

CALIFORNIA COASTAL COMMISSION

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**STAFF REPORT AND RECOMMENDATION ON APPEAL
 SUBSTANTIAL ISSUE & DE NOVO**

Local Government: City of Encinitas

Decision: Approved with Conditions

Appeal Number: A-6-ENC-18-0019

Applicant: City of Encinitas

Location: North Coast Highway 101 between A Street in the south, extending to La Costa Avenue in the north, Encinitas, San Diego County

Project Description: Significant redevelopment of northbound and southbound Coast Highway 101 between A Street in the south, extending to La Costa Avenue in the north (~2.5 miles), within the City of Encinitas. The overall project includes the reduction in the number of travel lanes from two lanes to one lane in each direction for the majority of the project length (including request for after-the-fact approval for elimination of a northbound travel lane between Leucadia Boulevard and La Costa Avenue), the addition of bike lanes on both sides of the roadway, four to six new roundabouts, crosswalks, a new median, bus turnout bays, new sidewalks and three parking bays along the east side of Highway 101, improvements to the existing sidewalk on the west side of Coast Highway 101, new landscaping, storm water improvements and other revisions to existing on and off street parking along Highway 101.

Appellants: Commissioner Steve Padilla, Commissioner Effie Turnbull-Sanders, Leah Bissonette, Frank Birkner, Christine Wagner, Susan Turney, Lynn Marr, Richard Kingsland, Spencer Mosher, James Mosher, Doug Fiske, Robert Hemphill, Alice Lemon, David Smith, Donna Westbrook

Staff Recommendation: Substantial Issue and Approval with Conditions on De Novo

IMPORTANT HEARING PROCEDURE NOTE

The Commission will not take testimony on this “substantial issue” recommendation unless at least three commissioners request it. The Commission may ask questions of the applicant, any aggrieved person, the Attorney General, or the Executive Director prior to determining whether or not to take testimony regarding whether the appeal raises a substantial issue. If the Commission takes testimony regarding whether the appeal raises a substantial issue, testimony is generally and at the discretion of the Chair limited to 3 minutes total per side. Only the applicant, persons who opposed the application before the local government (or their representatives), and the local government shall be qualified to testify during this phase of the hearing. Others may submit comments in writing.

If the Commission finds that the appeal raises a substantial issue, the de novo phase of the hearing will follow, unless it has been postponed, during which the Commission will take public testimony.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends that the Commission, after public hearing, determine that a substantial issue exists with respect to the grounds on which the appeal has been filed.

The appellants contend that approval of the project by the City is inconsistent with provisions of the City's certified LCP and with the public access and recreation policies of the Coastal Act concerning public beach access. Specifically, the appellants contend that the City approval is inconsistent with LCP policies concerning the public's ability to get to the beach, to enjoy a scenic drive through the City along its coastal corridor, the availability of public parking, the potential diversion of traffic from the Highway onto side streets, and whether the project is the least environmentally impactful alternative with regard to long-term public access and circulation. The appellants further assert that the reduction in the number of travel lanes from four to two is inconsistent with policies and figures within the City's certified LCP that show the Highway as four lanes, and the City did not make the required findings that the development is in conformity with the public access and recreation policies of the Coastal Act. The appellants also contend that the project could set an adverse precedent for reducing access along this important coastal corridor. Carlsbad and Oceanside, the cities to the north of Encinitas, are also actively pursuing major redevelopment of their Highway 101 segments, including reductions in the number of vehicle travel lanes on portions of the highway within their jurisdictions.

North Coast Highway 101 is a major coastal access route for the public to get to local and regional beach locations. There are three popular beaches located directly west of the project corridor and two highly used beaches directly north and south of the project corridor. North Coast Highway 101 also serves as an important coastal recreation amenity for scenic drives along the coast. While the project would result in improved bicycle and pedestrian circulation, it does have the potential to adversely impact traffic within the project corridor. The project corridor is already highly congested during AM

and PM peak times on weekdays, during high beach use times on weekends during the summer, and whenever the adjacent I-5 backs up. This congestion often results in long traffic jams within the corridor. If the project results in increased traffic congestion; people may be less likely to use the public beaches in the City or to take a scenic drive along the Highway. However, the traffic study prepared for the project did not evaluate weekend or summer traffic conditions that could affect the public's ability to get to the beach. Thus, the lack of analysis of how the subject project will impact the public's ability to reach the beach and transit the corridor during prime visitor-serving periods raises major Coastal Act and LCP consistency concerns.

The parking within the corridor is heavily used to support the visitor-commercial businesses, and to a lesser degree, beach access. The project corridor currently has formal public on-street vehicle parking spaces along the west side of the Highway and informal parking along the nearly the entirety of the east side of Highway 101. As proposed, the project would result in an increase in formal car and motorcycle parking spaces, which includes new parking bays along the east side of the Highway. However, the project also proposes a new sidewalk along the entire extent of the east side of the northbound lane that will eliminate the existing informal parking. The City approval did not include an evaluation of the historic usage of the informal parking area. In addition, North County Transit District (NCTD), the owner of the land along the east side of the Highway, has not provided final construction approval for the new parking bays and has also suggested that some of the new parking may be removed in the future to accommodate future rail operations and planned improvements. Thus, the lack of analysis related to the existing informal parking on the east side of the Highway and the uncertainty surrounding the proposed parking bays raises a substantial issue.

The proposal to reduce the highway to one lane in each direction is inconsistent with two figures in the City's certified LCP. The City conditioned the subject CDP to not be effective until the Commission certified an associated LCP amendment with text amendments to the two LCP figures to allow the option to reduce the number of travel lanes on Highway 101 within the North 101 Corridor Specific Plan area. The companion LCPA is scheduled to be heard by the Commission at the same meeting as the subject projection. However, because the LCPA has not yet been certified by the Commission, the City's action is inconsistent with the certified Encinitas LCP. More specifically, the required written findings of LCP consistency cannot be made since an LCP amendment must first be certified by the Coastal Commission, and until such time as an LCP amendment is certified, the project cannot be found consistent with the LCP, as amended. Thus, this contention raises a substantial issue.

In the City's March 21, 2018 approval of the CDP for this project, the City staff report found that public access findings were "*...not applicable because the project is not located between the sea and nearest public road.*" However, an approximately ½ mile long portion of Highway 101 between Grandview Street and La Costa Avenue is the designated first public road at that location. The LCP requires such a finding in order to ensure that potential impacts to public access and recreation are thoroughly reviewed for

consistency with the Coastal Act and if necessary, any such impacts are fully mitigated. Thus, the exclusion of this required finding raises a substantial issue.

Because of the above-described inconsistencies with the LCP and the Coastal Act, staff recommends that the Commission determine that the project **raises a substantial issue** regarding conformance with the certified LCP and the Chapter 3 policies of the Coastal Act.

Commission staff further recommends **approval** of the application on de novo with special conditions.

Subsequent to the local approval of the project, the City conducted further analysis of the circulation impacts that would be expected to occur as a result of the proposed project. The City's additional traffic analysis concluded that under existing conditions with construction of the project, the time it would take to drive through the approximately 2.4 mile project corridor would take approximately two minutes longer than under current conditions. This minor increase in travel time is unlikely to discourage the public from accessing the city's beaches or from going on a recreational drive in Encinitas along the Coast Highway. Furthermore, east-west access to the beaches located adjacent to the project corridor is not expected to be significantly impacted because beach goers have relatively direct access to the beaches from La Costa Avenue, Leucadia Boulevard, and Encinitas Boulevard.

The project TIA also considered traffic conditions under various scenarios with estimated traffic volumes and conditions for the year 2035. The traffic analysis is based on the San Diego Association of Governments (SANDAG) year 2035 Regional Growth Forecast. In year 2035, with the project, the City's traffic consultant estimates that the proposed lane reductions and roundabouts will cause a significant number of daily trips to be diverted from the Highway, primarily to Interstate 5. The future diversion is expected as a result of significant capacity upgrades planned for the I-5 freeway, the slower speeds on the Highway, and the reduced capacity of the Highway. The City's traffic consultant asserts that the vast majority of the diverted trips will be during AM and PM weekday peak hours and thus will consist primarily of commuters and not beach users. Diversion of traffic during prime beach use times (i.e. midday on weekends) is not expected because although the daily trips along the corridor on a summer weekend are expected to be higher than the daily trips during a weekday, the hourly traffic distribution is spread out over a longer time period and there are relatively high volumes in each direction, rather than just one direction at a time as occurs during weekday commutes. Furthermore, weekday commuters typically look for the fastest route between their point of origin and their destinations, while beach users and persons out for a scenic drive would not save time by diverting away from their destination. Even accounting for the regional population growth and corresponding increases in traffic volumes in the future, the proposed project is not projected to deter the public from accessing the City's beaches or taking a scenic weekend drive along the Highway.

It is important to note that there is some disagreement regarding the City's traffic analyses. Project opponents have submitted comments from an outside traffic engineer questioning some of the City's conclusions. In addition, Caltrans staff has stated that the

intersection and roundabout analysis methodology used by the City is different than the methodology that Caltrans uses to analyze intersections and roundabouts. Caltrans has not asserted that the methodology chosen by the City is invalid, but has stated that the methodology Caltrans would have used to analyze the project would result in greater expected delays and queuing on Coast Highway than the methodology chosen by the City. The City's traffic consultants have responded to all comments, and maintain that their estimates are valid. Commission staff is not aware of any objective determination that the conclusions in the City's 2015 TIA are invalid or should not be used to determine the impacts of the project.

However, because there may be future projects involving reductions in traffic lanes, it is important to document the impact of this project and ensure the subject project results are consistent with the City's traffic projections. Special Condition 8 requires that the City submit an annual traffic monitoring plan for a period of five years after completion of project construction to document actual travel time through the project corridor.

Evidence has been submitted by both project opponents and project proponents related to the usage of the informal parking area to the east of the project corridor. Project opponents have documented multiple days that existing use of the informal parking has exceeded the number of formal parking spaces that are proposed to be constructed on the east side of the Highway. However, the current parking is informal and may not be allowed in the future by the property owner, NCTD. Furthermore, periods of high usage appear to occur more often in the evening hours to support the popular bars and restaurants along the corridor and not during prime beach use times. Special Condition 1 is included in order to offset the loss of the informal parking spaces. The Special Condition, in part, prohibits paid parking for the three new parking bays on the east side of the Highway. In addition, the Special Condition requires that the City provide three areas for "Ride Share" drop off and pick up within the corridor located adjacent to the three public beach access points. Special Condition 7 also requires that the City execute a final agreement to locate the proposed parking spaces in the NCTD ROW prior to issuance of this Coastal Development Permit and requires that the City obtain an amendment from the Commission if any of the formal parking spaces are proposed to be removed in the future. Thus, as conditioned, the proposed parking improvements result in an increase in available formal parking in the project corridor, ensure that parking within the three new parking bays on the east side of the Highway will be free of charge in perpetuity, and provide for dedicated "Rideshare" drop off and pick up.

At the same hearing as this item, the Commission is scheduled to take action on a project-driven LCP Amendment to modify the City's certified Land Use Plan and Implementation Plan to allow for a reduction in travel lanes on Highway 101 within the North Corridor Specific Plan Area (Ref: LCP-6-ENC-18-0034-1). Special Condition 6 requires that prior to issuance of this CDP, the City provide documentation to the Executive Director showing that the Coastal Commission has effectively certified Local Coastal Program Amendment No. LCP-6-ENC-18-0034-1, as necessary to ensure that the subject project is consistent with the City's certified LCP.

Unpermitted Development

In 2013, the City eliminated a northbound travel lane on Highway 101 between Leucadia Boulevard and La Costa Avenue in order to install a dedicated bike lane without first processing a Coastal Development Permit. When the City took its initial action in 2013, appeals was filed by the Commission and members of the public. At that time, Commission staff told the City that the work was done in violation and the Highway should be restored to its pre-project condition until the City processed an LCP amendment and a CDP for the roadway modifications to the entire corridor. However, the City refused to re-strip the Highway. In the interim, and in recognition of the fact that the lane reduction did not result in *permanent* impacts to coastal resources, Commission staff directed, and the City agreed, that the effects of the lane reduction should be monitored. In response to Commission concerns, in 2015, the City conducted a traffic analysis to compare the traffic conditions before and after the 2013 lane reduction (Ref: Michael Baker International 2015 – [Exhibit 8](#)). The 2015 traffic analysis concluded that the 2013 lane reduction did not adversely affect traffic flow along the corridor. Based on the findings of the traffic analysis, it does not appear that the 2013 lane reduction has resulting in any temporal impacts to coastal access. City staff indicated that it would take approximately one year to process the required LCP amendment and CDP. However, due to the project complexity and the high level of public interest and scrutiny of the project, the process has the taken more than five years from the date of the 2013 action. Regardless, the City has included the portion of the Highway subject to the 2013 lane elimination in its 2018 CDP approval, which is the subject of this appeal. Approval of the subject project will result in approval to retain the 2013 lane reduction, while denial of the subject project will require that the Highway be restored to its pre-2013 four-lane configuration.

Standard of Review: Certified City of Encinitas Local Coastal Program and the public access and recreation policies of Chapter 3 of the Coastal Act.

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APPENDICES

[Appendix A – Substantive File Documents](#)

EXHIBITS

[Exhibit 1 – Project Location](#)

[Exhibit 2 – Proposed Lane Reduction Map](#)

[Exhibit 3 – Proposed Roundabout Map](#)

[Exhibit 4 – Proposed Parking Bays Map](#)

[Exhibit 5 – Project Plans](#)

[Exhibit 6 – Proposed Changes to Figure 2 -Circulation Element of the City’s Land Use Plan](#)

[Exhibit 7 – Proposed Changes to Figure 5-C - North Corridor 101 Specific Plan](#)

[Exhibit 8 – Traffic Memoranda](#)

[Exhibit 9 – Appeals by Commissioner Steve Padilla, Commissioner Effie Turnbull-Sanders, Leah Bissonette, Frank Birkner, Christine Wagner, Susan Turney, Lynn Marr, Richard Kingsland, Spencer Mosher, James Mosher, Doug Fiske, Robert Hemphill, Alice Lemon, David Smith, Donna Westbrook](#)

[Exhibit 10 – City of Encinitas Final Resolution No. 2018-34](#)

I. APPELLANTS CONTEND

The appellants contend that the project as approved by the City does not conform to the City of Encinitas' certified Local Coastal Program (LCP) or the public access and recreation policies of the Coastal Act, with regard to the following contentions:

- The project will result in adverse impacts to beach access and to the public's ability to enjoy a scenic drive along the coastal corridor.
- The project will reduce available public beach parking.
- The project did not fully evaluate project alternatives.
- The project will result in impacts to beach access and public safety from diversion of traffic from the Highway onto side streets.
- The reduction in the number of travel lanes from four to two is inconsistent with policies and figures within the City's certified LCP that show the Highway as four lanes.
- The City did not make the required findings that the development is in conformity with the public access and recreation policies of the Coastal Act.
- The project will result in worsened air quality and an increase in greenhouse gas emissions from idling cars.
- The project will result in increased noise from vehicles stopped in traffic more frequently.
- The project will adversely impact emergency response times.
- Removal of existing trees is not consistent with the community character.

II. LOCAL GOVERNMENT ACTION

On March 1, 2018, the City of Encinitas Planning Commission held a duly noticed public hearing to review the proposed development and passed a resolution recommending that the City Council approve the proposed project (Resolution 2018-12). The project was then approved with conditions by the City Council on March 21, 2018 (Resolution 2018-34) ([Exhibit 10](#)). The approved EIR for the project found that the project would result in potentially significant effects on traffic circulation and fire protection services. The EIR determined that the project's impacts on traffic circulation are unavoidable, but that the project's impacts on fire protection services can be mitigated below a level of significance. The City CDP approval included a specific condition that required related amendments to the City's Land Use Plan be approved by the Commission prior to issuance of the grading permit or initiating use of the approval. Specific conditions of the City approval also required traffic control plans with interim bicycle and pedestrian routes during project construction, retention of 302 existing trees and planting of 839 new trees, North County Transit District (NCTD) approval for all encroachments into NCTD right-of-way, measures to ensure adequate Fire Department response times, and monitoring and installation of traffic calming measures on Vulcan Avenue.

Following the action by the City Council, the City issued a Notice of Final Action related to its action on Local CDP 10-035, as required by both the Coastal Act and City's Local

Coastal Program (LCP). The City's Notice of Final Action was received in the Coastal Commission's San Diego District Office on April 2, 2018. A Notification of Appeal Period was provided to the City by Coastal Commission staff, dated April 4, 2018, indicating an expiration of the ten (10) working day appeal period on April 16, 2018. On April 11, 2018, April 12, 2018, and April 16, 2018, two Commissioner appeals and four public appeals (with a total of 13 public appellants) were submitted to the San Diego District Office.

All 13 public appellants participated in the local permitting process and therefore have standing to appeal this item to the Commission.

III. APPEAL PROCEDURES

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

Section 30603(b) (1) of the Coastal Act states:

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

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

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

If the staff recommends "substantial issue" and no Commissioner objects, the Commission will proceed directly to the de novo portion of the hearing on the merits of the project, then, or at a later date. If the staff recommends "no substantial issue" or the Commission decides to hear arguments and vote on the substantial issue question, 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 Local Coastal Program (LCP).

In addition, for projects located between the sea and the first public road paralleling the sea, Section 30604(c) of the Act requires that a finding must be made by the approving agency, whether the local government or the Coastal Commission on appeal, that the development is in conformity with the public access and public recreation policies of Chapter 3 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 Local Coastal Program (LCP), and the subject site is located, in part, in an area where the Commission retains appeal jurisdiction because it is located between the first public road and the sea. 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 exercises its discretion to determine that the development approved by the City raises substantial issue with regard to the appellants' contentions regarding coastal resources.

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-18-0019 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 **NO** vote. Failure of this motion will result in a de novo hearing on the application, and adoption of the following resolution and findings. Passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.

RESOLUTION: *The Commission hereby finds that Appeal No. A-6-ENC-18-0019 presents 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:

1. PROJECT DESCRIPTION/HISTORY

The proposed project includes a significant redevelopment of northbound and southbound Coast Highway 101 between A Street in the south, extending to La Costa Avenue in the north (~2.5 miles), within the Leucadia community of the City of Encinitas. The project is within the boundaries of the North 101 Corridor Specific Plan, which is part of the City's certified Local Coastal Program (LCP). The project is located primarily within the Highway 101 right-of-way (ROW) and is also partially located to the east of the Highway in North County Transit District (NCTD) ROW.

The overall project includes the reduction in the number of travel lanes from two lanes to one lane in each direction for the majority of the project length, the addition of bike lanes on both sides of the roadway, four to six new roundabouts, crosswalks, a new median, bus turnout bays, new sidewalks and three parking bays along the east side of Highway 101, improvements to the existing sidewalk on the west side of Coast Highway 101, new landscaping, storm water improvements and other revisions to existing on and off street parking along Highway 101.

On July 18, 2013, the City Council approved elimination of a northbound travel lane on Highway 101 between Leucadia Boulevard and La Costa Avenue in order to install a dedicated bike lane. On January 23, 2013, Commission staff sent the City a letter explaining that the travel lane reduction would require a CDP and an LCPA before it could be implemented. Upon receipt of the letter from Commission staff, City staff recommended to the Council that the City not implement the lane reduction at that time based on the direction Commission staff. However, at the January 30, 2013 City Council meeting, the Council again approved elimination of the lane. The lane reduction was implemented soon thereafter without benefit of a CDP. The Commission and other members of the public appealed the exemption (CDP #A-6-ENC-13-006). Commission staff worked with City staff and mutually agreed to suspend action on the appeal until the full scope of the streetscape proposal was finalized through a CDP and companion LCPA (LCPA #LCP-6-ENC-18-0034-1). Commission staff has continued to monitor the development of the streetscape project and provided comments to the City in coordination meetings, through the environmental review process, and to the City Council. On July 3, 2018, the City notified the Commission that the entirety of the work that was completed pursuant to the 2013 lane reduction project was considered under the Coastal Development Permit approved by the City for the Encinitas Highway 101 Streetscape Project on March 2, 2018. Since approval of the originally exempted permit is now covered under the City's approval of the CDP for the entire project, on July 11, 2018, the City notified the Commission that the City's 2013 approval for the lane elimination is no longer valid. Therefore, the 2013 appeal is now moot and no further review or action by the Commission related to the 2013 appeal is required.

An approximately ½ mile long portion of Highway 101 between Grandview Street and La Costa Avenue is in the Commission's appeals jurisdiction because Highway 101 is the designated first public road at that location. In addition, the project, as a whole, is a major public works project with a cost greater than approximately \$ 277,000 (inflation adjusted value threshold). Thus, the entirety of the development approved by the City is appealable to the Commission. The standard of review is the certified City of Encinitas Local Coastal Program and the public access and recreation policies of the Coastal Act.

2. DETAILED PROJECT DESCRIPTION

Vehicular Lanes of Traffic

The existing segment of Highway 101 is designated as a 4-lane Major Arterial and has two vehicular northbound lanes and two vehicular southbound lanes for the entire extent. The current posted speed limit is 35 MPH. However, as described in more detail in the Unpermitted Development section of this report, in 2013, the City eliminated one of the

two northbound lanes of the Highway for a length of approximately 1.3 miles between Leucadia Boulevard and La Costa Avenue without benefit of a coastal development permit.

As proposed:

- Highway 101 northbound would retain two vehicular lanes from A Street to approximately 500 ft. north and would then transition to one lane for approximately 0.9 mile until Europa Street and then transition to two lanes for approximately 600 ft. through Leucadia Boulevard and transition back to one lane for approximately 1.3 miles until La Costa Avenue.
- Highway 101 southbound would have one vehicular lane for approximately one mile from La Costa Avenue to Phoebe Street and would then transition to two lanes for approximately 0.5 mile until Europa Street and then would transition to one lane for approximately one mile until A Street ([Exhibits 1, 2, and 5](#)).
- The posted speed limit would decrease to 30 MPH.

Bike Lanes

In the northbound direction within the project corridor there is currently no separate bike lane between A Street and Leucadia Boulevard. Instead, the right hand lane is a Class III bike lane with “sharrows” and is used by both motor vehicles and bicycles. From Leucadia Boulevard to La Costa Avenue there is a Class II bike lane directly adjacent to the right hand lane, which was created by the City without a coastal development permit in 2013. In the southbound direction, there is a Class III bike lane with “sharrows” used by vehicles and bicycles that extends for approximately 2.2 miles from La Costa Avenue through Marcheta Street, which then transitions into a Class II bike lane for approximately 1,200 ft. until A Street.

As proposed, the City would retain the existing unpermitted Class II bike lane from Leucadia Boulevard to La Costa Avenue and would create new continuous 7-8 ft. wide Class II bike lanes both southbound and northbound for the entire project corridor. The only break in the dedicated bike lanes would be that within the proposed roundabouts, bicyclists would be required to merge into the vehicular lanes. Bicycle ramps at each roundabout would also allow bicyclists to enter the sidewalk and then to use the pedestrian crosswalk, in order to avoid sharing the roundabout with vehicles.

Roundabouts

There are no existing roundabouts in the project corridor.

New roundabouts are proposed to be located at El Portal St., Jupiter St., Grandview St., Bishop’s Gate Rd., “New Road,” and La Costa Avenue ([Exhibit 3](#)). The La Costa Avenue roundabout would have two lanes, while the other five roundabouts would only have one lane. The City has indicated that the two northernmost proposed roundabouts located at

New Road and La Costa Avenue would not be built if a hotel, which has been approved on the west side of Highway 101 at La Costa Avenue, begins construction prior to the start of construction of the Streetscape improvements. If the hotel begins construction first or if the City cannot come to terms with the property owner about grading on the private property, no roundabouts will be constructed at New Road or La Costa Avenue and La Costa Avenue would remain a signalized intersection. At this time, the City has indicated that it does not anticipate constructing these two roundabouts, but they remain a potential part of the project.

Crosswalks, Stop Controlled Intersections, and Signalized Intersections

Currently there are crosswalks located at Marcheta Street and Leucadia Boulevard. Marcheta Street is stop sign controlled and there are signalized intersections at Leucadia Boulevard and La Costa Avenue.

As proposed, two new signalized pedestrian crossings would be provided at North Court and Diana Street. New crosswalks are also proposed at A St., Marcheta St., Basil St., Daphne St., Leucadia Blvd., and Phoebe St. In addition, crosswalks will be installed at each of the six new roundabouts. Thus, number of locations for pedestrians to cross the Highway with a crosswalk would be increase from two to 14. The stop sign at Marcheta Street is proposed to be eliminated and signalized intersections will remain at Leucadia Boulevard and La Costa Avenue (provided that the La Costa Avenue roundabout is not constructed).

Medians

There is currently an intermittent landscaped median throughout the majority of the northern portion of the project corridor (between Cadmus Street and La Costa Avenue). The southern portion of the project corridor does not have a raised or landscaped median.

As proposed, a large raised and landscaped median will be constructed throughout the project corridor. The proposed median width varies throughout the corridor, but as shown on the project plans will be as wide as 14 ft. in some locations.

Bus Stops and Bus Turnout Bays

There are currently 22 bus stops within the project corridor. As proposed, six of the existing bus stops, which the City has indicated have low ridership, would be removed and the remaining bus stops would be relocated to maximize ridership. The proposed project includes bus turn out bays at 16 bus stops (eight stops on the west side of the Highway and eight stops on the east side of the Highway). The locations of the proposed bus stops were determined through coordination with NCTD. Each bus stop will be associated with a crosswalk. Some relocated bus stops would be improved with ADA-compliant shelters and benches, and all would have night lighting.

New Sidewalks

There are currently intermittent areas of sidewalk along the west side of the Highway and along the east side of the Highway there are currently sections of paved and unimproved dirt trails.

As proposed, there will be a large continuous sidewalk along the west side of the Highway. Along the east side of the Highway, the City would construct either a stabilized decomposed granite (DG) trail or concrete sidewalk or both, which would extend continuously between Encinitas Boulevard and La Costa Avenue.

Parking

Currently, the majority of public parking is parallel parking along the west side of the Highway within the project corridor. There are a total of approximately 277 formal public on-street vehicle parking spaces along the west side of the Highway within the project corridor. Informal parking also occurs in the dirt area adjacent to the east side of the Highway. According to the City, the existing informal parking is not permitted by the City or North County Transit District (NCTD). Therefore, the City determined that for its review of the project, it was not appropriate to quantify the existing use or capacity of the parking area or to include it as a part of the total existing parking inventory within the corridor. However, a parking study commissioned by the City and dated January 24, 2018, found that there are currently 471 “informal/illegal” parking spaces adjacent to the east side of the Highway within the project corridor (Chen Ryan 2018). The City does not currently charge for parking in the project corridor and there are no parking time limits.

As proposed, 235 on-street vehicle parking spaces and 39 motorcycle parking spaces would be provided primarily along the west side of the Highway. A 7-foot-wide “Park Assist” lane is proposed between just north of A Street and Marcheta Street and between Phoebe Street and Avocado Street to facilitate parking and allow for reverse angle parking spaces. Three public parking areas are also proposed on the east side of the Highway within the NCTD ROW. These new proposed parking areas would accommodate a total of 176 cars. The parking areas would be located between North Court and Basil Street, between north of Leucadia Boulevard and Diana Street, and between north of Jupiter Street and Avocado Street ([Exhibit 4](#)). Each of the proposed parking areas on the east side of the Highway include two rows of parallel parking separated by a one-way drive aisle. Thus, the total number of public parking spaces would be 411 vehicle parking spaces and 39 motorcycle parking spaces.

Landscaping

The existing project corridor is defined by large eucalyptus trees. Currently, there are a total of 392 trees in the project corridor.

As proposed, 302 existing trees will be retained and 839 new trees will be planted. Of the 90 existing trees proposed for removal, five are Eucalyptus trees. Extensive native and drought tolerant shrubs and groundcover is also proposed throughout the project corridor.

Storm Water Improvements

As proposed, extensive water quality improvements will be installed. These include the use of permeable gravel surfaces for parking areas within the NCTD ROW and construction of curbs and gutters that would funnel water to new bio-retention basins where water would then enter new underground storm drain piping that would connect to existing storm drain infrastructure.

3. CONTENTIONS THAT RAISE A SUBSTANTIAL ISSUE:

A. Public Access/Recreation

The appellants contend that approval of the project by the City is inconsistent with provisions of the City's certified LCP and with the public access and recreation policies of the Coastal Act concerning public beach access. Specifically, the appellants contend that the City approval is inconsistent with LCP policies concerning the public's ability to get to the beach, to enjoy a scenic drive through the City along its coastal corridor, the availability of public parking, the potential diversion of traffic from the Highway onto side streets, and whether the project is the least environmentally impactful alternative with regard to long-term public access and circulation.

Pertinent LCP provisions and Public Access policies of Chapter 3 of the Coastal Act are as follows:

Coastal Act Section 30210 states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30212.5 states:

Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.

The introduction to the Land Use Plan Circulation Elements states, in part:

A sound, safe and sensible circulation system which promotes the efficient movement of people and goods in and around the City is the main goals [sic] of this

Element...The Element establishes a hierarchy of transportation routes with specific development standards described for each category of roadway...

Circulation Element Goal 3 states:

The City of Encinitas will promote the use of other modes of transport to reduce the dependence on the personal automobile. (Coastal Act/30252)

Circulation Element Policy 3.2 states:

Continue to assist in expanding public transportation and emphasize public transportation in future development with preference given to cost-effective alternatives. (Coastal Act/30252)

Circulation Element Policy 3.3 states:

Create a safe and convenient circulation system for pedestrians. (Coastal Act/30252)

Circulation Element Policy 4.1 states:

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

Circulation Element Policy 4.2 states:

Promote and encourage roadside median landscaping. (Coastal Act/30251)

Circulation Element Policy 4.3 states:

Separate pedestrian, bicycle, and vehicular traffic by encouraging adequate space for walking and biking by striping roadways, excepting freeways.

Circulation Element Policy 4.14 states:

Where feasible, minimize the dependence on private motor vehicles. (Coastal Act/30252)

Circulation Goal 6 of the City's Land Use Plan states that:

The City will make every effort to provide public access and circulation to the shoreline, through private dedications, easements or other methods, and public transportation or other facilities. (Coastal Act/30211/30212/30212.5/30221)

Circulation Element Policy 6.1 states:

The City will continue to defend the public's constitutionally guaranteed right of safe physical access to the shoreline.

Circulation Element Policy 6.4 states:

The City will support increased public transportation service to shoreline recreational areas designated for increased visitation, including the following:

-Supporting existing and increased levels of service where needed by the North County Transit District;

-Supporting low-cost transfers between all transit operators in the Coastal Zone; and

-Encouraging the provision of safe transit stops and crosswalks at all major beaches. (Coastal Act/30252)

-When bus transportation to beaches is deemed feasible, inset bus bays at major beach transit stops shall be considered to provide safer passenger embarkation/debarkation.

Circulation Element Policy 6.4 states:

The City will consider improved pedestrian crossings of Pacific Coast Highway.

Page 4 of the Land Use Element states, in part:

... While new development can be beneficial to a city, future growth must be managed in a sensible and rational manner. Adequate infrastructure and services must be available to meet any future demand to ensure that the existing levels of service are maintained...

North 101 Corridor Specific Plan Policy 4.7.3 states:

The Streetscape Concepts for the North 101 Corridor Specific Plan Area have been prepared with the following goals in mind:

- A. To strengthen and enhance an eclectic, scenic Highway environment*
- B. To beautify the North 101 Corridor in order to improve the overall visual "image" of the Specific Plan Area.*
- C. To enhance the motorist's "sense of arrival" into the North 101 Corridor Specific Plan Area.*

- D. To create a unique “sense of place” and identify [sic] for the North 101 Corridor Plan area.*
- E. To improve pedestrian safety through appropriate streetscape design.*
- F. To consider the need for “long term maintenance” and durability in the selection and design of streetscape elements.*

Traffic Circulation

North Coast Highway 101 is a major coastal access route for the public to get to local and regional beach locations. There are three popular beaches located directly west of the project corridor. These beaches from north to south are Grandview Beach, Beacons Beach, and Stonesteps Beach. In addition, the City’s most highly used beach, Moonlight Beach, is located one block south of the project and Carlsbad’s South Ponto State Beach is located less than a ¼ mile to the north ([Exhibit 2](#)). North Coast Highway 101 also serves as an important coastal recreation amenity for people that want to take a scenic drive along the coast. The appellants contend that the project will result in adverse impacts to beach access and to the public’s ability to enjoy a scenic drive along the coastal corridor. As identified above, the Coastal Act and the Encinitas LCP contain several policies that encourage public access and circulation to the Coast. The LCP also contains numerous policies that promote the use of other modes of transport to reduce the dependence on the personal automobile. While the project would result in improved bicycle and pedestrian circulation, it does have the potential to adversely impact traffic within the project corridor. One of the primary goals of the project is to reduce traffic speeds on Highway 101 from 35 MPH to 30 MPH and to deter commuters from using it as alternative to pass through the City when the adjacent Interstate 5 has heavy traffic. The desired outcome of deterring traffic shifts from Interstate 5 would primarily be achieved by increasing the amount of time, or the public perception of the amount of time, that it will take to travel through the corridor on Highway 101. However, if it will take significantly more time to travel to and from the beach; people may be less likely to use the public beaches in the City.

The traffic study prepared for the project analyzed impacts to six I-5 freeway on-ramp meters adjacent to the project area, 27 intersections within the project area and directly adjacent to it, and 9 roadway segments within the project area and adjacent to it, in order to assess the impacts of the project within the project corridor and on surrounding streets. The traffic study looked at the heaviest use times during weekdays which are during the morning commute (AM peak hours) and the afternoon commute (PM peak hours). The study traffic information was based on survey conducted on various weekdays in April 2015. However, the City did not evaluate weekend or summer traffic conditions that could affect the public’s ability to get to the beach.

Many visitors enjoy driving along the corridor as a recreational experience and may be deterred by the potential increased congestion. The Commission recently reviewed a proposal in Encinitas approximately one mile to the south of the subject corridor to

reduce the number of vehicle travel lanes on southbound Highway 101 from two lanes to one lane in order to construct a bike lane as part of the Cardiff Rail Trail (NCC-NOID-0001-17/Cardiff Rail Trail). In this case, the Commission denied the proposed bike lane alignment on Highway 101 and instead required that the Rail Trail be located on the east side of the railroad tracks. One factor in the Commission's decision to deny construction of the Cardiff Rail Trail on Highway 101 was that the potential for adverse impacts to traffic flow resulting from the elimination of a southbound vehicle lane on the Highway had not been adequately analyzed and the lane reduction would be inconsistent with the City's LCP. The lack of analysis of how the subject project will impact the public's ability to reach the beach and transit the corridor during prime visitor-serving periods raises major Coastal Act and LCP consistency concerns.

Parking

The appellants contend that the project will reduce available public beach parking. The parking within the corridor is heavily used to support the visitor-commercial businesses, and to a lesser degree, beach access. Grandview Beach, Stonesteps Beach, and Moonlight beach are located approximately ¼ mile from the Highway and Beacons Beach is located approximately 700 feet from the Highway. During peak times, the public accessing these beaches park in the parking lots specifically associated with these beaches and on the residential streets between the Highway and the beaches. Grandview Beach has 60 parking spaces, Stonesteps Beach has only street parking, Beacons Beach has 27 parking spaces, and Moonlight Beach has 190 parking spaces. Due to the distance and inclined terrain between the Highway and most of the beaches, parking on the Highway to access the beaches likely only occurs during the most popular beach times.

The project corridor currently has 277 formal public on-street vehicle parking spaces along the west side of the Highway. Additionally, there is currently informal parking along the nearly the entirety of the east side of Highway 101, which the public has used for many years. As detailed in the project description, the City believes that the existing informal parking is not permitted and therefore, did not include the existing informal parking as a part of the total existing parking inventory within the corridor. However, a parking study commissioned by the City and dated January 24, 2018, found that there are currently 471 "informal/illegal" parking spaces adjacent to the east side of the Highway within the project corridor (Chen Ryan 2018).

As proposed, 235 on-street vehicle parking spaces and 39 motorcycle parking spaces would be provided primarily along the west side of the Highway and three new parking bays with a total of 176 parking spaces would be constructed on the east side of the Highway. Thus, as proposed, the project would result in a net increase of 134 formal car parking spaces and 39 formal motorcycle parking spaces.

However, the project also proposes a new sidewalk along the entire extent of the east side of the northbound lane which will eliminate any opportunity to continue to use the informal parking. In order to fully evaluate the project's impacts on public parking in the area, the City must determine and evaluate the historic usage of the informal parking area and whether the project will adversely impact parking opportunities.

In addition, the proposed parking bays on the east side of the Highway are located in North County Transit District (NCTD) right-of-way (ROW) and NCTD has not provided the City with final approval to construct the parking bays. Furthermore, in a comment letter dated January 13, 2017, NCTD stated that the proposed improvements within the NCTD ROW must not conflict with future rail operations and planned improvements in the ROW, including the alignment required for double-track maintenance access, grade crossing and signal improvements, and the Coastal Rail Trail. In response to the NCTD comment, the City stated in the EIR that “...*With respect to the project's proposed parking pockets in the NCTD ROW, it is expected they would be partially removed, as necessary, to accommodate these planned NCTD/SANDAG improvements.*” Without construction and permanent retention of the parking bays in the NCTD ROW, the project would result in a net loss of parking spaces in this corridor. If parking along the Highway corridor is reduced, then commercial parking is likely to push into the adjacent neighborhoods to the west of the Highway, impacting already constrained available beach parking.

Thus, the lack of analysis related to the existing informal parking on the east side of the Highway and the uncertainty surrounding the proposed parking in the NCTD ROW raises a substantial issue.

Alternatives Analysis

Although not required by the LCP or Coastal Act public access or recreation policies, the appellants contend that the project did not fully evaluate project alternatives, which are important for generally understanding potential impacts to access from the project as proposed. The alternatives analysis for the “Four-Lane Corridor Alternative,” which would retain two lanes of traffic in each direction, the proposed roundabouts, bike lanes in each direction and sidewalk improvements, was found to be the environmentally superior alternative. In addition, the EIR found that this alternative would “result in lesser traffic impacts than the proposed project due to four continuous lanes through the entire corridor.” However, the City rejected this alternative as not meeting project objectives. In addition, the project proposes roundabouts at six intersections along Coast Highway 101 and appellants contend a lesser number of roundabouts should also have been analyzed. With six roundabouts, Coast Highway 101 would have signals and roundabouts spaced very close together, which could impact the public’s ability to reach the beach and transit the corridor. As alternatives analysis is not required by the LCP or access policies of the Coastal Act, neither contention raises a significant issue.

Summary of Public Access Impacts

In summary, the proposed development raises a substantial issue of conformity with the public access provisions of the City's certified LCP and with the public access and recreation policies of the Coastal Act concerning public beach access. The proposed project has the potential to result in adverse impacts to traffic circulation and the public’s ability to drive to the beach and to public beach access parking. For these reasons, the Commission finds that a substantial issue exists with respect to the project's consistency

with the public access and recreation policies of the Coastal Act and with the City's certified LCP.

B. LCP Circulation Element

The appellants contend that the reduction in the number of travel lanes from four lanes to two lanes is inconsistent with figures in the LCP that depict four travel lanes for this portion of Highway 101.

Pertinent LCP provisions are as follows:

Figure 2 in the Circulation Element of the City's Land Use Plan shows Highway 101 as a Major Arterial, which is defined as a four-lane divided roadway ([Exhibit 6](#)).

Page C-16 of the Circulation Element states, in part:

There are five basic categories in the hierarchy, ranging from "Freeway" with the highest capacity through "Prime Arterial", [sic] "Major" and "Collector," to "Local" with the lowest capacity. Schematic cross sections of each category or roadway are provided in Figure 1. Variation in right-of-way width and specific road improvements will occur within each of the roadway classifications, based on existing conditions and other factors. The desirable goal for every classified street section is that it carry the designed volume of traffic at the desired level of service. Within this requirement, descriptions of width and facilities are offered as non-exclusive alternatives: variation in design is expected, depending on different community design characteristics, different optional facilities (e.g., on-street parking, sidewalks vs. pathways, bicycle lanes or paths, extra parkway or median landscape treatment, etc.)...

The Circulation Element defines a Major Arterial as follows:

Major Arterial – A four-lane divided roadway, with a typical right-of-way width of 85-120 feet and a curb to curb pavement width of around 80 feet.

Page C-21 of the Circulation Element states, in part:

...Limited Roadway – Any of the last four roadway categories (not Freeways) [Prime Arterial, Major Arterial, Collector Road, and Local Street] can have a limited designation. This limited designation is intended to allow the reduction of right-of-way width, while maintaining the same number of lanes and capacity for the respective roadway category. This reduction of right-of-way will most typically involve reductions to the parkway width, median width or excluding parking lanes...

...Scenic Roadway – Any of the last four roadway categories may also be designated as "scenic" roadways. The scenic roadway designation will be used to aesthetically enhance such roadways through future improvements which provide amenities such as abundant landscaping, decorative street furniture, recreational trails, earthen

berms for noise attenuation, and addition right-of-way to accommodate such features...

Figure 5-C of the North Corridor 101 Specific Plan shows the proposed right-of-way, which includes a four-lane divided roadway ([Exhibit 7](#)).

The purpose of the Circulation Element and the associated circulation related policies in the City's specific plans is to provide a framework for future development that relies on or impacts travel through and around the city. Changes or revisions to the text or to the exhibits in the City's certified LCP require an LCP amendment to ensure consistency with the Coastal Act. Figure 2 in the Circulation Plan of the City's certified Land Use Plan shows Highway 101 as a Major Arterial, which is defined as a four-lane divided roadway. In addition, Figure 5-C of the North Corridor 101 Specific Plan shows the proposed right-of-way, which includes a four-lane divided roadway. Thus, the proposed reduction of Highway 101 from a four lane road to a two lane road requires an amendment to the City's certified LCP.

The City approved the Coastal Development Permit (CDP) for this project on March 21, 2018. The City conditioned the subject CDP to not be effective until the Commission certified an associated LCP amendment with text amendments to Figure 2 in the Circulation Plan and to Figure 5-C of the North Highway 101 Corridor Plan to allow the option to reduce the number of travel lanes on Highway 101 within the North 101 Corridor Specific Plan area. The City subsequently approved the related LCPA on April 18, 2018. The LCPA is scheduled to be heard at the same hearing as the subject appeal (Ref: LCPA LCP-6-ENC-18-0034-1). [Exhibits 6 and 7](#) depict the changes proposed by the City to Figure 2 in the Circulation Plan and to Figure 5-C of the North Highway 101 Corridor Plan. Because the LCPA has not yet been certified by the Commission, the CDP is inconsistent with the certified Encinitas LCP. More specifically, the required written findings of LCP consistency cannot be made since an LCP amendment must first be certified by the Coastal Commission, and until such time as an LCP amendment is certified, the project cannot be found consistent with the LCP, as amended.

C. Lack of Required Public Access & Recreation Findings

The appellants contend that the City did not make the required Coastal Development Permit findings that development is in conformity with the public access and public recreation policies of the Coastal Act.

Policy 30.80.090 of the Zoning Code Coastal Development Chapter in the City's Implementation Plans states, in part:

30.80.090 Action by the Authorized City Agency.

A. Following the public hearing or review period, the authorized City agency shall render its decision in the form of a final or advisory resolution or notice of decision,

with written findings. A decision to approve a coastal development permit must be based upon the following written findings: (Ord. 96-07)...

3. For projects involving development between the sea or other body of water and the nearest public road, approval shall include a specific finding that such development is in conformity with the public access and public recreation policies of Section 30200 et seq. of the Coastal Act. (Ord. 95-04)...

In the City's March 21, 2018 approval of the CDP for this project, the City staff report found that public access findings were "...not applicable because the project is not located between the sea and nearest public road." However, an approximately ½ mile long portion of Highway 101 between Grandview Street and La Costa Avenue is the designated first public road at that location. (see Cal. Code of Regs., tit. 14, § 13577(i).) The LCP requires such a finding in order to ensure that potential impacts to public access and recreation are thoroughly reviewed for consistency with the Coastal Act and if necessary, any such impacts are fully mitigated. As described above, there are potential impacts associated with public access and recreation. Thus, this contention raises a substantial issue.

3. CONTENTIONS THAT DO NOT RAISE A SUBSTANTIAL ISSUE:

A. Public Access & Safety Impacts to Adjacent Streets

The appellants contend that the project will result in impacts to beach access and public safety from diversion of through traffic from the Highway onto side streets. Specifically, the appellants are concerned that the project will result in increased traffic congestion on Highway 101 and that the increased congestion will encourage drivers to instead use Neptune Avenue to get through the project corridor. Neptune Avenue is only one direction, northbound, and runs almost the entire length of the project corridor, from Sylvia Street to Grandview Street. Neptune Avenue is parallel to the bluff edge and provides ocean and beach views between many of the homes on its seaward side. The street is highly used by walkers, joggers, and bicyclists. Appellants also contend that the project would increase traffic on Vulcan Avenue, El Camino Real, Leucadia Boulevard, and La Costa Avenue, and on the side streets that connect Highway 101 to Neptune Avenue. Neptune Avenue is also a public road intended for use by cars and a road used by visitors to access the beach. However, the traffic study found that the project would not affect traffic volumes on Neptune Avenue in the short-term. In addition, the study found that in 2035, without the proposed project, expected traffic volumes would actually be higher than expected traffic volume with the approved project. Thus, the contention that the project will divert traffic to adjacent local roads and impact beach access and safety does not raise a substantial issue.

B. Landscaping/Community Character

Resource Management Goal 3 states:

The City will make every effort possible to preserve significant mature trees, vegetation and wildlife habitat within the Planning Area.

Resource Management Policy 4.7 states, in part:

The City will designate the following view corridors as scenic Highway/visual corridor viewsheds:

[...]

-Highway 101, from Encinitas Blvd. to La Costa Ave...

Circulation Element Goal 1 states:

Encinitas should have a transportation system that is safe, convenient and efficient, and sensitive to and compatible with surrounding community character. (Coastal Act/30252)

Goal 2 of the Circulation Element states:

The City will make every effort to develop a varied transportation system that is capable of serving both the existing population and future residents while preserving community values and character.

Goal 7 of the Land Use Element states:

Development in the community should provide an identity for the City while maintaining the unique identity of the individual communities.

The community vision statement of the North Corridor 101 Specific Plan states:

- *promote a community where individuals can afford to live, as well as own and operate commercial establishments;*
- *encourage architectural quality and creativity without discouraging development or dictating a specific style or theme;*
- *establish a streetscape enhancement program along the North 101 corridor;*
- *provide a commercial corridor that serves both the needs of the neighborhood residents as well as visitors to the community;*
- *encourage diverse, small-scale uses and family-owned businesses;*
- *preserve and maintain the existing mature eucalyptus and cypress trees and establish a street tree program for the entire North 101 corridor;*
- *provide for safe pedestrian and traffic circulation;*
- *consider opportunities for mixed-use development; and*
- *to enhance the artistic community.*

The northern portion of the project corridor is defined by large eucalyptus trees. Currently, there are 392 trees in the project corridor. The eucalyptus trees provide a

canopy over the streets and sidewalks. Many of the trees are more than 100 years old. The appellants contend that the proposed removal of some of the eucalyptus trees would adversely impact community character and would be inconsistent with the certified LCP.

As proposed, 90 trees will be removed, five of which are eucalyptus trees. Thus, the project will result in a loss of some of the iconic eucalyptus trees. However, 302 existing trees in the project corridor will be retained and 839 new trees will be planted, resulting in nearly three times the numbers of trees as currently exist in the corridor. Also proposed, are a variety of shrub and groundcover species. In addition, the proposed project includes spaces throughout the corridor for installation of temporary and permanent public art pieces. Thus, the proposed project would not result in a significant impact to community character and this contention does not raise a substantial issue.

C. Greenhouse Gas Emissions

The appellants contend that the project will result in worsened air quality and increases in Greenhouse Gas emissions from idling cars sitting in traffic. In the Final EIR, the City made the following findings related to Greenhouse Gas emissions resulting from the project:

“In the long-term, the proposed Project would not directly generate additional trips, emit air pollutants or increase mobile-source GHG emissions. Rather, the project is intended to decrease mobile-source GHG emissions by promoting more alternative means of transportation consistent with Executive Orders S-3-05 and B-16-2012; OPR’s 2008 Technical Advisory; CAPCOA’s 2008 white paper and Model Policies for Greenhouse Gases in General Plans; the CARB’s Climate Change Scoping Plan; and the City’s CAP.

Therefore, the proposed Project, in combination with the cumulative projects in Figure 2-2, would not substantially contribute to cumulatively considerable short- or long-term GHG impacts in excess of 900 metric tons per year (equivalent to 50 dwelling units)...”

The City’s traffic modeling for the proposed project projects that the volume of cars using the corridor (average daily trips) under current traffic conditions after implementation of the proposed project will remain unchanged. While it is likely that travel time through the project corridor will be increased as a result of the subject project, the appellants have not provided any information to refute the findings of the project EIR related to GHG emissions. Furthermore, the City’s traffic modeling projects that there will be a significant reduction in the number of cars using the corridor under future 2035 traffic conditions if the project is implemented versus if the project is not implemented. The project also includes significant improvements to bicycle and pedestrian access, which may result in a reduction of automobile trips and conversely a reduction in GHG emissions. Thus, this contention does not raise a substantial issue.

D. Other Contentions

The appellants make additional contentions that the project will increase noise from idling cars sitting in traffic and will adversely impact emergency response times to the neighborhoods adjacent to the project corridor. Neither of these contentions raises an issue regarding consistency with the certified LCP or the public access policies of the Coastal Act. Therefore, they are not valid grounds for appeal to the Commission.

5. SUBSTANTIAL ISSUE FACTORS

As discussed above, there is inadequate 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 substantial issue. While the extent and scope of the particular development is an approximately 2.5 mile stretch of Highway, the objections to the project suggested by the appellants raise substantial issues of regional and statewide significance due increasing populations and visitors along the coast and potential effects on public coastal access. The decision creates a poor precedent with respect to the proper interpretation of the City's LCP, as the City's failure to adhere to the requirements of the LCP could set an adverse precedent elsewhere along the coast. The Commission finds that the local government's action does raise substantial Local Coastal Plan or Chapter 3 public access policy issues.

STAFF RECOMMENDATION ON THE COASTAL PERMIT

VI. MOTION AND RESOLUTION ON DE NOVO

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit No. A-6-ENC-18-0019 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO APPROVE THE PERMIT:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the certified LCP and the public access policies of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

VII. STANDARD CONDITIONS

This permit is granted subject to the following standard conditions:

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent of interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

VIII. SPECIAL CONDITIONS

The permit is subject to the following conditions:

1. **Final Plans.** PRIOR TO ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicant shall submit final plans for the proposed streetscape improvements. The final plans shall be in substantial conformance with the plans submitted with this application by Michael Baker International dated April 2, 2018, shall be subject to the review and written approval of the Executive Director, and shall:
 - (a) Identify the number and location of all public parking spaces proposed for the development site. A minimum of 235 formal public on-street vehicle parking

spaces and 39 motorcycle parking spaces shall be provided on the Highway and 176 formal vehicle parking spaces shall be provided within the three new parking bays on the east side of Highway 101.

- (b) Designate three exclusive “Rideshare” pickup and drop off locations within the Highway corridor adjacent to the Grandview, Beacons, and Stonesteps beach access points. If proposed public parking spaces are used to meet this requirement, the “Rideshare” spaces shall be limited to a maximum of six parking spaces.

The permittee shall undertake the development in accordance with the approved final streetscape improvement plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Coastal Commission approved amendment to this coastal development permit amendment unless the Executive Director determines that no additional amendment is legally required.

2. **Final Landscape Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit final landscape plans for the proposed streetscape improvements. The final landscape plans shall be in substantial conformance with the plans submitted with this application by MW Peltz and Associates, Inc. received 04/02/2018 and shall be subject to the review and written approval of the Executive Director. The final landscape plans shall include the following:

- (a) A plan showing the type, size, extent and location of all proposed vegetation and any necessary irrigation.
- (b) Only drought tolerant native or non-invasive plant materials may be planted throughout the project site. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as ‘noxious weed’ by the State of California or the U.S. Federal Government shall be planted within the property.
- (c) Low-flow efficient irrigation systems shall be utilized. Any irrigation system shall be designed with drip lines, where feasible; check valves at low points to reduce excess drainage; automatic controllers; rainy weather shut off controls; and, if rotor heads are used, minimal head coverage overlap.

The permittee shall undertake the development in accordance with the approved final landscape plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

3. **Storm Water Quality Management Plan.** PRIOR TO CONSTRUCTION, the Green Streets PDP Exempt Storm Water Quality Management Plan (SWQMP), dated January 22, 2018, shall be updated in accordance with the findings of a geotechnical investigation regarding site-specific soil-infiltration conditions. The 30% Plan sheets shall be updated, where needed, to reflect the final site drainage and BMP design. The final documents shall be submitted for review and written approval of the Executive Director.

4. **Construction Pollution Prevention Plan.** PRIOR TO CONSTRUCTION, a Construction Pollution Prevention Plan (CPPP) shall be submitted for review and approval. The plan shall incorporate the Best Management Practices cited in the preliminary SWQMP and the final SWQMP. In addition, the CPPP shall comply with the following requirements:

- (a) **Protect Public Access.** Construction shall protect and maximize public access, including by:
 - i. All construction methods to be used, including all methods to keep the construction areas separated from public recreational use areas (e.g., using unobtrusive fencing or equivalent measures to delineate construction areas), shall be clearly identified on the construction site map.
- (b) **Property Owner Consent.** The Construction and Pollution Prevention Plan shall be submitted with evidence indicating that the owners of any properties on which construction activities are to take place, including properties to be crossed in accessing the site, consent to use of their properties.
- (c) **Minimize Other Impacts of Construction Activities.** Other impacts of construction activities shall be minimized through the use of appropriate BMPs, including:
 - i. The damage or removal of non-invasive vegetation (including trees, native vegetation, and root structures) during construction shall be minimized, to achieve water quality benefits such as transpiration, vegetative interception, pollutant uptake, shading of waterways, and erosion control.
 - ii. Soil compaction due to construction activities shall be minimized, to retain the natural stormwater infiltration capacity of the soil.
 - iii. The use of temporary erosion and sediment control products (such as fiber rolls, erosion control blankets, mulch control netting, and silt fences) that incorporate plastic netting (such as polypropylene, nylon, polyethylene, polyester, or other synthetic fibers) shall be avoided, to minimize wildlife entanglement and plastic debris pollution.
 - iv. Staging and storage of construction equipment and materials shall occur in inland areas at least 50 feet from coastal waters, drainage courses, and storm drain inlets, if feasible. Upon a showing of infeasibility, the applicant may

submit a request for review and written approval to the Executive Director for staging and storage of construction equipment and materials closer than 50 feet from coastal water, drainage courses, and storm drain inlets. Construction is prohibited outside of the defined construction, staging, and storage areas.

- (d) Construction Site Map and Narrative Description. The Construction and Pollution Prevention Plan shall include a construction site map and a narrative description addressing, at a minimum, the following required components:
- i. A map delineating the construction site, construction phasing boundaries, and the location of all temporary construction-phase BMPs (such as silt fences, inlet protection, and sediment basins).
 - ii. A description of the BMPs that will be implemented to minimize land disturbance activities, minimize the project footprint, minimize soil compaction, and minimize damage or removal of non-invasive vegetation. Include a construction phasing schedule, if applicable to the project, with a description and timeline of significant land disturbance activities.
 - iii. A description of the BMPs that will be implemented to minimize erosion and sedimentation, control runoff and minimize the discharge of other pollutants resulting from construction activities. Include calculations that demonstrate proper sizing of BMPs.
 - iv. A description and schedule for the management of all construction-phase BMPs (including installation and removal, ongoing operation, inspection, maintenance, and training). Identify any temporary BMPs that will be converted to permanent post-development BMPs.

5. **Sign Program.** PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit plans for a comprehensive sign program, documenting all signage proposed for the development site. The comprehensive sign program plans shall be subject to the review and written approval of the Executive Director. These plans shall include the following:

- (a) No commercial or other advertising shall be permitted.
- (b) Roof or tall freestanding pole signs shall not be permitted and monument signs shall not exceed eight feet in height.

The permittee shall undertake development in accordance with the approved final sign plans. Any proposed changes to the approved final sign plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

6. **Local Coastal Program Amendment.** PRIOR TO THE ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, the City shall submit, for review and written concurrence of the Executive Director, documentation that the Coastal Commission has effectively certified Local Coastal Program Amendment No. LCP-6-ENC-18-0034-1, as necessary to ensure that the subject project is consistent with the City's certified LCP.

7. **North County Transit District Final Approval.** PRIOR TO THE ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for review and written concurrence of the Executive Director, documentation that the City and the North County Transit District have executed a final agreement to locate the proposed parking spaces, landscaping, and infrastructure improvements within North County Transit Right-Of-Way. An amendment to this permit will be required if any of the parking spaces are proposed to be removed in the future.

8. **Traffic Monitoring Plan.** PRIOR TO THE ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for review and written concurrence of the Executive Director, a traffic monitoring plan to monitor the performance of the project corridor, which requires the following:

- (a) Northbound and southbound travel time through the project corridor shall be measured on a Saturday or Sunday, a minimum of two separate days each month, during beach use and peak travel volume periods. Determination of the monitoring dates shall be randomized and selected for the entire year prior to September 1 of each year.
- (b) Provisions for submittal of a report to the Executive Director of the Coastal Commission by September 1 of each year (beginning the first year after construction of the project is completed). Annual reports shall be prepared and submitted for a period of 5 years after completion of project construction, and a final report 10 years after completion.

The applicant shall undertake monitoring and reporting in accordance with the approved final monitoring and reporting program. Any proposed changes to the approved final monitoring and reporting program shall be reported to the Executive Director. No changes to the approved final monitoring and reporting program shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

9. **Fence Plan.** PRIOR TO THE ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for review and written concurrence of the Executive Director, a fence plan, documenting all permanent fencing that is proposed for the development site. The fence plan shall be subject to the review and written approval of the Executive Director. The plan shall include the following:

- (a) Chain link fencing is prohibited.

- (b) Fencing shall consist of post and rail type fencing or an alternative fencing style that is compatible with the character or the surrounding area.

The permittee shall undertake development in accordance with the approved final fence plan. Any proposed changes to the approved final fence plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

10. **Parking Restrictions.** By acceptance of this permit, the applicant acknowledges and agrees to the following:

- (a) Paid parking within the three new parking bays on the east side of the Highway is prohibited.
- (b) Proposals for paid parking elsewhere in the project corridor will require an amendment to this permit.
- (c) Proposals for timed parking within the three new parking bays on the east side of the Highway or elsewhere in the project corridor will require an amendment to this permit.

IX. FINDINGS AND DECLARATIONS

The Commission finds and declares as follows:

A. PROJECT DESCRIPTION

A detailed project description is contained above within the Substantial Issue findings. The City has not modified the proposed project since the filing of the appeals. However, the City has provided additional information and analysis related to the proposed project. Specifically, the City has provided additional analysis related to the expected traffic circulation.

The standard of review is the certified City of Encinitas Local Coastal Program (LCP) and because the site is partially located between the first public road and the sea, the public access policies of Chapter 3 of the Coastal Act also serve as a standard of review.

B. PUBLIC ACCESS/RECREATION

The relevant public access and recreation policies of the Coastal Act and the City of Encinitas' certified LCP are cited in the Substantial Issue portion of the staff report, and are incorporated herein.

The public access and recreation policies of the Coastal Act and the City's certified LCP broadly protect public access for all by protecting and providing for access to the coast. Section 30210 requires that maximum access and recreational opportunities be provided and Section 30212.5 requires that public facilities be distributed throughout an area to mitigate against adverse impacts to the public. The City's LCP requires that the City provide a sensible circulation system for vehicles, while at the same time promoting public transportation, bicycle and pedestrian improvements.

Motor Vehicle Circulation

The proposed project is designed to reduce vehicular speeds, to increase formal parking availability, to upgrade public transportation infrastructure, and to improve safety and access for pedestrians and bicyclists within the project corridor. However, reduction in the number of travel lanes on a major coastal access route has the potential to adversely impact public access to the coast and to adversely impact the coastal route itself as a recreational amenity. Members of the public that don't live within the project corridor access the beaches and visitor serving businesses in the Leucadia community generally by driving north or south along North Coast Highway 101 from other coastal cities in San Diego County or by taking one of the perpendicular east west routes from I-5.

The project corridor is already highly congested during AM and PM peak times on weekdays, during high beach use times on weekends during the summer, and whenever the adjacent I-5 backs up. This congestion often results in long traffic jams within the corridor. The traffic backups are caused, in part, by the signalized intersection of Leucadia Boulevard and Highway 101. The intersection creates a 'bottleneck' because of the traffic volume on Leucadia Boulevard, which is a major east west thoroughfare, and because of the close proximity of the intersection to the adjacent railroad tracks and to Vulcan Avenue, which both parallel the Highway. In addition, the intersection is currently one of only two locations where north south traffic on Highway 101 must come to a stop between La Costa Avenue and Encinitas Boulevard. City staff has indicated that the only way to alleviate the bottleneck at this intersection would be to add additional travel lanes, which would require expanding the roadway, and thus is likely infeasible due to private property lying directly adjacent to the west side of the Highway and the railroad tracks along the east side of the Highway. The proposed underlying project does not propose any major changes to this intersection and both the northbound and southbound approach will retain the eastbound turn lane and two vehicular travel lanes in either direction. The City does expect that the project will result in longer queuing on the Highway north and south of the Leucadia Boulevard intersection due to the lane reductions. However, the traffic information submitted by the applicant indicates that approximately the same number of cars will be able to pass through this intersection each traffic cycle with construction of the project as without. The City's traffic consultant provided the following statement in traffic analysis memo, dated April 24, 2018 (Ref: [Exhibit 8](#)):

The project does not propose to change the number of lanes approaching the Leucadia Boulevard signal, so there will be no additional traffic constraint at this location with the project...

That is, the physical length of the queue will be longer because of the reduced storage capacity from the lane elimination, but the same number of cars will be in the queue. Thus, the project is not expected to worsen (or improve) the existing bottleneck at this intersection.

The other location where traffic on the Highway currently must stop is at the Marcheta Street stop sign near the southern end of the project area. The existing intersection at Marcheta Street and Highway 101 also creates a bottleneck that adds to traffic delays within the corridor. The Marcheta Street intersection is currently controlled by a three-way stop sign, such that cars traveling northbound and southbound on Highway 101 and cars entering the Highway from Marcheta Street must all stop. As proposed, the three-way stop will be replaced by a side street stop, such that only cars entering the Highway from Marcheta Street will be required to stop. This change is expected to result in significant northbound and southbound traffic flow improvements on the Highway.

As part of the EIR preparation process, the City completed a Traffic Impact Analysis (TIA) (Michael Baker International 2016). The TIA analysis defined the reduced northbound lane configuration undertaken without a permit in 2013 as the baseline/existing condition. However, as described in the “Detailed Project Description” above, the baseline/existing condition for the Commission’s findings of substantial issue and de novo CDP review of the subject application does not assume the unpermitted lane reduction. Instead, the baseline/existing condition assessed herein is the four lane Highway configuration that existed prior to the 2013 changes.

The City’s traffic consultants have provided analyses to demonstrate that the 2013 northbound lane reduction did not adversely affect traffic flow along the corridor (Ref: Michael Baker International 2015). Specifically, the City came to this conclusion primarily based on traffic data showing that northbound peak hour traffic counts taken in 2015 increased as compared to traffic counts taken in 2009, and because 2015 peak hour traffic volume along the modified section of the Highway remained significantly lower than the capacity of the single travel lane. Increased delays were observed for cars turning left onto northbound Highway 101 during AM peak hours from Jupiter Street, Grandview Street, and Bishops Gate Road, which the City attributed to the increase in southbound traffic between 2009 and 2015. The City did identify an increased delay between 2009 and 2015, for those cars turning left onto northbound Highway 101 during PM peak hours from Bishops Gate Road and attributed this increased delay primarily to the increase in northbound traffic volume, but also acknowledged that the lane reduction may act as a ‘secondary contribution’ to the delay. Based on the findings of the traffic analysis, it does not appear that the 2013 lane reduction has resulting in any temporal impacts to coastal access.

The TIA for the proposed project predicts that there would be roughly the same volume of car trips per day with construction of the project as with current traffic conditions (approximately 17,000 to 21,000 daily trips).¹ The TIA found that under current traffic

¹ The Traffic Impact Analysis based its analysis on traffic data obtained in April 2015.

conditions, there would be areas of improved traffic flow and areas where traffic flow worsened as a result of the proposed project.

At the request of Commission staff during the appeal review process, the City provided additional quantitative analysis of expected circulation effects of the proposed project in order to show that the proposed travel lane reductions would not result in significant adverse impacts to coastal access.

An analysis by the City's traffic consultant, dated June 5, 2018, found that under existing conditions with the project, the time it would take to drive through the approximately 2.4 mile project corridor would not take significantly longer than it currently takes to drive through the corridor. The travel time estimates were based on non-summer weekday travel time runs conducted on May 16, 2018 from one end of the study corridor to the other during AM Peak traffic hours, PM peak traffic hours, and midday. As described previously, the City's traffic consultants concluded that the 2013 lane reduction did not adversely impact traffic flow along the Highway and therefore the travel time findings would not significantly change had the analysis used the pre-2013 configuration as the baseline. The City's traffic consultants then used traffic modeling software, the May 16, 2018 travel runs, and available 24-hour directional traffic data previously obtained for one non-summer weekend day (May 16, 2009), one summer weekday (July 30, 2009), and one summer weekend day (August 1, 2009),² to extrapolate with and without project travel times through the corridor. The traffic analysis provides the follow travel time estimates:

- On a non-summer weekday it currently takes between 4.81 and 6.14 minutes to drive northbound through the corridor and with the project it is expected to take between 6.07 and 7.31 minutes to drive through the corridor, a maximum increase of less than two minutes.
- On a non-summer weekday it currently takes between 4.78 and 7.53 minutes to drive southbound through the corridor and with the project it is expected to take between 4.81 and 6.89 minutes to drive through the corridor, a maximum increase of less than one minute.
- On a summer weekday it currently takes between 4.88 and 7.17 minutes to drive northbound through the corridor and with the project it is expected to take between 6.17 and 8.84 minutes to drive through the corridor, a maximum increase of less than two minutes.
- On a summer weekday it currently takes between 5.46 and 7.91 minutes to drive southbound through the corridor and with the project it is expected to take between 5.49 and 7.23 minutes to drive through the corridor, a maximum increase of less than one minute.
- On a non-summer weekend during midday it currently takes 5.53 minutes to drive northbound through the corridor and with the project it is expected to take 6.97 minutes to drive through the corridor, an increase of less than one minute.

² The 2009 traffic data was collected on Highway 101 just north of Leucadia Boulevard.

- On a non-summer weekend during midday it currently takes 7.11 minutes to drive southbound through the corridor and with the project it is expected to take 7.15 minutes to drive through the corridor, an increase of less than one minute.
- On a summer weekend during midday it currently takes 6.49 minutes to drive northbound through the corridor and with the project it is expected to take 8.18 minutes to drive through the corridor, an increase of less than one minute.
- On a summer weekend during midday it currently takes 9.02 minutes to drive southbound through the corridor and with the project it is expected to take 9.07 minutes to drive through the corridor, an increase of less than one minute.

Thus, while some increase in travel time is expected as a result of the project, the expected travel time increase through the entire 2.4 mile project corridor would be less than two minutes under current conditions. It is unlikely that a two minute delay would discourage a member of the public from accessing the city's beaches or from going on a recreational drive in Encinitas along the Coast Highway. Furthermore, east-west access to the four primary beaches located adjacent to the project corridor (Grandview, Beacons, Stonesteps, and Moonlight) is not expected to be significantly impacted because beach goers have relatively direct access to the beaches from La Costa Avenue, Leucadia Boulevard, and Encinitas Boulevard.

The project TIA also considered traffic conditions under various scenarios with estimated traffic volumes and conditions for the year 2035. The traffic analysis is based on the San Diego Association of Governments (SANDAG) year 2035 Regional Growth Forecast. In year 2035, with the project, the City's traffic consultant estimates that the proposed lane reductions and roundabouts will cause a significant number of daily trips to be diverted from the Highway, primarily to Interstate 5. The future diversion is expected as a result of significant capacity upgrades planned for the I-5 freeway, the slower speeds on the Highway, and the reduced capacity of the Highway. The City's traffic consultant asserts that the vast majority of the diverted trips will be during AM and PM weekday peak hours and thus will consist primarily of commuters and not beach users. Diversion of traffic during prime beach use times (i.e. midday on weekends) is not expected because although the daily trips along the corridor on a summer weekend are expected to be higher than the daily trips during a weekday, the hourly traffic distribution is spread out over a longer time period and there are relatively high volumes in each direction, rather than just one direction at a time as occurs during weekday commutes. Furthermore, weekday commuters typically look for the fastest route between their point of origin and their destinations, while beach users and persons out for a scenic drive would not save time by diverting away from their destination. Even accounting for the regional population growth and corresponding increases in traffic volumes in the future, the proposed project is not projected to deter the public from accessing the City's beaches or taking a scenic weekend drive along the Highway.

The project opponents contracted an outside traffic engineer to review the project and provide the Commission with an additional traffic analysis (Ref: RK Engineering Group 2018 Traffic Study - [Exhibit 8](#)). The analysis makes the following assertions: 1) The City

traffic study did not include any analysis of the impacts to I-5 from the expected project diversion 2) The City traffic study incorrectly analyzed project impacts to the affected intersections and the delay times will be significantly longer than projected 3) The City traffic study conclusion that the project would not result in increased traffic on Neptune is counterintuitive.

In response to the contention that the diverted trips have the potential to adversely impact regional beach access by increasing traffic on I-5, the City asserts that the vehicles that divert to I-5 will represent a small sample of the total traffic on I-5 and that because primarily commuter traffic is expected to divert, that it is more appropriate for these trips to occur on I-5, which is better designed to accommodate regional trips.

In response to the opposition traffic memo's second contention related to intersection delays, the City provided the following statement:

"The Michael Baker International traffic study applies the industry-accepted HCM method to determine delay and Level of Service (LOS) at all signalized and unsignalized intersections. The calculations, reported delay, and LOS are accurate."

The City's traffic study found that traffic volume on Neptune Avenue in 2035 without the proposed project would actually be higher than expected traffic with the proposed project and that traffic volume on Neptune Avenue was not expected to change under current traffic conditions with the project. In response to the outside traffic engineer analysis, the City provided the following additional information related to the conclusion that the project would not result in vehicle diversion to Neptune Avenue:

"...Neptune Avenue operates as a one-way street in the northbound direction from approximately Sylvia Street to Grandview Street. Therefore, Neptune Avenue only provides a viable alternative route for northbound traffic, which is heaviest during the afternoon peak hour. The peak hour segment analysis for the With Project alternative show favorable levels of service along northbound Highway 101 during the peak hours so there is no reason for traffic to divert with the project. The detailed 2035 peak hour intersection volumes along Neptune Avenue are not projected to change between the No Build and With Project alternatives..."

With 2035 conditions, the TIA also found that there would be areas of improved traffic flow and areas of worsened traffic flow as a result of the proposed project. The City's traffic consultant also found that with 2035 conditions, the proposed project would result in reduced delays compared to the 2035 roadway conditions if the project is not constructed. The improved traffic conditions are expected to primarily result from the diversion of vehicle trips and from the improvements to the Highway 101 and Marcheta Street intersection.

A separate TIA for the project corridor, which was previously commissioned by the City, analyzed additional Streetscape alternatives (Ref: Linscott Law & Greenspan 2010). As detailed in this TIA, the alternative most similar to the current proposal, referred to as Alternative 4A, consists of narrowing the street to 1 northbound lane, leaving 2 southbound lanes, and constructing 5 roundabouts. In the Near-Term Estimated Travel

Time analysis (present day), the TIA found that travel time through the corridor would be approximately 13 minutes during PM peak hours and approximately 10 minutes during AM peak hours, with implementation of Alternative 4A. Alternative 4A and the proposed project are very similar for the northbound direction in that they both include one lane of traffic and nearly the same number and location of roundabouts. However, the 2010 analysis predicted significantly longer travel times through the corridor, as compared to the current proposal. When asked by Commission staff to explain the discrepancies, the City's current traffic consultant reviewed the 2010 TIA and identified various inconsistencies in the 2010 TIA between the calculated travel times and the underlying data. Therefore, the City concluded that the 2010 TIA results do not appear to be accurate or reliable. Thus, the City has continued to rely on the 2015 traffic analysis, which identified only minor delays resulting from the project.

In order to provide an additional source of review for the City's traffic analysis, Commission staff requested that the California Department of Transportation (Caltrans) review the submitted traffic analysis for the subject project. Caltrans provided a comment letter dated September 17, 2018, which is attached in the correspondence section of this agenda item. The Caltrans comment letter summarizes its review of the project during the preparation of the project's Environmental Impact Report (EIR) and the letter also provides input on the traffic analysis done by the City. During the EIR public review period, Caltrans requested that the City provide various traffic analysis technical Appendices. The City did not provide Caltrans with the requested technical Appendices at that time, and Caltrans has not provided an in depth review of the traffic analysis prepared by the City for this project. However, Caltrans staff has stated that the intersection and roundabout analysis methodology used by the City is different than the methodology that Caltrans uses to analyze intersections and roundabouts. Caltrans has not asserted that the methodology chosen by the City is invalid, but has stated that the methodology Caltrans would have used to analyze the project would result in greater expected delays and queuing on Coast Highway than the methodology chosen by the City.

The primary disparity in results between the two methodologies is based on the two models assuming a different amount of driver comfort level in negotiating roundabouts. The Caltrans model assumes most drivers are unfamiliar with roundabouts and thus will slow substantially when driving through them, while the City's model assumes that drivers will negotiate the roundabouts without substantial slowing. The Commission is not aware of any objective determination that one model or the other is clearly superior or more accurate; rather, this is a choice that traffic engineers make based on their professional judgments. The Commission finds that the TIA analysis supplies credible evidence of traffic impacts with or without the project.

Caltrans has also advised the City that while the project is expected to increase backups on adjacent freeway ramps as a result of the anticipated diversion of trips to I-5, Caltrans does not intend to make any modifications to ramp timing to alleviate backup. However, the City's traffic engineer contends that these backups are not expected to adversely

impact public coastal access, as they would occur during weekday peak periods and not during prime beach use.

In summary, it appears that the project, while slowing traffic through the corridor, will have minimal impacts on travel time overall, and in particular no significant impacts to public coastal access during weekends. The project is not expected to have an effect on the primary bottleneck point within the corridor (Leucadia Boulevard and Highway 101) and is projected to improve traffic flow at the secondary bottleneck with the corridor (Marcheta Street and Highway 101). In addition, the projected delays at the adjacent Freeway on-ramps are not expected to adversely impact beach access, and traffic volumes on Neptune Avenue, the coastal road that runs parallel to the Highway, are not expected to be affected. Furthermore, the City has documented that the lane reduction undertaken in 2013 did not significantly impact traffic conditions along the corridor and an outside review by Caltrans did not find that the City's traffic study was invalid.

The subject project is the first large-scale project in Encinitas that results in reduced lanes on Highway 101. However, the City has previously proposed to reduce the number of travel lanes on Highway 101 in the southern portion of Encinitas to facilitate a separated bike lane (Ref: NCC-NOID-0001-17/Cardiff Rail Trail). In the case of the Cardiff Rail Trail, the Commission denied the proposed Highway 101 lane reduction and instead required that the new bike lane be located on an adjacent roadway that was able to accommodate the bike lane without removal of a travel lane. Because there may be future projects involving reductions in traffic lanes, it is important to document the impact of this project and ensure the subject project results are consistent with the City's traffic projections. Therefore, Special Condition 8 requires that the City design a traffic monitoring plan to measure northbound and southbound travel times through the corridor a minimum of two days per month on Saturdays or Sundays during beach use and peak travel volume periods. The Special Condition requires that the City submit the result of the monitoring annually to the Commission by September 1 of each year beginning the first year after construction of the project is completed for a period of five years, and then a final report after 10 years.

Project Alternatives

Although minimal impacts to coastal access are expected, it is still important to evaluate project alternatives. The City analyzed various alternatives to the proposed project during the local review process and during the appeal review process. In the project EIR, the City analyzed a project alternative that retained four lanes of traffic called the "Four-Lane Corridor Alternative." The four lane alternative would retain two lanes of traffic in each direction, and add the proposed roundabouts, bike lanes in each direction, and sidewalk improvements.

The EIR found that this alternative would be the environmentally superior alternative because it would potentially improve emergency response times and would result in lesser traffic impacts than the proposed project. However, the City rejected this alternative because it did not meet several of the project goals and objectives. Subsequent to the local approval of the project, the City undertook a more detailed review of the Four-Lane Corridor Alternative. Through the additional review, the City determined that there would not be sufficient room to

construct two-lane roundabouts within the project corridor, which was one of the primary reasons that the EIR found this alternative to be the environmentally superior alternative. In addition, the City elaborated on the project goals and objectives that would not be met with this alternative. The City asserts that there would not be room for the planned left turn lanes or the park assist lane, as they would increase congestion due to additional queuing and would also adversely impact bicyclist safety. In addition, the proposed bike lanes would be reduced in width, parking capacity would be reduced because there would not be adequate room for reverse angle parking, trees and landscaped areas would be reduced, the speed limit would not be reduced, and through traffic would not be diverted off of the Highway.

The Four-Lane Corridor Alternative is similar to the Highway 101 Streetscape Project in Solana Beach that the Commission approved in March 2012 (CDP 6-11-079/Solana Beach Streetscape Project). The Solana Beach project included improvements to 0.9 mile of northbound and southbound Highway 101. The project retained four lanes of traffic and created a Class II bike lane northbound and a shared bike lane southbound. The project resulted in the addition of 27 front angle parking spaces. The Solana Beach project also added two new traffic lights and four new pedestrian crossings. In contrast to the subject project, the Solana Beach project did not include Class II bike lanes in each direction, a park assist lane, or any roundabouts. Thus, the City determined that this alternative would not meet its goals for the Streetscape project.

The City also evaluated a three lane alternative, with two lanes northbound and one lane southbound or two lanes southbound and one lane northbound and determined that this alternative did not meet the project goals. Specifically, there would not be room for the planned park assist lane which would increase congestion due to additional queuing and the proposed bike lanes would be reduced in width. In addition, the City's traffic consultant determined that this alternative would have minimal effect as far as reducing traffic speeds and could even worsen circulation conditions if drivers were forced to merge and un-merge before and after each single lane roundabout.

As described previously, the project proposes up to six roundabouts within the project corridor. Five of the six roundabouts are clustered at the northern portion of the corridor. Commission staff requested that the City study an alternative that included fewer roundabouts. Instead, the City provided additional rationale for the roundabout quantity and spacing. The City asserts that the closely spaced roundabouts result in improved road safety by calming traffic and discouraging drivers to accelerate between long stretches without roundabouts. In addition, the City contends that the roundabouts will better facilitate vehicles making left turns onto the Highway, from the community on the seaward side of the Highway. In addition, at El Portal Street, the planned roundabout will coincide with the location of a planned rail underpass and enable easier Highway crossing for pedestrians. Furthermore, the City has explained that only one roundabout is planned along the southern portion of the corridor because additional traffic calming is not necessary due to the existence of the Leucadia Boulevard and Encinitas Boulevard traffic signals, which already result in reduced traffic speeds.

While there are many distinguishing characteristics, the proposed roundabout and corridor design does share some similarities with a project constructed on La Jolla Boulevard in the Bird Rock community of La Jolla. The Bird Rock project was approved by the City of San Diego (it is not entirely clear whether it should have been processed as an appealable CDP). The Bird Rock project resulted in a reduction of La Jolla Boulevard from a four-lane roadway with center a left turn lane and signals at five intersections to a two-lane roadway with five roundabouts. The daily traffic volumes on this stretch of roadway were similar to the current traffic volumes on Highway 101 in Leucadia. A follow up study of the Bird Rock project after project completion reported that traffic crashes dropped by 90%, vehicle speeds were reduced by more than half, noise levels were reduced significantly, and pedestrian crossing times were reduced from 24 seconds to four seconds. In addition, travel times through the corridor are reported to have decreased as a result of the project due to the removal of the five traffic signals. The Bird Rock project is distinct from the subject project in that La Jolla Boulevard is not an alternative north-south route in close proximity to I-5 and the route is not used by “through” traffic commuters. Nevertheless, it provides some data suggesting there beneficial results from installation of roundabouts.

Thus, staff concurs that the proposed project best meets the project goals and there is not an alternative project that would significantly reduce impacts to coastal resources or public access circulation.

Public Parking

The parking within the corridor is heavily used to support the visitor-commercial businesses, and to a lesser degree, beach access. As described previously, there are currently approximately 277 formal public on-street vehicle parking spaces along the west side of the Highway within the project corridor. The project would add another 134 formal vehicle parking spaces and 39 motorcycle parking spaces. The additional parking spaces primarily result from the construction of three parking areas along the east side of the Highway within the NCTD ROW.

However, there is currently informal parking between the railroad tracks and the east side of Highway 101, parking which the public has used for many years. Since the proposed project includes a new sidewalk along the entire extent of the east side of the northbound lane, the project will eliminate any opportunity to continue to use the informal parking. The City contends that the existing informal parking is not permitted and therefore, the City did not include the existing informal parking when evaluating the total number of existing parking spaces currently located within the corridor. In addition, the NCTD provided a letter to the Commission during the appeal review process stating that “... *[Neither] The Coastal Commission, nor the City of Encinitas, should evaluate any existing “informal parking” on NCTD’s railroad ROW for the purposes of any project. Should the Coastal Commission or the City wish to utilize any portion of the NCTD ROW for any purpose, a written agreement with NCTD would be required and any such use would need to be compatible with NCTD’s railroad use and not impact safety, maintenance or operations...*” Nevertheless, this area is regularly used by the public to park, and a parking study commissioned by the City and dated January 24, 2018, found that there are currently 471 “informal/illegal” parking spaces adjacent to the east side of the Highway within the project corridor (Chen Ryan 2018).

In order to estimate the level of usage of this area, the Leucadia 101 Main Street Association, a non-profit business group in support of the proposed project, conducted aerial drone photography of the informal parking area on Friday and Saturday, June 1 and 2, 2018 in the morning, afternoon, and early evening each of the two days. Based on the drone flights, the Association found that the highest usage occurred Friday evening with 129 cars and that between 50 and 86 cars were parked in the dirt area during the other survey times. In addition, a local resident and project opponent provided the Commission with a comment letter stating that residents of Leucadia had counted over 200 cars parking at one time on three separate occasions in the parking area from Wednesday May 9, 2018 to Friday June 9, 2018 in the evening hours and that four additional resident surveys between the hours of 12 PM and 5 PM on Saturdays in June and one Sunday in July counted between 126 and 216 cars using the parking areas.

Although these are informal surveys, it is clear that there is a demand for parking in this area that could be impacted by the proposed project, as the project would remove all of the informal parking, and add only 176 spaces. However, this parking was never formally authorized, and has always been subject to removal by the property owner, NCTD. Many of the existing informal spaces are not ideally located for public parking, as they require crossing the Highway in locations that do not have crosswalks. Furthermore, periods of high usage appear to occur more often in the evening hours to support the popular bars and restaurants along the corridor and not during prime beach use times. The inland side of the Highway is at least 700 feet from any of the beach accessways, and thus unlikely to be a prime source of beach parking. Thus, while the project may reduce the overall availability of parking, it will provide new formal, permanent parking, and impacts to coastal access are expected to be minimal.

The Commission has historically found that paid parking and parking time limits can adversely impact the beach-going public (Ref: 6-11-079/ Solana Beach Streetscape Project; 6-15-2123/Del Mar Paid Parking). In order to ensure the parking spaces remain accessible, Special Condition 10 prohibits paid parking for the three new parking bays on the east side of the Highway and requires that the City obtain an amendment to this permit for any future proposals for paid parking elsewhere in the project corridor. In addition, the Special Condition requires an amendment to this permit for any future proposals for timed parking within the three new parking bays on the east side of the Highway or else elsewhere in the project corridor. Special Condition 10 also requires the City to provide three exclusive “Rideshare” pickup and drop off locations within the Highway corridor adjacent to the Grandview, Beacons, and Stonesteps beach access points. If proposed public parking spaces are used to meet this requirement, the “Rideshare” spaces shall be limited to a maximum of six parking spaces. Thus, as conditioned, the proposed parking improvements result in an increase in available formal parking in the project corridor, ensure that parking within the three new parking bays on the east side of the Highway will be free of charge in perpetuity, and provide for improved access through the provision of “Rideshare” locations, which additionally provide alternative transportation options that support the Land Use Plan’s Circulation Element Goal 3 and Policy 3.2.

However, NCTD has not provided the City with final approval to construct the parking bays. Furthermore, in a comment letter dated January 13, 2017, NCTD stated that the proposed improvements within the NCTD ROW must not conflict with future rail operations and planned improvements in the ROW, including the alignment required for double-tracking maintenance access, grade crossing and signal improvements, and the Coastal Rail Trail. In response to the NCTD comment, the City stated in the EIR that “... *With respect to the project's proposed parking pockets in the NCTD ROW, it is expected they would be partially removed, as necessary, to accommodate these planned NCTD/SANDAG improvements.*” Without construction and retention of the parking bays in the NCTD ROW, the project would result in a net loss of parking spaces in this corridor. If parking along the Highway corridor is reduced, then commercial parking is likely to push into the adjacent neighborhoods to the west of the Highway, impacting already constrained available beach parking. Therefore, Special Condition 7 requires that the applicant execute a final agreement to locate the proposed parking spaces in the NCTD ROW prior to issuance of this Coastal Development Permit and requires that the City obtain an amendment from the Commission if any of the formal parking spaces are proposed to be removed in the future. The NCTD comment letter also stated that fencing along the entire eastern border of the Highway and new parking areas may be required. Special Condition 9 prohibits chain link fencing from being installed anywhere along the project corridor and requires that any fencing that is installed be post and cable or a similar design that fits in with the character of the Leucadia community. Special Condition 9 requires that the City submit final fence plans to the Commission and clarifies that no changes to the approved final plans shall occur with a Coastal Commission approved amendment to this permit, unless the Executive Director determines that no amendment is legally required.

Bicycle and Pedestrian Enhancement

The portion of Highway 101 where the subject project is proposed is heavily used by recreational cyclists. As described previously, the project will replace the existing primarily shared bike lanes with separated bike lanes both southbound and northbound for the entire project corridor. In addition, the proposed project is expected to improve bicycle safety through the installation of a park assist lane between the southbound bicycle lane and the proposed reverse angle parking. The park assist lane is designed to prevent the need for motorists to block the bike lane while attempting to park. The proposed project also includes new bike racks dispersed throughout the corridor. Thus, the proposed project would result in significant safety and access improvements for bicyclists.

The San Diego Association of Governments (SANDAG) is in the planning stages to construct a portion of the Coastal Rail Trail parallel to the project corridor. The Coastal Rail Trail is a planned continuous bike route that, when completed, will run approximately 44 miles between Oceanside and Downtown San Diego. The Commission approved the Coastal Rail Trail in concept as part of the I-5 Public Works Plan (PWP-6-NCC-13-0203-1/NCC PWP/TREP). SANDAG recently began construction of the initial Encinitas segment of the Coastal Rail Trail in the Cardiff community to the south of the subject project corridor (NCC-NOID-0001-17/Cardiff Rail Trail). Project opponents have

argued that the proposed bike lane and eastern sidewalk included in the subject Streetscape Project are redundant of the planned Coastal Rail Trail. However, as approved in concept by the Commission, the Leucadia portion of the Coastal Rail Trail can be constructed on either the east or west side of the railroad tracks. Thus, there is no guarantee that the Coastal Rail Trail will be constructed in the area between Highway 101 and the railroad tracks. In addition, the Coastal Rail Trail is intended to serve as a shared use path for both pedestrian and bicyclists, while the planned Class II bike lanes included with the Streetscape Project will likely be used by bicycle commuters and serious recreational cyclists.

The Leucadia community along Highway 101 has numerous visitor-commercial businesses and is within a relatively short walk from the shoreline. There are currently intermittent areas of sidewalk along the west side of the Highway and along the east side of the Highway there are currently sections of paved and unimproved dirt trails. As proposed, there will be a large continuous sidewalk along the west side of the Highway. Along the east side of the Highway, the City would construct either a stabilized decomposed granite (DG) trail or concrete sidewalk or both, which would extend continuously between Encinitas Boulevard and La Costa Avenue. The improved sidewalks and aforementioned crosswalks will create a welcoming environment for pedestrians and result in a significant public access improvement.

Public Transportation

The only public transportation services within the corridor are northbound and southbound bus routes along Highway 101. As proposed, six of the existing bus stops within the project corridor would be removed based on poor ridership and the remaining bus stops would be relocated to maximize ridership. The proposed project includes bus turn out bays at 16 bus stops (eight stops on the west side of the Highway and eight stops on the east side of the Highway). The locations of the proposed bus stops were determined through coordination with the North County Transit District (NCTD). Each bus stop will also include a crosswalk. Some relocated bus stops would be improved with ADA-compliant shelters and benches, and all would have night lighting. The majority of the existing northbound bus stops within the project corridor do not have nearby crosswalks to get to the homes, businesses, and public beaches located to the west of the Highway. Thus, public transit users are forced to illegally and unsafely cross the Highway or to walk a significant distance to reach one of the two cross walks at Marcheta Street or Leucadia Boulevard. With the proposed project, the number of crosswalks within the project corridor would increase to a total of 14; two of the new crosswalks would be signalized. Thus, with the project, it will be much easier and safer to cross the Highway, which will improve access for people that already use the bus in this location and will potentially result in increased public transit usage.

With special conditions that require evidence of a final agreement for public parking in the NCTD ROW, a traffic monitoring plan, and a parking management plan, the proposed project, which has been designed to maximize and protect access and recreational

opportunities, is consistent with the public access and recreational policies of the Coastal Act and the City of Encinitas certified LCP.

C. WATER QUALITY

Pertinent LCP provisions are as follows:

Resource Management Goal 1:

The City will conserve, protect, and enhance the water resources in the Planning Area.

Resource Management Goal 1:

The City shall make every effort to improve ocean water quality.

Resource Management Policy 2.1:

POLICY 2.1: In that ocean water quality conditions are of utmost importance, the City shall aggressively pursue the elimination of all forms of potential unacceptable pollution that threatens marine or human health.

North 101 Corridor Specific Plan Section 2.2.4

INFRASTRUCTURE & PUBLIC SAFETY

A. Eliminate flooding and improve drainage.

B. Underground utilities and provide more lighting.

The subject project will result in a reduction of impervious area by approximately 4%, reducing the impervious area within the project corridor from 72% to 68%. This impervious area is equal to approximately 0.7 acre and will primarily consist of new landscaped areas. The underlying project also proposes to install various water quality improvements. These improvements include use of permeable gravel surfaces for parking areas within the NCTD ROW and construction of curbs and gutters that would funnel water to new bio-retention basins, where water would then enter new underground storm drain piping that would connect to existing storm drain infrastructure. In addition to reducing pollutants from reaching the shoreline, these measures will help to decrease the instances of localized flooding that currently occurs in the project corridor. The subject project has not been designed to entirely address the flooding issues that result within the site from drainage from the watershed outside the project boundaries. Fully addressing flooding issues that result from large storm events would entail a significantly larger infrastructure investment and is not a primary goal of the project. Instead, the project adequately addresses any contribution to flooding which directly results from the development. Furthermore, the project EIR correctly concludes that bioremediation and project water quality BMPs address project-associated wet and dry-season runoff, in

accordance with established protocols. The analysis used by the City to evaluate runoff generated within the project boundaries follows normal procedures and is adequate for sizing the BMPs proposed to be built. Flooding during large storm events is a larger issue and is not resolved by this project.

Non-native or invasive landscaping on the subject site has the potential to impact San Elijo Lagoon to the north or San Dieguito Lagoon to the south either through runoff from the site or seeds that could be transported offsite by winds or animals. Therefore, Special Condition 2 has been attached which requires the site be landscaped with drought-tolerant native and non-invasive species and that the landscaping be maintained over the lifetime of the development. In addition to beautifying this scenic Highway, the use of drought tolerant native or non-invasive species will reduce the need for water and fertilizers and, thereby, reduce polluted run-off. Special Conditions 3 and 4 ensure that the proposed development will not have an adverse impact on any sensitive habitat and, as conditioned, will not result in erosion or adverse impacts to water quality, as adequate drainage and runoff controls will be provided. Thus, the project, as conditioned, is consistent with the Water Quality policies of the City of Encinitas' certified LCP.

D. COMMUNITY CHARACTER AND VISUAL RESOURCES

The City's certified LCP requires that the special character of communities such as the community of Leucadia, where the underlying project is proposed, be preserved. The relevant Community Character and Visual Resource policies of the City of Encinitas' certified LCP are cited in the Substantial Issue portion of the staff report, and are incorporated herein.

The proposed streetscape improvements will be on Highway 101, which is designated as a state scenic Highway in the Encinitas Resource Management Element. Along this stretch of the Highway there are no views of the ocean or the shoreline due to the elevated topography between Coast Highway and the coast. However, the northern portion of the project corridor is defined by large eucalyptus trees, which are an important aspect of the community character of the coastal community of Leucadia. Currently, there are 392 trees in the project corridor. The eucalyptus trees provide a canopy over the streets and sidewalks. Many of the trees are more than 100 years old. As proposed, 90 trees will be removed, five of which are eucalyptus trees. Thus, the project will result in a loss of some of the iconic eucalyptus trees. However, 302 existing trees in the project corridor will be retained and 839 new trees will be planted, resulting in nearly three times the numbers of trees as currently exist in the corridor.

In addition, the proposed project includes spaces throughout the corridor for installation of temporary and permanent public art pieces. However, as Highway 101 is a designated scenic Highway, the Commission is concerned that advertising or other large signs could be installed which would lessen the visual compatibility of the project with the surrounding area and create a visual blight along this scenic corridor. Therefore, Special

Condition 5 prohibits large signs or commercial or other advertising from being placed anywhere within the project area.

As conditioned, the proposed project can be found consistent with the Community Character and Visual Resource policies of the City of Encinitas' certified LCP.

E. UNPERMITTED DEVELOPMENT

Development has occurred on the subject site without required coastal development permits including, but not limited to, elimination of a northbound travel lane on Highway 101 between Leucadia Boulevard and La Costa Avenue in order to install a dedicated bike lane 2013. The City has included the portion of the Highway subject to the 2013 lane elimination in its 2018 CDP approval, which is the subject of this appeal. The City's proposal includes a request for after-the-fact approval of the work undertaken without a CDP in 2013.

Although development occurred prior to the submission of this permit application, consideration of this application by the Commission has been based solely upon the City's certified LCP and the public access and recreation policies of the Coastal Act. Commission review and action on this permit application does not constitute a waiver of any legal action with regard to the alleged violation nor does it constitute an admission as to the legality of any development undertaken on the subject sites without a coastal permit.

F. LOCAL COASTAL PLANNING

The City of Encinitas received approval of its LCP in November of 1994 and began issuing coastal development permits on May 15, 1995. The City of Encinitas City Council approved the subject development on March 21, 2018. Because a portion of the development is located between the sea and the first coastal roadway (Highway 101 from Grandview Street to La Costa Avenue) and because the project as a whole is a major public works project with a cost greater than approximately \$277,000, it falls within the Commission's appeals jurisdiction. On April 11, 2018, April 12, 2018, and April 16, 2018, the development approval was appealed to the Coastal Commission. The standards of review are the policies and ordinances of the certified LCP and the public access and recreation policies of the Coastal Act.

As described above in Section V. (1) of the Substantial Issue section of this staff report, the subject project requires approval of an LCP Amendment. The companion LCP Amendment would modify the City's certified Land Use Plan and Implementation Plan to allow for a reduction in travel lanes on Highway 101 within the North Corridor Specific Plan Area. Suggested modifications recommended for the LCPA include the addition of a new LUP Circulation Element Policy, which would require that prior to modifying a major coastal access roadway that has a current or projected future Level of Service E or worse at one or more intersections or roadway segments (with or without the proposed development), a quantitative analysis projecting the change in travel time resulting from the project along the roadway must be undertaken to determine if coastal access will be impacted. The new policy further requires that the travel time analysis be

derived from an adequate number of travel time surveys and shall address the prime beach use and peak travel volume periods on at least two weekends between Memorial Day and Labor Day, and that roadway modification projects be accompanied by public access benefit enhancements promoting multi-modal access.

The subject permit has been conditioned to be consistent with the LCPA as modified, with the exception of one modification that requires projects involving modifications to major coastal roadways analyze traffic data from two summer weekends. The subject project evaluated data for one summer weekend. However, the suggested modifications regarding future requirements for traffic surveys are not intended to be retroactively applied to projects already approved by the City, as with the subject project. As described herein, the proposed project can be found consistent with the LCPA as proposed and with the public access policies of the Coastal Act. Special Condition 6 requires that prior to issuance of this CDP, the City provide documentation to the Executive Director showing that the Coastal Commission has effectively certified Local Coastal Program Amendment No. LCP-6-ENC-18-0034-1, as necessary to ensure that the subject project is consistent with the City's certified LCP.

G. CONSISTENCY WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment. The City prepared and certified Environmental Impact Report (EIR) No. 2015091084 for the LCP amendment request and the Highway 101 Streetscape project coastal development permit supported by the LCP amendment. The EIR concluded that the project would result in potentially significant effects on traffic circulation and fire protection services. The effects on fire protection services would be mitigated to below a level of significance by staging of emergency response vehicles by the Fire Department in the project corridor prior to construction of the four roundabouts. However, the EIR identified significant and unavoidable impacts to the southbound North Highway 101 segment between Leucadia Boulevard and El Portal Street (during Year 2035 Alternative 1 Plus Sustainable Mixed-Use Places (SMUP) AM peak hours); and the southbound 1-5 on-ramp from Leucadia Boulevard (during the Year 2035 Plus Project AM peak hours for both Alternatives 1 and 2 scenarios). The City found that there were no feasible mitigation measures or design alternatives available to reduce effects on traffic circulation to below a level of significance. Thus, the City certified the Final Environmental Impact Report (FEIR) on March 30, 2018 with overriding considerations regarding those unavoidable impacts. In the Statement of Overriding Considerations, the City found that the project benefits

would outweigh the unavoidable impacts to traffic circulation. Commenters have questioned whether the City's CEQA document relied on the proper baseline, as the City relied on the baseline of environmental conditions from 2013, after removal of the northbound lane between Leucadia Boulevard and La Costa Avenue. The City has responded that it complied with CEQA law, including Guideline 15125(a), which sets the normal baseline as the physical environmental conditions as they exist as environmental review is noticed or begun. Nevertheless, this report has analyzed both sets of conditions as part of considerations under the Coastal Act and the City's LCP policies.

The standard of review for the coastal development permit is the City's certified Local Coastal Program (LCP) and the public access and recreation policies of the Coastal Act. The proposed project has been conditioned in order to be found consistent with the City's LCP and with the public access and recreation policies of the Coastal Act. Mitigation measures, including conditions addressing parking management, landscaping, water quality, signage, LCP consistency, traffic monitoring, and fencing will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally-damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

APPENDIX A

SUBSTANTIVE FILE DOCUMENTS:

- Certified City of Encinitas Local Coastal Program (LCP)
- City of Encinitas North 101 Corridor Specific Plan
- City of Encinitas Planning Commission Resolution No. 2018-12 received April 2, 2018
- City of Encinitas Final Resolution No. 2018-34 received April 2, 2018
- Final EIR and EIR Appendices dated February 2018 by Michael Baker International
- EIR Appendix H: Traffic Impact Analysis dated November 29, 2016 by Michael Baker International
- 30% Project Plans by Michael Baker International received April 2, 2018
- Landscape Plans by MW Peltz and Associates, Inc. received 04/02/2018
- Appeal by Commissioner Padilla dated April 12, 2018
- Appeal by Commissioner Turnbull-Sanders dated April 12, 2018
- Appeal by Donna Westbrook dated April 16, 2018
- Appeal by Doug Fiske dated April 11, 2018
- Appeal by Spencer and James Mosher dated April 16, 2018
- Appeal by Christine Wagner, Robert Hemphill, Leah Bissonette, Susan Turney, Lynn Marr, Franz Birkner, Alice Lemon, Richard Kingsland, and David Smith dated April 16, 2018
- Traffic Impact Analysis Highway 101 Streetscape, by Linscott Law & Greenspan, dated January 5, 2010
- City of Encinitas Coastal Mobility & Livability Study Parking Study, Draft Report, by Chen Ryan, dated January 24, 2018
- Traffic Impact Analysis, by Linscott Law & Greenspan, dated January 5, 2010
- Traffic Memo: Comparison of Traffic Conditions for the Before (Year 2009) and After (Year 2015) striping changes along Highway 101, by Michael Baker International, dated June 12, 2015
- Traffic Memo: Encinitas North Coast Highway 101 Streetscape Project Traffic Summary, by Michael Baker International, dated April 24, 2018
- Traffic Memo: Encinitas North Coast Highway 101 Streetscape Project Supplemental Traffic Analysis, by Michael Baker International, dated June 5, 2018
- Traffic Memo: Methodology Applied for Travel Time Estimates, by Michael Baker International, dated June 19, 2018
- Highway 101 Streetscape Traffic Impact Study Review, City of Encinitas, by RK Engineering Group, dated July 18, 2018
- NCC-NOID-0001-17/Cardiff Rail Trail
- CDP 6-11-079/Solana Beach Streetscape Project
- PWP-6-NCC-13-0203-1/NCC PWP/TREP