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LAND USE | REAL ESTATE | ENVIRONMENTAL

March 29, 2021

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Diane Kane, President
and Trustees of the La Jolla Community Planning Association
P.O. Box 889
La Jolla, CA 92038

Re: Agenda Item No. 6.1-6767 $\frac{1}{3}$ Neptune Pl, Windansea Barrier

Ms. Kane and Trustees of the La Jolla Community Planning Association:

I represent the Preserve Windansea Beach Association (PWBA), a group of La Jolla residents concerned with the preservation of the Windansea Beach (Windansea). PWBA is opposed to development of a belvedere on the coastal bluff overlooking Windansea (Project). In particular, placement of a belvedere on the proposed site is a violation of a number of policies in the 2014 La Jolla Community Plan (LJCP). These violations also prevent the applicant from satisfying the findings necessary for the permits the project requires. The Project also violates regulations for sensitive coastal bluffs in the City of San Diego's Land Development Manual.

Submitted as Attachment A to this letter is a report by Great Ecology, which identifies the Project's negative impacts on viewsheds and scenic vistas, the Multiple Habitat Planning Area, of which Windansea Beach is a part, and geotechnical stability.

PWBA believes Windansea would benefit from a comprehensive plan to stabilize and beautify the existing benches, fences, walkways and stairways. The plan for the placement of this belvedere, however, is ill-advised. It is unnecessary, blocks views and endangers the sensitive coastal bluff.

Community Plan Analysis

As the Association is aware, any project in the La Jolla community must be developed in accordance with the policies of the LJCP. The LJCP contains multiple policies and recommendations prohibiting the Project:

Policy 1: Open Space Preservation and Natural Resource Protection

This policy requires the preservation of public property designated as open space *to the maximum extent feasible*. Any contemplated development in the open space is restricted to preserving the park, recreation, scenic, habitat and/or open space values of these lands, and to protecting public health and safety. (LJCP, p. 38).

Windansea is designated as open space in the LJCP and therefore the above restrictions apply to any development there. The Project does not preserve the open space of Windansea to the maximum extent

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feasible. Instead, it reduces both the scenery and the available open space by placing a structure on the narrow bluff.

Policy 2: Visual Resources

Public views from identified vantage points in the LJCP are protected. In particular, Figure 9 and Appendix G identify view cones on Rosemont and Kolmar Streets. (Attachment B). The LJCP requires a ninety-degree unblocked view from the center of the foot of these streets. The belvedere would block the views of the ocean from both of these view cones. (See Attachment B).

In addition to the view cones, the LJCP also mandates preservation of public views to the ocean from the first public roadway adjacent to the ocean. Visual simulations from Great Ecology also demonstrate how the views from Neptune Place, the first public roadway adjacent to the ocean, will be blocked by the belvedere. The Applicant's own drawings demonstrate these views will be blocked. At the LJCPA subcommittee meeting, the Applicant submitted a northern elevation of the belvedere with the public right of way. The view of a person on the sidewalk next to the belvedere is obviously blocked, as is would be that of the person across the street and as would be that of anyone driving on Neptune. (See Attachment C).

Policy 3: Shoreline Areas and Coastal Bluffs.

This policy requires the preservation and protection of coastal bluffs. It acknowledges the constant wave action eroding the base of the cliffs and commits to aggressive regulation of coastal development.

The Project proposes to be located squarely on top of a narrow bluff at Windansea. The Applicant has stated, and the elevations indicate, constructing the belvedere will require drilling into the bluff to install footings for the belvedere.¹ (See Attachment C). Nothing about this proposal reflects aggressive protection of the eroding coastal bluff. Such a development directly contravenes this policy.

The Project violates the important policies of the LJCP protecting the beaches and coastal bluffs—La Jolla's most precious resource. This alone is reason to reject this Project. As is discussed below, however, the Applicant will be unable to support the necessary findings for the permits required for this Project.

Coastal Development Permit Findings

The project requires a Coastal Development Permit (CDP) and must satisfy all of the findings listed in SDMC section 126.0708(a):

(1) 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.

¹ At the subcommittee meeting, it was stated the belvedere would be "at grade" but the Applicant's own elevations show footings will have to be installed below grade.

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This finding cannot be made because the belvedere will undermine and block public views to and along the ocean. As is discussed above and demonstrated in the visual simulations, the Project will block several protected view cones as well as the scenic ocean view along Neptune.

Furthermore, the belvedere blocks the existing stairway to the beach. Those wishing to access the stairway from the sidewalk—particularly from the south—will have to walk around it. (See Applicant’s Presentation to the subcommittee, p. 6).

(2) The proposed coastal development will not adversely affect environmentally sensitive lands.

This Project area is considered environmentally sensitive land because it is both a coastal beach and a sensitive coastal bluff. SDMC section 113.0103 defines environmentally sensitive lands as “land containing steep hillsides, sensitive biological resources, coastal beaches, sensitive coastal bluffs, or Special Flood Hazard Areas.” The same SDMC section further defines a sensitive coastal bluff as one “designated within hazard category numbers 41 through 47, inclusive, on the City’s Geologic Hazard Maps plus the area of an additional 100-foot strip located landward and contiguous to the coastal bluff edge.”

The bluff at Windansea Beach is designated as a category 43 on the City’s Geologic Hazard Map. (See <https://www.sandiego.gov/sites/default/files/geo24.pdf>). Category 43 is characterized as “generally unstable, unfavorable jointing, local high erosion.” The Geologic Hazard Map also identifies a number of concealed faults along Windansea, including the project area. The City’s CEQA significance thresholds require a Geological Survey for development proposed on a category 43 site. The Applicant has not provided such a survey, therefore at the very least, there is insufficient information to make this finding.

It must be noted coastal bluffs in San Diego collapse regularly, most recently in Del Mar. These events are often tragic, killing beach goers without warning. The City should be reducing this danger wherever possible, not increasing it with blufftop development.

Windansea is also entirely within the City’s Multiple Habitat Planning Area (MHPA), which contains environmentally sensitive lands. As is discussed in greater detail in the analysis by Great Ecology, the Project negatively impacts sensitive species.

(3) 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 LJCP incorporates the policies and recommendations of the 1983 La Jolla-La Jolla Shores Local Coastal Program (LCP). The LCP policies require prevention of significant impacts on sensitive habitats. (LJCP, p. 20). Furthermore, the LCP prohibits development within 40 feet of the bluff edge, unless the development can be shown to be geotechnically stable. The belvedere is less than 40 feet from the bluff edge—without additional information, it does not comply with the LCP.

Finally, the LCP also requires directing roof and surface drainage away from the bluff and the roof of the belvedere clearly drains toward the bluff face.

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(4) 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 California Coastal Act is encoded in California Public Resources Code sections 30000-30900. Section 30212.5 dictates “[w]henver feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.”

The Project places the belvedere on top of a narrow bluff next to two existing benches. It is sandwiched between the top of a stairway to the beach and a rope barrier next to the sidewalk. This layout creates an unnecessary crowding at the southern point of this narrow coastal bluff. Unlike other beaches in La Jolla, Windansea is known for its “unique pattern of rock formations . . . pocket beaches . . . [and its] unimproved bluff top trail provides scenic vistas.” (LJCP, p. 150). The lone development is a historically designated surf shack, otherwise, the beauty of Windansea is the windswept structure-free scenery. The purpose of the Coastal Act’s public access policy protects this scenery from the type of visual congestion that would be created with the belvedere.

For the above reasons, the Applicant cannot fulfill the necessary findings of a Coastal Development Permit.

Site Development Permit Findings

Due to its location on a sensitive coastal bluff, the Project also requires a Site Development Permit (SDP). Those findings can be found in SDMC section 126.0505, but for the following reasons, the Project does not have the necessary attributes to support these findings:

(1) The proposed development will not adversely affect the applicable land use plan.

As is detailed in the first section of this letter, the Project adversely affects the La Jolla Community Plan. The Project’s development violates many policies of the LJCP. The belvedere will block viewsheds and scenic vistas. It will endanger a sensitive coastal bluff. It violates policies of the LCP, which is part of the LJCP. It impacts the plants and animals protected by the MHPA. Because of the location of its placement, the Project cannot mitigate these adverse impacts and this finding cannot be made.

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

This finding cannot be made. The location of the belvedere blocks public views and encroaches on public access to the beach by its placement. Without the appropriate geological study, it is unknown if the belvedere endangers the stability of the bluff and thus public safety.

In addition, a belvedere will encourage criminal and nuisance activity. Residents already suffer from late-night noise (often between midnight and 4 a.m.) due to people congregating on the ocean bluff, drinking, and using drugs. The police have been called due to people setting off fireworks in the middle of the night. Residents have noted an uptick in criminal activity in the area. Homeless persons sleep on the benches and

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on ocean bluff plants. People leave trash and worse on the ocean bluff top. Building a shelter will only encourage this activity. A recent assault took place at 8:00 a.m. only one block from the proposed belvedere. Relevant crime statistics for the beach and surrounding neighborhood can be found at Attachment D.

In addition, there is insufficient room for a belvedere to comply with ADA regulations. The sidewalks are in poor condition and dangerously narrow. In order for a pedestrian to yield to a wheelchair, baby stroller, or walker, the pedestrian must step off high curbs into the street where potholes and irregular asphalt are their own hazards. A belvedere and the proposed fencing will only exacerbate this significant safety hazard.

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

The Land Development Code comprises chapters 11-14 of the San Diego Municipal Code. (SDMC 111.0101(a)). In SDMC chapter 14, section 143.0143 prohibits development within 40 feet of a sensitive coastal bluff edge. The only exception is if a detailed geological survey confirms the development will not be unstable. The belvedere is proposed for development within 40 feet of the bluff edge. The Applicant has not supplied the necessary geological survey and therefore the proposed development does not comply with the Land Development Code.

The regulations of the Land Development Manual (LDM) are intended to supplement the Land Development Code (SDMC 111.0106). The LDM directs as follows: “In determining the stability of the sensitive coastal bluff, consideration shall be given to the rate of bluff retreat to determine whether the proposed development will be impacted within a reasonable economic life-span, taken to be 75 years.” The Applicant has not submitted anything to indicate bluff erosion will not impact the belvedere. In contrast, PWBA association has submitted photographs of existing belvederes located at other La Jolla beaches. These photographs demonstrate how the belvederes erode at their bases over time.

The Land Development Manual also mandates “[n]o structures or other obstructions that will impede views shall be installed within the boundaries of any required visual corridor.” (LDM, p. 15). The belvedere violates this mandate because it blocks the view from the Kolmar Street and Rosemount Street view cones. In addition, it blocks the scenic vista of Neptune Place.

The Project does not comply with the regulations of the Land Development Code. This finding cannot be made and a Site Development Permit cannot issue.

SDMC 126.0505(b) also requires a number of supplemental findings for environmentally sensitive lands. Among other findings, that section requires finding (1) 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; (2) The proposed development will minimize the alteration of natural land forms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards; and (3) The proposed development will be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands. For the reasons discussed at length in this letter, we do not see how these supplemental findings can be made.

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The Belvedere Destroyed in 1982 Was Not a Historic Resource

There has been some discussion in the Applicant's presentation and at the subcommittee meeting suggesting the former belvedere was "historic." This is not the case. The surf shack at Windansea Beach has been designated as a historic resource and is registered with the City of San Diego's Register of Historic Resources (San Diego Register of Historic Resources No. 358). No other structure at Windansea Beach is designated as historic. Importantly, no other belvedere in La Jolla has been designated historic.

While it is true CEQA does not require designation for a property to be considered historic, CEQA is a statute requiring documentation of environmental impacts of a project on the environment—i.e., on a historic resource. CEQA does not play any role in the permitting and development of a new structure alleged to replace a structure the community never designated as historic.

It is true rebuilding is a recognized treatment for a historic structure under the Secretary of the Interior's Guidelines. Nevertheless, there is no mandate here to rebuild the belvedere. Furthermore, in the time since the belvedere was destroyed, La Jolla has revised its community plan at least once. The LJCP now prioritizes bluffs, views, and sensitive habitats over structures previously occupying a bluff top.

Council Policy 700-07: Park Development by Non-City Funds

It is PWBA's understanding the Applicant intends the belvedere and other proposed improvements be funded by private funds. Council Policy (CP) 700-07 governs such development. Section 5 of CP 700-07 requires a preliminary General Development Plan (GDP) for the park be adopted by the City Council in order for the City to participate in such improvements. To the best of PWBA's knowledge, no GDP has been formed for the Windansea Beach.

Cycle Issue Review Letter

On March 3, 2021, the City of San Diego issued the first Cycle Issues Report for this Project. It identified many unresolved issues. In order to proceed with review, the City requires a biology technical report, drainage and stormwater plans and a geotechnical report. The City's environmental staff has not yet identified the environmental document required under the California Environmental Quality Act. If anything, this project is not ready for the LJCPA's review. The Project should be brought back when these issues are clarified.

Public Opposition

PWBA has circulated a petition garnering over 500 signatures opposing the Project. The petition is attached as Attachment E. In addition, members of PWBA and the general public have submitted at least 50 letters opposing the Project. Given this virulent opposition, there is little reason for the LJCPA to recommend it to the City's planning commission.

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Conclusion

The PWBA supports plans to beautify the beach and improve existing infrastructure. For all of the reasons listed above, however, PWBA opposes the erection of a belvedere at Windansea Beach. It is unnecessary and will negatively impact the beach. Thank you for your consideration of these matters.

Sincerely,



Andrea Contreras Rosati

Cc: Karen Bucey, City Project Manager (by email: kbucey@saniego.gov)
Councilmember Joe LaCava (by email: joelacava@saniego.gov)
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Attachments