

PLANNING & DEVELOPMENT SERVICES DEPARTMENT REPORT

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DATE: January 15, 2004

TO: Orange County Zoning Administrator

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

SUBJECT: Public Hearing on Planning Application PA03-0094 for Use Permit

PROPOSAL: The applicant requests approval of a Use Permit, as allowed under Zoning Code Section 7-9-137.5, to construct a 6 feet high block wall and a 8 feet – 7 inches high entrance gate in the front setback area of the lot where a fence/wall height of 3 feet – 6 inches is permitted. The proposed wall is located 13 feet – 5 inches back from the front property line and the gate is located 15 feet – 5 inches back from the front property line. The wall and gate are setback approximately the same distance as the existing garage.

LOCATION: The project is located in the community of Rossmoor at the northeast corner of Engel Drive and Wembley Road. The address is 2691 Engel Drive. Second Supervisorial District.

APPLICANT: Stan and Pam Rubin

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 PA03-0094 subject to the attached Findings and Conditions of Approval.

BACKGROUND:

The subject site is located in the community of Rossmoor, an unincorporated residential community between the cities of Los Alamitos and Seal Beach; and the 605 freeway. The lot is 86 feet wide by 110 feet deep and developed with a one-story single-family dwelling (built in 1959). This lot is typical of corner lots in this area of Rossmoor.

This site was developed under the original standard R1 residential zoning and Variance 3772, a tract wide variance approved in 1959 that permitted variances to front, rear and side setbacks; and to locations of detached garages. Many model types were built with side entry garages with front setbacks between 15 and 17 feet. Model types constructed with front entry garages were generally approved with setbacks of 18 feet or greater. The applicant's property was developed with a side entry garage, with a front yard setback of 15 feet for the garage and a setback of 36 feet for the dwelling.

Rossmoor was developed in the 50s and 60s. During the late 1950s new housing products came on line and tract wide setback variances were granted to builders to provide a greater diversity of product types. As Rossmoor became more desirable as a residential community during the late 1980s, three-story additions began to appear. The Rossmoor HOA had concerns that with the community's R1 zoning and its 35 feet building height limit, they would be seeing more three-story homes. At the request of the Rossmoor HOA, the Board of Supervisors approved two community wide zone changes establishing additional development standards to the community's R1 zoning. Ordinance No. 3849 established a building height limit of 28 feet. The height limit would normally permit the addition of an additional story to homes, however a few three-story flat roofed dwelling have been built that conform to the 28 feet height limit. Ordinance No. 3556 established a community wide rear yard setback of 15 feet for structures not exceeding a height in excess of 17 feet.

In 1965 a building permit was issued for a substantial addition to the front of the dwelling. The addition created a new front setback of 27 feet, which is well back from the front setback requirement of 20 feet. The addition appears to have blocked the access to side entry garage. At some point the side entry garage was changed to a front entry with only a 15-foot setback. In 1965 the minimum setback for a front entry garage was 20 feet. Because the addition to the dwelling happened 37 years ago, the Building Department maintains no records to indicate whether or not that the garage conversion was approved when the building permit was issued. The Rubin's purchased the residence in the current configuration with the front entry garage. Staff discussed the garage conversion with County Counsel and an evaluation was made that what was done some 37 years ago and is not causing a problem should not be an issue with the current proposal or the current home owner.

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 Subdivision and Grading/Traffic Review and the Rossmoor Homeowners Association. Traffic Review had no comments. The Rossmoor Homeowners Association commented in a letter dated January 7, 2004 (Exhibit 2) that the Association opposes the proposal based on a concern for community standards. A discussion of the Rossmoor Homeowners Association comments appear later in this report.

CEQA COMPLIANCE:

The proposed project is Categorical Exempt (Class 3, construction of limited numbers of new small structures or facilities) from the requirements of CEQA. Appendix A contains the required CEQA Finding.

SURROUNDING LAND USE:

The subject site and all surrounding properties are zoned R1/28 “Single-family Residence” District with a 28 feet height limit and developed with single-family dwellings on similar sized lots. See photo below.



DISCUSSION/ANALYSIS:

In addition to the proposed Use Permit for an over height wall and gate in the front setback area the applicant is proposing to construct additions to the residence and construction of a new 6-foot high wall on the side property line (adjacent to Wembley Road). These additions to the dwelling and the wall on the side property line conform to the R1 site development standards and the standards for walls and fences in Zoning Code Section 7-9-137.

It has not been staff’s policy to approve over height walls in the front setbacks within the Rossmoor area. The few exceptions where wall over 3 ½ feet are permitted are for cases where pools or other water features require a 5-foot high wall as regulated by State safety standards laws. Additionally, a wall or fence with a height of 6 or less feet from finished grade does not require approval of a building permit and some walls in the front setback area may have been installed on various lots within the community.

Unless an over height wall is reported to Code Enforcement, the County does not inspect the walls for proper construction or wall location. The applicant submitted photos of 20 over height walls within the vicinity of the subject site. Staff notes that some of the photos of over height walls are because a pool has been constructed in the front yard area.

The Rossmoor Homeowners Association (RHA) commented on the 20 photos submitted by the applicant (included with Exhibit 1) showing walls in the front setback area in excess of 3 ½ feet. Their comments are attached as Exhibit 2. RHA noted that ten of the photos of the walls were where homeowners had constructed pools in the front yard. Three walls were constructed with decorative cement bricks that allow one to see through (RHA also commented that on the see-through walls: “The Rossmoor Homeowners Association’s Community Standards Committee has not objected to such walls”). Five over height walls are not constructed as a requirement of a pool, and RHA does not know if a County permit was issued for the construction. RHA also commented that there were no objections to the proposed 6 feet high wall on the side property line adjacent to the sidewalk on Wembley Road. Staff notes that this wall is permitted under the Zoning Code.

For this site, the wall is setback 13 ½ feet and the gate is setback 15 ½ feet from the front property line. The wall and gate are setback approximately the same as the existing garage. The proposal also includes a corner cutoff on the Engle Drive and Wembley Road intersection that conforms to “street intersection area” requirement of fence and walls section of the Zoning Code.

To help mitigate the potential visual impact of the proposed wall in the front setback area, staff notes that there is an existing tree between the proposed wall and the front property line that will be protected in place. Additionally, staff is recommending the incorporation of Condition of Approval No. 7, which requires the applicant to provide landscape planter in front the wall that will provide additional screening. The recommend condition reads:

Within 30 days of the effective date of the permit or prior to the start of construction of the proposed wall, whichever comes first, the applicant shall submit a revised site plan to the Manager, Current Planning Services Division for review and approval showing the addition of tiered landscaping in a two feet high planter in front of the wall parallel to Engel Drive.

Staff notes that many of the over height walls in the community are a result of pools constructed in the front yard. Other over height walls were built because a building permit is not required for a wall 6 feet or less in height. RHA commented they would not object to a wall constructed of decorative blocks that can be seen through (see photo for 11962 Martha Ann in Exhibit 1). Since the open block walls are in the front setback area and exceed 3 ½ feet in height, these walls would still require the approval of a Use Permit prior to construction.

Staff is of the opinion that if the wall proposal had been submitted with a request to locate the wall adjacent to the property line and sidewalk, staff would not be able to support a wall at 6 feet in height at that location. At the least, staff would recommend that only 3 ½ be constructed of solid material and the balance of the wall be constructed of open material such as wrought iron, similar to the photo in Exhibit 1 at 12392 Martha Ann. In a recent proposal for an over height wall (PA02-0009), the applicant requested a 6 feet high wall on the front property line. The proposal was amended to permit a 5 feet high wall

composed of a solid wall 3 ½ feet high with the balance constructed with open fence material, such as wrought iron and setback 3 feet from the front property line.

However for this proposal, because the wall and gate are located 13 ½ feet or more from the front property line and is inline with the existing garage; and because a condition of approval requires additional landscaping screening in front of the wall, staff is of the opinion that the proposed 6 feet high wall and 8 feet high gate will be compatible with surrounding properties. Before the Zoning Administrator is able to approve this proposal, the following required findings for walls and fences must be made:

1. That the height and location of the fence or wall as proposed will not result in or create a traffic hazard.
2. That the location, size, design and other characteristics of the fence or wall will not create conditions or situations that may be objectionable, detrimental or incompatible with other permitted uses in the vicinity.

Staff is of the opinion that the Zoning Administrator is able to make these two findings for this proposal. These two findings are included in Appendix A – Findings, numbers 7 and 8. Based on the reasons stated and the special condition of approval recommended in this staff report, staff recommends project approval as shown below.

RECOMMENDED ACTION:

Current Planning Services Division recommends the Zoning Administrator:

- a. Receive staff report and public testimony as appropriate; and,
- b. Approve Planning Application PA03-0094 for 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 with photos of walls on nearby properties
- 2. Comments from Rossmoor Homeowners Association dated January 7, 2004
- 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.