



MITIGATED NEGATIVE DECLARATION

THE CITY OF SAN DIEGO

Project No. 482904

SCH No. N/A

SUBJECT: **Lookout Lot 5 CDP/SDP:** A request for a COASTAL DEVELOPMENT PERMIT and SITE DEVELOPMENT PERMIT to construct a two-story 4,900-square-foot single-family residential unit. Various site improvements would also be constructed that include associated hardscape and landscape. The vacant 0.12-acre project site is located at 7813 Lookout Drive. The land use designation is Very Low Density Residential (0 - 5 dwelling units per acre) and zoned LJSPD-SF per the La Jolla Community Plan and Local Coastal Program. Additionally, the project site is located within the Coast Zone Boundary, the Coastal Height Limitation Overlay Zone, Coastal Overlay Zone (Non-Appealable Area 2), Parking Impact Overlay Zone (Coastal), Residential Tandem Parking Overlay Zone, and the Transit Area Overlay Zone. (LEGAL DESCRIPTION: Parcel Map 17817, Parcel 5.) APPLICANT: Lookout, LLC.

I. PROJECT DESCRIPTION:

See attached Initial Study.

II. ENVIRONMENTAL SETTING:

See attached Initial Study.

III. DETERMINATION:

The City of San Diego conducted an Initial Study which determined that the proposed project could have a significant environmental effect in the following areas(s): **Cultural Resources (Archaeology) and Tribal Cultural Resources**. Subsequent revisions in the project proposal create the specific mitigation identified in Section V of this Mitigated Negative Declaration. The project as revised now avoids or mitigates the potentially significant environmental effects previously identified, and the preparation of an Environmental Impact Report will not be required.

IV. DOCUMENTATION:

The attached Initial Study documents the reasons to support the above Determination.

V. MITIGATION, MONITORING AND REPORTING PROGRAM:

A. GENERAL REQUIREMENTS – PART I: Plan Check Phase (prior to permit issuance)

1. Prior to the issuance of a Notice To Proceed (NTP) for a subdivision, or any construction permits, such as Demolition, Grading or Building, or beginning any construction related activity on-site, the Development Services Department (DSD) Director's Environmental Designee (ED) shall review and approve all Construction Documents (CD), (plans, specification, details, etc.) to ensure the MMRP requirements are incorporated into the design.
2. In addition, the ED shall verify that the MMRP Conditions/Notes that apply ONLY to the construction phases of this project are included VERBATIM, under the heading, "**ENVIRONMENTAL/MITIGATION REQUIREMENTS.**"
3. These notes must be shown within the first three (3) sheets of the construction documents in the format specified for engineering construction document templates as shown on the City website:

<https://www.sandiego.gov/development-services/forms-publications/design-guidelines-templates>
4. The **TITLE INDEX SHEET** must also show on which pages the "Environmental/Mitigation Requirements" notes are provided.
5. **SURETY AND COST RECOVERY** – The Development Services Director or City Manager may require appropriate surety instruments or bonds from private Permit Holders to ensure the long-term performance or implementation of required mitigation measures or programs. The City is authorized to recover its cost to offset the salary, overhead, and expenses for City personnel and programs to monitor qualifying projects.

B. GENERAL REQUIREMENTS – PART II: Post Plan Check (After permit issuance/Prior to start of construction)

1. **PRE-CONSTRUCTION MEETING IS REQUIRED TEN (10) WORKING DAYS PRIOR TO BEGINNING ANY WORK ON THIS PROJECT.** The PERMIT HOLDER/OWNER is responsible to arrange and perform this meeting by contacting the CITY RESIDENT ENGINEER (RE) of the Field Engineering Division and City staff from MITIGATION MONITORING COORDINATION (MMC). Attendees must also include the Permit holder's Representative(s), Job Site Superintendent and the following consultants:

**Qualified Archaeologist
Native American Monitor**

Note: Failure of all responsible Permit Holder's representatives and consultants to attend shall require an additional meeting with all parties present.

CONTACT INFORMATION:

- a) The PRIMARY POINT OF CONTACT is the **RE** at the **Field Engineering Division - (858) 627-3200**
- b) For Clarification of ENVIRONMENTAL REQUIREMENTS, it is also required to call **RE and MMC at (858) 627-3360**

- 2. **MMRP COMPLIANCE:** This Project, Project Tracking System (PTS) No. 48204 and/or Environmental Document No. 482904 shall conform to the mitigation requirements contained in the associated Environmental Document and implemented to the satisfaction of the DSD's Environmental Designee (MMC) and the City Engineer (RE). The requirements may not be reduced or changed but may be annotated (i.e. to explain when and how compliance is being met and location of verifying proof, etc.). Additional clarifying information may also be added to other relevant plan sheets and/or specifications as appropriate (i.e., specific locations, times of monitoring, methodology, etc

Note: Permit Holder's Representatives must alert RE and MMC if there are any discrepancies in the plans or notes, or any changes due to field conditions. All conflicts must be approved by RE and MMC BEFORE the work is performed.

- 3. **OTHER AGENCY REQUIREMENTS:** Evidence of compliance with all other agency requirements or permits shall be submitted to the RE and MMC for review and acceptance prior to the beginning of work or within one week of the Permit Holder obtaining documentation of those permits or requirements. Evidence shall include copies of permits, letters of resolution or other documentation issued by the responsible agency: Not Applicable.
- 4. **MONITORING EXHIBITS:** All consultants are required to submit, to RE and MMC, a monitoring exhibit on a 11x17 reduction of the appropriate construction plan, such as site plan, grading, landscape, etc., marked to clearly show the specific areas including the **LIMIT OF WORK**, scope of that discipline's work, and notes indicating when in the construction schedule that work will be performed. When necessary for clarification, a detailed methodology of how the work will be performed shall be included.

Note: Surety and Cost Recovery - When deemed necessary by the Development Services Director or City Manager, additional surety instruments or bonds from the private Permit Holder may be required to ensure the long-term performance or implementation of required

mitigation measures or programs. The City is authorized to recover its cost to offset the salary, overhead, and expenses for City personnel and programs to monitor qualifying projects.

5. **OTHER SUBMITTALS AND INSPECTIONS:** The Permit Holder/Owner's representative shall submit all required documentation, verification letters, and requests for all associated inspections to the RE and MMC for approval per the following schedule:

DOCUMENT SUBMITTAL/INSPECTION CHECKLIST		
Issue Area	Document Submittal	Associated Inspection/Approvals/Notes
General	Consultant Qualification Letters	Prior to Preconstruction Meeting
General	Consultant Construction Monitoring Exhibits	Prior to or at Preconstruction Meeting
Archaeology	Archaeology Reports	Archaeology/Historic Site Observation
Tribal Cultural Resources	Archaeology Reports	Archaeology/Historic Site Observation
Bond Release	Request for Bond Release Letter	Final MMRP Inspections Prior to Bond Release Letter

C. SPECIFIC MMRP ISSUE AREA CONDITIONS/REQUIREMENTS

HISTORICAL RESOURCES (ARCHAEOLOGY)

I. Prior to Permit Issuance

A. Entitlements Plan Check

1. Prior to issuance of any construction permits, including but not limited to, the first Grading Permit, Demolition Plans/Permits and Building Plans/Permits or a Notice to Proceed for Subdivisions, but prior to the first preconstruction meeting, whichever is applicable, the Assistant Deputy Director (ADD) Environmental designee shall verify that the requirements for Archaeological Monitoring and Native American monitoring have been noted on the applicable construction documents through the plan check process.

B. Letters of Qualification have been submitted to ADD

1. The applicant shall submit a letter of verification to Mitigation Monitoring Coordination (MMC) identifying the Principal Investigator (PI) for the project and the names of all persons involved in the archaeological monitoring program, as defined

in the City of San Diego Historical Resources Guidelines (HRG). If applicable, individuals involved in the archaeological monitoring program must have completed the 40-hour HAZWOPER training with certification documentation.

2. MMC will provide a letter to the applicant confirming the qualifications of the PI and all persons involved in the archaeological monitoring of the project meet the qualifications established in the HRG.
3. Prior to the start of work, the applicant must obtain written approval from MMC for any personnel changes associated with the monitoring program.

II. Prior to Start of Construction

A. Verification of Records Search

1. The PI shall provide verification to MMC that a site-specific records search (quarter mile radius) has been completed. Verification includes, but is not limited to a copy of a confirmation letter from South Coastal Information Center, or, if the search was in-house, a letter of verification from the PI stating that the search was completed.
2. The letter shall introduce any pertinent information concerning expectations and probabilities of discovery during trenching and/or grading activities.
3. The PI may submit a detailed letter to MMC requesting a reduction to the quarter mile radius.

B. PI Shall Attend Precon Meetings

1. Prior to beginning any work that requires monitoring; the Applicant shall arrange a Precon Meeting that shall include the PI, Native American consultant/monitor (where Native American resources may be impacted), Construction Manager (CM) and/or Grading Contractor, Resident Engineer (RE), Building Inspector (BI), if appropriate, and MMC. The qualified Archaeologist and Native American Monitor shall attend any grading/excavation related Precon Meetings to make comments and/or suggestions concerning the Archaeological Monitoring program with the Construction Manager and/or Grading Contractor.
 - a. If the PI is unable to attend the Precon Meeting, the Applicant shall schedule a focused Precon Meeting with MMC, the PI, RE, CM or BI, if appropriate, prior to the start of any work that requires monitoring.
2. Identify Areas to be Monitored
 - a. Prior to the start of any work that requires monitoring, the PI shall submit an Archaeological Monitoring Exhibit (AME) (with verification that the AME has been reviewed and approved by the Native American consultant/monitor when Native American resources may be impacted) based on the appropriate construction

documents (reduced to 11x17) to MMC identifying the areas to be monitored including the delineation of grading/excavation limits.

- b. The AME shall be based on the results of a site-specific records search as well as information regarding existing known soil conditions (native or formation).

3. When Monitoring Will Occur

- a. Prior to the start of any work, the PI shall also submit a construction schedule to MMC through the RE indicating when and where monitoring will occur.
- b. The PI may submit a detailed letter to MMC prior to the start of work or during construction requesting a modification to the monitoring program. This request shall be based on relevant information such as review of final construction documents which indicate site conditions such as depth of excavation and/or site graded to bedrock, etc., which may reduce or increase the potential for resources to be present.

III. During Construction

A. Monitor(s) Shall be Present During Grading/Excavation/Trenching

1. The Archaeological Monitor shall be present full-time during all soil disturbing and grading/excavation/trenching activities which could result in impacts to archaeological resources as identified on the AME. The Construction Manager is responsible for notifying the RE, PI, and MMC of changes to any construction activities such as in the case of a potential safety concern within the area being monitored. In certain circumstances OSHA safety requirements may necessitate modification of the AME.
2. The Native American consultant/monitor shall determine the extent of their presence during soil disturbing and grading/excavation/trenching activities based on the AME and provide that information to the PI and MMC. If prehistoric resources are encountered during the Native American consultant/monitor's absence, work shall stop and the Discovery Notification Process detailed in Section III.B-C and IV.A-D shall commence.
3. The PI may submit a detailed letter to MMC during construction requesting a modification to the monitoring program when a field condition such as modern disturbance post-dating the previous grading/trenching activities, presence of fossil formations, or when native soils are encountered that may reduce or increase the potential for resources to be present.
4. The archaeological and Native American consultant/monitor shall document field activity via the Consultant Site Visit Record (CSVR). The CSVR's shall be faxed by the CM to the RE the first day of monitoring, the last day of monitoring, monthly

(Notification of Monitoring Completion), and in the case of ANY discoveries. The RE shall forward copies to MMC.

B. Discovery Notification Process

1. In the event of a discovery, the Archaeological Monitor shall direct the contractor to temporarily divert all soil disturbing activities, including but not limited to digging, trenching, excavating or grading activities in the area of discovery and in the area reasonably suspected to overlay adjacent resources and immediately notify the RE or BI, as appropriate.
2. The Monitor shall immediately notify the PI (unless Monitor is the PI) of the discovery.
3. The PI shall immediately notify MMC by phone of the discovery, and shall also submit written documentation to MMC within 24 hours by fax or email with photos of the resource in context, if possible.
4. No soil shall be exported off-site until a determination can be made regarding the significance of the resource specifically if Native American resources are encountered.

C. Determination of Significance

1. The PI and Native American consultant/monitor, where Native American resources are discovered shall evaluate the significance of the resource. If Human Remains are involved, follow protocol in Section IV below.
 - a. The PI shall immediately notify MMC by phone to discuss significance determination and shall also submit a letter to MMC indicating whether additional mitigation is required.
 - b. If the resource is significant, the PI shall submit an Archaeological Data Recovery Program (ADRP) which has been reviewed by the Native American consultant/monitor, and obtain written approval from MMC. Impacts to significant resources must be mitigated before ground disturbing activities in the area of discovery will be allowed to resume. Note: If a unique archaeological site is also an historical resource as defined in CEQA, then the limits on the amount(s) that a project applicant may be required to pay to cover mitigation costs as indicated in CEQA Section 21083.2 shall not apply.
 - c. If the resource is not significant, the PI shall submit a letter to MMC indicating that artifacts will be collected, curated, and documented in the Final Monitoring Report. The letter shall also indicate that that no further work is required.

IV. Discovery of Human Remains

If human remains are discovered, work shall halt in that area and no soil shall be exported off-site until a determination can be made regarding the provenance of the human remains; and the following procedures as set forth in CEQA Section 15064.5(e), the California Public Resources Code (Sec. 5097.98) and State Health and Safety Code (Sec. 7050.5) shall be undertaken:

A. Notification

1. Archaeological Monitor shall notify the RE or BI as appropriate, MMC, and the PI, if the Monitor is not qualified as a PI. MMC will notify the appropriate Senior Planner in the Environmental Analysis Section (EAS) of the Development Services Department to assist with the discovery notification process.
2. The PI shall notify the Medical Examiner after consultation with the RE, either in person or via telephone.

B. Isolate discovery site

1. Work shall be directed away from the location of the discovery and any nearby area reasonably suspected to overlay adjacent human remains until a determination can be made by the Medical Examiner in consultation with the PI concerning the provenance of the remains.
2. The Medical Examiner, in consultation with the PI, will determine the need for a field examination to determine the provenance.
3. If a field examination is not warranted, the Medical Examiner will determine with input from the PI, if the remains are or are most likely to be of Native American origin.

C. If Human Remains ARE determined to be Native American

1. The Medical Examiner will notify the Native American Heritage Commission (NAHC) within 24 hours. By law, ONLY the Medical Examiner can make this call.
2. NAHC will immediately identify the person or persons determined to be the Most Likely Descendent (MLD) and provide contact information.
3. The MLD will contact the PI within 24 hours or sooner after the Medical Examiner has completed coordination, to begin the consultation process in accordance with CEQA Section 15064.5(e), the California Public Resources and Health & Safety Codes.
4. The MLD will have 48 hours to make recommendations to the property owner or representative, for the treatment or disposition with proper dignity, of the human remains and associated grave goods.

5. Disposition of Native American Human Remains will be determined between the MLD and the PI, and, if:
 - a. The NAHC is unable to identify the MLD, OR the MLD failed to make a recommendation within 48 hours after being granted access to the site, OR;
 - b. The landowner or authorized representative rejects the recommendation of the MLD and mediation in accordance with PRC 5097.94 (k) by the NAHC fails to provide measures acceptable to the landowner, the landowner shall reinter the human remains and items associated with Native American human remains with appropriate dignity on the property in a location not subject to further and future subsurface disturbance, THEN
 - c. To protect these sites, the landowner shall do one or more of the following:
 - (1) Record the site with the NAHC;
 - (2) Record an open space or conservation easement; or
 - (3) Record a document with the County. The document shall be titled "Notice of Reinterment of Native American Remains" and shall include a legal description of the property, the name of the property owner, and the owner's acknowledged signature, in addition to any other information required by PRC 5097.98. The document shall be indexed as a notice under the name of the owner.
 - d. Upon the discovery of multiple Native American human remains during ground-disturbing land development activity, the landowner may agree that additional conferral with descendants is necessary to consider culturally appropriate treatment of multiple Native American human remains. Culturally appropriate treatment of such a discovery may be ascertained from review of the site utilizing cultural and archaeological standards. Where the parties are unable to agree on the appropriate treatment measures the human remains and items associated and buried with the Native American human remains shall be reinterred with appropriate dignity, pursuant to Section 5 (c).

IV. Night and/or Weekend Work

- A. If night and/or weekend work is included in the contract
 1. When night and/or weekend work is included in the contract package, the extent and timing shall be presented and discussed at the precon meeting.
 2. The following procedures shall be followed.
 - a. No Discoveries

In the event that no discoveries were encountered during night and/or weekend work, the PI shall record the information on the CSV and submit to MMC via fax by 8AM of the next business day.

b. Discoveries

All discoveries shall be processed and documented using the existing procedures detailed in Sections III - During Construction, and IV - Discovery of Human Remains. Discovery of human remains shall always be treated as a significant discovery.

c. Potentially Significant Discoveries

If the PI determines that a potentially significant discovery has been made, the procedures detailed under Section III - During Construction and IV-Discovery of Human Remains shall be followed.

e. The PI shall immediately contact MMC, or by 8AM of the next business day to report and discuss the findings as indicated in Section III-B, unless other specific arrangements have been made.

B. If night and/or weekend work becomes necessary during the course of construction

1. The Construction Manager shall notify the RE, or BI, as appropriate, a minimum of 24 hours before the work is to begin.
2. The RE, or BI, as appropriate, shall notify MMC immediately.

C. All other procedures described above shall apply, as appropriate.

V. Post Construction

A. Preparation and Submittal of Draft Monitoring Report

1. The PI shall submit two copies of the Draft Monitoring Report (even if negative), prepared in accordance with the Historical Resources Guidelines (Appendix C/D) which describes the results, analysis, and conclusions of all phases of the Archaeological Monitoring Program (with appropriate graphics) to MMC for review and approval within 90 days following the completion of monitoring. It should be noted that if the PI is unable to submit the Draft Monitoring Report within the allotted 90-day timeframe resulting from delays with analysis, special study results or other complex issues, a schedule shall be submitted to MMC establishing agreed due dates and the provision for submittal of monthly status reports until this measure can be met.

- a. For significant archaeological resources encountered during monitoring, the Archaeological Data Recovery Program shall be included in the Draft Monitoring Report.
 - b. Recording Sites with State of California Department of Parks and Recreation
The PI shall be responsible for recording (on the appropriate State of California Department of Park and Recreation forms-DPR 523 A/B) any significant or potentially significant resources encountered during the Archaeological Monitoring Program in accordance with the City's Historical Resources Guidelines, and submittal of such forms to the South Coastal Information Center with the Final Monitoring Report.
2. MMC shall return the Draft Monitoring Report to the PI for revision or, for preparation of the Final Report.
 3. The PI shall submit revised Draft Monitoring Report to MMC for approval.
 4. MMC shall provide written verification to the PI of the approved report.
 5. MMC shall notify the RE or BI, as appropriate, of receipt of all Draft Monitoring Report submittals and approvals.

B. Handling of Artifacts

1. The PI shall be responsible for ensuring that all cultural remains collected are cleaned and catalogued.
2. The PI shall be responsible for ensuring that all artifacts are analyzed to identify function and chronology as they relate to the history of the area; that faunal material is identified as to species; and that specialty studies are completed, as appropriate.
3. The cost for curation is the responsibility of the property owner.

C. Curation of artifacts: Accession Agreement and Acceptance Verification

1. The PI shall be responsible for ensuring that all artifacts associated with the survey, testing and/or data recovery for this project are permanently curated with an appropriate institution. This shall be completed in consultation with MMC and the Native American representative, as applicable.
2. The PI shall include the Acceptance Verification from the curation institution in the Final Monitoring Report submitted to the RE or BI and MMC.
3. When applicable to the situation, the PI shall include written verification from the Native American consultant/monitor indicating that Native American resources were treated in accordance with state law and/or applicable agreements. If the resources were reinterred, verification shall be provided to show what protective measures

were taken to ensure no further disturbance occurs in accordance with Section IV – Discovery of Human Remains, Subsection 5.

D. Final Monitoring Report(s)

1. The PI shall submit one copy of the approved Final Monitoring Report to the RE or BI as appropriate, and one copy to MMC (even if negative), within 90 days after notification from MMC that the draft report has been approved.
2. The RE shall, in no case, issue the Notice of Completion and/or release of the Performance Bond for grading until receiving a copy of the approved Final Monitoring Report from MMC which includes the Acceptance Verification from the curation institution.

TRIBAL CULTURAL RESOURCES

Impacts to Tribal Cultural Resources would be reduced to below a level of significance with implementation of mitigation measures outlined under Historical Resources (Archaeology).

VI. PUBLIC REVIEW DISTRIBUTION:

Draft copies or notice of this Mitigated Negative Declaration were distributed to:

City of San Diego

Mayor's Office (91)

Councilmember LaCava, District 1

Development Services Department

Development Project Manager

EAS

Engineering

Planning Review

Transportation

MMC (77A)

Library Department - Government Documents (81)

San Diego Central Library (81A)

La Jolla-Rifodrd Branch Library (81L)

City Attorney's Office (93C)

Other Organizations, Groups and Interested Individuals

Public Notice Journal (144)

Historical Resources Board (87)

Carmen Lucas (206)

South Coastal Information Center (210)

San Diego History Center (211)

San Diego Archaeological Center (212)

Save Our Heritage Organization (214)

Ron Christman (215)

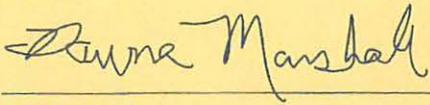
Clint Linton (215 B)

Frank Brown- Inter-Tribal Cultural Resources Council (216)
Campo Band of Mission Indians (217)
San Diego County Archaeological Society, Inc. (218)
Native American Heritage Commission (222)
Kumeyaay Cultural Heritage Preservation (223)
Kumeyaay Cultural Repatriation Committee (225)
Native American Distribution (225 A-S)
Clint Linton, Lipay Nation of Santa Ysabel
Lisa Cumper, Jamul Indian Village
Jesse Pinto, Jamul Indian Village
Angelina Gutierrez, San Pasqual Tribe
Richard Drury
Stacey Osborne
Lozeau Drury LLP
John Stump
La Jolla Village News (271)
La Jolla Shores Association (272)
La Jolla Town Council (273)
La Jolla Historical Society (274)
La Jolla Community Planning (275)
UCSD Physical and Community Planning (277)
La Jolla Shores PDO Advisory Board (279)
La Jolla Light (280)
Patricia K. Miller (283)
Susan McKean
Jain Malkin
Kristine Platt
Leslie Gaunt
Deborah Rosenthal
Evelyn F. Heidelberg
Applicant: David Mandelbaum

VII. RESULTS OF PUBLIC REVIEW:

- () No comments were received during the public input period.
- () Comments were received but did not address the accuracy or completeness of the draft environmental document. No response is necessary, and the letters are incorporated herein.
- (X) Comments addressing the accuracy or completeness of the draft environmental document were received during the public input period. The letters and responses are incorporated herein.

Copies of the Mitigated Negative Declaration, the Mitigation, Monitoring and Reporting Program and any associated project-specific technical appendices may be accessed on the City's CEQA webpage.



D. Marshall
Senior Planner
Development Services Department

July 28, 2021

Date of Draft Report

September 13, 2023

Date of Final Report

Analyst: M. Dresser

Attachments: Initial Study Checklist
Figure 1: Location Map
Figure 2: Site Plan

From: Giovanni Donan <gdonan@fyklaw.com>
Sent: Wednesday, August 18, 2021 5:00 PM
To: DSD EAS <DSDEAS@sandiego.gov>
Cc: Deborah Rosenthal <drosenthal@fyklaw.com>; ssayres@mac.com; cklobe@icloud.com; dave@earsi.com; jfcarlson@roadrunner.com
Subject: [EXTERNAL] La Jolla Hills Committee - Comments on Project No. 482904

****This email came from an external source. Be cautious about clicking on any links in this email or opening attachments.****

Good afternoon,

Attached, please find comments by La Jolla Hills Committee.

If you have any questions or need additional documentation, please notify me immediately.

Kind Regards,

Giovanni D. Donan

Legal Assistant to Deborah Rosenthal, George Vausher, David M. Lawrence & Sherilyn Learned O'Dell

FITZGERALD-YAP-KREDITOR LLP

2 Park Plaza, Suite 850

Irvine, California 92614

gdonan@fyklaw.com

Telephone: [\(949\) 788-8900](tel:949-788-8900)

Facsimile: [\(949\) 788-8980](tel:949-788-8980)

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City staff response(s) to the Giovanni Donan email comment(s) letter for the Lookout Lot 5 project, Project No. 482904

A-1

A-1 Refer to responses B-1 through B-5

Michael J. FitzGerald*
Eoin L. Kreditor*
Eric P. Francisconi
Lynne Bolduc
George Vausher, LLM, CPA‡
David M. Lawrence
Robert C. Rishrough
Robert M. Yoakum
Sberilyn Learned O'Dell
Natalie F. Foti
Brook John Changala
Josephine Rachelle Aranda
Charles C. McKenna
Derek R. Guizado
Pifrancez Quijano
John M. Marston†
Deborah M. Rosenthal†
Maria M. Rullo†
Larry S. Zeman†
Author's Email: drosenthal@fykllaw.com
FYK ref# 16094.01

August 18, 2021

VIA EMAIL & U.S. MAIL

Mr. Morgan Dresser
Development Services Department
City of San Diego
1222 First Avenue, MS 501
San Diego, CA 92101
DSDEAS@sandiego.gov

Re: *Comments on Project No. 482904 (CDP/SDP-PTS for Lookout Lot 5)*

Dear Mr. Dresser:

This letter is submitted on behalf of our client, the La Jolla Hills Committee (“Committee”), an unincorporated group of residents concerned about overdevelopment on Lookout Drive, including the proposal for development of Lot 5. These comments are submitted on the Draft Mitigated Negative Declarations (“MNDs”) for the above-referenced project (“Lot 5 Project”).

B-1

1. This letter incorporates by reference the letter submitted by Evelyn Heidelberg, Esq. on August 12, 2021 with respect to Lookout Lot 5. Specifically, Lot 5 is illegally undersized for its zone, the proposed development is oversized for the neighborhood and disallowed under the La Jolla Community Plan and La Jolla Shores Planned District Ordinance, the proposed homes lack adequate setbacks and their design intrudes into the privacy of neighboring homeowners, vehicular access to Lookout Drive is substandard, and drainage is not adequately addressed. Finally, the Lot 5 design fails to respect the historic character of adjoining Lots 4 and 1.

B-2

2. This letter incorporates by reference all of the Committee’s previous correspondence on development of Lots 2 and 5, including submittals prior to 2020. Our understanding is that the developer of Lots 2 and 5 transferred ownership of Lot 4 to a related party and deleted its pending development from the project, so Lots 2 and 5 would not be contiguous. The proposed developments have not changed significantly, and the

City staff response(s) to the Fitzgerald Yap Kreditor comment(s) letter for the Lookout Lot 5 project, Project No. 482904

B-1 Comment noted and the City acknowledges that the MND comment letter incorporates the August 12, 2021 Evelyn Heidelberg letter. The Evelyn Heidelberg letter is included as Letter C and responses C-1 to C-7 are provided herein.

The Lookout 5 lot size complies with the City of San Diego’s Municipal Code and the La Jolla Community Plan (LJCP) and La Jolla Shores Planned District Ordinance (LJSPDO). Lot 5 is a legal lot and complies with the zoning. The subject lot is not being altered or changed with this proposal. The current lot layout was created via a Lot Line Adjustment that was approved and recorded with Parcel Map 17817 in 1997.

Furthermore, the proposed single-family residence and associated improvements are consistent with building envelope regulations which include setbacks and vehicular access.

As stated in the description of the project on page 14 of the MND, “[d]rainage would be directed into appropriate storm drain systems designated to carry surface runoff, which has been reviewed and accepted by City Engineering staff.” As detailed in MND Section X, Hydrology and Water Quality, the project was determined to be in compliance with “City’s Stormwater Management and Discharge Control Ordinance (Municipal Code Chapter 4, Article 3, Division 3), Storm Water Runoff and Drainage Regulations (LDC Section 142.02 et al.), and other applicable storm water quality standards during and after construction” and result in a less than significant impact related to hydrology. This comment does not provide any specific comment related to the drainage concerns, so a specific response cannot be provided.

The MND addresses historic resources in Sections V, Cultural Resources. The MND acknowledged and considered the presence of several historic resources within a mile of the project site. The adjoining Lots 4 and 1 are designated as historic resources, however, Lot 5 is not. If a historical resource is not significant, both the resource and the effect on it does not need to be considered further in the CEQA process (City of San Diego 2022). The MND concluded that the project would have no impact on historical resources. As the comment provided does not provide specifics as to how the project is not respecting the historic character of adjoining area, a more detailed response addressing this comment cannot be provided.

B-2 This comment indicated that all of the Committee’s previous correspondence on developments of Lots 2 and 5 are incorporated by reference.

As indicated in Response B-1, the proposal does not include any mapping actions; the subject lot is existing and was approved and legally recorded through Parcel map 17817 in 1997. Refer to Response B-1 for more information.

The development of the baseline for CEQA review is two separate lots and two separate projects. There is independent utility between the proposed projects referenced in this comment. Each project has been submitted independently and the whole of the Lot 5 project has been addressed within the MND. There is no prerequisite that development of this project must be completed in

B-2
cont.

cumulative and historical environmental impacts remain the same, but the project description has been illegally split. This ploy was intended to prevent the City from considering the cumulative impacts of the previously proposed 3-lot development adjacent to and incorporating the historic Cottrell House and landscaping. At the present time, the developer has proceeded with separate applications for Lots 2 and 5, while applying for concurrent ministerial approval of development of the intervening Lot 4. CEQA clearly gives the City authority to consider the allegedly ministerial permits on Lot 4 as part of the discretionary approval of development on Lots 2 and 5. The Committee challenges the City's failure to consider all three pending development applications as part of a single project for the purposes of CEQA, as well as its willingness to review development of Lots 2 and 5 as separate projects under CEQA. In effect, the City is authorizing and cooperating in "project-splitting" to prevent the public from obtaining a full understanding of the proposed changes to a designated historic resource in a highly sensitive community.

B-3

3. This letter incorporates by reference the letter submitted by the Committee to Ms. Suzanne Segur on August 16, 2021 concerning the City's failure to apply the City's historic review guidelines to the recent building permit issued for a pool house and carport on Lot 4. The Lot 4 development should have been considered in conjunction with neighborhood impacts resulting from development of oversized houses on the grossly undersized acreage of Lots 2 and 5.

B-4

4. The developer of Lots 2, 4, and 5 has attempted to maximize the size of proposed developments without considering their incompatibility with the surrounding neighborhood and disallowance under the La Jolla Shores Planned District Ordinance. Both the La Jolla Shores Planned District Ordinance Advisory Board and the La Jolla Community Planning Association have determined that this and similar previous proposals are incompatible with the La Jolla Community Plan Residential Land Use Element, Land Development Code Zoning density requirements and the La Jolla Shores Planned District Ordinance bulk, scale and setback provisions. The MND conclusion that the Lot 5 Project does not conflict with local plans, policies or regulations is not supported by the administrative record or facts on the ground. Design alternatives to eliminate, minimize or mitigate neighborhood incompatibility have not been provided or analyzed, in violation of CEQA and City regulations.

B-5

5. For all of the reasons set forth in the incorporated letters, the MND is defective and inadequate to inform the City's decision-makers and the public of the significant adverse impacts of the proposed development of Lot 5. There is no legal excuse for the City to split its consideration of three concurrent applications on adjacent lots so as to reduce individual project impacts below significant. The City has a legal obligation to consider

order for the other project to proceed, or vice versa. The development of this project is also not a consequence or result of the other project. Thus, the review of these two projects separately does not constitute project-splitting.

Further, the MND addresses cumulative impacts in Section XXI(b). As detailed in that section, a cumulative impact to cultural resources and tribal cultural resources is identified along with mitigation to reduce the potential project impact to below a level of significance. This comment does not identify a specific cumulative impact of concern, therefore no additional specific response can be provided.

B-3 The City acknowledges that the MND comment letter incorporates a letter directed to City Plan Historic staff Suzanne Segur on August 16, 2021. This letter focuses on historic questions on a residence on Lot 4, Lot 4 is not part of the Lookout Lot 5 property. This comment does not raise an environmental issue with the proposed project or the adequacy of this environmental document. No further response is necessary.

B-4 Refer to Response B- 1. The proposed single-family residence and associated improvements are consistent with building envelope regulations which include setbacks and vehicular access. Additionally, in accordance with the City's CEQA Significance Determination Thresholds, Visual Quality/Neighborhood Character impacts may result from projects whose bulk, scale, materials, or style are incompatible with surrounding development, or would substantially alter the existing or planned character of the area. The project would have to exceed the allowable height or bulk regulations and the height or bulk of the existing patterns of development in the vicinity of the project by a substantial margin; have an architectural style or use building materials in stark contrast to adjacent development where the adjacent development follows a single or common architectural theme (e.g., Gaslamp Quarter, Old Town); result in the physical loss, isolation or degradation of a community identification symbol or landmark (e.g., a stand of trees, coastal bluff, historical landmark) which is identified in the General Plan, applicable community plan or local coastal program; be located in a highly visible area (e.g., on a canyon edge, hilltop or adjacent to an interstate highway) and would strongly contrast with the surrounding development or natural topography through excessive height, bulk signage or architectural projections; and/or the project would have a cumulative effect by opening up a new area for development or changing the overall character of the area.

Existing development in the neighborhood does not have a unifying theme of architecture. The new development would be constructed to comply with all height and bulk regulations and is consistent with Visual Resource recommendations outlined in the LJCP and LJSPDO. The structure height is consistent with building envelope regulations which preserve public views through the height, setback, landscaping, and fence transparency parameters of the Land Development Code that limit the building profile and maximize view opportunities. The project would not result in the physical loss, isolation or degradation of a community identification symbol or landmark identified in the General Plan, applicable community plan, or local coastal program since no such symbol is identified within the General Plan or LJCP.

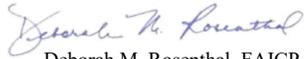
B-5 This comment provides a concluding remark and states the MND is defective and inadequate. As indicated in Responses B-1 to B-4, the MND adequately addresses the project impacts in accordance with the City's Significance Determination Thresholds (City of San Diego 2022) and CEQA.

Mr. Morgan Dresser
August 18, 2021
Page 3

the cumulative impacts of all three proposals on both the historic Cottrell House and the Lookout neighborhood. When completed, the three projects, all proposed by the same developer, will irrevocably alter the existing Lookout Drive frontage and lay the groundwork for eliminating the designated setting of the Cottrell House as an exemplar of post-World War II California ranch house development.

Please feel free to communicate with the undersigned about the impacts of the proposed Lot 5 Project, either individually or in combination with the proposals for Lots 2 and 4. The City and developer have failed to reach out to the neighborhood to mitigate impacts from cramming two oversized structures within absolutely minimal setbacks on substandard lots fronting on Lookout Drive. The Committee urges the City to consider the cumulative impacts of the proposed Lot 2 and 5 homes, with the Lot 4 pool house and carport, and to require a full environmental impact report for the entire project.

Very truly yours,



Deborah M. Rosenthal, FAICP

Enclosures: 8/13/2021 Heidelberg Letter
8/16/2021 Segur Letter

cc: Evelyn Heidelberg, Esq.
Ms. Suzanne Segur, Principal Planner

As indicated above in Response B-2, cumulative impacts of the project were considered within the MND. No significant impact, either individually or cumulatively, has been identified that would warrant the preparation of an Environmental Impact Report pursuant to CEQA Guidelines Section 15063(b).

B-5
cont.

HEIDELBERG LAW OFFICE
7875 HIGHLAND VILLAGE PLACE, SUITE B102
SAN DIEGO, CALIFORNIA 92129
858-357-3476

WRITER'S E-MAIL ADDRESS
evelyn@heidelberglawoffice.com

August 12, 2021

VIA EMAIL (DSDEAS@SanDiego.gov)

Mr. Morgan Dresser
Development Services Department
City of San Diego
1222 First Avenue, MS 501
San Diego, CA 92101

Re: LOOKOUT LOT 5 CDP/SDP – PTS 482904

Dear Mr. Dresser:

By this letter on behalf of my client, Susie McKean who resides at 7809 Lookout Drive (which abuts Lookout Lot 5 to the northwest), we hereby submit comments on the Draft Mitigated Negative Declaration ("MND") for the referenced proposed project (the "Project")

The MND is deficient in failing to identify the significant Land Use and Planning Impacts of the Project. Specifically, the MND erroneously concludes, in Section XI. Land Use and Planning Impacts as follows: "The project is compatible with the surrounding development and permitted by the General Plan, community plan land use and zoning designations. The project would not substantially change the nature of the surrounding area" (MND, at 33). "The project is consistent with the underlying zone and land use designation. The project would not conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including but not limited to the general plan, community plan, or zoning ordinance) (MND, at 34).

In fact, as presented below, the Project is not permitted by the General Plan, and is inconsistent in several respects with the La Jolla Community Plan ("LJCP") and multiple provisions of the La Jolla Shores Planned District Ordinance ("LJSPDO"), which is the applicable zoning ordinance. As such, the Project, if approved, would have potentially significant land use and planning impacts. Accordingly, the MND is deficient as a matter of law and under CEQA an Environmental Impact Report is required to be prepared.

**City staff response(s) to the Heidelberg Law Office comment(s) letter
for the Lookout Lot 5 project, Project No. 482904**

C-1 This comment is a summary of the issues raised by Heidelberg Law Office. The letter offers their specific concerns in the following comments.

1. The Project Is Inconsistent with the Density Designation Under the General Plan

As correctly set forth on page 14 of the MND, the General Plan designation for the site of the Project is "Very Low Density Residential (0 – 5 dwelling units per acre)". The Project, however, has a density far in excess of the high end of that range, at 8.6 dwelling units per acre. The MND identifies the project site as being 0.12 acre. (MND, at p. 14.) Actually, the applicant has identified the project site, Lot 5, as being 5,045 square feet., which is 0.116 acre. The proposed development of Lot 5, at one unit per 0.116 acre, is **8.63 units per acre**, or fully 72.6 percent higher than the maximum of 5 units per acre allowed under the General Plan's Very Low Density Residential designation. (Even rounding the lot size up to 0.12, as in the MND, the inconsistency of the Project's density is striking: 8.33 units per acre, or 66.7 percent higher than the maximum permitted under the General Plan's density designation for the property.) There is no substantial evidence whatsoever to support the MND's conclusion that the Project is consistent with the General Plan. The Project's exceedance of the General Plan's maximum density must be found to be significant under CEQA.

2. The Project Is Inconsistent with the Provisions of the LISPDO Regulating Density of Developed Lots

The LISPDO regulates dwelling unit density in single-family zones as follows: "[N]o 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." SDMC § 1510.0304(a).

Considering the *developed* parcels within 300 feet of Lookout Lot 5 as shown on the applicant's table and map submitted to the La Jolla Shores Planned District Advisory Board for its March 17, 2021 meeting (Exh. A hereto), it is apparent that the proposed development of Lot 5 is inconsistent with SDMC section 1510.0304(a). As set forth on Exhibit B in footnote 1, the applicant's table and map displaying floor area and lot sizes for nearby properties skewed the results by including the proposed development of Lookout Lot 5 and the accompanying Lookout Lot 2, as well as excluding the development at 7716 Lookout Drive (which is depicted on the applicant's survey map as "13" but which is excluded from the applicant's table used to display characteristics of parcels. The proposed development of Lookout Lots 2 and 5 have high floor area ratios (see Exh. A; 0.65 and 0.62, respectively) relative to the neighborhood (average of 0.27 (Exh. B), and the development at the 7716 Lookout Drive, which was excluded from the applicant's table and hence from the calculations of floor area ratio, has a very low floor area ratio (0.20).

Exhibit B (the applicant's survey, corrected for the errors noted in the preceding paragraphs) includes 41 developed parcels occupying a total of 485,980 square feet, or 10.92 acres. Dividing 41 units by 11.16 acres gives the average of **3.76 units per acre** for developed parcels within 300 feet of the proposed project. (See Exh. B.) In contrast, and as noted in section 1 above, Lot 5 occupies 5,045 square feet, or 0.116 acre. The proposed development of Lot 5, at

C-2 Per SDMC 113.0237(b), any lot may be developed in accordance with the Base Zone if the lot is a legal lot. The proposal does not include any mapping actions; the subject lot is existing and was approved and legally recorded through Parcel map 17817 in 1997 and is legal to develop a dwelling unit.

C-3 Per SDMC 113.0237(b), any lot may be developed in accordance with the Base Zone if the lot is a legal lot. The proposal does not include any mapping actions; the subject lot is existing and was approved and legally recorded through Parcel map 17817 in 1997 and is legal to develop a dwelling unit in accordance with the Base Zone regulations.

C-3
cont.

one unit divided by 0.116 is **8.6 units per acre**, or more than **twice** the maximum residential density permitted under the General Plan Designation and the LJCP.

Mr. Glenn Gargas, the Project Manager for Lookout Lot 5 when it was considered by the City in 2018, asserted at the time that SDMC section 1510.0304(a) does not apply to this project, and that it would apply only "if this project were proposing to create one or more new lots." The creation of one or more new lots occurs as a result of a "subdivision" as defined in Section 113.0103 of the SDMC, which provides that *subdivision* has the same meaning as stated in the *Subdivision Map Act*, Section 66424. The Subdivision Map Act defines "subdivision" as "the division ... of any unit or units of improved or unimproved land ... for the purpose of sale, lease, or financing, whether immediate or future." Gov't Code § 66424. Mr. Gargas was in effect opining, without any supporting rationale, that the terms "developed or occupied" means "subdivided." The City Council, when it adopted the LJSPDO in March 2007 after review by *inter alia* the City Attorney, certainly could have used the SDMC's defined term "*subdivision*" when it enacted Section 1510.0304's prohibition on development of a dwelling unit on a lot with more dwelling units than the average units per acre of the developed single-family zone within 300 feet of the lot. But, it did not do so. Instead, it used the more general, broader terms "developed or occupied."¹ Thus, there is no support for Mr. Gargas' interpretation of SDMC 1510.0304's prohibition as limited to subdividing a lot.

C-4

Indeed, the Development Services Department, through its then Assistant Deputy Director (and later Deputy Director until his recent retirement) Gregory P. Hopkins expressly conceded that Section 1510.0304 applies in the current context. Specifically, Mr. Hopkins stated, in a letter dated December 9, 2013, that "Future building development of any of the parcels within the Parcel Map [17187] areas are also required to comply with Sec. 1510.0304 of the La Jolla Shores PDO development requirements." See Exh. C, p. 2. Mr. Hopkins did not exclude subdivision (a) of Section 1510.0304 from his statement that "Future building development of any of the parcels within the Parcel Map [17187] are also required to comply with Sec. 1510.0304"

For the above-stated reasons, the MND erred in concluding that "[t]he project would not conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including but not limited to the general plan, community plan, or zoning ordinance) (MND, at 34).

¹ It should be noted that had City Council intended the meaning that Mr. Gargas ascribes to Section 1510.0304(a), it could have used the SDMC-defined term "*development*" in that section, because "*development*" is defined to include "the act, process, or result of dividing a parcel of land into two or more parts" But, City Council did not use the SDMC-defined term "*development*" or any of its derivatives such as "*developed*" because the term "*developed*" in Section 1510.0304(a) is not italicized to signify that it is a term defined in SDMC section 113.0103. By using the undefined term "*developed*" in that provision, City Council will be assumed by the courts to have meant the term "*developed*" to include the process of placing or constructing a building on property.

C-4 Refer to response B-2

3. The Frequently Used Means of Ascertaining a Project's Compliance with the LJCP's Policies Regarding Bulk and Scale – Floor Area Ratio – Demonstrates that the Project Does Not Comply With Those LJCP Policies

Although gross floor area and floor area ratio ("FAR") are not development standards under the LSPDO, both the LSPDO and the LJCP contain regulatory and policy language regarding appropriate building and structure relationships, setbacks, character, and harmonious transitions between new and existing development. The Residential Element of the LJCP provides as follows: "In order to maintain and enhance the existing neighborhood character and ambiance, and to promote good design and visual harmony in the transitions between new and existing structures, preserve the following elements: Bulk and scale [] with regard to surrounding structures" LJCP, at p. 76.

The only readily available measurement of bulk and scale is FAR, and based on that metric, the proposed development of Lot 5 is not consistent with the above-quoted policy in the LJCP requiring preservation of bulk and scale in order to promote visual harmony in the transitions between new and existing structures. In its latest version of its neighborhood survey, dated August 28, 2018, the applicant, in an apparent effort to reduce the disparity between the average floor area ratio within 300 feet of Lookout Lot 5 and its proposed development for that parcel, included the figures for Lookout Lot 5 and Lookout Lot 2, as if they were existing development, and excluded development at 7716 Lookout Drive (with an FAR of 0.20) in an apparent attempt to skew the calculated FAR for the neighborhood higher than it actually is. Corrected for these errors, the neighborhood survey shows an average FAR of for the 41 developed parcels included in the applicant's partial neighborhood survey, the average FAR is **0.27** (see Exhibit B.)

By comparison, the applicant reports the FAR for Lookout Lot 5 as **0.52**, excluding the basement floor area (consisting of 2,353 square feet).² Even accepting the applicant's exclusion of 2,353 square feet of basement from the claimed floor area of the house proposed for Lookout Lot 5³, the FAR of **0.52** is **92.6 percent higher than the FAR for the developed parcels within 300 feet**. Even correcting for the applicant's miscalculation of the FAR for its proposed development of Lookout Lot 5 (0.50 rather than 0.52)⁴, the FAR for the proposed development of Lookout Lot 5 (at 0.50) is **85.2 percent higher than the FAR for developed property within 300 feet**.

This analysis provides unequivocal support for the proposition that the proposed development for Lookout Lot 5 is not consistent with the above-quoted policies of the LJCP

² Our calculation indicates that the applicant has slightly overstated the FAR for his proposed development of Lot 5: 2,547 square feet divided by 5,045 square feet yields 0.5045. See Exhs. A & B.

³ It should be noted that the applicant's floor area figures for Lookout Lot 5 takes advantage of exclusions from floor area per SDMC section 113.02, so that if the full floor area had been included, the FAR for Lookout Lot 5 would be 0.97. See Exh. B.

⁴ See n.2.

C-5 Refer to response B-4

C-5
cont.

↑
regarding bulk and scale. Accordingly, the MND is deficient and erroneous in concluding that the Project would not be inconsistent with any applicable community plan.

4. The Project 's Setbacks Are Not in General Conformity with Those in the Vicinity, in Violation of SDMC § 1510.0304(b)(4)

The proposed project for Lookout Lot 5 is also inconsistent with the requirement for setbacks under the LJSPDO. That requirement is that "[b]uilding and structure setbacks shall be in general conformity with those in the vicinity."

Here, the proposed structures on Lookout Lot 5 would be separated by a claimed distance of four feet, eight inches, barely exceeding the required minimum setback of four feet, from the rear property line of Lookout Lot 5, which abuts Ms. McKean's southern property line. It is apparent from reviewing the applicant's neighborhood survey that Ms. McKean's single-family residence was constructed in close proximity to its southern property line. (See Exhibit A (Ms. McKean's property is identified as Number 32 (with Lookout Lot 5 identified as Lot 38).) In fact, it is the master bedroom of Ms. McKean's home that is located closest to the southern property line abutting Lot 5.

The four-foot, eight-inch separation of the structure proposed on Lookout Lot 5 from Ms. McKean's side property line abutting her bedroom (depicted generally by Exh. D) is much smaller than the average setback from the side property line in the neighborhood survey prepared by the applicant. The applicant's latest neighborhood survey shows that the average side yard setbacks are six feet, seven inches to six feet, ten inches. It should be noted, however, that the applicant's calculated side yard setbacks improperly included the minimal setbacks of proposed development for Lookout Lots 2 and 5, and excluded the much larger side yard setback of the developed lot at 7716 Lookout Drive. See Exh. A. If the side yard setbacks for proposed Lookout Lots 2 and 5 were excluded from the applicant's calculation, as they should have been, and the side yard setbacks for the developed lot at 7716 Lookout Drive were included, as they should have been, the average side yard setbacks in the neighborhood survey would be considerably higher than six feet, seven inches, to six feet, ten inches. Even with the applicant's errors in calculating average side yard setbacks within 300 feet, which errors result in an understatement of actual average side yard setbacks in the neighborhood, the applicant's calculated average side yard setback is far above the four-foot, eight-inch setback from Ms. McKean's yard by almost two feet (23 inches), or **41 percent**.

Accordingly, the proposed development of Lot 5 is not in general conformity with the building setbacks in the vicinity and thus violates SDMC section 1501.0304(b)(4). The MND is erroneous in concluding that the Project is not inconsistent with the applicable zoning ordinance.

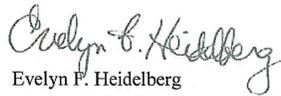
C-6

C-6 Refer to response B-1 and B-4. Per SDMC 1510.0304(b), buildings with openings (i.e., doors and/or windows) facing the side property line shall be constructed not closer than four feet from said property line. The proposal complies with this and is general conformity with the neighborhood.

C-7

For all of the above-stated reasons, the MND is incorrect in concluding as follows: "The project is compatible with the surrounding development and permitted by the General Plan, community plan land use and zoning designations. The project would not substantially change the nature of the surrounding area" (MND, at 33). "The project is consistent with the underlying zone and land use designation. The project would not conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including but not limited to the general plan, community plan, or zoning ordinance) (MND, at 34). The Project as proposed is indeed inconsistent with the General Plan, La Jolla Community Plan, and the La Jolla Shores Planned District Ordinance and as such, if approved, would have a significant impact on the environment.

Sincerely,



Evelyn P. Heidelberg

EFH/pat
Exhibits A, B, C & D

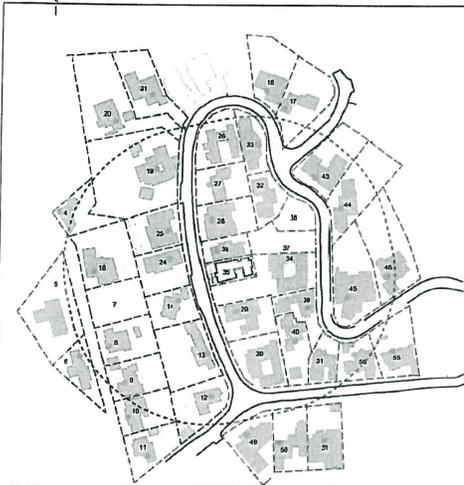
cc: Ms. Susie McKean
Ms. Sammi Ma (via email [SMa@sandiego.gov])

C-7 This is a concluding comment that summarizes the previously stated issues in the Heidelberg letter. The Heidelberg letter includes Exhibits A through D along with excerpts from City's Municipal code. These exhibits were included in the Heidelberg letter to illustrate the beforementioned comments that were addressed by City staff above.

EXHIBIT A

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ATTACHMENT 5: Lookout Lot 5



Sheet	Lot Number	Building Footprint Area (sq ft)	Garage Area (sq ft)	Building Area (sq ft)	Area of Driveway (sq ft)	Lot Area (sq ft)	Level	Area	Area	Area
1	1	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	2	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	3	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	4	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	5	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	6	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	7	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	8	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	9	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	10	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	11	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	12	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	13	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	14	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	15	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	16	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	17	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	18	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	19	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	20	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	21	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	22	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	23	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	24	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	25	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	26	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	27	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	28	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	29	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	30	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	31	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	32	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	33	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	34	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	35	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	36	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	37	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	38	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	39	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	40	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	41	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	42	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	43	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	44	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	45	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	46	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	47	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	48	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	49	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	50	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	51	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	52	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	53	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	54	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	55	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	56	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	57	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	58	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	59	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	60	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	61	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	62	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	63	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	64	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	65	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	66	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	67	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	68	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	69	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	70	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	71	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	72	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	73	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	74	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	75	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	76	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	77	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	78	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	79	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	80	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	81	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	82	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	83	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	84	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	85	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	86	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	87	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	88	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	89	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	90	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	91	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	92	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	93	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	94	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	95	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	96	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	97	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	98	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	99	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"
1	100	2,200	0.00	2,200	0.00	10,000	1	10'0"	10'0"	10'0"

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* PER WESTERN RESOURCES TITLE REPORT & SAN DIEGO BUILDING RECORDS DEPT.
 ** 250 SQ FT ADDED PER GARAGE PARKING SPACE
 *** GROSS FLOOR AREA AND FLOOR AREA RATION PER SAN DIEGO MUNICIPAL CODE SECTION 113.02
 SURVEY PRODUCED BY COFFEY ENGINEERING WITH COUNTY ASSESSOR'S PARCEL MAP AND VISUAL SURVEYS

LOOKOUT LOT 2
 7729 LOOKOUT DR, LA JOLLA, CA 92037
 Date: 08/28/2018 UPDATED PROJECT DATA 09/09/2021



EXHIBIT B

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LOT SIZE AND FAR OF PARCELS IN VICINITY OF LOOKOUT LOT 5¹

No.	ADDRESS	APN	FLOOR AREA ²	LOT SIZE	FAR
1.	7711 Lookout Dr.	352-012-07	3,118	10,045	0.31
2.	7716 Lookout Dr.	352-010-08	2,825	13,839	0.20
3.	7717 Lookout Dr.	352-012-06	1,914	9,039	0.21
4.	7727 Lookout Dr.	352-012-16	3,092	18,077	0.17
5.	7728 Lookout Dr.	352-010-09	2,992	5,624	0.53
6.	7731 Lookout Dr.	352-012-18	3,313	5,097	0.65
7.	7732 Lookout Dr.	352-010-31	3,331	8,530	0.39
8.	7737 Lookout Dr.	352-012-03	3,161	8,773	0.36
9.	7741 Lookout Dr.	352-012-02	1,574	7,950	0.20
10.	7762 Lookout Dr.	346-610-13	5,545	33,977	0.16
11.	7772 Lookout Dr.	352-010-20	3,596	20,600	0.17
12.	7777 Lookout Dr.	352-012-01	2,825	8,438	0.33
13.	7780 Lookout Dr.	352-010-21	3,269	12,663	0.26
14.	7794 Lookout Dr.	352-010-14	2,572	14,867	0.17
15.	7796 Lookout Dr.	352-010-15	3,456	13,338	0.26
16.	7801 Lookout Dr.	352-012-11	3,955	5,702	0.69
17.	7809 Lookout Dr.	352-012-10	2,064	6,168	0.33
18.	7810 Lookout Dr.	352-013-03	3,783	12,750	0.30
19.	7816 Lookout Dr.	352-013-04	1,711	14,440	0.12
20.	7819 Lookout Dr.		3,056	6,819	0.44
21.	7820 Lookout Dr.	352-013-05	8,374	14,492	0.58
22.	7847 Lookout Dr.	352-012-08	2,261	3,764	0.60
23.	7868 Lookout Dr.	352-013-06	3,646	17,502	0.21
24.	7872 Lookout Dr.	352-013-07	3,790	24,394	0.16
25.	7878 Lookout Dr.	352-013-08	3,518	26,136	0.13
26.	7887 Lookout Dr.	352-062-01	2,349	9,744	0.24
27.	1925 Soledad Ave.	352-051-04	5,317	9,788	0.54
28.	1940 Soledad Ave.	352-010-07	1,874	9,901	0.19
29.	2005 Soledad Ave.	352-051-05	2,636	9,749	0.27
30.	2019 Soledad Ave.	352-051-06	3,436	9,749	0.35
31.	2020 Soledad Ave.	352-012-28	2,072	8,263	0.25
32.	2028 Soledad Ave.	352-062-05	2,547	7,083	0.36
33.	2038 Soledad Ave.	352-062-04	4,144	8,696	0.48
34.	7705 Hillside Dr.	352-010-06	2,186	8,281	0.26

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¹ All information for Nos. 1 through taken from applicant's partial Neighborhood Survey, submitted to La Jolla Shores Planned District Advisory Board for its March 17, 2021, meeting, except that that survey omitted from the table labeled "Attachment 5: Lookout Lot 5" in the upper right-hand corner, but labeled in the bottom legend for the map "Lookout Lot 2" entry #2 above, for 7716 Lookout Drive (which is identified on the applicant's map as "Map # 13." This table omits the entries the applicant had included for its proposed Lookout Lot 2 and Lookout Lot 5 development, as these are not existing developed parcels or even approved developments.

² Figures are floor area without garage space.

LOT SIZE AND FAR OF PARCELS IN VICINITY OF LOOKOUT LOT 5¹

No.	ADDRESS	APN	FLOOR AREA ²	LOT SIZE	FAR
35.	7711 Hillside Dr.	352-010-05	2,160	9,601	0.22
36.	7719 Hillside Dr.	352-010-03	2,380	10,202	0.23
37.	7721 Hillside Dr.	352-010-04	4,198	9,601	0.44
38.	7734 Hillside Dr.	350-280-06	4,164	8,451	0.49
39.	7740 Hillside Dr.	350-280-05	3,028	21,092	0.14
40.	7801 Hillside Dr.	352-010-16	4,583	15,359	0.30
41.	7811 Hillside Dr.	350-162-08	2,248	7,396	0.30
TOTAL/AVERAGE			132,063	485,980	0.27

PROPOSED DEVELOPMENT FOR LOOKOUT LOT 5

	FLOOR AREA	LOT SIZE	FAR
LOT 5 (per applicant)	2,547	5,045	0.50
LOT 5 (per City)	4,900	5,045	0.97

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EXHIBIT C

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THE CITY OF SAN DIEGO

Frederick C. Kellogg
7728 Lookout Drive
La Jolla, CA 92037

December 9, 2013

Dear Mr. Kellogg

This letter is in response to the letter you sent to Mr. Tom Tomlinson, Interim Director of Development Services dated October 28, 2013 and from Ms. Diane Kane dated October 18, 2013; also addressed to Mr. Tomlinson.

In the abovementioned letters, it was requested that our office review whether a lot or parcel development must be consistent with surrounding neighborhood development; specifically section 1510.0304 of the La Jolla Shores PDO as it pertains to Parcel Map 17817. You also included Ms. Diane Kane's letter requesting the review of two Records of Survey and one Parcel Map to determine, in general, if there was an inappropriate subdivision of land. My analysis of the facts regarding the former, as presented below, reveals that there was no inappropriate division of land.

To begin with, I felt it important to lay out the chronology and legal rationale for the way the current configuration of the lots came into existence. The original underlying lots were created by virtue of the La Jolla Hills Subdivision, Map 1479. Sometime in early 1996 there was an application submitted to the City in order to make a determination of legal lot status and to obtain a Certificate of Compliance (COC) for a portion of Lot 36 of Map 1479.

The City reviewed and approved this COC on August 15, 1996, as Document No. 1996-0416822 because the owner was able to show the City a recorded deed dated prior to March 4, 1972 that described this portion of Lot 36; which date is codified in the SMA. The deed as presented, legally subdivided (or split) Lot 36 by virtue of that instrument (see SMA §66412.6). After approval of the COC, an application was made for a Lot Line Adjustment Parcel Map (LLA). The LLA (PM 17817) that ultimately recorded on January 23, 1997 adjusted the lines using this legally created deed parcel and four other lots created previously by Map No. 1479 (Lots 34, 35, 41 and 42).

The SMA during this time period (1997) allowed for the adjustment of *two or more* parcels, so the applicant for this particular project was able to adjust any number of lots; in this case five (5). This particular section of the SMA (§66412(d)) changed on January 1, 2001 which amended the number of lots that could be adjusted. The number of lots that you can currently adjust stands at *four or fewer*.

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Development Services
1222 First Avenue, MS 501 • San Diego, CA 92101-4155
Tel (619) 446-5460

To sum this issue up, the LLA that recorded in 1997 **did not** create any new lots but was for lot line adjustment purposes only. There were five legal parcels prior to the LLA and there were five legal parcels after the LLA, which resulted in no subdivision of land pursuant to the Subdivision Map Act (SMA). Additionally, the way the SMA currently reads (§§66412.6 and 66499.30(b)) you can no longer simply deed over a portion of your property to your neighbor or anyone else without coming to the City for approval as this is considered an illegal subdivision. In this particular case, the applicant came to the City for a LLA which was allowed under the provision of §66412(d) of the SMA and the Municipal Code and received the proper approval to adjust the lot lines as shown on Parcel Map 17817. This LLA was reviewed and approved by the requisite disciplines within the Development Services Department and ultimately signed and sealed by the Deputy City Engineer on January 23, 1997.

It should be noted that neither the COC nor the LLA would have required public notice or public hearings as they are categorized a Process One as defined in §112.0501, et seq. of the City of San Diego Municipal Code.

In your letter sent October 28, 2013, you also wanted to know whether Section 1510.0304 of the La Jolla Shores PDO applies to the development of the lots adjusted by virtue of the abovementioned LLA. I have met with our City Planners and their answer to this question is indicated below:

The size of the lot does not come into question for the processing of COC or a LLA because there was no subdivision of land involved. If a Subdivision Map was submitted for review and the lots are proposed to be reduced in size then Development Services would look to the zone to determine the minimum lot size for the zone. Future building development of any of the parcels within the Parcel Map areas are also required to comply with Sec. 1510.0304 of the La Jolla Shores PDO development requirements.

If you have any further questions, please feel free to contact me.

Respectfully,



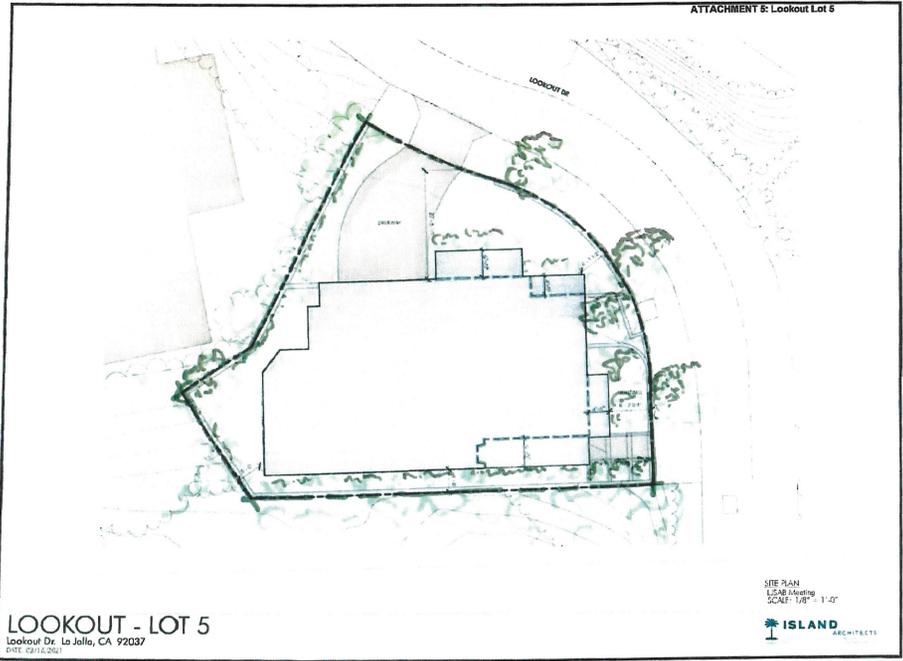
Gregory P. Hopkins, PLS
Assistant Deputy Director/City Land Surveyor
Development Services Department
(619) 446-5291
ghopkins@sandiego.gov

cc: Hon. Sherri Lightner, Council District 1
Bob Vacchi, Director Development Services
Sheri Carr
Ms. Diane Kane

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EXHIBIT D

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Michael J. Fitzgerald*
Eoin L. Kreditor*
Eric P. Francisconi
Lynne Bolduc
George Vausher, LL.M., CPA‡
David M. Lawrence
Robert C. Risbrough
Robert M. Yoakum
Sherilyn Learned O'Dell
Natalie F. Foti
Brook John Changalia
Josephine Rachelle Aranda
Charles C. McKenna
Derek R. Guizado
Francisco Quijano
John M. Marston†
Deborah M. Rosenthal†
Maria M. Rullo†
Larry S. Zeman†

Author's Email: drosenthal@fyklaw.com
FYK ref # 16094.01

August 16, 2021

VIA EMAIL & U.S. MAIL

Ms. Suzanne Segur, Senior Planner
Historic Resources Section
Development Services Department
City of San Diego
1222 First Avenue
San Diego, CA 92101
DSDEAS@sandiego.gov

Re: Designation of George F. and Marian H. Cottrell, Cliff May House (Lookout Lots 1 and 4) as Historical Resources, 7727-7729 Lookout Drive, La Jolla (APN 352-012-16 and APN 352-012-19)

Dear Ms. Segur:

This letter is written on behalf of the La Jolla Hills Committee, representing residents on Lookout Drive in La Jolla. The home on Lookout Drive Lot 1 (7727 Lookout Drive) was designed and constructed by Cliff May, a San Diego architect who gained international prominence in the Post-WW II period for his development of the contemporary ranch house. Lot 1 contains the main house and a lengthy landscaped driveway that functioned as an important part of the original design. Lookout Drive Lot 4 was also owned by the Cottrell family as part of a larger landscaped estate. It allowed the original home to take advantage of significant coastal views from carefully placed picture windows that factored significantly into the home's location and design. The Committee's understanding is that Lots 1 and 4 remain in common ownership but have been transferred to a new owner since the last development submittal. Although we have not been provided with a copy of the legal document, we understand they have been linked through a recorded lot tie that permits construction on Lot 4 to serve the primary home on Lot 1.

The Cottrell/Cliff May house, associated driveway, and related open space are all designated as historical resources for the purposes of design review. Lots 1 and 4 were formally

D-1



City staff response(s) to the Fitzgerald Yap Kreditor (2) comment(s) letter for the Lookout Lot 5 project, Project No. 482904

D-1 The majority of this comment letter focuses on historic questions on a property known as Lot 4. Lot 4 is not part of the proposed project Lookout Lot 5 property. The comments regarding the Lot 4 project and Historical Resources Board review does not raise an environmental issue with the proposed project or the adequacy of this environmental document. As indicated in Response B-1, Lots 1 and 4 are considered a historical resource and this information was included in the MND. The commenter's speculation regarding Lot 1 and Lot 2 future actions is speculative and not addressed further herein. No further response is necessary.

The remainder of the comments letter is addressed in Responses B-1 and B-3. As discussed in Response B-1, the historical impacts of the proposed Lookout Lot 5 project are addressed in the MND and determined not potentially significant.

listed on the California Register of Historical Places in 2014 due to the significance of the architecture and related landscaping. Lot 4 was designated as a local historical resource by the Historical Resources Board in 2015 due to its association with the Cliff May house. Both of these designations require the City to exercise special care in approving development proposals and to comply with all applicable historical preservation requirements.

The Committee understands the City has recently approved development of a pool complex, including new aboveground poolhouse and carport structures, on Lot 4. Future proposals to adjust lot lines between Lookout Lots 1 and 2 have been discussed, including plans that entirely block the existing Lot 1 access or eliminate its existing connection to Lookout Drive. The Committee believes there may be some misunderstanding about the status of the Lookout designations and the need for review by the Historical Resources Board Design Assistance Sub-Committee before the pool complex can be constructed or driveway landscaping can be altered.

After the City Historical Resources Board approved designation of Lots 1 and 4 as an Historical Resource, the former owner filed an appeal within the time set forth in San Diego Municipal Code Sec. 123.0203; but he never pursued a hearing. Under the Municipal Code, the City was required to hear the appeal as soon as practicable, but the City Clerk never set the matter for hearing. Neither the original nor the new owner, who purchased the home within the past few years, ever requested a hearing during the intervening *seven* years. Under general administrative law and the City Code, it is therefore clear the appeal was abandoned. As a result, Municipal Code Section 123.0204 confirms the final decision of the Historical Resources Board. City Staff is obligated to treat both Lots 1 and 4 as designated under City regulations, given the owner's *legal* abandonment of the appeal.

As the City is aware, appeal ordinances are strictly construed to ensure that property owners and the public are fully informed of applicable rules. In this case, Lots 1 and 4 were designated as historical resources more than seven years ago. The State designation of Lots 1 and 4 was not challenged, and appeal of Lot 4's local designation was never pursued. The owner and City both had an obligation to pursue the local appeal as soon as practicable under the Municipal Code. Because neither the original owner nor the City acted on the appeal, it must be deemed abandoned for all legal purposes.

The Committee understands the City may have approved a building permit for the pool complex on Lot 4 without considering impacts to a designated historical resource. The City is entitled to reconsider any permit issued without authority under a mistake of law or a misunderstanding of Lot 4's historical designation. The proper procedure is for the City to bring the proposed pool complex to the City Historical Board Design Review Assistance Sub-Committee for review as soon as possible. The fact that the current owner proceeded under a misapprehension of law does not affect the City's obligation to review all proposed development on Lots 1 or 4 in accordance with local regulations.

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Ms. Suzanne Segur
August 16, 2021
Page 3

FITZGERALD-YAP-KREDITOR LLP

While the Committee believes the City and owner should have been aware of the importance of the original Cliff May design, it recognizes the need for new development to accommodate current lifestyle demands. *The critical issue is that all new development on these sensitive sites must be compatible with the historical character of the property.* The Committee does not know whether the proposed pool complex satisfies this requirement because it was never submitted for public review.

The Committee also wants to ensure that the original access across Lot 1 to the Cliff May house is protected. As the City is aware, Lot 2 is seriously undersized with extremely restricted frontage on Lookout Drive. The proposed design for Lot 2 shows doors opening onto cramped side setbacks, with virtually no landscaping. The Committee is concerned that owners of Lots 1 and 2 will apply for a lot line adjustment that gives Lot 2 additional side yard but eliminates the original landscaped driveway to the main house on Lot 1. Alteration of the original driveway, with its lush landscaping, would adversely impact the historic character of Lot 1. Cliff May designed the Cottrell House with both a lengthy landscaped driveway on Lot 1 and a natural viewshed on Lot 4 – both elements essential to the post World War II “ranch style” that he pioneered and the character defining features of the designation.

In conclusion, the City has failed to comply with the recordation requirements of the Municipal Code and must record notice of the historic designation as soon as possible in compliance with applicable law. The Committee further requests that construction plans for Lot 4 be submitted to the Historical Resources Board Design Review Assistance Committee as soon as possible, before the landowner proceeds any further with potentially incompatible development. Thank you for your cooperation.

Very truly yours,



Deborah M. Rosenthal, FAICP

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cc: Anna McPherson, Deputy Director, Development Services
David McCullough, Chair, Historical Resources Board
Diane Kane, La Jolla Community Planning Association
Andy Fotsch, La Jolla Shores Permit Review Committee
Heath Fox, La Jolla Historical Society

From: Susie <smcwalden@aol.com>
Sent: Monday, August 16, 2021 2:22 PM
To: DSD EAS <DSDEAS@sanidiego.gov>
Cc: eshearer-nguyen@sanidiego.gov; Abalos, Raynard <RAbalos@sanidiego.gov>; Dresser, Morgan <MDresser@sanidiego.gov>
Subject: [EXTERNAL] Lookout Lot 5 CDP/SDP

****This email came from an external source. Be cautious about clicking on any links in this email or opening attachments.****

Ladies and Gentlemen,

E-1

I am attaching a letter from architect, Phil Merten opposing Project No. 482904. My attorney, Evelyn Heidelberg, has already submitted her letter of opposition.

I concur with all of the viewpoints which they have substantiated and presented.

E-2

I am concerned that only two of the neighbors received the Notice of Availability. The entire circle of Lookout Dr. and Soledad Avenue have verbally and by letter submitted their opposition and concerns to the projects for Lot 2 and Lot 5 over the past several years. Why do we not all receive these Notices, so that we can be an active part of the discussion concerning our neighborhood?

Thank you,
Susan McKean
7809 Lookout Drive
La Jolla, CA

City staff response(s) to the Susan McKean email comment(s) letter for the Lookout Lot 5 project, Project No. 482904

E-1 Refer to responses F-1 through F-5

E-2 The Notice of Availability for the Mitigated Negative Declaration was sent to those who were identified on the projects Interested Party Noticing List.



August 16, 2021

DSD Environmental Assessment Section

Transmitted Via E-Mail: DSDEAS@SanDiego.gov

Re: Comment Regarding the DRAFT Mitigated Negative Declaration
Lookout Lot 5 CDP/SDP
Project No. 482904

Ladies and Gentleman,

A conclusion of the DRAFT Mitigated Negative Declaration is patently incorrect.

The DRAFT Mitigated Negative Declaration includes an Initial Study Checklist. Checklist Section XI LAND USE AND PLANNING asks: Does the (project) conflict with any applicable land use plan, policy or regulation ...?

- b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?

Environmental Assessment Section's conclusion of 'No Impact' is patently incorrect, because the proposed dwelling on Lookout Lot 5 does conflict with the La Jolla Shores Planned District Ordinance.

1997 Lot Line Adjustment (LLA)

In 1997, and contrary to the requirements the La Jolla Shores Planned District Ordinance (LJSPDO), the applicant requested and the City Engineering Department adjusted the lot lines defining Lookout Parcel 5 **without the San Diego Municipal Code required Site Development Permit and Coastal Development Permit review and processing.** (See attached *City Attorney Memorandum MS 59 dated 3-8-2004.pdf*) The LLA illegally reduced the size of Parcel 5 to just 5,045 sf., which is less than half the average size (10,854 sf) of all 56 lots within 300 feet of the project site.

F-1 Refer to responses B-2 and B-4

F-2 Refer to response B-1, Lot 5 is a legal lot and complies with the zoning. The subject lot is not being altered or changed with this proposal. The current lot layout was created via a Lot Line Adjustment that was approved and recorded with Parcel Map 17817 in 1997.

La Jolla Shores Planned District Ordinance (LJSPDO)

The Single Family Zone Density Regulations of the LJSPDO state:

§1510.0304 Single Family Zone-Development Regulations

(a) Dwelling Unit Density Regulation

In the following **Single-Family Zone**, designated on that certain map referenced in Section 1510.0102 unless specified otherwise, **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.** In no event shall any area be included in the calculation of average dwelling unit density if such area lies on the opposite side of a density calculation boundary line indicated on the map referenced in Section 1510.0102. However, in no instance shall the density exceed one unit

The highlighted sentence from the LJSPDO says: " ... no lot or parcel shall be developed **or occupied** by more dwelling units ..." pertains not only to the creation of lots or the subdivision of land; but "... or **Occupied** by more dwelling units" pertains to the occupancy by dwelling units on lots already created as relates to dwelling unit density (units per acre).

Because the applicant and the Engineering Department illegally reduced the size of size of Lookout Lot 5 to 5,045 sf, less than half the average size (10,854 sf) of all 56 lots within 300 feet of the project, the LJSPDO precludes Lookout Lot 5 from being occupied by any dwelling unit because the resultant dwelling unit density would be substantially greater than the average dwelling unit density (units per acre) of all lots within 300 feet of the subject lot or parcel.

The LJSPDO states that lots and uses that existed in 1974 at the time of the adoption of the LJSPDO were deemed to be in compliance with the PDO and allowed to continue. Though the original lot area was significantly smaller and did not conform in size with other lots within 300 feet or the dwelling unit density requirement of the LJSPDO, the 1974 lots are said to be 'legal non-conforming' size lots. The City of San Diego allows legal non-conforming lots and uses to continue **provided the degree of non-conformity is not increased.** Had the lot that existed in 1974 remained intact today, the lot could be occupied by a new individual dwelling unit.

F-3 Per SDMC 113.0237(b), any lot may be developed in accordance with the Base Zone if the lot is a legal lot. The proposal does not include any mapping actions; the subject lot is existing and was approved and legally recorded through Parcel map 17817 in 1997 and is legal to develop a dwelling unit in accordance with the Base Zone regulations.

F-4 Refer to response B-1

La Jolla Shores Planned District Ordinance (LJSPDO) continued

In 1997 the SDMC stated:

§ 102.0207 Lot Line Adjustments
A parcel map or other recordable document may be used for the purpose of adjusting lot lines between adjoining lots provided the adjustment does not result in an increase in the number of lots. All lots or parcels must meet the minimum requirements of the Planning and Zoning Regulations and Building Code in regard to lot frontage, depth and area, and also, all existing buildings must meet the minimum requirements for setbacks, lot coverage, parking, etc. The adjusted lot line(s) must be monumented in accordance with Sections 102.0204 and 102.0412 if applicable.
(Amended 1-27-86 by O-16585 N.S.)

F-4
cont.

The Lot Line Adjustments (LLA) that occurred in 1997, **without benefit of a SDMC required Coastal Development Permit or Site Development Permit**, resulted in Lot 5 being less than half the of the average size lots within 300 feet. Contrary to the Lot Line Adjustment regulation above, **the resultant lot did not meet the minimum average lot size / dwelling unit density (units per acre) requirement of the LJSPDO / Planning and Zoning Regulations.** (See attached *1997 SDMC Excerpts.pdf*)

The 1997 LLA resulted in a substandard Lot 5, which according to the LJSPDO may not be occupied by a dwelling unit because the resultant dwelling unit density would be significantly greater than the average dwelling unit density (units per acre) of all lots within 300 feet of the subject lot or parcel.

Note: If the Lookout Lot 5 lot lines were to be adjusted back to what existed in 1974 when the LJSPDO was adopted and the original lot deemed again to be 'legal non-conforming lots', the lot might be allowed to be occupied by new individual dwelling units designed in conformance with the LJSPDO. **If the internal lot lines are not adjusted back to what existed in 1974, no dwelling units can be constructed on Lookout Lot 5**

Conclusion

The proposed dwelling unit on Lookout Lot 5 is in **direct conflict** with LJSPDO Sec. 1510.0304 Single Family Zone Density Regulations. Therefore, EAS staff's Initial Study Checklist conclusion of 'No Impact' is patently **incorrect**.

F-5

F-5 In light of the previously provided responses, City staff maintains that there are no conflicts with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project.

DSD Environmental Assessment Section
August 16, 2021
Page 4

F-5
cont.

Thank you for your consideration of this critical issue. Please don hesitate to contact me should you have questions.

Respectfully,



Philip A. Merten AIA

Attachments:

City Attorney Memorandum MS 59 dated 3-8-2004.pdf

1997 SDMC Excerpts.pdf

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ec: Raynard Abalos, Deputy Director RAbalos@san Diego.gov
Morgan Dresser, Envir. Analyst MDresser@san Diego.gov
E. Shearer-Nguyen, Senior Planner EShearer-Nguyen@san Diego.gov

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Lot Line Adjustments:

§ 102.0207 Lot Line Adjustments

A parcel map or other recordable document may be used for the purpose of adjusting lot lines between adjoining lots provided the adjustment does not result in an increase in the number of lots. All lots or parcels must meet the minimum requirements of the Planning and Zoning Regulations and Building Code in regard to lot frontage, depth and area, and also, all existing buildings must meet the minimum requirements for setbacks, lot coverage, parking, etc. The adjusted lot line(s) must be monumented in accordance with Sections 102.0204 and 102.0412 if applicable.

(Amended 1-27-86 by O-16585 N.S.)

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Coastal Development Permits

§ 105.0202 Coastal Development Permit Required

A coastal development permit shall be required for all proposed development within the Coastal Zone except for development specifically exempted under SEC. 105.0204.

Coastal Development Definitions:

§ 105.0203 Definitions

NOTE: THE FOLLOWING DEFINITIONS SHALL APPLY ONLY FOR THE PURPOSES OF THIS DIVISION

B. Development. On land, in or under water, the placement or erection of any solid material or structure; the discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; the grading, removing, dredging, mining, or extraction of any materials; the change in the density, or intensity of use of land, including, but not limited to the subdivision of land pursuant to the Subdivision Map Act (commencing with section 66410 of the Government Code) and any other division of land, including lot splits; change in intensity of use of water, or of access, thereto; the construction, reconstruction, demolition or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes; kelp harvesting.

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§ 101.0101.16 Density

An existing or projected relationship between numbers of persons or dwellings and land area.
(Amended 1-28-64 by O-8958 N.S.)

A. PLANNING DIRECTOR — POWER TO ARREST

The Planning Director, or any representative thereof designated by the Director with the duty to enforce the provisions of this Chapter, is hereby authorized to arrest any person without a warrant whenever the Planning Director or his designated representative has reasonable cause to believe that the person to be arrested has committed a violation of this Chapter in his presence.

B. VIOLATIONS OF ZONING ORDINANCES

It shall be unlawful for any person, corporation, partnership, or association to erect, place, construct, reconstruct, convert, establish, alter, maintain, use, or enlarge any building, structure, improvement, lot, or premises in any manner contrary to any provision contained in this Chapter of the Code; or to do any act without any required permit, or contrary to the conditions upon which permit has been issued pursuant to this Code; or to do any act or maintain any structure or improvement without a variance or special permission as required by this Code, or contrary to any condition imposed by a variance or special permission (or amendment) properly issued according to the provisions of this Code.

C. PROPERTY OWNER'S RESPONSIBILITY

It shall be unlawful for any property owner(s) to maintain or use, or allow to be maintained or used, his (their) real property and appurtenances in violation of any provision of this Chapter of the Code.

D. ZONING VIOLATIONS — MISDEMEANORS

Every person who violates any of the provisions of this Code, or who causes, suffers, or permits any act or anything to be done in contravention or in violation of any of the provisions of this Code, or who causes, suffers, or otherwise allows any development in a manner prohibited by or contrary to any of the provisions of this Code, or who fails to comply with any order, direction, or notice given under this Code may be deemed guilty of a misdemeanor and shall be liable to the penalties imposed by Section 11.12; each day that a violation continues to exist shall constitute a separate offense.

E. ZONING VIOLATIONS — INJUNCTIONS

In addition to any other remedy provided by this Code, any provision of the Planning and Zoning Regulations of The City of San Diego may be enforced by injunction issued by the Superior Court upon a suit brought by The City of San Diego.

F. AUTHORITY TO INSPECT

The Planning Director and his or her empowered assistants are authorized to enter upon any property or premises to ascertain whether the provisions of this Code are being obeyed, and to make any such examinations and surveys as may be necessary in the performance of enforcement or other duties, provided that such entries, examination, and surveys are done in a reasonable manner. Where an owner or occupant or agent refuses permission to enter, the Planning Director and his or her empowered assistants may seek an administrative inspection warrant (Code of Civil Procedure, Section

1822.50, et seq.).

G. VOID PERMITS

Any and all permits and licenses, issued by the Planning Department or its authorized agents, which violate this Chapter or any other provision of the Municipal Code, or which purport to authorize the doing of any act prohibited by the Code or other ordinance, shall be void.

(Amended and title added 8-10-87 by O-16923 N.S.)

§ 101.0213 Zoning Violation Abatement Program

(a) Purpose. The Council declares that its purpose in adopting this section is to establish a procedure to cause the summary abatement of public nuisance zoning violations. The procedures established herein shall be in addition to any other legal remedy, criminal or civil, established by law which may be pursued to address violations of this Chapter.

(b) The City Council hereby declares to be a public nuisance any violation of the provisions of this Chapter which is injurious to health or is indecent or offensive to the senses so as to interfere with the comfortable enjoyment of life or property or which interferes with or substantially impairs the attainment of community planning goals by adversely affecting at the same time an entire community or neighborhood or any considerable number of persons.

(c) Procedure for Abatement.

(1) The Planning Director, or any representative thereof, shall be vested with the authority to determine whether a public nuisance, as defined herein, may exist on any private property and cause a written notice to be issued to abate such nuisance.

(2) The notice required shall contain a description of the property in general terms reasonably sufficient to identify the location of the property, shall refer to this section, and shall direct compliance by removal or correction of the condition which is in violation of the provisions of this Chapter within seven days of the date of the notice. The notice shall further describe the consequences of failure to comply as herein prescribed.

(3) The notice required by the preceding paragraph shall be served by any of the following methods on the owner or agent thereof and the person in possession of the property:

A. By personal service; or

B. By certified mail addressed to the owner or agent thereof, at the address shown on the last available assessment roll, or as otherwise known and to the person in possession of the property; or

C. By posting said notices conspicuously on or in front of the property, with at least one notice per each parcel of fifty feet frontage. The notice when posted shall be headed in bold-faced type, not less than one inch in height, "NOTICE TO CORRECT PUBLIC NUISANCE ZONING VIOLATION."

(4) Upon failure of the owner, agent thereof or

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Office of
The City Attorney
City of San Diego

MEMORANDUM
MS 59

(619) 533-5800

DATE: March 8, 2004
TO: Bob Didion, Development Services Department
FROM: City Attorney
SUBJECT: Lot Line Adjustments/Coastal Regulations

This memo is in response to your recent comments to an applicant, Craig Irving, that the "City Attorney's interpretation of the State Resources Code which requires that any type of action which is considered to be development in the Coastal zone requires a Coastal Permit per the State Code." My understanding is that Mr. Irving has applied for a lot line adjustment and does not believe a coastal development permit is required in conjunction with the application for the lot line adjustment. As a result, staff has referred Mr. Irving to this Office.

The requirement to obtain a coastal development permit when processing a lot line adjustment is not simply a matter subject to interpretation. Case law explicitly sets forth this requirement.

Public Resources Code section 30600 and San Diego Municipal Code section 126.0702 require a coastal development permit for all coastal development within the coastal zone, unless specifically exempted. Public Resources Code section 30106 defines development in relevant part as a "change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits." "[D]evelopment, as defined in section 30106, includes lot line adjustments." *La Fe v. Los Angeles County*, 73 Cal. App. 4th 231, 240 (1999). The court reasoned that the Coastal Act is to be liberally construed to accomplish its purposes and objectives, and the lot line adjustment is within the purview of the phrase "any other division of land" as set forth in Public Resources code section 30106. *Id.* at 237.

Consistent with this Office's previous advice, the *La Fe* decision explicitly states that a lot line adjustment is within the definition of development under the California Coastal Act. Therefore, we would advise your department to subject applications for lot line adjustments within the City's Certified Local Coastal Program to the provisions of the City's coastal development regulations.

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March 8, 2004
Page 2

For your reference, I have attached a copy of the *La Fe* case for your reference. If you would like to discuss this matter further, please advise.

CASEY GWINN, City Attorney
By 
Mary Jo Lanzafame
Deputy City Attorney

MJL:mjl
cc: Kelly Broughton, Development Services Department
Attachment

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 Citation: 73 Cal. App. 4th 231

73 Cal. App. 4th 231, *; 86 Cal. Rptr. 2d 217, **;
 1999 Cal. App. LEXIS 632, ***; 99 Cal. Daily Op. Service 5299

LA FE, INC., et al., Plaintiffs and Appellants, v. COUNTY OF LOS ANGELES et al., Defendants and Respondents.

No. B119186.

COURT OF APPEAL OF CALIFORNIA, SECOND APPELLATE DISTRICT, DIVISION FIVE

73 Cal. App. 4th 231; 86 Cal. Rptr. 2d 217; 1999 Cal. App. LEXIS 632; 99 Cal. Daily Op. Service 5299; 99 Daily Journal DAR 6715

June 30, 1999, Decided

NOTICE: [***1] Opinion certified for partial publication. *

* Pursuant to California Rules of Court, rules 976(b) and 976.1, this opinion is certified for publication with the exception of part IV.C.

SUBSEQUENT HISTORY: Review Denied October 20, 1999, Reported at: 1999 Cal. LEXIS 7267.

PRIOR HISTORY: APPEAL from a judgment of the Superior Court of Los Angeles County. Super. Ct. No. BC172472. David P. Yaffe, Judge.

DISPOSITION: The judgment is affirmed. Defendants, the County of Los Angeles, and the California Coastal Commission, shall each recover their costs on appeal, jointly and severally, from plaintiffs, La Fe, Inc., Robert Rein, Susan Brown, David Brown, Larry Goodwin, Thomas Hudson, and Deborah Hudson.

CASE SUMMARY

PROCEDURAL POSTURE: Plaintiff property owners sought review of a decision of the Superior Court of Los Angeles County (California), which denied plaintiffs' petition for writs of mandate and related relief against defendants, a county government and the California Coastal Commission.

OVERVIEW: Plaintiff property owners sought to adjust the lot lines between their parcels of land without creating any new parcels. Defendant county approved the lot line adjustments in concept, but advised plaintiffs that they were required to obtain approval

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from defendant California Coastal Commission (Commission). Defendant commission refused to issue permits for the adjustments. Plaintiffs filed an action against defendants seeking peremptory writs of mandate to compel defendant county to record a certificate of compliance for the adjustments, and to order defendant commission to grant their permit waiver applications. The trial court denied plaintiffs' writ application. On appeal, the court affirmed holding that under the California Coastal Act of 1976, Cal. Pub. Res. Code § 30106, the line adjustments suggested by plaintiffs constituted development because they involved a division of land. The appellate court determined that defendant county was entitled by law to defer to defendant commission's jurisdiction.

OUTCOME: The appellate court affirmed a judgment denying the issuance of writs of mandate against defendants, a county and the California Coastal Commission, because the proposed lot line adjustments constituted development within the meaning of the California Coastal Act of 1976.

CORE TERMS: division of land, parcel, Subdivision Map Act, split, coastal development permit, intensity, density, stock, landowners', coastal zone, ambiguity, cooperative conversion, italics, apartment, Coastal Act, certificate of compliance, liberally construed, cause of action, writ of mandate, public street, local agency, cooperative, plain meaning, permit application, causes of action, advisory agency, final approval, first cause, fire hazard, et seq

LexisNexis (TM) HEADNOTES - Core Concepts - ♦ [Hide Concepts](#)

[Real & Personal Property Law](#) > [Zoning & Land Use](#) > [Zoning Generally](#) 
[Governments](#) > [Legislation](#) > [Interpretation](#) 

HN1 ↓ The California Coastal Act of 1976, Cal. Pub. Res. Code 30000 et seq., is to be liberally construed to accomplish its purposes and objectives. [More Like This Headnote](#)

[Real & Personal Property Law](#) > [Zoning & Land Use](#) > [Land Use Planning](#) 

HN2 ↓ Under the California Coastal Act of 1976, Cal. Pub. Res. Code § 30600(a), anyone who wishes to undertake development in a coastal zone must obtain a permit from the California Coastal Commission. This is in addition to any other permit required by law. [More Like This Headnote](#)

[Real & Personal Property Law](#) > [Zoning & Land Use](#) > [Land Use Planning](#) 

HN3 ↓ See Cal. Pub. Res. Code § 30600(a).

[Real & Personal Property Law](#) > [Zoning & Land Use](#) > [Land Use Planning](#) 

HN4 ↓ See Cal. Pub. Res. Code § 30106.

[Governments](#) > [Legislation](#) > [Interpretation](#) 

HN5 ↓ Statutory language is interpreted according to its usual and ordinary import, keeping in mind the apparent purpose of the statute. When no ambiguity appears, the court gives statutory terms their plain meaning. [More Like This Headnote](#)

[Governments](#) > [Legislation](#) > [Interpretation](#) 

HN6 ↓ In construing a statute, a court must ascertain the intent of the legislature so as to effectuate the purpose of the law. In determining that intent, the court first examines the words of the respective statutes. [More Like This Headnote](#)

[Governments](#) > [Legislation](#) > [Interpretation](#) 

HN7 ↓ Where the statute is clear, courts will not interpret away clear language in favor of

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an ambiguity that does not exist. If, however, the terms of a statute provide no definitive answer, then courts may resort to extrinsic sources, including the ostensible objects to be achieved and the legislative history. [More Like This Headnote](#)

[Governments > Legislation > Interpretation](#)

HN8 In interpreting a statute, the court must select the construction that comports most closely with the apparent intent of the legislature, with a view to promoting rather than defeating the general purpose of the statute, and avoid an interpretation that would lead to absurd consequences. [More Like This Headnote](#)

[Governments > Legislation > Interpretation](#)

HN9 The California Coastal Commission's construction of the California Coastal Act of 1976, [Cal. Pub. Res. Code § 30000](#) et seq., is entitled to great weight. [More Like This Headnote](#)

[Civil Procedure > Appeals > Standards of Review > De Novo Review](#)

[Governments > Legislation > Interpretation](#)

HN10 Where there are no factual disputes in a case, the appellate court's review of an issue of statutory construction is de novo. [More Like This Headnote](#)

[Real & Personal Property Law > Zoning & Land Use > Land Use Planning](#)

HN11 The California Coastal Act of 1976, [Cal. Pub. Res. Code § 30106](#), by its terms recognizes that a subdivision of land or a lot split can result in changes in the density or intensity of use of property. [More Like This Headnote](#)

[Real & Personal Property Law > Zoning & Land Use > Land Use Planning](#)

HN12 The conversion of existing apartment units into a stock cooperative form of ownership is a "division of land" and hence "development" under the California Coastal Act of 1976, [Cal. Pub. Res. Code § 30106](#). [More Like This Headnote](#)

[Real & Personal Property Law > Zoning & Land Use > Land Use Planning](#)

HN13 Where a project changes the intensity of the use of the land and it is therefore a development within the meaning of the California Coastal Act of 1976, [Cal. Pub. Res. Code § 30106](#). [More Like This Headnote](#)

[Real & Personal Property Law > Zoning & Land Use > Land Use Planning](#)

HN14 See [Cal. Gov. Code § 66412\(d\)](#).

[Real & Personal Property Law > Zoning & Land Use > Land Use Planning](#)

[Governments > Local Governments > Ordinances & Regulations](#)

HN15 See [Cal. Code Regs. tit. 14, § 13052](#).

◆ [Hide Headnotes / Syllabus](#)

SUMMARY:

CALIFORNIA OFFICIAL REPORTS SUMMARY

Landowners sought to adjust the lot lines between parcels of their land, and the county approved the lot line adjustments in concept, but advised the landowners that they were

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required to obtain the approval of the California Coastal Commission. After the commission denied the request for lot line adjustments, the landowners petitioned for writs of mandate and related relief against the county and the commission, which the trial court denied. (Superior Court of Los Angeles County, No. BC172472, David P. Yaffe, Judge.)

The Court of Appeal affirmed the judgment. The court held that plaintiffs' proposed adjustment of the lot lines between the parcels of land that they owned constituted development that fell within the permit jurisdiction of the California Coastal Commission under the California Coastal Act of 1976 (Pub. Resources Code, § 30000 et seq.). Thus, the commission had jurisdiction to deny plaintiffs' application for a coastal development permit or waiver. "Development," as defined in Pub. Resources Code, § 30106, means change in the density or intensity of use of land, including, but not limited to, subdivision, and any other division of land, including lot splits. Pub. Resources Code, § 30106, recognizes that a subdivision of land or a lot split can result in changes in the density or intensity of use of property. A lot line adjustment can have the same effect, as it did in this case, since the lot line adjustments proposed by plaintiffs would have made all of the lots accessible to a public street, but the public street was insufficient to provide access to the developed lots by fire fighting equipment. The court further held that the county did not improperly condition its approval of the lot line adjustments on plaintiffs' securing a coastal development permit or waiver from the commission in contravention of Gov. Code, § 66412, subd. (d). The requirement that plaintiffs obtain a coastal development permit or waiver was one imposed by law, not by the county. (Opinion by Turner, P. J., with Armstrong and Godoy Perez, JJ., concurring.)

HEADNOTES:

CALIFORNIA OFFICIAL REPORTS HEADNOTES

Classified to California Digest of Official Reports

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CA(1a) (1a) CA(1b) (1b) Pollution and Conservation Laws § 10.2--Conservation--Coastal Protection--Coastal Development Permits--Lot Line Adjustments. --Landowners' proposed adjustment of the lot lines between the parcels of land that they owned constituted development that fell within the permit jurisdiction of the California Coastal Commission under the California Coastal Act of 1976 (Pub. Resources Code, § 30000 et seq.). Thus, the commission had jurisdiction to deny the landowners' application for a coastal development permit or waiver. "Development," as defined in Pub. Resources Code, § 30106, means change in the density or intensity of use of land, including, but not limited to, subdivision, and any other division of land, including lot splits. The Legislature's stated intent was to grant the commission permit jurisdiction with respect to any changes in the density or intensity of use of land, including any division of land. Pub. Resources Code, § 30106, recognizes that a subdivision of land or a lot split can result in changes in the density or intensity of use of property. A lot line adjustment can have the same effect, as it did in the present case, since the lot line adjustments proposed by the landowners would have made all of the lots accessible to a public street, but the public street was insufficient to provide access to the developed lots by fire fighting equipment. Pub. Resources Code, § 30106, applies to a division of land and a lot line change constitutes such a division of land.

[See 4 Witkin, Summary of Cal. Law (9th ed. 1987) Real Property, §§ 90, 91.]

CA(2) (2) Statutes § 30--Construction--Language--Plain Meaning Rule--Legislative Intent. --Courts interpret statutory language according to its usual and ordinary import, keeping in mind the apparent purpose of the statute. When no ambiguity appears, the court gives statutory terms their plain meaning. In construing a statute, a court must ascertain the intent of the Legislature so as to effectuate the purpose of the law. In determining that intent, the court first examines the words of the respective statutes. If there is no ambiguity

in the language of the statute, then the Legislature is presumed to have meant what it said, and the plain meaning of the language governs. Where the statute is clear, courts will not interpret away clear language in favor of an ambiguity that does not exist. If, however, the terms of a statute provide no definitive answer, then courts may resort to extrinsic sources, including the ostensible objects to be achieved and the legislative history. Courts must select the construction that comports most closely with the apparent intent of the Legislature, with a view to promoting rather than defeating the general purpose of the statute, and avoid an interpretation that would lead to absurd consequences. An administrative agency's construction of a statute is entitled to great weight. Where the terms of the statute are plain and clear, it is presumed that the Legislature meant what it said.

CA(3) (3) Appellate Review § 144--Scope of Review--Questions of Law and Fact. -- Where there are no factual disputes in a case, the appellate court reviews the matter de novo.

CA(4) (4) Pollution and Conservation Laws § 10.2--Conservation--Coastal Protection--Coastal Development Permits--Lot Line Adjustments--County's Conditional Approval. --In response to landowners seeking the county's approval for proposed lot line adjustments, the county did not improperly condition its approval of the lot line adjustments on the landowners' securing a coastal development permit or waiver from the California Coastal Commission in contravention of Gov. Code, § 66412, subd. (d). While lot line adjustments that do not increase the number of parcels are exempt from the Subdivision Map Act, and although the Subdivision Map Act limits a local or advisory agency's ability to condition its approval of such lot line adjustments (Gov. Code, § 66412, subd. (d)), the county was not required to issue a certificate of compliance without first referring the landowners to the commission. The county did not impose any condition or exaction on its approval of the lot line adjustments. The county acknowledged that it did not finally approve of the application for lot line adjustments because it considered the final approval to be the domain of the commission. The requirement that the landowners obtain a coastal development permit or waiver was one imposed by law, not by the county. Under Cal. Code Regs., tit. 14, § 13052, the county's approval was a condition precedent to the commission's consideration of the landowners' application. Therefore, the county issued its approval in concept, as required for permit application to the commission, pursuant to Cal. Code Regs., tit. 14, § 13052.

COUNSEL:

Saphier, Rein & Walden and Robert S. Rein for Plaintiffs and Appellants.

Daniel E. Lungren and Bill Lockyer, Attorneys General, Roderick E. Walston, Chief Assistant Attorney General, Richard M. Frank, Assistant Attorney General, and Jamee Jordan Patterson, Deputy Attorney General, for Defendant and Respondent California Coastal Commission.

Lloyd W. Pellman, County Counsel, and Thomas J. Faughnan, Deputy County Counsel, for Defendant and Respondent [***2] County of Los Angeles.

JUDGES: Opinion by Turner, P. J., with Armstrong and Godoy Perez, JJ., concurring.

OPINIONBY: TURNER

OPINION: [*234] [**218]

TURNER, P. J.

I. INTRODUCTION

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This case presents the question whether a lot line adjustment constitutes "development" that falls within the permit jurisdiction of the California Coastal Commission [**219] (the commission) under the California Coastal Act of 1976 (Pub. Resources Code, n1 § 30000 et seq.) (the act). The Supreme Court noted this issue, but did not decide it, in Landgate, Inc. v. California Coastal Com. (1998) 17 Cal. 4th 1006, 1024-1025 [73 Cal. Rptr. 2d 841, 953 P.2d 1188]. Plaintiffs, La Fe, Inc., Robert Rein, Susan Brown, David Brown, Larry Goodwin, Thomas Hudson, and Deborah Hudson, appeal from a judgment denying their petition for writs of mandate and related relief against defendants, the County of Los Angeles (county), and the commission. Section 30106 provides that "development" means "change in the density or intensity of use of land, including, but not limited to, subdivision . . . , and any other division of land, including lot splits . . ." (Italics added.) Given this broad language [***3] selected by the Legislature, we conclude the lot line adjustments in this case constitute "development" within the meaning of the act. Accordingly, we affirm the judgment.

----- Footnotes -----

n1 All further statutory references are to the Public Resources Code except where otherwise noted.

----- End Footnotes-----

II. THE COASTAL ACT OF 1976

The Supreme Court summarized the nature and purpose of the act in Yost v. Thomas (1984) 36 Cal. 3d 561, 565 [205 Cal. Rptr. 801, 685 P.2d 1152]: "The Coastal Act of 1976 . . . was enacted by the Legislature as a comprehensive scheme to govern land use planning for the entire coastal zone of California. The Legislature found that 'the California coastal zone is a distinct and valuable natural resource of vital and enduring interest to all the people'; that 'the permanent protection of the state's natural and scenic [*235] resources is a paramount concern'; that 'it is necessary to protect the ecological balance of the coastal zone' and that 'existing developed uses, and future developments [***4] that are carefully planned and developed consistent with the policies of this division, are essential to the economic and social well-being of the people of this state . . .' (§ 30001, subds. (a) and (d))." (Fn. omitted.) The act's goals are protection of the coastline and its resources and maximization of public access. (Landgate, Inc. v. California Coastal Com., supra, 17 Cal. 4th at p. 1011; Citizens of Goleta Valley v. Board of Supervisors (1990) 52 Cal. 3d 553, 571 [276 Cal. Rptr. 410, 801 P.2d 1161]; § 30001.5, 30512, 30513.) With respect to new development, the legislative policies expressed in the act include "permitted development shall be sited and designed . . . to minimize the alteration of natural land forms." (§ 30251; e.g., Paoli v. California Coastal Com. (1986) 178 Cal. App. 3d 544, 551-554 [223 Cal. Rptr. 792]; Bel Mar Estates v. California Coastal Com. (1981) 115 Cal. App. 3d 936, 940-942 [171 Cal. Rptr. 773].) Another purpose is to "minimize risks to life and property in areas of high geologic, flood, and fire hazard." (§ 30253, subd. (1); e.g., Barrie v. California Coastal Com. (1987) 196 Cal. App. 3d 8, 20-22 [241 Cal. Rptr. 477]; [***5] Ibarra v. California Coastal Com. (1986) 182 Cal. App. 3d 687, 693-694 [227 Cal. Rptr. 371].) ^{HN1} The act is to be liberally construed to accomplish its purposes and objectives. (§ 30009; Ojavan Investors, Inc. v. California Coastal Com. (1997) 54 Cal. App. 4th 373, 386 [62 Cal. Rptr. 2d 803]; California Coastal Com. v. Quanta Investment Corp. (1980) 113 Cal. App. 3d 579, 609 [170 Cal. Rptr. 263].)

^{HN2} Under section 30600, subdivision (a), of the act, anyone who wishes to undertake development in a coastal zone must obtain a permit from the commission. This is in addition

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to any other permit required by law. Section 30600, subdivision (a), provides: ^{HN3}"In addition to obtaining any other permit required by law from any local government or from any state, regional, or local agency, any person . . . wishing to perform or undertake any development in the coastal zone . . . shall obtain a coastal development permit." (Italics added; e.g., **[**220]** *Conway v. City of Imperial Beach* (1997) 52 Cal. App. 4th 78, 85 [60 Cal. Rptr. 2d 402]; *Surfrider Foundation v. California Coastal Com.* (1994) 26 Cal. App. 4th 151, 154 [31 Cal. Rptr. 2d 374].) **[**6]** "Development" is defined for purposes of the act in section 30106, which provides in relevant part: "^{HN4}Development" means, on land, in or under water . . . change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act . . . and any other division of land, including lot splits . . ." (E.g., *California Coastal Com. v. Quanta Investment Corp., supra*, 113 Cal. App. 3d at p. 609 [conversion of existing apartments into stock cooperative constitutes development].) **[*236]**

III. BACKGROUND

Plaintiffs own 16 parcels of land in the Topanga Canyon area. They sought to adjust the lot lines between the 16 parcels which covered 92 acres. The lot line changes did not create any new parcels. In other words, plaintiffs reconfigured the 16 lots without increasing the number of parcels. The county approved the lot line adjustments in concept but advised plaintiffs they were required to obtain the commission's approval. n2

----- Footnotes -----

n2 The county notified plaintiffs: "Because your property lies within the boundaries of the Coastal Zone, you will be required to obtain approval from the California Coastal Commission for your Lot Line Adjustment. When you obtain this approval, return it to Regional Planning and we will sign and record the original of the attached Lot Line Adjustment request."

----- End Footnotes----- **[**7]**

The commission found that Hillside Drive, which provided access to the property where the lot line adjustments were to take place, was inadequate for the provision of emergency vehicle access. The commission had a significant number of reports and other documents before it in making the decision to deny the request for a lot line adjustment. Among the documents was a series of reports prepared in connection with a request made to the Los Angeles County Regional Planning Commission to subdivide a lot. On March 4, 1996, the Los Angeles County Regional Planning Commission denied a request to subdivide one of the sixteen parcels into three lots. One of the parcels was included in the 16-lot line adjustment proposal before the commission, which is the subject of the present appeal. The basis of the denial by the Los Angeles County Regional Planning Commission was that the fire access route was inadequate. The Los Angeles County Fire Department had recommended denial of the three-lot subdivision by the Los Angeles County Regional Planning Commission because access to the area was inadequate to ensure the safe evacuation of future residents and the deployment of fire and other emergency **[**8]** equipment. In connection with the request to the Los Angeles County Regional Planning Commission, the Los Angeles County Fire Department made the following recommendation: "The planning issues focus with the lack of access. At this time the single means of access has exceeded the maximum of 37 units. The proposed subdivision is both narrow and treacherous and would add substantially to life safety concerns in the immediate area." Moreover, there was a report considered by the regional planning commission by a fire management consultant that identified the extensive brush fire history of the area.

Further, among the documents concerning the present lot line adjustment request before the

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commission was a letter from Jesus Burciaga, the fire marshal of the fire prevention division of the Los Angeles County Fire [*237] Department, which stated: "If this Lot Line Adjustment is permitted to proceed, the Fire Department will be prevented from setting requirements until the building permit stage, and only on the individual lots as development proceeds. This procedure would prevent the Fire Department from uniformly requiring an adequate water system or access to the area. The project [***9] would not be [***221] in conformance with standards for newly created lots. It moves lots (building sites) from street frontage, further into an extremely dangerous area without any form of mitigation. If permitted to move forward, it does nothing to minimize risks to life and property, but in fact puts additional life and property at risk. [P] A comprehensive solution to adequate emergency service is essential and should not be replaced by ad hoc treatment of building permits on a lot by lot basis. The inherent risk of development in this remote and high danger area can only be mitigated by comprehensive and early solutions. Such solutions, if available at all, cannot be applied on a lot by lot basis."

The commission denied plaintiffs' application for a coastal development permit or waiver. n3 The commission found that the proposed lot line adjustments would result in an increase from 5 to 15 lots located on the mesa area of the property, with the 10 additional parcels taking access from Hillside Drive. The commission concluded, therefore, that the proposed lot line adjustment would not minimize risks to life and property in a high fire hazard area, as required by section [***10] 30253, subdivision (1). The commission also found that to improve the existing road or to create a secondary access would require excessive landform alteration, contrary to the mandate of section 30251. Therefore, on April 10, 1997, the commission declined to issue a coastal development permit approving the lot line adjustment to plaintiffs. This action followed.

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----- Footnotes -----

n3 Plaintiffs claim they sought a *waiver* of the coastal development permit requirement, but filled out the only form provided to them, an application for a permit. Whether plaintiffs applied for a permit or for a waiver is immaterial to the issue on appeal.

----- End Footnotes-----

The operative pleading is a first amended verified petition for writs of mandate (Code Civ. Proc., § 1085) against defendants which also contained claims for inverse condemnation, declaratory relief, and deprivation of civil rights. The mandate petitions were denominated the first and second causes of action. The first cause of action was directed at the county. [***11] The second cause of action sought relief against the commission. Plaintiffs alleged: the county approved their lot line adjustments in concept; improperly refused to issue a certificate of compliance; the county directed plaintiffs to apply to the commission for a coastal development permit waiver; further, the commission, which denied plaintiffs' application, had no jurisdiction to consider the lot line adjustments because they did not constitute "development" [*238] within the meaning of section 30106 of the act. In the first cause of action, plaintiffs sought a peremptory writ of mandate ordering the county to record a certificate of compliance for plaintiffs' lot line adjustments. In the second cause of action, plaintiffs requested a peremptory writ of mandate ordering the commission to grant their permit waiver application.

As to the first cause of action, the petition for a writ of mandate against the county was also denied. The trial court stated: ". . . The County acknowledged at the hearing that it did not finally approve [plaintiffs'] application for lot line adjustments because the County considered the final approval to be the domain of the Coastal Commission. [***12] However, the County acknowledged that it had given its 'approval in concept' and would impose no further

requirements other than those imposed, if any, by the California Coastal Commission. Since the Petition for Writ of Mandate against the County of Los Angeles was premised on the assumption that the California Coastal Commission had no jurisdiction over the proposed lot line adjustments, and in light of the court's ruling that the California Coastal Commission has such jurisdiction, the Petition for Writ of Mandate against the County is denied."

As to the second cause of action, the trial court denied the petition for writ of mandate against the commission. The trial court found as follows: "The lot line **[**222]** adjustment constitutes a 'division of land' as that term is used in Public Resources Code Section 30106. Public Resources Code Section 30106 defines a 'development' to include a change in the density or intensity of use of land, including but not limited to, subdivision pursuant to the Subdivision Map Act, and any other division of land, including lot splits. The court finds that a lot line adjustment is a **[***13]** division of land similar to a lot split. Although a lot split divides a parcel of property into a greater number of lots or parcels, a lot line adjustment divides land by changing the boundaries of the various parcels without changing their number. In either case, the reconfiguration of the land can facilitate a development in ways that impact upon the interest of the Coastal Commission. In the present case, the Coastal Commission found that the lot line adjustments proposed by [plaintiffs] facilitated development by making all of the lots accessible to a public street, but the public street was insufficient to provide access to the developed lots by fire fighting equipment. The Coastal Act is to be liberally construed to accomplish its purposes and objectives, and the lot line adjustment requested in the present case is within the purview of the phrase 'any other division of land' as set forth in Public Resources Code Section 30106, and furthers the purpose of the act. California Coastal Commission v. Quanta Investment Corp., 113 Cal. App. 3d 579, 609 (1980)."

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Following the denial of the writ petitions, the trial court dismissed the **[***14]** remaining causes of action. The trial court stated: "All other claims and **[*239]** causes of action against the County, the Coastal Commission and the named individuals are dismissed. This judgment constitutes a final judgment as to all claims and causes of action in the First Amended Verified Petition and Complaint." Plaintiffs do not contest the dismissal of the remaining causes of action separate and apart from the denial of their writ requests. They argue only that lot line adjustments are not "development" within the meaning of the act; therefore, the commission had no jurisdiction and the trial court erred in denying their writ petition.

IV. DISCUSSION

A. Second Cause of Action Against the Commission

CA(1a)¶(1a) Plaintiffs' claims against the county are dependent in material part on whether the commission acted appropriately. Therefore, we address the second cause of action first. Plaintiffs contend the commission was without jurisdiction to act because lot line adjustments do not constitute "development," within the meaning of section 30106, for which a coastal development permit or waiver is required. We conclude the lot line adjustments in this case constituted development **[***15]** within the meaning of the act, therefore, the commission had permit jurisdiction.

CA(2)¶(2) The rules governing statutory construction are well settled. The Supreme Court has held: "We interpret ^{HNS} statutory language according to its usual and ordinary import, keeping in mind the apparent purpose of the statute. [Citation.] When no ambiguity appears, we give statutory terms their plain meaning. [Citation.]" (Romano v. Rockwell Internat., Inc. (1996) 14 Cal. 4th 479, 493 [59 Cal. Rptr. 2d 20, 926 P.2d 1114], citing People v. Coronado (1995) 12 Cal. 4th 145, 151 [48 Cal. Rptr. 2d 77, 906 P.2d 1232], and Dyna-Med, Inc. v. Fair Employment & Housing Com. (1987) 43 Cal. 3d 1379, 1386-1387 [241 Cal. Rptr. 67,

----- Footnotes -----

* See footnote, *ante*, page 231.

----- End Footnotes----- [***27]

[*244] The judgment is affirmed. Defendants, the County of Los Angeles, and the California Coastal Commission, shall each recover their costs on appeal, jointly and severally, from plaintiffs, La Fe, Inc., Robert Rein, Susan Brown, David Brown, Larry Goodwin, Thomas Hudson, and Deborah Hudson.

Armstrong, J., and Godoy Perez, J., concurred.

Appellants' petition for review by the Supreme Court was denied October 20, 1999.

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743 P.2d 1323].) The Supreme Court has noted: " '[HN6] In construing a statute, a court [must] ascertain the intent of the Legislature so as to effectuate the purpose of the law.' [Citation.] In determining that intent, we first examine the words of the respective statutes: 'If there is no ambiguity in the language of the statute, "then the Legislature is presumed to have meant what it said, and the plain meaning of the language [***16] governs." [***223] [Citation.] "HN7 Where the statute is clear, courts will not 'interpret away clear language in favor of an ambiguity that does not exist.' [Citation.]" ' [Citation.] If, however, the terms of a statute provide no definitive answer, then courts may resort to extrinsic sources, including the ostensible objects to be achieved and the legislative history. [Citation.] HN8 We [***240] must select the construction that comports most closely with the apparent intent of the Legislature, with a view to promoting rather than defeating the general purpose of the statute, and avoid an interpretation that would lead to absurd consequences.' [Citation.]" (*People v. Coronado, supra*, 12 Cal. 4th at p. 151, citing *People v. Jenkins* (1995) 10 Cal. 4th 234, 246 [40 Cal. Rptr. 2d 903, 893 P.2d 1224].) HN9 The commission's construction of the statute is entitled to great weight. (*Georgia-Pacific Corp. v. California Coastal Com.* (1982) 132 Cal. App. 3d 678, 694 [183 Cal. Rptr. 395]; see *Metromedia, Inc. v. City of San Diego* (1980) 26 Cal. 3d 848, 878 [164 Cal. Rptr. 510, 610 P.2d 407], *revd.* on other [***17] grounds in *Metromedia, Inc. v. City of San Diego* (1981) 453 U.S. 490, 521 [101 S. Ct. 2882, 2899-2900, 69 L. Ed. 2d 800]; 58 Cal. Jur.3d, Statutes, § 111, pp. 496-497.) Further, the terms of the statute are plain and clear, and we presume the Legislature meant what it said. (*People v. Smook* (1997) 16 Cal. 4th 1210, 1215 [69 Cal. Rptr. 2d 615, 947 P.2d 808]; *Romano v. Rockwell Internat., Inc., supra*, 14 Cal. 4th at p. 493; *People v. Coronado, supra*, 12 Cal. 4th at p. 151.) HN10 There are no factual disputes in this case. Hence, our review of this issue is *de novo*. CA(3) (3) (*Burden v. Snowden* (1992) 2 Cal. 4th 556, 562 [7 Cal. Rptr. 2d 531, 828 P.2d 672]; *California Teachers Assn. v. San Diego Community College Dist.* (1981) 28 Cal. 3d 692, 699 [170 Cal. Rptr. 817, 621 P.2d 856]; *California Coastal Com. v. Quanta Investment Corp., supra*, 113 Cal. App. 3d at p. 595.)

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CA(1b) (1b) We conclude, that given the undisputed facts in this case, liberally construed (§ 30009; *California Coastal Com. v. Quanta Investment Corp., supra*, 113 Cal. App. 3d at p. 609), [***18] "development," as defined in section 30106, includes lot line adjustments. Specifically, "development" means "change in the density or intensity of use of land, including, but not limited to, subdivision . . . , and any other division of land, including lot splits . . ." (§ 30106, italics added.) The Legislature's stated intent was to grant the commission permit jurisdiction with respect to any changes in the density or intensity of use of land, including any division of land. HN11 Section 30106 by its terms recognizes that a subdivision of land or a lot split can result in changes in the density or intensity of use of property. A lot line adjustment can, as here, have the same effect. More to the point though, section 30106 explicitly applies to a "subdivision . . . and any other division of land . . ." A lot line change constitutes a "division of land." The key point is that section 30106 applies to a "division of land" and such occurred here. n4

----- Footnotes -----

n4 The commission found the proposed lot line adjustments changed the density and intensity of the use of the land by increasing the number of lots on the mesa and parcels taking access from a certain road. Here, the commission's concerns about emergency vehicle access in an area of high fire hazard and excessive landform alteration were consonant with the legislative mandate and advanced the goals of the act.

----- End Footnotes----- [***19]

Our conclusion is consistent with the holding in *California Coastal Com. v. Quanta Investment Corp.*, *supra*, 113 Cal. App. 3d at pages 608-609. In [*241] *Quanta Investment Corp.*, Division One of the Court of Appeal for this appellate district held that ^{HN12}the conversion of existing apartment units into a stock cooperative form of ownership was a "division of land" and hence "development" under the act. Our Division One colleagues concluded a stock cooperative conversion was not a "subdivision pursuant to the Subdivision Map Act" (§ 30106.) [***224] However, it found a stock cooperative conversion was a "division of land" within the meaning of the act. Our Division One colleagues described the manner in which section 30106 should be read as follows: "If Public Resources Code section 30106 merely read that a 'development' is 'a division of land including lot splits,' respondents' construction of the phrase in question might carry greater persuasion. But that phrase does not stand in splendid isolation. On the contrary, it is embedded in, and interwoven with, a context dealing with changes in land use 'including, but [***20] not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Gov. Code), and *any other division of land*, including lot splits,' (Italics added.) It is apparent that the words 'any other division of land including lot splits' are juxtaposed and connected with the preceding reference to subdivisions under the Subdivision Map Act, which are likewise included within the meaning of 'development' under the Coastal Act. Since those map act subdivisions 'for the purpose of sale, lease or financing' subsume not only physical divisions of unimproved land but also the division of improved land in which interests may be created in entities such as condominiums and community apartments, among others, the use of the words 'any other division of land,' when read in context, conveys a meaning other and more comprehensive than mere physical partition of the terrain." (113 Cal. App. 3d at p. 607.) The Court of Appeal concluded a stock cooperative bore "much the same characteristics as a condominium or a community apartment [which are subdivisions under the Subdivision Map Act,] and ha[d] a similar impact on [***21] coastal zone development." (*Id.* at p. 609.) Further, the Court of Appeal found: "Because in genre and gestalt it readily equates with a condominium or community apartment, we conclude that there is no compelling reason to suppose that a stock cooperative conversion was not meant to be included within the purview of the phrase 'any other division of land' and sound principles of statutory construction operate strongly in favor of its inclusion." (*Ibid.*) The Court of Appeal further reasoned that: the act is to be liberally construed to accomplish its purposes; one objective of the act is the provision of low and moderate income housing; and a stock cooperative conversion "may have an impact of concern in this area of Commission interest." (*Ibid.*) Therefore, our Division One colleagues held, "Stock cooperative conversions are subject to the permit requirements of the coastal act as falling within the ambit of [*242] 'any other division of land.'" (*Ibid.*, fn. omitted.) The stock cooperative conversion at issue in *Quanta Investment Corp.*, like the lot line adjustments at issue here, did not create additional parcels.

Further, the definition [***22] of "development" in section 30106 has been broadly construed in other cases. For example, *Stanson v. San Diego Coast Regional Com.* (1980) 101 Cal. App. 3d 38 [161 Cal. Rptr. 392], involved the remodeling of a supermarket into 16 small retail shops and a restaurant. The plaintiff argued the project did not constitute development within the act. The Court of Appeal disagreed. The Court of Appeal concluded the ^{HN13}project changed the intensity of the use of the land and therefore was a development within the meaning of the act. (*Id.* at pp. 47-48.) In *Ojavan Investors, Inc. v. California Coastal Com.*, *supra*, 54 Cal. App. 4th at page 387, Division Seven of the Court of Appeal for this appellate district held that the plaintiffs' purchase and sale of lots "clearly fell within the definition of section 30106." The plaintiffs purchased 54 lots subject to deed restrictions. The result of the restriction was that 77 parcels had been recombined and unified into 2 lots pursuant to an agreement with the commission. The plaintiffs then began to sell the individual lots. The Court of Appeal held: "Since [the plaintiffs'] purchase and sale [***23] of individual lots resulted in splitting of the recombined lots, in violation of the declarations of restrictions required as a condition for the Commission's grant of the [predecessors'] [***225] permits, [the plaintiffs'] activities clearly fell within the definition of section 30106. Therefore, dividing of the recombined lots triggered Coastal Act

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liability." (*Ibid.*)

B. *The First Cause of Action Against the County*

CA(4) ¶(4) Plaintiffs contend the county was statutorily precluded from conditioning its approval of the lot line adjustments on their securing a coastal development permit or waiver from the commission. They cite Government Code section 66412, subdivision (d), a provision of the Subdivision Map Act. (Gov. Code, § 66410 et seq.) They correctly note that lot line adjustments which do not increase the number of parcels are exempt from the Subdivision Map Act. Government Code section 66412, subdivision (d), provides in relevant part: "^{HN14} THIS DIVISION SHALL BE INAPPLICABLE TO: [P] . . . [P] (d) A lot line adjustment between two or more existing adjacent parcels, where the land taken from one [***24] parcel is added to an adjacent parcel, and where a greater number of parcels than originally existed is not thereby created, provided the lot line adjustment is approved by the local agency, or advisory agency." (E.g., San Dieguito Partnership v. City of San Diego (1992) 7 Cal. App. 4th 748, 755 [9 Cal. Rptr. 2d 440].) Plaintiffs also correctly describe the Subdivision Map Act as limiting a local or advisory agency's ability to condition its approval of such lot line adjustments. Subdivision (d) [^{*243}] of Government Code section 66412 states: "A local agency or advisory agency shall limit its review and approval to a determination of whether or not the parcels resulting from the lot line adjustment will conform to local zoning and building ordinances. An advisory agency or local agency shall not impose conditions or exactions on its approval of a lot line adjustment except to conform to local zoning and building ordinances, to require the prepayment of real property taxes prior to the approval of the lot line adjustment, or to facilitate the relocation of existing utilities, infrastructure, or easements." (Italics added.) Plaintiffs [^{*25}] conclude that under Government Code section 66412, subdivision (d), the county was required to issue a certificate of compliance without first referring them to the commission. We disagree.

The county did not impose any condition or exaction on its approval of the lot line adjustments. In the trial court, the county acknowledged that it did not finally approve the application for lot line adjustments because it considered the final approval to be the domain of the commission. However, the county acknowledged it had given its approval in concept and would impose no further requirements other than those imposed, if any, by the commission. The county simply deferred to the commission's jurisdiction. The requirement that plaintiffs obtain a coastal development permit or waiver is one imposed by law, not by the county. Under title 14 of the California Code of Regulations, section 13052, the county's approval was a condition precedent to the commission's consideration of plaintiffs' application. Title 14, California Code of Regulations, section 13052 provides in part: "^{HN15} When development for which a permit is required pursuant to Public Resources Code, Section 30600 [^{*26}] or 30601 also requires a permit from one or more cities or counties or other state or local governmental agencies, a permit application shall not be accepted for filing by the Executive Director [of the commission] unless all such governmental agencies have granted at a minimum their preliminary approval for said development." Therefore, the county issued its approval in concept "as required for permit application to the California Coastal Commission, South Coast Region[,] pursuant to California Administrative Code, Section 13052." (See § 30600, subd. (a).) (Cf. San Dieguito Partnership v. City of San Diego, *supra*, 7 Cal. App. 4th at p. 760 [lot line adjustment was not subject to the Subdivision Map Act, but was subject to commission provisions].) In the present case, the county did not improperly condition its approval of plaintiffs' lot line adjustments in contravention of Government Code section 66412, subdivision (d).

[**226] C. *Unpublished Issues* *

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Marshall, Dawna

From: Szymanski, Jeffrey <JSzymanski@sandiego.gov> on behalf of DSD EAS <DSDEAS@sandiego.gov>
Sent: Wednesday, August 25, 2021 1:06 PM
To: Szymanski, Jeffrey
Subject: FW: [EXTERNAL] Fwd: Lookout Lot 5 CDP/SDP / 482904

City staff response(s) to the Kristine Platt comment(s) letter for the Lookout Lot 5 project, Project No. 482904

From: Kristine Platt <krisplj@icloud.com>
Sent: Friday, August 13, 2021 10:53 AM
To: DSD EAS <DSDEAS@sandiego.gov>
Subject: [EXTERNAL] Fwd: Lookout Lot 5 CDP/SDP / 482904

****This email came from an external source. Be cautious about clicking on any links in this email or opening attachments.****

THE LETTER BELOW ALSO APPLIES TO PROJECT NAME: -----LOOKOUT DRIVE BOTH (LOT 2 AND LOT 5) MANY NEIGHBORS HAVE NOT BEEN NOTIFIED !

Begin forwarded message:

From: Kristine Platt <krisplj@icloud.com>
Subject: Lookout Lot 5 CDP/SDP / 482904
Date: August 4, 2021 at 12:05:46 PM PDT
To: "DSDEAS@sandiego.gov" <DSDEAS@Sandiego.gov>

TO WHOM IT MAY CONCERN:
I AM A CONCERNED NEIGHBOR ON LOOKOUT DRIVE
I AM REFERRING TO:

PROJECT NAME; LOOKOUT LOT 5 CDP/SDP
PROJECT NO.482904
SCH NO.N/A
COMMUNITY PLAN AREA: LA JOLLA
COUNCIL DISTRICT: 1

1.PLEASE VISIT OUR NEIGHBORHOOD AND OBSERVE HOW IT IS IMPOSSIBLE FOR EMERGENCY VEHICLES TO GET THROUGH DUE TO THE CURRENT PARKING SITUATION. THIS WAS DESIGNATED A COUNTRY LANE AND YET THE CITY CHOOSES TO IGNORE ALL SAFETY AND TRAFFIC VIOLATIONS AND CONTINUES TO PERMIT MORE AND MORE HIGH DENSITY CONSTRUCTION IN LOW DENSITY RESIDENTIAL. THE PROPERTY IN REVIEW IS EVEN CHANGING THE DRIVEWAY ACCESS TO FUTHER IMPACT THE PROBLEM.

2. THIS IS A LOW DENSITY NEIGHBORHOOD (COASTAL OVERLAY ZONE) AND YET YOU ARE ALLOWING HEIGHT AND DENSITY RESTRICTIONS TO BE BROKEN.

3. THE OWNER HAS BEEN EXCAVATING FOR MONTHS AND OPENLY STATES HE HAS UNCOVERED MOUNDS OF BEACH SAND FROM YEARS AGO WHICH WOULD RESULT IN SIGNIFICANT ENVIRONMENTAL EFFECTS (CULTURAL, ARCHAEOLOGICAL, GEOGRAPHICAL)

G-1 As stated in MND Section XVII., Transportation, "The project would not change existing circulation patterns on area roadways. The project would not conflict with any applicable plan, ordinance, or policy establishing measures of effectiveness for the performance of the circulation system." "Additionally, the project does not include any design features that would substantially increase hazards." "Adequate emergency access would be provided during both short-term construction (with construction operating protocols) and long-term operations of the project. Emergency access to the site would be provided from the driveway entrance on Lookout Drive. As such, the project would not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan."

G-2 Please see responses B-1 and B-4.

G-3 There are currently no open Code Enforcement Cases recorded for the property. As stated in MND section V., Cultural Resources, "Due to the presence of recorded cultural resources within the vicinity there is a potential for cultural resources to exist on the project site, and monitoring during ground-disturbing activities would be required." "With implementation of the historical resources monitoring program, potential impacts on historical resources would be reduced to below a level of significance."

G-4

4. THE STORM DRAIN MAP BY COFFEY ENGINEERING IS EXTREMELY MISLEADING AS THE DRAINAGE WATER WILL ALSO BE DIRECTED IN BETWEEN 7820 LOOKOUT DRIVE AND 7816 LOOKOUT DRIVE AND SENT INTO THE CANYON AND HILLSIDE THAT GOES DOWN TO TORREY PINES ROAD AND COULD SEVERELY IMPACT THE EROSION TO THE HILLSIDE OF NUMEROUS HOUSES (MINE INCLUDED).

THANK YOU FOR YOUR TIME AND CONSIDERATION,
KRISTINE MUSSELMAN PLATT

G-4 Refer to response B-1, As stated in the description of the project on page 14 of the MND, “[d]rainage would be directed into appropriate storm drain systems designated to carry surface runoff, which has been reviewed and accepted by City Engineering staff.” As detailed in MND Section X, Hydrology and Water Quality, the project was determined to be in compliance with “City’s Stormwater Management and Discharge Control Ordinance (Municipal Code Chapter 4, Article 3, Division 3), Storm Water Runoff and Drainage Regulations (LDC Section 142.02 et al.), and other applicable storm water quality standards during and after construction” and result in a less than significant impact related to hydrology.

Rincon Band of Luiseño Indians

CULTURAL RESOURCES DEPARTMENT

One Government Center Lane | Valley Center | CA 92082
(760) 749-1092 | Fax: (760) 749-8901 | rincon-nsn.gov



City staff response(s) to the Rincon Band of Luiseno Indians comment(s) letter
for the Lookout Lot 5 project, Project No. 482904

August 13, 2021

Sent via email: DSDEAS@SanDiego.gov

Re:

Dear Ms. Hoff,

This letter is written on behalf of Rincon Band of Luiseño Indians, (“Rincon Band” or “Band”), a federally recognized Indian Tribe and sovereign government.

The Band has received the notification for the above referenced project. The location identified within project documents is not within the Band’s specific Area of Historic Interest (AHI).

At this time, we have no additional information to provide. We recommend that you directly contact a Tribe that is closer to the project and may have pertinent information.

Thank you for submitting this project for Tribal review. If you have additional questions or concerns, please do not hesitate to contact our office at your convenience at (760) 297-2635 or via electronic mail at crd@rincon-nsn.gov.

Thank you for the opportunity to protect and preserve our cultural assets.

Sincerely,

Deneen Pelton

Cultural Resources Coordinator
Rincon Culture Resources Department

H-1 Comment noted. The comment does not address the adequacy of the draft Mitigated Negative Declaration. The requirement for Native American monitoring is included in Section V. of the Mitigated Negative Declaration, which identifies the need for the applicant to confer with appropriate persons/organizations when inadvertent discoveries occur during grading activities. The City of San Diego provides draft environmental documents to Native American Tribes from San Diego County when a cultural resources report has been prepared and/or archaeological monitoring is required. No further response is required.

Bo Mazzetti
Chairman

Tishmall Turner
Vice Chair

Laurie E. Gonzalez
Council Member

John Constantino
Council Member

Joseph Linton
Council Member



San Diego County Archaeological Society, Inc.

Environmental Review Committee

15 August 2021

To: Ms. Morgan Dresser
Development Services Department
City of San Diego
1222 First Avenue, Mail Station 501
San Diego, California 92101

Subject: Draft Mitigated Negative Declaration
Lookout Lot 5 CDP/SDP
Project No.482904

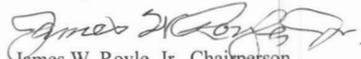
Dear Ms. Dresser:

I have reviewed the subject DMND on behalf of this committee of the San Diego County Archaeological Society.

Based on the information contained in the DMND and the cultural resources report for the project, we note a difference in the mitigation measures for this project as compared with the sister project, Lookout—Lot 2, Project No. 589178. The mitigation measures for this project omit paragraph C.5.d in the Lot 2 project. Unless there is some reason for this omission, it should be added at the same location in this project's mitigation program.

Other than the above, we concur with the mitigation measures specified in the DMND and thank the City for the opportunity to provide these comments..

Sincerely,


James W. Royle, Jr., Chairperson
Environmental Review Committee

cc: Brian F. Smith & Associates
SDCAS President
File

P.O. Box 81106 San Diego, CA 92138-1106 (858) 538-0935

City staff response(s) to the San Diego County Archaeological Society, Inc. comment(s) letter for the Lookout Lot 5 project, Project No. 482904

I-1 The final MND has been revised to include paragraph under C.5.d. "Upon the discovery of multiple Native American human remains during a ground-disturbing land development activity, the landowner may agree that additional 8 conferral with descendants is necessary to consider culturally appropriate treatment of multiple Native American human remains. Culturally appropriate treatment of such a discovery may be ascertained from review of the site utilizing cultural and archaeological standards. Where the parties are unable to agree on the appropriate treatment measures the human remains and items associated and buried with Native American human remains shall be reinterred with appropriate dignity, pursuant to Section 5(c)."

I-1

From: Susie <smcwalden@aol.com>
Sent: Friday, August 27, 2021 9:14 PM
To: Ma, Sammi <SMa@sandiego.gov>
Cc: DSD EAS <DSDEAS@sandiego.gov>
Subject: [EXTERNAL] Lookout Drive Lot 5/CDP/SDP - PTS 482904

****This email came from an external source. Be cautious about clicking on any links in this email or opening attachments.****

**City staff response(s) to the Susan McKean comment(s) letter
for the Lookout Lot 5 project, Project No. 482904**

- J-1** I live at 7809 Lookout Drive, next door to Lot 5.
Would you please let me know where/how I can get a copy or see the plans for the swimming pool, pool house, barbeque kitchen, carport and new driveway for Lot 4. The pool has already been dug and cemented.
- J-2** All of the excavation dirt for the pool was deposited on Lot 5. The two lots are owned by two different entities and I question whether there are permits for either the pool and its attachments or the dumping of huge amounts of dirt on Lot 5.
- J-3** There are approximately 35 neighbors on this circle and most of them have submitted written complaints about the work and the proposed development. We were told it was important to respond to any Notice from the City of San Diego concerning the projects. Yet the Notice of Availability Draft Mitigated Negative Declaration was sent to three out of over 35 neighbors giving neither notice or opportunity to respond.
- J-4** We have all tried to be good neighbors and reasonable, but our attempts all seem to be in vain. I am asking you please to let me know where I can see these plans, so I can understand what is being done along my property line. This seems only fair.

Thank you,
Susan McKean

- J-1** This comment refers to work being completed on Lot 4. As previously identified, Lot 4 is not part of the Lookout Lot 5 property.
- J-2** There are currently no open Code Enforcement Cases recorded for the property.
- J-3** The Notice of Availability for the Mitigated Negative Declaration was sent to those who were identified on the projects Interested Party Noticing List.
- J-4** Comment noted. The comment does not address the adequacy of the draft Mitigated Negative Declaration.

From: Kristine Platt <krisplj@icloud.com>
Sent: Wednesday, August 4, 2021 12:06 PM
To: DSD EAS <DSDEAS@sandiego.gov>
Subject: [EXTERNAL] Lookout Lot 5 CDP/SDP / 482904

This email came from an external source. Be cautious about clicking on any links in this email or opening attachments. _____

TO WHOM IT MAY CONCERN:
I AM A CONCERNED NEIGHBOR ON LOOKOUT DRIVE I AM REFERRING TO:

PROJECT NAME: LOOKOUT LOT 5 CDP/SDP
PROJECT NO.482904
SCH NO.N/A
COMMUNITY PLAN AREA: LA JOLLA
COUNCIL DISTRICT: 1

K-1

1.PLEASE VISIT OUR NEIGHBORHOOD AND OBSERVE HOW IT IS IMPOSSIBLE FOR EMERGENCY VEHICLES TO GET THROUGH DUE TO THE CURRENT PARKING SITUATION. THIS WAS DESIGNATED A COUNTRY LANE AND YET THE CITY CHOOSES TO IGNORE ALL SAFETY AND TRAFFIC VIOLATIONS AND CONTINUES TO PERMIT MORE AND MORE HIGH DENSITY CONSTRUCTION IN LOW DENSITY RESIDENTIAL. THE PROPERTY IN REVIEW IS EVEN CHANGING THE DRIVEWAY ACCESS TO FUTHER IMPACT THE PROBLEM.

K-2

2. THIS IS A LOW DENSITY NEIGHBORHOOD (COASTAL OVERLAY ZONE) AND YET YOU ARE ALLOWING HEIGHT AND DENSITY RESTRICTIONS TO BE BROKEN.
3. THE OWNER HAS BEEN EXCAVATING FOR MONTHS AND OPENLY STATES HE HAS UNCOVERED MOUNDS OF BEACH SAND FROM YEARS AGO WHICH WOULD RESULT IN SIGNIFICANT ENVIRONMENTAL EFFECTS (CULTURAL, ARCHAEOLOGICAL, GEOGRAPHICAL) 4. THE STORM DRAIN MAP BY COFFEY ENGINEERING IS EXTREMELY MISLEADING AS THE DRAINAGE WATER WILL ALSO BE DIRECTED IN BETWEEN 7820 LOOKOUT DRIVE AND 7816 LOOKOUT DRIVE AND SENT INTO THE CANYON AND HILLSIDE THAT GOES DOWN TO TORREY PINES ROAD AND COULD SEVERELY IMPACT THE EROSION TO THE HILLSIDE OF NUMEROUS HOUSES (MINE INCLUDED).

K-3

THANK YOU FOR YOUR TIME AND CONSIDERATION, KRISTINE MUSSELMAN PLATT

**City staff response(s) to the Susan McKean comment(s) letter
for the Lookout Lot 5 project, Project No. 482904**

K-1 Refer to Response B-1, B-4 and G-1. The proposed single-family residence and associated improvements are consistent with building envelope regulations which include setbacks and vehicular access. As stated in MND Section XVII., Transportation, "The project would not change existing circulation patterns on area roadways. The project would not conflict with any applicable plan, ordinance, or policy establishing measures of effectiveness for the performance of the circulation system." "Additionally, the project does not include any design features that would substantially increase hazards." "Adequate emergency access would be provided during both short-term construction (with construction operating protocols) and long-term operations of the project. Emergency access to the site would be provided from the driveway entrance on Lookout Drive. As such, the project would not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan."

K-2 Refer to Response B-1, B-4. The proposed single-family residence and associated improvements are consistent with building envelope regulations which include setbacks and vehicular access. Lot 5 is a legal lot and complies with the zoning. Existing development in the neighborhood does not have a unifying theme of architecture. The new development would be constructed to comply with all height and bulk regulations and is consistent with Visual Resource recommendations outlined in the LJCP and LJSPDO.

K-3 Refer to Response B-1 and G-3. There are currently no open Code Enforcement Cases recorded for the property. As stated in MND section V., Cultural Resources, "Due to the presence of recorded cultural resources within the vicinity there is a potential for cultural resources to exist on the project site, and monitoring during ground-disturbing activities would be required." "With implementation of the historical resources monitoring program, potential impacts on historical resources would be reduced to below a level of significance." As stated in the description of the project on page 14 of the MND, "[d]rainage would be directed into appropriate storm drain systems designated to carry surface runoff, which has been reviewed and accepted by City Engineering staff." As detailed in MND Section X, Hydrology and Water Quality, the project was determined to be in compliance with "City's Stormwater Management and Discharge Control Ordinance (Municipal Code Chapter 4, Article 3, Division 3), Storm Water Runoff and Drainage Regulations (LDC Section 142.02 et al.), and other applicable storm water quality standards during and after construction" and result in a less than significant impact related to hydrology.

INITIAL STUDY CHECKLIST

1. Project title/Project number: Lookout Lot 5 CDP/SDP / 482904
2. Lead agency name and address: City of San Diego, 1222 First Avenue, MS-501, San Diego, California, 92101
3. Contact person and phone number: Morgan Dresser / (619) 446-5404
4. Project location: 7813 Lookout Drive, San Diego, California 92037
5. Project Applicant/Sponsor's name and address: David Mandelbaum, Lookout, LLC, 8400 Miramar Road, San Diego, California 92126
6. General/Community Plan designation: Residential / Very Low Density Residential (0 - 5 dwelling units per acre)
7. Zoning: LJSPD-SF
8. Description of project (Describe the whole action involved, including but not limited to, later phases of the project, and any secondary, support, or off-site features necessary for its implementation.):

A request for a COASTAL DEVELOPMENT PERMIT and SITE DEVELOPMENT PERMIT to construct a two-story 4,900-square foot single-family residential unit. The project includes a 2,406-square foot partial basement, and a 2,280-square foot main level. Various site improvements would also be constructed that include associated hardscape and landscape.

The project landscaping has been reviewed by City Landscape staff and would comply with all applicable City Landscape ordinances and standards. Drainage would be directed into appropriate storm drain systems designated to carry surface runoff, which has been reviewed and accepted by City Engineering staff. Ingress and egress would be via a private driveway with access from Lookout Drive. All parking would be provided on-site.

Grading would entail approximately 1,550 cubic yards of cut with a maximum cut depth of twelve and a half feet.

9. Surrounding land uses and setting:

The vacant 0.12-acre project site is located at 7813 Lookout Drive. The project site is bounded by residential development to the north, south, and west, and Lookout Drive to the east. Vegetation on-site consists of ornamental landscaping.

The land use designation is Very Low Density Residential (0 - 5 dwelling units per acre).The project site is located in the LJSPD-SF zone and within the Coast Zone Boundary, the Coastal Height Limitation Overlay Zone, the Coastal Overlay Zone (Non-Appealable Area 2), the Parking Impact Overlay Zone (Coastal), the Residential Tandem Parking Overlay Zone, the Transit Area Overlay Zone, and the La Jolla Community Plan and Local Coastal Program. The

project site is located in a developed area currently served by existing public services and utilities.

10. Other public agencies whose approval is required (e.g., permits, financing approval, or participation agreement):

None required.

11. Have California Native American tribes traditionally and culturally affiliated with the project area requested consultation pursuant to Public Resources Code section 21080.3.1? If so, has consultation begun?

In accordance with the requirements of Public Resources Code 21080.3.1, the City of San Diego provided formal notifications to the Lipay Nation of Santa Ysabel and the Jamul Indian Village both traditionally and culturally affiliated with the project area; requesting consultation on March 1, 2018. Both Native American tribes responded within the 30-day notification period requesting consultation.

Note: Conducting consultation early in the CEQA process allows tribal governments, lead agencies, and project proponents to discuss the level of environmental review, identify and address potential adverse impacts to tribal cultural resources, and reduce the potential for delay and conflict in the environmental review process. (See Public Resources Code section 21083.3.2.) Information may also be available from the California Native American Heritage Commission's Sacred Lands File per Public Resources Code section 5097.96 and the California Historical Resources Information System administered by the California Office of Historic Preservation. Please also note that Public Resources Code section 21082.3(c) contains provisions specific to confidentiality.

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

- | | | |
|---|--|---|
| <input type="checkbox"/> Aesthetics | <input type="checkbox"/> Greenhouse Gas Emissions | <input type="checkbox"/> Population/Housing |
| <input type="checkbox"/> Agriculture and Forestry Resources | <input type="checkbox"/> Hazards & Hazardous Materials | <input type="checkbox"/> Public Services |
| <input type="checkbox"/> Air Quality | <input type="checkbox"/> Hydrology/Water Quality | <input type="checkbox"/> Recreation |
| <input type="checkbox"/> Biological Resources | <input type="checkbox"/> Land Use/Planning | <input type="checkbox"/> Transportation/Traffic |
| <input checked="" type="checkbox"/> Cultural Resources | <input type="checkbox"/> Mineral Resources | <input checked="" type="checkbox"/> Tribal Cultural Resources |
| <input type="checkbox"/> Energy | <input type="checkbox"/> Noise | <input type="checkbox"/> Utilities/Service System |
| <input type="checkbox"/> Geology/Soils | <input type="checkbox"/> Mandatory Findings Significance | <input type="checkbox"/> Wildfire |

DETERMINATION: (To be completed by Lead Agency)

On the basis of this initial evaluation:

- The proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- Although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
- The proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- The proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect (a) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and (b) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required.
- Although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or (MITIGATED) NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or (MITIGATED) NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

EVALUATION OF ENVIRONMENTAL IMPACTS:

- 1) A brief explanation is required for all answers except “No Impact” answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A “No Impact” answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A “No Impact” answer should be explained where it is based on project specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis.)
- 2) All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
- 3) Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. “Potentially Significant Impact” is appropriate if there is substantial evidence that an effect may be significant. If there are one or more “Potentially Significant Impact” entries when the determination is made, an EIR is required.
- 4) “Negative Declaration: Less Than Significant With Mitigation Incorporated” applies where the incorporation of mitigation measures has reduced an effect from “Potentially Significant Impact” to a “Less Than Significant Impact.” The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level (mitigation measures from “Earlier Analyses”, as described in (5) below, may be cross-referenced).
- 5) Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or (mitigated) negative declaration. *Section 15063(c)(3)(D)*. In this case, a brief discussion should identify the following:
 - a. Earlier Analysis Used. Identify and state where they are available for review.
 - b. Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.
 - c. Mitigation Measures. For effects that are “Less Than Significant With Mitigation Measures Incorporated”, describe the mitigation measures that were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.
- 6) Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.
- 7) Supporting Information Sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.
- 8) This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project’s environmental effects in whatever format is selected.
- 9) The explanation of each issue should identify:
 - a. The significance criteria or threshold, if any, used to evaluate each question; and
 - b. The mitigation measure identified, if any, to reduce the impact to less than significant.

I. AESTHETICS – Would the project:

- a) Have a substantial adverse effect on a scenic vista?

The project site is not located within, or adjacent to a designated scenic vista or view corridor that is identified in the La Jolla Community Plan and Local Coastal Program Land Use Plan. Therefore, the project would not have a substantial adverse effect on a scenic vista. No impact would result.

- b) Substantially damage scenic resources, including but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?

The project is situated within a developed neighborhood comprised of residential uses. There are no scenic resources (trees, rock outcroppings, or historic buildings) located on the project site. The project would not result in the physical loss, isolation, or degradation of a community identification symbol or landmark, as none are identified by the General Plan or community plan as occurring in the project vicinity. Therefore, no impact would result.

- c) Substantially degrade the existing visual character or quality of the site and its surroundings?

The vacant project site is located within a neighborhood with residential uses. The topography of the site would be minimally altered to allow for the development. The project is compatible with the surrounding development and permitted by the General Plan, community plan land use and zoning designations. The project would not substantially degrade the existing visual character or quality of the site and its surroundings; therefore, no impact would result.

- d) Create a new source of substantial light or glare that would adversely affect day or nighttime views in the area?

Lighting

The project would comply with the outdoor lighting standards in Municipal Code Section 142.0740 (Outdoor Lighting Regulations) that require all outdoor lighting be installed, shielded, and adjusted so that the light is directed in a manner that minimizes negative impacts from light pollution, including trespass, glare, and to control light from falling onto surrounding properties. Therefore, lighting installed with the project would not adversely affect day or nighttime views in the area, resulting in a less than significant lighting impact.

Glare

The project would comply with Municipal Code Section 142.0730 (Glare Regulations) that require exterior materials utilized for proposed structures be limited to specific reflectivity ratings. The structures would consist of wood siding, wood shingles, adobe and concrete blocks, brick, stucco, concrete or natural stone. The project would have a less than significant glare impact.

As such, the project would not create a new source of substantial light or glare that would adversely affect day or nighttime views in the area; impacts would be less than significant.

II. AGRICULTURAL AND FOREST RESOURCES: In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. – Would the project:

- a) Converts Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?

The project site is located within a developed residential neighborhood. As such, the project site does not contain nor is it adjacent to any lands identified as Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland) as show on maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resource Agency. Therefore, the project would not result in the conversion of such lands to non-agricultural use. No impact would result.

- b) Conflict with existing zoning for agricultural use, or a Williamson Act Contract?

Refer to response II (a), above. There are no Williamson Act Contract Lands on or within the vicinity of the site. Furthermore, the project would not affect any properties zoned for agricultural use or affected by a Williamson Act Contract, as there are none within the project vicinity. Agricultural land is not present on the site or in the general vicinity of the site; therefore, no conflict with the Williamson Act Contract would result. No impact would result.

- c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 1220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?

The project would not conflict with existing zoning for, or cause rezoning of, forest land, timberland, or timberland zoned Timberland Production. No designated forest land or timberland occur onsite. No impacts would result.

- d) Result in the loss of forest land or conversion of forest land to non-forest use?

Refer to response II (c) above. Additionally, the project would not contribute to the conversion of any forested land to non-forest use, as surrounding land uses are built out. No impacts would result.

- e) Involve other changes in the existing environment, which, due to their location or nature, could result in conversion of Farmland to non-agricultural use or conversion of forest land to non-forest use?

Refer to response II (a) and II (c), above. The project and surrounding areas do not contain any farmland or forest land. No changes to any such lands would result from project implementation. Therefore, no impact would result.

III. AIR QUALITY – Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied on to make the following determinations – Would the project:

- a) Conflict with or obstruct implementation of the applicable air quality plan?

The project site is located in the San Diego Air Basin (SDAB) and is under the jurisdiction of the San Diego Air Pollution Control District (SDAPCD) and the California Air Resources Board (CARB). Both the State of California and the Federal government have established health-based Ambient Air Quality Standards (AAQS) for the following six criteria pollutants: carbon monoxide (CO); ozone (O₃); nitrogen oxides (NO_x); sulfur oxides (SO_x); particulate matter up to 10 microns in diameter (PM₁₀); and lead (Pb). O₃ (smog) is formed by a photochemical reaction between NO_x and reactive organic compounds (ROCs). Thus, impacts from O₃ are assessed by evaluating impacts from NO_x and ROCs. A new increase in pollutant emissions determines the impact on regional air quality as a result of a proposed project. The results also allow the local government to determine whether a proposed project would deter the region from achieving the goal of reducing pollutants in accordance with the Air Quality Management Plan (AQMP) in order to comply with Federal and State AAQS.

The SDAPCD and San Diego Association of Governments (SANDAG) are responsible for developing and implementing the clean air plan for attainment and maintenance of the ambient air quality standards in the SDAB. The County Regional Air Quality Strategy (RAQS) was initially adopted in 1991 and is updated on a triennial basis (most recently in 2009). The RAQS outlines the SDAPCD's plans and control measures designed to attain the state air quality standards for ozone (O₃). The RAQS relies on information from the CARB and SANDAG, including mobile and area source emissions, as well as information regarding projected growth in San Diego County and the cities in the county, to project future emissions and then determine the strategies necessary for the reduction of emissions through regulatory controls. CARB mobile source emission projections and SANDAG growth projections are based on population, vehicle trends, and land use plans developed by San Diego County and the cities in the county as part of the development of their general plans.

The RAQS relies on SANDAG growth projections based on population, vehicle trends, and land use plans developed by the cities and by the county as part of the development of their general plans. As such, projects that propose development that is consistent with the growth anticipated by local plans would be consistent with the RAQS. However, if a project proposes development that is greater than that anticipated in the local plan and SANDAG's growth projections, the project might be in conflict with the RAQS and may contribute to a potentially significant cumulative impact on air quality.

The project would be consistent with the General Plan, Community Plan, and the underlying zone designation. Therefore, the project would be consistent with forecasts in the RAQS and would not obstruct implementation of the RAQS. As such, no impact would occur.

- b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?

Short-Term (Construction) Emissions. Construction-related activities are temporary, short-term sources of air emissions. Sources of construction-related air emissions include fugitive dust from grading activities; construction equipment exhaust; construction-related trips by workers, delivery trucks, and material-hauling trucks; and construction-related power consumption.

Variables that factor into the total construction emissions potentially generated include the level of activity, length of construction period, number of pieces and types of equipment in use, site characteristics, weather conditions, number of construction personnel, and the amount of materials to be transported on or offsite.

Fugitive dust emissions are generally associated with land-clearing and grading operations. Construction operations would include standard measures as required by the City of San Diego to limit potential air quality impacts. Therefore, impacts associated with fugitive dust are considered less than significant and would not violate an air quality standard or contribute substantially to an existing or projected air quality violation.

Long-Term (Operational) Emissions.

Operational emissions include emissions from natural gas combustion, vehicle trips, area sources and landscape equipment. Based on the estimated operational emissions, the project would not exceed any screening-level criteria. Therefore, project operation would not violate any air quality standard or contribute substantially to an existing or projected air quality violation, nor would the project result in a cumulatively considerable net increase of any criteria pollutant for which the region is in non-attainment.

Overall, impacts would be less than significant.

- c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?

As described above, construction operations could temporarily increase the emissions of dust and other pollutants. However, construction emissions would be temporary and short-term in duration; implementation of Best Management Practices (BMPs) would reduce potential impacts related to construction activities to a less than significant level. Therefore, the project would not result in a cumulatively considerable net increase of any criteria pollutant for which the project region is a non-

attainment under applicable federal or state ambient air quality standards. Impacts would be less than significant.

- d) Create objectionable odors affecting a substantial number of people?

Short-term (Construction)

Odors would be generated from vehicles and/or equipment exhaust emissions during construction of the project. Odors produced during construction would be attributable to concentrations of unburned hydrocarbons from tailpipes of construction equipment and architectural coatings. Such odors are temporary and generally occur at magnitudes that would not affect a substantial number of people. Therefore, impacts would be less than significant.

Long-term (Operational)

Residential dwelling units, in the long-term operation, are not uses typically associated with the creation of such odors nor are they anticipated to generate odors affecting a substantial number of people. Therefore, project operations would result in less than significant impacts.

IV. BIOLOGICAL RESOURCES – Would the project:

- a) Have substantial adverse effects, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?

The project site is vacant surrounded by residential development. The project site does not contain sensitive biological resources on site or adjacent to the site. Onsite vegetation is non-native and the project site does not contain any sensitive biological resources on site nor does it contain any candidate, sensitive or special status species. No impacts would occur.

- b) Have a substantial adverse effect on any riparian habitat or other community identified in local or regional plans, policies, and regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?

The project site is developed within an urban area. No such habitats exists on or near the project site. Refer to Response IV (a), above. The project site does not contain any riparian habitat or other identified community, as the site currently supports non-native vegetation. No impacts would occur.

- c) Have a substantial adverse effect on federally protected wetlands as defined by section 404 of the Clean Water Act (including but not limited to marsh, vernal pool, coastal, etc.) through direct

removal, filling, hydrological interruption, or other means?

There are no wetlands or water of the United States on or near the site. No impacts would occur.

- d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?

The project site is urban developed within a residential setting. The project would not impede the movement of any wildlife or the use of any wildlife nursery sites. Therefore, no impacts would occur.

- e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?

Refer to response IV (a), above. The project site is designated Residential. The site is developed and within a residential setting. The project would not conflict with any local policies or ordinances protecting biological resources. Therefore, no impacts would occur.

- f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?

The project is located in a developed urban area and is not adjacent to the City's Multi-Habitat Planning Area (MHPA). The project would not conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan or other approved local, regional or state habitat conservation plan. Therefore, no impacts would occur.

V. CULTURAL RESOURCES - Would the project:

- a) Cause a substantial adverse change in the significance of an historical resource as defined in §15064.5?

There are no existing structures on site. Therefore, no impacts would result.

- b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?

Many areas of San Diego County, including mesas and the coast, are known for intense and diverse prehistoric occupation and important archaeological and historical resources. The region has been inhabited by various cultural groups spanning 10,000 years or more. The project area is located

within an area identified as sensitive on the City of San Diego Historical Resources Sensitivity Maps. Qualified City staff conducted a records search of the California Historic Resources Information System (CHRIS) digital database; the search identified several previously recorded historic and prehistoric sites in the project vicinity. Based on this information, there is a potential for buried cultural resources to be impacted through implementation of the project. Therefore, a Phase I Cultural Resources Survey for the Lookout Residences project was prepared by Brian F. Smith and Associates (September 2017), which included literature review, record search, Native American Consultation, and completion of a pedestrian field survey of the parcel along with a Kumeyaay Native American monitor, per the City's requirements. The results and conclusions of the technical report are summarized below.

According to South Coastal Information Center (SCIC) 3 primary prehistoric sites are identified within a quarter-mile radius. A total of 74 recorded cultural resources including 28 prehistoric, 14 historic, and 6 multicomponent sites, 21 historic addresses and five historic sidewalk stamps are located within a one-mile radius of the project site. Previous studies indicate the project site is located 350 feet southeast of the recorded boundary of the Spindrift Archaeological District which includes SDI-39, a previously recorded prehistoric village complex occupied during the late Holocene. Portions of SDI-39 have been previously determined to be significant.

During the pedestrian field survey visibility was limited by landscaping, and fill dirt. The survey did not result in the observation of artifacts, cultural ecofacts, or other materials related to the prehistoric or historic land use within the project site. Due to the presence of recorded cultural resources within the vicinity there is a potential for cultural resources to exist on the project site, and monitoring during ground-disturbing activities would be required.

Therefore, a Mitigation Monitoring Reporting Program, as detailed within Section V of the MND, would be implemented. With implementation of the historical resources monitoring program, potential impacts on historical resources would be reduced to below a level of significance.

- c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?

According to the submitted Report of Preliminary Geotechnical Investigation prepared by Christian Wheeler Engineering (April 14, 2014) the project site is underlain by Artificial Fill (Qaf) from approximately two feet to five feet; Topsoil/Slopewash (Unmapped/Qsw) from about one foot to six feet; and Old Paralac Deposits (Qop) from about one foot to six feet below existing grade.

Artificial Fill (Qaf) is not sensitive for paleontological resources. Topsoil/Slopewash (Qsw) is assigned a low sensitivity rating for paleontological resources. Old Paralac Deposits (Qop – Baypoint Formation) is assigned a high sensitivity rating for paleontological resources.

According to the City of San Diego's Significance Determination Thresholds, more than 1,000 cubic yards of grading at depths of greater than 10 feet (less than 10 feet if the site has been graded) into formations with a high resource sensitivity rating could result in a significant impact to paleontological resources, and mitigation would be required.

Project grading would require approximately 1,550 cubic yards of cut with a maximum cut depth of twelve and a half feet and therefore exceeds the City's CEQA Significance Determination Thresholds.

The project would be required to comply with SDMC Section 142.0151 (Paleontological Resources Requirements for Grading Activities). Compliance with these SDMC regulations would ensure that impacts to paleontological resources would be less than significant.

- d) Disturb human remains, including those interred outside of dedicated cemeteries?

There are no formal cemeteries or known burials in the immediate vicinity of the project site. In the unlikely event of a discovery of human remains, the project would be handled in accordance with procedures of the California Public Resources Code (§5097.98), State Health and Safety Code (§7050.5), and California Government Code Section 27491. These regulations detail specific procedures to follow in the event of a discovery of human remains, i.e. work would be required to halt and no soil would be exported off-site until a determination could be made via the County Coroner and other authorities as required. In addition, the Mitigation, Monitoring, and Reporting Program requires the presence of archaeological and Native American monitors during grading that would ensure that any buried human remains inadvertently uncovered during grading operations are identified and handled in compliance with these regulations (see V. b). As no known burials exist within the project site, it is not anticipated that human remains would be encountered during construction. Therefore, no impact would occur.

VI. ENERGY – Would the project:

- a) Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?

The project would be required to meet mandatory energy standards of the current California energy code. Construction of the single-family residence would require operation of heavy equipment but would be temporary and short-term in duration. Additionally, long-term energy usage from the building would be reduced through design measures that incorporate energy conservation features in heating, ventilation and air conditioning systems, lighting and window treatments, and insulation and weather stripping. The project would also incorporate cool-roofing materials and solar panels. Development of the project would not result in a significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources. Impacts would remain less than significant.

- b) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?

Refer to IV. a. above. The project is consistent with the General Plan and the La Jolla Community Plan's land use designation. The project is also required in comply with the City's Climate Action Plan (CAP) by implementing energy reducing design measures, therefore the project would not obstruct a state or local plan for renewable energy or energy efficiency. No impacts would result.

VII. GEOLOGY AND SOILS – Would the project:

- a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:
- i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.

Based on the Preliminary Geotechnical Investigation prepared by Christian Wheeler Engineering (April 14, 2014) there are no active, potentially active, or inactive faults located within the project site. The project site is located within the Alquist-Priolo Earthquake Fault Zone associated with the Rose Canyon Fault Zone, specifically, the Mount Soledad Fault has been mapped north of the project site. Other active fault zones in the region which could affect the site include the Coronado Bank Fault Zone to the southwest, the Newport-Inglewood and Palos Verdes Fault Zones to the northwest, and the Elsinore, Earthquake Valley, San Jacinto, and San Andreas Fault Zones to the northeast.

Earthquakes that generate from these faults or from other faults within southern California are potential generators of significant ground motion at the project site. However, the project would be required to comply with seismic requirement of the California Building Code, utilize proper engineering design and standard construction practices, to be verified at the building permit stage, in order to ensure that would reduce impacts to people or structures to an acceptable level of risk. Therefore, impacts would be less than significant.

- ii) Strong seismic ground shaking?

Refer to VII (a)(i).

- iii) Seismic-related ground failure, including liquefaction?

Liquefaction generally occurs when loose, unconsolidated, water-laden soils are subject to shaking, causing the soils to lose cohesion. According to the site-specific geotechnical investigation, the site would have a low risk for liquefaction due to dense depth of groundwater table, soil density, and grain-size distribution. As such, the likelihood of the proposed project exposing people to seismic related ground failure or liquefaction is considered to be low, resulting in a less than significant impact.

- iv) Landslides?

According to the site-specific geotechnical investigation, the site is within Relative Landslide Susceptibility Area 3-1, which is considered to be “generally susceptible”. However, based on the lack of any steep unsupported slopes at or adjacent to the site the risk of deep-seated or significant surficial slope instability is considered low. Implementation of proper engineering design and

utilization of standard construction practices, to be verified at the building permit stage, would ensure that the potential for impacts would be reduced to an acceptable level of risk. Therefore, impacts would be less than significant.

- b) Result in substantial soil erosion or the loss of topsoil?

Construction activities would temporarily expose soils to increase erosion potential. Grading activities would be required to comply with the City's Grading Ordinance as well as the Storm Water Standards, which would ensure soil erosion and topsoil loss is minimized to less than significant levels. Furthermore, permanent storm water BMP would also be required post-construction consistent with the City's regulations. Therefore, the project would not result in substantial soils erosion or loss of topsoil and impacts would be less than significant.

- c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?

As discussed in Section VI(a) and VI(b), the project site has a low potential to be subject to landslides, and the potential for liquefaction and subsidence is low. The soils and geologic units underlying the site are considered to have a "low to medium" expansion potential. The project design would be required to comply with the requirements of the California Building Code ensuring hazards associated with expansive soils would be reduced to an acceptable level of risk. As such, impacts due to expansive soils are expected to be less than significant.

- d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?

The project site is considered to have low to medium expansive soil potential. The project would be required to comply with the requirements of the California Building Code that would reduce impacts to people or structures due to local seismic events to an acceptable level of risk. Implementation of proper engineering design and utilization of standard construction practices, to be verified at the building permit stage, would ensure that the potential for impacts from regional geologic hazards would remain less than significant.

- e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?

The project does not include the installation of septic tanks or alternative wastewater disposal systems. The park would be constructed for visitor use and would be tied to the City's established wastewater infrastructure system. Therefore, no impact would occur.

VIII. GREENHOUSE GAS EMISSIONS – Would the project:

- a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?

The CAP Consistency Checklist is utilized to ensure project-by-project consistency with the underlying assumptions in the CAP and to ensure that the City would achieve its emission reduction targets identified in the CAP. The CAP Consistency Checklist includes a three-step process to determine project if the project would result in a GHG impact. Step 1 consists of an evaluation to determine the project's consistency with existing General Plan, Community Plan, and zoning designations for the site. Step 2 consists of an evaluation of the project's design features compliance with the CAP strategies. Step 3 is only applicable if a project is not consistent with the land use and/or zone, but is also in a transit priority area to allow for more intensive development than assumed in the CAP.

Under Step 1 of the CAP Consistency Checklist, the project is consistent with the existing General Plan and La Jolla Community Plan land use designations and zoning for the site. Therefore, the project is consistent with the growth projections and land use assumptions used in the CAP. Furthermore, completion of Step 2 of the CAP Consistency Checklist demonstrates that the project would be consistent with applicable strategies and actions for reducing GHG emissions. This includes project features consistent with the energy and water efficient buildings strategy, as well as bicycling, walking, transit, and land use strategy. These project features would be assured as a condition of project approval. Thus, the project is consistent with the CAP. Step 3 of the CAP Consistency Checklist would not be applicable, as the project is not proposing a land use amendment or a rezone.

Based on the project's consistency with the City's CAP Consistency Checklist, the project's contribution of GHGs to cumulative statewide emissions would be less than cumulatively considerable. Therefore, the project's direct and cumulative GHG emissions would have a less than significant impact on the environment.

- b) Conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of greenhouse gases?

Refer to Section VII (a). Impacts would be less than significant.

IX. HAZARDS AND HAZARDOUS MATERIALS - Would the project:

- a) Create a significant hazard to the public or the environment through routine transport, use, or disposal of hazardous materials?

Project construction activities may involve the use and transport of hazardous materials. These materials may include fuels, oils, mechanical fluids, and other chemicals used during construction. Transportation, storage, use, and disposal of hazardous materials during construction activities would be required to comply with applicable federal, state, and local statutes and regulations.

Compliance would ensure that human health and the environment are not exposed to hazardous materials. Therefore, no significant impacts would occur during construction activities.

The operational phase of the project would occur after construction is completed. The project includes residential uses that are compatible with surrounding uses. Residential uses do not routinely transport, use, or dispose of hazardous materials, or present a reasonably foreseeable release of hazardous materials, with the potential exception of common commercial grade hazardous materials such as household and commercial cleaners, paint, etc. The project would not create a significant hazard through the routine transport, use, or disposal of hazardous materials, nor would a significant hazard to the public or to the environment through the reasonably foreseeable upset and accidental conditions involving the likely release of hazardous materials into the environment occur. Therefore, the proposed project would not create a significant hazard to the public or the environment and any impacts would be less than significant.

- b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?

Refer to IX (a), above. Impacts would be less than significant.

- c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?

As outlined in VII (a) and (b) above, the project would not store, transport, use or dispose of hazardous materials. The Children's School is located within one-quarter mile of the site. Based on the described conditions no impacts related to emitting or handling hazardous materials waste or substances within one-quarter mile of a school site would occur. Impact would be less than significant.

- d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?

A search of potential hazardous materials sites compiled pursuant to Government Code Section 65962.5 was completed for the project site. Based on the searches conducted, the project site is not identified on a list of hazardous materials sites. As such, no impact would occur that would create a significant hazard to the public or environment.

- e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two mile of a public airport or public use airport,

would the project result in a safety hazard for people residing or working in the project area?

The project is not located within an airport land use plan, or within two miles of a public airport or public use airport. No impact would result.

- f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?

Refer to response VIII (e) above. The project site is not in proximity to any private airstrip. Therefore, no impacts will occur.

- g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?

The project would not impair the implementation of, or physically interfere with, an adopted emergency response plan or evacuation plan. No roadway improvements are proposed that would interfere with circulation or access, and all construction would take place on-site. No impacts would occur.

- h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?

The project is located within a developed neighborhood. There are no wildlands on or adjacent to the project site. No impact would occur.

X. HYDROLOGY AND WATER QUALITY - Would the project:

- a) Violate any water quality standards or waste discharge requirements?

The project would comply with the City's Stormwater Management and Discharge Control Ordinance (Municipal Code Chapter 4, Article 3, Division 3), Storm Water Runoff and Drainage Regulations (LDC Section 142.02 et al.), and other applicable storm water quality standards during and after construction. The project was identified as a Standard Development Project and would be subject to Low Impact Development best management practices (BMPs). Treatment control BMPs have been included that would ensure pollutants are not discharged to receiving waters. Proposed BMPs are summarized below.

The project would employ site design, and source control BMPs. Site design BMPs include minimizing impervious areas, minimizing soil compaction, dispersing the impervious areas, and use of native or drought-tolerant species for landscaping purposes. Source control BMPs include the

prevention of illicit discharges into the MS4, on-site storm drain inlets, protection of trash and storage areas to prevent dispersion by rain, run-on, run-off and wind, and interior parking.

These requirements have been reviewed by qualified City staff and would be re-verified during the ministerial building permit process. Adherence to applicable water quality standards would ensure adverse impacts associated with compliance with quality standards and waste discharge requirements are avoided. Impacts would be less than significant.

- b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?

The project does not require the construction of wells or the use of groundwater. Therefore, the project would not substantially deplete groundwater supplies or interfere substantially with groundwater recharge. The project is located in an urban neighborhood where all infrastructures exist. The project would connect to the existing public water system. No impact would result.

- c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner, which would result in substantial erosion or siltation on- or off-site?

A site-specific Preliminary Drainage Study was prepared by Coffey Engineering, Inc. (October 2019), which identified the following. Under the existing conditions, site drainage consists of natural sheet flow across the site property from the south to north at an average slope of 6:1, some of which runs into a neighboring retaining wall to the north and discharges into Lookout Drive. Development of the project site would increase the runoff from 0.21 cfs to 0.42 cfs due to an increased imperviousness. There are no streams or rivers located on-site and thus, no such resources would be impacted through the proposed grading activities. The site runoff would continue to sheet flow towards the north side of the property and discharge into Lookout Drive.

Although grading would be required for the project, the project would implement BMPs to ensure that substantial erosion or siltation on or off-site would not occur. Impacts would be less than significant.

- d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner, which would result in flooding on- or off-site?

Refer to XI(c), the project would not significantly alter the overall drainage pattern for the site or area, or substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or off-site. Although site drainage would be altered, the sheet flow would be directed towards Lookout Drive and would comply with San Diego Municipal Code Section 143.0142(f). Impacts would be less than significant.

- e) Create or contribute runoff water, which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?

The project would be required to comply with all City storm water standards during and after construction. Appropriate best management practices would be implemented to ensure that water quality is not degraded; therefore, ensuring that project runoff is directed to appropriate drainage systems. Any runoff from the site is not anticipated to exceed the capacity of existing storm water systems or provide substantial additional sources of polluted runoff. Impacts would be less than significant.

- f) Otherwise substantially degrade water quality?

Refer to Section IX (a). The project would be required to comply with all City storm water standards both during and after construction, using appropriate best management practices that would ensure that water quality is not degraded. Impacts would be less than significant.

- g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?

The project site is not located within a 100-year flood hazard area or any other known flood area. Therefore, no impacts would occur.

- h) Place within a 100-year flood hazard area, structures that would impede or redirect flood flows?

The project site is not located within a 100-year flood hazard area or any other known flood area. Therefore, no impacts would occur.

XI. LAND USE AND PLANNING – Would the project:

- a) Physically divide an established community?

The project is compatible with the surrounding development and permitted by the General Plan, community plan land use and zoning designations. The project would not substantially change the nature of the surrounding area and would not introduce any barriers or project features that could

physically divide the community. Thus, the project would result in no impact related to physically dividing an established community. No impact would occur.

- b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?

The project site is designated Residential and zoned LJSPD-SF per the La Jolla Community Plan. The project is consistent with the underlying zone and the land use designation. The project would not conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including but not limited to the general plan, community plan, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect. No impact would result.

- c) Conflict with any applicable habitat conservation plan or natural community conservation plan?

The project is located within a developed neighborhood and would not conflict with any applicable habitat conservation plan or natural community conservation plan. No impact would occur.

XII. MINERAL RESOURCES – Would the project:

- a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?

There are no known mineral resources located on the project site. The urbanized and developed nature of the project site and vicinity would preclude the extraction of any such resources. No impact would result.

- b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?

See XI (a), above. The project site has not been delineated on a local general, specific or other land use plan as a locally important mineral resource recovery site, and no such resources would be affected with project implementation. Therefore, no impacts were identified.

XIII. NOISE – Would the project result in:

- a) Generation of, noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?

Short-term noise impacts would be associated with onsite grading, and construction activities of the project. Construction-related short-term noise levels would be higher than existing ambient noise levels in the project area but would no longer occur once construction is completed. Sensitive receptors (e.g. residential uses) occur in the immediate area and may be temporarily affected by construction noise; however, construction activities would be required to comply with the construction hours specified in the City's Municipal Code (Section 59.5.0404, Construction Noise) which are intended to reduce potential adverse effects resulting from construction noise. With compliance to the City's noise ordinance, project construction noise levels would be reduced to less than significant.

For the long-term, typical noise levels associated with residential uses are anticipated, and the project would not result in an increase in the existing ambient noise level. The project would not result in noise levels in excess of standards established in the City of San Diego General Plan or Noise Ordinance. No significant long-term impacts would occur, therefore impacts would be less than significant.

- b) Generation of, excessive ground borne vibration or ground borne noise levels?

Pile driving activities that would potentially result in ground borne vibration or ground borne noise are not anticipated with construction of the project. As described in Response to XII (a) above, potential effects from construction noise would be reduced through compliance with the City's Noise Ordinance. Impacts would be less than significant.

- c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?

The project would not significantly increase long-term noise levels. The project would not introduce a new land use, or significantly increase the intensity of the allowed land use. Post-construction noise levels and traffic would not substantially increase as compared to the existing residential use. Therefore, no substantial permanent increase in ambient noise levels is anticipated. A less than significant impact would occur.

- d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above existing without the project?

The project would not expose people to a substantial increase in temporary or periodic ambient noise levels. Construction noise would result during grading, demolition, and construction activities, but would be temporary in nature. Construction-related noise impacts from the project would generally be higher than existing ambient noise levels in the project area but would no longer occur once construction is completed. In addition, the project would be required to comply with the San Diego Municipal Code, Article 9.5, Noise Abatement and Control. Compliance with the Municipal Code would reduce potential impacts from an increase in ambient noise level during construction to a less than significant level.

- e) For a project located within an airport land use plan, or, where such a plan has not been adopted, within two miles of a public airport or public use airport would the project expose people residing or working in the area to excessive noise levels?

There are no airports located within two miles of or adjacent to the project site, with the closest airport being Marine Corps Air Station (MCAS) Miramar. The risk of aircraft related noise exposure associated with the implementation of the project is considered low. Therefore, no impact would occur.

- f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?

The project is not located within the vicinity of a private airstrip. No impact would occur.

XIV. POPULATION AND HOUSING – Would the project:

- a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?

The project is located within a developed residential neighborhood and is surrounded by similar development. The project site currently receives services from the City, and no extension of infrastructure to new areas is required. As such, the project would not induce substantial population growth in the area. Impacts would be less than significant.

- b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?

No such displacement would result. The project site is currently vacant, and a single-family residential unit would be constructed. No impacts would occur.

- c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?

No such displacement would result. The project site is currently vacant, and a single-family residential unit would be constructed. No impacts would occur.

XV. PUBLIC SERVICES

a) Would the project result in substantial adverse physical impacts associated with the provisions of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service rations, response times or other performance objectives for any of the public services:

i) Fire protection

The project site is located in an urbanized area where fire protection services are provided. The site would continue to be served by the City. The project would not adversely affect existing levels of fire protection services to the area and would not require the construction of new or expanded governmental facilities. Impacts to fire protection would be less than significant.

ii) Police protection

The project site is located in an urbanized area where police protection services are provided. The site would continue to be served by the City. The project would not adversely affect existing levels of police protection services to the area and would not require the construction of new or expanded governmental facilities. Impacts to fire protection would be less than significant.

iii) Schools

The project would not affect existing levels of public services and would not require the construction or expansion of a school facility. The project site is located in an urbanized and developed area where public school services are available. The project would not significantly increase the demand on public schools over that which currently exists and is not anticipated to result in a significant increase in demand for public educational services. Impacts would be less than significant.

iv) Parks

The project site is located in an urbanized and developed area where City-operated parks are available. The project would not significantly increase the demand on existing neighborhood or regional parks or other recreational facilities over that which presently exists and is not anticipated to result in a significant increase in demand for parks or other offsite recreational facilities. Impacts would be less than significant.

v) Other public facilities

The project site is located in an urbanized and developed area where City services are already available. The project would not adversely affect existing levels of other public facilities and not require the construction or expansion of an existing governmental facility. Impacts would be less than significant.

XVI. RECREATION

- a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?

The project would not adversely affect the availability of and/or need for new or expanded recreational resources. The project would not adversely affect existing levels of public services and would not require the construction or expansion of an existing governmental facility. The project would not significantly increase the use of existing neighborhood or regional parks or other recreational facilities. Therefore, the project is not anticipated to result in the use of available parks or facilities such that substantial deterioration occurs, or that would require the construction or expansion of recreational facilities to satisfy demand. Impacts would be less than significant.

- b) Does the project include recreational facilities or require the construction or expansion of recreational facilities, which might have an adverse physical effect on the environment?

Refer to XV (a) above. The project does not propose recreation facilities nor require the construction or expansion of any such facilities.

XVII. TRANSPORTATION/TRAFFIC - Would the project?

- a) Would the project or plan/policy conflict with an adopted program, plan, ordinance or policy addressing the transportation system, including transit, roadways, bicycle and pedestrian facilities?

The project would not change existing circulation patterns on area roadways. The project would not conflict with any applicable plan, ordinance, or policy establishing measures of effectiveness for the performance of the circulation system. Therefore, no impact would occur.

- b) Would the project or plan/policy result in VMT exceeding thresholds identified in the City of San Diego Transportation Study Manual?

The project would construct a single-family residence in a neighborhood with similar residential development. A "Small Project" is defined as a project generating less than 300 daily unadjusted driveway trips using the City of San Diego trip generation rates/procedures. Based upon the screening criteria, the project qualifies as a "Small Project" and is screened out from further VMT analysis. The project is presumed to have a less than significant impact on Vehicle Miles Traveled (VMT). Impacts would be less than significant.

- c) Would the project or plan/policy substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

The project would construct a single-family residence in a neighborhood with similar residential development. Overall, the project complies with the La Jolla Community Plan and is consistent with the land use and underlying zoning. Additionally, the project does not include any design features that would substantially increase hazards. No impacts would result.

- d) Result in inadequate emergency access?

Adequate emergency access would be provided during both short-term construction (with construction operating protocols) and long-term operations of the project. Emergency access to the site would be provided from the driveway entrance on Lookout Drive. As such, the project would not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan. Impacts would be less than significant.

XVIII. TRIBAL CULTURAL RESOURCES – Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:

- a) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or

The project would not cause a substantial adverse effect to tribal cultural resources, as there are no recorded sites listed or sites eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined by the Public Resources Code. No impact would result.

- b) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.

Tribal Cultural Resources include sites, features, places, cultural landscapes, and sacred places or objects that have cultural value or significance to a Native American Tribe. Tribal Cultural Resources include “non-unique archaeological resources” that, instead of being important for “scientific” value as a resource, can also be significant because of the sacred and/or cultural tribal value of the

resource. Tribal representatives are considered experts appropriate for providing substantial evidence regarding the locations, types, and significance of tribal cultural resources within their traditionally and cultural affiliated geographic area (PRC § 21080.3.1(a)).

According to South Coastal Information Center (SCIC) 3 primary prehistoric sites are identified within a quarter-mile radius. A total of 74 recorded cultural resources including 28 prehistoric, 14 historic, and 6 multicomponent sites, 21 historic addresses and five historic sidewalk stamps are located within a one-mile radius of the project site. Previous studies indicate the project site is located 350 feet southeast of the recorded boundary of the Spindrift Archaeological District which includes SDI-39, a previously recorded prehistoric village complex occupied during the late Holocene. Portions of SDI-39 have been previously determined to be significant.

In accordance with the requirements of PRC Section 21080.3.1, Assembly Bill (AB) 52, the City notified Native American tribes that are traditionally and culturally affiliated with the project area. The tribes were sent notification letters on March 1, 2018 informing them of the proposed project and asking them of any knowledge or information about tribal cultural resources they may have about the project area. Both Tribes requested implementation of Native American monitoring during the project's ground-disturbing activities. No additional Tribal Cultural Resources were identified during consultation.

A Mitigation, Monitoring, and Reporting Program as detailed in Section V of the Mitigated negative Declaration would be required. With implementation of the monitoring program, potential impacts on tribal cultural resources would be reduced to below a level of significance.

XIX. UTILITIES AND SERVICE SYSTEMS – Would the project:

- a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?

Implementation of the project would not interrupt existing sewer service to the project site or other surrounding development. The project is not anticipated to generate significant amount of wastewater. Wastewater facilities used by the project would be operated in accordance with the applicable wastewater treatment requirements of the Regional Water Quality Control Board (RWQCB). Existing sewer infrastructure exists within roadways surrounding the project site and adequate services are available to serve the project. Thus, impacts would be less than significant.

- b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?

See XVII (a) above. Adequate services are available to serve the site and the project would not require the construction or expansion of existing facilities. No impact would result.

- c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the

construction of which could cause significant environmental effects?

The project would not exceed the capacity of the existing storm water system and require the construction of new or expanded treatment facilities of which would cause significant environmental effects. The project was reviewed by qualified City staff who determined that the existing facilities are adequately sized to accommodate the proposed development. No impacts would result.

- d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?

The project does not meet the CEQA significance thresholds requiring the need for the project to prepare a water supply assessment. The existing project site currently receives water service from the City, and adequate services are available to serve the site without requiring new or expanded entitlements. No impact would result.

- e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?

Construction of the project would not adversely affect existing wastewater treatment services. Adequate services are available to serve the site without requiring new or expanded facilities. No impacts would result.

- f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?

The project would be served by a landfill with sufficient permitted capacity to accommodate the project's disposal needs. Construction debris and waste would be generated from the construction of the new residential unit. All construction waste from the project site would be transported to an appropriate facility, which would have adequate capacity to accept the limited amount of waste that would be generated by the project. Long-term operation of the proposed residential unit would be anticipated to generate typical amounts of solid waste associated with residential use. Furthermore, the project would be required to comply with the City's Municipal Code (including the Refuse and Recyclable Materials Storage Regulations (Municipal Code Chapter 14, Article 2, Division 8), Recycling Ordinance (Municipal Code Chapter 6, Article 6, Division 7), and the Construction and Demolition (C&D) Debris Deposit Ordinance (Municipal Code Chapter 6, Article 6, Division 6)) for diversion of both construction waste during the demolition phase and solid waste during the long-term, operational phase. Impacts are considered to be less than significant.

- g) Comply with federal, state, and local statutes and regulation related to solid waste?

The project would comply with all Federal, State, and local statutes and regulations related to solid waste. The project would not result in the generation of large amounts of solid waste, nor generate or require the transport of hazardous waste materials, other than minimal amounts generated during the construction phase. All demolition activities would comply with any City of San Diego requirements for diversion of both construction waste during the demolition phase and solid waste during the long-term, operational phase. No impacts would result.

XX. WILDFIRE - Would the project:

- a) Substantially impair an adopted emergency response plan or emergency evacuation plan?

The 2017 San Diego County Multi-Jurisdictional Hazard Mitigation Plan (SDHMP) is the San Diego region's plan toward greater disaster resilience in accordance with section 322 of the Disaster Mitigation Act of 2000. The project would not conflict with the goals, objectives, and actions of the SDHMP. Per Action 1.D.6, High fire hazard areas shall have adequate access for emergency vehicles. The project site is located in a previously developed area with existing infrastructure and facilities currently serving the site. Additionally, the project would provide adequate access for emergency vehicles. Therefore, the project would not conflict with emergency response and would not substantially impair an adopted emergency response plan. No impacts would result.

- b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to, pollutant concentrations from a wildfire or the uncontrolled spread of wildfire?

The project site is generally flat, located within an existing urban neighborhood surrounded by residential uses and is not located in a Very High Fire Severity Zone. Due to the location of the project, the project would not have the potential to expose occupants to pollutant concentrations from a wildfire or the uncontrolled spread of wildfire. Therefore, no impacts would result.

- c) Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?

The project is currently served by existing infrastructure which would service the site during and after construction. The project area has adequate fire hydrant services and street access. No new infrastructure is proposed to support the project that may exacerbate fire risk. No impacts would result.

- d) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a

result of runoff, post-fire slope instability, or drainage changes?

The project area is within developed urban neighborhood. The project would comply with the City's Landscape Regulations and Land Development Code. The project would not expose people or structures to significant risk from flooding or landslide as a result of runoff, post-fire instability, or drainage changes. Therefore, no impacts would occur.

XXI. MANDATORY FINDINGS OF SIGNIFICANCE -

- a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?

As documented in this Initial Study, the project may have the potential to degrade the quality of the environment, notably with respect to Cultural Resources (Archaeology), and Tribal Cultural Resources. As such, mitigation measures have been incorporated to reduce impacts to less than significant as outlined within the Initial Study.

- b) Does the project have impacts that are individually limited but cumulatively considerable ("cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?

CEQA Guidelines Section 15064(i) states that a Lead Agency shall consider whether the cumulative impact of a project is significant and whether the effects of the project are cumulatively considerable. The assessment of the significance of the cumulative effects of a project must, therefore, be conducted in connection with the effects of past projects, other current projects, and probable future projects. Cumulative environmental impacts are those impacts that by themselves are not significant, but when considered with impacts occurring from other projects in the vicinity would result in a cumulative impact. Related projects considered to have the potential of creating cumulative impacts in association with the project consist of projects that are reasonably foreseeable and that would be constructed or operated during the life of the project. The project would be located in a developed area that is largely built out. No other construction projects are anticipated in the immediate area of the project.

As documented in this Initial Study, the project may have the potential to degrade the environment as a result of Cultural Resources (Archaeology), and Tribal Cultural Resources impacts, which may have cumulatively considerable impacts when viewed in connection with the effects of other potential projects in the area. As such, mitigation measures have been identified to fully mitigate and reduce impacts to a less than significant level. Other future projects within the surrounding area would be required to comply with applicable local, State, and Federal regulations to reduce potential impacts to less than significant, or to the extent possible. As such, the project is not anticipated to contribute to potentially significant cumulative environmental impacts. Project impacts would be less than significant.

- c) Does the project have environmental effects that will cause substantial adverse effects on human beings, either directly or indirectly?

As discussed throughout this document, it is not anticipated that the construction and operation of the project would cause environmental effects that would significantly directly or indirectly impact human beings. All impacts identified as being significant have been mitigated to below a level of significance. For this reason, all environmental effects fall below the thresholds established by the City of San Diego. Impacts would be less than significant.

**INITIAL STUDY CHECKLIST
REFERENCES**

I. Aesthetics / Neighborhood Character

- City of San Diego General Plan
- Community Plans: La Jolla Community Plan and Local Coastal Program Land Use Plan

II. Agricultural Resources & Forest Resources

- City of San Diego General Plan
- U.S. Department of Agriculture, Soil Survey - San Diego Area, California, Part I and II, 1973
- California Agricultural Land Evaluation and Site Assessment Model (1997)
- Site Specific Report:

III. Air Quality

- California Clean Air Act Guidelines (Indirect Source Control Programs) 1990
- Regional Air Quality Strategies (RAQS) - APCD
- Site Specific Report:

IV. Biology

- City of San Diego, Multiple Species Conservation Program (MSCP), Subarea Plan, 1997

- City of San Diego, MSCP, "Vegetation Communities with Sensitive Species and Vernal Pools" Maps, 1996
- City of San Diego, MSCP, "Multiple Habitat Planning Area" maps, 1997
- Community Plan - Resource Element
- California Department of Fish and Game, California Natural Diversity Database, "State and Federally-listed Endangered, Threatened, and Rare Plants of California," January 2001
- California Department of Fish and Game, California Natural Diversity Database, "State and Federally-listed Endangered and Threatened Animals of California," January 2001
- City of San Diego Land Development Code Biology Guidelines
- Site Specific Report:

V. Historical Resources

- City of San Diego Historical Resources Guidelines
- City of San Diego Archaeology Library
- Historical Resources Board List
- Community Historical Survey:
- Site Specific Report:
 - Phase I Cultural Resources Survey for the Lookout Residences Project, prepared by Brian F. Smith and Associates, dated September 13, 2017.

VI. Geology/Soils

- City of San Diego Seismic Safety Study
- U.S. Department of Agriculture Soil Survey - San Diego Area, California, Part I and II, December 1973 and Part III, 1975
- Site Specific Report:
 - Report of Preliminary Geotechnical Investigation Proposed Remodel, Addition, and Future Single-Family Residences Parcels 1,2,4 and 5, Parcel Map 17817, 7727 Lookout Drive, La Jolla, California, prepared by Christian Wheeler Engineering, dated April 14, 2014.
 - Update Geotechnical Report and Response to LDR-Geology Cycle 1 Review Memorandum, Proposed Residential Remodel and Single-Family Residences, Parcels 1, 2, 4, & 5, Parcel Map 17817, 7727 Lookout Drive, La Jolla, California, prepared by Christian Wheeler Engineering, dated December 5, 2017
 - Addendum Geotechnical Report and Response to LDR-Geology Cycle 2 Review Memorandum, Proposed Residential Remodel and Single-Family Residences, Parcels 1, 2, 4, & 5, Parcel Map 17817, 7727 Lookout Drive, La Jolla, California, prepared by Christian Wheeler Engineering, dated April 12, 2018

VII. Greenhouse Gas Emissions

- Site Specific Report: Climate Action Plan Consistency Checklist

VIII. Hazards and Hazardous Materials

- San Diego County Hazardous Materials Environmental Assessment Listing
- San Diego County Hazardous Materials Management Division
- FAA Determination
- State Assessment and Mitigation, Unauthorized Release Listing, Public Use Authorized
- Airport Land Use Compatibility Plan
- Site Specific Report:

IX. Hydrology/Drainage

- Flood Insurance Rate Map (FIRM)
- Federal Emergency Management Agency (FEMA), National Flood Insurance Program-Flood Boundary and Floodway Map
- Clean Water Act Section 303(b) list, http://www.swrcb.ca.gov/tmdl/303d_lists.html
- Site Specific Report:
Preliminary Drainage Study for Lookout Residences Parcel 5, PM 17817 prepared by Coffey Engineering Inc., dated October 14, 2019

X. Land Use and Planning

- City of San Diego General Plan
- Community Plan
- Airport Land Use Compatibility Plan
- City of San Diego Zoning Maps
- FAA Determination:
- Other Plans:

XI. Mineral Resources

- California Department of Conservation - Division of Mines and Geology, Mineral Land Classification
- Division of Mines and Geology, Special Report 153 - Significant Resources Maps
- City of San Diego General Plan: Conservation Element
- Site Specific Report:

XII. Noise

- City of San Diego General Plan
- Community Plan
- San Diego International Airport - Lindbergh Field CNEL Maps
- Brown Field Airport Master Plan CNEL Maps
- Montgomery Field CNEL Maps
- San Diego Association of Governments - San Diego Regional Average Weekday Traffic Volumes
- San Diego Metropolitan Area Average Weekday Traffic Volume Maps, SANDAG
- Site Specific Report:

XIII. Paleontological Resources

- City of San Diego Paleontological Guidelines
- Deméré, Thomas A., and Stephen L. Walsh, "Paleontological Resources City of San Diego," Department of Paleontology San Diego Natural History Museum, 1996
- Kennedy, Michael P., and Gary L. Peterson, "Geology of the San Diego Metropolitan Area, California. Del Mar, La Jolla, Point Loma, La Mesa, Poway, and SW 1/4 Escondido 7 1/2 Minute Quadrangles," *California Division of Mines and Geology Bulletin* 200, Sacramento, 1975
- Kennedy, Michael P., and Siang S. Tan, "Geology of National City, Imperial Beach and Otay Mesa Quadrangles, Southern San Diego Metropolitan Area, California," Map Sheet 29, 1977
- Site Specific Report:

XIV. Population / Housing

- City of San Diego General Plan
- Community Plan
- Series 11/Series 12 Population Forecasts, SANDAG
- Other:

XV. Public Services

- City of San Diego General Plan
- Community Plan

XVI. Recreational Resources

- City of San Diego General Plan
- Community Plan
- Department of Park and Recreation
- City of San Diego - San Diego Regional Bicycling Map
- Additional Resources:

XVII. Transportation / Circulation

- City of San Diego General Plan
- Community Plan:
- San Diego Metropolitan Area Average Weekday Traffic Volume Maps, SANDAG
- San Diego Region Weekday Traffic Volumes, SANDAG
- Site Specific Report:

XVIII. Utilities

- Site Specific Report:

XIX. Water Conservation

- Sunset Magazine, *New Western Garden Book*, Rev. ed. Menlo Park, CA: Sunset Magazine

XX. Water Quality

- Clean Water Act Section 303(b) list, http://www.swrcb.ca.gov/tmdl/303d_lists.html
- Site Specific Report:

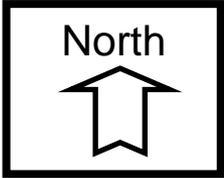


Project Site



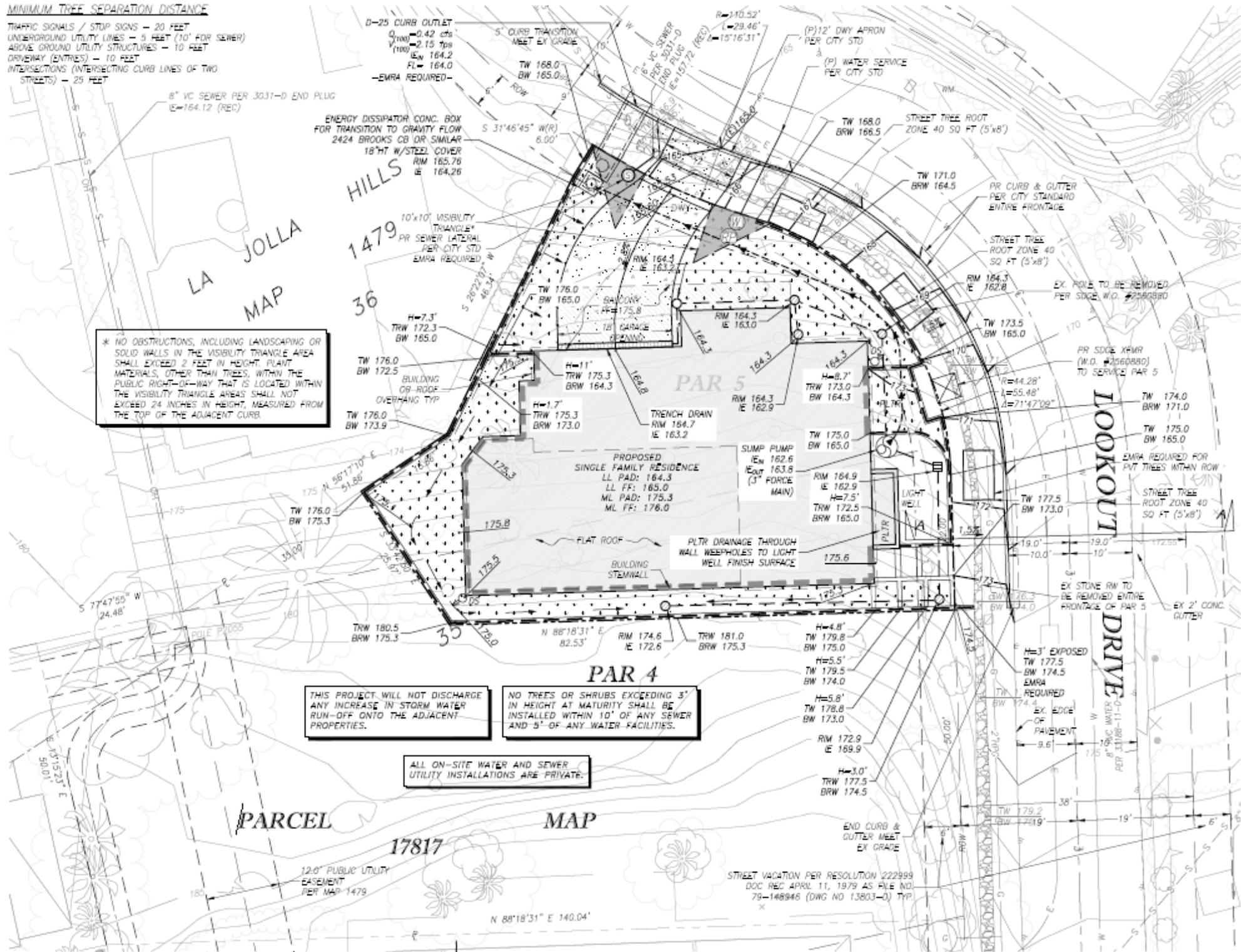
Project Location Map

Lookout Lots 4 & 5– 7729 Lookout Drive
PROJECT NO. 482904



MINIMUM TREE SEPARATION DISTANCE

TRAFFIC SIGNALS / STOP SIGNS - 20 FEET
 UNDERGROUND UTILITY LINES - 5 FEET (10' FOR SEWER)
 ABOVE GROUND UTILITY STRUCTURES - 10 FEET
 DRIVEWAY (ENTRIES) - 10 FEET
 INTERSECTIONS (INTERSECTING CURB LINES OF TWO STREETS) - 25 FEET

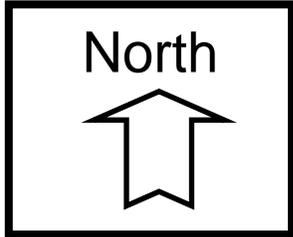


* NO OBSTRUCTIONS, INCLUDING LANDSCAPING OR SOLID WALLS IN THE VISIBILITY TRIANGLE AREA SHALL EXCEED 2 FEET IN HEIGHT. PLANT MATERIALS, OTHER THAN TREES, WITHIN THE PUBLIC RIGHT-OF-WAY THAT IS LOCATED WITHIN THE VISIBILITY TRIANGLE AREAS SHALL NOT EXCEED 24 INCHES IN HEIGHT, MEASURED FROM THE TOP OF THE ADJACENT CURB.

THIS PROJECT WILL NOT DISCHARGE ANY INCREASE IN STORM WATER RUN-OFF ONTO THE ADJACENT PROPERTIES.

NO TREES OR SHRUBS EXCEEDING 3' IN HEIGHT AT MATURITY SHALL BE INSTALLED WITHIN 10' OF ANY SEWER AND 5' OF ANY WATER FACILITIES.

ALL ON-SITE WATER AND SEWER UTILITY INSTALLATIONS ARE PRIVATE.



Site Plan

Lookout Lot 5 CDP/SDP- 7813 Lookout Drive
PROJECT NO. 482904