

PLANNING & DEVELOPMENT SERVICES DEPARTMENT REPORT

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DATE: February 2, 2006

TO: Orange County Zoning Administrator

FROM: RDMD/PDS/Current and Advance Planning Services

SUBJECT: Public Hearing on Planning Application PA05-0061 for Coastal Development Permit and Variance

PROPOSAL: Coastal Development to demolish existing single-family dwelling and construct a new 11,985 square foot, four-level (two floors over basements) single-family dwelling on a 13,200 square foot lot. Proposal also includes construction of a new swimming and spa and grading of 5,900 cubic yards of earth.

LOCATION: The project is located in the community of Emerald Bay, on the ocean side of and adjacent to the Pacific Ocean at 171 Emerald Bay, Laguna Beach. Fifth Supervisorial District.

APPLICANT: Kevin Hays, property owner
C. J. Light Associates, agent

STAFF Yosh Kawasaki, Staff Planner

CONTACT: Phone: (714) 834-4389 FAX: (714) 667-8344

SYNOPSIS: PDS/Current and Advance Planning Services recommends Zoning Administrator approval of PA05-0061 for Coastal Development Permit subject to the attached Findings and Conditions of Approval.

BACKGROUND:

The subject property is located in the coastal portion of Emerald Bay on a peninsula on the southwestern edge of the community. The property is located at 171 Emerald Bay and is legally known as Lot 24 of Tract 1104. The lot is approximately 13,000 square feet irregular (trapezoidal) size lot, measuring approximately 80 feet across the street frontage and 45 feet at the rear, with an average depth of 213 feet. The site is developed with a single-family, multi-level dwelling. The development is designated R1 Residential with a CD – Coastal Development overlay.

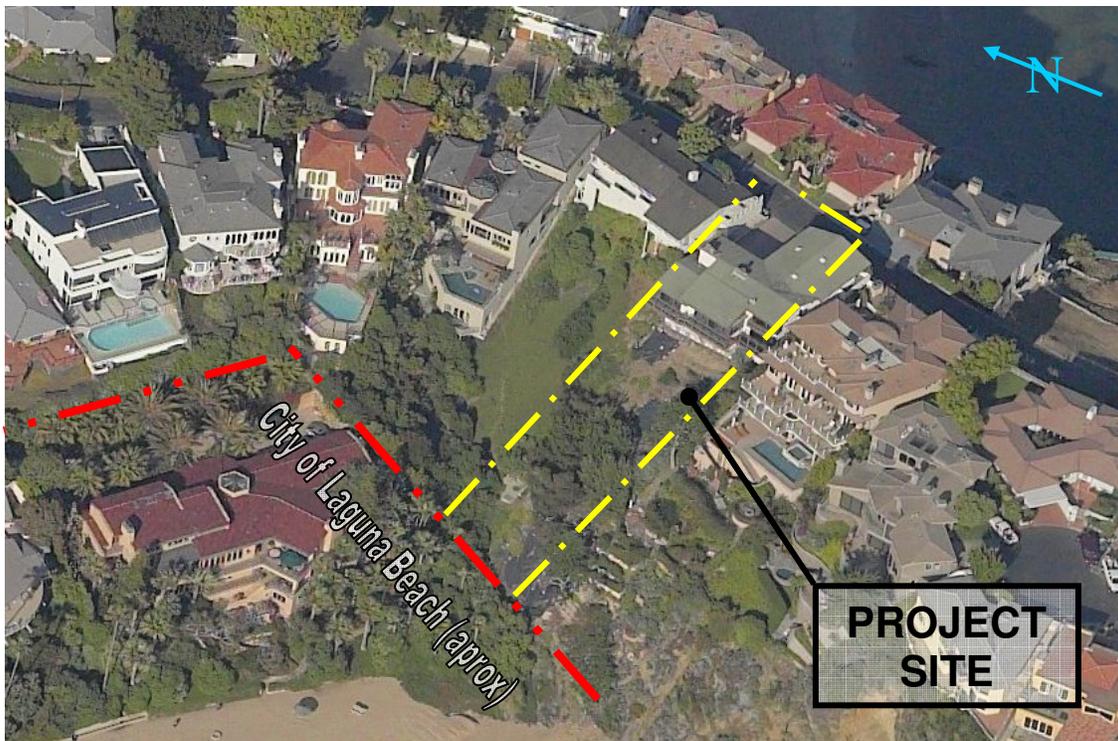
The site is steep bluff property ranging in elevation from 30 feet above sea level at the rear of the lot to 125 feet at the front of the property. The rear property line abuts an open space/beach area belonging to the adjacent Irvine Cove residential development in the City of Laguna Beach. The existing multi-level single-family dwelling is setback 7 feet-8 inches from the front property line. The home was constructed in 1970 and is approximately 4,200 square feet in size. A pathway is currently constructed from the rear of the home to the beach area at the rear.

A Coastal Development Permit conditionally approved by the Zoning Administrator on December 13, 2001 under Planning Application PA01-0096 was similar to this proposal. The previous owner never acted upon the Permit and the permit has since expired. The current owners have submitted a proposal that is similar to the previously approved PA01-0096 Planning Application. With minor variations, this proposal is nearly identical to the project that is presented today.

The applicant proposes to demolish the existing home and construct a new four-level dwelling containing 11,985 square feet of living area. The structure has two levels above grade and two levels (daylight basement) below grade. A total of 11 on-site parking spaces are provided, three (3) of which are covered; an oversized three-car garage, to provide a total of three (3) parking spaces; and four (4) uncovered space parking spaces on the north and south side of the dwelling. In addition, four (4) partially covered tandem parking spaces are provided on the east side of the dwelling. From the front street level, the dwelling will appear to be two stories in height with the top of the roof 25 feet above the front curb elevation. In addition to the proposed new dwelling, a pool and spa are proposed at the rear yard area and an existing pathway will be modified and improved. In order to construct the proposed dwelling, an estimated 5,900 cubic yards of earthwork is required. Of that total, 5,600 cubic yards is export. The Coastal Development Permit includes this grading.

SURROUNDING LAND USE:

The subject site and all surrounding properties are zoned R1 “Single-family Residence” District with a CD “Coastal Development Permit” District overlay, except for the property to the west (ocean side) which is part of the Irvine Cove residential development in the city of Laguna Beach (see photo below). The site is also within a certified Local Coastal Program (Emerald Bay LCP). All properties in Emerald Bay ocean side of PC are subject to the CD District of the Zone Code and development projects are subject to appeal to the Coastal Commission. Surrounding properties are developed with single-family dwellings.



REFERRAL FOR COMMENT AND PUBLIC NOTICE:

A Notice of Hearing was mailed to all owners of record within 300 feet of the subject site and all occupants of dwelling within 100 feet of the site (Coastal Development Permit requirement). 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 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 or the Emerald Bay Community Association.

CEQA COMPLIANCE:

Addendum PA050061 to Negative Declaration No. PA010096 has been prepared for this proposed project. Negative Declaration PA010096 was approved on December 13, 2001. Both Addendum and the Negative Declaration are attached for your consideration and must be approved prior to project approval with a finding that together, they are adequate to satisfy the requirements of CEQA. Appendix A contains the required CEQA Finding.

DISCUSSION/ANALYSIS:

The removal of a house on a lot and replacement with a substantially larger house is common in the Emerald Bay community. In the last year numerous Planning Applications have been received requesting approval of discretionary permits to remove a home and construct a larger home. In addition to a Coastal Development Permit, the majority of these applications include a request for a front or rear yard variance, a Use Permit for over height walls in the setback area, and a Site Development Permit for grading. This proposal involves a Coastal Development Permit which includes a variance and grading.

As stated earlier, a Coastal Development Permit conditionally approved by the Zoning Administrator on December 13, 2001 under Planning Application PA01-0096 was similar to this proposal on the property. The Permit has since expired. The current owners have submitted a similar version to the previously approved PA01-0096 Planning Application. The difference is that the garage setback has been changed to conform to the County's 18' front setback standard for garages. The remainder of the structure has not changed and is otherwise identical to the previously approved PA01-0096 Planning Application.

The proposed structure is located at approximately the same location as the existing structure. The building footprint of proposed structure extends down the bluff 5 to 7 feet beyond the limit of the existing footprint. Since this is a bluff top lot, there are sometimes "string line" issues and associated ocean views with new home location on the bluff. Emerald Bay uses a procedure to establish the location of a structure on a lot based on the location of the structures on the lot on either side. In most cases a new structure cannot encroach beyond a string line connection the outer most points of the two adjoining lots. The County does not include site development standards regarding this string line or views. The Scenic Resources section of the Land Use Plan of the Emerald Bay LCP establishes the Emerald Bay Board of Directors with the responsibility to "*Ensure that existing ocean views of surrounding property owners within the community are preserved.*" The string line and associated ocean views is established and administrated by the community association. According to the PA01-0096 Staff Report, the Emerald Bay

Community Association did not have an issue with this string line setback for the proposed structure. Staff noted that the structure to the south of the subject lot projects further down the slope than is proposed by the applicant's structure. The pool and spa proposed are at the same ground elevation as the lower basement level and will have no effect on ocean views from adjoining properties. It is also noted that the Emerald Bay HOA offered a "no comment" to this proposal.

The front setback requirement for the dwelling on this site is determined by averaging the setbacks of the two adjoining lots. The front setback conforms to this standard. The Emerald Bay CC&Rs allows for a setback of 5 feet in most cases. A standard garage setback is 18 feet from the street curb. The site requires two covered spaces. The applicant's plans call for three (3) covered spaces and eight (8) open spaces.

Front and rear setback variance requests are common in Emerald Bay. Even though there does not appear to be issues with the variances proposed, State and County laws require that a variance application may be approved only if the approving agency makes the variance findings listed below. If the Zoning Administrator cannot make these findings, then the variance request 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 the opinion that the Zoning Administrator is able to make these two variance findings and approve the variance request for this proposal. The special circumstance required by finding 1 above is found in Appendix A, Finding No. 15 which states: "*The special circumstances are: the steep topography of the site together with the restrictive Emerald Bay CC&Rs prohibit the applicant from constructing a single-family dwelling that could otherwise be constructed under County's R1 zoning site development regulations applicable to the site.*" In conclusion, staff's review determined the applicant's proposed Coastal Development Permit for a new single-family dwelling, proposed grading and variance request are consistent with other bluff top properties previously approved in Emerald Bay. Staff supports the applicant's proposal and makes a recommendation 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 PA05-0061 for Coastal Development Permit subject to the attached Findings and Conditions of Approval.

Respectfully submitted

Charles M. Shoemaker, Chief
RDMD/Current and Advance Planning

APPENDICES:

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

EXHIBITS:

1. Applicant's Letter of Explanation
2. Environmental Documentation
3. Site photos and aerial photos
4. Site Plans
5. Environmental documentation

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 for a single family dwelling matter or \$760.00 for all other matters, to be 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 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.