implemented by Caltrans in the future but the significant traffic impacts to the freeway interchanges are considered significant and unavoidable since the City cannot ensure construction of the improvements. In certifying the EIR for the proposed project, the City Council found that, although significant traffic impacts would be unavoidable at freeway interchanges, the benefits of the Through Access on Mackinnon Avenue Alternative of the project outweigh its unavoidable significant effects. The location, design, and operating characteristics of the proposed project would ensure that the project would be compatible with and not be materially detrimental to adjacent uses.

Conclusion: The City Council finds that the Through Access on Mackinnon Avenue Alternative of the proposed community park will be compatible with and will not adversely affect or be materially detrimental to adjacent uses, residences, buildings, structures or natural resources.

2. The impacts of the proposed project will adversely affect the policies of the Encinitas General Plan or the provisions of the Municipal Code; and

3. The project fails to comply with any other regulations, conditions, or policies imposed by the Municipal Code.

Facts: The applicant proposes the construction of a community park to include a variety of active and passive uses on the approximately 44-acre project site. Active components in the park will include softball/baseball fields, multi-use turf fields, a teen center, a dog park, an amphitheatre, a skate park, and a possible aquatic facility. Passive elements of the park will include gardens, picnic areas, trails, and a scenic overlook. Grading for the project will generally maintain the existing topography and drainage patterns. A total of 419 parking spaces would be provided on the park site in several lots, with larger lots next to larger park features. Active uses within the park are generally sited on the northern and eastern portions of the site, closer to the freeway and commercial uses and further from the residential areas. A six- (6) foot masonry wall will be provided around the dog park area to mitigate potential noise impacts. Additionally, new or existing masonry walls will be located along the northern park boundary to separate the site from the commercial center and along the majority of the southern and western boundaries of the park to

provide a buffer and separation from the adjacent residential areas. Extensive landscape buffer areas would be provided along the western and southern park boundaries, and between the park access road and the freeway on the eastern park boundary.

As demonstrated in the Traffic Impact Analysis for the project, included as Appendix B of the EIR, the proposed parking spaces would exceed the minimum of 264 parking spaces required to meet the typical expected peak parking demand. For special events that may have a parking demand in excess of the 419 parking spaces provided, off-site parking and shuttle service would be a requirement addressed through the special event operations permit application process. Expected traffic from the proposed park will have direct and cumulative significant impacts on several intersections and street segments in the area. Mitigation measures for the project require street improvements to offset these impacts. Impacts to the freeway interchanges at Santa Fe Drive and Birmingham Drive are expected to be mitigated by the future improvement and widening of Interstate 5 by Caltrans, but are considered significant and unavoidable impacts since the City cannot ensure that the improvements will take place.

A public park may be allowed in the subject Residential 3 (R-3) zone with the issuance of a Major Use Permit. The site design, grading, and landscaping are subject to Design Review. Since the property lies within the City's Coastal Zone, issuance of a Coastal Development Permit is required.

Discussion: The City has been actively pursuing development of a community park to help fulfill the need for dedicated community park space and active recreational facilities as identified in the City's General Plan. According to the updated Specialized Facilities Needs Assessment prepared in 2007, included as a part of Appendix P of the project EIR, the City has a shortage of dedicated community park space and active recreational facilities. The Needs Assessment identified the need for multiple athletic fields for baseball, softball, soccer, and football. Additionally, the City currently has a shortage of special use park space per capita in comparison to General Plan policies (3.2 acres of special use park per 1,000 residents existing vs. General Plan policy of a minimum of 5.0 acres / 1,000 residents). The proposed community park will increase the amount of special use parkland to 3.9 acres per 1,000 residents and would help to alleviate, but not fulfill, the identified need for athletic fields and facilities.

The proposed project complies with and will not adversely affect the policies of the General Plan and the provisions of the Municipal Code. The site design for the park places active uses generally closer to the commercial areas and freeway and further from adjacent residential uses to reduce the potential of any impact or disturbance of the residential areas by park use. Generous landscaping buffers and masonry walls, both new and existing, will be placed along park boundaries with residential areas and will provide visual and noise barriers. Park hours and use hours of certain uses and special events would be restricted to ensure compatibility with the adjacent residential areas. Park maintenance would also occur during restricted time periods to avoid disturbance of park neighbors. Parking provided will meet expected demand and off-site parking with shuttle service will be required for larger events. Other than freeway interchange impacts, traffic and circulation impacts will be

reduced below levels of environmental significance with implementation of mitigation measures for street improvements. Freeway interchange improvements are expected to be implemented by Caltrans in the future but the significant traffic impacts to the freeway interchanges are considered significant and unavoidable since the City cannot ensure construction of the improvements. In certifying the EIR for the proposed project, the City Council found that, although significant traffic impacts would be unavoidable at freeway interchanges, the benefits of the Through Access on Mackinnon Avenue alternative of the project outweigh its unavoidable significant effects.

The project would fulfill the needs for recreational facilities identified in the General Plan and would comply with applicable General Plan land use policies. The park project as proposed complies with all applicable development standards applicable in the subject R-3 zone and would be developed in compliance with the provisions of the Municipal Code. The proposed uses are permitted within the subject R-3 zone with approval of the Major Use Permit, Design Review, and Coastal Development Permit request. Findings to approve the Design Review and Coastal Development Permit can be found below. The project is consistent with the policies of the Municipal Code and the General Plan. Compliance with applicable Building and Fire codes will be secured through the standard plan checking process.

Conclusion: The City Council finds that the Through Access on Mackinnon Avenue Alternative of the proposed project complies with and will not adversely affect the policies of the Encinitas General Plan or the provisions of the Municipal Code or any other regulations, conditions, or policies imposed by the Municipal Code.

FINDINGS FOR DESIGN REVIEW

<u>STANDARD</u>: Section 23.08.080 of the Encinitas Municipal Code provides that an application for a design review permit must be granted unless, based upon the information presented in the application and during the Public Hearing, the authorized agency makes any of the following regulatory conclusions:

a. The project design is inconsistent with the General Plan, a Specific Plan, or the provisions of the Municipal Code.

Facts: The applicant proposes the construction of a community park to include a variety of active and passive uses on the approximately 44-acre project site. Active components in the park will include softball/baseball fields, multi-use turf fields, a teen center, a dog park, an amphitheatre, a skate park, and a possible aquatic facility. Passive elements of the park will include gardens, picnic areas, trails, and a scenic overlook. Grading for the project will generally maintain the existing topography and drainage patterns. A total of 419 parking spaces would be provided on the park site in several lots, with larger lots next to larger park features. Active uses within the park are generally sited on the northern and eastern portions of the site, closer to the freeway and commercial uses and further from the residential areas. A six- (6) foot masonry wall will be provided around the dog park area to mitigate potential noise impacts. Additionally, new or existing masonry walls will be located along the northern park boundary to separate the site from the commercial center and along the majority of the southern and western boundaries of the park to provide a buffer and separation from the adjacent residential areas. Extensive landscape buffer areas would be provided along the western and southern park boundaries, and between the park access road and the freeway on the eastern park boundary.

As demonstrated in the Traffic Impact Analysis for the project, included as Appendix B of the EIR, the proposed parking spaces would exceed the minimum of 264 parking spaces required to meet the typical expected peak parking demand. For special events that may have a parking demand in excess of the 419 parking spaces provided, off-site parking and shuttle service would be a requirement addressed through the special event operations permit application process. Expected traffic from the proposed park will have direct and cumulative significant impacts on several intersections and street segments in the area. Mitigation measures for the project require street improvements to offset these impacts. Impacts to the freeway interchanges at Santa Fe Drive and Birmingham Drive are expected to be mitigated by the future improvement and widening of Interstate 5 by Caltrans, but are considered significant and unavoidable impacts since the City cannot ensure that the improvements will take place.

A public park may be allowed in the subject Residential 3 (R-3) zone with the issuance of a Major Use Permit. The site design, grading, and landscaping are subject to Design Review. Since the property lies within the City's Coastal Zone, issuance of a Coastal Development Permit is required.

Discussion: The City has been actively pursuing development of a community park to help fulfill the need for dedicated community park space and active recreational facilities as identified in the City's General Plan. According to the updated Specialized Facilities Needs Assessment prepared in 2007, included as a part of Appendix P of the project EIR, the City has a shortage of dedicated community park space and active recreational facilities. The Needs Assessment identified the need for multiple athletic fields for baseball, softball, soccer, and football. The Needs Assessment identified the need for multiple athletic fields for baseball, softball, soccer, and football. Additionally, the City currently has a shortage of special use park space per capita in comparison to General Plan policies (3.2 acres of special use park per 1,000 residents existing vs. General Plan policy of a minimum of 5.0 acres / 1,000 residents). The proposed community park will increase the amount of special use parkland to 3.9 acres per 1,000 residents and would help to alleviate, but not fulfill, the identified need for athletic fields and facilities.

The project complies with the policies of the General Plan and the provisions of the Municipal Code. The site design for the park places active uses generally closer to the commercial areas and freeway and further from adjacent residential uses to reduce the potential of any impact or disturbance of the residential areas by park use. Generous landscaping buffers and masonry walls, both new and existing, will be placed along park boundaries with residential areas and will provide visual and noise barriers. Park hours and use hours of certain uses and special events would be restricted to ensure compatibility with the adjacent residential areas. Park maintenance would also occur during restricted time periods to avoid disturbance of park neighbors. Parking provided will meet expected demand and off-site parking with shuttle service will be required for larger events. Other than freeway interchange impacts, traffic and circulation impacts will be reduced below levels of environmental significance with implementation of mitigation measures for street improvements. Freeway interchange improvements are expected to be implemented by Caltrans in the future but the significant traffic impacts to the freeway interchanges are considered significant and unavoidable since the City cannot ensure construction of the improvements. In certifying the EIR for the proposed project, the City Council found that, although significant traffic impacts would be unavoidable at freeway interchanges, the benefits of the Through Access on Mackinnon Avenue alternative of the project outweigh its unavoidable significant effects.

The proposed project will comply with all development standards applicable in the subject R-3 zone. The proposed uses are permitted within the subject R-3 zone with approval of the Major Use Permit, Design Review, and Coastal Development Permit request. Findings to approve the Design Review and Coastal Development Permit can be found herein. The project is consistent with the policies of the Municipal Code and the General Plan. Compliance with applicable Building and Fire codes will be secured through the standard plan checking process. There is no specific plan applicable to the subject property.

Conclusion: The City Council finds that the project design is consistent with the General Plan and the provisions of the Municipal Code.

b. The project design is substantially inconsistent with the Design Review Guidelines.

Facts: The applicant proposes the construction of a community park to include a variety of active and passive uses on the approximately 44-acre project site. Active components in the park will include softball/baseball fields, multi-use turf fields, a teen center, a dog park, an amphitheatre, a skate park, and a possible aquatic facility. Passive elements of the park will include gardens, picnic areas, trails, and a scenic overlook. Grading for the project will generally maintain the existing topography and drainage patterns. Active uses within the park are generally sited on the northern and eastern portions of the site, closer to the freeway and commercial uses and further from the residential areas. A six-(6) foot masonry wall will be provided around the dog park area to mitigate potential noise impacts. Additionally, new or existing masonry walls will be located along the northern park boundary to separate the site from the commercial center and along the majority of the southern and western boundaries of the park to provide a buffer and separation from the adjacent residential areas. Extensive landscape buffer areas would be provided along the western and southern park boundaries, and between the park access road and the freeway on the eastern park boundary. The proposed teen and aquatic centers would be pursued in the future and would require submittal, review and approval of an application for a Design Review and Coastal Development Permit.

Discussion: The project is consistent with the Design Guidelines as follows:

Site Planning: The proposed site plan is predominantly open turf areas for athletic fields and landscaped areas for aesthetic enhancement and visual buffers to adjacent uses. Active uses will generally be located in the eastern and northern portions of the site, closer to the freeway and commercial uses to the north and further from the residential uses adjacent to the site on the south and west. Proposed building locations will be separated sufficiently to provide opportunity for ample, landscaped open space. The park will have three (3) access points for pedestrians and trails located throughout the park. Parking areas are well designed and include perimeter, median, and island landscaping for screening and aesthetic enhancement. The project is considerate of existing ground level view corridors and will enhance the overall appearance of the site and area. The project design includes a scenic overlook at the southeastern corner of the site. Landscaping and masonry walls are utilized as buffers to noise and visual impacts along the westerly and southerly project boundaries, adjacent to residential development. Landscaping will be utilized to create a visual buffer between the park access road and the freeway to the east. The maintenance and storage facility for the park will be located north of the access road, adjacent to the neighboring commercial shopping center and freeway. Refuse and recyclables containers will be placed throughout the park and gathered at the refuse storage area in the maintenance facility for pick up by trash disposal services.

Grading: The site design will follow and typically maintain the existing topography with some leveling to create playing fields, building pads, and parking lots and will generally maintain the current drainage pattern into the existing low-lying area near Rossini Creek. The grading of the site will involve approximately 126,000 cubic yards of earth in a balanced grading operation (excavated soil would serve as fill in other areas of the site) that is not expected to involve significant quantities of imported or exported soil.

Circulation, Parking, Streetscape: The project will have access at the north via a driveway to Santa Fe Drive and directly to MacKinnon Avenue at the south. The park access road will run along the eastern portion of the park site, connecting the access points and providing entrance to the various parking areas. The access street and parking areas are well landscaped along the perimeter and include planted medians and islands. Due to the location of the parking lots and ample landscaping for screening, the parking areas will be minimally visible from off the park site. Walking paths will be provided from the parking areas to park amenities.

Architecture: Only basic park structures such as restrooms, concessions, picnic tables, gazebos, etc. will be provided initially. These features will be consistent with typical City of Encinitas park structures as demonstrated in the photographs attached to the September 3, 2008 project agenda report as Exhibit PC-7. The future teen and aquatic centers would require approval of a Design Review and Coastal Development Permit application at the time of proposed construction.

Lighting: General park lighting will be provided for safety and security throughout the park on buildings, along trails, within the dog park, and within parking lots. All lighting will be shielded and directed to prevent glare to adjacent properties and streets. Lighting will be consistent with the park amenities as shown in Exhibit PC-7.

Landscape: The project plant palette includes a wide variety of plantings, including native and drought tolerant varieties. All plantings will be watered by an automatic irrigation system connected to the City's recycled water system. Landscaping is effectively utilized in the project to provide aesthetic and visual enhancement and serve as a visual buffer between active park uses and adjacent residential areas. Access drives and parking areas will be well planted along the perimeter and will include planted medians and islands, but driver visibility would be maintained. Due to the location of the parking lots and ample landscaping for screening, the parking areas will be minimally visible from off the park site. Plantings in the trail areas of the park will provide ground level view corridors with shade protection from taller, canopy trees. Drainage for the project will be guided generally along the existing natural drainage course to the low point of the site near the Rossini Creek riparian area in the Cardiff Glen residential development. Best Management Practice (BMP) measures for storm water treatment will be utilized throughout the park to provide opportunity for removal of contaminants and pollution from waters exiting from the park.

Conclusion: The City Council finds that the project is substantially consistent with the Design Guidelines.

c. The project would adversely affect the health, safety, or general welfare of the community.

Facts: The applicant proposes the construction of a community park to include a variety of active and passive uses on the approximately 44-acre project site. Active components in the park will include softball/baseball fields, multi-use turf fields, a teen center, a dog park, an amphitheatre, a skate park, and a possible aquatic facility. Passive elements of the park will include gardens, picnic areas, trails, and a scenic overlook.

Discussion: The proposed project will provide for community recreational opportunities, which will provide a positive contribution to the health and general welfare of the community. The City has been actively pursuing development of a community park to help fulfill the need for dedicated community park space and active recreational facilities as identified in the City's General Plan. According to the updated Specialized Facilities Needs Assessment prepared in 2007, included as a part of Appendix P of the project EIR, the City has a shortage of dedicated community park space and active recreational facilities. The Needs Assessment identified the need for multiple athletic fields for baseball, softball, soccer, and football. Additionally, the City currently has a shortage of special use park space per capita in comparison to General Plan policies (3.2 acres of special use park per 1,000 residents existing vs. General Plan policy of a minimum of 5.0 acres / 1,000 residents). The proposed community park will increase the amount of special use parkland to 3.9 acres per 1,000 residents and would help to alleviate, but not fulfill, the identified need for athletic fields and facilities.

The site design for the park places active uses generally closer to the commercial areas and freeway and further from adjacent residential uses to reduce the potential of any impact or disturbance of the residential areas by park use. Generous landscaping buffers and masonry walls, both new and existing, will be placed along park boundaries with residential areas and will provide visual and noise barriers. Park hours and use hours of certain uses and special events would be restricted to ensure compatibility with the adjacent residential areas. Park maintenance would also occur during restricted time periods to avoid disturbance of park neighbors. Parking provided will meet expected demand and off-site parking with shuttle service will be required for larger events. Other than freeway interchange impacts, traffic and circulation impacts will be reduced below levels of environmental significance with implementation of mitigation measures for street improvements. Freeway interchange improvements are expected to be implemented by Caltrans in the future but the significant traffic impacts to the freeway interchanges are considered significant and unavoidable since the City cannot ensure construction of the improvements. In certifying the EIR for the proposed project, the City Council found that, although significant traffic impacts would be unavoidable at freeway interchanges, the benefits of the Through Access on Mackinnon Avenue alternative of the project outweigh its unavoidable significant effects.

Conclusion: The City Council finds that the project would not adversely affect the health, safety, or general welfare of the community

d. The project would cause the surrounding neighborhood to depreciate materially in appearance or value.

Facts: The applicant proposes the construction of a community park to include a variety of active and passive uses on the approximately 44-acre project site. Active components in the park will include softball/baseball fields, multi-use turf fields, a teen center, a dog park, an amphitheatre, a skate park, and a possible aquatic facility. Passive elements of the park will include gardens, picnic areas, trails, and a scenic overlook. Grading for the project will generally maintain the existing topography and drainage patterns. General park lighting will be provided for safety and security throughout the park on buildings,

along trails, within the dog park, and within parking lots. No athletic field lighting is currently proposed. All necessary public services and utilities are available to serve the project, including recycled water for irrigation use. Active uses within the park are generally sited on the northern and eastern portions of the site, closer to the freeway and commercial uses and further from the residential areas. A six- (6) foot masonry wall will be provided around the dog park area to mitigate potential noise impacts. Additionally, new or existing masonry walls will be located along the northern park boundary to separate the site from the commercial center and along the majority of the southern and western boundaries of the park to provide a buffer and separation from the adjacent residential areas. Extensive landscape buffer areas would be provided along the western and southern park boundaries, and between the park access road and the freeway on the eastern park boundary.

Discussion: The site design for the park places active uses generally closer to the commercial areas and freeway and further from adjacent residential uses to reduce the potential of any impact or disturbance of the residential areas by park use. Generous landscaping buffers and masonry walls, both new and existing, will be placed along park boundaries with residential areas and will provide visual and noise barriers. The project will maintain the overall open space nature of the site. Grading will largely maintain the general lay of the land as it now exists. Implementation of the project including proposed landscaping will enhance the visual appearance of the site and provide a visual connection to the natural features of the neighborhoods to the south and west. Overall, the project will be a visual enhancement of the site and area and site planning with active uses sited away from adjacent residential uses and separated from the same with a landscaped buffer will ensure compatibility of the project with the surrounding neighborhood.

Conclusion: The City Council finds that the proposed project will not cause the surrounding neighborhood to depreciate materially in appearance or value.

FINDINGS FOR A COASTAL DEVELOPMENT PERMIT

<u>STANDARD</u>: Section 30.80.090 of the Municipal Code provides that the authorized agency must make the following findings of fact, based upon the information presented in the application and during the Public Hearing, in order to approve a coastal development permit:

1. The project is consistent with the certified Local Coastal Program of the City of Encinitas; and

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

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.

   Facts: The applicant proposes the construction of a community park to include a variety of active and passive uses on the approximately 44-acre project site. Active components in the park will include softball/baseball fields, multi-use turf fields, a teen center, a dog park, an amphitheatre, a skate park, and a possible aquatic facility. Passive elements of the park will include gardens, picnic areas, trails, and a scenic overlook. Grading for the project will generally maintain the existing topography and drainage patterns. Expected traffic from the proposed park will have direct and cumulative significant impacts on several intersections and street segments in the area. Mitigation measures for the project require street improvements to offset these impacts. Impacts to the freeway interchanges at Santa Fe Drive and Birmingham Drive are expected to be mitigated by the future improvement and widening of Interstate 5 by Caltrans, but are considered significant and unavoidable impacts since the City cannot ensure that the improvements will take place. Vehicular access will be provided at the southeastern corner of the park at MacKinnon Avenue and at the northwestern corner to the park an existing alley to the west of the shopping center would be developed into an access drive for the park. Both access points will comply with Engineering and Fire Department standards for vehicular and emergency access. A park access road and parking lots will be located along the northerly and easterly park boundaries. A total of 419 parking spaces will be provided on the park site in several lots, with larger lots next to larger park features. As demonstrated in the Traffic Impact Analysis for the project, included as Appendix B of the EIR, the proposed parking spaces would exceed the minimum of 264 parking spaces required to meet the typical expected peak parking demand. For special events that may have a parking demand in excess of the 419 parking spaces provided, off-site parking and shuttle service will be a requirement addressed through the special event operations permit application process. Pedestrian access will be provided at each vehicular entry and another pedestrian access would connect to the existing City trail through the riparian area of the Cardiff Glen residential development to the west of the project. General park lighting will be provided for safety and security

throughout the park on buildings, along trails, within the dog park, and within parking lots. No athletic field lighting is currently proposed. All necessary public services and utilities are available to serve the project, including recycled water for irrigation use.

The surrounding neighborhood consists of Interstate 5 to the east, a shopping center and Santa Fe Drive to the north, and residential development to the west and south. Active uses within the park are generally sited on the northern and eastern portions of the site, closer to the freeway and commercial uses and further from the residential areas. A six-(6) foot masonry wall will be provided around the dog park area to mitigate potential noise impacts. Additionally, new or existing masonry walls will be located along the northern park boundary to separate the site from the commercial center and along the majority of the southern and western boundaries of the park to provide a buffer and separation from the adjacent residential areas. Extensive landscape buffer areas would be provided along the western and southern park boundaries, and between the park access road and the freeway on the eastern park boundary.

The park will be open from 5:00 AM to 10:00 PM, seven (7) days a week. Active uses such as the dog park and athletic fields will not open until 8:00 AM and special events will not occur until after 8:00 AM. The amphitheatre use hours would begin at 10:00 AM and end at 9:00 PM Sunday through Thursday and at 10:00 PM on Friday and Saturday. Special events could occur at the park with the issuance by the City of a special event operations permit until 12:00 AM (midnight) on Fridays and Saturdays. These types of events would occur indoors such as at the proposed teen center. Outdoor events would be limited to daylight hours unless athletic field lighting were proposed and approved, in which case events would be limited to the allowed lighting hours, until 10:00 PM. The park site would be staffed with a Park Host, expected to live onsite in a recreational vehicle to monitor park use and activities and to contact the appropriate authorities in the event of suspicious activities. The Park Host trailer is anticipated to be located near the teen center in the northwest corner of the park. Part-time staff to supervise events and activities would be expected with development of the teen and aquatic centers. Contracted maintenance of the park would occur 7 days a week with use of motorized maintenance equipment limited to between the hours of 7:00 AM and 3:00 PM Monday through Saturday and prohibited on Sundays and holidays. A 60-foot by 60-foot maintenance yard for equipment storage and a refuse collection enclosure would be located in the northeast corner of the park on the northern side of the access road and adjacent to the freeway. The yard would include a 1,200 square-foot enclosed structure

A public park may be allowed in the subject Residential 3 (R-3) zone with the issuance of a Major Use Permit. The site design, grading, and landscaping are subject to Design Review.

Discussion: The City has been actively pursuing development of a community park to help fulfill the need for dedicated community park space and active recreational facilities as identified in the City's General Plan. According to the updated Specialized Facilities Needs Assessment prepared in 2007, included as a part of Appendix P of the project EIR, the City has a shortage of dedicated community park space and active recreational facilities. The

Needs Assessment identified the need for multiple athletic fields for baseball, softball, soccer, and football. Additionally, the City currently has a shortage of special use park space per capita in comparison to General Plan policies (3.2 acres of special use park per 1,000 residents existing vs. General Plan policy of a minimum of 5.0 acres / 1,000 residents). The proposed community park will increase the amount of special use parkland to 3.9 acres per 1,000 residents and would help to alleviate, but not fulfill, the identified need for athletic fields and facilities. In conformance with policies of the Recreational Element of the General Plan, the park would help the City to provide a full range of recreation opportunities throughout the area and balancing natural and recreation park uses.

The site design for the park places active uses generally closer to the commercial areas and freeway and further from adjacent residential uses to reduce the potential of any impact or disturbance of the residential areas by park use. Generous landscaping buffers and masonry walls, both new and existing, will be placed along park boundaries with residential areas and will provide visual and noise barriers. Park hours and use hours of certain uses and special events would be restricted to ensure compatibility with the adjacent residential areas. Park maintenance would also occur during restricted time periods to avoid disturbance of park neighbors. Parking provided will meet expected demand and off-site parking with shuttle service will be required for larger events. The park, which would have significant amounts of open areas and generous landscaping, would be consistent with low-density residential development and the project would not cause infringement on views or vistas in the I-5 corridor, in conformance with applicable policies of the Land Use Element of the General Plan. The project would enhance the visual quality of the site and area, help avoid the creation of a totally urbanized landscape, and maintain the sense of spaciousness within the I-5 corridor, which would comply with applicable policies of the Land Use Element and with provisions of the Scenic/Visual Corridor Overlay Zone.

The City conducted an initial study that determined significant environmental effects could occur from implementation of the project and an Environmental Impact Report (EIR) was prepared. As a part of the EIR process, several alternatives were considered to the initially proposed project and the Through Access on MacKinnon Avenue Alternative was selected since that alternative exhibited decreased traffic and circulation impacts. Excluding traffic and circulation impacts, all significant impacts will be mitigated to below significance through project design and implementation of mitigation measures identified in the project EIR. Other than freeway interchange impacts, traffic and circulation impacts will be reduced below levels of environmental significance with implementation of mitigation measures for street improvements. Freeway interchange improvements are expected to be implemented by Caltrans in the future but the significant traffic impacts to the freeway interchanges are considered significant and unavoidable since the City cannot ensure construction of the improvements. In certifying the EIR for the proposed project, the City Council found that, although significant traffic impacts would be unavoidable at freeway interchanges, the benefits of the Through Access on Mackinnon Avenue alternative of the project outweigh its unavoidable significant effects.

The park project as proposed complies with all applicable development standards of the subject Residential 3 (R-3) zone and would be developed in compliance with the provisions of the Municipal Code, including the Zoning Regulations. The proposed project will comply with all development standards applicable in the subject R-3 zone. The proposed

uses are permitted within the subject R-3 zone with approval of the Major Use Permit, Design Review, and Coastal Development Permit request. Findings to approve the Major Use Permit and Design Review can be found herein. The project is consistent with the policies of the Municipal Code and the General Plan. Compliance with applicable Building and Fire codes will be secured through the standard plan checking process. The project is not located between sea or other body of water and the nearest public road. The proposed project would be in compliance with the applicable policies of the General Plan, the Zoning Regulations, and the Scenic/Visual Corridor Overlay Zone, and therefore would be consistent with the City's certified LCP.

Conclusion: The City Council finds that 1) the project is consistent with the certified Local Coastal program of the City of Encinitas; 2) that feasible mitigation measures will be implemented as required with the project which will mitigate significant adverse impacts that the activity may have on the environment; and 3) finding No. 3 is not applicable to the project since it is not located between the sea or other body of water and the nearest public road.

ATTACHMENT "B"
Resolution No. 2008-61
Case No. 04-197 MUP/DR/CDP/EIA

Applicant: City of Encinitas Parks and Recreation Department

Location: 425 Santa Fe Drive (APN: 260-183-01 to -03, -05 to -08, -24 to -33; 260-650-01)

SC1 **SPECIFIC CONDITIONS:**

SC5 This project is conditionally approved as set forth on the application and project drawings stamped received by the City on August 11, 2008 consisting of three (3) sheets including Site Plan, Grading Plan, and Landscape Plan, all designated as approved by the City Council on October 22, 2008 and shall not be altered without express authorization by the Planning and Building Department.

SCA The mitigation measures identified in the Mitigation Monitoring and Reporting Program (MMRP) adopted with certification of the project Environmental Impact Report (EIR) by Resolution No. 2008-62, adopted by the City of Encinitas City Council on October 22, 2008, and attached to said Resolution as Attachment "B" shall be completed in the manner and according to the timing stipulated in the MMRP.

SCB The following conditions shall be completed to the specification of the City Engineer:

1. A draft water quality and drainage report dated December 14, 2005 has been submitted to the Engineering Department for review. The draft report does not propose a drainage system to be utilized in the ultimate design of the park due to the schematic nature of the existing architectural design. The water quality and treatment section of the draft report discusses the conceptual design of the water quality system, but no calculations for the sizing of the system are provided. The conceptual design of the water quality system meets State of California and City of Encinitas requirements and relies upon natural treatment which is highly effective and provides ease of maintenance and operation.
2. A hydrology, drainage, and water quality report shall be prepared upon completion of the park design. Said report shall provide the details of the drainage system including the impacts on the downstream drainage system and the sizing of the storm drain structures and the conveyance system. The report shall also provide flow characteristics of the collection and conveyance system. If a detention basin will be proposed to regulate flow from the site, flow routing through the basin and staging calculations shall be provided. The final water quality report shall provide calculations showing the 85th percentile flows and shall verify that the proposed biolfiltration system is sized to provide a minimum of 5 minutes of travel time through the filter media.
3. In order to improve the water treatment capability, the proposed rip-rap channel along the westerly property boundary may be replaced by a geotextile-reinforced grass channel. The reinforced grass channel may be used in areas where the anticipated flow velocity does not exceed 12 ft/sec and should be designed to receive runoff from the proposed paved and hardscape areas.

4. Runoff from the proposed roof, paved, and hardscape areas shall receive storm water treatment prior to discharge from the site. Suggested BMP strategies include routing runoff to the lawn and landscape areas for treatment, replacing traditional pavement areas with pervious pavement over a permeable crushed rock base, and utilizing the proposed dry creek area as a treatment area.

SCC The following conditions shall be completed and/or fulfilled to the specification of the San Dieguito Water District (District):

1. The developer shall show all existing and proposed water facilities on improvement or grading plans for District Approval.
2. A hydraulic analysis shall be required for the proposed development. The results of the analysis shall dictate the approved design of the water systems.
3. The developer shall install the water system according to District standards, and dedicate to the District the portion of the water system which is to be public.
4. The developer shall dedicate to the district all necessary easements for that portion of the water system which is to be public water.
5. The developer shall comply with the District's fees, charges, rules and regulations.
6. All water meters shall be located in front of the parcel they are serving and outside of any existing or proposed travel way. Cost of relocation shall be the responsibility of the developer.
7. A backflow prevention device must be installed and certified prior to final inspection.
8. District Ordinance No. 94-01 states that the use of potable water on landscaping areas may be deemed an unreasonable use where reclaimed water, where feasible, when it becomes available. The owner is required to install landscaping irrigation to reclaimed water standards in those areas that are to be served by reclaimed water.

SCD Final landscape and irrigation plans shall include a signature block showing the name, address, and phone number of the applicant; the name, firm, address, telephone number, state license number, expiration date and signature of the state licensed landscape architect, irrigation designer or landscape contractor; and address or parcel number of the project. The signature block shall be signed by the State licensed landscape professional, certifying that the project substantially conforms to the provisions of Chapter 23.26 of the Municipal Code.

SCE Upon completion of the installation of the landscaping and the irrigation system, a final field observation shall be conducted and a certification of substantial completion shall be provided to the City. The certificate shall specifically indicate that plants were installed as specified and that the irrigation system was installed as designed. The certificate of substantial completion shall be completed and signed by a State licensed landscape architect, landscape contractor, or an irrigation designer who also holds a State license in the landscape field.

SCF Park maintenance activities that involve motorized maintenance equipment shall be limited to the hours of 7:00 AM to 3:00 PM, Monday through Saturday, and shall be prohibited on Sundays and holidays.

SCG As per discussion at the October 20, 2008 City Council hearing, the proposed six- (6) foot masonry wall along the perimeter of the park shall be extended along the entirety of the westerly boundary of the park.

SCH The proposed skate park shall be provided in the first phase of the project, contingent on funding availability and within the scope analyzed in the Final EIR for the project.

SCI The areas proposed for the future development of the aquatic and teen centers shall be developed with picnic tables and passive use in the interim until such time that the centers are developed.

SCJ The Hall family home located on the property shall be preserved on the property for now, until such time that Council provides direction as to the ultimate disposition of the home.

G1 **STANDARD CONDITIONS:**

CONTACT THE PLANNING AND BUILDING DEPARTMENT REGARDING COMPLIANCE WITH THE FOLLOWING CONDITIONS:

G2 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.

G3 This project is located within the Coastal Appeal 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 Planning Commission's decision must be filed with the Coastal Commission within 10 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.

G5 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.

G12 Prior to any use of the project site pursuant to this permit, all conditions of approval contained herein shall be completed or secured to the satisfaction of the Planning and Building Department.

G14 A plan shall be submitted for approval by the Planning and Building Department, the Engineering Services Department, and the Fire Department regarding the security treatment of the site during the construction phase, the on- and off-site circulation and parking of construction workers' vehicles, and any heavy equipment needed for the construction of the project.

G16 Parking lot layout shall meet the standards of the Municipal Code and the Off Street Parking Design Manual.

G17 In accordance with the provisions of the Off-Street Parking Design Manual, all parking spaces (except handicapped spaces) shall be delineated by double-line striping consisting of 4-inch wide painted white lines 1 to 2 feet apart, and all parking areas with more than one row of parking spaces shall have directional signs or painted directional arrows where one way travel is necessary to guide traffic, all of which shall be indicated in building plans and found satisfactory by the Planning and Building Department prior to final approval of the project's building permit. Adjacent to the sides of the parking lot landscape islands, stalls shall be provided with a 12-inch wide concrete strip adjacent to the island's curb.

G21 All utility connections shall be designed to coordinate with the architectural elements of the site so as not to be exposed except where necessary. Locations of pad mounted transformers, meter boxes, and other utility related items shall be included in the site plan submitted with the building permit application with an appropriate screening treatment. Transformers, terminal boxes, meter cabinets, pedestals, ducts and other facilities may be placed above ground provided they are screened with landscaping.

L1 The project is subject to Chapter 23.26 of the Municipal Code (Water Efficient Landscape Program), which requires a landscape and irrigation plan to be prepared by a State licensed landscape designer. The requirements for the plans are listed in Chapter 23.26. The landscape and irrigation plans including the required signature block of the State licensed landscape designer must be submitted as part of the building permit application for the project.

L2 All required plantings and automated irrigation systems shall be in place prior to use or occupancy of new buildings or structures. All required plantings and automated irrigation systems shall be maintained in good condition, and whenever necessary, shall be replaced with new materials to ensure continued compliance with applicable landscaping, buffering, and screening requirements. All landscaping and irrigation systems shall be maintained in a manner that will not depreciate adjacent property values and otherwise adversely affect adjacent properties. All irrigation lines shall be installed and maintained underground (except drip irrigation systems).

L4(a) All landscaping, fences, walls, etc. on the site, in any adjoining public parkways (the area between the front property line and the street) shall be permanently maintained. The maintenance program shall include normal care and irrigation of the landscaping; repair and replacement of plant materials and irrigation systems as necessary; and general cleanup of the landscaped and open areas, parking lots and walkways, walls, fences, etc. Failure to maintain landscaping and the site in general may result in the setting of a public hearing to revoke or modify the approval.

L5 All masonry freestanding or retaining walls visible from points beyond the project site shall be treated with a protective sealant coating to facilitate graffiti removal. The sealant shall be

of a type satisfactory to the Engineering and Planning and Building Departments. The property owner shall be responsible for the removal in a timely manner of any graffiti posted on such walls.

U3 Upon a showing of compelling public necessity demonstrated at a noticed hearing, the City of Encinitas, acting through the authorized agency, may add, amend, or delete conditions and regulations contained in this permit.

U4 Nothing in this permit shall relieve the applicant from complying with conditions and regulations generally imposed upon activities similar in nature to the activity authorized by this permit.

U5 Nothing in this permit shall authorize the applicant to intensify the authorized activity beyond that which is specifically described in this permit.

U7 Any future modifications to the approved project will be reviewed relative to the findings for substantial conformance with a use permit contained in Section 30.74.105 of the Municipal Code. Modifications beyond the scope described therein will require submittal of an amendment to the use permit and approval by the authorized agency.

U8 All project grading shall conform with that shown on the approved project plans. If no grading is proposed on the approved plans, or subsequent grading plans are inconsistent with the grading shown on the approved plans, a use permit modification for such grading shall be obtained from the authorized agency of the City prior to issuance of grading or building permits.

DR1 Any future modifications to the approved project will be reviewed relative to the findings for substantial conformance with a design review permit contained in Section 23.08.140 of the Municipal Code. Modifications beyond the scope described therein may require submittal of an amendment to the design review permit and approval by the authorized agency.

B1 **BUILDING CONDITION:**

CONTACT THE ENCINITAS BUILDING DIVISION REGARDING COMPLIANCE WITH THE FOLLOWING CONDITION:

B2 The applicant shall submit a complete set of construction plans to the Building Division for plancheck processing. The submittal shall include a Soils/Geotechnical Report, structural calculations, and State Energy compliance documentation (Title 24). Construction plans shall include a site plan, a foundation plan, floor and roof framing plans, floor plan(s), section details, exterior elevations, and materials specifications. Submitted plans must show compliance with the latest adopted editions of the California Building Code (The Uniform Building Code with California Amendments, the California Mechanical, Electrical and Plumbing Codes). Commercial and Multi-residential construction must also contain details and notes to show compliance with State disabled accessibility mandates. These comments

are preliminary only. A comprehensive plancheck will be completed prior to permit issuance and additional technical code requirements may be identified and changes to the originally submitted plans may be required.

F1 **FIRE CONDITIONS:**

CONTACT THE ENCINITAS FIRE DEPARTMENT REGARDING COMPLIANCE WITH THE FOLLOWING CONDITIONS:

F2 **ACCESS ROAD MINIMUM DIMENSIONS:** Fire apparatus access roads shall have an unobstructed improved width of not less than 24 feet; curb line to curb line, and an unobstructed vertical clearance of not less than 13 feet 6 inches. Exception: Single-Family residential driveways; serving no more than four single-family dwellings, shall have minimum of 16 feet, curb line to curb line, of unobstructed improved width. Access roads shall be designed and maintained to support the imposed loads of not less than 75,000 pounds.

F5 **GRADE:** The gradient for a fire apparatus access roadway shall not exceed 20.0%. Grades exceeding 15.0% (incline or decline) shall not be permitted without mitigation. Minimal mitigation shall be a surface of Portland cement concrete, with a deep broom finish perpendicular to the entire direction of travel. Additional mitigation measures may be required where deemed appropriate. The angle of departure and angle of approach of a fire access roadway shall not exceed seven degrees (12 percent).

F6 **GATES:** All gates or other structures or devices, which could obstruct fire access roadways or otherwise hinder emergency operations, are prohibited unless they meet standards approved by the Fire Department. Gates across fire access roadways shall be automatic and equipped with approved emergency key operated switches overriding all command functions and opens the gate(s). Power supply shall be connected to a reliable municipal source. Gates accessing four (4) or more residences or residential lots, or gates accessing hazardous, institutional, and educational or assembly occupancy group structures, shall also be equipped with approved emergency traffic control activating strobe sensor(s), which will activate the gate on the approach of emergency apparatus with a battery back-up or manual mechanical disconnect in case of power failure. All automatic gates must meet Fire Department requirements for rapid, reliable access. Where this Section requires an approved key-operated switch, it shall be dual keyed or dual switches with covers provided to facilitate access by law enforcement personnel.

F8 **CONSTRUCTION MATERIALS:** Prior to delivery of combustible building construction materials to the project site all of the following conditions shall be completed to the satisfaction of the Fire Department:

1. All wet and dry utilities shall be installed and approved by the appropriate inspecting department or agency;
2. As a minimum the first lift of asphalt paving shall be in place to provide a permanent all weather surface for emergency vehicles; and

3. All fire hydrants shall be installed, in service and accepted by the Fire Department and applicable water district.

F9 **POSTING OR STRIPPING ROADWAYS "NO PARKING FIRE LANE":** Fire Department access roadways, when required, shall be properly identified as per Encinitas Fire Department standards.

F10 **OBSTRUCTION OF ROADWAYS DURING CONSTRUCTION:** All roadways shall be a minimum of 24 feet in width during construction and maintained free and clear, including the parking of vehicles, in accordance with the California Fire Code and the Encinitas Fire Department.

F11 **FIRE HYDRANTS AND FIRE FLOWS:** The applicant shall provide fire hydrants of a type, number, and location satisfactory to the Encinitas Fire Department. A letter from the water agency serving the area shall be provided that states the required fire flow is available. Fire hydrants shall be of a bronze type. Multi-family residential or industrial fire hydrants shall have two (2) 4" inch and two (2) 2 ½" inch NST outlets. Residential fire hydrants shall have one (1) 4" inch NST outlet, and one (1) 21/2" inch NST outlets.

F13 **ADDRESS NUMBERS:** STREET NUMBERS: Approved numbers and/or addresses shall be placed on all new and existing buildings and at appropriate additional locations as to be plainly visible and legible from the street or roadway fronting the property from either direction of approach. Said numbers shall contrast with their background, and shall meet the following minimum standards as to size: 4" high with a 3/8" stroke for residential buildings, 8" high with a ½" stroke for commercial and multi-family residential buildings, 12" high with a 1" stroke for industrial buildings. Additional numbers shall be required where deemed necessary by the Fire Marshal, such as rear access doors, building corners, and entrances to commercial centers.

F14 **ADDRESS NUMBERS FOR STRUCTURES LOCATED OFF ROADWAY:** Where structures are located off a roadway on long easements/driveways, a monument marker shall be placed at the entrance where the easement/driveway intersects the main roadway. Permanent address numbers with height conforming to Fire Department standards shall be affixed to this marker.

F18 **CLASS "A" ROOF:** All structures shall be provided with a Class "A" Roof covering to the satisfaction of the Encinitas Fire Department.

E1 **ENGINEERING CONDITIONS:**

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

E2 All City Codes, regulations, and policies in effect at the time of building/grading permit issuance shall apply.

E3 All drawings submitted for Engineering permits are required to reference the NAVD 88 datum; the NGVD 29 datum will not be accepted.

EG1 **Grading Conditions**

EG3 The owner shall obtain a grading permit prior to the commencement of any clearing or grading of the site.

EG4 The grading for this project is defined in Chapter 23.24 of the Encinitas Municipal Code. Grading shall be performed under the observation of a civil engineer whose responsibility it shall be to coordinate site inspection and testing to ensure compliance of the work with the approved grading plan, submit required reports to the Engineering Services Director and verify compliance with Chapter 23.24 of the Encinitas Municipal Code.

EG5 No grading shall occur outside the limits of the project unless a letter of permission is obtained from the owners of the affected properties.

EG6 Separate grading plans shall be submitted and approved and separate grading permits issued for borrow or disposal sites if located within city limits.

EG7 All newly created slopes within this project shall be no steeper than 2:1.

EG8 A soils/geological/hydraulic report (as applicable) shall be prepared by a qualified engineer licensed by the State of California to perform such work. The report shall be submitted with the first grading plan submittal and shall be approved prior to issuance of any grading permit for the project.

EG9 Prior to hauling dirt or construction materials to any proposed construction site within this project the owner shall submit to and receive approval from the Engineering Services Director for the proposed haul route. The owner shall comply with all conditions and requirements the Engineering Services Director may impose with regards to the hauling operation.

EG10 In accordance with Section 23.24.370 (A) of the Municipal Code, no grading permit shall be issued for work occurring between October 1st of any year and April 15th of the following year, unless the plans for such work include details of protective measures, including desilting basins or other temporary drainage or control measures, or both, as may be deemed necessary by the field inspector to protect the adjoining public and private property from damage by erosion, flooding, or the deposition of mud or debris which may originate from the site or result from such grading operations.

ED1 **Drainage Conditions**

ED2 The owner shall exercise special care during the construction phase of this project to prevent any offsite siltation. The owner shall provide erosion control measures and shall construct temporary desiltation/detention basins of type, size and location approved by the

Engineering Services Director. The basins and erosion control measures shall be shown and specified on the grading plan and shall be constructed to the satisfaction of the Engineering Services Director prior to the start of any other grading operations. Prior to the removal of any basins or facilities so constructed, the area served shall be protected by additional drainage facilities, slope erosion control measures and other methods required or approved by the Engineering Services Director. The owner shall maintain the temporary basins and erosion control measures for a period of time satisfactory to the Engineering Services Director and shall guarantee their maintenance and satisfactory performance by cash deposit and bonding in amounts and types suitable to the Engineering Services Director.

ED3 A drainage system capable of handling and disposing of all surface water originating within the project site, and all surface waters that may flow onto the project site from adjacent lands, shall be required. Said drainage system shall include any easements and structures required by the Engineering Services Director to properly handle the drainage.

ED5 The owner shall pay the current local drainage area fee prior to issuance of the building permit for this project or shall construct drainage systems in conformance with the Master Drainage Plan and City of Encinitas Standards as required by the Engineering Services Director.

EU1 **Utilities**

EU2 The owner shall comply with all the rules, regulations, and design requirements of the respective utility agencies regarding services to the project.

EU3 The owner shall be responsible for coordination with S.D.G. & E., AT&T, and other applicable authorities.

ESW1 **Storm Water Pollution Control Conditions**

ESW2 Grading projects with a disturbed area of greater than 1 acre must also meet additional requirements from the State Water Resources Control Board (SWRCB). Those additional requirements include filing a Notice of Intent (NOI) and preparing a Stormwater Pollution Prevention Plan (SWPPP) for review and approval by the City.

ESW4 Priority Projects shall implement a single or a combination of storm water Best Management Practice methods in order to reduce to the maximum extent practicable the quantity of pollutants entering the public storm drain system or any receiving body of water supporting beneficial uses. All Priority Projects shall construct and implement a structural treatment control BMP, such as natural bio-filtration system or a treatment detention basin, designed to infiltrate, filter, or treat a quantity of storm runoff equal to or greater than the volume generated by a 0.6" precipitation storm event in a duration of twenty-four hours or the maximum flow rate produced by a rainfall of 0.2 inches during each hour of a storm event. The filtration system shall be designed based upon best management practice standards and must be approved by the City Engineer. A covenant approved by the City shall be recorded against the property to ensure the professional maintenance, repair, and replacement of the storm water quality BMP as necessary into perpetuity. The covenant shall also detail the funding mechanism for the required maintenance. A **Grading Plan** identifying all landscape areas designed for storm water pollution control (SWPC) and Best Management Practice shall be submitted to the City

for Engineering Services Department approval. A note shall be placed on the plans indicating that the modification or removal of the SWPC facilities without a permit from the City is prohibited.

ESW9 For storm water pollution control purposes, all runoff from all roof drains shall discharge onto grass and landscape areas prior to collection and discharge onto the street and/or into the public storm drain system. Grass and landscape areas designated for storm water pollution control shall not be modified without a permit from the City. A note to this effect shall be placed on the **Grading and Building Permit site** plan.

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DEC 17 2008
CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

John Georgeson
129 Five Crowns Way
Encinitas, CA 92024

December 15, 2008

TO: California Coastal Commission
Gary Cannon
7575 Metropolitan Dr. Ste. 103
San Diego, CA 92108
Ref: #A-6-ENC-08-106
Hall Property Community Park

Dear Gary,

The Environmental Impact Report for the Hall Property provides a balance of active recreational uses with passive uses for the community of Encinitas. Reviewing the dimensions of the playing fields reveals only 21% of the 44 acres would be active use fields. The need for these fields is clearly stated in the City of Encinitas' General Plan which stipulates the number of fields the city should have for a variety of athletic activities. One example is soccer which the General Plan states should have one field for every ten thousand residents, the city currently has over 62,000 residents which equates to six fields for soccer use alone. The city has one field dedicated to soccer, Leo Mullen. You can go on through the list of baseball, football, volleyball, basketball, etc. and the inventory of fields and facilities is woefully lacking.

Making the deficiency in active use parks most noticeable is the fact the city has numerous passive parks (16) and only three active use facilities, Leo Mullen, Cardiff Sports Park and Paul Ecke YMCA. The city did not build any of the active use facilities; Leo Mullen was built by the Carltas Development Group in exchange for being permitted to build the Encinitas Ranch Shopping Center, Cardiff Sports Park was built by private residents prior to incorporation of Encinitas and the YMCA was built by the Ecke family and private citizens. The city is responsible for providing the maintenance of these facilities.

The kids need a skate park as well as the athletic fields, the city has two small skate facilities; one at the YMCA and the other in Leucadia. During non-school hours these two facilities are packed with kids.

The Environmental Impact Report compares the current site in its vacant condition versus a completely built out park. Worst case scenarios were examined and reported, example, traffic studies were conducted during the busiest times of the day and evening as well as Saturday. We know that most people will not be going to the park during these peak periods but spread out during the day. The key areas of traffic concern are the on and off ramps to the I-5 freeway at Birmingham Drive and Santa Fe Drive. These traffic issues will be resolved by Cal Trans when the I-5 freeway widening project is undertaken. The significant impacts of building the park out completely increase slightly from the current vacant lot situation. The project is designed to be built in two phases which reduces the impacts contained in the report and provides the city the opportunity to monitor the impacts. The other item to consider are the mitigation measures the city will imploy to reduce significant impacts to a less than significant level.

The City of Encinitas has spent more than $500,000.00 and two and one half years on producing the Environmental Impact Report. Numerous workshops, two city planning commission meetings and a City Council meeting were also conducted by the city. I urge you to approve this project as currently designed.

Sincerely,

Signature on file

John Georgeson

CC

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COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Michael and Celeste Ferris
341 Horizon Drive
Encinitas, CA 92024

Gary Cannon
7575 Metropolitan Drive
Suite 103
San Diego, CA 92108

Reference # A-6-ENC-08-106

December 15, 2008

Dear Gary,

We are writing advocating the need for the completion of the Hall Property to include all of the sports/soccer fields. There is a desperate need for this area to support the ever growing need for athletic space for the community. We believe that this a very good thing for our city as it continues to allow all of residents a great place to use and to raise our children.

We ask that you do not delay any more this valuable space as we are continually being Strained by the capacity of our field right now. We love Encinitas and we feel that building the fields and skate park will only enhance it.

Thank you for your consideration

Mike and Celeste Ferris

Signature on file

CC

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CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

12/12/08

Just to reiterate we need more fields in Encinitas to meet recreational needs of our community. We truly need them ASAP!

Thank you,

Kent + Tanya Feldman
1702 Steuna Cryn Dr
Enc. Ca 92024

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COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Gary Cannon
7575 Metropolitan Dr. Ste 103
San Diego Ca 92108
Ref #A-6-Enc-08-106

I have been a resident of Encinitas since 1992 and have lived here off and on since attending UCSD in 1972. In all that time, the city has built one soccer field (though they have acquired the use of several others) and one small skate park in a city of nearly 60,000.

The Hall Property project was essentially designed in 2002 and since then the process has been on hold as the surrounding neighbors have fought the development. Their quest for delay now continues with this Coastal Commission appeal. I believe that the city has designed a balanced-use park that can serve many elements of the city.

The Hall Property Park was never intended to be a neighborhood park, but has always been intended to serve the unmet needs of the citizens of Encinitas. For instance, its development would enable the city to have field space during the winter when the city's other two parks are closed for renovation.

In addition to fields for both baseball and soccer (and any other sport or activity that requires a grass field), the park would have facilities for skaters, a playground for youngsters and areas for further development.

Additionally, if we cannot build fields along the freeway and adjacent to a commercial development, where can you build such a park in this city. I urge the Coastal Commission to reject this appeal.

Sincerely yours,

Signature on file

Rick Lochner
233 Countryhaven Rd.
Encinitas Ca 92024

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CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Elke and Jim Chenevey

3205 Rim Rock Circle

Encinitas, CA 92024

858/756-1336

California Coastal Commission

c/o Gary Cannon

7575 Metropolitan Drive

Ste 103

San Diego, CA 92108

REF: #A-6-ENC-08-106

Dear California Coastal Commission:

We are writing today to urge the Coastal Commission to support the use of the Hall property in Encinitas for playing fields. Our community has a tremendous unmet need for sports fields- soccer, baseball, etc. Such facilities are a direct investment in our future- our youth. As we also seek to reduce the demands on our fragile coastline- minimal construction as is the case with playing fields, would seem to be the proper use of this land resource. Please provide the leadership that is needed to resolve this ongoing issue. Please take action to designate the Hall Property for playing fields. Thank you.

Sincerely,

Signature on file *Signature on file*

Gary Cannon
7575 Metropolitan Dr. Ste. 103
San Diego Ca 92108
ref # A-6-enc-08-106

RECEIVED
DEC 1 8 2008
CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Dear Mr. Cannon,

The children of Encinitas badly need the playing fields at the Hall Property.. As it stands now, the city has 16-17 passive use parks .....and only 1 full size dedicated soccer field. These fields would open up active sports to more children in two ways:

Rent would no longer have to be paid for school fields., This would lower the costs of sports and allow more kids to participate and.....

More fields would allow leagues to accommodate more kids !

Sincerely,

Signature on file

Zach Taylor
901 Stratford Dr
Encinitas Ca 92024

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CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Gary Cannon
7575 Metropolitan Dr. Ste 103
San Diego Ca 92108
Ref #A-6-Enc-08-106

To Whom It May Concern:

I am a 16 year resident of Encinitas. I have four children who are involved in youth sports. I believe the City of Encinitas desperately needs additional sports fields. There is a significant lack of fields for all types of sports, and, often times, our children are practicing their sports in surrounding communities and on inadequate fields.

The Hall Property is a perfect place to have sports fields, a skate park and a dog park as well as walking trails. The planned park meets many needs of a city that is woefully lacking in sports fields. With the increasing rate of obesity in children, one tangible way to combat this is to get children outside and playing sports.

I continue to see the fabulous benefits that my children and their friends achieve from playing sports, and the bond that has been created in the community amongst the families whose children participate. However, the lack of available fields causes many families to not participate. It is ridiculous that a community the size of Encintas is so deficient in fields; I truly hope that the Hall Property becomes a reality while my children can take advantage of the incredible opportunity this park will provide.

Sincerely,
Signature on file
Robin Coykendall
3664 Lorimer Lane
Encinitas,CA 92024

Gary Cannon
7575 Metropolitan Dr. Ste. 103
San Diego Ca 92108
ref # A-6-enc-08-106

RECEIVED
DEC 1 8 2008
CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Dear Mr. Cannon:

My wife and I have been residents of Encinitas since 1997 and have three children that play competitive soccer. While the current facilities are very well maintained there are not enough of them to adequately provide for convenient practice times and weekend games. For example my daughter's U12 team practiced from 7P-8:30P one year, in my opinion this practice time is too late for a child of that age to reasonably attend, as well as complete homework, and get an adequate amount of sleep.

The Hall property project is really the only solution to this issue as well as providing benefits for numerous other recreational activities, from baseball to playgrounds for very young children. It is too bad that a small vocal minority has been allowed to prevent this project from proceeding on schedule and has cost the city so much extra money and many Encinitas residents so much extra time.

In the end the park will be built if that is what the majority of citizens desires, please help expedite this process and get the park built without any further delays.

Signature on file

Scott and Stephanie Bloom
319 Via Andalusia
Encinitas, CA 92024

Gary Cannon
7575 Metropolitan Dr.
Ste 103
SD, CA 92108
reference # A-6-ENC-08-106

12/12/08

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COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

From Gery Gaughen
937 Neptune Avenue
Encinitas, CA 92024

Dear Gary,

My name is Gery Gaughen, I have three children that play various sports in recreational and competitive fashion. It has become increasingly difficult for them to play because of the lack of fields in Encinitas. There are so many kids that love to play sports and it is a true shame that our beautiful city cannot accommodate.

It disrupts our family life when my son or daughter has practice starting at 7:00 PM just because there is no other time slot available because of lack of fields. This has been a growing concern for some time, and it is so frustrating to see new parks open in our city with wasted rolling hills, that look pretty but serve no purpose. Our kids need fields, the hall property can meet that great need.

Obesity in children is on the rise, and we as parents look for ways in keeping our children active and healthy. They need to run and have a fields in order to play sports. Please help us achieve this goal.

Thank You,

Signature on file

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DEC 22 2008
CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

377 Sunset Drive
Leucadia, CA 92024
December 19, 2008

Mr. Gary Cannon
7575 Metropolitan Drive
Suite 103
San Diego, CA 92108

Ref: #A-7-ENC-08-106

Dear Mr. Cannon,

The purpose of my writing to you is to express support for the Hall Property as it is undoubtedly needed to meet sorely lacking recreational areas in this community. This highly controversial proposed park/field would add quality of life value to these coastal communities not to mention improved recreational opportunities for our youth. This proposed park/fields would be welcome by thousands of community families and I believe the majority of those of us as parents with children.

We all strive to employ our children to do their best academically as education will fuel their future - we need to do the same for sports as it too will fuel their ability to interact on a unique level and will provide new skill sets.

As a citizen of this community for nearly 20 years, I support growth which will sustain the quality of life for all citizens in this community. Give our youth a safe place to enjoy sports and give the citizens of this community a coastal park to call home.

Cottonwood Creek is an excellent example of expanding the reach of recreational parks in this community. It draws hundreds of young families and people to play, celebrate and enjoy the outdoors. I am thrilled to have this park available to this community. Please consider the same for the Hall Property. I strongly urge you to approve recreational use of this land as quickly as possible.

Make a positive difference in our communities. Many thanks and happy holidays.

Sincerely,

Signature on file

Barbara Sands

RECEIVED
JAN 0 7 2009
CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Attn: Gary Cannon & Lee McEachern
CALIFORNIA COASTAL COMMISSION
7575 Metropolitan Drive, Ste. 103
San Diego, CA 92108-4402
FAX: 619-767-2384

Dear Coastal Commission,

I am writing in support of Appeal No. A-6-ENC-08-106.

I am one of many residents of the city of Encinitas who were quite upset at the City Council's decision to overturn the Planning Commission's recommendation to reconsider the plan for the Hall Property. The Council decided to move forward with a plan for sports fields that will dramatically change the character of the community. The 90-foot lights used for nighttime soccer games will be visible for miles around. If the park is built as planned, hundreds of homeowners with beautiful nighttime views toward the ocean will instead have their views disturbed by the equivalent of stadium lighting. This plan is not at all in keeping with the town's character as a beach community.

Many of the supporters of the current plan who spoke at the public hearings on the Hall Property were soccer enthusiasts from out of town. As a group, the supporters displayed a complete lack of interest in the wishes of Encinitas residents, and in overriding the Planning Commission's recommendation, the City Council sided with a small but vocal group while ignoring the concerns of the many residents who spoke against the current plan at the hearings.

In the interests of maintaining the character of our community, I urge the Coastal Commission to deny the City of Encinitas the right to develop the Hall Property as planned. Thank you for considering my comments.

Sincerely,

Signature on file

John Mitchell
1106 Wotan Drive
Encinitas, Ca. 92024
Phone: 760-230-1910
john.mitchell@cox.net

EXHIBIT NO. 10
APPLICATION NO.
A-6-ENC-08-106
Letters of Opposition to Project
Page 1 of 62
California Coastal Commission

RECEIVED
JAN 0 5 2009
CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

December 28, 2008

California Coastal Commission
Attn: Mr. Gary Cannon
7575 Metropolitan Drive - Suite 103
San Diego, CA 92108

Re: New Sports Park Complex in Encinitas, CA

I am writing this to request your support for an appeal to the Coastal Commission of the Encinitas City Council's decision to approve a new Sports Park Complex on what is known as the "Hall Property" near my home in Cardiff-by-the-Sea (one of the 5 Communities within Encinitas) CA.

The plan, as approved, calls for a large number of dedicated sports fields, related facilities, and infrastructure elements that would adversely impact and forever change the character of our neighborhood.

This plan, as approved, clearly violates several sections of our City's Coastal Development Plan:

1. **It impacts our Community of Cardiff and my specific residential Neighborhood, and changes their character for the worse.**

   The proposed 90' high night-light towers, noise from weekend and after-hours events, and traffic will dramatically impact our quality of life and neighborhood character.

2. **Since Cardiff already has an existing dedicated sports complex with night-lights, and 3 of the other 4 Communities within the City do not, it fails to spread the impacts of sports facilities among all 5 Communities within the City as required.**

I fully support the creation of a Community Park, not a Sports Park Complex on this site, and ask that you refer this matter to the full Commission for review.

Sincerely

Signature on file

Jed L. Staley
1371 Rubenstein Avenue
Cardiff, CA 92007
760-753-8986

[illegible]

Date: January 6, 2009
Reference: Appeal No. A-6-ENC-08-106

Dear Coastal Commission,

The EIR acceptance by the Encinitas City Council that generated the appeal referenced above is in blatant disregard of the Encinitas Local Coastal Development Plan. The plan clearly states that one of its goals is "—the preservation and maintenance of the existing character of the five individual communities." The plan approved by the City Council, however, calls for the placement of an illuminated sports complex/stadium in an area which was supposed to be a community park. The placement of a grouping of 5 contiguous, soccer fields, illuminated by light towers up to a height of 90 feet will result in a permanent, and I might add detrimental, alteration of the existing character of the Cardiff community and the ambiance of living within the protected California coastal region.

Cardiff has been traditionally an agricultural and residential community with limited commercial development. The agricultural component of the community is gradually fading into the past. That does not mean, however, that it is appropriate to replace greenhouses with a development project that clearly is contrary to the existing community character. This is especially true with regard to the extent of the illumination and the height of the light towers. This alteration in community character will be evident along the California coast for several miles, especially when the fog rolls in.

I respectfully request that the Coastal Commission act to require that the goals of the approved Coastal Development Plan be maintained.

Sincerely,

Signature on file

Kenneth D. Graziano

RECEIVED
JAN 0 6 2009
CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Gordon H. Miles
1526 Rubenstein Avenue
Cardiff, CA 92007

January 8, 2009

RECEIVED
JAN 0 9 2009
CALIFORNIA
COASTAL COMM.
SAN DIEGO COAST DIST.

California Coastal Commission
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4402
Fax: (619) 767-2384

Attention: Gary Cannon & Lee Eachern

Re: Hall Property Appeal – City of Encinitas

Gentlemen:

My wife and I have lived at 1526 Rubenstein Avenue, Cardiff for the last twenty years. We were drawn to Cardiff because of its long standing character as a noted California beach community. I am writing to you to urge you to grant the appeal of the Citizens for Quality of Life (CQL) of the recent action take by the City Council of Encinitas in approving the permit for the Hall Property Development.

There are two principal questions before the Commission in this matter. First, is a public sports complex masquerading under the misnomer of a "park" compatible with the character of our neighborhood and second, does this sports complex as currently designed confirm to the City's own Local Coastal Plan? The answer to both of these questions is most emphatically no!

With regard to the community character issue it is worth noting that the City's own Planning Commission rejected the design as proposed as "too intense of a use" for the neighborhood. Taking into consideration the number of ball fields, minimal parking availability and 90 foot tall light standards, the City of Encinitas might as well plop down QUALCOMM Stadium in the middle of our residential neighborhood. We have never objected to the development of a community park as originally proposed; but make no mistake about it, this is not a park but a single purpose facility devoted to jamming as many sports fields as possible into a sliver of land bordering on our Cardiff residential area.

With regard to conforming to the Local Coastal Plan, I could site many examples of specific features of the design that are in conflict with the requirements of the Local Coastal Plan, however, the most blatant example, to my mind, is completely ignoring Policy 2.10 of the Plan which provides:

> "Development shall not be allowed prematurely, in that access, utilities, and services shall be available prior to allowing the development (emphasis supplied)."

Those of us at the public hearing held by the City Council clearly heard testimony from the City's own traffic department representative to the effect that most of the street and entrance improvements (mitigating defects outlined in the EIR) necessary for adequate entering and exiting, parking and the like to be built by Cal Trans will "probably not happen for ten years or more." I find it outrageous that this uncontroverted testimony was completely ignored by a majority of the City Council members in approving this project as designed.

In short, my neighbors and I respectfully request that the Coastal Commission grant the appeal and undertake a full, complete and fair hearing of this matter.

Very truly yours,

Signature on file iles

Gordon H. Miles

RECEIVED
JAN 0 8 2009
CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

ROBERT BONDE
1620 Haydn Drive, Cardiff-by-the-Sea, California, 92007 (760) 753-7477

January 8, 2009

Subject: Encinitas Hall Property Appeal

RECEIVED
JAN 0 3 2009
CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

California Coastal Commission
7575 Metropolitan Drive, Suite. 103
San Diego, CA 92108-4402
Attn. Gary Cannon and Lee McEachern

Dear Coastal Commission Members:

Ground water threatens the stability of the ocean bluffs and access to the beach in the City of Encinitas. It is feared that the constant watering of 30-40 acres of sod playing fields will, over time add enough additional water to the substrata to cause the bluff west of the proposed Soccer Tournament Park to fail again and take with it the remainder of a vital beach access road.

In 1958, due west of the Hall Property a football field size piece of the bluff collapsed onto the beach below and carried with it one lane of California Highway 101. Today in this same area below Coast Highway 101 the ground remains saturated year round. In some locations it appears a person could put an arm into the mush up to ones shoulder because of the amount of ground water present.

Two other major slips occurred in the same watershed north of the Highway 101 slip on the Self Realization Fellowship property in 1949 and 1978. One saw the loss of the group's temple. The only way that the fellowship has been able to stabilize the bluff and protect its property is for the church to dig several wells and run pumps night and day. It is my understanding, that enough ground water is pumped out of the substrata under the Self Realization Fellowship property to float an aircraft carrier every year.

In 1982-84 during the study of the coastal route for the Japanese Bullet Train project, it was determined that ground water seeping through the bluff face west of the Hall Property in Encinitas was cause for serious concern for the reliability of both the rail and vehicular roadways. It was proposed that the Bullet Train track be lowered into the ground, like in Solana Beach, and that the trench include both a ground water interceptor and flow divertor to keep the water from reaching the bluff. With the demise of the Bullet Train project went any apparent discussion about how to protect Highway 101 and keep it open and functioning in face of an increased ground water threat.

While there is a ravine between the Hall Property and the ocean to the west, it is not, in my opinion, deep enough to intercept the water that flows down and along an underground stratum to the coastal bluff. The Hall Property soil is sandy and very porous. It will require constant watering of the grass on the proposed 5 soccer and 2

general purpose fields to keep them green and playable. Much of this water will therefore filter down almost immediately into the water table and add to the ground water problem.

It must be remembered that Highway 101 is the major access to this section of the coast for locals and visitors alike. When the next slip occurs in this area there is a strong possibility that the entire road will be closed for months if not permanently. Local streets will not be able to handle the extra loading and people from throughout California and around the world could be negatively affected by the closure as they seek access to beaches and the ocean.

Residents recognize the need for local recreational play and practice fields. It is proposed that instead of adding to the number of grass fields under irrigation that the city enter into use agreements with the three local school districts for the joint use and care of the existing school play fields – approximately 17. Under this proposal everyone would win. The schools would get improved educational facilities, the city would get the fields it needs for youth programs, parents would not have to drive their children all over town to access activity sites, taxpayers would not be stuck with developing 40 acres of land for regional sports use, the bluffs would receive a reprieve from more ground water, and coastal access would be extended for all to enjoy.

In this time of severe water shortages conservation is important. It therefore is only logical that the 40 acre Hall Property include major swaths of native materials that require only modest amounts of water to balance the high water use demands of a grass play field or two for the benefit of all.

Please remember that sometimes the least apparent concerns can be the most dangerous. I feel that the increase in ground water generation proposed by this Hall Property development would become a ticking time bomb that could change the character of our community and impact access to our coastal recreational facilities in the near future.

This letter is in reference to the Coastal Commissions Policies, which seek to:

- Protect and expand public shoreline access and recreational opportunities.
- Protect against loss of life and property from coastal hazards.

Sincerely,

Signature on file

Robert Bonde
Retired Executive Dean, Planing and Development
California State Polytechnic University, Pomona

RECEIVED
JAN 0 8 2009
CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

James Wang
1309 Windsor Road
Cardiff-by-the-Sea, CA 92007
11 January 2009

RECEIVED
JAN 12 2009
CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

CALIFORNIA COASTAL COMMISSION
7575 Metropolitan Drive, Ste. 103
San Diego, CA 92108-4402
FAX: 619-767-2384

ATTN: Gary Cannon & Lee McEachern

Re: Encinitas Hall Property Park Plan discord with LCP

Coastal Commission:

I am concerned that the current plans for the park on the Hall Property in Cardiff conflicts with both the Local Coastal Plan (LCP) and the Encinitas General Plan (GP):

1. **Section 30251, Scenic and visual qualities.** The park plan calls for 90-foot light towers supporting arrays of high-intensity lights. These lights would be used from twilight until 10 PM. The GP designates Santa Fe Drive as a Scenic Highway[1]. Currently, spectacular sunset views are visible from Santa Fe and its neighborhood, but these views would be destroyed by multiple arrays of high-intensity lights.

   LCP §30251 states that "scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance." Furthermore, permitted development "shall be designed to protect views."

   The City chose to ignore both §30251 and their own General Plan when they approved the sight blight caused by the towers. In fact, in their reply to citizen comments, they say[2], "the views of the sunset from the east of the freeway are quite distant. Thus, the limited obstruction of sunset views resulting from the proposed project would not be considered a significant impact. Quality views of the sunset are generally located to the west of the project site."

   This attitude is much like that of a man with a Ferrari who tells a Pinto owner, "Your car is not a quality car, so therefore you certainly won't mind if I bash it a few times with my sledgehammer."

   The Cardiff and Encinitas terrain east of Interstate 5 slopes upward towards Crest Drive, ¾-mile east of the proposed park. Hundreds of homes (like mine) currently enjoy "Pinto" sunset views. To paraphrase Dick Cheney, we must enjoy the sunset view that we do have, not the one that we wish we had. But in spite of what the City says, even the "Pinto" sunset view that we currently do have will be spoiled by the proposed park lights.

1 See map in the Encinitas General Plan page RM-36.
2 Encinitas Response to Comments Hall Property Community Park, groupc150.pdf, C1-2.

2. **Section 30253, Minimization of adverse impacts.** Both §30253(e) and the Encinitas General Plan[3] stress that development in a community should maintain the unique identity of individual communities. Cardiff-by-the-Sea is a sleepy, quiet beach town that is residential and "funky" in character. The proposed plan for the Park envisions enough sport fields to support regional tournaments. Such a grandiose complex is incongruent with the current Cardiff demeanor. Additionally, any such sports park would conflict §30253(d), which mandates minimization of energy consumption and vehicle miles traveled.

Please note that the park plan that you are reviewing under Appeal #A-6-ENC-08-106 does not include the lighting, yet the final EIR approved by the Encinitas city council explicitly does include the 90-foot lights. Since the City intends to develop the park as shown in the final EIR, there is an important discrepancy between the plan submitted to you and their actual plan. It is clear that the City intends to request a future amendment to their current application to you.

Such a piecemeal approval process is specifically prohibited by CEQA Policies, as stated in CEQA Guidelines §15003(h): *The lead agency must consider the whole of an action, not simply its constituent parts, when determining whether it will have a significant environmental impact.*

Since you are the lead agency in this approval process, I urge you to comply with this CEQA guideline.

Please consider the impact of the *actual* park plan, not just the partial plan that the City of Encinitas has submitted to you.

Thank you for your attention to this matter.

Sincerely,

Signature on file

James Wang
Cardiff-by-the-Sea

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3 Land Use Policy 5.3 states, "the City shall develop and implement commercial zoning and development standards which will accomplish the goals and policies of the General Plan, emphasizing quality, community character, and community needs."

January 9, 2009

Gary Cannon & Lee McEachern
CALIFORNIA COASTAL COMMISSION
7575 Metropolitan Drive, Ste. 103
San Diego, CA 92108-4402

Received
JAN 09 2009
California Coastal Commission
San Diego Coast District

Re: Hall Property Appeal – City of Encinitas

Dear Sirs:

I am writing to express my concerns about the proposed Hall Property Park that has been appealed to the Commission. I have been a resident of Cardiff for the past 23 years and I am concerned that the intensity of the new park design will adversely affect the character of the Cardiff community. The park as it is currently designed will generate large amounts of noise, night lighting, and traffic that are inconsistent with the existing older established community. One of the major tenets of the Encinitas Local Coastal Program as well as their General Plan is to maintain and protect the character of the existing five communities that make up Encinitas. There is no way that this proposed park plan meets that goal. The Encinitas City council is badly divided on this issue and the Planning Commission voted not to approve the plan in its current configuration. This is why the people of Cardiff are turning to the California Coastal commission for a review of this project.

As a matter of precedent, the California Coastal Commission has previously found inconsistency with community character to be a substantial issue. I was involved in a project in the central coast in the community of Cayucos in San Luis Obispo County. In that case, a proposed hotel on a site that was appropriately zoned for its use, was found to be out of character with the existing community. The project was found to be too large in terms of the number of rooms as well as some other issues. The owner worked with Coastal Commission staff to reduce the size of the project, and it was ultimately approved. The project was the Victorian Inn and it was appealed around 1997.

The Cardiff community is not against a park on the Hall Property site. They are concerned with the intensity of use – five soccer fields on the site with inadequate parking and difficult access through residential streets. This in conjunction with night lighting until 10:00 pm raises the issue of how this proposed park maintains the existing character of Cardiff. As a result of these concerns, I do not believe that the project is in conformance with Local Coastal Plan and I urge you to make a recommendation of substantial issue to the Commission.

Thank you.

Sincerely,

Signature on file

Gary Cohn

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SAN DIEGO COAST DISTRICT

To: Gary Cannon & Lee McEachern
CALIFORNIA COASTAL COMMISSION
7575 Metropolitan Drive, Ste. 103
San Diego, CA 92108-4402

From: William J. Welch
1210 Blue Sky Dr.
Cardiff CA 92007

Subject: Hall Sports Park Development in Encinitas California 92007

Dear Commissioners,

The City of Encinitas is proposing a project, which is in conflict with its own Local Coastal Plan and Master Plan.

- Policy 9.5 states that the city should **"Discourage development that would infringe upon scenic views and vistas within the I-5 corridor",** yet the glare from 30 to 90 foot high stadium lighting included in its project will rob those citizens living to the east of their evening ocean vistas most nights until 10 P.M.

- The city has not taken into consideration the fact that many times during the year low clouds and fog blankets the area. This moisture in the air reflects, magnifies and spreads field lighting far beyond design limits. The Hall property lighting glare will negatively impact the quality of life of surrounding residents and potentially place in danger persons passing by on the I-5 Freeway and adjacent city streets.

- **One of the city's Land Use Element goals is to preserve and maintain the existing character of each of the five individual communities that comprise the city.** Yet by imposing all 50 acres of permanently lighted city sports tournament facilities upon one community, and none upon the other four, it is effectively destroying the character of the Cardiff –by-the-Sea community. Moreover, the existing local infrastructure simply cannot support the anticipated traffic noise etc. Cardiff already has the highest density of all the segments of the city and continues to experience a disproportionate amount of new development, whether zoned for it or not. When residents from the other communities in the Encinitas area have resisted lighted sports fields, their wishes were granted. This is not the case for Cardiff.

- **Policy 2.10 of the Land Use states that development shall not be allowed prematurely, in that access, utilities and services shall be available prior to allowing the development.** Sadly, the city of Encinitas has predicated much of its traffic mitigation on the *hope* that someday CALTRANS will improve the I-5 Freeway and local intersections. The fact of the matter is that the state is broke and therefore it may be years, if not decades, before the desired improvements to improve

traffic is initiated. Hence, if this project is allowed to proceed, the city will be in violation of its own policy and the citizens of Cardiff will be the ones to pay.

While neither Santa Fe Drive nor Birmingham Drive connects directly to Cardiff beaches, they are the ones that carry most of the out of town traffic to and from the coastal recreational areas. Sports tournaments that will be held will impact both of these streets and beach access unless traffic issues are adequately addressed and solutions found prior to the development of the park.

- **Policy 2.3 of the Preservation of Open Space Resources section of the plan states " Encourage the preservation and protection of areas for the recreational activities characteristic of Encinitas such as horseback riding, surfing, skin diving, bicycling, walking and jogging."** The park being considered before the Coastal Commission removes 40 acres of open space from the city's inventory and replaces it with basically a soccer tournament facility. Though it has been labeled as a community park by the city: in reality it will become a regional facility supported by Encinitas tax dollars.

- **Policy 2.4 of the Preservation of Open Space Resources section of the plan states that the city should "leave appropriate areas of neighborhood and community parks in a natural state, retaining natural topography and vegetation where preservation is feasible."** Once again the city is ignoring its own policy and proposing to level the entire area and make as much flat land available as possible. Natural habitat is to be destroyed and trees removed in the name of recreation.

- **Policy 2.6 of the Preservation of Open Space Resources section of the plan states that the city should "encourage the provision of a full range of recreational facilities distributed throughout the area."** An alternate to the cities Hall Property Development Plan exists. If the city would spend a fraction of the cost of the Hall project on improving the existing 17 schools play fields in the city everyone would benefit.
    1. The schools would have safer playgrounds. Because of the distribution of play fields throughout the city, kids could walk to their practices and games rather than being transported by their parents. Gasoline would be saved, air quality improved and community identification stimulated.
    2. The taxpayers would not be saddled with as many bond payments.
    3. The city could triple the number of quality play fields available.
    4. If lighted play fields were desired in a particular area, parents could elect to have them installed.

These are but a few of the direct violations foisted upon the citizens of the City of Encinitas by 3 persons on the City Council for political reasons. It must be noted that the Rotary Club sponsors the local soccer tournaments and that all three of those voting for the Regional Soccer Tournament Facility are Rotary members. Moreover the city planning commission, comprised of ordinary

citizens representing all of the city neighborhoods, agreed that the proposed park was over-scaled and required downsizing in order to be consistent with the city's local coastal plan. Nevertheless these 3 council members overrode the planning commissions decision. Thus, there clearly is a significant disconnect between what the citizens of Encinitas desire, and what these 3 council members decided. Simply put the proposed Hall property Sports Complex is inconsistent with the local coastal plan and is not acceptable to the majority of citizens in Encinitas.

Signature on file

William J. Welch
Cardiff resident

Peter Stern
1232 Rubenstein Ave.
Cardiff, Ca. 92007-2408
PeterStern@cox.net
January 2, 2009

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JAN 0 2 2009
CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Appeal No. A-6-ENC-08-106

Dear Coastal Commission,

A protected California coast is a legacy that we can pass along to future generations. It is also well documented as fuel for our state's great economic engine, bringing in billions of dollars every year through coastal tourism. It is essential therefore, that California's coastal protection laws be enforced to ensure protection of our threatened beaches, bluffs and coastal views.

The issue in the case before you can be simply determined by embracing the determination and wisdom of the Encinitas Local Costal Development Plan which states in pertinent part that its goal is: "**the preservation and maintenance of the <u>existing character</u> of the five individual communities.**" Land Use -1 at page 4. So significant is this edict that it is repeated again in Land Use 15 at page 9 as Goal Seven seeking to: "**maintain the unique identity of the individual community.**"

The park as envisioned calls for the illumination of five soccer fields at present. This does not include future potential lighting of other portions of this 46 acre park. The lighting of five soccer fields will be the equivalent of lighting a stadium. This is inappropriate in an old residential neighborhood.

Adjacent to the Hall Property Park and the five soccer fields scheduled to be illuminated is the so called "Composer District." This is an area originally laid out as Ridgeway Heights in a map dated 1929 and on file in the county land records. The area became known as the "Composer District" as the roads were named after composers of renown such as: Brahms, List, Rubenstein and Motzart. The area developed as individual lots, meaning that each and every house is unique from its neighbor, the lots are different shape and size and the landscaping a reflection of the preference of its owner. There is no "cookie cutter" dynamic in this community as upon frequent occasions the neighborhood has rejected the installation of sidewalks, gutters or other suburban characteristics. In short, this is rural feeling charming old mature neighborhood next to the beach- a disappearing gem in southern California.

The Composer District is dark and quiet at night. It is a great place to live and enjoy the tranquility of the night sky. To allow the five soccer fields to be illuminated will destroy the ambiance of the neighborhood. No longer will the night sky be dark and the stars bright. Stars will not be seen. Without doubt, the goal of the Encinitas Local Coastal Plan will be violated if the City proceeds to light the soccer fields by failing to preserve and by destroying the existing character of this community.

The City has options. Presently there are two other lit fields for the City's evening sports enthusiasts: Lake Street Sports Park (less than a mile east of the Hall Park) and the Ecke YMCA sports fields (about three miles north) are lit and can unfortunately be seen for miles away. Across from the Target Department store in East Encinitas portable lights stand at the ready with generators to light that field. To destroy the character and tranquility of an old mature neighborhood would be unconscionable as two of the five City Council representatives have stated and voted.

From a larger view, the Composer District is a venerable vestige of old California. A California that was very livable, beautiful, uncrowded and unhurried. A place where neighbors stayed to raise children, house turnover was infrequent and a feeling of community was palpable. When the wind is from the west the ocean can be heard and the smell of salt is in the air. Day is day and night is dark and unlit. To allow the City to illuminate these soccer fields will end forever this delicious slice of California. Uniqueness will be lost, charm will disappear under the glow of lights and few except the soccer players who visit the field for a ninety minute game will benefit.

Reread the command of the Local Coastal Plan. It is clear that the preservation of community character and unique neighborhood identity trump development and so called progress. Be courageous to do the right thing and let the lights shine brightly where they currently do for soccer players and let the Composer District remain a special place to live next to the beach.

Thank you for your consideration.

Sincerely.

Signature on file

Peter Stern
1232 Rubenstein Ave.
Cardiff, Ca. 92007-2408
760-944-9355

cc/

Patrick O'Connor 449 SHEFFIELD AVE. • CARDIFF-BY-THE-SEA, CA 92007
TELEPHONE: ~~(619)~~ 753-5145
(760)

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JAN 12 2009
CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

7 JAN '09

CAL. COASTAL AUTHORITY & COMISSION
C/o GARY GANNON & LEE MCEACHERN
7575 METROPOLITAN DR. #103
SAN DIEGO CA 92108

RE: ENCINITAS CITY SPORTS PARK

DEAR SIRS:

PLEASE PUT THIS ITEM ON & UP FOR PUBLIC INPUT AND HEARING, AS IT IS TOO IMPORTANT FOR A ROUTINE CONSENT ITEM.

BE ADVISED EVERY POLITICAL STUNT, FROM PURCHASE, TO FINANCE, TO DESIGN HAS BEEN ONE SIDED, FAST TRACKED AND HAS HAD A RED CARPET GIVEN BY THREE CITY COUNCILMEN AND CITY LAND USE STAFF.

FOR EVERY FORCE THERE IS AN EQUAL AND OPPOSITE REACTION, THE COSTAL COMISSION SHOULD & MUST HEAR BOTH SIDES, OF THIS DEVELOPMENT

YOURS FAITHFULLY,

Signature on file *Signature on file*

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COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

January 12, 2009

Gary Cannon & Lee McEachern
California Coastal Commission
7575 Metropolitan Drive, Ste. 103
San Diego, CA 92108-4402

Sent via Fax: 619-767-2384

Dear Mr. Cannon and Mr. McEachern:

I am writing regarding the Coastal Commission's consideration the Encinitas Hall Property Project. I am a Cardiff-by-the-Sea resident and live near the Hall Property.

We appreciate your review of this important issue. It is many residents' strong belief that the Hall Property Plan, as approved by the Encinitas City Council, is not in compliance with the city's Local Coastal Program (LCP) and would significantly change community character in a negative way.

Local Coastal Plan

There are many facets of the Hall Property project that are inconsistent with the LCP.

Policy 9.5 under the land use element discourages development that would infringe up scenic views and vistas within the I-5 corridor. The Hall Property's bright lights that would go on at dusk would certainly infringe upon the scenic views in the I-5 corridor.

The recreation element of the LCP encourages the provision of a full range of recreational opportunities throughout the area and discourages uses that would drain public services and facilities. The Hall Property Plan does not address the recreational needs of the surrounding community, instead it is focused on a large expansion of soccer fields that are oriented to large youth soccer tournaments. The park has few elements that would appeal to the large number of older residents of Cardiff and Encinitas. By its design, the Hall Property Plan would drain public services in terms of traffic management and public safety, which would be required to support the regional sports component and late night hours.

Community Character

The Hall Property Plan would significantly undermine the existing character of Cardiff. The major factors that are inconsistent with the quiet, laid back community of Cardiff include: placement of a large sports complex in the middle of a small residential neighborhood, huge influx of sports-related traffic and visitors, night time lighting in an otherwise dark sky by the coast, and extreme levels of noise during tournaments. The placement of such a park in the middle of a residential community with significantly limited road access would also significantly reduce public safety due to dramatically increased traffic on very narrow streets.

Thank you for your consideration of these comments.

Sincerely,

— *Signature on file* —

Paul Jansen
1571 Vivaldi Street
Cardiff, CA 92007
760-550-2342

To the Coastal Commission Staff January 11, 2009

We are writing this letter in regards to the proposed park on the Hall Property in Encinitas. We need your help in defeating the plan as it is designed right now. My wife and I are not opposed to a park on the property, but the current plan, if built, will ruin Cardiff by the Sea. The rest of Encinitas will benefit with the addition of sports fields, but Cardiff will never be the same with the construction of a park that will be composed of solid sports fields, 90 foot lights until 10pm, increased traffic, and insufficient parking. Cardiff is an old beach community that is basically rural and quite quiet. The current plan is out of character with the surrounding neighborhoods and is in violation of the LCP of the general plan of The City of Encinitas www.encinitas.ca.us . Let us identify some points of the Hall Property Park Plan which are in contrast to the LCP.

In the Land Use policy: Community of Cardiff by the Sea it states-

> Land use policy for the Cardiff community calls for new development to generally correspond with existing types and intensities of development. The community will continue to be predominantly residential in character with the higher densities concentrated in that portion of the community west of the Interstate 5 Freeway

The current Hall Property Park design right now does not correspond to the existing community and is not residential at all.

It also states-

> Implementation of design guidelines to provide unity in urban design and to capture the beach town atmosphere.

This design has no unity with the urban design and has no beach town atmosphere what so ever. It is a unilateral plan for the young athletes with no regard for the existing older community that will not have any use for the organized sports fields.

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> ° Provide public improvements (including roadway, parking, traffic control, drainage, etc.) necessary to ensure continued viability of district in the future.

This plan has no mention of improvements to roadways (which are run down and inadequate for the existing community) and, as stated in the EIR, has only enough parking for one third of the vehicles that will be using the park each day. The Planning Commission stated that if any other developer presented this plan with traffic and parking problems that couldn't be

mitigated, it would certainly be rejected. The Scripps Hospital expansion is moving forward and the main entrance to the park is across the street. The Hall Property Plan suggests that 2 or 3 roundabouts on Santa Fe may mitigate the traffic problem. Somehow I don't think the entrance to the ER should be burdened with a roundabout for a park entrance.

Now let's shift to the General Plan's Recreational Element Goals and Policy's.

> POLICY 1.1: Continue to cooperate with property owners, the County of San Diego, and others to preserve and maintain the riparian habitats within the planning area. (Coastal Act/30240)

The majority vote on The Encinitas City Council is not cooperating with anyone with regard to the proposed park. The Encinitas Planning Commission decided that the park plan should be revised, scaled back, but the City Council ignored the recommendation and is doing whatever they feel like. The 90 foot lights do not meet the guidelines of the General Plan. They will require a variance that we are certain The City Council will approve even if the Planning Department doesn't. These lights will forever ruin some residents' sunsets and star gazing.

There is also no regard for riparian habitats within the planning area. The planning area does have some unique and unusual riparian habitats.

> POLICY 1.4: Establish a balance of natural open space and "improved" recreational open space and implement measures to preserve, and maintain the natural environment. (Coastal Act/30252)

The current plan does none of this. It is a one sided sports only plan that has no balance of open space. It also does not maintain the natural environment; it obliterates it.

> **GOAL 2: The City will make every effort to preserve open space areas that represent a significant environmental resource in the community. (Coastal Act/30240)**

This park will not preserve anything.

> POLICY 2.2: Provide and maintain an inter-linking network of trails for horseback riding, hiking, and bicycling; and minimize the cost of the trail system by encouraging the use of drainage channels, flood plains, existing trails, public lands, excess street rights-of-way, and major utility rights-of-way. (Coastal Act/30212.5/30252)

This park provides no horseback riding, hiking or bicycle riding.

> POLICY 2.3: Encourage the preservation and protection of areas for the recreational activities characteristic of Encinitas such as horseback riding, surfing, skin-diving, bicycling, walking, and jogging. (Coastal Act/30212.5/30252)

This park may be characteristic to parts of Encinitas, but is not at all to Cardiff by the Sea.

> POLICY 2.4: Leave appropriate areas of neighborhood and community parks in a natural state, retaining natural topography and vegetation where preservation is feasible. (Coastal Act/30240)

There are no proposed natural states of land.

> POLICY 2.5: Provide for early acquisition of park sites to insure proper location, adequate size, and lower costs through development of a program that identifies future park needs and possible future sites. (Coastal Act/30212.5)

This park plan is not in the proper location. There is limited access and the addition of traffic, insufficient parking, lighting and noise will ruin the surrounding areas and it will ruin the style of Cardiff by the Sea.

> POLICY 2.6: Encourage the provision of a full range of recreational facilities distributed throughout the area. (Coastal Act/30212.5)

There is not a full range of recreational facilities being provided. It is basically soccer and baseball and that is it.

We think that these are some of the most problematic elements of the current park plans. Basically, Cardiff needs a park that has class and style; more akin to Central Park in New York City, not a County Sports Complex that most of Cardiff by the Sea will never use. The population of Encinitas is aging and the enrollment in public schools is down. There is nothing in the current Park Plan for my family and it will ruin Cardiff by the Sea forever. The Encinitas Planning Commission agreed that the plan should be changed and I feel that you will too. Please help save Cardiff by the Sea.

Thank You

Signature on file

Kyle and Rosanna Martin

1702 Glasgow Ave.

Cardiff by the Sea, CA 92007

760-753-0683

Dr. Dietmar E. Rothe
Professional Engineer and Scientific Consultant
1404 Rubenstein Avenue, Cardiff-by-the-Sea, CA 92007, U.S.A.
Tel.: (760) 753-6827 Fax: (760) 753-2227
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JAN 13 2009
California Coastal Commission
San Diego Coast District

January 11, 2009

Messrs. Lee McEachern & Gary Cannon
CALIFORNIA COASTAL COMMISSION
7575 Metropolitan Drive, Ste 103
San Diego, CA 92108-4402

RE: CQL Appeal, Hall Property Project, Encinitas **Appeal No. A-6-ENC-08-106**

SIGNIFICANT ISSUES TO BE ADDRESSED IN EVALUATING CQL APPEAL

INTRODUCTION

Dear Messrs. McEachern and Cannon:

Having been a scientific consultant and member of CQL, I have critically followed the progress of the Encinitas "Hall Project" from its inception.[a] I can speak for many of my neighbors and the majority of Encinitas citizens who do not want to see this valuable property turned into an unneeded **Regional Competitive Tournament Complex,**[b] because of the site's physical, legal and environmental constraints, and because **the public need for such facilities does not outweigh the negative impacts on the environment and the community. Traffic generated will severely interfere with beach access and emergency response.**

We understand the Coastal Commission has full jurisdiction over the ENTIRE Hall site and what is built on it, now that the City Council has approved its plans for this **Major Public Works Project** and now that the EIR openly states that the **project is not a Community Park but a Special Use Park for competitive tournaments.** Some "Significant Issues" relating to the current CQL Appeal are addressed in this paper under these headings:

1. Traffic and Beach Access
2. Inconsistencies with Encinitas General Plan, Zoning Code and CEQA
3. Impacts on Sensitive Wetlands and Ocean

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[a] See my previous submissions to Lee McEachern at the Calif. Coastal Commission, dated March 9, 2007 and January 11, 2005 on issues not addressed in present letter.

[b] Citywide surveys have shown that the general public in Encinitas does not want to have public funds spent on more sports fields (we already have 41 such fields on 14 public sites, many of them lighted, in Encinitas), but that they favor a **true park for recreational use for everyone**. Results of four such surveys are on file with CQL.

From the moment of inception to the final approval of the City Council's plans for their Regional Competitive Sports Fields, **this public works project has suffered from a severe lack of independent oversight and from a lack of a system of checks and balances.** Throughout the process, the Encinitas **City Council** [c] **has exerted total control over all phases of the project, ignoring all public input** but yielding to all demands from a small group of private soccer and softball clubs.

The City Council has acted as the originator, the applicant, the planner, the designer, the financier, the purchaser, the developer and as the approving and certifying agent; an inside job completed by wielding its unchecked legislative, regulatory and procedural authority.

As it stands at this moment in time, the California Coastal Commission remains the last and only oversight authority for correcting this runaway project driven by private interests. We, the public, absolutely depend on your fair judgment to stop this steamroller, spearheaded by some members of the Encinitas City Council, driven by pressure from private clubs, to spend over $100 million in public funds [d] on a competitive sports complex for the primary benefit of less than 10% of the citizenry that play organized sports.

It is only right to bring the CQL Appeal before the full Coastal Commission panel to preserve the peace and ambience of one of our finest beach communities and to protect public enjoyment of our coatal resources.

Following is a discussion of three "significant issues" relating to the CQL Appeal:

1. TRAFFIC AND BEACH ACCESS [e]

The City Council's proposed regional sports facility can be predicted to generate well over 10,000 ADTs during tournaments. The severe impact of this on traffic circulation around the site has been grossly underestimated in the EIR. At tournament events, planned to occur as often as every weekend, according to City Council members,[f] traffic will completely overwhelm the capacities of Santa Fe Dr. and Birmingham Dr. (both being local two-lane roads near the site), as well as overwhelming the surrounding residential streets.

---

[c] three councilmen in particular

[d] By creating its own public funding agency, which through the City's SDWD encumbered the residents by issuing $23 million worth of "lease revenue bonds," secured by leasing the water districts own facilities back to the SDWD, a public works department of the City. Revenues from the sale of these bonds bought the Hall site. Repaying the bond holders will have cost the taxpayer $45,236,105 by the end of the next 25 years. Site improvements are estimated by the Council to cost another $35 million, which will likely be financed by floating more bonds, encumbering the taxpayer by another $70 million, bringing the total to about $115 million.

[e] See also the independent traffic study by "Smith Engineering Management"submitted to the City of Encinitas in response to the DEIR on March 11, 2007

[f] For example, on the July 15, 2002 Public Workshop II on Hall Park Design, **Councilman Dennis Holz** predicted: "My sense is that **we might have regional events each weekend** [on the site]." – see also The Coast News, July25, 2002 article by Steve Mihailovich, "Residents Object to Hall Usage."

Adding some 10,000 ADTs to these streets during Tournament games can be expected to cause unavoidable gridlock in the area, interfering with medical emergency vehicles going to and from Scripps Hospital. Such traffic congestion will also **impede vehicle and pedestrian access to local beaches and to visitor serving commercial districts along Coast Hwy 101 and Cardiff Town Center.**

Traffic at intersections near I-5 are already at unsatisfactory service levels. Backups on I-5 on-ramps and off-ramps will be unavoidable. All these impacts, which are inadequately addressed in the EIR, should be taken very seriously, and competitive sports features on the site should be significantly reduced. Tournaments should be prohibited on the site.

No roundabouts are going to mitigate the anticipated traffic impacts, as foolishly claimed in the EIR. They will only slow traffic along Santa Fe and make pedestrian crossings more dangerous. A few years ago, the Coastal Commission ruled against locating a Costco superstore on Lomas Santa Fe in Solana Beach for the same reasons.

The Hall site is zoned R-3 Residential. Traffic impacts from the proposed project on residential streets should not exceed that of an additional 850 ADTs generated by 85 new homes on the Hall site, consistent with the R-3 zoning codes and the General Plan.

Traffic problems are severely amplified by many other projects along Santa Fe Drive that are being approved by the City: e.g. major expansion plans by Scripps Memorial Hospital, major expansion plans of San Dieguito Academy, doubling of I-5 freeway lanes by Caltrans, new outpatient medical facilities along Santa Fe and Devonshire, a planned high-density subdivision at corner of Lake and Santa Fe (Brown greenhouse property), plus other residential and office professional *infill.* Presently, Academy traffic in mornings and afternoons already causes gridlock on Santa Fe Drive east of I-5.

The EIR relies greatly on old traffic counts and incorrectly analyses cumulative impacts by utilizing estimated traffic generation by other new projects in the future to ***minimize*** the percent traffic contributions of the tournament fields. This is not what CEQA means where it requires cumulative impacts must be taken into account. The impact of traffic generated by a project may just be the straw that breaks the camel's back.

The site has inadequate street access to accommodate traffic and parking generated by regional tournaments. Only one legal 30 ft wide easement exists at north end of site from Santa Fe Drive. The site has no frontage on McKinnon. The newly proposed second entrance on the south-east site, as shown in EIR, trespasses on Caltrans' State owned property and severely impacts residential neighborhoods – thus legally and environmentally unacceptable.

The initial tentative project map prepared by RJM for the Council relies on a new dedicated 5-lane bridge over I-5 from McKinnon into the complex. This bridge will not become a reality for many years, has to wait for Caltrans to complete its freeway expansion work, and is not even mentioned in the final EIR. Either alternative, the McKinnon bridge or the newly proposed entrance from McKinnon via the private residential Warwick Street, would block normal through

traffic on McKinnon to and from Birmingham, causing more problems at the Santa Fe underpass and at the Birmingham overpass.

By not including this better access in the final EIR the Council is again trying to piecemeal approval of the EIR in order to proceed with proposed Phase 1 of the project immediately, meaning grading of site for five to six large soccer fields (12 junior fields), so that competitive soccer and baseball tournaments can begin to be held before appropriate infrastructures are in place.

2. INCONSISTENCIES WITH ENCINITAS GENERAL PLAN, ZONING CODE AND CEQA

With the City Council of Encinitas being the developer/applicant for the Hall project and at the same time being the certifying authority of the developer's Final Maps (the Sports Field Complex called Special Use Park), the people and the Coastal Commission must at the very minimum insist that the City project is in compliance with the City's own General Plan, its Zoning Code and with CEQA State requirements, before an LCP permit is issued for the project. More correctly, the Coastal Commission needs to override any such LCP with its own sanctions.

The EIR prepared under direction of the City Council insists that the multi-field competitive sports stadium can be put on residentially zoned land surrounded by residential neighborhoods with a simple "Major Use Permit." This goes against the City's own General Plan and Municipal Code, contrary to claims in the EIR. Since this major public works project does not fit the description in the Zoning Code of a Community Park, the Hall site would have to be re-zoned to allow this intrusion into residential districts. There is nothing in the Zoning Code that allows residentially zoned land to be converted into a "Special Use Park" or a "Regional Park" under a "Major Use Permit." Yet, the City Council has approved such Use Permit, against recommendations of the Planning Commission. The project is clearly incompatible with the City's Land Use Element of its General Plan.

For example, see:
LUE Policy 1.13, which says, **"visitor-serving commercial land use shall be located where it will not intrude into existing residential communities."** and it lists specifically such visitor-serving uses as – **"participant sports and recreation."**

LUE Policy 3.9 states, **"property designated/zoned for residential use shall not be redesignated/rezoned to any non-residential use except by the affirmative vote of a majority of those voting in the election approving the proposed change."**
[NOTE: Exceptions outlined in Policy 3.12:3 and 3.12:5 do not apply here because the **Regional Competitive Tournament Sports Complex does not fit the Ecological Resource/Open Space/Parks definition** and does not provide "significant **public** benefit", as it benefits primarily only **10% of the public** participating in organized team sports]

LUE Policy 3.10 states, "property designated/zoned for non-residential use shall not be redesignated/rezoned to allow more **non-residential uses of a greater intensity** of use except by

the affirmative vote of four or more Council Members based upon a finding that the proposed redesignation/rezoning **will not ...(among other considerations) substantially increase traffic burdens on roads and highways."**

Clearly, the project as defined in the EIR constitutes a non-residential use of much greater intensity than the R-3 use,[g] with substantial burdens on roads and highways, and can only legally proceed if the land is re-zoned from R-3 to visitor serving Special Use Park or Regional Park. Therefore, the Major Use Permit needs to be rescinded and the site needs to be re-zoned by pulic vote <u>and</u> by a super-majority vote of the Council.

Noise and light intrusion into residential neighborhoods will be unacceptable to some thousand homes within quarter mile of planned tournament complex (see attached map on page 9). The EIR and Municipal Code relies on an arbitrary definition of unacceptable *horizontal* light trespass of 0.5 footcandle. With blazing field lights of hundreds of kW on 90 ft high poles the light trespass on neighboring homes is likely to be much higher in an oblique direction, even if it is below 0.5 footcandle horizontally.

Moreover, an illuminance of 0.5 footcandle is far too high for preserving any kind of nighttime environment for residences. The illumination from a full moon at zenith under perfect atmospheric conditions is 0.02 footcandle (*Allen, Astrophysical Quantities, Athlone Press, U. of London 1963*). Thus, the standard of 0.5 footcandle is equivalent to 25 full moons, enough to read the fine print in a semi-legal contract. Many US communities have adopted a much lower trespass standard of 0.1 footcandle to preserve night skies.

In addition to all this, the EIR neglects the effects of atmospheric conditions. Owing to our most frequent marine layer covering North County coastal regions at night, the moisture in the air and low cloud cover will reflect and scatter light from field illumination all throughout the neighborhood. Present field lighting of the Cardiff Sports Park on Lake Dr. can be seen from 5 miles away, looking like an *alien landing site*.

The people of Cardiff-by-the-Sea should have the same right to protect their dark night sky over beaches and ocean as the Olivenhainers have for protecting their dark rural skies. Visitors to our beaches should have the opportunity to experience the grandeur of a dark starry sky over the ocean.

Noise levels from the proposed sports complex will exceed by a wide margin the 60 dB defined as **"the maximum acceptable outdoor noise level in residential outdoor use areas" [Noise Element Policy 1.2]**. Spectator cheering, bull horns and amplified sports announcements will even exceed by a large margin the presently unacceptable level of freeway noise of 49 to 65 dB in neighboring residential areas.

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[g] Anticipated intensity of activity at the planned sports complex is much higher than the R-3 residential zoning provides for in the General Plan. Residential development would allow approximately 85 homes on the site with a traffic generation of 850 ADTs. Soccer tournaments generate tens of thousands of ADTs.

Therefore, the EIR should insist that any activities on the so-called Park cannot include field lighting or amplified sound systems. Instead the EIR waffles around the problem by saying that future light and sound measurements should decide on whether these intrusions are acceptable (piecemealing at work again).

Buffer zones between sports complex and surrounding residential neighborhoods are inadequate. They are nonexistent in the northern part of the site and loaded with active features in other parts (bicycle paths, skateboard ramps etc.). They do not shield from noise, lights and traffic.

The above site constraints were known from the beginning, and the proposed plans for the sports complex were determined by city council before site was acquired. This violates CEQA requirements:

CEQA regulation 15004(b)(1) states: With public projects, at the earliest feasible time, project sponsors shall incorporate environmental considerations into project conceptualization, design and planning. **CEQA compliance should be completed prior to acquisition of the site for a public project.**

City Council clearly violated CEQA rules here by buying the property before performing the required prerequisites. This, taken together with Council's documented, willful deception of fooling the public that the park land was to developed into a true Community Park **for all residents,** should make the entire project invalid. And since it was the public's money that bought the site, a public Initiative is in order to determine how the citizens want this land developed.

3. IMPACTS ON SENSITIVE WETLANDS AND OCEAN

The Hall site is the source basin for Rossini Creek, an important wetland within the Carlsbad Watershed Network. Rossini Creek flows into the San Elijo Lagoon near the Cardiff Reef. Surface runoff and underground seepage from the site funnels into the adjacent Riparian Wetlands (Cal. Dept. of Fish and Games designation) directly adjacent and downstream of the site. These wetlands were restored and protected in the mid 1990s through the intervention of the California Coastal Commission when the Cardiff Glen community (Brandywine/Funaki development) was developed. Upstream of this community, the creek was under-grounded by Hall half a century ago.

If wetland protection is a noble task, then wetland restoration is even nobler. The site presents an wonderful opportunity at this time to restore the riparian wetlands at the source of Rossini Creek, which comprises a large part of the park site.[h] Day-lighting of the creek through the site and establishing a large ecologically self-sustaining clearing-pond would be a start. The wetlands

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[h] This was presented at a Coastal Commission hearing in Los Angeles in January 2005 by Rose Rothe with the requests, "that the Coastal Commission require the day-lighting of the creek and restoration of the native riparian habitat as a condition of the Hall Park development" and "that the Coastal Commission retain appeal jurisdiction over the entire length of the Rossini Creek and adjacent areas." Coastal Commission agreed.

restoration project could count as an off-site mitigation for the wetland areas lost in the San Elijo lagoon due to CALTRAN'S freeway expansion project.

Extensive lawn areas are unacceptable because of pesticide and fertilizer runoff into the environmentally sensitive creek. Flood containment and control measures must also be provided. The site is naturally graded to funnel surface water toward the edge of the riparian wetlands at the NE corner of the Cardiff Glen development (SW inside corner of Hall property, which represents the lowest point on site). Day-lighting Rossini creek and restoring the riparian habitat through the low area across the site from the existing riparian wetlands to the freeway would enhance the scenery and would allow the water drainage to be controlled. A permanent ecologically self-sustaining, large pond in the low area would be suitable for flood control, settling and clarification of turbid water and UV disinfection through sunlight. Such a pond stocked with native Gambusias (mosquito fish) would avoid the mosquito breeding problems associated with temporary retention ponds and "dry stream beds."

The presently established wetlands in the adjacent Cardiff Glen subdivision and the newly restored wetlands around the day-lighted creek should also be protected from noise, lights and pollution emanating from the site.

Another problem exists with storm water runoff from the separate, rectangular, 2.5 acre parcel that has been designated as a dog park. That parcel drains into Rossini Creek which runs along the southern edge of this parcel. Bacterial contamination entering the wetlands from dog feces presents an unavoidable problem. Hence this dog park should be relocated closer to the freeway.

SOIL & GROUNDWATER CONTAMINATION:

The site has been "pesticided" for fifty years, resulting in high accumulation levels of toxic pesticide residues deep in the soil. These pesticides go far beyond the common lawn chemicals used by home owners. The situation warrants the taking of deeper test samples for toxic residues that can affect the health of our children or future occupants (causing cancer, asthma, nerve damage, allergies, skin disorders, etc.). Surface runoff and underground seepage from the site funnels into the adjacent Riparian Wetlands directly downstream of the site and into the San Elijo lagoon.

Water samples taken in 2002 at test station CBS-6 in Rossini Creek, directly downstream from the site, showed abnormally high levels of fecal coliform bacteria, toxic metal ions, ammonia and phosphorus. These samples were taken by the City of Encinitas as part of the National Pollutant Discharge Elimination System administered through the Regional Water Quality Control Board. The coliform count exceeded national standards by a factor of 34. Arsenic levels were 14 times above the limit; copper was 11 times, phosphorus 3 times, and ammonia-N was 656 times higher. Note that these "monitoring samples" test only for bacteria, turbidity, metal ions and certain common anions. Carcinogenic and nerve toxins, found in pesticide residues, petroleum derivatives and industrial toxins (PCBs, Dioxins, TCE etc.) were not tested for.

In April 2004, the California EPA, through the Office of Environmental Health Hazard Assessment, established a public health goal of 4 parts per trillion for arsenic in drinking water.

At that level "there would not be more than one additional cancer case in a population of one million people." If we applied that standard, **arsenic levels in the sample of the effluent from the Hall site is 1,182,000 times the safe level for drinking water! It surely represents a severe danger to wildlife and human habitation downstream of the project and to surfers at the Cardiff reef. We believe the soil and groundwater pollution levels on the Hall site to be alarming, if not downright scary.**

CONCLUSIONS

We trust you agree that the negative impacts on the environment and the community are severe. Moreover, that beach access, violations of General Plan policies, CEQA and LCP regulations, as well as preserving wetlands and beaches for the enjoyment of visitors and residents, are significant issues for denying the proposed competitive tournament park at this location.

We request that you, as the only and final oversight commission, carefully consider the Significant Issues outlined above, under the headings
(1) Traffic and Beach Access,
(2) Inconsistencies with the Encinitas General Plan, Encinitas Zoning Code, and CEQA, and
(3) Impacts on Sensitive Wetlands and Ocean,
and that you will recommend bringing the CQL Appeal before the full Coastal Commission.

Respectfully,

Signature on file

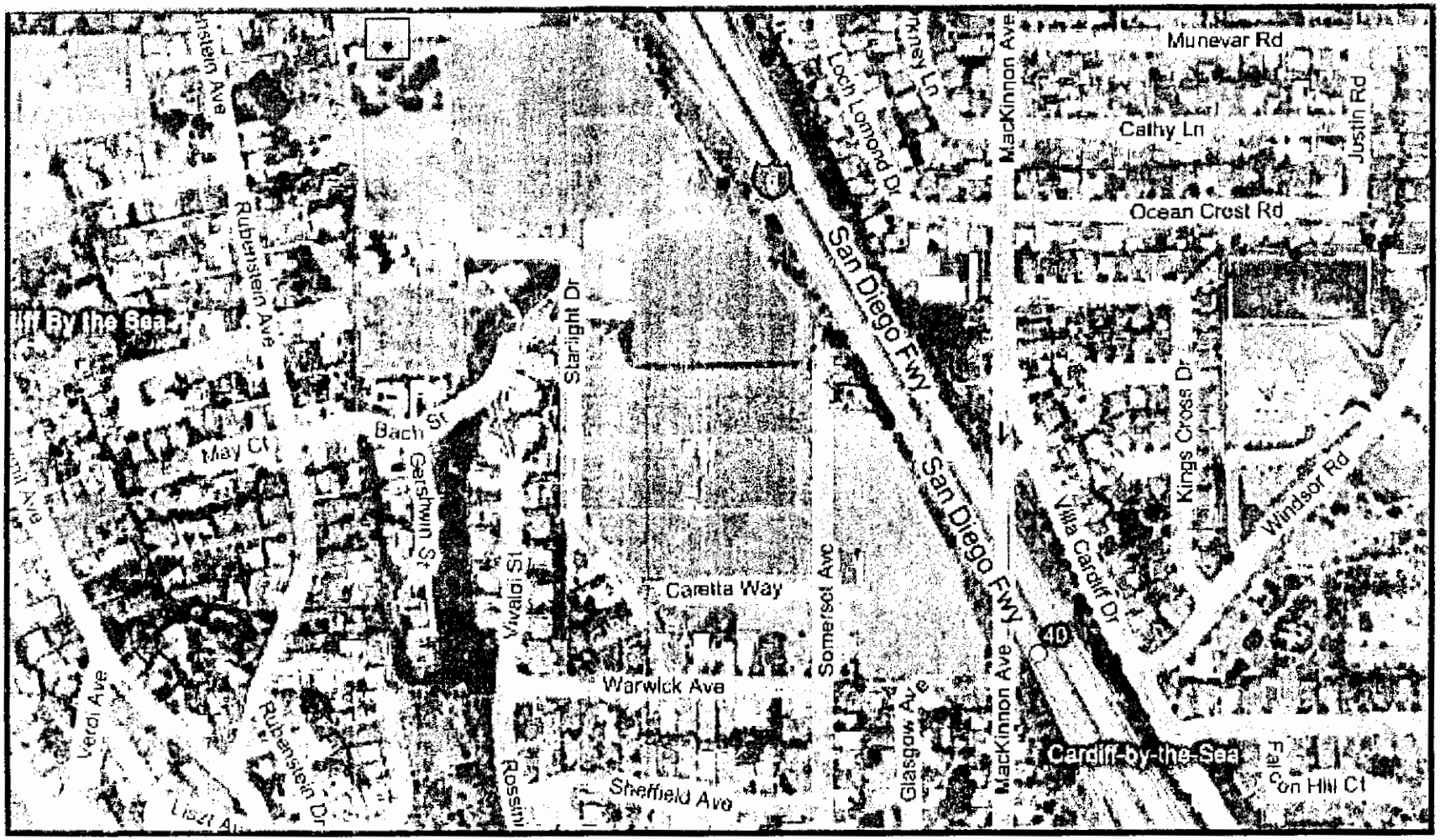
Dietmar E. Rothe, Ph.D., P.Eng.
1404 Rubenstein Avenue
Cardiff-by-the-Sea

Signature on file

Marie Dardarian
1376 Evergreen Drive
Cardiff-by-the-Sea

Location result for

425 Santa Fe Dr, Encinitas, CA 92024-5134



RECEIVED
JAN 14 2009
CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

1/12/09

Attn: Gary Cannon & Lee McEachern
CALIFORNIA COASTAL COMMISSION
7575 Metropolitan Drive, Ste. 103
San Diego, CA 92108-4402

Dear Mr. Cannon & Mr. McEachern, First, I would like to thank you for your service in helping manage the coast of the great state of California. In these times of great change and divided opinions on most subjects, your position has never been more challenging.

The 43 acre Hall Property in Cardiff-by-the-Sea is one such item now in your control. While all sides want the park to be completed and there is apparently a need for soccer fields in the Encinitas area, the quaint neighborhood of Cardiff is not the place for the project narrowly approved by the Encinitas City Council. By overturning the Planning Board's recommendation of among other items, reducing the number of dedicated playing fields and eliminating the 90 foot light towers, the council has divided the community and apparently nullified its own General Plan and Local Coastal Program. I ask you to recommend to the Coastal Commission there is substantial issue with the Hall Property Park and they should take control of the project, get a smaller dawn to dusk park built, and bring the city back within its voter approved guidelines.

The area of Cardiff-by-the-Sea where the property lies is bordered by narrow, winding streets with no sidewalks and parked cars making them even narrower. Many residents walk, some with strollers, children and pets and enjoy the peaceful rural feel of the 100 year old neighborhood. The people of this community treasure the fact it has changed little in recent years and were forced to sue the city to even get an EIR completed for the park and overrode the City Planning Board on its plan for business development and zoning regulations in the area.

The homes east of the property have beautiful horizon views of the Pacific Ocean and sunsets, a fact which the environment impact report on page 3.5.3. dismisses by stating the viewshed does not extend past the southbound lane of Interstate 5. I believe the council is allowing lighting with substantial glare that is inconsistent with applicable environmental plans, zoning, and regulations of the City. Additionally the EIR does not address the view contamination of the homes east of the property or the fact many nights the area is enveloped in a marine layer causing additional light reflection and pollution. The EIR looks only at the daytime view for light poles and night time light trespass to surrounding homes and neglects to acknowledge the fact when the lights are on with the marine air the change to the community and views is massive.

Although you may believe the kids of the community need soccer fields and there is simply nowhere else to put them, the community of Cardiff-by-the-Sea already has the majority of sports fields in the greater Encinitas area. The County of San Diego is offering for development 38 acres in the New Encinitas area of the city which has many more residents and less sports fields and a sports park would be a great fit for this parcel but has been completely ignored.

I am sure the pressure for local officials to develop a major regional sports park on the Hall Property is intense but that does not change the fact that the nearby community will be negatively affected and it is in direct conflict with the cities own General Plan and Local Coastal Program. My neighbors and I ask you to help keep our community as it is without the massive sports complex approved by the City Council against the direction and community input of the Planning Board. Please recommend to the Coastal Commission there is substantial issue with the Hall Property Park as approved by the City Council and help the Cardiff-by-the-Sea residents keep the existing character of their community and build a less intense park with a local neighborhood focus as the Local Coastal Program outlines.

Thank you for you time

Jim Norris
961 Birmingham Drive
Cardiff-by-the-Sea, CA 92007

RECEIVED
JAN 1 4 2009
CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

January 9, 2009

To: California Coastal Comm.
Attn: Gary Cannon/Lee McEachern
From: Mike & Mary Conway
575 Arden Dr. Encinitas, Ca. 92024
760-753-6864
Subject: Hall Property Park

The Hall property park as currently designed will severely damage the small town community character of Encinitas and Cardiff. The park design should be reconfigured to eliminate a majority of the sports fields and to incorporate more passive uses. The huge amount of traffic and people will overwelm the small coastal community. A park with this many sports fields belongs in an area with more open space and much better vehicular access. Night lighting in this area would be totally contrary to the dark sky community character.

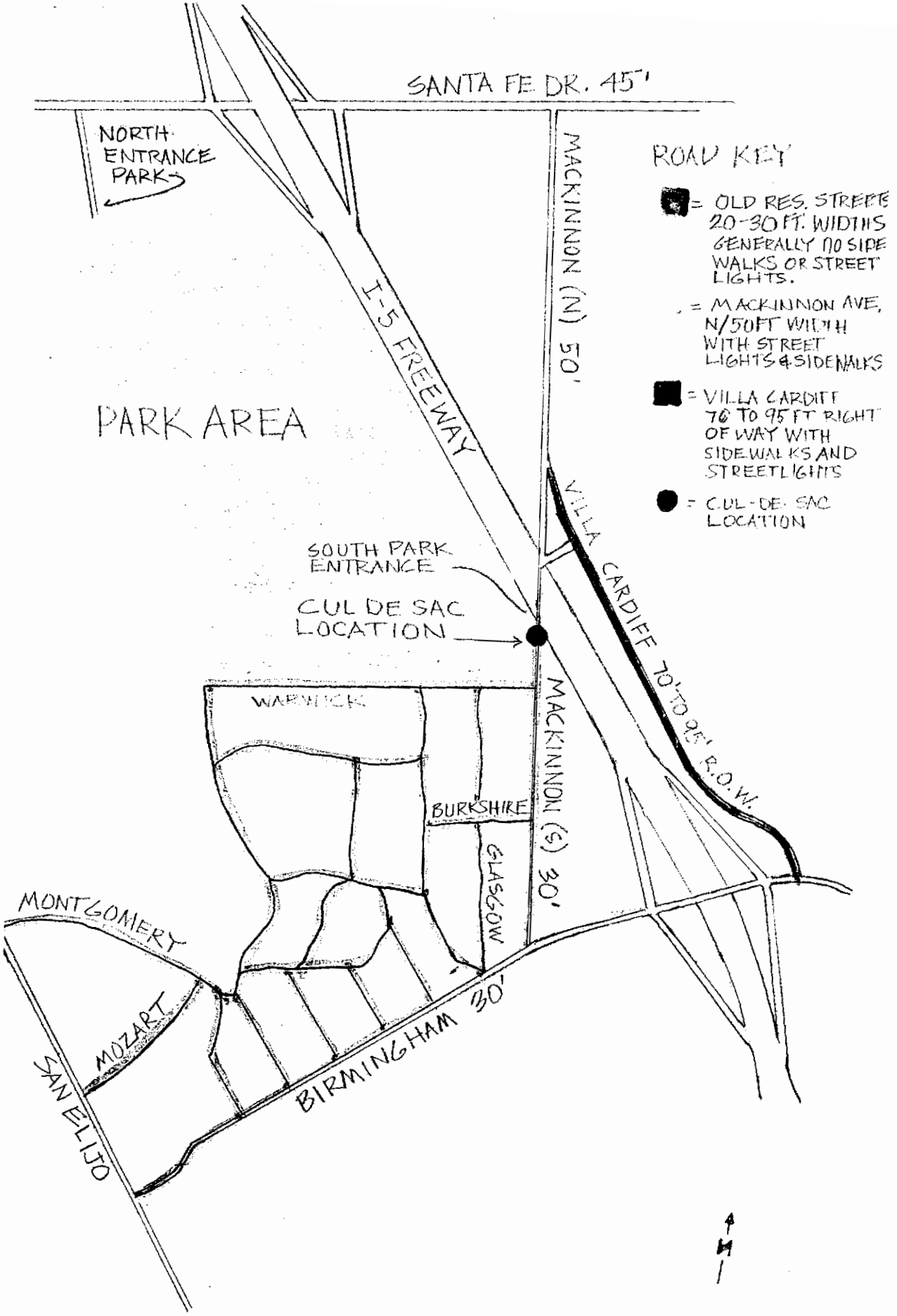
Traffic impacts to Birmingham Dr. and Santa Fe Dr. will severely impact coastal access as these two roads are the main corridors from Interstate 5 to the beach. The narrow windy roads to the South of the park site have no sidewalks or street lights and can support no additional traffic.

Over the last 5-7 years all public exhibits of the proposed park plan showed a cul-de-sac at the south end of the Mackinnon Ave. bridge freeway overpass (as shown on Exhibit A). All public testimony has been based on this plan –then suddenly at the last Planning Commission meeting the cul-de-sac plan was thrown out with virtually no discussion. Mackinnon Ave. North of the bridge and Villa Cardiff (which are the Br & Yel Streets) are much wider with street lights and sidewalks and can be improved to safely convey traffic from both Santa Fe Dr. and Birmingham Dr. to the Mackinnon Ave. bridge entrance.

The park design should be more passive and access to the park should be directed away from Birmingham Dr. to Villa Cardiff in order to protect community character and public beach access.

Sincerely,

Signature on file



MAP EXIBIT A
MIKE CONWAY
NO SCALE

John & Audrey Bromstad
P.O. Box 847, Cardiff-by-the-Sea, CA 92007
Tel: 760-944-7568 Email: jjohnedgar@aol.com

Attn: Gary Cannon & Lee McEachern
CALIFORNIA COASTAL COMMISSION
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4402

SUBJECT: HALL PROPERTY PARK, CITY OF ENCINITAS
January 12, 2009

Dear Mr. Cannon & Mr. McEachern,

At issue in the Hall Property Park design and approval process are major concerns of revisions and amendments to:

The General Plan
The Municipal Code
The Local Coastal Program

We are appealing to the California Coastal Commission to reject the City Plan for the Hall Property Park, and support the recommendations of the Planning Committee.

Further, we are appealing to the California Coastal Commission to recognize that the City of Encinitas (city council and city staff) has grossly misrepresented the validity of the City Plan park proposal.

1. City staff (Patrick Murphy) publicly announced in the October 20, 2008 council meeting that the Hall property had been internally changed in 2004 and was now designated a "special use" park. This came as a complete surprise to the citizens and to members of the city council. (This is clearly a questionable issue, done by city staff without a public agenda notice and without a vote by the City Council.)

2. For eight (8) years the property has been referred to as a "community park." This has been labeled a "community park" on official correspondence, on EIR documents and on every agenda before the city council.

3. Maps and charts produced by the city mislabel certain park properties, skewing the statistical data used to justify the City Plan. (Examples: The "special use" sports complex on Lake Drive is improperly shown as a "community park." The "Paul Ecke sports park" is also improperly shown as a "community park." (See map/chart on page 26 of the Recreational Element of the General Plan.) Other park land is excluded from city charts/maps.

4. The lengthy and entire EIR designates the property as a "community park." All data and review is based on a "community park."

On September 18, 2008, **the Encinitas Planning Commission denied the City Plan for the Hall Property and recommended these modifications:**

The Encinitas Planning Commission denied the City Plan for a Regional Sports Park on the Hall Property in Encinitas for these reasons:

1. Five (5) Soccer Fields were too many. The emphasis on soccer fields skewed the park's purpose. There should be no more than three (3) soccer fields, and these to be overlaid with baseball fields.
2. Other recreational sports deserve equal attention. Tennis courts, football fields, volleyball courts and softball fields must be included.
3. The plan calls for fenced and locked soccer fields, used only for league play — not open to the public.

4. The Planning Commission also voted against stadium-type lighting (30' to 90' stanchions).
5. Park hours should not go beyond 10PM.
6. The park plan does not designate adequate *open space*.
7. Encinitas Parks and Recreation Policy require that certain parks be closed for three months of the year for re-seeding and rejuvenation. (See photos attached.) The Hall Park should remain open all year long.
8. Proposals from the design firm RJM show permanent stadium-seating for the soccer fields, the design is far too intense.

Following the Planning Commission's denial of a Major Use Permit, Design Review, Coastal Development Permit and final EIR certification on the Hall Property Community Park, a public hearing was held on October 20, 2008.

Appellant 1. Encinitas Soccer League:

In the public hearing only **one special interest organization** opposed the Planning Commission's denial of the proposed park. That special interest group is the Encinitas Soccer League. The Encinitas Soccer League raises hundreds of thousands of dollars to pay coaches and administrative staff, and to sponsor and participate in regional tournaments. It represents only a small segment of the entire community, and has leadership from outside the city of Encinitas.

1. The Encinitas Soccer League insisted that a minimum of five (5) soccer fields are needed for their use.
2. The ESL also favors 90' light stanchions.
3. The ESL wants park hours extended until midnight, obviously for tournament play.
4. The ESL wants soccer fields fenced and locked, and only for organized soccer team usage.

NOTE: No other sports or recreation group was represented — the city design does not include tennis courts, softball fields, volleyball courts, football fields or open space.

Appellant 2. The General Public:

Over forty (40) citizens from all communities of Encinitas addressed the city council speaking in favor of the Planning Commission's denial of the project, supporting the recommendations made by the planning Commission.

It has been the practice of the Encinitas City Staff to identify all citizens who speak against the City Plan as members of Citizens for Quality of Life (CQL). This is untrue and unfair. By labeling all the people who oppose the City Plan, the City is denying citizens of Encinitas their right to be heard and recognized as individuals.

Appellant 3. Citizens for Quality of Life (CQL):

CQL agrees with the Planning Commission's denial of the project, and supports the recommendations made by the Planning Commission. CQL is a local community organization that depends wholly on donations of time and money to monitor various community issues. The organization has no official membership list except for those responsible for record-keeping and finances. CQL funded legal and professional assistance to successfully require the City of Encinitas to conduct a legitimate EIR on the Hall property, a legally required procedure that the city had ignored. When the city presented its Draft EIR to the community it was found to be woefully deficient, requiring the city to redo the EIR.

The voluminous EIR documents were prepared by outside consultant firms (EDAW) at tremendous expense to the taxpayers; however, city staff gave narrow guidelines and reworked the reports for months to tailor the results to fit the city plan, ignoring significant issues and community concerns. (SEE PARAGRAPH 6 ATTACHED) "EDAW will either ask the City for a list of project objectives or will work with the City to develop this list based upon previous direction from the City Council. By identifying establishing the objectives of the project, the City will be able to defend its environmental analysis, in particular, the reasons for narrowing the alternatives examined in the EIR."

CEQA GUIDELINES SECTION 15126.6 requires that the lead agency (City of Encinitas — Parks and Recreation Department) consider reasonable alternatives to the proposed project. (SEE ATTACHED DOCUMENT FROM PARETO PLANNING AND ENVIRONMENTAL SERVICES OF BURBANK, CA — PAGES 3 THRU 9)

ALTERNATIVES — CEQA GUIDELINES SECTION 15126.6

The lead agency is responsible for selecting project alternatives which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project. There is no ironclad rule governing the nature or scope of the alternatives to be discussed other than the rule of reason. Citizens for Quality of Life Alternative for a Community Park Design meets (even exceeds) all of the project objectives and avoids or substantially lessens any of the significant adverse effects of the project.

RULE OF REASON — CEQA GUIDELINES SECTION 15126.6

The alternatives (plans) shall be limited to ones that would avoid or substantially lessen any of the significant effects of the project. Citizens for Quality of Life Alternative for a Community Park Design meets (even exceeds) all of the project objectives and avoids or substantially lessens any of the significant adverse effects of the project.

1. CQL Alternative provides a broader array of recreational uses, to include tennis courts, volleyball courts, softball diamonds and much needed open space.
2. CQL Alternative advocates a community park that remains open all year long.
3. CQL Alternative advocates normal park hours (until 10PM) and provides for maximizing use during park hours — this is fundamentally different than maximizing park hours.

ENVIRONMENTALLY SUPERIOR ALTERNATIVES — CEQA GUIDELINES SECTION 15021

A lead agency should not approve a project as proposed if there are feasible alternatives or mitigation measures available that would substantially lessen any significant effects that the project would have on the environment.

Stadium-style lighting (30' to 90' stanchions) violates City Ordinance 2003-10 (dark sky element, nuisance lighting) and destroys ocean view corridors for thousands of residents. **(Goal 9 and Policy 9.5 Encinitas Local Coastal Plan** — "Preserve the existence of present natural open spaces, etc., and maintain the sense of spaciousness within the I-5 View Corridor, etc., as identified in the Resource Management Element. Discourage development (including parks) that would infringe upon scenic views and vistas within the I-5 corridor." Coastal Act/30240030251).

Unreasonable hours of operation (until 12PM midnight) would create circumstance causing inconvenience or annoyance, a blatant interference with the use and enjoyment of a person's adjoining property. Stadium-style lighting and excessive hours of operation would significantly reduce the value of adjacent properties.

CQL Alternative for a Community Park Design avoids any of these significant adverse effects of the project.

OPEN SPACE ELEMENT OF LOCAL COASTAL PLAN — RE-3

Goal 1: the maintenance of the open space resources in the Planning Area will continue to be emphasized. (Coastal Act / 30240)

The City Plan does not provide for 'open space' in the Hall Park plan. CQL Alternative for a Community Park Design provides for additional 'open space'.

MILLIONS OF TAXPAYER DOLLARS AND YEARS OF DELAY.

This standoff between community and city hall has taken over six {6) years. During this time the city has expended thousands of taxpayer dollars in legal fees, and spent over 1.5 million dollars of taxpayer money to make the EIR fit the plan for an intense use, soccer stadium. A simple majority of city council members (and city staff) have taken a hard line on the park design and use, refusing to entertain community input or consider conflict resolution negotiations.

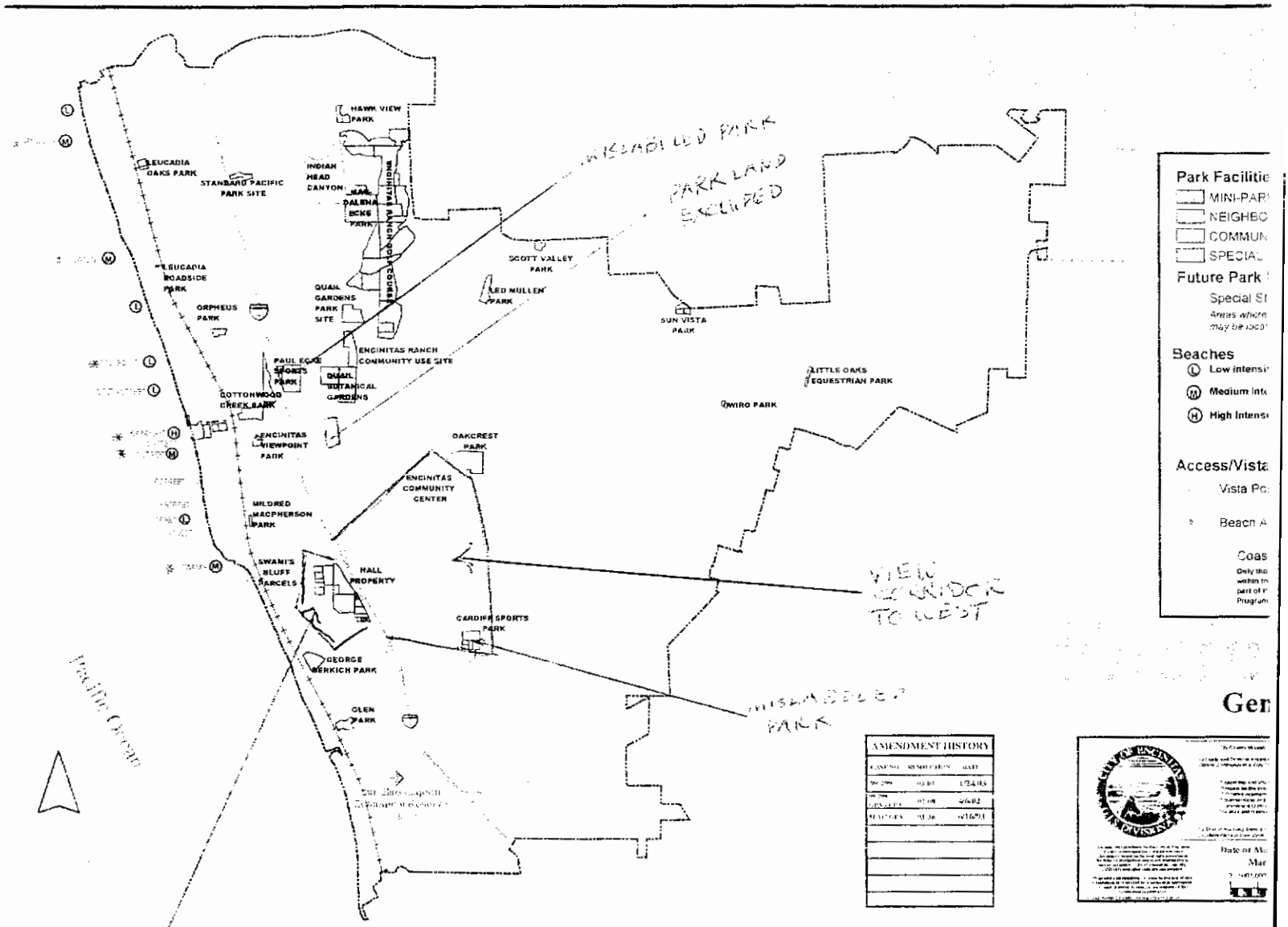
City refused to consider Conflict Resolution negotiations. CQL and owners of homes in Cardiff Glen (an upscale community of 26 homes bordering the proposed park) engaged the firm of La Jolla Center for Conflict Resolution to explore avenues of common concerns and attempt to bring parties together to protect property values, discuss compromise and acceptable solutions. The City flatly refused.

We respectfully ask that the California Coastal Commission reject the City Plan for the Hall Property Park and adopt the CQL Alternative for a Community Park.

Sincerely,

Signature on file

Audrey Bromstad
John Bromstad


HAWK VIEW PARK
LEUCADIA OAKS PARK
STANDARD PACIFIC PARK SITE
INDIAN HEAD CANYON
MAC DALENA ECKE PARK
ENCINITAS RANCH GOLF COURSE
LEUCADIA ROADSIDE PARK
ORPHEUS PARK
QUAIL GARDENS PARK SITE
ENCINITAS RANCH COMMUNITY USE SITE
PAUL ECKE SPORTS PARK
QUAIL BOTANICAL GARDENS
COTTONWOOD CREEK PARK
ENCINITAS VIEWPOINT PARK
MILDRED MACPHERSON PARK
SWAMI'S BLUFF PARCELS
HALL PROPERTY
GEORGE BERKICH PARK
GLEN PARK
OAKCREST PARK
ENCINITAS COMMUNITY CENTER
CARDIFF SPORTS PARK
SCOTT VALLEY PARK
LEO MULLEN PARK
SUN VISTA PARK
LITTLE OAKS EQUESTRIAN PARK
WIRO PARK
MISLABELED PARK
PARK LAND EXCLUDED
VIEW CORRIDOR TO WEST
MISLABELED PARK
VIEW CORRIDOR TO EAST
Pacific Ocean
Park Facilitie
MINI-PAR
NEIGHBO
COMMUN
SPECIAL
Future Park
Special St
Beaches
Low intensi
Medium Int
High Intens
Access/Vista
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Beach A
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AMENDMENT HISTORY

EDAW (note on page 2) EDAW

6. Project Description Refinement

EDAW will work with the City to use the existing park plan parameters provided in the RFP and other project documents to develop a project description.

EDAW will either ask the City for a list of project objectives or will work with the City to develop this list based upon previous direction from the City Council. By identifying establishing the objectives of the project, the City will be able to defend its environmental analysis, in particular, the reasons for narrowing the alternatives examined in the EIR.

In addition, EDAW will work with the City to develop the assumptions to use for our environmental analyses. The project description will need to address parameters for lighting, maintenance, and the operation of the amphitheater, sports fields, and aquatic center. Our noise, lighting, and design specialists will be available to attend a meeting with the City and help define these project parameters.

The City has indicated that a preliminary grading plan will be available for evaluation in the technical studies. It is assumed that the grading will be consistent with previously prepared traffic studies and planning documents and that the grading plan will show grading contours, roadway alignment, and the location of proposed structures. It is also assumed that the City can provide information regarding grading quantities, earthwork haul, and disposal and transport of material. This information will be used in the development of the project description for the park, as well as analysis of technical issue areas, including hydrology and water quality.

B. TECHNICAL STUDIES

The following tasks detail the work program for the individual technical studies that the City outlines in the RFP.

1. Hydrology and Water Quality Study

Based upon this grading plan and information provided by the City in Task A6, Dokken Engineering will prepare a preliminary drainage and hydrology study. Dokken will analyze existing drainage systems for their ability to accommodate future design flows and will identify the project's impact on the capacity of existing or planned storm water drainage systems and detention basins, including any hydrological effects on Rossini Creek. The study will document on-site and off-site drainage patterns and quantities and will provide for preliminary design information regarding best management practices (BMPs).

Dokken will identify potential storm water quality impacts and develop options to avoid, reduce, or minimize these impacts. The project's potential short-term and long-term effects on sensitive downstream bodies of water, including the San Elijo Lagoon and Rossini Creek, will be evaluated. Dokken will identify project-specific permanent and temporary BMPs that may be required to mitigate impacts from construction activities and all park uses and activities. Descriptions of climatic conditions, existing drainage site conditions, site permeability, soil texture, existing vegetation, and groundwater will be prepared.

The information gathered and developed in this task will be used to develop a Hydrology and Water Quality Report, which will summarize the findings and proposed drainage improvements. This study will be in compliance with the City's engineering

ALTERNATIVES

CEQA Guidelines Section 15126.6 requires in part (emphasis added) that:

(a) Alternatives to the Proposed Project. An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, **which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project**, and evaluate the comparative merits of the alternatives. An EIR need not consider every conceivable alternative to a project. Rather it must consider a reasonable range of potentially feasible alternatives that will foster informed decisionmaking and public participation. An EIR is not required to consider alternatives which are infeasible. The lead agency is responsible for selecting a range of project alternatives for examination and must publicly disclose its reasoning for selecting those alternatives. There is no ironclad rule governing the nature or scope of the alternatives to be discussed other than the rule of reason. (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553 and *Laurel Heights Improvement Association v. Regents of the University of California* (1988) 47 Cal.3d 376).

(b) Purpose. Because an EIR must identify ways to mitigate or avoid the significant effects that a project may have on the environment (Public Resources Code Section 21002.1), the discussion of alternatives shall focus on alternatives to the project or its location which are capable of avoiding or substantially lessening any significant effects of the project, even if these alternatives would impede to some degree the attainment of the project objectives, or would be more costly.

(c) Selection of a range of reasonable alternatives. The range of potential alternatives to the proposed project shall include those that could feasibly accomplish most of the basic objectives of the project and could avoid or substantially lessen one or more of the significant effects. The EIR should briefly describe the rationale for selecting the alternatives to be discussed. The EIR should also identify any alternatives that were considered by the lead agency but were rejected as infeasible during the scoping process and briefly explain the reasons underlying the lead agency's determination.

Additional information explaining the choice of alternatives may be included in the administrative record. Among the factors that may be used to eliminate alternatives from detailed consideration in an EIR are:(i) failure to meet most of the basic project objectives, (ii) infeasibility, or (iii) inability to avoid significant environmental impacts.

(e) "No project" alternative.

(1) The specific alternative of "no project" shall also be evaluated along with its impact. The purpose of describing and analyzing a no project alternative is to allow decisionmakers to compare the impacts of approving the proposed project with the impacts of not approving the proposed project. The no project alternative analysis is not the baseline for determining whether the proposed project's environmental impacts may be significant, unless it is identical to the existing environmental setting analysis which does establish that baseline (see Section 15125).

(2) The "no project" analysis shall discuss the existing conditions at the time the notice of preparation is published, or if no notice of preparation is published, at the time environmental analysis is commenced, as well as what would be reasonably expected to occur in the foreseeable future if the project were not approved, based on current plans and consistent with available infrastructure and community services. If the environmentally superior alternative is the "no project" alternative, the EIR shall also identify an environmentally superior alternative among the other alternatives.

(f) Rule of reason. The range of alternatives required in an EIR is governed by a "rule of reason" that requires the EIR to set forth only those alternatives necessary to permit a reasoned choice. The alternatives shall be limited to ones that would avoid or substantially lessen any of the significant effects of the project. Of those alternatives, the EIR need examine in detail only the ones that the lead agency determines could feasibly attain most of the basic objectives of the project. The range of feasible alternatives shall be selected and discussed in a manner to foster meaningful public participation and informed decision making.

(1) **Feasibility. Among the factors that may be taken into account when addressing the feasibility of alternatives are site suitability, economic viability, availability of infrastructure, general plan consistency, other plans or regulatory limitations, jurisdictional boundaries (projects with a regionally significant impact should consider the regional context), and whether the proponent can reasonably acquire, control or otherwise have access to the alternative site (or the site is already owned by the proponent).** No one of these factors establishes a fixed limit on the scope of reasonable alternatives. (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553; see *Save Our Residential Environment v. City of West Hollywood* (1992) 9 Cal.App.4th 1745, 1753, fn. 1).

(2) Alternative locations.

(A) Key question. The key question and first step in analysis is whether any of the significant effects of the project would be avoided or substantially lessened by putting the project in another location. Only locations that would avoid or substantially lessen any of the significant effects of the project need be considered for inclusion in the EIR.

(B) None feasible. If the lead agency concludes that no feasible alternative locations exist, it must disclose the reasons for this conclusion, and should include the reasons in the EIR. For example, in some cases there may be no feasible alternative locations for a geothermal plant or mining project which must be in close proximity to natural resources at a given location.

The EIR includes analysis of the following seven alternatives:

1. Through Access on Mackinnon Avenue
2. Reduced Intensity Alternative
3. Citizens for Quality of Life Alternative

4. No Athletic Fields Lighting Alternative
5. No Project-Development of Residential Per Zoning Alternative
6. No Project-No Build Alternative
7. Offsite Location-Strawberry Fields Alternative

Alternatives 5 and 6 are the required No Project Alternatives. Alternative 7 is the other location alternative.

Pursuant to CEQA Guidelines Section 15126.6(f), Alternatives 1, 2, 3, and 4 are alternatives that would feasibly attain most of the basic objectives of the project, but would reduce or eliminate significant impacts. According to Chapter 2 of the Draft DEIR:

> The objective of the project is to develop a community park that:
>
> 1. Provides a variety of recreational facilities that are predominately active park uses,
> 2. Maximizes the number and use of athletic fields that help to offset the unmet needs of Encinitas while preserving other desired features of the park site,
> 3. Provides multiple vehicular and pedestrian access points,
> 4. Provides adequate recreational facilities for all user groups,
> 5. Maximizes use of recreational facilities during park hours, and
> 6. Provides a buffer to separate active park uses from the adjacent residential uses.

Alternatives 1, 2, 3 and 4 thus must feasibly attain most of the basic objectives of the project, or the City has failed to comply with CEQA alternatives requirements.

Compliance of Alternative 3 – Citizens for Quality of Life Alternative With the Project Objectives

The following table provides a comparison of the uses provided by the proposed project and by the Citizens for Quality of Life Alternative

PROPOSED PROJECT	ALTERNATIVE 3
• 3 joint soccer/baseball fields	• 2 joint soccer/baseball fields
• 2 multiuse fields	• ---
• Basketball court	• Basketball court
• Teen center (5,000 sf)	• ---
• --	• Multi-purpose Community Center
• --	• Tennis courts
• --	• Volleyball courts
• Dog Park	• Dog Park
• Amphitheatre (75-100 seats)	• Theater
• --	• Open space
• --	• Horticultural/ecological museum
• --	• Wetlands restoration with permanent pond
• --	• 4-H Activity area
• --	• Arts and Crafts Area
• Skate Park (13,000 sf) – unsupervised with lighting	• --
• Aquatic facility	• Indoor swimming pool
• Gardens	• Gardens
• Picnic areas	• Picnic Areas
• --	• Tea House
• Trails	• Pedestrian and bike trails
• Scenic Overlook	•
• Two toddler play area	• Tot lots
• Four covered picnic areas	• Picnic areas
• Two restrooms	• Two restrooms
• 419 parking spaces	• 450 parking spaces

Alternative 3 – the Citizens for Quality of Life alternative feasibly obtains all of the project objectives:

1. Provides a variety of recreational facilities that are predominately active park uses.

   Although the Citizens for Quality of Life Alternative provides for less soccer/baseball fields, it includes tennis and volleyball courts, not

provided by the proposed project. It thus provides for a variety of active park uses. It should be noted that proximity to the I-5 freeway would argue against making this predominantly an active use (i.e. cardio-intensive uses) park.

2. Maximizes the number and use of athletic fields that help to offset the unmet needs of Encinitas while preserving other desired features of the park site.

   Numerous soccer and baseball fields are available in Encinitas. Although this alternative does include these uses, this alternative provides for other unmet or underserved recreational needs within the City.

3. Provides multiple vehicular and pedestrian access points.

   As with the proposed project, this alternative provides for multiple vehicular and pedestrian access points and includes both north and south parking lots. This alternative provides for more parking than the proposed project and can thus accommodate more users.

4. Provides adequate recreational facilities for all user groups,

   This alternative provides for a broader array of recreational uses than does the proposed project and thus meets the needs of more potential user groups.

5. Maximizes use of recreational facilities during park hours

   By providing for a broader array of user groups, this alternative maximizes the use of recreational facilities during park hours. It should be noted that maximizing use during park hours is fundamentally different than maximizing park hours.

6. Provides a buffer to separate active park uses from the adjacent residential uses.

   This alternative provides a much greater buffer to separate active park uses from adjacent residential uses.

This alternative meets all of the project objectives.

Environmentally Superior Alternatives

CEQA Guidelines Section 15021 (emphasis added) imposes on the Lead Agency a:

> **Duty to Minimize Environmental Damage and Balance Competing Public Objectives**
>
> (a) CEQA establishes a duty for public agencies to avoid or minimize environmental damage where feasible.
>
> (1) In regulating public or private activities, agencies are required to give major consideration to preventing environmental damage.
>
> **(2) A public agency should not approve a project as proposed if there are feasible alternatives or mitigation measures available that would substantially lessen any significant effects that the project would have on the environment.**
>
> (b) In deciding whether changes in a project are feasible, an agency may consider specific economic, environmental, legal, social, and technological factors.
>
> (c) The duty to prevent or minimize environmental damage is implemented through the findings required by Section 15091.
>
> (d) CEQA recognizes that in determining whether and how a project should be approved, a public agency has an obligation to balance a variety of public objectives, including economic, environmental, and social factors and in particular the goal of providing a decent home and satisfying living environment for every Californian. An agency shall prepare a statement of overriding considerations as described in Section 15093 to reflect the ultimate balancing of competing public objectives when the agency decides to approve a project that will cause one or more significant effects on the environment.

As stated in Section 15021(c), this duty is implemented through findings required by Section 15091, which states in part:

> **15091. Findings**
>
> (a) No public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant

see page 3

policies include measures designed to ensure that any new development is in harmony with the surrounding environment. At the same time, a number of policies indicate the City's intention to discourage development or reduce the density or intensity of development in those areas subject to environmental constraints.

Goal 9: Preserve the existence of present natural open spaces, slopes, bluffs, lagoon areas, and maintain the sense of spaciousness and semi-rural living within the I-5 View Corridor and within other view corridors, scenic highways and vista/view sheds as identified in the Resource Management Element. (Coastal Act /30240/30251)

Policy 9.1: Encourage and preserve low-density residential zoning within I-5 Corridor while preserving the best natural features and avoiding the creation of a totally urbanized landscape and maintain I-5 Interchange areas to conform to the specification of this overall goal. The City will develop an I-5 view corridor plan to implement this policy. (Coastal Act /30240/30251)

Policy 9.2: Encourage retention of buffer zones such as natural vegetation or earth barriers, bluffs, and canyons to protect adjacent areas of freeway corridor from pollutants of noise, exhaust, and light. (Coastal Act /30240/30251)

Development permitted in wetland and riparian buffer areas shall be limited to access paths, passive recreational uses, fences and similar improvements necessary to protect the wetland or riparian resource, and shall be restricted to the upper or landward half of the buffer. Wetland/riparian areas and their associated buffers shall be permanently protected from development through the application of an open space easement or other suitable instrument. Developments shall be located and designed so as not to contribute to increased sediment loading of the wetland/riparian area, cause disturbances to its fish and wildlife values, or otherwise impair the functional capacity of the resource. Exceptions from this policy for intrusion of development into wetland or riparian areas and their associated buffers shall only be considered as specified in Resource Management Policy 10.6. (Coastal Act /30240)

Policy 9.5: Discourage development that would infringe upon scenic views and vistas within the I-5 corridor.

Policy 8.6: Significant natural features shall be preserved and incorporated into all development. Such features may include bluffs, rock outcroppings, natural drainage courses, wetland and riparian areas, steep topography, trees, and views. (Coastal Act /30240/30250/30251)

Policy 8.10 Amended 1/30/91: Ecological Resource/Open Space/Parks is a category intended to be applied to both active and passive parklands; lagoons; wetlands habitat areas and their adjacent buffers; and other areas of significant environmental quality or public resource value. Lands in the Ecological Resource/Open Space/Parks category, other than public parks, and similar areas for active recreation, will be limited to uses and

January 3, 2009

RECEIVED
JAN 05 2009
CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Mr. Lee McEchron
7575 Metropolitan Drive, Ste. 103
San Diego, CA 92108-4402

Dear Mr. McEchron,

As a neighbor for over thirty years abutting the Hall Property, I strongly feel that the park as planned by the City Council of Encinitas is not sensitive to the neighbors of the coastal community of Cardiff by the Sea. This plan has not addressed the issue of access and traffic congestion created by this park plan, protection and enhancement of the wetlands that adjoin the parksite, and the invasive lighting that interferes with the character of our coastal community.

The traffic that will be generated by this planned park with sport's tournament capabilities as well as the Scripps Hospital Expansion Plan would result in traffic congestion on Santa Fe and Birmingham Drives and will have an adverse effect on the ease of beach access in our community.

The park as planned does not include the proper expansion of the adjacent wetland habitat as was shown on the original community input plan. The expansion of the established bordering wetland habitat into the Hall Property would enhance the wetland, reduce the run-off of fertilizers, pesticides, herbicides, and reduce water usage.

The field lighting is the most invasive item that is planned for the project. It will not only be a continuous light invasion for the existing neighborhood, but a severe detriment to the wildlife of the wetland habitat, and a possible distraction for vehicles on Interstate 5.

I have enclosed several documents that show a brief history of the Hall Property project. These include:

1. July, 2000 – survey of voters by the City of Encinitas
2. April, 2001 – purchase agreement under "threat of condemnation"
3. October, 2001 – analysis by City of Encinitas for potential dog park site(note access)
4. July, 2002 – invitation to Hall Property Park Planning Workshop and comparison of Community Input Plan to City Council Plan
5. March, 2007 – response to Hall Property Park from CalTrans
6. February, 2007 - Community Petition for the Hall Property

Thank you for your attention to this matter. I hope this information is useful as you consider this issue and that a park can be built that is consistent with our original community plans and that will enhance our coastal environment.

Sincerely, *Signature on file*

Denis G. Wolfe
1355 Rubenstein Avenue
Cardiff, CA 92007
760-436-3547 adwolfe@att.net

1

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JUN 0 5 2003
CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

EXCERPTS FROM

GodbeResearch & Analysis Report

Survey of Voters

Prepared for City of Encinitas
July 2000

Godbe Research & Analysis (GRA) conducted a public survey of voters and performed an analysis of the results in response to a request from the City Manager. The survey and analysis were performed in anticipation of encumbering the Citizens of Encinitas with a bond issue to purchase the 43-acre Hall property. GRA issued a final report on this study in July 2000.

In their survey, GRA performed a sample ballot measure of 500 voters, selected at random from all five City Communities (Leucadia, New Encinitas, Old Encinitas, Olivenhain and Cardiff). The purpose of the sample ballot measure was to test the conditions under which the public would support the bond issue and the purchase of the Hall property, specifically with respect to potential public uses of the 43 acres of "parkland" that were to be acquired.

As is detailed in GRA's report, the public responded negatively to the potential use of the property for organized "sports facilities." The clear majority of the voters wanted open space, passive parks, not additional new sports fields.

Reprinted from **Godbe**Research & Analysis, ***Survey of Voters*** (Prepared for City of Encinitas, July 2000) – Executive Summary, pages 4, 5

"Conclusions and Recommendations

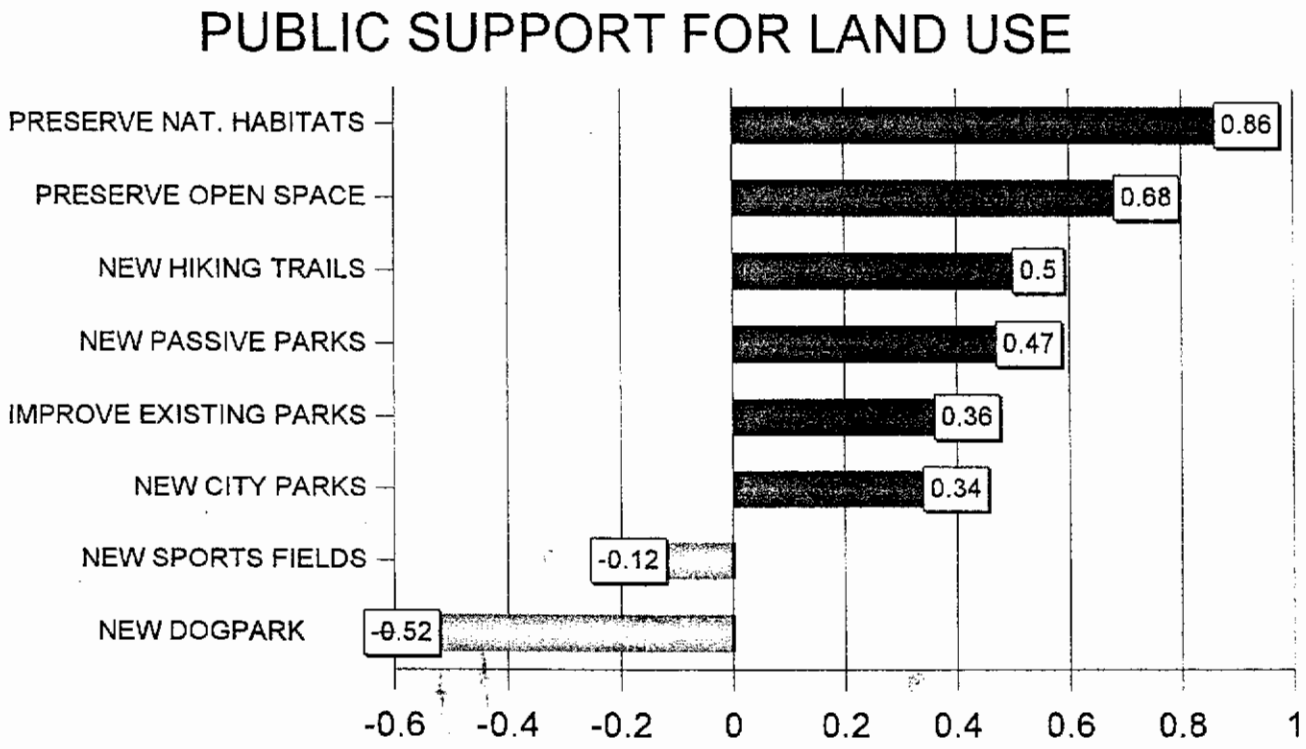
"Based on the research objectives for this study and the findings of the analyses, GRA is pleased to offer the following conclusions and recommendations:

"Voters in the City of Encinitas are of mixed minds with respect the ballot measure as presented in the survey. On the one hand, the results of this study clearly indicate that voters in the City of Encinitas recognize the importance of acquiring and protecting open space and natural habitat. Not only was preserving open space rated among the top three most important issues tested in the survey, it (along with preserving habitat and wetlands) was also the most popular spending project that may be funded by the measure [ballot measure for issuing bonds to purchase Hall property]. Put simply, acquiring and preserving open space and natural habitat resonate strongly with a large percentage of Encinitas voters.

"On the other hand, **Encinitas voters are less compelled by the need for additional recreation facilities, such as sports fields,** skateboard facilities, tennis courts, etc. Improving park and recreation facilities, as well as increasing the number of facilities, were identified by respondents as being less important than nearly all other issues tested, including preventing local tax increases. **Moreover, most voters were inclined to support the measure less when informed that it would fund a variety of specific recreation facilities.**

"Given the importance that voters assigned to acquiring and preserving open space and protecting habitat, as well as the comparative lack of enthusiasm that they showed for funding specific park and recreation facilities with a tax measure, the **City should consider limiting the scope of the proposed revenue measure to open space and habitat preservation. More specifically, GRA recommends that the City move forward with plans to place a revenue measure on the ballot provided that the measure be devoted to acquiring and preserving open space and natural and endangered habitats in the City** *and* a substantial public information campaign is employed to educate the voters about the issues surrounding the measure."

Reprinted from **Godbe**Research & Analysis, ***Survey of Voters*** (Prepared for City of Encinitas, July 2000) – Spending Projects, page 21

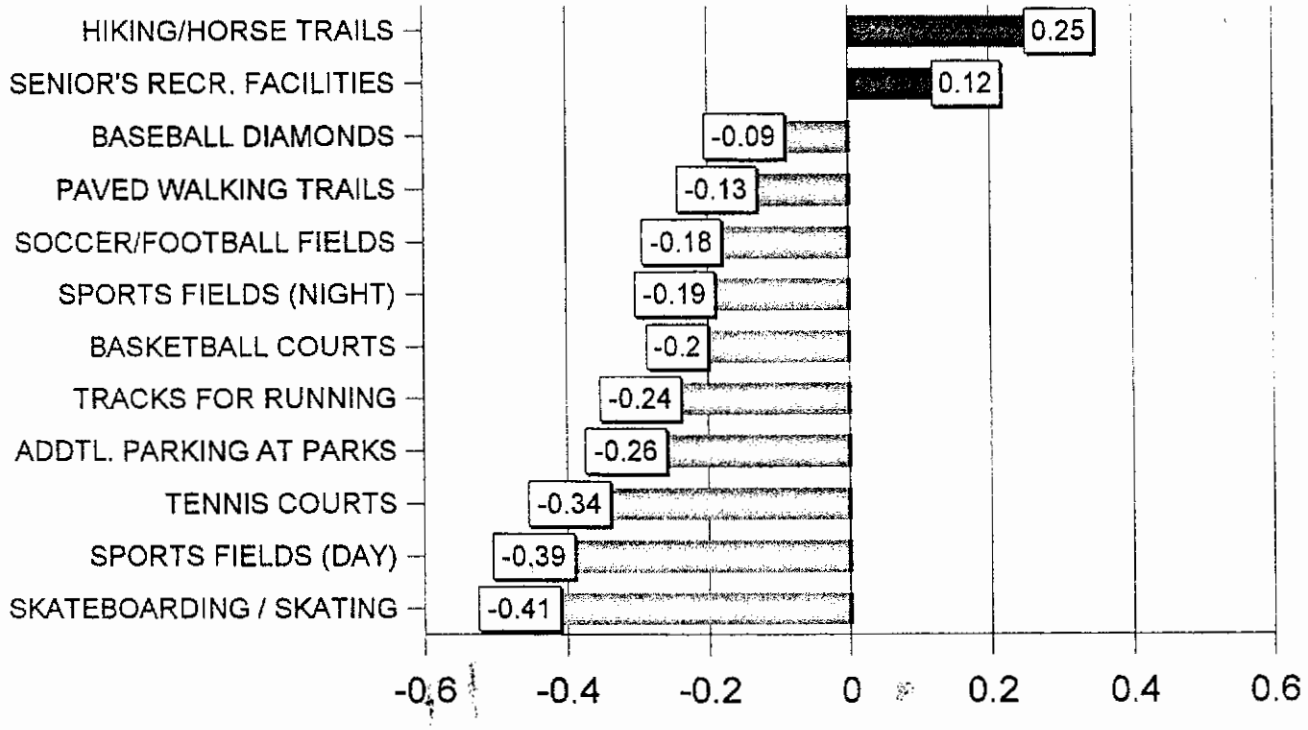


"The project that generated the most support for the [ballot] measure [to issue bonds for buying the Hall property] was 'Preserve habitat and wetlands' (0.86), followed by 'Acquire and protect open space, which will not be developed with trails or other recreational facilities' (0.68), 'Develop trails for hiking ... ' (0.50) and **'Create passive use recreation areas for picnicking, strolling and relaxing' (0.47).**

"'Create a dog park' received a **negative mean (-0.52), as did 'Create sports fields' (-0.12), which indicates that they depressed support for the measure among respondents as a whole."**

Reprinted from **Godbe**Research & Analysis, ***Survey of Voters*** (Prepared for City of Encinitas, July 2000) – Spending Projects, pages 24, 25

SUPPORT FOR ACTIVE RECREATIONAL USES



"Most of the spending projects that were tested pertained to facilities that may be located in a City [sports] park. ... **all but two of the specific facilities tested received a negative score,** which means that the information had a small to moderate negative influence upon support for the measure [to issue bonds to buy the Hall property] among respondents overall.

"... the **'greatest negative impact was associated with Create handball courts' (-0.69), followed by 'Construct skateboard and inline skating facilities' (-0.41), 'Create sports fields for day use' (-0.39), and 'Create additional tennis courts' (-0.34).** Although two projects were assigned positive mean scores – 'Create hiking and horse trails' (0.25) and 'Provide recreation facilities for seniors, such as lawn bowling' (0.12) – the magnitude of the positive effect was very small."

2

RECEIVED
CALIFORNIA COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

PURCHASE AGREEMENT AND ESCROW INSTRUCTIONS

TO: Fidelity National Title Company
("Escrow Holder")

Escrow No.: 4303706-TS
Escrow Officer: Mr. Tim Szucs

This Purchase Agreement and Escrow Instructions ("Agreement") is made and executed as of April 18, 2001, between Robert R. Hall, Inc., a California corporation, Robert R. Hall, an individual and Robert R. Hall, Successor Trustee under Declaration of Trust, dated September 29, 1988, (collectively, "Seller"), and the City of Encinitas, a municipal corporation organized and established pursuant to the laws of the State of California ("Buyer"), who agree as follows:

1. RECITALS.

a. Robert R. Hall, Inc., a California corporation ("Corporation") is the fee owner of that certain real property as described on Exhibit "A" attached hereto and incorporated herein by this reference ("Corporation Property"). Robert R. Hall, an individual ("Hall") is a fee owner of that certain real property described in Exhibit "B" attached hereto and incorporated herein by this reference ("Hall Property"). Robert R. Hall, Successor Trustee under Declaration of Trust, dated September 29, 1988 ("Trustee") is the fee owner under various subtrusts of that certain real property as described in Exhibit "C" attached hereto and incorporated herein by this reference ("Trustee Property"). The Corporation Property, Hall Property and Trustee Property are collectively described as the "Property" herein.

b. Seller and Buyer desire, pursuant to this Agreement, to set forth an agreement pursuant to which Seller shall sell and Buyer shall buy the Property. Buyer requires the Property, a property not now appropriated to a public use, for the construction of a public improvements described as a public park, a public use. Because Buyer may exercise the power of eminent domain to acquire, Seller is compelled to sell; and because Buyer requires the Property for the public park, Buyer is compelled to buy. As such, the acquisition of the Property is an involuntary conversion of the Property from private to public use. Both Buyer and Seller recognize the expense, time, effort, and risk to both Buyer and Seller in resolving a dispute over compensation for the Property by eminent domain litigation; and the compensation set forth herein is in compromise and settlement, in lieu of such litigation. The parties have herein set forth the whole of their agreement. The performance of this Agreement constitutes the entire consideration for the conveyance of the Property to Buyer and shall relieve Buyer of all further obligation or claims of whatever kind or nature on this account, or on account of the construction of the proposed public improvement in the manner proposed, including, but not limited to, claims arising out of its location, grade, or restriction of private access rights. Seller acknowledges that Buyer has informed Seller as to the plans for the construction of the proposed public improvement in the manner proposed.

(ii) On or before the Closing Date (as defined below) Buyer shall deposit the balance of the Purchase Price and funds sufficient to cover Buyer's costs into Escrow by wire transfer or other form of immediately available funds acceptable to Escrow Holder and Title Company. Trustee has the right, at or prior to the Closing Date, to allocate the sale proceeds among the subtrusts which are the fee owners of the Trustee Property.

b. Any of the individuals or entities that comprise Seller may intend to make this transaction part of an Internal Revenue Code Section 1031 tax-deferred exchange and, accordingly, Buyer shall cooperate, to the extent permissible by law, with Seller in effectuating the same, provided that Buyer shall not incur any additional expense (beyond routine staff time for purposes of imparting information) or liability and that the intended exchange shall not delay the close of Escrow. Any of the individuals and entity(ies) comprising Seller may, at their option, assign their respective interest(s) in this Agreement to an exchange accommodating party to facilitate such a Section 1031 exchange.

c. Buyer acknowledges that the sale of the Property by Seller is being made under the threat of condemnation as an "involuntary conversion" as defined in the Internal Revenue Code Section 1033. Buyer agrees to reasonably cooperate with Seller, (and each of them) to the extent permissible by law, in the execution and/or preparation of documents (as may be required by the Internal Revenue Service or the California Franchise Tax Board) to verify the terms of the sale and the nature of the sale as an involuntary conversion, under the threat of condemnation. Buyer's obligation (as described herein) shall survive the close of escrow.

d. Buyer acknowledges that Robert R. Hall may elect, prior to the conveyance to City, to convey a fee interest or a tenant in common interest in any parcel of property in which Robert R. Hall is an owner in fee or holds a tenant in common interest to a charity of his choice ("Charity"), upon condition that the Charity shall agree to convey such parcel directly to City (upon the terms and conditions of this Agreement) at the Close of Escrow with the purchase price for such parcel to be paid directly to the Charity. A conveyance to Charity by Robert R. Hall shall be at no additional expense to Buyer.

5. PROPERTY REVIEW AND INSPECTION.

a. Document Deliveries. Buyer acknowledges receipt of the following items: (i) a copy of the Phase I Environmental Assessment, Robert R. Hall, Inc., Encinitas, California prepared by Dudek & Associates, Inc. dated December, 2000; and (ii) a copy of the Phase II Environmental Assessment Report dated March 15, 2001 prepared by Dudek & Associates. The foregoing items are collectively referred to as the "Property Information." Within ten (10) business days after the execution hereof, Seller shall deliver to Buyer any and all information which Buyer may reasonably request regarding the Property which has not previously been delivered to Buyer during the term of the Exclusive Negotiating Agreement to permit Buyer to determine whether the consummation of the contemplated acquisition of the Property would be in Buyer's best interest. Such information shall include copies of any leases of the Property and/or the general terms of any oral agreements for utilization of any portions of the Property by third parties.

City of Encinitas

(2)

RECEIVED
CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

April 18, 2001

Robert R. Hall, Inc., a California Corporation
Encinitas, CA 92024

RE: Property – Exhibit "A" (Robert R. Hall, Inc, a California Corporation)

Dear Mr. Hall:

This letter confirms that the Purchase Agreement and Escrow Instructions dated April 18, 2001 concerning property identified in part in Exhibit "A" is an acquisition of property by the City of Encinitas for public purposes in lieu of actual condemnation. This acquisition of property is therefore in lieu of , or under "threat" of, condemnation.

Sincerely,

Signature on file

Kerry L. Miller
City Manager

KLM:jcs

cc: Glenn Sabine, City Attorney
Christine Tennison, Esquire
Robert R. Hall, Inc, a California Corporation

Attachment A

3

POTENTIAL DOG PARK SITES ANALYSIS CRITERIA MATRIX
(Per P.A.D.Z. 10-22-01 City Council Presentation)

POTENTIAL SITE	LOCATION	SIZE	ACCESS	COMPATABILITY (ZONING)	UTILITIES (Water & Power)	LIABILITIES (ENVIRONMENTAL)
James McPherson Park (945 Orpheus)	Leucadia (North Coastal)	2 acres	Excellent (Near I-5)	Light residential Open Space	Accessible	Proximity to I-5 noise
SDG&E Easement (Encinitas Blvd. & Village Park)	New Encinitas, Central	Less than 1 acre	Good (off Encinitas Blvd.)	Heavy residential Potential conflict with trail system and SDG&E requirements	Accessible	Proximity to homes Power lines
Indian Head Canyon (Saxony & Quail Hollow Road)	Leucadia	60 acres	Good (off Quail Hollow)	Heavy residential	Accessible	Potential environmental issues
Hall Property (I-5 & Santa Fe Drive)	Cardiff	44 acres	Poor	Potential element of the Master Plan	Accessible	Undetermined
Quail Gardens Park (634 Quail Gardens Drive)	Old Encinitas	9 acres	Good (off Quail Gardens)	Heavy residential, close to school	Accessible	Undetermined
Hawk View Park (Blue Herron and Swallowtail)	New Encinitas	1 + acres	Good (off Blue Herron & Swallowtail)	Expansion on to existing park	Accessible	None

(4)

RECEIVED
JUL 15 2002
CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

July 3, 2002

Dear Resident:

This letter is to inform you that, on July 15, 2002, the City of Encinitas City Council will hold a special public meeting *at the Encinitas Community Center* to consider the following subject:

Subject: **Presentation to the City Council of the Results of the First Hall Property Park Planning Workshop, Held June 8, 2002.**

In May 2001, the City purchased 43-acres of property located west of I-5 and south of Santa Fe Drive, commonly referred to as the Hall Property. The City hired the award-winning landscape architect firm, RJM Design Group, to guide the community through the master planning process. This process will define the land uses and conceptual layout of this site.

On June 8, 2002, nearly 200 people attended the first Park Planning Workshop, held at the Encinitas Community Center. On July 15, RJM Design Group will provide a summary of the workshop discussion and results to the City Council.

Touring the Hall Property

The City Council meeting will be held as follows:

Date: Monday, July 15, 2002
Time: 6:00 P.M.
Location: Encinitas Community Center
1140 Oakcrest Park Dr., Encinitas

Workgroup Discussions

This is a public meeting and your input is desired. Those who wish to address the Council must arrive just prior to the meeting, fill out a speaker request slip and submit it to the City Clerk. Comments are limited to three minutes, but speakers may receive two donations from others in the audience (for a total of nine minutes). For more information, please contact the City Manager's Office at (760) 633-2610.

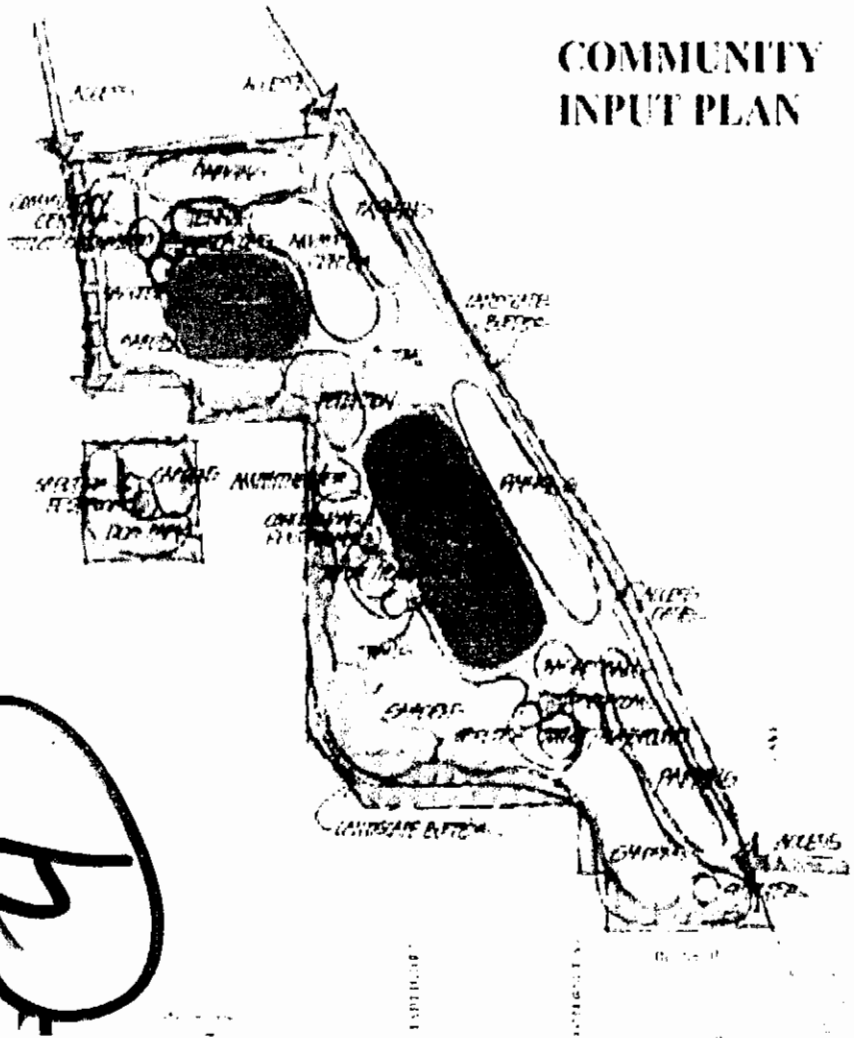
Sincerely,

Signature on file Smith

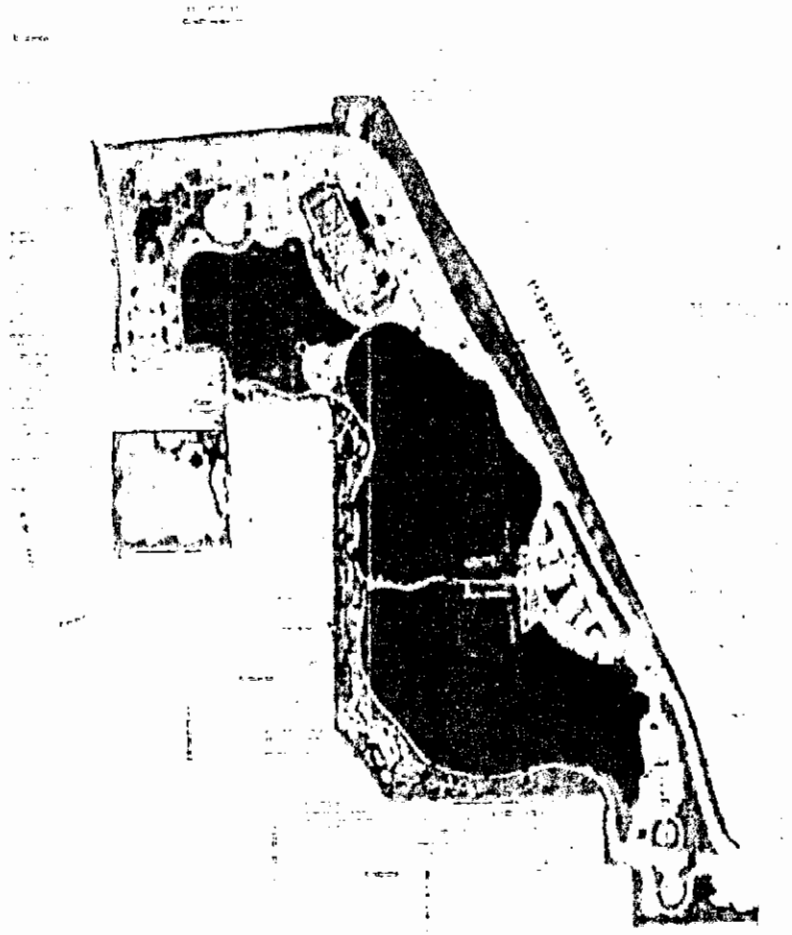
Jennifer Smith
Assistant to the City Manager

HALL PROPERTY
MASTER PLAN
CITY OF ENCINITAS

COMMUNITY INPUT PLAN



work shop results



city council Plan

HALL PROPERTY
SITE PLAN
CITY OF ENCINITAS

Red area shows the mixed use fields in the community plan and the designated fields and mixed use fields of the current site plan

There seems to be a radical difference between what the community asked for and the current plan

STATE OF CALIFORNIA – BUSINESS, TRANSPORTATION AND HOUSING AGENCY

ARNOLD SCHWARZENEGGER, Governor

DEPARTMENT OF TRANSPORTATION
District 11 · 4050 Taylor St. · M.S. 240
San Diego, CA 92110-2737
PHONE (619) 688-6003
FAX (619) 688-4299
TTY (619) 688-3214

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Flex your power!
Be energy efficient!

March 12, 2007

11-SD-005
PM 40.6

Mr. Scott Vurbeff
City of Encinitas – Planning & Building Dept.
505 S. Vulcan Ave.
Encinitas, CA 92024-3633

RECEIVED

RE: **Hall Property Community Park – Draft EIR (SCH 2004121126)**

Dear Mr. Vurbeff:

The California Department of Transportation (Caltrans) appreciates the opportunity to review the Draft Environmental Impact Report (EIR) for the proposed Hall Property Community Park project, located on approximately 44 acres immediately west and adjacent to the Interstate 5 (I-5) Right of Way (R/W), south of Santa Fe Drive in the City of Encinitas. This park project proposes a variety of passive and active recreational uses including athletic fields, an amphitheater, basketball court, skate park, and a dog park.

According to the Traffic and Circulation section of the EIR (Chapter 3.2), the following three State-owned intersections would operate at Level of Service (LOS) 'F' and therefore experience a significant impact with the proposed project:

- I-5 southbound (SB) ramps / Santa Fe Drive
- I-5 northbound (NB) ramps / Birmingham Drive
- I-5 southbound (SB) ramps / Birmingham Drive

Caltrans disagrees with the statement in the Draft EIR that it is not feasible for the City of Encinitas to implement mitigation measures necessary to address the significant impacts at the previously mentioned intersections. The EIR states that improvements associated with the I-5 North Coast Corridor project would fully mitigate the project's significant impacts at these interchanges. Although the process of planning and designing the I-5 North Coast Corridor Project is underway, the project is not currently funded or programmed. No environmental document has been prepared for I-5 North Coast, and no preferred alternative has been selected. Due to the uncertainties of the funding and environmental approval process, the precise fate or timing of the I-5 North Coast project is unknown at this time.

Caltrans continues to work with the City of Encinitas so that the design of I-5 North Coast does not preclude the City's plans for interchanges at Santa Fe and Birmingham Drives, including roundabouts – should that be the design which the City prefers. However, the I-5 North Coast project will not include construction of off-site improvements but merely accommodate the City's plans for those interchanges. Caltrans anticipates continues coordination with the City on the planning and design of the interchanges at I-5 / Santa Fe Drive and I-5 / Birmingham Drive.

As mentioned in the EIR, funding for large transportation projects such as I-5 North Coast comes from a variety of sources including the TransNet sales tax as well as federal, state, and local government sources. Caltrans is coordinating design, funding, and construction for I-5 widening, however these improvements cannot be assumed to be fully funded at this time. The $3 billion in TransNet Early Action Program funds referred to in the EIR is intended for several corridors in San Diego, not just I-5 exclusively. The $1.4 billion referred to as available funding is merely an estimate of the cost of constructing the I-5 North Coast project; again, however, this dollar amount has not yet been allocated or programmed.

Developer contributions through "fair share" mitigation for new project impacts are an important source of funding for improvement costs and/or other mitigation measures due to traffic impacts created by developments. Caltrans recommends that the City of Encinitas implement mitigation and/or provide "fair share" mitigation contributions which will reduce the level of impact resulting from the proposed park project below the level of significance. Caltrans does not recommend that the City wait for improvements from the I-5 North Coast project which remains an uncertainty at this time.

Any work performed within Caltrans R/W will require an encroachment permit. Early coordination with Caltrans is strongly advised for all encroachment permits. Furthermore, any work or improvements within Caltrans R/W must be included in the project's environmental studies. The developer is responsible for quantifying the environmental impacts of the improvements (project level analysis) and completing all appropriate mitigation measures for those impacts. The indirect effects of any mitigation within Caltrans R/W must also be addressed. The developer is responsible for procuring any necessary permits or approvals for improvements from the appropriate regulatory and resource agencies. Grading which would divert drainage from this proposed project and cause increased runoff to existing State facilities (e.g., I-5 R/W) will not be allowed. Additional information regarding encroachment permits may be obtained by contacting the Caltrans Permits Office at (619) 688-6158.

The proposed drainage system onsite must have adequate capacity such that flow will not be diverted onto Caltrans R/W. Grading for this proposed project which would modify existing drainage and increase runoff to State facilities will not be allowed. All signs visible to traffic on I-5 will need to be constructed in compliance with State and County regulations. All lighting (including reflected sunlight) within this project should be placed and/or shielded so as not to be hazardous to vehicles traveling on I-5.

Caltrans appreciates the opportunity to review this project proposal. For questions regarding the Department's comments, please contact Brent C. McDonald at (619) 688-6819.

Sincerely

Signature on file

for AL COX, Acting Chief
Development Review Branch

c:	BMcDonald	Planning	MS-240
	AJacobo	PPM	MS-122
	MKharrati	Design	MS-333
	KJewel	Frwy. Ops.	MS-230
	JMarkey	Permits	MS-110
	SMorgan	State ClearingHouse(SCH)	

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Community Petition for the Hall Property

We the undersigned would like the City of Encinitas to address these concerns:

- Reduce ~~severe~~ the possibility of severe traffic congestion by reducing the number of fields that would cause large tournaments.
- Respect the surrounding community by reducing light pollution by not permitting tower-like field lights.
- Protect and enhance established wetlands adjoining this property which flow into the San Elijo Lagoon and Pacific Ocean.

Print name Charles E Ruby Sign name *Signature on file*
Address 1416 Rubenstein Ave Cardiff 92007 E-Mail *Signature on file* not

Print name Fred Lee Sign name *Signature on file*
Address 1400 Rubenstein Ave Cardiff 92007 E-Mail

Print name Doug Thralls Sign name *Signature on file*
Address 1453 Rubenstein Ave E-Mail

Print name Holli Smith Sign name *Signature on file*
Address 1475 Rubenstein Ave Cardiff E-Mail

Print name Judith Jacinto Sign name *Signature on file*
Address 1504 Rubenstein Ave E-Mail

2/26/07

60 additional pages of this petition were submitted as well.

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