



STAFF REPORT SAN CLEMENTE PLANNING COMMISSION

Date: June 5, 2013

PLANNER: Sean Nicholas, Associate Planner *SN*

SUBJECT: Conditional Use Permit 12-362/Cultural Heritage Permit 12-363/Discretionary Sign Permit 13-082/Minor Exception Permit 13-084/Outdoor Dining Permit 13-085, North Beach Rooftop Grill and Bar, 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, and approve a new sign package. The project is located at 1509 North El Camino Real.

BACKGROUND

The applicant is proposing to convert a single-story commercial building into a restaurant with an open roof top bar. The project site is 5,432 square feet with a 2,975 square foot, single-story building constructed in 1948. The roof top facility is proposed to span the entire length of the building, resulting in 2,975 square feet of outdoor dining. The applicant is proposing to maintain the Spanish architecture and all exterior modifications would continue the existing style. The General Plan promotes North Beach to be an entertainment and restaurant hub for the community.

On April 3, 2013, the Planning Commission reviewed the proposed request and took public testimony. The Planning Commission Staff Report and Minutes from the April 3rd meeting have been included as Attachment four (4). Following the close of the public hearing there were several issues that were discussed that the Planning Commission wanted additional information on before making a decision of the project. Those issues are:

- 1) Walking distance from on-street parking to the project site and how that compares to distances from other public parking lots?
- 2) Information about safety crossing North El Camino Real
- 3) How much on-street parking is available?
- 4) Noise concerns associated with compatibility with adjacent uses and residents who live above and around the project site
- 5) Potential measures that can be taken to reduce noise on the roof
- 6) Allowed occupancy versus physical occupancy
- 7) Whether the roof top facility is permitted by the code
- 8) Signage, in particular concerns about the design and use of neon

The applicant has provided additional information and staff has done additional research and analysis to address the eight questions and issues raised at the April 3rd Planning Commission meeting.

PROJECT ANALYSIS

Parking

- 1) *Walking distance from on-street parking to the project site and how that compares to distances from other public parking lots?*

In trying to determine reasonable parking spaces to include in the parking analysis, staff reviewed comparable walking distances. The farthest parking space on Los Molinos, and still within a 300 foot radius from the project site is 1,250 foot walking distance utilizing the public right-of-way, and not trespassing. This is just under a quarter mile (1,320 feet). In comparison, the farthest parking space in the Pier Bowl parking lot to the Fisherman's is 1,100 feet walking distance. Due to the distance and infeasibility of people legally walking to the end of Los Molinos and utilizing the alley and rear entrance, staff has determined that it is unrealistic to consider the Los Molinos on-street parking spaces in the parking analysis, unless a parking or access easement is recorded between the applicant and the Elk's Lodge. If the Elk's Lodge parking is made legally accessible to cross, it would reduce the walking distance to 503 linear feet from the farthest parking space from the project site.

For the parking on the west side of El Camino Real, the farthest parking spot, and still within a 300 foot radius from the project site, is 1,300 foot walking distance utilizing the public right-of-way and crosswalk at El Camino Real and Los Molinos, and not illegally crossing El Camino Real. This distance is again just under a quarter of a mile, and further than the walk from the last parking space within the Pier Bowl parking lot walking to the Fisherman's.

- 2) *Information about safety crossing North El Camino Real*

Similar to the analysis completed above, staff looked at the functionality of the on-street parking on the west side of El Camino Real. Logically most people will want to park on the east side of El Camino Real as close to the front of the restaurant as possible. For this reason, and the distance that people would need to walk to legally access the site, none of the parking on the west side of El Camino Real should be utilized to determine the availability of on-street parking for parking waivers. Tom Frank, the City's Traffic Engineer, also reviewed the safety issue for people parking on the west side of El Camino Real and crossing El Camino Real. It was his recommendation that the City should not encourage parking on the west side of El Camino Real unless a traffic circle or signal was installed at Avenida Florencia, which would cost approximately \$300,000. Regardless of the use at the project site (restaurant, retail, office, etc.), if people choose to park on the west side of El Camino Real and cross to access any of the uses on the east side of the street, they have the ability to do so. Associated with this project, there was not a reasonable nexus between people parking on the west side of El Camino Real and the project to require the

applicant to pay for substantial road improvements for enhanced crossing of El Camino Real.

3) How much on-street parking is available?

During the public hearing, there were questions on how much on-street parking opportunities there are within 300 feet of the project site when red curbs and driveway cuts are accounted for. To address this question, staff met with the applicant, and determined that functionally only on-street parking on the east side of El Camino Real work for parking for this site due to a lack of a traffic signal and crosswalk in the immediate area. Additionally, as discussed above in question one, because of the walking distance between access to the site and the parking on Los Molinos, it was unrealistic to assume people would walk that distance and legally access the facility. Taking all of that into account, staff went and field measured the curb space available for parking (excluding red curbs and curb cuts) and determined there are 17 on-street parking spaces on the east side of El Camino Real. Attachment five (5) is a detailed map showing the locations of on-street parking spaces.

Parking Waiver Analysis

Pursuant to the applicants parking survey, peak utilization for the area is 12:00 pm on a weekday. However, for on-street parking on the east side of North El Camino Real peak utilization occurs at 6:00 pm on a week day with a total of six of the 17 on-street spaces occupied. This is a 35% utilization rate.

Consistent with traffic engineering industry standards, 85% utilization is the maximum occupancy that can occur without traffic impacts. An 85% utilization of 17 on-street spaces is 15 spaces. Staff does not recommend granting parking waivers above the 85% utilization threshold. In this case nine parking spaces are available at peak utilization. Any more than nine spaces would exceed the 85% threshold and potentially impact traffic circulation. The applicant is requesting 12 parking waivers; however, based on the analysis above staff is recommending the maximum number of waivers be limited to nine.

Recommendation

Based on this parking analysis, the following represents staff's revised parking waiver recommendation, and total number of seats for the development:

**Table 1:
Parking and Seat Calculation**

Parking Spaces (Credited/Waived/Existing)	Number of Seats (Indoor and Outdoor)
7 parking space credit (based on least restrictive commercial/retail use)	35 indoor or outdoor seats
0 parking spaces (for restaurants with over 32 indoor seats permitted, 16 outdoor seats allowed by right)	16 outdoor seats
6 parking spaces from off-site parking agreement	30 indoor or outdoor seats
2 parking space waivers (through approval of MEP for change of use)	10 indoor or outdoor seats
7 parking space waivers (for outdoor seating)	35 outdoor seats
TOTALS	
Indoor/Outdoor seats	75
Outdoor seats only	51
Parking waivers	9 (based on parking availability analysis)

Condition of approval 14D has been added which allows the applicant to increase the number of parking waivers by three (additional 15 seats) if a pedestrian access easement across the Elk's Lodge parking lot can be acquired. As noted above, if legal access is granted through the parking lot than the on-street parking within 300 feet of the project site on Los Molinos is within about a 500 foot walking distance, this area has an additional 36 on-street parking spaces. At peak utilization, 12:00 pm on a weekday, 28 on-street parking spaces are occupied, which is a 78% utilization rate. There are three available spaces before the peak utilization is 31 parking spaces which is the 85% threshold, thus the additional on-street parking is available at peak period of use.

Staff has also included a condition of approval which requires a six month and one year review from the beginning of operations. This will allow the operator to begin operation and give the applicant more time to secure off-site parking and potentially access agreements with the Elks Lodge to reduce legal walking distances. At that time, staff can re-analyze the parking situation, work with the applicant to get a new parking survey, and provide recommendations to the Planning Commission at each review concerning the status of parking availability and the potential of additional parking waivers.

The applicant has also included bike parking on-site to promote alternative modes of transportation to the restaurant.

Noise

- 4) Noise concerns associated with compatibility with adjacent uses and residents who live above and around the project site

Following the previous meeting, the applicant expanded the acoustical study that was completed for the project (Attachment 6). In particular, receptors were set surrounding the project site that measured ambient noise as well as the increase of noise due to sound occurring both indoors and outdoors at a decibel level of 93. Based on that analysis, the sound engineer stated that the primary noise recorded was the traffic on North El Camino Real. At times where there was "minimal traffic" on North El Camino Real almost every off-site receptor was found to be less than the threshold of the noise ordinance, with the exception of the entrance of the Elks Lodge when noise was produced on the roof where the noise ordinance threshold is exceeded by .4 decibels. Recommendations presented below should reduce decibels below the noise thresholds.

There were also concerns regarding the adjacent animal hospital use and impacts to animals that are boarded there. There were comments made that a dog can here between six and 10 times louder than humans. The acoustic engineer states, and staff verified from other sources, that dogs do not hear louder, but they do hear a higher range of sound, thus impacts to the dogs will not be greater than the impacts to humans surrounding the site. At the animal hospital it was determined that the noise generated from indoor sound will be just below the allowed maximum for commercial uses. The decibel readings at the animal hospital when the noise originated from the roof were less than the levels when generated indoors due to source of the noise being above the animal hospital and the way the noise dispersed.

There was also a concern because the project site was located in a "bowl" that residents above the site would be more impacted by the sound traveling upwards. The applicant has presented some information regarding expected sound levels at the residences on Redondel and found that the potential sound levels will be approximately 44 decibels. This is based on a calculation of sound intensity of 93 decibels at the project site, not on an actual field sound reading. Since the last public hearing, staff has received letters in opposition to the project from residents of Redondel on the basis of noise. Additionally, at Mirador and Reposo, the sound level was slightly higher at the higher elevation compared to Mirador and Florencia, 51.7 decibels versus 48.9 decibels. Both are below the allowed sound limit as specified in the noise ordinance. The applicant's acoustic engineer will be at the meeting to address questions from the Planning Commission.

- 5) *Potential measures that can be taken to reduce noise on the roof*

The acoustic engineer gave recommendations regarding the rooftop sound which included incorporating sound proofing materials on the south end of the building (adjacent to the Elks Lodge) to reduce the amount of sound that will bounce off that building. Additionally, temporary sound attenuating structures should be installed during periods of live entertainment on the roof to reduce the amount of sound emanating behind the performers

CUP 12-362/CHP 12-363/DSP 13-082/MEP 13-084/ODP 13-085, North Beach Rooftop Grill and Bar

and reducing further the “rebound” sound off the Elks building. The sound attenuating structure is meant to be temporary and removable when live entertainment is not occurring.

Staff has again reviewed and re-evaluated other establishments with outdoor patios, and especially those associated with live entertainment/amplified sound, and found almost all of those establishments are required to end use of the outdoor patio by 10:00 pm, including at the Casino under normal operating conditions, except the Fisherman’s which operates the patio until midnight on the bar side, but has no live entertainment/amplified sound. City facilities, such as the Beach Club and Community Center, must be cleaned up and closed by 11:00 pm, which results in most events ending by 10:00 pm. The basis for this requirement is to ensure compatibility with surrounding land uses and residents, to allow businesses to operate and hopefully be successful, but to be mindful of neighbors and avoid conflicts. Consistent with this practice, and with other restaurants and facilities throughout the community, staff is supportive of the use of the roof top portion and outdoor patios from 6:00 am until 10:00 pm. Consistent with other facilities and to reduce potential conflict and compatibility issues with adjacent uses and residents, staff is supportive of only acoustic live entertainment, with no drum sets, to be utilized on the roof, with the exception that sound from television sets and low level background music are permitted, but no disc jockeys are permitted. All sound on the roof must be kept below 93 decibels, with no live entertainment, music, or televisions allowed to begin before 7:00 am. The front patio of the proposed restaurant is subject to the same regulations and hours of operation as the roof top portion. The applicant can continue to utilize the side outdoor patio for people after 10:00 pm, but when amplified sound/live entertainment of any kind is occurring indoors all doors and windows must be closed. While the applicant can utilize the side patio after 10:00 pm, no amplified sound/live entertainment can occur on the outdoor patio after 10:00 pm.

For inside noise, full amplified sound can be permitted until 2:00 am consistent with other facilities. Though to avoid impacts to surrounding residents and uses, after 10:00 pm all doors and windows must be kept shut. Additionally, as been done in other facilities, a vestibule shall be incorporated into the front entrance to avoid excessive noise leakage after 10:00 pm from people entering and exiting the facility.

As was discussed under the parking analysis and recommendations, the condition of approval requiring a six month and one year review will allow staff the ability to evaluate operation of the roof top portion of the business and the noise the facility generates and make recommendations regarding if additional live entertainment/amplified sound on the roof would be appropriate.

Occupancy

6) Allowed occupancy versus physical occupancy

As has been done as part of the discretionary approval for multiple other facilities including: churches, restaurants, and the Casino building, parking is often the limiting

factor for the number of posted occupants. In this situation, approval of the project would grant a total of 126 seats. The applicant has the ability to increase this number by entering into additional off-site parking agreements. Also, at the six month and one year review, updated parking surveys and additional agreements may make additional parking waivers a possibility as well. The maximum occupancy, regardless of how many parking agreements and waivers are granted, is 226 due to the fixture limitation of the restrooms. As noted at the public hearing, there are enforcement tools that City staff has available to monitor and regulate uses and ensure that they are not in violation of their approvals including: daily finds, legal action, and ultimately revocation of the entitlements for alcohol, live entertainment, and the parking waivers. Staff discussed this issue with the Code Compliance Division and they state that this is a manageable situation. Staff is supportive of moving forward with this phased seating approach as it is consistent with other facilities throughout the community.

Roof Top Facility

7) *Whether the roof top facility is permitted by the code*

A question was raised following the Planning Commission meeting as to whether or not the facilities proposed for the roof top is permitted by the Code. Municipal Code Section 17.40.030 states that, all uses shall be conducted within an enclosed space. Though the Architectural Overlay (Municipal Code Section 17.56.020) and the Outdoor Dining Permit (Municipal Code Section 17.28.205) recognize this issue, but identify the need for outdoor facilities such as this that promote the pedestrian environment characteristic of vibrant places and the village/pedestrian environment. Further the City has approved multiple facilities both in downtown and in other areas of the community where outdoor dining is occurring. For that reason, staff's position is that the facilities proposed associated with the roof top promote the outdoor pedestrian environment and thus supported by the Architectural Overlay and Outdoor Dining Permit code sections. Staff also reviewed these applicable Municipal Code sections with the City Attorney, and they agreed with staff's assessment.

Signage

8) *Signage, in particular concerns about the design and use of neon*

The applicant was unable to meet with a new sign contractor to discuss other potential designs, and is proposing the same sign package that came before the Planning Commission on April 3rd. The Discretionary Sign Program includes three signs, which all incorporate neon for illumination. At the DRSC meeting associated with signage the primary sign of concern was the projecting sign which included a large arrow element and the most amount of neon of the three signs. A detailed analysis of the signage is included in the attached Planning Commission Staff Report from April 3rd (Attachment 4). Staff supports the signage, as it does add a unique and custom look to the building, and the use of neon is a skilled trade which is rarely used in signage in San Clemente. Design Review Subcommittee does not support the signage as designed because their position was it was

out of character with the building and inconsistent with the goals and policies for signage within the Architectural Overlay. Staff has separated the Discretionary Sign Permit as a separate resolution if the Planning Commission wanted to approve the use, but allow additional time for further modifications to the sign package.

ALTERNATIVES; IMPLICATIONS OF ALTERNATIVES

1. The Planning Commission can concur with staff and recommend approval of the proposed project.

This action would result in the applicant being able to move forward with establishing a restaurant on the site with 75 indoor/outdoor seats and 51 outdoor seats, with a potential total of 121 outdoor seats on the roof until additional off-site parking agreements can be garnered, and/or an access easement is granted through the Elk's Lodge parking lot to open up reliable access to on-street parking on Los Molinos. This would limit the hours of operation on the roof top portion of the project including the types of live entertainment/amplified sound that can be conducted. This will also allow the applicant to have neon signage within the Architectural Overlay.

2. The Planning Commission can, at its discretion, add, modify or delete provisions of the proposed project or conditions.

The Planning Commission could determine that the hours of operation for the roof top portion of the restaurant can be extended beyond 10:00 pm or that it is not consistent or compatible with the surrounding uses and residents, and further restrict the use.

The Planning Commission could also require the outdoor kitchen facility and/or the roof top bar to either be fully enclosed or removed if it is determined that it does not add to the pedestrian environment consistent with the Architectural Overlay and Outdoor Dining provisions.

Planning Commission could continue the sign package to allow further discussion between the applicant and Design Review Subcommittee or require different signage, reduced signage, or no neon for the development.

The Planning Commission could also either support fewer or more parking waivers for outdoor seating. Either approving less or more waivers would impact the total seating for the restaurant and parking allowance for future uses.

3. The Planning Commission can recommend denial of the proposed project.

This action would result in the denial of the project and the applicant would not be able to move forward with the project. The applicant could appeal to the City Council.

CONCLUSION

The General Plan goal for North Beach is that it is the entertainment/restaurant hub of the community, and this project is consistent with those goals, as well as strengthens the pedestrian atmosphere. Similar to support of parking waivers on Avenida Del Mar when revitalization began, staff is supportive of parking waivers in this situation as well to promote improvements in the District. Based on further analysis of the reasonable use of on-street parking, and concerns about safety and functionality, staff is recommending only counting the parking located on the east side of El Camino Real unless a pedestrian access easement is obtained which would make use of on-street parking on Los Molinos feasible. Staff supports the signage, as it adds a unique and custom look to the building, but Design Review Subcommittee is not in support of the signage as designed because they feel it is incompatible with the buildings architecture. Staff is supportive of the project overall as the waivers are built into the Municipal Code to support revitalization, and the project, with the added conditions discussed in this staff report will not impact adjacent uses and residents, promotes the goals, objectives, and policies of the current General Plan and in the upcoming Centennial General Plan for the North Beach area.

RECOMMENDATION

STAFF RECOMMENDS THAT the Planning Commission approve CUP 12-362/CHP 12-363/DSP 13-082/SEP 13-083/MEP 13-084/ODP 13-085, North Beach Rooftop Grill and Bar, subject to the attached Resolution and Conditions of Approval.

Attachments:

1. Resolution for CUP, CHP, MEP, and ODP
Exhibit 1 - Condition of Approval
2. Resolution for DSP
Exhibit 1 - Condition of Approval
3. Location Map
4. Planning Commission Staff Report and Minutes from April 3, 2013 (excerpted)
5. Map of on-street parking as measured by staff
6. Acoustical study prepared by the applicant
7. Letters from the public

Plans

RESOLUTION NO. PC 13-016

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN CLEMENTE, APPROVING CONDITIONAL USE PERMIT (CUP) 12-362, CULTURAL HERITAGE PERMIT 12-363, MINOR EXCEPTION PERMIT (MEP) 13-084, OUTDOOR DINING PERMIT (ODP) 13-085, NORTH BEACH ROOFTOP GRILL AND BAR, A REQUEST TO CONVERT A ONE-STORY COMMERCIAL BUILDING INTO A RESTAURANT WITH OPEN ROOF TOP DINING, FULL RANGE OF ALCOHOL SERVICE, AMPLIFIED SOUND, LIVE ENTERTAINMENT, OFF-SITE PARKING AGREEMENT, PARKING WAIVERS, AND NEW SIGNAGE LOCATED AT 1509 NORTH EL CAMINO REAL

WHEREAS, on October 18, 2012, an application was submitted, and deemed complete on March 27, 2013, by David Gutierrez, 1509 North El Camino Real, San Clemente, CA, 92672, to allow the conversion of a one-story commercial building into a restaurant with open roof top dining, full range of alcohol service, amplified sound, live entertainment, off-site parking agreement, and parking waivers located at 1509 North El Camino Real, the legal description being Lot 9, of Block 2, of Tract 795, Assessor's Parcel Number 057-170-31; and

WHEREAS, on November 8, 2012, December 13, 2012, January 10, 2013, February 7, 2013, February 14, 2013, March 4, 2013, and March 14, 2013, the City's Development Management Team reviewed the application for compliance with the General Plan, Zoning Ordinance, and other applicable requirements; and

WHEREAS, on February 13, 2013 and March 27, 2013, the proposed project was reviewed by the Design Review Subcommittee and supported the design of the project; and

WHEREAS, the Planning Division has completed an initial environmental assessment of the above matter in accordance with the California Environmental Quality Act (CEQA) and recommends that the Planning Commission determine the project categorically exempt from CEQA pursuant to Guidelines Section 15301, as a Class 1 since the project will primarily be a change of use and allow for the required plumbing, electrical, and other improvements necessary to establish a restaurant; and

WHEREAS, on April 3, 2013, the Planning Commission of the City of San Clemente held a duly noticed public hearing on the subject application, and considered evidence presented by the applicant, City staff, and other interested parties, and continued the public hearing until May 8th; and

WHEREAS, on May 8, 2013, the Planning Commission of the City of San Clemente continued the public hearing until June 5, 2013; and

WHEREAS, on June 5, 2013, the Planning Commission of the City of San Clemente held a duly noticed public hearing on the subject application, and considered

evidence presented by the applicant, City staff, and other interested parties.

NOW THEREFORE, the Planning Commission of the City of San Clemente hereby resolves as follows:

Section 1: The project is categorically exempt from CEQA Pursuant to Section 15301, as a Class 1 since the project will primarily be a change of use and allow for the required plumbing, electrical, and other improvements necessary to establish a restaurant.

Section 2: With regard to Conditional Use Permit (CUP) 12-362, the Planning Commission finds as follows:

- A. The proposed use is permitted within the subject zone pursuant to the approval of a Conditional Use Permit and complies with all the applicable provisions of this title, the San Clemente General Plan and the purpose and intent of the zone in which the use is being proposed in that the project is one of the first revitalization of the North Beach area, and supporting the off-site parking, parking waivers, full range of alcohol sales, amplified sound, and live entertainment is consistent with the goals and objectives for North Beach in the General Plan
- B. The site is suitable for the type and intensity of use that is proposed in that the site is located within North Beach which has been identified in the General Plan to be an entertainment/restaurant hub for the community. The use of the various parking waivers, off-site parking, alcohol request, and amplified sound and live entertainment will help promote the atmosphere and uses in North Beach that is promoted in the General Plan, and there is sufficient on-street parking to approve nine parking waivers as only a 35% utilization rate of on-street parking on the east side of El Camino Real is utilized at peak time.
- C. The proposed use will not be detrimental to the public health, safety or welfare, or materially injurious to properties and improvements in the vicinity in that there are other restaurant and entertainment facilities within close proximity of the site, and there is sufficient on-street parking to approve nine parking waivers as only a 35% utilization rate of on-street parking on the east side of El Camino Real is utilized at peak time..
- D. The proposed use will not negatively impact surrounding land uses in that the project has been conditioned to ensure that there is no impact to surrounding uses, and the improvements to the site will be in character with the neighborhood, and the hours of operation are similar to other approved facilities within North Beach and the City.

Section 3: With regard to Cultural Heritage Permit (CHP) 12-363, the Planning Commission finds as follows:

- A. The architectural treatment of the project complies with the San Clemente General Plan in that the improvements have been designed to be consistent with the City's Design Guidelines and promotes outdoor dining.
- B. The architectural treatment of the project complies with the Zoning Ordinance in areas including, but not limited to, height, setback color, etc. in that the project meets all applicable Development standards and is consistent with the City's Design Guidelines.
- C. The architectural treatment of the project complies with the architectural guidelines in the City's Design Guidelines in that the improvements proposed are consistent with Spanish Colonial Revival architecture, is consistent with the City's Design Guidelines, and promotes outdoor dining.
- D. The general appearance of the proposal is in keeping with the character of the neighborhood in that the area is identified as an entertainment and restaurant hub for the community pursuant to the General Plan, and the improvements made will enhance the look of the facility and allow for revitalization of the site and area.
- E. The proposal is not detrimental to the orderly and harmonious development of the City in that the proposed improvements are consistent with development standards, and as conditioned will be consistent with the surrounding developments.
- F. The proposed project/use preserves and strengthens the pedestrian-orientation of the district by adding a substantial amount of outdoor dining opportunities both at street level and on the roof.

Section 4: With regard to Minor Exception Permit (MEP) 13-084, the Planning Commission finds as follows:

- A. The requested minor exception will not interfere with the purpose of the zone or the standards of the zone in which the property is located in that the two parking waivers will support the revitalization of the facility and there is sufficient on-street parking to approve nine parking waivers as only a 35% utilization rate of on-street parking on the east side of El Camino Real is utilized at peak time.
- B. The neighboring properties will not be adversely affected as a result of the approval or conditional approval of the Minor Exception Permit in that approval of the two parking waivers will not create a shortage of public parking within 300 feet of the project site, as there is sufficient on-street parking to approve nine parking waivers as only a 35% utilization rate of

on-street parking on the east side of El Camino Real is utilized at peak time.

- C. The approval or conditional approval of the Minor Exception Permit will not be detrimental to the health, safety or welfare of the general public in that the project will meet all applicable development standards with the approval of the parking waivers and will not create a shortage of public or on-street parking within 300 feet of the project site.

Section 5: With regard to Outdoor Dining Permit (ODP) 13-085, the Planning Commission finds as follows:

- A. The outdoor dining area contributes to the village/pedestrian ambiance of the City, in accordance with the City's General Plan in that the site is within the Pedestrian Overlay District and the applicant is proposing a number of outdoor seats to contribute to the pedestrian atmosphere of North Beach.
- B. The outdoor dining area complies with the standards of this section in that with the approval of the parking waivers the project will meet all applicable development standards and there will not be a shortage of on-street public parking within 300 feet as there is sufficient on-street parking to approve nine parking waivers as only a 35% utilization rate of on-street parking on the east side of El Camino Real is utilized at peak time.
- C. Any negative visual, noise, traffic, accessibility, and parking impacts associated with the outdoor dining area have been reduced to an acceptable level, as determined by the City in that the waivers and outdoor dining will support the goals and objective of the General Plan and promote outdoor dining and enhance the Pedestrian Overlay District.
- D. The outdoor dining facility complies with the required findings for the approval of for a Cultural Heritage Permit in that the site meets applicable development standards with the approval of the parking waivers and will be consistent with the goals and policies of the General Plan for North Beach.

Section 6: The Planning Commission of the City of San Clemente hereby approves CUP 12-362/CHP 12-363/MEP 13-084/ODP 13-085, North Beach Rooftop Grill and Bar, subject to the above Findings, and the Conditions of Approval attached hereto as Exhibit 1.

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the City of San Clemente on June 5, 2013.

Chair

TO WIT:

I **HEREBY CERTIFY** that the foregoing resolution was duly adopted at a regular meeting of the Planning Commission of the City of San Clemente on June 5, 2013, and carried by the following roll call vote:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSTAIN: COMMISSIONERS:

ABSENT: COMMISSIONERS:

Secretary of the Planning Commission

EXHIBIT 1

CONDITIONS OF APPROVAL*
CUP 12-362/CHP 12-363/MEP 13-084/ODP 13-085
North Beach Rooftop Grill and Bar

1. The applicant or the property owner or other holder of the right to the development entitlement(s) or permit(s) approved by the City for the project, if different from the applicant (herein, collectively, the "Indemnitor") shall indemnify, defend, and hold harmless the City of San Clemente and its elected city council, its appointed boards, commissions, and committees, and its officials, employees, and agents (herein, collectively, the "Indemnitees") from and against any and all claims, liabilities, losses, fines, penalties, and expenses, including without limitation litigation expenses and attorney's fees, arising out of either (i) the City's approval of the project, including without limitation any judicial or administrative proceeding initiated or maintained by any person or entity challenging the validity or enforceability of any City permit or approval relating to the project, any condition of approval imposed by City on such permit or approval, and any finding or determination made and any other action taken by any of the Indemnitees in conjunction with such permit or approval, including without limitation any action taken pursuant to the California Environmental Quality Act ("CEQA"), or (ii) the acts, omissions, or operations of the Indemnitor and the directors, officers, members, partners, employees, agents, contractors, and subcontractors of each person or entity comprising the Indemnitor with respect to the ownership, planning, design, construction, and maintenance of the project and the property for which the project is being approved. The City shall notify the Indemnitor of any claim, lawsuit, or other judicial or administrative proceeding (herein, an "Action") within the scope of this indemnity obligation and request that the Indemnitor defend such Action with legal counsel reasonably satisfactory to the City. If the Indemnitor fails to so defend the Action, the City shall have the right but not the obligation to do so and, if it does, the Indemnitor shall promptly pay the City's full cost thereof. Notwithstanding the foregoing, the indemnity obligation under clause (ii) of the first sentence of this condition shall not apply to the extent the claim arises out of the willful misconduct or the sole active negligence of the City. *[Citation – City Attorney Legal Directive/City Council Approval June 1, 2010]*
(PIng.) _____
2. The owner or designee shall develop the approved project in conformance with the site plan, floor plans, elevations, and any other applicable submittals approved by the Planning Commission on April 3, 2013.

Any deviation from the above approved resolution and site plan and or other approved submittal shall require that the owner or designee submit modified plans and any other applicable materials as required by the City for review and

obtain the approval of the City Planner or designee. If the City Planner or designee determines that the deviation is significant, the owner or designee shall be required to apply for review and obtain the approval of the Zoning Administrator.

(PIng.) _____

CUP 12-362/CHP 12-363/MEP 13-084/ODP 13-085 shall become null and void if the use is not commenced within three (3) years from the date of the approval thereof. Since the use requires the issuance of a building permit, the use shall not be deemed to have commenced until the date that the building permit is issued for the development. *[Citation - Section 17.12.150.A.1 of the SCMC]*

(PIng.)_____

A use shall be deemed to have lapsed, and CUP 12-362/CHP 12-363/MEP 13-084/ODP 13-085 shall be deemed to have expired, when a building permit has been issued and construction has not been completed and the building permit has expired in accordance with applicable sections of the California Building Code, as amended. *[Citation - Section 17.12.150.C.1 of the SCMC]*

(PIng.)_____

- 3. The owner or designee shall have the right to request an extension of CUP 12-362/CHP 12-363/MEP 13-084/ODP 13-085 if said request is made and filed with the Planning Division prior to the expiration date as set forth herein. The request shall be subject to review and approval by the final decision making authority that ultimately approved or conditionally approved the original application. *[Citation - Section 17.12.160 of the SCMC]*

(PIng.)_____

- 4. Prior to issuance of building permits, the owner or designee shall submit for review and obtain approval of the City Planner or designee for plans indicating the following:

■ (PIng.)_____

- A. New structures with stucco components shall be white with a 'steel, hand trowel' (no machine application), smooth Mission finish and slight undulations (applied during brown coat) and bull-nosed corners and edges, including archways (applied during lathe), with no control/expansion joints. *[Citation – City of San Clemente Design Guidelines, November 1991]*

- B. All metal details including railings and stair handrails shall be wrought iron.

- 5. Prior to the issuance of building permits, the owner or designee shall submit written consent to all of these imposed conditions to the Community Development Director or designee. The owner or designee understands that the resolution will be of no force or effect, nor shall permits be issued, unless such written consent is submitted to the City.

(PIng.) _____

7. Prior to the issuance of building permits, the applicant or designee shall include within the first four pages of the working drawings a list of all conditions of approval imposed by the final approval for the project. *[Citation – City Quality Assurance Program]* (PIng.) (Bldg.)_____

8. Prior to issuance of building permits, the applicant shall submit for approval of the building division and City Planner a lighting plan showing consistency with California Green Code requirements and ensure lighting will not be excessive on-site. Additionally, prior to issuance of building permit, the City Planner, or his designee, shall approve the design and scale of all decorative lighting. ■ ■ (PIng.)_____

9. The applicant shall prepare for review and approval by the City’s contract Landscape Architect a landscape and irrigation plan for the landscaping area along the front of the facility. ■ ■ (PIng.)_____

10. Alcohol service indoors and the outdoor patio on the side of the building only may be served between 6:00 a.m.to 2:00 a.m. seven days a week. Outdoor alcohol on the roof top and front fenced patio may only be between 6:00 a.m. to 10:00 p.m. ■ ■ (PIng.)_____

11. The owner or designee shall obey all rules, regulations and conditions imposed upon the project through, but not limited to, the Alcoholic Beverage Commission (ABC) and relevant State laws. Revocation of, or sale of said ABC license to another person at another location, shall render this Use Permit null and void. Prior to any sale of the ABC license, the owner or designee shall notify the Community Development Department of the sale. *[Citation – Division 9 (Alcoholic Beverages), Business and Professions Code, State of California]* (PIng.)_____

12. The owner or designee shall obey all rules, regulations and conditions imposed upon the project through, but not limited to, the Alcoholic Beverage Commission (ABC) and relevant State laws. Revocation of, or sale of said ABC license to another person at another location, shall render any City approved CUP for alcohol service at the subject property null and void. Prior to any sale of the ABC license, the owner or designee shall notify the Community Development Department of the sale. *[Citation – Division 9 (Alcoholic Beverages), Business and Professions Code, State of California]* (PIng.)_____

13. The owner or designee shall be responsible for ensuring that all employees receive "Responsible Alcoholic Beverage Service" training as offered through programs established by the Orange County Health Care Agency and Alcoholic Beverage Control of the State of California. Evidence of such training and the training records of all employees shall be maintained on-site during business hours, and made available for inspection upon request. [Citation - Section 17.16.070.K of the of the SCMC]

(PIng.)_____

14. The following items all relate to parking and seats for the facility:

- A. Prior to issuance of permits, the applicant shall provide planning staff evidence that the off-site parking agreement with Bull Taco has been completed and recorded in conformance with Municipal Code requirements.
- B. With the recording of the off-site parking agreement the applicant shall be permitted to have 75 indoor seats and 51 outdoor, or 121 outdoor seats if no indoor seats are utilized.
- C. The applicant can submit for approval of City staff additional off-site parking agreements, that will be completed and recorded in conformance with Municipal Code requirements, to increase the number of seats associated with the site up to a maximum total of 226 seats (indoor or outdoor).
- D. If the applicant can provide to staff a recorded pedestrian access easement across the Elk's Lodge parking lot, then the applicant shall be granted three (3) additional parking waivers due to the close proximity of on-street parking on Los Molinos with the agreement. This would increase the allowed number of outdoor seats only by 15. The total number of seats will be verified on subsequent tenant improvement plans as well as in the field.

■■ (PIng.)_____

15. If for any reason City staff determines the amplified sound or live entertainment use is not in compliance with the conditions of approval or intent of the Zoning Code, the approval of amplified sound/live entertainment may be revoked and/or sent to Planning Commission for modification.

■■ (PIng.)_____

16. The owner shall have a manager on the premises at all times during the hours of operation when live entertainment and/or amplified sound are occurring.

■ (PIng.)_____

17. The property owner, applicant, or designee shall be responsible for immediately resolving any problems associated with the amplified sound or live entertainment and/or issues of concern raised by neighbors.

■■ (PIng.)_____

18. The owner or designee shall be responsible for closing, and keeping shut, all exterior windows, doors, and skylights when amplified sound and/or live

entertainment and/or dancing is being conducted indoors, with the exception of occasions doors are used to enter-and-exit the building.

■■ (Plng.)_____

Building

19. Separate building permit and plan review is required prior to commencing any construction. Detailed review for compliance with Building, Electrical, Plumbing, Mechanical, Energy, CALGreen, Fire, and Disabled Access Codes will need to be done prior to issuance of building permit. (Bldg.)_____

20. Building permits shall not be issued unless the project complies with all applicable codes, ordinances, and statutes including, but not limited to the Zoning Ordinance, Grading Code, Transportation Demand Ordinance, Water Quality Ordinance, Title 24 of the California Code of Regulations as adopted by the City including, but not limited to the California Administrative, Building, Electrical, Plumbing, Mechanical, Energy, CALGreen, and Fire Codes. *[Citation - S.C.M.C. Title 8, Section 8.16; Fire Code, Title 15, Building and Construction, Sections 15.08, 15.12, 15.16, 15.20; Title 16, Subdivisions; & Title 17, Zoning]* (Bldg.)_____

21. Prior to the issuance of building permits, the owner or designee shall pay all applicable development fees in effect at the time, which may include, but are not limited to, Regional Circulation Financing and Phasing Program (RCFPP), park acquisition and development, water and sewer connection, drainage, Public Facility Construction transportation corridor, Avenida La Pata Supplemental Road Fee and school fees, etc. *[Citation - S.C.M.C. Title 15, Building and Construction, Sections 15.52, 15.56, 15.60, 15.64, 15.68, 15.72].* (Bldg.)_____

22. Prior to the Building Division's approval of the framing inspection, the owner or designee shall submit evidence to the satisfaction of the City Building Official or designee that a registered civil engineer that is licensed to do surveying or land surveyor has certified that the height of all structures are in conformance to the approved plans. *[Citation – No Specific Citation/City Council Approval June 1, 2010]* (Bldg.)_____

23. Prior to issuance of certificate of occupancy, the owner or designee shall demonstrate to the satisfaction of the City Building Official or designee that the project has been constructed in conformance with the approved sets of plans and all applicable, codes, ordinances, and standards. *[Citation – Appendix 1, Section 110 of the California Building Code]* (Bldg.)_____

Special Conditions

- 24. The proposed exit stair from roof deck is located closer to the property line than the 10 feet minimum separation required by the building code. Applicant desires to utilize a fire sprinkler water curtain system to mitigate life-safety hazard.

Prior to issuance of building permit, the applicant or designee shall obtain approval for "alternate materials, design and methods" by submitting technical evidence to the satisfaction of the City Building Official and Fire Marshal in accordance with California Building Code (CBC) section 104.11 and California Fire Code (CFC) section 104.9 to prove that the proposed alternative is at least equivalent to that prescribed by the code in quality, strength, effectiveness, fire resistance, durability, and safety.

(Bldg)_____ (Fire)_____

- 25. Prior to issuance of building permit, the applicant or designee shall provide occupant load calculations that correctly indicate the maximum number of occupants for exiting (per CBC section 1004) and minimum restroom fixtures (per CPC section 412, Table 4-1, and Table A).

(Bldg)_____

- 26. Prior to issuance of building permit, the applicant or designee shall provide detailed occupancy/seating information shown consistently throughout the plans.

(Bldg)_____

Fees

- 27. Prior to the issuance of any permits, plan check fees shall be submitted for the Engineering Department plan check of hydrology/hydraulic studies, if required by the City Engineer for any alternations to the alley. *[Citation – Fee Resolution No. 08-81 and Section 15.36 of the SCMC]* ■ (Eng.)_____

Reports –Hydrology & Hydraulic

- 28. Prior to the issuance of any permits, the owner or designee shall submit for review, and shall obtain the approval of the City Engineer, if deemed necessary by the City Engineer, a hydrology and/or hydraulic study prepared by a registered civil engineer which conforms to City standards and all other applicable codes, ordinances and regulations. This may be required if changes to the alley grades are proposed by the applicant. *[Citation – Section 15.36 of the SCMC]*

■ (Eng.)_____

Improvements

29. Prior to issuance of any permits, the owner or designee shall submit for review, and shall obtain the approval of the City Engineer or designee for frontage improvement plans, including but not limited to the following provisions: *[Citation – Section 15.36, 12.08.010, and 12.24.050 of the SMC]*

■ (Eng.)_____

- A. Per City Municipal Code Section 12.08.010 (A), when building permit valuations exceed \$50,000, the owner or designee shall construct sidewalk along the property frontage. The existing drive approach along North El Camino Real shall be closed with full height curb and the sidewalk reconstructed for this area. The applicant will be responsible for painting the curb frontage to the satisfaction of the City Engineer.
- B. An Engineering Department Encroachment Permit will be required for all work in the public right-of-way. The frontage improvement plan shall include detailed topographic construction detail to show that current city standards are to be met.

Agreements

30. Prior to issuance of any permits, if deemed necessary by the City Engineer, the owner shall enter into a Maintenance Agreement with the City for any modifications to the alley, if they are permitted by the City Engineer. This could include stripping or other modifications, if proposed by the applicant and approved by the City Engineer. Any agreement(s) shall be reviewed and approved by the City Attorney at the applicants cost and recorded at the County Recorder's Office. *[Citation – Section 15.36 of the SMC]*

■■ (Eng.)_____

NPDES

31. Prior to issuance of any permit, the owner shall demonstrate to the satisfaction of the City Engineer that the project meets all requirements of the Orange County National Pollutant Discharge Elimination System (NPDES) Storm Drain Program, and Federal, State, County and City guidelines and regulations, in order to control pollutant run-off. The owner shall submit for review, and shall obtain approval of the City Engineer for, plans for regulation and control of pollutant run-off by using Best Management Practices (BMP's). *[Citation – Section 13.40 of the SMC]*

(Eng.)_____

32. Prior to issuance of any permit, if required by the City Engineer, the owner may be required to include a covered trash enclosure on the project. The architectural

design of the cover shall meet all requirements of the Planning Department. The structural plan check of the cover is to be reviewed and approved by the Building Department. Construction of the cover shall be complete prior to final release of the building permit and occupancy of the expanded building area. *[Citation – Section 13.40 of the SCMC]*

(Eng.)_____

- 33. Prior to issuance of any permit, the owner or designee shall submit for review a project binder containing the following documents: *[Citation – Section 13.40 of the SCMC]*

(Eng.)_____

- A. If the site is determined to be a “Priority Project” (as defined by the Orange County Municipal Storm Water Permit available at <http://www.waterboards.ca.gov/sandiego/programs/ocstormwater.html>), at the time of permit issuance, a final Water Quality Management Plan (WQMP) must be recorded with the Orange County Recorder’s Office and filed with the City. Site design plans shall incorporate all necessary WQMP requirements which are applicable at the time of permit issuance.
- B. If a site is determined to be a “Non-Priority Project”, a final Non Priority Project Checklist must be filed with the City.

Financial Security

- 34. Prior to the issuance of any permits, the owner may be required to provide surety, improvement bonds, or irrevocable letters of credit for performance, labor and materials as determined by the City Engineer for 100% of each estimated public improvement cost plus a 10% contingency, as prepared by a registered civil engineer as required and approved by the City Attorney or the City Engineer, for each applicable public improvement item, including but not limited to the following: curbs, gutter, sidewalks, and/or alley improvements. *[Citation – Section 15.36 of the SCMC]*

(Eng.)_____

- 35. Live indoor entertainment and/or amplified sound shall end by 2:00 a.m. After 10:00 p.m., if live entertainment/amplified sound is continuing indoors all doors and windows shall be shut.

■■ (PIng.)_____

- 36. All roof top and front patio noise generation, whether amplified or not, shall end by 10:00 p.m. All live entertainment outdoors shall be acoustic only, and no drum sets are permitted. Sound from television sets or low level background music is permitted, but must be kept at a decibel level below 93. No disc jockey’s are

permitted on the roof or outdoor patios. No live entertainment, televisions, or background music shall be permitted outdoors before 7:00 a.m. daily. After 10:00 pm the roof and front patio shall not be utilized. The side patio can be utilized until 2:00 am, but the same restrictions on sound are placed upon the side outdoor patio.

■ ■ (PIng.)_____

- 37. All outdoor noise shall be maintained at or below 93 dBa at the source of noise generation. To ensure compliance with this requirement a sound meter shall be installed on-site with a sound alert and alarm. This device shall also have a memory capability for a length of time to be determined by Code Compliance and OCSD to enable inspections as well as complaint verifications. If an inspection occurs, and the machine is found to be off or the history data can not be provided, this will constitute an automatic non-compliance and citation.

■ ■ (PIng.)_____

- 38. Nine (9) parking waivers are approved based on the on-street parking availability on the east side of El Camino Real. This represents two (2) parking waivers for the MEP, that can be utilized for 10 interior seats, and seven (7) parking waivers that can be utilized for 35 outdoor seats. See condition of approval 14D for additional parking requirements and provisions of how this can be expanded.

■ ■ (PIng.)_____

- 39. The applicant shall develop a vestibule at the front entrance and deck to avoid noise impacts from the project site.

■ ■ (PIng.)_____

- 40. Six months after operations begin, the project shall be re-evaluated by staff and the Planning Commission to review the operations, impacts to on-street parking, and any issues related to noise. Another six months after this review, another evaluation shall be conducted for the same purposes. At each review, if there are no operational issues, and additional opportunities associated with parking is created, and/or a new parking survey shows a lower utilization rate, staff will evaluate and make recommendations accordingly to the Planning Commission on the potential of increased parking waivers and expanded live entertainment/amplified sound and hours of use for the roof top portion of the restaurant.

■ ■ (PIng.)_____

* All Conditions of Approval are Standard, unless indicated as follows:

- Denotes a modified Standard Condition of Approval
- ■ Denotes a project-specific Condition of Approval

RESOLUTION NO. PC 13-017

**A RESOLUTION OF THE PLANNING COMMISSION OF THE
CITY OF SAN CLEMENTE, 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**

WHEREAS, on October 18, 2012, an application was submitted, and deemed complete on March 27, 2013, by David Gutierrez, 1509 North El Camino Real, San Clemente, CA, 92672, to allow new signage associated with a new restaurant and bar located at 1509 North El Camino Real, the legal description being Lot 9, of Block 2, of Tract 795, Assessor's Parcel Number 057-170-31; and

WHEREAS, on November 8, 2012, December 13, 2012, January 10, 2013, February 7, 2013, February 14, 2013, March 4, 2013, and March 14, 2013, the City's Development Management Team reviewed the application for compliance with the General Plan, Zoning Ordinance, and other applicable requirements; and

WHEREAS, on February 13, 2013 and March 27, 2013, the proposed project was reviewed by the Design Review Subcommittee and the signage design was not supported; and

WHEREAS, the Planning Division has completed an initial environmental assessment of the above matter in accordance with the California Environmental Quality Act (CEQA) and recommends that the Planning Commission determine the project categorically exempt from CEQA pursuant to Guidelines Section 15301, as a Class 1 since the project will primarily be a change of use and allow for the required plumbing, electrical, and other improvements necessary to establish a restaurant; and

WHEREAS, on April 3, 2013, the Planning Commission of the City of San Clemente held a duly noticed public hearing on the subject application, and considered evidence presented by the applicant, City staff, and other interested parties, and continued the public hearing until May 8th; and

WHEREAS, on May 8, 2013, the Planning Commission of the City of San Clemente continued the public hearing until June 5, 2013; and

WHEREAS, on June 5, 2013, the Planning Commission of the City of San Clemente held a duly noticed public hearing on the subject application, and considered evidence presented by the applicant, City staff, and other interested parties.

NOW THEREFORE, the Planning Commission of the City of San Clemente hereby resolves as follows:

Section 1: The project is categorically exempt from CEQA Pursuant to Section 15301, as a Class 1 since the project will primarily be a change of use and allow for the required plumbing, electrical, and other improvements necessary to establish a restaurant.

Section 2: With regard to Discretionary Sign Permit (DSP) 13-082, the Planning Commission finds as follows:

- A. The design, including lighting, scale, length and materials, of the sign is consistent with the intent of the design elements of the General Plan and Design Guidelines in which the sign is to be located in that the sign materials, appears handcrafted and will add a very unique look to the facility. The use of neon will provide a different character to the signage not currently found in North Beach.
- B. The design, scale and materials of the sign harmonize with the architectural design and details of the building or site it serves in that the individual signs are utilized to advertise the site from various scales, whether it be the projecting sign advertising the sign from a greater distance, the monument sign be at a pedestrian scale, or the rear wall sign providing identification from Los Molinos and Los Obreros.
- C. The design and scale of the sign is appropriate to the distance from which the sign is normally viewed in that all signage is appropriately scaled and located, for which the audience they are intending to advertise the use too.
- D. The design and materials of the sign provide a contrast between the background and letters in that the signs are designed with either neon, or offsetting colors so that the signs will be visible from a distance.
- E. A freestanding sign is included in the sign application, the design, scale or location of the building dictates the use of freestanding signs, rather than building-mounted signs in that the freestanding sign will provide the pedestrian scale signage from the sidewalk, and the other signage on the front of the building will be located towards the top of the structure and not on a pedestrian scale.

Section 3: The Planning Commission of the City of San Clemente hereby approves DSP 13-082, North Beach Rooftop Grill and Bar, subject to the above Findings, and the Conditions of Approval attached hereto as Exhibit 1.

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the City of San Clemente on April 3, 2013.

Chair

TO WIT:

I **HEREBY CERTIFY** that the foregoing resolution was duly adopted at a regular meeting of the Planning Commission of the City of San Clemente on April 3, 2013, and carried by the following roll call vote:

AYES: COMMISSIONERS:
NOES: COMMISSIONERS:
ABSTAIN: COMMISSIONERS:
ABSENT: COMMISSIONERS:

Secretary of the Planning Commission

EXHIBIT 1

CONDITIONS OF APPROVAL*
DSP 13-082
North Beach Rooftop Grill and Bar Signage

1. The applicant or the property owner or other holder of the right to the development entitlement(s) or permit(s) approved by the City for the project, if different from the applicant (herein, collectively, the "Indemnitor") shall indemnify, defend, and hold harmless the City of San Clemente and its elected city council, its appointed boards, commissions, and committees, and its officials, employees, and agents (herein, collectively, the "Indemnitees") from and against any and all claims, liabilities, losses, fines, penalties, and expenses, including without limitation litigation expenses and attorney's fees, arising out of either (i) the City's approval of the project, including without limitation any judicial or administrative proceeding initiated or maintained by any person or entity challenging the validity or enforceability of any City permit or approval relating to the project, any condition of approval imposed by City on such permit or approval, and any finding or determination made and any other action taken by any of the Indemnitees in conjunction with such permit or approval, including without limitation any action taken pursuant to the California Environmental Quality Act ("CEQA"), or (ii) the acts, omissions, or operations of the Indemnitor and the directors, officers, members, partners, employees, agents, contractors, and subcontractors of each person or entity comprising the Indemnitor with respect to the ownership, planning, design, construction, and maintenance of the project and the property for which the project is being approved. The City shall notify the Indemnitor of any claim, lawsuit, or other judicial or administrative proceeding (herein, an "Action") within the scope of this indemnity obligation and request that the Indemnitor defend such Action with legal counsel reasonably satisfactory to the City. If the Indemnitor fails to so defend the Action, the City shall have the right but not the obligation to do so and, if it does, the Indemnitor shall promptly pay the City's full cost thereof. Notwithstanding the foregoing, the indemnity obligation under clause (ii) of the first sentence of this condition shall not apply to the extent the claim arises out of the willful misconduct or the sole active negligence of the City. *[Citation – City Attorney Legal Directive/City Council Approval June 1, 2010]*
(PInG.) _____
2. The owner or designee shall develop the approved project in conformance with the site plan, floor plans, elevations, and any other applicable submittals approved by the Planning Commission on April 3, 2013.

Any deviation from the above approved resolution and site plan and or other approved submittal shall require that the owner or designee submit modified plans and any other applicable materials as required by the City for review and obtain the approval of the City Planner or designee. If the City Planner or

designee determines that the deviation is significant, the owner or designee shall be required to apply for review and obtain the approval of the Zoning Administrator. (PIng.) _____

DSP 13-082 shall become null and void if the use is not commenced within three (3) years from the date of the approval thereof. Since the use requires the issuance of a building permit, the use shall not be deemed to have commenced until the date that the building permit is issued for the development. *[Citation - Section 17.12.150.A.1 of the SCMC]* (PIng.)_____

A use shall be deemed to have lapsed, and DSP 13-082 shall be deemed to have expired, when a building permit has been issued and construction has not been completed and the building permit has expired in accordance with applicable sections of the California Building Code, as amended. *[Citation - Section 17.12.150.C.1 of the SCMC]* (PIng.)_____

3. The owner or designee shall have the right to request an extension of DSP 13-082 if said request is made and filed with the Planning Division prior to the expiration date as set forth herein. The request shall be subject to review and approval by the final decision making authority that ultimately approved or conditionally approved the original application. *[Citation - Section 17.12.160 of the SCMC]* (PIng.)_____

4. Prior to the issuance of building permits, the owner or designee shall submit written consent to all of these imposed conditions to the Community Development Director or designee. The owner or designee understands that the resolution will be of no force or effect, nor shall permits be issued, unless such written consent is submitted to the City. (PIng.) _____

5. Prior to the issuance of building permits, the applicant or designee shall include within the first four pages of the working drawings a list of all conditions of approval imposed by the final approval for the project. *[Citation – City Quality Assurance Program]* (PIng.) (Bldg.)_____

6. Separate building permit and plan review is required prior to commencing any construction. Detailed review for compliance with Building, Electrical, Plumbing, Mechanical, Energy, CALGreen, Fire, and Disabled Access Codes will need to be done prior to issuance of building permit. (Bldg.)_____

7. Building permits shall not be issued unless the project complies with all applicable codes, ordinances, and statutes including, but not limited to the Zoning Ordinance, Grading Code, Transportation Demand Ordinance, Water Quality Ordinance, Title 24 of the California Code of Regulations as adopted by the City

including, but not limited to the California Administrative, Building, Electrical, Plumbing, Mechanical, Energy, CALGreen, and Fire Codes. *[Citation - S.C.M.C. Title 8, Section 8.16; Fire Code, Title 15, Building and Construction, Sections 15.08, 15.12, 15.16, 15.20; Title 16, Subdivisions; & Title 17, Zoning]*

(Bldg.)_____

8. Prior to the issuance of building permits, the owner or designee shall pay all applicable development fees in effect at the time, which may include, but are not limited to, Regional Circulation Financing and Phasing Program (RCFPP), park acquisition and development, water and sewer connection, drainage, Public Facility Construction transportation corridor, Avenida La Pata Supplemental Road Fee and school fees, etc. *[Citation - S.C.M.C. Title 15, Building and Construction, Sections 15.52, 15.56, 15.60, 15.64, 15.68, 15.72].*

(Bldg.)_____

9. Prior to issuance of certificate of occupancy, the owner or designee shall demonstrate to the satisfaction of the City Building Official or designee that the project has been constructed in conformance with the approved sets of plans and all applicable, codes, ordinances, and standards. *[Citation – Appendix 1, Section 110 of the California Building Code]*

(Bldg.)_____

* All Conditions of Approval are Standard, unless indicated as follows:

- Denotes a modified Standard Condition of Approval
- ■ Denotes a project-specific Condition of Approval



LOCATION MAP

CUP 12-362/CHP 12-363/DSP 13-082/SEP 13-083/MEP 13-084/
ODP 13-085, North Beach Rooftop Grill and Bar
1509 North El Camino Real





STAFF REPORT
SAN CLEMENTE PLANNING COMMISSION

Date: April 3, 2013

PLANNER: Sean Nicholas, Associate Planner

SUBJECT: Conditional Use Permit 12-362/Cultural Heritage Permit 12-363/Discretionary Sign Permit 13-082/Minor Exception Permit 13-084/Outdoor Dining Permit 13-085, North Beach Rooftop Grill and Bar, 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, and approve a new sign package. The project is located at 1509 North El Camino Real.

REQUIRED FINDINGS

Prior to approval of the proposed project, the below findings shall be made. The draft Resolution, provided as Attachment 1, and analysis section of this report provide an assessment of the project's compliance with these findings.

Conditional Use Permit, Section 17.16.060(F): to allow a full range of alcohol, amplified sound, waiver of required parking for outdoor seating and off-site parking agreement.

- a. The proposed use is permitted within the subject zone pursuant to the approval of a Conditional Use Permit and complies with all the applicable provisions of this title, the San Clemente General Plan and the purpose and intent of the zone in which the use is being proposed;
- b. The site is suitable for the type and intensity of use that is proposed;
- c. The proposed use will not be detrimental to the public health, safety or welfare, or materially injurious to properties and improvements in the vicinity;
- d. The proposed use will not negatively impact surrounding land uses;
- e. For outdoor seating waivers, public parking is available in close proximity to the restaurant; and,
- f. Given the specific conditions of the site and the adjacent area, the waiver or modification for outdoor dining parking requirements will not result in inadequate parking.

Cultural Heritage Permit, Section 17.16.060(F): to allow exterior improvements to a non-residential building within the architectural overlay.

- a. The architectural treatment of the project complies with the San Clemente General Plan;
- b. The architectural treatment of the project complies with the Zoning Ordinance including but not limited to height, setbacks, etc.;
- c. The architectural treatment of the project complies with the architectural guidelines in the City's Design Guidelines;

- d. The general appearance of the proposal is in keeping with the character of the neighborhood;
- e. The proposal is not detrimental to the orderly and harmonious development of the City; and,
- f. The proposed project will not have negative visual or physical impacts upon the historic structure.

Discretionary Sign Permit, Section 17.16.250(F): for new signage in the architectural overlay that exceeds 25 square feet and total signage which exceeds 64 square feet.

- a. The design, including lighting, scale, length and materials, of the sign is consistent with the intent of the design elements of the General Plan and Design Guidelines in which the sign is to be located;
- b. The design, scale and materials of the sign harmonize with the architectural design and details of the building or site it serves;
- c. The design and scale of the sign is appropriate to the distance from which the sign is normally viewed;
- d. The design and materials of the sign provide a contrast between the background and letters; and
- e. If a freestanding sign is included in the sign application, the design, scale or location of the building dictates the use of freestanding signs, rather than building-mounted signs.

Minor Exception Permit, Section 17.16.090 (F), to allow the waiver of two parking spaces associated with a change of use.

- a. The requested minor exception will not interfere with the purpose of the zone or the standards of the zone in which the property is located;
- b. The neighboring properties will not be adversely affected as a result of the approval or conditional approval of the Minor Exception Permit; and,
- c. The approval or conditional approval of the Minor Exception Permit will not be detrimental to the health, safety or welfare of the general public.

Outdoor Dining Permit, Section 17.28.205(E), to allow outdoor dining on private property,

- a. The outdoor dining area contributes to the village/pedestrian ambiance of the City, in accordance with the City's General Plan;
- b. The outdoor dining area complies with the standards of this section;
- c. Any negative visual, noise, traffic, accessibility, and parking impacts associated with the outdoor dining area have been reduced to an acceptable level, as determined by the City; and,
- d. The outdoor dining facility complies with the required findings for the approval of Architectural/Minor Architectural Permits or Cultural Heritage/Minor Cultural Heritage Permits.

BACKGROUND

The applicant is proposing to convert a single-story commercial building into a restaurant with an open roof top bar. The project site is 5,432 square feet with a 2,975 square foot, single-story building constructed in 1948. The bar is proposed to span the entire length of the building, resulting in 2,975 square feet of outdoor dining. The applicant is proposing to maintain the Spanish architecture and all exterior modifications would continue the existing style. The General Plan promotes North Beach to be an entertainment and restaurant hub for the community.

The following discretionary permits are required for the project:

- 1) Conditional Use Permit is required for an off-site parking agreement and the ability to offer a full range of alcoholic beverages.
- 2) Cultural Heritage Permit for additions and remodels within the Architectural Overlay.
- 3) Discretionary Sign Permit because of the total sign square footage proposed.
- 4) Minor Exception Permit allows for the waiver of parking spaces.
- 5) Outdoor Dining Permit for the seating on the roof, front patio, and outdoor paseo.

Surrounding land uses include The Elks Lodge to the east, a parking lot to the north, and commercial buildings to the south and west.

Development Management Team

The City's Development Management Team (DMT) reviewed the applicant's request, determined it meets requirements, and recommends Conditions of Approval to ensure code compliance. The recommended conditions are shown on Attachment 1, Exhibit A.

Noticing

Public notices were distributed and posted per City and State requirements. No public comments have been received to date.

PROJECT DESCRIPTION

The applicant, Dave Gutierrez, is proposing to remodel, and add on to a vacant building in North Beach. To establish a new restaurant with a full range of alcohol and amplified sound, the project includes making modifications to the structure to allow a roof-top restaurant and bar. The applicant is proposing several improvements to the roof including trellis and shade structures, a full service bar, gas fire pits, and an outdoor kitchen and pizza oven. Other than some minor roof structures (trellis and awnings to provide shade, and Orange County Health Department required enclosures of the bar area and kitchen), seating on the roof will be open and is considered outdoor. The applicant is also proposing additional outdoor seating within the paseo on the side of the building.

The building was built in 1948, and there is no on-site parking. Staff has included a section in the staff report on how seating and parking for the project is calculated, and the various parking waivers the applicant is requesting.

Development Standards

Table 1 outlines the project's consistency with the Zoning Ordinance development standards.

**Table 1:
Development Standards**

	Zoning Ordinance Requirements	Proposed
Maximum Building Height	33'	25'
Setbacks:		
• Front	0'	5'
• Side Yard (towards Elks)	0'	3'-3"
• Side Yard (paseo)	0'	9'
• Rear Yard	0'	6'
Maximum Lot Coverage	100%	55%
Floor Area Ratio (F.A.R.)	.75	.55

Parking

The building was constructed in 1948, prior to the first parking standards in the Municipal Code, so no on-site parking exists. Because this is not an uncommon occurrence, Municipal Code Section 17.72.060(C)(2) allows for a facility with no parking, to establish a new use without providing required parking to avoid building vacancies. Vacant buildings that are nonconforming as to parking are allocated parking spaces based upon the least restrictive parking requirement. The least restrictive parking requirement per the Mixed Use standard is retail at one parking space per 400 square feet, crediting seven parking spaces to the building (2,975 square feet/400 square feet per parking space=7 parking spaces). Being that the proposal is to establish a restaurant, which requires one parking space per five seats, this means the applicant can have up to 35 seats based on seven credited parking spaces (7 parking spaces x 5 seats/ parking space). These seats can be located either indoor or outdoor.

To support outdoor dining throughout the community, a restaurant with 32 indoor seats or more can automatically have 16 outdoor seats (if physical space is available, which this project has) without the requirement of additional parking. There are a number of outdoor seating opportunities associated with this project, and with the additional 16 seats outdoors, the total seats allowed for the restaurant use is 51 seats.

The applicant is requesting a Conditional Use Permit to allow off-site parking, within 300 feet. The off-site parking agreement is with the property owner of Bull Taco located at 1527 North El Camino Real. Based on approved seating for Bull Taco, there is an excess of six parking spaces on-site. The property owner of 1527 North El Camino Real has agreed to allow the applicant to utilize these six spaces for the proposed restaurant. These additional parking spaces result in 30 more seats for the project, for a total of 65 indoor/outdoor seats, and 16 outdoor seats. To open up more seating for the proposed restaurant, the applicant is going to continue to seek off-site parking opportunities with property owners within 300 feet of the site. As a Condition of Approval, staff will review all additional off-site parking agreements and ensure that the agreements are recorded with the County of Orange. The applicant will be allowed to expand the off-site parking until the total seats (indoor and outdoor) permitted reach 226. At that point, no additional seats, regardless of parking available, will be permitted.

Lastly, the applicant requests two different waivers for parking. The first is a request for a waiver of two parking spaces with the approval of a Minor Exception Permit. Pursuant to Municipal Code Section 17.64.125(B)(5), because the project is going from retail to a restaurant use, two parking spaces can be waived with the approval of a Minor Exception Permit. The second parking waiver is pursuant to Municipal Code Section 17.28.205(D)(6)(b) for outdoor seating only. Through the review process, the Planning Commission can waive parking requirements for outdoor dining. The applicant is requesting Planning Commission waive the parking requirement for 10 spaces. In total, between the two sets of parking space waivers in the Municipal Code, the applicant is requesting two parking space waivers to be used for indoor/outdoor seating and 10 parking spaces for outdoor seating. If approved, the total seating for the restaurant will be 75 indoor/outdoor seats and 66 outdoor seats, with a total of 131 seats. Table 2 is a summary of the parking calculation and seat count.

Table 2:
Parking and Seat Calculation

Parking Spaces (Credited/Waived/Existing)	Number of Seats (Indoor and Outdoor)
7 parking space credit (based on least restrictive commercial/retail use)	35 indoor or outdoor seats
0 parking spaces (for restaurants with over 32 indoor seats permitted, 16 outdoor seats allowed by right)	16 outdoor seats
6 parking spaces from off-site parking agreement	30 indoor or outdoor seats
2 parking space waivers (through approval of MEP for change of use)	10 indoor or outdoor seats
10 parking space waivers (for outdoor seating)	50 outdoor seats
TOTALS	
Indoor seats	75
Outdoor seats	131 (if utilize all seats outside)
Parking waivers	12

For the Planning Commission to approve the parking waivers, the primary finding that needs to be made is that public parking is available within close proximity of the project site. To address this issue, the applicant has completed a parking study of on street parking within 300 feet of the project site. This study was required to be performed during “typical San Clemente” weather (sunny and around 70 degrees Fahrenheit) and was completed for a two week period on a Thursday and Saturday at 12:00 p.m., 2:00 p.m., 6:00 p.m., and 8:00 p.m. These days and times were selected based on past parking studies peak occupancy times and recommendations from parking consultants. Staff has reviewed the surrounding area and determined that there are approximately 92 on street parking spaces available within 300 feet of the project site. Based on the parking study the peak utilization of the on street parking is at 12:00 p.m. on Thursday. At peak utilization 30 parking spaces were occupied, or 33% of available parking. This means 62 parking spaces were available within 300 feet, or 67% of parking spaces, at peak utilization. A summary table is provided as attachment 5, and parking maps will be available at the Planning Commission hearing.

Based on the availability of public parking in close proximity to the site, as well as the applicants continued efforts to provide off-street parking, staff is supportive of the proposed 12 parking waivers for the restaurant.

The applicant is the first in what will hopefully be a number of revitalization projects in North Beach. The goal is to create the restaurant/entertainment hub originally envisioned by Ole Hanson and specified in both the Current and Centennial General Plans. Similar to the beginnings of revitalization of Avenida Del Mar, the first applicants to begin the process of revitalization have the most opportunity to utilize parking waivers and other portions of the code to promote the vision of North Beach and revitalize vacant or underutilized properties. Similar to the progress made on Avenida Del Mar, it takes progressive projects to begin revitalization, and often times utilization of various portions of the Municipal Code, including parking waivers, that are available to staff and applicants are necessary to promote and aid the revitalization process.

Architecture

The building has a unique design which exhibits both Spanish and non-Spanish attributes. The modifications proposed for the project site are Spanish Colonial Revival in nature, consistent with the Architectural Overlay, and the requirements associated with a Cultural Heritage Permit. The structures proposed utilize materials called out in the City’s Design Guidelines including wood trellises, canvas awnings, and pillars stuccoed and colored to match the building to provide both massing and visual interest to the support structures of the new roof elements. The applicant is also proposing outdoor seating at the front, side, and roof of the building, enhancing the pedestrian environment of the Architectural and Pedestrian Overlay, and all the new “roll up” windows will have dark brown trim around the glass to be consistent with the color palette recommended in the Design Guidelines.

Signage

The applicant is proposing three signs:

- 1) A 63.40 square foot projecting sign on the building's El Camino Real façade (reduced based on DRSC recommendations);
- 2) A 12.25 square foot, six foot tall, monument sign on the El Camino Real frontage; and
- 3) A 6.25 square foot wall sign for the rear building facade facing Los Obrero Lane and Calle de Los Molinos.

Overall, the applicant is proposing 81.90 square feet of signage. Pursuant to the Municipal Code, the applicant is permitted to have 82 square feet of signage with the approval of a Discretionary Sign Permit.

Here are the images of the proposed signage:

Projecting Sign



Façade facing El Camino Real

Monument Sign



Façade facing El Camino Real

Rear Wall Mounted Sign



Façade facing Los Obreros Lane and Calle De Los Molinos

Pursuant to Municipal Code Section 17.84.020(C), signs within the Architectural Overlay are to appear hand crafted in nature, and can only use neon with the approval of a Discretionary Sign Permit. The Municipal Code references materials such as wood or pin mounted metal letters, and the use of appropriate Spanish Colonial Revival materials to mount and support the signage. The applicant is proposing primarily metal signs with neon lighting.

The use of neon, and the way it is being implemented on the vintage-esque sign, is a handcrafted and unique look. Associated with the Design Guideline requirement of compatibility with the building, there is a history of neon signs along El Camino Real (Pacific Coast Highway) in 1940s San Clemente, and within the Architectural Overlay. For various reasons most, if not all, have been removed.

Signs that have been approved recently for Spanish architectural buildings, especially within the Architectural Overlay, have primarily been either sand blasted wood or hand painted with decorative goose neck lighting, or individual pin mounted metal letters and halo illumination.

The monument sign is proposed within a landscape area larger than the proposed 12.25 square feet along the El Camino Real frontage of the site. The base of the sign will be stuccoed and colored to match the building, and the sign itself will be metal. The rear wall sign will also be metal. Both the rear and monument sign will utilize external illumination.

The sign package was discussed at Design Review Subcommittee meeting on March 27, 2013, the summary of that discussion is presented below.

PROJECT ANALYSIS

Conditional Use Permit

The applicant is requesting a Conditional Use Permit for:

- 1) Full range of alcohol
- 2) Amplified sound
- 3) Off-site parking agreement
- 4) Outdoor seating parking waivers

As discussed above, staff is supportive of the off-site parking agreement, and 10 outdoor seating parking waivers. The applicant is requesting to serve alcohol from 6:00 a.m. until 2:00 a.m. Another facility in North Beach received approval for similar hours of operation for alcohol, and there are a few other establishments in the City that allow alcohol sales until 2:00 a.m. Though most restaurants/bars in the City stop selling alcohol at 12:00 a.m. Since there are other facilities with similar alcohol hours of operation, including within close proximity, staff is supportive of the request.

Staff is supportive of the amplified sound on the interior of the building, subject to the standard conditions of approval and best management practices. These practices implemented have been successful in not impacting surrounding uses. Similar with other applications that have requested amplified sound outside, staff is not supportive of amplified sound outdoors, but is supportive of non-amplified sound outdoors until 10:00 p.m. when all live entertainment outside must end. The applicant has indicated where on the roof the live entertainment may be located which will avoid impacting nearby residents along the El Camino Real corridor and above Los Molinos. If noise from live entertainment on the roof becomes a problem, a condition of approval has been added that live entertainment would no longer be permitted on the roof. Staff has consulted with both Orange County Sheriff and Code Compliance and both divisions have indicated no concerns regarding the alcohol and amplified sound/live entertainment uses.

Cultural Heritage Permit

The project requires a Cultural Heritage Permit for the exterior improvements to the building located within the Architectural Overlay of North Beach. The applicant is proposing several roof top additions, including new wood trellis and awning structures to provide shade, as well as enclosures for a roof top bar and kitchen facility. The structures will all have smooth white stucco columns to add mass to the structures to visually support the various structures. Wrought iron is also proposed for railings around the edge of the roof and stairwells.

Staff has reviewed the required findings for the Cultural Heritage Permit and determined that the materials and design proposed for the added additions are consistent with the recommendations in the City's Design Guidelines, will enhance the existing structure, and add to the North Beach Architectural and Pedestrian Environment.

Discretionary Sign Permit

The application requires a Discretionary Sign Permit for three reasons: 1) to allow signage over 25 square feet in the Architectural Overlay; 2) to allow over 64 square feet of signage for the site; and 3) to utilize neon for the illumination of the site. The applicant is proposing, and is permitted to have with a Discretionary Sign Permit, 82 square feet of signage based on the frontage of the façade on two public streets, they are proposing 81.9 square feet.

For the projecting sign, which is the largest sign, the applicant is proposing a metal sign with neon illumination. The use of neon, and the way it is being implemented on the vintage-esque sign, is a handcrafted and unique look. For the monument sign and rear wall sign the applicant is proposing to utilize a metal material, other than stucco for the base of the monument sign, to match the projecting sign. The applicant proposes utilizing some form of external illumination and not neon for the monument and rear wall sign.

Staff has reviewed the required findings necessary for a Discretionary Sign Permit and determined the amount of signage is appropriate as each sign serves a different purpose. The large projecting sign with neon is unique and vintage looking and will advertise the location from a distance along El Camino Real. The proposed monument sign is smaller and more on a pedestrian scale. The sign at the rear of the building is small and will serve as a site identifier for patrons parking on Los Molinos. The signage proposed is consistent with the building, is unique in appearance and character, and for those reasons consistent with the Municipal Code and City Design Guidelines, as well as applicable development standards.

Minor Exception Permit

The applicant is requesting that two parking spaces be waived to allow for additional indoor/outdoor seats for the proposed change of use. The two additional parking spaces waived will provide the applicant 10 either indoor or outdoor seats. The applicant has indicated that all seats are needed for the restaurant to succeed.

Staff has reviewed the requirements for the waiver, and based on the amount of public parking available within 300 feet of the site at peak utilization there are 62 parking spaces available, or 67% of parking on-street, staff is supportive of the waivers as there will not be a negative impact to surrounding businesses or public parking availability.

Outdoor Dining Permit

A large portion of the proposed project includes outdoor seating. Between the paseo, front patio, and the roof top facility, the outdoor dining is going to contribute substantially to the pedestrian character of North Beach. Consistent with the requirements for outdoor seating, the project will not impact the public right of way and all seating will be located on-site. Additionally, there will be no negative impact to surrounding uses as no live entertainment will be permitted on the roof after 10:00 p.m. consistent with other approvals for outdoor entertainment. The plans identify the location of the potential live entertainment, which will be directed away from residential development located behind the commercial structures on the otherside of El Camino Real.

Design Review Subcommittee

The Design Review Subcommittee (DRSC) reviewed the application on February 13, 2013 and March 27, 2013. DRSC supports the design and signage of the project. Table 3 is a summary of the discussion points from those meetings:

Table 3:
Design Review Subcommittee Discussion

DRSC DISCUSSION POINT	APPLICANT RESPONSE
The structures on the roof need to be modified to provide appropriate scale of the structures as well as proportionality of the building.	The applicant has modified the columns of the trellis structures to be smooth white stucco in order to provide visual mass and interest. There was discussion about possibly continuing the stucco to the edge of the parapet of the roof, instead of utilizing all wrought iron, but the applicant did not want to impact views from the roof.
The metal roll up doors need to be dark brown to be consistent with the Design Guidelines.	The applicant modified the plans as suggested.
Look at ways to improve the stairway at the front of the restaurant. In particular there was concern regarding the look of the stairway and exiting right onto the public right-of-way. Several design ideas were discussed to try to enhance the design of the stairs. Some ideas included trying to turn the stairs to open in to the paseo, design options to improve the look	The applicant added columns to the stairs to help the aesthetics.

<p>of the stairs, and ways to reduce how far the stairs come out to the front façade.</p>	
<p>Use of neon and arrow on projecting sign was a concern.</p>	<p>While the Subcommittee members thought the sign was good, there were concerns that the design of the signage was not consistent with the building. In particular were concerns regarding the use of neon and the arrow feature pointing to the roof detracting from the architecture of the building.</p>
<p>The projecting wall sign should be reduced to meet both individual sign square footage and total site sign square footage requirements.</p>	<p>Applicant agreed to reduce the square footage by 3.5 square feet.</p>

GENERAL PLAN CONSISTENCY

Table 4 summarizes how the proposed project is consistent with adopted policies outlined in the City of San Clemente General Plan:

**Table 4:
General Plan Consistency**

<p>General Plan Policy</p>	<p>Consistency Finding</p>
<p><i>1.13.1 Accommodate neighborhood community and visitor serving commercial, mixed residential and commercial, and parking uses in accordance with Policies 1.12.1 through 1.12.4.</i></p>	<p>Consistent. This project will result in a vacant building establishing a new use and will provide for community and visitor serving commercial.</p>
<p><i>1.12.4 Encourage the development of outdoor dining and other similar uses which do not impede pedestrian use of the sidewalks</i></p>	<p>Consistent. Most of the seating for this project is outdoors and will create a unique dining environment in North Beach.</p>

ENVIRONMENTAL REVIEW/COMPLIANCE (CEQA):

The Planning Division completed an initial environmental assessment of the project accordance with the California Environmental Quality Act (CEQA). Staff recommends the Planning Commission determine the project is categorically exempt per CEQA Guidelines Section 15301(e), as a Class 1

since the project will primarily be a change of use and allow for the required plumbing, electrical, and other improvements necessary to establish a restaurant.

ALTERNATIVES; IMPLICATIONS OF ALTERNATIVES

1. The Planning Commission can concur with staff and recommend approval of the proposed project.

This action would result in the applicant being able to move forward with establishing a restaurant on the site with 75 indoor/outdoor seats and 56 outdoor seats, with a potential total of 131 outdoor seats on the roof. This will also allow the applicant to have neon signage within the Architectural Overlay.

2. The Planning Commission can, at its discretion, add, modify or delete provisions of the proposed project or conditions.

The Planning Commission could determine that the hours of operation for the restaurant and bar to 2:00 a.m. is not consistent with other restaurant/bar facilities and require the sale of alcohol to end at 12:00 a.m. If the Planning Commission were to do this, the applicant may appeal this action to City Council.

Planning Commission could also require different signage, reduced signage, or no neon for the development. If the Planning Commission were to do this, the applicant may appeal this action to City Council.

The Planning Commission could also either support fewer or more parking waivers for outdoor seating. Either approving less or more waivers would impact the total seating for the restaurant and parking allowance for future uses. If the Planning Commission were to reduce the number of parking waivers, the applicant may appeal this action to City Council.

3. The Planning Commission can recommend denial of the proposed project.

This action would result in the denial of the project and the applicant would not be able to move forward with the project. The applicant could appeal to the City Council.

CONCLUSION

As noted above, this is the first of what will be multiple projects in North Beach associated with the areas revitalization. The General Plan goal for North Beach is that it is the entertainment/restaurant hub of the community, and this project is consistent with those goals, as well as strengthens the pedestrian atmosphere. Similar to support of parking waivers on Avenida

Del Mar when revitalization began, staff is supportive of staff waivers in this situation as well to promote improvements in the District. The applicant has shown through a parking survey that sufficient on-street public parking exists, and that the waiver of the parking spaces will not create a shortage of parking. Staff is also supportive of the signage, as it adds a unique and custom look to the building. Staff is supportive of the project overall as the waivers are built into the Municipal Code to support revitalization, and the project in North Beach promotes the goals, objectives, and policies of the current General Plan and in the upcoming Centennial General Plan.

RECOMMENDATION

STAFF RECOMMENDS THAT the Planning Commission approve CUP 12-362/CHP 12-363/DSP 13-082/SEP 13-083/MEP 13-084/ODP 13-085, North Beach Rooftop Grill and Bar, subject to the attached Resolution and Conditions of Approval.

**MINUTES OF THE REGULAR MEETING
OF THE CITY OF SAN CLEMENTE
PLANNING COMMISSION
April 3, 2013 @ 7:09 p.m.
City Council Chambers
100 Avenida Presidio
San Clemente, CA 92672**

1. CALL TO ORDER

Chair Avera called the Regular Meeting of the Planning Commission of the City of San Clemente to order at 7:03 p.m.

2. PLEDGE OF ALLEGIANCE

Vice Chair Darden led the Pledge of Allegiance.

3. ROLL CALL

Commissioners Present: Nesa Anderson, Barton Crandell, Michael Kaupp, and Jim Ruehlin;
Vice Chair Julia Darden, Chairman Lew Avera

Commissioners Absent: Chair pro Tem Donald Brown

Staff Present: Jim Pechous, City Planner
Sean Nicholas, Associate Planner
Christopher Wright, Associate Planner
Adam Atamian, Assistant 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 Regular Study Session of March 20, 2013

IT WAS MOVED BY COMMISSIONER ANDERSON, SECONDED BY COMMISSIONER CRANDELL, AND CARRIED 4-0-2, WITH COMMISSIONER KAUPP AND VICE CHAIR DARDEN ABSTAINING, to receive and file the minutes of the Regular Study Session of March 20, 2013, as submitted by staff.

PROGRAM, AND FREEWAY ORIENTED SIGNAGE LOCATED AT 504 AVENIDA DE LA ESTRELLA, with the following revisions:

Page 10, staff shall revise Condition 4.B. to require the applicant use stucco that does not produce a sheen.

Page 11, no. 6 shall read as follows: "The applicant shall provide specifications that state wrought iron is proposed for the balcony in the arch of the tower and the design shall be traditional Spanish to be approved by the City Planner."

Page 19, add new condition no. 56 as follows: "Prior to issuance of the sign permit, the applicant shall submit to the City Planner for his review options for colors, intensity and glare of the monument price sign to improve the sign's compatibility with the architecture and site location as a City entryway."

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

- D. **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)

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.

Sean Nicholas, Associate Planner, narrated a PowerPoint Presentation entitled, "CUP 12-362/CHP 12-363/DSP 12-082/MEP 13-084/ODP 13-085, North Beach Rooftop Grill and Bar, dated April 3, 2013," and summarized the staff report. Staff recommended approval of the request as conditioned.

In response to questions from the Commissioners, Associate Planner Nicholas advised that the conditions related to sound attenuation are based on the sound study provided by the sound engineer.

Discussion ensued regarding sound issues, with several Commissioners expressing concern that sound could travel farther than anticipated due to the site's topography and adjacent housing, mixed use structures may be negatively affected by noise generated on the rooftop. Jim Pechous, City Planner, assured the Commissioners that code enforcement will respond to any reports of

nuisance, and the project is conditioned to allow staff to act in the event noise issues arise.

In response a concern expressed by Commissioner Crandell, City Planner Pechous advised that the City can ensure the restaurant owner does not add seats until additional parking is secured by doing inspections, imposing fines, and responding to calls.

Associate Planner Nicholas noted the business is allowed a maximum of 131 chairs. The occupancy for customers is then limited to 131 customers per the maximum chairs allowed. In addition, the parking agreements must be recorded on the property deed.

Dave Gutierrez, property owner, believes this project will increase vitality and invite activity to the area. He believes the roof top bar is a unique business for the area, which will encourage additional development at North Beach. His research indicates that patrons love outdoor seating when available. The theme is casual and relaxed, similar to a party at the beach. He noted neon lighting is used throughout the City and within code. He agreed that the business will not be successful until it finds additional parking, which is incentive enough that it be found. He agreed to install bike parking on site, potentially in the rear of the lot, if possible, and agreed to additional conditions that would require signage and/or literature on receipts to remind patrons where available parking is located. His sound engineer is not present to answer questions this evening, but he offered to provide the information requested at a later date.

Chair Avera opened the public hearing.

Written Communications:

Letters of support for the project from Bree Shapiro, Mikii Rathmann, and Sherman Dorsey, no cities of residence given; Eugene Gilbert, Elly Harris, Ed Winkelmann, Sue Winkelmann, Evan Christman, and Jonathan Peace, San Clemente residents.

Public Testimony:

Bill Koelzer, resident, lives in adjacent area, opposed allowing amplified sound on the rooftop; expressed concern regarding sufficient parking in the area to support the use.

Dr. Nagy Amin, resident and adjacent animal hospital owner, has been serving the community for 50 years. He is very concerned about the effects of the noise generated by this use on the dogs boarded on site. Dogs hear sounds almost 20

times better than humans, and smell almost 30 times better. Noise generated by this use will negatively impact the dogs and cause loud barking. He cannot sedate the dogs all night, and will not be able to keep them quiet with all the noise generated by the rooftop bar, which will irritate the neighbors. He has only enough parking for his clients, and even now loses business if his lot is full.

Paul Levitz, resident and welding shop owner, expressed concern with impacts on his lot caused by rooftop bar patrons looking for parking spots and potential security of his building. He suggested the applicant be required to fence off his and Dr. Amin's parking lot to ensure that none of the rooftop bar patrons park there.

Don Slater, resident, compared the proposed facility to the Ole Hanson Beach Club's outdoor facility operated by the City. In addition he noted the neon signage at the Villa Blanca does not bother him, even though his back balcony faces El Camino Real. Shutting his dual pane windows shuts out all sound from the street. He believes the proposed rooftop bar fits the vision of North Beach as an entertainment area, and is in keeping with the motto proposed for North Beach, "Enjoy North Beach, an easy place to be."

Gene Gilbert, resident, supported the project as proposed; noted using neon to increase safety; suggested sound mitigation can be accomplished through speaker placement, acoustic treatments, and bass traps.

Bill Hart, resident, supported the proposed project as a means for the area to grow organically, one business at a time. He noted many people offered to help revitalize the area when the original Lab project was voted down, but their promises of help never came to fruition. He finds the neon sign design artistic, original, eclectic, and effective to grab attention and help the business succeed.

Barbara Conn, resident, distributed a photo indicating how close this use is to hers and other residential units. When the adjacent property was Ragamuffins, they and their young children were woken up many nights by the noise generated by the bar. Every time the door is opened for egress, for smoking, etc. the noise increased. Windows get opened because it is too hot inside. She is not opposed to business growth in the area, but is concerned about the noise generated by the proposed use on her quality of life as well as her tenants'. Although there parking on street in front of her house, it is often used by patrons of the Casino since it opened and beachgoers all summer long.

Trevor Baird, Laguna Niguel resident, supported the proposed use as a fantastic addition to the area and catalyst for change. He referenced a similar use in Laguna Beach with 10:00 p.m. closure to satisfy the City's noise ordinance. He suggested prohibiting amplified music to bring the noise levels down and

suggested that shortage of parking would be the biggest issue to face the City. He is in the process of partnering with the Miramar Theater to restore it, and looks forward to dealing with City officials in the future.

Chair Avera closed the public hearing.

Commission Comments:

Commissioner Ruehlin stated that as a resident of North Beach, he has always known the City's vision of it as a visitor serving area, and knows the frustration of residents with empty buildings. Recent new uses such as the Casino and Rider's Club have started a renaissance into an entertainment area to walk or bike to. He is concerned about the sound generated by the proposed use, especially its effect on the animal hospital next door and potential for vandalism. Although he looks forward to businesses like this going in, he is concerned about its 2:00 a.m. closing. He endorses additional conditions, including one that would require review after 6 months to ensure no negative impacts on the community. He would also like to see how bike accommodation would be handled on site.

Commissioner Kaupp believes this is a great concept for a restaurant, but is sympathetic to those living nearby. He questioned if this is the right location for the concept, and does not support it as proposed. In addition, he questioned whether all the excess parking in the area should be allotted to this one use.

Chair Avera supported revitalization of the area but expressed concern about the noise generated by this use, especially on the animal hospital next door. He endorsed signage to help locate the building. Signage plans should go back to DRSC for additional review.

Commissioners Crandell does not support amplified sound on the rooftop because of negative impacts to adjacent residences and businesses. He also expressed concern that if adjacent businesses sell off their parking, they will be locked into agreements that make them unable to improve/expand their businesses. He would not want to approve the maximum amount of chairs until parking waivers are obtained, so there is no enforcement issue or necessary monitoring to ensure the business does not expand until the parking is secured. He would like to see some studies/suggestions to help mitigate the project's impact on the adjacent animal hospital, and is concerned about its impacts on the welding business. He would like to see some solutions proposed to mitigate potential negative impacts, and is not ready at this time to support or deny the project.

Commissioner Anderson endorsed the idea of the rooftop restaurant, including the building design and its signage. She is not overly concerned about parking because there is an abundance of street parking available at this time. She is concerned about the sound generated by this use and suggested the roof top portion should be closed at 10:00 p.m., whether or not music is present. She is concerned with the project's impact on the animal hospital because the dogs will bark and create a nuisance if a lot of people are around. She would like to see more thought given to how the noise issues would be resolved, and requested information from staff concerning outdoor/sound attenuation walls for existing outdoor establishments in town.

Vice Chair Darden is concerned about noise generated by the use. She suggested the City request a study similar to the noise studies from Caltrans, with receptors in different areas, and including tests to see decibel ratings. She would like to see a comprehensive study of the noise impacts similar to those regularly submitted, with acceptance levels calculated at the property lines. She is worried about the effect of this use on the neighbors, and would not like to see a noise problem develop similar to the one with Dwinnels and adjacent neighbors. She is concerned that the noise issues cannot be fixed and it will affect the viability of the business. She also has concerns about sign compatibility with the architectural overlay. In addition, a more accurate number of available parking in the area should be calculated.

City Planner Pechous summarized issues for consideration concerning this project:

- 1) Sound is the largest issue. The Commission needs additional information from the project's sound engineer, including looking at feasibility of a sound study with actual sound test and receptors to get a better sense of the effects of music from the rooftop. The sound engineer should be available for questions, and mitigation measures and other innovative approaches should be researched.
- 2) Strictly acoustical music or no music on the rooftop may be options. A vestibule at the entry door may help mitigate loud noise impacts.
- 3) A realistic count of the adjacent available parking, including distance between available parking and the subject site, should be submitted for consideration. Pedestrian movement, bike racks, and bike corral should be considered; also feasibility of linkages and easement to allow access through adjacent parking lots. A lighted crosswalk would increase safety, as well as improved street lighting. Commissioners also asked for an update on parking plans for the area.

Commissioners discussed continuing this agenda item with staff, and staff suggested the Commissioners continue the item to their first meeting in May, with additional continuation at that time if warranted.

IT WAS MOVED BY COMMISSIONER RUEHLIN SECONDED BY COMMISSIONER ANDERSON AND UNANIMOUSLY CARRIED TO CONTINUE 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 TO THE REGULAR MEETING OF MAY 8, 2013.

[ITEM CONTINUED. PLANNING COMMISSION DECISION PENDING.]

- 9. NEW BUSINESS - None**
- 10. OLD BUSINESS- None**
- 11. REPORTS OF COMMISSIONERS/STAFF**

Included in the Commissioners' packets for their review:

- A. Tentative Future Agenda**
- B. Staff Waiver 13-100, 4015 Calle Juno**
- C. Staff Waiver 13-103, 410 Corto Lane #17**

12. ADJOURNMENT

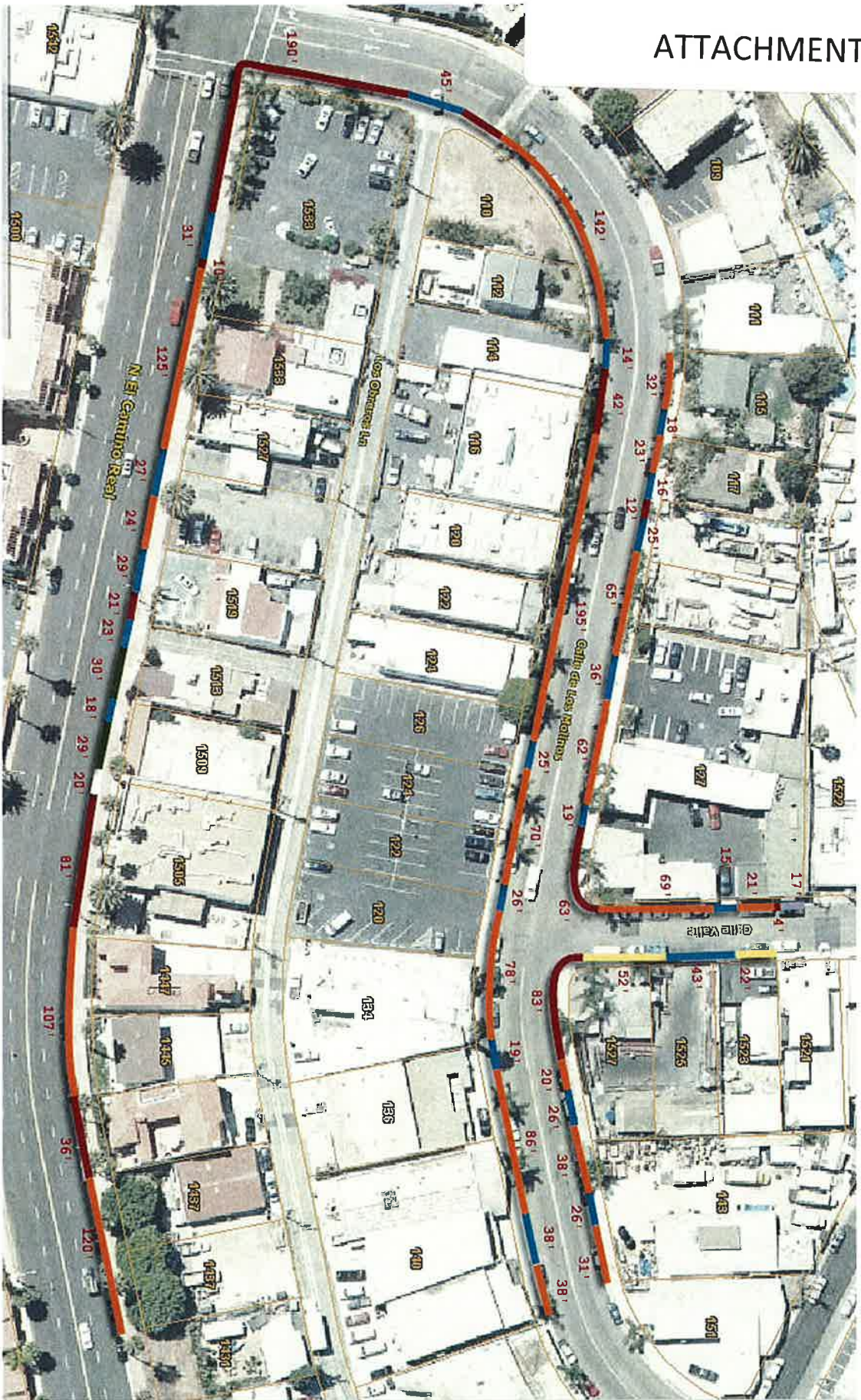
IT WAS MOVED BY COMMISSIONER RUEHLIN, SECONDED BY COMMISSIONER KAUPP, AND UNANIMOUSLY CARRIED to adjourn at 11:25 p.m. to the regular Study Session to be held at 6:00 p.m. on April 17, 2013 in Council Chambers at City Hall located at 100 Avenida Presidio, San Clemente, CA.

Respectfully submitted,

Lew Avera, Chair

Attest:

ATTACHMENT 5



	Parking	120' = 5 spaces
	Driveway	107' = 5 spaces
	Red Curb	24' = 1 space
	Yellow Curb	125' = 6 spaces
	Green Curb	142' = 6 spaces
	Unknown	195' = 9 spaces
		142' = 6 spaces
		195' = 9 spaces
		70' = 3 spaces
		78' = 3 spaces
		86' = 4 spaces
		38' = 2 spaces
		31' = 1 space
		38' = 2 spaces
		20' = 1 space
		21' = 1 space
		69' = 3 spaces
		62' = 3 spaces
		65' = 3 spaces
		23' = 1 space
		32' = 1 space
Total: 60 spaces		

ACOUSTICAL ENGINEERING ANALYSIS

Rooftop Grill
1509 N. El Camino Real
North Beach
San Clemente, CA 92673

Prepared by:

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May 15, 2013

Project No: 130329

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1.0 Introduction

At the request of Cottage Development, Yanchar Design & Consulting Group (YDCG) has completed an Acoustical Engineering Analysis of the proposed Rooftop Grill at 1509 N. El Camino Real, San Clemente, California in the area commonly known as the "North Beach" district.

1.1 Project Description

The property is currently a vacant commercial building with stucco exterior and glass doors and windows. Adjacent properties are commercial and industrial with the exception of a mixed use commercial/residential development to the northwest. Interstate 5 is located less than $\frac{3}{4}$ mile to the east of the project site. The Elks Lodge building directly to the south is two stories in height with no exterior openings on its north side. Adjacent to the north is an animal hospital and boarding kennel.

The nearest residential use is the second floor of a mixed use property 157 feet to the northwest. The nearest solely residential property is approximately 260 feet to the west.

According to the San Clemente General Plan, the east side of El Camino Real to the 5 freeway is within the 65 dB noise contour region and the east side to the ocean is within the 60 dB noise contour.

The North Beach District is part of an Architectural and Pedestrian overlay fostering the development of entertainment, pedestrian friendly development. The proposed project consists of converting the existing structure to a restaurant with indoor and outdoor dining. Restaurant operations may include breakfast, lunch and dinner services.

1.2 Background

In an acoustical analysis prepared by Yanchar Design & Consulting Group (YDCG) dated April 2, 2013 it was calculated that a level of 93 dBA would be the maximum source level to meet the requirements of the San Clemente Municipal Code. Further evaluation of the potential noise impacts of the proposed operation of the restaurants was requested to include a simulation of the sound levels associated with effects of the clientele and music events.

Since it would be impractical to perform a simulation of the impact of a crowd of people in a similar environment at the project site, on April 20, 2013 measurements were made by YDCG at several operating San Clemente restaurants with outside seating and musical entertainment.

On April 25, 2013, measurements were performed at the project site and surrounding area by YDCG to obtain data which would include the effects of the local topography including the building shell (prior implementation of any improvements) and surrounding buildings, traffic noise from El Camino Real and other sources of sound such as air conditioners, air compressors, power tools, dogs and birds. Measurements were made at the project site and representative surrounding locations with and without music both inside the building as well as the rooftop.

This report will document those measurements, compare them to the restrictions of the San Clemente Municipal Code, and present suggested mitigations measures as may be necessary.

2.0 Characteristics of Sound

Sound is technically described in terms of the loudness (amplitude) of the sound and frequency (pitch) of the sound. The standard unit of measurement of the loudness of sound is the decibel (dB). Decibels are based on the logarithmic scale. The logarithmic scale compresses the wide range of sound pressure levels to a more usable range of numbers in a manner similar to the Richter scale used to measure earthquakes. In terms of human response to noise, a sound 10 dB higher than another is judged to be twice as loud; and 20 dB higher four times as loud; and so forth.

2.1 Sound Levels

Everyday sounds normally range in amplitude from 30 dB to over 100 dB. Sound levels decrease as a function of distance from the source as a result of wave divergence, atmospheric absorption, and ground attenuation. As the sound waveform travels away from the source, the sound energy is dispersed over a greater area, thereby dispersing the sound power of the wave. Sound dissipates exponentially with distance from the sound source.

For a single point source, sound levels decrease approximately 6 dB for each doubling of distance from the source. This drop-off rate is appropriate for sound generated by stationary sources.

If the sound is produced by a non-stationary line source, such as highway traffic or railroad operations, the sound decreases 3 dB for each doubling of distance in a hard site environment. Line source noise, when produced within a relatively flat environment with absorptive vegetation, decreases 4.5 dB for each doubling of distance from the source.

2.2 Pitch

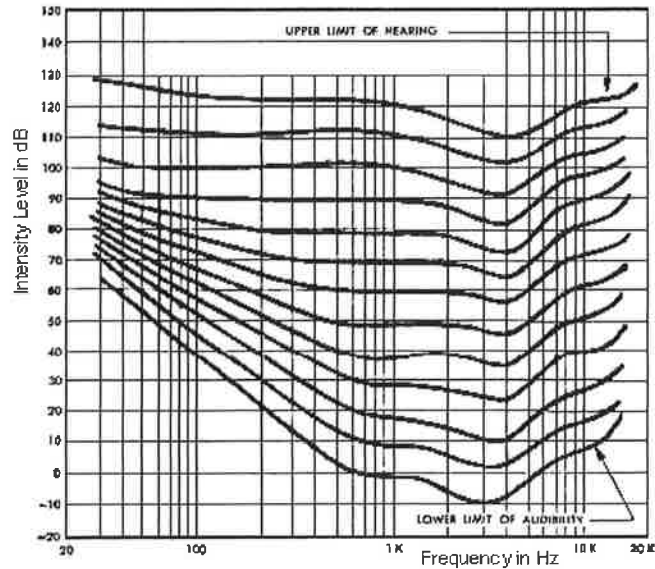
Sound is composed of a spectrum of frequencies ranging from 20 Hz or vibrations per second to 20,000 Hz or vibrations per second. A slow vibration (low frequency) in sound gives the sensation of a low note. A more rapid sound vibration (higher frequency) produces a higher note. This is analogous to our perception of light. Red light is produced at the low-frequency end of the light spectrum while violet light is produced at the high-frequency end of the light spectrum. A change in frequency of sound waves causes an audible response—a difference in pitch. A change in the frequency of a light wave causes a visual response—a difference in color.

White light is the name given to what the human eye sees when all the colors that make up the visible light spectrum are combined; the visible light spectrum is made up of red, orange, yellow, green, blue, indigo, and violet light, and these colors combined make white light or simply "light". Similarly, the range of audible frequencies from low bass to high treble frequencies combine to produce what we measure as "sound".

2.3 Relationship of Pitch and Amplitude

Our ears are not linear devices and what we experience as loudness varies with frequency. This relationship was originally studied by Fletcher and Munson at Bell labs in 1933 and is illustrated in Figure 1. The contours show that our ears are less responsive to bass frequencies, but that at higher sound levels, the response to these bass frequencies increases.

Figure 1
Fletcher Munson Contours



Because the human ear is not equally responsive to sound at all frequencies, a special frequency-dependent rating scale has been devised to relate noise to human response. The A-weighted decibel scale (dBA) performs this compensation by discriminating against frequencies in a manner approximating the response of the human ear. Noise levels are measured in terms of the "A-weighted decibel," abbreviated dBA. Table 6 in the appendix provides examples of various sounds and their typical A-weighted sound level.

2.4 Atmospheric Effects

Atmospheric absorption also influences the levels that are received by an observer. A greater distance traveled results in a greater influence and resultant fluctuations of the sound wave. The degree of absorption is a function of the frequency of the sound as well as the humidity and temperature of the air. Turbulence and gradients of wind, temperature, and humidity also play a role in determining the degree of attenuation. Intervening topography can also have an effect on the perceived sound levels.

3.0 Sound Assessment Metrics

The description, analysis, and reporting of sound levels is made difficult by the complexity of human response to sound and the myriad of metrics that have been developed for describing sound impacts. Each of these metrics attempts to quantify sound levels with respect to human response. Most of the metrics use the A-Weighted sound level to quantify sound impacts on humans. As previously identified, A-Weighting is a frequency weighting that accounts for human sensitivity to different frequencies.

Because sound levels can vary over a short period of time, a method for describing either the average character of the sound or the statistical behavior of the variations must be utilized. Most commonly, environmental sounds are described in terms of an average level that has the same acoustical energy as the summation of all the time-varying events. This energy-equivalent sound descriptor is called L_{eq} . The most common averaging period is hourly, but L_{eq} can describe any series of sound events of arbitrary duration.

The scientific instrument used to measure sound is the sound level meter. Sound level meters can accurately measure environmental sound levels to within about plus or minus 1 dBA. Various computer models are used to predict environmental sound levels from sources, such as roadways and airports. The accuracy of the models depends upon the distance the receptor is from the sound source. Close to the sound source, the models are accurate to within about plus or minus 1 to 2 dBA.

4.0 Regulatory Environment

The State of California and the City of San Clemente both have established regulatory criteria designed to guide compatible development in varying sound environments and protect existing uses from excessive sound increases. This sound assessment will address the following regulatory criteria: (1) the State CEQA Guidelines, Appendix G, (2) the State Building Code, and (3) the City of San Clemente General Plan Noise Element, and (4) the City of San Clemente Municipal Code.

4.1 State CEQA Guidelines

The California Environmental Quality Act (CEQA) addresses the following applicable questions to evaluate the significance of potential project impacts. Potential sound effects would be considered significant if the Project will result in:

1. Exposure of persons to or generation of noise levels in excess of standards established in the local General Plan or Noise Ordinance, or applicable standards of other agencies.
2. A substantial permanent increase in ambient noise levels in the Project vicinity above levels existing without the Project.
3. A substantial temporary or periodic increase in ambient noise levels in the Project vicinity above levels existing without the Project.

CEQA does not define the sound level increase that is considered substantial. Typically, an increase in the sound level of 3 dB or greater at sound-sensitive receptors would be considered significant when projected sound levels would exceed those considered satisfactory for the affected land use.

4.2 California State Building Code

The California State Building Code only addresses noise intrusion into multi-family housing. This is regulated by Appendix Chapter 12, Section 1208, Sound Transmission Control of the 2010 California Building Code. Interior noise levels attributable to exterior sources shall not exceed 45 dB_{DNL} in any habitable room. Residential structures to be located where the noise level exceeds 60 dB_{DNL} shall require an acoustical analysis showing that the proposed design will limit exterior noise to the prescribed allowable interior level.

The residential portion of the mixed use property at 1520 N. El Camino Real lies within the 60 dB_{DNL} noise contour. As part of the approval process for construction of the residences, mitigation measures were required to be employed to reduce the interior level due to exterior sources to 45 dB_{DNL} .

4.3 City of San Clemente General Plan Noise Element

The City of San Clemente General Plan Noise Element sets forth implementing policies to guide the development of residential and commercial land uses. The following implementing policies would be applicable in the sound assessment:

1. Adopting and enforcing legally adequate noise regulations and guidelines.
2. Preventing and mitigating excessive noise exposure impacts on the community.
3. Minimizing traffic-generated noise impacts on "noise-sensitive" uses.
4. Reducing the encroachment of non-residential use noise impacts onto "noise sensitive uses".
5. Minimizing noise impacts in mixed-use structures.
6. Minimizing construction noise on adjacent uses.
7. Ensuring that adverse noise impacts among differing uses or tenants are prevented.
8. Minimizing spillover noise impacts from entertainment and restaurant/bar establishments onto "noise sensitive uses".
9. Minimizing noise impacts of rail transit on sensitive land uses is minimized.
10. Ensuring that a proper acoustical analysis of any potential significant noise generator is conducted.

The San Clemente General Plan section 14.6.G presents as an objective that noise levels emanating from entertainment and restaurant/bar establishments "not be discernible" from ambient noise levels at a distance of 50' from the establishment. Although "not discernible" is a somewhat subjective criterion, for purposes of this report we will assume that it can be interpreted as not contributing to the perceived ambient noise level, essentially 3 dBA below that level.

4.4 San Clemente Municipal Code

Section 8.48.050 of the San Clemente Municipal Code addresses the maximum permissible "ambient" noise levels in various zones, as follows:

**Table 1
Exterior Noise Standards**

Land Use	Allowable Exterior Noise Level	
	7:00 a.m. -- 10:00 p.m.	10:00 p.m. -- 7:00 a.m.
Residential	55 dBA	50 dBA
Residential portion of mixed use	60 dBA	50 dBA
Commercial	65 dBA	60 dBA*
Industrial	70 dBA	70 dBA*

*** Standard only applies if commercial, industrial or manufacturing buildings are occupied during these hours.**

- A. It shall be unlawful for any person at any location within the City to create any noise, or to allow the creation of any noise on property owned, leased, occupied, or otherwise controlled by such person, when the foregoing causes the noise level, when measured on any other property to exceed:
 - 1. The noise standard for a cumulative period of more than thirty (30) minutes in any hour; or
 - 2. The noise standard plus five (5) dB (A) for a cumulative period of more than fifteen (15) minutes in any hour; or
 - 3. The noise standard plus ten (10) dB (A) for a cumulative period of more than five (5) minutes in any hour; or
 - 4. The noise standard plus fifteen (15) dB (A) for a cumulative period of more than one (1) minute in any hour; or
 - 5. The noise standard plus twenty (20) dB (A) for any period of time.
- B. In the event the ambient noise level exceeds any of the five (5) noise limit categories above, the allowable noise level under said category shall be increased to reflect the ambient noise level.
- C. If possible, the ambient noise shall be measured at the same location as the noise source measurement, with the alleged offending noise source inoperative. If for any reason the alleged offending noise source cannot be shut down, the ambient noise must be estimated by performing a measurement in the same general area of the source but at a sufficient distance such that the noise from the source is at least ten (10) dB below the ambient in order that only the ambient level be measured. If the difference between the ambient and the noise source is five (5) to ten (10) dB, then the level of the ambient itself can be reasonably determined by subtracting a one (1) decibel correction to account for the contribution of the source.

Section 8.48.060 sets the following interior noise standards for all residential property within the City.

**Table 2
Interior Noise Standards**

Land Use	Allowable Interior Noise Level	
	7:00 a.m. to 10:00 p.m.	10:00 p.m. to 7:00 a.m.
Residential, including residential portions of mixed-use.	50 dB (A)	40 dB (A)

- A. It shall be unlawful for any person at any location within the incorporated area of the City to create any noise, or to allow the creation of any noise on property owned, leased, occupied, or otherwise controlled by such person, when the foregoing causes the noise level when measured within any residential dwelling unit to exceed:

1. The interior ambient noise level plus five (5) dB (A) for a cumulative period of more than five (5) minutes in any hour; or
 2. The interior ambient noise level plus ten (10) dB (A) for a cumulative period of more than one (1) minute in any hour; or
 3. The interior ambient noise level plus fifteen (15) dB (A) for any period of time.
- B. In the event the ambient noise level exceeds any of the three (3) noise limit categories above, the allowable noise level under said category shall be increased to reflect the ambient noise level.

Section 8.48.070 prohibits operating, playing or permitting the operation or playing of any radio, receiving set, television set, phonograph, drum, musical instrument, or similar device which produces or reproduces sound:

1. In such manner as to disturb the peace, quiet and comfort of a person of normal sensitiveness.
2. At any time with louder volume than is necessary to provide convenient hearing of the device by voluntary listeners located in the same room, vehicle or chamber as the device.
3. Between the hours of ten (10:00) p.m. and seven (7:00) a.m. in such a manner as to create a noise disturbance across a residential or commercial real property line or at any time to violate the provisions of Sections 8.48.050 and 8.48.060

Such restrictions shall not apply to use operating under a conditional use permit or exception as described in this chapter, provided said use is in compliance with any and all conditions imposed by the permit or exception.

Section 8.48.080 deals with amplified sound.

- A. The use of amplified sound, including the electronically amplified sound of music, human voice, or other sound within a business, restaurant, bar or other commercial establishment is not permitted except under a conditional use permit (CUP) granted by the City Manager or authorized designee (the "permit authority").
- B. In granting an application for a CUP, the permit authority shall consider the potential of such amplified sound to result in a violation of other provisions of this chapter, and shall establish amplifier settings and other limitations on the use of such amplified sound as conditions of approval. Such approval shall not consider the information content of the amplified sound (except as noted in item D.2 of this section), but only its noise level and resulting potential to violate other provisions of this chapter. Prior to issuance of a CUP, the permit authority shall solicit the comments and any recommendation of Police Services.
- C. No CUP shall be issued that allows the use or operation of sound amplifying equipment in any residential zone or on residential property.

- D. Any CUP that allows the use or operation of sound amplifying equipment shall include, at a minimum, the following requirements:
1. Noise from such sound amplifying equipment shall comply with the noise standards of Sections 8.48.050 and 8.48.060 of this chapter, except that:
 - i. The sound level meter used to obtain the noise measurements shall be configured to use the C-weighting network instead of the A-weighting network.
 - ii. The noise standards identified in Sections 8.48.050 and 8.48.060 shall be denoted as "dB(C)" instead of "dB (A)".

Submission of written proof by a qualified acoustical consultant that said sound amplifying equipment complies with these standards may be required by the permit authority.
 2. Such sound amplifying equipment shall be used only for the producing of human speech or song or music and the speech or song shall not be profane, lewd, indecent, slanderous or of such character as to tend to incite riot or other public disorder nor shall such speech or song advocate disloyalty to or the overthrow of the government of the United States by arms or other unlawful means nor shall such speech or song urge any unlawful conduct or encourage or reasonably tend to encourage a breach of the public peace of the community.
- E. In addition, the following should be considered and, where deemed appropriate by the permit authority, related conditions or limits should be included as part of the permit:
1. Hours and days of operation.
 2. The potential for such sound amplifying equipment to interfere with or disturb the occupants of any hospital, sanitarium, school, church, courtroom, place of residence or public assemblage.
 3. The construction of the building or structure, if any, in which sound amplifying equipment is to be located and the ability of said structure to contain noise.
 4. Operational controls to be implemented during the use of sound amplifying equipment including, but not limited to, closing of doors and/or windows, security/administrative controls, etc.
 5. Any other consideration deemed appropriate by the permit authority.
- F. After the issuance of any CUP, the permit authority shall revoke such CUP if the sound amplifying equipment permitted to be used thereby is used or operated contrary to any of the provisions of this code.

5.0 Amplified vs. Non Amplified Sound

Section 8.48.080 poses certain requirements for amplified sound but does not provide a definition. In some other jurisdictions "amplified sound" means any increase of sound above ambient noise levels by the use of electronic equipment. Others define amplified sound as sound that is amplified.

The City of San Clemente Code defines ambient sound as follows:

"Ambient noise level" shall mean the all-encompassing noise level associated with a given environment, being a composite of all sounds from all sources, excluding the alleged offensive noise, at the location and approximate time at which a comparison with the alleged offensive noise is to be made. The ambient noise shall be measured using the same weighting (e.g., A-weighting or C-weighting) required by this chapter for the measurement of the alleged offensive noise.

Amplified sound of a certain sound pressure level is no louder than non-amplified sound of the same sound pressure level just as the measured temperature in a space of heat produced by an electric heater is not any hotter than the temperature of the same space produced by a gas furnace.

Amplified sound has the potential for being perceived as louder than non-amplified sound but this is not always the case. A symphony orchestra is non-amplified but it can produce sound pressure levels comparable to a canon. In fact, a canon, a non-amplified instrument, is sometimes used in the performance of The 1812 Overture. A recording of a symphony orchestra is always amplified, but the loudness is controllable and is often reproduced at less than the original acoustic sound.

It is the magnitude of the sound pressure level that is of concern. Radios, televisions, telephones, even hearing aids utilize electronic amplification but are not always considered an annoyance because the amplitude is limited. Advances in technology have enabled drummers to use amplified electronic drums rather than conventional acoustic drums for practicing or even live performances because the sound levels can be controlled and limited to levels that are acceptable. As a by-product of amplification and reproduction with a loudspeaker, the directionality of the sound can be controlled, confining it to the audience area.

6.0 Perception of Sound by Humans and Dogs

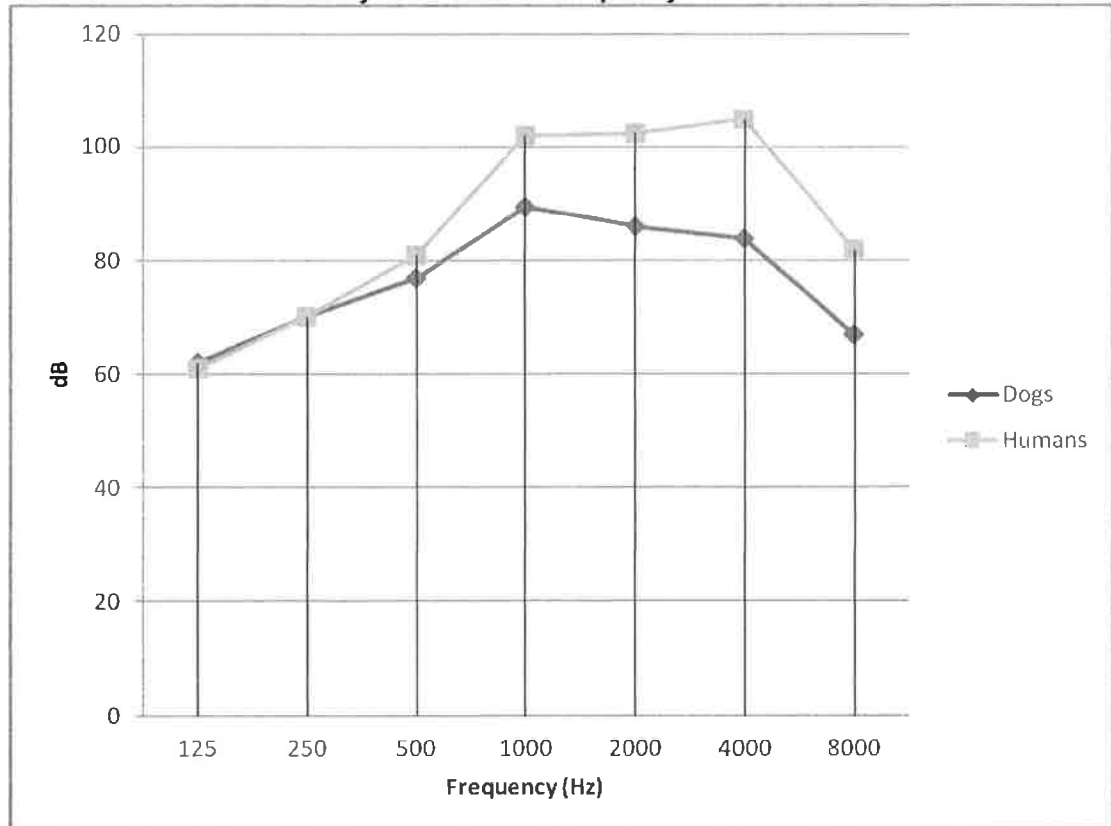
6.1 Pitch

Humans can hear a maximum range of frequencies from 20-2000 Hz. The higher limit decreases with age. Dogs can hear a maximum range of 40-45,000 Hz which also diminishes with age. The frequency range of the human voice ranges in frequency from 300 to 3,400 Hz. For music, the range of the fundamental pitch is 27.5 Hz to 4,186 Hz. Most instruments produce a lesser range of frequencies. (See Table 8).

6.2 Loudness

As described in Section 2.3, the ear is not linearly responsive to loudness throughout the range of audible frequencies. This is also the case for dogs. Studies of the auditory threshold (the lowest intensity at which a sound may be heard) of dogs and humans show that both are equally responsive at the lower range of frequencies while dogs are slightly more than twice as responsive at frequencies above 4,000 Hz. This means that as dogs can hear higher frequencies that are at a lower level than humans and not that dogs hear the same sounds as twice as loud. This is illustrated in Figure 2.

Figure 2
Auditory Threshold vs. Frequency



6.3 Music

According to the Universities Federation of Animal Welfare, listening to certain types of music may actually help with the welfare of dogs in animal shelters, as these types of music have soothing qualities. Classical music soothes and calms dogs. In fact; the Arizona Animal Welfare League plays classical music in the shelter to calm the dogs. The San Clemente City Animal Shelter also plays music. If there is an effect of pop music on dogs the effect is negligible. Studies and research have been based on other types of music since pop music has not proven to have an effect on dogs.

7.0 Effect of the Number of People

In evaluating the effect of people talking, laughing, etc. the concept of correlated and un-correlated sound comes into play. Sound is made up of periodic phenomena, repeating over a period of time. Phase refers to a particular value of time for any periodic function, i.e. it is the relationship between a reference point and the fractional part of the period through which the signal has advanced relative to the arbitrary origin.

When combining sound sources of identical amplitude and phase the sound level of the combination is 6 dB higher than the individual sound. For sounds that are equal in amplitude but not identical in phase, the combined sound level increases by 3 dB. Because the amplitude of sounds produced by a crowd of people is usually not identical, the level increase is somewhat less than 3 dB for each doubling of the number of people.

A 3dBA increase in sound level is barely noticeable to the human ear. Most listeners do not report an increase in sound level until there is a 5 dB difference. Further, it takes a 10dB increase before the average listener hears twice the level of sound.

8.0 Exterior Sound Level Measurements

In evaluating the sound aspects of the proposed project, there are several different scenarios to consider; the enclosed portion of the proposed restaurant with and without the doors and windows closed and the proposed outdoor roof top area. In addition, there are two significant sources of sound to consider; the sound generated by the restaurant clientele at the maximum occupancy and the sound generated music, both inside the structure and on the rooftop.

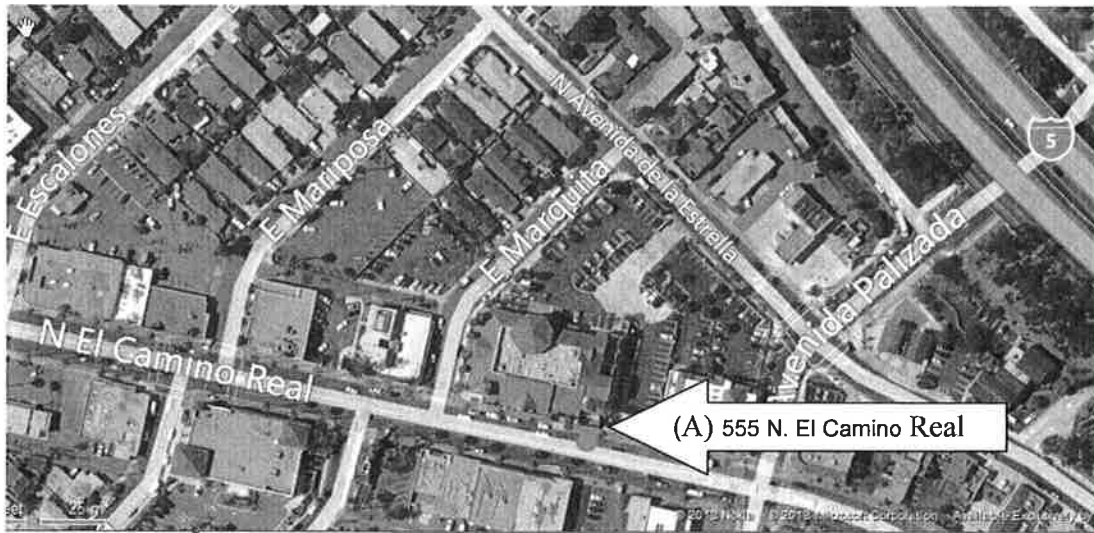
8.1 Sound Produced by People

In order to evaluate the sound levels produced by an outside crowd, with and without music, measurements were made at several locations in San Clemente with outside seating similar to that proposed for proposed restaurant and live music inside. These measurements are summarized in Table 3.

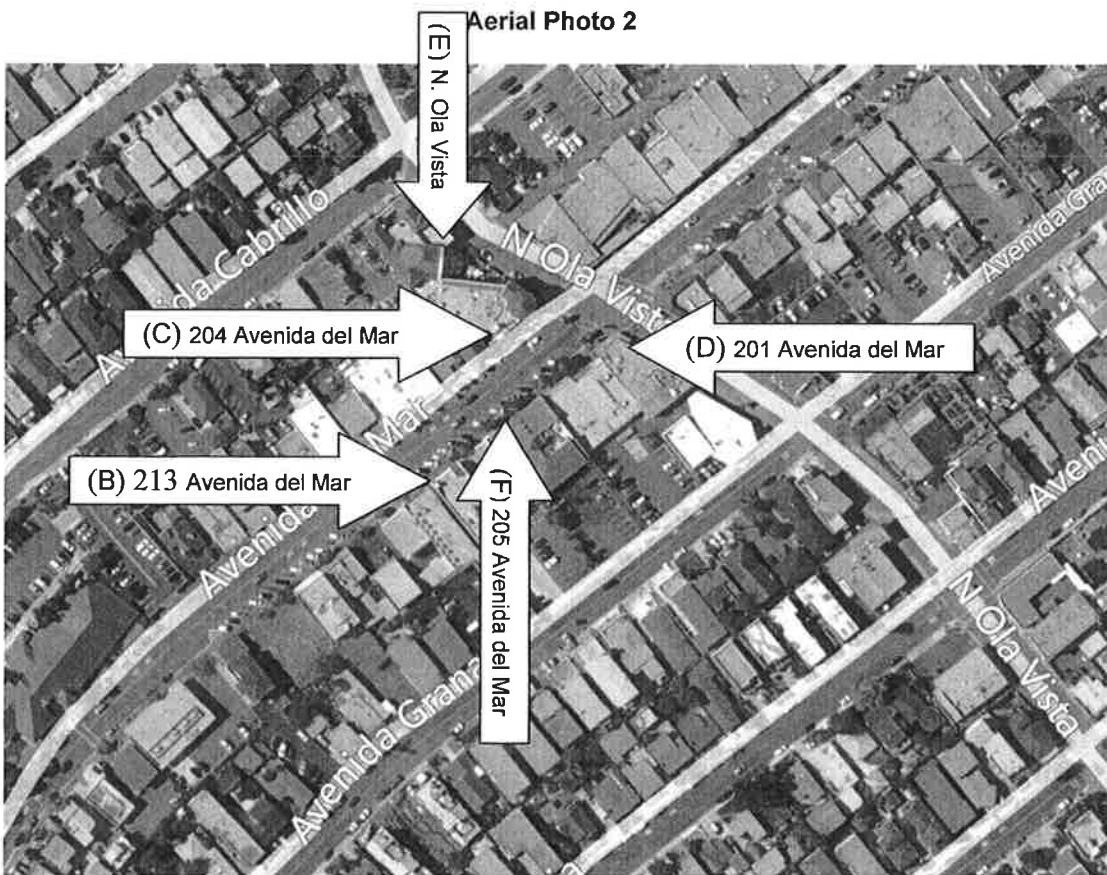
Table 3
San Clemente Restaurant Sound Survey
Exterior Sound Levels

Aerial Key	Source	Measurement Location	Time	Type	Sound Level
A	Iva Lee	555 North El Camino Real	9:50 PM	Crowd	76.7
				Crowd and Music	80.0
B	Nick's	213 Avenida del Mar	10:55 PM	Crowd	68.2
C	Beachfire	204 Avenida del Mar	11:00 PM	Crowd and Music	81.0
D	The Shore	201 Avenida del Mar	10:20 PM	Crowd and Music Door Closed	85.0
				Crowd and Music Door Open	94.5
E	The Shore & Beachfire	N. Ola Vista 165 feet north of The Shore	11:10 PM	Music The Shore Door Closed	52.8
				Music The Shore Door Open	58.9
F	The Shore & Beachfire	205 Avenida del Mar	10:30 PM	Crowd and Music	66.2

Aerial Photo 1



Aerial Photo 2



Based on the sound produced by approximately 35 people measured at Nick's directly in front of the outside seating, it can be concluded that similar sound levels for 35 people would be expected at the proposed restaurant or approximately 68.2 dBA. The outside areas are similar, both with covered roofs and some lateral shielding.

Table 4 lists the calculated sound levels for other numbers of people at the west property line and at the SE corner of the mixed use property at 1520 N. El Camino Real. Due to attenuation by distance the sound level is attenuated to a level of 42.0 dBA or less, significantly below the ambient noise at any sound sensitive location in the vicinity and orders of magnitude below the requirements of the San Clemente Municipal Code.

Table 4
Estimated Sound Level Based On Number of People

People	Estimated Sound Level (dBA)	Estimated Level at Closest Residential Property (dBA)
35	68.2	33.8
50	69.7	35.3
75	71.5	37.1
100	72.8	38.4
200	75.8	41.4
226	76.4	42.0

8.2 Sound Produced by Music

With the exception of Nicks, the other restaurants surveyed featured live music of various popular genres such as blues, reggae, zydeco, and oldies rock performed by bands composed of electric guitar(s), electric bass, acoustic drums, amplified vocals, and other instruments as well as DJ's. Based upon the exterior measurements, it is estimated that the interior levels were on the order of 100-105 dBA. These are significantly higher than those that would be generated by the type of music anticipated at the proposed restaurant.

The music planned for the proposed restaurant is stated to be primarily acoustic based such as solo guitar or a jazz trio. It is intended to be background music rather than foreground. Background music refers to various styles of music intended to be passively listened to, played at a low volume and is not the main focus of an audience. The concept is to present a relaxed atmosphere as an accompaniment to dining not to provide an entertainment venue. No space allocated in the plans for the proposed restaurant for a stage, concert type sound system, dance floor or theatrical lighting.

In order to evaluate the levels produced by music sources, a simulation was conducted using recorded music generated by a loudspeaker inside the building and a second loudspeaker on the roof where potential live music sources would be placed. Table 5 summarizes the measurements when the source was inside the building. Table 6 summarizes the measurements with the source on the roof.

The test signal used was pink noise, which is a random noise characterized by equal amplitude response per octave band of frequency from 20-20,000 HZ. This provides a uniform source for each measurement location.

The amplitude was calibrated at 93 dBA for each loudspeaker.

Table 4 and 5 indicate that along El Camino Real the traffic noise predominates. For this reason two conditions are reported in Tables 5 and 6, one where the traffic noise is at a maximum and one where there was a break in the traffic. The levels reported with minimum traffic include the effect of the music as well as all other ambient sounds. In the case of the measurements on the north side of the animal hospital, these levels were elevated due to the operation of several window mounted air conditioning units.

Table 5
Music Source Inside 1509 N. El Camino Real

Aerial Key	Measurement Location	Maximum Traffic	Minimum Traffic
	West Property Line	71.0	59.6
	Courtyard-Door Closed	61.1	58.1
	Courtyard-Door Open	68.4	67.5
	Front Patio-Front Door Closed	72.1	56.7
	Front Patio-Front Door Open	72.1	66.1
G	Los Obreros Lane-Louver Window Open	56.5	56.5
	Front Patio South Center @Elks Wall	71.1	59.6
	Animal Hospital-SW Corner	71.0	59.6
	Animal Hospital-NW Corner	70.9	55.0
	Animal Hospital-Property Line @ Front Door	70.9	52.3
	Animal Hospital-North Side Center	59.9	59.9
	Muffler Shop-SW Corner	72.1	54.5
H	1520 N. El Camino Real-SE Corner	70.7	52.5
J	1549 Calle Las Bolas-Rear Alley	57.6	49.3
K	Mirador & Florencia	56.7	48.9
L	Mirador & Reposo	56.6	51.7

9.0 Analysis

Comparing the sound levels at each location as enumerated in Tables 5 and 6 for sound sources inside 1509 N. El Camino Real and on the roof, in almost every case the traffic noise is what is being measured. When traffic is at a minimum, the measurement reflects a combination of the music and all other ambient sounds.

9.1 Music Source Inside Building

In the case where the music source is inside the building, the sound levels meet the requirements of the San Clemente Municipal Code.

There are two cases where the measurements in the tables are above what is required: in the courtyard of the subject property 6 feet directly west of the loudspeaker location when the doors are open and on the front Patio when the front door is open. This was due to restrictions in the measurement location.

Measurements could not be made on the property directly to the north that could potentially be affected by this condition as prescribed in the San Clemente Municipal Code. The Code specifies the following:

“The location selected for measuring exterior noise levels shall be at any point on the affected property, including decks and balconies. The measurement microphone height shall be five (5) feet above the finished ground elevation or, in the case of a deck or balcony, above the finished floor level of the deck or balcony. The measurement microphone shall not be placed above or on top of a property line fence or wall. The microphone should typically not be placed within three (3) feet of any property line fence or wall, or within ten (10) feet of any other acoustically reflective surfaces; however, shorter distances may be utilized as necessary to provide a measurement of the worst-affected area of the property (such as a narrow side yard).

The northern courtyard is 14 feet wide. Since it was not physically possible to measure the sound level at the property line, it can be calculated that the sound would be attenuated to 60.1 dBA. The barrier attenuation provided by the wood fence at the property line would attenuate the sound further by a minimum of 6-8 dBA to an estimated level of 54-56 dBA. This would be in compliance with the San Clemente Municipal Code.

9.2 Music Source on Roof

When the music source is on the roof the results are similar, again do to the proximity of the sound source at the middle of the courtyard. In this case the property line wall provides no additional attenuation. However due to the increased distance, it can be calculated that the sound would be attenuated to a level of 55.7 dBA. This also is in compliance with the San Clemente Municipal Code.

9.3 Sounds from Adjacent Kennel

The animal kennel has rooftop mounted mechanical equipment that is not shielded and would provide a source of annoyance to proposed restaurant's customers. Measurements were not made of the sound level produced by the mechanical equipment but a typical 3 ton air conditioning compressor measures 72-76 dBA at three feet. Due to the proximity, it most likely exceeds the required noise level at the property line.

9.4 Conclusion

A maximum sound level of 93 dBA was originally calculated to be the maximum level that would be attenuated by distance to meet the requirements of the San Clemente Municipal Code. For the type of music proposed, it is extremely unlikely that these level would ever be attained or be appropriate. Levels in the range of 75-80 dBA would be more typical. In any case, the predicted levels are within the requirements of the San Clemente Municipal Code during the hours of 7 AM to 10 PM.

For the hours of 10 PM to 7AM, the maximum allowable level is exceeded by 2.7 dBA. To remain in compliance, the maximum allowable music source level should be reduced to 90 dBA.

Based upon the discussion in section 8.1, the level generated by 226 people is estimated to be 76.4 dBA. When two sound levels differ by more than 10 dB, the sound level of the combination is the same as the greater of the two.

10.0 Recommendations

Although these calculations and simulations provide an accurate estimate of the sound levels to be expected, many of the proposed upgrades and improvements will more than likely further reduce the propagated noise levels. The following recommendations are provided as additional measures to reduce the noise propagation to the nearby area, improve the interior and exterior acoustics of the space, and insure that the maximum allowable levels are met during operation:

1. Provide a copy of the Section 8.48 of the San Clemente Municipal Code as part of the contract with all musicians with acknowledgement of all potentially applicable fines.
2. Treat the south side of the rooftop with sound absorbing/diffusing materials to reduce the reflections off the adjacent Elks Lodge wall. The proposed stucco wall and cushioned seats may provide sufficient absorption and diffusion.
3. Re-evaluate the maximum sound level once all improvements are in place.
4. Provide a barrier behind the rooftop performance area to reduce the propagation to the north and northwest or extend the additional property line wall to shield the adjacent mechanical equipment as well as the music source.
5. Provide a sound level meter with warning light to be used by performers to insure that they limit their sound levels such that the requirements are met.

Respectfully submitted,

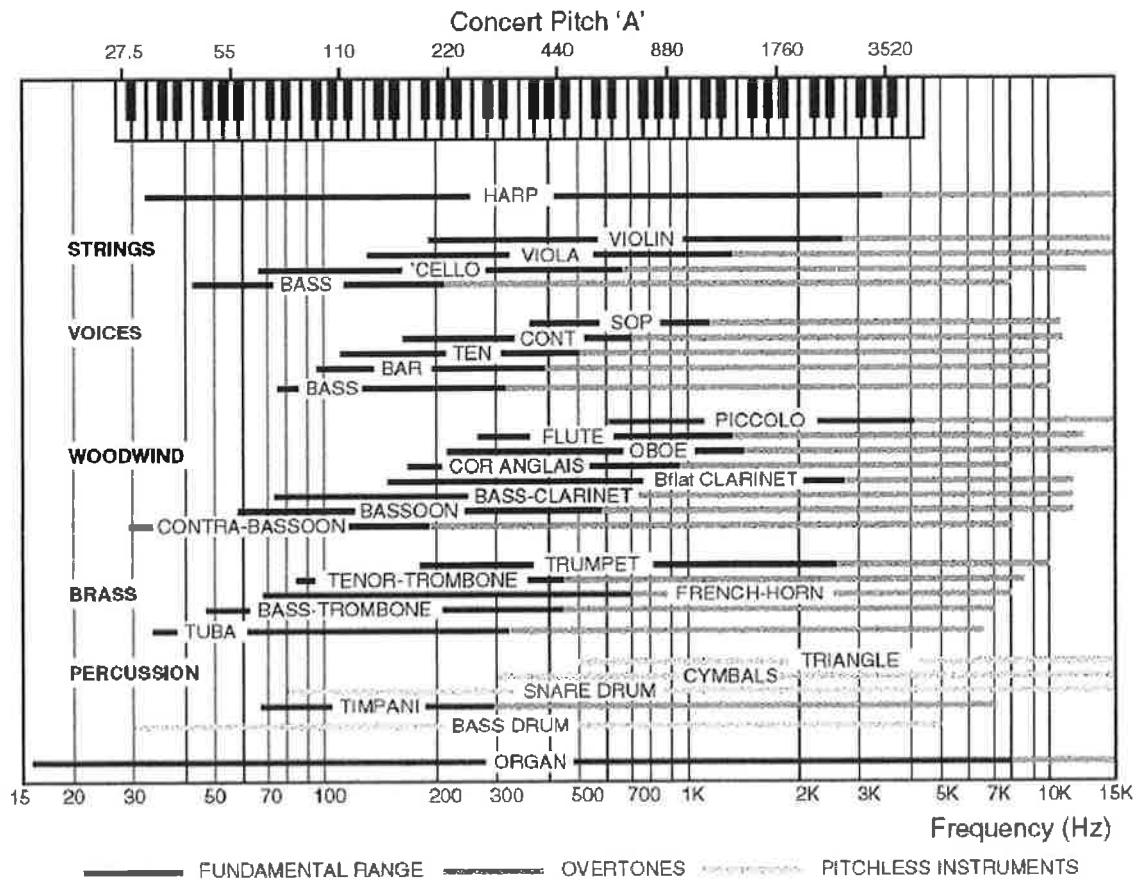


Yanchar Design & Consulting Group
Carl J. Yanchar
President

11.0 Appendix**Table 7
Definitions**

Term	Definitions
Decibel, dB	A unit describing the amplitude of sound, equal to 20 times the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micropascals (20 micronewtons per square meter).
Frequency, Hz	The number of complete pressure fluctuations per second above and below atmospheric pressure.
A-Weighted Sound Level, dBA	The sound pressure level in decibels as measured on a sound level meter using the A-weighting filter network. The A-weighting filter de-emphasizes the very low and very high frequency components of the sound in a manner similar to the frequency response of the human ear and correlates well with subjective reactions to sound. All sound levels in this report are A-weighted.
L01, L10, L50, L90	The A-weighted sound levels that are exceeded 1%, 10%, 50%, and 90% of the time during the measurement period.
Equivalent Noise Level, Leq	The average A-weighted sound level during the measurement period.
Community Noise Equivalent Level, CNEL	The average A-weighted sound level during a 24-hour day, obtained after addition of 5 decibels in the evening from 7:00 pm to 10:00 pm and after addition of 10 decibels to sound levels in the night between 10:00 pm and 7:00 am.
Day/Night Noise Level, Ldn or DNL	The average A-weighted sound level during a 24-hour day, obtained after addition of 10 decibels to levels measured in the night between 10:00 pm and 7:00 am.
Lmax, Lmin	The maximum and minimum A-weighted sound level during the measurement period.
Ambient Noise Level	The composite of sound from all sources near and far. The normal or existing level of environmental noise at a given location.
Ambient Noise Level	The composite of sound from all sources near and far. The normal or existing level of environmental sound at a given location.

Table 8
Frequency Range of Musical Instruments



Maune, Kimberly

From: Pechous, Jim
Sent: Tuesday, April 02, 2013 5:14 PM
To: Planning Commission
Cc: Nicholas, Sean; Maune, Kimberly
Subject: FW: support for North Beach rooftop Grill and Bar

FYI

-----Original Message-----

From: Bree Shapiro [<mailto:bree.shapiro@gmail.com>]
Sent: Tuesday, April 02, 2013 10:34 AM
To: Planning Mail
Subject: support for North Beach rooftop Grill and Bar

To whom it may concern,

This email serves to declare my support of the development at 1509 North El Camino Real into North Beach Rooftop Grill & Bar. I am a resident of San Clemente. I own a home on the south part of town. However, I spend a lot of time enjoying North Beach. As a resident, one of my biggest complaints is the lack of outdoor venues/dining. We live in one of the most beautiful climates in the world and I fully support new establishments that want to provide an opportunity for residents and visitors to take advantage of our climate! I truly believe this venue will be a welcome addition to the North Beach community and will continue to add to the vibrant revitalization of the area!

Best,

Bree Shapiro
bree.shapiro@gmail.com

Gee, Denise

From: Mikii Rathmann <mikii@neoncarrotevents.com>
Sent: Tuesday, April 02, 2013 6:38 PM
To: Planning Mail
Subject: To: Lewis Avera

Dear Mr. Avera,

I am writing to share my support for *the Rooftop Grill & Bar* in North Beach San Clemente.

In addition to a nice outdoor dining space It will be nice to have an additional event venue in San Clemente.

I work with brides and families planning parties and celebrations and having a venue to compliment the Historic Casino would be a great addition to North Beach and to our community.

Warm Regards,

Mikii Rathmann
Neon Carrot Events
Meetings. Events. Weddings
949.285.2043

Like Us On Facebook!

"Ask me about meeting a dynamic group of local networking professionals who are dedicated to helping you grow your business"

Gee, Denise

From: Mikii Rathmann <mikii@neoncarrotevents.com>
Sent: Tuesday, April 02, 2013 6:48 PM
To: Planning Mail
Subject: To: Don Brown

Dear Mr. Brown,

I am writing to share my support for *the Rooftop Grill & Bar* in North Beach San Clemente.

In addition to a nice outdoor dining space It will be nice to have an additional event venue in San Clemente.

I work with brides and families planning parties and celebrations and having a venue to compliment the Historic Casino would be a great addition to North Beach and to our community.

Warm Regards,

Mikii Rathmann
Neon Carrot Events
Meetings. Events. Weddings
949.285.2043

Like Us On Facebook!

"Ask me about meeting a dynamic group of local networking professionals who are dedicated to helping you grow your business"

Gee, Denise

From: sldorsey@cox.net
Sent: Tuesday, April 02, 2013 9:43 PM
To: Planning Mail
Subject: The Rooftop Grill ATTEN: LEWIS AVERA

Mr. Avera,

I hope you will support this wonderful project Wednesday night. It is classy and would really benefit this town!

Thank you very much,

Sherman Dorsey

Gee, Denise

From: Elly Harris, Harcourts Distinctive Coast Properties <ellysellssc@cox.net>
Sent: Wednesday, April 03, 2013 6:45 AM
To: Planning Mail; jmmember@dardententz.com; Nesa Anderson; Michael Kaupp; Bart Crandell; Jim Ruehlin
Subject: Rooftop Grill and Bar - North Beach

Dear Planning Commissioners,

As a resident of North Beach and a board member of the North Beach Community Association, I would like to express my support for the Rooftop Grill and Bar in North Beach. I understand you will be reviewing the plans tonight and I urge you to approve the project.

This type of project is absolutely critical for the revitalization of North Beach. Mr. Gutierrez has designed an amazing venue that will attract both locals and visitor to dine and enjoy the best amenity San Clemente has to offer - our ocean view.

It is a unique project that absolutely belongs in North Beach. Please say "Yes" to this project, "Yes" to new, attractive businesses in North Beach and "Yes" to those working to make North Beach a better entrance to San Clemente.

Thanks in advance for your time and consideration.

Elly Harris, Realtor
Harcourts Distinctive Coast Properties
(949) 412-2170
EllySellsSC@cox.net
www.SanClemente-Homes.com
License Number 01335031

Gee, Denise

From: Ed Winkelmann <ed@etemarketing.com>
Sent: Wednesday, April 03, 2013 9:26 AM
To: Planning Mail; jmember@dardententz.com; Nesa Anderson; Michael Kaupp; Jim Ruehlin; Bart Crandell
Subject: SUPPORT OF THE "ROOFTOP GRILL & BAR" – NORTH BEACH, located at 1509 North El Camino Real

Dear SC Planning Commission,

As a business owner based in downtown SC and a 10 year resident, I would like to extend my personal support for this new development project.

Regards,

epw

Ed Winkelmann
Managing Partner & CEO
ETE Marketing Solutions, Inc.
101 S. El Camino Real, Suite 210
San Clemente, CA 92672

(c) 949-444-9683

www.etemarketing.com

Gee, Denise

From: Sue Winkelmann <SWinkelmann@montagehotels.com>
Sent: Wednesday, April 03, 2013 10:33 AM
To: Planning Mail; jmember@dardententz.com; Nesa Anderson; Michael Kaupp; Jim Ruehlin; Bart Crandell
Subject: SUPPORT OF THE "ROOFTOP GRILL & BAR" - NORTH BEACH, located at 1509 North El Camino Real

Hello,

I am a 10 year San Clemente resident and would like to extend my support to the project noted above.

Thank you, Sue Winkelmann

Sue Winkelmann | Director of Midwest & Insurance Sales

Montage Laguna Beach

30801 S. Coast Highway
Laguna Beach, CA 92651

O : (949) 715-6120

F : (949) 715-6130

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Gee, Denise

From: Evan Christman <evan@dotboxdesign.com>
Sent: Wednesday, April 03, 2013 10:35 AM
To: Bart Crandell; Jim Ruehlin; Michael Kaupp; Nesa Anderson; jmember@dardententz.com;
Planning Mail
Subject: SUPPORT OF THE "ROOFTOP GRILL & BAR" – NORTH BEACH, located at 1509 North El Camino Real

Dear SC Planning Commission,

As a 25 year resident, Born and Raised in San Clemente, I would love to show my support for this project.

I have started my own company, and have had amazing support from the Downtown area.

Anything we can do to grow Downtown/North Beach area I believe is a huge benefit for all!

Thank You for your time.

Thanks,

Evan Christman
Co-Founder

Office:(949) 385 0031
Cell: (949) 370-3652
evan@dotboxdesign.com
www.dotboxdesign.com

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[Follow us on Twitter](#)
[Follow us on Pinterest](#)



Gee, Denise

From: Jonathan Peace <jpeace@eteventures.com>
Sent: Wednesday, April 03, 2013 10:39 AM
To: Planning Mail
Cc: jmember@dardententz.com; Nesa Anderson; Michael Kaupp; Jim Ruehlin; Bart Crandell
Subject: SUPPORT OF THE "ROOFTOP GRILL & BAR" – NORTH BEACH, located at 1509 North El Camino Real

To SC Planning Commission,
I work in downtown San Clemente and have lived in the area for over 30 years.
I believe this project would be a great step in the right direction for North Beach.

Sincerely,

Jonathan Peace
ETE Marketing Solutions, Inc.

c - 949.422.4507

o - 949.716.9070

www.etemarketing.com

Gee, Denise

From: Eugene Gilbert <geneg13@gmail.com>
Sent: Wednesday, April 03, 2013 1:11 PM
To: Planning Mail
Subject: To Don Brown IN SUPPORT OF THE "ROOFTOP GRILL & BAR" – NORTH BEACH

Hi Don,

I would like to express my support for the "Rooftop Grill & Bar" being proposed for 1509 N El Camino Real in North Beach. I believe this project would be of great benefit to North Beach and San Clemente overall, and I also feel that the proposed signage be approved as well. The nostalgia element with the neon will harken back to a comfortable time, and more importantly, would fit in with the surrounding area, as it is a blend between the commercial and industrial areas of El Camino Real and Los Molinos. It would add a unique piece to the naturally unique area that IS North Beach, and help create an exciting area, as well as better enable visibility in a spot of ECR that can be easily missed when traveling in either direction. Sometimes it is more important to not just do things right, but to do the right thing, and approving the project in its entirety would do just that.

Thank you.

Regards,

Gene Gilbert
949-933-0319

Maune, Kimberly

From: Gee, Denise
Sent: Thursday, April 04, 2013 10:34 AM
To: Planning Commission
Cc: Maune, Kimberly
Subject: FW: Don Brown - Rooftop Grill and Bar to be located at 1509 North El Camino Real

Hi...this came in last evening after copies were made for you.
D

From: Scott Crabtree [<mailto:scrabtree4@yahoo.com>]
Sent: Wednesday, April 03, 2013 5:46 PM
To: Planning Mail
Subject: Don Brown - Rooftop Grill and Bar to be located at 1509 North El Camino Real

Mr. Brown, I am writing this e-mail in support of the "Rooftop Grill and Bar" to be located at 1509 North El Camino Real. I hope that you will consider approving this new addition to San Clemente. Laguna Beach has such an establishment and it is always packed with patrons. I have been many times to meet friends for drinks and dinner and have thoroughly enjoyed it. It would be wonderful if San Clemente could have such an addition.

Thank you,
Deborah Crabtree

Nicholas, Sean

From: Paul & Shy Falk <surfknit@flash.net>
Sent: Tuesday, May 07, 2013 9:43 AM
To: Nicholas, Sean
Cc: Pechous, Jim
Subject: 1509 N. El Camino Real

POSITION

I am opposed to any proposal or approval for outside entertainment at this location.

I am opposed to approval of this restaurant or any other business at this location that does not have adequate parking or in cases such as this applicant, who is seeking the majority of his parking on City streets.

I am in support of any proposed businesses in San Clement that is in compliance with City codes and is compatible with the surrounding/adjacent residential neighborhoods, with regards to noise and density.

BACKGROUND

As per our telephone discussion regarding my inquiries about the proposed restaurant at this location, I am submitting my concerns regarding several aspects of this proposal. I am certainly not opposed to any business development in San Clemente, including this proposal, however, I am requesting serious discussion and consideration be given to two aspects of this proposal.

I have lived on Calle Redondel for over 40 years, which is within the north beach district. During this time period we have experienced many noise issues relative to live music, amplified music, late night outside entertainment, etc., mostly from a nearby bar on Calle Valle, as well as the City owned beach club, and even amplified noise from as far away as Doheny beach, during their two annual outdoor events. Since the music sounds from Doheny (six miles away) can easily be heard in our area, it is obvious the Pico canyon funnels sound quite a distance. Obviously, outside entertainment from the proposed site at 1509 N. El Camino, will be heard in our area.

The canyon of Pico funnels this noise into our residential area and is quite loud after hours when local businesses are closed. Over the years, the City has made great strides in mitigating the noise from the beach club, the local bars, etc., by requiring doors and windows to remain closed, etc. As a result of those mitigation's, the noise levels from such establishments are virtually non-existent.

The proposed restaurant at 1509 N. El Camino Real, seeks outdoor, rooftop entertainment. Inasmuch as our residential area is less than 1/4 mile from this location, any approved outside entertainment, whether it be live, amplified, unplugged, etc., will be heard from our residential area. As you know, sound is more easily heard after business hours. Since our area is fronted by industrial businesses, once those businesses close, any outside sound entertainment will be easily heard in our neighborhood.

With regard to the parking issues relative to this proposal. I have years of practical experience in dealing with traffic and parking issues, having been in law enforcement 34 years, 25 of those in San Clemente, as well as

working with the City traffic engineer for 15 years during my career, as well as serving on the City's Traffic Commission for six years in the 1970's.

The proposal to park the vast majority of vehicles relative to the seating/capacity for this site, is simply far too many. El Camino Real, while it may accommodate some of the necessary/required parking for this site, is not a safe street to be crossed by attendees exiting the restaurant during darkness. With the nearest crosswalk/signal at least 400 feet from this establishment, its doubtful any of the patrons crossing El Camino Real to get to their parked vehicles will walk out of their way to this safe crossing. Additionally, allowing for on street parking on Los Molinos is also not safe during darkness, with patrons having to walk through an alley and across closed private property sites, to access Los Molinos. It would seem to me, the City would bear some responsibility for patrons safety in walking to their parked vehicles, on these two City streets that the City has identified as having accessible parking locations for their use and has counted these public parking spaces towards the required number of spaces needed for the approval of this restaurant.

OPINION

I want the successful development of North Beach, probably more than anyone, since I've lived here so long and have seen minimal development. I'm excited about future businesses in this area as we all benefit from such developments.

It is important, however, to remember that the surrounding residential areas must be considered during the decision making process, such as the one before you, and that all of the necessary guidelines in place, including noise mitigation, traffic impacts, and assurances that over-development relative to lot size, are kept in check.

The impact on our quality of life as San Clemente residents must include assurances of noise mitigation, which cannot be over looked in favor of business developers. Any entertainment should be kept inside business establishments so as not to infringe on the peace and tranquility of the residents in the surrounding neighborhoods.

Thank you,

Paul A. Falk
121 Calle Redondel
San Clemente

Nicholas, Sean

From: Gee, Denise
Sent: Tuesday, May 07, 2013 2:50 PM
To: Hook, Jeff; Nicholas, Sean; Maune, Kimberly
Subject: FW: Community General Plan Update

Fyi...d

From: Shea Lewis [mailto:sheashea@cox.net]
Sent: Tuesday, May 07, 2013 2:27 PM
To: Gee, Denise
Subject: Re: Community General Plan Update

I am opposed to allowing a roof top garden restaurant at that location on North El Camino Real. I live just over on the next street and when there are dances at the Elks Club, which is right next door to this location, the loud music is very disturbing to the peacefulness of the neighborhood. If there was acoustical music allowed at a restaurant, it would not be fair to the residents of the area.

S. Lewis

From: Gee, Denise
Sent: Tuesday, May 07, 2013 1:52 PM
To: Hook, Jeff
Subject: Community General Plan Update

Our records indicate that you may have interest in the Public Hearing Draft Centennial General Plan. Please see the attachment on the General Plan and learn how you can become involved. Additional information is available on the Planning Commission meeting agendas located at:

<http://san-clemente.org/sc/download.aspx?pageid=373>

Maune, Kimberly

From: Pechous, Jim
Sent: Thursday, May 30, 2013 9:55 AM
To: Planning Commission
Cc: Maune, Kimberly; Nicholas, Sean
Subject: FW: proposed rooftop nightclub at 1509 N El Camino Real

Public Comment regarding the Rooftop Grill

From: dirk [mailto:dirk@macbethas.com]
Sent: Thursday, May 30, 2013 9:13 AM
To: Pechous, Jim
Cc: CityHall Mail; Eloisa Borja
Subject: proposed rooftop nightclub at 1509 N El Camino Real

As the management of the residential/commercial property at 1520 N El Camino Real we are very concerned with this proposal.

A rooftop nightclub would not only bring unwanted noise to several hundred homes in the area it would become a safety issue as well.

The parking dynamics would change and the streets would become busy at the wrong time of the night, both with vehicle and pedestrian traffic.

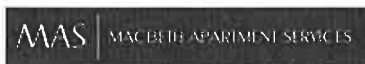
The local businesses that work hard would now have to deal with parking and security issues after hours.

This proposal seems to be out of character for the City of San Clemente.

Thank you for your consideration in this matter.

We will be represented at the next planning meeting to discuss this issue on June 5th.

Dirk Needham, CPM®
President/COO



2237 Faraday Ave., Suite 120, Carlsbad CA 92008 . T: (760) 603-1051 F: (760) 603-1050 www.macbethas.com

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Maune, Kimberly

From: Rogers, Kathy
Sent: Thursday, May 30, 2013 3:51 PM
To: Maune, Kimberly
Subject: FW: nightclub proposal

From: Kellie Passaretti [<mailto:kjpassaretti@hotmail.com>]
Sent: Thursday, May 30, 2013 3:27 PM
To: CityHall Mail
Cc: Pechous, Jim
Subject: nightclub proposal

To whom it may concern,

I am writing regarding the proposed permitting of the rooftop bar/nightclub at 1509 North El Camino Real. As a North Beach property owner and resident, I am firmly and unequivocally in **favor** of approving this permit.

I received a letter today from the "North Beach Property Owners and Residents Coalition", a letter full of selectively chosen facts, figures and semi-truths which is trying to induce fear in those that do not chose to educate themselves on the truth or who continue to respond to the scare tactics that have worked on the residents of this area for so long. This odious letter even states "...we wish for North Beach to be revitalized". What they do not state is how that can be accomplished without being open to controlled change that will then result in the beginning of revitalization. We cannot hope to encourage new business to the North Beach area if we continue make it almost impossible to start something new and make it grow.

It is unfortunate that people fail to acknowledge that change is inevitable. We can either accept it, control it and help it to be beneficial to our community, or we can fight against it and watch our North Beach neighborhood continue to decline, to slip through our fingers, until it isn't anything but a memory of what we wanted.

Sincerely,
Kellie Passaretti
San Clemente, CA

Maune, Kimberly

From: Rogers, Kathy
Sent: Friday, May 31, 2013 8:37 AM
To: Campagnolo, Laura; Maune, Kimberly
Subject: FW: 1509 north El Camino Real

-----Original Message-----

From: Dave Walsh [mailto:lidave1@cox.net]
Sent: Thursday, May 30, 2013 5:44 PM
To: CityHall Mail
Subject: 1509 north El Camino Real

Dear Members of the City of San Clemente Planning Commission,

I and my wife have lived in our community of North Beach since 1994. We live along the bluff above Avenida Del Reposo overlooking the address 1509 El Camino Real of which you are deciding whether or not to permit a bar/restaurant to have outdoor patio with live band playing into the night. At 96 Decibels according to a Decibel Comparison Chart is (and I quote) " Level at which sustained exposure may result in hearing loss". Living where we do is like living in a huge amphitheater where the noises of the areas below are brought right into our living room in the hot summer days. As a couple of examples, early in the morning we hear the workers at the city compound on Ave. Pico emptying the dump trucks in the yard below the sewage plant rear gates banging away disgorging their load. No big deal, it's morning and work in our fair town is beginning, as we also must join the grind. I think this next example is a case in point about that very area we speak about. At night when all is quite and we relax in the living room talking of the day gone past, we hear voices talking and laughing, sometimes distinctly, sometimes not. They are usually at the Elks Lodge very close to this new venture you are working on. It is because of this I must say I am against such a permit to allow this type of noise to be unleashed on our neighborhood. I and all my neighbors here along this area plead and deplore you not to let this project to go forward as it stands. How about the band inside and at reasonable times and lower decibels so that our neighborhood could be calm and comfortable, as I am sure, your neighborhood is when you all come home to unwind.

I am very excited about the interest finally coming to North Beach to bring business here. If you really want to make our community shine you must take on the theater/ bowling at the corner of Pico and El Camino Real. If you do it right it could be the jewel of the community, but that's another day.

Dave W.

Maune, Kimberly

From: Rogers, Kathy
Sent: Friday, May 31, 2013 8:36 AM
To: Maune, Kimberly
Subject: FW: Proposed Rooftop Bar and Grill

From: CHUCK MARLER [<mailto:chuckmarler@msn.com>]
Sent: Friday, May 31, 2013 8:10 AM
To: Pechousi@san-clemente.org; CityHall Mail
Subject: Proposed Rooftop Bar and Grill

When I first read about the proposed rooftop bar and grill, I was excited. As a resident of the North Beach area we need improvements and thank you for considering these type of projects.

BUT, then I read the rooftop with open air is proposing live amplified music. The community must accept some reasonable annoyances to live in close proximity of each other--but live amplified music is an unreasonable burden for the neighbors to bear, especially late at night. I already have my sleep interrupted with loud train horns and we do not need anything else in the mix. Recommend due to the open air permit request, no amplified music be permitted.

Thank you

Chuck Marler
1412 Buena Vista
San Clemente, CA

Maune, Kimberly

From: Pechous, Jim
Sent: Friday, May 31, 2013 10:31 AM
To: Planning Commission
Cc: Nicholas, Sean; Maune, Kimberly
Subject: FW: Restaurant/bar/nightclub @1509 N. El Camino Real

Rooftop Grill public comment

From: Roy Bartlett [<mailto:roy-karen@sbcglobal.net>]
Sent: Friday, May 31, 2013 10:02 AM
To: Pechous, Jim; CityHall Mail
Subject: Restaurant/bar/nightclub @1509 N. El Camino Real

Isn't having Knuckleheads enough? Why do we need another loud, obnoxious bar in the area. On top of that, being situated next to an animal hospital is unacceptable. Please don't do this to the North Beach Community.

Karen Bartlett
North Beach Residence

Maune, Kimberly

From: Pechous, Jim
Sent: Friday, May 31, 2013 10:28 AM
To: Planning Commission
Cc: Nicholas, Sean; Maune, Kimberly
Subject: FW: Proposed restaurant/deck bar at 1509 El Camino Real

Public comment on the rooftop grill

From: James Najera [<mailto:jamesnajera@firstteam.com>]
Sent: Friday, May 31, 2013 10:26 AM
To: Pechous, Jim; CityHall Mail
Subject: Proposed restaurant/deck bar at 1509 El Camino Real

To: jpechous; San Clemente City Manager

I own a home on Avenida Florencia, near El Camino Real. I lease this property to a small family. The proposal of developing the the property at 1509 El Camino Real into a restaurant and rooftop bar/club with live music is concerning. I am supportive of developing new retail and restaurant expansion in North Beach such as the Bull Taco, but a rooftop bar/club so close to our residential neighborhood is problematic. The late night noise, parking congestion on our streets and potential crime associated with late night patrons will overwhelm our serene community.

Please do not approve the rooftop/bar/nightclub component of this proposal and please require restaurant parking on site - our neighborhood cannot absorb the additional congestion.

Thank you,

Jim Najera, MBA
Realtor
First Team Real Estate
DRE 01906227

Direct Office: [\(714\) 481-8575](tel:(714)481-8575)
Mobile/Text: [\(323\) 533-5466](tel:(323)533-5466)
Email: jamesnajera@firstteam.com
Website: <https://jimnajera.com/>



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Maune, Kimberly

From: Rogers, Kathy
Sent: Friday, May 31, 2013 11:29 AM
To: Maune, Kimberly
Subject: FW: Concerned about rooftop bar/nightclub

From: Anita Mattos [<mailto:amattos@me.com>]
Sent: Friday, May 31, 2013 11:33 AM
To: Pechous, Jim; CityHall Mail
Cc: Mike Mattos
Subject: Concerned about rooftop bar/nightclub

Dear Jim Pechous, City Hall, and Planning Commission,

I am writing because I have been made aware of a proposed plan to allow a restaurant/bar/nightclub to operate at 1509 North El Camino Real. I am supportive of city improvements and am not one of the residents who opposed the building project near the train station that did not pass, as I saw it as architecturally pleasing and welcome addition to a rather "dead" area of North Beach.

However, the noise that will be created by allowing the nightclub to operate so close to a large number of homes is very disturbing to me. I live 2 and 1/12 blocks away from Max Berg Plaza Park, and on the day that the Cinco de Mayo band played this year, I had to shut all my windows and doors, and I could still hear all the music and words being amplified. I only had to put up with this until about 6pm, though, and since outdoor bands like this at the park happen only on rare occasions during the year, I considered it a small price to pay for all the good that it added to the community. I can't imagine having to hear the music from a bar until late at night and on a regular basis.

I live about 2 blocks from the proposed nightclub site, and I feel strongly that my neighbors and I will all be affected. Please reconsider your position on allowing this type of interruption to the lives of so many people, and ask yourself if you would put the same business two blocks away from the more expensive properties in South Beach. Would you allow the same business two blocks from your home? I am not saying a business like this should be in anyone's "back yard", though. Perhaps an area like the proposed outlet stores near the freeway would be far enough away from homes? North Beach has been treated like a third-world country for so long, and I keep hoping that the leaders of San Clemente will recognize that a revitalized North Beach (not just the businesses, but the homes and neighborhoods) would benefit the entire city when it comes to home values, crime rate, and the overall quality of the city.

In the interest of compromise, another idea would be to allow the music to be played only indoors in fully-enclosed areas. There would still be the problem of noise from patrons on the roof, but maybe the noise pollution would be a more reasonable level than it would be if the patrons were talking and laughing over the sound of the music.

Although it would not personally affect me as much as it would the people living very near the bar, I am concerned about the noise created as patrons leave. While we were remodeling our home, we stayed several nights at the Best Western Casablanca Inn on El Camino Real. We planned to stay seven days, but we finally had to switch to the Hampton Inn on the south side of town because every night we would be woken by intoxicated patrons (presumably leaving Knuckleheads?). It only takes one loud argument or burst of laughter at 1am to disturb the sleepy peace of the evening.

Thank you for taking the time to listen to the concerns of the citizens of San Clemente.

Sincerely,
Anita Mattos
113 Avenida de la Grulla
San Clemente, CA 92672
949-701-3246

Maune, Kimberly

From: Rogers, Kathy
Sent: Friday, May 31, 2013 1:22 PM
To: Maune, Kimberly
Subject: FW: 1509 North El Camino Real Project

From: shannon turk [<mailto:shannonturk@gmail.com>]
Sent: Friday, May 31, 2013 12:30 PM
To: Pechous, Jim; CityHall Mail
Cc: Ryan Simmons
Subject: 1509 North El Camino Real Project

City of San Clemente,

I am writing to express concerns as a neighbor who owns and resides at 107 Calle Bonito. The proposed permit at 1509 North El Camino Real to allow this dining/bar establishment to have outdoor music on their rooftop is unacceptable and concerning given the sound levels that will be amplified in this location due to the canyon type effect that exists on North El Camino Real, the surrounding streets and neighborhood. I am horrified that the current established Animal Hospital business who is already rooted in the community would be greatly impacted by the noise level and ultimately this will impact their ability to conduct business. My husband and I are frequent diners and love to walk or ride our bikes to support local businesses. We do believe bringing a new restaurant with outdoor dining to the neighborhood is a wonderful idea and are in support of it. We do not agree that the noise associated with live band music at night will improve the quality of our neighborhood and are worried it will impact the quality of our lives and our resale value. When we purchased our home last July, which sits directly across from Mulligans Bar we sat on the street from 9pm-midnight to ensure the general noise level was acceptable for us to purchase a home in direct proximity. And this is a location that does not have live music and has very responsible owners who ensure noise levels are kept down to not disturb the neighborhood. The action of approving this permit as is seems irresponsible and unjust. It seems that outlining rules for the permit to include acoustic 1-2 persons performances during daylight hours seems more realistic. Please hear our concerns and note them for the upcoming city planning meeting on June 5th as we are unable to attend in person.

Thank you for your time
Shannon Simmons
107 Calle Bonito.