

PLANNING & DEVELOPMENT SERVICES DEPARTMENT REPORT

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- DATE:** April 17, 2003
- TO:** Orange County Zoning Administrator
- FROM:** Planning and Development Services Department/Current Planning Services Division
- SUBJECT:** Public Hearing on Planning Application PA 02-0133 for a Use Permit and Site Development Permit.
- PROPOSAL:** Site Development Permit for grading in excess of 500 cubic yards on building sites with slopes exceeding 30%; and a Use Permit to allow construction of over-height retaining walls, in conjunction with creating a pad for a future detached garage for an existing single family residence.
- LOCATION:** 19362 St. Jude, Santa Ana (Cowan Heights) - Third Supervisorial District.
- APPLICANT:** Steve and Sylvia Kelekian, property owners.
- STAFF CONTACT:** J. Alfred Swanek, Project Manager
Phone: (714) 796-0140 or (714) 834-2626 FAX: (714) 834-4772
- SYNOPSIS:** The Current Planning Services Division recommends Zoning Administrator approval of the site development and use permits, subject to attached Findings and Conditions of Approval.

BACKGROUND:

Steve and Sylvia Kelekian, the property owners, are proposing to build a detached garage accessory to an existing single family home in the Cowan Heights Area. In order to create a new pad for the detached garage some 35' in elevation above the corner of the property to the south, the project will require grading in excess of 500 cubic yards to fill a portion of one side and the rear of the site, with slopes exceeding 30%. In addition, the project will include over-height retaining walls (up to 10' in height) to support the bottom of a man-made slope as much as 30' high. The project will thus require a site development permit for grading; and a use permit for over-height walls (Sections 7-9-139 and 7-9-137.5(f) of the Orange County Zoning Code).

SURROUNDING LAND USE:

Direction	Land Use Designation	Existing Land Use
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Project Site	100-E4 “Small Estates”	Single family dwelling
North	100-E4 “Small Estates”	Single family dwelling
South	100-E4 “Small Estates”	Single family dwelling
East	100-E4 “Small Estates”	Single family dwelling
West	100-E4 “Small Estates”	Single family dwelling

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 300 N. Flower, at the subject site, 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 various reviewing Orange County Divisions and to the North Tustin Advisory Committee (NTAC), who, on January 15, 2003, unanimously approved the project with comments and conditions indicating that the project grading yardage could not exceed that shown on the plans they reviewed (3210 cubic yards) by more than an additional 20% without further review (see Exhibit 2).

CEQA COMPLIANCE:

The proposed project is covered by a Negative Declaration, which became final on April 7, 2003. Mitigation measures were included to address drainage and construction noise. These mitigation measures have been transposed into recommended conditions of approval for the project. Prior to project approval, the decision-maker must conclude that this ND is adequate to satisfy the requirements of CEQA for the proposed project. An appropriate finding to that effect is included.

DISCUSSION/ANALYSIS:

Steve and Sylvia Kelekian, the property owners, are proposing to create a new pad for a future detached garage some 35' in elevation above the corner of their property to the south, requiring grading of in excess of 500 cubic yards to fill a portion of one side and the rear of the site, with slopes exceeding 30%. In addition, the project will include over-height retaining walls (up to 10' in height) to support the bottom of a man-made slope as much as 30' high. The project will thus require a site development permit for grading; and a use permit for over-height walls (Sections 7-9-139 and 7-9-137.5(f) of the Orange County Zoning Code).

The property is nearly 1 acre gross (including the private road St. Jude Drive). Access to the site is considerably below current zoning code standards. Under current standards, a clearly defined private road, paved to a width of 28' would be required. The property is actually accessed by a 15' private easement serving several homes, paved to as narrow as 11' wide, and in some places (including this lot)

partially or entirely off the location of the legal easement. As a result, “St. Jude Drive”, as used by the area residents, is located well into what should be the Kelekians’ front yard.

Among the complications this presents is that it is almost impossible to determine where to measure the required front setback on this property, which should be 30’ from the easement, assuming the road was within the easement. The substandard access also means the applicants may have considerable problems in obtaining Orange County Fire Authority approval for any additional structures they plan on building on the site, including the potential detached garage for which the grading, pad, and walls are proposed. The applicants have been fully informed on this matter, and are aware that this planning approval in no way signifies that the detached garage could then be built without fire authority input that could impact or even prevent construction of the structure.

The project includes retaining walls ranging in height up to 10 feet high, on the property line. PDSB/Grading has indicated the applicant is requesting waivers from the Grading Code and Manual. The waivers would include: steeper fill slopes than normal (1 ½ to 1, as opposed to the standard 2 to 1); no provisions for diverting runoff off the manufactured slope at its base; and no freeboard (non-retaining wall above the retaining wall) to catch debris from erosion. The applicant has stated all three of these non-standard features are necessary to: a) avoid a much larger wall; and b) avoid having to obtain the consent of “downstream” property owners to runoff diverted from the slope and discharged at one point in “an unnatural concentration”. Runoff from the slope instead running in a sheet over the top of the wall onto the neighbor’s property would be considered to be in “natural concentration”, by definition a condition that would be allowed without said neighbor’s consent.

Again, all of the wall height is retaining, with no non-retaining “freeboard” above to redirect runoff or catch debris. This is specifically an integral part of the project design. The applicant and his engineer expect to be able to successfully obtain the needed grading code and manual waivers through construction (grading and building) plan check after the discretionary permit is approved. The applicant is fully aware that approval of this use permit provides no assurance whatsoever that the needed grading code and manual waivers will eventually be approved.

While retaining walls of such heights are fairly common in the area, the Zoning Administrator will be asked to make his finding that this particular over-high wall will not impact the neighborhood. The specific wording of the required finding is that: “the location, size, design and other characteristics of the wall will not create conditions or situations that may be objectionable, detrimental or incompatible with other permitted uses in the vicinity”. It should be noted that the North Tustin Advisory Committee (NTAC) review and recommendation for approval was made during a public meeting for which property owners were notified, and no objections were raised at that time. Therefore, staff suggests that the required finding for approval can be made for this application.

Finally, the Site Development Permit is required for grading in excess of 500 cubic yards on building sites with slopes exceeding 30%. A total of 3,210 yards of grading (all fill) is proposed; and the NTAC recommended that the total not exceed an increase of 20% (to 3,852 yards) without returning to them for further review, even if changes needed to be made during construction plan check. No additional findings are required for the amount of grading yardage.

RECOMMENDED ACTION:

Current Planning Services Division staff recommends the Zoning Administrator:

- a. Receive staff report and public testimony as appropriate; and
- b. Approve Planning Application PA02-0133 for a site development permit for grading and a use permit for overhigh walls, subject to the attached Findings and Conditions of Approval.

Respectfully submitted,

Chad G. Brown, Chief
CPSD/Site Planning Section

APPENDICES:

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

EXHIBITS:

1. Applicant's Letter of Justification
2. North Tustin Advisory Committee (NTAC) meeting minutes
3. Site Plan/Grading Plan
4. Photos
5. CEQA Documentation

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.