

DATE ISSUED: July 3, 2001

REPORT NO. 01-135

ATTENTION: Honorable Mayor and City Council
Docket of July 10, 2001

SUBJECT: **WARREN DEVELOPMENT**

REFERENCE: Report to the Planning Commission, Report No. P-01-071, dated March 28, 2001. Land Development Code Sections 132.0401, 144.0101 and Municipal Code Section 103.1200

OWNER/
APPLICANT: FRANK R. WARREN, CRAIG DECKER, and ZAKARY HITCHCOCK,
Owners and FRANK R. WARREN, Permittee

SUMMARY

Issues - Should the City Council deny the appeal and approve a tentative map to consolidate four lots into one for condominium purposes and a permit to demolish four residences, and construct one three-story building for six dwelling units with an underground parking garage, landscaping, and improvements in the public right-of-way?

Manager's Recommendation -

1. DENY the appeal;
2. CERTIFY that Mitigated Negative Declaration LDR No. 40-0242 and ADOPT the Mitigation Monitoring and Reporting Program; and
3. APPROVE the Tentative Map, Site Development/Coastal Development Permit No. 40-0242.

Planning Commission Recommendation - The Planning Commission voted 5:0:0, on April 19, 2001, to approve the project with an additional condition read into the record by staff (Attachment 1) and additional conditions added by the Planning Commission (Attachment 2).

Community Planning Group Recommendation - The La Jolla Planning Association, voted 13:0:2, on June 2, 2000, to recommend approval of the project with the condition that trash be lifted to the street (Attachment 3).

Environmental Impact - A Mitigated Negative Declaration, LDR No. 40-0242, has been prepared for this project in accordance with State CEQA Guidelines. A Mitigation, Monitoring, and Reporting Program has been prepared and will be implemented, which will reduce to a level of insignificance, any potential impacts identified by the environmental review process.

Fiscal Impact - None with this action.

Code Enforcement Impact - None with this action.

Housing Affordability Impact - Council Policy 600-3 (Coastal Housing Program) exempts development which proposes to demolish less than ten units from any requirements to provide affordable housing replacement units (LDC 143.0820). The project is not conditioned to provide any replacement affordable housing units nor is the applicant proposing to do so.

BACKGROUND

The 0.28 acre site is located east of Olivetas Avenue, west of La Jolla Boulevard between Ravina Street and Pearl Street in the existing zone 5 of the La Jolla Planned District of the La Jolla Community Plan area (Attachment 4). The surrounding properties are developed with single and multi-family residential uses. The proposed project is consistent with the La Jolla Community Plan land use map which designates this property for medium density residential land use (14-43 dwelling units per acre).

The existing four houses to be demolished were constructed prior to 1930 (Attachment 5). To address the potential the existing structures have historical value, a historical evaluation has been completed which determined the houses are of no historic significance. The four structures are located at 7515 Olivetas Avenue and 415, 417 and 425 Ravina Street. The structure at 7515 Olivetas Avenue was built in 1918. The record shows that subsequent additions and alterations have been made to the structure. The house at 415 Ravina Street was built in 1976 when the previous structure, built in 1918, was demolished. The Mediterranean style house at 417 Ravina Street was built in 1918 and was later stripped and rebuilt as a stucco frame home. The Bungalow style house at 425 Ravina Street was also built in 1918. Several additions and alterations have been made to the original structure. All the existing structures are single story buildings in reasonably good condition. The historical report concluded none of the structures were historically or architecturally significant under the California Environmental Quality Act as they are absent of any historical context, association with important persons or events, uniqueness, and/or structural integrity of the existing houses.

Council Policy 600-3 (Coastal Housing Program) exempts development which proposes to demolish less than ten units from any requirements to provide affordable housing replacement units (LDC 143.0820). The project is not conditioned to provide any replacement affordable housing units nor is the applicant proposing to do so.

DISCUSSION

The appellant has several concerns. The appellant's attorney submitted an attachment with their appeal describing the basis of their appeal (Attachment 6). This appeal presents five broad categories of concerns. In each category the attorney brings forward several items of concern. The categories are as follows:

Factual Errors, New Information, Findings not supported, Conflicts, and Citywide significance.

I. Factual Errors

1. The project does not comply with the Planned District Ordinance in several key areas.

The appellant has not specified which section or sections of the La Jolla Planned District it is believed the project does not comply. City staff has carefully and thoroughly re-reviewed the Warren Development project. Staff's determination, after reviewing all the requirements of the La Jolla Planned District Ordinance, is the project does comply with the regulations.

2. The project does not comply with the Community Plan, Progress Guide and General Plan, Local Coastal Program, and other relevant planning documents.

The appellant has not specified which section or sections of the City policy documents it believes the project does not comply. Staff's determination, after reviewing all the relevant policy documents is the project will not adversely affect these policies.

3. The project is not conditioned to ensure that it will not violate the applicable height limit requirements. Based upon a preliminary review of the plans provided by the developer, it does not comply with the height limit requirements.

Specific conditions to address the height regulations are not required to assure the proposed buildings comply with the restrictions. Conditions 5 and 8 of the draft permit do require the development of the project and continued use of the site for the approved purposes shall be subject to all relevant regulations; "5. The utilization and continued use of this permit shall be subject to the regulations of this and any other applicable governmental agencies." and " 8. Before issuance of any building or grading permits, complete grading and working drawings shall be submitted to the City Manager for approval. Plans shall be in substantial conformity to Exhibit "A," dated (to be filled in), on file in the Office of the Development Services Department. No change, modifications or alterations shall be made unless appropriate applications or amendment of this permit shall have been granted (Attachment 7)."

The first check assuring project conformance with the height regulations are the conceptual plans reviewed by staff prior to recommending approved at a public hearing. The submitted concept plans have been meticulously reviewed by City staff. These plans indicate the proposed development will comply with all height restrictions applicable in the La Jolla Planned District and within the Coastal Zone. Prior to the issuance of a building permit, in addition to other building issues and as a second check, the construction plans will be evaluated against all applicable height restrictions. The third check verifying the project will comply with the height restrictions is performed by the Field Inspector assigned to monitor the project construction.

4. The project does not meet the minimum code requirements applicable to parking.

The project meets the minimum number of parking spaces required and is consistent with the purpose and intent of the parking standards. The proposed project requires one space for disabled persons and thirteen standard spaces. The project is providing one space for disabled persons, fifteen standard spaces, two spaces for motorcycles, and four spaces for bicycles. These spaces are consistent with the minimum dimensional parking standards (Attachment 8). Twelve of the sixteen automobile spaces would be assigned to the six dwelling units, two for each unit. For each of these six sets of two spaces, the total dimensional measurements are 17'-8" by 18' for each set. Adjacent to one space of each of these six sets of two assigned spaces is a permanent wall which presents an obstruction to persons exiting the vehicle. In this situation, City standards require a parking space width of 9'-0", while the second space has no such obstruction and can be a width of 8'-0". Since each of these sets of two spaces will be assigned to the dwelling unit above, and the total dimension of the two spaces measures 17'-8", staff supports allowing the parking paint stripping to be divided equally between the two spaces resulting in a stall dimension of 8'-10" each.

5. The project proposes a retaining wall that does not meet code requirements.

City staff has re-reviewed the Warren Development project. Staff has determined, after reviewing all the requirements applicable to retaining walls, the project does propose one section of one retaining wall along the eastern property line, shown on drawing C-2, Section "C" which

is over the maximum height limit for retaining walls. Discussions with the project architect and civil engineer indicate this wall height was an error and will be reduced to meet the maximum height allowed, as shown on Attachment 9.

6. The project is not consistent with the neighborhood character.

The zone 5 of the planned district is a multi-family zone. The existing character of the neighborhood is a mix of multi-family and single family structures (Attachment 10). The architecture of the existing neighborhood is eclectic and without an identifiable style or theme. The neighborhood is instead a neighborhood of variety. Many divergent design styles have been constructed over the years. Several of the smaller single family structures employ pitched roofs while the multi-unit buildings utilize flat roofs or a combination of a parapet with a flat roof. Equally diverse has been the choice of exterior materials and color combinations which is without a recognizable theme. The contrast in this neighborhood reflects the independent spirit of design which has been expressed over the years as new building has occurred. The proposed building is consistent with the bulk, scale and character of the neighborhood (Attachment 11).

7. The project does not retain the existing scale and character of its neighborhood.

The existing character of the neighborhood is a mix of multi-family and single family structures (Attachment 10). The purpose and intent of the La Jolla Planned District states; “it is a goal to ensure that new residential development and redevelopment is compatible with the traditional scale and character of the multi-family area; and that new structures are to relate to the prevailing scale of residential development in order to avoid an overwhelming or dominating appearance in new construction.” Several properties are developed with multi-dwelling unit structures. Many properties in the immediate neighborhood are developed with large multi-unit buildings, several are two, three, and four-stories high. The proposed design, a three story structure, does not alter the existing bulk, scale, and character of the existing neighborhood.

8. The project is not in compliance with CEQA in that a “fair argument” can be made that the project may result in significant environment effects in a number of issue areas, including but not limited to: community character and compatibility, noise, light, glare, shading, air circulation, soil stability, harm of neighboring property, loss of vegetation and trees, plan consistency, cumulative impacts, indirect impacts, and parking.

City staff has reviewed the Warren Development project using the adopted State of California CEQA Guidelines. Staff’s review of the project indicates there is a potential for impacts to Historical Resources (Archaeology) and Paleontological Resources. Staff has included requirements in the recommended Mitigation Monitoring and Reporting Program to address these potential significant environmental effects and reduce the impact to less than significant in accordance with the State of California CEQA Guidelines.

9. Staff and the Planning Commission made the factually inaccurate assumption that no PDO findings were required for the project when in fact they are required.

Site Development Permit findings are required to approve the proposed project, not a La Jolla Planned District permit. City staff has reviewed the La Jolla Planned District Ordinance, and unlike other planned districts, does not include a list of specific findings which must be made by a decision maker to approve a project. Instead the ordinance, SDMC section 103.1204F, states: “Upon the granting of any variance, Special Use Permit, tentative, final or parcel map, or any other Planning Department permit, the Development Services Director, or designee, shall file with the Planning Department, and when applicable, with the County Recorder of San Diego County, in accordance with Section 111.1116, a detailed set of specific

written findings consistent this Division's Purpose and Intent (Section 103.1201) establishing the basis for the decision, and identifying the benefits and impacts to the community (Attachment 12)" The purpose and intent of the ordinance, SDMC section 103.1201, states: "It is the purpose of this Division to require that development and redevelopment..... ...retains and enhances the economic, historical, architectural, educational, civic, social, cultural, and aesthetic values, and the overall quality of life within the community. The intent is to implement the goals and objectives of the adopted La Jolla Community Plan, the La Jolla - La Jolla Shores Local Coastal Program Addendum and the Progress Guide and General Plan of the City of San Diego (Attachment 13)."

The findings of Site Development/Coastal Development Permit are not inconsistent with those of the planned district and are consistent with the intent, objectives and goals of the policy documents listed. Staff has provided supporting information indicating the findings of the required permits is present in the record and recommends the permits can be approved (Attachment 14).

10. Issues are raised and will be investigated and further reported on as to whether or not the project was properly noticed to the public and properly noticed, reviewed and considered by the La Jolla Planned District Ordinance Committee.

Questions regarding the required public notice were raised by opponents to the project at the Planning Commission hearing. City staff confirmed that 281 notices were submitted by City staff to the US Postal Service for delivery as required. Staff confirmed at the hearing the notice was also published in two papers of general circulation as required. At the Planning Commission hearing staff also testified to the accuracy provided by City noticing staff to assure the notices are provided to the Postal Service in a timely and expedient manner. The La Jolla Planning Association, voted 13:0:2, on June 2, 2000, to recommend approval of the project with the condition that trash be lifted to the street (Attachment 3). No other group in La Jolla is officially recognized by the City as the community planning group. The recommendation of the La Jolla Planning Association was provided to the Planning Commission and is provided to the City Council.

Finally, it should be noted that the Municipal Code section 112.0309 states: "the failure of any person to receive notice given in accordance with this division and the State of California Planning and Zoning Laws shall not constitute grounds for any court to invalidate any action taken by the City for which the notice was provided."

II. New Information

This appeal will raise and address new information regarding design alternatives and modifications that must be considered, and where appropriate, incorporated into project approval.

No new information has been provided to the City staff by the appellant concerning design alternatives or modifications.

III. Findings not supported

1. Required findings justifying how the project meets the intent and purpose of the La Jolla Planned District Ordinance were not made.

City staff has the necessary required findings to approve the required Site Development/Coastal Development Permit. Please see the previous response to Number 9 above.

2. The findings required under the municipal code and under state law related to tentative maps, PRDs, and Coastal Development Permits, were either not made; or if made were improper conclusionary restatements of the findings requirement without any analysis; were incorrect; were not supported by facts and evidence; and do not support the conclusions reached.

City staff has provided information in the resolution to support the required findings. These findings are supported by evidence in the record as the conceptual plans as necessary to approve a Site Development/Coastal Development Permit. Staff's analysis of the project, as presented on the conceptual plans, indicates the necessary findings can be supported. Staff is recommending approval of the project and has provided findings to support this action.

3. Facts and evidence will be submitted prior to or at the appeal hearing which contradict the findings that have been made.

No new information, evidence, or facts have been provided to the City staff by the appellant concerning the required findings.

IV. Conflicts

1. The project conflicts with the purpose and intent of the La Jolla Planned District Ordinance, with the goals and policies of the La Jolla Community Plan, with the LCP, and with the Progress Guide and General Plan.

The appellant has not specified the manner in which the project conflicts with the purpose and intent of the La Jolla Planned District. Staff's determination, after reviewing all the requirements of the Site Development/Coastal Development Permit, including the applicable sections of the purpose and intent of the La Jolla Planned District, the goals and policies of the La Jolla Community Plan, with the Local Coastal Program, and with the Progress Guide and General Plan, is the project does comply with the relevant regulations and policies. No new information has been provided substantiating the project design as proposed does not comply with the relevant regulations.

2. The project conflicts with the City's certified Local Coastal Program because the La Jolla Planned District Ordinance is part of the certified LCP.

The appellant has not specified which section of the certified Local Coastal Program or La Jolla Planned District the project does not comply with. Staff's determination, after reviewing all the relevant policy documents is the project does comply with these policies. No new information has been provided substantiating the project design as proposed does not comply with these policies.

3. The project conflicts with CEQA in that the environmental impacts from the project have not been adequately addressed and a "fair argument" can be made that the project may have significant effects as noted above.

Please refer to the previous response to Number 8 above.

4. The project conflicts with adjacent land uses in that the project, as designed, will unnecessarily and avoidably cause lateral support problems for the adjacent structure because it is too close, and the project will cause significant noise, lighting, air circulation, loss of privacy, glare, shading, and view problems to the adjacent property.

The proposed residential project design does not conflict with the adjacent residential land uses. The adjacent properties are developed with residential uses of similar bulk and scale. The

proposed residential uses, while similar and compatible, do not present an adverse impact to the adjacent residential uses. The proposed retaining walls will be built on the private property without creating instability to the adjacent parcels. The appellant has provided no evidence to validate the concerns stated above. Conditions of approval require the proposed project to comply with all relevant municipal regulations including limits on noise and lighting. In the case of private views, the City does not protect or enforce protections to properties with views. No protection of existing private views from one property across another is assured or enforced by the City. The three story building proposed for this site is below the maximum height limit, is within the allowed density, and is consistent with other zoning regulations applicable for this site.

V. Citywide Significance

1. Ensuring strict compliance with the planning documents governing La Jolla is an issue of City wide significance as ensuring uniform compliance with applicable rules and regulations is important Citywide.

Please see the response to Number 1 in the Conflicts section of the appeal.

2. Preservation of La Jolla's unique community character is of City wide importance yet that character is at risk of being lost through the cumulative approval of non-complying projects such as this one.

Staff has evaluated the proposed project and determined the design is in compliance with the regulations and consistent with applicable policies relevant to this site. No new information has been provided substantiating the project design as proposed does not comply with these policies.

3. Approving this project notwithstanding its violation of height, landscaping, retaining wall, parking, and other requirements sets an adverse precedent of Citywide importance.

Staff finds, after reviewing all the requirements of a Site Development/Coastal Development Permit including the applicable sections of the purpose and intent and all development criteria of the La Jolla Planned District, the goals and policies of the La Jolla Community Plan, with the Local Coastal Program, and with the Progress Guide and General Plan, the project does comply with the relevant regulations and policies applicable to this site. Therefore, staff has concluded the project can be approved and has provided findings to support such a decision. No adverse precedent is set by approving this project.

4. Ensuring that development complies with the City's certified LCP is critical to the City's ability to issue coastal development permits within the coastal zone throughout the City.

Please see the previous response to number 3 above in the Citywide Significance section. The proposed project meets or exceeds the requirements of the regulations and is consistent with the certified LCP and approval of the application will not impair the City's ability to issue coastal development permits within the coastal zone.

Planning Commission Recommendation

During the April 19, 2001 hearing the Planning Commission discussed the several issues brought forward in the appeal and by interested parties attending the hearing. The Commissioners considered all testimony and voted 5:0:0 to approve the project (Attachment 15).

Community and Public Input

During the review of the submitted project, no letters were received concerning the project from concerned citizens. Prior to the Planning Commission hearing, five letters were received from interested parties. These letters included questions on topics of: building height; retaining wall height; parking; required findings; noticing; choice of the proper environmental document; community character; historic significance; and archaeology. These letters are provided as Attachment 16.

The proposed design and development can be allowed with the approval of a Tentative Map and Site Development/Coastal Development permit. City staff has confirmed the project complies with the regulations of the Subdivision Ordinance and Site Development/Coastal Development regulations and all other relevant regulations of the Land Development Code for this property (Attachments 14 and 17).

SUMMARY

In conclusion, City staff recommends that the City Council deny this appeal and uphold the Planning Commission decision of approval with all conditions and added conditions for this project. The proposed project is consistent with and will not adversely affect the Progress Guide and General Plan and the La Jolla Community Plan which identifies the site is designated for medium density residential development, in staff's opinion. Development of this site with the proposed project will benefit the community by providing an efficient utilization of urbanized land and provide additional new housing units to the neighborhood. Development of the project is consistent with the purpose and intent of the La Jolla Planned District Regulations. Land use conflicts will not result by the development and use of the site as proposed by the project design.

The City Council may, in the alternative, approve the appeal and deny the project, or modify the conditions placed on the project by the Planning Commission and deny the appeal.

Respectfully submitted,

Tina P. Christiansen, A.I.A.
Development Services Director

Approved: George I. Loveland
Senior Deputy City Manager

CHRISTIANSEN/JSF

- Attachments:
1. Development Services memorandum, dated April 5, 2001
 2. Conditions added by the Planning Commission, dated April 19, 2001
 3. La Jolla Community Planning Association letter
 4. Project Location Map
 5. Photograph's of existing structures to be demolished (under separate cover)
 6. Appeal
 7. Draft SDP/CDP permit
 8. Garage Plan
 9. New section "C"
 10. Photographs of existing neighborhood structures (under separate cover)
 11. Architectural elevations
 12. La Jolla Planned District [SDMC section 103.1204F]
 13. La Jolla Planned District [SDMC section 103.1201]
 14. Draft permit resolution

15. Planning Commission minutes
16. Public correspondence
17. Draft tentative map resolution
18. Site Plan
19. Floor Plans
20. Roof Plans
21. Landscape Concept Plan
22. Building sections
23. Demolition Plans
24. Existing topography
25. Grading Plans
26. Tentative Map
27. Project cross sections
28. Project Chronology
29. Project Data Sheet, Development Summary