



OC DEVELOPMENT SERVICES REPORT

ITEM # 3

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 PA19-0015)

PROPOSAL: A request for a Coastal Development Permit, Use Permit and Variance in conjunction with the demolishing an existing home and construction of a new three-level 4,888 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 reduced rear setback of 5 feet, where the Zoning Code would require 17 feet under the shallow lot criteria. A Use Permit is required to permit over-height retaining walls in the front, side 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 117 Emerald Bay, Laguna Beach, CA within the Fifth Supervisorial District. (APN 053-040-53)

APPLICANT: AFS Realty Investments LLC (Andrea Shelly), Property Owner
Ehrlich Yanai Rhee Chaney Architects (Jessica Chang), 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 PA20-0015 for a Coastal Development Permit, Use Permit, and Variance subject to the attached Findings and Conditions of Approval.

BACKGROUND AND EXISTING CONDITIONS

The subject property is developed with an existing 2,086 square foot single-family residence with an attached garage. The property abuts North Coast Highway to the rear where there is an existing noise mitigation wall (partially retaining) that will remain. The project site is below the grade of North Coast Highway by approximately 15 to 17 feet at its midpoint.

PROPOSED PROJECT

The project includes the demolition of the existing residence and the construction of a new three-level 4,888 square foot single-family residence with an attached two-car garage and two uncovered parking spaces. Also proposed are landscape improvements and a swimming pool. Grading associated with the project will total approximately 912 cubic yards, including 839 cubic yards of export.

AERIAL OF PROJECT SITE

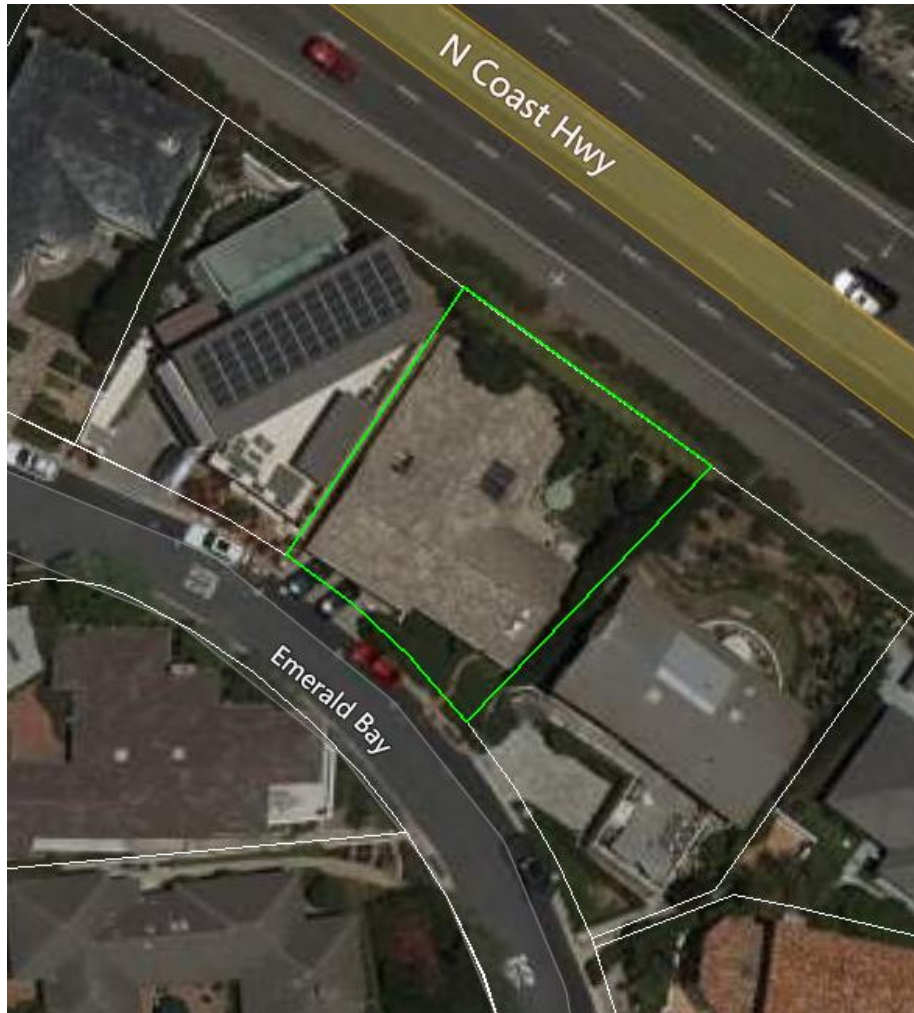


SURROUNDING LAND USE

The project site is a residential use and is surrounded on three sides by 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	n/a	North Coast Highway
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	6,234 square feet (existing)
Building Height	35 feet maximum	30.5 feet
Min. Structural Front Setback ¹	7.35 feet ¹	8.3 feet
Min. Structural Rear Setback ¹	17.6 feet ²	5 feet ³
Structural Side Setback	5 feet minimum	5 feet
Parking	2 covered spaces	2 covered/2 uncovered spaces
Walls within front setback	3.5 feet	6.0 feet (at one point) ⁴
Walls on side/rear property lines	6.0 feet	10.0 foot maximum ⁴

¹ Average of adjoining setbacks = 7.2 feet + 7.5 feet / 2 = 7.35 feet.

² Shallow lot = average depth 88 feet x 20% = 17.6 feet

³ Variance request

⁴ Use Permit request

Coastal Development Permit

The project includes the demolition of the existing residence and the construction of a new three-level 4,888 square foot single-family residence with an attached two-car garage and two uncovered parking spaces, with various landscape improvements and a swimming pool. Grading associated with the project will total approximately 912 cubic yards, including 839 cubic yards of export.

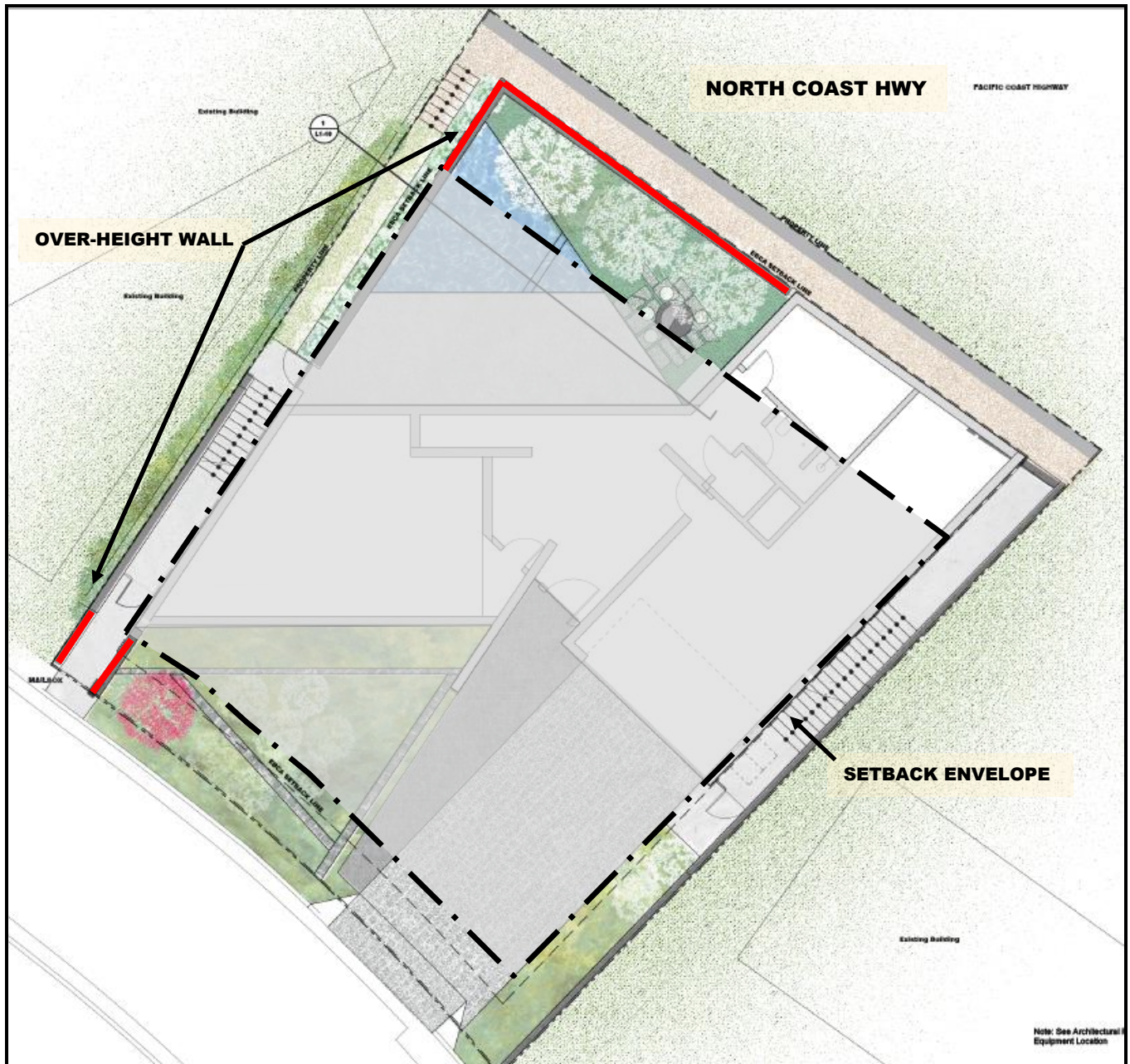
Within the Coastal Development Overlay zone, and specifically within the Emerald Bay Local Coastal Program (LCP), the demolition and replacement of a structure, with the associated site grading requires the approval of a Coastal Development Permit (Zoning Code Section 7-9-40 and Emerald Bay Local Coastal 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 July 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.

Variance for Rear Setback

The project site backs up to North Coast Highway and is also a shallow building site per Zoning Code Section 7-9-61.12. With an average depth of 85.00 feet, the required front and rear setback for the subject project site is 17.6 feet, calculated as follows: Average Lot Depth x 20% = required (front and) rear setback (88.00 x 20% = 17.6 feet).

VARIANCE AND USE PERMIT REQUESTS



Due to the highway and resultant noise impacts, building sites within Emerald Bay located west of the highway and located at or below the elevation of the highway, have been historically developed with minimal private back yards. This development approach places structures, which can more be easily sound mitigated than a private yard area, to the back of the lots. Of the 36 such lots within the Emerald Bay community, only three lots have the minimum R1 rear yard setback of 25 feet, with two undeveloped lots (number based upon inspection of aerial photographs).

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 shallow depth, its proximity to North Coast Highway, and its location in a coastal community with strict architectural guidelines. All of 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 at the southwestern corner of the lot, a 6-foot wall is proposed, where 3.5 feet is the maximum under the Zoning Code. This is proposed to match grades of the adjacent lot.
- Along portions of the side and rear property lines, retaining walls up to 10-feet in height where 6-feet is the maximum under the Zoning Code. It is noted that the side and rear walls do not measure over 6-feet when measured from the adjacent lot's finished grade.

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 walls will be located along to property lines away from the street 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.

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 July 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.

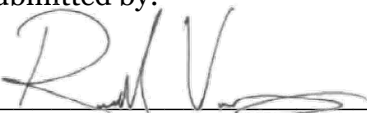
The proposed project is eligible for a Class 3 exemption because construction of a single-family residence and the related improvements including the garage, spa, patio and fences are specifically included in the list of examples.

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
PA20-0015**

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|----------|---------------------|------------------|
| 1 | GENERAL PLAN | PA20-0015 |
|----------|---------------------|------------------|
- 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 | PA20-0015 |
|----------|---------------|------------------|
- 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.
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|----------|----------------------|------------------|
| 3 | COMPATIBILITY | PA20-0015 |
|----------|----------------------|------------------|
- 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.
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| 4 | GENERAL WELFARE | PA20-0015 |
|----------|------------------------|------------------|
- 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 | PA20-0015 |
|----------|--------------------------|------------------|
- 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.).
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- | | | |
|----------|-----------------------------|-------------------------|
| 6 | CATEGORICALLY EXEMPT | PA20-0015 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.
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- | | | |
|----------|---------------------------------|------------------|
| 7 | FISH & GAME - EXEMPT | PA20-0015 |
|----------|---------------------------------|------------------|
- 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.
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- | | | |
|----------|-----------------------------|------------------|
| 8 | NCCP NOT SIGNIFICANT | PA20-0015 |
|----------|-----------------------------|------------------|
- 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** **PA20-0015**

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

10 **COASTAL DEVELOPMENT PERMIT 2** **PA20-0015**

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

11 **COASTAL DEVELOPMENT PERMIT 3** **PA20-0015**

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** **PA20-0015**

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** **PA20-0015**

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

14 **VARIANCE 1** **PA20-0015** **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** **PA20-0015** **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** **PA20-0015**

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** **PA20-0015**

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
PA20-0015

1 BASIC/ZONING REGULATIONS PA20-0015

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 PA20-0015

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 PA20-0015

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 PA20-0015

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 PA20-0015

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 PA20-0015

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 PA20-0015

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.

8 CONSTRUCTION NOISE PA20-0015

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 PA20-0015

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 PA20-0015

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 RELOCATE STORM DRAIN PA20-0015

Prior to issuance of grading or building permits, the applicant shall relocate the existing 24" storm drain away from the proposed building. The existing easement shall be quit claimed and a new easement recorded. These actions shall be approved by the EBCA and/or the Service District, as applicable.

12 WATER QUALITY MANAGEMENT PLAN PA20-0015

Prior to the issuance of any grading or building permits, the applicant shall submit for review and approval by the Manager, Building and Safety, a Water Quality Management Plan (WQMP) specifically identifying Best Management Practices (BMPs) that will be used onsite to control predictable pollutant runoff. The applicant shall utilize the Orange County Drainage Area Management Plan (DAMP), Model WQMP, and Technical Guidance Manual for reference, and the County's WQMP template for submittal. This WQMP shall include the following:

- Detailed site and project description
- Potential stormwater pollutants
- Post-development drainage characteristics
- Low Impact Development (LID) BMP selection and analysis
- Structural and Non-Structural source control BMPs
- Site design and drainage plan (BMP Exhibit)
- GIS coordinates for all LID and Treatment Control BMPs
- Operation and Maintenance (O&M) Plan that (1) describes the long-term operation and maintenance requirements for BMPs identified in the BMP Exhibit; (2) identifies the entity that will be responsible for long-term operation and maintenance of the referenced BMPs; and (3) describes the mechanism for funding the long-term operation and maintenance of the referenced BMPs

The BMP Exhibit from the approved WQMP shall be included as a sheet in all plan sets submitted for plan check and all BMPs shall be depicted on these plans. Grading and building plans must be consistent with the approved BMP exhibit.

13 RESIDENTIAL FIRE SPRINKLERS PA20-0015

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

14 ROAD FEE PROGRAM PA20-0031

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

15 **PRIVATE LANDSCAPING** **PA20-0015**

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.

16 **STANDARD PLAN – SIGHT DISTANCE** **PA20-0015**

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.

08/05/2020

County of Orange, OC Public Works, OC Planning
601 North Ross Street
Santa Ana, CA 92701

Re: Letter of Project Proposal and Scope of Work:
Andrea Shelly
117 Emerald Bay

To the Planning Commission,

On Behalf of the Owner of 117 Emerald Bay, the following application requests a variance for increase in minimum setbacks and maximum fence height. The project is located within the private community of Emerald Bay and has received Preliminary Approval by their Community Association. The variances are requested to match the allowable measures defined by the Emerald Bay Community. The project also falls within the zone for Coastal Commission review.

The proposed plans include the demolition of an existing single-family residence to be replaced by a new single-family residence. The existing building is a 2,086 sf, single-story, single-family residence with an attached garage. The proposed building is a 4,888 sf, two-story tall residence, with a basement, and an attached garage. The construction would also include new landscaping, pool, grading, and paving.

Minimum Setback Variance

Per OC Municipal Code, the 117 Emerald Bay site requires 17' front and rear yard setbacks. Per Emerald Bay Building Restrictions, the EBCA only requires 5' setbacks from the property line on all sides. We request a variance for 5' setbacks around the property as many projects in the community abide by the 5' setback.

Maximum Fence / Retaining Wall Height Variance

Per OC Municipal Code, the maximum height allowable for a fence in a side yard not adjoining a street is 6'. The height is measured from the base of the fence/wall to the top. Per Emerald Bay Building Restrictions, the side yard fence may be up to 6' tall when measured from the grade of the adjacent lot. The site contains an existing over-height wall between the project rear yard and the Pacific Coast Highway. This wall extends along the highway and will be maintained. The proposed house also contains side yard walls that are taller than 6' when measured by the OC Municipal code metrics. These walls do not protrude more than 6' from the grade of the adjacent lot and often act merely as a retaining wall between sites. The 10' walls surrounding the pool are within the Emerald Bay buildable area however, in some cases are retaining portions of earth. The height of the pool walls are allowed and encouraged by Emerald Bay. As a result, we request a variance to allow for fences and walls to exceed the 6' allowable height in the OC Municipal code.

E STEVEN EHRlich, FAIA Founding Partner
Y TAKASHI YANAI, FAIA Partner
R PATRICIA RHEE, FAIA Partner
C MATHEW CHANEY, AIA Partner

Ehrlich Yanai Rhee Chaney Architects LLP eyrc.com
LA 10865 Washington Blvd Culver City CA 90232 310 838 9700
SF 60 Brady Street San Francisco CA 94103 415 578 9797

Compatibility

The existing house along with all the neighboring houses takes advantage of the 5' setbacks allowed by the community. In following this allowed distance, the proposed house will follow the pattern of development within Emerald Bay. The higher fences in the project often act as retaining walls between property lines, allowable within Emerald Bay due to the very sloped nature of the community. Emerald Bay Architectural regulations do not allow fence height to exceed 6'0" as measured from the top of the existing, adjacent, neighboring grade. All fences in the project adhere to the Emerald Bay regulations and have been approved as shown.

General Welfare

Neither allowing for 5' setbacks nor allowing fences taller than 6' will affect the public in a negative way. As the two variances are generally granted to other houses in the community, the requested variances would keep the house consistent to its neighbors. The new proposed house replaces an existing house that already takes advantage of both Emerald Bay allowances for smaller setbacks and taller fences. The granted variances will not deviate from the existing conditions and will not be detrimental to the general public.

Special Circumstances



As a private community, Emerald Bay operates under a separate set of standards, enforced and allowed by its staff and members. The project has been through a thorough review by the Emerald Bay Architectural Committee and was given an approval.

No Special Privileges

The granting of these two variances is common within projects developed in Emerald Bay. Abiding by the community guidelines rather than those set by the county is not unique to this project. The request allows the client to fully use their site and would not be a special privilege. Many projects in the community use the 5' setback and have side yard walls greater than 6' when measured by Orange County's method. Generally, such variances have been accepted by Orange County and would not be considered a special privilege for houses in Emerald Bay.

Sincerely,

Agents for the Owner -Takashi Yanai and Jessica Chang

APPLICANT: SHELLY
ADDRESS: #117
PROJECT: 2926 TRACT: 975 LOT: 43
SCOPE OF WORK: NEW RESIDENCE w/ MAJOR LANDSCAPE/HARDSCAPE
SUBMITTAL: REVISED PRELIMINARY W/ VARIANCE PREVIOUSLY
APPROVED via RESOLUTION #20-02-04-02
ARCHITECT: Ehrlich Yanai Rhee Chaney Architects
Phone: 310-838-9700
License: C10142
LANDSCAPE ARCHITECT: Roderick Wylley - Surface Design Inc.
Phone: 949-637-9258

Architectural review by Ken Wilkins

Landscape review by James Dockstader

FINAL COMMITTEE RECOMMENDATION: APPROVAL

HISTORY OF SUBMITTALS:

- | | | |
|----------------|---------------------------|--------------|
| • May 2019 | CONCEPT | ACKNOWLEDGED |
| • June 2019 | CONCEPT 2 | ACKNOWLEDGED |
| • August 2019 | PRELIMINARY | DISAPPROVED |
| • January 2020 | PRELIMINARY RESUB. w/VAR. | APPROVED |

SUMMARY OF PROPOSED ARCHITECTURAL IMPROVEMENTS:

The scope of work indicated in the Submittal Application is for the construction of a new residence of approximately 4,899 SF, which includes a 2-car garage. The residence is two stories plus a basement. Overlays were provided. **Floor area was added at all levels. The overlays contain an inaccuracy at the Basement with a portion of the Mechanical attributed to the Basement.**

The areas are indicated on the submittal to be: * EBCA calculation.

	Prelim Resub	Proposed	Change
• Second Floor Level	1,390.97 SF	1,600.17 SF	+209.2 SF
• First Floor Level	2,015.02 SF	2,061.79 SF	+46.77 SF
• Basement	921.10 SF	*842.28 SF	-78.82 SF
• Garage	573 SF	*800.75 SF	+227.75 SF
• Supported Decks	187.73 SF	212.45 SF	+24.72 SF
• Roof Decks	311.24 SF	295.39 SF	-15.85 SF

The Architectural changes at Previously Preliminary Submittal included:

- Shifted second level geometry to accommodate neighbor views.
- Building lowered by 1'.
- Revised shed roof to hips to accommodate neighbor views.

- Submitted Variance request for flat roof >15% to accommodate neighbor views.
- Reduced second level glazing by 66%.
- Rear yard up lights replaced with down lights.

The Architectural changes proposed this Revised Submittal (June):

- Northeast corner at all levels pushed out to setback.
- Substantial interior wall and stair redesign.
- Elimination of rear roof deck reconfigured front roof deck.
- Raised portions of pitched roof to 1.7:12, increase “flat” area (< 3:12) when floor area was pushed out to setback.
- Roof ridge increase from January Preliminary Approval 2”.

SUMMARY OF PROPOSED LANDSCAPE IMPROVEMENTS:

Proposed landscape improvements include: Pool, walls, paving, planting, fire pit, BBQ.

STAFF ARCHITECTURAL FINDINGS:

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): A structure shall not exceed 40% coverage of the lot. Lot coverage shall be calculated as the total area of the roof less the overhang including anchored decks. Elevated surfaces (patios, pools, planters) greater than 5'-0" above finished grade are included in lot coverage. Cantilevered decks and covered below grade structures less than 6'-6" in height are not included.

A signed copy of the 1960 topo plan was submitted.

The lot coverage is stated on the Submittal Application as $(2,472.98 / 6,234) = 39.67\%$. **The overlays contain an inaccuracy at area B, EBCA calculation $2,485.28 / 6234 = 39.86\%$. OK**

4. SETBACKS (Section C.2): The existing structure appears to respect the 5'-0" minimum setbacks. The minimum setbacks measured to the property line are indicated as: Front varies from +/- 8'-4" at the SW corner to +/- 37'-0" at the SE corner, 5'-0" at sides and 5'-0" at rear to the structure. **The entire corner (all levels) was pushed 7'-2" to the setback line at the Northeast corner. See staking comments.**

The Committee may require greater setbacks.

5. UTILITY EASEMENTS (Section C.3): Portions of retaining walls, stairs and planters are allowed within the Utility Easements. **The Emerald Bay Service District and applicant are aware there is an existing Storm Drain Easement under the proposed excavation.**

This will be relocated prior to or during construction. This will be part of the Service District's review.

As part of the Service District review note: projection of caissons or any below grade structures including shoring structures have recently been limited to project 24" into the utility easements. It has been discussed that a clear zone of 3'x15' is large enough and deep enough for a sewer main, water main, or 30" diameter storm drain. This is only a guideline and will be reviewed on a case by case basis.

Shoring and foundation, caisson, footings, etc. are shown. These appear to project minimally into the utility easements. This will be further reviewed by the EBSD.

6. **PARKING (Section C.4):** The parking requirement shown on the Submittal Application is 4,899 SF. The garage area used for required parking (430 SF) is not included in the parking calculations. EBCA calculation (5,304.99 – 430 = 4,874.99) This requires a two-car garage plus two additional off-street parking spaces. Four spaces (2 in the garage and 2 in the driveway) are provided. **The ceiling height at the basement level mechanical room is marked on the floor plan as 6'-5". OK**
7. **SERVICE YARD (Section C.5):** Shown on the southeast sideyard located at the base of the stair. **OK**
8. **BACKFLOW PREVENTION DEVICES (Section C.8):** New residences require a backflow prevention device at the sewer lateral. **The Service District will review at the Final review.**
9. **NUMBER OF STORIES (Section D.1):** First Basement Rule: If the elevation of the finished floor level directly above a basement is more than 6 feet above Natural Grade for more than 50% of the perimeter or is more than 12 feet at any point then it shall be considered a story. The Submittal Application indicates a proposed structure with 2 stories plus 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." **The proposed structure appears to be below the allowable height by at least +/- 3'. OK**
The overall upper pitched roof area was enlarged by +/-185 SF and the pitch raised from 1:12 to 1.5:12 and 1.7:12. OK
11. **COMPATIBILITY (Section D.3):** Materials indicated include wood, concrete, marble and bronze anodized metal panels and screens, with unspecified railings, and zinc standing seam roof. **The Committee considers adjacent properties, the surrounding neighborhood and overall community interest regarding the aesthetics and function of the proposed building design. OK**

Previous comments regarding the overall massing, scale, articulation, setbacks, context and harmony with the neighborhood have been adequately addressed. **OK**

With regard to the flat roof Variance request, the Committee asks that the slope be at or closer to 2:12 without increasing the height. This was changed to 1.5:12 without raising the ridge for Prelim approval. Portion of the roof slope considered flat in this submittal is 1.7:12. OK VARIANCE WAS PREVIOUSLY APPROVED.

The interior of the structure will glow like a lantern at night. To address this concern, similar projects have been required to use occupancy sensors and automatic shade devices, so the interior lighting does not become a nuisance or an architectural feature when no one is home. Added at January Preliminary submittal. OK

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.

All elements must conform to the current Architectural Regulations

Existing non-conforming elements:

- N/A

New non-conforming elements:

- **Flat roof area – Board of Directors adopted Resolution # 20-02-04-02 approving of the Variance**

13. **ROOFS (Section D.5):** The intent of the roof requirements includes that design is consistent with prevailing appearances within the Community.

Roof pitch: 1.5:12 , 1.7:12

Flat roof: Roof slopes less than 3:12 are considered flat. The maximum area of flat roofs is 15% of the total aggregate roof area. Flat roof area indicated in the submittal is (276.37 SF/ 2,488.25 SF) = 11.11%. The total roof is considered flat = 100% **VARIANCE PREVIOUSLY APPROVED**

Roof materials: Pitched shown as Class 'A'. **OK**

Roof plan and Elevation material Legend shows "Metal". Roof gutter detail labels the roofing as standing seam metal roof. Sheet A7.02 Finish Schedule clarifies this as Zinc Standing Seam Metal. Zinc is not labeled as natural weathering. Painted standing seam metal roofs are not allowed. This is unclear in this submittal.

Flat portions are noted only as Class "A", without a material identified. Lower Level Pitched noted as "wood", not shown as Class 'A'. Specific materials will need to be identified and indicated as Class 'A'.

Flat roof material at second level above Dining Room shown as concrete tiles on pedestals. **OK**

Roof Equipment: None shown. **OK**

Parapet: None shown. **OK**

14. **ROOF DECKS (Section D.6):** A roof deck is considered to be a covered or uncovered exterior space constructed over any part of the residence Structure or garage. Roof decks are not allowed except when the deck is directly accessible from an interior living space on the same level and the area of the deck is equal to or less than the area of the living space from which access is taken.

The Roof Deck is shown to comply with area requirements. 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. **The Committee will review the color and materials at the Final review.**

16. WINDOWS AND DOORS (Section D.8): Extruded aluminum. **OK Materials will be further reviewed at final**

17. ANTENNAS (Section D.9): None shown. **OK**

18. SOLAR PANELS (Section D.10). None shown. **OK**

19. SKYLIGHTS (Section D.11): None shown. **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.

Light fixture locations are provided on the plan. OK

Cutsheets were reviewed at Preliminary and the Committee took no exception. OK These will be compared prior to installation during construction.

21. GUTTERS AND DOWNSPOUTS (Section D.13): **Noted approximately 2' back from eave line. Concealed gutter detail provided. Locations of downspouts, internal shown within walls. OK** Civil plans will show tie-ins at Final.

22. OTHER COMMENTS:

- A certified 1960 Topo was submitted
- A certified existing showing the neighboring properties was submitted.
- **No neighbor comments were received for this revised submittal. Mr. Short from 119 EB (Short) viewed the plans with Ms. Chambers and had no negative comments. Mr. McCarter, 709 EB acknowledging the staking was up and it had no impact. The Committee acknowledges the Applicant and their Architect for continuing to work with the neighbors.**
- **The Committee was not requested to view revised staking from the neighbors.**

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. **Submit 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. **Not shown**
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. **Show at time of final submittal.**
7. EXTERIOR MECHANICAL EQUIPMENT (Sec E.1): Mechanical equipment shall not be located in easement areas. **OK**

Mechanical spa equipment appears to be screened from view. **OK**

Noise impacts on adjacent neighbors must be avoided and/or minimized. **Reviewed at time of acoustical report submittal.**

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. **Submit at time of final submittal**

Acoustical report assumptions and recommendations are consistent with submittal drawings. **Reviewed at time of final**

8. EXTERIOR LIGHTING (Sec E.2): Landscape lighting proposals must be shown and must appear to limit glare and annoyance. **OK**
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'. **OK**

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. **OK**

Front yard improvements address issues of visual impact, compatibility, and contributions to common visual streetscape. **OK**

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. **OK**

Property line fences, walls, and footings must be constructed completely on the subject property. **OK**

Block walls are finished on all sides. **OK**

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. **OK**

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. **OK**

Security/pool fencing is shown. **OK**

14. PARKWAY ACCESS (Sec E.12): Planting and paving within 18-24" of face of curb shall allow for convenience of on-street parking **Unclear. Mixed grasses are shown directly behind the curb, and any of the grasses on the palette would be too tall for parking convenience.**

15. IMPROVEMENTS ON EBCA PROPERTY Section C, Part 21): Trees, hedges, and structures are not proposed on EBCA property. **OK**

16. POTENTIAL OBSTRUCTION OF VIEW (Sec A.5): Trees and shrubs must not unreasonably block a neighbor's view. **OK**

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. **OK**

19. OTHER:

- **On civil plan, top of wall elevation shown for wall at SW corner at TW 74.66 seems to be incorrect. On architect's plan, end of same wall appears to be shown constructed on neighbor's property**

FINAL COMMITTEE RECOMMENDATIONS:

1. A Variance request was considered at the Tuesday night meeting. The Architectural Committee recommended Approval on a vote of 4 to 1. **The Board of Directors adopted Resolution # 20-02-04-02 approving of the Variance as follows:**

Request to allow the following non-conforming elements:

- To allow flat roof area >15% of the total aggregate roof area.

Applicant stated hardship for the Variance Request:

- The lower roof pitch is in response to balance the view impact from neighbors on the inland side of PCH

Applicant stated benefits to the Community:

- The increase flat roof area allows the ridge to be lowered to balance views.
- The resulting ridge height proposed is as much as 3'-0" below the allowed height envelope.

NOTE:

Approval of a Variance Request to allow non-conforming elements to remain is based on the scope, character, hardship, and community benefit associated with the current submittal. If future submittals propose to significantly alter these aspects of the property, the Architectural Committee may at that time evaluate the new proposals to determine if proposals negate, diminish, or adversely affect the conditions under which the prior Variances were granted. In such cases, the Committee may require that the Applicant alter the new proposed scope or eliminate existing non-conforming conditions.

It is not the intent of the Committee, in granting approval of the variance request, to confer extraordinary future development rights to the Applicant or future Applicants beyond what is allowed by the Architectural Regulations.

1. The Committee initially recommends **Disapproval** of the plans as submitted. The Committee may reconsider its recommendation, if electronic plans are submitted to Jill Chambers to adequately address the following items by 4:00 p.m. on Monday, June 29th:
 - a. The Committee viewed the staking and takes no exception.
 - b. The Committee finds the basis for the previously granted flat roof Variance still apply.
 - c. Clarify generic materials, example roof materials - identify flat and lower level pitched roof materials. Show metal roofing as naturally weathering zinc (if that is what is intended). **Updated. OK**
 - d. Clarify top of wall elevation, shown well below curb at 74.66 in SW corner. In same location, delete wall configuration on architect's plan which appears to show end of wall returning onto neighbor's property. **Corrected. OK**
 - e. Within 24" of face of curb, show lower planting or paving for parking convenience. Grasses shown are too tall. **Replaced with Wooly Thyme. OK**
2. At time of FINAL submittal:
 - a. An executed Easement Agreement recorded with the County of Orange will be required for improvements on EBCA property (between the property and the back of curb). Exhibits prepared by a licensed civil engineer describing the area of the Easement and legal descriptions will be required for staff to prepare this document. This is required to be approved by the EBCA Board of Directors prior to the Final approval of the project.

- b. Submit drawings and the application fee of \$400 to EBSD for review. Provide evidence of EBSD review and approval. The preliminary plans must be developed in sufficient detail to confirm that there will be no structural encroachments into the 5' easement. If caissons are required for the foundation, they must be shown on the Final submittal for review by the Service District Engineer.
 - c. For review of proposed color and materials, a board must be submitted of actual color and material samples, not photographs.
 - d. An acoustical report prepared by a qualified expert must be submitted showing that anticipated noise impacts are less than the County maximum at the closest property line. Submitted plans must be consistent with the recommendations of the report.
3. Note:
- a. Approvals are valid for one year. See extension request requirements in the Architectural Regulations for additional information.
 - b. All future submittals must be accompanied by a detailed scope of work and highlighting revisions to previous scope of work, if any.
 - c. 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.
 - d. Any changes to the Final approved plans must be submitted for Architectural Committee's review prior to construction.
 - e. 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.

No representatives were in attendance to further discuss the submittal.

At their meeting on July 14, 2020 the Board voted to approve the recommendation of the Architectural Committee.



117 EMERALD BAY
SITE PHOTOS

EHRlich YANAI RHEE CHANEY
ARCHITECTS



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A R C H I T E C T S



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