



STAFF REPORT SAN CLEMENTE ZONING ADMINISTRATOR

Meeting Date: June 8, 2018

- PLANNER:** Veronica Morones, Assistant Planner *VM*
- SUBJECT:** **Short-Term Apartment Rental 17-424, Ware STAR**, a request to allow a Short-Term Apartment Rental (STAR) unit in a duplex. The request would allow Unit B to be rented on a short-term basis (less than 30 days), while Unit A is occupied by the property owner.
- LOCATION:** 203 Avenida Rosa
- ZONING/GENERAL PLAN:** Residential Medium Zoning district and Coastal Zone Overlay district (RM-CZ)

PROJECT SUMMARY:

- The site is approximately 4,300 square-feet in area and was developed in 1954 with a single-family residence. In 1986, an additional dwelling unit was added to the property.
- The applicant requests to operate a STAR in Unit B and reside in Unit A of the duplex.
- The duplex does not currently operate short-term rentals. Therefore, the site does not have a history of short-term rentals or code compliance issues related to short-term rentals.
- Zoning Ordinance Section 17.16.146 requires Zoning Administrator approval of a STAR permit to allow short-term lodging in one of the duplex units while the property owner resides on-site in the other duplex unit. STARs must meet special use requirements in Zoning Ordinance Section 17.28.292, including a requirement for a 300-foot separation between STARs and STLUs to ensure there is not an over concentration of short-term lodging in residential zones. Staff has verified the site meets the 300-foot separation requirement based on a mapping analysis (see Attachment 2). The closest STLU currently operating near the project site is located at 227 Avenida Rosa approximately 430 feet away from the proposed STAR.
- In accordance with Zoning Ordinance Section 17.28.292.C.11, the number of renters and guests for the proposed STAR is limited based on the number of bedrooms and legal parking spaces provided on-site. The STAR unit has one parking space and two bedrooms; therefore, occupancy is limited to 4 people.
- Staff supports approval of STAR 17-424, concluding the request meets required findings based on the analysis summarized below and detailed in the attached draft Resolution:

- The STAR must comply with all code requirements including, but not limited, to the Fire Code, California Building Code, and the Municipal Code. Also, the STAR must adhere to Conditions of Approval (Attachment 1, Exhibit A). The special use requirements and conditions apply to ensure the use operates consistent with the intent of the RM zone, is in character with residential neighborhoods, and is compatible with adjacent properties. The STAR unit must comply with minimum standards for trash storage, parking, provision of insurance, and limitations on occupancy and noise;
 - Special conditions of approval require provision of soundproofing and the owner to use best management practices in the event that noise impacts neighboring properties;
 - The applicant must obtain the required Short-Term Lodging Unit Operating License prior to operation which includes, notifying neighbors within 300-feet of the short-term rental, proof of vacation rental insurance, and recording a change in ownership notification form with the County Recorder's Office; and
 - The STAR owner must reside in a dwelling unit on the property every night a room or unit is rented for short-term lodging purposes. The operations and use of the STAR would be monitored by the property owner to ensure compliance with Municipal Code requirements.
- The project is Categorically Exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301 (Class 1: Existing Facilities). This is recommended because the proposed project involves a request to rent and use an existing dwelling unit on a short-term basis with no expansion of use.
 - The public was notified of the Zoning Administrator hearing, and staff has not received comments on this item.

RECOMMENDATION

Based on the information in the staff report and subject to the required findings and conditions of approval, staff recommends that the Zoning Administrator:

1. Determine the project is Categorically Exempt from the requirements of CEQA pursuant to CEQA Guidelines Section 15301 (Class 1: Existing Facilities); and
2. Adopt Resolution ZA 18-028, approving STAR 17-424, Ware STAR, subject to the attached Resolution and Conditions of Approval.

Attachments:

1. Resolution ZA 18-028
Exhibit A - Conditions of Approval
 2. Location Map
 3. Photos
- Plans – Under separate cover

RESOLUTION NO. ZA 18-028

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING STAR 17-424, WARE STAR, TO ALLOW A SHORT-TERM APARTMENT RENTAL IN ONE DWELLING UNIT OF A DUPLEX LOCATED AT 203 AVENIDA ROSA

WHEREAS, on December 18, 2017, an application was submitted, and deemed complete on April 25, 2018, by Kim Ware, 203 Avenida Rosa, Unit A, for Short-Term Apartment Rental (STAR) 17-424; a request to consider a short-term apartment rental unit in a duplex located at 203 Avenida Rosa. The site is located in the Residential Medium Zoning District (RM). The site's legal description is Lot 1, Block 20 of Tract 779 and Assessor's Parcel Number 058-102-01; and

WHEREAS, a STAR is a type of short-term lodging unit (STLU) that is a multi-family-dwelling structure on a single parcel, under single ownership, where some or all individual units are rented as STLUs and where the STAR owner being a person that holds legal or equitable title to the property lives on-site in one of the other units not being rented short term; and

WHEREAS, the Planning Division completed an initial environmental assessment of the above matter in accordance with the California Environmental Quality Act (CEQA) and recommends the Zoning Administrator determine the project is Categorically Exempt from CEQA pursuant to State CEQA Guidelines Section 15301 (Class 1: Existing Facilities). The project involves the operation of a dwelling unit for short-term rental within an existing residential building in which zoning limitations apply to ensure the type, size, and operation of the proposed use is consistent with the purpose and intent of the residential zone; and

WHEREAS, on December 21, 2017, the City's Development Management Team (DMT) reviewed the proposed project for compliance with the General Plan, Zoning Ordinance, and other applicable City ordinances and codes; and

WHEREAS, on June 8, 2018, the Zoning Administrator of the City of San Clemente held a duly noticed public hearing on the subject application, considered written and oral comments, and facts and evidence presented by the applicant, City staff, and other interested parties.

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

Section 1. Incorporation of Recitals.

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

Section 2. CEQA Findings.

Based upon its review of the entire record, including the Staff Report, any public comments or testimony presented to the Zoning Administrator, and the facts outlined below, the Zoning Administrator hereby finds and determines that the proposed project is Categorically Exempt from CEQA pursuant to State CEQA Guidelines Section 15301 (Class 1: Existing Facilities).

The Class 1 exemption specifically exempts from further CEQA review the operation, repair, maintenance, permitting, leasing, licensing or minor alteration of existing public or private structures, facilities, mechanical equipment or topographical features. Here, the proposed project involves the conversion of a dwelling unit into a short-term lodging unit in which zoning limitations apply to ensure the type, size, and operation of the proposed use is consistent with the purpose, intent, and conditionally permitted uses of the RM zone. Thus, the project qualifies for the Class 1 exemption.

Furthermore, none of the exceptions to the use of the Class 1 categorical exemption identified in State CEQA Guidelines section 15300.2 apply. The project will not result in a cumulative impact from successive projects of the same type in the same place, over time, given the proposed use is consistent with Zoning regulations, that include a requirement for a 300 foot separation between STARs to ensure there is not an over concentration of short-term lodging in residential zones. There are no unusual circumstances surrounding the project that result in a reasonable possibility of a significant effect on the environment. The project will not damage scenic resources, including trees, historic buildings, rock outcroppings, or similar resources. The project does not include any hazardous waste sites, and the project will not cause a substantial adverse change in the significance of a historical resource, given none are adjacent to the site. Thus, the Class 1 exemption applies, and no further environmental review is required.

Section 3. Short-Term Apartment Rental Findings

With respect to Short-Term Apartment Rental (STAR) 17-424, the Zoning Administrator finds as follows:

- A. The proposed use is permitted within the subject zone pursuant to the approval of a STAR permit and complies with all the applicable provisions of the Zoning Ordinance, San Clemente General Plan, and the purpose and intent of the zone in which the use is being proposed, in that:
 1. The STAR is consistent with the types of permitted and intended uses in the zone, and special use requirements have been applied to ensure the existing character of residential neighborhoods is preserved and not adversely impacted; and
 2. The property owner is required to live on-site in one unit, and therefore operations and use of the STAR will be monitored and controlled by the property owner to help prevent any type of nuisance.

- B. The site is suitable for the type and intensity of the proposed use, in that:
1. The STAR unit is required to remain consistent with the residential characteristics of the neighborhood. The STAR unit must comply with all codes and adhere to Conditions of Approval, attached hereto as Exhibit A. These requirements and conditions will ensure the rental unit operates in a manner that does not adversely impact the character of the neighborhood or the ability of nearby residents to enjoy their properties; and
 2. The STAR is not located within 300 feet of another STAR or other Short-Term Lodging Unit (STLU), and therefore the approval of this application will not create an overconcentration of short-term rental uses in this neighborhood.
- C. The proposed use will not be detrimental to the public health, safety, or welfare, or materially injurious to properties and improvements in the vicinity, in that:
1. The STAR must comply with all code requirements including, but not limited to, Fire Code, California Building Code, and the San Clemente Municipal Code. Also, the STAR must adhere to Conditions of Approval, attached hereto as Exhibit A. These requirements and conditions will ensure the existing character of this residential neighborhood is preserved and not adversely impacted; and
 2. The STAR is not located within 300 feet of another STAR or other Short-Term Lodging Unit (STLU), and therefore the approval of this application will not create an overconcentration of short-term rental uses in this neighborhood.
- D. The proposed use will not negatively impact surrounding land uses, in that:
1. Conditions of Approval (attached as Exhibit A) must be met to ensure the existing character of the existing residential neighborhood is not adversely impacted. These requirements include standards for trash storage, parking, provision of insurance, architectural treatment, and limitations on occupancy and noise; and
 2. The STAR requires the owner to sleep within a habitable room or unit on the property every night a room or unit is rented for short-term lodging purposes. The operation and use of the STAR is monitored and controlled by the property owner to ensure compliance with Municipal Code requirements.
 3. There are no other STARs or STLUs approved by the City within 300 feet of this site, and, therefore, this permit will not result in an overconcentration of short-term rentals in this neighborhood.
- E. The use meets the minimum operating and development standards of Subsections 17.28.292E. and F, in that:

1. The project's exterior architecture maintains the residential character of the building; only one unit is proposed to be utilized as a rental unit. The building is in compliance with applicable Fire Codes, Building Codes, and San Clemente Municipal Codes; and
 2. The STAR owner must sleep within a habitable room or unit on the property every night a room or unit is rented for short-term lodging purposes. The operation and use of the STAR is monitored and controlled by the property owner to ensure compliance with Municipal Code requirements.
- F. The STAR qualifies for an STLU Operating License pursuant to Chapter 3.24, in that because the STAR meets the requirements for issuance of a Short-Term Operating License per Municipal Code Section 3.24.200.

Section 4. Zoning Administrator Approval

Based on the foregoing recitals and findings above, and the written and oral comments, facts, and evidence presented, the City of San Clemente Zoning Administrator approves STAR 17-424, Ware STAR, subject to the above Findings, and the Conditions of Approval set forth in Exhibit A.

PASSED AND ADOPTED at a regular meeting of the City of San Clemente Zoning Administrator on June 8, 2018.

Adam Atamian, Zoning Administrator

CONDITIONS OF APPROVAL
 STAR 17-424, WARE STAR

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

2. Thirty days after project approval, the owner or designee shall submit written consent to all of these imposed conditions to the Community Development Director or designee. The owner or designee understands that the resolution will be of no force or effect unless such written consent is submitted to the City. *[Citation – City Attorney Legal Directive]* (PInG.)_____

3. STAR 17-424 shall become null and void if:
 - a. There is a change of ownership as defined in the Municipal Code for STAR units; or
 - b. The STAR use is not commenced within two (2) years from the date of the approval of STAR 17-424. Since the use itself does not require the issuance of a building permit, the use shall not be deemed to have commenced until the date the use becomes operational. *[Citation - Section 17.12.150.A.1 of the SCMC]* ■ (PInG.)_____

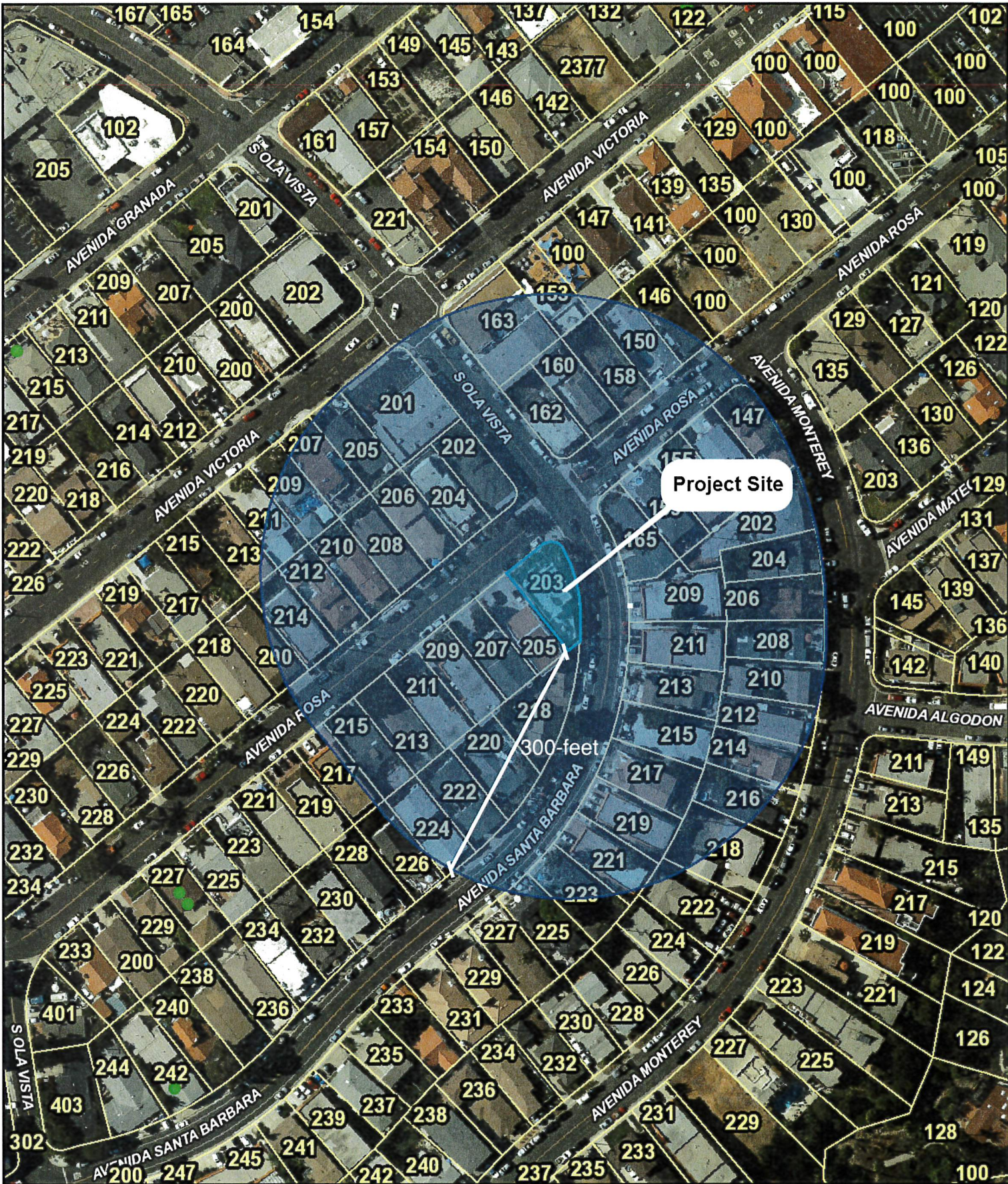
4. The owner or designee shall have the right to request an extension of STAR 17-424, if said request is made and filed with the Planning Division prior to the expiration date as set forth herein. *[Citation - Section 17.12.160 of the SCMC]*
■ (PIng.)_____
5. The STAR owner shall comply with STAR requirements in the Zoning Ordinance Section 17.28.292 to ensure the existing character of residential neighborhoods is preserved and not adversely impacted. These requirements include, but are not limited to, minimum standards for trash storage, parking, provision of insurance, and limitations on occupancy and noise. ■■ (PIng.) _____
6. In the event that noise impacts neighboring properties, the STAR owner must soundproof the STAR unit, or implement other best management practices as determined by the Community Development Director or designee, to eliminate the problem and comply with the City's noise ordinances. ■■ (PIng.) _____
7. Prior to renting and operating the STAR, the owner shall obtain a Short-Term Lodging Unit (STLU) Operating License. License issuance and renewals shall occur pursuant to Municipal Code Chapter 3.24. ■■ (PIng.)_____
8. The STAR owner shall provide record of their name and current 24-hour contact information (which consists of, at minimum, a phone number) to the Community Development Director, or designee. Updated information shall be provided, pursuant to SCMC Section 17.28.292(C)(5), which states, "*The STLU owner shall provide a 24-hour emergency contact that will respond, on-site if requested, within 30 minutes to complaints about the condition, operation or conduct of STLU renters or their guests. Prior to any change to the 24-hour emergency contact, the STLU owner shall submit a revised STLU zoning permit application to the Community Development Director, or designee for approval.*" ■■ (PIng.) _____
9. The Applicant (including any property owners and managers, and their designees) shall use her/his best judgment and best management practices to ensure lodging activities on the premises will be conducted in a manner that will not be disruptive to neighbors. The property owner shall be responsible for ensuring compliance with the San Clemente Municipal Code (SCMC), and all conditions of approval contained herein. The Applicant (including any property owners and managers, and their designees) hereby acknowledges and understands that noncompliance with the City's STLU and STAR regulations (including all applicable operating and development standards for STLUs listed in the SCMC, Titles 3 – Revenue and Finance, and 17 – Zoning) and conditions of approval, shall be immediate grounds for citation, accompanied with an associated fine, pursuant to SCMC Section 8.52.030(Y), which states, "*It is declared a public nuisance for any person owning, leasing, occupying or having charge or possession of any premises in this City to maintain such premises in such manner that ... A structure, improvement, property, and/or land use is not in compliance with terms and/or conditions of any City of San Clemente issued permit or approval,*" and any subsequent revision of this section of the code. *[Citation - Section 8.52.030(Y) of the SCMC]*
(Code Compliance)_____

10. The Applicant (including any property owners and managers, and their designees) shall ensure that all occupancy requirements, and any and all required signage related to the maximum occupancy limitations, for the building and site, are maintained at all times within the short-term apartment rental unit. *[Citation - Section 15.08.010 of the SCMC, Section [A] 111.1 of the CBC; Section 17.28.292.C.7. of the SCMC]* (Code Compliance)_____

11. The Applicant (including any property owners and managers, and their designees) understands and agrees that no exterior signage is part of this review, nor is any signage that advertises the use of the property as short-term lodging (including directional signage, parking signs, etc. that incorporate information about the use of property for short-term lodging) approved or permitted by this permit or allowed on the property. *[Citation - Section 17.16.240.D & 17.28.292.C.1 of the SCMC]* ■(Code Compliance)_____

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

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

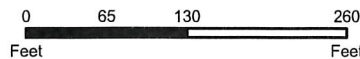


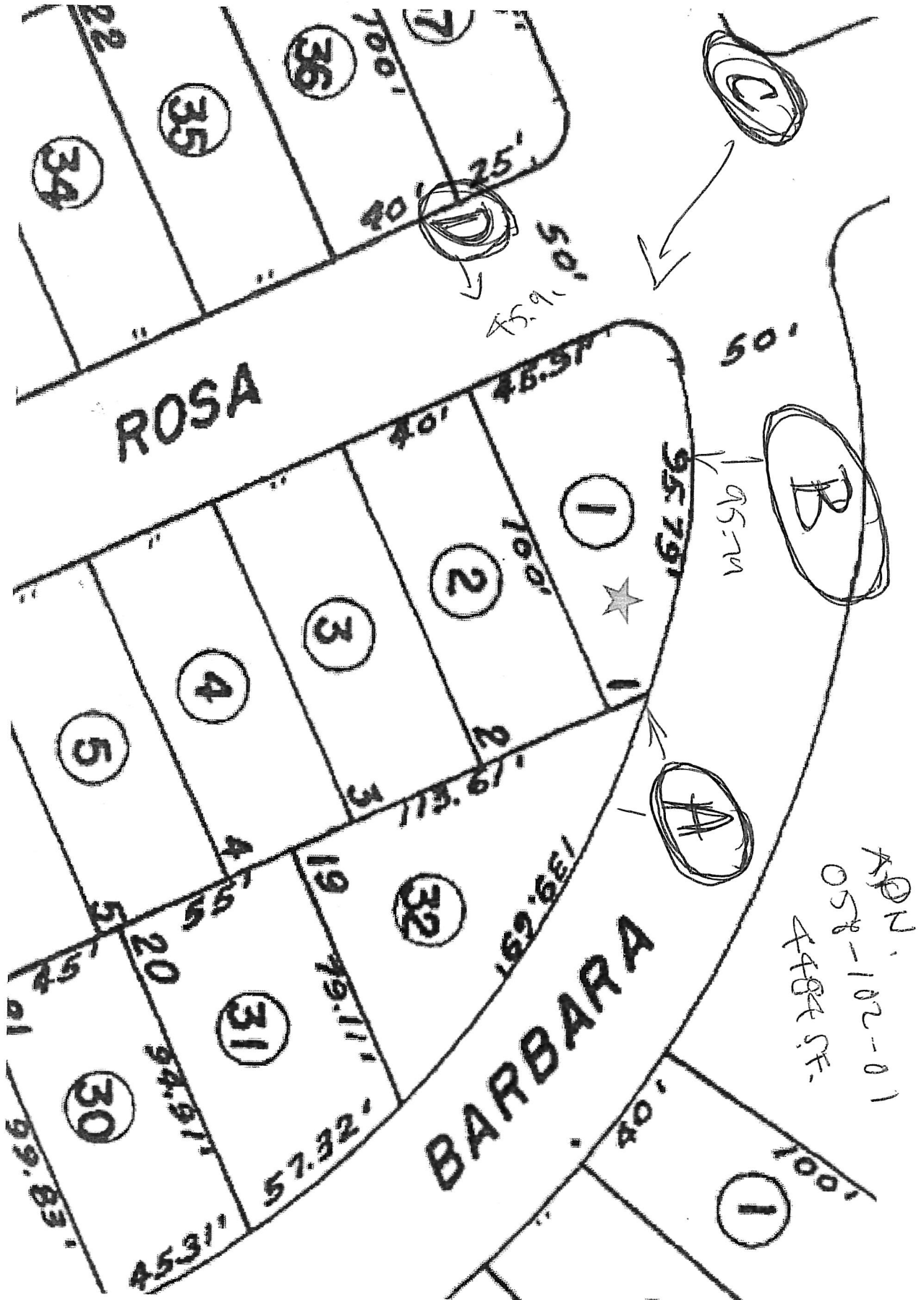
City of San Clemente

Project: STAR 17-424

Address: 203 Avenida Rosa

● Permitted Short Term Lodging Units





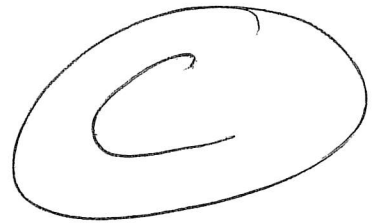
4 Photos EXTERIOR EXPOSURES



A



B



Kim Ware

From: kim ware <oceanrivermedia@me.com>
Sent: Saturday, December 16, 2017 5:48 PM
To: Kim Ware; Dee; Kim Denise Ware
Subject: 203 Avenida Rosa A & B

