

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
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May 30, 2007

City of San Diego
Planning Department
Attn: Betsy McCullough, AICP
202 "C" Street MS 5A
San Diego, CA 92101

Re: Flower Hill Mall Coastal Development Permit Jurisdiction

Dear Ms. McCullough:

This letter is regarding coastal development permit authority at Flower Hill Mall, which is an existing neighborhood shopping center located in the northeast quadrant of the Interstate 5/Via de la Valle interchange just south of Solana Beach. A question has arisen as to whether coastal development permit (CDP) jurisdiction rests with the City of San Diego or the California Coastal Commission in this area. The Coastal Commission's San Diego District staff wrote three letters to the City last year (see attached) in an attempt to resolve this issue; however, there has been no response to these letters, and we have been unable to discuss this matter directly with any City staff member. At this time, we would like confirmation from City staff that you agree the CDP jurisdiction in this area rests with the Coastal Commission, and there is no further dispute regarding CDP jurisdiction.

As you will see in these past letters, City staff had advised Commission staff that this specific site is not part of any certified community plan. This information was then independently researched and verified by Commission staff. To be part of the City's certified LCP, a site must be located within a certified land use plan area, which in the case of the City of San Diego usually takes the form of a community plan or precise plan, in order for the City to have the authority to issue coastal development permits. The uncertified 1984 Via de la Valle Specific Plan includes conflicting information as to whether or not the center/property lies within its boundary. The center/property is clearly shown to be outside the North City Future Urbanizing Area (Subarea II) planning area to the south. The City's LCP requires certain findings be made for any coastal development permit it issues. One of those findings is that the proposed development is consistent with the certified land use plan. Since there is no certified land use plan for the subject site, the required finding cannot be made. Thus, the subject property is not part of the City's certified Local Coastal Program, and coastal development permit jurisdiction remains with the California Coastal Commission.

At one point in the past, we know City staff maintained that the above-referenced site is located within the City of San Diego coastal development permit jurisdiction. The City's determination was based on the 1988 draft post-certification maps, which incorrectly identify this site as being in the City's coastal development permit jurisdiction. These maps have not been certified, and are known by both Commission and City staff to contain numerous errors.

It is Commission staff's understanding that the City has already approved a coastal development permit authorizing a two-lot financial subdivision for this property. Because the site is not located within a certified land use plan area, and is, thus, not part of the certified LCP, Commission staff believes this permit is invalid. It is Commission staff's understanding that several significant modifications to this existing shopping mall have either already occurred, are currently in the review process at the City, or are being planned for future submittal to the City. Specifically, and at a minimum, (1) an existing restaurant within the mall has expanded its operations into area previously used for retail sales and open patio area; (2) a two-lot "financial" subdivision of the site has undergone City review and been issued an invalid coastal development permit, and (3) major expansion of the shopping center is being planned and/or processed locally. All three of these matters constitute development and, thus, require a coastal development permit from the Coastal Commission. Once all local discretionary actions for these matters have been completed, the property owner can submit applications to this office for coastal development permits.

This is not an isolated incident, as other instances have come up that demonstrate the City's awareness that a site has to be within a certified land use plan for the City to grant the coastal development permit. In the past, but subsequent to effective certification of the City's LCP and the delegation of coastal development permit authority for most areas, the Commission has processed coastal development permits for projects within the Linda Vista and Mission Valley communities, since neither community is part of the City's LCP. One of these was a City project. However, Commission staff has recently received preliminary plans for a Linda Vista project, wherein the City is processing both a site development permit and a coastal development permit. A message left for the assigned project manager explaining the Commission's position was not returned.

Commission staff would like to resolve this matter, and has attempted to do so through both letters and phone calls. There has been no response from the City to these efforts. Before the first letter was sent, a meeting with City staff was set approximately a year ago to discuss this matter, but was then cancelled by City staff without notification to the Commission. Commission staff still wants to meet with City staff to discuss these concerns. Thank you in advance for investigating this matter and helping us address this

situation as expeditiously as possible. If you have any questions, please do not hesitate to call me at the above office.

Sincerely,



Ellen Lirley
Coastal Planner

cc: Michael Aguirre *w/enc*
Protea Properties *w/enc*
Derrick Johnson *w/enc*
Sherilyn Sarb
Deborah Lee
Lee McEachern
Marsha Venegas