

PLANNING & DEVELOPMENT SERVICES DEPARTMENT REPORT

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DATE: March 13, 2003

TO: Orange County Zoning Administrator

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

SUBJECT: Public Hearing on Planning Application PA02-0135 for Coastal Development Permit

PROPOSAL: The applicant requests approval of a Coastal Development Permit to construct a new multi-level, 6,850 square feet single-family dwelling on a vacant 10,240 square foot bluff top lot. The proposal includes a request for: 1) a variance to allow a minimum front setback of 5 feet for architectural features when a setback of 15 feet is required; 2) a variance to allow garage setbacks of 9'-7" when a setback of 18 feet is required; 3) a use permit to allow for over height retaining walls in the side setback area; and 4) a site development permit for grading of 1,409 cubic yards of earth material (all export).

LOCATION: The project site is located in the community of Emerald Bay, on the ocean side of Pacific Coast Highway at 176 Emerald Bay, Laguna Beach. Fifth Supervisorial District.

APPLICANT: Nick Costa, property owner
Scott Laidlaw, Laidlaw Schultz Architects, agent

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 PA02-0135 for Coastal Development Permit subject to the attached Findings and Conditions of Approval.

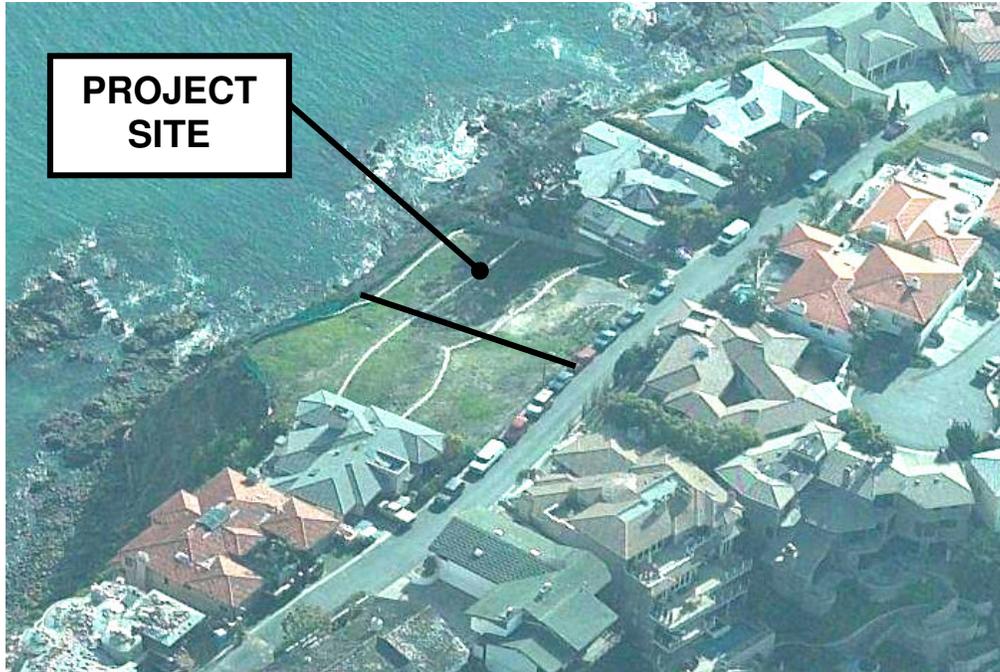
BACKGROUND:

On December 14, 2000, the Zoning Administrator approved Planning Application PA00-0104 for Coastal Development Permit (CDP), Variance, Site Development Permit, Use Permit and Lot Line Adjustment to demolish the existing single-family dwellings at 174 and 176 Emerald Bay (subject site) and build a new single-family dwelling at 174 Emerald Bay. The CDP for the new home at 174 Emerald Bay included a front setback Variance to permit the new home to be located 8 feet from the front property line, a Site Development Permit for grading over 500 cubic yards and a Use Permit to allow over height walls in the side setback area. A Lot Line Adjustment increased the area of 174 Emerald Bay and decreased the area of 176 Emerald Bay. The homes on 174 and 176 Emerald Bay have been demolished. The dwelling approved for 174 Emerald Bay has not yet been constructed. An Extension of Time for granted to allow the period of validity of PA00-0104 to be extended to January 2004.

As indicated in the Project Proposal, the applicant intends to construct a new single-family dwelling on the site prepared under Planning Application PA00-0104. The proposed home will be similar in appearance other new homes have been constructed or approved for construction. The new dwelling will be multi-story with tall retaining walls on the side property lines. Like the home approved under PA00-0104 a front yard setback variance is required for both the building and the garage; and, grading to lower the building pad to allow the new home to conform to Emerald Bay height restrictions. The new dwelling will be located approximately the same distance from the top of the bluff as a previous dwelling.

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 (or approved for) 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, as is this property, 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 Permit 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 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:

Since this proposal is in the coastal zone, a Notice of Hearing was mailed to all owners of record within 300 feet of the subject site 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 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 by staff. The Emerald Bay Community Association approved the proposal on January 7, 2003.

CEQA COMPLIANCE:

Addendum PA020135 to Negative Declaration No. PA000104 has been prepared for the proposed project. Negative Declaration PA000104 was approved on Dec. 14, 2000. Both the Addendum and ND are attached (Exhibit 3) for your consideration and must be approved prior to project approval with a finding that together, they are adequate to satisfy the requirements of CEQA.

DISCUSSION/ANALYSIS:

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 ocean side 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 30 percent (including the property that extends over the bluff) and grading plans call for 1,409 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 proposed three level home will stair step down the slope and only the forth 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. The wall reach a height of approximately 14 feet above grade on the interior of the lot but no greater than 6 feet above grade on the exterior, as would be seen from the adjoining property. Staff did not identify any planning issues with this portion of the Planning Application.

The front setback requirement for this site is determined by averaging the setbacks of the two adjoining lots. The front set back at adjacent lot 178 Emerald Bay is 10 feet. The other lot (174 Emerald Bay) is currently vacant and a front setback of 20 feet is used for averaging (174 Emerald Bay was approved for a front setback of 8 feet, but since the lot is still vacant, this approved setback cannot be used for averaging.) The average of these two setbacks is 15 feet, which is the required setback for the new residence. Had the house on 174 been constructed, the front setback for this lot would have been 9 feet.

The applicant is proposing a front setback of 5 feet for trellises for open parking spaces on either side of the lot and a one-car and two-car garage to be setback 9 feet-7 inches 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 3 covered spaces and 3 open spaces.

Front and rear setback variance requests are common in Emerald Bay. The proposed front setback and garage setback is typical. 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 cannot 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 are found in Appendix A, Finding No. 15. In conclusion, staff's review determined the applicant's proposed Coastal Development Permit for a new single family dwelling, proposed grading, variance request and over height walls 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 PA02-0135 for Coastal Development 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. Environmental Documentation
- 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.