

San Diego Planning Commission Meeting

PHONE-IN TESTIMONY PERIOD NOW OPEN FOR APPEAL OF 812 HAVENHURST POINT - PRJ-0697754 (GARCIA RESIDENCE)

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Development Services Department

**APPEAL OF 812 HAVENHURST POINT PROJECT
NO. PRJ-0697754
GARCIA RESIDENCE**

Item #2

Planning Commission

January 9, 2025

Project Scope

Location:	812 Havenhurst Point, La Jolla Community Planning and Local Coastal Program land use area, RS-1-4 zone (Residential-Single Unit)
Parcel Size:	0.51-acre
Approvals:	Process Three Coastal Development Permit Site Development Permit Categorical Exemption in accordance California Environmental Quality Act (CEQA) Section 15302 (Replacement or Reconstruction)

Project Scope

Description:

- Demolition of existing single dwelling unit
- Construction of a **9,394-square-foot (SF)** two-story single dwelling unit consisting of the following:
 - **5,250 SF** main floor level
 - **1,638 SF** basement level
 - **1,200 SF** attached accessory dwelling unit (ADU) – second floor level
 - **408 SF** attached junior ADU (JADU) – second floor level
 - **888 SF** attached garage – main floor level
 - Exterior decks and balconies totaling **3,651 SF**
 - Swimming pool and spa
 - Barbeque area
 - Associated landscaping and site improvements



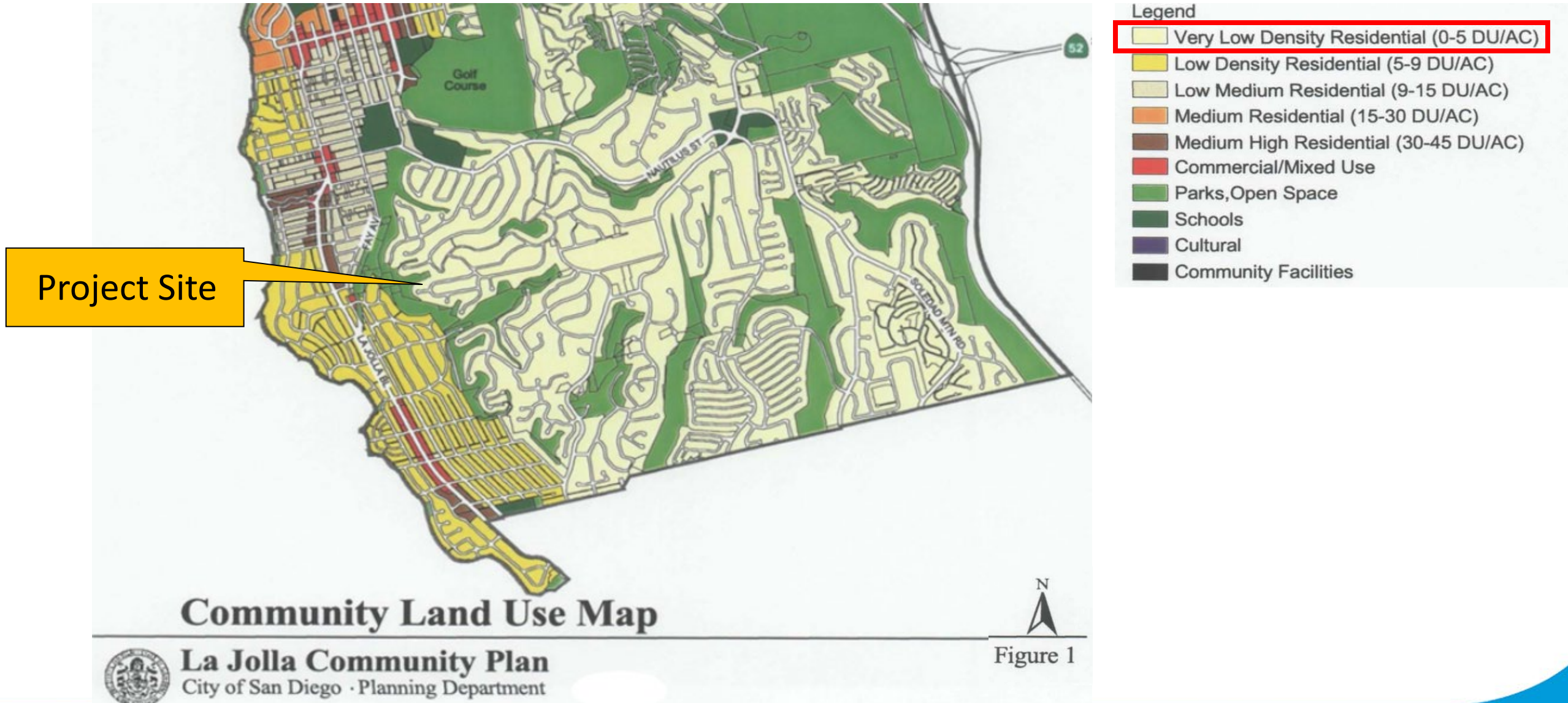
Aerial Photograph



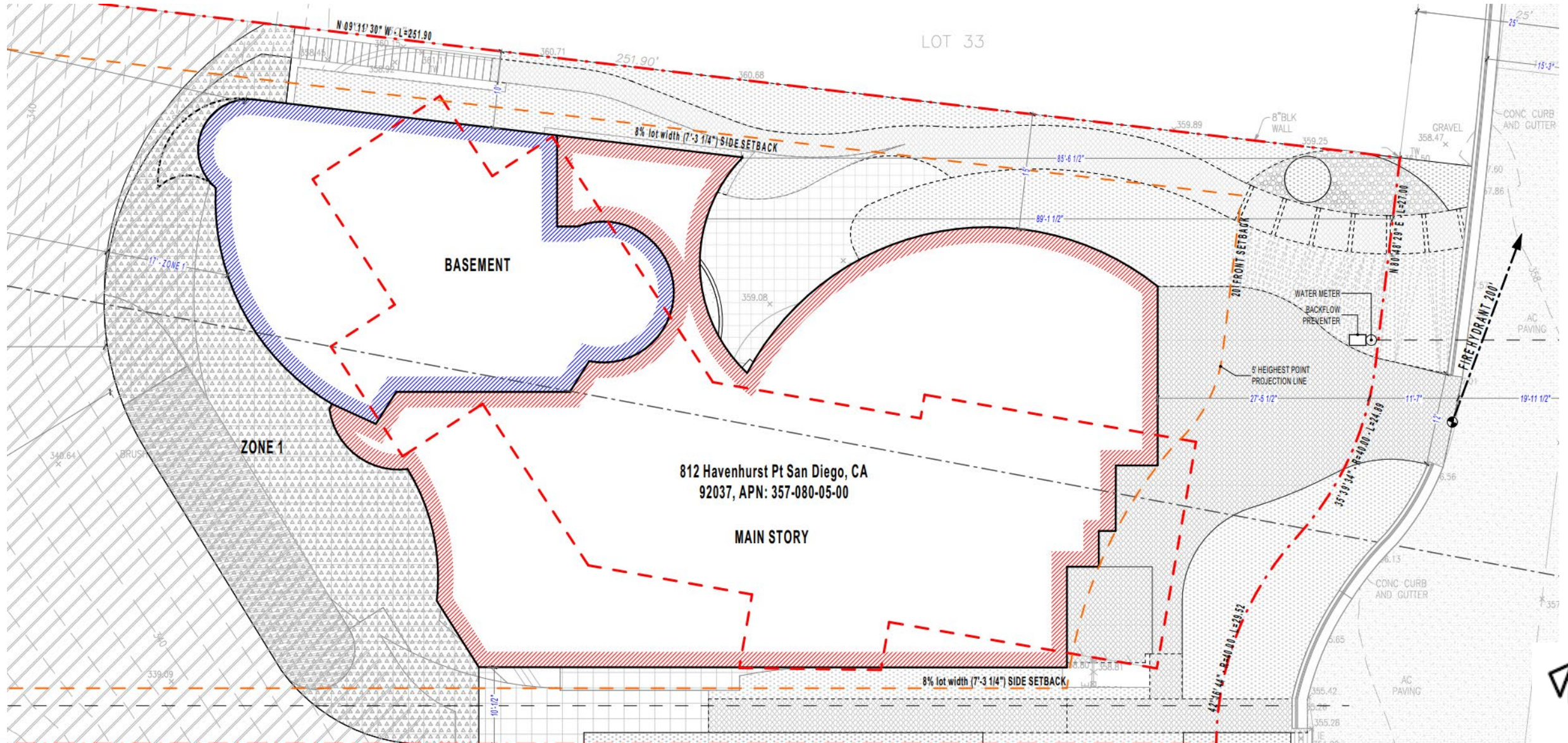
Project Site



Community Plan Land Use Map



Basement and 1st Floor Overlay



Previous Approval

September 18, 2024:

The Hearing Officer **APPROVED** with modifications:

- Coastal Development Permit No. PMT-2586783
- Site Development Permit No. PMT-2586785

Appeal

September 30, 2024:

Mr. Hamid Kharatti filed an appeal of the Hearing Officer decision for PRJ-0697754, 812 Havenhurst Point (Project) on the following grounds:

1. Factual Error,
2. Conflict with other matters, and
3. Findings Not Supported

Appeal Issues:

- The proposed plan is massively out of scale and character for our neighborhood.
- The proposed plan violates the protected open-space canyon on the northside.
- The proposed plan could negatively impact the moisture level on our street by diverting/blocking subterranean water flows.

Appeal Issues

Scale and Character of Muirlands Point Neighborhood

1. *Proposed living space is 9,394 square feet (SF) with three (3) levels of decks totaling 3,651 SF.*
2. *The average home size in the Muirlands Point development is 3,095 SF.*
3. *The appellant's home located at 822 Havenhurst Point is approximately 1,750 SF including the detached garage and structure is less than 3,000 SF.*
4. *The house on the other side of the appellant's home is even smaller with a detached garage.*
5. *The decks on the proposed property are bigger than combined structures on each property for the appellant (822 Havenhurst Pt) and their neighbor (902 Newkirk Dr). Include the living space, and the proposed property is more than four times the size of all structures on the appellant's property.*

Staff Response:

To the first 5 issues raised by the appellant staff acknowledge the information provided. The project conforms to the regulations of the RS-1-4 zone including building setbacks, angled planes, coastal height limit, floor area ratio (FAR), minimum lot size. Additionally, the proposed project would conform to Brush Management Regulations, Environmentally Sensitive Lands (ESL) regulations and consistent with the La Jolla Community Plan (LJCP).

Appeal Issues

Scale and Character of Muirlands Point Neighborhood

The proposed design, bulk and scale, and height is consistent with existing properties within the neighborhood as shown below and on the following slides:



936 Havenhurst Drive has a two-story presence from the public right-of-way and has a floor area of 5,387 SF on a 10,321 SF lot with a 0.52 FAR.

Appeal Issues

Scale and Character of Muirlands Point Neighborhood



1025 Havenhurst Drive has a two-story presence from the public right-of-way and has a floor area of 6,757 SF on a 12,593 SF lot with a 0.53 FAR.

Appeal Issues

Scale and Character of Muirlands Point Neighborhood



The proposed structure like other homes within the neighborhood proposes a stepped rear façade that follows the natural hillside contours. Shown above is the rear elevation for 1025 Havenhurst Drive (source: Google Map data and Zillow listing) for comparison.

Appeal Issues

Scale and Character of Muirlands Point Neighborhood

- 6. There is a declaration of restrictions permanently attached to the deed and title of every lot in Muirlands Points community that requires no building shall be constructed unless plans are reviewed and approved by the committee elected by the homeowners. This plan has been rejected by this committee.*

Staff Response:

The City of San Diego does not recognize nor enforce private declarations of restrictions on deeds and titles.

Appeal Issues

Scale and Character of Muirlands Point Neighborhood

7. *Members of La Jolla Community Planning Association met with the neighbors, visited our neighborhood, reviewed the proposed plans, and overwhelmingly rejected the plan.*

Staff Response:

Staff acknowledge that on **May 4, 2023**, the La Jolla Community Planning Association voted **12-1-1** to recommend **DENIAL** with the following comment:

- The proposed scale and massing are inconsistent with the established neighborhood character.

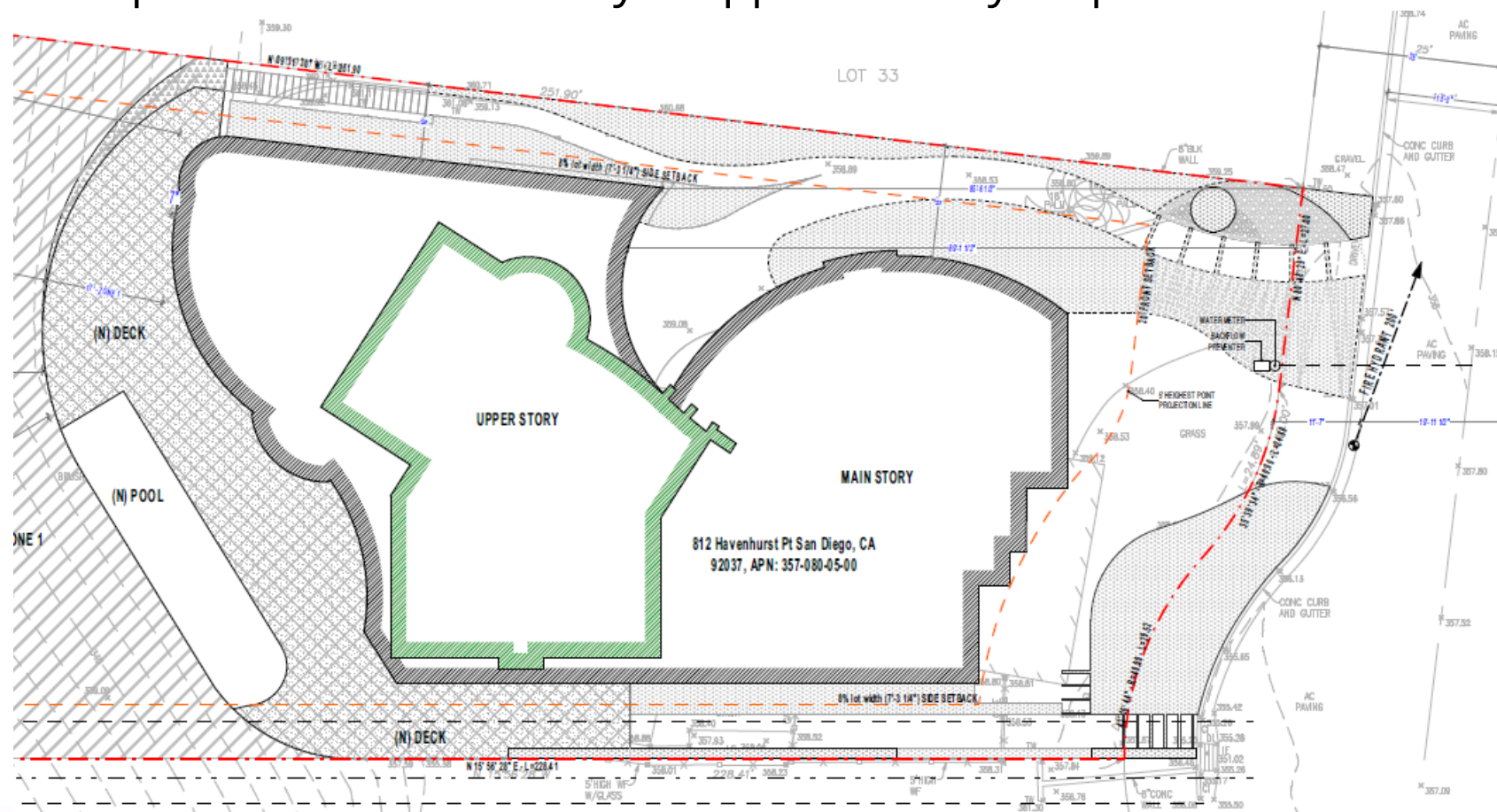
The recommendation was reviewed and taken into consideration. The proposed project conforms to the applicable zoning regulations for the RS-1-4 zone and the LJCP including:

- FAR
- Residential density
- Building articulation to address bulk and scale
- Variation in building materials and roofing design
- Visual balance and transitioning from older homes to new development

Appeal Issues

Scale and Character of Muirlands Point Neighborhood

The second-story is setback nearly 23 feet from the front façade and is located near the rear and center of the first-floor footprint. The second story is approximately 33 percent of the first floor and illustrated below.



Rendering

View facing northwest from Havenhurst Point

- The dominant single-story footprint and façade creates visual consistency with the adjacent single-story structures as shown in the following slides.



Rendering

View facing northeast from Havenhurst Point



Rendering

View facing northeast from Havenhurst Point



Rendering

View facing southwest



Appeal Issues

Scale and Character of Muirlands Point Neighborhood

8. *The hearing officer received 21 “webform” comments from the public, 20 of which requested the plan to be rejected. Many of these people had taken time off their busy daily lives, and were present at the hearing officer meeting, either in-person or on the Zoom call.*

Staff Response:

- 23 comments were received
- 21 comments were in opposition
- 2 comments were in favor
- 2 Letters were received (1 in favor and 1 in opposition)

Statements were heard by those providing testimony in-person and virtually. The Hearing Officer considered the comments prior to rendering the decision to **APPROVE** the Coastal Development Permit and Site Development Permit with modifications.

Appeal Issues

Scale and Character of Muirlands Point Neighborhood

- 9. Those of us living in our community, and LJCPA that is familiar with the La Jolla region, have strongly rejected the proposed plan. It is easy to look from the outside and take things out of the context and come up with reasons why the proposed plan is consistent with our neighborhood, and that is happening here. Please talk to the neighbors, talk to the LJCPA staff, and come visit our neighborhood for yourself.*

Staff Response:

Staff acknowledge receipt of the letter, public comments and the correspondence and recommendation received from the La Jolla Community Planning Association.

The project design is in conformance to the recommendations of the La Jolla Community Plan and will further support the goals of the LJCP by protecting the hillside environmentally sensitive lands (ESL) located on-site by recording a covenant of easement (COE) over ESL areas not developed as part of this project.

Appeal Issues

The proposed plan violates the protected open-space canyon on the northside.

10. *The Canyon behind the property is a Designated Open Space/Park as can be seen in Figure 7 of La Jolla Community Plan (LJCP): “Areas intended for park and/or open space uses (May be privately or publicly owned)”. This is an excerpt from “Open Space Preservation and Natural Resource protection” section on page 29 and 30: “The City’s Environmentally Sensitive Lands regulations and Sensitive Coastal Overlay zone regulations restrict the degree to which private development is allowed to encroach upon biologically sensitive open areas, steep hillsides and coastal bluffs in order to preserve their stability, plant and wildlife habitats. In addition, the open space designations and zoning protect the hillsides and canyons for the park, recreation, scenic and open space values. The location of the public and private dedicated and designated open space and park areas in La Jolla are shown on Figure 7 and include, but are not limited to, all lands designated as sensitive slopes, ...”.*
11. *The proposed property is extended more than 30 feet down the canyon from its current limit on the north side. As shown in pictures on the next pages, this goes into the natural vegetations in the canyon. In addition, the brush management plan shows another 30 feet beyond the construction zone where at least 50% of the plants need to be cut down to 6 inches. The remaining 50% shall be pruned to reduce fuel loading in accordance with the landscape standards. This is nothing short of destroying the designated and protected Open Space as declared by the City of San Diego.*

Appeal Issues

The proposed plan violates the protected open-space canyon on the northside.

12. *I have seen wild animals (coyotes, racoons, foxes, rabbits, etc.) come up and go down through the planned construction area into my back yard. You can see birds flying into our backyards from this area. You can hear the birds down in the canyon. I have no doubt that this construction goes against protection of wildlife habitat for this canyon.*
13. *The mandate of the designated Open Space Canyon is also to preserve and protect the open space values. As I have shown in the pictures on the next pages, the proposed structure destroys the open canyon view that I have enjoyed for over 27 years or so. It will have a similar impact on a lot of neighbors that have rejected this plan, and in general, anyone that lives around this canyon. Why is the city allowing a newly built structure and three levels of decks (that add up to a total of 3,651 sq. ft.) to go so far into a protected open-space designated canyon?*
14. *The brush management section of the report from the City to the Hearing Officer indicates that "Off-site brush management shall be the responsibility of the adjacent property owners". I suspect the native vegetation on my property is within the mandated brush management for the proposed property. Nobody has contacted me, and I have not agreed to any brush management plan on my property in order for this property to be built. I am hereby informing the City that this is a protected open space with sensitive -*

Appeal Issues

The proposed plan violates the protected open-space canyon on the northside.

14. *(continued) vegetation and habitat, and I do not permit anyone to damage it on my property. The brush management plan needs to be approved assuming that the nature (including existing vegetation and any future growth) is left alone on my property.*
15. *Just imagine every homeowner on this canyon proposing a similar plan, which will happen if this one is approved. There will be little left of the elements that are supposed to be protected by the Designation of the Open Space of this canyon.*
16. *I request the City to deny any construction plan on this property that goes beyond its current limit on the north side into the canyon. The damage caused by this plan is irresponsible and will be irreversible.*

Appeal Issues

The proposed plan violates the protected open-space canyon on the northside.



Appeal Issues

The proposed plan violates the protected open-space canyon on the northside.

Staff Response:

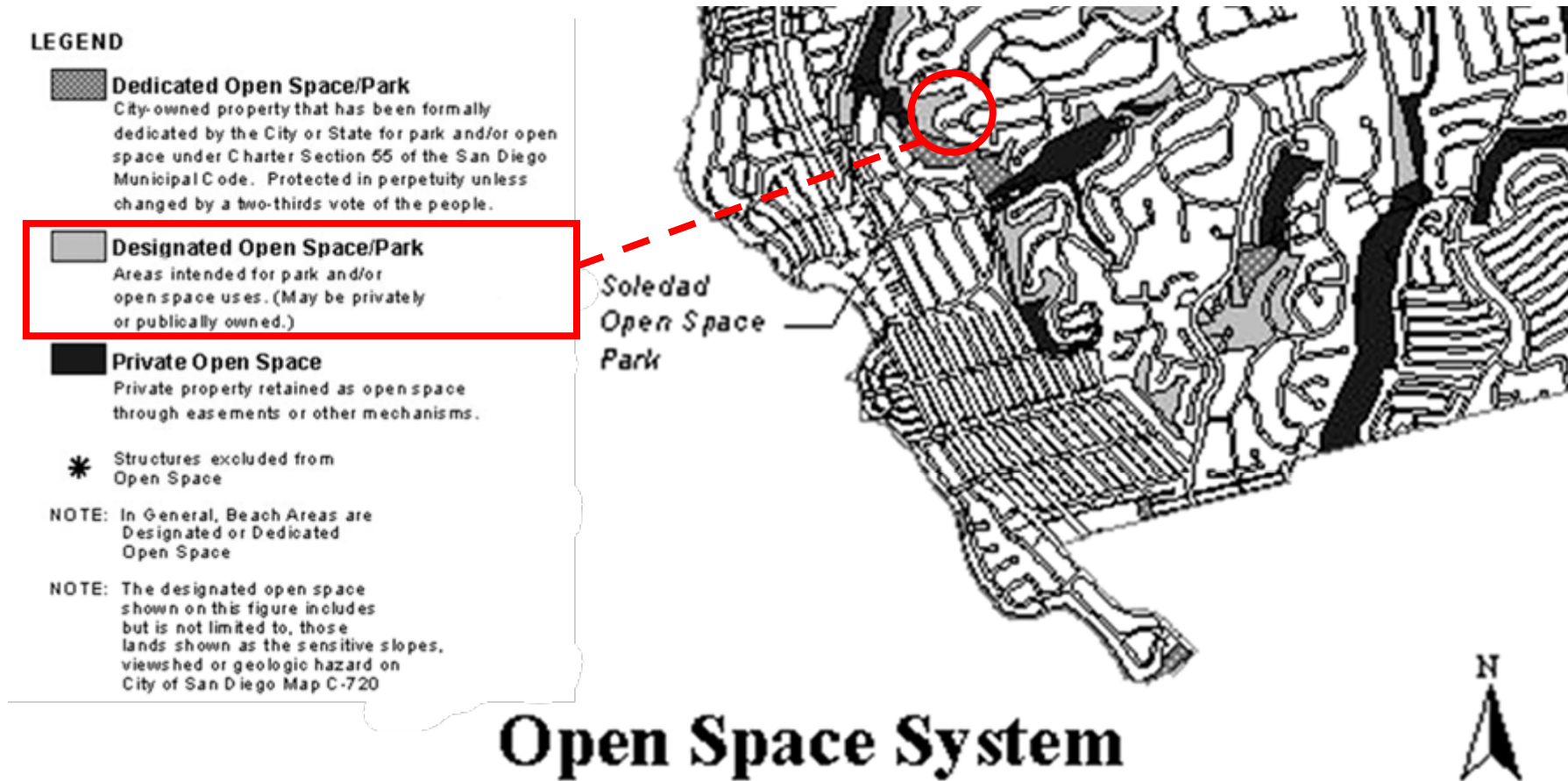
The La Jolla Community Plan (LJCP) recognizes that the community contains a number of private open space areas. Figure 7 of the Community Plan designates an area within the project site as Designated Open Space/Park.

- The area is not dedicated open space and is not mapped within the Multi-Habitat Planning Area (MHPA).
- A COE is conditioned over portions of the site that will not be impacted by development.
- Brush Management Zone 2 is impact neutral and is allowed within ESL.

The COE will support the LJCP goal of preserving designated open space as intended under the designation in Figure 7 (following slide).

Appeal Issues

The proposed plan violates the protected open-space canyon on the northside.



Open Space System



La Jolla Community Plan
City of San Diego · Planning Department

Figure 7

Appeal Issues

The proposed plan violates the protected open-space canyon on the northside.

Staff Response:

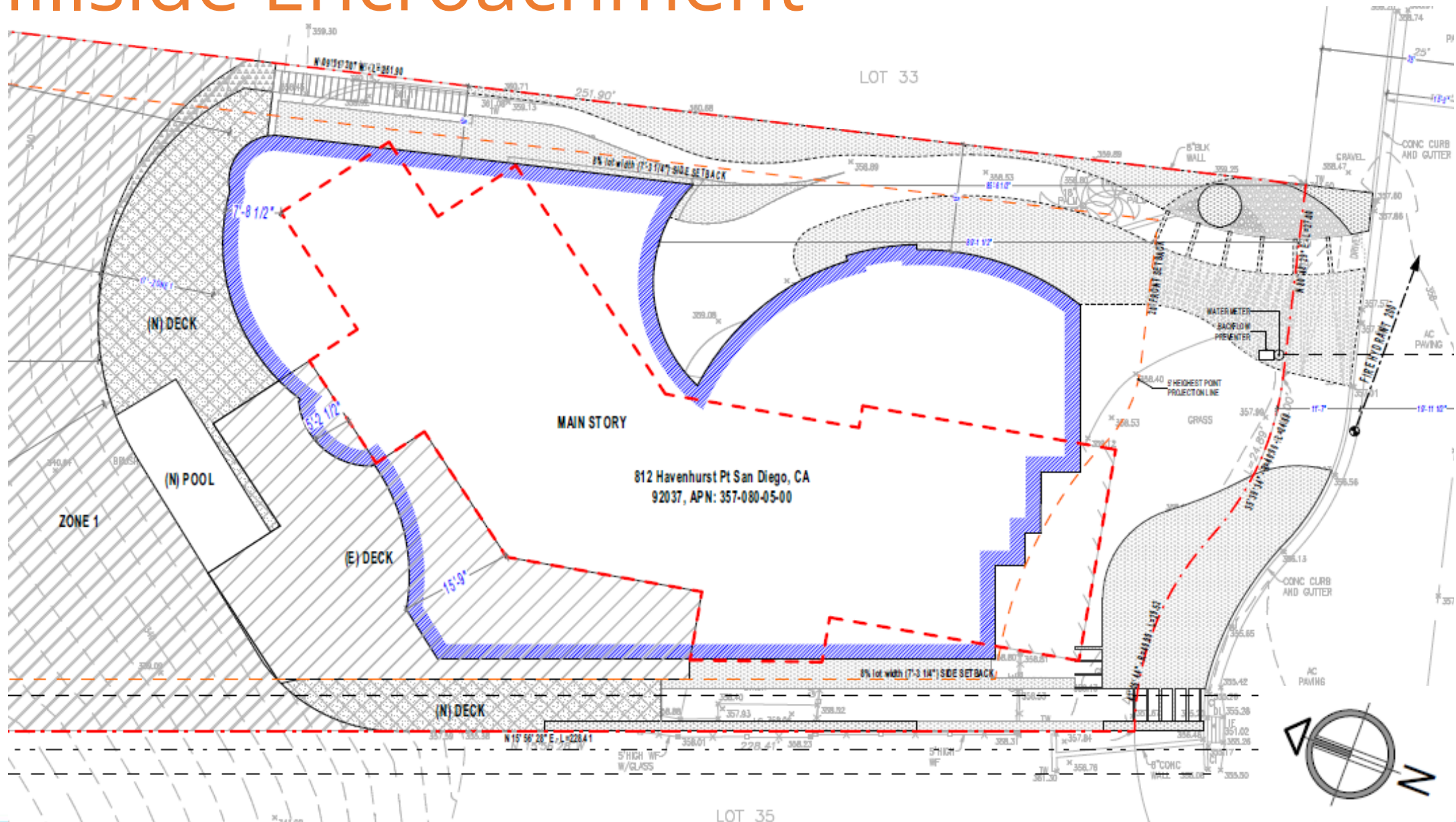
Extension of development down the hillside:

- The proposed physical development is located within previously disturbed lands as shown in the Biology Technical Report (BTR) prepared by Leopold Environmental Services.
- The proposed building envelope will extend less than 10 feet beyond the edge of the existing building envelope with the balcony/deck areas extending 10 to 16 feet beyond the building envelope. Deck and balcony railings are proposed as glass railings.

Brush Management Zones / Previously Disturbed Areas



Hillside Encroachment



Appeal Issues

The proposed plan violates the protected open-space canyon on the northside.

Staff Response:

Brush Management:

- Within Very High Fire Severity Zone subject to Brush Management Regulations.
- Brush management zone 1 (BMZ-1) is nearest to the building envelope and mainly within the areas where the rear decks and balconies are located. Building materials in this area are to be of non-combustible materials and permanently irrigated plantings and landscape materials.
- Brush management zone 2 (BMZ-2) is within ESL and thinning is allowed and prioritized as follows:
 1. Invasive non-native species
 2. Non-native species
 3. Flammable native species
 4. Native species
 5. Regionally sensitive species

Appeal Issues

The proposed plan violates the protected open-space canyon on the northside.

Step 2: Thin... the entire Zone 2 area. Start by cutting down 50% of the plants over 2 feet in height to a height of 6 inches. Don't go any lower than 6 inches so the roots remain to control soil erosion. The goal is to create a "mosaic" or more natural look, as shown below, so do your cutting in a "staggered" pattern. Leave uncut plant groupings up to 400 square feet — that's a 20x20-foot area, or an area that can be encircled by an 80-foot rope — separated by groupings of plants cut down to 6 inches. Thinning should be prioritized as follows: 1) invasive non-native species; 2) non-native species; 3) flammable native species; 4) native species; and 5) regionally sensitive species.



Before Brush Management



After Thinning and Pruning



Chaparral Plant Before Pruning



Chaparral Plant After Pruning

Appeal Issues

The proposed plan violates the protected open-space canyon on the northside.

Staff Response:

Wildlife and ESL Impact:

- 0.925-acre coastal sage scrub (Tier II) located entirely outside the development area in BMZ-2.
- BMZ-2 is “Impact Neutral” not considered an impact and not considered acceptable for mitigation, thus no impact to sensitive vegetation would occur due to the project.
- Nearest critical habitat is 4.95-miles northeast adjacent to MCAS Miramar.
- Biological Survey Area (BSA) located outside of the City’s MHPA.
- Closest Wildlife Corridor located 2.35-miles northeast at Rose Canyon Open Space Park.

Staff can affirm that no mitigation measures are required due to the BSA being outside of the MHPA and no critical habitat occurs with the BSA.

Appeal Issues

The proposed plan violates the protected open-space canyon on the northside.



Figure 8- BTR Figure 2 (Source: Leopold BTR April 2024)

Appeal Issues

The proposed plan violates the protected open-space canyon on the northside.

Staff Response:

Open space and Private Views:

- Views from private property are not protected by the California Environmental Quality Act (CEQA) or the City of San Diego.
- Project conforms to the coastal height limit, setback requirements, angled plane requirements and incorporates stepped back articulation and a reduced second story footprint to minimize bulk and scale as viewed from public right-of-ways in accordance with zoning regulations and the LJCP plan recommendations for Community Character.
- Conditioned COE will protect the Designated Open Space/Park shown in Figure 7, LJCP.
- The COE will contribute to the preservation of westerly views from the Scenic Overlook along Newkirk Drive located east of the project site.

Appeal Issues

The proposed plan violates the protected open-space canyon on the northside.



Source: Google Street View, Image capture Jul 2022

Appeal Issues

The proposed plan could negatively impact the moisture level on our street by diverting/blocking subterranean water flows.

17. *Our street (Havenhurst Point) is at the bottom of two steep streets (Newkirk Drive and Havenhurst Drive).*
18. *I have heard of the term “river under our houses”, pointing to the result of the water coming down the steep hill to the east side. Those who have dug into the soil at the bottom of this hill have had moisture problems.*
19. *The proposed plan has a large basement next to my property that is going to block or at least divert the flow of subterranean water. I did not see an engineering report from the City to the Hearing Officer that shows how this is going to impact my property. What is the mitigation plan, so this basement is not going to be a source of problems for me? Is my property going to sink in a pool of water?*

Appeal Issues

The proposed plan could negatively impact the moisture level on our street by diverting/blocking subterranean water flows.

Staff Response:

Subsurface water:

An existing storm water catch basin is located along the curb and gutter at the southwest corner of the project site (along Havenhurst Point) which will collect surface street storm water.

The geotechnical soils report included the following findings:

- Groundwater was not identified in the exploratory borings.
- There was no seepage observed on the natural slope on the north side of the project site.
- The site is suitable for the proposed development.
- The proposed development will not destabilize or result in settlement of adjacent property or the right-of-way."

Additionally, the project will be subject to additional review during the ministerial building permit review for conformance with the City's storm water requirements and building code requirements.

Staff Recommendation

- **DENY** the appeal
- **AFFIRM** the Hearing Officer's decision to:
 - **APPROVE**
 - Coastal Development Permit No. PMT-2586783
 - Site Development Permit No. PMT-2586785.

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