

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4402
(619) 767-2370



Th14a

Addendum

August 3, 2012

To: Commissioners and Interested Persons

[Click here to go
to the original staff report.](#)

From: California Coastal Commission
San Diego Staff

Subject: Addendum to **Item Th14a**, Coastal Commission Permit Application #**A-6-ENC-12-042 (Lux)**, for the Commission Meeting of August 9, 2012

Staff recommends the following changes be made to the above-referenced staff report. Language to be added is underlined; language to be deleted is shown in strikeout:

1. On Page 1 of the staff report, please revise the Project Description as follows:

...The lot line adjustment consists of an area located on the ~~northwest~~ northeast corner of the Lux Art Institute property...

2. On Page 6 of the staff report, please revise the first paragraph of the Project Description as follows:

...The lot line adjustment consists of an area located on the ~~northwest~~ northeast corner of the Lux Art Institute property...

3. On Page 9 of the staff report, please add the following findings before the last paragraph:

The appellant submitted photos of some vegetation trimming along Tennis Club Drive without any specific explanation. The subject photos appear to have been taken at the intersection of El Camino Real and Tennis Club Drive facing west. The photos show vegetation adjacent to the southern side of Tennis Club Drive that has been trimmed down. Tennis Club Drive has a 40 foot easement, while the actual paved road is only 25 feet wide. Thus, 7.5 feet on either side of Tennis Club Drive is within the road easement. Exhibit 11, attached to this addendum, shows that the Vegetation Corridor Open Space Easement on the Grauer School property is adjacent to the 40 foot wide Tennis Club Drive easement. The trimmed vegetation in question appears to be within the road easement and not within the Vegetation Corridor Open Space Easement on the Grauer School property. The trimmed

vegetation may also be adjacent to the northeast edge of the lot line adjustment area subject to this appeal. Representatives from the Grauer School state that this vegetation trimming is done by the City of Encinitas for the provision of defensible space in case of fires. The vegetation trimming shown in the appellant's photos does not appear to impact the Vegetation Corridor Open Space Easement on the Grauer School property and does not raise a substantial issue related to the subject lot line adjustment.

4. Please add the attached plat maps, photos, and easement map as Exhibit Numbers 9, 10, and 11.

BOUNDARY ADJUSTMENT PLAT

Boundary Adjustment Area

| | | | |
|---|--|--|--|
| <p>Sheet 1 of 2</p> <p>Legal Description:</p> <p>APN: 262-160-17 PORTION OF THE NORTH EAST QUATER OF THE NORTH EAST QUATER OF THE SOUTHEAST QUATER OF SECTION 23, TOWNSHIP 13 SOUTH, RANGE 4 WEST, SAN BERNARDINO MERIDIAN, IN THE CITY OF ENCINITAS, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA.</p> <p>APN: 262-160-22 PARCEL "A" OF CERTIFICATE OF COMPLIANCE RECORDED APRIL 18, 2012 IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY AS DOCUMENT NO. 2012-0226380 OF OFFICIAL RECORDS.</p> <p>Basis of Bearings:</p> <p>THE BASIS OF BEARINGS FOR THIS PLAT IS THE EASTERLY LINE OF SECTION 23, AS SHOWN ON PARCEL MAP 2162. I.E. NORTH 0°02'56" WEST</p> <p>Legend</p> <p>● FOUND MONUMENTS AS SHOWN HEREON, SEE SHEET 2 FOR MONUMENTATION LEGEND. () RECORD DATA PER PARCEL MAP NO. 2162. [] RECORD DATA PER QUITCLAIM DEED RECORDED 10-20-2003 AS DOC. NO. 2003-1281784 O.R.</p> <p>Title Report</p> <p>EASEMENTS SHOWN HEREON ARE PER PRELIMINARY TITLE REPORTS PREPARED BY FIRST AMERICAN TITLE COMPANY. ORDER No. NCS-471252 DATED 2-8-2011 (APN: 262-160-22) ORDER No. NCS-480973 DATED 3-18-2011 (APN: 262-161-17)</p> <p>Note:</p> <p>SEE SHEET 2 FOR EASEMENTS AND PROPERTY MONUMENTATION LEGEND.</p> | | <p>PARCEL "A"</p> <p>PARCEL "A" OF CERTIFICATE OF COMPLIANCE REC. 04-18-2012 AS DOC. NO. 2012-0226380 APN: 262-160-22</p> <p>LOT AREA:</p> <p>PARCEL "A" OF CERTIFICATE OF COMPLIANCE = 2.854 AC. GROSS 2.805 AC. NET NEW PARCEL "A" = 2.745 AC. GROSS 2.725 AC. NET</p> <p>PARCEL "B"</p> <p>PORTION OF THE NE 1/4 OF NE 1/4 OF SE 1/4 OF SECTION 23, TOWNSHIP 13 SOUTH, RANGE 4 WEST, SAN BERNARDINO MERIDIAN APN: 262-160-17</p> <p>LOT AREA:</p> <p>POR. OF SECTION 23 = 5.478 AC. GROSS 4.783 AC. NET NEW PARCEL B = 5.584 AC. GROSS 4.892 AC. NET</p> <p>EASEMENT FOR PUBLIC ROAD AND INCIDENTAL PURPOSES GRANTED TO THE COUNTY OF SAN DIEGO, REC. 04/11/67 AS INSTRUMENT NO. 52086 O.R.</p> | |
| <p>Owner's Statements:</p> <p>Parcel "A"</p> <p>LUX ART INSTITUTE, A CALIFORNIA NONPROFIT PUBLIC BENEFIT CORPORATION</p> <p>THIS PLAT WAS PREPARED WITH MY KNOWLEDGE AND CONSENT.</p> <p>NAME: PAUL ROBINSON TITLE: PRESIDENT</p> | | <p>Parcel "B"</p> <p>GRAUER FOUNDATION FOR EDUCATION, A CALIFORNIA NON-PROFIT PUBLIC BENEFIT CORPORATION</p> <p>THIS PLAT WAS PREPARED WITH MY KNOWLEDGE AND CONSENT.</p> <p>NAME: STUART GRAUER TITLE: PRESIDENT</p> | |
| <p>EXHIBIT "B"</p> <p>BOUNDARY ADJUSTMENT PLAT</p> <p>CITY OF ENCINITAS</p> | | <p>SEAL</p> <p>LICENSED LAND SURVEYOR CASEY R. LYNCH No. 8380 STATE OF CALIFORNIA</p> <p>BURKETT & WONG ENGINEERS & SURVEYORS 3434 Fourth Ave., San Diego, CA 92103-5740 (619) 299-5550</p> <p>5/2/2012 DATE</p> | |

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|-------------------------------|
| EXHIBIT NO. 9 |
| APPLICATION NO. |
| A-6-ENC-12-042 |
| Plat |
| California Coastal Commission |

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BOUNDARY ADJUSTMENT PLAT (CONT.)

Boundary
Adjustment Area

Easements

Sheet 2 of 2

- ① OPEN SPACE EASEMENT RECORDED 10/20/2003 DOC# 2003-1281789 OF OFFICIAL RECORDS.
- ② FUEL MODIFICATION AREA RECORDED 10/20/2003 DOC# 2003-1281789 O.R.
- ③ 20' PRIVATE ROAD & UTILITY EASEMENT RECORDED 5/15/1985 DOC# 1985-169802 O.R.
- ④ SDG&E EASEMENT RECORDED 11/15/1966 DOC# 1966-180493 O.R.
- ⑤ 60' VEGETATION CORRIDOR EASEMENT REC. 09/18/2001 AS DOC. NO. 2001-0672088 O.R. REFERENCE IS MADE TO SUBJECT DOCUMENT FOR CERTAIN EXCEPTIONS.
- ⑥ OPEN SPACE/HABITAT PRESERVATION EASEMENT REC. 09/18/2001 AS DOC. NO. 2001-0672088 O.R.
- ⑦ 10' STORM DRAIN EASEMENT RECORDED 10/20/2003 AS DOC# 2003-1281785 O.R.
- ⑧ IRREVOCABLE OFFER TO DEDICATE FOR STORM DRAIN EASEMENT REC. 09/18/2001 AS DOC. NO. 2001-0672089 O.R.
- ⑨ EASEMENT FOR PUBLIC ROAD AND INCIDENTAL PURPOSES GRANTED TO THE COUNTY OF SAN DIEGO, REC. 04/11/67 AS INSTRUMENT NO. 52086 O.R.
- ⑩ APPROX. LOCATION OF THE CENTERLINE OF AN SDG&E EASEMENT PER BOOK 4718, PAGE 454, INST. NO. 7185, REC. 01/16/53 O.R.
- ⑪ WATER EASEMENT PER DOCUMENT REC. 02/20/2002 AS DOC. NO. 2002-0144896 O.R.
- ⑫ WATER EASEMENT PER DOCUMENT REC. 06/26/2008 AS DOC. NO. 2008-0345178 O.R.
- ⑬ WATER EASEMENT PER DOCUMENT REC. 05-13-1961 AS INSTRUMENT NO. 76614 O.R.

Monumentation Legend

- | | |
|--|--|
| <p>Ⓐ FOUND 3/4" IRON PIPE WITH DISC STAMPED "LS 4368" PER RECORD OF SURVEY NO. 15378.</p> <p>Ⓑ FOUND 2" IRON PIPE WITH DISC STAMPED "RCE 9647" PER MAP NO. 10675 & RECORD OF SURVEY NO. 15378.</p> <p>Ⓒ 3/4" IRON PIPE WITH DISC STAMPED "LS 4368" PER RECORD OF SURVEY NO. 15378.</p> | <p>Ⓓ FOUND 3/4" REBAR ONLY, NOT ACCEPTED</p> <p>Ⓔ FOUND 1/2" SQUARE PIN PER PARCEL MAP NO. 2162 & RECORD OF SURVEY NO. 15378.</p> <p>Ⓕ FOUND 1.25" IRON PIPE WITH DISC STAMPED "LS 4368" PER RECORD OF SURVEY NO. 11553 AND 15378.</p> |
|--|--|

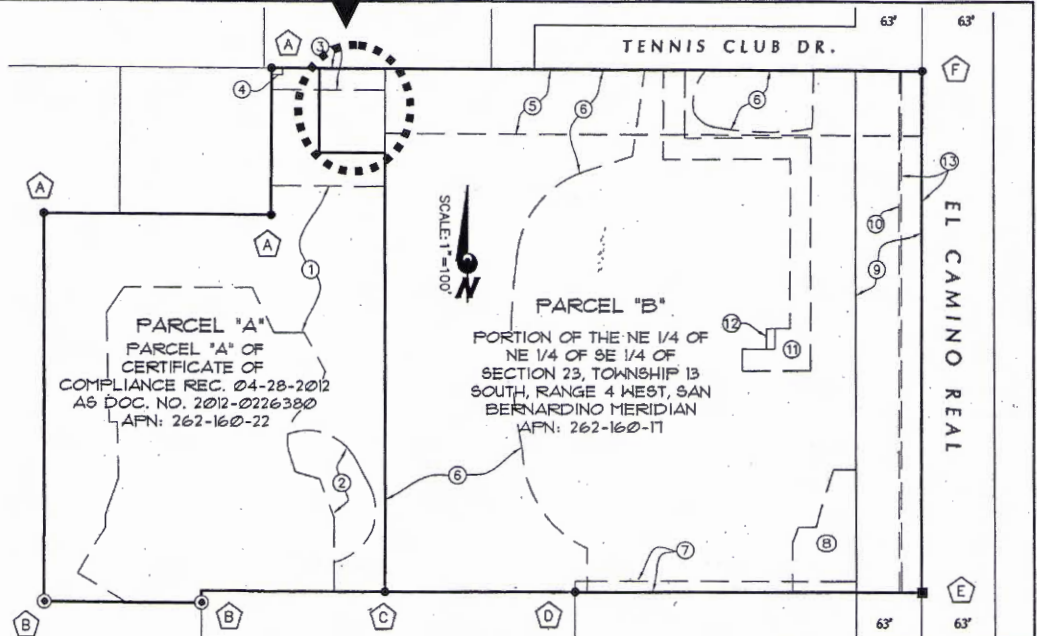
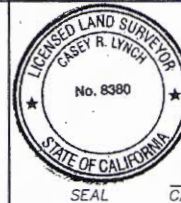


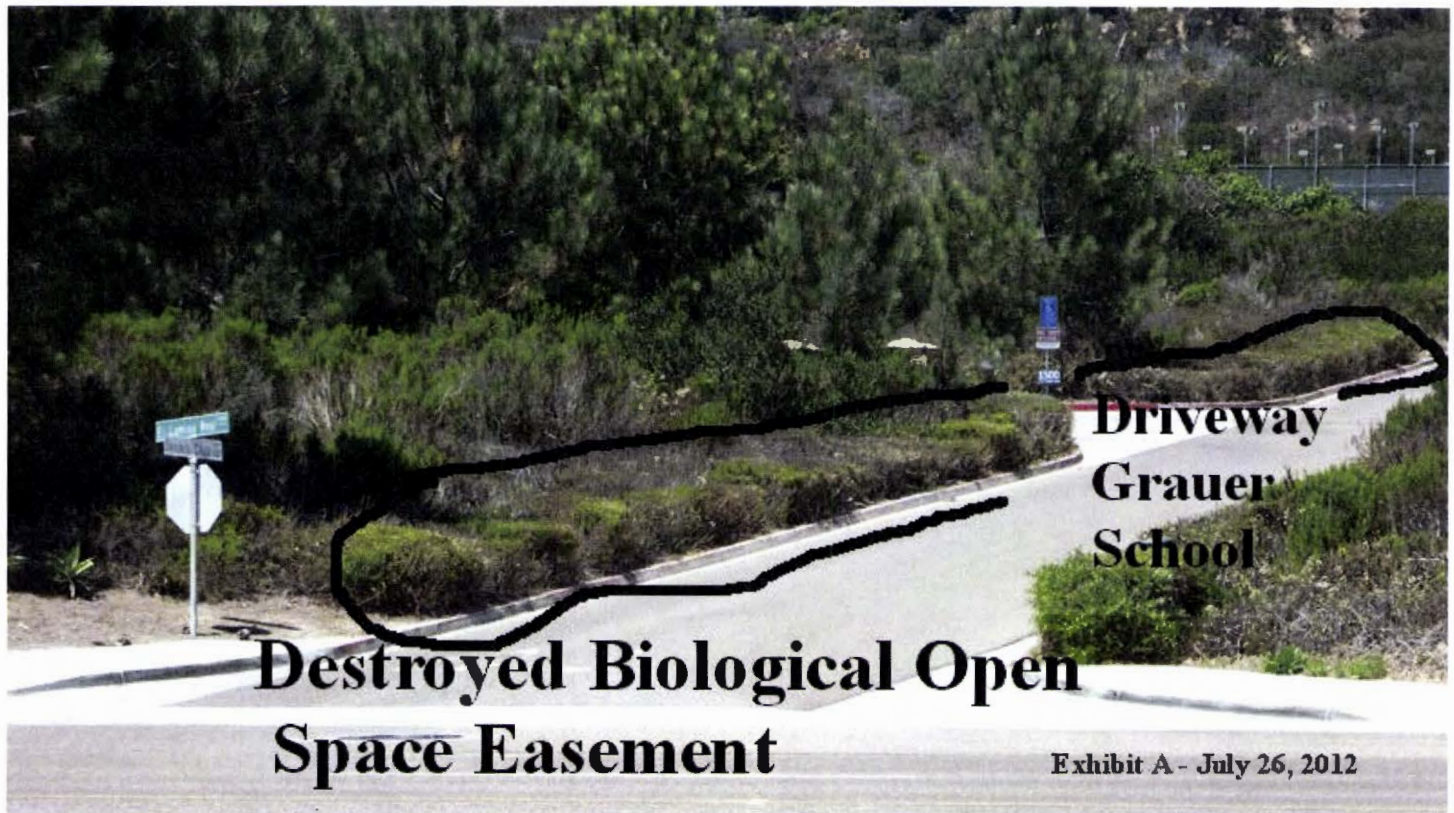
EXHIBIT "B"
BOUNDARY
ADJUSTMENT PLAT
CITY OF ENCINITAS



BURKETT & WONG
ENGINEERS & SURVEYORS
3434 Fourth Ave., San Diego, CA
92103-5740 (619) 299-5550
5/2/2012
CASEY R. LYNCH LS 8380 DATE

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VEGETATION TRIMMING



Photograph and Captions provided by the appellant

| |
|---|
| EXHIBIT NO. 10 |
| APPLICATION NO. |
| A-6-ENC-12-042 |
| Vegetation Trimming |
|  California Coastal Commission |

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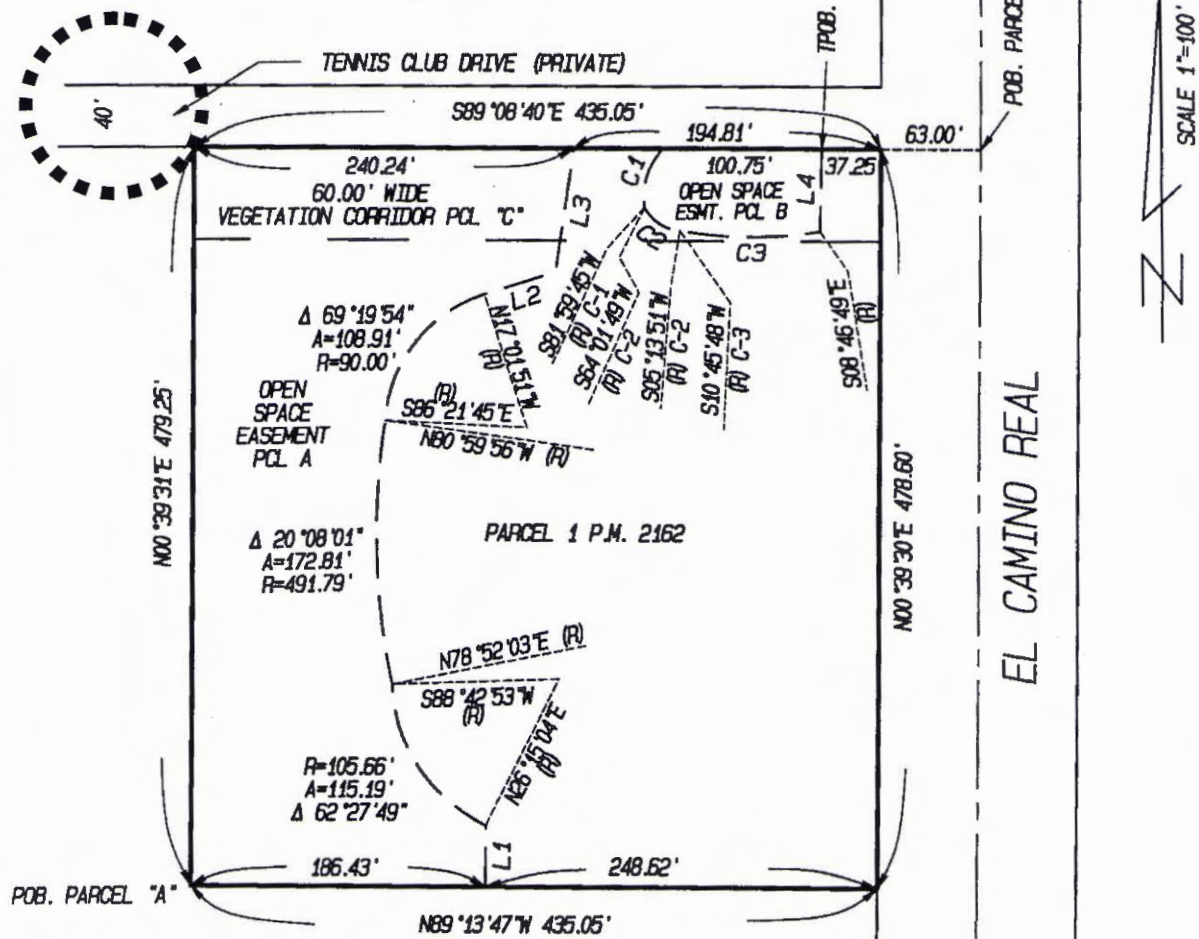
VEGETATION TRIMMING (CONT.)



Photograph and Captions provided by the appellant

EASEMENTS

EXHIBIT "B" OPENSOURCE AND VEGETATION EASEMENT



| LINE | BEARING | DISTANCE |
|------|-------------|----------|
| L1 | N00°46'13"E | 39.46' |
| L2 | N72°46'23"E | 47.28' |
| L3 | N08°42'39"E | 80.98' |
| L4 | S01°37'13"W | 53.59' |

| LINE | DELTA | ARC | RADIUS |
|------|-----------|--------|---------|
| C1 | 51°16'44" | 41.34' | 46.19' |
| C2 | 58°47'57" | 28.39' | 27.66' |
| C3 | 19°32'37" | 89.43' | 262.18' |



| |
|-------------------------------|
| EXHIBIT NO. 11 |
| APPLICATION NO. |
| A-6-ENC-12-042 |
| Easements |
| California Coastal Commission |

PE789

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CALIFORNIA COASTAL COMMISSION

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



Th14a

Filed: 6/15/2012
49th Day: 8/03/2012
180th Day: 12/12/2012
Staff: E. Stevens-SD
Staff Report: 7/19/2012
Hearing Date: 8/09/2012

STAFF REPORT: RECOMMENDATION ON APPEAL

Local Government: City of Encinitas

Decision: Approved with Conditions

Appeal Number: A-6-ENC-12-042

Applicant: Lux Art Institute

Location: 1502 And 1550 South El Camino Real, Encinitas, San Diego County (APN 262-160-17 and 22).

Project Description: Lot line adjustment between the Lux Art Institute property (1550 S. El Camino Real) and the Grauer School property (1502 S. El Camino Real). The lot line adjustment consists of an area located on the northwest corner of the Lux Art Institute property. The Grauer School property will be gaining 4,179 sq. ft. of land. Resulting lot sizes for the Lux Art Institute property and the Grauer School property will be 2.725 acres and 4.783 acres, respectively.

Appellants: Donna Westbrook

Staff Recommendation: No Substantial Issue.

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 applicant, staff has concluded that the development, as approved by the City, is consistent with all applicable LCP provisions as it is in character with the overall surrounding community and will not result in any adverse impacts on biological resources. The appellant asserts that the proposed development does not adequately protect adjacent sensitive biological habitat. However, the proposed development does not include any structures that will result in impacts to sensitive biological habitat. In addition, any future development within the area of the lot line adjustment will require a new Coastal Development Permit which would include a review of the surrounding areas. Currently, the surrounding habitat areas are protected with biological open space restrictions. Additionally, no modification to previously issued CDPs for the Lux Art Institute or the Grauer School was necessary.

Commission staff recommends **No Substantial Issue** of coastal development permit appeal A-6-ENC-12-042.

Standard of Review: Certified Encinitas LCP.

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APPENDICES

Appendix A – Substantive File Documents

EXHIBITS

Exhibit 1 – Project Location

Exhibit 2 – Lot line Adjustment

Exhibit 3 – Site Photo

Exhibit 4 – Grauer Photo

Exhibit 5 – Appeal (Donna Westbrook)

Exhibit 6 – City of Encinitas Resolution

Exhibit 7 – City of Encinitas Findings

Exhibit 8 – City of Encinitas Conditions

I. MOTION AND RESOLUTION

Motion:

I move that the Commission determine that Appeal No. A-6-ENC-12-042 raises NO substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.

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:

The Commission finds that Appeal No. **A-6-ENC-12-042** 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.

II. APPELLANT CONTENDS

First, the appellant contends that the lot line adjustment is inconsistent with the policies of the certified LCP because it may adversely impact adjacent biological open space. Second, the appellant asserts that the City should have modified a previously issued CDP for one of the properties affected by the lot line adjustment.

III. LOCAL GOVERNMENT ACTION

The Encinitas Planning Commission approved, with conditions, a coastal development permit for the proposed development on 5/17/2012. Standard conditions of approval for a lot line adjustment were included. The Planning Commission approval was not appealed to the City Council.

IV. 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 30603(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 the de novo portion of the 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, reviewing the project de novo in accordance with sections 13057-13096 of the Commission's regulations. 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 (LCP).

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 applicable 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 as to conformity with the certified local coastal program" or, if applicable, the public access and public recreation policies of Chapter 3 of the Coastal Act (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.

V. FINDINGS AND DECLARATIONS

The Commission finds and declares as follows:

A. PROJECT DESCRIPTION

The proposed project is located at 1550 South El Camino Real in Encinitas (Exhibit 1). The proposed project involves a lot line adjustment between the Lux Art Institute and the Grauer School. The lot line adjustment consists of an area located on the northwest corner of the Lux Art Institute property. The Lux Art Institute site will give up 4,179 sq. ft. of lot area, while the Grauer School will gain an equivalent area. A private road, Tennis Club Drive, is located adjacent to the northern edge of the lot line adjustment area, recorded open space easements for steep slopes and/or the protection of habitat are located adjacent to the eastern edge of the lot line adjustment area, recorded open space easements for steep slopes and/or the protection of habitat are located just south of the southern edge of the lot line adjustment area, and tennis courts are located just west of the western edge of the lot line adjustment area (Exhibit 2). The lot line adjustment area is not within recorded open space or steep sloped areas and no additional development beyond the lot line adjustment is proposed with this application. The applicant has indicated to Commission staff that this area may in the future be used for overflow parking during events at the Grauer School. However, any future development on the area subject to the lot line adjustment would require a new Coastal Development Permit from the City of Encinitas.

A portion of the northern edge of the Grauer School property is located within 100 ft. of a mapped wetland and therefore the subject lot line adjustment is appealable to the California Coastal Commission. The mapped wetland is separated from the Grauer School property by Tennis Club Drive, which is a private roadway. The proposed development is located approximately 2 miles east of the shoreline in the City of Encinitas and approximately 2/3 of a mile northeast of the San Elijo Lagoon. The site is located adjacent to the west side of El Camino Real a major north/south arterial road that connects to Manchester Avenue, an east/west coastal access roadway located approximately 1/2 mile to the south.

B. SITE HISTORY

History of the Lux Art Institute

A CDP for the Lux Art Institute was approved by the Encinitas City Counsel on May 17, 2001 (Resolution No. PC 2001-33). The approval included grading of 2.6 acres of the 4.2 acre site (which contained two undeveloped lots), construction of a 16,030 sq. ft. building (which included a museum, galleries, a studio, a residence, and a gift shop), and construction of a 6,530 sq. ft. underground gallery. The primary 16,030 sq. ft. building has been constructed, although the 6,530 sq. ft. underground gallery has yet to be built. The conditions of approval, in part,

included a 65 ft. wide wildlife corridor on the north side of the proposed buildings and an open space conservation easement for all undisturbed areas of the property that precludes any future impacts to native vegetation (Exhibit 2).

The Lux Art Institute Property is not located within an area that is appealable to the California Coastal Commission. However, the property is zoned R-3 (single-family residential) and in 2001, at the time of the City's approval of the Lux Art Institute, the City's certified LCP did not allow museum uses within residentially zoned areas of the City. Following the City's approval of the Lux Art Institute, an LCP amendment was approved by the Coastal Commission to allow museum uses in 4 subareas in the Lux Canyon area adjacent to El Camino Real (LCPA 2-2001). One of the subareas was the Lux Art Institute Property.

History of the Grauer School

A residential care facility, which was never constructed, was previous approved for this property. A CDP for the Grauer School was approved by the Encinitas Planning Commission on June 13, 2001 (Resolution No. PC 2001-30). The approval included the phased construction of two one-story buildings totaling 22,000 sq. ft. and placement of temporary classrooms for the private school on the 4.8 acre site. One of the two approved buildings has been constructed. The conditions of approval, in part, included the conservation and restoration of 2.15 acres of Coastal Sage Scrub and Southern Maritime Chaparral on-site to be placed in a biological open space easement, which included a 60 ft. wide biological open space easement adjacent to Tennis Club Drive. The Grauer School property is an area that is appealable to the California Coastal Commission, because a portion of its northern edge is within 100 ft. of a wetland. The CDP issued by the City of Encinitas in 2001 for construction of the Grauer School was not appealable to the Coastal Commission.

The project site lies within 100 ft. of wetlands, which identifies it as being subject to the Commission's appellate jurisdiction. The subject review is an appeal of a City approved coastal development permit. As such, the standard of review is the certified Encinitas LCP.

C. PROTECTION OF SENSITIVE BIOLOGICAL HABITAT

The appellant contends that the City should have required specific conditions with the approval of the lot line adjustment, in order to protect adjacent biological open space.

The following LUP policies relate specifically to protection of sensitive biological habitat:

Resource Management (RM) Goal 10: The City will preserve the integrity, function, productivity, and long term viability of environmentally sensitive habitats throughout the City, including kelp-beds, ocean recreational areas, coastal water, beaches, lagoons and their up-lands, riparian areas, coastal strand areas, coastal sage scrub and coastal mixed chaparral habitats.

RM Policy 10.5 states, in part:

The City will control development design on Coastal Mixed Chaparral and Coastal Sage Scrub environmentally sensitive habitats by including all parcels containing concentrations of these habitats within the Special Study Overlay designation. The following guidelines will be used to evaluate projects for approval.

-conservation of as much existing contiguous area of Coastal Mixed Chaparral or Coastal Sage Scrub as feasible while protecting the remaining areas from highly impacting uses;

[. . .]

-where significant, yet isolated habitat areas exist, development shall be designed to preserve and protect them; . . .

[. . .]

As identified above, the LCP contains several policies that provide for the protection of coastal sage scrub and Southern maritime chaparral that function as sensitive biological habitat. The lot line adjustment area subject to this review is a flat disturbed area that currently contains no vegetation and is not included in the adjacent recorded Biological Open Space Easements (Exhibit 3). Special Condition SCII of the previous approval for the Lux Art Institute clarifies that this disturbed area located off Tennis Club Drive was not to be included in the Open Space Biological Easements. The CDP approved by the City of Encinitas does not include any development apart from the lot line adjustment. A representative from the Grauer School has stated that while there are no immediate plans for the area, the lot line adjustment area may be used as an overflow parking lot during special events in the future. Any future development on the lot line adjustment area would need to obtain a new CDP or an amendment to a previously issued CDP. At which time, if necessary, conditions would be applied to ensure that the adjacent Biological Open Space Easements continue to be protected.

The conditions of the previous CDP issued by the City for the Lux Art Institute property (Resolution No. PC 2001-33), which protect on-site native habitat state:

SCBB *Any non-native plant species shall not be planted adjacent to or in any onsite biological open space easement or within the proposed wildlife corridor.*

SCCC *Selectively place and/or shield lights to avoid light from directly entering into onsite and offsite open space habitat from the proposed development and/or construction.*

SCHH *The 50' Wildlife Corridor located along the north side of the building shall be increased to 65' in width.*

SCII An open space conservation easement shall be established for all undisturbed areas surrounding building, parking areas and outdoor use areas. Upon acceptance of the easement, the City may transfer fee title to any group responsible for the maintenance of open space areas acquired through the Multiple Habitat Conservation Program (MHCP) for the North County region of San Diego. Undisturbed areas include wildlife corridor and areas having Southern Maritime Chaparral and Coastal Sage Scrub, and does not include the area of disturbance identified on the grading plan, the existing disturbed area located off of Tennis Club Drive and the disturbed area immediately south of the main entrance driveway. The easement shall be provided to the City prior to issuance of grading permit, including any site disturbance permit (brush removal). The easement shall contain wording that precludes any future impacts to native vegetation. The open space easement shall prohibit any future grading, construction of structures, animal grazing, or any other disturbance of the open space area to the satisfaction of the Community Development Department and the Engineering Services Department... [Emphasis added]

The conditions of the previous CDP issued by the City for the Grauer School property (Resolution No. PC 2001-30), which protect on-site native habitat state:

SCB A Mitigation Monitoring and Reporting Program (MMRP) has been established...for [the] Grauer School...The Mitigation Measures required in conjunction with the project are as follows:

A. Biology...preservation of 1.54 acres of disturbed Coastal Sage Scrub and .29 acres of Southern Maritime Chaparral on-site through dedication of a biological open space easement and revegetation of .32 acres on-site.

SCC The 60-ft. wide vegetation corridor along the northerly boundary of the property shall be included within the biological open space easement. The only improvement allowed in that corridor shall be the access drive to Tennis Club Drive and associated grading/drainage improvements...

As evidenced by the conditions of previously issued CDPs, the on-site sensitive biological habitat is currently protected by recorded Biological Open Space Easements on both the Lux Art Institute property and on the Grauer School Property.

The Certified City of Encinitas LCP protects sensitive biological habitat and as such, there is no need to condition the subject lot line adjustment to avoid impacts to sensitive biological habitat. The LCP and the existing open space biological easements require that any proposed development in the future on the area subject to the lot line adjustment avoid impacts to adjacent sensitive biological habitat. Notwithstanding the protections provided by the LCP and the existing easements, some possible questions in conjunction with potential future development of the lot line adjustment area are outlined below:

- *Would there be a need for increased vegetation clearing for defensible space?* No, the City of Encinitas Fire Department has confirmed that defensible space is only required for habitable structures and for access roads leading to habitable structures. Thus, even if a non-habitable structure, such as a storage facility were constructed, it would not require vegetation clearing. In addition, if the area is used for parking in the future, no vegetation clearance will be required.
- *Can a path for driving or walking be constructed between the lot line adjustment area and the Grauer School?* No, the area between the lot line adjustment area and the Grauer School is protected with a recorded Biological Open Space Easement and the area is a very steep hillside (Exhibit 4).
- *Could the Grauer School use the increased lot size to increase the floor-area-ratio of approved structures on the site?* No, the square footage of the buildings approved for the Grauer School property is not based on the lot size.

Based on these findings, the appellant's assertion that the potential impact to the adjacent sensitive biological habitat is inconsistent with the LCP is incorrect and does not raise a Substantial Issue.

D. CONSISTENCY WITH PREVIOUS PERMITS

The appellant contends that a building was previously approved to be located within the lot line adjustment area and thus, the previously approved site plan should have been modified prior to approving the lot line adjustment. While a storage facility for the Lux Art Institute was shown on the approved site plan, it was not approved under the previous CDP (Resolution No. PC 2001-33). While the site plan shows the storage facility in the same relative area of the lot line adjustment, it is not clear if the storage building was within the lot line adjustment area or adjacent to it.

Special Condition SCQ of the CDP issued by the City of Encinitas states in 2001 for construction of the Lux Art Institute states, in part:

SCQ Approval of the site plan does not include the future storage facility located off of Tennis Club Drive due to lack of legal access over Tennis Club Drive. At the time legal access is obtained, applicant can resubmit to modify this application (Major Use Permit, Design Review Permit and Coastal Development Permit)...

Based on conversations with representatives from the Lux Art Institute and from the Grauer School, neither property has obtained legal access over Tennis Club Drive to access the area subject to the lot line adjustment. Resolution No. PC 2001-33 was never modified to include the future storage facility, because Lux Art Institute never obtained legal access and the storage facility was never constructed. Based on these findings, the appellant's assertion that the lot line adjustment is inconsistent with previously issued permits is incorrect and does not raise a Substantial Issue.

E. CONCLUSION

Based upon a review of all of the information provided to the Commission regarding this project, the Commission finds that the proposed development will not result in impacts to sensitive biological habitat, is consistent with previously issued coastal development permits, and meets the requirements of the certified LCP. The subject development is therefore found to be consistent with the certified LCP. Therefore, the Commission finds that the appeal does not raise a substantial issue regarding the proposed development's conformity with the certified LCP.

F. 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. These factors are listed on page 5 of this staff report. The factors applicable to this specific appeal can be summarized as: the degree of factual and legal support for the City's determination and the significance of coastal resources affected. First, as discussed above, there is strong factual and legal support for the City's determination that the approved development is consistent with the certified LCP. Second, although the areas adjacent to the project site are significant coastal resources, the proposed project will have no adverse impact on these areas and the areas are already protected with open space easements. The approved project permits a lot line adjustment only in an area that is already disturbed. Any future development on the site will require review and approval of a CDP. The project will not create an adverse precedent for interpretation of the City's LCP. Finally, the objections to the project suggested by the appellant do not raise any substantial issues of regional or statewide significance.

APPENDIX A

SUBSTANTIVE FILE DOCUMENTS

- Certified City of Encinitas Local Coastal Program (LCP)
- Appeal by Donna Westbrook received 6/15/2012
- City of Encinitas Resolution No. 2012-14/Lux Art Institute Lot line Adjustment
- City of Encinitas Resolution No. 2001-30/Lux Art Institute
- City of Encinitas Resolution No. 2001-33/The Grauer Foundation
- Encinitas LCP Amendment 2-2001
- Waiver of the 49 Day Rule for an Appeal dated 6/19/2012

(G:\San Diego\Reports\Appeals\2012\A-6-ENC-12-042 Lux NSI Staff Report.doc)

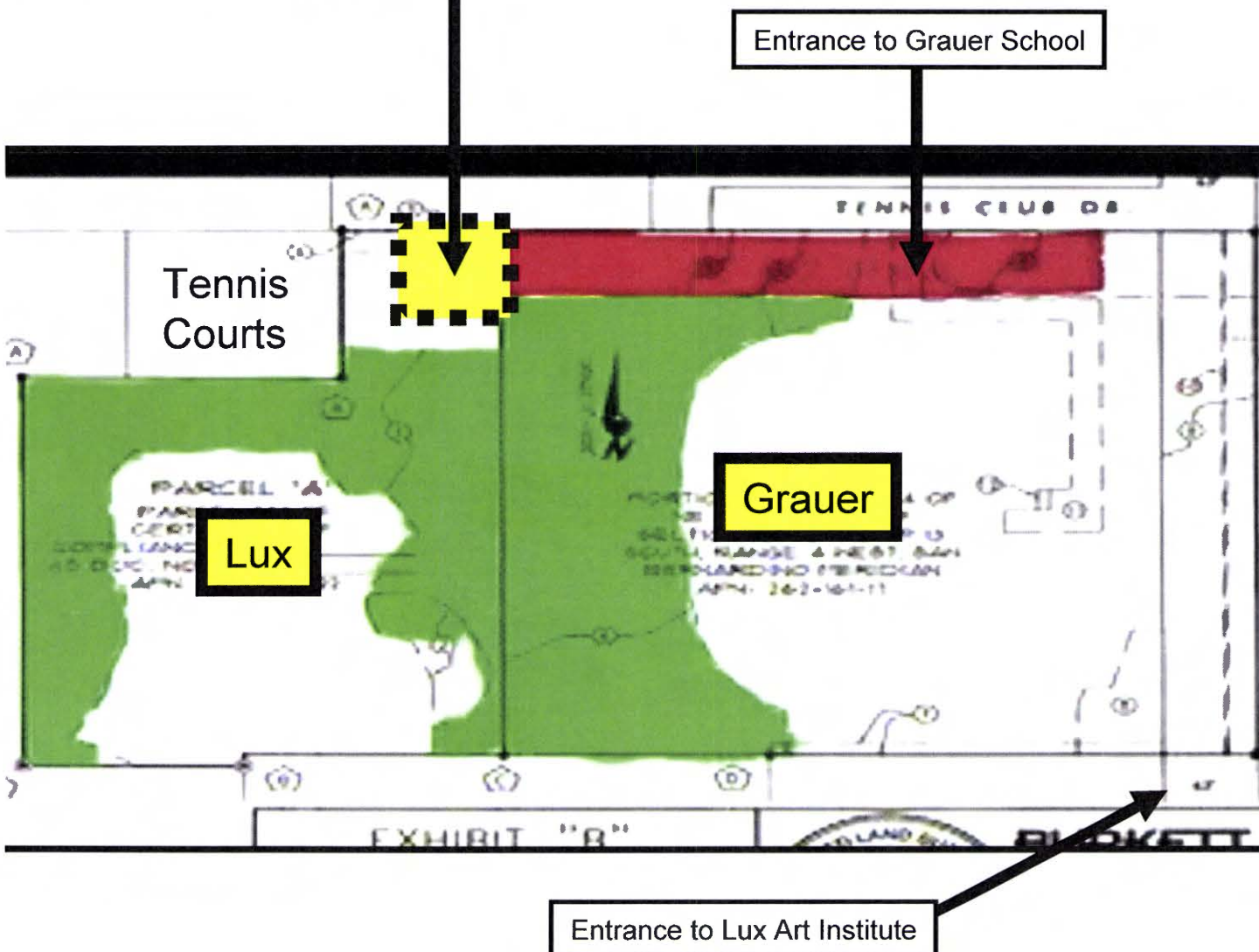
PROJECT LOCATION



LOT LINE ADJUSTMENT



■ This 4,179 sq. ft. area going from Lux to Grauer ■



- Green areas are recorded Biological Open Space Easements (Light Grey if B&W)
- Red area is also a recorded Biological Open Space Easement and is 60-ft wide (Dark Grey if B&W)

EXHIBIT NO. 2

APPLICATION NO.

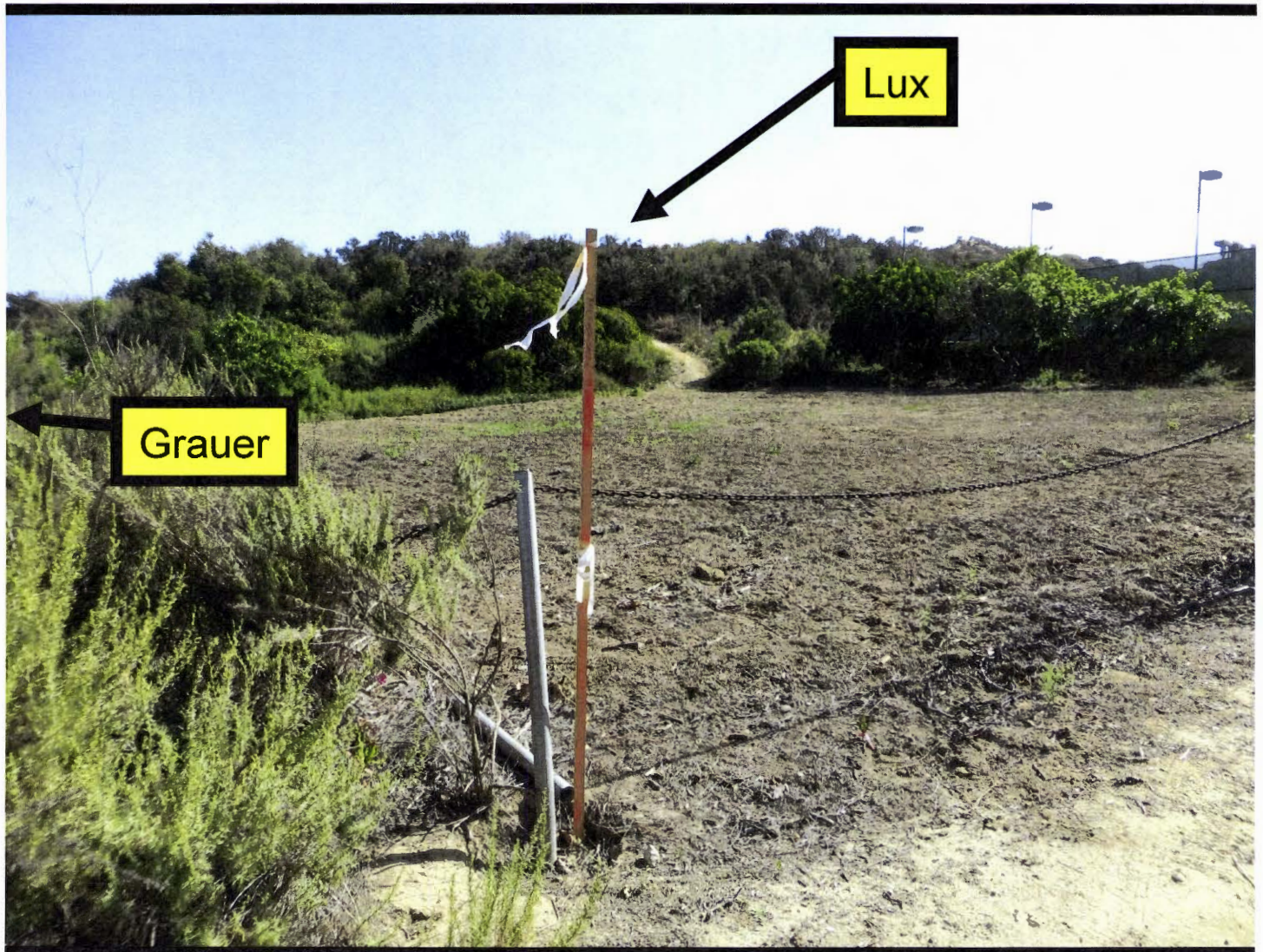
A-6-ENC-12-042

Lot Line Adjustment



California Coastal Commission

SITE PHOTO



View Looking SW across the lot line adjustment area, the lot line adjustment area does not encompass the entire dirt area.

EXHIBIT NO. 3
APPLICATION NO.
A-6-ENC-12-042

Site Photo



California Coastal Commission

GRAUER PROPERTY PHOTO

Lot Line Adjustment
Area at top of this hill



Looking northwest
From the Grauer School

EXHIBIT NO. 4
APPLICATION NO.
A-6-ENC-12-042

Grauer Photo



California Coastal Commission

APPEAL

86/15/12 15:53 768 634 0761

P. 01

STATE OF CALIFORNIA -- THE RESOURCES AGENCY

EDMUND G. BROWN JR., Governor

CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT OFFICE

710 E STREET, SUITE 200

EUREKA, CA 95501

VOICE (707) 445-7833 FAX (707) 446-7877



APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

Name: Donna Westbrook

Mailing Address: P.O. Box 230033

City: Encinitas, CA

Zip Code: 92024

Phone: (760) 632-0094

SECTION II. Decision Being Appealed

1. Name of local/port government:

City of Encinitas

2. Brief description of development being appealed:

Boundary adjustment (Lot line adjustment) on properties that have biological open space restrictions

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

1502 and 1550 South El Camino Real, APNS: 262-160-17 and 262-160-22

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-12-042

DATE FILED:

6/15/12

DISTRICT:

S.D. Coast

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JUN 15 2012
CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

EXHIBIT NO. 5

APPLICATION NO.

A-6-ENC-12-042

Appeal



California Coastal Commission

APPEAL, CONT.

06/15/12 15:54 2 760 634 0761

P.02

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: May 17, 2012

7. Local government's file number (if any): Case # 11-209 BACC/CDP

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:

Lux Art Institute
Grauer Foundation for Education

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)

(2)

(3)

(4)

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JUN 15 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

APPEAL, CONT.

06/15/12 15:55 760 634 0761

P. 03

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.

Both of these properties have biological open space restrictions and major use permits that allowed the developments in the residential zone. The area of the lot line adjustment was to be used for another building for Lux. With Lux deeding that property to Grauer, the site plans approved under the MUP have changed. No mention of this in the staff report. The area within the lot line adjustment is bordered by the biological open space and separated from the Grauer developed area by the open space. There are no specific conditions to protect the vegetation from intrusion.

APPEAL, CONT.

06/15/12 15:56 768 634 0761

P. 04

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: June 15, 2012

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: _____

CITY RESOLUTION

RESOLUTION NO. PC 2012-14

JUN 21 2012

**A RESOLUTION OF THE CITY OF ENCINITAS PLANNING COMMISSION, CALIFORNIA
APPROVING A BOUNDARY ADJUSTMENT AND COASTAL DEVELOPMENT PERMIT TO
MODIFY PROPERTY LINES BETWEEN TWO EXISTING LEGAL LOTS WITHIN THE
HILLSIDE/ INLAND BLUFF OVERLAY ZONE FOR THE PROPERTY LOCATED AT 1502
AND 1550 S. EL CAMINO REAL.**

(CASE NO. 11-209 BACC/CDP; APN: 262-160-17 AND -22)

WHEREAS, a request for consideration of a Boundary Adjustment and Coastal Development Permit was filed by Lux Art Institute to allow for a Boundary Adjustment, Certificate of Compliance and Coastal Development Permit in accordance with Chapter 24.70 (Lot Line Adjustments) and Chapter 30.80 (Coastal Development Permit) of the Encinitas Municipal Code, for the property located in the Residential 3 (R-3) Zone, Southern El Camino Real Museum Overlay Zone, Hillside/ Inland Bluff Overlay Zone and within the appeal jurisdiction of the Coastal Commission, legally described as:

LEGAL DESCRIPTION FOR LUX ART INSTITUTE (1550 S. EL CAMINO REAL)

PARCEL 2 OF PARCEL MAP 2162, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO AND MORE FURTHER DESCRIBED THE GRANT DEED DOCUMENT NO. 2003-1281784 RECORDED WITH THE SAN DIEGO COUNTY RECORDER ON OCTOBER 20, 2003,

LEGAL DESCRIPTION FOR GRAUER FOUNDATION (1502 S. EL CAMINO REAL)

THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER; AND THE NORTH QUARTER OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 12, TOWNSHIP 13 SOUTH, RANGE 4 WEST, SAN BERNARDINO MERIDIAN, IN THE CITY OF ENCINITAS, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO OFFICIAL PLAT THEREOF AS MORE FURTHER DESCRIBED IN THE GRANT DEED RECORDED WITH THE COUNTY OF SAN DIEGO RECORDER AS DOCUMENT NO. 2001-0086697 RECORDED ON FEBRUARY 14, 2001.

WHEREAS, the Planning Commission conducted a noticed public hearing on the application on May 17, 2012, at which time all those desiring to be heard were heard; and

WHEREAS, the Planning Commission considered, without limitation:

1. The May 17, 2012 agenda report to the Planning Commission with attachments;
2. The General Plan, Municipal Code, Local Coastal Program, and associated Land Use Maps;
3. Oral evidence submitted at the hearing;
4. Written evidence submitted at the hearing;
5. Project drawings consisting of five sheets, including legal descriptions (3 sheets) and plats (2 Sheets) all stamped received by the City of Encinitas on March 15, 2012.

EXHIBIT NO. 6

APPLICATION NO.

A-6-ENC-12-042

Resolution



California Coastal Commission

CITY RESOLUTION, CONT.

WHEREAS, the Planning Commission made the following findings pursuant to Chapter 24.70 (Lot Line Adjustments) and 30.80 (Coastal Development Permit) of the Encinitas Municipal Code:

(SEE ATTACHMENT "A")

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Encinitas hereby approves application Case No. 11-209 BACC/CDP subject to the following conditions:

(SEE ATTACHMENT "B")

BE IT FURTHER RESOLVED that the Planning Commission, in its independent judgment, finds that the project is categorically exempt from environmental review pursuant to Section 15305(a) of the California Environmental Quality Act (CEQA) Guidelines.

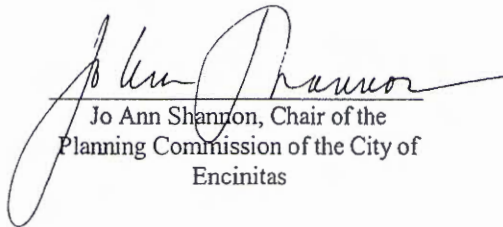
PASSED AND ADOPTED this 17th day of May, 2012, by the following vote, to wit:

AYES: Shannon, Brandenburg, Felker, Groseclose and O'Grady

NAYS: None

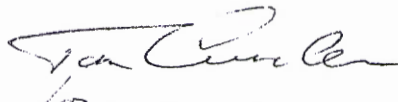
ABSENT: None

ABSTAIN: None



Jo Ann Shannon, Chair of the
Planning Commission of the City of
Encinitas

ATTEST:



Patrick Murphy
Secretary

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

CITY Resolution Addendum



**CITY OF ENCINITAS
MEMORANDUM
Date: May 15, 2012**

TO: Planning Commission

FROM: Andrew Maynard, Associate Planner *AM*

SUBJECT: Draft Resolution Modifications

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JUN 21 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

The following amendments to the draft resolution for Case No. 11-209 BACC/CDP are below and attached to correct and some language within the Lot Line Adjustment findings and to correct one condition of approval.

1. Under the conclusion statements on Sheets 1-8 and 1-9 of the draft resolution the beginning statement has been modified from "The Planning and Building Department finds...." to the "Planning Commission finds....".
2. On Sheet 1-12 of the draft resolution Condition G2 has been deleted since it is not applicable to the project. The Lot Line Adjustment has a 10 day City of Encinitas appeal period (Condition M1) and an additional 10 day Coastal Commission appeal period (Condition G3).

If you have any questions, I can be reached at 760-633-2718 or amaynard@encinitasca.gov.

CITY FINDINGS

ATTACHMENT "A"
Resolution No. PC 2012-14
Case No. 11-209 BACC/CDP

FINDINGS FOR A LOT LINE ADJUSTMENT

STANDARD: Section 24.70.060 of the Municipal Code provides the application to adjust a lot line shall be approved unless the parcels resulting from the adjustment will:

1. Create a condition which does not comply with zoning and development regulation. All parcels resulting from a lot line adjustment shall comply with minimum City requirements for lot size, dimensions, access, parking and circulation, and all other applicable development standards established through the zoning and development code. The lot line adjustment shall also be found to promote available design standards and guidelines as established through the zoning and development code. The lots resulting from a lot line adjustment and existing and/or potential development on those lots shall be found to be within limitations for lot density and intensity of development and use as established through the zoning and development code.

Facts/Discussion: The applicant Lux Art Institute proposes to adjust the property lines between the existing properties located at 1550 and 1502 South El Camino Real. The R-3 Zone requires a minimum lot area of 14,500 square feet and minimum lot dimensions of 80 feet in width and 100 feet in depth. The subject lots will comply with the required standards after the proposed adjustment. Existing buildings located on both properties are not located near the affected property lines, and therefore setbacks will not be affected by the adjustment. The boundary adjustment areas are not within recorded open space or steep sloped areas. Access, parking, and circulation for the subject lots will be unaffected by the proposed adjustment. No development is proposed with this application. The intensity of existing development of the uses on both properties previously approved through use permits will not be materially affected by the lot line adjustments.

Conclusion: The Planning Commission finds that the proposed boundary adjustment complies with the zoning and development regulations, and that all parcels of the proposed adjustment comply with the Municipal Code requirements for lot size, dimensions, access, parking, and circulation, intensity of development and use and all other applicable development and design standards.

2. Create a condition which does not comply with building regulations.

Facts/Discussion: The existing Lux Art Institute and Grauer School are not proposing any development with this Boundary Adjustment application. All existing buildings comply with all required setbacks from the adjusted property lines.

Conclusion: The Planning Commission finds that no aspect of the adjustment with condition that does not comply with building regulations.

EXHIBIT NO. 7

APPLICATION NO.

A-6-ENC-12-042

City Findings



California Coastal Commission

CITY FINDINGS, CONT.

3. Materially, adversely affect an agreement for the security for the construction of public improvements.

Facts/Discussion: The proposed Boundary Adjustment and Coastal Development Permit would not require nor would it affect any public improvements.

Conclusion: The Planning Commission finds that the adjustment will not materially or adversely affect any agreement for the construction of public improvements.

4. Extends beyond the City limit boundary.

Facts/Discussion: The subject properties are located within the City boundaries.

Conclusion: The Planning Commission finds that the proposed adjustment does not extend beyond the City boundaries.

5. Requires substantial alteration of any existing improvement or creates a need for any new improvement.

Facts/Discussion: Existing improvements on the subject lots will be unaffected by the proposed boundary adjustment. Additionally, the proposed boundary adjustment does not create a need for any new improvements.

Conclusion: The Planning Commission finds that the proposed adjustment does not require any alteration of existing improvements or create the need for any new improvements.

6. Adjusts the boundary line between lots that are subject to an agreement for public improvements, unless the City Engineer finds that the proposed adjustment will not materially affect such agreement for the security therefore.

Facts/Discussion: The boundary adjustment only affects the interior property line between 1550 and 1502 South El Camino Real. No agreement for public improvements will be affected by the proposed adjustment.

Conclusion: The Planning Commission finds that the adjustment will not affect a boundary line that may be subject to an agreement for public improvements.

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

CITY FINDINGS, CONT.

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 seeks approval for a Boundary Adjustment and Coastal Development Permit to allow the adjustment of property lines between two existing legal lots located within the R-3 Zone, Southern El Camino Real Museum Overlay Zone, Hillside/Inland Bluff Overlay Zone and the appeal jurisdiction of the Coastal Commission. The project requires a Coastal Development Permit because the applicant is proposing a lot line adjustment, which is considered development under the Coastal Act. The project is located within the appeal jurisdiction of the Coastal Commission because the site at 1502 South El Camino Real is located within 100 feet of a wetland area.

The R-3 zoning standards require a lot size of 14,500 square feet with lot width of 80 feet and lot depth of 100 feet. Both resulting lots on 1502 and 1550 South El Camino Real will have a lot size, width and depth that exceeds the minimum R-3 Zone requirements. Existing setbacks will not be materially affected by the adjustment since no structures are located near the modified property lines.

The project is subject to the Hillside/Inland Bluff Overlay Zone regulations because the applicant has previously documented on both sites that more than 10 percent of the site has slopes of 25 percent or greater in gradient. All steep slopes and/or habitat areas have been preserved across both properties through recorded open space easements in accordance with the Hillside/Inland Bluff regulations. The Boundary Adjustment request will not affect any open space easement areas or any sloped areas on both properties. The proposed project does not require a Design Review permit approval since no improvements are proposed that would encroach within sloped areas of 25% gradient or more.

Discussion: With the approval of the Boundary Adjustment and Coastal Development Permit the project conforms or is conditioned by the City to conform to the Encinitas Municipal Code, General Plan and Local Coastal Program. The project is determined to be categorically exempt from environmental review pursuant to Section 15305(a) of the CEQA Guidelines, which exempts from environmental review minor lot line adjustments. The sites are located on the west side of South El Camino Real just south of Tennis Club Drive, which is not located between the sea and the nearest public road. No physical development is proposed on either 1502 S. El Camino Real or 1550 S. El Camino Real, so the wetlands located within 100 feet of the property will remain unaffected.

CITY FINDINGS, CONT.

Conclusion: The Planning Commission finds that 1) the project is consistent with the certified Local Coastal Program of the City of Encinitas; 2) no mitigation measures will be required for the project since staff has determined the project will not result in any significant adverse environmental impacts and is exempt from CEQA; and regarding finding 3) the project is located on the west side of South El Camino Real just south of Tennis Club Drive, which is not located between the sea and the nearest public road. No physical development is proposed on either the Lux Art Institute or Grauer School properties with the boundary adjustment, therefore the existing wetlands will remain unaffected by the project.

CITY CONDITIONS

ATTACHMENT "B"
Resolution No. PC 2012-14
Case No. 11-209 BACC/CDP

Applicant: Lux Art Institute

Location: 1502 and 1550 S. El Camino Real (APN: 262-160-17 and -22)

SC1 SPECIFIC CONDITIONS:

- SC5 This project is conditionally approved as set forth on the application and project drawings stamped received by the City on May 4, 2012, consisting of five sheets including legal description (3 Sheets) and plats (2 Sheets), all designated as approved by the Planning Commission on May 17, 2012, and shall not be altered without express authorization by the Planning and Building Department.
- 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.
- BA1 Completion of this lot line adjustment shall require the recordation of a Certificate of Compliance. A plat and new legal descriptions reflecting the adjusted parcels shall be prepared to the satisfaction of the Planning & Building Department. Pursuant to Municipal Code Section 24.70.110, a subdivision map of record reflecting the boundaries resulting from this action may serve as a substitute for a Certificate of Compliance.
- BA2 In accordance with Section 66412(d) of the California Subdivision Map Act, deeds reflecting this lot line adjustment shall be recorded in the Office of the County Recorder. Conformed copies of the deeds shall be presented to the Planning and Building Department prior to the preparation of the Certificate of Compliance referenced in Condition BA1, above.
- BA3 This approval will expire in two years, on May 17, 2014 at 5:00 p.m., permitting time to record a Certificate of Compliance, unless the conditions have been met or an extension has been approved by the authorized agency.

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 Notice of Final Action. Applicants will be notified by the Coastal Commission the Commission's appeal period will conclude. Appeals must be in writing to the Commission, San Diego Coast District office.

EXHIBIT NO. 8

APPLICATION NO.

A-6-ENC-12-042

City Conditions



California Coastal Commission

CITY CONDITIONS, CONT.

- 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 the Certificate of Compliance recordation 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.