

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 06-0074 for a Use Permit 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 and a Site Development Permit for grading in excess of 500 cubic yards on slopes greater than 30 percent, for the construction of a three-story single-family residence with an attached three-car garage.

LOCATION: The subject property is located at 11569 Skyline Drive, Santa Ana (North Tustin).

(Third Supervisorial District).

APPLICANT: Michael and Adriana Chirilov

STAFF CONTACT: Jerry Mitchell, Staff Planner
Phone: (714) 834-5389 FAX: (714) 667-8344

SYNOPSIS: The applicant seeks approval of Planning Application PA 06-0074 for a Use Permit for overheight walls and a Site Development Permit for grading in excess of 500 cubic yards associated with the construction of a new single-family residence on a vacant lot. PDS/Site Planning & Environmental Services recommends the Zoning Administrator conditionally approve Planning Application PA 06-0074.

BACKGROUND:

The subject site was previously approved for residential homes via Tract Map 670. The project site is located at 11569 Skyline Drive, Santa Ana (North Tustin). The applicant's agent has submitted a letter (Attachment 1) proposing the construction of an approximately 5,576 square-foot, three-story, single-family residence with an attached 667 square-foot, three-car garage, new landscaping and retaining walls.

The project site is designated 1B by the General Plan Land Use Element and is zoned 125-E4/20,000 ("Small Estates" District) for the development and maintenance of low-medium density single-family residential neighborhoods, in which open space and deep setbacks predominate. This particular site; however, is a shallow lot. While the lot is shallow, it meets

the setback requirements for shallow lots under the Zoning Code. Therefore, the site is consistent with the Zoning Code. The site is approximately 0.654 acres and; therefore, exceeds the 20,000 square-foot requirement for a building site. The proposed residence, at 35 feet high, meets the County's height restriction for structures and is therefore, in compliance with the County's Zoning Code. A cupola is proposed as part of the structure to provide for additional overhead lighting in the main living area. This is an architectural projection only, extending approximately three-and a-half feet beyond the 35-foot height restriction and is allowed under the County's Zoning Code, Section 7-9-129.3 Architectural Features. No access is provided to the light well cupola; it is clearly not a habitable living area and could not be converted to future living space.

The site plan notes a total of 943 cubic yards of cut material with no fill. All will be removed from the site during construction. Because the plan exceeds 500 cubic yards of grading, a Site Development Permit is required. A Use Permit for overheight retaining walls is also required. The proposed walls vary up to 20 feet in height and are necessary to support the motor court area, located just beyond the entry bridge at Skyline Drive.

NTAC REVIEW:

NTAC reviewed this project on March 21, 2007 and unanimously recommended approval, subject to County staff clarification on how the height was determined on the structure; i.e., by subsection A or B (natural grade or finished grade). Minutes to this meeting are provided as Attachment 2.

County staff has determined the height of the structure to be within the 35-foot height requirement measured from finished grade. Also, as noted above, while the cupola extends about three-and a-half feet beyond the 35-foot height restriction, this is an architectural feature only. In addition, the cupola could not be converted to habitable space because there is no access.

Site drainage was another issue raised during the NTAC's public hearing. In particular, concern was raised about the lower southwest corner of the property and how the water flows might impact Foothill Boulevard. However, to ensure that no adverse drainage impacts would occur as a result of this development, the project has been conditioned to require a drainage study, drainage improvements and to address any off-site drainage issues from upstream and/or downstream property owners.

GENERAL PLAN AND ZONING CONSISTENCY:

Planning Application PA 06-0074 is designated within the E4/125-20,000 District Regulations in the community of North Tustin.

The proposed single-family residential project is consistent with the 1B General Plan Land Use Element designation and 125-E4 zoning "Small Estates" District. A finding acknowledging this consistency 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.

CEQA COMPLIANCE:

Mitigated Negative Declaration PA 060074 (Attachment 3) was prepared for the proposed project and was posted for a 30-day public review on March 30, 2007. The negative declaration satisfies the requirements of CEQA for the project. The required CEQA Finding is included in the attached Findings (Appendix A) for the Zoning Administrator's consideration and must be approved prior to project approval with a finding that it is adequate to satisfy the requirements of CEQA.

REFERRAL FOR COMMENT AND PUBLIC NOTICE:

A Notice of Hearing (Attachment 4) 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. Aside from the NTAC meeting minutes provided as Attachment 2, no further public comments have been received to date.

DISCUSSION/ANALYSIS:

The proposed project is consistent with the County's General Plan and Zoning Code for low-medium density single-family residential neighborhoods. The proposed residence meets the County's 35-foot building height requirement, which is calculated from the finished grade to the top of the structure (Zoning Code, Section 7-9-129.1(a), for sites that slope more than 10 percent within the front 50 feet of the building site. While it is acknowledged that the proposed cupola extends approximately three-and a-half feet beyond the 35-foot height restriction, this is an architectural projection only and is allowed under the County's Zoning Code, Section 7-9-129.3, under Architectural Features.

Concern was raised during the NTAC's public meeting regarding drainage onto neighboring properties and the potential for erosion of existing retaining walls. As noted above, conditions have been placed on this project to ensure that no adverse drainage or erosion impacts will occur, either to adjacent properties or public streets.

Because of the steep terrain and shallow lot, the proposed project requires extensive retaining walls that are beyond the allowable height restrictions. These walls vary upward of 20 feet and are necessary to support the motor court, located just beyond the entry bridge. Therefore, a Use Permit is required for the overheight walls.

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. Staff supports the applicant's proposal and recommends the following action:

RECOMMENDED ACTION:

- a. Receive staff report and public testimony as appropriate; and
- b. Conditionally Approve Planning Application PA 06-0074.

Respectfully submitted

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

Planning

APPENDICES:

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

ATTACHMENTS:

1. Letter of Justification
2. NTAC Minutes
3. Mitigated Negative Declaration PA 060074
4. Notice of Public Hearing
5. Site Plan

APPEAL PROCEDURE:

Any interested person may appeal the decision of the County Planning Commission on this permit to the Orange County Board of Supervisors within 15 calendar days of the decision upon submittal of required documents and a fee of \$245.00 for single-family residential and \$760.00 for all others filed at the Resources and Development Management Department (RDMD) 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 Planning and Development Services prior to the close of the public hearing.

- 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.

6. [D01b] DRAINAGE STUDY

PA 06-0074

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.

7. [D02b] DRAINAGE IMPROVEMENTS

PA 06-0074

Approval: SG SG G

- A. Prior to the issuance of any grading permits, the applicant shall in a manner meeting the approval of the Manager, Subdivision and Grading:
 - 1) Design provisions for surface drainage; and
 - 2) Design all necessary storm drain facilities extending to a satisfactory point of disposal for the proper control and disposal of storm runoff; and
 - 3) Dedicate the associated easements to the County of Orange, if determined necessary.
- B. Prior to the issuance of any certificates of use and occupancy, said improvements shall be constructed in a manner meeting the approval of the Manager, Construction.

8. [D03a] DRAINAGE OFFSITE

PA 06-0074

Approval: SG SG G

Prior to the issuance of any grading permit, and if determined necessary by the Manager, Subdivision and Grading, the applicant shall record a letter of consent, from the upstream and/or downstream property owners permitting drainage diversions and/or unnatural concentrations. The form of the letter of consent shall be approved by the Manager, Subdivision and Grading Services prior to recordation of the letter.

9. [G01] GEOLOGY REPORT
Approval: SG SG G

PA 06-0074

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
Approval: BI BI RGB

PA 06-0074

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. [WQ02] WQMP FOR PRIORITY PROJECTS
Approval: BI BI RGB

PA 06-0074

Prior to the issuance of any grading or building permits, the applicant shall include in the WQMP the following additional Priority Project information in a manner meeting the approval of the Manager, Inspection Services Division:

- Include post-construction Treatment Control BMP(s) as defined in the DAMP;
- For applicants relying on Regional Treatment Controls, discuss applicable regional water quality and/or watershed program;
- Include a Operation and Maintenance (O&M) Plan that (1) describes the long-term operation and maintenance requirements for post-construction Treatment Control BMP(s); (2) identifies the entity that will be responsible for long-term operation and maintenance of the referenced Treatment Control BMP(s); and (3) describes the mechanism for funding the long-term operation and maintenance of the referenced Treatment Control BMP(s).

Prior to the issuance of any grading or building permits, the applicant shall include in the WQMP the following additional Priority Project information in a manner meeting the approval of the Manager, Inspection Services Division:

- Include post-construction Treatment Control BMP(s) as defined in the DAMP;

- For applicants relying on Regional Treatment Controls, discuss applicable regional water quality and/or watershed program;
- Include a Operation and Maintenance (O&M) Plan that (1) describes the long-term operation and maintenance requirements for post-construction Treatment Control BMP(s); (2) identifies the entity that will be responsible for long-term operation and maintenance of the referenced Treatment Control BMP(s); and (3) describes the mechanism for funding the long-term operation and maintenance of the referenced Treatment Control BMP(s).

12. [WQ03] COMPLIANCE WITH THE WQMP
Approval: BI BI U

PA 06-0074

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.

13. [WQ05] EROSION AND SEDIMENT CONTROL PLAN
Approval: BI BI GB

PA 06-0074

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,

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.

17. STAGING AREA (CUSTOM) PA 06-0074

- A. Prior to the issuance of any grading permits, the project proponent shall produce evidence acceptable to the Manager, Building Permits Services that:
- a. All staging areas for stockpiling, construction vehicles, equipment or operations shall be located solely in a designated area, approved by the Manager, Building Permits Services, on applicant’s property; and
 - b. No construction vehicles, equipment or operations shall adversely impact traffic along Skyline Drive.
- 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.

18. FIRE ACCESS ROADS (FP4) PA 06-0074
Service Code: 2.8.1 (Emergency Access & Fire Hydrant Locations)

Prior to the issuance of any building permits, the applicant shall obtain approval of the Fire Chief for all fire protection access roads to within 150 feet of all portions of the exterior of the structure. The applicant may contact the OCFA at (714) 573-6100 or visit the OCFA website to obtain a copy of the “Guidelines for Emergency Access.”

19. FIRE HAZARD NOTIFICATION (FP7) PA 06-0074

Prior to the issuance of a building permit, the applicant shall place a note on the site plan meeting the approval of the fire chief that all requirements for development and construction within a “Special Fire Protection Area,” including increased street widths, Class A roof assemblies, fire sprinklers, etc. will be met. The applicant may contact the OCFA at (714) 573-6100 or visit the OCFA website to obtain a copy of the “Guidelines for Development within Special Fire Protection Areas and Instructions for Request for Exclusion from SFPA.”

20. WATER AVAILABILITY (FP2) PA 06-0074
Service Code: 2.8.1 (Emergency Access & Fire Hydrant Location)

Prior to the issuance of any building permits, the applicant shall provide evidence of adequate fire flow. The “Orange County Fire Authority Water Availability for Fire Protection” form shall be signed by the applicable water district and submitted to the Fire Chief for approval.

21. AUTOMATIC FIRE SPRINKLER SYSTEMS (FP3) PA 06-0074
Service Codes: 2.27 (Residential Fire Sprinklers)

- A) Prior to the issuance of a building permit, the applicant shall submit plans for the required automatic fire sprinkler system in the structure to the Fire Chief for review and approval. Please contact the OCFA at (714) 573-6100 to request a copy of the “Orange County Fire Authority Notes for New NFPA 13 Commercial Sprinkler Systems.”
- B) Prior to the issuance of a certificate of occupancy, this system shall be operational in a manner meeting the approval of the Fire Chief.

22. LUP PPP GP PUBLIC PROPERTY PERMIT PA 06-0074 (Custom)

Prior to issuance of a grading permit, the applicant shall apply for and obtain a public property permit to allow the construction of that portion of the elevated driveway ramp and that portion of the pedestrian bridge within the Right-of-way of Skyline Drive.