



## STAFF REPORT SAN CLEMENTE PLANNING COMMISSION

Date: January 23, 2013

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**PLANNER:** Amber Gregg, Associate Planner *AGG*

**SUBJECT:** Interpretation 13-012, Story Pole Interpretation, a request for an interpretation from the Planning Commission regarding story pole requirements for residential projects.

### PURPOSE AND INTENT

The purpose and intent of the interpretation process is to provide for review and official interpretation of ambiguities in the Zoning Ordinance. No findings are required as part of this review, as we are not requesting an interpretation on a permitted use.

### BACKGROUND

On December 19, 2012, the Planning Commission held a public hearing for the Reef Pointe Villas project, a five-unit, three-story, apartment development located in the Pier Bowl Specific Plan area (410 Arenoso Lane). At the meeting the Commission considered evidence presented by City Staff, the applicant, and other interested parties.

One member of the public, Ms. Christina Leon, spoke in opposition of the project. In her testimony Ms. Leon stated that she had concerns about the view of the ocean being lost and that story poles should be erected to see the true impact of the development.

Prompted by Ms. Leon's comments, staff reviewed the requirement of the story poles section of the Zoning Ordinance (17.24.100) at the meeting, which states the following:

**Visual Analysis Tools.** *Story pole staking, as described in Section 17.12.060 "Applications Requiring Additional Information," of this title, shall be required when a discretionary application is submitted which proposes one of the following:*

- 1. A new structure or addition that is three (3) or more stories within a Nonresidential, Mixed Use zone and/or an Architectural Overlay District; or*
- 2. Any structures with the potential to affect public view corridors from public places in the Coastal Overlay zone, regardless of number of stories.*

In the past, story poles have only been utilized on three story developments in Commercial or Mixed Use Zones. We have not previously processed a residential project of three or more stories (since the adoption of the story pole requirement section 17.12.060), that was also in the Architectural Overlay District. There are several small portions of the City that have Residential zoned properties within the Architectural overlay; they are identified on Attachment 1.

Staff showed the section of the Zoning Ordinance to the Assistant City Attorney at the Planning Commission meeting. The Assistant City Attorney stated that there was ambiguity in the ordinance, with its reference to development that required story poles. Further, he had concerns that the requirement would violate the permit streamlining act. Specifically, Government Code Section 65940(a) requires the City to compile a list of the information required for an application to be deemed complete. Therefore the Assistant City Attorney recommended not to raise the issue.

Planning Commission addressed Ms. Leon's comments and stated that story poles were not required in this instance. The Planning Commission approved the project unanimously based on the findings, the fact that the building did not maximize the development envelope, was a full story under the permitted height allowance, recessed the third floor on all four sides, and was Spanish Colonial Revival architecture.

## **ANALYSIS**

After the meeting, staff reviewed the entire story pole section of the Zoning Ordinance (17.24.110, Height limitations), and agreed that the language is ambiguous. Upon closer examination and reflection, it appears the intent of the ordinance is to require story poles for any residential projects three or more stories in height within the Architectural Overlay District.

Story Poles are discussed under two sections of the Zoning Ordinance, Section 17.12.060, Review Process, Applications Requiring Additional Information and Section 17.24.110, General Standards Height Limitations. These sections are provided in their entirety under Attachments 2 and 3 respectively.

The first section (17.12.060), outlines the requirements and standards for staking the poles and provides the City Planner flexibility to necessitate story poles for projects that do not require them. The second section (17.24.110) identifies the projects that require story poles to be erected. Staff believes story poles are required for residential project based on the wording in 17.24.110, which states "*A new structure or addition that is three (3) or more stories within a Nonresidential, Mixed Use zone and/or an Architectural Overlay District.*" Although the wording is confusing because it states "Nonresidential", the sentence continues "and/or in an Architectural Zone". The use of the "and/or" ultimately requires all three story developments in the Architectural Overlay to erect story poles.

City Attorney, Jeff Goldfarb, also reviewed the code and concurs with staffs assessment and determination.

**FUTURE CLEAN UP**

In our review, staff identified several problems with the story pole ordinance. Some of the problems that need cleaned up include:

- Clear wording to avoid confusion as to when story poles are required.
- The ordinance can require story poles for residential developments that have a 25 foot height limit.
- The location of the story poles requirement is problematic as it's located under height limitations. Staff would like to add a note in the zoning development standard sections of the code making the requirement more prominent to applicants and staff.

Staff will review these issues as part of the larger Zoning Ordinance update.

**CONCLUSION**

Based on the above information, staff believes that the intent of the visual analysis tools section of the ordinance is to require all developments that are three or more stories, including residential, that are located within the Architectural Overlay, be required to erect story poles.

**ALTERNATIVES; IMPLICATIONS OF ALTERNATIVES**

1. The Planning Commission can concur with staff's conclusion and approve the Interpretation.

*This would result in all developments within the Architectural Overlay that are three stories in height or more, including Residential projects, be required to erect story poles.*

2. The Planning Commission can at its discretion make other interpretations of the intent and purpose of the story poles.

*Another interpretation could be that the intent was to require all commercial and mixed-use developments that are three or more stories to provide story poles, and that the requirement was not intended for residential developments.*

**RECOMMENDATION**

**STAFF RECOMMENDS THAT** the Planning Commission approve Interpretation 13-012, that all developments within the Architectural Overlay that are three stories in height or more, including Residential projects, be required to erect story poles.

**Attachments**

1. Map of Residential Zones in the Architectural Overlay
2. Section 17.12.060, Applications Requiring Additional Information of the Zoning Ordinance
3. Section 17.24.110, Height Limitations of the Zoning Ordinance
4. Memo to City Council members from Community Development Director Jim Holloway

# Residential Zones in Archectural Overlay

North Beach





**17.12.060 - Applications requiring additional information.**

The City Planner may request the applicant submit information to clarify, amplify, correct, or otherwise supplement submitted information beyond that originally submitted in the course of processing the application should he or she find that additional information is necessary to adequately review a request. Supplemental information may include, but is not limited to, visual analysis tools such as story pole staking, photo simulations, and models. Such a request shall not invalidate the original determination that the application was complete at the time the determination was originally made.

- A. Story Pole Staking.** The staking of a site shall be prepared as required for specific projects, as referenced in Section [17.24.110](#) Height limitations, of this title. The use of story poles as required in Section [17.24.110](#) shall not necessarily be the exclusive method of presenting information regarding the height, massing, or context of a given project.
1. Requirements. When story poles are required, they shall be erected at least fourteen (14) calendar days prior to the first public hearing or meeting on the Project, as determined by the City Planner, except that the approval authority shall have discretion to require that they be erected earlier, but not to exceed twenty-eight (28) calendar days prior to the hearing. The following must be completed for a site to be deemed to have been properly staked with story poles:
    - a. Story poles and connecting thick colored lines or pennants, which accurately represent the full extent of the proposed structure, including decks and eaves, shall be constructed. The City Planner shall have final approval authority over the location of the story poles to ensure that they do not detrimentally impact the public or the then current use of the property; and
    - b. A staking plan with the location and height of the story poles must be certified as accurate by a registered land surveyor or registered civil engineer. If a complete and certified staking of story poles for a project is not in place in the time required, the project shall be continued to a later date. Neither the applicant, a relative of the applicant, nor any other person possessing a financial interest in the property or the project may certify the location and height accuracy of the staking poles.
  2. Re-certification. Re-certification is required at least fourteen (14) calendar days prior to the first public hearing as described above in 1. Requirements, in the following instances:
    - a. If the project is modified during the design review process requiring the project to be re-staked; and/or
    - b. If the initial installation of story poles was completed one year prior to the final hearing date.
  3. Removal. A deposit in the amount the City Planner believes to be reasonably necessary to remove the story poles shall be made prior to the time the project is scheduled for public hearing. Story poles shall be removed by the applicant within twenty (20) calendar days after the appeal period for the project has

expired. Upon timely removal of the story poles, the deposit shall be returned to the applicant. The applicant's failure to remove the story poles within the prescribed time period shall result in the automatic forfeiture of the deposit, and the City shall have the ability to access the site to remove the poles. Story poles must be removed if a project has been inactive for a period longer than six (6) months. Prior to the first public hearing on the project, the applicant shall grant to the City a written right of entry for purposes of pole removal.

*(Ord. 1472 § 2, 2008; Ord. 1172 § 3 (part), 1996)*



**17.24.110 - Height limitations.**

- A. Purpose and Intent.** One of San Clemente's defining characteristics is its varied topography. The City's building height regulations are intended to:
1. Preserve the natural topography by encouraging residential structures that follow the topography of the lots on which they are located and by discouraging significant grading or fill on infill lots. The calculation of height by individual roof element is intended to assist these objectives, by allowing roof elements to step up or down with the natural topography of the lot. The measurement of height from original grade is also intended to assist these objectives, by establishing height limits which are relative to the natural topography;
  2. Accommodate the special difficulties of developing on sloped properties by allowing height to be averaged within roof elements;
  3. Encourage developments with full roofs. The establishment of a height limit to plate line and a height limit to top of roof, in specific mixed-use and nonresidential zones where traditional architecture is required, is intended to assist with this objective; and
  4. Discourage excessively massive structures. The establishment of a story limit in mixed-use and nonresidential zones is intended to assist with this objective. The exemption of subterranean portions of structures from counting toward the story limit is intended to assist this objective, as well.
- B. General Regulations for the Measurement of Height.** The following regulations for calculating height shall apply to all development within the City of San Clemente:
1. **Measurement of Height From Original or Finished Grade.**
    - a. **Developments With Mass Recontouring.** In the case of subdivisions and/or land development where mass recontouring has been or will be permitted by the City, building height shall be measured from finished grade, subject to approval through the site plan permit process, as described in Section 17.16.050, Site Plan Permits and Minor Site Plan Permits, of this title. Please refer to Figure 17.24.110A for a map of those areas in the City which have had mass recontouring. This subsection does not include properties with significant grading which have received the approval of a variance from height limits; please refer to the following paragraph b, for the method of measuring height on these properties.
    - b. **All Other Development.** In the case of developments where mass recontouring has not been permitted, or where significant grading has been allowed but through the approval of a variance from the height limit, building height shall be measured from original grade.
    - c. In cases where it is ambiguous whether building height should be measured from finished or original grade, or where a determination of finished or original grade is difficult, the City Planner shall make such determination, subject to the appeal provisions in Section 17.12.090, Appeals of an Action, of this title.
  2. **Measurement of Height by Roof Element.** The building height limits for a zone shall be applied to and measured for each roof element of a structure. No individual roof element may exceed the height limits for the zone.
  3. **Measurement of Height to the Top of a Roof Element (TOR).** Unless additional height limits are indicated in the development standard tables in Chapters 17.32, Residential

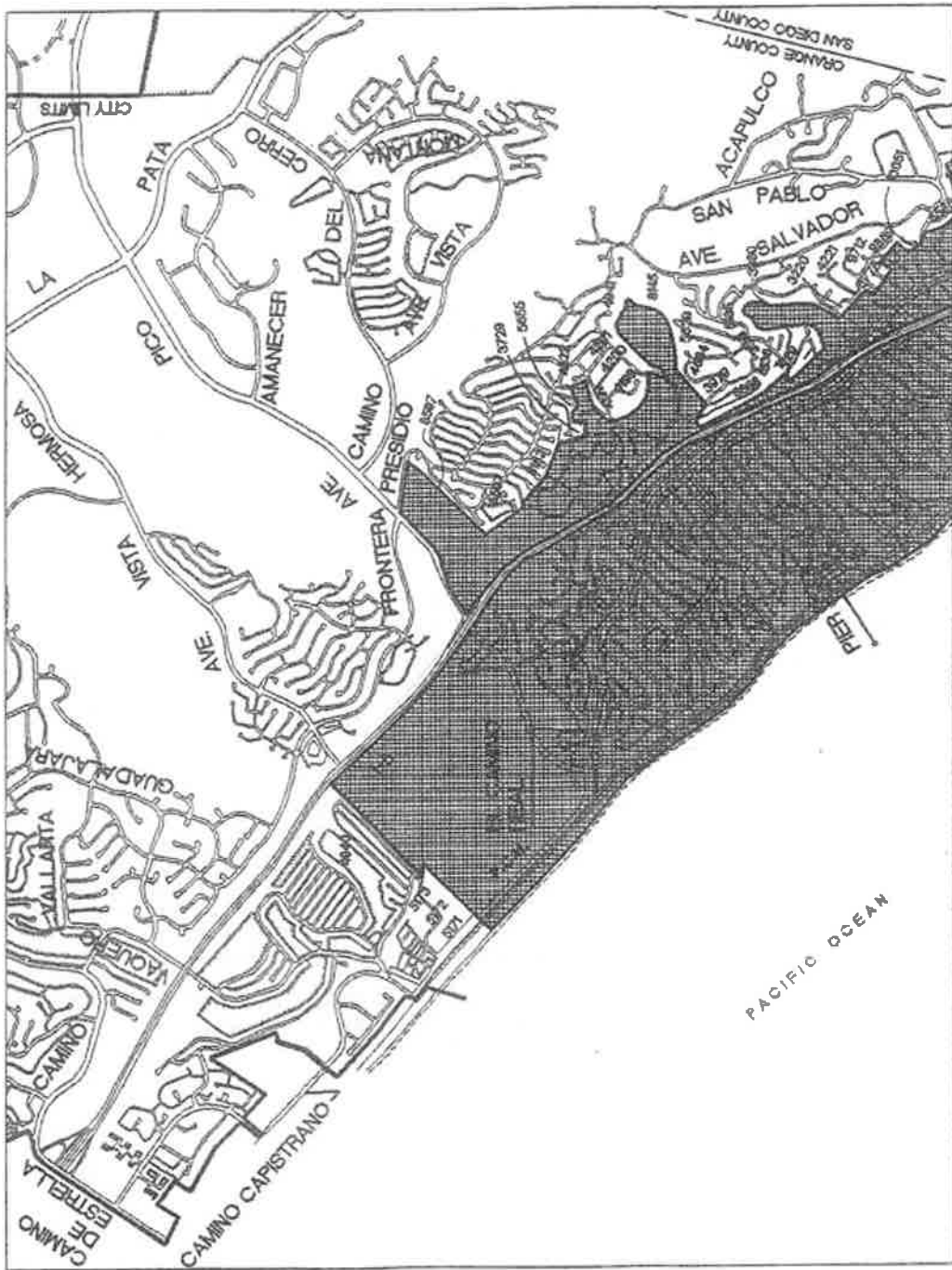
Zones and Standards, through 17.48, Public Zones and Standards, of this title, the maximum height limit Stated for a zone shall be a limit upon the "average height to the top of the roof element." The average height to the top of a roof element is calculated by:

- a. Measuring the height of each corner of the roof element. The height of each corner of the roof element is the vertical distance between original or finished grade and a projection of the top of the roof element, at each corner. Please refer to subsection (B)(1), Measurement of Height from Original or Finished Grade, of this section, regarding whether original or finished grade should be used; and
- b. Averaging the sum of the height of each corner of the roof element.

**C. Height Limits in Residential Zones.**

1. Height Limits. The maximum building height limits for structures in residential zones are described in Table 17.32.040, Residential Zone Development Standards, of this title.

**Figure 17.24.110A**



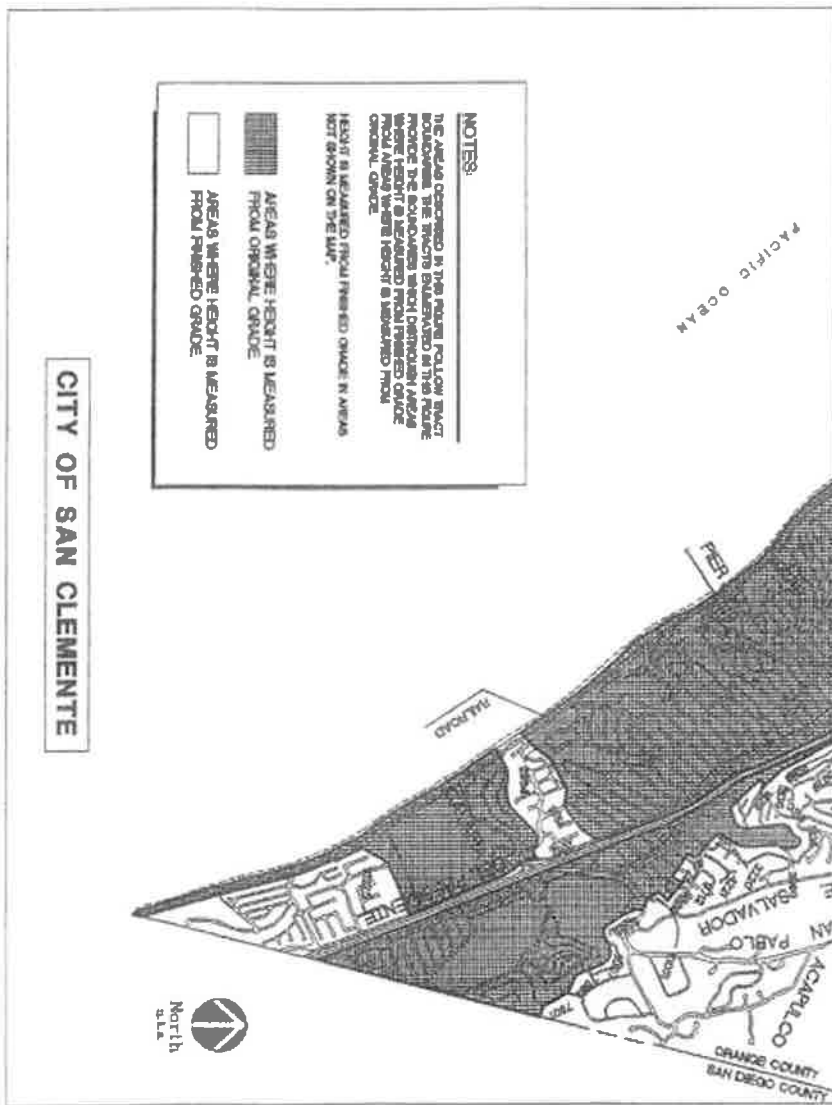
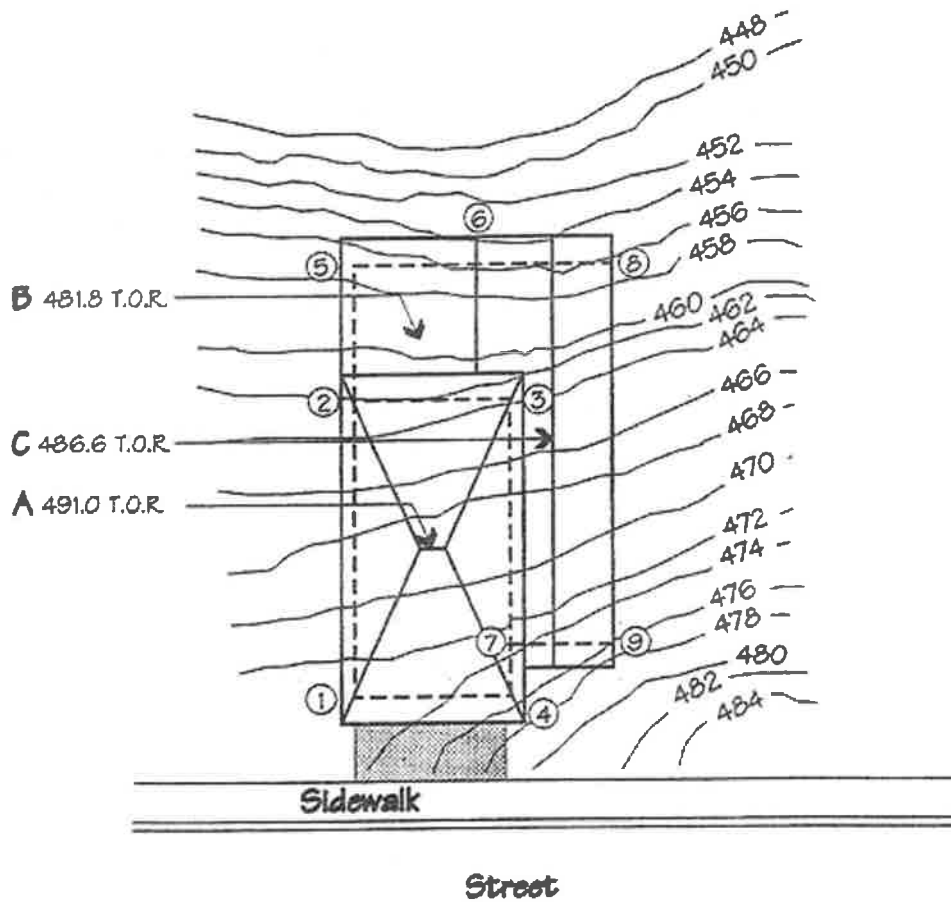


Figure 17.24.110B



### Height Analysis

	①	②	③	④		
<b>A Ridge Elevation</b>	491.0	491.0	491.0	491.0		
Existing Grade	<u>472.5</u>	<u>461.5</u>	<u>462.7</u>	<u>477.0</u>	$= \frac{90.3}{4}$	$= 22.6$
	18.5	29.5	28.3	14.0		
	②	③	⑤	⑥		
<b>B Roof Elevation</b>	481.8	481.8	481.8	481.8		
Existing Grade	<u>461.5</u>	<u>462.7</u>	<u>450.8</u>	<u>452.0</u>	$= \frac{100.2}{4}$	$= 25$
	20.3	19.1	31.0	29.8		
	⑥	⑦	⑧	⑨		
<b>C Ridge Elevation</b>	486.6	486.6	486.6	486.6		
Existing Grade	<u>452.0</u>	<u>469.0</u>	<u>454.5</u>	<u>472.0</u>	$= \frac{98.9}{4}$	$= 24.7$
	34.6	17.6	32.1	14.6		

- Measurement of Height. Structures in residential zones must comply with the general regulations for measuring height in subsection (B), General Regulations for the Measurement of Height, of this section.

**D. Height Limits in Nonresidential and Mixed-Use Zones.**

- Height Limits. The maximum building height limits for structures in nonresidential and mixed-use zones are described in the development standard tables in Chapters 17.36, Commercial Zones and Standards, through 17.48, Public Zones and Standards, of this title. Maximum building height limits for nonresidential and mixed-

use structures are expressed in terms of both numerical height limits and a story limit; structures must comply with all the height limits for the zone.

2. **Measurement of Height.** Please refer to the general regulations for the measurement of height in subsection (B), General Regulations for the Measurement of Height, of this section. In addition to compliance with the general regulations above, height in non-residential and mixed-use zones shall, when required in Chapters 17.36, Commercial Zones and Standards, through 17.48, Public Zones and Standards, comply with the following regulations:
  - a. **Story Limits.** The number of stories in each roof element shall not exceed the story limit for each zone, as indicated in Chapters 17.36, Commercial Zones and Standards, through 17.48, Public Zones and Standards. The following may be excepted from the story limits of this subsection:
    - i. Residential structures in the MU 5.1 zone do not have story limits;
    - ii. Basements shall not be counted toward the story limits for a structure.
  - b. **Height Limit to Plateline (PL).** For zones specified in the development standard tables, as required in Chapters 17.36, Commercial Zones and Standards, through 17.48, Public Zones and Standards, of this title, a height limit to the plateline of a roof has been established. The height of the plate line of a roof element shall be a measurement of the "average height of the plateline." The average height of the plate line of the roof element is calculated as follows:
    - i. Measuring the height to the plate line at each corner of the roof element. The height to the plate line at each corner of the roof element is the vertical distance between original or finished grade and the plate line, at each corner. Please refer to subsection (B)(1), Measurement of Height from Original or Finished Grade, of this section, regarding whether original or finished grade should be used; and
    - ii. Averaging the sum of the heights to the plate line at each corner of the roof element.

**E. Visual Analysis Tools.** Story pole staking, as described in Section 17.12.060 "Applications Requiring Additional Information," of this title, shall be required when a discretionary application is submitted which proposes one of the following:

1. A new structure or addition that is three (3) or more stories within a Nonresidential, Mixed Use zone and/or an Architectural Overlay District; or
2. Any structures with the potential to affect public view corridors from public places in the Coastal Overlay zone, regardless of number of stories.

Other visual analysis tools including, but not limited to, models and visual simulations may be required by the City Planner or Design Review Subcommittee.

Exemption: Time Extensions are exempt from the provisions of Section 17.24.110(E) Visual Analysis Tools unless required by the City Planner, or final hearing body, in accordance with Section 17.12.060 Applications Requiring Additional Information.

*(Ord. 1472 § 3, 2008; Ord. 1172 § 3 (part), 1996)*



# Memorandum Community Development

January 8, 2013

To: George Scarborough, City Manger  
From: Jim Holloway, Community Development Director  
Subject: Story Poles for Residential Projects  
Copies: Jim Pechous, City Planner, Amber Gregg, Associate Planner

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On December 19, 2012, the Planning Commission held a public hearing for the Reef Pointe Villas project, a five-unit, three-story, apartment development located in the Pier Bowl Specific Plan area (410 Arenoso Lane). At the meeting the Commission considered evidence presented by City Staff, the applicant, and other interested parties.

One member of the public, Ms. Christina Leon, spoke in opposition of the project. In her testimony Ms. Leon stated that she had concerns about the view of the ocean being lost and that story poles should be erected to see the true impact of the development.

Prompted by Ms. Leon's comments, staff reviewed the requirement of the story poles at the meeting, which states the following:

**Visual Analysis Tools.** *Story pole staking, as described in Section [17.12.060](#) "Applications Requiring Additional Information," of this title, shall be required when a discretionary application is submitted which proposes one of the following:*

- 1. A new structure or addition that is three (3) or more stories within a Nonresidential, Mixed Use zone and/or an Architectural Overlay District; or*
- 2. Any structures with the potential to affect public view corridors from public places in the Coastal Overlay zone, regardless of number of stories.*

In the past, story poles have only been utilized on three story developments in Commercial or Mixed Use Zones. We have not previously processed a residential project of more than four units (since the adoption of the story pole requirement

section 17.12.060), that was also in the Architectural Overlay District. Story poles have not been utilized on projects within residential zones.

Based upon Planning and legal advice offered at the time, Planning Commission addressed Ms. Leon's comments and stated that story poles were only required for commercial or mixed use developments, and not residential developments. The Planning Commission approved the project unanimously based on the findings, the fact that the building did not maximize the development envelope, was a full story under the permitted height allowance, recessed the third floor on all four sides, and was Spanish Colonial Revival architecture.

Staff showed the section of the Zoning Ordinance to the Assistant City Attorney at the Planning Commission meeting. The Assistant City Attorney stated that there was ambiguity in the ordinance, with its reference to development that required story poles. In addition he had concerns that the requirement would violate the permit streamlining act. Specifically, Government Code Section 65940(a) requires the City to compile a list of the information required for an application to be deemed complete. The City's list did not include the obligation to erect story poles. The Assistant City Attorney was concerned that requiring story poles prior to completion of the PC hearing would violate the applicants rights under the Permit Streamlining Act.<sup>1</sup>

After the meeting, staff reviewed the entire section 17.24.110, Height limitations, and agreed that the language was somewhat ambiguous. However, upon closer examination and reflection, it appears the intent of the ordinance is to require story poles for any residential projects over four units (this is a five unit project), as well as mixed use or commercial developments, that are within the Architectural Overlay District.

Staff plans on taking an interpretation of the story pole requirements to Planning Commission at the regularly scheduled meeting of January 23, 2013. However, City Council may want to call up the project on January 22, 2013 based upon the minutes. If Planning Commission interprets that the Zoning Ordinance does require story poles on new residential developments of more than four units, three or more stories in height within the Architectural Overlay District, and if the Council calls up the project, staff will work with the applicant to have story poles

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<sup>1</sup> This could be corrected if the matter is appealed or called up the City Council by requiring story poles prior to the City Council hearing. , The application would probably comply voluntarily given the likelihood the City Council would deny application would be denied in the absence of the story poles .



erected prior to City Councils review of the project. If the City Council does not call up the project for review, the Planning Commission approval will stand.

**Attachments**

1. Section 17.24.110, Height Limitations of the Zoning Ordinance
2. December 19, 2012, Reef Pointe Villas Staff Report
3. December 19, 2012, Reef Point Villas Resolution (Draft)