



Draft Mitigated Negative Declaration

CITY OF ENCINITAS
Planning and Building Department
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Case No. MULTI 002750-2018

SUBJECT: Title: La Costa Boutique Hotel Project

Project Number(s): MULTI-002750-2018, CPP-003887-2020, DR-002670-2018, CDPNF-0026762-2018, USE-002671-2018 (Old Case #: 18-188). DM La Costa Avenue LLC (Applicant) proposes the La Costa Boutique Hotel Project (Project), which includes the processing of a Minor Use Permit, Design Review Permit, and Coastal Development Permit. The existing 1.18-acre Project site is completely disturbed and consists of a parking area and a few shed structures previously used for a plant nursery that is no longer in business.

- I. PROJECT DESCRIPTION: See attached Environmental Initial Study.
- II. ENVIRONMENTAL SETTING: See attached Environmental Initial Study.
- III. DETERMINATION:

The City of Encinitas conducted an Environmental Initial Study that determined the proposed project could have a significant environmental effect in the following area(s):

- Air Quality (See Hazards Mitigation Measures)
- Cultural Resources
- Tribal Cultural Resources
- Geology (Paleontological Resources)
- Hazards
- Noise

Subsequent revisions in the project proposal provide the specific mitigation measures identified in Section V. of this Mitigated Negative Declaration. The project as revised now avoids or mitigates the potentially significant environmental effects previously identified, and the preparation of an Environmental Impact Report will not be required.

- IV. DOCUMENTATION:

The attached Environmental Initial Study documents the reasons to support the above determination.

V. MITIGATION, MONITORING AND REPORTING PROGRAM:

Cultural and Tribal Cultural Resources

M-CUL-1 A qualified archaeologist, meeting the Secretary of the Interior's Professional Qualification Standards for prehistoric and historic archaeology, shall provide pre-construction cultural resources awareness training to all construction personnel. Training will include appropriate protocol following the unanticipated discovery of any archaeological deposits during construction. A qualified professional archaeologist shall be retained to monitor all ground-disturbing activity associated with the project.

M-CUL-2 Due to the high potential for uncovering unknown subsurface archaeological resources, including Native American tribal cultural resources, cultural resource mitigation monitoring shall be undertaken for any and all on-site and off-site ground disturbing activities. If on-site and/or off-site ground disturbing activities (e.g., exploratory trenching or excavations) are required for any informal or formal solicitation (written or spoken) of construction bids or similar requirements, all applicable requirements identified in mitigation measures CUL-3 to CUL-9 shall be undertaken by the applicant and/or owner.

M-CUL-3 A Cultural Resource Mitigation Monitoring Program shall be conducted to provide for the identification, evaluation, treatment, and protection of any cultural resources that are affected by or may be discovered during the construction of the proposed project. The monitoring shall consist of the full-time presence of an archaeological monitor, who is a professional archaeologist working under the direction of the qualified archaeologist who meets the Secretary of the Interior's Professional Qualification Standards for prehistoric and historic archaeology, and a traditionally and culturally affiliated (TCA) Native American monitor for, but not limited to, any clearing or grubbing of vegetation, tree removal, demolition and/or removal of remnant foundations, pavements, abandonment and/or installation of infrastructure; grading or any other ground disturbing or altering activities, including the placement of imported fill materials (note: all fill materials shall be absent of any and all cultural resources); and related road improvements, including, but not limited to, La Costa Avenue. Other tasks of the monitoring program shall include the following:

1. The requirement for cultural resource mitigation monitoring shall be noted on all applicable construction documents, including demolition plans, grading plans, etc.
2. The archaeological monitor and TCA Native American monitor shall attend all applicable pre-construction meetings with the Contractor and/or associated Subcontractors.

3. The archaeological monitor shall maintain ongoing collaborative consultation with the TCA Native American monitor during all ground disturbing or altering activities, as identified above.
4. The archaeological monitor and/or TCA Native American monitor may halt ground disturbing activities if archaeological artifact deposits or cultural features are discovered. In general, ground disturbing activities shall be halted within a 50-foot radius of the discovery to allow a determination of potential significance, the subject of which shall be determined by the archaeological monitor and the TCA Native American monitor, in consultation with the qualified archaeologist and the San Luis Rey Band of Mission Indians ("San Luis Rey Band"). Ground-disturbing activities shall not resume until the qualified archaeologist, in consultation with the TCA Native American monitor, deems the cultural resource or feature has been appropriately documented and/or protected. At the discretion of the archaeological monitor, the location of ground disturbing activities may be relocated elsewhere on the project site to avoid further disturbance of cultural resources. The qualified archaeologist shall be called to evaluate the significance of the find and shall have the authority to modify the no-work radius as appropriate, using professional judgement. The following notifications shall apply, depending on the nature of the find:
 - a. If the qualified archaeologist determines that the find does not represent a cultural resource, work may resume immediately, and no agency notifications are required.
 - b. If the qualified archeologist determines that the find does represent a cultural resource from any time period or cultural affiliation, he or she shall immediately notify the City and landowner. The City shall consult on a finding of eligibility and implement appropriate treatment measures if the find is determined to be eligible for inclusion in the CRHR. Work may not resume within the no-work radius until the City, through consultation as appropriate, determines that the site either: 1) is not eligible for or CRHR; or 2) that the treatment measures have been completed to its satisfaction.
5. The avoidance and protection of discovered unknown and significant cultural resources and/or unique archaeological resources is the preferable mitigation for the proposed project. If avoidance is not feasible, a Data Recovery Plan may be authorized by the City as the lead agency under CEQA. If data recovery is required, then the San Luis Rey Band shall be notified and consulted in drafting and finalizing any such recovery plan.
6. The archaeological monitor and/or TCA Native American monitor may also halt ground disturbing activities around known archaeological artifact

deposits or cultural features if, in their respective opinions, there is the possibility that they could be damaged or destroyed.

7. 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.

M-CUL-4 Prior to the issuance of a grading permit, and subject to approval of terms by the City, the applicant or owner, and/or contractor shall enter into a Pre-Excavation Agreement with the San Luis Rey Band, or other TCA tribe. The purpose of this agreement shall be to formalize protocols and procedures between the applicant or owner, and/or contractor, and the San Luis Rey Band for the protection and treatment of, but not limited to, such items as Native American human remains, funerary objects, cultural and religious landscapes, ceremonial items, traditional gathering areas and cultural items, located and/or discovered through the cultural resource mitigation monitoring program in conjunction with the construction of the proposed project, including additional archaeological surveys and/or studies, excavations, geotechnical investigations, soil surveys, grading, or any other ground disturbing activities.

M-CUL-5 Prior to the issuance of a grading permit, the applicant or owner, and/or contractor shall provide a written and signed letter to the City's Director of Development Services, stating that a City-approved qualified archaeologist and a TCA Native American monitor have been retained at the applicant or owner and/or contractor's expense to implement the monitoring program, as described in the pre-excavation agreement. A copy of the letter shall be included in the grading plan submittals for the grading permit.

- M-CUL-6 Prior to any ground disturbing activities and/or the issuance of a grading permit and concurrent with any demolition activities within the project area, a Phase II archaeological assessment shall occur and be completed, and identify any additional potential negative impacts to subsurface tribal cultural resources that have not yet been identified due to safety conditions at the project area. The Phase II archaeological assessment shall be developed by the qualified archaeologist and the San Luis Rey Band of Mission Indians. All sacred sites, significant tribal cultural resources and/or unique archaeological resources encountered within the project area shall be avoided and preserved as the preferred mitigation, if feasible.
- M-CUL-7 Prior to the issuance of a grading permit, and in order for potentially significant archaeological artifact deposits and/or cultural resources to be readily detected during mitigation monitoring, a written "Controlled Grade Procedure" shall be prepared by a qualified archaeologist, in consultation with the TCA Native American monitor, the San Luis Rey Band, and the applicant or owner, subject to the approval of City representatives. The Controlled Grade Procedure shall establish requirements for any ground disturbing work with machinery occurring in and around areas the archaeological monitor and TCA Native American monitor determine to be sensitive through the cultural resource mitigation monitoring process. The Controlled Grade Procedure shall include, but not be limited to, appropriate operating pace, increments of removal, weight and other characteristics of the earth disturbing equipment. A copy of the Controlled Grade Procedure shall be included in the grading plan submittals for the grading permit.
- M-CUL-8 Prior to the release of the grading bond, a Monitoring Report and/or Evaluation Report, which describes the results, analysis and conclusions of the cultural resource mitigation monitoring efforts (such as, but not limited to, the Research Design and Data Recovery Program) shall be submitted by the qualified archaeologist, along with the TCA Native American monitor's notes and comments, to the City's Director of Development Services for approval.
- M-CUL-9 The landowner shall relinquish ownership of all tribal cultural resources collected during the cultural resource mitigation monitoring conducted during all ground disturbing activities, and from any previous archaeological studies or excavations on the project site to the San Luis Rey Band for respectful and dignified treatment and disposition, including reburial, in accordance with the Tribe's cultural and spiritual traditions. All cultural materials that are associated with burial and/or funerary goods will be repatriated to the Most Likely Descendant as determined by the Native American Heritage Commission per California Public Resources Code Section 5097.98.

Geology

Paleontological Resources

M-PR-1 A Paleontological Data Recovery and Monitoring Plan will be made a condition of approval for the potential discovery of buried resources as outlined below:

1. Prior to grading permit issuance, during grading and excavation activities, and prior to building permit issuance, the project applicant shall implement a paleontological monitoring and recovery program consisting of the following

measures, which shall be included on project grading plans to the satisfaction of the Development Services Department:

- a. The project applicant shall retain the services of a qualified paleontologist to conduct a paleontological monitoring and recovery program. A qualified paleontologist is defined as an individual having an M.S. or Ph.D. degree in paleontology or geology, and who is a recognized expert in the identification of fossil materials and the application of paleontological recovery procedures and techniques. As part of the monitoring program, a paleontological monitor may work under the direction of a qualified paleontologist. A paleontological monitor is defined as an individual having experience in the collection and salvage of fossil materials.
- b. The qualified paleontologist shall attend the project pre-construction meeting to consult with the grading and excavation contractors concerning the grading plan and paleontological field techniques.
- c. The qualified paleontologist or paleontological monitor shall be on site on a full-time basis during the original cutting of previously undisturbed portions of the underlying very old paralic deposits. If the qualified paleontologist or paleontological monitor ascertains that the noted formations are not fossil-bearing, the qualified paleontologist shall have the authority to terminate the monitoring program.
- d. If fossils are discovered, recovery shall be conducted by the qualified paleontologist or paleontological monitor. In most cases, fossil salvage can be completed in a short period of time, although some fossil specimens (such as a complete large mammal skeleton) may require an extended salvage period. In these instances, the paleontologist (or paleontological monitor) shall have the authority to temporarily direct, divert, or halt grading to allow recovery of fossil remains in a timely manner.
- e. If subsurface bones or other potential fossils are found anywhere within the project site by construction personnel in the absence of a qualified paleontologist or paleontological monitor, the qualified paleontologist shall be notified immediately to assess their significance and make further recommendations.
- f. Fossil remains collected during monitoring and salvage shall be cleaned, sorted, and catalogued. Prepared fossils, along with copies of all pertinent field notes, photos, and maps, shall be deposited (as a donation) in a scientific institution with permanent paleontological collections such as the San Diego Natural History Museum.

M-PR-2 Prior to Certificate of Occupancy, a final summary report outlining the results of the mitigation program shall be prepared by the qualified paleontologist and submitted to the Development Services Department for concurrence. This report shall include discussions of the methods used,

stratigraphic section(s) exposed, fossils collected, and significance of recovered fossils, as well as appropriate maps.

Hazards

M-HAZ-1 During clearing, grading, and construction, the project shall adhere to all requirements as outlined in the Community Health and Safety Plan (dated September 18, 2020) and the Soil Management Plan dated January 29, 2019. The CHSP addresses proposed safeguards for the community. Potential Volatile Organic Compound (VOC) vapors will be measured by a Photo Ionization Detector (PID). The report describes the proposed methods for the application of water, mist, other barriers, etc., to control dust, or VOC's if PID readings over 25 ppm are noted for 30 seconds or more. A sample public notification letter, and means of distribution, is also provided in the report.

M-HAZ- 2 In order to comply with the approved Soil Management Plan and the County's Department of Environmental Health (DEH), Site Assessment and Mitigation Program (SAM) requirements the completion of all soil management shall be certified. All soil remediation and shall be completed, and all contamination hazards removed pursuant to the Department of Environmental Health (DEH), Voluntary Assistance Program (VAP) or the DEH, Local Oversight Program (LOP) as determined. All work shall be implemented pursuant to the DEH SAM Manual. Documentation: The applicant shall provide the "Closure Letter, or Concurrence Letter," to the City of Encinitas that the soil management has been completed to the satisfaction of the [DEH, SAM] VAP, or LOP. Alternatively, if the County's DEH claims that this project does not qualify to receive a closure letter, a letter submitted by a qualified technical specialist to the satisfaction of the City of Encinitas shall be submitted.

Upon completion of all grading activities, and prior to Rough Grading final Inspection, and prior to issuance of any building permit, the certification shall be completed.

The [DEH, LWQ], SAM, VAP or LOP shall verify completion of the required remediation, and shall issue a Closure Letter to the applicant and to the City of Encinitas. The City of Encinitas shall review the "Closure Letter," for compliance with this condition, and notify the City's engineering department of the completion of this requirement."

Noise

M-NOI-1 Prior to certificate of occupancy, the following noise control design measure(s) shall be constructed pursuant to the approved discretionary plans:

- a. In order to mitigate noise impacts at outdoor use areas, several sound attenuation barriers are required. The sound attenuation barriers were input into the noise model in locations that would provide shielding from

noise associated with traffic traveling on Interstate 5, which is the primary source of noise impacting these receivers. One of the proposed sound barriers should be located toward the north end of the project site and should extend a minimum of 5 feet in height above the finished floor elevation of the restaurant outdoor seating and spa deck areas to attenuate noise levels at these areas. Additionally, a six foot tall sound attenuation barrier should be installed along the eastern property line to mitigate noise impacts to the private outdoor use areas for hotel guests. The balcony barriers on the second floors of each bungalow should also be constructed as sound attenuation barriers, with a minimum height of 3.5 feet above the elevation of the balcony floor.

M-NOI-2 The following noise mitigation measures shall be implemented during grading and construction activities:

1. Construction activity must be limited to the hours of 7 a.m. to 7 p.m., Mondays through Saturdays, as per the City of Encinitas Municipal Code.
2. Staging areas should be placed as far from occupied receivers as possible on the projectsite to limit any additional unnecessary noise exposure at sensitive receivers.
3. Place stationary equipment in locations that will have a lesser noise impact on nearby sensitive receivers.
4. Turn off equipment when not in use.
5. Limit the use of enunciators or public address systems, except for emergency notifications.
6. Equipment used in construction should be maintained in proper operating condition, and all loads should be properly secured to prevent rattling and banging.
7. Schedule work to avoid simultaneous construction activities that both generate high noise levels.
8. Use equipment with effective mufflers.
9. Minimize the use of backup alarms.

VI. RESULTS OF PUBLIC REVIEW:

- () No comments were received during the public input period.
- () Comments were received but did not address the draft Mitigated Negative Declaration finding or the accuracy/completeness of the Initial Study. No response is necessary. The letters are attached.

- () Comments addressing the findings of the Draft Mitigated Negative Declaration and/or accuracy or completeness of the Environmental Initial Study (xxxxx) were received during the public input period. The letters and responses follow.

Copies of the draft Mitigated Negative Declaration and any Initial Study material are available in the office of the City of Encinitas Development Services Department, the City of Encinitas Library, and for review, or for purchase at the cost of reproduction.

Nick Koutoufidis, Senior Planner
Development Services

June 30, 2022
Date of Draft Report

Date of Final Report