

ITEM #1

PLANNING & DEVELOPMENT SERVICES DEPARTMENT REPORT

DATE: March 22, 2007

TO: Orange County Zoning Administrator

FROM: RDMD/Road Design

SUBJECT: Public Hearing on Planning Application PA070001 for Coastal Development Permit

PROPOSAL: The applicant proposes approval of a Coastal Development Permit to widen Segment 4 of the Laguna Canyon Road between SR-73 and El-Toro Road. This would widen the shoulders to a standard width of 7.9 feet; provide an on-road Class III bikeway; provide the opportunity to replace overhead utilities with underground utilities, with minor operational improvements to SR-33/El-Toro intersection by adding one northbound approach lane, to provide two northbound through lanes and a dedicated northbound right-turn lane.

LOCATION: The project is located within PA 20A of the Newport Coast Local Coastal Program. It is approximately 0.06 mile south of El Toro Road to SR-33 a distance 0.74 mile.

APPLICANT: County of Orange – RDMD/Road Design

STAFF CONTACT: Chris Uzo-Diribe, Project & CEQA Manager
Phone: (714) 834-2542 FAX: (714) 834-6132

SYNOPSIS: PDS/Current and Environmental Planning Services recommends Zoning Administrator approval of PA 070001 for Coastal Development Permit subject to the attached Findings and Conditions of Approval.

BACKGROUND:

The purpose of the improvements to Laguna Canyon Road is to resolve deficiencies and problems with the existing State Route (SR-33) highway. The deficiencies are: 1. Bicyclists ride on a non-standard shoulder in this segment of the Class III bikeway route. 2. Overhead utility poles are located adjacent to the nonstandard shoulder on the west side of the roadway. 3. The intersection of El Toro currently operates at unacceptable Level of Service (LOS) and is forecasted to continue to operate at an unacceptable LOS in the future. Due to fact that the site is located 600 feet within the coastal zone boundary any improvement to roadway must comply with California Coastal Act requirements. The project area traverses two portions of the study area; Newport Coast Local Program (LCP) and the Aliso Creek Planning Unit LCP area therefore, a Coastal Development Permit is required.

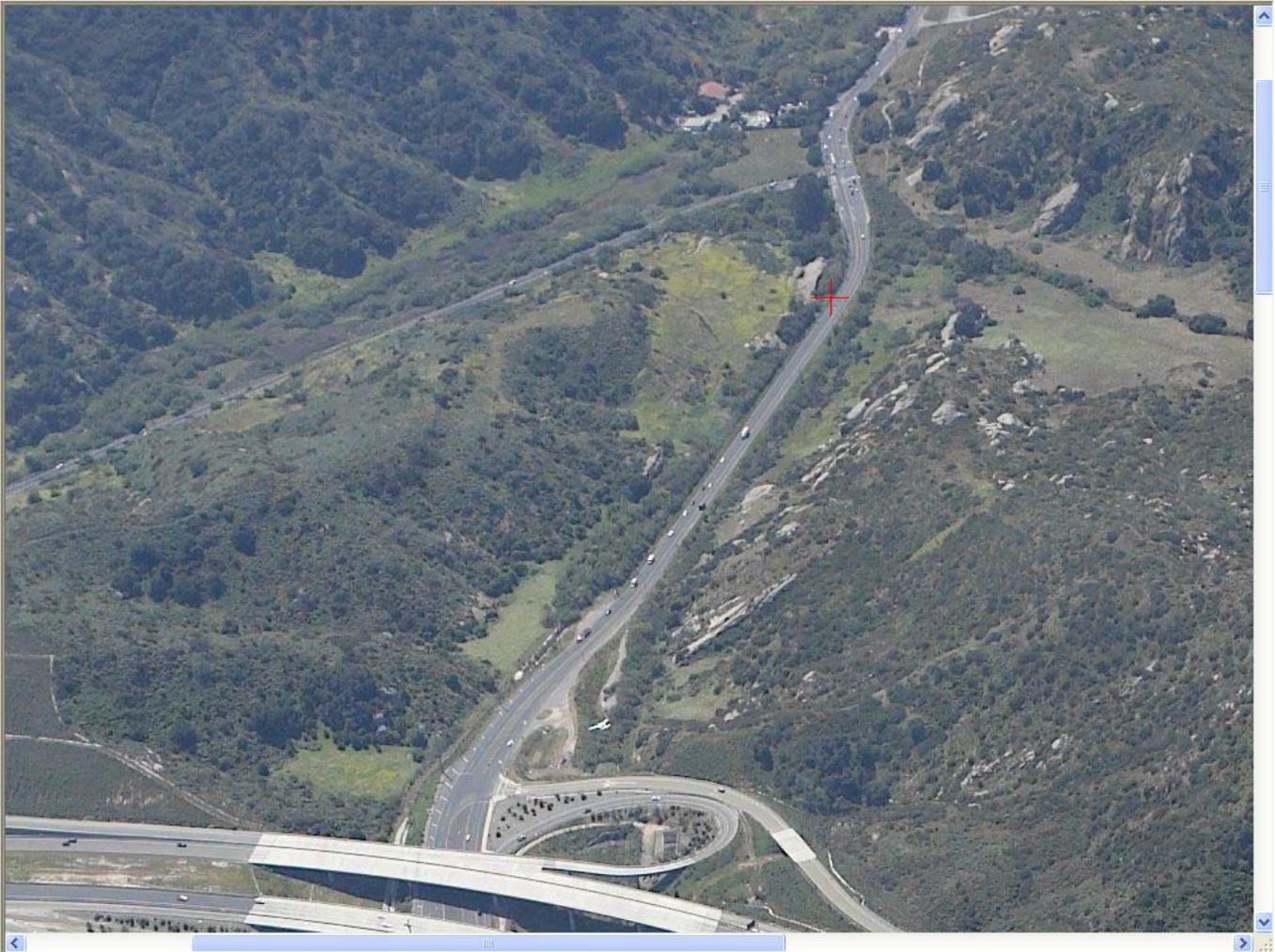
The applicant proposes a Coastal Development Permit PA 070001 to substantially improve roadway safety by providing standard shoulders (7.9') from the current 3.9 feet or less, which

do not meet the California Department of Transportation (CALTRANS) standards. The proposal would also improve the area aesthetically by undergrounding overhead utilities as well as improve traffic circulation by providing two northbound through lanes and a dedicated northbound right-turn lane at the El Toro/Laguna Canyon intersection.

SURROUNDING LAND USE:

The project site is designated Open Space under the Land Use Element with a CD “Coastal Development”, Flood Plain (FP2) and Sign Restrictions (SR) District Zoning overlay, and developed as a State Highway (see photos below). All surrounding properties are designated Open Space under the General Plan.





REFERRAL FOR COMMENT AND PUBLIC NOTICE:

A Notice of Public 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 the Hall of Administration (HOA) as required by established County 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 six County Divisions, the Orange County Fire Authority and CALTRANS. As of the writing of this staff report, no comments raising issues with the project have been received from other County divisions or Cal Trans.

CEQA COMPLIANCE:

Negative Declaration No. IP 05-240 has been prepared for this proposal. The California Department of Transportation as a responsible agency delegated the status of CEQA lead agency to the County and actively participated in the County's CEQA process in development of the Negative Declaration document. That document is attached for your consideration and must be approved prior to project approval with a finding that it is adequate to satisfy the requirements of CEQA. Such a finding is presented in Appendix A.

DISCUSSION/ANALYSIS:

The proposal is subject to approval of a Coastal Development Permit for the necessary grading and subsequent improvements identified above under Project Proposal. Since the project site is located approximately 600 feet within the coastal boundary, a Coastal Development Permit is required for the construction of the proposed improvements, and is subject to appeal to the California Coastal Commission. The proposed new improvements conform to the site development standards of both the County and CALTRANS.

The proposed improvements would cover a distance of approximately 0.74 mile and would substantially improve roadway safety by providing standard shoulders (7.9') to meet the California Department of Transportation (CALTRANS) standards. The proposal would also improve the safety of recreational bicyclists by providing additional roadway space for separation from motoring vehicles.

Staff does not have any issues with this CDP request. Findings 5, 6, 7 and 8 are necessary to support CDP approval and are included for this element of the plan.

CONCLUSION:

Based on staff's review of this proposal and the current co-ordination with responsible agencies, staff is of the opinion that this proposal will be compatible with existing open space and surrounding development. The proposal conforms to all development standards for CALTRANS and the proposal has been reviewed and approved by the responsible agency. Staff is therefore of the opinion that the findings can be made for this project. Staff supports the proposal and recommends approval as follows:

RECOMMENDED ACTION:

PDS/Current and Environmental Planning Services recommends the Zoning Administrator:

- a. Receive staff report and public testimony as appropriate; and,
- b. Approve Planning Application PA070001 for Coastal Development Permit subject to the attached Findings and Conditions of Approval.

Respectfully submitted

Ron Tippets, Chief
RDMD/Environmental and Current Planning Division

APPENDICES:

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

EXHIBITS:

- 1. Applicant's Letter of Explanation
- 2. Site Photos
- 3. Environmental Documentation
- 4. 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 RDMD/Planning and Development Services.

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.



Appendix A PA070001 Findings

1 [AA01
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GENERAL PLAN

PA070001

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

PA070001

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

PA070001

That the location, size, design and operating characteristics of the proposed use will not create unusual noise, traffic or other conditions or situations that may be objectionable, detrimental, or incompatible with other permitted uses in the vicinity.

4 [AA04
]

GENERAL WELFARE

PA070001

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

5 [CD01
]

COASTAL DEVELOPMENT PERMIT 1 PA070001

That the development project proposed by the application conforms with the certified Local Coastal Program.

6 [CD02
]

COASTAL DEVELOPMENT PERMIT 2 PA070001

That the project conforms with the public access and public recreation policies of the California Coastal Act.

7 **[CD03**
] **COASTAL DEVELOPMENT PERMIT 3 PA070001**

That the approval of this application will result in no modification to the requirements of the certified land use plan.

8 **[CD04**
] **COASTAL DEVELOPMENT PERMIT 4 PA070001**

That the approval of the application will result in a project which is in full compliance with the requirements of the certified land use plan.

9 **[ED09**
] **NEGATIVE DECLARATION IP 05-240 PA070001 (Custom)**

In accordance with Section 21080(c) of the Public Resources Code and CEQA Guidelines Section 15074, Negative Declaration No. **IP 05-240**, which reflects the independent judgment of the lead agency, Orange County, and satisfies the requirements of CEQA. It is approved for the proposed project based upon the following findings:

- a. The Negative Declaration and Comments on the Negative Declaration received during the public review process were considered and the Negative Declaration was found adequate in addressing the impacts related to the project; and
 - b. There is no substantial evidence that the project, with the implementation of the mitigation measures, if any, which are included in the Negative Declaration, will have a significant effect on the environment; and
 - c. If mitigation measures are included, pursuant to Public Resources Code Section 21081.6, the Mitigation Monitoring and Reporting Program is adopted.
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10 **[EF01**
] **FISH & GAME - EXEMPT PA070001**

Find that pursuant to Section 711.4 of the California Fish and Game Code, this project is subject to the required fees as it has been determined that potential adverse impacts to wildlife resources may result from the project. However, the required fees were paid previously; Receipt No. 284948 on 9/28/06.

11 **[EN01**
] **NCCP NOT SIGNIFICANT PA070001**

Find that 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
PA070001

1 [Z01 CP CP BASIC/ZONING REG PA070001
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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] CP CP BASIC/TIME LIMIT PA070001

This approval is valid for a period of 24 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] CP CP BASIC/PRECISE PLAN PA070001

Except as otherwise provided herein, this permit is approved as a precise plan. After any application has been approved, if changes are proposed regarding the location or alteration of any use or structure, a changed plan may be submitted 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] CP CP BASIC/COMPLIANCE PA070001

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 [Z05] CP CP NA BASIC/OBLIGATIONS PA070001

Applicant shall defend at his/her sole expense any action brought against the County because of issuance of this permit. Applicant will reimburse the County for any court costs and attorneys fees which 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] CP CP NA BASIC OBLIGATIONS PA070001

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

7 [D01]SG SG RG DRAINAGE STUDY PA070001 (Custom)

Prior to commencement of any grading activity associated with Coastal Development Permit PA 070001, the following drainage studies shall be submitted to and approved by the Manager, Subdivision and Grading:

- A. A drainage study of the site including diversions, off-site areas that drain onto and/or through the subdivision, 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 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 [N09]BP BP G CONSTRUCTION NOISE PA070001

Prior to commencement of any grading activity associated with Coastal Development Permit PA 070001, the project proponent shall produce evidence acceptable to the Manager, Building Permits, 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 grading plans, will be considered as adequate evidence of compliance condition.

9 [WQ05]BI BI GB EROSION AND SEDIMENT CONTROL PLAN PA070001

Prior to commencement of any grading activity associated with Coastal Development Permit PA 070001, 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

10 [EP01] CP CP G NCCP/HMMP PA070001

Prior to commencement of any grading activity associated with Coastal Development Permit PA 070001, the applicant must comply with the following Condition/Mitigation from ND IP05-240: A Habitat Mitigation and Monitoring Program (HMMP) shall be prepared by a qualified biologist and submitted to the Director, RDMD, or designee, the Army Corps of Engineers, Department of Fish & Game and NROC for review and approval. The HMMP shall also be

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submitted to U.S. Fish & Wildlife Services for its consideration, but no approval is required. The requirements of the HMMP shall be incorporated into the PS & E package provided to the contractor. The HMMP shall address potential impacts to all natural communities within the project area and shall include but not limited to the measures to avoid, minimize, or mitigate potential direct or indirect project effects and to comply with the minimization measures identified in the NCCP/HCP.