



NOTICE OF DECISION
Development Services Department

Project Name:	Bennetti ADU - 563 Hermes Ave, Unit 2
Request:	Construct an attached Accessory Dwelling Unit (ADU).
Discretionary Actions:	Coastal Development Permit
CEQA Determination:	Exempt
DECISION:	APPROVED
Project/Permit Number:	CDPNF-006725-2023/ BLDR-028518-2023
DSD Number:	2024-123
Address:	563 Hermes Avenue, Unit 2
Community:	Leucadia
APN:	256-110-54-00
Applicant:	Maureen Benetti
Representative:	Jose Garcia, Prismatic
Project Planner:	Fran Carr, Associate Planner, fcarr@encinitasca.gov
Decision Date:	October 29, 2024
Report Approval:	<input checked="" type="checkbox"/> Andrew Maynard, Principal Planner <input checked="" type="checkbox"/> Esteban Danna, Senior Planner

PROJECT DESCRIPTION

The application requests a Coastal Development Permit to authorize the construction of a new second-story, attached accessory dwelling unit (ADU) above an existing garage. The proposed 499-square-foot ADU is a studio and includes an entry deck, a front deck, an unconditioned 144-square-foot attic and roof deck.

PROJECT ANALYSIS

Municipal Code Analysis

The project site is located within the R-8 Zone and the Coastal Overlay Zone. The proposed ADU complies with all relevant sections of Encinitas Municipal Code (EMC) Section 30.48.040.T as well as all other applicable zoning and development standards.

Local Coastal Program Consistency

The project site is located in the Coastal Overlay Zone. The project requires a Coastal Development Permit pursuant to Encinitas Municipal Code Section 30.48.040.T.21. (Accessory Dwelling Units, General – Applications). Pursuant to this code section, ADUs that are not completely contained in the existing primary structure, or include increases in habitable area, or include conversion of non-habitable space, are considered self-contained residential units, and require a coastal development permit. The project complies with the Local Coastal Program, including all goals and policies of the General Plan and all R-8 Zone development standards.

Public Notice and Citizen Participation

The Notice of Pending Action on the Coastal Development Permit was mailed on 7/19/2024, to all property owners and occupants within 500 feet of the project site and to anyone who requested such notice in writing, in compliance with Encinitas Municipal Code Sections 30.01.070 (Noticed Public Hearings) and 30.80.080 (Coastal Development Permits). Additionally, as a courtesy, the notice was posted at City Hall and on the Development Services Department's Internet site under "Public Notices."

ENVIRONMENTAL CONSIDERATIONS

Pursuant to the California Environmental Quality Act (CEQA) Guidelines, Section 15303 (a) – Class 3 - (New Construction or Conversion of Small Structures) exempts the construction of secondary (accessory) dwelling units in a residential zone from environmental review. The project is consistent with this exemption, as it proposes the construction of an accessory dwelling unit within a residential zone. The project does not qualify as one of the exceptions prescribed under Section 15300.2 of the CEQA Guidelines and no historic resources are affected by the proposed project.

FINDINGS

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

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

The project, as conditioned, complies with all Municipal Code requirements, policies of the General Plan and the Local Coastal Program. The project meets all required R-8 zoning standards.

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

The project is exempt from further environmental review pursuant to California Environmental Quality Act (CEQA) Guidelines, Section 15303 (a) – Class 3 (New Construction or Conversion of Small Structures). No exceptions in Section 15300.2 exist.

- 3. For projects involving development between the sea or other body of water and the nearest public road, approval shall include a specific finding that such development is in conformity with the public access and public recreation policies of Section 30200 et. seq. of the Coastal Act.**

The project site is located at 568 Hermes Avenue, which is not located between the sea and the first public road. Therefore, the requirements of Section 30200 et. seq. of the Coastal Act does not apply.

CONDITIONS OF APPROVAL

SPECIFIC CONDITIONS:

CONTACT THE DEVELOPMENT SERVICES DEPARTMENT REGARDING COMPLIANCE WITH THE FOLLOWING SPECIFIC CONDITION(S):

- SCA** The attic space above the accessory dwelling unit (ADU) shall not be used as livable floor area or be converted to a story. The attic floor joists shall be maintained at all times with a maximum of 20 lb life load. A finished floor or ceiling shall not be constructed, excluding a limited floor as required for mechanical units. No window or skylights shall be permitted within the attic.

STANDARD CONDITIONS:

CONTACT THE DEVELOPMENT SERVICES DEPARTMENT REGARDING COMPLIANCE WITH THE FOLLOWING CONDITION(S):

- A 01** **Approval - General:** At any time after two years from the date of this approval, on **October 29, 2026** at 5 p.m., or the expiration date of any extension granted in accordance with the Municipal Code, the application shall be deemed expired as of the above date.

- A 04** **Approval - General:** This project is conditionally approved as set forth on the application and project drawings, consisting of **11** sheets including **Cover Sheet/Site Plan, Demo, Demo (roof), Proposed plan, Proposed Attic Storage Plan, Proposed roof plan, Elevations, and Sections**, all designated as approved by the **Development Services Director** on **October 29, 2024**, and shall not be altered without express authorization by the Development Services Department.

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A 08 **Approval - General:** Approval of this request shall not waive compliance with any sections of the Municipal Code and all other applicable City regulations in effect at the time of Building Permit issuance unless specifically waived herein.

A 09 **Approval - General:** Prior to any use or issuance of final occupancy of the project site pursuant to this permit, all conditions of approval contained herein shall be completed or secured to the satisfaction of the Development Services Department.

ADU 01 **Accessory Dwelling Units:** Prior to Building Permit issuance, a covenant regarding real property shall be recorded regarding the accessory unit providing that compliance with the following conditions shall be maintained:
a) The accessory unit is approved for use as a second dwelling unit, accessory to the principal use of the property as a single-family residence.
b) The use of the accessory unit shall be incidental, related, appropriate and clearly subordinate to the single-family residence.
c) Sale or ownership of the accessory unit separate from the associated single-family residence is prohibited.
d) All required parking for the accessory unit shall be located, constructed, and maintained as approved and shown on the approved plans.

CONDO 01 If you are considering establishing your primary dwelling unit and accessory dwelling unit as a condominium, please ensure that your building permitting agency allows this practice. If you decide to establish your primary dwelling unit and accessory dwelling unit as a condominium, your condominium plan or any future modification to the condominium plan must be recorded with the County Recorder. Prior to recordation or modification of your subdivision map and condominium plan, any lienholder with a lien on your title must provide a form of written consent either on the condominium plan, or on the lienholder's consent form attached to the condominium plan, with text that clearly states that the lender approves recordation of the condominium plan and that you have satisfied their terms and conditions, if any.

In order to secure lender consent, you may be required to follow additional lender requirements, which may include, but are not limited to, one or more of the following:

1. Paying off your current lender. You may pay off your mortgage and any liens through a refinance or a new loan. Be aware that refinancing or using a new loan may result in changes to your interest date or tax basis. Also, be aware that any subsequent modification to your subdivision map or condominium plan must also be consented to by your lender, which consent may be denied.
2. Securing your lender's approval of a modification to their loan collateral due to the change of your current property legal description into one or more condominium parcels.

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3. Securing your lender's consent to the details of any construction loan or ground lease.

This may include a copy of the improvement contract entered in good faith with a licensed contractor, evidence that the record owner or ground lessee has the funds to complete the work, and a signed statement made by the record owner or ground lessor that the information in the consent above is true and correct.

EM 02 **Electrical and Mechanical Equipment:** All ground-mounted mechanical and electrical equipment shall be screened, and sound buffered through use of a wall, fence, landscaping, berm, or combination thereof and shall be designed to be compatible with the primary building's exterior to the satisfaction of the Development Services Department.

I 01 **Indemnification:** To the maximum extent permitted by law, the Owner(s) shall waive any claims of liability against the City, and shall indemnify, hold harmless and defend the City of Encinitas, and its agents, officers and employees from and against any and all actions, claims, damages, liabilities and/or proceedings arising from: (i) the City's approval of any and all entitlements or permits relating to the project; (ii) any injury to or death of any person, or damage or injury of any kind to property which may arise from or be related to the direct or indirect operations of the Owner(s) or its contractors, subcontractors, agents, employees, or other persons acting on the Owner(s)'s behalf relating to the project; and (iii) the operation of the project.

The Owner(s) agree to execute an indemnity agreement provided by the City prior to **Building Permit issuance** and the Development Services Director, or designee, is hereby authorized to execute the same. The Owner(s) further agrees that such indemnification and hold harmless shall include all defense related fees and costs associated with the defense of the City by counsel approved by the City. This indemnification shall not terminate upon expiration of the conditions of approval or completion of the project but shall survive in perpetuity.

HC 01 **Height Certification:** Prior to issuing a final inspection on framing, the applicant shall provide a survey from a licensed surveyor or a registered civil engineer verifying that the building height is in compliance with the approved plans. The height certification/survey shall be supplemented with a copy of the site plan and elevations depicting the exact point(s) of certification to the satisfaction of the Development Services Director. The engineer/surveyor shall contact the Development Services Department to identify and finalize the exact point(s) to be certified prior to conducting the survey.

BUILDING CONDITION(S):

CONTACT THE DEVELOPMENT SERVICES DEPARTMENT REGARDING COMPLIANCE WITH THE FOLLOWING CONDITION(S):

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BLDG 02 **Single Family and Duplex:** The applicant shall submit a complete set of construction plans to the Development Services Department for building permit plan check processing. The submittal shall include a Soils/Geotechnical Report, structural calculations, and State Energy compliance documentation (Title 24). Construction plans shall include a site plan, a foundation plan, floor and roof framing plans, floor plan(s), section details, exterior elevations, and materials specifications. Submitted plans must show compliance with the latest adopted editions of the California Building Code (The Uniform Building Code with California Amendments, the California Mechanical, Electrical and Plumbing Codes). These comments are preliminary only. A comprehensive plan check will be completed prior to permit issuance and additional technical code requirements may be identified and changes to the originally submitted plans may be required.

DISCLOSURES

This notice constitutes a decision of the Development Services Department only for the discretionary entitlement. Additional permits, such as Building and Grading Permits, may be required by the Development Services Department or other City Departments. It is the property owner's and applicant's responsibility to obtain all necessary permits required for the type of project proposed.

In accordance with the provisions of Municipal Code Section 1.12, the decision of the Development Services Department may not be appealed to the City Council. **The action of the Development Services Department may not be appealed to the Coastal Commission.**

SIGNATURE

DocuSigned by:

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ANDREW MAYNARD
PRINCIPAL PLANNER

Certificate Of Completion

Envelope Id: CB6A3F8102364D85B54A91C109118031	Status: Completed
Subject: Complete with DocuSign: 006725-2023 CDPNF (563 Hermes Ave, Unit 2) 2024-123.docx	
Source Envelope:	
Document Pages: 6	Signatures: 1
Certificate Pages: 4	Initials: 0
AutoNav: Enabled	Envelope Originator:
Envelope Stamping: Enabled	Brayden James
Time Zone: (UTC-08:00) Pacific Time (US & Canada)	505 S Vulcan Ave
	Encinitas, CA 92024
	bjames@encinitasca.gov
	IP Address: 209.215.56.226

Record Tracking

Status: Original	Holder: Brayden James	Location: DocuSign
10/29/2024 1:11:54 PM	bjames@encinitasca.gov	

Signer Events

Andrew Maynard
 amaynard@encinitasca.gov
 Security Level: Email, Account Authentication (None)

Signature

DocuSigned by:

 A774B5E3CC6548F...
 Signature Adoption: Pre-selected Style
 Using IP Address: 209.215.56.226

Timestamp

Sent: 10/29/2024 1:12:24 PM
 Viewed: 10/29/2024 1:19:28 PM
 Signed: 10/29/2024 1:19:46 PM

Electronic Record and Signature Disclosure:
 Accepted: 10/29/2024 1:19:28 PM
 ID: 33533dad-8154-4370-b939-0da37f2844ec

In Person Signer Events	Signature	Timestamp
Editor Delivery Events	Status	Timestamp
Agent Delivery Events	Status	Timestamp
Intermediary Delivery Events	Status	Timestamp
Certified Delivery Events	Status	Timestamp
Carbon Copy Events	Status	Timestamp
Witness Events	Signature	Timestamp
Notary Events	Signature	Timestamp
Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	10/29/2024 1:12:24 PM
Certified Delivered	Security Checked	10/29/2024 1:19:28 PM
Signing Complete	Security Checked	10/29/2024 1:19:46 PM
Completed	Security Checked	10/29/2024 1:19:46 PM

Payment Events **Status** **Timestamps**

Electronic Record and Signature Disclosure

ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

From time to time, City of Encinitas (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through the DocuSign system. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to this Electronic Record and Signature Disclosure (ERSD), please confirm your agreement by selecting the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

Getting paper copies

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. You will have the ability to download and print documents we send to you through the DocuSign system during and immediately after the signing session and, if you elect to create a DocuSign account, you may access the documents for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a \$0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

Withdrawing your consent

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

Consequences of changing your mind

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. Further, you will no longer be able to use the DocuSign system to receive required notices and consents electronically from us or to sign electronically documents from us.

All notices and disclosures will be sent to you electronically

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through the DocuSign system all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

How to contact City of Encinitas:

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To contact us by email send messages to: msalmon@cityofencinitas.org

To advise City of Encinitas of your new email address

To let us know of a change in your email address where we should send notices and disclosures electronically to you, you must send an email message to us at msalmon@cityofencinitas.org and in the body of such request you must state: your previous email address, your new email address. We do not require any other information from you to change your email address.

If you created a DocuSign account, you may update it with your new email address through your account preferences.

To request paper copies from City of Encinitas

To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an email to msalmon@cityofencinitas.org and in the body of such request you must state your email address, full name, mailing address, and telephone number. We will bill you for any fees at that time, if any.

To withdraw your consent with City of Encinitas

To inform us that you no longer wish to receive future notices and disclosures in electronic format you may:

- i. decline to sign a document from within your signing session, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
- ii. send us an email to msalmon@cityofencinitas.org and in the body of such request you must state your email, full name, mailing address, and telephone number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

Required hardware and software

The minimum system requirements for using the DocuSign system may change over time. The current system requirements are found here: <https://support.docusign.com/guides/signer-guide-signing-system-requirements>.

Acknowledging your access and consent to receive and sign documents electronically

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please confirm that you have read this ERSD, and (i) that you are able to print on paper or electronically save this ERSD for your future reference and access; or (ii) that you are able to email this ERSD to an email address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format as described herein, then select the check-box next to ‘I agree to use electronic records and signatures’ before clicking ‘CONTINUE’ within the DocuSign system.

By selecting the check-box next to ‘I agree to use electronic records and signatures’, you confirm that:

- You can access and read this Electronic Record and Signature Disclosure; and
- You can print on paper this Electronic Record and Signature Disclosure, or save or send this Electronic Record and Disclosure to a location where you can print it, for future reference and access; and
- Until or unless you notify City of Encinitas as described above, you consent to receive exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you by City of Encinitas during the course of your relationship with City of Encinitas.