



THE CITY OF SAN DIEGO

REPORT TO THE PLANNING COMMISSION

DATE ISSUED: August 23, 2007 **REPORT NO. PC-07-127**

ATTENTION: Planning Commission, Agenda of August 30, 2007

SUBJECT: BENSON RESIDENCE PROJECT - PROJECT NO. 115671
APPEAL OF A PROCESS THREE

REFERENCE: **REPORT NO. HO-07-131 – Benson Residence Report to the
Hearing Officer**

OWNER: Debra Benson

APPLICANT: Claude-Anthony Marengo, Marengo-Morton Architects

SUMMARY

Issue: Should the Planning Commission approve or deny an appeal of a Hearing Officer decision to approve (with an added height condition) a Coastal Development Permit and Site Development Permit to demolish an existing 1,989 square-foot single-family residence and construct a two-story 3,831 square-foot single-family residence over a garage/basement in the La Jolla Community Planning Area?

Staff Recommendation:

1. **Certify** Mitigated Negative Declaration (MND) No. 115671, and Adopt Mitigation, Monitoring, and Reporting Program (MMRP); and
2. **Approve** the Appeal and **Approve** Coastal Development Permit No. 390539 and Site Development Permit No. 390540, removing the condition which would require a reduction of four feet from the project.

Community Planning Group Recommendation: On December 7, 2006 the La Jolla Community Planning Association voted 12-0-1 to approve the project as proposed.

Other Recommendations: On May 15, 2007 the project was presented before the La Jolla Shores Advisory Board who voted 4-0 to deny the project. Please see the Background Section of the report for additional information.

Environmental Review: Mitigated Negative Declaration No. 115671 has been prepared for the project in accordance with State of California Environmental Quality Act (CEQA) Guidelines. A Mitigation, Monitoring and Reporting Program has been prepared and will be implemented which will reduce, to a level of insignificance, any potential impacts identified in the environmental review process.

Fiscal Impact Statement: All costs associated with the processing of this project are paid from a deposit account maintained by the applicant.

Code Enforcement Impact: None with this action.

Housing Impact Statement: The scope of the project involves the demolition of an existing single family residence and the construction of a new single-family residence; therefore, there is no impact to the housing stock.

BACKGROUND

The project site is located at 8449 El Paseo Grande in the SF Zone of the La Jolla Shores Planned District (LJSPD), the Coastal Overlay Zone (Appealable Area), the Coastal Height Limit Overlay Zone, The Residential Tandem Parking Overlay Zone, and the Beach Impact Area of the Parking Impact Overlay Zone of the La Jolla Community Planning Area. The site and surrounding area is designated for single family residential, low density 5-9 dwelling units per acre.

The parcel has been previously graded and developed with an existing residence. The elevation of the site is relatively flat, with approximate elevations ranging from 12 feet Above Mean Sea Level (AMSL) at El Paseo Grande to 17 feet AMSL in the rear yard. The project site is not located within or adjacent to the Multi-Habitat Planning Area (MHPA) of the City's Multiple Species Conservation Program. The property is located within an existing urbanized area currently served by police, fire, and emergency medical services.

The project site is currently developed with a 1,989 square-foot home, which was constructed in 1950. The project site is surrounded by single-family development to the north, south, east, and west, and lays approximately 75 yards east and northeast the La Jolla Shores Beach (Pacific Ocean) and Kellogg Park. The surrounding single-family residences are designed in a wide variety of architectural styles, colors, heights, bulk, and scale.

On May 15, 2007, the La Jolla Shores Advisory Board voted 4-0 to deny the project due to "nonconformity to criteria and design standards adopted by the City Council." The Advisory Board reviewed and voted on the project using City-Wide Base Zone regulations, when the La Jolla Shores Planned District Ordinance applies to the project site. The project conforms to the regulations of the La Jolla Shores Planned District Ordinance and therefore conforms to the criteria and design standards adopted by the City Council.

On December 7, 2006 the La Jolla Community Planning Association voted 12-0-1 to approve the project as proposed. On July 11, 2007, the project was heard by the Hearing Officer and approved, with an added condition requiring the height to be lowered by four feet.

Because the project proposes to install a roof-mounted photovoltaic system consisting of solar panels sufficient to generate at least 50 percent of the proposed project's projected energy consumption, as established by Council Policy 900-14, the land use approvals have been processed through the "Affordable/In-Fill Housing and Sustainable Buildings Expedite Program."

DISCUSSION

Project Description:

The current application proposes a Coastal Development Permit and Site Development Permit to demolish the existing 1,989 square-foot single-family residence and construct a new two-story 3,831 square-foot single-family residence over a 3,412 square-foot garage/basement. The first floor would consist of 2,899 square-feet and the second floor of 1,066 square-feet. The project would include site amenities such as a pool and patio area. The Coastal Development permit is required due to development within the Coastal Overlay Zone, and the Site Development Permit is required due to the construction of the single-family home within the La Jolla Shores Planned District.

Appeal:

On July 11, 2007 the project was approved by the Hearing Officer. The Hearing Officer added a condition of approval (See Condition No. 30 from Attachment 6) which would result in a reduction to the project's overall height by four feet. On July 25, 2007, the applicant appealed the Hearing Officer decision to have the height condition removed. The condition added by the Hearing Officer reads as follows:

By July 25, 2007, the applicant shall submit design changes that reflect a four-foot reduction in either chimney height or roof pitch, or a combination of the two, so that the overall height of the project is reduced four feet.

In making the decision, the Hearing Officer disagreed with staff's interpretation of the height regulations and believed that the project's overall height measurement exceeded the regulations. Subsequent to the July 11, 2007 Hearing Officer hearing, Senior Planning Staff met to revisit the department's interpretation of the regulations governing height. At that meeting it was determined that the height measurement regulation cited by the Hearing Officer on July 11 has not been adopted as a codified regulation of the San Diego Municipal Code, although it is an item that has been suggested for a San Diego Municipal Code change as part of the FY 2008 6th San Diego Municipal Code (SDMC) Update. Therefore, it is staff's position that the draft regulation used by the Hearing Officer in reaching their position on the project's height is not applicable, and staff is in support of the appeal request.

Conclusion:

Staff believes that the project is not over height and supports the applicant's appeal, requesting that the condition to reduce the height by four feet be removed from the permit conditions. The proposed San Diego Municipal Code section used by the Hearing Officer to perform their review has not yet been adopted as a part of the SDMC and is, therefore, not the appropriate regulation

to apply to this project. Therefore, staff recommends that the appeal be granted, and the height condition be removed from the project.

ALTERNATIVES

1. **Approve** the appeal, **Certify** Mitigated Negative Declaration No. 115671, and **Approve** Coastal Development Permit No. 390539 and Site Development Permit No. 390540, removing the condition which would require a reduction of four feet from the project, **with modifications.**
2. **Deny** the appeal and let stand the Hearing Officer decision, allowing the condition to remain, which requires a reduction of four feet from the project.

Respectfully submitted,



Mike Westlake
Program Manager
Development Services Department



Daniel Stricker
Development Project Manager
Development Services Department

ESCOBAR-ECK/DES

Attachments:

1. Aerial Photograph
2. Community Plan Land Use Map
3. Project Location Map
4. Project Data Sheet
5. Project Plans
6. Draft Permit with Conditions
7. Draft Resolution with Findings
8. Copy of Appeal
9. Community Planning Group Recommendation
10. Ownership Disclosure Statement
11. Project Chronology