

October 17, 2020

Mr Brian Will, Chairman
Development Permit Review Committee
La Jolla Community Planning Association

TRANSMITTED VIA E-MAIL: brianljcpa@gmail.com

Re: TEEL RESIDENCE Garage / Companion Unit
416 Nautilus Street
Combination Building Permit - Approval No. 2216948, Project No. 621791
Coastal Development Permit, Process Two - Project No. 669815

Dear Mr. Will and Members of the Development Permit Review Committee,

I represent Mr. and Mrs. Steve Wright who's property at 406 Nautilus Street is immediately west and next door to the proposed project referenced above.

This letter is to call to your attention a number of troubling significant issues regarding the referenced projects.

**COMBINATION BUILDING PERMIT - Approval No. 2216948, Project No. 621791
CURRENT GARAGE CONSTRUCTION NOT IN ACCORDANCE WITH THE REQUIREMENT FOR A CDP**

According the Development Services Department's OpenDSD website, on July 9, 2020 the DSD erroneously issued a Combination Building Permit (Approval #2216948) for a Scope of Work described as: ****9/18 Scope Change** Remodel of an existing garage at an existing single family residence. Work includes overhead garage door, a swing door, a spiral staircase to a new roof deck, new outdoor laundry room w/ roll up door, new patio cover; habitable 2nd floor addition above garage with roof deck.**

The scope of work states: '**Remodel of an existing garage ...**'; where in fact there is no existing garage because the previously existing garage has been demolished. In fact an entirely new and larger two car garage is being constructed where the once smaller one car garage previously stood.

The scope of work states: '**existing single family residence**' when in fact the premises contains **two existing dwelling units**, each with it's kitchen.

The near total demolition of the previous garage structure has triggered the requirement for a Coastal Development Permit (CDP) for construction of the new garage.

Section 126.0704 of the San Diego Municipal Code exempts some development for having to obtain a CDP:

§126.0704 Exemptions from a Coastal Development Permit

The following *coastal development* is exempt from the requirement to obtain a Coastal Development Permit:

- (a) Improvements to existing *structures* are exempt, **except if the improvements involve any of the following:**

For purposes of orientation the prior garage fronted on the south side of an east-west alley (North Lane) behind 416 Nautilus Street as depicted in the 25 foot wide lot in the center of the following aerial photo. The garage door was on the north exterior wall of the previously existing garage.



But contrary to Section 126.0704(a)(5) the requirement for exemption from CDP review and permitting, more than 75 percent (three of the four) previous garage exterior walls have been completely demolished as can be seen in the photographs on the following pages.

This second photo is looking westward and shows the temporary construction fence along the northern property line adjacent the alley. The entire north exterior wall of the garage has been demolished. The trench is excavation for the new concrete footings for the new, yet to be constructed, north exterior garage wall with an overhead door.



The third photo is looking in a southeasterly direction towards what was the east exterior wall of the previous garage which is completely gone / demolished. The wood form boards are for the new east wall.



The fourth photo is looking south towards the eastern portion of what was the south exterior wall of the previous garage which is completely gone / demolished. The wood form boards are for the new south wall.



This fifth photo is looking due south towards the western end of what was the south exterior wall of the previous garage which is completely gone / demolished.



In the foreground on the right side of the above photo is what little remains of the previous west wall of the previous garage. Plywood was applied to what was the exterior face of what little wood wall framing remains. The high cripple wall studs and the top plate and bottom plates that might have previously existed are now gone / removed.

In accordance with DSD interpretations of what wall frame must remain in order for a wall to be considered 'remaining' for CDP exemption purposes, the prior west exterior wall has effectively been demolished.

This sixth photo below is looking westward and shows what little remains of the previous west wall of the previous garage. The prior west exterior wall has effectively been demolished.



The previously existing North, East and South walls, more than 75 percent of the previous garage walls, have been completely demolished, with less than 25 percent of the prior exterior walls remaining today. The demolition has exceeded that allowed for CDP exemption.

Therefore, in accordance with SDMC Section 126.0704(a)(5), the CDP exemption should be rescinded, all construction activity should be stopped, and the applicant should apply for a Coastal Development Permit before any work is allowed to proceed.

WEST WALL OF NEW GARAGE VIOLATES THE INTERIOR SIDE YARD SETBACK

The previous west wall of the previous garage which abutted the side property line was a little more than 17 feet in length. The previous west wall with no side yard setback would be considered a *previously conforming structure* because the lack of any side yard setback is not in conformity with the current side yard setback requirements for the RM-1-1 Zone.

Previously conforming structures are allowed to remain and be maintained; but the degree on current non-conformity is not allowed to be increased. Contrary to that requirement the new west wall of the garage is being constructed on the property line and extended northerly more than 3 feet in length up to the northern property line adjacent the alley, and increased in height without any side yard setback as can be seen on the right side of the photo above.

The new west wall of the new garage must be set back a minimum of 3 feet from the side property line in accordance with SDMC Sec. 131.043(d)(2)(B)

NORTH WALL OF NEW GARAGE VIOLATES THE REQUIRED REAR YARD SETBACK

According to the architect's drawings the northern rear wall of the previously existing garage adjacent the alley was set back from the rear alley property line 3'-4, as can be seen in the following photo (The red building on the left is the previously existing garage that was demolished)



SDMC Sec. 131.0443(d)(4) states:

- (4) **Rear Setback in RM-1-1, RM-1-2, RM-1-3 Zones**

Where a rear yard abuts an alley, one-half of the alley width, but not more than 10 feet, may be counted toward the required rear yard. In no case shall a rear setback using this provision be less than 5 feet.

But contrary to this rear setback requirement where no less that a 5 foot setback is allowed, the DSD erroneously issued a Building Permit for a new garage with a new north wall immediately adjacent the rear property line at the alley with zero setback.

The new north wall of the new garage must be set back a minimum of 5 feet from the rear property line as required by SDMC Sec. 131.0443(d)(4).

COASTAL DEVELOPMENT PERMIT, PROCESS TWO - Project No. 669815 PROPOSED COMPANION UNIT EXCEEDS EXCEEDS THE MAXIMUM NUMBER OF DWELLING UNITS ALLOWED

The subject site from Nautilus Street to the alley is 24.98 ft. wide by 125.00 ft. deep for a total premises area of 3,122.5 s.f. **According to SDMC Table 131-04G Development Regulations for RM Zones** the maximum permitted density in the RM-1-1 Zone is one dwelling unit per 3,000 s.f. of premises area.

SDMC Sec. 141.0302(a)(2) states:

- (2) **Within a multiple dwelling unit zone, a companion unit is permitted on any premises that is limited to a maximum of two dwelling units based on the allowable density, existing area of the premises, and zone.**

According to SDMC Sec. 131.0431(e) and Table 131-04G the minimum permitted *density* in the RM-1-1 Zone is one dwelling unit for each 3,000 s.f. of *premises* area. Based on the allowable *density* for the zone and an existing *premises* area of 3,122.5 s.f., the maximum permitted *density* on this premises is one just Dwelling Unit, plus one Companion Unit. But, as described in the project description on the NOTICE OF FUTURE DECISION and as depicted in the architect's drawings, the *premises* currently contains two existing dwelling units, which is double the maximum permitted density. Therefore, the existing second dwelling unit by SDMC definition is an existing Companion Unit. The proposed additional Companion Unit would simply exceed the maximum number of Dwelling and Companion Units allowed on this premises in this zone.

DEFECTIVE PUBLIC NOTICE OF FUTURE DECISION

The project description in the NOTICE OF FUTURE DECISION dated September 9, 2020 which states: 'Process 2 Coastal Development Permit to convert an existing 263 square-foot room over a 449 square-foot garage ...' is **erroneous and misleading** because there is **no existing 263 square-foot room** over a 449 square-foot garage because there is **no garage**. The previously existing garage was completely demolished and non-existent. For the reasons explained previously a Coastal Development Permit application for a new garage must be reviewed and approved for a CDP before the proposed garage and 'existing' room can be constructed. To comply with the SDMC Public Noticing requirements, a corrected NOTICE OF FUTURE DECISION with an accurate project description should be sent to everyone within 300 feet of the project site well before the Community Planning Group reviews the project.

Therefore, I respectfully request the LJCPA and the DPR Committee postpone any review of the project until well after a revised / corrected Public NOTICE OF FUTURE DECISION has been distributed to all those within 300 feet of the project site.

CONCLUSION

The required Finding for a Coastal Development Permit 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' **cannot be made** because:

1. The project described in the application for a CDP is erroneous and mis-leading;
2. The proposed development is to be constructed over a not yet built new garage that was erroneously approved for construction and erroneously exempted from having to obtain a prerequisite CDP;
3. The not yet built new garage violates the required minimum side and rear yard *setbacks*;
4. The proposed new Companion Unit would exceed the maximum number of Dwelling and Companion Units allowed on the small site;
5. A revised / corrected Public NOTICE OF FUTURE DECISION has yet to publicly distributed.

Thank you for your consideration of these very important issues.

Respectfully,



Philip A. Merten AIA