

PLANNING & DEVELOPMENT SERVICES DEPARTMENT REPORT

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DATE: November 15, 2001

TO: Orange County Zoning Administrator

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

SUBJECT: Public Hearing on Planning Application PA01-0076 for Coastal Development Permit, Use Permit and Variance

PROPOSAL: Coastal Development Permit is required for construction of a proposed two-story, single-family dwelling on a 6,659 square foot lot. A use permit is required for over height walls proposed in the front setback area. A variance is also requested to permit a proposed rear yard setback (adjacent to Pacific Coast Highway) of 13 feet – 9 inches when a setback of 25 feet is required for this lot.

LOCATION: In the community of Emerald Bay, on the ocean side of Pacific Coast Highway, at 71 Emerald Bay, Laguna Beach. Fifth Supervisorial District.

APPLICANT: 71 EB Associates, LLC, property owner
Laidlaw Schultz Architects, agent

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

SYNOPSIS: Current Planning Services Division recommends Zoning Administrator approval of PA01-0076 subject to the attached Findings and Conditions of Approval.

BACKGROUND:

The subject site is vacant and one of the few vacant lots in Emerald Bay. The property is 6,659 square feet in area averaging 66 feet in width and 102 feet in depth. The property rises approximately 22 feet in elevation from the front to the rear. The site is presently covered in vegetation, mostly *ice plant*. The rear property line is also the Pacific Coast Highway right-of-way line. The westerly side property line abuts a community access road leading to the tunnel under Pacific Coast Highway. This tunnel provides both pedestrian and vehicular coastal access to Emerald Bay residents on the inland side of PCH. A portion of the property on the western side and the front is in a flood plain. This area is subject to floodwaters coming from upper Emerald Bay through the adjacent tunnel.

The applicant proposes to construct a new two-story home over a basement level. The proposed home is 5,973 square feet in area and has a 4-car garage. Two of the spaces are in tandem. Because the site is in the Coastal Zone a Coastal Development Permit per Zoning Code Section 7-9-118 is required. Also, included in the Coastal Development Permit is approval for grading in excess of 500 cubic yards on a site with slopes greater than 15%. The applicant estimates that the grading will consist of 644 cubic yard of

cut and 213 cubic yards of fill, leaving an export from the site of 431 cubic yards. Walls proposed in the front setback area exceed the standard height; therefore a Use Permit as required by Zoning Code Section 7-9-137 is requested. Retaining and terrace walls in the front setback area range in height from 3 feet to 6 feet; the maximum standard height is the front setback is 3 ½ feet. Also requested in a rear yard setback variance to allow the proposed dwelling to encroach just over 11 feet into the 25 feet rear setback standard. The dwelling proposed conforms to the front, side and height standards for the district.

SURROUNDING LAND USE:

The project site and all surrounding properties are zoned R1 (CD). Surrounding properties are developed with single-family dwellings. The subject site is also subject to Flood Plain (FP-2) and Sign Restriction (SR) overlay districts. Emerald Bay also has a certified Local Coastal Program. All properties ocean side of Pacific Coast Highway are also subject to regulations contained in Zoning Code Section 7-9-118 "Coastal Development" District. Properties inland of Pacific Coast Highway are not subject to the CD regulation.

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 residents 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 seven County Divisions and the Emerald Bay Community Association.

As of the writing of this staff report, no comments raising issues with the project that could not be addressed through Standard Conditions of Approval have been received from other County divisions. The Emerald Bay Community Association approved the proposal on October 2, 2001.

CEQA COMPLIANCE:

Negative Declaration No. PA010076 (Exhibit 2) has been prepared for this proposal. It was posted for public review on October 2, 2001 and became final on October 23, 2001. Prior to project approval, this Negative Declaration must be found adequate to satisfy the requirements of CEQA by the Zoning Administrator. Appendix A contains the required CEQA Finding.

DISCUSSION/ANALYSIS:

The dwelling proposed conforms to the adjoining site and other residential dwellings in the vicinity regarding height and size. The grading required for this project is primarily at the building footprint. In order to conform to the Emerald Bay CC&R height limits established for this lot, the first level (basement level) of the structure must be "dug-in". The grading proposed is not out of line with recent projects throughout Emerald Bay. As noted, the project site is in the FP-2 overlay district. The applicant is aware

of the flood plain and the proposed structure has been designed to conform to the FP-2 development standards. Condition of Approval No. 10 addresses the FP-2 overlay.

The over height walls occur in the front setback area. There are three walls in the front setback area. Plans show the first wall, east of the garage, is on the front property line at a maximum of 3 feet above grade, which is less than the 3-½ height permitted. The second wall, also east of the garage, is setback 6 feet from the front property line and ranges in height from 3 feet to 5 ½ feet (this wall is the subject of the Use Permit). The third wall is located on the front property line west of the garage and is at a maximum height not exceeding 3 ½ feet. This wall transitions to a 6 feet high wall in the side setback area. The proposed walls in the front setback that exceed standard height should not pose a site restriction on the driveway garage entrance. The standard condition of approval for site distance is applied to this proposal.

The third part of this proposal is variance request for a reduced building setback from the rear property line. The applicant requests a rear setback of 13'-9" when the required setback for this lot is 25 feet from the rear property line. The rear property line for this lot is also the right-of-way line for Pacific Coast Highway. It should also be noted that the Emerald Bay CC&Rs permits a setback of 5 feet from all property lines, including the rear.

Because of the CC&Rs setback requirements and the height restrictions placed on the lots, variances from County setback standards, both front and rear, are very common throughout the community. One concern that sometimes comes up for rear yard variances is that of privacy for the adjoining homeowner to the rear. Since this property abuts Pacific Coast Highway, the concern of privacy is not an issue. Staff also notes that the roof ridge line will be only 8 to 10 feet above the PCH road elevation and is screened by existing vegetation. The rear yard variance should not present a visual impact from PCH. Because the site is adjacent to Pacific Coast Highway, Condition of Approval No. 16 has been incorporated to sound attenuate the structure for potential noise generated by traffic on the road.

Since variances are common throughout the community, and staff has received no negative comments on the proposal, it would seem appropriate to approve the variance application. However, before this variance request can be approved, the Zoning Administrator, in accordance with State and County planning laws, must be able to make the following variance findings listed below. If the Zoning Administrator cannot make these findings, the application 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 opinion that the Zoning Administrator is able to make these two special variance findings. The special circumstances for approving the variance requested for this proposal is in Finding no. 13 of Appendix A. The request for Coastal Development Permit, Use Permit and Variance are typical of most other homes constructed in the last several years. Staff supports the applicant's request 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 PA01-0076 for Coastal Development, Use Permit and Variance subject to the attached Findings and Conditions of Approval.

Respectfully submitted

Chad G. Brown, Chief
CPSD/Site Planning Section

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APPENDICES:

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

EXHIBITS:

1. Applicant's Letter of Explanation
2. Environmental Documentation
3. Site Photos
4. 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. If you challenge the action taken on this proposal in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this report, or in written correspondence delivered to the Planning and Development Services Dept.

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.