



THE CITY OF SAN DIEGO

REPORT TO THE PLANNING COMMISSION

DATE ISSUED: September 20, 2007 **REPORT NO. PC-07-130**

ATTENTION: Planning Commission, Agenda of September 27, 2007

SUBJECT: STAFFORD RESIDENCE Project No. 122459
Process Three Appeal

REFERENCE: Hearing Officer Report, HO-07-143, July 25, 2007

OWNER/ Brian Stafford (Attachment 1)

APPLICANT: Rebecca Marquez

SUMMARY

Issue(s): Should the Planning Commission deny an appeal of the Hearing Officer's approval of a Coastal Development Permit and Neighborhood Development Permit to demolish an existing one-story single family residence with garage and construct a new three-story single family residence with a garage in the Mission Beach Precise Planning area?

Staff Recommendation:

1. **Deny** the appeal and **Approve** Coastal Development Permit No. 417086 and Neighborhood Development Permit No. 417087.

Community Planning Group Recommendation: On March 20, 2007 and July 17, 2007 the Mission Beach Precise Planning Board voted 12-0-0 to recommend denial of the proposed project. On August 7, 2007 the Mission Beach Precise Planning Board filed an appeal of the Hearing Officer decision for July 25, 2007. See Discussion section for additional information.

Environmental Review: This project is exempt from environmental review pursuant to Article 19, Section 15302, Replacement or Reconstruction Development of the California Environmental Quality Act (CEQA).

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

Code Enforcement Impact: None with this action.

Housing Impact Statement: None. The proposed new residence replaces an existing residence. There are no additional dwelling units proposed.

BACKGROUND

The 2,400 square-foot project site is located at 818 Capistrano Place and is an interior lot developed with a one-story single family residence and a detached garage (Attachment 2). The existing residence was built in 1969 and is in the RS Zone of Mission Beach Planned District within the Mission Beach Precise Plan, Coastal Overlay Zone, Coastal Height Limit Zone, Airport Influence, Parking Impact Overlay Zone and the Residential Tandem Parking Overlay Zone. Off-street parking spaces are accessed via the existing alley.

On July 25, 2007, the Hearing Officer reviewed the proposed project and staff's recommendation of approving Coastal Development Permit No. 417086 and Neighborhood Development Permit No. 417087. The Hearing Officer approved Coastal Development Permit No. 417086 and Neighborhood Development Permit No. 417087 stating the findings could be made. On August 7, 2007 the Mission Beach Precise Planning Board filed an appeal of the Hearing Officer decision of July 25, 2007 (Attachment 3).

The subject site is developed with a one-story residence determined to be on a legal lot. A new two-story single family residence is a permitted use of the RS Zone of the Mission Beach Planned District. The location of the site, within the 100 year floodplain, is identified as Environmentally Sensitive Lands by the San Diego Municipal Code. The site is located in the Mission Beach floodplain area according to the FEMA Flood Insurance Rate Map where a one-story single family residence with a detached garage has been maintained since 1969.

DISCUSSION

Community Plan Analysis:

The Mission Beach Precise Plan (Plan) designates the site for residential development at a density of 36 dwelling units per acre (Attachment 4). The Plan establishes guidelines for special development regulations for the Mission Beach planning area. The guidelines address issues such as density, light and air, health and safety, landscaping and open space, among others. The Mission Beach Planned District Ordinance was created to regulate development within the Mission Beach planning area based on the guidelines set forth in the Plan. The proposed project

has been designed in conformance with the Mission Beach Planned District Ordinance and would not adversely affect the Mission Beach Precise Plan and Local Coastal Program.

Project Description:

The Mission Beach Precise Plan and Local Coastal Program designate the site for residential uses at a density range of thirty-six dwelling units per acre. The Residential Element of the Plan states that because lots are so small in Mission Beach, the problem of excessive building bulk is severe which can have a detrimental impact on surrounding properties by blocking light and air (Attachment 5). To address this issue, the Plan established guidelines for development regulations relating to setbacks, height, bulk and scale.

The project proposes to demolish an existing one-story single family residence and detached garage and construct a 1,907 square-foot three-story single family residence with an attached 447 square foot two-car garage. The project consists of an office, den and bath on the first level, two bedrooms, one and one-half bathrooms, living room, dining room and kitchen on the 2nd level and the master suite on the third level. The subject property is an interior, flat lot surrounded by single and multi-family residential developments. All proposed development would occur on private property.

The existing structures are being replaced with a new structure designed to be physically suitable with the existing natural land forms and with no proposed deviations from the Environmentally Sensitive Lands regulations for development within the 100-year floodplain. The new structure proposes to excavate the site for the creation of a basement and the first story. The street level of the new structure is approximately level with the existing elevations found throughout the neighborhood. This excavation is minimal and will not impact the 100-year floodplain. The minimum finish floor elevation for any habitable area would be a minimum of eight feet above the average mean sea level.

Environmental Analysis:

The City of San Diego conducted an Initial Study and determined the proposed project is exempt from environmental review pursuant to Article 19, Section 15302, Replacement or Reconstruction Development of the California Environmental Quality Act (CEQA).

Mission Beach Precise Planning Board Appeal:

On March 20, 2007 the Mission Beach Precise Planning Board (Board) voted 12-0-0 to recommend denial of the proposed project (Attachment 6). The Board based their denial on their interpretation of San Diego Municipal Code Sections 103.0526.5(a) and 103.0526.6(a) (Attachments 7 and 8, respectively) and other perceived inconsistencies between the proposed design and the Mission Beach Planned District regulations. On August 7, 2007 the Board filed an appeal of the Hearing Officer decision of July 25, 2007. The Board filed a second letter clarifying their interpretation of the San Diego Municipal Code Section 103.0526.6(a), not San Diego Municipal Code Section 103.0526.5(a) from their meeting on July 17, 2007 (Attachment 9).

The City Council adopted a renumbering of the Mission Beach Planned District which went into effect on April 26, 2007. The content of the regulation remains unchanged, yet the section is now found in Chapter 15 rather than Chapter 10 and the numbering has been revised. The new section number which is of concern to the Board is section 1513.0304(c)(3)(A), which states:

“Minimum Interior Yards – (A) Three feet for structures whose façade is a maximum of 20 feet in height abutting the yard. Any portion of the structure’s façade exceeding 20 feet in height shall observe an additional setback for the remainder of the structure by sloping away from the plane of the façade at an angle of 45 degrees (Illustration A). Dormers shall be permitted to encroach into the 45 degree setback, provided that they shall not exceed a width of 8 feet, and that there shall be a minimum of 2 feet between each dormer. When 2 lots are developed at the same time with common wall construction (combined total of units shall not exceed 4) or when 2 or more lots are consolidated, each opposite side yard shall be 6 feet or 10 percent of the total width of the lots whichever is greater” (Attachment 10).

Please also refer to Illustration A for the graphic depiction of the requirement (Attachment 11). The proposed project is consistent with each provision of this section. The drawings submitted for staff’s review indicate compliance with these requirements, please refer to Attachment 12, sheets North Elevation and South Elevation. The regulation does not refer to grade in this section, yet members of the Board believe that a correct measurement of this requirement should begin at the pre-existing grade and not from any altered or new grade. This interpretation of Illustration A as applied by the Board would impose pre-existing grade as the basis for measurement, yet this is not supported by the language of the Municipal Code section or the graphic depiction of Illustration A.

To understand the community group position an examination of the term “grade” is valuable. The proposed project alters the existing grade and has used this altered grade in the design of the structure. The Development Services Department has consistently applied the Mission Beach Planned District regulations with the understanding of the term “grade” as meaning simply and plainly grade. Grade, as used in the Planned District does not mean pre-existing grade or any other expositive or descriptive meaning for the term “grade.” The San Diego Municipal Code defines “grade” elsewhere in the City to be that grade either proposed or pre-existing, whichever is lower. The Mission Beach Planned District does not provide such a distinction for the term “grade.” Absent a more refined description of the term “grade,” within regulations of the Planned District the term “grade” has no greater distinction or description and can not be applied in such a manner. Grade, whether the pre-existing grade present on the site or a grade established by the design of the project, is not defined by the regulations of the Mission Beach Planned District Ordinance.

Development Services staff will continue to apply only the adopted regulations as they are written and are relevant for each project and will not apply interpretations of the City’s regulations not supported by the actual codified language or illustrations of those regulations. City staff will apply the ordinances adopted by the City Council in the review of development proposals and when providing recommendations to the decision makers regarding those

development proposals. Attachment 13 is a partial list of previously approved projects consistent with Municipal Code Section 1513.0304(c)(3)(A) as interpreted by staff and the decision makers.

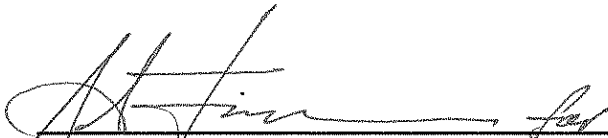
Conclusion:

Staff has reviewed the proposed Coastal Development Permit and Neighborhood Development Permit and determined it complies with the adopted City Council policies, the Mission Beach Planned District and the San Diego Municipal Code. Staff has provided a draft resolution and findings to support approval of Coastal Development Permit No. 417086 and Neighborhood Development Permit No. 417087 (Attachment 14). Staff recommends the Planning Commission deny the appeal and approve the project as proposed with the conditions contained in the draft permit (Attachment 15).

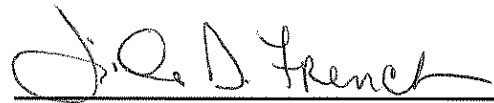
ALTERNATIVES

1. **Deny** the appeal and **Approve** Coastal Development Permit No. 417086 and Neighborhood Development Permit No. 417087, **with modifications.**
2. **Approve** the appeal and **Deny** Coastal Development Permit No. 417086 and Neighborhood Development Permit No. 417087, **if the findings required to approve the project cannot be affirmed.**

Respectfully submitted,



Mike Westlake
Program Manager
Development Services Department



Linda D. French, Project Manager
Development Services Department

Attachments:

1. Ownership Disclosure Statement
2. Project Location Map
3. Copy of Appeal
4. Community Plan Land Use Map
5. Aerial Photograph
6. Community Planning Group Recommendation dated July 17, 2007
7. San Diego Municipal Code Section 103.0526.5(a) Illustration A
8. San Diego Municipal Code Section 103.0526.6(a)
9. Community Planning Group Recommendation dated March 20, 2007
10. Mission Beach Planned District Ordinance Section 1513.0304(c)(3)(A)
11. Illustration A
12. Project Site Plan(s)

13. Projects approved in Mission Beach with similar design as proposed project
14. Draft Resolution with Findings
15. Draft Permit with Conditions
16. Project Data Sheet