



OC DEVELOPMENT SERVICES REPORT

ITEM # 2

DATE: June 10, 2021

TO: Orange County Zoning Administrator

FROM: OC Development Services / Planning

SUBJECT: Public Hearing on a Coastal Development Permit, Use Permit and Variance (Planning Application PA19-0049)

PROPOSAL: A request for a Coastal Development Permit, Use Permit and Variance in conjunction with the demolishing of an existing home and construction of a new three-level 8,411 residence with attached garage spaces.

The Coastal Development Permit is required for the demolition of the existing home and construction of the new residence with associated site grading. The Variance is required for a proposed front setback of 5 feet, where the Zoning Code would require 20 feet. A Use Permit is required to permit over-height walls in the front and rear setback areas.

ZONING: R1 "Single Family Residence", with a CD "Coastal Development" Overlay and an SR "Sign Restrictions" Overlay within the Emerald Bay Local Coastal Plan area

GENERAL PLAN: 1B "Suburban Residential"

LOCATION: The project is located at 141 Emerald Bay, Laguna Beach, CA within the Fifth Supervisorial District. (APN 053-040-07)

APPLICANT: Emerald Bay Eleven LLC (Tom Tooma), Property Owner
Geoff Sumich, Geoff Sumich Design, Architect/Agent

STAFF CONTACT: Kevin Canning, Contract Planner
Phone: (714) 667-8847
Email: kevin.canning@ocpw.ocgov.com

RECOMMENDED ACTIONS

OC Development Services/Planning recommends the 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, Class 2, and Class 3 exemptions pursuant to Sections 15303, 15302 and 15303 of the California Environmental Quality Act (CEQA) Guidelines and County of Orange procedures; and,
- c) Approve Planning Application PA19-0049 for a Coastal Development Permit, Use Permit, and Variance subject to the attached Findings and Conditions of Approval.

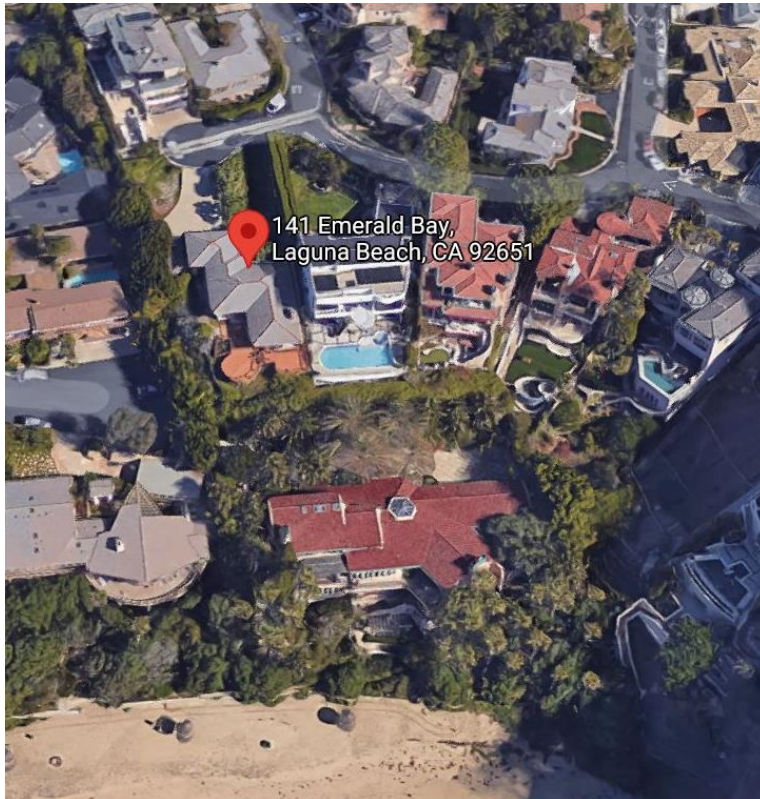
BACKGROUND AND EXISTING CONDITIONS

The subject 13,694 square foot lot is developed with an existing 1,778 square foot single-family residence with an attached garage. The property is located west of North Coast Highway at the northerly edge of the Emerald Bay community at the end of a cul de sac with steep slopes falling away from the pad area.

PROPOSED PROJECT

The project includes the demolition of the existing residence and the construction of a new three-level 8,411 square foot single-family residence with an attached two attached garages and two uncovered parking spaces. Also proposed are associated grading, landscape improvements and a swimming pool.

AERIAL OF PROJECT SITE



SURROUNDING LAND USE

The project site is a residential use and is surrounded on three sides by 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	R1 “Residential Low Density” (City of Laguna Beach)	Single-Family Dwelling
South	“Single-Family Residence” (R1)(CD)(SR) District	Single-Family Dwelling
West	“Single-Family Residence” (R1)(CD)(SR) District	Single-Family Dwelling
East	“Single-Family Residence” (R1)(CD)(SR) District	Single-Family Dwelling

SUBJECT SITE



DISCUSSION/ANALYSIS

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

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

Standard	Zoning Code	Proposed
Building Site Area	7,200 square feet	13,694 square feet (existing)
Building Height	35 feet maximum	35 feet
Min. Structural Front Setback	20 feet	5 feet (to carport) ¹ 54 feet (to residence)
Min. Structural Rear Setback	25 feet 20 feet ²	36 feet (to residence) 22 feet to deck/balcony
Structural Side Setback	5 feet minimum	5 feet
Parking	2 covered spaces	5 covered/2 uncovered spaces
Walls within front setback	3.5 feet	4 feet ³
Walls on rear setback	6.0 feet	15 foot maximum ³

¹ Variance request

² Zoning Code Sec. 7-9-61.16, 5-foot encroachment exception for decks/balconies

³ Use Permit request

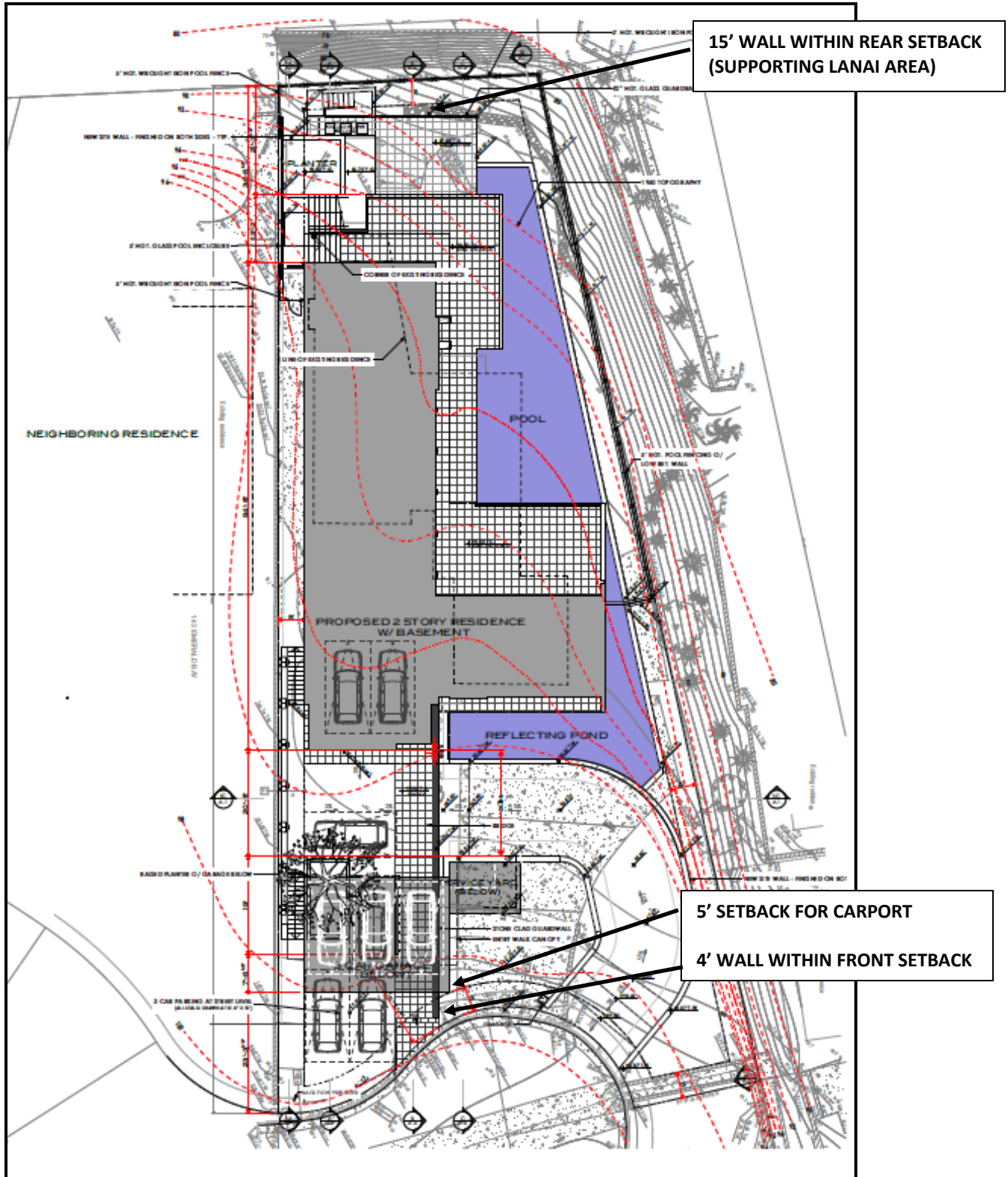
Coastal Development Permit

The project includes the demolition of the existing residence and the construction of a new three-level 8,411 square foot single-family residence with two attached garages and two uncovered parking spaces, with various landscape improvements, a swimming pool/reflecting pond, and associated grading.

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

As required by the LCP, the project was reviewed by the Emerald Bay Community Association (EBCA) and approved in October 2020. 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.

Setback and Use Permit Requests



Variance for Front Setback

The property is at the end of a cul de sac whose radius ‘intrudes’ into the lot by approximately 20 feet. This results in the proposed carport structure to extend to within 5 feet of the property line.

Zoning Code Section 7-9-125.6 requires that certain findings be made to approve a variance request, as follows:

- a. *Special circumstances. There are special circumstances applicable to the subject building site which, when applicable zoning regulations are strictly applied, deprive the subject building site of privileges enjoyed by other property in the vicinity and subject to the same zoning regulations. (The special circumstances shall be specified in the adopted finding.)*
- b. *No special privileges. 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.*

Staff finds that the special circumstances relating to the property include its location at the end of a cul de sac and in a coastal community with strict architectural guidelines. These are unique aspects to the subject lot and vicinity when compared to other R1 zoned properties within the County.

The community of Emerald Bay has had many previous variance requests approved for reduced yard setbacks. The proposed setback variances would not be a special privilege as it is consistent with other approved variances within the immediate area allowing for the reasonable development of the property consistent with homes in the vicinity.

Use Permit

The project proposes over-height retaining walls in several locations.

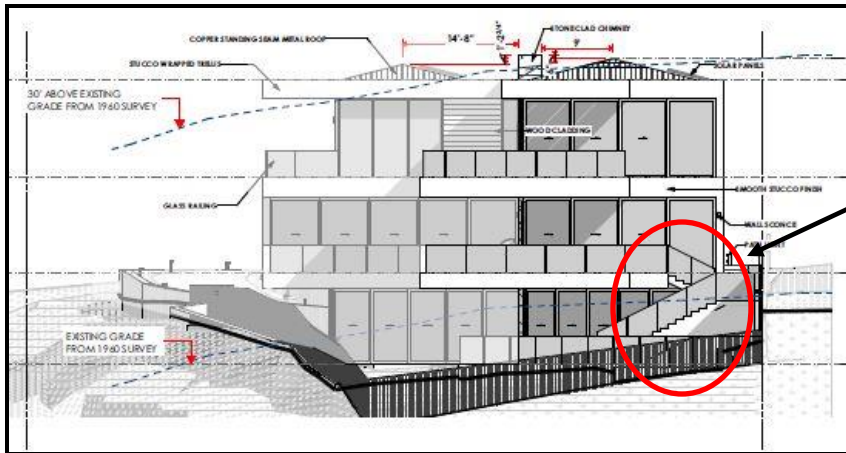
- Within the front yard setback, a proposed privacy wall, also necessary due to the sloping driveway to the main garages. This wall is proposed at a height of 4 feet.
- Within the rear setback, a retaining wall of up to approximately 20-feet in height where 6-feet is the maximum under the Zoning Code. This wall supports the proposed lanai/deck and is necessary due to the steep slope falling away from the main area of the lot.

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:

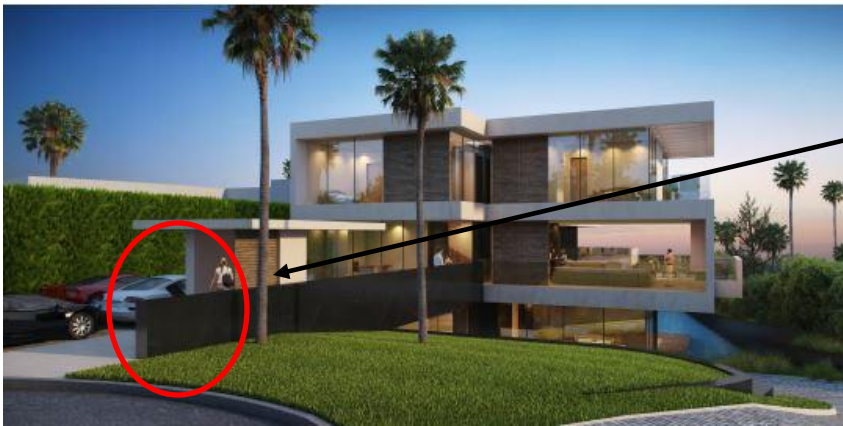
- 1) That the height and location of the fence or wall as proposed will not result in or create a traffic hazard.
- 2) That the location, size, design and other characteristics of the fence or wall will not create conditions or situations that may be objectionable, detrimental, or incompatible with other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

The proposed front wall will be located perpendicular to the street and will not result in or create a traffic hazard. The rear wall will be consistent with other approvals granted within the community. 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.



**OVER-HEIGHT WALL IN
REAR SETBACK AREA**



**OVER-HEIGHT WALL IN
FRONT SETBACK AREA**

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 May 28, 2021. Additionally, a notice was posted at the project site, the County Hall of Administration and at the County Administration South building, 601 North 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 in October 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 Class 1, Class 2 and Class 3 categorical exemptions.

Class 1 Categorical Exemption

The Class 1 (Section 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:

(l) Demolition and removal of individual small structures listed in this subdivision:

(1) One single-family residence. . .

The project includes the demolition of an existing single-family residence and construction of a new single-family residence with attached garage spaces. Accessory structures are also listed in the Class 1 exemption, and demolition of "Accessory (appurtenant) structures including garages, carports, patios, swimming pools and fences" are exempt. The project will include demolition of an existing garage, and fences/walls as well as other hardscape improvements, all of which are addressed in the Class 1 exemption.

Class 2 Categorical Exemption

The Class 2 (Section 15302) exemption consists of 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. As noted in the Class 1 Exemption discussion above, the existing residence will be demolished, and a new residence will be constructed in substantially the same footprint as shown on the attached site plan. While Class 2 does not specifically list a single-family residence, it is noted that the exemption is not limited to the examples provided. The reconstruction of the residence is consistent with the Class 2 Exemption because the new residence will have substantially the same purpose and capacity as the structure replaced.

Class 3 Categorical Exemption

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.

The proposed project is eligible for a Class 3 exemption because construction of a single-family residence and the related improvements including the garage, spa, patio and fences are specifically included in the list of examples.

None of the exceptions listed in Section 15300.2 apply to the project. Each component of the project, including the demolition of the existing residence and accessory structures, and the reconstruction of the residence and accessory structures, meets criteria outlined in the Class 1, Class 2 and Class 3 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, Use Permit, and Variance 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 planning application 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. Site Photos
6. 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 fee of \$500 filed at the County Administration South building, 601 N. 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.



**Attachment 1
Findings
PA19-0049**

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- 1** **GENERAL PLAN** **PA19-0049**
 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.
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- 2** **ZONING** **PA19-0049**
 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** **COMPATIBILITY** **PA19-0049**
 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** **GENERAL WELFARE** **PA19-0049**
 That the application will not result in conditions or circumstances contrary to the public health and safety and the general welfare.
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- 5** **PUBLIC FACILITIES** **PA19-0049**
 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** **CATEGORICALLY EXEMPT** **PA19-0049**
CUSTOM
 That the proposed project is Categorically Exempt from the California Environmental Quality Act (CEQA), Class 3 (New Construction or Conversion of Small Structures) pursuant to Section 15303. The Class 3 exemption consists of construction and location of limited numbers of new, small facilities or structures, including single-family residences and accessory structures. The proposed project is eligible for a Class 3 exemption because it consists of the construction of a single-family residence with attached three-car garage and related improvements. The project will not result in a cumulative impact, significant environmental effect or damage scenic or historic resources. Standard conditions of approval applied by the County for all construction projects of this nature will address any short-term construction related impacts.
-
- 7** **FISH & GAME - EXEMPT** **PA19-0049**
 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 no adverse impacts to wildlife resources will result from the project.
-
- 8** **NCCP NOT SIGNIFICANT** **PA19-0049**
 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.

9 COASTAL DEVELOPMENT PERMIT 1 PA19-0049

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

10 COASTAL DEVELOPMENT PERMIT 2 PA19-0049

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

11 COASTAL DEVELOPMENT PERMIT 3 PA19-0049

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

12 COASTAL DEVELOPMENT PERMIT 4 PA19-0049

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.

**13 COASTAL DEVELOPMENT PERMIT
APPEAL AREA PA19-0049**

That the project is within the appealable area of the Emerald Bay Local Coastal Program.

14 VARIANCE 1 PA19-0049 CUSTOM

That there are special circumstances applicable to the subject building site which, when applicable zoning regulations are strictly applied, deprive the subject building site of privileges enjoyed by other property in the vicinity and subject to the same zoning regulations, specifically its size and location.

15 VARIANCE 2 PA19-0049 CUSTOM

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, in that the proposed additions are in conformance with the pattern of development within the community.

16 FENCE AND WALL 1 PA19-0049

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

17 FENCE AND WALL 2 PA19-0049

That the height and location of the over-height walls or pedestals 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
PA19-0049

1 BASIC/ZONING REGULATIONS PA19-0049

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 or approval of the project regarding any other applicable ordinance, regulation or requirement.

2 BASIC/TIME LIMIT PA19-0049

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/PLAN PA19-0049

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 original 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 PA19-0049

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 INDEMNIFICATION PA19-0049

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 BASIC/APPEAL EXACTIONS PA19-0049

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 PA19-0049

Prior to the issuance of a grading permit, the applicant shall submit a geotechnical report to the Manager, Building and Safety Division, for approval. The report shall include the information and be in the form as required by the Grading and Excavation Code and Grading Manual. The subject site abuts a property that is located within a State of California Seismic Hazard Zone susceptible to earthquake induced landslides. The proposed development will require site specific earthquake induced landslide analysis and evaluation in accordance with SP117A requirements.

8 CONSTRUCTION NOISE PA19-0049

A. Prior to the issuance of any grading permits, the project proponent shall produce evidence acceptable to the Manager, Building and Safety Division, 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.

9 EROSION AND SEDIMENT CONTROL PLAN PA19-0049

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, Building and Safety Division, 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.

10 DRAINAGE STUDY PA19-0049

If determined necessary, prior to the issuance of any grading permits, the following

drainage studies shall be submitted to and approved by the Manager, Permit Services

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 DRAINAGE FACILITIES PA19-0049

If determined necessary, prior to issuance of grading or building permits, drainage studies that demonstrate the following shall be submitted to and approved by Manager, Building and Safety Division:

1. All surface runoff and subsurface drainage directed to the nearest acceptable drainage facility, as determined by the Manager, Building and Safety Division
 2. Drainage facilities discharging onto adjacent property shall be designed to imitate the manner in which runoff is currently produced from the site and in a manner meeting the satisfaction of the Manager, Permit Services. Alternatively, the project applicant may obtain a drainage acceptance and maintenance agreement, suitable for recordation, from the owner of said adjacent property. All drainage facilities must be consistent with the County of Orange Grading Ordinance and Local Drainage Manual.
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12 ROAD FEE PROGRAM PA19-0049

Prior to the issuance of building permits, the applicant shall pay applicable fees for the Major Thoroughfare and Bridge Fee Program listed below, in a manner meeting the approval of the Manager, Building and Safety Division.

- a. San Joaquin Hills Transportation Corridor
-

13 RESIDENTIAL FIRE SPRINKLERS PA19-0049

The building plans shall comply with Section R327 of the 2013 CRC, including required residential fire sprinklers

14 PRIVATE LANDSCAPING PA19-0049

A. Prior to the issuance of precise grading permits, the applicant shall submit a detailed landscape plan for the project area which shall be approved by the Manager, Permit Services in consultation with the Manager, OC Planning. The plan shall be certified by a licensed landscape architect or a licensed landscape contractor, as required, as taking into account approved preliminary landscape plan (if any), County Standard Plans for landscape areas, adopted plant palette guides, applicable scenic and specific plan requirements, and water conservation measures contained in the County of Orange Landscape Code (Ord. No. 09-010).

B. Prior to the approval of final inspection, applicant shall install said landscaping and irrigation system and shall have a licensed landscape architect or licensed landscape contractor, certify that it was installed in accordance with the approved plan.

C. Prior to the approval of final inspection, the applicant shall furnish said installation certification, including an irrigation management report for each landscape irrigation system, and any other implementation report determined applicable, to the Manager, Permit Services.

15

STANDARD PLAN – SIGHT DISTANCE

PA19-0049

Prior to the issuance of a precise grading permit, the approved plans shall demonstrate compliance with Standard Plan 1117 for adequate sight distance at the driveway area.

February 14th, 2019

County of Orange, OC Public Works, OC Planning
Land Use Planning
300 N. Flower
Santa Ana, CA

RE: Letter of Project Proposal and Scope of Work
The Tooma Residence CDP and Variance at
141 Emerald Bay Drive, Laguna Beach, CA 92651
APN: 053-040-07

Owner: Mr. Tom Tom
86 Emerald Bay Drive
Laguna Beach, CA 92651

To whom it may concern:

We are proposing to building a new 8469 sq ft single family residence on the above referenced property comprised of two levels and one basement level.

The proposed house has an enclosed two car garage, one garage fits two cars, the other garage fits three cars.

The Emerald Bay Community Association setbacks for the front, rear, and sides of the house are five (5) feet and the height limit is 30 feet from original grade.

The house conforms to all the HOA setbacks, height restrictions and site coverage limitations.

The proposed house will encroach fifteen feet (15'-0") ft into the County front setback. Additionally we have walls in the front and rear setback that exceed County standards.

How the proposed use is justified:**Compatibility-**

The proposed house setbacks and walls in the front and rear of the property are the same as all of the other homes in Emerald Bay.

General Welfare-

The proposed design will in no way effect public health and safety and the general welfare of residents, visitors or others concerned.

Required justifications:**Special circumstances-**

The special circumstance that necessitates the application and approval of a variance is based on the neighborhood of Emerald Bay's specific homeowner regulations that are less restrictive than the setback regulations of the County of Orange.

No special privileges-

The variance we are asking for have been given to almost all the new homes in Emerald Bay over the last 20 years. The granting of this variance will give us the same privilege enjoyed by other properties in Emerald Bay.

Sincerely yours,

Agent for the Owner - Designer



Geoff Sumich

APPLICANT: TOOMA
ADDRESS: #141
PROJECT: 2884 TRACT: Point LOT: 7
SCOPE OF WORK: NEW RESIDENCE and MAJOR LANDSCAPE/HARDSCAPE
SUBMITTAL: FINAL RESUBMITTAL
ARCHITECT: Scott Rosenbaum
Phone: 949-496-8991
License: C32834
LANDSCAPE ARCHITECT: Michael Dilley (949/673-0800)

Architectural review by Ken Wilkins/Jill Chambers

Landscape review by James Dockstader

FINAL COMMITTEE RECOMMENDATION: Approval

HISTORY OF SUBMITTALS:

• CONCEPT	June 2018	ACKNOWLEDGED
• CONCEPT 2	September 2018	ACKNOWLEDGED
• PRELIMINARY	November 2018	APPROVED
• PRELIMINARY	December 2018	APPROVED
• PRELIMINARY	December 2019	EXTENSION REQUEST APPROVED
• FINAL	August 2020	DISAPPROVED

SUMMARY OF PROPOSED ARCHITECTURAL IMPROVEMENTS:

The Plan Submittal Application indicates the construction of a new residence of approximately 9,598 SF (9,296.5 SF at Concept 2). 9,598 SF includes an 898 SF garage. There are 2,139 SF of decks (2,554 SF at Concept 2). The residence is two stories plus a basement.

Changes since Concept submittal:

Basement level –

- The exterior stair at the rear property line has been pulled in 14'.
- The rear lanai has been pushed out 12" towards the rear property line.

Ground level –

- Pulled Living Room lanai in at the right side setback.
- Increased the size of the lanai at the Family Room.

Upper level –

- Pushed Bedroom 3 out flush at the front elevation.

Changes since Concept 2 submittal:

- Pulled in the upper level Master deck 6'.
- Pulled in the rear wall at the Master Bedroom 5'.
- Added a 12" deep recess, windows and wood siding at the left elevation.
- Added a raised tree planter in front yard at parking.

- Increased the size of the Service Yard.
- Changed the roof configuration to larger planes of sloped roof to eliminate the appearance of flat roof parapets.
- Added solar panels in 2 locations.

Changes since December Preliminary:

- Relocate BBQ at Lower Level
- Raise ceiling above A/C condensers to +/- 9'.

The August Final Submittal application notes 2 minor changes have been made since the PRELIMINARY approval:

- Changes to the BBQ location to be found on sheets G-001 and A-101.
- A change to the A/C ceiling height shown on sheet A-301 and A-302.

SUMMARY OF PROPOSED LANDSCAPE IMPROVEMENTS:

Proposed landscape improvements include: Walls, pool, paving, firepit, planting, irrigation.

STAFF ARCHITECTURAL FINDINGS:

This September 2020 FINAL RESUBMITTAL review is only for compliance with the Lot Coverage requirement due to a change/ addition of the area enclosing the A/C units. It should be noted that previously found discrepancies in area totals and dimensions from the past submittals were to be clarified and corrected but some remain.

Comparison of the Lot Coverage calculation sheet G-002.1 of this submittal with sheet A.7 of the 12/4/2018 submittal indicates the following:

- The area of the added A/C enclosure sheet G-002.1 was reduced from the last submittal from 50 SF to 46 SF.
- The elevated planter sheet G-002.1 at the rear with an area of 11.75 SF was removed.
- 6 of 9 area totals on sheet G-002.1 have changed.
- 5 dimensions on sheet G-002.1 have been changed, 1 dimension is missing.
- The Lot Coverage sheet G-002.1 is at 1/8" scale the floor plans are at 1/4" scale which does not allow for an overlay comparison.
- Comparison between the two sheets to clarify the above reveals missing dimensions also occur on the floor plan and the width of a walkway that does not scale to match the dimension used on the Lot Coverage calculation.
- The Lot Coverage total counts only the portion at an upper level deck that cantilevers beyond 10'. An unidentified (possible support pipe column) may alter the area counted.
- The Lot Coverage was increased from 39.88% to 39.99% (40%) with a buffer of only .02 SF (which equates to an area of +/- 1-1/2" by 1-1/2").
- If the scaled dimension on the 1/4" plan floor plan of 7'-10" of the walkway vs the noted 7'-8" on the 1/8" Lot Coverage plan is used the additional 3.06 SF puts Lot Coverage out of compliance.

1. ARCHITECT STAMP (Section B.2): The plans are stamped and signed. OK
2. ARCHITECTURAL REVIEW - SUBMITTAL COMPLETENESS (Section B.5): Submittal is generally complete enough for review. OK
3. **LOT COVERAGE (Section C.1):** The lot coverage is indicated on the Plan Submittal Application as 40% (5,471.18 / 13,678). **SEE ABOVE NOTES AND INITIAL COMMITTEE RECOMMENDATIONS**

Portions of elevated surfaces that are more than 5' above the adjacent finished grade have been included in the Lot Coverage calculations.
4. **SETBACKS (Section C.2):** **The front setback to the wall at the covered walkway is 15'-11 ¾" and to the associated roof is 10'. The front setback to the structure is greater than 50'.**

The Committee determined what had previously been noted as a lightwell/retaining wall in the 5' left side setback at the subterranean garages has been revised and is not considered a lightwell in its current condition. **EBSD did not object to the use of the utility easement in this location. OK**

The setback at the stairs at the rear elevation and the cantilevered decks at the ground level are 21'-6" from the rear setback. The setback to the cantilevered deck at the upper level was increased to 27'-6". OK
5. **UTILITY EASEMENTS (Section C.3):** Portions of retaining walls, stairs and planters are allowed within the Utility Easements

The Emerald Bay Service District Board of Directors has granted a waiver for the downward sloping driveway to the basement garages. All required agreements must be completed and signed prior to Final.

Proof of EBSD review and approval provided. OK
6. **PARKING (Section C.4):** The parking area is indicated on the Plan Submittal Application as 9,167.5 and calculates at 8,700. 8,700 requires a two-car garage and six additional off-street parking spaces. Two of the six spaces can be compact spaces.

The submittal indicates a 2-car garage, a 3-car garage and onsite parking for 4 cars some of which are arranged in a tandem configuration. **OK**

It appears the area of the 3-car garage (468 SF) has not been subtracted from the overall parking calculation square footage. The area of the garages is 898 SF. Therefore, the parking calculation is 8,700 (9,598 – 898).

The area in the garages not used as required parking are considered storage and have been included in the parking calculation.
7. **SERVICE YARD (Section C.5):** Indicated at the bottom of the steep driveway adjacent to the garage. The Committee discussed if this was practical but there is nothing technically with regards to the Regulations that would prevent it from being in this location. **OK**
8. **BACKFLOW PREVENTION DEVICES (Section C.8):** New residences and renovations/remodels/additions which include the addition of 2 or more plumbing fixtures require a backflow prevention device. **This was approved as part of the EBSD review. These will be inspected during construction. OK**
9. **NUMBER OF STORIES (Section D.1):** No Structure shall exceed two stories in height. This does not include Basements as defined by the Architectural Regulations. First Basement Rule: If the elevation of the finished floor level directly above a basement, cellar or unused under-floor space is more than 6 feet above Natural Grade for more than 50% of the total perimeter or is more than 12 feet above Natural Grade at any point then such level is considered a "story".

The lowest level qualifies as a basement. **OK**

10. **BUILDING HEIGHT (Section D.2):** The height of any Structure on any Lot or Parcel in this Zone shall not exceed thirty (30) feet above the Natural Grade of the Lot or Parcel.

There is one chimney indicated that is 1'6" above the maximum height envelope. This must be shown to be no higher than the minimum required by Code. OK

An updated certified copy of the 1960 topo plan is required with 6" contour lines added between elevations 94 and 96 to confirm height envelope.

11. **COMPATIBILITY (Section D.3):** Many of the Committee's previous comments at the first and second Concept submittals have been addressed. The following are notes from the Preliminary review and Approval.

The articulation added at the east elevation (facing 143 EB) is an improvement. The windows facing the neighboring home would create nuisance light were removed. Keeping the Ipe wood and removing the windows at the closet, bath and bedroom (looking into the neighbor's front yard) were removed. **OK**

The roof structure has been resolved adequately. **OK**

The corrections at the upper level deck, overhang and face of building were addressed. **OK**

The projecting trellis element was pulled back further better relate to the decks. **OK**

The planter added to the parking pad at the front helps provide for additional planting.

12. **NON-CONFORMING STRUCTURES (Section D.4):** A pre-existing, non-conforming Structure or portions of a Structure may be retained where the proposed alteration does not increase the square footage by 25% or more, increase the height of the Structure such that it is above the height envelope for the Tract and there is no change to the existing broad style of architecture.

Existing non-conforming elements:

- N/A

New non-conforming elements:

- Possible Lot Coverage given there is no tolerance for error in construction
- Pool enclosure (see Landscape Findings)

13. **ROOFS (Section D.5):**

Roof pitch: 3:12 and flat. **OK**

Flat roof: <15%. 10.5% (346 / 3,279) **OK**

Roof materials: Copper standing seam. Indicated as Class A. **OK**

Roof Equipment: None shown. **OK**

Parapet: 0%. **OK**

14. **ROOF DECKS (Section D.6):** There are two roof decks. The area of the roof deck must be equal to or less than the area of the interior space from which access is taken.

There is a roof deck on the ground level off of the living room over the gym and there is a roof deck on the upper level off of bedroom 3 over the living room.

The area of the roof decks does not exceed the area from which access is taken. **OK**

15. **MATERIALS AND COLORS (Section D.7):** Actual materials samples and exterior colors are required to be submitted on a board no smaller than 11 x 17 and no larger than 18 x 24. A color rendering must be included on the board to clearly identify the location of all proposed materials and colors. **A Material and color board was submitted.**
16. **WINDOWS AND DOORS (Section D.8):** Indicated as dark brown metal on material and color board. See comments under Initial Committee Recommendations.
17. **ANTENNAS (Section D.9):** None indicated. **OK**
18. **SOLAR PANELS (Section D.10):** None Shown. **OK**
19. **SKYLIGHTS (Section D.11):** There is one skylight and it is labeled as non-reflective. **OK**
20. **ARCHITECTURAL EXTERIOR LIGHTING (Section D.12):** **Light fixtures must be down lit or shielded to prevent glare or be a nuisance to neighbors. Light fixtures must be complementary to the architectural style of the residence.**
The locations of exterior lights are indicated on elevations.
Cutsheets of proposed fixtures provided. OK
21. **GUTTERS AND DOWNSPOUTS (Section D.13):** The gutters and downspouts are concealed within the structure. **OK**
22. **OTHER COMMENTS:**
 - A certified copy of the 1960 topo plan indicating lot area and 2' contours has been submitted.
 - Exhibits describing the area and legal description of the Easement on EBCA property to prepare the revocable easement and maintenance agreement were submitted as required.
 - **It has been brought to the Committee's attention that OCFA may be enforcing the requirement to provide access around the structure to allow for the required length of hose pull and rescue requirements. If changes are required by OCFA, these will need to be submitted for review.**
 - A Zoom meeting was held with Geoff Sumich, Scott Rosenbaum, Dr. Tom Tooma, Dr. Sokol and Jill Chambers for the Owners to discuss alternatives for a possible pool enclosure on Dr. Sokol's property. Discussions will continue however; the Committee is considering the pool enclosure proposed on this month's submittal, so the Association does not cause delay to the possible approval of the project while the neighbors continue to find an alternate solution.
 - Overlays for have been provided for Lot Coverage and parking calculations.
 - The Applicant has been asked to adjust the scale or otherwise, print the drawings on sheets that are no larger than 30 x 42.

STAFF LANDSCAPE FINDINGS:

1. **SUBMITTAL COMPLETENESS (Section B.5):** Submittal must be generally complete enough for review. **OK**
2. **LANDSCAPE STRUCTURES ARE SET BACK 5' FROM LOT BOUNDARIES (Tract Schedule A Exhibits):** Except for fences and walls, structures are 5' from PL. **OK**

UTILITY ELEMENTS / EBSD SUBMITTAL: Evidence of EBSD review and approval will be required at the time of final submittal. **Reviewed at time of final**

3. LOT COVERAGE (Sec C.1): Landscape features such as raised patios and/or freestanding structures must not create a lot coverage overage. **OK**
4. SITE DRAINAGE (Sec C.6): A conceptual grading and drainage plan must be included, generally showing adequate site drainage. **OK.**
5. CURBS AND GUTTERS (Sec C.7): For new residences and major remodels, plans must show complete replacement of curb and gutter along entire street frontage with reference to EBSD requirements. **OK**
6. BACKFLOW PREVENTION (Sec C.8): A backflow prevention device must be installed for proposed irrigation systems and must not be located on Association Property. **Reviewed at time of final**
7. EXTERIOR MECHANICAL EQUIPMENT (Sec E.1): Mechanical equipment shall not be located in easement areas. **Pool equipment is housed in a partially buried vault by the driveway**
AC condensers are located under the rear deck
Mechanical spa equipment appears to be screened from view. **OK**
Noise impacts on adjacent neighbors must be avoided and/or minimized. **OK**
An acoustical report prepared by a qualified expert is submitted showing that anticipated noise impacts are less than the County maximum at the nearby property lines. **Acoustical report indicates that mitigation measures are needed for AC equipment but not pool equipment. Mitigation measures are shown on architectural drawings.**
Acoustical report assumptions and recommendations are consistent with submittal drawings. **OK**
8. EXTERIOR LIGHTING (Sec E.2): Landscape lighting proposals must be shown and must appear to limit glare and annoyance. **Proposals are substantially consistent with previous approvals**
9. FENCES, WALLS, AND HEDGES (Sec E.3):
In front yard setback areas fences, hedges, and walls are to be 4' high or less as compared to adjacent top of curb elevations. For corner lots, the maximum height is 3'. **Proposals are substantially consistent with previous approvals**
Between the front yard setback and the house structure fences, walls, hedges, railings or other features are to be 4' high or less compared to finished grade. **Proposals are substantially consistent with previous approvals**
Front yard improvements address issues of visual impact, compatibility, and contributions to common visual streetscape. **Proposals are substantially consistent with previous approvals**

In side yard and rear yard setback areas fences and/or walls must be 6' high or less as compared to existing grade along neighbor's side of property line. **Proposals are substantially consistent with previous approvals**

Property line fences, walls, and footings must be constructed completely on the subject property. **Proposals are substantially consistent with previous approvals**

Block walls are finished on all sides. **Proposals are substantially consistent with previous approvals**

At the street fences, walls, and railings must be held back a minimum of 18 inches from face of curb. **OK**

10. PLAY EQUIPMENT AND PLAY HOUSES (Sec E.5): Issues of noise and visual impact have been adequately addressed. **None proposed. NA**

11. MAILBOXES (Sec E.6): Design and location must be shown. **OK**

12. OUTDOOR FIREPLACES, FIREPITS, COOKING ELEMENTS (Sec E.7): Outdoor fireplaces, BBQs, and ovens shall be a minimum of 5' clear of any property line and must be gas only. **Proposals are substantially consistent with previous approvals**

The minimum setback for any open firepit shall be a minimum of 10'. **OK**

13. WATER FEATURES, SWIMMING POOLS, SPAS (Sec E.8): Pool and spa structures are located entirely outside the 5' utility easement area. **OK**

Issues of noise and visual impact must be adequately addressed. **Proposals are substantially consistent with previous approvals**

Security/pool fencing is shown. **Pool enclosure is not clear between neighbor's pool terrace and onsite areas.**

14. PARKWAY ACCESS (Sec E.12): Planting and paving within 18-24" of face of curb shall allow for convenience of on-street parking **Proposals are substantially consistent with previous approvals**

15. IMPROVEMENTS ON EBCA PROPERTY Section C, Part 21): Trees, hedges, and structures are not proposed on EBCA property. **Proposals are substantially consistent with previous approvals**

16. POTENTIAL OBSTRUCTION OF VIEW (Sec A.5): Trees and shrubs must not unreasonably block a neighbor's view. **Proposals are substantially consistent with previous approvals**

17. PREPARATION BY LANDSCAPE ARCHITECT (Sec B.2): **OK.**

18. FUEL MODIFICATION (Sec E.14): Highly flammable target species shall not be proposed. **OK**

Perimeter properties appear to be consistent with Orange County requirements for Zone A. **NA**

19. OTHER:

- None

FINAL COMMITTEE RECOMMENDATIONS:

1. The Committee initially recommended disapproval of the plans as submitted. The following items were adequately addressed by the Tuesday meeting; therefore, the Committee recommends **Approval.**
 - a. The Committee reviewed the color and material board and takes no exception.
 - b. Show pool enclosure between neighbor to the south and this property meets the minimum required 5-foot enclosure and is not greater than the maximum 6 feet above the adjacent property. **OK**
 - c. Reduce Lot Coverage to allow for some margin of error during construction. **The entire wall along the common property line with 143 EB will be pulled in 3" to reduce Lot Coverage to 39.8%**
2. Note:
 - a. If you would like to appeal the recommendation of the Architectural Committee or determination of the Board, please to the CC&Rs, ARTICLE VIII, Section 5 – Notice and Hearing Requirements.
 - b. Approvals are only valid for one year. See extension request requirements in the Architectural Regulations for additional information.
 - c. All future submittals must be accompanied by a detailed scope of work and highlighting revisions to previous scope of work, if any.
 - d. If it becomes necessary or desirable for the Association to utilize its easements within private property boundaries, it is the responsibility of the owner of such property to remove improvements (whether previously approved by the Association or not) to provide access and to replace or repair improvements subsequent to Association access at no cost to the Association.
 - e. Any changes to the Final approved plans must be submitted for Architectural Committee's review prior to construction.

Scott Rosenbaum (Architect) appeared to discuss the submittal.

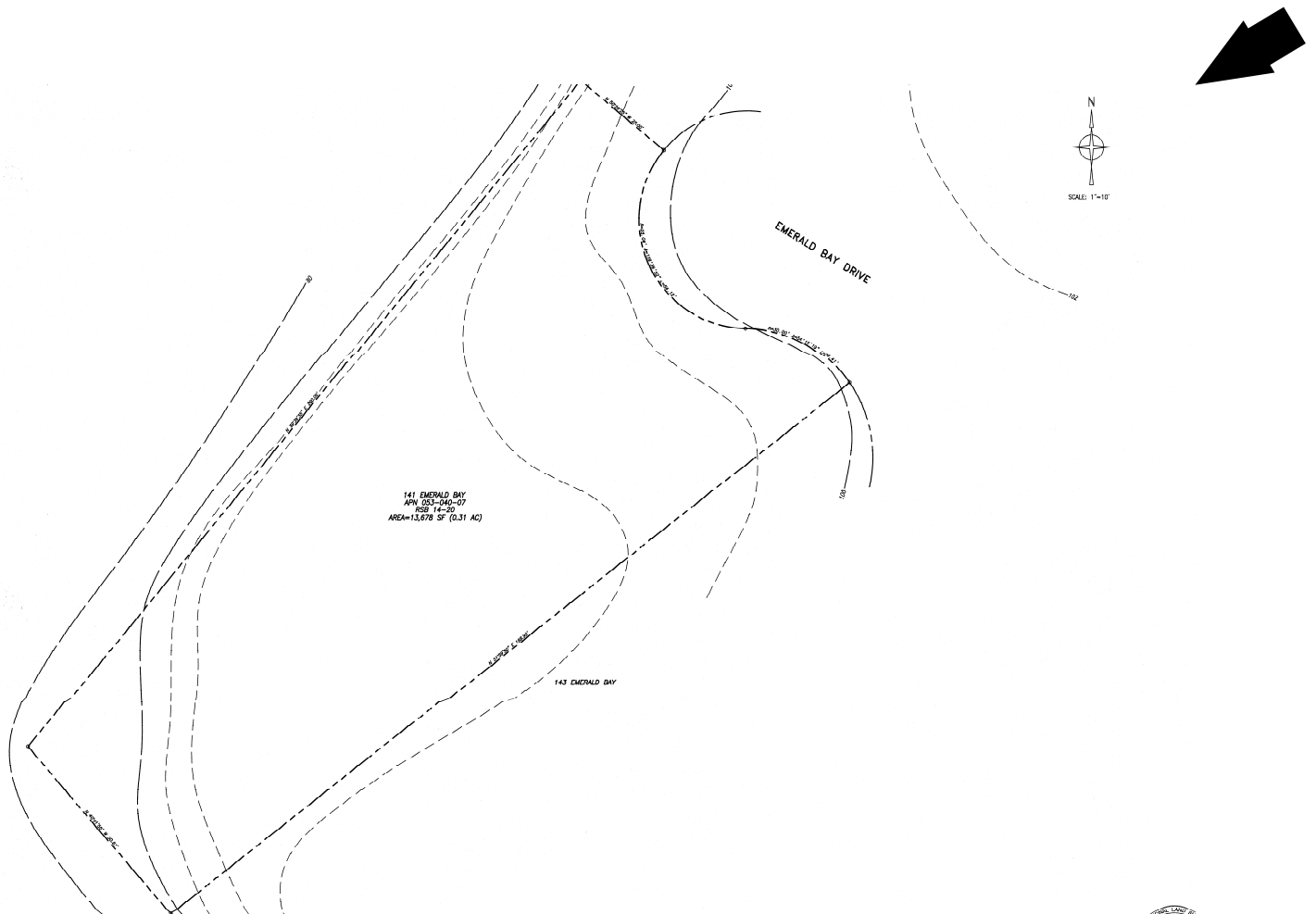
Members present:

Dr. William Sokol, 143 EB

At their meeting on October 6, 2020 the Board voted to approve the recommendation of the Architectural Committee.



1.





2.

