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June 19, 2024

Orange County Zoning Administrator
Kevin Canning, Contract Planner
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Cindy Salazar, Planning Division Manager
Cindy.Salazar@ocpw.ocgov.com

Subject: Zoning Administrator Meeting Agenda, June 20, 2024
Item # 1, Planning Application PA22-0227
211 Emerald Bay, Laguna Beach

Dear Mr. Canning and Ms. Salazar:

On behalf of concerned Laguna residents, I request that the Zoning Administrator find that the proposed demolition project at 211 Emerald Bay is not categorically exempt from the California Environmental Quality Act. In light of the significant historic and aesthetic environmental impacts brought to your attention, the County should not consider any project approvals until its discretion is informed by an appropriate CEQA process.

By way of introduction, my law practice focuses on public interest law and particularly on the application of CEQA to protect California's unique historic resources. Some representative published environmental decisions litigated by my office on behalf of public-interest groups include *Sierra Club v. County of Fresno*, *Friends of the College of San Mateo Gardens v. San Mateo County Community College District*, *Friends of Sierra Madre v. City of Sierra Madre*, and *Berkeley Hillside Preservation v. City of Berkeley*, all at the California Supreme Court, and *Save the Capitol, Save the Trees v. Department of General Services*, *Save Our Capitol! v. Department of General Services*, *Flanders Foundation v. City of Carmel-by-the-Sea*, *Preservation Action Council v. City of San José I and II*, *The Pocket Protectors v. City of Sacramento*, *Galante Vineyards v. Monterey Peninsula Water Management District*, *Lincoln Place Tenants Association v. City of Los Angeles*, *League for Protection v. City of Oakland*, *Stanislaus Natural Heritage Project v. County of Stanislaus*, and *Sierra Club v. County of Sonoma*, all in the California Court of Appeal.

I concur with the analysis of Laurence Nokes regarding the import of *Valley Advocates v City of Fresno* (2008) 160 Cal.App.4th 1039, which requires a lead agency to determine whether a property threatened with harm by a discretionary project may warrant recognition as a discretionary historic resource. If so, CEQA review must occur for analysis and feasible mitigation to avoid or reduce significant impacts.

The report of Margarita Jerabek, Ph.D., Historic Resources Strategic Development Director at ESA, provides substantial evidence that the Historic Resource Analysis Report (HRAR) prepared for the applicant by Urbana Preservation & Planning, LLC, is inaccurate and incomplete. As famously held by the California Supreme Court, CEQA does not allow uncritical reliance “on every study or analysis presented by a project proponent in support of its position. A clearly inadequate or unsupported study is entitled to no ... deference.” (*Laurel Heights Improvement Association v. Regents of the University of California* (1988) 47 Cal.3d 376, 409, fn 12.) Dr. Jerabek’s report provides substantial additional fact-based expert opinion amply supporting a finding that 211 Emerald Bay qualifies as historic.

Resources like 211 Emerald Bay that demonstrate the unique characteristics of an area warrant CEQA protection even absent a historic register listing. *Georgetown Preservation Society v. County of El Dorado* (2018) 30 Cal. App. 5th 358, 409, affirmed that additional CEQA analysis was warranted for the potentially significant impacts of a project proposed in an unlisted “quaint Gold Rush-era hamlet.”



Please deny this impactful project pending CEQA review to inform all of the broad approvals relating to the demolition via the requested coastal development permit, variance permit, use permit, and lot line adjustment.

Sincerely,
Susan Brandt-Hawley