

RDMD/Planning and Development Services

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DATE: September 16, 2004

TO: Orange County Zoning Administrator

FROM: RDMD/PDS/Current and Advance Planning Services

SUBJECT: Public Hearing on Planning Application PA04-0074 for Use Permit

PROPOSAL: The applicant proposes to construct a new multi-level, single-family dwelling with a three-car garage on a steep down hill sloped lot zoned R1-10000 District. Because of the steep down slope, the applicant proposes to construct an elevated driveway from the street edge to the new three-car garage with driveway retaining walls up to 11 feet high in the front setback area.

LOCATION: The project is located in the Panorama Heights area north of Tustin, east of Hewes Street, south of Chapman Avenue, west of Crawford Canyon Road, between Circula Panorama and Baja Panorama at 12286 Baja Panorama, Santa Ana. Third Supervisorial District.

APPLICANT: Mehraben Homaie, property owner
Phillip Bennett, architect/agent

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

SYNOPSIS: PDS/Current and Advance Planning Services recommends Zoning Administrator approval of PA04-0074 for Use Permit subject to the attached Findings and Conditions of Approval.

BACKGROUND:

The subject property is approximately 9,300 square feet in area measuring 60 feet wide by 156 feet deep. The site is a through lot with Baja Panorama to the front and Circula Panorama to the rear (both streets are private). The property slopes sharply from the front to the rear with an elevation change of 46 feet, or a slope of 30 percent. According the submitted site plan, Baja Panorama (a private road with no known ownership) has a 40 foot right-of-way with 15'-6" paved. The property is typical of many of the properties in the Panorama heights area in that the property slopes steeply away from the frontage street.

The applicant proposes to construct elevated driveway measuring 30 feet wide and 45 feet from the garage to the street edge. The Orange County Zoning Code, Section 7-9-137.8 "Elevated driveway on steep topography", permits an elevated driveway of this type on a steep down sloping lot but has a maximum width requirement of 20 feet. The applicant requests approval of a Use Permit, as allowed

under Section 7-9-137, to permit a 30 feet wide driveway with over height walls as an alternative to the 20 feet wide driveway permitted outright by the Zoning Code.

SURROUNDING LAND USE:

Direction	Zoning	Existing Land Use
Project Site	R1 (10000)	Vacant
North	R1 (10000)	Single-family dwelling
South	R1 (10000)	Vacant, some construction activity
East	R1 (10000)	Vacant, single-family dwelling under construction
West	R1 (10000)	Single-family dwelling



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 seven County Divisions, the North Tustin Advisory Committee (NTAC) and Foothill Community Association. As of the writing of this staff report, no comments raising issues with the project have been received from other County divisions. Those divisions recommending conditions have been incorporated into Appendix B, Conditions of Approval. NTAC reviewed this proposal at a public hearing held July 21, 2004 and was approved with the addition of three conditions of approval (see Exhibit 2).

The three conditions that NTAC requested are as follows:

1. That the grading shall be verified by County has not exceeding 500 cubic yards.
2. That the applicant repaired the street (the full width of the property's frontage).
3. That the County require the project to provide substantial grading safeguards be provided protect all adjacent neighboring properties.

Regarding item 1 above, the majority of the grading will be fill for the elevated driveway, with minor grading at the rear of the proposed dwelling. The applicant's engineer claims the grading is less than 500 cubic yards and NTAC claims the grading exceeds 500 cubic yards. To address NTAC concern, standard Condition of Approval No. 9 has been modified to include a statement that the project is approved only for grading not exceeding 500 cubic yards.

Regarding item 2 above, Baja Panorama is a private street and as such the County has no requirement to repair or maintain the street. If the street was a County street, provisions would be incorporated requiring the applicant to bring the street up to County standards for that portion that runs along the property frontage. Staff is not recommending a condition suggested by NTAC, because Baja Panorama is not a County road.

Regarding item 3 above, staff has included Condition of Approval No. 14 requiring the applicant to construct an Engineered Debris Fence on the downhill side of the property. Additionally, Condition of Approval No. 15 requires the applicant to have a security/construction fence around the perimeter of the property.

CEQA COMPLIANCE:

Negative Declaration No. PA04-0074 (Exhibit 4) has been prepared for this proposal. It was posted for public review on August 16, 2004 and became final on September 7, 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 applicant is proposing to build a new single family home on a vacant 9,300 square foot lot, created in the 1920s. The site's legal description is Tract 939 Lot 39. The site has slopes down from the road over

30%, and will require less than 500 cubic yards of grading, particularly to fill in the front with a large driveway (itself sloping down at a maximum 6% in the first 20' off pavement). The project includes related retaining walls ranging in height up to 11.5 feet high (plus an additional 3.5 foot tall guardrail fence) partly located in the front yard setback where walls cannot exceed 3.5 feet in height, therefore requiring approval of a use permit. On the west side is a single-family home with an existing 30 feet wide elevated driveway similar to that proposed by the applicant (staff would not locate any records showing approval of a use permit for the driveway). On the east side is a new home under construction.

The proposed project will meet all other code requirements applicable to the construction of a single family home in the R1-10,000 District, including the 35' height limit. The practice for interpreting the height limit "envelope" requirement in the Zoning Code is that a structure's height is measured from the average of all finished grade elevations 5' from the front wall (toward the street), as compared to the average of all finished grade elevations 5' from the rear wall (toward the back of the lot).

It is fair to state that the neighborhood is almost characterized by homes on steep lots, accessed either by elevated driveways, driveways on artificially elevated grades, driveways that enter into garages sunken into upslopes, driveways that cross multiple properties, or driveways that meander through up or down curves in an effort to reduce steepness. The elevated driveways are supported by either columns or solid retaining walls. Solid retaining walls are becoming the most common procedure lately. The proposed driveway arrangement would not be atypical of the area, since there are those varieties of means of addressing the steepness of building sites, and is far from unprecedented. Four elevated driveways with driveway widths greater than 20 feet have been approved this year. The most recent approval was PA04-0051 approved September 2, 2004 with a 30 feet wide driveway with retaining walls in excess of the standard height in the front setback area.

While these types of retaining walls are becoming more common in the area, the Zoning Administrator will be asked to make the following two finding that this particular over height wall will not impact the neighborhood.

- (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.

Staff is of the opinion that the Zoning Administrator is able to make these two wall height findings. Staff supports the proposal because it will create additional off-street parking spaces, beyond the required, adjacent to a street that has no on-street parking available and it is typical of new development occurring in the vicinity. Staff 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 PA04-0074 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/PA04-0074 Staff 9-16 Homaie

APPENDICES:

- A. Recommended Findings
- B. Recommended Conditions of Approval

EXHIBITS:

1. Applicant's Letter of Explanation
2. NTAC minutes of July 21, 2004
3. Site Photos
4. Environmental Documentation
5. 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.