

## ITEM #2

### RESOURCES AND DEVELOPMENT MANAGEMENT DEPARTMENT

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**DATE:** February 5, 2004

**TO:** Orange County Zoning Administrator

**FROM:** Resources and Development Management Dept./Current Planning Services Division

**SUBJECT:** Public Hearing on Planning Application PA03-0106 for Coastal Development Permit.

**PROPOSAL:** The applicant proposes to demolish an existing 1,260 square foot single-family dwelling and construct a new three level single-family dwelling with 5,974 square feet of living area and 2,137 square feet of basement/garage area. The proposal includes over height walls in the front setback area.

**LOCATION:** In the community of Emerald Bay on the ocean side of Pacific Coast Highway at 91 Emerald Bay, Laguna Beach. Fifth Supervisorial District.

**APPLICANT:** William H. Carter, property owner

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

**SYNOPSIS:** Current Planning Services Division recommends Zoning Administrator approval of PA03-0106 subject to the attached Findings and Conditions of Approval.

#### **BACKGROUND:**

The subject site is approximately 12,000 square feet in area and is generally rectangular in shape averaging approximately 70 feet wide by 160 feet deep. The site is a "through lot" with the front property line on an Emerald Bay private street right-of-way and the rear property line on Pacific Coast Highway right-of-way. The site is located between existing single-family dwellings. The property is developed with a single-family dwelling. County records indicate a home was built on the site in 1915 and later rebuilt in 1940.

As indicated in the project proposal, the applicant proposed to demolish the existing structure and construct a new larger single-family dwelling. The new dwelling will be located in approximately the same the location as the existing structure. The new structure will be located 67 feet from the rear property line, 16 feet from the front property line and 5 feet from the side property lines. Approximately 150 cubic yards of grading is proposed for the garage level of the structure. Included in this Coastal Development Permit is a request for over height walls in the front setback area. The project is in the coastal zone and a Coastal Development Permit is required for both the demolition of the existing dwelling and the construction of the proposed 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. Surrounding properties are 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 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 on the ocean side of Pacific Coast Highway, such as the subject site, are subject to the CD regulation and are 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. A Notice of Hearing was also mailed to the “occupant” of homes within 100 feet of the subject site as required by Coastal Development Permit procedures. 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 have been received from other County divisions. The Emerald Bay Community Association approved the proposal June 10, 2003.

**CEQA COMPLIANCE:**

The proposed project is Categorically 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.

**DISCUSSION/ANALYSIS:**

The proposal dwelling conforms to the R1 District setback requirements. The proposal provides up to seven off-street parking spaces – 2 in the 30 feet long driveway and 5 in the garage. Only two of the garage spaces conform to the Zoning Code's garage parking standards. Only the two retaining terrace walls in the front setback area do not conform to the zoning standards. One wall is 4 feet above grade and is setback 2'-6" from the front property line and 6 feet from the street curb. The second wall, which is for stairs to the front entrance, is 8 feet above grade (6 feet of retaining wall and 2 feet of railing) and is setback 7'-9" from the front property line and 11'-3" from the street curb. The proposed retaining walls are similar to the walls in the front setback area on the two adjoining properties. Staff did not identify any planning concerns for the over height walls in the front setback, however the Zoning Administrator must be able to make the following two findings for walls before the proposed walls can be approved:

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

To address finding 1 above, a condition of approval has been incorporated that addresses County standard plans for sight distance. For finding 2, staff notes that the proposed walls are similar to the two adjoining walls and other properties in the vicinity with similar topographical features.

As noted in the Background section of this report, the front setback proposed for this project is 16 feet. While the Zoning Code has a standard 20 feet front setback for the R1 District, the applicant is utilization Section 7-9-128.4 "Building line based on average of adjoining sites", which allows a front setback that is the average of the setbacks of the two adjoining site. The site on one side of the proposal has a setback of 15'-2", the site on the other side has a setback of 15'-7". The average of these two setbacks is 15'-4 1/2" therefore, the applicant's proposed setback of 16 feet conforms to the setback standard for this lot.

The proposed project, including the dwelling structure, building setbacks and over height walls in the front setback, is compatible with other single-family dwellings in the vicinity that have been constructed or approved for construction. The proposal has been reviewed and approved by the Emerald Bay Community Association. As of the preparation of this report, staff has received no communications on this proposal from any property owners in the vicinity. Staff is of the opinion that the Zoning Administrator is able to make the two wall findings. Staff supports the applicant's proposal and recommends project 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 PA03-0106 for Coastal Development Permit subject to the attached Findings and Conditions of Approval.

Respectfully submitted

Chad G. Brown, Chief  
CPSD/Site Planning Section

WVM

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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.

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.