

CALIFORNIA COASTAL COMMISSION

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W11a

A-6-ENC-19-0032 (DCM PROPERTIES, INC.)

JULY 8, 2020

CORRESPONDENCE



Leighton and Associates, Inc.

A LEIGHTON GROUP COMPANY

DCM Properties, Inc.
Post Office Box 234293
Encinitas, California 92024

Attention: Mr. David Meyer

Subject: Property Mitigation Plan – La Costa 48
510 and 514 La Costa Avenue
Encinitas, California 92024

Leighton and Associates, Inc. would like to present this letter to further address the handling of soil materials impacted by organochlorine pesticides (OCPs) for the subject project. Based on the results of our extensive studies performed at the site and our professional experience with similar projects in the area, we would like to make the following statements:

- Onsite encapsulation of OCPs is a highly regulated standard, safe and preferred mitigation practice throughout the State of California, including in the Coastal Zone.
- Leighton performed a Human Health Risk Assessment as part of the Property Mitigation Plan for the project and concluded that once soils exceeding residential screening levels were encapsulated at the property there would be no further risk to human health or the environment. More specifically, there will be no further health risk on any lots within the subject project, including between lots with and those without encapsulated soils.
- The onsite OCP materials have been tested and determined to be nonsoluble and are not mobile within the existing soil at the site. This material is not subject to migrating to the water table below the site, that is over 50 feet below the encapsulated material.
- Encapsulating the impacted material at the site, is the environmentally preferred alternative for the handling of this material, as it will decrease the carbon footprint of the project by eliminating the need for exporting this material and importing soil to replace it.

If you have any questions regarding our letter, please do not hesitate to contact this office. We appreciate this opportunity to be of service.

Respectfully submitted,

LEIGHTON AND ASSOCIATES, INC.



Roy N. Butz, PG 8942
Senior Project Geologist
Extension: 8489, rbutz@leightongroup.com



Item W11a - Weston Project (A-6-ENC-19-0032)

July 8, 2020 Hearing

→ Commission staff recommendation: *Approve CDP with conditions.*

The project site, perched approximately 70-feet above the Batiquitos Lagoon, is located in the City of Encinitas, just west of Interstate 5 (I-5) on La Costa Avenue. The Weston Project proposes the subdivision of approximately 14-acres into 48 single-family residential lots. Two existing occupied single-family residential units are present in the northeastern portion of the site and are proposed to remain. The site was previously used for agricultural purposes that ceased approximately four years ago. The project has an approved Tentative Map (TM), Design Review Permit (DR) and a certified Environmental Impact Report (EIR).

Substantial Issue Hearing Items

- Commission comment: Increase public access to lagoon views on northern boundary.
✓ *How addressed*: Over 1,100 feet of additional public trail provided onsite.
- Commission comment: Remove affordable units from encapsulated soils area and disburse units.
✓ *How addressed*: Relocated affordable units from encapsulation area and disbursing affordable units in project.

Project Highlights

- Preserves landform/visual character with an emphasis on the lagoon border.
- Provides a lower density lagoon interface as compared to neighboring development.
- Preserves and protects coastal inland bluffs and open space areas and protects onsite mature trees.
- Captures Batiquitos Lagoon views to the north and east from an expanded public trail and an eastern lagoon overlook.
- Provides onsite affordable housing units in excess of state Density Bonus law requirements.
- Reflects over 5-years of public input and unanimous approval by the City.

Project Density

- The project reflects an environmentally preferred density meant to protect the lagoon, inland coastal bluffs and surrounding biological resources.

Public Access Amenities

- In response to Commission comments, the site plan has been refined in cooperation with Commission staff to maximize public access by expanding the project trail system along the northern and eastern border of the project site adjacent to the lagoon.
- All trails are outside of environmentally sensitive areas, including the 100-foot wetlands buffer.
- 47 street public parking spaces will be provided onsite to access the public amenities.

Abatement of Impacted Soils

- The project site has impacted soils resulting from past agricultural uses (i.e. pesticides). The constituents contained in the soils have been deemed low-level, non-hazardous materials by local regulatory agencies.
- As is standard practice and as provided for under California law, encapsulation of low-level impacted soils has been vetted and determined acceptable by the jurisdictional agencies, including:
 - ✓ California Department of Toxic Substances Control (DTSC),
 - ✓ San Diego County Department of Environmental Health (DEH),
 - ✓ San Diego Regional Water Quality Control Board (RWQCB),
 - ✓ City of Encinitas, and
 - ✓ California Coastal Commission water quality staff.
- Commission water quality staff has verified that the pesticides in the impacted soil are not water-soluble and therefore are not capable of impacting groundwater or the lagoon.
- As an extra measure, placement of encapsulated soil is located away from the lagoon.

Affordable Housing

- The project will include 4 very low-income affordable homes -- one additional home in excess of state Density Bonus requirements.
- In response to Commission comments, the applicant worked with Commission staff such that no affordable housing units will be on encapsulated soil.
- Affordable units have also been distributed across the project site.

Water Quality

- The project design minimizes offsite drainage by maximizing onsite retention and infiltration.
- Stormwater will be fully captured and treated on-site. Treated stormwater will only leave the site during major storm events (statistically 4 times in 100 years), otherwise stormwater is fully retained, treated and infiltrated onsite.
- The quality of this treated storm water runoff will be substantially improved compared to existing conditions.
- The Commission's water quality staff has reviewed the project Best Management Practices (BMPs) and confirmed they address pollutants that could result from the future community.

Biological Resources

- A biological assessment prepared for the proposed project determined that there are no sensitive species on the site.
- A nesting bird survey is required prior to any construction activities onsite.
- In addition to a 70-foot elevation separation between the lagoon and the site, a 100-foot wetlands buffer will be maintained, where no development can occur.
- An open space preservation easement will ensure protection of the inland bluffs.
- CDFW manages the Batiquitos Lagoon and with the adopted mitigation measures raised no objections to the project.

Traffic Impacts

- The project mitigates peak hour traffic impacts in the AM/PM hours.
- The project traffic study included a worst-case, conservative approach to the traffic analysis.



TORY R. WALKER ENGINEERING
RELIABLE SOLUTIONS IN WATER RESOURCES

July 2, 2020

DCM Properties, Inc.
Attn: Mr. David Meyer
P.O. Box 232280
Encinitas, CA 92023

RE: Relevance of TMDLs to Batiquitos Lagoon and Weston Project

Dear Mr. Meyer,

In the context of water quality, a question has been raised regarding the relevance of Total Maximum Daily Loads (TMDLs) to the Batiquitos Lagoon, and more specifically to the proposed Weston project. The purpose of this letter is to address this question. In short, there are no TMDLs associated with Batiquitos Lagoon, nor would TMDLs apply to the proposed Weston project if TMDLs were established for Batiquitos Lagoon, or for any portion of the larger San Marcos Creek watershed.

TMDLs have been adopted by the San Diego Regional Water Quality Control Board (Water Board) for several water bodies in San Diego (Region 9) to address impairments within those water bodies. Batiquitos Lagoon is NOT one of those water bodies. Neither is San Marcos Creek, of which Batiquitos Lagoon is the terminus.

Additionally, some water bodies in San Diego Region 9 that are on the Section 303(d) List of Water Quality Limited Segments for water quality impairments are also being investigated by the Water Board for possible regulatory action, including the possibility of adopting TMDLs. San Marcos Creek is NOT one of those water bodies being considered. Perhaps of equal importance is the fact that while several lagoons north and south of Batiquitos Lagoon (e.g., Loma Alta Slough, Buena Vista Lagoon, and San Elijo Lagoon) are specifically identified apart from the creeks draining to them and called out for possible regulatory actions, Batiquitos Lagoon is NOT included in that list.

Next, implementation of TMDLs is not project-specific, but rather programmatic. In other words, where TMDLs do apply to an impaired water body (which, as established above, does not apply to San Marcos Creek – including Batiquitos Lagoon), the TMDLs are implemented through the programs and authority of the Water Board, not through other entities establishing conditions on individual projects. The Water Board's TMDL Program develops *regional plans* to restore and protect water bodies. It provides a framework for evaluating pollution control efforts and for coordination between federal, state and local agencies to restore waters and meet water quality standards. Specific projects do not fit within that framework.

Finally, but most definitely not last in importance, we must note that the storm water quality management plan of the proposed Weston project far exceeds the current minimum required water quality standards. This fact is established by recognizing that the project's storm water will be infiltrated after being filtered through state-of-the-art bioretention treatment systems. Simply put, the project will not discharge storm runoff, let alone polluted storm runoff. In fact, statistically, only 4 times in every 100 years will runoff be



Weston Project
July 2, 2020

observed from the project. Very few projects can achieve this high level of combined storm water treatment and infiltration. This fact is also supported by the rigorous reviews undertaken by the City of Encinitas Engineering Staff, as well as several other public agencies (including Coastal Commission staff).

If you have any questions, please do not hesitate to let me know.

Sincerely,

Tory R. Walker, PE, CFM, LEED GA, QISP
President

BATIKUITOS LAGOON FOUNDATION

LETTERS OF OPPOSITION

SPANGLER FIRM

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W11a

July 7, 2020

Hon. Chair Steve Padilla and Commissioners
California Coastal Commission
Via Electronic Submission Only

RE: De Novo Hearing on Appeal No. A-6-ENC-19-0032 / DCM Properties, Inc.

Dear Hon. Chair Padilla and Commissioners:

Please allow this correspondence to provide additional comments on behalf of appellant Batiquitos Lagoon Foundation (BLF) in preparation for the July 8, 2020 de novo hearing on Appeal No. A-6-ENC-19-0032. The BLF also submitted a detailed response to the Staff Report on July 3, 2020.

We are in receipt of the July 3, 2020 Addendum to the Staff Report, clarifying that certain wooden greenhouse structures on the property have been demolished and removed by the applicant pursuant to an abatement order issued by the Encinitas Fire Marshal. Similarly, we have reviewed correspondence to the Commission from BLF board member and environmental consultant David Hill, dated July 6, 2020, and echo his concerns. We further note, the Staff Report describes the proposed project as the “demolition of existing structures on the site, subdivision of the site into 48 residential lots, grading, and utilities.” The Addendum suggests that only certain “fallen” wooden greenhouse structures identified by the Fire Marshal as a fire hazard have been removed from the site. Indeed, since the September 11, 2019 Substantial Issue hearing, the site has been completely cleared of all structures, with the exception of the two existing residences located on the northern and northeastern portion of the property. As the demolition was performed as an abatement action rather than as part of the construction contemplated by the CDP, the BLF is concerned that the conditions imposed by the City of Encinitas’ approved CDP – which specifically apply to the demolition of the “existing

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RE: Appeal No. A-6-ENC-19-0032 / DCM Properties, Inc.

greenhouses and associated structures,” and require the applicant to engage in protocols designed to protect the community and coastal resources – may not have been followed when the applicant completed the demolition process earlier this year. Certainly, the applicant did not provide notice to the BLF nor to local residents near the site.

As the Staff Report notes, at the September 11, 2019 Substantial Issue hearing, the Commission found that the applicant’s initial proposed siting of the “very low income” units in the proposed project did not comply with the environmental justice policies of the Coastal Act. Notably, all four units were proposed to be concentrated in the southeast corner of the site (closest to the existing neighboring gas station on La Costa Avenue). Additionally, three of the four units were proposed to be constructed on top of OCP impacted soil burial sites. While the BLF is pleased that Commission staff was able to convince the applicant to disperse the very low income residences, the residences still appear to be concentrated in the southern portion of the site, abutting La Costa Avenue. The applicant’s rationale for concentrating these residences on one end of the project – for management efficiency – makes little practical sense where the site is less than 14 acres and will only consist of 48 homes at completion. A truly equitable distribution of the four proposed very low income homes throughout the subdivision, including near the public access parks and trails, would more fully address the Commission’s concerns related to environmental justice and provide an opportunity for low income residents to fully enjoy living near the coast.

On July 6, 2020, the BLF and the applicant’s representatives met telephonically to discuss the BLF’s concerns related to the project. In an effort to demonstrate its good faith, the BLF offered to assist DCM Properties, Inc., with providing educational signage on the proposed public access trail. DCM refused the BLF’s offer, noting that the BLF’s opposition to the project, as approved by the City of Encinitas, has caused DCM and the applicant delays and financial hardship. Unfortunately, the parties were unable to reach consensus on any issue.

The BLF stands by its July 3, 2020 correspondence to the Commission and respectfully requests that the Commission deny the project on appeal. Alternatively, the BLF requests that the Commission approve the project only subject to the following additional conditions:

- 1) The applicant/project developer shall be required to remove and safely dispose of all of the OCP-impacted soil at an approved off-site location;
- 2) The applicant/project developer shall be required to conduct water quality testing of the Batiquitos Lagoon waters adjacent to the planned drainage outlets prior to issuance of the CDP and prior to issuance of the final certificate of occupancy for the residences to establish a baseline;

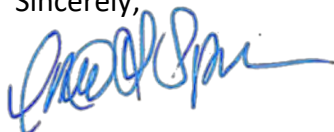
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- 3) The applicant/project developer shall be required to coordinate with the BLF to establish and post educational signage for the public access trails;
- 4) Phase 2 of the project's proposed public access trail system shall be completed no later than the date upon which certificates of occupancy are issued for 75% of the residences within the subdivision, or by a date certain (i.e., one year after substantial completion of the Project or six months after the close of escrow of more than 60% of the homes), rather than upon the future improvement or demolition of the existing residences;
- 5) The applicant/developer shall plan for, design and commit to investigate and, if feasible, construct access to link the Project with the forthcoming North Coast Bikeway within two years of substantial completion of that project along I-5 between the La Costa Avenue and Poinsettia Lane/Aviara Parkway exits;
- 6) The applicant/developer shall meet with and obtain the CALTRANS and SANDAG approved I-5 Widening and Environmental Mitigation plans prior to the issuance of a CDP;
- 7) The projects two public access parks shall be separated from the Project's stormwater retention system;
- 8) Prior to the issuance of a CDP, the applicant/developer shall be required to study the impact of the on-site burial of OCPs and wastewater treatment system on the Batiquitos Lagoon in accord with U.S. EPA/600/R-06/037F; and
- 9) The applicant/developer shall more evenly distribute the four very low income homes throughout the subdivision.

Conclusion

The BLF appreciates your time and consideration and looks forward to addressing the Commission at its July 8, 2020 virtual hearing.

Sincerely,



Arie L. Spangler

July 7, 2020

Hon. Chair Steve Padilla and Commissioners

California Coastal Commission

RE: Appeal No. A-6-ENC-19-0032 / DCM Properties, Inc.

cc: Batiquitos Lagoon Foundation, Board
Dennis D. Davis, San Diego District, California Coastal Commission

SPANGLER FIRM

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W11a

July 3, 2020

Hon. Chair Steve Padilla and Commissioners
California Coastal Commission
Via Electronic Submission Only

RE: De Novo Hearing on Appeal No. A-6-ENC-19-0032 / DCM Properties, Inc.

Dear Hon. Chair Padilla and Commissioners:

I represent the Batiquitos Lagoon Foundation (BLF), a non-profit entity dedicated to preserving, enhancing and protecting of the Batiquitos Lagoon open water preserve and associated watershed, as designated by the City of Carlsbad Habitat Management Plan (HMP). The Batiquitos Lagoon is a listed impaired body of water that connects with the Pacific Ocean to the west.

The BLF has reviewed the Staff Report for the July 8, 2020 de novo hearing on Appeal No. A-6-ENC-19-0032, which was posted to the California Coastal Commission's website on June 26, 2020. Please allow this correspondence to provide a summary of BLF's concerns related to Staff's recommendations for approval.

Initially, as a bona fide stakeholder in this development, the BLF should have been contacted by and given an opportunity to consult with the developer throughout the process. Therefore, as a condition of the issuance CDP, this Commission should consider issuing a strong recommendation that the developer consult with the BLF at all stages of this development in the future concerning the Batiquitos Lagoon Ecological Reserve (BLER) area. Moreover, the BLF's concerns for the ecological health and preservation of the precious natural resources in the lagoon should be strongly considered in every aspect of this Project.

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Hon. Chair Steve Padilla and Commissioners
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On May 14, 2019, the BLF timely appealed the City of Encinitas' approval of a Coastal Development Permit (CDP) for a tentative map for a 48-unit density bonus residential subdivision proposed on a 13.944 gross (11.346 net ¹) acre agricultural and residential site consisting of three parcels located between La Costa Avenue, west of the I-5 freeway and the south shore of the Batiquitos Lagoon in Encinitas ("Project"). According to the application for the Project that was submitted to the City of Encinitas by DCM Properties, Inc. and the Weston family (collectively, "Weston"), the Project proposes the following: "Demolish former greenhouses and associated structures on the site and subdivide 3 existing lots into 48 residential lots (with 4 lots dedicated for 4 affordable dwellings); construct public access trails and viewpoints; grading/utilities, and landscaping on a 13.94-acre lot. Two existing residential units to remain." (See also, Staff Report, page 1.)

For the reasons detailed herein and as will be presented at the public hearing on this matter, as stewards of the Batiquitos Lagoon, the BLF respectfully requests that the Commission deny the issuance of a CDP for the Project. Alternatively, the BLF requests that the Commission continue the hearing on its de novo review and direct Staff to more carefully review the impacts this Project will have on the state's coastal resources, including the Batiquitos Lagoon, the Pacific Ocean and public beaches. While the BLF appreciates Staff's effort to address some of the issues raised in its appeal, additional conditions should be imposed to better mitigate the substantial impacts that this project will have on coastal resources, public access and the surrounding coastal environment, and to ensure consistency with the City of Encinitas' certified Local Coastal Program (LCP) and the Coastal Act.

Objection to Irregularities in Virtual Hearing Procedures and Notice Requirements

Preliminarily, the BLF notes that it was not provided with a copy of the Staff Report for this hearing; nor was it provided with any notice that the Staff Report had been posted to the agenda on the Commission website. Indeed, the BLF was timely notified by Staff that the hearing had been set for the July agenda and the Staff Report would be posted no later than Thursday, June 25, 2020. While members of the BLF routinely checked the website throughout the day on June 25, 2020, the Staff Report was not available until mid-morning on June 26, 2020.

The BLF further objects to Staff's position that any comments would need to be submitted no later than noon on Friday, July 3, 2020 to ensure distribution to the Commission. The Commission website, under the "Rules & Procedures" tab, provides, as follows: "To ensure distribution to the Coastal Commission prior to consideration of the item on the agenda, please

¹ The Project application submitted to the City of Encinitas indicates that the "net site area" is 11.346 acres after subtracting dedications, private streets and slopes, as required by the City's Municipal Code.

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submit comments prior to 5:00 P.M. the Friday before the Coastal Commission meeting.” While the BLF acknowledges that the submission of comments after noon on the Friday before the Independence Day holiday weekend may be inconvenient, where no other rule has been posted, it is unfair for the Commission to attempt to impose new rules without any public notice.

Second, while we understand and appreciate the procedural and practical difficulties imposed by the state’s Covid-19 shelter in place orders and associated necessary virtual hearing procedures, the BLF is concerned that its and the general public’s due process rights have not been sufficiently respected since the Commission’s first virtual hearing in May 2020.

After observing the May 2020 virtual hearing, the BLF is concerned that members of the public may be deprived their opportunity to be heard on important matters before the Commission. The BLF’s members and members of the public who wish to be heard by the Commission may be unfairly, illegally and improperly deprived of that opportunity due to the Virtual Hearing Procedures. As described in its Virtual Hearing Procedures, Commission Staff controls the public’s participation in the virtual hearing through its ability to leave the public in the virtual waiting room (unidentified and silent) during the hearing until Staff invites them in. Staff also has the power to “mute” and “unmute” public speakers. The BLF requests the Commission’s agreement to provide transparency by asking Staff to identify the members of the public who have submitted speaker slips, and those who are in the virtual waiting room, at the beginning of the hearing on each item. This would ensure that the Commissioners will take note of the total number of individuals who have indicated a desire to speak, and will similarly provide the public with the opportunity to be heard.

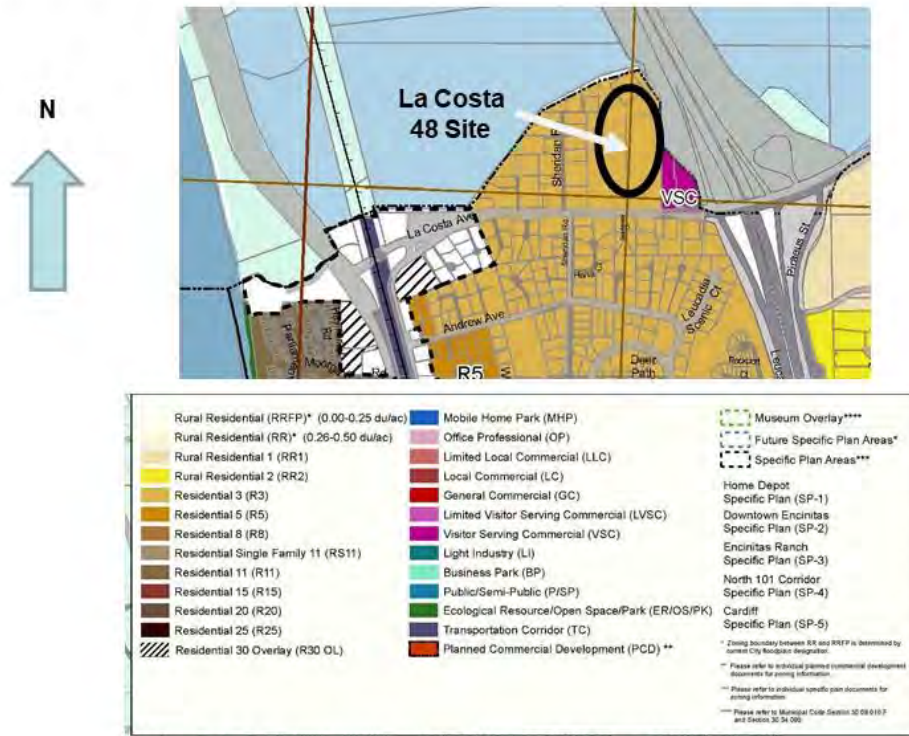
Substantive Project Issues

Scenic/Visual Corridor Overlay Zone

The City of Encinitas Special Purpose Overlay Zones, as defined in Chapter 30.34 of the Encinitas Municipal Code, include: the Coastal Bluff Overlay Zone; the Hillside/Inland Bluff Overlay Zone; the Floodplain Overlay Zone; the Cultural/Natural Resources Overlay Zone; the Agricultural Overlay Zone; the Public Facilities Overlay Zone; the Specific Plan Overlay Zone; and the Scenic/Visual Corridor Overlay Zone. The La Costa 48 project site is located within the Scenic/Visual Corridor Overlay Zone.

The graphics below depict the project area zoning, including identifying the Scenic/visual Corridor Overlay Zone. The zoning map legend is also included.

City of Encinitas Scenic/Visual Corridor Overlay Zone Map



The area surrounding the Project site is often referred to as the “Gateway” between Encinitas and Carlsbad, and represents one of the few remaining scenic areas with views of the Pacific Ocean and the Batiquitos Ecological Reserve and State Marine Conservation Area (No Take). La Costa Avenue and the I-5 offer public views of the lagoon and Pacific Ocean.

The Project site can also be viewed from the high bluff area to the east (i.e., the Skyloft Road). Leucadia is an incredibly unique community with many unique single-family homes on large lots. Many residents have lived in the area for decades. This Project, as well as many other development projects currently under construction and in various stages of planning, will significantly change Leucadia’s unique character. Projects like the hotel being constructed above South Carlsbad Beach (“Ponto”) at La Costa Avenue and Highway 101 to the west, and the widening of I-5 and the North County Bikeway to the east will have an extreme impact upon the visual character of this unique coastal area.

The BLF is extremely concerned with the precedent that will be set, the change in character that will ensue (especially in light of the increased density), the reduction of the visual appeal of the area, and the increased traffic that will be generated if the Project is approved as proposed. The BLF strongly recommends that the Coastal Commission require the developer to address the Scenic/visual Corridor Overlay Zone impacts to the maximum extent possible.

The certified LCP includes the following goals and policies that the Commission must follow and consider in its deliberations:

Land Use Element –

- GOAL 1: Encinitas will strive to be a unique seaside community providing a balance of housing, commercial light industrial/office development, recreation, agriculture, and open space compatible with the predominant residential character of the community.
- POLICY 1.12: The residential character of the City shall be substantially single-family detached housing.
- GOAL 3: To assure successful planning for future facilities and services, and a proper balance of uses within the city, the City of Encinitas will establish and maintain a maximum density and intensity of residential and commercial uses of land within the City which will:
 - Provide a balance of commercial and residential uses which creates and maintains the quality of life and small-town character of the individual communities; and
 - Protect and enhance the City's natural resources and indigenous wildlife.
- GOAL 6: Every effort shall be made to ensure that the existing desirable character of the communities is maintained.
- GOAL 7: Development in the community should provide an identity for the City while maintaining the unique identity of the individual communities.
- GOAL 9: Preserve the existence of present natural open spaces, slopes, bluffs, lagoon areas, and maintain the sense of spaciousness and semirural living within the I-5 View Corridor and within other view corridors, scenic highways and vista/view sheds as identified in the Resource Management Element.

- POLICY 9.1: Encourage and preserve low-density residential zoning within I-5 Corridor while preserving the best natural features and avoiding the creation of a totally urbanized landscape and maintain I-5 Interchange areas to conform to the specifications of this overall goal. The City will develop an I-5 view corridor plan to implement this policy.
- POLICY 9.2: Encourage retention of buffer zones such as natural vegetation or earth barriers, bluffs, and canyons to protect adjacent areas of freeway corridor from pollutants of noise, exhaust, and light.
- POLICY 9.5: Discourage development that would infringe upon scenic views and vistas within the I-5 corridor.

Resource Management Element –

- GOAL 3: The City will make every effort possible to preserve significant mature trees, vegetation, and wildlife habitat within the Planning Area.
- POLICY 3.6: Future development shall maintain significant mature trees to the extent possible and incorporate them into the design of development projects.
- POLICY 4.5: The City will designate “Scenic/Visual Corridor Overlay” areas within which the character of development would be regulated to protect the integrity of the Vista Points according to the following criteria:

Critical viewshed areas should meet the following requirements:

- extend radially for 2,000 feet (610M) from the Vista Point; and
- cover areas upon which development could potentially obstruct, limit, or degrade the view.

Development within the critical viewshed area should be subject to design review based on the following:

- building height, bulk, roof line and color and scale should not obstruct, limit, or degrade the existing views;
 - landscaping should be located to screen adjacent undesirable views (parking lot areas, mechanical equipment, etc.
- POLICY 4.6: The City will maintain and enhance the scenic highway/visual corridor

viewsheds.

- POLICY 4.9: It is intended that development would be subject to the design review provisions of the Scenic/Visual Corridor Overlay Zone for those locations within Scenic View Corridors, along scenic highways and adjacent to significant viewsheds and vista points with the addition of the following design criteria:
 - Road Design
 - Type and physical characteristics of roadway should be compatible with natural character of corridor, and with the scenic highway function.
 - Development Design
 - Building and vegetation setbacks, scenic easements, and height and bulk restrictions should be used to maintain existing views and vistas from the roadway.
 - Off-site signage should be prohibited, and existing billboards removed.
 - Development should be minimized and regulated along any bluff silhouette line or on adjacent slopes within view of the lagoon areas and Escondido Creek.
 - Where possible, development should be placed and set back from the bases of bluffs, and similarly, set back from bluff or ridge top silhouette lines; shall leave lagoon areas and floodplains open, and shall be sited to provide unobstructed view corridors from the nearest scenic highway.
 - Development that is allowed within a viewshed area must respond in scale, roof line, materials, color, massing, and location on site to the topography, existing vegetation, and colors of the native environment. (Coastal Act/30251/30253)

Density Bonus/Affordable Housing

The proposed Project, situated on approximately 13.944 gross (11.346 net) acres, substantially increases the maximum allowed density that would typically be permitted by the site's R3 zoning, from no more than 33 units, to 48 proposed units. DCM achieves this substantial increase in density through the State Density Bonus law and its agreement to build four "very low income" homes as part of the Project.

As the Commission found during its September 11, 2019 substantial issue hearing on this appeal, as approved by the City, DCM's proposed placement of all four of the "very low income" homes in a cluster in the southeast corner of the subdivision, where DCM also proposes to bury toxic, pesticide laden soil, may violate the Commission's environmental justice policies.

While the BLF is pleased that DCM has revised its site plan and currently plans to scatter the homes throughout the southern boundary of the Project, with none of the "very low income" homes planned to be constructed above toxic soil burial locations, it remains concerned that the City's approval of this project failed to sufficiently address the necessity of the numerous waivers of development standards that have been granted in order to facilitate the design high density subdivision. For example, as the size of and environmental constraints imposed by the Project site would typically be insufficient to accommodate 42 new high-end single family homes, in addition to 4 "very low income" homes and the 2 existing homes on site, the City granted waivers to the developer to reduce required front, side and interior setbacks, construct homes on panhandle lots with shared driveways, provide access to the 6 northernmost lots via a 16' shared private driveway, and to construct only private streets (for a reduction in the width typically required by the City) throughout the Project. While these waivers may be permitted under State Density Bonus Law, the result will be a high density tract subdivision with narrow streets, limited access to light and air, and limited public parking. The Project, as proposed, is simply uncharacteristic of the surrounding coastal community, which is known for its large lots and unique custom homes. The uncharacteristically high density of this Project also exacerbates the impact the Project will have upon the issues identified by the BLF, as discussed in further detail below.

Transportation and Circulation

Given the Project's location off La Costa Avenue – an important and highly traveled corridor providing access to the coast and public beaches along Highway 101 from the I-5 and eastern neighborhoods in Carlsbad and Encinitas and adjacent inland communities (including those within the cities of San Marcos, Escondido, etc.) – a complete analysis of the Project's impacts

upon transportation and circulation is crucial to determining whether the CDP should be approved by the Commission on appeal.

The circulation element of the City's certified LCP addresses transportation and circulation issues, as follows:

- GOAL 1: Encinitas should have a transportation system that is safe, convenient, and efficient, and sensitive to and compatible with surrounding community character. (Coastal Act section 30252)
- POLICY 1.2: Endeavor to maintain Level of Service C as a basic design guideline for the local system of roadways understanding that the guideline may not be attainable in all cases.
- POLICY 1.3: Prohibit development which results in Level of Service E or F at any intersection unless no alternatives exist, and an overriding public need can be demonstrated.
- POLICY 1.19: The City will provide for adequate levels of maintenance of all improved components of the circulation system, such as roadways, sidewalks, bicycle facilities, roadway drainage systems, pedestrian, recreational trails, bicycle trails and facilities.
- POLICY 2.4: When considering circulation patterns and standards, primary consideration will be given to the preservation of character and safety of existing residential neighborhoods. Where conflicts arise between convenience of motorists and neighborhood safety/community character preservation, the latter will have priority.
- POLICY 3.3: Create a safe and convenient circulation system for pedestrians. (Coastal Act section 30252)

The Project site is accessed from La Costa Avenue, a two-lane local road that is currently used by more than 14,000 vehicles per day. The certified EIR determined the proposed Project could cause a substantial increase in traffic in relation to the existing traffic load and capacity of the street system (i.e., the increased traffic from residents of the 48 homes and visitors to those homes will result in a substantial increase in either the number of vehicle trips, the volume-to-capacity ratio on roads, and/or congestion at nearby intersections). The Project's traffic impacts will cause the northbound level of service to change from a "D" or "E" to a "D" or "F." The

southbound level of service will change from an “A” to an “F.”² (EIR, Table 3.10- 9.) Thus, the Project’s traffic impacts are inconsistent with the City’s LCP policies of endeavoring to maintain Level of Service C, prohibiting development that results in Level of Service E or F and preserving community character and safety for the existing residential community. Neither the City nor the Commission can make a finding that an overriding public need for this Project justifies the substantial impact to traffic that will result from the addition of 46 new homes on the Project site.

Surprisingly, the City found that any significant traffic adverse impacts would be reduced to “less than significant” with the implementation of mitigation measure TRA-1, which requires the addition of a left turn lane from La Costa Avenue onto Seabreeze Court, and the addition of pedestrian walkways along La Costa Avenue. These measures cannot sufficiently mitigate the traffic congestion and safety hazards that will result from project residents and guests leaving the project, with most expected to turn left out of the Project, toward I-5 and/or El Camino Real to the east. When exiting the project onto La Costa Avenue, vehicles will need to navigate across an uncontrolled lane of busy oncoming traffic traveling toward Highway 101, while also monitoring and safely entering the highly traveled destination lane traveling toward I-5.

The certified EIR and its required mitigation measures also ignore the probable future cumulative impacts³ of other proposed and approved development projects in the surrounding community, including the Encinitas Beach Resort on Highway 101 at the western terminus of La Costa Avenue, Surfers Point timeshare resort on the northeast corner of Highway 101 and La Costa Avenue (recently denied by the City of Encinitas Planning Commission and subject to appeal to the City Council) and Ponto Beach/South Carlsbad resort and mixed use development in the City of Carlsbad, all of which will add more traffic to La Costa Avenue. The failure to analyze cumulative impacts with probable future projects “precludes informed decision-making and informed public participation, thereby thwarting the statutory goals of the EIR process.” (*Irritated Residents v. County of Madera* (2003) 107 Cal.App.4th 1383, 1391.)

The proposed project area and the area bordering Encinitas and Carlsbad represent one of the last developable areas along the coast of both cities. The border also is considered by many as a “gateway” between both cities. During our review and analysis over the years as this project

² While La Costa Avenue appears to run in an east-west direction (i.e., from I-5 to the east and Highway 101 to the west), the certified EIR references it as running north- south. As the certified EIR describes traffic/circulation impacts as “northbound” and “southbound”, this appeal will reference the same for consistency.

³ “Cumulative impacts” refer to two or more individual effects which, when considered together, are considerable or which compound or increase others.

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was being reviewed and leading up to this de novo appeal hearing, we discovered 13 other, unrelated, projects in the vicinity that are being constructed, in the planning/permitting process or in the early stages of submittal. Included in these projects is the I-5 Widening and linked Environmental mitigation projects, as depicted graphically below:



The list of projects currently under construction or in the planning stages in the vicinity of the Project includes:

- Encinitas Beach Resort (Under construction);
- Rose Nursery (future high density residential project, currently being cleared of greenhouses);
- Cannon Properties (one being considered for high density residential development and the other for open space dedication);

- La Costa Living Estates (senior care facility, in planning stages);
- La Costa Hotel (boutique hotel adjacent to Project site, in planning stages);
- Surfer's Point (recently denied by Encinitas Planning Commission with a possible appeal pending before the Encinitas City Council);
- Encinitas Streetscape Project (reconfiguring Highway 101 in Leucadia by eliminating at least one lane and installing a 60" storm drain system that will drain into Batiquitos Lagoon and extend through the area near the Project site);
- Newage Carlsbad Luxury Hotel (Kam Sang property on the bluff overlooking the lagoon, currently in the planning process in Carlsbad);
- Construction of a bluff-top trail in Carlsbad across the lagoon from the La Costa 48 project site as mandated by a settlement agreement with the Coastal Commission and the Rosalena HOA (plans approved with construction to start soon);
- I-5 widening project (Phase 2) from San Elijo Lagoon through to north of Palomar Airport Road (discussed in further detail in Public Access Trails section, below)
- Replacement of the existing NCTD railroad bridge across the lagoon and double tracking.

The cumulative impacts of all of these proposed projects in the area bordering Encinitas and Carlsbad at the western end of the Batiquitos Lagoon represent a traffic disaster waiting to happen for the community and visitors to the area's coastal resources, including beaches near the Project site. Construction alone in the area will create gridlock. Public safety will be put at significant risk whether driving, biking, or walking. Construction dust will severely impact air quality issues.

DCM has and continues to take the position that the intersection ratings will actually improve and are not significant. The BLF strongly questions whether and to what extent the cumulative impacts of other proposed projects in the vicinity were actually analyzed and considered.

Public Access Trails

At the Commission's September 11, 2019 substantial issue hearing, the Commissioners identified the public access issue as a significant concern with the Project. As a result, Staff is currently recommending a condition requiring the developer to construct a phased 1,200 public access trail along the Project's northern and northeastern edge boundaries, above the lagoon.

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Two passive parks are also proposed. (See Staff Report, page 2.) While the BLF generally supports any condition requiring the addition of public access trails and recreational areas, the BLF has three issues associated with proposed trail and parks.

First, while a welcome addition to the Project, Staff's recommended condition related to the addition of a public access trail along the bluff edge, above the lagoon, permits the developer to construct the trail in two phases. According the Staff Report, Staff agreed to permit the construction of the trail in two phases due to the purported location of existing private improvements on the site – notably, a shed and fence utilized by the Weston family. As no other details related to these improvements are included in the Staff Report or Project application package submitted to the City, the BLF requests that Staff and/or DCM provide verification that these improvements – which currently encroach into the 25' bluff edge setback – should be permitted to remain as legal nonconforming structures. If the improvements are not legal, since they are within the 25' bluff edge setback, any Project approval should be conditioned upon removal of any and all illegal and unpermitted improvements, which would allow construction of the trail to progress in one phase, providing certainty that the public will be provided with access to the complete trail upon completion of the Project.

As proposed by Staff, construction of phase 2 of the trail is contingent on the redevelopment or reconstruction of the two existing Weston family residences on the site. As the Weston family is poised to reap significant financial benefits as a result of the proposed subdivision of their three existing parcels into 48 separate lots, in addition to upgraded site infrastructure (i.e., the elimination of the existing septic system and connection to a new public sewer) that will benefit their two existing residences, the BLF urges the Commission to condition any approval of the Project with a requirement that the entire trail be completed no later than the date upon which more than 75% of the certificates of occupancy are issued for the proposed homes in the Project. Alternatively, the BLF recommends that the Commission condition the construction of phase 2 of the trail by a date certain (i.e., one year after substantial completion of the Project or six months after the close of escrow of more than 60% of the homes) rather than upon the future improvement or demolition of the existing residences, which is uncertain and may not occur for decades.

Second, while DCM previously indicated that it intends to build a link to the proposed North Coast Bikeway from the Project, it has summarily dismissed the idea of linking the Project to the Bikeway, contending that the Bikeway would not be completed for 30+ years. This ignores the fact all I-5 widening environmental mitigation projects (which included the North Coast Bikeway) have already been approved by SANDAG and the Coastal Commission (i.e., Commission Consistency Determination hearing, agenda item W21c-6-2019) and is fully designed and shovel-ready. The Bikeway project is currently only awaiting funding. With the

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post Covid-19 era and another economic stimulus package expected that will likely include federal investment in infrastructure, it is reasonable to assume that the Bikeway will begin construction sometime within the next decade, and most likely within the next 3 to 5 years, not in 30+ years.

Below are CALTRANS diagrams of the proposed North Coast Bikeway Trail project (along additional development projects) that show the Bikeway passing just to the east of the Project site.



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Renderings of the proposed bike and pedestrian trails are provided below:



(Project site in upper left corner.)

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(Connection to Bikeway from north shore/Aviara Batiquitos Lagoon trail.)



(Proposed northbound view of the Bikeway, with Project site below left.)

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Accordingly, if the Commission is inclined to approve the Project, the BLF requests that the Commission condition its approval with a requirement that the Project developer plan for, design and commit to construct access to link the Project with the forthcoming North Coast Bikeway within two years of substantial completion of that project along I-5 between the La Costa Avenue and Poinsettia Lane/Aviara Parkway exits. The BLF further requests that the Project be conditioned upon the requirement that the developer meet with and obtain the CALTRANS and SANDAG approved plans during design, with all actions completed prior to the issuance of a CDP.

Third, the two proposed parks, while a nice community amenity, are sited on the Project's two stormwater retention areas. While DCM proposes that the two sites will usually be dry and will be landscaped, the BLF is concerned that the planned use of these stormwater basins for recreation could be problematic during the rainy season. With climate change and sea level rise, we can also expect to experience an increase in both frequency and intensity of storm events. What used to be 100-, 50- and 20-year rain events can now be expected to occur much more frequently. The BLF is genuinely concerned for public safety and for what could become a community eyesore, may not be used, and may serve as a breeding ground for mosquitos and the diseases they carry. Accordingly, the BLF requests that the La Costa 48 development project be conditioned to make the two parks separate from the Project's stormwater retention system (i.e., locate them elsewhere within the development).

Encinitas' certified LCP includes the following relevant policies that support the BLF's position:

- POLICY 2.2: Provide and maintain an inter-linking network of trails for horseback riding, hiking, and bicycling; and minimize the cost of the trail system by encouraging the use of drainage channels, flood plains, existing trails, public lands, excess street rights-of-way, and major utility rights-of-way. (Coastal Act/ 30212.5/ 30252)
- POLICY 4.5: Design and construct attractive bike paths and pedestrian ways along existing freeway overpasses and underpasses. Discourage separate pedestrian overpasses. (Coastal Act/30252)

Further, the Encinitas Coastal Mobility and Livability Study (updated September 26, 2016) references the possible addition of a public viewpoint at the northeast corner of La Costa Avenue and the I-5 (i.e., the same location as the Project site). The study further contemplates a future public bike trail adjacent to I-5 southbound lanes.

Finally, any approval of the Project, with its proposed public access viewing area, should also be conditioned upon linkage to the future public recreational trail system with adequate signage

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designating the proposed viewing area in the Project as a public access coastal viewpoint as required by Sections 30210 and 30212 of the Coastal Act.

Signage and Public Education Opportunities

If approved, the installation of signage within and adjacent to the Project will present many opportunities for collaboration with the BLF that will make the parks, trails and interior paths and walkways more educationally informative and pleasant for the community, including future residents and the public.

As a 501(c)(3) non-profit organization, the BLF would welcome the opportunity to work with the developer and community HOA to provide signage, informational plaques, and other informative projects. Through the BLF's many contacts, volunteers, and grants, it has access to resources that could be used to assist with design, content and the creation of signage along the Project's publicly accessible trails.

Other opportunities include working with the California Coastal Conservancy; California Ocean Protection Council; California Department of Fish and Wildlife (CDFW and responsible for management of the Batiquitos Lagoon Ecological Reserve and State Marine Conservation Area (No Take), and with which the BLF has a MOA; SANDAG and its Environmental Mitigation Program (EMP); San Diego County; and others.

The BLF is also willing to explore the installation of its existing smart phone and tablet QR code-based self-guided system along the Project's proposed public access trail system. This technology is currently in use along the lagoon's North Shore Trail, and is popular with many trail users. The BLF also hopes to use this system on the proposed North Coast Bikeway.

Accordingly, the BLF encourages the addition of a condition to the approval of the CDP as requiring the Project developer to coordinate with the BLF to explore all educational opportunities that could be implemented along the Project's public access trail system.

Burial of Toxic Soil

The Batiquitos Lagoon is listed and known to the State of California per the MS4 as a watershed that is subject to a U.S. National Pollution Discharge Elimination Permit (NPDES) granted to the State Water Resources Control Board and administrated by Region 9 of the Regional Water Quality Control Board (San Diego RWQCB). The City of Encinitas is a signatory to the regional committee that oversees and enforces such policies as required by the NPDES for the MS4 Discharges and therefore has a duty to protect the lagoon from pollution.

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The certified EIR for the Project notes that significant amounts of known carcinogenic organochlorine pesticide (OCP) impacted soil, including Toxaphene, DDE and DDT and other OCPs have been found on the proposed subdivision site, which was previously occupied by a commercial greenhouse and agricultural operation for 84 years. A Phase I and Limited Phase II Environmental Site Assessment (ESA) Report prepared in 2014 by the applicant's consultant, Leighton and Associates, confirms the detection of a total of eight organochlorine pesticides (OCPs), including DDD, DDE, DDT, Dieldrin, Endosulfane Sulfate, Endrin, Endrin Ketone and Toxaphene in the majority of soil samples obtained from the project site. (EIR Appendix 3.6a, Part 1, pages 28-30.) Detected concentrations of heptachlor epoxide, Toxaphene and dieldrin exceeded the USEPA Region 9 Regional Screening Level (RSL) for residential soil in shallow soils at the project site. Some of the soil samples identified levels of Toxaphene that exceed California's Total Threshold Concentration Limit (TTLC) by more than 20 times. (EIR Appendix 3.6a, Part 1, pages 29-30; EIR Appendix 3.6a, Part 2, Table at pages 3-4.) Finally, multiple Toxaphene "hot spots" of 17,000 ppm (reportable levels >100 ppm) were found at 3 feet below grade. (EIR Appendix 3.6a, Part 1, p. 29.) Toxaphene is a known carcinogen that presents a serious cancer risk for humans and animals from oral exposure and/or inhalation. (U.S. EPA. Integrated Risk Information System Chemical Assessment Summary, CASRN 8001-35-2; see https://cfpub.epa.gov/ncea/iris/iris_documents/documents/subst/0346_summary.pdf.) Leighton concluded that these OCP-impacted soils are suitable for disposal at a Class III landfill. (EIR Appendix 3.6a, Part 1, page 30.)

As noted by the Commission Staff Report, the levels of OCPs found in the soil exceed the permissible thresholds for development of single-family homes. The CDP for the project provides for the removal and use of this toxic soil as site fill material that will be buried on-site, approximately 7 to 11 feet below grade where some of the single-family homes will be constructed. While the Commission Staff Report states that on-site burial is "common" for other residential projects, the impact of this practice where the burial site is contiguous with an existing impaired sensitive protected marine habitat has not been vetted. The on-site burial has been promoted to be a cost saving method of hazardous waste remediation throughout the state. However, it is inconceivable to believe that the on-site burial of this acutely 7,000 cubic yards of this non-degradable toxic soil will never impact the environment – e.g., the Batiquitos Lagoon, the community, or the homeowners and their pets living above this carcinogenic toxic waste pit. Further, the certified EIR fails to provide for any sort of monitoring program or contingency plan in the event of a catastrophe. In light of the low impact development measures proposed for the project, the BLF is concerned that activities such as grading, resulting in airborne particulate plus soil stockpiling, reallocation may ultimately contaminate water in the adjacent Batiquitos Lagoon, harming its fragile ecosystem.

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Policy 2.3 of the certified LCP provides: “To minimize harmful pollutants from entering the ocean environment from lagoons, streams, storm drains and other waterways containing potential contaminants, the City shall mandate the reduction or elimination of contaminants entering all such waterways; pursue measures to monitor the quality of such contaminated waterways, and pursue prosecution of intentional and grossly negligent polluters of such waterways.”

The certified EIR notes that the infiltration and bioretention systems should be reviewed by a geotechnical consultant. However, without soil borings and lithologic logs to classify the site geology, it is impossible to review the site geology. A thorough hydrogeologic study of the site, taking into consideration the impact of 84 years of agricultural operations and the site’s existing waste treatment facilities (i.e., 3 septic tanks and leach-fields = 1.5 acre feet/yr.) must be conducted to fully understand the wastewater and irrigation percolation, soil porosity, permeability, stratigraphy and channelization pathways that permit natural or man-made infiltration water to migrate downward to the groundwater. There is no evidence or available data that any such hydrogeologic investigations have been conducted or that a geotechnical consultant has approved the on-site burial of the noted toxic contaminated soil *after* conducting a Human Health Risk Assessment Protocol (HHRAP), as required by the U.S. EPA.

The BLF notes that the project Applicant’s geotechnical consultant, Leighton & Associates, initially recommended removal and off-site disposal of the OCP contaminated soils. However, the certified EIR fails to sufficiently provide a human health assessment risk and protocol (HHRAP), i.e., Fate and Transport, of burying the acute toxic OCPs and does not address the future environmental impact of on-site burial of this acutely toxic soil. The certified EIR also fails to explain why it is not feasible to remove the contaminated soil and transport it to an off-site disposal facility.

Finally, the certified EIR does not include a Watershed Ecological Risk Assessment to study the impact of the on-site burial of OCPs and wastewater treatment system on the Batiquitos Lagoon in accord with U.S. EPA/600/R-06/037F. The BLF strongly urges the Commission to condition its approval, if any, upon the completion of such an Assessment as required by federal law.

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Conclusion

The BLF appreciates the Commission's further review of the significant issues it has raised on appeal, and strongly believes that the approved CDP warrants the Commission's denial or, alternatively, the imposition of additional conditions. The BLF looks forward to addressing the Commission at its July 8, 2020 virtual hearing. Should you have any specific questions that you would like for the BLF to address, we will be available at the hearing.

Sincerely,



Arie L. Spangler

cc: Batiquitos Lagoon Foundation, Board
Dennis D. Davis, San Diego District, California Coastal Commission

W11a

July 6th, 2020

To: Steve Padilla, Chair, California Coastal Commission, Commissioners and Interested Persons

Via e-mail: SanDiegoCoast@coastal.ca.gov

cc: Dennis.Davis@coastal.ca.gov

Public Comment on July 8th, 2020 Agenda Item Wednesday July 8th 2020 Agenda Item W11a
Appeal No. A-6-ENC-19-0032/DCM Properties, Inc. Encinitas

I encourage you to uphold the appeal on this project. There are many issues of concern associated with this project from the first day of its announcement, the Encinitas Planning Commission, the Appeal process through the Encinitas City Council to the California Coastal Commission Substantial Issues Hearing of September 11th, 2019 held in Newport Beach to the Virtual De Novo Hearing as noted above.

At issue is the clandestine action of the Applicant to clear the subject property of some 13 acres of highly toxic contaminated wooden greenhouse that had been soaked in Toxaphene, DDT, Deldrin and other Organo Chloride Pesticides (OCPs) for more than 40 years.

It is most interesting that the City of Encinitas did contact the Commission Staff to explain that the presence of the collapsed wooden greenhouse structures on the site presented a fire hazard. Notwithstanding that the greenhouses had been abandoned for almost 5 years without raising any concern towards a “Fire Hazard.” Thereafter, the Encinitas Fire Department instructed the Applicant to mitigate the fire hazard by removing the fallen structures. During this time the Applicant published a Marketing Brochure with views of the 13 acres of greenhouse in pristine condition. The purpose of the Marketing Brochure was to solicit bids from potential buyers with the announcement that potentially the property even though it was zoned R3 is a future site for “up-zoning” multi-family (30du/acre) offers were due by November 25th, 2019.

The September 11th, 2019 CCC Substantial Issues Hearing resulted in the De Novo Hearing as noted. The demolition of the contaminated wooden greenhouses took place in February 2020 some 5 months after the City of Encinitas contacted Commission staff of a “Fire Hazard.” The Staff Report on W11a did not mention that the greenhouses has been demolished and the site had been cleared. In fact any Commissioner reading the W11a Staff Report would believe that the greenhouse were in fact still in place and would further be led to believe that ALL precautions would be made to protect the community from the hazards of airborne contaminants and toxic particulate matter settling into residential homes and also Batiquitos Lagoon at the time of demolition. Not knowing the Staff Report was written *after the fact*.

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The CEQA EIR approved by the Encinitas Planning Commission and the Encinitas City Council was not followed by the Applicant nor by their demolition contractor. The Community was not notified of a planned demolition to be prepared. There were no gatekeepers monitoring the disposal trucks, there were no monitoring of airborne dust or particulates on site or off-site. There were no personnel on site determining the speed or direction of the wind. It is to be noted that the disposal of the 13 plus acres of highly toxic contaminated wood is unknown. There are no certified manifests available to determine where the hazardous waste was taken to whether it was a State certified hazardous waste site. The CEQA EIR procedure as determined in the Air Quality Section was totally ignored. The approved procedure appears to have been totally ignored and more importantly was not mentioned at all in the W11a Staff Report Section D Air Quality: despite the fact that the Report mentions the City of Encinitas Certified LUP states: *The Resources Management Goal 10: The City will make every effort to participate in programs to improve air and Water quality in the San Diego Region.*



February 28th, 2020 Demolition in progress



July 1st, 2020 All greenhouse demolished hauled away

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The following is excerpted from the W11a Staff Report:

1. Page 9 Construction Pollution Prevention Plan (CPPP).

- a. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the permittee shall submit for the review and approval of the Executive Director, two (2) sets of a CPPP prepared and signed by a licensed engineer that, at a minimum, includes the following:
 - b. Best Management Practices (BMPs) designed to prevent spillage and runoff of construction-related materials, sediment, or contaminants associated with construction activity shall be implemented prior to the on-set of such activity. Selected BMPs shall be maintained in a functional condition throughout the duration of project. Such measure shall include:
 - i. *No demolition or construction materials, equipment, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wave, wind, rain or tidal erosion and dispersion;*
 - ii. *Any and all debris resulting from demolition or construction activities, and any remaining construction material, shall be removed from the project site within 24 hours of completion of the project;*
 - vi *The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction;*
 - vii *Debris shall be disposed of at a legal disposal site or recycled at a recycling facility. If the disposal site is located in the coastal zone, a Coastal Development Permit or an amendment to this permit shall be required before disposal can take place unless the Executive Director determines that no amendment or new permit is legally required;*
 - viii *All construction materials stockpiled on site shall be covered and enclosed on all sides to ensure that the materials are not discharged to a storm drain inlet or receiving waters; The*

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discharge of any hazardous materials into any receiving waters shall be prohibited;

- x. *The discharge of any hazardous materials into any receiving waters shall be prohibited;*

There is no evidence shown written or otherwise that the noted strict guidelines were followed.

This seemingly lack of wanton disrespect for the Community of Leucadia and to Batiquitos Lagoon is an affront to all, requiring sanctions.

Another Issue of Concern is Light Pollution.

The hundreds of lights that will be installed in the development will light up the night sky and for ever be a reminder of its unwanted presence.

There was a time in the 1980's when the Greenhouses had smudge pots to keep off the winter chill to protect the flowers. Fast forward 36 years and the glow of smudge pots is no more and replaced with street lights and 48 homes each with their own illuminating glow to the outside community. This is not progress this is a disaster.

It is hoped that the aforementioned concerns will invoke a sense of realization what limited resources there are left to enjoy and the hope the Commissioners will act responsibly towards preserving the Community of Leucadia and protect Batiquitos Lagoon from unfettered urban abuse.

Sincerely,

David Hill
Environmental Consultant
Encinitas Resident

Public Comment on July 2020 Agenda Item Wednesday 11a Appeal No. A-6-ENC-19-0032 / DCM Properties., Inc., Encinitas

Dean Turney <b.deanturney@gmail.com>

Thu 7/2/2020 12:50 PM

To: SanDiegoCoast@Coastal <SanDiegoCoast@coastal.ca.gov>

Cc: Davis, Dennis@Coastal <Dennis.Davis@coastal.ca.gov>

W11a

Appeal No. A-6-ENC-19-0032 / DCM Properties., Inc., Encinitas

July 2, 2020

To: Honorable Commissioners;

I am requesting that the California Coastal Commission deny: A-6-ENC-19-0032 Applicant: DCM Properties, Inc. on the following grounds:

The applicant has not fully integrated the affordable housing units into the community, thereby, violating the California Coast Commission's Environmental Justice Policy adopted March 8, 2019. The four low income units are not fully integrated into the community plan. Three of the four affordable homes are buried behind the market rate homes on flag lots. The Developer's claim that these units need to be near one another conflicts with the intent of Environmental Justice Policy. They are placed to indicate the inhabitants be hidden. The placement says keep the inhabitants out of sight. The placement of the homes gives them the appearance as being servant quarters and not part of the community.

The developer claims the homes' placement is to allow: "that the future units will likely be managed by an affordable housing nonprofit organization that will be responsible for the ongoing maintenance of the units, and keeping the affordable units within proximity of each other maximizes operational efficiency for the organization that will manage the units." These units should be available for purchase by low or very low-income families. As the rest of the neighborhood, they should be allowed to manage their own homes. The state density bonus law exists to promote true affordable housing to qualified potential owners. When we allow developers and housing projects, as this one, take advantage of the state density bonus law and then discriminate against these low income buyers by not making their low income product available for purchase to truly low income families and those few units that are available are separated or hidden, then we have promoted systemic racism, as opposed to addressing the issue as stated in your CCC policy.

From your policy:

“Although the Legislature removed the Coastal Act mandate to protect and provide for affordable housing in 1981, the Commission retained the authority to encourage affordable housing. The Commission will increase these efforts with project applicants, appellants and local governments, by analyzing the cumulative impacts of incremental housing stock loss, and by working with local government to adopt local coastal program policies that protect affordable housing and promote a range of affordable new residential development types.”

The CCC should also consider that if you approve this project as presented you are limiting your ability to adhere to the above stated policy. This parcel of land near the coast should be reserved for a more inclusive project that increases the number of homes available to low and very low- income families. As we all know, open coastal land for any type of housing is extremely limited. This development plan provides only four low-income homes out of forty-eight. **“... adopt local coastal program policies that protect affordable housing and promote a range of affordable new residential development types.”** How will we ever fulfill this policy if we continue to cover all remaining available land with maximum market rate homes. Any project on this site should be required to provide much more affordable units and provide more than the minimum protection for the lagoon. We need and deserve more inclusive projects or none on our remaining coastal land.

If the Coastal Commission will adhere to its policy, you will deny this bad for the Environmental Justice Police and bad for the environment project.

Please include my comments in the staff report.

Dean Turney
467 Fulvia Street
Encinitas, CA 92024

b.deanturney@gmail.com

Fw: Public Comment on July 8, 2020 Agenda Item 11.a. -- Application No. A-6-ENC-19-0032 (DCM Properties, Inc., Encinitas)

Dolores Welty <dwelty2076@earthlink.net>

Fri 7/3/2020 9:52 AM

To: Davis, Dennis@Coastal <Dennis.Davis@coastal.ca.gov>

W11A

RE: Public Comment on July 2020 Agenda Item Wednesday 11a
Application No. A-6-Encinitas-19-0032/DCM Properties, Inc. Encinitas

July 2, 2020

Honorable Commissioners

Thank you for this opportunity to comment. Please include my letter with your packet for the meeting on Wednesday, July 8, 2020.

We continue to oppose this project. The adjustments made do not come close to resolving the issues as we see them.

We thank the developer for separating the low income house so that they do not occur in a contiguous row, but this density bonus project is still too dense and the number of low income homes too small. A density bonus project gets to throw out city planning rules in order to pack the property with houses. Getting only four low income houses out of the proposed 48 is not enough, and because regular planning rules have not been followed, the development does not conform to the character of the neighborhood.. This subdivision development is not in keeping with the individually built homes and apartment houses that make the character of Leucadia. Allowing the developer to override city standards and get only four low income homes from this compromise is unacceptable.

We continue to take issue with the burial of the toxic soils. They should be removed. Batiquitos Lagoon is a protected fish habitat, set aside at a public cost of \$55,000,000.00 and protected by our wildlife agencies to provide safe hatching areas for halibut and other fish. Water quality is important. We are asking for a baseline test of water quality near the proposed development discharge site. Should there be leaching of toxins from the project in future years, as we believe will occur, the water can then be monitored, tested against the baseline, and information gathered as to the success of allowing soils to be buried rather than removed. Impacts to fish population, or lack of impact, can also be studied.

Residents of Encinitas are particularly sensitive to toxins escaping from development projects. Encinitas was fined by the Water Quality Control Board for lax oversight and naive planning when toxic soils escaped from the Hall Property into the San Elijo Lagoon on the southern border of our city just five years ago. I include the link to the article below.

<https://www.encinitasadvocate.com/sdea-encinitas-fine-rossini-creek-2015jun26-story.html>

We have concerns about the Phase 2 section of the trail. Without this section the trail dead ends where the current landowner has agreed to reposition his fence so that the trail might be built on his lot: a generous concession. But what will trigger the completion of the trail? And who will be charged with that expense?

Traffic impacts to La Costa Blvd. are excessive. This road is a highly used collector offering access to the beach for recreation and access to Hwy.101 when traffic on I-5 slows. This development triples the number of homes that are already dependent upon La Costa Blvd for access to any other part of the city. Five business entities besides the filling station are dependent upon La Costa. The only way out of their properties is by accessing La Costa Blvd.. Our 22 houses (soon to be 70 houses) and five businesses live on a series of cul de sacs. This road needs a Master Plan that takes into consideration future transportation needs for this area, including train and bus. Many new developments are coming down the pike. (See attachment: . Development Challenges Picture) A new hotel is being built on the bluff at the intersection of La Costa and 101. In Encinitas, one of the two Hwy. 101 southbound lanes is a share lane with bicycle traffic. All these developments including the DCM Properties development should be considered in total as to environmental impacts to this area rather than dealing with these projects piecemeal.

New times call for new ideas. We are weathering a Pandemic and can look forward to others in the future. We face Climate Change and the rise in sea level without plans to diminish our carbon footprint to the extent that we need. You Commissioners bear a heavy burden as you oversee individual, piecemeal plans along our coasts. We support you as you take all necessary measures to protect it. A first step is to deny this project.

Sincerely,
Dolores Welty
Friends of the Batiquitos Lagoon,
2076 Sheridan Road
Encinitas, CA 92024
760-942-9897
text: 760-310-7247

Public Comment on July 2020 Agenda Item Wednesday 11a Appeal No. A-6-ENC-19-0032 / DCM Properties., Inc., Encinitas

Douglas Olson <dwo2718@att.net>

Thu 7/2/2020 11:06 AM

To: SanDiegoCoast@Coastal <SanDiegoCoast@coastal.ca.gov>

Cc: Davis, Dennis@Coastal <Dennis.Davis@coastal.ca.gov>

W11a

To: Steve Padilla, Chair, California Coastal Commission

I am concerned about the proposed La Costa 48 development. I urge you and your fellow commissioners find that there are still critical issues that have not been resolved and that this development should not be approved as re-submitted.

Critical issues that have not been resolved but need to be resolved before approving the project include

- Onsite burial of hazardous waste
- Threat to the Batiquitos Lagoon
- Traffic burden and public safety
- Quality of life and protection of our coastline access.

I am a member of the Batiquitos Lagoon Foundation and volunteer my time leading nature walks for school children. I live near Batiquitos Lagoon and walk there with my wife almost daily. Batiquitos Lagoon is a beautiful asset to my community, and this development would take away from my, my wife's, and my friends and neighbors' enjoyment of Batiquitos Lagoon.

I am very concerned about our environment. I think this development threatens the natural health of Batiquitos Lagoon. I recommend the issues listed above be addressed for the environmental impact of La Costa 48 development on Batiquitos Lagoon.

I appreciate the opportunity to express my concerns with the La Costa 48 development. Please include my comments in the staff report.

Thank you

Doug Olson

6738 Limonite Ct

Carlsbad CA 92009

760-585-6177

FW: Public Comment on July 2020 Agenda Item Wednesday 11a - Application No. A-6-ENC-19-0032 (DCM Properties, Inc., Encinitas)

Ruffino, Gracie@Coastal <Gracie.Ruffino@coastal.ca.gov>

Fri 6/26/2020 8:40 AM

To: Davis, Dennis@Coastal <Dennis.Davis@coastal.ca.gov>

From: Fred Sandquist <sandquist2@earthlink.net>

Sent: Wednesday, June 24, 2020 12:23 PM

To: SanDiegoCoast@Coastal <SanDiegoCoast@coastal.ca.gov>

Subject: Public Comment on July 2020 Agenda Item Wednesday 11a - Application No. A-6-ENC-19-0032 (DCM Properties, Inc., Encinitas)

As a resident in Carlsbad, CA, and am near Batiquitos Lagoon, I very strongly oppose approving this project. It is poorly designed, involves the removal of highly toxic and dangerous soil (should be removed to a toxic waste site), does not acknowledge that the lagoon is itself an impaired estuary requiring specific TMDL study, poses very significant cumulative impacts on the region from over 9 projects either being considered or under construction (e.g., traffic gridlock, emergency services, air pollution), visual impacts, public safety, and more. It also is using the low income bonus as a means to garner building code waivers and determinations, does not adequately address public access and use (including limited public parking on site), and defers key studies and related information to the building phase review and approval phase (i.e., when a grading permit is being considered).

In summary, a very bad development project for the community!! Please deny this project!!

Fred C. Sandquist
6408 Crossbill Court
Carlsbad, CA 92011

Sent from [Mail](#) for Windows 10

Public Comment on July 2020 Agenda Item Wednesday 11a - Appeal No. A-6-ENC-19-0032 /
DCM Properties., Inc., Encinitas

Lance Schulte <meyers-schulte@sbcglobal.net>

Thu 7/2/2020 8:49 AM

To: SanDiegoCoast@Coastal <SanDiegoCoast@coastal.ca.gov>; Davis, Dennis@Coastal <Dennis.Davis@coastal.ca.gov>

Cc: Fred Sandquist <sandquist2@earthlink.net>; David Hill <dashill4551@gmail.com>; 'Sheila Locko' <1resource@cox.net>

W
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To: Honorable Commissioners

The La Costa 48 proposal appears to need a full reconsideration due to still unresolved issues and the lack of coordinated analysis by all parties regarding proposed incremental development surrounding Batiquitos Lagoon. There is no Joint Powers Authority or other coordinative mechanism to properly and comprehensively understand and plan for the urbanized ‘buildout’ of the Batiquitos Lagoon Area and watershed. This is critical and fundamental mistake if the State of California’s Batiquitos Lagoon Ecological Preserve and natural open space system is to survive as a high value and sustainable statewide natural resource properly buffered by open space and interruptive trail and park resources.

The piecemeal La Costa 48 development proposal is but one example of the need for a comprehensive rethinking of land use planning by Encinitas, Carlsbad, San Marcos, and most importantly the CA Coastal Commission for the vacant and ‘redevelopable’ lands around Batiquitos Lagoon.

There should be a new comprehensive and coordinated Coastal Resources and High-Priority Coastal Land Use Plan by the Cities and CA Coastal Commission to assure the long-term Statewide Coastal Resource and High-Priority Land Use needs are being met around Batiquitos Lagoon. That comprehensive and coordinated High-Priority Coastal Land Use Planning Process should begin now with a complete restart of land use planning at La Costa 48, and include all the current vacant or future developable land around Batiquitos Lagoon. If this is not done now and starting with La Costa 48, we will slowly and inevitably see Batiquitos Lagoon an important State Coastal resource being hemmed in and locked in by Low-Priority residential land uses that will damage the long-term sustainability of the Lagoon area and CA Coastal Resources.

The CA Coastal Commission has recognized the similar needs to update Coastal Resources Land Use Planning to address new issues like Climate Change, Sea Level Rise, increased Coastal erosion, and social justice issues relating to accessibility to and provision of adequate and long-term sustainable Coastal recreation for all

Californians. The need to rethink Coastal planning around Batiquitos Lagoon, starting with the La Costa 48 site is another example of these needs.

I urge the Coastal Commission to find that these critical issues that have not been resolved, and the La Costa 48 development proposal should not be approved as re-submitted, and that the Coastal Commission consider the benefits of starting a new comprehensive and coordinated Coastal High-Priority Land Use Plan for the remaining vacant and 'redevelopable' lands around Batiquitos Lagoon to assure long-term 'buildout' adequacy and sustainability of high-priority Coastal Resources and land uses for all Californians.

Thank you for your consideration and vision to see beyond this one piecemeal development proposal. Thank you for starting the rethink of land use planning around Batiquitos Lagoon to provide a coordinated plan to provide high-priority Coastal land use to meet the current and future 'buildout' needs for CA and the Lagoon. I request my comments be included in the staff report.

Sincerely,

Lance Schulte

Carlsbad resident and Batiquitos Lagoon Foundation Board Member

Public Comment on July 2020 Agenda Item Wednesday 11a; Appeal No. A-6-ENC-19-0032/DCM Properties.,Inc., Encinitas

Leah Bissonette <lebissonette@cox.net>

Thu 7/2/2020 3:33 PM

To: SanDiegoCoast@Coastal <SanDiegoCoast@coastal.ca.gov>; Davis, Dennis@Coastal <Dennis.Davis@coastal.ca.gov>

W11A

TO: Steve Padilla, Chair; Honorable Commissioners
California Coastal Commission

PLEASE INCLUDE THE FOLLOWING COMMENTS IN THE STAFF REPORT ON THIS PROJECT.

I am a resident of Encinitas and I urge you to find that there are still critical issues that have not been resolved with this project and, therefore, this development should not be approved as re-submitted.

This project would create an additional traffic burden and a public safety hazard. Rather than improving access to the beach for all the people of California, it would make it more difficult for people to reach the three beaches along this area of Encinitas as it would significantly increase congestion from the main access to the beaches from I5 via the LaCosta exit. Current and planned cumulative new development impacts have not been factored in the staff recommendation to approve this 48 home development which has only one access road and that road connects directly onto LaCosta Avenue. Moreover, this area of Encinitas (Leucadia) has already been noted in the environmental impact report for Encinitas City and its planned Streetscape Project in this area, as a safety hazard with unacceptable response times for first responders already. The Commission has reviewed the Streetscape plan and has a duty to take this into consideration in its evaluation of this project from a safety perspective. In light of the fire issues in California, not giving added weight to safety conditions related to new development is a dereliction of duty.

Moreover, the proposed project was not properly evaluated, particularly with regard to the cumulative impact of the multiple other commercial (hotel) and residential projects underway or planned along the west LaCosta avenue corridor and at the base of the 101. Of paramount importance is protecting the health of the Batiquitos Lagoon and watershed. The Batiquitos Lagoon is an impaired water body, which requires study and documentation of projected toxicity of the hazardous waste onsite burial, public access issues, runoff and drainage, and impact to habitat and wildlife within and around the lagoon.

Leah Bissonette

FW: Public Comment on July 8, 2020 Agenda Item 11.a. -- Application No. A-6-ENC-19-0032 (DCM Properties, Inc., Encinitas)

Sheila Locko <1resource@cox.net>

Fri 7/3/2020 4:57 PM

To: SanDiegoCoast@Coastal <SanDiegoCoast@coastal.ca.gov>; Davis, Dennis@Coastal <Dennis.Davis@coastal.ca.gov>

 1 attachments (975 KB)

Development Challenges Picture.png;

July 3, 2020

Honorable Chair Steve Padilla and Commissioners:

W11a

Thank you for your leadership and insight in finding substantial issues with this project as proposed in the September 2019 hearing, and ruled to move into the de novo phase.

We trust that the Commission will determine that substantial issues have not been resolved and will rule to deny this proposed project at the July 8, 2020 de novo hearing.

Environmental Injustice:

-

-

This revised proposed project still poses a substantial issue of environmental injustice by the applicant knowingly exposing others to environmental risk in order to reduce costs:

1. **“Ethical issues of environmental justice arise when people, communities, or regions are subjected to greater environmental risk than others in a process that benefits the others.”**

The proposed onsite burial of these proven carcinogenic and hazardous materials is an example of environmental injustice, as residents, surrounding communities and the region (*particularly the Batiquitos Lagoon Ecological Reserve*) *ARE subjected to greater environmental risk in a process that benefits others*. Onsite burial of these toxins clearly benefits others (the developer DCM). They substantially benefit and risk others *by avoiding the cost of proper containment and disposal of these toxin offsite*. It should be clear that the health and environmental protection benefit for the public and the lagoon far outweigh the cost saving benefit to the developer.

The cost benefit to the developer should not be justified at the expense of the health and safety of the residents- *this is environmentally unjust*.

2. **Environmental justice issues and examples include air and water pollution, and unsafe homes.**

The onsite burial of hazardous wastes include the known carcinogens Toxaphene and DDT (a violation of the U.S. Clean Water Act), and would be detrimental (with unsafe homes) to all future residents of this proposed development including the four *low income houses*, as well as already existing surrounding homes. Leaching of these hazardous materials into the Batiquitos

Lagoon would have a significant negative impact on the lagoon water quality and the health of the wildlife it supports (water pollution).

We urge the Commissioners to determine that the substantial issue of environmental injustice has not been resolved, and that applicant remedy this environmental injustice by proper removal and disposal of these hazardous wastes offsite.

Substantial issue of Traffic, Public Safety and Coastal Access: Negative Cumulative effect has not been resolved nor evaluated adequately:

1. **Traffic and Public Safety:** The traffic study on this proposed project did not factor in the overall impact of current and planned developments. It did not adequately address the impact of this 48 home project with **one** access road onto La Costa Avenue, which is already compromised as the main access road from the I-5 to the 101 coastline and to the beaches. **This is a public safety, traffic and coastal access issue yet to be resolved.**
2. **Current and planned cumulative new development impacts lack careful planning:** This project *should have been evaluated to take into account the multiple other commercial and residential projects underway and/or being planned along the west La Costa avenue corridor and at the base on the 101* – where a large hotel is currently under construction. All of these developments together will have substantial and negative cumulative effects on the traffic burden and the safety of La Costa avenue, the I-5 and the 10. (Please see attached graphic)

Impacts to the health of Batiquitos Lagoon Ecological Reserve not resolved:

Issues: The proposed project failed to recognize that the Batiquitos Lagoon is an impaired water body, *which requires study and documentation of projected toxicity of the hazardous waste onsite burial, runoff and drainage, and impact to habitat and wildlife within and around the lagoon.*

The cumulative negative impact of this and other current and planned projects on the health of the Batiquitos Lagoon and watershed will affect generations to come.

This comment letter is submitted in opposition to application No. A-6-ENC-19-0032., on behalf of Save Our Bluffs, a 501(c) (3) organization with over 250 members, all of whom are concerned residents of Encinitas and Carlsbad.

We respectfully request that after your thoughtful consideration of the unresolved substantial issues, that the Commission deny this application.

Please include this letter with your packet for the meeting on Wednesday, July 8, 2020.

Thank you,

Sheila Locko
Save Our Bluffs
Encinitas, CA 92024
(760) 942-8119

The Commission is committed to protecting and enhancing California's coast and ocean for present and future generations. It does so through careful planning and regulation of environmentally-sustainable development, rigorous use of science, strong public participation, education, and effective intergovernmental coordination.

. We support you as you take all necessary measures to protect it. A first step is to deny this project.

Sincerely,
Dolores Welty
Friends of the Batiquitos Lagoon,
2076 Sheridan Road
Encinitas, CA 92024
760-942-9897
text: 760-310-7247



Virus-free. www.avast.com

Development Project Challenges In Western & Middle Part Of Batiquitos Lagoon Area



FW: Public Comment on July 2020 Agenda Item Wednesday 11a - Application No. A-6-ENC-19-0032 (DCM Properties, Inc., Encinitas)

Eubanks, Janesse@Coastal <janesse.eubanks@coastal.ca.gov>

Thu 7/2/2020 12:25 PM

To: Davis, Dennis@Coastal <Dennis.Davis@coastal.ca.gov>

Deleting from SD inbox 😊

From: bill <taaprogram@gmail.com>

Sent: Thursday, July 02, 2020 11:54 AM

To: SanDiegoCoast@Coastal <SanDiegoCoast@coastal.ca.gov>

Cc: Bill McGee <wmarblaw@aol.com>

Subject: Public Comment on July 2020 Agenda Item Wednesday 11a - Application No. A-6-ENC-19-0032 (DCM Properties, Inc., Encinitas)

As a former environmental regulator from Connecticut who has recently moved to this area in my retirement years, I must ask the Commission to view this proposed development with the utmost skepticism and concern for the long term health and viability of neighboring precious resources including coastal fish and wildlife communities tidal flats, and lagoon.

My late daughter and I often walked the trails at Batiquitos Lagoon when we visited this area during her childhood on our many vacation trips out here, and we came to appreciate the value of this precious ecological preserve. As I found in my professional experience when regulating wetlands and adjacent developments for the state of Connecticut, developers are long gone once the effects of their unchecked collateral damage appears upon our environment.

In this case, it would appear to me that as part of the permission sought herein is for an already accomplished, apparently permit-less demolition of a longstanding (pesticide strewn) nursery operation, which of course raises many substantial questions for runoff and contamination of soil and water many years down the road, then the rest of this application should be viewed in the light least favorable to a developer whose actions would appear to have compromised its integrity in the eyes of this Commission. All any regulator has to base its decisions upon in the end is the good faith implied by the integrity of any developer's promises for the conduct of its operations and the future impacts of its activities upon the natural environment.

The staff report seems to refer to many such concerns, but upon recent viewing of this site off La Costa Avenue it appears that substantial if not all demolition has already occurred. As we all know, increasing development near or within precious coastal resources are proliferating along this coast. La Costa Avenue already has a gigantic resort going in on the bluffs a short drive from here, and if this project is permitted this narrow two lane road will now house some 48 new families plus whatever else is done with the rest of the subdivided property, and I believe plans are already in the works for a neighboring resort development. I do not address the obvious traffic nightmares all of this engenders but just note it for the salient fact that piecemeal development regulation, considered in narrow focus on single sites alone, will not protect the long term ecology and vitality of our quickly dwindling coastal resources. At some point it would seem the charge of this Commission must be to consider the entire coastal ecology as a whole and not just the impacts of each small degradation. Requiring greater detail as to the environmental impacts of such developments is but one small step; requiring the utmost integrity in developing such plans, is an absolute must.

Experience does matter; so does integrity. Once burned, as we might say, twice shy. Our precious, dwindling natural resources need to be scrupulously protected from those who have already shown to be unreliable in their promises, for one thing is absolutely certain-it is the rest of us who will certainly bear the future costs and burdens of trying to correct or remedy the impacts of decisions hastily made for another's short term profit. The

less quantifiable but clearly no less important public benefits offered by the environmental wonders we all own are entitled to protection from unnecessary damage and/or destruction.

In my Connecticut permitting and enforcement experience, a developer's lack of credibility on one issue would require all future reviews to receive the highest levels of strict scrutiny and if permitted, limitations and conditions which would require constant and the highest quality monitoring and control, perhaps with active citizen involvement and oversight, and I would urge this Commission to follow that example in this case should it allow any aspects of this development to proceed.

Respectfully submitted by a local citizen, William S. McGee
Ns Sent from [Mail](#) for Windows 10

OTHER LETTERS OF OPPOSITION



W11a

SanDiegoCoast@coastal.ca.gov

Dennis.Davis@coastal.ca.gov

Via electronic delivery

Public Comment on July 2020 Agenda Item Wednesday 11a
Appeal No. A-6-ENC-19-0032 / DCM Properties., Inc., Encinitas

July 3, 2020

Chair Padilla and Commissioners,

Sierra Club San Diego wishes to express our appreciation to your Commission for requiring this project be granted de novo appeal status after finding substantial issues unresolved.

Sierra Club San Diego Chapter's evaluation considers this resubmitted project as a continuing and unmitigated threat to the Batiquitos Lagoon. Key issues remain unresolved or unconsidered by the City of Encinitas, including the Lagoon's existing impaired water quality status, failure to consider cumulative water quality impacts by future development projects and the onsite disposal of hazardous waste.

There is demonstrated potential for intensifying significant impacts to lagoon water quality because the City-approved development entitles burial of toxic wastes onsite rather than being properly disposed of as

required by the California Code of Regulations Title 22, Division 4.5. Please be aware that an entire 55-square mile watershed passes through the narrow funnel of the Batiquitos Lagoon and into the Pacific.

Leaching of toxins into the Lagoon from the post-development period would pose nearly impossible mitigation requirements to maintain California water quality standards. Now is the time to take decisive actions which will prevent onsite burial of toxic waste and impose stringent standards on any potential for leaching.

Sierra Club urges your Commission to return the project to staff for a comprehensive de novo reevaluation of these still unresolved significant dangers to the Batiquitos Lagoon ecosystem as well as future unknowing residents.

Respectfully,

George Courser
Sierra Club San Diego
Chair, Conservation Committee

Dr. Peter Andersen
Sierra Club San Diego
Vice-Chair Conservation
Committee

FW: CCC APPROVAL OF 48 PROJECT

Eubanks, Janesse@Coastal <janesse.eubanks@coastal.ca.gov>

Thu 7/2/2020 11:04 AM

To: Davis, Dennis@Coastal <Dennis.Davis@coastal.ca.gov>

Erin and I believe this might be related to your DCM Project. Thank you!

From: Brian Goodwin <brian@goodwin-consult.com>

Sent: Thursday, July 02, 2020 9:41 AM

To: SanDiegoCoast@Coastal <SanDiegoCoast@coastal.ca.gov>

Subject: CCC APPROVAL OF 48 PROJECT

Please reject this proposal. It is an outrageous threat to the health of the Batiquitos Lagoon and an unnecessary expansion of development in the area.

The Brian Michael and Judith Wolf Trust

1558 Cormorant Dr

CARLSBAD, CA 92011

Sent from my Verizon, Samsung Galaxy smartphone

July 2020 Agenda Item 11a - Wednesday

Carolyn Krammer <carolnoceanside@cs.com>

Fri 7/3/2020 11:19 AM

To: SanDiegoCoast@Coastal <SanDiegoCoast@coastal.ca.gov>

Cc: Davis, Dennis@Coastal <Dennis.Davis@coastal.ca.gov>

**Re: Appeal No. A-6-ENC-19-0032 / DCM Properties, Inc., Encinitas
Item 11a**

Honorable Commissioners: Please include my comments as part of the record. Please oppose the staff recommended approval of the La Costa 48 development as proposed.

There are many unresolved issues that will affect the Batiquitos Lagoon and the surrounding environment.

How can one even imagine approving the onsite burial of hazardous toxic wastes for anything let alone right next to a water body. This is a violation of the Clean Water Act and will have a significant negative impact on the lagoon water quality and the health of the wildlife it supports. It is important to protect the surrounding communities and the health of the Batiquitos Lagoon and watershed. The Batiquitos Lagoon empties into the Pacific Ocean and the South Carlsbad State Park system and Ponto State Beach. Many families use this beach and want to keep their families safe from pollution. Pollution restricts access to our coast and ocean.

Please deny this project and uphold the appeals before you. Thank you for your service in protecting our Coast and the Coastal Act.

Carolyn Krammer, Chairperson

Citizens for the Preservation of Parks & Beaches
Oceanside, CA.

Public comment on July 2020 Agenda Item Wednesday 11a Appeal No. A-6-ENC-19-0032/DCM Properties.INC.Encinitas

Carrie DeNike <cdenike74@hotmail.com>

Fri 7/3/2020 7:27 AM

To: SanDiegoCoast@Coastal <SanDiegoCoast@coastal.ca.gov>

Cc: Davis, Dennis@Coastal <Dennis.Davis@coastal.ca.gov>

W11a

To: Steve Padilla, Chair, California Coastal Commission

I am writing today in regards to the proposed development in the LaCosta area for 48 unit housing development on the Weston property of La Costa Ave. I am a resident of the area, living on Sheridan Rd in the La Costa neighborhood that would be directly impacted by this development. I want to urge The Chair to consider items that have not been addressed, that would adversely affect this neighborhood:

1. Burial of hazardous toxic wastes- the proposed development would call for burial of hazardous wastes on site the area. This is absolutely unacceptable, as a resident of the neighborhood, community, Encinitas and California in general. I cannot believe this is even being considered, being as how green friendly we leverage ourselves as a community. There are many, many children in the area and the idea that we are even considering this, is beyond me. You simply cannot bury the problem. Proper containment and disposal MUST be performed to ensure the safety and health of the residents of this community!
2. Threat to the Batiquitos Lagoon- This is a beautiful animal sanctuary, that people in the community have enjoyed and protected for years. The proposed development would threaten this staple of this community with runoff and drainage, hazardous waste , and terrible impacts to the wildlife and habitats for the animals that use this lagoon.
3. Traffic burden and Public Safety- This is a huge concern. The ongoing traffic issues of the area, currently, would only be magnified with this 48 house development, right off of La Costa Blvd. The traffic and safety impacts of this housing development have not been factored into the staff recommendation to approve this housing development. The traffic is already so terrible on La Costa, and the safety of bikers and walkers is already in question with the existing volume of traffic on this road. Quite frankly, if you try to ride or walk La Costa Blvd, currently, you risk bodily injury and harm. Additionally, I can't imagine the traffic congestion that this will cause to people getting on I5...it is already at a grid lock at times in the morning.
4. Quality of Life and protection of our coastline access: This proposed project was not properly evaluated, in particular with the cumulative impact of multiple other commercial projects (such as the new hotel that is going up at the end of La Costa Blvd and the 101), and residential projects underway and/or being planned along west La Costa Ave at the base of the 101. Of paramount importance is protecting our communities and the health of the Batiquitos Lagoon and watershed.

I urge you to consider the above in your decision process. Our community depends on decisions being made for the well-being of the citizens that live in this neighborhood, and would be directly impacted by the

7/3/2020

Mail - Davis, Dennis@Coastal - Outlook

proposal.

Sincerely,
Carrie DeNike
1861 Sheridan Rd.
Encinitas, CA 92024

Leucadia citizen since 2008

FW: Public Comment on July 2020 Agenda Item Wednesday 11a Appeal No. A-6-ENC-19-0032 / DCM Properties., Inc., Encinitas

Eubanks, Janesse@Coastal <janesse.eubanks@coastal.ca.gov>

Fri 7/3/2020 8:40 AM

To: Davis, Dennis@Coastal <Dennis.Davis@coastal.ca.gov>

Another public comment for you.

From: Clara Sanchez <clarajsanch@gmail.com>

Sent: Thursday, July 2, 2020 7:53 PM

To: SanDiegoCoast@Coastal <SanDiegoCoast@coastal.ca.gov>

Subject: Public Comment on July 2020 Agenda Item Wednesday 11a Appeal No. A-6-ENC-19-0032 / DCM Properties., Inc., Encinitas

W11a

Honorable Commissioners,

We live on La Costa Ave. west of the freeway. We feel that there are currently many unresolved health and safety issues associated with the proposed 48 unit coastal housing development project.

We strongly oppose the project as resubmitted, and urge the Commissioners to determine that this project cannot be approved and permitted unless all of the issues can be fully resolved.

The idea of burying hazardous waste, chemicals and allowing toxic materials to leach in to the adjacent protected Batiquitos Lagoon and Pacific Ocean is unacceptable.

Also La Costa Avenue cannot accommodate more vehicle, bike and pedestrian access.

Please do not approve this project until the road has safe and improved infrastructure and the hazards above are addressed.

Please include our comments in the staff report.

Thank you.

Respectfully,

**Clara & Ernie Sanchez
Encinitas Residence**

Public Comment on July 2020 Agenda Item Wednesday 11a, Appeal No. A-6-ENC-19-0032 / DCM Properties., Inc., Encinitas

Denise Brown <edeniseb404@gmail.com>

Fri 7/3/2020 4:19 PM

To: SanDiegoCoast@Coastal <SanDiegoCoast@coastal.ca.gov>

Cc: Davis, Dennis@Coastal <Dennis.Davis@coastal.ca.gov>

W11a

Honorable Commissioners:

I am a resident of the Leucadia neighborhood immediately adjacent to the proposed development at 510 & 514 La Costa Avenue in Encinitas. I oppose the development for several reasons, and I support the appeal filed by Dolores Welty and the Batiquitos Lagoon Foundation. There are critical issues with this project which have not been addressed by the City of Encinitas or DCM Properties.

My major concern as a member of Encinitas CERT (Community Emergency Response Team) is that of **public safety due to increased traffic**. The section of La Costa Avenue impacted by the project is a relatively short, two-lane road. It is the only avenue of egress/ingress for a neighborhood of thousands of residents. In addition to current residents, there is a hotel currently under construction which will heavily impact traffic conditions on La Costa Avenue. There is also a pileup of other residential and commercial development slated for this short corridor. Right now, before any of these projects have come to fruition, the traffic is already so heavy that it's almost impossible to make a left turn onto La Costa. Traffic jams at the western terminus are increasingly common. **In the event of an emergency evacuation, which WILL happen sooner or later, it is questionable that we will be able to leave the neighborhood safely.**

My next concern, as a long-time supporter of the Batiquitos Lagoon Foundation, is **the impact on the health of the lagoon**. The proposed development plan calls for disposal of hazardous wastes on site – buried in the ground under some of the houses. These materials include Toxaphene and DDT. Both have been studied extensively and are known to cause health threats to humans and wildlife. Compounding this alarming fact, the issues of storm water runoff and drainage for this project have not been adequately addressed by the developers (DCM Properties) or the City of Encinitas. So, there is a very real possibility that hazardous materials could leach into the lagoon. That would be tragic for the lagoon and the wildlife it supports and is **a clear violation of the U.S. Clean Water Act**. The loss of pristine coastline in Southern California is a continuing critical issue.

Please include my comments in the staff report for this hearing.

Sincerely,

Elizabeth Denise Brown
Member, Encinitas CERT
Member, Batiquitos Lagoon Foundation
Librarian, Palomar Community College
Resident, 404 Andrew Avenue, Encinitas

Public Comment on July 2020 Agenda Item Wednesday 11a Appeal No. A-6-ENC-19-0032 / DCM Properties., Inc., Encinitas

desire smith <desiresmith12@gmail.com>

Thu 7/2/2020 1:27 PM

To: SanDiegoCoast@Coastal <SanDiegoCoast@coastal.ca.gov>; Davis, Dennis@Coastal <Dennis.Davis@coastal.ca.gov>

Dear Honorable Commissioner, **W11a**

I ask that you strongly consider the negative impact this development will have on our community and especially our neighborhood. Please include my email in your Staff Report.

Below are the major concerns my husband and I have as tax paying residents.

- **Onsite burial of hazardous toxic wastes:** The proposed development plan calls for **BURIAL of hazardous wastes ON SITE** – the known carcinogens Toxaphene and DDT, which pose a significant health threat. This is a violation of the U.S. Clean Water act (Prop 65), **and would not only be detrimental to the residents of this proposed development but also the surrounding homes residents and pets. The leaching of these hazardous toxins into the Batiquitos Lagoon would have a significant negative impact on the lagoon water quality and the health of the wildlife it supports. These hazardous materials need to be properly contained, removed from the project site, and properly disposed of.**

- **Threat to the Batiquitos Lagoon:** The proposed project (previously approved in 2019 by the Encinitas Planning Commission and the City Council) failed to recognize that the Batiquitos Lagoon is an impaired water body, which requires study and documentation of projected toxicity of the hazardous waste onsite burial, public access issues, runoff and drainage, and impact to habitat and wildlife within and around the lagoon.

Has a study been done regarding the effects this will have on severe asthmatic such as myself and my daughter? What health risk will you be exposing us to?

- **Traffic burden and Public Safety:** Of universal concern should be public safety and traffic impacts to residents and all drivers on La Costa Avenue, I-5 and the 101. Current and planned **cumulative** new development impacts have not been factored in the staff recommendation to approve this 48 home development (with only one access road onto La Costa Avenue). Our neighborhood is already impacted by cars circumventing La Costa and using Andrew and Eolus as thoroughfares via Sheridan and Vulcan. The City of Encinitas is well aware of this problem and doing minor traffic calming changes for just the existing traffic problem. They currently have no plans to take additional traffic calming steps to mitigate traffic from such a large development as proposed on La Costa.

- **Quality of Life and protection of our coastline access:** *This proposed project was not properly evaluated, particularly with regard to the cumulative impact of the multiple other commercial (hotel) and residential projects underway and/or being planned along the west La Costa avenue corridor and at the base on the 101. Of paramount importance is protecting our communities and the health of the Batiquitos Lagoon and watershed.*

I respectfully ask that you put yourselves in our shoes(homes), this is not a development plan for progress, but greed.

Sincerely,

Desiré and Chris Smith

1920 Paxton Way

Encinitas, CA 92024

Sent from my iPhone

Appeal No. A-6-ENC-19-0032 / DCM Properties., Inc., Encinitas

Doug Wierenga <doug@cerebralconnections.com>

Fri 7/3/2020 7:02 AM

To: SanDiegoCoast@Coastal <SanDiegoCoast@coastal.ca.gov>; Davis, Dennis@Coastal <Dennis.Davis@coastal.ca.gov>

W11a

Honorable CA Coastal Commissioners,

My two young children and my wife and I are homeowners and 17 year+ residents living very near the proposed 48 unit development.

There remain unresolved human health and public safety issues associated within the 48 unit coastal housing development project being reviewed today.

We strongly oppose the project as resubmitted. And strongly hope that this project will not be approved and permitted without resolution of the issues.

Paramount are:

1. The idea of burying hazardous waste and chemicals.
2. Allowing toxic materials to leach in to the adjacent Batiquitos Lagoon and then Pacific Ocean is unacceptable.
3. La Costa Ave traffic throughput is already maxed out. We have trouble safety exiting our court during rush hour (we live 1/4 mile West). The new 150+ room resort to our West, not yet open, will further tax, coupled with other development projects in the pipeline.
4. Bike and pedestrian safety need also to be solved!

Until the road has safe carrying capacity and improved infrastructure, including proper sidewalks and for coastal access, and the hazards above are addressed, the project must not be approved!

Thank you for your consideration.

Doug Wierenga
325 La Costa Ave
Leucadia, CA

7-2-20 Public Comment on July 8, 2020 Agenda Item Wednesday 11a , Appeal No. A-6-ENC-19-0032 / DCM Properties., Inc., Encinitas

Elena Thompson <elenathompson@cox.net>

Thu 7/2/2020 12:55 PM

To: SanDiegoCoast@Coastal <SanDiegoCoast@coastal.ca.gov>

Cc: Davis, Dennis@Coastal <Dennis.Davis@coastal.ca.gov>

Honorable CA Coastal Commissioners,

W11a

There are currently STILL TOO MANY unresolved human health and public safety issues associated with this 48 unit coastal housing development project before you today.

We strongly oppose the project as resubmitted, and urge the Commissioners to determine that this project cannot be approved and permitted unless all of the issues can be fully resolved. Chief among the issues are two:

1. The idea of burying hazardous waste and chemicals from former, toxic ag operations is unacceptable to approve/permit.
2. Allowing toxic materials to leach in to the adjacent protected Batiquitos Lagoon and Pacific Ocean is unacceptable.

There are other issues, but public health is primary. Public safety is next and the fact that the current access roadway, La Costa Avenue, cannot accommodate more safe vehicle, bike and pedestrian access is also a key consideration prior to any vote/approval. Until the road has safe carrying capacity and improved infrastructure, sidewalks for coastal access, and the hazards above are addressed, the project must not be approved please.

Respectfully, thank you,

Elena & John Thompson- Leucadia Residents

Public Comment on July 2020 Agenda Item Wednesday 11a Appeal No. A-6-ENC-19-0032 / DCM Properties., Inc., Encinitas

Ginny Page <ryushin@cox.net>

Fri 7/3/2020 12:03 PM

To: SanDiegoCoast@Coastal <SanDiegoCoast@coastal.ca.gov>

Cc: Davis, Dennis@Coastal <Dennis.Davis@coastal.ca.gov>

W11a

TO: Honorable Commissioners

The development of the La Costa 48 has unresolved issues that can & will impact the quality of life

for Batiquitos Lagoon and its wildlife, the surrounding homes & neighbors that use La Costa Avenue as part of their commute be it work, acquiring necessities or entertainment. All aspects of life in or out of our homes will be threatened by this added burden on residents & the land.

I have been a member of the Encinitas community before the 5 communities united to form a city.

The population increase, city council, Coastal Commission, EPA & developers decisions have changed the landscape of this community to no longer protects its existing residents only increase the number of residents. This has created unsafe road conditions for cyclists, cars & pedestrians. Adding 48 units & the population, automobiles etc. that accompany the project put the rest of us already using La Costa in jeopardy. What was only a 1 or 2 minute wait to turn onto La Costa is now 5 or more minutes with speeding, impatient traffic to navigate.

With the increased number of cars there is additional noise pollution. My residence is on a hill over looking La Costa. I have been here since 1981 when it was a quiet & somewhat forgotten neighborhood. Now the traffic noise can be heard through triple pane glass windows from 5am to 3am.

Wanting this to be counted so sending it to meet the non deadline.

Help us keep the quality of our neighborhood & require all levels of care be taken if this project is to be allowed to continue.

Thank you for your attention to this matter.

Please protect the existing neighbors with your decision.

Ginny Page

Public Comment on July 2020 Agenda Item Wednesday 11a Appeal No. A-6-ENC-19-0032 / DCM Properties., Inc., Encinitas

Jason Riggs <jason.riggs@gmail.com>

Fri 7/3/2020 6:22 AM

To: SanDiegoCoast@Coastal <SanDiegoCoast@coastal.ca.gov>

Cc: Davis, Dennis@Coastal <Dennis.Davis@coastal.ca.gov>

W11a

To: Steve Padilla, Chair, California Coastal Commission and honorable commissioners,

I'm writing on behalf of my family and I who live a few hundred feet from the proposed La Costa 48 project. My wife and I have lived here for over 15 years and cherish the quality of life that we have been able to provide our family. During that time, we've seen several development projects in the area. However, we are very concerned with the latest proposal for the La Costa 48 project near the Batiquitos Lagoon.

This development will have a devastating impact on the ecologically sensitive lagoon and the surrounding communities.

My understanding is that the following issues still have not been addressed by the developer:

- **Onsite burial of hazardous toxic wastes:** The proposed development plan calls for BURIAL of hazardous wastes ON SITE – the known carcinogens Toxaphene and DDT, which pose a significant health threat. This is a violation of the U.S. Clean Water Act (Prop 65), and would not only be detrimental to the residents of this proposed development but also the residents and pets of the surrounding homes. The leaching of these hazardous toxins into the Batiquitos Lagoon would have a significant negative impact on the lagoon water quality and the health of the wildlife it supports. These hazardous materials need to be properly contained, removed from the project site, and properly disposed of.
- **Clear and Obvious Threat to the Batiquitos Lagoon:** The proposed project (previously approved in 2019 by the Encinitas Planning Commission and the City Council) failed to recognize that the Batiquitos Lagoon is an impaired water body, which requires study and documentation of projected toxicity of the hazardous waste onsite burial, public access issues, runoff and drainage and impact on habitat and wildlife within and around the lagoon.
- **Traffic burden and Public Safety:** Of universal concern should be public safety and traffic impacts to residents and all drivers on La Costa Avenue, I-5 and the 101. Current and planned cumulative new development impacts have not been factored in the staff recommendation to approve this 48-home development (with only one access road onto La Costa Avenue). This is already a dangerous thoroughfare and increasing traffic in the area will make it even more treacherous.
- **Quality of Life and protection of our coastline access:** This proposed project was not properly evaluated, particularly with regard to the cumulative impact of the multiple other commercial (hotel) and residential projects underway and/or being planned along the west La Costa avenue corridor and at the base on the 101. Of paramount importance is protecting our communities and the health of the Batiquitos Lagoon and watershed.

On behalf of my wife and two young sons, **I strongly urge that the commissioners find that there are still critical issues that have not been resolved, and this development should not be approved as re-submitted.**

I also request that my comments are included in the Staff Report.

Best Regards,
Jason M. Riggs

W11a

Appeal Number **A-6-ENC-19-0032**

Dear CA Coastal Commission,

I encourage you to uphold the appeal of this project. In addition to the many important concerns brought up by the appellant as well as additional concerns highlighted by the Coastal Commission staff, I would like to add that the density of the project violates the certified Local Coastal Program (LCP) for Encinitas.

The project benefits from increased density from the otherwise allowable zoned density because they invoke the CA State Density Bonus Law (DBL). However, the DBL specifies that the density increase afforded under the law is to be based on that allowed by the city's zoning regulations. As the law (section 65915) states (my underlining): "density bonus' means a density increase over the maximum allowable gross residential density" AND "maximum allowable residential density' means the density allowed under the zoning ordinance and land use element of the general plan..." Clearly, this specifies that the granted density bonus is to be associated with the **underlying zoning regulations**.

As well, approval of coastal development permits must conform to the LCP. The City of Encinitas General Plan states: "The City of Encinitas' Local Coastal Program (LCP) contains the City's land use plans for the coastal zone, zoning ordinances, zoning maps, and other implementing actions..."

Importantly, Encinitas Municipal Code states that net acreage must be used to calculate density - the portion of a parcel where structures CAN physically be built (not roadways, wetlands, slopes, etc.). The net acreage of a site is described in Encinitas Municipal Code as: "NET ACREAGE, for the purpose of calculating density, shall mean the slope adjusted unconstrained gross acreage within the subject property. Constrained acreage shall include flood plains, beaches, permanent bodies of water, significant wetlands, major power transmission easements, railroad track beds, existing and future right-of-way and easements for public or private streets/roads, and the area contained within the panhandle portion of a panhandle lot in a zone where the minimum required lot size is 10,000 square feet or less."

Because **net acreage** of a given site is the basis for density calculations, as defined by the zoning ordinance and land use element of the General Plan, net site acreage is what must be used for density bonus projects, including the project subject to appeal **A-6-ENC-19-0032**.

By approving projects, including this one, that DO NOT use net acreage to calculate density, Encinitas violates their certified LCP, and the coastal development permit for this project must be rescinded.

For R-30 projects ONLY within the City of Encinitas, site density is allowed to be calculated without subtracting private roadways, as stated in the Municipal Code (Ordinance 2019-04),

which the Coastal Commission approved June 13, 2019: “For properties located in and developing in conformance with the provisions of the R-30 Overlay, private access roads, parking lots, driveways, and drive aisles are not deducted from gross acreage. (See Section 30.16.010.B.2).” The subject property is not located within the R-30 overlay, and therefore the proposed private access roads, driveways, and parking easements (along with pedestrian right-of-way easements) must be subtracted from the gross site acreage.

Below, I show an example of how site density should be calculated using the site plan approved by the City of Encinitas. Please note that proposed driveways have not been delineated/subtracted here, so the below calculations *still overestimate* the net site acreage; this is only provided as an example to roughly compare the density that should be allowed on this site, against the City-approved plan.



Figure 1: Site plan approved by the City of Encinitas overlaid on Google Earth imagery. White polygons have been added to provide area measurements of right-of-way easements that must also be subtracted from gross acreage to calculate the gross (rounded-up) maximum allowable residential density, from which the Density Bonus is calculated.

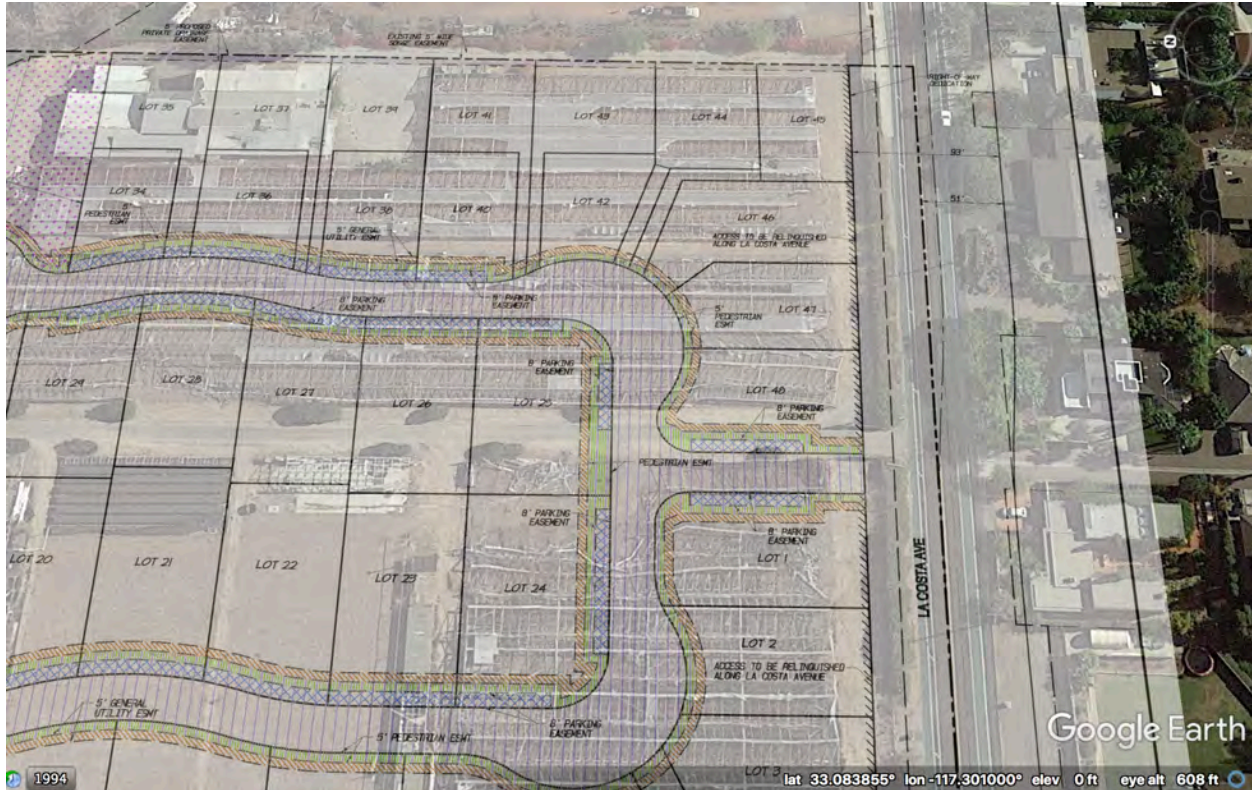


Figure 2: Detail of site plan overlay showing that gross acreage of the project site includes half of La Costa Avenue, and a new private roadway with parking and sidewalks.

Density calculations:

From applicant:

Gross site acreage: 13.944 acres

Slopes (subtract): 1.033 acres

From Google Earth & site plan overlay (Carilli) estimate:

La Costa roadway (existing road) and Right-of-way dedication: (24,570 sqft) 0.564 acres

New private road + emergency vehicle access: (46,911 sqft) 1.077 acres

Parking easements: (10,131 sqft) 0.233 acres

Right-of-way pedestrian easements (i.e. sidewalks/paths): (17,748 sqft) 0.407 acres

Total estimated additional right-of-way easements required to subtract: 2.281 acres

Total net acreage following Municipal Code/LCP guidelines: 10.63 acres

Corrected site density calculations following Density Bonus Law:

Maximum density: 3.0 units per net acre

Dwelling units before density bonus
(10.63 x 3 = 31.89, rounded up)*

32 units (not 39 as stated by applicant)

Dwelling units with 22.5% proposed Density Bonus
(32 x 1.225 = 39.2, rounded up)*

40 units (not 48 as stated by applicant)

Very-Low Income Affordable Units Required
(32 X 6% = 1.92, rounded up)*

2 Units (6.25%)

**Pursuant to California Government Code §65915(f)(5) and (r): All density calculations resulting in fractional units shall be rounded up to the next whole number*

Encinitas Municipal Code Chapter 24.21, Dedication: Affordable Housing Assistance, requires that tentative subdivision maps for residential dwellings comprising ten (10) or more dwelling units to reserve one (1) unit per ten (10) for rental to tenants qualified by the County Housing Authority as meeting Section 8 Rental Assistance Requirements.

The number of inclusionary units is calculated as follows:

Net site area: 10.63 acres

Mid-range density: 2.5 Dwelling Units per Acre

Dwelling Units

26 Units

(10.63 x 2.5 = 26.575, rounded down)

Inclusionary Units Required

2 Units

(26.575 x 10% = 2.6575, rounded down)

The City of Encinitas approved this project with 20% higher density (48 vs. 40 units) above what is permitted by the Municipal Code and LCP, taking into account the DBL provisions.

Most cities in California use gross acreage to set allowable density in their zoning codes – Encinitas is somewhat unique in using net acreage to calculate density. The City of Richmond also uses net acreage to calculate density, and has clarified within their City Municipal code that density based on site net acreage *also* applies to DBL projects. As another example, the City of San Francisco uses several completely different ways to calculate density in different parts of the city, including floor area ratios; their Density Bonus guidelines also specify that the Density Bonus is a **bonus** that is based upon the permitted density, based on the underlying zoning guidelines, whatever those may be.

As stated within the DBL, “The granting of a density bonus shall not require, or be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, or other discretionary approval.” It also states that “This section does not supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code). Any density bonus, concessions, incentives, waivers or reductions of development standards, and parking ratios to which the applicant is entitled under this section shall be permitted in a manner that is consistent with this section and Division 20 (commencing with Section 30000) of the Public Resources Code.”

Clearly, the Density Bonus law does not require, nor permit, the City of Encinitas to ignore the constraints of the LCP and calculate site density in a completely different way that is not contained within or approved by the zoning code, General code, etc.

Indeed, the City of Encinitas is currently working to amend the Municipal Code to address this very issue of density based on net vs. gross site acreage within density bonus projects, and these amendments will come before the Coastal Commission for approval. Presumably, based on public comment and Planning Commission discussion of said Municipal Code amendments, these code changes will specify that DBL projects must also use net site acreage to calculate base density upon which the development would obtain a bonus if sufficient affordable housing is supplied.

Please rescind the Coastal Development permit for this project, and consider revoking the certification of the City of Encinitas LCP for multiple identical violations for other density bonus projects approved since the subject project (i.e. Santa Fe Drive), at least until the City demonstrates compliance by requiring DBL projects to use net acreage for density calculations, as is approved under the Encinitas LCP.

Thank you,
Jessica Carilli, PhD
Environmental Scientist
Encinitas resident

Comment on July 2020 Agenda Item Wednesday 11a Appeal No. A-6-ENC-19-0032/DCM Properties., Inc., Encinitas

jilllevan@cox.net jilllevan@cox.net <jilllevan@cox.net>

Fri 7/3/2020 12:01 PM

To: SanDiegoCoast@Coastal <SanDiegoCoast@coastal.ca.gov>

Cc: Davis, Dennis@Coastal <Dennis.Davis@coastal.ca.gov>

W11a

Honorable CA Coastal Commissioners,

There are currently STILL TOO MANY unresolved human health and public safety issues associated with this 48 unit coastal housing development project before you today.

We strongly oppose the project as resubmitted, and urge the Commissioners to determine that this project cannot be approved and permitted unless all of the issues can be fully resolved. Chief among the issues are two:

1. The idea of burying hazardous waste and chemicals from former, toxic agricultural operations is unacceptable to approve/permit.
2. Allowing toxic materials to leach into the adjacent protected Batiquitos Lagoon and Pacific Ocean is unacceptable.

There are other issues, but public health is primary. Public safety is next and the fact that the current access roadway, La Costa Avenue, cannot accommodate more safe vehicle, bike and pedestrian access is also a key consideration prior to any vote/approval. Until the road has safe carrying capacity and improved infrastructure, sidewalks for coastal access, and the hazards above are addressed, the project must not be approved please. I was just walking on this road today across from the proposed site and it was very scary! Thank you for your time and consideration.

Respectfully,

Jill Levan

Leucadia Resident

Appeal No. A-6-ENC-19-0032 / DCM Properties. Inc. Encinitas

Jim Alwan <alwan1@cox.net>

Fri 7/3/2020 11:56 AM

To: SanDiegoCoast@Coastal <SanDiegoCoast@coastal.ca.gov>; Davis, Dennis@Coastal <Dennis.Davis@coastal.ca.gov>

W11a

Dear Steve Padilla, Chair and Honorable Commissioners of the California Coast Commission:

I am writing to register our opposition to the development at the Weston Property as currently planned. There are several important issues that have not been addressed or adequately resolved in light of the environmental impact of the development plan to the community and the adjacent Bataquitos Lagoon natural habitat. People and wildlife live in this area that will be negatively impacted by the development as currently proposed. As residents of La Costa Ave we are respectfully asking that you consider carefully the impact on the quality of life, safety, and sustainability of our coastal habitat for both humans and wildlife. Specifically, our concerns include:

1- The proposed burial of toxic materials on site including known carcinogens that are known to be harmful. It is not known how well they can actually be contained in such a burial scheme from leaching into the Lagoon and into our groundwater. It is unacceptable to subject the community to this practice.

2- The project will impact traffic, bicycle, and pedestrian safety and congestion. It has not been adequately studied and the proposed increase in traffic must be fully recognized that it will impact our narrow and already dangerous overburdened road. Without a way to adequately widen the road, being bounded by the lagoon and housing, this will negatively impact egress, safety, and quality of life. Note that other projects in the local area must be jointly considered as several are under construction or proposed within this small area between the 5 and the 101.

3- Protection of the California coastal lands and communities are paramount to our way of life and must be continued for future generations as well.

Thank you for your consideration.

Jim and Kelly Alwan

327 La Costa Ave
Encinitas, CA

Public Comment on A-6-ENC-19-0032/DMC Properties, Inc, Encinitas

joansebastian@cox.net <joansebastian@cox.net>

Fri 7/3/2020 7:58 AM

To: SanDiegoCoast@Coastal <SanDiegoCoast@coastal.ca.gov>

Cc: Davis, Dennis@Coastal <Dennis.Davis@coastal.ca.gov>

W11a

To Steve Padilla, Chair, California Coastal Commission,

I am against developing this property for all of the reasons already stated by others. I would like to add:

1. The property should be left as is for the wildlife to enjoy and as open space.
2. If the developer does get away with continuing with the development then all AFFORDABLE HOUSING should go to black families with the purpose of integrating our community. BLACK LIVES MATTER

I so hope this land is barred from ever being developed. Please include this in comment in your Staff Report.

Thank You. Encinitas resident, Joan Poe

Joan Poe
1922 Leucadia Scenic Ct.
Encinitas

Appeal No. A-6-ENC-19-0032 / DCM Properties., Inc., Encinitas

JT <johnrthompson@cox.net>

Fri 7/3/2020 12:19 PM

To: SanDiegoCoast@Coastal <SanDiegoCoast@coastal.ca.gov>; Davis, Dennis@Coastal <Dennis.Davis@coastal.ca.gov>

Public Comment for July 8, 2020 Agenda Item Wednesday 11a

Please reject the proposal to build 48 homes on La Costa Ave in Encinitas. I realize we need more housing, but this project design is unacceptable without the developer improving/investing in local infrastructure and coastal access. La Costa Ave is the only way for people to access the beach from the East. La Costa Avenue is the only "legal" way to walk to the beach around the railroad tracks, despite the absence of sidewalks. No more housing should be approved on this road without developers paying to improve coastal roadway infrastructure access. More cars and people can't be accommodated in this area.

Thanks for your denial of this project.

John Thompson
Leucadia resident

July 3, 2020

W11a

To: Steve Padilla, Chair, California Coastal Commission

Via email: SanDiegoCoast@coastal.ca.gov

cc: Dennis.Davis@coastal.ca.gov

Public Comment on July 2020 Agenda Item Wednesday 11a Appeal No. A-6-ENC-19-0032 / DCM Properties, Inc., Encinitas

Re: I urge you not to approve La Costa 48

Please include my comments in the staff report.

Sometimes a development comes along that is so egregious that it benefits no one but those few who stand to profit – leaving the public left to mourn the destruction of our coastal environment.

Forty-four overscale dwellings on our beloved, natural Batiquitos Lagoon have been pushed along by a short-sighted Encinitas Planning staff. They simply can't see the benefit of saving a natural and historic treasure. Nitpicking their way to approval, they even counted the seconds a freeway driver would be forced to see the buildings but declared it "less than significant."

That is why the Coastal Commission is now called upon to help save this bluffside lot bordering the lagoon for the future benefit of all. In the near future, we hope, Encinitas will have a forward-looking City Council who will set aside funding for natural preserves and open space including this property.

The lagoon is not just water, but comprises the banks around it and the air above it. Imagine the disruption to pollinators and other insects when 44 houses run their clothes dryers, showers, and dishwashers at once. I can smell my neighbors' laundry from the street, especially with the corporate trend toward ever-stronger fragrance pollution.

And bird life: the Encinitas Planning staff member in charge of wildlife shrugged off the report that Great Blue herons nest in eucalyptus trees under the proposed houses: "They're not endangered," he said.

As is well known, birds, insects, and other creatures can have their life cycles disrupted by light pollution. The Encinitas Planning Commission often assures its citizens that lights will have "no impact" on wildlife because they will be shielded. This is simply not true. A large housing complex emanates light, heat, and noise toward the lagoon, much greater than the existing couple of houses and nursery.

Another important issue the Encinitas Planning staff ignores time and again – including this development – is the issue of cumulative traffic impact. Not only does common sense tell us that the impact of multiple proposed developments along La Costa Ave. and Highway 101 make traffic volume intolerable, but local citizens have counted up the totals – all ignored as "insignificant" by Encinitas Planning staff. The public cannot enjoy the coastline if they will be stuck in traffic trying to get there.

And finally, the developer and the City of Encinitas in their Environmental Impact Report hid the fact that the agricultural property is subject to a state statute as documented "Unique Farmland" (EIR 4.02, Environmental Effects Found Not To Be Significant).

The "Unique Farmland" designation should trigger a CEQA requirement designed to compensate for the loss of agricultural land to development:

"The conversion of agricultural land represents a permanent reduction in the State's agricultural land resources. Conservation

easements are an available mitigation tool and considered a standard practice in many areas of the State. As such, the Department advises the use of permanent agricultural conservation easements on land of at least equal quality and size as partial compensation for the direct loss of agricultural land.”
([https://www.conservation.ca.gov/dlrp/Pages/CA-Environmental-Quality-Act-\(CEQA\)-.aspx](https://www.conservation.ca.gov/dlrp/Pages/CA-Environmental-Quality-Act-(CEQA)-.aspx))

The developer’s Environmental Impact Report wrongly declares the impact “less than significant” (EIR 4.2.1, available at https://encinitas.granicus.com/MediaPlayer.php?view_id=7&clip_id=1891&meta_id=96910 Metaviewer p. 1/10)

The EIR incorrectly claims that the site is exempt from CEQA status as “unique farmland” under the California Mapping Project (purportedly because greenhouses were in disrepair and it had been more than 4 years since farming ceased).

What is true is that:

- 1) The property is designated as “unique farmland” on the 2010 Mapping Project Map (<https://www.conservation.ca.gov/dlrp/fmmp>) and the “Most Recent” map (which likely dates from 2014-16, according to the map legend).
- 2) The property was farmed (floriculture) by Pacifica Flowers until 2013 (EIR Appendix 3.6a, parts 1 and 4)
- 3) Developer filed the project with the City of Encinitas in August 2015.

Therefore the property had been farmed within 4 years (2, actually) and was still subject to CEQA farmland conversion requirements when the Developer filed with the City of Encinitas.

For the reasons I have mentioned, I respectfully request that the Coastal Commission deny the La Costa 48 development.

Katrin Flechsig
Encinitas Resident

Public Comment on July 2020 Agenda Item Wednesday 11a Appeal No. A-6-ENC-19-0032 / DCM Properties., Inc., Encinitas

K. A. Schneider <kas8888@gmail.com>

Thu 7/2/2020 6:15 PM

To: SanDiegoCoast@Coastal <SanDiegoCoast@coastal.ca.gov>

Cc: Davis, Dennis@Coastal <Dennis.Davis@coastal.ca.gov>

W11a

To: Honorable Commissioners

Re: Appeal No. A-6-ENC-19-0032 / DCM Properties., Inc., Encinitas

Please be advised there are still critical issues that have not been resolved, and this development should not be approved as re-submitted.

This is a serious threat to the Batiquitos Lagoon, quality of life and coastline access for all people, not just those people who live nearby.

Please take a moment to think about this and do the right thing.

Please include these comments in the staff report.

Thank you,

Kelly Ann Schneider

Public comment on JULY 2020 Agenda item Wednesday 11a Appeal No. A-6-ENC-19-0032 / DCM properties,. Inc

Laura Binney <laura.binney@outlook.com>

Fri 7/3/2020 1:11 PM

To: SanDiegoCoast@Coastal <SanDiegoCoast@coastal.ca.gov>

Cc: Davis, Dennis@Coastal <Dennis.Davis@coastal.ca.gov>

W11a

To whom it may Concern,

My husband Bryan and I have been long time residents of this area and we have watched the traffic become a nightmare. To develop the La Costa exit ramp area effects us greatly. The hotel has been added and now you are considering allowing more development, we implore you to stop it. Not only is traffic awful but it effects the natural beauty and sensitive eco system we have here in this area.

Thank you for your time and consideration,
Laura and Bryan Binney

Public Comment on July 2020 Agenda Item Wednesday 11a Appeal No. A-6-ENC-19-0032 / DCM Properties., Inc., Encinitas

Megan Riggs <meganriggs1@gmail.com>

Fri 7/3/2020 9:36 AM

To: SanDiegoCoast@Coastal <SanDiegoCoast@coastal.ca.gov>; Davis, Dennis@Coastal <Dennis.Davis@coastal.ca.gov>

To: Steve Padilla, Chair, California Coastal Commission and honorable commissioners,

I'm writing on behalf of my family and I who live a few hundred feet from the proposed La Costa 48 project. My husband and I have lived here for over 15 years and cherish the quality of life that we have been able to provide our family. During that time, we've seen several development projects in the area. However, we are very concerned with the latest proposal for the La Costa 48 project near the Batiquitos Lagoon.

This development will have a devastating impact on the ecologically sensitive lagoon and the surrounding communities.

My understanding is that the following issues still have not been addressed by the developer:

- **Onsite burial of hazardous toxic wastes:** The proposed development plan calls for BURIAL of hazardous wastes ON SITE – the known carcinogens Toxaphene and DDT, which pose a significant health threat. This is a violation of the U.S. Clean Water Act (Prop 65), and would not only be detrimental to the residents of this proposed development but also the residents and pets of the surrounding homes. The leaching of these hazardous toxins into the Batiquitos Lagoon would have a significant negative impact on the lagoon water quality and the health of the wildlife it supports. These hazardous materials need to be properly contained, removed from the project site, and properly disposed of.
- **Clear and Obvious Threat to the Batiquitos Lagoon:** The proposed project (previously approved in 2019 by the Encinitas Planning Commission and the City Council) failed to recognize that the Batiquitos Lagoon is an impaired water body, which requires study and documentation of projected toxicity of the hazardous waste onsite burial, public access issues, runoff and drainage and impact on habitat and wildlife within and around the lagoon.
- **Traffic burden and Public Safety:** Of universal concern should be public safety and traffic impacts to residents and all drivers on La Costa Avenue, I-5 and the 101. Current and planned cumulative new development impacts have not been factored in the staff recommendation to approve this 48-home development (with only one access road onto La Costa Avenue). This is already a dangerous thoroughfare and increasing traffic in the area will make it even more treacherous.
- **Quality of Life and protection of our coastline access:** This proposed project was not properly evaluated, particularly with regard to the cumulative impact of the multiple other commercial (hotel) and residential projects underway and/or being planned along the west La Costa avenue corridor and at the base on the 101. Of paramount importance is protecting our communities and the health of the Batiquitos Lagoon and watershed.

On behalf of my family and our two young sons, **I strongly urge that the commissioners find that there are still critical issues that have not been resolved, and this development should not be approved as re-submitted.**

I also request that my comments are included in the Staff Report.

7/3/2020

Mail - Davis, Dennis@Coastal - Outlook

Best Regards,
Megan Swanland Riggs

W11a

To: Honorable Commissioners:

We think there are still too many unresolved issues with this project as it has been submitted. We have been docents at Batiquitos Lagoon since 2005 and have walked on the trails of the lagoon since the 1980s and are therefore concerned about water quality issues and overall lagoon health. The idea of keeping hazardous chemicals and waste on the property site with the possibility of this material not only leeching into the labor water but potentially causing danger to future property owners, both adults and children. I can foresee the possible construction of a swimming pool, for example, where the excavation of hazardous material could come in contact with workers or residents of properties surrounding the worksite. I (Michael) have been undertaking a monthly bird inventory of the bird populations on and around the lagoon since 2010 and previous docents have created records going back to the 1980s. Several of the species that we have been watching are Western Snow Plovers and California Least Terns whose nesting sights were specifically created for them in the mid 1990s restoration project that created a constant refreshing of the lagoon water. Three of these five nesting sites are near this planned project and chemicals leaching into the water might have an impact on these birds. The Least Terns especially use these waters for foraging for small fish which they feed themselves and their young.

Another major issue with this project is the additional traffic that will be created by the homes on La Costa Avenue. There must be additional consideration to provide safe access for north Leucadia residents to access La Costa Avenue from the south side of that street and the nearby cul-de sacs for automobiles, bicycles, pedestrians, skate boarders, etc. for transport to the freeway and the coast highway and nearby beaches.

We believe the project needs to be re-evaluated with these concerns in mind before any future approval is given. Please include our comments in the staff report.

Sincerely,

Michael M. Gollong & Patricia A. Gollong
Leucadia residents since 1975

Public Comment on July 2020 Agenda Item Wednesday 11a Appeal No. A-6-ENC-19-0032 / DCM Properties., Inc., Encinitas

Michael Schwaebe <mjschwaebe@gmail.com>

Fri 7/3/2020 2:18 PM

To: SanDiegoCoast@Coastal <SanDiegoCoast@coastal.ca.gov>

Cc: Davis, Dennis@Coastal <Dennis.Davis@coastal.ca.gov>; [Michael Schwaebe <mjschwaebe@gmail.com>

Honorable Commissioners **W11A**

I am an engineer by training and a neighbor on the south side of the proposed development.

I urge the commissioners to find that there are still critical issues that have not been resolved, and this development should not be approved as re-submitted.

The most significant issue for me is burial of toxic waste on the site. The worst case scenario is leaching into the lagoon, even at small levels can be detrimental to life there. Please require removal of toxic waste.

Please require a comprehensive evaluation and mitigation of the cumulative effect of vehicular traffic associated with 48 new homes accessing an already crowded La Costa Ave in conjunction with all the other projects that are underway and or planned.

Please include my comments in the staff report.

Thank you,

Michael Schwaebe PE

Public Comment on July 2020 Agenda Item Wednesday 11a: Appeal No. A-6-ENC-19-0032 / DCM Properties, Inc., Encinitas

N De <dogs92024@yahoo.com>

Thu 7/2/2020 7:38 PM

To: SanDiegoCoast@Coastal <SanDiegoCoast@coastal.ca.gov>; Davis, Dennis@Coastal <Dennis.Davis@coastal.ca.gov>

Honorable Commissioners,

W11a

Please deny the development of the property known as La Costa 48 (David Meyer and DCM's property in Encinitas).

- The hazardous waste materials including DDT must be removed, not buried.
- The cumulative impact of traffic, including pedestrian and bicycle traffic, in this area has yet to be addressed and there are many pending projects with 1/2 mile including a few up-zoned projects (because of the new Housing Element). Public safety is at stake. "Mitigation" on this project agreed to by the city of Encinitas is grossly insufficient. I live within 1/4 mile of the site.
- The impacts to Batiquitos Lagoon, its wildlife and habitat have not been sufficiently studied or resolved. We must preserve this natural asset.

You have an open chance to force something better to be built. Please review each issue thoroughly and base your decisions on a better future.

Sincerely,
Nancy DeGhionno
Leucadia, CA

Public Comment on July 2020 Agenda Item Wednesday 11a , Appeal No. A-6-ENC-19-0032 / DCM Properties., Inc., Encinitas

Robert Poe <robertpoe@cox.net>

Fri 7/3/2020 10:41 AM

To: SanDiegoCoast@Coastal <SanDiegoCoast@coastal.ca.gov>

Cc: Davis, Dennis@Coastal <Dennis.Davis@coastal.ca.gov>

W11a

Honorable Commissioners ::

I am a 17-year resident in the neighborhood of the proposed development and use La Costa Avenue frequently to access Coast Highway, I-5, and points east. The development as planned is extremely likely to produce a major traffic bottleneck on that narrow street because of the excessive population density proposed. Even now, it is often very difficult to turn onto La Costa Avenue from Sheridan during heavy traffic conditions. These conditions are already likely to worsen, owing to other current development projects or proposals.

Furthermore, the proposal to bury the existing toxic waste in situ is an irresponsible decision, given the vulnerability of the Batiquitos Lagoon and surrounding wetlands. I urge the Coastal Commission to reject the proposal on the grounds of environmental protection.

Any development program in this area should, of course, consider affordability issues, but should also consider affirmative action to improve the diversity of population in this neighborhood. Developers should be required to give preference to underrepresented minorities.

Please include these comments in your staff report.

Sincerely,
Robert Poe
1922 Leucadia Scenic Court
Encinitas CA 92024

Fwd: Public Comment on July 2020 Agenda Item Wednesday 11a Appeal No. A-6-ENC-19-0032 / DCM Properties., Inc., Encinitas

ruth heidmann <ruheidmann@gmail.com>

Fri 7/3/2020 2:54 PM

To: SanDiegoCoast@Coastal <SanDiegoCoast@coastal.ca.gov>

Cc: Davis, Dennis@Coastal <Dennis.Davis@coastal.ca.gov>

W11a

Honorable Comissioners,

Please accept this email from me to be counted in STRONG OPPOSITION TO THE RESUBMITTED LA COSTA 48 HOUSING PROJECT proposed for THE area adjacent to the Batiquitos Lagoon & extending to the northeast corner of the La Costa Avenue & Sheridan Rd intersection.

It has come to my attention that critical issues have not been resolved or even addressed, including the developer's plan to bury hazardous & toxic wastes onsite!!!, and cumulative effect of traffic !!! from La Costa 48 Project, other pending high density housing projects, a new hotel being built at west end of La Costa Ave, & another planned building of a Carlsbad hotel just to the north of the lagoon on Hwy 101.

Growing up out of state, I admired how California laws made protection of our environment and coastlines a priority, and rightly so. It is unbelievable to me that a developer is unchallenged in dumping/burying toxic wastes at this location! Protecting our coastline and lagoon should continue to be a priority, not filling a developer's pocketbook!

I have lived in this Carlsbad & Encinitas for almost 30 years, and near the proposed La Costa 48 Project for almost five years. Since La Costa Avenue already is a primary access point to our beautiful beaches, both its west-bound and east-bound single lanes are insufficient to handle the additional traffic that will result from these high-density projects. No cumulative new development impact study is needed; just ask people who live here in the neighborhood and you'll get the same answer. Traffic back-up on La Costa Avenue is not only bad for the wildlife habitats in the area, including the Western Screech owls that have visited our property, but most likely, it also means our quiet "Andrew Avenue" will be transformed into a heavily-traveled, alternative route chosen by motorists seeking to by-pass the La Costa Avenue back-up. No thank you!

Ruth Heidmann

Homeowner-232 Andrew Ave, Encinitas CA 92024

Public Comment on July 2020 Agenda Item Wednesday 11a - Appeal No. A-6-ENC-19-0032 / DCM Properties., Inc., Encinitas

Nortons <nortsurf4@yahoo.com>

Fri 7/3/2020 1:43 PM

To: SanDiegoCoast@Coastal <SanDiegoCoast@coastal.ca.gov>

Cc: Davis, Dennis@Coastal <Dennis.Davis@coastal.ca.gov>

W11a

TO: Honorable Commissioners

Since 1998, my wife and I have resided at 283 La Costa Ave. (in a small 5-house cul-de-sac) between I-5 and Highway 101. During that time, we have experienced a phenomenal increase in traffic on this small (~.5 mi.) two-lane road -- and just imagine what's going to happen with the completion of the 130-room hotel at the intersection of La Costa Ave. and 101!

It is for that reason that we want to express our very serious concerns in the context of one of the unresolved issues before you related to the proposed "La Costa 48", i.e., *Traffic Burden and Public Safety*. Please know, however, that we are equally concerned about the other unresolved issues - which have been fully addressed and submitted by the Batiquitos Lagoon Foundation Board and many of our concerned neighbors - and we implore the Commissioners to thoroughly examine and resolve all of these very important matters.

As background, beginning on August 7, 2018 with our attendance at an introductory housing development meeting hosted by David Meyer (and our subsequent August 9th email to him, see below), we have been fully engaged (also through attendance at City of Encinitas Council and Planning Commission meetings and emails) in discussions related to the proposed development and potential additional traffic problems along La Costa Ave. (and adjoining neighborhood roads) should such a large housing development be approved.

On a daily basis, we face major difficulties, due to existing heavy traffic flows, with safely coming out of our cul-de-sac onto the main La Costa Ave. Additionally, as daily walkers to and from Ponto/South Carlsbad State Beach, which necessitates being on sidewalk-less (!) La Costa Ave., we are very concerned with the certain increase in traffic due to the proposed development as well as others envisioned along this very short, narrow corridor. Alas, while we are very pleased with the fairly recent painted designations of pedestrian and bike lanes, the narrowing of the car lanes and the reduction of the posted speed limit from 40 to 35, there has been very little, if any, impact on the unsafe speeds and driving (read: while texting, hands-on talking, etc.) along La Costa Ave.!

To put the current proposal in context, we did a rough count on the number of residences that presently depend solely on La Costa Ave. for egress/ingress: **52!** So, we ask that when making your decision, please consider that adding **48** new residences would nearly **double** that figure and the number of vehicles utilizing this narrow 1/2 mi. stretch of La Costa. We believe this is a really big problem with definite environmental, health and, most importantly, safety impacts!

In sum, we ask that you fully consider all the inputs from all of the many interested and concerned parties and do NOT feel compelled to approve a hugely impactful project because of the push for more housing -- the proposed size and location (vis-a-vis our very unique

Batiquitos Lagoon) is not the way to address this important societal issue (let alone that they will not be "affordable"). Consequently, please do **not** approve the proposal as re-submitted.

We request that our comments be included in the staff report.

With high regards,
Steve and Meg Norton
283 La Costa Ave.
Leucadia

Our August 9, 2018 letter to David Meyer

Dear Mr. Meyer:

While my wife and I appreciated your thorough oral and visual presentation regarding the subject proposed development at 510-516 La Costa Ave., we have serious concerns (as expressed earlier to Encinitas City authorities in response to your EIR) over the size of the proposed development and the huge consequential impact on the Avenue's traffic!

Specifically:

- Your number of proposed housing units will, in fact, more than double the number of residences that currently utilize La Costa Ave. as their sole egress/ingress between I-5 and Highway 101 -- that's something really worth considering when appreciating that this is principally a residential street which has morphed into a trunk road, but still **only** has one lane each way! Of course, this potential doubling of traffic from your proposed development does not even include the existing huge flow of traffic onto and off of Sheridan and Vulcan Avenues!*
- We are especially concerned because -- as homeowners at 283 La Costa Ave. (on one of the south-side cul-de-sacs) -- we already face on a daily basis major difficulties due to heavy traffic flows with safely coming out onto the main La Costa Ave. Additionally, as daily walkers to and from Ponto Beach (and ones who are very happy with the recent narrowing of the La Costa Ave. car lanes to permit both a ped. and bike lane on the south side as well as a bike lane on the north side), we are very concerned with the certain increase in traffic due to your proposed development as well as others envisioned along this very short, narrow corridor. Alas, the narrowing of the car lanes and the reduction of the posted speed limit from 40 to 35 has had very little, if any, impact on the fast speeds!*
- In addition to having a hard time believing that it's possible to have a dedicated left turn lane ("pocket") to turn south onto to Sheridan from La Costa, we really are troubled by your envisioned "center/merge lane" to enable drivers exiting your proposed development to safely head east on La Costa. Again, we have a hard time envisioning the space required to create such an "island" given the obvious north/south limits. As frequent drivers on La Costa heading east, we can envision some very serious traffic problems (especially during the early morning rush hours) as those drivers exiting your development attempt to merge with the already steady-flowing eastbound traffic.*

- In sum, we are sharing these concerns not only with you in the context of your proposed development (i.e., we believe it should be considerably smaller) but also with the City authorities as we believe it's time for them to step back and take a far more holistic view of what your and others' approved or envisioned projects along La Costa Ave. will mean to the traffic volume AND our driving, walking and biking safety.

Thanks in advance for your consideration of these comments. Rest assured we will continue to press our concerns in the months and years ahead with all relevant parties.

*Sincerely,
Steve and Meg Norton
283 La Costa Ave.*

Please do not approve the development at La. Costa Avenue

Vicki Campbell <vicki@vavoomdesign.com>

Thu 7/2/2020 1:41 PM

To: SanDiegoCoast@Coastal <SanDiegoCoast@coastal.ca.gov>

Cc: Davis, Dennis@Coastal <Dennis.Davis@coastal.ca.gov>

Honorable CA Coastal Commissioners,

W11a

I am writing this letter because I believe that the proposed development on La Costa Ave is bad for the city and bad for the people of Encinitas for several reasons including health, public safety and quality of life for our residents. I urge you to deny this application for the following reasons:

Health is of primary concern:

1. The idea of burying hazardous waste and chemicals from former, toxic ag operations is unacceptable to approve/permit. It is dangerous for people to live on top of toxic waste.

Safety is of primary concern:

1. This development touches the Batiquitos lagoon and toxic waste leeching into the lagoon compromises it's safety for both people and wildlife.

Quality of Life is another concern:

1. This property is located directly across from a large hotel development and has limited access. The coast highway is only one lane in and direction and the two lane part of the road is a shared lane with bicyclists. There have been numerous bicycle accidents and adding more traffic would exacerbate this situation.
2. La Costa avenue is already crowded and the new hotel will bring more traffic to a congested area

These important, unresolved human health and public safety issues can not be overlooked and I strongly oppose the project as resubmitted. I urge the Commissioners to determine that this project cannot be approved and permitted unless all of the issues can be fully resolved. Respectfully,

Vicki Campbell
Leucadia Homeowner

Fw: Public Comment on July 2020 Agenda Item Wednesday 11a. Appeal Number A-6-ENC-19-0032 / DCM Properties, Encinitas

William Racine <wcracine@yahoo.com>

Thu 7/2/2020 2:45 PM

To: Davis, Dennis@Coastal <Dennis.Davis@coastal.ca.gov>

Cc: SanDiegoCoast@Coastal <SanDiegoCoast@coastal.ca.gov>

Sorry but I misaddressed my comments to you for **Agenda Item Wednesday 11a**. Here they are.

W C Racine

----- Forwarded Message -----

From: William Racine <wcracine@yahoo.com>

To: SanDiegoCoast@coastal.ca.gov <sandiegocoast@coastal.ca.gov>

Cc: DennisDavis@coastal.ca.gov <dennisdavis@coastal.ca.gov>

Sent: Thursday, July 2, 2020, 2:33:42 PM PDT

Subject: Public Comment on July 2020 Agenda Item Wednesday 11a. Appeal Number A-6-ENC-19-0032 / DCM Properties, Encinitas

Honorable
Commissioners:

W11a

There are several important issues with the subject DCM Properties development which have not been resolved and which need to be solved prior to your approval of the project.

As a 42 year resident of La Costa Avenue I am deeply concerned with this project's severe impacts on my neighborhood and the fantastic Bataquitos Lagoon. The two most severe impacts are burial of hazardous waste on the project property and the cumulative impacts of numerous developments on our neighborhood and the lagoon.

I understand that the project includes burying existing hazardous waste from the prior greenhouse operations on the site and building homes over it. This makes no sense to me. The health impacts on families who purchase these homes could be horrible. Also, what's to keep the waste from leaching into the lagoon, causing animal deaths and degrading water quality?

As you probably know, there are a number of proposed developments near the DCM Properties project, including hotels and residential developments. One large, beach front hotel is already under construction at La Costa Avenue and Highway 101. I think the Commission should look at the cumulative impacts of all of these projects rather than taking them one at a time. Impacts on traffic and lagoon water quality are only two areas that come to mind.

I am concerned that the Commission is rushing the approval of the DCM Properties project without resolving the issues I have briefly stated above.

Please include these comments in the staff report to the Commissioners.

Thank you for your consideration of my comments.

W. C. Racine