

## **RDMD/Planning and Development Services**

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**DATE:** May 6, 2004

**TO:** Orange County Zoning Administrator

**FROM:** RDMD/PDS/Current and Advance Planning Services

**SUBJECT:** Public Hearing on Planning Application PA04-0021 for Variance and Use Permit

**PROPOSAL:** The applicant requests approval of a Variance to: 1) permit a driveway length of 8 feet from the street when the Zoning Code standard driveway length is 18 feet; and, 2) permit a front setback of 5 feet when the front setback requirement is 10.6 feet in conjunction with the construction of a new single-family dwelling. A Use Permit is requested to allow a portion of a new retaining wall up to a height of 11 feet along the south property line. In association with this proposal, the site's existing single-family dwelling will be demolished.

**LOCATION:** The project site is located in the community of Emerald Bay, on the inland side of Pacific Coast Highway at 319 Emerald Bay, Laguna Beach. Fifth Supervisorial District.

**APPLICANT:** Gary and Wendy Black, property owners  
Laidlaw Schultz Architects, agent

**STAFF** William V. Melton, Project Manager

**CONTACT:** Phone: (714) 834-2541 FAX: (714) 667-8344

**SYNOPSIS:** PDS/Current and Advance Planning Services recommends Zoning Administrator approval of PA04-0021 for Variance and Use Permit subject to the attached Findings and Conditions of Approval.

### **BACKGROUND:**

The subject site is approximately 5,280 square feet in area, measuring approximately 64 feet wide by 84 feet deep. The site is developed with a single-family dwelling that will be demolished. Available records indicate that the existing dwelling was constructed in the 1950s. The lot and dwelling are typical of surrounding development (see photo on page 2).

The site, as well as all Emerald Bay, is zoned R1 "Single-Family Residence" District with a CD "Coastal Development Permit" District overlay. In addition to the R1 and CD site development standards and requirements, Emerald Bay maintains CC&Rs permitting setbacks of 5 feet from all property lines but has strict height and site coverage standards, which prohibits development of properties that would otherwise be permitted by the R1 site development standards, which is why this proposal requires the approval of a Variance and a Use Permit. 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. Properties located on the inland side of Pacific Coast Highway, such as the subject site, are exempt from the CD regulation.

**SURROUNDING LAND USE:**

The project site and all surrounding properties are developed with single-family dwellings (see photo below).



**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 five 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 has given the proposal preliminary approval on January 3, 2004.

**CEQA COMPLIANCE:**

Negative Declaration No. PA040021 (Exhibit 3) has been prepared for this proposal. It was posted for public review on April 7, 2004 and became final on April 27, 2004. Prior to project approval, this ND

must be found adequate to satisfy the requirements of CEQA by the Zoning Administrator. Appendix A contains the required CEQA Finding.

## **DISCUSSION/ANALYSIS:**

The site development standards for the construction of a new single-family on the site are regulated by the setback standards of the R1 District and Zoning Code Sections 7-9-128 “Exceptions to Building Lines Chart” and 7-9-137 “Accessory Uses and Structures”. The R1 District standard setbacks are: 20 feet in the front, 25 feet in the rear and 5 feet on the sides.

The subject site is less than 100 feet in depth and is classified as a “shallow building site”. As such, Section 7-9-128.2 “Building line on a shallow building site” permits front and rear setbacks of 20 percent of the average depth. The subject site has an average depth of 84.3 feet, therefore the front and rear setback requirements for this lot is 16.8 feet. However, Section 7-9-128.4 “Building line based on average of adjoining site” permits a further reduction in the front setback to 10.6 feet, which is the average setback of the two adjoining sites (15.3 feet and 5.8 feet). The proposal conforms to the rear setback requirements but does not conform to the front setback requirements. The living area of the dwelling conforms to the setback requirements, however the garage of the structure is setback 5 feet from the front property line and a Variance is required. The side yard setbacks proposed conform to the setback standards for this lot.

The garage has an additional requirement under Section 7-9-137.1 “Garages and carports” to maintain a distance of 20 feet (may be reduced to 18 feet with section roll-up door) from the garage entry to the street curb line. The garage proposed has a setback of 8 feet from garage entry to the curb so a Variance is requested. Section 7-9-145.3 “Residential off-street parking requirements” has an additional requirement that garages with a driveway less than 17 feet in length provide one additional parking space within 200 feet. Street parking is available on the street and included with this proposal is an additional open on-site parking space located on the south property line, which is an Emerald Bay requirement. Subdivision and Grading Services/Traffic Review staff did not express a concern for the short driveway. The 8-foot driveway length discourages parking in front of the garage. Additionally, the Emerald Bay Community association actively polices parking throughout the community.

The CC&Rs for Emerald Bay has a setback requirement of five (5) feet from front, rear and side property lines. Because of this, the request for front and rear setback variances is a common practice in Emerald Bay. However, prior to any approval of this request for variance, the Zoning Administrator must make the following two findings:

*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.*

*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.*

Regarding the request for an over height retaining wall, in order to achieve a dwelling meeting the requirements of the owner and to conform to the Emerald Bay development standards for height, the site must be excavated resulting in higher than standard retaining walls. For this proposal, the applicant is requesting a Use Permit for a portion of the retaining wall system to reach a maximum height of up to 11 feet above inside finished grade. Zoning Code section 7-9-137.5 “Fences and walls” permits a maximum wall height for this specific situation of 8 feet. The request for over height retaining walls to lower the building pad elevation is a common practice in Emerald Bay. Prior to any approval of this request for an over height wall, the Zoning Administrator must make the following two findings:

*The height and location of the fence or wall as proposed will not result in or create a traffic hazard.*

*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.*

The proposed project, including the dwelling structure, building and garage setbacks and over height walls in the 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 variance findings and the two wall findings. Staff supports the applicant’s proposal and recommends project approval as follows.

**RECOMMENDED ACTION:**

PDS/Current and Advance Planning Services recommends the Zoning Administrator:

- a. Receive staff report and public testimony as appropriate; and,
- b. Approve Planning Application PA04-0021 for Variance and Use Permit subject to the attached Findings and Conditions of Approval.

Respectfully submitted

Chad G. Brown, Chief  
CAPS/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 RDMD/Planning and Development Services.