

OC PLANNING REPORT

DATE: July 16, 2020

TO: Orange County Zoning Administrator

FROM: OC Development Services/Planning Division

SUBJECT: Public Hearing on Planning Application PA20-0031 for a Coastal Development Permit and Variance

PROPOSAL: A request for a Coastal Permit and Variance in conjunction with the construction of a single-family residence on a vacant parcel. A Coastal Development Permit is required for the construction of a new residence and associated grading. A Variance is required to allow for a reduced rear setback of 14 feet where the Zoning Code would otherwise require 16 feet 8 inches pursuant to the shallow lot provisions of the zoning code.

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 in the community of Emerald Bay at 1017 Emerald Bay, Laguna Beach, CA within the Fifth Supervisorial District.

APPLICANT: Bruce and Mary McDonald, Property Owner

AGENT: Jonathan Yee, Laidlaw Schultz Architects

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

RECOMMENDED ACTIONS:

OC Development Services/Planning Division recommends 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*) exemptions pursuant to Section 15303 of the California Environmental Quality Act (CEQA) Guidelines and County of Orange procedures; and,
- c) Approve Planning Application PA20-0031 for a Coastal Development Permit and Variance subject to the attached Findings and Conditions of Approval.

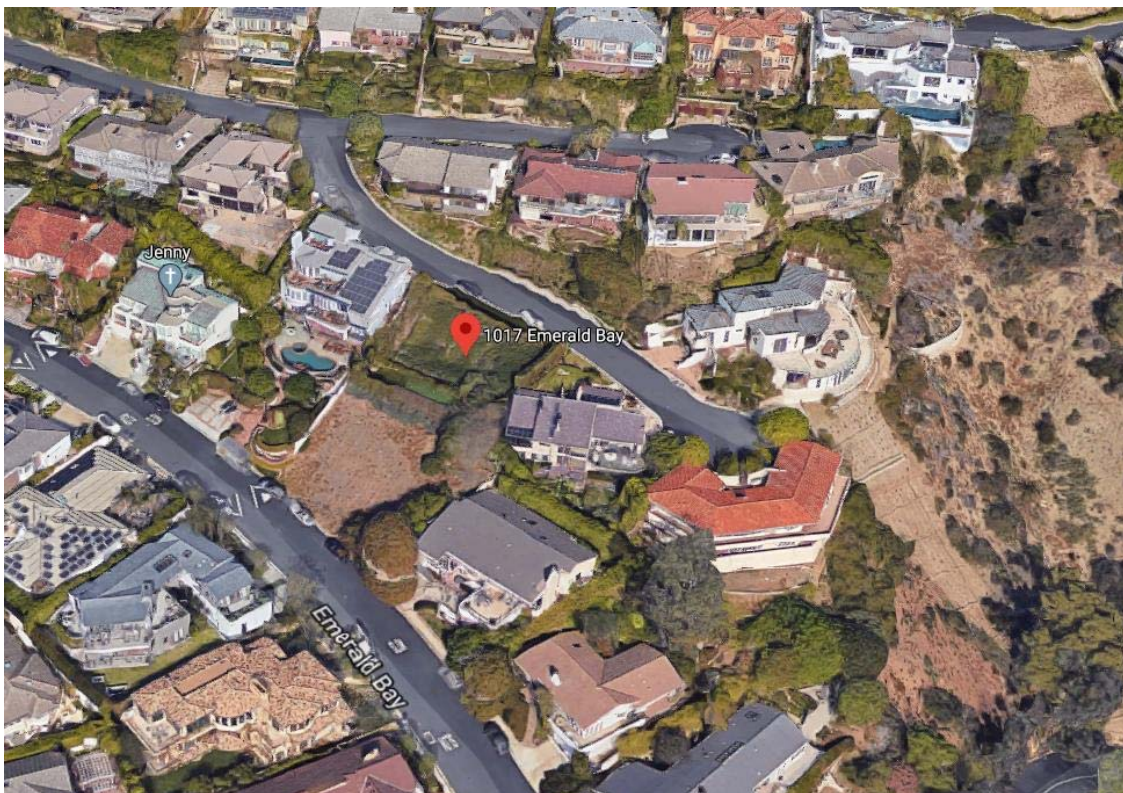
BACKGROUND AND EXISTING CONDITIONS

The subject property is Lot 89 of Tract 1092 recorded in 1946. The property is approximately 7,246 square feet in area and is located on the inland side of the Emerald Bay community. The subject lot is, by definition, a shallow lot as it is approximately 83 feet deep. The topography of this now vacant property also falls approximately 20 to 25 feet from the street grade down to the common property line of an also vacant parcel to the south towards the ocean.

PROPOSED PROJECT

The project proposes the construction of a 3,863 square foot residence with a side-entry 3-car garage (691 square feet). The three-level design (including basement level) will also include decks, hardscape and a pool and spa. The project would grade approximate 1,180 cubic yards, including 400 cubic yards of export.

Aerial of Project Site



SURROUNDING LAND USE

The project site is a residential use and is surrounded on all 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	Vacant
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 “Single-Family Residence” District with the proposed project:

Project Comparison with R1 “Single-Family Residence” District Site Development Standards

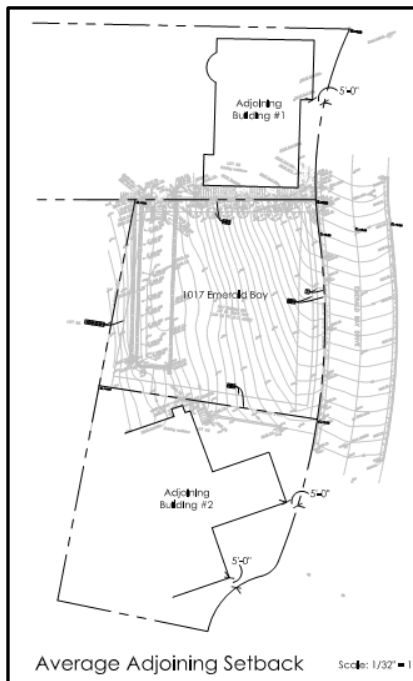
STANDARD	REQUIRED	PROPOSED
Building Site Area	7,200 square feet	7,246 square feet (existing)
Maximum Building Height	35 feet maximum	25 feet
Structural Front Setback	5 feet ¹	¹ 5 feet minimum ¹
Structural Side Setback	5 feet minimum	5 feet minimum
Structural Rear Setback	16’8” feet minimum ²	14’4” feet minimum ³
Parking	2 covered spaces	3 garage spaces

¹ Average setback of adjoining lots (Zoning Code Section 7-9-128.4)

² Shallow lot (Section 7-9-128.2) $([91.77' + 74.98'] / 2 \times 20\% = 16.68')$

³ Indicates Variance requested by the applicant

Average Adjoining Setback



Coastal Development Permit

The project would construct a new 3,863 square foot three-level single-family residence and includes a total of 1,180 cubic yards of grading, including 400 cubic yards of export. From the existing street level, the proposed residence would terrace down the sloping lot towards the vacant property to its south. The new structure would setback a minimum of 14'4" from the rear property line, where Zoning would require 16'8" pursuant to the shallow lot criteria. A series of terraces planters would be installed at the rear of the lot. All proposed walls will be 6' or less in height.

Within the Coastal Development Overlay zone, and specifically within the Emerald Bay Local Coastal Program (LCP), the construction of a new structure on a vacant property, with the associated site grading, requires the approval of a Coastal Development Permit (Zoning Code Sections 7-9-118 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, 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.

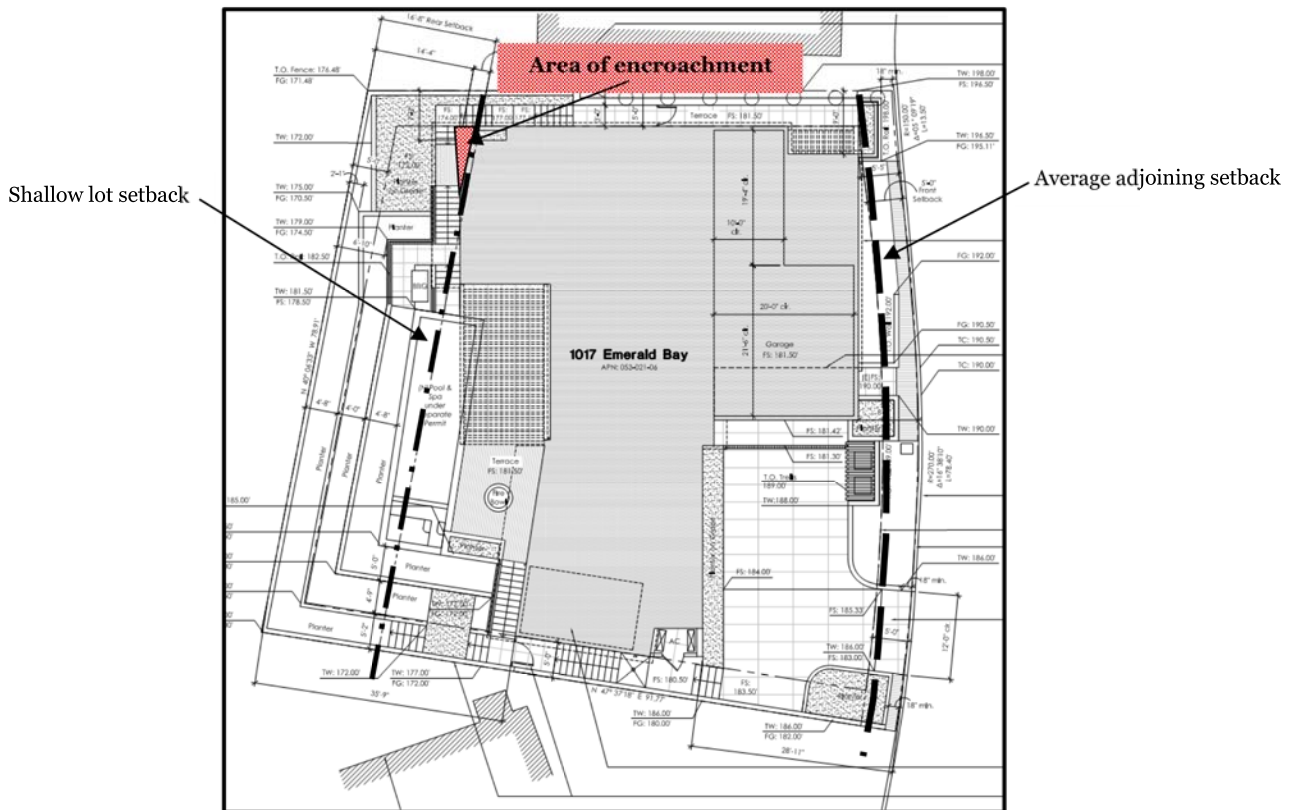
Variance – Rear yard setback

The subject property qualifies as a shallow lot with an average depth of 83 feet 5 inches. This would permit a rear setback of 16 feet 8 inches (20% of 83 feet 5 inches). The project proposes a 14 foot 4 inch setback for one corner of the rear portion of the home.

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 shape, its sloping topography, 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. Combining the constraints of a shallow lot with the angled rear property line presents special constraints to the development of the property.



The Emerald Bay community has had many previous variance requests approved for reduced 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. Since 1994, approximately 72% of the discretionary development application requests (about 230) within the Emerald Bay Local Coastal Program area have included either a front yard setback variance, a rear yard variance, or both a front and rear yard variance. All such previous requests have received approvals.

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 July 3, 2020. Additionally, a notice was posted at the project site, the County Hall of Administration and at the County Administration South building at 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 Attachment 2. The Emerald Bay Community Association approved the proposed project at their Board meeting on February 4, 2020.

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 construction of a single-family residence and the related improvements including the garage, pool, patio and fences are 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 meets criteria outlined in the Class 3 exemption. 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:



Brian Kurnow, Land Use Manager
Planning, OC Development Services

Concurred by:



Richard Vuong, 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. Project Plans / Site Photos

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
PA20-0031

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| 1 | GENERAL PLAN | PA20-0031 |
|---|---------------------|------------------|
- 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 | PA20-0031 |
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- 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 | PA20-0031 |
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- 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 | PA20-0031 |
|---|------------------------|------------------|
- 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 | PA20-0031 |
|---|--------------------------|------------------|
- 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 | COASTAL DEVELOPMENT PERMIT 1 | PA20-0031 |
|---|-------------------------------------|------------------|
- That the development project proposed by the application conforms to the certified Local Coastal Program.
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| 7 | COASTAL DEVELOPMENT PERMIT 2 | PA20-0031 |
|---|-------------------------------------|------------------|
- That the project conforms to the public access and public recreation policies of the California Coastal Act.
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| 8 | COASTAL DEVELOPMENT PERMIT 3 | PA20-0031 |
|---|-------------------------------------|------------------|
- That the approval of this application will result in no modification to the requirements of the certified land use plan.
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| 9 | COASTAL DEVELOPMENT PERMIT 4 | PA20-0031 |
|---|-------------------------------------|------------------|
- 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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- | | | |
|----|-----------------------------|---------------------------|
| 10 | CATEGORICALLY EXEMPT | PA20-0031 (Custom) |
|----|-----------------------------|---------------------------|

That the proposed project is Categorical 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 PA20-0031

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 PA20-0031

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 PA20-0031

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 PA20-0031

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.

6 BASIC/APPEAL EXACTIONS PA20-0031

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 PA20-0031

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 BUILDING CODES PA20-0031

- A. This project must comply with 2019 California Codes or latest adopted California Codes.
 - B. This project is located in the High Fire Hazard area and shall comply with Chapter 7A of current adopted CBC.
 - C. Driveway to garage is to be constructed per OC Zoning Code 7-9-145.5(a)(1) & 7-9-145.5(a)(2)
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9 CONSTRUCTION NOISE PA20-0031

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.

10 EROSION AND SEDIMENT CONTROL PLAN PA20-0031

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.

11

ROAD FEE PROGRAM

PA20-0031

Prior to the issuance of building permits, the applicant shall pay applicable fees for the Major Thoroughfare and Bridge Fee Program listed below, in a manner meeting the approval of the Manager, Building and Safety Division.

- a. San Joaquin Hills Transportation Corridor

12

IN-LIEU LOCAL PARK FEES

PA20-0031

Prior to the issuance of building permits, the applicant shall pay applicable local park fees. The project site is located within Community Service Area 61. Current in-lieu fee for a single-family home is \$18,000.00.

March 18, 2020

County of Orange, OC Public Works, OC Planning
Land Use Planning
300 N. Flower Street
Santa Ana, CA

**RE: Letter of Justification/Explanation
CDP & Variance for 1017 Emerald Bay, Laguna Beach, CA 92651
McDonald Residence**

Owner: Bruce & Mary McDonald
1017 Emerald Bay
Laguna Beach, CA 92651
APN: 053-021-06

This letter of explanation is submitted on behalf of the owners of 1017 Emerald Bay, Bruce & Mary McDonald. The project is located on a currently empty lot and involves the construction of a new 3,863 sf. 2-story+basement single-family residence. Including an attached (3) car garage (691 sf.), 241 sf. of deck area, new landscape, hardscape, site walls, and pool & spa.

Request:

As the location is in the Emerald Bay LCP, and involves the construction of a new residence on an empty lot, a Coastal Development Permit will be required.

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 residence which has a setback of 14'-4", where 16'-8" is required $([91.77' + 74.98'] / 2) \times 20\%$.

Compatibility:

The proposed residence has a similar minimum 5'-0" front setback as the adjacent homes on the street. The side entry garage avoids having a 3-car garage face fronting the street and allows for more street landscaping. The home is set into the sloping site, conforming to the Emerald Bay maximum height of 20'-0" and thereby preserving views for surrounding residences. The project was noticed to the community and the preliminary submittal reviewed at a public hearing & approved by the EBCA Board of Directors on March 3, 2020.

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 site is irregularly shaped, shallow, and steeply sloping.

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', written over a horizontal line.

Scott Laidlaw

Laidlaw Schultz architects