

**DATE ISSUED:** June 12, 2008                      **REPORT NO. PC-08-079**

**ATTENTION:**                      **Planning Commission, Agenda of June, 19, 2008.**

**SUBJECT:**                              KELLY RESIDENCE - PROJECT NO. 48764.    PROCESS THREE

**REFERENCE:**                      REPORT TO HEARING OFFICER - REPORT NO. HO-08-084

**OWNERS/**                              Mr. and Mrs. Tom and Jennifer Waters, Property Owners  
**APPLICANT:**                      Mr. Albert Morone, Architect

**SUMMARY**

**Issue(s):** Should the Planning Commission approve an appeal of the Hearing Officer's approval to demolish an existing residence and construct a new split-level single family residence on an 18,100 square foot property located at 961 La Jolla Rancho Road within the La Jolla Community Planning Area?

**Staff Recommendation:** **DENY** the appeal and **APPROVE** Coastal Development Permit No. 139245 and Site Development Permit No. 141335.

**Community Planning Group Recommendation:** The La Jolla Community Planning Association recommended denial of the project by a vote of 15-0-1, at their meeting of April 3, 2008 (ATTACHMENT 11).

**Environmental Review:** The project is exempt from the California Environmental Quality Act (CEQA) pursuant to Article 19, 15303, as "New Construction or Conversion of Small Structures". The exemption determination for this project was made on March 14, 2005, and the opportunity to appeal that determination ended on March 28, 2005.

**Fiscal Impact Statement:** None. The processing of this application is paid for through a deposit account established by the applicant.

**Code Enforcement Impact:** None.

**Housing Impact Statement:** The subject property being redeveloped is an existing legal

building site zoned for single-family residential use. The project proposes to demolish the existing residence and construct a new single family residence. There will be no net gain or loss to the available housing stock within the La Jolla Community Planning Area.

## **BACKGROUND**

The project site is currently developed with an existing single-family, ranch style residence located toward the front half of the lot with steep slopes and vegetation toward the rear western half of the lot. The surrounding properties are fully developed and form a well established single family residential neighborhood. The existing residence was built in 1960. The project site is located at 961 La Jolla Rancho Road, at the northwest corner of La Jolla Rancho Road and Ravenswood Road, in the RS-1-4 Zone, Coastal Overlay Zone (non-appealable), Coastal Height Limitation Overlay Zone and within the La Jolla Community Planning Area. A Coastal Development Permit is required, by the Land Development Code (Section 126.0702), for the proposed development on property within the Coastal Overlay Zone. A Site Development Permit is required, by the Land Development Code (Section 126.0501), for the proposed development on a site containing Environmentally Sensitive Land – Steep Slopes.

## **DISCUSSION**

### **Project Description:**

The project proposes to demolish the existing residence and construct an approximate 6,796 square foot split level single family residence with a three car garage and swimming pool on an 18,100 square-foot property. The lot's eastern portion has been fully disturbed by the past development and is relatively level. The western portion of the lot, approximately 21.7% of the site, slopes toward the west, containing a vegetated portion, which appears to be non-native and is not mapped as sensitive vegetation by the City's Resource Maps. This sloped portion of the site is not connected to a larger canyon or open space system and does not require fire protection from a brush management plan. The proposed new residence is to be located within the disturbed portion of the site. The submitted slope analysis in conjunction with the submitted geology report determined that the proposed development results in no encroachment into steep slopes. During the project review with City staff, the applicant modified the project to conform to all of the development regulations of the RS-1-4 Zone and the Environmentally Sensitive Lands Regulations.

The proposed building elevations indicate the use of stucco and stone with a pitched Spanish clay tile roof. The project proposes approximately 1,000 cubic yards of cut and approximately 570 cubic yards of fill. The project is designed to comply with the 30 foot height limit with the height being approximately 29 feet high.

The project site is located in an area with potential intermittent or partial vista views, as identified within the La Jolla/La Jolla Shores Local Coastal Program. The project was modified to include a 6 foot wide view corridor along the north side yard setback area and a 20 foot wide view corridor along the south setback area. A condition of the draft permit requires that a view corridor easement be recorded on the property prior to building permit issuance, in order to

preserve these identified public views (Attachment 7, Condition No. 34). The proposed new structure was determined by City Staff to not negatively impact the identified public vantage point(s) and the modified project design was found to be in conformance with the La Jolla/La Jolla Shores Local Coastal Program. The proposed structure meets the development setbacks and height limit required by the underlying zone. Vehicular access to the property will be provided from the existing street at the front of the property along La Jolla Rancho Road, with an approximate 23 foot wide driveway. The existing streetscape adjacent to the project, from a pedestrian standpoint will remain unaltered.

The La Jolla Community Planning Association forwarded a recommendation for denial, which does not contain an explanation of their vote (Attachment 11). However, Staff's understanding is that it was primarily based on two issues. First, they had concerns with the over-all height measurement from the low point near the pool to high point of the structure. Also, they expressed that the proposed structure's bulk and scale relationship was not in keeping with those of adjacent properties.

Since the La Jolla Community Planning Associations vote/recommendation, City Staff has re-checked the issue of building height and determined the proposed project is in compliance with all the zoning height measurement requirements. Staff also rechecked the proposed structure's Floor Area Ratio (FAR), as it relates to a measure of bulk and scale, and found that it is in compliance with the RS-1-4 Zone regulations, with a FAR of 0.38 where an FAR of 0.46 is the maximum allowed. The RS-1-4 Zone was adopted specifically in this location as the regulatory tool to implement the La Jolla Community Plan.

### **Community Plan Analysis:**

The proposed project is located within the La Jolla Community Plan (LJCP) area and the subject site is designated for very low density residential development at 0-5 du/acre. The proposed project conforms to the LJCP designated land use. The LJCP recommends that steep hillsides be preserved and that encroachments be limited to what is necessary to provide a usable development area. The site currently has a usable development pad under the footprint of the existing house. Staff recommended that the proposed development footprint be adjusted to minimize the encroachment into the steep hillsides.

The property partially fronts on Ravenswood Road, which is an identified Intermittent or Partial Vista on Figure 9 of the LJCP Identified Public Vantage Points map. One of the general community goals of the LJCP is to conserve and enhance views from the public vantage points as identified in Figure 9. The proposed project preserves and expands upon an intermittent view to the ocean by providing a 20 foot setback on the southern portion of the lot. This will provide pedestrians a clear view to the ocean from the street. The proposed project does not impact the intermittent view as identified in the plan (LJCP p. 8). Staff determined that a solution which incorporates ample side yards to be preferred. This would also allow the development to be concentrated in the middle of the site. The proposed height for the residence is under thirty feet which is consistent with the community plan and the thirty foot height limit.

The community plan also recommends maintaining the existing residential character of La Jolla's neighborhoods by encouraging build out of residential areas at the plan density. The neighborhood is one which is in transition between the older and newer homes, with the older ones being more modest in bulk, scale and height, and with the newer residences typically built to the city's standards. The proposed new residence is consistent with other newer residences in the neighborhood. The proposed new residence also is consistent with the plan for landscaping and streetscape recommendations. Staff recommends approval of the proposed new residence as it is consistent with the community plan's policies for residential development.

### **Appeal Issues:**

There were two appeals filed on this project (Attachment 9). The first by Joe La Cava as acting Chair of the La Jolla Community Planning Association, states that there was factual error by the Hearing Officer in approving the project on May 14, 2008. He states that the project does not conform to all of the development regulations required by the Municipal Code.

During the Hearing Officer Hearing on May 14, 2008, a number of issues regarding Municipal Code requirements was brought up in an organized presentation lead by Architect Philip Merten. The second appeal filed by Kay Greco, a neighbor, reiterates many of the same issues presented by Philip Merten at the hearing. The following are a combined list of the Municipal Code issues covered at the hearing and referenced in the Kay Greco appeal followed by City Staff's response.

1. Setbacks (Front, Rear, Street Side, and Interior Side) are incorrectly depicted on the Site Plan drawing.

Determining Property Lines on corner lots,

The Front Property Line is the narrowest (East – Ravenswood) SDMC Sec 113.0246(a)

The Rear Property Line is opposite the Front Property Line and furthest away. SDMC 113.0246.246(c).

The Street Side Property Line is La Jolla Rancho Road (North)

The Interior Side Property Line is on the south.

### ***STAFF RESPONSE:***

*Staff has determined, based on the previously approved and recorded La Jolla Estates Subdivision Map No. 3702 (Attachment 13), that the limit of Ravenswood Road is 90.86 linear feet and the limit of La Jolla Rancho Road is 70.25 linear feet, SDMC Section 113.0246(a) states, "The front property line separates a lot from the public right-of-way. On a corner lot with two public rights-of-way, the front property line lies along the narrowest street frontage." Based on SDMC interpretation of what constitutes a front property line, Staff had determined that La Jolla Rancho Road is the front property line. Furthermore, the SDMC goes on to say that the rear Property Line is opposite the front. Ravenswood is the street side yard and the property line to the west is considered the interior side property line.*

2. Setback Requirements in Residential Zones. R-1-4 Zone SDMC 131.0443(a)(3).

Front -	East Property Line -	20' (Ravenswood)	(shows 20')
Street Side -	North Property Line	10 % of lot width = 13.3 min	(shows 10')
Side yard	South Property Line	10% of lot width = 13.3 min	(shows 20')
Rear yard	West Property Line	20' min	(shows 6')

STAFF RESPONSE:

*The appellant is correct in identifying the setback requirements of the RS-1-4 zone; however, the project site has identified established setbacks based on the La Jolla Estates Subdivision Recorded Map No. 3702 (Attachment 13). Established Setbacks (ES) clarify that the base zone setbacks shall apply unless an established setback was recorded for a legitimate planning purpose to implement an identified community plan objective (i.e. to preserve a view corridor). Based on the established setback and the determination of property lines the following apply to the subject site:*

Front -	North Property Line -	10' ES (La Jolla Rancho Road)
		(provided 14'-7")
Street Side -	East Property Line	20' ES (Ravenswood Road)
		(provided 20')
Side yard -	West Property Line	*10% of lot width or 6'
		(provided 6')
Rear yard -	South Property Line	20' Setback
		(provided 21'-4")

*\*Per SDMC Section 131.443(a)(3)(A) – for lots exceeding 50 feet in width, each side setback shall be at least the dimension shown in Table 131-04D or 10 percent of the width of the lot, whichever is greater, except one side setback may observe the minimum dimension shown in the table as long as the combined dimensions of both side setbacks equals at least 20 percent of the lot width.*

*The project site has a lot width of 123'-9", the project is providing setbacks equal to 21 percent of the lot width where the SDMC requires a minimum of 20 percent of lot width. Therefore, the project complies with all setback requirements.*

3. The proposed dwelling encroaches into the required 20' rear yard setback.

STAFF RESPONSE:

*As previously stated, Staff has determined, based on the La Jolla Estates Subdivision Map #3702 and the SDMC, the rear yard setback is measured from the rear property line to the South of the subject site. Staff has concluded that there are no unpermitted encroachments into the 20' rear setback.*

4. The proposed dwelling encroaches into the required 13'-4" street side yard setback.

*STAFF RESPONSE:*

*As stated previously, the street side setback is taken from what Staff has determined and confirmed based on the La Jolla Estates Subdivision Map #3702 and the SDMC, the street side setback is taken from the Ravenswood Road property line to the East. Staff has concluded that there are no unpermitted encroachments into the 20' street side setback.*

5. The retaining walls supporting the west end of the swimming pool exceed the maximum height allowed for retaining walls in a required yard. SDMC Section 142.0340(e).

*STAFF RESPONSE:*

*Based on the information provided on the grading plans (top and bottom wall elevation), the proposed retaining walls comply with SDMC Section 142.0340(d)(1), "Retaining Wall Regulations." The retaining walls along the west end of the swimming pool within the required yard comply with the retaining wall regulations. The walls on the west side of the property located within the interior side yard (6-foot interior side yard) show a maximum height of 6' which is permitted within the side yard per SDMC Section 142.0340(d). The appellant may believe as indicated in their correspondence that this particular yard is the rear yard and should be 20'. The west property line is the side yard (west) setback. As stated above, the side yard setback on the west PL of 6 feet is sufficient.*

6. The retaining walls supporting the south side of the swimming pool exceed the maximum height allowed for retaining walls outside of required side yards. SDMC Sec. 142.0340(e).

*STAFF RESPONSE:*

*Based on the information provided on the grading plans (top and bottom wall elevations) the retaining walls outside the required yards comply with SDMC Section 142.0340(e) which state, "retaining walls located outside the required yards shall not exceed 12 feet in height." The maximum height of the retaining walls shown is 12'.*

7. The swimming pool and associated structures to include site retaining walls and fences are less than 6 feet from the dwelling, and therefore dwelling and swimming pool are considered to be a single structure for the purposes of structure height measurement. As such, the swimming pool and dwelling structure exceed the Prop. D 30 ft max. height limit. SDMC 113.0270(a)(7).

*STAFF RESPONSE:*

*It appears appellant believes that overall structure height measurements must include the house, pool and retaining walls. The SDMC does not require height to be measured this way. SDMC 113.0270(a) states how structure height is measured for buildings and structures other than fences, retaining walls or signs. Since SDMC 113.0270(a) excludes walls, the walls associated with this project are not included in overall height measurement for the dwelling. The pool is located at least 6' from the dwelling. Since it is at least 6' from the dwelling it would not be included in the overall height measurement SDMC 113.0270(a)(7) states, structure height is measured separately for each structure that is separated from another structure on a premises by 6' or more. It also appears the appellant is mixing the Land Development Codes height regulations and the Proposition D, Coastal Height Limitation Overlay Zone. Prop D height is measured from building walls to finished grade and does not include detached structures. Whereas, the Land Development Code height regulations are measured to existing or proposed grade whichever is lower.*

8. The Site Plan drawing is incomplete. There are new site retaining walls near the swimming pool equipment enclosure that are depicted on the Preliminary Grading Plan but not depicted on the Site Plan.
9. Exterior Elevations drawings are incomplete. There are new site retaining walls and fences adjacent to the western property line that are not shown on the exterior elevations drawings.
10. Exterior elevation drawings are incomplete. There are new site retaining walls within the front yard setback adjacent to Ravenswood Road that rise up and support the proposed solid/open fence that are not depicted on the exterior elevation drawings.
11. Gate posts and fences in excess of 3' in height are depicted within driveway visibility area. See exterior Elevation drawings. SDMC Section 142.0310(c)(3)(B).

STAFF RESPONSE TO APPELLANT'S ISSUES 8, 9, 10 and 11:

*The plans provided at this stage are conceptual; all walls will be reviewed again for compliance during the building permit review process and again in the field with the Inspectors. There is a condition (#31) in the permit that states the following, "All fences and retaining walls shall comply with the San Diego Municipal Code Section 143.0301." In addition, the applicant has provided a note on the plans that state that nothing over 36" is allowed within the visibility area.*

12. Front yard fence and fountain near the intersection of La Jolla Rancho Road and Ravenswood Road protrude into street Visibility Area. SDMC Sec. 113.0273(a).

STAFF RESPONSE:

*In order to have any structure in excess of 3' within a visibility area a Variance is required. This project is not requesting a Variance and may not have any structures in excess of 3' within a visibility area. The project has been conditioned (#24) to comply with the regulations of the underlying zone.*

13. Proposed Palo Verde Trees encroach into required south side yard Visibility Corridor. The Landscape Plan Shows Three trees descending the slope in the south side yard, the canopies of which will extend direct into the required Visibility Corridor.

**STAFF RESPONSE:**

*Trees are customarily allowed to locate within a visibility corridor, they are not prohibited. With that understanding, trees located within this area will obstruct the view to some degree. In general, we encourage tree placement to be located more often along the edge(s) of a view corridor, as opposed to locating it directly in the middle, in an effort to preserve and minimize the impact on the public view. The proposed Palo Verde trees are located along an edge and will not significantly encroach into the designated view corridor due to the trees being below grade from the public right-of-way and thus the visibility of the scenic vista being above the trees from the "line of sight." It is also a condition of the permit to require all trees that encroach or overhang into public view corridors to be pruned and thinned so the lowest branches are at a height above 8 feet. Any shrubs proposed within public view corridors are required to be pruned and thinned to a height below 4 feet. The required street trees proposed along La Jolla Rancho Road will not obstruct the view corridor, especially the side, where the subject property shall be dedicating an additional 10 feet for public view as well as the required 10-foot wide dedicated view corridor. It is true that one of the Street Trees is within the additional 10-foot view corridor dedication, but the tree is NOT obstructing the required 10-foot view corridor area.*

14. The southernmost corner of the lower level exterior deck/terrace and guard rail encroaches into the required south side yard visibility corridor.

**STAFF RESPONSE:**

*These encroachments were allowed to encroach as called out in the permit. This view corridor is approximately twice the minimum required under the Municipal Code and these encroachments are off to one side and have a minimal impact on the visibility corridor.*

15. Based on the 20' south side yard setback line, the southernmost corner of the parapet wall at the upper level roof may extend beyond the angled side yard building envelope. SDMC Sec. 131-0444(b).



STAFF RESPONSE:

*As stated above, Staff has determined that the south property line is the rear yard not the side yard; SDMC does not have any angled building plane requirements for the rear yard in the RS-1-4 zone.*

16. The Site Plan drawing and Preliminary Grading Plan drawings are incomplete in that there is no arrows or other indications as to what the stated numerical dimensions actually pertain to. The omission of arrows or other indications of arc length are especially important as relates to the street frontages property lines.

STAFF RESPONSE:

*The plans provided at this stage are conceptual; plans will be reviewed again for compliance during the building permit review process and again in the field with the Inspectors. Staff has determined that the information provided is adequate for review at the discretionary stage.*

17. Finding No. 1 for the Coastal Development Permit can not be met because the project does not conform to the La Jolla Community Plan. The project's 3.5 feet to 4 feet height increase over the existing roof will not enhance or protect public views, but will in fact obstruct and diminish public views from the La Jolla Rancho Road Scenic Overlook designated in the La Jolla Community Plan.

STAFF RESPONSE:

*The proposed project is within the 30 foot zoning height limit and the Proposition D Coastal Height Limit. The proposed project preserves and expands upon an intermittent view to the ocean by providing a 20 foot setback on the southern portion of the lot. This will provide pedestrians a clear view to the ocean from the street. The proposed project does not impact the intermittent view as identified in the plan (LJCP p. 8). Staff determined that a solution which incorporates ample side yards to be preferred. This would also allow the development to be concentrated in the middle of the site. A condition of the draft permit requires that a view corridor easement be recorded on the property prior to building permit issuance, in order to preserve these identified public views.*

18. Finding No.1 for the Site Development Permit and Finding No. 3 for the Coastal Development Permit can not be met because it will adversely affect the applicable land use plan and will not be in compliance with the Community Plan. Due to the project's increased height and the perceived bulk and scale, it does not conform to the community character or the common development pattern of the neighborhood, the project will adversely affect the Community Plan.

STAFF RESPONSE:

*The proposed project is within the 30 foot zoning height limit and the Proposition D Coastal Height Limit. The Floor Area Ratio (FAR), as it relates to and is a measure of bulk and scale, was found in compliance with the RS-1-4 Zone regulations, with a FAR of 0.38 where an FAR of 0.46 is the maximum allowed. The neighborhood is one which is in transition between the older and newer homes, with the older ones being more modest in bulk, scale and height, and with the newer residences typically built to the city's standards. The proposed new residence is consistent with other newer residences in the neighborhood. The proposed new residence also is consistent with the plan for landscaping and streetscape recommendations. Staff recommends approval of the proposed new residence as it is consistent with the community plan's policies for residential development.*

**Conclusion:**

Staff has reviewed the proposed single family development and found it to be in conformance with the applicable sections of the San Diego Municipal Code regulating Coastal Development Regulations, Environmentally Sensitive Lands Regulations and land use policies. Staff has determined that the required findings can be made as the project meets the applicable San Diego Municipal Code regulations and requirements. Staff recommends denial of the appeals and approval of the project as proposed.

**ALTERNATIVE**

1. Approve Coastal Development Permit No. 139245 and Site Development Permit No. 141335, with modifications.
2. Deny Coastal Development Permit No. 139245 and Site Development Permit No. 141335, if the findings required to approve the project cannot be affirmed.

Respectfully submitted,

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Mike Westlake  
Program Manager  
Development Services Department

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Glenn Gargas, AICP  
Project Manager  
ManagerDevelopment Services Department

Attachments:

1. Aerial Photograph
2. Community Plan Land Use Map
3. Project Location Map
4. Project Data Sheet
5. Project Site Plan

6. Project Plans
7. Draft CDP/SDP Permit with Conditions
8. Draft Resolution with Findings
9. Copy of Appeal(s)
10. Ownship Disclosure Statement
11. Community Planning Group Recommendation
12. Project Chronology
13. Copy of Recorded Map with established setbacks

Rev 01-04-07/rh