

Subject: CORRECTION: 8405 Paseo Del Ocaso - Hicks Residence  
From: Philip Merten <Phil@MertenArchitect.com>  
Date: 9/30/2020, 5:10 PM  
To: Kane Diane <dkane002@san.rr.com>, Jackson Greg <gjackson@outlook.com>, La Jolla Community Planning Association <info@lajollacpa.org>

**CORRECTION**

Ladies and Gentlemen of the La Jolla Community Planning Association,

In my previous message I inadvertently mixed up the street names Paseo Del Ocaso, El Paseo Grande and La Jolla Shores Drive.

The HICKS RESIDENCE is indeed at 8405 Paseo Del Ocaso. I have made the necessary corrections in red in my previous message below. I sincerely apologize for my errors.

**EXCESSIVE BULK AND SCALE**

My previous message referred to and included a tabulation by Island Architects of 42 lots within 300 feet of 8423 El Paseo Grande. The average FAR of those 42 lots is 0.55.

Island Architects recently submitted and posted [5.2\\_Neighborhood-Data-Summary.pdf](#) that contained the Floor Area Ratios of 48 lots within 300 feet of 8405 Paseo Del Ocaso. The average FAR of the 48 lots is 0.489.

Yet, the applicant still proposes a project with a Floor Area Ratio (FAR) of 0.764, which is 56% greater than the average FAR for 48 lots.

Most Respectfully,

Phil Merten

Begin forwarded message:

From: Philip Merten <Phil@MertenArchitect.com>  
Subject: 8405 Paseo Del Ocaso - Hicks Residence  
Date: September 30, 2020 at 2:04:20 PM PDT  
To: La Jolla CPA <info@LajollaCPA.org>, Jackson Greg <gjackson@outlook.com>, Kane Diane <Dkane002@san.rr.com>  
Cc: Greatrex Cindy <info@lajollacpa.org>, Cavaiola Robert <XCoachCav@gmail.com>

Re: 8405 Paseo Del Ocaso CPD/SDP  
Hicks Residence  
Project No. 560839

Ladies and Gentlemen of the La Jolla Community Planning Association,

I represent Mr. and Mrs. Robert Cavaiola who's property at 8408 La Jolla Shores Drive backs directly up to the proposed project site at 8405 Paseo Del Ocaso. In preparation for Thursday's LJCPA Meeting I respectfully request that you consider the following information in advance of the meeting.

On September 21, 2020 the La Jolla Shores Permit Review Committee reviewed the subject project. The LJSRPC determined the: Findings CANNOT be made, bulk and scale incompatible with neighborhood, by a vote of 5-2-1. Below are a number of significant issues, most of which led to the LJSRPC's decision to reject the project.

**Significant Issues:**

**A. PREVIOUSLY CONFORMING STRUCTURAL ENVELOPE**

The existing detached garage was constructed prior to the adoption of the La Jolla Shores Planned District Ordinance (LJSPDO) in 1974. When the garage was constructed the SDMC allowed detached Accessory Structures, including garages to be constructed in the rear one-third of a premises with no side setback. Accordingly, the southeast corner of the existing detached garage is approximately 8 inches from the street side property line. When revised building setback regulations in the LJSPDO were adopted in the 1974, the existing garage became a previously conforming structure; and under SDMC Sec. 127.0106 is allowed to be maintained with its substandard street side setback.

The existing detached accessory structure garage is proposed to be demolished and replaced by an attached Kitchen and Family Room. At the south east corner of the new Kitchen, the applicant is relying on the previously conforming structural envelope in order to place the corner of the new structure just 2 feet from the street side property line. But, according to SDMC Sec. 127.0104 (a):

**§127.0104 Maintenance, Repair, Alteration, or Replacement of Previously Conforming Structures**

- (a) Maintenance, repair, alteration, or replacement of a structure with a previously conforming structural envelope is permitted in accordance with Process One, unless the proposed development otherwise requires a Coastal Development Permit pursuant to Section 126.0704(b).

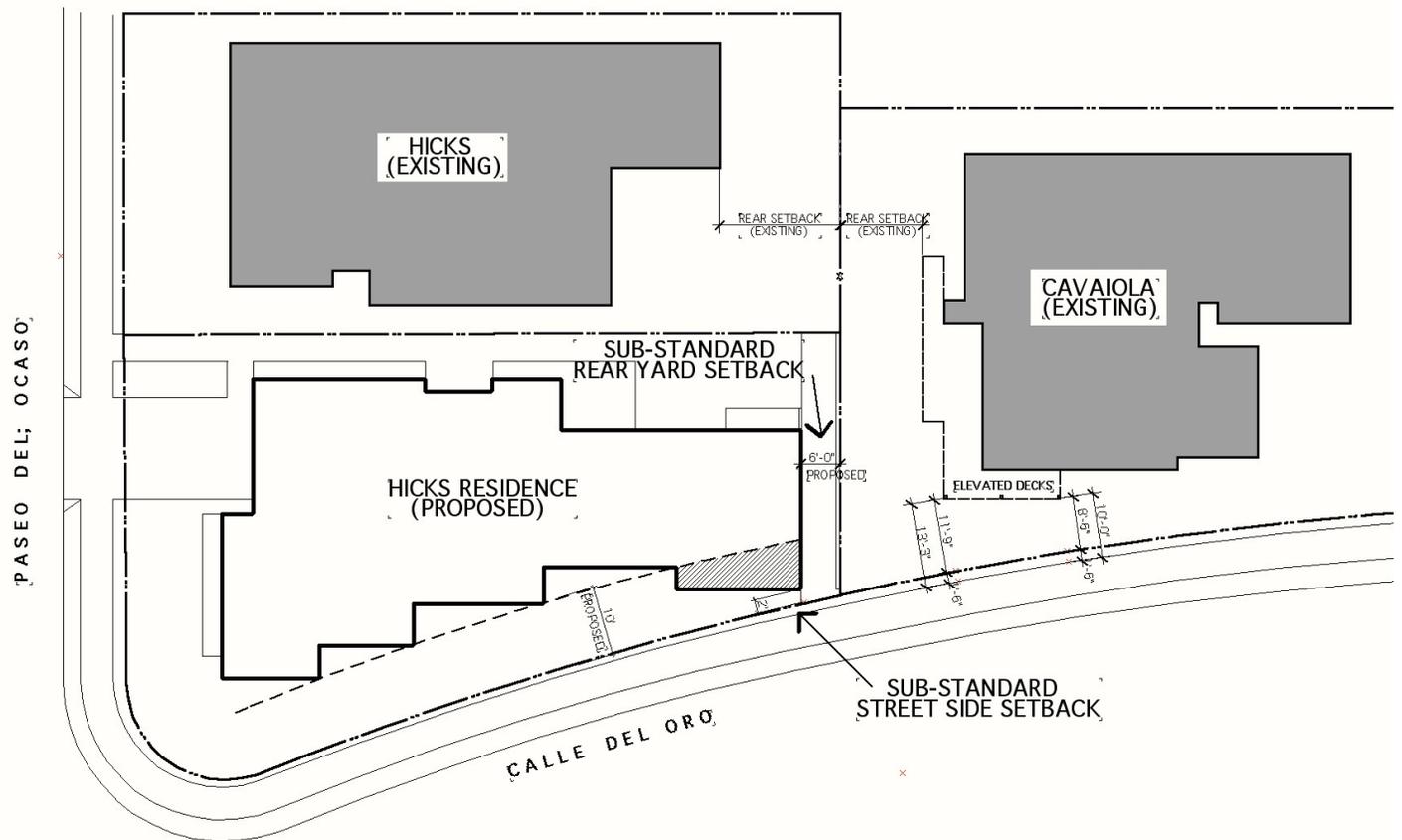
In which case a Coastal Development Permit for the replacement structure requires the "proposed coastal development is in conformity with the certified Local Coastal Program Land Use Plan and complies with all regulations of the certified Implementation Program (i.e. La Jolla Shores Planned District Ordinance)." Demolition and replacement of the structure terminates any previously conforming structure envelope rights.

**B. INSUFFICIENT BUILDING SETBACKS:**

The La Jolla Shores Planned District Ordinance requires: "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. )

Existing setbacks in the vicinity are those of the adjacent properties. As depicted below the smallest existing street side setback immediately east of the subject property is 8'-6"; yet the applicant proposes a sub-standard street side setback of just 2 ft. The applicant's Site Plan drawing even shows a proposed 10 ft. street side setback line, which the proposed new Kitchen violates.

The existing rear setback immediately north of the subject property is on the order of 18 ft.; and the existing rear setback immediately east of the subject property is on the order of 13 ft.; yet the applicant proposes a sub-standard rear setback of just 6 ft.



The proposed sub-standard street side setback and rear setback are not in general conformity with those in the vicinity.

#### C. EXCESSIVE BULK AND SCALE

The Design Principal Section General Design Regulations of the La Jolla Shores Planned District Ordinance says: "... 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."

How does the current project's form and (size) relationship compare to existing homes in the area? The project proposes a Floor Area Ratio (FAR) of 0.96

According to the attached tabulation submitted by the Applicant to the La Jolla Community Planning Association for a previous project at 8423 El Paseo Grande, of the 42 properties listed the average FAR is 0.55. (Note: Some of the 42 properties listed contained basements, the areas of which were erroneously included in Gross Floor Areas and erroneously inflate the listed Floor Area Ratios)

Yet, the applicant proposes a project with a Floor Area Ratio (FAR) of 0.76, which is 38% greater than the average FAR listed.

Based on the information contained in the applicant's previous tabulation, it is reasonable to conclude that the current project is significantly larger in size relationship (FAR) that it will "disrupt the architectural unity of the area."

#### C. STREET TREES BLOCK PUBLIC VIEWS

The applicant's Site Plan proposes to install three street trees within the parkway strip along Calle del Oro. The entire block of Calle Del Oro is a designated Public View Corridor in the La Jolla Community Plan. The proposed street trees will block public views of the ocean from the roadway and sidewalks on Calle Del Oro and La Jolla Shores Drive, and therefore must not be approved.

#### E. PROPOSED EXCAVATION UNDERMINES THE EXISTING FENCE ON THE ADJACENT PROPERTY

Immediate adjacent the subject property's rear property line is an existing wood fence on the property of Mr. and Mrs Cavaiola. The applicant proposes to excavate along the entire rear property line in order to lower the existing grade level adjacent the property line. The applicant's Building Section on page 11 of his presentation indicates a new fence/wall along the north property line but gives no indication as to how my client's fence and footings will be supported during and upon completion of construction.

#### CONCLUSION:

For the reasons explained above:

**The required Finding for a CDP that:** The proposed coastal development is in conformity with the certified Local Coastal Program Land Use Plan and complies with all regulations of the certified Implementation Program (LJSPDO) cannot be made, and;

**The required Finding for a 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.

Thank you for your consideration of these very important issues.

Respectfully,

Phil Merten



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Attachments:

NeighborhoodSurvey.pdf

39.9 KB