

La Jolla Shores Permit Review Committee – Minutes

4:00 p.m. Tuesday June 26, 2012

Committee attendance: Helen Boyden (chair), Laura DuCharme Conboy, Janie Emerson, Tim Lucas (arrived during Lai Residence review), Phil Merten, Myrna Naegle, John Schenck

Absent: Dolores Donovan

1. Non-Agenda Public Comment – None

2. Chair Comments

- Zegarra Walls project was postponed to the July LJCPA meeting by request of applicant
- Gaxiola has resubmitted-the PM has advised that he will communicate again when the current cycles have been finalized
- Hillel project was denied in three separate motions at the LJCPA June meeting
- The Northwest YMCA sign applicant will not be presenting further signage
- The Palazzo SCR has been postponed to July at the request of the applicant who is submitting revised plans to the City.
- Mazon EOT at 7921 El Paseo Grande will likely be heard in July
- LJCPA has a short term opening, apply at or before July 5 meeting, election in August
- New project--McIlvaine residence at 8415 Avenida de las Ondas has just been received. Laura DuCharme Conboy stated she would be recusing

3. Election of LJSPRC officers – heard after Item 4 due to late arrival of Lucas

Nominations: Helen Boyden - Chair; Phil Merten - Vice-chair; Tim Lucas - Secretary

Motion: Emerson; second: Naegle **Passed:** 6-0-1

Approve: Conboy, Emerson, Lucas, Merten, Naegle, Schenck: abstain: Boyden

4. Lai Residence EOT 2037 Torrey Pines Road

- Project No. 278685
- Type of Structure: Single Family Residence
- Location: 2037 Torrey Pines Road
- Project Manager: Glenn Gargas ; 619-446-5142; ggargas@sandiego.gov
- Owner's Rep: Gary Cohn/Mike Goetz; 858-755-7308; gary@cohn-arch.com

Project Description:

Extension of Time for Coastal Development Permit 51302 and 40871, Site Development Permit 51303 and 40872 and Lot Line Adjustment 165689 to construct a 6,700 square foot residence on a 0.23 acre vacant site behind 2037 Torrey Pines Road and demolish an existing two car garage and add a 677 square foot three car garage and add a 1,196 square foot guest quarters to an existing 1,787 square foot residence located at 2037 Torrey Pines Road on a 0.22 acre site Coastal Overlay (non-appealable), Coastal Height Limit, Beach Parking Impact Overlay Zones.

Seeking: Extension of Time for SDP/CDPs

Presented by Gary Cohn, architect:

They are seeking an Extension of Time (EOT) because this project has been delayed due to appeals to the Planning Commission and due to litigation with the neighbors. An agreement was reached with neighbors on 5/15/08, and the city approved the project. A Coastal Development Permit was issued and stamped on the plans 5/15/08, with the 3-year permit life beginning at that date. The state of California extended permits 1-year due to the economy and issues with people being unable to get financing. The applicants are seeking this new extension of time in order to obtain a construction loan which they hope to have within the next 12 to 18 months.

There are actually two projects and two permits for this site, along with a lot line adjustment.

Background on the nature of the lawsuit by the neighbors: The Gammages were one of 3 parties appealing the permit issuance in 2005-6. The Gammage's property was draining to a drainage structure in the Lai property. That structure was damaged creating drainage problems. There are no permits or easements on record with the city for this drainage system.

There is no documentation of the drain structure which is a concrete wall with opening to allow the drainage to flow through the Gammage property to the street. This arrangement was supposedly a handshake agreement between previous owners of the properties. The lawsuit was settled with a new drainage scheme agreed upon. An agreement between the appealing parties was reached and the appeal was dropped.

Boyden: Read part of a letter sent to LJCPA and Project Manager Glenn Gargas from attorney Paul S. Metsch (one of the appealing parties, representing Diane Routh, the owner of adjacent property; also one of the appealing parties). They believe that there is still a drainage issue and are concerned that the proposed drainage plan is inadequate. They are worried about water backing up and causing a slope failure on their property.

Cohn: Surprised by letter, both Routh and Gammage dropped their appeal to the Planning Commission.

Boyden: The committee has received only the engineering review covering the storm water regulation changes made in 2011. The city has not provided any other cycles information. These were due on June 6 and have been help up for some unknown reason.

Merten: When we review projects we deal with city codes and don't address private agreements, so the details of the litigation and resulting private settlement are not part of the committee's consideration.

Conboy: Thinks we should be concerned. Surprised that Lai agreed to handle the drainage water of another property, when Gammages could have had a right of way to the street and been responsible themselves. Is this a new issue and not part of the original permit? **Cohn:** *It is part of the original permit, and the drainage was to be accepted by Lai on the original permit. *The issues brought up by engineering department are about best management practices with handling drainage. Those standards are continually changing, so over the years the requirements, such as filtering the runoff, have changed. The issues are not about the overall drainage scheme, but rather about the details of handling the drainage. The change that is being proposed utilizes an underground drain rather than the original surface drain approach.*

Merten: When Glenn Gargas reviewed this, did he accept the drainage plan? **Cohn:** *This is more about the details and agreement between the neighbors than the overall drainage plan.*

Boyden: Is concerned we don't have enough of the cycle's information to determine conformance, nor information about new city and state requirements for drainage.

Merten: These days you try to disperse the water on a site rather than concentrate it. **Cohn:** *A retention basin is a standard practice.* **Merten:** Is the retention basin shown on the plans? **Cohn:** *No. The plans show a different type of energy dissipater.*

Conboy: Are the neighbors currently experiencing drainage or slope stability issues? **Cohn:** *Doesn't know. He hasn't heard any complaints from the neighbors about any problems.*

Schenck: Remembers that there were drainage issues in this location 10 years ago.

Conboy: Thinks we can make findings for an EOT to start the process of addressing the issues. Thinks that there is a safety issue if they don't address the problems.

Boyden: If the permit is not extended, then they will have to start over, applying for a new permit, which will delay solving any current drainage problems. The issued discretionary entitlement permit says that drainage scheme must be approved by city engineers before building permits are issued.

Lucas: Feels that the argument could be made the other way, as there may be new state requirements regarding drainage and we don't know if the proposed design conforms to them and will be adequate.. A non-conforming design could be a safety or health issue. [n.b. See Cohn response* marked above]

Emerson: What are the time constraints on this Extension of Time? **Cohn:** *Since a request for an EOT has been filed and is in-process, the normal 60 day period will be extended.*

Public Comment

Bob Whitney: You said that the neighbors dropped their appeal? Did it go to the Planning Commission? **Cohn:** *The lawsuit was settled. An appeal can't be dropped once it is filed. The neighbors sent letter to the Planning Commission withdrawing their objections. The Planning Commission reviewed and approved the project.*

Boyden: Continuing this item to the next meeting will allow us to receive further information from the city regarding state law changes and hopefully the cycle's information.

Motion: Emerson Second: Naegle
To continue the item to the next meeting.

Motion carries 6-0-1

Approve: Conboy, Emerson, Lucas, Merten, Naegle, Schenck; abstain: Boyden (chair)

Additional comments:

Schenck: Do you have the engineering diagrams/plans for the original project? **Cohn:** *Yes, I can bring those next time.*

Boyden: If you have any information on conformance to state law or health and safety issues, please bring that also.

5. Discussion/Vote on LJSPRC Procedures

The chair, Helen Boyden, handed out a paper titled "Proposed Procedures 6-2012" for committee discussion. The procedures are analogous to and complement the La Jolla CPA procedures. The first paragraph addresses the confirmation of the city required notifications and the timing of the notifications before a project should be heard. The second paragraph addresses how minor changes can be made during project review by the applicant or their representative annotating and signing the plans.

Emerson: We should clarify the second paragraph by saying that applicant may stipulate changes by annotating, dating, and signing the plans.

Conboy: Should differentiate between the two types of notice by the city: Posting on the property and mailed Notices of Application and Notices of Future Decision. She volunteered to find out how the notices are sent out by the city and the timing involved and report back to the committee at the next meeting.

Merten: Are we required to formalize the procedures? Is the CPA asking us to do so? **Boyden:** No. But she wants to clarify re-occurring issues. **Merten:** If we formalize our procedures and then for some reason vary from those procedures we will open to criticism. Also, for certain reviews or special items that the city has asked us to perform with an urgent deadline; our formalized procedures might be in conflict. It might be better for our procedures to be informal unless the CPA requires that they be formalized. In either case I recommend that we wait a minimum of 10 days after receipt of the city's Notice of Application for an item to be heard by the committee. 10 days after the chair has actually received the notice, not the date of the postmark.

Boyden: Explained the process for receiving the information packets and plans. Usually 2 weeks before the posted notice goes out the information packet is received which has a distribution date for when it can be handed out to the parties. Using the project number you can pull up information and a date for the required noticing.

Merten: Thinks that there should be enough time after the noticing to allow the neighbors and public to learn about the proposed project. He doesn't think we should be in a hurry to get a project on our agenda, but rather should wait until we have as much information as possible, for example the city cycles letters.

Boyden: No action to affirm procedures should be taken today. We will wait until we have Laura Conboy's report on the city noticing procedures and timeline and the committee agenda has sufficient time to discuss.

At the close of the meeting **Bob Whitney** stated that he thought the description of Item 5 was inadequate to meet Brown Act requirements. He was provided with a copy of material that was discussed.