

**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.

B. Minutes from the Regular Meeting of March 20, 2013

IT WAS MOVED BY COMMISSIONER KAUPP, SECONDED BY COMMISSIONER RUEHLIN, AND CARRIED 5-0-1, WITH VICE CHAIR DARDEN ABSTAINING, to receive and file the minutes of the Regular Meeting of March, 20, 2013, as submitted by staff.

6. ORAL AND WRITTEN COMMUNICATION

Letter dated April 3, 2013, from The Loftin Firm, LLP, Attorneys at Law, Carlsbad, CA, concerning the downzoning without notification of property owned by Capistrano Shores Mobile Home Park in 1995 and requesting a zoning change in the General Plan Update.

Jim Pechous, City Planner, acknowledged receipt of the letter.

7. CONSENT CALENDAR - None**8. PUBLIC HEARING****A. 218 West Paseo De Cristobal – Cultural Heritage Permit 13-014/Minor Exception Permit 13-058 – Davies Remodel (Atamian)**

A request to consider an addition and a garage encroachment into the front yard setback for a single family residence abutting a historic structure. The project site is located at 218 West Paseo De Cristobal. The legal description is Lot 9, of Block 13, of Tract 822, Assessor's Parcel Number 692-242-19.

Adam Atamian, Assistant Planner, narrated a PowerPoint Presentation entitled, "Davies Remodel, Cultural Heritage Permit 13-014, Minor Exception Permit 13-058, dated April 3, 2013." Staff recommended approval of the request as conditioned.

Jack Garland, architect for the applicant, was available for questions.

IT WAS MOVED BY COMMISSIONER KAUPP SECONDED BY COMMISSIONER RUEHLIN AND UNANIMOUSLY CARRIED TO ADOPT RESOLUTION NO. PC 13-012, A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING CULTURAL HERITAGE PERMIT 13-014 AND MINOR EXCEPTION PERMIT 13-058, DAVIES REMODEL, A REQUEST TO ALLOW AN 892 SQUARE FOOT EXPANSION OF A SINGLE-FAMILY RESIDENCE THAT INCLUDES AN IN-THE-BANK GARAGE WITH A REDUCED FRONT YARD GARAGE SETBACK OF 16 FEET, WHICH IS ABUTTING A HISTORIC STRUCTURE, LOCATED AT 218 WEST PASEO DE CRISTOBAL.

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

B. 910 South El Camino Real – Discretionary Sign Permit 12-159 – San Clemente Medi Center Signage (Wright)

A request to consider a master sign program for a multi-tenant commercial building. The subject site is located in the Neighborhood Commercial zoning district (NC2) at 910 South El Camino Real. The legal description is Lot 1, of Block 4 of Tract 822, Assessor's Parcel Number 692-151-23.

Christopher Wright, Associate Planner, summarized the staff report and recommended approval of the request as conditioned.

Commissioners said sheet 6 of the sign program should be revised to show the south elevation wall sign is centered over the arch on the first floor.

Neil Kadakia, applicant, was available for questions. He noted the intent of the revised signage is to advertise hours of operation and emergency services, and provide visible signage for secondary tenants. Mr. Kadakia agreed future wall signs on the south elevation should be centered like the existing wall sign in that location.

IT WAS MOVED BY VICE CHAIR DARDEN, SECONDED BY COMMISSIONER ANDERSON, AND UNANIMOUSLY CARRIED TO ADOPT RESOLUTION NO. PC 13-013, A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING DISCRETIONARY SIGN PERMIT 12-159, SAN CLEMENTE MEDI CENTER SIGNAGE, A REQUEST TO ALLOW A MASTER SIGN PROGRAM ON A COMMERCIAL BUILDING LOCATED AT 910 SOUTH EL CAMINO REAL.

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

C. 504 Avenida De La Estrella – Conditional Use Permit 11-507/Sign Exception Permit 11-508/Discretionary Sign Permit 11-509/Minor Conditional Use Permit 11-510/Architectural Permit 11-511/Site Plan Permit 11-512 – De La Estrella Plaza (Nicholas)

A request to consider demolition of a service station, gas station pumps, gas pump canopy, and multiple office structures to develop a new gas station with six pumps, pump canopy, car wash, convenience store with the sale of beer and wine for off-site consumption, office, and off-site parking agreement, and to approve a master sign program, and freeway-oriented signs at 504 Avenida De La Estrella within the Neighborhood Commercial (NC2) zoning designation. The legal description is Lots 27, 28, 29, 30, 79, 80, and 91, of Block 1, of Tract 793,

portion of Lot 91 and 7 of Tract 853, Assessor's Parcel Numbers 057-142-44 and 057-142-37.

Sean Nicholas, Associate Planner, narrated a PowerPoint presentation entitled, "Valero, Conditional Use Permit 11-507, Sign Exception Permit 11-508, Discretionary Sign Permit 11-509, Minor Conditional Use Permit 11-510, Architectural Permit 11-511, Site Plan Permit 11-5-12, De La Estrella Plaza, dated April 3, 2013." He noted the applicant has been working on this application for 10 years, and he has been the staff contact for over 6 years. He reviewed the staff report, summarized each application associated with the request, described the proposed project, and provided the project analysis. He distributed a revised copy of the Resolution and detailed the modification. Staff is conditioning the project to require removal of the existing pole sign. Staff recommended approval of the request as conditioned.

Alex Irshaid, architect representing the applicant, commended and thanked Associate Planner Nicholas for his assistance with this application. He drove around the area to photograph other gas stations and found this situation to be unique due to its lower elevation from the freeway, which may qualify it for an exception to allow the pole sign.

Mehdi Ghassemi, business owner, requested to be allowed to keep the pole sign, discussed other stations in town with similar signage. The station needs the tower sign to give it exposure and attract patrons from the freeway. Up to 30 to 40% of his business comes from the freeway, and many of those patrons have indicated they became aware of the station due to the pole sign. His situation is unique because he is located so much lower grade than the freeway. In response to a question from Commissioner Ruehlin, he acknowledged no data to support his declaration of expected loss with the removal of the pole sign.

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

Commissioner Ruehlin expressed concern about the LED-style lighting proposed for the monument sign, tailpipe emissions, and the corporate logos proposed to face the freeway. With regard to the monument sign, he is concerned the signage will be too bright, visible for long distances, and distracting for signage that will be part of the gateway to the City. He suggested the LED lighted numbers be replaced with more traditional signage.

Associate Planner Nicholas advised staff supports the signage as proposed in the Master Sign Program and/or conditioned in the staff report. The applicant is required to remove the pole sign because a change of use is proposed. Findings can be made to support the freeway facing signage, and noted the proposed

monument sign, with the LED-style lighted numbers to indicate gas prices, complies with the City's codes.

Mr. Irshaid advised the purpose of the LED-style lighting is not to be seen at a distance, but to allow control of gas prices from center stations. The cashier will not have to physically change the numbers, and this is the style of price signage being installed in all the new stations. He listed other stations, both within and outside of the City, that currently feature the new technology. He agreed to work with staff to explore other colors, consider reduced intensities, and shield if necessary to make the monument price signage the most complementary, attractive, and least invasive as possible.

In response to concerns expressed by Vice Chair Darden regarding sound attenuation, Associate Planner Nicholas advised that in accordance with the results of the sound study, the applicant will only operate from 7:00 to 10:00 p.m., and use sound attenuation equipment to trap the sound. Another alternative is to build a wall to separate the facility from the adjacent residential area. He confirmed that there is enough space on site to build a wall if necessary, and noted Condition no. 22 gives staff authority to act if noise issues arise.

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

- Pointed out a similar situation where covering the pole sign did not result in reduced patronage.
- Noted the City has strictly enforced removal of pole signs with changes in use in the past.
- Commended the applicant for working well with the City and Design Review Subcommittee (DRSC) to resolve issues.
- Commented the project was sufficiently conditioned to allow staff to take action in the event noise issues arise.
- Supported the freeway facing signage to help patrons locate the gas station from the freeway.

IT WAS MOVED BY COMMISSIONER KAUPP, SECONDED BY COMMISSIONER ANDERSON, AND UNANIMOUSLY CARRIED TO ADOPT RESOLUTION NO. PC 13-014, A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT (CUP) 11-507, SIGN EXCEPTION PERMIT (SEP) 11-508, DISCRETIONARY SIGN PERMIT (DSP) 11-509, ARCHITECTURAL PERMIT (AP) 11-511, AND SITE PLAN PERMIT (SPP) 11-512, DE LA ESTRELLA PLAZA (VALERO) A REQUEST TO DEMOLISH A SERVICE STATION AND ALL STRUCTURES ON TWO PARCELS AND DEVELOP A NEW SERVICE STATION, CONVENIENCE STORE, CARWASH, SIX FUEL STATIONS, MASTER SIGN

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 Commissions expressing concern that sound could travel farther than anticipated due to the site's topography and adjacent housing, mixed use structures may be negative 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 does not oppose the neon signage as long as no flashing occurs. 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:


Jim Pechous, City Planner

DRAFT