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W20a

A-6-ENC-25-0005 (QUAIL MEADOWS APARTMENTS)

MAY 13, 2026

EXHIBITS

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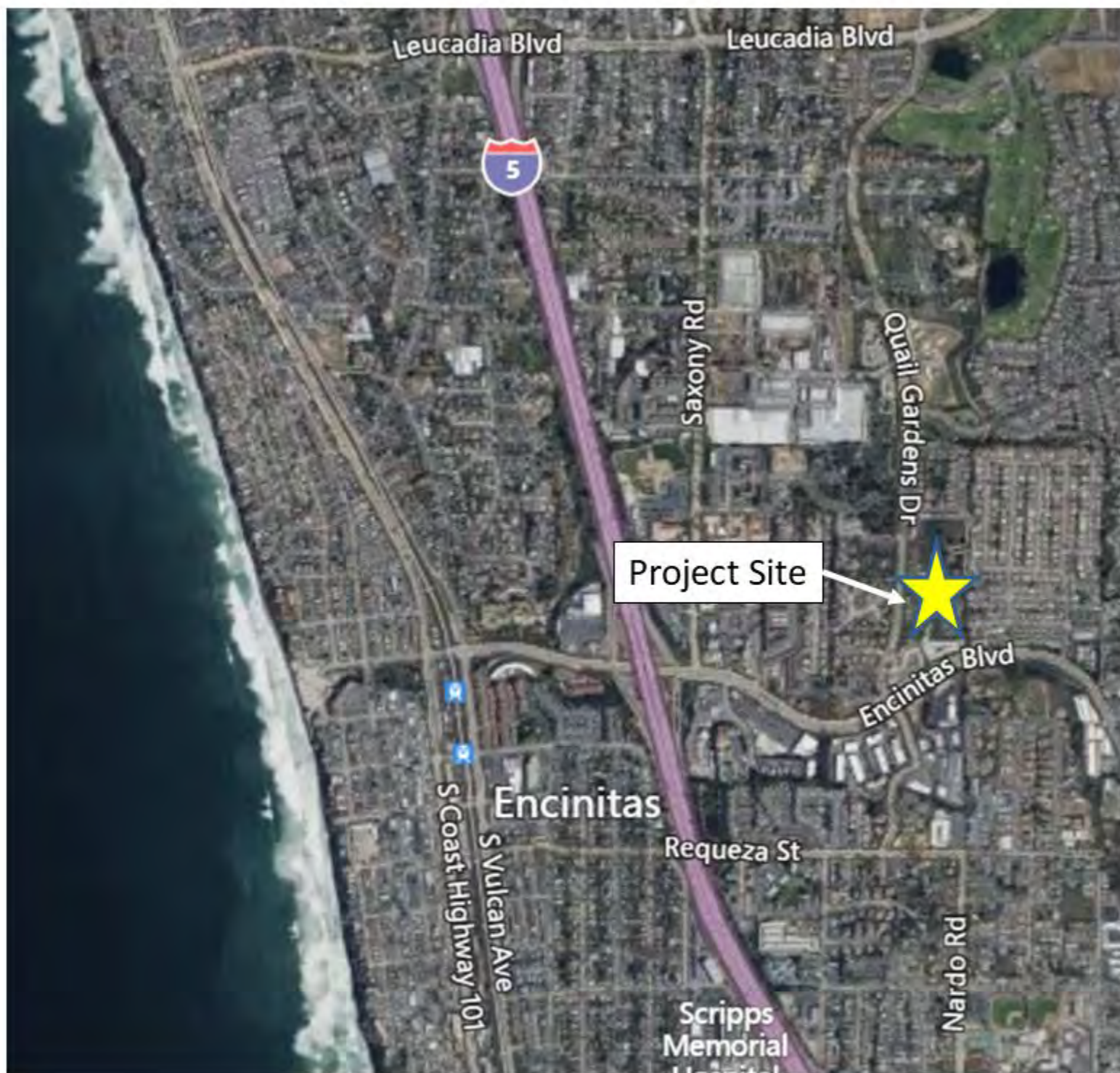


EXHIBIT NO. 1
APPLICATION NO. A-6-ENC-25-0005
Vicinity Map
 California Coastal Commission

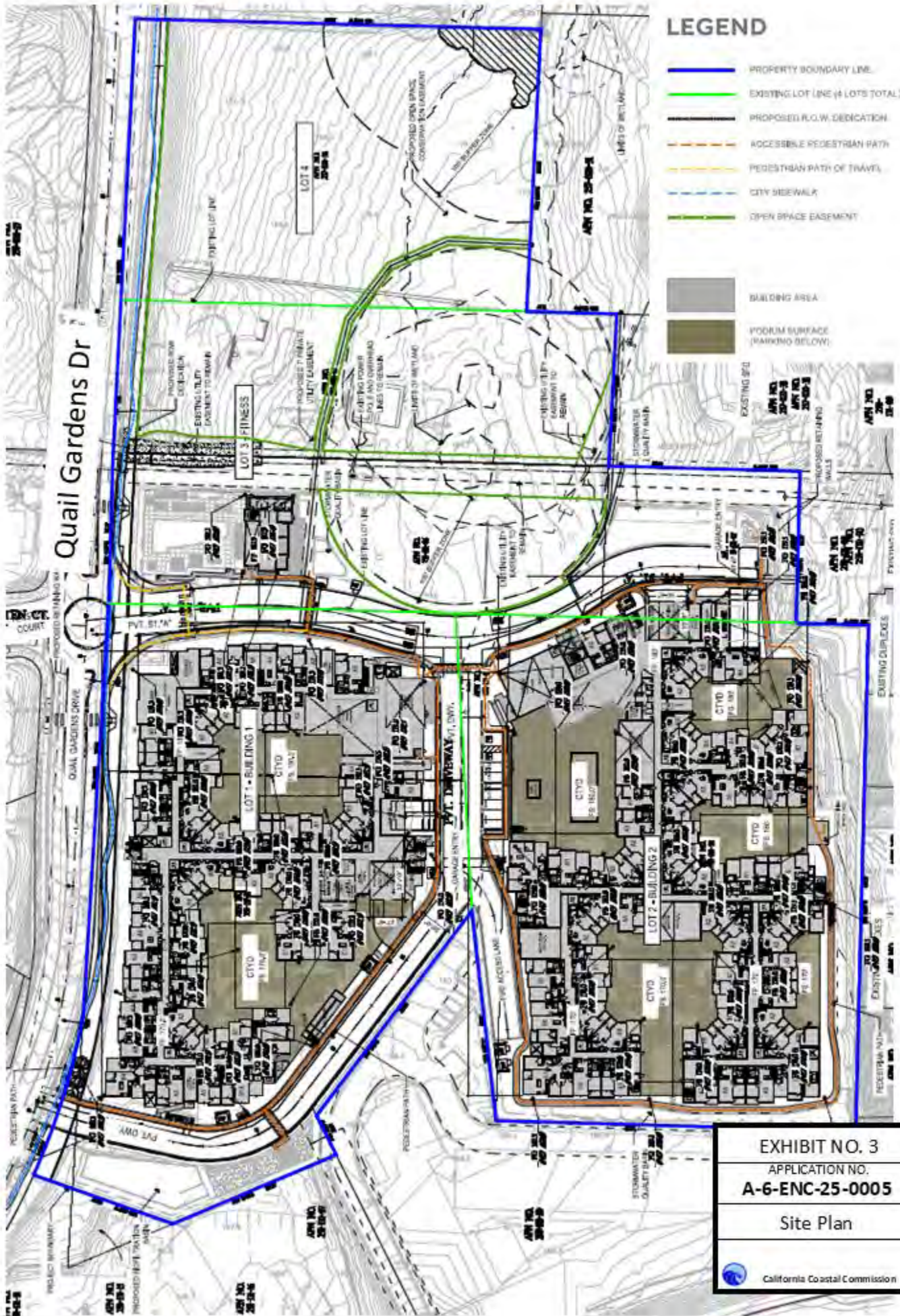


EXHIBIT NO. 3

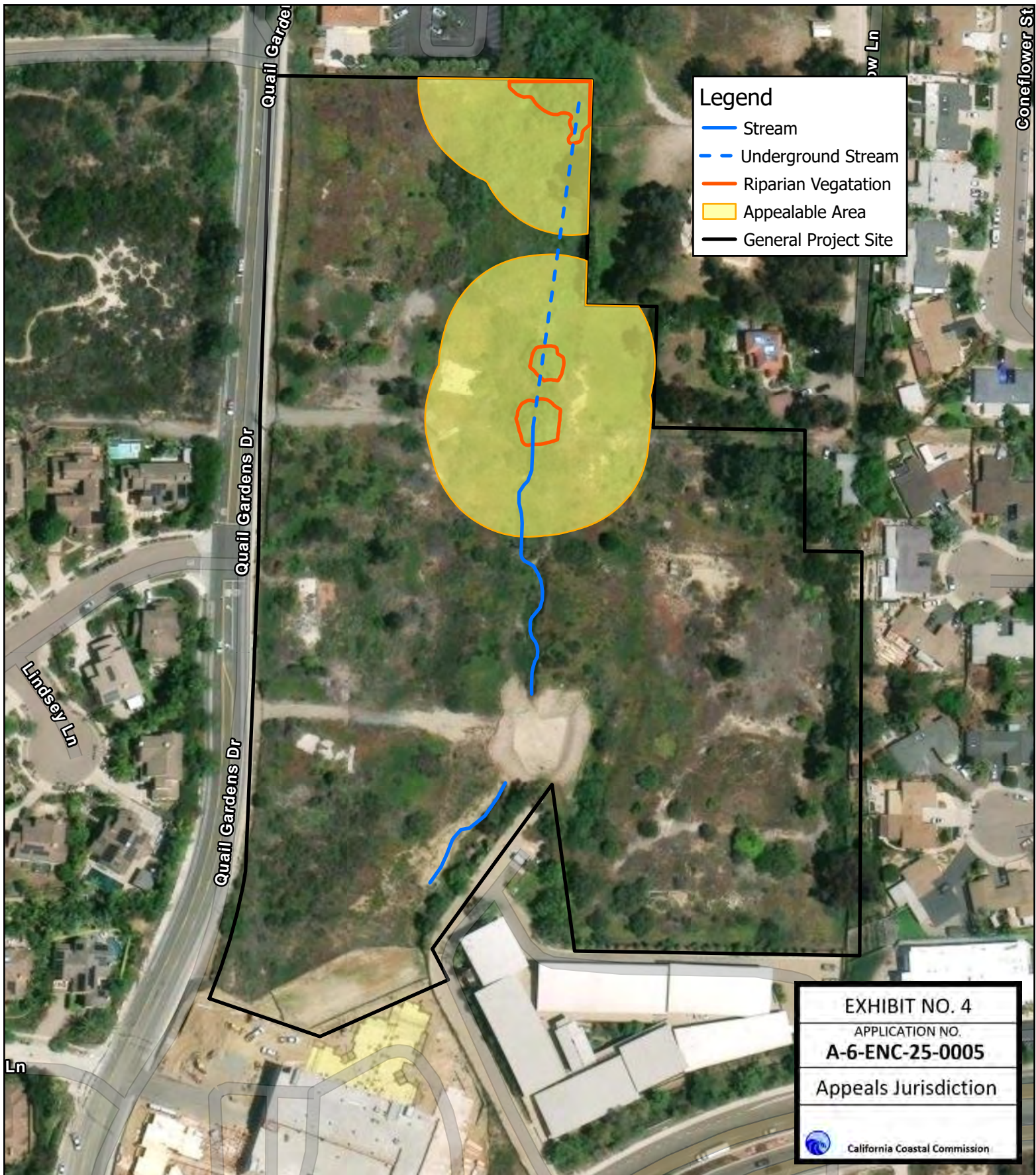
APPLICATION NO.

A-6-ENC-25-0005

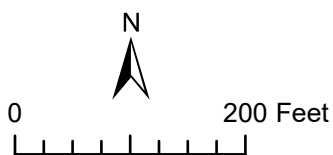
Site Plan



California Coastal Commission



Quail Meadows Appeal Jurisdiction



Technical Services Division - GIS Unit

For illustrative purposes only. CL April 2026

Sources: Vantor, Sources: Esri, TomTom, Garmin, FAO, NOAA, USGS, (c) OpenStreetMap contributors,

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**M E M O R A N D U M**

FROM: Dr. Corey Clatterbuck, Ecologist

TO: Dr. Kate Hucklebridge, Executive Director
Karl Schwing, San Diego District Director
Diana Lilly, San Diego District Manager
Stephanie Leach, San Diego District Supervisor

SUBJECT: Appealable jurisdiction for Quail Meadows, LLC (A-6-ENC-25-0005)

DATE: April 30, 2026



I have been asked to evaluate the Commission's appeals jurisdiction for the Quail Meadows Housing project (APN: 257-020-36) along Quail Gardens Drive in the City of Encinitas. This memo addresses the appellant's contention that the appealable area is larger than currently delineated due to the presence of a stream on site, and one-parameter wetlands characterized by hydrophytic vegetation. The appellant asserts that a natural stream has been mapped on the site by the US Geological Survey that bisects the site. The appellant did not provide mapping of potential one-parameter wetlands on-site, but did provide a photograph of a stand of hydrophytic plant species growing in an area of the site that was recently cleared.

Relevant Coastal Act and City of Encinitas Policies

Section 13577 of the California Code of Regulations states, in relevant part:

For purposes of Public Resources Code Sections 30519, 30600.5, 30601, 30603, and all other applicable provisions of the Coastal Act of 1976, the precise boundaries of the jurisdictional areas described therein shall be determined using the following criteria:

(a) Streams. Measure 100 feet landward from the top of the bank of any stream mapped by USGS, or identified in a local coastal program. The bank of a stream shall be defined as the watershed and relatively permanent elevation or acclivity at the outer line of the stream channel which separates the bed from the adjacent upland, whether valley or hill, and serves to confine the water within the bed and to preserve the course of the stream. In areas where a stream has no discernable bank, the boundary shall be measured from the line closest to the stream where riparian vegetation is permanently established. For purposes of this section, channelized streams not having significant habitat value should not be considered.

(b) Wetlands. (1) Measure 100 feet landward from the upland limit of the wetland. Wetland shall be defined as land where the water table is at, near, or above the land surface long enough to promote the formation of hydric soils or to support the growth of hydrophytes, and shall also include those types of wetlands where vegetation is lacking and soil is poorly developed or absent as a result of frequent and drastic fluctuations of surface water levels, wave action, water flow, turbidity or high concentrations of salts or other substances in the substrate. Such wetlands can be recognized by the presence of surface water or saturated substrate at some time during each year and their location within, or adjacent to, vegetated wetlands or deep-water habitats.

Site Context and History

Watershed

The subject site is located in part of the Cottonwood Creek watershed (2150 ac) in the City of Encinitas. The subwatershed in which the subject site occurs drains approximately 400 acres of land. The appellant's representative, Mr. Hamilton, provided historical USGS blue line mapping available in 1949 and 1968 that indicate a tributary of this subwatershed is on site¹. In present day, all reaches of this tributary exhibit extensive alteration, channelization, and flood control. The headwaters begin within the Encinitas Ranch Golf Course approximately 0.75 mile north of the subject site and drain approximately south to likely underground stormwater infrastructure along Quail Gardens Drive. The mapped drainage then crosses to the east side of Quail Gardens Drive and likely flows through stormwater infrastructure under the existing Encinitas Community Garden and the Quail Park subdivision. The waters continue just south of Mays Hollow Lane, where the reach extends approximately 150 feet before meeting a headwall and 48-inch pipe in the most northeast corner of the Quail Meadows site. There, the mapped stream continues south, bisecting the site for approximately 700 feet and, in the City of Encinitas's map, ends at a retention pond. The USGS blue line stream continues through the retention pond and diverts southwest for approximately 150 feet, ending at a drainage and diverting to an 84-inch reinforced concrete pipe. Both the retention pond and the drainage connect to a larger, underground stormwater system southwest of the site at the intersection of Quail Gardens Drive and Encinitas Boulevard². Flows then continue west into the Cottonwood Creek Detention Facility, are daylighted at a remnant of Cottonwood Creek, and into the Pacific Ocean at Moonlight State Beach.

Land use and alteration history

¹ Hamilton, R. October 2, 2024. Comments on Jurisdictional Delineation and Associated Regulatory Issues Proposed Quail Meadows Project. Hamilton Biological, 8pp.

² Hastie, B. Draft Drainage Study for Quail Meadows (Preliminary Engineering). Rick Engineering Company, Revision October 16, 2023. 198pp.

In my analysis, I used aerial photographs to understand the change in vegetation and potential habitat areas over time. These publicly available photographs are available at University of California Santa Barbara Library's Aerial Photography collection³ as well as Google Earth. I did not find any imagery of the area prior to development in the subwatershed containing the subject site. The earliest clear image is from 1939 and shows Quail Gardens Drive in place, to the west of the subject site and Encinitas Boulevard south of the subject site. Much of the reach upstream of the subject site lacked riparian vegetation, likely cleared for agricultural purposes consistent with land use patterns surrounding the stream at the time. An orchard and a home are visible on the southern half of the subject site. A segment of vegetated riparian area extends south from the northernmost extent of the subject site and ends approximately halfway through it at a dry and unvegetated streambed. Riparian vegetation resumes southwest of Encinitas Boulevard, heading west along undeveloped areas adjacent to the road. Visual records over the next 40 years document an increase in development throughout the watershed, with agriculture continuing in the upper watershed and on-site. By 1974, the vegetated riparian area downstream of the subject site heading west was cleared and filled for development (Figure 1). Single-family residences and commercial areas start filling in former agricultural areas surrounding the subject site by 1980, though agricultural facilities expanded on site until 2005, when the imagery shows most buildings were demolished and removed from the site. The aerial imagery indicates multiple instances of vegetation clearing and grading on-site, as well as the construction of facilities, potentially greenhouses, over the mapped stream. Tree or large shrub vegetation appears to form intermittently between instances of grading and clearance, always along the mapped stream limited to the center of the site (Figure 2).



Figure 1: Aerials of the subject site outlined in yellow in 1964 (left) and 1974 (right). The riparian watershed visible southwest of the subject site is present in 1964 and removed by 1974.

³ <https://www.library.ucsb.edu/geospatial/aerial-photography>



Figure 2: The subject site (yellow) with increasing agricultural development over time. Note the riparian vegetation in the approximate center of the site is constrained and removed over time. Photos are from the UCSB Library's Aerial Photography Collection and Google Earth.

Existing Condition of Potential Stream and Wetland Areas

In preparing to submit for permitting applications including the CDP, the applicant's biologist performed multiple surveys of the subject site, available in the project's biological technical report.⁴ These included a general vegetation mapping and reconnaissance survey (2016, with mapping updated in 2019 at the request of the wildlife agencies); jurisdictional delineations (September 2016, December 2022, January 2023); a rare plant survey (June 2019); and protocol-level surveys for Coastal California gnatcatcher (*Poliophtila californica californica*, 2018 and 2020), Southwestern willow flycatcher (*Empidonax traillii extimus*, 2018), and least Bell's vireo (*Vireo bellii pusillus*, 2019). In summary, the applicant's biologist found one coastal wetland in the northeast corner of the site characterized as a southern willow scrub vegetation community. In 2022, Mr. Hamilton, the appellant's representative, asserted that the applicant had not assessed the extent of one-parameter wetlands on site. As one example, he cited two large willows approximately in the center of the site as constituting additional one-parameter wetlands. In response to CCC staff feedback that the willows represented a CCC wetland, the applicant then delineated, mapped, and provided a 100-foot buffer to protect it. As of October 2024, the appellant continues to contend that there are multiple additional one-parameter wetlands on site due to scattered occurrences of hydrophytic vegetation, as well as a stream on site. In responses to comments to Mr. Hamilton, the applicant's biologist asserts there is no streambed on site and no further jurisdictional delineations are needed.

I visited the site and the riparian area just north of the site with the applicant, the applicant's biologist from DUDEK, CCC District staff Stephanie Leach, and the

⁴ Amoaku, C. Biological Resources Letter Report for The Quail Meadows Apartments Project, City of Encinitas, California. DUDEK, 26 August 2024, 126pp.

applicant's agent Allison Rolfe on April 7, 2025. While the surveys reference habitats across the entire site, the following focuses on the potential stream (including riparian) and wetland areas detailed in the appellant's contentions.

Potential stream areas

The riparian area north of the property boundary was characterized by a willow-dominated canopy and a moist soft-bottom streambed though no surface flow was observed. (Figure 3).



Figure 3: The headwall and 48" pipe at the northeast end of the subject site, taken from the property north of the subject site looking south towards the subject site.

The southern willow scrub mapped within the subject site's northeastern boundary in the applicant's 2024 biological technical report remains on site. This community lies in the topographic valley of the site and connects to the willow community just on the other side of the headwall. The dominant observed plants were arroyo willow (*Salix lasiolepis*) and red willow (*Salix laevigata*) that were too dense to cross through on the subject site to observe the headwall and culvert that conveys water to the subject site. Non-native plants dominated the herbaceous layer surrounding the southern willow scrub, including wild radish (*Raphanus raphanistrum*), Bermuda buttercup (*Oxalis pes-caprae*), dwarf nettle (*Urtica urens*), and freeway iceplant (*Carpobrotus edulis*), with a scattering of native wild cucumber (*Marah macrocarpa*) individuals. The non-native plants completely covered the ground south of the southern willow scrub, roughly along the line of the USGS-mapped stream mapped north to south (Figure 4). However, no bed or bank was visible in this section of the site, though this was potentially obscured by the thick herbaceous layer. I also observed broken and aged piping infrastructure throughout the northern area of the subject site (Figure 5).



Figure 4 (left): Photo looking north to mapped Southern Willow Scrub on site. Figure 5 (right): Remnant irrigation infrastructure from previous agricultural development on site.

Continuing south across the subject site, the dominance of non-native plants, particularly freeway iceplant, continued in the herbaceous layer until meeting an area dominated by coyote brush (*Baccharis pilularis*) and desert broom (*Baccharis sarothroides*), two upland shrubs that the applicant's biological technical report describe as occurring on disturbed sites, within other forms of Diegan coastal sage scrub, and on upper terraces of river valleys.⁵ Stands of these two *Baccharis* species surround two established arroyo willows near the site's center, with the tallest willow approximately 15 feet in height (Figure 6). Just south of these willows, I observed the opening of one pipe leading out of the ground and into an incised streambed approximately 1-3 feet deep lined with freeway iceplant. However, the visible pipe was much smaller in diameter than the 48" corrugated pipe at the northern headwall and may not represent where water from this underground channel discharges. Iceplant stretched onto the channel banks until the banks became more steeply incised, approximately 6 to 8 feet deep with banks perpendicular to the streambed as the channel continued south. The incision separated the iceplant-lined streambed from the channel banks above, which were also dominated by iceplant and sparsely vegetated with native deerweed (*Acmispon glaber*) and *Baccharis* species (Figure 7). While some of the streambed is soft-bottom, chunks of broken up concrete debris and rebar also protruded from the streambed. Some of these more elevated areas in the channel also supported *Baccharis* species and Menzies' goldenbush (*Isocoma menziesii*), another native species. While I am aware of past landform manipulations on the subject site, there is no evidence that this channel was intentionally created and rather, it appears to have been naturally created through flows along a historical streambed.

⁵ Ibid.



Figure 6 (left): Photo of largest arroyo willow at the approximate center of the subject site. Willow is surrounded by upland vegetation and was previously mapped by the applicant as a wetland. Figure 7 (right): On-site channel looking south from arroyo willows at the center of the site. The channel is steeply incised and is dominated by freeway iceplant.

The streambed immediately south of the two arroyo willows extends for approximately 260 feet until intersecting with a built retention pond. The retention pond was constructed in 2025 to alleviate flooding at the adjacent properties south of the subject site. It is unclear whether this flooding was occurring due to the conveyed channel or sheet flow into the neighboring site. Grading of the area approximately southwest of the retention pond, on the subject site, last occurred in 2023⁶, but was previously used as a road⁷ and cleared or graded⁸ several times in the site's recent history. Since 2023, an incised channel approximately 5 to 6 feet deep formed in the graded area (Figure 8). During my site visit, the streambed was dry with a soft-bottom including some gravel and rebar and was largely unvegetated. The banks of the channel supported *Baccharis* species and non-native tree tobacco (*Nicotiana glauca*), with an approximately 2000 square foot stand of Hooker's evening primrose (*Oenothera elata ssp. hookeri*) on the northwest bank. The northwest bank also notably receives heavy sheet flow from a road sloping into the property that ends at the retention pond, as evidenced by a video provided by the appellant. The channel ends with flows moving through at least one drainage structure leading to a stormwater main according to data available on the City

⁶ Google Earth image, June 2023.

⁷ Google Earth images, June 2004 and June 2014.

⁸ Google Earth images, January 2008 and August 2010.

of Encinitas's open GIS data hub⁹. A second drainage structure is present in or just south of the retention pond. Both structures drain to the same stormwater main that borders Encinitas Boulevard to the south, and those mains appear to remain underground underneath Encinitas Boulevard heading west (Figure 9).

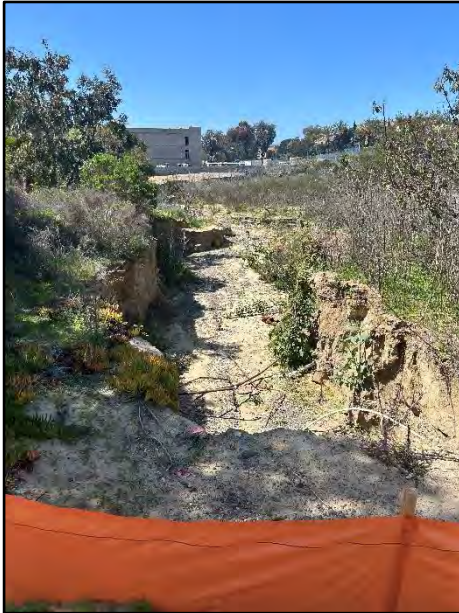


Figure 8 (left): Incised channel heading southwest of retention pond. Photo faces southwest. A stand of Hooker's evening primrose is visible on the northwest bank (right). Figure 9 (right): Stormwater structures from the City of Encinitas's Open Data GIS portal overlaid over a recent aerial photo of the site. Flows from the on-site stream enter the retention pond from the north and are drained from the site via existing underground city stormwater infrastructure.

Potential wetland areas

The appellant contends that areas throughout the subject site with hydrophytic vegetation, specifically Hooker's evening primrose and arroyo willow, may qualify as one-parameter wetlands and warrant a jurisdictional delineation. Both of these species are facultative wetland (FACW) species, meaning they typically occur in wetlands (67-99% probability) but occasionally occur in non-wetlands¹⁰. Only one of these potential wetland areas is described by the appellant and was discussed in the previous section as a potential riparian area towards the southern end of the subject parcel. I observed a similar stand of Hooker's evening primrose during my April 2025 site visit, in the northern area to be preserved and restored as coastal sage scrub. The latter stand is on

⁹ City of Encinitas. Stormwater Public Main. Published: June 23 2025, last updated: January 5 2026. Feature layer dataset. Accessed: April 24 2026. <https://arcg.is/8aL810>.

¹⁰ U.S. Army Corps of Engineers, 2023. 2022 National Wetland Plant list, version 3.6. U.S. Army Engineer Research and Development Center, Vicksburg, MS.

a northwestern hillslope in an area disconnected from the stream on site. This area receives hillslope drainage (i.e., sheet flows) and outputs from an aboveground, lined drainage. The stand is also surrounded by coyote brush, a plant typically found in uplands. I also viewed individual willows occurring sporadically on site slopes that were small in stature (below chest height) as compared to the taller willows found in the center of the subject site and the dense southern willow scrub mapped in the subject site's northeast corner. None of these smaller willows occurred as vegetation associated with the site's mapped stream.

Ecological Assessment of Stream and Wetland Areas

Stream assessment

Section 13577(a) lays out the criteria necessary for determining stream appealability. First, the stream must be mapped as a USGS blue line stream or in a local coastal program. Then, the stream must be characterized as either channelized or not channelized. If channelized, the third criterion is whether the stream carries significant habitat value.

After reviewing historical USGS blue line maps and aerial photographs of the subject site, site-specific biological reports, and conducting a site visit, it is my opinion that a non-perennial¹¹ stream is present on-site, but it is channelized and of no significant habitat value outside of the already delineated appeal areas. This stream enters the subject site from the headwall at the northern boundary and is likely undergrounded until the streambed and bank daylight south of the two arroyo willows near the center of the site. The stream continues south thereafter until it intersects with the retention pond, and then travels further southwest before entering the drainage structures at the southern end of the subject site.

Channelization

Channelization and channel modification activities are characterized by the State Water Board's Nonpoint Source Pollution program as "projects that straighten, widen, deepen, and/or dredge stream channels of debris and sediment."¹² Based on the subject site's aerial photograph history, the stream on-site has been confined to a pipe, graded, and as a result, straightened several times over the last century. Channelization is also present throughout the watershed upstream of the subject site, where the headwaters now begin on a golf course and the majority of the stream leading to the subject site is

¹¹ "Non-perennial" refers to a stream that only flows for a portion of the year. See the Surface Water Ambient Monitoring Program Memo, Extent of California's Perennial and Non-Perennial Streams, State Water Resources Control Board, October 2011.

https://www.waterboards.ca.gov/water_issues/programs/swamp/docs/reports/mgmt memo2extent.pdf

¹²

https://www.waterboards.ca.gov/water_issues/programs/nps/encyclopedia/5_1a_chnlmod_chnlz.html

undergrounded through pipes or culverts or otherwise diverted and straightened from its historical course.

Channelized streams increase flow velocity, which has multiple downstream impacts on hydrological form and function such as disrupted sediment processes, decreased groundwater recharge, and changes in soil moisture content along banks¹³.

Channelization is evident throughout the southern half of the subject site where the stream has no sinuosity to slow flows and is steeply incised several feet below its banks. It is also apparent in the northern half of the site where flows have been diverted underground through a 48-inch pipe. Such manipulated flows typically degrade ecological functions and values through the direct clearance of associated riparian vegetation during channelization and, due to increased and undergrounded flows, inability for riparian vegetation to establish again. At this location, the exposed banks support common upland native plants like coyote brush, while invasives like freeway iceplant dominate both the bed and bank – none of this is considered characteristically riparian, which would include a canopy with multiple strata and provide refuge corridors within the landscape. The streambed is completely unvegetated further south where the stream is diverted into a retention basin and drains off-site. The only existing riparian vegetation is the southern willow scrub at the northern end of the subject site, two arroyo willows at its center, and a patch of Hooker's evening primrose located at the southern end between the retention pond and drainage infrastructure.

Significant habitat value

While channelized streams create the conditions for degraded riparian habitats, the stream may still have significant habitat value. Such value may be inherent in the canopy of riparian vegetation, presence of aquatic species, use of the stream as a riparian corridor for wildlife, or riparian habitat use by riparian species (e.g., foraging, nesting). Riparian vegetation moderates air temperatures, stabilizes channel banks, traps sediment that facilitates additional vegetation establishment, creates heterogenous substrates, and dissipates flows.³ These functions provide the basis for habitat support of species and use as a wildlife corridor for aquatic and terrestrial wildlife.

The applicant previously identified southern willow scrub and the two arroyo willows in the center of the site as CCC wetlands. However, I believe both sets of vegetation should be considered riparian because they are associated with a historical streambed occurring in the topographic valley in the site. Additionally, the biological technical report states the California Department of Fish and Wildlife (CDFW) previously considered the stand of southern willow scrub a riparian area under CDFW jurisdiction. These areas provide a canopy of riparian vegetation capable of dissipating flows and serving as cover and resting habitat for riparian-associated species. Because the applicant already

¹³ Levick, L., et al. 2008. The Ecological and Hydrological Significance of Ephemeral and Intermittent Streams in the Arid and Semi-arid American Southwest. U.S. Environmental Protection Agency and USDA/ARS Southwest Watershed Research Center, EPA/600/R-08/134, ARS/233046, 116 pp.

asserted these areas as wetland and protected them with a 100-foot buffer, the project by design protects this vegetation in place.

Based on the site context, I also believe the stand of Hooker's evening primrose on the southwestern side of the site is associated with the riparian channel; however, I do not think it is of significant habitat value. Hooker's evening primrose is a pioneering, drought-tolerant, perennial herb that often occurs in recently disturbed areas. As the appellant's representative notes, this plant was seen after approved grading of the site by the applicant¹⁴. Further, the species is phreatophytic, meaning that it develops a deep tap root to reach into groundwater. This allows the plant to obtain water in areas without surface or near-surface water, such as streambanks in California that are dry much of the year but proximate to important water sources. As a result, this species can and does take advantage of a wide range of habitat types with differing moisture regimes including wetland and riparian areas, but also coastal strand and scrubs, chaparral, woodlands, and forests. As a facultative wetland (FACW) plant, Hooker's evening primrose is typically found in wetlands but can occur in non-wetlands, which is bolstered by the variety of moisture regimes this species is found in. As a perennial herb, its stature and form cannot provide the riparian canopy that the willows historically and currently provide on-site. Given the site context and life history of the plant, it is my opinion that the Hooker's evening primrose has opportunistically expressed and flourished following site clearance and, unlike willows that provide a riparian canopy for wildlife and sediment and flow functions for an existing stream, it does not imbue the stream with significant habitat value.

Aquatic species may periodically occur in streambed areas, but aquatic species are by definition dependent on access to water of some depth. For non-perennial flows, aquatic wildlife is limited to invertebrates that may serve as prey for riparian wildlife in the food web. However, aquatic invertebrates are not expected where flows are ephemeral, or driven solely by precipitation, unlike intermittent flows which may be driven by another reliable source like groundwater. Where a streambed exists on the subject site, it is clearly dry at least part of the year. Further, the stream is interrupted on-site by the presence of a retention pond. In other places, the stream is conveyed through an underground pipe. It is unclear whether the stream on-site has ephemeral or intermittent flows, and as such is classified more broadly as non-perennial. In these widely inconsistent conditions, the stream provides no real value for aquatic life nor functions as a corridor for aquatic wildlife.

Terrestrial species use riparian corridors for much of their day-to-day activity, whether searching for food or shelter, finding mates, offspring dispersal, or migration. There is no existing infrastructure or habitat that would connect wildlife from the southern end of the on-site stream across four-lane Encinitas Boulevard, and no significant habitat is available immediately south of Encinitas Boulevard for continued terrestrial wildlife use – rather, the corridor potential here is highly degraded and spatially limited. The daylighted riparian area north of the southern willow scrub on-site extends for

¹⁴ Hamilton, R. October 2, 2024. Comments on Jurisdictional Delineation and Associated Regulatory Issues Proposed Quail Meadows Project. Hamilton Biological, 8pp.

approximately 250 feet before being culverted for hundreds of additional feet under a single-family home residential area. Further upstream, the flows are channelized as stormwater immediately adjacent to Quail Gardens Drive. Due to channelization and lengthy undergrounding of the stream on-site and in other sections of the stream off-site, the lack of riparian vegetation along the majority of the stream off-site, and the existing road infrastructure, I consider the riparian functions on-site to be highly degraded and fragmented, and thus, conclude that the stream on-site does not provide significant value as a wildlife corridor.

Lastly, the stream may support riparian species. Riparian areas in Southern California are often the most biodiverse slivers of the landscape and may support rare plants, reptiles, amphibians, birds, and mammals. Neither the applicant's biologist nor I identified a rare plant species within the riparian areas on the site. The applicant's biologist conducted protocol-level surveys for coastal California gnatcatcher, Southwestern willow flycatcher, and least Bell's vireo, three federally listed avian subspecies, on the subject site based on existing vegetation on site and nearby records at the undeveloped property north of the subject site. These surveys revealed gnatcatcher breeding on-site and determined that only non-sensitive willow flycatcher (*Empidonax traillii*) was using the site as a migrant. Importantly, gnatcatchers use upland areas rather than riparian vegetation for the vast majority of their activities. The willow flycatcher was observed in the southern willow scrub at the northern end of the subject site as well as in coyote brush in the proposed preservation area on site. While least Bell's vireo was not detected during protocol-level surveys in 2019, a single individual was detected on site by a biological monitor working on the San Diego Gas and Electric easement in the subject property in 2020. The general survey conducted by the applicant's biologist found multiple bird species that are known to use riparian areas, including Western bluebird, Cassin's kingbird, black phoebe, western wood-pewee, hooded oriole, common yellowthroat, Swainson's thrush, warbling vireo, cliff swallow, and Northern rough-winged swallow; however, many of these same species also use upland areas, such as the existing degraded coastal sage scrub on-site, for foraging. While the distribution of these species on-site was not reported, it is expected that these species would use the existing riparian vegetation for cover and rest, and the limited native vegetation for foraging on-site.

Given consideration of the subject site's current conditions, I find that the only areas of the channelized stream on-site likely to provide significant habitat value are the southern willow scrub mapped at the northern end of the site and the two willows in the center of the site. Both areas were previously considered wetlands; however, due to the historically mapped streambed that occurs in the topographic valley of the site previous determinations by CDFW, and contemporary evidence of banks and directional flow throughout the site, it is my professional opinion that these areas should instead be characterized as riparian vegetation associated with a documented stream feature.

Wetland assessment

As described above, I visited the areas that the appellant's representative asserted may be one-parameter wetlands based on the presence of Hooker's evening primrose and

arroyo willow plants. The Hooker's evening primrose at the southwestern end of the subject site is discussed in the previous section as riparian vegetation. Unlike the latter, the stand of Hooker's evening primrose on the northern end of the site is outside of recently graded areas. This northern stand is located where it receives hillslope drainage and outputs from an aboveground, lined drainage and is in an area already proposed for preservation and well outside any 100-foot development buffer. The site soils include Corralitos loamy sand 5-9% and 9-15% slopes, which are well-draining, as well as Carlsbad-Urban land complex soils that are highly altered through cut and fill operations. This stand occurs on a slope, so combined with the soil types I do not expect that the soils here could hold water long enough to pond or saturate and create wetlands. Further, historical maps do not suggest the presence of any wetlands on the subject site that are not already associated with the stream area.

The appellant assertion that arroyo willows found elsewhere on site warrant a jurisdictional delineation were not supported by specific examples or reference to where he believes a jurisdictional delineation is warranted. The young willows I observed on-site are disconnected from the stream and riparian area and occur sporadically and separately on slopes surrounded by native and non-native upland vegetation. As such, the landscape orientation and singular arrangements of these willows (as opposed to stands) combined with the general understanding of site soils suggests that these are unlikely to qualify as wetlands. Rather, they appear to represent an expression of the non-wetland fraction recognized in FACW species. As such, I do not believe each individual willow across the subject site warrants a separate jurisdictional delineation.

Provided the overall site conditions and context, I concur with the applicant's representative that a stand-alone jurisdictional delineation to determine the presence of CCC wetlands is not warranted.

Conclusion

The appellants assert the appealable area on site is larger than that mapped by the applicant due to the presence of an on-site stream and additional one-parameter wetlands on the basis of hydrophytic vegetation alone. I agree with the appellant that there is a mapped stream on site, the first requirement for appealability under Section 13577(a). The remaining criteria state that channelized streams not having significant habitat value are not considered appealable. The site history, including grading and piping in the mapped riparian area and evidence of high velocity flows in areas where the stream is daylighted on site, show that the stream on-site has been and remains channelized. Further, much of the stream on-site does not have significant habitat value since it lacks a riparian canopy, support for aquatic species, service as a riparian corridor, or support for riparian species. However, the vegetated areas associated with the historical streambed could provide limited riparian functions, such as dissipating flows, trapping sediment, and habitat support for riparian-associated avian species that currently use the site. Only two areas of riparian vegetation, the southern willow scrub at the northeast corner of the site, and the two willows near the center of the site, could provide these functions. The applicant previously considered these areas to be wetlands, but taking a holistic view of the landscape and site conditions over time

described in this memo, it becomes clear that it is more appropriate to consider these areas riparian. While there is a stand of Hooker's evening primrose on a stream bank, it appears to be opportunistically taking advantage of recently cleared conditions and provides no canopy or other functions associated with significant habitat values.

The appellant further asserts that additional one-parameter wetlands are on site due to the presence of Hooker's evening primrose and arroyo willow. The second stand of Hooker's evening primrose is present on the area of the site to be restored and preserved as open space. However, I find that the stand is on site topography that slopes and, in combination with the site's soils, is unlikely to hold water long enough to pond or saturate. Instead, it most likely represents a non-wetland fraction recognized in facultative wetland species. Similarly, young arroyo willows occur sporadically and individually on the site's slopes among non-native vegetation. As such the landscape orientation and singular arrangements of these willows (as opposed to stands), combined with an understanding of the soils, means they are unlikely to qualify as wetlands.

Therefore, I find that the Commission's appealable jurisdiction has only changed in name, not in size, and remains limited to the areas already mapped by the applicant.

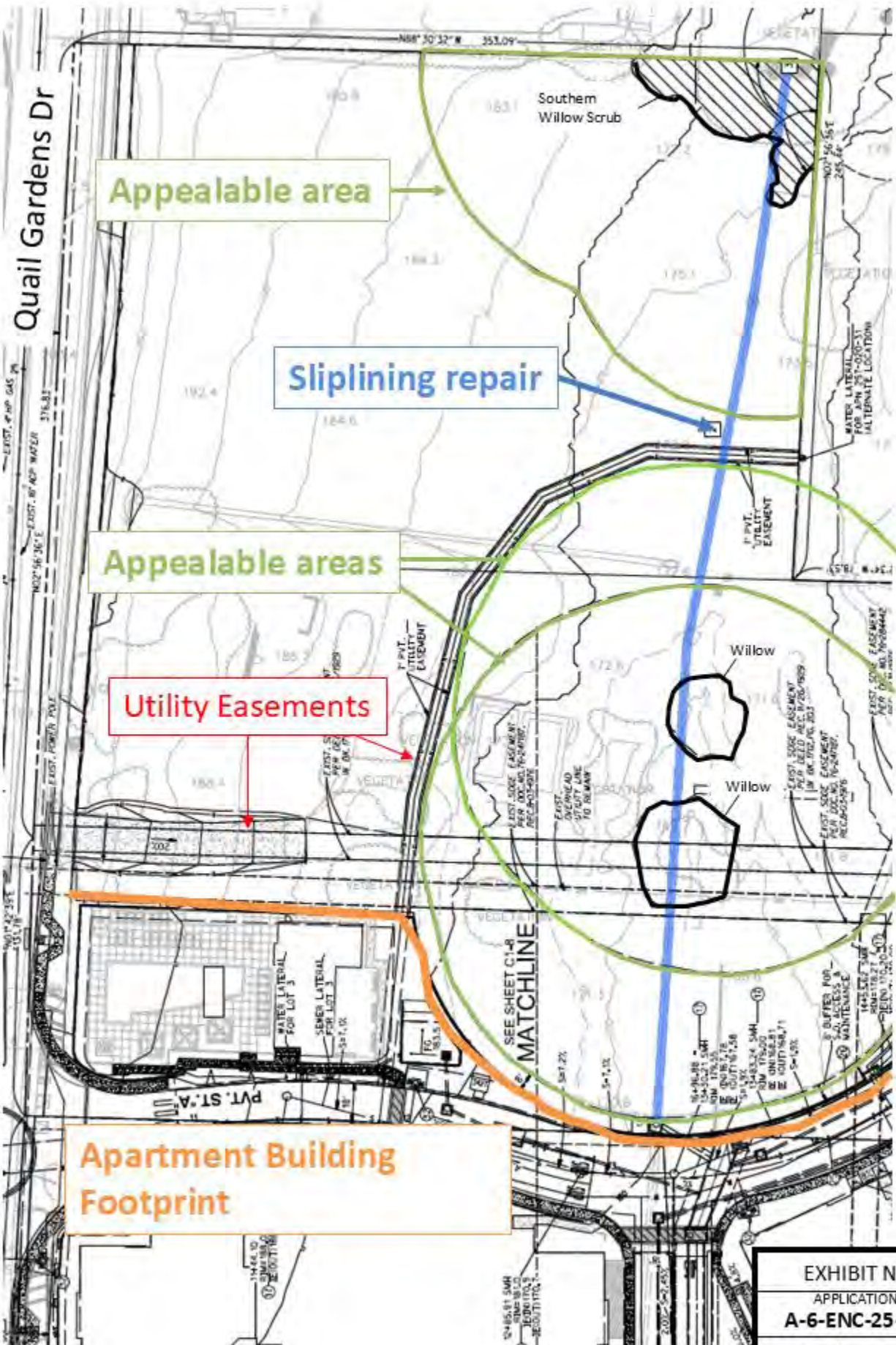


EXHIBIT NO. 6
APPLICATION NO.
A-6-ENC-25-0005
Pipeline Repair
 California Coastal Commission



- ACGL - Common Deerweed
BACPIL - Coyote Brush
CSS - Diegan Coastal Sage Scrub
CSSB - Diegan Coastal Sage Scrub:
Baccharis-dominated
DEV - Urban/Developed
DH - Disturbed Habitat
ORN - Ornamental
SWS - Southern Willow Scrub

California Coastal Commission

Leucadia

Encinitas

Project Site

Taken from
ngmdb.usgs.gov

Aerial Photo Year: 1979

Edit Year: 1982

GNS Cell: Oceanside

EXHIBIT NO. 8

APPLICATION NO.

A-6-ENC-25-0005

1982 USGS Topo Map



California Coastal Commission



SPECIAL FLOOD HAZARD AREAS



Without Base Flood Elevation (BFE)
Zone A, V, A99
With BFE or Depth *Zone AE, AO, AH, VE, AR*
Regulatory Floodway

OTHER AREAS



NO SCREEN Area of Minimal Flood Hazard *Zone X*
Effective LOMRs
Area of Undetermined Flood Hazard *Zone D*

EXHIBIT NO. 9
APPLICATION NO. A-6-ENC-25-0005
FEMA Floodplain Imagery
 California Coastal Commission

CALIFORNIA COASTAL COMMISSION

SAN DIEGO COAST DISTRICT OFFICE
7575 METROPOLITAN DR., SUITE 103
SAN DIEGO, CA 92108-4421
(619) 767-2370
SANDIEGOCOAST@COASTAL.CA.GOV

**APPEAL FORM****Appeal of Local Government Coastal Development Permit****Filing Information (STAFF ONLY)**

District Office: San Diego Coast

Appeal Number: A-6-ENC-25-0005

Date Filed: March 4, 2025

Kathleen McDowell and Steve Gerken on behalf of Encinitas Citizens
Appellant Name(s): for Responsible Development

APPELLANTS

IMPORTANT. Before you complete and submit this appeal form to appeal a coastal development permit (CDP) decision of a local government with a certified local coastal program (LCP) to the California Coastal Commission, please review the appeal information sheet. The appeal information sheet describes who is eligible to appeal what types of local government CDP decisions, the proper grounds for appeal, and the procedures for submitting such appeals to the Commission. Appellants are responsible for submitting appeals that conform to the Commission law, including regulations. Appeals that do not conform may not be accepted. Appeals must be received no later than 5 pm on the last day of the appeal period. If you have any questions about any aspect of the appeal process, please contact staff in the Commission district office with jurisdiction over the area in question (see the Commission's contact page at <https://coastal.ca.gov/contact/#/>).

Note regarding emailed appeals. Please note that emailed appeals are accepted ONLY at the general email address for the Coastal Commission district office with jurisdiction over the local government in question. For the San Diego Coast district office, the email address is SanDiegoCoast@coastal.ca.gov. An appeal emailed to some other email address, including a different district's general email address or a staff email address, will be rejected. It is the appellant's responsibility to use the correct email address, and appellants are encouraged to contact Commission staff with any questions. For more information, see the Commission's contact page at <https://coastal.ca.gov/contact/#/>.

EXHIBIT NO. 10

APPLICATION NO.

A-6-ENC-25-0005

Appeals



California Coastal Commission

Appeal of local CDP decision
Page 2

1. Appellant information¹

Name: Kathleen McDowell

Mailing address: 700 Snapdragon Street, Encinitas, CA 92024

Phone number: 858-705-9019

Email address: kathleen.marie.mcdowell@gmail.com

How did you participate in the local CDP application and decision-making process?

☐ Did not participate ☒ Submitted comment ☒ Testified at hearing ☐ Other

Describe: I have submitted public comment urging Planning Commission to deny the project
for two separate hearings. I presented concerns during the public comment portion
of the 10/03/24 PC hearing where the project was approved. I also was one of several presenters
on behalf of ECRD, one of two appellants heard by City Council on 11/20/24 and 02/12/25.

If you did *not* participate in the local CDP application and decision-making process, please identify why you should be allowed to appeal anyway (e.g., if you did not participate because you were not properly noticed).

Describe: N/A

Please identify how you exhausted all LCP CDP appeal processes or otherwise identify why you should be allowed to appeal (e.g., if the local government did not follow proper CDP notice and hearing procedures, or it charges a fee for local appellate CDP processes).

Describe: Both Kathleen McDowell and Steve Gerken spoke out at several Planning Commission hearings
and presented one of two appeals of their approval decision to City Council. Despite numerous
inconsistencies with the General Plan and LCP, the project was approved. However, the project
is appealable to CCC due to the presence of wetlands onsite and slipline repair of an existing pipe.

¹ If there are multiple appellants, each appellant must provide their own contact and participation information. Please attach additional sheets as necessary.

Appeal of local CDP decision
Page 2

1. Appellant information¹

Name: Steve Gerken

Mailing address: 202 Lindsey Lane, Encinitas CA 92024

Phone number: 858-663-7861

Email address: sgerken@sbcglobal.net

How did you participate in the local CDP application and decision-making process?

☐ Did not participate ☒ Submitted comment ☒ Testified at hearing ☐ Other

Describe: As the representative leader of ECRD, I presented at the project's
Planning Commission hearings on February 3, 2024; October 3, 2024, and
worked with Kathleen McDowell on the appeal before the City
Council.

If you did *not* participate in the local CDP application and decision-making process, please identify why you should be allowed to appeal anyway (e.g., if you did not participate because you were not properly noticed).

Describe: N/A

Please identify how you exhausted all LCP CDP appeal processes or otherwise identify why you should be allowed to appeal (e.g., if the local government did not follow proper CDP notice and hearing procedures, or it charges a fee for local appellate CDP processes).

Describe: Both Kathleen McDowell and Steve Gerken spoke out at several Planning Commission hearings
and presented one of two appeals of their approval decision to City Council. Despite numerous
inconsistencies with the General Plan and LCP, the project was approved. However, the project
is appealable to CCC due to the presence of wetlands onsite and slipline repair of an existing pipe.

¹ If there are multiple appellants, each appellant must provide their own contact and participation information. Please attach additional sheets as necessary.

Appeal of local CDP decision
Page 3

2. Local CDP decision being appealed²

Local government name:	<u>City of Encinitas</u>
Local government approval body:	<u>City Council</u>
Local government CDP application number:	<u>CDP-003761-2020</u>
Local government CDP decision:	☒ CDP approval ☐ CDP denial ³
Date of local government CDP decision:	<u>02/12/25. NOFA received 02/20/25</u>

Please identify the location and description of the development that was approved or denied by the local government.

Describe: Quail Meadows Apartments, located at 185,195, 211 and 225
Quail Gardens Drive, Encinitas, CA 92024.
APN 258-131-10 and -21 (Lot 1), 258-131-11, and -12 (Lot 2) 257-020-37
and 258-131-06, and -07 (Lot 3), 257-020-36 (Lot 4)
This is a 5th Cycle Housing Element site within the Coastal Zone.
The project would build a 448-unit residential development:
90 units are allocated for low income, and 358 are allocated
for market-rate.
Notification of Appeal Period indicates Application No. 6-ENC-25-0196
According to the notification, the following is appealable:
Sliplining repair of an exiting stormdrain that traverses beneath wetlands
and the 100-foot wetland buffer, and habitat restoration within the wetland buffer
We further argue outside this stated appeal area there is justification for appeal
due to the presence of a well-documented tributary to Cottonwood
Creek extending through the project site, as per Coastal Act Section 30603(a)(2)
Please refer to our attached report and report exhibit dated March 04, 2025

² Attach additional sheets as necessary to fully describe the local government CDP decision, including a description of the development that was the subject of the CDP application and decision.

³ Very few local CDP denials are appealable, and those that are also require submittal of an appeal fee. Please see the [appeal information sheet](#) for more information.

Appeal of local CDP decision
Page 4

3. Applicant information

Applicant name(s):

Maria Miller

Applicant Address:

Quail Meadows Properties, LLC / Baldwin & Sons

20 Corporate Plaza Dr, Newport Beach, CA 92660

4. Grounds for this appeal⁴

For appeals of a CDP approval, grounds for appeal are limited to allegations that the approved development does not conform to the LCP or to Coastal Act public access provisions. For appeals of a CDP denial, grounds for appeal are limited to allegations that the development conforms to the LCP and to Coastal Act public access provisions. Please clearly identify the ways in which the development meets or doesn't meet, as applicable, the LCP and Coastal Act provisions, with citations to specific provisions as much as possible. Appellants are encouraged to be concise, and to arrange their appeals by topic area and by individual policies.

Describe: Please refer to the attached report and report exhibits, both
dated March 04, 2024, for all information related to why
this project does not conform to the certified LCP and
risks impacts to Coastal Act public access provisions.

⁴ Attach additional sheets as necessary to fully describe the grounds for appeal.

Appeal of local CDP decision
Page 5

5. Identification of interested persons

On a separate page, please provide the names and contact information (i.e., mailing and email addresses) of all persons whom you know to be interested in the local CDP decision and/or the approved or denied development (e.g., other persons who participated in the local CDP application and decision making process, etc.), and check this box to acknowledge that you have done so.

☒ Interested persons identified and provided on a separate attached sheet

6. Appellant certifications

I attest that to the best of my knowledge, all information and facts in this appeal are correct and complete.

Print name Kathleen McDowell

Kathleen McDowell
Signature

Date of Signature March 04, 2025

7. Representative authorizations

While not required, you may identify others to represent you in the appeal process. If you do, they must have the power to bind you in all matters concerning the appeal. To do so, please complete the representative authorization form below and check this box to acknowledge that you have done so.

☐ I have authorized a representative, and I have provided authorization for them on the representative authorization form attached.

s If there are multiple appellants, each appellant must provide their own certification. Please attach additional sheets as necessary.

e If there are multiple appellants, each appellant must provide their own representative authorization form to identify others who represent them. Please attach additional sheets as necessary.

Appeal of local CDP decision
Page 5

5. Identification of interested persons

On a separate page, please provide the names and contact information (i.e., mailing and email addresses) of all persons whom you know to be interested in the local CDP decision and/or the approved or denied development (e.g., other persons who participated in the local CDP application and decision making process, etc.), and check this box to acknowledge that you have done so.

☒ Interested persons identified and provided on a separate attached sheet

6. Appellant certifications

I attest that to the best of my knowledge, all information and facts in this appeal are correct and complete.

Print name Steve Gerken


Signature

Date of Signature March 4, 2025

7. Representative authorizations

While not required, you may identify others to represent you in the appeal process. If you do, they must have the power to bind you in all matters concerning the appeal. To do so, please complete the representative authorization form below and check this box to acknowledge that you have done so.

☐ I have authorized a representative, and I have provided authorization for them on the representative authorization form attached.

a If there are multiple appellants, each appellant must provide their own certification. Please attach additional sheets as necessary.

a If there are multiple appellants, each appellant must provide their own representative authorization form to identify others who represent them. Please attach additional sheets as necessary.

CALIFORNIA COASTAL COMMISSION

455 MARKET STREET, SUITE 300
SAN FRANCISCO, CA 94105-2219
VOICE (415) 904-5200
FAX (415) 904-5400

**DISCLOSURE OF REPRESENTATIVES**

If you intend to have anyone communicate on your behalf to the California Coastal Commission, individual Commissioners, and/or Commission staff regarding your coastal development permit (CDP) application (including if your project has been appealed to the Commission from a local government decision) or your appeal, then you are required to identify the name and contact information for all such persons prior to any such communication occurring (see Public Resources Code, Section 30319). The law provides that failure to comply with this disclosure requirement prior to the time that a communication occurs is a misdemeanor that is punishable by a fine or imprisonment and may lead to denial of an application or rejection of an appeal.

To meet this important disclosure requirement, please list below all representatives who will communicate on your behalf or on the behalf of your business and submit the list to the appropriate Commission office. This list could include a wide variety of people such as attorneys, architects, biologists, engineers, etc. If you identify more than one such representative, please identify a lead representative for ease of coordination and communication. You must submit an updated list anytime your list of representatives changes. You must submit the disclosure list before any communication by your representative to the Commission or staff occurs.

Your Name _____

CDP Application or Appeal Number _____

Lead Representative

Name _____

Title _____

Street Address _____

City _____

State, Zip _____

Email Address _____

Daytime Phone _____

Your Signature _____

Date of Signature _____

Additional Representatives (as necessary)

Name _____
Title _____
Street Address. _____
City _____
State, Zip _____
Email Address _____
Daytime Phone _____

Name _____
Title _____
Street Address. _____
City _____
State, Zip _____
Email Address _____
Daytime Phone _____

Name _____
Title _____
Street Address. _____
City _____
State, Zip _____
Email Address _____
Daytime Phone _____

Name _____
Title _____
Street Address. _____
City _____
State, Zip _____
Email Address _____
Daytime Phone _____

Your Signature _____

Date of Signature _____



AN APPEAL OF THE APPROVAL OF QUAIL MEADOWS APARTMENTS PROJECT

APPLICATION No. 6-ENC-25-0196
CDP-003761-2020

Appeal of the Approval of Quail Meadows Apartments Project

Application No. 6-ENC-25-0196; CDP-003761-2020

Approved Project

The approved project is a multi-family residential development consisting of 448 residential apartments (358 market rate and 90 low-income units) in two four-story residential buildings with two levels of basement parking, a two-story fitness/community building, private amenity and common open spaces, grading/utility, and landscaping improvements, stormdrain sliplining repair, and the use of three temporary construction trailers.

As stated in the staff report, a neighboring property owner submitted a third-party environmental survey of the project site, which identified two willow trees that were not identified as sensitive resources by the project's initial biological report per the industry-standard (e.g., the presence of hydrophytic vegetation, hydric soil, and wetland hydrology), but were considered wetlands under the jurisdiction of the California Coastal Commission.

The City of Encinitas staff report states: "The development (448 apartment complex) being proposed is not subject to the Coastal Commission Appeal Jurisdiction. However, the project includes two improvements that are appealable: (1) sliplining repair of an existing stormdrain that passes underneath the identified wetlands and the habitat restoration within the 100-foot wetland buffer, and (2) the habitat restoration. Since the wetlands have been determined to be under the California Coastal Commission's jurisdiction, only the improvements associated with the stormdrain repair and the habitat restoration are subject to Coastal Commission appeal."

Within the stated appealable portion of the project, we argue:

- the existing stormdrain and its headwall are unpermitted, illegal structures;
- the existing stormdrain impedes the natural flow of a blue line stream; a well-documented tributary to Cottonwood Creek;
- the project has not adequately analyzed water quality impacts to Cottonwood Creek;

We further argue the development outside of the wetland area is subject to review by the California Coastal Commission as surface water flows of Cottonwood Creek's tributary extend beyond the wetland and throughout the middle of the project site. Under PRC §30603(a)(2):

"Developments approved by the local government not included within paragraph (1) that are located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff."

Finally, we argue additional inconsistencies with the California Coastal Act and Encinitas certified Local Coastal Program (LCP):

- traffic impacts to coastal access were not sufficiently analyzed;
- impacts to special communities were not analyzed;
- project develops over natural steep slopes;
- waiver inconsistent with LCP.

Continued next page

Issues Within Stated Appealable Jurisdiction

Existing storm drain and headwall are unpermitted, illegal structures

The project's drainage plan relies on the use of a pre-existing headwall and 48" corrugated metal pipe (CMP) for low-flow volumes of off-site flows from the middle-north of the property. This CMP is to undergo slip line repair and to be connected to a proposed on-site 84-inch reinforced concrete pipe storm drain system. The staff report and associated technical reports do not provide confirmation of the installation date of the headwall and 48" CMP nor its current state of functionality. Rather, the 48" CMP and headwall is referred to as "existing" or "pre-existing".

Figure 1 shows a photo taken of the 48" in CMP and historic headwall in its current condition, taken in February 2024.



Figure 1 – Photo of the 48" existing pipe and headwall, taken February 2024

The existing headwall and 48" CMP were installed by previous owners of the property in the 1980's as evidenced by a letter and deed to the property, provided by a former resident of the site, and included as Exhibit 1. This timeframe is after the implementation of the California Coastal Act (CCA) which required a Coastal Development Permit (CDP) for all development within the Coastal Zone of the city.

Under PRC §30106:

“ ‘Development’ means, on land, in or under water, the placement or erection of any solid material or structure ... As used in this section, “structure” includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.” (emphasis added)

A search of the California Coastal Commission's Public Data Portal resulted in no records of a permit issued for the installation of neither the 48" CMP nor headwall for any parcel that comprises the project, as shown in Exhibit 2. A further search of all CDP records issued for Quail Gardens Drive resulted in no records for any development within the parcels nor addresses that comprise the project, as shown on the Public Data Portal export provided as Exhibit 3. During the City Council meeting on February 12, 2025, during which the project was approved, City engineering staff confirmed that they could find no evidence of a permit for these structures on record with the City of Encinitas nor the County of San Diego.

Appeal of the Approval of Quail Meadows Apartments Project

Application No. 6-ENC-25-0196; CDP-003761-2020

Existing storm drain and headwall impede the natural flow of a blue line stream

A well-documented blue line stream, identified on several resources as a tributary to Cottonwood Creek, enters the middle of the project to the north of the wetland area and travels south along its natural drainage course extending beyond the wetlands, eventually draining to an existing 84” reinforced concrete pipe at the south end of the property.

Surface water flows are impeded by the unpermitted headwall and 48” CMP within the wetland, which are also incapable of capturing the total surface water flows observed on the site as described in the project’s associated drainage technical report. The project also diverts flows exceeding the capacity of this CMP into a box culvert at the edge of the wetland area.

This blue line stream is identified as potential jurisdictional waters in several resources, including the 2018 City of Encinitas Final Environmental Assessment (Final EA)¹ prepared for analysis of all candidate Housing Element sites. This project is identified as candidate site AD2 in the Final EA. Specifically, the Biological Resources section of the Final EA states:

“Candidate Sites #11, #AD1, and #AD2 are adjacent to/contain a stream.” (*Final EA*, pg. 4.3-8)

A composite excerpt of Final EA Figure 4.3-2, Potential Jurisdictional Wetlands & Water and its legend is provided as Figure 2.

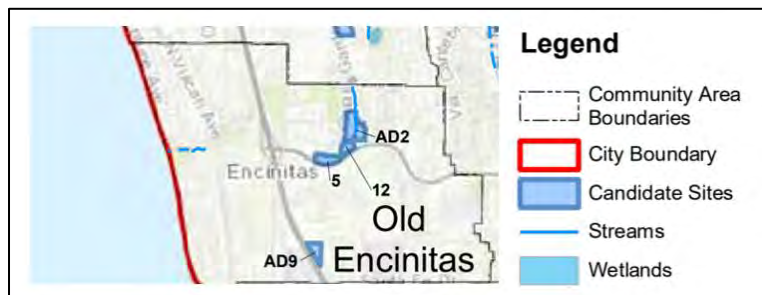


Figure 2 - Excerpt of Final Environmental Assessment Figure 4.3-2, Potential Jurisdictional Wetlands & Water

The project’s Biological Resources Letter Report inaccurately describes this drainage course as an “unnamed tributary” that is undergrounded via the existing 48” CMP. This is in direct contrast to the project’s associated drainage report and the following resources, also provided as Exhibit 4:

- Historic USGS Topographic Maps from 1948 and 1968
- City of Encinitas-hosted Stream Dataset (digitized from USGS 7.5 minute topographic maps; 2005 datapoint)
- City of Encinitas-hosted Flood Insurance Rate Map Viewer
- 2007 Planning Commission agenda report for a project by this applicant on this site, incorporating the natural drainage course via a swale and rehabilitated riparian area
- Cottonwood Creek Watershed informational sign created by the City of Encinitas

¹ Accessed at <https://www.encinitasca.gov/government/departments/development-services/policy-planning-housing/policy-planning/housing-plan-update-2018/environmental-assessment-final>

Appeal of the Approval of Quail Meadows Apartments Project

Application No. 6-ENC-25-0196; CDP-003761-2020

- Certified Final Environmental Assessment (2018)
 - Listed as surface water flows within the biological resources section
 - Listed as a hydrological resource and a 303(d)-listed impaired water body
- Recent photographic evidence showing incised channel and surface water flows beyond the wetland buffer area.

Due to the presence of this tributary to Cottonwood Creek and its natural drainage course, the project would be consistent with the LCP if it incorporated the drainage course into the design of the development, rather than divert its flows into the proposed box culvert at the edge of the wetland area.

Land Use Policy 8.6 states:

“Significant natural features shall be preserved and incorporated into all development. Such features may include bluffs, rock outcroppings, natural drainage courses, wetland and riparian areas, steep topography, trees and views.”

Resource Management Goal 1 states:

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

Resource Management Policy 9.2 states:

“All drainage courses should be maintained in natural or semi- natural vegetation utilizing existing topography as opposed to concrete ditches or pipes.”

Resource Management Policy 9.3:

“Where possible, bridges should be used in lieu of pipes, box culverts, or underground channels to preserve the integrity of the natural stream courses, in keeping with community character in the Planning Area.”

Resource Management Policy 13.5:

“The City shall promote and require the conservation and preservation of natural resources and features of the area in their natural state and avoid the creation of a totally urbanized landscape. Encourage the planting of trees and other vegetation, especially native species, to enhance the environment.”

Project has not adequately analyzed water quality impacts to Cottonwood Creek

The Encinitas Final EA specifically lists the project site (identified as AD2) as “within or adjacent to impaired waters” (*Final EA*, pg. 4.8-8)

Figure 4.8-3 in the Final EA identifies 303(d) Impaired Water Bodies within the City of Encinitas and their candidate sites. This image shows Cottonwood Creek, including the tributary section flowing across the project site (AD2), as a listed impaired body. An excerpt of the figure identifying Cottonwood Creek as a 303(d)-listed impaired water body and its legend is provided as Figure 3

Appeal of the Approval of Quail Meadows Apartments Project

Application No. 6-ENC-25-0196; CDP-003761-2020

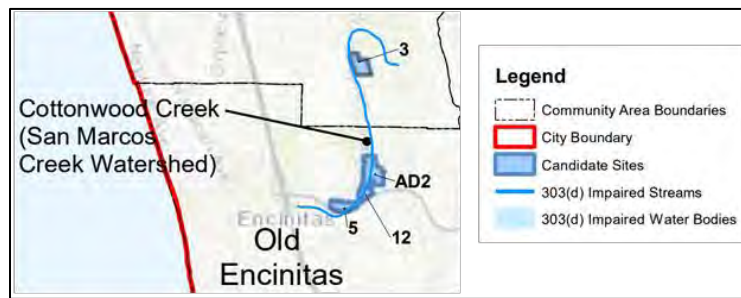


Figure 3 – Excerpt of Final Environmental Assessment Figure 4.8-3, 303(d) List of Impaired Water Quality Segments and Legend

The project’s stormwater quality control plan includes two biofiltration basins (BMP-200 and BMP-300) leading to underground vaults at the far east and west portions of the wetland area bordering the development. However, as the project has not adequately identified this tributary of Cottonwood Creek nor its impaired status, we argue the project has not determined if the associated best management practices are sufficient to prevent additional contamination of 303(d)-listed water body Cottonwood Creek.

Land Use Policy 2.8 states, in relevant part:

“Development shall not be permitted where it will result in significant degradation of ground, surface, or ocean water quality, or where it will result in significant increased risk of sewage overflows, spills, or similar accidents.”

Resource Management Policy 2.3 states:

“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.”

Issues Outside of Stated Appealable Jurisdiction

Surface water flows of Cottonwood Creek tributary extend beyond the wetland and throughout the project site

There is a well-documented history of surface water flows of this identified tributary to Cottonwood Creek extending from the north of the project site, through the wetlands, and further south to an existing 84” reinforced concrete pipe.

Documentary evidence of this tributary to Cottonwood Creek’s identification is provided in Exhibit 4, and is listed below:

- Historic USGS Topographic Maps from 1948 and 1968
- City of Encinitas-hosed Stream Dataset (digitized from USGS 7.5 minute topographic maps; 2005 datapoint)

Appeal of the Approval of Quail Meadows Apartments Project

Application No. 6-ENC-25-0196; CDP-003761-2020

- City of Encinitas-hosted Flood Insurance Rate Map Viewer
- 2007 Planning Commission agenda report for a project by this applicant on this site, incorporating via a swale and rehabilitated riparian area
- Cottonwood Creek Watershed informational sign created by the City of Encinitas
- Certified Final Environmental Assessment (2018)
 - Listed as surface water flows within the biological resources section
 - Listed as a hydrological resource and a 303(d)-listed impaired water body
- Recent photographic evidence showing incised channel and surface water flows beyond the wetland buffer area.

Surface water flows persist along the majority of the natural drainage course. As the 48" CMP has failed within the wetland area, the project's drainage report describes the existing condition as follows:

"The topography of the project site consists of a valley aligned in north to south direction (i.e., flow generally drains from north to south). As such, in the existing condition, storm water runoff generated on-site flows towards the middle of the site, valley bottom, and then towards the south... Flows in excess of the 48-inch CMP capacity, estimated to be 425 cfs (see Section 3.1 for additional information on this estimate), will overtop the headwall at the south end of the wetland area and flow south across the project site and into a low area located near the south project site boundary where a storm drain lateral conveys the flow to the 84-inch RCP."



Figure 4 – Photo of Stream

A photograph of the stream, taken by a neighbor on January 22, 2024, is provided as Figure 4. This photograph shows a large volume of water flowing through the natural stream channel, with well-defined vegetated banks, towards the existing 84" storm drain system at the southern border of the property. This flow demonstrates the unpermitted CMP's failed state and the headwall and CMP's inability to contain surface water flows beyond the wetlands, and this tributary of Cottonwood Creek is in its natural state.

The approved project would build a residential structure and subterranean parking garage within the natural drainage course of this tributary to Cottonwood Creek and its historic riparian area, diverting flows in excess of the failed 48" CMP's capacity into a box culvert at the edge of the wetlands.

An original application by this same applicant included this stream's natural drainage course into its design via a swale and re-created riparian habitat. In this previous development proposal, under the summary of the Citizen's Participation Plan (CPP): "The applicant notes in the CPP final report that the existing drainage would be replaced with a combination of open swales and storm drain pipes in accordance with City standards." (*Agenda Report*², pg. 6-2)

² *Agenda Report*, City of Encinitas Planning Commission item 6, Case Number 05-002 TM/MUP/DR/CDP/EIA. Meeting date August 2, 2007. Accessed via archived data from the City of Encinitas at <https://archive.encinitasca.gov/>

Appeal of the Approval of Quail Meadows Apartments Project

Application No. 6-ENC-25-0196; CDP-003761-2020

Additionally, the applicant and City of Encinitas Planning Department proposed lot averaging to:

- “re-create a riparian drainage area through the property as it had existed historically” (*Agenda Report*, pg. 6-24), and
- “The riparian area will be preserved in open space and the residential lots distributed throughout the remainder of the property”. (*Agenda Report*, pg. 6-13)

This proposed action of incorporating the was determined to be beneficial to the project:

“The proposed project will improve the condition of the drainage channel by opening the existing pipe into a large swale without affecting the off-site wetland area.” (*Agenda Report*, pg. 6-15)

Finally, with regards to lot averaging:

“The applicant proposes lot averaging in accordance with Section 30.16.020A of the Municipal Code to re-create and preserve an open riparian area across the subject property...The intent of lot averaging is to provide subdivision design flexibility to preserve unique physical features of a property, such as the historic drainage course across the subject property... The design of the proposed project would re-create and preserve the drainage course and residential lots would be distributed throughout the rest of the subject property.”

Due to this tributary to Cottonwood Creek’s identification on relevant federal resource maps and datasets, the certified Final EA, city-owned educational signs, and prior applicant knowledge of the historic drainage course, we argue the development outside of the wetland buffer area is subject to review by the California Coastal Commission as under PRC §30603(a)(2):

“Developments approved by the local government not included within paragraph (1) that are located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff.

Without incorporation of the stream’s natural drainage channel, the project is inconsistent with several LCP policies.

Land Use Policy 8.6 states:

“Significant natural features shall be preserved and incorporated into all development. Such features may include bluffs, rock outcroppings, natural drainage courses, wetland and riparian areas, steep topography, trees and views.”

Due to the presence of a historic riparian area, Land Use Policy 8.10 states, in relevant part:

“...The California Department of Fish and Game and the U. S. Fish and Wildlife Service shall be consulted in such buffer determinations and their comments shall be accorded great weight...”

Resource Management Goal 1 states:

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

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Resource Management Policy 9.2 states:

“All drainage courses should be maintained in natural or semi- natural vegetation utilizing existing topography as opposed to concrete ditches or pipes.”

Resource Management Policy 9.3:

“Where possible, bridges should be used in lieu of pipes, box culverts, or underground channels to preserve the integrity of the natural stream courses, in keeping with community character in the Planning Area.”

Resource Management Policy 13.5:

“The City shall promote and require the conservation and preservation of natural resources and features of the area in their natural state and avoid the creation of a totally urbanized landscape. Encourage the planting of trees and other vegetation, especially native species, to enhance the environment.”

Recreation Policy 1.1 states:

“Continue to cooperate with property owners, the County of San Diego, and others to preserve and maintain the riparian habitats within the planning area.”

Traffic impacts to coastal access were not sufficiently analyzed

The project has exclusive ingress and egress along Quail Gardens Drive, a collector street between two major arterials: Encinitas Boulevard and Leucadia Boulevard. West of Interstate 5, these two roads are listed as “major coastal access roadways”.

Circulation Element Policy 6.8, states, in relevant part:

“Major coastal access roadways include Coast Highway 101 and the portions of the following roadways that are located west of Interstate 5: Manchester Avenue, Birmingham Drive, Santa Fe Drive, Encinitas Boulevard, Leucadia Boulevard, and La Costa Avenue.”

This project is co-located with two other approved Housing Element sites with density bonuses at Encinitas Boulevard and Quail Gardens Drive. While these properties are east of Interstate 5 by 0.5 miles, the main access to coastal resources for remains via Encinitas Boulevard.

According to the Final EA’s Transportation and Traffic section, the following segments of Encinitas Boulevard would still result in a deficient level of service (LOS) in Future Year 2035 without any development or approval of housing element sites:

- Encinitas Boulevard: I-5 SB Ramps to I-5 NB Ramps – LOS F
- Encinitas Boulevard: I-5 NB Ramps to Saxony Road – LOS F
- Encinitas Boulevard: Quail Gardens Drive to Delphinium Street – LOS F
- Encinitas Boulevard: Delphinium Street to Balour Drive – LOS F

With the approval and development of the housing element sites, all above listed segments would remain at a deficient level of service. As modeled under Future Year 2035 conditions with the project

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(implementation of all Housing Element sites), these segments would have significant, unavoidable impacts and remain at LOS F.

Critically, the impacts studied in the Final EA only accounted for base density calculated at net acreage for the candidate sites with no evaluated potential density increases. Additionally, with the approval of the two co-located projects at the corner of Quail Gardens Drive and Encinitas Boulevard the approved unit count (using gross density and density bonus) exceeds the evaluated impact of these developments by 53%, as described in Table 2.

Table 2 – Approved Projects Impacting Encinitas Boulevard and Quail Gardens Drive

Project	Final EA Candidate Site Identification	Final EA Maximum Units Evaluated	Total Approved Apartment Units
Sunshine Gardens Apartments	12	102	140
Encinitas Boulevard & Quail Gardens Drive (a.k.a. Moonlight Apartments)	05	144	202
Quail Meadows Apartments	AD2	270	448
Total		516	790

Individual traffic studies for the projects did not evaluate access to the coast and evaluated each project individually. No study to date has determined the cumulative impacts of these projects at their total approved density. The specific traffic study for this project states:

“Freeway mainline segments were not analyzed since the Proposed Project is not anticipated to add more than 50 peak hour trips, in either direction, to a freeway mainline segment.”

It is unclear what justification assumes no more than 50 peak-hour trips for a development that accommodates 448 units and 770 parking spaces.

Under PRC §30250(a), in relevant part:

“New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.”

No cumulative impact analysis has been performed for these co-located sites. Future year projections without the co-located projects would still render four contiguous segments of Encinitas Boulevard at a deficient LOS F. We argue that the project underestimates its potential to impact coastal access and believe this study warrants further investigation.

Furthermore, the project is assumed to have significant, unavoidable traffic impacts to those major segments of Encinitas Boulevard. By co-locating three high-density residential developments, where two sites are in a largely undeveloped state and the third was previously used as a commercial nursery, it significantly alters the existing character of this intersection. The impacts of these developments on traffic and transportation are inconsistent with the California Coastal Act and several Circulation Element goals.

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Under PRC § 30252, in relevant part:

“The location and amount of new development should maintain and enhance public access to the coast by: ... (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads...”

Circulation Element Goal 1 states:

“Encinitas should have a transportation system that is safe, convenient and efficient, and sensitive to and compatible with surrounding community character.”

Circulation Element Goal 2 states:

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

Additional Inconsistencies with Encinitas certified LCP

A number of additional inconsistencies have been identified regarding the project’s approval, the Encinitas certified LCP, and California Coastal Act. Several major inconsistencies are described below.

Impacts to Special Communities

The project is located on Quail Gardens Drive, which also provides exclusive access to several popular visitor sites such as the San Diego Botanic Gardens, the San Dieguito Heritage Museum, and the Encinitas Union School District (EUSD) FARM Lab.

The San Diego Botanic Garden is a 37-acre property with 29 unique, themed gardens and a glass conservatory located directly across the street from the project. In their 2023 Annual Report, the San Diego Botanic Gardens reported a total of 265,000 visitors, exclusive of private events.

The San Dieguito Heritage Museum and Heritage Ranch, located across the street from the San Diego Botanic Garden, regularly provides visiting elementary school studies with local history tours as part of their state-mandated curriculum, in addition to hosting unique and first-of-their kind exhibits and community events.

The EUSD Farm Lab provides sustainability education to visiting students and growing organic produce for student lunches through regenerative agriculture practices. This property serves over 6,000 students annually in addition to hosting public and private events.

No analysis on impacts to access of these attractive and essential community and visitor resources has been performed.

Land Use Policy 2.7 states:

“The design of future development shall consider the constraints and opportunities that are provided by adjacent existing development.”

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PRC § 30253 states, in relevant part:

“New development shall do all of the following:...(e) Where appropriate, protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses”

Project Develops over Natural Steep Slopes

The project is within the Hillside/Inland Bluff overlay zone. Steep slopes on Lot 2, the majority of which are in excess of 25%, are characterized as manufactured rather than naturally occurring without any supporting studies. The project’s associated Manufactured Slopes Report image (relevant to report numbered items 8 and 9) shows the parts of Lot 2 on the eastern portion of the lot contain a vegetated slope and were not impacted by previous nursery operations by the prior owners of the property. Discussions with the historic owners of the site indicate that these slopes bordering the existing development to the east have not been modified and rather are part of the natural topography. Additional steep slopes within the property are natural banks and fluvial erosion due to the identified blue line stream and its natural drainage course. A comparison of the existing conditions slope analysis and historic aerial show the natural state of the steep slopes from before previous nursery operations on the site, and are provided as Exhibit 5.

Public Safety Element Policy 1.2 states, in relevant part:

“Restrict development in those areas where slope exceeds 25% specified in the Hillside/Inland Bluff overlay zone regulations of the zoning code.”

Land Use Policy 8.6:

“Significant natural features shall be preserved and incorporated into all development. Such features may include bluffs, rock outcroppings, natural drainage courses, wetland and riparian areas, steep topography, trees and views.”

Waiver Inconsistent with LCP

The project requests a waiver of design standards on Lot 2 to a 0-foot front yard setback for an approximately 147-foot section of the building that crosses over the lot line. Lot 3 has a 0-foot side yard setback for a length of approximately 100 feet, associated with the same encroachment. This waiver impacts Quail Gardens Drive, a 2-lane limited local augmented road. This waiver is inconsistent with the Circulation Element as well as Encinitas Municipal Code.

Circulation Element Policy 2.10:

“Establish landscaping buffer and building setback requirements along all roads which are local augmented status or larger, except where inappropriate.”

EMC § 30.16.010(3)(f) states that front yard setback (ft.) of 10’ are required for R-30 OL.

Continued next page

Appeal of the Approval of Quail Meadows Apartments Project

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List of Exhibits

Exhibits	File Name	Retrieved From
Exhibit 1	Letter Confirming Date Range of Pipe and Headwall Installation	Former Resident of Site
Exhibit 2	Project Parcel Coastal Development Permit Search	California Coastal Commission Public Data Portal
Exhibit 3	Quail Gardens Drive Coastal Development Permit Search	California Coastal Commission Public Data Portal
Exhibit 4	Evidence of Surface Water Flows of Cottonwood Creek Tributary	Report Authors, several resources
Exhibit 5	Comparison of Existing Conditions to Historic Aerial	Historic Aerials by NETROnline

Interested Parties List

Name	Email	Address
Kiumars Gourki	qgourki@gmail.com	207 Coneflower Street, Encinitas CA 92024
Rachel Gourki	rgourki@icloud.com	207 Coneflower Street, Encinitas CA 92024
Shannon Earle	shannondavid@me.com	N/A
Jean Keyes	jeankeyes@cox.net	718 Lynwood Drive, Encinitas CA 92024
Pete Keyes	petekeyes@cox.net	718 Lynwood Drive, Encinitas CA 92024
Dick Stern	rpsternca@gmail.com	712 Lynwood Drive, Encinitas CA 92024
Teresa Conahan	teresa@soulofphotography.com	740 Foxglove Street, Encinitas, CA 92024
Matthew Decking	mrdecking@mrdeckingsclass.com	740 Foxglove Street, Encinitas, CA 92024
Jeff Miller	Millerjeffa@yahoo.com	215 Coneflower Street, Encinitas, CA 92024
Jillian Frost	jfrostybyte@yahoo.com	215 Coneflower Street, Encinitas, CA 92024
Jessica Pratt	jrosepratt@gmail.com	547 Verbena Court, Encinitas, CA 92024
JC Pratt	N/A	547 Verbena Court, Encinitas, CA 92024
Jim Mahoney	N/A	508 Kristen Court, Encinitas, CA 92024
Suzanne Mahoney	N/A	508 Kristen Court, Encinitas, CA 92024
Kris Slugg	krislugg@gmail.com	745 Teaberry Street, Encinitas, CA 92024
Molly Hintlian	mollyhintlian@hotmail.com	230 Fraxinella Street, Encinitas, CA 92024
Glen Johnson	Glen_d_j@pacbell.net	N/A

EXHIBITS

EXHIBITS SUPPORTING THE APPEAL OF THE OF QUAIL MEADOWS APARTMENTS PROJECT

APPLICATION No. 6-ENC-25-0196
CDP-003761-2020

Exhibits Supporting the Appeal of the of Quail Meadows Apartments Project

Application No. 6-ENC-25-0196; CDP-003761-2020

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EXHIBIT 5	Comparison of Existing Conditions to Historic Aerial	21

EXHIBIT 1

LETTER CONFIRMING DATE RANGE OF PIPE AND HEADWALL INSTALLATION

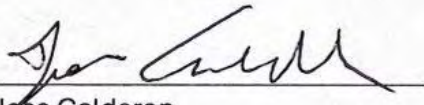
Submitted by a Former Resident of the Site

Jose Calderon
706 Pizzo Lane
Fallbrook, Ca 92028

To whom it may concern,

My name is Jose Calderon. I lived and worked on the property located at 225 Quail Gardens Drive in Encinitas from 1982 to 2003. While living and working there a first phase of wood greenhouses immediately south of the Jehovah Witness Church was started in the mid 80's. At this time there was seasonal water source to the south of our first phase. Sometime between 1982 and 1986 a 36" or 48" galvanized pipe with burlap cement shoring was put in to accommodate the greenhouses that were put over the water source on the north easterly property line. While I can't tell you the exact date, I can definitively say that the pipe was installed after I moved to the property. I've attached a copy of the deed when the property was purchased that was supplied by the previous owners.

Sincerely,


Jose Calderon

RESIDENTIAL PURCHASE AGREEMENT AND DEPOSIT RECEIPT

RECEIVED FROM CAM-MAR GROWERS et al (Vesting Instructions to be provided in Escrow

the sum of \$ 100.00 (ONE-HUNDRED AND NO/100) hereinafter designated as PURCHASER, evidenced by Cash ☐ Personal Check ☒ Certified Check ☐ Cashier's Check ☐ Other ☐ DOLLARS) to be deposited in trust upon acceptance of this offer, as deposit on account of the PURCHASE PRICE of \$ 263,000.00 (Two-Hundred and Sixty-Three Thousand and NO/100) DOLLARS) for the real property situated in the City of ENGINITAS, County of SAN DIEGO, State of CALIFORNIA described as: Commonly 225 Quail Gardens Drive; Two assessor parcels: 257-020-21 and 258-130-10 Total of 2.63 ac plus four buildings following TERMS and CONDITIONS:

1. CASH DOWN PAYMENT.....(includes deposit) \$ 50,000.00
2. SALE PRICE.....\$ 263,000.00
3. BUYER to execute an All-Inclusive Note and Deed of Trust \$ 213,000.00 wrapping two existing loans. AITD in the amount of.....
 - a) A USE Credit Union loan #41663208 in the amount of approximately.....\$ 21,600.00 payable at \$ 261.30 per month including principal and interest at 10.5% fixed rate. Note secured by T.D.

(PLEASE REFER TO ADDENDUM)

ADDENDUM. The following addendum of same date, signed and attached hereto is included in this agreement: Addendum No. ONE, Addendum No. _____, Other: _____

FIXTURES. All improvements, fixtures, attached wall to wall carpeting, other attached floor coverings, draperies including hardware, shades, blinds, window and door screens, storm sash, combination doors, awnings, outdoor plants, trees and items permanently attached to the real property are included, unless specifically excluded.

PERSONAL PROPERTY. The following personal property, on the premises when inspected by Purchaser, is included in the purchase price and shall be transferred in normal working order, unless otherwise stated herein, by a Warranty Bill of Sale to Purchaser at close of escrow.

ANY PROPERTY REMAINING IN THE TWO MOST WESTERLY HOUSES UPON CLOSE OF ESCROW.

ENCUMBRANCES. In addition to any encumbrances referred to above, Purchaser shall take title to the property subject to: 1) Real Estate Taxes not yet due and 2) Covenants, conditions, restrictions, rights of way and easements of record, if any, which do not materially affect the value or intended use of the property.

The amount of any bond or assessment which is a lien shall be ☒ paid, ☐ assumed by SELLER

EXAMINATION OF TITLE. 15 (fifteen) days from date of acceptance hereof are allowed the Purchaser to examine the title to the property and to report in writing any valid objections thereto. Any exceptions to the title which would be disclosed by examination of the records shall be deemed to have been accepted unless reported in writing within said 15 days. If Purchaser objects to any exceptions to the title, Seller shall use due diligence to remove such exceptions at his own expense before Close of Escrow. But if such exceptions cannot be removed before Close of Escrow, all rights and obligations hereunder may, at the election of the Purchaser, terminate and end, and the deposit shall be returned to Purchaser, unless he elects to purchase the property subject to such exceptions.

EVIDENCE OF TITLE. In the form of ☒ a policy of title insurance, ☐ other: _____ to be paid for by SELLER

CLOSING. Within JUNE 15, 1981 days from acceptance both parties shall deposit with an authorized escrow holder all funds and instruments necessary to complete the sale in accordance with the terms hereof. Thereafter, any party, including Agent, may disclose the terms of sale.

DEPOSIT INCREASE AND LIQUIDATED DAMAGES. The deposit shall be increased to \$ 0 within 0 days from acceptance, in the form of 0. By initialing this provision Purchaser: _____ and Seller: _____ agree that in the event Purchaser defaults in the performance of this agreement, Seller shall retain said deposit, or three percent (3%) of the purchase price, whichever is the lesser, as liquidated damages for such default. The remainder of the deposit, if any, shall be refunded to Purchaser.

OCCUPANCY. Possession shall be delivered to Purchaser: XX BUYER TO LEASE BACK @ \$450. p/mo begin 5/1/81 then prorate to close of escrow, but not later than midnight of

Unless Seller has vacated the premises prior to recordation of the deed, Seller agrees to pay Purchaser \$ 15.00 per day from recordation to date possession is delivered and to leave in escrow a sum equal to the above per diem amount multiplied by the number of days from date of closing to the date allowed for delivery of possession. Said sum to be disbursed to the persons entitled thereto on the date possession is delivered.

RISK OF LOSS. Any risk of loss to the property shall be borne by the Seller until title has been conveyed to the Purchaser.

PRORATIONS. Rents, taxes, premiums on insurance acceptable to Purchaser, interest and other expenses of the property to be prorated as of recordation of deed. Security deposits, advance rentals or considerations involving future lease credits shall be credited to Purchaser.

MAINTENANCE. Until possession is delivered Seller agrees to maintain heating, sewer, plumbing and electrical systems and any built-in appliances and equipment in normal working order, to maintain the grounds and to deliver the property with no broken window or shower glass.

NOTICES. By acceptance hereof, Seller warrants that he has no notice of violations relating to the property, from City, County or State agencies.

DEFAULT. In the event that Purchaser shall default in the performance of this agreement, unless the parties have agreed to a provision for liquidated damages above, Seller may, subject to any rights of the agent herein, retain Purchaser's deposit on account of damages sustained and may take such action as he deems appropriate to collect such additional damages as may have been actually sustained, and Purchaser shall have the right to take such action as he deems appropriate to recover such portion of the deposit as may be allowed by law. In the event that Purchaser shall so default, unless Purchaser and Seller have agreed to liquidated damages, Purchaser agrees to pay to the brokers entitled thereto such commissions as would be payable by Seller in the absence of such default. Purchaser's obligation to said brokers shall be in addition to any rights which said brokers may have against Seller in the event of default. In the event legal action is instituted by any party to this agreement to enforce the terms of this agreement, or arising out of the execution of this agreement or the sale, the prevailing party shall be entitled to receive from the other party a reasonable attorney fee to be determined by the court in which such action is brought.

PROVISIONS ON THE REVERSE SIDE. The provisions printed on the reverse side hereof which are initialed below by Purchaser are included in this agreement:

- | | | |
|---|---|-------------------------------|
| 1. PEST CONTROL INSPECTION PAID BY BUYER <u>XX</u> | 3. WAIVER OF INSPECTION | 5. VA APPRAISED VALUE CLAUSE |
| 2. PEST CONTROL INSPECTION PAID BY SELLER | 4. AS IS, BUT SUBJECT TO BUYER'S APPROVAL | 6. FHA APPRAISED VALUE CLAUSE |
| 7. CONTINGENCY-RELEASE CLAUSE. Subject to sale of Purchaser's real property commonly known as _____ | | |

EXPIRATION. This offer shall expire unless a copy hereof with Seller's written acceptance is delivered to Purchaser or his Agent within N/A days from date.

TIME. Time is of the essence of this agreement.

The undersigned Purchaser hereby acknowledges receipt of a copy hereof and acknowledges further that he has not received or relied upon any statements or representations by the undersigned Agent, which are not herein expressed.

Patricia A. Kavanaugh Owner-Seller Agent DATED: 3/31/81 TIME: 12pm

By _____ Purchaser

Broker _____ Purchaser

ACCEPTANCE

The undersigned Seller accepts the foregoing offer and agrees to sell the herein described property for the price and on the terms and conditions herein specified including the provisions on the reverse side initialed above by Purchaser.

N/A

COMMISSION. Seller hereby agrees to pay to _____ the Agent in this transaction, _____ % of the sale price for services rendered and in the event Seller and Purchaser fail to complete the sale as herein provided, the Agent shall be entitled to receive one half of the deposit required by the within agreement, but not more than the commission earned. In the event legal action is instituted to collect this commission, or any portion thereof, Seller agrees to pay the Agent such additional sum as the court may adjudge reasonable for attorney fees. This agreement shall not limit the rights of Agent provided for in any listing or other agreement which may be in effect between Seller and Agent, except that the amount of the commission shall be as specified herein.

The undersigned Seller hereby acknowledges receipt of a copy hereof.

DATED: _____ TIME: _____

Agent _____ Seller _____

EXHIBIT 2

PROJECT PARCEL COASTAL DEVELOPMENT PARCEL SEARCH

Retrieved from:

California Coastal Commission Public Data Portal

Accessed at www.coastal.ca.gov/PDP

Exhibit 2 – Project Parcel Coastal Development Permit Search

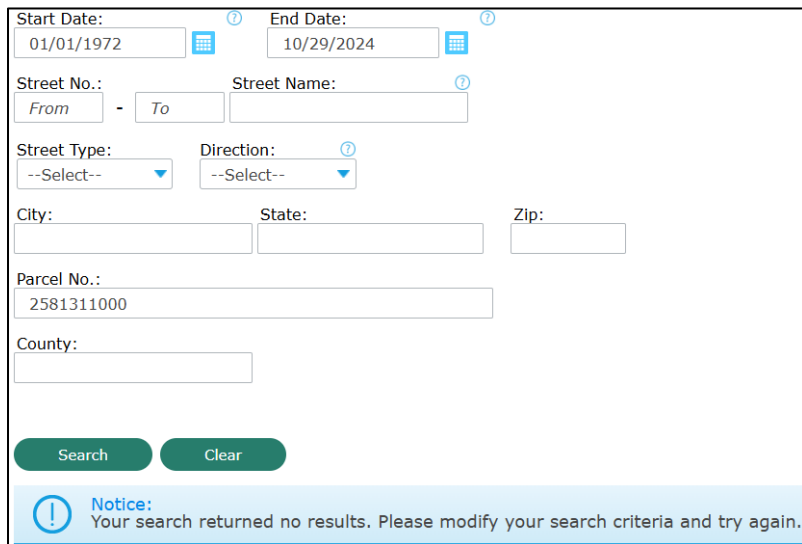
Screenshots retrieved for all parcels comprising the Quail Meadows site, showing no Coastal Development Permits have been issued. Parcel numbers were retrieved from the staff report.

Parcel numbers comprising the site include:

- Lot 1: APN 2581311000 and APN 258131210
- Lot 2: APN 2581311100 and APN 258131120
- Lot 3: APN 2570203700; APN 2581310600 and APN 2581310700
- Lot 4: APN 257020360

Coastal Development Permit search for each parcel was performed at <https://www.coastal.ca.gov/PDP/>

Lot 1 Parcel Search



Start Date: 01/01/1972 End Date: 10/29/2024

Street No.: From - To Street Name:

Street Type: --Select-- Direction: --Select--

City: State: Zip:

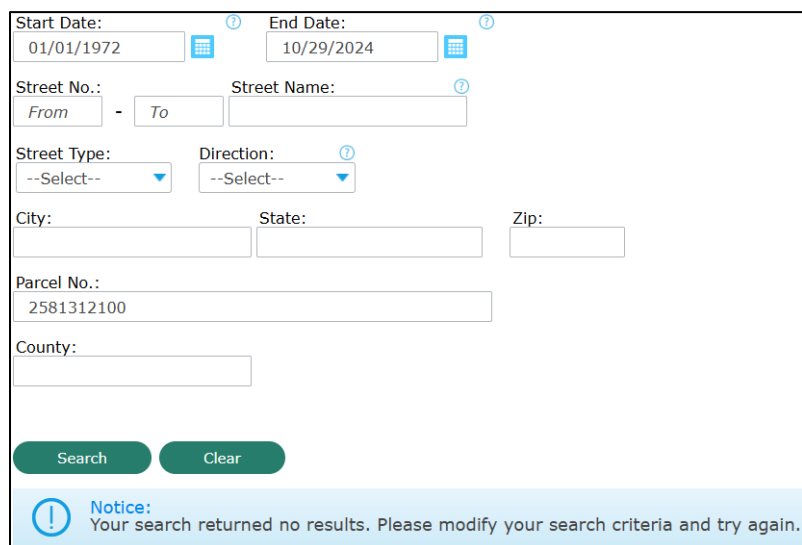
Parcel No.: 2581311000

County:

Search Clear

Notice: Your search returned no results. Please modify your search criteria and try again.

Screenshot 1 – No CDP Issued for APN 2581311000



Start Date: 01/01/1972 End Date: 10/29/2024

Street No.: From - To Street Name:

Street Type: --Select-- Direction: --Select--

City: State: Zip:

Parcel No.: 2581312100

County:

Search Clear

Notice: Your search returned no results. Please modify your search criteria and try again.

Screenshot 2 – No CDP Issued for APN 2581312100

Exhibit 2 – Project Parcel Coastal Development Permit Search

Lot 2 Parcel Search

Start Date: 01/01/1972 End Date: 10/29/2024

Street No.: From - To Street Name:

Street Type: --Select-- Direction: --Select--

City: State: Zip:

Parcel No.: 2581311100

County:

Search Clear

Notice: Your search returned no results. Please modify your search criteria and try again.

Screenshot 3 – No CDP Issued for APN 2581311100

Start Date: 01/01/1972 End Date: 10/29/2024

Street No.: From - To Street Name:

Street Type: --Select-- Direction: --Select--

City: State: Zip:

Parcel No.: 2581311200

County:

Search Clear

Notice: Your search returned no results. Please modify your search criteria and try again.

Screenshot 4 – No CDP Issued for APN 258131120

Continued next page

Exhibit 2 – Project Parcel Coastal Development Permit Search

Lot 3 Parcel Search

Start Date: 01/01/1972 End Date: 10/29/2024

Street No.: From - To Street Name:

Street Type: --Select-- Direction: --Select--

City: State: Zip:

Parcel No.: 2570203700

County:

Search Clear

Notice: Your search returned no results. Please modify your search criteria and try again.

Screenshot 5 – No CDP Issued for APN 2570203700

Start Date: 01/01/1972 End Date: 10/29/2024

Street No.: From - To Street Name:

Street Type: --Select-- Direction: --Select--

City: State: Zip:

Parcel No.: 2581310600

County:

Search Clear

Notice: Your search returned no results. Please modify your search criteria and try again.

Screenshot 6 – No CDP Issued for APN 2581310600

Continued next page

Exhibit 2 – Project Parcel Coastal Development Permit Search

Lot 3 Parcel Search (Continued)

Start Date: 01/01/1972 End Date: 10/29/2024

Street No.: From - To Street Name:

Street Type: --Select-- Direction: --Select--

City: State: Zip:

Parcel No.: 2581310700

County:

Search Clear

Notice: Your search returned no results. Please modify your search criteria and try again.

Screenshot 7 – No CDP Issued for APN 2581310700

Lot 4 Parcel Search

Start Date: 01/01/1972 End Date: 10/29/2024

Street No.: From - To Street Name:

Street Type: --Select-- Direction: --Select--

City: State: Zip:

Parcel No.: 257020360

County:

Search Clear

Notice: Your search returned no results. Please modify your search criteria and try again.

Screenshot 8 – No CDP Issued for APN 257020360

EXHIBIT 3

QUAIL GARDENS DRIVE COASTAL DEVELOPMENT PERMIT SEARCH

Retrieved from:

California Coastal Commission Public Data Portal

Accessed at www.coastal.ca.gov/PDP

Record Number	Record Type	Project Name	Address	Description	Related Records
6-ENC-24-0785	Post Certification Monitoring	Salameh Urban Lot Split	501 QUAIL GARDENS DR, ENCINITAS CA 92024, 501	Subdivide an existing parcel into two lots, demolition of onsite structures, and construction of new SFR with attached garage and detached ADU.	0
6-ENC-17-0288	Post Certification Monitoring	San Diego Botanic Gardens Dickinson Family Education Pavilion	300 Quail Gardens DR, Encinitas CA 92024	Modify previously approved design of a 9,318 sq. ft. multi-purpose greenhouse-type facility, 3,111 sq. ft. outdoor patio, and expansion of and improvements to Heritage Museum parking lot; changes include reducing the size of the facility by 1,086 sq. ft. and changing the exterior building facade, reducing the size of the patio by 711 sq. ft., and reducing the number of parking spaces by six stalls and installing compacted gravel base with landscaping and storm water treatment facilities in the parking lot.	0
6-ENC-16-1151	Post Certification Monitoring	Farm Lab	0 QUAIL GARDENS DR, ENCINITAS CA 92024	Installation of two portable classroom buildings, a portable restroom, a harvest barn, a hoop house, a gazebo and creation of wetland habitat areas.	0
6-ENC-16-0286	Post Certification Monitoring	San Diego Botanic Garden Dickinson Family Education Pavilion 13-153 MIN/DR/CDP	300 QUAIL GARDENS DR, ENCINITAS CA 92024	Minor Use Permit, Design Review Permit and Coastal Development Permit to a multi-purpose greenhouse-type facility with an outdoor patio area to be used primarily for education and exhibition purposes as well as for special events, all of which currently occur at the Garden. The Garden also requests approval to authorize off-site parking areas to accommodate the existing botanic garden use and proposed expansion. Site improvements include landscaping and parking lot improvements with grading associated with the construction of storm water treatment facilities. The subject property is located in the Public/Semi-Public (P/SP) zone of the Encinitas Ranch Specific Plan and within the California Coastal Commission Appeal Jurisdiction of the Coastal Zone.	0
6-ENC-16-0256	Post Certification Monitoring	San Diego Botanic Gardens Dickinson Family Education Pavilion	450 Quail Gardens DR, Encinitas CA 92024	Construct a new 9,318 sq. ft. multi-purpose greenhouse-type facility with an outdoor patio for daily education, exhibition, and special event use as well as improve off-site parking to accommodate the proposed expansion.	0
6-ENC-15-0544	Post Certification Monitoring	Encinitas Community Garden	441 Quail Gardens DR, Encinitas CA 92024	Construction of a new community garden 116 plots, 2 steel shipping containers, a greenhouse, a porta potty, and onsite parking on a 1 acre portion of the existing Encinitas Union School District property.	0
6-ENC-15-0375	Post Certification Monitoring	Jones	678 QUAIL GARDENS DR, ENCINITAS CA 92024	Construction of a new 4,505 sq. ft. single family home with an attached 497 sq. ft. garage on an existing 1.5 acre lot. The site is currently developed with an existing pad for the proposed residence and a 748 sq. ft. single family home and a 1,563 sq. ft. garage which will both become accessory to the proposed residence. Access to the site will be from the northern point of Quail Gardens Lane.	0
6-ENC-13-0676	Post Certification Monitoring	San Dieguito Heritage Museum	450 Quail Gardens DR, Encinitas CA 92024	Construction of 5 new free-standing museum exhibit buildings, retention of 2 existing modular museum buildings (1,440 sq. ft. total) and restoration of an existing 1,300 sq. ft. historic structure resulting in a total of 10,540 sq. ft. on an existing 199,078 sq. ft. lot. Development also includes the expansion of the existing parking lot, a decomposed granite fire lane, landscaping, fencing, a free-standing sign, and stormwater treatment facilities. Proposed improvements will occur within 5-10 ft. of the existing wetland/drainage channel.	0

EXHIBIT 4

EVIDENCE OF SURFACE WATER FLOWS OF COTTONWOOD CREEK TRIBUTARY

Compiled by Report Authors. References included as footnotes.

Exhibit 4 – Evidence of Surface Water Flows of Cottonwood Creek Tributary

Historic USGS 7.5 minute topographic maps from 1948 and 1968, excerpts of which are provided herein as Figure 1 and Figure 2 respectively, show a blue line stream running north-south through the project site.

These excerpts were retrieved from full topographic maps, downloaded from the USGS' National Map Downloader accessed at <https://apps.nationalmap.gov/downloader/#/maps>.

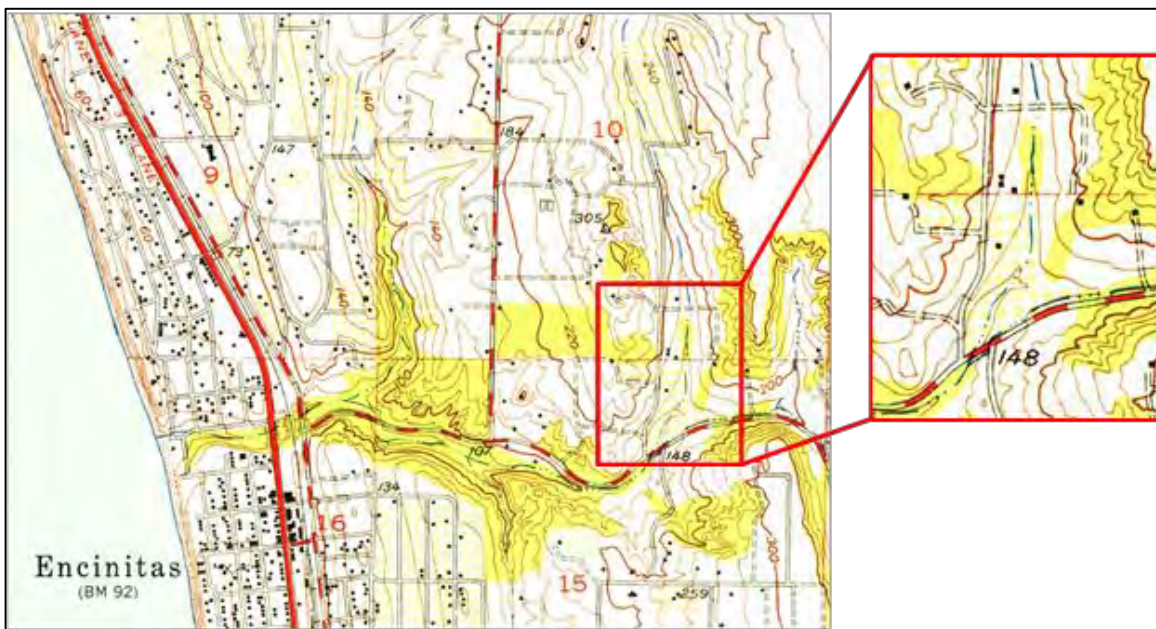


Figure 1 – Excerpt from 1948 USGS Topographic Map Showing Blue Line Stream on Project Site

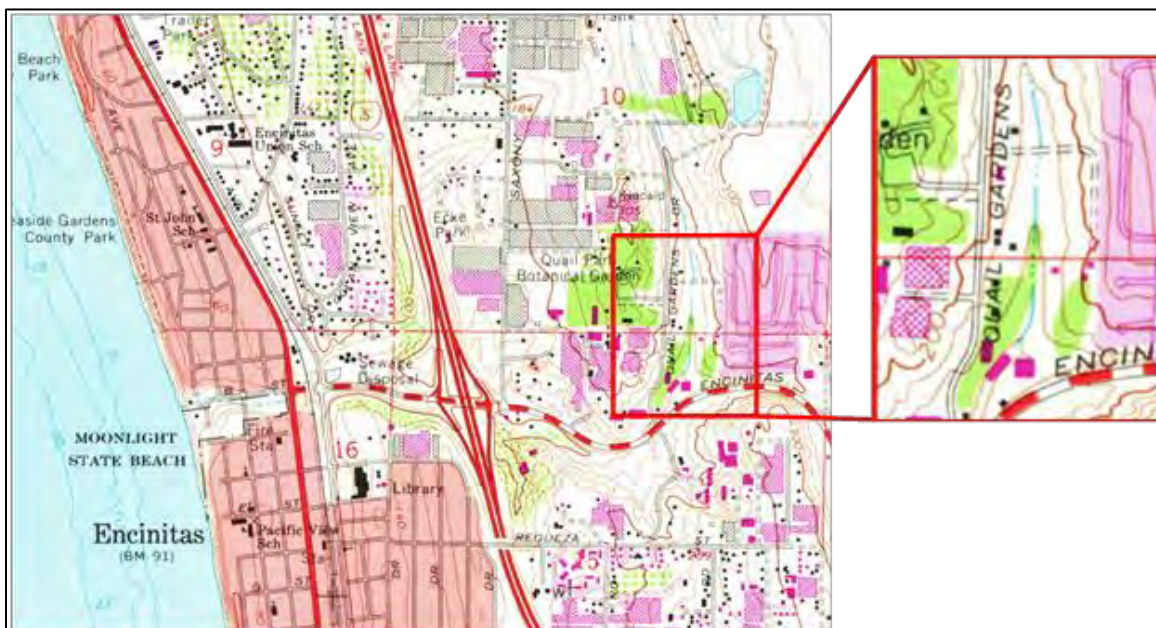


Figure 2 - Excerpt from 1948 USGS Topographic Map Showing Blue Line Stream on Project Site

Exhibit 4 – Evidence of Surface Water Flows of Cottonwood Creek Tributary

Current data is available from the City of Encinitas' Open GIS Data Hub¹, described as:

“The City's site for downloading and learning more about available GIS data. This is a constantly growing repository of public data”.

This repository contains a stream dataset, described as:

“Streams located within the City of Encinitas boundary, represented as blue lines. Heads-up digitized from USGS 7.5 minute topo quad DRGs”².

This dataset shows the stream located on the project site; the datapoint for which was uploaded on January 25, 2005. A screenshot image was retrieved on October 25, 2024. An approximate project boundary is overlaid in the image shown in Figure 3



Figure 3 – USGS Stream Dataset with Approximate Project Boundary Overlay

The City of Encinitas FIRM Viewer³ also identifies this stream. A map showing the project site with the stream was exported from the FIRM viewer on October 25, 2024 and is provided as Figure 4 (provided on the next page).

¹ The USGS Stream dataset via City of Encinitas Open GIS Data Hub is accessed at <https://gis-encinitas.opendata.arcgis.com/>.

² Description available online at https://gis-encinitas.opendata.arcgis.com/datasets/cf25b56d218f41dfbc39a4be7372ab09_0/about

³ The City of Encinitas FIRM viewer is accessed at <https://firm.encinitasca.gov/>



Figure 4 – Exported FIRM Map Showing Stream on Project Site

Continued next page

Exhibit 4 – Evidence of Surface Water Flows of Cottonwood Creek Tributary

A publicly displayed sign describing the Cottonwood Creek Watershed, created by the City of Encinitas Public Works, Parks and Recreation, and Cultural Arts Departments, also shows the stream running through the Quail Meadows site, names it as a segment of Cottonwood Creek, and describes it as “visible above ground”.

The sign further describes the watershed as “a small coastal drainage part of a network of watersheds...” and that the headwaters are a “pond ... located on Sunset Ranch ... [that today] is part of the Encinitas Ranch Golf Course”.

This sign is posted on Highway 101 at the following pinned location in Google Maps:

<https://maps.app.goo.gl/Nbumk7rWFFbE5XvJ8><https://maps.app.goo.gl/Nbumk7rWFFbE5XvJ8>. A screenshot of the location, shown as a yellow pin on S. Coast Highway 101, is provided in Figure 5

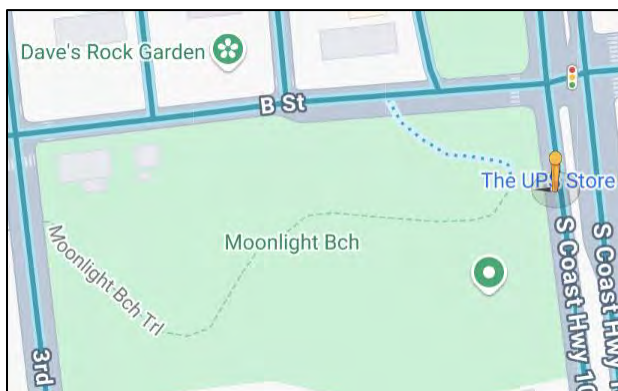


Figure 5 – Location of the Cottonwood Creek Watershed sign in Google Maps

A photo of the sign is provided as Figure 6 and a zoomed-in photo of the map showing the stream is provided as Figure 7.

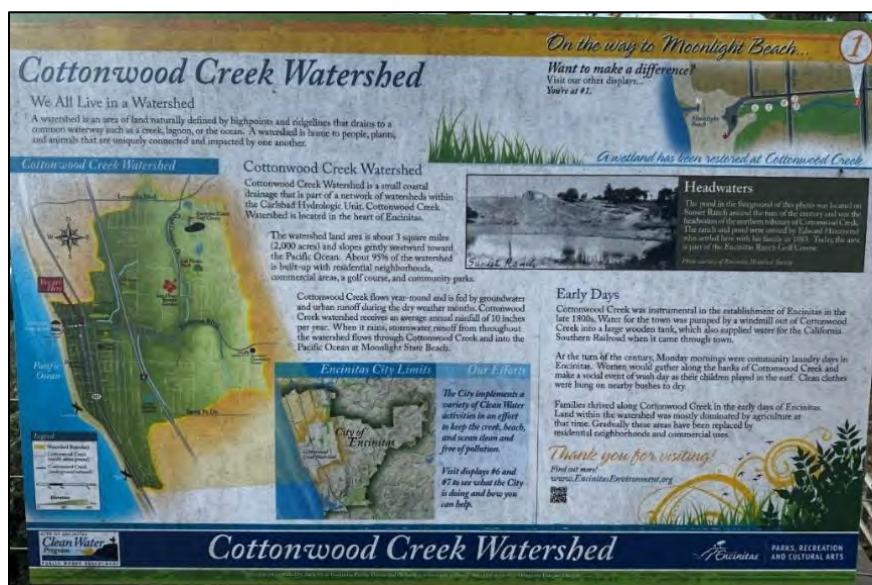


Figure 6 – Publicly-displayed Informational Sign naming the stream as Cottonwood Creek

Exhibit 4 – Evidence of Surface Water Flows of Cottonwood Creek Tributary

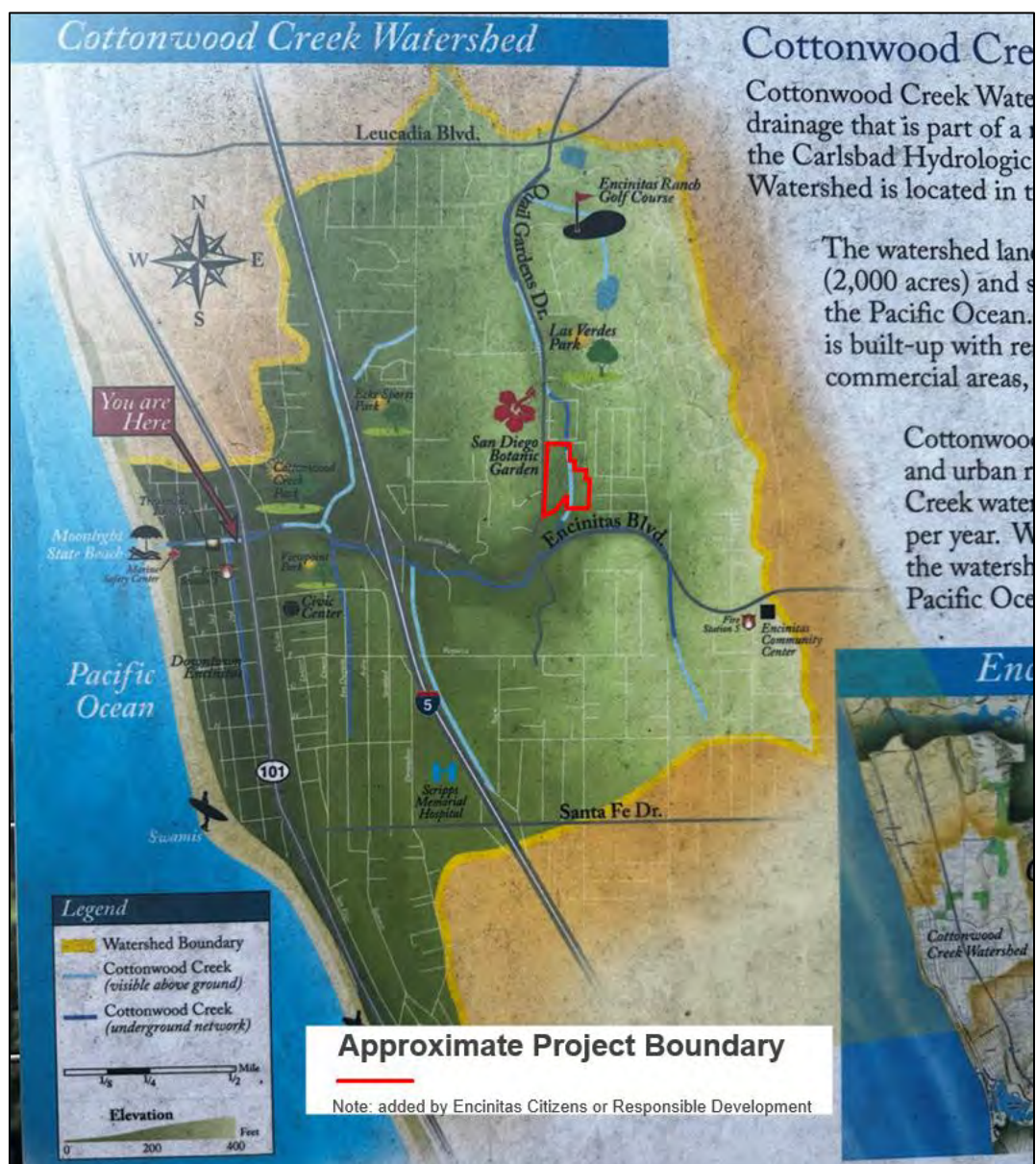


Figure 7 – Zoom-in of Cottonwood Creek Watershed Map, project site highlighted in red outline.

As shown above, Cottonwood Creek outfalls to Moonlight State Beach.

Further review of the City of Encinitas' certified Final Environmental Assessment (Final EA)⁴ also identifies this segment of Cottonwood Creek on the project site under section 4.8 Hydrology and Water Quality

Figure 4.8-1, Hydrological Features, shows the project site (AD2) and a mapped stream running through the project site within the San Marcos Hydrologic Area (Batiqitos Subunit 904.51). As shown, this segment is considered a "surface water feature". An excerpt of the figure and its legend

⁴ Final Environmental Assessment for the 2013-2021 Draft Housing Element Update, prepared by Kimley-Horn & Associates. Accessed at <https://www.encinitasca.gov/government/departments/development-services/policy-planning-housing/policy-planning/housing-plan-update-2018/environmental-assessment-final>

Exhibit 4 – Evidence of Surface Water Flows of Cottonwood Creek Tributary

showing the project site and stream identification is provided as Figure 8 and the full image is provided as Exhibit S2.

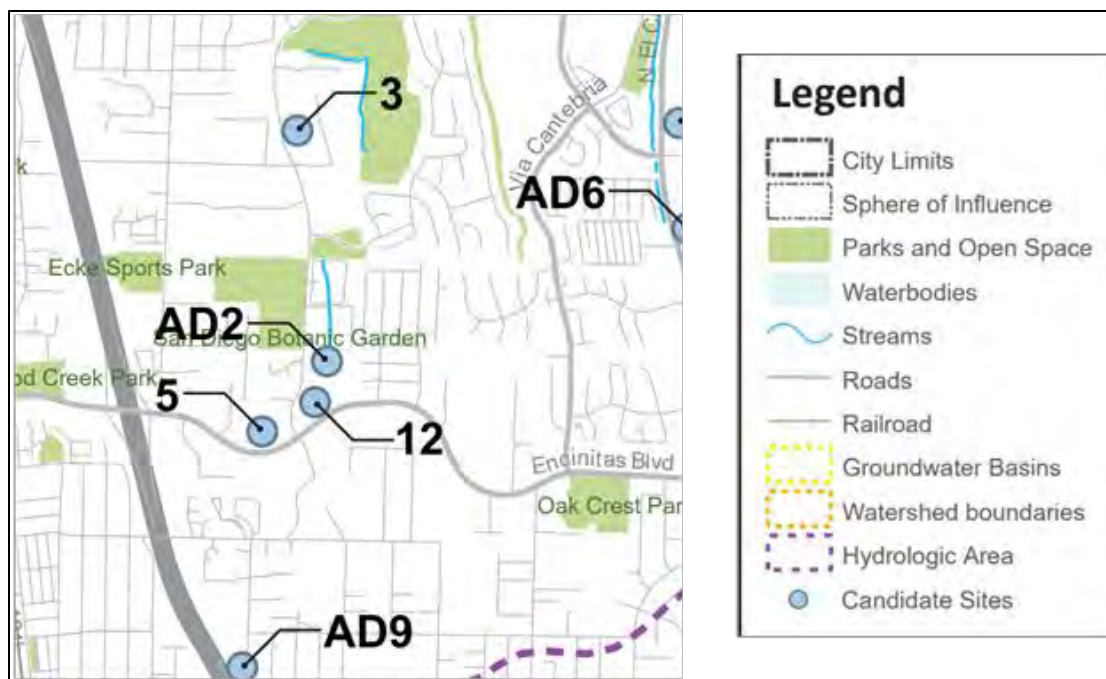


Figure 8 – Excerpt of Final Environmental Assessment Figure 4.8-1, Hydrological Resources and Legend

The Final EA specifically lists the project site as within or adjacent to the impaired waters of Cottonwood Creek (pg. 4.8-8)

Figure 4.8-3 shows the list of 303(d) Impaired Water Bodies within the City of Encinitas and their candidate sites. This image shows Cottonwood Creek as a listed impaired body running the entirety of the project site. An excerpt of the Cottonwood Creek identification and legend is provided as Figure 9

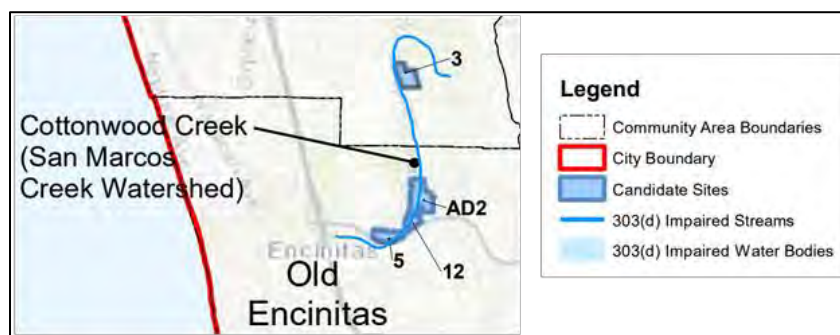


Figure 9 – Excerpt of Final Environmental Assessment Figure 4.8-3, 303(d) List of Impaired Water Quality Segments and Legend

As the Final EA did not perform focused biological studies for each project site, a biological resources technical report was completed for the project. The Biological Resources Letter Report

Exhibit 4 – Evidence of Surface Water Flows of Cottonwood Creek Tributary

prepared by Dudek⁵ did not identify the 303(d) listed Cottonwood Creek tributary as identified jurisdictional water with potential project impacts, which is in direct conflict with the Final EA. Specifically, the Final EA states:

“Candidate Sites #11, #AD1, and #AD2 are adjacent to/contain a stream.” (*Final EA*, pg. 4.3-8)

An excerpt of Figure 4.3-2, Potential Jurisdictional Wetlands & Water is provided as Figure 10.

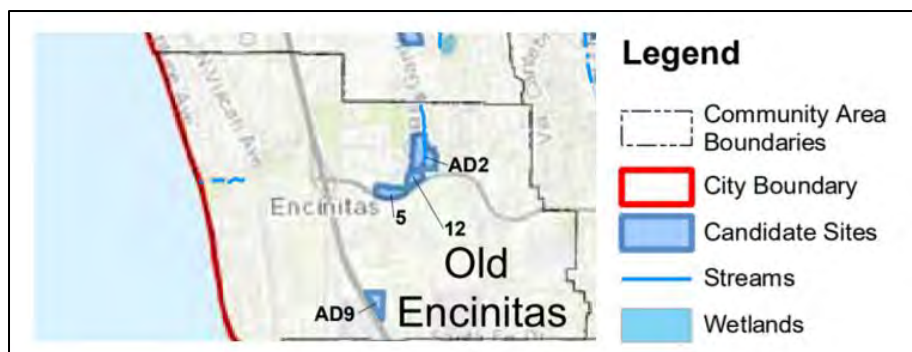


Figure 10 - Excerpt of Final Environmental Assessment Figure 4.3-2, Potential Jurisdictional Wetlands & Water

The applicant and historic Planning Department staff are also aware of this segment of Cottonwood Creek and relevant city standards, as its incorporation was planned for in a previous application (heard on August 2, 2007; Case No: 05-002 TM/MUP/DR/CDP/EIA)⁶. The report refers to this stream channel as a natural drainage course.

In this previous development proposal, under the summary of the Citizen’s Participation Plan (CPP):

- “The applicant notes in the CPP final report that the existing drainage would be replaced with a combination of open swales and storm drain pipes in accordance with City standards.” (*Agenda Report*, pg. 6-2)

Additionally, the applicant and City of Encinitas Planning Department proposed lot averaging to:

- “re-create a riparian drainage area through the property as it had existed historically” (*Agenda Report*, pg. 6-24), and
- “The riparian area will be preserved in open space and the residential lots distributed throughout the remainder of the property”. (*Agenda Report*, pg. 6-13)

Continued next page

⁵ Biological Resources Letter Report for the Quail Meadows Apartments Project, City of Encinitas, California. Prepared by Dudek. October 3, 2024 Planning Commission Agenda Item 8b – PC-9

⁶ *Agenda Report*, City of Encinitas Planning Commission item 6, Case Number 05-002 TM/MUP/DR/CDP/EIA. Meeting date August 2, 2007. Accessed via archived data from the City of Encinitas at <https://archive.encinitasca.gov/>

Exhibit 4 – Evidence of Surface Water Flows of Cottonwood Creek Tributary

Finally, this proposed action of incorporating the stream was determined a benefit to the project:

“The proposed project will improve the condition of the drainage channel by opening the existing pipe into a large swale without affecting the off-site wetland area.” (*Agenda Report*, pg. 6-15)

Neighbors bordering the property captured recent photographic evidence of the stream in active flow. Photo evidence of the stream channel was captured via drone photography on February 8, 2024 and is shown as Figure 11, and a photograph taken by a neighbor on January 22, 2024, is provided as Figure 12.



Figure 11 – Aerial Photo of Stream Channel on Project Site on February 8, 2024



Figure 12 – Photograph of Stream in Active Flow with Quail Gardens Corporate Center Visible in Background; January 22, 2024

EXHIBIT 5

COMPARISON OF EXISTING CONDITIONS TO HISTORIC AERIAL

Existing Conditions Slope Analysis retrieved from:

*File name 3751 Tech Study - Slope Analysis 2023.10.9._v3_v1,
submitted as part of the original 2020 application for Quail
Meadows Apartments; MULTI-003751-2020*

Historic aerial retrieved from:

Historic Aerials by NETROnline

Accessed at www.historicaerials.com

Exhibit 5 – Historic Aerials Showing Naturally Occurring Steep Slopes

The project identifies several portions of steep slopes on Lot 2, as shown in the excerpted composite image from the Existing Conditions Slope Analysis by Lot in Figure 13.

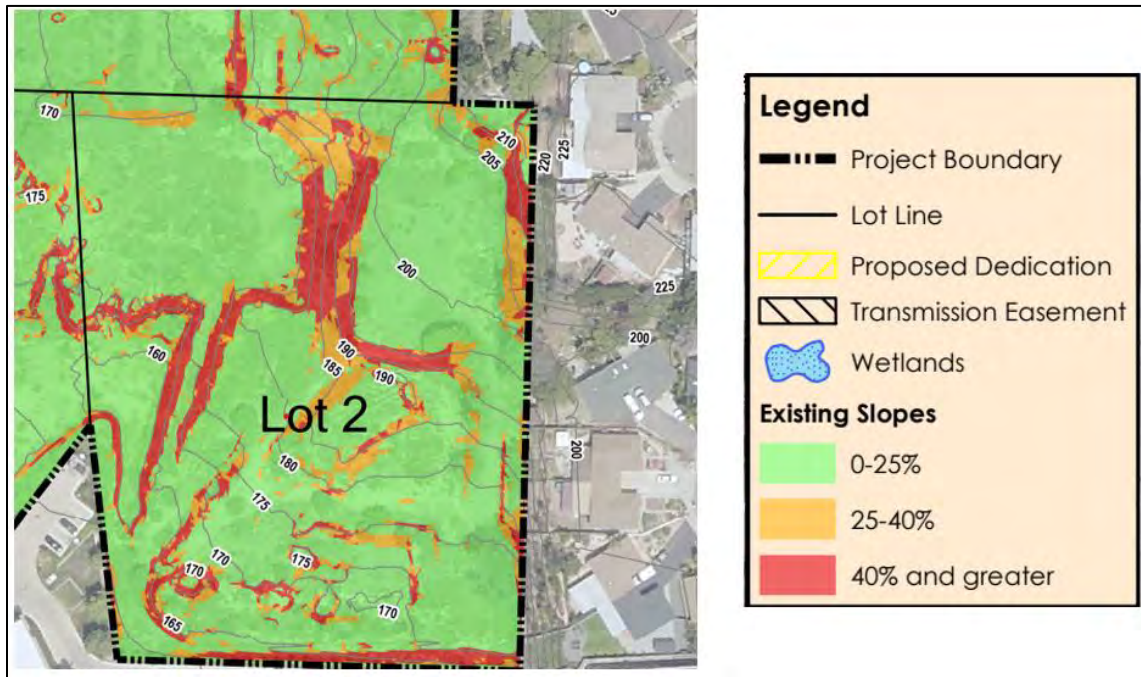


Figure 13 – Composite Image of Legend and Existing Conditions Slope Analysis of Lot 2

The below historic aerial from 1964 demonstrates that the steep slopes in the northeast portion of the site surrounding a plateau are pre-existing and naturally occurring. The image has been marked to outline (in red) the approximate corresponding slope area and banks of the natural drainage course, and roads bordering the project are identified in yellow.



Figure 14 – 1964 Aerial, Pre-nursery Operations

CALIFORNIA COASTAL COMMISSION

SAN DIEGO COAST DISTRICT OFFICE
7575 METROPOLITAN DR., SUITE 103
SAN DIEGO, CA 92108-4421
(619) 767-2370
SANDIEGOCOAST@COASTAL.CA.GOV

**APPEAL FORM****Appeal of Local Government Coastal Development Permit****Filing Information (STAFF ONLY)**

District Office: San Diego Coast

Appeal Number: A-6-ENC-25-0005

Date Filed: March 6, 2025

Appellant Name(s): Manolo Turner

APPELLANTS

IMPORTANT. Before you complete and submit this appeal form to appeal a coastal development permit (CDP) decision of a local government with a certified local coastal program (LCP) to the California Coastal Commission, please review [the appeal information sheet](#). The appeal information sheet describes who is eligible to appeal what types of local government CDP decisions, the proper grounds for appeal, and the procedures for submitting such appeals to the Commission. Appellants are responsible for submitting appeals that conform to the Commission law, including regulations. Appeals that do not conform may not be accepted. Appeals must be received no later than 5 pm on the last day of the appeal period. If you have any questions about any aspect of the appeal process, please contact staff in the Commission district office with jurisdiction over the area in question (see the Commission's [contact page](#) at <https://coastal.ca.gov/contact/#/>).

Note regarding emailed appeals. Please note that emailed appeals are accepted ONLY at the general email address for the Coastal Commission district office with jurisdiction over the local government in question. For the San Diego Coast district office, the email address is SanDiegoCoast@coastal.ca.gov. An appeal emailed to some other email address, including a different district's general email address or a staff email address, will be rejected. It is the appellant's responsibility to use the correct email address, and appellants are encouraged to contact Commission staff with any questions. For more information, see the Commission's [contact page](#) at <https://coastal.ca.gov/contact/#/>).

Appeal of local CDP decision

Page 2

1. Appellant information¹

Name: _____

Mailing address: _____

Phone number: _____

Email address: _____

How did you participate in the local CDP application and decision-making process?

Did not participate Submitted comment Testified at hearing Other

Describe: _____

If you did *not* participate in the local CDP application and decision-making process, please identify why you should be allowed to appeal anyway (e.g., if you did not participate because you were not properly noticed).

Describe: _____

Please identify how you exhausted all LCP CDP appeal processes or otherwise identify why you should be allowed to appeal (e.g., if the local government did not follow proper CDP notice and hearing procedures, or it charges a fee for local appellate CDP processes).

Describe: _____

¹ If there are multiple appellants, each appellant must provide their own contact and participation information. Please attach additional sheets as necessary.

Appeal of local CDP decision

Page 3

2. Local CDP decision being appealed²

Local government name: _____

Local government approval body: _____

Local government CDP application number: _____

Local government CDP decision: CDP approval CDP denial³

Date of local government CDP decision: _____

Please identify the location and description of the development that was approved or denied by the local government.

Describe: _____

² Attach additional sheets as necessary to fully describe the local government CDP decision, including a description of the development that was the subject of the CDP application and decision.

³ Very few local CDP denials are appealable, and those that are also require submittal of an appeal fee. Please see the [appeal information sheet](#) for more information.

Page 4

Applicant name(s): _____

Applicant Address: _____

For appeals of a CDP approval, grounds for appeal are limited to allegations that the approved development does not conform to the LCP or to Coastal Act public access provisions. For appeals of a CDP denial, grounds for appeal are limited to allegations that the development conforms to the LCP and to Coastal Act public access provisions. Please clearly identify the ways in which the development meets or doesn't meet, as applicable, the LCP and Coastal Act provisions, with citations to specific provisions as much as possible. Appellants are encouraged to be concise, and to arrange their appeals by topic area and by individual policies.

[illegible]

⁴ Attach additional sheets as necessary to fully describe the grounds for appeal.

Appeal of local CDP decision

Page 5

5. Identification of interested persons

On a separate page, please provide the names and contact information (i.e., mailing and email addresses) of all persons whom you know to be interested in the local CDP decision and/or the approved or denied development (e.g., other persons who participated in the local CDP application and decision making process, etc.), and check this box to acknowledge that you have done so.

Interested persons identified and provided on a separate attached sheet

6. Appellant certification⁵

I attest that to the best of my knowledge, all information and facts in this appeal are correct and complete.

Print name _____



Signature

Date of Signature _____

7. Representative authorization⁶

While not required, you may identify others to represent you in the appeal process. If you do, they must have the power to bind you in all matters concerning the appeal. To do so, please complete the representative authorization form below and check this box to acknowledge that you have done so.

I have authorized a representative, and I have provided authorization for them on the representative authorization form attached.

⁵ If there are multiple appellants, each appellant must provide their own certification. Please attach additional sheets as necessary.

⁶ If there are multiple appellants, each appellant must provide their own representative authorization form to identify others who represent them. Please attach additional sheets as necessary.

CALIFORNIA COASTAL COMMISSION

455 MARKET STREET, SUITE 300
SAN FRANCISCO, CA 94105-2219
VOICE (415) 904-5200
FAX (415) 904-5400

**DISCLOSURE OF REPRESENTATIVES**

If you intend to have anyone communicate on your behalf to the California Coastal Commission, individual Commissioners, and/or Commission staff regarding your coastal development permit (CDP) application (including if your project has been appealed to the Commission from a local government decision) or your appeal, then you are required to identify the name and contact information for all such persons prior to any such communication occurring (see Public Resources Code, Section 30319). The law provides that failure to comply with this disclosure requirement prior to the time that a communication occurs is a misdemeanor that is punishable by a fine or imprisonment and may lead to denial of an application or rejection of an appeal.

To meet this important disclosure requirement, please list below all representatives who will communicate on your behalf or on the behalf of your business and submit the list to the appropriate Commission office. This list could include a wide variety of people such as attorneys, architects, biologists, engineers, etc. If you identify more than one such representative, please identify a lead representative for ease of coordination and communication. You must submit an updated list anytime your list of representatives changes. You must submit the disclosure list before any communication by your representative to the Commission or staff occurs.

Your Name _____

CDP Application or Appeal Number _____

Lead Representative

Name _____

Title _____

Street Address. _____

City _____

State, Zip _____

Email Address _____

Daytime Phone _____

Your Signature _____

Date of Signature 3/5/2025

Additional Representatives (as necessary)

Name _____
Title _____
Street Address. _____
City _____
State, Zip _____
Email Address _____
Daytime Phone _____

Name _____
Title _____
Street Address. _____
City _____
State, Zip _____
Email Address _____
Daytime Phone _____

Name _____
Title _____
Street Address. _____
City _____
State, Zip _____
Email Address _____
Daytime Phone _____

Name _____
Title _____
Street Address. _____
City _____
State, Zip _____
Email Address _____
Daytime Phone _____

Your Signature _____

Date of Signature _____

Additional Interested Persons

Carmen and Tom Nespor
765 Mays Hollow Ln
Encinitas, CA 92024
cnesporova@yahoo.com

Grounds for Appeal
Coastal Development Permit 003761-2020
Quail Meadows Project
City of Encinitas

This timely appeal, brought to the California Coastal Commission pursuant to Coastal Act Section 30603 and Chapter 30.04 of the Encinitas Municipal Code, stems from a City Council decision upholding the Planning Commission's issuance of Coastal Development Permit (CDP) 003761-2020 for a project known as Quail Meadows in the City of Encinitas (the City), in the community of Old Encinitas. The City issued a CDP for this project under the City's certified Local Coastal Program (LCP), which is incorporated into the City's 1989 General Plan.

For this "by-right" development project, the City approved a density bonus (DB) and issued a design review permit (DR) and CDP 003761-2020 authorizing construction of a multi-family residential development consisting of 448 residential apartments in two multi-story residential buildings with basement parking, a two-story fitness/community building, private amenity and common open spaces, grading/utility, and landscaping improvements, sliplining repair of an unpermitted storm drain, habitat restoration, new roundabout at project entry of Kristen Court/Quail Meadows Drive intersection; and the use of three temporary construction trailers at the site located at 185, 195, 211, and 225 Quail Gardens Drive (APNs 258-131-10 and -21 (Lot 1), 258-131-11, and -12 (Lot 2), 257-020-37 and 258-131-06, and -07 (Lot 3), and 257-020-36 (Lot 4)).

Because proposed development is located within 100 feet of a stream and wetlands, the City's approval of the subject CDP is appealable to the Commission. The standard of review is the City of Encinitas certified LCP.

The City of Encinitas found that the project is consistent with the certified LCP. However, the development as approved by the City raises several concerns with regard to impacts to natural drainage courses, wetlands, riparian areas, incorporation of unpermitted flood control infrastructure, and Environmentally Sensitive Habitat Areas (ESHA). The following sections quote from each relevant LCP policy using **blue font**, followed by a brief discussion of project inconsistencies with the policy. Robert Hamilton, President of Hamilton Biological, Inc., provided to the City (and Coastal Commission staff) relevant information on the site's biological resources in three letters:

Hamilton Biological, Inc. 2022. *Review of Biological Issues and Coastal Act Compliance, Proposed Quail Meadows Apartment Project*. Letter dated October 20, 2022, to Andrew Maynard, Senior Planner, requesting that the City and its consultant, DUDEK, properly delineate and protect wetlands and ESHA on the Quail Meadows project site, as required for compliance with the City's LCP and the Coastal Act.

Hamilton Biological, Inc. 2024. *Comments on Jurisdictional Delineation and Associated Regulatory Issues, Proposed Quail Meadows Project*. Letter dated October 2, 2024 to J. Dichoso, Senior Planner, providing relevant information on (1) the history of the project site and actions taken to bury the on-site streambed, noting lack of permits for the headwall and storm drain pipe installed on the site; (2) the potential occurrence of at least one additional wetland area that the project's biological consultant, DUDEK, did

not investigate; and (3) the likelihood that the flood-control protections installed as part of project implementation would remove the required water source for the existing on-site wetlands.

Hamilton Biological, Inc. 2025a. *Proposed Quail Meadows Project, Outstanding Regulatory Compliance Issues*. Letter dated February 11, 2025, to Mayor Bruce Ehlers and Members of the City Council showing that a natural drainage course persists on the site that requires preservation under the City's LCP.

To these letters is added a new technical memorandum that formalizes and updates information that Mr. Hamilton provided in emails to the Coastal Commission staff in 2024:

Hamilton Biological, Inc. 2025b. *Appendix A to Appeal of Coastal Development Permit 003761-2020, Quail Meadows Project, Incorporation of Unpermitted Infrastructure*. Technical Memorandum dated March 6, 2025, to Stephanie Leach, Coastal Planner, analyzing the history, legality, and permitting implications of the planned incorporation of an unpermitted headwall and 48-inch corrugated metal pipe (CMP) into the Quail Meadows project.

These four items (Hamilton Biological 2022, 2024, 2025a, 2025b) are attached to this appeal, and I refer to them to provide evidence that substantial issues remain unresolved by the City's issuance of CDP 003761-2020.

Impacts to Natural Drainage Course, Wetlands, ESHA

Public Safety Element Policy 1.1 states, in relevant part:

- Development and grading or filling in drainage courses, floodways and floodplains shall be prohibited except as provided by Land Use Element Policy 8.2.

Land Use Element Policy 8.2 states, in relevant part [emphasis added in bold]:

- Development within coastal and flood plain areas identified in the Land Use and Resource Management Elements must be limited, designed to minimize hazards associated with development in these areas, and to preserve area resources. Within the floodway, channelizations, dams, or other substantial alterations of rivers and streams shall incorporate the best mitigation measures feasible, **and be limited to necessary water supply projects, flood control projects where no other method for protecting existing public or private structures is feasible and where such protection is necessary for public safety or to protect existing development, and other development where the primary function is the improvement of fish and wildlife habitats.** No development shall occur in the 100-year Floodplain that is not consistent and compatible with the associated flood hazard. **Only uses which are safe and compatible with periodic flooding and inundation shall be considered, such as stables, plant nurseries, a minimum intrusion of open parking, some forms of agriculture, and open space preservation,** as appropriate under zoning, and subject to applicable environmental review and consistency with other policies of this Plan. **No grading or fill activity other than the minimum necessary to accommodate those uses found safe and compatible shall be allowed. Such grading shall not significantly redirect or impede flood flows or require floodway modifications.**

The Quail Meadows project, which proposes to build within the 100-year floodplain delineated by Rick Engineering (hydrology report for the project dated July 22, 2024):

- is not a water supply project or flood control project;
- is not necessary to protect existing development;
- does not have as its primary function “the improvement of fish and wildlife habitats:
- is not of a type listed as being “safe and compatible” with periodic flooding and inundation (“stables, plant nurseries, a minimum intrusion of open parking, some forms of agriculture, and open space preservation”);
- proposes more than the minimum amount of grading or fill activity necessary for the types of “safe and compatible uses” identified in the policy; and
- *will* significantly redirect or impede flood flows *and* require floodway modifications.

Furthermore, the project design retains an unpermitted and undersized headwall and an unpermitted and failed 48-inch drainage pipe (Hamilton Biological 2025a, 2025b). In all of these ways, the Quail Meadows project flagrantly violates Public Safety Element Policy 1.1 and Land Use Element Policy 8.2.

In “previously degraded areas,” such as the Quail Meadows site, a potentially relevant exception to Land Use Element Policy 8.2 states [emphasis added in bold]:

- c. Limited reconfiguration of the flood plain in previously degraded areas provided it is determined by the City that the reconfiguration of the flood plain is incidental to the improvement of an overall storm water system **and that the reconfigured storm water system is substantially based on natural channels with vegetation to accommodate storm water management.**

The flood plain on the Quail Meadows site has been degraded by the illegal establishment of a headwall and 48-inch subsurface corrugated metal pipe (CMP), both of which were installed in the 1980s without a CDP or 1602 Agreement (Hamilton Biological 2024, 2025a, 2025b). Nevertheless, surface water continues to flow through the historical natural drainage course (Hamilton Biological 2024, 2025a, 2025b). Because the Quail Meadows project would bury nearly the entire southern half of this natural channel, rather than preserving it and planting “vegetation to accommodate storm water management,” the project violates Land Use Element Policy 8.2(c).

The Quail Meadows site lies within the City’s Special Study Overlay Zone. Land Use Element Policy 8.5 states [emphasis added in bold]:

- The Special Study Overlay designation shall be applied to lands which, **due to their sensitive nature, should only be developed with consideration of specific constraints and features related to drainage courses**, bluffs, slopes, geology and soils, **biotic habitat**, viewsheds and vistas, and cultural resources. **Development within the overlay area shall be reviewed and approved in accordance with criteria and standards which protect coastal and inland resources.** (Coastal Act / 30240 / 30253)

Surface water continues to flow through the site's natural drainage course (Rick Engineering hydrology report dated July 22, 2024; Hamilton Biological 2024, 2025a, 2025b), yet this drainage course is not identified as a "specific constraint" as required under Land Use Policy 8.5.

Land Use Element Policy 8.6 states [emphasis added in bold]:

- **Significant natural features shall be preserved and incorporated into all development.** Such features may include bluffs, rock outcroppings, **natural drainage courses, wetland and riparian areas**, steep topography, trees and views.

It has been demonstrated that the headwall and 48-inch CMP on the Quail Meadows property were installed in the 1980s without a CDP or any other form of permitting (Hamilton 2025b). Thus, the segment of blue-line stream passing through the Quail Meadows project site was filled in violation of the Coastal Act and, presumably, Section 1602 of the California Fish and Game Code. The applicant's plan to incorporate unpermitted and failing flood control infrastructure as part of the Quail Meadows project also violates the Coastal Act, and cannot be allowed. Additionally, the plan to slipline the unpermitted 48-inch CMP would remove an important source of water from two existing wetland areas, presumably leading to their demise. Compliance with Policy 8.6 in the City's certified LCP requires removal of the two unpermitted structures and re-establishment of the natural drainage course along its former alignment, with restoration of the riparian habitat that was present prior to the illegal filling of this natural drainage course.

Resource Management Policy 9.2 states:

- All drainage courses should be maintained in natural or semi-natural vegetation utilizing existing topography as opposed to concrete ditches or pipes. (Coastal Act / 30231 / 30240)

The Quail Meadows project would not maintain the on-site drainage course (see Hamilton 2025a, 2025b) "using existing topography," but would instead divert the southern half of this drainage course into a pipe in violation of Resource Management Policy 9.2.

Resource Management Policy 9.3 states:

- Where possible, bridges should be used in lieu of pipes, box culverts, or underground channels to preserve the integrity of the natural stream courses, in keeping with community character in the Planning Area. (Coastal Act / 30231 / 30240)

The Quail Meadows project would use pipes and culverts, and thus would not "preserve the integrity of the natural stream course" on the site per Resource Management Policy 9.3.

Resource Management Policy 9.9 states:

- The City shall develop and implement a program to preserve natural drainage courses and their associated vegetation. (Coastal Act / 30240)

Had the City complied with Resource Management Policy 9.9, the natural drainage course on the Quail Meadows site would have been identified and preserved (Hamilton Biological 2025b).

Resource Management Policy 10.6 states:

- The City shall preserve and protect wetlands within the City's planning area. "Wetlands" shall be defined and delineated consistent with the definitions of the U. S. Fish and Wildlife Service, U. S. Army Corps of Engineers, the Coastal Act and the Coastal Commission Regulations, as applicable, and shall include, but not be limited to, all lands which are transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water.

There shall be no net loss of wetland acreage or resource value as a result of land use or development, and the City's goal is to realize a net gain in acreage and value whenever possible.

The illegal filling, in the mid-1980s, of a blue-line stream that presumably supported wetland/riparian vegetation violated Resource Management Policy 10.6, and the stream and its native habitat must be restored prior to any development of the property (Hamilton Biological 2025b).

Failure of the unpermitted flood control infrastructure installed in the 1980s has led to establishment of isolated willow wetlands in the northern part of the site that would not be preserved or protected if the broken 48-inch CMP is sliplined, as proposed (Hamilton 2025a, 2025b).

A natural drainage course, potentially supporting additional wetlands, persists in the southern half of the site (Hamilton Biological 2024, 2025). DUDEK has refused to conduct a thorough and credible study that maps the on-site drainage and that provides wetland data sheets for all potential wetland areas.

In these ways, the proposed actions are inconsistent with Resource Management Policy 10.6.

Thank you for your time and consideration of this submission.

Attachments

1. Hamilton Biological, Inc. 2022. *Review of Biological Issues and Coastal Act Compliance, Proposed Quail Meadows Apartment Project*. Letter dated October 20, 2022, to Andrew Maynard, Senior Planner, requesting that the City and its consultant, DUDEK, properly delineate and protect wetlands and ESHA on the Quail Meadows project site, as required for compliance with the City's LCP and the Coastal Act.

2. Hamilton Biological, Inc. 2024. *Comments on Jurisdictional Delineation and Associated Regulatory Issues, Proposed Quail Meadows Project*. Letter dated October 2, 2024 to J. Dichoso, Senior Planner, providing relevant information on (1) the history of the project site and actions taken to bury the on-site streambed, noting lack of permits for the headwall and storm drain pipe installed on the site; (2) the potential occurrence of at least one additional wetland area that the project's biological consultant, DUDEK, did not investigate; and (3) the likelihood that the flood-control protections installed as part of project implementation would remove the required water source for the existing on-site wetlands.
3. Hamilton Biological, Inc. 2025a. *Proposed Quail Meadows Project, Outstanding Regulatory Compliance Issues*. Letter dated February 11, 2025, to Mayor Bruce Ehlers and Members of the City Council showing that a natural drainage course persists on the site that requires preservation under the City's LCP.
4. Hamilton Biological, Inc. 2025b. *Appendix A to Appeal of Coastal Development Permit 003761-2020, Quail Meadows Project, Incorporation of Unpermitted Infrastructure*. Technical Memorandum dated March 6, 2025, to Stephanie Leach, Coastal Planner, analyzing the history, legality, and permitting implications of the planned incorporation of an unpermitted headwall and 48-inch corrugated metal pipe (CMP) into the Quail Meadows project.



HAMILTON BIOLOGICAL

October 20, 2022

Andrew Maynard, Senior Planner
City of Encinitas, Development Services Department
505 South Vulcan Avenue
Encinitas, CA 92024

**SUBJECT: REVIEW OF BIOLOGICAL ISSUES & COASTAL ACT COMPLIANCE
PROPOSED QUAIL MEADOWS APARTMENT PROJECT**

Dear Mr. Maynard,

A group of neighbors retained Hamilton Biological, Inc. (Hamilton Biological) to review biological issues relevant to the City of Encinitas' (the City's) potential issuance of a Design Review Permit, Major Use Permit Modification, Boundary Adjustment, and Coastal Development Permit (CDP) for the construction of a multi-family residential development consisting of 485 residential apartments on the 11.9-acre Quail Meadows project site, located in Old Encinitas. The project is appealable to the California Coastal Commission.

BACKGROUND

In 2019 and 2020, I reviewed biological information and permitting issues associated with the Sanderling Waldorf School project, which was proposed for a 3.7-acre parcel adjacent to the Quail Meadows project site. Hamilton Biological submitted several letters to the City and to the Coastal Commission describing and documenting serious inadequacies in the City's environmental review of the school project. Perhaps most importantly, the City and their consultant, DUDEK, refused to conduct the analysis required to determine the occurrence or extent of Environmentally Sensitive Habitat Areas (ESHA) on the Sanderling site, despite the site lying within a designated Special Studies Overlay Zone identified in the General Plan/Local Coastal Program (GP/LCP). After the City issued a CDP without addressing the relevant Coastal Act issues, I worked with local resident Carmen Nespor to prepare an 11-page appeal of the CDP, submitted to the Coastal Commission on July 28, 2020. The Commission has yet to rule on this appeal, but in an email dated October 19, 2022, Stephanie Leach, the Coastal planner for the Sanderling and Quail Meadows projects, stated that the members of Coastal staff who have reviewed our 2020 appeal . . .:

. . . have similar concerns regarding the presence of ESHA on the Sanderling School site. Coastal staff is currently working on establishing an appropriate development envelope given the resource constraints on the site, but we will not have a final recommendation until we are 2-3 weeks from the day the project goes to hearing.

It is in the context of this relevant history that Hamilton Biological submits these initial comments on the proposed Quail Meadows project. This initial letter, submitted at this early stage of public review, provides an update on the status of the ongoing appeal of the City-issued CDP for the Sanderling project, and it also notifies the City that using the same inadequate approach to the Quail Meadows project will almost certainly result in another appeal to the Coastal Commission on very similar grounds.

This initial letter refrains from restating many of Hamilton Biological's previous comments regarding the Sanderling project's failure to comply with the GP/LCP, although some of the same comments appear equally applicable to the Quail Meadows project. Additional comments will be submitted as the Quail Meadows project moves forward through the City's planning process and as Hamilton Biological has an opportunity to thoroughly review the City's biological documentation for this current project as it relates to the GP/LCP and the Coastal Act.

COASTAL ACT ISSUES

Definition of ESHA

Section 30107.5 of the Coastal Act defines Environmentally Sensitive Habitat Areas (ESHA) as follows:

"Environmentally sensitive area" means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.

Section 30240 of the Coastal Act states:

- (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.
- (b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

CITY FAILS TO ANALYZE AND DETERMINE ESHA

Jurisdictions issuing CDP under a certified LCP are required to make specific findings about ESHA, consistent with current Coastal Commission practice. The City did not do so for the Sanderling project, and has not done so for the Quail Meadows project.

The area of open space that includes both the Quail Meadows and Sanderling project sites supports a mix of native and non-native vegetation that has been adequate to support at least one resident pair of California Gnatcatchers for at least the past five years. Areas that support species listed as threatened or endangered by state and/or federal governments are typically identified as ESHA. DUDEK reports having detected a

nesting pair of California Gnatcatchers in 2018 (pair with two dependent juveniles) and 2020 (adult pair). On May 3, 2019, I photo-documented a pair of gnatcatchers feeding a recently fledged juvenile on the Quail Meadows site:



Photo 1. Adult female California Gnatcatcher feeding a fledgling in non-native Tree Tobacco on the Quail Meadows project site, May 3, 2019. Photo: Robert Hamilton.

I reported this photo-documented record of California Gnatcatchers nesting on the site to the City in a letter dated May 4, 2019, addressed to Anna Yentile, Principal Planner. DUDEK has not acknowledged this relevant, well-documented record in any of their subsequent biological reports, including those supporting the current project.

Although the City and DUDEK failed to provide current survey data from 2021 or 2022, local resident Manolo Turner (*pers. comm.*) informed me that he heard two California Gnatcatchers giving characteristic “mewing” calls from the project site on October 19, 2022. He heard the birds from the southwest corner of his property at 797 Mays Hollow Lane. Thus, although the City has provided only outdated and vague information on the number of individuals present and the habitat areas they utilize on the project site, we at least know that the gnatcatcher persists on the site.

As discussed in my letters on the Sanderling project, Mr. Turner has photo-documented and otherwise credibly recorded various other special-status species on or adjacent to the Quail Meadows project site: Monarch Butterfly, Least Bell’s Vireo, Yellow-breasted Chat, Southern California Legless Lizard, Coronado Skink, and San Diego Ringneck Snake. In the 2020 and 2022 biological reports prepared in support of the Mays Hollow project, DUDEK has ignored these records, as well as the online database of documented records at iNaturalist.com. Furthermore, DUDEK has not conducted the types of focused surveys required to independently determine the status of special-status reptiles on the project site. Their most recent report, dated September 23, 2022, provides no biological survey information from 2021 or 2022.

In the absence of detailed, current, and credible information concerning the areas of the site utilized by special-status wildlife species, the City lacks a basis for demonstrating that the proposed project complies with all aspects of the GP/LCP. This is the same error that led to the public appealing the CDP for the Sanderling project to the Coastal Commission.

SPECIAL STUDIES OVERLAY ZONE ALLOWS FOR ESHA DETERMINATION

Both the Sanderling Waldorf School site and the Quail Meadows site lie within Special Studies Overlay Zone of the City. Page RM-31 of the GP/LCP states:

While not all Special Studies Overlay Zones will be expressly used for preserving environmentally significant areas, they will be effective in indicating those areas where development standards may be more stringent to minimize any potentially adverse impacts from development.

The Special Studies Overlay Zone provides a mechanism for the City to designate ESHA through administrative action depending upon the results of site-specific investigations. For the Quail Meadows project, it is known that the federally listed California Gnatcatcher occupies the site – using some combination of native and non-native vegetation – but no detailed investigations have been conducted to determine which specific parts of the project site are needed to support the gnatcatcher. In fact, the most recent surveys for the species date back to 2020, meaning that the City has no current information on the number of gnatcatchers currently present or the specific habitat areas they are using.

Kurt Campbell and colleagues published a peer-reviewed paper in 1998 documenting and describing California Gnatcatcher use of disturbed areas, riparian habitats, and other non-coastal sage scrub habitats¹:

The California Gnatcatcher, while clearly dependent on coastal sage scrub within its U.S. range, regularly uses other habitats and shows seasonal and perhaps daily patterns in such use. Our data do not reveal patterns with regard to many possible environmental variables, such as geographic or topographic trends. There does appear to be some pattern of non-CSS use emphasizing shrubby or weedy habitats that are mesic and not summer-deciduous. Use of such habitats appears to be most frequent immediately upon fledging of young and continues through fall and winter, with smaller numbers of birds using such areas during the breeding season. Improved food resources, higher survival rates during juveniles' dispersal, fire avoidance, cooler microclimate during heat stress, and lower predation rates for juveniles may all be factors contributing to the gnatcatcher's use of alternative habitats. Non-CSS may also provide a buffer to human impacts on and natural variation in coastal sage scrub. Conversely, it may facilitate increased brood parasitism by cowbirds as well as predation at some sites.

The following discussion of the conditions under which disturbed habitat may be found to constitute Major Vegetation and/or ESHA is found on pages 11–12 of Coastal Commission Staff Report Th10a for the Sunset Ridge Park project in Newport Beach, dated August 9, 2012:

Clearance of vegetation known to serve as habitat and provide important ecological functions for a listed species would qualify as Major Vegetation and could also qualify as ESHA. Therefore, at issue is the question of whether the Disturbed Encelia Scrub serves as important ecological habitat for the California gnatcatcher.

¹ Campbell, K. E., Erickson, R. A., Haas, W. E., and Patten, M. A. 1998. California Gnatcatcher use of habitats other than coastal sage scrub: Conservation and management implications. *Western Birds* 29:421-433.

Under the Coastal Act, areas occupied by various special-status species – such as the California Gnatcatcher, Southern California Legless Lizard, San Diego Ringneck Snake, Orange-throated Whiptail, Yellow-breasted Chat, and Monarch – are typically considered to satisfy ESHA criteria, but the City has made no credible effort to determine the distribution of these species, or the habitats they utilize, on the Quail Meadows project site. Instead, the City and DUDEK continue to insist that the City has no obligation to identify the extent of ESHA on the site. See, for example, the following response of DUDEK to a letter dated May 20, 2020, that I submitted to the City regarding the Sanderling project:

No Environmentally Sensitive Habitat Area (ESHA) determination has been made for the project site because no ESHA determination is required by the City of Encinitas. The California Coastal Act (CCA) directs each coastal city or county to prepare a Local Coastal Program (LCP) to guide development in the coastal zone, which is certified by the California Coastal Commission (CCC) (California Public Resources Code, Section 30500). After an LCP has been approved, the permitting authority of the CCC is transferred to the local government. The City of Encinitas General Plan (City of Encinitas 1989) is an approved LCP.

As discussed previously, Coastal planner Stephanie Leach recently affirmed to me that Coastal staff “have similar concerns regarding the presence of ESHA on the Sanderling School site [and that they are] currently working on establishing an appropriate development envelope given the resource constraints on the site.” This undercuts DUDEK’s theory that jurisdictions with certified LCPs are not required to identify and protect ESHA in areas that satisfy Section 30107.5 of the Coastal Act. Thus, at Quail Meadows the City and DUDEK appear to be repeating the flawed approach that led to valid appeal of the CDP issued for the Sanderling project.

DELINEATION OF ONE-PARAMETER WETLANDS

DUDEK’s reports acknowledge that the Coastal Commission defines wetland boundaries by a single parameter (soils, vegetation, or hydrology), but these reports provide little information about the actions taken to determine the extent of one-parameter wetlands on the project site. For example, Photo 2 below shows two large, isolated willows that may represent localized one-parameter wetlands.



Photo 2. Drone photo dated October 13, 2022, showing two large willows on the Quail Meadows project site, May 3, 2019. Imagery provided by Carmen Nespor.

Regardless of whether these large willows are ultimately found to represent isolated one-parameter wetlands, they may be of high value to various special-status species known to be present in the local area, as documented by Manolo Turner. The City and DUDEK have not collected and provided for review adequate information on the distribution of various special-status species on the project site to allow the public or regulators to evaluate the potential ecological value of any given area.

UPDATED PLANT COMMUNITY MAPPING NEEDED

DUDEK's 2022 biological report indicates that plant community mapping was last completed in 2019. The City should require current, detailed mapping of the distribution of native plants across the project site.

REMOVAL OF MATURE TORREY PINES VIOLATES THE LCP/GP

Resource Management Goal 3 of the LCP/GP states, "The City will make every effort possible to preserve significant mature trees, vegetation and wildlife habitat within the Planning Area (Coastal 30240)."

Resource Management Policy 3.6 states, "Future development shall maintain significant mature trees to the extent possible and incorporate them into the design of development projects."

The Quail Meadows project would remove both of the mature Torrey Pines that exist on the subject site. The City has provided no evidence that project planners made "every effort possible" — or any effort at all — to maintain these large trees and to incorporate them into the design of the project. This is another way in which the proposed project contravenes the LCP/GP and the Coastal Act.

SUMMARY AND CONCLUSION

As discussed herein, the City lacks current, credible information concerning the status and distribution of various special-status wildlife species on the project site. These include the California Gnatcatcher, Southern California Legless Lizard, San Diego Ringneck Snake, Orange-throated Whiptail, Yellow-breasted Chat, and Monarch. In particular, the City must determine the current number of gnatcatchers present on the site and the habitat areas they are using to persist on the site. This should involve updating the mapping of native plants and plant associations across the site.

The City should require a detailed and credible one-parameter wetland delineation of the entire site. Do the large willows represent isolated wetlands, and do they provide valuable habitat for any special-status species?

Resource Management Goal 3 and Resource Management Policy 3.6 of the LCP/GP require project planners to "make every effort" to incorporate the two large Torrey Pines on the site into the project design.

All areas identified as ESHA and/or Coastal Act wetlands should be protected in place, consistent with the GP/LCP and the Coastal Act.

Especially considering that Coastal staff has now expressed support for the appeal that was filed against the CDP issued for the Sanderling project, the City should work with Coastal staff to fully address all relevant Coastal Act issues before the City issues a CDP for the Quail Meadows project.

Thank you for your time and consideration. If you have questions, please send e-mail to robb@hamiltonbiological.com or call me at (562) 477-2181.

Sincerely,



Robert A. Hamilton
President, Hamilton Biological, Inc.

cc: Jack Ainsworth, Executive Director, CCC
Karl Schwing, District Director, CCC
Diana Lilly, District Manager, CCC
Laurie Koteen, Senior Ecologist, CCC
Jonna Engel, Senior Ecologist, CCC
Stephanie Leach, Coastal Planner, CCC



HAMILTON BIOLOGICAL

October 2, 2024

J. Dichoso, AICP, Project Planner
City of Encinitas, Development Services Department
505 South Vulcan Avenue
Encinitas, CA 92024

**SUBJECT: COMMENTS ON JURISDICTIONAL DELINEATION
AND ASSOCIATED REGULATORY ISSUES
PROPOSED QUAIL MEADOWS PROJECT**

Dear Mr. Dichoso,

On behalf of a group of neighbors, Hamilton Biological, Inc., provides these comments on biological documentation provided by the consulting firm DUDEK for the proposed Quail Meadows housing development project. My comments refer to the current biological report for the project:

DUDEK. 2024. *Biological Resources Letter Report for The Quail Meadows Apartments Project, City of Encinitas, California*. Letter report dated August 26, 2024, to Maria Miller, Heritage Building & Development, San Diego, CA. 126 pp. including appendices.

The biological report does not refer to a stand-alone jurisdictional wetland delineation technical report. Instead, it discusses an initial delineation effort in 2016 that was updated in 2022 and 2023, as outlined in the following points:

- Initial delineation on September 7, 2016: Four hours in the field; two wetland delineation data sheets completed (DS-1, DS-2); one single-parameter wetland identified in northeast corner of site.
- Supplemental delineation on December 15, 2022: One hour in the field; one wetland delineation data sheet completed (WSP-1); one additional single-parameter wetland area identified.
- Supplemental delineation on January 26, 2023: Two hours in the field; five wetland delineation data sheets completed (WSP-2 to WSP-6); a second additional wetland area identified.

In summary, DUDEK conducted a total of seven hours in the field on three dates during the past decade and did not produce a stand-alone delineation report. The problem is that Quail Meadows is a hydrologically complicated site. The property occupies a blue-

line stream that has been modified using a combination of a headwall and 48-inch sub-surface pipe which, as discussed subsequently, may not have been properly permitted. In any case, failure of the undersized drainage system allows surface water to flow through the on-site streambed, which has led to the establishment of jurisdictional wetlands in parts of the site. See the following exhibits.



Exhibit 1. The USGS 1949 Encinitas topographic quadrangle shows a blue-line stream running through the middle of the Quail Meadows site.



Exhibit 2. The USGS 1968 Encinitas topographic quadrangle shows a blue-line stream continuing to run through the middle of the Quail Meadows site.

The next most-recent USGS topography, from 1997, continues to show “canyon” topography running through the middle of the site, but the site is no longer identified as a blue-line stream:

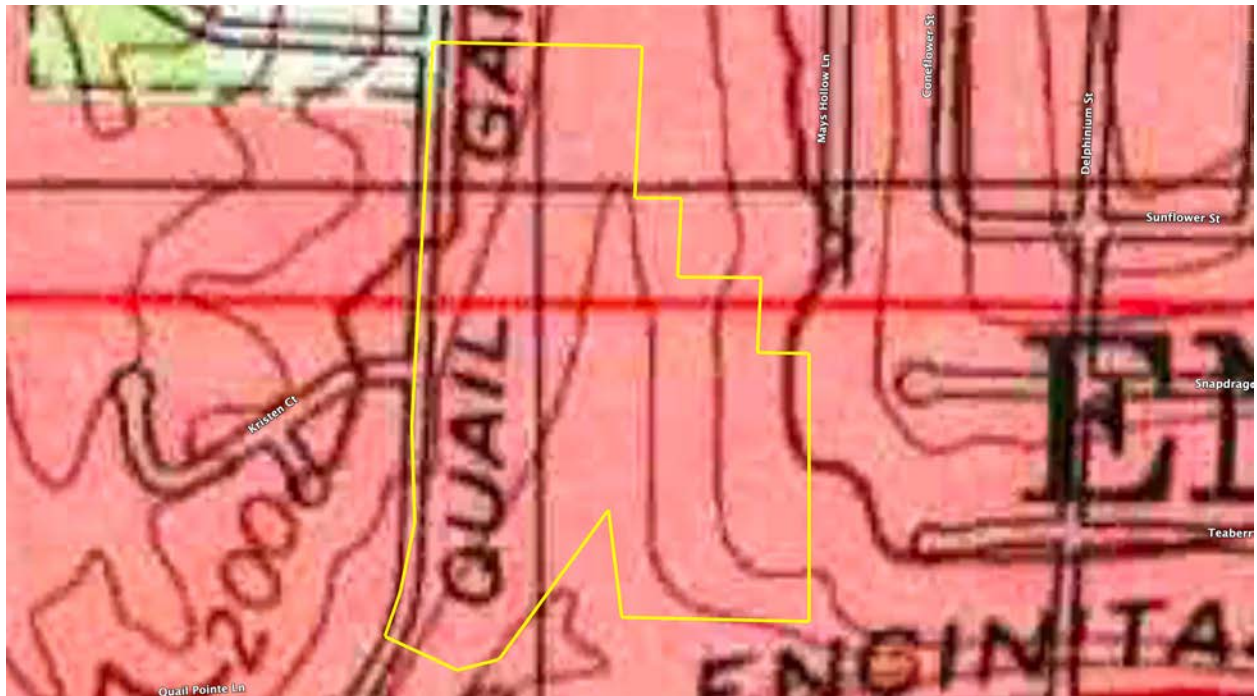


Exhibit 3. The USGS 1997 Encinitas topographic quadrangle shows “canyon” topography running through the middle of the Quail Meadows site, but no longer depicts a blue-line stream.



Exhibit 4. This aerial image, dated February 13, 2022, shows the historical north/south drainage pattern through the middle of the site. Source: Google Earth Pro.

Exhibit 5, below, shows that the Encinitas Open GIS Data Hub continues to depict a stream passing through the Quail Meadows site.

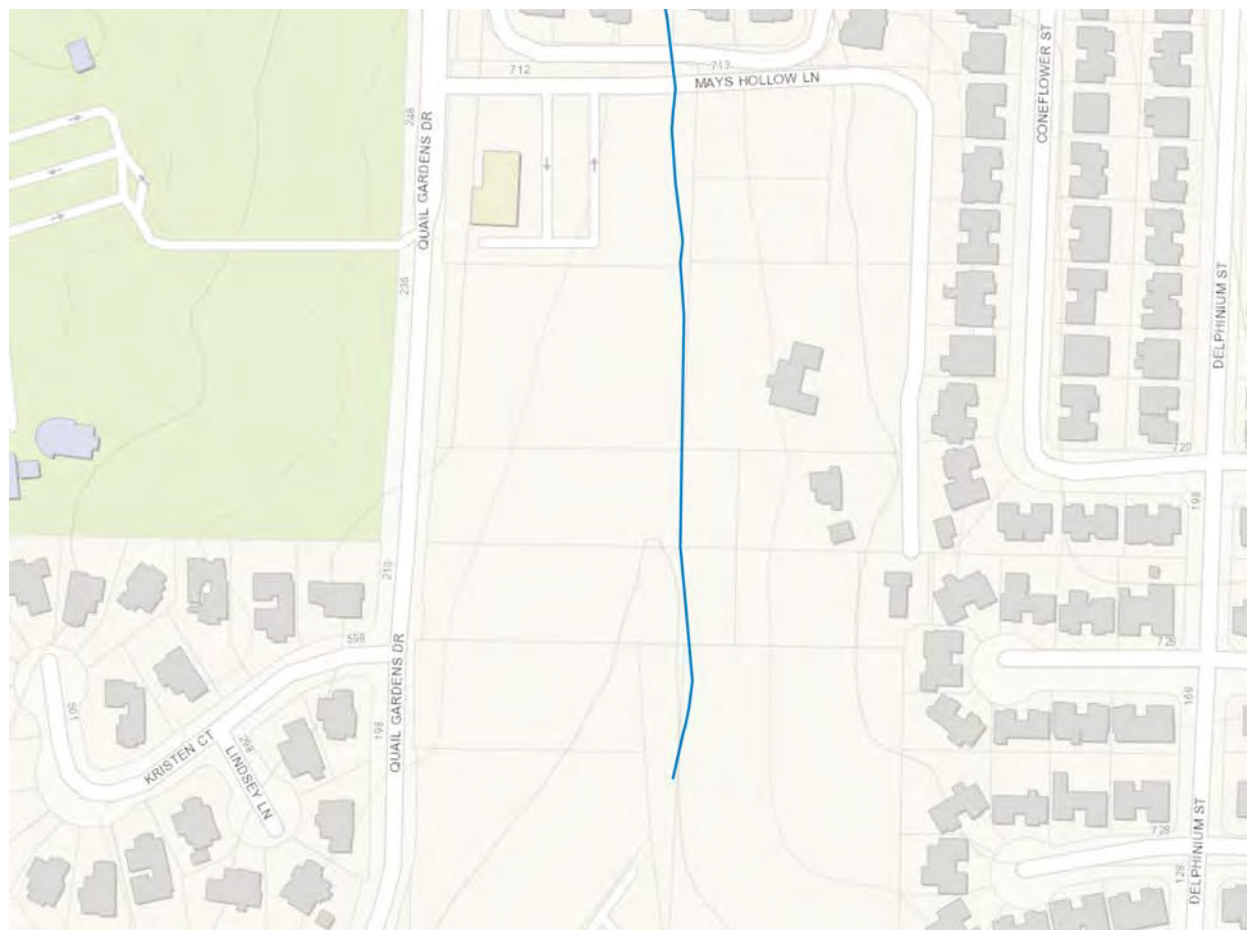


Exhibit 5. The City's inventory of natural resources identifies a stream passing through the Quail Meadows property.

A complete and adequate jurisdictional delineation of the Quail Meadows site is required to describe the site's historical and current hydrology, and discuss these topics in the relevant regulatory context. Because DUDEK's report fails to provide the relevant information, I reviewed the hydrology report by Rick Engineering, dated July 22, 2024 (Attachment PC-15 to the staff report). Page 1, under the heading Pre-Project Condition, states:

The topography of the project site consists of a valley aligned in north to south direction (i.e., flow generally drains from north to south). . . A wetland area is located north of the project site that receives off-site flow from the north. A headwall is located at the south limits of the wetland and connects to a 48-inch corrugated metal pipe (CMP) that conveys flows from the wetland to the above-mentioned 84-inch RCP located at the south limits of the project site.

Exhibit 6, on the next page, shows the headwall and 48-inch pipe, as shown on page 205 of the City's staff report for the defunct Sanderling Waldorf School project (https://encinitas.granicus.com/MetaViewer.php?view_id=7&clip_id=2113&meta_id=110215).



Exhibit 6. Photograph dated 5/31/2018, taken by Anita M. Hayworth of DUDEK, showing the headwall and upper end of 48-inch corrugated metal pipe at the upper end of the former blue-line stream.

Structures such as these are considered to be “grandfathered” (permitted) only if they were already in existence before February 1, 1973, when the predecessor statute to the Coastal Act of 1976 took effect. It has been communicated to local neighbors by family members of former owners of Cam Mar Growers, which operated the former nursery, that the headwall and 48-inch pipe were installed some time during the late 1970s. In my reading of the staff report, I did not find any information on the construction of the headwall, such as the year it was built or whether it was permitted by the City and/or regulatory agencies. Was a Coastal Development Permit (CDP) ever issued for that project? If not, then the headwall and pipe would appear to be unpermitted and illegal impediments to the flow of water through a blue-line stream that was removed from USGS maps some time between 1968 and 1997. This issue should be investigated and resolved before the City approves the Quail Meadows project and issues a Coastal Development Permit.

Page 1 of the Rick Engineering report continues:

The site currently receives off-site flows 515 cubic feet second (cfs) pursuant to the report titled Precise Grading Drainage Study for Quail Meadows, prepared by Hunsaker & Associates, dated April 21, 2008, the wetland area receives a peak flow rate a 515 cfs from adjacent properties to the north of the site. Flows in excess of the 48-inch CMP capacity, estimated to be 425 cfs (see Section 3.1 for additional information on this estimate), will overtop the headwall at the south end of the wetland area and flow south across the project site and into a low area located near the south project site boundary where a storm drain lateral conveys the flow to the 84-inch RCP.

It is highly relevant that the Quail Meadows site currently receives a peak flow rate of 515 cfs, but that the on-site headwall and 48-inch pipe can handle only 425 cfs, with flows above this rate overtopping the headwall and continuing into the historical streambed that has reformed on the site following cessation of nursery operations.

Three videos provided by local neighbors (dated 11/8/2022, 1/22/2024, and 2/1/2024) show the magnitude of the drainage through the historical blue-line stream through the Quail Meadows project site:

https://drive.google.com/drive/folders/1p2n3-7k1ahCNtw5hnHrLNa-m2Z6TPq_l?usp=sharing

As shown in the videos, a substantial volume of surface water flows through the site during and after storms, supporting the small areas of jurisdictional wetland that DUDEK has identified on the site. Furthermore, evidence suggests that additional areas of wetland may also exist on the site. For example, Exhibits 7 and 8, below, are photos taken on June 25, 2024, by local resident Manolo Turner from his yard. They show an area of the Quail Meadows property that was graded as part of the adjacent development project on Encinitas Boulevard (off-site grading that was approved by the City and the owners of Quail Meadows). Within the graded area, a stand of Hooker's Evening Primrose (*Oenothera elata*) has developed.



Exhibits 7 (left), 8 (right). Photos taken by Mr. Turner, facing southwest from his yard using a telephoto lens, show a patch of Hooker's Evening Primrose in the southern part of the Quail Meadows site. This area should be evaluated for potential wetland status.

Hooker's Evening Primrose is designated as "FACW" on the National Wetland Plant List, Arid West Region. FACW plant species nearly always occur in areas of prolonged flooding, or require standing water or saturated soils, but may, on rare occasions, occur in non-wetlands. Areas supporting predominantly FACW plants satisfy the Coastal Commission's single-parameter test for wetlands, and so the area in question should be evaluated to determine whether it should be delineated as a wetland. This issue should be investigated and resolved before the City approves the Quail Meadows project and issues a Coastal Development Permit.

Mr. Turner also believes that he has observed Hooker's Evening Primrose and another FACW species, Arroyo Willow (*Salix lasiolepis*), in parts of the site that have not been evaluated as potential wetlands. This is one more reason that a thorough and adequate

jurisdictional delineation is required before the City approves the Quail Meadows project and issues a Coastal Development Permit.

Page 2 of the Rick Engineering report states:

The project is proposing an 84-inch RCP backbone storm drain system to convey off-site flows reaching the north side of the site as well as on-site and off-site perimeter areas, with the exception of Quail Garden Drive (Basin 2000), which is connected to a storm drain system in the roadway discussed below. The portion of the existing 48-inch CMP located on-site will be demolished, and the upstream segment of approximately 513 feet of the existing 48-inch CMP will remain in place and be connected to the proposed on-site 84-inch RCP storm drain system. A storm drain headwall/inlet structure is proposed at the upstream end of the proposed 84-inch RCP in order to appropriately convey surface flows in excess of the capacity of the existing 48-inch CMP and flowing south from the wetland area.

The existing wetlands on the Quail Meadows site are supported by natural runoff through the canyon, and possibly by a leaking 48-inch drainage pipe (as suggested on DUDEK's Wetland Data Sheet WSP 1). DUDEK's biological report must explain how these wetlands, which are proposed to be preserved as sensitive natural resources, can be expected to persist after the existing water supply to these areas is cut off as described in the Rick Engineering report. This issue should be investigated and resolved before the City approves the Quail Meadows project and issues a Coastal Development Permit.

Land Use Element Policy 8.6 in the City's certified Local Coastal Plan (LCP) requires that natural drainage features be preserved and incorporated into the development of the site:

Significant natural features shall be preserved and incorporated into all development. Such features may include bluffs, rock outcroppings, natural drainage courses, wetland and riparian areas, steep topography, trees and views.

The natural stream through the project site, which remains present despite having been significantly degraded through placement of a headwall and 48-inch pipe, should be treated as a "natural drainage course" and thus "preserved and incorporated" into the proposed project. Furthermore, if it turns out that the headwall and pipe were installed without the required permits, including a CDP, then they must be removed and the illegal damage to the natural streambed must be properly restored before the area is preserved along with the required buffer.

SUMMARY AND CONCLUSION

As detailed in this letter, the biological report by DUDEK fails to address several basic issues involving the following issue areas:

- History of the project site and its streambed.
- Permitting of structures installed on the site to divert the flow of water in a City' identified stream.

- The apparent occurrence of at least one additional wetland area that DUDEK has not investigated.
- The likelihood that project implementation would remove the required water source for all on-site wetlands.

In light of the information provided herein, the natural stream that still exists on the site should be “preserved and incorporated” into the proposed project in compliance with Land Use Element Policy 8.6 in the City’s certified LCP.

Finally, any ecological damage caused by placement of any unpermitted structures in the streambed, if this is found to have occurred, must be properly mitigated through restoration and preservation before any project is approved by the City and a CDP is issued.

Thank you for your time and consideration. Please notify me if either the City or DUDEK responds to this letter, as is customary: robb@hamiltonbiological.com.

Sincerely,



Robert A. Hamilton
President, Hamilton Biological, Inc.
<http://hamiltonbiological.com>

cc: Kate Huckelbridge, Executive Director, CCC
Karl Schwing, District Director, CCC
Jonna Engel, Senior Ecologist, CCC
Deborah Lee, District Manager, CCC
Stephanie Leach, Coastal Program Analyst, CCC
Marsha Venegas, Enforcement Analyst, CCC
Erinn Wilson-Olgin, Regional Manager, CDFW
Nasseer Idrisi, Senior Environmental Scientist, CDFW
David A. Zoutendyk, Division Chief, USFWS
Christine Medak, USFWS
Janet Stuckrath, USFWS
Dan Silver, Endangered Habitats League
Manolo Turner



HAMILTON BIOLOGICAL

February 11, 2025

Mayor Bruce Ehlers and Members of the City Council
City of Encinitas
505 South Vulcan Avenue
Encinitas, CA 92024

**SUBJECT: PROPOSED QUAIL MEADOWS PROJECT
OUTSTANDING REGULATORY COMPLIANCE ISSUES**

Dear Mayor Ehlers and Members of the Encinitas City Council,

On behalf of a group of neighbors, Hamilton Biological, Inc., provided a letter dated October 2, 2024 to the City of Encinitas (the City). My previous comments discussed the history and regulatory status of a section of blue-line stream – a tributary to Cottonwood Creek – that passes through the Quail Meadows property, which was modified using a headwall and 48-inch subsurface corrugated metal pipe (CMP), structures for which the City has provided no evidence of a permit. The consulting firm DUDEK responded to my comments in a letter dated October 3, 2024, but their responses did not adequately address the substance of my comments. Here I provide additional information on the project and its outstanding regulatory compliance issues.

Project Must Conform to the Certified Local Coastal Program

The agenda packet for the City Council hearing scheduled for February 12, 2025, includes recent correspondence from the California Department of Housing and Community Development (HCD); from the law firm of Goldfarb and Lipman (the City's special counsel on housing matters); and from the California Coastal Commission (CCC). Each of these letters affirms that the Quail Meadows project must comply with all resource protection policies contained in the City's certified Local Coastal Program (LCP).

Page 4 of HCD's letter dated February 5, 2025 (emphasis added in bold):

Within Title 30, the City's local ordinance specifically addresses SDBL and LCP consistency and allows the City to issue a CDP that implements bonuses, concessions, and waivers consistent with SDBL **where the project also conforms to the coastal resource protections found in the other sections of the City's LCP.**

Page 3 of the Goldfarb and Lipman letter dated February 5, 2025 (emphasis added in bold):

We understand that the City does ensure that “by right” projects do not affect coastal resources protected by the Coastal Act, provide public access as required, **and otherwise conform to the Local Coastal Program.**

Email dated January 17, 2025, from CCC coastal analyst Stephanie Leach to Grace Wu at HCD (emphasis added in bold):

The section of the LCP cited below intends to make clear that bonuses, incentives, and waivers are allowable **where the project also conforms to the coastal resource protections found in the other sections of the LCP.**

Land Use Element Policy 8.6 in the LCP states (emphasis added in bold):

Significant natural features shall be preserved and incorporated into all development. Such features may include bluffs, rock outcroppings, **natural drainage courses**, wetland and riparian areas, steep topography, trees and views.

In order for the City to issue a Coastal Development Permit (CDP) in compliance with all policies of the certified LCP, the City must first possess complete and accurate information regarding the continued presence of a natural drainage course on the property. If the City determines that a natural drainage course persists, the City is required to preserve and incorporate this “significant natural feature” into the project design, in compliance with Land Use Element Policy 8.6. The current project plans do not provide for such protection in the southern half of the project site.

The City and Agencies Require Complete and Accurate Information

The biological documentation provided by DUDEK in support of the proposed project provides no information on the relevant land-use history, such as the year when the headwall and 48-inch CMP were installed and whether those hydrological modifications were ever permitted by the City or the CCC. DUDEK also fails to fully and accurately describe the way water flows across the site drainage, despite acknowledging the occurrence of jurisdictional wetlands in northern parts of the site and the existence of a storm drain near the southern property boundary. As such, the City and CCC staff possess inadequate information to determine whether the project complies with all relevant policies of its certified LCP. Furthermore, the California Department of Fish and Wildlife (CDFW) has been provided inadequate information upon which to determine whether the project requires a Lake and Streambed Alteration agreement.

To help address the lack of information provided by DUDEK, Hamilton Biological has reviewed the project documents, including the hydrology report by Rick Engineering, dated July 22, 2024, as well as drone imagery obtained by neighbors. As detailed in this letter, strong evidence exists indicating that a natural drainage course persists in the southern half of the project site that requires protection under the City’s certified LCP.

As shown in Exhibit 1, below, the Encinitas Open GIS Data Hub shows that a stream conveys water from north to south across the site.



Exhibit 1. The City's inventory of natural resources identifies a stream (i.e., the blue line) passing through the Quail Meadows property.

Map Pocket 1 in the Rick Engineering hydrology report, excerpted below, depicts the natural flow of surface water from north to south through the project site.

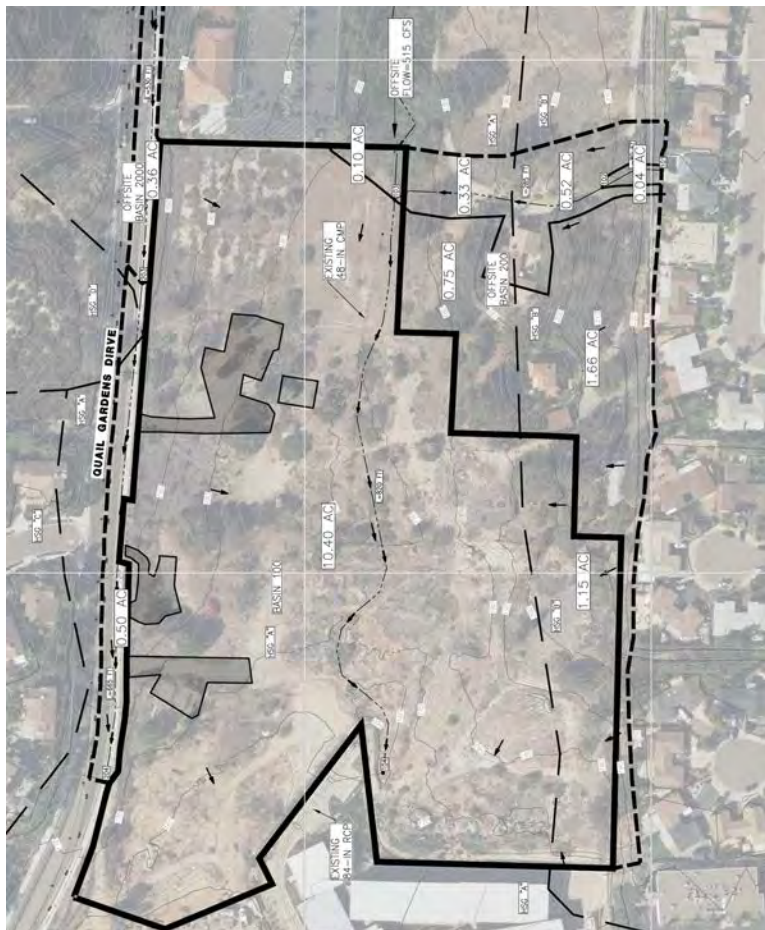


Exhibit 2. Map Pocket 1 from the 2023 hydrology report by Rick Engineering uses a dashed line and arrows to show the drainage course that follows the site’s valley topography, conveying flows from north to south through the property to a storm drain located at the label that reads “104.”

Page 1 of the hydrology report states:

The topography of the project site consists of a valley aligned in north to south direction (i.e., flow generally drains from north to south). As such, in the existing condition, storm water runoff generated on-site flows towards the middle of the site, valley bottom, and then towards the south. . . The site currently receives off-site flows 515 cubic feet second (cfs) . . . from adjacent properties to the north of the site. Flows in excess of the 48-inch CMP capacity, estimated to be 425 cfs . . . will overtop the headwall at the south end of the wetland area and flow south across the project site. . .

Water flows above 425 cfs, which enter the property from the north, are joined by flows from the west and east (see Exhibit 3 on the previous page). The water then flows south through the property along the mapped drainage course. Near the southern project boundary, at the label that reads “104,” these flows enter a storm drain that leads to an off-site 84-inch reinforced concrete pipe (RCP).

Site Imagery Shows the Drainage Course

Photo 1, below, shows the natural drainage course.



Photo 1. Image taken by a neighbor of the project on January 22, 2024, showing a large volume of stormwater flowing through a natural stream channel in the southern half of the Quail Meadows site, where development is proposed. Exhibit 3, on the next page, shows the location of this photo. Land Use Element Policy 8.6 in the LCP requires protection of natural drainage channels like this. Furthermore, such areas typically cannot be built upon without a Lake and Streambed Alteration Agreement issued by the CDFW.



Exhibit 3. Showing the approximate location from which Photo 1 was taken, facing south (see preceding page).

Photo 1 and Exhibit 3 show an incised natural drainage course – a tributary to Cottonwood Creek – that conveys surface water flows from north to south through the property. As discussed in Hamilton Biological’s letter to the City dated October 2, 2024, a previous landowner attempted to bury the site’s blue-line stream, which involved installing the headwall and 48-inch CMP referred to previously in this letter, apparently without the required permits. Because the headwall was undersized, however, subsequent erosion from stormwater flows has re-established a prominent natural drainage course through the site.

To capture surface flows from the southern end of the on-site drainage course and safely convey them to an 84-inch RCP to the south, a storm drain was installed near the southern project boundary (see Exhibit 2 on page 3 of this letter). Given that storm drains are not constructed in areas that do not receive large volumes of surface water, this provides another form of evidence substantiating the existence of a natural drainage course on the Quail Meadows.

DUDEK Biology Report Recognizes No Drainage Course

Unlike the City’s GIS portal and unlike the Rick Engineering hydrology report, and ignoring the prominent incised channel shown in Photo 1 on the previous page, DUDEK makes no mention of an ephemeral stream flowing through the project site. Page 16 of their August 26, 2024, *Biological Resources Report for The Quail Meadows Apartments Project, City of Encinitas, California*, states:

The results of the 2016 jurisdictional delineation concluded that there are areas within and adjacent to the site that would be considered jurisdictional by the resource agencies. There is an off-site unnamed drainage feature, north of the property, which directs water flows from a storm drain pipeline farther north, onto the off-site area and then into the project site. **The off-site drainage flows into an existing underground storm drain pipeline at the northern boundary of the site, which extends underground in a southerly direction and outlets to the south within the adjacent property before entering the underground storm drain system beneath Encinitas Boulevard.** The alignment of the underground storm drain pipeline is shown on Figure 3 for reference. [emphasis added in bold]

The “off-site unnamed drainage feature, north of the property” is a well-developed willow-riparian woodland and tributary to Cottonwood Creek that conveys most of the surface flows of water that enter the Quail Meadows property. The unpermitted headwall and 48-inch CMP pipe lie at the downstream end of this off-site wetland area. DUDEK’s confusing and vague statement falsely implies that *all* water from this off-site wetland area “flows into an underground storm drain pipeline” that conveys the water to another property south of Quail Meadows.

The Rick Engineering hydrology report states that flows exceeding 425 cfs overtop the undersized headwall and are conveyed south through the Quail Meadows property via a natural drainage course that is:

- depicted on the Encinitas Open GIS Data Hub (see Exhibit 1 on page 4 of this letter);
- depicted on map pocket 1 in the Rick Engineering hydrology report (see Exhibit 2 on page 4 of this letter); and
- shown in Photo 1 on page 4 of this letter.

A previous version of DUDEK’s biological resources report, dated September 23, 2022, failed to identify any wetlands outside of the northeastern corner of the site, but after others noted the presence of willows (i.e., hydrophytic vegetation) growing farther south, along the natural drainage course, DUDEK revised their report to identify two small wetland areas, identified in blue cross-hatching in Exhibit 4, below.



Exhibit 4. Excerpt from Figure 3 in DUDEK’s 2024 biological technical report. Two small areas of willow wetlands are mapped with blue cross-hatching, and a 100-foot wetland buffer around them is identified with a broken blue line. I have added a red arrow and label pointing to the incised channel shown in Photo 1 on page 4 of this letter. DUDEK did not complete a wetland delineation form at this location, or provide photos showing the conditions in this or many other parts of the site that Rick Engineering showed as a drainage course.

In light of DUDEK's failure to accurately describe or thoroughly evaluate the site's hydrology, or to discuss the site's history of hydrological modifications, their report does not represent a complete, factual, and objective resource the City can utilize to demonstrate compliance with Land Use Element Policy 8.6 in the certified LCP. Likewise, staff from regulatory agencies should not rely upon DUDEK's report to objectively describe the site's hydrology.

DUDEK's Responses to Hamilton Biological's Previous Comments

DUDEK's responses, provided on pages 6-7 of their letter dated October 3, 2024, fail to address the substance of my previous comments. In particular, they wrote:

The California Department of Fish and Wildlife riparian area/California Coastal Commission (CCC) wetland in the northeast corner of the project site receives water from an off-site unnamed drainage feature, north of the property, which directs water flows from a storm drain pipeline farther north, onto the off-site area and then into the project site. The project does not impact any of these off-site flows into this area. The two isolated willows that emerged onsite were likely supported by a combination of the water from a broken storm drain that has been in a state of disrepair for years as well as sheetflow from the eastern and northern portions of the site. While the storm drain will be lined as part of this project, no v- ditches or other drainage areas will be constructed in the preserve area where the willows are located. Rainfall and sheetflow from the eastern and northern portions of the site will continue to these willows same as current conditions.

DUDEK states, "two isolated willows that emerged onsite were likely supported [in part by] water from a broken storm drain" (i.e., the 48-inch CMP that was installed by a previous landowner, apparently without permits). DUDEK then assures readers that sliplining the broken storm drain – i.e., removing some undefined amount of water currently supporting the willow wetlands – will have zero effect on those wetlands. Because DUDEK has not determined how much water is being provided to the willow wetlands by the broken 48-inch pipe, their assertion has no factual basis. DUDEK's statement that "Rainfall and sheetflow from the eastern and northern portions of the site . . . will continue to these willows same as current conditions" is purely speculative and almost certainly incorrect. The City should require DUDEK to explain the method by which they determined that the water supply to these two wetlands can be reduced by an unspecified amount without potentially reducing or eliminating the wetlands.

DUDEK's response also states:

The entire extent of the site has been visited several times by the CCC and the delineation has been reviewed by the CCC. In an email dated March 14, 2023 from Stephanie Leach (CCC), they stated that they have reviewed the submitted materials and have all the information they need.

DUDEK has never completed a detailed wetland delineation report that thoroughly describes the hydrological modifications that were made, when they were made, and why the City and the CCC should treat those modifications as legal under the Coastal Act.

CONCLUSION

The City of Encinitas should require the project proponent and their consultants to conduct a thorough, detailed, and objective jurisdictional delineation that allows the City to determine whether a natural drainage course persists on the site that requires preservation under Land Use Element Policy 8.6 in the City's LCP. This detailed investigation should include a determination of when, approximately, the headwall at the northern project boundary, as well as the 48-inch CMP, were installed, and whether those hydrological modifications were authorized under the Coastal Act. If unauthorized, the City should require the project proponent to remove the unpermitted structures and restore full surface flows to the drainage course on the Quail Meadows property (mapped in the Rick Engineering hydrological report) in compliance with Land Use Element Policy 8.6 in the City's certified LCP.

Thank you for your time and consideration. Please notify me if either the City or DUDEK responds to this letter, as is customary: robb@hamiltonbiological.com.

Sincerely,



Robert A. Hamilton
President, Hamilton Biological, Inc.
<http://hamiltonbiological.com>

cc: Kate Huckelbridge, Executive Director, CCC
Karl Schwing, District Director, CCC
Jonna Engel, Senior Ecologist, CCC
Deborah Lee, District Manager, CCC
Stephanie Leach, Coastal Program Analyst, CCC
Marsha Venegas, Enforcement Analyst, CCC
Erinn Wilson-Olgin, Regional Manager, CDFW
Jennifer Turner, Senior Environmental Scientist, CDFW
David A. Zoutendyk, Division Chief, USFWS
Taylor Curtis, Biologist, USFWS
Dan Silver, Endangered Habitats League
Manolo Turner



HAMILTON BIOLOGICAL

March 6, 2025

Technical Memorandum

To: Stephanie Leach, Coastal Planner
From: Robert Hamilton, President, Hamilton Biological, Inc.

**SUBJECT: APPENDIX A TO APPEAL OF CDP 003761-2020
QUAIL MEADOWS PROJECT, CITY OF ENCINITAS
INCORPORATION OF UNPERMITTED INFRASTRUCTURE**

Hamilton Biological provides this technical memorandum on behalf of Manolo Turner and a group of neighbors appealing the issuance of Coastal Development Permit (CDP) 003761-2020 by the City of Encinitas (the City) for the Quail Meadows project. In a letter to the City dated October 2, 2024, with copies to Coastal Commission staff, I provided relevant information on (1) the history of the Quail Meadows project site and actions taken to bury the on-site streambed, noting the apparent lack of permits for an existing headwall and 48-inch corrugated metal pipe (CMP); (2) the potential occurrence of at least one additional wetland area that the project's biological consultant, DUDEK, did not investigate; and (3) the likelihood that the flood-control protections installed as part of project implementation would remove the required water source for the existing on-site wetlands. This memorandum is being provided as Appendix A to an appeal of the CDP, to assist the Coastal Commission in evaluating the legal/permitting implications of incorporating unpermitted infrastructure into the Quail Meadows project.

PROJECT DOCUMENTATION IS INADEQUATE

As discussed in my 2024 letter, a complete and adequate jurisdictional delineation is required to describe the Quail Meadows site's historical and current hydrology, and to evaluate hydrological manipulations that have taken place on the site in the relevant regulatory context. My letter requested that DUDEK provide a stand-alone jurisdictional delineation providing the relevant information, but they and the City believe that this information is unnecessary. As a result, the City has issued CPD 003761-2020 in the absence of the following relevant information:

- History of hydrological manipulations, such as the year when the headwall and 48-inch CMP were installed.

- The regulatory context of the hydrological manipulations, including a determination of whether the actions violated the Coastal Act and/or Section 1602 of the California Fish and Game Code (which requires written notification to the California Dept. of Fish & Wildlife, and negotiation of a Lake and Stream Alteration Agreement, prior to the diversion or obstruction of the natural flow of any stream).

Without this information, the City has no factual basis for determining that the headwall and 48-inch CMP, both of which are retained as part of the Quail Meadows project, were established in compliance with the Coastal Act.

PROJECT INCORPORATES UNPERMITTED INFRASTRUCTURE

Photo 1, below, shows the improvised and unpermitted headwall in the northeastern corner of the Quail Meadows property that would be retained as a component of the flood control system for the Quail Meadows project.



Photo 1. Photograph dated 5/31/2018, taken by Anita M. Hayworth of DUDEK, showing the makeshift headwall, consisting of stacked burlap sacks of concrete. This unpermitted structure would not be replaced as part of the Quail Meadows project. Also shown is the upper end of the failed 48-inch corrugated metal pipe that would be sliplined as part of the project.

The photo above was provided on page C-2 of a DUDEK report dated March 21, 2019, entitled *2018 Focused Southwestern Willow Flycatcher Survey Report for the Sanderling Waldorf School at the Mays Hollow Site, City of Encinitas, County of San Diego, California*¹, despite the location being on the Quail Meadows property and not the property to the north where the school was proposed at the time. DUDEK did not include a photo of this makeshift structure in any of their reports on the Quail Meadows project.

¹ https://encinitas.granicus.com/MetaViewer.php?view_id=7&clip_id=2113&meta_id=110215

Page 1 of the project's hydrology report (Rick Engineering; July 22, 2024) explains that the improvised headwall is undersized for the location:

The topography of the project site consists of a valley aligned in north to south direction (i.e., flow generally drains from north to south). As such, in the existing condition, storm water runoff generated on-site flows towards the middle of the site, valley bottom, and then towards the south. . . The site currently receives off-site flows 515 cubic feet second (cfs) . . . from adjacent properties to the north of the site. Flows in excess of the 48-inch CMP capacity, estimated to be 425 cfs . . . will overtop the headwall at the south end of the wetland area and flow south across the project site. . .

As discussed subsequently, the headwall was installed in a protected streambed area without a CDP or any other permits, and is therefore illegal and must be removed.

SLIPLINING OF BROKEN PIPE WOULD IMPACT WETLANDS

Water seeping from one or more ruptures in the unpermitted 48-inch CMP helps to support two isolated willow wetlands delineated by DUDEK (see Exhibit 1, below).



Exhibit 1. Aerial imagery dated June 29, 2023, showing in cyan the two willow wetland areas delineated by DUDEK, which lie along the alignment of the unpermitted 48-inch CMP, shown in orange. The location of the headwall is shown in red.
Source: Google Earth Pro.

Sliplining of the broken CMP, proposed as part of the Quail Meadows project, would deprive the two wetland areas of water almost certainly needed to maintain wetland conditions into the future. Additionally, the CMP was installed in a protected streambed area without a CDP or any other permits, and is therefore illegal and must be removed.

REBUTTAL TO DUDEK LETTER

In a letter to the City dated October 2, 2024, I noted that historical USGS topographic maps show a blue-line stream—a tributary to Cottonwood Creek—running through the property. Page 5 of my letter requested basic information about this drainage course and whether it had been buried legally under the relevant policies of the City and the Coastal Act:

In my reading of the staff report, I did not find any information on the construction of the headwall, such as the year it was built or whether it was permitted by the City and/or regulatory agencies. Was a Coastal Development Permit (CDP) ever issued for that project? If not, then the headwall and pipe would appear to be unpermitted and illegal impediments to the flow of water through a blue-line stream that was removed from USGS maps some time between 1968 and 1997. This issue should be investigated and resolved before the City approves the Quail Meadows project and issues a Coastal Development Permit.

At the City's request, DUDEK responded in a letter dated October 3, 2024. Page 7 states [bold text in the original]:

A stand-alone delineation report is not required, particularly when the project is designed to avoid waters of the state. No USACE wetlands, as defined by the manual (i.e., three parameters: hydrophytic vegetation, hydric soils, and hydrology) were identified in the site, and no features have a continuous surface connection to a waters of the U.S. The Biology Letter Report provides a summary of the methods and results of the delineations conducted over the years. While publicly available data, such as NHD and NWI, can be helpful in assessing a site, on-the-ground surveys are more accurate because they evaluate the actual site conditions. There is no streambed on the site. The California Department of Fish and Wildlife riparian area/California Coastal Commission (CCC) wetland in the northeast corner of the project site receives water from an off-site unnamed drainage feature, north of the property, which directs water flows from a storm drain pipeline farther north, onto the off-site area and then into the project site. The project does not impact any of these off-site flows into this area. The two isolated willows that emerged onsite were likely supported by a combination of the water from a broken storm drain that has been in a state of disrepair for years as well as sheetflow from the eastern and northern portions of the site. While the storm drain will be lined as part of this project, no v-ditches or other drainage areas will be constructed in the preserve area where the willows are located. Rainfall and sheetflow from the eastern and northern portions of the site will continue to these willows same as current conditions.

The entire extent of the site has been visited several times by the CCC and the delineation has been reviewed by the CCC. In an email dated March 14, 2023 from Stephanie Leach (CCC), they stated that they have reviewed the submitted materials and have all the information they need.

My rebuttals are provided below.

DUDEK statement: “A stand-alone delineation report is not required, particularly when the project is designed to avoid waters of the state.”

Rebuttal: A detailed delineation report is required when the site shows evidence of past hydrological manipulations, especially when those manipulations appear to have violated the Coastal Act, Section 1602 of the California Fish and Game Code, and/or City

policies. In this case, DUDEK has simply ignored requests to provide the necessary level of detail to evaluate the legality of prior actions that have important implications for the City's issuance of a CDP that treats those prior actions as if they were legal and permitted.

DUDEK statement: "No USACE wetlands, as defined by the manual (i.e., three parameters: hydrophytic vegetation, hydric soils, and hydrology) were identified in the site, and no features have a continuous surface connection to a waters of the U.S."

Rebuttal: The purported absence of federally designated wetlands is irrelevant, because Coastal Commission wetlands *are* present (a fact that DUDEK only acknowledged after I noted the presence of mature willows in an area they had mapped as uplands).

DUDEK statement: "While publicly available data, such as NHD and NWI, can be helpful in assessing a site, on-the-ground surveys are more accurate because they evaluate the actual site conditions. There is no streambed on the site."

Rebuttal: Photos 2-4 show water flowing through the natural drainage course that carries flows north to south through the site, despite the unpermitted structures.



Photo 2. Image taken by a neighbor of the project on January 22, 2024, showing stormwater flowing through a natural stream channel in the southern half of the Quail Meadows site, where development is proposed (see Exhibit 3 on page 7).



Photo 3. Image taken by a neighbor of the project on February 1, 2024, showing stormwater flowing through a natural stream channel in the middle of the Quail Meadows site.

Photo 4. Image taken by a neighbor of the project on February 1, 2024, showing stormwater flowing through a natural stream channel in the northern half of the Quail Meadows site.





Exhibit 2. Photos 2–4, approximate locations and orientations.

Map Pocket 1 in the Rick Engineering hydrology report, excerpted below, shows the pattern of natural drainage from north to south through the property.

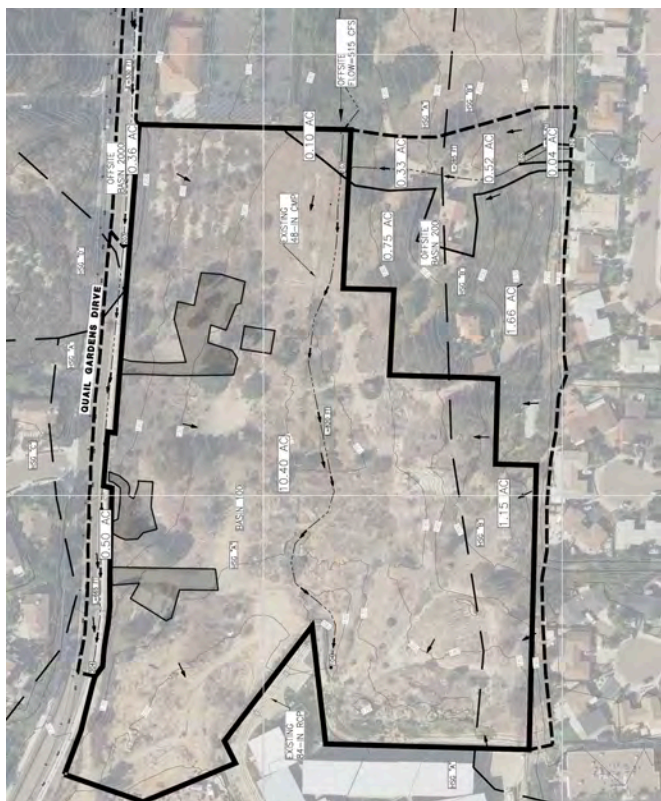


Exhibit 3. Map Pocket 1 from the 2023 hydrology report by Rick Engineering uses a dashed line and arrows to show the drainage course that follows the site's valley topography, conveying flows from north to south through the property to a storm drain located at the label that reads "104."

DUDEK statement: “The California Department of Fish and Wildlife riparian area/California Coastal Commission (CCC) wetland in the northeast corner of the project site receives water from an off-site unnamed drainage feature, north of the property, which directs water flows from a storm drain pipeline farther north, onto the off-site area and then into the project site. The project does not impact any of these off-site flows into this area.”

Rebuttal: Nobody ever suggested that the project would, or could, impact the natural flow of water into the site from upstream areas. These statements are evasive and irrelevant.

DUDEK statement: “The two isolated willows that emerged onsite were likely supported by a combination of the water from a broken storm drain that has been in a state of disrepair for years as well as sheetflow from the eastern and northern portions of the site. While the storm drain will be lined as part of this project, no v-ditches or other drainage areas will be constructed in the preserve area where the willows are located. Rainfall and sheetflow from the eastern and northern portions of the site will continue to these willows same as current conditions.”

Rebuttal: The 48-inch CMP conveys all low and moderate flows of water (i.e., flows less than 425 cubic feet per second) that come into the site from the north to an outlet located near the southern property boundary. DUDEK acknowledges that the two willow wetlands presumably became established due to failure of the 48-inch CMP (*cf.* Exhibit 1 on page 3 of this letter), yet also implies that “rainfall and sheetflow from the eastern and northern portions of the site” are adequate to maintain these two wetland areas. Given that wetland vegetation (i.e., willows) became established only in two areas near the broken pipe, and sliplining of the unpermitted pipe would stop the main flow of water to these willows. In all likelihood, this would eventually lead to the demise of these wetlands. After all, if “rainfall and sheetflow” were adequate to support wetlands on the site, wetlands would not be limited to two areas near the broken pipe.

More fundamentally, evidence in this letter demonstrates, conclusively, that the headwall and 48-inch CMP were never permitted in the first place. Therefore, the illegal and failing structures must now be removed and the former blue-line stream re-established along its former alignment.

DUDEK statement: “The entire extent of the site has been visited several times by the CCC and the delineation has been reviewed by the CCC. In an email dated March 14, 2023 from Stephanie Leach (CCC), they stated that they have reviewed the submitted materials and have all the information they need.”

Rebuttal: DUDEK’s reports and letters provide no relevant information on the history of the site’s natural drainage course, even after I specifically requested this information. If DUDEK would not provide this information to me, there is no reason to think they provided it to Coastal staff. As discussed on the following pages, the headwall and

broken 48-inch CMP have been conclusively shown to lack any form of permitting from either the County of San Diego or the City, and there is no reason to think they were established in compliance with Section 1602 of the California Fish and Game Code.

UNPERMITTED STRUCTURES WERE INSTALLED IN THE 1980S

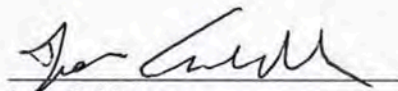
At a recorded City Council hearing on the project² on February 12, 2025, starting at time stamp 4:44:00 and continuing to time stamp 4:49:15, Mayor Bruce Ehlers asked City staff about the history of the headwall and 48-inch CMP. Two staff members reported having researched the issue but finding no evidence of County or City permits for the headwall or 48-inch CMP.

At time-stamp 4:46:10, the Assistant Director of Development Services, Ana Colamussi, stated, "there is no data, so we based the information on what we had in front of us, which were the historical aerial photographs showing development there occurring in that area."

In response to City staff's testimony, Mayor Ehlers at time stamp 4:46:36 referred to written testimony from a "Hispanic gentleman" (whose name the mayor could not recall) who had been employed on the Quail Meadows property, and who had lived there during the 1980s. The written testimony, from Jose Calderon, is attached to this letter, and excerpted below:

My name is Jose Calderon. I lived and worked on the property located at 225 Quail Gardens Drive in Encinitas from 1982 to 2003. While living and working there a first phase of wood greenhouses immediately south of the Jehovah Witness Church was started in the mid 80's. At this time there was seasonal water source to the south of our first phase. Sometime between 1982 and 1986 a 36" or 48" galvanized pipe with burlap cement shoring was put in to accommodate the greenhouses that were put over the water source on the north easterly property line. While I can't tell you the exact date, I can definitively say that the pipe was installed after I moved to the property. I've attached a copy of the deed when the property was purchased that was supplied by the previous owners.

Sincerely,


Jose Calderon

At time stamp 4:47:00, the Mayor added that one of the appellants spoke to Ron Martin, a former owner of Cam-Mar Growers, who affirmed that he had personally installed the headwall during the 1980s using burlap sacks of concrete.

² https://encinitas.granicus.com/player/clip/3419?view_id=7&redirect=true

UNPERMITTED STRUCTURES WERE INSTALLED AROUND 1984/1986

Even before being aware of the timeline described above, my own review of historical aerial photos led me to conclude that the headwall and 48-inch CMP were installed during the period between 1984 and 1986. See Exhibits 4–6, below.



Exhibit 4. 1984 aerial image with the approximate locations of the headwall and the northern half of the 48-inch CMP alignment indicated in cyan. At that time, the upper reach of the future pipe alignment passed through an s-shaped streambed.

Source: <https://historicaerials.com>

Exhibit 5. 1985 aerial image showing that a new temporary nursery structure had recently been established in the location of the upper reach of pipe, shown in cyan.

Source: <https://historicaerials.com>



Exhibit 6. 1986 aerial image showing that, after removal of the white plastic roof, the former s-shaped streambed (visible in the 1984 aerial) was now occupied by rows of nursery plants.

Source: <https://historicaerials.com>

SUMMARY AND CONCLUSION

As detailed in this letter, it is now firmly established that the headwall and 48-inch CMP on the Quail Meadows property were installed in the 1980s without a CDP or any other form of permitting. Thus, the segment of blue-line stream passing through the Quail Meadows project site was filled in violation of the Coastal Act and, presumably, Section 1602 of the California Fish and Game Code. The applicant's plan to incorporate the unpermitted and failing flood control infrastructure as part of the Quail Meadows project also violates the Coastal Act, and cannot be allowed. Additionally, the plan to slipline the unpermitted 48-inch CMP would remove an important source of water from two existing wetland areas, presumably leading to their demise.

In order to comply with the Coastal Act and Land Use Element Policy 8.6 in the City's certified LCP, the two unpermitted structures must be removed and the natural drainage course re-established and restored along its former alignment.

Thank you for your time and consideration. Please notify me if either the City or DUDEK responds to this letter, as is customary: robb@hamiltonbiological.com.

Sincerely,



Robert A. Hamilton
President, Hamilton Biological, Inc.
<http://hamiltonbiological.com>

cc: Kate Huckelbridge, Executive Director, CCC
Karl Schwing, District Director, CCC
Jonna Engel, Senior Ecologist, CCC
Stephanie Leach, Coastal Program Analyst, CCC
Andrew Willis, Enforcement Manager, CCC
Marsha Venegas, Enforcement Analyst, CCC
Erinn Wilson-Olgin, Regional Manager, CDFW
Jennifer Turner, Senior Environmental Scientist, CDFW
David A. Zoutendyk, Division Chief, USFWS
Taylor Curtis, Biologist, USFWS
Dan Silver, Endangered Habitats League
Manolo Turner

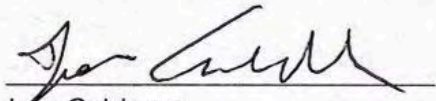
attached: Letter from Jose Calderon and receipt dated March 31, 1981, for sale of Quail Meadows property to Cam-Mar Growers.

Jose Calderon
706 Pizzo Lane
Fallbrook, Ca 92028

To whom it may concern,

My name is Jose Calderon. I lived and worked on the property located at 225 Quail Gardens Drive in Encinitas from 1982 to 2003. While living and working there a first phase of wood greenhouses immediately south of the Jehovah Witness Church was started in the mid 80's. At this time there was seasonal water source to the south of our first phase. Sometime between 1982 and 1986 a 36" or 48" galvanized pipe with burlap cement shoring was put in to accommodate the greenhouses that were put over the water source on the north easterly property line. While I can't tell you the exact date, I can definitively say that the pipe was installed after I moved to the property. I've attached a copy of the deed when the property was purchased that was supplied by the previous owners.

Sincerely,


Jose Calderon

No Carbon Needed

RESIDENTIAL PURCHASE AGREEMENT AND DEPOSIT RECEIPT

RECEIVED FROM CAM-MAR GROWERS et al (Vesting Instructions to be provided in Escrow

the sum of \$ 100.00 (ONE-HUNDRED AND NO/100-----, hereinafter designated as PURCHASER,
evidenced by Cash ☐ Personal Check ☒ Certified Check ☐ Cashier's Check ☐ Other ☐ _____ DOLLARS)
as deposit on account of the PURCHASE PRICE of \$ 263,000.00 (Two-Hundred and Sixty-Three Thousand/100 DOLLARS)
for the real property situated in the City of ENCINITAS, County of SAN DIEGO, State of CALIFORNIA
described as: Commonly 225 Quail Gardens Drive; Two assessor parcels:
257-020-21 and 258-130-10 Total of 2.63 ac plus four buildings following TERMS and CONDITIONS:

1. CASH DOWN PAYMENT.....(includes deposit) \$ 50,000.00
2. SALE PRICE.....\$ 263,000.00
3. BUYER to execute an All-Inclusive Note and Deed of Trust \$ 213,000.00
wrapping two existing loans. AITD in the amount of.....
 - a) A USE Credit Union loan #41663208 in the amount of
approximately.....\$ 21,600.00
payable at \$ 261.30 per month including
principal and interest at 10.5% fixed rate. Note secured by T.D.

(PLEASE REFER TO ADDENDUM)

ADDENDUM. The following addendum of same date, signed and attached hereto is included in this agreement: Addendum No. ONE, Addendum No. _____
Other: _____

FIXTURES. All improvements, fixtures, attached wall to wall carpeting, other attached floor coverings, draperies including hardware, shades, blinds, window and door
screens, storm sash, combination doors, awnings, outdoor plants, trees and items permanently attached to the real property are included, unless specifically excluded.

PERSONAL PROPERTY. The following personal property, on the premises when inspected by Purchaser, is included in the purchase price and shall be transferred in
normal working order, unless otherwise stated herein, by a Warranty Bill of Sale to Purchaser at close of escrow:
ANY PROPERTY REMAINING IN THE TWO MOST WESTERLY HOUSES UPON CLOSE OF ESCROW.

ENCUMBRANCES. In addition to any encumbrances referred to above, Purchaser shall take title to the property subject to: 1) Real Estate Taxes not yet due and
2) Covenants, conditions, restrictions, rights of way and easements of record, if any, which do not materially affect the value or intended use of the property.

The amount of any bond or assessment which is a lien shall be ☒ paid, ☐ assumed by SELLER.

EXAMINATION OF TITLE. 15 (fifteen) days from date of acceptance hereof are allowed the Purchaser to examine the title to the property and to report in
writing any valid objections thereto. Any exceptions to the title which would be disclosed by examination of the records shall be deemed to have been accepted unless
reported in writing within said 15 days. If Purchaser objects to any exceptions to the title, Seller shall use due diligence to remove such exceptions at his own
expense before Close of Escrow. But if such exceptions cannot be removed before Close of Escrow, all rights and obligations hereunder may, at the election of
the Purchaser, terminate and end, and the deposit shall be returned to Purchaser, unless he elects to purchase the property subject to such exceptions.

EVIDENCE OF TITLE. In the form of ☒ a policy of title insurance, ☐ other: _____ to be paid for by SELLER.

CLOSING. Within JUNE 15, 1981 days from acceptance both parties shall deposit with an authorized escrow holder all funds and instruments necessary to complete the sale in
accordance with the terms hereof. Thereafter, any party, including Agent, may disclose the terms of sale.

DEPOSIT INCREASE AND LIQUIDATED DAMAGES. The deposit shall be increased to \$ 0 within 0 days from acceptance, in the form
of 0. By initialing this provision Purchaser: 0 and Seller: 0 agree that in the event Purchaser defaults in
the performance of this agreement, Seller shall retain said deposit, or three percent (3%) of the purchase price, whichever is the lesser, as liquidated
damages for such default. The remainder of the deposit, if any, shall be refunded to Purchaser.

OCCUPANCY. Possession shall be delivered to Purchaser: XX BUYER TO LEASE BACK @ \$450. p/mo begin 5/1/81
then to return to Seller at the time of recordation, but not later than midnight of
Unless Seller has vacated the premises prior to recordation of the deed, Seller agrees to pay Purchaser \$ 15.00 per day from recordation to date possession
is delivered and to leave in escrow a sum equal to the above per diem amount multiplied by the number of days from date of closing to the date allowed for delivery of
possession. Said sum to be disbursed to the persons entitled thereto on the date possession is delivered.

RISK OF LOSS. Any risk of loss to the property shall be borne by the Seller until title has been conveyed to the Purchaser.

PRORATIONS. Rents, taxes, premiums on insurance acceptable to Purchaser, interest and other expenses of the property to be prorated as of recordation of deed.
Security deposits, advance rentals or considerations involving future lease credits shall be credited to Purchaser.

MAINTENANCE. Until possession is delivered Seller agrees to maintain heating, sewer, plumbing and electrical systems and any built-in appliances and equipment in
normal working order, to maintain the grounds and to deliver the property with no broken window or shower glass.

NOTICES. By acceptance hereof, Seller warrants that he has no notice of violations relating to the property, from City, County or State agencies.

DEFAULT. In the event that Purchaser shall default in the performance of this agreement, unless the parties have agreed to a provision for liquidated damages above,
Seller may, subject to any rights of the agent herein, retain Purchaser's deposit on account of damages sustained and may take such action as he deems appropriate to
collect such additional damages as may have been actually sustained, and Purchaser shall have the right to take such action as he deems appropriate to recover such
portion of the deposit as may be allowed by law. In the event that Purchaser shall so default, unless Purchaser and Seller have agreed to liquidated damages, Purchaser
agrees to pay to the brokers entitled thereto such commissions as would be payable by Seller in the absence of such default. Purchaser's obligation to said brokers shall
be in addition to any rights which said brokers may have against Seller in the event of default. In the event legal action is instituted by any party to this agreement to
enforce the terms of this agreement, or arising out of the execution of this agreement or the sale, the prevailing party shall be entitled to receive from the other party a
reasonable attorney fee to be determined by the court in which such action is brought.

PROVISIONS ON THE REVERSE SIDE. The provisions printed on the reverse side hereof which are initialed below by Purchaser are included in this agreement:

- | | | |
|---|---|-------------------------------|
| 1. PEST CONTROL INSPECTION PAID BY BUYER <u>XX</u> | 3. WAIVER OF INSPECTION | 5. VA APPRAISED VALUE CLAUSE |
| 2. PEST CONTROL INSPECTION PAID BY SELLER | 4. AS IS, BUT SUBJECT TO BUYER'S APPROVAL | 6. FHA APPRAISED VALUE CLAUSE |
| 7. CONTINGENCY-RELEASE CLAUSE. Subject to sale of Purchaser's real property commonly known as _____ | | |

EXPIRATION. This offer shall expire unless a copy hereof with Seller's written acceptance is delivered to Purchaser or his Agent within N/A days from date.

TIME. Time is of the essence of this agreement.

The undersigned Purchaser hereby acknowledges receipt of a copy hereof and acknowledges further that he has not received or relied upon any
statements or representations by the undersigned Agent, which are not herein expressed.

Patricia A. Kavanaugh Owner-Seller Agent DATED: 3/31/81 TIME: 12pm

By _____ Purchaser

_____ Broker _____ Purchaser

ACCEPTANCE

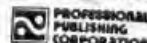
The undersigned Seller accepts the foregoing offer and agrees to sell the herein described property for the price and on the terms and conditions herein specified includ-
ing the provisions on the reverse side initialed above by Purchaser.

N/A

COMMISSION. Seller hereby agrees to pay to _____, the Agent in this transaction, _____%
of the sale price for services rendered and in the event Seller and Purchaser fail to complete the sale as herein provided, the Agent shall be entitled to receive one half of
the deposit required by the within agreement, but not more than the commission earned. In the event legal action is instituted to collect this commission, or any portion
thereof, Seller agrees to pay the Agent such additional sum as the court may adjudge reasonable for attorney fees. This agreement shall not limit the rights of Agent provided
for in any listing or other agreement which may be in effect between Seller and Agent, except that the amount of the commission shall be as specified herein.

The undersigned Seller hereby acknowledges receipt of a copy hereof. DATED: _____ TIME: _____

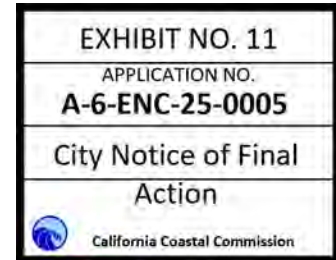
_____ Agent _____ Seller





NOTICE OF FINAL LOCAL ACTION ON COASTAL PERMIT CITY OF ENCINITAS

Development Services Department
505 South Vulcan Avenue
Encinitas, CA 92024-3633



Date of Notice: **February 20, 2025**

San Diego Coast District Office
7575 Metropolitan Drive Ste 103
San Diego, CA 92108-4402
(619) 767-2370
FAX (619) 767-2384

Notice Sent to:

Please note the following Final Encinitas Action on a coastal permit, coastal permit amendment, or coastal permit extension application. All local appeals have been exhausted for this matter.

Project Information

Case No.	MULTI-003751-2020, DR-003759-2020, and CDP-003761-2020
Project Applicant	Steve Baldwin Quail Meadows LLC 4350 Executive Drive #220, San Diego, CA 92121
Applicant's Representative	Maria Miller, Quail Meadows LLC 610 West Ash St #1500, San Diego, CA 92101
Project Address	185, 195, 211, and 225 Quail Gardens Drive
Project APN	258-131-10 and -21 (Lot 1), 258-131-11, and -12 (Lot 2) 257-020-37 and 258-131-06, and -07 (Lot 3), 257-020-36 (Lot 4)
Project Description	A Density Bonus (DB), Design Review Permit (DR), and Coastal Development Permit (CDP) for the demolition of all onsite structures, and construction of a multi-family residential development consisting of 448 residential apartments (358 market rate and 90 low income units) in two multi-story residential buildings with basement parking, a two-story fitness/community building, private amenity and common open spaces, grading/utility, and landscaping improvements, stormdrain sliplining repair, habitat restoration, new roundabout at project entry of Kristen Court/Quail Meadows Drive intersection; and the use of three temporary construction trailers.

Final Action Information

Final Local Action	Planning Commission Resolution No. PC-2024-28 City Council Resolution No. CC-2025-010
Final Action Body	☐ Administrative ☒ Planning Commission ☒ City Council

Required Materials Supporting the Final Action

☒ Adopted Findings	☒ Geotechnical Report
☒ Adopted Conditions of Approval	☒ Biological Study
☒ Other: See all submitted documents with NOFA	

Coastal Commission Appeal Information

This Final Action is:

- ☐ **NOT APPEALABLE** to the California Coastal Commission. The Final Encinitas Action is now effective.
- ☒ **APPEALABLE** to the California Coastal Commission. The Coastal Commission's 10-working day appeal period begins the first working day after the Coastal Commission receives adequate notice of this Final

Action. The Final Action is not effective until after the Coastal Commission's appeal period has expired and no appeal has been filed. Any such appeal must be made directly to the California Coastal Commission's San Diego Office. There is no fee for such an appeal. Should you have any questions regarding the Coastal Commission appeal period or process, please contact the San Diego Office at the contact information noted above.

Clarification – The approved development (448-unit apartment complex) is not subject to the Coastal Commission Appeal Jurisdiction. However, the project includes (1) sliplining repair of an existing stormdrain that passes underneath the identified wetlands, and (2) habitat restoration within the 100-foot wetland buffer. Since the wetlands have been determined to be under the California Coastal Commission's jurisdiction, only the work associated with the stormdrain repair and habitat restoration are subject to Coastal Commission appeal.

This NOFA supersedes and replaces the Notice of Final Actions for City of Encinitas CDP No. CDP-003761-2022 emailed to the Coastal Commission on October 28, 2024 and February 13, 2025

RESOLUTION NO. 2025-10

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ENCINITAS, CALIFORNIA DENYING APPEALS FILED BY SUPPORTERS ALLIANCE OF ENVIRONMENTAL RESPONSIBILITY (SAFER) AND ENCINITAS CITIZENS FOR RESPONSIBLE DEVELOPMENT (ECD) AND AFFIRMING THE PLANNING COMMISSION'S DECISION ON OCTOBER 3, 2024 APPROVING A DENSITY BONUS (DB), DESIGN REVIEW PERMIT (DR), AND COASTAL DEVELOPMENT PERMIT (CDP) AUTHORIZING THE DEMOLITION OF ALL ONSITE STRUCTURES; THE CONSTRUCTION OF A MULTI-FAMILY RESIDENTIAL DEVELOPMENT CONSISTING OF 448 RESIDENTIAL APARTMENTS (358 MARKET RATE AND 90 LOW INCOME UNITS) IN TWO MULTI-STORY RESIDENTIAL BUILDINGS WITH BASEMENT PARKING, A TWO-STORY FITNESS/COMMUNITY BUILDING, PRIVATE AMENITY AND COMMON OPEN SPACES, A NEW ROUNDABOUT AT THE PROJECT ENTRY AT THE KRISTEN COURT/QUAIL GARDENS DRIVE INTERSECTION, AND GRADING, UTILITY, AND LANDSCAPING IMPROVEMENTS; STORMDRAIN SLIPLINING REPAIR; HABITAT RESTORATION; AND THE USE OF THREE TEMPORARY CONSTRUCTION TRAILERS AT THE SITE LOCATED AT 185, 195, 211, AND 225 QUAIL GARDENS DRIVE

(CASE NOS. APPEAL-007636-2024, APPEAL-007638-2024, MULTI-003751-2020, DR-003759-2020, CDP-003761-2020; APNs: APNS 258-131-10 AND -21 (LOT 1), 258-131-11, AND -12 (LOT 2), 257-020-37 AND 258-131-06, AND -07 (LOT 3), AND 257-020-36 (LOT 4))

WHEREAS, Quail Meadows Properties, LLC submitted an application for a Density Bonus, Design Review Permit, and Coastal Development Permit for the demolition of all onsite structures; the construction of a multi-family residential development consisting of 448 residential apartments (358 market rate and 90 low income units) in two multi-story residential buildings with basement parking, a two-story fitness/community building, private amenity and common open spaces, a new roundabout at the project entry at the Kristen Court/Quail Gardens Drive intersection, and grading, utility, and landscaping improvements; stormdrain sliplining repair, habitat restoration; and the use of three temporary construction trailers for the property legally described in Exhibit A; and

WHEREAS, the Planning Commission conducted a duly noticed public hearings on October 20, 2022, February 1, 2024, and October 3, 2024; and

WHEREAS, the Planning Commission duly considered all evidence submitted into the record, including but not limited to public testimony, public correspondence, and the evaluation, maps and exhibits, and recommendations presented by staff, presented at said hearings; and

WHEREAS, the Planning Commission adopted Resolution No. PC 2024-28 on October 3, 2024, approving the project (Case Nos. MULTI-003751-2020, DR-003759-2020, and CDP-003761-2020) with conditions; and

WHEREAS, Supporters Alliance of Environmental Responsibility (SAFER) represented by Brian B. Flynn of Lozeau Drury LLP filed a timely appeal received by the City of Encinitas on October 14, 2024; and

WHEREAS, Encinitas Citizens for Responsible Development (ECD) represented by Steve Gerken filed a timely appeal received by the City of Encinitas on October 14, 2024; and

WHEREAS, the City Council conducted a duly noticed public hearing on November 20, 2024, and continued the item to a date certain of February 12, 2025; and

WHEREAS, the City Council conducted a duly noticed public hearing on February 12 2025, to consider the appeals pursuant to Chapter 1.12 (Appeals) of the Encinitas Municipal Code; and

WHEREAS, the City Council duly considered all evidence submitted into the record, including but not limited to public testimony and the evaluation, maps and exhibits, and recommendations presented by staff, presented at said hearings; and

WHEREAS, the City Council's decision in this matter is based on unavoidable ramifications of state housing policies coupled with credible threats from the California Department of Housing and Community Development (HCD) that will result in unavoidable and even greater harm to the City's environment, traffic, flooding, and community character. The City's discretion has been usurped, possibly illegally, by the State through the forcing of unfunded mandates and threats of greater harm if the City disapproves the project. Therefore, the City Council is approving the project under duress and only because the credible threats made by HCD and the State leave the City Council no choice. A "Sophie's Choice" is not a choice.

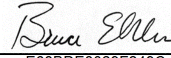
NOW, THEREFORE, BE IT RESOLVED that the Encinitas City Council hereby DENIES the appeal filed by Supporters Alliance of Environmental Responsibility (SAFER) represented by Brian B. Flynn of Lozeau Drury LLP; DENIES the appeal filed by Encinitas Citizens for Responsible Development represented by Steve Gerken; and APPROVES the project, affirming the Planning Commission's decision to APPROVE Case Nos. MULTI-003751-2020, DR-003759- 2020, and CDP-003761-2020 for the following reasons:

1. The project is consistent with the General Plan, Municipal Code, the State Density Bonus Law, and CEQA Guidelines, and all development standards of the Residential 30 Overlay Zone have been met; and
2. There was insufficient evidence in the record and presented in connection with the appeals to substantiate the issues and arguments raised in the appeals.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the project is statutorily exempt from the California Environmental Quality Act (CEQA) guidelines under Government Code Sections 65583.2(h) and (I), which provides that, if a housing development project is located on a site designated for 'by right' approval, contains at least 20 percent of the units affordable to lower income households, and is in compliance with the Subdivision Map Act, the City may only require design review approval of the project, and design review approval shall not constitute a "project" under CEQA. The project is statutorily exempt from CEQA in that it is located in the R-30 Overlay Zone, which is designated for 'by-right' approval by Encinitas Municipal Code Chapter 30.09 (Zoning Use Matrix Note 35); proposes that 90 of 359 base density units (25 percent), exclusive of additional units provided by a density bonus, will be affordable to lower income households; and does not require a subdivision.

PASSED, APPROVED AND ADOPTED this 12th day of February 2025 by the City Council of the City of Encinitas, State of California.

Signed by:



Bruce Ehlers, Mayor

ATTEST:

DocuSigned by:



Kathy Hollywood, City Clerk

APPROVED AS TO FORM:

Signed by:



Tarquin Preziosi, City Attorney

CERTIFICATION: I, Kathy Hollywood, City Clerk of the City of Encinitas, California, do hereby certify under penalty of perjury that the foregoing Resolution was duly adopted at a regular meeting of the City Council on the 12th day of February 2025 by the following vote:

AYES:	Ehlers, San Antonio, Shaffer
NOES:	O'Hara
ABSENT:	Lyndes (due to recusal)
ABSTAIN:	None

DocuSigned by:



Kathy Hollywood, City Clerk

EXHIBIT "A"

RESOLUTION NO. PC 2025-10

Case Nos MULTI-003751-2020, DR-003759-2020, and CDP-003761-2020

185, 195, 211 AND 225 QUAIL GARDENS DRIVE.
APNS: 257-020-36 and 37, 258-131-06, -07, -10, -11, -12, and -21

LEGAL DESCRIPTION

Real property in the City of Encinitas, County of San Diego, State of California, described as follows:

PARCEL 1

THAT PORTION OF THE EAST HALF OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 15, TOWNSHIP 13 SOUTH, RANGE 4 WEST, SAN BERNARDINO BASE AND MERIDIAN, IN THE CITY OF ENCINITAS, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO THE UNITED STATES GOVERNMENT SURVEY APPROVED APRIL 19, 1881, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE NORTH 2.00 ACRES OF SAID EAST HALF OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER; THENCE ALONG THE SOUTH LINE OF SAID NORTH 2.00 ACRES, SOUTH 88° 22' 41" EAST 302.12 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID SOUTH LINE SOUTH 88° 22' 41" EAST 359.76 FEET TO AN INTERSECTION WITH A LINE BEARING SOUTH 01 DEGREE 29' 27" WEST FROM THE NORTHEAST CORNER OF SAID NORTHWEST QUARTER OF THE NORTHEAST QUARTER, SAID LINE ALSO BEING THE EASTERLY LINE OF SAID NORTHWEST QUARTER; THENCE ALONG SAID EASTERLY LINE SOUTH 01 DEGREE 29' 27" WEST 440.00 FEET; THENCE DEPARTING SAID EASTERLY LINE, NORTH 88° 22' 41" WEST 313.30 FEET; THENCE NORTH 06° 33' 20" WEST 183.31 FEET TO AN ANGLE POINT IN THE BOUNDARY LINE OF THE LAND CONVEYED TO ROBERT E. FIELD AND WIFE BY DEED RECORDED MARCH 26, 1951 AS INSTRUMENT NO. 37496, IN BOOK 4025, PAGE 202, OF OFFICIAL RECORDS; THENCE ALONG SAID BOUNDARY LINE NORTH 03° 06' 25" WEST 259.44 FEET, TO THE TRUE POINT OF BEGINNING.

SAID PROPERTY BEING DESCRIBED AS PARCEL 1 IN A CERTIFICATE OF COMPLIANCE RECORDED MARCH 24, 2005 AS INSTRUMENT NO. 2005-0240340 OF OFFICIAL RECORDS.

PARCEL 2

THAT PORTION OF THE EAST HALF OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 15, TOWNSHIP 13 SOUTH, RANGE 4 WEST, SAN BERNADINO MERIDIAN, IN THE CITY OF ENCINITAS, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO THE UNITED STATES GOVERNMENT SURVEY, APPROVED APRIL 19, 1881, BEING DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF PARCEL A, DESCRIBED IN QUITCLAIM DEED RECORDED ON NOVEMBER 12, 2019 AS DOCUMENT NO. 2019-0517839, OF

OFFICIAL RECORDS OF SAN DIEGO COUNTY; THENCE THE FOLLOWING (3) COURSES ALONG THE EASTERLY AND NORTHERLY LINE OF PARCEL 2, DESCRIBED IN GRANT DEED RECORDED ON MARCH 25, 2005 AS DOCUMENT NO. 2005-0245176, OF OFFICIAL RECORDS OF SAN DIEGO COUNTY;

1. NORTH 37°16'35" EAST 223.23 FEET;
2. THENCE NORTH 03°06'25" WEST 113.79 FEET;
3. THENCE NORTH 87°39'56" WEST 319.10 FEET TO THE EASTERLY RIGHT OF WAY OF QUAIL GARDENS ROAD, LYING 20 FEET EASTERLY OF THE CENTERLINE AS SHOWN ON MAP OF ROAD SURVEY 373;

THENCE THE FOLLOWING (2) COURSES ALONG SAID EASTERLY RIGHT OF WAY OF SAID QUAIL GARDENS ROAD:

1. SOUTH 03°35'08" WEST 216.10 FEET TO THE BEGINNING OF A NON-TANGENT 620.00 FOOT RADIUS CURVE CONCAVE WESTERLY, (A RADIAL LINE BEARS NORTH 79°32'50" WEST FROM SAID POINT);
2. THENCE SOUTHERLY 147.00 FEET ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 13°35'06",

THENCE LEAVING SAID CURVE SOUTH 70°43'17" EAST 129.10 FEET; THENCE NORTH 67°10'07" EAST 154.22 FEET TO THE EASTERLY LINE OF SAID PARCEL A; THENCE ALONG SAID EASTERLY LINE OF PARCEL A, NORTH 26°38'54" WEST 38.34 FEET TO THE POINT OF BEGINNING;

SAID PROPERTY BEING DESCRIBED AS PARCEL 2 IN A CERTIFICATE OF COMPLIANCE RECORDED JULY 14, 2022 AS INSTRUMENT NO. 2022-0289024 OF OFFICIAL RECORDS.

PARCEL 3:

ALL OF THAT PORTION OF THE NORTH TWO ACRES OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 15, TOWNSHIP 13 SOUTH, RANGE 4 WEST, SAN BERNARDINO BASE AND MERIDIAN, TOGETHER WITH A PORTION OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 10, TOWNSHIP 13 SOUTH, RANGE 4 WEST, SAN BERNARDINO BASE AND MERIDIAN, IN THE CITY OF ENCINITAS, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO OFFICIAL PLAT THEREOF, SAID PORTIONS BEING DESCRIBED IN DEED TO CAM MAR GROWERS, A GENERAL PARTNERSHIP, RECORDED JULY 15, 1982 AS INSTRUMENT NO. 82- 217030 OF OFFICIAL RECORDS, TOGETHER WITH THE FOLLOWING DESCRIBED PROPERTY:

THAT PORTION OF PARCEL 1 DESCRIBED IN THAT CERTAIN QUITCLAIM DEED TO JOSEPH E. LANTAGNE AND JO ANN G. LANTAGNE, CO-TRUSTEES OF THAT CERTAIN REVOCABLE TRUST AGREEMENT EXECUTED SEPTEMBER 26, 2000, SAID QUITCLAIM DEED RECORDED ON OCTOBER 10, 2000, AS INSTRUMENT NO. 2000-0542139, OF OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 15; THENCE ALONG THE EASTERLY LINE OF SAID NORTHWEST QUARTER, SAID EASTERLY LINE ALSO BEING THE EASTERLY LINE

OF SAID PARCEL 1, SOUTH 01° 29' 27" WEST 131.68 FEET TO THE SOUTH LINE OF THE NORTH TWO ACRES OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 15; THENCE ALONG SAID SOUTH LINE AND THE SOUTHERLY LINE OF SAID PARCEL 1 NORTH 88° 22' 41" WEST 229.58 FEET TO THE SOUTHWESTERLY CORNER OF SAID PARCEL 1 AND THE TRUE POINT OF BEGINNING; THENCE ALONG THE WESTERLY LINE OF SAID PARCEL 1 NORTH 01° 29' 27" EAST 131.68 FEET TO THE NORTHERLY LINE OF SAID NORTHWEST QUARTER,

SAID NORTHERLY LINE ALSO BEING THE NORTHERLY LINE OF SAID PARCEL 1; THENCE ALONG SAID NORTHERLY LINE OF PARCEL 1 SOUTH 88° 22' 41" EAST 166.58 FEET; THENCE DEPARTING SAID NORTHERLY LINE, SOUTH 01° 29' 27" WEST 131.68 FEET TO THE SOUTHERLY LINE OF SAID PARCEL 1; THENCE WESTERLY ALONG SAID SOUTHERLY LINE OF PARCEL 1, NORTH 88° 22' 41" WEST 166.58 FEET TO THE TRUE POINT OF BEGINNING.

SAID PROPERTY BEING DESCRIBED AS PARCEL A IN CERTIFICATE OF COMPLIANCE RECORDED ON MARCH 24, 2005 AS INSTRUMENT NO. 2005-0240339 OF OFFICIAL RECORDS.

PARCEL 4

THAT PORTION OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 10, TOWNSHIP 13 SOUTH, RANGE 4 WEST, SAN BERNARDINO MERIDIAN, IN THE CITY OF ENCINITAS, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO OFFICIAL PLAT THEREOF, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER; THENCE SOUTH 01° 05' 44" WEST ALONG THE EASTERLY LINE OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 15, IN SAID TOWNSHIP 13 SOUTH, RANGE 4 WEST, A DISTANCE OF 131.95 FEET TO AN INTERSECTION WITH THE SOUTH LINE OF THE NORTH 2 ACRES OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 15; THENCE WESTERLY ALONG SAID SOUTH LINE 229.58 FEET; THENCE NORTH 01° 05' 44" EAST TO THE NORTH LINE OF SAID SECTION 15; THENCE NORTH 02° 08' 24" EAST ALONG A LINE PARALLEL WITH THE EAST LINE OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 10, A DISTANCE OF 132.17 FEET; THENCE WEST, PARALLEL WITH THE SOUTH LINE OF SAID SECTION 10 TO THE EAST LINE OF WEST 353.00 FEET OF SAID SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER BEING THE TRUE POINT OF BEGINNING; THENCE CONTINUING WEST PARALLEL WITH THE SOUTH LINE OF SAID SECTION 10, TO THE WEST LINE OF SAID SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER; THENCE NORTH ALONG SAID WEST LINE TO THE SOUTH LINE OF THE NORTH 274.00 FEET OF SAID SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER; THENCE EAST ALONG SAID SOUTH LINE TO THE EAST LINE OF SAID WEST 353.00 FEET; THENCE SOUTH ALONG SAID EAST LINE TO THE TRUE POINT OF BEGINNING.

PARCEL 5

THE NORTHERLY 145.00 FEET, BEING MEASURED ALONG THE WESTERLY LINE OF THAT

PORTION OF THE EAST HALF OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 15, TOWNSHIP 13 SOUTH, RANGE 4 WEST, SAN BERNARDINO MERIDIAN, IN THE CITY OF ENCINITAS, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF THE NORTH 2 ACRES OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 15; THENCE EASTERLY ALONG THE SOUTH LINE OF SAID NORTH 2 ACRES 302.12 FEET TO THE NORTHWESTERLY CORNER OF LAND CONVEYED TO RICHARD CAMPBELL BY DEED RECORDED NOVEMBER 9, 1964, SERIES 5 BOOK 1964 AS FILE NO. 203960 OF OFFICIAL RECORDS; THENCE SOUTH 3 DEG. 49'10" EAST ALONG THE WESTERLY LINE OF SAID CAMPBELL'S LAND 259.44 FEET TO THE MOST NORTHERLY CORNER OF LAND CONVEYED TO RICHARD CAMPBELL ET UX, BY DEED RECORDED AUGUST 14, 1964, SERIES 5, BOOK 1664 AS FILE NO. 147672 OF OFFICIAL RECORDS; THENCE ALONG THE BOUNDARY OF SAID CAMPBELL'S LAND SOUTH 36 DEG. 33'50" WEST 300.00 FEET AND SOUTH 66 DEG. 27'22" WEST 164.85 FEET TO AN INTERSECTION WITH A LINE DRAWN DIRECTLY SOUTH FROM THE POINT OF BEGINNING; THENCE NORTH 570.37 FEET TO THE POINT OF BEGINNING.

RESOLUTION NO. PC-2024-28

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ENCINITAS, CALIFORNIA APPROVING A DENSITY BONUS (DB), DESIGN REVIEW PERMIT (DR), AND COASTAL DEVELOPMENT PERMIT (CDP) FOR THE DEMOLITION OF ALL ONSITE STRUCTURES, AND CONSTRUCTION OF A MULTI-FAMILY RESIDENTIAL DEVELOPMENT CONSISTING OF 448 RESIDENTIAL APARTMENTS (358 MARKET RATE AND 90 LOW INCOME UNITS) IN TWO MULTI-STORY RESIDENTIAL BUILDINGS WITH BASEMENT PARKING, A TWO-STORY FITNESS/COMMUNITY BUILDING, PRIVATE AMENITY AND COMMON OPEN SPACES, GRADING/UTILITY, AND LANDSCAPING IMPROVEMENTS, STORMDRAIN SLIPLINING REPAIR, HABITAT RESTORATION, NEW ROUNDABOUT AT PROJECT ENTRY OF KRISTEN COURT/QUAIL GARDENS DRIVE INTERSECTION; AND THE USE OF THREE TEMPORARY CONSTRUCTION TRAILERS FOR THE PROPERTIES LOCATED AT 185, 195, 211 AND 225 QUAIL GARDENS DRIVE.

**CASE NOS. MULTI-003751-2020, DR-003759-2020, and CDP-003761-2020
(APNS: 257-020-36 and 37, 258-131-06, -07, -10, -11, -12, and -21)**

WHEREAS, Quail Meadows Properties, LLC submitted an application for a Density Bonus, Design Review Permit, and Coastal Development Permit for the demolition of all onsite structures, and construction of a multi-family residential development consisting of 448 residential apartments (358 market rate and 90 low income units) in two multi-story residential buildings with basement parking, a two-story fitness/community building, private amenity and common open spaces, grading/utility, and landscaping improvements, stormdrain sliplining repair, habitat restoration, new roundabout at project entry of Kristen Court/Quail Gardens Drive intersection; and the use of three temporary construction trailers for the property legally described in Exhibit A; and

WHEREAS, the City Council adopted the 2013-2021 Housing Element Update on March 13, 2019, which approved a zoning overlay for fifteen properties, including the project site, to allow for multi-family development with up to a maximum density of 30 dwelling units per acre; and

WHEREAS, the State Department of Housing and Community Development (HCD) certified the 2013-2021 Housing Element; and

WHEREAS, the City Council adopted the 2021-2029 Housing Element Update on April 7, 2021, which identified the Baldwin and Sons properties, the project site, to meet the very-low and low-income Regional Housing Needs Assessment (RHNA) numbers and shows that a minimum of 225 units could be accommodated on the subject site; and

WHEREAS, the State Department of Housing and Community Development (HCD) certified the 2021-2029 Housing Element on July 13, 2021; and

WHEREAS, the Planning Commission conducted duly noticed public hearings on October 20, 2022 and November 3, 2022;

WHEREAS, the Planning Commission conducted a duly noticed public hearing on February 1, 2024 for a revised design maintaining 485 units, and continued the item to February 15, 2024;

WHEREAS, the Planning Commission conducted a duly noticed public hearing on October 3, 2024, with a revised design of 448 units;

NOW, THEREFORE, BE IT RESOLVED that the Encinitas Planning Commission hereby APPROVES Case Nos MULTI-003751-2020, DR-003759-2020, and CDP-003761-2020 based on the following Environmental Determination and Findings:

Section 1. California Environmental Quality Act Determination

The project is statutorily exempt from the California Environmental Quality Act (CEQA) guidelines under Government Code Sections 65583.2(h) and (l), which provides that, if a housing development project is located on a site designated for 'by right' approval, contains at least 20 percent of the units affordable to lower income households, and is in compliance with the Subdivision Map Act, the City may only require design review approval of the project, and design review approval shall not constitute a "project" under CEQA. The project is statutorily exempt from CEQA in that it is located in the R-30 Overlay Zone, which is designated for 'by-right' approval by Encinitas Municipal Code Chapter 30.09 (Zoning Use Matrix Note 35); proposes that 90 of 359 base density units (25 percent), exclusive of additional units provided by a density bonus, will be affordable to lower income households; and does not require a subdivision.

Section 2. Discretionary Action(s) Findings

FINDINGS

Based on the findings for No Net Loss as per Section 65863 of the California Government Code and the aforementioned analysis, the Planning Commission has made the following finding to support the approval, with conditions:

- 1. The proposed development's residential density is consistent with the Housing Element, and the remaining sites identified in the Housing Element are adequate to meet the requirements of Government Code Section 65583.2 and to accommodate the City's share of the regional housing need pursuant to Section 65584. (Findings required by Government Code Section 65863.)**

The remaining sites in the Housing Element inventory are adequate to meet the requirements of Section 65583.2 and to accommodate the City's share of the regional lower income housing need pursuant to Section 65584. The proposed project does not reduce the density of the site below what was projected in the City's Housing Element; the Housing Element shows a site capacity of 225 units, whereas 448 units are proposed. Although the site was projected to contain 225 lower income units, the proposed project includes 90 lower income units, 135 fewer than projected.

Nonetheless, the remaining sites in the inventory are adequate to accommodate the City's share of the regional lower income housing need, based on the following: The City's Sixth Cycle Housing Element, adopted on April 7, 2021, requires that the City accommodate 838 lower income units as its share of the regional housing need, with 454 lower income units either constructed, approved, or projected to be provided through accessory dwelling units, leaving a remaining need for 384 lower income units. The sites designated in the Sixth Cycle Housing Element to meet the requirements of Section 65863.2 can accommodate at least 1,355 units.

On August 25, 2021, City Council approved the development of the Vulcan Housing Element Site reducing the lower income units remaining to 485 and the site capacity was reduced to 1,305 units.

On September 2, 2021, Planning Commission approved the development of the Sunshine Gardens Housing Element site reducing the lower income unit remaining to 464 and the site capacity was reduced to 1,221 units.

On June 8, 2022, the City Council approved the development of Encinitas Boulevard Apartments Housing Element site reducing the lower income unit remaining to 414 and the site capacity was reduced to 1,072 units.

On August 10, 2022, City Council approved the development of the Marea Village Housing Element Site reducing the lower income units remaining to 395 and the site capacity was reduced to 1,039 units.

On September 14, 2022, City Council approved the development of the Clark Union Housing Element Site reducing the lower income units remaining to 374 and the site capacity was reduced to 877 units.

On January 19, 2023, Planning Commission approved the development of Saints Constantine and Helen Senior Apartments reducing the lower income units remaining to 280 and the site capacity was reduced to 784 units.

On August 23, 2023, City Council approved the development of Piraeus Point and further discussions required with City Council regarding the roadway dedication portion of the project reducing the lower income units remaining to 265 and the site capacity was reduced to 576 units.

On September 13, 2023, City Council approved the development of Moonlight Apartments reducing the lower income units remaining to 235 and the site capacity was reduced to 433 units.

If this project is approved, the remaining need for lower income units is reduced to 134 and the site capacity is reduced to 208 units, still in excess of the remaining need for lower income units.

Therefore, the remaining sites in the inventory are adequate to meet the requirements of Government Code Section 65583.2 and to accommodate the remaining share of the regional housing need pursuant to Section 65584.

Based on the findings for a Design Review Permit as per Encinitas Municipal Code Section 23.08.080 (Design Review) and the aforementioned analysis, Planning Commission has made the following findings to support the approval, with conditions:

- 1. The project design is inconsistent with the General Plan, a Specific Plan, or the provisions of this Code.**

The project's design and improvements are consistent with the General Plan, as conditioned herein, and consistent with the General Plan policies, and the Municipal Code.

2. The project design is substantially inconsistent with the Design Review Guidelines.

The project is consistent with the objective design recommendations of the Design Guidelines. The design includes four-sided architecture with a variety of architectural elements, styles, materials, colors and detailing and complies with the wall façade requirements. The project also meets the design recommendations for walls by incorporating natural materials, compatible colors with the surrounding development, as well as providing landscape screening to soften the aesthetics. The retaining walls along the project boundaries will be landscaped and constructed of quality materials. The proposed landscaping will soften the appearance of the wall as viewed from adjacent properties and public views.

3. The project would adversely affect the health, safety, or general welfare of the community.

No evidence has been provided indicating that the proposed project would adversely affect health, safety or general welfare of the surrounding neighborhood or community. All utilities and services are in place to serve the project.

Based on the findings for a Coastal Development Permit as per Encinitas Municipal Code Section 30.80.090 (Coastal Development Permit) and the aforementioned analysis, Planning Commission has made the following findings to support the approval, with conditions:

1. The project is consistent with the certified Local Coastal Program of the City of Encinitas; and

The project, as conditioned, complies with all Municipal Code requirements and policies of the General Plan and thus is consistent with the Local Coastal Program.

2. The proposed development conforms with Public Resources Code Section 21000 and following (CEQA) in that there are no feasible mitigation measures or feasible alternatives available which would substantially lessen any significant adverse impact that the activity may have on the environment; and

The project is statutorily exempt from the California Environmental Quality Act (CEQA) under Government Code Sections 65583.2(h) and (i), which provide that, if a housing development project is located on a site designated for 'by-right' approval, contains at least 20 percent of the units affordable to lower income households, and does not require a subdivision, the City may only require design review approval of the project, and design review approval shall not constitute a "project" under CEQA. The Quail Meadows Apartment project is statutorily exempt from CEQA in that it is located in the R-30 Overlay Zone, which is designated for 'by-right' approval by Encinitas Municipal Code Chapter 30.09 (Zoning Use Matrix Note 35); proposes that 90 of 359 units (25 percent), exclusive of additional units provided by a density bonus, will be affordable to lower income households; and does not require a subdivision.

3. For projects involving development between the sea or other body of water and the nearest public road, approval shall include a specific finding that such development

is in conformity with the public access and public recreation policies of Section 30200 et. seq. of the Coastal Act.

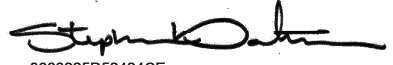
The project site is located east of Interstate 5 between Quail Gardens Drive and west of Delphinium Street, which is not located between the sea and the first public road. Therefore, the requirements of Section 30200 et. seq. of the Coastal Act does not apply, and the project complies with the requirements of Section 30200 et. seq. of the Coastal Act.

The above environmental determination and findings are supported by the minutes, maps, reports, and exhibits, all of which are herein incorporated by reference.

BE IT FURTHER RESOLVED that based on the Environmental Determination and Findings herein before adopted by the Planning Commission, Case Nos. MULTI-003751-2020, DR-003759-2020, and CDP-003761-2020 is hereby APPROVED subject to the conditions in Exhibit B.

PASSED AND ADOPTED this 3rd day of October 2024 by the following vote, to wit:

AYES: Dalton, Ryan, Whitteker
NOES: Prendergast
ABSTAIN: Sherod
ABSENT: None

DocuSigned by:

6063225D52474CE...
Stephen Dalton, Chair

ATTEST:

DocuSigned by:

E137385DA26B4C3...
Anna Colamussi
Secretary

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

EXHIBIT "A"

RESOLUTION NO. PC-2024-28

Case Nos MULTI-003751-2020, DR-003759-2020, and CDP-003761-2020

185, 195, 211 AND 225 QUAIL GARDENS DRIVE.
APNS: 257-020-36 and 37, 258-131-06, -07, -10, -11, -12, and -21

LEGAL DESCRIPTION

Real property in the City of Encinitas, County of San Diego, State of California, described as follows:

PARCEL 1

THAT PORTION OF THE EAST HALF OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 15, TOWNSHIP 13 SOUTH, RANGE 4 WEST, SAN BERNARDINO BASE AND MERIDIAN, IN THE CITY OF ENCINITAS, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO THE UNITED STATES GOVERNMENT SURVEY APPROVED APRIL 19, 1881, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE NORTH 2.00 ACRES OF SAID EAST HALF OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER; THENCE ALONG THE SOUTH LINE OF SAID NORTH 2.00 ACRES, SOUTH 88° 22' 41" EAST 302.12 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID SOUTH LINE SOUTH 88° 22' 41" EAST 359.76 FEET TO AN INTERSECTION WITH A LINE BEARING SOUTH 01 DEGREE 29' 27" WEST FROM THE NORTHEAST CORNER OF SAID NORTHWEST QUARTER OF THE NORTHEAST QUARTER, SAID LINE ALSO BEING THE EASTERLY LINE OF SAID NORTHWEST QUARTER; THENCE ALONG SAID EASTERLY LINE SOUTH 01 DEGREE 29' 27" WEST 440.00 FEET; THENCE DEPARTING SAID EASTERLY LINE, NORTH 88° 22' 41" WEST 313.30 FEET; THENCE NORTH 06° 33' 20" WEST 183.31 FEET TO AN ANGLE POINT IN THE BOUNDARY LINE OF THE LAND CONVEYED TO ROBERT E. FIELD AND WIFE BY DEED RECORDED MARCH 26, 1951 AS INSTRUMENT NO. 37496, IN BOOK 4025, PAGE 202, OF OFFICIAL RECORDS; THENCE ALONG SAID BOUNDARY LINE NORTH 03° 06' 25" WEST 259.44 FEET, TO THE TRUE POINT OF BEGINNING.

SAID PROPERTY BEING DESCRIBED AS PARCEL 1 IN A CERTIFICATE OF COMPLIANCE RECORDED MARCH 24, 2005 AS INSTRUMENT NO. 2005-0240340 OF OFFICIAL RECORDS.

PARCEL 2

THAT PORTION OF THE EAST HALF OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 15, TOWNSHIP 13 SOUTH, RANGE 4 WEST, SAN BERNADINO MERIDIAN, IN THE CITY OF ENCINITAS, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO THE UNITED STATES GOVERNMENT SURVEY, APPROVED APRIL 19, 1881, BEING DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF PARCEL A, DESCRIBED IN QUITCLAIM DEED RECORDED ON NOVEMBER 12, 2019 AS DOCUMENT NO. 2019-0517839, OF

OFFICIAL RECORDS OF SAN DIEGO COUNTY; THENCE THE FOLLOWING (3) COURSES ALONG THE EASTERLY AND NORTHERLY LINE OF PARCEL 2, DESCRIBED IN GRANT DEED RECORDED ON MARCH 25, 2005 AS DOCUMENT NO. 2005-0245176, OF OFFICIAL RECORDS OF SAN DIEGO COUNTY;

1. NORTH 37°16'35" EAST 223.23 FEET;
2. THENCE NORTH 03°06'25" WEST 113.79 FEET;
3. THENCE NORTH 87°39'56" WEST 319.10 FEET TO THE EASTERLY RIGHT OF WAY OF QUAIL GARDENS ROAD, LYING 20 FEET EASTERLY OF THE CENTERLINE AS SHOWN ON MAP OF ROAD SURVEY 373;

THENCE THE FOLLOWING (2) COURSES ALONG SAID EASTERLY RIGHT OF WAY OF SAID QUAIL GARDENS ROAD:

1. SOUTH 03°35'08" WEST 216.10 FEET TO THE BEGINNING OF A NON-TANGENT 620.00 FOOT RADIUS CURVE CONCAVE WESTERLY, (A RADIAL LINE BEARS NORTH 79°32'50" WEST FROM SAID POINT);
2. THENCE SOUTHERLY 147.00 FEET ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 13°35'06",

THENCE LEAVING SAID CURVE SOUTH 70°43'17" EAST 129.10 FEET; THENCE NORTH 67°10'07" EAST 154.22 FEET TO THE EASTERLY LINE OF SAID PARCEL A; THENCE ALONG SAID EASTERLY LINE OF PARCEL A, NORTH 26°38'54" WEST 38.34 FEET TO THE POINT OF BEGINNING;

SAID PROPERTY BEING DESCRIBED AS PARCEL 2 IN A CERTIFICATE OF COMPLIANCE RECORDED JULY 14, 2022 AS INSTRUMENT NO. 2022-0289024 OF OFFICIAL RECORDS.

PARCEL 3:

ALL OF THAT PORTION OF THE NORTH TWO ACRES OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 15, TOWNSHIP 13 SOUTH, RANGE 4 WEST, SAN BERNARDINO BASE AND MERIDIAN, TOGETHER WITH A PORTION OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 10, TOWNSHIP 13 SOUTH, RANGE 4 WEST, SAN BERNARDINO BASE AND MERIDIAN, IN THE CITY OF ENCINITAS, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO OFFICIAL PLAT THEREOF, SAID PORTIONS BEING DESCRIBED IN DEED TO CAM MAR GROWERS, A GENERAL PARTNERSHIP, RECORDED JULY 15, 1982 AS INSTRUMENT NO. 82- 217030 OF OFFICIAL RECORDS, TOGETHER WITH THE FOLLOWING DESCRIBED PROPERTY:

THAT PORTION OF PARCEL 1 DESCRIBED IN THAT CERTAIN QUITCLAIM DEED TO JOSEPH E. LANTAGNE AND JO ANN G. LANTAGNE, CO-TRUSTEES OF THAT CERTAIN REVOCABLE TRUST AGREEMENT EXECUTED SEPTEMBER 26, 2000, SAID QUITCLAIM DEED RECORDED ON OCTOBER 10, 2000, AS INSTRUMENT NO. 2000-0542139, OF OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 15; THENCE ALONG THE EASTERLY LINE OF SAID NORTHWEST QUARTER, SAID EASTERLY LINE ALSO BEING THE EASTERLY LINE

OF SAID PARCEL 1, SOUTH 01° 29' 27" WEST 131.68 FEET TO THE SOUTH LINE OF THE NORTH TWO ACRES OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 15; THENCE ALONG SAID SOUTH LINE AND THE SOUTHERLY LINE OF SAID PARCEL 1 NORTH 88° 22' 41" WEST 229.58 FEET TO THE SOUTHWESTERLY CORNER OF SAID PARCEL 1 AND THE TRUE POINT OF BEGINNING; THENCE ALONG THE WESTERLY LINE OF SAID PARCEL 1 NORTH 01° 29' 27" EAST 131.68 FEET TO THE NORTHERLY LINE OF SAID NORTHWEST QUARTER,

SAID NORTHERLY LINE ALSO BEING THE NORTHERLY LINE OF SAID PARCEL 1; THENCE ALONG SAID NORTHERLY LINE OF PARCEL 1 SOUTH 88° 22' 41" EAST 166.58 FEET; THENCE DEPARTING SAID NORTHERLY LINE, SOUTH 01° 29' 27" WEST 131.68 FEET TO THE SOUTHERLY LINE OF SAID PARCEL 1; THENCE WESTERLY ALONG SAID SOUTHERLY LINE OF PARCEL 1, NORTH 88° 22' 41" WEST 166.58 FEET TO THE TRUE POINT OF BEGINNING.

SAID PROPERTY BEING DESCRIBED AS PARCEL A IN CERTIFICATE OF COMPLIANCE RECORDED ON MARCH 24, 2005 AS INSTRUMENT NO. 2005-0240339 OF OFFICIAL RECORDS.

PARCEL 4

THAT PORTION OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 10, TOWNSHIP 13 SOUTH, RANGE 4 WEST, SAN BERNARDINO MERIDIAN, IN THE CITY OF ENCINITAS, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO OFFICIAL PLAT THEREOF, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER; THENCE SOUTH 01° 05' 44" WEST ALONG THE EASTERLY LINE OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 15, IN SAID TOWNSHIP 13 SOUTH, RANGE 4 WEST, A DISTANCE OF 131.95 FEET TO AN INTERSECTION WITH THE SOUTH LINE OF THE NORTH 2 ACRES OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 15; THENCE WESTERLY ALONG SAID SOUTH LINE 229.58 FEET; THENCE NORTH 01° 05' 44" EAST TO THE NORTH LINE OF SAID SECTION 15; THENCE NORTH 02° 08' 24" EAST ALONG A LINE PARALLEL WITH THE EAST LINE OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 10, A DISTANCE OF 132.17 FEET; THENCE WEST, PARALLEL WITH THE SOUTH LINE OF SAID SECTION 10 TO THE EAST LINE OF WEST 353.00 FEET OF SAID SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER BEING THE TRUE POINT OF BEGINNING; THENCE CONTINUING WEST PARALLEL WITH THE SOUTH LINE OF SAID SECTION 10, TO THE WEST LINE OF SAID SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER; THENCE NORTH ALONG SAID WEST LINE TO THE SOUTH LINE OF THE NORTH 274.00 FEET OF SAID SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER; THENCE EAST ALONG SAID SOUTH LINE TO THE EAST LINE OF SAID WEST 353.00 FEET; THENCE SOUTH ALONG SAID EAST LINE TO THE TRUE POINT OF BEGINNING.

PARCEL 5

THE NORTHERLY 145.00 FEET, BEING MEASURED ALONG THE WESTERLY LINE OF THAT

PORTION OF THE EAST HALF OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 15, TOWNSHIP 13 SOUTH, RANGE 4 WEST, SAN BERNARDINO MERIDIAN, IN THE CITY OF ENCINITAS, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF THE NORTH 2 ACRES OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 15; THENCE EASTERLY ALONG THE SOUTH LINE OF SAID NORTH 2 ACRES 302.12 FEET TO THE NORTHWESTERLY CORNER OF LAND CONVEYED TO RICHARD CAMPBELL BY DEED RECORDED NOVEMBER 9, 1964, SERIES 5 BOOK 1964 AS FILE NO. 203960 OF OFFICIAL RECORDS; THENCE SOUTH 3 DEG. 49'10" EAST ALONG THE WESTERLY LINE OF SAID CAMPBELL'S LAND 259.44 FEET TO THE MOST NORTHERLY CORNER OF LAND CONVEYED TO RICHARD CAMPBELL ET UX, BY DEED RECORDED AUGUST 14, 1964, SERIES 5, BOOK 1664 AS FILE NO. 147672 OF OFFICIAL RECORDS; THENCE ALONG THE BOUNDARY OF SAID CAMPBELL'S LAND SOUTH 36 DEG. 33'50" WEST 300.00 FEET AND SOUTH 66 DEG. 27'22" WEST 164.85 FEET TO AN INTERSECTION WITH A LINE DRAWN DIRECTLY SOUTH FROM THE POINT OF BEGINNING; THENCE NORTH 570.37 FEET TO THE POINT OF BEGINNING.

EXHIBIT "B"

RESOLUTION NO. PC-2024-28

CASE NOS. MULTI-003751-2020, DR-003759-2020, and CDP-003761-2020

CONDITIONS OF APPROVAL

Applicant: Quail Meadows Properties, LLC

Location: 185, 195, 211, and 225 Quail Gardens Drive
APNs: 257-020-36 and 37, 258-131-06, -07, -10, -11, -12, and -21

SPECIFIC CONDITIONS:

SCA The following Planning-related conditions shall be completed and/or fulfilled to the satisfaction of the Development Services Department:

1. A Planning final inspection is required prior to final occupancy.
2. Only the sliplining repair of the existing stormdrain (that traverses underneath the California Coastal Commission's jurisdictional wetland and 100-foot buffer) and habitat restoration within the 100-foot wetland buffer are subject to an appeal to the California Coastal Commission. An appeal of the City's decision must be filed with the Coastal Commission within 10-working days following the Coastal Commission's receipt of the Notice of Final Action. Applicants will be notified by the Coastal Commission as to the date the Commission's appeal period will conclude. Appeals must be in writing to the Coastal Commission, San Diego Coast District office.
3. Prior to grading permit issuance, all staging areas associated with the sliplining stormdrain repair shall be depicted on the project plans to demonstrate that all staging will be located outside of the 100-foot wetland buffer, to the satisfaction of the Development Services Department.
4. Prior to building permit issuance, the project shall demonstrate that all light sources shall be shielded, directed downward and away from property lines, streets, and adjoining properties to the satisfaction of the Development Services Department.
5. Prior to building permit issuance, the applicant shall demonstrate compliance with the Americans with Disabilities Act, and accessible electric vehicle charging station requirements to the satisfaction of the Building Division.
6. Requests for street names shall be submitted by an **applicant/owner** to the City for review and approval. Street names shall be approved by the City prior to grading permit issuance.
7. Prior to grading permit issuance, the applicant shall apply online through Customer Self Service (CSS) for an Address Request and obtain approval to assign addressing for the subject site.

8. All trees being removed as a part of this project shall be replaced at a ratio of 1:1. Prior to grading permit issuance, replacement trees shall be depicted on project plans submitted for plan check, to the satisfaction of the Development Services Director. Trees to be replaced in the City's right-of-way shall comply with the City's Street Tree Planting Plan.
9. Prior to building permit issuance, a Covenant Release shall be recorded to release all covenants of Real Property associated with Planning Commission Resolution No. PC-2008-11 (Case No. 05-002 TM/MUP/DR/CDP) dated March 20, 2008.
10. The project shall comply with EMC Section 23.12.110 (Adoption of the 2019 California Green Building Standards Code, Part 11, Title 24 of the California Code of Regulations) for new multi-family residential buildings. Each EV space shall conform to the City's Local Green Building Ordinance). Calculations for the required number of EV spaces shall be rounded up to the nearest whole number. Building construction plans shall demonstrate compliance prior to the issuance of building permits for the project.
11. The Project phasing shall conform to the phasing proposed in the Affordable Housing Plan approved October 3, 2024, or as modified by the Development Services Department.
12. A Building Permit shall be obtained for all identification or temporary signage. All signage shall be constructed in accordance with all sign regulations in EMC Chapter 30.60 (Signs)
13. Prior to grading permit issuance, the Postmaster shall approve the final location of the mailroom and any associated USPS parking space for the project.
14. All units, at all times, shall have access to all community facilities (pool, community rooms, open space, pathways, parking, etc.) within the project area in perpetuity, even if individual lots within the project are sold to a separate property owner in the future.
15. The building footprint for the structures shall substantially conform to the building envelopes established pursuant to the approved Design Review Permit and setbacks as established in EMC Chapter 30.16 or shown with waivers on the project plans. Any modifications from the approved design shall conform to the R-30 Overlay Zone setbacks.
16. If any lots associated with the project are sold in the future, and no longer held in common ownership, prior to the recordation of the sale of the lot, a reciprocal parking agreement shall be recorded to allow parking access into the parking structure and surface parking for all lots within the project boundaries, in perpetuity.
17. Prior to issuance of occupancy for each unit in each construction phase, a final interior noise study shall be conducted to ensure a maximum 45-decibel indoor noise level is achieved, The maximum 45-decible indoor noise level shall be maintained in accordance with Title 24 of the California Code of Regulations while

the buildings are occupied to the satisfaction of the Development Services Department.

18. An asbestos pre-demolition survey shall be conducted prior to issuance of a demolition building permit. All onsite structures shall be abated, if necessary, prior to demolition activities in accordance with US EPA National Emission Standards for Hazardous Air Pollutants (NESHAP) and applicable state and local regulations. All applicable regulations shall apply shall there be the presence of Lead-Based Paint.
20. If the two Torrey Pines (the one designated to be protected in-place or transplanted) do not survive (upon City Arborist concurrence), then the applicant shall replace them with Torrey Pines to the satisfaction of the Development Services Department.
21. All required plantings and automated irrigation systems shall be in place prior to each construction phase completed. All required plantings and automated irrigation systems shall be maintained in good condition, and whenever necessary, shall be replaced with new materials to ensure continued compliance with applicable landscaping, buffering, and screening requirements. All landscaping and irrigation systems shall be maintained in a manner that will not depreciate adjacent property values and otherwise adversely affect adjacent properties. All irrigation lines shall be installed and maintained underground (except drip irrigation systems).
22. Prior to public improvement plan issuance, all trees proposed in the Quail Gardens Drive right-of-way shall be reviewed for compliance with Standard Condition L 06, the City of Encinitas Street Tree Planting Plan, and all other relevant documents to the satisfaction of the Public Works Department, Engineering Department, and Development Services Department. The applicant shall evaluate the use of Coast Live Oaks or scrub oaks in certain locations. These trees shall be privately maintained by the property owner.
23. All freestanding and retaining walls shall be landscaped and/or constructed with quality materials with color and texture appropriate to the project's architecture.

CULTURAL RESOURCES

24. A qualified archaeologist and Native American monitor shall be present for the initial ground disturbing activities to assess the extent of previous disturbances and the potential for buried archaeological resources. After the initial ground disturbing activities, the archaeologist and Native American monitor shall consult with the project developer and the City to develop a strategy for either occasional spot-check monitoring during grading or excavation activities, or a full-time monitoring, if the potential to identify intact cultural resources remains. If it is determined that no intact sediments which have the potential to contain archaeological deposits remain on site, then monitoring shall be discontinued. The archaeologist, City, and project developer shall determine the timing and duration of archaeological monitoring. Monitoring results shall be summarized in a format suitable for reporting to the City of Encinitas.

25. If the find includes human remains, or remains that are potentially human, he or she shall ensure reasonable protection measures are taken to protect the discovery from disturbance (Assembly Bill {AB} 2641). The archaeological monitor shall notify the San Diego County Medical Examiner (as per §7050.5 of the Health and Safety Code). The provisions of §7050.5 of the California Health and Safety Code, §5097.98 of the California PRC, and AB 2641 will be implemented. If the Medical Examiner determines the remains are Native American and not the result of a crime scene, the Medical Examiner will notify the NAHC, who then will designate a Native American Most Likely Descendant (MLD) for the Project (§5097.98 of the PRC). The designated MLD will have 48 hours from the time access to the property is granted to make recommendations concerning treatment of the remains. If the landowner does not agree with the recommendations of the MLD, the NAHC may mediate (§5097.94 of the PRC). If no agreement is reached, the landowner must rebury the remains where they will not be further disturbed (§5097.98 of the PRC). This will also include either recording the site with the NAHC or the appropriate information center; using an open space or conservation zoning designation or easement; or recording a reinternment document with the county in which the property is located (AB2641). Work may not resume within the no-work radius until the City, through consultation as appropriate, determines that the treatment measures have been completed to its satisfaction.
26. Applications for future development of housing sites consistent with the new zone program, wherein the City has determined a potential for impacts to paleontological resources, shall be required to comply with the following mitigation framework: A qualified paleontological monitor shall be present during grading on housing sites where development would require the excavation of over 1,000 cubic yards of a geologic formation with high resource potential to contain paleontological resources, excavation depths within the geologic formation of 10 feet or greater, or over 2,000 cubic yards of a geologic formation with moderate resource potential to contain paleontological resources. Geologic formations would be determined by a site-specific geotechnical study. The monitor shall have the authority to stop and/or divert grading, trenching, or excavating if a significant paleontological resource is encountered. An excavation plan shall be implemented to mitigate the discovery. Excavation shall include the salvage of the fossil remains (simple excavation or plaster-jacketing of larger and/or fragile specimens); recording stratigraphic and geologic data; and transport of fossil remains to laboratory for processing and curation.

SOIL REMEDIATION

27. Remediation of the impacted soil at the project site shall be completed under the oversight of the County of San Diego Department of Environmental Health (DEH) through Voluntary Assistance Program (VAP) Case No. DEH-2017-LSAM-000454. The Soil Remediation Plan prepared by Geocon Inc. dated May 2, 2023 has been reviewed and approved by the San Diego County Department of Environmental Health on May 8, 2023.
28. Any TPH-impacted soils exceeding the SF-RFWQCB Environmental Screening Level (ESL)- Direct Exposure to Soil of 260 mg/kg shall not be placed beneath any of the proposed buildings.

29. Any TPH-impacted soil exceeding the ESL for Leaching to Groundwater-Drinking Water of 1,100 mg/kg, will not be buried under the pool, dog park or any landscaped areas.
30. The COC-impacted soil shall be evacuated and encapsulated onsite beneath a clean soil cover to mitigate potential health risks to future site occupants to achieve a “no further action” regulatory closure status from the San Diego County Department of Environmental Health for the site. DRO-impacted soil that exceeds 260 mg/kg shall not be placed beneath the proposed buildings unless a soil vapor survey is completed. In addition, the DRO impacted soil that exceeds 1,100 mg/kg shall be segregated and disposed of at an appropriate waste disposal facility. After successful completion and documentation of the remediation, the applicant shall obtain a “Closure” letter from the San Diego County Department of Environmental Health indicating the remedial action was completed in accordance with the Soil Remediation Plan and that on-site conditions do not pose an unacceptable risk to future site users. The “Closure” letter shall be submitted to the City prior to building permit issuance.

BIOLOGY

31. BIO-1 In order to mitigate for the impacts to 0.54 acres of native upland habitat, which is a sensitive biological resource, on-site mitigation shall occur. The on-site mitigation shall provide 3.31 acres of native upland habitat mitigation through the preservation of 0.38 acres of existing resources as well as restoring 2.93 acres of coastal sage scrub.
32. BIO-2 In order to protect sensitive biological resources, a conservation easement shall be granted and shall be permanently conserved by the establishment of a conservation easement. Provide long-term funding with a non-wasting endowment and manage by a land manager. This easement is for the protection of biological resources and prohibits all of the following on any portion of the land subject to said easement: grading; excavation; placement of soil, sand, rock, gravel, or other material; clearing of vegetation; construction, erection, or placement of any building or structure; vehicular activities; trash dumping; or use for any purpose other than as open space.

The only exceptions to this prohibition are:

- a) No development, construction of structures, installation of ornamental landscaping, or other land disturbing activities shall occur within the conservation easement other than those activities proposed to naturally enhance/restore the open space as approved by the Development Services Director.
- b) Any fuel modification approved by the Encinitas Fire Department within the conservation easement shall be conducted outside of the avian breeding season unless a qualified biologist conducts a survey within the easement to determine the presence or absence of nesting bird species. If nesting birds are not found, then fuel modification may proceed within the breeding season.

- c) That it shall not excavate or grade or permit any excavating or grading to be done or, place or allow to be placed any sand, soil, rock, gravel or other material whatsoever on the subject land without the written permission of CITY or its successors or assigns; provided, however, that grantor may excavate, grade or place sand, soil, rock or gravel or other material on the subject land as is permitted by this resolution , as said permit may be hereinafter amended or modified pursuant to the Municipal Code of the City of Encinitas.
- d) No invasive plant species shall be planted in the conservation easement. Invasive species consist of those listed on Lists A and B of the California Invasive Plant Council's "Exotic Pest Plants of Greatest Ecological Concern in California as of October 1999".
- e) All outdoor lighting shall be directed away from the conservation easement.
- f) The limits of the conservation easement shall be protected with permanent fencing to the satisfaction of the Development Services Director and City Fire Marshall. Fencing shall have no gates and be designed to prevent intrusion by pets, especially cats.
- g) That the terms, covenants, and conditions set forth herein may be specifically enforced or enjoined by proceedings in the Superior Court of the State of California.
- h) That no invasive landscaping shall be planted in areas adjacent to the conservation easement.

DOCUMENTATION: The applicant shall prepare the draft plats and legal descriptions of the easements, then submit them for review by the Development Services Department and Engineering Department for final preparation and recordation with the Development Services.

TIMING: Prior to final grading permit issuance, the easements shall be recorded.

MONITORING: Development Services shall prepare and approve the easement. Development Services shall pre-approve the language and estimated location of the easements before they are released to the applicant for signature and subsequent recordation. Upon Recordation and verification of the easements, the condition will be satisfied.

- 33. BIO-3 In order to provide for the long-term management of the proposed open space preserve, a Resource Management Plan (RMP) shall be prepared and implemented. The RMP shall be for the perpetual management of 3.31 acres of onsite habitat. The final RMP cannot be approved until the following has been demonstrated to be completed, to the satisfaction of the City of Encinitas:
 - a) The easements shall be dedicated to ensure that the land is protected in perpetuity.

- b) A Resource Manager shall be selected and evidence provided by applicant as to the acceptance of this responsibility by the proposed Resource Manager.
- c) The RMP funding mechanism to fund annual costs for basic stewardship shall be identified and approved by the County.
- d) A contract between applicant and City shall be executed for the implementation of the RMP.

DOCUMENTATION: The applicant shall prepare the RMP and submit it to Development Services Department and pay all applicable review fees.

TIMING: Prior to approval of any plan or issuance of any permit, and prior to use of the premises in reliance of this permit the RMP shall be approved.

MONITORING: The City of Encinitas shall review the RMP for compliance with the content guidelines, the conceptual RMP, and this condition.

- 34. BIO-4 A Restoration Plan shall be prepared and implemented, which mitigates impacts to Diegan coastal sage scrub by restoring 2.93 acres and preserving an additional 0.38 acres for a total of 3.31 acres of habitat on site. The Restoration Plan shall include directives for native container planting and seeding using locally sourced material and temporary irrigation. The Restoration Plan shall be approved by the City of Encinitas and USFWS. The Restoration Plan shall include the following:

- a) The Restoration Plan maintenance and monitoring program shall be for a length of 5 years.
- b) The report shall be prepared by a City approved restoration ecologist and the construction plans shall be prepared by a State of California Licensed Landscape Architect.
- c) Restoration objectives, restoration site biological resource map, 11 x 17 landscape plan, map showing restoration areas according to mitigation type and amount, site preparation information, type of planting materials (e.g., species ratios, source, size material, etc.), planting program, success criteria, and a detailed cost estimate.
- d) A cost estimate based on a 3% annual inflation rate shall be submitted and approved, which includes the cost of the plant stock and its installation, irrigation system and installation, cost of monitoring and maintenance of the revegetation area for the required monitoring period, and report preparation and staff time to review.

Additionally, a Resource Management Plan shall be prepared in order to outline management activities for the in-perpetuity protection of the open space preserve. The Resource Management Plan shall include the following:

- e) A Resource Management Plan shall be prepared outlining management activities for the in perpetuity management of the preserve (which includes

the Restoration Plan areas). The Resource Management Plan shall include evidence of the on-site dedication of a conservation easement or evidence to the satisfaction of the City of Encinitas as well as funding of a non-wasting endowment.

- f) The Resource Management Plan shall be prepared in accordance with the MHCP Subregional Plan and Final Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for the North County Multiple Habitat Conservation Program (USFWS and SANDAG 2003) and the Draft Encinitas Subarea Plan (Ogden and CBI 2001).
- g) A Property Analysis Record (PAR) or equivalent long-term costing analysis will be conducted in order to determine the amount of the non-wasting endowment for in-perpetuity management of the open space preserve. An endowment fund shall be set up with a third party and endowment funded prior to issuance of the grading permit.

DOCUMENTATION: The applicant shall prepare the Restoration Plan and Resource Management Plan, submit them to the City of Encinitas and pay all the applicable review fees and deposits.

TIMING: Prior to the issuance of the grading permit, the Restoration Plan shall be approved.

MONITORING: The City of Encinitas shall review the Restoration Plan for conformance with this condition and the Report Format and Content Requirements for Restoration Plans. Upon approval of the Plans, a letter of approval shall be issued to the applicant from the City of Encinitas, and a request for compliance with condition BIO-5–SECURED AGREEMENT shall be made to enter into a Secured Agreement for the implementation of the Plan.

- 35. BIO-5 In order to assure project completion and success of the Restoration Plan in condition BIO-4– Restoration Plan, a surety shall be provided, and an agreement shall be executed. The applicant shall enter into a Secured Agreement with the City of Encinitas as follows:

- a) The security shall consist of a letter of credit, bond, or cash for 100% of the estimated costs associated with the implementation of the Restoration Plan as deemed acceptable to Development Services Department and,
- b) Provide a 10% cash deposit of the cost of all improvements, but no less than \$3,000 and no more than \$30,000.
- c) The monitoring time and the length of time the Secured Agreement and cash deposit will be in effect starts at the time the installation is accepted by a City staff representative. The Secured Agreement and cash deposit shall be released upon completion of the Restoration Plan implementation provided the installed vegetation is in a healthy condition and meets the 80% success criteria. Eighty-percent success rate and one hundred percent vegetative cover, excluding herbaceous species, shall be considered satisfactory completion of the Restoration Plan.

DOCUMENTATION: The applicant shall execute a Secured Agreement provided with the Restoration Plan Final Decision and provide the approved securities and the cash deposit for City monitoring time. The executed Agreement, cash deposit, and the securities shall be submitted to the City of Encinitas for final review and approval.

TIMING: Prior to the issuance of the grading permit and after the approval of the Restoration Plan, the agreement shall be executed, and the securities provided for the Restoration Plan implementation.

MONITORING: The City of Encinitas shall review the Agreement cash deposit and securities provided are in compliance with this condition, and the Restoration Plan Final Decision. The City of Encinitas shall sign the Agreement and ensure the cash deposit is collected. Upon acceptance of the Agreement, securities and cash deposit, the City of Encinitas shall provide a confirmation letter-acknowledging acceptance of securities.

36. BIO-6 In order to protect the proposed conservation easement from entry, or disturbance, permanent fencing and signage shall be installed. Open space fencing or walls shall be placed along the biological open space boundary as indicated on the approved plans.
- a) Evidence shall be site photos and a statement from a California Registered Engineer, or licensed surveyor that the permanent walls or fences, and open space signs have been installed.
 - b) The sign must be corrosion resistant, a minimum of 6 inches x 9 inches in size, on posts not less than three (3) feet in height from the ground surface, and must state the following:

Sensitive Environmental Resources Area Restricted by Easement

Entry without express written permission from the City of Encinitas is prohibited. To report a violation or for more information about easement restrictions and exceptions contact the City of Encinitas, Development Services Department.

DOCUMENTATION: The applicant shall install the signage and fencing as indicated above and provide site photos and a statement from a California Registered Engineer, or licensed surveyor that the open space fencing has been installed at the conservation easement boundary.

TIMING: Prior to any occupancy, final grading permit issuance, or use of the premises in reliance of this permit, the fencing and signage shall be placed.

MONITORING: The Development Services Department shall review the photos and statement for compliance with this condition.

Impacts to Wildlife Species

Impacts to special-status wildlife are significant, absent mitigation. The following proposed measures are required:

37. BIO-7 If Section 10 consultation is required, all terms and conditions developed

as part of the Section 10 consultation process with the U.S. Fish and Wildlife Service (USFWS) and provided in the project's Habitat Conservation Plan (HCP) shall be implemented. Terms and conditions shall apply to federally listed species that may be impacted by the project. Ratios for habitat-based mitigation shall be finalized during the Section 10 consultation process. Terms and conditions outlined in the project's HCP shall take precedence over the measures outlined herein to the extent there is conflict between the two. The habitat-based mitigation described in BIO-1 would not be reduced in acreage, but conflicts that require additional habitat mitigation would defer to the terms and conditions of the HCP.

38. BIO-8 In order to prevent inadvertent disturbance to areas outside the limits of grading, fencing, or flagging shall be installed, and all grading shall be monitored by a biologist in environmentally sensitive areas. A City approved biologist shall perform biological monitoring during all grading, clearing, grubbing, trenching, and construction activities. The Project Biologist shall also perform the following duties before construction to comply with the conditions of the Grading Plan:

- a) Conduct meetings with the contractor and other key construction personnel describing the importance of restricting work to designated areas prior to clearing, grubbing, or grading and clarifying that the Project Biologist has the authority to halt work that could harm or harass a protected species.
- b) Review the construction area in the field with the contractor in accordance with the final grading plan prior to clearing, grubbing, or grading.
- c) Conduct a field review of the staking to be set by the surveyor, designating the limits of all construction activity prior to clearing, grubbing, or grading.
- d) Supervise and verify placement of temporary fencing/flagging and signage during the trenching, grading, or clearing activities. The placement of such fencing/flagging and signage shall be approved by pursuant to the approved plans.

DOCUMENTATION: The Biological Monitor shall prepare written documentation that certifies that the temporary fencing has been installed and that all construction staff have been trained on the site sensitive biological resources that are to be avoided. The permittee shall submit photos of the flagging/fencing along with the certification letter for approval.

TIMING: Prior to any clearing, grubbing, trenching, grading, or any land disturbances this condition shall be completed.

MONITORING: The City shall verify the installation of the temporary fencing, or review the certification, pictures and training documentation provided by the permittee.

39. BIO-9 Avoid clearing of vegetation during the nesting season of the coastal California gnatcatcher and willow flycatcher. Suitable habitat for coastal California gnatcatcher shall not be cleared between February 15 and August 31 (or sooner if a biologist demonstrates to the satisfaction of the USFWS that all nesting is

complete). Prior to the initiation of vegetation clearing activities outside of the nesting season, a biologist will perform a minimum of three focused surveys, on separate days, to determine the presence of gnatcatchers in the project impact footprint (focused surveys for willow flycatcher are not required because this species is migratory and would not be present outside of the nesting season). Surveys will begin a maximum of 7 days prior to performing vegetation clearing/grubbing and one survey will be conducted the day immediately prior to the initiation of clearing/grubbing. If any gnatcatchers are found within the project impact footprint, the biologist will direct construction personnel to begin vegetation clearing/grubbing in an area away from the gnatcatchers. It will be the responsibility of the biologist to ensure that gnatcatchers are not in the vegetation to be cleared/grubbed by flushing individual birds away from clearing/grubbing. The biologist will also record the number and location of gnatcatchers disturbed by vegetation clearing/grubbing. Take of coastal sage scrub and coastal California gnatcatcher under the federal Endangered Species Act shall be in accordance with the measures specified in the permit issued by USFWS and take precedence over these measures.

Prior to City approval of rough grading, if willow flycatcher or California gnatcatcher biological monitoring is required during the breeding season, the project applicant shall submit a final report prepared by the project biologist to the wildlife agencies and Development Services Department. The report shall include as-built construction drawings for grading with an overlay of any active nests, photographs of habitat areas during pre-construction and post-construction conditions, and other relevant summary information documenting that authorized impacts were not exceeded and that general compliance with the avoidance/minimization provisions and monitoring program as required by the wildlife agencies were achieved.

40. BIO-10. In order to avoid impacts to sensitive avian species, which are sensitive biological resources (e.g. coastal California gnatcatcher, least Bell's vireo, yellow-breasted chat, yellow warbler, and raptors) pursuant to CEQA, pre-construction surveys shall occur. There shall be no brushing, clearing and/or grading (which includes operation of construction dozers, excavators, rock crushers, pile drivers or cast-in-drilled-hole equipment) during the avian breeding season except as allowed by this condition. All grading permits, improvement plans, and the final map shall state the same. If clearing or grading must occur during the period of coastal California gnatcatcher (February 15 to August 31), nesting raptors (January 15 to July 15), least Bell's vireo (March 15 to September 15), or migratory birds (February 15 to August 31), a biologist shall conduct pre-construction surveys in suitable nesting habitat adjacent to the construction area to determine the location of any active nests in the area and whether these species occur within areas potentially impacted by noise. The preconstruction surveys shall not begin more than seven days prior to the start of construction. If there are no nesting birds (includes nest building or other breeding/nesting behavior) within or adjacent to the potential impact area, grading and clearing shall be allowed to proceed. Take of coastal sage scrub and coastal California gnatcatcher under the federal Endangered Species Act shall be in accordance with the measures specified in the permit issued by USFWS and take precedence over these measures.

If any special-status avian species are observed nesting or displaying breeding/nesting behavior within or adjacent to the potential impact area, construction in that area shall be postponed until all nesting (or breeding/nesting behavior) has ceased or until after August 31 (September 15 for least Bell's vireo). In such a case, operation of loud noise-generating equipment shall not occur within a distance agreed upon by the Wildlife Agencies and the City of Encinitas (typically 300 feet to 500 feet) from an active nest during the respective breeding seasons until the following occurs:

- a) a qualified biologist determines the nest(s) is no longer active or until after the respective breeding season; or
- b) a temporary noise barrier or berm is constructed at the edge of the development footprint and/or around the piece of equipment to ensure that noise levels are reduced to below 60 dBA or ambient. Decibel output will be confirmed by a noise specialist and intermittent monitoring by a qualified biologist to ensure that conditions have not changed will be required. If pre-construction surveys identify coastal California gnatcatcher, nesting raptors, or least Bell's vireo, blasting will be restricted to the non-breeding season for the identified birds (September 1 to February 14 for coastal California gnatcatcher; July 16 to January 14 for nesting raptors; and September 16 to March 14 for least Bell's vireo) or be completed using wholly chemical means.

DOCUMENTATION: The applicant shall provide a letter of agreement with this condition.

TIMING: Prior to preconstruction conference and prior to any clearing, grubbing, trenching, grading, or any land disturbances and throughout the duration of the grading and construction, compliance with this condition is mandatory unless the requirement is waived by the City of Encinitas upon receipt of concurrence from the Wildlife Agencies.

MONITORING: The City of Encinitas inspector shall not allow any grading in the development footprint during the specified dates unless a concurrence from Development Services is received. The City of Encinitas shall review the concurrence letter.

- 41. BIO-11. Prior to construction permit issuance, grading and building plans shall specify the following:
 - Employees shall strictly limit their activities, vehicles, equipment, and construction materials to the fenced project footprint.
 - To avoid attracting predators, the project site shall be kept as clean of debris as possible. All food related trash items shall be enclosed in sealed containers and regularly removed from the site.
 - Pets of project personnel shall not be allowed on the project site.
- 42. BIO-12. All construction activity adjacent to wetland habitat areas shall be required to adhere to measures outlined in the City's Grading, Erosion, and Sediment Control Ordinance to avoid degradation to wetland habitat from erosion. These measures include restrictions on the timing and amount of grading. For example, grading shall be prohibited during the rainy season (October 1st through

April 15th) without an approved erosion control plan and program in place. Grading or vegetation removal shall be prohibited adjacent to wetland areas during the rainy season unless determined to be allowable on a site-specific basis with the provision of all necessary erosion control devices, which must be in place and maintained throughout the grading period.

SCB The following Engineering-related conditions shall be completed and/or fulfilled to the satisfaction of the Engineering Department:

1. **Special – Survey Monuments:** The existing survey monuments shall be referenced on the grading plan and shall be protected in-place. If any monument is disturbed or destroyed it shall be replaced by a licensed land surveyor and a Corner Record or Record of Survey shall be filed with the County prior to release of securities and/or building occupancy.
2. **Special – Fees:** The applicant shall pay all applicable mitigation and impact fees including but not limited to Traffic Mitigation fees and Wastewater Capacity fees. These impact fees shall be paid in full prior to occupancy or use and reliance on the Discretionary Permit.
3. **Special – Boundary Walls:** All retaining walls proposed on the property boundary shall be capable of withstanding a surcharge.
4. **Special – Street Light:** The owner shall provide streetlight(s) as required by the City of Encinitas Road Standards and Municipal Code 23.36.110.
5. **Special – Project Final Approval:** The Preliminary Grading Plan, Hydrology Study and Storm Water Quality Management Plan are conceptually deemed complete and shall be reviewed and approved prior to issuance of a grading permit.
6. **Special – Site Management Plan (SMP):** Prior to a grading permit, owner/developer must prepare a site management plan (SMP) for implementation during land clearing, excavation, and grading activities at the site. The SMP shall document the proper procedures for identifying, handling, and disposing of potential environmental issues that may be encountered during construction. Potential environmental issues and contaminants of concern are but not limited to asbestos containing building material, lead containing building material and soil near the existing building, TPH-impacted soil, organochlorine pesticides, equipment, landscape materials, agricultural supply containers, drums, and other trash and debris.
7. **Special – Construction Phasing Plan:** A construction phasing plan shall be provided clearly indicating the type of permits required for the phase of work being performed.
8. **Special – Storm Drain Maintenance Easement:** A storm drain maintenance easement shall be granted to the benefit of the City of Encinitas for the purpose of maintaining both the inlet of the proposed box culvert at the northerly side of Private Street “A” of the project site and the section of the proposed 84-inch public storm drain to the satisfaction of the public works department.

9. **Special – Public Storm Drain:** The proposed 84-inch storm drain along the private driveway which collects public water from north of the project site shall be dedicated as a public storm drain along with applicable easement(s). An encroachment maintenance removal agreement shall be made for that portion through the project site, and the City shall take no responsibility for those areas damaged within the easement due to required repairs and maintenance.
10. **Special -** The approval of the SWQMP for this project is conceptual only and will require final review and approval prior to issuance of any grading or construction permits.
11. **Street – Dedication per Document:** The owner shall dedicate to the City of Encinitas a varied width per the approved plans for Public Street Right-of-Way subject to the terms and conditions set forth in the City of Encinitas Resolution 2009-52 adopted October 28, 2009 to the City of Encinitas along the property frontage to Quail Garden Drive to ensure a property line to center line distance of 35 feet per the City Public Works Standard. The plat, existing legal description, and easement legal description including lot closures shall be included with the grading permit application.
12. **Utility – Underground Existing Services:** All existing overhead utility services to the property shall be reconstructed underground and the overhead lines removed. The existing joint SDG&E transmission/distribution pole shall be exempt from this condition of approval.
13. **Stormwater – Trash Enclosures:** All existing and proposed trash enclosures shall be fitted to comply with Stormwater Best Management Practice requirements. The enclosure shall be lockable and locked when not in use. A wide berm shall be installed at all openings to hold in any liquids that escape from the dumpster and to prevent any flow of stormwater through the trash enclosure area. The berm can be designed wide and flat to allow rolling of the dumpster in and out. The enclosure shall be self-contained and may drain into the public sanitary sewer system if feasible. A separate building permit may be required for this structure.
14. The existing 48-inch concrete masonry pipe within the proposed open space easement shall be privately maintained by the property owner and any other successors.
15. **Streets – Traffic Control Plan:** Prior to commencement of any work in the public right-of-way or other work that may cause a traffic disturbance, the applicant shall obtain approval of a Traffic Control Plan from the City's Traffic Engineering division, as necessary. During construction and until the issuance of a certificate of occupancy of the final dwelling unit, the construction vehicles and related equipment shall not utilize Kristen Court unless the City Engineer deems it necessary.

SCC The following Fire-related conditions shall be completed and/or fulfilled to the satisfaction of the Fire Department:

1. **AD HOC -** All elevators shall be designed to accommodate a standard ambulance gurney.

2. **AD HOC** - Fire apparatus access roads shall be designed and maintained to support the imposed loads of fire apparatus not less than 75,000 lbs. and shall be provided with an approved paved surface to provide all-weather driving capabilities.
3. **AD HOC** - Knox box or Knox vault shall be required.
4. **AD HOC** - MAP DIRECTORIES: A lighted directory map, meeting current fire department standards, shall be installed at each driveway entrance to multiple unit residential projects and mobile home parks, where the numbers of units in such projects exceed 15 and for large commercial developments, where deemed necessary by the FAHJ. CFC Section 505.1
5. **AD HOC** – A fire equipment control room in compliance with Section 321.2 of City Ordinance 2022-12 is required in each building.
6. **AD HOC - Dead Ends:** All dead-end fire access roads in excess of 150 feet in length shall be provided with an approved area for turning around fire apparatus.
7. **AD HOC – Roundabout:** Roundabouts shall meet fire department access requirements. Curbs shall be mountable/rolled with a maximum height of four inches. No objects shall impede fire access allowed in all mountable/raised areas including signs and vegetation

SCD The following Geotechnical-related conditions shall be completed and/or fulfilled to the satisfaction of the Engineering Department:

1. The geotechnical consultant shall submit an updated soil removal plan. As part of this plan, there shall be a Health and Safety plan prepared for the work. In addition, additional testing shall be performed. The site remediation and hazardous material removals shall be performed once the grading permit has been approved but be performed prior to the grading operation.
2. The updates for the grading plan shall make it clear that all undocumented fill and colluvium/alluvium within the upper 10 feet of existing or proposed grade shall be removed as part of the grading process for areas with structures not supported by deep foundations Undocumented fill shall be removed within the deep foundations areas. Actual removal elevations shall be surveyed by the project applicant/owner civil engineer.
3. No building permits shall be approved until the results of the settlement monitoring operation has clearly demonstrated that primary consolidation has been completed and the site is in secondary consolidation in areas not supported by deep foundations. The City has a six-month settlement monitoring requirement but will consider data and statements from the geotechnical consultant for the project that primary settlement has occurred prior to six months.
4. The geotechnical consultant for the project applicant/owner shall provide an estimate of future anticipated settlement when approving the site for building permits as a result of settlement readings.

5. As part of the building permit submittal and the grading permit submittal, the applicant/owner's geotechnical consultant shall provide a statement and recommendation of foundation designed selected by the project structural engineer. The applicant/owner's geotechnical consultant shall also perform lateral pile capacity analysis for the foundation design, if required.
6. The applicant/owner's geotechnical engineer will provide a ground motion analysis for the site if requested by the project structural engineer.
7. The developer and structural engineer shall provide the foundation selection based upon the recommendations provided by the geotechnical engineer.
8. The design civil engineer shall provide a map showing manufactured slope that exist on the site prior to grading.

SCE The following conditions shall be completed and/or fulfilled to the satisfaction of the Olivenhain Municipal Water District (OMWD):

1. **OMWD SCA:** The developer shall comply with OMWD's fees, charges, rules, and regulations.
2. **OMWD SCB:** The developer shall show all existing and proposed water facilities on improvement and/or grading plans for OMWD and San Dieguito Water District (SDWD) approval.
3. **SDWD Ad-Hoc 01 Annexation Requirements:** APN 257-020-31 (749 Mays Hollow Lane) and APN 258-130-90 (797 Mays Hollow Lane, previous APN 258-131-90) are currently served by OMWD. The project shall annex portions of the property into SDWD along with adjacent properties. The annexation/de-annexation was approved by LAFCO on November 4, 2014. As a condition of the annexation process, properties that were served by OMWD are required to have their water service's reestablished with SDWD by the project, at the developer's expense including all capacity fees. These parcels are:
 - a. APN 257-020-31 (749 Mays Hollow Lane) is currently served by OMWD. A new water service and water meter shall be constructed through the project to allow for SDWD to serve the parcel. A private water utility easement through the project shall be required. The developer shall be responsible for entering into an agreement with the parcel owner to re-establish the property's water service, including the private side improvements and associated easements. The work shall be completed either by the project owner or at the project's sole expense and prior to the installation of this project's last SDWD domestic water meter. Following the property's connection to SDWD, the project shall cut and abandon the existing OMWD service at the OMWD main.
 - b. APN 258-131-08 (797 Mays Hollow Lane, previous APN 258-131-90) is currently served by OMWD. A new water service and water meter shall be constructed through the project to allow for SDWD to serve the parcel. A private water utility easement dedicated to the parcel owner through the project shall be required. The developer shall be responsible for entering into an agreement with the parcel

owner to re-establish the property's water service, including the private side improvements and associated easements. The work shall be completed at the project's sole expense and prior to the installation of this project's last SDWD domestic water meter. Following the property's connection to SDWD, the project shall cut and abandon the existing OMWD service at the OMWD main.

SCF The following Park, Recreation and Beach-related conditions shall be completed and/or fulfilled to the satisfaction of the Parks, Recreation, and Cultural Arts Department:

1. General Parks Condition - Property Owner shall maintain landscape and irrigation along Quail Gardens Drive property frontage. The City's Parks, Recreation and Cultural Arts Department has existing irrigation valves in the parkway between station coordinate numbers 18+00 to 19+00. Applicant shall coordinate removal of these valves with the City. Lateral lines shall be abandoned. The valves quick couplers ball valves and irrigation valves including boxes shall be returned to the Parks, Recreation and Cultural Arts Department.

SCG The following conditions shall be completed and/or fulfilled to the satisfaction of the San Dieguito Water District.

1. **SDWD Ad-Hoc 01 Annexation Requirements:** The project was required to annex portions of the property into SDWD along with adjacent properties. The annexation/de-annexation was approved by LAFCO on November 4, 2014. As a condition of the annexation process, properties that were served by OMWD are required to have their water service's reestablished through the project, at the project's expense including all fees. These parcels are:
 - a. APN 257-020-26 is currently served by SDWD. No improvements are required.
 - b. APN 257-020-31 (749 Mays Hollow Lane) is currently served by OMWD. A new water service and water meter shall be constructed through the project to allow for SDWD to serve the parcel. A private water utility easement dedicated to the parcel owner through the project shall be required. The developer shall be responsible for the re-connection of the property's water service at the project's sole expense. The developer shall be responsible for entering into an agreement with the parcel owner to re-establish the property's water service, including the private side improvements and associated easements. The work shall be completed at the project's sole expense and prior to the installation of this project's last SDWD domestic water meter.
 - c. APN 258-131-08 (797 Mays Hollow Lane). A new water service and water meter shall be constructed through the project to allow for SDWD to serve the parcel. A private water utility easement dedicated to the parcel owner through the project shall be required. The developer shall be responsible for the re-connection of the property's water service at the project's sole expense. The developer shall be responsible for entering into an agreement with the parcel owner to re-establish the property's water service, including the private side improvements and associated easements. The work shall be completed at the project's sole expense and prior to the installation of this project's last SDWD domestic water meter.

- d. APN 257-020-38 (765 Mays Hollow Lane). A new water service and water meter shall be constructed through the project to allow for SDWD to serve the parcel. A private water utility easement dedicated to the parcel owner through the project site shall be required. The developer shall be responsible for entering into an agreement with the parcel owner to re-establish the property's water service, including the private side improvements and associated easements. The work shall be completed at the project's sole expense and prior to the installation of this project's last SDWD domestic water meter.
2. **SDWD Ad-Hoc 02 Annexation Requirements:** A reserved private water utility easement for APN 257-020-38 shall be required for the possible future relocation of the property's existing water meter into the project.
3. **SDWD Ad-Hoc 03 Water System – Valves:** In Quail Gardens Drive, the existing 16-inch water main is at a depth that will not allow for 16-inch resilient wedge gate valves to be installed and meet the standard depth of cover criteria. Class 150B stainless steel seated triple-offset butterfly valves shall be installed on the 16-inch branches of tee(s) in Quail Gardens Drive.
4. **SDWD Ad-Hoc 04 Trees:** All proposed trees shall be located a minimum of 5-feet (from outside edge of tree box to outside edge of water main) from all existing and/or proposed SDWD infrastructure.
5. **SDWD Ad-Hoc 05 Water Quality Analysis:** A water quality/age of water analysis shall also be completed to verify that state mandated water quality can be met without requiring on-going water flushing to maintain required levels.

SCH The following Traffic-related conditions shall be completed and/or fulfilled to the satisfaction of the Engineering Department:

1. Prior to occupancy, the applicant shall construct traffic signal modifications at Quail Gardens Drive/Westlake Street and Encinitas Boulevard which includes installing a right-turn overlap phase at the westbound approach (Encinitas Boulevard) and the southbound approach (Quail Gardens Drive), including the appropriate signal equipment, signage, and signal timing. The applicant shall provide, for review and approval, a traffic signal improvement plan and signal timing plan as part of the public improvement plans to the satisfaction of the City Engineer.
2. The applicant shall submit a signing and striping plan for Quail Gardens Drive and Kristen Court as part of the public improvement plans to the satisfaction of the City Engineer.
3. Traffic signal improvements shall include traffic signal optimization and/or installing adaptive signal timing at the intersection of Quail Gardens Drive/Westlake Street and Encinitas Boulevard, as identified in the Local Transportation Analysis, to the satisfaction of the City Engineer. Signal timing at adjacent intersections located along the Encinitas Boulevard corridor shall be considered prior to the signal optimization.

4. Left-turn movements shall be restricted at the secondary project driveway along Quail Gardens Drive. The driveway is to function as right-in/right-out only as identified in the Local Transportation Analysis. Roadway median and signage improvements shall be designed, as part of the public improvement plans, and installed to the satisfaction of the City Engineer.
5. The project plans include a roundabout at the project entry. Roundabouts are currently not in the adopted Public Road Standards. Therefore, City Council approval for such improvement type is required prior to the issuance of any public improvement permits for the roundabout.
6. If the roundabout mentioned in Condition SCH 5 is approved by City Council, it shall be designed to include pedestrian crosswalks, splitter islands, curb ramps, bike ramps, striping, and signage with a maximum inscribed circle diameter of 90 feet between face of the splitter islands. The roundabout shall be designed with consideration of all public safety, traffic, and public works requirements, including maintenance. The design of the roundabout shall be to the satisfaction of the Fire Department and City Engineer. Should the roundabout require private property acquisition to the west, alternative project entry improvements may be accepted to the satisfaction of the Fire Department and City Engineer. Prior to construction of the roundabout, the applicant shall obtain an encroachment permit and prepare traffic control plans before starting work in the City right-of-way.
7. All improvements above shall be designed and constructed to the satisfaction of the City Engineer.
8. The applicant shall pay Traffic Mitigation Fees prior to building permit issuance.
9. The City's Engineering Department has a Capital Improvement Program (CIP) project to design and construct a sidewalk/pedestrian pathway on the west side of Quail Gardens Drive to the San Diego Botanic Garden, approximately between Kristen Court and Paseo De Las Verdes. Prior to building permit issuance, the applicant shall pay a fair share contribution for the improvements. The fair share contribution will be equivalent to 7.4 percent, as based upon the project's linear frontage of 998 feet divided by the combined (west and east side) linear frontage of Quail Gardens Drive (between Encinitas Boulevard and Leucadia Boulevard) at approximately 13,555 feet. The fair share contribution shall be for the cost of the remaining design and construction of the project improvements. The fair share contribution shall be to the satisfaction of the City Engineer.

SCI The following Capital Improvement Projects-related conditions shall be completed and/or fulfilled to the satisfaction of the Engineering Department:

1. Prior to issuance of the grading permit, the owner shall be responsible for the construction of public improvements along the property frontage. Quail Gardens Drive was overlaid in November 2021, and is in a trenching moratorium until November 2026. Any trenching in the street prior to this date shall require City Engineer approval and potentially full street slurry.

SCJ The following Sustainability-related conditions shall be completed and/or fulfilled to the satisfaction of the Development Services Department:

1. Consistent with the Resource Management Element of the Encinitas General Plan (Specifically Policies 8.6 and 10.3), the applicant shall work with the Sustainability Division to determine the feasibility of exporting all or a portion of the proposed 127,000 cubic yards of proposed export earth material to the local beaches, consistent with the City's Opportunistic Beach Fill Program (OBFP) and utilize the approved Sand Compatibility and Opportunistic Use Program (SCOUP) protocol to the satisfaction of the Development Services Department.
2. The applicant shall provide and pay for the processing and fees associated with the required Sampling and Analysis Plan (SAP), Sampling and Analysis Plan Results (SAPR) Plan and Project Notification Report (PNR) through the required agencies as part of the SCOUP protocol. A qualified monitor shall be required onsite before, during and after placement of the material. Core sampling shall be done in the locations and depths to the satisfaction of the City. Said documents shall be consistent with the United States Army Corps of Engineers Los Angeles District and United States Environmental Protection Agency Region 9 standards prior to grading permit issuance.
3. Said costs to provide the required soil testing required as part of the Sampling and Analysis Plan/Results Plan (SAP and SAPR, respectively) for both the subject site fill removal location and to the beach recipient locations of where the potential beach compatible sand sediment could be placed and the contracting of a qualified monitor, outlined in the Project Notification Report (PNR) to monitor said work, shall be paid for and provided by the applicant. Additionally, the material that is determined to be compatible for beach nourishment and placement consistent with the SCOUP protocol, shall be hauled to the beach at the cost of the applicant. Traffic Control Plans and Haul Route plans shall be submitted in coordination with the grading plan for the City to review prior to grading permit issuance.
4. Upon haul routing the approved sand compatible beach nourishment material to the local beaches, the applicant shall be responsible to maintain a clean premises at the subject grading permit site, as well as along the reaches of the haul route(s) limit(s) and at the beach recipient location or locations at all times to the satisfaction of the Development Services Department.

STANDARD CONDITIONS:

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

- A 01** **Approval - General:** At any time after two years from the date of this approval, on **October 3, 2026** at 5 p.m., or the expiration date of any extension granted in accordance with the Municipal Code, the application shall be deemed expired as of the above date.
- A 02** **Approval - General:** This approval may be appealed to the City Council within 10-calendar days from the date of this approval in accordance with Chapter 1.12 of the Municipal Code.

- A 04** **Approval - General:** This project is conditionally approved as set forth on the application and project drawings consisting of **163 sheets** including the Architectural Plans (49 Sheets), Civil Plans (30 Sheets), Landscaping Plans (35 Sheets), Sign Plans (12 sheets), Density Bonus Report (Nine sheets) and Affordable Housing Plan (28 Sheets), and all technical studies and application material, all designated as approved by the **Planning Commission on October 3, 2024**, and shall not be altered without express authorization by the Development Services Department.
- A 06** **Approval - General:** All conditions of approval for Planning Commission Resolution No. PC-2008-11 (Case No. 05-002 TM/MUP/DR/CDP) dated March 20, 2008 shall be deemed null and void.
- A 08** **Approval - General:** Approval of this request shall not waive compliance with any sections of the Municipal Code and all other applicable City regulations in effect at the time of Building Permit issuance unless specifically waived herein.
- A 09** **Approval - General:** Prior to any use or issuance of final occupancy of the project site pursuant to this permit, all conditions of approval contained herein shall be completed or secured to the satisfaction of the Development Services Department.
- A 10** **Approval - General** Permits from other agencies will be required as follows: **San Diego County Department of Environmental Health, U.S. Fish and Wildlife Service, Olivenhain Municipal Water Service**
- CT/SO 01** **Construction Trailers/Sales Office:** Any and all temporary construction trailers or sales offices, used during the course of development, shall be removed prior to the issuance of Certificate of Occupancy to the satisfaction of the Development Services Department.
- COV 01** **Covenants:** Prior to Grading Permit issuance, the owner shall cause a covenant regarding real property to be recorded. Said covenant shall set forth the terms and conditions of this grant of approval and shall be of a form and content satisfactory to the Development Services Director.
- DR 01** **Design Review:** Any future modifications to the approved project will be reviewed relative to the findings for substantial conformance with a Design Review Permit contained in Section 23.08.140 of the Municipal Code. Modifications beyond the scope described therein may require submittal of an amendment to the Design Review Permit and approval by the authorized agency.
- DR 03** **Design Review:** All project grading shall conform with the approved plans. If no grading is proposed on the approved plans, or subsequent grading plans are inconsistent with the grading shown on the approved plans, a Design Review Permit for such grading shall be obtained from the authorized agency of the City prior to issuance of Grading or Building Permits.
- DR 04** **Design Review:** Decorative use of neon or LED tubing or banding, such as tubing around windows or doors or banding around the building exterior, shall not be allowed unless approved through subsequent Design Review Permit modification(s).

DF 01

Development Fees: The applicant shall pay development fees at the established rate. Such fees may include but are not limited to: permit and plan checking fees, water and sewer service fees, school fees, traffic mitigation fees, flood control mitigation fees, park mitigation fees, and fire mitigation, and fire cost recovery fees. **All plan check, permit, and service fees shall be paid in accordance with the table below to the satisfaction of the applicable Department Director or designee.** The applicant is advised to contact the Development Services Department regarding Park Mitigation Fees (Planning Division), Flood Control and Traffic Fees (Engineering Division), applicable School District(s) regarding School Fees (Building Division), Fire Mitigation/Cost Recovery Fees (Fire Department), and the applicable Utility Departments or Districts regarding Water and/or Sewer Fees.

Fee Name	Department/Division	Timing for fee collection ¹
Affordable Housing Monitoring Fee	Planning Division	Prior to building permit issuance
Fire mitigation fee	Fire Prevention	Prior to building permit issuance
Fire cost recovery fee	Fire Prevention	Prior to building/fire permit issuance
Flood control mitigation fee	Engineering Division	With grading permit issuance/or prior to final building permit issuance
Inclusionary housing in-lieu fee	Planning Division	Prior to final map recordation or prior to building permit issuance
Parkland acquisition fee	Planning Division	Prior to certificate of occupancy
Parkland development fee	Planning Division	Prior to certificate of occupancy
Plan check fee	Building, Engineering, Fire Prevention and Planning Divisions	At plan check submittal
Permit fee	Building Division and Engineering Division	At permit issuance
School fees	Building Division	Prior to building permit issuance
Traffic mitigation fee	Engineering Division	Prior to building permit issuance

Water and sewer fee	Engineering Division	Prior to permit issuance
¹ Initiating use in reliance on this approval may apply when no permits required.		

- EM 01** **Electrical and Mechanical Equipment:** All roof-mounted equipment and appurtenances, including air conditioners and their associated vents, conduits, and other mechanical and electrical equipment, shall be architecturally integrated, and shall be shielded from view and sound buffered to the satisfaction of the Development Services Department. Note: All rooftop equipment shall be assumed visible unless demonstrated otherwise to the satisfaction of the Development Services Department, and adequate structural support shall be incorporated into building design. Rooftop vent pipes shall be combined below the roof and shall utilize decorative caps where visible from any point.
- EM 02** **Electrical and Mechanical Equipment:** All ground-mounted mechanical and electrical equipment shall be screened, and sound buffered through use of a wall, fence, landscaping, berm, or combination thereof and shall be designed to be compatible with the primary building's exterior to the satisfaction of the Development Services Department.
- ESA 01** Prior to Grading Permit issuance for any portion of the project site, proof of an incidental take permit issued under Section 7 or Section 10a of the Endangered Species Act shall be provided to the Development Services Department. If such permit is not required, written verification to that effect from the U.S. Fish and Wildlife Service shall be provided. Any project redesign in obtaining a Section 7 or Section 10a permit may require reconsideration by the appropriate City decision-making body.
- HC 01** **Height Certification:** Prior to issuing a final inspection on framing, the applicant shall provide a survey from a licensed surveyor or a registered civil engineer verifying that the building height is in compliance with the approved plans. The height certification/survey shall be supplemented with a copy of the site plan and elevations depicting the exact point(s) of certification to the satisfaction of the Development Services Director. The engineer/surveyor shall contact the Development Services Department to identify and finalize the exact point(s) to be certified prior to conducting the survey.
- H 01** **Housing:** Projects involving a subdivision or development proposal involving 20 or more residential units shall be required to provide an Affirmative Fair Housing Marketing Plan or provide evidence that the developer/builder is a Voluntary Affirmative Marketing Agreement (VAMA) signatory and has paid the required per unit fee for VAMA administration. The Affirmative Fair Housing Marketing Plan/evidence of being a VAMA signatory must be found satisfactory by the Development Services Department prior to approval of a Final Map, Final Parcel Map, or issuance of Building Permits, whichever comes first.
- H 02** **Housing:** Prior to **Grading Permit** issuance, the developer shall execute and record a regulatory agreement and declaration of covenants, conditions, and restrictions for affordable housing units satisfactory to the Development Services

Department, in a form approved by the City Attorney, to be executed by the City Manager, reserving 90 units as affordable housing units. Said agreement/covenant shall include language that the inclusionary (affordable) housing units shall be reserved in perpetuity in accordance with the Affordable Housing Plan and the density bonus (affordable) housing units shall be reserved for a minimum of 55 years. If required by the construction, or mortgage financing assistance program, mortgage insurance program, or rental subsidy program, the units shall be reserved for a longer period. Agreement/covenant shall specify affordability levels based on the regional median income levels as identified in the table below. Income levels and affordable housing payments are established by California Department of Housing and Community Development (HCD) on an annual basis. The agreement/covenant shall identify the type, size, and location of each affordable unit; and shall specify phasing of the affordable units in relation to the market-rate units consistent with the approved affordable housing plan and any adopted affordable housing guidelines, as determined by the City Manager or designee.

Number of Units	Affordability Level	Area Median Income (AMI)	Deed Restriction
45	Low	80 Percent	Perpetuity
45	Low	80 Percent	55 years

H 03 **Housing:** The City may not issue Building Permits for more than 50 percent of the market rate units, until it has issued Building Permits for all of the affordable units, and the City may not approve any final inspections or certificates of occupancy for more than 75 percent of the market rate units until it has issued final inspections or certificates of occupancy for all of the affordable units. The final approval body of the City and developer may agree on an alternative schedule for development that is included in the affordable housing agreement.

H 04 **Housing:** Affordable units shall be comparable in exterior appearance and overall quality of construction to market-rate units in the same housing development. Interior finishes and amenities may differ from those provided in the market rate units, but neither the workmanship nor the products may be of substandard or inferior quality as determined by the City. The affordable units shall have the same minimum number of bedrooms as the market-rate units, and the unit mix for the affordable units shall be proportional to that of the market-rate units.

I 01 **Indemnification:** To the maximum extent permitted by law, the Owner(s) shall waive any claims of liability against the City, and shall indemnify, hold harmless and defend the City of Encinitas, and its agents, officers and employees from and against any and all actions, claims, damages, liabilities and/or proceedings arising from: (i) the City's approval of any and all entitlements or permits relating to the project; (ii) any injury to or death of any person, or damage or injury of any kind to property which may arise from or be related to the direct or indirect operations of the Owner(s) or its contractors, subcontractors, agents, employees, or other persons acting on the Owner(s)'s behalf relating to the project; and (iii) the operation of the project.

The Owner(s) agree to execute an indemnity agreement provided by the City prior to **Grading Permit issuance** and the Development Services Director, or designee,

is hereby authorized to execute the same. The Owner(s) further agree that such indemnification and hold harmless shall include all defense related fees and costs associated with the defense of the City by counsel approved by the City. This indemnification shall not terminate upon expiration of the conditions of approval or completion of the project but shall survive in perpetuity.

- L 01 Landscaping:** The project *is* subject to Chapter 23.26 of the Municipal Code (Water Efficient Landscape Program), which requires a landscape and irrigation plan to be prepared by a State licensed landscape designer. The requirements for the plans are listed in Chapter 23.26. The landscape and irrigation plans, including the required signature block of the State licensed landscape designer, must be submitted as part of the Building Permit application for the project.
- L 03 Landscaping:** All landscaping for parking areas and driveways shall conform with Chapter 30.54 of the Municipal Code and the City's Off-street Parking and Design Manual incorporated by reference therein.
- L 04 Landscaping:** All landscaping, fences, walls, etc. on the site and in any adjoining public parkways (the area between the front property line and the street) shall be permanently maintained by the owner, assigns or any successors in interest in the **property**. The maintenance program shall include normal care and irrigation of the landscaping; repair and replacement of plant materials and irrigation systems as necessary; and general cleanup of the landscaped and open areas, parking lots and walkways, walls, fences, etc. Failure to maintain landscaping and the site in general may result in the setting of a public hearing to revoke or modify the approval.
- L 05 Landscaping:** Upon completion of the installation of the landscaping and the irrigation system, a final field observation shall be conducted, and a certification of substantial completion shall be provided to the City. The certificate shall specifically indicate that plants were installed as specified and that the irrigation system was installed as designed. The certificate of substantial completion shall be completed and signed by a State licensed landscape architect, landscape contractor, or an irrigation designer who also holds a State license in the landscape field.
- L 06 Landscaping:** The project shall provide 50 percent of the total landscape area as southern California native landscaping.
- P01 Parking:** Parking lot lights shall have a maximum height of 18 feet from the finished grade of the parking surface, and the light source shall be directed away from all property lines, adjacent streets, and residences.
- P02 Parking:** Parking lot layout and improvements shall meet the standards of the Municipal Code and the Off-Street Parking Design Manual.
- P03 Parking:** Parking area shall be screened from adjacent properties and/or public view with decorative wall(s) and/or landscaping. Said screening shall be reviewed and approved by the Development Services Department prior to Building or Grading Permit issuance.

- P04** **Parking:** Garages enclosing required parking spaces shall be available and usable for the parking of owner/tenant vehicles at all times, and not be rented or conveyed separately from the appurtenant dwelling unit without City approval.
- PC 01** **Pest Control:** Prior to issuance of the Demolition Permit, the applicant shall notify the neighborhood of the upcoming abatement and demolition work, as well as provide evidence that a qualified pest control consultant has abated any rodents/pests from the structures or site to the satisfaction of the Development Services Department.
- SSO 01** **Security, Safety and Operations:** Prior to issuance of a **Grading Permit issuance**, a Security, Safety, and Operations plan shall be submitted and approved by the Development Services Department and the Fire Department. Such plan shall include, but not be limited to, the following items (as applicable): site location, owner info, 24-hour emergency contact info, safety and perimeter fencing, access location(s), loading/unloading zones, onsite/offsite circulation, worker parking and signage, temporary parking lot location/design, neighborhood traffic flow, model home phasing and fencing, large vehicle turnaround areas, signage for haul routes per EMC 23.24.410, construction trailer location, hours of grading and building permit operations, City tree protection zones, hours of hauling (i.e. school routes, prime arterials, impacted streets, etc.), and construction phasing.
- SIGN 01** **Signs:** Any signs proposed for this development shall be designed and approved in conformance with Encinitas Municipal Code Chapter 30.60.
- SIGN 02** **Signs:** Temporary subdivision advertising signs and any model home and information signage shall be submitted to the Development Services Department for review and approval prior to issuance of Building Permits.
- SIGN 03** **Signs:** Signs are approved as submitted and as shown in the approved project plans or sign program. Any alteration/addition to the approved signs not exempted in Municipal Code Chapter 30.60 may require a permit amendment, and the applicant shall contact the Development Services Department prior to undertaking any such modification.
- SIGN 04** **Signs:** Temporary window signs are limited to 25 percent of window area in accordance with Section 30.60.060 (N) of the Municipal Code.
- TE 01** **Trash Enclosures:** New or retrofitted trash enclosure(s) shall be constructed of masonry with an exterior compatible with that of the building(s) and shall be provided with view-obstructing solid metal gates as approved by the authorized agency. Adequate space for recyclable materials shall be provided within the enclosure in accordance with Municipal Code requirements. The applicant shall review the design of the trash enclosure with the service provider and receive approval prior to Building Permit issuance.
- UTILITY 01** **Utility Connections:** All utility connections shall be designed to coordinate with the architectural elements of the site so as not to be exposed except where necessary. Locations of pad mounted transformers, meter boxes, and other utility related items shall be included in the site plan submitted with the Building Permit

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

UTILITY 02 Utility Connections: Building plans for all new residential units and commercial structures shall include installation of wiring for current or conduits for future installation of photovoltaic energy generation system(s) and an electric vehicle charging station.

WF 01 Walls and Fences: All retaining and other freestanding walls, fences, and enclosures shall be architecturally designed in a manner similar to, and consistent with, the primary structures (stucco-coated masonry, split-face block, slump stone, etc.). These items shall be approved by the Development Services Department prior to the issuance of *grading permits*.

WF 02 Walls and Fences: Any wall, fence or combination thereof exceeding six feet in height and facing any neighboring property or visible from the public right-of-way shall be subject to design review pursuant to Section 23.08.040.A.1 of the Encinitas Municipal Code. Where a minimum two feet horizontal offset is provided, within which screening vegetation is provided to the satisfaction of the Development Services Department, the fence/wall may not be considered one continuous structure for purpose of measuring height and may be exempted from design review provided none of the offset fences or walls exceed six feet in height.

WF 03 Walls and Fences: All masonry freestanding or retaining walls visible from points beyond the project site shall be treated with a protective sealant coating to facilitate graffiti removal. The sealant shall be of a type satisfactory to the Development Services Department. The property owner shall be responsible for the removal in a timely manner of any graffiti posted on such walls.

BUILDING CONDITION(S):

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

BLDG 01 Commercial and Multi-Family Residential: The applicant shall submit a complete set of construction plans to the Development Services Department for building permit plan check processing. The submittal shall include a Soils/Geotechnical Report, structural calculations, and State Energy compliance documentation (Title 24). Construction plans shall include a site plan, a foundation plan, floor and roof framing plans, floor plan(s), section details, exterior elevations, and materials specifications. Submitted plans must show compliance with the latest adopted editions of the California Building Code (The Uniform Building Code with California Amendments, the California Mechanical, Electrical and Plumbing Codes). Commercial and Multi-residential construction must also contain details and notes to show compliance with State disabled accessibility mandates. These comments are preliminary only. A comprehensive plan check will be completed prior to permit issuance and additional technical code requirements may be identified and changes to the originally submitted plans may be required.

- BLDG 03 Water and Sewer:** Prior to the Building Division approving the connection from the buildings to the private sewer or water systems located in the private right of way, the civil engineer responsible for the design and the inspector responsible for the system inspection must certify in writing to the City Engineer that the sewer and/or water systems were designed and constructed in accordance with the utility district or agency standards for public systems.
- EV 02 Electric Vehicle Charging:** New multi-family dwellings shall be equipped with fully operational electric vehicle supply equipment for at least 15% of the total number of parking spaces, but in no case less than one space. See Encinitas Municipal Code 23.12.110.
- GWS 02 Greywater Systems:** The greywater system shall be identified on the Building Permit construction plans and installed to the satisfaction of the Building Official prior to Final CO or occupancy.
- SPV 01 Solar Photovoltaic Panels:** All newly constructed low-rise residential buildings the installed PV system must be big enough to offset the electricity use of the proposed building as if it was a mixed-fuel building. See Section 150.1(c)14 of the California Building Code, Part 6 (Energy Code).

ENGINEERING STANDARD CONDITIONS:

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

Grading

- GRD 01 Grading – Regulations:** All City Codes, regulations, and policies in effect at the time of building/grading permit issuance shall apply.
- GRD 02 Grading – Datum:** All drawings submitted for Engineering permits are required to be based on the NAVD 88 datum; the NGVD 29 datum will not be accepted.
- GRD 03 Grading – Plan:** The applicant shall submit a Grading Plan for review and obtain a Grading Permit prior to the commencement of any clearing or grading of the site. The Grading Plan shall include, but not be limited to, the design for site grading, drainage improvements, erosion control, stormwater pollution control, and on-site pavement.
- GRD 04 Grading – Responsible Charge:** The grading for this project is defined in Chapter 23.24 of the Encinitas Municipal Code. Grading shall be performed under the observation of a civil and geotechnical engineer whose responsibility it shall be to coordinate site inspection and testing to ensure compliance of the work with the approved grading plan, submit required reports to the Development Services Department and verify compliance with Chapter 23.24 of the Encinitas Municipal Code.
- GRD 05 Grading – Offsite Authorization:** No grading shall occur outside the limits of the project boundary and easements unless a letter of permission is obtained from the owners of the affected properties and provided to the Development Services Department.

- GRD 06 Grading – Borrow/Disposal Sites:** Separate grading plans shall be submitted and approved, and separate grading permits issued for borrow or disposal sites if located within the city limits. Import material shall be free of organic material, trash, debris, and environmental contaminants.
- GRD 07 Grading – Slopes:** All newly created slopes within this project shall be no steeper than 2:1.
- GRD 08 Grading – Variable Slopes:** All newly created slopes within this project shall be no steeper than 2:1. Variable slopes should be designed in order to mimic the natural slope appearance. If variable slopes are used, the average slope gradient shall be no steeper than 2:1. The average slope is the horizontal distance “H” to vertical distance “V” measured from the toe to the top of slope. A geotechnical engineer shall verify that the proposed variable slopes have adequate factor of safety against massive and localized failure.
- GRD 09 Grading – Reports:** Geotechnical, Drainage/Hydrology, Stormwater Quality, and Traffic studies/report (as applicable) shall be prepared by a qualified engineer licensed by the State of California to perform such work. The reports shall be submitted with the first grading plan submittal and shall be approved prior to issuance of any grading or improvement permit for the project.
- GRD 10 Grading – Haul Route:** Prior to hauling dirt or construction materials to any proposed construction site within this project the developer shall submit to and receive approval from the Development Services Department for the proposed haul route. The applicant shall comply with Municipal Code section 23.24.410 as well as all conditions and requirements the Development Services Department may impose with regards to the hauling operation.
- GRD 11 Grading – Drainage Plan:** The project’s building plan(s) shall include an engineered drainage and stormwater quality treatment BMP site plan prior to approval of building permit. The plan shall provide at a minimum the design for precise grading, drainage improvements, erosion control, stormwater pollution control, and impervious surfaces.
- GRD 13 Grading – Structural Review:** All proposed temporary shoring and/or non-standard structural retaining wall shall be included as part of the grading plans and will be reviewed by the City’s third-party reviewer. Additional plan check fees shall be required.
- GRD 14 Grading – Blasting:** If the use of explosives and blasting is required to perform the project’s grading, a separate blasting permit issued by the Encinitas Fire Department and the San Diego Sheriff’s Department shall be required.
- GRD 15 Grading – Contaminated Soil:** The project site contains contaminated soils as identified in the project’s Phase II Environmental Site Assessment report. As part of the permitted grading activity for future development of the project site, the developer shall remediate the contaminated material in accordance with the approved Work Plan and Soils Remediation Plan (SRP) prepared by GEOCON, dated May 2, 2023, and conditions of the approval letter issued by San Diego County DEH Voluntary Assistance Program. Pursuant to the provisions of the

Encinitas Municipal Code and as detailed in the Engineering Design Manual, the applicant shall provide adequate notification to the surrounding property owners before any disturbance of contaminated soil.

Drainage Conditions

- DRAIN 01 Drainage – Erosion Control:** An erosion control system shall be designed and installed onsite during all construction activity. The system shall prevent discharge of sediment and all other pollutants onto adjacent streets and into the storm drain system. The City of Encinitas Stormwater Standards Manual shall be employed to determine appropriate stormwater pollution control practices during construction.
- DRAIN 02 Drainage – Drainage System:** A drainage system capable of handling and disposing of all surface water originating within the project site, and all surface waters that may flow onto the project site from adjacent lands, shall be required. Said drainage system shall include any easements and structures required by the Development Services Department to properly handle the drainage.
- DRAIN 03 Drainage – Flood Control Fee:** Pursuant to Municipal Code Chapter 23.96, the applicant shall pay the current adopted Flood Control Fee for the creation of new impervious surfaces prior to issuance of the building or grading permit for this project to the satisfaction of the Development Services Department.
- DRAIN 04 Drainage – Hold Harmless:** The owner of the subject property shall execute and record a covenant holding the City harmless for drainage prior to approval of any grading or building permit for this project.
- DRAIN 05 Drainage – Concentrated Flows:** Concentrated flows across driveways and/or sidewalks shall not be permitted.
- DRAIN 06 Drainage – Flow Rate:** The drainage system shall be designed to ensure that runoff resulting from a 100-year frequency storm underdeveloped conditions is equal to or less than the runoff from a storm of the same frequency and duration under existing conditions. Both 6 hour and 24-hour storm durations shall be analyzed to determine the mitigation necessary to accomplish the desired results.
- DRAIN 07 Drainage – Cross Lot Drainage:** Runoff from this property drains to the adjacent property. The applicant shall design and construct a detention/infiltration basin to receive site runoff discharging onto the adjacent property. The detention/infiltration basin shall be designed to ensure that the impact of the runoff on the adjacent property is less than or equal to the predevelopment condition to the satisfaction of the Development Services Department.

Street Conditions

- ST 01 Street – Right-of-Way Permit:** Prior to any work being performed in the public right-of-way or City easement, a right-of-way construction permit shall be obtained from the Development Services Department and appropriate fees paid, in addition to any other permits required.
- ST 02 Street – Encroachment Agreement:** Private improvements constructed within

the present or future public right-of-way shall be considered temporary. The owner shall enter into an Encroachment Maintenance and Removal covenant agreeing to maintain the improvements in perpetuity and to remove those improvements at the direction of the City.

- ST 07** **Street - Public Easement for Private Streets:** The owner shall dedicate a Public Easement for Private Streets to the City of Encinitas subject to the terms and conditions set forth in the City of Encinitas Resolution 2009-53 over the private road. Said easement grants to the City of Encinitas public rights-of-way uses such as, but not limited to public utilities, signage, trash collection and emergency vehicles.
- ST 08** **Street – Private Maintenance Agreement:** The owner(s) shall record a Private Road and Drainage Facilities Maintenance Agreement against the subject property to ensure private maintenance in perpetuity.
- ST 11** **Street – Structural Section:** The design of all private driveways and drainage systems shall be approved by the Development Services Department prior to issuance of any grading, improvement or building permit for this project. The structural section of all private streets shall conform to City of Encinitas minimum standards or be based on R-value tests, whichever is greater.
- ST 13** **Street – Improvements Standard:** The owner shall construct public improvements along the property frontage of Quail Garden Drive. Street improvements shall include full width AC pavement 2-inch minimum grind and overlay and construction of meandering 5-foot width sidewalk along the entire property frontage. Driveway aprons shall be constructed per SDRSD standards. Any required transitions shall be located outside of the property frontage.
- ST 19** **Street – Curb Returns:** The entrance to the subdivision shall be a standard public & private road intersection with 20' minimum radius curb returns, PCC cross gutter, and ADA compliant pedestrian ramps.
- ST 20** **Street – Pedestrian Ramp:** Standard ADA compliant pedestrian curb ramps shall be required at the curb returns for the public/private road. A public pedestrian easement will be required for any portion of the curb ramp within private property.
- ST 21** **Street – ADA General:** All paths of travel, sidewalks, curb ramps, pedestrian ramps, driveway aprons, etc. shall be designed and constructed in compliance with ADA standards. Prior to completion of the project, each and every facility shall be inspected against the City's Public Right-of-Way Curb Ramp Inspection form.
- ST 23** **Street – Improvement Plans:** All required public improvements shall be designed on a Public Improvement Plan approved by the City and permitted with a Public Improvement Permit. Adequate financial surety shall be posted prior to issuance of a Public Improvement Permit.
- ST 25** **Street – Public Improvement Repairs:** Any portion of the existing sidewalk or any other public improvements damaged during construction shall be repaired

and/or replaced to the next joint to the satisfaction of the Development Services Department.

- ST 26** **Street – Public Facility Protection:** All street signs, lights, lamps, utilities, etc. located within the public right-of-way shall be protected in-place during construction or replaced to the satisfaction of the Development Services Department.
- ST 27** **Street – Street Trees:** The removal of any and all City trees shall be consistent with Encinitas Municipal Code Chapter 15.02 and the City’s Urban Forest Management Program. Trees located within City street right-of-way, on City property, or within City easements are referred to as City trees and shall be protected in place during construction unless specifically approved otherwise. No grading, excavation, or disturbance of city tree root systems shall occur within the City tree drip line area (the area from the trunk of a tree to the outermost edge of the tree canopy projection on the ground). If a City tree is not clearly labeled to be removed, it must be protected in place. Even if approved improvements conflict with a city tree, it must not be disturbed unless the plan is revised to address the tree removal.
- ST 29** **Street – Mailbox:** A centralized cluster style mailbox shall be located on private property in a location approve by the City and USPS.
- ST 31** **Streets – Striping Plan:** A street striping plan shall be prepared and included with the public improvement plans.

Utilities Conditions

- UT 01** **Utility – Regulations/Coordination:** The owner shall comply with all the rules, regulations, and design requirements of the respective utility agencies regarding services to the project. The owner shall be responsible for coordination with S.D.G. & E., AT&T, Cox, SDWD, OMWD, LWD, and all other applicable utility companies.
- UT 02** **Utility – Underground:** All proposed utility services within the project shall be installed underground including existing utilities unless exempt by the Municipal Code.
- UT 04** **Utility – Underground Existing Facilities:** The owner shall be responsible for the relocation and undergrounding of existing public utilities and appurtenances, as required including but not limited to pedestals, cabinets, vaults, poles, and guy wires.
- UT 06** **Utility – Sewer Connection:** Sanitary sewer is available to serve this property. The applicant shall connect to the sanitary sewer system and shall pay all applicable capacity and permit fees.
- UT 12** **Utility – Private Sewer Agreement:** If private sewer will serve this development a Private Sewer Facility Maintenance and Operating Agreement must be executed before approval of the grading/public improvement/or building permit.

- UT 14** **Utility – Joint Sewer Agreement:** At the discretion of the Development Services Department a shared sewer lateral may be permitted provided that a Joint Private Sewer Maintenance Agreement is recorded.
- UT 16** **Utility – Existing & Proposed Facilities:** The location of all utility facilities such as backflow preventers, transformers, etc. shall be plotted and adequate screening shall be provided to the satisfaction of the Development Services Department. Private facilities shall be located out of the public right-of-way to the maximum extent practicable. Any authorized encroachment into the public right-of-way will require an Encroachment Maintenance and Removal Covenant.
- UT 17** **Utility – Street Light:** The owner shall provide privately owned streetlight(s) at the proposed private streets, intersections and all other locations required by the City of Encinitas Road Standards.
- UT 18** **Utility – Clearance:** No excavation shall be permitted within five (5) feet of any utility pole or anchor without written approval of the utility pole owner.

Stormwater Pollution Control Conditions

- STORM 01** **Stormwater – SWPPP:** Grading projects with a disturbed area of greater than one (1) acre must also meet additional requirements from the State Water Resources Control Board (SWRCB) and shall obtain coverage under the California State General Construction Permit. Those additional requirements may include filing a Notice of Intent (NOI) and preparing a Stormwater Pollution Prevention Plan (SWPPP), or a Small Site Low Erosivity Waiver to be submitted to the Water Board's Stormwater Multiple Application and Report Tracking System (SMARTS).
- STORM 02** **Stormwater – LID BMP's:** Best Management Practices shall be utilized for stormwater pollution and flow control per the City of Encinitas BMP Design Manual to the satisfaction of the Development Services Department. The Grading Plan/Permit Site Plan shall identify all landscape areas designed for stormwater pollution control and incorporate Low Impact Development (LID) BMP's. A note shall be placed on the plans indicating that the BMP's are to be privately maintained and the facilities not modified or removed without a permit from the City.
- STORM 03** **Stormwater – Post Construction BMP Required:** The applicant shall provide permanent post construction stormwater quality treatment BMP facilities to collect and treat all runoff generated by all new and/or removed and replaced impervious surfaces prior to discharge from the subject site. A note shall be placed on the plans indicating that the BMPs are to be privately maintained and the facilities not modified or removed without a permit from the City.
- STORM 05** **Stormwater – Priority Development Project:** The project shall be categorized as a Priority Development Project for purposes of stormwater quality and shall be subject to Hydromodification Management Plan requirements. A Stormwater Quality Management Plan (SWQMP) with detailed Drainage Management Area exhibit shall be submitted with the grading permit application. Treatment and flow control facilities shall be detailed on the plans. A note shall be placed on the plans indicating that the BMPs are to be privately maintained and the facilities not

modified or removed without a permit from the City. A Stormwater Treatment Facility Maintenance Agreement shall be recorded against the subject property to ensure maintenance of the BMP / HMP facilities in perpetuity.

- STORM 07 Stormwater – Infiltration Testing:** Percolation testing shall be provided for the infiltration rate of the existing soils at the location of the centralized facility at a depth of the proposed excavation. The infiltration rate shall be correlated to the Hydrologic Soils Group per the USDA NRCS National Engineering Handbook.
- STORM 08 Stormwater – Stormwater Maintenance Agreement:** A Stormwater Maintenance Agreement (SWMA) shall be required to ensure the professional maintenance, repair, and replacement of the stormwater quality BMP as necessary into perpetuity. The covenant shall also detail the funding mechanism for the required maintenance.
- STORM 09 Stormwater – BMP Special Inspection:** Special inspection of the BMP facilities by a licensed civil engineer in the State of California is required during construction. Prior to obtaining building occupancy an inspection report shall be submitted along with the Engineer's Certification of Final Grading and Request for Field Clearance for Occupancy form to the Development Services Department verifying the size and depth of the excavation, gravel and engineered soil depth and material, storm drainpipe, overflow, and overall function of the facilities per the approved grading plan. The inspection report shall include any pertinent information including material receipts, survey data, inspection dates, etc. in order to detail the construction of the drainage facility.
- STORM 11 Stormwater – Securities:** Stormwater Quality Best Management Practice (BMP) facilities shall be designed and approved by the Development Services Department and secured with a performance bond prior to the issuance of a Grading permit for this project.
- STORM 12 Stormwater – Roof Drains:** For stormwater pollution control purposes, all runoff from all roof drains shall discharge onto grass and landscape areas prior to collection and discharge onto the street and/or into the public storm drain system unless directly connected to an adequately designed BMP facility to the maximum extent practical. Grass/landscape areas and BMPs designated for stormwater pollution control shall not be modified without a permit from the City. A note shall be placed on the plans indicating that the BMP's are to be privately maintained and the facilities not modified or removed without a permit from the City.
- STORM 14 Stormwater – Potential Critical Coarse Sediment Yield Areas:** Potential Critical Coarse Sediment Yield Areas (PCCSYA) have been identified on-site and upstream. The project's SWQMP shall address the requirements associated with this condition.
- STORM 16 Stormwater – Porous Concrete:** A National Ready Mix Concrete Association (NRMCA) porous concrete certified contractor must install the porous concrete. Contractor is to provide proof of certification to the engineering field inspector prior to start of work. The Development Services Department may require a core sample of the installed porous concrete to ensure that there is a minimum void content of 20%. If a minimum void content of 20% is not satisfied, the removal and replacement of the pervious concrete will be required to the satisfaction of the Development Services Department.

Subterranean Basement/Garage Conditions

- BG 01 Subterranean Garage – Ramp:** This project proposes construction of a subterranean garage. A drainage system for the garage access ramp shall be designed to intercept all stormwater runoff to ensure that no stormwater may enter the garage. Any floor drains within the garage shall be connected to the sewer system.
- BG 02 Subterranean Garage – Shoring & Dewatering:** The developer shall design and have approved the shoring and construction dewatering systems necessary for the construction of the underground garage prior to issuance of any grading permit for the project. If dewatering is necessary, the appropriate permits shall be obtained from all applicable agencies.
- BG 03 Subterranean Garage – Dewatering:** No permanent dewatering system shall be allowed for the underground garage. The underground garage shall be designed to withstand the hydrostatic pressure without any dewatering.
- BG 04 Subterranean Garage – Tie Backs:** If temporary shoring with tie-backs will be utilized for construction of the basement, the tie-backs could potentially encroach into the public right-of-way. If tie-backs within the public right-of-way are proposed, the applicant shall meet the following requirements:
- a) A permanent encroachment permit shall be obtained with adequate liability insurance as determined by the Development Services Department.
 - b) The tie-backs shall be placed a minimum of 5 feet below the lowest public utilities and a minimum of 10 feet below the finished surface elevation at the property line.
 - c) All the existing utilities within the public right-of-way shall be potholed by the developer and the actual location shall be shown on the proposed grading and improvement plans.
 - d) Shoring sheet piles, soldier beams, and lagging shall be within the private property and shall not encroach into the public right-of-way.
 - e) A structural calculation shall be submitted for temporary shoring for Engineering review and approval prior to issuance of a grading permit.
 - f) If phased construction is proposed for the grading and shoring operation, the phasing sequence shall be shown on the grading plan.
 - g) An adequate performance bond shall be provided for the grading and shoring. The engineer's cost estimate for the purpose of bonding shall also include an item for the complete backfill of the excavated basement area.
 - h) Grading and building permits shall be processed concurrently. No grading permit will be issued unless the building plan check is complete and the project is ready for building permit issuance.

FIRE CONDITIONS:

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

- FIRE 01 **Street Numbers:**** Approved numbers and/or addresses shall be placed on all new and existing buildings and at appropriate additional locations as to be plainly visible and legible from the street or roadway fronting the property from either direction of approach. Said numbers shall contrast with their background and shall meet the following minimum standards as to size: four-inches high with a half-inch stroke width for residential buildings, eight-inches high with a half-stroke for commercial and multi-family residential buildings, 12-inches high with a one-inch stroke for industrial buildings. Additional numbers shall be required where deemed necessary by the Fire Marshal, such as rear access doors, building corners, and entrances to commercial centers.
- FIRE 02 **Address Numbers for Structures Located off Roadway:**** Where structures are located off a roadway on long **easements/driveways**, a monument marker shall be placed at the entrance where the **easement/driveway** intersects the main roadway. Permanent address numbers with height conforming to Fire Department standards shall be affixed to this marker.
- FIRE 03 **Fire Alarm System:**** A California State Fire Marshal listed fire alarm system is required and shall be designed and installed per NFPA 72, California Fire Code and Encinitas Fire Department requirements.
- FIRE 04 **Smoke Detectors/Carbon Monoxide /Fire Sprinkler:**** Smoke detectors/carbon monoxide alarms/fire sprinklers shall be inspected by the Encinitas Fire Department.
- FIRE 05 **Class “A” Roof:**** All structures shall be provided with a Class “A” Roof covering to the satisfaction of the Encinitas Fire Department.
- FIRE 07 **Materials:**** Prior to delivery of combustible building construction materials to the project site all of the following conditions shall be completed to the satisfaction of the Fire Department: a) All wet and dry utilities shall be installed and approved by the appropriate inspecting department or agency; b) As a minimum the first lift of asphalt paving shall be in place to provide a permanent all-weather surface for emergency vehicles; and c) Water supply for fire protection (fire hydrants and standpipes) shall be installed, in service and accepted by the Fire Department and applicable water district.
- FIRE 08 **Basement:**** a) All basements shall be designed and equipped with emergency exit systems consisting of operable windows, window wells or exit door that's leads directly outside via staircase and exit door or exit door at grade. b) Window wells/Light wells that intrude into side yard or backyard setbacks of five feet or less, shall require a hinged grating covering the window well/lightwell opening. The grating shall be capable of supporting a weight of 250lb person; yet must be able to be opened by someone of minimal strength with no special knowledge, effort or use of key or tool. Any modification of previously approved plans related to this condition shall be subject to re-submittal and review by City staff (Fire, Building, Planning).

- FIRE 11** **Fire Hydrants and Fire Flows:** The applicant shall provide fire hydrants of a type, number, and location satisfactory to the Encinitas Fire Department. A letter from the water agency serving the area shall be provided that states the required fire flow is available. Fire hydrants shall be of a bronze type. Multi-family residential or industrial fire hydrants shall have two (2) 4" inch and two (2) 2 ½" inch NST outlets. Residential fire hydrants shall have one (1) 4" inch NST outlet, and one (1) 2 ½" inch NST outlets.
- FIRE 13** **Grade:** The gradient for a fire apparatus access roadway shall not exceed 20.0%. Grades exceeding 15.0% (incline or decline) shall not be permitted without mitigation. Minimal mitigation shall be a surface of Portland cement concrete, with a deep broom finish perpendicular to the entire direction of travel. Additional mitigation measures may be required where deemed appropriate. The angle of departure and angle of approach of a fire access roadway shall not exceed seven degrees (12 percent).
- FIRE 15** **Room Capacity:** Room capacity will be tracked to ensure the posted room rating does not exceed maximum capacity as determined by the City of Encinitas Fire Marshal.
- FIRE 16** **Solar Photovoltaic Installations:** Solar Photovoltaic systems (solar panels) shall be installed per the California Fire Code and Encinitas Fire Department requirements.
- FIRE 17** **Automatic Fire Sprinkler:** Structures shall be protected by an automatic fire sprinkler system designed and installed to the satisfaction of the Fire Department.
- FIRE 19** **Wet Standpipe:** A Class I or Class III combined wet standpipe system is required. Standpipe system shall be designed and installed per NFPA 14 and Encinitas Fire Department requirements.
- FIRE 20** **Access Road Minimum Dimensions:** Fire apparatus access roads identified as Circulation Element Roads and areas within the Very High Fire Hazard Severity Zone shall have an unobstructed improved width of not less than 24 feet and all other roads shall be not less than 20 feet; curb line to curb line. Exceptions: Single-Family residential driveways; serving no more than TWO single-family dwellings, shall have minimum of 16 feet, curb line to curb line, of unobstructed improved width. Access roads shall be designed and maintained to support the imposed loads of not less than 75,000 pounds and shall be provided with an approved paved surface to provide all-weather driving capabilities and provide a vertical clearance of not less than 13 feet 6 inches.
- FIRE 23** **Gates:** All gates or other structures or devices, which could obstruct fire access roadways or otherwise hinder emergency operations, are prohibited unless they meet standards approved by the Fire Department. An approved emergency key-operated switch and/or an approved emergency traffic control-activating strobe light sensor shall be installed per Encinitas Fire Department standards.

- FIRE 24 Obstruction of Roadways During Construction:** All roadways shall be a minimum of 24 feet in width during construction and maintained free and clear, including the parking of vehicles, in accordance with the California Fire Code and the Encinitas Fire Department.
- FIRE 25 Posting or Striping Roadway “No Parking Fire Lane”:** Fire Department access roadways, when required, shall be properly identified as per Encinitas Fire Department standards. The means by which fire lanes are designated shall be maintained in a clean and legible condition at all times and be replaced or repaired when necessary to provide adequate visibility.
- FIRE 26 150-foot Hose Pull Required:** A 150-foot hose pull shall be measured from the furthest portion of structures to fire department access.
- FIRE 29 Emergency Responder Radio Coverage (ERRC):** Buildings shall have Emergency Responder Radio Coverage for emergency responders that complies with CFC Section 510, and the Encinitas Fire Department Guidelines.

SAN DIEGUITO WATER DISTRICT CONDITIONS:

CONTACT THE ENCINITAS SAN DIEGUITO WATER DISTRICT REGARDING COMPLIANCE WITH THE FOLLOWING CONDITION(S):

- SDWD A 01 Agreement – Map:** The developer shall enter into a secured agreement with SDWD prior to approval of grading plans which includes a security deposit, insurance, and deposit as payment for inspection services for domestic water improvements.
- SDWD BF 01 Backflow – Commercial:** A private backflow preventer shall be installed on the water meter(s) for the multi-family building(s) meeting SDWD standards. The location of the proposed backflow preventer shall be shown on all engineering plans for SDWD approval. Customer shall be subject to testing and reporting requirements per SDWD Resolution 2023-05.
- SDWD BF 02 Backflow – Fire Line:** A private backflow preventer shall be installed on the dedicated fire line(s) meeting SDWD standards. The location of the proposed backflow preventer shall be shown on all engineering plans for SDWD approval. Customer shall be subject to testing and reporting requirements per SDWD Resolution 2023-05.
- SDWD BF 03 Backflow – Landscape:** A private backflow preventer shall be installed on the dedicated landscape water meter(s) meeting SDWD standards. The location of the proposed backflow preventer shall be shown on all engineering plans for SDWD approval. Customer shall be subject to testing and reporting requirements per SDWD Resolution 2023-05.
- SDWD ED 02 Easement Dedication – Private Street:** The developer shall dedicate to SDWD all necessary easements for that portion of the water system which is to be public water. The minimum easement width shall be 15 feet; additional width will be required if access dictates or if more than one utility is proposed for the easement. The whole width of the private/access street(s) shall be dedicated to SDWD.

- SDWD EWS 01 Existing Water Service - Map:** The subject property is currently being served by two (2) 1-1/2-inch water meters and one (1) 5/8-inch water meter. Upon development, each parcel shall be individually metered. The owner may downsize the existing meters and apply capacity credit toward the installation of new water meters. All water meters that will receive capacity credit shall be paid for and installed at one time. The owner shall provide SDWD with a written statement indicating which lot(s)/building(s) will receive capacity credits.-
- SDWD RW 01 Recycled Water – Available:** SDWD Ordinance No. 1994-01 states that the use of potable water on landscaping areas may be deemed an unreasonable use where reclaimed water is available, or when it becomes available (where feasible). Reclaimed water is available for the site. The owner shall install landscaping irrigation to reclaimed water standards in those areas that are common space and/or commonly maintained. The owner shall obtain County of San Diego Department of Environmental Health, San Elijo Joint Powers Authority and SDWD approval and connect to the reclaimed water system. Reclaimed water shall be used for grading operations where feasible.
- SDWD SM 01 Sub-Meters – Mixed Use/Commercial:** Per California Water Code Section 537 et seq., all newly constructed multi-unit residential structures or newly constructed mixed-use residential and commercial structures, for which an application for one or more water service connections is submitted after January 1, 2018, shall measure the quantity of water supplied to each individual unit, unless exempt under the applicable law. The measurement may be individual meters or sub-meters.
- SDWD WS 01 Water System – Facility Location Private Street:** SDWD will require a minimum of 5 feet from outside of edge of pavement or behind curb for SDWD facilities on the proposed private/access streets.
- SDWD WS 02 Water System – Fees/Charges:** The developer shall comply with SDWD's fees, charges, rules, and regulations.
- SDWD WS 03 Water System – Fire Line Requirement:** A dedicated fire line shall be installed meeting SDWD standards.
- SDWD WS 04 Water System – Grading/Improvement Plans:** The developer shall show all existing and proposed water facilities on improvement and/or grading plans for SDWD Approval.
- SDWD WS 05 Water System – Hydraulic Analysis:** A hydraulic analysis shall be completed for the proposed project prior to approval of the grading plans. The hydraulic analysis that was completed in April of 2017 shall be revised/updated to account for the change in project scope. The results of the analysis will dictate the design of the on-site water system and determine the re-design of the existing off-site water system in order for SDWD to meet both the domestic water and fire demands of the Project and for future development of the area. Developer shall be wholly responsible for all costs related to water system improvements recommended by the hydraulic analysis including the design and construction of off-site water facilities if necessary.

- SDWD WS 06 Water System – Landscape Water Meter Requirement:** All residential common space/commercial/mixed used properties which propose over 5,000 square feet of landscaping shall install a separate landscape water meter.
- SDWD WS 07 Water System – Water Agencies’ Standards:** The developer shall install the water system according to Water Agencies’ (WAS) standards.
- SDWD WS 08 Water System – Water Meter Location:** Water meters shall be outside of any existing or proposed travel way. Appurtenances shall not be placed in roadside ditches. Cost of relocation shall be the responsibility of the developer.