

OC PLANNING REPORT

DATE: May 2, 2019

TO: Orange County Zoning Administrator

FROM: OC Development Services/Planning Division

SUBJECT: Public Hearing on Planning Application PA190001 for a Coastal Development Permit, Use Permit and Variance

PROPOSAL: A request for the approval of a Coastal Development Permit, Use Permit and Variance in conjunction with the construction of a three-level single-family residence with attached garage.

The Coastal Development Permit is requested for the demolition of the existing residence and construction of the new single-family dwelling in the Emerald Bay Local Coastal Plan area, with associated grading.

The Use Permit is requested for a proposed over-height retaining within the rear setback area at heights of up to 25 feet where Zoning would limit the wall to 6-feet in height, and a mailbox pedestal at 4 feet 6 inches within the front setback where Zoning would limit the pedestal to 3 feet 6 inches in height.

The Variance is requested reduce the front and rear setbacks to 5 feet where Zoning would require a setback of 10 feet based upon the Zoning Code's shallow lot criteria.

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 1100 Emerald Bay, Laguna Beach, CA within the Fifth Supervisorial District.

APPLICANT: Brian Flornes, Property Owner
Charles d'Arcy, d'Arcy & Associates, 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 1 (*Existing Facilities*), Class 2 (*Replacement or Reconstruction*) and Class 3 (*New Construction or Conversion of Small Structures*) exemptions pursuant to Sections 15301, 15302 and 15303 of the California Environmental Quality Act (CEQA) Guidelines and County of Orange e procedures; and,
- c) Approve Planning Application PA190001 for a Coastal Development Permit, Use Permit and Variance subject to the attached Findings and Conditions of Approval.

BACKGROUND AND EXISTING CONDITIONS

The subject property is Lot 10 of Tract 3125 recorded in 1957. The property is approximately 12,489 square feet in area, located on the inland side of the Emerald Bay community and adjacent to the Crystal Cove State Park. There is an existing 4,572 square foot residence on the property that will be demolished and removed as part of this project. The subject lot is wide and narrow along the street frontage with an average lot depth of 66 feet 10 inches. The topography of the developed lot also rises approximately 15 to 20 feet above the street grade to the existing development pad and another 10 feet behind the existing structure to the rear property line. Due to the topography, the existing residence is approximately 35 feet from the front property line and has driveway grades of 15% and greater.

PROPOSED PROJECT

The project proposes construction of a three-level single-family residence with approximately 5,973 square feet of livable area, 2,261 square feet in two garage areas and miscellaneous mechanical and storage areas of approximately 424 square feet. Portions of the proposed structure will be subterranean. The new residence will have two separate garage areas both with area for tandem parking spaces and both exceeding minimum Zoning Code standards. Both garages will also have portions with ceiling volume heights of approximately 20 feet. The garage on the left side of the entry driveway will also have a water feature/pool above it. All project structures are under the Zoning Code’s 35-foot height limit.

As noted above, the existing residence sits well above the fronting street. The new project would grade the pad area of the site down to roughly street level, eliminating the need for a steep driveway but also requiring tall retaining walls at the rear of the property. A total of approximately 4,800 cubic yards of grading is proposed, including 4,700 cubic yards of export.

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	Single-Family Dwelling
East	“Single-Family Residence” (R1)(CD)(SR) District	Single-Family Dwelling
West	Open Space	Crystal Cove State Park

Aerial of Project Site



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

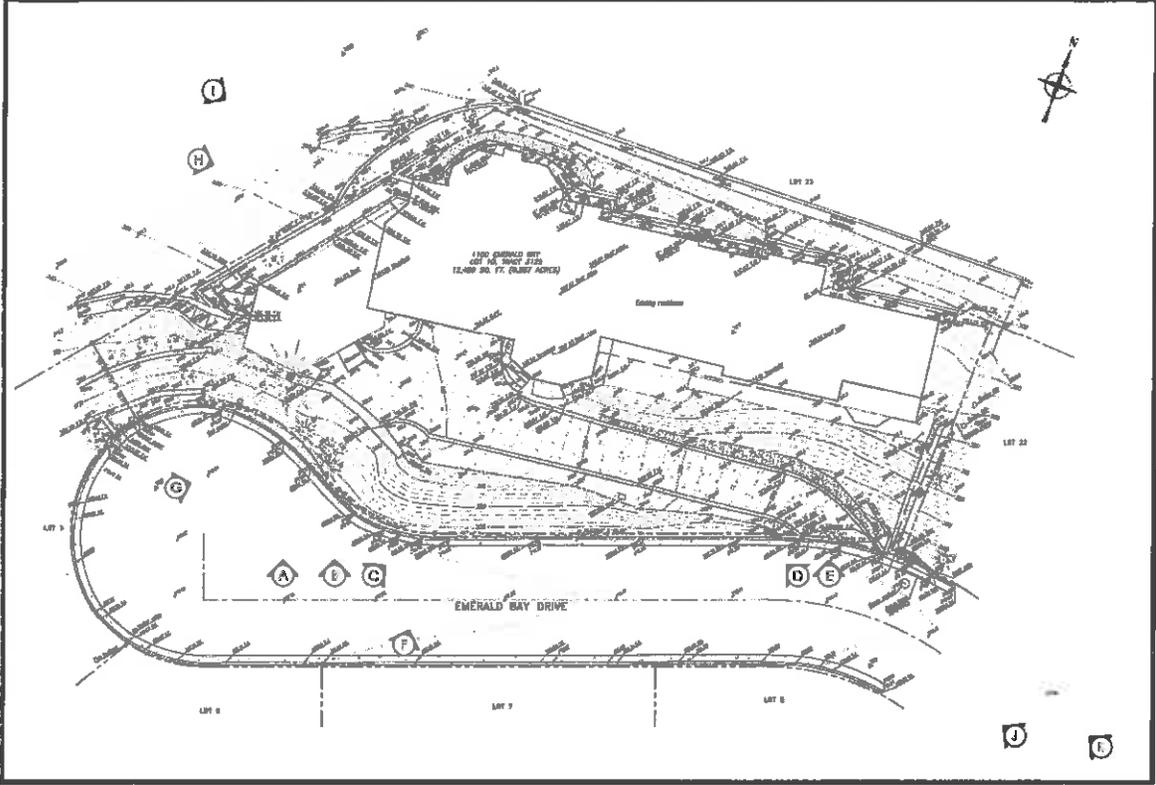
STANDARD	REQUIRED	PROPOSED
Building Site Area	7,200 square feet	12,489 square feet (existing)
Maximum Building Height	35 feet maximum	30 feet
Structural Front Setback	10 feet minimum ¹	5 feet minimum ²
Structural Side Setback	5 feet minimum	5 feet minimum
Structural Rear Setback	10 feet minimum ¹	5 feet minimum ²
Wall heights (rear and side)	6 feet maximum	Retaining Walls up to 25 feet in height in rear ³
Wall height (mailbox pedestal)	3 feet 6 inches	4 feet 6 inches ³
Parking	2 covered spaces	6 garage spaces including tandem spaces, 1 carport space

¹ Shallow lot (Section 7-9-128.2) 66’10”x15% = 10’

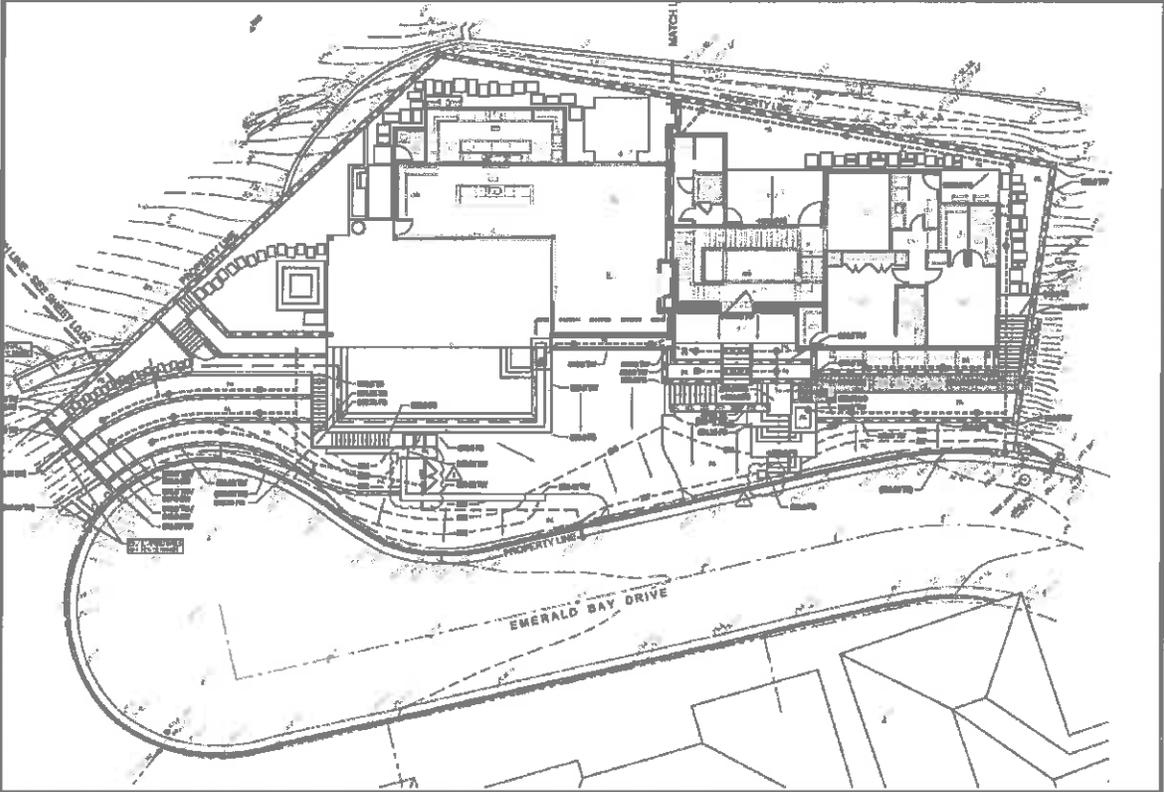
² Indicates Variance requested by the applicant

³ Indicates Use Permit requested by the applicant

Existing Development Footprint



Proposed Development Footprint



Coastal Development Permit

The project would permit demolition of the existing residence and the construction a new three-level single-family residence and would include a total of 1,170 cubic yards of grading (cut and fill), and 800 cubic yards of export. The proposed development pad for the site would be lowered from that existing so that slopes along the street would be reduced from approximately 15 to 20 feet down to approximately 3 to 5 feet.

Within the Coastal Development Overlay zone, and specifically within the Emerald Bay Local Coastal Program (LCP), the demolition and the construction of a structure, with the associated site grading, requires the approval of a Coastal Development Permit (Zoning Code Sections 7-9-118.3, 7-9-118.4, 7-9-118.5 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 received the approval of the Emerald Bay Community Association (EBCA) Board at its meeting of November 6, 2018. 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 – Front and Rear yard setback

The subject property qualifies as a shallow lot with an average depth of 61 feet 10 inches. This would permit front and rear setbacks of 10 feet (15% of 61 feet 10 inches). The project requests a minimum front yard setback of 5 feet for one corner of a carport cover, and a minimum rear setback of 5 feet for three room corner projections of the proposed floor plan, totaling approximately 320 square feet of living area within two levels of the proposed 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.)

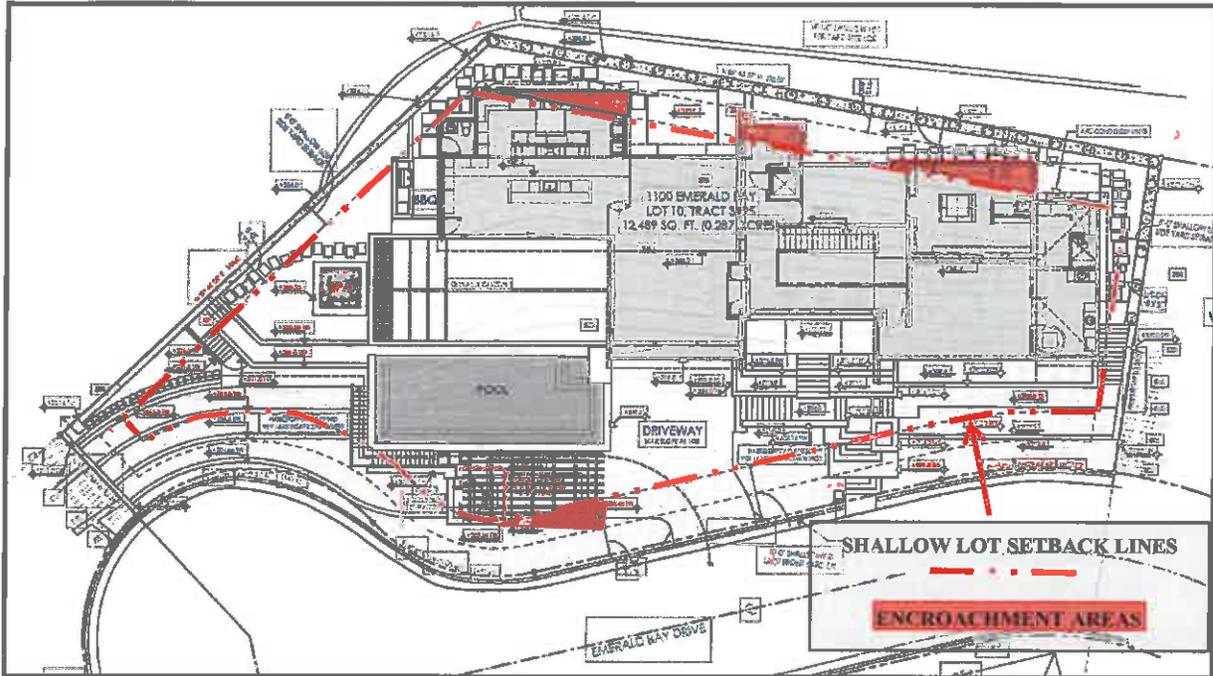
b. No special privileges. Approval of the application will not constitute a grant of special privileges which are inconsistent with the limitations placed upon other properties in the vicinity and subject to the same zoning regulations, when the specified conditions are complied with.

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.

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.

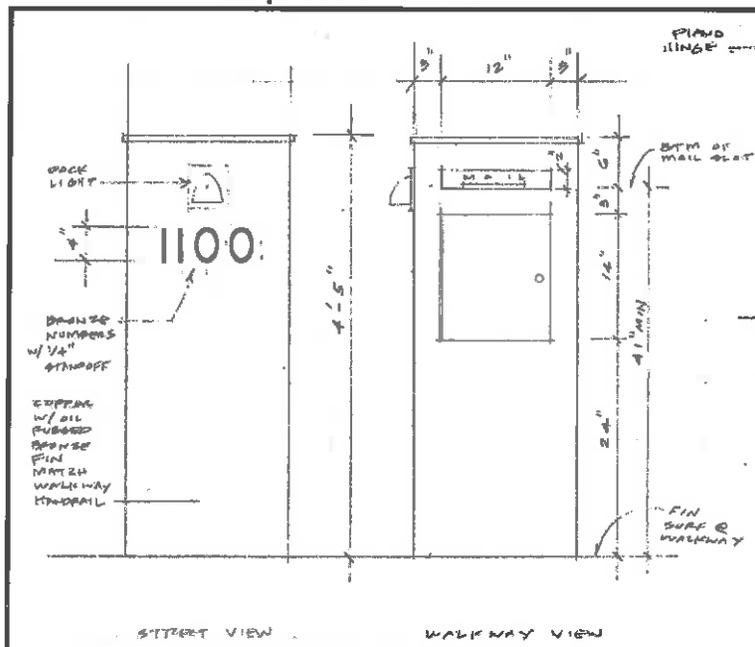
Front and Rear Yard Setback Variance



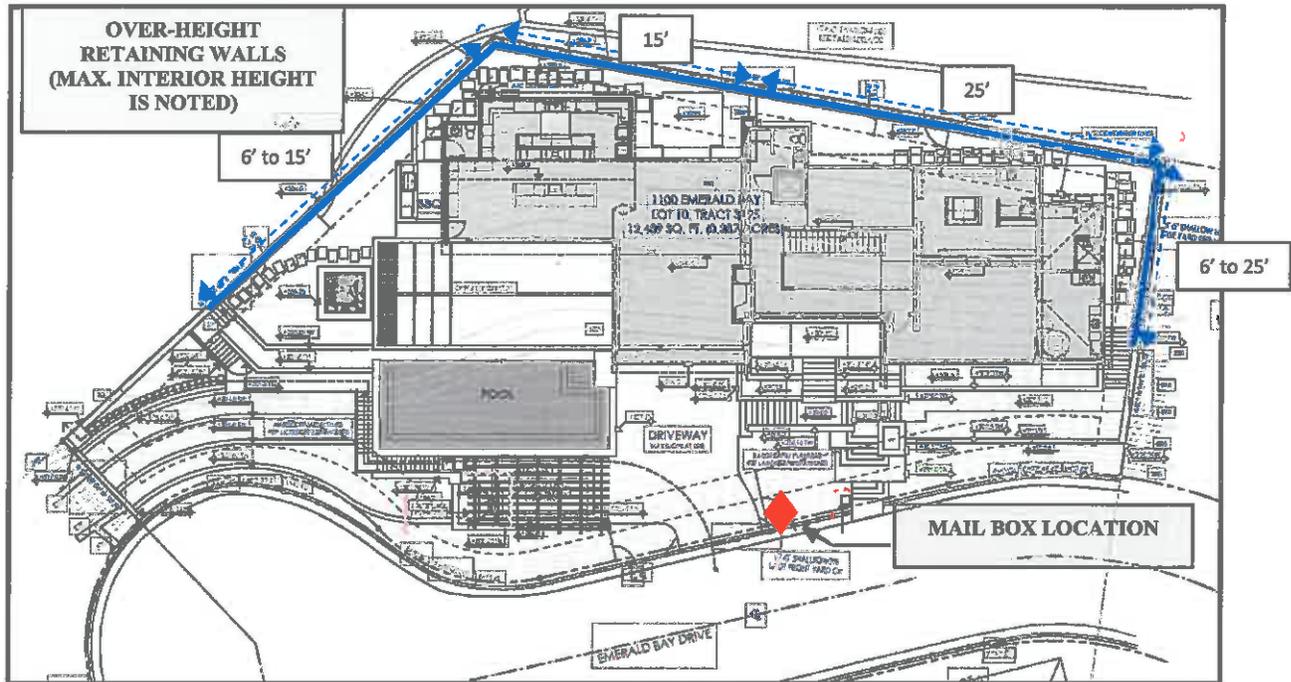
Use Permit - Over-Height Mailbox in Front Setback; Over-height Retaining Wall in Rear Setback

The applicant also proposes a stand-alone mailbox pedestal at the street driveway entry which would be 54 inches in height, where the Zoning Code would restrict the height to 42 inches. The pedestal would be 18 inches square. The Zoning Code requires approval of a Use Permit in order to allow a structure to exceed the otherwise maximum height.

Proposed Mailbox Pedestal



As noted above the proposed project would grade down the pad area of the lot closer to street grades in order to increase the pad area and eliminate the need for a steep driveway slope. This will result in over-height retaining walls at the rear of the property. These walls would be up to 25 feet in height on the interior of the wall but will be 6 feet or less when viewed from off-site. Over-height retaining walls (over 6 feet) have been commonly requested and approved within the Emerald Bay community in order to address generally substandard R1 lot areas as well as the sloping terrain of the community.



Zoning Code Section 7-9-137.5(f), Modifications permitted, states that exceptions and modifications to the fence and wall height provisions may be permitted by approval of a Use Permit by the Zoning Administrator if the following findings can be made:

- 1) That the height and location of the fence or wall as proposed will not result in or create a traffic hazard.
- 2) That the location, size, design and other characteristics of the fence or wall will not create conditions or situations that may be objectionable, detrimental or incompatible with other permitted uses in the vicinity.

The proposed over-height portions of the retaining walls will be at the rear of the property and will not result in or create a traffic hazard. The location, size and design of the walls are consistent with similar improvements throughout Emerald Bay and will not be objectionable, detrimental or incompatible with other permitted uses within the community. The mailbox pedestal would be slightly larger than currently permitted but would be in scale with the proposed residence. Additionally, the property is at the end of a cul de sac street with minimal drive-by traffic. Finally, the pedestal would be conditioned to require conformance with the County's line of sight standards.

Staff recommends that the two required findings to modify permitted retaining wall heights and the mailbox pedestal can be made. Recommended findings are included in Attachment 1.

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 April 18, 2019. Additionally, a notice was posted at the project site, the County Hall of Administration and at the 300 N. Flower Street Osborne Building, 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 November 6, 2018.

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 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, 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:

(l) Demolition and removal of individual small structures listed in this subdivision:

(1) One single-family residence. . .

The project includes the demolition of a 3,649 square foot single-family residence and attached garage with a new single-family residence and attached garage area. 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, and fences/walls as well as 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 existing residence will be demolished, and a new residence will be constructed in substantially the same footprint as shown on the attached site plan. 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 reconstruction of the residence is consistent with the Class 2 Exemption because the new residence will have substantially the same purpose and capacity as the structure replaced.

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.

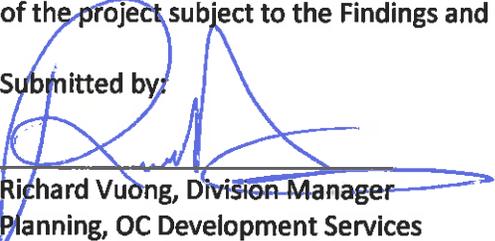
The proposed project is eligible for a Class 3 exemption because construction of a single-family residence and the related improvements including the garage, pool, patio and fences are specifically included in the list of examples.

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, 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.

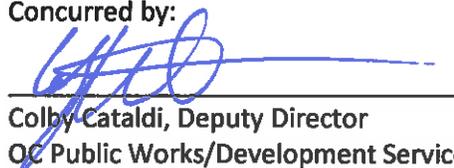
CONCLUSION

Staff has reviewed the applicant’s request for a Coastal Development Permit, Variance and Use 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 “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. 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

PA190001

1 **GENERAL PLAN** **PA190001**

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** **PA190001**

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** **PA190001**

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** **PA190001**

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

5 **PUBLIC FACILITIES** **PA190001**

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** **PA190001**

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

7 **COASTAL DEVELOPMENT PERMIT 2** **PA190001**

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

8 **COASTAL DEVELOPMENT PERMIT 3** **PA190001**

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** **PA190001**

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** **PA190001 (Custom)**

That the proposed project is Categorically Exempt from the California Environmental Quality Act (CEQA), under the Class 1 (*Existing Facilities*), Class 2 (*Replacement or Reconstruction*) and Class 3 (*New Construction or Conversion of Small Structures*) exemptions pursuant to Sections 15301, 15302 and 15303 of the California Environmental Quality Act (CEQA) Guidelines and County of Orange procedures.

11 **FISH & GAME - EXEMPT** **PA190001**

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** **PA190001**

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 **FENCE AND WALL 1** **PA190001**

That the height and location of the over-height walls within the side and rear property lines areas and the height and location of an over-height mailbox pedestal within the front setback will not result in or create a traffic hazard.

14 **FENCE AND WALL 2** **PA190001**

That the height and location of the over-height walls or pedestals as proposed will not create conditions or situations that may be objectionable, detrimental or incompatible with other permitted uses in the vicinity.

17 **VARIANCE 1** **PA190001**

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, shape and slope.

18 **VARIANCE 2** **PA190001**

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

PA190001

1 BASIC/ZONING REGULATIONS PA190001

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 PA190001

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 PA190001

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 PA190001

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 PA190001

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 PA190001

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 PA190001

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 PA190001

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 PA190001

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

- Operation and Maintenance (O&M) Plan that (1) describes the long-term operation and maintenance requirements for BMPs identified in the BMP Exhibit; (2) identifies the entity that will be responsible for long-term operation and maintenance of the referenced BMPs; and (3) describes the mechanism for funding the long-term operation and maintenance of the referenced BMPs

The BMP Exhibit from the approved WQMP shall be included as a sheet in all plan sets submitted for plan check and all BMPs shall be depicted on these plans. Grading and building plans must be consistent with the approved BMP exhibit.

12 PRIVATE LANDSCAPING PA190001

A. Prior to the issuance of precise grading permits, the applicant shall submit a detailed landscape plan for the project area which shall be approved by the Manager, Permit Services in consultation with the Manager, OC Planning. The plan shall be certified by a licensed landscape architect or a licensed landscape contractor, as required, as taking into account approved preliminary landscape plan (if any), County Standard Plans for landscape areas, adopted plant palette guides, applicable scenic and specific plan requirements, and water conservation measures contained in the County of Orange Landscape Code (Ord. No. 09-010).

B. Prior to the approval of final inspection, applicant shall install said landscaping and irrigation system and shall have a licensed landscape architect or licensed landscape contractor, certify that it was installed in accordance with the approved plan.

C. Prior to the approval of final inspection, the applicant shall furnish said installation certification, including an irrigation management report for each landscape irrigation system, and any other implementation report determined applicable, to the Manager, Permit Services.

13 ROAD FEE PROGRAM PA190001

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

14 SIGHT DISTANCE PA190001

Prior to the issuance of any grading permits, the applicant shall provide adequate sight distance per Standard Plan 1117 at all street intersections, in a manner meeting the approval of the Manager, Permit Services. The applicant shall make all necessary revisions to the plan to meet the sight distance requirement such as removing slopes or other encroachments from the limited use area in a manner meeting the approval of the Manager, Permit Services.



January 17, 2019
County of Orange, OC Public Works, OC Planning
Land Use Planning
300 N. Flower
Santa Ana, CA

**RE: Letter of Project Proposal and Scope of Work:
The Flornes Residence and variance**

Owner: Mr. Brian Flornes
1100 Emerald Bay
Laguna Beach, CA 92651
APN: 053-320-11
Lot: 10 Tract: 3125

The project proposes to demolish the existing house 4,572 sq. ft. home and reconstruct a new 2-story (w/ a basement) single family residence. The proposed 5,973 sq. ft. (livable space) hillside construction will have 4 Bedrooms, 5 Full Baths, and 3 half baths. An infinity edge pool shall be located on a terrace, above the Garage.

The existing residence is to be completely removed and permanent shoring walls will be constructed, as required, to construct the proposed residence.

This house has been recently approved at very stringent Preliminary Architectural Design Review process. This review process ensures that New Construction abides to strict architectural guidelines to not disrupt the harmonious setting of Emerald Bay.

Special Circumstance

We are proposing a variance to the required (R-1 zoned) setbacks. Due to this being (by definition) a “shallow” lot, by maintaining an average depth less than 100’. Emerald Bay Design Review Board delineates a 5’ (front, rear, side, etc.) yard setbacks to be maintained.

General Welfare

This proposed project will in no way effect the public health and safety of the general welfare for residents, visitors, wildlife, or others concerned.

Sincerely,

Agent of Owner – Project Coordinator / Designer

Charles d'Arcy 

Property Owner

Brian Flornes

APPLICANT: FLORNES
ADDRESS: #1100
PROJECT: 2855 TRACT: 3125 LOT: 10
SCOPE OF WORK: NEW RESIDENCE WITH MAJOR LANDSCAPE/
 HARDSCAPE
SUBMITTAL: PRELIMINARY
ARCHITECT: Charles d'Arcy
 Phone: 949-497-0202
 License: C32314
LANDSCAPE ARCHITECT: Brad Frankel, EPT Design
 Phone: 626-795-2008

Architectural review by Ken Wilkins

Landscape review by James Dockstader

FINAL COMMITTEE RECOMMENDATION: APPROVAL

HISTORY OF SUBMITTALS:

- | | | |
|------------------|-------------|--------------|
| • September 2017 | CONCEPT | ACKNOWLEDGED |
| • January 2018 | CONCEPT (2) | ACKNOWLEDGED |

SUMMARY OF PROPOSED ARCHITECTURAL IMPROVEMENTS:

The scope of work indicated in the Submittal Application is the construction of a new residence of approximately 8,663.9 SF, which includes a 6-car garage. There are no decks indicated. The residence is two stories plus a basement.

The areas are indicated on the submittal overlays to be:

	PROPOSED (Previous submittals were unclear)
• Upper Level	3,351.6 SF
• Mid Level	2,385.5 SF
• Lower (Basement) Level	660.7 SF
• Garage	2,266.1 SF
• Cantilevered Deck	0 SF
• Supported (Anchored) Deck	0 SF

Due to substantial lack of clarity of the overlays submitted at Concept the floor areas noted then could not be relied upon and are not represented here.

SUMMARY OF PROPOSED LANDSCAPE IMPROVEMENTS:

Proposed landscape improvements include: Walls, pool, spa, firepit, BBQ, paving, planting, irrigation.

STAFF ARCHITECTURAL FINDINGS:

1. ARCHITECT STAMP (Section B.2): The plans are stamped and signed. **This is checked at each submittal. OK**

2. ARCHITECTURAL REVIEW - SUBMITTAL COMPLETENESS (Section B.5): Submittal is generally complete enough for review. **OK**
3. LOT COVERAGE (Section C.1): The lot coverage is indicated on the Plan Submittal Application as 38.7% (4,841.5 / 12,489). Overlays were provided. **OK**

Portions of patios, pools, paving and other elevated surfaces that are more than 5 feet above finish grade must be included in Lot Coverage calculations. **It appears the walls are not over 5 feet high therefore, they are not included in the Lot Coverage calculation. SEE STAFF LANDSCAPE FINDING - OK**

4. **SETBACKS (Section C.2):** The residential structure appears to respect the 5'-0" minimum setbacks. The Committee reserves the right to require greater setbacks. The garage and pool above are setback approximately 12 feet (minimum) to 24 feet (maximum) from the street with the total wall height of approximately 18' tall. This is further away from the street as shown in the Concept 2 submittal, but it is unclear how much since the scale of those plans were not consistent. **OK**

A trellis element has been added in front of the garage. The minimum setback from the street is approximately 6'-6" **OK**

5. **UTILITY EASEMENTS (Section C.3):** Portions of retaining walls, stairs and planters are allowed within the Utility Easements. **Show concept of below grade structural foundation and shoring system.**

There is a path provided for Service District access to the perimeter of Emerald Bay for their annual required Fuel Management program. (Per OCFA)

These will be reviewed by the Emerald Bay Service District prior to Final approval. The Service District is limiting encroachments into the utility easements to 18" – 24" max.

For further review by the Emerald Bay Service District include consideration for drainage management along the perimeter wall location along state property at time of Final.

6. PARKING (Section C.4): The parking area is indicated on the Plan Submittal Application as 7,649.9 SF. The Garage area used for required parking (430 + 156 + 156 + 136 + 136 + SF = 1014 SF) does not need to be included in the parking calculations. (Total area 8663.9 SF. – 1014 SF. = 7,649.9 SF) and requires a two-car Garage and five additional off-street parking spaces. Six parking spaces are indicated in the Garage, two required Garage spaces, two regular and two compact off street parking spaces. One regular off-street space is indicated adjacent to the garage. **OK**
7. **SERVICE YARD (Section C.5): Not indicated. A trash area is noted inside the Garage. This is not allowed.**
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. **The Committee will review at the Final review.**
9. NUMBER OF STORIES (Section D.1): No Structure shall exceed two stories in height. This does not include Basements as defined by the Architectural Regulations.

A signed certified copy of the "1959 Contour Lines" was submitted. **The Committee previous discussed and allowed the use of the 1959 certified topo for this project. OK**

First Basement Rule: If the elevation of the finished floor level directly above a basement, cellar or unused under-floor space is more than 6 feet above Natural Grade for more than 50% of the total

perimeter or is more than 12 feet above Natural Grade at any point then such level is considered a "story".

The proposed structure is two stories and a basement level which appears to meet the requirements of the First Basement Rule. **OK**

10. **BUILDING HEIGHT (Section D.2):** "The height of any structure on any Lot or Parcel in this Tract shall not exceed (15) feet above the highest level of the Lot or Parcel upon which is built, and shall not exceed (20) feet above the Natural Grade of the Lot or Parcel".

The applicant submitted a signed 1959 Topo. The 1960 Laguna Beach Ariel Topo Map shows the site graded with a flat pad in preparation for the construction of the current house in 1960. A letter was submitted from Toal Engineering verifying the validity of the 1959 Topo included with the submittal. **The Committee has determined it is appropriate to use the 1959 certified Topo for evaluating heights for this project. OK**

The Committee has discretion on the height of chimneys. The Committee evaluates the height and mass of a chimney on a case by case basis. In no event shall a chimney exceed 30 above Natural Grade at its highest point. **The front chimney is noted as 2.8 ft above the 20 foot height envelope but does not appear to impact neighbor views. It is unclear if it is at the minimum required height per code**

The remaining structure appears to respect the height envelope. **OK**

11. **COMPATIBILITY (Section D.3):** Materials indicated include grey slate, standing seam copper and built-up roofing with exposed cedar driftwood rafter tails, smooth stucco and limestone veneer exterior walls, steel doors and windows, steel railings and unknown garage doors.

The structure will appear higher above the street than evident by the stakes given the excavation for the garages at the street level. Due to the increased setbacks, stepped terraced planters, planting and close proximity to the height of the existing house the Committee appreciated the changes made to address previous concerns of both the Committee and the neighbors.

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.

Existing non-conforming elements:

- N/A

New non-conforming elements:

- **Front Chimney height above the 20-foot height envelope (Committee discretion). Appears higher than the minimum required by Code for a gas burning fireplace.**

13. **ROOFS (Section D.5):**

Roof pitch: 4:12 **OK**

Flat roof: Roof slopes less than 3:12 are considered flat. The maximum area of flat roofs allowed is 15%. An overlay was provided. The identified flat roof area is noted as 10.5%. **OK**

Roof materials: Slate, standing seam copper and built-up roofing are indicated. Noted as Class "A". **OK**

Roof Equipment: None shown. **OK**

Parapet: None shown. **OK**

14. ROOF DECKS (Section D.6): None indicated. **OK**
15. MATERIALS AND COLORS (Section D.7): **The Committee will review the color and materials at the Final review.**
16. WINDOWS AND DOORS (Section D.8): Steel indicated. **OK**
17. ANTENNAS (Section D.9): None indicated. **OK**
18. **SOLAR PANELS (Section D.10). Noted in 4 “solar zones” Omit references to solar zones or otherwise include the required solar design documents at time of Final.**
19. SKYLIGHTS (Section D.11): Noted 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 fixtures must be complementary to the architectural style of the residence.**

Some wall mounted fixtures are shown and noted as down lit or shielded. Fixture cutsheets will be required at Final submittal for review of style and shielding of light source.

Due to the unique siting of this lot the Committee will carefully review the light fixtures to evaluate glare from the street when looking up towards the house. [PREVIOUS COMMENT]
21. GUTTERS AND DOWNSPOUTS (Section D.13): Indicated. **OK**
22. OTHER COMMENTS:
 - A certified 1959 topo showing the lot area was submitted
 - Written comments were not received from the neighbors for this submittal.

STAFF LANDSCAPE FINDINGS:

1. SUBMITTAL COMPLETENESS (Section B.5): Submittal must be generally complete enough for review. **OK**
2. LANDSCAPE STRUCTURES ARE SET BACK 5' FROM LOT BOUNDARIES (Tract Schedule A Exhibits): Except for fences and walls, structures are 5' from PL. **OK**

UTILITY ELEMENTS / EBSD SUBMITTAL: Evidence of EBSD review and approval will be required at the time of final submittal. **Reviewed at time of final**

3. LOT COVERAGE (Sec C.1): Landscape features such as raised patios and/or freestanding structures must not create a lot coverage overage. **OK**
4. SITE DRAINAGE (Sec C.6): A conceptual grading and drainage plan must be included, generally showing adequate site drainage. **OK**

The Committee notes that perimeter wall location along State property does not allow for concrete gutter or other strategy for managing water along the property line in a manner that doesn't affect neighbors. EBSD will likely require that the issue be addressed and the Committee wants those approaches incorporated in the next submittal.

5. CURBS AND GUTTERS (Sec C.7): For new residences and major remodels, plans must show complete replacement of curb and gutter along entire street frontage with reference to EBSD requirements. **Not shown**
6. BACKFLOW PREVENTION (Sec C.8): A backflow prevention device must be installed for proposed irrigation systems and must not be located on Association Property. **Reviewed at time of final**
7. EXTERIOR MECHANICAL EQUIPMENT (Sec E.1): Mechanical equipment shall not be located in easement areas. **Pool equipment is shown in alcove off garage (shown 6'-5" max height of alcove). OK**

AC condensers are proposed in sunken rear yard

Mechanical spa equipment appears to be screened from view. **OK**

Noise impacts on adjacent neighbors must be avoided and/or minimized. **Reviewed at time of final submittal of acoustical report.**

An acoustical report prepared by a qualified expert is submitted showing that anticipated noise impacts are less than the County maximum at the nearby property lines. **Submit at time of final**

Acoustical report assumptions and recommendations are consistent with submittal drawings. **Reviewed at time of final**

8. EXTERIOR LIGHTING (Sec E.2): Landscape lighting proposals must be shown and must appear to limit glare and annoyance. **Numerous uplights with high wattage are shown throughout. In front, 21 uplights and 10 tree downlights are proposed.**
9. FENCES, WALLS, AND HEDGES (Sec E.3):

In front yard setback areas fences, hedges, and walls are to be 4' high or less as compared to adjacent top of curb elevations. For corner lots, the maximum height is 3'. **OK.**

Between the front yard setback and the house structure fences, walls, hedges, railings or other features are to be 4' high or less compared to finished grade. **OK**

Front yard improvements address issues of visual impact, compatibility, and contributions to common visual streetscape. **OK**

In side yard and rear yard setback areas fences and/or walls must be 6' high or less as compared to existing grade along neighbor's side of property line. **OK**

Property line fences, walls, and footings must be constructed completely on the subject property. **OK**

Block walls are finished on all sides. **OK**

At the street fences, walls, and railings must be held back a minimum of 18 inches from face of curb. **OK**

10. PLAY EQUIPMENT AND PLAY HOUSES (Sec E.5): Issues of noise and visual impact have been adequately addressed. **None proposed. NA**

11. MAILBOXES (Sec E.6): Design and location must be shown. **Not shown.**

12. OUTDOOR FIREPLACES, FIREPITS, COOKING ELEMENTS (Sec E.7): Outdoor fireplaces, BBQs, and ovens shall be a minimum of 5' clear of any property line and must be gas only. **OK**

The minimum setback for any open firepit shall be a minimum of 10'. **OK**

13. WATER FEATURES, SWIMMING POOLS, SPAS (Sec E.8): Pool and spa structures are located entirely outside the 5' utility easement area. **OK**

Issues of noise and visual impact must be adequately addressed. **OK**

Security/pool fencing is shown. **OK**

14. PARKWAY ACCESS (Sec E.12): Planting and paving within 18-24" of face of curb shall allow for convenience of on-street parking **Plan appears to show Pittosporum and Aeonium close to curb.**

15. IMPROVEMENTS ON EBCA PROPERTY (Section C, Part 21): Trees, hedges, and structures are not proposed on EBCA property. **OK**

16. POTENTIAL OBSTRUCTION OF VIEW (Sec A.5): Trees and shrubs must not unreasonably block a neighbor's view. **OK**

17. PREPARATION BY LANDSCAPE ARCHITECT (Sec B.2): **OK.**

18. FUEL MODIFICATION (Sec E.14): Highly flammable target species shall not be proposed. **Proposed Melaleuca linarifolia may be on the County's target species list.**

Perimeter properties appear to be consistent with Orange County requirements for Zone A. **Probably not. Applicant should provide proposals which are consistent with the fuel modification requirements of the Fire Authority and approvable by the County.**

19. OTHER:

- None

FINAL COMMITTEE RECOMMENDATIONS:

1. The Committee initially recommended disapproval of the plans submitted. The following items were adequately address by the Tuesday meeting, therefore the Committee recommends **Approval.**

- a. The Committee reviewed the stakes at the site and finds:
 - i. The chimney may be higher than the minimum required by code – confirm. **Reduced to minimum required by code**
 - ii. Otherwise the Committee takes no exception and appreciates the efforts to include terracing to minimize wall and planter heights.
 - b. Show location of Service Yard outside of garage. **Shown**
 - c. Show the anticipated location of the structural foundation system and shoring in concept to examine the projection into the utility easement is not greater than 24". **Shown and noted. This will be adjusted at time of Final when structural drawings are developed. Applicant is aware the house may need to be pulled away from the property line if the structure foundation size increases.**
 - d. Omit reference to solar zone or provide solar design drawings at time of Final. **Additional information will be provided at Final of note removed at next submittal**
 - e. Label route provided fore Service District access to the perimeter for required annual fuel management. **Shown - OK**
 - f. Regarding perimeter walls and water management, address issue with EBSD and show any required improvements **at time of Final. The Committee recommends the discussion with EBSD is done prior to final site drainage is designed. Gutter on owner's property shown. Applicant acknowledged the meeting with the Service District will be coordinated accordingly.**
 - g. Show complete replacement of curb and gutter, referencing EBSD requirements **Shown - OK**
 - h. Reduce number and wattage of uprights throughout, with a significant reduction in front. **Reduced to one up light per tree – Maximum wattage of 4 watts OK**
 - i. Show location and design of mailbox **Provided OK**
 - j. Pull shrubs such as Aeonium and Pittosporum back from curb to allow for parking convenience and ease of maintenance. **Pulled away from curb - OK**
 - k. Remove OCFA Target Species (*Melaleuca linarifolia*) from plan and otherwise submit proposals that are consistent with OCFA fuel mod regulations and approvable by the County. **Removed and replaced with Arbutis - OK**
2. At time of FINAL submittal:
- a. An executed Easement Agreement recorded with the County of Orange for improvements on EBCA property will be required for improvements on EBCA property. An Encroachment Permit application and exhibits prepared by a licensed civil engineer describing the area of the Easement and legal descriptions are required for EBCA to prepare the agreement if required. This is required to be approved by the EBCA Board of Directors prior to the approval of the project.

- b. Submit drawings and the application fee of \$400 to EBSD for review. Provide evidence of EBSD review and approval. The preliminary plans must be developed in sufficient detail to confirm that there will be no structural encroachments into the 5' easement. If caissons are required for the foundation, they must be shown on the Final submittal for review by the Service District Engineer.
 - c. Submit information and design regarding solar panels if they are included in this project. Otherwise remove reference so they can be considered separately in a future submittal.
 - d. An acoustical report prepared by a qualified expert must be submitted showing that anticipated noise impacts are less than the County maximum at the closest property line. Submitted plans must be consistent with recommendations of the report.
 - e. For review of proposed changes to the existing color and materials, a board must be submitted of actual color and material samples, not photographs.
 - f. Submit cutsheets for proposed architectural light fixtures.
3. Note:
- a. Approvals are only 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.

Charles d'Arcy (Architect) and Bob White (Designer); Brian Flornes (Owner) were in Attendance to discuss the submittal.

Members Present:

Aram Bassenian #1105

Sid Petersen #1109

At their meeting on November 6, 2018 the Board voted to Approve the recommendation of the Architectural Committee.