

**CITY OF SAN CLEMENTE
MINUTES OF THE REGULAR
ZONING ADMINISTRATOR MEETING
May 8, 2013**

Staff Present: Jim Pechous, Christopher Wright, Brent Panas, Sean Nicholas, and Kimberly Maune

2. MINUTES

Minutes of the Zoning Administrator meeting of April 17, 2013 received and filed.

3. ORAL AND WRITTEN COMMUNICATION

None

4. PUBLIC HEARINGS

A. 516 Calle Cuadra – Minor Exception Permit 13-099 – Sherman Residence Spa (Wright)

A request to consider allowing a spa to be constructed within one foot, six inches of the side property line, where a five foot setback is required. The proposed spa would be constructed to the rear of a residence located at 516 Calle Cuadra, within the Residential Low Density zoning district and special residential overlay (RL-1). The site's legal description is Lot 486 of Tract 9272 and Assessor's Parcel Number 680-133-04.

Associate Planner Christopher Wright summarized the staff report.

Mr. Pechous asked where the pool equipment is located. Mr. Wright responded that it is above ground and will need to meet building code. Mr. Pechous and Mr. Wright examined the plans. Mr. Pechous stated it is a prefabricated spa that comes with the pump inside the spa itself.

Mr. Pechous asked what the findings are which would allow the spa to be located within the side yard setback. Mr. Wright responded it needs to be compatible with adjacent property which is the primary finding for a Minor Exception Permit. It will not adversely affect surrounding properties. It will be at least 22 feet from the closest residence. It will be screened by a landscape wall. It is adjacent to private open space in the rear yard. The spa equipment will be contained within the structure where noise can be reduced or contained.

Mr. Pechous asked if there is a way to situate it so the spa equipment is on the side that is the furthest from the property line. Typically the noise

from the spa is the only real nuisance. The applicant responded that this can be done.

Applicant Steven Sherman was present; he had no comments.

Neighbors Mark and Kathy Bell were present; they stated they have no objections to the spa.

Mr. Pechous stated based on the testimony received today and on the information provided in the staff report he supports this request. The findings are the proposed spa encroachment will not have any impacts because it is over 22 feet from the closest residence, there is a landscape wall that will serve as a buffer, and also the applicant has agreed to turn the spa so that the equipment is the furthest distance away from the property line.

Mr. Pechous informed the applicant of the ten day appeal period and he thanked him for working with staff.

Action: The Zoning Administrator approved Minor Exception Permit 13-099, Sherman Residence Spa, subject to Resolution ZA 13-017 with attached Conditions of Approval.

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

B. 140 West Avenida Pico – Special Activities Permit 13-131 – Casino Special Activities Permit 2013 (Nicholas/Panas)

A request to consider conducting up to 13 special events during 2013 within the outdoor patios of the Casino Building to include amplified sound. The project site is located at 140 West Avenida Pico, legal description being Lot 23, of Tract 972, Assessor's Parcel Number 057-193-02.

Associate Planner Sean Nicholas summarized the staff report. He stated that the applicant, Linda Sadeghi, was unable to attend this meeting and that he received a letter from her which states she appreciates the Zoning Administrator considering this application for 13 special events with amplified sound in the enclosed front and back garden areas. The letter also stated she appreciates the City preapproving two events which have already taken place during this calendar year.

Neighbor Ken Watson was present and stated that he lives at 107 Boca De La Playa. Mr. Watson stated their residence is 100 feet across the street from the Casino. He is very concerned about the noise issue as past events have gone on up until 11:00 p.m. with outdoor music where

the bass of the music can be felt in their living room. Also once the noise is shut down at 11:00 p.m. they have a clean up period which sometimes goes until 1:00 or 2:00 a.m. Their bedroom sits directly facing the Casino so they have to deal with not only the noise but they also have to deal with the traffic.

Neighbor Christy Bouza Watson was also present and she also resides at 107 Boca De La Playa. Ms. Watson stated they hear beeping noises from trucks backing up along with noise from glass being thrown into the dumpster, employees laughing, people talking, and drunken people throwing up in their driveway. They have been very quiet about everything they have had to endure over the last two and a half years that they have lived there. Ms. Watson stated there has also been construction starting at 6:00 a.m.

Mr. Watson stated that recently the Casino has started construction at six in the morning with cement trucks. He knows the City doesn't allow construction to begin until 7:00 a.m. Work is starting as early as 5:45 a.m. with trucks pulling up and idling out on the street with construction starting as early as 6:15 a.m. They recently were tearing up the driveway in the rear of the Casino and there was quite a bit of noise for almost a month. The construction has been going on for two and a half years. Not only do they have the noise at night from the parties, they also have construction noise that is continuous all day long, all of this for two and a half years.

Ms. Watson is concerned about now having additional noise with outdoor amplification; she believes it will be unbearable living there. Mr. Watson stated they have an additional concern about the café that is going in. They received a notice about an intent to engage in the sale of alcoholic beverages with a bakery and café. That construction was done recently at the Casino where they built this out and they took out what was an area of just natural landscape and they have filled that in with a patio area which looks to be an area where they will put out café tables. That directly faces their property and they are concerned with what time that will open in the morning, what time will the alcoholic beverages be served, what time will that shut down, and will that increase the traffic, the noise, and also the alcohol problem.

Mr. Watson said they have not mentioned anything about the noise in the past. They felt today was their opportunity to attend this hearing and convey these issues to the City because he doesn't feel it has been conveyed enough by the neighbors. It is a residential area, the Casino is a business operating in a residential area, the Casino faces a residential area. If the Casino were located in a business area the noise might be a different story. He believes there needs to be a quiet time placed on the business that is respectable of the neighbors in the area.

Ms. Watson stated they have a four hour period of quiet time, from 2:00 a.m. to 6:00 a.m., and that's it. Mr. Watson stated as it stands now this is how it has been lately with the construction. Ms. Watson stated some of the Casino events last until midnight and then their clean up is until 1:30 or 2:00 a.m. It is intolerable after two and a half years. She is very, very concerned about amplifiers being outside because as of now when they have Mariachis out there playing for four and a half hours or bands playing, everything shakes in their house. Mr. Watson added the techno music will do the same. Ms. Watson added that if the amplification was only during the actual wedding ceremony and only for a reasonable amount of time that would be fine, but it isn't, they are requesting to have amplification until 11:00 p.m. She asked what is reasonable.

Mr. Pechous thanked the neighbors for their input. Mr. Pechous introduced the Code Compliance Supervisor that was present, Brent Panas. Mr. Pechous asked Mr. Panas if the 11:00 p.m. end time is new with this request. Mr. Panas responded that 11:00 p.m. was requested last year also. Mr. Pechous stated that the Casino had permission to operate these special activities until 11:00 p.m. during 2012.

Mr. Pechous asked Mr. Panas if, other than the information presented at this hearing, have there been any community complaints regarding the operation of this business. Mr. Panas stated there were complaints recently during Linda Sadeghi's surprise birthday party a couple of months ago. The Sheriff's Department had to go to the Casino.

Mr. Pechous asked what in terms of the City's Conditions of Approval can be done to address problems during activities if they continue to persist, if they do go beyond the limits of what is allowed, or if they are excessive and cause neighborhood complaints. He would like to know what tools are available within the existing conditions to address these problems. Mr. Panas responded that within the existing conditions the City has the ability to do sound studies, to monitor the noise on a case by case basis, and to try to establish a pattern. Then the City would attempt to work with the applicant to reduce those impacts. There are things such as if the party is going until midnight during the weekend, in the past they have been asked to do clean up the next day instead of doing it that night, which reduces the noise. The City has asked them to remind their patrons to not linger outside of the Casino after closing of the event, which can be a problem because sometimes people will move to the outside once the Casino has shut down. One of the standard conditions included requires the applicant to be a good neighbor and when problems arise work with their neighbors to mitigate the problems.

Mr. Pechous stated it is too bad the applicant is not present to hear this information firsthand. The Watson's agreed with Mr. Pechous. Ms. Watson stated they are not the only ones who have problems. Many of their neighbors complain also, they just cannot attend a 3:00 p.m. meeting because they work. The Watson's took time off of work so they could attend today because it means that much to them. They are at their breaking point.

Mr. Pechous asked Mr. Nicholas about the construction and stated it seems they have been working on this very slowly. Mr. Nicholas stated, to add to what Mr. Panas stated, there is a condition which stipulates that the manager has to be on site when all of these events occur. Perhaps the City could discuss with Casino management the need to be more cognizant of people lingering after the Casino has shut down. He also wanted to add, regarding the clean up, previously for a New Year's Eve event there was a condition which stated the clean up needed to occur the next day and not to begin before 8:00 a.m. This isn't a standard condition, perhaps to address the clean up noise associated with the special activities, this can be added and required as a Condition of Approval. Mr. Nicholas stated his understanding is the construction is coming to an end within the next two to three months. He doesn't believe there are many exterior improvements remaining, it is mainly interior improvements remaining, those associated with the café area.

Ms. Watson stated there is equipment still located outside in the driveway facing their living room, dining room, and master bedroom. They start early in the morning with their drills and their saws. Mr. Watson stated when the dumpsters are pulled up they are pulled up on that street so when the material gets pulled out and put into the dumpster there is continual noise. Mr. Nicholas stated it is common for staging to occur inside private parking lots, which has been occurring at the Casino. Mr. Pechous stated the construction really isn't part of this decision; but he is inquiring to try to understand the problem. Mr. Nicholas stated he has not received any complaints regarding the hours of construction, perhaps the Building Division has, he doesn't know.

Mr. Pechous stated he sympathizes with the neighbors' concerns and he can see how living across the street from the Casino can impact them if events are not handled appropriately. It seems to him that ending at 11:00 p.m. does invite noise to go on well beyond 11:00 p.m. Mr. Pechous directed staff to add a condition stating that events which go beyond 10:00 p.m. all clean up shall occur at 8:00 a.m. the next morning. Ms. Watson asked if clean up would include breaking down all of their equipment. Mr. Pechous responded anything that will generate noise impact on the neighborhood. Mr. Nicholas added that if bands are

present they will probably not want to leave their band equipment until the next morning; Ms. Watson responded she completely understands that.

Mr. Pechous stated the intent is to not make any noise beyond 11:00 p.m. When events are shut down at 11:00 p.m. noise should not continue after that. This is a high activity area; it is part of living in North Beach. He believes the neighbors have been reasonable as they have not complained about any of the events until now. Mr. Pechous stated the neighbors need to work with Mr. Panas and formalize their complaints. The applicant cannot do anything about problems if they aren't aware of the problems. This applicant is responsive and Mr. Pechous believes she would want to work with the neighbors and not ignore these problems. Mr. Pechous suggested the Watson's could file a complaint with Code Enforcement, or perhaps a quicker way to resolve the problems is to talk directly with the applicant. Ms. Watson stated they would like to talk to the applicant if they knew how to reach her. Mr. Nicholas gave the Watson's the applicant's email address.

Mr. Pechous stated the City will work with neighbors when there are problems; however, the City needs to know about the problems before they can be addressed. Mr. Watson stated that is why they came to this meeting today, this is the first time they've had an opportunity to express their concerns.

Mr. Watson asked about the noise volume. In some cases when patrons are on the open area in the back, there will be a DJ and the DJ will really ramp up the music. He is wondering if there is a decibel level that is in place that it is supposed to be kept to. Mr. Panas stated there is a decibel level, it is a tiered system based on using a specific "A" weighted sound meter that the City has. When there is a complaint the City does a sound study from the offended property at the closest point to where the violation occurred, in this case the Casino.

Mr. Pechous thanked the neighbors for attending the meeting.

Action: The Zoning Administrator approved Special Activities Permit 13-131, Casino Special Activities Permit 2013, subject to Resolution ZA 13-016 with attached Conditions of Approval including the additional condition requiring events which go beyond 10:00 p.m. to have all clean up occur at 8:00 a.m. the next morning.

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

5. NEW BUSINESS

None

6. **OLD BUSINESS**

None

ADJOURNMENT

The meeting adjourned at 3:35 p.m. to the regular Zoning Administrator meeting to be held on May 22, 2013 at 3:00 p.m., at the Community Development Department, Conference Room A, located at 910 Calle Negocio, Suite 100, San Clemente, California.

Respectfully submitted,

SAN CLEMENTE ZONING ADMINISTRATOR



Jim Pechous