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VIA EMAIL (mpangilinan@sandiego.gov)

La Jolla Shores Planned District Advisory Board
City of San Diego, California
c/o Marlon Pangilinan

Re: Lookout Lots 2 and 5 (APN: 352-012-17-00 and 352-12-20-00)

Dear Chair Potter and Members of the LJSPD Advisory Board:

These comments in opposition to the Site and Coastal Development Permits (SDP/CDP) for Lookout Lots 2 and 5 are submitted on behalf of our client, the La Jolla Hills Committee ("client"). These proposals are inconsistent with the La Jolla Shores Planned Development Ordinance (PDO) and the La Jolla Community Plan. The lots are undersized, the proposed homes are oversized, and together they will have a serious negative impact on the surrounding community.

These proposals solve *none* of the problems that caused the La Jolla Community Planning Association (LJCPA) and Planned District Advisory Board (LJPDAB) to recommend against approval of the project submitted in 2018. The "new" plans propose equally large or larger homes on Lots 2 and 5, leaving Lot 4 for future development. At the last Board meeting, the applicant's representative specifically refused to address the likelihood of future construction on Lot 4 and flatly rejected our client's request that Lot 4 be permanently preserved for recreation associated with Lot 1. In other words, the "new" 2021 proposal is simply the 2018 plan split into smaller pieces, so it is not reviewed as a whole. It consists of two of the original three home proposals, with development of the central lot deferred to the future. In other words, the applicant is piecemealing its original proposal to prevent the Advisory Board and the County from considering the total impact of development.

Purpose of Advisory Board Review

The purpose of LJPDAB is to review permit applications for consistency with the La Jolla Shores PDO and La Jolla Community Plan. Where the Board concludes a proposal is not consistent with the PDO, Community Plan, or character of surrounding development, it is required

to recommend against approval or suggest modifications that could bring the project into compliance. The Advisory Board is the voice of the local community and it is an integral part of the City's development review process, to the extent the Planning Commission cannot consider an application unless it has first been reviewed by the Advisory Board.

Some members of the Advisory Board have asked whether they have jurisdiction to consider that Lots 2 and 5 were substandard in size when they were created by lot line adjustment, their lack of compliance with the compatibility requirements of the PDO and applicable Municipal Code, the failure of the original subdivider to obtain a mandatory CDP, and their excessive FAR and density proposals. Although the Advisory Board does not have authority to determine that the lot line adjustment was illegally approved, it is within its jurisdiction to comment on inconsistencies between the PDO standards and the proposed projects, as well as to request the City Attorney and Planning Commission to investigate the circumstances under which the substandard lots were recorded. In that the Advisory Board is charged with recommending and commenting on specific projects due to their knowledge of the community and the PDO, the Board members are those most likely to be familiar with the character of the neighborhood and the potential impacts of flawed project proposals.

Inadequate Documentation

The inadequacy of the submittals for Lookout Lots 2 and 5 was discussed at the Board's March 17th meeting. In response to specific questions, the applicant's representative stated that floor plans would not be provided to the Board because they were not required by County regulations, even though they were provided previously. At least one Board member asked for complete floor plans because it was difficult to understand the relationship between openings shown on the sketched elevations and related setbacks.

Our client continues to believe the submittals for Lots 2 and 5 are inadequate. By way of example, the application summary for Lot 5 states the proposed square footage of the home is 4,900 square feet, with an FAR of .53 excluding the basement. The chart listing homes within a 300' radius uses a home size of 2673 square feet to calculate the FAR. Apparently, the basement will be larger than the remainder of the home, but it is excluded from the applicant's calculations.

The application summary for Lot 2 states the proposed square footage of the home is 4,860 with an FAR of .75, excluding the basement. The chart listing homes within a 300' radius uses a home size of 3,849 square feet to calculate the FAR, ignoring the fact that the square footage for both homes is almost equal to the lot size. The 300' radius chart also reveals the home on Lot 2 will be one of only a handful of 3-story houses in the vicinity.

Not only does the submittal fail to include floor plans, but the building footprints are represented differently at different locations. For instance, the 300' radius chart is identical for both Lots 2 and 5 and shows a house footprint on Lot 2 that matches the layouts for neither Lot 2 nor 5. Both charts show Lot 5 as vacant. The elevations submitted with the application, although attractive, do not appear to correlate to the building footprints. For instance, massing appears inconsistent and double doors open onto 4-6' side yards, without even enough room for a pathway.

In fact, the 300' radius chart submitted by the applicant is itself misleading. The chart includes both development of Lots 2 and 5 at high density, even though they are not yet built and should not have been included. Conversely, the chart omits the extremely low-density development at 7716 Lookout Drive. By manipulating the lot and housing sizes included on the radius chart, the applicant fails to provide an accurate picture of the surrounding neighborhood.

The Advisory Board is the voice of the community. The applicant is proposing to make permanent changes to the neighborhood by building at least two, and likely three, supersized homes on undersized 5,000 square foot lots. Simple respect for the community, including the nearest neighbors, should have resulted in complete, consistent submittals, especially after one of the Board members requested it. Otherwise, the Advisory Board cannot do its job.

Incompatible Bulk and Scale

The La Jolla PDO is unusual in that it focuses on compatibility between proposed projects and existing development rather than numerical minimums. Thus, the PDO not only provides flexibility but ensures continuation of existing development patterns and density. Specifically, the PDO provides “no lot or parcel shall be developed or occupied by more dwelling units than the average dwelling unit density (units per acre) of the developed SF Zone within 300 feet of the subject lot or parcel.” *See also* S.D.M.C. §1510.0304. Steep slopes are excluded from these calculations or use different ratios. In the case of Lookout Drive Lots 2 and 5, the average dwelling unit density within 300 feet is approximately 11,000 square feet. Lots 2 and 5 are both a shade over 5,000 square feet

The La Jolla Community Plan zones the area, including Lots 2, 4, 5 as “very low density residential (0-5 DU/AC)” with a minimum lot size of 8,000 square feet. The PDO establishes minimum side setbacks of at least 4' where doors or windows face the side property line, but also requires “building and structure setbacks shall be in general conformity with those in the vicinity.” S.D.M.C. §1510.0304(b) (emphasis added). The homes proposed for Lots 2 and 5, along with the 2018 submittal for Lot 4, were designed and reviewed according to absolute regulatory minimums, without consideration for surrounding development. Under the PDO and Community Plan, this Advisory Board has an obligation to look at the Lots 2 and 5 proposal in context.

When the proposals are compared to existing development in the vicinity, they fail every compatibility test in the PDO, Municipal Code and Community Plan:

- Substandard Lot Size: Lot 2 is 5,154 square feet and Lot 5 is 5,045 square feet, less than half the average size of lots within a 300' radius. The fact that the lots are proposed for separate developments does not excuse compliance with the PDO, including frontage and curb cut requirements.
- Excessive Density: Instead of the recommended density of 4 units per acre under the PDO, the projects will result in a density equal to double the surrounding average or 8 units per acre. Lot 4 is 7,816 square feet and there are no restrictions on its future development, so

it must be considered as potentially contributing to a group of 4 homes crowded onto only 23,000 square feet – significantly denser than the existing development.

- Excessive Square Footage: The homes proposed for Lots 2 and 5 are each approximately 5,000 square feet – super-sized for the neighborhood. Lot 2 would be one of only three 3-story houses within 300’. Even if the applicant can “exclude” half the gross square footage of Lot 5 by including it in a basement, the house will effectively have the same square footage as the lot. Lot 2 has a proposed FAR of .75, which would be the second highest in the vicinity. These homes are simply too large for the area.
- Visual Intrusion: All the proposed elevations show windows and/or doors, even on side yards. An essential piece of information is how these designs will affect existing residents. Typically, infill housing is required to offset windows and doors to avoid conflicts with adjoining houses.
- Minimal Landscaped: Contrary to the intent of the PDO, the site plans allow for almost no significant landscaping. Almost half the front setback of Lot 2 is proposed to be paved, with only narrow slivers of open space along the side boundaries. Lot 5 is equally deficient in open space or landscaping, with virtually no usable yard.
- Substandard Setbacks: The building setbacks are wildly incompatible with the surrounding neighborhood. According to the applicant, the average front setback in the vicinity is 17’11”, while Lot 2 is 10’2” and Lot 5 is 6’1.5”. In other words, Lot 2 has a front setback slightly over half the community average, while Lot 5 is only one-third of other front yards. Side setbacks are 6’7” to 6’10” in the area, while Lot 2 proposes 4’8” to 6’1.5” and Lot 5 proposes 4’ to 6’ along its side boundaries. Average rear setbacks are 30’8”, allowing La Jolla Shores residents to enjoy significant outdoor living space. In sharp contrast, these over-sized mansions propose rear setbacks of 5’ to 7’3”. In contrast to existing development that tried not to overwhelm smaller lots, the proposals for Lots 2 and 5 shoehorn two homes into undersized lots. In total, Lots 2 and 5 have setbacks less than half the community average. Along with design, setbacks are one of the most important ways that a neighborhood establishes its visual character. Lots 2 and 5 will stand out like sore thumbs in a community where much larger setbacks are the norm.
- Unknown Drainage: Drainage is a particular concern of the PDO and Community Plan. The original proposal in 2018 was split to avoid the need to submit an overall drainage plan. The plans submitted to the Advisory Board contain no drainage information whatsoever. However, low impact development regulations typically require onsite retention of stormwaters and irrigation to avoid impacting off-site locations. The minimal open space provided on each lot raises reasonable concerns about how drainage will be addressed.

Each of the above issues is within the purview of the Advisory Board and should be the subject of the Board's recommendation to the Planning Commission. This Board has the responsibility of ensuring that all new development meets the compatibility intent of the PDO, Municipal Code, and Community Plan – not simply a list of minimum requirements taken out of context without consideration for the neighborhood.

New Earthquake Maps

After more than a two-year delay since the last Advisory Board hearing, the plans for Lots 2 and 5 were prepared and submitted within weeks of the California Geological Survey announcing new maps affecting the area. According to news reports, as many as 7,000 parcels in La Jolla and other sections of the City will be reclassified in new more restrictive fault zones. The Rose Canyon fault has been found to be larger and more active than when earlier earthquake risk maps were prepared. The fault comes ashore in La Jolla and then cuts through the City, raising the possibility of a 6.0-plus earthquake leaving La Jolla without utilities and services many months.

The applications for development of Lots 2 and 5 do not address changes in earthquake mapping and the possibility that the Rose Canyon fault through La Jolla is more active than previously known. The potential impact of the new earthquake maps is essential information for any development proposals in La Jolla, especially in hilly areas. Depending on the final mapping, development in La Jolla Shores may require larger setbacks from the fault or special construction rules to protect new structures from stronger earthquakes.

Given the urgency of this information and the current studies underway in the City, this Advisory Board is within its authority to request more data about the proposed mapping, new earthquake construction rules, and compliance of the Lots 2 and 5 with new safety regulations. We are hopeful the applicant has fully investigated the new Rose Canyon fault zones and will be prepared to share this information with the Board, but the City should also provide assurances that all proposed development will comply with any new regulations adopted in response to the Rose Canyon fault update.

Lots 2 and 5 Were Illegally Created and Remain Illegal

In or about 1997, the City of San Diego administratively approved a lot line adjustment among four standard lots created in approximately 1936 and a small partial lot created by conveyance in approximately 1937. The result of the lot line adjustment was to create three lots of approximately 5,000 square feet, one lot of almost 8,000 square feet, and a much larger lot containing an architecturally significant Cliff May ranch home. No neighbors were notified of the lot line adjustment, there was no public hearing, and there was no analysis of whether the resulting lots met the minimum square footage and frontage requirements of the PDO and Community Plan.

Under the Municipal Code, as it existed in 1997, lot line adjustments could not be approved unless the resulting lots complied with all applicable minimum size and development standards. At a minimum, the lot line adjustment was required to increase the compliance of the resulting lots with City regulations. In this case, three of the lots (Lots 2, 3, and 5) were significantly reduced

in size to only 5,000 square feet, the absolute minimum allowed under the City's subdivision regulations. Lot 4 remained approximately the same size, Lot 1 more than doubled in size, and Lot 5 – the only lot that benefited from the lot line adjustment was increased to 5,000 square feet. However, under the City's regulations in 1997, the lot line adjustment could not have been approved because it resulted in at least three lots losing square footage and becoming non-compliant with both the PDO and the Community Plan.

In addition, the City did not issue a coastal development permit (CDP) for the lot line adjustment, as required by the Coastal Act. The Coastal Commission has uniformly insisted that a CDP is required for lot line adjustments within the coastal zone. This requirement was simply ignored, and the Coastal Commission does not recognize any statute of limitations for approvals granted without a CDP. For the purposes of the Coastal Act, therefore, the lot line adjustment that created Lots 2, 4, and 5 as substandard lots never became final. In other words, the 1997 lot line adjustment was never lawful and was never confirmed by issuance of a CDP. Mr. Philip Merten, a well-respected local architect, has detailed the uncured deficiencies in approval of the 1997 lot line adjustment in a recent letter to the Advisory Board.

Under the Municipal Code and the Subdivision Map Act, the remedy for an illegal lot line adjustment is involuntary merger to return lots under common ownership to compliant status. In 2018, the applicant apparently owned 4 of the 5 lots affected by the 1997 lot line adjustment. Since that time, we understand the applicant has purportedly transferred legal title to the Cliff May house on Lot 1 and the vacant Lot 4 to his son, in an intra-family transaction. Given the fact that both the applicant and his son were aware of the illegal way in which the lots were created, we believe merger remains an appropriate remedy.

Conclusion

This is a deeply cynical application. Lot 4 was dropped, but not restricted from development, apparently for the purpose of separating Lots 2 and 5 geographically. An intra-family transfer was recorded to “show” separate ownership. The resubmittal was rushed through Staff review after issuance of new earthquake maps affecting multiple lots in La Jolla. The designs for development of Lots 2 and 5 were thoroughly evaluated in 2018 and community response was decidedly negative. Instead of addressing neighborhood concerns by reducing the size of the homes and increasing setbacks, the applicant submitted even more inconsistent designs and threatened to proceed to the Planning Commission without a recommendation from the Advisory Board. Despite direct requests from Board members, the applicant has refused to provide additional information about the project(s).

Under these circumstances, our client believes the Advisory Board has no choice but to recommend against approval of the Lot 2 and 5 proposals. There is no way for the Board to find the proposals are compatible with surrounding development or consistent with the PDO. There are no assurances Lot 4 will remain open space for the benefit of Lot 1. There is limited or no evidence the projects would be eligible for approval when the new Rose Canyon fault maps and regulations are adopted. Although Lot 4 has been eliminated from this application, at least

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temporarily, all the objections set forth in 2018 still apply to this proposal and we therefore incorporate our prior submittals by reference.

I will be available to answer any questions the Advisory Board may have at its April 21st meeting.

Very truly yours,

/s/ Deborah M. Rosenthal

Deborah M. Rosenthal, FAICP

cc: Evelyn F. Heidelberg, Esq.
Mr. Philip Merton, AIA