



AGENDA REPORT

SAN CLEMENTE CITY COUNCIL MEETING
Meeting Date: December 5, 2017

Agenda Item 7-B

Approvals:
City Manager [Signature]
Dept. Head [Signature]
Attorney [Signature]
Finance JV

Department: Community Development Department, Planning Division
Prepared By: Amber Gregg, City Planner

Subject: ***APPEAL 17-280, APPEAL OF THE PLANNING COMMISSION DECISION TO DENY TEMPORARY BANNER PERMIT RENEWAL APPLICATIONS TO EXCEED 120 DAYS.***

Fiscal Impact: Unknown at this time.

Summary: This is an appeal of the Planning Commission decision that affirmed the code requirement that temporary banner signs are not to be displayed longer than 120 days.

Background: The sole issue to be addressed on this appeal is whether the Planning Commission's decision to affirm the Director of Community Development's decision to deny the renewal of the subject temporary banner permit applications, which sought to exceed posting temporary banner permits of 120 days was correct under San Clemente Municipal Code ("SCMC") Section 17.84.030H.

On April 28, 2017, Nancy May on behalf of Villa San Clemente LLC ("Applicant") submitted 18 applications to renew temporary banner permits for the Outlets at San Clemente ("Outlets"), which the City of San Clemente ("City") had issued to certain businesses that are tenants of the Outlets. City staff reviewed the applications, and determined that they did not meet the requirements of the SCMC—the businesses had already been issued temporary banner permits allowing them 120 days of display for the calendar year, and therefore, met the 120-day display limit. Thus, the Director of Community Development could not approve the renewal applications.

The Applicant appealed this decision to the Planning Commission, and on October 18, 2017, the Planning Commission heard the appeal and upheld the decision to deny the renewal applications based on the provisions of the Municipal Code. The Applicant now appeals the Planning Commission's decision.

Discussion: **APPLICABLE MUNICIPAL CODE PROVISIONS**

SCMC Section 17.84.030H states the following for temporary banner signs:

Temporary Banner Signs. Temporary Banner Signs shall be allowed for businesses city-wide, excluding home-occupations.

1. Temporary Banner Sign Criteria.
 - a. Each business shall be permitted a maximum of one temporary banner sign per business at any given time.

- b. The temporary banner sign cannot exceed 64 square feet. A temporary banner sign will not count towards a business's total sign area allowance.
- c. The temporary banner sign shall be placed on-site and flush on the building. These banners are prohibited in the following locations: city right-of-way, free-standing walls, fences or other areas or fixtures not part of the business's primary structure; other locations as determined by the City Planner to be inconsistent with the intent of this section. No portion of the temporary banner sign shall be free-hanging and all corners of the banner shall be secured to the building.
- d. Temporary banner signs shall be constructed of cloth, canvas, fabric, plastic or other similar durable material.
- e. The temporary banner sign shall be maintained in good condition, free of any defects, including cracking, torn or ripped material, or faded copy.
- f. Each business may have up to four banner permits per calendar year. Renewals of banner permits are allowed, but in no case shall a business display a temporary banner for more than 120 days per calendar year. A minimum of 14 days between permits is required, except upon renewal of an existing banner permit. Banners may be replaced during the authorized period so long as they are the same or smaller size and installed in the approved location. These provisions are to ensure temporary banner signs are not used as permanent display or in-lieu of permanent signs for the business.

(Emphasis added.)

PLANNING COMMISSION DECISION

On October 18, 2017, the Planning Commission heard the Applicant's appeal and upheld the Community Development Director's interpretation of the subject provisions of the SCMC. The Planning Commission also noted that the Municipal Code clearly states that "in no case shall a business display a temporary banner for more than 120 days per calendar year" and renewal of the permits would violate that requirement.

APPEAL

October 26, 2017, the Applicant, by and through Nancy May, on behalf of Craig Reality Group, submitted an appeal stating the following: "Appeal of the Planning Commission decision upholding the City Planning Department's August 15, 2017 denial of 18 temporary on-site banner sign permit applications that were submitted for approval on April 28, 2017. This decision was in error for reasons stated in the Notice of Appeal to the Planning Commission and its attachments and exhibits which are incorporated herein by this reference, as well as the memo provided to the Planning Commission prior to the hearing, attached to the Notice as Exhibit 1." The complete appeal the Applicant submitted is provided under Attachment 3.

The only issue the City Council is reviewing is whether the denial of permitting banners to be displayed longer than 120 days was correct under the City's Municipal Code.

Although Applicant's appeal attempts to raise various extraneous issues with the City's denial, each of these other issues are outside the scope of this appeal. Under SCMC Section 17.12.140 E, the scope of this review considers the "issues raised on appeal," and the body hearing the appeal may "review new evidence and ... consider all elements of the appealed action." Here, the issue raised on appeal is the City's denial to renew the subject temporary banner permit applications. The elements of the appealed action are: the City's interpretation of the relevant Municipal Code provisions and its application of those Municipal Code provisions to the subject temporary banner permit renewal applications in denying them. The other issues raised fall far outside this scope. Nonetheless, should the City Council be concerned about these other arguments and their impact on this appeal, the City addresses them briefly under Attachment 7.

ANALYSIS OF KEY ISSUE ON APPEAL

As stated above under SCMC Section 17.84.030H(1)(f) on temporary banner signs, each business may have up to four temporary banner permits per calendar year. Renewals of temporary banner permits are allowed, but in no case shall a business display a temporary banner for more than 120 days per calendar year. This means that every January 1st the ability to apply for four, 30-day temporary banners restarts.

Prior to the subject applications, the Applicant previously applied and received approval for the existing 18 temporary banners for the following time periods:

1. August 2016-December 2016 (four, 30-day permits for 2016)
2. January 2017-April 2017 (four, 30-day permits for 2017)

The Applicant capped out on the 120-day allowance for temporary banners this year, and is not entitled to renew its temporary banner permits under the provisions of the SCMC.

Nonetheless, on April 28, 2017, the Applicant submitted to the City a letter stating that the temporary banner permits should not be held to the 120-day limit. This letter is provided in Exhibit 3 of the Applicant's appeal, which is provided under Attachment 6. In that letter, the Applicant argues that it should be permitted to post its temporary signage over the maximum time limit since it does not attempt to violate the City's Zoning Ordinance provision that states that "[t]hese provisions are to ensure temporary banner signs are not used as permanent display or in-lieu of permanent signs for the business" (since it awaits final review of its permanent signage). However, the Applicant ignores SCMC Section 17.84.030H(1)(f)'s key provision expressly forbidding violating the 120-day limit: "Each business may have up to four banner permits per calendar year. Renewals of banner permits are allowed, but in no case shall a business display a temporary banner for more than 120 days per calendar year." (Emphasis added.)

The Applicant cannot be permitted to violate the SCMC, and the City's decision to ensure no such violation was proper. Based on SCMC Section 17.84.030H(1)(f), City staff and the Community Development Director could not approve the submitted renewal applications because the businesses had already been approved to display

temporary banners for 120 days in the 2017 calendar year. The Applicant can apply for temporary banner permits again on January 1, 2018.

ENVIRONMENTAL REVIEW

The proposed appeal is not categorized as a project under CEQA and therefore is not subject to environmental review.

Recommended

Action: PLANNING COMMISSION RECOMMENDS THAT the City Council adopt a resolution denying the appeal to permit temporary banners to be displayed longer than 120 days as required by the SCMC.

Attachments:

1. Proposed City Council Resolution
2. Location Map
3. Applicant's Notice of Appeal and Exhibits appealing Planning Commission's Decision
4. Planning Commission Staff Report and Resolution, October 18, 2017
5. Planning Commission Minutes, October 18, 2017
6. Applicant's Notice of Appeal and Exhibits appealing Community Development Director's Decision
7. City's Responses to Applicant's Other Extraneous Arguments
8. Photographs

Notification: Notification was published in the local newspaper, the Sun Post; and all property owners within 300 feet of the subject property were notified.

ATTACHMENT 1

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, DENYING APPEAL 17-280, APPEAL OF DENIAL OF TEMPORARY BANNER PERMIT RENEWAL APPLICATIONS FOR OUTLETS AT SAN CLEMENTE LOCATED AT 101 WEST AVENIDA VISTA HERMOSA

WHEREAS, on April 28, 2017, Nancy May on behalf of Villa San Clemente LLC ("Applicant"), of 101 West Avenida Vista Hermosa, San Clemente, CA 92672, submitted 18 applications requesting temporary banner permits for 18 businesses to place banners on various buildings at the Outlets of San Clemente, which is located in the Commercial land use designation of the Marblehead Coastal Specific at 101 West Avenida Vista Hermosa. The site's legal description is Tract 8817, Lot 327, and Assessor's Parcel Number (APN) 691-442-13; and

WHEREAS, on or about April 28, 2017, the Applicant also submitted a letter accompanying the applications requesting the renewal of the 18 temporary banner sign permits; and

WHEREAS, staff reviewed the applications for new permits and could not approve the permits because they did not comply with San Clemente Municipal Code ("SCMC") Section 17.84.090H. 1.c.—none of the businesses that applied for the banners were located in the same building or structure on which the banners were to be placed; and

WHEREAS, on May 8, 2017, Applicant, by and through Nancy May on behalf of Craig Reality Group, Manager of the Applicant, submitted a notice of appeal to have the matter heard by the Planning Commission stating "Appeal of denial of 12 temporary on-site banner sign permit applications and rescission of 6 temporary on-site banner sign permits for businesses at Outlets of San Clemente based upon improper denial of permit applications, abuse of discretion, selective enforcement, and other grounds. Provisional appeal of additional 18 renewal permit applications taken under advisement by Staff, submitted to the City on or About April 28, 2017." ("Appeal 17-194"); and

WHEREAS, on June 21, 2017, the Planning Commission held a duly noticed public hearing on the applications, and considered evidence presented by City staff, the Applicant, and other interested parties and found that the Community Development Director interpreted the Municipal Code correctly and that temporary banner signs are to be placed on the primary structure (primary building), interpreted a primary building as a contiguous building sharing a common roof and common walls, and directed staff to review the applications based on this interpretation; and

WHEREAS, based on the Planning Commission's interpretation, staff determined that six of the eighteen Temporary Banner Permits applied for could be supported and issued permits accordingly; and

WHEREAS, the Applicant appealed the Planning Commission decision to the City Council, and on August 15, 2017, the City Council held a duly noticed public hearing on the subject applications, and considered evidence presented by City staff, the Applicant, and other interested parties and the City Council denied the appeal finding that the Planning Commission's interpretation of SCMC Section 17.84.030H.1.c. was correct; and

WHEREAS, on August 15, 2017, the City denied the Applicant's application to renew the temporary banner sign permits; and

WHEREAS, on August 24, 2017, Applicant, by and through Nancy May on behalf of Craig Reality Group, Manager of the Applicant, submitted a notice of appeal stating "Appeal of the City's August 15, 2017 denial of 18 temporary on-site banner sign applications submitted by Applicant on April 28, 2017, for renewal of existing signs after the City improperly denied Applicant's 18 new sign applications based on the City's incorrect reading of its own Ordinance. This denial is being appealed because the City's actions are patently and fundamentally unfair, and violate Applicant's First Amendment rights to free speech by preventing Applicant from posting temporary signs advertising its tenants' business while the City delays Applicants permanent sign applications." ("Appeal 17-280"); and

WHEREAS, Appeal 17-280 is not categorized as a project under California Environmental Quality Act ("CEQA") and therefore is not subject to environmental review; and

WHEREAS, on October 18, 2017, the Planning Commission of the City of San Clemente held a duly noticed public hearing on Appeal 17-280, considered written and oral comments, and facts and evidence presented by the Applicant, City staff, and other interested parties and denied the Applicant's appeal and affirmed the Community Development Director's decision to not renew the previously approved permits as doing so would have violated SCMC Section 17.84.030H,1,f which clearly states that "Renewals of banner permits are allowed, but in no case shall a business display a temporary banner for more than 120 days per calendar year"; and

WHEREAS, on October 26, 2017, Applicant, by and through Nancy May on behalf of Craig Reality Group, Manager of the Applicant, submitted a notice of appeal stating "Appeal of Planning Commission decision upholding the City Planning Department's August 15, 2017 denial of 18 temporary on-site banner sign permit applications that were submitted for approval on April 28, 2017. This decision was in error for the reasons stated in the Notice of Appeal to the Planning Commission and its attachments and exhibits, which are incorporated herein by reference, as well as the memo provided to the Planning Commission prior to the hearing, attached hereto as Exhibit 1"; and

WHEREAS, On December 5, 2017, the City Council of the City of San Clemente held a duly noticed public hearing on Appeal 17-280, considered written and oral comments, and facts and evidence presented by the Applicant, City staff, and other interested parties.

NOW, THEREFORE, The City Council of the City of San Clemente does hereby resolve as follows:

Section 1. Incorporation of Recitals.

The City Council hereby finds that all of the facts in the Recitals are true and correct and are incorporated and adopted as findings of the City Council as fully set forth in this resolution.

Section 1. CEQA Findings.

The proposed appeal is not categorized as a project under CEQA and therefore is not subject to environmental review.

Section 3. Appeal Findings

With respect to Appeal 17-280, the City Council finds as follows:

1. SCMC Section 17.84.030H.1.f. requires the following for temporary banner signs:

“Each business may have up to four banner permits per calendar year. Renewals of banner permits are allowed, but in no case shall a business display a temporary banner for more than 120 days per calendar year. A minimum of 14 days between permits is required, except upon renewal of an existing banner permit. Banners may be replaced during the authorized period so long as they are the same or smaller size and installed in the approved location. These provisions are to ensure temporary banner signs are not used as permanent display or in-lieu of permanent signs for the business.”

Applications for temporary banner sign permit renewals that do not meet the criteria of this Section cannot be approved.

2. Under SCMC Section 17.84.030H.1.f on temporary banner signs, each business may have up to four banner permits per calendar year. Renewals of banner permits are allowed, but in no case shall a business display a temporary banner for more than 120 days per calendar year. This means that every January 1st the ability to apply for four, 30-day temporary banners restarts.

Prior to the subject application for the renewal of temporary banner permits, the Applicant previously applied and received permits for the existing 18 temporary banner signs for the following time periods:

- August 2016-December 2016 (four, 30-day permits for 2016)
- January 2017-April 2017 (four, 30-day permits for 2017)

Thus, the Applicant capped out on the 120-day allowance this year for temporary banner signs under SCMC Section 17.84.030H.1.f. It was proper

that the City denied Applicant's application to renew the subject temporary banner sign permits.

3. The remaining issues submitted in Appeal 17-280 are outside of the scope of this appeal and are not under the purview of this reviewing body.

Section 3. City Council Decision

Based on the foregoing recitals and findings above, and the written and oral comments, facts, and evidence presented, the City of San Clemente City Council denies Appeal 17-280, Appeal of Denial of the Renewal of Temporary Banner Permit Applications for the Outlets at San Clemente.

APPROVED, ADOPTED and SIGNED this _____ day of _____, 2017.

ATTEST:

City Clerk of the City of
San Clemente, California

Mayor of the City of San
Clemente, California

STATE OF CALIFORNIA)
 COUNTY OF ORANGE) §
 CITY OF SAN CLEMENTE)

I, JOANNE BAADE, City Clerk of the City of San Clemente, California, do hereby certify that Resolution No. _____ was adopted at a regular meeting of the City Council of the City of San Clemente held on the _____ day of _____, by the following vote:

AYES:

NOES:

ABSENT:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of San Clemente, California, this _____ day of _____, 2017.

 CITY CLERK of the City of
 San Clemente, California

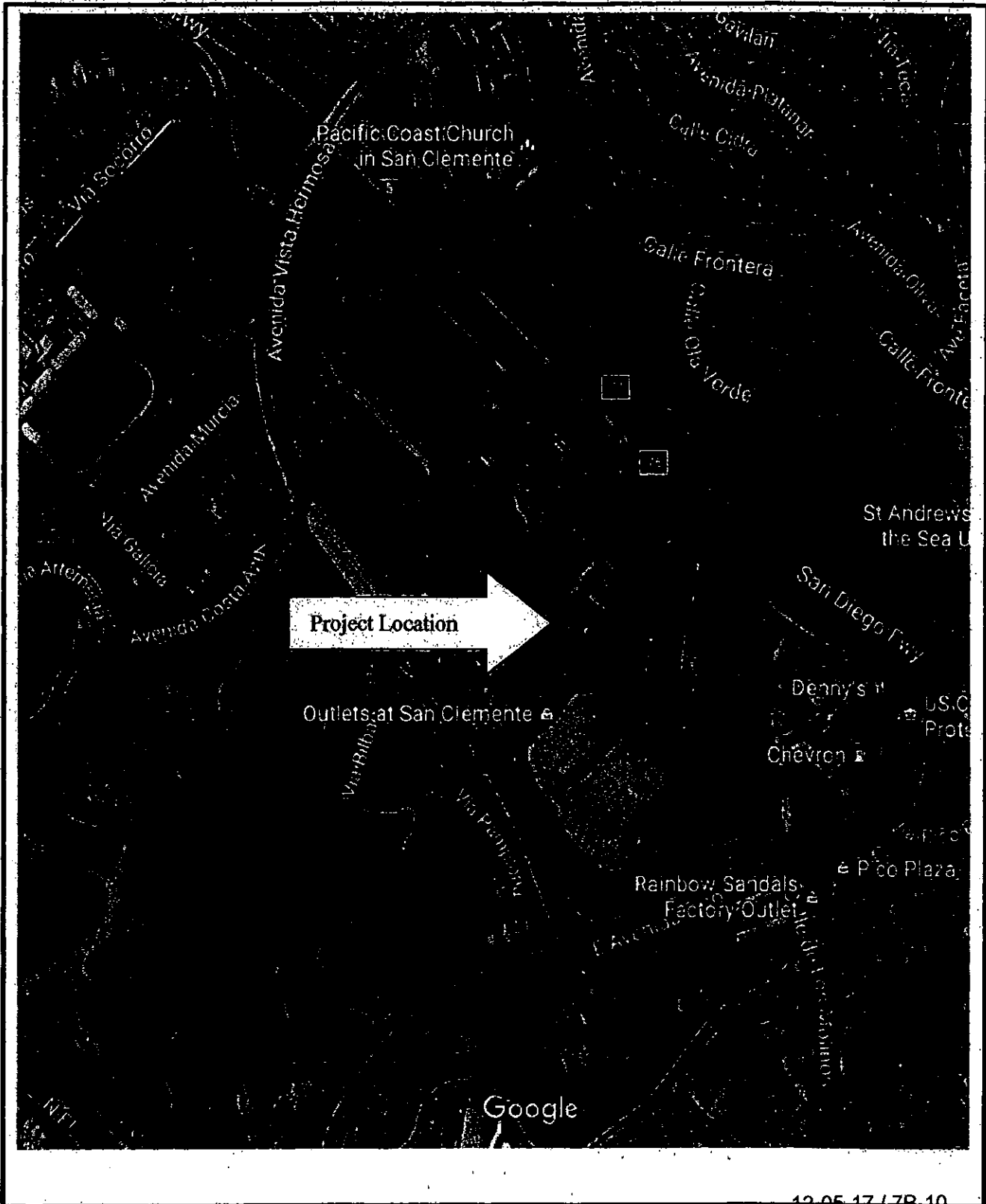
APPROVED AS TO FORM:

 City Attorney



LOCATION MAP

Marblehead Outlets Development
101 Avenida Vista Hermosa





City of San Clemente

RECEIVED
OCT 31 2017
SAN CLEMENTE
PLANNING DIVISION

NOTICE OF APPEAL CITY OF SAN CLEMENTE

Appellant's Name: Villa San Clemente LLC, by and Through Nancy May, on behalf of
Craig Realty Group, Manager of Villa San Clemente LLC.

Appellant's Address: Craig Realty Group
4100 MacArthur Blvd., Suite 100
Newport Beach, CA 92660

Appellant's Phone Number: 949-224-4168

Decision Being Appealed: Appeal of Denial of 18 Temporary On-Site Banner Permit
Applications

Decision Made By: Planning Commission

Date of Decision: October 18, 2017

State basis for the appeal. (Note: only grounds for appeal noted here will be permitted to be raised before the appellate body. Failure to state grounds for appeal will waive the Appellant's ability to raise that issue at the appellate hearing.)

Appeal of Planning Commission decision upholding the City Planning Department's August 15, 2017 denial of 18 temporary on-site banner sign permit applications that were submitted for approval on April 28, 2017. This decision was in error for the reasons stated in the Notice of Appeal to the Planning Commission and its attachments and exhibits, which are incorporated herein by this reference, as well as the memo provided to the Planning Commission prior to the hearing, attached hereto as **Exhibit 1**.

Appellant's signature: 

SPACH, CAPALDI & WAGGAMAN, LLP
Attorneys for Appellant Villa San Clemente, LLC

Exhibit 1

SPACH, CAPALDI & WAGGAMAN, LLP

ATTORNEYS AT LAW
4675 MACARTHUR COURT
SUITE 550

NEWPORT BEACH, CALIFORNIA 92660

PHONE: (949) 852-0710

FACSIMILE: (949) 852-0714

WEBSITE: WWW.SCWLAW.US

October 18, 2017

SENT VIA EMAIL AND U.S. MAIL

City of San Clemente
Community Development Dep't, Planning Division
Attn.: Planning Commission
City of San Clemente
910 Calle Negocio, Suite 100
San Clemente, CA 92673

Re: Hearing Brief of Villa San Clemente, LLC for October 18, 2017
Planning Commission Hearings Regarding the City's Improper Denial
of VSC's April 28, 2017 Temporary On-Site Banner Sign Permit
Applications

Dear Planning Commission:

Villa San Clemente, LLC ("VSC"), submits the following in support of its appeal that is the subject of Item 8.C. of the calendar for the October 18, 2017 Planning Commission Meeting, regarding the City's improper denial of VSC's April 28, 2017 Temporary On-Site Banner Sign Permit Applications.

It should be noted that the temporary banners at issue are not advertising some "special event" or "sale" by VSC or any of their tenants. The banners are not "billboards" being rented out by VSC to display commercial advertising regarding some product or company that is not located at the Outlets of San Clemente shopping mall. The banners at issue here are temporary *on-site signs* posted on the Outlets' freeway-facing walls intended merely to advertise the presence of businesses at the shopping mall. They are temporary signs only because the City has not completed its review of VSC's *permanent sign permit* application, SEP 15-428, that was submitted to the City in April 2016. Until the permanent signs are approved, VSC and its tenants have no freeway-oriented signage without the use of these temporary banners.

In practical terms, a lack of freeway-oriented signage for the business at Outlets means less revenue to VSC and its tenants, and less tax revenue to the City.

According to the City's August 15, 2017 letter denying VSC's April 28, 2017 temporary on-site banner sign permit applications, they were denied for a single reason: the applicants already had permits for 120 days and so did not qualify for additional permits for these signs. This denial should be overturned for the following reasons:

- The 120-day limit for temporary signs and banners in Section 17.84.030(H) is unconstitutional because it is an impermissible restraint on free speech that serves no significant governmental purpose;
- The City Council had previously determined that the limit for temporary on-site banner permits should be extended, and the temporary signs allowed to be used in lieu of permanent signs, when a permanent sign application had been submitted and was pending;
- The City's denial of VSC's temporary on-site banner sign permit applications should be overturned because the City violated VSC's constitutional rights by impermissibly delaying processing VSC's permit applications **for nearly four months**; and
- The City is estopped from denying VSC's temporary on-site permit applications because the City allows **itself** to post temporary on-site banner signs illegally, including allowing its signs to remain posted more than 120 days in a calendar year.

For these reasons, as discussed in detail below, the City's denial of VSC's April 28, 2017 temporary on-site banner sign permit applications should be overturned and the City should be directed to issue new permits for VSC's temporary signs.

A. The City's Denial of VSC's Permit Applications Should Be Overturned Because The 120-Day Limit in Section 17.84.030(H) Is Unconstitutional

Section 17.84.030(H) must be dismissed because, on its face, Section 17.84.030(H) is constitutionally invalid under the First Amendment to the United States Constitution since its 120-day limit for banner signs is an impermissible restraint on free speech.

As the United States Supreme Court stated in *FW/PBS, Inc. v. City of Dallas* (1990) 493 U.S. 215, 225-226, two evils of licensing schemes involving prior restraint that cannot be tolerated are (1) a scheme that places "unbridled discretion in the hands of a government official or agency," which constitutes a prior restraint and may result in censorship, and (2) "a prior restraint that fails to place limits on the time within which the decisionmaker must issue the license...." In *Riley v. National Federation of Blind of N.C., Inc.* (1988) 487 U.S. 781, 802, the Court held that a licensing scheme failing to provide for definite limitations on the time within which the licensor must issue the license was constitutionally unsound, because the "delay compel[ed] the speaker's silence."

Both of these "evils" are present here, where the City has granted itself unbridled discretion to approve or disapprove VSC's permanent and temporary sign permit applications, and does not have any time limit within which it must issue the permit.

As the Supreme Court further stated in *FW/PBS*, 493 U.S. at 228:

The core policy underlying *Freedman* is that the license for a First Amendment-protected business must be issued within a reasonable period of time, because undue delay results in the unconstitutional suppression of protected speech. Thus, the first two safeguards are essential: the licensor must make the decision whether to issue the license within a specified and reasonable time period during which the status quo is maintained, and there must be the possibility of prompt judicial review in the event that the license is erroneously denied. See *Freedman, supra*, at 51, 85 S.Ct., at 734. See also *Shuttlesworth*, 394 U.S., at 155, n. 4, 89 S.Ct., at 941, n. 4 (content-neutral time, place, and manner regulation must provide for "expeditious judicial review"); *National Socialist Party of America v. Skokie*, 432 U.S. 43, 97 S.Ct. 2205, 53 L.Ed.2d 96 (1977). [Emphasis added.]

As the U.S. Supreme Court further stated in *Ward v. Rock Against Racism* (1989) 491 U.S. 781, 791:

Our cases make clear, however, that even in a public forum the government may impose reasonable restrictions on the time, place, or manner of protected speech, provided the restrictions "are justified without reference to the content of the regulated speech, that they are narrowly tailored to serve a significant governmental interest, and that they leave open ample alternative channels for communication of the information." [Citations omitted; Emphasis added.]

Section 17.84.030(H), on its face, is not a reasonable restriction on time, place and manner. It regulates free speech, and it is not "without reference to the content of the regulated speech"; it regulates *commercial* speech only, and only a particular type of commercial speech: businesses' *on-site* signs to advertise their services and products. Clearly, Section 17.84.030(H) is *not* content neutral, and so violates the protections required under the First Amendment. Further, by requiring a fee to obtain a temporary permit, Section 17.84.030(H) requires a business to pay a fee to be able to speak, which is a further impermissible restraint on speech.

The provisions of Section 17.84.030(H) limiting each sign to a maximum of 120 days per calendar year is constitutionally invalid because it is not narrowly tailored to serve a significant governmental interest. While the City might claim it is regulating "aesthetics," or to prevent the use of temporary signs in lieu of permanent signs, it is not narrowly tailored to serve that interest. In fact, it does not serve those interests at all.

For example, by posting signs from September through December of one year, and then January through April of the following year, a business can post its signs for 240 days in a row, uninterrupted. Or, to use another example, if there is a strip mall with three tenants, each tenant can post a sign for four months per year. If they trade off on posting the same sign, they can post that same sign year-round without violating the ordinance. Thus, the 120-day limit does not serve any governmental interest.

Moreover, no case has held that any restriction on speech that limits the speaker to a particular number of days in a year is a valid time, place or manner restriction. The City certainly cannot limit a newspaper to the number of days it can "speak" per year; it also cannot limit the number of days a church can operate per year. It is no different here: the City cannot limit the signs advertising VSC's businesses to only 120 days in a year.

Since there is no legitimate basis for limiting the display of the signs to 120 days per calendar year, Section 17.84.030(H) is unenforceable because it violates the constitutional right to free-speech rights of VSC and its tenants and, therefore, the City's denial of VSC's April 28, 2017 permit applications on the grounds that the applicants had already had signs for 120 days must be overturned and the City ordered to issue permits to VSC and its tenants for their temporary signs.

B. The City's Denial of VSC's Permit Applications Should Be Overturned Because The City Violated the City Council's 1991 Directive to Allow Temporary Permits In Lieu of Permanent Signs if a Permanent Sign Application was Pending

Another reason the City's denial of VSC's temporary on-site banner sign permit applications should be overturned is because the City violated a directive from the City Council, issued in 1991, that directed the City to allow temporary signs in lieu of permanent signs when permanent sign applications submitted by the applicant were pending and not yet granted by the City.

At the October 2, 1991 City Council Meeting, the City Council by Motion, on a vote of 5-0, expressly directed the City Planner and his/her designees to utilize specified criteria for issuing and enforcing temporary banner signs until the Ordinance was amended to incorporate those provisions. The Minutes from that meeting, Page 24, Item 4L, paragraph 1, state the following:

Temporary banner signs shall be limited ... unless extended by the City Planner or his/her designee in lieu of permanent signage. Extensions in lieu of permanent signage may only be granted in cases where a complete permanent signage application has been filed with the City. [Emphasis added.]

Paragraph 2 of Page 24, Item 4L, expressly directed the Planning Division "to utilize the above criteria in issuing and enforcing temporary banner sign until the appropriate amendments to the City Code are processed [emphasis added]." A true and correct copy of Page 24 of the October 2, 1991 City Council Meeting Minutes is attached hereto as Exhibit 1. However, the Planning Division failed and refused to follow the City Council's express directive and never incorporated this criteria into the City Code.

Because the Planning Division failed to make "the appropriate amendments to the City Code," as it was expressly directed to do by the City Council, amendments which would have protected the First Amendment rights of applicants such as VSC and its tenants, the Planning Division left in place, and is bound by, the criteria directed by the City Council until such time that the Planning Division complies with the City Council's directive and amends the City Code to incorporate the specified criteria.

Currently, VSC's permanent sign application SEP 15-428, submitted to the City in April of 2016, is still pending, *nearly 18 months after it was submitted to the City for approval.*

Because (1) the City Council expressly directed the Planning Division to allow temporary on-site banner sign permits beyond the limits in Section 17.84.030(H), and in lieu of permanent signs when permanent sign applications are pending, and (2) VSC has a permanent sign permit application (SEP 15-428) that was deemed complete in June of 2016, and which has been pending at the City for over 18 months now, the City should have granted VSC's April 28, 2017 temporary on-site banner sign permit applications to renew its temporary sign permits until the permanent signs are approved and completed.

Therefore, the City's denial of the permit applications should be overturned.

C. The City's Denial of VSC's Permit Applications Should Be Overturned Because the City Violated VSC's Constitutional Rights By Waiting Nearly 4 Months to Process the Applications

Despite the City Council's assurances to VSC during the development process that it would not be precluded from utilizing freeway-oriented signs, an assurance that VSC relied on in part to fund millions of dollars in infrastructure improvements, the City has refused to continue issuing temporary sign permits to allow VSC to use its temporary signs while the permanent sign permit application is pending, and has cited and fined VSC and its tenants repeatedly when they attempt to exercise their free speech rights. Such conduct by the City is simply not allowed under the United States Constitution. (*FW/PBS*, 493 U.S. at 228.) Cities cannot simply choose to silence businesses and prevent them from reasonable advertising for their businesses.

Further, even though City Staff has admitted the temporary on-site banner sign permit applications are "ministerial" in nature, which means as a matter of law they should have simply been approved upon submittal of the application and payment of the fee¹, the City's Municipal Code has no time limits by which the City must process these applications, allowing the City unbridled discretion to delay processing VSC's temporary

¹ *Findleton v. Board of Supervisors* (1993) 12 Cal.App.4th 709, 713 (1993) ("[W]here the law prescribes and defines the duties to be performed ... with such precision and certainty as to leave nothing to the exercise of discretion or judgment, the act is ministerial."), quoting 52 Cal.Jur.3d, Public Officers, § 170, p. 333, fns. omitted.

Letter to Planning Commission
Appeal of Denial of April 28, 2017 Banner Sign Permit Applications
October 18, 2017
Page 6

on-site banner sign permit applications, as it has done here, waiting nearly four months before denying VSC's permit applications. On top of this, the Municipal Code contains no provision that maintains the status quo while permit applications or appeals are pending.

The City has used the lack of time limits to intentionally delay consideration of VSC's permit applications, and its citation appeals, to further its own purposes, and has used the lack of any provision requiring it to maintain the status quo to repeatedly issue citations specifically intended to coerce VSC's and its tenants' silence before a court can review its actions. Both Mr. Atamian and Mr. Silver admitted at the August 30, 2017 hearing that the purpose of the repeated fines imposed by the City was to force VSC to remove its temporary signs, thereby silencing VSC and its tenants by eliminating all of their freeway-oriented advertising for their businesses at Outlets of San Clemente shopping center.

The City delayed the initial denial of VSC's April 20, 2017 *ministerial* permit applications, which should have been issued the same day, before denying them on April 26, 2017. During the time those permit applications were pending, the City conducted extensive review of VSC's permit applications, even having the City's outside counsel review the temporary on-site banner sign applications. No such review is called for by the Municipal Code, such that the City granted itself unbridled discretion to delay the issuance of the permits, and to submit them to further review it does not subject other applications to. Ultimately, the City denied VSC's April 20, 2017 permit applications that should have been issued immediately upon the submittal of the applications and the payment of the illegal \$12.00 permit fees.

When VSC submitted *new* permit applications on April 28, 2017 on behalf of the tenants who held the prior permits, the permit applications at issue here, the City again delayed issuance of the permits, this time waiting until August 15, 2017, to finally deny the applications, and leaving VSC no approved freeway-facing signage to advertise its, and its tenants', businesses. This delay also interfered with VSC's constitutional right to an expeditious judicial review of the City's denial of its signs. (See *FW/PBS*, 493 U.S. at 228.)

Moreover, despite the sign applications being submitted on April 28, 2017, VSC is only now being provided with its first appeal hearing, nearly six months after the applications were submitted; if its appeal is denied by this Planning Commission, it is likely to be several months before VSC can obtain a final judicial review of the City's actions. Such a delay is clearly unconstitutional and is a violation of VSC's and its tenants' constitutional rights under the First Amendment of the United States Constitution to an expeditious review of the City's denial of its permit applications. (*FW/PBS*, 493 U.S. at 228.)

It was while the April 28, 2017 permits were pending that the City began its campaign of repeated citations and fines against VSC and its tenants in an effort to force them to remove *all* of their freeway-oriented temporary signs, a clear, brazen, and

unapologetic attempt to improperly use the City's police powers to silence VSC's and its tenants' free speech.

It should be noted that the City *still* is not prepared to process VSC's permanent sign application SEP 15-428, with the latest schedule from the City indicating it will not complete its environmental review of SEP 15-428 until February of next year, *nearly two years* after it was submitted to the City by VSC, and another five months from now.

Thus, the City continues to knowingly and maliciously trample on the free speech rights of VSC and its tenants that are guaranteed under the First Amendment to the United States Constitution.

In contrast to the City's treatment of VSC here through its delays and repeated citations and fines, VSC learned on September 23, 2017, as a result of a California Public Records Act request, that on April 11, 2017, the City itself applied for a single temporary on-site banner sign permit to advertise a Farmer's Market at the ECR lot in San Clemente, an application that was approved by the City on the very same day, April 11, 2017. The permit simply states: Issued 4/11/17 - Date Expires: 7/11/17.

On the face of the City's permit application, the City stated that the sign was to be posted "*on fences*" at the "ECR" lot, even though fences are one of the expressly prohibited locations for temporary on-site banner signs under Section 17.84.030(H)(1)(c).

Whereas VSC's applications were delayed and subjected to further review before being denied, the City's own application was granted over-the-counter, the same day they were submitted for approval, with no additional review. It was approved even though it stated unequivocally that the sign was to be posted in a location expressly prohibited by Section 17.84.030(H)(1)(c).

Astoundingly, while the City only applied for one temporary banner sign on the ECR Lot, the City viewed the one application and permit as sufficient for the City to install and maintain *three* signs on the fences at the ECR Lot site. All three banners the City posted advertised the same business (the weekly farmers market). Under Section 17.84.030(H)(1)(a), only one temporary on-site banner sign is allowed per business and per permit, such that two of the City's signs were in violation of the Municipal Code because they did not have permits for those signs and they advertised the same business.

To make matters worse, invoices for the City's purchase of the signs demonstrate that at least one of the City's temporary signs was 72 square feet in size, more than the maximum allowable square footage of 64 square feet under Section 17.84.030(H)(1)(b). The City also allowed its signs to be posted beyond the maximum 120 days, and only removed its illegal signs once VSC raised the issue to the City.

Letter to Planning Commission
Appeal of Denial of April 28, 2017 Banner Sign Permit Applications
October 18, 2017
Page 8

It should also be noted that the City has allowed numerous banners to be posted at the High School, on fences, year-round, by a private charity that is not exempted from the City's Ordinance.

Thus, although the City has denied VSC's permit applications, and purports to issue fines and citations to VSC for displaying signs without a permit, the City feels free to post its own signs illegally, without having permits, and in prohibited locations, and allows them to be displayed beyond the permit expiration date. The City engages in this conduct without repercussion and in violation of Sections 17.84.030(H)(1)(a)-(c) of its Municipal Code, while at the same time denying VSC's permit applications and then taking aggressive and repeated enforcement action against VSC and its tenants for alleged violations of the same Municipal Code provisions that the City itself feels free to ignore.

As the foregoing demonstrates, the City's own actions contradict the positions that the City has taken here with regard to VSC's temporary on-site banner signs and, for this additional reason, the City should be estopped from denying VSC's permit applications and its denial of VSC's April 28, 2017 permit applications should be overturned.

Nothing in the above is intended to in any manner waive VSC's or their tenants' rights, all of which are expressly reserved.

Very truly yours,

/s/ Thomas E. Walling

THOMAS E. WALLING

Enclosures

cc: Client

Mr. Alan R. Burns, Esq., Harper & Burns LLP (via email)



STAFF REPORT SAN CLEMENTE PLANNING COMMISSION

Meeting Date: October 18, 2017

PLANNER: Amber Gregg, City Planner *AG*

SUBJECT: Temporary Banner Permit 17-280, Appeal of Denial of Temporary Banner Permit Applications for the Marblehead Outlets

BACKGROUND

The sole issue to be addressed on this appeal is whether the Director of Community Development's decision to deny renewal for the subject temporary banner permit applications to exceed 120 days was correct under San Clemente's Municipal Code Section 17.84.030H.

On April 28, 2017, Nancy May on behalf of Villa San Clemente LLC ("Applicant") submitted 18 applications to renew temporary banner permits for the San Clemente Outlets ("Outlets"), which had been issued to certain businesses that are tenants of the Outlets. Staff reviewed the applications, and they did not meet the requirements of the Municipal Code—the businesses had already been issued Temporary Banner permit applications allowing them 120 days of display for the calendar year, and therefore, they could not be approved. The Applicant is appealing this decision. Per the Municipal Code, decisions by the City Planner or Community Development Director can be appealed to the Planning Commission, which is why this appeal is before you.

San Clemente Municipal Code ("SCMC") Section 17.84.030H states the following for temporary banner signs:

Temporary Banner Signs. Temporary Banner Signs shall be allowed for businesses city-wide, excluding home-occupations.

1. Temporary Banner Sign Criteria.

- a. Each business shall be permitted a maximum of one temporary banner sign per business at any given time.
- b. The temporary banner sign cannot exceed 64 square feet. A temporary banner sign will not count towards a business's total sign area allowance.
- c. The temporary banner sign shall be placed on-site and flush on the building. These banners are prohibited in the following locations: city right-of-way, free-standing walls, fences or other areas or fixtures not part of the business's primary structure; other locations as determined by the City Planner to be inconsistent with the intent of this section. No portion of the

temporary banner sign shall be free-hanging and all corners of the banner shall be secured to the building.

- d. Temporary banner signs shall be constructed of cloth, canvas, fabric, plastic or other similar durable material.
- e. The temporary banner sign shall be maintained in good condition, free of any defects, including cracking, torn or ripped material, or faded copy.
- f. Each business may have up to four banner permits per calendar year. Renewals of banner permits are allowed, but in no case shall a business display a temporary banner for more than 120 days per calendar year. A minimum of 14 days between permits is required, except upon renewal of an existing banner permit. Banners may be replaced during the authorized period so long as they are the same or smaller size and installed in the approved location. These provisions are to ensure temporary banner signs are not used as permanent display or in-lieu of permanent signs for the business.

(Emphasis added.)

APPEAL

On August 24, 2017, the applicant Villa San Clemente LLC, by and through Nancy May, on behalf of Craig Reality Group submitted an appeal stating the following, "Appeal of the City's August 15, 2017 denial of 18 temporary on-site banner sign applications submitted by Applicant on April 28, 2017, for renewal of existing signs after the City improperly denied Applicant's 18 new sign applications based on the City's incorrect reading of its own Ordinance. This denial is being appealed because the City's actions are patently and fundamentally unfair, and violate Applicant's First Amendment rights to free speech by preventing Applicant from posting temporary signs advertising its tenants' business while the City delays Applicants permanent sign applications." The complete appeal the Applicant filed is provided under Attachment 3.

Although the appeal attempts to raise various issues with the City's denial, the only issue the Planning Commission is reviewing is whether the denial of permitting banners to be displayed longer than 120 days was correct under the City's Municipal Code.

Each of the other issues the Applicant raises are outside the scope of this appeal. Under San Clemente Municipal Code Section 17.12.140 E, the scope of review considers the "issues raised on appeal," and the body hearing the appeal may "review new evidence and ... consider all elements of the appealed action." Here, the issue raised on appeal is the City's denial to renew the subject temporary banner permit applications. The elements of the appealed action are: the City's interpretation of the relevant Municipal Code provisions and its application of those Municipal Code provisions to the subject temporary banner permit renewal applications in denying them. The other issues raised fall far outside this scope. Nonetheless, should the Planning Commission be concerned about these other arguments and their impact on this appeal, the City addresses them briefly under Attachment 6.

ANALYSIS OF KEY ISSUE ON APPEAL

As stated above under SCMC Section 17.84.030H(1)(f) on temporary banner signs, each business may have up to four (4) banner permits per calendar year. Renewals of banner permits are allowed, but in no case shall a business display a temporary banner for more than 120 days per calendar year. This means that every January 1st the ability to apply for four (4), 30-day temporary banners restarts.

Prior to the subject application, the Applicant previously applied and received approval for the existing 18 banners for the following time periods:

1. August 2016-December 2016 (four, 30-day permits for 2016)
2. January 2017-April 2017 (four, 30-day permits for 2017)

Thus, the applicant capped out on the 120-day allowance this year for those banners.

Nonetheless, on April 28, 2017, the Applicant submitted to the City a letter stating that the temporary banner permits should not be held to the 120-day limit. This letter is provided in Exhibit 3 of the Applicant's appeal, which is provided under Attachment 3.

In the original letter dated April 28, 2017 the applicant correctly notes that the Zoning Ordinance states "These provisions are to ensure temporary banner signs are not used as permanent display or in-lieu of permanent signs for the business." However, the applicant fails to read the section in its entirety which specifically states at the beginning of the paragraph "Each business may have up to four banner permits per calendar year. Renewals of banner permits are allowed, but in no case shall a business display a temporary banner for more than 120 days per calendar year."

However, doing so would be contrary to the SCMC. Specifically, SCMC Section 17.84.030H(1)(f) states that "Each business may have up to four banner permits per calendar year. Renewals of banner permits are allowed, but in no case shall a business display a temporary banner for more than 120 days per calendar year." (Emphasis added.) The Applicant's argument that it allegedly does not intend to infringe the City's Zoning Ordinance provision (SCMC Section 17.84.030H(1)(f)), which states that "[t]hese provisions are to ensure temporary banner signs are not used as permanent display or in-lieu of permanent signs for the business," does not remedy the fact that allowing a renewal of the permits would ultimately violate the SCMC's 120-day limit.

Based on the reading of Zoning Ordinance Section 17.84.030H(1)(f) in its entirety, City staff and the Community Development director could not approve the submitted applications because the businesses had already been approved to display temporary banners for 120 days in the 2017 calendar year. The Applicant can apply for temporary banner permits again on January 1, 2018.

ENVIRONMENTAL REVIEW

The proposed appeal is not categorized as a project under CEQA and therefore is not subject to environmental review.

ALTERNATIVES; IMPLICATIONS OF ALTERNATIVES

1. The Planning Commission can concur with staff and deny the renewal of the previously approved 18 temporary banner permits past to allow them to be permitted for longer than 120 days.

This action would result in the denial of the appeal, and the applicant could appeal the Planning Commission's decision to the City Council.

2. The Planning Commission can agree with portions of the appeal.

The Planning Commission can disagree with staff's interpretation of the Municipal Code and provide clarification or direction to staff. This action would result in modifications being incorporated accordingly.

3. The Planning Commission can approve the appeal for the temporary banner permits.

This action would result in the applicant being able to obtain the temporary banner permits and the banners would be able to remain under the provisions of SCMC Section 17.84.030H(1)(f).

RECOMMENDATION

STAFF RECOMMENDS THAT the Planning Commission deny the appeal to renew 18 previously issued temporary banner permits, that would result in display of banners for longer than 120 days in violation of SCMC Section 17.84.030H(1)(f)

Attachments:

1. Resolution
2. Location Map
3. Appeal filed by the Applicant
4. Photographs
5. City's Responses to Applicant's Other Arguments

RESOLUTION NO. PC 17-033

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN CLEMENTE, CALIFORNIA, DENYING APPEAL 17-280, APPEAL OF DENIAL OF TEMPORARY BANNER PERMIT RENEWAL APPLICATION FOR OUTLETS AT SAN CLEMENTE LOCATED AT 101 WEST AVENIDA VISTA HERMOSA

WHEREAS, on April 28, 2017, Nancy May, of 101 West Avenida Vista Hermosa, San Clemente, CA 92672 submitted eighteen Temporary Banner Permit applications requesting permits for 18 businesses to place banners on various buildings at the Outlets of San Clemente and The Outlets of San Clemente site is located in the Commercial land use designation of the Marblehead Coastal Specific at 101 West Avenida Vista Hermosa. The site's legal description is Tract 8817, Lot 327, and Assessor's Parcel Number (APN) 691-442-13; and

WHEREAS, on or about April 28, 2017, Villa San Clemente LLC ("Applicant") submitted a letter to accompany the applications requesting the renewal of the temporary banner sign permits.

WHEREAS, staff reviewed the applications for new permits and could not approve the permits because they did not comply with San Clemente Municipal Code Section 17.84.090H. 1.c.—none of the businesses that applied for the banners were located in the same building or structure on which the banners were to be placed; and

WHEREAS, on May 8, 2017, Applicant, by and through Nancy May on behalf of Craig Reality Group, Manager of the Applicant, submitted a notice of appeal stating "Appeal of denial of 12 temporary on-site banner sign permit applications and rescission of 6 temporary on-site banner sign permits for businesses at Outlets of San Clemente based upon improper denial of permit applications, abuse of discretion, selective enforcement, and other grounds. Provisional appeal of additional 18 renewal permit applications taken under advisement by Staff, submitted to the City on or About April 28, 2017." ("Appeal 17-194"); and

WHEREAS, on June 21, 2017, the Planning Commission held a duly noticed public hearing on the applications, and considered evidence presented by City staff, the Applicant, and other interested parties and found that the Community Development Director interpreted the Municipal Code correctly and that temporary banner signs are to be placed on the primary structure (primary building), interpreted a primary building as a contiguous building sharing a common roof and common walls, and directed staff to review the applications based on this interpretation.

WHEREAS, based on the Planning Commission's interpretation, staff determined that six of the eighteen Temporary Banner Permits applied for could be supported and issued permits accordingly.

WHEREAS, the Applicant appealed the Planning Commission decision, and on August 15, 2017 the City Council held a duly noticed public hearing on the subject application, and considered evidence presented by City staff, the Applicant, and other interested parties and the City Council denied the appeal finding that the Planning Commission's interpretation of San Clemente Municipal Code Section 17.84.030H.1.c. was correct; and

WHEREAS, ON August 15, 2017, the City denied Applicant's renewal application.

WHEREAS, on August 24, 2017, Applicant, by and through Nancy May on behalf of Craig Reality Group, Manager of the Applicant, submitted a notice of appeal stating "Appeal of the City's August 15, 2017 denial of 18 temporary on-site banner sign applications submitted by Applicant on April 28, 2017, for renewal of existing signs after the City improperly denied Applicant's 18 new sign applications based on the City's incorrect reading of its own Ordinance. This denial is being appealed because the City's actions are patently and fundamentally unfair, and violate Applicant's First Amendment rights to free speech by preventing Applicant from posting temporary signs advertising its tenants' business while the City delays Applicants permanent sign applications." ("Appeal 17-280"); and

WHEREAS, the proposed appeal is not categorized as a project under California Environmental Quality Act (CEQA) and therefore is not subject to environmental review; and

WHEREAS, on October 18, 2017, the Planning Commission of the City of San Clemente held a duly noticed public hearing on Appeal 17-280, considered written and oral comments, and facts and evidence presented by the Applicant, City staff, and other interested parties.

NOW, THEREFORE, The Planning Commission of the City of San Clemente does hereby resolve as follows:

Section 1. Incorporation of Recitals.

The Planning Commission hereby finds that all of the facts in the Recitals are true and correct and are incorporated and adopted as findings of the Planning Commission as fully set forth in this resolution.

Section 2. CEQA Findings.

The proposed appeal is not categorized as a project under CEQA and therefore is not subject to environmental review.

Section 3. Appeal Findings

With respect to Appeal 17-280, the Planning Commission finds as follows:

1. San Clemente Municipal Code Section 17.84.030H.1.f. requires the following for temporary banner signs:

"Each business may have up to four banner permits per calendar year. Renewals of banner permits are allowed, but in no case shall a business display a temporary banner for more than 120 days per calendar year. A minimum of 14 days between permits is required, except upon renewal of an existing banner permit. Banners may be replaced during the authorized period so long as they are the same or smaller size and installed in the approved location. These provisions are to ensure temporary banner signs are not used as permanent display or in-lieu of permanent signs for the business."

Applications for temporary banner sign permit renewals that do not meet the criteria of this Section cannot be approved.

2. As stated above under Section 1.f on temporary banner signs, each business may have up to four banner permits per calendar year. Renewals of banner permits are allowed, but in no case shall a business display a temporary banner for more than 120 days per calendar year. This means that every January 1st the ability to apply for four, 30-day temporary banners restarts.

Prior to the subject application for renewal of temporary sign permits, the Applicant previously applied and received approval for the existing 18 temporary banner signs for the following time periods:

- August 2016-December 2016 (four, 30-day permits for 2016)
- January 2017-April 2017 (four, 30-day permits for 2017)

Thus, the Applicant capped out on the 120-day allowance this year for temporary banner signs. It was proper that the City denied Applicant's application to renew the subject temporary banner sign permits.

3. The remaining issues submitted in Appeal 17-280 are outside of the scope of this appeal and are not under the purview of this reviewing body.

Section 3. Planning Commission Decision

Based on the foregoing recitals and findings above, and the written and oral comments, facts, and evidence presented, the City of San Clemente Planning Commission denies Appeal 17-280, Appeal of Denial of the Renewal of Temporary Banner Permit Applications for the Outlets at San Clemente.

PASSED AND ADOPTED at a regular meeting of the City of San Clemente Planning Commission on October 18, 2017.

Chair

CERTIFICATION:

I HEREBY CERTIFY this Resolution was adopted at a regular meeting of the City of San Clemente Planning Commission on October 18, 2017, carried by the following roll call vote:

AYES: COMMISSIONERS:
NOES: COMMISSIONERS:
ABSTAIN: COMMISSIONERS:
ABSENT: COMMISSIONERS:

Secretary of the Planning Commission

C. **101 West Avenida Vista Hermosa – Appeal 17-280 – Appeal of 18 Temporary Banner Permits for the Marblehead Outlet Commercial Center (Gregg)**

Public Hearing to consider an Appeal filed by the Craig Reality Group concerning the City's denial of 18 temporary banner sign permits.

Commissioner Ruehlmann announced he would be recusing himself from this and the next agenda item due to a public comment he made before he joined the Commission and left the meeting room. He did not return to the meeting.

Commissioner Smith recused himself from this and the next agenda item based on a comment he made in an email and left the meeting room. He did not return to the meeting.

Brad Malamud, attorney for appellant, asked Amber Gregg, City Planner, to recuse herself from speaking this evening due to potential bias as she is the Planning Commission Secretary. Additionally, he requested to be allowed to present a rebuttal before the Commission acted on the matter.

Anthony Taylor, Special Counsel, introduced himself to the Commission and offered assistance. He advised the applicant would have the opportunity to address remarks made by the City and public before the Commission acted on the matter.

Matt Silver, attorney for staff, advised City Planner Gregg is not a deciding body on this matter and has stepped down from the dais. She has not had any prior communication with the Commission regarding agenda items 8C or 8D. Her position as Commission Secretary does not have any bearing in the Commission's decision-making process.

Presentations:

Thomas Walling, Spach, Capaldi & Waggaman, LLP, representing Villa San Clemente, LLC, the applicants, provided a history of the temporary signage permit applications. In August 2017, the City denied the applicant's temporary on-site banner sign permit applications because the permits had already been on display for 120 days. The applicant is requesting the Planning Commission overturn the City's denial of the sign applicants for the following reasons:

1. The 120-day display limit is an unconstitutional restraint on free speech.
2. The City Council had previously determined that limits on temporary banner permits should be extended in circumstances where permanent sign applications have been submitted and are pending.
3. The City has violated the applicant's constitutional rights by impermissibly delaying processing the banner permit applications for nearly four months.

4. The City is estopped from denying the permit applications because it allows its own signs to remain posted more than 120 days in a calendar year.

Additionally, the City should maintain the status quo while the permanent sign permit is in process, and should not be allowed to fine or cite Villa San Clemente tenants for extending the banner signage past 120 days. There is a basic problem with the ordinance itself and it should be revised and fixed. The banner signs should be allowed to stay up until the permanent signs are approved by the City.

Amber Gregg, City Planner, and Matt Silver, counsel for staff, narrated a PowerPoint Presentation entitled, "Marblehead Temporary Banner Permits Appeal, dated October 18, 2017. A copy of the Presentation is available in Planning Division.

City Planner Gregg reviewed the history of the subject banners as well as the criteria for Temporary Banner Plans, quoting from SCMC Section 17.84.030 H (1)(f) that "in no case shall a business display a temporary banner for more than 120 days per calendar year." City staff and the Community Development Director could not approve the submitted applications because the business had already been approved to display temporary banners for 120 days in the 2017 calendar year. She noted in response to City Council direction in 1991 that the Planning Division review provisions for temporary signage, the number of days for temporary banner signage was increased from 30 to 120 days per year.

Counsel Matt Silver commented that the SCMC does not have provisions or a process for determination that can be made to allow exception to the 120-day limit as stated in the Municipal Code. He suggested the proper place to make a determination on this issue is in court, where legal arguments can be heard and the judge can make the decision. The Municipal Code is clear that "in no case" can a temporary banner be displayed for more than 120 days. The City cannot turn a blind eye to its own regulations.

Public Comment:

Chair Brown opened the public hearing; announced receipt of a letter dated October 18, 2017, from Spach, Capaldi & Waggaman, LLP opposed to the City's denial of the temporary on-site banner sign application which was delivered on the dais before the meeting.

Richard Boyer, resident, supported the staff recommendation to uphold the denial of the temporary banner sign applications because City residents support less visual clutter and the City Codes clearly limit display to 120 days a year, which the applicant has already exceeded.

Steve Knoblock, attorney for appellant, supported the applicant's appeal of staff's denial of temporary sign permits because the City currently allowed

hundreds of banner signs to be displayed without enforcing the 120-day limit, violating its own code, and the temporary banner signs should be allowed to remain in place until the applicant has approval for the permanent signage.

Chair Brown closed the public hearing.

Rebuttal:

Brad Malamud, attorney for appellant, stated that staff should have ruled sooner on the applicant's request for extensions of the temporary banner permits as the almost four-month delay is a violation of the administrative process; noted it was the City's fault the permanent signage application missed the CEQA deadline, not the applicant's; stated the applicant has a First Amendment Right to have the signage up; advised the City should do the right thing and allow them to generate business. Additionally, he noted the City benefits from sales tax revenues generated by the applicant's sales.

Steve Knoblock, attorney for appellant, commented that the CEQA process has been delayed due to requests from the City for additional information and consultants. He alleged it's the City's responsibility to complete the report and hire consultants if necessary.

Thomas Walling opined the City is preventing the business from speaking if they don't allow temporary signage and that businesses have the right to represent themselves. He suggested the intent of City Council direction in 1991 to revise the temporary banner regulations was to allow temporary signage to be displayed until permanent signage is installed. He charged that the Planning Division did not satisfy the intent of City Council's direction when it simply expanded the number of days allowed to be displayed from 30 to 120.

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

- Suggested the issues of constitutionality was beyond the purview of this Commission and should be heard in a court of law.
- Commented that the City has no choice but to deny the application for banner signs to be displayed longer than 120 days based on the Municipal Code.
- Suggested City Council has more discretion to come up with a solution for temporary banner signage.

IT WAS MOVED BY CHAIR PRO TEM BLACKWELL, SECONDED BY COMMISSIONER WU, AND CARRIED 5-0-2, WITH COMMISSIONER RUEHLIN AND COMMISSIONER SMITH ABSTAINING, TO ADOPT RESOLUTION NO. PC 17-033, A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN CLEMENTE, CALIFORNIA, DENYING

APPEAL 17-280, APPEAL OF DENIAL OF TEMPORARY BANNER PERMIT RENEWAL APPLICATION FOR OUTLETS AT SAN CLEMENTE LOCATED AT 101 WEST AVENIDA HERMOSA.

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

D. 101 West Avenida Vista Hermosa ~ Appeal 17-276 - Appeal of the Marblehead Outlet Signs Master Sign Program (Gregg)

Public Hearing to consider an Appeal filed by the Craig Reality Group concerning the Community Development Director's decision that the proposed Master Sign Program application for freeway oriented signs requires a Sign Exception Permit.

Presentations:

Madison Spach, of Spach, Capaldi & Waggaman, LLP, representing Villa San Clemente, LLC, the applicants, narrated a handout entitled, "Appeal of action of Community Development Director, Villa San Clemente, LLC," dated October 18, 2017. Hard copies of the presentation were distributed to the Planning Commission. In August 2017, the Community Development Director notified Villa San Clemente that the Master Sign Permit (MSP) for Villa San Clemente was invalidated because it was "subject to" Sign Exception Permit (SEP) 06-402. SEP 06-402, approved by the City Council in 2007, was invalidated by the Superior Court in 2008 due to the City's failure to perform appropriate environmental review of the freeway-oriented signs and subsequently set aside by the City Council. SEP 06-402, before being invalidated, granted exceptions to freeway signage, including length of signage (1.5 square foot of signage per lineal foot instead of 1 foot). The applicant maintains that the Community Development Director does not have the authority to void the City Council-approved MSP. He requested the Commission overturn the Community Development Director's determination that the MSP is invalid and return the project to the same status it had before the email was sent.

City Planner Gregg narrated a PowerPoint Presentation entitled, "Appeal 17-276" dated October 18, 2017. A copy of the Presentation is on file in Planning Division.

Cecelia Gallardo-Daly, Community Development Director, noted the issue of freeway signage came about during a Design Review Subcommittee meeting, when the applicant stated that oversized freeway oriented signage was still a part of the existing MSP and entitled. She researched the 2007 and 2008 actions and determined that all the freeway-oriented signage for the project was rescinded when SEP 06-402 was invalidated. The applicant would need to apply for and the City Council would need to approve a new and separate SEP to allow freeway oriented signs to exceed SCMC Section 17.84.020 (D) mandate of one square foot of



City of San Clemente

NOTICE OF APPEAL CITY OF SAN CLEMENTE

Appellant's Name: Villa San Clemente LLC, by and Through Nancy May, on behalf of
Craig Realty Group, Manager of Villa San Clemente LLC.

Appellant's Address: Craig Realty Group
4100 MacArthur Blvd., Suite 100
Newport Beach, CA 92660

Appellant's Phone Number: 949-224-4168

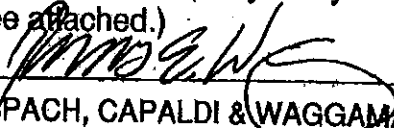
Decision Being Appealed: Denial of 18 Temp On-Site Banner Sign Renewal Permits

Decision Made By: Planning Department

Date of Decision: August 15, 2017

State basis for the appeal. (Note: only grounds for appeal noted here will be permitted to be raised before the appellate body. Failure to state grounds for appeal will waive the Appellant's ability to raise that issue at the appellate hearing.)

Appeal of the City's August 15, 2017 denial of 18 temporary on-site banner sign applications submitted by Applicant on April 28, 2017, for renewal of existing signs after the City improperly denied Applicant's 18 new sign applications based on the City's incorrect reading of its own Ordinance. This denial is being appealed because the City's actions are patently and fundamentally unfair, and violate Applicant's First Amendment rights to free speech by preventing Applicant from posting temporary signs to advertise its tenants' business while the City delays Applicant's permanent sign applications. (See attached.)

Appellant's signature: 
SPACH, CAPALDI & WAGGAMAN, LLP
Attorneys for Appellant Craig Realty Group

Appeal by Villa San Clemente LLC

August 24, 2017

Attachment to Request for Hearing and / or Notice of Appeal

Decision Being Appealed:

Villa San Clemente LLC, through Nancy May, on behalf of Craig Realty Group, Manager of Villa San Clemente LLC ("Applicant") appeals the City's August 15, 2017 denial of Applicant's April 28, 2017 ministerial permit renewal applications for 18 temporary on-site banner signs (the "Renewal Applications") for Applicant's tenants at Outlets at San Clemente ("Outlets") located at 101 West Avenida Hermosa, San Clemente. These applications were submitted by Applicant after the City improperly denied Applicant's April 19, 2017 permit applications for 18 signs for new tenants at Outlets.

The City's claimed basis for denial of these Renewal Applications is that the permits would exceed 120 days in one year, and so are prohibited under the Code.

The initial Applications for temporary on-site banner signs for all 18 signs were properly submitted on or about April 20, 2017, along with the required permit fees. True and correct copies of the Applications are attached hereto as Exhibit 1. The permits should have been approved because, under the City's Ordinance, they are merely ministerial permits that are not subject to review.

Moreover, the temporary sign permits were needed because, although Applicant's permanent signs had been approved long ago as part of the project's master sign permit, the City failed and refused for more than 8 years to perform the Environmental Impact Report ("CEQA Review") needed to allow Applicant to proceed with the construction of its permanent signs. Although the City was under a court order from the Orange County Superior Court since 2008 to perform the environmental review, the City delayed its review process until just last June, and has continued delaying the review process even though all required information has been provided to the City, including improperly demanding coastal commission review even though no such review is required or appropriate for Applicant's signs, leaving Applicant no option but to utilize temporary banner signs to advertise its tenants' businesses.

Nonetheless, Mr. Cliff Jones of the Office of the City Planner notified Ms. May on April 26, 2017, by email that the City had denied 12 of the Applications, and was approving the remaining 6 Applications. A true and correct copy of the email is attached hereto as Exhibit 2. The City's reasoning in denying the permit applications was that they could not be granted because the signs were not going to be installed on the building in which the tenants were located, a requirement that does not exist in the Ordinance.

On April 28, 2017, upon the initial denial of Applicant's permit applications, Applicant submitted its Renewal Applications to renew the prior permits that existed before the City improperly denied the new permit applications. A true and correct copy of the Renewal Application package is attached hereto as Exhibit 3. At that time, the City official receiving the resubmittal verbally told Ms. May that they would review the resubmittal and get back to Ms.

Appeal by Villa San Clemente LLC

August 24, 2017

May in a couple of weeks, but confirmed that Ms. May was entitled to pull permits for six of the signs that the City had determined were entitled to permits; Ms. May pulled the available permits on or about May 1, 2017. True and correct copies of the pulled permits are attached hereto as Exhibit 4.

On May 2, 2017, by way of a letter from the attorney for the City, Mr. Alan Burns of the law firm of Harper & Burns, LLP, the City notified Ms. May that it was rescinding the approval of the six permits it had just issued. A true and correct copy of the May 2, 2017 letter from Mr. Alan Burns, Esq., is attached hereto as Exhibit 5.

The City's denial of the permit applications was timely appealed by Applicant on May 8, 2017. However, the City failed to set a hearing on Applicant's appeal until May 30, 2017, more than three weeks after the appeal had been filed, in violation of the City's Ordinance, Section 17.12.140(D), which requires the City to "notify the applicant, in writing, of the date established for the public hearing within 10 days of receipt of a completed appeal application." Thus, again, the City denied Applicant its right to a timely hearing, in violation of its due process rights.

The Planning Commission hearing occurred on June 21, 2017, at which time the Planning Commission upheld the City's denial of 12 of Applicant's April 20, 2017 applications for new temporary on-site banner signs for its new tenants, purportedly on the basis that the signs were not going to be posted on the buildings in which the new tenants were located; the Planning Commission did, however, overturn the City's improper rescission of the 6 permits that had been properly issued and then rescinded by the City, finding that those permits should have been issued, and ordered them reinstated.

Applicant alleges that numerous due process violations occurred during this hearing, but expressly reserves and does not waive its right to seek the court's assistance to address the violation of those rights.

The Applicant timely appealed the Planning Commission's decision at the June 21 hearing on June 29, 2017. Despite the requirement under the City's Ordinance, Section 17.12.140(D), which requires the City to "notify the applicant, in writing, of the date established for the public hearing within 10 days of receipt of a completed appeal application," the City again violated the Ordinance and did not notice the City Council hearing until July 18, nearly three weeks after submittal of the appeal, in violation of Applicant's due process right to a timely hearing. The City Council hearing was scheduled for August 15, 2017, nearly a month after the City's already delayed notice, and causing even further delay.

At the City Council hearing on August 15, Applicant was denied its due process rights again, and the Council, with no apparent deliberation, and without even discussing the meaning of the term "primary structure" in the Ordinance (which the City Planner identified [erroneously] as the "sole issue to be decided" by the Council), upheld the Planning Commission's decision.

Appeal by Villa San Clemente LLC

August 24, 2017

As with the Planning Commission hearing, Applicant alleges that numerous due process violations occurred during this City Council hearing, but expressly reserves and does not waive its right to seek the court's assistance to address the violation of those rights.

It was not until the same day of the City Council Hearing, August 15, 2017, that the City finally made a decision regarding Applicant's April 28, 2017 Renewal Permits, the subject of this Appeal, notifying Applicant that it had denied all of the Renewal Applications because they had been displayed for 120 days this year and could not be extended. A true and correct copy of the City's August 15, 2017 letter is attached hereto as Exhibit 6.

Basis for Appeal:

This Request for Hearing incorporates by reference all prior Requests for Hearing and appeals by the Applicant, Villa San Clemente, LLC, including all arguments set forth in each of those Requests and appeals and any arguments applicant will make at any hearing including but not limited to denial of applicant's First Amendment rights and denial of Applicant's Due Process rights based on selective enforcement and intentionally applying the ordinance in a way that is inconsistent with the ordinance's plain language which allows signs to be placed "on site" which includes any building on site.

Applicant appeals the City's denial these 18 Renewal Applications on the basis that the denial violates the First Amendment right to free speech of Applicant and its tenants, depriving them of any ability to use on-site signs to advertise their businesses while the City intentionally delays the processing of the Applicant's permanent sign CEQA review ordered by the Orange County Superior Court in 2008. Moreover, the denial is an abuse of the City's discretion in light of the criteria it was expressly directed to use by the City Council on October 2, 1991 with regard to temporary on-site banner signs, which allowed the Planning Division to allow the temporary signs in lieu of permanent signs while the City was processing an applicant's permanent sign permits.

In addition, Applicant appeals the City's denial of the Renewal Permits on the basis that the City delayed any decision on the Renewal Applications, which by the City's own admission at the City Council hearing on August 15 are "*ministerial*" permits, for more than 3-1/2 months, depriving Applicant of its due process right to a timely decision on its Renewal Applications. This delay not only deprived Applicant and its tenants of a decision on their right to free speech, but created uncertainty as to the status of the signs during a time when the City was aggressively and actively fining Applicant and its tenants for not having permits, even though the right to permits had been delayed by the City's inaction.

August 24, 2017

Argument:

1. The City's Actions Violate Applicant's Constitutional Rights Under the First and Fourteenth Amendments

Under the First and Fourteenth Amendments to the United States Constitution, the City's denial of the 18 Renewal Permits, after denying Applicant's April 20, 2017 applications for 18 temporary permits for new tenants, are improper.

This is a clear attempt to harass Applicant and stifle Applicant's right to commercial speech.

In light of Applicant's right to *permanent* signs for Outlets (subject only to the City's completion of an EIR, which the City was ordered by the Orange County Superior Court in 2008 to perform), which was previously acknowledged by the City's own attorneys, Applicant's and its tenants' rights to temporary on-site banner signs to advertise their businesses while waiting on the City to finish the court-ordered environmental review would be significantly and adversely affected if the City was allowed to deny the Renewal Applications.

2. The City Ignored the City Council's 1991 Vote to Allow Temporary Banner Sign Permits to be Extended when Permanent Sign Permit Applications are Pending

The City Council contemplated this type of a situation long ago when it determined temporary banner sign permits should be extended in cases where a permanent signage application has been filed with the city and is pending.

At the October 2, 1991 City Council Meeting, the City Council by Motion on a vote of 5-0, expressly directed the City Planner and his/her designates to utilize specified criteria for issuing and enforcing temporary banner signs until the Ordinance was amended to incorporate those provisions. The Minutes from that meeting, Page 24, Item 4L, paragraph 1, states the following:

Temporary banner signs shall be limited ... unless extended by the City Planner or his/her designee in lieu of permanent signage. Extensions in lieu of permanent signage may only be granted in cases where a complete permanent signage application has been filed with the City.

Paragraph 2 of Page 24, Item 4L, expressly directed the Planning Division "to utilize the above criteria in issuing and enforcing temporary banner sign *until the appropriate amendments to the City Code are processed [emphasis added].*" A true and correct copy of Page 24 of the October 2, 1991 City Council Meeting Minutes is attached hereto as Exhibit 7. However, the Planning Division apparently failed and refused to follow the City Council's *express directive* to incorporate this criteria into the City Code, leaving the criteria to be utilized for temporary on-site banner signs in place until such time as the Planning Division complied with this directive.

August 24, 2017

In this instance, the City Planner here either was ignorant of this action by the City Council, or chose to ignore it, when the Applicant's Renewal Applications were denied.

Thus, the City has, by denying all attempts to obtain temporary permits for Applicant to advertise its tenants' businesses, while the City finally processes the CEQA review it was ordered by the Superior Court to perform in 2008 after a nearly nine-year delay, abused their discretion by refusing to extend Applicants' temporary signs in lieu of permanent signs, thereby actively, wrongfully, and intentionally denying Applicant and its tenants their right to free speech to advertise their businesses.

Perhaps even more importantly, the rights of potentially millions of citizens of Southern California travelling on the 5 Freeway to have access to the speech being suppressed are also being violated by the City; the Supreme Court has consistently affirmed the importance of protecting the rights of listeners, even with respect to commercial speech. (*City of Cincinnati v. Discovery Network, Inc.* (1993) 507 U.S. 410, 421 [113 S.Ct. 1505].)

3. Notice of Request for a Fair Hearing.

Under the Code, the Applicant is entitled to a fair hearing before the Planning Commission regarding the denial of its 18 Renewal Permit applications. In this case, the appeal again is a result of the City's misinterpretation of its own Code regarding where a business is allowed to post its temporary on-site banner signs, and the City's ignoring the City Council's 1991 determination, and 5-0 vote, that in situations such as Applicant's, where an application for permanent signage has been filed and is pending, it is appropriate to extend the temporary permits under the permanent signage is approved.

As part of the Applicant's presentation/case, the Applicant will prove:

- a) That signs are routinely kept up longer than 120 days in a calendar year without notice by the City to remove the offending sign(s).
- b) That the Applicant has the rights to these signs based on its First Amendment right to display temporary signs because the City has not yet concluded its review with respect to permanent signs at the Applicant's property, a right recognized by the City Council in 1991 when it voted 5-0 to allow the City Planner to extend temporary on-site banner permits when a permit application for permanent signs had been filed and the City had not completed its review.
- c) By choosing to deny the extension of Applicant's temporary on-site banner permits while its permanent sign applications were pending, and affording Applicant and its tenants no equivalent avenue to advertise their businesses, the City abused its discretion.
- d) The City violated Applicant's due process right to timely process these "ministerial" permits for more than three months.

August 24, 2017

- e) The City's refusal to extend Applicant's temporary on-site banner signs, and denying the Renewal Permits, has violated Applicant's civil rights under the First and Fourteenth Amendments.

To provide Applicant with a fair hearing, Applicant demands, at a minimum, the following:

1. That the hearing be conducted by an independent hearing officer agreeable to the parties.
2. That, at a minimum, the Applicant is provided sufficient time to present its case and to examine and cross-examine witnesses, and not be limited to 10 minutes.
3. That, at a minimum, the City make the following individuals available each for up to 2 hours to be deposed:
 - a) City Manager
 - b) City Assistant Manager
 - c) Amber Gregg,
 - d) Cecilia Gallardo-Daly,
 - e) Cliff Jones.
 - f) Jim Pechous
4. That the City provide a clear complete statement of the basis for its original denial of Applicant's temporary on-site banner sign permit applications, and its subsequent denial of Applicant's 18 Renewal Permits, in order that the issues on this appeal before the Planning Commission are clearly stated, and so that the Applicant be clearly informed regarding those issues.
5. That the City provide the Applicant, within 5 days, a complete record of any and all documents relied upon, reviewed by, or otherwise referenced in its decision to deny Applicant's original April 20, 2017 permit applications, or Applicant's 18 Renewal Permits submitted on April 28, 2017.
6. The City retain and provide the Applicant with all future documents, including drafts, of any analysis, review, discussion, etc. of these permits or this appeal. Please do not destroy any document related in any way to these applications/permits and this appeal.
7. The right to subpoena witnesses for examination at the hearing on the appeal (Cal. Gov. Code § 11450.40), including the following individuals:
 - a) Amber Gregg,
 - b) Cecilia Gallardo-Daly,
 - c) Cliff Jones
 - d) Each and every staff member who worked on any staff report related to Applicant's temporary on-site banner sign permit applications, and Applicant's permanent sign permit application,

Appeal by Villa San Clemente LLC

August 24, 2017

8. The decision ultimately rendered by the Planning Commission must be in writing and must set forth a reasoned explanation of its decision. Failure to do so violates Applicant's due process rights by depriving it of the information necessary to determine whether a further appeal is necessary.

In addition to the reasons set forth above, Applicant repeats, and incorporates by this reference as though set forth fully herein, all of the arguments and exhibits attached to its May 8, 2017 appeal of the denial of Applicant's April 20, 2017 permit applications for its new tenants.

oooOOOooo

EXHIBIT 1

Villa San Clemente, LLC

4100 MacArthur Blvd., Ste. 100
Newport Beach, CA 92660
(949) 224-4100

To the City of San Clemente:

I write this letter to accompany the applications by the Villa San Clemente, LLC (hereinafter referred to as the "Outlets") for temporary banner sign permits for 18 of its tenants, each application being separately included in the set of applications submitted by this package.

Those tenants are legally entitled to display temporary banners for 120 days per calendar year and have not requested any permits in 2017. There is no ground for the City to fail or refuse to approve the applications, which are not discretionary requests. Temporary Banner Permits are over-the-counter permits that are to be routinely granted. These are not applications that allow for the exercise of discretionary review.

Moreover, these applications do not contemplate the maintenance of temporary signs or banners in any location that might be prohibited by the City's Sign Ordinance. In fact, Section H.1. specifies the locations where temporary signs are prohibited; subsection c. states: "These banners are prohibited in the following locations: ... fences or other areas or fixtures not part of the business's primary structure...." The signs are all to be maintained in areas that are part of each business's "primary structure" because, as set forth in detail below, all of the building of the Outlets, with the exception of Building 7, are part of the same "primary structure."

The Ordinance Sections Governing Temporary Banners

The City allows "each business" one temporary 64 square foot banner that does not "count towards a business's total sign area allowance. Each such permit is allowed for 120 days per calendar year.

The City's Ordinance states:

17.84.030(H)

Temporary Banner Signs. Temporary Banner Signs shall be allowed for businesses city-wide, excluding home-occupations.

1. Temporary Banner Sign Criteria.

a. Each business shall be permitted a maximum of one temporary banner sign per business at any given time.

b. The temporary banner sign cannot exceed 64 square feet. A temporary banner sign will not count towards a business's total sign area allowance.

c. The temporary banner sign shall be placed on-site and flush on the building. These banners are prohibited in the following locations: city right-of-way, free-standing walls, fences or other areas or fixtures not part of the business's primary structure; other locations as determined by the City Planner to be inconsistent with the intent of this section. No portion of the temporary banner sign shall be free-hanging and all corners of the banner shall be secured to the building.

d. Temporary banner signs shall be constructed of cloth, canvas, fabric, plastic or other similar durable material.

e. The temporary banner sign shall be maintained in good condition, free of any defects, including cracking, torn or ripped material, or faded copy.

f. Each business may have up to four banner permits per calendar year. Renewals of banner permits are allowed, but in no case shall a business display a temporary banner for more than 120 days per calendar year. A minimum of 14 days between permits is required, except upon renewal of an existing banner permit. Banners may be replaced during the authorized period so long as they are the same or smaller size and installed in the approved location. These provisions are to ensure temporary banner signs are not used as permanent display or in-lieu of permanent signs for the business.

(Ord. 1314 § 68, 2006; Ord. 1308 §§ 18—19, 2006; Ord. 1304 §§ 33—34, 2005; Ord. 1257 § 2, 2002; Ord. 1205 §§ 1—4, 1998; Ord. 1172 § 3 (part); 1996)

(Ord. No. 1561, § 3(Exh. A, § 32), 11-27-2012; Ord. No. 1594, § 3(Exh. A, §§ 42, 43), 5-5-2015)

The Procedures are included in a Policy and Procedure Effective September 20, 1995 (Index: Land Use and Development Number: 303-1 Approved by Candace Haggard) <http://san-clemente.org/Home/ShowDocument?id=20978>. "These provisions are to ensure temporary banner signs are not used as a permanent display or in -lieu of permanent signs for the business." This statement is listed under the heading "Timeframes."

The Buildings Are All Part of the Same "Primary Structure." As Was Mandated By the City

Based on certain indications that the City has given in the past, we are concerned that the City may take the position that approximately 12 out of 18 of these applications are subject to the foregoing exceptions (it is critical to observe that 6 applicants are in the freeway-facing buildings and there is no basis under any rationale to deny those 4 applications). But based on the specific language of the City's Sign Ordinance, that would be an incorrect reading of the City's

ordinance. The exceptions of Section H.1.c. does not apply to these applications because the buildings at the Outlets, with the exception of Building 7, are all part of the same "primary structure." Utilization of a single "primary structure" at the Outlets was in fact mandated by the City's own Soils Engineer due to the site's having expansive soil. Thus, the buildings are constructed as part of a single structural foundation consisting of steel reinforced structural concrete slabs that are physically joined. This structural design was created to prevent movement and vertical displacement common in expansive soil locations; otherwise, constructing the buildings as separate structures might have caused the separate structures to lift and separate the above-ground building elements. All the center core building elements are completely connected to one another, and thus are part of a single primary structure.

If the City were to fail to approve these applications forthwith, the City's conduct would be (a) inconsistent with its own Sign Ordinance that requires approval of these applications on an over-the-counter basis; (b) cause severe economic damage to Outlets and the tenants; and (c) operate as a prior restraint on free speech, something not allowed under the First Amendment.

It is critical to note that under the Sign Ordinance, the City may not *deny* the permits based on the rationale that the buildings are somewhat "separate." If the City takes this position, the City must approve the applications and then contest the locations of the signs. The City may not deny the applications on the basis that they may not be placed on the "building" in which the applicant is located. There is no "appeal process" for denial of a Temporary Banner Sign Permit. The reason is obvious. The permit is an administrative, over-the-counter permit, not a discretionary permit. The City cannot deny a valid request. It can, however, if it concludes that it is appropriate to do so, seek removal of any offending sign (*i.e.*, a sign is too large, electronic, has moving parts, is made of the wrong material, or exhibits other violations of the Ordinance).

Prior Discussions

We should note that the applications are not inconsistent with the discussions of our meetings with the City dating back to August 17, 2016. At that time, the parties discussed that the contemplated temporary signs permits would be located for a specific sign location. The parties discussed, and Mr. Craig's letter concerning those discussions as indicating that signs would be located "in the building where their sign is proposed to be located." Yet it is possible, even likely, that the old and new applicants may be in different buildings. To the extent the City's comments indicate that the City means to indicate that it views different "buildings" as different and separate "primary structures," that would be an incorrect reading of the Ordinance. Such a view, if held by the City, would not be in compliance with the City's Ordinance, for the Ordinance itself specifically avoids using the term "building" and allows for signs to be located on the "same primary structure." Moreover, grammatically, that exception appears in any event to apply only if the sign is attached to a "fixture." But in any case, there is no restriction in the Ordinance that limits the temporary signs to a different "building" that is nonetheless part of the same "primary structure."

Temporary banners are necessary for the continued viability of the businesses at the Outlets until permanent signs are permitted to replace the temporary banners. The removal of the banners before permanent signs are installed will result in dramatically reduced sales, less

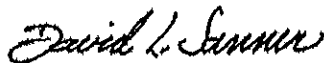
visitors, slower growth of new tenants, and may impact the viability of current tenants, along with other significant financial losses to the Outlets.

For all the reasons cited above, I request the City grant 18 permits for temporary banners for at least 120 days, but preferably to last until the CEQA process is complete, and the Outlets' have sufficient time to install the permitted signs.

If you disagree, and intend for any reason to deny these applications, please note that we request your reasons in writing. If in this case you believe that an appeal is available in this case, this letter will serve to notify the City that we are exercising that right of appeal. Please advise us immediately of the procedure you intend to follow. If as we expect, there is no appeal process provided for, we propose that we meet with you (and/or your attorneys if you prefer) in an attempt to resolve these issues short of litigation, if at all possible.

Very truly yours,

Villa San Clemente, LLC



DAVID L. SANNER, its Representative

Permit # _____



City of San Clemente Planning Division

910 CALLE NEGOCIO, SUITE 100, SAN CLEMENTE, CA 92673
Phone: (949) 361-6100
Fax: (949) 366-4750
E-mail: planning@san-clemente.org

TEMPORARY BANNER SIGN PERMIT

- The following are some of the City's standards from Section 17.84.030H of the Zoning Code for temporary banner signs:
1. Each business may only display one temporary banner sign.
 2. The maximum size for a temporary banner sign is 64 square feet.
 3. A temporary banner sign must be flush mounted to the building and is not to be hung on fences, railings, trees or shrubs.
 4. A temporary banner sign is prohibited in the public right-of-way.
 5. A temporary banner sign permit is required and can be obtained from the Planning Division.
 6. A temporary banner sign permit is valid for 30 days.
 7. Each business may have up to four temporary banner sign permits per calendar year.

Business Name: Calvin Klein
 Business Address: 101 West Avenida Hermosa, Ste. 400
 Applicant Name: Nancy May
 Business Phone: 949.224.4168 Email: nmay@craigrealtygroup.com

Description of banner including size, material, copy, location, and mounting:

Nancy May
 Applicant Signature

4-20-17
 Date

FOR OFFICE USE ONLY (PERMIT FEE: \$12.00 30 day permit)

1. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
2. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
3. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
4. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____

TOTAL PERMITS/THIS CALENDAR YEAR: _____



City of San Clemente
Planning Division

910 CALLE NEGOCIO, SUITE 100, SAN CLEMENTE, CA 92673
Phone: (949) 361-6100
Fax: (949) 366-4750
E-mail: planning@san-clemente.org

Permit # _____

TEMPORARY BANNER SIGN PERMIT

The following are some of the City's standards from Section 17.84.030H of the Zoning Code for temporary banner signs:

1. Each business may only display one temporary banner sign.
2. The maximum size for a temporary banner sign is 64 square feet.
3. A temporary banner sign must be flush mounted to the building and is not to be hung on fences, railings, trees or shrubs.
4. A temporary banner sign is prohibited in the public right-of-way.
5. A temporary banner sign permit is required and can be obtained from the Planning Division.
6. A temporary banner sign permit is valid for 30 days.
7. Each business may have up to four temporary banner sign permits per calendar year.

Business Name: Panera Bread

Business Address: 101 West Avenida Hermosa, Ste. 480

Applicant Name: Nancy May

Business Phone: 949.224.4168

Email: nmay@craigrealtygroup.com

Description of banner including size, material, copy, location, and mounting:

Nancy May
Applicant Signature

4-20-17
Date

FOR OFFICE USE ONLY (PERMIT FEE: \$12.00/ 30 day permit)

1. DATE ISSUED: _____
 2. DATE ISSUED: _____
 3. DATE ISSUED: _____
 4. DATE ISSUED: _____

DATE EXPIRES: _____
 DATE EXPIRES: _____
 DATE EXPIRES: _____
 DATE EXPIRES: _____

ISSUED BY: _____
 ISSUED BY: _____
 ISSUED BY: _____
 ISSUED BY: _____

TOTAL PERMITS/THIS CALENDAR YEAR: _____

Permit # _____



City of San Clemente Planning Division

910 CALLE NEGOCIO, SUITE 100, SAN CLEMENTE, CA 92673
Phone: (949) 361-6100
Fax: (949) 366-4750
E-mail: planning@san-clemente.org

TEMPORARY BANNER SIGN PERMIT

The following are some of the City's standards from Section 17.84.030H of the Zoning Code for temporary banner signs:

1. Each business may only display one temporary banner sign.
2. The maximum size for a temporary banner sign is 64 square feet.
3. A temporary banner sign must be flush mounted to the building and is not to be hung on fences, railings, trees or shrubs.
4. A temporary banner sign is prohibited in the public right-of-way.
5. A temporary banner sign permit is required and can be obtained from the Planning Division.
6. A temporary banner sign permit is valid for 30 days.
7. Each business may have up to four temporary banner sign permits per calendar year.

Business Name: Converse

Business Address: 101 West Avenida Hermosa, Ste. 134

Applicant Name: Nancy May

Business Phone: 949.224.4168

Email: nmay@craigrealtygroup.com

Description of banner including size, material, copy, location, and mounting:

Nancy May
Applicant Signature

4-20-17
Date

FOR OFFICE USE ONLY (PERMIT FEE: \$12.00 / 30 day permit)

1. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
2. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
3. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
4. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____

TOTAL PERMITS/THIS CALENDAR YEAR: _____



City of San Clemente
Planning Division

910 CALLE NEGOCIO, SUITE 100, SAN CLEMENTE, CA 92673
Phone: (949) 361-6100
Fax: (949) 366-4750
E-mail: planning@san-clemente.org

Permit # _____

TEMPORARY BANNER SIGN PERMIT

The following are some of the City's standards from Section 17.84.030H of the Zoning Code for temporary banner signs:

1. Each business may only display one temporary banner sign.
2. The maximum size for a temporary banner sign is 64 square feet.
3. A temporary banner sign must be flush mounted to the building and is not to be hung on fences, railings, trees or shrubs.
4. A temporary banner sign is prohibited in the public right-of-way.
5. A temporary banner sign permit is required and can be obtained from the Planning Division.
6. A temporary banner sign permit is valid for 30 days.
7. Each business may have up to four temporary banner sign permits per calendar year.

Business Name: Luggage Factory (Starbucks)

Business Address: 101 West Avenida Hermosa, Ste. 172

Applicant Name: Nancy May

Business Phone: 949.224.4168 Email: nmay@craigrealtygroup.com

Description of banner including size, material, copy, location, and mounting:

Nancy May
Applicant Signature

4-20-17
Date

FOR OFFICE USE ONLY (PERMIT FEE: \$12.00/30 day permit)

1. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
2. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
3. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
4. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____

TOTAL PERMITS/THIS CALENDAR YEAR: _____

Permit # _____



City of San Clemente Planning Division

910 CALLE NEGOCIO, SUITE 100, SAN CLEMENTE, CA 92673
Phone: (949) 361-6100
Fax: (949) 366-4750
E-mail: planning@san-clemente.org

TEMPORARY BANNER SIGN PERMIT

The following are some of the City's standards from Section 17.84.030H of the Zoning Code for temporary banner signs:

1. Each business may only display one temporary banner sign.
2. The maximum size for a temporary banner sign is 64 square feet.
3. A temporary banner sign must be flush mounted to the building and is not to be hung on fences, railings, trees or shrubs.
4. A temporary banner sign is prohibited in the public right-of-way.
5. A temporary banner sign permit is required and can be obtained from the Planning Division.
6. A temporary banner sign permit is valid for 30 days.
7. Each business may have up to four temporary banner sign permits per calendar year.

Business Name: Pearl Izumi (Levi's)

Business Address: 101 West Avenida Hermosa, Ste.166

Applicant Name: Nancy May

Business Phone: 949.224.4168 Email: nmay@craigrealtygroup.com

Description of banner including size, material, copy, location, and mounting:

Nancy May
Applicant Signature

4-20-17
Date

FOR OFFICE USE ONLY (PERMIT FEE: \$12.00 30 day permit)

1. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
2. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
3. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
4. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____

TOTAL PERMITS/THIS CALENDAR YEAR: _____



City of San Clemente
Planning Division

910 CALLE NEGOCIO, SUITE 100, SAN CLEMENTE, CA 92673
Phone: (949) 361-6100
Fax: (949) 366-4750
E-mail: planning@san-clemente.org

Permit # _____

TEMPORARY BANNER SIGN PERMIT

The following are some of the City's standards from Section 17.84.030H of the Zoning Code for temporary banner signs:

1. Each business may only display one temporary banner sign.
2. The maximum size for a temporary banner sign is 64 square feet.
3. A temporary banner sign must be flush mounted to the building and is not to be hung on fences, railings, trees or shrubs.
4. A temporary banner sign is prohibited in the public right-of-way.
5. A temporary banner sign permit is required and can be obtained from the Planning Division.
6. A temporary banner sign permit is valid for 30 days.
7. Each business may have up to four temporary banner sign permits per calendar year.

Business Name: Hanes (Blaze Pizza)

Business Address: 101 West Avenida Hermosa, Ste. 174

Applicant Name: Nancy May

Business Phone: 949.224.4168

Email: nmay@craigrealtygroup.com

Description of banner including size, material, copy, location, and mounting:

Nancy May
Applicant Signature

4-2017
Date

FOR OFFICE USE ONLY (PERMIT FEE: \$12.00/ 30 day permit)

1. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
2. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
3. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
4. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____

TOTAL PERMITS/THIS CALENDAR YEAR: _____



City of San Clemente Planning Division

910 CALLE NEGOCIO, SUITE 100, SAN CLEMENTE, CA 92673
Phone: (949) 361-6100
Fax: (949) 366-4750
E-mail: planning@san-clemente.org

Permit # _____

TEMPORARY BANNER SIGN PERMIT

The following are some of the City's standards from Section 17.84.030H of the Zoning Code for temporary banner signs:

1. Each business may only display one temporary banner sign.
2. The maximum size for a temporary banner sign is 64 square feet.
3. A temporary banner sign must be flush mounted to the building and is not to be hung on fences, railings, trees or shrubs.
4. A temporary banner sign is prohibited in the public right-of-way.
5. A temporary banner sign permit is required and can be obtained from the Planning Division.
6. A temporary banner sign permit is valid for 30 days.
7. Each business may have up to four temporary banner sign permits per calendar year.

Business Name: Nautica

Business Address: 101 West Avenida Hermosa, Ste. 414

Applicant Name: Nancy May

Business Phone: 949.224.4168 Email: nmay@craigrealtygroup.com

Description of banner including size, material, copy, location, and mounting:

Nancy May
Applicant Signature

4-20-17
Date

FOR OFFICE USE ONLY (PERMIT FEE: \$12.00/30 day permit)

1. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
2. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
3. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
4. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____

TOTAL PERMITS/THIS CALENDAR YEAR: _____



City of San Clemente
Planning Division

910 CALLE NEGOCIO, SUITE 100, SAN CLEMENTE, CA 92673
Phone: (949) 361-6100
Fax: (949) 366-4750
E-mail: planning@san-clemente.org

Permit # _____

TEMPORARY BANNER SIGN PERMIT

The following are some of the City's standards from Section 17.84.030H of the Zoning Code for temporary banner signs:

1. Each business may only display one temporary banner sign.
2. The maximum size for a temporary banner sign is 64 square feet.
3. A temporary banner sign must be flush mounted to the building and is not to be hung on fences, railings, trees or shrubs.
4. A temporary banner sign is prohibited in the public right-of-way.
5. A temporary banner sign permit is required and can be obtained from the Planning Division.
6. A temporary banner sign permit is valid for 30 days.
7. Each business may have up to four temporary banner sign permits per calendar year.

Business Name: Tilly's

Business Address: 101 West Avenida Hermosa, Ste.154

Applicant Name: Nancy May

Business Phone: 949.224.4168

Email: nmay@craigrealtygroup.com

Description of banner including size, material, copy, location, and mounting:

Nancy May
Applicant Signature

4-20-17
Date

FOR OFFICE USE ONLY (PERMIT FEE: \$12.00/30 day permit)

1. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
2. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
3. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
4. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____

TOTAL PERMITS/THIS CALENDAR YEAR: _____



City of San Clemente
Planning Division

910 CALLE NEGOCIO, SUITE 100, SAN CLEMENTE, CA 92673
Phone: (949) 361-6100
Fax: (949) 366-4750
E-mail: planning@san-clemente.org

Permit # _____

TEMPORARY BANNER SIGN PERMIT

The following are some of the City's standards from *Section 17.84.030H* of the Zoning Code for temporary banner signs:

1. Each business may only display one temporary banner sign.
2. The maximum size for a temporary banner sign is 64 square feet.
3. A temporary banner sign must be flush mounted to the building and is not to be hung on fences, railings, trees or shrubs.
4. A temporary banner sign is prohibited in the public right-of-way.
5. A temporary banner sign permit is required and can be obtained from the Planning Division.
6. A temporary banner sign permit is valid for 30 days.
7. Each business may have up to four temporary banner sign permits per calendar year.

Business Name: Puma

Business Address: 101 West Avenida Hermosa, Ste. 476

Applicant Name: Nancy May

Business Phone: 949.224.4168

Email: nmay@craigrealtygroup.com

Description of banner including size, material, copy, location, and mounting:

Nancy May
Applicant Signature

4-20-17
Date

FOR OFFICE USE ONLY (PERMIT FEE: \$12.00/30 day permit)

1. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
2. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
3. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
4. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____

TOTAL PERMITS/THIS CALENDAR YEAR: _____



City of San Clemente
Planning Division

910 CALLE NEGOCIO, SUITE 100, SAN CLEMENTE, CA 92673
Phone: (949) 361-6100
Fax: (949) 366-4750
E-mail: planning@san-clemente.org

Permit # _____

TEMPORARY BANNER SIGN PERMIT

The following are some of the City's standards from Section 17.84.030H of the Zoning Code for temporary banner signs:

1. Each business may only display one temporary banner sign.
2. The maximum size for a temporary banner sign is 64 square feet.
3. A temporary banner sign must be flush mounted to the building and is not to be hung on fences, railings, trees or shrubs.
4. A temporary banner sign is prohibited in the public right-of-way.
5. A temporary banner sign permit is required and can be obtained from the Planning Division.
6. A temporary banner sign permit is valid for 30 days.
7. Each business may have up to four temporary banner sign permits per calendar year.

Business Name: Cole Haan

Business Address: 101 West Avenida Hermosa, Ste. 412

Applicant Name: Nancy May

Business Phone: 949.224.4168

Email: nmay@craigrealtygroup.com

Description of banner including size, material, copy, location, and mounting:

Nancy May
Applicant Signature

4-20-17
Date

FOR OFFICE USE ONLY (PERMIT FEE: \$12.00/30 day permit)

1. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
2. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
3. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
4. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____

TOTAL PERMITS/THIS CALENDAR YEAR: _____



City of San Clemente Planning Division

910 CALLE NEGOCIO, SUITE 100, SAN CLEMENTE, CA 92673
Phone: (949) 361-6100
Fax: (949) 366-4750
E-mail: planning@san-clemente.org

Permit # _____

TEMPORARY BANNER SIGN PERMIT

The following are some of the City's standards from Section 17.84.030H of the Zoning Code for temporary banner signs:

1. Each business may only display one temporary banner sign.
2. The maximum size for a temporary banner sign is 64 square feet.
3. A temporary banner sign must be flush mounted to the building and is not to be hung on fences, railings, trees or shrubs.
4. A temporary banner sign is prohibited in the public right-of-way.
5. A temporary banner sign permit is required and can be obtained from the Planning Division.
6. A temporary banner sign permit is valid for 30 days.
7. Each business may have up to four temporary banner sign permits per calendar year.

Business Name: Nike

Business Address: 101 West Avenida Hermosa, Ste. 130

Applicant Name: Nancy May

Business Phone: 949.224.4168

Email: nmay@craigrealtygroup.com

Description of banner including size, material, copy, location, and mounting:

Nancy May
Applicant Signature

4-20-17
Date

FOR OFFICE USE ONLY (PERMIT FEE: \$12.00/30 day permit)

1. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
2. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
3. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
4. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____

TOTAL PERMITS/THIS CALENDAR YEAR: _____



City of San Clemente Planning Division

910 CALLE NEGOCIO, SUITE 100, SAN CLEMENTE, CA 92673
Phone: (949) 361-6100
Fax: (949) 366-4750
E-mail: planning@san-clemente.org

Permit # _____

TEMPORARY BANNER SIGN PERMIT

The following are some of the City's standards from Section 17.84.030H of the Zoning Code for temporary banner signs:

1. Each business may only display one temporary banner sign.
2. The maximum size for a temporary banner sign is 64 square feet.
3. A temporary banner sign must be flush mounted to the building and is not to be hung on fences, railings, trees or shrubs.
4. A temporary banner sign is prohibited in the public right-of-way.
5. A temporary banner sign permit is required and can be obtained from the Planning Division.
6. A temporary banner sign permit is valid for 30 days.
7. Each business may have up to four temporary banner sign permits per calendar year.

Business Name: Skechers

Business Address: 101 West Avenida Hermosa, Ste. 168

Applicant Name: Nancy May

Business Phone: 949.224.4168

Email: nmay@craigrealtygroup.com

Description of banner including size, material, copy, location, and mounting:

Nancy May
Applicant Signature

4-2017
Date

FOR OFFICE USE ONLY (PERMIT FEE: \$12.00/30 day permit)

1. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
2. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
3. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
4. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____

TOTAL PERMITS/THIS CALENDAR YEAR: _____



City of San Clemente
Planning Division

910 CALLE NEGOCIO, SUITE 100, SAN CLEMENTE, CA 92673
Phone: (949) 361-6100
Fax: (949) 366-4750
E-mail: planning@san-clemente.org

Permit # _____

TEMPORARY BANNER SIGN PERMIT

- The following are some of the City's standards from Section 17.84.030H of the Zoning Code for temporary banner signs:
1. Each business may only display one temporary banner sign.
 2. The maximum size for a temporary banner sign is 64 square feet.
 3. A temporary banner sign must be flush mounted to the building and is not to be hung on fences, railings, trees or shrubs.
 4. A temporary banner sign is prohibited in the public right-of-way.
 5. A temporary banner sign permit is required and can be obtained from the Planning Division.
 6. A temporary banner sign permit is valid for 30 days.
 7. Each business may have up to four temporary banner sign permits per calendar year.

Business Name: Vana
 Business Address: 101 West Avenida Hermosa, Ste. 164
 Applicant Name: Nancy May
 Business Phone: 949.224.4168 Email: nmay@craigrealtygroup.com

Description of banner including size, material, copy, location, and mounting:

Nancy May
 Applicant Signature

4-20-17
 Date

FOR OFFICE USE ONLY (PERMIT FEE: \$12.00 30 day permit)

1. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
2. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
3. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
4. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____

TOTAL PERMITS/THIS CALENDAR YEAR: _____



City of San Clemente Planning Division

910 CALLE NEGOCIO, SUITE 100, SAN CLEMENTE, CA 92673
Phone: (949) 361-6100
Fax: (949) 366-4750
E-mail: planning@san-clemente.org

Permit # _____

TEMPORARY BANNER SIGN PERMIT

The following are some of the City's standards from Section 17.84.030H of the Zoning Code for temporary banner signs:

1. Each business may only display one temporary banner sign.
2. The maximum size for a temporary banner sign is 64 square feet.
3. A temporary banner sign must be flush mounted to the building and is not to be hung on fences, railings, trees or shrubs.
4. A temporary banner sign is prohibited in the public right-of-way.
5. A temporary banner sign permit is required and can be obtained from the Planning Division.
6. A temporary banner sign permit is valid for 30 days.
7. Each business may have up to four temporary banner sign permits per calendar year.

Business Name: Tommy Hilfiger

Business Address: 101 West Avenida Hermosa, Ste. 200

Applicant Name: Nancy May

Business Phone: 949.224.4168

Email: nmay@craigrealtygroup.com

Description of banner including size, material, copy, location, and mounting:

Nancy May
Applicant Signature

4-2017
Date

FOR OFFICE USE ONLY (PERMIT FEE: \$12.00/ 30 day permit)

1. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
2. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
3. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
4. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____

TOTAL PERMITS/THIS CALENDAR YEAR: _____



City of San Clemente Planning Division

910 CALLE NEGOCIO, SUITE 100, SAN CLEMENTE, CA 92673
Phone: (949) 361-6100
Fax: (949) 366-4750
E-mail: planning@san-clemente.org

Permit # _____

TEMPORARY BANNER SIGN PERMIT

The following are some of the City's standards from Section 17.84.030H of the Zoning Code for temporary banner signs:

1. Each business may only display one temporary banner sign.
2. The maximum size for a temporary banner sign is 64 square feet.
3. A temporary banner sign must be flush mounted to the building and is not to be hung on fences, railings, trees or shrubs.
4. A temporary banner sign is prohibited in the public right-of-way.
5. A temporary banner sign permit is required and can be obtained from the Planning Division.
6. A temporary banner sign permit is valid for 30 days.
7. Each business may have up to four temporary banner sign permits per calendar year.

Business Name: Guess

Business Address: 101 West Avenida Hermosa, Ste. 180

Applicant Name: Nancy May

Business Phone: 949.224.4168 Email: nmay@craigrealtygroup.com

Description of banner including size, material, copy, location, and mounting:

Nancy May
Applicant Signature

4-20-17
Date

FOR OFFICE USE ONLY (PERMIT FEE: \$12.00/30 day permit)

1. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
2. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
3. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
4. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____

TOTAL PERMITS/THIS CALENDAR YEAR: _____



City of San Clemente
Planning Division

910 CALLE NEGOCIO, SUITE 100, SAN CLEMENTE, CA. 92673
Phone: (949) 361-6100
Fax: (949) 366-4750
E-mail: planning@san-clemente.org

Permit # _____

TEMPORARY BANNER SIGN PERMIT

The following are some of the City's standards from Section 17.84.030H of the Zoning Code for temporary banner signs:

1. Each business may only display one temporary banner sign.
2. The maximum size for a temporary banner sign is 64 square feet.
3. A temporary banner sign must be flush mounted to the building and is not to be hung on fences, railings, trees or shrubs.
4. A temporary banner sign is prohibited in the public right-of-way.
5. A temporary banner sign permit is required and can be obtained from the Planning Division.
6. A temporary banner sign permit is valid for 30 days.
7. Each business may have up to four temporary banner sign permits per calendar year.

Business Name: Columbia sportswear

Business Address: 101 West Avenida Hermosa, Ste. 162

Applicant Name: Nancy May

Business Phone: 949.224.4168

Email: nmay@craigrealtygroup.com

Description of banner including size, material, copy, location, and mounting:

Nancy May
Applicant Signature

4-20-17
Date

FOR OFFICE USE ONLY (PERMIT FEE: \$12.00/30 day permit)

1. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
2. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
3. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
4. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____

TOTAL PERMITS/THIS CALENDAR YEAR: _____



City of San Clemente
Planning Division

910 CALLE NEGOCIO, SUITE 100, SAN CLEMENTE, CA 92673
Phone: (949) 361-6100
Fax: (949) 366-4750
E-mail: planning@san-clemente.org

Permit # _____

TEMPORARY BANNER SIGN PERMIT

The following are some of the City's standards from Section 17.84.030H of the Zoning Code for temporary banner signs:

1. Each business may only display one temporary banner sign.
2. The maximum size for a temporary banner sign is 64 square feet.
3. A temporary banner sign must be flush mounted to the building and is not to be hung on fences, railings, trees or shrubs.
4. A temporary banner sign is prohibited in the public right-of-way.
5. A temporary banner sign permit is required and can be obtained from the Planning Division.
6. A temporary banner sign permit is valid for 30 days.
7. Each business may have up to four temporary banner sign permits per calendar year.

Business Name: H & M

Business Address: 101 West Avenida Hermosa Ste. 138

Applicant Name: Nancy May

Business Phone: 949.224.4168

Email: nmay@craigrealtygroup.com

Description of banner including size, material, copy, location, and mounting:

Nancy May
Applicant Signature

4-20-17
Date

FOR OFFICE USE ONLY (PERMIT FEE: \$12.00/ 30 day permit)

1. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
2. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
3. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
4. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____

TOTAL PERMITS/THIS CALENDAR YEAR: _____



City of San Clemente
Planning Division

910 CALLE NEGOCIO, SUITE 100, SAN CLEMENTE, CA 92673
Phone: (949) 361-6100
Fax: (949) 366-4750
E-mail: planning@san-clemente.org

Permit # _____

TEMPORARY BANNER SIGN PERMIT

The following are some of the City's standards from Section 17.84.030H of the Zoning Code for temporary banner signs:

1. Each business may only display one temporary banner sign.
2. The maximum size for a temporary banner sign is 64 square feet.
3. A temporary banner sign must be flush mounted to the building and is not to be hung on fences, railings, trees or shrubs.
4. A temporary banner sign is prohibited in the public right-of-way.
5. A temporary banner sign permit is required and can be obtained from the Planning Division.
6. A temporary banner sign permit is valid for 30 days.
7. Each business may have up to four temporary banner sign permits per calendar year.

Business Name: Bass (Outlets)

Business Address: 101 West Avenida Hermosa, 170

Applicant Name: Nancy May

Business Phone: 949.224.4168 Email: nmay@craigrealtygroup.com

Description of banner including size, material, copy, location, and mounting:

Nancy May
Applicant Signature

4-20-17
Date

FOR OFFICE USE ONLY (PERMIT FEE: \$12.00/ 30 day permit)

1. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
2. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
3. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
4. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____

TOTAL PERMITS/THIS CALENDAR YEAR: _____

EXHIBIT 2

Susan Jennrich

From: Jones, Cliff [JonesC@san-clemente.org]
Sent: Wednesday, April 26, 2017 7:59 AM
To: Nancy May; Louis Trolani
Cc: Gregg, Amber; Gallardo-Daly, Cecilia; Vo, Linda; Carrillo, David; Wright, Christopher; Gentile, Gregory; Alamian, Adam
Subject: Temporary Banner Sign applications submitted on April 20, 2017
Attachments: Outlets - Temporary Banner Sign Permits.pdf

Good Morning Nancy,

Thank you for submitting the Temporary Banner Sign applications on April 20, 2017. Our staff has reviewed the applications and I am sorry to say that there are a number of Temporary Banner Sign applications that the City cannot issue. As Amber Gregg indicated in her previous email last year (email correspondence provided below), Temporary Banner Signs are only permitted on the business's primary structure. Based on this requirement, the only businesses that would be able to advertise on the back side of Buildings 18AA, 18A, 17A, 19, 21 and 22 are the businesses located in said buildings. Tenants in Building 20 can only apply for a Temporary Banner Sign to place a banner on their respective building.

Thus, the following (highlighted) suites shall not be permitted a Temporary Banner Sign. The suites that are not highlighted could be approved for a Temporary Banner Sign to place a banner on their respective building.

Temporary Banner Sign Permits (Submitted 4-20-17)

Business Store	Proposed Sign	Suite No.
Rockwell's	Tommy Hilfiger	116
Luxury Mall	H&M	424
Crocs	Columbia	176
Eddie Bauer	Guess	158
Zales	Outlets	410
Crossover Health	Vanz	120
Owl Fish	Cole Haan	516*
Sun Diego	Calvin Klein	562*
Zumiez	Panera Bread	560*
Papaya	Converse	550*
Carter's	Starbucks	544*
Van Heusen	Levi's	534*
Jockey	Blaze Pizza	530*
Clarks	Nautica	528*
Loft	Tilly's	524*
Perfumia	Putia	518*
Asics	Nike	514*
Grayse	Skechers	512*

*Not Permitted Suite/Building for Temporary Banner Signage

For reference purposes I have attached an exhibit that shows the tenants that were previously approved for Temporary Banner Signs, which are highlighted in red. The tenants that applied for Temporary Banner Permits on April 20, 2017 are

highlighted in yellow in the attached exhibit. The tenants in Building 20, outlined in black in the attached exhibit, cannot be approved Temporary Banner Sign applications to locate a banner on Buildings 18AA, 18A, 17A, 19, 21 and 22.

If you wish to proceed with Temporary Banner Signs applications for the six tenants that are specified above, please provide us a check payable to the City of San Clemente in the amount of \$72.00.

I have copied our Code Compliance Division and they will be contacting you shortly to discuss the existing banners that will not be permitted after May 1, 2017. I have also copied David Carrillo, Linda Vo, and Chris Wright who work the public counter. They will be able to complete the processing of your application this week as I will be out of the office Thursday and Friday this week and am in meetings most of today.

Please do not hesitate to contact me if you have any questions. You may also contact Amber Gregg if I am unavailable.

Sincerely,

Cliff Jones | City of San Clemente

Associate Planner

910 Calle Negocio, Ste. 100 CA 92673

office: 949.361.6186 | facsimile: 949.366.4750

website: <http://www.san-clemente.org>

On Aug 10, 2016, at 8:10 AM, Pechous, Jim <PechousJ@san-clemente.org> wrote:

Hi Louis,

Amber and I reviewed this and her determination is consistent with mine. Also for clarification, the new banners will have the standard time limit per the banner sign section from the sign ordinance of 120 days (see below). I did not say the permit display requirements are relaxed, what I indicated was that because you have an application in for freeway signs, that the allowance of this second round of banners applied for by the tenants does not constitute permanent display and run contrary to the intent of this section of the code, see the highlighted section.

Each business may have up to four banner permits per calendar year. Renewals of banner permits are allowed, but in no case shall a business display a temporary banner for more than 120 days per calendar year. A minimum of 14 days between permits is required, except upon renewal of an existing banner permit. Banners may be replaced during the authorized period so long as they are the same or smaller size and installed in the

approved location. These provisions are to ensure temporary banner signs are not used as permanent display or in-lieu of permanent signs for the business.

From: Gregg, Amber
Sent: Tuesday, August 9, 2016 5:03 PM
To: Louis Troiani
Cc: David Sanner; Nancy May; Steven Knoblock; Pechous, Jim
Subject: RE: PSC Temp Sign Permit

Thank you Louis, understood.

Amber

From: Louis Troiani [<mailto:louis@studioprogetti.com>]
Sent: Tuesday, August 09, 2016 5:01 PM
To: Gregg, Amber <GreggA@san-clemente.org>
Cc: David Sanner <dsanner@craigrealtygroup.com>; Nancy May <nmay@craigrealtygroup.com>; Steven Knoblock <SKnoblock@craigrealtygroup.com>; Pechous, Jim <PechousJ@san-clemente.org>
Subject: Re: PSC Temp Sign Permit

Amber—

While we completely disagree on your interpretation of the spirit of the code, we will proceed with our applications.

As further note to the permit process, Cecilia Gallardo-Daly and Jim Pechous said that the term limit of these temporary signs is relaxed due to the permanent sign application in process. Please be aware of that when we formally file for the permits.

We will be preparing today the additional sign layouts and permits to file for application tomorrow.

Louis Troiani
louis@studioprogetti.com

On Aug 9, 2016, at 3:27 PM, Gregg, Amber <GreggA@san-clemente.org> wrote:

Hello Louis,

Thank you for your patience. I have reviewed the documents and the sections of the code that you were referring too. After reading Section 17.84.030H, Temporary Banner Signs, it states that the Banners are only permitted on the business's primary structure (please see the red highlighted area below). Based on this requirement, the only businesses that would be able to advertise on the back side of buildings 19, 21 and 22 are the businesses located in said buildings. Based on the plans provided Blaze, Levis, Loft, Starbucks, and I believe Cole Haan would need to be removed.

Thank you for allowing us time to review this in more detail, I am sorry it is not the response you were hoping for. Please contact me with any additional questions.

Amber

<image002.jpg>

Amber Gregg | City of San Clemente
Senior Planner | North Beach District Liaison
910 Calle Negocio, Ste. 100 CA 92673
website <http://www.san-clemente.org>

From: Louis Troiani [<mailto:louis@studioprogetti.com>]
Sent: Tuesday, August 09, 2016 8:45 AM
To: Gregg, Amber <GreggA@san-clemente.org>
Cc: David Sanner <dsanner@craigrealtvgroup.com>;
Nancy May <nmay@craigrealtvgroup.com>; Steven
Knoblock <SKnoblock@craigrealtvgroup.com>
Subject: PSC Temp Sign Permit

Amber—

So nice to speak to you this afternoon.

The link below is to the folder with both an overview of the Elevations facing I-5 and the individual Tenant Sign Layouts for permit.

As discussed we were not proposing to have a sign for each Tenant but we have instead initially selected the most powerful brands that will drive traffic and are expected to drive sales. For that reason and as part of the discussion with Ceelia Gayardo-Daly and City Manager James

Makshanoff, we chose 11 brands and the ID for Outlets.

H&M
Nike
Guess
Loft
Under Armour
Starbucks
Levis
Cole Haan
Blaze Pizza
Panera Bread
Puma

And "Outlets"

The Temporary Banner section of the zoning code states that the "sign shall be placed on-site and flush on the building facade". On-site signs are defined by code as a 'sign which advertises a business which is located on the site or parcel where the sign is located'.

As the Outlets are a complex of multiple tenant buildings that are a part of the whole complex, we feel the code as it is written allows the flexibility to place signs where they are optimally viewed and not literally on each Tenants Suite. Where possible I have located some Temp Tenant Signs near their space but for those Tenants that do not have a facade facing the Freeway but have strong brand identification, I have distributed them on the available locations.

We are confident that the package we are presenting represents the spirit and intent of the code and we respectfully ask for your review and comment in order for us to proceed with the individual sign permits.

Dave, Nancy and I are available to discuss any questions or concerns you may have.
We look forward to hearing back from you.

Thank you.

LINK:

<https://www.dropbox.com/sh/sh7vqg78n4np7z6/AA-CmoWq65N1B7n3ZmcThfUa?dl=0>

C C

Louis Trolani
louis@studioprogetti.com

C

C

EXHIBIT 3

Villa San Clemente, LLC

4100 MacArthur Blvd., Ste. 100
Newport Beach, CA 92660
(949) 224-4100

To the City of San Clemente:

I write this second letter for Villa San Clemente, LLC (hereinafter referred to as the "Outlets") to accompany a second set of applications regarding the renewal of temporary banner sign permits for our tenants. This letter is being delivered due to the denial of some or all of the applications sought by our first-time applicants (which you have wrongfully denied).

Temporary banners are necessary for the continued viability of the businesses at the Outlets until permanent signs are permitted to replace the temporary banners. The removal of the banners before permanent signs are installed will result in dramatically reduced sales, fewer visitors, slower growth of new tenants, and may impact the viability of current tenants, along with other significant financial losses to the Outlets.

The Sign Ordinance states that the purpose of the temporary banner law is to allow businesses to display temporary banners until they obtain permits for permanent signage rights and have those signs in place. The Policy states the reason for the 120-day limitation was to avoid temporary banners being used "in lieu of permanent signs for the business." The Outlets have no desire to use temporary banners in lieu of permanent signs. The CEQA study is the only thing holding up permanent signs. Thus the 120-day limit is arbitrary and capricious were it to be applied here. It is only because the CEQA process has delayed the applicants from obtaining the permanent sign permits that there is any need to renew the applications beyond the statutory period of 120 days. Thus, it is consistent with the intent and language of the City's Ordinance that the 120-day limit must be extended in this case until the City concludes the CEQA process.

The Sign Ordinance's Policy "recognizes the need for signs to identify businesses and properties within the community." Moreover, "[s]ign regulations which implement the City's goals and objectives are necessary."

Here, the City's objective was not place an arbitrary 120 day limit on temporary signs and banners (given that before the change there was no such time limit). Instead, the 120-day limit applied for the express purpose of stopping businesses from using temporary banners (as they did before) as a tactic to avoid applying for and obtaining a permanent sign permit. The Outlets were approved for permanent signs in 2006 and sought implementation in 2016. Here, the timing for obtaining permits for permanent signage is beyond the applicants' control. The CEQA process must be completed first.

A web search demonstrates that on October 10, 1991, L.A. Times writer Zion Banks wrote an article titled "SAN CLEMENTE: Rules Stiffened for Temporary Banners." That article states: "We limit it [120 days] ... because people have utilized temporary banners instead of

permanent signs,' Goldin [Principal Planner] said." That article affirms the why the purpose for which the Sign Ordinance was "stiffened" has no applicability here.

As noted, the applicants were previously granted a Master Sign Permit that allows permanent signs. The Outlets is not using the temporary sign permit to avoid placing permanent signs on the Outlets, or as a means of circumventing the need to apply for permanent signs. There has long been in place an order requiring the City to perform a CEQA Study before the Outlets can install the permanent signs for which it has received approval. The CEQA process has been moving forward for well over a year. The timeline indicates the process will likely not be completed until sometime in October, 2017, likely later. Until that process is complete, the City's position (as we understand it) is that the applicants are not permitted to install permanent signs. It is important to note that the City and its counsel have already affirmed in public meetings that the Outlets has a vested right to put its permanent signs in place. Thus, there can be no question of offending the rationale and objectives that govern the temporary banner restrictions of the Sign Ordinance.

To prevent renewal by the tenants at the Outlets would be completely -- and unlawfully -- inconsistent with the longstanding patterns of enforcement policies of the City with regard to business signs and banners, in addition to the purpose of the 120-day limitation. Throughout the City, many businesses have maintained "banners" for years without any citations or objection from the City. To now single out the Outlets tenants' temporary banners for removal even before the permitted time has expired and allow others who are in effect, granted special privilege of to keep in place unpermitted signs would be evidence of the City's selective enforcement of its Sign Ordinance and the unconstitutional denial of First Amendment rights based on the content of the signs and identity of the parties seeking renewal.

There is no "appeal process" for denial of an over-the-counter Temporary Banner Sign Permit. The reason is obvious. The Permit is an administrative permit, not a discretionary permit. The City cannot deny a valid request; instead, the City may seek removal of any offending sign, provided it has proper grounds (such as, the sign being too large, electronic, having moving parts, consisting of the wrong material, or other violations that might be appropriate).

Here, the applicable violation, if any, is duration. Yet the basis for an extension here is the unusual circumstance that the City has not finalized the permanent signage and therefore the extension does not violate the expressly stated purpose for the 120-day limitation.

Discontinuation of the sign would not only violate the express purpose of the City's Sign Ordinance and be utterly inconsistent with the City's historic pattern of enforcement, but would amount to an application that is violative of the First Amendment to the United States Constitution, as well as the California Constitution. The right to display signs and banners is a form of protected speech. Limitations on First Amendment rights are subject to regulation which must be appropriate and evenly enforced. Such enforcement may not depend upon the content of the sign or the identity of the speaker.

The Outlets applied for permanent signs over a year ago; as the City has acknowledged, the Outlets has a vested right to its permanent signs. The applicants have no intention of using the

temporary banners to avoid obtaining permanent sign permit(s). Thus, no governmental interest or purpose is served if the temporary permits at issue here were to be limited to 120 days.

If you disagree, and intend for any reason to deny these applications, please note that we request your reasons in writing. If in this case you believe that an appeal is available in this case, this letter will serve to notify the City that we are exercising that right of appeal. Please advise us immediately of the procedure you intend to follow. If as we expect, there is no appeal process provided for, we propose that we meet with you (and/or your attorneys if you prefer) in an attempt to resolve these issues short of litigation, if at all possible.

The forced removal of the temporary banners (without replacement by new permanent signage) will have a huge negative financial impact on applicants, other Outlets tenants, and the Outlets owner. Depriving the Outlets of those signs would result in substantial damages to the Outlets and its tenants.

Very truly yours,

Villa San Clemente, LLC



DAVID L. SANNER, its Representative



City of San Clemente Planning Division

910 CALLE NEGOCIO, SUITE 100, SAN CLEMENTE, CA 92673
Phone: (949) 361-6100
Fax: (949) 366-4750
E-mail: planning@san-clemente.org

Permit # _____

TEMPORARY BANNER SIGN PERMIT

The following are some of the City's standards from Section 17.84.030H of the Zoning Code for temporary banner signs:

1. Each business may only display one temporary banner sign.
2. The maximum size for a temporary banner sign is 64 square feet.
3. A temporary banner sign must be flush mounted to the building and is not to be hung on fences, railings, trees or shrubs.
4. A temporary banner sign is prohibited in the public right-of-way.
5. A temporary banner sign permit is required and can be obtained from the Planning Division.
6. A temporary banner sign permit is valid for 30 days.
7. Each business may have up to four temporary banner sign permits per calendar year.

Business Name: Calvin Klein

Business Address: 101 West Avenida Hermosa, Ste. 400

Applicant Name: Nancy May

Business Phone: 949.224.4168

Email: nmay@craigrealtygroup.com

Description of banner including size, material, copy, location, and mounting:

Nancy May
Applicant Signature

4-20-17
Date

FOR OFFICE USE ONLY (PERMIT FEE: \$12.00 / 30 day permit)

1. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
2. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
3. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
4. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____

TOTAL PERMITS/THIS CALENDAR YEAR: _____



City of San Clemente
Planning Division

910 CALLE NEGOCIO, SUITE 100, SAN CLEMENTE, CA 92673
Phone: (949) 361-6100
Fax: (949) 366-4750
E-mail: planning@san-clemente.org

Permit # _____

TEMPORARY BANNER SIGN PERMIT

The following are some of the City's standards from Section 17.84.030H of the Zoning Code for temporary banner signs:

1. Each business may only display one temporary banner sign.
2. The maximum size for a temporary banner sign is 64 square feet.
3. A temporary banner sign must be flush mounted to the building and is not to be hung on fences, railings, trees or shrubs.
4. A temporary banner sign is prohibited in the public right-of-way.
5. A temporary banner sign permit is required and can be obtained from the Planning Division.
6. A temporary banner sign permit is valid for 30 days.
7. Each business may have up to four temporary banner sign permits per calendar year.

Business Name: Panera Bread

Business Address: 101 West Avenida Hermosa, Ste. 480

Applicant Name: Nancy May

Business Phone: 949.224.4168

Email: nmay@craigrealtygroup.com

Description of banner including size, material, copy, location, and mounting:

Nancy May
Applicant Signature

4-20-17
Date

FOR OFFICE USE ONLY (PERMIT FEE: \$12.00/30 day permit)

1. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
2. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
3. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
4. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____

TOTAL PERMITS/THIS CALENDAR YEAR: _____



City of San Clemente
Planning Division

910 CALLE NEGOCIO, SUITE 100, SAN CLEMENTE, CA 92673
Phone: (949) 361-6100
Fax: (949) 366-4750
E-mail: planning@san-clemente.org

Permit # _____

TEMPORARY BANNER SIGN PERMIT

The following are some of the City's standards from Section 17.84.030H of the Zoning Code for temporary banner signs:

1. Each business may only display one temporary banner sign.
2. The maximum size for a temporary banner sign is 64 square feet.
3. A temporary banner sign must be flush mounted to the building and is not to be hung on fences, railings, trees or shrubs.
4. A temporary banner sign is prohibited in the public right-of-way.
5. A temporary banner sign permit is required and can be obtained from the Planning Division.
6. A temporary banner sign permit is valid for 30 days.
7. Each business may have up to four temporary banner sign permits per calendar year.

Business Name: Converse

Business Address: 101 West Avenida Hermosa, Ste.134

Applicant Name: Nancy May

Business Phone: 949.224.4168

Email: nmay@craigrealtygroup.com

Description of banner including size, material, copy, location, and mounting:

Nancy May
Applicant Signature

4-20-17
Date

FOR OFFICE USE ONLY (PERMIT FEE: \$12.00 30 day permit)

1. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
2. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
3. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
4. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____

TOTAL PERMITS/THIS CALENDAR YEAR: _____

Permit # _____



City of San Clemente Planning Division

910 CALLE NEGOCIO, SUITE 100, SAN CLEMENTE, CA 92673
Phone: (949) 361-6100
Fax: (949) 366-4750
E-mail: planning@san-clemente.org

TEMPORARY BANNER SIGN PERMIT

The following are some of the City's standards from Section 17.84.030H of the Zoning Code for temporary banner signs:

1. Each business may only display one temporary banner sign.
2. The maximum size for a temporary banner sign is 64 square feet.
3. A temporary banner sign must be flush mounted to the building and is not to be hung on fences, railings, trees or shrubs.
4. A temporary banner sign is prohibited in the public right-of-way.
5. A temporary banner sign permit is required and can be obtained from the Planning Division.
6. A temporary banner sign permit is valid for 30 days.
7. Each business may have up to four temporary banner sign permits per calendar year.

Business Name: Luggage Factory (Starbucks)

Business Address: 101 West Avenida Hermosa, Ste. 172

Applicant Name: Nancy May

Business Phone: 949.224.4168

Email: nmay@craigrealtygroup.com

Description of banner including size, material, copy, location, and mounting:

Nancy May
Applicant Signature

4-20-17
Date

FOR OFFICE USE ONLY (PERMIT FEE: \$12.00 30 day permit)

1. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
2. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
3. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
4. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____

TOTAL PERMITS/THIS CALENDAR YEAR: _____



City of San Clemente
Planning Division

910 CALLE NEGOCIO, SUITE 100, SAN CLEMENTE, CA 92673
Phone: (949) 361-6100
Fax: (949) 366-4750
E-mail: planning@san-clemente.org

Permit # _____

TEMPORARY BANNER SIGN PERMIT

The following are some of the City's standards from Section 17.84.030H of the Zoning Code for temporary banner signs:

1. Each business may only display one temporary banner sign.
2. The maximum size for a temporary banner sign is 64 square feet.
3. A temporary banner sign must be flush mounted to the building and is not to be hung on fences, railings, trees or shrubs.
4. A temporary banner sign is prohibited in the public right-of-way.
5. A temporary banner sign permit is required and can be obtained from the Planning Division.
6. A temporary banner sign permit is valid for 30 days.
7. Each business may have up to four temporary banner sign permits per calendar year.

Business Name: Pearl Izumi (Levi's)

Business Address: 101 West Avenida Hermosa, Ste.166

Applicant Name: Nancy May

Business Phone: 949.224.4168 Email: nmay@craigrealtygroup.com

Description of banner including size, material, copy, location, and mounting:

Nancy May
Applicant Signature

4-20-17
Date

FOR OFFICE USE ONLY (PERMIT FEE: \$12.00 30 day permit)

1. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
2. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
3. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
4. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____

TOTAL PERMITS/THIS CALENDAR YEAR: _____



City of San Clemente Planning Division

910 CALLE NEGOCIO, SUITE 100, SAN CLEMENTE, CA 92673
Phone: (949) 361-6100
Fax: (949) 366-4750
E-mail: planning@san-clemente.org

Permit # _____

TEMPORARY BANNER SIGN PERMIT

The following are some of the City's standards from *Section 17.84.030H* of the Zoning Code for temporary banner signs:

1. Each business may only display one temporary banner sign.
2. The maximum size for a temporary banner sign is 64 square feet.
3. A temporary banner sign must be flush mounted to the building and is not to be hung on fences, railings, trees or shrubs.
4. A temporary banner sign is prohibited in the public right-of-way.
5. A temporary banner sign permit is required and can be obtained from the Planning Division.
6. A temporary banner sign permit is valid for 30 days.
7. Each business may have up to four temporary banner sign permits per calendar year.

Business Name: Hanes (Blaze Pizza)

Business Address: 101 West Avenida Hermosa, Ste. 174

Applicant Name: Nancy May

Business Phone: 949.224.4168

Email: nmay@craigrealtygroup.com

Description of banner including size, material, copy, location, and mounting:

Nancy May
Applicant Signature

4-20-17
Date

FOR OFFICE USE ONLY (PERMIT FEE: \$12.00; 30 day permit)

1. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
2. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
3. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
4. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____

TOTAL PERMITS/THS CALENDAR YEAR: _____



City of San Clemente Planning Division

910 CALLE NEGOCIO, SUITE 100, SAN CLEMENTE, CA 92673
Phone: (949) 361-6100
Fax: (949) 366-4750
E-mail: planning@san-clemente.org

Permit # _____

TEMPORARY BANNER SIGN PERMIT

The following are some of the City's standards from Section 17.84.030H of the Zoning Code for temporary banner signs:

1. Each business may only display one temporary banner sign.
2. The maximum size for a temporary banner sign is 64 square feet.
3. A temporary banner sign must be flush mounted to the building and is not to be hung on fences, railings, trees or shrubs.
4. A temporary banner sign is prohibited in the public right-of-way.
5. A temporary banner sign permit is required and can be obtained from the Planning Division.
6. A temporary banner sign permit is valid for 30 days.
7. Each business may have up to four temporary banner sign permits per calendar year.

Business Name: Nautica

Business Address: 101 West Avenida Hermosa, Ste. 414

Applicant Name: Nancy May

Business Phone: 949.224.4168

Email: nmay@craigrealtygroup.com

Description of banner including size, material, copy, location, and mounting:

Nancy May
Applicant Signature

4-20-17
Date

FOR OFFICE USE ONLY (PERMIT FEE: \$12.00/30 day permit)

1. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
2. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
3. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
4. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____

TOTAL PERMITS/THIS CALENDAR YEAR: _____



City of San Clemente
Planning Division

910 CALLE NEGOCIO, SUITE 100, SAN CLEMENTE, CA 92673
Phone: (949) 361-6100
Fax: (949) 366-4750
E-mail: planning@san-clemente.org

Permit # _____

TEMPORARY BANNER SIGN PERMIT

The following are some of the City's standards from *Section 17.84.030H* of the Zoning Code for temporary banner signs:

1. Each business may only display one temporary banner sign.
2. The maximum size for a temporary banner sign is 84 square feet.
3. A temporary banner sign must be flush mounted to the building and is not to be hung on fences, railings, trees or shrubs.
4. A temporary banner sign is prohibited in the public right-of-way.
5. A temporary banner sign permit is required and can be obtained from the Planning Division.
6. A temporary banner sign permit is valid for 30 days.
7. Each business may have up to four temporary banner sign permits per calendar year.

Business Name: Tilly's

Business Address: 101 West Avenida Hermosa, Ste.154

Applicant Name: Nancy May

Business Phone: 949.224.4168

Email: nmay@craigrealtygroup.com

Description of banner including size, material, copy, location, and mounting:

Nancy May
Applicant Signature

4-20-17
Date

FOR OFFICE USE ONLY (PERMIT FEE: \$12.00/30 day permit)

1. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
2. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
3. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
4. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____

TOTAL PERMITS/THIS CALENDAR YEAR: _____



City of San Clemente
Planning Division

910 CALLE NEGOCIO, SUITE 100, SAN CLEMENTE, CA 92673
Phone: (949) 361-6100
Fax: (949) 366-4750
E-mail: planning@san-clemente.org

Permit # _____

TEMPORARY BANNER SIGN PERMIT

The following are some of the City's standards from Section 17.84.030H of the Zoning Code for temporary banner signs:

1. Each business may only display one temporary banner sign.
2. The maximum size for a temporary banner sign is 64 square feet.
3. A temporary banner sign must be flush mounted to the building and is not to be hung on fences, railings, trees or shrubs.
4. A temporary banner sign is prohibited in the public right-of-way.
5. A temporary banner sign permit is required and can be obtained from the Planning Division.
6. A temporary banner sign permit is valid for 30 days.
7. Each business may have up to four temporary banner sign permits per calendar year.

Business Name: Puma

Business Address: 101 West Avenida Hermosa, Ste. 476

Applicant Name: Nancy May

Business Phone: 949.224.4168

Email: nmay@craigrealtygroup.com

Description of banner including size, material, copy, location, and mounting:

Nancy May
Applicant Signature

4-20-17
Date

FOR OFFICE USE ONLY (PERMIT FEE: \$12.00/30 day permit)

1. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
2. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
3. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
4. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____

TOTAL PERMITS/THIS CALENDAR YEAR: _____



City of San Clemente Planning Division

910 CALLE NEGOCIO, SUITE 100, SAN CLEMENTE, CA 92673
Phone: (949) 361-6100
Fax: (949) 366-4750
E-mail: planning@san-clemente.org

Permit # _____

TEMPORARY BANNER SIGN PERMIT

The following are some of the City's standards from Section 17.84.030H of the Zoning Code for temporary banner signs:

1. Each business may only display one temporary banner sign.
2. The maximum size for a temporary banner sign is 64 square feet.
3. A temporary banner sign must be flush mounted to the building and is not to be hung on fences, railings, trees or shrubs.
4. A temporary banner sign is prohibited in the public right-of-way.
5. A temporary banner sign permit is required and can be obtained from the Planning Division.
6. A temporary banner sign permit is valid for 30 days.
7. Each business may have up to four temporary banner sign permits per calendar year.

Business Name: Cole Haan

Business Address: 101 West Avenida Hermosa, Ste. 412

Applicant Name: Nancy May

Business Phone: 949.224.4168

Email: nmay@craigrealtygroup.com

Description of banner including size, material, copy, location, and mounting:

Nancy May
Applicant Signature

4-20-17
Date

FOR OFFICE USE ONLY (PERMIT FEE: \$12.00 30 day permit)

1. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
2. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
3. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
4. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____

TOTAL PERMITS/THIS CALENDAR YEAR: _____



City of San Clemente Planning Division

910 CALLE NEGOCIO, SUITE 100, SAN CLEMENTE, CA 92673
Phone: (949) 361-6100
Fax: (949) 366-4750
E-mail: planning@san-clemente.org

Permit # _____

TEMPORARY BANNER SIGN PERMIT

The following are some of the City's standards from Section 17.84.030H of the Zoning Code for temporary banner signs:

1. Each business may only display one temporary banner sign.
2. The maximum size for a temporary banner sign is 64 square feet.
3. A temporary banner sign must be flush mounted to the building and is not to be hung on fences, railings, trees or shrubs.
4. A temporary banner sign is prohibited in the public right-of-way.
5. A temporary banner sign permit is required and can be obtained from the Planning Division.
6. A temporary banner sign permit is valid for 30 days.
7. Each business may have up to four temporary banner sign permits per calendar year.

Business Name: Nike

Business Address: 101 West Avenida Hermosa, Ste. 130

Applicant Name: Nancy May

Business Phone: 949.224.4168

Email: nmay@craigrealtygroup.com

Description of banner including size, material, copy, location, and mounting:

Nancy May
Applicant Signature

4-20-17
Date

FOR OFFICE USE ONLY (PERMIT FEE: \$12.00/30 day permit)

1. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
2. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
3. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
4. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____

TOTAL PERMITS/THIS CALENDAR YEAR: _____



City of San Clemente
Planning Division

910 CALLE NEGOCIO, SUITE 100, SAN CLEMENTE, CA 92673
Phone: (949) 361-6100
Fax: (949) 366-4750
E-mail: planning@san-clemente.org

Permit # _____

TEMPORARY BANNER SIGN PERMIT

The following are some of the City's standards from Section 17.84.030H of the Zoning Code for temporary banner signs:

1. Each business may only display one temporary banner sign.
2. The maximum size for a temporary banner sign is 64 square feet.
3. A temporary banner sign must be flush mounted to the building and is not to be hung on fences, railings, trees or shrubs.
4. A temporary banner sign is prohibited in the public right-of-way.
5. A temporary banner sign permit is required and can be obtained from the Planning Division.
6. A temporary banner sign permit is valid for 30 days.
7. Each business may have up to four temporary banner sign permits per calendar year.

Business Name: Skechers

Business Address: 101 West Avenida Hermosa, Ste. 168

Applicant Name: Nancy May

Business Phone: 949.224.4168 Email: nmay@craigrealtygroup.com

Description of banner including size, material, copy, location, and mounting:

Nancy May
Applicant Signature

4-20-17
Date

FOR OFFICE USE ONLY (PERMIT FEE: \$12.00/ 30 day permit)

1. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
2. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
3. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
4. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____

TOTAL PERMITS/THIS CALENDAR YEAR: _____



City of San Clemente
Planning Division

910 CALLE NEGOCIO, SUITE 100, SAN CLEMENTE, CA 92673
Phone: (949) 361-6100
Fax: (949) 366-4750
E-mail: planning@san-clemente.org

Permit # _____

TEMPORARY BANNER SIGN PERMIT

The following are some of the City's standards from Section 17.84.030H of the Zoning Code for temporary banner signs:

1. Each business may only display one temporary banner sign.
2. The maximum size for a temporary banner sign is 64 square feet.
3. A temporary banner sign must be flush mounted to the building and is not to be hung on fences, railings, trees or shrubs.
4. A temporary banner sign is prohibited in the public right-of-way.
5. A temporary banner sign permit is required and can be obtained from the Planning Division.
6. A temporary banner sign permit is valid for 30 days.
7. Each business may have up to four temporary banner sign permits per calendar year.

Business Name: Vans

Business Address: 101 West Avenida Hermosa, Ste. 164

Applicant Name: Nancy May

Business Phone: 949.224.4168

Email: nmay@craigrealtygroup.com

Description of banner (including size, material, copy, location, and mounting):

Nancy May
Applicant Signature

4-20-17
Date

FOR OFFICE USE ONLY (PERMIT FEE: \$12.00 30 day permit)

1. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
2. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
3. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
4. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____

TOTAL PERMITS/THIS CALENDAR YEAR: _____



City of San Clemente Planning Division

910 CALLE NEGOCIO, SUITE 100, SAN CLEMENTE, CA 92673
Phone: (949) 361-6100
Fax: (949) 366-4750
E-mail: planning@san-clemente.org

Permit # _____

TEMPORARY BANNER SIGN PERMIT

The following are some of the City's standards from Section 17.84.030H of the Zoning Code for temporary banner signs:

1. Each business may only display one temporary banner sign.
2. The maximum size for a temporary banner sign is 64 square feet.
3. A temporary banner sign must be flush mounted to the building and is not to be hung on fences, railings, trees or shrubs.
4. A temporary banner sign is prohibited in the public right-of-way.
5. A temporary banner sign permit is required and can be obtained from the Planning Division.
6. A temporary banner sign permit is valid for 30 days.
7. Each business may have up to four temporary banner sign permits per calendar year.

Business Name: Tommy Hilfiger

Business Address: 101 West Avenida Hermosa, Ste. 200

Applicant Name: Nancy May

Business Phone: 949.224.4168

Email: nmay@craigrealtygroup.com

Description of banner including size, material, copy, location, and mounting:

Nancy May
Applicant Signature

4-20-17
Date

FOR OFFICE USE ONLY (PERMIT FEE: \$12.00/30 day permit)

1. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
2. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
3. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
4. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____

TOTAL PERMITS/THIS CALENDAR YEAR: _____



City of San Clemente Planning Division

910 CALLE NEGOCIO, SUITE 100, SAN CLEMENTE, CA 92673
Phone: (949) 361-6100
Fax: (949) 366-4750
E-mail: planning@san-clemente.org

Permit # _____

TEMPORARY BANNER SIGN PERMIT

The following are some of the City's standards from Section 17.84.030H of the Zoning Code for temporary banner signs:

1. Each business may only display one temporary banner sign.
2. The maximum size for a temporary banner sign is 64 square feet.
3. A temporary banner sign must be flush mounted to the building and is not to be hung on fences, railings, trees or shrubs.
4. A temporary banner sign is prohibited in the public right-of-way.
5. A temporary banner sign permit is required and can be obtained from the Planning Division.
6. A temporary banner sign permit is valid for 30 days.
7. Each business may have up to four temporary banner sign permits per calendar year.

Business Name: Guess

Business Address: 101 West Avenida Hermosa, Ste. 180

Applicant Name: Nancy May

Business Phone: 949.224.4168

Email: nmay@craigrealtygroup.com

Description of banner including size, material, copy, location, and mounting:

Nancy May
Applicant Signature

4-20-17
Date

FOR OFFICE USE ONLY (PERMIT FEE: \$12.00; 30 day permit)

1. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
2. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
3. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
4. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____

TOTAL PERMITS/THIS CALENDAR YEAR: _____



City of San Clemente
Planning Division

910 CALLE NEGOCIO, SUITE 100, SAN CLEMENTE, CA 92673
Phone: (949) 361-6100
Fax: (949) 366-4750
E-mail: planning@san-clemente.org

Permit # _____

TEMPORARY BANNER SIGN PERMIT

The following are some of the City's standards from Section 17.84.030H of the Zoning Code for temporary banner signs:

1. Each business may only display one temporary banner sign.
2. The maximum size for a temporary banner sign is 64 square feet.
3. A temporary banner sign must be flush mounted to the building and is not to be hung on fences, railings, trees or shrubs.
4. A temporary banner sign is prohibited in the public right-of-way.
5. A temporary banner sign permit is required and can be obtained from the Planning Division.
6. A temporary banner sign permit is valid for 30 days.
7. Each business may have up to four temporary banner sign permits per calendar year.

Business Name: Columbia Sportswear

Business Address: 101 West Avenida Hermosa, Ste.162

Applicant Name: Nancy May

Business Phone: 949.224.4168

Email: nmay@craigrealtygroup.com

Description of banner including size, material, copy, location, and mounting:

Nancy May
Applicant Signature

4-20-17
Date

FOR OFFICE USE ONLY (PERMIT FEE: \$12.00/30 day permit)

1. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
2. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
3. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
4. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____

TOTAL PERMITS/THIS CALENDAR YEAR: _____



City of San Clemente
Planning Division

910 CALLE NEGOCIO, SUITE 100, SAN CLEMENTE, CA 92673
Phone: (949) 361-6100
Fax: (949) 366-4750
E-mail: planning@san-clemente.org

Permit # _____

TEMPORARY BANNER SIGN PERMIT

The following are some of the City's standards from Section 17.64.030H of the Zoning Code for temporary banner signs:

1. Each business may only display one temporary banner sign.
2. The maximum size for a temporary banner sign is 64 square feet.
3. A temporary banner sign must be flush mounted to the building and is not to be hung on fences, railings, trees or shrubs.
4. A temporary banner sign is prohibited in the public right-of-way.
5. A temporary banner sign permit is required and can be obtained from the Planning Division.
6. A temporary banner sign permit is valid for 30 days.
7. Each business may have up to four temporary banner sign permits per calendar year.

Business Name: H & M

Business Address: 101 West Avenida Hermosa Ste. 138

Applicant Name: Nancy May

Business Phone: 949.224.4168

Email: nmay@craigrealtygroup.com

Description of banner including size, material, copy, location, and mounting:

Nancy May
Applicant Signature

4-20-17
Date

FOR OFFICE USE ONLY (PERMIT FEE: \$12.00/ 30 day permit)

1. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
2. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
3. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
4. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____

TOTAL PERMITS/THIS CALENDAR YEAR: _____



City of San Clemente
Planning Division

910 CALLE NEGOCIO, SUITE 100, SAN CLEMENTE, CA 92673
Phone: (949) 361-6100
Fax: (949) 366-4750
E-mail: planning@san-clemente.org

Permit # _____

TEMPORARY BANNER SIGN PERMIT

The following are some of the City's standards from Section 17.84.030H of the Zoning Code for temporary banner signs:

1. Each business may only display one temporary banner sign.
2. The maximum size for a temporary banner sign is 64 square feet.
3. A temporary banner sign must be flush mounted to the building and is not to be hung on fences, railings, trees or shrubs.
4. A temporary banner sign is prohibited in the public right-of-way.
5. A temporary banner sign permit is required and can be obtained from the Planning Division.
6. A temporary banner sign permit is valid for 30 days.
7. Each business may have up to four temporary banner sign permits per calendar year.

Business Name: Bass (Outlets)

Business Address: 101 West Avenida Hermosa, 170

Applicant Name: Nancy May

Business Phone: 949.224.4168

Email: nmay@craigrealtygroup.com

Description of banner including size, material, copy, location, and mounting:

Nancy May
Applicant Signature

4-20-17
Date

FOR OFFICE USE ONLY (PERMIT FEE: \$12.00/30 day permit)

1. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
2. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
3. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
4. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____

TOTAL PERMITS/THIS CALENDAR YEAR: _____

C

C

EXHIBIT 4



City of San Clemente Planning Division

910 CALLE NEGOCIO, SUITE 100, SAN CLEMENTE, CA 92673
Phone: (949) 361-6100
Fax: (949) 366-4750
E-mail: planning@san-clemente.org

Permit # TAP 17-139

TEMPORARY BANNER SIGN PERMIT

The following are some of the City's standards from Section 17.84.030H of the Zoning Code for temporary banner signs:

1. Each business may only display one temporary banner sign.
2. The maximum size for a temporary banner sign is 64 square feet.
3. A temporary banner sign must be flush mounted to the building and is not to be hung on fences, railings, trees or shrubs.
4. A temporary banner sign is prohibited in the public right-of-way.
5. A temporary banner sign permit is required and can be obtained from the Planning Division.
6. A temporary banner sign permit is valid for 30 days.
7. Each business may have up to four temporary banner sign permits per calendar year.

Business Name: Zales (Outlets)
 Business Address: 101 West Avenida Hermosa, 410
 Applicant Name: Nancy May
 Business Phone: 949.224.4168 Email: nmay@craigrealtygroup.com

Description of banner including size, material, copy, location, and mounting:

64 SQ FT.
14.7' x 50'
See attached elevation

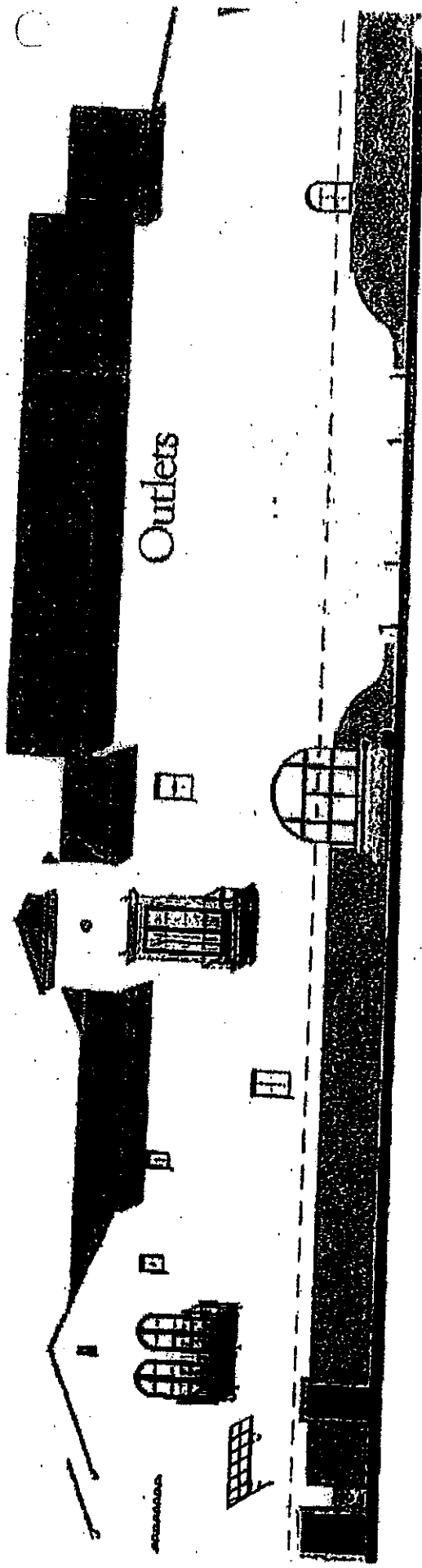
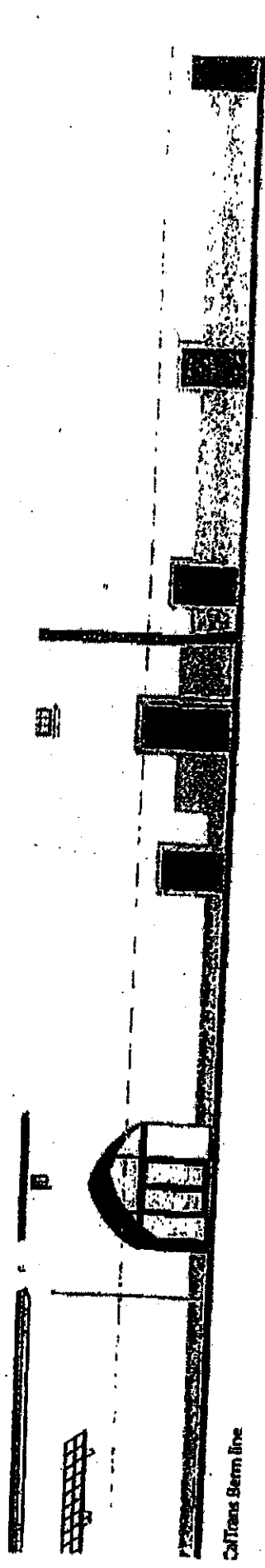
Nancy May
 Applicant Signature
4-20-17
 Date

FOR OFFICE USE ONLY (PERMIT FEE: \$12.00/30 day permit)

1. DATE ISSUED: <u>May 1, 2017</u>	DATE EXPIRES: <u>Aug 27, 2017</u>	ISSUED BY: <u>[Signature]</u>
2. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
3. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
4. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____

TOTAL PERMITS/THIS CALENDAR YEAR: 4

* Permit is for just 30 day permits



17A - EAST E

192 OUTLETS 64 sf
34.7' x 50'





City of San Clemente

910 Calle Negocio, San Clemente, CA 92673
Office: (949) 361-6100



INVOICE / RECEIPT

Date: 4/28/2017 Prepared By: LVO
Application Number: PLN17-139
Address: 101 West Avenida Vista Hermosa 410
Applicant: Nancy May
Owner: Villa San Clemente LLC
Contractor:
Project Description: Zales (Outlets)

FEEES DUE

Project No.	Description	Account	Amount
PLN17-139	BANNER SIGN PERMIT	001-000-34164-000-00000	\$48.00

TOTAL Fees Charged: \$48.00
Payments Received: \$0.00
Balance Due: \$48.00

WHEN VALIDATED BELOW, THIS IS YOUR RECEIPT

PAID

APR 28 2017

VISA

City of San Clemente

PLEASE TAKE OUR CUSTOMER SURVEY
Scan our QR code or go to www.san-clemente.org/cdsurvey





City of San Clemente Planning Division

910 CALLE NEGOCIO, SUITE 100, SAN CLEMENTE, CA 92673
Phone: (949) 361-6100
Fax: (949) 366-4750
E-mail: planning@san-clemente.org

Permit # TBP 17-134

TEMPORARY BANNER SIGN PERMIT

The following are some of the City's standards from Section 17.84.030H of the Zoning Code for temporary banner signs:

1. Each business may only display one temporary banner sign.
2. The maximum size for a temporary banner sign is 64 square feet.
3. A temporary banner sign must be flush mounted to the building and is not to be hung on fences, railings, trees or shrubs.
4. A temporary banner sign is prohibited in the public right-of-way.
5. A temporary banner sign permit is required and can be obtained from the Planning Division.
6. A temporary banner sign permit is valid for 30 days.
7. Each business may have up to four temporary banner sign permits per calendar year.

Business Name: Rockwell's (Tommy Hilfiger)
 Business Address: 101 West Avenida Hermosa, 116
 Applicant Name: Nancy May
 Business Phone: 949.224.4168 Email: nmay@craigrealtygroup.com

Description of banner including size, material, copy, location, and mounting:

64 SQ FT. 32' x 24'
See attached elevation

Nancy May
 Applicant Signature

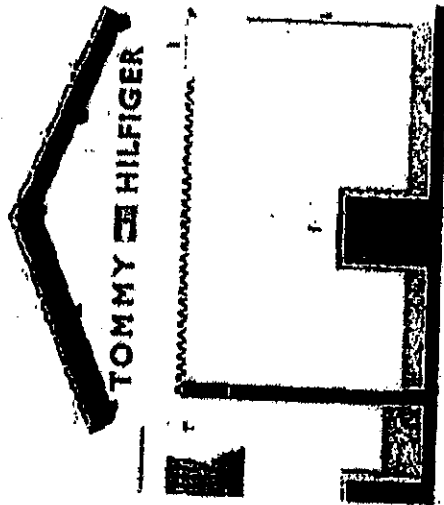
4-20-17
 Date

FOR OFFICE USE ONLY (PERMIT FEE: \$12.00/30 day permit)

1. DATE ISSUED: <u>March 1, 2017</u>	DATE EXPIRES: <u>April 30, 2017</u>	ISSUED BY: <u>[Signature]</u>
2. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
3. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
4. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____

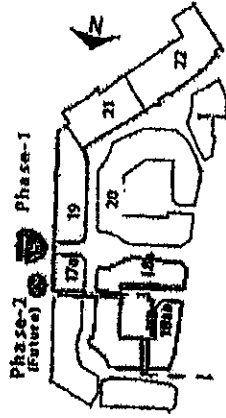
TOTAL PERMITS/THIS CALENDAR YEAR: 4

** 4, 30 permits.
 permit is for 30 days
 30 day permits.*



B17a TOMMY HILFIGER 64 sf
32' x 24'

Machine Cut Vinyl Letters direct applied.



SCALE: 3/32" = 1'-0"

**TOMMY HILFIGER alternate
TEMPORARY SIGN PERMIT**

11 AUGUST 2016

Outlets
at *Sass & Clematis*



City of San Clemente

910 Calle Negocio, San Clemente, CA 92673
Office: (949) 361-6100

INVOICE / RECEIPT

Date: 4/28/2017 Prepared By: LVO
 Application Number: PLN17-134
 Address: 101 West Avenida Vista Hermosa 116
 Applicant: Nancy May
 Owner: Villa San Clemente LLC
 Contractor:
 Project Description: Rockwell's (Tommy Hilfiger)

FEEES DUE

Project No.	Description	Account	Amount
PLN17-134	BANNBR SIGN PERMIT	001-000-34164-000-00000	\$48.00

TOTAL Fees Charged: \$48.00
 Payments Received: \$0.00
 Balance Due: \$48.00

WHEN VALIDATED BELOW, THIS IS YOUR RECEIPT

PAID

NCSK

APR 28 2017

City of San Clemente

PLEASE TAKE OUR CUSTOMER SURVEY
Scan our QR code or go to www.san-clemente.org/cdsurvey





City of San Clemente Planning Division

910 CALLE NEGOCIO, SUITE 100, SAN CLEMENTE, CA 92673
Phone: (949) 361-6100
Fax: (949) 366-4750
E-mail: planning@san-clemente.org

Permit # 788 17-137

TEMPORARY BANNER SIGN PERMIT

The following are some of the City's standards from Section 17.84.030H of the Zoning Code for temporary banner signs:

1. Each business may only display one temporary banner sign.
2. The maximum size for a temporary banner sign is 64 square feet.
3. A temporary banner sign must be flush mounted to the building and is not to be hung on fences, railings, trees or shrubs.
4. A temporary banner sign is prohibited in the public right-of-way.
5. A temporary banner sign permit is required and can be obtained from the Planning Division.
6. A temporary banner sign permit is valid for 30 days.
7. Each business may have up to four temporary banner sign permits per calendar year.

Business Name: Cross (Columbia)

Business Address: 101 West Avenida Hermosa, 176

Applicant Name: Nancy May

Business Phone: 949.224.4168

Email: nmay@craigrealtygroup.com

Description of banner including size, material, copy, location, and mounting:

18'-6" x 41" = 63 SQ FT

See attached elevation

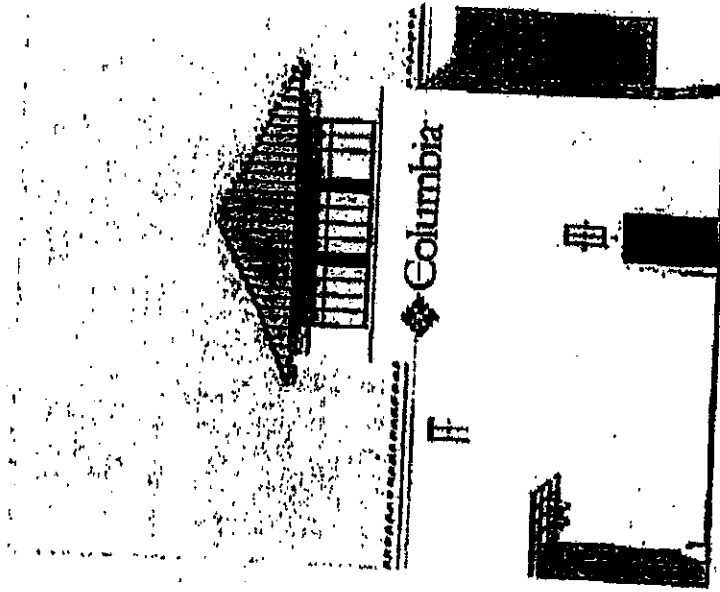
Nancy May
Applicant Signature

4-20-17
Date

FOR OFFICE USE ONLY (PERMIT FEE: \$12.00/ 30 day permit)

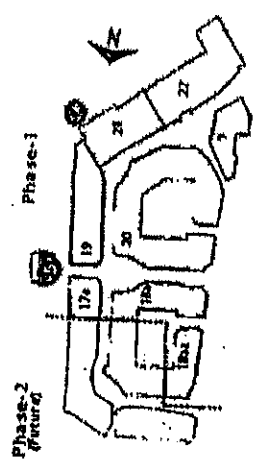
1. DATE ISSUED: <u>May 4, 2017</u>	DATE EXPIRES: <u>Aug 23, 2017</u>	ISSUED BY: <u>[Signature]</u>
2. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
3. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
4. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____

TOTAL PERMITS/THIS CALENDAR YEAR: 1
Permit is for 30 days
30 day permits.



B21 Columbia 63 sf
18'-6" x 41'

Machine-Cut Vinyl Letters direct applied.



SCALE: 3/32" = 1'-0"

COLUMBIA
TEMPORARY SIGN PERMIT
 10 AUGUST 2016

Outlets
 a San Clemente



City of San Clemente

910 Calle Negocio, San Clemente, CA 92673
Office: (949) 361-6100

INVOICE / RECEIPT

Date: 4/28/2017 Prepared By: LVO
 Application Number: PLN17-137
 Address: 101 West Avenida Vista Hermosa 176
 Applicant: Nancy May
 Owner: Villa San Clemente LLC
 Contractor:
 Project Description: Crocs (Columbia)

FEEES DUE

Project No.	Description	Account	Amount
PLN17-137	BANNER SIGN PERMIT	001-000-34164-000-00000	\$48.00

TOTAL Fees Charged: \$48.00
 Payments Received: \$0.00
 Balance Due: \$48.00

WHEN VALIDATED BELOW, THIS IS YOUR RECEIPT

PAID

APR 28 2017

VISA

City of San Clemente

PLEASE TAKE OUR CUSTOMER SURVEY
Scan our QR code or go to www.san-clemente.org/ocdsurvey





City of San Clemente
Planning Division

910 CALLE NEGOCIO, SUITE 100, SAN CLEMENTE, CA 92673
Phone: (949) 361-6100
Fax: (949) 366-4750
E-mail: planning@san-clemente.org

Permit # 78P 17-135

TEMPORARY BANNER SIGN PERMIT

The following are some of the City's standards from Section 17.84.030H of the Zoning Code for temporary banner signs:

1. Each business may only display one temporary banner sign.
2. The maximum size for a temporary banner sign is 64 square feet.
3. A temporary banner sign must be flush mounted to the building and is not to be hung on fences, railings, trees or shrubs.
4. A temporary banner sign is prohibited in the public right-of-way.
5. A temporary banner sign permit is required and can be obtained from the Planning Division.
6. A temporary banner sign permit is valid for 30 days.
7. Each business may have up to four temporary banner sign permits per calendar year.

Business Name: Crossover Health (Vans)

Business Address: 101 West Avenida Hermosa, 120

Applicant Name: Nancy May

Business Phone: 949.224.4168

Email: nmay@craigrealtygroup.com

Description of banner including size, material, copy, location, and mounting:

13.1' x 58" = 63.6 SQ FT

See attached elevation

Nancy May
Applicant Signature

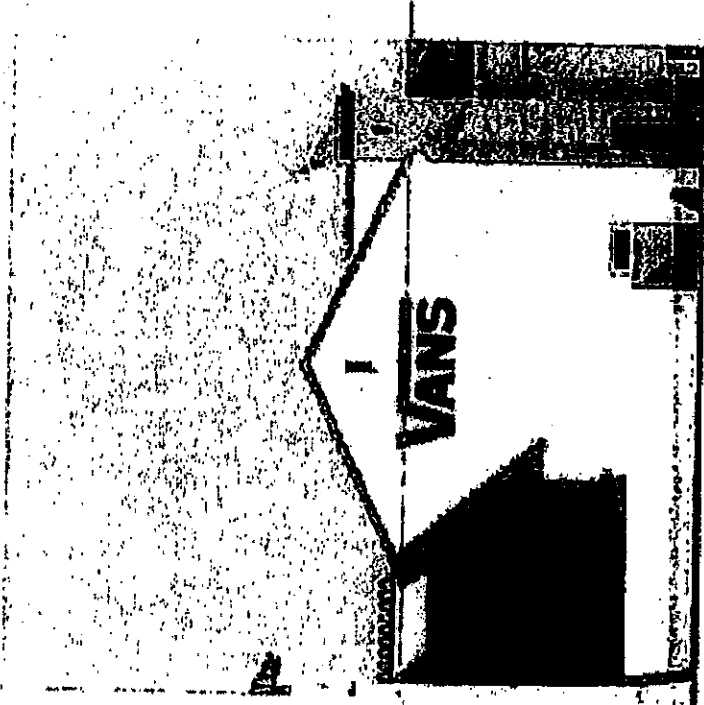
4-20-17
Date

FOR OFFICE USE ONLY (PERMIT FEE: \$12.00/30 day permit)

1. DATE ISSUED: <u>May 1, 2017</u>	DATE EXPIRES: <u>Aug 28, 2017</u>	ISSUED BY: <u>[Signature]</u>
2. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
3. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
4. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____

TOTAL PERMITS/THIS CALENDAR YEAR: 4

8 Permit is for joint's 30 day permits



19 • EAST ELEVATION

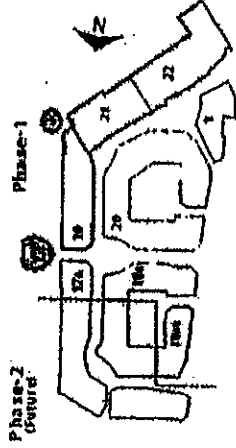
PHASE 1 - FACING 1-2
 819 VANS 63.6 SF
 13.1' x 58'

Machine Cut Vinyl Letters direct applied.

VANS

TEMPORARY SIGN PERMIT

10 AUGUST 2016



SCALE: 3/32" = 1'-0"

Outlets
 a Sars Clemente



City of San Clemente

910 Calle Negocio, San Clemente, CA 92673
Office: (949) 361-6100



INVOICE / RECEIPT

Date: 4/28/2017
 Application Number: PLN17-135
 Address: 101 West Avenida Vista Hermosa 120
 Applicant: Nancy May
 Owner: Villa San Clemente LLC
 Contractor:
 Project Description: Crossover Health (Vans)
 Prepared By: LVO

FEEES DUE

Project No.	Description	Account	Amount
PLN17-135	BANNER SIGN PERMIT	001-000-34164-000-00000	\$48.00

TOTAL Fees Charged: \$48.00
 Payments Received: \$0.00
 Balance Due: \$48.00

WHEN VALIDATED BELOW, THIS IS YOUR RECEIPT

PAID

VISA

APR 28 2017

City of San Clemente

PLEASE TAKE OUR CUSTOMER SURVEY
Scan our QR code or go to www.san-clemente.org/cdsurvey





City of San Clemente
Planning Division

910 CALLE NEGOCIO, SUITE 100, SAN CLEMENTE, CA 92673
Phone: (949) 361-6100
Fax: (949) 366-4750
E-mail: planning@san-clemente.org

Permit # TBP 17-136

TEMPORARY BANNER SIGN PERMIT

The following are some of the City's standards from Section 17.84.030H of the Zoning Code for temporary banner signs:

1. Each business may only display one temporary banner sign.
2. The maximum size for a temporary banner sign is 64 square feet.
3. A temporary banner sign must be flush mounted to the building and is not to be hung on fences, railings, trees or shrubs.
4. A temporary banner sign is prohibited in the public right-of-way.
5. A temporary banner sign permit is required and can be obtained from the Planning Division.
6. A temporary banner sign permit is valid for 30 days.
7. Each business may have up to four temporary banner sign permits per calendar year.

Business Name: Eddie Bauer (Guess)

Business Address: 101 West Avenida Hermosa, 158

Applicant Name: Nancy May

Business Phone: 949.224.4168

Email: nmay@craigrealtygroup.com

Description of banner including size, material, copy, location, and mounting:

16.95' x 44" = 62 SQ FT

See attached elevation

Nancy May
Applicant Signature

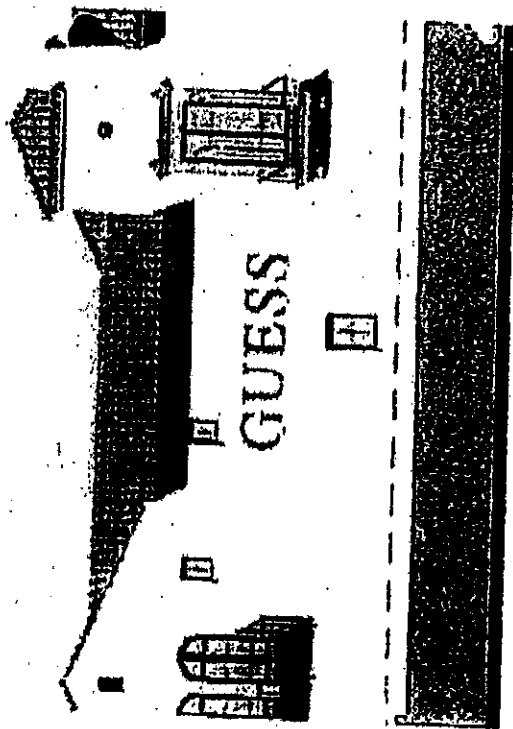
4-20-17
Date

FOR OFFICE USE ONLY (PERMIT FEE: \$12.00/30 day permit)

1. DATE ISSUED: <u>May 1, 2017</u>	DATE EXPIRES: <u>Aug 28, 2017</u>	ISSUED BY: <u>[Signature]</u>
2. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
3. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
4. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____

TOTAL PERMITS/THIS CALENDAR YEAR: 4

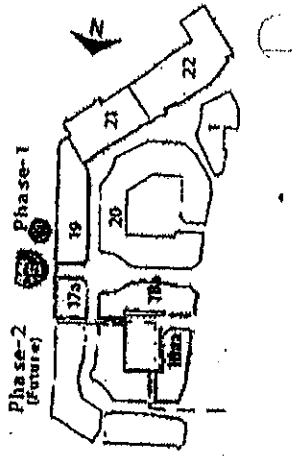
1 permit is for 30 days
for 30 day permits



B19 GUESS 62 sf
16.95'x44'

Machine Cut Vinyl Letters direct applied.

GUESS
TEMPORARY SIGN PERMIT
 10 AUGUST 2016



SCALE: 3/32" = 1'-0"

Outlets
 a *S&S Creative*



City of San Clemente

910 Calle Negocio, San Clemente, CA 92673
Office: (949) 361-6100



INVOICE / RECEIPT

Date: 4/28/2017 Prepared By: LVO
 Application Number: PLN17-136
 Address: 101 West Avenida Vista Hermosa 158
 Applicant: Nancy May
 Owner: Villa San Clemente LLC
 Contractor:
 Project Description: Eddie Bauer (Guess)

FEE DUE

Project No. Description	Account	Amount
PLN17-136 BANNER SIGN PERMIT	001-000-34164-000-00000	\$48.00

TOTAL Fees Charged: \$48.00
 Payments Received: \$0.00
 Balance Due: \$48.00

WHEN VALIDATED BELOW, THIS IS YOUR RECEIPT

PAID

VISA

APR 28 2017

City of San Clemente

PLEASE TAKE OUR CUSTOMER SURVEY
Scan our QR code or go to www.san-clemente.org/cdsurvey





City of San Clemente
Planning Division

910 CALLE NEGOCIO, SUITE 100, SAN CLEMENTE, CA 92673
Phone: (949) 361-6100
Fax: (949) 366-4750
E-mail: planning@san-clemente.org

Permit # TBP 17-138

TEMPORARY BANNER SIGN PERMIT

The following are some of the City's standards from Section 17.84.030H of the Zoning Code for temporary banner signs:

1. Each business may only display one temporary banner sign.
2. The maximum size for a temporary banner sign is 64 square feet.
3. A temporary banner sign must be flush mounted to the building and is not to be hung on fences, railings, trees or shrubs.
4. A temporary banner sign is prohibited in the public right-of-way.
5. A temporary banner sign permit is required and can be obtained from the Planning Division.
6. A temporary banner sign permit is valid for 30 days.
7. Each business may have up to four temporary banner sign permits per calendar year.

Business Name: Luxury Mall (H&M)

Business Address: 201 West Avenida Hermosa, 424

Applicant Name: Nancy May

Business Phone: 949.224.4168 Email: nmay@craigrealtygroup.com

Description of banner including size, material, copy, location, and mounting:

9.75' x 11' - 64 sq ft

See attached elevation

Nancy May
Applicant Signature

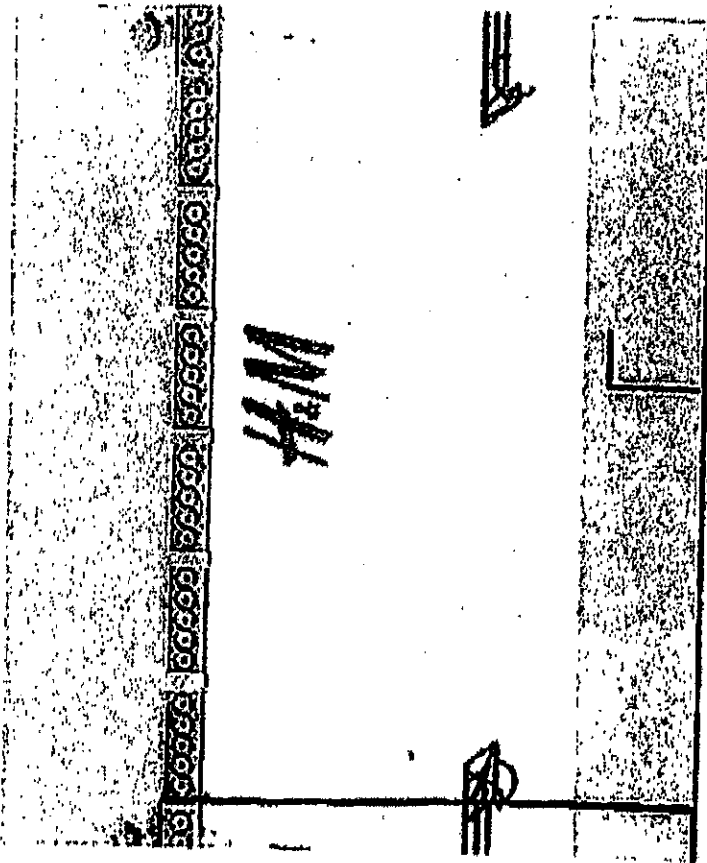
4-20-17
Date

FOR OFFICE USE ONLY (PERMIT FEE: \$12.00/ 30 day permit)

1. DATE ISSUED: <u>May 1, 2017</u>	DATE EXPIRES: <u>May 28, 2017</u>	ISSUED BY: <u>[Signature]</u>
2. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
3. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____
4. DATE ISSUED: _____	DATE EXPIRES: _____	ISSUED BY: _____

TOTAL PERMITS/THIS CALENDAR YEAR: 1

* Permit is for just 30 day permits.



H ELEVATION

INFACE parking, pico & I-5 Northbound

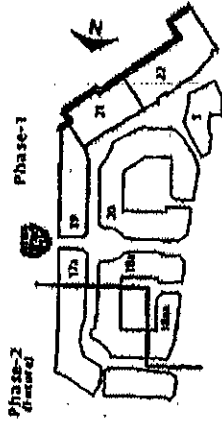
B22 NIKE 60 sf
20'x6'72

Machine Cut Vinyl Letters direct applied.

H&M

TEMPORARY SIGN PERMIT

29 AUGUST 2016



SCALE - 3/32" = 1'-0"

TYP Reduction approved 9/3/16

Outlets
of San Clemente



City of San Clemente

910 Calle Negocio, San Clemente, CA 92673
Office: (949) 361-6100



INVOICE / RECEIPT

Date: 4/28/2017 Prepared By: LVO
 Application Number: PLN17-138
 Address: 101 West Avenida Vista Hermosa 424
 Applicant: Nancy May
 Owner: Villa San Clemente LLC
 Contractor:
 Project Description: Luxury Mall (H&M)

FEES DUE

Project No.	Description	Account	Amount
PLN17-138	BANNER SIGN PERMIT	001-000-34164-000-00000	\$48.00

TOTAL Fees Charged: \$48.00
 Payments Received: \$0.00
 Balance Due: \$48.00

WHEN VALIDATED BELOW, THIS IS YOUR RECEIPT

PAID

APR 28 2017

VISA

City of San Clemente

PLEASE TAKE OUR CUSTOMER SURVEY
Scan our QR code or go to www.san-clemente.org/cdsurvey



EXHIBIT 5

LAW OFFICES OF
HARPER & BURNS LLP
A LIMITED LIABILITY PARTNERSHIP INCLUDING A PROFESSIONAL CORPORATION

JOHN R. HARPER*
ALAN R. BURNS
COLIN R. BURNS
ALEX M. HALPMAN

453 SOUTH GLASSELL STREET
ORANGE, CALIFORNIA 92666

TELEPHONE (714) 771-7728
FACSIMILE (714) 744-3150

*A PROFESSIONAL CORPORATION

Alan R. Burns
arb@harperburns.com

May 2, 2017

Via U.S. Mail and Electronic mail

Nancy May
Tenant Coordinator
Craig Realty Group
4100 MacArthur Blvd., Suite 100
Newport Beach, California 92660

Re: **Temporary Banner Sign Permits Issued in Error**

Dear Mr. May:

I regret to inform you that six sign permits issued for the Outlet Mall on Friday (April 28, 2017) were issued in error and are hereby terminated/rescinded.


Temporary banner sign permits are only allowed on locations that are part of the businesses' primary structure. While the stores would be entitled to temporary banner sign permits, those must be located on the businesses' primary structure. (See SCMC Section 17.84.030H.1.c)

Please therefore cease any action in reliance on those permits, which are hereby rescinded. Please contact the City so that we may provide appropriate sign permit approvals at allowed locations. We promise to expedite our review to mitigate any inconvenience this may have caused you and regret the error.

Thank you for your anticipated cooperation.

Sincerely,

HARPER & BURNS LLP


Alan R. Burns
Special Counsel for San Clemente

ARB:lo

cc: Madison Spock, Esq.
Christopher Garret, Esq.

12-05-17 / 7B-113

EXHIBIT 6



City of San Clemente Community Development

Cecilia Gallardo-Daly, Community Development Director

Phone: (949) 361-6106 Fax: (949) 361-8281

gallardo-dalyc@san-clemente.org

VIA EMAIL AND US MAIL

August 15, 2017

Steven C. Knoblock
Assistant General Counsel
Craig Realty Group
4100 MacArthur Boulevard, Suite 100
Newport Beach, CA 92660

Dear Steve:

In response to your request that I specifically respond about the 18 additional temporary signs that have been sought, the following is provided.

Originally, my response to you is that the application for those signs will be determined by the appeal that is currently being heard by the City Council. That appeal involved the original group of signs and the issues involved were the criteria for allowing those signs, and specifically, what constituted the primary building.

It is my understanding that with respect to the second group of 18 signs, that you desire to assert a new ground, namely, that the signs were not limited to the 120 day time period. To assist you in pursuing your appeal rights, I will specifically determine that the 120 period does apply and that the applications are therefore denied.

You are entitled to appeal my decision pursuant to SCMC §17.12.140, which applies to disputes over signs and Chapter 17.84. As you know, that appeal would originally be with the Planning Commission and, if you are dissatisfied with its decision, an appeal to the City Council would be available.

Sincerely

A handwritten signature in black ink, appearing to read "Cecilia Gallardo-Daly", written in a cursive style.

Cecilia Gallardo-Daly
Community Development Director

EXHIBIT 7

4L. Initiation of Code Amendments - Temporary Banner Signs

MOTION BY COUNCILMEMBER LORCH that the aggregate sign area of temporary banner signs not exceed the total sign area permitted for permanent signage (i.e., one and one half square feet of sign area for each one foot of length of the building or business) up to a maximum of 64 square feet. The motion died for lack of a second.

In discussing the motion, Council noted that the criteria adopted this evening will be superseded by the revised Sign Ordinance.

MOTION BY COUNCILMEMBER HAGGARD, SECOND BY COUNCILMEMBER LORCH, CARRIED 5-0, to:

1. Amend Council's action of earlier this evening to establish criteria for temporary banner signs as follows:
 - > Temporary banner signs shall be limited in size to a maximum of 64 square feet, the location to be flush against the business structure, with the colors of the banners to be consistent with the City's Sign Ordinance and Design Guidelines.
 - > Temporary banner signs shall be limited to one (1) per business per calendar year for a maximum of 30 days unless extended by the City Planner or his/her designee in lieu of permanent signage. Extensions in lieu of permanent signage may only be granted in cases where a complete permanent signage application has been filed with the City.
 - > Temporary banners shall be limited to commercial districts.
2. Direct the Planning Division to utilize the above criteria in issuing and enforcing temporary banner signs until the appropriate amendments to the City Code are processed.

ATTACHMENT 7

Extraneous Issues Raised on Appeal

Villa San Clemente, LLC ("VSC") raises various extraneous issues in its Notice of Appeal dated October 26, 2017. VSC incorporates the arguments made in its Notice of Appeal to the Planning Commission and its attachments and exhibits, which itself incorporated "all prior Requests for Hearing and appeals by the Applicant . . . including . . . denial of applicant's First Amendment rights and denial of Applicant's Due Process rights based on selective enforcement and intentionally applying the ordinance in a way that is inconsistent with the ordinance's plain language which allows signs to be placed "on-site" which includes any building on site," and those made in its memo provided to the Planning Commission prior to the Planning Commission's hearing on its appeal.¹

Each of these other issues VSC raises are outside the scope of this appeal. Under San Clemente Municipal Code Section ("SCMC") 17.12.140 E, the scope of review considers the "Issues raised on appeal," and the body hearing the appeal may "review new evidence and . . . consider all elements of the appealed action." Here, the issue raised on appeal is the City's denial to renew the subject temporary banner permit applications. The elements of the appealed action are: the City's interpretation of the relevant Municipal Code provisions and its application of those Municipal Code provisions to the subject temporary banner permit renewal applications in denying them. The other issues raised fall far outside this scope. Nonetheless, they are briefly addressed here to assuage any concerns the City Council may have about them and their impact on this appeal.

Issues Raised on Appeal

1. The City's Actions Do Not Violate Applicant's Constitutional Rights

VSC argues that under the "First and Fourteenth Amendments to the [US Constitution], the City's denial of the 18 Renewal Permits, after denying Applicant's April 20, 2017 applications for 18 temporary permits for new tenants, are improper." (Attachment to Notice of Appeal to Planning Commission Dated August 24, 2017, 4.) It claims the City's actions are an "attempt to harass" and "stifle" Applicant's right to commercial speech. (Id.) VSC also argues that the "120-day limit for temporary signs and banners . . . is unconstitutional because it is an impermissible restraint on free speech and serves no significant governmental purpose." (Memorandum Submitted to Planning Commission, dated October 18, 2017, 2-4.) VSC also argues that the City's denial of the renewal applications was unconstitutional since it took the City nearly four months to process the applications. (Id. at 5-8.)

None of these arguments asserting purported constitutional rights violations are within the scope of this review. Nonetheless, the City did not infringe on VSC's due process rights since it did not act arbitrarily or unreasonably. As explained in the accompanying report, the businesses that were issued permits met their yearly 120-day limit on displaying temporary banners, thus renewing their permits would have violated SCMC Section 17.84.030H(1)(f). The City merely ensured that the provisions of the SCMC were not violated.

The City also did not violate any right to commercial speech. The City is empowered to ensure that provisions of the SCMC are not violated, as discussed in the accompanying report. Moreover, denying

¹ Evidently, VSC attempts to incorporate *all* arguments it has ever made in its requests for hearing, which would include arguments made in requests related to entirely different appeals based on different sections of the San Clemente Municipal Code. All such arguments are outside the scope of appeal.

the renewal application did not impose on any commercial speech since VSC and those related business had temporary banners for 120-days, and *still* maintain violative banners at the Outlets. The City provides photographs under Attachment 5.

To the extent VSC challenges the City's right to regulate its signs, the City is empowered to regulate commercial signage in its borders. (*See Central Hudson v. Public Service* (1980) 447 U.S. 557 (noting commercial speech is afforded lesser protection than other forms of expression, and that 4-part test used to determine validity of restrictions on commercial speech).) Signage the City posts is not relevant to considering the kind of signage VSC may have, given that they constitute different kinds of speech, e.g., governmental speech versus commercial speech; VSC's comparison of the two is entirely improper. (Memorandum Submitted to Planning Commission, dated October 18, 2017, 7-8.)

Additionally, VSC has had the signage it now complains that it desires, but merely is subject to the reasonable criteria in SCMC Section 17.84.030, such as the limits on number of days a temporary banner permit may remain. In fact, VSC was already permitted temporary signage, but simply met the 120-day cap for the banners it wishes to continue displaying this year on the buildings it wishes to post them. This cap also applies equally to all applicants.

No prior restraint on free speech occurred either since the City's Code provided key criteria under which the City was to grant or deny the renewal applications; no "unbridled discretion" was given. (*City of Lakewood v. Plain Dealer Pub. Co.* (1988) 486 U.S. 750, 757 ["in the area of free expression a licensing statute placing unbridled discretion in the hands of a government official or agency constitutes a prior restraint and may result in censorship"].) The City properly denied the applications.

As to the rights of citizen "listeners," to the extent this argument was raised by VSC in other requests for hearing, VSC fails to show how it has standing to assert their rights. This is a non-issue and like the other arguments, far outside the scope of this appeal.

Finally, as to VSC's argument that the City's denial of the renewal applications was unconstitutional since it took the City nearly four months to process the applications, first, the City's permit application process and whether it has time limits, is not at issue here and is entirely outside the scope of this appeal. Furthermore, the City did not need to consider the renewal applications during those four months, and efficiently did not, because VSC had already appealed the City's decision on its earlier submitted applications for temporary banner signs to the Planning Commission and later, the City Council. Had the Planning Commission or the City Council overturned the denial of the original April 20, 2017 temporary banner permit applications, the renewal applications would have become moot.

2. The Purported 1991 Vote to Permit Temporary Banner Sign Permits to be Extended Has No Bearing Here

VSC claims that on October 2, 1991, the City Council directed the City Planner "to utilize specified criteria for issuing and enforcing temporary banner signs until the Ordinance was amended to incorporate those provisions." (Attachment to Notice of Appeal to Planning Commission Dated August 24, 2017, 4-5.) VSC claims that the alleged criteria provided that "[t]emporary banner signs shall be limited . . . unless extended by the City Planner . . . in lieu of permanent signage." (Id.) It then claims that the City Planner failed to do so. (Id.) VSC further argues that this directive required the "City to allow temporary signs in lieu of permanent signs when permanent sign applications submitted by the applicant were pending. . . ."

(Memorandum Submitted to Planning Commission, dated October 18, 2017, 4-5.)

This argument is entirely inapplicable. VSC actually refers to minutes, which are from a 1991 initiation hearing of code amendments to temporary banner signs . . . VSC left out the fact that the minutes show that the City Council directed staff to include in their criteria the allowance for temporary banners for only up to 30 days, and the 30 days could be extended by the City Planner if an application for permanent signage was on file. Moreover, the direction from the City Council at the hearing related to *interim provisions* until final changes to the code were adopted, which occurred in 1995. A Temporary Banner Policy was created in 1995. The idea of allowing temporary signs to stay up longer with a pending application for permanent signage is not in the Temporary Banner Policy. What is in the Temporary Banner Policy is 4 extensions of the 30 day permits for up to 120 days. In 1996 a zoning code update was adopted, including updates to sign regulations. The ordinance codified the Temporary Banner Policy, which is reflected in SCMC Section 17.84.030H(1)(f).

The authority to extend VSC relies upon is not codified; it is nowhere in the SCMC and is certainly not the current law.

3. The City Has and Is Providing the Appellant a Fair Hearing

VSC provides a notice requesting a fair hearing "before the Planning Commission regarding the denial of its 18 Renewal Permit Applications", demanding various procedures such as: the hearing be conducted by an independent hearing officer; that VSC is given sufficient time to present its case and to examine and cross-examine witnesses; the City make various city staff available for deposition; the City provide a clear statement for its basis of a denial; the City retain and provide VSC all materials relied upon for its decision; the City retain all future documents related to this appeal; to give VSC the right to subpoena witnesses for examination at the hearing; and a written decision. (Attachment to Notice of Appeal to Planning Commission Dated August 24, 2017, 5-7.)

The City has and is providing a fair hearing, and the procedures demanded are not necessary for such hearing. SCMC Section 17.12.140 affords due process and also provides the procedures for such appeals.

As the Court of Appeal explained:

"Due process principles require reasonable notice and opportunity to be heard before governmental deprivation of a significant property interest." (*Horn v. County of Ventura* (1979) 24 Cal.3d 605, 612, 156 Cal.Rptr. 718, 596 P.2d 1134; see also *Logan v. Zimmerman Brush Co.* (1982) 455 U.S. 422, 428-430 & fn. 5, 102 S.Ct. 1148, 1153-1155 & fn. 5, 71 L.Ed.2d 265 [due process requires adequate notice and meaningful opportunity to be heard].) "However, there is no precise manner of hearing which must be afforded; rather the particular interests at issue must be considered in determining what kind of hearing is appropriate. A formal hearing, with full rights of confrontation and cross-examination is not necessarily required." (*Saleeby v. State Bar* (1985) 39 Cal.3d 547, 565, 216 Cal.Rptr. 367, 702 P.2d 525.) "Due process' is an elusive concept. Its exact boundaries are undefinable, and its content varies according to specific factual contexts." (*Hannah v. Larche* (1960) 363 U.S. 420, 442, 80 S.Ct. 1502, 1514, 4 L.Ed.2d 1307, quoted with approval in *In re Love* (1974) 11 Cal.3d 179, 190, fn. 11, 113 Cal.Rptr. 89, 520 P.2d 713.)

As our Supreme Court stated in *People v. Ramirez* (1979) 25 Cal.3d 260, 158 Cal.Rptr. 316, 599 P.2d 622 (hereafter *Ramirez*): "[T]he extent to which due process [protections] will be available depends on a careful and clearly articulated balancing of the interests at stake in each context. In some instances this balancing may counsel formal hearing procedures that include the rights of confrontation and cross-examination, as well as a limited right to an attorney.... In others, *due process may require only that the administrative agency comply with the statutory limitations on its authority.*"

(*Mohilef v. Janovici* (1996) 51 Cal. App. 4th 267, 286 [emphasis added].) Here, the procedures in this appeal are sufficient to protect VSC's rights (In addition to all procedures previously afforded VSC in its other appeals relating to the temporary banner permit applications, and citations and fines).

Moreover, many of VSC's arguments as to a fair hearing are *far* outside the scope of this review. For example, VSC claims that it will prove that 1) signs are routinely kept up longer than 120 days in a calendar year without notice by the City to remove the offending signs; and 2) VSC has the rights to these signs under the First Amendment because the City has not concluded its decision with respect to permanent signs on the property. (Attachment to Notice of Appeal to Planning Commission Dated August 24, 2017, 5.) Not only are all of these issues, and those others included but not referenced here, outside the scope of this review because they require introduction of evidence outside the immediate issue of whether the denial of VSC's renewal application was proper under the SCMC, but they were already addressed and/or rejected in connection with the other hearings on VSC's temporary banner permit applications and/or citations and fines for maintaining violative banners.

Ultimately, the City has complied with fair hearing procedures and continues to do so.

4. The City's Actions Are Proper and Its Denial of VSC's Temporary On-Site Banner Sign Applications Has No Bearing on This Appeal

First, VSC's argument based on the City's denial of its temporary banner permit applications is not within the scope of review of this administrative hearing. This issue goes well beyond the scope of the denial of its renewal applications and delves into the permit application process under entirely separate provisions of the SCMC. Regardless, the City had the authority to deny the applications, and the City's denial was affirmed by the Planning Commission and the City Council. Those affirmations are binding.

Moreover, SCMC section 17.84.030 (H)(1) provides the "Criteria" for temporary banner signs permitted in the City. Subsection (c) states: "The temporary banner sign shall be placed on-site and flush on the building. These banners are prohibited in the following locations: . . . or other areas or fixtures not part of the business's primary structure. . . ." SCMC Section 17.88.030 defines "primary building" and "primary structure" the same; a primary structure is specifically defined as a primary building. It states: "Primary Building- 'Primary building' means a building within which the principal use or principal occupancy of a lot is conducted."; and "Primary Structure- 'Structure, Primary.' See definition of 'Building, Primary.'" Thus, because the subject applications concerned temporary banners that were not going to be displayed on the applied for business's primary structure, Criteria (1)(c) was not met and the applications were properly denied.

5. The Citations Issued by the City Should Not Be Stayed Pending Any Appeal

VSC also has argued that the "fines and citations [issued to it and its businesses for displaying signs without a permit] were illegally and untimely imposed because Applicant had already appealed the earlier denials, and there is nothing in the City's Code that allows the City to move forward with enforcement during pendency of such appeals." (See e.g., Notice of Appeal dated May 30, 2017.) Additionally, VSC argues that the City has not confirmed that "any enforcement, including the demand for payment of the citations, is to be stayed pending appeal...even though such confirmation has been requested in writing." (See e.g., Notice of Appeal May 30, 2017.)

However, SCMC section 1.20.070(B) states that "[w]ith the exception of municipal ordinance violations continuing to exist within the correction period...each and every day during any portion of which any municipal code violation is committed, continued, or maintained...shall constitute a new and separate offense for which the full administrative fine may be imposed." SCMC section 1.20.050 states the correction period is fifteen (15) calendar days to correct. Here, the City applied further administrative citations despite VSC's appeal of the denial of their permit applications because the violations still existed. There is no authority in the SCMC that stays enforcement of the corrections during the appeals' process.

Additionally, SCMC section 1.20.070(E) creates an obligation to correct violations. It states specifically that "[n]othing in this chapter shall be interpreted to mean that payment of the administrative fine by an offender discharges or excuses the offender's obligation to correct the municipal code violation." The failure to correct the municipal code violation "may result in the issuance of additional administrative fine citations..." Thus, even if an administrative fine is paid, the obligation to correct the violations remains. VSC has given no contradictory authority.

6. The City's Denial and Threats of Fines and Other Actions to Enforce the Denial of the Applications is Not Selective Enforcement

VSC has argued that the City does not customarily enforce the temporary on-site banner sign ordinance against other businesses in the City, and thus that the City's actions against it was selective enforcement. (Notice of Appeal dated May 30, 2017; Notice of Appeal dated June 15, 2017.)

Complaints about purported selective enforcement are outside the scope of this review. Moreover, whether and how the City treats other banners and permit applicants, having different factual scenarios, does not bear on the City's determination of the subject applications and its interpretation of the Municipal Code.

Also, in California, "[p]ermitting some persons to violate a zoning regulation does not preclude its enforcement against others." (*City of Los Angeles v. Gage* (1954) 127 Cal. App. 2d 442, 452.) Thus, even if selective enforcement was occurring, it would have no bearing on the City's enforcement of the Municipal Code and terms of its permits in the present case.

7. The City's Issuance of the Citations was Not Arbitrary, Unreasonable, or Retaliatory, and is Outside the Scope of Review

This argument goes well beyond the scope of the denial of VSC's renewal applications. This appeal does not consider whether citations and fines issued for displaying banners without a temporary banner permit were appropriate in fact, the first four round of citations were upheld by a Hearing Officer on

September 8, 2017, and the fifth round of citations were upheld by a Hearing Officer on October 23, 2017. This appeal focuses solely on whether the denial of VSC's renewal applications was proper.

Nonetheless, VSC has claimed that there were "double citations and fines" for the same alleged violation. (Notice of Appeal dated May 30, 2017; Notice of Appeal dated June 15, 2017.) VSC offers evidence outside the context of this administrative hearing with examples of previous alleged retaliatory acts stemming from their filing of a civil complaint against the City. However, VSC offers no evidence that the violations of the SCMC did not occur; it only argues that they were retaliatory in nature.

Violation of the City's Municipal Codes results in citations, and failure to correct the violations results in further enforcement efforts, e.g., further citations pursuant to SCMC Section 1.20.070(B), and an increase in fines for each offense pursuant to SCMC 1.20.070(C). The City was empowered to issue the subject citations and fines, and did not do so arbitrarily, unreasonably, or in retaliation. VSC and the related businesses maintained temporary banners in violation of the SCMC and the permits. The City acted within its rights to issue the challenged citations and fines.

8. There Is No Authority for Appellant's Claim for a Refund for Expenses Connected to This Appeal

VSC has previously provided "notice" of its intention to obtain a refund of any fees and costs expended on its appeal to the Planning Commission in connection with its appeal of the City's decision to deny its applications for temporary banner permits. (Notice of Appeal dated May 30, 2017, 7.) It contends it will seek all costs related to the appeal, including staff time, out-of-pocket costs, including attorneys' fees and costs.

SCMC section 1.20.080, on Administrative Hearing, provides no authority for any such recovery by the offending party. SCMC section 1.20.080(F) only allows the offender reimbursement of any actual funds paid towards a dismissed administrative fine. Such is not the case here.

VSC has referred to Code of Civil Procedure section 1021.5, but this allows the awarding of attorneys' fees only if they receive a court judgment in their favor. This is not a court action, so this provision is entirely not applicable. Moreover, there has been no such judgment.

9. The Lack of Timely Notice for the Date of the Appeal of the Denial of the April 20, 2017 Temporary On-Site Banner Permits Does Not Set Aside Anything

VSC argues that the failure on the City's part to provide timely notice regarding the hearing on the denial of the April 20, 2017 permit applications (an entirely different proceeding than the present) would have granted the appeal in its favor and necessarily set aside the all of the administrative citations that followed. (Notice of Appeal dated June 15, 2017.) Not only is this argument inapplicable here, but this argument also lacks merit.

First, this issue is beyond the scope of review of because this argument stems from a hearing before the Planning Commission on a completely separate appeal process (the appeal of the denial of the temporary banner permit applications, which was affirmed by the City Council) and not the renewal applications at issue. Moreover, VSC has suffered no prejudice because of the City not meeting the 10-day deadline; the hearing was held and VSC had all proper notice, it even agreed upon the date of the hearing per email communications with Mr. Silver.

Second, SCMC Section 17.12.140, on Appeals of an Action, does not specifically provide that if the 10-day deadline to provide notice of the hearing is blown, that the appeal should be automatically granted (or that citations or fines cannot be issued). It merely states: "Public hearings on appeals shall be held within 60 days of the City Clerk or Planning Division's receipt of a completed appeal application. The City Clerk shall notify the applicant, in writing, of the date established for the public hearing within 10 days of receipt of a completed appeal application. The appellant, or applicant if the City Council is the appellant, must provide the City with stamped envelopes for public notification, by 20 days prior to the scheduled hearing on the appeal, or the appeal shall be taken off the City Council's calendar and the appellant shall have waived any and all rights to such appeal." The City's legislature did not intend that the failure to meet the 10-day deadline would result in the grant of the appeal (or that the City could not issue citations or fines relating to code or permit term violations).

Third, the hearing on this appeal is timely under SCMC Section 17.12.140 given that the hearing is taking place within 60 days of receipt of the appeal.

10. The City's Issuance of the Administrative Citations Does Not Violate the Eighth Amendment and Does Not Constitute Excessive Fines

VSC has argued that the City's issuance of fines against VSC and the businesses/tenants violates the Eighth Amendment because they constitute excessive fines and constitute on-going harassment while waiting for the "hearing on their challenge not only to the initial citations and fines, but each of the subsequent citations and fines improperly assessed" against it. (See e.g., Notice of Appeal dated July 28, 2017; Notice of Appeal dated September 1, 2017.) Again, this argument does not apply here since it challenges citations and fine not at issue here (indeed, a hearing officer already determined on September 8, 2017 that the first four rounds of citations and fines were proper with some minor adjustments).

Nonetheless, SCMC Section 1.20.070 states that administrative fines shall not exceed \$100 for a first violation, \$200 for a second violation of the same municipal ordinance within one year, and \$500 for each additional violation of the same municipal ordinance within one year. Government Code section 36900 gives cities the authority to apply this administrative fine scheme to violations of city ordinances. Thus, the City's fines were proper.

In order to constitute an excessive fine under the Eighth Amendment, the "amount of forfeiture must be grossly disproportional to the gravity of the defendant's offense." (*City and County of San Francisco v. Sainez* (2000) 77 Cal.App.4th 1302, 1322.) Furthermore, judgments about the appropriate punishment for an offense belong "in the first instance to the legislature." (*U.S. v. Bakajian* (1998) 524 U.S. 321, 336.) Here, the SCMC and the Government Code enable the imposition of fines at the same amounts the fines were assessed against VSC. Therefore, the fines were not grossly disproportional.

Under SCMC section 1.20.070(B) failure to correct the violation constitutes a separate and continuing offense. Because VSC opted to not correct the violations, subsequent fines were proper (and still are).

11. Whether the City's Actions Constitute a Breach of a Development Agreement Falls Far Outside the Scope of This Appeal; Further No Information Is Provided to Even Consider This Argument

In connection with challenging the City's fifth round of citations and fines against VSC and/or businesses/tenants, VSC argued that the City's actions "constitute a breach of the Development

Agreement for Marblehead Coastal Development, dated October 2, 1998." (Notice of Appeal dated September 1, 2017.) VSC failed to provide a copy of this Development Agreement, explain how the City or VSC is subject to it, or explain at all how it related to the subject citations and fines. Moreover, it failed to provide any indication of what provisions were allegedly breached.

First, whether any such Development Agreement exists, if it applies to the City and VSC, and if any breach of it occurred is far outside of the scope of this appeal—which is the denial of the renewal applications. Second, VSC failed to provide any detail, let alone, evidence of or about this Development Agreement such that the parties or City Council could even consider it and its impact here.

