

PLANNING & DEVELOPMENT SERVICES DEPARTMENT REPORT

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DATE: January 18, 2001

TO: Orange County Zoning Administrator

FROM: Planning and Development Services Department/Current Planning Services Division

SUBJECT: Public Hearing on Planning Application PA00-0086 for Site Development Permit and Use Permit

PROPOSAL: Site Development Permit, per Zoning Code Section 7-9-139, for grading in excess of 500 cubic yard on a property with a slope greater than 15 percent in conjunction with the construction of a proposed new single-family dwelling. Use Permit, per Zoning Code Section 7-9-137.5, for a retaining wall in excess of 6 feet in height in the front and side setback area in conjunction with construction of a new access driveway to the proposed single-family dwelling. The Use Permit, per Zoning Code Section 7-9-145, also includes a provision for a driveway grade in excess of County Standards.

LOCATION: In the North Tustin area at 1512 Cloyden Road, Santa Ana. Third Supervisorial District

APPLICANT: Frattone Construction, Dave Frattone, property owner

STAFF William V. Melton, Project Manager
CONTACT: Phone: (714) 834-2541 FAX: (714) 834-4652

SYNOPSIS: Current Planning Services Division recommends Zoning Administrator approval of PA00-0086 subject to the attached Findings and Conditions of Approval.

BACKGROUND:

The subject building site is 19,332 square feet in area, undeveloped, and is irregular shaped with a steep slope from the public street access point (front) to the rear. The site fronts on Cloyden Road (Cloyden Road becomes Yarmouth Road at the site's eastern property line) and has a 15 feet wide access. The site is part of a two-lot parcel map (TPM 81-153) approved in December 1981 and recorded in May 1982. There is a private street (La Vereda Drive) at the rear of the property that was considered for access to the site at the time of parcel map approval. A discussion of this street is presented further in this report in the Discussion/Analysis section.

The applicant proposes to construct a new 6,457 single-family dwelling on the site. In order to construct the proposed residence, grading of 2,140 cubic yards of cut and fill is required. The grading is required for both the building pad and the driveway access. In order to provide the driveway access from Cloyden to the garage, a retaining wall reaching a maximum exposed height of 12'-7" in height is proposed. The

driveway is proposed at a grade of 17.5 percent. The County standard for driveway grade is 15 percent, unless modified by approval of a Use Permit.

SURROUNDING LAND USE:

The subject site and all surrounding properties are zoned 100-E4 “Small Estates”. The subject site is undeveloped. The surrounding properties are developed with single-family dwellings on similar sized lots.

REFERRAL FOR COMMENT AND PUBLIC NOTICE:

A Notice of Hearing was mailed to all owners of record within 300 feet of the subject site. Additionally, a notice was posted at the site, at the 300 N. Flower Building and as required by established public hearing posting procedures. A copy of the planning application and a copy of the proposed site plan were distributed for review and comment to five County Divisions, the North Tustin Advisory Committee (NTAC) and the Foothill Communities Association.

As of the writing of this staff report, no written comments raising issues with the project have been received from other County divisions. NTAC reviewed this proposal at several meetings and gave its approval of revised plans (the current plan submittal) at its October 18, 2000 meeting.

Several telephone calls have been received from Mr. Darrell Knudson, property owner and homeowner adjacent to site on the east. The original site plan submitted for this proposal included off-site grading on the Knudson property. Mr. Knudson indicated to staff that he would not allow any off-site grading on this property. He also expressed a concern regarding the stability of the retaining wall and a concern for the safety of his house which is on the top of same slope where the retain wall is proposed to be located. He also expressed these concerns to NTAC at their meetings. Based on Mr. Knudson’s and NTAC comments, the applicant revised his site plan so that no off-site grading would be required. This revised plan satisfied Mr. Knudson’s objection to the off-site grading; however, he still expressed a concern with the safety of the retaining wall. In staff’s most recent conversation with Mr. Knudson, he indicated that he does not oppose the new residence proposed, however, but he still has objections to the retaining wall.

CEQA COMPLIANCE:

Negative Declaration No. PA00-0086 (Exhibit 2) has been prepared for this proposal. It was posted for public review on November 29, 2000 and became final on December 19, 2000. Prior to project approval, this ND must be found adequate to satisfy the requirements of CEQA by the Zoning Administrator. Appendix A contains the required CEQA Finding.

DISCUSSION/ANALYSIS:

The planning application has three parts: 1) a Site Development Permit for proposed grading in excess of 500 cubic yards on a site with a slope greater than 15 percent; 2) a Use Permit to allow a proposed wall in the front and side yard setback to exceed the permitted height; and 3) a Use Permit to allow the proposed driveway to exceed a grade of 15 percent. These three discretionary permits are in conjunction with the construction of a new multi-level single family dwelling. The dwelling conforms to all requirements of the 100-E4 “Small Estates” District and its future construction is not part of this planning application.

The grading proposed is balanced on site with 2,140 cubic yards of cut and 2,140 cubic yards of fill. There does not appear to be any issues with the grading required for the creation of the pad for the residence. Grading and related drainage issues are addressed through applicable standard conditions of approval for grading and drainage. The Orange County Fire Authority did comment on the driveway grade proposed as related to the access to the residence. Even though the residence is not part of this planning application, the access and its grade is directly related to the residence. Therefore, the OCFA requested that the future residence be equipped with approved fire sprinklers. The tentative parcel map included a condition of approval requiring the installation of fire sprinklers per OCFA standards. The current proposal reflects this previous condition. The applicant is aware of this requirement and will install fire sprinklers in the new residence. The only other concern expressed on this proposal, as revised, is in regards to the retaining wall required for the driveway access. As mentioned, Mr. Kundson, an adjoining property owner, has expressed concerns regarding the safety of the retaining wall.

It was known at the time of TPM 81-153 review and approval that access to this site from Cloyd Road would be extremely difficult, even though a limited width access to Cloyd Road was shown on the parcel map. Because of access constraints on Cloyd Road, Condition No. 4 of the parcel map stated:

Prior to the recordation of the parcel map, evidence satisfactory to the Director of Regulations, EMA, demonstration that this map has legal access to La Vereda Drive shall be submitted.

In response to this condition, the subdivider provided a letter from Commonwealth Land Title Company (Exhibit 3). In that letter dated November 3, 1981, and submitted to the County in April 1982, Commonwealth indicated that the company is in a position to issue a Parcel Map Guaranty and subsequent owners and loan policy with the right of ingress and egress over that certain road known as La Vereda Drive. It appears as though this letter from Commonwealth was found to satisfy Condition No. 4 of the parcel map, as the map was later recorded in 1982. Staff contacted Commonwealth as to the status of their letter of 1981. Staff will present any additional status update at the public hearing.

As previously noted, La Vereda Drive dead ends at the rear of the subject site. At this point La Vereda appears to be a private street. It continues as a private street for approximately 660 feet, at which point La Vereda Drive becomes a public street with a connection to Foothill Blvd. As a private street, La Vereda Drive appears to provide access to seven to nine properties. The applicant has indicated that he was unable to obtain ingress and egress rights to the site for the property owners of La Vereda Drive. Exhibit 4 is a letter dated August 14, 1997 from two property owners on La Vereda (these two owners have property located closest to the subject site) indicating they would not grant primary access to the subject

site. According to the applicant, an emergency fire access would be acceptable to the owners of La Vereda Drive provided the access at the property is gated.

It is evident to staff that the Orange County Subdivision Committee's approval of the parcel map was based on the fact that access to the site would be from La Vereda and not from Cloyd Drive. A 15 feet wide access driveway to Cloyd was provided. The burden of providing access from La Vereda Drive falls upon the subdivider. In 1982, the subdivider provided information to the County that ingress and egress from La Vereda Drive could be guaranteed by Commonwealth Land Title Company. With that information, Parcel Map 81-153 was recorded with the understanding that access to the site would be from La Vereda. For reasons not totally known to staff at this time; access to the site La Vereda has not been secured. However, the parcel map was recorded based on La Vereda access guarantee.

The proposed retaining wall required for the driveway access, if approved, will be designed and constructed to meet applicable Uniform Building Code and County standards. As such, it should not cause any detrimental damage to Mr. Knudson's property or dwelling. As noted, the wall height and driveway grade do not conform to County standards, therefore the request for the Use Permit. It should also be noted that the applicant must acquire a ten foot wide easement from the adjoining property owner to the west (site of the original subdivider) in order to construct the retaining wall and driveway. Staff notes that had the access on La Vereda been obtained, as required by parcel map approval, this Use Permit request would not have been required.

The fact that the subdivision map creating this building site recorded in 1982 with the letter from the title company guaranteeing access from La Vereda Drive complicates this project because the map does not provide recorded access to La Vereda Drive. Further, the applicant has been unable to secure access rights from the existing property owners over La Vereda Drive for the approximately 660 feet preceding the project site where La Vereda Drive is a private street. Therefore, the applicant is limited to the proposed access from Cloyd Road and has submitted necessary documentation to show access from Cloyd Road, dependant upon the approval of the proposed discretionary action. Construction of the driveway from Cloyd Road requires construction of the proposed retaining wall, which will not create any traffic or sight line concerns. Additionally, construction of the retaining wall will be required to comply with the Uniform Building Code and soil geology recommendations to ensure stability of the adjacent hillside. Therefore, staff recommends conditional approval of the proposed project.

RECOMMENDED ACTION:

Current Planning Services Division recommends the Zoning Administrator:

- a. Receive staff report and public testimony as appropriate; and,
- b. Approved PA00-0086 for Site Development Permit and Use Permit subject to the attached Findings and Conditions of Approval.

Respectfully submitted

Chad Brown, Chief
CPSD/Site Planning Section

WVM

Folder: D/Use Permits/Use Permit 2000/PA00-0086 Staff Report

APPENDICES:

- A. Recommended Findings
- B. Recommended Conditions of Approval

EXHIBITS:

1. Applicant's Letter of Explanation
2. Environmental Documentation
3. Letter dated April 2, 1982 from original subdivider's agent and letter dated November 3, 1981 from Commonwealth Land Title Company.
4. Letter dated August 14, 1997 Thomas and Gunckel, and John and Darla Mitchell
5. Site Plans

APPEAL PROCEDURE:

Any interested person may appeal the decision of the Zoning Administrator on this permit to the Orange County Planning Commission within 15 calendar days of the decision upon submittal of required documents and a filing fee of \$245.00 filed at the Development Processing Center, 300 N. Flower St., Santa Ana.