
Memorandum

DATE: July 31, 2019
TO: Zoning Administrator
FROM: Kevin Canning, Contract Planner
SUBJECT: August 1 Agenda Item #1 – PA19-0050 – Staff Report Addendum #2

Staff respectfully submits the following revised language for proposed new Condition No. 10. The applicants noted that the previous language could have inadvertently allowed the owner at 19082 Ervin Lane the power/ability to stop the project by simply refusing to accept the preconstruction survey. This was not the intent from the discussions at the July 29 meeting. Upon further discussion with the Planning Division Manager, the following revised Condition No. 10 is now proposed.

10 **FENCE SURVEY** **PA19-0050**

Prior to the issuance of a grading or building permit, the applicants shall submit confirmation, in a manner meeting the approval of the Planning Division Manager, that the neighbor (property owner at 19082 Ervin Lane), has received a preconstruction survey of the existing conditions of improvements along and adjacent to the common property line. The purpose of the survey is only to establish a baseline of preconstruction conditions against possible damages to existing improvements on the adjacent property (19082 Ervin Lane) during construction activities. The parties (the applicants and the owner of 19082 Ervin Lane) may also enter into any other agreements regarding property access and/or other limitations however the County will not be a party to the survey or any agreements between the property owners. This condition serves as demonstration of the continued cooperation expressed between the parties during the July 29, 2019 meeting.

With this revised language, Staff recommends that the Zoning Administrator take the following action on Planning Application PA19-0050:

- a) Receive staff report and public testimony as appropriate;
- b) Find that the proposed project is Categorically Exempt (Class 3 – New Construction or Conversion of Small Structures) from the provisions of CEQA pursuant to Section 15303 of the CEQA Guidelines; and,
- c) Approve Planning Application PA19-0050 to allow:
 - a. A Variance to permit a sideyard setback of 5 feet 1 inch for a bathroom expansion; and,
 - b. A Use Permit to allow to a rear yard property line fence to be a maximum height of 9 feet and a west side property line fence to be a maximum height of 7 feet 3 inches
 - c. Both Variance and Use Permit approvals subject to the attached Findings and 2nd Revised Conditions of Approval.

Staff will also be available to respond further at the hearing.

ATTACHMENTS

1. Recommended Findings
2. Second Revised Recommended Conditions of Approval



**Attachment 1
Findings
PA 19-0050**

1 **PA19-0050**
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 **PA19-0050**
ZONING

That the use, activity or improvement(s) proposed, subject to the specified conditions, is consistent with the provisions of the Zoning Code regulations applicable to the property.

3 **PA19-0050**
COMPATIBILITY

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 **PA19-0050**
GENERAL WELFARE

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

5 **PA19-0050**
PUBLIC FACILITIES

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 **PA19-0050**
CATEGORICALLY EXEMPT

That the proposed project is Categorically Exempt (Class 3 – New Construction or Conversion of Small Structures) from the provisions of CEQA pursuant to Section 15303 of the CEQA Guidelines

7 **PA19-0050**
VARIANCE 1

That the physical configuration and circumstances of this property are similar to other properties in the immediate vicinity which have been granted similar approvals (setback reductions) in this tract. In order to achieve the privileges enjoyed by other properties in this tract a variance would be required; as such a special circumstance does apply.

8 **PA19-0050**
VARIANCE 2

That approval of the application will not constitute a grant of special privileges which are inconsistent with the limitations placed upon other properties in the vicinity and subject to the same zoning regulations when the specified conditions are complied with.

9 **PA19-0050**
FISH AND GAME CODE

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 the project is Categoricaly Exempt under CEQA.

10

FENCE AND WALL 1

PA19-0050

That the height and location of the over-height walls within the front setback area and along the side and rear property lines areas will not result in or create a traffic hazard.

11

FENCE AND WALL 2

PA119-0050

That the height and location of the over-height walls as proposed will not create conditions or situations that may be objectionable, detrimental or incompatible with other permitted uses in the vicinity.



**Attachment 2
Conditions of Approval
PA19-0050**

1 BASIC/ZONING REG PA19-0050

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 BASIC/TIME LIMIT PA19-0050

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 BASIC/PRECISE PLAN PA19-0050

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, OC Planning, for approval. If the Director, OC Planning, 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 BASIC/COMPLIANCE PA19-0050

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 INDEMNIFICATION PA19-0050

Applicant shall defend with counsel approved by the County of Orange in writing, indemnify and hold harmless the County of Orange, its officers, agents and employees from any claim, action or proceeding against the County, its officers, agents or employees to attack, set aside, void, or annul any approval of the application or related decision, or the adoption of any environmental documents, findings or other environmental determination, by the County of Orange, its Board of Supervisors, Planning Commission, Zoning Administrator, Director of OC Public Works, or Deputy Director of OC Development Services concerning this application. The County may, at its sole discretion, participate in the defense of any action, at the applicant's expense, but such participation shall not relieve applicant of his/her obligations under this condition. The County may, at its sole discretion, require the Applicant to post a bond, enter into an escrow agreement, obtain an irrevocable letter of credit from a qualified financial institution, or provide other

security, to the satisfaction of the County, in anticipation of litigation and possible attorney's fee awards. Applicant shall reimburse the County for any court costs and attorney's fees that the County may be required to pay as a result of such action. The County shall promptly notify the applicant of any such claim, action or proceeding.

6 **BAISC APPEAL/EXACTIONS** **PA19-0050**

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 **GEOLOGY REPORT** **PA19-0050**

Prior to the issuance of a grading or building permit, the applicant shall submit a geotechnical report to the Manager, Permit Services, for approval. The report shall include the information and be in the form as required by the Grading Code and Grading Manual.

8 **EROSION AND SEDIMENT CONTROL PLAN** **PA19-0050**

Prior to the issuance of any grading or building permit, the applicant shall submit an Erosion and Sediment Control Plan (ESCP) in a manner meeting approval of the Manager, Permit Intake, to demonstrate compliance with the County's NPDES Implementation Program 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 BMPs will be maintained during construction of any future public right-of-ways. The ESCP shall be updated as needed to address the changing circumstances of the project site. A copy of the current ESCP shall be kept at the project site and be available for County review on request.

9 **CONSTRUCTION NOISE** **PA19-0050**

A. Prior to the issuance of any grading permits, the project proponent shall produce evidence acceptable to the Manager, Permit Services, that:

- (1) All construction vehicles or equipment, fixed or mobile, operated within 1,000 feet 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.

10**FENCE SURVEY****PA19-0050**

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