

Bird Rock Resident Comments on the Bird Rock Station project.

This was written in brief for the February 1, 2007 CPA Meeting; Some punctuation and words are added and highlighted for clarity

I request that these comments be placed in the written record:

Applicant (Michael Krambs) claims the PDP (Planned Development Permit) can be used to garner deviation from the two story limit in the PDO (Planned Development Ordinance), given alleged benefits over a two story design. The purported benefits cited to date at earlier hearings have been increased parking and superior design.

Parking: Applicant Krambs cites commercial use (of the property) as a destination for Bird Rock. Depending on use, the project may yield less, not more parking space. Applicant Krambs currently plans a restaurant. On this use, he provides no parking benefit and is not clearly in the regulations for spaces required for a restaurant.

Design: Applicant Krambs claims a superior design aesthetic of his 3-story submission over the 2-story alternative. But he has not provided a 2 story design for comparison. To find in his favor on these grounds would be arbitrary and capricious. Further, Applicant Krambs's Architect Mark Lyon is quoted as saying 2 story design is not possible. Granting a deviation on economic grounds is not consistent with the regulations.

126.0601 outlines the purpose of a PDP procedure. As stated, "The intent is to encourage imaginative and innovative planning to assure that the development achieves the purpose and intent of the applicable land use plan ...". To the contrary, this proposal is inconsistent with core elements of intent, consequent policy and regulations which were put in place to realize that intent.

Specifically, quoting the plan: "The City should preserve and enhance, where possible, ocean views and other scenic vistas in commercially designated areas by maintaining the established 30-foot height limit." Moreover it should "Avoid abrupt transitions in scale between commercial buildings and the adjacent residential areas". And further, "The City should promote mixed-use development in all commercial areas of the community." And finally, "the La Jolla ... PDO [is] incorporated herein by reference".

Granting a deviation for 3 stories violates this intent with respect to: i. removing ocean views for those to the east of the building, ii. creating an abrupt transition in scale, iii. preventing viable commercial use because of low ceilings on the first floor, iv. being at variance with the core element of the PDO.

Applicant claims that he has been advised to apply for a deviation rather than a variance but the committee has no independent credible evidence to that effect. **To grant an exception to the PDO 2-story limit is the override the core element of the PDO regulations that was designed to realize the intent of the land use plan.** An exception of this magnitude requires a variance not a deviation.

Furthermore, the committee is not in a position to make findings of fact in re a variance that meet the standard of being non-arbitrary and capricious, absent more information in the areas of soil contamination, traffic and land use impact. Residents are deeply concerned about the potential for detrimental effects of this project in each of these areas and are currently in contact with independent qualified experts. It is our belief that their written opinions will underscore the need for an environmental impact statement before any responsible finding of fact can be made by this committee given its charge, duties and responsibilities.