

## OC PLANNING REPORT

**DATE:** March 4, 2021  
**TO:** Orange County Zoning Administrator  
**FROM:** OC Development Services/Planning Division  
**SUBJECT:** Public Hearing on Planning Application PA20-0132 for a Coastal Development Permit and a Use Permit for over-height walls and shortened driveway depth.  
**PROPOSAL:**

A request for a Coastal Development Permit and Use Permit to demolish an existing residence and construct a new residence. A Coastal Development Permit is required for the demolition and new construction of a residence. Minor grading relating to the proposed improvements would also be proposed. A Use Permit is required for: (1) over-height retaining walls along the side property lines of up to 12 feet where the Zoning Code allows a maximum height of 8 feet; and (2) for a driveway depth of 5 feet where zoning would require a depth of 18 feet.

**GENERAL PLAN DESIGNATION:** 1B "Suburban Residential"

**ZONING:** R1 "Single Family Residence", with a CD "Coastal Development" Overlay and an SR "Sign Restrictions" Overlay

**LOCATION:** The project is located in the community of Emerald Bay at 1507 Emerald Bay, Laguna Beach, CA within the Fifth Supervisorial District (APN 053-320-30).

**APPLICANT:** Louis D Esposito Trust, Property Owner

**AGENT:** Michael Rafferty, Hearthside Luxury Home

**STAFF CONTACT:** Kevin Canning, Contract Planner  
Phone: (714) 667-8847 Email: [Kevin.Canning@ocpw.ocgov.com](mailto:Kevin.Canning@ocpw.ocgov.com)

### RECOMMENDED ACTIONS:

OC Development Services/Planning Division recommends Zoning Administrator:

- a) Receive staff report and public testimony as appropriate;
- b) Find that the proposed project is Categorically Exempt from the California Environmental Quality Act (CEQA), under Section 15302 (Class 2 - Replacement or Reconstruction), Section 15303 (Class 3- New construction), and Section 15304 (Class 4 - Minor

alternations to land) exemptions pursuant to the California Environmental Quality Act (CEQA) Guidelines and County of Orange procedures; and,

- c) Approve Planning Application PA20-0132 for a Coastal Development Permit and Use Permits subject to the attached Findings and Conditions of Approval.

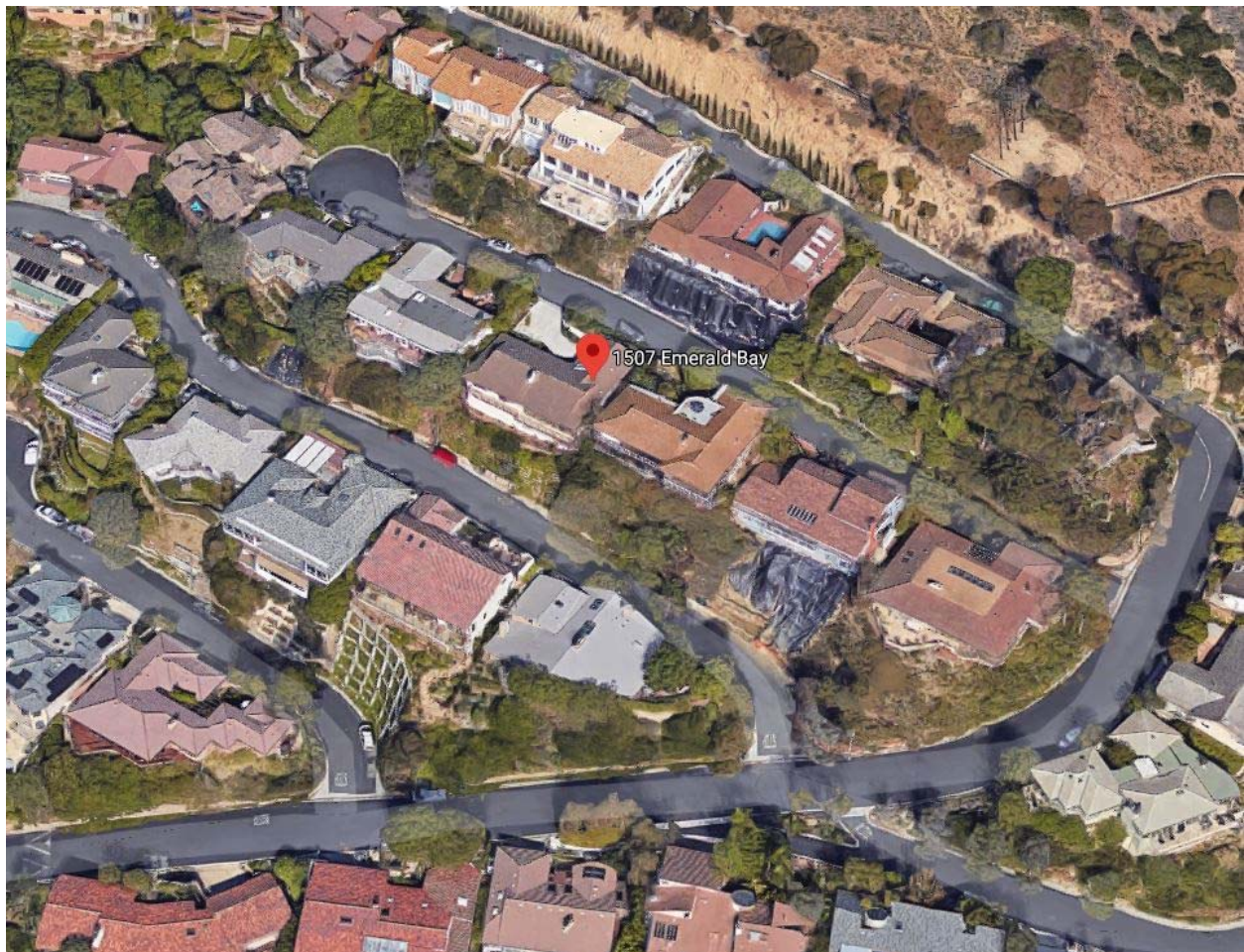
**BACKGROUND AND EXISTING CONDITIONS**

The subject property is Lot 29 of Tract 3125 recorded in 1957. The property is approximately 7,600 square feet in area and is located on the inland side of the Emerald Bay community. The subject lot is, by definition, a shallow lot as it is approximately 95 feet deep. The existing residence is built into the slope of the lot which falls from the street level to the back of the property where it abuts another private street. An existing retaining crib wall system exists at the rear of the lot which will not be modified by this proposal.

**PROPOSED PROJECT**

The project proposes to demolish the existing approximate 4,000 square foot residence and replace it with a new three-level residence of approximately 4,913 square feet and attached 505 square foot garage and two uncovered off-street parking spaces.

**Aerial of Project Site**



**SURROUNDING LAND USE**

The project site is a residential use and is surrounded by existing residential uses. The zoning and existing land use for surrounding properties is as follows:

<b>Direction</b>	<b>Zoning Description</b>	<b>Existing Land Use</b>
Project Site	“Single-Family Residence” (R1)(CD)(SR) District	Single-Family Dwelling
North	“Single-Family Residence” (R1)(CD)(SR) District	Single-Family Dwelling
South	“Single-Family Residence” (R1)(CD)(SR) District	Single-Family Dwelling
East	“Single-Family Residence” (R1)(CD)(SR) District	Single-Family Dwelling
West	“Single-Family Residence” (R1)(CD)(SR) District	Single-Family Dwelling

**DISCUSSION/ANALYSIS**

Below is a table comparing the development standards for “Single-Family Residence” District with the proposed project:

**Project Comparison with R1 “Single-Family Residence” Site Development Standards**

<b>STANDARD</b>	<b>REQUIRED</b>	<b>PROPOSED</b>
Building Site Area	7,200 square feet	7,600 square feet (existing)
Maximum Building Height	35 feet maximum	25 feet max.
Structural Front Setback	5’ <sup>1</sup>	5 feet minimum <sup>2</sup>
Structural Side Setback	5’ minimum	5 feet minimum
Structural Rear Setback	19’ minimum <sup>2</sup>	35’
Rear deck/balcony	14’	16’
Driveway depth	18’ with roll-up door	5’ <sup>3</sup>
Parking	2 covered spaces	2 garage spaces and 2 uncovered spaces
Walls on side/rear property line	6’0” maximum	12’ maximum <sup>3</sup>

<sup>1</sup> Average setback of adjoining lots (Zoning Code Section 7-9-61.14)

<sup>2</sup> Shallow lot (Section 7-9-61.12)

<sup>3</sup> Indicates Use Permit requested by the applicant

**Coastal Development Permit**

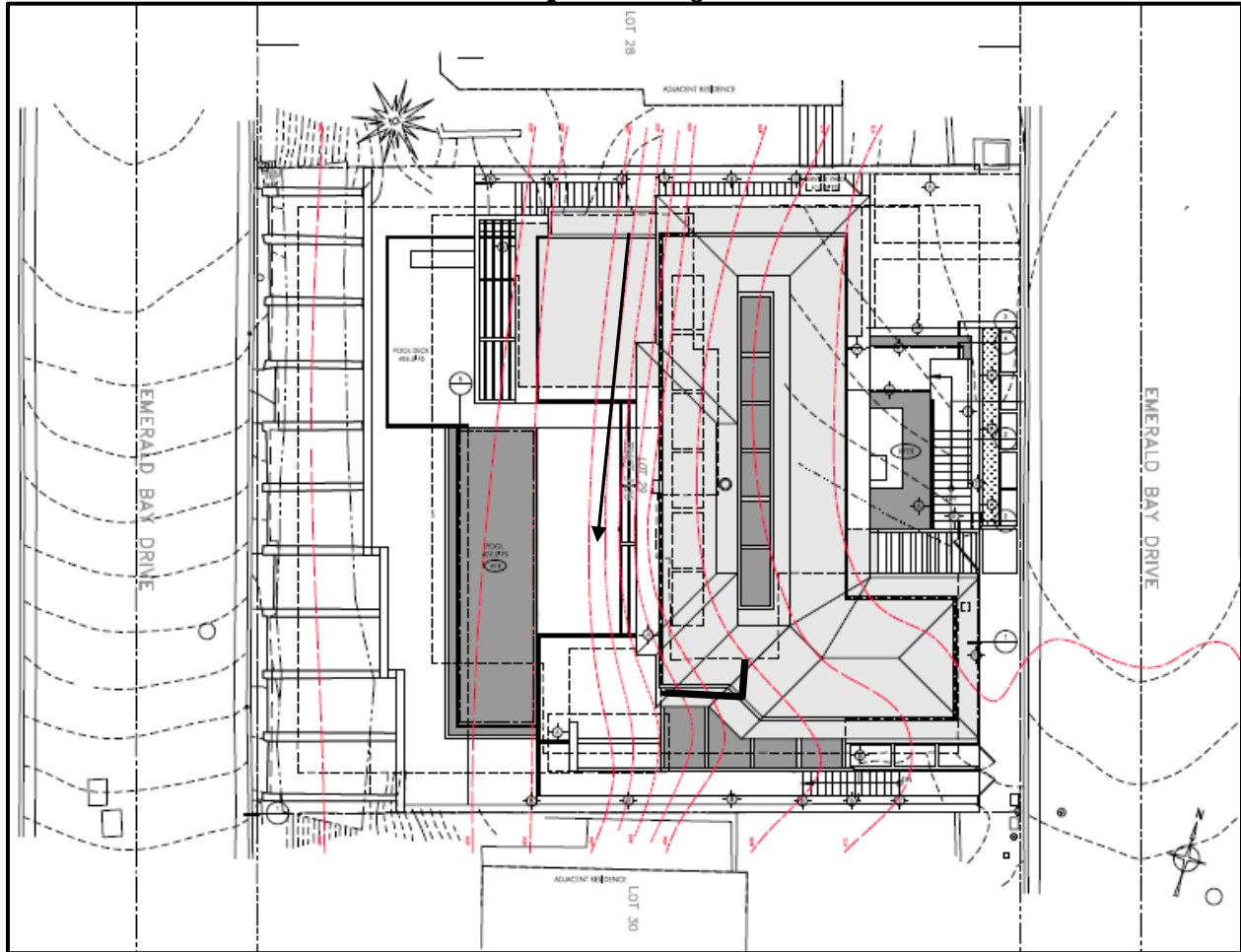
A Coastal Development Permit is required for the demolition of the existing structure and construction of a new residence and associated grading of approximately 1,660 cubic yards. The Use Permit is required for the proposed 12’ maximum side retaining walls (interior height) and a driveway depth of less than 18 feet.

Within the Coastal Development Overlay zone, and specifically within the Emerald Bay Local Coastal Program (LCP), the demolition of a structure and construction of a new structure, with the associated site grading, requires the approval of a Coastal Development Permit (Zoning Code Sections 7-9-40 and Emerald Bay Local Coastal Program). The proposed project conforms to the goals and objectives of the LCP through its design and the application of standard

conditions of approval, included within Attachment 2. The project is consistent with the approved intensity of development, as well as the applicable Land Use Policies contained in LCP Section E regarding resources Management - Watershed, Environmental Hazards – Geologic and Fire Hazard.

The project is compatible with surrounding development in its size, design and massing. The subject property is not within the ‘appealable jurisdiction’ area of the LCP.

### Proposed Project



#### Use Permit – Over-Height Wall

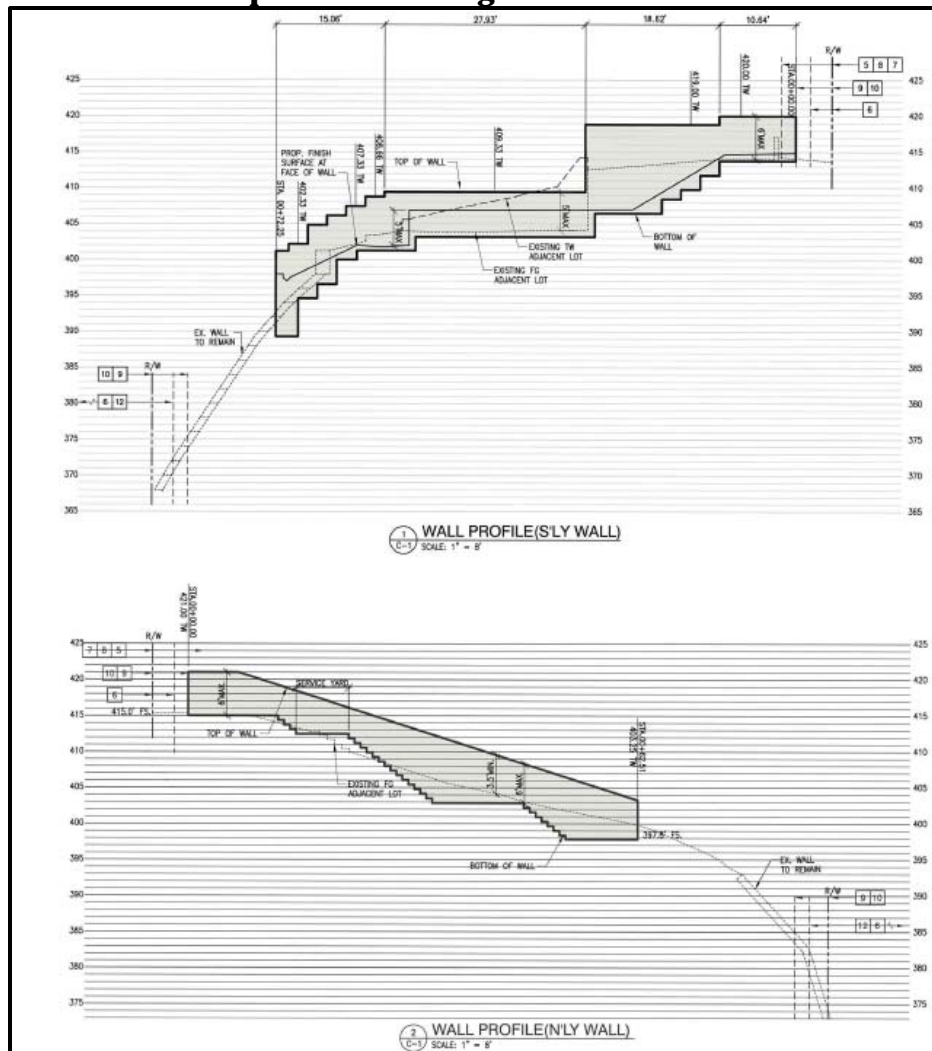
The proposed project design includes retaining walls along portions of the side property lines. Due to the topography of the site dropping quickly from the front to the rear of the lot, the proposed height of the walls are up to 12 feet, as measured on the interior side of the wall, where the Zoning Code allows a maximum height of 8 feet. When measured on the exterior side of the proposed retaining walls, the maximum proposed height would be 6 feet, which is in compliance with the Zoning Code.

Zoning Code Section 7-9-64(f), *Modifications permitted*, states that exceptions and modifications

to the fence and wall height provisions may be permitted by approval of a Use Permit by the Zoning Administrator if the following findings can be made:

- 1) That the height and location of the fence or wall as proposed will not result in or create a traffic hazard.
- 2) That the location, size, design and other characteristics of the fence or wall will not create conditions or situations that may be objectionable, detrimental or incompatible with other permitted uses in the vicinity.

### Proposed Wall Height Cross-Sections

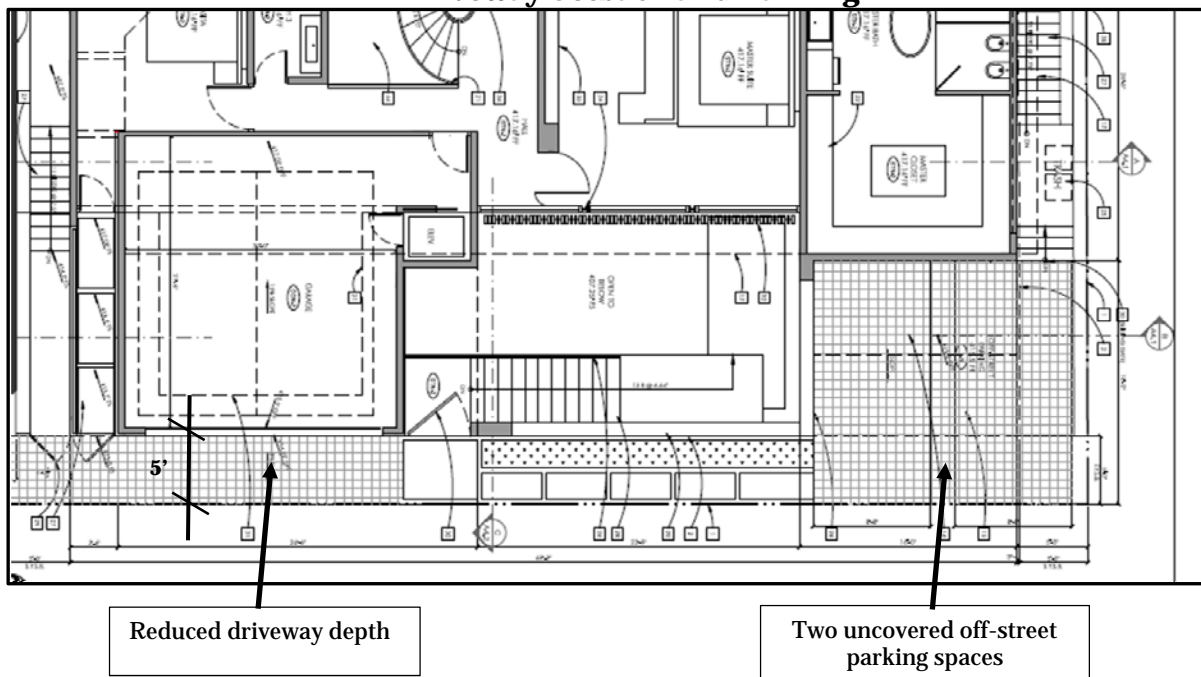


The proposed wall will be parallel to property lines adjoining streets and will not result in or create a traffic hazard. The location, size and design of the walls are consistent with similar improvements throughout Emerald Bay and will not be objectionable, detrimental or incompatible with other permitted uses within the community. Staff recommends that the two required findings to modify permitted wall height can be made. Recommended findings are included in Attachment 1.

**Use Permit – Driveway Depth**

Zoning Code Section 7-9-70.3(d)(1) (illustration) requires that a garage have a minimum driveway depth of 20 feet or 18 feet, when a roll-up type of garage door is proposed. In the current condition of the property the garage structure has a 5-foot setback but has a side entry allowing for the proper driveway depth. Under the proposed design the garage entry will face the street resulting in a 5-foot driveway depth. A 5-foot driveway depth is a common condition in the Emerald Bay community. Under the community’s architectural guidelines, parking standards are more stringent than under the Zoning Code for a single-family home. In this circumstance, the applicant has also included two uncovered off-street parking spaces that will serve the intended purpose of the otherwise required 18-foot depth. Additionally, the Zoning Code allows the consideration of available on-street parking in the vicinity, which is allowed in this instance. Therefore, the approval of a 5-foot driveway depth would not have any significant impacts to the neighborhood.

**Driveway Setback and Parking**



**REFERRAL FOR COMMENT AND PUBLIC NOTICE**

A Notice of Hearing was mailed to all property owners of record within 300 feet of the subject site on February 19, 2021. Additionally, a notice was posted at the project site, the County Hall of Administration and at the County Administration South building at 601 N. Ross Street, as required by established 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 County Divisions, Orange County Fire Authority, and the Emerald Bay Community Association. All comments by County Divisions and OCFA have been addressed through incorporation of proposed Conditions of Approval provided as Attachment 2. The Emerald Bay Community Association approved the proposed project at their Board meeting on September 9, 2020.

**CEQA COMPLIANCE**

The California Environmental Quality Act (CEQA) allows categorical exemptions for projects that have been determined not to have a significant effect on the environment. (CEQA Guidelines §15300-15332). Following is a brief analysis of the project’s consistency with the applicable

categorical exemptions.

*Class 2 Categorical Exemption (Replacement or Reconstruction)*

The Class 2 (Section 15302) exemption consists of the replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced.

*Class 3 Categorical Exemption (New construction)*

The Class 3 (Section 15303) exemption consists of construction and location of limited numbers of new, small facilities or structures. Examples of the exemption include:

- (a) *One single-family residence or a second dwelling unit in a residential zone. . .*
- (e) *Accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences.*

*Class 4 Categorical Exemption (Minor alterations to land)*

The Class 4 (Section 15304) exemptions consists of minor public or private alterations in the condition of land, water, and/or vegetation which do not involve removal of healthy, mature, scenic trees except for forestry or agricultural purposes.

The proposed project is eligible for these categorical exemptions because it is the construction of a replacement residence with minimal impact to the existing site or surrounding properties.

Additionally, Section 15300.2 of the Guidelines includes criteria where, if applicable to a project, would except a project from utilizing a Class 3 or Class 4 exemption, in essence that use of these exemptions may be qualified by consideration of where the project is to be located – a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. one of the exceptions listed in Section 15300.2, such as location in a sensitive environment, etc., apply to the project. Each component of the project meets criteria outlined in the Class 3 and Class 4 exemptions. The project will not result in a cumulative impact, significant environmental effect, and will not damage scenic or historic resources and the appropriate environmental document for this project is a Notice of Exemption. Standard conditions of approval applied by the County for all construction projects of this nature will address any less than significant short-term construction related concerns.

**CONCLUSION**

Staff has reviewed the applicant's request for a Coastal Development Permit and Use Permit and found the proposed project to be compliant with the Emerald Bay Local Coastal Program. It is an allowed Principal Permitted Use in the "Single-Family Residence" District and has been found to be compatible with adjacent residential uses, including similar previous approvals. Staff supports approval of the project subject to the Findings and Conditions of Approval provided as Attachments 1 and 2.

Submitted by:



Richard Vuong, Division Manager  
Planning, OC Development Services

Concurred by:



Amanda Carr, Interim Deputy Director  
OC Public Works/Development Services

**ATTACHMENTS:**

1. Recommended Findings
2. Recommended Conditions of Approval
3. Applicant's Letter
4. EBCA Board Approval
5. Project Plans

**APPEAL PROCEDURE:**

Any interested person may appeal the decision of the Zoning Administrator on this permit to the OC Planning Commission within 15 calendar days of the decision upon submittal of required documents and a deposit of \$500 filed at the Development Processing Center, 601 North Ross Street., 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 OC Development Services / Planning.