



# Draft Mitigated Negative Declaration

**CITY OF ENCINITAS**  
**Planning and Building Department**  
**505 South Vulcan Avenue**  
**Encinitas, CA 92024**  
**760-633-2692**  
**Fax: 760-633-2818**

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):

- Biology
- Cultural Resources
- Tribal Cultural Resources
- Geology (Paleontological Resources)
- Hazards
- Noise

The specific mitigation measures for these potential significant impacts are identified in Section V and the mitigation monitoring and reporting program is contained within Section VI of this Mitigated Negative Declaration. With mitigation, the project 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 MEASURES

### **Biology**

M-BIO-1 The project would be required to implement avoidance measures to prevent impacts on nesting birds in compliance with the MBTA and CFGC. To prevent impacts to nesting birds, construction, including vegetation clearing and grubbing, should begin outside the bird/raptor breeding season (January to July). If construction must start during this period, a qualified biologist, retained by the project applicant and approved by the Development Services Department, shall perform a pre-construction survey for active nests no more than 3 days prior to the initiation of construction. If an active nest is identified on-site or in the immediate vicinity (area of potential noise impact to species), construction shall be postponed until the nest is no longer active or a City-approved biologist decides on the appropriate separation distance between the nest and active construction areas. Results of the pre-construction survey shall be submitted in a report to the Development Services Department for review and approval and to the City's construction inspector at the pre-construction meeting, which shall occur prior to construction activities. This mitigation measure shall be included on construction plans, to the satisfaction of the Development Services Department, prior to construction permit issuance.

### **Cultural and Tribal Cultural Resources**

M-CUL-1 A qualified archaeologist retained by the project applicant and approved by the Development Services Department, meeting the Secretary of the Interior's Professional Qualification Standards for precontact ("prehistoric") and historic archaeology, in collaboration with and at the direction of traditionally and culturally affiliated (TCA) Native American Tribes, shall provide pre-construction cultural resources awareness training, including but not limited to tribal cultural resources (TCRs) that may be designated or recorded as "archaeological", cultural landscapes, and flora, fauna, and geological materials of cultural significance and concern, to all construction personnel. Training will include appropriate protocol following the unanticipated discovery of any archaeological deposits and/or significant geological deposits during construction. A qualified professional archaeologist approved by TCA Native American Tribes shall be retained by the project applicant to monitor all ground-disturbing activity associated with the project.

M-CUL-2 Due to the high potential for uncovering unknown subsurface TCRs or other historical resources that may be designated or recorded as archaeological, cultural, and/or natural-cultural resources, 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 project 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,

including but not limited to TCA ancestral places that may be designated or recorded as “archaeological”, cultural landscapes, and flora, fauna, and geological materials of cultural significance and concern. 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 precontact (“prehistoric”) and historic archaeology, and TCA Native American monitors 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 monitors shall attend all applicable pre-construction meetings with the Contractor and/or associated Subcontractors.
3. The archaeological monitor shall maintain ongoing collaboration with TCA Native American monitors during all ground disturbing or altering activities, as identified above. The monitors shall be provided at least 72 hours’ notice of the initiation of construction and be kept reasonably apprised of changes to the construction schedule.
4. In the event that more than one TCA Consulting Tribe requests to provide a TCA Native American monitor for activities subject to these measures, the City will allow up to one monitor from each TCA Consulting Tribe to be present simultaneously.
5. The archaeological monitor and/or TCA Native American monitor may halt ground disturbing activities if archaeological artifact deposits, or cultural features, and/or significant geological deposits 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 monitors and at the direction of TCA Consulting Tribes. Ground-disturbing activities shall not resume until the qualified archaeologist, at the direction of the TCA Native American monitors, deems the cultural resource, or feature, and/or deposit has been appropriately documented and avoided and/or protected. At the discretion of the archaeological Monitor in dialogue collaboration with the TCA Native American monitors, the location of ground disturbing activities may be relocated elsewhere on the project site to avoid further disturbance of cultural resources. The qualified archaeologist in collaboration with the appropriate authorities or monitors, per respective Tribal protocols, from the TCA Consulting Tribes 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 in collaboration with and at the direction of the appropriate authorities from the TCA Native American Tribes 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 in collaboration with and at the direction of the appropriate authorities from the TCA Native American Tribes 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 under all eligibility Criteria. 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 avoidance, minimization, and mitigation treatment measures have been completed to its satisfaction or, if it is a TCR, the satisfaction of the TCA Consulting Tribes.

6. 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 TCA Consulting Tribes shall be notified and consulted in drafting and finalizing any such recovery plan.

7. The archaeological monitor and/or TCA Native American monitors may also halt ground disturbing activities around known\_culturally significant deposits or cultural features, including but not limited to those that may be designated and recorded archaeologically if, ~~in~~ from their respective Tribal expertise, there is the possibility that they could be damaged or destroyed or otherwise significantly adversely impacted.

8. If the find includes human remains, or remains that are potentially human, the archaeological monitor shall ensure reasonable protection measured 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 Public Resouces Code, 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 reinterment 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 TCA Consulting Tribes. The purpose of this agreement shall be to formalize protocols and procedures between the applicant or owner, and/or contractor, and the TCA Consulting Tribes 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 ethnographic 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 TCA Native American monitors 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 TCA Consulting Tribes. 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 Consulting Tribes, 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 monitors 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 monitors' notes and comments, to the City's Director of Development Services for approval.

M-CUL-9 The landowner shall relinquish ownership of TCRs 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 appropriate TCA Consulting Tribe and dignified treatment and disposition, including reburial on-site in a location determined in consultation with the appropriate TCA Consulting Tribes, 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 shall be implemented by the project applicant 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 applicant 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 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 DEH shall verify completion of the required remediation, and the project applicant shall obtain a Closure Letter or Concurrence Letter from the DEH.

The project applicant shall provide the Closure Letter, or Concurrence Letter to the City of Encinitas to verify 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 or concurrence 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.

## **Noise**

M-NOI-1 Prior to issuance of a certificate of occupancy, the following noise control design measure(s) shall be constructed by the project applicant 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 project site 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 generate high noise levels.
8. Use equipment with effective mufflers.
9. Minimize the use of backup alarms.



VI. MITIGATION MONITORING AND REPORTING PROGRAM:

As part of project approval, the City of Encinitas will adopt this Mitigation Monitoring and Reporting Program (MMRP) for the La Costa Boutique Hotel in accordance with Public Resources Code (PRC) Section 21081.6 and Section 15074(d) of the California Environmental Quality Act (CEQA) Guidelines. The purpose of the MMRP is to ensure that the La Costa Boutique Hotel, which is the subject of this Mitigated Negative Declaration (MND), complies with all applicable environmental mitigation requirements. Mitigation measures for the project will be adopted by the City of Encinitas, in conjunction with the adoption of the MND. Those mitigation measures have been integrated into this monitoring and reporting program. Within this document, approved mitigation measures are organized and referenced by subject category and include those for: biological resources, cultural resources, tribal cultural resources, geology (paleontological resources), hazards and noise. Each of these measures has a numerical reference. Specific mitigation measures are identified, as well as the method and timing of verification and the responsible party that will ensure that each action is implemented.

Public Resources Code Section 21081.6 requires the Lead Agency, for each project that is subject to the California Environmental Quality Act (CEQA), to monitor performance of the mitigation measures included in any environmental document to ensure that implementation does, in fact, take place. The City is the designated lead agency for the MMRP and is responsible for review of all monitoring reports, enforcement actions, and document disposition. The City will rely on information provided by the monitor as accurate and up to date and will field check mitigation measure status as required.

A record of the MMRP will be maintained at the Encinitas Planning Division, 505 S. Vulcan Avenue, Encinitas, CA 92024. All mitigation measures contained in the MND shall be made conditions of approval of the project as may be further described below.

**LA COSTA BOUTIQUE HOTEL MONITORING AND REPORTING PROGRAM**

MM No.	Mitigation Measure	Timing of Verification	Responsible Person	Date of Completion/Initials
<b>Biological Resources</b>				
<b>MM BIO-1:</b>	The project would be required to implement avoidance measures to prevent impacts on nesting birds in compliance with the MBTA and CFGC. To prevent impacts to nesting birds, construction, including vegetation clearing and grubbing, should begin outside the bird/raptor breeding season (January to July). If construction must start during this period, a qualified biologist, retained by the project applicant and approved by the Development Services Department, shall perform a pre-construction survey for active nests no more	Prior to grading permit issuance, a pre-construction survey shall be submitted and approved prior to the commencement of construction	Qualified Biologist retained by project applicant and City of Encinitas Development Services Department	

**LA COSTA BOUTIQUE HOTEL MONITORING AND REPORTING PROGRAM**

MM No.	Mitigation Measure	Timing of Verification	Responsible Person	Date of Completion/ Initials
	<p>than 3 days prior to the initiation of construction. If an active nest is identified on-site or in the immediate vicinity (area of potential noise impact to species), construction shall be postponed until the nest is no longer active or a City-approved biologist decides on the appropriate separation distance between the nest and active construction areas. Results of the pre-construction survey shall be submitted in a report to the Development Services Department for review and approval and to the City's construction inspector at the pre-construction meeting, which shall occur prior to construction activities. This mitigation measure shall be included on construction plans, to the satisfaction of the Development Services Department, prior to construction permit issuance.</p>	<p>activities. The mitigation measures shall be identified on the grading plans prior to permit issuance.</p>		
<b>Cultural Resources</b>				
<b>CUL-1</b>	<p>A qualified archaeologist retained by the project applicant and approved by the Development Services Department, meeting the Secretary of the Interior's Professional Qualification Standards for precontact ("prehistoric") and historic archaeology, in collaboration with and at the direction of traditionally and culturally affiliated (TCA) Native American Tribes, shall provide pre-construction cultural resources awareness training, including but not limited to tribal cultural resources (TCRs) that may be designated or recorded as "archaeological", cultural landscapes, and flora, fauna, and geological materials of cultural significance and concern, to all construction personnel. Training will include appropriate protocol following the unanticipated discovery of any archaeological deposits and/or significant geological deposits during construction. A qualified professional archaeologist approved by TCA Native American Tribes shall be retained to monitor all ground-disturbing activity associated with the project.</p>	<p>Prior to grading permit issuance, during grading and excavation activities, and upon completion of monitoring activities.</p>	<p>Qualified archaeologist retained by project applicant, qualified archaeologist approved by TCA Native American Tribes, and City of Encinitas Planning Division</p>	

**LA COSTA BOUTIQUE HOTEL MONITORING AND REPORTING PROGRAM**

<b>MM No.</b>	<b>Mitigation Measure</b>	<b>Timing of Verification</b>	<b>Responsible Person</b>	<b>Date of Completion/ Initials</b>
<b>CUL-2</b>	Due to the high potential for uncovering unknown subsurface TCRs or other historical resources that may be designated or recorded as archaeological, cultural, and/or natural-cultural resources, 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.	Prior to grading permit issuance, during grading and excavation activities, and prior to building permit issuance.	Qualified archaeologist retained by project applicant and approved by TCA Native American Tribes, and City of Encinitas Planning Division	
<b>CUL-3</b>	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, including but not limited to TCA ancestral places that may be designated or recorded as “archaeological”, cultural landscapes, and flora, fauna, and geological materials of cultural significance and concern. 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 precontact (“prehistoric”) and historic archaeology, and TCA Native American monitors 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	Prior to grading permit issuance, during grading and excavation activities, and prior to building permit issuance.	Qualified archaeologist and archaeological monitor and TCA Native American monitor retained by project applicant and approved by TCA Native American Tribes, and City of Encinitas Planning Division	

**LA COSTA BOUTIQUE HOTEL MONITORING AND REPORTING PROGRAM**

<b>MM No.</b>	<b>Mitigation Measure</b>	<b>Timing of Verification</b>	<b>Responsible Person</b>	<b>Date of Completion/ Initials</b>
	<p>include the following:</p> <ol style="list-style-type: none"> <li>1. The requirement for cultural resource mitigation monitoring shall be noted on all applicable construction documents, including demolition plans, grading plans, etc.</li> <li>2. The archaeological monitor and TCA Native American monitors shall attend all applicable pre-construction meetings with the Contractor and/or associated Subcontractors.</li> <li>3. The archaeological monitor shall maintain ongoing collaboration with TCA Native American monitors during all ground disturbing or altering activities, as identified above. The monitors shall be provided at least 72 hours' notice of the initiation of construction and be kept reasonably apprised of changes to the construction schedule.</li> <li>4. In the event that more than one TCA Consulting Tribe requests to provide a TCA Native American monitor for activities subject to these measures, the City will allow up to one monitor from each TCA Consulting Tribe to be present simultaneously.</li> <li>5. usly.</li> <li>6. The archaeological monitor and/or TCA Native American monitor may halt ground disturbing activities if archaeological artifact deposits, <del>or</del> cultural features, and/or significant geological deposits 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 monitors and at the direction of TCA Consulting Tribes. Ground-disturbing activities shall not resume until the qualified archaeologist, at the direction of the TCA</li> </ol>			

**LA COSTA BOUTIQUE HOTEL MONITORING AND REPORTING PROGRAM**

MM No.	Mitigation Measure	Timing of Verification	Responsible Person	Date of Completion/Initials
	<p>Native American monitors, deems the cultural resource, <del>or</del> feature, and/or deposit has been appropriately documented and avoided and/or protected. At the discretion of the archaeological Monitor in <del>dialogue</del> collaboration with the TCA Native American monitors, the location of ground disturbing activities may be relocated elsewhere on the project site to avoid further disturbance of cultural resources. The qualified archaeologist in collaboration with the appropriate authorities or monitors, per respective Tribal protocols, from the TCA Consulting Tribes 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:</p> <p>7. . The following notifications shall apply, depending on the nature of the find:</p> <p>A. If the qualified archaeologist in collaboration with and at the direction of the appropriate authorities from the TCA Native American Tribes determines that the find does not represent a cultural resource, work may resume immediately, and no agency notifications are required.</p> <p>B. If the qualified archeologist in collaboration with and at the direction of the appropriate authorities from the TCA Native American Tribes 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 under all eligibility Criteria. 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</p>			

**LA COSTA BOUTIQUE HOTEL MONITORING AND REPORTING PROGRAM**

MM No.	Mitigation Measure	Timing of Verification	Responsible Person	Date of Completion/ Initials
	<p>avoidance, minimization, and mitigation treatment measures have been completed to its satisfaction or, if it is a TCR, the satisfaction of the TCA Consulting Tribes.</p> <p>8. 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 TCA Consulting Tribes shall be notified and consulted in drafting and finalizing any such recovery plan.</p> <p>9. The archaeological monitor and/or TCA Native American monitors may also halt ground disturbing activities around known culturally significant deposits or cultural features, including but not limited to those that may be designated and recorded archaeologically if, <del>in</del> <u>from</u> their respective Tribal expertise, there is the possibility that they could be damaged or destroyed or otherwise significantly adversely impacted.</p> <p>10. 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</p>			

**LA COSTA BOUTIQUE HOTEL MONITORING AND REPORTING PROGRAM**

MM No.	Mitigation Measure	Timing of Verification	Responsible Person	Date of Completion/ Initials
	<p>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.</p> <p>11. ed to its satisfaction.</p>			
<b>CUL-4</b>	<p>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 TCA Consulting Tribes. The purpose of this agreement shall be to formalize protocols and procedures between the applicant or owner, and/or contractor, and the TCA Consulting Tribes 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 ethnographic studies, excavations, geotechnical investigations, soil surveys, grading, or any other ground-disturbing activities.</p>	<p>Prior to grading permit issuance, during grading and excavation activities, and prior to building permit issuance.</p>	<p>City of Encinitas Planning Division</p>	

**LA COSTA BOUTIQUE HOTEL MONITORING AND REPORTING PROGRAM**

<b>MM No.</b>	<b>Mitigation Measure</b>	<b>Timing of Verification</b>	<b>Responsible Person</b>	<b>Date of Completion/ Initials</b>
<b>CUL-5</b>	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 TCA Native American monitors 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.	Prior to grading permit issuance, during grading and excavation activities, and prior to building permit issuance.	City of Encinitas Planning Division	
<b>CUL-6</b>	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 TCA Consulting Tribes. 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.	Prior to grading permit issuance, during grading and excavation activities, and prior to building permit issuance.	Qualified archaeologist retained by project applicant and approved by TCA Native American Tribes, and  City of Encinitas Planning Division	



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<b>CUL-7</b>	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 Consulting Tribes, 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 monitors 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.	Prior to grading permit issuance, during grading and excavation activities, and prior to building permit issuance.	Qualified archaeologist and TCA Native American monitor retained by project applicant and approved by TCA Native American Tribes, and City of Encinitas Planning Division	
<b>CUL-8</b>	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 monitors' notes and comments, to the City's Director of Development Services for approval.	Prior to grading permit issuance, during grading and excavation activities, and prior to building permit issuance.	Qualified archaeologist and TCA Native American monitor retained by project applicant and approved by TCA Native American Tribes, and City of Encinitas Planning Division	
<b>CUL-9</b>	The landowner shall relinquish ownership of TCRs collected during the cultural resource mitigation monitoring conducted during all		City of Encinitas Planning	

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	ground disturbing activities, and from any previous archaeological studies or excavations on the project site to the appropriate TCA Consulting Tribe and dignified treatment and disposition, including reburial on-site in a location determined in consultation with the appropriate TCA Consulting Tribes, 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.		Division	
<b>3.4 Geology and Soils</b>				
<b>M-PR-1</b>	<p>A Paleontological Data Recovery and Monitoring Plan shall be implemented by the project applicant for the potential discovery of buried resources as outlined below:</p> <ol style="list-style-type: none"> <li>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: <ul style="list-style-type: none"> <li>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</li> </ul> </li> </ol>	<p>Prior to grading permit issuance, during grading and excavation activities, and prior to building permit issuance.</p>	<p>Qualified paleontologist and paleontological monitor retained by project applicant, City of Encinitas Planning Division</p>	

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	<p>paleontologist. A paleontological monitor is defined as an individual having experience in the collection and salvage of fossil materials.</p> <p>B. ontologist. A paleontological monitor is defined as an individual having experience in the collection and salvage of fossil materials.</p> <p>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.</p> <p>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.</p> <p>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.</p>			

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	<p>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.</p> <p>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.</p>			
<b>M-PR-2</b>	<p>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.</p>	<p>Prior to scheduling the Planning Final Inspection and issuance of the Certificate of Occupancy</p>	<p>Qualified paleontologist, City of Encinitas Planning Division</p>	
<b>Hazardous</b>				
<b>M HAZ-1:</b>	<p>During clearing, grading, and construction, the project applicant 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</p>	<p>Prior to grading permit issuance, during grading and excavation activities, and prior to building permit issuance.</p>	<p>City of Encinitas Engineering Division</p>	

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	for 30 seconds or more. A sample public notification letter, and means of distribution, is also provided in the report.			
<b>M HAZ-2:</b>	<p>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 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 DEH shall verify completion of the required remediation, and the project applicant shall obtain a Closure Letter or Concurrence Letter from the DEH. 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.</p> <p>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.</p>	<p>Prior to grading permit issuance, during grading and excavation activities, and prior to building permit issuance.</p>	<p>City of Encinitas Planning Division</p>	
<b>Noise</b>				
<b>M NOI-1</b>	<p>Prior to issuance of a certificate of occupancy, the following noise control design measure(s) shall be constructed by the project applicant pursuant to the approved discretionary plans:</p> <p>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</p>	<p>All noise control design measures shall be constructed prior to scheduling the Planning final inspection and prior to the</p>	<p>City of Encinitas Planning Services</p>	

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	<p>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.</p>	<p>Certificate of Occupancy of the use. A report shall be provided from the noise consultant documenting it was constructed to comply with noise attenuation.</p>		
<p><b>M NOI-1</b></p>	<p>The following noise mitigation measures shall be implemented during grading and construction activities:</p> <ol style="list-style-type: none"> <li>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.</li> <li>2. Staging areas should be placed as far from occupied receivers as possible on the project site to limit any additional unnecessary noise exposure at sensitive receivers.</li> <li>3. Place stationary equipment in locations that will have a lesser noise impact on nearby sensitive receivers.</li> <li>4. Turn off equipment when not in use.</li> <li>5. Limit the use of enunciators or public address systems, except for emergency notifications.</li> <li>6. Equipment used in construction should be maintained in proper operating</li> </ol>	<p>Prior to the issuance of the grading permit and building permit, notes shall be placed on the construction documents, and it shall be identified at the preconstruction meeting..</p> <p>The noise standards shall be implemented during construction activities, and upon completion of</p>	<p>City of Encinitas Development Services and Engineering Division</p>	

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	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.	monitoring activities.		

**VII. 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 for review or for purchase at the cost of reproduction in the office of the City of Encinitas Development Services Department and the City of Encinitas Library.

\_\_\_\_\_  
 Andrew Maynard, Principal Planner  
 Development Services

May 17, 2024  
 Date of Draft Report

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 Date of Final Report