



**AGENDA FOR THE REGULAR MEETING
OF THE ZONING ADMINISTRATOR
FOR THE CITY OF SAN CLEMENTE, CALIFORNIA**

**Wednesday, April 2, 2014
3:00 p.m.**

**Community Development Department
Conference Room A
910 Calle Negocio, Suite 100
San Clemente, California**

MISSION STATEMENT

*The City of San Clemente, in partnership with the community we serve,
will foster a tradition dedicated to:*

Maintaining a safe, healthy atmosphere in which to live, work and play;

*Guiding development to ensure responsible growth while preserving and
enhancing our village character, unique environment and natural amenities;*

*Providing for the City's long-term stability through promotion
of economic vitality and diversity;*

*Resulting in a balanced community committed to protecting
what is valued today while meeting tomorrow's needs.*

Pursuant to the Americans with Disabilities Act, persons with a disability who require a disability-related modification or accommodation in order to participate in a meeting, including auxiliary aids or services, may request such a modification from the Community Development Department at (949)361-6100. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to assure accessibility to the meeting.

Written material distributed to the Zoning Administrator after the original agenda packet was distributed is available for public inspection in the Community Development Department, located at 910 Calle Negocio, San Clemente, CA during normal business hours.

- 1. CALL TO ORDER**
- 2. MINUTES**

Receive and file minutes of the Zoning Administrator meeting of March 19, 2014.

3. ORAL AND WRITTEN COMMUNICATION

Members of the audience may address the Zoning Administrator on any item within the jurisdiction of the Zoning Administrator that is not on the Zoning Administrator agenda. If you wish to speak, please step forward, state your name and City of residence and make your presentations. Please limit your presentations to three (3) minutes.

4. PUBLIC HEARING

A. 3407 South El Camino Real – Tentative Parcel Map 2013-101 – Bonnett Condominium Map (Wright)

A request to consider a Tentative Parcel Map for the conversion of a residential duplex into two condominium units. The subject site is in the Mixed Use 5.1 zoning district (MU 5.1) at 3407 South El Camino Real. The site's legal description is Lot 4, Block 7 of Tract 900 and Assessor's Parcel Number 060-102-49.

5. NEW BUSINESS

None

6. OLD BUSINESS

None

7. ADJOURNMENT

Adjourn to the regular Zoning Administrator meeting to be held at 3:00 p.m. on Wednesday, April 16, 2014 at the Community Development Department, Conference Room A, located at 910 Calle Negocio, Suite 100, San Clemente, CA.

**CITY OF SAN CLEMENTE
MINUTES OF THE REGULAR
ZONING ADMINISTRATOR MEETING
March 19, 2014**

Staff Present: James Holloway and Kimberly Maune

2. MINUTES

Minutes of the Zoning Administrator meeting of March 5, 2014 received and filed.

3. ORAL AND WRITTEN COMMUNICATION

None

4. PUBLIC HEARING

A. 1640 N. El Camino Real, Suite A – Minor Conditional Use Permit 14-019 – La Colombiana Beer and Wine (Gregg)

A request to consider a beer and wine license for a new restaurant located at 1640 N. El Camino Real, Suite A. The legal description is Block 1, Lots 23 and 24, Tract 821, Assessor's Parcel Number 692-371-04.

Mr. Holloway stated that staff has recommended and the applicant has consented to this item being tabled for technical reasons having to do with submittals and other technical points.

The applicant was not present.

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

Mr. Holloway stated this item will be tabled to a date uncertain and it will be properly renoticed when it returns to the Zoning Administrator.

Action: The Zoning Administrator tabled Minor Conditional Use Permit 14-019, La Colombiana Beer and Wine.

5. NEW BUSINESS

None

6. OLD BUSINESS

None

ADJOURNMENT

The meeting adjourned at 3:05 p.m. to the regular Zoning Administrator meeting to be held on April 2, 2014 at 3:00 p.m., at the Community Development Department, Conference Room A, located at 910 Calle Negocio, Suite 100, San Clemente, California.

Respectfully submitted,

SAN CLEMENTE ZONING ADMINISTRATOR


James Holloway



STAFF REPORT SAN CLEMENTE ZONING ADMINISTRATOR

Meeting Date: April 2, 2014

PLANNER: Christopher Wright, Associate Planner *CSW*

SUBJECT: Tentative Parcel Map 2013-101, Bonnett Condominium Conversion, a request to consider a subdivision of a duplex into two condominium units.

LOCATION: 3407 South El Caminor Real

ZONING/GP: Mixed Use 5.1 (MU5.1) zone / Mixed Use 5 (MU5) General Plan area

BACKGROUND:

- The subject site is a 4,000 square foot lot. In August 2001, a 3,300 square-foot, two-story duplex was constructed on the site. According to the building plans, Unit A has 1,739 square-feet of floor area, two bedrooms, and three and one-half bathrooms. Unit B has 1,572 square feet, three bedrooms, and two bathrooms. Each unit has a two-car garage and roof deck.
- The applicant requests to subdivide the duplex into two condominium units so they can be under separate ownership.
- Municipal Code Section 16.04.015(G)(1) requires Zoning Administrator approval of a Tentative Parcel Map to allow the subdivision of four or fewer building units into condominiums.
- Staff supports the request on the basis that it meets all the required findings because:
 - The type and intensity of development on the site complies with zoning requirements. The MU5.1 zone allows a maximum density of one unit for every 1,200 square feet of lot area. The size of the subject site allows for a maximum of three units, but development is limited to a duplex.
 - The duplex meets parking requirements. Each unit has two off-street parking spaces as required.
 - The subdivision is compatible with surrounding properties and the environment. The subdivision would not increase the development potential of the subject site. The request is limited to a division of a building's interior airspace to allow for separate property ownership. Therefore, the request is not expected to have traffic, noise, safety, or other potential land use impacts.
 - The site and subdivision plan shows easements would be accessible.
 - The dwelling units have sufficient utility access.

A detailed analysis of the complete findings is provided in the Resolution (Attachment 1).

- The public was notified of this hearing item as required. Staff has not received comments on this item to-date.

RECOMMENDATION

STAFF RECOMMENDS THAT the Zoning Administrator approve TPM 2013-101, Bonnett Condominium Conversion, subject to the attached Resolution and Conditions of Approval.

Attachments:

1. Resolution # ZA 14-015
Exhibit A Conditions of Approval
2. Location Map
Building plans for duplex
Tentative Parcel Map

ATTACHMENT 1

RESOLUTION NO. ZA 14-015

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING TENTATIVE PARCEL MAP 2013-101, BONNETT CONDOMINIUM CONVERSION, A REQUEST TO SUBDIVIDE A RESIDENTIAL DUPLEX INTO TWO CONDOMINIUMS TO ALLOW FOR SEPARATE OWNERSHIP OF RESIDENTIAL UNITS LOCATED AT 3407 SOUTH EL CAMINO REAL

WHEREAS, on August 27, 2013, an application was submitted, and deemed complete on March 18, 2014, by Marty Stein on behalf of Bonnett Family LLC, 7157 Country Club Drive, Carlsbad, CA 92307, a request to consider a Tentative Parcel Map for the conversion of a residential duplex into two condominium units. The subject site is in the Mixed Use 5.1 zoning district (MU 5.1) at 3407 South El Camino Real. The site's legal description is Lot 4, Block 7 of Tract 900 and Assessor's Parcel Number 060-102-49; and

WHEREAS, on September 5, 2013, and September 19, 2013; the City's Development Management Team reviewed the subject application and determined its compliance with the General Plan, Subdivision Map Act, Subdivision Code, Zoning Ordinance, and other applicable City ordinances and codes; and

WHEREAS, the Planning Division processed and completed an initial environmental assessment for this project in accordance with the California Environmental Quality Act (CEQA). The Planning Division recommends the Zoning Administrator determine the project is categorically exempt from CEQA in accordance with CEQA Guidelines Section 15303 as a Class 3 exemption because the project involves the subdivision of a previously approved residential duplex for ownership purposes; and

WHEREAS, on April 2, 2014, the Zoning Administrator 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 Zoning Administrator of the City of San Clemente hereby resolves as follows:

Section 1: The project is categorically exempt from CEQA as a Class 3 exemption because it involves the subdivision of a previously approved residential duplex for ownership purposes.

Section 2: The site is physically suitable for the proposed density of the development in that the proposed project is limited to the subdivision of a duplex into condominiums and the density of development on the site complies with the maximum allowed density requirement for properties in the Mixed Use 5.1 zoning district. The zoning district allows a maximum residential density of one unit per 1,200 square feet of

lot area). The subject site is approximately 4,000 square feet, with a maximum allowed density of three units, but a duplex is developed on the site.

Section 3: The design of the subdivision is not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat because this project does not involve the development of a property, as the request is limited to the subdivision of a permitted duplex into condominiums so residential dwelling units may be under separate ownership.

Section 4: The design of the subdivision is not likely to cause serious public health problems in that the subdivision is a division of air space within a developed area with existing public utilities to serve the site.

Section 5: The subdivision, with its provisions for design and improvements, is consistent with General Plan goals, objectives, and policies related to traffic, grading, drainage, sanitary facilities, and utilities, etc.

Section 6: The design of the subdivision and the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of the property within the proposed subdivision in that the subdivision and permitted duplex provide access to the utility easement at the rear of the subject site.

Section 7: The Zoning Administrator hereby approves the categorical exemption and Tentative Parcel Map 2013-101, Bonnett Condominium Conversion, subject to the above findings, and the Conditions of Approval attached hereto as Exhibit A.

PASSED AND ADOPTED at a regular meeting of the Zoning Administrator of the City of San Clemente on April 2, 2014.

SAN CLEMENTE ZONING ADMINISTRATOR

James S. Holloway, Zoning Administrator

**CONDITIONS OF APPROVAL*
TENTATIVE PARCEL MAP (TPM) 2013-101**

1. Within two (2) years after the approval date of TPM 2013-101, unless an extension is granted as provided in Section 35 of the Code of the City of San Clemente and Section 66452.6 of the Government Code of the State of California (Subdivision Map Act), the owner or designee shall file a substantially complete submittal for review and approval by the City for a final map or multiple final maps prepared by a registered civil engineer. The final map(s) shall be subject to all pertinent requirements of the Subdivision Map Act and shall conform to the approved tentative tract/parcel map, City standards, and all other applicable approved plans, codes, ordinances, statutes and regulations.
[Citation - Section 16.12.100.A of the SCMC] (PInG.)_____

2. 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.)_____

3. Thirty (30) days after project approval, the owner or designee shall submit written consent to all of these imposed conditions of approval to the Community Development Director or designee. *[Citation – City Attorney Legal Directive/City Council Approval June 1, 2010]* (PIng.)_____

CONDITIONS TO BE SATISFIED PRIOR TO FINAL PARCEL MAP APPROVAL

4. Prior to final tract/parcel map approval, the owner or designee shall submit Covenants, Conditions & Restrictions (CC&R's) for review by the Community Development Department, and review & approval by the City Attorney or designee, that shall provide for the following items: *[Citation – City Attorney Legal Directive/City Council Approval June 1, 2010]*

- A. Creation of an Association for the purpose of providing for control over the uniformity of boundary fencing, and the perpetual maintenance responsibility of areas including, but not limited to, all common areas, irrigation systems, landscaped areas, walls, driveways, parking areas, trash areas, structures, private accesses and drainage. All drainage and other improvements within the interior of the subdivision designated as private shall remain private and shall be maintained by the Association. In addition, the CC&R's shall indicate all other areas to be owned and maintained by the Association and that maintenance of all private drainage facilities shall be in conformance with NPDES requirements. Notwithstanding the foregoing, for projects consisting of four units or less, the CC&R's may provide for the maintenance described above by a mechanism other than the creation of an Association.

(PIng.) _____ (Fire) _____

- B. Within 15 days after the establishment of the Association, the owner or designee shall furnish the Board or Officers of the Association a copy of the approved parcel map, a copy of the approved site and fencing plan, copies of all approved landscaping plans, a complete set of construction plans for the units, and approved plans indicating the locations and characteristics of all major project components, utilities, and related data (collectively, the "Approved Plans"). For projects consisting of four units or less, where the owner has elected not to create an Association, the CC&R's shall provide that the owner or designee shall provide copies of all of the Approved Plans to the purchaser of each individual unit at the close of escrow.

(PIng.)_____

- C. Following recordation of the final parcel map, the Association shall submit to the Community Development Department for distribution to the Fire and Beaches, Parks and Recreation Departments and, shall resubmit annually, a list of all current Officers of the Property Owner Association (this condition applicable only if an Association is created).

(PIng.)_____

- D. Proposed amendments to any of the CC&R's shall be submitted for review to the Community Development Director or designee, and shall be approved by the Community Development Director and the City Attorney prior to the amendments being valid. In the event a proposed amendment materially alters any of the provisions required by the City to be included in the CC&R's, the Community Development Director may require the proposed amendment to be approved by the City Council. (PIng.)_____
- E. A statement indicating that the City is deemed to be an express third party beneficiary of the CC&R's and has the right, but not the obligation, to enforce any of the provisions of the CC&R's (PIng.)_____
- F. Agreement by the owner or designee and Association that on an annual basis in the month of June, reports will be furnished to the City in compliance with the reporting requirements of codes and ordinances adopted by the City with respect to the NPDES program (this condition applicable only if an Association is created). (Eng.)_____
- G. A statement indicating City of San Clemente may enter the common Areas at any time for the purpose of administering and enforcing compliance by all Members with (a) any permit issued to the City of San Clemente by the San Diego Regional Water Quality Control Board, as such permit may be amended from time to time, and (b) all NPDES requirements. [Citation - Section 13.40 of the SCMC] (Eng.)_____
- H. The CC&R's shall contain fire prevention and defense provisions including a fire lane map, provisions that prohibit parking in fire lanes, and a method of enforcement. Also, a method for keeping fire protection access easements unobstructed shall be included. The approval of the Chief of Fire Protection Services shall be required for any modifications such as control gates, or parking changes. [Citation - Service Codes: 2.12 of the OCFA] (Fire) _____
- I. Agreement by and between the owner or designee and Association, that storm drain facilities shall be inspected regularly as follows: [Citation - Section 13.40 of the SCMC]. (Eng.)_____
- 1) Open channels, catch basins and pipelines inspected annually before storm season and removal of debris as necessary.
 - 2) All facilities shall have debris and sediment removed either manually or by mechanical methods. Flushing shall be used in emergency situations only.

- 5. Prior to final tract/parcel map approval for the condominium conversion, the owner or designee shall provide to each existing tenant the following: *[Citation - Section 16.40.010 of the SCMC* (PIng.) _____

 - A. Ten (10) days written notification by mail that an application for a public report will be, or has been, submitted to the Department of Real Estate, and that such report will be available on request.
 - B. Written notification by mail of the intention to convert 180 days prior to the termination of tenancy due to the conversion.
 - C. Notice of an exclusive right to contract for the purchase of the tenant's respective unit upon the same terms and conditions that such unit will be initially offered to the general public, or terms more favorable to the tenant. The right shall run for a period of not less than 90 days from the date of issuance of the subdivision public report, unless the tenant gives prior written notice of the intent to not exercise the right.

- 6. Prior to final tract/parcel map approval, the owner or designee shall give written notice, as prescribed below, in compliance with Section 66452.8 of the Government Code of the State of California (Subdivision Map Act), of the intention to convert to condominiums to any prospective tenant prior to the acceptance of any rent or deposit. The written notice shall be as follows: *[Citation - Section 66452.8 of the Government Code of the State of California]* (PIng.) _____

"To the prospective occupant(s) of _____ (Address): The owners of this building at _____ (Address) have filed a tentative map with the City of San Clemente, in the County of Orange, to convert this building to a condominium project. No units may be sold in this building unless the conversion is approved by the City of San Clemente in the County of Orange and until after a public report is issued by the Department of Real Estate. If you become a tenant of this building, you shall be given notice of each hearing for which notice is required pursuant to Sections 66451.3 and 66452.5 of the Government Code and you have the right to appear and the right to be heard at any such hearing.

Signature of Owner or Owner's Agent

Date

I have received this notice on _____
Date

Prospective Tenant's Signature"

Failure of the owner or designee to give such written notice shall require that, at least 30 days prior to the termination of tenancy due to the conversion, the owner or designee shall, for each tenant who does not purchase his or her respective unit, complete the following:

- A. Provide a list of alternative rental housing units available within a radius of twenty five miles which are similar to the tenant's existing living conditions and comparable to the current rent paid for the existing rental unit.
- B. Pay each tenant's compensation for moving expenses and an amount to cover the first month's rent for the new location not to exceed _____.

7. Prior to final parcel map approval, the owner or designee shall submit to the City Attorney for review the form of (i) grant deed and (ii) purchase and sale agreement (or applicable portions thereof) to be used in connection with the applicant's sale of the units/lots to individual buyers. Said grant deed and purchase agreement shall include disclosures, approved by the City Attorney or designee, that indicate the existence, operations, characteristics, and potential exposure to nuisance/objectable odors/risk of upset/hazards of the following:

[Citation – City Attorney Legal Directive/City Council Approval June 1, 2010]

(PIng.) _____

United States Marine Corps, Camp Pendleton
San Onofre Nuclear Generating Station
Fire hazard due to wildland exposure (Fire - FP16)
Foothill South Transportation Corridor

8. Prior to final parcel map approval, the owner or designee shall pay or reimburse (as determined by the City Planner) the City all costs associated with City Attorney review of the project CC&R's, Disclosure Statements, and any other applicable documents. *[Citation – City Attorney Directive, Planning Division Fee Schedule/City Council Approval June 1, 2010]* (Eng.)_____(PIng.)_____

9. Prior to final parcel map approval, owner shall indicate on the map, the location of all applicable easements for storm drains, utilities, and reciprocal access. *[Citation - Section 16.28.030.A & B of the SCMC]* (Eng.)_____

10. Prior to final parcel map approval, the owner or designee shall demonstrate to the satisfaction of the City Engineer or designee, that quitclaims in favor of the City have been obtained from all persons having any interest in existing rights of way for pipelines for the conveyance of water, and for all rights to all underground water. The owner or designee shall convey the right to all underground water, but without right of entry to the surface thereof, to the City. The owner or designee shall cause no easements to be granted nor recorded over any portion of the property shown on the submitted record map between the tentative map approval date by the

Planning Commission and the recording date of the final or record map by the County Recorder. [Citation - Section 13.04.500.A, B & C of the SCMC] (Eng.)_____

11. Prior to the review of final parcel map, plans, CC&R's, and legal documents, the owner shall deposit minimum \$5,000.00 for plan check. [Citation - Fee Resolution No. 08-81 and Section 16.32.010.B of the SCMC] (Eng.)_____
12. Prior to final parcel map approval, the owner shall pay or reimburse the City all costs associated with City Attorney review of the project CC&Rs, Disclosure Statements, and any other applicable documents. Also the owner shall pay all applicable development and final map fees for each duplex unit, which may include, but are not limited to, City Consultants review fees, RCFPP, park acquisition and development, water and sewer connection, drainage, grading. [Citation - S.C.M.C. Title 15, Building and Construction, Sections 15.52, 15.56, 15.60, 15.64, 15.68, 15.72]. (Eng.)_____ (PIng.)_____
13. Prior to final parcel map approval, the owner or his designee shall be required to construct and/or replace all damaged improvements along the entire property frontage on both streets as approved by the City Engineer or his designee, including but not limited to sidewalks, curbs, gutters, street lights, driveways, failed pavement section, etc. All work shall be per City Standards. [Citation - Title 12 and Section 16.28 of the SCMC] (Eng.)_____
14. Prior to final parcel map approval, the owner shall be responsible for providing independent water meters and separate services for each unit and the common area, unless the Municipal Code is amended and/or this requirement is waived by the City Engineer. All water meters shall be located in the public ROW. [Citation - Section 16.32.010.E of the SCMC] (Eng.)_____
15. Prior to final parcel map approval, the owner or designee shall indicate on the final map, the location of all easements for open space, trails, storm drains, public street lights, utilities, reciprocal access, slopes, and landscaping. All drainage easements shall be a minimum of 15 feet. No drainage facilities accepted for dedication or maintenance by the City shall be located within slopes. Improvements may not be constructed within any easements to be accepted by the City, without approval of an Encroachment Permit. A Hold Harmless agreement approved by the City Attorney shall be required for all encroachments into the public ROW. [Citation - Section 16.28.030.B of the SCMC] (Eng.)_____

CONDITIONS TO BE SATISFIED PRIOR TO RECORDATION

16. Prior to recordation of the final parcel map, the owner or designee shall submit for review, and shall obtain the approval of the County Surveyor for, a digitized parcel map pursuant to Orange County Ordinance No. 3809 of January 28, 1991. The

owner or designee shall pay for all costs of said digital submittals, including supplying digital copies to the City of the final County Surveyor-approved digital map in DXF format. The owner shall be responsible for providing the City a duplicate mylars of the recorded Final Map. *[Citation - Ordinance No. 3809 of the County of Orange]* (Eng.)_____

17. A Certificate of Occupancy is required for each individual unit prior to the sale of that individual unit. No building or project which has been converted to independent ownership of the units by means of a statutory condominium or subdivision of land shall be made available for sale until the Building Official has issued a certificate of occupancy therefor. *[S.C.M.C – Title 16 – Chapter 16.40 – Condominium Conversions.* (Bldg.)_____

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

- Denotes modified standard Condition of Approval
- ■ Denotes project specific Condition of Approval

