

**DATE ISSUED:** July 5, 2007 **REPORT NO. PC-07-078**

**ATTENTION:** **Planning Commission, Agenda of July 12, 2007**  
**Continued from Agenda of May 10, 2007**

**SUBJECT:** ARMSTRONG RESIDENCE - PROJECT NO. 3511.  
REMAND FROM CITY COUNCIL, SEPTEMBER 25, 2006

**REFERENCE:** NOTICE OF DECISION, DATED NOVEMBER 17, 2005  
(Attachment 13)

PLANNING COMMISSION REPORT No. PC-06-051, DATED MARCH  
9, 2006.

EXECUTIVE SUMMARY SHEET, ENVIRONMENTAL APPEAL,  
CITY COUNCIL, SEPTEMBER 25, 2006 (Attachment 16)

**OWNER/** Tom Armstrong and David Ferradino  
**APPLICANT:** Thomas Armstrong Construction, Inc. (Attachment 10)

### **SUMMARY**

**Issue(s):** Should the Planning Commission approve a Coastal Development Permit to construct a two-story, 3,366 square-foot single family residence with Variances for walls over 6 feet in the side yard set back, and encroachments within the 45 degree angle on a 7,812 square-foot vacant lot?

### **Staff Recommendations:**

1. CERTIFY Negative Declaration No. 3511.
2. APPROVE Coastal Development Permit No. 578 .
3. APPROVE Variance No. 463619.

**Community Planning Group Recommendation:** The La Jolla Community Planning Association considered the project on November 3, 2005, and voted 12-0-0 to deny the

project as presented within Attachment 9. The La Jolla Community Planning Association reconsidered the project on May 3, 2007, and voted 12-0-0 to deny the project as presented within Attachment 19.

**Environmental Review:** A Negative Declaration No. 3511 was prepared for the project in accordance with the California Environmental Quality Act (CEQA).

**Fiscal Impact Statement:** None with this action. All cost associated with the processing of this project are paid by the applicant.

**Code Enforcement Impact:** None with this action.

**Housing Impact Statement:** The La Jolla Community Plan designates the subject property for very low density residential development at 0 to 5 dwelling units per acre. The project proposes to construct one single family residence. The impact to the La Jolla community will be a net increase of one residential unit. The proposed project will result in one net residential unit increase in the housing supply for the City of San Diego.

## **BACKGROUND**

The project site is a 7,812 square-foot lot zoned RS-1-5 in the La Jolla Community Plan Area. The property is addressed as 5746 La Jolla Mesa Drive and is an interior lot (Attachment 1). The site is surrounded by properties also zoned RS-1-5 and developed with single family residences (Attachment 2 and 3). The La Jolla Community Plan designates the site for residential development at a Very Low density of 0-5 dwelling units per acre (Attachment 2).

The site is currently vacant. The topography of the site slopes west -northwest along La Jolla Mesa Drive and throughout the property. The site has an overall grade differential of approximately 76 feet.

A Coastal Development Permit, in La Jolla that is outside the appealable area to the California State Coastal Commission, is a Process Two, Staff level decision per San Diego Municipal Code Section 112.0503. The Coastal Development Permit was approved by Staff on November 17, 2005 (Attachment 13).

On December 7, 2005, Ahmed Salem and Brian Tremblay appealed the project to the Planning Commission. The project appeal issues included structure height and privacy/private views. The project appeal hearing at Planning Commission occurred on March 16, 2006. Public testimony was heard by the Planning Commissioners from the appellants and the property owner. The Planning Commission voted 5-0 to deny the appeal and approve the project (Attachment 15).

On March 29, 2006, the La Jolla Community Planning Association, represented by Phil Merten, appealed the environmental determination to City Council. Environmental appeal issues included aesthetics/neighborhood character, biology, geology/soils, and land use.

On September 25, 2006, the City Council heard the environmental appeal of the Negative Declaration prepared for the project. Public testimony was given by the appellant, Phil Merten, representing the LJPCA, and the applicant, Tom Armstrong. The issue areas discussed by the appellant related to the project design issues and not the content of the Negative Declaration. Council discussed neighborhood character, walls in the side yard setback and a discussion on the dormer. Motion was made by Council member Young to grant the appeal, deny the Negative Declaration, and return the item to the Planning Commission. Motion was seconded by Council member Hueso. City Council voted 6-1-0, with Council member Frye recusing (Attachment 17).

On May 7, 2007, Development Services Department staff met with Phil Merten and Tim Golba, representing the La Jolla Community Planning Association (LJCPA), to discuss the project. The outcome of this meeting was to discuss a continuance with the applicant for the May 10, 2007 hearing, and that if a continuance was requested by the applicant and staff, the LJCPA would not protest.

On May 10, 2007, there was extensive discussion between Phil Merten, staff and the Planning Commission regarding the request for a continuance. Phil Merten, representing the LJCPA, did not support staff's request for a continuance. A motion was made by Commissioner Griswold to continue the project as requested by staff; motion was seconded by Commissioner Ontai. The motion passed 4-2-1, with Chairperson Schultz and Vice-Chairperson Garcia voting nay and one vacancy.

On May 18, 2007, the project was re-noticed with the addition of two variances to the project scope. This notice was sent to all residences and owners within a 300 foot radius of the project site. The requested variances would allow for two walls over 6 feet, one on the east side yard and the other on the west side yard, in the side yard set back, not visible from La Jolla Mesa Boulevard, and for encroachments within the 45 degree angle building envelope.

According to SDMC Section 112.0520(d)(3), the project is now before the Planning Commission for a second hearing due to the actions taken by City Council on September 25, 2006 (Attachment 18). Additionally, pursuant to SDMC Section 112.0520(g), the action of the Planning Commission, by remand from City Council, is the final action on the project.

## **DISCUSSION**

### **Project Description:**

The applicant is requesting approval of a Coastal Development Permit and Variances for the proposed construction of a two-story, 3,366 square-foot single family residence with walls over 6 feet in the side yard set back (not visible from La Jolla Mesa Boulevard) and for encroachments within the 45 degree angle on a 7,812-square-foot vacant lot.

The proposed residence will include four bedrooms, three bathrooms and a laundry room in the

lower level; a family room, dining room, living room, kitchen, and one bathroom on the main level. Exterior elevations propose stucco walls, wood windows, columns and a flat roof. Site improvements will include fencing, walls and landscaping.

The subject property is a total of 7,812 square-feet when the RS-1-5 zone requires a minimum lot area of 8,000 square feet. The property is 58.98 feet wide when the RS-1-5 zone requires a minimum lot width and street frontage of 60 feet. The project contains walls within the side yard set back that are over 6 feet in height. Pursuant to SDMC Section, 142.0340(d), *two retaining walls with a maximum height of 6 feet each are permitted in the required side and rear yard if the two retaining walls are separated by a minimum horizontal distance equal to the height of the upper wall.* The proposed walls are an integral part of the proposed structure as they provide for required ingress and egress for the lower level of the structure, per SDMC Section 113.0270(a)(6). The property width is less than the minimum required width for the underlying zone; therefore, the proposed walls are over 6 feet in height within the required side yards.

The height of the walls ranges from approximately 14 feet to 16 feet. The grade differential from the front property line to the rear property line is approximately 80 feet. The proposed design is the least obtrusive from La Jolla Mesa Boulevard, which is an identified view corridor within the La Jolla Community Plan, and is smaller in scale viewed from La Jolla Mesa Boulevard than other surrounding properties. The proposed walls and angling can only be viewed by a few homes across the urban canyon. The proposed structure is approximately 11 feet high at La Jolla Mesa Boulevard and follows the topography of the site as it slopes towards the urban canyon. Additionally, the property is located near SDG&E power lines which limit the height of the structure along La Jolla Mesa Boulevard.

The project also cannot meet the requirements for maximum building envelope related to the 45 degree angling, as required within SDMC Section 131.0444(b), *the structure height shall not exceed the height of the building envelope. Abutting the required front, side and street side yards, the height of the building envelope above 24 feet is established by the angled building envelope planes.* Due to the lot size and project design, this building envelope requirement cannot be met. The encroachments into the building envelope range from a few inches to a maximum of 2.5 feet. The area where this requirement cannot be met is located along the rear of the property with no visibility from La Jolla Mesa Boulevard. The intent of the angling is to provide light and ventilation on flat lots. Taking the angling from the rear of the lot, not visible to the street, was not the intent of SDMC Section 131.0444(b).

### **Community Plan Analysis:**

The site for the proposed new single dwelling unit is designated in the 1975 La Jolla Community Plan as Very Low Density Residential (0-5 du/acre). This project conforms with that land use designation. The proposed two story residence that appears as a one-story residence from the public right-of-way is located in a single family residential neighborhood on a vacant lot. The La Jolla Community Plan and the La Jolla – La Jolla Shores Local Coastal Program recommends that site design provide a gradual transition within a neighborhood. The plan also recommends

that in order to promote transition in scale between new and older structures new development should compliment the scale, form and proportion of older development and minimize extreme contrasts in color, shape and architectural elements.

The surrounding neighborhood is characterized by both single-story and two-story residences and is architecturally eclectic using a variety of exterior materials and colors. The front elevation of the proposed project presents a single-level façade with an entry way, windows and a two-car garage. The exterior of the residence includes stucco walls, glass windows and a flat roof. The project site slopes down the length of the property from front to back and the majority of the proposed structure takes advantage of this by stepping down the slope. Overall, the proposed project reduces the perceived bulk and scale from the right-of-way by utilizing the sloped topography making only the garage and the main floor apparent from the street.

The subject property is located along La Jolla Mesa Drive which is identified as a Scenic Alternative Route in the La Jolla – La Jolla Shores Local Coastal Program to help facilitate access into the costal zone from outside La Jolla. The LJCP recommends streets within the community be visually rewarding to pedestrians, cyclists and drivers. The proposed residence maintains a low profile as viewed from the right of way and observes six-foot side yard setbacks. Staff has determined that the proposed development does not significantly impact the scenic roadway as identified in the community plan.

### **Environmental Analysis:**

The City of San Diego conducted an Initial Study and determined that the proposed project could have a significant environmental effect. The project, as revised, now avoids potentially significant environmental effects previously identified. A Negative Declaration has been prepared for the project in accordance with State of California Environmental Quality Act (CEQA) Guidelines.

A biological survey report was prepared by Tierra Environmental Services to evaluate the project site. The project site is located outside of the City of San Diego Multi-Habitat Planning Area (MHPA). The closest MHPA occurs approximately 0.25 mile to the east, associated with a canyon that separates La Jolla Mesa Drive from Cardeno Drive. The upper portion of the property was found to be completely disturbed and vegetated with exotic plant species. The steep portion of the lot was found to be almost completely barren of vegetation. A single lemonade berry (*Rhus integrifolia*) was observed. No other native plant species were observed. The entire site is considered ruderal habitat. No sensitive plant or animal species were observed during the survey. The proposed project would not impact any sensitive biological resources.

Three geotechnical reports were prepared to examine the proposed project impacts related to the existing site conditions and potential soil issues. The reports determined that the proposed project will have a factor of safety of 1.5 or greater with respect to gross and surficial slope stability at the completion of the project. Based on the slope's current factor of safety of less than 1.5, a "Notice of Geologic and Geotechnical Conditions" has been recorded against the

property (Attachment 12). It is the opinion of the geologic consultant that the project can be built in a geologically safe and stable manner. Proper engineering design of all new structures would ensure that the potential for geologic impacts from regional hazards would not be significant.

Based on the biology survey report and geotechnical reports, no significant impacts would be associated with the proposed project; therefore, no biology or geotechnical mitigation is required and a Negative Declaration was prepared in accordance with CEQA.

### **COMMUNITY PLANNING GROUP RECOMMENDATION/INTERACTION**

On November 3, 2005, the La Jolla Community Planning Association voted 12-0-0 to deny the project based on two reasons (Attachment 9). The two reasons for denial are as follows:

1. Retaining walls in the side yard exceed the maximum height allowed.
2. Building height exceeds the maximum allowed by the 45 degree side yard building envelope.

On May 3, 2007, the La Jolla Community Planning Association vote 12-0-0 to deny the project based on the following, *“The findings cannot be made because the proposed retaining walls in the required side yards exceed the maximum height allowed by the SDMC”* (Attachment 19).

On May 7, 2007, Development Services Department staff met with Phil Merten and Tim Golba, representing the La Jolla Community Planning Association (LJCPA), to discuss the project. The outcome of this meeting was to discuss a continuance with the applicant for the May 10, 2007 hearing, and that if a continuance was requested by the applicant and staff, the LJCPA would not protest. At the May 10, 2007 hearing, Phil Merten did not support staff's request for a continuance.

On May 15, 2007, per the request of Phil Merten and Tim Golba, the applicant attended the La Jolla Coastal Development Permit Committee, to continue discussions regarding the project. A copy of the agenda for this meeting is included as Attachment 20. The committee asked the applicant to come back to their next meeting on June 12, 2007, for further project discussion.

On June 12, 2007, the applicant attended the La Jolla Coastal Development Permit Committee to continue the discussion. Development Services Department staff requested a copy of the agenda of this meeting from the committee, but was unable to obtain a copy to provide in this report. The committee asked the applicant a variety of questions and also asked to provide the draft variance findings for their review. The applicant did not have the requested information at this meeting. At the conclusion of this meeting, the applicant asked the committee if attendance was needed for the following meeting on June 19, 2007. The committee directed the applicant that attendance at the June 19, 2007 meeting was not required.

On June 14, 2007, and June 19, 2007, Phil Merten emailed Development Services Department staff requesting the draft variance findings for the committee to review at their meeting on June 19, 2007. Staff provided the requested findings to Mr. Merten via email in a timely manner to review at their June 19, 2007 meeting. A copy of the agenda for this meeting is included as Attachment 21. Please note that this project is not listed on the agenda for discussion at the June 19, 2007 meeting.

On June 27, 2007, Development Services Department staff emailed Phil Merten requesting an update on the committee's review and or recommendation on the project. Mr. Merten replied that a motion was made at the June 12, 2007 meeting as follows: "*Findings cannot be made for approval of variances as not one of the four required Variance Findings can be made.*" The motion passed by a vote of 9-0-0. Staff understands that this recommendation from the committee will be forwarded to the La Jolla Community Planning Association for their consideration at their meeting on July 5, 2007 (Attachment 22).

### **CONCLUSION**

Staff has reviewed the proposed CoastalDevelopment Permit and Variances and found it to be in conformance with both the La Jolla Community Plan and the applicable sections of the San Diego Municipal Code regulating CoastalDevelopment Permit s, Variances and land use policies. Staff has determined that the required findings can be made as the project meets the applicable San Diego Municipal Code regulations and requirements. Staff recommends approval of the project and certification of the Negative Declaration as proposed.

### **ALTERNATIVES**

1. **Approve** CoastalDevelopment Permit No. 5782 and Variance No. 463619 with modifications.
2. **Deny** CoastalDevelopment Permit No. 5782 and Variance No. 463619 if the findings required to approve the project cannot be affirmed.

**Respectfully submitted,**

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**Mike Westlake**  
**Program Manager**  
**Development Services Department**

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**Laura C. Black**  
**Project Manager**  
**Development Services Department**

MW/LCB

Attachments:

1. Aerial Photograph
2. Community Plan Land Use Map
3. Project Location Map
4. Project Data Sheet
5. Project Site Plan
6. Project Plans
7. Draft Permit with Conditions
8. Draft Resolution with Findings
9. Community Planning Group Recommendation, November 3, 2005
10. Ownership Disclosure Statement
11. Project Chronology
12. Notice of Geotechnical Conditions, dated July 28, 2005
13. Notice of Decision, dated November 17, 2005
14. Planning Commission Resolution No. PC-3972, hearing date March 16, 2006
15. Planning Commission minutes from March 16, 2006
16. Executive Summary, City Council hearing September 25, 2006
17. City Council minutes from September 25, 2006
18. SDMC Section 112.0520, Environmental Determination Appeals
19. Community Planning Group Recommendation, May 3, 2007
20. La Jolla Coastal Development Permit Committee Agenda, May 15, 2007
21. La Jolla Coastal Development Permit Committee Agenda, June 19, 2007
22. Email from Phil Merten dated June 27, 2007