

PLANNING & DEVELOPMENT SERVICES DEPARTMENT REPORT

DATE: July 13, 2006
TO: Orange County Zoning Administrator
FROM: Planning and Development Services Department/Land Use Services Division
SUBJECT: Public Hearing on Planning Application PA05-0071 for Coastal Development Permit, Use Permit, and Variance.

PROPOSAL: The applicant requests a Coastal Development Permit to demolish an existing single family dwelling, to construct a new single family dwelling with attached garage, and a new spa; Variances for a proposed structural rear setback of 22 feet and roof eave setback of 14 feet, a Use Permit for over-steep driveway (nearly 20% down), extending into the floor of the garage at 8% down, and for accessory structures in the front setback, plus a Use Permit for driveway walls in the front setback to 4 feet tall, and for other walls in the rear and side setbacks to a height of 9 feet.

Though the project involves approximately 900 cubic yards of grading, a Site Development Permit per Zoning Code Section 7-9-139 is not required because less than 500 cubic yards of that work is on slopes over 30%.

LOCATION: In the community of Emerald Bay, on the coastal side of Pacific Coast Highway, at 145 Emerald Bay, Laguna Beach. Fifth Supervisorial District.

APPLICANT: Mr./Mrs. Raymond Francis, property owners, and C. J. Light Associates, Architect

STAFF J. Alfred Swanek, Project Manager Phone: (714) 796-0140
CONTACT: FAX: (714) 834-4772 E-mail: Jim.Swanek@pdsd.ocgov.com

SYNOPSIS: Land Use Services Division recommends Zoning Administrator approval of PA05-0071 for Coastal Development Permit, Variance, and Use Permits subject to the attached Findings and Conditions of Approval.

BACKGROUND:

The project site is not a portion of a recorded tract, but, rather was created with the Record of Survey 14-20 in 1944. It is clearly depicted as an intended lot on that 1944 exhibit, although not being numbered, and has not changed in shape or dimensions since that time. The existing home to be demolished was constructed in 1987. The lot size is 8422 square feet. The property is zoned R1 (CD) District (Single-family Residence with a Coastal Development overlay).

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 single-family dwellings. 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.



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 County Divisions and the Emerald Bay Community Association. As of the writing of this staff report, no comments raising substantive issues with the project have been received from other County divisions, other than driveway issues addressed below. The Emerald Bay Community Association approved the applicant’s preliminary plans on March 28, 2006.

CEQA COMPLIANCE:

Pursuant to the California Environmental Quality Act (CEQA), the project is documented by Negative Declaration PA050071, which became final without appeal on July 10, 2006. Mitigation measures included have been transposed into recommended conditions of approval. Prior to project approval, the

decision-maker must conclude that this Negative Declaration is adequate to satisfy the requirements of CEQA for the proposed project. A finding to that effect is included.

DISCUSSION/ANALYSIS:

Emerald Bay has a certified Local Coastal Program (LCP). The LCP has a requirement that all properties on the ocean side of PCH 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 Permit prior to demolishing a dwelling, making a large addition to an existing residence and/or construction of a new dwelling. 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. Projects requiring a Coastal Development Permit are appealable to the California Coastal Commission.

The applicant proposes a new three-level single family dwelling of 6,980 sq. ft. of living area plus 1,360 sq. ft. garage. The required rear yard setback is 25 feet; the proposed Variance would allow the walls of the new home to be placed as close as 22 feet.

The setback variances proposed are similar to other setback variances approved throughout the community of Emerald Bay, on small, irregularly-shaped and often steep lots. Staff has examined variances granted in the last 10 years for both front and rear yard setbacks, and notes that a typical case involves a structural setback varying along the front or rear property line 5-10 feet for the first story of a home, and perhaps 5-15 feet for a second story.

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 Variance 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.*

Noting as precedent but not justification the numerous variances previously approved in the vicinity and throughout Emerald Bay, staff is of the opinion that the Zoning Administrator would be able to make these two variance findings on the sole basis of this lot's topography and unusual shape

A Use Permit is required as an off-street parking modification for a driveway 16% and then 19.5% down-grade beginning 5 feet from the front property line (where 18 feet is the standard), grades extending into the garage at 8% down, and one grade break of more than 10% (5% to 16%). Since there is no apparent entrance on the garage level, it seems unlikely anyone other than the owners or visitors already familiar with the property would ever use it. Anyone parking in the driveway must go back up to the front of the lot and then enter through the adjoining entry court.

Separate Use Permits are required for accessory structures in the front setback (a patio cover), plus a Use Permit for driveway walls in the front setback to 4 feet tall, and for other walls in the rear and side setbacks to a height of 9 feet.

Zoning Code Section 7-9-145.7 (“Alternatives to off-street parking regulations”) provides for alternative parking standards by use permit when the decision-maker is able to make findings that:

- (1) *Applicable off-street parking requirements are excessive or inappropriate due to the nature of the specific use involved or because of special circumstances applicable to the property; and*
- (2) *The proposed off-street parking facilities comply with the intent of...Section 7-9-145.1.*

Section 7-9-145.1 states: “It is intended that these regulations will result in the installation of properly designed parking facilities of sufficient capacity to minimize traffic congestion, enhance public safety, generally provide for the parking of motor vehicles at locations other than on the streets, and for safe passage of pedestrians to and from parked vehicles.”

County traffic engineering staff reviewed all elements of the off-street parking modification Use Permit through a series of design efforts and commented that these situations as currently planned are manageable with a recommended condition for “line-of-sight” (see Condition 16). The Zoning Administrator is requested to find that the standards not being met are inappropriate due to the interior size of the garage, the length of the driveway, and the light traffic on this portion of Emerald Bay Drive.

A Use Permit is required for the height of the proposed wall adjoining the proposed garage, being up to 4 ft. tall in the front setback, and elsewhere to a maximum of 9 feet in height. There are no “typical” walls or wall heights that have been granted in Emerald Bay, since every lot is different in size, shape, and topography. However, with the exception of the architecturally-unusual planter elevated to be over the entrance to the driveway, the walls would not be at all out of character. With the standard condition on line-of-sight referenced previously, staff believes the Zoning Administrator can make the special findings required for “overheight” walls, being:

1. *That the height and location of the fence or wall as proposed will not result in or create a traffic hazard; and*
2. *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.*

A Use Permit is also required for an accessory structure in the front setback, a patio cover, with no special findings beyond compatibility with the neighborhood.

Finally, the applicant requests a Coastal Development Permit to demolish the existing single family dwelling, construct a new single family dwelling with attached garage, retaining walls, a new spa, and detached patio cover, with special findings for Local Coastal Program consistency as recommended by staff.

RECOMMENDED ACTION:

Land Use Services Division recommends the Zoning Administrator:

- a. Receive staff report and public testimony as appropriate; and,
- b. Approve Planning Application PA05-0071 for Use Permits, Variance, and Coastal Development Permit subject to the attached Findings and Conditions of Approval.

Respectfully submitted

Charles Shoemaker, Chief
LUSD/Site Planning Section

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 Planning and Development Services Dept.

In addition to County appeal procedures, 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.