

CALIFORNIA COASTAL COMMISSION

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



Wed 14f

Filed: 9/8/06
49th Day: 10/27/06
180th Day: 3/7/07
Staff: Gary D. Cannon-SD
Staff Report: 9/26/06
Hearing Date: 10/11-13/06

STAFF REPORT AND RECOMMENDATION ON APPEAL

LOCAL GOVERNMENT: City of Encinitas

DECISION: Approved with Conditions

APPEAL NO.: A-6-ENC-06-110

APPLICANT: Dale L. Schreiber

PROJECT DESCRIPTION: Subdivision of a 0.45 acre two-parcel property into four (4) residential lots (total).

PROJECT LOCATION: 1531 San Elijo Avenue, Cardiff, Encinitas, San Diego County.
APNS 260-630-12, 260-630-13.

APPELLANTS: Randy and Carrie Wastal

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. Based on review of the City's file and information provided by the appellants, staff has concluded that the development, as approved by the City, is consistent with all applicable LCP provisions, is in character with the overall surrounding community, and will not result in any adverse impacts on water quality.

SUBSTANTIVE FILE DOCUMENTS: Certified City of Encinitas Local Coastal Program; Appeal Applications by Randy and Carrie Wastal dated 9/8/06; City of Encinitas Case #04-178/TPM/CDP.

I. Appellants Contend That: The proposed development is inconsistent with the policies of the certified LCP which pertain to the calculation of “gross acreage” and the number of lots that can be permitted after deduction of site constraints from total “gross acreage”. The appellant also contends that four lots will result in adverse impacts to water quality that can be lessened if three lots are permitted instead.

II. Local Government Action: The project was approved by the Planning and Building Director on 7/5/06. The coastal development permit was subsequently appealed by the subject appellants to the City Council on 8/23/06. At that hearing the City Council did not uphold the appeal and approved the Coastal Development Permit. Specific conditions were attached which, among other things, require that the applicant dedicate ten foot wide right-of-way pedestrian access; that in lieu of providing the required standard sidewalk, curb, and gutter, that a lien for future public improvements be recorded against the property prior to issuance of the grading permit for the property; that the developer provide water quality Best Management Practices (BMPs); and, several other conditions.

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. Projects within cities and counties may be appealed if they are located within mapped appealable areas.

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:

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. 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. If the Commission conducts a de novo 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 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-06-110 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-06-110* 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 development as approved by the City includes a coastal development permit to subdivide two lots comprising 0.45-gross acres into four-(4) lots for the future development of four single-family residences. An existing single-family residence will be remodeled to conform to the required setback from the property lines or removed in its entirety prior to recordation of the final parcel map. The existing single-family residence is located at the easternmost part of the property (where proposed Parcel 4 is located).

The subject site is located on the east side of San Elijo Avenue in the community of Cardiff in the City of Encinitas. Surrounding development includes residential development to the north, south and east and San Elijo Avenue to the west. Across San Elijo Avenue is the North County Transit District (NCTD) railroad right-of-way and on the other side of the railroad is Highway 101 and the ocean beyond that.

Each proposed parcel will have access to San Elijo Avenue via a private access easement along the southerly boundary of the subdivision. The proposal as approved by the City includes construction of the private access, right-of-way (ROW) improvements, and

facilities for drainage and storm-water cleansing. A 10-foot wide pedestrian easement is required to be located along the property's western boundary adjacent to San Elijo Avenue.

2. Permitted Density. The proposed subdivision is located within the R-11 (Residential 11) Zone which requires a minimum lot size of 3,950 sq. ft. and a minimum lot dimension of 40 feet in width and 90 feet in depth. The proposed four lots meet those standards. The appellants assert that the City failed to adequately determine the "gross acreage" of the development and that if it had accurately calculated "gross acreage" then there would not be sufficient acreage to create four lots consistent with the R-11 zone. They assert, "[t]he City's definition of 'gross acreage' says that it is before areas to be dedicated or reserved for public use are deducted from the lot." (Ref. Appeal Application, Exhibit #3). While the City's LCP does not have a definition for "gross acreage", it does have a definition for "gross area", which states:

GROSS AREA shall mean the total horizontal area within the lot lines of a lot or parcel of land before public or private streets, easements or other areas to be dedicated or reserved for public use are deducted from such lot or parcel.

In this case, the gross area for the subject development is .45-acres. In other words, this is the total area of the two existing lots before any constraints such as public or private streets are deducted. However, in order to determine the number of allowable lots based the density requirements of the City's zoning ordinance, the "net acreage" must be calculated. The LCP defines "net acreage" as:

NET ACREAGE for the purpose of calculating density, shall mean the slope adjusted unconstrained gross acreage within the property. Constrained acreage shall include flood plains, beaches, permanent bodies of water, significant wetlands, major power transmission easements, railroad track beds, existing and future right-of-way and easements for public and private streets/roads, and the area contained within the panhandle portion of an panhandle lot in a zone where the minimum lot size is 10,000 square feet or less.

While the appellants do not specifically say so in their appeal application, it appears they contend that a 10 ft. wide pedestrian easement that the City required as a condition of approval should have been included as constrained acreage and, therefore, subtracted from the net acreage total. However, as the above cited definition delineates, only existing and future easements for public and private streets/roads are to be excluded. There is no provision to exclude "pedestrian easements" from the calculation of "net acreage." Furthermore, with regard to the number of lots permitted, the proposed subdivision will create four lots that exceed the minimum requirements for lot dimensions and area, consistent with the R-11 zone which requires a minimum lot size of 3,950 net square feet. Specifically, the proposed lot acreages are as follows:

Parcel 1: 3,960 sq.ft. (net)/4,860 sq.ft. (gross)
Parcel 2: 3,960 sq.ft. (net)/4,708 sq.ft. (gross)

Parcel 3: 3,960 sq.ft. (net)/4,708 sq.ft. (gross)

Parcel 4: 4,494 sq.ft. (net)/4,494 sq.ft. (gross).

The only deductions that are required to be made to the net acreage calculation are for slopes and the private road easement. After deduction of these areas, the adjusted net acreage of the entire property is 0.37 acres, which can support the proposed four dwelling units, consistent with zoning requirements and the certified LCP. Specifically, the four proposed residential lots on a 0.37 net acre yields a density of 10.8 dwelling units per net acre, consistent with the R-11 zone designation which permits a maximum density of 11 dwelling units per net acre. As the City noted, the pedestrian access easement would be separate from the proposed right-of-way dedication and would not be a part of the public right-of-way for the public street; therefore, it is not deducted when performing the net acreage calculations (ref. Section 30.16.010B2 of the Municipal Code). In addition, the proposed four lots for single-family residential development will be consistent with the existing mix of single- and multi-family residential development in the area. Therefore, the appellants' assertion that the proposed project is inconsistent with the zoning requirements of the certified LCP is incorrect and does not raise a substantial issue.

In summary, based upon a review of all of the information, the Commission finds that the proposed subdivision is fully consistent with the density requirements of the certified LCP. Therefore, the Commission finds that the appeal does not raise a substantial issue regarding the proposed development's conformity with the density requirements as asserted by the appellants.

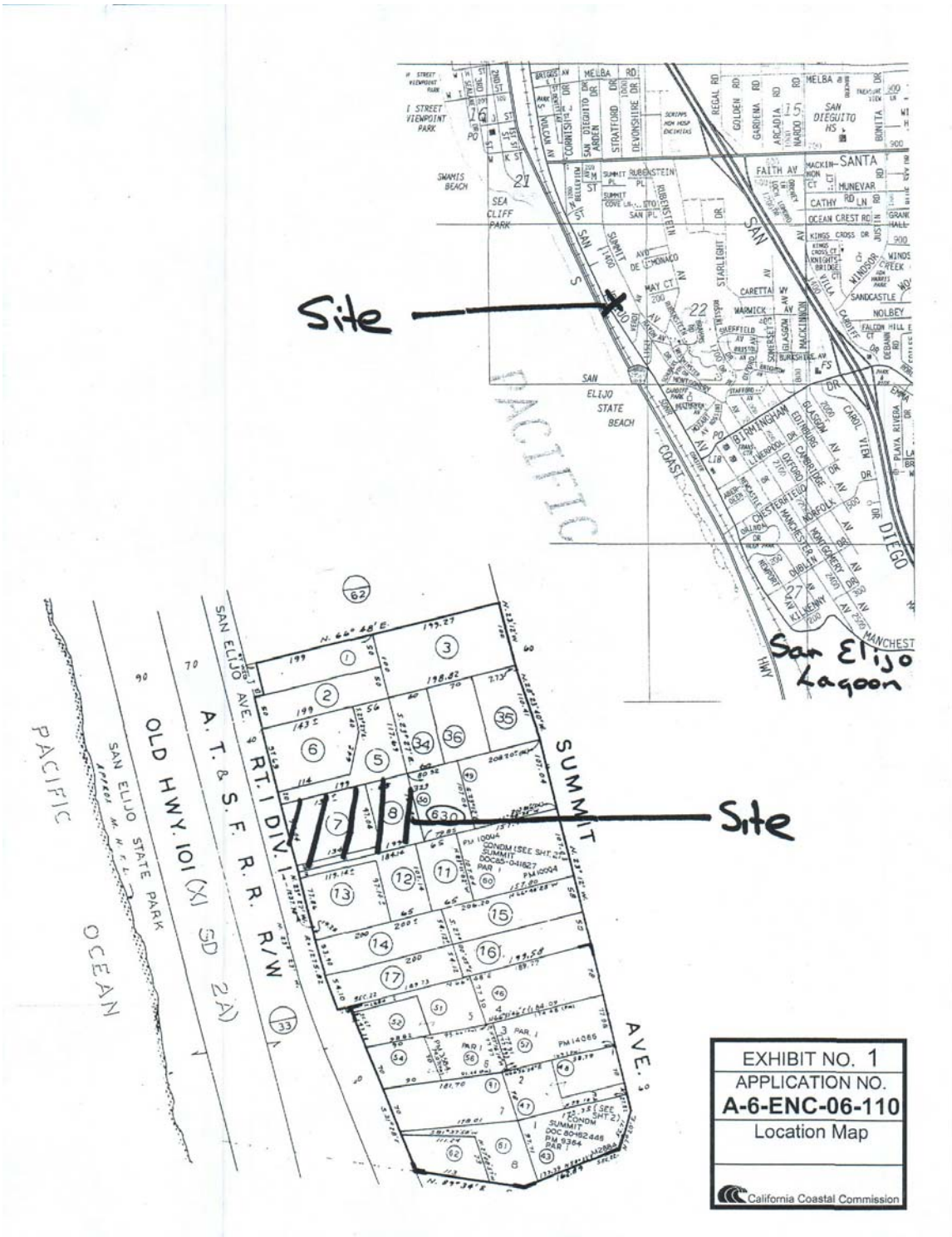
3. Drainage/Runoff. The appellants have also raised a second issue with regard to the development approved by the City. They assert that by allowing four dwelling units (rather than three), more surface drainage will drain into the ocean. They also assert that with a lesser density on the property, there would be less hardscape and less impervious surfaces which would result in an increase in landscaping to filter runoff rather than being directed to the street. In response to these assertions, the Commission finds that the proposed development will not result in any adverse impacts to water quality. Any new development on the newly created lots will be required to meet the City LCP standards to assure that all runoff is effectively treated on-site before entering into the street or other discharge location. In addition, any new development on the site will also require landscaping through which drainage can be directed. The proposed project has also been conditioned such that Best Management Practices will be required.

Specifically, as part of the City's coastal development permit, BMPs will be required to treat the access driveway and runoff. The proposed driveway is also required to be sloped towards a grassy swale along one side of the driveway to treat runoff. The swale is required to be below a 2% slope and reinforced with a City-approved geogrid to prevent erosion, etc. In addition, a private drainage system is also required to be provided for the purposes of collecting runoff from the adjacent property to the east and to prevent surface cross-lot drainage. This drainage system will intercept and conduct runoff safely onto San Elijo Avenue. Therefore, in summary, the proposed four-lot subdivision, with implementation of the BMPs, adequately addresses water quality issues

and no impacts to water quality would occur to any greater degree with the creation of four lots vs. three lots. Therefore, the Commission finds that the appeal does not raise a substantial issue regarding the proposed development's consistency with the water quality policies of the certified LCP.

4. Conclusion. In summary, the development as approved by the City, is consistent with all applicable LCP land use policies and provisions/development standards of the certified LCP Implementation Plan. The project, as approved by the City, is consistent with the density requirements and will not result in any adverse impacts on the character of the surrounding community or to water quality. Therefore, the Commission finds that the appeal does not raise a substantial issue with regard to the project's consistency with the certified LCP or the public access policies of the Coastal Act.

5. 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 creation of four lots that are consistent in size and scale with other properties in the vicinity and is not of unusual extent or scope. In addition, no variances from required development standards were approved by the City. The objections to the project suggested by the appellants do not raise any substantial issues of regional or statewide significance.



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: August 15, 2006 (appeal denied)

7. Local government's file number (if any): PBD-2006-60

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:

Dale Schreiber
mailing address unknown

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) Carolyn Lehmer
1525 San Elijo Avenue
Cardiff By the Sea, CA 92007

(2)

(3)

(4)

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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 letter dated 9/8/06

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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 of Appellant(s) or Authorized Agent

Date: 9-8-06

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: _____

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CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Randy & Carrie Wastal
1527 San Elijo Avenue
Encinitas, CA 92024

September 8, 2006

San Diego Coast District Office
Deborah Lee, Sr. Deputy Director
Sherilyn Sarb, District Manager
7575 Metropolitan Drive Ste 103
San Diego, CA 92108-4402

RE: Appeal of decision by City of Encinitas

Dear Ms. Lee and Ms. Sarb:

I am a homeowner next door to the subject property. This picture shows San Elijo Avenue and the subject property in the foreground. Our home is to the left and rear of the subject property.



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SAN DIEGO COAST DISTRICT

San Elijo Avenue to the south provides access to downtown Cardiff and the local school. San Elijo Avenue and 101 provide the only circulation north and south for the Cardiff portion of the city west of the freeway. When the freeway becomes congested and during commute hours, lunch and especially during the summer, San Elijo has a substantial amount of traffic.



San Elijo Avenue needs to be widened and provide sidewalks or trails on the east side for pedestrian traffic. Despite these needs, the city decreased the amount of right of way dedication required for this project which allows the increased density to 4 units instead of 3 units.

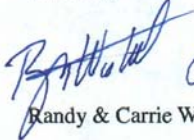
Additionally, the city is including the ten foot pedestrian easement area as part of the gross acreage of the project. The city's definition of "gross acreage" says that it is before areas to be dedicated or reserved for public use are deducted from the lot. SCA 1 states that one of the conditions of the development is that the owner dedicated a 10 foot pedestrian easement. If the ten foot easement is deducted, the density will only allow 3 units.

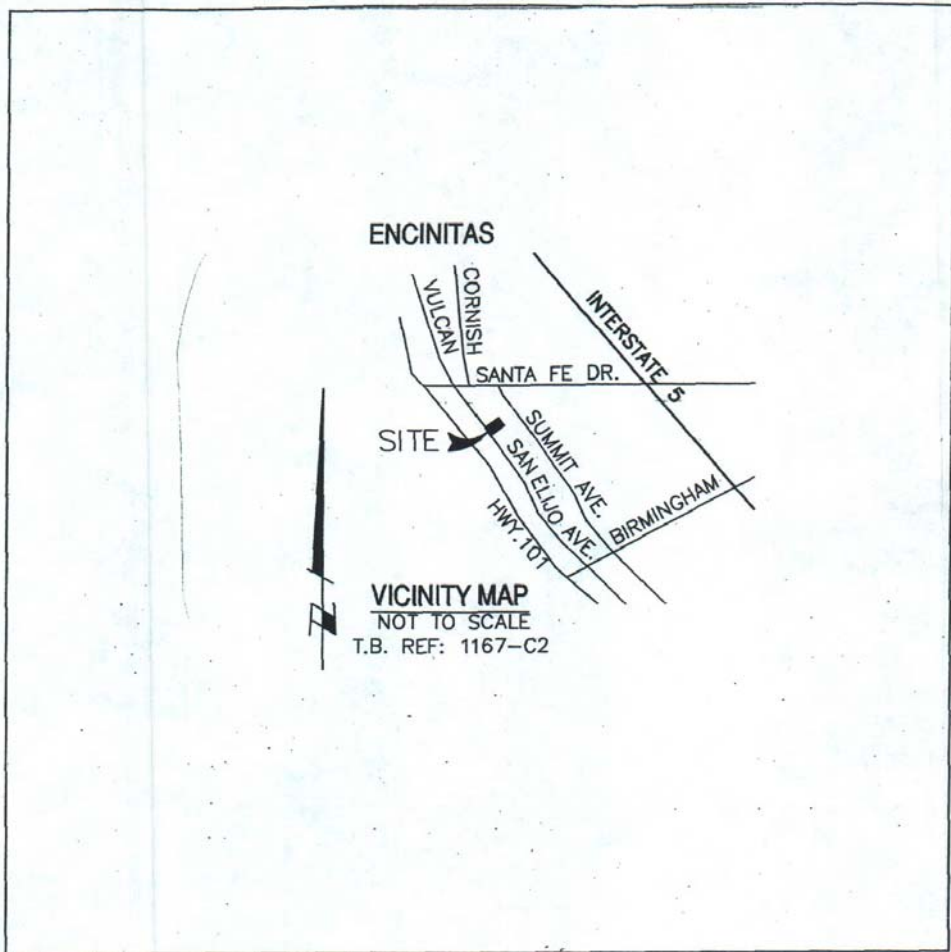
The coastal environment is also at issue. There are feasible alternatives available which would lessen any significant adverse impact that the activity may have on the environment. Reducing the density of the development from 4 to 3 units would produce less surface drainage which will drain into the ocean by decreasing the amount of hardscape (proposed development would change property from primarily dirt and vegetation surface to primarily impervious surfaces of roads, driveway, sidewalk, walls and roofs) and increasing the amount of landscaping areas to drain water in the natural aquifer, rather than surface drainage in swale to street.

Additionally, there is no drainage facility along San Elijo, therefore the public street and private driveway runoff pollute the ocean directly to the west at the surf break called Pipes via an underground pipe with no filtration, ultimately causing pollution and bluff failure. The environmental impacts have yet to be evaluated for compliance with NPDES requirements and the whole of the action, including the houses.

We hereby respectfully request that the Coastal Commission deny the approval of the City of Encinitas Council decision to allow 4 units to be constructed on this property and to reduce development to 3 homes only.

Sincerely,

 *Carrie Wastal*
Randy & Carrie Wastal



VICINITY MAP

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SAN DIEGO COAST DISTRICT

NORTH

SCALE - 1"= _____

6-ENC-06-256

STATE OF CALIFORNIA - THE RESOURCES AGENCY

ARNOLD SCHWARZENEGGER, Governor

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



APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

Name: Randy & Carrie Wastal
Mailing Address: 1527 San Elijo Avenue
City: Cardiff By the Sea Zip Code: 92007 Phone: 760-436-1454 ext 24

SECTION II. Decision Being Appealed

1. Name of local/port government:
City of Encinitas
2. Brief description of development being appealed:
Tentative Tract Map 04-178
.045 gross acre property (see attached maps)
3. Development's location (street address, assessor's parcel no., cross street, etc.):
APNs-260-630-12 AND 260-630-13
1531 San Elijo Avenue, Cardiff By the sea
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-06-110
 DATE FILED: 9/8/06
 DISTRICT: 6

EXHIBIT NO. 3
APPLICATION NO.
A-6-ENC-06-110
Appeal Application
1 of 9
California Coastal Commission

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SAN DIEGO COAST DISTRICT

PLANNING AND BUILDING DEPARTMENT
505 South Vulcan Avenue
Encinitas CA 92024
(760) 633-2710

NOTICE OF DECISION
PBD-2006-60


July 5, 2006

This letter is to inform you that the Planning and Building Director has approved your application for:

04-178 TPM/CDP (Schreiber) – The applicant requests approval of a Tentative Parcel Map and Coastal Development Permit to subdivide a 0.45-gross-acre property into four (4) lots for the development of single-family residences. The existing single-family residence would be remodeled to conform to required setbacks from the proposed property lines or removed in its entirety prior to recordation of the final parcel map. The project site is located at 1531 San Elijo Avenue in the R-11 (Residential 11) zone and within the Coastal Commission appeal jurisdiction of the Coastal Zone. (APN 260-630-12, -13)

Project Description and Discussion: The applicant requests to subdivide a 0.45-acre property consisting of two (2) existing legal lots into four (4) lots for single-family residential development. The surrounding neighborhood is developed with a mix of single and multiple-family residential development. The subject property slopes down from east to west at approximately 17.5% grade. The existing single-family residence would be remodeled to conform to required setbacks from the proposed property lines or removed in its entirety prior to recordation of the Final Parcel Map.

Each proposed parcel will have access to San Elijo Avenue via a private access easement along the southerly boundary of the subdivision. The project includes construction of the private access easement, right-of-way (ROW) improvements, and facilities for drainage and storm-water cleansing. The subject R-11 zone requires a minimum lot size of 3,950 square feet and minimum lot dimensions of 40 feet in width and 90 feet in depth. The proposed subdivision will create four (4) lots that exceed the minimum requirements for lot dimensions and area prescribed for the subject R-11 zone. The maximum density allowed in the R-11 zone is 11.0 dwelling units per net acre. Slope-adjusted net acreage calculations indicate that the property will be 0.37 net acres in area after deduction of the private road easement and could support four (4) dwelling units. The four (4) proposed residential lots on 0.37 net acres yield a density average of 10.8 dwelling units per net acre, in compliance with the maximum density of 11.0 dwelling units per net acre prescribed for the subject R-11 zone and the slope-adjusted density allowance for the subject property. Each of the proposed lots will provide ample space for the development of single-family residences in compliance with all applicable development standards. The applicant submitted letters of service availability from fire, water, sewer and school service providers indicating that all required services are available for the project.

EXHIBIT NO. 4
APPLICATION NO.
A-6-ENC-06-110
City Notice of Decision
Page 1 of 18
 California Coastal Commission

Since the property in its existing condition exceeds 10% grade, the subdivided properties will be subject to conditions of approval to ensure that the height of future single-family residences on the resultant lots of the proposed subdivision would not exceed the height limit as it applies to the undivided property. A condition is included in this approval requiring future residences to be limited in height from the uphill property line of the undivided property as prescribed for properties over 10% grade in Section 30.16.010B(6) of the Municipal Code. The elevation of the uphill property line shall be as determined and stated by the project engineer in the letter dated February 16, 2006, which can be found in the project file.

Citizen's Participation Plan: The applicant conducted a Citizen's Participation Plan (CPP) in accordance with Chapter 23.06 of the Municipal Code. According to the CPP final report, a CPP meeting was held on September 11, 2004 at the project site. The sign-in sheet for the meeting was signed by eight (8) interested parties. The CPP final report states that the concerns, questions, and issues raised included questions about the plans for proposed structures including maximum height and setbacks, whether story poles would be installed, owner information, and the project's affect on Fire Department access to the property directly adjacent to the north. The applicant states that all proposed buildings would be submitted and would comply with height limits and setbacks, story poles would be installed as required by the City, and confirmed owner information as stated on the proposed Tentative Parcel Map (TPM). The CPP report additionally states that typical Fire Department minimum standards would be 16 feet in width and a turnaround would be required for driveways longer than 150 feet. Staff notes that after completion of the CPP, the applicant decided to not include any proposed structures with the TPM application and no plans for structures or any requirement for story poles is associated with this application.

Public Notice: A standard public notice allowing for a 20-day comment and review period was issued for the project. Additionally, because the project is partially located within the appeal jurisdiction of the California Coastal Commission, the public notice included notification of an administrative public hearing on June 5, 2006. The public hearing was attended by six (6) interested members of the public. Neither the project applicant nor any representative attended the public hearing. Public testimony received included comments on the proposed right-of-way (ROW) dedication and the setbacks therefrom, the average slope of the subject property, and future trash collection. Some attendees were concerned that the application had varied since its original submittal from a proposal for four (4) lots to three (3) lots and then back to four (4) lots. The neighbor directly adjacent to the subject property to the north expressed concerns about the project's impacts to access to his property. This neighbor additionally expressed that although he did not have a titled easement across the subject property he felt he had a "prescriptive easement" across the subject property since his property has utilized the northerly portion of the subject property for driveway access for a substantial period of time. Staff notes that the property to the north and the northerly lot of the two (2) lots that comprise the subject property have adjacent, ten- (10) foot wide panhandles that are currently paved such that it appears as a single 20-foot wide driveway.

The proposed TPM shows setbacks for all proposed lots in conformance with the standards of the subject R-11 (Residential 11) zone. The proposed frontage area would provide ample area for placement for collection of trash and recycling containers for all proposed lots along the project frontage to San Elijo Avenue. The subject property currently slopes from east to west

and greater than ten percent (10%) grade. As stated above, the conditions of approval for this project include a condition requiring future development of single-family residences on the subject property to conform to the height limitations as prescribed for properties sloped over 10% grade as they would have applied to the property prior to the proposed subdivision.

Regarding the ROW dedication, the amount of property to be dedicated for future improvement of San Elijo Avenue had not been firmly established at the time of submittal of the subject application. The applicant originally proposed four (4) lots based on allowed density on the subject property under R-11 standards with dedication for public ROW of ten (10) feet. On receipt of the application, a determination was made that additional ROW area would be required, which reduced the density allowance for the subject property to three (3) units. Subsequently, review of this and other projects along San Elijo Avenue were determined by the Engineering Services Department to require the dedication of ten (10) feet of ROW. Additionally, applicants were to be required to provide an additional easement area to provide for pedestrian access and placement of utilities in order to facilitate flexibility in the installation of future improvements to the ROW.

The property immediately adjacent to the subject property on the north is set back from San Elijo Avenue but as noted above includes a ten- (10) foot wide panhandle that extends to San Elijo Avenue adjacent to a similar panhandle of the northerly lot of the two (2) lots that comprise the subject property. Because the panhandles of the two lots are currently paved such that it appears as one driveway, the property owner of the property to the north has claimed to have a "prescriptive easement" across the panhandle of the northerly lot of the subject property. Additionally, this property owner states that the proposed project would narrow his access to only ten (10) feet in width, which he further notes would not conform to current Fire Department standards and would compromise the emergency services access to his property. A "prescriptive easement" can only be established by a court of law and no evidence has been submitted or discovered of any such judgment. Staff notes that in review of the subject application, staff requested that the applicant revise the proposed subdivision to include access along the northerly boundary of the subject property to combine access with the property to the north and reduce entry points to San Elijo Avenue. The applicant desired the project access drive along the southerly project boundary and declined to revise the proposed subdivision. Either location for the proposed access drive would comply with General Plan and Municipal Code standards for access to single-family properties. The application was revised to include a wider access apron within the ROW area to facilitate turning movements to and from the property. Staff further notes that the ten- (10) foot panhandle of the property adjacent to the north of the proposed subdivision comprises the property's legal access to San Elijo Avenue and any non-conforming aspects thereof are solely the responsibility of the owner of that property and his predecessors in ownership. Based upon information available to the City, the applicant bears no responsibility to provide any land in fee title or under easement obligation to provide access to the property to the north.

Correspondence: Several concerned parties corresponded with staff throughout the processing of the subject application and/or appeared at the Planning and Building Department public counter to inquire about the subject application. Written and email correspondence regarding the subject application can be found in the project file. In addition to the concerns raised above,

correspondents noted concerns with removal of vegetation from the property, the proposed density, drainage issues, parking for future residents and guests, and impacts to views, particularly to southerly views of the neighbor to the north and westerly views of the neighbor to the east down the existing panhandles/driveway area.

The subject residence was developed on the subject property significantly prior to the City's incorporation and is surrounded by developed properties to the north, east, and south and San Elijo Avenue, the railroad tracks, and Coast Highway 101 to the west. Research of City aerial photograph records and vegetation maps does not suggest the presence of any valuable or significant natural vegetation on the property since at least prior to the City's incorporation. The proposed density complies with the standards of the subject R-11 zone. The proposed drainage and storm water facilities have been reviewed by the Engineering Services Department and will be adequate as shown on the proposed TPM and conditioned in this approval. The proposed lots will provide ample room for development of single-family residences in compliance with all applicable development standards, including those applicable to drainage and storm water treatment. No residences are proposed with this application but all future residences proposed on the subject property would have to provide parking in compliance with Municipal Code standards. At a minimum, this would provide two (2) enclosed parking spaces per residence and would likely include additional area within driveways to future residences, which likely would occupy the 20-foot front-yard setback.

The proposed project will comply with all applicable setbacks as prescribed for the subject R-11 zone. Because each of the proposed lots is oriented with the front property line to the south, 20-foot front and rear yard setbacks will be typically located along the southerly and northerly property lines, respectively. Side yard setbacks of five (5) feet for interior yards and ten (10) feet for the street side yard of Lot 1 adjacent to San Elijo Avenue will be required. The front yard setbacks will be measured from the edge of the proposed access easement along the south, the rear yard setback from northerly property lines, and the San Elijo Avenue street side yard setback will be measured from the line of proposed ROW dedication. The driveway on the property to the north of ten (10) feet plus the 20-foot rear yard setback would provide a wider view corridor than the existing 20-foot wide driveway. These setbacks would preserve the westerly view corridor enjoyed by the neighbor the east. The proposed ten- (10) foot pedestrian and utility easement will be located within the street side-yard setback area of proposed parcel 1. The setback along San Elijo Avenue would allow development within 40 feet of the centerline of the street, less than the 35 feet from centerline allowed by previous County zoning. Many of the existing residences were constructed under the previous County zoning and are closer to the street than will be allowed for a future residence on proposed Lot 1.

This approval is based on the following **findings**:

FINDINGS FOR A TENTATIVE MAP

STANDARD: Section 66474 of the California Government Code requires that the authorized agency approve an application for a Tentative Map unless, based upon the information presented in the application and during the Public Hearing, the authorized agency makes any of the following findings of fact:

- a. That the proposed map is not consistent with applicable general and specific plans as specified in Section 65451 of the Subdivision Map Act.

Facts: The applicant requests to subdivide a 0.45-gross-acre lot into four (4) lots for single-family residential development. The existing single-family residence will be modified to conform to setbacks from proposed property lines or be removed in its entirety prior to recordation of the final map. The subject R-11 zone requires a minimum lot size of 3,950 net square feet and minimum lot dimensions of 40 feet in width and 90 feet in depth. The maximum density allowed in the R-11 zone is 11.0 dwelling units per net acre. Slope-adjusted net acreage calculations indicate that the property is 0.37 net acres after deduction of the private road easement and could support four (4) dwelling units. There is no specific plan applicable to the property.

Discussion: The proposed subdivision will create four (4) lots that exceed the minimum requirements for lot dimensions and area. The four (4) proposed residential lots on 0.37 net acres yield a density average of 10.8 dwelling units per net acre, in compliance with the density standards of the subject R-11 zone and slope-adjusted density allowance for the subject property.

Conclusion: The Planning and Building Department finds that the proposed map is consistent with the General Plan.

- b. That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans.

Facts: The proposed subdivision will create four (4) lots that exceed the minimum requirements for lot dimensions and area. Chapter 24.12 of the Municipal Code sets forth design standards for subdivisions and Chapter 30.16 of the Municipal Code sets forth development standards such as lot width, depth, and area requirements for the subject R-11 zone. The minimum lot area allowed in the subject R-11 zone is 3,950 square feet and the minimum lot dimensions are 40 feet in width and 90 feet in depth. All of the proposed lots will have access to San Elijo Avenue via a private access easement. No specific plan is applicable to the property.

Discussion: The design of the proposed subdivision will comply with the development standards applicable to the R-11 zone identified in Section 30.16.010 of the Municipal Code and all subdivision design standards as per Section 24.12 of the Municipal Code. The proposed public and private improvements related to the project, including but not limited to the private street, drainage, and storm water facilities, have been reviewed by the

Engineering Services and Fire Departments and, with the implementation of the conditions of approval of this resolution, have been found to comply with all applicable standards and regulations.

Conclusion: The Planning and Building Department finds that the design and improvement of the proposed subdivision are consistent with the General Plan.

- c. That the site is not physically suitable for the type of development.

Facts: The applicant proposes four (4) lots for single-family residential development on 0.37 net acres. Single-family residential development is a permitted use in the subject R-11 zone.

Discussion: Each of the proposed parcels complies with the minimum standards for lot area and lot dimensions. The parcels will provide ample space for the development of single-family residences in compliance with Municipal Code standards, including setbacks, height limitations, access, and the provision of parking. The subject property can support the proposed subdivision and future development of single-family residences.

Conclusion: The Planning and Building Department finds that the site is physically suitable for the type of development.

- d. That the site is not physically suitable for the proposed density of development.

Facts: The applicant requests to subdivide a 0.37-net-acre lot into four (4) lots for single-family residential development. The subject property slopes from east to west at approximately 17.5% grade. The maximum density allowed in the subject R-11 zone is 11.0 dwelling units per net acre.

Discussion: Slope-adjusted net acreage calculations indicate that the subject property could support four (4) dwelling units. The four (4) proposed residential lots on 0.37 net acres yield a density of 10.8 dwelling units per net acre. The proposed subdivision will comply with the density requirements of the subject R-11 zone and the slope-adjusted net acreage allowance for the subject property. The height of future structures on the property will be limited by Condition SCC of this approval to comply with the height limit for properties sloped over 10% grade as outlined in Section 30.16.010B(6) of the Municipal Code as measured from the uphill property line of the subject property prior to subdivision.

Conclusion: The Planning and Building Department finds that the site is physically suitable for the proposed density of development.

- e. That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially or avoidably injure fish or wildlife or their habitat.

Facts/Discussion: The applicant proposes the subdivision of an existing 0.37-net-acre lot into four (4) lots. The subject property is located in a developed, urbanized area. This project has been determined to be exempt from environmental review pursuant to Sections 15301(l)(1) and 15315 of the State CEQA Guidelines, which respectively exempt the demolition of a single-family residence and the division of property in urbanized areas zoned for residential use into four (4) or fewer parcels when the division is in conformance with the General Plan and zoning, no variances or exceptions are required, all services and access to the proposed parcels to local standards are available, the parcel was not involved in a division of a larger parcel within the previous two (2) years, and the parcel does not have an average slope greater than 20 percent.

Conclusion: The Planning and Building Department finds that design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially or avoidably injure fish or wildlife or their habitat.

- f. That the design of the subdivision or the type of improvements is likely to cause serious public health problems.

Facts/Discussion: The applicant submitted letters of service availability from fire, water, sewer and school service providers indicating that all required services are available for the project. The project design includes access, drainage, and storm-water cleansing improvements in compliance with applicable development standards.

Conclusion: The Planning and Building Department finds that the design of the proposed subdivision and the type of improvements are not likely to cause serious health problems.

- g. That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. In this connection, the authorized agency may approve a map if it finds that alternate easements, for access or for use, will be provided, and that these will be substantially equivalent to ones previously acquired by the public. This subsection shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to a legislative body to determine that the public at large has acquired easements through or use of property within the proposed subdivision.

Facts: All easements of record are required to be identified on the tentative parcel map.

Discussion: No easements have been identified on the subject property that would conflict with the proposed subdivision.

Conclusion: The Planning and Building Department finds that the proposed subdivision and associated improvements will not conflict with any easements acquired by the public at large for access through or use of the property within the proposed subdivision.

FINDINGS FOR A COASTAL DEVELOPMENT PERMIT

STANDARD: 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 City's General Plan and Municipal Code are the applicable components of the City's Local Coastal Plan. The project consists of the subdivision of the subject 0.37-net-acre lot into four (4) parcels and the demolition of all or a portion of the existing residence on the subject property. The proposed parcels are consistent with the required standards for lot area and dimensions in the subject R-11 zone and the required standards for subdivision design. The project has been determined to be exempt from environmental review pursuant to Sections 15301(l)(1) and 15315 of the CEQA Guidelines.

Discussion: Related to finding No. 1, with the approval of the Tentative Parcel Map request, the project complies with or is conditioned to comply with the City's Local Coastal Program and the Municipal Code. Related to finding No. 2, no adverse impacts to the environment are associated with the project and the project is exempt from the requirements of CEQA. Finding No. 3 is inapplicable since the project is not located between the sea or other body of water and the nearest public road.

Conclusion: The Planning and Building Department finds that 1) the project is consistent with the certified Local Coastal Program of the City of Encinitas; 2) no potentially significant adverse impacts to the environment will result and the project is exempt from the requirements of CEQA as per Sections 15301(l)(1) and 15315 of the CEQA Guidelines; and 3) finding No. 3 is not applicable to the project since the project site is not located between the sea or other body of water and the nearest public road.

Environmental Review: The project has been determined to be exempt from environmental review pursuant to Sections 15301(l)(1) and 15315 of the California Environmental Quality Act (CEQA) Guidelines, which respectively exempt the demolition of a single-family residence and the subdivision of property into four (4) or fewer parcels from environmental review when the subdivision conforms with the General Plan and zoning, no variances or exceptions are required,

all services and access to local standards is available, the parcel was not involved in a division of a larger parcel within the previous two (2) years, and the average slope of the parcel is less than 20%.

This approval is subject to the following conditions:

SC1 **SPECIFIC CONDITIONS:**

- SC4 Approval of the Tentative Parcel Map and all associated permits will expire on July 5, 2008 at 5:00 p.m., two years after the approval of this project, unless the conditions have been met or an extension of time has been approved pursuant to the Municipal Code.
- SC6 This project is conditionally approved as set forth on the application and project drawings stamped received by the City on February 21, 2006, consisting of two (2) sheets including Tentative Parcel Map and Drainage Exhibit, all designated as approved by the Planning and Building Director on July 5, 2006, and shall not be altered without express authorization by the Planning and Building Department.
- SCA Prior to issuance of any grading or improvement permit, the following conditions must be completed, fulfilled, and/or shown on plans submitted for grading or improvement permits to the satisfaction of the Engineering Services Department:
1. The applicant shall dedicate ten (10) feet of additional right-of-way plus ten (10) feet of pedestrian, drainage, sewer, water, and utility easement along the property frontage to San Elijo Avenue for a total right-of-way width of 50 feet and a pedestrian easement width of ten (10) feet. All land so offered shall be granted free of any liens or encumbrances and without cost to the City.
 2. The existing slope shall be graded outside of the ultimate public right-of-way.
 3. In lieu of providing the required standard sidewalk, curb, and gutter at this time, a lien for the future public improvements shall be recorded against the property prior to issuance of any grading permit for the property. A minimum five (5) -foot-wide DG path and a minimum three (3) -foot-wide paved swale must be provided along the property frontage to San Elijo Avenue until such time that the standard curb, gutter, and sidewalk are constructed.
 4. The developer shall provide storm water pollution control Best Management Practice (BMP) treatment for the access driveway runoff. The driveway shall be sloped towards a grassy swale along one side of the driveway to treat the runoff. The swale shall be stepped as necessary to keep the slope below two (2) percent so that the swale is effective as a BMP. The swale shall be reinforced with a City-approved geogrid in order to prevent erosion and shall be underlaid with at least six (6) inches of Class II Base material.
 5. The developer shall provide a private drainage system to collect runoff from the adjacent property to the east and to prevent surface cross-lot drainage. The drainage system shall intercept and conduct runoff safely onto San Elijo Avenue.

6. The developer shall provide evidence of a reciprocal access and drainage agreement and the maintenance thereof to the satisfaction of the City Engineer prior to issuance of any grading permit for this project.
7. The driveway shall be surfaced with PCC wherever the slope of the driveway exceeds 14% to the satisfaction of the City Engineer.

SCB Prior to issuance of any grading or improvement permit, the following conditions must be completed, fulfilled, and/or shown on plans submitted for grading or improvement permits to the satisfaction of the San Dieguito Water District (District):

1. Upon development, each parcel shall be individually metered.
2. Prior to recordation of the final parcel map, the owner shall provide the District with a written statement indicating which of the proposed lots will retain the existing 5/8-inch water meter.
3. All water meters shall be located in front of the parcel they serve and outside any proposed or existing traveled way. Cost of any required relocation shall be the responsibility of the developer.
4. The developer shall show all existing and proposed water facilities on improvement or grading plans for District review and approval.

SCC The height of future residences on any of the resultant lots of the proposed subdivision shall be determined according to the height standard for properties sloped over 10% as per Section 30.16.010B6 of the Municipal Code as measured from the uphill (easterly) property line of the subject property prior to subdivision, which will become the uphill (easterly) property line of proposed parcel 4. The elevation of this property line for purposes of determining height shall be as stated in the letter dated February 16, 2006 and stamped and signed by the project engineer. The letter can be found in the project file. Prior to final parcel map recordation, the applicant shall include a statement on the final parcel map noting the terms of this condition to the satisfaction of the Planning and Building Director.

SCD Prior to recordation of the parcel map, the existing residence on the subject property shall be modified to conform to setbacks from the proposed property lines of parcel 4 or shall be removed in its entirety. Removal of the residence shall require submittal, review, and approval of a demolition permit. If the applicant chooses to modify the existing residence, the modification will require an application for a coastal development permit (CDP). Prior to recordation of the final map, a CDP application for the modification shall be submitted, reviewed, and approved; building permits for the proposed work submitted, reviewed, and issued; and the portion of the residence within the setbacks from the proposed property lines removed. The plans for the modification of the residence shall include plans for retrofitting the residence with fire sprinklers in accordance with Condition F15A of this approval.

G1 STANDARD CONDITIONS:**CONTACT THE PLANNING AND BUILDING DEPARTMENT REGARDING COMPLIANCE WITH THE FOLLOWING CONDITIONS:**

- 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.
- G4 Prior to recordation of the final parcel map, the owner shall cause a covenant regarding real property to be recorded. Said covenant shall set forth the terms and conditions of this grant of approval and shall be of a form and content satisfactory to the Planning and Building Director. The Owner(s) agree, in acceptance of the conditions of this approval, to waive any claims of liability against the City and agrees to indemnify, hold harmless and defend the City and City's employees relative to the action to approve the project.
- 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.
- G13 The applicant shall pay development fees at the established rate. Such fees may include, but not be limited to: Permit and Plan Checking Fees, Water and Sewer Service Fees, School Fees, Traffic Mitigation Fees, Flood Control Mitigation Fees, Park Mitigation Fees, and Fire Mitigation/Cost Recovery Fees. Arrangements to pay these fees shall be made prior to Final Map approval to the satisfaction of the Planning and Building and Engineering Services Departments. The applicant is advised to contact the Planning and Building Department regarding Park Mitigation Fees, the Engineering Services Department regarding Flood Control and Traffic Fees, applicable School District(s) regarding School Fees, the Fire Department regarding Fire Mitigation/Cost Recovery Fees, and the applicable Utility Departments or Districts regarding Water and/or Sewer Fees.
- 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.
- M1 This approval may be appealed to the City Council within 10 calendar days from the date of this approval pursuant to Chapter 1.12 of the Municipal Code.
- M2 All project grading shall conform with the approved Tentative Map or Tentative Parcel Map. In cases where no grading is proposed at the time of the Tentative Map/Tentative

Parcel Map, or in cases where the grading plan later submitted is not consistent with the approved Tentative Map/Tentative Parcel Map, the applicant shall be required to obtain a design review permit for grading prior to issuance of grading permits.

- M4 The property owner/developer shall obtain design review permits through the City for homes to be constructed on the lots resulting from the approved map, as well as all related site improvements. If the property owner/developer elects to develop the lots resulting from the approved final map as custom homesites, the design review permit requirement may be waived by the Planning and Building Department pursuant to Section 23.08.030 (7) of the Municipal Code. The property owner/developer is advised to contact the Planning and Building Department at such time as development of the subject property is planned to determine whether a design review permit will be required. A standard covenant specifying this condition shall be recorded in the Office of the County Recorder to give constructive notice to future purchasers of the site.
- M7 The approved grade and/or pad elevations shown on the approved tentative map or tentative parcel map shall be used as the basis for measuring the height of all structures to be constructed on the resulting lots in accordance with Section 30.16.010B6d of the Municipal Code, with said grade/pad elevations having been established with consideration given to on-site and surrounding uses and terrain.

F1 **FIRE CONDITIONS:**

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

- F2 **ACCESS ROADWAY DIMENSIONS:** Fire apparatus access roadways shall have an unobstructed paved width of not less than 24 feet, curb line to curb line, or edge of pavement to edge of pavement where no curbs are proposed, and an unobstructed vertical clearance of not less than 13 feet 6 inches. Access roads shall be designed and maintained to support the imposed loads of fire apparatus. Minimum design load is 65,000 lbs. **EXCEPTION:** Access to one (1) single family residence shall not be less than 16 feet of paved width, curb line to curb line, or edge of pavement to edge of pavement where no curbs are proposed.
- F3 **ACCESS ROAD MINIMUM DIMENSIONS WHEN SERVING FOUR (4) OR LESS SINGLE FAMILY DWELLINGS WITH AUTOMATIC FIRE SPRINKLER SYSTEMS INSTALLED:** A fire apparatus roadway providing access to not more than four (4) fire sprinklered single family dwellings shall not be less than 16 feet in paved width, curb line to curb line, or edge of pavement to edge of pavement where no curbs are proposed, with an unobstructed vertical clearance of not less than 13 feet 6 inches.
- F5 **GRADE:** The gradient for a fire apparatus roadway shall not exceed 20.0%. Grades exceeding 15.0% (incline or decline) shall not be permitted without mitigation. Minimal mitigation shall be the installation of automatic fire sprinkler systems appropriate to the

structures and uses served. The angle of departure and angle of approach of a fire access roadway shall not exceed 7%.

- 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. All automatic gates across fire access roadways shall be equipped with approved emergency key operated switches overriding all command functions and opening the gate(s). Gates accessing four (4) or more residences or residential lots, or gates accessing hazardous, institutional, educational, or assembly occupancy group structures shall also be equipped with approved emergency traffic control activating strobe light sensor(s) which will activate the gate on the approach of emergency apparatus. All automatic gates must meet Fire Department requirements for rapid, reliable access.
- F7 RESPONSE MAPS: Any development that by virtue of new structures necessitates fire hydrants, roadways, or similar features, shall be required to provide a map in a format compatible with current Department mapping services, and shall be charged a reasonable fee for updating all Fire Department response maps.
- F9 POSTING OR STRIPING ROADWAYS "NO PARKING FIRE LANE": Fire Department access roadways, when required, shall be properly identified as per Fire Department standards.
- F10 OBSTRUCTION OF ROADWAYS DURING CONSTRUCTION: All roadways shall be a minimum of 24 feet in width during construction and shall be maintained clear, including the parking of vehicles, in accordance with the Uniform Fire Code and the Encinitas Fire Department.
- F13 ADDRESS NUMBERS: Address numbers shall be placed in a location that will allow them to be clearly visible from the street fronting the structure. The numbers shall contrast with their background, and shall be no less in height than: Four inches (4") for single family homes and duplexes; Eight inches (8") for commercial and multi-family residential buildings; and Twelve inches (12") for industrial buildings.
- 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.
- F15A AUTOMATIC FIRE SPRINKLER SYSTEM - SINGLE-FAMILY DWELLINGS AND DUPLEXES: Structures shall be protected by an automatic fire sprinkler system designed and installed to the satisfaction of the Fire Department. Plans for the automatic fire sprinkler system shall be approved by the Fire Department prior to issuance of building permit(s).

F18 CLASS "A" ROOF: All structures shall be provided with a Class "A" roof assembly 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.

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 A separate grading plan shall be submitted and approved and a separate grading permit issued for the borrow or disposal site if located within the 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 approved at first submittal of a grading plan.

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

ED2A An erosion control system shall be designed and installed onsite during all construction activity. The system shall prevent discharge of sediment and all other pollutants onto adjacent streets and into the storm drain system. The City of Encinitas Best Management Practice Manual shall be employed to determine appropriate storm water pollution control practices during construction.

ED3M A drainage system capable of handling and disposing of all surface water originating within the subdivision, and all surface waters that may flow onto the subdivision from adjacent lands, shall be required. Said drainage system shall include any easements and structures as required by the Engineering Services Director to properly handle the drainage.

ED5M The owner shall pay the current local drainage area fee prior to approval of the final map 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.

ES1 Street Conditions

ES4 Reciprocal access and/or maintenance agreements shall be provided ensuring access to all parcels over private roads, drives or parking areas and maintenance thereof to the satisfaction of the Engineering Services Director.

ES5 Prior to any work being performed in the public right-of-way, a right-of-way construction permit shall be obtained from the Engineering Services Director and appropriate fees paid, in addition to any other permits required.

ES6M In accordance with Chapter 23.36 of the Municipal Code, the developer shall execute and record a covenant with the County Recorder agreeing not to oppose the formation of an assessment district to fund the installation of right-of-way improvements.

ES7M In accordance with Chapter 23.36 of the Municipal Code, the developer shall execute and record a covenant with the County Recorder agreeing not to oppose the formation of an assessment district to fund the undergrounding of utility facility improvements.

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., SBC/Pacific Bell, and other applicable authorities.

- EU5 The owner shall be responsible for the relocation and undergrounding of existing public utilities, as required.
- EU7 The design of the division of land shall provide each cable operator an opportunity to construct, install and maintain, on land identified on the map as dedicated to public utility use, any equipment necessary to extend cable television services to each residential parcel in the subdivision. This condition shall not apply to the conversion of existing dwelling units to condominiums, community apartments, or stock cooperatives.
- EU8 Subject to all applicable Federal and State laws, statutes and regulations, in the event of multiple cable communication operators desiring to serve new residential developments in which the electric power and telephone utilities are underground, the following procedure shall apply with respect to access to and utilization of underground easements:
- (a) The developer shall be responsible for contacting and surveying all franchised cable operators to ascertain which operators desire to provide cable television service to the development. The developer may establish a reasonable deadline to receive responses from cable operators. The final tract map shall indicate the cable operator(s) that have agreed to serve the development.
 - (b) If one or more cable operators wish to provide service, they shall be accommodated in the joint utilities trench on a nondiscriminatory shared basis.
 - (c) The developer shall provide at least (10) working days notice of the date that the utility trenches will be open to the cable operators that have agreed to serve the development.
 - (d) Sharing the joint utilities trench shall be subject to compliance with Public Utilities Commission and utility standards. If such compliance is not possible, or if three (3) or more operators desire to provide service to the development, the developer shall provide a separate trench for the cable television cables, with the entire cost shared among the participating cable operators. With the concurrence of the developer, the affected utilities and the cable television operators, alternative installation procedures, such as the use of deeper trenches, may be utilized, subject to the applicable law.
 - (e) Any cable operator wishing to serve an area where the trenches have been closed shall be responsible for separate trenching and associated costs; provided that if the cable operator was not provided timely written notice of the availability of such trenches, the developer shall reimburse the operator for such costs.

ESW1 **Storm Water Pollution Control Conditions**

ESW1 Storm Water Pollution Control Conditions

ESW3 Best Management Practice shall be utilized for storm water pollution control to the satisfaction of the City Engineer. The surface run off shall be directed over grass and landscaped areas prior to collection and discharge onto the street and/or into the public storm drain system. If pipes are used for area drainage, inlets shall be located to allow maximum flow distance over grass and non-erodable landscape areas. A grass lined ditch, reinforced with erosion control blanket, or a rip-rap lined drainage ditch shall be used instead of a concrete ditch where feasible. Hardscaped areas and driveways shall be sloped toward grassy and landscaped areas. Driveways with a grass- or gravel-lined swale in the middle can be used if the site topography does not allow for the discharge of driveway runoff over landscaped areas. The **Grading Plan** shall identify all landscape areas designed for storm water pollution control (SWPC). 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** plan.

This notice constitutes a decision of the Planning & Building Department only. Additional permits, including Building Permits, may be required by the Building Division or other City Departments. It is the property owner's responsibility to obtain all necessary permits required for the type of project proposed.

In accordance with the provisions of Municipal Code Section 1.12, the decision of the Planning and Building Director may be appealed to the City Council within ten- (10) calendar days of the date of this determination. The appeal must be filed, accompanied by the appropriate filing fee, prior to 5:00 p.m. on the tenth (10th) calendar day following the date of this notice of decision. Because the project lies within the appeal jurisdiction of the California Coastal Commission, this decision will be subject to appeal directly to the California Coastal Commission, San Diego District Office, for ten (10) business days following receipt and acceptance by the Coastal Commission of the City's notice of final action, which will be filed at the close of the City's appeal period or after the resolution of any timely appeals to the City Council. The exact dates of the Coastal Commission's appeal period will be determined by the Coastal Commission.

If you have any questions regarding this determination, please contact Kerry Kusiak at the Planning and Building Department by telephoning (760) 633-2719.


Patrick Murphy
Planning & Building Director