

## ITEM #2

### RESOURCES & DEVELOPMENT MANAGEMENT DEPARTMENT/ PLANNING & DEVELOPMENT SERVICES FUNCTION

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**DATE:** March 4, 2004

**TO:** Orange County Zoning Administrator

**FROM:** RDMD/PDSF/Current Planning Services Division

**SUBJECT:** Public Hearing on Planning Application PA03-0121 for Coastal Development Permit and Variance.

**PROPOSAL:** The applicant requests approval of a Coastal Development Permit and A Variance to construct new accessory structures and improvements in the rear yard of an existing beachfront single-family dwelling. The new construction includes an upper terrace with a swimming pool and spa, a middle terrace with new lawn area and a lower terrace level with a 573 square feet cabana that is under the lawn of the middle terrace. Improvements include new stairways connecting the terrace levels. A Variance is requested to permit a new front entrance roof projection to encroach within 6 feet of the front property line.

**LOCATION:** The project is located in the community of Emerald Bay, on the ocean side of Pacific Coast Highway at 106 Emerald Bay, Laguna Beach. Fifth Supervisorial District.

**APPLICANT:** Fred Kamgar, property owner  
C. J. Light Associates, agent

**STAFF CONTACT:** William V. Melton, Project Manager  
Phone: (714) 834-2541 FAX: (714) 834-3522

**SYNOPSIS:** Current Planning Services Division recommends Zoning Administrator approval of PA03-0121 for Coastal Development Permit subject to the attached Findings and Conditions of Approval.

#### BACKGROUND:

The subject site is an approximately 10,900 square feet beachfront property measuring 70 feet in width with an average depth of 153 feet. The property has an elevation drop of approximately 55 feet from the front of the property to the rear (beach side) for a slope of over 30 percent. The site is developed with a 5,373 square feet multi-level, single-family dwelling, which was constructed in the 1950s. The property owner currently occupies the dwelling.

The applicant proposes to construct improvements to the rear of the property that includes accessory uses described under the project proposal shown above. The project site is located in an appealable area and a

Coastal Development Permit is required for these proposed accessory structures (further explanation of this requirement is discussed later in this report). The applicant is also making additions to the existing dwelling that total 100 square feet. Since the additions are less than 10 percent of the existing square footage of the dwelling, a Coastal Development Permit is not required for the additions. However a front entry roof is being extended into the front setback area and a Variance is required for this encroachment.

Prior to this proposal, the Zoning Administrator approved Planning Application PA00-0087 on November 16, 2000 for a Coastal Development Permit, Use Permit, Site Development Permit and Variance for this same building site. The Coastal Development Permit included demolition of an existing single-family dwelling and construction of a new 10,100 square feet, multi-level, single-family dwelling. The Use Permit included: 1) a detached guesthouse (beach cabana); and, 2) use of two kitchens in a single-family dwelling. The Site Development Permit was for grading 4,300 cubic yards of cut and fill on a slope greater than 15 percent. The Variance included: 1) a front setback of 9'-5" when a front setback of 11'-5" is required for this site; 2) a building height of approximately 43 feet at the rear of the structure when the height standard is 35 feet; and, 3) a rear setback of 22 feet for the guesthouse and pool equipment rooms when a setback of 25 feet is required. Demolition of the current dwelling and construction of a new dwelling was never commenced. Since no activities approved under PA00-0087 were started, the two-year time limit on the Coastal Development Permit has expired and Planning Application PA00-0087 is now null and void.

#### **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 occupied homes within 100 feet of the subject site and the Coastal Commission 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 February 24, 2004.

#### **CEQA COMPLIANCE:**

Addendum No. PA030121 to Negative Declaration No. PA000087 has been prepared for the proposed project. Negative Declaration PA00-0087 was approved on November 16, 2000. This Addendum is attached (Exhibit 3) for the Zoning Administrator's consideration and must be approved prior to project approval with a finding that together Negative Declaration and Addendum are adequate to satisfy the requirements of CEQA. Appendix A contains the required CEQA Finding.

#### **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 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, making large additions to an existing residence, constructing a new dwelling or constructing accessory structures. 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.



### DISCUSSION/ANALYSIS:

All elements of the proposed improvements in the rear yard area conform to the applicable site development standards for accessory uses. These uses would not normally required a discretionary permit approval prior to obtaining the necessary grading and building permits. However the subject site is in the Coastal Zone and is located between the ocean and the first public road (PCH). Zoning Code Section 7-9-118 CD “Coastal Development” District permits exemptions to certain projects in this area, however Section 7-9-118.5 (b) (2) d. states that *the construction, placement or establishment of any detached structure* is not exempt from the requirement to obtain full approval a Coastal Development Permit prior to construction. Additionally, the proposal is defined as *an appealable development* and is further subject to appeal to the Coastal Commission.

The accessory improvements proposed between the rear of the existing dwelling and the rear property line for this proposal and the project approved under PA00-0087 are similar. Both proposals provided a new swimming pool, terraced lawn areas, stairs connecting the three terrace levels and a below grade cabana/guest house. One significant difference is that under new State laws and regulations and County

policies, the current cabana/guest house proposal no longer requires approval of a Use Permit. The cabana previously approved under PA00-0087 was 204 square feet of floor area with an attached pool equipment room with 492 square feet of floor area and setback 22 feet from the rear property line (which required approval of a setback Variance). The current proposal calls for a cabana with 566 square feet of floor area and setback 28 feet from the rear property line. Both the earlier proposal and this current proposal have the cabana opening onto the lowest terrace level with the roofs of the cabanas under lawn areas of the middle terrace level. The swimming pool from the original proposal, that was located adjacent to the cabana, has been relocated to the uppermost terrace level closer to the house.

The second element of this proposal is the Variance request to the front yard setback standards. The front setback for this lot is 11.5 feet, which is the average setback of the two adjoining lots (Zoning Code Section 7-9-128.4). The existing dwelling is setback approximately one (1) foot from the front property line and 20 feet from the street pavement. As mentioned in the Background section of this report, the home was originally constructed prior to the current setback requirements. The home is therefore legally nonconforming because of setbacks. Section 7-9-151 “Nonconforming Uses and Structures” states the home can be expanded provided the expansion conforms to the existing development standards.

An addition to the front entry and roof is proposed. The new wall for the front entry door is proposed to be setback 11 feet – 6 inches from the front property line, which conforms to the setback standard. The existing roof projects 4 feet into the front setback area. The allowed projection into the front setback per Zoning Code Section 7-9-128.7 is 25 percent of the front setback or 2.9 feet for this lot. The applicant proposes to extend this roof into the front setback area to within 6 feet of the front property line and 25 feet from the street. The Variance proposed is for this extension of the existing roof. The setback of the new roof is greater than the setback of the existing house. Based on previous variances granted through out Emerald Bay, staff could not identify any significant planning issues associated with this variance request.

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 circumstance for approving the variance requested is in Finding No. 13 of Appendix A. Because the requested variance is typical of previously approved setback variances, staff can support the proposed roof projection variance. Staff also supports the request for the improvements proposed at the rear of the property. The improvements proposed are very similar in design as were the improvements approved by the Zoning Administrator under PA00-0087. However, this application has been evaluated independent of the previous approval and staff did not identify any objectionable elements of this proposal when

viewed within the context of the Emerald Bay community. Staff recommends approval of this proposal 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 PA03-0121 for Coastal Development Permit and Variance 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 Resources and Development Management Department.

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.