



August 26, 2016

The Honorable Kevin Faulconer, Mayor of San Diego

Members of the San Diego City Council

San Diego City Attorney Jan Goldsmith

City of San Diego
202 C Street
San Diego, CA 92101

Subject: Determination of Building Height in the Coastal Height Limitation Overlay Zone in the City of San Diego

Dear Mayor Faulconer:

As Chairman of the Peninsula Community Planning Board (PCPB), this letter is to transmit to you an action request approved at the July 21, 2016 meeting of the PCPB.

The PCPB commends Mayor Faulconer for the recent issuing of a stop work order on the permitted construction at 3144 Emerson Street in Point Loma. The PCPB request to you (attachment 1 – PCPB Approved Motion) addresses the inappropriate construction permit for 3144 Emerson Street and addresses any and all future proposed construction in the Coastal Height Limitation Overlay Zone anywhere else in the City of San Diego.

The language in San Diego Municipal Code Section 113.0270 (a)(1) is explicit and unambiguous: “The maximum permitted structure height is specified in the applicable zone and defines the upper limits of the building envelope for a premises.

It is measured vertically from the existing grade or proposed grade, whichever is lower.”

The Development Services Department is ignoring the Municipal Code in making determinations of the reference datum from which the 30-foot height limit is measured for developments in the Coastal Height Limitation Zone. The PCPB requests that the Director of Development Services be immediately instructed to correct the language in Technical Bulletin BLDG-5-4 dated August 2013 (“Determination of Building Height in the Coastal Height Limitation Overlay Zone”) to comply with the stated requirements of Municipal Code Section 113.0270 in its entirety. The current Development Services Department methodology does not comply with the Municipal Code.

A very similar height determination issue was analyzed during a previous City administration at the request of a property owner in Pacific Beach. The attached Memorandum of Law dated August 12, 2004, from the then San Diego City Attorney concludes that a height determination that might otherwise be allowed under Proposition D does NOT replace or preclude a more restrictive method of height measurement used in the general zoning regulations that results in a lower height limitation. The PCPB applauds the legal analysis of that 2004 Memorandum of Law, and hopes that the current City Attorney concurs with it, and will require the Development Services Department to implement it by correcting the language in its Technical Bulletin BLDG-5-4 to make the determination of height in the Coastal Height Limitation Overlay Zone explicit and unambiguous to the general public.

The PCPB requests that all applications for construction permits in the Coastal Height Limitation Overlay Zone that are currently in review or which may have been approved using a height determination methodology that do not meet the Municipal Code’s requirements will be re-examined for legality by the Director of Development Services.



The PCPB is copying other Planning Boards within the Coastal Height Limitation Overlay Zone on this letter, out of courtesy and common interest on this issue.

We look forward to the City's correction of the Technical Bulletin BLDG 5-4 and the proper implementation of Prop D.

Thank you for consideration of this information.

Sincerely,

Jon Linney, Chair (PCPB)

Approved by an Action of the Peninsula Community Planning Board on 00 July 2016.

Cc: Other Planning Boards within Coastal Height Limitation Overlay Zone, Media

Cc: Lorie Zapf