

OC PLANNING REPORT

DATE: March 4, 2021

TO: Orange County Zoning Administrator

FROM: OC Development Services/Planning Division

SUBJECT: Public Hearing on Planning Application PA20-0065 for a Coastal Development Permit and Use Permit

PROPOSAL: A request for a Coastal Permit and Use Permit in conjunction with the remodeling of a single-family residence, with associated grading. A Coastal Development Permit is required for the construction of a new residence and associated grading. A Use Permit is required for proposed 5-foot walls that will exceed the Zoning Code maximum of 3.5 feet within the front yard setback area.

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 92 Emerald Bay, Laguna Beach, CA within the Fifth Supervisorial District. (APN 053-050-34)

APPLICANT: Brighton Road Investments, Property Owner

AGENT: Paul Shaver, CAA Planning, Inc.

STAFF CONTACT: Kevin Canning, Contract Planner
Phone: (714) 667-8847 Email: 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 the Class 1 (*Existing Facilities*) and Class 3 (*New Construction or Conversion of Small Structures*) exemptions pursuant to Sections 15301 and 15303 of the California Environmental Quality Act (CEQA) Guidelines and County of Orange procedures; and,

- c) Approve Planning Application PA20-0065 for a Coastal Development Permit and Use Permit subject to the attached Findings and Conditions of Approval.

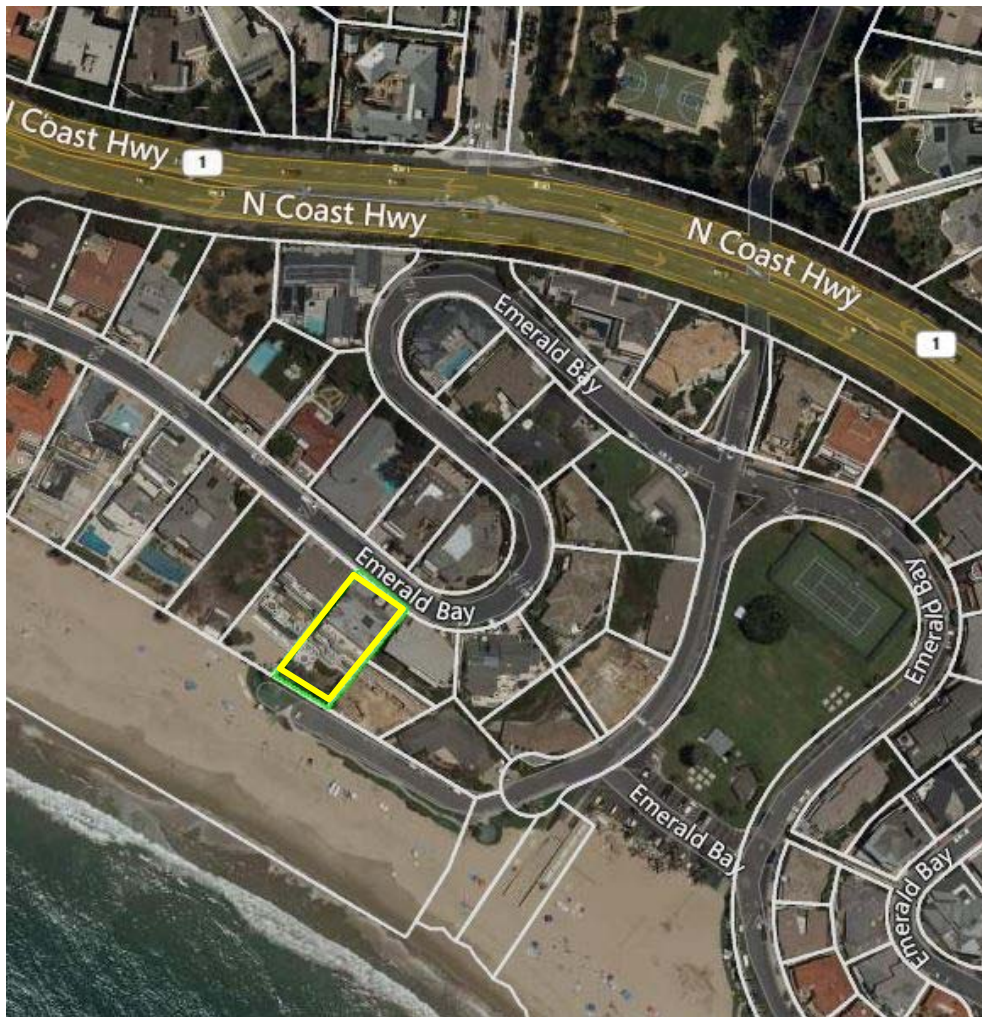
BACKGROUND AND EXISTING CONDITIONS

The subject property is Lot 10 of Tract 975 recorded in 1931. The property is approximately 7,522 square feet in area and is located fronting onto the beach area of the community. The topography of this site falls steeply from the street frontage down towards the beachfront area.

PROPOSED PROJECT

The proposed development on the property includes remodeling of the existing residence and the addition of a subterranean basement level. The proposed project will result in a minor reduction of overall square footage, to 7,797 square feet, as detailed in the applicant’s submittal letter (Attachment 3). The remodel will include new decking, pool, spa, landscaping, and hardscape improvements. The project would grade approximate 1,180 cubic yards, including 400 cubic yards of export.

Aerial of Project Site



SURROUNDING LAND USE

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

Direction	Zoning Description	Existing Land Use
Project Site	“Single-Family Residence” (R1)(CD)(SR) District	Single-Family Dwelling
North	“Single-Family Residence” (R1)(CD)(SR) District	Single-Family Dwelling
South	“Open Space” (OS)(CD) District	Beach
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” District Site Development Standards

STANDARD	REQUIRED	PROPOSED
Building Site Area	7,200 square feet	7,522 square feet (existing)
Maximum Building Height	35 feet maximum	25 feet
Structural Front Setback	10 feet ¹	10 feet
Structural Side Setback	5 feet minimum	5 feet
Structural Rear Setback	25 feet	25 feet
Parking	2 covered spaces	3 garage spaces
Walls in front yard setback	3.5 feet	5 feet ²

¹ Average setback of adjoining lots (Zoning Code Section 7-9-61.14), $15.2' \times 4.8' / 2 = 10'$

² Indicates Use Permit requested by the applicant

Coastal Development Permit

The project would remodel an existing residence with associated grading including the addition of a subterranean basement area. From the existing front street level, the proposed residence terraces down the sloping lot towards the beach and a lower private street.

The proposed project conforms to the goals and objectives of the Emerald Bay Local Coastal Program (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 within the ‘appealable jurisdiction’ area of the LCP.

Use Permit

The project proposes a privacy wall and a trash enclosure wall at 5-foot heights within the front

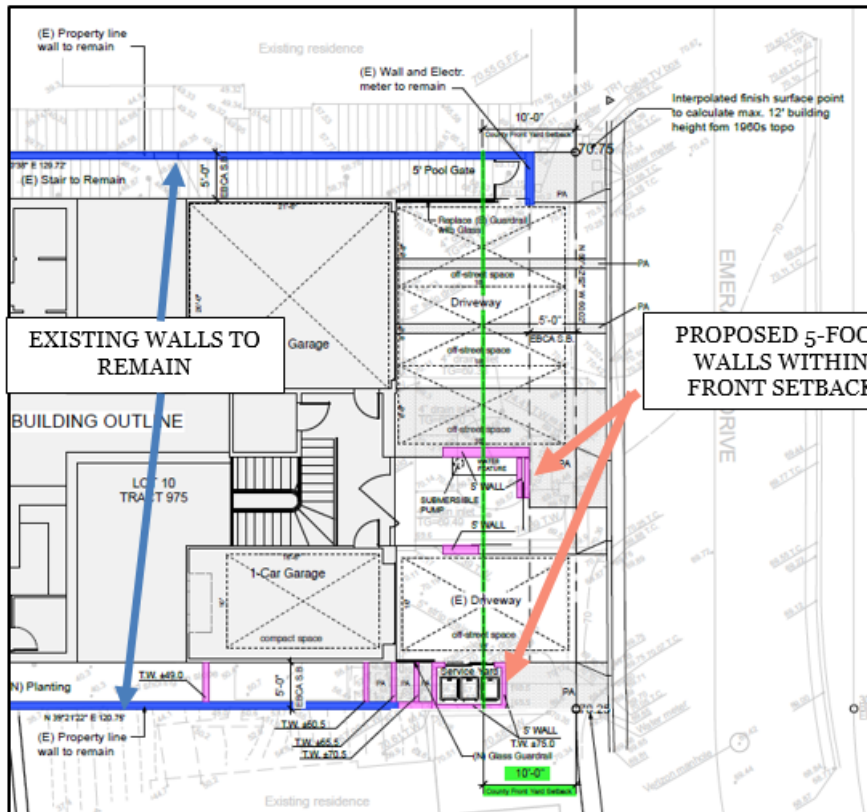
setback area, where Zoning would require a 3.5-foot maximum height. (NOTE: portions of the existing side property line retaining wall, and that will remain, have heights up to 8-feet. These walls are considered legal nonconforming, and in fact would now comply with the recently revised Zoning Code).

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:

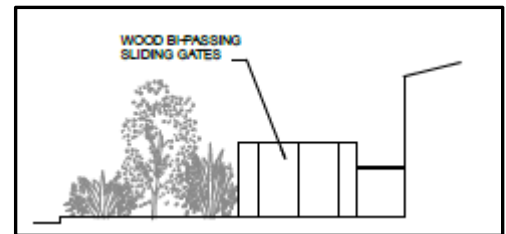
- 1) That the height and location of the fence or wall as proposed will not result in or create a traffic hazard.
- 2) That the location, size, design and other characteristics of the fence or wall will not create conditions or situations that may be objectionable, detrimental or incompatible with other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

The proposed over-height portions of the privacy and service area walls 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 heights. Recommended findings are included in Attachment 1.

PROPOSED OVER-HEIGHT WALLS



Typical Front Wall Elevation



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

and all occupants of dwelling units within 100 feet of the site (Coastal Development Permit Requirement) 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 May 5, 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 why the project is consistent with Class 1 and Class 3 categorical exemptions.

Class 1 Categorical Exemption

The Class 1 (§15301) exemption provides for the operation, repair, maintenance, permitting, leasing, licensing or minor alteration of existing public or private structures, facilities, mechanical equipment or topographical features, involving negligible or no expansion of the use beyond that existing at the time of the lead agency's determination. Examples include:

- (a) *Interior or exterior alterations involving such things as interior partitions, plumbing, and electrical conveyances;*

The project is a remodel of an existing structure, which includes the construction of a new 199-square-foot basement and the remodeling of all five of the existing upper levels and the two existing garages, which results in a net decrease in the overall floor area of 50 square feet.

- (e) *Additions to existing Structures provided that the addition will not result in an increase of more than:*

- (1) *50 percent of the floor area of the structures before the addition or 2,500 square feet, whichever is less; or. . .*

The project is a remodel of an existing structure, which includes the construction of a new 199-square-foot basement and is less than 50% of the floor area and less than 2,500 square feet.

- (l) *Demolition and removal of individual small structures listed in this subdivision;*

- (4) *Accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences.*

The project will include the demolition of an existing spa and hardscape improvements.

Class 3 Categorical Exemption

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

- (e) *Accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences.*

The project will include construction of a new pool and spa, patio decking, and hardscape

improvements.

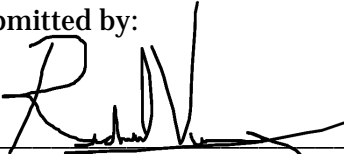
The California Environmental Quality Act (CEQA) allows categorical exemptions for projects that have been determined not to have a significant effect on the environment. (CEQA Guidelines §15300-15332). Following is a brief analysis of the project’s consistency with Class 3 categorical exemptions.

Section 15300.2 of the Guidelines includes criteria where, if applicable to a project, would except a project from a Class 3 exemption. None 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 exemption. 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 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.