



## STAFF REPORT

# SAN CLEMENTE ZONING ADMINISTRATOR

Meeting Date: March 18, 2015

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**PLANNER:** Cliff Jones, Associate Planner *CJ*  
Katherine Moran, Planning Intern

**SUBJECT:** **Minor Exception Permit 14-362, Richardson Addition**, a request to allow a garage and four foot property line walls to encroach into the front yard setback for a new single-family residence located at 121 Avenida Pizarro

**LOCATION:** 121 Avenida Pizarro

**ZONING/GP:** Residential Low Density (RL-2) Zoning District

**BACKGROUND:**

- The site is a 9,427 square foot property that slopes downward from the street. The applicant proposes to construct a two-story 3,345 square foot house with a 595 square-foot garage.
- The garage is setback five feet from the front property line because the steep downward slope of the lot would result in significant fill if the garage were setback 18 feet as required per the Zoning Ordinance.
- To allow the reduced front yard setback for the garage, the applicant is requesting a Minor Exception Permit in accordance with Section 17.32.050.E.3.d. The code section allows a five foot setback for garages provided that a grade difference of ten feet occurs within twenty-five (25) feet of the front property line. The subject property has more than 10 feet of grade difference within twenty-five feet of the front property line and therefore meets the criteria.
- Without the reduced setback would require raising the grade 10' of fill to create a driveway as the lot slopes steeply down away from the street. The reduced front yard setback fits in with the character of the neighborhood as homes in the neighborhood have reduced setbacks for their garages. As seen in Attachment 3, the adjacent home at 125 Avenida Pizarro has a garage setback less than 20 feet.
- The applicant is also requesting Minor Exception permit to allow four-foot tall property line walls. Zoning Code Section 17.16.090.C.14, requires a Minor Exception Permit reviewed by the Zoning Administrator to allow for fences and walls that exceed 42-inches in height to encroach within the required 20 foot front yard setback. As seen in Attachment 3, the neighborhood has several properties with walls over 42-inches in height.
- The project meets the required findings for a Minor Exception Permit based on the following:

- The proposed garage encroachment would be in character with the surrounding neighborhood. The adjacent home has a garage that is located close to the front property line and there are other homes within the vicinity on Patero Del Oro, the next street up, that have reduced garage setbacks.
- The proposed front yard walls are in character with the neighborhood as several properties on the opposite side of the street from the site have tall walls (4'-5' height) with glass wind screens on top.
- The Development Management Team has reviewed the project and is in support of the project with the attached conditions of approval.

**RECOMMENDATION**

STAFF RECOMMENDS THAT the Zoning Administrator approve Minor Exception Permit 14-362, Richardson Residence, subject to the attached Resolution and Conditions of Approval.

Attachments:	Attachment 1	Resolution
	Exhibit A	Conditions of Approval
	Attachment 2	Location Map
	Attachment 3	Neighborhood Photo Exhibit
	Plans	

## RESOLUTION NO. ZA 15-015

**A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF SAN CLEMENTE, CA, APPROVING MINOR EXCEPTION PERMIT 14-362, RICHARDSON RESIDENCE, A REQUEST TO ALLOW FOR A GARAGE AND FOUR FOOT PROPERTY LINE WALLS TO ENCROACH INTO THE FRONT YARD SETBACK FOR A NEW SINGLE-FAMILY RESIDENCE LOCATED AT 121 AVENIDA PIZARRO**

**WHEREAS**, an application was submitted on September 17, 2014 and completed on February 12, 2015 by Scott Rosenbaum, 31511 Camino Capistrano Suite A, San Juan Capistrano, CA 92675, for Minor Exception Permit (MEP) 14-362 a request to allow a garage and four foot property line walls to encroach into the front yard setback for a new single-family residence located at 121 Avenida Pizarro, located within the Residential Low (RL-2) Zone. The legal description of the property is Lot 70, of Tract 898, and Assessor's Parcel Number 057-092-14; and

**WHEREAS**, the Planning Division completed an initial environmental assessment for the project in accordance with the California Environmental Quality Act (CEQA) and recommends the Zoning Administrator determine this project is categorically exempt from CEQA as a Class 3 exemption pursuant to CEQA Guidelines Section 15303(a) because the project consists of the construction of a single-family residence in a residential zone; and

**WHEREAS**, on October 23, 2014 and January 29, 2015 the City's Development Management Team reviewed the proposed project for compliance with the General Plan, Zoning Ordinance, and other applicable requirements; and

**WHEREAS**, on March 18, 2015, the Zoning Administrator held a duly noticed public hearing and considered evidence and testimony presented by City staff, the applicant 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 pursuant to CEQA Guidelines Section 15303(a) because the project consists of the construction of a single-family residence in a residential zone.

**Section 2:** With regard to MEP 14-362, the Zoning Administrator finds as follows:

- A. The requested reduction of the front yard garage setback and walls over 42-inches will not interfere with the purpose of the zone or the standards of the zone in which the property is located in that the project is for the construction of a single family residence, which is permitted within the zone, and other properties in the neighborhood have similar garage setback encroachments and walls over 42-inches in height.

- B. Neighboring properties will not be adversely affected as a result of the conditional approval of the Minor Exception Permit in that the reduced front yard setback will result in less grade fill than if the garage were setback further at 18 feet. Additionally, other properties in the neighborhood have similar garage setback encroachments and walls over 42-inches in height so the requested Minor Exception Permit is in character with the neighborhood.
- C. The proposed project will not be detrimental to the public health, safety, or welfare, or materially injurious to properties and improvements in the vicinity, in that the project will undergo the building permit review process to ensure that the structure complies with all required Building, Safety and Fire codes.

**Section 3:** The Zoning Administrator of the City of San Clemente hereby approves MEP 14-632, Richardson Residence, a request to allow a garage and four foot property line walls to encroach into the front yard setback for a new single-family residence located at 121 Avenida Pizzaro, subject to the above Findings, and the Conditions of Approval attached hereto as Exhibit 1.

**PASSED AND ADOPTED** at a regular meeting of the Zoning Administrator of the City of San Clemente on March 18, 2015.

SAN CLEMENTE ZONING ADMINISTRATOR

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James Pechous, Zoning Administrator

**CONDITIONS OF APPROVAL  
MINOR EXCEPTION PERMIT (MEP) 14-362  
RICHARDSON RESIDENCE**

1. The applicant or the property owner or other holder of the right to the development entitlement(s) or permit(s) approved by the City for the project, if different from the applicant (herein, collectively, the "Indemnitor") shall indemnify, defend, and hold harmless the City of San Clemente and its elected city council, its appointed boards, commissions, and committees, and its officials, employees, and agents (herein, collectively, the "Indemnitees") from and against any and all claims, liabilities, losses, fines, penalties, and expenses, including without limitation litigation expenses and attorney's fees, arising out of either (i) the City's approval of the project, including without limitation any judicial or administrative proceeding initiated or maintained by any person or entity challenging the validity or enforceability of any City permit or approval relating to the project, any condition of approval imposed by City on such permit or approval, and any finding or determination made and any other action taken by any of the Indemnitees in conjunction with such permit or approval, including without limitation any action taken pursuant to the California Environmental Quality Act ("CEQA"), or (ii) the acts, omissions, or operations of the Indemnitor and the directors, officers, members, partners, employees, agents, contractors, and subcontractors of each person or entity comprising the Indemnitor with respect to the ownership, planning, design, construction, and maintenance of the project and the property for which the project is being approved. The City shall notify the Indemnitor of any claim, lawsuit, or other judicial or administrative proceeding (herein, an "Action") within the scope of this indemnity obligation and request that the Indemnitor defend such Action with legal counsel reasonably satisfactory to the City. If the Indemnitor fails to so defend the Action, the City shall have the right but not the obligation to do so and, if it does, the Indemnitor shall promptly pay the City's full cost thereof. Notwithstanding the foregoing, the indemnity obligation under clause (ii) of the first sentence of this condition shall not apply to the extent the claim arises out of the willful misconduct or the sole active negligence of the City. *[Citation – City Attorney Legal Directive]* (PInG.)\_\_\_\_\_
2. 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]* (PInG.)\_\_\_\_\_
3. Minor Exception Permit (MEP) 14-362 shall become null and void if the use is not commenced within three (3) years from the date of the approval thereof. Since the use requires the issuance of a building permit, the use shall not be deemed to have commenced until the date that the building permit is issued for the development. *[Citation - Section 17.12.150.A.1 of the SCMC]* (PInG.)\_\_\_\_\_

4. A use shall be deemed to have lapsed, and MEP 14-362 shall be deemed to have expired, when a building permit has been issued and construction has not been completed and the building permit has expired in accordance with applicable sections of the California Building Code, as amended. *[Citation - Section 17.12.150.C.1 of the SCMC]* (PIng.) \_\_\_\_\_
5. The owner or designee shall have the right to request an extension of MEP 14-362 if said request is made and filed with the Planning Division prior to the expiration date as set forth herein. The request shall be subject to review and approval in compliance with section 17.12.160 of the Zoning Ordinance. *[Citation - Section 17.12.160 of the SCMC]* (PIng.) \_\_\_\_\_
6. Prior to the issuance of building permits, the applicant or designee shall include within the first four pages of the working drawings a list of all conditions of approval imposed by the final approval for the project. *[Citation – City Quality Assurance Program]* (PIng.) \_\_\_\_\_
7. Prior to Final Approval of the Building permit, the project shall be develop in conformance with the site plan, elevations, details, photographs, and any other applicable submittals approved by the Zoning Administrator on March 18, 2015.

Any deviation from the approved site plan, floor plans, elevations, details, or other approved submittal shall require that the owner or designee submit modified plans and any other applicable materials as required by the City for review and obtain the approval of the City Planner or designee. If the City Planner or designee determines that the deviation is significant, the owner or designee shall be required to apply for review and obtain the approval of the Zoning Administrator. *[Citation - Section 17.12.180 of the SCMC]* (PIng.)\_\_\_\_\_

8. A separate Building Permit is required. Plans to construct new building, add or alter the existing building configuration, change in use, add or alter structural, mechanical, electrical or plumbing features of the project must be reviewed and approved through a separate building plan check / permit process. (Bldg.)\_\_\_\_\_ *[S.C.M.C – Title 8 – Chapter 8.16- Fire Code, Title 15 Building Construction - Chapters 15.08, 15.12, 15.16, 15.20]*
9. Project has not been reviewed for Building Code compliance. Prior to issuance of building permits, code compliance will be reviewed during building plan check. (Bldg.)\_\_\_\_\_ *[S.C.M.C – Title 8 – Chapter 8.16- Fire Code, Title 15 Building Construction - Chapters 15.08, 15.12, 15.16, 15.20]*
10. Prior to issuance of building permits, applicant shall secure all utility agencies approvals for the proposed project. (Bldg.)\_\_\_\_\_ *[S.C.M.C – Title 15 Building Construction]*

11. Building permits shall not be issued unless the project complies with all applicable codes, ordinances, and statutes including, but not limited to, the Zoning Ordinance, Grading Code, Security Ordinance, Transportation Demand Ordinance, Water Quality Ordinance, Title 24 of the California Code of Regulations as adopted by the City including, but not limited to the California Administrative, Building, Electrical, Plumbing, Mechanical, Energy, Green, and Fire Codes. (Bldg.)\_\_\_\_\_ [S.C.M.C – Title 8 – Chapter 8.16 – Fire Code, Title 15 Building and Construction Chapters 15.08, 15.12, 15.16, 15.20, 15.21, Title 16 Subdivisions, Title 17 Zoning]
  
12. Prior to the issuance of building permits, the owner or designee shall pay all applicable development fees in effect at the time, which may include, but are not limited to, Regional Circulation Financing and Phasing Program (RCFPP), park acquisition and development, water and sewer connection, drainage, Public Facility Construction, transportation corridor, Avenida La Pata Supplemental Road Fee and school fees, etc. (Bldg.)\_\_\_\_\_ [S.C.M.C. – Title 15 Building and Construction, Chapters 15.52, 15.56, 15.60, 15.64, 15.68, 15.72]
  
13. Prior to issuance of any building permits, an acoustical analysis report describing the acoustical design features of the structures required to satisfy the exterior and interior noise standards shall be submitted to the Building Division for approval along with satisfactory evidence which indicates that sound attenuation measures specified in the approved acoustical report have been incorporated into the project. (Bldg.)\_\_\_\_\_ [General Plan – Noise Element – Implementation Program I 14.4 and California Building Code Chapter 12 – Section 1207]
  
14. Prior to issuance of building permits, the owner or designee shall submit a copy of the City Engineer approved soils and geologic report, prepared by a registered geologist and/or soil engineer, which conforms to City standards and all other applicable codes, ordinances, statutes and regulations. The soils report shall accompany the building plans, engineering calculations, and reports. (Bldg.)\_\_\_\_\_ [S.C.M.C – Title 15 – Chapter 15.08 – Appendix Chapter 1 – Section 106.1.4]
  
15. Prior to the Building Division's approval to pour foundations, the owner or designee shall submit evidence to the satisfaction of the City Building Official or designee that a registered civil engineer that is licensed to do surveying or land surveyor has certified that the forms for the building foundations conform to the front, side and rear setbacks are in conformance to the approved plans. [S.C.M.C – Title 15 – Chapter 15.08, Title 17- Chapter 17.24] (Bldg.)\_\_\_\_\_
  
16. Prior to the Building Division's approval of the framing inspection, the owner or designee shall submit evidence to the satisfaction of the City Building Official or

designee that a registered civil engineer that is licensed to do surveying or land surveyor has certified that the height of all structures are in conformance to the approved plans. (Bldg.)\_\_\_\_\_

*[S.C.M.C – Title 15 – Chapter 15.08, Title 17- Chapter 17.24]*

17. Fire sprinkler system required throughout for all new Group R occupancies, including the attached garage(s).

*[S.C.M.C – Title 15 – Chapter 15.08]*

(Bldg.)\_\_\_\_\_

18. Overhead wiring shall not be installed outside on private property. All property to be developed with new building(s) shall have all utility services located within the property installed underground. (Bldg.)\_\_\_\_\_

*[S.C.M.C – Title 15 – Chapter 15.12-Electrical Code]*

19. Prior to the issuance of any permits, plan check fees shall be submitted for the Engineering Department plan check of soils reports and grading plans. *[Citation – Fee Resolution No. 08-81 and Section 15.36 of the SMC]*

(Eng.)\_\_\_\_\_

20. Prior to the issuance of any permits, the owner or designee shall submit for review, and shall obtain the approval of the City Engineer or designee for, a soils and geologic report prepared by a registered geologist and/or geotechnical engineer which conforms to City standards and all other applicable codes, ordinances and regulations. *[Citation – Section 15.36 of the SMC]*

(Eng.)\_\_\_\_\_

21. Prior to the issuance of any permits, the City Engineer shall determine that development of the site shall conform to general recommendations presented in the geotechnical studies, including specifications for site preparation, treatment of cut and fill, soils engineering, and surface and subsurface drainage. *[Citation – Section 15.36 of the SMC]*

(Eng.)\_\_\_\_\_

22. Prior to the issuance of any permits, the owner or designee shall submit for review, and obtain the approval of the City Engineer, a precise grading plan, prepared by a registered civil engineer, showing all applicable onsite improvements, including but not limited to, grading, building pad grades, storm drains, sewer system, retaining walls, water system, etc., as required by the City Grading Manual and Ordinance. *[Citation – Section 15.36 of the SMC]*

(Eng.)\_\_\_\_\_

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

(Eng.)\_\_\_\_\_



24. Prior to the issuance of any permits, the owner shall provide surety, improvement bonds, or irrevocable letters of credit for performance, labor and materials as determined by the City Engineer for 100% of each estimated improvement cost plus a 10% contingency, as prepared by a registered civil engineer as required and approved by the City Attorney or the City Engineer, for each applicable item, but not limited to, the following: grading earthwork, grading plan improvements, retaining walls, frontage improvements; sewer lines; water lines; storm drains; and erosion control. [Citation – Section 15.36 of the SCMC] (Eng.)\_\_\_\_\_
25. Prior to issuance of any permits for applicable projects with building permit valuations exceeding \$50,000, the owner or designee shall submit for review, and shall obtain the approval of the City Engineer or designee for frontage improvement plans. The owner or his designee shall be responsible for the construction of all required frontage and onsite improvements as approved by the City Engineer including but not limited to the following: [Citation – Section 15.36, 12.08.010, and 12.24.050 of the SCMC] ■ ■ (Eng.)\_\_\_\_\_
- A. Per City Municipal Code Section 12.08.010 (A), when building permit valuations exceed \$50,000, unless a waiver is obtained from the City Manager, the owner or designee shall construct sidewalk along the property frontage. This requirement includes construction of compliant sidewalk up and around drive approach or other obstructions to meet current City standards (2% cross fall) when adequate right-of-way exists. When adequate right of way does not exist, the City may require a Condition of Approval requiring a sidewalk easement in order to install compliant sidewalk. Since the street right-of-way is approximately 7.5 feet behind the curbface a sidewalk easement is anticipated to be required to be granted to the City for the sidewalk to go up and around the drive approach.
- B. An Engineering Department Encroachment Permit is required for any work in the public right-of-way.

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

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



# LOCATION MAP

MEP 14-362, Richardson Addition  
121 Avenida Pizarro



No scale

# PHOTO EXHIBIT

2014 September 15  
Discretionary Permit

## ATTACHMENT 3



31511 Camino Capistrano Suite A  
San Juan Capistrano, CA 92675

P: 949 280 6514

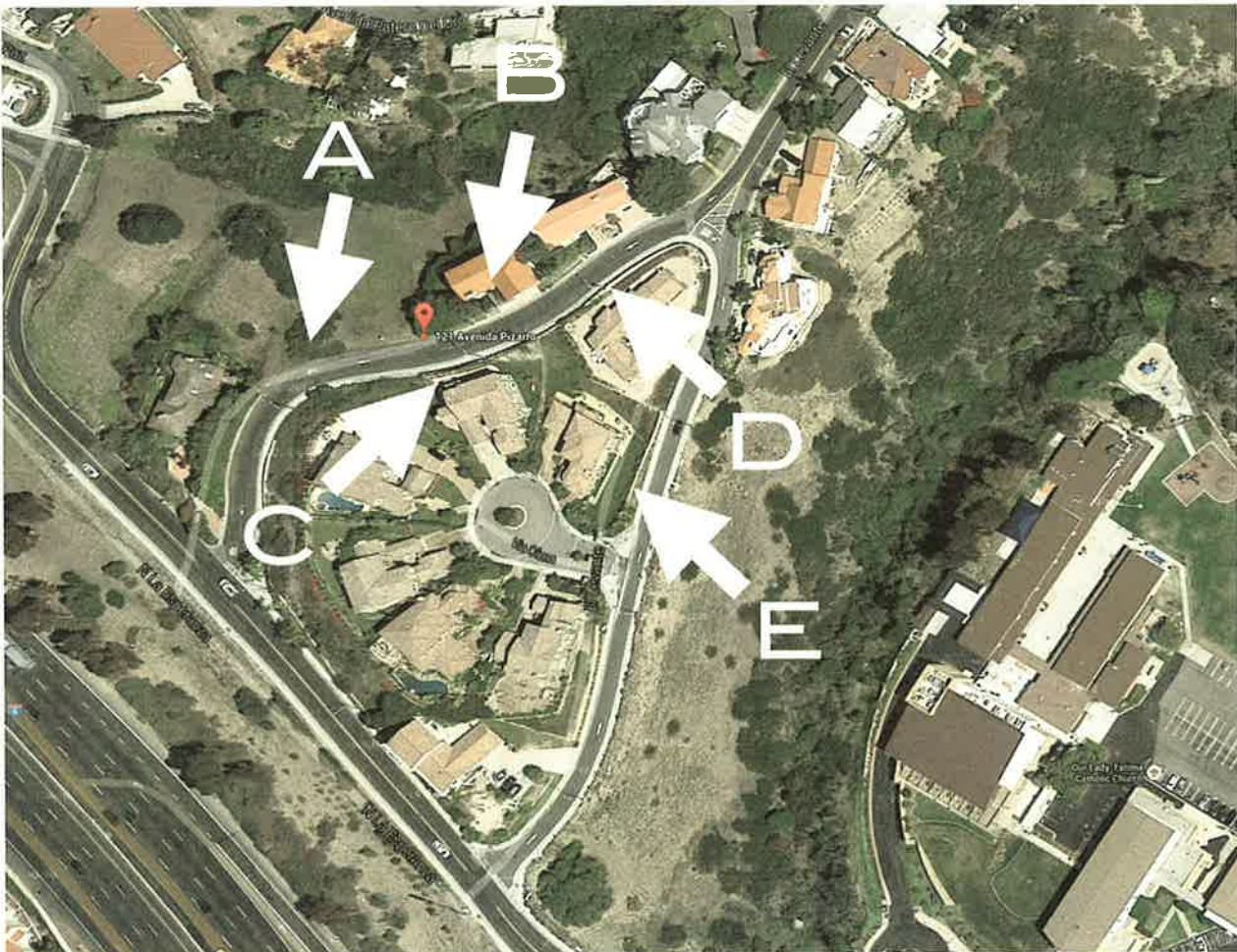
[www.scottrosenbaumarchitecture.com](http://www.scottrosenbaumarchitecture.com)

Project:

### **Richardson Residence**

121 Avenida Pizarro,  
San Clemente, CA 92672

## PHOTO MAP



**PHOTO A - PROJECT SITE**



**PHOTO B - NEARBY HOME WITH REDUCE GARAGE SETBACK**



PHOTO C - NEARBY HOME WITH OVER HEIGHT SITE WALLS



PHOTO D - NEARBY HOME WITH OVER HEIGHT SITE WALLS



**PHOTO E - NEARBY HOME WITH OVER HEIGHT SITE WALLS**

