

**MINUTES OF THE ADJOURNED REGULAR MEETING
OF THE CITY OF SAN CLEMENTE
PLANNING COMMISSION
July 17, 2013 @ 6:00 p.m.
City Council Chambers
100 Avenida Presidio
San Clemente, CA 92672**

1. CALL TO ORDER

Chair Darden called the Adjourned Regular Meeting of the Planning Commission of the City of San Clemente to order at 6:00 p.m.

2. PLEDGE OF ALLEGIANCE

Commissioner Ward led the Pledge of Allegiance.

3. ROLL CALL

Commissioners Present: Wayne Eggleston, Michael Kaupp, Jim Ruehlin and Kathleen Ward; Chair pro tem Barton Crandell, Vice Chair Donald Brown and Chair Julia Darden

Commissioners Absent: None

Staff Present: Jim Pechous, City Planner
Jeff Hook, Principal Planner
Sean Nicholas, Associate Planner
Zachary Ponsen, Senior Civil Engineer
Ajit Thind, Assistant City Attorney
Eileen White, Recording Secretary

4. SPECIAL ORDERS OF BUSINESS- None

5. MINUTES

A. Minutes from the Planning Commission Adjourned Regular meeting of June 26, 2013

IT WAS MOVED BY VICE CHAIR BROWN, SECONDED BY COMMISSIONER KAUPP, AND CARRIED 5-0-2, WITH COMMISSIONER EGGLESTON AND COMMISSIONER WARD ABSTAINING, to receive and file the minutes of the Adjourned Regular Meeting of June 26, 2013, as submitted by staff.

B. Minutes from the Planning Commission Adjourned Regular meeting of July 3, 2013

IT WAS MOVED BY COMMISSIONER KAUPP, SECONDED BY COMMISSIONER RUEHLIN, AND UNANIMOUSLY CARRIED to receive and file the minutes of the Adjourned Regular Meeting of July 3, 2013, as submitted by staff.

6. ORAL AND WRITTEN COMMUNICATION

Barry Baptiste, resident, announced that due to a recent legal decision on a civil lawsuit, he is now 99% owner of the company that controls the Miramar Theatre and speculated official documentation regarding ownership would be available soon; provided details of his family's association with the City of San Clemente; noted intent to start working with the City to plan the future of the Miramar Theatre site.

7. CONSENT CALENDAR - None

8. PUBLIC HEARING

**A. 1509 North El Camino Real – Conditional Use Permit 12-362/Cultural Heritage Permit 12-363/Discretionary Sign Permit 13-082/Sign Exception Permit 13-083/Minor Exception Permit 13-084/Outdoor Dining Permit 13-085 – North Beach Rooftop Bar and Grill (Nicholas)
(continued from 06-19-13)**

A request to consider a conversion of a one-story commercial building into a restaurant with an open roof top bar and grill with a full range of alcohol, live amplified music, an off-site parking agreement, parking waivers for outdoor seating, and approve a new sign package which exceeds the allowed total sign area for the site. The project is located at 1509 North El Camino Real within the C2/MU-3 zoning designation. The legal description is Lot 9, of Block 2, of Tract 795, Assessor's Parcel Number 057-170-31.

For the record, Commissioner Ward, Commissioner Eggleston, and Vice Chair Brown individually stated that although they were not present at the previous meeting when this project was first considered, they have watched video of the meeting and read the minutes.

Sean Nicholas, Associate Planner, narrated a PowerPoint Presentation entitled, North Beach Rooftop Bar and Grill, CUP 12-362/CHP 12-363/DSP 13-082/MEP 13-084/ODP 13-085, dated July 17, 2013." Staff recommended approval of the request subject to conditions. In response to questions, Mr. Nicholas described calculations used in the parking analysis; clarified that only parking spaces on the same side of the street

as the project were counted as available spaces for safety reasons; discussed conditions added to reduce noise impacts from the outdoor patio areas to adjacent uses including 10:00 p.m. closure, only non-amplified music, prohibition of drum sets, etc; advised that maximum capacity of project, both inside and outdoor dining, is 226 persons based on the number of bathroom fixtures; displayed proposed outdoor signage materials. He noted the project is conditioned that the applicant provide the shared parking agreements and obtain all necessary approvals before commencing business.

David Gutierrez, applicant, thanked staff with their assistance with his application and congratulated new and returning Commissioners for their appointments. He distributed a booklet to the Commissioners with illustrations of existing and proposed architectural elements, exterior elevations, and floor plans, as well as a zoning map, facility comparison listing, restaurant proposal, sound analysis results, and revised signage. He expressed disappointment that staff was unable to display his presentation because it was not submitted in advance of the deadline. He reviewed changes made to the project in response to Design Review Subcommittee input; advised Code Enforcement reported to him that there have been no sound violations on commercial buildings; listed closing times for several similar uses in the community including The Casino, Casa Romantica, Community Center, etc; compared the proposed restaurant ambiance with a casual backyard dinner party; noted the restaurant, which does not yet have a contracted operator, will be certified green and offer small artisan plates currently not offered within the City. He advised many perspective tenants are afraid of the City's CUP process, but a handful have said they will consider it if the CUP is awarded. With regard to the City's proposal to prohibit drums, he speculated that may be illegal, but cannot verify it at this time. In response to questions, he noted the owner of Bull Taco has indicated he may be willing to share parking spaces if this project is approved; advised his ADA consultant has advised him that no ADA parking is required on site because no parking at all is required on site due to parking credits from previous use.

In response to questions about the sound study, the applicant's sound engineer, noted the testing took place at 1:00 p.m., and adjacent business owners/residents were not informed in advance that sound testing would be taking place. He advised that other existing restaurants in town were tested during the evening and none were in compliance with City limits when tested. He noted that testing was not performed to determine the level of noise that would be generated with up to 126 people on the rooftop, in combination with noise generated from music playing both on the rooftop and in the restaurant, and sound from the patios. He believes traffic noise generated at 1:00 p.m. would be similar to traffic noise generated at 10:00 p.m.; noted loudest noise comes from trucks and motorcycles on the road; advised he would locate the musician or sound

generator in the northeast corner in order to have the least amount of impact on adjacent uses; described locations of the sound testing equipment and proposed locations of sound proofing materials.

Chair Darden opened the public hearing.

Written Communications:

Prior to this public hearing, 23 emails were received from members of the public; the emails were forwarded to the Planning Commission for their consideration.

Public Testimony:

Debbie Ferrari, resident, opposed loud noise creating negative impacts as she lives across the street from the project; requested sound testing performed in the evening when residents are home; asked for information regarding access for handicapped customers.

Bill Koelzer, resident, questioned whether the sound testing performed was adequate to accurately portray real life experiences. He noted a loud motorcycle can be heard for 5 blocks; advised that although a party at the Ole Hanson Beach Club only measures at 65 decibels, it can be very annoying for adjacent residents; noted yelling and loud laughter from a large group can easily exceed sound decibel limits.

William Conroy, resident, opposed the proposed project as it will negatively impact his quality of life as a North Beach resident; requested the Commission follow the City's Mission Statement and preserve and enhance the City's village atmosphere; asked the Commissioners to put themselves in North Beach residents' places and consider whether they would want this use in their own neighborhoods.

Don Slater, Arcadia resident and member of the North Beach Community Association, spoke as a private resident. He is able to tune out sound coming from the Beach Club and Casino, and believes the lively atmosphere is part of the ambiance at North Beach. He requested the Commission ensure that there is adequate parking for the use, and commented that the proposed restaurant will provide jobs for young people and entertainment for others. He believes the rooftop bar will provide visibility to enable the restaurant to survive.

Cole Mobley, resident, currently books entertainment for weekend nights for Zona's Restaurant in San Clemente. He has performed noise studies for Nicks and Beach Fire restaurants and noted most of the sound coming from the open air front does not travel beyond the mid 70's decibels range, which is quieter than the noise in the street. He described soundproofing methods they use to ensure sound does not travel from

Zona's, and noted that his restaurant closes at 11:30 p.m. 24 feet away from the restaurant, the noise from the parking lot, cinema, and other uses combined is louder than the music being generated by his restaurant.

Dr. Amin, resident, noted that he found the loud sound generated during the sound testing very disturbing and annoying and felt relief when it ended. He noted sound for dogs is 6 to 10 times louder than it is for humans, and that fireworks-associated noise can affect their systems, make them nervous, and cause heart attacks for up to a week afterwards. In addition to boarding healthy animals, they board sick, recovering from surgery, and medicated animals everyday, who will likely have problems with recovery if unable to rest due to noise impacts. He advised this is the first animal hospital in San Clemente, and it has been operating continuously for over 50 years.

Mary Jo Stackhouse, resident, lives in nearby condos. She has concerns about lack of parking in the area in addition to the noise generated by the proposed use. She recounted a recent gathering at the rooftop deck at the condo complex and noted many of her neighbors were disturbed when an off-color word was shouted from the top of the deck. Sound is louder and travels farther from rooftop decks. She often hears events at the Elks Club, which are usually over by 9:00 p.m. and do not occur every night. She is also concerned about noise from people as they walk along the street.

Chair Darden closed the public hearing.

During the ensuing discussion, the Commissioners, either individually or in agreement, provided the following commentary:

- Supported a restaurant as a good use for this site, but questioned the intensity proposed.
- Questioned whether rooftop machinery, including the kitchen hood and mechanical equipment, may use up a sizable amount of the rooftop space.
- Agreed that outdoor dining contributed to the vibrancy of Downtown, but questioned whether a rooftop bar, when it is located on the second story, would make the same type of contribution to North Beach.
- Established from staff that Redmond, Swartz, Mark and Associates no longer have a contract with the City to provide opinions on signage.
- Expressed reluctance to approve a project with so many hypothetical situations and unknowns.
- Expressed concern that the project will result in safety issues for both drivers and pedestrians due to the existing blind curve if

patrons elect to park on the other side of El Camino Real and jaywalk to the site.

- Expressed concern that this one use will use up all excess parking in the area and prevent other uses from being established.
- Expressed concern about noise from individual and/or combined raised voices which may be more intrusive than noise generated from musical instruments.
- Expressed concern that the sound studies were performed at 1:00 in the afternoon without notification to existing businesses/residents in the area.
- Noted if inside music is allowed, the building should be required to have dual paned windows that should be required to remain closed at all times music is playing.
- Expressed concern regarding negative impacts on animals in the adjacent animal hospital which has been in this location for over 50 years.
- Questioned some of the closing times listed on Mr. Gutierrez's comparison chart; noted the venues are required to close earlier than Mr. Gutierrez indicated.
- Suggested review after 3 months, in lieu improvements in exchange for the parking waivers, and/or lower decibel limits from 93 to 80 as potential mitigations that might help the project be approved.
- Expressed concern that early morning televised sporting events on the rooftop would be too intrusive for nearby residents.
- Suggested the applicant consider accepting a denial without prejudice, or tabling of project in lieu of outright denial of the project to allow time for him to work out unresolved issues such as need for ADA parking, rooftop equipment location, confirmed parking waivers, additional noise studies with advance notice to adjacent residents and businesses, etc.
- Questioned the results from the noise study indicating no noise impacts as they are not in line with real life experiences of noise impacts generated by parties, events, etc.
- Approved the Discretionary Sign Permit as proposed by the applicant.

Mr. Gutierrez commented that he preferred the Commission take action on the project this evening rather than continue or table it.

IT WAS MOVED BY COMMISSIONER KAUPP SECONDED BY CHAIR PRO TEM CRANDELL, AND UNANIMOUSLY CARRIED TO DIRECT STAFF TO WRITE A RESOLUTION FOR DENIAL OF THE PROJECT WITHOUT PREJUDICE.

IT WAS MOVED BY COMMISSIONER RUEHLIN, SECONDED BY VICE CHAIR BROWN AND UNANIMOUSLY CARRIED TO CONTINUE 1509

NORTH EL CAMINO REAL – CONDITIONAL USE PERMIT 12-362/CULTURAL HERITAGE PERMIT 12-363/MINOR EXCEPTION PERMIT 13-084/OUTDOOR DINING PERMIT 13-085 – NORTH BEACH ROOFTOP BAR AND GRILL TO THE MEETING OF JULY 24, 2013, TO ALLOW STAFF TO BRING BACK RESOLUTION FOR DENIAL WITHOUT PREJUDICE.

[ITEM CONTINUED. PLANNING COMMISSION DECISION PENDING.]

IT WAS MOVED BY COMMISSIONER KAUPP, SECONDED BY VICE CHAIR BROWN, AND UNANIMOUSLY CARRIED TO ADOPT RESOLUTION NO. PC 13-017, A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING DISCRETIONARY SIGN PERMIT (DSP) 13-082 NORTH BEACH ROOFTOP GRILL AND BAR, A REQUEST FOR NEW SIGNAGE ASSOCIATED WITH A NEW RESTAURANT AND BAR LOCATED AT 1509 NORTH EL CAMINO REAL.

[DECISION FINAL. SUBJECT TO APPEAL OR CALL UP BY COUNCIL]

B. Public Hearing Draft Centennial General Plan (Hook) (continued from 07-10-13)

Continued consideration of unresolved draft General Plan policy issues and the Draft Environmental Impact Report.

Jeff Hook, Principal Planner, briefly reviewed the staff report, requested the Commission provide input on unresolved issues/revised glossary items as identified in Table 1-Unresolved Issues/Remaining Changes.

Following discussion, the Commissioners provided direction as follows:

1. City Hall site – staff revision accepted with revision to change “Civic” (CVC) to “Residential, Medium-Density with Affordable Housing Overlay” (RM-AH).
2. New rental car businesses – Commissioners elected to allow new car rental businesses on El Camino Real if the new business is limited to an office use and with a limit of five (5) rental cars on site at any time.
3. Calle Lago site – staff recommendation accepted to allow the subject property to be revised to Light Industrial (LI) with a mixed use overlay.
4. Definitions of “Minor Remodel” and “Major Remodel” – staff revisions accepted.
5. Definitions of “View Corridor” and “Scenic Corridor” – staff revisions accepted with revision to second sentence: replace “enhancement and protection of public views” with “enhancement of public views”

6. Revision of Map M-2 – staff proposal to allow consultant to revise accepted.
7. Add policy to Nat. Res. Element, Aesthetic Resources Section – staff revision accepted.
8. Add implementation measure to Natural Resources Element – staff revision accepted.
9. Resolve possible conflicts between LU-5.01 and LU-5.03 – staff revision accepted.
10. Revise HP-2.06 to address commercial development – staff revision accepted.
11. Define “View Corridor” in glossary – staff revision accepted.
12. Link income levels definitions to State standards – staff revision accepted.
13. Revise “Downtown Core” – staff revision accepted.
14. Revise “Mixed Use-Horizontal” definition – staff revision accepted.
15. Add “utility boxes” policy – staff revision accepted.
16. Add “and liquefied natural gas facilities” to policy NR-4.02 – staff revision accepted.
17. Revise last sentence in “Canyonization” definition – staff revision accepted with revision to 3rd sentence, replace “can be used...experience.” with “should not be confused with the technique of design enclosure, such as courtyards and paseos.”
18. Compatibility – staff recommended revision accepted.

Chair Darden opened the public hearing, and there being no public testimony, closed the public hearing.

IT WAS MOVED BY COMMISSIONER RUEHLIN, SECONDED BY COMMISSIONER WARD, AND UNANIMOUSLY CARRIED TO CONTINUE PUBLIC HEARING DRAFT CENTENNIAL GENERAL PLAN TO THE MEETING OF JULY 24, 2013.

[ITEM CONTINUED. PLANNING COMMISSION DECISION PENDING.]

9. NEW BUSINESS - None

10. OLD BUSINESS - None

11. REPORTS OF COMMISSIONERS/STAFF

A. Web-Based General Plan Discussion

Commissioner Ruehlin discussed potential issues that could arise with the City using a web-based General Plan, especially with regard to security and backing up concerns.

Brian Judd, consultant, advised the web-based files would be saved electronically, with protocols and procedures in place for how

language/code could be revised. He noted the City of Ontario reported that since that City's web-based general plan was adopted, no one has asked for a hard copy of the General Plan. In addition, he noted the City will have a draft copy of the Web-based Governance Structure Memo for review during the public review period for the Draft EIR.

Ajit Thind, Assistant City Attorney, clarified that the website is the format by which the General Plan is accessed. If the website code is changed or altered as a result of malfeasance, the City Council approved General Plan remains the same.

The Commissioners thanked Commissioner Ruehlin for his efforts and expertise with the web-based design.

- B. Tentative Future Agenda
- C. Minutes from the Zoning Administrator meeting of July 3, 2013
- D. Staff Waiver 13-255, 249 Avenida Santa Barbara
- E. Staff Waiver 13-256, 212 Avenida Monterey
- F. Staff Waiver 13-257, 139 Trafalgar Lane
- G. Staff Waiver 13-262, 313 W. Paseo De Cristobal
- H. Staff Waiver 13-265, 210 Calle Seville
- I. Staff Waiver 13-269, 1010 Calle Recodo
- J. Staff Waiver 13-270, 724 S. El Camino Real

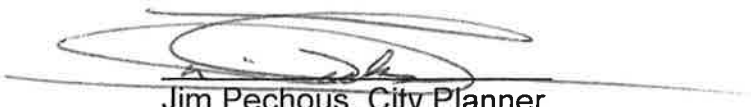
12. ADJOURNMENT

IT WAS MOVED BY COMMISSIONER RUEHLIN, SECONDED BY COMMISSIONER KAUPP, AND UNANIMOUSLY CARRIED to adjourn at 10:48 p.m. to the Adjourned Regular Planning Commission Meeting to be held at 5:00 p.m. on July 24, 2013 in Council Chambers at City Hall located at 100 Avenida Presidio, San Clemente, CA.

Respectfully submitted,

Julia Darden, Chair

Attest:



Jim Pechous, City Planner