

**OC PLANNING REPORT**

**DATE:** February 16, 2023

**TO:** Orange County Zoning Administrator

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

**SUBJECT:** Public Hearing on Planning Application PA22-0198 for a Coastal Development Permit

**PROPOSAL:** A request for a Coastal Development Permit to allow the replacement of existing playground equipment at the Main Beach in the Emerald Bay community.

**GENERAL PLAN DESIGNATION:** 1B “Suburban Residential”

**ZONING:** OS “Open Space” with a CD “Coastal Development” Overlay and an SR “Sign Restrictions” Overlay within the Emerald Bay Local Coastal Program area.

**LOCATION:** The project is located on the private sandy beach in the community of Emerald Bay, Laguna Beach, CA within the Fifth Supervisorial District (APN 053-060-75).

**APPLICANT:** Emerald Bay Community Association, Property Owner

**AGENT:** CAA Planning, Shawna Schaffner

**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; 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 15301, 15302 and 15303 of the California Environmental Quality Act (CEQA) Guidelines and County of Orange procedures; and,
- c) Approve Planning Application PA22-0198 for a Coastal Development Permit subject to the attached Findings and Conditions of Approval.

**BACKGROUND AND EXISTING CONDITIONS**

The subject property is within the original tract map for the Emerald Bay community, Tract 941 recorded in 1929, and was further refined by Tract 976 in 1931. The property is located on the sandy beach area adjacent to the community’s common park. The subject play equipment is situated adjacent to the Main Beach parking lot, approximately 14 feet from the golf cart parking spaces and approximately 120 feet from the hightide line. The existing playground equipment on Main Beach has outlived its useful life and is need of replacement. The playground is open for use only by Emerald Bay residents and their guests.

**PROPOSED PROJECT**

The playground includes an equipment set with a slide, stairs, two connected platforms, and two sets of monkey bars. The project proposes a new equipment set that will be identical to the existing equipment and of a sand color to blend into the beach setting. The new equipment set will be installed in the same location as the existing playground equipment set and secured with post footings.



Equipment required for the playground replacement include a small concrete mixer, shovel, and/or backhoe to dig footings and a bobcat to move the equipment components into place. Removal of the existing equipment and installation of the new equipment will take a total of 2-3 weeks. Staging will take place from the parking lot and the area around the playground will be secured by a 6-foot temporary construction fence during equipment removal and installation activities. The fenced area will have one point of entry and padlocked shut during times when work is not active.

**SURROUNDING LAND USE**

The project site is a designated as a Recreation Use within the Emerald Bay Local Coastal Program (LCP) and is abutted by park and beach areas to the north and south and by existing residential uses to the east and west. The zoning and existing land use for surrounding properties is as follows:

<b>Direction</b>	<b>Zoning Description</b>	<b>Existing Land Use</b>
Project Site	“Open Space” (OS)(CD)(SR) District	Recreation
North	“Open Space” (OS)(CD)(SR) District	Recreation
South	“Open Space” (OS)(CD)(SR) District	Recreation
East	“Single-Family Residence” (R1)(CD)(SR) District	Single-Family Dwelling
West	“Single-Family Residence” (R1)(CD)(SR) District	Single-Family Dwelling

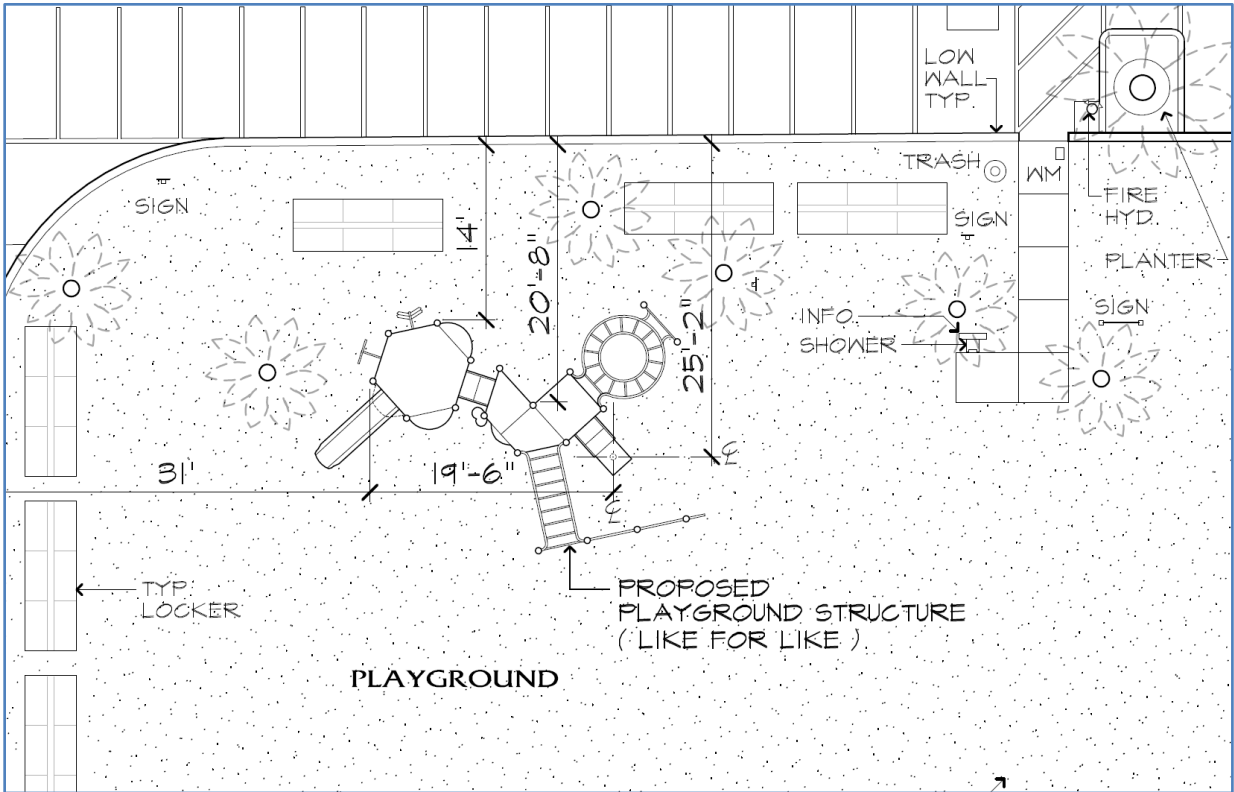
**DISCUSSION/ANALYSIS**

Below is a table comparing the development standards for “Open Space” District with the proposed project:

**Project Comparison with OS “Open Space” District Site Development Standards**

<b>STANDARD</b>	<b>REQUIRED</b>	<b>PROPOSED</b>
Building Site Area	1 acre	5 acres
Maximum Building Height	18 feet	10 feet
Minimum Building Setbacks from public or private streets	50 feet	60 feet

**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 requires the approval of a Coastal Development Permit (Zoning Code Sections 7-9-40 and Emerald Bay Local Coastal Program).

The LCP provides that “No development shall be permitted on the sandy beach at Emerald Bay except facilities such as lifeguard towers, volleyball nets and similar recreation facilities.” The proposed project conforms to the goals and objectives of the LCP. The project is consistent with the approved use and 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.

### **REFERRAL FOR COMMENT AND PUBLIC NOTICE**

A Notice of Hearing was mailed to all property owners of record within 300 feet of the subject site and all occupants of dwelling units within 100 feet of the site (Coastal Development Permit Requirement) on February 3, 2023. 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. The Notice was also published in the OC Reporter on February 6, 2023. 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. All comments by County Divisions and OCFA have been addressed through incorporation of proposed Conditions of Approval provided as Attachment 2.

### **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 §15301-15303). Following is a brief analysis of the project’s consistency with Class 1-3 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. The new playground will be replaced within the same footprint of the existing playground and does not involve physical expansion or expansion of the existing use. The project is exempt under Class Exemption because the new children’s playground will function in the same capacity as existing.

#### *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 new playground equipment will occupy the same footprint as the existing playground equipment and will serve in the same capacity as a children’s playground. The project is exempt under Class 2 Exemption because the new playground equipment will have substantially the same purpose and capacity as the existing playground equipment.

*Class 3 Categorical Exemption*

The Class 3 (Section 15303) exemption consists of construction and location of limited numbers of new, small facilities or structures and installation of new small equipment. The playground equipment components total less than 20 feet long and 15 feet wide and would be install within the same footprint as the existing playground equipment. The project is exempt under Class 3 Exemption because it is the installation of replacement small equipment for a children’s playground.

*Exceptions to Categorical Exemptions*

None of the exceptions to the use of Categorical Exemptions 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**

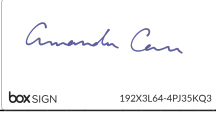
Staff has reviewed the applicant’s request for a Coastal Development Permit and found the proposed project to be compliant with the Emerald Bay Local Coastal Program. It is an allowed Principal Permitted Use in the “Open Space” District and has been found to be compatible with adjacent uses. Staff supports approval of the project subject to the Findings and Conditions of Approval provided as Attachments 1 and 2.

Submitted by:



Justin Kirk, Land Use 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. 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  
PA22-0198**

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- 1** **GENERAL PLAN** **PA22-0198**  
 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** **PA22-0198**  
 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** **PA22-0198**  
 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** **PA22-0198**  
 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** **PA22-0198**  
 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** **PA22-0198 CUSTOM**  
 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 15301, 15302 and 15303 of the California Environmental Quality Act (CEQA) Guidelines and County of Orange procedures, as discussed in detail within the project Staff Report. 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** **PA22-0198**  
 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** **PA22-0198**  
 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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9                                **COASTAL DEVELOPMENT PERMIT 1**                                **PA22-0198**  
That the development project proposed by the application conforms to the certified Local Coastal Program.

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10                                **COASTAL DEVELOPMENT PERMIT 2**                                **PA22-0198**  
That the project conforms to the public access and public recreation policies of the California Coastal Act.

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11                                **COASTAL DEVELOPMENT PERMIT 3**                                **PA22-0198**  
That the approval of this application will result in no modification to the requirements of the certified land use plan.

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12                                **COASTAL DEVELOPMENT PERMIT 4**                                **PA22-0198**  
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.

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13                                **COASTAL DEVELOPMENT PERMIT**                                **PA22-0198**  
   **APPEAL AREA**  
That the project is within the appealable area of the Emerald Bay Local Coastal Program.

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**Attachment 2**  
**Conditions of Approval**  
 PA22-0198

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**1 BASIC/ZONING REGULATIONS PA22-0198**

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 PA22-0198**

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 PA22-0198**

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 PA22-0198**

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 PA22-0198**

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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**BASIC/APPEAL EXACTIONS**

**PA22-0198**

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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