

## OC PLANNING REPORT

**DATE:** May 2, 2018

**TO:** Orange County Zoning Administrator

**FROM:** OC Development Services/Planning Division

**SUBJECT:** Public Hearing on Planning Application PA180033 for a Coastal Development Permit, Use Permit, Variance and Lot Line Adjustment

**PROPOSAL:** A request for the approval of a Coastal Development Permit, Use Permit, Variance and Lot Line Adjustment in conjunction with the remodeling of a two-level single-family residence adding approximately 1,327 square feet to the residence and an attached 685 square foot garage.

The Coastal Development Permit is requested to increase the existing floor area by more than 10% in the Emerald Bay Local Coastal Plan area, with associated grading.

The Lot Line Adjustment is requested to modify three existing legal building sites (all substandard to the minimum 7,200 square feet area now required) into two legal building sites, one of which would remain substandard but would not decrease in area.

The Use Permit is requested for a proposed over-height wall. A privacy wall is proposed in the front setback area at 5 feet in height where Zoning would limit the wall to 3 feet 6 inches in height. A Use Permit is also required to reduce the minimum driveway length to 14 feet where Zoning would require a minimum of 18 feet.

The Variance is requested to reduce the required front, side and rear setback areas. Front and rear setbacks are proposed at 4 feet 7 inches and 5 feet 1 inch respectively where Zoning would require a setback of 18 feet 5 inches based upon the Zoning Code's shallow lot criteria. One side yard is proposed at a setback of 4 feet 5 inches where the Zoning Code would require a setback of 5 feet.

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

**APPLICANT:** Peter Fox, Property Owner  
Paul Shaver, CAA Planning, Agent

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

**RECOMMENDED ACTIONS:**

OC Development Services/Planning Division recommends Zoning Administrator:

- a) Receive staff report and public testimony as appropriate; and,
- 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 procedures; and,
- c) Recommend approval of Lot Line Adjustment LLA2019-07 by the Planning Director; and,
- d) Approve Planning Application PA180033 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 Lots 6, 7 and 8 of Tract 977 recorded in 1931. All three lots are less than the current 7,200 square foot minimum for the R1 District, with Lot 6 at 5,708 square feet, Lot 7 at 4,548 square feet and Lot 8 at 4,109 square feet. An existing 2,566 square foot residence has been built across portions of Lots 6 and 7. A detached 486 square foot garage exists crossing the common property line between Lots 7 and 8. The topography of the site falls slightly from east to west (side to side) and north to south (front to rear). The rear property line of the site abuts a shared auto court that provides vehicle access to eight residences, including the subject site.

**PROPOSED PROJECT**

The project proposes demolition of the detached garage and a remodeling of the existing residence to add 1,327 square feet and an attached three-car garage of 685 square feet. Additionally, the applicant requests approval of a lot line adjustment that would adjust the three existing lots into two lots, one with the remodeled residence and one vacant for future development.

**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	"Single-Family Residence" (R1)(CD)(SR) District	Single-Family Dwelling

**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(s)	7,200 square feet	8,526 square feet - Parcel 1 5,839 square feet - Parcel 2
Maximum Building Height	35 feet maximum	24 feet
Structural Front Setback	18 feet 5 inches <sup>1</sup>	4 feet 7 inches
Structural Rear Setback	18 feet 5 inches <sup>1</sup>	5 feet
Structural Side Setback	5 feet	4 feet 5 inches <sup>2</sup>
Wall heights in front setback	3 feet 6 inches maximum	Wall up to 5 feet in height <sup>3</sup>
Parking	2 covered	3-car garage (2 standard spaces, 1 substandard)
Driveway depth	18 feet (roll-up door to curb)	14 feet minimum, 16 feet average <sup>3</sup>

<sup>1</sup> Zoning Code Section 7-9-128.2 (Shallow lot) – 91.8’ avg. depth x 0.20 = 18.4’

<sup>2</sup> Indicates Variance requested by the applicant for one side yard

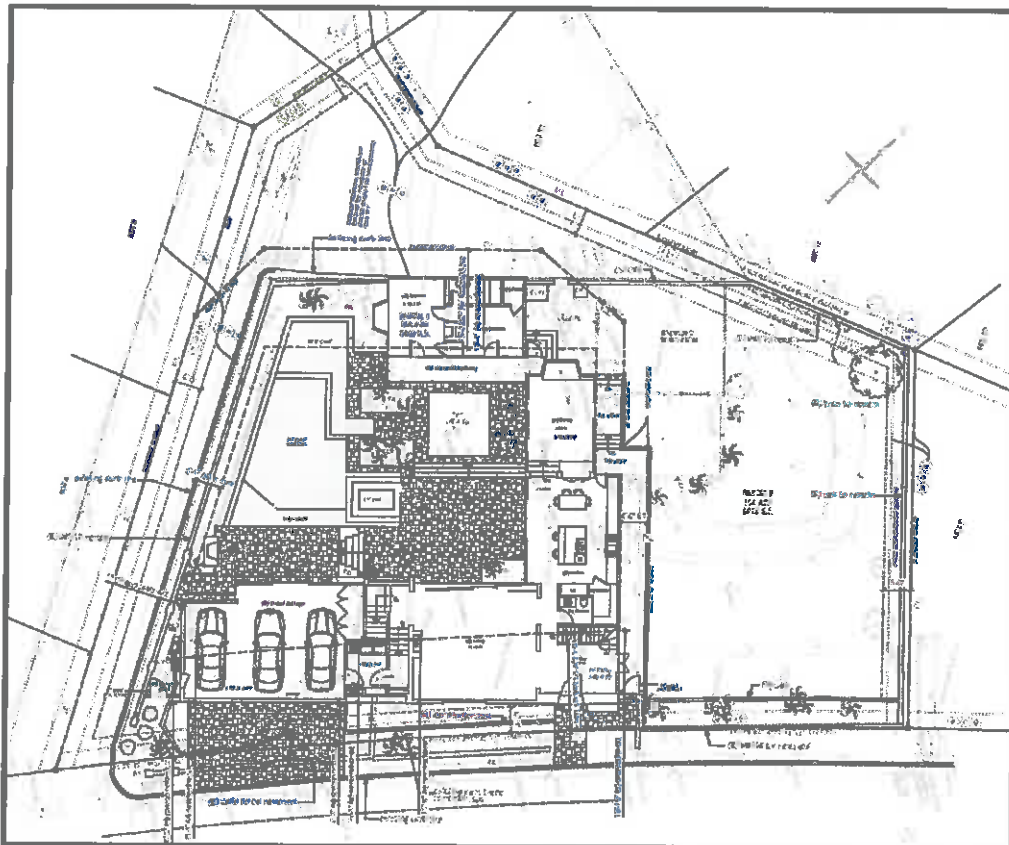
<sup>3</sup> Indicates Use Permit requested by the applicant

### Coastal Development Permit

The project would allow the remodeling of the existing residence including rooms additions totaling 1,327 square feet and a new attached three-car garage are of 685 square feet. A Coastal Development Permit is required when an addition would increase the existing residence by more than 10%. The proposed addition is a 50% increase.

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.

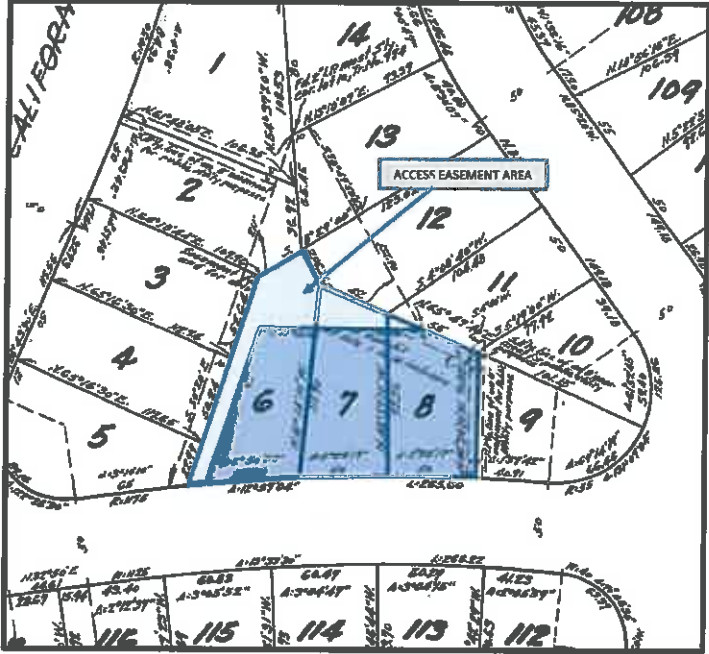
The project received the approval of the Emerald Bay Community Association (EBCA) Board at its meeting of March 26, 2019. The project is compatible with surrounding development in its size, design and massing. The subject property is not within the ‘appealable jurisdiction’ area of the LCP.



### Lot Line Adjustment (LLA)

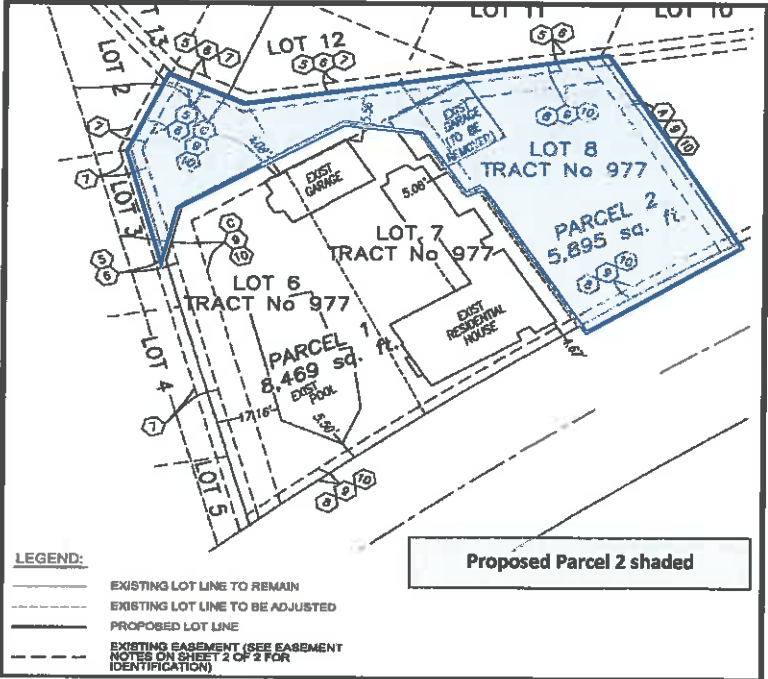
Lot line adjustments require a Coastal Development Permit prior to recordation. For the subject project LLA.2019-07 has been filed with OC Survey and is being reviewed. Should the Zoning Administer recommend approval of the LLA, and following compliance with any OC Survey comments or corrections, OC Development Services/Planning would issue a certificate of compliance and the document would be recorded.

**Existing Lot Boundaries and Access Easement**



The proposed LLA would modify the existing three substandard lots into two lots. The subject project site, proposed Parcel 1 (current area of Lots 6 and 7) would be 8,526 square feet in gross lot area, above the 7,200 square feet minimum area of the R1 District. Proposed Parcel 2 (current Lot 8 area) would increase in area from 4,109 square feet to 5,839 square feet, which is still substandard but would lessen the degree of nonconformity and would remain vacant for future development. Because the action would lessen the existing extent of nonconformity, the LLA may be approved.

**Proposed Lot Line Adjustment LLA2019-07\***



\*This exhibit is subject to minor change to address any Survey comments or corrections. Existing structure locations added for information and are not part of the LLA

Due to the unique situation of the rear portion of the property in question also serving as an autocourt for seven other properties, staff also assessed the LLA lot areas in terms of proposed net area (excluding the easement area) and found that all lot areas were still enlarged. Staff notes that proposed Parcel 2 increases the area of existing Lot 8 by 1,730 square feet, and that almost all this increase is within the access easement area. At such time as development is proposed on Parcel 2, the easement area would not be considered as a buildable part of the Parcel. The buildable portion of Parcel 2 increases by 74 square feet.

Lot/Parcel	Existing Lot Areas (Gross)	Easement area	Net area
Lot 6	5,708	2,264	3,444
Lot 7	4,548	668	3,880
Lot 8	4,109	78	4,031
Total	14,365	3,010	11,355
Lot/Parcel	Proposed Parcel Area (Gross)	Easement area	Net area
Parcel 1	8,526	1,276	7,250
Parcel 2	5,839	1,734	4,105
Total	14,365	3,010	11,355

**Variance – Front, Rear and (Street) Side setbacks**

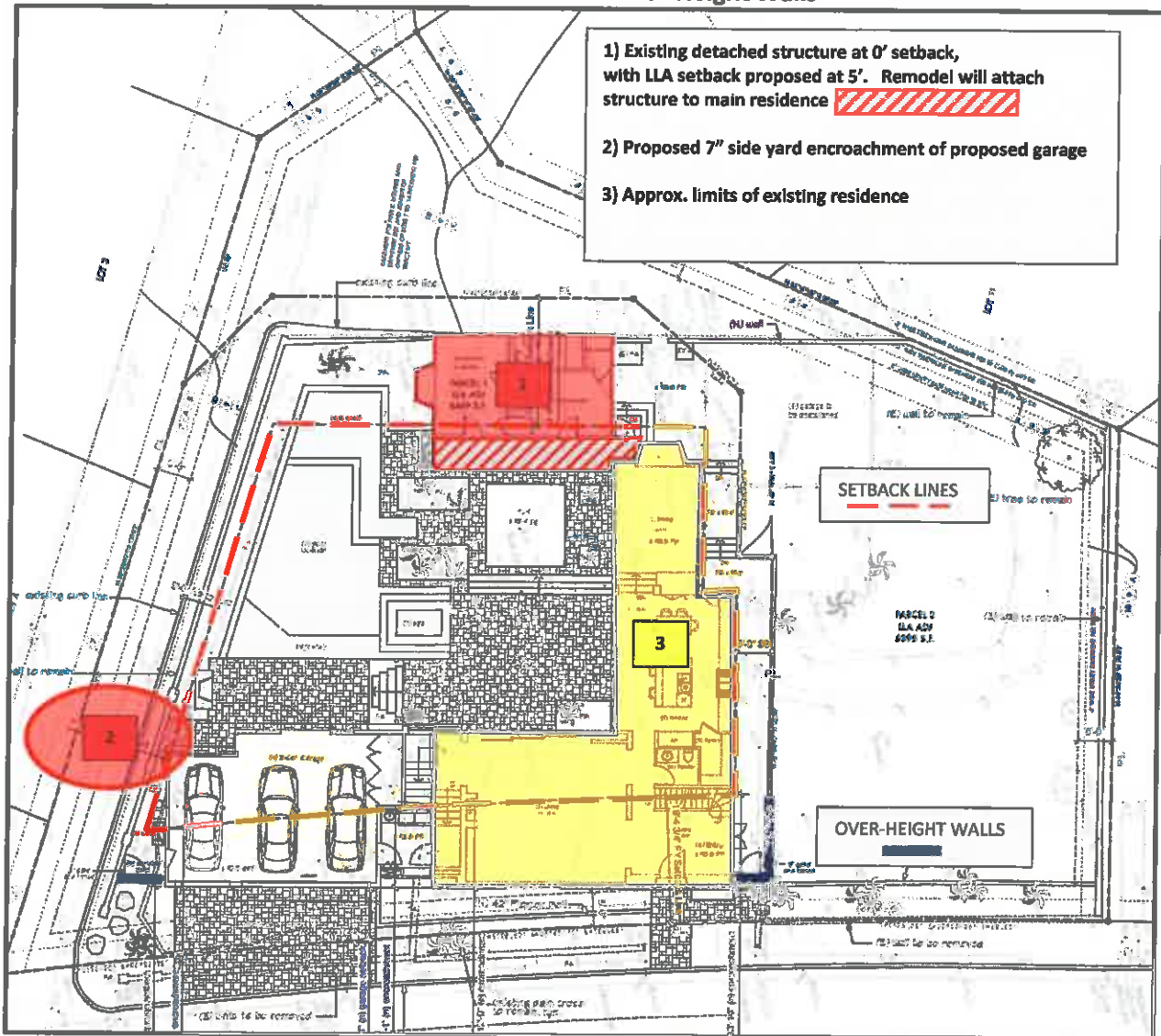
The proposed additions to the residence nearly match the existing front yard nonconforming setback of 5 feet but would encroach by an additional 5 inches due to architectural features rather than an expansion of living area. The rear yard setback for the existing structure would likewise remain functionally unchanged. The current rear setback is approximately 17 feet (minimum) from the property line, however it is at a zero setback from the edge of the access easement. With the proposed LLA, the rear lot line would be repositioned and the structure would have a 5 foot rear setback from property, but would still remain at the edge of the access easement. On the west or street side of the property, a side yard setback of 4 feet 5 inches is requested that would allow the new garage area to accommodate a third (compact) parking space. This 7-inch encroachment would be screened from the adjoining 'street' by an existing 5-foot wall that will remain.

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.*

### Setback Variances and Over-Height Walls



Staff finds that the special circumstances relating to the property include its shape, its constraints with the rear access easement, 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 rear 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.

#### Use Permit - Over-Height Wall in Front Setback, Driveway Depth

The applicant proposes two sections of a privacy wall at 5 feet in height within the front yard setback area. One section would extend from the new attached garage to an existing 5-foot wall that will remain and runs along the side property line and parallel to the access easement 'street' to the autocourt area behind

the property. The second 5-foot wall section would extend from the front entry of the home to the side property line and then continue to the rear of the property.

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 walls will be parallel to the roadway and would 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. Staff recommends that the two required findings to modify permitted wall height can be made. Recommended findings are included in Attachment 1.

The applicant also proposes a driveway depth of less than 18 feet, measured from roll-up door to the curb. Because the street curves slightly, the proposed driveway depth will be 14 feet 6 inches on one side and 17 feet on the other. The new garage will accommodate three vehicles, although only two of the spaces are full sized per County standards. Emerald Bay is a gated community with private streets and controlled parking regulations. The approval of shorter driveways has been approved in many instances due to the general topographical and lot size constraints in the community. OC Traffic did not oppose the approval of the 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 April 19, 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 Attachment 2. The Emerald Bay Community Association approved the proposed project at their Board meeting on March 26, 2019.

Staff was also contacted by a neighbor asking how the increase in the area of Lot 8 would affect future development on the property, his stated concern being potential ocean view blockage. Staff responded that because the buildable portion of the lot increased by only 74 square feet (in a side yard area away from the neighbor's property), the size of a future proposed residence would not, under the County's Zoning Code, be materially affected by the increase in parcel area. It was noted that County Zoning does not include a floor area ratio that functions to relate a structure's size (in square footage of floor area) to the area of the building site. Further, that County Zoning only regulates structure massing in the R1 "Single Family Residence" District by yard area setbacks and by structure height.

Further, regarding possible obstruction of views by a new residence on Parcel 2, staff informed the neighbor that neither the County Zoning Code nor the Emerald Bay Local Coastal Program contained provisions for the protection of private views, only public views and vistas. However, it was noted that



the Emerald Bay Community Association (EBCA) does have architectural guidelines and private CCR controls both of which would have more functional control or influence over the protection of private view blockage than would County regulations. All discretionary County actions are referred to EBCA for review and comment.

### **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:

*(e) Additions to existing structures provided that the addition will not result in an increase of more than:*

*(1) 50 percent of the floor area of the structures before the addition, or 2,500 square feet, whichever is less...*

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

*(4) Accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences...*

The project includes the demolition of a 486 square foot detached garage and the remodeling and addition of 1,327 square feet of living area and a 685 square foot garage to an existing 2,566 square foot single-family residence. This represent an additional 50 percent in floor 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 garage will be demolished and a new residence will be enlarged in substantially the same footprint. 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.*

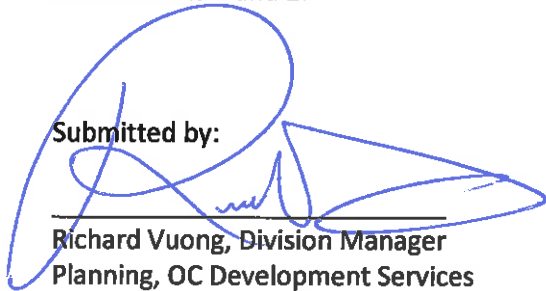
The proposed project is eligible for a Class 3 exemption because construction of a single-family residence and the related improvements including the garage, pool, patio and fences are specifically included in the list of examples.

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

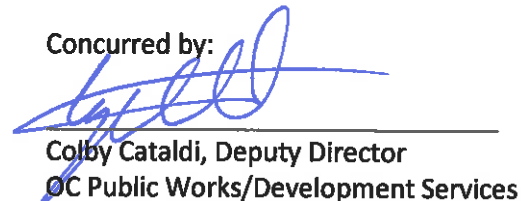
Staff has reviewed the applicant's request for a Coastal Development Permit, Lot Line Adjustment, Variance and Use Permit and found the proposed project to be compliant with the Emerald Bay Local Coastal Program. It is an allowed Principal Permitted Use in the "Single-Family Residence" District and has 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. 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

### PA180033

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**1** **GENERAL PLAN** **PA180033**

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** **PA180033**

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** **PA180033**

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** **PA180033**

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** **PA180033**

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** **PA180033**

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

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**7** **COASTAL DEVELOPMENT PERMIT 2** **PA180033**

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** **PA180033**

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**                                      **PA180033**

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**                                      **PA180033 (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.

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11                                      **FISH & GAME - EXEMPT**                                      **PA180033**

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.

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12                                      **NCCP NOT SIGNIFICANT**                                      **PA180033**

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.

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13                                      **FENCE AND WALL 1**                                      **PA180033**

That the height and location of the over-height walls within the front setback area will not result in or create a traffic hazard.

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14                                      **FENCE AND WALL 2**                                      **PA180033**

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

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17                                      **VARIANCE 1**                                      **PA180033**

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.

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18                                      **VARIANCE 2**                                      **PA180033**

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.

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**LOT LINE ADJUSTMENT**

**PA180033**

That the proposed lot line adjustment conforms with the criteria and requirements of the Emerald Bay Local Coastal Program, the County Subdivision Ordinance and the Subdivision Manual.



## Attachment 2

### Conditions of Approval

#### PA180033

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**1 BASIC/ZONING REGULATIONS PA180033**

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.

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**2 BASIC/TIME LIMIT PA180033**

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.

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**3 BASIC/PRECISE PLAN PA180033**

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.

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**4 BASIC/COMPLIANCE PA180033**

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.

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**5 INDEMNIFICATION PA180033**

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.

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**6 BASIC/APPEAL EXACTIONS PA180033**

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.

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**7 GEOLOGY REPORT PA180033**

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.

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**8 CONSTRUCTION NOISE PA180033**

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.

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**9 EROSION AND SEDIMENT CONTROL PLAN PA180033**

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.

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**10**                                      **DRAINAGE FACILITIES**                                      **PA180033**

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.

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**11**                                      **WATER QUALITY MANAGEMENT PLAN**                                      **PA180033**

Prior to the issuance of any grading or building permits, the applicant shall submit for review and approval by the Manager, Building and Safety, a Water Quality Management Plan (WQMP) specifically identifying Best Management Practices (BMPs) that will be used onsite to control predictable pollutant runoff. The applicant shall utilize the Orange County Drainage Area Management Plan (DAMP), Model WQMP, and Technical Guidance Manual for reference, and the County's WQMP template for submittal. This WQMP shall include the following:

- Detailed site and project description
- Potential stormwater pollutants
- Post-development drainage characteristics
- Low Impact Development (LID) BMP selection and analysis
- Structural and Non-Structural source control BMPs
- Site design and drainage plan (BMP Exhibit)
- GIS coordinates for all LID and Treatment Control BMPs



- 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.

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**12 PRIVATE LANDSCAPING PA180033**

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.

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**13 ROAD FEE PROGRAM PA180033**

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

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**14 SIGHT DISTANCE PA180033**

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.

Prior to the recordation of the lot line adjustment, the applicant shall conform to any and all comments and corrections as identified by OC Survey.



# CAA PLANNING

December 20, 2018

OC Public Works  
OC Development Services  
Attention: Mr. Kevin Canning, Contract Planner  
300 N. Flower St.  
Santa Ana, CA 92702

Subject: Coastal Development Permit Application, 211 Emerald Bay, Laguna Beach, CA 92651

Dear Mr. Canning:

On behalf of Mr. Peter Fox, CAA Planning, Inc. (CAA) submits the attached application requesting a Coastal Development Permit (CDP) to allow for the re-model of an existing R1 residence located at 211 Emerald Bay. The re-model will add 1,327 square feet of livable area to an existing 2,566 square-foot residence, add a 685square-foot garage, and demolish an existing 486 square-foot garage. Minor revisions to the landscape, hardscape, and site drainage are planned to match the building footprint and the existing swimming pool will be re-modeled. The re-model will require the approval of a variance for encroachment into the front, rear and left side setback areas, use permits for reduced length driveways into the new garage and for a wall exceeding 3.5 feet in height within the front setback. Concurrent with the CDP application, the applicant will be processing a lot line adjustment to revise the interior lot lines for the property.

The location of the existing residence is shown on the attached regional and vicinity maps (Exhibits A and B) and the attached aerial (Exhibit C). The project site plan, floor plans, elevations, cross-sections, grading plan, and landscaping plans are shown on the enclosed architectural, civil, and landscape drawings. A copy of the topographic and boundary survey which shows the new interior lot lines proposed by the lot line adjustment.

### Local Coastal Program

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

### Coastal Development Permit

The County Zoning Code (Code) specifies that CDPs are required for existing structures when the internal floor area of the structures increases by more than 10% (Section7-9-118.5.b.(2).a).



Mr. Kevin Canning  
December 20, 2018  
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The existing residence and garage have a combined internal floor area of 3,052 square feet and the revised residence and garage will have a combined internal floor area of 4,578 square feet, which represents a 50% increase. Therefore, a CDP is required for the proposed project. However, since the proposed project is not located between Pacific Coast Highway and the ocean it will not be located within the Coastal Commission appeal jurisdiction as noted in Section III-B of the LCP and delineated on Figure 9 – Post LCP Certification Permit and Appeal Jurisdiction Map (Exhibit E). The proposed project is consistent with the LCP and the County General Plan as further described below.

#### Emerald Bay Building Restrictions

In addition to the County Zoning Code (Code), the development of the subject property is regulated by the Building Restrictions contained in Covenants, Conditions and Restrictions (CC&Rs) which are administered by the Emerald Bay Community Association. In that regard, the proposed project will be closely reviewed by the Emerald Bay Design Review Board (DRB) to ensure it meets the requirements of the CC&R Building Restrictions and will be aesthetically compatible and harmonious with adjacent homes in Emerald Bay. The project has preliminary DRB approval and expects to receive final approval at January 29, 2019 DRB meeting.

#### County of Orange Zoning Code R1 Building Regulations

The residences in Emerald Bay are subject to the County Zoning R1 District Regulations (Regulations) in Code Section 7-9-74.8, established with the adoption of the Emerald Bay LCP in 1989. Many of the Emerald Bay residences were existing at the time the LCP was adopted and may not be in conformance with all of the R1 Regulations. However, the County provides for deviation from the Regulations with variance and use permit approvals. The following discussion outlines the project's compliance with the County's site development standards and identifies those areas where deviations from the Regulations are necessary.

*Building Site Area* – The minimum building site area in the R1 zoning is 7,200 square feet. However, many of the lots in Emerald Bay were established legal lots prior to the adoption of the LCP and are still valid. The subject property is described as Lots 6, 7, and 8 of Tract 977 with a combined area of 14,366 square feet, but as previously stated, the three lots are to be combined in a lot line adjustment which will result in two lots identified as Lots 1 and 2. The existing residence and the subsequent expansion will be located on Lot 1 which will be 8,469 square feet in area. Lot 2 will be vacant and will be 5,895 square feet in area. The Topographic and Boundary Survey drawing in the in the architectural drawing set shows the proposed new lot lines.

*Building Height* – The maximum building height limit allowed for structures in the R1 zoning district is 35' above finished grade. The existing residence is 22'6" high and the proposed addition will be 21'9" high which is well under the maximum allowed height of 35' as shown on the Elevation plan. (Architectural Drawing Sheets A4 and A5). In addition, the Emerald Bay Regulations require that the existing residence must not be higher than 20' above the highest adjacent natural grade. The existing res is 18'2" above the highest adjacent natural grade and the



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proposed addition will be 17'7" high which under the maximum allowed height of 20' (Exhibit G).

*Building Setbacks* – Due to the constraints of developing on a shallow lot and the existing location of the residence, the project requires the approval of a variance for encroachments into the front and rear yard setback areas. The established minimum setbacks for an R1 development developed on a shallow lot (Section 7-9-128.2) of this size are 18.4' for the front and rear setbacks. The proposed side setbacks comply with the Code's Building Lines Chart dimension of 5'. For comparison purposes, Table 1 below shows the setbacks established by the Zoning Code, the setbacks established by the Emerald Bay CC&Rs, and the setbacks for the proposed residence. The Emerald Bay and the proposed setback lines are shown on the project Site Plan (Architectural Drawing Sheet A1) and the Setback Exhibit (Exhibit F).

**TABLE 1**

<b>SETBACKS</b>			
<b>Setback Description</b>	<b>Code Setback Requirement<sup>1</sup></b>	<b>Emerald Bay Setback Requirement</b>	<b>Proposed</b>
Front	18.4'	5'	4.6'
Right Side	5'	5'	5'
Left Side	5'	5'	4.4'
Rear	18.4'	5'	5.1'

<sup>1</sup> Shallow lot setbacks for the front and rear setback areas are calculated per Section 7-9-128.2 of the Zoning Code which allows for a front and rear setback depth to 20% of the average lot depth. Using this method of calculation results in a front and rear setback of 18.4' (91.8 x 0.20 = 18.4').

*Off-street Parking* – The established number of off-street parking spaces for an R1 development is two covered spaces. The Emerald Bay requirement for a house of this size is two covered spaces and one additional off-street parking spaces for a total of three spaces. The proposed residence will provide three covered parking spaces within the garage as shown on the project Site Plan and the Entry Level Floor Plan (Architectural Drawing Sheets SP1 and A1).

*Lights* – The lighting proposed for the new residence will be down lit or shielded to prevent glare or be a nuisance to neighbors and as such is in compliance with the R1 Regulations for lighting.

#### Variance Requirements

The building site at 211 Emerald Bay is located on a shallow lot with an average depth of 91.8' and the existing and proposed R1 construction could not meet the strict application of the Regulations for front and rear setbacks. The Code allows for the reduction of the front and rear setbacks for shallow lots but minor encroachments remain. As stated above, residential lots in Emerald Bay were created prior to the County's blanket application of the R1 zoning designation when the LCP was adopted but the Zoning Code allows for conformance in cases where the lot



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has a shallow depth through the variance process. Therefore, the proposed project requests approval of the following variances:

#### Front, Rear and Left Side Setbacks

1. The applicant seeks to reduce the front yard setback from 18.4' to 4.6' in order to accommodate a 13.8' encroachment of the existing house and the proposed garage (Architectural Drawing Sheet SP1).
2. The applicant seeks to reduce the left side yard setback from 5' to 4.4' in order to accommodate a 0.6' encroachment of the proposed garage (Architectural Drawing Sheet SP1).
3. The applicant seeks to reduce the rear yard setback from 18.4' to in order to accommodate a 13.3' encroachment of the existing house (Architectural Drawing Sheet SP1).

#### Use Permit Requirements

Due to the shallow nature of the lot, the project cannot meet the Code requirement for the driveway length from the sidewalk to the garage, which is 18' for garages equipped with roll-up doors. As previously stated, the residential lots in Emerald Bay were created prior to the County's blanket application of the R1 zoning designation when the LCP was adopted. Therefore, the Zoning Code accommodates and the need for reduced length driveways through the approval of the use permits.

#### Reduced Length Driveway

For R1 zoning, the minimum driveway length for a house less than 20' from the sidewalk is 18' if the garage has a roll-up door. The project will have two garages with roll-up doors. The proposed single-car garage has an average driveway length of approximately 16.8' from the curb line and the proposed two-car garage has an average driveway length of approximately 15.3' from the curb line to the garage entry. The reduced length of the driveway is due to the shallow nature of the lot.

#### Over-Height Wall

A use permit is required for approximately 13' of an existing 5' high screen wall that encroaches into the front setback where only 3.5' high walls are allowed.

The use permits requested herein are minor in nature, and would not be required but for the project's shallow lot depth, and the disparity between the Emerald Bay Building Restrictions and the County's R1 Zoning.

#### California Environmental Quality Act

The California Environmental Quality Act (CEQA) allows categorical exemptions for projects that have been determined not to have a significant effect on the environment. (CEQA Guidelines §15300-15332). Following is a brief analysis of why the project is consistent with Class 1, Class 2 and Class 3 categorical exemptions.



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#### *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:

*(e) Additions to existing Structures provided that the addition will not result in an increase of more than:*

*(1) 50 percent of the floor area of the structures before the addition or 2,500 square feet, whichever is less; or. . .*

The project includes the addition of 1,327 square feet of livable space and a new 685 square-foot garage and the demolition of an existing 486 square-foot garage, which will not result in an increase of more than 50 percent. 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 hardscape improvements, all of which are addressed in the Class 1 exemption.

#### *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 R1 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 R1 residence and the related improvements including the garage, patio, and walls/fences are specifically included in the list of examples.

Each component of the project, including the re-model of the existing residence and accessory structures, and the demolition and reconstruction of the accessory structures, meets criteria outlined in the Class 1 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 short-term construction related concerns.

#### Conclusion

Re-model of older R1 residences and the demolition and reconstruction of accessory structures on the same building site is common in the Emerald Bay community. In addition to a CDP for the remodel, demolition and re-construction within the coastal zone, many of these applications request approval of a variance for reduced setbacks and use permits for over-height walls in the front, side and rear setbacks and steep/reduced length driveways. The variance and use permits



Mr. Kevin Canning  
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requested herein are minor in nature, and would not be required but for the shallow lot size and the disparity between the Emerald Bay Building Restrictions and the County's R1 Zoning. If the County Zoning Code setback requirements were strictly applied to this lot, previous applications approved by the County would enjoy privileges beyond the permits requested for the proposed residence at 211 Emerald Bay Drive. The proposed project is consistent in character with previously approved requests of homeowners in the surrounding neighborhood and is consistent with the Emerald Bay Building Restrictions (CC & R).

In conclusion, the proposed residence at 211 Emerald Bay is consistent with the Emerald Bay LCP, the County Zoning Code and General Plan and the Emerald Bay CC&R Building Restrictions. We appreciate the County's consideration on this project and look forward to working with you. If you have any questions, please contact me or Shawna Schaffner at (949) 581-2888.

Sincerely,

CAA PLANNING, INC.

A handwritten signature in blue ink that reads "Paul Shaver".

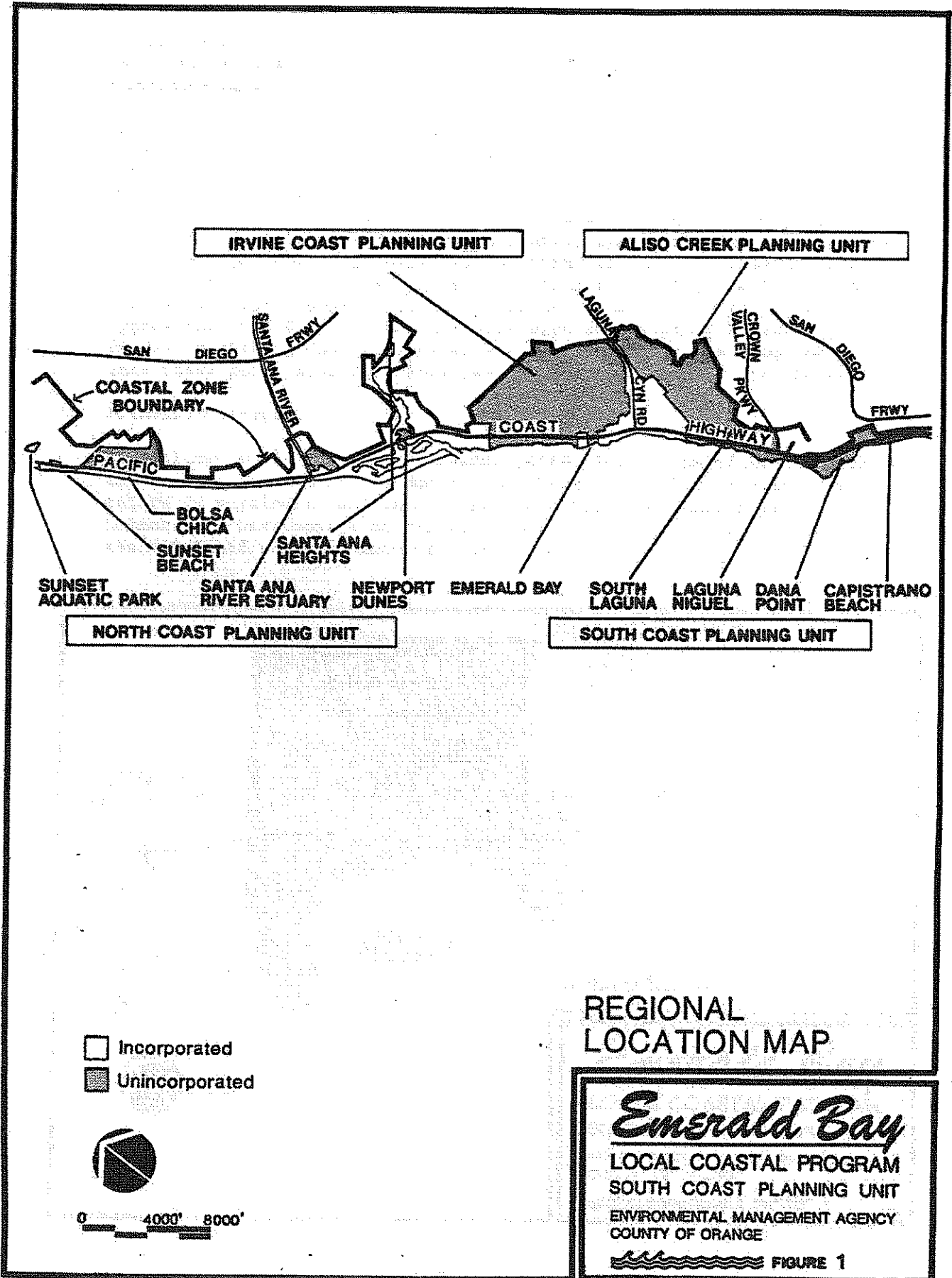
Paul Shaver

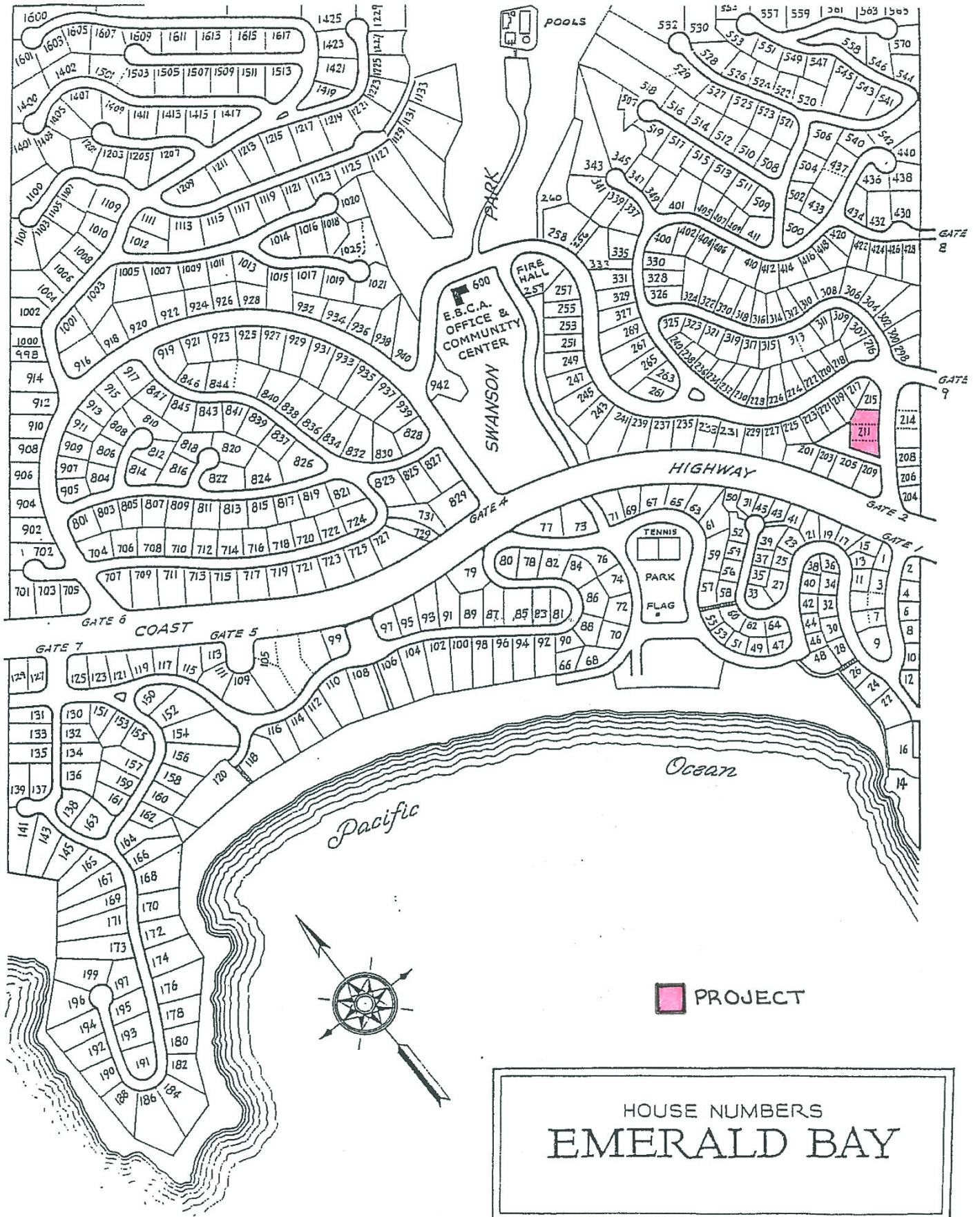
Attachments: Exhibit A-Regional Map  
Exhibit B-Vicinity Map  
Exhibit C-Aerial  
Exhibit D-Zoning  
Exhibit E-Appeal Area  
Exhibit F- Setbacks  
Exhibit G – Cross Section

Enclosures: Architectural Drawings  
Site Photos  
Noticing Materials

cc: Peter Fox, Applicant  
Nolan Mead, CJ Light Associates  
Shawna Schaffner, CAA Planning, Inc.



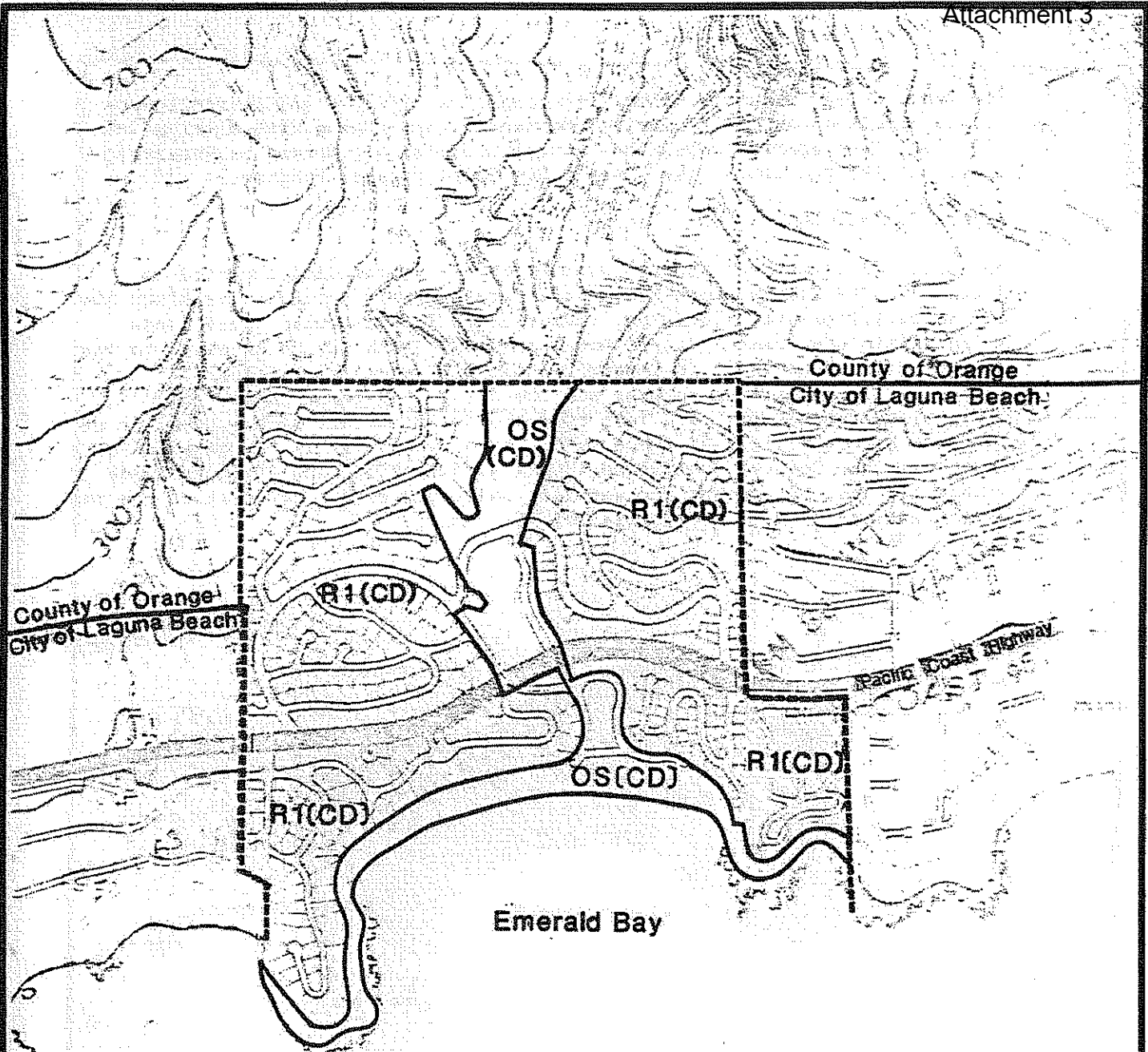




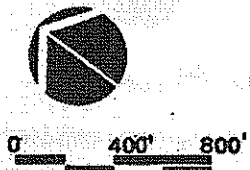
HOUSE NUMBERS  
**EMERALD BAY**

Map revised Jan. 2000





- R1 Single-Family Residence
- OS Open Space
- (CD) Coastal Development Overlay
- LCP Study Area



**Note 1:** Scenic Highway Overlay (SH) applicable to within 25' of the ultimate ROW for PCH

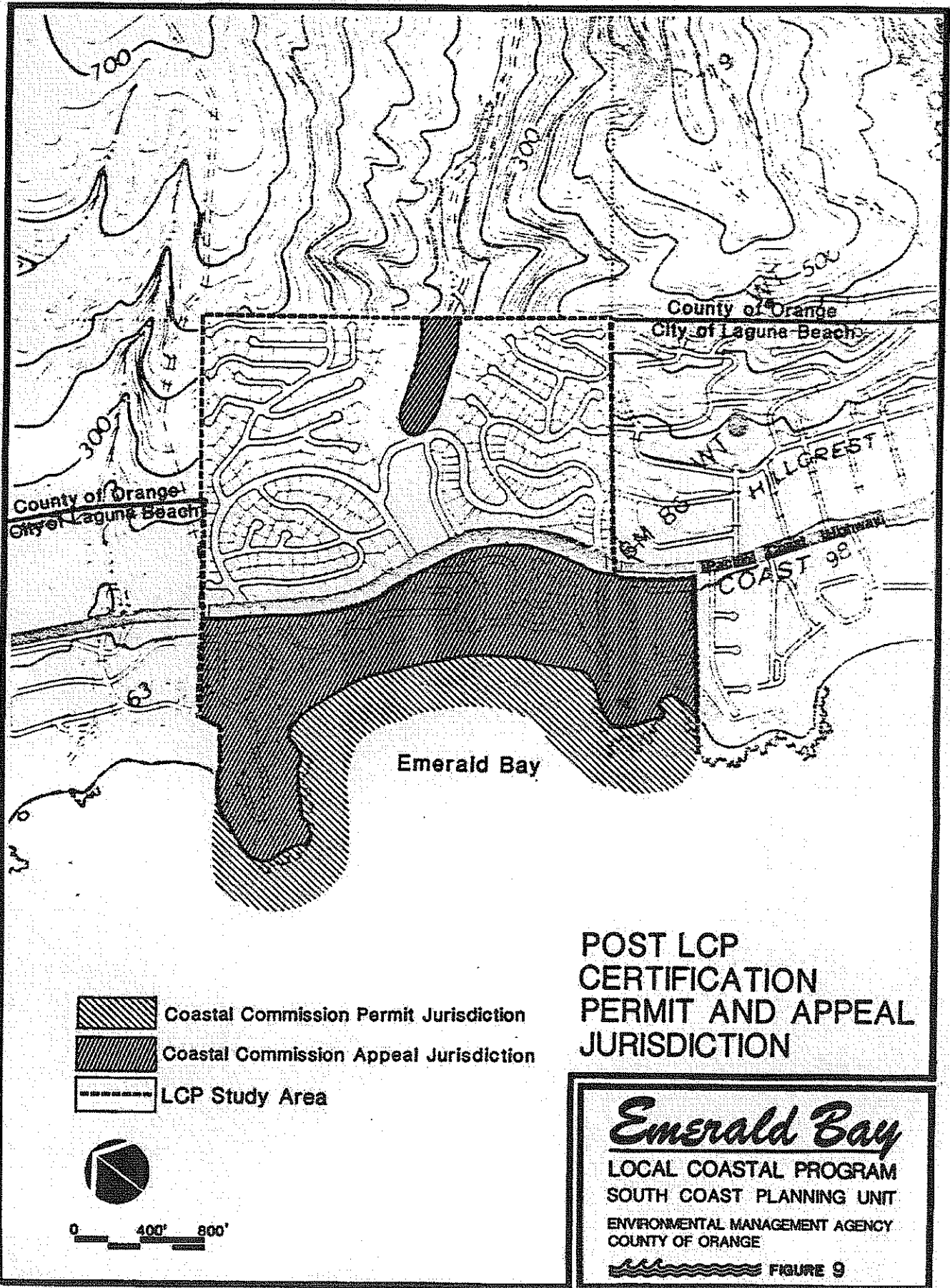
**Note 2:** Floodplain Overlay (FP) applicable as indicated on Flood Insurance Rate Map Community-Panel number 060212 0074A and County SR and FP-2 and FP-3 areas established by Ordinance number 3223

## ZONING




***Emerald Bay***

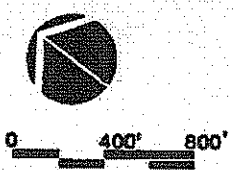
**LOCAL COASTAL PROGRAM  
SOUTH COAST PLANNING UNIT  
ENVIRONMENTAL MANAGEMENT AGENCY  
COUNTY OF ORANGE**


**FIGURE 8**

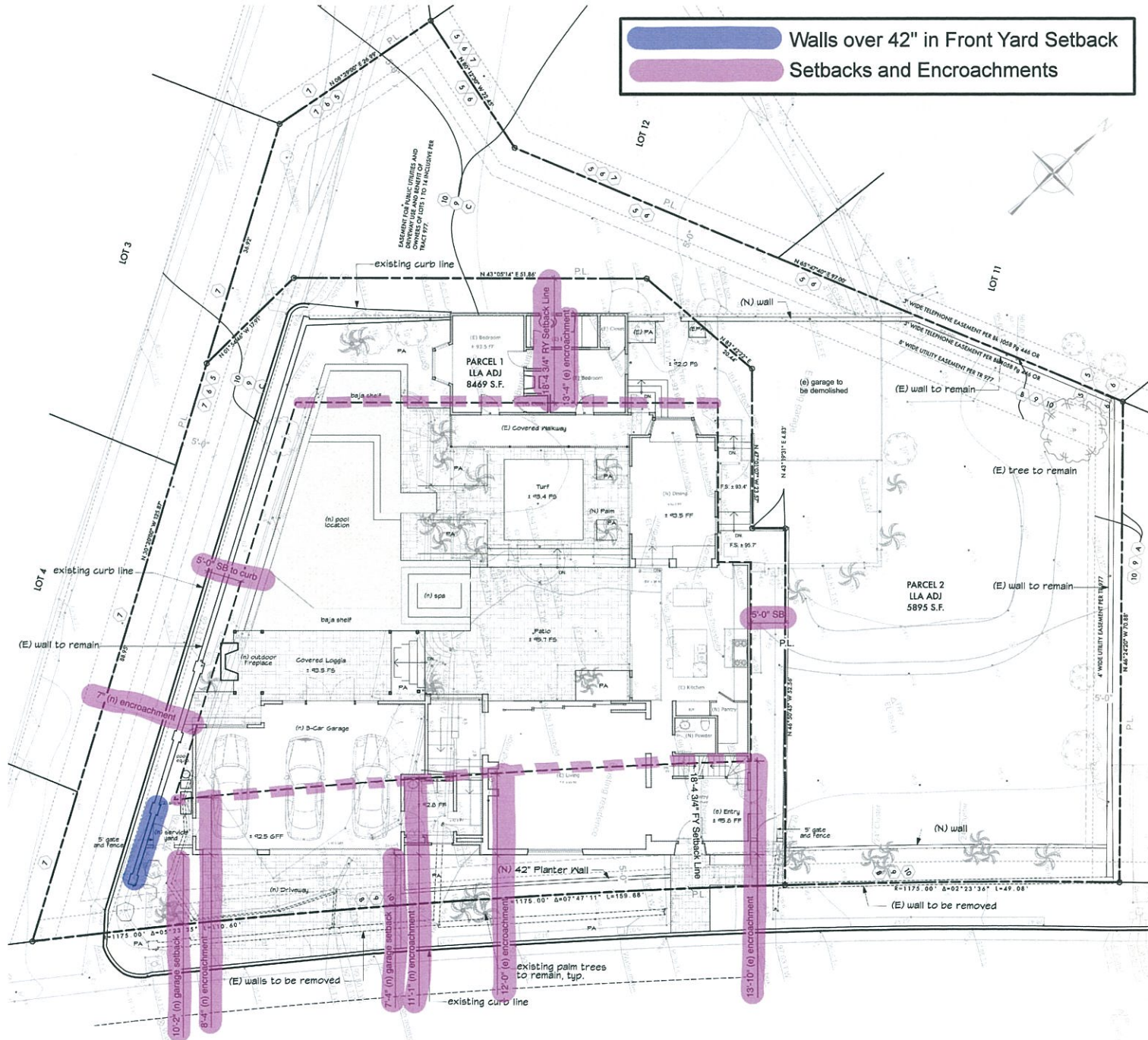


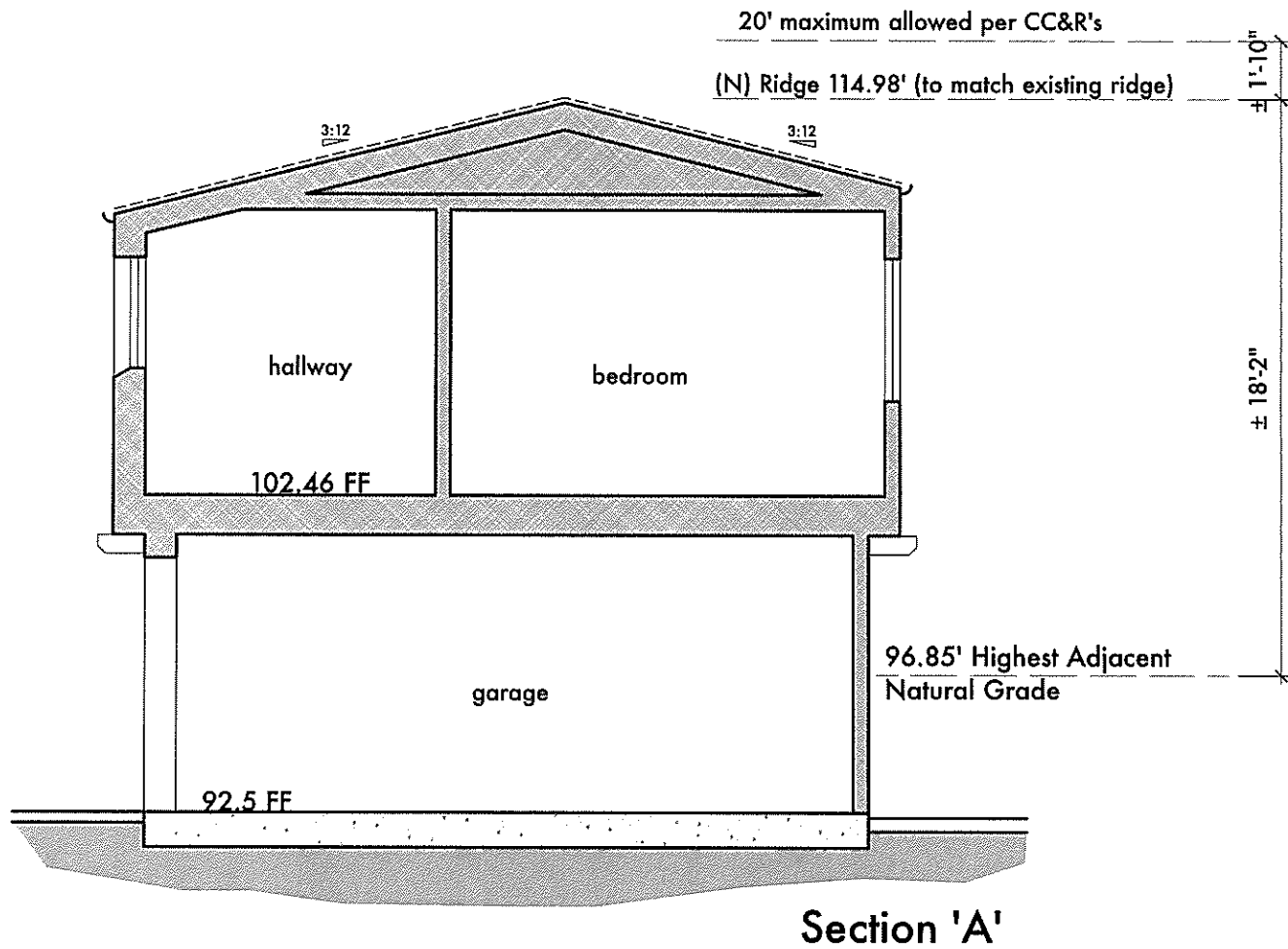
**POST LCP  
CERTIFICATION  
PERMIT AND APPEAL  
JURISDICTION**

-  Coastal Commission Permit Jurisdiction
-  Coastal Commission Appeal Jurisdiction
-  LCP Study Area



*Emerald Bay*  
LOCAL COASTAL PROGRAM  
SOUTH COAST PLANNING UNIT  
ENVIRONMENTAL MANAGEMENT AGENCY  
COUNTY OF ORANGE  
 **FIGURE 9**







February 28, 2019

Attn: Kevin Canning  
County of Orange  
300 N Flower St.  
Santa Ana, CA 92703

Re: 211 Emerald Bay – **PA180033**

Kevin,

Please accept this letter to amend the project description for the planning application for 211 Emerald Bay, otherwise known as **PA180033**. Lot Line Adjustment request **LLA2019-07** should be added to the planning application description.

Thank you.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Nolan Mead', is written over a light blue horizontal line.

Nolan Mead  
Senior Project Manager



APPLICANT: FOX  
ADDRESS: #211  
PROJECT: 2892 TRACT: 977 LOT: 6, 7, 8  
SCOPE OF WORK: MAJOR REMODEL w/MAJOR LANDSCAPE/HARDSCAPE  
SUBMITTAL: PRELIMINARY RESUBMITTAL 2 & FINAL with VARIANCE  
ARCHITECT: Christian Light  
Phone: 949-851-8345  
License: C22334  
LANDSCAPE ARCHITECT: James Hellinger  
Phone: 949-285-9692

Architectural review by Jill Chambers

Landscape review by Jim Dockstader

***FINAL COMMITTEE RECOMMENDATION: Board to grant required waiver for 15-foot limitation per Building Restriction for CC&R’s for Tract 977, and PRELIMINARY APPROVAL with DEFERRAL OF FINAL APPROVAL to allow time to confirm County approval of Lot Line Adjustment***

**HISTORY OF SUBMITTALS:**

- |                |                               |              |
|----------------|-------------------------------|--------------|
| • August 2018  | CONCEPT                       | ACKNOWLEDGED |
| • October 2018 | PRELIMINARY w/VARIANCE        | DISAPPROVED  |
| • January 2019 | PRELIM RESUBMITTAL w/VARIANCE | DISAPPROVED  |

**SUMMARY OF PROPOSED ARCHITECTURAL IMPROVEMENTS:**

There are currently three existing structures across 3 underlying lots. The original main residence, a detached guest house and a two-car garage (total 3,052 SF per application). There is also an existing pool shown to be remodeled. The main house and the guest house will be connected so it is a Single-Family residence. A 2-story addition is proposed at the main house to left side. The existing garage would be demolished.

This property is made up of three relatively flat lots, each having a large Access Easement area at the rear of the lots to allow driveway access for the other residences off the cul-de-sac. The lot furthest south also has a large Access Easement area to the south.

The proposal indicates a 1,505 SF (originally 1,944 SF) addition to an existing 3,052 SF residence. This includes the existing 486 SF garage to be demolished. This is a 58.7% addition (1,505 / 2,566 existing SF) for a total of a 4,557 SF new residence (calculates as 4,577 SF). The 1,505 SF addition includes a new 610 SF garage.

The existing square footage of the non-conforming garage is not included in the calculation when determining the size of the addition.

Proposed scope of work:

- Demolish existing 2-car garage
- Add a 2-story addition with a 3-car garage, mud room, 2 bedrooms and 2 bathrooms
- Extensive interior remodel of existing residence
- Minor landscape/hardscape revisions

- Remodel existing pool is similar location

The proposed alteration increases the square footage by more than 25%. Existing non-conforming elements are required to be brought into conformance. No new existing non-conforming elements can be added. **Variance Request submitted.**

Revisions made from Concept to initial Preliminary submittal:

- The existing covered walkway at the guest house has been enclosed with glass and is attached to the main house.
- The design of the roof over the addition has changed from a gable roof to hips with portions of a flat roof and associated parapet.
- Interior remodel of guest house
- An existing below grade 152 SF mechanical room has been shown. The ceiling height is 6'-6".

Revisions shown in current March 2019 Preliminary Resubmittal:

- Reduced size of house by 30 SF
- Reduced size of garage by 18 SF
- Lot Coverage reduction, currently 36.2% (calculated)
- Main roof ridge lowered 8" and ridge reoriented to open neighbor views
- Increased setback at upper level addition by 2'-6" from the western PL
- Increased front setback at upper level addition by 1'-6"
- Changes to the window placement and details to be more consistent with the character of the existing structure.
- All existing roof overhangs are shown to remain.
- Materials called out on the drawings and a proposed material and color board was submitted.
- Changes to the rear fences and walls to allow for planting.
- Planters were added at the front under the new windows.
- This submittal retains the existing fireplace while shifting the chimney to meet code and per the architect's submittal summary letter it is now within the maximum 20-foot height limit.
- The rear patio was lowered to better coordinate with the floor elevation of the garage.

**A Variance Request has been submitted to allow the following proposed non-conforming elements:**

- The proposed fence in the front yard setback to the right of the entry is shown to remain. It is 5' above the curb. 4' max is allowed.
- A portion of the front elevation and the associated roof overhang encroach into the 5' minimum front yard setback.

- A portion of the existing structure is over the 20' maximum height allowed.

### **SUMMARY OF PROPOSED LANDSCAPE IMPROVEMENTS:**

Proposed landscape improvements include: Walls, pool, spa, outdoor fireplace paving, planting, irrigation.

### **STAFF ARCHITECTURAL FINDINGS:**

1. **CONSTRUCTION ON CONTIGUOUS PROPERTIES (Section A.4):** A residence cannot be constructed on or across a property line. An Owner of more than one continuous Lot, Parcel, or real property who proposes to construct a residence on any common property lines shall be required to adjust property lines into a single Parcel. Proof of the County approved Parcel change will be required prior to Final approval.

**The Applicant submitted a copy of their Lot Line Adjustment request to the County and the proposed Boundary survey prepared by Toal Engineering is included in this application. This indicates the lot line adjustment between the existing Lot 7 and 8 and the existing Lots 6 and 7 will be combined. Proof of the County's approval and recordation of the proposed Parcels (shown as Parcel 1 and Parcel 2) is to be submitted prior to Final review.**

- 2 ARCHITECT STAMP (Section B.2): **OK**
- 3 ARCHITECTURAL REVIEW - SUBMITTAL COMPLETENESS (Section B.5): Submittal is generally complete enough for review. **OK**
- 4 LOT COVERAGE (Section C.1): The lot coverage is stated on the Plan Submittal Application as 36.3% (3,076 / 8,526) and calculates as 36.2% (3,066 / 8,526). The lot area used for this calculation is that of the combined lots 6 and 7. The Lot Coverage was confirmed. **OK**

Elevated surfaces (patios, pools, planters) greater than 5'-0" above finished grade are to be included in lot coverage calculations. **None indicated. OK**

All supported decks and portions of cantilevered decks greater than 10 ft. count towards lot coverage. **None indicated. OK**

5. **SETBACKS (Section C.2): The front setback is non-conforming. A Variance Request has been submitted for the setback encroachment and overheight wall/fence in the front yard setback.**

**There is an existing non-conforming 4'-7" setback to the existing structure at the southeast corner of the front setback. The associated existing roof over the entry also projects into the front yard setback by approximately 1'-0". It appears the Architect intends to cut back the roof eaves, but the overhang will still project into the setback.**

**The existing Juliet balcony over the entry projects into the front yard setback. It also appears the front door or the door surround projects below the existing non-conforming balcony. This would be a new non-conforming condition.**

**The existing wall to the right of the entry straddles the property line and is overheight in the front yard setback. It is shown to remain at 5 feet height.**

The right side yard setback on Lot 7 is an existing nonconforming 4'-0" setback. A lot line adjustment exhibit is submitted correcting this condition to bring it into conformance with the required 5' setback. **This will be confirmed at Final when the recorded Lot Line Adjustment is submitted. Final approval cannot be considered without the County's acceptance of the proposed Parcels.**

There are several public utility and access easements on these lots. The largest is at the rear of the property used as driveway access to Lots 1 through 14 within this Tract. These are shown on the submittal. The proposal respects these easement areas and further indicates a minimum 5'-0" setback from the existing wall, along the "alley", at the west corner of the proposed new structure. Additionally, the minimum setback from the adjacent neighbor at 215 EB is 26' at both the Entry Level and Upper Level.

The maximum front yard setback from the curb at the southwest corner of the one-car garage is 17'-0" and from the two-car garage is 15'-0".

The setback at the western property line was increased by 2'-6" allowing a minimum setback from the fence of 6'-10" (15'-10" to the property line) and a maximum of 12'-4' to the existing fence at the "ally" (and 21'-4" to the property line)

6. **UTILITY EASEMENTS (Section C.3):** Portions of retaining walls, stairs and planters are allowed within the Utility Easements. **Structural drawings were submitted. It does not appear that the foundation shown will encroach into the Utility Easements.**

**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 24" max. (UNDER REVIEW)**

7. **PARKING (Section C.4):** The parking area shown on the submittal application is 3,947 SF and calculates at 3,990.6 SF. **Portions of the garage area not used solely for required parking have been included in the parking area calculation.**

This requires a two-car garage and one additional off-street parking space. The submittal indicates a three-car garage with a 20' x 21'-6" 2-car garage and a third garage space 8'-8 x 18'. **OK**

8. **SERVICE YARD (Section C.5):** Shown to the left of the new garage. **OK**
9. **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. **Currently under review by the Service District.**
10. **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. The existing structure is both one- and two-story. The addition is a two-story structure. No Basement is proposed. **OK**

A below grade mechanical room with a 6'-6" ceiling height is indicated. **OK**

11. **BUILDING HEIGHT (Section D.2):** **The existing building height is non-conforming. A Variance Request was submitted to maintain the existing condition.**

No portion of the Structure shall exceed fifteen feet (15') above the highest point of that portion of the Lot where the Natural Grade intersects the exterior wall of the Structure nearest to the highest portion of the Natural Grade of the Lot, *nor shall any portion of the Structure*

- exceed twenty feet (20') in height above the Natural Grade of the Lot or Parcel. **Where Natural Grade intersects the Structure, the elevation is 96.85 feet (east corner of the existing structure). Therefore, the maximum height for the Lot is 111.85 feet (96.85' + 15'). Based on this evaluation alone the proposed structure is over the 15' height limit by 1'-11" and the existing residence is over the 15' height limit by over 3'-0".**

The roof over the proposed addition was further reconfigured and reduced from the previous Preliminary submittal.

**Based on the 20' maximum height criteria the proposed new roof as revised now complies however, a portion of the existing roof is as much as 1' over 20' as measured above Natural Grade. Variance Request was submitted**

**If the Architectural Committee determines that the Lot or Parcel is primarily flat such that the 15-foot limitation does not allow the construction of a second story of the home the Board can consider a waiver. This does not require a Variance. It was determined at Preliminary this required a waiver from the Board.**

The roof slope over the glass enclosed connection to the guest wing is shown on the roof plan as 2:12. This is considered a flat roof. It is within the height envelope. **OK**

Chimneys: There is an existing chimney at the guest house. It is shown as 106.3' which is within the height envelope. **OK**

The existing fireplace chimney at the house has been shifted to the right, lowered and is shown at 115.28'. It is approximately 3'-6" over the 15' height limit and within the 20' maximum height limit as measured above the 1960 topo. **OK**

**Chimneys must be kept to the minimum height required by Code. However, this lot is not permitted to add additional height over the maximum 20' height limit. If during construction or permit review it is determined the height of the relocated chimney needs to increase it will have to be relocated to meet the 20' max. height limit.**

12. COMPATIBILITY (Section D.3): The revisions made to the exterior elevations, proposed materials and the updated details adequately address the Committee's previous comments with regards to compatibility and architectural style with the existing residence. **OK**
13. **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 or 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 addition is 50% (1,526 / 3,052). AND the height of a portion of the existing Structure is above the 15' height envelope with the exception of the extended chimney which is above the 20' above Natural Grade. Existing non-conforming elements must be brought into conformance with the current Architectural Regulations or a Variance must be granted to remain.**

**Existing non-conforming elements:**

- **The Guest House is separate from the main house thus not considered a Single Family Residence. Corrected by connecting the 2 structures .**
- **The Guest House straddles a property line. This will be addressed when lots 6 & 7 are combined to create Parcel 1 as identified on the Boundary survey submitted.**

- The southeast corner of the existing structure encroaches into the 5' minimum front setback. Variance submitted.
- The northeast side of the existing main house encroaches into the 5' minimum side yard setback by 1'-0". This will be addressed by a lot line adjustment required prior to Final.
- Existing roof ridge of the house is approximately 3'-2" over the 15' height and up to 1' over the 20' height envelope. Variance submitted for the portion over 20'. The Board will be required to grant a waiver for roofs over the 15' height limit. It is unclear if this is required for the existing roof and will be determined by the Board.
- The roof eave over the entry, projects into the front yard setback Variance submitted.
- The existing balcony over the entry projects into the front yard setback. Variance submitted
- The front yard fence to the right of the house straddles the property line and is 1' higher than allowed in the front yard setback. Variance submitted.

New non-conforming elements:

- The proposed addition straddles a property line. This will be addressed when lots 6 & 7 are combined to create Parcel 1 as identified on the Boundary survey submitted.
- The main roof ridge of the new Structure is 1'-10" and the secondary ridge is 1'-5" over the 15-foot height envelope. Both are below the 20-foot maximum height above Natural Grade. The Committee determined that the lot is "primarily flat" and the maximum 15 feet limit would not allow a second story. The Committee considered various factors as noted in the Tract Building Restrictions and outlines above. This will require a waiver by the Board of Directors, after review and consideration of the character of the neighborhood, status of existing homes, terrain, design problems of the Lots, view orientation and availability of mitigating measures. As noted, it was determined the proposed addition does not create an unreasonable view obstruction.

14. ROOFS (Section D.5):

Roof pitch:	New 3:12 and flat over portions of the upper level bedrooms. Existing is shown as 3.5:12 and 3.25:12. The trellis off the guest wing is 2:12 which is considered flat. <b>OK</b>
Flat roof:	Shown as 4.7% and calculates as 9.9% when the portion of roof noted as 2:12 is included <15% <b>OK</b>
Roof materials:	<b>Reclaimed Clay tile. Not Noted as Class 'A'</b>
Roof Equipment:	None shown. <b>OK</b>
Parapet:	16.2% <25% <b>OK</b>

15. ROOF DECKS (Section D.6): None indicated. **OK**

16. MATERIALS AND COLORS (Section D.7): A material and color board was submitted. **This was reviewed. The tile at the planters shown along the front elevation was not included nor was the material and color of the railing at the Juliet balcony.**
17. WINDOWS AND DOORS (Section D.8): Material noted as aluminum clad on window schedule. The color noted on the material and color board is Tuscany brown. **The previous concerns regarding compatibility and in keeping with the architectural style of the existing residence were adequately addressed. OK**
18. ANTENNAS (Section D.9): None indicated. **OK**
19. SOLAR PANELS (Section D.10). None indicated. **OK**
20. SKYLIGHTS (Section D.11): None indicated. **OK**
21. **ARCHITECTURAL EXTERIOR LIGHTING (Section D.12):** Light fixtures must be down lit or shielded to prevent glare or be a nuisance to neighbors. **If the wattage of the bulb is controlled or low enough the fixture proposed may be acceptable without requiring it to be shielded as it is complimentary to the architectural style of the existing home. Fixture cutsheet was not submitted showing the wattage and style.**
22. GUTTERS AND DOWNSPOUTS (Section D.13): Gutters have been indicated on exterior elevations and roof plan. **OK**
23. **OTHER COMMENTS:**
  - A certified copy of the 1960 topo plan was submitted for lots 6, 7, 8. The total area indicated is 14,366 SF.
  - It is acknowledged that a benefit of this proposed project is that it will eliminate the possibility of developing 3 new residences on this property in the future.
  - An updated certified survey of the lot line adjustments was provided.
  - Overlays were provided for lot coverage, parking and flat roof verification.
  - The exhibits to prepare the Easement Agreement were submitted.
  - **The previously submitted Boundary Survey prepared by Toal Engineering was not found in the drawing set.**
  - The Committee determined the elements that are over 15' but under the 20' height limit are OK. **The lot is essentially flat and would otherwise not allow for a second story. The view impacts appear to be balanced and are no longer considered unreasonable. The Board must grant a waiver for this condition which will be considered at their April 2, 2019 Board meeting.**
  - The Committee's previous comments regarding style of windows have been addressed.
  - **Other revisions made such as reorienting the roof of the addition, relocating the chimney and bringing the height into compliance with the 20' height limit as well as removing trees that are not part of the current proposal, adequately balance previous view considerations which are required for consideration of the over 15' height Waiver for the new home as well as the Variance for the overheight portion of the roof of the existing structure.**

- No written comments were received from neighbors. **Bill Cooley (215 EB) questioned if the height Variance was in keeping with the neighborhood. It was explained that this was for the existing roof. This was shared and discussed with the Committee.**

**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. **Proof of EBSD approval was not received.**

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.**
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. **Show replacement of the entire curb and gutter per EBSD requirements. This includes the portion at the side along the ally. This can be reviewed at the end of construction to determine if potential undamage portions can remain.**
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. Shown off EBCA Property. **OK**
7. **EXTERIOR MECHANICAL EQUIPMENT (Sec E.1):** Mechanical equipment shall not be located in easement areas. **Spa and pool equipment and AC condensers are shown in side area at west end of new garage.**

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

Noise impacts on adjacent neighbors must be avoided and/or minimized. **Unclear**

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. **It is ok for the measure the sound at the curb but it must show that the wall is not included to mediate the sound. Therefore, the acoustical report must calculate the noise at the top of existing wall rather than at the property line.**

**It does not appear the acoustical report considered the combined noise impact caused by the heat pump and the pool equipment running at the same time. Also, the report indicates the sound measurement was taken at the PL but it is dimensioned to the curb.**



Acoustical report assumptions and recommendations are consistent with submittal drawings. **Not shown. The acoustical report provides options to address the pool pump noise as measured from the curb and using the wall as part of the noise mediation. When all equipment is taken into consideration and the wall is removed from the consideration to address noise it may require these to be moved to an alternate location.**

8. EXTERIOR LIGHTING (Sec E.2): Landscape lighting proposals must be shown and must appear to limit glare and annoyance. **OK**

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. **OK.**

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. **Proposed fireplace appears to be out of side setback, and is approximately 5' from curb. Design and height are shown, a chimney is not proposed. OK**

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

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 **OK**
15. IMPROVEMENTS ON EBCA PROPERTY Section C, Part 21): Trees, hedges, and structures are not proposed on EBCA property. **Existing palms on EBCA property are proposed to remain. Two new Eriobotrya are added on EBCA property.**
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. **OK**

Perimeter properties appear to be consistent with Orange County requirements for Zone A.  
**NA**

19. **OTHER:**

- **Portions of new wall along private drive are 7' tall compared to top of curb**
- **The landscape drawings are not coordinated with the architectural site plan (see L-1 and SP1 re: planter at front and the PL is not shown correctly on sheet L-6)**

**FINAL COMMITTEE RECOMMENDATIONS:**

1. **The Variance Request was considered at the Tuesday meeting and the Committee recommends APPROVAL to allow the following non-conforming elements:**

- The existing 5-foot-high wall to the right of the entry is in the front yard setback. 4 feet max in the front yard setback. It also straddles the property line and will require an Easement Agreement.
- Portions of existing structure encroach 5" into the 5' minimum front setback and the associated roof encroaches by approximately 1'-0".
- The existing overheight roof is 1' over height based on the 20' maximum height criteria.

**Applicant stated hardship for the Variance Request:**

- The house would need to be demolished to be brought into conformance. See benefits related to landscaping and the existing 5-foot-high site wall.

**Applicant stated benefits to the Community:**

- The existing Structure was built in the 1930's and is one of the earliest homes in Emerald Bay. The applicant is maintaining the existing house Structure to preserve the historical integrity of the architecture and the design of the addition respects the original style and character of the neighborhood.

- The existing cantilevered balcony adds to the architectural style and design and has no impact on neighbors' views.
- The unique configuration of the site creates a situation where large portions of the Lots upon which this house is built have recorded access easements for the benefit of the residents in the neighborhood to access their homes and garages off the cul-de-sac. Therefore, the size of the house that could be built on the Lot could be larger than that proposed.
- Portions of the existing site walls are over height, within the front yard Setbacks and some are on EBCA property. The site walls on EBCA property are being removed. Additionally, an over height wall, on EBCA property at the south-east corner is proposed to be removed. This is to access the proposed garage which has a greater setback.
- Keeping the existing site wall at the front property line to the right of the existing Structure allows the vegetation that contributes to the character of the neighborhood to remain undisturbed.
- The proposed project combines the existing non-conforming separate guest house structure with the existing house structure to provide for "one private single-family residence and garage" per the Building Restrictions for the Tract.
- The existing residence and separate garage structure stretch across three lots. The proposed new structure will require Lot 6 and 7 to be combined reducing the buildable lots to two and therefore reduce the potential of future increased density of development in the neighborhood in the future.

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 recommended disapproval of the plans as submitted. The following items were adequately addressed. Therefore, the Committee recommends **the Board grant the required Waiver for the 15-foot height limitation for Approval of Preliminary and to Defer the Recommendation of Final to allow the Lot Line adjustment to be recorded by the County.** If there are no changes to the proposed size of Parcel 1 & 2, further Final review will not be necessary as all other requirements have been met.
  - a. The Committee visited the site and the rear patio at 214 EB (Salmeri) to view the stakes and finds:

- i. It was shared with the Committee that Nolan Mead and Peter Fox (211 EB) met with Greg Salmeri (241 EB). The larger palms at the south corner to the left of the proposed new garage were trimmed and thinned for Mr. Salmeri to evaluate the view
  - ii. No further comments were received from Salmeri (214 EB)
  - iii. The window sills in the Bedroom 1 facing the alley in their new location and in relationship with the updated staking. It was determined the location will not impact the neighbor's privacy.
  - iv. See Other comments above regarding compatibility and revisions to the elevations, windows and details as well as addressing the requirement to balance the neighbor views.
- b. On elevations note stucco color, all material at the front door, garage door material, metal railing and color at Juliet balcony and provide addition information of the tile shown at the front planters. **Noted. Malibu tile noted on planters at front elevation.**
  - c. Provide cutsheet of exterior light fixtures. **Provided**
  - d. Submit the previously provided Boundary Survey with any updates. **Provided**
  - e. Update the acoustical report per the comments above under EXTERIOR MECHANICAL EQUIPMENT. Add notes to plans. **Pool equipment moved to interior of garage (under stairs). Updated Acoustical Report submitted. Dimensions added to plans.**
  - f. Delete two Eriobotrya on EBCA property. **Removed**
  - g. Reduce height of new wall/fence along private driveway to 6' compare to top of curb. **So Noted**
  - h. Show curb replacement at corner, all the way back to property line where private drive stops. **Added**
  - i. Provide evidence of EBSD review and approval. **OK**
  - j. Update the submittal set with any revisions included in the final EBSD approved drawings. **Provided**
  - k. Obtain the required Board of Director Waiver required by the Building Restrictions, Schedule 'A' of the CC&Rs for Tract 977. **The Committee recommends the waiver of the 15-foot limitation be granted per the Building Restrictions for Tract 977.**
  - l. Submit County approved Lot Line Adjustment and recordation consistent with the proposed plans. **In Process with County**
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.
- e. If existing non-conforming elements are removed during the course of construction, then they must comply with all of the current Architectural Regulations.
- f. The Committee reserves the right to reclassify a project at any time before or after construction begins.

**Nolan Mead (CJ Light's Office) was in attendance to further discuss the submittal.**

**At their meeting on April 2, 2019, after consideration and review of all factors involved including that the completed structure will not cause an unreasonable view obstruction, the Board granted the required waiver of the 15-foot height limitation and voted to approve the recommendation of the Architectural Committee for Preliminary Approval and deferral of Final Approval to allow time to confirm County approval of the Lot Line Adjustment.**