

RDMD/Planning and Development Services

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DATE: August 26, 2004

TO: Orange County Zoning Administrator

FROM: RDMD/PDS/Current and Advance Planning Services

SUBJECT: Public Hearing on Planning Application PA04-0054 for Use Permit

PROPOSAL: The applicant proposes to construct two retaining walls in the front setback area. One retaining wall runs 90 feet along the front property line and has a maximum height of 8 feet above finished grade. The similar length second retaining wall is 8 feet back from the first wall and also has a maximum height of 8 feet above finished grade. The Zoning Code permits a standard wall height of 3 ½ feet above finished grade in the front setback area. Zoning Code Section 7-9-137.5 permits modifications to wall height with the approval of a Use Permit.

LOCATION: The project site is located in the Panorama Heights area, east of Hewes Street, west of Crawford Canyon Road and south of Chapman Avenue at 12235 Circula Panorama. Third Supervisorial District.

APPLICANT: Michael Shuster, property owner

STAFF William V. Melton, Project Manager

CONTACT: Phone: (714) 834-2541 FAX: (714) 834-3522

SYNOPSIS: PDS/Current and Advance Planning Services recommends Zoning Administrator approval of PA04-0054 subject to the attached Findings and Conditions of Approval.

BACKGROUND:

The subject property is a steep hillside lot and developed with a single-family dwelling located at the front of the lot. An existing retaining wall is located adjacent to the dwelling at the top of the slope. The property is zoned R1/10000 (minimum lot size of 10,000 square feet). The site is approximately 14,500 square feet in area measuring 85 feet wide by 173 feet deep. The applicant claims the slope between the dwelling and Circula Panorama is eroding. To prevent further eroding and help stabilize the site, the applicant proposes to construct the two retaining walls in the front setback area. Because the walls exceed the height limit for wall in the front setback area, the applicant is requesting approval of a Use Permit for over height walls.

SURROUNDING LAND USE:

Direction	Zoning	Existing Land Use
Project Site	R1/10000	Single-family residential
North	R1/10000	Single-family residential
South	R1/10000	Single-family residential
East	R1/10000	Vacant residential lot
West	R1/10000	Single-family residential, under 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. 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. As of the writing of this staff report, no comments raising issues with the project have been received from other County divisions.

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:

During the site visit to the site, staff observed that some type of slope protection to prevent further erosion is needed. The applicant's letter of explanation (Exhibit 1) indicated that three possible solutions for slope protection were explored: 1) the proposed two 8 foot high retaining walls; 2) one 16 feet high retaining wall; and, 3) gunite facing backed with mesh. The applicant indicated in his letter that gunite facing, poured over the entire slope would not enhance the appearance of the home, and would definitely attract adverse reaction from our neighbors. He also indicated that building a single retaining wall 16 feet high would not be a practical solution. The applicant indicated that the idea of two 8-foot retaining walls with fairly level areas on top of each would provide an area for landscaping, which would not only stop the erosion problem, but also add to the beauty of the house, and neighborhood. Staff agrees that the terraced retaining wall system would be the best solution for the needed slope protection.

The two parallel retaining walls are each 8 feet in height, separated by a distance of 8 feet and are approximately 90 feet in length. The wall begins near the edge of the intersection of the south and west property lines, and extends east approximately 20 feet into the adjoining lot to the east (Lot 6 Tract 913). The applicant indicates in his letter of explanation that here is a recorded easement over the southern 50 feet of Lot 6 that provides the subject site (Lot 7), an easement for the purpose of constructing a mutual driveway, and any necessary walls that would be needed with regard to said driveway. Staff is recommending Condition of Approval No. 10 that requires the applicant to provide a copy of the recorded easement document granting the applicant authority to construct the retaining walls on the adjacent property, Lot 8, Tract 913.

Fence and wall heights are controlled by Zoning Code Section 7-9-137.5 "Fences and Walls". For this proposal located in the front setback area, permitted wall heights are allowed to a maximum height of 3 ½ feet. This code section also allows modifications to wall height subject to the approval of a Use Permit. Prior to the approval of a modification to wall height, the following two findings must be made:

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

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 would be able to make the two wall findings. Regarding the traffic hazard finding, the site is located on a straight section of Circula Panorama and Traffic Review did not note any potential traffic hazards. Regarding the compatibility finding, staff is recommending Condition of Approval No. 8, which requires the applicant to submit a landscaping plan that would help mitigate potential visual impacts of the two retaining walls. These two required fence and wall findings are included in Appendix A of this report.

Staff has received no communications, verbal or written, from adjacent property owners regarding this proposal. If staff receives any communications on this proposal after the preparation of this report, staff will present these communications at the public hearing. Staff supports the applicant's proposal and makes a recommendation for approval as follow.

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 PA04-0047 for Use Permit subject to the attached Findings and Conditions of Approval.

Respectfully submitted

William V. Melton, Project Manager
CAPS/Site Planning Section

WVM

Folder: My Documents/Use Permit/Use Permit 2004/PA04-0054 Staff 8-26 Shuster

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 RDMD/Planning and Development Services.