

**PLANNING & DEVELOPMENT SERVICES DEPARTMENT REPORT**

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**DATE:** June 13, 2002

**TO:** Orange County Zoning Administrator

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

**SUBJECT:** Public Hearing on Planning Application PA02-0049 for Variance and Use Permit

**PROPOSAL:** The applicant requests a Variance to: 1) allow a front setback of 4 feet (in conjunction with additions and remodeling of an existing single-family dwelling) when a setback of 5 feet is required; and, 2) allow a garage setback of 10 feet from the street curb when the standard garage setback is 18 feet. A Use Permit is requested to allow a retaining wall (in conjunction with the construction of a swimming pool) up to 10 feet in height to encroach between 1 and 3 feet into the required 25 feet rear setback area.

**LOCATION:** In the community of Emerald Bay, inland of Pacific Coast Highway at 233 Emerald Bay, Laguna Beach. Fifth Supervisorial District.

**APPLICANT:** Residential Realty Fund

**STAFF CONTACT:** William V. Melton, Project Manager  
Phone: (714) 834-2541 FAX: (714) 667-8344

**SYNOPSIS:** Current Planning Services Division recommends Zoning Administrator approval of PA02-0049 for Variance and Use Permit subject to the attached Findings and Conditions of Approval.

**BACKGROUND:**

The subject site is approximately 6,900 square feet in area, measuring 60 feet wide by 107 feet deep. The rear of the property drops off steeply some 25 feet to the Pacific Coast Highway right-of-way line. The site is developed with a 1,295 square foot single-family dwelling on the front of the lot. The existing dwelling is located 5 feet back from the front property line. The dwelling has a two-car garage setback 4 feet from the front property line and 9 feet back from the edge of street.

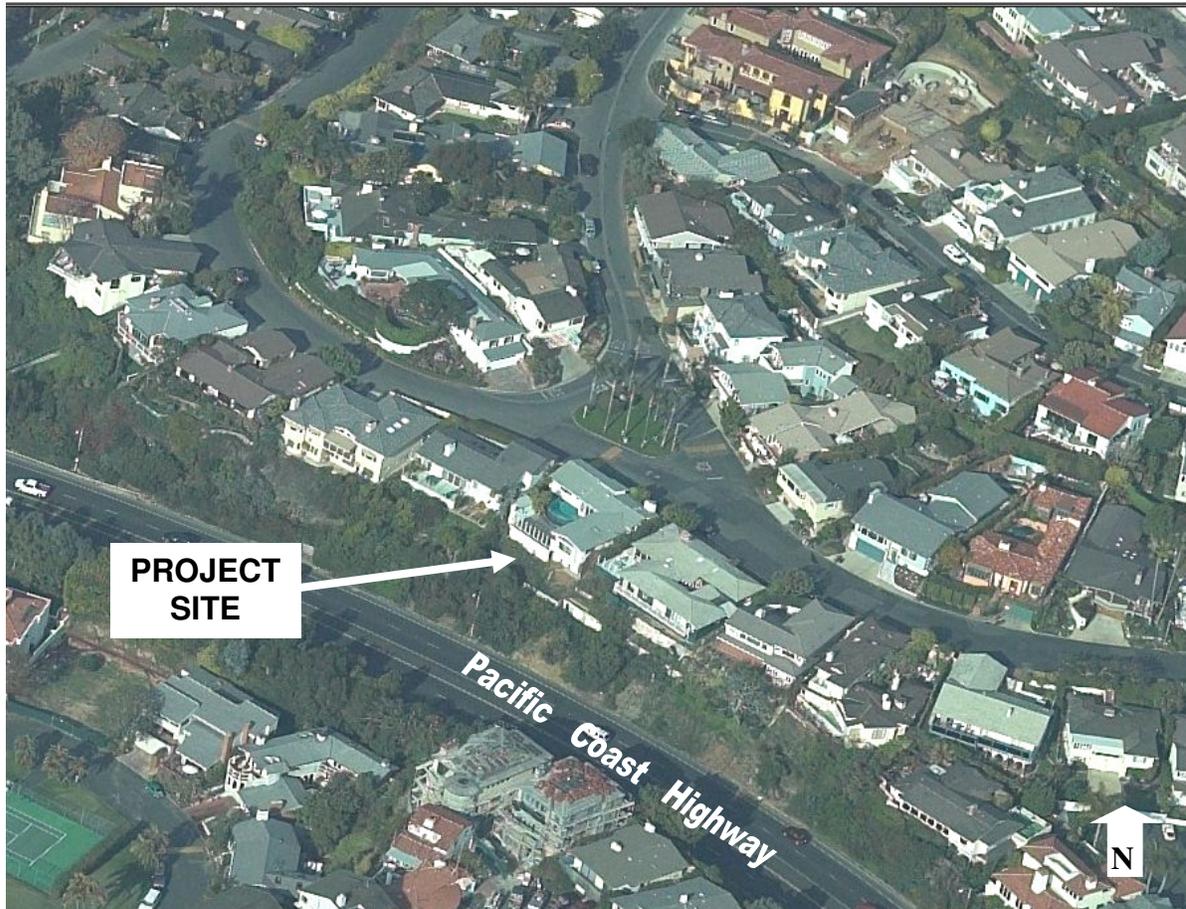
The applicant proposes to remodel the house with new additions totaling 1,416 square feet. The new additions are located where the existing garage is now located. The new two-car garage location is proposed at 5 feet back from the front property and 10 feet from the street edge. Since the Emerald Bay garage setback standard is 18 feet from the edge of street, a Variance is required. Additionally, a new entry is proposed that would extend the walls of addition to within approximately 4 feet of the front property line. The front setback requirement for this lot is 5 feet, which is the average setback of the two adjoining lots. A variance is required for this dwelling's front entrance feature. It should also be noted that

the roof of the new entry extends to within 2 ½ feet of the front property line, which is also included in the Variance request.

In addition to the variances proposed, the applicant also proposes to construct a new pool in the rear of the dwelling. Because of the steep sloping property, and in order to have the pool near the level of the house, a retaining wall up to 10 feet in height is proposed for the pool and deck area. Because of the shape of the lot and the location of the house, half of the retaining wall will encroach up to 3 feet into the rear 25 feet setback area. A Use Permit is required to construct a wall in excess of 6 feet in the rear setback area.

**SURROUNDING LAND USE:**

The project site and all surrounding properties are zoned R1 “Single-family Residence” District with a CD “Coastal Development” District overlay, and developed with single-family dwellings (see photo below). Emerald Bay also has a certified Local Coastal Program (LCP). The LCP has a requirement that all properties on the ocean side of Pacific Coast Highway are also subject to regulations contained in Zoning Code Section 7-9-118 “Coastal Development” District. In general, property owners are required to obtain approval of a Coastal Development prior to demolishing a dwelling or making large additions to an existing residence and/or construction of a new dwelling. Properties located inland of Pacific Coast Highway, as is this site, are not subject to the CD regulation and are not subject to obtaining a Coastal Development Permit for new construction.



**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 four 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's Architectural Review Committee recommended the Board of Directors approve the proposal on March 23, 2002.

**CEQA COMPLIANCE:**

The proposed project is Categorical Exempt (Class 5, minor alterations in land use limitations such as setback variance) from the requirements of CEQA. Appendix A contains the required CEQA Finding.

**DISCUSSION/ANALYSIS:**

The proposed project has three parts: 1) a front setback Variance for an architecture feature and roof projection; 2) a garage setback Variance; and 3) a Use Permit for an over height wall in the rear setback area. As for the front setback for item 1, it should be noted that the front door of the addition is setback 5 feet from the front property line. The curved design of the front porch has walls that encroach six inches into the front setback. The roof above the porch projects 2½ feet into the front setback and is 7 feet from the edge of the street. Zoning Code Section 7-9-128.7 allows roofs to project 25 percent into the front setback area. For this site a roof projection of 1¼ foot into the front setback is permitted. For this proposal then, the front setback encroachment is 6 inches for the front entry wall and a roof projection of 15 inches beyond the permitted roof projection. It should be noted that the front entry structure that is included in this variance request accounts for 6 feet in width, or 10 percent, of the entire structures frontage width of 58 feet, which staff considers minor.

In addition to the structure setback noted above, there is also the second requirement that the entrance to the new garage be setback a minimum of 18 feet from the edge of the street. Since this proposed setback is less than the 18 feet standard setback, a variance is required. It has been note in numerous staff reports that a large number of new variance approvals involve a garage entrance setback of between 5 to 6 feet from the street. As a general rule, Current Planning and SGSD/Traffic Review staffs are reluctant to recommend approval of a garage setback at a distance between 6 feet and 17 feet. The reason being, that at this distance, it could provide the appearance of a parking space in front of a garage. If a vehicle where to use this space in front of the garage, the vehicle would most likely project into the street area and pose a possible traffic hazard. However, all streets in Emerald Bay are private and the Emerald Bay Community Association maintains strict parking enforcement in the community. The EBCA does allow parking in the driveway parallel to the street and there is adequate room for that type of parking. Because Emerald Bay maintains strict parking standards, staff does not feel that the proposed 10 feet driveway length would pose a significant traffic hazard.

With regards to the proposed variances, staff is of the opinion that the front yard setback and garage setback variances proposed are typical of previously approved proposals throughout Emerald Bay. The proposal appears to be compatible with the properties in the vicinity, where similar front setback variances have been approved, including the two properties adjacent to the subject site. 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 are in Finding No. 8 of Appendix A which state: *the restrictive Emerald Bay CC&Rs height standards prohibit the applicant from constructing a single-family dwelling that could otherwise be constructed under County's R1 zoning site development regulations applicable to the site.* Because the requested garage variance is typical of previously approved setback variances, and the architectural front entry feature is minor (involving only 10 percent of the building width), staff can support the proposed front setback variance.

As for the Use Permit for the over height retaining wall in the rear setback area, it is important to note that an encroachment of only 3 feet into the 25 feet rear setback is requested. The rear yard of the property abuts Pacific Coast Highway does not adjoin another residential property or use so there will be no impacts for adjacent neighbors. The only impact of the proposed wall could possible be a visual one from motorist using Pacific Coast Highway.

Any visual impact should be reduced since the proposed retaining wall is located at an average of 22 feet higher in elevation and is greater than 30 feet away from the nearest travel lane on Pacific Coast Highway. The EBCA also commented on the wall in the setback area. In order to minimize potential visual impacts, the minutes of the Architectural Review Committee noted that the applicant proposed to plant Bougainvillea (which was noted as consistent with other Coast Highway areas) in front of the proposed wall. Staff agrees that some type of landscaping should be required in the front of the proposed wall to help minimize potential visual impacts. Condition of Approval no. 14 has been incorporated that requires the applicant to submit a landscape plan for that area in front of the wall that has been approved by the Emerald Bay Community Association.

## **CONCLUSION:**

As previously indicated staff supports the two variance requests and is of the opinion that the Zoning Administrator can make the two variance findings and approve the variance portion of this proposal. Staff also supports the Use Permit request for the over height wall in the rear setback. The encroachment is

minor and with adequate screening there would be little or no visual impacts on motorist traveling on Pacific Coast Highway. Staff makes a recommendation for approval 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 PA02-0049 for Variance and Use Permit 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. Site Photos
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. 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.