

DATE ISSUED: January 20, 2005

REPORT NO. PC-05-014

ATTENTION: **Planning Commission, Agenda of January 27, 2005**

SUBJECT: VAN DE MOERE RESIDENCE - PROJECT NO. 31364. PROCESS 5

OWNER/

APPLICANT: Ralph E. and Carol Van De Moere, Owner/Applicant and La Jolla Soledad West, Inc., Owner

SUMMARY

Issue(s): Should the Planning Commission recommend to the City Council that the application for a Coastal Development Permit, Planned Development Permit, Lot Line Adjustment and an Easement Abandonment be approved in order to permit the Van De Moeres' to maintain improvements constructed on portions of an open space slope owned by the La Jolla Soledad West Planned Residential Development?

Staff Recommendation:

1. **RECOMMEND Approval** of Coastal Development Permit No. 85142; and
2. **RECOMMEND Approval** of Planned Development Permit No. 85143; and
2. **RECOMMEND Approval** of Easement Abandonment No. 85144; and
4. **RECOMMEND Approval** of Lot Line Adjustment No. 85145.

Community Planning Group Recommendation: On October 7, 2004, the La Jolla Community Planning Association considered the proposed applications and voted 14-0-2 on their consent calendar to approve the project with no conditions.

Environmental Review: The proposed activity is exempt from CEQA pursuant to Section 15303 (New construction or conversion of small structures) of the State CEQA Guidelines.

Fiscal Impact: All costs associated with the processing of this project application are borne by the applicant through a deposit account maintained throughout the process.

Code Enforcement Impact: None with this action

Housing Impact Statement: None with this action

BACKGROUND

The Van De Moere residence addressed as 6876 Avenida Andorra, is a previously subdivided and developed single-family residential site located in the RS-1-2 zone, Coastal Overlay Zone (non-appealable area), Coastal Height Limit and Parking Impact area all within the boundaries of the La Jolla Community Plan area. The immediate adjacent property on the north side of the Van De Moere property, is a landscaped slope within an open space easement located within the boundaries of, and maintained by, the La Jolla Soledad West Planned Residential Development No. 11, a 142 residential unit development originally approved by the City Council on December 17, 1970, and since amended.

The Van De Moere property is a panhandle lot taking access from Avenida Andorra and is developed with a detached single-family residence and garage and has additional accessory improvements consisting of a swimming pool, spa, fencing and retaining walls. Unfortunately, portions of the pool/spa/walls and required safety fencing, encroached onto the adjoining property. The Homeowners Association for La Jolla Soledad West and the Van De Moeres' have agreed to the proposed applications before the City to resolve this encroachment and the liability problems between the parties. The Coastal Development Permit (CDP) is required as the site is within the boundaries of the Coastal Overlay Zone and the Lot Line Adjustment (LLA) Map required to incorporate the encroached area into the Van De Moeres' ownership, is defined as development that requires the CDP. The Planned Development Permit (PDP) is required to remove the encroached area from the existing Planned Residential Development (PRD) as the PRD Ordinance was deleted with the new Land Development Code effective on January 1, 2000. The Easement Abandonment is required as the encroached upon area is a manufactured slope landscaped and maintained by the Homeowners Association as PRD open space covered by an open space easement.

A similar application on the adjoining lot west of the Van De Moere property was approved by the City Council in 1991, where that property owner had also encroached into the open space slope. The processing of that request was approved under a different process where the Planning Director approved the PRD Amendment and the City Council subsequently considered and approved the open space easement abandonment.

DISCUSSION

Project Description:

The improvement of the swimming pool, spa and associated walls and safety fencing within the rear yard of the Van De Moere residence encroaches onto the adjoining landscaped open space slope maintained by the La Jolla Soledad West Homeowners Association. The encroachment varies in depth to a ten foot maximum and the lot line adjustment involving 970.8-square feet (0.022 acre) of area is plotted to minimize the total area being transferred between the two parties.

La Jolla Soledad West was the eleventh Planned Residential Development Permit application processed by the City after adoption of the PRD Ordinance and approval of some earlier projects utilizing the Conditional Use Permit Ordinance. The PRD Ordinance required total open space based on a formula computed by the number of dwelling units proposed and the underlying zone with one-half of the required open space required to be usable. La Jolla Soledad West provided open space comfortably in excess of the minimums required. The open space lot subject to the request being considered, is a manufactured slope created with the grading required to develop the PRD and has been landscaped and maintained by the Homeowners Association as 'PRD Open Space'. In 1970, the City of San Diego did not have an 'open space' designation that distinguished easements granted to the City to preserve natural areas or areas granted to the City to be maintained as open space as shown in the General Plan or adopted community plans from areas required as 'project open space' to be maintained by homeowner associations. The City later developed the 'non-building area easement' to distinguish open space lots, such as the one that is the subject of this application, from City designated open space and project non-development areas maintained similar as open space.

The subject property being considered for transfer of ownership to resolve the encroachment, is considered project open space and not sensitive open space under today's standards and descriptions.

Conclusion:

City staff has evaluated the minor amount of square-footage being deleted from the La Jolla Soledad West PRD on the overall amount of required open space (1,704,000 square-feet) and the provided amount (2,241,900 square-feet), further considered as a transfer of project open space versus City open space, and with the support of the applicant, Homeowners Association and the La Jolla Community Planning Association, and has determined that the project application is supportable. With the exception of the staff of LDR Planning and Long-Range Planning evaluating the project specifics, no other city staff expressed concerns with this project.

ALTERNATIVES

1. **Approve** Coastal Development Permit No. 85142, Planned Development Permit No. 85143, Easement Abandonment No. 85144 and Lot-Line Adjustment No. 85145, **with modifications.**
2. **Deny** Coastal Development Permit No. 85142, Planned Development Permit No. 85143, Easement Abandonment No. 85144 and Lot-Line Adjustment No. 85145, **if the findings required to approve the project cannot be affirmed.**

Respectfully submitted,

Marcela Escobar-Eck
Deputy Director, Project Management Division
Development Services Department

Robert Korch
Development Project Manager
Development Services Department

Attachments:

1. Aerial Photograph
2. Community Plan Land Use Map
3. Project Location Map
4. Project Data Sheet
5. Project Site Plan(s)
6. Project Plans (Include as appropriate/relevant.)
7. Draft Lot-Line Adjustment and Coastal and Planned Development Permit with Conditions
8. Draft Lot-Line Adjustment and Coastal and Planned Development Permit Resolution with Findings
9. Draft Open Space Abandonment Resolution
10. Copy of Recorded (existing) Permit(s)
11. Community Planning Group Recommendation
12. Ownership Disclosure Statement
13. Project Chronology