

CALIFORNIA COASTAL COMMISSION

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W10b

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Hearing Date: 7/13/16

STAFF REPORT AND RECOMMENDATION ON APPEAL SUBSTANTIAL ISSUE DETERMINATION

Local Government: City of Encinitas

Decision: Approved with Conditions

Appeal Number: A-6-ENC-16-0054

Applicant: City of Encinitas

Location: 951 Via Cantebria, Encinitas, San Diego County (APN No. 257-501-17)

Project Description: Replace 86,000 sq. ft. of natural turf on an existing sports field with synthetic turf and associated drainage improvements. Install 810 linear ft. of 2-in. and 2-1/2-in. diameter subsurface electrical conduit.

Appellants: Adam Jacobs and Donna Westbrook

Staff Recommendation: No Substantial Issue

IMPORTANT HEARING PROCEDURE NOTE

This is a substantial issue only hearing. Testimony will be taken only on the question of whether the appeal raises a substantial issue. Generally and at the discretion of the Chair, testimony is limited to 3 minutes total per side. Please plan your testimony accordingly. Only the applicant, persons who opposed the application before the local government (or their representatives), and the local government shall be qualified to testify. Others may submit comments in writing. If the Commission determines that the appeal does raise a substantial issue, the de novo phase of the hearing will occur at a future Commission meeting, during which it will take public testimony.

SUMMARY OF STAFF RECOMMENDATION

Leo Mullen Sports Park is an existing sports facility located adjacent to Encinitas Creek, which in turn flows into Batiquitos Lagoon. The park is open year-round from 8:00 a.m. to sunset and was planned as a part of the Encinitas Ranch Specific Plan/Green Valley Planning Area. The proposed development would result in installation of synthetic turf and subsurface conduit; it does not include a proposal for any sports field lighting. Lighting of athletic playing fields is not permitted by the Encinitas Ranch Specific Plan, which is part of the certified Local Coastal Program (LCP).

The appellants contend that the proposed development is inconsistent with the LCP because synthetic turf could adversely impact the adjacent wetlands and riparian corridor and because conduit support would allow for sports field lighting, which is prohibited. In addition, the appellants assert that the project was incorrectly determined to be exempt from environmental review pursuant to California Environmental Quality Act (CEQA).

Staff has reviewed the appellants' contentions and determined that the development, as approved by the City, is consistent with all applicable LCP provisions. The purpose of the project is to conserve water and improve the drainage conditions of the soccer field. The synthetic turf system is designed to protect biological resources via components such as organic cork and sand infill, a shock pad with fused, environmentally-friendly polypropylene particles, and the capacity to store and infiltrate all surface runoff up to a 6-hour, 100-year storm event. Commission water quality staff reviewed the synthetic turf design and concurred that it encourages the preservation of Batiquitos Lagoon and its uplands by improving infiltration and erosion control, thereby enhancing water quality. In addition, because the current project does not propose any sports field lighting, this issue is not yet before the Commission for review. The proposed conduit would serve a number of utilities, such as electrical and other cable-base technologies (communications wire and irrigation controller wire). The City acknowledges that a LCP amendment would be required to authorize lighting and additionally conditioned its approval such that a separate Coastal Development Permit (CDP) would be required for any future lighting. Nonetheless, since installation of synthetic turf and conduit require excavation of the existing field, the City proposed installation of the conduit together with the turf to improve efficiency and minimize disruption. As proposed, the project is consistent with the LCP. Furthermore, approval of the project does not equate with approval of sports field lighting. An appropriate time to challenge lighting, if proposed, would be during a future LCP amendment process or during an appeal of a separate CDP. Finally, while considering all significant points raised during environmental review, the Commission does not consider the City's action regarding CEQA during appeals. The standard of review for this project is the City's certified LCP. Because the proposed project is not located between the first public road and the sea, Chapter 3 public access and recreation policies do not apply to this appeal.

Therefore, because there are no identified inconsistencies with the LCP, 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.

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[Exhibit 8 – As-built Electrical Plan](#)

[Exhibit 9 – Appeals by Adam Jacobs and Donna Westbrook](#)

I. APPELLANTS CONTENTIONS

The appellants contend that the development approved by the City is inconsistent with the policies of the certified LCP for the following reasons:

1. The development could adversely impact the adjacent wetland and is therefore inconsistent with Land Use Plan (LUP) Resource Management Policy 10.9;
 2. The development constitutes piecemealing because the installation of conduit is to support future lighting, which is prohibited by the Encinitas Ranch Specific Plan; and
 3. The development was incorrectly determined to be exempt from environmental review pursuant to California Environmental Quality Act (CEQA).
-

II. LOCAL GOVERNMENT ACTION

The project was approved administratively by the City of Encinitas Planning and Building Department on April 5, 2016. The proposed development is located adjacent to Encinitas Creek, which is a coastal stream that flows into Batiquitos Lagoon, and is therefore subject to appeal to the Coastal Commission. Specific conditions were attached which, among other things, require implementation of Best Management Practices (BMPs) and installation of a subsurface drainage system to control erosion and prevent discharge of sediment and other pollutants offsite both during construction and after project completion; and a separate Coastal Development Permit (CDP) for any and all lighting for night athletic use.

The appellants participated in the local hearing process, although they did not file local appeals because the City of Encinitas charges a fee to appeal. Thus, the appellants are aggrieved persons under Coastal Act regulations and have standing to appeal to the Coastal Commission (Cal. Code of Regs., tit. 14, § 13573(a)(4)).

III. APPEAL PROCEDURES

After certification of a 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, those allowed to testify at the hearing 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 standard of review for the Commission to consider is whether the proposed development is in conformity with the certified 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 of the Coastal Act. 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., tit. 14, section 13115(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 a petition for a writ of mandate pursuant to the Code of Civil Procedure, section 1094.5.

The City of Encinitas has a certified LCP. Therefore, before the Commission considers the appeal de novo, the appeal must establish that a substantial issue exists with respect to the grounds on which an appeal has been filed pursuant to Section 30603. In this case, for the reasons discussed further below, the Commission finds that the appeals raise no substantial issue as to conformity with the certified LCP. .

IV. SUBSTANTIAL ISSUE MOTION AND RESOLUTION

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission determine that Appeal No. A-6-ENC-16-0054 raises NO substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.*

STAFF RECOMMENDATION:

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 hereby finds that Appeal No. A-6-ENC-16-0054 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. SUBSTANTIAL ISSUE FINDINGS AND DECLARATION

The Commission finds and declares as follows:

A. PROJECT DESCRIPTION

The proposed development consists of replacing 86,000 sq. ft. of natural turf at Leo Mullen Sports Park with synthetic turf and installing 810 linear ft. of 2-in. and 2-1/2-in. diameter conduit along all sides of the field, except the south (**Exhibits #1, 2 and 3**). This involves excavating the top eight inches of turf and soil, digging a single trench 16 inches below this base grade for the conduit, and then installing the subsurface drainage and synthetic turf systems. The project does not include sports field lighting.

Leo Mullen Sports Park is an existing sports facility surrounded by retail development to the west and north, Encinitas Creek and El Camino Real to the east, and single-family homes to the south. The park is open year-round from 8:00 a.m. to sunset, and features a soccer field, baseball field, half basketball court, playground, picnic tables, restrooms, and parking lot. The park was planned as part of the Encinitas Ranch Specific Plan/Green Valley Planning Area (Ordinance 94-14), which was incorporated into the City's LCP, certified in 1995.

The purpose of the project is to conserve water and improve drainage conditions of the soccer field. The City reports that the existing natural turf requires the use of fertilizers and other chemicals to maintain the field, and that there are times when the City chooses to close the field due to the poor drainage and potential erosion. The City believes installation of synthetic turf will result in more effective stormwater runoff management and protection of biological resources in the adjacent riparian corridor. Because excavation is required for both installation of synthetic turf and conduit, the City also believes it is more efficient and less disruptive to concurrently conduct these activities.

Because the project site is within 100 feet of a wetland, the Commission retains appeal jurisdiction, and the policies of the certified LCP are the standard of review. Chapter 3 public access and recreation policies do not apply to this appeal because the project is not located between the first public road and the sea.

B. BIOLOGICAL RESOURCES

The subject site is adjacent to a wetland, which drains into Encinitas Creek, which in turn flows into Batiquitos Lagoon. The appellants contend that the project could adversely impact the adjacent wetland and is therefore inconsistent with Land Use Plan (LUP) Resource Management Policy 10.9:

The City will encourage the preservation and the function of San Elijo Lagoon and Batiquitos Lagoon and their adjacent uplands as viable wetlands, ecosystems and

habitat for resident and migratory wildlife, by prohibiting actions (subject to the detailed provisions of RM policy 10.6) which:

- *involve wetland fill or increased sedimentation into wetlands;*
- *adversely decrease stream flow into the wetlands;*
- *reduce tidal interchange;*
- *reduce internal water circulation; or*
- *adversely affect existing wildlife habitats.*

The synthetic turf system is designed to protect biological resources. It consists of a woven structural filter fabric overlain by a Class 2 aggregate base material (**Exhibit #4**). On top of the aggregate base is a supplemental pad used to decrease the potential for injuries (**Exhibit #5**). The uppermost layer is the synthetic turf itself, which is composed of polyethylene slit-film fibers with polypropylene backings coated with high-grade polyurethane for all-weather durability, infilled with organic cork and sand (as opposed to coated crumb rubber).

The appellants are concerned that components of the synthetic turf system may enter the wetland during construction or after project completion, resulting in increased sedimentation or an adverse effect on wildlife habitat. Specifically, the appellants question the City's assurances that polypropylene particles from the supplemental pad and cork and sand infill material will not enter the wetland. However, because the supplemental pad is layered between the synthetic turf and aggregate base, there is nowhere for the material to migrate. Furthermore, the polypropylene particles of the supplemental pad are fused together with a tensile strength of 52 psi and, laboratory analytical results of samples of the pad indicate that the particles were either below laboratory reporting limits or below the applicable thresholds for human health standards, freshwater habitat, and groundwater quality. Regarding the infill material, the turf is designed to hold the organic cork and sand in place, and the City has selected this infill material to be organic instead of rubber and artificial infill components sometimes used in other turf projects. In addition, because the synthetic turf system is designed to capture surface runoff up to a 6-hour, 100-year storm event (3.5 inches of rain per hour), runoff will not transport infill material into the wetland, but rather be stored and infiltrated into the soil. Commission water quality staff reviewed the synthetic turf design and concurred that the proposed drainage system encourages the preservation of Batiquitos Lagoon and its uplands as viable wetlands, ecosystems, and habitat through water conservation and stormwater management, as well as through reduced potential fertilizer or pesticide loads into the adjacent creek. Finally, the City's conditions on the proposed development, namely construction during the dry season and implementation of stormwater pollution control BMPs, help ensure that components of the synthetic turf system will not enter the adjacent wetland.

The appellants are also concerned that installation of synthetic turf will increase foot and vehicular traffic to the park, which will adversely impact the adjacent wetland. Appellants point to the City's statements that artificial turf can withstand many more hours of playing time, and also contend that the playing field will increase in size. The latter is incorrect. The City has stated that while the square footage of turf inside the fence will remain the same, the resulting playing field will actually be smaller by more

than 6,000 square feet.¹ Regarding the ability to play more hours on artificial turf, intensity of use may increase. However, Leo Mullen Sports Park is a designated recreation area and the number of visitors and demands on parking are not necessarily related to the type of turf, but rather to the City's management of the field. The soccer field at Leo Mullen Sports Park was intended to be used by the community and the installation of synthetic turf does not constitute a new use that would adversely impact the adjacent wetland. The qualities of artificial turf, combined with the water quality BMPs, further prevent impacts to the wetlands if there is any increased use.

Appellants also assert that the construction traffic, specifically to haul away loads of dirt, will impact the wetlands. The City has conditioned its approval on various BMPs for grading, erosion control, and the hauling of dirt during construction, including any further requirements from the Engineering Services Director (**Exhibit #6**).

Therefore, the Commission finds that the appeal does not raise a substantial issue regarding the proposed development's consistency with the certified LCP as it relates to the preservation of Batiquitos Lagoon and its uplands.

C. SPORTS FIELD LIGHTING

Although sports field lighting is not part of the proposed development, the appellants contend that installation of conduit at Leo Mullen Sports Park will support future lighting, which is prohibited by the Encinitas Ranch Specific Plan of which the Green Valley Planning Area is a part (emphasis added):

Section 6.3.1(B) states, in part:

The following uses are permitted only in the Green Valley ... Planning Areas ... provided a Major Use Permit is approved pursuant to the Municipal Code.

[...]

Athletic playing field, not including lighted fields

[...]

Section 6.3.1(C) states, in part:

The following use is permitted only in the Green Valley Planning Area of the Encinitas Ranch Specific Plan Area, provided a Major Use Permit is approved pursuant to the Municipal Code.

Multi-purpose stadium (e.g., sports, track & field, musical events; etc.) with or without lighting."

¹ Email from City of Encinitas to Sarah Richmond, June 7, 2016.

Thus, based on Sections 6.3.1(B) and 6.3.1(C), sports field lighting is only allowed for a multi-purpose stadium, which Leo Mullen Sports Park is not. As a result, the City cannot approve sports field lighting at Leo Mullen Sports Park without an amendment to the Encinitas Ranch Specific Plan (**Exhibit #7**). Since the Encinitas Ranch Specific Plan is part of the City's LCP, if and when such an amendment is approved locally, the amendment would also require approval by the Commission to assure that any change to the LUP is consistent with the Coastal Act and any change to the Implementation Plan is consistent with the certified LUP. The City is aware that a LCP amendment would be required if the Encinitas Ranch Specific Plan is amended to include lighting for an athletic playing field, and Special Condition "SCB" of the City's approved project acknowledges that any and all lighting for night athletic use requires a separate CDP (which could not be found consistent with the current standards in the LCP). Therefore, the appropriate time to challenge the installation of sports field lighting is during the LCP amendment process and during the appeal process to any subsequent coastal development permit to install sports field lighting. Because the current project does not include sports field lighting, this issue is not before the Commission at this time, and therefore outside the scope of this appeal.

The appellants assert that the installation of conduit and lights cannot be separated because the purpose of the conduit is to facilitate future lighting. As such, the appellants claim that the City is piecemealing the future lighting project to avoid an analysis of the effects of lights to a later date. Since lights are prohibited, the appellants argue that an amendment to the Encinitas Ranch Specific Plan is needed *before* conduit and lights can be approved. Since the City has not pursued this amendment, the appellants conclude that the City has approved a project for a prohibited use.

However, the proposed development is viable regardless of whether sports lighting is approved in the future. The City explains that the conduit could be used for purposes other than lighting, such as communications wire and irrigation controller wire.² Additionally, when Leo Mullen Sports Park was completed in 1997, it included installation of 4-in. conduit for future lighting (see Note 3-**Exhibit #8**), and no lighting has been proposed or installed in the nearly 20 years since that conduit was installed. It should be noted that approval of the conduit installation does not in any way prejudice the ability to deny such sports field lighting in the future. The City decided to install conduit at this stage because the level of effort to install conduit after turf replacement increases dramatically; it would involve cutting back the turf, protecting the adjacent infill material, digging a deeper/wider trench, cutting through the drainage system, removing the permeable aggregate, then repairing the drainage system, replacing the permeable aggregate, re-grading the trench line, and finally replacing the turf. Finally, the City reports that it has initiated a lighting study and will use results from this study to inform any future lighting proposal and required LCP amendment.

Therefore, the project as approved is fully consistent with the LCP policies cited above by the appellants. Turf replacement and conduit installation are permissible development and the project is not dependent upon future approval of the sports field lighting.

² Email from City of Encinitas to Sarah Richmond, June 7, 2016.

Therefore, the City did not approve a prohibited use, and approval of the project is not necessarily a precursor to lighting because the LCP amendment process and/or appeal process to the separate CDP provide opportunities for public review.

D. CEQA

The appellants contend that the City wrongly determined that the project is exempt from environmental review pursuant to CEQA Guidelines Sections 15301(a) (minor alterations of existing facilities) and 15302 (reconstruction of similar facilities). However, allegations regarding CEQA do not form grounds for an appeal to the Coastal Commission. Grounds for this appeal are limited to inconsistency with the Encinitas LCP (Pub. Resources Code, § 30603(b)(1)).

E. 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 development will result in installation of synthetic turf and subsurface conduit that will not adversely affect coastal resources. Approval of the project as a result of the local government's decision will not create an adverse precedent for interpretation of the City's LCP. Finally, the objections to the project suggested by the appellants do not raise issues of regional or statewide significance.

F. CONCLUSION

In summary, the appellants have raised a number of local concerns related to the proposed installation of synthetic turf and subsurface conduit, none of which raise substantial issues related to coastal resources. As described in detail above, the project is designed to protect biological resources, and is therefore consistent with the LUP policy encouraging the preservation of Batiquitos Lagoon and its uplands. In addition, the current project does not include prohibited sports field lighting and since the project is not dependent upon any future approval of the lighting, the City's approval is fully consistent with the Encinitas Specific Ranch Plan. Therefore, the Commission finds that the appeal does not raise a substantial issue with regard to the project's consistency with the certified LCP.

APPENDIX A: SUBSTANTIVE FILE DOCUMENTS

- Certified City of Encinitas Local Coastal Program
- City of Encinitas Planning and Building Department (PBD) Decision 2016-13/
CDP 16-017 dated April 5, 2016
- Appeal by Adam Jacobs and Donna Westbrook

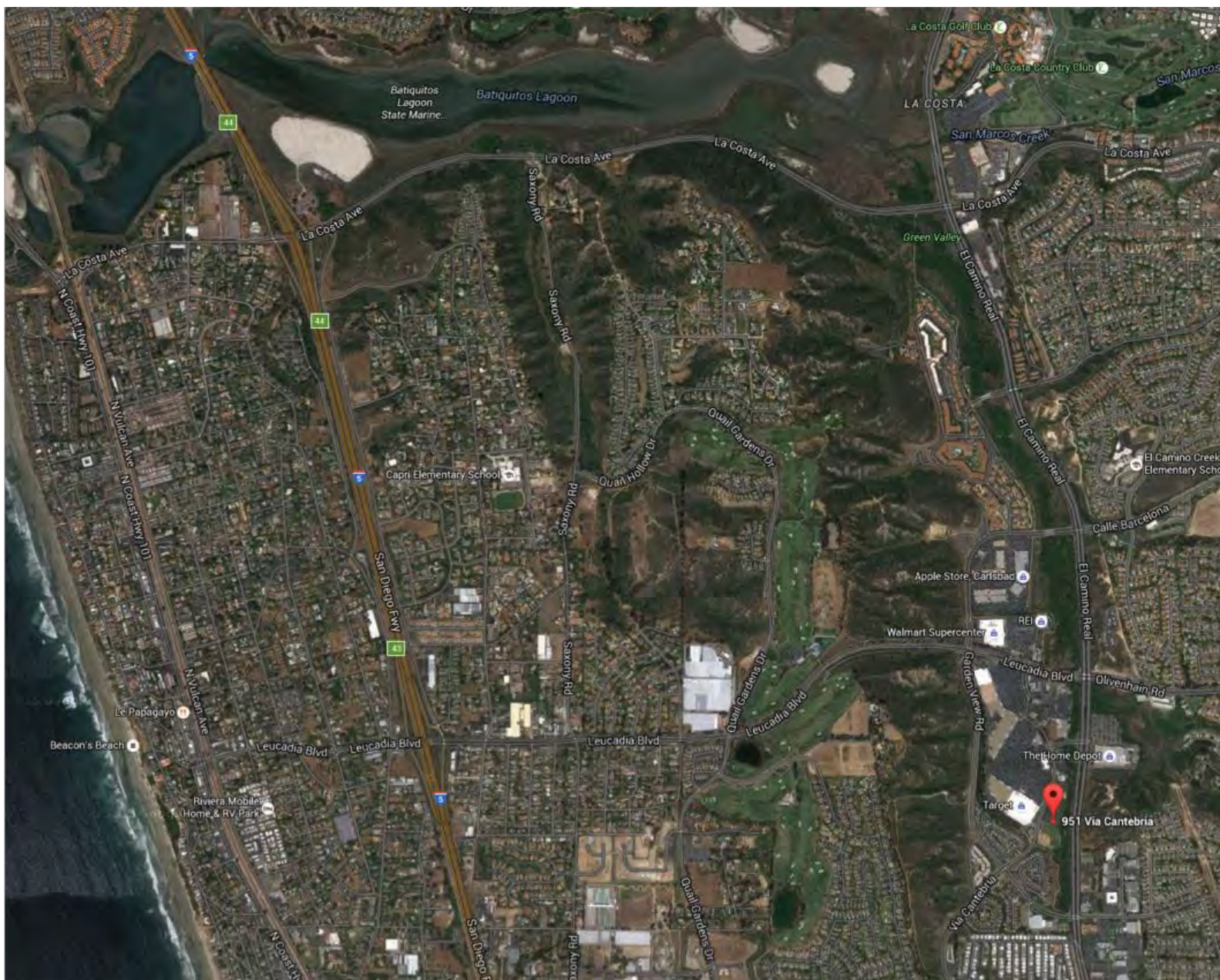


EXHIBIT NO. 1

APPLICATION NO.

A-6-ENC-16-0054

Vicinity Map



California Coastal Commission



EXHIBIT NO. 2

APPLICATION NO.

A-6-ENC-16-0054

Project Site



California Coastal Commission



EXHIBIT NO. 3

APPLICATION NO.

A-6-ENC-16-0054

Site Photos



California Coastal Commission



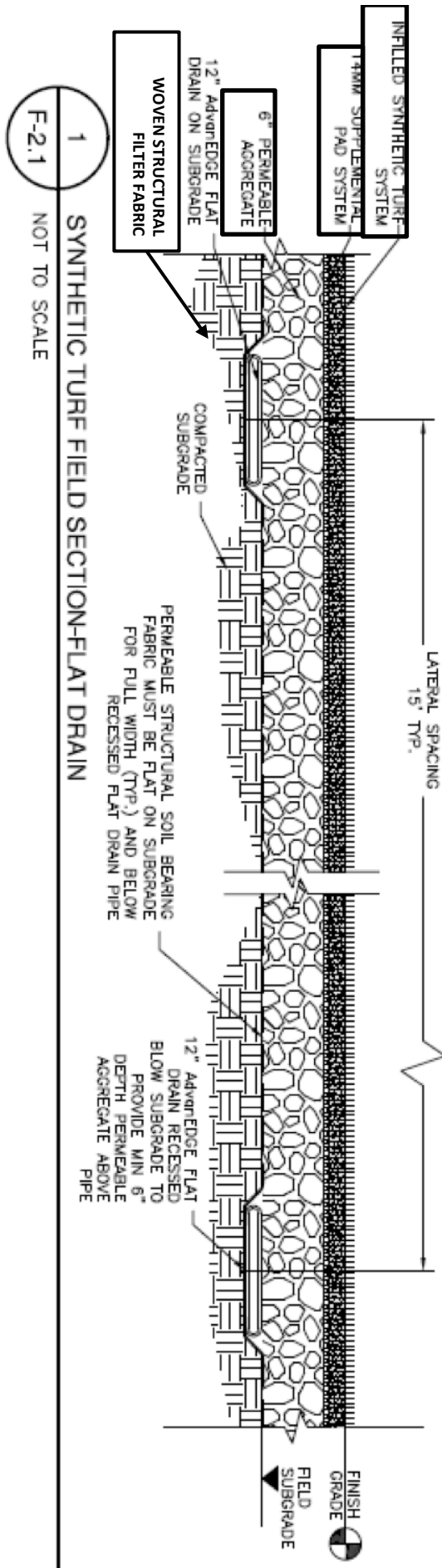


EXHIBIT NO. 4

APPLICATION NO.

A-6-ENC-16-0054

Synthetic Turf Section



California Coastal Commission



Specification & Typical Properties

Product Number	SP14
Material Type	Expanded Polypropylene Composite containing up to 23% by volume pre-consumer and/or reground post-consumer recycled material
Part Format	Interlocking panel
Part Size, nominal net coverage	15.9 sq ft per panel
Material Density, nominal	3.85 lbs / cubic ft
Part Thickness, nominal	14 mm
Part Length, nominal	57.6 in
Part Width, nominal	43.8 in
Part Weight, nominal	2.81 lbs per panel

Property	Typical Value	Specification	
Tensile Strength	52 psi	> 45 psi	ASTM D3575-08
Tensile Elongation	19%	>10%	ASTM D3575-08
Vertical Permeability	1,100 in / hr	> 800 in / hr	ASTM 1551 Suffix-DIN 18-035, Part 6
Linear Thermal Expansion per 1° C change	0.0833 mm/m	< 0.12 mm/m	ASTM D696-03
Compression Strength @ 25% strain @ 50% strain @ 75% strain	32psi 54psi 116psi	> 25 psi > 40 psi > 90 psi	ASTM D1621-10
Compression Set – static load (25% strain, 22 hrs at 23°C, after 24 hrs)	8.2% (0.089 in)	< 12%	ASTM D3575-08
Compression Set – repeated impacts (95 psi, repeated load, 10,000 cycles, after 24 hrs)	6.0% (0.031 in)	< 9%	Brock test protocol
Friction Coefficient movement of artificial turf over 50mm maximum force average force	2.44 lbs max force 1.35 lbs avg force	> 1.80 lbs max force > 1.00 lbs avg force	Brock test protocol
Microbiological Analysis bacteria resistance fungi resistance	No growth No growth	No growth No growth	ASTM G22-76 ASTM G21-96



NOTICE OF DECISION
Planning and Building Department

Project Name:	Leo Mullen Turf Replacement
Request:	Replace existing natural turf with synthetic turf and install subsurface electrical conduits to allow for potential future lighting.
Discretionary Actions:	Coastal Development Permit (CDP)
CEQA Determination:	Exempt
DECISION:	APPROVED
Project Number:	16-017 CDP
PBD Number:	2016-13
Location:	951 Via Cantebria
Community:	New Encinitas
APN:	257-501-17
Applicant:	City of Encinitas, Public Works Department
Representative:	Edward Deane, Public Works Deputy Director
Project Planner:	Anna Yentile, Associate Planner ayentile@encinitasca.gov
Decision Date:	April 5, 2016
Report Approval:	<input checked="" type="checkbox"/> Roy Sapa'u, Senior Planner

SUMMARY AND KEY CONSIDERATIONS

The project proposes to replace existing natural turf with synthetic turf and install subsurface electrical conduits for potential future lighting. Lighting infrastructures including footings are not included as part of this approval.

The replacement of natural turf with synthetic turf contributes towards water conservation efforts. Synthetic turf does not require as much watering as natural turf. Synthetic turf's durability is an improvement from existing natural turf.

EXHIBIT NO. 6

APPLICATION NO.

A-6-ENC-16-0054

PBD 2016-13/CDP 16-017



California Coastal Commission

PROJECT DESCRIPTION

Leo Mullen Sports Park includes an 86,000-square foot area of existing natural turf. The project proposes to remove the natural turf and replace it with synthetic turf, and incorporate associated drainage improvements and best management practices. The project also includes the installation of subsurface electrical conduits to accommodate potential future lighting. If pursued, the future lighting will be processed under a separate permit.

PROJECT ANALYSIS

Background

The Leo Mullen Sports Park development was part of a Development Agreement (Ordinance No. 94-19) in conjunction with the adoption of the Encinitas Ranch Specific Plan.

Project Site Characteristics:

General Plan:	Specific Plan Area (SPA)
Specific Plan:	Encinitas Ranch Specific Plan (ERSP)
Zoning District:	Open Space (OS)
Zoning Overlay:	Scenic/Visual Corridor Cultural/Natural Resources California Coastal Commission Appeal Jurisdiction of the Coastal Zone
Community Character Context:	Neighborhood Center

The project site is located within the Encinitas Ranch Specific Plan Green Valley Planning Area. The subject turf area is located specifically in the middle of an existing sports facility that includes baseball fields, basketball courts, a playground and parking. The topography of the turf area is relatively flat.

Adjacent Area:

Direction	General Plan & Zoning District	Community Character Context	Land Use
North	SPA/Commercial	Neighborhood Center	Retail Shopping Center
South	SPA/Mixed Use 1	Neighborhood Center	Single-family homes
East	SPA/Open Space	Neighborhood Center	Open Space
West	SPA/Commercial	Neighborhood Center	Retail Shopping Center

The Leo Mullen Sports Park is an existing sports facility and is surrounded by existing retail shopping center to the west and north, a wetland and El Camino Real right-of-way to the east and single-family homes to the south.

General Plan Consistency

General Plan Goal or Policy	Explanation of Project Conformance
Land Use Policy 8.6: Significant natural features shall be preserved and incorporated into all development. Such features may include bluffs, rock outcroppings, natural drainage courses, wetland and riparian areas, steep topography, trees, and views.	The project site is immediately adjacent to an existing wetland. The proposed turf replacement includes erosion control measures and both construction and permanent best management practices to protect the adjacent wetland area, which preserve the significant natural feature.
Resource Management Policy 1.10: Promote the use of water efficient sprinkling and gardening systems to include ordinances and technology to encourage drought resistant plants.	The proposed replacement of natural turf with synthetic turf results in a significant reduction in water use. The limited watering necessary for maintenance of the proposed synthetic turf will continue to utilize existing recycled water irrigation.
Resource Management Policy 14.5: To minimize erosion and allow sedimentation control systems to work, no grading or vegetation removal shall be allowed to occur during the wet season, October 1 – April 15, without all systems and devices per an approved erosion control plan and program being in place.	The project is conditioned to have an erosion control plan in place and approved prior to any grading or vegetation removal.
Recreation Policy 1.13: Encourage appropriate multiple use of open space wherever possible.	The proposed synthetic turf is more durable and therefore contributes towards the longevity of the existing multiple use open space park.
Recreation Policy 1.15: Provide the playing fields necessary to serve the community.	The proposed synthetic turf is more durable and therefore contributes towards the longevity of the existing playing fields, which currently serve the community.
Recreation Policy 2.6: Encourage the provision of a full range of recreational facilities distributed throughout the area.	The proposed synthetic turf is more durable and therefore contributes towards the longevity of the existing recreational facilities, which currently serve the community.

Specific Plan Consistency

Specific Plan Policy or Standard	Explanation of Project Conformance
Policy 6.2: Require the incorporation of water and energy conservation features in the design of all new construction and site development as required by State law and the City.	The proposed replacement of natural turf with synthetic turf results in a significant reduction in water use. The limited watering necessary for maintenance of the proposed synthetic turf will continue to utilize existing recycled water irrigation.

Specific Plan Policy or Standard	Explanation of Project Conformance
Policy 6.4: Encourage and plan for the use of reclaimed water for landscape irrigation and other non-contact uses for parkways, open space areas, and commercial, office, industrial and mixed-use areas, where available.	The limited watering necessary for maintenance of the proposed synthetic turf will continue to utilize existing recycled water irrigation.

The project is consistent with all applicable standards of the ER-OS zone as specified in Section 6.4.2 of the Encinitas Ranch Specific Plan.

PUBLIC NOTICE AND PARTICIPATION

Public Notice

The Notice of Public Hearing on the Coastal Development Permit was published in the newspaper on March 11, 2016, and mailed on March 10, 2016, to all property owners within 500 feet of the project site and to anyone who requested such notice in writing, in compliance with Encinitas Municipal Code Section 30.01.070 and Government Code Sections 65090, 65091 and 65092, as applicable. Additionally, as a courtesy, the notice was posted at City Hall and on the Planning and Building Department's Internet site under "Public Notices" and via e-Project Source. An email was received by one resident inquiring about lighting and traffic. Staff responded to the inquires and did not receive any follow-up questions. One letter of support was also received prior to the end of the review period.

Citizen Participation Program

The applicant conducted a Citizen's Participation Program (CPP) in accordance with Chapter 23.06 of the Municipal Code. The CPP meeting was held on February 25, 2016, at City Hall Poinsettia Room. All property owners and tenants within 500 feet of the project site were notified. No members of the public attended the meeting. No other comments regarding the project were received.

Administrative Hearing

Section 30.80.080 of the Municipal Code requires a public hearing for all projects in the Coastal Commission Appeal Jurisdiction of the Coastal Zone. The Planning and Building Department conducted an Administrative Public Hearing on Tuesday, March 22, 2016. Three members of the community spoke in opposition with one of the speakers utilizing two time donations from two additional attendees. Lighting was a common theme of concern. The speakers expressed concerns related to height limitation of park lights and compliance with Proposition A and Chapter 30.00 of the Municipal Code. The speakers also asserted that the HOA of nearby homes and Caritas (previous landowner) must authorize the approval of the lights, that the park hours were intended to be from sunrise to sunset and that the inclusion of conduits in the CDP application shall be constituted as lighting. The applicant addressed these concerns by explaining that lighting is not a part of the application.

Another issue raised included the City's public notification practices, specifically regarding the limited information included in the project description of the Citizen's Participation Plan (CPP) notice and the listing of the address of the site only rather than the project name on the City website. In response, the applicant read from the notices mailed and posted on the project site and it was found that adequate information was provided to the public consistent with the requirements of EMC Section 30.01.070A5. Furthermore, the Leo Mullen project name was added to the public notice website.

There was also a concern regarding labeling of wetland area as "drainage" and "open space" on several documents as being misleading. In response, the applicant stated that the notice sent to residents within 500 feet included a specific reference to "wetland". Lastly, the speakers stated that the project should not be exempt from the California Environmental Quality Act. Please refer to the Environmental Considerations section below. No follow-up comments were received after the hearing.

It is important to note that the administrative hearing of March 22, 2016, was not recorded due to technical difficulties. As a result, a second hearing was scheduled on April 4, 2016.

At the April 4, 2016, administrative hearing, two speakers spoke in support of the project and four in opposition. Many of the concerns discussed at the first hearing were repeated. New items discussed included a concern regarding the language in comment letters issued by the City to the applicant. Specifically, the speaker sought clarification regarding the PCIN referenced in the letter and asked that the application be re-noticed to include this request. Planning staff commented to the applicant that lighting might require a "PCIN," which refers to a Planning Commission Interpretation. However, the applicant indicated that an interpretation is not warranted since lighting is not included as part of this application. Therefore, there is no need to re-notice the project.

Another speaker indicated that an assessment district paid by the surrounding homeowners should be the decision maker on whether or not lights are desired at this location. The City of Encinitas is the fee title owner of the Leo Mullen Park property and the City Council, on March 23, 2016, authorized the proposed improvements to the park.

Lastly, it was discussed that replacing the turf increases the capacity of the use, and therefore, an Environmental Impact Report is required. In response, the turf replacement and installation of subsurface electrical conduits does not change or intensify the existing athletic field use. The applicant explained that the as-built drawings for the project site included electrical conduits for future lighting on the approved plans. Future installation of lighting will require a separate permit and environmental concerns related to the lighting will be assessed as part of that permit.

ENVIRONMENTAL CONSIDERATIONS

The applicant is proposing the replacement of natural turf with synthetic turf and the installation of subsurface electrical conduits for potential future lighting. The project has been determined to be exempt from environmental review pursuant to California Environmental Quality Act (CEQA) Guidelines Sections 15301(a) and 15302. Section 15301(a) exempts minor exterior alterations to existing facilities including such things as electrical conveyance that involve negligible or no expansion of use beyond that existing at the time of environmental determination. Section 15302 exempts the replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have

substantially the same purpose and capacity as the structure replaced. The installation of electrical conduit for the existing athletic field is exempt as per CEQA Guidelines Section 15301(a) and the replacement of natural turf with artificial turf is exempt as per Section 15302. None of the exceptions in Section 15300.2 exist.

DISCUSSION

The proposed improvements will result in a reduction in water usage. Furthermore, due to the adjacency of the site to a wetland, conditions have been incorporated to ensure protection of those resources. Other protections include no increase in runoff, capturing of runoff from the field in grated inlets prior to discharging and utilizing organic material for the synthetic turf. The proposed project is consistent with the General Plan, Local Coastal Program and Encinitas Ranch Specific Plan.

FINDINGS

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

Finding for Coastal Development Permit	Explanation of Finding
The project is consistent with the certified Local Coastal Program of the City of Encinitas; and	The project complies with all standards of the Encinitas Ranch Specific Plan Open Space zone. The project is consistent with policies of the City's certified Local Coastal Program, the General Plan and the Municipal Code.
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	No potentially significant adverse impacts to the environment will result from the project and the project is exempt from environmental review pursuant to Sections 15302 of the California Environmental Quality Act (CEQA) Guidelines.
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.	The development not located between the sea or other body of water and the nearest public road.

CONCLUSION

The proposed replacement of natural turf for synthetic turf and installation of subsurface electrical conduits for potential future lighting is consistent with the Encinitas Ranch Specific Plan Open Space standards. The proposed improvements comply with the applicable General Plan and ERSP policies. Therefore, the Planning & Building Department hereby approves the project based upon the findings and subject to the following conditions of approval.

CONDITIONS OF APPROVAL

SC1 SPECIFIC CONDITIONS:

SC2 At any time after two years from the date of this approval, on April 5, 2018 at 5:00 pm, or the expiration date of any extension granted in accordance with the Municipal Code, the City may require a noticed public hearing to be scheduled before the authorized agency to determine if there has been demonstrated a good faith intent to proceed in reliance on this approval. If the authorized agency finds that a good faith intent to proceed has not been demonstrated, the application shall be deemed expired as of the above date (or the expiration date of any extension). The determination of the authorized agency may be appealed to the City Council within 15 days of the date of the determination.

SC6 This project is conditionally approved as set forth on the application and project drawings stamped received by the City on February 24, 2016, consisting of four sheets including a Title Sheet, Site Plan, Map No. 13333 and As Built Drawing No. 4665-1, all designated as approved by the Planning and Building Director on April 5, 2016, and shall not be altered without express authorization by the Planning and Building Department.

SCA The following conditions shall be included on the building and/or grading plans and performed to specification of the Engineering Services Department:

1. A grading permit shall be required for the construction of the synthetic turf field. Plans shall clearly indicate the proposed field cross section and subsurface drainage. The system shall be designed to prevent the discharge of any of the field material offsite.
2. The project proposes the disturbance of an area greater than one acre; however, a negligible quantity of impervious surface area is proposed. The project shall be categorized as a "Standard Development Project" for storm water purposes. The historical drainage pattern shall be maintained.
3. A SWPPP or low erosivity waiver from the State shall be required for the land disturbance over an acre at the time of permit issuance.
4. All conduits for service lines to serve the potential future lighting shall be constructed underground.
5. The existing survey monuments per Map 13258 shall be referenced on the grading plan and shall be protected in-place. If any monument is disturbed or destroyed it shall be replaced by a licensed land surveyor and a Corner Record shall be filed with the County prior to field clearance.

6. The removal of any city trees shall be consistent with the city's urban forest management program. Trees located within city street right-of-way, on city property, or within city easements are referred to as city trees and shall be protected in place during construction unless specifically approved otherwise. No grading, excavation, or disturbance of city tree root systems shall occur within the city tree drip line area (the area from the trunk of a tree to the outermost edge of the tree canopy projection on the ground). If a city tree is not clearly labeled to be removed, it must be protected in place. Even if approved improvements are in conflict with a city tree, it must not be disturbed unless the plan is revised to address the tree removal.

SCB Any and all lighting for night athletic field use, excluding security lighting, requires a separate, publicly noticed application process and is not authorized by this CDP approval.

G1 **STANDARD CONDITIONS:**

CONTACT THE PLANNING AND BUILDING DEPARTMENT REGARDING COMPLIANCE WITH THE FOLLOWING CONDITION(S):

- G2 This approval may be appealed to the City Council within 15 calendar days from the date of this approval in accordance with Chapter 1.12 of the Municipal Code.
- G3 This project is located within the Coastal Appeal Zone and may be appealed to the California Coastal Commission pursuant to Coastal Act Section 30603 and Chapter 30.04 of the City of Encinitas Municipal Code. An appeal of the Planning & Building Director's decision must be filed with the Coastal Commission within 10 working days following the Coastal Commission's receipt of the Notice of Final Action. Applicants will be notified by the Coastal Commission as to the date the Commission's appeal period will conclude. Appeals must be in writing to the Coastal Commission, San Diego Coast District office.
- G5 Approval of this request shall not waive compliance with any sections of the Municipal Code and all other applicable City regulations in effect at the time of Building Permit issuance unless specifically waived herein.
- G12 Prior to any use of the project site pursuant to this permit, all conditions of approval contained herein shall be completed or secured to the satisfaction of the Planning and Building Department.
- G14 A plan shall be submitted for approval by the Planning and Building Department, the Engineering Services Department, and the Fire Department regarding the security treatment of the site during the construction phase, the on- and off-site circulation and parking of construction workers' vehicles, and any heavy equipment needed for the construction of the project.
- G21 All utility connections shall be designed to coordinate with the architectural elements of the site so as not to be exposed except where necessary. Locations of pad mounted transformers, meter boxes, and other utility related items shall be included in the site plan submitted with the building permit application with an appropriate screening treatment.

Transformers, terminal boxes, meter cabinets, pedestals, ducts and other facilities may be placed above ground provided they are screened with landscaping.

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

B1 BUILDING CONDITION(S):

CONTACT THE ENCINITAS BUILDING DIVISION REGARDING COMPLIANCE WITH THE FOLLOWING CONDITION(S):

- B2 The applicant shall submit a complete set of construction plans to the Building Division for plancheck processing. The submittal shall include a Soils/Geotechnical Report, structural calculations, and State Energy compliance documentation (Title 24). Construction plans shall include a site plan, a foundation plan, floor and roof framing plans, floor plan(s), section details, exterior elevations, and materials specifications. Submitted plans must show compliance with the latest adopted editions of the California Building Code (The Uniform Building Code with California Amendments, the California Mechanical, Electrical and Plumbing Codes). Commercial and Multi-residential construction must also contain details and notes to show compliance with State disabled accessibility mandates. These comments are preliminary only. A comprehensive plancheck will be completed prior to permit issuance and additional technical code requirements may be identified and changes to the originally submitted plans may be required.

E1 ENGINEERING CONDITIONS:

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

- E2 All City Codes, regulations, and policies in effect at the time of building/grading permit issuance shall apply.
- E3 All drawings submitted for Engineering permits are required to reference the NAVD 88 datum; the NGVD 29 datum will not be accepted.

EG1 Grading Conditions

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

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

- EG5 No grading shall occur outside the limits of the project unless a letter of permission is obtained from the owners of the affected properties.
- EG6 Separate grading plans shall be submitted and approved and separate grading permits issued for borrow or disposal sites if located within 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 submitted with the first grading plan submittal and shall be approved prior to issuance of any grading permit for the project.
- EG9 Prior to hauling dirt or construction materials to any proposed construction site within this project the developer shall submit to and receive approval from the Engineering Services Director for the proposed haul route. The developer 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.
- EG13 Owner shall provide a precise grading plan prior to approval of building permit. Grading plan shall provide design for drainage improvements, erosion control, storm water pollution control, and on-site pavement.
- 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.
- ED3 A drainage system capable of handling and disposing of all surface water originating within the project site, and all surface waters that may flow onto the project site from adjacent lands, shall be required. Said drainage system shall include any easements and structures required by the Engineering Services Director to properly handle the drainage.
- ED7 Concentrated flows across driveways and/or sidewalks shall not be permitted.

ES1 **Street Conditions**

- 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.
- ES10 Improvements constructed within the present or future public right-of-way shall be considered temporary. The owner shall enter into an encroachment removal covenant agreeing to remove those improvements at the direction of the City.

EU1 **Utilities Conditions**

- EU2 The owner shall comply with all the rules, regulations, and design requirements of the respective utility agencies regarding services to the project.
- EU3 The owner shall be responsible for coordination with S.D.G. & E., AT&T, and other applicable authorities.
- EU4 All proposed utilities within the project shall be installed underground including existing utilities unless exempt by the Municipal Code.

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 BMPs are to be privately maintained and the facilities not modified or removed without a permit from the City.
- ESW5 The project must meet storm water quality and pollution control requirements. The applicant shall design and construct landscape and/or turf areas and ensure that all flows from impervious surfaces are directed across these areas prior to discharging onto the street. A **Grading Plan** identifying all landscape areas designed for storm water pollution control (SWPC) and Best Management Practice shall be submitted to the City for Engineering Services Department approval. A note shall be placed on the plans indicating that the modification or removal of the SWPC facilities without a permit from the City is prohibited.

DISCLOSURES

This notice constitutes a decision of the Planning and Building Department only for the discretionary entitlement. Additional permits, such as Building and Grading Permits, may be


required by the Planning and Building Department or other City Departments. It is the property owner's and applicant'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 Department may be appealed to the City Council within 15 calendar days of the date of this determination. The appeal must be filed, accompanied by a \$250 filing fee, prior to 5:00 pm on the 15th calendar day following the date of this Notice of Decision. Any filing of an appeal will suspend this action as well as any processing of permits in reliance thereon in accordance with Encinitas Municipal Code Section 1.12.020(D)(1) until such time as an action is taken on the appeal.

The action of the Planning and Building Department may be appealed to the California Coastal Commission within 10 business days of the Commission's receipt of the City's notice of final action on the project. The Coastal Commission will determine the exact dates of their appeal period.

If you have any questions regarding this determination, please contact Anna Yentile, Associate Planner at 760-633-2724 or by email at ayentile@encinitasca.gov; or contact the Planning and Building Department, 505 South Vulcan Avenue, Encinitas, CA 92024 at 760-633-2710 or by email at planning@encinitasca.gov.

SIGNATURE



Manjeet Ranu, AICP
Acting Director of Planning and Building



MEMORANDUM

TO: Mayor and City Council

FROM: City Attorney

DATE: May 4, 2016

RE: Encinitas Ranch Specific Plan and Proposition "A"—Application to Lighting Sports Fields at Leo Mullen Sports Park—Legal Conclusions

As requested, the following provides a summary of the above-referenced subject matter. Specifically, does the Encinitas Ranch Specific Plan ("Specific Plan") authorize the lighting of sports fields at Leo Mullen Sports Park? If not, would Proposition "A" (Encinitas Municipal Code Chapter 30.00) ("Prop 'A'") require a vote of the citizens¹ to amend the Specific Plan to authorize such lighting?

In summary, the Specific Plan does not authorize the lighting of sports fields at Leo Mullen Sports Park; and, Prop "A" would not require a vote of the citizens to amend the Specific Plan to authorize such lighting. However, if the Specific Plan were amended (*via* the City Council) to authorize such lighting, Prop "A" would require that any structure housing the lighting not exceed a maximum height of 30 feet.²

a. Specific Plan

For purposes of this analysis, it is important to note that subsequent to the adoption of the Specific Plan, in 1996, the City Council changed the name "Green Valley Park" to "Leo Mullen Sports Park" in memory of Leo Mullen, to honor his role in bringing Little League Baseball to Encinitas and dedication to youth sports.

¹Vote of the citizens means "...approved by a simple majority vote of the voting electorate of the City of Encinitas voting 'YES' on a ballot measure...." See Prop "A," specifically, Encinitas Municipal Code Section 30.00.050.

² See Prop "A," specifically, Encinitas Municipal Code Section 30.00.060.

EXHIBIT NO. 7

APPLICATION NO.

A-6-ENC-16-0054

Memo from City Attorney re:
Specific Plan and Prop. A



California Coastal Commission

Specific Plan Section 3.3.1(C)(7) states in part:

“...Lighting of Green Valley Park shall be at the City’s discretion, unless the Owner elects to form a maintenance district for Green Valley Park facilities, in which event the Owner may restrict lighting and after hours use of park facilities within such maintenance district.”³

Specific Plan Section 6.3.1(B) specifically prohibits the lighting of athletic playing fields and states as follows:

“B. *Major Use Permit.* The following uses are permitted in the Green Valley and West Saxony Planning Areas of the Encinitas Ranch Specific Plan Area, provided a Major Use Permit is approved pursuant to the Municipal Code.

Athletic playing fields, not including lighted fields.
Museum.
Theater (emphasis added.)”

However, Specific Plan Section 6.3.1(C) specifically authorizes the lighting of multi-purpose stadiums, provided a major use permit is approved pursuant to the Municipal Code, with or without lighting and states as follows:

“C. *Major Use Permit—Green Valley Planning Area Only.* The following use is permitted only in the Green Valley Planning Area of the Encinitas Ranch Specific Plan Area, provided a Major Use Permit is approved pursuant to the Municipal Code.

Multi-purpose stadium (e.g., sports, track & field, musical events, etc.), with or without lighting (emphasis added.)”

Therefore, reading Specific Plan Sections 3.3.1(C)(7), 6.3.1(B) and 6.3.1.(C) together, the City may only use its discretion pursuant to 3.3.1(C)(7) to light multi-purpose stadium uses, provided a Major Use Permit is approved pursuant to the Municipal Code. Leo Mullen Sports Park contains athletic playing fields and does not constitute a multi-purpose stadium. Therefore, the City has no discretion to light such fields (either *via* permitted right or conditional use permit) without an amendment to the Specific Plan.

b. Prop “A”

Encinitas Municipal Code Section 30.00.050 states:

“No Major Amendment of any of the Planning Policy Documents shall be effective unless and until it is approved by a simple majority vote of the voting

³ The reference to Owner means Carltas Company; and, the Owner did elect to form a maintenance district pursuant to Specific Plan Section 3.3.1(C)(7).

electorate of the City of Encinitas voting 'Yes' on a ballot measure proposing the major amendment at a regular or special election...."

The term "Major Amendment" is defined in Encinitas Municipal Code Section 30.00.040 and includes (among other changes) changes that: 1) increase the maximum allowable number of residential units which may be constructed on any parcel or group of parcels, 2) increase the maximum allowable number of parcels which may be created from an existing parcel or group of parcels, and 3) increase the allowed maximum height of development or changes how height is measured such that additional height could be permitted than previously permitted.

Aside from changes to Planning Policy Documents listed as "Major Amendments" (subject to a vote of the citizens), Prop "A" defines a "Regular Amendment" to include any amendment which is not a Major Amendment. Regular Amendments do not require a vote of the citizens.⁴

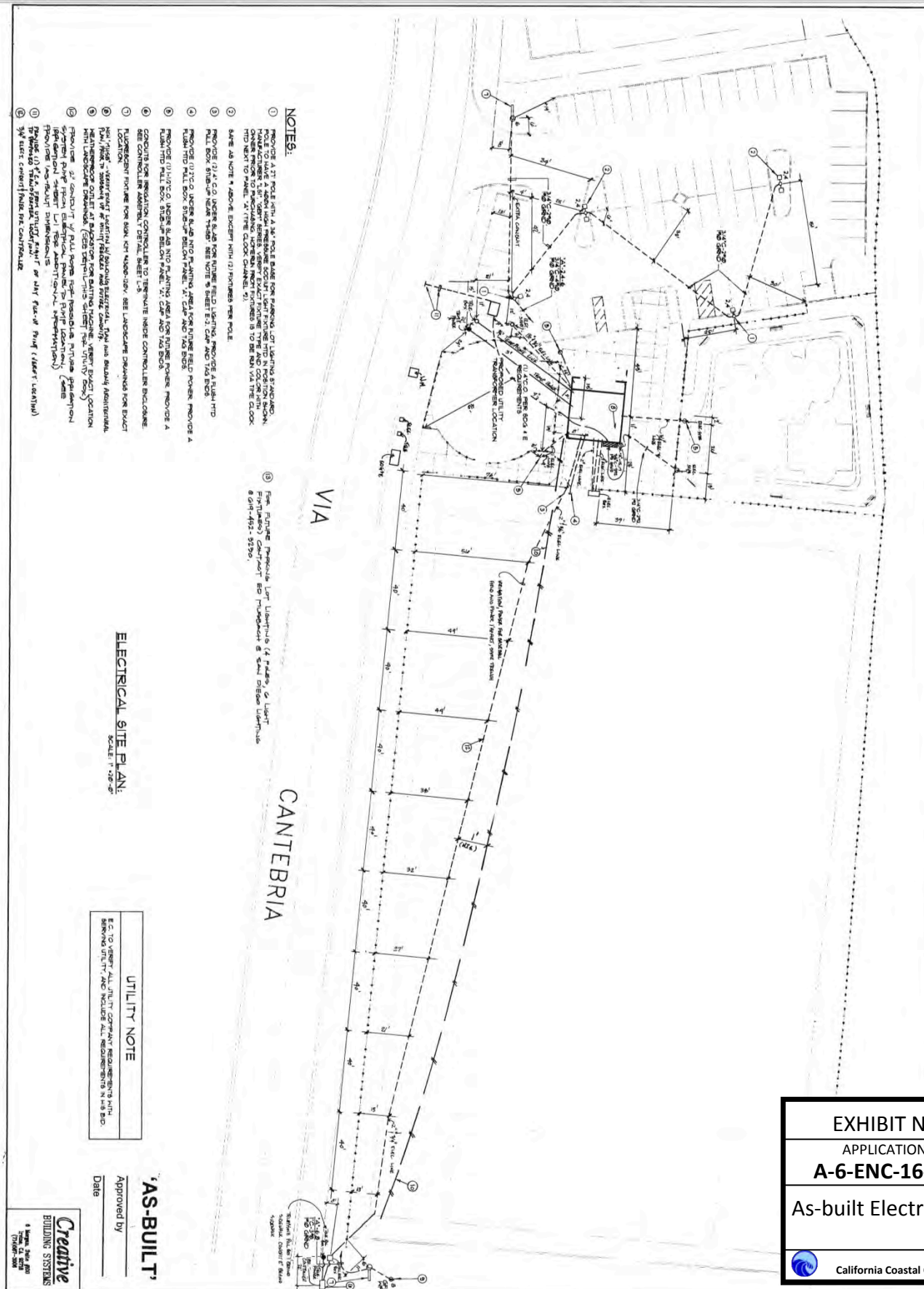
An amendment to the Specific Plan to authorize the lighting of sports fields at Leo Mullen Sports Park (as a permitted use or by conditional use permit) does not constitute a change to a Planning Policy Document listed as a Major Amendment; therefore, such an amendment would be a Regular Amendment –not subject to a vote of the citizens. Instead, pursuant to Prop "A," this type of amendment (change), as a Regular Amendment, would only be subject to certain procedural requirements.⁵

Finally, in the event any lighting structures are erected at Leo Mullen Sports Park, Prop "A" would require that such structures not exceed a maximum height of 30 feet, and that height shall be measured from the lower of the natural or finished grade (adjacent to the structures) to the highest point of the structures.

Cc: City Manager
City Clerk (Public file)

⁴ See Encinitas Municipal Code Section 30.00.040 and 30.00.050.

⁵ See Prop "A," specifically, Encinitas Municipal Code Section 30.00.050.



NOTES:

- 1 PROVIDE 1/2" POLYETHYLENE GLASS FIBER REINFORCED (FRP) LIGHTING STANDARDS FOR ALL EXTERIOR LIGHTS. PROVIDE 1/2" POLYETHYLENE GLASS FIBER REINFORCED (FRP) LIGHTING STANDARDS FOR ALL EXTERIOR LIGHTS. PROVIDE 1/2" POLYETHYLENE GLASS FIBER REINFORCED (FRP) LIGHTING STANDARDS FOR ALL EXTERIOR LIGHTS.
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- 9 PROVIDE 1/2" POLYETHYLENE GLASS FIBER REINFORCED (FRP) LIGHTING STANDARDS FOR ALL EXTERIOR LIGHTS. PROVIDE 1/2" POLYETHYLENE GLASS FIBER REINFORCED (FRP) LIGHTING STANDARDS FOR ALL EXTERIOR LIGHTS.
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- 11 PROVIDE 1/2" POLYETHYLENE GLASS FIBER REINFORCED (FRP) LIGHTING STANDARDS FOR ALL EXTERIOR LIGHTS. PROVIDE 1/2" POLYETHYLENE GLASS FIBER REINFORCED (FRP) LIGHTING STANDARDS FOR ALL EXTERIOR LIGHTS.

12 FROM PLUMBING PROVIDE LIFT LUMINANCE (4' Poles, 6' Light Poles) CONDUIT 80' MINIMUM 8' AND 10' MINIMUM 8' 0" MIN. 5' MIN.

VIA CANTABRIA

ELECTRICAL SITE PLAN:

SCALE: 1" = 20'-0"

UTILITY NOTE

ENCINITAS RANCH SPORTS FACILITY COMPANY REQUIREMENTS WITH ALL UTILITIES AND SERVICES TO BE PROVIDED BY THE CITY OF ENCINITAS.

'AS-BUILT'

Approved by _____

Date _____

Creative BUILDING SYSTEMS
 10000 JENSEN DRIVE, SUITE 100
 CARLSBAD, CALIF. 92008

EXHIBIT NO. 8
APPLICATION NO.
A-6-ENC-16-0054
As-built Electrical Plan
California Coastal Commission

STATE OF CALIFORNIA -- THE RESOURCES AGENCY

EDMUND G. BROWN JR., Governor

CALIFORNIA COASTAL COMMISSION

SAN DIEGO COAST DISTRICT OFFICE
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4402
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: Adam Jacobs

Mailing Address: 1060 Cottage Way

City: Encinitas

Zip Code: 92024

Phone: 619.888.3037

SECTION II. Decision Being Appealed

1. Name of local/port government:
City of Encinitas
2. Brief description of development being appealed:
INSTALLATION OF SUBSURFACE CONDUITS FOR THE SOLE PURPOSE OF
SUPPORTING WIRING TO FACILITATE LIGHTING OF LEO MULLEN
PARK.
3. Development's location (street address, assessor's parcel no., cross street, etc.):
LEO MULLEN PARK
951 VIA CANTEBRIA
ENCINITAS, 92024
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: _____

DATE FILED: _____

DISTRICT: _____

EXHIBIT NO. 9

APPLICATION NO.

A-6-ENC-16-0054

Appeals



California Coastal Commission

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

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

- ☐ Planning Director/Zoning Administrator
☐ City Council/Board of Supervisors
☒ Planning Commission
☐ Other

6. Date of local government's decision: 4/5/2016

7. Local government's file number (if any): 16-017 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:
City of Encinitas Public Works Dept.
505 South Vulcan
Encinitas, CA 92024

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) Adam Jacobs (Appellant)
1060 Cottage Way
Encinitas, CA 92024

- (2) City of Encinitas provided these additional speakers but no addresses:
Cynthia Morgan-Reed
G.W. Sodomke
Rick Loutner
Donna Westbrook

- (3) Marie Dardarian
Shelia Cameron
George Hejduk
Christine Yonan
Rick Lochner

- (4) Jon Sevison
Craig McStravick

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.

LEO MULLEN PARK IS A DAY-USE ONLY PARK AS SPECIFIED IN THE ENCINITAS RANCH SPECIFIC PLAN AND LIGHTING IS PROHIBITED.

•
THEREFORE, I RESPECTFULLY ASSERT THAT THE COASTAL COMMISSION HAS NO GROUNDS TO APPROVE OR EVEN CONSIDER THE INSTALLATION AND RELATED ENVIRONMENTAL IMPACT OF ANY INITIATIVE RELATING TO LIGHTING THE LEO MULLEN FIELD. THE SOLE PURPOSE OF THE WIRING CONDUITS ARE TO FACILITATE LIGHTING THAT IS STRICTLY PROHIBITED.

•
THE ARGUMENT THAT INSTALLATION OF THIS CONDUIT NOW WOULD REDUCE FUTURE ENVIRONMENTAL IMPACT OF A LATER CONDUIT INSTALLATION IS QUESTIONABLE AT BEST.

•
THE ENCINITAS RANCH SPECIFIC PLAN MANDATES MINIMAL CONSTRUCTION DISTURBANCES TO THE WETLANDS. INSTALLATION OF THE CONDUITS AT THIS TIME WILL EXPOSE THE ADJACENT WETLANDS TO THE BURDEN OF ADDITIONAL CONSTRUCTION TO SUPPORT PROHIBITED INFRASTRUCTURE.

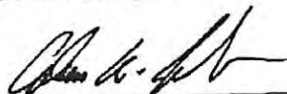
•
I URGE YOU TO NOT APPROVE THE PROPOSED SUBSURFACE CONDUIT INSTALLATION IN THE CURRENT LEO MULLEN PLANS (16-017 CDP) AND APPROVE ONLY THE INSTALLATION OF TURF. THIS WILL SERVE TO ENHANCE THE DAY-USE OF THE PARK AS PERMITTED.

•
The installation of conduit is inconsistent with the Certified Encinitas Ranch Specific Plan's prohibition on lighting and therefore requires a specific plan amendment to proceed since the express purpose of the conduits is to install lighting in the future. Lighting would also extend (intensify) usage which requires a vote (Municipal Code Chapter 30.00) by people to approve. (Section F/City Council Encinitas Agenda Report for meeting on 1/13/2016 prepared by Lisa Rudloff)

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: 5/5/16

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: _____

HP LaserJet M2727nf MFP

Fax Confirmation Report

HP LASERJET FAX

May-8-2016 4:10PM

Job	Date	Time	Type	Identification	Duration	Pages	Result
1713	5/ 8/2016	4:09:01PM	Receive	7609448410	1:45	5	OK

May 08 16 03:10p

7609448410

P. 1

ATTENTION:

SARAH RICHMOND

(5 PAGES WITH THIS COVER)

Revised

(Additional Info.)

RECEIVED

MAY 31 2016

Please accept this as supplemental information with regard to my appeal filed on 5/6/16 with regard to Leo Mullen Sports Park (16-017 CDP).

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Since filing the appeal, my review of the administrative record has revealed several critical deficiencies with the Encinitas City Council's action about which I wanted the Coastal Commission to be aware.

I. Deficient CEQA Review

While I am uncertain whether the deficiency of the City's CEQA review comes under the Coastal Commission's appellate review jurisdiction, it is nonetheless worth noting this deficiency as it serves to highlight the City's willingness to circumvent not only CEQA, but also the Local Coastal Plan, in the interest of expediting this project. Indeed, faced with written threats that \$200,000 of contributions to the park would be withheld if a lighted park was not approved expeditiously (see correspondence from Morgan Reed Law dated March 15, 2016 and April 25, 2016) the City chose not only to circumvent CEQA but also to ignore the project's incompatibility with the Local Coastal Plan as outlined below.

"Piecemealing"

First, law school classes could review this project as a textbook case of "piecemealing" the project description and environmental review in violation of CEQA. By creatively limiting the description of the project to include only electrical conduit, rather than the actual 30-60 foot lighting that will be served by the conduit, the City attempted to avoid the time consuming and controversial review that would be required of any reasonably foreseeable impacts associated with the lighting adjacent to a wetland and residential community.

The California Supreme Court, in its 1986 Laurel Heights decision, however, indicated that CEQA review "...must include an analysis of future expansion or other actions if: (1) it is a reasonably foreseeable consequence of the initial project, and (2) the future expansion or action will be significant in that it will likely change the scope or nature of the initial project or its environmental effects." In this case, the reasonably foreseeable consequence of the initial project (undergrounded electrical conduit) is 30-60 foot lighting and the potential environmental effects are those that will occur to the immediately adjacent wetland and residential community as a result of that lighting. It is absurd to argue that the lights aren't reasonably foreseeable when, on the record, the soccer club supporting this project (1) demanded in writing that the conduit be included with the turf project to facilitate lighting, (2) threatened in writing to withhold

\$200,000 of contributions to the park if lighting was not provided and (3) actually requested the City to begin processing the lights less than three weeks after Council approved the conduits. Under CEQA, it is irrelevant that the Council has not yet "committed" to the lights and will, as part of a separate permit process, review the potential impacts associated with those lights. CEQA requires that that analysis be conducted with THIS project, not a future project, because the impacts associated with the lights are the reasonably foreseeable consequence – in fact, the foregone conclusion – of THIS project with its underground conduits. In short, look up the definition of "piecemealing" under CEQA and this case will serve as an illustrative example.

No Categorical Exemption

As further evidence of its effort to expedite the project and circumvent CEQA, the City concluded – contrary to all the facts in the record -- that the project was exempt from CEQA review. The City's rationale? That this project only constituted a "replacement" of existing facilities. This ignores the facts in the administrative record.

First, as noted above, CEQA actually requires that this project be defined to include the reasonably foreseeable lighting component and, therefore, an exemption would not apply. There are no lights at the park today – the project will be *adding* lighting, not replacing it.

Second, and more importantly, the record indicates that this project – even *without* the lighting – is far more than a replacement project. A replacement project would be just that – a project that *replaces* the existing square footage of natural grass with the same square footage of natural grass. Replacement projects qualify for a CEQA exemption because it is assumed that the impacts associated with the replacement facility will be the same as those of the existing facility and, therefore, there is no need for additional review. That is *not* the case with this project. First, by eliminating natural turf and installing artificial turf, the record indicates that the use of the park will intensify significantly. The City's own staff report evaluating options for Leo Mullen Sports Park indicates that one of the benefits of installing artificial turf rather than natural turf is that it "provides more playing time (e.g., use more hours per day and months per year), practice time and game time." The same report concludes that artificial turf results in more than a 400% increase in playing time – **400%**! It concludes that hours of play over a ten-year period will be estimated to be 29,920 hours (68 hours X 44 weeks X 10 years) for artificial turf versus 6,250 hours (25 hours X 25 weeks X 10 years) for natural grass. This is, obviously, a very significant increase in land use

intensity for which CEQA would necessarily require a review of potential impacts – number of people, traffic, direct and indirect impacts to the wetlands associated with the increased use, etc. To argue that the artificial turf is simply replacing an existing facility and is, therefore, exempt from CEQA review is to ignore the facts presented in the City's own staff report.

Moreover, the City is doing more than simply replacing natural turf with artificial turf. It is actually *expanding* the square footage of the turf area. The City not only utilizes a material that, by its own staff's admission, leads to a 400% increase in use *per se*, but then compounds the potential impact of the project by actually *increasing* the size of the athletic field as well. Concession stands and benches are now included in the plans and the actual playing surface is increased by 12,125 square feet.

It has also come to my attention that Ed Deane, in an Administrative Hearing, said that construction of the field would require 180-200 dump trucks filled with soil excavated from the soccer field area. The potential environmental impacts resulting from these trucks alone (traffic, noise, greenhouse gas, etc.) should have triggered a CEQA review.

II. Inconsistency with Local Coastal Plan

A. Inconsistency with Specific Plan

In approving the project, the City is required to comply with the Encinitas Ranch Specific Plan as a component part of the Local Coastal Plan. The Local Coastal Plan, through the Specific Plan, identifies Leo Mullen Sports Park as a day park without lighting. Interestingly, it was only within the past few months that the City removed the long standing sign at the park identifying it as a "day park". More importantly, the Specific Plan does NOT grant the City Council discretion to approve underground conduits for lighting at Leo Mullen Sports Park. Per the terms of the Specific Plan, all decisions regarding lighting at the park are left to the surrounding property owners who fund maintenance of the park through a lighting and maintenance district. Section 3.3.1 (C) (7) of the Specific Plan states:

...lighting of Green Valley Park [now Leo Mullen Sports Park] shall be at the City's discretion, **unless the Owner elects to form a maintenance district for Green Valley Park facilities, in which event the Owner may restrict lighting and after hours use of park facilities within such maintenance district**"

In fact, the Owner *did* elect to form a maintenance district and, as a result, all of the Owner's successors in interest – i.e, the current property owners who fund the district – control the lighting decisions, not the City. In short, with the property owners' obligation to finance maintenance of the park comes the associated right to control the lighting. The property owners having been cooperatively paying for maintenance of the park through their property taxes for years with the rightful understanding that they controlled any decision to provide permanent lighting in the park next to their homes. The City's decision to approve the underground conduits for the lighting is a breach of this agreement and the Specific Plan provision and, accordingly a breach of the Local Coastal Plan.

B. Wetlands/Resource Management Element Policy 10.9

Without any analysis, City staff somehow concludes that the artificial turf and underground conduit will have no effect on the adjacent wetlands. Putting aside the impact that lighting – which should be part of this project description to avoid piecemealing – will have on the wetlands, the artificial surface itself may have a deleterious effect on the wetlands as well. I have already documented the fact that use of the park will intensify more than 400%. This means significant more foot traffic and vehicular traffic in the vicinity of the wetlands and trails adjacent to the wetlands. More importantly, the artificial turf contains a top coating of sand and cork particles pressed into the spaces between the plastic grass. Underneath the artificial grass rug is an interlocking shock pad composed of pressed polypropylene beads. The polypropylene beads were acknowledged only after the approval of the CDP. City staff, without any CEQA review, has given assurances that the beads are contained and will not enter the wetlands and that the cork and infill particles will not enter the wetlands.

With reference to all of the above, the project is in breach of the Local Coastal Plan and the City's Resource Management Element Policy 10.9 which states:

POLICY 10. 9: The City will encourage the preservation and the function of San Elijo Lagoon and Batiquitos Lagoon and their adjacent uplands as viable wetlands, ecosystems and habitat for resident and migratory wildlife, by prohibiting actions... which: ...involve wetland fill or increased sedimentation into wetlands...

The wetlands adjacent to this new artificial turf are directly upland of Batiquitos Lagoon.

We respectfully request that you overturn the approval of this CDP for reasons of inconsistency with the Local Coastal Plan and policies and mission of the Coastal Commission.

Sincerely,
Adam Jacobs

May 9, 2016

To: Sarah Richmond

Coastal Planner

California Coastal Commission

San Diego District Office

From: Donna Westbrook

Subject: Appeal

Appeal of Encinitas Notice of Decision (PBD- 2016-13, case #16-017CDP) of City approval for a Coastal Development Permit (CDP) for Leo Mullen Sports Park to install 86,000 square feet of artificial turf and conduits infrastructure for field lights adjoining a wetlands. The use of artificial turf will increase the park use in hours 479%. Not mentioned in the CDP is the number of cubic yards of dirt that will be hauled from the site.

RECEIVED
MAY 09 2016
CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

STATE OF CALIFORNIA — THE RESOURCES AGENCY

EDMUND G. BROWN JR., Governor

CALIFORNIA COASTAL COMMISSION

SAN DIEGO COAST DISTRICT OFFICE
 7575 METROPOLITAN DRIVE, SUITE 103
 SAN DIEGO, CA 92108-4402
 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: Donna Westbrook

Mailing Address: 806 Oakbranch Dr.

City: Encinitas

Zip Code: 92024

Phone:

SECTION II. Decision Being Appealed

1. Name of local/port government:

City of Encinitas

2. Brief description of development being appealed:

Appeal of Encinitas Notice of Decision (PBD- 2016-13, case #16-017CDP) of City approval for a Coastal Development Permit (CDP) for Leo Mullen Sports Park to install 86,000 square feet of artificial turf and conduits infrastructure for field lights adjoining a wetlands. The use of artificial turf will increase the park use in hours 479%. Not mentioned in the CDP is the number of cubic yards of dirt that will be hauled from the site.

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

Property is Leo Mullen Sports Park adjoining the wetlands

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: _____

DATE FILED: _____

DISTRICT: _____

RECEIVED

MAY 09 2016

CALIFORNIA
 COASTAL COMMISSION
 SAN DIEGO COAST DISTRICT

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

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

- ☒ Planning Director/Zoning Administrator
☒ City Council/Board of Supervisors
☐ Planning Commission
☐ Other

6. Date of local government's decision: April 5, 2016

7. Local government's file number (if any): NOD (PBD-2016-13, case #16-017CDP

SECTION III. Identification of Other Interested Persons

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

a. Name and mailing address of permit applicant:

City of Encinitas

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

(1)

(2)

(3)

(4)

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

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

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Appeal of Encinitas Notice of Decision (PBD- 2016-13, case #16-017CDP) approval for a Coastal Development Permit (CDP) for Leo Mullen Sports Park to install 86,000 square feet of artificial turf and conduits infrastructure for field lights adjoining a wetlands. The use of artificial turf will increase the park use in hours 479%. Not mentioned in the CDP is the number of cubic yards of dirt that will be hauled from the site.

Issues:

- A. City claims project is exempt from CEQA review.
- B. Intensification of use – a 479% increase
- C. Field lights are prohibited, yet City is installing conduit for the field lights as part of the CDP. City is bifurcating the field lights project. The field lights must have conduit. This is a separate project and the conduit installation shouldn't be part of the CDP for the artificial turf project.

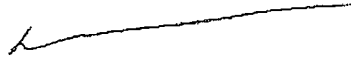
Please deny the CDP.

See the attached information.

Thank you.

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: May 9, 2016

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: _____

May 7, 2016 Page 1 of 3

Subject: Encinitas - Leo Mullen Sports Park – NOD (PBD-2016-13, case #16-017CDP)
Appeal to the Coastal Commission

Appeal of Encinitas Notice of Decision (PBD- 2016-13, case #16-017CDP) of City approval for a Coastal Development Permit (CDP) for Leo Mullen Sports Park to install 86,000 square feet of artificial turf and conduits infrastructure for field lights adjoining a wetlands. The use of artificial turf will increase the park use in hours 479%. Not mentioned in the CDP is the number of cubic yards of dirt that will be hauled from the site.

Issues:

- A. City claims project is exempt from CEQA review.
- B. Intensification of use – a 479% increase
- C. Field lights are prohibited, yet City is installing conduit for the field lights as part of the CDP. City is bifurcating the field lights project. The field lights must have conduit. This is a separate project and the conduit installation shouldn't be part of the CDP for the artificial turf project.

Discussion

1. City claimed turf project was exempt from CEQA review and refused to do any environmental review despite the adjoining wetlands that could be affected.

The City's action of ignoring any CEQA review for this project is inconsistent with Resource Management Element Policy 10.9:

POLICY 10. 9: The City will encourage the preservation and the function of San Elijo Lagoon and Batiquitos Lagoon and their adjacent uplands as viable wetlands, ecosystems and habitat for resident and migratory wildlife, by prohibiting actions (subject to the detailed provisions of RM policy 10. 6) which: ...involve wetland fill or increased sedimentation into wetlands;

Discussion

The City is replacing 86,000 square feet of grass/dirt (excavated to a depth of approximately 6 to 8 inches and hauled offsite and replaced with sand and small gravel for a base) with artificial turf at Leo Mullen Sports Park which adjoins a wetlands.

The artificial turf contains a top coating of sand and cork particles (used tires particles as an alternative fill) pressed into the spaces between the plastic grass. Underneath the artificial grass rug is an interlocking shock pad composed of pressed polypropylene beads. The polypropylene beads were acknowledged after the approval of the CDP. City staff, without any CEQA review, has given assurances that the beads are contained and will not enter the wetlands and that the sand and cork particles will not enter the wetlands.

May 7, 2016 Page 2 of 3

Subject: Encinitas - Leo Mullen Sports Park – NOD (PBD-2016-13, case #16-017CDP
Appeal to the Coastal Commission

According to Policy 10.9 *The City will encourage the preservation and the function of San Elijo Lagoon and Batiquitos Lagoon and their adjacent uplands as viable wetlands, ecosystems and habitat for resident and migratory wildlife, by prohibiting actions...which involve wetland fill or increased sedimentation into wetlands.* One of the most important ways of fulfilling Policy 10.9 is with CEQA review on the effects of the sand, cork, and polypropylene beads being released into the wetlands. City staff refuses to do any CEQA review.

The city is using a CEQA categorical exemption to avoid CEQA review. State regulations prohibit using an exemption when there could be an effect to the environment.

There is a two page fact sheet on the state website that provides information on whether a categorical exemption can be used. The wetlands adjoining Leo Mullen Sports Park should have certainly set up red flags that environment review was required before a Coastal Development Permit was approved.

Discussion

The Leo Mullen soccer field and the wetlands adjoin each other. What happens during the construction on the field, whether from drainage or invasive material, may have a significant effect on the wetlands. Ultimately, any decomposition or change of the components of the artificial turf and associated materials over time may also effect the environment. The only way to discover the effects is by CEQA review. The City refuses to do any CEQA review.

Discussion

Intensification of use - 479% increase

City Staff is citing CEQA categorical exemption 15302 (class 2) as the reason for no CEQA review.

The exemption 15302 (class 2) covers the replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced, ...

Leo Mullen sports park will not substantially have the same capacity. There will be a significant increase. On a City Council agenda of March 25, 2015(1) the Parks and Recreation Department discussed the increase in the number of hours and playing weeks that would increase with the use of artificial turf. **It was an astonishing – 479% increase in field use.**

These numbers are from the staff report:

Scheduling Possibilities (page 3)

Natural Grass - 25 hours x 25 weeks = 625 hours use of field for one year

Artificial Turf - 68 hours x 44 weeks = 2992 hours use of field for one year

May 7, 2016 Page 3 of 3

Subject: Encinitas - Leo Mullen Sports Park – NOD (PBD-2016-13, case #16-017CDP
Appeal to the Coastal Commission

Encinitas Municipal Code 30.80.030(C) Application for Coastal Development Permit has certain requirements which the City ignored:

The submittal requirements shall require all information necessary to complete environmental review of the proposed project in accordance with state and local guidelines for the implementation of the California Environmental Quality Act as well as information sufficient to determine whether the project complies with all policies and standards contained in the certified Local Coastal Program.

There is no discussion of environmental review because the City declared the project exempt.

Conduits/lights infrastructure installation to piecemeal the field lights without public review

2. City is piecemealing the field lights project by combining the field lights infrastructure with the turf project to avoid an analysis of the effects of the field lights to a later date. The City claims that a review will be done in the future. To piecemeal projects isn't a policy supported by the Coastal Commission as evidenced by this excerpt from a Coastal Commission staff report.

To avoid piecemeal development, the Commission generally does not authorize development that serves to support a primary use until the primary use is proposed and analyzed.

(Coastal Commission Staff report – Hearing date – March 10, 2006 – Item F10a)

Discussion

The City knew that field lights were prohibited on Leo Mullen sports field before the City Attorney's memo of May 4, 2016. Several previous staff reports and comments mention the field lights prohibition.

Conduits are part of the field lights and therefore part of the field lights project. The City is attempting to bifurcate the conduit installation from the field lights as a project. However, field lights and conduit cannot be separated because the conduit serves to support the primary use of lights.

Conduit (as a structure) cannot be approved under the turf CDP unless a thorough analysis is performed before any installation. In addition, a specific plan amendment is required before the conduit and field lights can be approved. However, because field lights are prohibited, the City cannot approve a CDP for a prohibited use.

Please deny the CDP.

Thank you.

HP LaserJet M2727nf MFP

Fax Confirmation Report

HP LASERJET FAX

May-9-2016 3:43PM

Job	Date	Time	Type	Identification	Duration	Pages	Result
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05/09/16 14:45 760 634 0761

P.01

May 9, 2016

To: Sarah Richmond

Coastal Planner

California Coastal Commission

San Diego District Office

From: Donna Westbrook

Subject: Appeal

Appeal of Encinitas Notice of Decision (PBD-2016-13, case #16-017CDP) of City approval for a Coastal Development Permit (CDP) for Leo Mullen Sports Park to install 86,000 square feet of artificial turf and conduits infrastructure for field lights adjoining a wetlands. The use of artificial turf will increase the park use in hours 479%. Not mentioned in the CDP is the number of cubic yards of dirt that will be hauled from the site.