

**CITY OF SAN CLEMENTE
MINUTES OF THE REGULAR
ZONING ADMINISTRATOR MEETING
December 18, 2013**

Staff Present: James Holloway, Cliff Jones, Sean Nicholas, John Ciampa, and Kimberly Maune

2. MINUTES

Minutes of the Zoning Administrator meeting of December 4, 2013 received and filed.

3. ORAL AND WRITTEN COMMUNICATION

None

4. PUBLIC HEARINGS

A. 919 Calle Amanecer Units A & B – Minor Conditional Use Permit 13-434 – Artifex Brewing (Jones)

A request to consider a light manufacturing microbrewery use with on-site sale and consumption of beer and wine at 919 Calle Amanecer, Units A & B located within the Business Park land use designation of the Rancho San Clemente Specific Plan (RSCSP-BP). The legal description is Lot 6 of Tract 12114, Assessor's Parcel Number 688-041-06.

Associate Planner Cliff Jones summarized the staff report.

Mr. Holloway stated that as noted in the staff report there is a similar type of use in the Talega Business Park, the Left Coast Brewery. He asked Mr. Jones what has been the experience there. Mr. Jones responded there have not been any code violations or concerns with that microbrewery operation and the related tasting room.

Applicants Tom Cordato, Chris Gort, Nicholas Cordato, and John Johur were present. No one had any comments.

Mr. Holloway stated this project is a great idea and it will be well received in the business park. There is history of a similar business in the Talega Business Park and there have not been any problems there. The hours of operation will be good and there is plenty of parking. The applicants have had good planning and consideration for how this business will operate.

There were no members of the public present to address this item.

Mr. Holloway asked if Artifex is the name of the brew that will be on the label; Mr. Tom Cordato responded yes.

Mr. Holloway thanked the applicants for working with staff. Mr. Tom Cordato stated that everyone they have worked with has been extremely helpful during this process. They initially worked with Amber Gregg; she pointed them in the right direction. Sean Nicholas also provided them with insight, and Mr. Jones has been more than helpful. They were looking at different locations and staff was always very helpful.

Mr. Holloway asked when they plan to open. Mr. Tom Cordato stated that their ABC and Building permits are in; they are waiting for those to come back. They have a contractor lined up. They are hoping to have the first brew ready at the end of February or the first of March.

Mr. Holloway informed the applicants of the ten day appeal period.

Action: The Zoning Administrator approved Minor Conditional Use Permit 13-434, Artifex Brewing, subject to Resolution ZA 13-049 with attached Conditions of Approval.

ACTION SUBJECT TO APPEAL TO OR CALL-UP BY CITY COUNCIL

B. 207 West Paseo De Cristobal – Minor Exception Permit 13-449 – Drew Residence Hardscape (Jones)

A request to consider allowing a reduction in the required minimum front yard setback area landscape requirements for a single-family home at 207 West Paseo De Cristobal located within the Residential Low (RL) zoning designation. The legal description is Lot 31 of Block 14, Tract 822, Assessor's Parcel Number 692-231-10.

Associate Planner Cliff Jones summarized the staff report.

Applicant and property owner John Drew was present. Mr. Drew stated Mr. Jones did a nice job of explaining their intent. He, his wife, and their architectural team, feel their proposed design will enhance the street scene, and they think it will be beautiful. The stair system they need to put in does start to challenge the ratios for the area. The wall system, with the concrete cap coping, integrated colors, stone, and the driveway that will have a nice aesthetic finish and decorative pattern, will all look nice finished.

Architect Rob Williams with Studio 6 Architects was present. Mr. Williams stated he agrees with Mr. Drew's comments.

Neighbor Carrie Upham was present and stated she lives next door. Ms. Upham stated she believes that unfortunately the more the City approves things of this nature the more dense neighborhoods start to feel. She is present as an advocate for one of the wonderful things about her neighborhood in particular is that it still feels like a neighborhood with yards and landscaping and not a tight beach community that is stacked on top of each other.

Ms. Upham stated she is fine with the approval of this request; this house will be absolutely beautiful. She does not have anything specific against this project. It is just the whole idea in general of continuing to approve requests such as this one concerns her because it changes the environment and the look.

Ms. Upham is wondering if something could be considered in the future instead of having a code that says 50 percent of the setback needs to be landscaping. A lot of the newer houses are doing an underground driveway with a stairway going up; it is very difficult for those homes to get 50 percent landscape. She is wondering if the City would perhaps consider requiring a percentage of the whole lot to be landscaped, or something of that sort.

Neighbor Russ Lind was present and asked if he could view the plans. Mr. Lind, Mr. Jones, Mr. Holloway, Mr. Drew, and Mr. Williams examined the plans while Mr. Jones explained the project in detail. Mr. Lind understands the project, he has no objections, and he thanked everyone for their time.

Mr. Holloway thanked Ms. Upham for her comments. He stated the City is just finishing a four year effort updating the General Plan. Following the General Plan update there will be a comprehensive update of the Zoning Code, which he believes will include some of the issues Ms. Upham stated. There are green code issues that are going into effect January 1 that are State mandated and they address issues about permeable surfaces.

Mr. Holloway referred to the landscape plan and stated part of it is how well the landscaping is done and how lush it is, not necessarily always the square footage percent. The City appreciates good quality development. The percentage could be 50 or 60 percent that is very mundane, boring, or even permeable, or there could be 50 percent that is very lush which results when there are good designers. The plans for this project are easy to read and illustrate that the landscaping will be very lush, very softening, and a good effect.

Mr. Holloway asked if there is an overall, gross, permeable surface requirement in the existing code. Mr. Jones responded there isn't for landscape, there is a building coverage maximum within the Residential Low zone at 50 percent. Mr. Holloway stated this is one of the areas the City will be addressing when the code is updated. Currently there is a minimum requirement for the front yard setback but going forward there needs to be consideration for the requirement for total permeable surface throughout the gross area of the lot.

Mr. Holloway stated for clarification this request is not for the building setback, the building in every way satisfies the setback requirements and the height requirements. This request is an exception regarding the 50 percent requirement for landscaping material. Mr. Jones stated this request will provide 34.5 percent landscaping. Mr. Holloway stated this request is for a landscape exception, and based on the qualitative review, the landscape and the hardscape plan satisfies the City's exception provision.

Mr. Holloway informed the applicant and his architect of the ten day appeal period and thanked them for working with staff. This project will be a good addition to the neighborhood. Mr. Drew and Mr. Williams thanked everyone.

Action: The Zoning Administrator approved Minor Exception Permit 13-449, Drew Residence Hardscape, subject to Resolution ZA 13-050 with attached Conditions of Approval.

ACTION SUBJECT TO APPEAL TO OR CALL-UP BY CITY COUNCIL

C. 228 West Avenida San Antonio – Minor Architectural Permit 13-309 – Cook Residence (Nicholas)

A request to consider an addition of 783 square feet, including a new second story, to a legal nonconforming residence located at 228 West Avenida San Antonio within the Residential Low (RL-CZ) zoning designation. The legal description is Lot 14, of Block 13, of Tract 852, Assessor's Parcel Number 692-312-13.

Associate Planner Sean Nicholas summarized the staff report. Mr. Nicholas stated since preparing the staff report staff has received some public comments, some of the neighbors came into the City offices and reviewed this project. After their review none of the neighbors had any concerns about the project. They felt this will be a reasonable addition and consistent with the neighborhood; they were supportive of the project.

Applicant and property owner Collin Cook was present; he had no comments.

There were no members of the public present to address this item.

Mr. Holloway stated this house was built in 1955. The code has changed three or four times since 1955. That is why this project is nonconforming; it was conforming when it was built. The code makes provisions allowing for additions to these 1955 homes. That is why the City has this exception process.

Mr. Holloway stated this home is nonconforming because of the side yard setback and because of the garage setback. All of the new addition will be conforming to the existing code. The existing home is 1,567 square feet. The homeowner has a growing family. This addition will bring the overall square footage to approximately 2,000 square feet. The addition is less than 50 percent which is a key rule for bringing homes into conformance.

Mr. Holloway informed the applicant of the ten day appeal period and thanked him for working with staff. Mr. Cook thanked everyone.

Action: The Zoning Administrator approved Minor Architectural Permit 13-309, Cook Residence, subject to Resolution ZA 13-051 with attached Conditions of Approval.

ACTION SUBJECT TO APPEAL TO OR CALL-UP BY CITY COUNCIL

5. NEW BUSINESS

A. 101 Calle Seguro – Waiver of Minor Cultural Heritage Permit 13-231 – Wohlfarth Fence (Ciampa)

A request to consider the installation of a property line vinyl fence and a three foot retaining wall that is adjacent to a historic house at 101 Calle Seguro.

Associate Planner John Ciampa summarized the staff report. Mr. Ciampa stated staff met with the adjacent historic property owner who reviewed the application, the samples, the materials, and they are in support of the application.

Mr. Holloway inquired about this request being a waiver. Mr. Ciampa responded the waiver streamlines the process, noticing adjacent properties is not required because in the findings it does not have the potential to have a negative impact to the adjacent properties. He stated

what was existing was a wood fence so this request is for like-for-like. Mr. Holloway stated staff did a good job analyzing this request.

Applicant Bernie Wohlfarth was present. Mr. Wohlfarth stated this has been one of the most frustrating processes he's ever been part of, with the exception of City staff. Mr. Ciampa has been amazing, as well as Susan Mathieu and everyone else. It has been disappointing. He has lived adjacent to the historic home for almost 40 years. Two years ago he purchased the house next door to the house he grew up in. His parents live in the only other house on this east property line. His family has been subject to unbelievable harassment. He has documented it and has copies for City staff.

Mr. Wohlfarth stated he went through a list of 200 historic homes that he found on the City of San Clemente web site. He found over 30 with white vinyl fences, many of which are currently involved in HPPA agreements with the City. They also have the stacking stones that he has asked to do. He will leave his documentation with staff in the hopes that maybe the next person won't have to deal with this.

In Mr. Wohlfarth's documentation he has also included pictures of the improvements that he has made and the improved visibility from La Cuesta as well as Calle Seguro of this historic home. The area in concern, which Mr. Ciampa stated will have little impact, is going to be blocking his view of the historic home's walkway, which is full of debris and trash, and there is one window. What he is requesting will not be visible from the historic home except from this one window. The debris on his side, the public side, of the historic home is unbelievable.

Mr. Wohlfarth has given his neighbors an ocean view. The ocean view is of importance because he has had to retain an attorney because Lee and Dena Van Slyke have threatened to intentionally block his ocean view, which is against the law in California as a spite fence, it is a public nuisance. His hope is that the Zoning Administrator will take this into consideration as the Van Slyke's have said multiple times that they are going to redo their landscaping with this in mind. It is his understanding that because they are a historic property they need the City's permission.

Mr. Wohlfarth stated the Van Slyke's moved in sixteen years ago. The Wohlfarth's have known three of the four owners of this property, two of them continued to trim trees so that neighbors in Broadmoor, on La Cuesta and Seguro, could maintain their views. The Van Slyke's have used their historic property as a reason why they will not.

Mr. Wohlfarth has been able to restore a view to one of his neighbors by removing overgrown trees that were on his property. He would hope that

they can continue to have that. He has been told that the Van Slyke's have complained about the view they have of his home. He showed before and after photos, the Van Slyke's have three windows that look at his home, nothing has changed in the Van Slyke's visibility except for instead of a rotten deck he has replaced it. The visibility from the street has improved, he showed before and after photos of this also.

Mr. Wohlfarth stated the Van Slyke's have complained about landscaping. He has left a main construction thoroughfare unlandscaped. He provided photos of what he would like to do, he would like to use stacking stones to do landscaping on the La Cuesta side; none of which will impact the visibility from the street.

Mr. Wohlfarth stated the visibility of his fence and the associated gate would not be at all visible from the street. Right now there is an orange safety fence there to keep his son from falling off of the Van Slyke's wall that is on his property. He showed photos of all of the street views and the orange safety fence was not visible.

Mr. Wohlfarth stated what it comes down to is the Van Slyke's will be able to see what he is proposing from a corridor which they have little concern over. He is very frustrated.

Mr. Wohlfarth stated in the last six months his family has endured a lot. The Van Slyke's have been shining flood lights into the Wohlfarth's bedroom window at night. The Van Slyke's put masks in their window he is assuming to scare his son. He provided photos of the flood lights and the masks. It is childish and it is why he is disappointed. The Wohlfarth's purchased this house because of the neighborhood. He has 40 years of history in this neighborhood, he loves all of the neighbors and they have all told him what a wonderful job he has done with his home. He has always wanted to live there, he loves living next door to his parents, and because of the Van Slyke's he has considered selling his home and moving, which is a shame. It saddens him and his wife. He is hoping he can put this fence up and they can put this behind them and both parties can go on enjoying life.

Mr. Wohlfarth brought samples of the wood from the previous fence, a red wood post and a cedar plank, there was severe termite damage.

There were no members of the public present to address this item.

Mr. Holloway directed staff to include Mr. Wohlfarth's documentation as part of the project file. Mr. Wohlfarth also provided a letter from his attorney indicating the Van Slyke's plans to build a fence, natural or otherwise, which would be viewed against the law in the City. He also

provided an email which staff has seen containing highlighted sections about his ugly fence and other documentation of inconsistencies where Dena Van Slyke stated it was an ugly deck then another note from her stating his deck was beautiful. It has been a very confusing process.

Mr. Holloway stated it is disappointing to have to hear these types of neighborhood problems and he is empathetic to Mr. Wohlfarth's frustration. The City's role in this is to rule on the waiver, which he is going to grant. He hopes that this new fence will solve the neighborhood problems. Mr. Wohlfarth stated the Van Slyke's have threatened a lawsuit if he doesn't do something by the end of the year so he wants to move forward.

Mr. Holloway informed Mr. Wohlfarth of the ten day appeal period and thanked him for working with staff. Mr. Wohlfarth thanked everyone.

Action: The Zoning Administrator approved Waiver of Minor Cultural Heritage Permit 13-231, Wohlfarth Fence, subject to Resolution ZA 13-022 with attached Conditions of Approval.

ACTION SUBJECT TO APPEAL TO OR CALL-UP BY CITY COUNCIL

6. OLD BUSINESS

None

ADJOURNMENT

The meeting adjourned at 3:50 p.m. to the regular Zoning Administrator meeting to be held on January 8, 2014 at 3:00 p.m., at the Community Development Department, Conference Room A, located at 910 Calle Negocio, Suite 100, San Clemente, California.

Respectfully submitted,

SAN CLEMENTE ZONING ADMINISTRATOR


James Holloway