



CAA PLANNING

October 27, 2022

OC Public Works
OC Development Services
Mr. Kevin Canning
300 N. Flower Street
Santa Ana, CA 92702

Subject: Coastal Development Permit Application, 193 Emerald Bay, Laguna Beach, CA 92651

Dear Mr. Canning:

On behalf of Brighton Road Investments, CAA Planning, Inc. (CAA) submits the attached application for a Coastal Development Permit (CDP), a Variance, and a Use Permit in conjunction with the remodel of an existing 7,822 sf residence and attached 1,112 sf garage at 193 Emerald Bay. The proposed remodel contemplates a reduction of 298 sf of habitable area and an increase in 1,052 sf of subterranean garage and mechanical space, and the addition of a new upper-level cantilevered balcony. The project proposes to add a pool to the existing middle-level deck and replace existing landscape, hardscape, and the driveway.

A CDP is required for the renovation of the existing residence including hardscape, landscape, and associated grading. In addition to the CDP, a variance is required for building within the rear setback. A use permit is required for new walls exceeding 3.5 feet in the front and side setbacks and a driveway less than 18 feet in length exceeding 6% slope.

The location of the existing residence is shown on the attached regional and vicinity maps (Exhibits A and B) and the attached aerial (Exhibit C). Details of the proposed improvements are shown on the enclosed project site plan, floor plans, elevations, cross sections, grading plan, and landscaping plan (Exhibit D). The proposed project is consistent with the LCP, the Emerald Bay Building Restrictions, and the County of Orange Zoning Code R1 Building Regulations as described below.

Local Coastal Program

The community of Emerald Bay is regulated by the Emerald Bay Local Coastal Program (LCP), which was approved by the County of Orange (County) on January 24, 1989 and was certified by the California Coastal Commission on September 13, 1989. The LCP serves as both the Land Use Plan and the Implementing Actions Program for the Emerald Bay Community. At adoption of the LCP, the County applied the R1 Zoning over all residential lots that had been created pre-LCP (Exhibit E). The Emerald Bay LCP is fully certified, and therefore, the issuance of a required CDP is within the jurisdiction of the County.



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Coastal Development Permit

A CDP is required for the proposed remodel per County Zoning Code Section §7-9-40.4. The project site is located between the ocean and the first public road (Pacific Coast Highway) and is therefore within the California Coastal Commission appeal jurisdiction as identified in Section III-B of the LCP and delineated on Figure 9 – Post LCP Certification Permit and Appeal Jurisdiction Map (Exhibit F).

Emerald Bay Building Restrictions

In addition to the County Zoning Code, the development of the subject property is regulated by the Building Restrictions contained in Covenants, Conditions and Restrictions (CC&Rs), which are administered by the Emerald Bay Community Association. In that regard, the proposed project was closely reviewed by the Emerald Bay Design Review Board (DRB) to ensure it meets the requirements of the CC&R Building Restrictions and will be aesthetically compatible and harmonious with adjacent homes in Emerald Bay. The DRB reviewed and approved the remodel on September 8, 2022. The approval is included as Exhibit H.

County of Orange Zoning Code R1 Building Regulations

The residences in Emerald Bay are subject to the County Zoning R1 District Regulations (Regulations) in Zoning Code §7-9-31.3, established with adoption of the Emerald Bay LCP in 1989. The County provides for deviation from the Regulations with variance and/or use permit approvals. The following discussion outlines the project's compliance with the County's site development standards and identifies the need for any deviations from the Regulations with respect to setbacks, wall heights, and driveway length.

Building Site Area – Per Table 7-9-31.3 of the Zoning Code the minimum building site area in the R1 Zoning District is 7,200 square feet. The subject property is an established legal lot and described as Lot 23 in Tract 1104 and is of adequate minimum lot size for the R1 Zoning District with an area of 7,762 square feet.

Building Height – Per Table 7-9-31.3 of the Zoning Code the maximum building height limit allowed for structures in the R1 Zoning District is 35 feet above finished grade. The existing building height will not be changed and is under the 35 foot height allowance, as shown on Sheets A5 and A6 of Exhibit D.

Building Setbacks – Per Table 7-9-31.3 of the Zoning Code the minimum setbacks established for the R1 Zoning District are 20 feet for the front setback, 5 feet for the side setbacks, and 25 feet for the rear setback. The Zoning Code allows exceptions to the front setback requirements subject to criteria set forth in the Zoning Code. §7-9-61-14 says “Where a building site is situated between two (2) building sites, each of which has a main building within forty (40) feet of said building site



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which projects into the required front setback area, the front building line for said building site need not set back any further than the average of the setbacks of the two (2) adjoining buildings.” Using this criterion, the required front setback for the project can be established using the average distance for the two adjoining buildings, which calculates to be 8 feet 11 ½ inches.

For comparison purposes, the Zoning Code setbacks and exceptions, the Emerald Bay setbacks, and the proposed setbacks are shown in following table.

Setbacks				
Description	Code Requirement ¹	Emerald Bay Requirement	Existing Setbacks ²	Proposed Setbacks
Front	8' 11.5"	5'	13'8"	15' 11"
Right Side	5'	5'	5'	5'
Left Side	5'	5'	4'6"	No Change
Rear	25'	5'	4'11"	5'10"

¹ The front setback area is calculated per §7-9-128.4 of the Zoning Code, which allows for a front setback using the average distance for the two adjoining buildings.

² As measured from the Topographic Survey for the existing residence.

The front and side yard setbacks are in compliance with the R1 Zoning Code requirement.

Off-street Parking – The established number of off-street parking spaces for an R1 development is 2 covered spaces. The Emerald Bay requirement for a house of this size is 8 spaces with a minimum of 2 garage spaces. The proposed residence will provide the required 8 spaces within the garage as shown on Sheet A3 of Exhibit D and is in compliance with the parking requirement.

Variances

Rear Setback

The building site at 193 Emerald Bay is located on a lot with a width of 80 feet at the front of the property and 75 feet at the rear of the property. The rear property line is slanted from east to west with the easterly property line length at 106 feet and the westerly property line length at 96 feet. As a result of the County 25-foot rear setback requirement and the slanted nature of the rear property line, the majority of the garage area is located at the rear of the lot. The applicant seeks approval for the following variances from the R1 Zoning Code requirement.

1. The applicant seeks to reduce the back yard setback from the R1 Zoning Code requirement of 25 feet to 5 feet 10 inches to accommodate encroachment of the new garage into the back setback as shown on Exhibit G. The field condition indicates that the as-built rear setback is 4 feet 11 inches to accommodate the existing garage as shown on the



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Topographic Survey for the existing residence. The degree of non-conformity will be improved via a slight increase in the rear setback compared to the existing setback.

Use Permits

Over-Height Walls

Section 7-9-64(b)(4) of the Zoning Code restricts wall heights within the front setback to 3.5 feet and side yard setback to 6 feet, but the height of side yard walls can be increased through the approval of a use permit. Therefore, the applicant is requesting a use permit for over-height walls within the front (up to 6'3"), side (up to 7'6") and rear (up to 7'6") setbacks as shown on Exhibit G.

Reduced Length Driveway and Increase Slope

Per §7-9-70.3(d)(1), the minimum driveway length for a house less than 20 feet from the curb line is 18 feet. The average length of this lot is 113 feet with a required 25-foot rear setback. It would be impractical to design a driveway 20 feet long. The existing driveways averages 9 feet 1 inch and 10 feet 4 inches in length, and the proposed driveways for the residence averages 10 feet 10 inches and 11 feet 3 inches at the midpoint of the garage openings.

The subject property has a sloping surface, as does a majority of the Emerald Bay Community. The Zoning Code accommodates irregularly shaped lots through the use permit process when strict application of the R1 zoning regulations cannot be met due to lot shape or size. As stated above, residential lots in Emerald Bay were created prior to the County's blanket application of the R1 zoning designation once the LCP was adopted. The inconsistency between the two sets of standards creates the need for a use permit.

A use permit is requested for an over steep driveway for the proposed garages, where the driveway slope is proposed to be of greater grade than the County's allowable -6%. The proposed driveway slopes are up to -14% and -15%.

California Environmental Quality Act

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 why the project is consistent 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,



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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:

- (1) *Demolition and removal of individual small structures listed in this subdivision:*
(1) *One single-family residence. . .*

The project includes a remodel of an existing 8,934 sf residence and attached garage with an addition of 1,072 sf of floor area in the same location as the existing structure. The project involves an expansion of the use beyond the existing use (increase in square footage). However, the footprint will remain essentially the same as the existing footprint. 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, fences/walls, and 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 remodel of an existing 8,934 sf residence and attached garage with substantially the same footprint as shown on the attached site plan (Architectural Drawing Sheet SP1). 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 remodel of the residence at 193 Emerald Bay is consistent with the Class 2 Exemption because the residence will have substantially the same purpose and capacity as the existing structure.

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, swimming pool, patio, and walls/fences are specifically included in the list of examples.

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 or a significant environmental effect, and will not damage scenic or historic resources, and the



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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 short-term construction-related concerns.

Conclusion

Renovation of an older single-family residences is common in the Emerald Bay community. In addition to a CDP for development within the coastal zone, many of these applications request approval of a variance for reduced setbacks and use permits for over-height walls in the front, side, and rear setbacks and steep/reduced length driveways. The variance and use permits requested herein are minor in nature and would not be required but for the unique lot shape and the disparity between the Emerald Bay Building Restrictions and the County's R1 Zoning. If the County Zoning Code setback requirements were strictly applied to this lot, previous applications approved by the County would enjoy privileges beyond the permits requested for the proposed residence at 193 Emerald Bay Drive.

The proposed project is consistent in character with previously approved requests of homeowners in the surrounding neighborhood and is consistent with the Emerald Bay CC&R Building Restrictions. In addition, the proposed residence at 193 Emerald Bay is consistent with the Emerald Bay LCP and the County Zoning Code. Preliminary approval from the DRB is included as Exhibit H. We appreciate the County's consideration on this project and look forward to working with you. If you have any questions, please contact our office at (949) 581-2888.

Sincerely,
CAA PLANNING, INC.

A handwritten signature in blue ink that reads "Shawna L. Schaffner".

Shawna L. Schaffner

Attachments: Exhibit A – Regional Map
Exhibit B – Vicinity Map
Exhibit C – Aerial
Exhibit D – Plans
Exhibit E – Zoning
Exhibit F – Appeal Area
Exhibit G – Setback and Wall Height Exhibit
Exhibit H – Emerald Bay Design Review Board Preliminary Approval

cc: Robert Giem
Nolan Mead, CJ Light