

ATTACHMENT 1

The following is a link to the Staff Report to the Hearing Officer, Report No. HO-24-029, from the September 18, 2024, Hearing Office Public Hearing for the Garcia Residence, 812 Havenhurst Point, PRJ-0697754:

https://www.sandiego.gov/sites/default/files/2024-09/ho-24-029-garcia-residence_0.pdf



THE CITY OF SAN DIEGO

MEMORANDUM

DATE: September 17, 2024

TO: City of San Diego Hearing Officer

FROM: Chandra Y. Clady, Development Project Manager, Development Services Department

SUBJECT: Agenda Item No. 1, Garcia Residence CDP SDP - Project No. 697754
Hearing Officer Agenda for September 18, 2024

Staff has added the following updates in the Staff Report, pertaining to Item No. 1 Hearing Officer Agenda for September 18, 2024.

Staff Report - Page 2: Community Plan Land Use Designation has been corrected and changed from Low Density Residential (5-9) dwelling units per acre to Very Low Density Residential (0-5) dwelling units per acre.

Staff Report- Attachment 5 – Draft Permit:

Page 1 - Date of "Exhibit A" is changed from August 7, 2024, to September 18, 2024,
Page 2 - Condition No.1 is changed from October 2, 2027, to October 3, 2027.

Staff Report – Attachment 9 – Project Plans:

Title Page TS.001 - Changing the Community Plan from San Diego to La Jolla, and the Jurisdiction of the County of San Diego to City of San Diego.

If you have any questions or need more information, please let me know. Thank you.



LEGEND

Dedicated Open Space/Park
City-owned property that has been formally dedicated by the City or State for park and/or open space under Charter Section 55 of the San Diego Municipal Code. Protected in perpetuity unless changed by a two-thirds vote of the people.

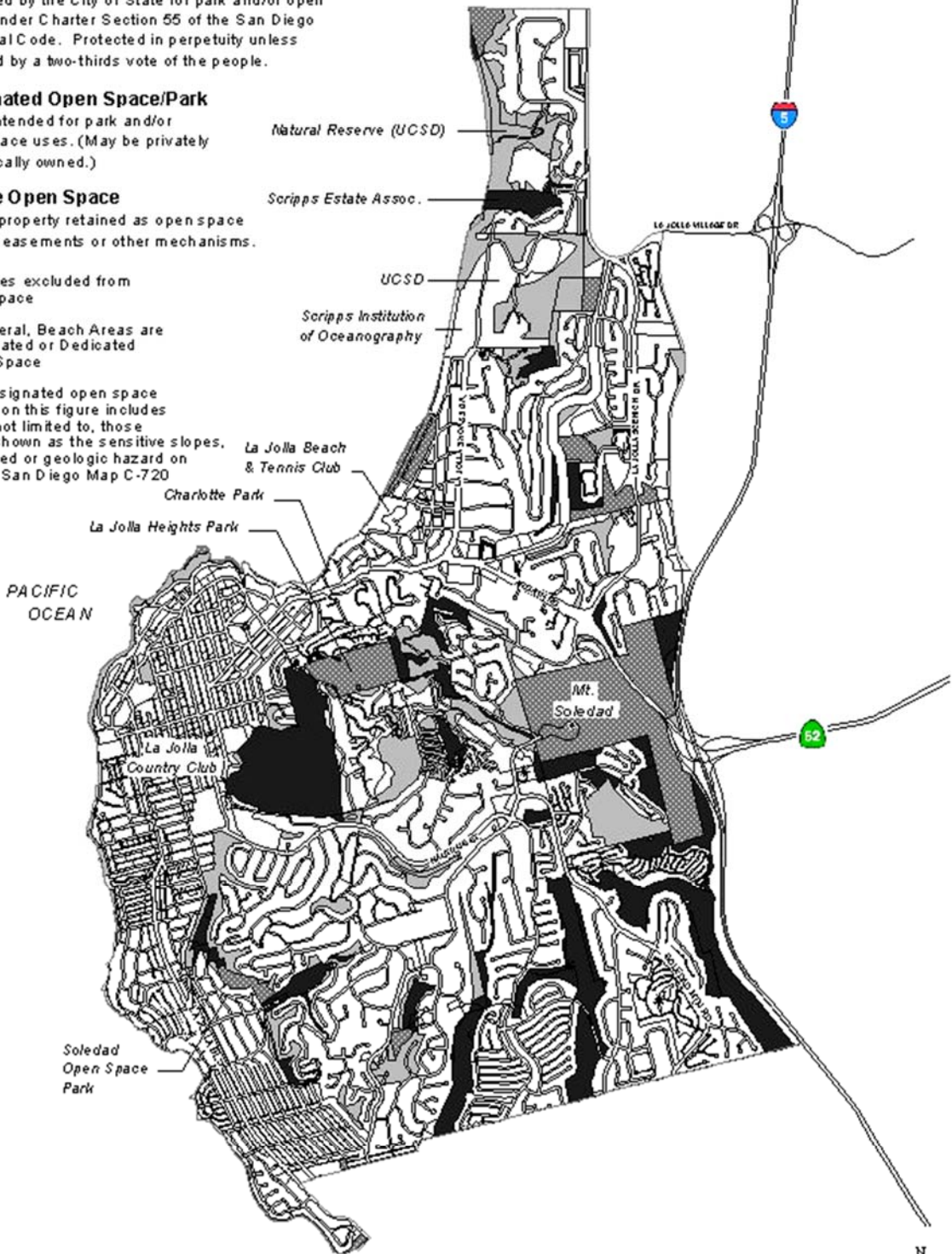
Designated Open Space/Park
Areas intended for park and/or open space uses. (May be privately or publically owned.)

Private Open Space
Private property retained as open space through easements or other mechanisms.

* Structures excluded from Open Space

NOTE: In General, Beach Areas are Designated or Dedicated Open Space

NOTE: The designated open space shown on this figure includes but is not limited to, those lands shown as the sensitive slopes, viewshed or geologic hazard on City of San Diego Map C-720



Open Space System



La Jolla Community Plan
City of San Diego · Planning Department

Figure 7



Development Permit/ Environmental Determination Appeal Application

In order to ensure your appeal application is successfully accepted and processed, you must read and understand Information Bulletin (IB) 505, "Development Permits/Environmental

[Determination Appeal Procedure.](#)"

1. Type of Appeal: Appeal of the Project
 Appeal of the Environmental Determination
2. Appellant: Please check one Applicant Officially recognized Planning Committee
 "Interested Person"
(Per San Diego Municipal Code (SDMC) § 113.0103)

Name: Hamid Kharrati E-mail: hkharrati@hotmail.com

Address: 822 Havenhurst Point City: La Jolla, CA 92037 State: Zip Code: Telephone: 858-349-8694

3. Project Name: Garcia Residence
4. Project Information: PRJ-0697754
 Permit/Environmental Information Determination and Permit/Document No:
 Site Development Permit No. PMT-2586785, Coastal Development Permit PMT-2586783
 Date of Decision/Determination: 9/18/24 City Project Manager: Chandra Y. Clady
 Decision (Describe the permit/approval decision):

Approved

5. Ground for Appeal (Please check all that apply):

<input checked="" type="checkbox"/> Factual Error	<input type="checkbox"/> New Information
<input checked="" type="checkbox"/> Conflict with other Matters	<input type="checkbox"/> City-wide Significance (Process four decisions only)
<input checked="" type="checkbox"/> Findings Not Supported	

Description of Grounds for Appeal (Please relate your description to the allowable reasons for appeal as more fully described in the [SDMC § 112.0501](#). Attach additional sheets if necessary.)

Letter to the planning commission

Subject: Garcia Residence, 812 Havenhurst Point
Project Number: PRJ-0697754
Author: Hamid Kharrati, 822 Havenhurst Point
Date: September 29, 2024

Dear committee members,

I, Hamid Kharrati, am the owner of the property at 822 Havenhurst point, and have lived in that house Since early 1997. I am requesting Permits for a new construction at 812 Havenhurst Point to be rejected.

I provided a report to the hearing officer and some of my issues were not addressed. The issues that were addressed go against all the time our community and La Jolla Planning Association took to evaluate the plan. There was also a report from Muirlands Point Declaration of Restrictions Committee to the hearing officer. And finally, there was recommendation from La Jolla Community Planning Association (LJCPA) on May 4, 2023 to reject the plan. I request the committee members to review all these reports.

A summary of issues I would like to bring up to the attention of the commission is as follows:

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

I will go through these three points in the following pages.

The proposed plan is massively out of scale and character for our neighborhood

- The following numbers are from the plans that are included in the City report to the hearing officer for this construction:
 - The living space is 9,394 sq. ft.
 - There are three levels of decks for a total of 3,651 sq. ft.
- The average home size in the Muirlands Point development is 3,095 sq. ft.
- My house is about 1750 sq. ft. and including the detached garage and structure is less than 3,000 sq. ft.
- The house on my other side is even smaller than mine with a detached garage
- The decks on the proposed property are bigger than combined structures on each property for me and my neighbor on my other side. Include the living space, and the proposed property is more than four times the size of all structures on my property.
- 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.
- Members of La Jolla Community Planning Association met with the neighbors, visited our neighborhood, reviewed the proposed plans, and overwhelmingly rejected the plan.
- 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.
- 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.

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

- 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, ...”.
- 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.
- 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.
- 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?
- 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 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.

- 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.
- 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.

This is the view of the Canyon as seen from my property. Pictures on this page and the next two pages show the impact of the proposed construction on the open space value of the canyon.







There proposed plan could be negatively impacting the moisture level on our street by diverting/blocking subterranean water flow

- Our street (Havenhurst Point) is at the bottom of two steep streets (Newkirk Drive and Havenhurst Drive).
- 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.
- 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?

I made several attempts over the last couple of years to discuss my issues about this project with the City. The lack of response led me to believe that the project was cancelled. Why else would the City not respond to emails and phone calls? We were completely surprised when we received a Notice of Hearing in the mail. Even then, we were given one minute each at the Hearing Officer meeting while I had 10 pages of notes to cover. I was not given a chance to go over these issues in a timely manner, and that is the reason why some of the issues are raised at this stage.

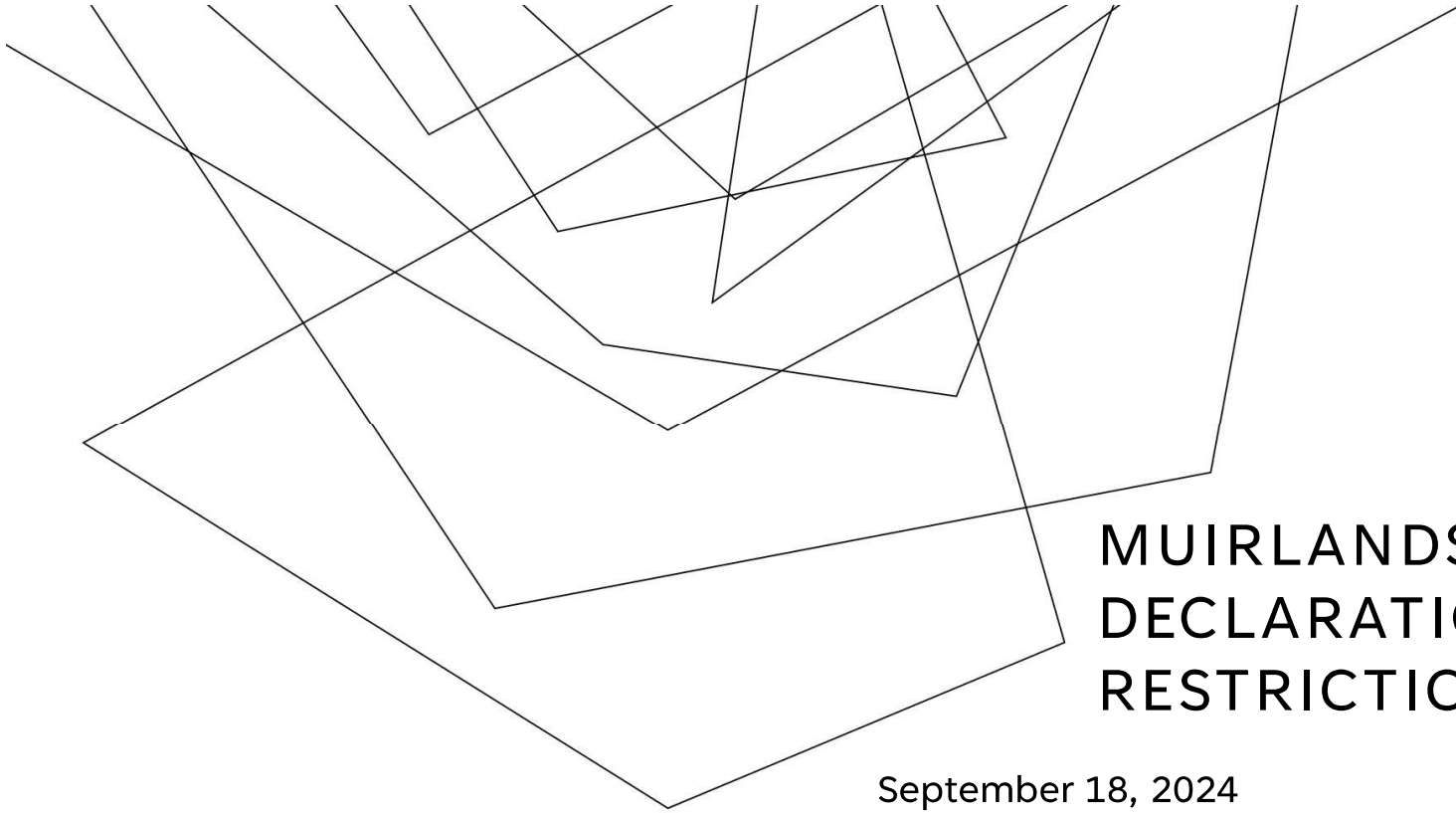
In Summary, I am requesting this committee to reject the construction plans for the reasons I covered in this letter. I would like the plan to be rejected until it is approved by La Jolla Community Planning Association and the Muirlands Point Committee. I request any plan disturbing the Designated and Protected Open-Space canyon to be rejected. And finally, I would like to see a report on the moisture issue.

Thank you,

Hamid Kharrati

822 Havenhurst Point

La Jolla, CA 92037



MUIRLANDS POINT
DECLARATION OF
RESTRICTIONS COMMITTEE

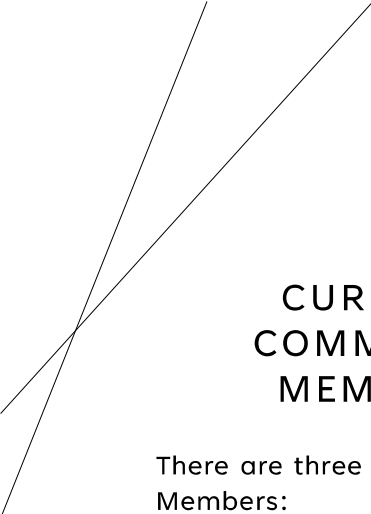
September 18, 2024

City of San Diego, Development Services Department Hearing

Public Comments On Committee's Opposition to:

Project Name: Garcia Residence; 812 Havenhurst Pt

Project Info: PRJ-0697754



KEY FACTS ABOUT
THE MUIRLANDS POINT DECLARATION OF
RESTRICTIONS COMMITTEE

CURRENT
COMMITTEE
MEMBERS

There are three Committee Members:

- Andy Micheletti, Secretary
- Ben Schwartz, Member
- Dr. Tim Peppers, Member

All three Committee members were elected by a majority of the Muirlands Point lot owners in July 2015.

Mr. Micheletti and Mr. Schwartz have served on the Committee continuously since 2005.

AUTHORITY

Muirlands Point is a 59-lot subdivision developed in 1953.

Permanently attached to every lot owner's deed and title is the declaration of restrictions.

The Declaration of Restrictions provides for a three-member Committee. The declarations state:

- No buildings shall be erected until the construction, grading and landscape plan have been approved by the Committee.
- No structure or building of more than one story in height shall be erected without the prior approval of Committee

HISTORY

Mr. Micheletti was first elected in 2005, replacing the secretary who had served continuously on the Committee since 1990.

Since 2005, the Committee has ruled on more than 60 separate construction and landscaping projects.

The Committee has denied various projects including 6111 Havenhurst Place with very similar facts to 812 Havenhurst Pt.

The 812 Havenhurst Pt lot owners have attended many Committee meetings reviewing such projects, including 6111 Havenhurst Place.

REBUTTAL TO REPORT TO THE HEARING OFFICER

At the request of lot owners, the Committee reviewed the September 11, 2024, “Report” to the Hearing Officer regarding the Garcia Residence “Project” and makes the following rebuttal:

- **The Project does not meet the Community Character section of the Residential Element of the La Jolla Community Plan (LJCP) as stated in second paragraph on Page 3 of the Report.**
 - ✓ Page 68 of LJCP “In some areas of La Jolla, certain features that contribute to community character are quite evident.” Others may be more diverse. The 59-lot Muirlands Point development does not contain homes of the size and scale of the proposed Project and the LJCP acknowledges that these character differences should be preserved.
 - ✓ As noted in the Report, the LJCPA denied this project by a large majority (12-1-1) with the statement in the Report – “ Very large project, immediate neighbor had privacy concerns, majority of homes are low rambling roof style and ***this design is not consistent with the neighborhood.*** Bold italic added. LJCPA member actually drove to neighborhood to observe.
- **The Project does not meet the “Bulk and scale” section of the LJCP as stated in fifth paragraph on Page 3 of the Report.**
 - ✓ Page 68 of LJCP states “In order to maintain and enhance the existing neighborhood character and ambiance, and to promote good design and visual harmony ...” The bulk and scale of this project does not meet the initial premise - it does not “maintain and enhance the existing neighborhood character”. The modifications listed in the Report regarding bulk and scale are not adequate to meet the “character” of the neighborhood, as consistently monitored by the Committee.

MUIRLANDS POINT NEIGHBORHOOD

59 LOTS : each lot is marked with a star

Lot at 812
Havenhurst Pt



MUIRLANDS POINT AVERAGE HOME SQUARE FOOTAGE (per title company records)			
Lot #	Lot Address	home square footage	lot square footage
1	6190 Terryhill Drive	2,358	13,340
2	6180 Terryhill Drive	2,017	12,463
3	1054 Havenhurst Drive	2,614	10,213
4	1044 Havenhurst Drive	1,696	10,651
5	1034 Havenhurst Drive	3,588	10,864
6	1024 Havenhurst Drive	1,764	9,898
7	1014 Havenhurst Drive (Vacant)	0	
8	1004 Havenhurst Drive	2,807	10,332
9	946 Havenhurst Drive	5,144	10,340
10	936 Havenhurst Drive	5,387	10,321
11	926 Havenhurst Drive	3,096	12,383
12	907 Newkirk Drive	2,227	9,649
13	921 Newkirk Drive	3,857	12,224
14	941 Newkirk Drive	2,534	10,519
15	951 Newkirk Drive	2,278	10,496
16	1005 Newkirk Drive	3,384	10,415
17	1015 Newkirk Drive	3,472	10,768
18	1025 Newkirk Drive	2,209	11,165
19	1035 Newkirk Drive	2,615	11,009
20	1045 Newkirk Drive (vacant)	0	12,440
21	1056 Newkirk Drive	1,612	10,435
22	1046 Newkirk Drive	2,028	11,491
23	1036 Newkirk Drive	2,577	11,754
24	1026 Newkirk Drive	3,234	11,165
25	1016 Newkirk Drive	2,718	12,339
26	1006 Newkirk Drive	2,393	11,697
27	946 Newkirk Drive	1,971	11,921
28	942 Newkirk Drive	3,217	12,109
29	932 Newkirk Drive	4,226	13,136
30	922 Newkirk Drive	1,848	13,411

MUIRLANDS POINT AVERAGE HOME SQUARE FOOTAGE			
31	912 Newkirk Drive	3,632	19,590
32	902 Newkirk Drive	1,748	12,160
33	822 Havenhurst Point	1,756	16,821
34	812 Havenhurst Point	3,018	22,356
35	802 Havenhurst Point	3,730	87,120
36	801 Havenhurst Point	3,128	29,185
37	811 Havenhurst Point	2,934	18,303
38	821 Havenhurst Point	4,313	17,933
39	831 Havenhurst Point	3,426	11,325
40	915 Havenhurst Drive	2,674	19,775
41	925 Havenhurst Drive	5,929	20,354
42	935 Havenhurst Drive	4,766	14,616
43	6120 Havenhurst Place	5,134	14,535
44	6110 Havenhurst Place	2,920	20,648
45	6111 Havenhurst Place	3,211	18,725
46	6121 Havenhurst Place	3,344	13,035
47	1005 Havenhurst Drive	2,488	12,078
48	1015 Havenhurst Drive	2,620	12,939
49	1025 Havenhurst Drive	6,757	12,593
50	1035 Havenhurst Drive	3,744	12,265
51	1045 Havenhurst Drive	2,505	10,418
52	1055 Havenhurst Drive	3,195	13,803
53	6130 Terryhill Drive	3,803	11,575
54	6131 Terryhill Drive	2,303	10,730
55	6141 Terryhill Drive	3,194	15,481
56	6151 Terryhill Drive	4,937	12,073
57	6161 Terryhill Drive	2,142	11,525
58	6171 Terryhill Drive	2,244	11,946
59	1145 Inspiration Drive	1,924	10,619
	total square footage for 57 homes	176,390	
	average home square footage	3,095	

The average home size in the Muirlands Point Development is 3,095 sq ft. The 812 Havenhurst Pt Project is clearly a massive structure with living space and large decks well beyond the size and scale of the neighborhood.



STREET LEVEL VIEWS OF HOMES
ON
HAVENHURST POINT

Picture 3
- Subject 812

Picture 2

Picture 1

Picture 4



Picture 5

Picture 6

Picture 7

Picture 8



Picture 1



Picture 2



Picture 3



Picture 4



Picture 5 – 2 stories, 1 below street level



Picture 6 – 2 stories, 1 below street level



Picture 7 – 2 stories, 1 below street level



Picture 8



STORY POLES OF FIRST
PROPOSED STRUCTURE OVER
EXISTING HOUSE ON LOT AT
812 HAVENHURST PT



Street View – end of cull de sac



Street View – end of cull de sac – poles and flags outlined in black



West Lot Line View



East Lot Line View – from backyard of 822 Havenhurst Pt



Backyard of 822 Havenhurst Pt - poles and flags outlined in black



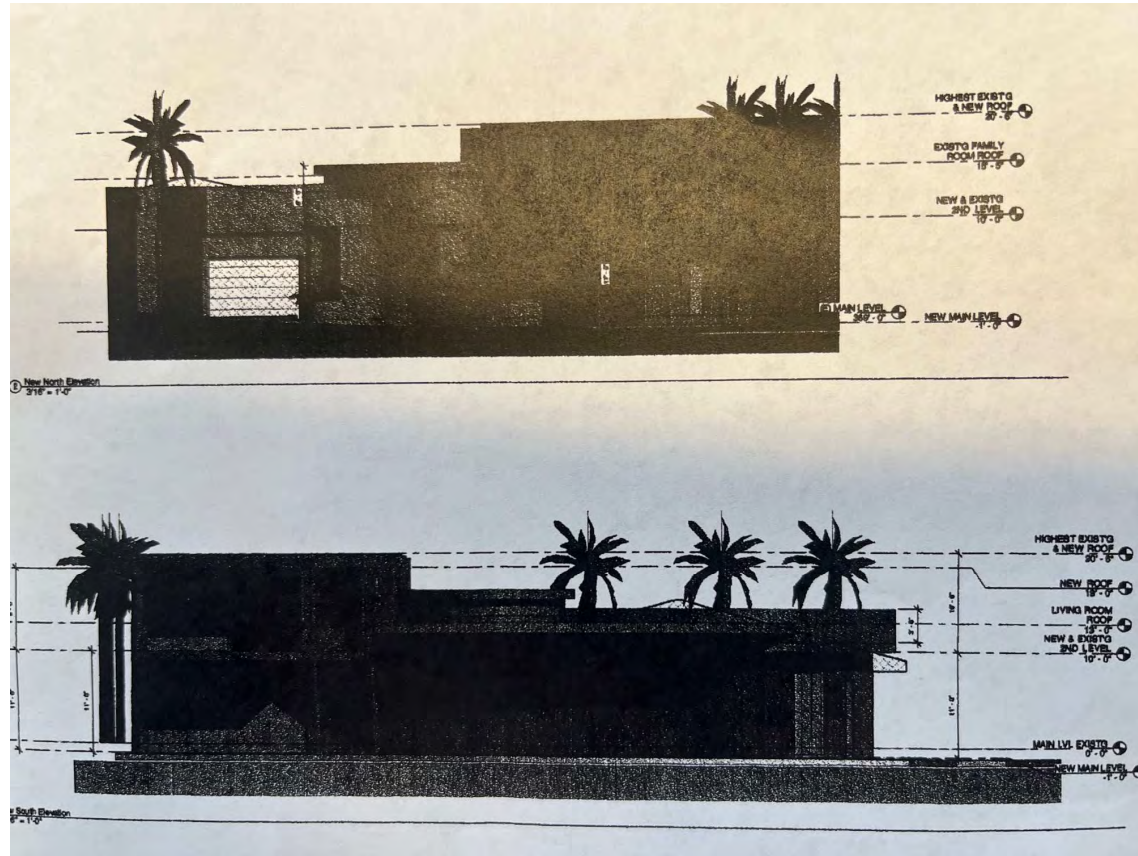
LAST TWO COMMITTEE
PROJECTS APPROVED AND
MOST SIMILAR PROJECT WHICH
WAS DENIED



1005 Havenhurst Drive – 2 stories, 1 below street level (2020)



1006 Newkirk Drive – (2019)



6111 Havenhurst Place – (Denied in 2022)

Letter to the Hearing Officer

Subject: Garcia Residence, 812 Havenhurst Point
Project Number: PRJ-0697754
Author: Hamid Kharrati, 822 Havenhurst Point
Date: September 16, 2024

Dear Hearing Officer,

I, Hamid Kharrati, am the owner of the property at 822 Havenhurst point, and have lived in that house Since early 1997. I am requesting Permits for a new construction at 812 Havenhurst Point to be rejected. The plans for this project have been reviewed by our local community (Muirlands Point), La Jolla Development Permit Review Committee (LJDPR), and La Jolla Community Planning Association (LJCPA), and they were rejected at every stage. The applicant has decided to forge ahead with total disregard for the neighborhood and the La Jolla Community.

I reached out to the City Of San Diego Planning Department (City) multiple times over a year ago, called and sent emails, following the directions on the “Notice Of Application” I received from the City of San Diego, dated December 27, 2022. I left voice mails and sent emails requesting a meeting with the City regarding this project, to discuss my concerns, and to receive status on the project. I assumed the project was cancelled since I did not receive replies to my emails, and did not receive call backs from the voicemails I left. I have attached these emails at the end of this letter. I might be able to retrieve records of my phone calls from the phone company records, if requested.

The only other notification I received from the City was the “Notice of Public Hearing”, dated August 20, 2024, for a hearing on September 4th. I received this notice in the mail on August 22nd, less than two weeks from the date of the hearing. The City made no attempt to hear my concerns, and as far as I can tell, the City has not reached out to anyone in our community, in the LJDPR Committee, or in the LJCPA Committee. So, following the lead of the applicant, the City has decided to recommend the permit request to be approved with no regard to the opinion of the neighborhood and the La Jolla Planning Committees.

I just found out about the report from the City to the Hearing Officer, issued on September 11, 2024. I reviewed the report, and I disagree with the conclusion that the Permit request meets the La Jolla Community Plan (LJCP). I will go through my reasoning and will be glad to answer any questions you might have at the hearing on September 18th.

1. The City report indicates that the project was determined to be categorically exempt pursuant to CEQA Section 15302, Replacement or Reconstruction, on May 29, 2024, and the opportunity to appeal that determination ended June 12, 2024. This assertion is completely invalid as my attempts to contact the City, following guidelines provided by the City, were ignored. I had no idea if the project was still ongoing, let alone knowing about a deadline for a determination that was made. I also disagree with the City report assertion that “The exemption consists of replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced”. The new structure is nothing close to the structure that it is replacing. A single-story 3018 SF structure is being replaced with a massive 9950 SF three-story eye sore and is extended somewhere between 25 and 35 feet into the protected canyon (this is based on my own estimate of reviewing the construction plans and would like to get together with city engineers to get the exact number). How does this replacement have substantially the same capacity as the structure it is replacing?!!!
2. The City report indicates that LJCP designates the site as Low Density Residential which allows five to nine (5-9) dwelling units per acre (DU/AC). However, according to LJCP, the site is designated as Very Low Density Residential which allows zero to five (0-5) dwelling units per acre (DU/AC).
3. I disagree with the “Community Plan” section of the report as it misunderstands the LJCP guidelines:
 - a. The City report indicates that “the proposed development has taken the adjacent properties into consideration...”. I live next door, and my house is 1750 SF with a backyard that looks like the extension of the canyon. The house on my other side is slightly smaller than mine. In fact, from the street view, all 8 houses on our street have similar scale/bulk, regardless of their size/SF. As a community we reviewed the story poles from the street and from my house. We took pictures and reviewed them with LJDPR in multiple meetings along with the model of the structure that was presented. The LJDPR committee members visited our neighborhood, and agreed the new massive structure is anything but harmonious to the neighborhood. A committee member commented that the plan is beautiful, but it belongs in the desert somewhere, not on our street.

- b. The City report references this on page 76 of LJCP: “In order to maintain and enhance the existing neighborhood character and ambience, and to promote good design and visual harmony in the transitions between new and existing structures, preserve the following elements”. And the first element is: “Bulk and scale – with regard to surrounding structures or land form conditions as viewed from the public right-of-way and from parks and open space”. The City report indicates that the project addressed bulk and scale by setting the second story further back than the first. Those that have seen the story poles beg to differ. The LJCP asks to keep the bulk and scale, but the proposed structure does not even come close. Questions for the city: Have you driven on our street? Have you seen pictures of the story poles? Have you seen the model of the structure/house that was presented to the LJDPR committee? Have you talked to LJDPR or LJCPA to ask why they thought the scale/bulk of the proposed structure is a problem?
 - c. The City report suggests that we live in a neighborhood where “residential diversity is emphasized more than a uniform theme or development pattern”. It is true that we don’t have track houses in our community, and that each house is different, but there is an overall harmony to the neighborhood. In fact, that is the reason why many of us have chosen to live in this neighborhood. No one house stands out as an eye sore or completely out of scale. I recommend the City staff to take a drive through Muirlands Points community (around 80 houses). LJDPR did that and congratulated our neighborhood for being able to maintain such a harmony.
4. As indicated earlier, my estimation is that the new structure will be extended 25’ horizontally beyond the current structure into the canyon, and that may translate to 35’ down into the canyon. When we had bad fire seasons the fire department inspector came by my house to review it for fire issues. My living structure is far from the canyon, and I did not have to do anything, but apparently, they were asking people to cut back brushes from habitable buildings. We also know the state of the Home Insurance business: more of the big insurance companies are refusing to sign contracts with homeowners. I don’t care what material is used in the house, if the house is surrounded by brush, no insurance company is going to cover it. The fire department is also going to ask that the brushes be cut back substantially. I can imagine the fire department ordering the brushes cleared all the way down the canyon on the proposed lot and adjacent lots. This is a disaster waiting to happen for our canyon and needs to be avoided. There is wording in the City report such as “heavy timber construction may be approved within the designated Zone One are subject to Fire Marshal’s approval”. This

makes no sense and is not something that should be kicked down the road for evaluation after the permit has been issued.

5. The canyon behind the property is a Designated Open Space/Park as can be seen in Figure 7 of 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, ...”. The proposed massive structure does not preserve the promised scenic and open space value of our protected canyon. I will be looking at a massive three-story structure from my backyard instead of the beautiful canyon that I see today. The story poles that were erected for our community review made that clear. Extending the existing structure into the canyon goes against the city mandate of preserving scenic and open space canyon as seen from my property, all other properties on this protected canyon, and the streets/trails at the bottom of the canyon. Any plan that extends the existing structure further into the canyon beyond its current limit should be rejected by the City.
6. Havenhurst point is at the bottom of steep streets on both sides: Newkirk Drive and Havenhurst Drive. Any home at the bottom of the hills that has dug into the soil is having moisture problems. The situation has been described as “river under our properties”. The massive structure including the basement in the proposed property is going to act like a dam. Any blockage or even slowdown of the subterranean water flow is going to be a major moisture problem for our neighborhood. The City report does not include an engineering report that shows how this issue is being mitigated. Will my house sink in a pool of water that is blocked by the new structure?

ATTACHMENT 4

In summary, I strongly recommend the hearing officer to reject the existing plan based on the issues I outlined above. The bulk/scale of the proposed building is going to cause irreversible damage to our protected canyon, destroy our neighborhood harmony, and could cause serious damage to adjacent properties.

Thank you,

Hamid Kharrati



LEGEND

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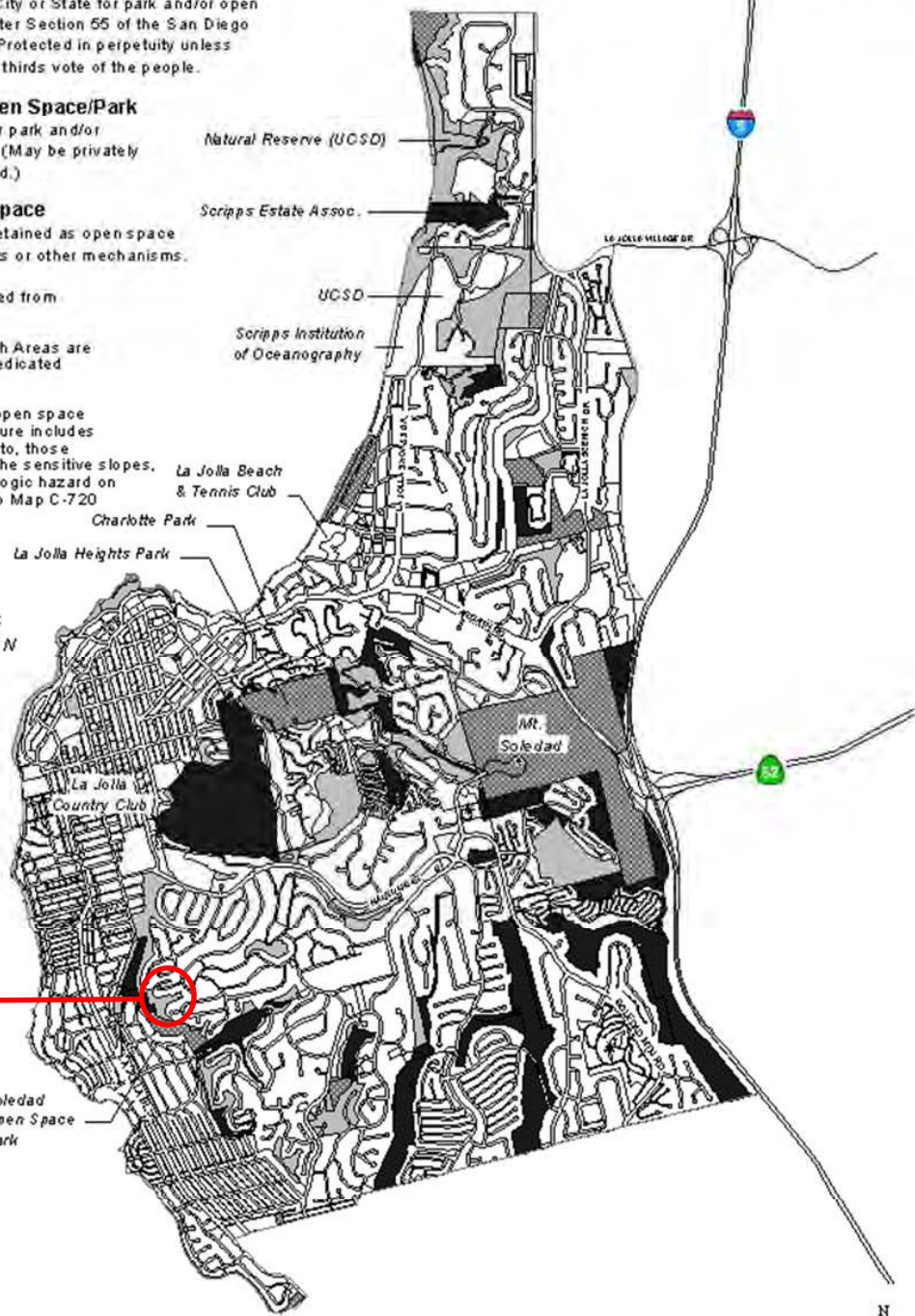
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NOTE: The designated open space shown on this figure includes but is not limited to, those lands shown as the sensitive slopes, viewshed or geologic hazard on City of San Diego Map C-720



Open Space System

La Jolla Community Plan
City of San Diego - Planning Department



Concerns regarding project PTS-697754

Hamid Kharrati <hkharrati@hotmail.com>

Wed 7/19/2023 3:47 PM

To:cclady@gmail.com <cclady@gmail.com>

Cc:Hamid Kharrati <hkharrati@hotmail.com>

Hello Ms. Clady,

I live at 822 Havenhurst Point, La Jolla, CA 92037.

We have talked once in the past regarding my neighbor's development plans at 812 Havenhurst Point, Project No. PTS-697754

I have many concerns and issues with my neighbor's plans. Would you please send me all the cycle issue comments for the project. I would like to review them, and then meet with you and go over my concerns.

I tried calling you one more time and left a message, but I did not hear back from you. I will try calling you again. I would appreciate it if you could call me back at your earliest convenience.

Thank you,

Hamid Kharrati
(858) 349-8694

Re: Concerns regarding project PTS-697754

Hamid Kharrati <hkharrati@hotmail.com>

Wed 10/4/2023 8:28 AM

To: cclady@gmail.com <cclady@gmail.com>

Cc: Hamid Kharrati <hkharrati@hotmail.com>

Hello Ms. Clady,

I just listened to the voice mail you left me on September 28.

The reception was poor and I could only hear a few words here and there, but it appears that it was in response to my (email and voice mail) from July 19th. Unfortunately, after waiting for 2 months I missed your call.

What is the best way of talking to you? Is it possible to set a date and time that I can call you, or you call me?

I have been to all of the local (La Jolla Planning Committee) review of this project. Committee members even came by to the proposed site, reviewed the project, and agreed with all the neighbors that the proposed building is not appropriate for our neighborhood.

We were expecting an invitation from the City of San Diego to review the project. Perhaps the project was rejected based on input from La Jolla Committee? As mentioned, I have called and emailed and received no responses until now.

Here are some of the items I want to talk to you about:

- What is the status of the project? La Jolla Planning Committee rejected the project many months ago. Did city of San Diego reject the project based on input from the La Jolla Planning Committee?
- If the answer to the above is a "no", I would like to get a cycle issue comments from the review process. I also would like to discuss some of the concerns I have about the project (not associated with rejection by La Jolla Planning Committee). I would like to know if the issues I am concerned about have been looked into or addressed.
- If the answer to the above is a "yes", meaning City of San Diego rejected the application based on La Jolla Planning Committee rejection, I would like to know what the next steps are.

I will try calling you again today, but based on previous experience I expect to get your voice mail. I appreciate if you would setup an appointment at a time convenient to you when we can talk.

Thank you,

Hamid Kharrati
(858) 349-8694

From: Hamid Kharrati <hkharrati@hotmail.com>

Sent: Wednesday, July 19, 2023 3:47 PM

To: cclady@gmail.com <cclady@gmail.com>

Cc: Hamid Kharrati <hkharrati@hotmail.com>

Subject: Concerns regarding project PTS-697754

Hello Ms. Clady,

I live at 822 Havenhurst Point, La Jolla, CA 92037.

We have talked once in the past regarding my neighbor's development plans at 812 Havenhurst Point, Project No. PTS-697754

I have many concerns and issues with my neighbor's plans. Would you please send me all the cycle issue comments for the project. I would like to review them, and then meet with you and go over my concerns.

I tried calling you one more time and left a message, but I did not hear back from you. I will try calling you again. I would appreciate it if you could call me back at your earliest convenience.

Thank you,

Hamid Kharrati
(858) 349-8694



THE CITY OF SAN DIEGO

DATE OF NOTICE: December 27, 2022

NOTICE OF APPLICATION

DEVELOPMENT SERVICES DEPARTMENT

As a property owner, tenant, or person who has requested notice, you should know that an application has been filed with the City of San Diego for a Coastal Development Permit (CDP) and Site Development Permit (SDP) for the demolition of an existing family residence and the construction of a new 7,069 square foot (sq. ft.), 3-story single-family residence including a 421 sq. ft. Junior Accessory Dwelling Unit (JADU), with a 1200 sq. ft. Accessory Dwelling Unit (ADU) on the upper level, an 898 sq. ft. garage, a new pool, spa, and deck. The property is located at 812 Haven Hurst Point. This 0.51-acre site is in the RS-1-4, Coastal Overlay (Non-appealable) Zone. The application was filed on October 17, 2022.

PROJECT NO:	PTS-697754
PROJECT NAME:	<u>GARCIA RESIDENCE, CDP, SDP</u>
PROJECT TYPE:	COASTAL DEVELOPMENT PERMIT and SITE DEVELOPMENT PERMIT, PROCESS 3
APPLICANT:	JESS GONZALES
COMMUNITY PLAN AREA:	LA JOLLA
COUNCIL DISTRICT:	1
CITY PROJECT MANAGER:	Chandra Y. Clady, Development Project Manager
PHONE NUMBER/E-MAIL:	(619) 446-5286 /Cclady@gmail.com

The decision to approve or deny this application will be made at a public hearing. You will receive another notice informing you of the date, time, and location of the public hearing. This project is undergoing environmental review.

Please note that Community Planning Groups provide citizens with an opportunity for involvement in advising the City on land use matters. Community Planning Group considerations are a recommended, but not required, part of the project review process. Please see the Community Planning Group Contact List at <https://www.sandiego.gov/planning/community-plans/cpg/contacts> to inquire about LA JOLLA COMMUNITY PLANNING GROUP meeting dates, times, and location for community review of this project.

If you have any questions about the project after reviewing this information, you may contact the City Project Manager listed above. This information will be made available in alternative formats upon request.

Internal Order No.: 11004541

RECORDING REQUESTED BY
CITY OF SAN DIEGO
DEVELOPMENT SERVICES
PERMIT INTAKE, MAIL STATION
501

WHEN RECORDED MAIL TO
PROJECT MANAGEMENT
PERMIT CLERK
MAIL STATION 501

INTERNAL ORDER NUMBER: 24009391

SPACE ABOVE THIS LINE FOR RECORDER'S USE

COASTAL DEVELOPMENT PERMIT NO. 2586783
SITE DEVELOPMENT PERMIT NO. 2586785
GARCIA RESIDENCE PROJECT NO. PRJ-0697754
HEARING OFFICER

This Coastal Development Permit No. 256783 and Site Development Permit No. 2586785 is granted by the Hearing Officer of the City of San Diego to LUIS H. GARCIA, a married man as his sole and separate property, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] sections 126.0708 and 126.0505. The 0.51-acre site is located at 812 Havenhurst Point in the RS-1-4 Zone, Coastal Overlay Zone (Non-Appealable Area), Transit Area Overlay Zone, and the Transit Priority Area within the La Jolla Community Plan area. The project site is legally described as: LOT 34 OF MUIRLANDS POINT, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THERE OF NO. 3035, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, OCTOBER 30, 1953.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to demolish the existing single-dwelling unit, and construct a two-story dwelling unit with an attached three-car garage, an attached Accessory Dwelling Unit (ADU) and Junior ADU (JADU), a pool with a spa, exterior decks, an outdoor barbecue area, a basement and associated site improvements described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated September 18, 2024, on file in the Development Services Department.

The project shall include:

- a. The demolition of an existing single-dwelling unit;
- b. A two-story, 5,250-square-foot single dwelling unit including a 1,648-square-foot basement, an attached 408-square-foot Junior Accessory Dwelling Unit (JADU), an attached 1,200-square-foot Accessory Dwelling Unit (ADU), an attached 888 square-foot garage, for a total floor area of 9,394 square feet. The project also includes a swimming pool with a spa, exterior decks, and an outdoor barbeque area;
- b. Landscaping (planting, irrigation and landscape-related improvements);

- c. Off-street parking;
- d. Public and private accessory improvements determined by the Development Services Department to be consistent with the land use and development standards for this site in accordance with the adopted community plan, the California Environmental Quality Act [CEQA] and the CEQA Guidelines, the City Engineer's requirements, zoning regulations, conditions of this Permit, and any other applicable regulations of the SDMC.

STANDARD REQUIREMENTS:

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. If this permit is not utilized in accordance with Chapter 12, Article 6, Division 1 of the SDMC within the 36-month period, this permit shall be void unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker. This permit must be utilized by October 3, 2027.
2. This Coastal Development Permit shall become effective on the eleventh working day following receipt by the California Coastal Commission of the Notice of Final Action or following all appeals.
3. No permit for the construction, occupancy, or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
 - a. The Owner/Permittee signs and returns the Permit to the Development Services Department; and
 - b. The Permit is recorded in the Office of the San Diego County Recorder.
4. While this Permit is in effect, the subject property shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the appropriate City decision maker.
5. This Permit is a covenant running with the subject property and all of the requirements and conditions of this Permit and related documents shall be binding upon the Owner/Permittee and any successor(s) in interest.
6. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
7. Issuance of this Permit by the City of San Diego does not authorize the Owner/Permittee for this Permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).

ATTACHMENT 5

8. The Owner/Permittee shall secure all necessary building permits. The Owner/Permittee is informed that to secure these permits, substantial building modifications and site improvements may be required to comply with applicable building, fire, mechanical, and plumbing codes, and State and Federal disability access laws.

9. Construction plans shall be in substantial conformity to Exhibit "A." Changes, modifications, or alterations to the construction plans are prohibited unless appropriate application(s) or amendment(s) to this Permit have been granted.

10. All of the conditions contained in this Permit have been considered and were determined necessary to make the findings required for approval of this Permit. The Permit holder is required to comply with each and every condition in order to maintain the entitlements that are granted by this Permit.

If any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable, or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" condition(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo, and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

11. The Owner/Permittee shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees, against the City or its agents, officers, or employees, relating to the issuance of this permit including, but not limited to, any action to attack, set aside, void, challenge, or annul this development approval and any environmental document or decision. The City will promptly notify Owner/Permittee of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the Owner/Permittee shall not thereafter be responsible to defend, indemnify, and hold harmless the City or its agents, officers, and employees. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, Owner/Permittee shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs. In the event of a disagreement between the City and Owner/Permittee regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the Owner/Permittee shall not be required to pay or perform any settlement unless such settlement is approved by Owner/Permittee.

ENGINEERING REQUIREMENTS:

12. Prior to the issuance of any building permit the Owner/Permittee shall dedicate an additional five-foot storm drain easement for a total seven-foot-six-inch storm drain easement from the centerline along the westerly property line, to the satisfaction of the City Engineer.
13. Prior to the issuance of any building permit the Owner/Permittee shall obtain an Encroachment Maintenance Removal Agreement (EMRA), from the City Engineer, for the proposed sidewalk under drains, Landscaping/irrigation, and private walk and enhanced pavers in the Havenhurst Point public right-of-way.
14. Prior to the issuance of any building permit, the Owner/Permittee shall assure, by permit and bond, closure of the existing driveway and construction of a new 12-foot driveway per current City Standards, adjacent to the site on Havenhurst Point.
15. Prior to the issuance of any building permit the Owner/Permittee shall obtain a bonded grading permit for the grading proposed for this project. All grading shall conform to the requirements of the City of San Diego Municipal Code in a manner satisfactory to the City Engineer.
16. The drainage system proposed for this development, as shown on the site plan, is private and subject to approval by the City Engineer.
17. Prior to the issuance of any construction permit the Owner/Permittee shall submit a Water Pollution Control Plan (WPCP). The WPCP shall be prepared in accordance with the guidelines in Part 2 Construction Best Management Practices (BMP) Standards Chapter 4 of the City's Storm Water Standards.

LANDSCAPE REQUIREMENTS:

18. Prior to issuance of any construction permit for grading, the Owner/Permittee shall submit complete construction documents for the revegetation and hydro-seeding of all disturbed land in accordance with the City of San Diego Landscape Standards, Storm Water Design Manual, and to the satisfaction of the Development Services Department. All plans shall be in substantial conformance to this permit (including Environmental conditions) and Exhibit "A," on file in the Development Services Department.
19. Prior to the issuance of any construction permit for public improvements, the Owner/Permittee shall submit complete landscape construction documents for right-of-way improvements to the Development Services Department for approval. Improvement plans shall show, label, and dimension a 40-square-foot area around each tree which is unencumbered by utilities. Driveways, utilities, drains, water, and sewer laterals shall be designed so as not to prohibit the placement of street trees.
20. Prior to issuance of any construction permit for building (including shell), the Owner/Permittee shall submit complete landscape and irrigation construction documents, which are consistent with the Landscape Standards, to the Development Services Department for approval. The construction

documents shall be in substantial conformance with Exhibit "A," Landscape Development Plan, on file in the Development Services Department. Construction plans shall provide a 40-square-foot area around each tree that is unencumbered by hardscape and utilities unless otherwise approved per §142.0403(b)(6).

21. The Owner/Permittee shall be responsible for the maintenance of all landscape improvements shown on the approved plans, including in the right-of-way, unless long-term maintenance of said landscaping will be the responsibility of another entity approved by the Development Services Department. All required landscape shall be maintained consistent with the Landscape Standards in a disease, weed, and litter free condition at all times. Severe pruning or "topping" of trees is not permitted.

22. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved construction documents is damaged or removed, the Owner/Permittee shall repair and/or replace in kind and equivalent size per the approved documents to the satisfaction of the Development Services Department within 30 days of damage or Certificate of Occupancy.

23. In the event that a 'foundation only' permit is requested by the Owner/Permittee, a site plan or staking layout plan, shall be submitted to the Development Services Department identifying all landscape areas consistent with Exhibit "A," Landscape Development Plan, on file in the Development Services Department. These landscape areas shall be clearly identified with a distinct symbol, noted with dimensions, and labeled as 'landscaping area'.

BRUSH MANAGEMENT REQUIREMENTS:

24. Prior to issuance of any construction permit for grading, landscape construction documents required for the engineering permit shall be submitted showing the brush management zones on the property in substantial conformance with Exhibit "A."

25. Prior to issuance of any construction permit for building, a complete Brush Management Program shall be submitted for approval to the Development Services Department and shall be in substantial conformance with Exhibit "A" on file in the Development Services Department. The Brush Management Program shall comply with the City of San Diego's Landscape Regulations and the Landscape Standards.

26. The Owner/Permittee shall implement the following requirements in accordance with the Brush Management Program shown on Exhibit "A" on file in the Development Services Department:

- The Brush Management Program shall be maintained at all times in accordance with the City of San Diego's Landscape Standards.
- The Brush Management Program shall be based on a standard Zone One of 35 feet in width and a Zone Two of 65 feet in width, exercising the Zone Two reduction option and Alternative Compliance measures set forth under SDMC Sections 142.0412(f), 142.0412(i), and 142.0412(j). Zone One shall range from 17 feet to 22 feet in width with a corresponding Zone Two of 78 feet to 88 feet in width, extending out from the habitable

structures towards the native/naturalized vegetation as shown on Exhibit "A." Where the full brush management zones cannot be provided, openings along the brush side of the habitable structures, plus a 10-ft. perpendicular return along adjacent wall faces, shall be upgraded to dual-glazed, dual-tempered panes as alternative compliance for the reduced brush management zones.

- Within Zone One, combustible accessory structures (including, but not limited to, decks, trellises, gazebos, etc.) shall not be permitted, while accessory structures of non-combustible, one-hour fire-rated, and/or Type IV heavy timber construction may be approved within the designated Zone One area subject to Fire Marshal's approval.

PLANNING REQUIREMENTS:

27. Prior to the issuance of any construction permits (either grading or building), the Owner/ Permittee shall submit a geotechnical investigation report or update letter prepared in accordance with the City's "Guidelines for Geotechnical Reports" that specifically addresses the proposed construction plans. The geotechnical investigation report or update letter shall be reviewed for adequacy by the Geology Section of the Development Services Department prior to issuance of any construction permits.
28. The Accessory Dwelling Unit (ADU) and Junior Accessory Dwelling Unit (JADU) shall not be used for a rental term of less than 31 consecutive days.
29. The ADU and JADU may not be sold or conveyed separately from the primary dwelling unit.
30. Before a Building Permit may be issued for a JADU, the record owner shall enter into an agreement with the City in a form that is approved by the City Attorney. The agreement shall include the following provisions: the JADU may not be sold or conveyed separately from the primary dwelling unit; the agreement may be enforced against future purchasers; and the record owner shall reside on the premises.
31. The City shall submit the agreement to the County Recorder for recordation. The agreement shall run with the land for the life of the JADU.
32. Before approval of the Site Development Permit, the applicant shall execute and record in favor of the City a hold harmless and/or indemnification agreement for the approved development.
33. Sensitive biological resources that are outside of the allowable development area on a premises or are acquired as off-site mitigation as a condition of permit issuance, are to be left in a natural state and used only for those passive activities allowed.
34. Prior to the issuance of construction permits, the Owner/Permittee shall execute and record a Covenant of Easement, which ensures the preservation of the Environmentally Sensitive Lands that are outside of the allowable development area of the premises in accordance with SDMC 143.0152. The Covenant of Easement shall include a legal description and an illustration of the premises showing the development area and the Environmentally Sensitive Lands that will be preserved.

CLIMATE ACTION PLAN REQUIREMENTS:

35. Owner/Permittee shall comply with the Climate Action Plan (CAP) Consistency Checklist stamped as Exhibit "A." Prior to issuance of any construction permit, all CAP strategies shall be noted within the first three (3) sheets of the construction plans under the heading "Climate Action Plan Requirements" and shall be enforced and implemented to the satisfaction of the Development Services Department.

INFORMATION ONLY:

- The issuance of this discretionary permit alone does not allow the immediate commencement or continued operation of the proposed use on site. Any operation allowed by this discretionary permit may only begin or recommence after all conditions listed on this permit are fully completed and all required ministerial permits have been issued and received final inspection.
- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this Permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code-section 66020.
- This development may be subject to impact fees at the time of construction permit issuance.

APPROVED by the Hearing Officer of the City of San Diego on September 18, 2024, and Resolution No. HO-XXXX.

ATTACHMENT 5

COASTAL DEVELOPMENT PERMIT NO. 2586783
SITE DEVELOPMENT PERMIT NO.258785
Date of Approval: September 18, 2024

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES DEPARTMENT

Chandra Clady
Development Project Manager

**NOTE: Notary acknowledgment
must be attached per Civil Code
section 1189 et seq.**

The undersigned Owner/Permittee, by execution hereof, agrees to each and every condition of
this Permit and promises to perform each and every obligation of Owner/Permittee hereunder.

Luis H. Garcia
Owner/Permittee

By _____

**NOTE: Notary acknowledgments
must be attached per Civil Code
section 1189 et seq.**

ATTACHMENT 6

HEARING OFFICER RESOLUTION NO. HO-
COASTAL DEVELOPMENT PERMIT NO. PMT-2586783
SITE DEVELOPMENT PERMIT NO. PMT-2586785
GARCIA RESIDENCE PROJECT NO. PRJ-0697754

WHEREAS, LUIS H. GARCIA, a married man as his sole and separate property, Owner/Permittee, filed an application with the City of San Diego for a permit to demolish the existing dwelling unit, and construct a two-story dwelling unit with an attached three-car garage, an attached Accessory Dwelling Unit (ADU) and Junior ADU (JADU), a pool with a spa, outdoor decks, an outdoor barbecue area, a basement and associated site improvements (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval) for the associated Coastal Development Permit No. PMT-2586783 and Site Development Permit No. PMT-2586785 on portions of a 0.51-acre site;

WHEREAS, the project site is located at 812 Havenhurst Point in the RS-1-4 Base Zone, Coastal (Non-Appealable) Overlay Zone, Coastal Height Limit Overlay Zone, Parking Impact Overlay Zone (Coastal Impact), Transit Priority Area, Fire Brush Management Area, Very High Fire Hazard Severity Zone, and Environmentally Sensitive Lands in the form of Steep Slopes and sensitive vegetation within the La Jolla Community Plan area;

WHEREAS, the project site is legally described as LOT 34 OF MUIRLANDS POINT IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 3035, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, OCTOBER 30, 1953;

WHEREAS, on May 29, 2024, the City of San Diego, as Lead Agency, through the Development Services Department, made and issued an Environmental Determination that the project is exempt from the California Environmental Quality Act (CEQA) (Public Resources Code Section 21000 et seq.) under CEQA Guideline Section 15302 (Replacement or Reconstruction) and there was no appeal of the

Environmental Determination filed within the time period provided by San Diego Municipal Code Section 112.0520;

WHEREAS, on September 18, 2024, the Hearing Officer of the City of San Diego considered Coastal Development Permit No. PMT-2586783 and Site Development Permit No. PMT-2586785 pursuant to the Land Development Code of the City of San Diego;

BE IT RESOLVED by the Hearing Officer of the City of San Diego, that it adopts the following findings with respect to Coastal Development Permit No. PMT-2586783 and Site Development Permit No. PMT-2586785.

A. Coastal Development Permit [SDMC Section 126.0708]

1. Findings for all Coastal Development Permits:

- a. The proposed coastal development will not encroach upon any existing physical accessway that is legally used by the public or any proposed public accessway identified in a Local Coastal Program land use plan, and the proposed coastal development will enhance and protect public views to and along the ocean and other scenic coastal areas as specified in the Local Coastal Program land use plan.**

The 0.51-acre (22,355 square-feet) site is located on a cul-de-sac at 812 Havenhurst Point and contains an existing single-dwelling unit in the RS-1-4 zone. The project proposes demolishing the existing single-dwelling unit and constructing a new 5,250-square-foot two-story single-dwelling unit with a 1,648 square-foot basement, a new attached 888-square-foot garage, a new attached 408-square-foot Junior Accessory Dwelling Unit (JADU), and a new detached 1,200-square-foot Accessory Dwelling Unit (ADU) for a total floor area of 9,394 square feet. The project also includes a swimming pool with a spa, exterior decks, an outdoor barbeque area, and associated site improvements.

The project site is a rectangular lot bordered by residential development to the east, and west, an open space canyon to the north with homes beyond and other homes to the south within a fully developed residential neighborhood.

The neighborhood surrounding the proposed project is fully developed with an eclectic mix of one, two and three level homes of various designs and sizes. The subject property is not identified in the City's adopted La Jolla Community Plan and Local Coastal Program Land Use Plan (LJCP) as a public access way. There is no physical access way legally used by the public on this property nor any proposed public access way as identified in the LJCP. The project site is located nearly 2,806 feet (nearly $\frac{3}{4}$ mile) from Camino de La Costa, the first public roadway adjacent to the Pacific Ocean.

ATTACHMENT 6

The project was designed to stay within the existing legal lot area and there is no encroachment upon any existing or proposed physical access to the coast used by the public or any proposed public access way identified in a LJCP.

The LJCP does not identify any identified vantage points from Havenhurst Point, although the project site does have coastal views from the public right of way across the project site. The project was designed and sited so as not to block or obstruct these views by conforming to the minimum setbacks for the underlying RS-1-4 zoning regulations and conforming to the coastal height limit.

Conforming with the zoning regulations will provide view corridors from the public right-of-way to the coast of the Pacific Ocean and the finger canyon located north of the project site which the LJCP identifies as designated open space. Therefore, the proposed development will support recommendations within the Natural Resources and Open Space System Element of the LJCP to preserve, enhance, or restore existing or potential view corridors within the yards and setbacks of proposed development.

The proposed project will adhere to community goals as the dwelling unit has been designed in a manner to provide a development that respects its relationship to the sea, to hillsides and to open space; promoting the development of a variety of housing types and maintaining the character of La Jolla's residential areas by protecting natural features, preserving existing streetscape themes and allowing a harmonious visual relationship between the bulk and scale of the established neighborhood by proposing a development that is in conformance with setback, height, and landscape requirements of the underlying RS-1-4 zoning regulations.

Therefore, the dwelling unit will not encroach upon any existing physical accessway that is used by the public or any proposed public accessway identified in the LJCP, and the proposed coastal development will enhance and protect public views to and along the ocean and other scenic coastal areas as specified in the Local Coastal Program land use plan.

b. The proposed coastal development will not adversely affect environmentally sensitive lands.

The project is described in Coastal Development Permit (CDP) finding A.1.a. above, incorporated by reference herein. The project site is in an urbanized area of the La Jolla community and new development is primarily within the previously disturbed and developed areas of the site. The site is directly adjacent to a slope area containing environmentally sensitive lands (ESL) in the form of steep hillsides and sensitive vegetation, including a natural open space canyon area to the north of the property. The project grading will be contained within portions of the site that were previously disturbed and developed. The project includes a brush management plan to protect the proposed structure from potential fire hazards. Zone One of the Brush Management Plan is located outside of steep slopes and sensitive vegetation and the adjacent Open Space area. Zone Two is impact neutral and will not adversely affect any ESL or open space.

The project's Biological Technical Report (BTR) concludes that the project has been designed to avoid impacts to sensitive biological resources. The project will comply with the relevant environmentally sensitive regulations applicable to the site, including setbacks and the ESL regulations. These measures will preclude impacts to the steep slopes and adjacent open space. All development will be confined to areas of the site that are previously disturbed and developed.

The project site is in an urbanized area of the La Jolla community. No natural slopes, sensitive coastal or marine resources or other environmentally sensitive areas would be adversely affected by the proposed project. The site is not within or adjacent to the City's Multi-Habitat Planning Area (MHPA).

The proposed development was found to be categorically exempt from the California Environmental Quality Act (CEQA) in accordance with CEQA Section 15302 (Reconstruction/New Construction) and no further analysis related to environmental impacts was required for the project site.

The dwelling unit and improvements are located within previously disturbed and developed portions of the site and therefore, would not have a significant impact on the environmentally sensitive portions of the project site. Therefore, based on the above, the proposed development will not adversely affect environmentally sensitive lands (also see SDP Supplemental Findings 2a through 2c below).

c. 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.

The project is described in Coastal Development Permit (CDP) finding A.1.a. and A.1.b. above, incorporated by reference herein. The proposed development will demolish an existing single-dwelling unit and construct a new two-story, replacement single-dwelling unit, an ADU and a JADU, located in an area identified for very low-density (0-5 DU/acre) residential land use within the La Jolla Community Plan (LJCP). The replacement of the existing dwelling unit is consistent with the land use designation maximum at five dwelling units per acre. The new single dwelling unit will not change the land use on this site. The SDMC states in Table 131-04D that the maximum permitted density is one dwelling unit per lot. However, section 141.0302(d) states that an ADU that does not exceed 800 square feet shall be permitted by right and not count against the total FAR of development. The additional dwelling unit is a Junior Accessory Dwelling Unit, (JADU) is 408 square feet.

The proposed project meets all the development standards of the San Diego Municipal Code required by the underlying RS-1-4 zone, a height of 27 feet for the house, where a maximum of 30 feet is allowed. The project provides a front setback which ranges from 20 feet to 143 feet where 20 feet is required. The proposed home observes required easterly side setbacks which range from 10 feet to 37 feet, 10 inches westerly side yard setbacks which range from 10 feet to 83 feet where 10 feet is required calculated based on lot width. The rear setback ranges from 81 feet to 127

feet where 20 feet where is required. The floor area ratio (FAR) will be .43 where a max of .45 is allowed.

Based on a submitted photographic and neighborhood survey of the existing development bulk and scale comparisons, the proposed residence was found to be in general conformity with setbacks, bulk and scale, and character of the surrounding neighborhood and vicinity.

While 5 of the 6 immediate neighbors' homes on this short cul-de-sac are single story, within the vicinity (1/4 mile) there are multiple one, two and three level home ranging in size from 1,500 square feet to 14,768 square feet. Within a half-mile radius there are 100 homes that are over 4,500 square feet. Within a quarter-mile radius there are over 80 homes that are either 2 or 3 levels tall. The proposed replacement home will be approximately 5,250 sq ft (not including 1,200 sq ft for ADU and 408 sq ft for JADU and excluding the FAR exempt basement). The proposed home will be from 13 ft 8 inches to 27 ft tall.

The Residential Element of the LJCP recommends maintaining the character of La Jolla's residential areas by ensuring that redevelopment occurs in a manner that protects natural features, preserves existing streetscape themes, and allows a harmonious visual relationship to exist between the bulk and scale of new and older structures. The proposed development has taken the adjacent properties into consideration. The second story has a greater setback of nearly 23 ft from the façade of the 1st floor adjacent to Havenhurst Pt. and is, more centered on the lot keeping the single-story street front facade more inviting by articulating the scale. On the easterly elevation, the second level will also be stepped back eight from the first level elevation.

The development also considers bulk and scale along the street by setting the second story further back than the first, keeping the street facade low scale, and articulating the structure in the front, side, and rear yards, further breaking up massing. The dwelling unit also steps back further on the eastern side as it faces an older single-story home with a more prominent presence on the northwestern side facing the newer developed 2 and 3 level homes across the canyon to the north.

The Residential Element of the LJCP recommends maintaining the character of La Jolla's residential areas by ensuring that redevelopment occurs in a manner that protects natural features, preserves existing streetscape themes, and allows a harmonious visual relationship to exist between the bulk and scale of new and older structures. Page 68 of the LJCP states in its Community Character section:

"Single dwelling unit residential in La Jolla covers a spectrum of densities and architectural styles and expressions."

One of the more critical issues associated with the single dwelling unit is the relationship between the bulk and scale of infill development to existing single dwelling units. New construction of single dwelling unit homes tend to be larger in size than the traditional development in some neighborhoods." The LJCP acknowledges the change occurring with new development and recommends applying plan policies to "... avoid

extreme and intrusive changes to the residential scale of La Jolla's neighborhoods and to promote good design and harmony within the visual relationships and transitions between new and older structures."

These Community Character policies are addressed through elements of the proposed home that address bulk and scale (as viewed from the public right of way and from parks and open space), street landscape, hardscapes, site fixtures (like fencing, walls, and materials), preserving identified public physical and visual access, and maintaining setbacks, height, offsetting planes, and structure articulation. As viewed from the Havenhurst Point, or from across the canyon, the dwelling unit specifically addresses each of the standards, design guidelines, and policies contained within in the LJCP including community character, dealing with the avoidance of extreme and intrusive changes to residential scale, bulk, the design and harmony of the visual relationship in transitions between newer and older structures, landscape and streetscape, sensitive design, and side yard setbacks.

The proposed structure setbacks, massing, scale, variation in building materials, and roofing design all provide visual balance to the proposed dwelling unit's second story's element to transition and compliment the smaller single-family houses on Havenhurst Point. The architectural design supports a streetscape that provides continuity and visual harmony between the proposed development and the existing surrounding newer and older dwelling units. As such, the proposed home meets the criteria and design standards set forth in the LJCP.

The proposed project will comply with all applicable provisions of the Municipal Code and certified LCP and no deviations or variances are requested. Therefore, the proposed development is in conformity with the certified Local Coastal Program land use plan and complies with all regulations of the certified implementation program.

The proposed project will comply with all applicable provisions of the Municipal Code and certified LCP and no deviations or variances are requested. Therefore, the proposed development is in conformity with the other applicable adopted plans and programs in effect for this site (also see Findings B. 1. A. through d. and B. 2. A through e. which are herein incorporated by reference).

- d. For every Coastal Development Permit issued for any coastal development between the nearest public road and the sea or the shoreline of any body of water located within the Coastal Overlay Zone the coastal development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act.**

The project site is not located between the first public roadway (Camino de La Costa), and the Pacific Ocean shoreline within the Coastal Overlay Zone. Therefore, this finding does not apply.

B. Site Development Permit [SDMC Section 126.0505]

1. Findings for all Site Development Permits:

ATTACHMENT 6

a. The proposed development will not adversely affect the applicable land use plan.

See findings A.1.a and A.1.c above, which are herein incorporated by reference.

The proposed home is consistent with the recommended land use, design guidelines, and development standards in effect for the subject property per the adopted LJCP, the Municipal Code and General Plan, which all recommend that the subject property be developed with single-dwelling unit development. Additionally, no deviations or variances are requested. Therefore, the proposed development will not adversely affect the applicable land use plan.

b. The proposed development will not be detrimental to the public health, safety, and welfare.

The development contains specific conditions addressing compliance with the City's codes, policies, regulations, and other regional, state, and federal regulations to prevent detrimental impacts to the health, safety, and general welfare of persons residing and/or working in the area. Conditions of approval require the review and approval of all construction plans by staff prior to construction to determine compliance with all regulations.

No significant impacts to public health and safety were identified during the environmental review. A CEQA Categorical Exemption per CEQA Guidelines Section 15302 (Reconstruction or New Construction) was prepared for the project. It was determined that the project is exempt from CEQA and that the project would not have a significant effect on the environment nor the provision of essential public services because they exist in the vicinity to serve the project.

The construction will be inspected by certified building and engineering inspectors to ensure construction is in accordance with the approved plans and with all regulations. See also Finding A.1.b above, which is herein incorporated by reference. Therefore, the proposed development will not be detrimental to the public health, safety, and welfare.

c. The proposed development will comply with the regulations of the Land Development Code including any allowable deviations pursuant to the Land Development Code.

See finding A.1.c above, which is herein incorporated by reference. The proposed development will comply with the regulations of the Land Development Code and does not include any deviations from the Land Development Code.

2. Supplemental Findings SDMC Section 126.0505(b) – Environmentally Sensitive Lands

- a. **The site is physically suitable for the design and siting of the proposed development and the development will result in minimum disturbance to environmentally sensitive lands.**

See findings A.1.b and A.1.c above, which are herein incorporated by reference.

The project proposes the demolition of a single residential dwelling unit and the construction of a replacement two-story residential dwelling unit which will be located on a site that has been previously disturbed by past grading and the development of the existing dwelling unit. However, the site is directly adjacent to open space, which does contain ESL in the form of steep slopes and sensitive vegetation along the northern edge of the property. The project was designed to locate the proposed structure in approximately the same area as the existing structure. This open space area along the northern edge of the subject property contains vegetation which is mapped as sensitive vegetation by the City's Resource Maps. Potential biological impacts of this proposed project were analyzed, and this analysis concluded that there would be no significant unmitigated impacts that would occur as the result of the proposed project.

The project's permit includes a condition requiring a Water Pollution Control Plan to be reviewed and approved by the City Engineer to meet the City's Storm Water Standards prior to construction permit issuance. The project is located within Geological Hazard Category 53, which is level or sloping terrain, unfavorable structure, low to moderate risk. Based on the City's submittal requirements a Geology Report was prepared which concluded that the project has been designed so that it will not be subject, nor contribute to any significant geological instability (see Allied Earth Technology Geological Investigation Report dated April 5, 2021). The report included analysis of the natural landform, risk from geologic and erosional forces and flood hazards, and the site was found to be physically suitable for the proposed project.

The permit controlling this development contains conditions addressing compliance with the City's regulations and other regional, State, and Federal regulations to prevent significant detrimental impacts to environmentally sensitive lands. Therefore, the site is physically suitable for the design and siting of the proposed development and the development will result in minimum disturbance to ESL.

- b. **The proposed development will minimize the alteration of natural landforms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards.**

See Findings A.1.b and A.1.c, herein incorporated by reference.

The proposed development will not alter any natural landform in that no natural landform is present on the previously graded and developed portion of the property. No development is proposed on the adjacent sensitive steep slopes. Proposed grading plans, landscape plans, and the project's Geotechnical Report indicates that the proposed site has adequate geologic stability. The project is not within a flood overlay zone nor a potentially sensitive area for fire hazards. Therefore, the site is

physically suitable for the design and siting of the proposed development and will not result in undue risk from erosional forces, flood hazards, or fire hazards.

c. The proposed development will be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands.

See the response to Finding A.1.b above, herein incorporated by reference, which demonstrates that the proposed development will not adversely impact environmentally sensitive lands.

The 0.51-acre project site is currently developed with an existing single residential dwelling unit. The proposed project will be located in this previously developed area. The project site is directly adjacent to open space which contains ESL in the form of steep hillsides and sensitive vegetation. This project includes a brush management plan which will not impact the open space area. Potential biological impacts of this proposed project were analyzed (Leopold Biological Services Report April 2024) and it was concluded that there would be no significant impacts that would occur as the result of the proposed project. The project's permit includes a condition requiring a Water Pollution Control Plan to be reviewed and approved by the City Engineer in order to meet the City's Storm Water Standards prior to construction permit issuance. The environmental review determined that the project would not have any significant environmental effect on environmentally sensitive lands and the project was found to be categorically exempt from environmental review under CEQA Guidelines. Therefore, the proposed development is sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands.

d. The proposed development will be consistent with the City of San Diego's Multiple Species Conservation Program (MSCP) Subarea Plan and Vernal Pool Habitat Conservation Plan (VPHCP).

The project site occurs within the Urban Area of the MSCP Subarea Plan. The project is not located within or adjacent to the Multiple Habitat Planning Area (MHPA). The proposed project was found to comply with the MSCP general management directive. During environmental review, it was determined that the project was categorically exempt under the CEQA Guidelines.

Since the project site is not within or adjacent to the Multiple Species Conservation Program (MSCP) Multiple Habitat Planning Area (MHPA) nor any Vernal Pool Habitat Conservation Plan (VPHCP) area, a determination of consistency with the City of San Diego's MSCP Subarea Plan and VPHCP is not required for the proposed project.

e. The proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply.

See Finding A.1.b above, which is herein incorporated by reference. The development is over three quarters of a mile east of the ocean and within private property. The development will be contained within the existing developed site. The project's permit includes a condition requiring a Water Pollution Control Plan to be reviewed and

approved by the City Engineer in order to meet the city's stormwater standards prior to construction permit issuance. Due to the project's drainage design, limited size, and distance from the coastline, it is not expected that the project will contribute to the erosion of public beaches or adversely impact local shoreline and supply. Therefore, the proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply.

f. The nature and extent of mitigation required as a condition of the permit is reasonably related to, and calculated to alleviate, negative impacts created by the proposed development.

The project was determined categorically exempt pursuant to CEQA Section 15302 (Replacement or Reconstruction). This determination applies to the proposed replacement of a single dwelling unit and the construction of new dwelling unit and its associated site improvement on the same site and does not require any environmental mitigation and as such will not create any of these referenced potential impacts.

The above findings are supported by the minutes, maps and exhibits, all of which are incorporated herein by this reference.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Hearing Officer, Coastal Development Permit No. PMT-2586783 and Site Development Permit No. PMT-2586785 are hereby GRANTED by the Hearing Officer to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Permit No. PMT-2586783 and Permit No. PMT-2586785 a copy of which is attached hereto and made a part hereof.

Martin R. Mendez
Development Project Manager
Development Services

Adopted on: September 18, 2024

IO#: 24009391



THE CITY OF SAN DIEGO

DATE OF NOTICE: May 29, 2024

NOTICE OF RIGHT TO APPEAL ENVIRONMENTAL DETERMINATION

DEVELOPMENT SERVICES DEPARTMENT

IO No. 24009391

PROJECT NAME / NUMBER: Garcia Residence / PRJ-0697754

COMMUNITY PLAN AREA: La Jolla

COUNCIL DISTRICT: 1

LOCATION: 812 Havenhurst Point San Diego, CA 92037

PROJECT DESCRIPTION: The project proposes a Coastal Development Permit (CDP) and Site Development Permit (SDP) for the demolition of an existing 3,018 square-foot (sf) 1-story single-family residence and the construction of a 9,590 sf., 3-story single-family residence, including a 1,200 sf ADU, 422 sf JADU, 899 sf garage, pool, decks, and associated site improvements (i.e. hardscape, landscape) at 812 Havenhurst Point. The 0.51-acre site is in the RS-1-4, Coastal (Non-appealable) overlay zones within the La Jolla Community Plan area. **LEGAL DESCRIPTION:** Lot 34 of Muirlands Point, Map No. 3035.

ENTITY CONSIDERING PROJECT APPROVAL: City of San Diego Hearing Officer

ENVIRONMENTAL DETERMINATION: Categorically exempt from CEQA pursuant to CEQA State Guidelines, Section 15302, Replacement or Reconstruction.

ENTITY MAKING ENVIRONMENTAL DETERMINATION: City of San Diego

STATEMENT SUPPORTING REASON FOR ENVIRONMENTAL DETERMINATION: The City of San Diego determined that the project would qualify to be categorically exempt from CEQA pursuant to Section 15302 (Replacement or Reconstruction). The exemption consists of replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced. Since the project proposes the replacement of an existing single-family residence and associated site improvements with a new single-family residence and associated site improvements, this exemption was deemed appropriate. In addition, the exceptions listed in CEQA Section 15300.2 would not apply. **The site is not included on any list compiled pursuant to Government Code Section 65962.5 for hazardous waste sites.**

DEVELOPMENT PROJECT MANAGER: Chandra Clady
MAILING ADDRESS: 1222 First Avenue, MS 501, San Diego, CA 92101-4153
PHONE NUMBER / EMAIL: (619) 446-5286 / CClady@sandiego.gov

On May 29, 2024 the City of San Diego (City), as Lead Agency, has made the above-referenced environmental determination pursuant to the California Environmental Quality Act (CEQA). This determination is appealable to the City Council. If you have any questions about this determination, contact the City Development Project Manager listed above.

Applications to appeal CEQA determination made by staff (including the City Manager) to the City Council must be filed in the office of the City Clerk by 5:00pm within ten (10) business days from the date of the posting of this Notice (June 12, 2024). Appeals to the City Clerk must be filed by email or in-person as follows:

- 1) Appeals filed via E-mail: The Environmental Determination Appeal Application Form [DS-3031](#) can be obtained at <https://www.sandiego.gov/sites/default/files/legacy/development-services/pdf/industry/forms/ds3031>. Send the completed appeal form (including grounds for appeal and supporting documentation in pdf format) by email to Hearings1@sandiego.gov by 5:00p.m. on the last day of the appeal period; your email appeal will be acknowledged within 24 business hours. You must separately mail the appeal fee by check payable to the City Treasurer to: City Clerk/Appeal, MS 2A, 202 C Street, San Diego, CA 92101. The appeal filing fee must be United States Postal Service (USPS) postmarked) before or on the final date of the appeal. Please include the project number on the memo line of the check.
- 2) Appeals filed in person: Environmental Determination Appeal Application Form [DS-3031](#) can be obtained at <https://www.sandiego.gov/sites/default/files/legacy/development-services/pdf/industry/forms/ds3031.pdf>. Bring the fully completed appeal application [DS-3031](#) (including grounds for appeal and supporting documentation) to the City Administration Building-Public Information Counter (Open 8:00am to 5:00pm Monday through Friday excluding City-approved holidays), 1st Floor Lobby, located at 202 C Street, San Diego, CA 92101, by 5:00pm on the last day of the appeal period. The completed appeal form shall include the required appeal fee, with a check payable to: City Treasurer.

This information will be made available in alternative formats upon request.