

PLANNING & DEVELOPMENT SERVICES DEPARTMENT REPORT

DATE: August 2, 2007

TO: Orange County Zoning Administrator

FROM: RDMD/PDS/Site Planning & Environmental Services

SUBJECT: Public Hearing on Planning Application PA 06-0066 for a Use Permit, a Variance and a Site Development Permit for construction of a single-family residence.

PROPOSAL: The proposed project is a request for approval of a Use Permit for overheight walls, a Variance for proposed height of 36'6" at one point where 35 feet is required and a Site Development Permit for grading in excess of 500 cubic yards associated with construction of a single-family residence.

LOCATION: The subject property is located at 2182 Lemon Heights Drive, Santa Ana (Lemon Heights).

APPLICANT: Craig Erion.

STAFF CONTACT: Jerry Mitchell (714) 834-5389

SYNOPSIS: The applicant seeks approval of a Site Development Permit for grading in excess of 500 cubic yards and construction of a new single-family residence with Variance and Use Permit on a vacant lot. PDS/Site Planning & Environmental Services recommends the Zoning Administrator conditionally approve Planning Application PA 06-0066.

BACKGROUND:

The subject site is located at 2182 Lemon Heights Drive, Santa Ana, in the residential neighborhood of Lemon Heights. The site is zoned 125-E4 (10,000) "Small Estates" District, low-medium density single-family residential. The lot was established by a lot line adjustment for 2075 La Questa Drive, Lemon Heights (LLA 90-015) (Attachment 1, Letter of Justification). The proposal is to construct a new, Santa Barbara style, three level single-family residence with an attached three-car garage and drive court.

The applicant is requesting a Use Permit for over height walls, a Site Development

Permit for grading in excess of 500 cubic yards and a Variance for the proposed height of 36 feet, six inches at one point where 35 feet is required. While the overall height of the proposed residence would be within the 35-foot height limit, a small portion of the gable roof over the master deck extends one-foot six inches beyond. The gable roof is a feature of the Santa Barbara style architecture.

NTAC REVIEW:

NTAC reviewed this project on August 16, 2006 and unanimously recommended approval. Minutes to this meeting are provided as Attachment 2.

CEQA COMPLIANCE:

The proposed project is covered by Mitigated Negative Declaration No. PA 060066 (Attachment 3). Prior to project approval, this Negative Declaration must be found adequate to satisfy the requirements of CEQA. A finding for that purpose is included in Recommended Findings submitted as Appendix A. All appropriate mitigation measures have been included as Conditions of Approval submitted as Appendix B.

PUBLIC NOTICE AND COMMENTS:

A Notice of Hearing was mailed to all property owners of record within 300 feet of the subject site. In addition, a public notice was posted on site and on the first floor of H.G. Osborne Building. A notice and this staff report were also mailed to the members of the NTAC, as well as to the applicant. No public comments have been received to date.

PROJECT SITE:

The subject site is designated 1B by the General Plan Land Use Element and is zoned 125-E4 "Small Estates" District Regulations. This district is intended for development and maintenance of low-medium density single-family residential neighborhoods (10,000 square feet minimum building site). The applicant's building site is a vacant lot approximately 21,535 square feet and is a legal conforming building site.

PROJECT DESCRIPTION:

The applicant wishes to grade approximately 3,148 cubic yards of cut and 375 cubic yards of fill. Approximately 2,774 cubic yards of material would be exported off-site. The proposed residence would be a three-level, 5,360 square-foot structure, with a 1,409 square-foot, attached three-car garage and drive court (Attachment 4).

PROJECT ANALYSIS:

The proposed project requires grading of over 500 cubic yards of earth. The potential for soil settlement is considered likely; however, the project has been conditioned to require submittal of a preliminary Geo-technical Report, which includes information and format as required by the Grading Manual.

Because of the over 30 percent steep slope of the project site, (as with similar nearby lots), the project design relies heavily on subterranean development and terraced planters to minimize site and visual impacts of the structures. The utilization of stepped development and elevated patios on the hillsides is common throughout the Lemon Heights area.

The size and design of the subject project is similar to the existing surrounding homes and is consistent with the Zoning District Regulations with respect to setbacks, lot area coverage, etc. However, a Variance and Use Permit are being requested because a small portion of the gable roof over the master deck extends one-foot six inches beyond the 35-foot height limit and because the steep sloped site necessitates utilization of over height walls for maximum use.

In an effort to reduce excess grading for the structures and driveway, the drive court and garage would be constructed on top of an existing leveled area. The reduction in grading would be achieved by allowing the driveway to slope over an existing graded path.

A minimum setback of 35 feet between the existing residential structures on either side of the project structure would be maintained. The on-street parking is limited because of the narrow curved street frontage at Lemon Heights Drive; however, the off-street parking provided by the site (three-car garage plus an additional three spaces within the drive court) eliminates any need for on-street parking by the residents.

Walls

The need for a Use Permit for over height walls arises from the use of retaining walls that exceed the County's height limitations to create useable outdoor spaces on a steeply sloped site. In addition to the steep slope, the long narrow shape of the site is too restrictive for flat use in the backyard without significant grading. Therefore, the north-easterly portion of the site (side yard area) is used for the patio, including a swimming pool and spa. Five-foot high wrought iron gate and fencing on top of new retaining walls would be constructed within the side yard surrounding the pool and spa area, which would require a Use Permit because of the six-foot height restriction.

The applicant is also proposing to construct new retaining walls with a five-and a half-foot high wrought iron gate and fence within the front setback area to enhance the front entrance of the property along Lemon Heights Drive. The County’s three-and a half-foot high front yard setback requirement restricts this construction; therefore, a Use Permit is required. The wrought iron fences and gates would be located at the bottom of the site, well below views from adjacent residences and therefore would not obstruct any one’s view.

Consistency with General Plan/Zoning

Site Development Permit PA 06-0066 is consistent with the 1B General Plan Land Use Element designation and 125-E4 zoning “Small Estates” District and such a finding is included in Appendix A. The zoning district is intended for development and maintenance of low-medium density single-family residential neighborhoods in which open space and deep setbacks predominate.

CONCLUSION:

The proposed project has been reviewed by appropriate County staff and NTAC. There are no outstanding planning or environmental concerns with the recommended Findings noted in Appendix A and Conditions of Approval in Appendix B. The project, as conditioned, is consistent with all regulations and policies of the County Zoning Code and is supported by the NTAC.

State and County law requires 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 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 circumstances required by finding 1 above is found in Appendix A, Finding No. 6, which states: “*The special circumstances are:* Similar to all nearby lots in this area, the over 30 percent

steep slope of the project site requires the design to rely on partially subterranean development and terraced planters to reduce adverse visual impacts. Other residences within the neighborhood have similar construction.” In conclusion, staff’s review determined the applicant’s proposed Variance request for exceeding the 35-foot height limitation within a small portion of the gable roof over the master deck by one-foot six inches, subject to the attached Findings and Conditions of Approval, is compatible with adjacent residences and consistent with other proposals previously approved in this area. Staff supports the applicant’s proposal and makes a recommendation as follows:

RECOMMENDED ACTION:

- a. Receive staff report and public testimony as appropriate; and
- b. Conditionally approve Use Permit, Variance and Site Development Permit for PA 06-0066.

Respectfully submitted,

Ronald L. Tippetts, Chief
RDMD PDS/Environmental & Site Planning

APPENDICES:

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

ATTACHMENTS:

1. Applicant's Letter of Justification
2. NTAC Review Minutes
3. Addendum PA 06-0066
4. Site Plan

- b. The Mitigated Negative Declaration and comments on the Negative Declaration during the public review process were considered and the Negative Declaration was found adequate in addressing the impacts related to the project; and
- c. There is no substantial evidence in the entire record to support a fair argument that the project, with the implementation of mitigation measures included in the Negative Declaration, will have a significant effect on the environment.
- d. All mitigation measures are found to be fully enforceable pursuant to CEQA (Public Resources Code) Section 21081.6(b) and have been adopted as Conditions of Approval or incorporated as part of project design.

[VA01]

VARIANCE 1

PA 06-0066 (Custom)

- 6. That 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. Similar to all nearby lots in this area, the over 30 percent steep slope of the project site requires the design to rely on partially subterranean development and terraced planters to reduce adverse visual impacts. Since other residences within the neighborhood have similar construction, approval of this variance would not be out of character for the neighborhood.

[VA02]

VARIANCE 2

PA 06-0066

- 7. That 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.

6. [T05] ROAD FEE PROGRAM PA 06-0066

Approval: SG SG B

Prior to the issuance of building permits, the applicant shall pay fees for the Major Thoroughfare and Bridge Fee Program listed below, in a manner meeting the approval of the Manager, Subdivision and Grading.

- a. Foothill/Eastern Transportation Corridor

7. [T07] SIGHT DISTANCE PA 06-0066

Approval: SG SG G

Prior to the issuance of any grading permits, the applicant shall provide adequate sight distance per Standard Plan 1117 at all street intersections, in a manner meeting the approval of the Manager, Subdivision and Grading. The applicant shall make all necessary revisions to the plan to meet the sight distance requirement such as removing slopes or other encroachments from the limited use area in a manner meeting the approval of the Manager, Subdivision and Grading Services.

8. [D01b] DRAINAGE STUDY PA 06-0066

Approval: SG SG G

Prior to the issuance of any grading permits, the following drainage studies shall be submitted to and approved by the Manager, Subdivision and Grading:

- A. A drainage study of the project including diversions, off-site areas that drain onto and/or through the project, and justification of any diversions; and
- B. When applicable, a drainage study evidencing that proposed drainage patterns will not overload existing storm drains; and
- C. Detailed drainage studies indicating how the project grading, in conjunction with the drainage conveyance systems including applicable swales, channels, street flows, catch basins, storm drains, and flood water retarding, will allow building pads to be safe from inundation from rainfall runoff which may be expected from all storms up to and including the theoretical 100-year flood.

9. [G01] GEOLOGY REPORT PA 06-0066

Approval: SG SG G

Prior to the issuance of a grading permit, the applicant shall submit a geotechnical report to the Manager, Subdivision and Grading, for approval. The report shall include the information and be in the form as required by the Grading Manual.

10.[WQ01] WATER QUALITY MANAGEMENT PLAN PA 06-0066
Approval: BI BI RGB

Prior to the issuance of any grading or building permits, the applicant shall submit for review and approval by the Manager, Inspection Services Division, a Water Quality Management Plan (WQMP) specifically identifying Best Management Practices (BMPs) that will be used onsite to control predictable pollutant runoff. This WQMP shall identify, at a minimum, the routine structural and non-structural measures specified in the current Drainage Area Management Plan (DAMP). The WQMP must also:

- Address Site Design BMPs (as applicable) such as minimizing impervious areas, maximizing permeability, minimizing directly connected impervious areas, creating reduced or “zero discharge” areas, and conserving natural areas;
- Incorporate applicable Routine Source Control BMPs as defined in the DAMP;
- Include an Operation and Maintenance (O&M) Plan that identifies the mechanism(s) by which long-term O&M of all structural BMPs will be provided.

11.[WQ03] COMPLIANCE WITH THE WQMP PA 06-0066
Approval: BI BI U

Prior to the issuance of a certificate of use and occupancy, the applicant shall demonstrate compliance with the WQMP in a manner meeting the satisfaction of the Manager, Inspection Services Division, including:

- Demonstrate that all structural Best Management Practices (BMPs) described in the project’s WQMP have been implemented, constructed and installed in conformance with approved plans and specifications;
- Demonstrate that the applicant has complied with all non-structural BMPs described in the project’s WQMP;
- Submit for review and approval an Operations and Maintenance (O&M) Plan for all structural BMPs for attachment to the WQMP;
- Demonstrate that copies of the project’s approved WQMP (with attached O&M Plan) are available for each of the incoming occupants;
- Agree to pay for a Special Investigation from the County of Orange for a date (12) twelve months after the issuance of a Certificate of Use and Occupancy for the project to verify compliance with the approved WQMP and O&M Plan; and

- Demonstrate that the applicant has agreed to and recorded one of the following: 1) the CC&R's (that must include the approved WQMP and O&M Plan) for the project Home Owner's Association; 2) a water quality implementation agreement that has the approved WQMP and O&M Plan attached; or 3) the final approved Water Quality Management Plan (WQMP) and Operations and Maintenance (O&M) Plan.

12. [WQ05] EROSION AND SEDIMENT CONTROL PLAN PA 06-0066
Approval: BI BI GB

Prior to the issuance of any grading or building permit, the applicant shall submit a Erosion and Sediment Control Plan (ESCP) in a manner meeting approval of the Manager, Building Permit Services, to demonstrate compliance with local and state water quality regulations for grading and construction activities. The ESCP shall identify how all construction materials, wastes, grading or demolition debris, and stockpiles of soil, aggregates, soil amendments, etc. shall be properly covered, stored, and secured to prevent transport into local drainages or coastal waters by wind, rain, tracking, tidal erosion or dispersion. The ESCP shall also describe how the applicant will ensure that all BMP's will be maintained during construction of any future public right-of-ways. A copy of the current ESCP shall be kept at the project site and be available for County review on request.

13. [A01] ARCHAEO SURVEY PA 06-0066
Approval: HP HP G

Prior to the issuance of any grading permit, the applicant shall obtain approval from the Manager HBP/Coastal and Historical Facilities of a report on a literature and records search and field survey of the project site. The applicant shall retain a County-certified archaeologist to complete the literature and records search for recorded sites and previous surveys. The archaeologist shall conduct a field survey unless the entire proposed project site has been documented as previously surveyed in a manner which meets the approval of the Manager, HBP/Coastal and Historical Facilities, The applicant shall implement the mitigation measures recommended in this report in a manner meeting the approval of the Manager, HBP/Coastal and Historical Facilities.

14. [A05] PALEO SURVEY PA 06-0066
Approval: HP HP G

Prior to the issuance of any grading permit, the applicant shall obtain approval from the Manager, HBP/Coastal and Historical Facilities of a report on a literature and records search and field survey of the project site. The applicant shall retain a County-certified paleontologist to complete the literature and records search for recorded sites and previous surveys. The

paleontologist shall conduct a field survey unless the entire proposed project site has been documented as previously surveyed in a manner which meets the approval of the Manager, HBP/Coastal and Historical Facilities. The applicant shall implement the mitigation measures in the report in a manner meeting the approval of the Manager, HBP/Coastal and Historical Facilities.

15. ALTERNATIVE MATERIALS & METHODS PA 06-0066
Approval: OCFA

Prior to the issuance of any building permit, the applicant, as noted on the site plan, shall produce evidence acceptable to the Manager, Building Permits Services, that:

- (1) The fire sprinkler system has been upgraded to a NFPA 13 D system with no exceptions in coverage. Included are bathrooms, foyers, closets and attics.
- (2) The building construction has been upgraded to type V-one hour construction throughout.
- (3) Five-foot wide access around the entire home will be provided.
- (4) The road edges to the property line are widened, allowing for a 28-foot road frontage.

16. CONSTRUCTION NOISE PA 06-0066
Approval: BP BP G

A. Prior to the issuance of any grading permits, the project proponent shall produce evidence acceptable to the Manager, Building Permits Services, that:

- (1) All construction vehicles or equipment, fixed or mobile, operated within 1,000' of a dwelling shall be equipped with properly operating and maintained mufflers,
- (2) All operations shall comply with Orange County Codified Ordinance Division 6 (Noise Control).
- (3) Stockpiling and/or vehicle staging areas shall be located as far as practicable from dwellings.

B. Notations in the above format, appropriately numbered and included with other notations on the front sheet of the project's permitted grading plans, will be considered as adequate evidence of compliance with this condition.