

**City of Encinitas  
PLANNING AND BUILDING DEPARTMENT  
505 South Vulcan Avenue  
Encinitas CA 92024  
(760) 633-2710**

**NOTICE OF DECISION  
PBD-2014-06**

**January 27, 2014**

This letter is to inform you that the Planning and Building Director has approved your application for:

**13-096 CDP (Applicant: Terramar Partners, LLC.)** – A request for a Coastal Development Permit for the construction of a new single-family residence on an existing vacant lot. The subject property is located at 432 Sheffield Avenue within the Residential 8 (R-8) Zone and Coastal Zone. (APN: 260-281-29)

**Project Description:**

The applicant is proposing a new 3,292-square foot two-story single-family residence with a 425-square foot attached garage on a 6,263-square foot existing vacant lot within the R-8 Zone. The project site is located within the Coastal Zone and therefore requires a Coastal Development Permit. Access for the residence is proposed directly from Sheffield Avenue on the southeast corner of the property.

**Discussion:**

The Municipal Code requires that on lots within the R-3 to R-25 Zones with greater than a ten percent slope, building height shall be measured from the uphill property line and shall be limited to 12 feet, plus four (4) additional feet for allowable projections. In 2010 a Service Request application (Case No. 10-092 SR) was submitted to the City by the property owner for a determination of the lot's average slope. The applicant provided an average lot slope exhibit from a registered land surveyor with Pasco, Laret, Suiter and Associates in accordance with Section 30.16.0103(e)(1) of the Municipal Code. The average lot slope exhibit prepared by the licensed land surveyor and reviewed and approved by the City documented that based upon the current City benchmark the average lot slope is 9.8%. Through a series of reviews of that study and by additional exhibits prepared by Rancho Coastal Engineering and Surveying it was determined that the average lot slope was less than 10%, and thus the project is not subject to the 12-foot height limitation, but shall be subject to the typical 22-foot height limitation. The proposed roof, with a 3:12 pitch, may project an additional four (4) feet, to a maximum of 26 feet. As a condition of approval, prior to framing inspection during construction the applicant will be required to provide a height certification from a licensed land surveyor demonstrating that the project complies with all height limitations.

Since the residence is proposed at more than 2,500 square feet, the applicant is required to provide two enclosed parking spaces and one additional enclosed or unenclosed parking space. The applicant has provided two enclosed parking spaces within the attached garage, and has an additional parking space available within the driveway accessing the garage, thereby meeting all parking standards in Chapter 30.54 (Off-Street Parking) of the Municipal Code. The applicant has documented on the project plans that the project complies with all development standards related to height, setbacks, lot coverage, floor area ratio and parking.

#### **Public Notice:**

A standard public notification was issued for the Coastal Development Permit application, which allowed for a ten day comment period from October 25, 2013 to November 4, 2013. The Planning and Building Department received correspondence from Mr. Dan Sanders, a neighbor adjacent to the project at 442 Sheffield Avenue, related to the determination of the average lot slope and the applicable height standards during the 10-day comment period and during the Coastal Development Permit review process.

#### **Comments Received:**

During the Coastal Development Permit review process and comment period Mr. Sanders submitted to the City information and plans with concerns related to the project. The concerns indicated that materials were added to the site prior to and until 1996 that affect the topography and additionally a pad with associated retaining walls was created in 2010 for a wedding event. Additionally, Mr. Sanders indicated that Sampo Engineering, along with a representative of Southern California Soil & Testing, Inc. and himself had met with City staff to establish the historical topography with a series of pre-application meetings between 2005 through 2007. He indicated in his letter at the time that historical topography for the basis of determining the average lot slope should be based upon a 1985 topography prepared by land surveyor Jon Blake. Furthermore, the neighbor submitted a letter from Sampo Engineering with some previous topographical data and average lot slope calculations. The letter indicated that the preliminary grading plan for the project was not based on the current City NAVD88 datum.

#### **Response to Comments:**

Staff evaluated the letter, correspondence and plans provided from the adjacent neighbor based upon project records, aerial photos, aerial topography, previous case files and new information provided by the applicant. The datum utilized for the benchmark for the preliminary grading was determined to be an older City datum, and the applicant revised the benchmark and datum to the correct current NAVD88 datum on the preliminary grading plan. The correspondence provided between the two engineers and City Staff from 2005-2007 indicate no clear record of a determination to utilize the 1985 historical topography for determination of average lot slope for future projects.

### *Permit History/Records-*

The City has identified three historical permits (Case No. 95-203 BA/CDP, 97-247 MIN/CDP and Case No. 10-092 SR) related to the project site. The first application (Case No. 95-203 BA/CDP) was a boundary adjustment that ultimately recorded between the subject property and adjoining property at 444-446 Sheffield Avenue. Record of Survey 21562 provided by the applicant indicated that the two property line dimensions north to south from the recorded Boundary Adjustment/Certificate of Compliance plat were incorrect based upon the legal description and recent field survey.

The second application (Case No. 97-247 MIN/CDP) was a request to create community gardens on the subject site and adjoining property related to a Code Enforcement Case. A hand drawn site plan was provided as a part of the file that indicated proposed row gardens on the majority of 444-446 Sheffield Avenue with some proposed on 432 Sheffield Avenue. No site specific soils report was included with that project file nor was a detailed topography analysis, and the application was ultimately withdrawn with no complete review of the project.

The third application (Case No. 10-092 SR) for a determination of the average lot slope by the previous property owner is discussed previously in this Notice of Decision. Based upon the information provided with the Service Request application it was determined that the average lot slope was 9.87% for the site. The letter indicated that any future development on the property and regulations applicable to the proposed development would be determined based upon plans, the application and related materials to the proposed development.

### *Response from the Applicant-*

On November 6, 2013, Rancho Coastal Engineering provided a response to the applicants concerns along with supporting documentation with a slope study, soils report and recorded Record of Survey 21562. The letter indicated that the two recent hand shot topographic surveys performed by Rancho Coastal Engineering and Pasco, Laret, Suiter and Associates are consistent with each other with an average lot slope of 9.7% and 9.8%. Additionally, the letter stated that it is a common engineering standard for aerial topography to be accurate to within plus/minus a half of a contour interval, and that the most accurate survey is a field shot survey. A soils report was also submitted indicating the presence of undocumented fill on the southwest corner of the property near some specific average lot slope points.

### *Average Lot Slope Analysis-*

After further analyzing the original slope analysis prepared by Pasco, Laret, Suiter and with the new information of undocumented fill on a section of the property, the applicant's representative (Rancho Coastal Engineering and Surveying) worked in consultation with staff to provide additional average lot slope exhibits in accordance with Section 30.16.010d2 of the Municipal Code because of the irregular topography on the

property. One of the exhibits included additional run lines that capture the highest and lowest points of the lot. This provided a more accurate representation of the average lot slope within the developable site area.

Additionally, because of the presence of some undocumented fill on the property near specific points used to determine average lot slope, Rancho Coastal Engineering and Surveying conducted an additional field survey on January 17, 2014 with a soils engineer (East County Soils) on-site to perform boring to verify the natural grade on all specific spot elevations used in the average lot slope exhibit. The updated average lot slope exhibit was submitted to the City for review on January 21, 2014 and indicated that some fill had historically been added across the entire property within the developable area. Based upon the boring results and field survey, prior to any undocumented fill the average lot slope of the natural grade is 9.61%, a decrease from the 9.8% average lot slope using existing surface grades.

#### *Conclusion-*

The 1985 historical topography survey was compared to the City GIS aerial topography and also compared to the revised preliminary grading plan at the correct City datum. Based upon analysis of the 1985 historic topography, the preliminary topography study prepared by Sampo Engineering, City aerial orthophotography, and the lot slope exhibits and topography prepared by the applicant, and other supporting documentation, the topography is represented in all of these records relatively consistently in size and configuration. Differences arise due to the specifics of the proposed project and the accuracy of the topographic information. The average lot slope completed by Sampo Engineering was based upon different setback lines and incorrect property line dimensions, and therefore is an inaccurate average lot slope analysis for this project. Additionally, the 1985 topography survey includes a statement that the boundary data was based upon data known to have error and could affect the boundary up to 4 feet plus or minus. The slight variations in the characteristics of the topography could be relative to aerial flown topography versus hand shot topography, which is significantly more accurate.

The current average lot slope exhibit dated January 21, 2014 documents the natural grade based on in the field, hand shot elevations and on analysis of site specific borings of points used to determine the average lot slope. The average lot slope for the property is determined to be less than 10%, and the project is not subject to the more restrictive height limitations applicable to properties sloped over 10%.

#### **Determination:**

The Planning and Building Department determined the Coastal Development Permit application to be consistent with all applicable policies of the General Plan and provisions of the Municipal Code. The single-family dwelling as approved herein is exempt from Design Review as per Section 23.08.030B7 of the Municipal Code because the project is one custom single-family detached dwelling with a dissimilar design from other residences within the immediate neighborhood.

**Environmental Review:** The project is exempt from environmental review pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15303(a) for the construction of one single-family residence on an existing vacant property.

This approval is based on the following findings:

### **FINDINGS FOR A COASTAL DEVELOPMENT PERMIT**

**STANDARD:** Section 30.80.090 of the Municipal Code provides that the authorized agency must make the following findings of fact, based upon the information presented in the application and during the Public Hearing, in order to approve a coastal development permit:

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

**Facts:** The applicant requests approval of a Coastal Development Permit for the construction of a 3,292 square foot single-family residence and a 425-square foot attached garage within the R-8 Zone. The applicant has documented that the average lot slope is 9.61%, and thus is not subject to the more restrictive height limitations applicable to properties sloped 10% or more. The project includes two enclosed garage parking spaces with an additional unenclosed parking space available within the driveway accessing the garage in accordance with off-street parking requirements. The project complies with all development standards of the R-8 Zone related to height, setbacks, lot coverage, and floor area ratio. The single-family dwelling as approved herein is exempt from Design Review as per Section 23.08.030B7 of the Municipal Code because the project is one custom single-family detached dwelling with a dissimilar design from other residences within the immediate neighborhood.

**Discussion:** Related to finding No. 1, The Planning and Building Department determined the Coastal Development Permit application to be consistent with the City's Local Coastal Program, including all applicable policies of the General Plan and provisions of the Municipal Code. Related to finding No. 2, the project is exempt from environmental review pursuant to Section 15303(a) of the California Environmental Quality Act (CEQA). Finding No. 3 is not applicable because the

project site is located on the north side of Sheffield Avenue between Bristol Road and Somerset Avenue, which is not located between the sea and the nearest public road.

**Conclusion:** The Planning and Building Department finds that 1) the Coastal Development Permit complies with the City's Local Coastal Program including General Plan policies and Municipal Code requirements, and all other applicable development and design standards; 2) no potentially significant adverse impacts to the environment will result from the project and the project is exempt from environmental review pursuant to Section 15303(a) of the California Environmental Quality Act (CEQA) Guidelines; and 3) finding No. 3 is not applicable as the project site is located on the north side of Sheffield Avenue between Bristol Road and Somerset Avenue, which is not located between the sea and the nearest public road.

This approval is subject to the following **conditions**:

SC1 **SPECIFIC CONDITIONS:**

SC2 At any time after two years from the date of this approval, January 27, 2016 at 5:00 P.M., or the expiration date of any extension granted in accordance with the Municipal Code, the City may require a noticed public hearing to be scheduled before the authorized agency to determine if there has been demonstrated a good faith intent to proceed in reliance on this approval. If the authorized agency finds that a good faith intent to proceed has not been demonstrated, the Coastal Development Permit shall be deemed expired as of the above date (or the expiration date of any extension). The determination of the authorized agency may be appealed to the City Council within 15 days of the date of the determination as listed on this Permit.

SC6 This project is conditionally approved as set forth on the application and project drawings stamped received by the City on October 21, 2013, consisting of four sheets, including site plan, floor plans (2 Sheets), elevations and preliminary grading plan, all designated as approved by the Planning and Building Director on January 27, 2014, and shall not be altered without express authorization by the Planning and Building Department.

SCA The following conditions shall be included on the building and/or grading plans and performed to specification of the Engineering Services Department:

1. The applicant shall provide public improvements along the property frontage to Sheffield Avenue. The applicant shall widen the existing paving to ensure a total paved width of 24 feet. At the edge of the paving a 6 inch x 16 inch PCC flush curb shall be constructed, followed by a 6-foot wide pervious paver parking area and a 5-foot wide Decomposed Granite (DG) pedestrian path. The final design of the pervious pavers shall be approved on the grading plan,

but generally they shall be flat for the first 2 feet, and then slope up toward the property at no more than 5% and the pavers shall be underlain with a deepened crushed rock section to allow infiltration. The remaining right-of-way (if any) shall be graded at no more than 5% toward the property.

2. All proposed utility service lines to this property shall be installed underground.
3. As shown on the Coastal Development Permit (CDP) site plan, the project site shall be graded to drain to Sheffield Avenue. Also, the applicant shall provide post construction stormwater quality treatment BMP/IMP facilities to collect and treat all runoff generated onsite from all new impervious surfaces including roofs, hardscape, driveways, etc. prior to discharging to Sheffield Avenue.
4. The public sewer main does not currently front the subject property but is located approximately 35 feet to the west. The applicant shall provide a public sewer main extension equal to the length of the property's line that fronts Sheffield Avenue. A public sewer improvement drawing will be required for these improvements.

SCB The following conditions shall be included on the building and/or grading plans and performed to specification of the San Dieguito Water District:

1. The developer shall install the water system according to Water Agencies' (WAS) standards and dedicate to the San Dieguito Water District the portion of the water system that is to be public.
2. All water meters shall be located in front of the parcel they are serving and outside of any existing or proposed travel way. The cost of the relocation shall be the responsibility of the developer. Appurtenances shall not be placed in roadside ditches.
3. The developer shall show all existing and proposed water facilities on improvement or grading plans for the approval of the San Dieguito Water District.

SCC Prior to the issuance of the building permit the applicant shall establish a Maximum Applied Water Allowance (MAWA) and complete a best landscape design practices checklist pursuant to Section 23.26.160 of the Municipal Code. If the landscape area for the project exceeds 5,000 sq. ft., then it will be subject to all additional landscape and irrigation requirements within Chapter 23.26 of the Municipal Code.

G1 **STANDARD CONDITIONS:**

**CONTACT THE PLANNING DEPARTMENT REGARDING COMPLIANCE WITH THE FOLLOWING CONDITIONS:**

- G2 This approval may be appealed to the City Council within 15 calendar days from the date of this approval in accordance with Chapter 1.12 of the Municipal Code.
- G5 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.
- G7 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 reduced (8 1/2" x 11") copy of the site plan and elevations depicting the exact point(s) of certification. The engineer/surveyor shall contact the Planning and Building Department to identify and finalize the exact point(s) to be certified prior to conducting the survey.
- G13 The applicant shall pay development fees at the established rate. Such fees may include, but not be 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/Cost Recovery Fees. Arrangements to pay these fees shall be made prior to **building permit issuance** to the satisfaction of the Planning and Building and Engineering Services Departments. The applicant is advised to contact the Planning and Building Department regarding Park Mitigation Fees, the Engineering Services Department regarding Flood Control and Traffic Fees, applicable School District(s) regarding School Fees, the Fire Department regarding Fire Mitigation/Cost Recovery Fees, and the applicable Utility Departments or Districts regarding Water and/or Sewer Fees.
- G19 Garages enclosing required parking spaces shall be kept available and usable for the parking of owner/tenant vehicles at all times.

B1 **BUILDING CONDITION:**

**CONTACT THE ENCINITAS BUILDING DIVISION REGARDING COMPLIANCE WITH THE FOLLOWING CONDITION:**

- B2R The applicant shall submit a complete set of construction plans to the Building Division for plancheck 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). These comments are preliminary only. A comprehensive plancheck 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.

F1 **Fire Conditions:**

**CONTACT THE ENCINITAS FIRE DEPARTMENT REGARDING COMPLIANCE WITH THE FOLLOWING CONDITIONS:**

F2 **ACCESS ROAD MINIMUM DIMENSIONS:** Fire apparatus access roads shall have an unobstructed improved width of not less than 24 feet; curb line to curb line, and an unobstructed vertical clearance of not less than 13 feet 6 inches. Exception: Single-Family residential driveways; serving no more than four 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.

F13 **ADDRESS 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: 4" high with a 3/8" stroke for residential buildings, 8" high with a 1/2" stroke for commercial and multi-family residential buildings, 12" high with a 1" 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.

F15A **AUTOMATIC FIRE SPRINKLER SYSTEM-ONE AND TWO FAMILY DWELLINGS:** Structures shall be protected by an automatic fire sprinkler system designed and installed to the satisfaction of the Fire Department. Plans for the automatic fire sprinkler system shall be approved by the Fire Department prior to the issuance of building permit(s).

F18 **CLASS "A" ROOF:** All structures shall be provided with a Class "A" Roof covering to the satisfaction of the Encinitas Fire Department.

**E1     ENGINEERING CONDITIONS:**

**CONTACT THE ENGINEERING SERVICES DEPARTMENT REGARDING COMPLIANCE WITH THE FOLLOWING CONDITIONS:**

- E2     All City Codes, regulations, and policies in effect at the time of building/grading permit issuance shall apply.
- E3     All drawings submitted for Engineering permits are required to reference the NAVD 88 datum; the NGVD 29 datum will not be accepted.

**EG1   Grading Conditions**

- EG3   The owner shall obtain a grading permit prior to the commencement of any clearing or grading of the site.
- EG4   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 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 Engineering Services Director and verify compliance with Chapter 23.24 of the Encinitas Municipal Code.
- EG5   No grading shall occur outside the limits of the project unless a letter of permission is obtained from the owners of the affected properties.
- EG6   Separate grading plans shall be submitted and approved and separate grading permits issued for borrow or disposal sites if located within city limits.
- EG7   All newly created slopes within this project shall be no steeper than 2:1.
- EG8   A soils/geological/hydraulic report (as applicable) shall be prepared by a qualified engineer licensed by the State of California to perform such work. The report shall be submitted with the first grading plan submittal and shall be approved prior to issuance of any grading permit for the project.
- EG9   Prior to hauling dirt or construction materials to any proposed construction site within this project the owner shall submit to and receive approval from the Engineering Services Director for the proposed haul route. The owner shall comply with all conditions and requirements the Engineering Services Director may impose with regards to the hauling operation.
- EG10   In accordance with Section 23.24.370 (A) of the Municipal Code, no grading permit shall be issued for work occurring between October 1st of any year and April 15th of the following year, unless the plans for such work include details of protective

measures, including desilting basins or other temporary drainage or control measures, or both, as may be deemed necessary by the field inspector to protect the adjoining public and private property from damage by erosion, flooding, or the deposition of mud or debris which may originate from the site or result from such grading operations.

**ED1 Drainage Conditions**

ED2A 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 Best Management Practice Manual shall be employed to determine appropriate storm water pollution control practices during construction.

ED3 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 Engineering Services Director to properly handle the drainage.

ED5 The owner shall pay the current local drainage area fee prior to issuance of the building permit for this project or shall construct drainage systems in conformance with the Master Drainage Plan and City of Encinitas Standards as required by the Engineering Services Director.

**ES1 Street Conditions**

ES5 Prior to any work being performed in the public right-of-way, a right-of-way construction permit shall be obtained from the Engineering Services Director and appropriate fees paid, in addition to any other permits required.

**EU1 Utilities**

EU4 All proposed utilities within the project shall be installed underground including existing utilities unless exempt by the Municipal Code.

**ESW1 Storm Water Pollution Control Conditions**

ESW5 The project must meet storm water quality and pollution control requirements. The applicant shall design and construct landscape and/or turf areas and ensure that all flows from impervious surfaces are directed across these areas prior to discharging onto the street. A **Grading Plan/ Permit Site Plan** identifying all landscape areas designed for storm water pollution control (SWPC) and Best Management Practice shall be submitted to the City for Engineering Services Department approval. A note shall be placed on the plans indicating that the

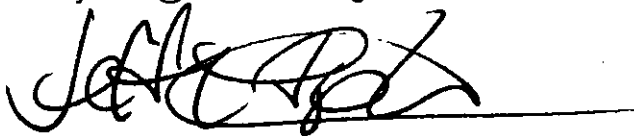
modification or removal of the SWPC facilities without a permit from the City is prohibited.

ESW9 For storm water 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. Grass and landscape areas designated for storm water pollution control shall not be modified without a permit from the City. A note to this effect shall be placed on the **Grading/Permit Site** plan.

This notice constitutes a decision of the Planning and Building Department only. Additional permits, including Building Permits, may be required by the Building Division or other City Departments. It is the property owner's responsibility to obtain all necessary permits required for the type of project proposed.

In accordance with the provisions of Municipal Code Section 1.12, the decision of the Planning and Building Director may be appealed to the City Council within 15 calendar days of the date of this determination. The appeal must be filed, accompanied by a \$250 filing fee, prior to 5:00 pm on the 15<sup>th</sup> calendar day following the date of this Notice of Decision. Any filing of an appeal will suspend this action as well as any processing of permits in reliance thereon in accordance with Encinitas Municipal Code Section 1.12.020(D)(1) until such time as an action is taken on the appeal.

If you have any questions regarding this determination, please contact Andrew Maynard at the Planning and Building Department by telephoning (760) 633-2718 or via email at [amaynard@encinitasca.gov](mailto:amaynard@encinitasca.gov).

A handwritten signature in black ink, appearing to read 'Jeff Murphy', is written over a horizontal line.

Jeff Murphy,  
Planning and Building Director