

Ad Hoc Committee Meeting on Residential Single-Family (RS) Zoning La Jolla Community Planning Association

APPROVED MINUTES

Monday, July 27, 2015—SECOND MEETING

La Jolla Recreation Center

5:30 PM – 7 PM

Agenda items:

1a) Committee Members Present: Diane Kane, Glen Rasmussen, Angeles Leira, Eric Lindebak; Sharon Wampler (Chair)

Committee Member Absent: Jim Ragsdale

Government Officials Present: Justin Garver, Council District 1

1b) On Motion of Leira/2d by Lindebak, the Minutes of the first meeting of July 1 were unanimously approved.

1c) Brown Act: Seeking clarification how this applies as we are a working subcommittee of the La Jolla Community Planning Association (LJCPA). The only thing we vote on are minutes and motions. We may seek another committee member who has expertise in communications/publicity so that we can have broader attendance and input; possibly through polling.

Agenda Items 2) and 3); General discussion on Future meeting plans and public feedback, as per Agenda

4) and 5); Discussion. Presenter is identified when they stated their name:

A) S. Wampler, Chair: The City's zoning is "Euclidean," developed in the 1920's. The American Planning Assn has been pushing for form-based zoning. D. Kane states zoning in SD is not well-developed—as an example the City of Pasadena uses an Urban Design Manual dealing with infill goals, not "I get to build whatever I want as long as it fits into an envelope" where the public does not like the end result (where the review is ministerial).

B) A. Leira: Form-based codes need to be adopted into Ordinances, and for that an attorney is needed.

C) Mike Costello: Categorical exclusions (CE) are applicable to coastal development permits (CDP). A CDP is required to completely demolish a home, but is not required when it is not completely torn down, as the City perceived it unfair to make homeowners go through the lengthy CDP when merely remodeling. The City and the California Coastal Commission (CCC) agreed on the ministerial, abbreviated CE process, where a clerk performs the plan check. Mike questioned whether this is intended when, for example, the remodel is extensive.

The City's website defines CE's. They are limited to remodels of 90% of the maximum allowable height and 80% of the maximum allowable Floor Area Ratio (FAR) permitted by the base zone. They are supposed to incentivize building smaller homes—to favor small remodels (like adding a bedroom).

But garages, carports, covered balconies etc are not included in the FAR. There are many exceptions that are being exploited to the point that the City is violating its own agreement with the CCC and the California Environmental Quality Act (CEQA) by not following the agreement and allowing this fast-tracking; by not requiring variances and other procedures that require community review.

Mike urges this group to urge the LCPA president to write a letter to the City to stop granting CE's, or by "ratcheting back" the percentages (for example 80% to 70%) and renegotiating the CE. CE's should not be granted when a home is substantially remodeled essentially as a "new build". The procedure is badly abused so it must be stopped, as it is currently being applied.

D) Nancy Patton (by email): Another approach is to provide financial incentives to enhance building character. Reward those homeowners who retain single-story homes or modest remodels to maintain the character and charm of the neighborhood. The only current incentive to not "max out" a build is the historical designation. The question is: How to incentivize homeowners to not max out.

A. Leira stated that in downtown La Jolla, they cut building allowances by half, then gave incentives by allowing bonuses for certain concessions, such as providing open space or more height for more setbacks. But SD has become so lax in incentivizing that it is not working. She calls it "creeping incrementalism."

E) Roger Draper stated that, for example, the large home on Chelsea/Bird Rock Ave was allowed to go to 30' height and on top of that are utilities which add 4'. Basements were allowed to the property line, but the basement walls stick out of the ground (so it's not truly a "basement"). He believes the architects for such home perceive their job to "max it out." Exemptions become the norm, then there is nothing to incentivize. It is better to "lower the ceiling" than to incentivize.

F) D. Kane was on a planning group for the City in East Village that awarded increased FAR's as bonuses, in order to get amenities the City wanted, for example one could sell off parkland to build larger on the rest of one's lot. The problem that was not anticipated is that not all lots could be built upon equally due to differing geotechnical limitations lot-by-lot; this was not envisioned in the community plan, so "horse-trading" occurred on geo-unbuildable lots, so the developers essentially got paid to not build on an unbuildable lot!

G) Who grants the CE's? City staff. An example of this was staff's approval to build in excess of FAA height limits in the Montgomery Field flight pattern.

H) Mayor Faulconer is appointing a developer to head the City Planning Department.

I) Another problem is that the rules don't apply to those the City has allowed to bend the rules on prior projects. Rules are not consistently applied to individual homeowners versus developers.

J) James Geiger, Barber Tract resident stated that when he has called staff about specific issues or problems with a development, the City always sides with the "flippers," who don't care about neighborhood impacts, probably because staff is concerned with a numbers crunch to not become overburdened with complaints or long project review times.

K) Roger Draper, Bird Rock Ave resident, states there should be a requirement to notify neighbors, who are not notified in the case of CE's.

L) Kevin Gordon, Bird Rock resident, states the items in the Land Development Code governing bulk and scale are not being followed. The City is not enforcing the codes we have. These standards should not be negotiable. Let's stop the process while we work out a solution.

M) S. Wampler, Chair: The CE went through extensive review and approval by the CCC apparently is still not in place.

N) Pat Sherman, La Jolla Light stated that it was proposed in the 1990's and that the La Jolla community did not adopt it.

O) A. Leira stated each community in the Coastal Zone is different in the application of CE's. It has gotten too complicated. Some have the standard requiring keeping 50% of the walls, but don't state which walls; all allow full development to the base zone, which is what the City allows. She urges the proposal of specific standards that staff can implement—they want to measure the numbers. Leaving it to judgment allows "creative application."

P) G. Rasmussen stated he believes City staff wants a formula they can implement uniformly.

Q) Roger Draper states that as soon as the City comes out to verify they've left some wall studs, then the builders remove the studs the next day after inspection.

R) Mark Bucon, LJ architect stated the code states “keep 50% of exterior walls as exterior walls.” The LJ General Plan also requires exterior walls to “step back” as they ascend. What we need is enforcement of what is already in the general plan, but the LJCPA allows them to go 3 stories, straight up.

S) D. Kane, who sits on the DPR Committee, states that they look at the general plan and the land development code, make findings and the LJCPA usually backs up the DPR’s findings and recommendations, but then the City, or the Planning Commission, allow the development that has been voted down; the Planning Commission saying “the LJ Community Plan is not mandatory.”

T) Kevin Gordon: Is the City obligated to enforce the 50% CE?

U) A. Leira: The City is trying to equalize coastal and non-coastal ordinances by allowing a ministerial process (that is numerical and “by right”) by holding to specific numbers, where deviation should trigger discretionary review. The City of Los Angeles has gone through this process.

We need a moratorium first, otherwise it will go on forever. There needs to be a “stick” to get everyone to the table. LA requires 50% of exterior walls and 50% of the roof be retained for a CE! We could also, for example, limit the size increase to 20%, to allow a CE, so that there is no harm during a moratorium.

V) Sally Miller says there are no controls over abuses. There is no enforcement of current rules by the city. The neighbors have to file lawsuits to enforce current regulations.

W) A. Leira: The only way it works is by neighbors being the eyes and ears of the City, using measurable standards so neighbors can tell if the rules are being broken, not allowing variances.

X) Michael Morton, La Jolla architect: Neighbors can call Code Compliance and they will investigate abuses.

Y) S. Wampler, Chair: If during the building process neighbors suspect building codes are not being followed, an inspector can be called.

Z) 3 audience members related they have done that and the inspectors say “it conforms” to code, or the original inspector is replaced by a new one who does not return the call. They get the run-around and the process is broken.

AA) D. Kane states City processes are not working.

AB) Michael Morton stated the current mayor’s budget increases code enforcement by \$600K; code enforcement is the only way to express concerns.

AC) E. Lindebak suggested calling the inspector’s supervisor.

AD) J. Garver, stated even city council members must go through the same channels, under the “strong mayor” process.

AE) A. Leira: the neighbor must inform the City—they are the “eyes and ears.” If the City declines to act, that is another story.

AF) Stacy Haerr, Bird Rock: what responsibility do the architects have (to conform their plans to codes)? Architects should care about community character and impact on environment/neighbors.

AG) A. Leira: Architects have a responsibility to follow up to assure what was constructed conforms to their plans—if not the architect should ask the owner to correct non-conforming construction.

AH) E. Lindebak: If the architect applies just the codes and rules, you will get bulk and scale that doesn’t conform to the neighborhood, because following the codes and rules is a matter of right under the zoning ordinances. They are not written to dictate *form*.

AI) S. Wampler, Chair: There is a misalignment between the codes and what neighbors want and what is described in the La Jolla Community Plan.

AJ) Nancy Schwartz, Bird Rock resident: Reporting problems is a small part [of this equation]. The real concern is the size of the residential remodels and the exemptions granted to people not living in the homes (developers, flippers or investors). We must stop this otherwise there will be a rush to get in under any moratorium. We don’t want to stop building; we want people who are abusing the process to go through the Coastal Commission [CDP process]. We want to make [building in the Coastal Zone] reasonable.

AK) A. Leira: The community needs a stopgap—a moratorium. It needs protection. A moratorium can extend only one year plus an additional year for cause, per code.

AL) E. Lindebak: It would be dangerous to apply a moratorium only to one category of builder.

AM) Defining what the community will accept will be difficult.

AN) S. Wampler, Chair: LA City Council put a moratorium on demolitions in over 15 neighborhoods.

AO) Mike Costello: Allow adding a bedroom. Avoid the “virtual” scraping, leaving 2 studs and calling it a remodel.

AP) Phil Merten, La Jolla architect: The first issue is massive homes not in conformance with codes. The second issue is the sheer size of projects that are not subject to community review. The Municipal Code describes what features are subject to Floor Area Ratio restrictions, but there are a whole host of exemptions—carports, patios, etc. Get rid of those. If you have a 1000 sf cottage and you keep 2 walls, you can *build* a 4000 sf home with no CDP review. If you *tear down* the existing structure and make a garden, you have to have CDP review.

AQ) D. Kane: Hard cover decks not wholly enclosed are not in FAR, or as soon as an owner gets an occupancy permit, then they just add walls.

AR) Michael Morton: I am a Bay Park, San Diego native. Enclosing a deck is a code compliance issue. The architect’s responsibility is to judicially and carefully assure their projects conform to codes. Many clients move their cottages to another location. There are gray areas, but a good architect knows the limitations of those.

AS) Sally Miller: Architects must educate their clients. Fines don’t work—they should be force to rip it out. Basements are not in FAR; the definition of a “basement” doesn’t make sense when they are not all below grade. They’re habitable space.

AT) Dave Ish, Bird Rock resident: Development is a moving target. A moratorium may be needed to make changes. It will force people to come up with something workable at the end of the moratorium.

AU) S. Wampler, Chair: LA City Councilmembers voted for a moratorium. Not having City of San Diego staff here to hear the issues is a challenge. I will send City Council members our agenda to keep them informed. This is a city-wide issue.

AV) Is the City *required* to grant Categorical Exemptions?

AW) A. Leira: No. The City felt it was unfair for people to go through the discretionary review process for small remodels. The CCC agreed to allow some projects to avoid CDP’s IF they meet the standards.

AX) Mike Costello: The City is not adhering to its agreement with the CCC.

AY) Michael Morton: The Coastal Act has grown beyond the original 1976 Act which applied to 1000 feet from the water. Solana Beach has a “new mansion” ordinance requiring an 80% reduction in height. The result is that very rich people have huge homes. But small cottages are shadowed by huge mansions. We are looking at compromise.

AZ) Ed Comartin: I understand the concerns. If you put a moratorium on over-developing, smaller homes are affected. Shutting down remodels will increase the value of larger homes. How much support do we have [for this action]? La Jolla has 40,000 residents. Children inheriting homes may not be happy about this action.

BA) S. Wampler, Chair: We need another committee member or volunteer with expertise in communications to discern community consensus via petition or survey tool. We need an analysis of the number of houses being demolished in La Jolla totally, and those being demolished via the categorical exclusion.

BB) A. Leira: The Building Inspection Dept. keeps records of new permits.

BC) Mike Costello will send the Chair a way to accomplish such a survey.

BD) S. Wampler, Chair: [Comment about] homeowners being corporations vs individuals.

BE) A. Leira: The Categorical Exemption is the most burning issue right now. We need formulas.

MOTION by D. Kane, 2d by A. Leira: Diane will draft a letter to be discussed at the next meeting, to be sent to the LJCPA, to in turn be sent by the Chair of the LJCPA to the Mayor and the head of the Development Services Department, asking for a moratorium on categorical exemptions. PASSED 4-0.

BF) Michael Morton: There should be a survey on how many are using the categorical exemption.

BG) Ed Comartin: Coastal permits are using the DPR process.

BH) Michael Morton: How many of these projects are a problem? What about adherence to the process? Should the categorical exclusion exempt people adding only 20% [more habitable space]?

The next meeting will be 5:30 – 7:00 PM on August 10, then on August 24.

Adjourned.

Respectfully Submitted,

Glen Rasmussen, acting secretary for the purpose of attempting to take accurate minutes.