



THE CITY OF SAN DIEGO

October 12, 2011

Mr. Tony Crisafi, President
La Jolla Community Planning Association
7626 Herschel Avenue
La Jolla, CA 92037

Dear Mr. Crisafi:

This letter is to memorialize the recent meeting that we had on September 30, 2011 with you, Rob Whittemore and Joe LaCava of the La Jolla Community Planning Association (LJCPA) to discuss recent actions by the LJCPA, planning group operations, voting procedures and appeals. The primary cause for concern were the recent actions taken regarding the 1912 Spindrift project and the fact that the LJCPA voted to appeal but then did not follow through. The actions of the group appeared biased in that the Chair's project was not appealed and thus the applicant was spared additional costs for the appeal hearing. The actions and procedures were not consistent with the intent of Council Policy 600-24 or the LJCPA bylaws. Based on our discussion we would like to document our recommendations for any future actions in order to be consistent with Council Policy 600-24 *Standard Operating Procedures and Responsibilities of Recognized Community Planning Groups*. Therefore, we recommend the following:

- 1.) *Revote*: A planning group should generally act only one time to provide a formal recommendation on a proposed development project. When a community planning group wants to revoke on a matter originally voted upon at a prior meeting, due to project revisions or new information, a motion to reverse or modify a previous position at a subsequent meeting can be made by any member. This will ensure that only one vote is sent to the City's Development Services Department Project Manager for inclusion in the staff report. See Council Policy 600-24, Article II and the Administrative Guidelines for more information.
- 2.) *Consent agenda*: Council policy allows for any item to be taken off the consent agenda by request. The LJCPA bylaws state that items taken off the consent agenda will be placed on the next monthly or special meeting for a full discussion. Items that are requested to be pulled off the consent agenda should be heard the following month in accordance with the LJCPA bylaws.
- 3.) *Recusal*: When the Chair or another board member needs to recuse him/herself from an item for any reason, they should have no further contact with the proposed project and should not sign the letter to record the final vote. If it is the Chair that must recuse from

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Development Services • Planning Division

1222 First Avenue, MS 413 • San Diego, CA 92101-4106

Tel (619) 235-5200 • Fax (619) 236-6478



an item, then the Secretary should annotate this in the minutes along with who is currently chairing the meeting.

- 4.) *Abstention:* The CP600-24 Administrative Guidelines state that abstention is voluntary but strongly recommended where a member has a legitimate, non-economic, personal interest in the outcome that would, at a minimum, give the appearance of impropriety, or cast doubt on their ability to make a fair decision. For this reason we advise that there may be cause for abstention when two board members have a financial relationship in order to avoid the appearance of impropriety. We understand there was some discussion about who would fill-in when the current Chair must abstain or recuse from an item.
- 5.) *Appeals:* According to the City's Information Bulletin 505 only the Chair of a recognized community planning group may file an appeal without paying the \$100 fee. However, other interested persons as defined by Municipal Code Section 13.0103 may also file an appeal for Process 3's and 4's. Interested person means a person who was present at a public hearing from which an appeal arose and who had filed a speaker slip with the decision maker at that public hearing or a person who expressed an interest in the decision in writing to that decision maker before the close of the public hearing. When the Board votes to appeal a project, the Board should also appoint a member to come down to the City and file the appeal, particularly when the situation is such that the Chair had to recuse or abstain. This should be captured in the minutes and the LJCPA could amend their bylaws to propose language that would address this situation. The appeal should be filed unless the planning group votes to rescind its vote to appeal a project at a regular or special meeting of the planning group. The Brown Act requires that all deliberations be conducted openly.
- 6.) *Subcommittees:* Planning groups may not, as a condition of placing an item on their agenda, require applicants to submit additional information and materials beyond which the applicant has been required to submit as part of the City's project review application process. However, if additional materials would aid in their review, they may make a request of the project applicant to provide, if available. Due to timing and/or when a project is in the City's Affordable/In-Fill Housing and Sustainable Buildings Expedite program the LJCPA Project Review Subcommittee could consider meeting more frequently.
- 7.) *Bylaw amendments:* We understand that the LJCPA has Policies and Procedures to guide members through meeting operations. As we and the City Attorney's office have advised in the past, we strongly recommend memorializing these procedures and policies by incorporating them into the LJCPA bylaws in order to make them official and recognized by the City. See CP600-24 Policy (paragraph 3).
- 8.) *Development Plans:* Development packages that are sent to all planning groups for project review may contain copyrighted information. Architectural drawings and plans have been found eligible for copyright protection. For planning groups this means that the set of plans that is sent is to be used for public review and discussion and may not be reproduced or distributed to persons who are not members of the planning group.

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9.) *Brown Act Training:* At the meeting, we agreed that Brown Act training for the LJCPA would be appropriate. The City Attorney's Office is unable to provide such a training at this time but planning staff is very familiar with the application of the Brown Act for community planning groups, presents this information every year at the annual Community Orientation Workshop (COW), and would be able to provide such a training at an LJCPA regular or special meeting.

Please feel free to contact me if you have any further questions.

Sincerely,



Mary P. Wright

Deputy Director, Development Services Department – Planning Division

Cc: Rob Whittemore, Vice President, La Jolla Community Planning Association
Joe LaCava, Trustee, La Jolla Community Planning Association
Kelly Broughton, Director, Development Services Department
Christine Rothman, Program Manager, Development Services Department
Lesley Henegar, Senior Planner, Development Services Department