



OC DEVELOPMENT SERVICES REPORT

ITEM # 1

DATE: January 5, 2023

TO: Orange County Zoning Administrator

FROM: OC Development Services / Planning

SUBJECT: Public Hearing on a Coastal Development Permit, Use Permit and Variance (Planning Application PA22-0094)

PROPOSAL: A request for a Coastal Development Permit, Use Permit and Variance in conjunction with the remodeling and additions to an existing two-level 2,600 square foot home. 414 square feet of new living and deck area is proposed with an additional 32 square feet in a garage expansion.

The Coastal Development Permit is required for the improvements to the existing home with associated site grading. The Variance is required for reduced front setback of 15 feet 1 inch feet and a rear setback of 15 feet, where the Zoning Code would require 19 feet 1 inch for a setback on a shallow lot. Also, a deck/balcony would extend to within 8 feet of the rear property line where Zoning would otherwise require a setback of 14 feet. A Use Permit is required to permit over-height privacy wall of 7 feet 4 inches in the front setback area where a maximum height of 3.5 feet is otherwise required.

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 412 Emerald Bay, Laguna Beach, CA within the Fifth Supervisorial District. (APN 053-071-17)

APPLICANT: Zacharia Reda, Property Owner
Craig Schultz, Laidlaw Schultz Architects, Agent

STAFF CONTACT: Kevin Canning, Contract Planner
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RECOMMENDED ACTIONS

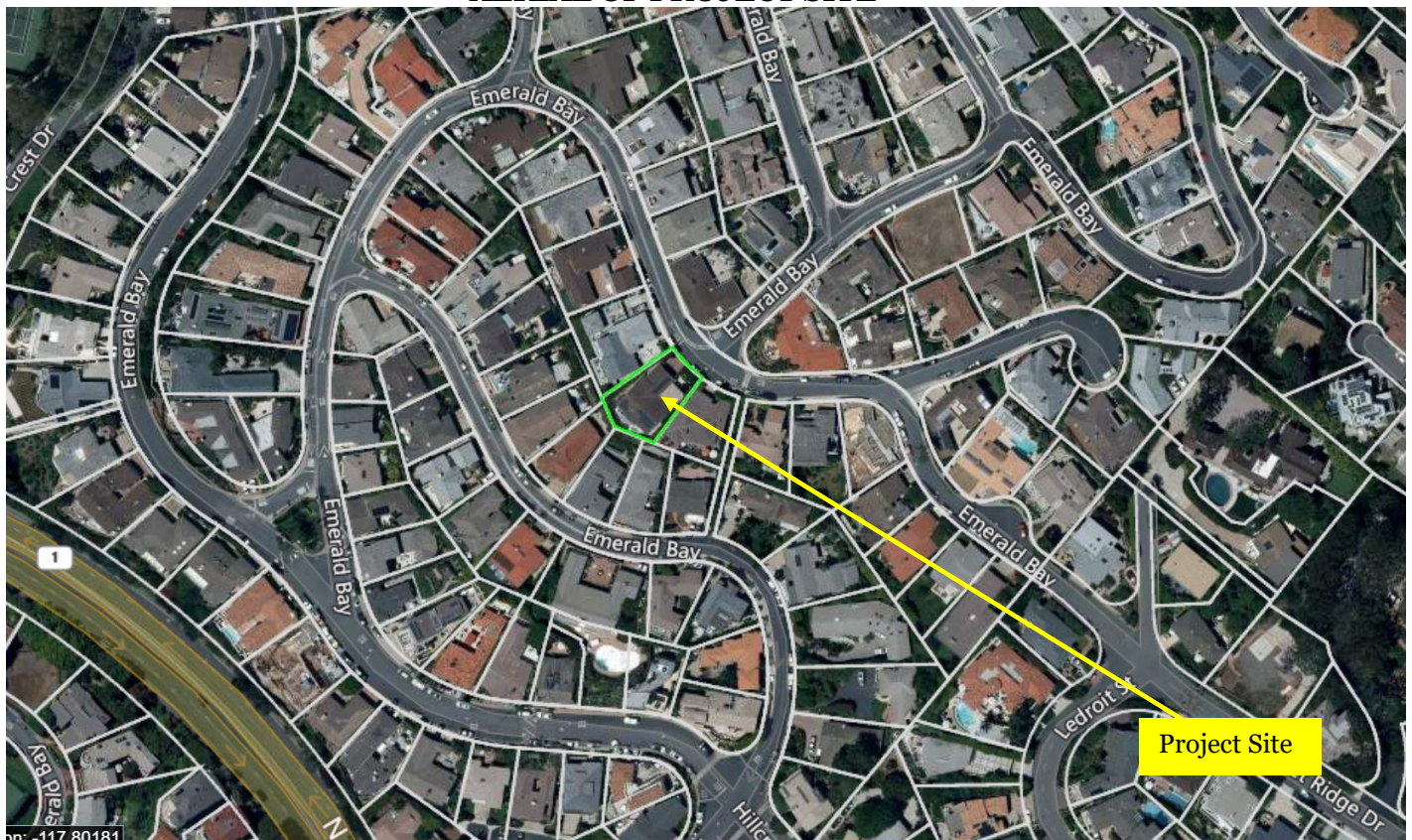
OC Development Services/Planning recommends the Zoning Administrator:

- a) Receive staff report and public testimony as appropriate; and,
- 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 PA22-0094 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 2,600 square foot (approximate) single-family residence with an attached garage built in 1953. The building site was created as Lot 64 of Tract 977, recorded in 1931. The lot is at the “T” intersection of two private streets.

AERIAL OF PROJECT SITE



PROPOSED PROJECT

The project includes remodeling and additions to the existing residence adding approximately 414 square feet of new living area and an additional 24 square feet in a minor garage expansion. Minimal grading is associated with the project. The residence, constructed in 1953, currently has a nonconforming front setback of 8 feet 8 inches to the garage face, however the minor garage expansion would increase this

encroachment by approximately 8 inches to a proposed 8-foot front setback. Additionally, the proposed rear deck/balcony would extend 6 feet further into the rear setback area than would otherwise be permitted. Over-height privacy walls, at 7 feet 4 inches, are proposed within the front setback area.



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	"Single-Family Residence" (R1)(CD)(SR) District	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

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	6,115 square feet (existing)
Maximum Building Height	35 feet maximum	25 feet
Structural Front Setback	19 feet 5 inches ¹	15 feet 1 inch minimum ²
Structural Side Setback	5 feet minimum	5 feet minimum
Structural Rear Setback	19 feet 5 inches ¹	15 feet minimum ²
Deck Rear Setback	14 feet 5 inches	8 feet ²
Walls within Front Setback	3 feet 6 inches	7 feet 4 inches maximum ³

¹ Shallow lot – average depth 97 feet x 20% = 19'5"

² Indicates Variance requested by the applicant

³ Indicates Use Permit requested by the applicant

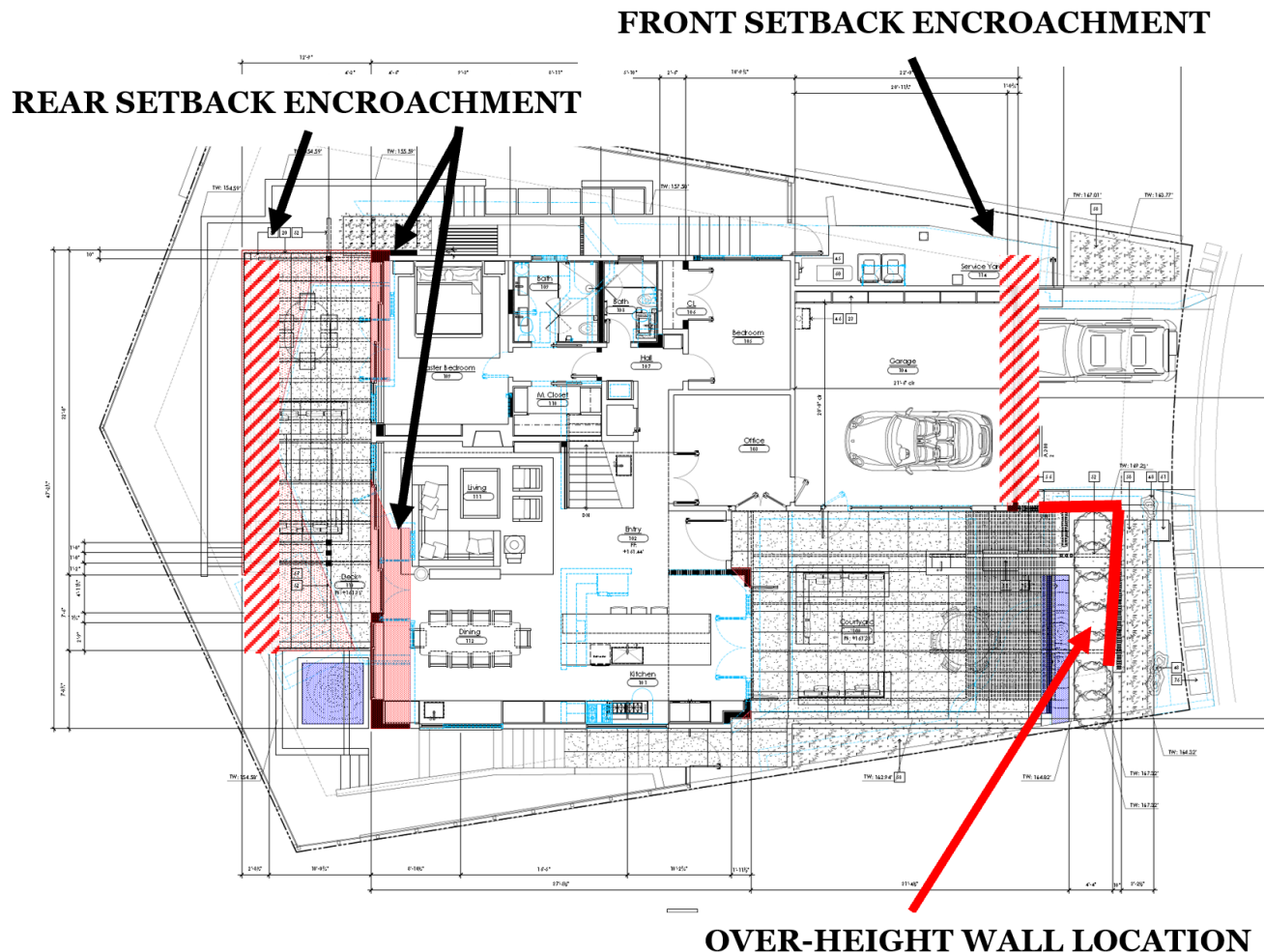
Coastal Development Permit

The project includes the remodeling and expansion of an existing residence with an attached two-car garage. Grading associated with the project will be minimal. Within the Coastal Development Overlay zone, and specifically within the Emerald Bay Local Coastal Program (LCP), the project 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 2022. 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 for Front/Rear Setbacks

As noted above, the residence was constructed in 1953 and has a nonconforming front setback of 15 feet 8 inches to the garage face. The garage space itself has a substandard depth to current requirements. The Emerald Bay Community has recently revised their community and architectural guidelines such that projects such as this are being required to modify garage areas to meet current interior space requirements. As a portion of the proposed remodeling of the residence, the existing garage will be enlarged by about 1 foot with the added area encroaching further into the front setback area. The minor nature of this encroachment will not be significant and will not materially alter existing conditions.



Within the rear yard area, an expansion of the living room space would encroach to within 15 feet of the rear property lines, where Zoning would require 19 feet 4 inches.

The Zoning Code permits also decks or balconies, exceeding 30 inches in height to encroach into otherwise required setback areas. Within a rear yard area, such decks may encroach up to 5 feet into the

required setback. In the subject project, the rear deck expansion encroaches to within 8 feet of the rear property line, or an additional 6 feet more than is otherwise permitted.

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 shape and topography, and its location in a coastal community with strict architectural guidelines. The shape of the subject lot in relationship to the adjoining two lots, orients its views in different perspectives than its two neighbors. The property is also well above the property to its rear, avoiding any privacy encroachment. 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 front yard setbacks. The proposed setback variance 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 – Front Privacy Wall Height

The subject property is at the “T” intersection of two streets, with one street directly facing into the front of the property. This condition results in nuisance headlights shining directly into the front courtyard area of the residence. The proposed height of the privacy wall is necessary due to topographical differences between the subject lot and the intersection street.

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 wall will be located away from and/or parallel to 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 December 21, 2022. Additionally, notice was published in a newspaper of general circulation in the area affected by the proposed project. 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 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 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:

Concurred by:

Justin Kirk, Division Manager
Planning, OC Development Services

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.