

**La Jolla Shores Permit Review Committee Minutes
Special Meeting**

4:00 p.m. Wednesday, November 19, 2014

La Jolla Recreation Center, 615 Prospect Street, La Jolla, CA

FINAL

Executive Summary: Abstracted Motions

6C: Johnson Residence, 8486 El Paseo Grande

Motion by Conboy, second by Naegle: To continue this project until the Committee receives the cycle review comments from City Staff. Further, the Agenda for the next Committee meeting should include the review of the deck in addition to the site walls.

Motion carries 7-0-1 (Chair abstains).

6D: Whale Watch Way, 8490 Whale Watch Way

Motion by Emerson, seconded by Naegle.

Motion: Findings cannot be made for a Site Development Permit or a Coastal Development Permit for Project No. 328415. It is not compatible with the neighborhood in form, bulk and scale. The size, form, and relationship of the proposed project will disrupt the architectural unity of the neighborhood, based on the presentation, drawings and information presented on November 19. 5-2-1 (Donovan abstains because she agrees with some elements of the motion but not others.)

Motion by Conboy, second by Steck: While changes have been made to the design, they are not significant enough to warrant reconsideration of the MND. The motion carries 4-3-1 (Chair abstains)

6E: Verizon Installation, 3908 Torrey Pines Road (Allen Field)

Motion by Naegle, second by Donovan. Motion: The findings cannot be made for the requested permits because it is contrary to LJSPDO Secs. §1510.0311 Public Park Area and §1510.0107 Applicable Regulations (in a conflict, LJSPDO takes precedence over Land Development Code). Motion carries 5-0-1 (Lucas abstains due to possible conflict of interest.)

6F: Fentisova Residence MND

Motion by Naegle, second by Lucas: Motion: The draft MND for the Fentisova residence is in error because the Initial Study Checklist contained in the MND is in error in the manner indicated immediately below.

First, Page 31 of the Draft MND, Initial Study Checklist, under LAND USE AND PLANNING, asks: 'Would the project: Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect.'

The reviewer's response is: No Impact.

However, the project does conflict with applicable land use plans, policies or regulations, as follows:

- *The Design Principal section of the General Design Regulations of the LJSPDO (Sec. 1510.0301) and its corollary in the LJS Design Manual (p.2), state that: "no structure will be approved that is so different in quality, form, materials, color and relationship as to disrupt the architectural unity of the area." The proposed project consists of a 5,110 sq. ft. (Gross Floor Area) on a 5, 250 sq. ft. lot with a resultant Floor Area Ratio (FAR) of 0.97 which is 62% larger than the maximum FAR of 0.60 that is allowed for a single family residence on a similarly sized lot in a single family residential zone anywhere else in the City of San Diego. The overwhelming size and bulk of the proposed project is significantly greater than that of existing homes on adjacent lots and in the surrounding area. The overwhelming size and bulk of the proposed project will disrupt the architectural unity of the area. Therefore the proposed project does conflict with the Design Principal Section of the La Jolla Shores Planned District Ordinance.*
- *The La Jolla Community Plan, Residential Element, Plan Recommendations regarding Community Character, states "In order to address transitions between the bulk and scale of new and older development*

in residential areas, maintain the existing 30-foot height limit of the single dwelling unit zones and Proposition D, structures with front and side yard facades that exceed one story should slope or step back additional stories, up to the 30-foot height limit, in order to allow flexibility while maintaining the integrity of the streetscape and providing adequate amounts of light and air." Contrary to the recommendation of the La Jolla Community Plan, significant lengths of the north and south exterior building walls of the project proposed, set back only 4 feet from the side property lines, extend straight up from grade level a full 30 vertical feet without any horizontal offset or setback. Therefore, the proposed project does conflict with the La Jolla Community Plan and Local Coastal Program.

Because the project "[c]onflict[s] with [an] applicable land use plan, policy or regulation...", the correct response should be 'Potentially Significant Impact.'

Second, Page 31 of the Draft MND, Initial Study Checklist, under MANDATORY FINDINGS OF SIGNIFICANCE asks : *b) Does the project have impacts that are individually limited, but cumulatively considerable?*

The reviewer's response is: Less than Significant with Mitigation Incorporated

As stated previously the proposed project will have a Floor Area Ratio (FAR) of 0.97 which is 62% larger than the maximum FAR of 0.60 that is allowed for a single family residence on a similarly sized lot in a single family residential zone anywhere else in the City of San Diego. The size and bulk of the proposed project is significantly greater than that of existing homes on adjacent lots and in the surrounding area. If approved, the cumulative impact of this precedent setting project in conjunction with future projects with similarly large Floor Area Ratios would dramatically alter the existing character of the neighborhood. Therefore, the correct response should be 'Potentially Significant Impact.'

The motion carries 6-0-0.

Committee members in attendance: Phil Merten (interim chair), Tim Lucas, Laura DuCharme-Conboy, Janie Emerson, Myrna Naegle, John Schenck, Bob Steck, Dolores Donovan (secretary)

- 1. Welcome and Call to Order:** **Phil Merten, Interim Chair**
- 2. Adoption of the Agenda** **Merten**

Del Oro Court has been removed from the agenda at the request of the applicant.

The Fentisova Residence has been removed from the agenda at the request of the applicant. However, the Committee will consider the Mitigated Negative Declaration regarding the Fentisova residence as the comment period for the MND ends on December 5, 2014, before the Committee's next meeting. The applicant for the Fentisova project has been notified that the MND will be taken up by the Committee at the end of today's meeting.

Motion by Emerson, second by Conboy, to adopt agenda as modified by deletion of 6A (Del Oro Court) and with 6B (Fentisova) being trailed to the bottom of the agenda. Motion carries 7-0-1 (chair abstains)

3. Non-Agenda Public Comment:

Bob Whitney asks about the status of the 1912 Spindrift. Project, which was denied by CPA and was to have been appealed but no appeal was filed. He further comments that a car elevator was to have been put in and it appears that has not been done. The project architect, Tony Crisafi, was present in the room but said he had not recently been on site and did not know whether the car elevator had been installed. Whitney asks that the Committee look into the matter.

4. Committee Member Comments

No comments.

5. Comments by the Chair - Merten

Merten reported on information from CPA Chairman Joe LaCava concerning recent changes in the City's process for handling environmental documents. It used to be that at first hearing those entities would make a decision concerning the permits and certify the MND at that one hearing. Frequently, the PRC got all those documents too late. Now the City is getting those documents out much more quickly, e.g. Fentisova MND. In order to take exception to the hearing officer's certification you must be on record with your comments during the comment period. At end of the comment period on the MND, the City Council hears the MND without considering any other aspects of the project. So if anyone is going to challenge a project on the basis of its MND, they need to make their comments during the two-week comment period, which could begin and end between monthly meetings of community planning groups. Marengo: The City has a provision for the Chairs of community planning groups to ask for extensions of the comment periods in order to avoid the comment periods running in between meetings.

6. Project Reviews

6A. Del Oro Court Homes - removed from agenda at request of applicant

6B. Fentisova - trailed to end of meeting

6C. Johnson Residence CDP/SDP

Johnson Landscape/Walls project at 8486 El Paseo Grande.
Presenter: Ed Sutton of Island Architects

- Type of Structure: Site Walls at Single Family Residence
- Location: 8486 El Paseo Grande
- Applicant: Ed Sutton 858-456-4070 ESutton@IslandArch.com
- Project Manager: Michelle Sokolowski, 619-446-5278 MSokolowski@san Diego.gov

Project Description: PROCESS 3 - SDP for the permitting of site walls to an existing single family residence located at 8486 El Paseo Grande. The 0.25 acre lot contains an existing single family residence and is the Single Family Residence Zone of the La Jolla Shores Planned District, Coastal (non-appealable) Overlay Zone, Coastal Height Limit, within the La Jolla Community Plan area.

Board member Emerson discloses that residents are good friends of her first cousin.

Board members question applicant whether there has been input from neighbors. A (Tony Crisafi of Island Architects): No neighbor has expressed opposition.

Q from audience member C.A.Marengo: Has the 30% landscape requirement been infringed? A (Ed Sutton): We have 49% landscape counting the beach down to the mean high tide line.

Chair Merten suggest that we not vote today since the project description on the agenda references only the low retaining wall but does not mention the deck.

Board member Conboy: You're not so far out of the ground that you need a safety railing? A: No, we are only 26 inches above ground. Conboy: Do we care that in light of the drought, the public might be looking at your cheap footings under the deck if the owners stop watering? A: The public walking on the beach will not be able to see the footings from below.

Crisafi (Island Architects): the top of the seawall becomes the bluff edge for purposes of applicable regulations.

Emerson: When the project comes back, I'd like to see how the residents are going to get to the deck and also what it will look like from below, from the beach.

Schenck: On return, I would like to know the setbacks from the bluff.

Motion by Conboy, second by Naegle: To continue this project until the Committee receives the cycle review comments from City Staff. Further, the Agenda for the next Committee meeting should include the review of the

deck in addition to the site walls. Motion carries 7-0-1 (Chair abstains).

6D. Whale Watch Way Residence (Including consideration of the Mitigated Negative Declaration)

- Project No. 328415
- Type of Structure: Single Family Residence
- Location: 8490 Whale Watch Way
- Applicant: James Gates, 619.682.4083, 619-823-4083 jg@publicdigital.com
- Project Manager: John Fisher, 619-446-5231 JSFisher@sandiego.gov

Project Description: PROCESS 3 - CDP, and SDP to demolish an existing single family residence and construct a 7,001 two-story, over basement single family residence on a 20,093 sq. ft. lot at 8490 Whale Watch Way. The site is located in the Single Family Zone of the La Jolla Shores Planned District within the La Jolla Community Plan area, Coastal Overlay (non-appealable), Coastal Height Limit, Residential Tandem Parking.

Previous Committee Action on 1-28-2014

Motion: Findings can not be made for Site Development Permit or a Coastal Development Permit for Project No. 328415. It is not compatible with the neighborhood in form, bulk and scale. In particular, the east side of the building envelope is incompatible with the neighboring structures. The size, form, and relationship of the the proposed project will disrupt the architectural unity of the neighborhood.

Motion carries: 5-0-0. Approve: Emerson, Lucas, Merten, Naegle, Schenck

Previous LJCPA Action on 2-6-2014

Motion: To accept the recommendation of the PRC Committee: That the findings CANNOT be made for a Site Development Permit or a Coastal Development Permit for Project No. 328315.

It is not compatible with the neighborhood in form, bulk and scale. In particular, the east side of the building envelope is incompatible with the neighboring structures. The size, form and relationship of the proposed project will disrupt the architectural unity of the neighborhood.

Vote: 15-0-1m

Merten reports that the primary concern of Planning Commission was the volume of space inside the walls which was not included in the Gross Floor Area, which affects the FAR. The Commission also asked that the applicant bring back hard-line drawings that better explain the appearance of the project, especially as seen from the public way.

Presenter: Jim Brown, principal architect with Public Architecture and Planning
Presentation by Applicant

The Planning Commission tasked us not to come back without serious consideration of the height of the wall - they made it clear that they were not interested in minor reductions of just 6 inches.

The proposed residence is a work of art and any modification to one aspect of it requires modifications in others. The north side, east side and front elevation are most affected by our scaling down. The west wall remains the same. The top-of-wall elevation on the north remains the same at elevation 372'. On the street (west) side we have dropped the top-of-wall elevation at the southeast corner more than 6 feet to elevation 362'. We are also considering a new semi-perforated design for walls - like a garden wall. On the east side the lowest element is 33% lower than it was before. The task at hand was to pull the wall down on the east side and that couldn't be done without adjusting the two other sides. The two high points of the garden wall are 362' (15 feet) high and 371 (24 feet) high. The garden wall runs around only two sides of the property: the east and south sides.

Committee questions

Members of the Committee inquired as to multiple aspects of the project. Comments focused on three matters: 1) the extreme height of the wall surrounding the residence, at 15-19 feet even after the reductions outlined by Mr. Brown in his presentation; 2) the disparity between the architecture of the proposed residence and the other homes in

La Jolla Shores; 3) the impact of the wall on the neighbors to the immediate east and north of the residence. Committee member Naegle pointed out that the City of Tokyo overwhelmingly rejected the Zaha Hadid design for its Olympic Stadium based on the same principles expressed in the LJSPDO -- that it is monumental in size and completely out of character with the area. Naegle further stated that after two years of Zaha Hadid's redesigning her plans for the Tokyo Olympic Stadium, the most renowned Japanese architects continue to forcefully reject her design as a 'monumental mistake' and a 'disgrace to future generations'.

Committee member Conboy spoke favorably about the proposed project and the most recent changes made in it, describing the project as a modern version of the courtyard house, a type of residence found throughout La Jolla.

Public comment

Comment from the audience was mainly from Mrs. Karingi and Mrs. Kalmanson, the neighbors to the immediate east and north, respectively, both of whom were concerned about the height of the wall. C.A. Marengo of Marengo & Morton, Architects, commented favorably on the alterations of the design.

Conboy: Any motion should reflect the fact that major changes have been made by the applicant to meet the requests of the Planning Commission.

Motion by Emerson, seconded by Naegle.

Motion: Findings cannot be made for a Site Development Permit or a Coastal Development Permit for Project No. 328415. It is not compatible with the neighborhood in form, bulk and scale. The size, form, and relationship of the proposed project will disrupt the architectural unity of the neighborhood, based on the presentation, drawings and information presented on November 19. 5-2-1 (Donovan abstains because she agrees with some elements of the motion but not others.)

Merten: Is it the opinion of the Committee that this project is different enough that we should comment on the Mitigated Negative Declaration (MND) under CEQA?

Emerson: You cannot have it both ways - Either the project has been substantially changed, in which case, it requires a new MND. Or, the changes to this project have been so minor, that they do not require a new MND. It is one or the other.

Merten: A review would allow the Committee to record its views on the portion of the MND that implies that if the building were to be repeated throughout the neighborhood there would be no negative impact

Motion by Conboy, second by Schenck: positive changes have been made to the design, therefore no review of the MND is necessary. The motion fails 3-4-1 (chair abstains)

Motion by Conboy, second by Steck: While changes have been made to the design, they are not significant enough to warrant reconsideration of the MND. The motion carries 4-3-1 (Chair abstains).

Bob Steck left the meeting at this point. Laura DuCharme-Conboy departed in the middle of the Verizon discussion, before the vote on the proposed Verizon Installation was taken.

6E. Verizon Installation

- Type of Structure: Wireless Communication Facility
- Location: 3908 Torrey Pines Road
- Applicant: Kerrigan Diehl 760-587-3003 kerrigan.diehl@plancominc.com
- Project Manager: Simon Tse 619-687-5984 Stse@sandiego.gov

Project Description: PROCESS 4 - for a Site Development Permit, Coastal Development Permit, Neighborhood Development Permit and Neighborhood Use Permit applications for a new Wireless Communication Facility consisting of two antennas concealed inside two 30-foot tall replacement light standards (one antenna per pole), and associated equipment. The property site is located at 3908 Torrey Pines Road within Allen Field in the RS-1-5 zone of the La Jolla Community Planning area.

Lucas discloses that he belongs to an organization that opposes installation of cell towers in parks, specifically in the Cliffridge Park.

Presenter: Kerrigan Diehl of PLANcom: Telecom Project Management, agent for Verizon

This proposal results from a desperate need to expand coverage in the area. There is a gap in coverage along Torrey Pines Road. We have been working very hard on this coverage need since February 2008. The proposed project represents an extreme minimization of what we really need to provide good coverage. It is a bandaid to preserve service. It consists of two light standards acting as poles, with one antenna on each of them. One antenna is shooting south and one antenna north. Ordinarily, we would put in 12 antennas. We made the poles look like light standards to blend in with the other light standards at the Field. The container housing the equipment has shrunk down to the smallest size possible.

Committee questions

Merten: Who owns the land? A. City of San Diego. Lucas: It is dedicated park land.

Emerson Q: Why is the equipment box up against a residence rather than elsewhere on the field? A: Because there it does not interfere with vegetation or soccer. Also, if we had put it further north the antennas would have been less effective. Emerson Q: How do the homeowners feel? A. Their major concern was the potential for noise. We have mitigated the noise to meet City standards for next door neighbor with AC unit. Merten: Q: Are you aware that the City's Municipal Code requires that if equipment boxes are on City parks, they be placed underground unless the recreation director states that putting them above ground will not interfere with recreational use of the park? A from Shelly Kilbourn of PLANcom, agent for Verizon, shellykilbourn@cox.net. Park and Rec has decided that vaults create more negative impact than do above-ground installations. Q: Lucas: How tall are the light standards? A. 30' tall.

Mike Wintringer, current President of La Jolla Youth Inc., the umbrella organization for La Jolla soccer, baseball and lacrosse and the current tenant of Allen Field, takes the floor to answer questions. mike@sgswlaw.com, 858-793-8500.

Lucas Q: What is your lease arrangement with Verizon? A: There is no lease arrangement. We rent Allen Field through a City Dept. called Real Estate Assets - a 30 year lease. The first segment ran out in 2005. We have been approved to stay, so we have four five-year segments left. Lucas Q: Are you receiving any payments from Verizon? A: My understanding is that if the arrangement is approved we get half of the payments. The total payment would be \$38,000, of which we would get \$19,000. To us, it would be a boon; the alternative is to charge the kids more to play soccer.

Wintringer: We, too, wanted the equipment room at the north end, but the techies said it had to be where it is now projected to be in order for the antenna to work.

Schenck: What can be done to improve the look of the equipment building? A: (Diehl) We can paint it to better blend in with the surroundings.

Public Comment

Judith Wesling, judithwesling@hotmail.com 858-488-4824. Although I currently live in Pacific Beach, I was formerly the manager of the La Jolla Youth Soccer League for 20 years. My personal position is that the cell towers are not safe for the children. Has La Jolla Youth taken an official position on this? A (Wintringer): No. Judith Wesling Q: Shouldn't there be an official position from the La Jolla Youth League? Shouldn't the PRC be told what that position is before it votes? Further, the people across the street have not been given notice because they are outside 300 foot range. A: (No answer)

Marc Kuritz: I am a member of the Cliffridge Park parents' coalition.

- I want to bring Article 55 of the Charter to your attention. It says
"All real property owned in fee by the City or heretofore or hereafter formally dedicated in perpetuity by ordinance of the Council...for park, recreation or cemetery purposes shall not be used for any but such park, recreation or cemetery purposes without such changed use or purpose having been first authorized or later ratified by a vote of two-thirds of the qualified electors of the City voting at an election for such purpose."
- Allen Field was "set aside and dedicated in perpetuity for park and recreation purposes." Ordinance No. 15696, Section 1 (page 1).
- The LJSPDO agrees.

Ordinance Number: O-19587, Date of Final Passage: 27 March 2007

See: http://docs.sandiego.gov/council_reso_ordinance/rao2007/O-19587.pdf

§1510.0311 Public Park Area (Page 49)

In the Public Park (PP) area.... no building or improvement or portion thereof, shall be erected, converted, established, altered or enlarged, nor shall any premises be used except for park purposes

§1510.0107 Applicable Regulations (Page 6)

- o (b)Where there is a conflict between the Land Development Code and the La Jolla Shores Planned District Ordinance, the Planned District Ordinance applies.
- The federal United States Court of Appeals for the Ninth Circuit, which includes San Diego within its jurisdiction, said on December 11, 2013, in a case involving the placement of cell towers in a park in Huntington Beach, contrary to provisions in the Huntington Beach City Charter, that the city charter provision restricting parkland use "is not the sort of local land use regulation or decision that is subject to the limitations of Section 332(c)(7) [of the Telecommunications Act of 1996]." Slip opinions 10-56877, 10-56944. See: http://cdn.ca9.uscourts.gov/datastore/opinions/2013/12/11/10-56877%20web_a.pdf

Pat Granger: What about the footpath? Could the light on the light standard be placed lower? We already have light pollution from the Venter Institute.

Lucas: I spoke with the neighbors on the other side of the fence. They are concerned with both lighting and noise. Could the light be placed lower? Once you get that high there is a potential for neighbors to have light shining in at night. A. Diehl: we can do a lighting study and if necessary shade the lights.

Motion by Naegle, second by Donovan. Motion: The findings cannot be made for the requested permits because it is contrary to LJSPDO Secs. §1510.0311 Public Park Area and §1510.0107 Applicable Regulations (in a conflict, LJSPDO takes precedence over Land Development Code). Motion carries 5-0-1 (Lucas abstains due to possible conflict of interest.)

6B. Fentisova MND

(Moved to the end of the agenda in the hope a Fentisova representative would arrive, but none did.)

Motion by Naegle, second by Lucas: Motion: The draft MND for the Fentisova residence is in error because the Initial Study Checklist contained in the MND is in error in the manner indicated immediately below.

First, Page 31 of the Draft MND, Initial Study Checklist, under LAND USE AND PLANNING, asks: 'Would the project: Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect.'

The reviewer's response is: No Impact.

However, the project does conflict with applicable land use plans, policies or regulations, as follows:

- ***The Design Principal section of the General Design Regulations of the LJSPDO (Sec. 1510.0301) and its corollary in the LJS Design Manual (p.2), state that: "no structure will be approved that is so different in quality, form, materials, color and relationship as to disrupt the architectural unity of the area." The proposed project consists of a 5,110 sq. ft. (Gross Floor Area) on a 5, 250 sq. ft. lot with a resultant Floor Area Ratio (FAR) of 0.97 which is 62% larger than the maximum FAR of 0.60 that is allowed for a single family residence on a similarly sized lot in a single family residential zone anywhere else in the City of San Diego. The overwhelming size and bulk of the proposed project is significantly greater than that of existing homes on adjacent lots and in the surrounding area. The overwhelming size and bulk of the proposed project will disrupt the architectural unity of the area. Therefore the proposed project does conflict with the Design Principal Section of the La Jolla Shores Planned District Ordinance.***
- ***The La Jolla Community Plan, Residential Element, Plan Recommendations regarding Community Character, states "In order to address transitions between the bulk and scale of new and older development in residential areas, maintain the existing 30-foot height limit of the single dwelling unit zones and Proposition D, structures with front and side yard facades that exceed one story should slope or step back additional stories, up to the 30-foot height limit, in order to allow flexibility while maintaining the integrity of the***

streetscape and providing adequate amounts of light and air." Contrary to the recommendation of the La Jolla Community Plan, significant lengths of the north and south exterior building walls of the project proposed, set back only 4 feet from the side property lines, extend straight up from grade level a full 30 vertical feet without any horizontal offset or setback. Therefore, the proposed project does conflict with the La Jolla Community Plan and Local Coastal Program.

Because the project "[c]onflict[s] with [an] applicable land use plan, policy or regulation...", the correct response should be 'Potentially Significant Impact.'

Second, Page 31 of the Draft MND, Initial Study Checklist, under MANDATORY FINDINGS OF SIGNIFICANCE asks : b) Does the project have impacts that are individually limited, but cumulatively considerable?

The reviewer's response is: Less than Significant with Mitigation Incorporated

As stated previously the proposed project will have a Floor Area Ratio (FAR) of 0.97 which is 62% larger than the maximum FAR of 0.60 that is allowed for a single family residence on a similarly sized lot in a single family residential zone anywhere else in the City of San Diego. The size and bulk of the proposed project is significantly greater than that of existing homes on adjacent lots and in the surrounding area. If approved, the cumulative impact of this precedent setting project in conjunction with future projects with similarly large Floor Area Ratios would dramatically alter the existing character of the neighborhood. Therefore, the correct response should be 'Potentially Significant Impact.'

The motion carries 6-0-0.

ADJOURNMENT

The meeting adjourned at 7:30.

Minutes respectfully submitted by Secretary Dolores Donovan