

PLANNING AND DEVELOPMENT SERVICES DEPARTMENT REPORT

DATE: February 7, 2007
TO: Orange County Planning Commission
FROM: RDMD/PDS/Site Planning
SUBJECT: PA06-0081, a site development permit to address grading performed in recent years without permit to be corrected by grade recontouring back toward natural, and hydroseed landscaping. No dedication of “permanent, natural open space” is proposed in connection with this project proposal. The applicant requests the Commission allow existing property perimeter chain-link fencing to remain, which is otherwise prohibited under Foothill-Trabuco Specific Plan Section III.D.6.7.d.

The 4.58 acre (gross) site is in the “Trabuco Canyon Residential” (TCR) District of the Foothill-Trabuco Specific Plan, and was created by Tract 7685 in 1973.

LOCATION: 20182 Trabuco Oaks Drive, Trabuco Canyon (District 3)

APPLICANT: Kiran Patel, Owner

STAFF CONTACT: Jim Swanek (Jim.Swanek@pdsd.ocgov.com)
Phone (714) 796-0140 FAX (714) 834-4772

SYNOPSIS: Planning & Development Services recommends Planning Commission approval of PA06-0081 for Site Development Permit, subject to the Recommended Conditions of Approval and Findings herein

PROJECT ANALYSIS:

The project site is located in the Trabuco Canyon Residential (TCR) District of the Foothill/Trabuco Specific Plan, with a 2 acre minimum lot size. The 4.58 acre lot was created by a 1973 tract map. A frontage easement was dedicated to the County at that time for management of the floodplain of Hickey Creek, which passes through the front of the lot.

The site was partially graded, approximately 1974-75, when the house immediately to the north was constructed. That grading created an access road across this property to said adjoining lot, and a separate access road to a small pad at the top of this lot. Development of this pad may be very difficult because fire access and fuel modification requirements have changed dramatically since the mid 1970s. Nonetheless, the applicant proposes to retain the older grading. The current grading without benefit of permit began in 2003. In the following aerial photo, taken early 2003, north is located at the top of the image.



The applicant is proposing a site development permit to grade some 1,563 additional cubic yards to redress grading done without permit. That grading was done to establish a fruit orchard. No other development is proposed at this time. The TCR District grading yardage limitation of 3,000 cubic yards would be met by the proposed plan.

Specific Plan Section II.C.3.0 requires a “site-specific oak woodlands analysis” whenever a project is within 100 feet of any designated oak woodland. Only the bottom of the existing driveway meets that standard, and staff, under Section III.G.2.0 f. (Page III-93), accordingly required no site-specific analysis. Two oak trees exist near the edge of the placement of uncertified fill, but seem not to have been impacted.

Specific Plan Section II.C.4.2 requires a “site-specific streambed analysis” whenever a project is within 100 feet of any designated streambed. Only the bottom of the existing driveway meets that standard, and staff accordingly required no site-specific analysis.

Specific Plan Section II.C.2.2 c) requires a “site-specific wildlife corridor analysis” whenever a project is within 150 feet of any designated wildlife corridor. This property is not within 150 feet of the corridor to the north.

No portion of this property is within 200 feet of either a major ridgeline or major outcropping as those are depicted in Specific Plan Exhibit II-6.

Open space dedication of a required 66% for permanent open space is not included. The wording of the Specific Plan is that “each individual project proposal...shall preserve a minimum of sixty-six (66) percent of the site in permanent, natural open space which shall be offered for dedication in fee or within preservation easements to the County of Orange...”.

Since over thirty-four (34) percent of the site has already been graded, either in the 1970s or more recently, it is no longer physically possible to preserve, let alone dedicate, 66 percent as “natural” open space, with the Specific Plan itself defining a “natural slope” as one that “is not man-made”.

The open space preservation topic may be reconsidered in the future when site development is proposed. Staff would suggest that deferral of the open space dedication to a later date when a specific development proposal is under consideration is reasonable. However, because of the current condition of most of the site, having been grubbed, cleared and/or graded, preservation of 66 percent of the site as natural open space may never be attainable.

Finally, the applicant asks the Commission to allow existing property perimeter chain-link fencing to remain, otherwise prohibited under Foothill-Trabuco Specific Plan Section III.D.6.7.c. This subsection indicates that the use of chain-link fencing is prohibited “...except during construction activities”.

The applicant requests the use of the chain-link fencing be permitted during the initial replanting and hydroseeding, as well as the period of reestablishment and monitoring noted in Condition of Approval #11.

Staff agrees that some form of fencing is appropriate; however, staff would recommend that the consultants overseeing the restoration activities provide recommendations relative to type and duration of fencing needed to achieve success. Applicant must comply with the prohibition of chain-link fencing requirement of the Specific Plan unless it is determined necessary to the site restoration.

FOOTHILL/TRABUCO SPECIFIC PLAN REVIEW BOARD:

On October 13, 2006, the Foothill-Trabuco Specific Plan Review Board reviewed this project. Their minutes of approval, attached as Exhibit 2, identify the provision of a revegetation plan. The applicant has since produced a plan for the Commission’s review which would hydroseed the disturbed area with native species that should ultimately re-establish a coastal sage scrub community. Three species typical of that plant community; black mustard, sagebrush, and buckwheat, were not included as they are on the Fire Authority’s mandatory removal list for fire protection. The applicant will be responsible for demonstrating plant establishment success over a 5 year period (see Condition 11).

PUBLIC NOTICE:

Notices of Hearing were mailed and posted as required by state law. Additionally, public notice has been mailed to those parties that have requested notification on projects in the Foothill-Trabuco Specific Plan area. As of the writing of this staff report, no objections have been recorded from said noticing.

CEQA COMPLIANCE:

Pursuant to the California Environmental Quality Act (CEQA), the proposed project has been found Categorically Exempt, Class IV, as a minor alteration of land.

SUMMARY:

Attached as Exhibit 4 is the Foothill-Trabuco Specific Plan Project Consistency Checklist completed for this project. Staff concludes the project proposal is generally consistent with Specific Plan Regulations, Guidelines, Goals and Objectives.

RECOMMENDED ACTION:

1. Receive staff presentation and public testimony; and
2. Approve PA06-0081, subject to recommended findings and conditions (Appendices A-B).

Respectfully submitted,

Tim Neely, Director
Planning and Development Services

APPENDICES:

- A. Recommended Findings for Project Approval
- B. Recommended Conditions for Project Approval

EXHIBITS:

1. Applicant's Letter of Justification
2. Foothill-Trabuco Specific Plan Review Board meeting minutes
3. Project Plans (Planning Commission copies only)
4. Foothill-Trabuco Specific Plan Project Consistency Checklist (Planning Commission only)
5. Site Photos

APPEAL PROCEDURE:

Any interested person may appeal the decision of the 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 filing fee of \$760.00 filed at the Development Processing Center, 300 N. Flower St., Santa Ana.



Appendix A Findings PA060081

1	GENERAL PLAN	PA060081
That the use or project proposed is consistent with the objectives, policies, and general land uses and programs specified in the General Plan adopted pursuant to the State Planning and Zoning Law.		
2	ZONING	PA060081
That the use, activity or improvement(s) proposed, subject to the specified conditions, is consistent with the provisions of the Zoning Code, or specific plan regulations applicable to the property.		
3	COMPATIBILITY	PA060081
That the location, size, design and operating characteristics of the proposed use will not create unusual conditions or situations that may be incompatible with other permitted uses in the vicinity.		
4	GENERAL WELFARE	PA060081
That the application will not result in conditions or circumstances contrary to the public health and safety and the general welfare.		
5	PUBLIC FACILITIES	PA060081
That the approval of the permit application is in compliance with Codified Ordinance Section 7-9-711 regarding public facilities (fire station, library, sheriff, etc.).		
6	CATEGORICALLY EXEMPT	PA060081 (Custom)
That the proposed project is Categorically Exempt (Class IV, minor alterations to land) from the provisions of CEQA.		
7	FISH & GAME - EXEMPT	PA060081
That pursuant to Section 711.4 of the California Fish and Game Code, this project is exempt from the required fees as it has been determined that no adverse impacts to wildlife resources will result from the project.		
8	NCCP NOT SIGNIFICANT	PA060081 (Custom)
That, with the proposed re-landscaping plan and condition requiring monitoring of the success of said plan, the proposed project will not have a significant unmitigated impact upon Coastal Sage Scrub habitat and therefore, will not preclude the ability to prepare an effective subregional Natural Communities Conservation Planning (NCCP) Program.		



Appendix B Conditions of Approval PA060081

1 CP CP NA BASIC/ZONING REG PA060081

This approval constitutes approval of the proposed project only to the extent that the project complies with the Orange County Zoning Code and any other applicable zoning regulations. Approval does not include any action or finding as to compliance of approval of the project regarding any other applicable ordinance, regulation or requirement.

2 CP CP NA BASIC/TIME LIMIT PA060081

This approval is valid for a period of 36 months from the date of final determination. If the use approved by this action is not established within such period of time, this approval shall be terminated and shall thereafter be null and void.

3 CP CP NA BASIC/PRECISE PLAN PA060081

Except as otherwise provided herein, this permit is approved as a precise plan. If the applicant proposes changes regarding the location or alteration of any use or structure, the applicant shall submit a changed plan to the Director, PDS, for approval. If the Director, PDS, determines that the proposed change complies with the provisions and the spirit and intent of the approval action, and that the action would have been the same for the changed plan as for the approved plot plan, he may approve the changed plan without requiring a new public hearing.

4 CP CP NA BASIC/COMPLIANCE PA060081

Failure to abide by and faithfully comply with any and all conditions attached to this approving action shall constitute grounds for the revocation of said action by the Orange County Planning Commission.

5 CP CP NA BASIC/OBLIGATIONS PA060081

Applicant shall defend at his/her sole expense any action brought against the County because of issuance of this permit. Applicant shall reimburse the County for any court costs and attorneys fees that the County may be required to pay as a result of such action. The County may, at its sole discretion, participate in the defense of any action, but such participation shall not relieve applicant of his/her obligations under this condition.

6 CP CP NA BASIC/APEAL EXACTIONS PA060081

Pursuant to Government Code Section 66020, the applicant is hereby informed that the 90-day approval period in which the applicant may protest the fees, dedications, reservations or other exactions imposed on this project through the conditions of approval has begun.

7 SG SG G DRAINAGE STUDY PA060081

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.

8 SG SG G DRAINAGE OFFSITE PA060081

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 SG SG G GEOLOGY REPORT PA060081

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 BP BP G CONSTRUCTION NOISE PA060081

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.

11 LP LP Z MAINTENANCE OF LANDSCAPING PLAN PA060081 (Custom)

Noting that annual brush clearance is not required on vacant lots in Orange County except as a condition of subdivision map approval, which was not the case with Tract Map 7685, the applicant shall retain, as a condition of this site development permit, a qualified biologist to annually on June 1 assess the success of the proposed planting by hydroseed, and to report with digital photo documentation from control points and using checklist(s) provided by County of Orange Harbors, Beaches & Parks on said annual assessment to the Director of Planning on or before July 1 of each year.

60% native cover of the hydroseeded area after 5 years must be demonstrated with 0% coverage tolerance for invasive exotics, and annual non-native grasses at less than 20% cover. If the 5-year report fails to show this level of performance, the biologist shall recommend and the property owner shall be responsible for a new re-landscaping plan using the same plant list as herein approved by the Orange County Planning Commission, designed to attain the 5 year standards in not less than 2 additional years.

The property owner shall be entirely responsible for maintenance of the plantings, removal of invasive exotics, and developing and implementing an appropriate plan of irrigation.

Should this property be sold or title otherwise transfer, this obligation shall accrue to the new owner without other notification by the County. The current owner is so informed.

12 BI BI RGB WATER QUALITY MANAGEMENT PLAN PA060081

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.

13 BI BI U COMPLIANCE WITH THE WQMP PA060081

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.

14 BI BI GB EROSION AND SEDIMENT CONTROL PLAN PA060081

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.