

February 28, 2021

La Jolla Community Planning Association

Transmitted Via Email: [Info@LJCPA.org](mailto:Info@LJCPA.org)

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

Ladies and Gentlemen of the La Jolla Community Planning Association,

I pulled the project referenced above from the February Consent Agenda. I represent Mr. and Mrs. Robert Cavaiola who's property at 8402 La Jolla Shores Drive backs directly up to the proposed project site at 8405 Paseo Del Ocaso, and who are the private citizens' most negatively impacted by the project as currently proposed.

I respectfully request that you carefully consider important sections of the La Jolla Shores Planned District Ordinance as applied to the referenced project; and why the required Findings for a CDP and SDP for the project as currently designed cannot be made.

## **LA JOLLA SHORES PLANNED DISTRICT ORDINANCE**

The La Jolla Shores Planned District Ordinance (LJSPDO) says the *La Jolla Shores Design Manual* is 'to be used in evaluating the appropriateness of any development for which a permit is applied under the La Jolla Shores Planned District Ordinance'. The underlying principal of the LJSPDO and the *La Jolla Shores Design Manual* is that new buildings should be designed in harmony with their neighbors. Unfortunately, the La Jolla Shores Permit Review Committee missed this important principal when the committee recommended approval of the project.

The Design Principal Section of the the 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." 'Relationship' includes building placement and building size.

### **A. INSUFFICIENT BUILDING SETBACKS:**

Words have meaning, and Municipal Code words have legal meaning. The LJSPDO makes an important distinction between projects in the **vicinity** and those within **300 feet**.

To understand the important distinction between ‘vicinity’ and ‘300 feet’, consider that the LJSPDO refers to parcels within **300 feet** in Sec. 1510.0304(a), which says:

**§1510.0304 Single Family Zone-Development Regulations**

(a) Dwelling Unit Density Regulation

In the following Single-Family Zone, designated on that certain map referenced in Section 1510.0102 unless specified otherwise, no lot or parcel shall be developed or occupied by more dwelling units than the average dwelling unit density (units per acre) of the developed SF Zone **within 300 feet** of the subject lot or parcel. In no event shall any area be included in the calculation of average dwelling unit density if such area lies on the opposite side of a density calculation boundary line indicated on the map referenced in Section 1510.0102. However, in no instance shall the density exceed one unit per acre for areas which have a slope ratio of 25 percent or greater. Dwelling units that are allowed by computing density for those areas with a slope ratio of less than 25 percent may not be placed on slopes with a ratio of 25 percent or greater. In the event the subject parcel is not adjacent to or **within 300 feet** of subdivided and/or developed lots or parcels so that an average of dwelling unit density **within 300 feet** can be reasonably obtained, then said parcel shall be limited in dwelling-unit density by the regulation described in Section 1510.0304 (e)(1).

However, Sec. 1510.0304(b)(4) of the LJSPDO specifies setbacks in the **vicinity**:

- (4) Building and structure setbacks shall be in general conformity with those in the **vicinity**.

Black’s Law Dictionary defines **vicinity** as: “Quality or state on **being near, or not remote; nearness; propinquity; proximity; a region about or adjacent.**”

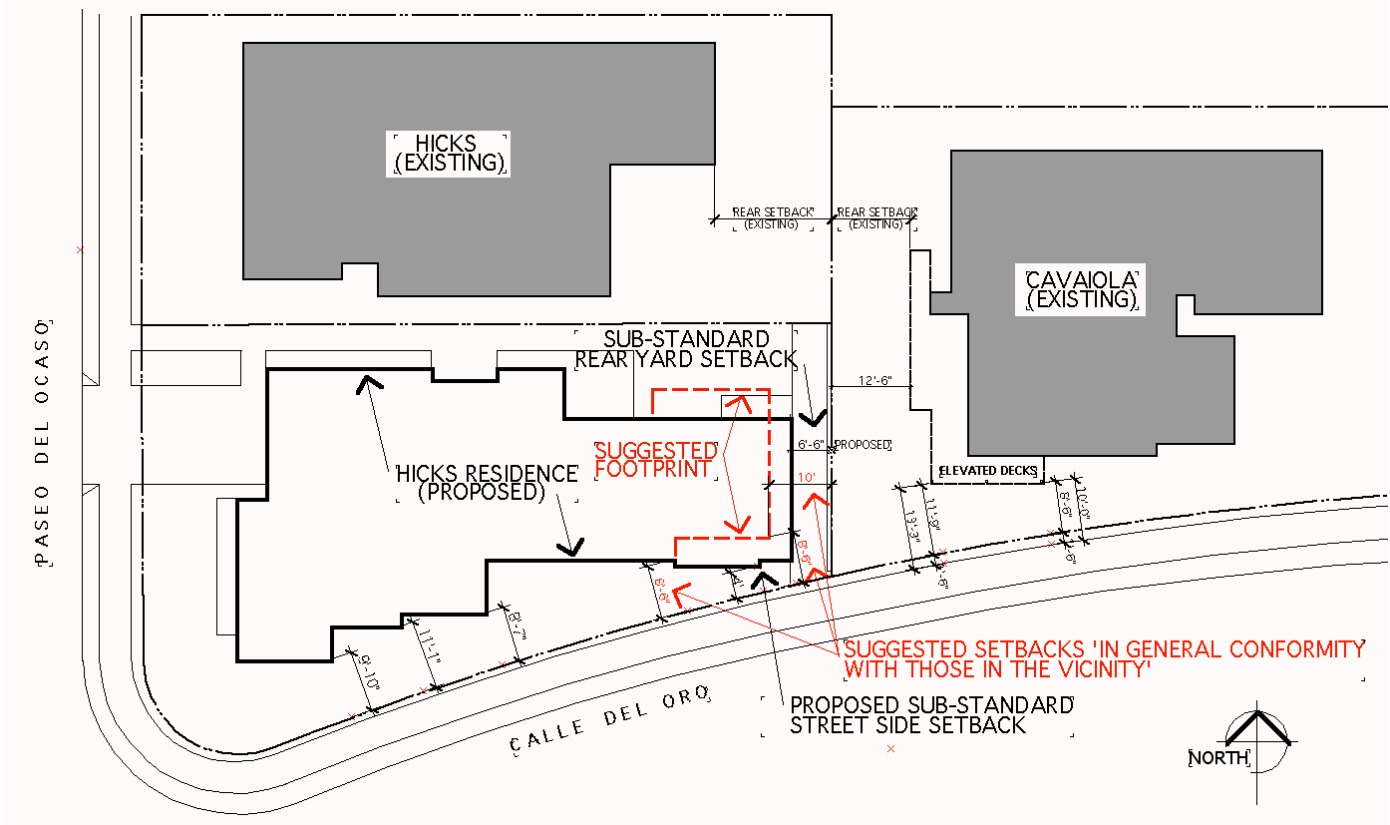
Section 1510.0304(b)(4) says: ‘**Building and structure setbacks shall be in general conformity with those in the vicinity**’. **Not in general conformity with those within 300 feet.**

**A1 STREET SIDE BUILDING SETBACK**

Existing setbacks in the **vicinity** are those of the **adjacent** properties. As depicted on the following page the smallest existing street side setback **adjacent** the subject property is **8’-6”**; yet the applicant **proposes a sub-standard street side setback of just 4 feet**; which the applicant says is similar to some street side setbacks within 300 feet of the site.

**However, contrary to the LJSPDO, the proposed 4 ft. street side setback from Calle Del Oro is not 'in general conformity with those in the vicinity.'**

In order to comply with the La Jolla Shores Planned District Ordinance so that the building's street side setback is in general conformity with those in the **vicinity** we suggest the eastern most portion of the proposed structure be shifted northerly to obtain a street side setback of **8'-6"**, 'in general conformity with those in the **vicinity**' as depicted by the **red dashed lines** on the following diagrammatic plan:



(Note: Outside of the La Jolla Shores Planned District, the minimum street side setback for a similar irregular pie shaped lot is **6'-4"**; 58 percent greater than the proposed 4 feet)

## A2 REAR BUILDING SETBACK

The existing rear yard setback (RYSB) of the **adjacent** property at 8415 El Paseo Grande, north of the subject property and also owned by the Hicks Family, is on the order of 18 ft. (The attached *Applicant's Neighborhood Survey* erroneously says the RYSB is just 2'-0". See attached Aerial Photo). The existing rear setback of the Cavaiola Residence immediately **adjacent** and east of the subject property is **12'-6"**; yet the applicant **proposes a sub-standard rear yard setback of just 6'-6"**, which the applicant says is similar to rear yard setbacks within 300 feet of the site.

**Contrary to the LJSPDO, the proposed 6'-6" rear setback is not 'in general conformity with those in the vicinity.'**

(Note: Outside of the La Jolla Shores Planned District, the minimum rear yard setback for a similar size property is **10'** )

So that the building's rear setback is in general conformity with those in the **vicinity** in order to comply with the La Jolla Shores Planned District Ordinance we suggest the rear setback be increased from 6'-6" to at least 10 feet as depicted by the **red dashed lines** on the previous diagrammatic plan.

## **B. 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 0.74.

According to the **Applicant's Neighborhood Survey** submitted to the La Jolla Community Planning Association for a previous project at 8423 Paseo Del Ocaso, 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 0.74**, which is **35% greater than the average FAR listed**, and **23% greater** than the maximum FAR of 0.60 allowed anywhere else in San Diego.

Based on the information contained in the applicant's tabulation, **proposed bulk and scale and resulting Floor Area Ratio of the project is significantly larger in size relationship (FAR) to others in the area that the project will "disrupt the architectural unity of the area."**

## **C. STREET TREES BLOCK PUBLIC VIEWS**

The entire block of Calle Del Oro is designated as a Public View Corridor in the La Jolla Community Plan. The Development Services Department has defined a Public View Corridor as extending from the structure setback line on one side of the street to structure setback line on the opposite side of the street.

The applicant's Site Plan shows new tall trees placed between south exterior wall and the street side property line in a designated Public View Corridor. The DSD has directed street trees be planted within the parkway strip along Calle del Oro.

**All of the proposed street trees and those on the subject property WILL block public views of the ocean from the roadway and the public sidewalk on Calle Del Oro and from La Jolla Shores Drive, and therefore are NOT in conformance with the La Jolla Community Plan.**

**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 (LJSPDO) including any allowable deviations pursuant to the Land Development Code **cannot be made**.

Thank you for your consideration of these important issues.

Respectfully,

A handwritten signature in black ink, appearing to read "Philip A. Merten". The signature is fluid and cursive, with a large initial "P" and a long, sweeping underline.

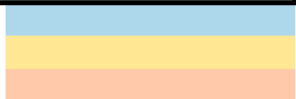
Philip A. Merten, AIA

Attachments:            Applicant's Neighborhood Survey  
                                 Aerial Photo of 8405 and 8415 El Paseo Grande

**Applicant's Neighborhood Survey.** (Projects within 300 feet of **8423 El Paseo Grande**)

**(Note:** With the exception of 8402 La Jolla Shores Drive and 8415 Paseo Del Ocaso, the listed FYSB, SYSB, SYSB and RYSB are **not applicable** to the subject site because they are not in the vicinity)

KEY NOTATION	ADDRESS	LOT SIZE (SF)	*GFA (SF)	FAR	FYSB	SYSB	SYSB	RYSB
SITE	8423 El Paseo Grande	5,241	5,149	0.98	15'-0"	4'-0"	4'-0"	6'-0"
1	8406 El Paseo Grande	14,262	8,000	0.56	12' - 10"	3'-3"	12'-9"	8'-8"
2	8450 El Paseo Grande	11,286	6,620	0.59	14'-6"	3'-3"	3'-8"	14'-6"
3	8454 El Paseo Grande	11,182	6,000	0.54	8'-8"	3'-7"	3'-6"	15'-0"
4	8471 El Paseo Grande	5,443	3,156	0.58	14'-3"	5'-4"	5'-0"	20'-0"
5	8463 El Paseo Grande	5,820	2,334	0.40	15'-1"	1'-6"	3'-8"	20'-0"
6	8455 El Paseo Grande	6,433	4,081	0.63	15'-0"	4'-0"	5'-6"	21'-6"
7	8449 El Paseo Grande	6,361	4,450	0.70	15'-0"	3'-0"	3'-0"	10'-0"
8	8443 El Paseo Grande	5,197	2,052	0.39	15'-0"	4'-0"	4'-0"	20'-0"
9	8433 El Paseo Grande	5,104	2,125	0.42	17'-6"	3'-0"	1'-6"	1'-8"
10	8415 El Paseo Grande	5,294	3,185	0.60	15'-0"	5'-0"	1'-6"	2'-0"
11	8405 El Paseo Grande	6,197	5,361	0.87	18'-0"	5'-0"	15'-0"	4'-0"
12	8389 El Paseo Grande	9,597	2,902	0.30	12'-6"	24'-0"	1'-6"	6'-0"
13	8381 El Paseo Grande	5,475	2,355	0.43	14'-0"	2'-8"	0'-8"	15'-7"
14	8356 Paseo Del Ocaso	4,970	5,337	1.07	20'-0"	5'-0"	15'-0"	20'-0"
15	8368 Paseo Del Ocaso	5,162	5,447	1.06	15'-0"	4'-0"	3'-0"	20'-0"
16	8374 Paseo Del Ocaso	5,248	5,640	1.07	15'-0"	4'-0"	4'-0"	20'-0"
17	8386 Paseo Del Ocaso	6,090	1,835	0.30	20'-0"	1'-6"	1'-6"	1'-6"
18	8416 Camino Del Oro	5,556	3,758	0.68	1'-4"	4'-0"	15'-0"	4'-0"
19	8408 Paseo Del Ocaso	5,397	3,233	0.60	20'-0"	6'-0"	4'-0"	20'-0"
20	8418 Paseo Del Ocaso	5,220	2,672	0.51	18'-0"	6'-0"	4'-0"	12'-0"
21	8424 Paseo Del Ocaso	4,884	3,584	0.73	15'-0"	3'-0"	4'-0"	20'-0"
22	8432 Paseo Del Ocaso	5,126	3,507	0.68	14'-6"	4'-0"	4'-9"	14'-2"
23	8438 Paseo Del Ocaso	5,552	4,994	0.90	15'-0"	4'-0"	5'-0"	13'-0"
24	8448 Paseo Del Ocaso	5,436	3,647	0.67	13'-0"	4'-0"	3'-0"	18'-0"
25	8454 Paseo Del Ocaso	6,315	1,700	0.27	15'-0"	5'-0"	12'-0"	0'-6"
26	8447 Paseo Del Ocaso	11,280	4,226	0.37	23'-0"	3'-1"	5'-1"	6'-0"
27	8439 Paseo Del Ocaso	5,611	1,631	0.29	33'-0"	3'-0"	4'-6"	30'-0"
28	8431 Paseo Del Ocaso	5,221	2,172	0.42	15'-0"	5'-0"	5'-0"	25'-0"
29	8425 Paseo Del Ocaso	5,324	1,566	0.29	15'-0"	4'-0"	1'-8"	12'-0"
30	8415 Paseo Del Ocaso	5,425	4,738	0.87	15'-0"	4'-0"	4'-0"	20'-0"
31	8405 Paseo Del Ocaso	5,283	2,131	0.40	21'-2"	5'-6"	0'-8"	5'-0"
32	8441 Camino Del Oro	6,913	2,503	0.36	3'-0"	9'-0"	20'-0"	5'-0"
33	8387 Paseo Del Ocaso	5,599	2,038	0.36	17'-6"	5'-0"	5'-0"	33'-0"
34	8375 Paseo Del Ocaso	5,592	2,719	0.49	20'-6"	4'-3"	4'-3"	2'-7"
35	8371 Paseo Del Ocaso	5,330	1,694	0.32	25'-0"	1'-6"	3'-0"	1'-6"
36	8361 Paseo Del Ocaso	5,424	2,643	0.49	20'-0"	9'-6"	3'-0"	2'-0"
37	8376 La Jolla Shores Dr	5,644	2,043	0.36	21'-0"	4'-0"	4'-0"	27'-0"
38	8384 La Jolla Shores Dr	5,795	3,190	0.55	15'-0"	4'-0"	4'-0"	18'-0"
39	8392 La Jolla Shores Dr	7,683	2,717	0.35	15'-0"	5'-0"	1'-6"	3'-0"
40	8402 La Jolla Shores Dr	6,656	3,384	0.51	17'-0"	8'-0"	7'-0"	25'-0"
41	8412 La Jolla Shores Dr	5,293	3,084	0.58	15'-0"	4'-0"	3'-3"	20'-8"
42	8422 La Jolla Shores Dr	5,400	3,786	0.70	20'-0"	5'-0"	1'-6"	27'-0"
PREVAILING QUANTITY (MODE)					15'-0"	4'-0"	4'-0"	20'-0"
AVERAGE QUANTITY (MEAN)		6,310	3,474	0.56	55.8%	58.1%	65.1%	32.6%
PERCENTAGE OF PROPERTIES THAT MATCH OR EXCEED PROPOSED CONDITIONS			18.6%	9.3%				



SITES THAT COMPARE IN SIZE AND LAYOUT  
 AREAS THE MATCH OR EXCEED PROPOSED CONDITIONS  
 4'-0" SETBACK DOES NOT INCLUDE PROPOSED ADU  
 \*440 SF ADDED TO HOUSES WITH TWO CAR GARAGES

**Aerial Photo of 8405 El Paseo Grande, and  
8415 El Paseo Grande with a RYSB on the order of 18 ft.; not 2'-0" as stated on the  
Applicant's Neighborhood Survey**

