

PLANNING & DEVELOPMENT SERVICES DEPARTMENT REPORT

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DATE: December 14, 2000

TO: Orange County Zoning Administrator

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

SUBJECT: Public Hearing on Planning Application PA00-0104 for Coastal Development Permit, Variance, Site Development Permit, Use Permit and Lot Line Adjustment.

PROPOSAL: Coastal Development Permit to demolish two single-family dwellings on two adjacent bluff top lots (Lots 8 and 9, Tract 1104) and construct a new 10,418 square foot multi-level, single-family dwelling on lot 8. Front setback Variance to permit the new home to be located 8 feet from the front property line when the site has a front setback requirement of 14 feet. A Site development for grading over 500 cubic yards. A Use Permit to allow over height walls in the side setback area. The proposal also includes a Lot Line Adjustment between lots 8 and 9 to permit an increase in lot area to lot 8 and a decrease in lot area to lot 9. No construction on reconfigured lot 9 is proposed at this time.

LOCATION: In the community of Emerald Bay, on the ocean side of Pacific Coast Highway at 174 Emerald Bay (Lot 8) and 176 Emerald Bay (Lot 9). Fifth Supervisorial District.

APPLICANT: Thomas Tucker, 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 PA00-0104 for Coastal Development Permit, Site Development Permit, Use Permit, Variance and Lot Line Adjustment subject to the attached Findings and Conditions of Approval.

BACKGROUND:

The project site consists of two ocean facing bluff top lots (Lot 8 and Lot 9) in the community of Emerald Bay. Each lot is in excess of 12,000 square feet in area. The applicant proposes to demolish two single-family dwellings and construct one new single-family dwelling on lot 8. The new dwelling will be located approximately the same distance from the top of the bluff as a previous dwelling. The applicant also requests a variance to the front setback. The setback proposed is approximately equal to that of the garage setback of the previous home.

The applicant is also requesting a Lot Line Adjustment between the two lots. Lot 8 will be increased in size and lot 9 will be decreased in size to 11,260 square feet, which exceeds the minimum required lot

area of the R1 District of 7,200 square feet. It should be noted that the Zoning Administrator is not approving the actual Lot Line Adjustment, only a Coastal Development Permit which is required prior to any approval of the Lot Line Adjustment by another decision maker.

When the applicant submitted the Planning Application for the project, each lot was developed with a 3,500 square foot, two-story single-family dwelling. The planning application included a request to demolish both of these homes and construct one new home on lot 8. The County issued permits in error to demolish the two homes prior to the approval of this requested Coastal Development Permit. Both lots are currently vacant. Even though the two dwellings have been removed, this permit does include the approval to demolish the homes in accordance with the provisions of the California Coastal Act and Section 7-9-118 “Coastal Development” District of the County Zoning Code.

SURROUNDING LAND USE:

The subject site and all surrounding properties (except for the Emerald Bay community beach) are zoned R1 “Single-family Residence” CD “Coastal Development Permit” District. The site is also within a certified Local Coastal Program (Emerald Bay LCP). Surrounding properties are developed with single-family dwellings.

REFERRAL FOR COMMENT AND PUBLIC NOTICE:

A Notice of Hearing was mailed to all owners of record within 300 feet of the subject site and all occupants within 100 feet of the 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 6 County Divisions and the Emerald Bay Community Association.

As of the writing of this staff report, no comments raising issues with the project have been received from other County divisions. The Emerald Bay Community Association approved the proposal at its August 1, 2000 meeting.

CEQA COMPLIANCE:

Negative Declaration No. PA000104 (Exhibit 2) has been prepared for this proposal. It was posted for public review on October 5, 2000 and became final on October 25, 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 proposed removal of a house on a lot and replacement with a larger house is becoming increasingly more common in the Emerald Bay community. This is true for sites on the ocean side and inland side of Pacific Coast Highway. In the last six months over seven Planning Applications have been received

requesting approval of discretionary permits to remove a home and construct a larger home. The majority of these applications involve a request for a front or rear yard variance, a Use Permit for over height walls in the setback area, and a Site Development Permit for grading.

This proposal is similar to other recently submitted Planning Application requests, in that the applicant is requesting: a Coastal Development Permit because the site is located oceanside of Pacific Coast Highway; a Variance request to locate the house closer to the property line than is permitted outright by the Zoning Code; a Site Development Permit to grade over 500 cubic yards of earth on a slope greater than 15 percent; and, a Use Permit for over height walls in the side setback area.

A Site Development Permit is required for this proposal because of the grading required and the slope of the property. Since the site has an average slope greater than 15 percent and grading plans call for 3,000 cubic yards of cut for the building pad, a Site Development Permit is required. The purpose of the grading is to “dig” the structures into the property in order to meet the strict Emerald Bay height limits affecting this property. The large three level home will stair step down the slope and only the fourth level with the two garages will be above the street level. Staff did not identify any planning issues associated with this request. Standard conditions for grading and drainage should address any grading issues.

The Use Permit is for over height retaining walls located in the setback areas, which are requested so as to provide a terrace area in the front and to provide for light and air at the sides of the property. Over height retaining walls are common for new construction in Emerald Bay. The over height walls face the interior of the applicant’s site and should not have a negative affect on the adjacent properties. Staff did not identify any planning issues with this portion of the Planning Application.

There are no planning issues associated with the Lot Line Adjustment (LLA) proposed. As noted, the Zoning Administrator is not approving the LLA, only the Coastal Development Permit approval required to a later approval of the LLA. The site is in the R1 District requiring 7,200 square feet minimum for each residential lot. The LLA creates two lots of 14,153 square feet and 11,260 square feet. The proposed new home is located on the larger lot.

The front setback requirement for this site is determined by averaging the setbacks of the two adjoining lots. One lot has an existing front setback of 8 feet – 4 inches. The other lot (applicant’s lot 9) is currently vacant and has a front setback of 20 feet. The average of these two setbacks is 14 feet, which is the required setback for the new residence. The applicant is proposing a front setback of 8 feet. The construction plans call for a 4-car garage to have a setback of 15 feet from street curb and a 1-car garage to have a setback of 23 feet from the street curb. A standard garage setback is 18 feet from the street curb. The site requires two covered spaces. The applicant’s plans call for 5 covered spaces and 5 open spaces.

Front and rear setback variance requests are common in Emerald Bay. Even though there does not appear to be issues with the variances proposed, State and County laws require that a variance application may be approved only if the approving agency makes the variance findings listed below. If the Zoning Administrator can not make these findings, then the variance request must be disapproved.

1. *There are special circumstances applicable to the subject building site which, when applicable zoning regulations are strictly applied, deprive the subject building site of privileges enjoyed by other property in the vicinity and subject to the same zoning regulations.*

2. *Approval of the application will not constitute a grant of special privileges, which are inconsistent with the limitations placed upon other properties in the vicinity and subject to the same zoning regulations when the specified conditions are complied with.*

Staff is of the opinion that the Zoning Administrator is able to make these two variance findings and approve the variance request portions of this proposal. The special circumstances required by finding 1 above is found in Appendix A, Finding No. 13. In conclusion, staff's review determined the applicant's proposed Coastal Development Permit for a new single family dwelling, proposed grading, variance request, over height walls and Lot Line Adjustment are consistent with other beach bluff top developments in Emerald Bay. Staff supports the applicant's proposal and makes a recommendation as follows.

RECOMMENDED ACTION:

Current Planning Services Division recommends the Zoning Administrator:

- a. Receive staff report and public testimony as appropriate; and,
- b. Approve Planning Application PA00-0104 for Coastal Development Permit, Variance, Site Development Permit, Use Permit and Lot Line Adjustment subject to the attached Findings and Conditions of Approval.

Respectfully submitted

C. M. Shoemaker, Chief
CPSD/Site Planning Section

WVM

Folder: D/Emerald Bay/PA00-0104 Staff 12-14-00

APPENDICES:

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

EXHIBITS:

- 1. Applicant's Letter of Explanation
- 2. Environmental Documentation
- 3. 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.

In addition, this project is within the Coastal Zone and is an "appealable development". Approval of an appealable development may be appealed directly to the California Coastal Commission (telephone number 562-560-5071), in compliance with their regulations, without exhausting the County's appeal procedures.