



PO Box 889, La Jolla, CA 92038  
<http://www.LaJollaCPA.org>  
Voicemail: 858.456.7900  
[info@LaJollaCPA.org](mailto:info@LaJollaCPA.org)

President: Joe LaCava  
Vice President: Tony Crisafi  
Treasurer: Jim Fitzgerald  
Secretary: Nancy Manno

## La Jolla Community Planning Association

Regular Meetings: 1<sup>st</sup> Thursday of the Month

### Thursday, 3 December 2009

La Jolla Recreation Center, 615 Prospect Street

## D R A F T AGENDA – REGULAR MEETING

6:00p

1. Welcome and Call To Order: **Joe LaCava**, President
2. Adopt the Agenda
3. Meeting Minutes Review and Approval: 5 November 2009
4. **Elected Official Reports – Information Only**
  - A. Council District 2 – Councilmember Kevin Faulconer  
Rep: **Thyme Curtis**, 619.236.6622, [tcurtis@sanidiego.gov](mailto:tcurtis@sanidiego.gov)
  - B. Council District 1 – Councilmember Sherri Lightner  
Rep: **Erin Demorest**, 619.236.7762, [edemorest@sanidiego.gov](mailto:edemorest@sanidiego.gov)
5. **Non-Agenda Public Comment**

Issues not on the agenda and *within CPA jurisdiction*, two (2) minutes or less.

  - A. UCSD - Planner: **Anu Delouri**, [adelouri@ucsd.edu](mailto:adelouri@ucsd.edu), <http://commplan.ucsd.edu/>
6. **President's Report – Action Items Where Indicated**
  - A. Community Planners Committee (<http://www.sandiego.gov/planning/community/cpc/>)
  - B. CEQA & Environmental Documents – Outstanding issue resolved, City Attorney's opines that CPA is not required to review before rendering a recommendation.
  - C. MLPA – Blue Ribbon Task Force recommends expanded reserve at La Jolla Shores, new reserve from Crystal Pier (PB) to just south of WindanSea Beach.
  - D. City's Wireless Task Force – First meeting will be January 2010.
  - E. Hillside Residence – Update on City's Approval
  - F. LJ Shores Permit Review Committee – CPA seat still open.
7. Officer's Reports
  - A. **Treasurer** – Jim Fitzgerald
  - B. **Secretary** – Nancy Manno

---

*If a Sign Language Interpreter, aids for the visually impaired, or Assisted Listening Devices (ALDs) are required, please contact the City's Disability Services Coordinator at 619-321-3208 at least (5) five work days prior to the meeting date to insure availability.*

*\*Time Certain simply means the item will not be heard any earlier than the listed time.*

## **8. CONSENT AGENDA – Ratify or Reconsider Committee Action**

Consent Agenda allows the Trustees to ratify actions of our joint committees and boards in a single vote with no presentation or debate. The public may comment on consent items. Anyone may request that a consent item be pulled for full discussion.

***Items pulled from this Consent Agenda are trailed to the next CPA meeting.***

PDO – Planned District Ordinance Committee, Chair Ione Stiegler, 2<sup>nd</sup> Mon, 4pm

DPR – Development Permit Review Committee, Chair Tony Crisafi, 2<sup>nd</sup> & 3<sup>rd</sup> Tues, 4pm

PRC – LJShores Permit Review Committee, Chair Helen Boyden, 4<sup>th</sup> Tues, 4pm

T&T – Traffic & Transportation Board, Chair Todd Lesser, 4<sup>th</sup> Thurs, 4pm

PDO – No action at December meeting

T&T – No meeting in November

### **A. DICKINS/JOHNSTON**

DPR ACTION: Findings can be made for a CDP, 6-0-1

9410 La Jolla Shores Drive - Coastal Development Permit to demolish existing residence and construct a 5,794 sf single family residence on a 15,061 sf site in the RS-1-4 zone

### **B. SOROKIN DUPLEX**

DPR ACTION: Findings can not be made for a CDP, 5-2-1

247 Kolmar Street - Coastal Development Permit to demolish existing residence and construct two residential for rent units on a 0.11 acre site in the RM-1-1 zone.

### **C. PACE RESIDENCE**

DPR ACTION: The findings can be made for CDP & SDP and applicant agreed to comply with scenic overlook regulations, 8-0-0.

1405 Inspiration Drive - Coastal Development Permit and (Process 3) Site Development Permit to demolish existing residence and construct a 8,660 sf. single family residence on a 1.17 acre site in the RS-1-4 zone.

### **D. CARDENAS RESIDENCE**

PRC ACTION: Findings can be made, 4-0-0

8466 El Paseo Grande – Process 3 Site Development Permit for Environmentally Sensitive Lands (coastal beach). Extension of existing deck with support wall and surrounding guardrail/screen wall with storage space below; addition of retaining wall with masonry fence and cable guardrail above supporting new turf area; 6' fence at south property line; increase in height of existing site wall at the house entry and addition of planting areas and enhanced driveway paving. Lot Size: 11,879 sf; Existing House: 3467 sf; Zoning: LJSPDO.

## **9. REPORTS FROM OTHER ADVISORY COMMITTEES**

*Information only unless otherwise noted*

A. LA JOLLA COMMUNITY PARKING DISTRICT ADVISORY BOARD – *Inactive*

B. COASTAL ACCESS AND PARKING BOARD – Meets 1<sup>st</sup> Tues, 4pm, Rec Center

## **10. BARKETT STREET VACATION**

DPR ACTION: Findings for CDP can be made, 5-0-0.

T&T ACTION: Findings for street vacation can not be made, 5-3-0.

*Pulled from Oct 1 2009 consent agenda by applicant.*

7724 Prospect Place & 7709 Prospect Place - Coastal Development Permit and Public Right of Way Vacation. The site is located within the RS-1-7 zone.

### **11. NEPTUNE APARTMENTS**

DPR ACTION: The findings can not be made for CDP & SDP due to proposed bulk & scale and community character of proposed structure as required by the La Jolla Community Plan, 4-2-0.

*Pulled from Nov 5, 2009 Consent Agenda*

6767 Neptune Place - Coastal Development Permit & Site Development Permit to demolish existing buildings and construct 24 residential for rent units on a 0.56 acre site in the RM-3-7 Zone.

### **12. MEDICAL MARIJUANA DISPENSARIES**

Proposed Amendments to City Municipal Code – Discussion and possible action on City Task Force's proposed land use recommendations to regulate Medical Marijuana Dispensaries. Task Force recommendations reportedly to be heard at City Council on December 8.

### **13. ADJOURNMENT**

**Next Regular Meeting: Thursday, 7 January 2009**

*Future Items:*

- A. *Time running out to renew Memberships and be eligible to vote in March elections.*
- B. *Call for candidates in January to run in March trustee elections, need to have attended 3 CPA meetings in 12 months prior to March election.*
- C. *Call for volunteers for Election Committee*
- D. *Candidate forum in February*
- E. *Annual trustee elections (6 seats) in March*



PO Box 889, La Jolla, CA 92038  
<http://www.LaJollaCPA.org>  
Voicemail: 858.456.7900  
[info@LaJollaCPA.org](mailto:info@LaJollaCPA.org)

President: Joe LaCava  
Vice President: Tony Crisafi  
Treasurer: Jim Fitzgerald  
Secretary: Nancy Manno

## La Jolla Community Planning Association

Regular Meetings: 1<sup>st</sup> Thursday of the Month

Thursday, 05 November 2009  
La Jolla Recreation Center, 615 Prospect Street

### D R A F T MINUTES – REGULAR MEETING

Present: Michele Addington, Tom Brady, Michael Costello, Dan Courtney, Tony Crisafi, Jim Fitzgerald, Joe LaCava, David Little, Tim Lucas, Nancy Manno, Phil Merten, Greg Salmon. Ray Weiss.

Absent: Darcy Ashley, John Berol, Orrin Gabsch, Glen Rasmussen,

1. Welcome and Call To Order: **Joe LaCava**, President @ 6:05 PM

#### 2. Adopt the Agenda

**Approved Motion: To adopt the Agenda, (Costello/Addington 9/0/1)**

In favor: Addington, Brady, Costello, Crisafi, Fitzgerald, Little, Manno, Merten, Weiss.

Abstain: LaCava

3. **Meeting Minutes:** Review and Approval: 01 October 2009

**Approved Motion: To approve the minutes of 01 October 2009, (Merten/Brady 8/0/2)**

In favor: Addington, Brady, Costello, Crisafi, Fitzgerald, Little, Manno, Merten.

Abstain: LaCava, Weiss

#### 4. Elected Official Reports – Information Only

A. Council District 2 – Councilmember Kevin Faulconer

Rep: **Thyme Curtis**, 619.236.6622, [tcurtis@sandiego.gov](mailto:tcurtis@sandiego.gov)

Not present.

B. Council District 1 – Councilmember Sherri Lightner

Rep: **Erin Demorest**, 619.236.7762, [edemorest@sandiego.gov](mailto:edemorest@sandiego.gov)

Present: Made report: Commented: High Speed Rail project. Budget: Fiscal 2011 meeting & hearing 12 December 2009. Water restriction: rule change. Assembly Bill 811. Full report/information on these programs/projects can be accessed on Councilmember Lightner's web site. Trustees Courtney, Crisafi, Salmon, Weiss commented. Member: John Beaver commented.

#### 5. Non-Agenda Public Comment

Issues not on the agenda and *within CPA jurisdiction*, two (2) minutes or less.

A. UCSD - Planner: **Anu Delouri**, [adelouri@ucsd.edu](mailto:adelouri@ucsd.edu), <http://commplan.ucsd.edu/>

Present: Made reference to the second issue of the UCSD Newsletter and the UCSD Fact Sheet. Reported: construction has begun on the Southwest Fisheries Science Center, construction will commence December 2009 on the Sanford Consortium for Regenerative Medicine. Information/reports are available on the UCSD web site.

**Boy Scout Stephen Stojic**, Troop 506, presented a report, with photographs, on La Jolla traffic safety concerns, primarily in the Bird Rock area. **Scout Stojic** will discuss these concerns with his Scoutmaster, with the intention of enlisting Troop 506's assistance in addressing how the Troop might assist in making La Jolla a more safe and beautiful community.

---

*If a Sign Language Interpreter, aids for the visually impaired, or Assisted Listening Devices (ALDs) are required, please contact the City's Disability Services Coordinator at 619-321-3208 at least (5) five work days prior to the meeting date to insure availability.*

*\*Time Certain simply means the item will not be heard any earlier than the listed time.*

**Member Ms. Marti Rice**, asked for assistance in determining the legality, (zoning), of an increased number of dumpsters/ increased garbage truck pick-ups and unsightly trash on adjacent sidewalks near the dumpsters on property near her residence at 1228 Park Row, La Jolla. President LaCava will provide follow-up.

**Member Ed Ward**, Mt Soledad Memorial Association, presented an invitation to the community to join him Saturday 07 November on Mt. Soledad for the annual Veterans Day ceremony.

**President LaCava**, responding to a question from **Trustee Little** regarding pedestrian light signals in the Bird Rock area that work intermittently. The City and the Bird Rock Community Council are aware of the problem: Signals at Colima & Midway cannot be repaired and are scheduled to be replaced in summer 2010.

#### **6. President's Report – Action Items Where Indicated**

A. Community Planners Committee (<http://www.sandiego.gov/planning/community/cpc/>)

An action taken in regard to the Medical Marijuana Dispensaries: The Committee voted to not have the dispensaries at storefronts.

B. Medical Marijuana Dispensaries – 4 now open in La Jolla, City's Task Force.

**President LaCava** reported on the City Medical Marijuana Task Force: The Task Force, meeting each week, is attempting to develop definitive language and impose regulations regarding these dispensaries. The Task Force is considering designating the dispensaries as retail businesses with specifications for minimum distances from schools. **President LaCava** suggested interested community members might wish to comment prior to December 01, 2009

C. CEQA & Environmental Documents – Outstanding issue resolved, City Attorney's opines that CPA is not required to review before rendering a recommendation.

**President LaCava** reported: per the San Diego City Attorney, the LJCPA, acting as a Land Use advisory body, need not wait for environmental documents before proceeding to review a project. This opinion confirms traditional LJCPA policy of proceeding to review single-family houses, absent the environmental document. Regarding large projects, i.e., schools, churches, life guard stations, with substantive environmental documents that require consideration; LJCPA does review documentation prior to submitting recommendations.

D. MLPA – State decision delayed to Nov 9, still time to make comments

**President LaCava** noted that the State law, (Marine Life Protection Act), requiring portions of the California coastline be set aside to protect sea life is in a review process. Proposed changes to this law could have a profound effect on recreational and commercial fishing. **President LaCava** suggested concerned community members may wish to comment prior to November 09, 2009, and noted that Councilmember Lightner is preparing a response to the four proposals for reserves along the La Jolla coastline

E. Children's Pool Seal Dispersal Plan MND – Comment period open until Nov 9

**President LaCava** noted that this report can be accessed on line and concerned community members may comment prior to November 09, 2009.

F. LJ Shores Permit Review Committee – CPA seat still open.

**President LaCava** would appreciate nominations for this important and still open LJ Shores Permit Review Committee seat.

G. ACTION ITEM - Disqualification of **Trustee Bob Collins** due to absences. Recommendation to hold the seat open until March election as the term expires March 2010.

**President LaCava** noted that adhering to the LJCPA By laws: **Trustee Collins** is now disqualified because of four absences within the past twelve months. LJCPA By laws require ratification of this action and require an election to fill the vacant Trustee seat within 120 days of the vacancy. The 120 day period will expire on the date of the March 2010 election: therefore the LJCPA will hold the seat open until the March 2010 election, thereby filling the seat at the March 2010 election, fulfilling the 120 day requirement and eliminating the necessity of holding a special election. Trustees Costello and Weiss commented. President LaCava thanked Trustee Collins for his service and expressed the hope the LJCPA might continue to benefit from his good perspective of the La Jolla community.

**Approved Motion: To ratify the action disqualifying Trustee Collins and hold the Trustee seat open until the March 2010 election. (Fitzgerald/Addington 12/0/1).**

In favor: Addington, Brady, Costello, Courtney, Crisafi, Fitzgerald, Little, Lucas, Manno, Merten, Salmon, Weiss.  
Abstain: LaCava

**President LaCava** noted: There are 254 LJCPA memberships that will expire February 28, 2010. **President LaCava** urged the community to continue their valuable participation in the LJCPA organization, and reminded the community of the potential problems created by a lack of community involvement and support.

## 7. Officer's Reports

### A. Treasurer – Jim Fitzgerald

Beginning Balance: \$517.65 + Income \$201.04 – (Expenses \$81.93) = Ending Balance: \$636.76.

Expenses: Printing, telephone.

**Trustee Fitzgerald** commented on the generosity of the Membership and reminded Trustees, Members and guests: LJCPA is a non-profit organization and must rely solely on the generosity of the community and the Trustees. All donations must be in cash to preserve anonymity.

### B. Secretary – Nancy Manno

Remarks, prepared by **John Berol**, read by **President LaCava**, for secretary **Nancy Manno**: If you want your attendance recorded today, please sign-in at the back of the room. You are entitled to attend without signing in, but only by providing proof of attendance can you maintain membership or become a Trustee. If you want your attendance recorded without signing-in at the back, then hand to me before the end of the meeting a piece of paper with your printed full name, signature and a statement that you want your attendance recorded. Eligible non-members wishing to join must have recorded attendance for one meeting and must submit an application, which is available at the membership table and on-line

## 10.

### A. SEWER GROUP 716

CPA: Information Only Item at Jan 8 2009 meeting

*Returned at request of Councilmember Sherri Lightner and City Council's NRC*

Replacements in the Village (Girard, Wall, Kline), residential west of Torrey Pines Road, some in the Shores (Amalfi, Lookout, Hillside). Project was deemed exempt from CEQA. Work may be in area of sensitive archaeological resources.

President LaCava noted: Projects in La Jolla, involving utility work, are presented to the LJCPA as an information only item, to inform the community of affected streets/street closures. This project, previously presented to the LJCPA, in January 2009, has been returned to the LJCPA at the request of Councilmember Lightner: This project, as originally scaled, did not involve archaeological concerns, The project was later expanded, primarily into the La Jolla Shores area, where there may be archaeological concerns. Councilmember Lightner, concerned there had been no public notice; felt the community should be made aware of these potential issues. In addition, City policy, in this instance, did not require a mitigated negative declaration. The City has developed a monitoring program to identify possible archeological resources that is part of the construction specifications.

Presented by: San Diego City Senior Engineer: **Rania Sars Amen** & San Diego City Senior Planner: **Carrie Purcell**. Trustees **Salmon, Courtney, Crisafi, Costello, Weiss, Little** had

Questions made comments. **President LaCava** thanked the City staff and noted no action was needed.

### B. SEWER GROUP 715 – Information Only

Update on sewer work under construction in the Village.

**President LaCava** noted that this item should not have been placed on the Agenda; there was a misunderstanding; the Project is underway.

## 11. CHILDREN'S POOL ROPE BARRIER

CPA: Jan-08, Findings cannot be made, 7-2-1.

CPA: Dec-08, Reaffirm previous motion that findings cannot be made, 8-3-1.

Coastal Development Permit (CDP) to erect temporary rope barrier during seal pupping season, Dec 15 through May 30. Unlike previous requests for the upcoming season, this request is for annual placement in perpetuity.

*Discussion will be limited to changes, if any, that would support reconsideration of the CPA's previous recommendation that the CDP findings cannot be made.*

Project presented by City of San Diego District Manager Park & Recreation **Dan Danieri**. Trustees **Brady, Costello, Little, Lucas, Merten, Weiss** commented. Community members **Rosina Beaver, Portia Wadsworth, Rodger Wiggins, Fran Zimmerman** commented.

**Approved Motion: Motion to reject the Children's Pool Rope Barrier because it would conflict with the public beach vertical access policies of the La Jolla Community Plan and Local Coastal Program. (Merten/Salmon 7/5/1).**

In favor: Addington, Brady, Costello, Lucas, Manno, Merten, Salmon.

Opposed: Courtney, Crisafi, Fitzgerald Little, Weiss.

Abstain: LaCava

## **12. PROSPECT STREET CLOSURE (GIRARD TO HERSCHEL) - JOSE'S COURTROOM EATING CONTEST**

T&T Action: To support the proposal as presented, 6-0-0

Dec 6, 8 am to 9 pm. Closure to accommodate outdoor music and food to be followed (post-parade) by Jose's Courtroom Eating Contest. Closure does not interfere with parade route.

**President LaCava** provided information/clarification regarding planned street closures and specific time of the street closures for both the Christmas Parade and Jose's Courtroom Eating Contest. **Bill McHugh**, representing Jose's Courtroom, presented the proposal: In addition to the Eating Contest there will be a Beer/Margarita Garden, Children's Face Painting, Music and Community participants will be encouraged to donate new, unwrapped toys supporting the "It's All About The Kids" charity. **Trustee Fitzgerald** questioned a possible conflict between Parade music and the Beer Garden music. **Mr. McHugh** responded that at the point where the Parade reaches the area of the Beer Garden the volume of their music would be lowered to insure there will be no disruption of the Parade. **Trustees Addington, Courtney, Little, Lucas, Merten** commented. Community members **John Beaver, Barry Graceman** commented.

**Approved Motion: Motion to accept the Traffic & Transportation action and recommend approval of the street closure. (Little/Addington 12/0/1).**

In favor: Addington, Brady, Costello, Courtney, Crisafi, Fitzgerald, Little, Lucas, Manno, Merten, Salmon, Weiss.

Abstain: LaCava

## **8. CONSENT AGENDA – Ratify or Reconsider Committee Action**

Consent Agenda allows the Trustees to ratify actions of our joint committees and boards in a single vote with no presentation or debate. The public may comment on consent items. Anyone may request that a consent item be pulled for full discussion.

***Items pulled from this Consent Agenda are trailed to the next CPA meeting.***

PDO – Planned District Ordinance Committee, Chair Ione Stiegler, 2<sup>nd</sup> Mon, 4pm

DPR – Development Permit Review Committee, Chair Tony Crisafi, 2<sup>nd</sup> & 3<sup>rd</sup> Tues, 4pm

PRC – LJShores Permit Review Committee, Chair Helen Boyden, 4<sup>th</sup> Tues, 4pm

T&T – Traffic & Transportation Board, Chair Todd Lesser, 4<sup>th</sup> Thurs, 4pm

PDO – No meeting in October (no projects)

PRC – No meeting in October (lack of quorum)

### **A. Kearsarge Substantial Conformance**

DPR ACTION: Findings can be made for SCR, 8-0-0

1745 Kearsarge Road - Substantial Conformance Review for previous PDP 386484, SDP 386481, and CPD 385449.

Minor changes to exterior design, garage & parking locations, reduction in hardscape & increase in coverage.

Height remains the same. Site located in the RS-1-5 Zone.

### **B. Anderson Residence**

DPR ACTION: Findings can be made for CDP & SDP, 6-0-1

7512 Hillside Drive - Coastal Development Permit & Site Development Permit to amend CDP 11378 & SDP 11379 for access pathway and landscaping improvements for site located in RS-1-1.

### **C. Neptune Apartments Pulled by Trustee Merten**

DPR ACTION: The findings cannot be made for CDP & SDP due to proposed bulk & scale and community character of proposed structure as required by the La Jolla Community Plan, 4-2-0.

6767 Neptune Place - Coastal Development Permit & Site Development Permit to demolish existing buildings and construct 24 residential for rent units on a 0.56 acre site in the RM-3-7 Zone.

### **D. Bellevue Lot Line Adjustment**

DPR ACTION: Findings can be made for CDP and Parcel Map, 5-0-0.

5421 Bellevue Avenue - Coastal Development Permit & Parcel Map for a Lot Line Adjustment to adjust the south property line of Lot 13 approximately 23 ft for inclusion to the neighboring property in the RS-1-7 zone.

E. Dickins/Johnston Residence **Pulled by Applicant**

DPR ACTION: The findings cannot be made for the CDP because the second story setback over the garage does not maintain integrity of streetscape and does not meet community character section of the La Jolla Community Plan page 90. 6-0-0

9410 La Jolla Shores Drive - Coastal Development Permit to demolish existing residence and construct a 5,794 sf single family residence on a 15,061 sf site in the RS-1-4 zone.

F. Miller Residence

DPR ACTION: The findings can be made for preliminary approval subject to review of City environmental document. 5-0-0

1505 Buckingham Drive - Coastal Development Permit to demolish an existing residence and construct a 9,621 sf single-family residence on a 0.90-acre site in the RS-1-1 zone.

G. Bird Rock Decorative Street Lighting

T&T Action: To support the proposal as presented, 7-0-0

Addition of decorative street lighting in center median of La Jolla Blvd from Camino de la Costa to Midway Avenue.

H. Remove Valet Parking at 7863 Girard Ave (fka Jack's)

T&T Action: To support the proposal, 7-0-0

With closure of the restaurants the valet parking spaces are no longer being used.

I. Vallecitos & Ave De La Playa - Change Green Curbs to White Curbs

T&T Action: To support the proposal as presented, 6-0-0

Block west of Camino del Oro. Last year curbs were painted to green to increase turnover and for ease of passenger & equipment loading/unloading. White curbs (3 minutes) are expected to be more effective.

**Approved Motion: To accept the recommendation of the DPR Committee: to approve (A) Kearsarge Substantial Conformance and forward the recommendation to the City. To accept the recommendation of the DPR committee: to approve (B) Anderson Residence and forward the recommendation to the City. To accept the recommendation of the DPR committee: to approve (D) Bellevue Lot Line Adjustment and forward the recommendation to the City. To accept the recommendation of the DPR committee: to approve (F) Miller Residence and forward the recommendation to the City. To accept the recommendation of the T & T committee: to approve (G) Bird Rock Decorative Street Lighting and forward the recommendation to the City. To accept the recommendation of the T & T committee: to approve (H) Remove Valet Parking at 7863 Girard Avenue (fka Jack's) and forward the recommendation to the City. To accept the recommendation of the T & T committee: to approve (I) Vallecitos & Ave De La Playa - Change Green Curbs to White Curbs and forward the recommendation to the City. (Weiss/Courtney 12/0/1**

In favor: Addington, Brady, Costello, Courtney, Crisafi, Fitzgerald, Little, Lucas, Manno, Merten, Salmon, Weiss.  
Abstain: LaCava

## 9. REPORTS FROM OTHER ADVISORY COMMITTEES

*Information only unless otherwise noted*

A. LA JOLLA COMMUNITY PARKING DISTRICT ADVISORY BOARD – *Inactive*

B. COASTAL ACCESS AND PARKING BOARD – Meets 1<sup>st</sup> Tues, 4pm, Rec Center

**President LaCava** reported: More favorable parking rates for Parking Pass Program, with a goal of increasing the number of employees parking in the Parking Structures.

**President LaCava**, in response to **Trustee Little's** request for clarification of the membership and responsibilities of the Coastal Access & Parking Board, (CAP): During the period 1970 through early 1990 the California Coastal Commission collected mitigation fees from large scale projects in La Jolla; the fees were to be used to establish a fund for programs to alleviate the traffic and parking impact created by these large scale projects. The Coastal Commission did not make use of the fund. Subsequent negotiations between the La Jolla community, the Coastal Commission and the City of San Diego resulted in the development of a Memorandum Of Understanding. The Coastal Access & Parking Board originated in the mid 1990's, with a very specific, albeit narrow, mandate: The Coastal Commission relinquished the fund to the City of San Diego with the caveat that one-half the money be used to alleviate parking and circulation issues in La Jolla and one-half be used to develop a shuttle system in La Jolla, serving a remote parking area. Promote La Jolla was assigned as fiduciary agent of the nine member CAP board. Over the past several years the CAP Board has purchased parking passes to underground garages at a 30%+ discount and then resold the passes to local employees to encourage parking in the garages rather than on



the streets. Discounted bus passes were also made available, however that program was terminated early in 2009 when MTS discontinued monthly bus passes. The shuttle system was studied extensively and was deemed not viable, given the limited funds allocated. There was general agreement that the CAP programs were well run. The CAP Board was then folded into the Community Parking Advisory Board and stopped meeting. In early 2009 **President LaCava**, became aware of a potential nexus between a debt incurred by Promote La Jolla and the Coastal Access & Parking funds held by Promote La Jolla, as fiduciary agent. Although there were assurances from Promote La Jolla that First Republic Bank could not and would not seize these funds, **President LaCava**, in an abundance of caution, took the initiative to reconstitute the CAP board. Unfortunately the Board was not reconstituted in time to protect the CAP funds and First Republic Bank did seize the Coastal Access and Parking funds to satisfy the Promote La Jolla debt. Currently Promote La Jolla owes the Coastal Access & Parking account approximately \$65,000.00. Promote La Jolla continues to work with First Republic Bank and San Diego City, however at this time there is no indication when the debt will be repaid. The Coastal Access & Parking Board is comprised of 3 members of the LJCPA, 3 members of the LJTC, 3 members of PLJ. **President LaCava** is interim chair of the Board

### 13. SAN DIEGO TRIATHLON

T&T Action: To support the proposal as presented, 5-2-0.

Cycling leg will include route up Soledad Road to Soledad Mountain Road to La Jolla Scenic South down Via Capri and Hidden Valley Road up Torrey Pines Road to La Jolla Village. March 21, 7am to 10am. Triathlon and supporting activities with estimated 2000 competitors will be March 19-21 primarily centered on Mission Bay.

Presented by **Mike Kitts** for the San Diego Sports Commission. **Trustees Addington, Brady, Courtney, Crisafi, Fitzgerald, Lucas, Manno, Merten, Weiss** questioned/commented. **President LaCava** commented, suggested Mr. Kitts contact the three churches at the intersection of Nautilus and Soledad Mountain Road.

**Approved Motion: To support the Traffic & Transportation action to approve the San Diego Triathlon proposal as presented. (Weiss/Little 8/3/2).**

In favor: Brady, Crisafi, Fitzgerald, Little, Manno, Merten, Salmon, Weiss.

Opposed: Addington, Courtney, Lucas

Abstain: Costello, LaCava

### 14. LITTERING SIGNS – LA JOLLA SCENIC NORTH

T&T ACTION: To approve signs on existing posts, 8-1-0

*Pulled from CPA's October 1, 2009 Consent Agenda*

Signage on La Jolla Scenic North, facing northbound and southbound.

Presented by **President LaCava**, in the absence of City staff. Comments/questions by Trustees Costello, Fitzgerald, Little, Lucas, Merten, Salmon, Weiss.

**Approved Motion: To approve the Traffic & Transportation action to approve Littering Signs on existing posts. (Weiss/Little 8/4/1)**

In favor: Addington, Brady, Crisafi, Fitzgerald, Lucas, Manno, Merten, Weiss.

Opposed: Costello, Courtney, Little, Salmon

Abstain: LaCava

### 15. ADJOURNMENT: 8:20 PM

***Next Regular Meeting: Thursday, 3 December 2009***

**MINUTES OF THE LA JOLLA  
PLANNED DISTRICT ORDINANCE COMMITTEE  
NOVEMBER 9, 2009 (Unapproved)**

**Present: J. Fitzgerald, (CPA), C. Hasson (LJTC), D. Marengo (PLJ), I. Stiegler (BRCC, President), J. Clark (PLJ); J. Parker (BRCC), (CPA), T. Underwood (PLJ), G. Rasmussen (PLJ). A quorum was established at 4 pm.**

Approval of the October minutes was postponed because they were not distributed by the secretary. They will be approved at the next meeting. The PDO committee is attempting to avoid distributing hard copies of minutes, in order to be paperless.

A discussion concerning PDO signage violations occurred, with similar questions (to those involving paint coloration) about enforcement. The Planned District Ordinance committee will not perform enforcement, but may make complaints of code violations to Neighborhood Code Compliance.

The bulk of the meeting involved an extensive discussion with the architect, owners' representatives and builder of the proposed Prospect Residential Care Facility at 484 Prospect Street, La Jolla, which requires a Conditional Use Permit.

Issues of concern were discussed at the Development Permit Review committee meeting the day before.

Community input was given by neighbor Scott Benson (464 Prospect) and others. Concerns were voiced primarily involving proximity of similar care facilities. In response, this is a different use/kind of extended care facility – Alzheimer's care.

A motion by J. Fitzgerald to deny the project on that basis failed for lack of a second.

At the conclusion of the discussion, it was determined that no action was required by this committee as there are no impacting violations of the Planned District Ordinance.

The meeting was adjourned at 6:15 p.m.

Respectfully Submitted

*Glen Rasmussen, Secretary*

**LA JOLLA DEVELOPMENT PERMIT REVIEW COMMITTEE**  
LA JOLLA COMMUNITY PLANING ASSOCIATION

**COMMITTEE REPORT  
FOR  
NOVEMBER 2009**

**11/10/09 Present: Addington, Costello, Hayes, DuCharme Conboy, Gaenzle,  
Merten (Chair), Thorsen**

**11/17/09 Present: Addington, Ashley, Collins, Costello, Crisafi, DuCharme Conboy,  
Merten, Thorsen**

**FINAL REVIEW**

Project Name:	<b>DICKINS / JOHNSTON</b>	Permits:	CDP
	9410 La Jolla Shores Drive	DPM:	Diane Murbach 619-446-5042
Project #:	JO#43-0271/149344		<a href="mailto:dmurbach@san Diego.gov">dmurbach@san Diego.gov</a>
Zone:	RS-1-4	Applicant:	Heather Johnston 858-453-7666
			<a href="mailto:hjarch@sbcglobal.net">hjarch@sbcglobal.net</a>

Scope of Work:

(Process 3) Coastal Development Permit to demolish existing residence and construct a 5,794 sf single family residence on a 15,061 sf site in the RS-1-4 zone within the La Jolla community plan, Coastal Overlay (appealable), Coastal Height Limit, First Public Road Way, Residential Tandem/Beach/Campus Parking Impact, MCAS, Potential Historic District, Notice Cards =1.

**The front street facing wall of the second story addition over the existing garage was set back a couple of feet from the first story wall below. The street facing roof eave overhang at the new second story was reduced from 3 feet to 2 feet.**

**Subcommittee Motion: (Hayes, Costello) The findings can be made for a Coastal Development Permit.**

**Subcommittee Vote: 6-0-1**

**(Merten [Chair] abstained)**

Project Name:	<b>PROSPECT RESIDENTIAL CARE</b>	Permits:	CUP
	484 Prospect St.	DPM:	Helene Deisher 619-446-5223
Project #:	JO#43-2406/180343		<a href="mailto:hdeisher@san Diego.gov">hdeisher@san Diego.gov</a>
Zone:	5A LJPDO	Applicant:	James Alcorn 858/ 459- 0805
			<a href="mailto:james@jamesalcorn.com">james@jamesalcorn.com</a>

Scope of Work:

(Process 4) Conditional Use Permit to change the use from office to residential care facility in an existing 17,838 sf building in Zone 5a of the La Jolla Planned District within the La Jolla Community Plan, Coastal Overlay (appealable & non appealable), Coastal Height Limit, Residential Tandem.

**Please provide the following for final review:**

- 1. Return with a detailed list of specific conditions acceptable to the residents of 464 Prospect.**
- 2. City Attorney Ruling of Land Development Code application**

**La Jolla Development Permit Review Committee  
November 2009 Committee Report  
Page 2**

Project Name:	<b>SOROKIN DUPLEX</b>	Permits:	CDP
	247 Kolmar St.	DPM:	Tim Daly (619) 446-5356
Project #:	JO#43-2604/190364		<a href="mailto:tdaly@saniego.gov">tdaly@saniego.gov</a>
Zone:	RM-1-1	Applicant:	David Linn 858-459-8180
			<a href="mailto:linnarch@gmail.com">linnarch@gmail.com</a>

Scope of Work:

(Process 2) Coastal Development Permit to demolish existing residence and construct two residential for rent units on a 0.11 acre site in the RM-1-1 zone within the La Jolla community plan, Coastal Overlay (non - appealable), Coastal Height Limit, Residential Tandem Parking, Transit Area, Council District 1. Notice Cards =1.

**Subcommittee Motion: (Costello, Collins) The findings cannot be made for a Coastal Development Permit.**

**Subcommittee Vote: 5-2-1**

**Crisafi, DuCharme Conboy – against  
Thorsen - abstain**

Project Name:	<b>PACE RESIDENCE</b>	Permits:	CDP
	1405 Inspiration Dr.	DPM:	Helene Deisher (619) 446-5223
Project #:	JO#43-2738/194092		<a href="mailto:hdeisher@saniego.gov">hdeisher@saniego.gov</a>
Zone:	RM-1-1	Applicant:	John Oleinik 858-945-3251
			<a href="mailto:johnoleinik@earthlink.net">johnoleinik@earthlink.net</a>

Scope of Work:

(Process 2) Coastal Development Permit and (Process 3) Site Development Permit to demolish existing residence and construct a 8,660 sf. single family residence on a 1.17 acre site in the RS-1-4 zone within the La Jolla community plan, Coastal Overlay (non - appealable), Coastal Height Limit, Council District 1. Notice Cards =1.

**Subcommittee Motion: (Collins, DuCharme Conboy) The findings can be made for Coastal Development Permit & Site Development Permit and applicant agreed to comply with scenic overlook regulations.**

**Subcommittee Vote: 8-0-0**

**La Jolla Development Permit Review Committee  
November 2009 Committee Report  
Page 3**

Project Name: **VERIZON WIRELESS KATE SESSIONS – ZONE 1**  
6186 Soledad Mtn. Rd. Permits: CUP  
Project #: JO#43-2520/183647 DPM: Karen Lynch Ashcraft 619-446-5351  
[klynchashcraft@sandiego.gov](mailto:klynchashcraft@sandiego.gov)  
Zone: RS-1-4 Applicant: Kerrigan Diehl 760-587-3003  
[kerrigan.plancom@sbcglobal.net](mailto:kerrigan.plancom@sbcglobal.net)

Scope of Work:

(Process 3) Conditional Use Permit for a wireless communication facility on a replacement light pole and above ground equipment on the street light just north of 6186 Soledad Mtn. Rd. in the RS-1-4 zone within the La Jolla Community Plan, Coastal Height Limit, Council District 2.

Project Name: **VERIZON WIRELESS KATE SESSIONS – ZONE 2**  
5895 Soledad Rd. Permits: CUP  
Project #: JO#43-2521/183648 DPM: eKaren Lynch Ashcraft 619-446-5351  
[klynchashcraft@sandiego.gov](mailto:klynchashcraft@sandiego.gov)  
Zone: RS-1-4 Applicant: Kerrigan Diehl 760-587-3003  
[kerrigan.plancom@sbcglobal.net](mailto:kerrigan.plancom@sbcglobal.net)

Scope of Work:

(Process 3) Conditional Use Permit for a wireless communication facility on a replacement light standard and above ground equipment located on the south side of Soledad Rd. in front of 5895 Soledad Rd. in the RS-1-4 zone within the La Jolla Community Plan, Coastal Height Limit, Council District 2.t

Project Name: **VERIZON WIRELESS KATE SESSIONS – ZONE 3**  
5501 1/3 Soledad Mtn. Rd. Permits: CUP  
Project #: JO#43-2522/183649 DPM: Alex Hempton 619-446-5349  
[ahempton@sandiego.gov](mailto:ahempton@sandiego.gov)  
Zone: RS-1-4 Applicant: Kerrigan Diehl 760-587-3003  
[kerrigan.plancom@sbcglobal.net](mailto:kerrigan.plancom@sbcglobal.net)

Scope of Work:

(Process 3) Conditional Use Permit for a wireless communication facility within the public right of way consisting of 3 panel antennas mounted on a replacement light standard. A Verizon Wireless equipment cabinet and an SDGE meter pedestal will be located above ground just south of the property located at 5544 Pacifica Dr. on east side of Soledad Mtn. Rd. in the RS-1-4 zone within the La Jolla Community Plan, Coastal Height Limit, Council District 2.

**La Jolla Development Permit Review Committee  
November 2009 Committee Report  
Page 4**

Project Name: **VERIZON WIRELESS KATE SESSIONS – ZONE 4**  
5380 1/3 Soledad Mtn. Rd. Permits: CUP  
Project #: JO#43-2523/183650 DPM: Alex Hempton 619-446-5349  
[ahempton@san Diego.gov](mailto:ahempton@san Diego.gov)  
Zone: RS-1-4 Applicant: Kerrigan Diehl 760-587-3003  
[kerrigan.plancom@sbcglobal.net](mailto:kerrigan.plancom@sbcglobal.net)

Scope of Work:

(Process 3) Conditional Use Permit for a wireless communication facility within the public right of way consisting of 3 panel antennas mounted on a replacement light standard with above ground equipment located in front of 5380 1/3 Soledad Mtn. Rd. in the RS-1-4 zone within the La Jolla Community Plan, Coastal Height Limit, Council District 2.

Project Name: **VERIZON WIRELESS KATE SESSIONS – ZONE 5**  
Intersection of Soledad Rd. & Bahia Way  
Permits: CUP  
Project #: JO#43-2524/183651 DPM: Simon Tse 619-446-5984  
[stse@san Diego.gov](mailto:stse@san Diego.gov)  
Zone: RS-1-4 Applicant: Kerrigan Diehl 760-587-3003  
[kerrigan.plancom@sbcglobal.net](mailto:kerrigan.plancom@sbcglobal.net)

Scope of Work:

(Process 3) Conditional Use Permit for a wireless communication facility within the public right of way consisting of 3 panel antennas mounted on a replacement pole with above ground equipment located near the intersection of Soledad Rd. & Bahia Way in the RS-1-4 zone within the La Jolla Community Plan, Coastal Height Limit, Council District 2.

**Please provide the following for final review of Verizon Wireless Kate Sessions Zones 1-5:**

- 1. Provide graphic scales on drawings and handout materials**
- 2. Identify and document public views & potential effect (p. 56, items a. thru e., La Jolla Community Plan and other areas that may apply)**
- 3. Show potential cumulating effects of all towers on Soledad Mountain Rd. and vicinity (show other carrier locations)**
- 4. Notify La Jolla Light of public meetings when item is on agenda.**
- 5. Provide information on alternate systems used by Verizon or others (DAS, Macro).**

**La Jolla Shores Permit Review Committee – Minutes**  
4:00 p.m. - Tuesday, November 24, 2009  
La Jolla Recreation Center, 615 Prospect Street, La Jolla, CA

**Committee members present: Boyden, Furtek, Lucas, Morton, Schenk**

1. Non-Agenda Public Comment – **None**
2. Chair Comments: The Chair reported that the Marcus project would not be heard because the required information had not yet been received from the City. The previously approved Levis project had had a city hearing. The Whitney project approved by the PRC was rejected by the LJCPA. An AT&T cell installation at the Gilman Drive entrance to southbound I-5 had been scheduled for a decision without a hearing. Upcoming are two other cell installations: Verizon, overlooking La Jolla Parkway on the southbound side opposite the LJ Scenic North exit and T-Mobile at Cliffridge Park. Also to be on the agenda when information is complete are: Three story McClelland residence on La Jolla Shores Drive where some front yard landscape walls are already partly constructed, Ninkovic residence expansion to two-stories on Nottingham Place, Palazzo condominiums on Torrey Pines Road north of the throat, requesting an increase from the 30 units originally permitted in 2005, demolition already having occurred under that permit, to 52 units.
3. Project Review (see A to C below)
4. Discuss the failure of the city to act on the proposed PDO bylaws changes and actions of the city in over-referring Process One/Process three determinations to the LJSPDO Advisory Board. Write letter to CD1? - **Not discussed**
5. Report by Tim Lucas re: rewrite for LJSPDO - **Nothing new to report: hopes to have meeting in December.**

**A. CARDENAS RESIDENCE (this item heard last)**

- PROJECT NUMBER: #191344
  - TYPE OF STRUCTURE: Existing Single family residential
  - LOCATION: 8466 El Paseo Grande
  - PLANNER: Will Zounes Ph: 619-687-5942, wzounes@sandiego.gov
  - OWNERS REP: Claude Anthony Marengo Ph: 858-459-3769, CAMarengo@marengomortonarchitects.com
  - PROJECT DESCRIPTION: Extension of existing deck with support wall and surrounding guardrail/screen wall with storage space below; addition of retaining wall with masonry fence and cable guardrail above supporting new turf area; 6' fence at south property line; increase in height of existing site wall at the house entry and addition of planting areas and enhanced driveway paving. (Applicant)
  - SEEKING: Site Development Permit (SDP)—Process 3 Site Development Permit for Environmentally Sensitive Lands in the form of the project being located adjacent to a coastal beach (per City Assessment letter)
- 

Presenter: Claude Anthony Marengo

Side wall is increasing from 3 ft to 4.5 or 5 ft height + 2 ft rail.  
Failed retaining wall will be replaced. One tree was removed from front parking area because it blocked driveway access. City has been notified. The site will be replanted with smaller tree.

The actual deck construction method has changed from imported fill and concrete to beams and woods requiring no fill.

One neighbor, Rob Whittemore was present to view project. He commented that the height of the side fence extends higher than the C & Cs allow. The chair stated that the PRC does not consider C & Cs and Mr. Whittemore concurred.

**Motion: Schenk Second: Furtek**

**The project as presented with plans reviewed that had been submitted 10/31/2009 and printed 11/2/2009/meets the findings for a Site Development Permit for environmentally sensitive lands. This plan set was left with the chair.**

**Motion Approved: 4-0-0**

**Approved: Boyden, Furtek, Lucas, Schenck.**

**Recuse: Morton (not present for any of the presentation, discussion or vote)**

**B. DESSERT/HANNEKIN RESIDENCE**

- PROJECT NUMBER: 192318
- TYPE OF STRUCTURE: Existing Single family residential
- LOCATION: 8646 Cliffridge Avenue
- PLANNER: Tim Daly Ph: 619-446-5346 Email: [tdaly@sandiego.gov](mailto:tdaly@sandiego.gov)
- OWNERS REP: Erika Love Ph: 619-857-7406 Email: [pacificpermits@aol.com](mailto:pacificpermits@aol.com)  
Katie Powers Ph: 619-286- 1633 Email: [Katie@charco.com](mailto:Katie@charco.com)
- PROJECT DESCRIPTION: 184 s.f. first floor addition and a 1626 s.f. second story addition to an existing 2886 s.f. SFR (Applicant)
- Lot Size: 15,288 s.f.
- Existing Sq/Ft: 2886 s.f. (residence 2402; garage 464)
- Addition Sq/Ft: 1<sup>st</sup> story 184 s.f., 2<sup>nd</sup> story 1626 s.f. Deck 97 s.f.
- Subterranean Sq/Ft (if applicable):N/A
- Total Sq/Ft (excluding subterranean if applicable): 1810 (w/Deck 1907)
- Percent of lot covered: 20%
- Floor area ratio: 30.70%
- Height: 26' 6"
- Front yard setback: 26'
- Side yard setback: 7', 15'
- Percent of green softscape: 68%
- Off street parking: Garage: 2; Driveway 2
- SEEKING: Site Development Permit (SDP)
- NEIGHBORHOOD DESCRIPTION: Single family residences LJSPDO area

---

Helen Boyden disclosed that she was a resident in the general area but not a neighbor directly affected by the project.

Dena Gillespie presenter:

This project is Process 3.

26.5 feet tallest elevation

52% of houses in neighborhood are 2-story

88% of houses have side setback 4 – 8 ft

12% of houses have side setback of 8 – 12 ft

This house 8.5 – 11.5 ft

The left side 2<sup>nd</sup> floor wall is 53 ft in length with no articulation or step backs.

The presenter stated that Robert Pendleton, the neighbor on the left side, is OK with project. His only request was that the second floor windows looking down into his house be frosted or opaque. Both parties have agreed to this.

Boyden: Stated that the City has raised the issue that this is in campus overlay parking zone. The 6 bedrooms shown in the current plans require 6 spaces offsite. There are presently on 4 spaces on site: 2 in garage, 2 in driveway.



Response: Changes to the plans have been discussed with the City. One of the downstairs bedrooms is being converted to entertainment area with no walls or closets. The other bedroom/office will have one wall removed and is to be purely an office. The city has said that with these changes, the rooms will no longer be considered bedrooms. The house therefore has four bedrooms and will not require extra off-street parking spaces.

The owners will be signing a paper stating that there will be no bedrooms downstairs. They will also sign an agreement for the sewer easement on the side of the house which presently has trees and bushes covering the lines. The sewer dept may require the trees and bushes to be removed when maintenance is performed.

Public comments:

Gary Frank, 8655 Cliffridge Avenue. Likes the project, thinks that the design is nice and will enhance the neighborhood.

Ann Hannekin, owner: This is a house for their family use only. Two of their three children are presently sharing a bedroom as the house has only three. The new 4 upstairs bedrooms being added are for family use. The downstairs rooms are office or play areas. They have no intention of renting out rooms.

**Motion: Morton Second: Furtek**

**Continue to a subsequent meeting because:**

**The changes to the downstairs rooms are not reflected in the plans submitted to the city.**

**This item is to be continued to a future meeting. The committee will need to see:**

- **Revised floor plans as submitted to the city that show the changes to the downstairs rooms. [Applicant agreed to have them submitted by December 15 and bring to December PRC meeting.]**
- **Show offsetting planes/recesses/architectural projections on left to meet the 50 foot rule and the LJS PDO guidelines.**
- **Call out all parking spaces on lot.**
- **Average the setbacks for houses within 300 ft.**
- **Talk with other two adjacent neighbors behind the residence.**

**Motion approved: 4-0-1**

**Approve: Furtek, Orton, Schenk, Lucas**

**Abstain: Boyden (chair)**

### **C. Sprint Nextel/Clearwire Cliffridge Park (Applicant) AKA Sprint Cliffridge Park**

- PROJECT NUMBER: 194434
- TYPE OF STRUCTURE: Cell site
- LOCATION: Cliffridge Park -8311 Cliffridge Avenue
- PLANNER: Simon Tse PH 619-687-5984 e-mail: [stse@sandiego.gov](mailto:stse@sandiego.gov)
- OWNERS REP: Debra D. Gardner 619-726-8110
- PROJECT DESCRIPTION: Conditional Use Permit for a Clearwire wireless communication facility inside two existing foul poles concealed behind RF transparent materials with above ground equipment inside a chain-link fence with slats. [The project consists of new panel antennas and new directional antennas on two existing pole with new RF raydomes. The associated equipment will be installed inside the existing chain-link fence enclosure.] (City) Further from applicant: add 4'x4' equipment area to existing equipment facility.

Additional Notes: Planner Simon Tse states that: T-Mobile will be submitting to staff shortly for their expired permit at this site.

---

Helen disclosed that she lives in the approximate neighborhood, but has no direct interest or conflicts with this project.

Presenter: Debra Gardener

Current leases: This is a shared Sprint & T-Mobile site. The current Sprint CUP lease will expire 2011. The current T-Mobile CUP lease expires 2010. The leases will be extended with the approval of the new project. This is a 4G upgrade.

There are presently two antenna poles disguised as foul poles. The northern one next to the equipment is the only one currently in use. The other is a dummy pole for balance to make it blend in with the site. They are planning to add antennas and a microwave link, pointing to the 939 Coast building inside this dummy pole. They also need to add a 4' x 4' extension to the present equipment site. They would prefer to add this extension to the canyon side of the enclosure, but the city would prefer it away from the canyon side. This area is considered disturbed fill, so it does not trigger any issues with sensitive canyon lands.

Public comment:

Karen Boger: Asked questions about poles. Poles will not change their form factor. Could south pole be relocated? Response: No, it is there to balance the look on the field. It would look odd with only one "foul" pole. She has RF concerns due to the topography. Two of the other ball fields are at a height about even with the top of the antenna and children play on them? Response: The antennas are facing away from the fields there is a three degree spread. There should be no issues with RF/radiation.

Mary Coakley: Disappointed that community was not notified of the walk around. This was a city responsibility. She would prefer that the dummy pole not be used, but rather put a new antenna near the north one and the equipment site. This new antenna could be painted to match the surrounding trees and bushes – camouflaged so it won't stand out. She agrees with the presenter that undergrounding the equipment site doesn't work and would actually cause more disturbance to the surrounding canyon areas.

Board/Community discussion:

Could a third pole be added to the site near the equipment enclosure that meets the coverage/use requirements? If so this would save having to trench lines to the dummy pole and disturb the play fields. Helen: Facility could be made nicer. The current fence enclosure looks bad. She would like a more finished look to it.

**Motion: Lucas Second: Furtek**

**Motion to continue this item to a future meeting. Come back with information regarding:**

- **the disturbed area to the west of the equipment enclosure and options for the placement of the 4' x 4' expansion.**
- **Present an RF coverage map for the existing site and proposed changes.**
- **Present an overall map that shows the project site in relation to the surrounding ball fields. The topography should be shown.**
- **Present the feasibility of placing a third pole near the existing one and the equipment enclosure. Will this meet the performance requirements for the project? If so this could save trenching the fields and avoid concerns regarding RF energy at head heights. Consult with Community members and City about this feasibility.**



THE CITY OF SAN DIEGO  
**REPORT TO THE CITY COUNCIL**

DATE ISSUED: November 12, 2009

ATTENTION: City Council

SUBJECT: Recommendations from the Medical Marijuana Task Force

REQUESTED ACTION: Accept the Report

BACKGROUND:

On October 6, 2009, the San Diego City Council voted to establish a Medical Marijuana Task Force [hereinafter "Task Force"] to advise the City Council on: (1) guidelines for medical marijuana patients and primary caregivers; (2) guidelines for the structure and operation of medical marijuana cooperatives and/or collectives; and (3) guidelines for police department enforcement regarding medical marijuana. The resolution establishing the Task Force further provided that the Task Force was to report back to the City Council by the end of 2009 with recommendations regarding land use and zoning issues. The Council appointed eleven members, with a broad range of perspectives and backgrounds, to serve on the Task Force. This report provides a summary of the Task Force's work along with its recommendations regarding land use and zoning regulations for collectives and cooperatives that dispense medical marijuana to qualified patients.

OVERVIEW:

The Task Force met five times over the course of five weeks to discuss recommendations for the land use and zoning of medical marijuana collectives and cooperatives within the City of San Diego. The meetings were conducted pursuant to the Brown Act and open to the public. The Task Force was fortunate to receive helpful input from the public at these meetings and relied on a wide range of documents and reports to inform our work, including ordinances from over three dozen other cities and counties in California regulating medical marijuana collectives and cooperatives. The Task Force's recommendations appear in full below. In general, however, the recommendations reflect a shared belief by the Task Force that the best way for the City Council to address the issue of medical marijuana collectives and cooperatives is to adopt an ordinance that closely regulates such entities. We believe that by closely regulating collectives and cooperatives, the City of San Diego can ensure that qualified patients have safe access to their lawfully recommended medicine and prevent against the dangers attendant to unregulated or otherwise illegitimate operators. Though some members of the Task Force differed on specific recommendations, we all were in agreement on this central principle. In addition, while the members who voted against specific recommendations adhere to those votes, at the conclusion of the Task Force's work, the Task Force unanimously voted to approve a draft of this report as a package of recommendations for your further consideration.

## RECOMMENDATIONS:

The Task Force voted on recommendations for a number of specific land use and zoning-related issues. We considered and voted on each issue one at a time. By the nature of the project, the Task Force could not consider and vote on every possible land use or zoning-related consideration. Accordingly, these recommendations are meant to provide general advice to the City Council about the items that we believe would be especially important to include in any ordinance that regulates the land use and zoning of medical marijuana collectives and cooperatives. The following is a list of each recommendation of the Task Force, along with a voting breakdown and, where helpful, brief explanatory text.

• **Permitting process for dispensing cooperatives and collectives:** The Task Force recommends that the City of San Diego implement a two-tiered permitting system for medical marijuana cooperatives and collectives, whereby dispensing cooperatives and collectives with less than 100 members may obtain a use permit through a Process 2 as described in Chapter 11 Article 02 Division 5 of the San Diego Municipal Code and dispensing cooperatives and collectives with 100 or more members must obtain a use permit through a Process 3 as described in Chapter 11 Article 02 Division 5 of the San Diego Municipal Code.

• Vote: This recommendation was adopted by a vote of 9-2 (aye – Larry Sweet, John Minto, Dave Potter, Alex Kreit, Mark-Robert Bluemel, Kim Twolan, Craig Balben, Rev. Wayne Riggs, Dr. Tom Cummings; nay – Dave Martin and Stephen Whitburn.)

• Background: Prior to adopting this recommendation, the Task Force reached a tie vote of 5 – 5 in an earlier meeting on the question of whether to allow cooperatives and collectives to exist by right under a Process 1 as described in the San Diego Municipal Code (aye – Stephen Whitburn, Larry Sweet, Tom Cummings, Mark-Robert Bluemel, Kim Twolan; nay – John Minto, Dave Potter, Alex Kreit, Craig Balben, Rev. A. Wayne Riggs; Dave Martin Absent.) During that vote, some of the members who voted to support a “by right” process expressed concern that there was a possibility a purely discretionary process may result in blanket denials of permits.

The Task Force ultimately voted to recommend the two-tiered system described above after concluding that a discretionary permitting process for medical marijuana cooperatives and collectives has proved to be successful in other cities and counties in California. A majority of the Task Force felt that the relevant discretionary standards in the San Diego Municipal Code would ensure that permits will be issued to cooperatives and collectives who meet the necessary requirements of Processes 2 and 3.

• **Permitting Renewals:** The Task Force recommends that conditional use permit expiration and renewal for dispensing collectives and cooperatives follow the process outlines in Chapter 12 Article 6 Division 3 of the San Diego Municipal Code.

• Vote: 11-0

• **Zoning of Dispensing Medical Marijuana Collectives and Cooperatives:** The Task Force recommends that dispensing cooperatives and collectives be allowed to locate (by permit as outlined above) in the following zones under the City of San Diego Municipal Code: Commercial – Regional (CR), Commercial – Office (CO), Commercial – Community (CC), Commercial—Neighborhood (CN), Commercial – Visitor (CV), Industrial – Park (IP), Industrial – Light (IL) and Industrial – Heavy (IH).

• Vote: 11-0.

• Background: The original proposed motion included all of the zones that are included in the final recommendation except for CN and CV. The CN and CV zones were added pursuant to amendments that passed by votes of 8-3 (aye – Larry Sweet, Craig Balben, Mark-Robert Bluemel, Dr. Tom Cummings, Kim Twolan, Rev. Wayne Riggs, Stephen Whitburn, Alex Kreit; nay – Dave Martin, Dave Potter, John Minto) and 9-2 (aye- Dr. Tom Cummings, Craig Balben, Kim Twolan, Mark-Robert Bluemel, Dave Martin, Dave Potter, Stephen Whitburn, Alex Kreit; nay – John Minto, Larry Sweet) respectively.

• Location within Planned District Ordinances; The Task Force recommends that the City of San Diego include uses similar to those recommended by the Task Force for base zones in Planned District Ordinances (PDOs). Vote: 10-0-1 (Dave Martin absent).

• **Distance requirements to be placed on dispensing collectives and cooperatives:** The Task Force recommends that the dispensing cooperatives and collectives within the City of San Diego shall not be located: (a) within a 1,000-foot radius of schools, playgrounds, libraries, child care facilities, and youth facilities, including but not limited to youth hostels, youth camps, youth clubs, etc., and other similar uses; and dispensing cooperatives and collectives within the City of San Diego shall not be located (b) within a 500-foot radius of other dispensing cooperatives and collectives.

• Vote: Recommendation (a) was approved by a vote of 8 – 3 (aye – Larry Sweet, Dave Potter, Alex Kreit, Stephen Whitburn, Mark-Robert Bluemel, Kim Twolan, Rev. Wayne Riggs, Dr. Tom Cummings; nay – John Minto, Dave Martin, Craig Balben). Recommendation (b) was approved by a vote of 9 – 2 (aye – Larry Sweet, John Minto, Dave Potter, Dave Martin, Alex Kreit, Stephen Whitburn, Mark-Robert Bluemel, Kim Twolan, Rev. Wayne Riggs; nay – Craig Balben, Dr. Tom Cummings).

• Background: The Task Force also considered whether to include parks and places of religious worship among the locations specified in recommendation (a). The original proposed motion included parks and places of religious worship among the specified locations, but each was removed pursuant to amendments that each passed by a vote of 7 – 4 (aye – Larry Sweet, Alex Kreit, Stephen Whitburn, Mark-Robert Bluemel, Kim Twolan, Rev. Wayne Riggs, Dr. Tom Cummings; nay – John Minto, Dave Potter, Dave Martin, Craig Balben).

- **Not-for-Profit Operation:** The Task Force recommends that the City require dispensing collectives and cooperatives to submit, as part of their application for a conditional use permit, evidence that they are incorporated as statutory cooperatives or bona fide nonprofit corporations, or documentation outlining their plans for operating in a not-for-profit manner, as contemplated by the Attorney General's guidelines.

- Vote: 11-0.

- **Security:** The Task Force recommends that the City of San Diego require medical marijuana cooperatives and collectives to have an adequate and operable security system that includes security cameras and alarms and for a licensed security guard to be present at the cooperative or collective at all times during business hours. All security guards must be licensed and possess a valid Department of Consumer Affairs "security guard card" at all times.

- Vote and background: 7-3-0 (aye – John Minto, Dave Potter, Dave Martin, Alex Kreit, Stephen Whitburn, Craig Balben and Rev. Wayne Riggs; nay – Larry Sweet, Mark-Robert Bluemel, Dr. Tom Cummings; absent – Kim Twolan). Some dissenting members expressed concern that the security requirements, particularly the requirement concerning a licensed guard, may be too costly for smaller cooperatives and collectives.

- **Lighting:** The Task Force recommends that the City of San Diego adopt the following use requirement with regard to lighting for medical marijuana cooperatives and collectives: lighting shall adequately illuminate the dispensing cooperative and collective, its immediate surrounding area, any accessory uses including storage areas, the parking lot, the dispensing cooperative and collective's front façade, and any adjoining public sidewalk; and lighting shall be hooded or oriented so as to deflect light away from adjacent properties.

- Vote: 10-0-0 (Kim Twolan absent).

- **Hours of Operation:** The Task Force recommends that the hours of operation for medical marijuana cooperatives and collectives shall be limited to 7:00 A.M. to 9:00 P.M. seven days a week.

- Vote: 9-1-0 (aye – Larry Sweet, John Minto, Dave Potter, Dave Martin, Alex Kreit, Stephen Whitburn, Mark-Robert Bluemel, Rev. Wayne Riggs, Dr. Tom Cummings; nay – Craig Balben; absent – Kim Twolan).

- **Signage:** The Task Force recommends that the City of San Diego place the following use conditions on the signage of dispensing cooperatives and collectives: (a) all signage shall comply with San Diego's current ordinance as described in Chapter 14 Article 2 Division 12 of the San Diego Municipal Code (b) That signs will remain limited to the name of the establishment and the design limited to two colors. (c) That all dispensaries shall display on their wall sign or identification sign, the name and emergency contact phone number of the operator or manager in letters at least two inches in height. (d) That dispensaries shall post a legible indoor sign in a conspicuous location containing the

following warnings: (i) That the diversion of marijuana for non-medical purposes is a violation of state law; (ii) That the use of medical marijuana may impair a person's ability to drive a motor vehicle or operate machinery; and (iii) That loitering on and around the dispensary site is prohibited by California Penal Code section 647(e).

• Vote: 11-0

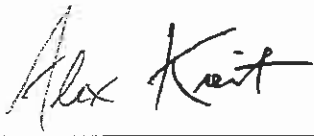
CONCLUSION: The Task Force recommends that the City of San Diego closely regulate medical marijuana collectives and cooperatives in order to ensure that qualified patients have safe access to their lawfully recommended medicine and to prevent against the dangers attendant to unregulated or otherwise illegitimate operators. While the Task Force members who voted against specific recommendations adhere to those votes, at our final meeting, the Task Force unanimously voted to approve a draft of this report as a package of recommendations for your further consideration.

FISCAL CONSIDERATIONS: NONE

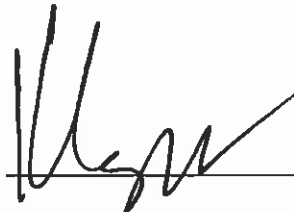
PREVIOUS COUNCIL and/or COMMITTEE ACTION: NONE

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: NONE

KEY STAKEHOLDERS AND PROJECTED IMPACTS: NONE



Task Force Chair



City Council Staff to the Task Force

**Office of  
The City Attorney  
City of San Diego**

**MEMORANDUM  
MS 59**

**(619) 533-5800**

**DATE:** October 27, 2009  
**TO:** Mary Wright, Planning Division Deputy Director, City Planning & Community Investment  
**FROM:** City Attorney  
**SUBJECT:** Community Planning Groups Review of CEQA Documents

---

**INTRODUCTION**

The City Planning & Community Investment Department has requested an opinion as to whether Community Planning Groups [CPGs] must consider California Environmental Quality Act [CEQA] documents prior to making recommendations on development projects. Two CEQA Guidelines sections govern the duties of advisory bodies to review and consider environmental documents prior to making recommendations on projects, CEQA Guidelines sections 15025 and 15074.<sup>1</sup> Some have argued that CEQA Guidelines section 15074 requires that CPGs review CEQA documents before making recommendations on development projects.

**QUESTION PRESENTED**

Must CPGs review CEQA documents prior to making recommendations on development projects?

**SHORT ANSWER**

CPGs are not required by law to review CEQA documents prior to making recommendations on development projects.

---

<sup>1</sup> All references to CEQA Guidelines are to the current California Code of Regulations, title 14, sections 15000-15387. The CEQA Guidelines are afforded "great weight" by the courts. *Laurel Heights Improvement Assn. v. Regents of University of California*, 47 Cal. 3d 376, 391 n. 2 (1988).



## BACKGROUND

### I. CEQA

The first CEQA Guidelines section to treat advisory body review of CEQA documents is section 15025, which is found within Article 2, entitled "General Responsibilities." This Guidelines section governs what specific functions the City may delegate to its staff to administer CEQA. CEQA Guidelines section 15025 states that "[w]here an advisory body such as a planning commission is required to make a recommendation on a project to the decisionmaking body, the advisory body shall also review and consider the EIR or Negative Declaration in draft or final form." CEQA Guidelines § 15025(c).

The second CEQA Guidelines section concerning advisory body review is found in Article 6, which governs the negative declaration process. There, CEQA Guidelines section 15074 states that "[a]ny advisory body of a public agency making a recommendation to the decisionmaking body shall consider the proposed negative declaration or mitigated negative declaration before making its recommendation." CEQA Guidelines § 15074(a).<sup>2</sup> Note that this CEQA Guidelines section concerns only negative declarations; it does not mention EIRs.

### II. COUNCIL POLICY 600-24

City Council Policy 600-24 recognizes CPGs and governs their conduct. The Policy's Background statement reads:

Community planning groups have been formed and recognized by the City Council to make recommendations to the City Council, Planning Commission, City staff, and other governmental agencies on land use matters, specifically, concerning the preparation of, adoption of, implementation of, or amendment to, the General Plan or a land use plan when a plan relates to each recognized community planning group's planning area boundaries. Planning groups also advise on other land use matters as requested by the City or other governmental agencies.

*See* Council Policy 600-24 Background. This statement establishes that the primary purpose of CPGs is to assist the City with community plans and other planning activities. It also demonstrates that reviewing a development project is a secondary function of CPGs that they perform "as requested by the City." *Id.* Furthermore, the Council Policy does not require CPGs to make recommendations on all development projects. The Policy's language only states that CPGs "*advise on other land use matters as requested by the City or other governmental agencies.*" *Id.* (emphasis added).

---

<sup>2</sup> Neither CEQA Guidelines section treats exemptions from CEQA. Therefore, there is no basis for asserting that CPGs are required to review determinations that a project is exempt from CEQA.

That the primary purpose of CPGs is to assist the City with planning issues, rather than development project review, is further demonstrated by the duties imposed by the Policy on CPGs and their members. According to the Policy: "It shall be the duty of a recognized community planning group to cooperatively work with the Mayor's staff throughout the planning process, including but not limited to the formation of long-range community goals, objectives and proposals or the revision thereto for inclusion in a General or Community Plan." Council Policy 600-24 art. VI, section 1. This section, governing the duties of CPGs, makes no mention of development project review.

## ANALYSIS

### **I. CEQA GUIDELINE SECTION 15025 DOES NOT REQUIRE THAT CPGS REVIEW CEQA DOCUMENTS PRIOR TO MAKING RECOMMENDATIONS ON DEVELOPMENT PROJECTS.**

The mandates of CEQA Guidelines section 15025 do not apply to CPGs. Two elements of CEQA Guidelines section 15025 renders its requirement that advisory bodies review CEQA documents prior to making recommendations on projects inapplicable to CPGs. First, CEQA Guideline section 15025's requirement applies only to an "advisory body such as a planning commission . . . ." CEQA Guidelines § 15025(c). As discussed below, CPGs are not advisory bodies like planning commissions. Second, CEQA Guidelines section 15025 requires CEQA review only "[w]here an advisory body . . . is required to make a recommendation on a project." *Id.* As mentioned above, and discussed below, CPGs are not required to make recommendations on all development projects.

#### **A. CEQA Guidelines Section 15025 Does Not Apply Because CPGs Are Not Advisory Bodies Under this Section.**

CEQA Guidelines section 15025 qualifies an "advisory body" to which its requirements apply with the phrase "such as a planning commission." CPGs, while they may be advisory bodies, differ from a planning commission in a number of important respects. These significant differences render the requirements of CEQA Guidelines section 15025 inapplicable to CPGs.

CPGs have no delegated authority to take actions on behalf of the City. Council Policy 600-24 Background. In contrast, the City's Planning Commission, as with most other planning commissions throughout the state, has been delegated significant decision making authority. Cal. Gov't Code § 65101; San Diego Charter § 41(c); SDMC § 111.0202. Not only does the City's Planning Commission decide many land use matters outright, it also hears appeals of matters decided by City staff, and is required to make recommendations to City Council on other matters. San Diego Charter § 41(c); SDMC § 112.0507 ("An application for a permit, map, or other matter acted upon in accordance with Process Four may be approved, conditionally approved, or denied by the Planning Commission."); SDMC § 112.0506 ("The Hearing Officer's decision may be appealed to the Planning Commission"); SDMC § 112.0509 (b) ("Before the City Council decision, the Planning Commission shall hold a public hearing to consider the

application . . . . At the conclusion of the public hearing, the Planning Commission shall make a written recommendation to the City Council to approve, conditionally approve, or deny the application.”).

CPGs differ from an “advisory board such as a planning commission” for the additional reason that they are not created by law. The Planning Commission was created via the City Charter. San Diego Charter § 41(c). In contrast, CPGs are a creation of city policy only and “are voluntarily created and maintained by members of communities within the City.” Council Policy 600-24 Background. Therefore, the requirements of CEQA Guidelines section 15025, which concern the delegation of authority within a local agency such as the City, do not apply to CPGs.

**B. CEQA Guidelines Section 15025 Does Not Apply For the Additional Reason that CPGs Are Not Required to Make Recommendations on All Development Projects.**

Even if CPGs were advisory bodies “such as a planning commission,” CEQA Guidelines section 15025 would not require that they review CEQA documents before making recommendations on all development projects. CEQA Guideline section 15025 requires that an advisory body review EIRs and negative declarations only if the body is required to make a recommendation on the project for which those documents have been prepared. As stated above, Council Policy 600-24 does not require that CPGs make recommendations on all development projects. Rather, it states that CPGs make recommendations on specific projects at the request of the City.<sup>3</sup> Accordingly, even if CEQA Guidelines section 15025 applied to CPGs as advisory bodies, they would be required to review CEQA documents only if their recommendations were sought by the City.

This conclusion is supported by the only published case to examine the requirements of CEQA Guidelines section 15025(c). *See Tracy First v. City of Tracy*, 177 Cal. App. 4th 1 (2009) (“*Tracy First*”). In *Tracy First*, the court examined whether the City of Tracy’s planning commission had complied with the requirement that it review an EIR associated with a zoning action before making a recommendation to the Tracy city council. In conducting this analysis, the court noted that “because the City’s municipal ordinances required the planning commission to review zoning decisions and make a recommendation to the city council before the city council could act,” CEQA Guidelines section 15025(c) applied. *Tracy First*, 177 Cal. App. 4th at 9. In contrast, nowhere does the San Diego Municipal Code require CPGs to make recommendations on development projects before City Council can act. Therefore, under this

---

<sup>3</sup> There are three exceptions. The Centre City, San Ysidro, and Southeastern San Diego Planned District Ordinances [PDOs] require certain community planning groups to provide recommendations concerning certain development permits. *See* SDMC § 156.0303(e)(1)(B)(ii) (requiring the Centre City Advisory Committee to make recommendations on projects of greater than 100,000 ft<sup>2</sup> gross floor area or 50 dwelling units requiring Centre City Development Permits); SDMC § 1518.0202(e) (requiring the San Ysidro Community Planning Committee to provide recommendations on San Ysidro Development Permits); SDMC § 1519.0204 (requiring that the “recognized planning group with responsibility for the area in which the project is proposed” in the Southeastern San Diego Planned District review discretionary permits).

case, CPGs would not be required to review CEQA documents prior to making a recommendation under CEQA Guidelines section 15025 unless requested to do so by the City.

## **II. CEQA GUIDELINE SECTION 15074 DOES NOT REQUIRE THAT CPGS REVIEW CEQA DOCUMENTS PRIOR TO MAKING RECOMMENDATIONS ON DEVELOPMENT PROJECTS.**

### **A. The Language of CEQA Guidelines Section 15074**

CEQA Guidelines section 15074 states that “[a]ny advisory body of a public agency making a recommendation to the decisionmaking body shall consider the proposed negative declaration or mitigated negative declaration before making its recommendation.” CEQA Guidelines § 15074(a). This CEQA Guidelines section does not qualify advisory bodies, as does CEQA Guideline section 15025, as those “such as [] planning commission[s]” and those that are required to make recommendations on projects.

This difference in the language between the Guidelines sections presents a question as to what advisory bodies are covered by CEQA Guidelines section 15074. Neither CEQA nor its Guidelines provide a definition of advisory body. Cal. Pub. Res. Code §§ 21060 to 21072 (statutory definitions); CEQA Guidelines §§ 15350 to 15387 (CEQA Guidelines definitions). No court has squarely addressed the issue of what constitutes an advisory body for purposes of CEQA Guidelines section 15074. Nor has the California Resources Agency provided guidance regarding what advisory bodies are covered by CEQA Guidelines section 15074.

### **B. Rules of Statutory Construction Determine that CEQA Guidelines Section 15074 Does Not Apply to CPGs.**

Given that CEQA, the CEQA Guidelines, and the courts have not defined the term “advisory body” for purposes of CEQA, we turn to principles of statutory construction to determine whether CPGs should be considered advisory bodies for purposes of CEQA Guidelines section 15074. *Head v. Civil Service Comm’n of San Diego County*, 50 Cal. App. 4th 240, 243 (Cal. App. 4 Dist. 1996) (“Generally, the same rules of construction and interpretation which apply to statutes govern the construction and interpretation of rules and regulations of administrative agencies.”) (quoting *Cal. Drive-In Restaurant Assn. v. Clark*, 22 Cal. 2d 287, 292 (1943)).

Interpretation of “advisory body” in the CEQA Guidelines begins with the fundamental principle that “[t]he objective of statutory construction is to determine the intent of the enacting body so that the law may receive the interpretation that best effectuates that intent.” *Fitch v. Select Products Co.*, 36 Cal. 4th 812, 818 (2005) (citing *Hassan v. Mercy American River Hospital*, 31 Cal. 4th 709, 715 (2003)). To ascertain that intent, one “turn[s] first to the words of the statute, giving them their usual and ordinary meaning.” *Nolan v. City of Anaheim*, 33 Cal. 4th 335, 340 (2004) (citing *People v. Trevino*, 26 Cal. 4th 237, 240 (2001)).

In the face of ambiguity, however, the usual and ordinary meaning of the words is not enough. “[T]he purpose of statutory construction is not merely to declare the plain meaning of the words used; the purpose is to understand the intent of the lawmakers, and the goal of that inquiry, in turn, is to give maximum effect to that intent.” *Rossi v. Brown*, 9 Cal. 4th 688, 716 (1995) (Mosk, J. dissenting). To effectuate this goal, “[s]tatutes or statutory sections relating to the same subject must be harmonized, both internally and with each other, to the extent possible.” *Dyna-Med, Inc. v. Fair Employment & Housing Com.*, 43 Cal. 3d 1379, 1386-1387 (1987) (citing *California Mfrs. Assn. v. Public Utilities Comm’n*, 24 Cal. 3d 836, 844 (1979)). Furthermore, “[i]t is a cardinal principle of statutory construction that a statute ought, upon the whole, to be so construed that, if it can be prevented, no clause, sentence, or word shall be superfluous, void, or insignificant.” *TRW Inc. v. Andrews*, 534 U.S. 19, 31 (2001) (quotations and citations omitted); see also *Williams v. Superior Court of San Bernardino County*, 5 Cal. 4th 337, 357 (1993) (“An interpretation that renders statutory language a nullity is obviously to be avoided.”).

These rules require that the term “advisory body” be given the same meaning in both CEQA Guidelines sections 15025 and 15074. This is required to harmonize the CEQA Guidelines sections. CEQA Guidelines section 15025 covers both EIRs and negative declarations. CEQA Guidelines section 15074 covers negative declarations. Thus, interpreting the term advisory body consistently in both CEQA Guidelines sections is necessary to prevent an impermissible conflict with respect to the same subject. *Dyna-Med, Inc.*, 43 Cal. 3d at 1386-1387 (“Statutes or statutory sections relating to the same subject must be harmonized . . . with each other, to the extent possible.”).

The rules of statutory construction also mandate that the term “advisory body” be interpreted consistently with its meaning in CEQA Guidelines section 15025; *i.e.*, an advisory body such as a planning commission that is required to make a recommendation. This is required to avoid nullifying the language of CEQA Guidelines section 15025. Interpreting “advisory body” for purposes of both CEQA Guidelines sections to mean *any* advisory body, whether or not like a planning commission and whether or not required to make a recommendation, would render those qualifying phrases in Guidelines section 15025 superfluous, which is forbidden. *TRW Inc.*, 534 U.S. at 31; *Williams*, 5 Cal. 4th at 357. The advisory bodies required to review CEQA documents for purposes of *both* Guidelines sections 15025 and 15074 are therefore advisory bodies such as planning commissions that are required to make recommendations on projects. It necessarily follows that CPGs are not required by CEQA Guidelines sections 15025 or 15074 to review CEQA documents prior to making recommendations on development projects.

The only case to mention CEQA Guidelines section 15074 in reference to an advisory body supports this conclusion. The court in *Nasha L.L.C. v. City of Los Angeles* stated in its recitation of the facts, without analysis, that the Mulholland Design Review Board [Mulholland DRB] was an “advisory body” to which CEQA Guidelines section 15074 applied for purposes of its review of a proposed project. *Nasha L.L.C.*, 125 Cal. App. 4th 470, 475 (2004).

This decision did not expand the boundaries of the term advisory body in CEQA Guidelines section 15074 beyond that in CEQA Guidelines section 15025. The City of Los Angeles established the Mulholland DRB via ordinance as an official advisory board. The Los Angeles City Council empowered the Board to review projects falling within the Mulholland Scenic Parkway Specific Plan, and required that the Mulholland DRB make recommendations concerning those projects. *See* Mulholland Scenic Parkway Specific Plan at <http://cityplanning.lacity.org/complan/specplan/sparea/mulholpage.htm> (click on "Text" link) (visited June 19, 2009). The City of Los Angeles' formal creation of the Mulholland DRB and delegation to it of responsibilities for project review are attributes of advisory bodies such as planning commissions that are required to review CEQA documents under Guidelines section 15025. The requirement that the Mulholland DRB make recommendations on development projects puts it squarely within the bounds of CEQA Guidelines section 15025 as well. As discussed above, CPGs share none of these attributes.<sup>4</sup>

### CONCLUSION

For the reasons stated above, CPGs are not required by law to review CEQA documents prior to making recommendations on development projects.

JAN I. GOLDSMITH, City Attorney

By



Keith G. Bauerle  
Deputy City Attorney

KGB:hm  
MS-2009-11

cc: Christine Rothman, Community Planning Program Manager, City Planning & Community Investment  
Cecilia Gallardo, Assistant Deputy Director, Development Services Department

---

<sup>4</sup> This opinion counsels that the La Jolla Shores Advisory Board [LJSAB], in contrast to CPGs, may be required to review CEQA documents before making recommendations on development projects. The LJSAB is similar to the Mulholland Design Review Board in that the LJSAB was established by ordinance of the City of San Diego. SDMC § 1510.0105. On the other hand, the LJSAB differs from the Mulholland DRB in that the La Jolla Shores PDO requires that the LJSAB make recommendations only on permits referred to it by the City. SDMC § 1510.0105 (b).