



June 13, 2021

La Jolla Shores Planned District Advisory Board
C/O Marlon Pangilinan via Email: MPangilinan@sandiego.gov

Ladies and Gentleman of the La Jolla Shores Planned District Advisory Board,

I will out of California next Wednesday and likely unable to attend your virtual Board Meeting. Therefore, please consider the following comments regarding the REVISED project design as depicted on the REVISED Drawings (*attachment_1_-_barba_lowther.pdf*) posted on the City's Advisory Board webpage.

ELEVATED DECK STRUCTURE

The Design Principal Section of the General Design Regulations of the LJSPDO state:

(b) **Design Principle**

Within the limitations implied above, originality and diversity in architecture are encouraged. The theme "unity with variety" shall be a guiding principle. Unity without variety means simple monotony; variety by itself is chaos. No structure shall be approved which is substantially like any other structure located on an adjacent parcel. Conversely, no structure will be approved that is so different in quality, form, materials, color, and relationship as to disrupt the architectural unity of the area.

The revised project includes a formidable elevated deck structure on the west front of the building. The elevated deck structure and spa are supported by earthen fill behind new high retaining walls. The floor elevation of the proposed deck structure is 14.5 feet above the sidewalk as shown on the PROPOSED NORTH ELEVATION, Sht. A-5.2. and 15.5 feet above the sidewalk as shown on the PROPOSED SECTION D, Sht. A-6.4. The floor level of the filled earth elevated deck structure is 9 feet above existing grade level as shown on PROPOSED SECTION B, Sht. A-6.2 and PROPOSED SECTION D, Sht. A-6.4.

The elevated deck structure and supporting retaining walls are of a height above the existing grade level equivalent to a full story. In an effort to conceal the height and bulk of the elevated deck structure the applicant proposes to construct new high retaining walls along the north, west and southern property lines and add roughly 5 feet of fill earth over the existing sloping grade to hide the lower portion of the deck structure, as shown on the PROPOSED SOUTH ELEVATION, Sht. A-5.4, PROPOSED SECTION B, Sht. A-6.2. **The elevated deck structure is so different in it's form and it's relationship to the street in height and setback that it will definitely disrupt the architectural unity of the area.**

Contrary to what is stated on the PROPOSED DRAINAGE PLAN on Sht. A-1.3 the slope gradient of the new filled slope in the west front yard shown of SOUTH ELEVATION Sht. A-5.4, PROPOSED SECTION B, Sht. A-6.2, and PROPOSED SECTION D, Sht. A-6.4 is **29.6%** where the **maximum allowed slope gradient is 25%**. When the filled slope is held to a maximum gradient of 25% even more of the front wall supporting the elevated deck will be exposed.

FRONT YARD SETBACK

The La Jolla Shores Planned District Ordinance states: ‘[Building and structure setbacks shall be in general conformity with those in the vicinity.](#)’ **Vicinity** is legally defined in Black’s Law Dictionary as: “[Quality or state on being near, or not remote: nearness; propinquity; proximity; a region about or adjacent;](#)” (All Structures within 300 feet of the site are not in the vicinity.)

The front yard setback at northwest corner of the elevated deck structure is only **15 feet** from the sidewalk, where the north adjacent dwelling in the vicinity is setback **35.7 feet** from the sidewalk.

The front yard setback at southwest corner of the elevated deck structure is only **13.5 feet** from the sidewalk, where the adjacent south dwelling in the vicinity is setback **21.25 feet** from the sidewalk.

The front yard setback of the elevated deck structure is NOT in general conformity with those in the vicinity.

ELEVATED DECK STRUCTURE IN RELATION TO ADJACENT DWELLINGS

The northwest corner of the elevated deck structure is **23 feet** west of the corner of the adjacent dwelling to the north as shown on Sht. A 1.3.1. The floor elevation of the deck structure is **6 feet above** the first floor level of the existing adjacent home to the north.

The southwest corner of the elevated deck structure is **7.25 feet west** of the corner of the adjacent dwelling to the south as shown on Sht. A 1.3.1. The floor elevation of the deck structure is **6 feet above** the first floor level of the existing adjacent home to the south.

REAR YARD SETBACK

One need only compare the existing rear setbacks of the adjacent dwellings in the vicinity on the north and south as shown on Sht. A-3.1, and the existing setbacks of the dwellings on the east side of the alley to see that the **proposed rear setback is NOT in general conformity with those in the vicinity.**

LANDSCAPE AREA NOT IN ACCORDANCE WITH THE LJSPDO

The Single Family Zone Landscape Regulations SDMC Sec 1510.0304(h)(1) state:

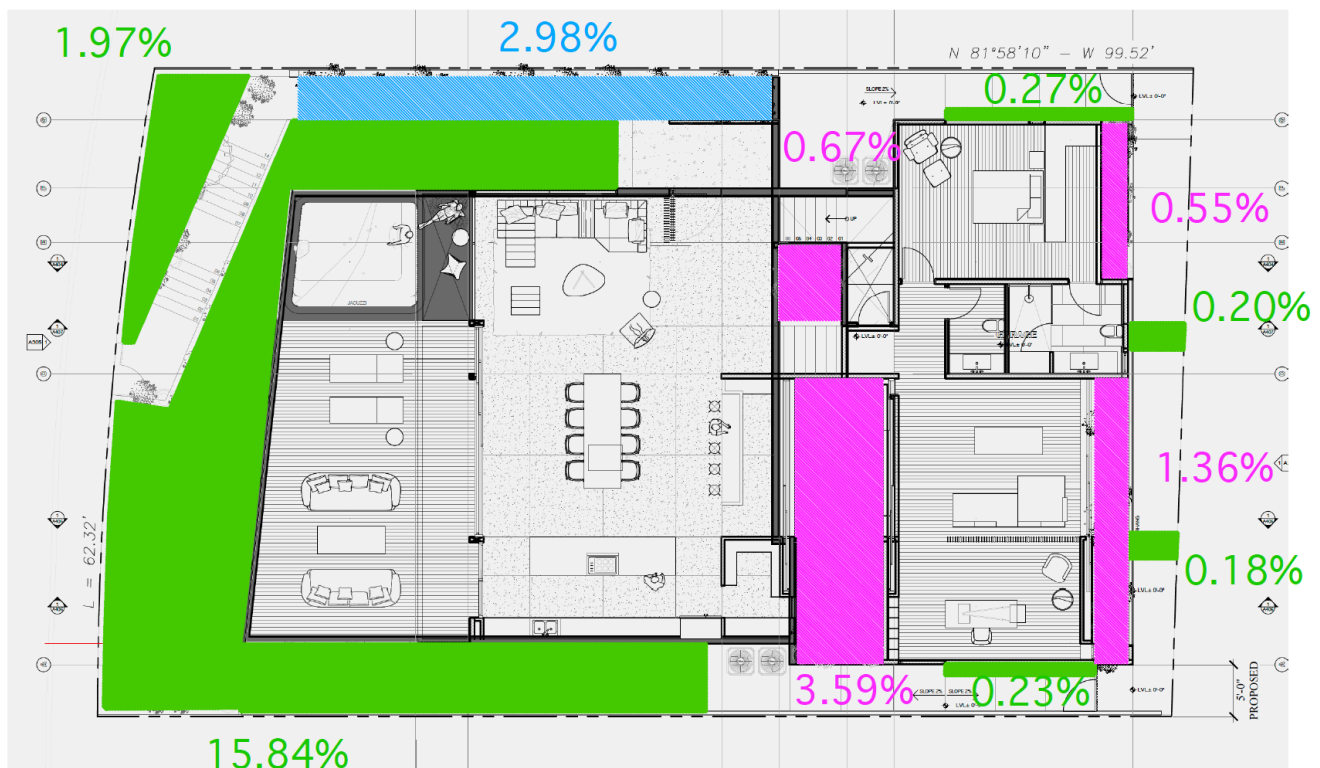
(h) Landscape Regulations

- (1) In the Single-Family Zone, all of the property not used or occupied by structures, unplanted recreational areas, walks and driveways shall be landscaped and may include native materials, and in no case shall this landscaped area be less than 30 percent of the total parcel area. All landscaping and irrigation shall be developed in conformance with the Landscape Guidelines of the Land Development Manual.

LANDSCAPE AREA NOT IN ACCORDANCE WITH THE LJSPDO (continued)

The term 'property' used above refers to the actual land area of a premises, and 'this landscaped area' refers to landscaping on the ground. The area of elevated roof gardens does not count in the calculation of required landscape area.

An analyst of the FIRST FLOOR PLAN, Sht. A2.2 and the landscaped portion of the premises shows the Total of all landscaped areas of the premises (green on the exhibit below) is equal to just **18.67 percent** of the premises. The blue area on the exhibit below is the main entry walk way and is a combination of spaced stepping stones and spaced stair treads with some planting material between. Only a portion of the blue area is actual planting material. Even when adding 100 percent of the blue area to the green areas of the exhibit only brings the **Total landscaped Area to 22.32 % of the premises, where a minimum 30 percent is required.**



LANDSCAPED AREA 18.67 %

PARTIAL LANDSCAPED AREA: 3.65 %

TOTAL LANDSCAPED AREA: 22.32 %

ROOF GARDENS AND BALCONYS

LANDSCAPE AREA NOT IN ACCORDANCE WITH THE LJSPDO (continued)

In an attempt to meet the 30 percent minimum landscape requirement the applicant has included the area of three upper level elevated roof gardens above the enclosed garage (magenta) and a fourth elevated planting area at the second floor level (not shown on the exhibit). However, the areas of the roof gardens and balconies in magenta are not a part of the land area of the premises and therefore can not be counted towards the 30 percent minimum landscape requirement.

Note: The LANDSCAPE AREA DIAGRAM on Sht. L-1.1 does not correspond to the PROPOSED LANDSCAPE PLAN on the same Sht. L-1.1

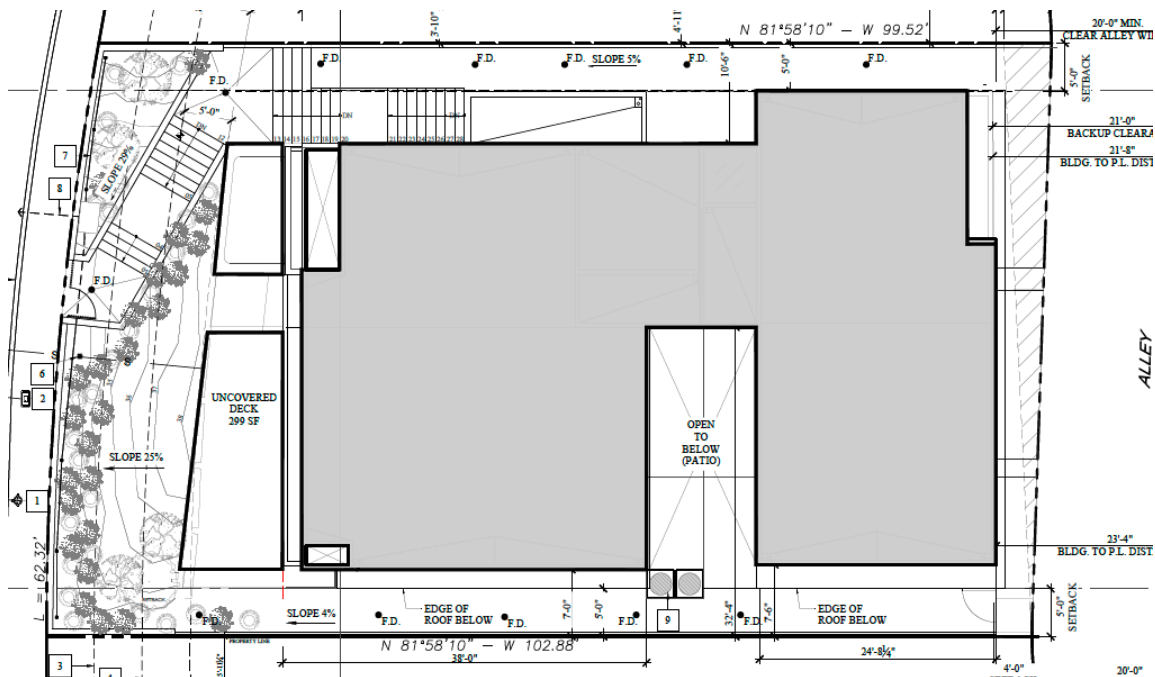
BUILDING AND STRUCTURE LOT COVERAGE EXCEEDS THE MAXIMUM ALLOWED

The LJSPDO Single Family Zone Development Regulations SDMC Sec 1510.0304(d) states:

(d) **Maximum Lot Coverage**

No building or structure shall be erected, constructed, altered, moved in or enlarged to cover more than 60 percent of the lot or parcel.

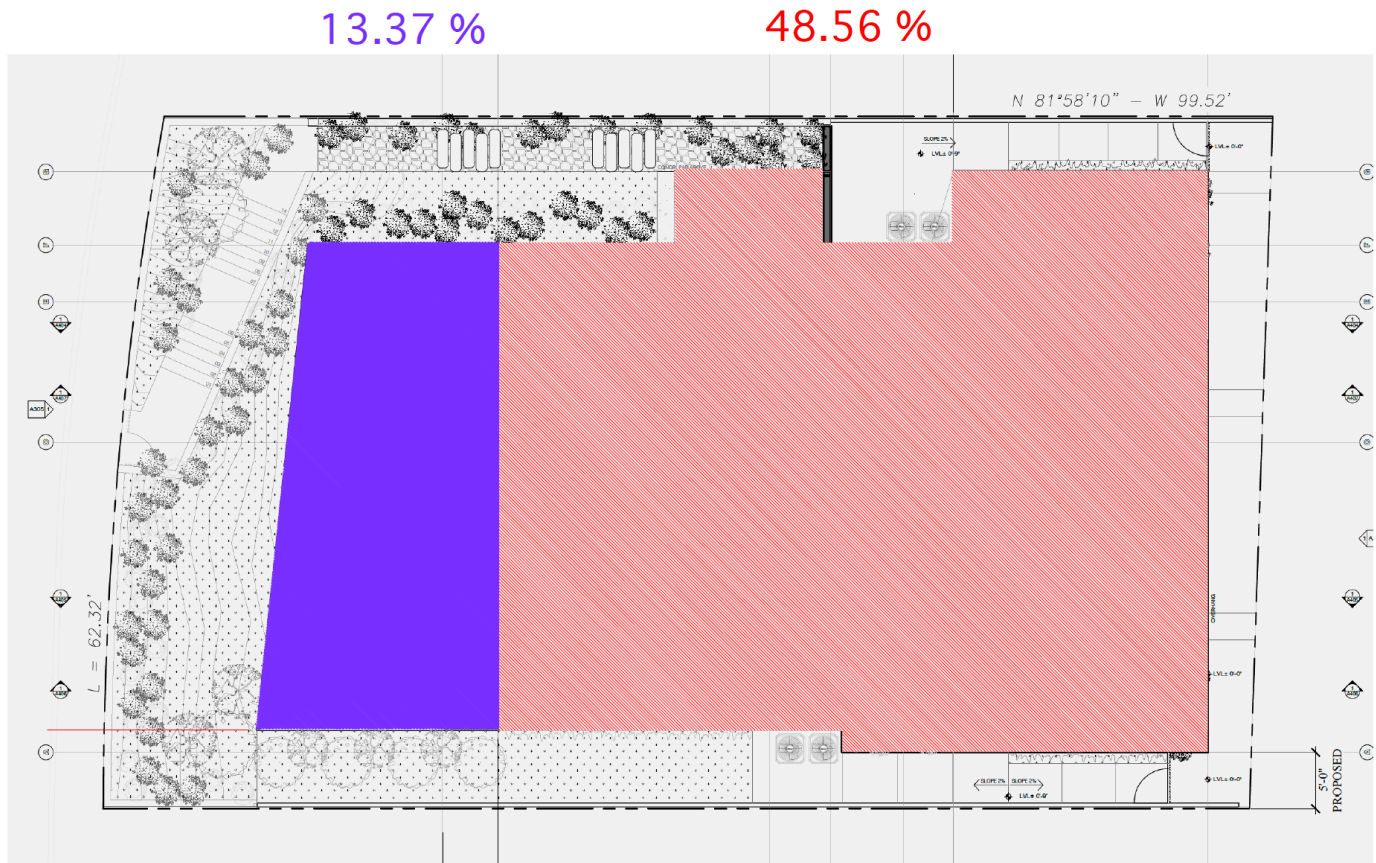
The applicant's Sht.A-1.1. includes the following PROPOSED LOT COVERAGE PLAN:



The shaded area on the applicant's plan does not represent the 'foot print' of the structures. Rather, the shaded area actually represents the extent of the upper level 'flat' roof as shown on Sht. A-1.3. and A-4.1.

BUILDING AND STRUCTURE LOT COVERAGE EXCEEDS THE MAXIMUM ALLOWED
(continued)

The exterior walls of the enclosed garage at the rear of the project are directly below the exterior walls shown on the FIRST FLOOR PLAN. An analyst of the FIRST FLOOR PLAN, Sht. A2.2 indicates the actual lot coverage of the proposed structures is **61.93 percent of the lot area / parcel, where the maximum allowed coverage is only 60 percent.**



ENCLOSED DWELLING: 48.56 %

ELEVATED TERRACE STRUCTURE: 13.37 %

TOTAL STRUCTURE LOT COVERAGE: 61.93 %

PROPOSED SPA NOT ALLOWED WITHIN THE STREET YARD?

The LJSPDO **Sec. 1510.0107 Applicable Regulations** incorporates Chapter 13, (Zones) of the Land Development Code.

SDMC Sec. 131.0461(a)(11) states

- (11) Swimming pools, spas, and hot tubs are permitted within a required yard subject to the following:
 - (A) Swimming pools that project 3 feet or less above grade may be located a minimum of 3 feet from the *property line*.
 - (B) Swimming pools that project greater than 3 feet above grade are not permitted to encroach within a required *street yard* or interior side *yard setback*, but may encroach into the rear *yard setback* if located a minimum of 4 feet from the rear *property line*.

A street yard is defined:

Street yard means the area of a lot or premises that lies between the edge of the nearest street and the *street wall line*.

Street wall line means the *street wall* and a line extending outward from the outermost points of the *street wall* parallel to the *street* until the extensions of the lines intersect the side or rear *property lines* or encircle the building. See Section 113.0267 for additional information on determining *street wall line*.

The proposed spa within the elevated deck structure is 9 feet above existing grade and **NOT allowed within the street yard** between the edge of the street and the west exterior wall of the dwelling.

SUBMITTAL DRAWING INCONSISTENCY AND OMISSIONS

The building and site work shown on the PROPOSED DRAINAGE PLAN, Sht. A-3.1 does not reflect the building shown on the SITE PLAN and FLOOR PLAN drawings.

The applicant's PROPOSED LOT COVERAGE PLAN on Sht.A-1.1. does not reflect the building shown on the SITE PLAN and FLOOR PLAN drawings.

The PROPOSED SECTION A, Sht. 6.1 fails to show a required 3.5 foot high guardrail on top of the 4.6 foot retaining wall adjacent the property line at the north side yard.

The Applicant's PROPOSED NORTH ELEVATION Drawing fails to show the California Building Code required 3.5 foot high guardrails at the top of the retaining walls along the northern property line.

CONCLUSION:

The required Finding for a CDP / SDP that: 'The proposed development will comply with the regulations of the Land Development Code including any allowable deviations pursuant to the Land Development Code' **cannot be made;** because:

1. The elevated deck structure is so different in it's form and it's relationship to the street in height and setback that it will definitely disrupt the architectural unity of the area;
2. The front *yard setback* of the elevated deck structure is NOT in general conformity with those in the vicinity;
3. The rear *yard setback* at the alley is NOT in general conformity with those in the vicinity;
4. The total landscape area of the premises is substantially LESS than the minimum required;
5. The lot coverage by buildings and structures EXCEEDS the maximum allowed;
6. The elevated spa is NOT allowed within the western *street yard*;
7. There are a number of omissions and inconsistencies between the various submittal drawings.

Thank you for your consideration of these important issues.

Respectfully.

Phil Merten

A handwritten signature in black ink, appearing to read 'Philip A. Merten', with a stylized flourish at the end.

Philip A. Merten, AIA