

**MINUTES OF THE REGULAR MEETING
OF THE CITY OF SAN CLEMENTE
PLANNING COMMISSION
February 18, 2015 @ 7:00 p.m.
City Council Chambers
100 Avenida Presidio
San Clemente, CA**

6B(4)

1. CALL TO ORDER

Chair Darden called the Regular Meeting of the Planning Commission of the City of San Clemente to order at 7:05 p.m.

2. PLEDGE OF ALLEGIANCE

Commissioner Crandell led the Pledge of Allegiance.

3. ROLL CALL

Commissioners Present: Vonne Barnes, Barton Crandell, Wayne Eggleston, and Michael Smith; Chair pro tem Jim Ruehlin, and Chair Julia Darden

Commissioners Absent: Vice Chair Donald Brown

Staff Present: Jim Pechous, City Planner
Adam Atamian, Associate Planner
Amber Gregg, Associate Planner
Sean Nicholas, Associate Planner
Michael Jorgensen, Building Official
Ajit Thind, Assistant City Attorney
Eileen White, Recording Secretary

4. SPECIAL ORDERS OF BUSINESS - None**5. MINUTES****A. Minutes from the Planning Commission Regular Study Session of February 4, 2015**

IT WAS MOVED BY COMMISSIONER EGGLESTON, SECONDED BY CHAIR PRO TEM RUEHLIN, AND UNANIMOUSLY CARRIED to receive and file the minutes of the Regular Study Session of February 4, 2015, as submitted.

B. Minutes from the Planning Commission Regular Meeting of February 4, 2015

IT WAS MOVED BY CHAIR PRO TEM RUEHLIN, SECONDED BY COMMISSIONER BARNES, AND UNANIMOUSLY CARRIED to receive and file the minutes of the Regular Meeting of February 4, 2015, with the following revisions:

Page 5, 2nd paragraph, throughout the paragraph, replace, “they” and “them” with “the applicant”

Page 6, 2nd paragraph, 2nd sentence, insert, “(SCMC 17.16.080) between “hardship” and “and”; insert “Coastal Act provisions in the General Plan (GP C-3,C-4) Coastal Element (SCCE, Resolution 95-91, A-2—A-4, and City code (SCMC 17.56.050)…” following “in compliance with”

6. ORAL AND WRITTEN COMMUNICATION

Eric Wills, resident, referenced a letter sent from the Loftin Firm about the Coastal Land Use Plan to all Commissioners and staff suggesting changes to the Draft Coastal Use Plan and requested the Commission direct Jim Pechous, City Planner, and James Makshanoff, City Manager, to meet with Capistrano Shores and their representatives to come to agreement on how the Local Coastal Plan affects Capistrano Shores Mobilehome Park. The park has unique circumstances and is regulated by State Mobilehome Park Laws. Before they move further in the process, they should meet to try and change language so that all are happy and applications associated with the mobilehome park will be able to maneuver through the California Coastal Commission approval process as well.

Jim Pechous, City Planner, advised the City has received their letter, which will be part of and considered during the review process. He noted the Coastal Advisory Committee, during its review of the Local Coastal Plan, supported some of the statements submitted on behalf of the mobilehome park.

7. CONSENT CALENDAR - None

8. PUBLIC HEARING

A. 2727 Via Cascadita Suite I – Conditional Use Permit 15-014 – Poche Burger and Kitchen Full Alcohol (Atamian)

A request to consider the sale of a full range of alcohol for in-door and outdoor on-site consumption at a restaurant located at 2727 Via Cascadita, Suite I, within the Neighborhood Commercial (NC1.1) zoning district. The legal description is Lot 6, of Tract 4577, Assessor’s Parcel Number 691-303-04.

Adam Atamian, Associate Planner, narrated a PowerPoint Presentation entitled, "Poche Burger and Kitchen Full Alcohol, Conditional Use Permit 15-014, dated February 18, 2015;" recommended approval of the request as conditioned.

In response to questions, Associate Planner Atamian advised there is adequate space on the existing sidewalk to install the proposed outdoor seating area with fencing and retain a legal walkway. He agreed to confirm measurements to ensure there is a 5-foot wide walkway from the edge of the pillars. He described census boundaries and Alcoholic Beverage Control (ABC) monitoring and findings considerations; advised the morning DMV line was not taken into consideration during their review; advised all residences within 300 feet were provided with noticing of the project; noted no plans for nighttime entertainment or amplified sound are included with the application.

Hooman Mofidi, applicant, stated that as restaurant owner and chef, the most important thing to him is the food, rather than the alcohol service, which will be secondary to the food service. The outdoor area will have to be reduced in order to accommodate the required walkway, and he anticipates starting alcohol service at 11:00 a.m. on weekends. He is a City resident who wants to bring good food to the community and add more jobs.

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

Chair pro tem Ruehlin suggested staff provide a follow-up report to the Commission in 6 months, similar to reports that have been provided in previous applications.

Commissioner Eggleston established from staff that no one from the nearby mobilehome park submitted letters regarding this proposed use; suggested that 8:00 a.m. was too early to start service of alcohol.

Following discussion, the Commission elected to change the hours of alcohol service to 10:00 a.m. to 10:00 p.m.

Ajit Thind, Assistant City Attorney, suggested the Commission add an additional finding related to specific ABC language and Mr. Atamian provided language accordingly.

IT WAS MOVED BY CHAIR PRO TEM RUEHLIN, SECONDED BY COMMISSIONER SMITH, AND UNANIMOUSLY CARRIED TO ADOPT RESOLUTION NO. PC 15-005, A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT 15-014, POCHE BURGER

AND KITCHEN FULL ALCOHOL, TO ALLOW THE SALE OF A FULL RANGE OF ALCOHOL FOR INDOOR AND OUTDOOR ON-SITE CONSUMPTION AT AN EXISTING RESTAURANT LOCATED AT 2727 VIA CASCADITA, SUITE I, with the following revisions:

Page 2, renumber the existing "Section 6" to "Section 7" and add the following new Section 6 as follows: "The Planning Commission finds that the sale and consumption of a full range of alcohol meets the public convenience and necessity."

Page 6, add new condition no. 15 as follows: "Six months after the commencement of a full range of alcohol, Planning staff shall report back to the Planning Commission in regard to the operation of the facility and if there have been any code enforcement issues as a result of the service."

Page 5, Condition No. 3, staff will revise to reflect alcohol service between the hours of 10:00 a.m. to 10:00 p.m., daily.

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

B. 117 Avenida Del Reposo – Tentative Tract Map 14-252 – Reposo Condo Conversion (Nicholas)

A request to consider a seven unit condo map for a seven unit apartment complex currently under construction at 117 Avenida Del Reposo, in the Residential Medium (RM) zoning district within the Coastal (-CZ) overlay, legal description being Lots 24 and 25, of Block 3, of Tract 820.

Sean Nicholas, Associate Planner, narrated a PowerPoint Presentation entitled, "Tentative Tract Map 14-252 – Del Reposo Condo Map, dated February 18, 2015;" recommended approval of the request as conditioned.

Harold Alzate, applicant, thanked all for their assistance with the application.

Chair Darden opened the public hearing.

John Giedeman, resident, stated he had misinterpreted the project and had no comment.

George Gregory, resident, stated that despite his efforts over the past 10 years, he keeps running into roadblocks and has been unable to secure approval of his plan to convert existing apartments to condominiums; requested information on joining the "inside track" to get approvals; suggested he is not able to get his project approved because he is not a developer but instead a tradesman with a ladder on his truck; asked if approval of this project, which he does not oppose, would negatively

affect his chances to have his project approved; stated that the City's business liaison has not helped him; noted the importance of providing storage for the public.

Chair Darden assured Mr. Gregory that it would be unlikely that approval of this condominium conversion would use up the allotted number per year and therefore make it that his condominium conversion would not be approved; noted that this applicant had not received any special favors from staff; commented that the City's business liaison is charged with helping the City's business community. She advised Mr. Gregory to follow up with staff.

Chair Darden closed the public hearing.

IT WAS MOVED BY COMMISSIONER CRANDELL, SECONDED BY COMMISSIONER EGGLESTON, AND UNANIMOUSLY CARRIED TO ADOPT RESOLUTION NO. PC 15-004, A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING TENTATIVE TRACT MAP 14-252, DEL REPOSO CONDO MAP, A REQUEST TO APPROVE A CONDO MAP FOR A SEVEN-UNIT PROJECT UNDER CONSTRUCTION LOCATED IN THE RESIDENTIAL MEDIUM DENSITY ZONE AT 117 AVENIDA DEL REPOSO.

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

C. 310 E. Avenida Pico – Amendment to Conditional Use Permit 80-011 – Pico U-Haul Left Turn Lane (Nicholas)

A request to consider the removal of a condition of approval from the original approval of the Pico U-Haul facility that prevents median cuts, and U-Haul is proposing to install a new left turn lane on Avenida Pico. The project site is located at 310 E. Avenida Pico, in the Industrial (M-2) zoning district with an Architectural (-A) overlay, Assessor's Parcel Number 691-011-15.

Sean Nicholas, Associate Planner, narrated a PowerPoint Presentation entitled, "Pico U-Haul left turn Lane, AM CUP 80-011, dated February 18, 2015;" advised that the Planning Commission, at its November 20, 2013, meeting, denied a similar request, which resulted in the applicant submitting the redesign presented this evening; recommended denial of the request due to its inconsistencies with goals and policies in the Mobility and Complete Street Element, Urban Design Element, and Coastal Element of the Centennial General Plan.

In response to questions from the applicant, Associate Planner Nicholas advised that if approved by the Commission, the applicant would have to obtain approval from the California Coastal Commission (CCC) for the

project; noted that because the concept for the project, a proposal to open up the median on Avenida Pico to provide a left turn lane, is not supported by the City's Development Management Team, staff has not performed detailed analysis of the proposal such as determining potential stacking of cars or traffic impacts, etc.; advised u-turns are not allowed at the intersection of Avenida Pico and El Camino Real; stated that if a median cut was approved for this use and a different use was proposed in the future, that use would be subject to traffic circulation analysis; advised staff is working with the applicant to ensure recently approved landscaping renovations are installed as conditioned; noted that left turns were made into and from the property for a short time when the median on Avenida Pico was removed for construction.

Jim Lormer, representing the property owner, displayed simulation of how the proposed left turn lane would appear, and commented that installing the lane would eliminate the trucks currently driving through the neighborhood and blocking residents' ocean views. He reviewed a map indicating the routes the trucks currently take and noted complaints from residents, citizens, and customers due to this practice. He referred to a petition signed by 2,000 individuals and attached to the application. Claims of damages to homes, canopies, etc., caused by people driving their trucks are submitted often, and they pay out on them as a gesture of good will. With the improvements planned at North Beach and its pedestrian oriented goals, continuing to have the trucks maneuvering around the area is taking a step backwards. Allowing trucks to make left turns into and out of the facility will improve North Beach by removing the existing truck traffic that blocks views, creates traffic, and decreases safety. The applicant is willing to provide whatever street improvements necessary in order to create the left turn in/out lane. If the in/out left turn lane is not an option, he asked them to consider just left turn in, as that would still be an improvement. In response to questions, he advised that the U-Haul insurance underwriter does not allow them to publish a map indicating routes in and out of the facility for insurance reasons; noted he is representing the property owner, who leases the facility to U-Haul.

Sam Jacobi, Applicant's Traffic Consultant representing the applicant, reviewed the proposed left turn lane design and discussed sight distance, Caltrans requirements, and traffic issues. The initial design concept presented in exhibits for tonight's meeting would be expanded when a formal design is submitted for the City's traffic engineers.

Kurt Rogers, Facility Manager, noted that he provides direction over the phone with customers and advises them to follow a route through Los Molinos to access the facility.

Chair Darden opened the public hearing.

Ray Harju, resident, spoke in favor of the proposed left turn lane on Avenida Pico in order to eliminate trucks driving through the historic North Beach residential neighborhood. He has seen accidents and a fatality caused by increased traffic, and believes the trucks' presence endangers pedestrians, bicyclists, families, those with strollers, etc. Allowing the left turn lane into the U-Haul facility will increase safety and eliminate damage caused by the trucks to surrounding businesses.

Don Slater, representing Live North Beach, a new group formed to work toward improving the area, spoke in favor of the U-Haul proposal in order to remove frustrated truck drivers from residential streets and improve safety for residents. Two women were hit by cars in the area this past summer, and traffic is expected to increase with new development that will add to congestion. He supported left turn in only, and asked the Commission to keep the safety of residents in mind when considering the coming increase of pedestrian, vehicular, and cyclist traffic.

George Gregory, resident, spoke in favor of the left turn lane in order to accommodate the business; felt that installing bulb outs will just result in them being run over by trucks; supported the left turn lane in order to increase resident safety.

Chair Darden closed the public hearing.

Chair pro tem Ruehlin agreed that the trucks should be eliminated from the residential streets, but did not support the proposed left turn lane from Avenida Pico, as it will just create risk, traffic hazards, and costs for Avenida Pico. U-haul has not made a real effort to educate its customers as to the best way to access the facility, including producing maps or instructions to guide customers through Los Molinos for much better access. He offered to help U-Haul work with Google Maps to ensure that customers using that service to access the property get proper directions. He suggested the applicant continue looking for less expensive, more effective solutions rather than just transferring traffic issues to Avenida Pico.

Commissioner Barnes displayed a map indicating the applicant's preferred route in comparison to the Los Molinos route, which does not involve a left turn into the facility or route truck traffic through North Beach residential streets. She drove both routes several times, finding that the applicant's preferred route took 45 seconds to drive from the freeway off ramp, whereas the alternative route through Los Molinos took only 2 minutes and 15 seconds. When she used Google Maps to find the facility, the map indicated she should make an illegal u-turn at Avenida Pico and El Camino Real. U-Haul customers might not be as frustrated if Google Map instructions were corrected. In order for such a plan to be approved by the CCC, there has to be a public benefit, which has not been proven. Because this is a leased use, at any time it could be replaced with another

use. The General Plan is clear that the City has to follow guidelines and not spend money when there are other choices. This proposal would follow the wishes of one business, but not support the community as a whole.

Commissioner Crandell supported promoting the alternative route through Los Molinos to access the facility. He would not support any proposal that goes against the expert opinion of the City's Traffic Engineer.

Commissioner Eggleston read a statement from Vice Chair Brown suggesting the proposed left turn lane might be appropriate, and citing the existing prohibition against a u-turn at Avenida Pico and El Camino Real, safety issues caused by inexperienced truck drivers driving in residential neighborhoods, and existing damage to businesses caused by large trucks as reasons to support exploring the potential for installing a left turn lane.

Commissioner Eggleston supported using Los Molinos to access the U-Haul facility and keep the trucks from North Beach residential streets. U-Haul has to make the effort to direct traffic along the alternative route as well as working with Google Maps to improve information provided to their customers. With improvements coming to the Pico/I-5 Interchange, there will be increased traffic. He supported the Traffic Engineer's recommendation that there should not be a median cut in front of the U-Haul facility.

Commissioner Smith agreed that the alternative route as displayed by Commissioner Barnes is a better solution than trucks driving through North Beach and supported U-Haul educating its customers to use the alternative route to access the facility. He suggested that the existing use, which has been there since 1980, may not be the best use for the property today as the area has undergone so many changes and traffic has increased.

Chair Darden commented that she is a frequent customer at the U-Haul facility and does not find the alternative route inconvenient for customers. She supported the staff recommendation for denial of the request.

IT WAS MOVED BY COMMISSIONER EGGLESTON, SECONDED BY COMMISSIONER BARNES AND UNANIMOUSLY CARRIED TO ADOPT RESOLUTION NO. PC 15-007, A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN CLEMENTE, CALIFORNIA, DENYING AMENDMENT TO CONDITIONAL USE PERMIT (CUP) 80-11, PICO U-HAUL LEFT TURN LANE, A REQUEST TO CREATE A LEFT TURN LANE IN AND OUT OF THE U-HAUL FACILITY LOCATED AT 310 EAST AVENIDA PICO.

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

D. 1880 N. El Camino Real – Variance 14-474/Conditional Use Permit 14-475 – Capistrano Shores Wall and Landscaping (Gregg) (continued from 02-04-15)

A request to consider an eight foot tall decorative block wall between the railroad tracks and the Capistrano Shores Mobile Homes Park with 9'9" accent columns at the main entrance, along with accessory structures, landscaping, and utility improvements within the park. The project is located at 1880 N. El Camino Real within the Open Space zoning district and Coastal Zone Overlay (OS2-S2-CZ), the legal description being a strip of land 27.55 feet wide in the City of San Clemente, County of Orange, State of California, being a portion of Section 32, Township 8 South, Range 7 West, and Assessor's Parcel Number 691-432-02.

E. 1880 N. El Camino Real – Conditional Use Permit 14-389/Architectural Permit 14-378 – Capistrano Shores Transformers and Fence (Gregg) (continued from 02-04-15)

A request to consider seven new transformers, enclosed by temporary chain link fencing, located in the Capistrano Shores Mobile Homes Park leased portion of the railroad right-of-way. The project is located at 1880 N. El Camino Real within the Open Space zoning district and Coastal Zone Overlay (OS2-S2-CZ), the legal description being a strip of land 27.55 feet wide in the City of San Clemente, County of Orange, State of California, being a portion of Section 32, Township 8 South, Range 7 West, and Assessor's Parcel Number 691-432-02.

Chair Darden announced for the record that she and the other Commissioners had received letters and packets of information from The Loftin Firm, attorneys representing Capistrano Shores Mobilehome Park.

Amber Gregg, Associate Planner, combined presentation for items D & E for a comprehensive analysis of corresponding projects. She narrated a PowerPoint Presentation entitled, "Capistrano Shores Mobile Home Park Applications, dated February 18, 2015," and reviewed direction given to staff by the Planning Commission at their last meeting. She read into the record two new conditions regarding graffiti removal and beach access recommended by staff for inclusion. Staff recommended approval of the three resolutions included for Commission consideration. Commission approval of Resolution No. 15-002 will allow the seven new transformers and temporary fencing; Resolution No. 15-003 will approve construction of the permanent wall and other ancillary improvements. In response to direction given at the Commission's last meeting, staff has included Resolution no. 15-006, which would deny the applicant's request for a variance to construct a wall in excess of six feet. Staff has determined that the required findings cannot be made to approve Resolutions 15-002 and 15-003 if the projects are separated as they rely on each other.

Eric Wills, applicant, was available for questions. He requested the Commission approve Resolution No. 15-002 and continue Resolution No. 15-003.

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

Chair pro tem Ruehlin questioned why the letter from The Loftin Firm accuses the City of acting in an underhanded manner, when the City linked the applications due to time considerations expressed by the applicant. Staff has invested time and effort to try and make the project work for the applicant's sake, and it is unfortunate that the result is not supported by the applicant. He agreed the two applications cannot be separated, and supported continuing the applications to give the applicant additional time to meet with the Design Review Subcommittee (DRSC) and work things out.

City Planner Pechous commented that the Commission can support Resolution No. 15-003, which would allow construction of the permanent wall, without supporting Resolution No. 15-002, which allows construction of the temporary fencing and transformer location, but Resolution No. 15-002 cannot be separately approved based on the findings. Approval of the Resolution denying the request for the variance will result in the applicant not being able to add any height to the six foot wall, including a slight height increase for the columns for aesthetic purposes.

Commissioner Crandell established from Ajit Thind, Assistant City Attorney, that if the Commission elects to continue the applications, it would not be construed as agreeing with any of the objections set forth in correspondence received from The Loftin Firm. He suggested the Commission consider continuing the request for the variance as well to allow it to go through the DRSC review process.

IT WAS MOVED BY CHAIR PRO TEM RUEHLIN, SECONDED BY COMMISSIONER BARNES, AND UNANIMOUSLY CARRIED TO CONTINUE AGENDA ITEM 8.D. 1880 N. EL CAMINO REAL – VARIANCE 14-474/CONDITIONAL USE PERMIT 14-475 – CAPISTRANO SHORES WALL AND LANDSCAPING AND AGENDA ITEM 8.E. 1880 N. EL CAMINO REAL – CONDITIONAL USE PERMIT 14-389/ARCHITECTURAL PERMIT 14-378 – CAPISTRANO SHORES TRANSFORMERS AND FENCE TO DATE UNCERTAIN FOR PURPOSE OF MORE CONCRETE TIME AND REVIEW.

[ITEM CONTINUED. PLANNING COMMISSION DECISION PENDING.]

9. NEW BUSINESS - None

10. OLD BUSINESS

A. 1880 N. El Camino Real Space 22, Appeal of Building Permit B14-1374 (Gregg) (continued from 01-07-15)

A request to appeal comments rendered by Planning staff for a Building permit to install a new double wide mobile home in the Capistrano Shores Mobile Home Park.

Amber Gregg, Associate Planner, summarized the staff report, a recommendation that the Commission find the appeal moot because although the original request for a building permit was not approved by City staff because it was not consistent with the Zoning Ordinance, subsequent City Council review and approval of a Zoning Amendment, which went into effect on February 6, 2015, allows the applicant to obtain the desired permit after Coastal Permits are obtained and the building permit process is complete.

Eric Wills, appellant, appealed the comments because he believes the City does not have the authority to deny or review the building permit because it is for a mobilehome unit and is therefore regulated under the Mobilehome Parks Act, Cal Health and Safety Code § 18200 et seq. In his opinion, the City has no standing in this issue. If the Commission renders the appeal moot, he intends to go to City Council and continue the appeal. If Council denies his appeal, he intends to pursue litigation. Additionally, he does not believe the City has the authority to send this application to California Coastal Commission for their review.

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

IT WAS MOVED BY COMMISSIONER EGGLESTON, SECONDED BY CHAIR PRO TEM RUEHLIN, AND UNANIMOUSLY CARRIED TO DISMISS APPEAL OF BUILDING PERMIT B14-1374 AS MOOT.

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

11. REPORTS OF COMMISSIONERS/STAFF

- A. Tentative Future Agenda
- B. Minutes from the Zoning Administrator meeting of February 4, 2015
- C. Staff Waiver 15-036, 115 Avenida Del Mar
- D. Staff Waiver 15-043, 2727 Via Cascadita I
- E. Staff Waiver 15-048, 249 Vista Marina
- F. Staff Waiver 15-050, 2340 S. El Camino Real

G. Staff Waiver 15-051, 105 Avenida Barcelona

Chair pro tem Ruehlin reported that the Traffic Task Force had its initial meeting and identified the Marblehead Coastal Project and the Avenida Pico/I-5 Interchange Improvement as the two major traffic issues needing addressed at this point in time. The Task Force's intent is to come up with work plans to bring to Council for their consideration. Task Force members were given specific tasks to perform and will meet again in March. He will continue to keep the Commission informed as to their progress.

Commissioner Eggleston requested a Study Session on regulation of home businesses, and City Planner Pechous agreed to consider schedules and report back.

Chair Darden thanked Ajit Thind, Assistant City Attorney, for his tenure with the City.

Assistant City Attorney Thind commented that it has been a privilege working with the City and he will miss all, especially staff as they have always been very supportive and kind.


12. ADJOURNMENT

IT WAS MOVED BY CHAIR PRO TEM RUEHLIN, SECONDED BY COMMISSIONER CRANDELL, AND UNANIMOUSLY CARRIED to adjourn at 9:31 p.m. to the Adjourned Regular Planning Commission Meeting to be held at 6:00 p.m. on March 9, 2015, in Council Chambers at City Hall located at 100 Avenida Presidio, San Clemente, CA.

Respectfully submitted,

Julia Darden, Chair

Attest:


Jim Pechous, City Planner