



**NOTICE OF DECISION**  
Development Services Department

<b>Project Name:</b>	McArthur Residence ADU
<b>Request:</b>	Construction of a detached Accessory Dwelling Unit (ADU).
<b>Discretionary Actions:</b>	Coastal Development Permit (CDP)
<b>CEQA Determination:</b>	Exempt
<b>DECISION:</b>	APPROVED
<b>Project/Permit Number:</b>	CDPNF-007198-2024 / BLDR-030853-2024
<b>DSD Number:</b>	2024-126
<b>Address:</b>	1431 Rubenstein Avenue
<b>Community:</b>	Cardiff-By-The-Sea
<b>APN:</b>	260-082-18
<b>Applicant:</b>	David G. Kunkler and Lia B. McArthur Family Trust
<b>Representative:</b>	Joseph Ower
<b>Project Planner:</b>	Grant Yamamoto, Contract Assistant Planner, <a href="mailto:gyamamoto@encinitasca.gov">gyamamoto@encinitasca.gov</a>
<b>Decision Date:</b>	November 4, 2024
<b>Report Approval:</b>	<input checked="" type="checkbox"/> Katie Innes, Planning Manager <input checked="" type="checkbox"/> Andrew Maynard, Principal Planner

**PROJECT DESCRIPTION**

The project proposes a Coastal Development Permit to authorize the construction of a 497 square-foot detached accessory dwelling unit (ADU).

## PROJECT ANALYSIS

### ***Municipal Code Analysis***

The project site is located with the R-3 Zone and the Coastal Overlay Zone. The proposed ADU complies with all relevant sections of Encinitas Municipal Code (EMC) Section 30.48.040.T (Accessory Dwelling Units) zoning and development standards including setbacks, lot coverage, and building height.

### ***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-3 Zone development standards.

### ***Public Notice***

The Notice of Pending Action on the Coastal Development Permit was mailed on September 5, 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."

### ***Public Input***

Staff received comments from two members of the public regarding California State building codes, setbacks, and stormwater flow. Staff responded to these comments and addressed these concerns.

## 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-3 zoning standards.

**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 1431 Rubenstein 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**

**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 **November 4, 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 **5** sheets including ***Title Sheet (A-0.1), Site Plan (A-1.0), Floor Plan (-.0), Elevations (A-3.0), and Sections (A-4.0)***, all designated as approved by the ***Development Services Director*** on ***November 4, 2024***, and shall not be altered without express authorization by the Development Services Department.
  
- 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.

**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.
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.

**I 01**

**Indemnification:** To the maximum extent permitted by law, the Owner 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 agrees 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.

**BUILDING CONDITION(S):**

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

**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.

ITEM NAME: MCARTHUR RESIDENCE ADU  
PROJECT NUMBER: CDPNF-007198-2024 / BLDR-030853-2024  
NOVEMBER 4, 2024

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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KATIE INNES  
PLANNING MANAGER

**Certificate Of Completion**

Envelope Id: 99428FB3EEC14A6B847A15319B9823D0	Status: Completed
Subject: Complete with DocuSign: 007198-2024 (1431 Rubenstein Ave) 2024-126.docx	
Source Envelope:	
Document Pages: 6	Signatures: 1
Certificate Pages: 1	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
11/4/2024 11:02:51 AM	bjames@encinitasca.gov	

**Signer Events**

Katie Innes  
 kinnes@encinitasca.gov  
 Principal Planner  
 City of Encinitas  
 Security Level: Email, Account Authentication (None)

**Signature**

DocuSigned by:  
  
0A16A15BEC64492...

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

**Timestamp**

Sent: 11/4/2024 11:08:45 AM  
 Viewed: 11/4/2024 11:13:54 AM  
 Signed: 11/4/2024 11:14:00 AM

**Electronic Record and Signature Disclosure:**  
 Not Offered via DocuSign

In Person Signer Events	Signature	Timestamp
<b>Editor Delivery Events</b>	<b>Status</b>	<b>Timestamp</b>
<b>Agent Delivery Events</b>	<b>Status</b>	<b>Timestamp</b>
<b>Intermediary Delivery Events</b>	<b>Status</b>	<b>Timestamp</b>
<b>Certified Delivery Events</b>	<b>Status</b>	<b>Timestamp</b>
<b>Carbon Copy Events</b>	<b>Status</b>	<b>Timestamp</b>
<b>Witness Events</b>	<b>Signature</b>	<b>Timestamp</b>
<b>Notary Events</b>	<b>Signature</b>	<b>Timestamp</b>
<b>Envelope Summary Events</b>	<b>Status</b>	<b>Timestamps</b>
Envelope Sent	Hashed/Encrypted	11/4/2024 11:08:45 AM
Certified Delivered	Security Checked	11/4/2024 11:13:54 AM
Signing Complete	Security Checked	11/4/2024 11:14:00 AM
Completed	Security Checked	11/4/2024 11:14:00 AM
<b>Payment Events</b>	<b>Status</b>	<b>Timestamps</b>