



THE CITY OF SAN DIEGO

M E M O R A N D U M

DATE: November 28, 2022  
TO: Planning Commission  
FROM: Bryan Hudson, Development Project Manager  
SUBJECT: Item No. 1 – PTS# 522708 - K-4 Residence (PC-22-062 – Appeal)

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Staff would like to bring to your attention a revision to the Planning Commission – Staff Report listed under Background (page 2) and Conclusion (page 4) of the staff report. The attachments have been changed to show the correct location of where the documents can be found on the report package.

Sincerely,

A handwritten signature in blue ink, appearing to read "Bryan Hudson".

Bryan Hudson  
Development Project Manager

Attachments: Planning Commission Staff Report (Pages 2 and 4)

## BACKGROUND

On September 21, 2022, the Hearing Officer approved Coastal Development Permit No. 2329555, Site Development Permit No. 2329556, and Easement Vacation No. 2597876 to demolish an existing single-family dwelling unit and construct a 7,695-square-foot, two-story over basement single-family dwelling unit and 643-square-foot attached garage and vacate a public utility easement on a 0.79-acre site located at 7595 Hillside Drive within the La Jolla Community Plan area. The Report to the Hearing Officer HO-21-038 (Attachment A) contains the project background, analysis, and necessary draft findings with a staff recommendation of approval. On September 30, 2022 an appeal of that approval was filed.

The 0.79-acre site located at 7595 Hillside Drive is currently developed with a 1,588-square-foot, single-story, single-family residence and a detached garage within an established residential area in the La Jolla Community Plan area. The existing structures are more than 45 years old, requiring City staff to evaluate the proposal for historic significance in accordance with San Diego Municipal Code (SDMC) Section 143.0212. Staff determined that the existing residence does not meet the local designation criteria as an individually significant resource under any adopted Historical Resources Board Criteria.

The site is zoned LJSPD-SF (La Jolla Shores Planned District-Single Family) within the Coastal Overlay Zone (Non-appealable Area 2) and is subject to the regulations and development standards of the La Jolla Shores Planned District (LJSPD) Ordinance. The project is also subject to the Coastal Height Limit Overlay Zone (structure height shall not exceed 30 feet), the La Jolla Community Plan, the Parking Impact Overlay Zone (Coastal), and the Local Coastal Program.

### Legal Standard for Appeal of Hearing Officer Decision

An appeal of a Hearing Officer decision may only be granted with evidence supporting one of the following findings:

- (1) Factual Error. The statements or evidence relied upon by the decision maker when approving, conditionally approving, or denying a permit, map, or other matter were inaccurate; or
- (2) New Information. New information is available to the applicant or the interested person that was not available through that person's reasonable efforts or due diligence at the time of the decision; or
- (3) Findings Not Supported. The decision maker's stated findings to approve, conditionally approve, or deny the permit, map, or other matter are not supported by the information provided to the decision maker; or
- (4) Conflicts. The decision to approve, conditionally approve, or deny the permit, map, or other matter is in conflict with a land use plan, a City Council policy, or the Municipal Code.

Pursuant to SDMC section 112.0506(c), the Planning Commission can only deny the appeal and affirm approval of the project if none of the above findings are supported by substantial evidence or

<p>Findings cannot be made for an SDP and CDP for this project for the following reasons: the proposed height (43') exceeds the maximum allowable (40'); the project will require shoring on neighbors' property; and the traffic staging plan is not feasible. There were no objections to this motion, and it passed unanimously. The applicant failed to show up for the meeting.</p> <p>Neither of these community actions are reflected in the staff report, which erroneously implies community support for this re-designed project.</p>	<p>The statement that shoring is proposed on the neighbor's property is immaterial to the findings or the approval of the project. Work is allowed on neighboring properties with permission, and if that permission is not granted, the work cannot be done.</p> <p>The statement that the traffic staging plan is not feasible is not supported by the filed appeal, which does not discuss why the plan is not feasible.</p> <p>This appeal issue does not demonstrate grounds for appeal based on "Factual Error", "Findings Not Supported", or "New Information".</p>
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The written appeal concludes with the fact that the LJCPA did not inform the City or the Hearing Officer of their new vote before the hearing – which means that the Hearing Officer could not have known about it or based their decision on it:

"We sincerely apologize for the tardy arrival of this information [sent 9/30/22]. Both the LJ CPA President and LJ CPA Secretary were on vacation during, and immediately after, the LJ CPA September meeting, so reporting of the organization's activities on the IB 620 form was tardy.

Additionally, no one from either the LJ CPA nor the LJ Shores PRC Committee was available to attend the Hearing Officer meeting on September 21, 2022."

Conclusion:

City staff has reviewed the proposed project, analyzed the appeal issues raised and determined that the project is in conformance with adopted City Council policies, regulations of the Land Development Code, and the La Jolla Community Plan. The appellant has not provided sufficient evidence to support any of the four findings that are grounds for appeal. The proposed project is consistent with the recommended land use and development standards in effect for this site, and no deviations are required to approve the project. Therefore, City staff recommends the Planning Commission deny the appeal and affirm the Hearing Officer's decision to approve Coastal Development Permit No. 2329555, Site Development Permit No. 2329556, and Easement Vacation No. 2597876. Staff has prepared draft findings (Attachment C and D) to support the proposed development and draft conditions of approval (Attachment D).

ALTERNATIVES

1. Deny the appeal and affirm the Hearing Officer's decision to approve Coastal Development Permit No. 2329555, Site Development Permit No. 2329556, and Easement Vacation No. 2597876, with modifications.