

HISTORY OF PACIFIC VIEW

1883

- Transcript of Deed
- Recorder Record

1950 – 1964

District purchases four adjacent lots. *Records available at District Office.*

2003-2004

- 2003 Facility Review Committee Members
- Excerpt from Facility Review Committee Final Report

2005-2009

- Pacific View Advisory Committee Members
- Committee reaches consensus on proposal for mixed use developed "Pacific View"
- Commons" meeting the guidelines of the Encinitas Specific Plan and input from City representatives.
- Citizen Participation information meeting notice.
- Independent appraisal of property under D-OM (Mixed Use) Limited is \$13.5 million.
- City agendizes District request for zoning amendment outlining steps District took in working with community and city staff in development of Pacific View Commons.
- District letter to Planning Commissioner for zoning amendment for Pacific View Commons.
- Legal opinion re inapplicability of Naylor Act.
- District letter to Planning Commission - request for continuance of zoning amendment
- Pacific View Quick Facts Sheet
- Facts about Pacific View by Board President Cathy Regan
- District letter to City re their interest in purchasing property. Although not subject to Naylor Act, District offers property under Naylor formula for \$10 million based on \$13.5 million appraised value.

City declines purchase of property. Planning Commission fails to approve amendment to zoning.

2009 - 2012

- 2010 Real Property Advisory Committee Members
- Pacific View Site is again determined to be surplus
- District letter to City Notice of Disposal of Surplus Property offer to purchase
- District response to City County discussion re District request for rezone.
- District letter re denial of zoning as required by Government Code § 65852.9(a)
- District letter to City re rezoning and agreement to amendments put forth by the City.
- Press Release re Encinitas Union School District vs City of Encinitas.
- District agrees to enter into tolling agreement with City.
- District enters into potential sale with ARtPulse for \$7.5 million for development as an Arts Center.
- City fails to agendize ArtPulse application. ArtPulse withdraws for purchase.

2013

- City votes to enter into negotiations with the District for purchase of the Pacific View Property. City and District appoint representatives on AdHoc Committee.
- District agrees to participate in AdHoc Committee for negotiations with City and setting parameters.
- City letter agreeing to explore options for a possible purchase of Pacific View.
- City offers \$4.3 million for PV property. District letters rejecting offer and requesting City to process rezoning to R-15 pursuant to GC § 65852.9(a).

PACIFIC VIEW SITE



Description

The property is described as follows:

School Lot (Pacific View Elementary School), Block 30, Map 148, City of Encinitas, county of San Diego, state of California. APN 258-151-22

The parcel is rectangular in shape and has an area of 2.82+ acres (122,839+ SF)

Access

The site is located to the west of Third Street, between F Street and E Street. All are two-way, two-lane asphalt streets with concrete sidewalks, curbs, and gutters. Both Third Street and E Street have parallel parking along both sides. F Street has parallel parking on the southern side and angled parking on the northern side. All streets are well maintained.

Topography

The majority of the site is generally level. Because of significant grading and the use of some retaining walls, most of the site is above street grade. Due to the natural topography of the area, the perimeter of the site slopes downward to the southeast corner, less to the northeast corner and slightly to the northwest corner.

View

Much of the site has average area views. There are some ocean views from the southwest corner and good ocean views from the northwest corner.

Flood Zone / Earthquake Hazard

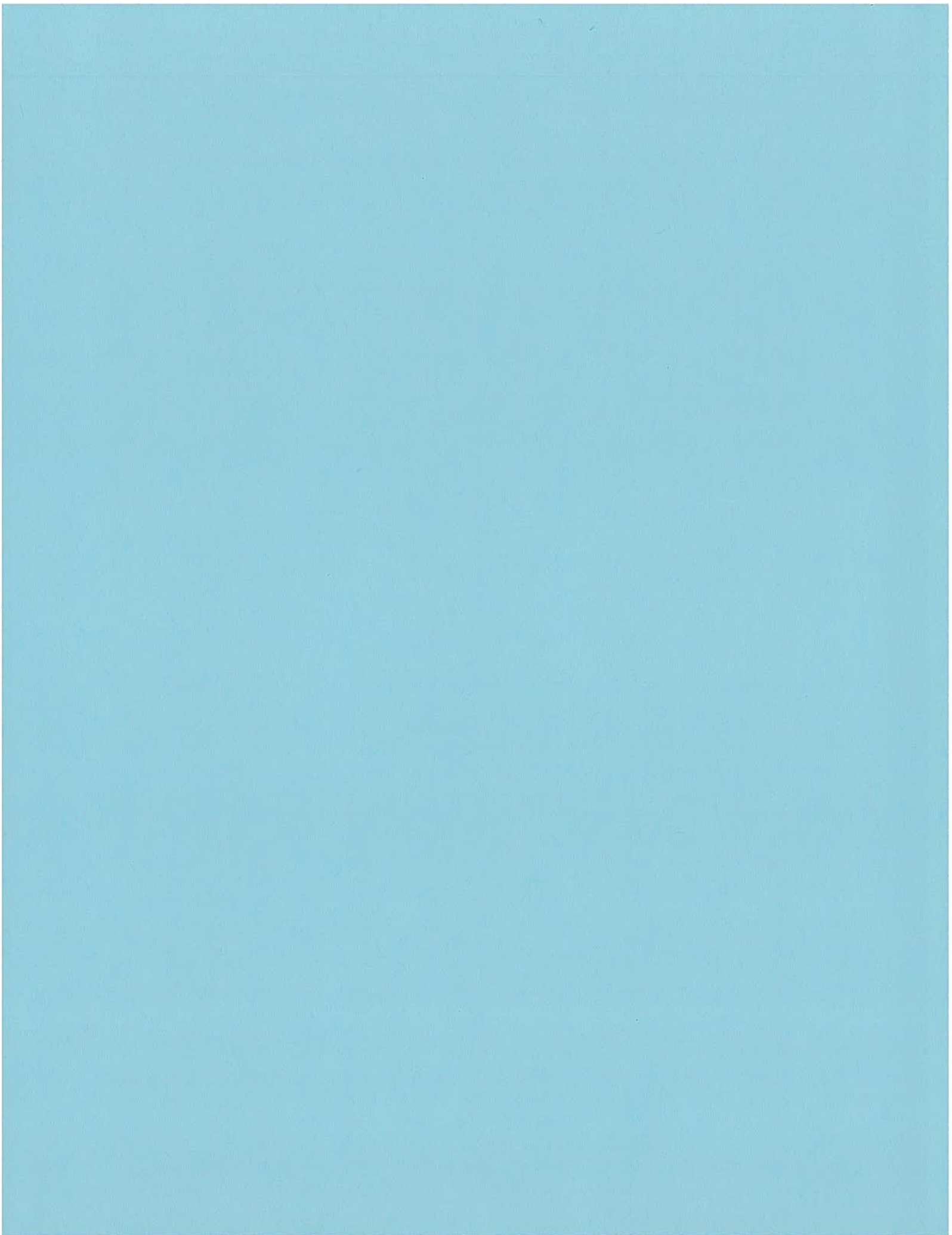
The site is in Federal Emergency Management Agency (FEMA)_ community panel. It is in Zone X an area determined to be outside of the 100 and 500 year floodplains. The property is not inside a known Alquist-Priolo Earthquake Fault Zone.

Utilities and Service

All utilities, including gas, electricity, water, sewer and telephone are available to site.

Zoning

The site is presently zoned D-P/SP, Public/Semi-Public. The site has been identified as surplus by the Encinitas Union School District and meets the criteria set forth in Government Code §65852.9 for rezoning to residential (R-15) consistent with adjacent property.



TRANSCRIPTION OF GRANT DEED ... DATED MARCH 8, 1883

J.L. Pitcher
to
Encinitas School District

Deed,
I, J L Pitcher of

San Diego, California do hereby grant to the Encinitas School District of the said County, all that real property situated in the County of San Diego, State of California described as follows, to wit; commencing at point of intersection of the South line of E Street in the Town of Encinitas, with the West line of Third Street, thence South along said West line of Third Street, three hundred twenty feet, thence at right angle, West three hundred twenty feet, thence at right angles North three hundred twenty feet to said South line of E Street, thence East 320 feet to point of commencement Being Block Thirty of the Subdivisional Survey of Section Sixteen, Tp. Thirteen South. Range Four West, S.B.M. Together with all the hereditaments and appurtenances thereunto belonging or in anywise appertaining.

In Witness Whereof, attest my hand this March 8, 1998. In Presence of Geo. W.Hitchcock J.L. Pitcher

State of California

County of San Diego

On this 8 day of March, one thousand, eight hundred and eighty three, before me, Geo. W. Hitchcock, a Notary Public in and for the County of San Diego, personally appeared J. L. Pitcher personally known to me to be the same person described in whose name is subscribed to the written instrument, and he acknowledged to me that he executed the same.

In Witness Whereof I have hereunto set my hand an affixed my official seal, the day and year in this Certificate first above written.

Geo. W. Hitchcock
Notary Public

Received for record at the request of R.D. Butler, July 9th, 1883 at 9 o'clock A.M.

E. J. Haight,
County Recorder

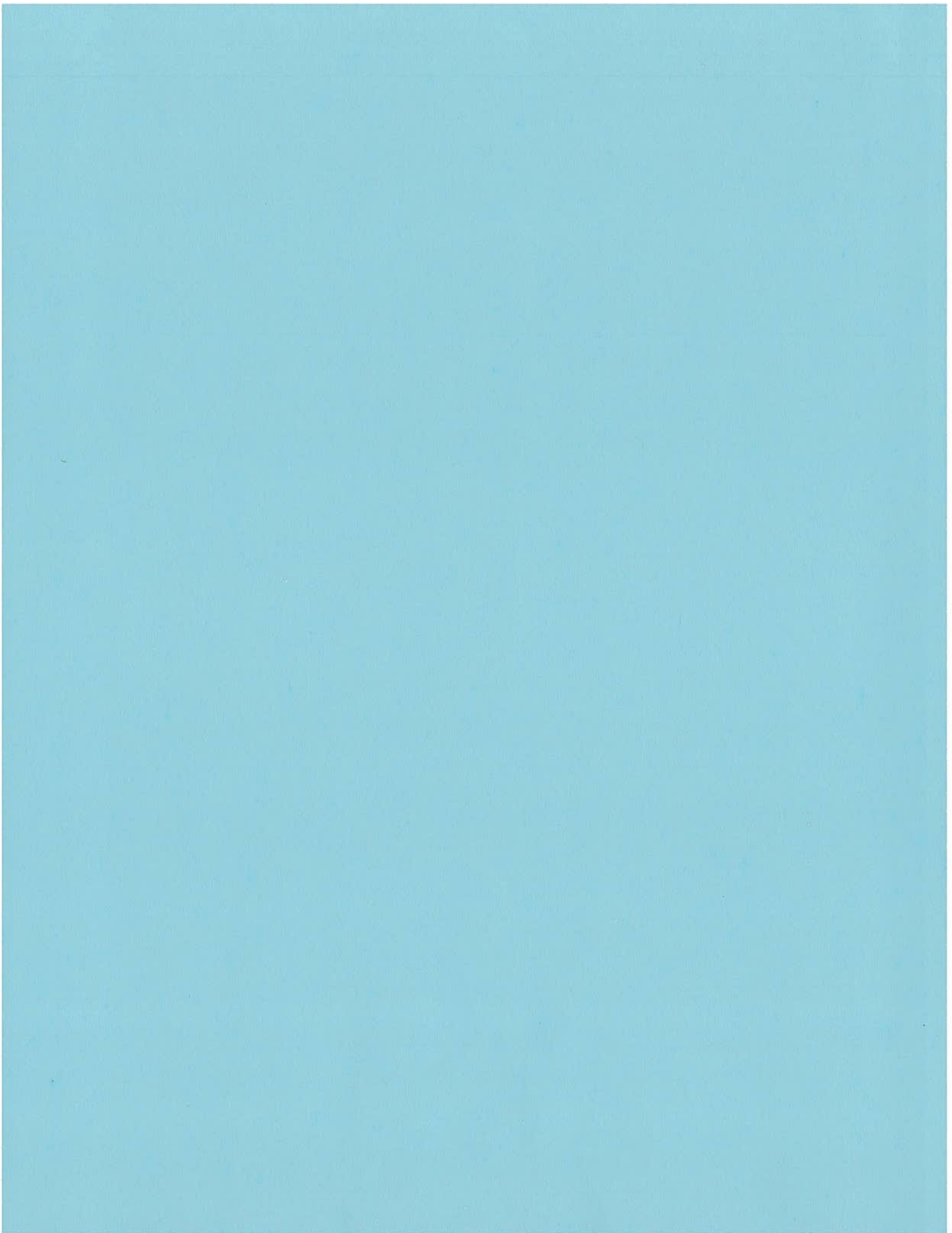
By H. T. Christina, Deputy

I hereby certify that if impressed with the seal of
the San Diego County Recorder, this is a true copy
of the permanent record filed and/or recorded in
this office.



OCT 16 1963
Date

A. S. GRAY, County Recorder
County of San Diego, California



PACIFIC VIEW HISTORY

2003-2004

2003 Facility Review Committee



Skip Coomber, Chair
Parent

Terry Aston
Parent

Mike Winters
EUSD Property Manager

Gregg Sonken
Principal
Paul Ecke Central/Pacific View

Patrick Murphy
City Representative

Alicia Queen
Assistant Principal
Paul Ecke Central/Pacific View

Joyce Ward
Office Manager
Paul Ecke Central/Pacific View

Vicky Hogrefe
Bilingual Specialist

Judy Leff
Teacher
Paul Ecke Central/Pacific View

Cynthia Martin
Chief Financial Officer

Martha Schutte
Parent
Paul Ecke Central/Pacific View

EXCERPT FROM FACILITY REVIEW COMMITTEE FINAL REPORT

May 6, 2003

Full report available upon request.

XXXXXXXXXXXX

PACIFIC VIEW ELEMENTARY SCHOOL SITE

Zoning

The current zoning of the Pacific View Elementary School site is public use. This zoning designation generally allows governmental uses, including administrative offices, and medical office. A zoning designation of public use limits construction of buildings to a floor area ratio of 0.5, which means that for every ten square feet of usable space on the property, there can be a maximum of five square feet of developed space. There is also a requirement to provide one parking space for every 200 square feet of developed space.

Financial Considerations

The Pacific View Elementary site is estimated to have a land value which could exceed \$7,500,000 to \$10,000,000. If utilized properly this property should easily be able to generate income to the District of \$1,000,000 per year. There would be significant interest from the development community to develop the property and maximize value for the District as it is in the highest rental market in the County and the location and ocean views provide unique development opportunities. To maximize value, all development options should be considered, including office, residential, mixed-use, specialty office, and medical office. The most profitable scenario will most likely be determined through a Request for Proposal ("RFP") process of the development community.

PACIFIC VIEW HISTORY

2005-2008

- Pacific View Advisory Committee Members
- Committee reaches consensus on proposal for mixed use developed "Pacific View Commons" meeting the guidelines of the Encinitas Specific Plan and input from City representatives.
- Citizen Participation information meeting notice.
- Independent appraisal of property under D-OM (Mixed Use) Limited is \$13.5 million.
- City agendas District request for zoning amendment outlining steps District took in working with community and city staff in development of Pacific View Commons.
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PACIFIC VIEW ADVISORY COMMITTEE MEMBERS

Dee Snow, Snow Properties, Inc., District Consultant

Peder Norby, Executive Director, Downtown Encinitas Merchant's Association

Gary Tucker, Chief Executive Officer, Chamber of Commerce

Patrick Murphy, City of Encinitas, Planning Director

Lloyd O'Connell, Encinitas Historical Society

Joyce Ross, Community Member

Wilson Bullard, Community Member

Tom Cousins, Community Member

Sarah Garfield, Community Member

Tom Curriden, City of Encinitas

Gary Tucker, Encinitas Chamber of Commerce

Carol Bodas, Community Member

Keith Harrison, Business Member



ENCINITAS UNION SCHOOL DISTRICT

Invites You to an Informational Meeting on Pacific View Commons (CASE#07-114)

Monday November 19, 2007

6:00 – 7:30 p.m.

**Ocean Knoll Elementary School
910 Melba Road, Encinitas, CA 92024**

In July 2007, the Encinitas Union School District (EUSD) submitted an application for a General Plan Amendment, Zone Change, and Specific Plan Amendment for a mixed-use development on the former Pacific View Elementary school site. EUSD is not proposing development of the site at this time, and have only applied for the amendments necessary to prepare the site for future development. Since the school was closed in 2003, the site has been home to the City of Encinitas Public Works Yard. The Historic Schoolhouse is also located on the site, and is maintained and operated by the Encinitas Historical Society. The site is located along the western side of Third Street between E and F Street, and is surrounded by a mix of residential and office uses.

The property is located in the Downtown Encinitas Specific Plan Area and is currently zoned Public/Semi-Public (D-P/PS). The site currently has General Plan Land Use designations of Public/Semi-Public (P/PS) and SP-2 (Downtown Encinitas Specific Plan). These designations intend to provide for activities operated by the City, county or other governmental agency, although other semi-public institutions, such as hospitals and medical office, are also allowed. The applicant has proposed to change the zoning and General Plan Land Use designations to Downtown Encinitas – Office Mixed 2 (D-OM-2) and Office Professional (OP), respectively. Modeled after the existing Office Mixed zone in the Downtown Encinitas Specific Plan, the Office Mixed 2



For over two years, EUSD has worked with the Pacific View Advisory Committee (PVAC), a committee composed of community residents, DEMA, the Encinitas Historical Society, EUSD members and other interested parties. PVAC was tasked with creating a conceptual site plan for the subject site. During a series of meetings in 2006, PVAC members were able to voice their concerns regarding site design issues, including land uses, lot coverage, floor area ratio, and building height. The committee agreed to support a mixed-use project that included both office and residential uses on the site. A Conceptual Site Plan was prepared, and now serves as the guide for future development on the site.

We are looking forward to discussing this project with you on November 19th. If you can't attend the meeting, or if you have any questions before then, please feel free to contact Dee Snow at (858) 922-1229.

*This notice is being sent to you in fulfillment of the City of Encinitas Citizen Participation Program requirements (E.M.C. 23.06). This outreach effort to our neighbors is necessary because an application for development has been or will be filed with the City of Encinitas, Planning and Building Department. The sole purpose of this process is to be a preliminary tool for opening a dialogue and to ensure that the project applicants and the citizens both have an opportunity in the planning process to discuss, understand, and try to resolve neighborhood issues related to potential impacts of a proposed project on the surrounding neighborhood. It is not meant to necessarily change or prevent a project as proposed. Please continue to monitor any notices you receive as changes may be made to the project before the final decision is made. Questions about this notice and the proposed development should be directed to the contact information above. Questions regarding the Citizen Participation Program should be directed to the Planning and Building Department at (760) 633-2710.



**CITY OF ENCINITAS
CITY COUNCIL
AGENDA REPORT
Meeting Date: May 23, 2007**

TO: City Council
VIA: Phil Cotton, City Manager 
FROM: Planning and Building Department
Patrick Murphy, Planning and Building Director
J. Alfred Dichoso, Associate Planner 

SUBJECT: Authorization to process an amendment to the General Plan, Local Coastal Program, and Downtown Encinitas Specific Plan, pursuant to the Encinitas Union School District's request to establish an "office-mixed use" zone for 2.8 acres located at 608 Third Street (APN 258-151-22) (Attachment "A").

BACKGROUND:

In the summer of 2005, the Encinitas Union School District (EUSD) created the Pacific View Advisory Committee (PVAC) which was composed of community residents, the Downtown Encinitas Mainstreet Association (DEMA), the Encinitas Historical Society, members of the school district, and other interested parties. PVAC was charged with the task of creating a conceptual plan for the development of the former Pacific View Elementary School site, since it had closed in 2003.

During a series of meetings held in early 2006, the PVAC came to a consensus to support a mixed use project for the former Pacific View Elementary School site. To further define the project, EUSD retained the services of Snow Properties and the Lightfoot Planning Group to work with PVAC.

Additional PVAC meetings were held on September 9, October 4, and November 28, 2006, which resulted in a proposed development concept consisting of a mix of office, single family, and two- and one-story condominiums, with intentions to preserve the historic "old schoolhouse" located onsite. On January 13, 2007, a community-wide meeting was held at Paul Ecke Elementary to present the "three-tiered" (office, single family and condominium) concept plan that was attended by approximately 80 community members.

The school district also met with city staff at a Staff Advisory Committee meeting on February 7, 2007 to discuss predevelopment issues. Two subsequent PVAC meetings were held on January 29 and February 13, 2007 to further refine the "three-tiered" concept. The plan that is being introduced to the City Council for consideration as amendments to the Downtown Encinitas Specific Plan is a result of the February 13, 2007 meeting as approved by PVAC.

ANALYSIS:

Based on the school district's proposal, the amendment would modify the land use designation of the site from Public/Semi-Public (P/SP) to Office Professional (OP), and the zoning classification from Downtown Encinitas-Public/Semi-Public (D-P/SP) to an "office mixed use" zone to be determined. EUSD is proposing a variation of the existing Downtown Encinitas-Office Mixed (D-OM) zone for the former Pacific View Elementary School site (Attachment "B"). The D-OM zone is intended to provide a zoning district that allows individual properties to develop as either residential, office professional, or a mix of both.

The school district's proposal is consistent with the intent of the DESP's "Residential West Subdistrict" (DESP Page 3-2). The subdistrict is primarily a residential neighborhood, visually, functionally and historically linked together with the Downtown commercial core. It presents many traditional community beach design elements, including alleys for auto access, small lots and small-scale structures, plus formal streets. It also incorporates important community institutions, and churches. According to General Plan Land Use Element Policy 7.10, the maximum residential and nonresidential building heights are two stories or 30 feet. Currently, the existing D-OM zone (located on the east side of Third Street) permits a FAR maximum of 0.65.

Next Steps

Should the City Council accept this amendment request, it will be processed as an "off-cycle" application and proceed on its own timeline – independent of the General Plan Annual Review Cycle. Additionally, staff will work with EUSD throughout the process to coordinate the amendments as proposed, and amend accordingly relevant text, tables, figures and maps. The process will include additional community meetings to review the amendments proposed, and environmental review and public hearings before the Planning Commission and City Council. If approved, the amendment request will then be submitted to the California Coastal Commission for review and consideration. It is anticipated that the amendment process would take at least one year or longer depending upon the environmental documentation to be prepared.

Voter Approval

Land Use Element Policy 3.12.4(a) allows for an exception to the voter approval requirement if the land use change represents a "decrease in intensity" and if a CEQA determination of no unmitigable significant environmental impacts can be found. The policy identifies a change from P/SP to OP or residential as a decrease in intensity. As such, if no unmitigable significant environmental impacts are found, the project would be exempt from voter approval. A vote of 4 or more council members is required for approval.

FISCAL AND STAFF IMPACTS: While no fiscal impacts are anticipated, the amendment request will be processed using existing staff resources with costs to be paid by either EUSD or the future developer of the project site.

STAFF RECOMMENDATION: Authorize staff to move forward with an amendment as requested by the Encinitas Union School District.

LIST OF ATTACHMENTS

- A - Vicinity Map
- B - Encinitas Union School District Request for Amendments (April 11, 2007)

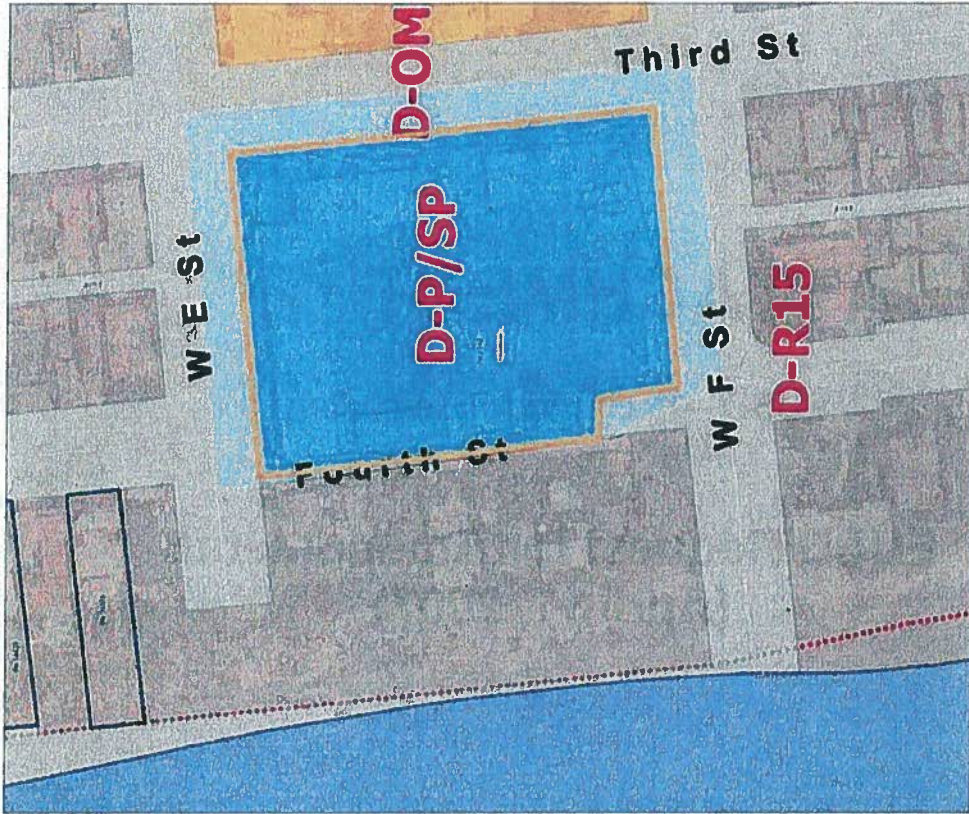
ATTACHMENT “A”

EUSD – Pacific View Elementary

Vicinity/Zoning Map



Vicinity/Zoning Map - Pacific View Elementary
608 Third Street (APN 259-151-22)
2.8 acres



DISCLAIMER:
 This map should not be used for Engineering, Survey, or Site-Specific Analysis.
 It is a general representation of the City's zoning map and should not be used for any specific project. The City of Escondido assumes no liability for any errors or omissions in this map.

Map Information: Escondido 2007 Final City Map
 Prepared by the City of Escondido, 2007
 Date: April 2007
 Scale: 1 inch equals 43 feet
 Map No. 259-151-22



ATTACHMENT “B”

EUSD – Pacific View Elementary

**EUSD Request for Amendments
(April 11, 2007)**

April 11, 2007

Board of Trustees

Shannon Kuder
William Parker
Cathy Regan
Carol Skiljan
Marla Strich

Mayor James Bond and Councilmembers
City of Encinitas
505 South Vulcan Avenue
Encinitas, Ca 92024

Dear Mayor Bond and Councilmembers:

Subject: Pacific View Site

Superintendent

L. McLean King, Ed.D.

This letter is our formal request to submit the necessary documents to initiate the process of a General Plan Amendment (GPA), Specific Plan Amendment (SPA), Zone change, and Local Coastal Plan Amendment (LCPA) for the Pacific View Site. Pacific View is a 2.8 acre site located at 608 Third Street within the Downtown Encinitas Specific Plan currently designated as public/semi public use.

Assistant Superintendents

Deborah Blow, Ed.D.
Educational Services

Danniel Grider, Ed.D.
Administrative Services

Abdollah Sadaat
Business Services

As the current property owner, the school district is the applicant for this request at this time. At a point yet to be determined, a developer will be selected to develop the site and ownership of the property will be transferred to this developer. The school district, in conjunction with a community task force comprised of representatives of the local Encinitas residential and business communities, including members of Downtown Encinitas Mainstreet Association (DEMA), Encinitas Chamber of Commerce and the Encinitas Historical Society, have reached a consensus on a plan that the subsequent developer will be required to follow that provides for the following:

PACIFIC VIEW SITE
Development Summary
February 13, 2007

Land Use	# of units	Unit Footprint	Unit Sq Ft	Total Ftpoint	Total Sq Ft	Parking
Office	n.a.	n.a.	n.a.	8,500	12,000	40
Single Family	5	1,600	2,800	8,000	14,000	10
Townhomes-2 story	12	1,008	1,616	12,096	19,392	24
Townhomes-1 story	2	2,016	1,616	4,032	3,232	4
Condominiums	7	320	1,200	2,240	8,400	7
Old Schoolhouse	n.a.	1,200	n.a.	1,200	1,200	5
Totals	26			36,068	58,224	90
Total Lot Coverage				29%		
Total FAR					0.47	

In order to accomplish what the task force has put forth, it will require changes to all of the development standards and zoning currently approved for the site. It will also require the creation of an Office Mixed Use 2 Zone, which will be a variation of the current Office Mixed Use 1 Zone in the Specific Plan. The Office Mixed Use 1 designation is unique to the east side of Third Street between E and F streets, directly across the street from this site. Some of the main components/requirements of the new zone will be a Floor Area Ratio of .5 (FAR); and a building height of two stories on the residential portions and up to three stories for buildings containing non-residential uses. It is intended that up to 25% of the site could be for professional office uses. Other criteria will be requirements to maintain the Encinitas Historical Society's Old School House on the site as well as to provide on site parking for the development. The District will then contractually bind the developer to these requirements pursuant to the transfer agreement entered into by the District and the developer.

This request to initiate the amendment is made with the full understanding and agreement that the costs incurred by the City in conjunction with this request will be borne by the applicant/owner.

As you can see, we have worked with the community to reach a consensus and we respectfully ask for your support in moving this process forward.

Sincerely,



L. McLean King, Ed.D.
Superintendent

cc: Encinitas Union School District Board of Trustees
Phil Cotton, City Manager
Patrick Murphy, Planning Director

Encinitas

UNION SCHOOL DISTRICT

101 S. Rancho Santa Fe Road
Encinitas, CA 92024-4349
Phone: (760) 944-4300
FAX: (760) 942-7094
www.eusd.net

July 9, 2008

Board of Trustees

Shannon Kuder
William Parker
Cathy Regan
Carol Skiljan
Marla Strich

Mr. Tom McCabe
Planning Commissioner
City of Encinitas
505 S. Vulcan Avenue
Encinitas, CA 92024

Superintendent

L. McLean King, Ed.D.

RE: Pacific View Commons (07-114 GPA/LCPA)

Dear Commissioner McCabe:

**Assistant
Superintendents**

Deborah Blow, Ed.D.
Educational Services

Danniel Grider, Ed.D.
Administrative Services

Abdollah Saadat
Business Services

Enclosed for your review is a project description and conceptual site plan for the Pacific View Commons project. This project is proposed for the former Pacific View Elementary school site located on the west side of Third Street between E and F Streets. The Encinitas School District (EUSD) owns the site, and we are the applicant for this project. The project is scheduled to be heard by you at the July 24, 2008 Planning Commission hearing.

In 2003, EUSD closed the elementary school due to insufficient enrollment and the age and condition of the facilities. Since that time, EUSD has continued to utilize the buildings for office space and staff development. In addition, we have leased the property to the City of Encinitas for use as a public work yard. However, we have always intended to utilize the property in some other manner in order to finance other district facilities and student programs.

It is important to note that the proposed site design was developed in conjunction with the Pacific View Advisory Committee. The advisory committee was formed in 2005 by the school district with a desire to work jointly with the community on a plan for the former elementary school site. The committee is composed of community residents, the Downtown Encinitas Mainstreet Association (DEMA), the Encinitas Historical Society, EUSD members and other interested parties.

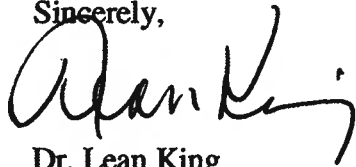
We understand that staff has provided you with a copy of the amended Downtown Encinitas Specific Plan. The document has been amended in order to allow for future development on the site. Since the land use goals set forth by the Pacific View Advisory Committee did not fall into one of the existing downtown zones, the school district opted to amend the existing Specific Plan. The site will be zoned D-RM (Downtown – Residential Mixed) and will accommodate a mix of residential (single and multi-family) and office uses on the site.

children first

Page Two
July 9, 2008

We have been working with staff on this project and the associated environmental documents over the past couple of years, and have held meeting with interested citizens. We now look forward to presenting the project to you. If you have any questions regarding the project that we can answer before then, please do not hesitate to call our project representatives, Dee Snow of Snow Properties at (858) 756-8500, or Brenna Weatherby of The Lightfoot Planning Group at (760) 692-1924.

Sincerely,

A handwritten signature in black ink, appearing to read "Lean King", written over the word "Sincerely,".

Dr. Lean King
Superintendent

Enclosures

cc: J Dichoso, City of Encinitas
Dee Snow, Snow Properties
Brenna Weatherby, The Lightfoot Planning Group

**Pacific View Commons
608 Third Street
General Plan Amendment, Zone Change,
Specific Plan Amendment**

**Project Description
July 2008**

This application is for a General Plan Amendment, Zone Change and Specific Plan Amendment that would change the land use and zoning designations for the former Pacific View Elementary School site from Public/Semi-Public and Downtown Encinitas – Public/Semi-Public to Office Professional and Downtown Encinitas – Residential Mixed.

The subject property (APN 258-151-22) is located on the west side of Third Street, between E and F Streets, within the Downtown Encinitas Specific Plan area, and is owned by the Encinitas Union School District (EUSD). A mix of single-family and multi-family uses are located to the west, north and south, while a mix of office and residential uses are located to the east. The subject site was formerly the home of Pacific View Elementary School, as well as the Historic Schoolhouse, which is maintained and operated by the Encinitas Historical Society.

Site History

In 2003, EUSD closed the elementary school due to insufficient enrollment and the age and condition of the facilities. Since that time, EUSD continues to utilize the buildings as small offices and a staff development room, and has leased the property to the City of Encinitas for use as a public work yard. However, EUSD has always intended to utilize the property in some other manner in order to finance facilities at other elementary schools, as well as the programs utilized by the district's students.

Pacific View Advisory Committee

Wanting to work jointly with the community, EUSD created the Pacific View Advisory Committee (PVAC) in the summer of 2005. The committee is composed of community residents, the Downtown Encinitas Mainstreet Association (DEMA), the Encinitas Historical Society, EUSD members and other interested parties. PVAC was tasked with creating a conceptual site plan for the subject site.

During a series of meetings in 2006, PVAC members were able to voice their concerns regarding site design issues, including land uses, lot coverage, floor area ratio, and building height. As previously mentioned, the site is currently located within the Public/Semi-Public (D-P/SP) zone of the Downtown Encinitas Specific Plan. The Specific Plan was created to recognize the unique character of downtown Encinitas, while the D-P/SP zone was established in the Downtown Encinitas Specific Plan with the intention of providing land for uses and activities operated by the City of Encinitas, the County of San Diego, or other governmental agencies. PVAC members were not willing to support the development of uses allowed under the current zoning, therefore requiring

EUSD to apply for a General Plan Amendment, Zone Change and Specific Plan Amendment that would change the site's land use and zoning designation to better fit with the existing neighborhood. The committee agreed to support a mixed-use project that included both office and residential uses on the site. A Conceptual Site Plan was prepared, and now serves as the guide for future development on the site.

The proposed project would change the existing zoning on the site to an office mixed category. This would allow for the development of both office and residential uses on the site. Since there are no existing mixed-use zones that meet the criteria established by PVAC, the applicant proposes the creation of the "Residential Mixed" zone. The criteria set forth by PVAC, and shown on the Conceptual Site Plan, are incorporated into the new zone.

Conceptual Site Plan

The Conceptual Site Plan and the project name ("Pacific View Commons") were approved by PVAC on February 13, 2007, and by the EUSD Board of Directors on March 20, 2007. Although the plan is conceptual, it along with the written text proposed for the amended Specific Plan places limits on what can be developed on the site. Architecture and specific design details have not yet been created, although the development standards set forth in the amended Specific Plan will help to guide future architecture.

Land Use

The mixed-use Conceptual Site Plan provides for the construction of no more than five detached single-family residences, 14 attached townhomes, 7 attached condominiums and 12,000 square feet of office space. The single-family residences will be located in the northwestern portion of the site, while the townhome units will be located towards the southeastern corner of the site. The office buildings and condominiums will be located in the northeastern corner. This layout takes advantage of the existing configuration of the surrounding community.

It was also very important to PVAC that the Historic Schoolhouse currently located on the site, be incorporated as a focal point of the new development. For that reason, the Conceptual Site Plan shows the Historic Schoolhouse in a different location, and oriented towards the center of the site. It is anticipated that this orientation will create a gathering place for the community, and that small events can be held here. The Encinitas Historical Society will continue to operate and maintain the schoolhouse.

Development Standards

The two major concerns of PVAC were Floor Area Ratio (FAR) and lot coverage. From the time that the committee was formed, community members were adamant that the FAR associated with any future development should not exceed 0.50 in order to fit the existing conditions of the neighborhood. Lot coverage was also important as members wanted the subject site to become a focal point in the community. Green open space that could be used by the public would promote the site as a community amenity. From these conversations, a FAR of 0.50 was set and the lot coverage was limited to a maximum of

50% across the entire site. It was also determined that no more than 25% of the gross floor area would be dedicated to office uses, while no more than 75% of the gross floor area would be dedicated to residential uses.

Since building height was another concern to PVAC, the amended Specific Plan will place limits of the heights of future buildings. The detached single-family and townhome units will be limited to 27-feet or two-stories in height. The condominium units will also be two-stories in height, but will be situated above the proposed office space, creating a 30-foot, three story building.

Circulation and Parking

The Conceptual Site Plan provides for new circulation throughout the entire site. A driveway will connect Third and E Streets, providing access to the office space, condominiums and single-family residences. In addition, a driveway will be created off F Street to provide access to the townhome units. A turnaround will be provided in order to accommodate large fire and emergency vehicles. The proposed driveways meet Engineering design and Fire Department access standards set forth by the City of Encinitas.

In addition to the new driveways that will be created, the existing alley located along the west side of the site will be improved. A small portion of this alley is public, and it will be paved with parking spaces provided adjacent to the subject site. The portion of the private driveway that is located on the subject site will be widened and paved to accommodate parking on one side. An access easement will be recorded so that the existing homes located along the west side of the private driveway may still use this driveway to access their residences. A Homeowners' Association will be established to provide for the maintenance of this private driveway.

Pedestrian circulation will also be encouraged. It was important to PVAC that the site be walkable in order to promote the use of public spaces. The Conceptual Site Plan provides walkways throughout the site, and also provides an accessible path of travel from Third Street to the Historic Schoolhouse.

The plan has accounted for future parking by providing a total of XX parking spaces on the site. The single-family detached and townhome units will provide two-car garages for future residents, while the townhome units will provide a one-car garage for each unit. This results in a total of 45 covered garage spaces. All residential units will have direct access from the enclosed garages. Guest parking, as well as parking spaces for the office component will be spread throughout the site, with 50 marked, non-garage spaces. It is anticipated that a shared parking configuration will be created in the office/residential condominium portion of the project in order to accommodate guest parking. The two uses have different peak parking hours, allowing for this configuration to work in this portion of the site. Using the City's proportional share provision set forth in the Downtown Encinitas Specific Plan, an additional six on-street parking spaces will be used to meet parking standards for the site.

SUMMARY

Pacific View Commons is a mixed-use project that will bring a variety of residential and office uses to downtown Encinitas. The project provides an innovative design while tailoring the site to the needs and wants of the community, and retaining a very important aspect of Encinitas' history. The project will also allow EUSD to fund much needed improvements and programs throughout the district. These uses will enhance the existing neighborhood and compliment the City of Encinitas as a whole.

The site plan illustrates the layout of the 3rd Street development. Key features include:

- Buildings:** A 2-story office building, a 2-story condominiums over offices building, a 2-story townhomes building, a 1-story townhome, and a historic schoolhouse.
- Parking:** A large parking area with various stalls, including a designated area for two-car garages and a one-car garage.
- Access:** A gated access point and an ADA access path are shown.
- Landscaping:** The plan includes numerous trees and a public plaza.
- Other Features:** A fire department turn-around, a turf block area, and a historic schoolhouse are also depicted.

Development Summary					
Land Use	# of units	Unit Footprint	Unit Sq Ft	Total Footprint	Total Sq Ft
Office	n.a.	n.a.	n.a.	8,500	12,000
Single Family	6	1,600	2,500	3,000	14,000
Townhomes-2 story	12	1,008	1,816	12,096	19,392
Townhomes-1 story	2	2,016	1,816	4,032	3,232
Condominiums	7	320	1,200	2,240	8,400
Old Schoolhouse	n.a.	1,200	n.a.	1,200	1,200
Totals	26			34,068	58,224
Total Lot Coverage				29%	
Total FAR					0.47

• Total Budget: \$100,000

BEST BEST & KRIEGER

ATTORNEYS AT LAW

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San Diego, California 92101
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(619) 233-6118 Fax
BBKlaw.com

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RIVERSIDE
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(916) 325-4000

WALNUT CREEK
(925) 977-9900

Tyree K. Dorward
(619) 525-1398
Tyree.Dorward@bbklaw.com
File No. 60614.00001

July 24, 2008

Gregory L. Lusitana, City Attorney
City of Encinitas
505 South Vulcan Avenue
Encinitas, CA 92024

Re: Encinitas Union School District - Applicability of the Naylor Act

Dear Mr. Lusitana:

Pursuant to the City of Encinitas' ("City") request, the purpose of this letter is to address the applicability of the "Naylor Act" to the District's proposed exchange of the former Pacific View Elementary School Property. (Ed. Code § 17485 *et seq.*) As will be described in greater detail below, the Naylor Act is not applicable to the District's proposed exchange.

The purpose of the Naylor Act is to preserve playgrounds, playing fields, and recreational real property by providing other public agencies the opportunity to purchase or lease such property, at a reduced price, and maintain the property for recreational uses. (Ed. Code § 17485.)

The Naylor Act applies only to property when a school district's governing board "determines to sell or lease" a schoolsite and the following conditions exist:

- (a) All or a portion of property owned by the school district consists of land which is used for school playground, playing field, or other outdoor recreational purposes and open-space land particularly suited for recreational purposes; and
- (b) Such land has been used for such purposes for at least eight years immediately preceding the date of the governing board's determination to sell or lease the property; and
- (c) No other available publicly-owned land in the vicinity of the property is adequate to meet the existing and foreseeable needs of the community for playground, playing field, or other outdoor recreational and open-space purposes.

BEST BEST & KRIEGER
ATTORNEYS AT LAW

Gregory L. Lusitana, City Attorney
City of Encinitas
July 24, 2008
Page 2

(Ed. Code § 17486.)

Here, the Pacific View property has not been used for playground, playfield, or any other recreational purpose for the last eight years. Accordingly, by the plain language of the Naylor Act, it is inapplicable to the Pacific View Property.


Furthermore, the District's governing board is not proposing to sell or lease the Pacific View property. Instead, the District is proposing to exchange the Pacific View property for another piece of real property pursuant to the specific authority set forth in Education Code Section 17536 which states:

The governing board of a school district may exchange any of its real property for real property of another person or private business firm. Any exchange shall be upon such terms and conditions as the parties thereto may agree and may be entered into without complying with any provisions in this code except as provided in this article.

For these reasons, the District believes the Naylor Act is inapplicable to the District's proposed exchange of the Pacific View property.

We trust this addresses the City's requested clarification regarding the Naylor Act. If you have any additional questions, please do not hesitate to contact me.

Sincerely,



Tyree K. Dorward
for BEST BEST & KRIEGER LLP

TKD:djg

Encinitas

UNION SCHOOL DISTRICT

101 S. Rancho Santa Fe Road
Encinitas, CA 92024-4349
Phone: (760) 944-4300
FAX: (760) 942-7094
www.eusd.net

August 15, 2008

Board of Trustees

Shannon Kuder
William Parker
Cathy Regan
Carol Skiljan
Marla Strich

Ms. Virginia Felker
Chairperson, Planning Commission
City of Encinitas
505 South Vulcan Avenue
Encinitas, CA 92024

Superintendent

L. McLean King, Ed.D.

Dear Commissioner Felker:

Subject: Request for Continuance – Pacific View Commons

**Assistant
Superintendents**

Deborah Blow, Ed.D.
Educational Services

Daniel Grider, Ed.D.
Administrative Services

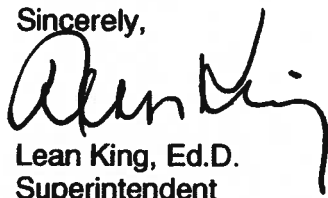
Abdollah Saadat
Business Services

This letter is a formal request for the continuance of a Planning Commission hearing scheduled for Thursday, September 18, 2008 regarding Case No. 07-114 GPA/LCPA/ZA (Pacific View Commons) to a date off calendar.

The continuance is requested because additional time is needed to consider the recommendations made by the Planning Commission at the public hearing held on July 24, 2008.

If approved, prior to the next Planning Commission public hearing we will work with staff in re-notifying all property owners and tenants in the vicinity of the scheduled date.

Sincerely,



Lean King, Ed.D.
Superintendent

CC: Board of Trustees
Encinitas City Council
Phil Cotton, City Manager
Patrick Murphy, Planning and Building Director
Tom Curriden, City Planner
J. Alfred Dichoso, AICP, Associate Planner
Dee Snow, Snow Properties, Inc.



PACIFIC VIEW PROPERTY EXCHANGE Frequently Asked Questions

Why was Pacific View closed?

Pacific View Elementary School, built in 1953, was officially closed in 2003 because of continued declining enrollment in the area and aging classrooms in need of major repair. The small size of the property, 2.8 acres, and its location make it an unsuitable site for future construction of a school or district offices.

How is the property being used now?

Since its closure in 2003, the property has been used by the school district and the City of Encinitas as a corporate yard for storage of equipment, landscaping supplies, and obsolete textbooks. There are several small offices and a meeting room that are still being used.

Under its current Public/Semi-Public zoning, what are the permitted uses?

Current zoning permits this valuable *Public/Semi-Public* property to be used for the following (samples):

- ♦ Ambulance service
- ♦ Athletic field
- ♦ Auditorium
- ♦ Cellular facility
- ♦ Charitable collections
- ♦ Congregate care
- ♦ Educational institution
- ♦ Fire Station
- ♦ Library
- ♦ Medical/dental offices
- ♦ Museum
- ♦ Police/Sheriff's station
- ♦ Post Office
- ♦ Public utilities office
- ♦ Recreational facilities
- ♦ School (public)
- ♦ Sewage treatment plant
- ♦ Theater (public)

What is the school district's plan for the property?

The Pacific View property is an extremely valuable district asset. As part of the asset management plan, the Board of Trustees has the primary responsibility for safeguarding the district's assets and maximizing the value of its properties in support of the educational program for children attending the nine schools in the district.

From the beginning, the district has expressed its intent to exchange, not sell, the property at its highest potential value for another property within the boundaries of the Encinitas Union School District that produces a new revenue stream to support the cost of maintaining schools throughout the district. The exchange was pursued under the explicit authorization in the California Education Code.

By relieving the General Fund of approximately \$400,000 in ongoing facilities maintenance costs, the Board of Trustees will be able to earmark the savings towards programs and services for students districtwide.

Although Pacific View is a valuable asset, it is a non-revenue producing property that is worth less as a *Public/Semi-Public* property. Annually, the district spends nearly \$18,000 per year on electricity, trash collection, water, and security services for the property. Until August 1, 2008, the City of Encinitas used the site for \$1 per year.

Why is the district interested in rezoning the property?

The appraised value of a *Mixed-Use* or *Residential* zoning is nearly 2 ½ to 3 times the value of the current *Public/Semi-Public* zoning. For the most part, the majority of the permitted uses of the *Public/Semi-Public* zoning are viewed as "NIMBY" ("Not in my backyard") projects. During the 2005-2006 school year, the Pacific View Citizens Advisory Group reached consensus that construction of *Public/Semi-Public* project on the property would not add value to the local neighborhood and be unacceptable to the group.

How much has the district spent on fees and services required to request a rezoning of the property from Public/Semi-Public to Mixed-Use?

As an applicant for a request for a Specific Plan Amendment and Rezoning of the property, the school district has spent the following fees when completing the City of Encinitas process during the past three school years:

Purpose	Amount
Zoning Change Fee	\$63,000
Traffic Study	16,844
Site Development Plans	9,710
Specific Plan Amendment & Concept Plan	48,480
Historical & Architectural Study	3,000
Environmental Study	14,385
Greenhouse Gas Emission Study	16,781
Consulting Services	135,200
Legal and Appraisal Services	101,748
Total as of July 2008	\$409,148

Does the school district intend to be the developer?

No. The district is in the business of educating our community's children; however, the Board of Trustees has the responsibility to protect its real property assets entrusted to the school district. The downtown Encinitas community was assured that the school district would remain in the planning process to ensure that the standards recommended in the Pacific View Conceptual Plan were included in the new zoning and in the exchange agreement to be developed between the selected developer and the school district.

The increased value of the property, when rezoned, would more than offset the time and money spent to complete the process required by the City of Encinitas.

What about the Naylor Act?

The Naylor Act does not apply to the Pacific View site. In fact, this law only applies when a school district's Governing Board determines to sell or lease property and where the property has been used for a playground, park, or other recreational purpose for eight years immediately prior to a school district selling or leasing the property. Pacific View has been a fenced maintenance/corporate yard since 2003.

Thus, even if the district determined to sell or lease the property, the Naylor Act by its express terms is not applicable to this property.

Did the City of Encinitas ever offer to buy the property for use as a park?

No. The City of Encinitas has worked with the district on the Pacific View planning and used the campus as a Public Works Yard since the school was closed in 2003. An offer was never made by the city to purchase the property as a public park. The Pacific View Citizens Advisory Committee asked one of its members, who was affiliated with the California Coastal Conservancy, to see if that organization was interested in the property as a park - It was too small and not on the ocean bluffs. The school district is open to hearing more about the city's interest in the property.

What is the status of the property and the request for rezoning?

On July 24, 2008, the City of Encinitas Planning Commission requested that the rezoning proposal be returned to staff with suggestions for revision. The school district has requested a continuance from the September 18, 2008 scheduled hearing in order to work with the staff on the impact of those recommendations and consider all options.

THE FACTS ABOUT THE PACIFIC VIEW SITE EXCHANGE

09.08.08
574 words

CATHY REGAN

Board of Trustees

Shannon Kuder
William Parker
Cathy Regan
Carol Skiljan
Marla Strich

There's been so much attention lately about the Encinitas Union School District's plans to exchange its Pacific View Elementary School site that we need to be sure people have complete and accurate information about what we're doing and why.

Superintendent

L. McLean King, Ed.D.

After serving the community for 50 years, the school, located on Third street, between E and F streets, was closed five years ago because of declining attendance and the growing need to repair or replace its buildings. The 2.8-acre site is too small for a new school or district offices. However, its location and surrounding neighborhood give the property, if appropriately rezoned, significant commercial value. Left unchanged, the site's present Public/Semi-Public zoning would allow many uses that would be incompatible with the residential character of the surrounding neighborhood.

Assistant Superintendents

Deborah Blow, Ed.D.
Educational Services
Danniel Grider, Ed.D.
Administrative Services
Abdollah Saadat
Business Services

So, over the past three years, we've been working with a grass-roots community group, the Pacific View Citizens Advisory Committee, to develop a plan under which the district would ask the city to rezone the property to a neighborhood-compatible use, Mixed Use Residential. Included on the site would be offices, townhomes, condominiums, single-family homes and open spaces.

Once rezoned, the parcel would be exchanged with a private developer for a commercial office property that would generate \$400,000 in rental income each year that we could use to pay maintenance costs at our nine school sites. Imagine the positive impact an extra \$400,000 a year would have to improve our music, art, physical education and technology offerings at all of our schools!

However, in recent weeks, the plan, which had strong citizen and parent support in its development, has hit a sudden snag in other quarters of the community. Some have suggested they weren't aware of our Pacific View plan, despite the fact that our proposal has been developed and vetted over the past three years in numerous committee meetings, briefings, and presentations as well as via written communications. No one who should have been in the loop can say they weren't.

Others have suggested the site should be offered to the city at 25 percent of its market value, claiming it falls under the state's Naylor Act. They want the site to become a city park, despite the fact that the city has never expressed any interest in acquiring the site for a park or anything else for that matter.

The Naylor Act, however, only applies when a school site property has been used as a playground, park or other recreational purposes for eight years immediately prior to a school district disposing of a property. In this case, the Pacific View site has been used as a fenced maintenance and storage yard for the past five years. So, neither the required use nor the required timeframes of the Naylor Act applies. And, I should point out the state Education code allows this exchange option.

As with the City of Encinitas and other tax-supported agencies, our school district has an obligation to protect and when possible, even enhance the value of the properties and other assets entrusted to us by taxpayers. Given state budget constraints, our school district has the additional responsibility to find new ways to fund operational costs so that more monies can be used in our classrooms.

Obtaining an income-producing commercial property in exchange for an old school site that can be better used to benefit the community fulfills our obligations to our children and their parents as well as the community as a whole.



Cathy Regan is president of the Encinitas Union School District Board of Trustees.

ATTACHMENT A

Encinitas UNION SCHOOL DISTRICT

101 S. Rancho Santa Fe Road
Encinitas, CA 92024-4349
Phone: (760) 944-4300
FAX: (760) 942-7094
www.eusd.net

May 7, 2009

Board of Trustees

Maureen Mull
William Parker
Cathy Regan
Carol Skiljan
Marla Strich

Mr. Phil Cotton
City Manager
City of Encinitas
505 S. Vulcan Avenue
Encinitas, CA 92024-3633

Dear Phil,

Subject: City Interest In Purchasing Pacific View Property

Superintendent
L. McLean King, Ed.D.

Prior to June 30, 2009, the Encinitas Union School District will be requesting that City of Encinitas Planning Commission further consider our request to rezone the Pacific View property to R-15 (Residential) to mirror the existing zoning in the downtown Encinitas neighborhood. This request is built upon the recommendations made by the Planning Commissioners when considering our initial rezoning request on July 24, 2008. While they did not support the "mixed use" plan as presented, they encouraged the school district to look at the surrounding neighborhood in order to align to the existing zoning standards.

Assistant
Superintendents
Deborah Blow, Ed.D.
Educational Services
Danniel Grider, Ed.D.
Administrative Services
Abdollah Saadat
Business Services

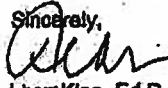
Before the school district initiates its next steps in the city's rezoning process, our Board of Trustees is interested in hearing whether or not the City Council is interested in purchasing the 2.8 acre site for development as a public park or historical site. While the interest of the school district continues to be to exchange this valuable asset for a revenue producing property, it respects the interest of the city leaders if they choose to purchase this property for such use.

Although the property is not subject to the Naylor Act for all the reasons previously specified, an estimated purchase price for public agencies can be calculated using the Naylor Act formula:

- 30% of the property (.84 acres) @ 25% of the property value = \$1 million
- 70% of the property (1.96 acres) @ 100% of the value of the surrounding neighborhood (R-15) = \$9 million
- Approximate value of property under the Naylor Act formula - \$10 million

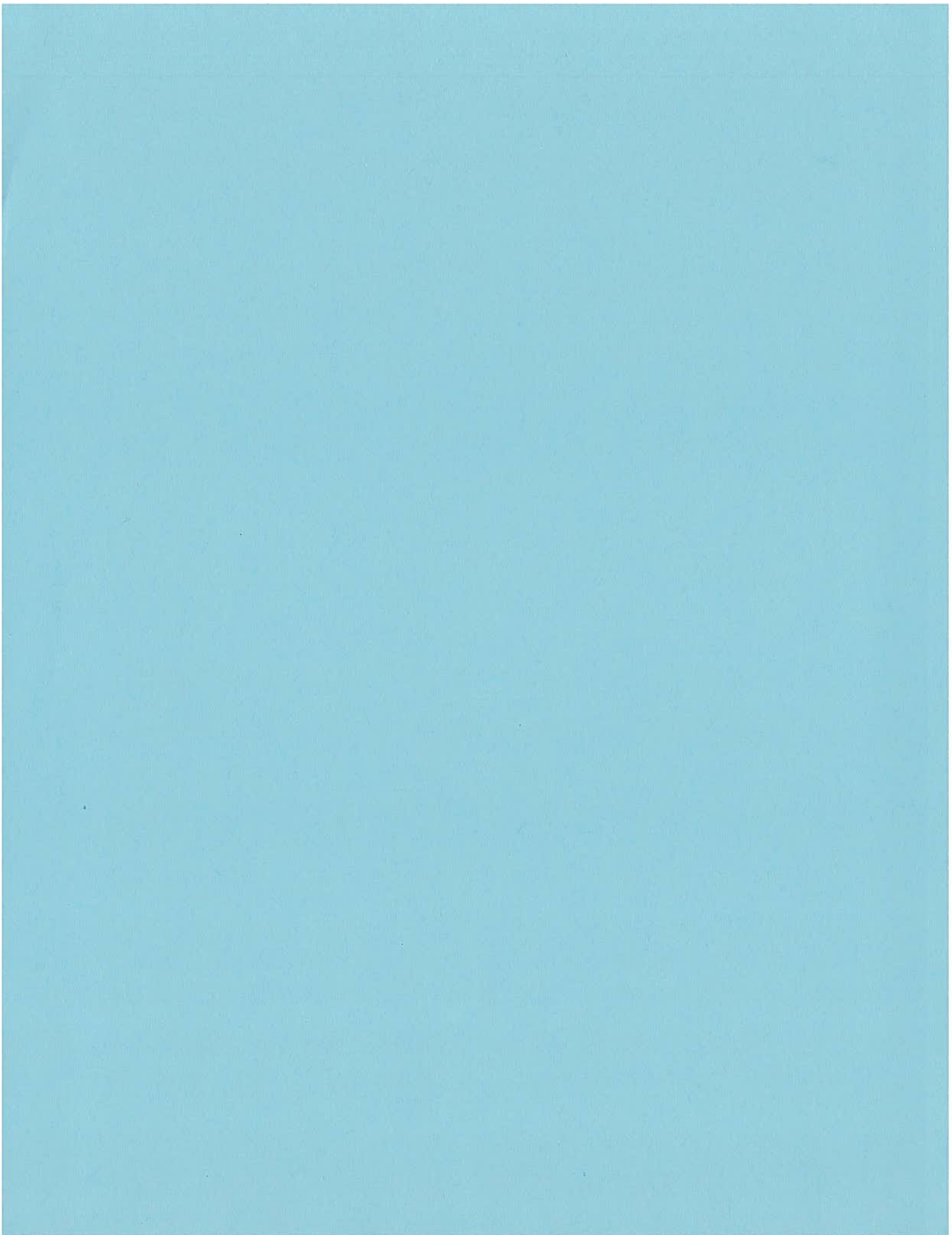
The above listed estimates are substantially lower than the appraised value obtained when the district was planning the site as a 75% residential/25% commercial "mixed use" development. If privately developed, the site would generate substantial property tax revenues for the city considering the developed site would be valued at nearly three times the above listed property value.

We respectfully request that the City of Encinitas notify the Encinitas Union School District of its interest in purchasing this property for development as a park or historical site prior to June 15, 2009, in order that the school district can comply with the city's calendar for submitting rezoning requests by June 30. Your assistance in processing this request will be appreciated.

Sincerely,

L. McLean King, Ed.D.
Superintendent

cc: Board of Trustees

children first



PACIFIC VIEW HISTORY

2009 - 2010

- Real Property Advisory Committee Members
- Pacific View Site is again determined to be surplus
- District letter to City Notice of Disposal of Surplus Property offer to purchase
- District response to City County discussion re District request for rezone.
- District letter re denial of zoning as required by Government Code § 65852.9(a)
- District letter to City re rezoning and agreement to amendments put forth by the City.
- Press Release re Encinitas Union School District vs City of Encinitas

**Encinitas Union School District
Real Property Advisory Committee Report
Report to the Board of Trustees**

January 19, 2010



Real Property Advisory Committee Membership

Tom Cozens, Chair
Bill Berrier, Vice Chair
Graciela Cueva
Julian Duval
Jim Farley
Sue Hartley
Alice Jacobsen
Amy Leon
Tim Reeve
Leslie Saldana
Marshall Weinreb

Administrative Support
Elizabeth Wallace, Executive Assistant to Superintendent

Committee Advisor
Eric J. Hall

Eric Hall & Associates LLC

Helping your school facility program measure up

5431 Avenida Encinas / Suite H / Carlsbad / CA / 92008
P 760.602.9352 / C 760.519.8531 / F 760.602.9341
eric@erichallassociates.com

Encinitas

UNION SCHOOL DISTRICT

101 S. Rancho Santa Fe Road
Encinitas, CA 92024-4349
Phone: (760) 944-4300
FAX: (760) 942-7094
www.eusd.net

March 10, 2010

Board of Trustees

Maureen "Mo" Muir
William Parker
Cathy Regan
Carol Skiljan
Marla Strich

Phil Cotton
City Manager
City of Encinitas
505 S. Vulcan Avenue
Encinitas, CA 92024

Superintendent

Timothy Baird, Ed.D.

Re: Encinitas Union School District - Notice of Disposal of Surplus
Property

**Assistant
Superintendents**

David Miyashiro, Ed.D.
Educational Services

Daniel Grider, Ed.D.
Administrative Services


Abdollah Saadat
Business Services

Dear Phil Cotton:

Pursuant to Education Code section 17464 and Government Code section 54222, the purpose of this letter is to provide you notice of the ENCINITAS UNION SCHOOL DISTRICT's (the "District") declaration of the property known as the former Pacific View Elementary School site located at 608 Third Street, Encinitas, California 92024, (the "Property"), as surplus. The District's Governing Board made this finding on February 16, 2010 and expressed the District's intent to dispose of the Property.

The District is now willing to discuss potential offers for sale or lease of the Property. If your agency is interested in potentially purchasing or leasing the Property from the District, please notify the District in writing. Under Government Code section 54222 and Education Code section 17464, your agency has sixty (60) days from the date of receipt of this notice to respond to this notice. If you have any questions, please do not hesitate to contact the undersigned at (760) 944-4300 Ext. 1160.

Sincerely,



Abdollah Saadat
Assistant Superintendent, Business Services

children first

November 29, 2010

Board of Trustees

Maureen "Mo" Muir
William Parker
Cathy Regan
Carol Skiljan
Marla Strich

Superintendent

Timothy Baird, Ed.D.

**Assistant
Superintendents**

David Miyashiro, Ed.D.
Educational Services

Danniel Grider, Ed.D.
Administrative Services

Abdollah Saadat
Business Services

Dear Encinitas City Council Members,

At the City Council meeting on November 10, 2010 during the discussion of the Encinitas Union School District request to rezone the former Pacific View Elementary School Site, a number of issues of concern to the District were raised. Although this is not a comprehensive response to all statements made, we believe it important to clarify issues raised and address assumptions stated in the denial of our request.

We find it necessary to remind the City Council that State law requires community input whenever a school District is considering the sale or lease of property not needed for classroom purposes. The Encinitas Union School District Board of Trustees established a Real Property Advisory Committee and approved the Committee members at its regularly scheduled meeting October 13, 2009, Resolution Number 11-0910. The stated purpose of the committee was to review the need and use of the former Pacific View School Site.

The Governing Board identified and limited the real property referred to the Committee for discussion and consideration to the Pacific View Elementary School site. The Committee reached consensus to recommend to the Board of Trustees that the property be declared as surplus and acknowledged the site as not needed as a school facility.

It was stated that because EUSD had passed a \$44 million facility bond, we no longer had a need for revenue from the Pacific View property. Facility bonds are limited to specific facility projects listed on the ballot. This money cannot be spent for general fund purposes (including salaries, benefits or other daily operation expenses).

There was discussion about the property on Quail Gardens as part of the Ecke development of Encinitas Ranch. It was suggested this property was gifted to the District for a school at that location. The District is in possession of mitigated agreement documents clarifying obligations of a developer or developers when a new development is proposed. School districts are authorized to levy a fee, charge, dedication, or other forms of requirement against any development project for the construction or reconstruction of school facilities.

In August 1998, the Governor signed into law Senate Bill 50, also known as the Leroy Greene School Facilities Act of 1998. This bill made major changes in the developer fee mitigation for school districts. Education Code 17620 was amended to provide the provision of Government Code 65995. The changes repealed all locally imposed fees authorized by local ordinances and instituted the collection of three levels of fees. These dollars are generally referred to as "developer fees" which are based upon the

correlation (or “nexus”) between new residential, commercial and industrial development and the need for new school facilities.

What sometimes happens (often with the support of the local city) is a developer will exchange land or build a school and exchange the land and school in lieu of paying fees. This is often more cost effective for the developer than paying cash. Our documentation clearly identifies the appraised value of the Encinitas Ranch property and was recorded prior to transferring the deed to the District. Suffice it to say that no gift was given to the District and the fact that a school was not built on the site does not diminish the requirement for the developer to adequately compensate the District per state law.

One point that was repeated throughout the night was that we shouldn't sell our capital assets. Our district consists of two different types of capital asset. The first type is one that has an educational purpose. Our existing nine schools, district office, and the property on Quail Gardens fall into this category. These assets are either currently used to support education in the District or will be used at some future point for educational purposes. For this reason, we would not consider selling or leasing the Quail Gardens property because we know that at some point in the future of the District the site will be needed for a school site.

The second category of assets does not have this same restriction. Pacific View falls into this category. The District will never use this site for educational purposes. During the process of declaring the former Pacific View Elementary School as surplus property we received testimony from the City Planners of Carlsbad and Encinitas regarding current and future projections of population within the boundaries of the District. It was stated, publicly, population trends indicate the area surrounding the Pacific View site, currently and in the future, would not yield enough school age population to make it feasible or viable as a school site. Based on California Department of Education Title V school site requirements, Pacific View is too small for a school. We carefully assessed the data with support from SANDAG, the City of Carlsbad and the City of Encinitas. Based on the available data it makes no sense to keep the Pacific View site for educational purposes and the site should be sold or leased to generate income that can be used for other purposes throughout the entire school district.


So that brings us to the potential uses for the site. We are aware that DEMA has suggested a possible use for Pacific View. We are attaching our response to them for your review. In brief, any offer would have to address the existing buildings on the site and guarantee a revenue stream for the District.

The District has the responsibility for using all of its resources to support the students throughout the community. We cannot legally give away our assets and we would be irresponsible to do so even if we could. We have also pointed out to these groups, that it is a City responsibility to provide public and community gathering places. Based upon the comments made at the Council Meeting and the unanimous vote following, this property is something that all of you are passionate about. It came through clearly that you want to keep Pacific View for the community. In recognition of your passion

for this property we are again asking City Council Members if the City is prepared to offer to lease, buy, or put resources forward to work with the District to help us achieve our goals and yours. In the end, that is the only solution that makes sense based upon both public agencies differing needs.

Over the past five years, the District has worked with the community to find the best use for this property. We have put forth a community supported plan for mixed use and most recently we have asked for the property to be rezoned in a similar manner to the surrounding property. In both cases, we have been denied. This property cannot remain a falling down school building forever. Absent some substantive commitment from the City to lease or purchase the property, we ask you to revisit your recent decision rezoning this property DR-15.

Sincerely,


Timothy B. Baird, Ed.D.
Superintendent

cc: Board of Trustees

Attachments

Board of Trustees

Maureen "Mo" Muir
William Parker
Cathy Regan
Carol Skiljan
Marla Strich

January 11, 2011

Honorable Mayor
and City Council Members
City of Encinitas
505 S. Vulcan Avenue
Encinitas, CA 92024-3633

Superintendent

Timothy Baird, Ed.D.

Re: Request for Reconsideration of Denial of Application for
Amendments to Downtown Encinitas Specific Plan, General Plan
and Local Coastal Program Relating to Pacific View Elementary
School Site

**Assistant
Superintendents**

David Miyashiro, Ed.D.
Educational Services

Danniel Grider, Ed.D.
Administrative Services

Abdollah Saadat
Business Services

Honorable Mayor and City Council Members:

Encinitas Union School District ("District") respectfully submits this correspondence in request that the City Council reject Resolution No. 2011-01, a "Resolution of Denial" to be presented to the City Council for its consideration at its meeting on January 12, 2011. The District further requests reconsideration of Resolution No. 2010-51, approving a General Plan Amendment, and Ordinance No. 2010-22, amending the General Plan, LCP Land Use Program and Downtown Encinitas Specific Plan to modify the land use designation and zoning classification of the former Pacific View Elementary School site, both of which were initially denied at the City Council meeting of November 10, 2010. The District hopes this last correspondence before consideration of the Resolution of Denial might lead the City to re-consider its past actions, and take an action which will benefit the City, the District, and the communities they serve.

While the District understands the passion the community has regarding the Pacific View Elementary School site, the District believes the following considerations demonstrate that California law and sound public policy merit the City's reconsideration of its denial of the requested zone change:

I. Undisputed Facts

Although opinions regarding how the Pacific View site should ultimately be used or developed will always vary widely, all parties should be able to acknowledge the following undisputed facts:

1. First and foremost, all parties would agree that the Pacific View property is a unique and valuable piece of real property.

2. The property is surplus District real property. It will not be needed for school facilities, as thoroughly described in the District's November 29th correspondence and evidenced by the District's Real Property Advisory Committee's recommendations. In fact, it is currently in a state of disrepair that will continue to be a financial and administrative burden on the District unless the District either disposes of the property or there is a change in use/redevelopment of the property. These facts clearly demonstrate that the property is an under-utilized asset of the District and will remain so if the status quo is preserved.

3. The District is statutorily empowered to provide appropriate public school facilities and educational programs to all eligible students within its boundaries. The District has a fiduciary duty to properly manage the District's assets, including the Pacific View site, for the benefit of its students and programs.

4. In light of the current budget environment and the cuts that have been made to education funding, the District must evaluate all of its assets and potential options for generating revenue in order to preserve and potentially enhance its educational programs. However, contrary to assertions made by members of the public and the City Council, the District has made no decision to sell the Pacific View property. The District's governing board will be evaluating all of its options for the property, potentially including, but not limited to lease or exchange.

5. The City is the general purpose public agency with land use development authority over the Pacific View site, and the City, not the District, has the power and authority to provide for park, recreation, and other community facilities.

II. Policy Considerations

The above described facts clearly demonstrate that the District cannot permit the status quo to continue at the Pacific View site and allow this valuable asset to be under-utilized and drain resources from the District. In fact, the District believes these facts demonstrate that sound public policy argues for the District and the City to work together to resolve the Pacific View site issues. The District does not and will not ever have the authority or resources to simply make the Pacific View site a park, recreation area, or other community facility as the City Council seemed to suggest it desired at the November 10, 2010 meeting; moreover as further discussed below, the City Council cannot, by law, rezone the site to open-space, park or recreation, or similar designation unless the adjacent property is so zoned, or if so requested or agreed to by the school district. In fact, the statements

made at the November 10th meeting suggesting the site be used for such purposes actually conflict with the position the City has taken regarding Pacific View in the past, as the City has repeatedly stated that it is not interested in purchasing the Pacific View property for such purposes. As stated in the District's November 29th correspondence, if the City is truly interested in acquiring the property through sale, lease, or exchange, the District remains willing to consider any reasonable proposal from the City that would meet the goals of both the City and the District. This would be one sound policy way for the parties to mutually resolve the Pacific View site issues.

Assuming the City remains uninterested in acquiring or leasing the Pacific View site, it is not to either the City's or the District's benefit for the City to take actions to simply try to preserve the status quo, as some of the City Council statements made at the November 10th meeting seem to suggest. To do so is simply bad policy for both the City and the District. As the City is aware, the District has now worked for years to come up with proposals that might help the District maximize the District asset that the Pacific View site represents, from the mixed use proposal suggested by the first community outreach effort, to the current simplified zone change request suggested and approved by the Planning Commission. The District has not yet pursued simply selling, leasing, or exchanging the property "as-is" because the District has always understood, that the worst case medical/dental office, senior care or similar developments that a future owner/lessor might be entitled to develop under the existing zoning were undesirable to both the City and the majority of the community. Accordingly, the District has consistently attempted to make a sound public policy decision to pursue a change in use/zoning that would be both acceptable to the City and the majority of the community, as well as enhance the District's ability to maximize the value of its asset.

The District believes that only a small minority of the community would like to see the status quo, that is, the existing state of the Pacific View site, preserved, and ensure that no change in use or development of the Pacific View site ever occurs. However, the District hopes that the City can see that this would be bad policy and would likely to create negative impacts to both the District and the City. The District believes the sound policy choice is for the City to either approve the District's zone change request and work with the District to ensure that any future use/development is consistent with the City's applicable planning documents and the neighboring community, or, if the City has changed its mind and wishes to acquire use of the property, the City Council should direct staff to make the District a reasonable proposal for the purchase, lease, or exchange of the Pacific View site.

III. California law

The findings attached to the Resolution of Denial contain several misstatements regarding California law. The first being the allegation that the Environmental Study ("EIS") was somehow inappropriate because it focused only

on the "worst case" scenario. Such a statement just begins to demonstrate the problems with the findings. Under California law, the "worst case" environmental impacts are exactly what is supposed to be reviewed prior to governmental action. Here, not only did the Planning Commission and City staff properly examine the maximum possible environmental impacts (i.e. traffic, parking, etc.) that might occur under a re-zoning, they correctly concluded that no significant unmitigable impacts would occur. By its very nature this necessarily means that any alternative development proposed in the future under such zoning will have a lesser environmental impact. Thus, the record shows that the findings are clearly inaccurate on this point and that the EIS was properly completed.¹

In addition to all of the above, the District is statutorily entitled to a rezoning of the Pacific View site pursuant to Government Code section 65852.9. This section expressly acknowledges that unused school sites constitute a major asset to school districts which, like other public agencies in the state, are facing serious financial challenges. The Legislature further stated its express intent that such sites can be developed to the same extent as permitted on adjacent property. The statute goes on to state that upon request by the school district, a city or county having zoning jurisdiction over unused school sites shall zone the school site consistent with the provisions of the applicable general and specific plans and compatible with the uses of property surrounding the school site. Section 65852.9 further provides that a school site shall be given the same land use treatment as if it were privately owned. Finally, Section 65852.9 expressly states that the zoning authority may not rezone the school site to open-space, park or recreation or a similar designation unless adjacent property is so zoned, or the school district consents.

Here, the facts clearly show that the Pacific View site is an "unused school site," within the meaning of the statute. Likewise, the property has been offered for sale or lease to public entities, including the City, for park and recreational purposes. None of these entities, including the City, has expressed any interest in acquiring and/or leasing the property for such purposes.

There is no evidence in the record to support the findings set forth in the Resolution of Denial as the reason for a denial under Government Code section 65852.9. In fact, the statements in the "findings" are totally inaccurate. First, the findings allege that "...adjacency may be considered nearby, but not necessarily contiguous.." to support the argument that even though essentially all the properties on all sides of the Pacific View site are zoned residential, that there are other similar uses "which may be considered 'adjacent' within walking distance." No legal support is offered for this creative interpretation of the statutory language, which seems to run contrary to the generally accepted definition of "adjacent". As

¹ The District notes that a full environmental review was completed for the original mixed use development plan, which also demonstrated that no significant unmitigable environmental impacts would occur.

recognized by the Planning Commission, and demonstrated by the original staff report and the published staff report for the Resolution of Denial, the properties that are "immediately adjacent" to the property are zoned DR-15, and the properties "surrounding" the property are virtually all residential. Thus, the proper zoning for the site under the statute would be the DR-15 zoning applicable to the adjacent properties, which is also compatible with the surrounding residential properties.

Next, the findings cite an inability to "verify compliance" with regard to the notice of availability of the property for sale or lease being sent to public entities. This alleged basis is likewise inaccurate. As the City should be well aware from the notice(s) in its files, the site was offered for sale or lease to numerous public entities. Copies of all of these notices, which were sent out as part of the District's Education Code compliance related to surplus property are attached hereto for your review. Accordingly, the facts in the record clearly do not support the findings on this point either.

Although the City is given a broad grant of police power under the State Constitution, the City is precluded from taking actions which are in conflict with "general" or state laws. When such general laws are adopted, the state law is said to have "preempted" the power of a city to adopt a local law. Government Code section 65852.9 expresses the Legislative intent to allow rezoning of unused school sites to the same zoning permitted on adjacent property when not inconsistent with applicable General and Specific Plans. The City has not demonstrated any reason why maintenance of the Pacific View site in its existing state accomplishes any of the stated goals of the applicable General Plan or Specific Plan cited in its Staff Report. Rather, the City seems to assume some future open space, recreational or similar use of the site, despite the express statutory prohibition in Section 65852.9 against such a requirement. In fact, the City has declined to implement the very stated goals it purports to uphold-- that is, the preservation of public/ semi-public "community-serving" uses-- by denying the rezoning, by refusing to purchase or lease the land, and instead expecting the District to undertake the burden of meeting the City's land use goals *despite the express statutory prohibition against requiring such use of unused school sites.*

As such, the City's proposed findings necessarily suggest that the maintenance of the unused site *in its existing state*, better accomplishes the General and Specific Plan goals than the District's exercise of its statutory right under State law to utilize its surplus property for the benefit of the community it serves, *by converting its use to the very same uses that have already been found by the City to be compatible with its General and Specific Plan; that is, the uses that exist on the adjacent properties.* Approval of the rezoning application would precisely bring the site into conformance with the adjacent property and is therefore necessarily compatible with the City's General and Specific Plans. As a practical matter there is no factual evidence that could possibly support the conclusion that the use of the property for exactly the same uses as the property in the "immediately adjacent blocks" is incompatible with the General and Specific Plan when the uses have


already been found to be compatible with respect to adjacent property; such findings are, rather, arbitrary, discriminatory and without any factual support. As such, State law, at Government Code Section 65852.9, preempts the City's action to deny Resolution No. 2010-51 and Ordinance No. 2010-22, and requires the City to reject the proposed Resolution of Denial.

Since there is no evidence in the record to support the City's proposed findings in support of the Resolution of Denial, and the District request to re-zone the property meets the purposes and requirements of Government Code section 65852.9, the City must grant the District's request for rezoning. To do otherwise would be contrary to California law.

IV. Conclusion

For all of the above described reasons, the District respectfully requests the City Council to reject proposed Resolution No. 2011-01 and reconsider Resolution No. 2010-51 and Ordinance No. 2010-22 as required by state law. Both the City and the District agree that the site should be used to the greatest public benefit by balancing the use of the District's asset with the proper land use management and avoidance of undesirable development on the site. The District has a fiduciary duty to properly utilize what is clearly an under utilized asset for the benefit of the educational programs the District provides and, as such, the District cannot continue the status quo at Pacific View indefinitely. The District hopes and believes that the City would agree. Accordingly, the District believes the City should reconsider the proposed denial of the zone change, and either grant the District the zone change recommended by the Planning Commission, or else pursue an acquisition or lease of the Pacific View property that is mutually beneficial to both parties.

Sincerely,


Timothy B. Baird, Ed.D.
Superintendent

Enclosures [Education Code Notices]

June 23, 2011

Board of Trustees

Emily R. Andrade
Maureen "Mo" Muir
Carol Skiljan
Gregg Sonken
Marla Strich

Phil Cotton
City Manager
City of Encinitas
505 S. Vulcan Avenue
Encinitas, CA 92024-3633

Superintendent

Timothy B. Baird, Ed.D.

RE: Former Pacific View School Site

Dear Phil,

**Assistant
Superintendents**

Daniel Grider, Ed.D.
Administrative Services

David Miyashiro, Ed.D.
Educational Services

Abdollah Saadat
Business Services

Thank you for meeting with me to discuss the possible rezoning of the Pacific View Elementary site. Based upon that conversation, I would like to request that the City place this matter once again before the City Council to reconsider the rezoning of the property to R-15. From our conversation, I have listed the requests that the City has made of the District and the issues that the District would need to have resolved for this project to move forward.

1. The City will agendize a public hearing before the City Council sometime during July, 2011, to re-consider potential approval of the Downtown Encinitas Specific Plan (DESP) amendments presented to the City Council on November 10, 2010, for the Subject Property. The District understands that potential reconsideration of the amendments will require a simple majority vote of the City Council for approval.

2. The reconsideration of the amendments would be subject to the following additional caveats/minor revisions agreed to by the parties:

- a. Consistent with the draft amendments presented to the City Council on November 10, 2010, the historic schoolhouse on the Subject Property shall be preserved on site and used as a publicly accessible cultural amenity. The schoolhouse shall be moved to a location fronting Third St., and shall be provided with a surrounding area of landscaping and parking of similar size and proportion to the existing condition.
- b. Also in accordance with the draft amendments presented to the City Council, the Subject Property shall be developed in a pattern of development consistent with the surrounding D-R15 neighborhoods. Those neighborhoods are typified by 50 ft. wide by 100-ft. deep (5,000 sq. ft.) lots taking access from a mid-block alley running north to south, thus preserving on-street parking, providing a superior pedestrian environment, and allowing for alley trash pickup. Developed/subdivided in such a manner, it is anticipated that the site

will yield 16-18 lots. It is anticipated that one lot, of similar size to the area being used in the existing location, will be utilized as the site for the relocated historic schoolhouse. The D-R15 zoning provisions allow for development of a single-family home or duplex on each lot of 5,000-sq. ft. or more. Consequently, with 15-17 lots remaining available for residential development, the resulting potential development yield would not exceed 36 units.

- c. Consistent with the draft amendments, the grading associated with future development of the Subject Property shall be respectful of the character of the built downtown environment to the extent feasible. It is recognized that the Subject Property is in a transitional area of the downtown area topographically, with many properties to the south raised relative to Third St. and transitioning to be more level moving northward, such that it is not intended that the site would need to be lowered significantly from existing elevations or to the level of Third St. to be compatible with the surrounding built environment.
- d. The amendments would be revised to address the access issues for the Fourth Street "Extension" as follows:

"When the Pacific View School Site is developed adequate improvements shall be made to the "extension" of Fourth Street and access shall be provided to the parcels west of the former Pacific View School Site via a private street."

3. If the District's request for re-consideration of the amendments is approved by the City Council, then the District will agree to incorporate the following terms into any potential sale, lease, or exchange agreement involving the Subject Property:

- a. Any such agreement shall state that there will be no density bonus proposed or approved pursuant to Section 65915 et. Seq. of the State of California Planning and Zoning Law or any provision that increases the maximum permitted density authorized under R-15 zone as part of the future development entitlements for the Subject Property.
- b. Any such agreement shall include the design-related criteria recommended by the Planning Commission and also included in the draft amendments. That language is as follows:

[The development of the subject property shall] "...be designed with an architectural design consistent with the eclectic nature of the surrounding development and that blends the new development with the existing development in a manner that preserves the beach character of the surrounding neighborhood. Methods to achieve such consistency include developing homes in a mixture of one- and two-story designs that are of varying sizes and footprints, that are reflective of the "beach cottage" character of much of the residential development in the downtown district."

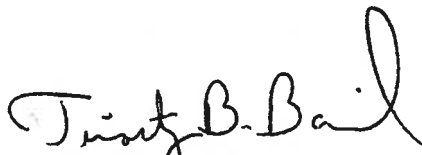
And:

"The street frontage around the perimeter of the site shall include improvements and landscape elements that preserve the established streetscape character of the area."

4. Lastly, the District further understands that if the above-described reconsideration is approved by the City Council, a Local Coastal Program amendment could then be submitted to the Coastal Commission. In any such submission, the District would agree to be responsible for all City staff costs associated with processing the Local Coastal Program amendment. The District would also be responsible to provide and bear the cost of any additional studies, information or materials requested by the Coastal Commission. However, the District would not be responsible for any additional costs for the reconsideration of the amendments by the City Council.

Thank you in advance for your reconsideration of this project. I believe that the agreements listed above help the City address their concerns about the use of this project and at the same time will help the District achieve its goals. I appreciate the time and effort that you have put into working with me on this matter.

Sincerely,

A handwritten signature in dark ink, appearing to read "Timothy B. Baird". The signature is fluid and cursive, with the first name "Timothy" and last name "Baird" clearly legible.

Timothy B. Baird, Ed.D.
Superintendent

Encinitas Union School District

PRESS RELEASE

October 7, 2011

Contact: Elizabeth Wallace
Executive Assistant to the Superintendent
Office of the Superintendent
(760) 944-4300, ext. 1111

Encinitas Union School District v. City of Encinitas

ENCINITAS - On October 7, 2011 the Encinitas Union School District filed a Writ of Mandate in Superior Court against the City of Encinitas as a result of the City Council voting against the rezoning of the Pacific View property.

The California legislature enacted legislation that required the rezoning of school sites deemed surplus to the zoning of adjacent property thus insuring a district's ability to generate revenue and support the educational needs of its students.

Since 2003 the Encinitas Union School District has worked diligently and in good faith, with both the City of Encinitas staff and community members, to reach a consensus that would insure an equitable solution to the disposition of the property. However, the City Council has consistently voted against each plan brought forward.

The Board of Trustees of the Encinitas Union School District is entrusted with providing a quality education for over 5,000 students. To accomplish this it is their fiscal responsibility to insure that District assets are maximized. This responsibility is magnified by the present budget crisis and growing cuts to education.

It has been long recognized that Pacific View is not a viable school site and its value would be most realized with rezoning to adjacent residential property. The revenues that would be realized from a sale and/or lease of the property would be used to insure the continued excellence of the Encinitas Union School District.

The first part of the paper discusses the importance of maintaining accurate records of all transactions. It is essential for the business to have a clear and concise record of all income and expenses. This will help in the preparation of the tax return and in the event of an audit. The second part of the paper discusses the importance of keeping up to date with the latest tax laws and regulations. It is important to consult with a tax professional to ensure that the business is in compliance with all applicable laws. The third part of the paper discusses the importance of maintaining proper documentation for all transactions. This includes keeping receipts, invoices, and other documents that support the business's financial records. The fourth part of the paper discusses the importance of maintaining accurate financial statements. This includes the balance sheet, income statement, and cash flow statement. The fifth part of the paper discusses the importance of maintaining accurate records of all assets and liabilities. This includes the business's property, equipment, and other assets. The sixth part of the paper discusses the importance of maintaining accurate records of all debts and obligations. This includes the business's loans, mortgages, and other debts. The seventh part of the paper discusses the importance of maintaining accurate records of all taxes paid. This includes the business's income taxes, sales taxes, and other taxes. The eighth part of the paper discusses the importance of maintaining accurate records of all other financial information. This includes the business's bank statements, credit card statements, and other financial documents. The ninth part of the paper discusses the importance of maintaining accurate records of all other business information. This includes the business's contracts, agreements, and other documents. The tenth part of the paper discusses the importance of maintaining accurate records of all other business information. This includes the business's contracts, agreements, and other documents.

PACIFIC VIEW HISTORY

2011-2012

- District agrees to enter into tolling agreement with City.
- District enters into potential sale with ARtPulse for \$7.5 million for development as an Arts Center.
- City fails to agendize ArtPulse application. ArtPulse withdraws for purchase.

TOLLING AGREEMENT

This Tolling Agreement ("Agreement") is made and entered into by and between the Encinitas Union School District ("EUSD") and the City of Encinitas ("City") (collectively "Parties"). This Agreement is made with reference to the following recitals:

RECITALS

A. In 2003, EUSD closed Pacific View Elementary School, located at 608 Third Street, between W. E Street and W. F Street in Encinitas, California ("Site"), due to low student enrollment and major repairs needed for the buildings.

B. On or about January 14, 2010, EUSD submitted an application to the City proposing a General Plan Amendment, Local Coastal Program Land Use Plan Amendment, and Downtown Encinitas Specific Plan Amendment to modify the land use designation and zoning classification of the Site under California Government Code section 65852.9 and Chapter 30.72 of the City's Municipal Code.

C. Pursuant to its application for zoning amendment, EUSD requested that the City change the land use designation for the Site from Public/Semi-Public (P/SP) to Residential 15 (R15), and change the zoning classification for the Site from Downtown Encinitas - Public/Semi-Public (D-P/SP) to Downtown Encinitas - Residential 15 (D-R15).

D. On January 12, 2011, the City issued a final decision denying EUSD's application for zoning amendment, which EUSD alleges is in violation of California Government Code section 65852.9.

E. The City disputes EUSD's allegation that the City failed to comply with California Government Code section 65852.9, and the Parties, without any admission of fact or law, are willing to engage in good faith discussions to attempt to resolve the issues between them relating to the City's denial of EUSD's zoning amendment application.

F. EUSD's statutory time period to commence legal proceedings against the City based upon the denial of its application for zoning amendment may elapse before the Parties reach a resolution of their issues. By this Agreement, the Parties wish to toll this time period, as set forth herein, in order to provide time to complete their discussions regarding a potential resolution of this matter.

G. Therefore, the Parties agree that litigation of the dispute over the City's denial of its application for zoning amendment should be held in abeyance and without prejudice to the rights of the Parties, pending further discussions to seek resolution of the dispute.

AGREEMENT

NOW, THEREFORE, in consideration of the covenants and conditions contained herein, the Parties agree as follows:

1. EUSD will not initiate litigation against the City over the denial of EUSD's zoning amendment application until on or after September 27, 2011, subject to the terms and conditions of this Agreement.
2. The City will not assert any defenses it may have based on the statute of limitations, laches, estoppel, or waiver, to the extent they arise from the passage of time (or action or inaction) solely between the date this Agreement is signed by all Parties and the termination date of this Agreement, that prevents, precludes or affects any of the claims asserted by EUSD against the City regarding the City's denial of EUSD's zoning amendment application. This Agreement preserves any other defenses the City or EUSD may have.
3. The Parties recognize that under limited circumstances certain statute of limitations enacted for the benefit of the public cannot be waived by agreement. The Parties to this Agreement agree that no such circumstances apply to this matter.
4. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the Parties hereto.
5. This Agreement may be amended or modified at any time by a writing executed by all Parties.
6. This Agreement may be executed in one or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.
7. This Agreement constitutes the entire agreement among the Parties and supersedes all prior and contemporaneous agreements and undertakings of the Parties in connection herewith. In the event that any one or more of the provisions contained in this Agreement shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, then to the maximum extent permitted by law, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement.
8. By entering this Agreement, the Parties do not admit to any fact or assume any liability of any kind. Moreover, this Agreement may not be offered as evidence of an admission of such responsibility or liability in any court proceeding.
9. Each of the Parties represents and warrants that the respective signatories below are authorized to execute this Agreement on its behalf.
10. Unless otherwise terminated or amended or modified pursuant to the terms of this Agreement, this Agreement shall remain in effect through September 26, 2011. Upon expiration of this Agreement, EUSD shall have ten (10) additional court days within which to file legal proceedings. After the ten (10) additional court days have elapsed, all applicable defenses tolled pursuant to this Agreement will no longer be tolled.
11. As a condition of entering into this Agreement, the parties have mutually agreed that at least two meetings between the parties' respective staff and/or governing body members shall be scheduled for the parties to discuss the dispute and attempt to resolve the

matter prior to the termination of this tolling agreement. The scheduling of these meetings, and the persons representing each party shall be subject to the mutual agreement of the parties.

12. Either Party may terminate this Agreement upon thirty (30) calendar days written notice to the other Party. Subsequent to the thirty (30) day notice period, the District shall have ten (10) additional court days within which to file legal proceedings. After the ten (10) additional court days have elapsed, all applicable defenses tolled pursuant to this Agreement will no longer be tolled.

13. Alternatively, this Agreement may be terminated upon the execution of a settlement agreement.

14. This Agreement may be executed and delivered in counterparts, each of which so executed and delivered shall be an original, but such counterparts together constitute but one and the same instrument and agreement.

Dated: 4-8-11

ENCINITAS UNION SCHOOL DISTRICT

By: Timothy B. Bird
Superintendent

Dated: 4-5-11

CITY OF ENCINITAS

By: P.E. Cotton
P.E. Cotton
Interim City Manager

Approved as to Form:

Dated: 4/5/11
By: Glenn Sabine
Glenn Sabine
City Attorney

Encinitas

UNION SCHOOL DISTRICT

101 S. Rancho Santa Fe Road
Encinitas, CA 92024-4349
Phone: (760) 944-4300
FAX: (760) 942-7094
www.eusd.net

VIA E-MAIL / HAND DELIVERED

Board of Trustees
Emily Andrade
Maureen "Mo" Muir
Carol Skiljan
Gregg Sonken
Marla Strich

September 26, 2012
Encinitas City Council
City of Encinitas
505 S. Vulcan Avenue
Encinitas, CA 92024

Superintendent
Timothy Baird, Ed.D.

Re: EUSD Support of Agenda Item No. 7 – Application for General Plan
Amendment Pacific View School

Dear Councilmembers:

Assistant
Superintendents

David Miyashiro, Ed.D.
Educational Services

Vince Jewell
Interim Assistant
Superintendent
Administrative
Services

John Britt
Business Services

The Encinitas Union School District (the "District") would like to take this opportunity to submit this letter in support of Agenda Item No. 7 for the September 26, 2012 meeting related to the potential community art center Art Pulse, Inc. ("Art Pulse") seeks to develop on the former Pacific View School site, as well as state the District's intent to dismiss the legal challenge associated with the previous denial of the District's request for a zone change for the property.

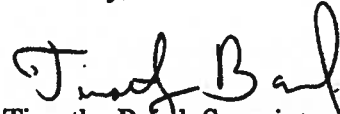
As the Council may be aware, the District entered into and executed a purchase agreement for the sale of the Pacific View property with Art Pulse, Inc. in late August 2012. The purchase agreement will provide the District with at least \$7.5 million dollars in much needed revenue that will assist the District in meeting its budget obligations and protecting educational programs and jobs in the future. More importantly, it will provide Art Pulse and the District the opportunity to work with the City to potentially develop a community art center project for the benefit of both local and regional residents and artists.

The agreement with Art Pulse was the result of the District seeking additional proposals from the community for potential development of the former Pacific View school site that might meet both the District's goals and community desires for future public use of the property. The District also sought such a development as a way to avoid any need to pursue further the legal challenge related to the District's prior zone change request, as well as ensure that ultimate development of the former Pacific View School site was supported by the community. The District believes that the purchase agreement with Art Pulse and the proposal before the Council in Agenda Item No. 7 does exactly that, and would in fact render the previously filed legal challenge moot and unnecessary.

As the District understands it, Agenda Item No. 7 will simply allow Art Pulse to begin working with City staff to start the development approval process necessary to potentially develop Art Pulse's proposed community art center project. Accordingly, as soon as the City Council allows Art Pulse to begin this planning process, the District intends to immediately dismiss the litigation related to the previous zone change request.

In conclusion, the District fully supports Art Pulse's proposal and believes that it provides an exciting opportunity for Art Pulse, the City, and the District to work together on a project that benefits all parties. Thank you in advance for your consideration and we look forward to working with the City and Art Pulse on this exciting project.

Sincerely,

A handwritten signature in black ink, appearing to read "Timothy Baird". The signature is fluid and cursive, with the first name "Timothy" and last name "Baird" clearly distinguishable.

Timothy Baird, Superintendent
Encinitas Union School District

Encinitas

UNION SCHOOL DISTRICT

101 S. Rancho Santa Fe Road
Encinitas, CA 92024-4349
Phone: (760) 944-4300
FAX: (760) 942-7094
www.eusd.net

VIA E-MAIL / HAND DELIVERED

Board of Trustees
Emily Andrade
Maureen "Mo" Muir
Carol Skiljan
Gregg Sonken
Marla Strich

October 18, 2012

Superintendent
Timothy Baird, Ed.D.

Assistant
Superintendents

David Miyashiro, Ed.D.
Educational Services

Vince Jewell
Interim Assistant
Superintendent
Administrative
Services

John Britt
Business Services

Dear Encinitas Council Members,

You are all aware of the long path that the Encinitas Union School District has been down to try and sell or lease Pacific View Elementary. Our contention for some time has been that not only will selling or leasing this property be good for our District but it will also help the City of Encinitas with increased tax revenues and the greater Encinitas community by removing the current broken down facility in the heart of our city.

I will not go through all of the efforts we have made to accomplish this but I do want to ensure that you understand where we are now in this process. We strongly believe that our community is best served when the City and the District work together. With that goal in place, we pursued a secondary path in place of suing the City and selected Art Pulse to purchase the property for \$7.5 million on which they would then build an art center. Even though this purchase price was less than we believe we would get for selling to a home developer, we thought this was best for the community and our relationship with the City, so we moved ahead with the deal. One important element of this deal is that Art Pulse has given the District a non-refundable deposit of \$300,000 that is due by October 30, 2012. Prior to that date, Art Pulse can withdraw from the deal with no financial loss. The only remaining obstacle to Art Pulse releasing that money to the District is they would like some assurances from the City that they would be willing to consider a general plan amendment allowing them to proceed with their plan to build an art center and a few residences on the property.

While this process was moving forward, we entered into a tolling agreement with the City to set our lawsuit aside. This is the typical way that public entities put these legal matters on hold and we were in the process of extending this tolling agreement when shortly before the City Council Meeting on September 24, 2012, we were informed that the City was no longer interested in extending the tolling agreement. Instead, we were asked to drop our lawsuit entirely to move the Art Pulse proposal forward. There was no time for me to convene a Board Meeting but based upon prior conversations of our Board, I wrote a letter to the City Manager and the City Council agreeing that we would drop our lawsuit if the Art Pulse proposal went forward. Since the City was not approving any final agreement, we assumed that this would be enough assurance for the City to agree to move the project ahead. We also knew that if we did not then drop the lawsuit after the City took action, the City could at any time over the next year simply end the project because the District had not kept our word. Instead, we were told at the City Council Meeting on September 24, 2012 that our pledge to drop the lawsuit was not enough and it was rejected. At that same meeting, all of the Council agreed that without the lawsuit, they would be open to moving the Art Pulse proposal forward.


With that assurance, our Board called for an emergency Board Meeting the following week. At that Board Meeting, a unanimous vote was taken to withdraw the lawsuit. Our attorney communicated this with the city attorney and we took immediate steps to meet the timelines given by the City to withdraw the lawsuit. We assumed all was moving forward and that Art Pulse would then be placed on one of the three City Council agendas scheduled for October.

Last week, we were surprised to see that the City Council cancelled one of the meetings and failed to get Art Pulse on the upcoming October 24 agenda. I called the city manager to find out why this had happened and also to explain the importance to our District and to the relationship between the City and the District that Art Pulse gets City approval before October 30. He informed me that the agenda was already set for the October 24th meeting and the City had no intention of amending that agenda or calling for a special meeting to address the Art Pulse proposal. I explained that we have one Board Member recusing on this issue and two who are out of town for the next three weeks. That means that our Board can take no action on extending our contract with Art Pulse before it expires. If Art Pulse withdraws from the purchase agreement because they could not get some assurance from the City that they would consider the proposal, everything falls apart. At that point, I can only predict that our Board would be forced to fall back on our first course of action and go back to the City for a consideration to change zoning to R-15 with no restrictions. If this course of action is denied, the lawsuit would then be reinstated based on the City's non-compliance with California State Government Code §65852.9.

I know there will be backlash on the District and the City when this occurs. We will be forced to answer questions from our parents as to why we dropped the lawsuit instead of insisting on continuing the tolling agreement. This mistake will ultimately cost the District and City additional dollars in legal costs. At the same time, our parents and the community will question the City as to why they couldn't seem to schedule this agenda item in a timely manner. Some of our parents will blame the City Council for the loss of the guaranteed \$300,000 to our District. The resulting loss in teacher positions and increased class sizes will cause anger and consternation among our staff and much of the community because the situation was so avoidable.

Please reconsider this action. The vast majority of our community supports the Art Pulse deal. It is good for the District, good for the City, and good for our collective community. The simplest course of action is to amend your October 24th agenda today, which is legal under the Brown Act requirements. A second course of action would be to call for a special meeting before the October 30th deadline to hear their proposal and move it forward. Barring either of these two actions, I am concerned that Art Pulse will withdraw from their purchase agreement and we will all be caught in a difficult position on this issue. Thank you for your consideration.

Sincerely,


Timothy B. Baird, Ed.D.
Superintendent

FISCHBECK & OBERNDORFER

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

5464 GROSSMONT CENTER DRIVE

THIRD FLOOR

LA MESA, CALIFORNIA 91942

TELEPHONE (619) 464-1200

WILLIAM L. FISCHBECK

E-MAIL: wlf@lamesalaw.com

WEBSITE: www.LaMesaLaw.com

FAX: (619) 464-6471

October 26, 2012

Sent by Email and U.S. First Class Mail

Timothy B. Baird, Ed.D, Superintendent
Encinitas Union School District
101 S. Rancho Santa Fe Road
Encinitas, CA 92024-4349

Renee Marshall, Escrow Officer
Chicago Title Company
701 B Street, Suite 760
San Diego, CA 92101

Re: Pacific View Property
Art Pulse - Purchase and Sale Agreement (PSA)

Dear Mr. Baird and Ms. Marshall:

The Purchaser under the above-referenced PSA hereby informs Escrow and the Encinitas Union School District that it will not be in a position to waive its due diligence contingencies by October 30th and hereby gives formal notice of its election not to waive the contingencies.

This state of affairs is a result of the fact that the City of Encinitas has declined to approve the filing of the Art Pulse application for entitlements to take the Art Pulse Project forward. As you know, Council members have indicated their willingness to approve this Project but delayed their action pending a Dismissal of the lawsuit between the City and the District. Unfortunately, the City did not take the steps necessary to reschedule the Art Pulse Application before October 30, 2012. We understand that it could be rescheduled on November 14th but we do not know whether that will occur in light of events this week.

Furthermore, Art Pulse cannot proceed with title exceptions specified in our letter of September 28, 2012, unless the District confirms that it will remove such exceptions prior to the Close of Escrow.

The District requirement put forth this week that Art Pulse pass through the initial Deposit of \$100,000 without having the City approval simply could not be approved by the Art Pulse Board. Art Pulse is a fiduciary in regard to donated funds and simply could

Timothy B. Baird, Ed.D, Superintendent
Encinitas Union School District
Renee Marshall, Escrow Officer
Chicago Title Company
October 26, 2012
Page 2

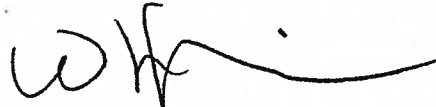
not put those funds at risk inconsistent with the PSA. Furthermore, the District could not, at the time of that requirement, provide to us an extension of the Feasibility Period to compliment the demand that the initial \$100,000 become nonrefundable. That left the Art Pulse Board with no choice but to decline the added requirement by the District.

Nevertheless, we are very hopeful that we can take this Project forward. Obviously, there is a strong sentiment in the town amongst the citizens for a project such as this to move forward, even if there are details to work out in regard to exactly what entitlements will be in place.

We hope that we can forge an amendment to the PSA that will provide Art Pulse with adequate time to complete the due diligence through the City and put its funding in place for the additional \$200,000 deposit. Please bear in mind that the continuing drama between the City and the District has made the Art Pulse donors nervous, to say the least. It has also caused a great deal of uncertainty with our residential co-venturer. Frankly, we have lost the better part of the last two months in fundraising efforts as a result of the uncertainty created by the pending City hearing and then the dispute between the City and the District.

We ask that the Board consider a reasonable amendment to the Agreement so that we can put this Project back on track for the benefit of the children of your District as well as the citizens of Encinitas.

Very truly yours,



William L. Fischbeck

WLF:dnw

cc: Art Pulse
Tyree Dorward, Esq.

Encinitas

UNION SCHOOL DISTRICT

101 S. Rancho Santa Fe Road
Encinitas, CA 92024-4349
Phone: (760) 944-4300
FAX: (760) 942-7094
www.eusd.net

Board of Trustees

Emily Andrade
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Marla Strich

March 4, 2013

Honorable Mayor Teresa Barth and City Council
City of Encinitas
505 S. Vulcan Avenue
Encinitas, CA 92024

Superintendent

Timothy Baird, Ed.D.

RE: Sale of Former Pacific View School Site

Dear Mayor Barth and City Councilmembers,

Assistant
Superintendents

David Miyashiro, Ed.D.
Educational Services

The purpose of this letter is to follow-up on the discussions I have had with City staff regarding the District's former Pacific View School site as well as the District's pending application for re-zoning of the property. First, from my discussions with City staff, I understand one or more members of the City Council may be interested in entering into negotiations with the District to potentially purchase the property.

Vince Jewell
Interim Assistant
Superintendent
Administrative Services

John Britt
Business Services

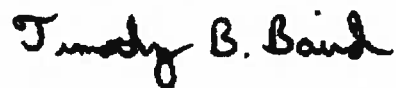
While the District has re-submitted its application requesting that the City re-zone the property to residential (R-15), the District remains willing to discuss any good faith offer from the City to purchase the property for its current fair market value. If the current City Council has any interest in potentially purchasing the property, the District requests that the City Council promptly agendize discussion of such a potential purchase and authorize City staff and/or a sub-committee of the Council to enter into negotiations with the District. The District also requests that the City notify the District within the next two weeks if the City Council does intend to agendize discussion of a potential purchase, as the District is also considering offering the property for sale on the open market, but would delay this action if the City intends to timely make an offer.

With regard to the District's application for re-zoning, as you may be aware, the District has re-submitted its request that the City re-zone the property to residential (R-15), consistent with the adjacent property, in accordance with Government Code section 65852.9. From my discussions with City staff, I understand that apparently staff's opinion is that the District must make a second round of additional notifications of the property's availability for sale or lease to public entities, prior to submitting its request for re-zoning. However, the District has reviewed the provisions of Government Code section 65852.9, as well as the requirements of the Education Code as it relates to the disposal of surplus property, and cannot find a legal basis for this position. Of course, if staff has some additional legal authority for its position, the District would be happy to review such authority with its legal counsel.

As the District has documented for the City in detail, the District fully complied with all applicable provisions of the Education Code in declaring the property surplus and has already provided written and published notifications to all required entities under the Education Code. The District also conducted an additional request for proposal process to attempt to allow any other public and/or non-profit entity to acquire the property for a use consistent with existing zoning, and a non-profit buyer was even interested in acquiring the property. However, the parties were unable to timely obtain approvals from the City to allow that purchase to proceed. In addition to all of the above, the District is now reiterating its willingness to offer the property to the City. To date, neither the City nor any other public entity expressed in interest in purchasing the property.

Accordingly, unless the City wishes to acquire the property, the District requests that the City promptly move forward with processing the District's re-zoning application. As City staff is aware, the request was originally filed in December 2012, and to date the City has taken no action, which appears to run contrary to the required times for processing such applications under the City's code. If you have any questions about this letter, please feel free to give me a call.

Sincerely,

A handwritten signature in black ink that reads "Timothy B. Baird". The signature is written in a cursive, slightly slanted style.

Timothy B. Baird, Ed.D.
Superintendent

PACIFIC VIEW HISTORY

2013

- City votes to enter into negotiations with the District for purchase of the Pacific View Property.
- District agrees to participate in AdHoc Committee for negotiations with City and setting parameters for fair market value/process.
- City letter agreeing to explore options for a possible purchase of Pacific View.
- City offers \$4.3 million for PV property. District letters rejecting offer and requesting City to process rezoning to R-15 pursuant to GC § 65852.9(a).

Encinitas

UNION SCHOOL DISTRICT

101 S. Rancho Santa Fe Road
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Board of Trustees
Emily Andrade
Maureen "Mo" Muir
Carol Skiljan
Gregg Sonken
Marla Strich

April 19, 2013

Honorable Mayor Teresa Barth and City Council
City of Encinitas
505 S. Vulcan Avenue
Encinitas, CA 92024

RE: Sale of Former Pacific View School Site

Superintendent
Timothy Baird, Ed.D.

Dear Mayor Barth and City Council members,

Assistant
Superintendents

As a result of the direction taken by the Encinitas City Council at the April 10, 2012 meeting to move forward with discussions to purchase the Pacific View site, the Encinitas Union School District Board of Trustees gave authorization to form a Board sub-committee, which consists of the board president, vice-president, and the district superintendent. We would like to extend an invitation for the city to form a similar subcommittee including you, the deputy mayor, and the city manager to meet with us in the near future to determine guidelines for moving forward.

David Miyashiro, Ed.D.
Educational Services

Vince Jewell
Interim Assistant
Superintendent
Administrative Services

It is our hope that meaningful dialog can begin with this small working group in order to enter into productive interest based negotiations for the sale of Pacific View. I believe that this subcommittee could help us establish the interests of both parties and design a framework for moving forward with the process. Part of this structure would include discussing parameters for establishing a fair market value for the property and determining an appropriate time frame for this process.

John Britt
Business Services

If the City Council agrees to this format for beginning this conversation, please contact our office with dates and times that will work for your team. We will then confirm a time, date, and location with you for our first meeting. I look forward to this opportunity for more open communication and to begin to work with the City in moving forward to find common ground for the sale and future of the Pacific View site.

Sincerely,



Timothy B. Baird, Ed.D.
Superintendent

cc: Encinitas Union School District Board of Trustees
Gus Vina, City Manager



City of Encinitas
City Manager's Office

April 29, 2013

Sent via U.S. Mail and Electronic Mail

Mr. Tim Baird
Encinitas Union School District
101 S. Rancho Santa Fe Road
Encinitas, CA 92024

Dear Tim,

In response to your correspondence dated April 19, 2013, the Encinitas City Council has decided to explore their options for a possible purchase of the Pacific View site. The council has directed me to move forward with an appraisal as one component of their decision making process. In regards to the subcommittee concept, the Council feels this is a subject for further discussion in the near future.

Additionally, I would like to request that you and I meet so we can discuss next steps and specifically I am requesting a meeting to discuss the right of entry onto the property for purposes of appraisal and for any pertinent disclosure information you may have on the site.

I look forward to our meeting and should you have any questions please feel free to contact me at 760-846-1709 (cell number).

Sincerely,

Gus Vina
City Manager
City of Encinitas

cc: Encinitas Union School District Board of Trustees
Encinitas City Council
Glenn Sabine, City Attorney



City of Encinitas
City Manager's Office

November 26, 2013

Timothy Baird, Superintendent
Encinitas Union School District
101 S. Rancho Santa Fe Road
Encinitas, CA 92024

VIA E-MAIL AND US POSTAL SERVICE

SUBJECT: CONFIDENTIAL MEMORANDUM – REAL ESTATE NEGOTIATIONS

Dear Mr. Baird:

The City Council has authorized that, as negotiator for the City of Encinitas, I provide the Encinitas Union School District Board a formal offer of purchase for the property located at 608 Third Street, Encinitas, CA 92024 (former Pacific View School Site).

The offer takes into careful consideration:

- The City's appraisal for said property at \$3.3 Million;
- The unknown but expected impacts of geotechnical, structural, hazardous materials, and electrical/mechanical system substandard conditions;
- The costs of preparing the property for reconstruction;
- The process complications due to implementation of Proposition A;
- The costs associated with a reuse or interim use of existing buildings; and,
- The City's ability to pay.

While these considerations weigh heavily on the decision to move forward, the City Council will consider the appraisal received of \$3.3 Million plus an increase of approximately 30% and offers the Encinitas Union School District a total sum of **\$4,300,000** for the property at 608 Third Street.

Sincerely,


Gus Vina
City Manager

cc: City Council
EUSD Board Members

Encinitas

UNION SCHOOL DISTRICT

101 S. Rancho Santa Fe Road
Encinitas, CA 92024-4349
Phone: (760) 944-4300
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www.eusd.net

VIA E-MAIL AND US POSTAL SERVICE

Board of Trustees

Emily Andrade
Maureen "Mo" Muir
Carol Skiljan
Gregg Sonken
Marla Strich

December 3, 2013

Gus Vina, City Manager
City of Encinitas
505 South Vulcan Avenue
Encinitas, CA 92024

Superintendent

Timothy Baird, Ed.D.

Subject: **Proposal to Purchase Pacific View Elementary School Site**

Dear Mr. Vina,

**Assistant
Superintendents**

Leighangela Brady, Ed.D.
Educational Services

The Encinitas Union School District Board of Trustees met in closed session yesterday afternoon to discuss the City of Encinitas' offer to purchase the Pacific View Elementary School Site for the sum of \$4,300,000. After careful deliberation, the School Board voted 4-0 to decline this offer.

Vince Jewell
Administrative Services

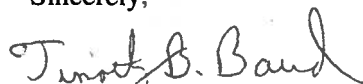
Our goal is to move forward with plans to sell this property. We currently have a request submitted to the City of Encinitas to rezone this property from Public/Semipublic to R-15 as requested pursuant to Government Code 65852.9 (a), which states:

John Britt
Business Services

The Legislature recognizes that unused school sites represent a potentially major source of revenue for school districts and that current law reserves a percentage of unused school sites for park and recreational purposes. It is therefore the intent of the Legislature to ensure that unused school sites not leased or purchased for park or recreational purposes pursuant to Article 5 (commencing with Section 17485) of Chapter 4 of Part 10.5 of the Education Code can be developed to the same extent as is permitted on adjacent property. It is further the intent of the Legislature to expedite the process of zoning the property to avoid unnecessary costs and delays to the school district. However, school districts shall be charged for the administrative costs of this rezoning.

We respectfully request that the City process our request to rezone Pacific View Elementary School from Public/Semi-public zoning to R-15 zoning in a timely manner so that we may move forward with our attempts to monetize this valuable District asset.

Sincerely,


Timothy B. Baird, Ed.D.
Superintendent

cc: Encinitas City Council

Encinitas

UNION SCHOOL DISTRICT

101 S. Rancho Santa Fe Road
Encinitas, CA 92024-4349
Phone: (760) 944-4300
FAX: (760) 942-7094
www.eusd.net

November 30, 2012

DELIVERED VIA E-MAIL AND CERTIFIED MAIL

Board of Trustees
Emily Andrade
Maureen "Mo" Muir
Carol Skiljan
Gregg Sonken
Marla Strich

Mr. Gustavo F. Vina
City of Encinitas
505 S. Vulcan Avenue
Encinitas, CA 92024-3633

Re: Proposed Rezoning of Pacific View Elementary School Site and Related Proposed Revisions to Downtown Encinitas Specific Plan

Superintendent
Timothy Baird, Ed.D.

Dear Mr. Vina:

Assistant
Superintendents

As we have previously discussed, Encinitas Unified School District ("District") proposes the rezoning of the site of the closed Pacific View Elementary School ("Site") to match the zoning on adjacent property pursuant to its right under Section 65852.9(a) of the California Government Code. That section provides, in relevant part:

David Miyashiro, Ed.D.
Educational Services

"Unused school sites not leased or purchased for park or recreational purposes pursuant to Article 5 (commencing with Section 17485) of Chapter 4 of the Education Code can be developed to the same extent as is permitted on adjacent property. It is further the intent of the Legislature to expedite the process of zoning the property to avoid unnecessary costs and delays to the school district. However, school districts shall be charged for the administrative costs of this rezoning."

Vince Jewell
Interim Assistant
Superintendent
Administrative Services

Subsection (b) of Section 65852.9 provides: "In no event shall the city or county, prior to the school district's sale or lease of the school site, rezone the site to open-space, park or recreation or similar designation unless the adjacent property is so zoned, or if so requested or agreed to by the school district."

John Britt
Business Services

As you are aware, the District has made several offers to the City and other public entities to sell or lease the Site for park or recreational purposes, to no avail. Therefore, the District is entitled to rezoning to D-R15, the designation ascribed to property adjacent to the Site, under Section 65952.9(a).

Pursuant to Subsection (c) of that Section, the District recognizes that the rezoning of the Site is subject to normal procedural requirements applicable to a rezoning proposal under State and local law. Accordingly and in response to your request, the District has prepared draft revisions to the Downtown Encinitas Specific Plan, a clean revised draft of which is attached hereto for your review. In addition, the District recognizes that the last sentence of Subsection (a), quoted above, and Subsection (d) of Section 65952.9 require the District to reimburse the actual costs incurred by the City in effecting the requested rezoning.

The District looks forward to cooperating with the City in processing the rezoning of the Site. Please contact me at 760-944-4300 Extension 1111 or John Britt, Assistant Superintendent of Business Services at 760-944-4300 Extension 1160 if there are any questions.

Sincerely,



Timothy B. Baird, Ed.D.
Superintendent

Encinitas

UNION SCHOOL DISTRICT

101 S. Rancho Santa Fe Road
Encinitas, CA 92024-4349
Phone: (760) 944-4300
FAX: (760) 942-7094
www.eusd.net

VIA E-MAIL AND US POSTAL SERVICE

Board of Trustees

Emily Andrade
Maureen "Mo" Muir
Carol Skiljan
Gregg Sonken
Maria Strich

December 3, 2013

Gus Vina, City Manager
City of Encinitas
505 South Vulcan Avenue
Encinitas, CA 92024

Superintendent

Timothy Baird, Ed.D.

Subject: Proposal to Purchase Pacific View Elementary School Site

Dear Mr. Vina,

Assistant Superintendents

Leighangela Brady, Ed.D.
Educational Services

The Encinitas Union School District Board of Trustees met in closed session yesterday afternoon to discuss the City of Encinitas' offer to purchase the Pacific View Elementary School Site for the sum of \$4,300,000. After careful deliberation, the School Board voted 4-0 to decline this offer.

Vince Jewell
Administrative Services

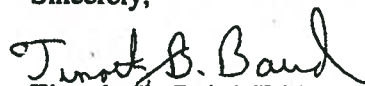
Our goal is to move forward with plans to sell this property. We currently have a request submitted to the City of Encinitas to rezone this property from Public/Semipublic to R-15 as requested pursuant to Government Code 65852.9 (a), which states:

John Britt
Business Services

The Legislature recognizes that unused school sites represent a potentially major source of revenue for school districts and that current law reserves a percentage of unused school sites for park and recreational purposes. It is therefore the intent of the Legislature to ensure that unused school sites not leased or purchased for park or recreational purposes pursuant to Article 5 (commencing with Section 17485) of Chapter 4 of Part 10.5 of the Education Code can be developed to the same extent as is permitted on adjacent property. It is further the intent of the Legislature to expedite the process of zoning the property to avoid unnecessary costs and delays to the school district. However, school districts shall be charged for the administrative costs of this rezoning.

We respectfully request that the City process our request to rezone Pacific View Elementary School from Public/Semi-public zoning to R-15 zoning in a timely manner so that we may move forward with our attempts to monetize this valuable District asset.

Sincerely,


Timothy B. Baird, Ed.D.
Superintendent

cc: Encinitas City Council

Encinitas

UNION SCHOOL DISTRICT

101 S. Rancho Santa Fe Road
Encinitas, CA 92024-4349
Phone: (760) 944-4300
FAX: (760) 942-7094
www.eusd.net

December 17, 2013

Sent Via E-Mail / USPS

Board of Trustees

Emily Andrade
Maureen "Mo" Muir
Carol Skiljan
Gregg Sonken
Maria Strich

Superintendent

Timothy Baird, Ed.D.

Assistant

Superintendents

Leighangela Brady, Ed.D.
Educational Services

Vince Jewell

Administrative Services

John Britt

Business Services

Mr. Gus Vina, City Manager
City of Encinitas
505 South Vulcan
Encinitas, CA 92024

Dear Mr. Vina,

The Encinitas Union School Board met in closed session today to discuss the confidential memorandum that you sent to me dated December 13, 2013. As negotiator for the District, our School Board has directed me to respond to your correspondence.


First, let me address the issue of entering into a mediated process to continue negotiations. We were somewhat unsure of the City's intent in requesting mediation to continue the negotiations process. Our understanding of mediation is to bring in a neutral party to help resolve a dispute. We have never seen the negotiation between the City and the District as a dispute. Assuming that the City was simply requesting a facilitated negotiation, our Board still does not see how this process will move us toward a sale of the Pacific View property to the City of Encinitas. Based upon all prior discussions and the City's offer of \$4.3 million for the property, it appears that the District's price for the property and the City's offer for the property are too far apart to find a mutually satisfying agreement.

You did get our attention in your statement, "This request for mediation is being proposed prior to exploring other actions the City Council may take in order to acquire the property." The District would appreciate further clarity on how the City is attempting to take a valuable District asset without purchasing it from the District at fair market value.

Early in our discussions around a potential purchase by the City of the property, we talked about what would happen if we couldn't come to an agreement for sale. At that time, the City negotiators all expressed a desire to help the District move forward with our efforts to sell this property to another buyer without going through legal action against the City. This is still our goal. We need to sell this property at a fair market value to support our students. We also believe that a lawsuit between the District and City is not in the best interest of either entity.

We therefore ask that the City expedite our request to rezone this property to R-15 as the Government Code and Education Code require. Our plan is to put the property up for auction in the near future. If the City is moving forward on rezoning, this will help us to find an appropriate buyer who would work with the District and the City to make Pacific View something that will be a benefit for all of us. We would appreciate a response regarding our rezoning request before January 31, 2014 so that we can move forward with our plans for the property.

Sincerely,


Timothy B. Baird, Ed.D.
Superintendent

cc: Encinitas City Council
Board of Trustees