

**CITY OF SAN CLEMENTE  
MINUTES OF THE REGULAR  
ZONING ADMINISTRATOR MEETING  
March 18, 2015**

Staff Present: Jim Pechous, Cliff Jones, Amber Gregg, Sean Nicholas, John Ciampa, and Kimberly Maune

**2. MINUTES**

Minutes of the Zoning Administrator meeting of March 3, 2015 received and filed.

**3. ORAL AND WRITTEN COMMUNICATION**

None

**4. PUBLIC HEARINGS**

**A. 2310 South El Camino Real – Minor Architectural Permit 14-508 – Fence for San-O Tires (Gregg)**

A request to consider a six foot tall wood fence and gate enclosing the back portion of the site located at 2310 South El Camino Real. The legal description is Lots 1, 2, 3, and 5 of Block 10, of Tract 852, and Assessor's Parcel Number 690-446-20.

Associate Planner Amber Gregg summarized the staff report.

Applicant Mitch Touart was present.

Mr. Pechous verified with the applicant that he is aware of the preexisting easement which is a private matter. The fence is being installed at the applicant's discretion; the City does not enforce private access easements.

Mr. Pechous asked how this parking area is tied to the business. Ms. Gregg responded it is excess parking. The applicant will have access to the parking via a gate; all parking requirements are provided on site. The applicant obtained a Conditional Use Permit for the back parking area for auto sales; this use has not been enacted.

Mr. Pechous directed staff to add a condition of approval that the gates would remain open during business hours when the applicant opts to enact the car sales use because at that time access would be needed to meet the parking requirement. While the area is not used for the existing

auto operation, it is acceptable to keep the gates open or closed at their discretion.

Mr. Touart stated he is trying to stop the unauthorized use and criminal activity that has taken place over the last couple of years. He has tried posting signs, telling people, and towing cars; nothing has worked. His life has been threatened over the property. The only recourse he has is to fence it off to keep people out.

Chuck Narey was present and asked how big the gate is. Ms. Gregg responded the gate along the alleyway is 20 feet wide and the gate at West Avenida San Gabriel is 24 feet wide. Mr. Narey asked where the gates will be located. Ms. Gregg stated where the West Avenida San Gabriel access is currently the gate will be located on that curb cut. The other gate is at the alleyway access point, the gate will span the length of that entire opening.

Mr. Narey asked about the relationship of this request to the La Ventura Event Center request going before the Planning Commission tonight. Ms. Gregg responded they are two separate projects; the La Ventura item is not agendaized for this meeting, an item not on the agenda cannot be discussed.

Mr. Narey stated he understands the City does not want to get into the civil matter; however, he is curious about how everything will be reconciled. Essentially their easement is being closed off and their ingress and egress.

John Persich was present and stated they have to enclose a dumpster with a brick wall; he is wondering why the fence isn't required to be nicer. Ms. Gregg responded the City has design standards which specifically require brick walls for dumpster enclosures. It is a different situation for this request, the applicant has three options available, a fence, wall, or hedge.

Todd Brei was present and stated he lives across the street from the area. He has seen shady characters, and police, hanging out in the parking lot. His concern is police and emergency vehicle access; how will the police gain access if needed when the gates are closed.

Ms. Gregg stated staff showed the project to Orange County Fire Authority (OCFA); they responded the project as designed meets their fire access needs, they support the fence on this proposal.

Mr. Brei expressed concern about this becoming another unwatched corner where vagrants can huddle. He sees people in that area sleeping

over night in sleeping bags around that parking lot. If the area is not as wide open and visible he believes it will provide a safe haven for vagrants to hide in the corners.

Mr. Touart stated two weeks ago he installed high definition cameras with night vision recording five day loops in the whole area. He will install sergeant locks for emergency personnel access when needed. He has given a key to the current chain to the utilities in case they need access.

Mr. Persich stated if a fence is installed across the lot there is no access from San Gabriel to his property. If there is a fire or any sort of emergency on his side of the property, at the liquor store, or at the senior building, there is no way out other than by his narrow access down by the street. He asked if the City talked to OCFA.

Ms. Gregg stated staff specifically talked to OCFA; a member of OCFA attends the City's Development Management Team meetings every Thursday. The project was presented to OCFA including the context of the entire area including Mr. Persich's parcel and access. The OCFA member stated that OCFA does not have a concern with the issue.

Mr. Persich stated it seems like it would be a concern if there was a problem with the gas station; he is in the back and wouldn't be able to get out. Ms. Gregg responded that the City showed the project to OCFA and it was their opinion that it would not have bearing and they are not concerned with the project. OCFA's position is this is an existing property in an existing development and they too do not recognize private easements, so they do not feel it is necessary for their access.

Mr. Persich stated his point is emergency exiting. Whether OCFA recognizes it or not he is curious why they don't see this as a potential dangerous situation. Ms. Gregg responded she does not want to speak for OCFA, she can only reiterate what they said in the meeting and that they support the project.

Mr. Persich stated because the City doesn't recognize the easement, the City is playing into a lawsuit. The City is allowing the applicant to block their easement. Mr. Pechous stated the City enforces its own codes; private agreements between two individuals the City does not have any authority over one way or the other. The City does not have the authority, if the project conforms to the findings and the requirements of the City, to not approve it. The City could have a problem if it were not to support a project because of a private easement if the project meets the findings and the requirements of the City.

Mr. Brei stated as it relates to property value he is concerned about the appearance and design of the fence. The applicant has installed a bright yellow chain and post that goes across the cut out; he believes this would be redundant given the fence. It is an eyesore and he would like to know if it will be removed once the fence is installed. He is also wondering if there will be any signage on the fence and if there are provisions for maintenance to maintain the appearance on both sides of the fence.

Mr. Pechous thanked everyone for their input. He likes that the fence is required to be set behind the landscape strip; he would like the fence to be pushed back as far as possible to accommodate as much landscaping as possible. Portions of the current landscaping is sparse and he doesn't believe it meets the finding of softening the fence. Mr. Touart stated he has tried planting under the Eucalyptus tree but nothing will grow because the root structure has poisoned the soil.

Mr. Pechous directed staff to add a condition of approval for City staff to work with our landscape architect to find something that will grow there to help with the requirement. Visually this fence will be a plus especially with the addition of landscaping. He is encouraged to hear about the monitoring of the parking area that Mr. Touart has incorporated. There needs to be extra diligence to ensure the area does not become a dumping ground.

Mr. Pechous directed staff to add a condition of approval about maintenance and maintaining the quality, character, and aesthetics for the residential neighborhood side especially. Although the City does not monitor or protect private easements and agreements, he highly recommends that the applicant be mindful of that and try to make sure to not open himself up to any kind of legal issue. Mr. Touart stated he understands completely.

Mr. Pechous asked about the yellow post and chain; Mr. Touart responded that will be inside the fence once the fence is built so it will not be seen.

Mr. Pechous stated this area is intended for parking and should not become any kind of storage yard now or in the future other than what the applicant is allowed to do under the Conditional Use Permit for the sale of vehicles.

Mr. Pechous thanked everyone for their attendance and stated that this item is appealable to the City Council. There is also the potential that the City Council could call-up this item within usually two weeks.

Action: The Zoning Administrator approved Minor Architectural Permit 14-508, Fence for San-O Tires, subject to Resolution ZA 15-014 with attached Conditions of Approval including the additional conditions as stated above.

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

**B. 121 Avenida Pizarro – Minor Exception Permit 14-362 – Richardson Addition (Jones)**

A request to consider allowing a garage to encroach into the front yard setback and allow four foot property line walls associated with the construction of a single family residence located at 121 Avenida Pizarro. The legal description of the property is Lot 70 of Tract 898, Assessor's Parcel Number 057-092-14.

Associate Planner Cliff Jones summarized the staff report.

Architect Scott Rosenbaum was present and stated the primary reason they are putting the garage where they are is to avoid 14 to 16 foot high retaining walls plus guardrail heights on top of that in the front yard area, which would occur if the garage were moved back to the standard setback.

Mr. Jones stated the City allows Minor Exception Permits in situations where the requested exception is a characteristic that is common within the neighborhood and/or will not adversely impact the neighborhood. In this area there are a number of homes that are on steep lots and to avoid the grade fill the Minor Exception Permit is a useful tool.

Mr. Pechous stated since San Clemente has hills and canyons and to avoid 15 to 20 foot high retaining walls the City allows reduced setbacks for garages.

Adjacent vacant property owner Bill Marrinan was present and stated he is concerned about his view of Catalina being blocked although he doesn't want to cause this property owner a large sum of money in retaining walls and extra caissons.

Mr. Pechous asked if this home is two stories above the garage. Mr. Rosenbaum responded from the street this house will appear as a single story house, from the lower end and from the sides the two stories will be seen.

Mr. Pechous stated the City does not protect private views, only public views at certain locations as identified in the General Plan. The merit of

his analysis is based on the findings required for a Minor Exception Permit. Everyone has the same ability to ask for similar exceptions so the rules that apply to your neighbor can also potentially apply to you.

Mr. Marrinan stated he adjusted his plans in accordance with his neighbor above just to be considerate. He bought his lot based on the setbacks in the City code; he wouldn't have bought it if he knew his view of Catalina was going to be blocked based on an exception to the codes.

Mr. Rosenbaum stated every foot they go back they have to add about a foot of height to the fill they have to put into that driveway. They considered the other side of the property as well, both in terms of the overall height limits for the whole site as well as the steepness of the street, it just functioned much better at the lower end of the property. By keeping the garage at the lower end they are keeping more open space next to their neighbor.

Mr. Pechous explained to the neighbor if the building is pushed one direction or another there are other impacts created visually for people down the canyon. Development by its own nature is going to create visual impact on people's views if the lot is developed to what their development rights allow. This request is not close to what they are allowed in terms of potential of development. This request leaves a significant amount of open space on this property.

Mr. Pechous asked Mr. Jones to review how this request meets the findings for the exception permit. Mr. Jones stated the garage setback and the walls are over 42 inches, this will not interfere with the purpose and intent of the zone or the standards of the zone in which the property is located, the construction of the single family residence is a permitted by right type use, and there are other properties in the neighborhood that benefit from similar garage setbacks.

Mr. Pechous asked what the topographic situation is in order to take advantage of the reduced setback. Mr. Jones stated for the proposed setback there needs to be a minimum of a ten foot grade change within 25 feet of the front property line. This property has a grade drop of ten feet on the right side of the property and 14 feet on the side where the garage is proposed.

Mr. Pechous stated this decision is based on the topography and the nature of this particular lot. He thanked everyone and stated this item is appealable to the City Council and has the potential to be called up by the City Council at their next meeting.

Action: The Zoning Administrator approved Minor Exception Permit 14-362, Richardson Addition, subject to Resolution ZA 15-015 with attached Conditions of Approval.

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

**C. 510 Avenida La Costa – Minor Architectural Permit 14-484/Minor Exception Permit 15-064 – Donello Remodel and Addition (Ciampa)**

A request to consider a remodel and first and second story addition to a legal nonconforming residence. The project also requests a reduction in the required side yard setback for a new second floor deck over the existing garage and an increase in the allowed height of a wall and gate along the front property line. The project site is located at 510 Avenida La Costa in the Residential Low (RL-6) zoning designation, legal description being Lot 27 of Tract 2964, Assessor's Parcel Number 060-191-17.

Associate Planner John Ciampa summarized the staff report.

Project designer Derek Wolf was present and stated the reason for the deck and the continued nonconformity is it is an existing garage, it has a peaked roof, they are flattening that roof to give the neighbor upslope back some of their view; because they are flattening it they are taking advantage of it being a deck.

Mr. Pechous asked what is the rationale for the increase in the height of the walls and fencing; it doesn't seem necessarily required for security. Mr. Wolf responded the homeowners have had their cars broken into, they are constantly clearing beer bottles and all kinds of things out of their yard from the amount of foot traffic that goes through there during the summer months; there is a lot of partying. Mr. Pechous stated if it is only a certain height part of the way, and it is a lower height the rest of the way, where is the added security. Mr. Wolf responded because they are going down slope, that wall becomes a hindrance to climb up it, it gains height by the natural topography. They would like to add a guardrail on top.

Mr. Pechous asked Mr. Ciampa how the City would evaluate a wall with a guardrail on top of it in terms of height. Mr. Ciampa responded if it is required per Building Code then that is something that is a requirement; depending on the height of the guardrail it would need to be an open guardrail. Mr. Ciampa explained the guardrail wasn't part of the proposal, it was a result of staff's recommendation to step the wall instead of having a six foot wall.

Pete Van Nuys was present and stated he has been asked to speak on behalf of some of the residents who were not noticed of this request. There are no fenced driveways in Riviera, this would be the first. Bottles in the yard and cars broken into are part of living in the Riviera; it is a beach street. If we start fencing in our property, creating barricades, the character of this neighborhood will deteriorate rapidly. As more people come in with more money to spend, it will be a real problem to maintain the character of the neighborhood. Housing values are high in the Riviera because it is unique and because the people in the neighborhood over the years have respected the restrictions, the City zoning, and the quality of the neighborhood, which is consistent with Ole Hanson's vision for San Clemente.

Lynn Van Nuys was present and stated their homeowner's association has an architectural committee and her understanding is there's a lot of controversy about this project because there is a 16 foot height limitation. There were calculations made differently, people don't see eye to eye on whether this falls under 16 feet. It is the only two story on that street. Her understanding is that only two of the three people on the committee signed off on the request. There is already a lot of dissention on this property. There is a steep cliff on one side of that street, she would hate to see walls on both sides of the street. She would hate to see a trend set of walls and fences across the front of the property; it is not in character with the neighborhood.

Mr. Pechous stated he is encouraged that the fence will be see through. He is concerned about the height. A 42 inch high gate could be built per code without the exception permit. There is no zoning regulation against fencing the driveway, as long as the fence is placed within the setback.

Mr. Wolf stated they would agree to the 42 inch option. Mr. Pechous directed staff to add a condition of approval stating the fence height cannot be over 42 inches. Mr. Pechous stated he does not see a problem with the request for the deck because the structure is existing.

Mr. Pechous stated this item can be appealed to the City Council and also it could potentially be called up at the next City Council meeting.

Action: The Zoning Administrator approved Minor Architectural Permit 14-484/Minor Exception Permit 15-064, Donello Remodel and Addition, subject to Resolution ZA 15-013 with attached Conditions of Approval with the modification restricting the fence height to no higher than 42 inches, and the gate height to no higher than 42 inches.

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



**D. 2931 Via San Gorgonio – Minor Architectural Permit 15-027 – Pursuit Residence Remodel and Addition (Nicholas)**

A request to consider an addition to a nonconforming structure to allow for a new entry to be added to an existing residence. The addition conforms to all required setbacks, and there will be no modifications to the nonconforming components of the project located in the Residential Low (RL-11) zoning designation at 2931 Via San Gorgonio. The legal description is Lot 66, of Tract 4938, Assessor's Parcel Number 691-241-02.

Associate Planner Sean Nicholas summarized the staff report.

Applicant Bret Pursuit was present and stated the additional square footage will be under the roof the way the eaves hang out. Visually this will not impact any neighbors.

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

Mr. Pechous stated he sees no problems with this request. It is not visible from the street. This is not an uncommon request for this neighborhood.

Mr. Pechous thanked the applicant.

Action: The Zoning Administrator approved Minor Architectural Permit 15-027, Pursuit Residence Remodel and Addition, subject to Resolution ZA 15-016 with attached Conditions of Approval.

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

**E. Marblehead Coastal Residential Planning Area 1 – Amendment to Site Plan Permit 97-16/Amendment to Conditional Use Permit 07-245/Amendment to Minor Exception Permit 07-288 – Marblehead Coastal Recreation Center (Ocean Club) (Nicholas)**

A request to consider a relocation and new architecture for the previously approved Ocean Club. The re-location is to the adjacent Planning Area 1 "Cluster" and the new architecture is consistent with the newly revised residential architecture approved for Marblehead Coastal. The lots are located in the Residential Low Density zoning designation of the Marblehead Coastal Specific Plan. The legal description is Lots 216, 218, 219, and 220, of Tract 8817, Assessor's Parcel Numbers 691-424-74, 691-424-45, 691-424-44, and 691-424-220.

Associate Planner Sean Nicholas stated an issue arose when he was making final preparations for this public hearing. Staff requests the Zoning Administrator continue this item to the April 8 meeting.

The applicant was not present.

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

Action: The Zoning Administrator continued Amendment to Site Plan Permit 97-16/Amendment to Conditional Use Permit 07-245/Amendment to Minor Exception Permit 07-288, Marblehead Coastal Recreation Center (Ocean Club), to the Zoning Administrator meeting of April 8, 2015.

**5. NEW BUSINESS**

None

**6. OLD BUSINESS**

None

**ADJOURNMENT**

The meeting adjourned at 4:10 p.m. to the regular Zoning Administrator meeting to be held on April 8, 2015 at 3:00 p.m., at the Community Development Department, Conference Room A, located at 910 Calle Negocio, Suite 100, San Clemente, California.

Respectfully submitted,

**SAN CLEMENTE ZONING ADMINISTRATOR**

  
Jim Pechous