

OC PLANNING REPORT

DATE: February 20, 2020

TO: Orange County Zoning Administrator

FROM: OC Development Services/Planning Division

SUBJECT: Public Hearing on Planning Application PA19-0248 for a Coastal Development Permit and Variance approvals

PROPOSAL: A request for a Coastal Development Permit and Variance approval to permit the expansion of an existing cantilevered deck area to extend to within 6 feet of the rear property line where Zoning would require a setback of 18.4 feet (by shallow lot criteria) and to permit the addition of an additional story consisting of a 370 square foot studio guesthouse (with bathroom, no kitchen).

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 at 923 Emerald Bay, Laguna Beach, in the community of Emerald Bay and within the Fifth Supervisorial District. (APN: 053-023-03)

APPLICANT: Charles and Lynda Kinstler, Property Owners
Scott Laidlaw, Architect

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

RECOMMENDED ACTIONS:

OC Development Services/Planning recommends the 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*) exemption pursuant to Section 15303 of the California Environmental Quality Act (CEQA) Guidelines and County of Orange procedures; and,
- c) Approve Planning Application PA19-0248 for a Coastal Development Permit and Variance subject to the attached Findings and Conditions of Approval.

BACKGROUND AND EXISTING CONDITIONS

The subject property is Lot 73 of Tract 1092 recorded in 1946. The property is approximately 7,207 square feet in area and is located within the inland portion of the Emerald Bay community. The property is currently developed with a two-level single-family home with attached two-car garage. The property has a swimming pool within the front yard setback area protected by a nonconforming 6-foot brick wall and a dense tree canopy with a height of approximately 10 feet along the front property line.

Aerial of Project Site



PROPOSED PROJECT

The owners are proposing to remodel the existing 3,700 square foot residence which in part would extend an existing second level cantilevered rear deck to within 6 feet of the rear property line by the addition of 140 square feet of deck area. His component of the proposed remodel requires the approval of a Variance. Other components of the remodeling would add a 370 square foot studio with 306 square feet of open deck above the existing garage area. The studio would have only an exterior stairway as access to it and would have a bathroom but no kitchen or cooking facilities. This area would be categorized as an attached guesthouse by Zoning Code definition and is permitted without any discretionary approval use in the R1 Zone and Emerald Bay Local Coastal Plan if it does not encroach into any required setback and is less than 640 square feet in size. The proposed studio area conforms with these requirements.

SURROUNDING LAND USE

The project site is a residential use and is surrounded on three 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 R1 “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	7,207 square feet (existing)
Maximum Building Height (at studio guesthouse)	35 feet maximum	17 feet 6 inches
Structural Front Setback (at studio guesthouse)	12 feet ¹	12 feet 5 inches
Structural Side Setback	5 feet minimum	5 feet
Structural Rear Setback (at deck extension)	18.8 feet ² (existing nonconforming deck at 8.3 feet)	6 feet ³

- 1 Zoning Code Section 7-9-128.4 – average setback of adjacent residences
- 2 Zoning Code Section 7-9-128.2 – shallow lot (20% of 94’)
- 3 Indicates Variance requested by the applicant

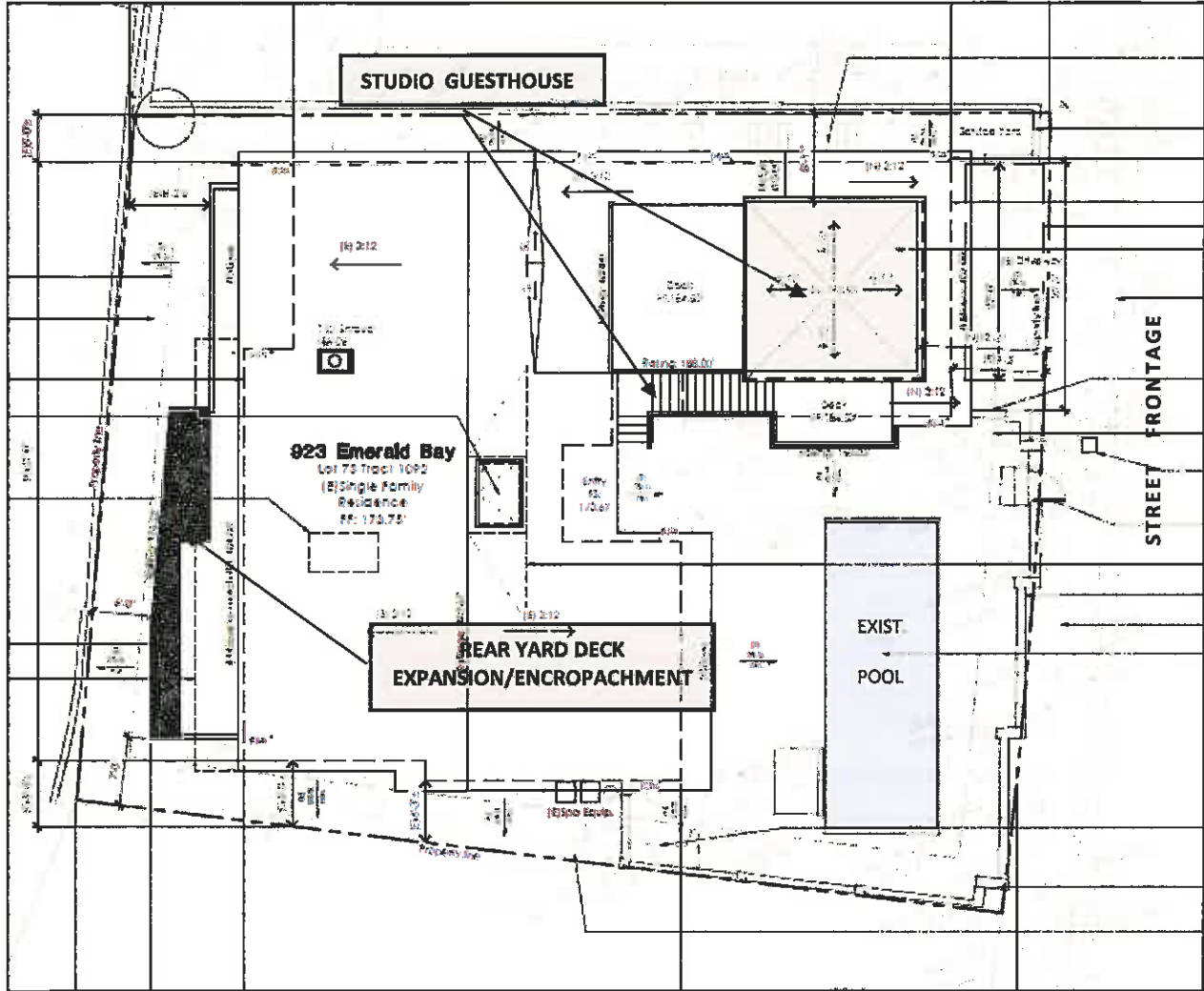
Coastal Development Permit

Within the Coastal Development Overlay zone, projects that are outside of defined ‘sensitive areas’ and which do not increase the existing internal floor area by more than 10% would normally be exempt from requiring a Coastal Development Permit. The subject project proposes an 8.5% increase. However, the CDP exemption also provides that this waiver is not applicable if the project would involve the construction of an additional story or loft. Because the subject project proposes a new studio guesthouse above the existing residence, the CDP review and approval is required.

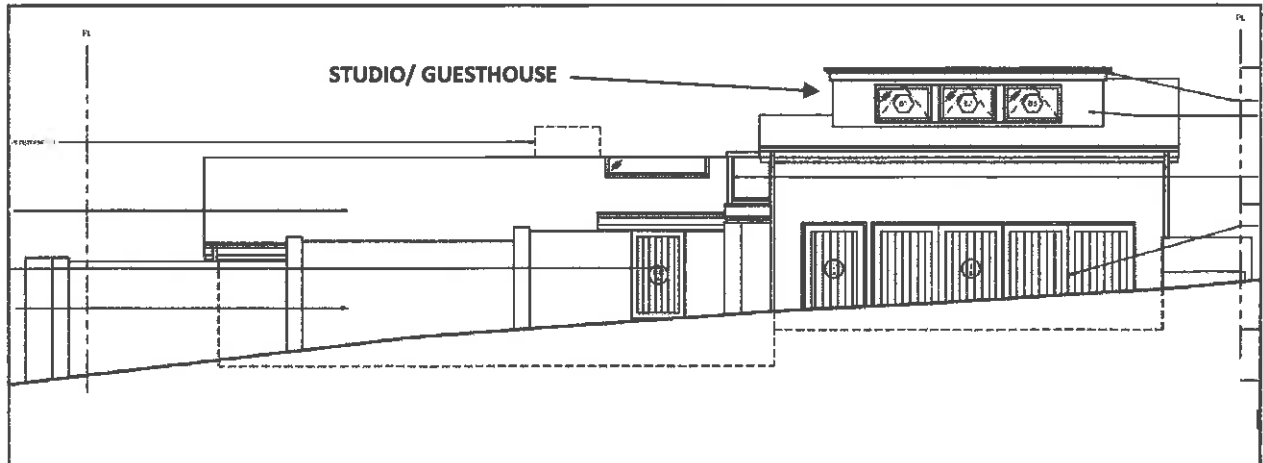
The proposed project conforms to the goals and objectives of the Emerald Bay Local Coastal Plan (LCP) through its design and the application of standard conditions of approval, included within Attachment 2. The project is consistent with the approved intensity of development, as well as the applicable Land Use Policies contained in LCP Section E regarding resources Management - Watershed, Environmental Hazards – Geologic and Fire Hazard.

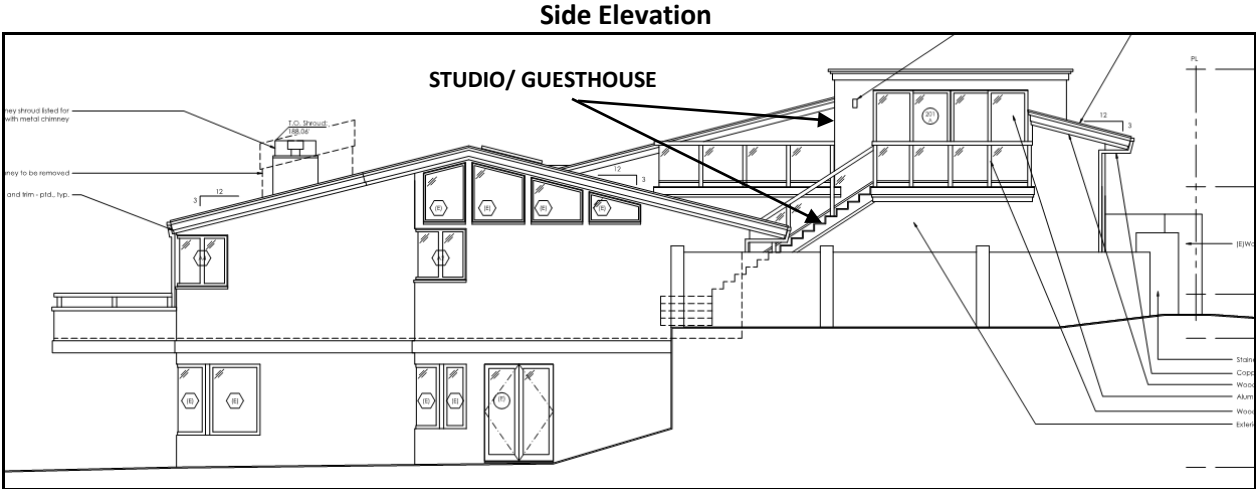
The project is compatible with surrounding development in its size, design and massing. The subject property is not within the ‘appealable jurisdiction’ area of the LCP.

Proposed Project



Front Elevation





Variance

The project proposes to expand a rear deck area by 139 square feet and in doing so extend to within 6 feet of the rear property line. The existing deck is nonconforming and extends to within 8.3 feet of the rear property line. With the expansion of the existing deck area on the second level of the home, the project can avoid expansions and additions at a higher elevation that would potentially obstruct views in this coastal community. Staff notes that among the 10 lots within this block of ‘view lots’, 9 of them have nonconforming rear yard setbacks, several with 5- or 10-foot rear yards.



Zoning Code Section 7-9-150.3 requires that certain findings be made in order 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 shallow lot configuration and its location in a coastal community with strict architectural guidelines. 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 yard setbacks. The proposed setback variances 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. Since 1994, approximately 70% of the discretionary development application requests approved within Emerald Bay have included some level of setback variance request.

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 6, 2020. Additionally, a notice was posted at the project site, the County Hall of Administration and at the County Administration South building, 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 Appendix 2. The Emerald Bay Community Association approved the proposed project at their Board meeting on July 16, 2019.

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 the proposed deck and studio guesthouse are related accessory structures to those items specifically included in the list of examples.

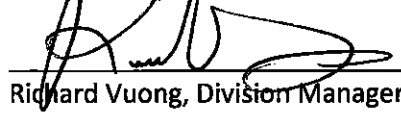
Section 15300.2 of the Guidelines includes criteria where, if applicable to a project, would except a project from a Class 3 exemption. None of the exceptions listed in Section 15300.2, such as location in a sensitive environment, etc., apply to the project. Each component of the project, including the demolition of the existing residence and accessory structures, and the reconstruction of the residence and accessory structures, meets criteria outlined in the Class 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 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:


Richard Vuong, Division Manager
Planning, OC Development Services

Concurred by:


Colby Cataldi, 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 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

PA190072

1 **GENERAL PLAN** **PA190072**

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.

2 **ZONING** **PA190072**

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.

3 **COMPATIBILITY** **PA190072**

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.

4 **GENERAL WELFARE** **PA190072**

That the application will not result in conditions or circumstances contrary to the public health and safety and the general welfare.

5 **PUBLIC FACILITIES** **PA190072**

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.).

6 **COASTAL DEVELOPMENT PERMIT 1** **PA190072**

That the development project proposed by the application conforms to the certified Local Coastal Program.

7 **COASTAL DEVELOPMENT PERMIT 2** **PA190072**

That the project conforms to the public access and public recreation policies of the California Coastal Act.

8 **COASTAL DEVELOPMENT PERMIT 3** **PA190072**

That the approval of this application will result in no modification to the requirements of the certified land use plan.

9

COASTAL DEVELOPMENT PERMIT 4

PA190072

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.

10

CATEGORICALLY EXEMPT

PA190072 (Custom)

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.

11

FISH & GAME - EXEMPT

PA190072

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.

12

NCCP NOT SIGNIFICANT

PA190072

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.

13

VARIANCE 1

PA190072

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.

14

VARIANCE 2

PA190072

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.



Attachment 2

Conditions of Approval

PA190248

1 BASIC/ZONING REGULATIONS PA190248

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 PA190248

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/PRECISE PLAN PA190248

Except as otherwise provided herein, this permit is approved as a precise plan. 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 PA190248

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 PA190248

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, Subdivision Committee, 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.

6 BASIC/APPEAL EXACTIONS PA190248

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.

7 GEOLOGY REPORT PA190248

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.

8 CONSTRUCTION NOISE PA190248

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.

9 EROSION AND SEDIMENT CONTROL PLAN PA190248

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.

10

DRAINAGE FACILITIES

PA190248

If determined necessary, prior to issuance of grading or building permits, drainage studies that demonstrate the following shall be submitted to and approved by Manager, Building and Safety Division:

1. All surface runoff and subsurface drainage directed to the nearest acceptable drainage facility, as determined by the Manager, Building and Safety Division
 2. Drainage facilities discharging onto adjacent property shall be designed to imitate the manner in which runoff is currently produced from the site and in a manner meeting the satisfaction of the Manager, Permit Services. Alternatively, the project applicant may obtain a drainage acceptance and maintenance agreement, suitable for recordation, from the owner of said adjacent property. All drainage facilities must be consistent with the County of Orange Grading Ordinance and Local Drainage Manual.
-

November 21, 2019

County of Orange, OC Public Works, OC Planning
Land Use Planning

**RE: Letter of Justification/Explanation
Variance for 923 Emerald Bay, Laguna Beach, CA 92651
Kinstler Residence**

Owner: Charlie & Linda Kinstler
923 Emerald Bay
Laguna Beach, CA 92651
APN: 053-023-03

This letter of explanation is submitted on behalf of the owners of 923 Emerald Bay, Charlie & Linda Kinstler. The project involves the Minor remodel of an Existing single family residence with new 370 sf second floor addition with 306 sf of deck. As well as 149 sf of new cantilevered deck off the existing main level deck.

Request:

Based on Sec. 7-9-128.2 of the Orange County Zoning Code, Building line on shallow building site, a rear yard encroachment variance is requested for the First Floor deck which has a setback of 6'-0", where 18'-10" is required.

Compatibility:

Within the neighborhood many decks extend into the rear yard, with a max allowable rear setback per community regulations of 5'-0". The proposed deck is a minor addition, less than a 50% increase of the Existing deck off of the main living level. The proposed deck addition does not seek to "maximize" allowable building standards, often seen in many of these highly dense neighborhoods, but was purposely limited to 6'-0" proposed setback to maintain concerns from adjacent neighbors.

General Welfare:

The proposed addition and site development will not be detrimental to the public health, safety or welfare of the community of which it is a part.

Special Circumstances:

The community of Emerald Bay is developed under a standard that is inconsistent with the general plan and zoning regulations of Orange County. Throughout the community, residences, as a matter of course, stand outside the County zoning regulations. While this project exceeds standard Orange County zoning regulations it is consistent with the community of which it is a part.

No Special Privileges:

The requested variance is consistent with development of neighboring properties in the community either by land use privileges, "Grandfather Conditions," or by variance. The proposed development will help bring this underdeveloped property in line with the community of which it is a part.

Sincerely,

Agent for the owner – architect

A handwritten signature in black ink, appearing to read 'SL', is written over a horizontal line.

Scott Laidlaw

Laidlaw Schultz architects

APPLICANT: KINSTLER
ADDRESS: #923
PROJECT: 2758 TRACT: 1092 LOT: 73
SCOPE OF WORK: 10-25% REMODEL with SMALL LANDSCAPE/HARDSCAPE
(Reclassified from MAJOR REMODEL with MEDIUM LS/HS –
due to reduced scope of work from January 2016 submittal)
SUBMITTAL: FINAL
ARCHITECT: Scott Laidlaw
Phone: 949-645-9982
License: C21061
LANDSCAPE ARCHITECT: None

Architectural review by Jill Chambers

Landscape review by James Dockstader

FINAL COMMITTEE RECOMMENDATIONS: APPROVAL

HISTORY OF SUBMITTALS:

- | | | |
|-----------------|---------------------------|---------------------|
| • April 2015 | CONCEPT | ACKNOWLEDGED |
| • August 2015 | PRELIMINARY | DISAPPROVED |
| • October 2015 | PRELIMINARY RESUBMITTAL | DEFERRED |
| • November 2015 | PRELIMINARY RESUBMITTAL | POSTPONED |
| • January 2016 | PRELIMINARY RESUBMITTAL | APPROVED |
| • July 2016 | NEIGHBOR APPEAL TO BOARD | APPROVAL OVERTURNED |
| • February 2019 | REVISED PRELIM W/VARIANCE | APPROVED |

SUMMARY OF PROPOSED ARCHITECTURAL IMPROVEMENTS:

The plans submitted indicate a remodel of an existing 4,974 SF residence designed on two levels. This includes the 598 SF garage.

The proposed structure is shown on the submittal application as 5,344 SF (5,741 SF shown at previous submittal) with a total deck area of 799 SF shown (769 SF as calculated, 829 SF shown at previous submittal) This includes 345 SF as calculated of existing (supported and cantilevered), 190 SF new cantilevered as calculated, and 275 SF of proposed roof decks as calculated. The Upper Level addition is shown as 370 SF.

The proposed alteration increases the square footage 7.4% (370 / 4,974). Therefore, existing non-conforming elements may remain. If an existing non-conforming element (including area that adds to lot coverage) is removed during construction, they must be replaced in conformance with the Architectural Regs. No new non-conforming elements can be added.

Revisions made at last Preliminary submittal:

- A certified 1960 Topo Survey was submitted (Toal).
- The scope of the addition was redesigned and reduced to include:
 - Reduced scope of interior remodel of existing main living area
 - Existing exterior walls at main level to remain in place.

- Existing exterior walls to remain
 - Existing overheight chimney removed. New smaller chimney added
 - Clearstory structure over entry removed and replaced with skylight
 - Flat roof added over Upper Level addition.
 - Two roof decks added.
 - No additional Lot Coverage proposed
 - No change to the existing parking or garage size
 - Garage door added for golf cart access to garage.
- No changes to the pool/spa/courtyard/wall or landscape
 - Ficus Trees on EBCA property to remain and shown to be maintained at 15' maximum height
 - Existing pool and spa equipment to remain
 - The rear deck is being enlarged, reducing the rear yard setback to 6 feet.
 - A portion of the rear eave overhang is shown to be cutback.

A Variance Request was Approved per RESOLUTION 19-03-05-03:

- Required off-street parking, 4 required, 3 provided. Area being added increases the already existing non-conforming parking as the house is over 4,000 SF currently.

No revisions for this submittal.

SUMMARY OF PROPOSED LANDSCAPE IMPROVEMENTS:

No proposed landscape improvements. Existing shown to remain.

STAFF ARCHITECTURAL FINDINGS:

1. ARCHITECT STAMP (Section B.2): **OK**
2. ARCHITECTURAL REVIEW - SUBMITTAL COMPLETENESS (Section B.5): Submittal is generally complete enough for review. **OK**
3. LOT COVERAGE (Section C.1): Maximum allowed is 40%. The existing Lot Coverage shown as 45.2% (3,260 / 7,207). This is an existing non-conforming condition. No additional Lot Coverage proposed. Overlays provided for verification. A portion of the existing rear deck off the M. Bedroom was previously not included in the lot coverage calculation. 42 SF of this deck is counted as supported. **OK**
4. SETBACKS (Section C.2): Architectural projections of any kind into the required front yard setback are not allowed. Minimum side yard setbacks are 5'-0". The Committee may ask for greater setbacks. It appears the addition respects the minimum 5'-0" setbacks. **An existing previously unapproved BBQ in the setback is shown to be removed. The**

setback at the rear deck is shown as 7'-0" at the south corner and as much as 9'-6" from rear PL.

5. UTILITY EASEMENTS (Section C.3): Portions of retaining walls, stairs and planters are allowed within the Utility Easements. **N/A.**
6. **PARKING (Section C.4): The parking area shown on the submittal application is 4,746 SF and calculates as 4,992 SF. An existing area at the Basement is not shown to be included (81 SF). Area of garages not used for required parking (430 SF required 2-car garage) counts towards the parking calculation. This requires a two car Garage and two additional off-street parking spaces. There is a two-car garage showing an area for golf cart parking and an existing parallel parking space in the driveway is shown wholly on the applicant's property. The addition adds parkable area to an existing non-conforming condition. A Variance was previously approved and RESOLUTION 19-03-05-03 adopted.**
7. SERVICE YARD (Section C.5): Located at the north side yard. **OK**
8. BACKFLOW PREVENTION DEVICES (Section C.8): New residences and renovations/remodels/additions which include the addition of 2 or more plumbing fixtures require a backflow prevention device. **N/A**
9. NUMBER OF STORIES (Section D.1): No Structure shall exceed two stories in height. The lowest level complies with the first basement rule if it is considered a two story structure and basement. Otherwise, the structure as proposed could be considered two, 2 stories as the 3 levels are not "stacked" **OK**
10. BUILDING HEIGHT (Section D.2): "The height of any Structure on any Lot or Parcel in this Tract (Tract 1092) shall not exceed fifteen (15) feet in height above the highest level of the Lot or Parcel upon which it is built, and shall not exceed twenty (20) feet above the Natural Grade of the Lot or Parcel."

The maximum height of the addition is shown at 193.6' as measured from the 1960 Topo (Natural Grade). **OK**

The proposed chimney is over the 20' maximum height envelope as measured from 1960s Topo. The Committee approved this at the February 2019 Preliminary submittal. **OK**

A portion of the existing main roof ridge is as much as 3 feet over the 20' maximum height envelope as measured from 1960 Topo. – no change. OK
11. **COMPATIBILITY (Section D.3):** The submittal indicates that the style of the proposed new structure is consistent with the existing structure.

The upper level addition is set back from the face of the garage by approximately 3'-0". The setback at the garage is the is to remain. The existing overheight wall at the front property line is shown to remain. The Ficus hedge is shown to remain and is noted to be maintained at maximum height of 15 feet. The flat roof of the addition shown in this current submittal appears to better relate to the context of the neighboring home at 921. **OK**

The rear deck is set back from the rear property line by 7'-0" at the south end and as much as 9'-6". This is consistent with what was approved at Preliminary. **OK**
12. **NON-CONFORMING STRUCTURES (Section D.4):** A pre-existing, non-conforming Structure or portions of a Structure may be retained where the proposed alteration does not

increase the square footage by 25% or more, increase the height of the Structure such that it is above the height envelope for the Tract and there is no change to the existing broad style of architecture.

The proposed alteration increases the square footage 7.4% therefore all existing non-conforming elements may remain as long as they are not removed during the course of construction.

Existing non-conforming:

- Existing parking.
- The existing Lot Coverage is 45.2%.
- Existing overheight gate at front yard.
- Existing overheight walls in front yard setback.
- Portion of existing front wall on EBCA property.
- The existing clearstory is over the 20' height as measured from the 1960s Topo. Shown to be removed.
- Existing BBQ in sideyard setback. Shown to be removed.
- Existing roof ridge is as much as 3 feet over the 20' maximum height envelope as measured from 1960s Topo.
- Existing eave at rear is overheight. (Shown to be cutback.)
- Existing chimney is approximately 2 feet over the height envelope. Shown to be removed/relocated to be smaller in width, length and height of the existing chimney. It is also lower than the roof of the new addition.

New non-conforming elements:

- Increase to the existing non-conforming parking due to area being added. VARIANCE REQUEST APPROVED AT PRELIMINARY
- New chimney is approximately 3'-3" over the 20' maximum height envelope as measured from 1960s Topo. but below the existing roof ridge. **NO VARIANCE REQUIRED.** Chimneys may be excluded from the maximum height requirement. The Committee has discretion regarding the height of chimneys, and they are evaluated on a case by case basis. The height is to be kept to the minimum required by Code.

13. ROOFS (Section D.5):

- Roof pitch: ¼ :12, 3:12 shown. **OK**
- Flat roof: "Nominal flat roof areas shall not exceed fifteen percent (15%) of the total aggregate roof area measured in plan". The total roof area is shown as 3352 SF and calculates as 3,365.2 SF. The nominal flat roof area is 10.7% (360.4 / 3,365). **OK**
- Roof materials: Class "A" copper roof over flat roof of the addition and new Class 'A' cement tile to match existing on the new sloped roof. **OK**

Roof Equipment: None shown. **OK**

Parapet: 21.76% (74'-11" LF / 344'4" total roof perimeter). 25% maximum allowed.
OK

14. ROOF DECKS (Section D.6): Two shown at the Upper Level for a total of 275 SF. This is less than the area of the Study (326 SF) from which access is taken. **OK**
15. **MATERIALS AND COLORS (Section D.7):** Actual materials samples and exterior colors are required to be submitted on a board no smaller than 11 x 17 and no larger than 18 x 24. A color rendering must be included on the board to clearly identify the location of all proposed materials and colors. **Noted to match existing stucco, roofing and fascia colors. A material and color board is not required. OK**
16. WINDOWS AND DOORS (Section D.8): Aluminum clad wood windows and doors are indicated at addition and rear decks. Lower level windows shown as existing to remain. **OK**
17. ANTENNAS (Section D.9): None indicated. **OK**
18. **SOLAR PANELS (Section D.10). Existing solar panels are installed.** The existing solar panels conflict with the location of the relocated chimney. **A solar panel submittal will be required prior to reinstallation.**
19. SKYLIGHTS (Section D.11): One shown over entry. Indicated as non-reflective. **OK**
20. ARCHITECTURAL EXTERIOR LIGHTING (Section D.12): Light fixtures must be down lit or shielded to prevent glare or be a nuisance to neighbors. Light fixture cut sheet was submitted and found to be complementary to the architectural style of the residence. **OK**

Location of new exterior light fixtures are shown on elevations and reflected ceiling plans. Existing light fixtures are noted to remain. **OK**
21. GUTTERS AND DOWNSPOUTS (Section D.13): Indicated as copper on Elevations. **OK**
22. **OTHER COMMENTS:**
 - New mailbox shown with stucco finish to match house.
 - Pool enclosure identified.
 - Existing entry gate to courtyard shown to be replaced with non-climbable, self-closing, and self-latching to meet Code.
 - The required Easement Exhibits were submitted.
 - Existing Pool and Spa equipment shown to remain.
 - Existing curb cut shown to be replaced per EBSD. **If it is determined that more of the curb and gutter are required to be replaced by EBSD Staff or the EBSD GM that is related to construction damage, it is the responsibility of the owner to do so consistent with the EBSD standards. This is noted on the drawings.**
 - **No changes to the landscape lighting or irrigation indicated. Noted as existing to remain.**

- **The plans note that existing landscaping damaged during construction will be replaced in kind. Any revisions to the landscape will require additional submittal, review and approval prior to planting.**
- **Ficus trees on EBCA property cannot be replaced if they are removed during construction.**

STAFF LANDSCAPE FINDINGS: No changes included with submittal.

Existing unapproved BBQ shown in sideyard setback shown to be removed.

FINAL COMMITTEE RECOMMENDATIONS:

1. **The Variance was approved and Resolution 19-03-05-03 was adopted for the existing non-conforming parking was approved.**

To allow the following non-conforming element to remain:

- Existing non-conforming parking. Three existing off-street parking spaces provided, four are required.

Applicant stated hardship for the Variance request:

- A larger portion of the home would be required to be demolished to increase the size of the existing garage.
- The addition does not trigger an increase in the current number of required parking. (The existing residence is over 4,000 SF, requiring 4 spots, thus it is existing non-conforming).

Applicant stated benefits to the Community:

- The existing garage is larger than the minimum required and will accommodate 2-cars and a golf cart parking space.
- The depth of the driveway allows for 2 practical head in off-street parking spaces which are currently used. **THE COMMITTEE DID NOT FIND THIS A BASIS FOR GRANTING THE VARIANCE.**
- The ability to retain the existing garage minimizes the scope and duration of construction and impact on the neighbors.
- The existing clearstory over the entry and the existing overheight chimney are proposed to be removed in consideration of neighbors' views.
- The addition is kept to a minimum.

NOTE:

Approval of a Variance Request to allow non-conforming elements to remain is based on the scope, character, hardship, and community benefit associated with the current submittal. If future submittals propose to significantly alter these aspects of the property, the Architectural Committee may at that time evaluate the new proposals to determine if proposals negate, diminish, or adversely affect the conditions under which the prior Variances were granted. In such cases, the Committee may require that the Applicant alter the new proposed scope or eliminate existing non-conforming conditions.

It is not the intent of the Committee, in granting approval of the variance request, to confer extraordinary future development rights to the Applicant or future Applicants beyond what is allowed by the Architectural Regulations.

2. The Committee initially withheld consideration of its recommendation pending additional information. The following item was adequately addressed by the Tuesday meeting. Therefore, the Committee recommends Approval.

- a. Add note acknowledging that the relocated solar panel layout will require a separate submittal prior to reinstalling.

3. Note:

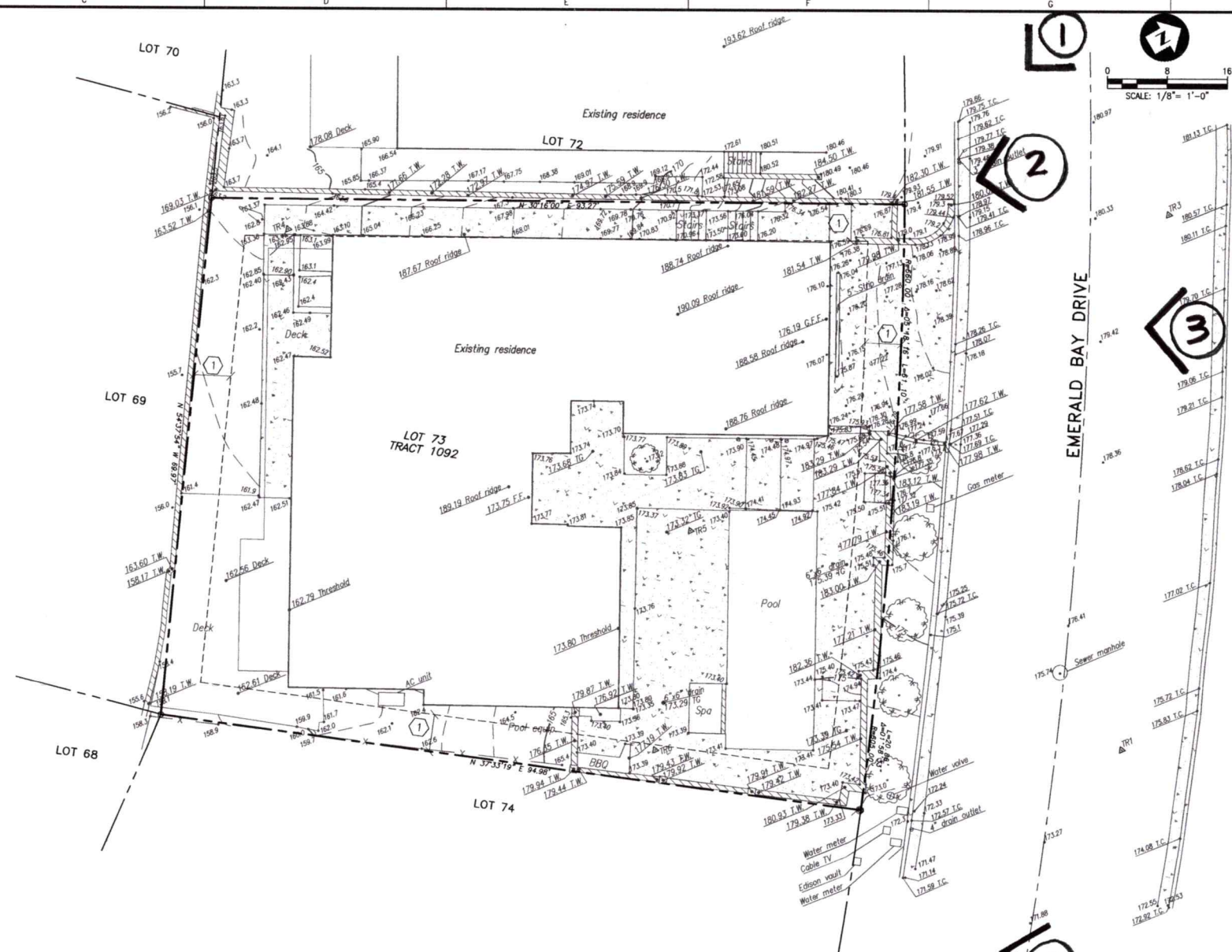
- a. Approvals are valid for one year. See extension request requirements in the Architectural Regulations for additional information.
- b. All future submittals must be accompanied by a detailed scope of work and highlighting revisions to previous scope of work, if any.
- c. If it becomes necessary or desirable for the Association to utilize its easements within private property boundaries, it is the responsibility of the owner of such property to remove improvements (whether previously approved by the Association or not) to provide access and to replace or repair improvements subsequent to Association access at no cost to the Association.
- d. Any changes to the Final approved plans must be submitted for Architectural Committee's review prior to construction.
- e. If existing non-conforming elements are removed during the course of construction, they cannot be replaced unless they comply with all of the current Architectural Regulations. This includes the Ficus trees on EBCA property (per the Easement and Maintenance Agreement).
- f. The Committee reserves the right to reclassify a project at any time before or after construction begins.

No representatives were in attendance to further discuss the submittal.

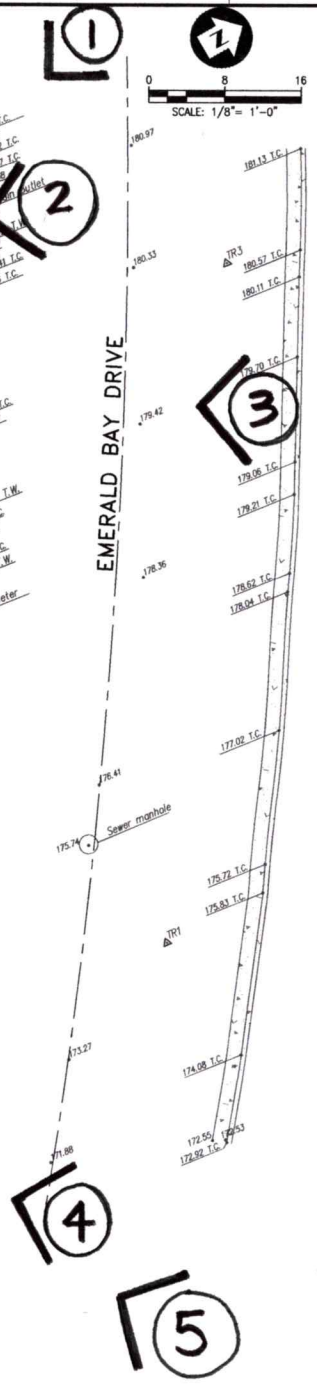
At their meeting on July 16, 2019 the Board adopted Resolution 19-07-16-02 for the Easement Agreement and voted to approve the recommendation of the Architectural Committee.

LEGEND

---	ESTIMATED PROPERTY LINE
-X-X-	FENCE
▤	CONCRETE SURFACE
▨	MASONRY WALL
▧	WOOD WALL
▩	ROCK WALL
FF	FINISHED FLOOR
FS	FINISHED SURFACE
TG	TOP OF GRATE
INV	INVERT OF PIPE
TC	TOP OF CURB
EP	EDGE OF PAVEMENT
TW	TOP OF WALL
⊙	FOUND MONUMENT
△	SURVEY CONTROL POINT



○ Site Photo Key
 923 Emerald Bay













925

NO PARKING DURING RAIN

925