

PLANNING & DEVELOPMENT SERVICES DEPARTMENT REPORT

DATE: May 10, 2007

TO: Orange County Zoning Administrator

FROM: RDMD/PDS/Current and Environmental Planning

SUBJECT: Public Hearing on Planning Application PA 060091 for Coastal Development Permit and Use Permit

PROPOSAL: Coastal Development Permit/Use Permit to demolish existing two-story residence with attached garage and construct a new two-story residence with attached garage, 12-foot tall outdoor fireplace and a recreation room/spa-house.

LOCATION: 134 Emerald Bay, Laguna Beach, CA 92651.
Fifth Supervisorial District.

APPLICANT: Robert and Kitty Brunswick.

AGENT: Scott Laidlaw (Laldaw Schultz Architects).

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

SYNOPSIS: RDMD/PDS/Current and Environmental Planning recommends Zoning Administrator approval of Planning Application PA060091 for a Coastal Development Permit and Use Permit subject to the attached Findings and Conditions of Approval.

BACKGROUND:

The project site is located at 134 Emerald Bay, Laguna Beach and is not a portion of a recorded tract. It was created with Record of Survey 14-20 in 1944, where it is clearly depicted as an intended lot, although not being numbered, and has not changed in shape or dimensions since that time.

The applicant's agent has submitted a letter (Attachment 1) requesting a Coastal Development Permit to demolish the existing two-story residence and attached two-car garage, and to construct a new 4,299 square-foot two-story residence with an attached two-car garage. The garage will be setback 18 feet from the front property line instead of the required 20 feet (based on averaging of adjacent residences). In addition to the residence and garage, the Permit will

allow for a spa, a 12-foot tall outdoor fireplace and a recreation room/spa-house (approximately 418 square feet). The outdoor fireplace meets the Building Code for a minimum seven-foot setback from the property line and 10-foot setback from any building. A Use Permit also is being requested to allow the recreation room spa-house to exceed 12 feet in height (17.5 feet high). The proposed recreation room spa-house includes a bathroom (no shower facilities), sauna and a workout area. The facility will not be used for living space and there will be no kitchen facilities of any kind.

SURROUNDING LAND USE:

The subject site (see photo below) and all surrounding properties are zoned R1 “Single Family Residence” District, with a CD “Coastal Development Permit” District overlay and an SR “Sign Restrictions” overlay. The site is also within a certified Local Coastal Program (Emerald Bay LCP). All properties in Emerald Bay on the ocean side of Pacific Coast Highway are subject to the CD District of the Zoning Code and development projects are subject to appeal to the Coastal Commission. Surrounding properties are developed with single-family dwellings.

AERIAL PHOTO OF PROJECT SITE



134 Emerald Bay

REFERRAL FOR COMMENT AND PUBLIC NOTICE:

A Notice (Attachment 2) of Hearing was mailed to all property owners of record within 300 feet of the subject site and; therefore, meets the Coastal Development Permit requirement for noticing occupants of dwellings within 100 feet of the site. A Notice of Hearing also was posted on site and at the appropriate locations within the County of Orange Civic Center area. 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 significant issues with the project have been received from other County divisions or the Emerald Bay Community Association.

The proposed project was reviewed by the Emerald Bay Community Design Review process, conforms to the association's regulations, and received final approval from the Emerald Bay Board of Directors at their February 6, 2007 meeting (Attachment 3).

CEQA COMPLIANCE:

Mitigated Negative Declaration PA06-0091 (Attachment 4) was prepared for the proposed project and was posted for a 30-day public review on January 17, 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.

DISCUSSION/ANALYSIS:

The existing use of the property is a two-story family residence with an attached two-car garage, which is consistent with current R1 zoning. The proposed new 4,299 square-foot residence would replace the existing structure and include a new attached two-car garage, a recreation room/spa-house and a 12-foot tall fireplace. The outdoor fireplace meets the Building Code for a minimum seven-foot setback from the property line and 10-foot setback from any building.

The proposed removal and replacement of an existing house with a larger house is common in the Emerald Bay community. In addition to a Coastal Development Permit for demolition and construction within the coastal zone, the majority of these applications include a request for a Use Permit for such things as over-height structures. The proposed project seeks approval of a Use Permit to allow the recreation spa-house to exceed 12 feet in height (17.5 feet high).

Potential view impacts are an important consideration in the review of new multi-level homes in Emerald Bay. The proposed structure is located at approximately the same location as the existing structure and meets the maximum height limit of 30 feet required by the Emerald Bay Community Association and is therefore well within the County's R1 District building height limit of 35 feet. In addition, the proposed project meets the R1 District requirement of two covered parking spaces by providing the proposed attached two-car garage.

In furtherance of viewshed protection, 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 and to the

rear of the property. Moreover, the Scenic Resources section of the Emerald Bay LCP Land Use Plan gives the Emerald Bay Board of Directors the responsibility of ensuring that view opportunities of existing residents are preserved to the maximum extent possible. As noted above, the Emerald Bay Community Association preliminarily approved the proposal at its November 29, 2006 meeting and gave final approval January 30, 2007.

The proposed new construction project is consistent with adjacent zoning (R1) and surrounding land uses and is subject to the attached Findings and Conditions of Approval,.

Staff supports the applicant's proposal and recommends approval as noted below.

RECOMMENDED ACTION:

- a. Receive staff report and public testimony as appropriate; and
- b. Approve Planning Application PA060091 for a Coastal Development Permit and Use Permit, subject to the attached Findings and Conditions of Approval.

Respectfully submitted

Ronald L. Tippets, Chief
RDMD PDS/Current/Environmental Planning

APPENDICES:

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

ATTACHMENTS:

1. Letter Requesting Coastal Development/Use Permit - Applicant's Agent
2. Notice of Public Hearing
3. Minutes from Emerald Bay Community Association Supporting the project
4. Mitigated Negative Declaration PA06-0091
5. Site Plan

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 Planning and Development Services.



APPENDIX A
Brunswick, PA 060091
134 Emerald Bay, Laguna Beach, CA 92651
Findings

1. [AA01] General Plan

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. [AA02] Zoning

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. [AA03] Compatibility

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. [AA04] General Welfare

That the application will not result in conditions or circumstances contrary to the public health and safety and the general welfare.

5. Negative Declaration (Custom)

Negative Declaration PA06-0091, satisfies the requirements of CEQA and is adopted for the proposed project based upon the following additional findings pursuant to Section 21080(c) of the Public Resources Code and CEQA Guidelines Section 15074:

- a. Negative Declaration PA06-0091 reflects the independent judgment of the Environmental Planning Services Division, of the County of Orange.
- b. The 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 either been adopted as conditions, incorporated as part of project design, or included in the procedures of project implementation.
- e. The proposed Mitigation Monitoring and Reporting Program No. PA06-0091 is found to be adequate and is adopted by the County of Orange.



APPENDIX B
Brunswick, PA 060091
134 Emerald Bay, Laguna Beach, CA 92651
Conditions of Approval

1. [Z01] BASIC/ZONING REG

Approval: CP CP NA

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. [Z02] BASIC/TIME LIMIT

Approval: CP CP NA

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. [Z03] BASIC/PRECISE PLAN

Approval: CP CP NA

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. [Z04] BASIC/COMPLIANCE

Approval: CP CP NA

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 Zoning Administrator.

5. [Z05] BASIC/OBLIGATIONS

Approval: CP CP NA

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. [Z06] BASIC/APPEAL EXACTIONS

Approval: CP CP NA

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. [N10] CONSTRUCTION NOISE

Approval: BP BP G

A. Prior to the issuance of any grading permits, the project proponent shall produce evidence acceptable to the Manager, Building Permit s 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.

8. [WQ05] EROSION AND SEDIMENT CONTROL PLAN

Approval: BI BI GB

Prior to the approval of any grading permit, the applicant shall submit an 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.

9. [G01] GEOLOGY REPORT

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. [D01b] DRAINAGE STUDY

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.

11. [D03a] DRAINAGE OFFSITE

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.

12. [D04a] MPD PARTICIPATION

Approval: SG SG B

Prior to the issuance of any building permits, the applicant shall participate in the applicable Master Plan of Drainage in a manner meeting the approval of the Manager, Subdivision and Grading, including payment of fees and the construction of the necessary facilities.

13. [D08] FIRM MAP REVISION

Approval: SG SG/BI RGBU

- A. Prior to the recordation of a subdivision map (except maps for financing and conveyance purposes

only) or the issuance of any grading or building permits, whichever occurs first, within the FP-2 Zoning District, the applicant shall submit all of the necessary documents to the Federal Emergency Management Agency (FEMA) to receive a Conditional Letter of Map Revision (CLOMR) of the Flood Insurance Rate Map (FIRM). Concurrently, the applicant shall submit to the Manager, Subdivision and Grading, three (3) sets of the calculations and plans showing the method of satisfying FEMA and FP-2 Zoning District Regulations, all in a manner meeting the approval of the Manager, Subdivision and Grading.

B. Prior to the issuance of certificates of use and occupancy for buildings within the FP-2 Zoning District, the applicant shall accomplish the following in a manner meeting the approval of the Manager, Building Inspection, Services, in consultation with the Manager, Subdivision and Grading:

(1) Submit certified as-built plans, so stamped by a Registered Civil Engineer, to the Manager, Subdivision and Grading, demonstrating that the improvements as described in the CLOMR application have been completed; and

(2) Submit either:

(a) A certified elevation certificate which demonstrates that the as-built lowest floor is at least one (1) foot above the 100-year flood elevation of the FIRM in effect, or

(b) Obtain a Letter of Map Revision (LOMR) from the Federal Emergency Management Agency (FEMA) for revising the FIRM.

NOTE: Applicant is advised to seek certification of as built plans and submit LOMR application to FEMA as early as possible in order to avoid delaying the issuance of final certificates of use and occupancy for buildings within the FP-2 Zoning District.

C. Prior to the release of subdivision improvement bonds, as appropriate, the applicant shall provide verification to the Manager, Subdivision and Grading, that a Letter of Map Revision (LOMR) has been obtained from FEMA.

14. Fire Access Roads (FP4)

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 every structure on site. Please contact the OCFA at (714) 573-6100 or visit the OCFA website to obtain a copy of the "Guidelines for Emergency Access."

15. Water Availability (FP2)

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. If sufficient water to meet fire flow requirements is not available an automatic fire extinguishing system may be required in each structure affected.