

**DATE ISSUED:** March 22, 2007 **REPORT NO. PC-07-037**

**ATTENTION:** **Planning Commission, Agenda of March 29, 2007**

**SUBJECT:** JOHNSON RESIDENCE – PROJECT NO. 100862.  
PROCESS 3 APPEAL

**REFERENCE:** Hearing Officer Report No. HO-06-312

**OWNER/  
APPLICANT:** Allen D. Johnson (Attachment 12)

**SUMMARY**

**Issue(s):** Should the Planning Commission 1) Approve a Coastal Development Permit to allow demolition of a duplex and construction of a single-family residence; 2) Approve a Variance to allow the residence to observe a reduced street-side yard setback; and 3) Deny a Variance to allow an elevated access footbridge exceeding the maximum height within the front yard setback at 12840 Via Grimaldi in the Torrey Pines Community Planning area?

**Staff Recommendation:**

1. **CERTIFY** Negative Declaration No. 100862; and
2. **DENY** the appeal and **APPROVE** Coastal Development Permit No. 333152; and both Variances under Variance No. 397394.

**Community Planning Group Recommendation:** The Torrey Pines Community Planning Group, on July 31, 2006, voted 7:0:1 to recommend approval with several conditions.

**Environmental Review:** A Negative Declaration (No. 100862) has been prepared for the project in accordance with State of California Environmental Quality Act (CEQA) Guidelines.

**Fiscal Impact Statement:** None with this action. All costs associated with the processing of this project are recovered by a deposit account maintained by the applicant.

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

**Housing Impact Statement:** The proposed project is subject to the 1995 Torrey Pines Community Plan. The Community Plan designates the subject property for Low-Density Residential development at 5-9 dwelling units per acre. Based on this density, only one dwelling unit could be accommodated on the subject property. The project proposes one dwelling unit on a parcel that would replace an existing two-story duplex, creating a net loss of one dwelling unit in the Torrey Pines Community.

## **BACKGROUND**

The Torrey Pines Community Plan designates the site for Low -Density Residential land use at a density range of 5-9 dwelling units per acre (Attachment 1). Redevelopment of the site with a single-family residence is consistent with this designation. The 3,382 square-foot (0.078-acre) subject property was developed with a two-story duplex in 1946 which is proposed to be demolished (Attachment 2). The site is located at 12840 Via Grimaldi in the RS-1-7 zone within the Torrey Pines Community Plan area (Attachment 3).

The 36-foot wide by 96-foot deep legal lot was subdivided in 1913. The corner lot is bordered on three sides by dedicated, improved public rights-of-way: Via Grimaldi to the north and east and Via Aprilia to the south. The parcel is a sloped site. At the north end adjacent to Via Grimaldi the elevation is 111-feet above mean sea level. At the south end of the property the elevation is 94-feet above mean sea level. The grade difference on the site is 17-feet. The site is located within the Coastal Overlay zone (City-jurisdiction, non-appealable area).

On December 20, 2006, the Hearing Officer approved Coastal Development Permit No. 333152 to allow demolition of the duplex and construction of a four-level, 2,180 square-foot, single-family residence and two car garage, with a Variance to allow the residence to observe a reduced street-side yard setback. The Hearing Officer determined that required findings could not be made with regard to a Variance to accommodate an elevated access footbridge within the front setback and denied the Variance for this feature. A copy of the Hearing Officer Report and Resolution are included as Attachments 8 and 9 respectively.

On January 10, 2007 adjacent property owners filed an appeal of the Hearing Officer's decision. A copy of the appeal is included as Attachment 10.

## **DISCUSSION**

### **Project Description:**

The project requests a Coastal Development Permit to demolish a two story duplex and construct

a four-level, 2,180 square-foot, single-family residence with two-car garage on the 3,382 square-foot site. The residence would observe all applicable development regulations of the RS-1-7 zone, with two exceptions. A Variance is requested to allow easterly portions of the residence to observe a minimum 5'-5¾" street-side yard setback adjacent to Via Grimaldi where 10'-0" is the minimum required, resulting in a maximum encroachment of 4'-6¼". A second Variance is requested to allow an elevated access footbridge located on the north side of the residence, to observe a maximum height of 5'-6" within the 15'-0" front-yard setback adjacent to Via Grimaldi, where 3'-0" is the maximum height allowed. This footbridge would provide access from Via Grimaldi to the Second Floor of the residence.

The project plans (Attachment 4) indicate that the residence is comprised of four levels. These levels include a 1,265 square-foot basement/garage with two car garage and below grade living area; a 621 square-foot ground floor consisting of two bedrooms and bath; a 954 square-foot second floor consisting of kitchen, living and dining rooms; and a 604 square-foot third floor with master bedroom, bath, and walk-in closet. These floors comprise a total living area of 2,180 square-feet and represent a gross floor area ratio of 0.644, where 0.65 is the maximum allowed. The exterior decks and below grade portions of the basement/garage level do not count towards the project floor area and have not been included in the calculation.

Grading Plans indicate that 3,185 square-feet, or 95%, of the 3,382 square-foot site would be graded to accommodate the development. A total of 540 cubic-yards of earthwork would be excavated to a maximum depth of 11-feet to accommodate the basement/garage level. The project proposes retaining walls totaling 37-feet in length with a maximum height of six-feet which would be utilized to retain earth necessary for the garage entry. All excavated material would be exported off-site.

The proposed development would comply with all relevant development regulations of the RS-1-7 zone with the exception of the requested Variances. Draft permit conditions are included as Attachment 5.

### **Variances:**

The Land Development Code provides a process to allow applicants to request a variance to: "provide relief for cases in which, because of special circumstances applicable to the property including size, shape, topography, location or surroundings, the strict application of the development regulations would deprive the property of privileges enjoyed by other properties in the vicinity and under the same land use designation and zone" [SDMC §126.0801]. The application proposes Variances to development regulations of the RS-1-7 zone allowing the residence to observe a reduced street-side yard setback and an elevated access footbridge within the front setback adjacent to Via Grimaldi.

The subject property and surrounding subdivision have several unique characteristics. The subdivision, approved in 1913, is comprised of a total of 535 parcels. Of these, 26 or approximately 4.9% have frontage on more than one public right-of-way. Of these 26, only three

including the subject parcel, or 0.56% of the entire subdivision, have frontage along more than two public rights-of-way. These rights-of-way which serve the neighborhood impose unique setback constraints on the property. Many of the legally subdivided parcels are substandard in lot area, frontage and width when calculated against the current Land Development Code requirements, and include naturally sloping terrain. These circumstances and conditions are discussed in detail in the draft resolution and findings included as Attachment 6. It is staffs' conclusion the evidence contained in these Findings supports approval of the project as proposed.

### **Community Plan Analysis:**

The 0.08-acre subject property is located on a parcel identified as Low-Density Residential (5-9 dwelling units per acre) in the Torrey Pines Community Plan (TPCP). The project proposes to construct one single-family residence on a 3,382 square-foot site, which conforms to the density and identified land use in the community plan. The subject property is also within the Coastal Zone and is subject to the adopted Local Coastal Program policies in the TPCP.

The TPCP contains design guidelines for residential development. New residential development is expected to incorporate a wide variety of architectural styles, colors and building materials characteristic of the Torrey Pines community. The proposed project is designed to be compatible in bulk and scale with existing residential development, as specified by the residential development guidelines of the TPCP. Horizontal bands of decks and cantilevers are used to help reduce the apparent height-to-length ratio of the proposed residence. The proposed design reflects the diversity of architectural styles, colors, and materials found in the Torrey Pines community and the surrounding neighborhood. Many of the adjacent homes contain two-to-three story elements and use wood or earth-toned stucco materials. The colors and materials of the proposed project have been chosen to blend with the existing neighborhood and nearby sandstone outcropping that is to the north of the subject site.

The TPCP also requires that new residential development conform to the requirements of the underlying zone and the Coastal Zone regulations. The project conforms to all development regulations with the exception of the minimum 5'-5¾" street-side yard setback and the footbridge within the front setback. The subject parcel is significantly substandard with regard to lot area, street frontage and lot width. The requested reduction to the street side-yard setback will allow for more developable area on the parcel. Due to the natural topographic character of the site and the relationship of the elevation of Via Grimaldi to the subject property, a footbridge would allow for improved pedestrian access to the entry level, while minimizing grading and preserving the natural terrain. The project proposes variances for deviations from the development regulations, which do not adversely affect the community plan. Therefore, the proposed project is in conformance with the certified Local Coastal Program and the TPCP.

### **Community Planning Group Recommendation:**

The Torrey Pines Community Planning Group, on July 31, 2006, voted 7:0:1 to recommend approval of the proposed project with several recommendations. A copy of their

recommendation is included as Attachment 7. These recommendations have been included in revised plans (Attachment 4) or as draft permit conditions (Attachment 5).

**Appeal Issues:**

On January 10, 2007, adjacent property owners filed an appeal of the Process Three, Hearing Officer decision to certify Negative Declaration No. 100862 and approve Coastal Development Permit No. 333152, and Variance No. 397394, citing factual error, conflict with other matters and findings not supported. A copy of the appeal is included as Attachment 10. The reasons for appeal are summarized below and are followed by a staff response.

1. Factual error – The appellants allege staff erred in the determination of grade from which the structure height is based, resulting in the structure exceeding the maximum 30-foot height limit. The appellants assert that ground level beneath the six-inch slab of the existing duplex determines existing grade, which results in the proposed residence exceeding the maximum height limit by 0.84-foot or seven-inches. Reference Land Development Code Section 113.0228(a) and Diagram 113-02F (Attachment 11).

Staff Response – The site is part of a subdivision approved in 1913 and was developed with the existing duplex in 1946. No grading records exist which indicate preexisting grade on the site. Staff reviewed information submitted by the applicant related to grade. This information is noted on the preliminary grading and drainage plan prepared in accordance with project submittal requirements. Land Development Code Section 113.0228(c) specifies that when existing grade on a previously graded premise is not readily apparent, staff may use the grade adjacent to the previously graded area, or the grade on adjacent properties to establish existing grade. Existing grade at the disturbed area is an imaginary plane that connects elevations of existing grade through the previously graded area and is depicted on Diagram 113-02G (Attachment 11). Based on this information staff determined that the proposed project complies with the height regulations of the RS-1-7 zone.

2. Conflict with other matters -

- a) Staffs determination of existing grade is inconsistent with Land Development Code Section 113.0231, Determining Proposed Grade and Diagram 113-02H.

Staff Response – The determination of proposed grade is not at issue. Height is measured from existing grade, as determined by Section 113.0228, Determining Existing Grade, and Diagram 113-02F. The finish floor will not be more than 2'-6" from existing grade therefore; the project meets the 30-foot height requirement.

- b) Encroachments into the 10'-0" street-side yard setback and the lack of a sidewalk on that side of the street contribute to an unsafe condition for vehicles and pedestrians.

Staff Response – A portion of the existing duplex was developed within the public right-of-way. This structure will be demolished and replaced with the proposed residence. The proposed residence will be constructed outside of the public right-of-way and will observe a minimum 4'-6¼" street-side yard setback where 10'-0" is otherwise required. This encroachment represents approximately 45% of the setback. Staff review of this proposed encroachment did not identify any safety issues.

3. Findings not supported – Staffs determination of existing grade is inconsistent with prior interpretations which have been used to accommodate existing development.

Staff Response – Staff has reviewed this project in accordance with the applicable development regulations, ordinances, and policies and determined that existing grade is not readily apparent. Draft findings for approval are included in the Draft Resolution and Findings, Attachment 6.

### **Conclusion:**

The Johnson Residence project conforms to the land use designation and design recommendations of the Torrey Pines Community Plan, the goals and policies of the Progress Guide and General Plan and the applicable development regulations of the Land Development Code for the RS-1-7 zone. All issues identified as a result of the staff review of the project have been addressed in a manner consistent with the regulations and policies of the City of San Diego. Staff has determined there are special circumstances or conditions which exist on the property and the requested Variances will allow reasonable use of the property. Draft conditions (Attachment 5) and findings of approval (Attachment 6) have been prepared for the project.

### **ALTERNATIVES**

1. **Deny the appeal and affirm the Hearing Officer's decision to Certify Negative Declaration No. 100862, Approve Coastal Development Permit No. 333152, Approve Variance No. 397394 to allow the residence to observe a reduced street side yard setback, and Deny Variance No. 397394 to allow an elevated access footbridge exceeding the maximum height within the front yard setback.**
2. **Approve the Appeal and Deny Coastal Development Permit No. 333152 and Variance No. 397394, 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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Bill Tripp  
Development Project Manager  
Development Services Department

ESCOBAR-ECK/WCT

Attachments:

1. Community Plan Land Use Map
2. Aerial Photograph
3. Project Location Map
4. Project Plans
5. Draft Permit with Conditions
6. Draft Resolution with Findings
7. Community Planning Group Recommendation
8. Hearing Officer Report No. 06-312
9. Hearing Officer Resolution No. HO-5614
10. Copy of Appeal
11. Land Development Code Sections 113.0228 and 113.0231
12. Ownership Disclosure Statement
13. Project Data Sheet
14. Project Chronology