

## OC PLANNING REPORT

**DATE:** June 2, 2022

**TO:** Orange County Zoning Administrator

**FROM:** OC Development Services/Planning Division

**SUBJECT:** Public Hearing on Planning Application PA22-0055 for a Coastal Development Permit, Use Permit and Variance

**PROPOSAL:** A request for a Coastal Development Permit, a Use Permit and a Variance to allow the demolition of an existing residence and construction of a new residence. A Coastal Development Permit is required for the demolition of the existing residence and construction of the new residence. A Use Permit is required for the construction of a wall at a height of 4 feet within the front setback where Zoning would otherwise permit a maximum height of 3 feet 6 inches. A Variance is required to allow for a reduced rear setback of 5 feet for portions of the proposed new residence where the Zoning Code would otherwise require 25 feet. The existing residence currently has a 5-foot rear setback. Minor grading relating to the proposed improvements would also be proposed.

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

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

**LOCATION:** The project is located in the community of Emerald Bay at 1008 Emerald Bay, Laguna Beach, CA within the Fifth Supervisorial District (APN 053-320-04).

**APPLICANT:** Dylan Ochal, Property Owner

**AGENT:** Jonathan Yee, Laidlaw Schultz Architects

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

### RECOMMENDED ACTIONS:

OC Development Services/Planning Division recommends Zoning Administrator:

- a) Receive staff report and public testimony as appropriate;
- b) Find that the proposed project is Categorically Exempt from the California Environmental Quality Act (CEQA), under the Class 3 (*New Construction or Conversion of Small*

*Structures*) exemptions pursuant to Section 15303 of the California Environmental Quality Act (CEQA) Guidelines and County of Orange procedures; and,

- c) Approve Planning Application PA22-0055 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 Lot 3 of Tract 3125 recorded in 1957. The property is approximately 9,180 square feet in area and is located on the inland side of the Emerald Bay community. This area of the community generally has the steepest topography. The frontage street slopes fairly steeply down from east to west across front property lines resulting in a row of stepped lots, each lot approximately 15 to 20 feet lower than its uphill neighbor. Lots to the rear are similarly stepping down the terrain and are 20 to 25 feet above the adjacent lots on the lower street.

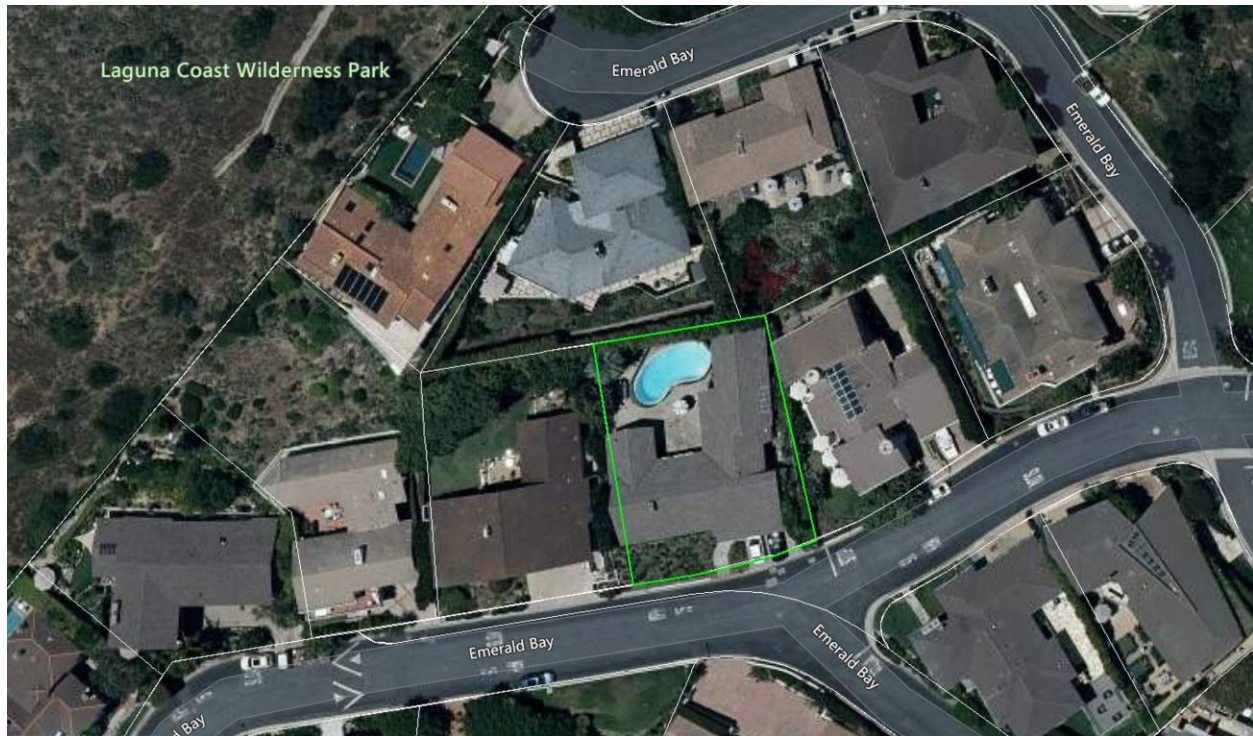


## **PROPOSED PROJECT**

The project proposes to demolish the existing 2,600 square foot residence and swimming pool to construct a new two-level 5,284 square foot residence with attached 3-car garage. Associated grading will be approximately 1,160 cubic yards cut and 190 cubic yards fill.



## Aerial of Project Site



## SURROUNDING LAND USE

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

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

## DISCUSSION/ANALYSIS

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

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

STANDARD	REQUIRED	PROPOSED
Building Site Area	7,200 square feet	9,180 square feet (existing)
Maximum Building Height	35 feet maximum	25 feet
Structural Front Setback	14 feet 6 inches <sup>1</sup>	16 feet 2 inches minimum
Structural Side Setback	5 feet minimum	5 feet minimum
Structural Rear Setback	25 feet	5 feet minimum <sup>2</sup>
Walls within Front Setback	3 feet 6 inches	4 feet maximum <sup>3</sup>

<sup>1</sup> Average of adjacent setbacks (Section 7-9-61.14)  $[10'11" + 18'0"]/2 = 14'6"$

<sup>2</sup> Indicates Variance requested by the applicant

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

### Proposed Site Plan



### Coastal Development Permit

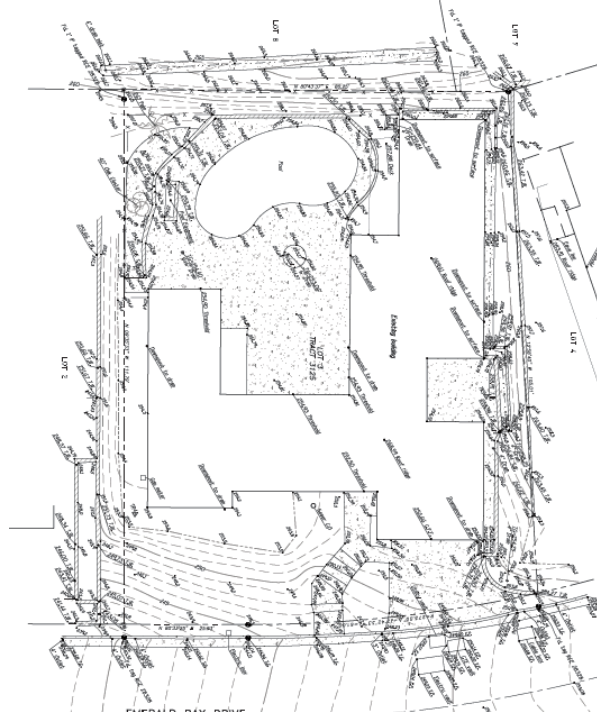
Within the Coastal Development Overlay zone, and specifically within the Emerald Bay Local Coastal Program (LCP), the demolition of a structure and construction of a new structure, with the associated site grading, requires the approval of a Coastal Development Permit (Zoning Code Sections 7-9-40 and Emerald Bay Local Coastal Program). The proposed project conforms to the goals and objectives of the LCP through its design and the application of standard conditions of approval, included within Attachment 2. The project is consistent with the approved intensity of development, as well as the applicable Land Use Policies contained in LCP Section E regarding resources Management - Watershed, Environmental Hazards – Geologic and Fire Hazard.

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

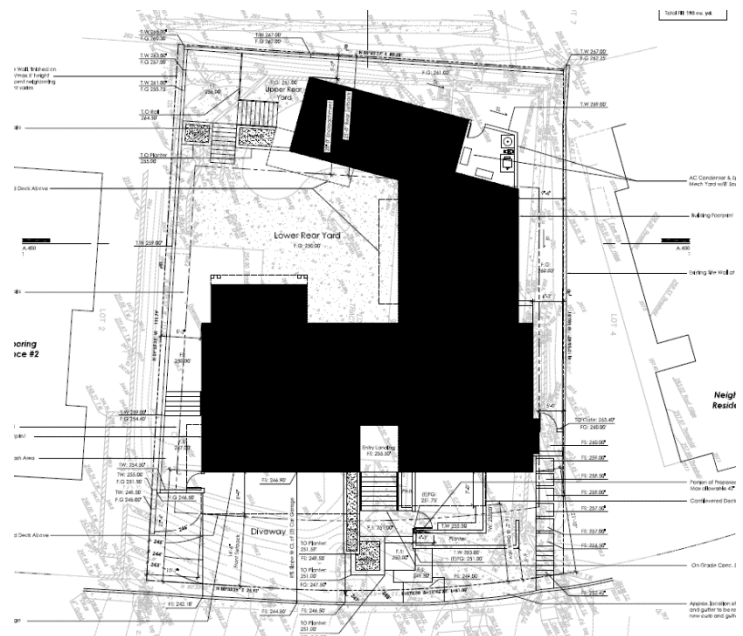
### Variance – Rear yard setback

Due to the sloping topography in the community, and in particularly in this area of the community, the pad areas of the homes are pushed back from the front of the lot because grades must be accommodated for driveways. The aerial view of this neighborhood (see ‘Aerial of Project Site’ exhibit above) reflects that a majority of these homes, as in other areas of Emerald Bay, have been developed with rear yard setbacks less than the current R1 standard of 25 feet. While one of the functions of the traditional large rear yard setback is to provide for privacy, this privacy is provided for in this situation by the significant elevational differences side-to-side and rear-to-rear.

**Existing Rear Setback**



**Proposed Rear Setback**



Zoning Code Section 7-9-150.3 requires that certain findings be made in order to approve a variance request, as follows:



- 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 wall will be located above and parallel to property lines along 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 on May 20, 2022. Additionally, a notice was posted at the project site, the County Hall of Administration and at the County Administration South building at 601 N. Ross Street, as required by established public hearing posting procedures. A copy of the planning application and a copy of the proposed site plan were distributed for review and comment to County Divisions, Orange County Fire Authority, and the Emerald Bay Community Association. All comments by County Divisions and OCFA have been addressed through incorporation of proposed Conditions of Approval provided as Attachment 2. The Emerald Bay Community Association approved the proposed project at their Board meeting on April 5, 2022.

### **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 3 categorical exemptions.

#### *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 it is the construction of improvements to an existing single-family residence and the related improvements.

Section 15300.2 of the Guidelines includes criteria where, if applicable to a project, would except a project from a Class 3 exemption. None of the exceptions listed in Section 15300.2, such as location in a sensitive environment, etc., apply to the project. Each component of the project meets criteria outlined in the Class 3 exemption. The project will not result in a cumulative impact, significant environmental effect, and will not damage scenic or historic resources and the appropriate environmental document for this project is a Notice of Exemption. Standard conditions of approval applied by the County for all construction projects of this nature will address any less than significant short-term construction related concerns.

### **CONCLUSION**

Staff has reviewed the applicant's request for a 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 project subject to the Findings and Conditions of Approval provided as Attachments 1 and 2.

Submitted by:



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Justin Kirk, Land Use Manager  
Planning, OC Development Services

Concurred by:



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

**ATTACHMENTS:**

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

**APPEAL PROCEDURE:**

Any interested person may appeal the decision of the Zoning Administrator on this permit to the OC Planning Commission within 15 calendar days of the decision upon submittal of required documents and a deposit of \$500 filed at the Development Processing Center, 300 N. Flower St., 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**  
PA22-0055

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|--|---------------------|------------------|
| 1  | <b>GENERAL PLAN</b> | <b>PA22-0055</b> |
| <p>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.</p> |                     |                  |
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|---|---------------|------------------|
| 2   | <b>ZONING</b> | <b>PA22-0055</b> |
| <p>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.</p> |               |                  |
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|---|----------------------|------------------|
| 3   | <b>COMPATIBILITY</b> | <b>PA22-0055</b> |
| <p>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.</p> |                      |                  |
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| 4  | <b>GENERAL WELFARE</b> | <b>PA22-0055</b> |
| <p>That the application will not result in conditions or circumstances contrary to the public health and safety and the general welfare.</p> |                        |                  |
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| 5   | <b>PUBLIC FACILITIES</b> | <b>PA22-0055</b> |
| <p>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.).</p> |                          |                  |
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|--|-------------------------------------|------------------|
| 6  | <b>COASTAL DEVELOPMENT PERMIT 1</b> | <b>PA22-0055</b> |
| <p>That the development project proposed by the application conforms to the certified Local Coastal Program.</p> |                                     |                  |
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|---|-------------------------------------|------------------|
| 7   | <b>COASTAL DEVELOPMENT PERMIT 2</b> | <b>PA22-0055</b> |
| <p>That the project conforms to the public access and public recreation policies of the California Coastal Act.</p> |                                     |                  |
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- |   |                                     |                  |
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| 8   | <b>COASTAL DEVELOPMENT PERMIT 3</b> | <b>PA22-0055</b> |
| <p>That the approval of this application will result in no modification to the requirements of the certified land use plan.</p> |                                     |                  |
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| 9  | <b>COASTAL DEVELOPMENT PERMIT 4</b> | <b>PA22-0055</b> |
| <p>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.</p> |                                     |                  |
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10	<b>CATEGORICALLY EXEMPT</b>	<b>PA22-0055 (Custom)</b>
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That the proposed project is Categorically Exempt from the California Environmental Quality Act (CEQA), under the Class 3 (*New Construction or Conversion of Small Structures*) exemptions pursuant to Section 15303 of the California Environmental Quality Act (CEQA) Guidelines and County of Orange procedures.

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11	<b>FISH &amp; GAME - EXEMPT</b>	<b>PA22-0055</b>
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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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12	<b>NCCP NOT SIGNIFICANT</b>	<b>PA22-0055</b>
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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.

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13	<b>VARIANCE 1</b>	<b>PA22-0055</b>
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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 location and shape.

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14	<b>VARIANCE 2</b>	<b>PA22-0055</b>
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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.

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15	<b>FENCE AND WALL 1</b>	<b>PA22-0055</b>
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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.

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16	<b>FENCE AND WALL 2</b>	<b>PA22-0055</b>
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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.

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**Attachment 2**  
**Conditions of Approval**  
PA22-0055

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**1 BASIC/ZONING REGULATIONS PA22-0055**

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.

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**2 BASIC/TIME LIMIT PA22-0055**

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, unless a valid extension is approved.

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**3 BASIC/PLAN PA22-0055**

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.

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**4 BASIC/COMPLIANCE PA22-0055**

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.

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**5 INDEMNIFICATION PA22-0055**

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.

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**6 BASIC/APPEAL EXACTIONS PA22-0055**

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.

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**7 GEOLOGY REPORT PA22-0055**

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.

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**8 CONSTRUCTION NOISE PA22-0055**

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.

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**9 EROSION AND SEDIMENT CONTROL PLAN PA22-0055**

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.

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**10 DRAINAGE STUDY PA22-0055**

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 WATER QUALITY MANAGEMENT PLAN PA22-0055**

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.

**12 RESIDENTIAL FIRE SPRINKLERS PA22-0055**

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

**13 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

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14**PRIVATE LANDSCAPING****PA22-0055**

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.

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