

**DATE ISSUED:** July 14, 2005

REPORT NO. PC-03-199

**ATTENTION:** Planning Commission, Agenda of July 21, 2005

**SUBJECT:** THAXTON PROPERTY – PROJECT NO. 10379  
PROCESS THREE

**REFERENCE:** Report to Hearing Officer No. HO-05-057

**OWNER/  
APPLICANT:** Marcia Mackey Thaxton (Attachment 10)

**SUMMARY**

**Issue:** Should the Planning Commission uphold the Hearing Officer decision to deny Variance No. 19660 to reduce the minimum lot dimensions for a *future lot consolidation map* to create four parcels from five existing lots?

**Staff Recommendation:**

DENY the appeal thereby upholding Hearing Officer's decision to Deny Variance No. 19660

**Community Planning Group Recommendation:** On January 25, 2005, the Pacific Beach Community Planning Committee voted 8-6-0 to recommend denial of proposed Project No. 10379 (Attachment 9).

**Environmental Review:** This project has been determined to be exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the State CEQA Guidelines ("General Rule").

**Fiscal Impact Statement:** Project No. 10379 was submitted as a flat fee account and deemed complete on June 24, 2003. There is a fiscal impact associated with the processing of this project and the costs are not fully recoverable.

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

**Housing Impact Statement:** The site is designated by the Pacific Beach Community Plan for low-density residential use at a density of 5-9 dwelling units per acre. The site is currently subdivided into five lots which could accommodate up to five single-family dwelling units (one single-family dwelling unit exists on one lot). The proposed variance to reconfigure the five lots into four will limit the potential residential development on the site to four dwelling units. This variance, if approved, may result in a net loss of one potential residential unit in the Pacific Beach Community.

## **BACKGROUND**

The subject lots front Noyes Street and Academy Street between Chalcedony Street to the south and Beryl Street to the north. The site elevations range from approximately 134 feet to 175 feet above mean sea level. The site is located in the RSI- 7 Zone of the Pacific Beach Community Plan.

The site is currently improved with an existing 3,827 square-foot single story residential structure (built in 1931 at 4830 Noyes Street) on Lots 19 and 22; a 97 square-foot single story play house (built in 1935) on Lot 21 and a single story 243 square-foot guest house (built in 1943) on Lot 23. Lot 20 is completely vacant. The said lots have been owned by Ms. Marcia Mackey Thaxton's family since December 1975.

The proposed project was originally submitted on June 24, 2003, requesting a variance to reduce the minimum lot dimensions for a *future lot consolidation map* to create three parcels from five existing lots. An assessment letter was mailed to the applicant on August 28, 2003, informing the applicant that staff could not support the variance as proposed.

On August 10, 2004, the project was resubmitted and a second assessment letter mailed to the applicant on September 15, 2004. The letter notified the applicant that staff had determined the project as proposed would not meet the findings for a variance approval.

The project was modified to consolidate four parcels from five existing lots and resubmitted on November 17, 2004, for a third review. On December 13, 2004, an assessment letter was mailed to the applicant again stating that staff still could not support the variance findings for the project as proposed.

In March of 2005, the applicant requested the project move forward to the public hearing without staff or the community group recommending approval. On April 6, 2005, the Hearing Officer held a public hearing and denied the project.

On April 19, 2005, the owner, Marcia Mackey Thaxton filed an appeal to the Hearing Officer's decision of April 6, 2005. On her appeal Ms. Thaxton states "The Hearing Officer denied the variance because he stated that he could not make necessary Findings No. 1 and No. 2. We believe the Hearing Officer erred in this determination. There is ample evidence presented prior to, and at the hearing to support the necessary findings." (Attachment 15)

## **DISCUSSION**

### **Project Description:**

The project as proposed would require a variance to reduce the minimum lot dimensions for a future lot consolidation map to create four parcels from five existing lots. The rear lot lines of the three existing lots fronting Academy Street fall easterly of the top of the existing slope to within 22 feet of the existing residence at 4380 Noyes Street. The applicant has indicated the objective is to protect the view of the Pacific Ocean as seen from the existing residence by moving the rear lot lines westerly and closer to Academy Street (Attachment 12). The variance as proposed would allow reduced lot depths for the two lots fronting on the east side of Academy Street. The proposed lot depth for each rear lot would be 68 feet where 95 feet is required by the LDC, resulting in two substandard lots. If the variance is approved, it would reduce future development on the Academy Street parcels from three to two residences. Approving the variance would constrain any construction to the front of the lots. The applicant feels that by hindering construction on the two substandard lots would reduce potential view impacts for the existing residence at 4380 Noyes Street. (Attachment 12)

### **Community Plan Analysis:**

The project site is designated for low-density residential use at a density of 5-9 dwelling units per acre by the Pacific Beach Community Plan. The five existing lots have the development potential of five single-family dwelling units (including one existing unit). The proposed variance to reconfigure the site into four parcels would lower the potential development of this site to well below the recommended density and limit the future potential residential development to under four dwelling units per acre.

### **Project-Related Issues:**

The applicant's draft resolution with findings (Attachment 8), noted the Academy Street lots are defined as steep hillside (steeper than 25 percent). The lots fronting Academy Street appear to be steeply sloping. However, based on the Topographic Survey prepared by DK Nasland, dated October 19, 2004, the existing elevation on the western slopes fronting Academy Street, are 134 feet to 171 feet. The grade differential is 37 feet. The subject properties do not meet the Environmental Sensitive Lands (ESL) regulations per LDC section 113.0103 (Definitions) for Steep Hillside "Slope with a natural gradient of 25 percent (4 feet of horizontal distance for every 1 foot of vertical distance) or greater and a minimum elevation differential of 50 feet, or a natural gradient of 200 percent (1 foot of horizontal distance for every 2 feet of vertical distance) or greater and a minimum elevation differential of 10 feet."

### **Community Group Input**

At the Pacific Beach Community Planning Committee (PBCPC) meeting held on January 25, 2005, the Thaxton Family requested a reconfiguration from their existing five lots to three (currently changed to four) lots. The PBCPC indicated the rear lots on the west side would not

conform to current zoning regulations and the owners could not provide proof a hardship exists that would make a variance necessary. The meeting resulted in the PBCPC voting 8-6-0 recommending denial of the project as proposed. (Attachment 9)

### **Hearing Officer Decision**

On April 6, 2005, the Hearing Officer denied Variance Permit No. 19660. The Hearing Officer determined that the project could not meet the findings for a variance approval per the LDC section 126.0805. He noted the applicant failed to prove there are special circumstances or conditions applying to the site which are peculiar to the site that does not apply generally to the land or premises in the neighborhood. Nor could the applicant prove by denying the variance would deprive the owner reasonable use of their land or premises.

### **Conclusion:**

Staff cannot support the findings to allow two new lots to deviate from the minimum development regulations. Staff has determined the applicant can redesign the lot configurations to meet the 95 foot minimum lot depth requirement.

There are no special circumstances or conditions applying to the land for which the variance is sought that are peculiar to the land and do not apply generally to the land in the neighborhood. Strict application of the regulations of the LDC would not deprive the owners of reasonable use of the land because the existing lots currently meet or exceed the LDC minimum lots dimensions. Therefore, City staff is recommending the Planning Commission sustain the Hearing Officer decision to deny Variance No. 19660. Should the Planning Commission determine granting the variance is appropriate, findings of approval would need to be presented.

### **ALTERNATIVES**

1. Approve the appeal thereby, approving Variance No. 19660, if the findings can be made.

Respectfully submitted,

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Marcela Escobar-Eck  
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Information Division  
Development Services Department

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Development Project Manager  
Customer Support and Information Division  
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MEE/VSL

Attachments:

1. Aerial Photograph
2. Community Plan Land Use Map
3. Project Location Map
4. Project Data Sheet
5. Future Consolidation Parcel Map
6. Site Plan (existing lot configuration)
7. Draft Resolution with Findings
8. Applicant's Draft Resolution with Findings
9. Community Planning Group Recommendation
10. Ownership Disclosure Statement
11. Project Chronology
12. Meridian Engineering Group Letter
13. Report to Hearing Officer No. HO-05-057
14. Copy of HO Resolution No. 4976
15. Copy of Appeal Application