

These minutes will be considered for approval at the Planning Commission meeting of 06-19-2019.

**MINUTES OF THE ADJOURNED REGULAR MEETING
OF THE CITY OF SAN CLEMENTE
PLANNING COMMISSION
June 5, 2019 @ 6:00 p.m.
Council Chambers
100 Avenida Presidio
San Clemente, California 92672**

1. CALL TO ORDER

Chair Crandell called the Adjourned Regular Meeting of the Planning Commission of the City of San Clemente to order at 6:00 p.m.

2. PLEDGE OF ALLEGIANCE

Commissioner Talley led the Pledge of Allegiance.

3. ROLL CALL

Commissioners Present: Donald Brown, Chris Kuczynski, Jason Talley, Zhen Wu;
Vice Chair Jim Ruehlin, Chair Barton Crandell

Commissioners Absent: Chair pro tem Michael Blackwell

Staff Present: Gabriel J. Perez, City Planner
Christopher Wright, Associate Planner II
Jonathan Lightfoot, Assistant Planner
David Carrillo, Assistant Planner
Matthew Richardson, Assistant City Attorney
Eileen White, Recording Secretary

4. SPECIAL ORDERS OF BUSINESS

None

5. MINUTES

A. Minutes from the Adjourned Regular Planning Commission Meeting of May 23, 2019.

IT WAS MOVED BY VICE CHAIR RUEHLIN, SECONDED BY COMMISSIONER BROWN, AND CARRIED 5-0-1, WITH COMMISSIONER KUCZYNSKI ABSTAINING, TO RECEIVE AND FILE THE MINUTES OF THE ADJOURNED REGULAR MEETING OF MAY 23, 2019, AS SUBMITTED.

[DECISION FINAL. SUBJECT TO APPEAL OR CALL UP BY COUNCIL.]
6. ORAL AND WRITTEN COMMUNICATION

None

7. CONSENT CALENDAR

None

8. PUBLIC HEARING

A. Amendment to Conditional Use Permit 18-441 (PLN 19-055), Minor Cultural Heritage Permit 19-054, Minor Conditional Use Permit 19-136 - Historic Aquarium Café (OC Fresca) (Lightfoot)

A request to rehabilitate the North Beach property most recently known as "Ichibiri's Restaurant" with minor exterior alterations, to allow for altered hours of operation with full alcohol service, and to allow indoor and outdoor acoustic entertainment within the MU1-A-CB-CZ zone at 1814 N. El Camino Real.

Chair Crandell stated for the record that although he has worked collaboratively with the applicant's architect, Jim Wilson, in the past, he has since retired and the two were never in business with each other.

Jonathan Lightfoot, Assistant Planner, narrated a PowerPoint Presentation entitled, "OC Fresca (Aquarium Café), 1814 N. El Camino Real," dated June 5, 2019. A copy of the Presentation is on file in Planning Division. In response to questions, he noted the proposed wrought iron handrail is can be removed in the future without causing damage to the historic building; Boca de Playa residents were not sent notices as they are outside of the standard 300 feet noticing range; the parking situation is non-conforming and grandfathered. The applicant would not have to add parking unless the use is intensified.

Michael Taylor, applicant, displayed slides indicating the professional experience he and partner Meg Gill bring to the business. He discussed the menu offerings for the proposed restaurant and described the fresh fruit cocktails/non-alcoholic drinks unique to their concept; noted entertainment planned is to provide ambiance, such as one individual with a guitar or urban contemporary music, which is not intended to impede conversation within the restaurant.

Jim Wilson, 30th Street Architects, was available for questions. He noted all proposed revisions/enhancements are reversable to allow the historic structure to be returned to its original state.

Chair Crandell opened the public hearing.

Larry Culbertson, San Clemente Historical Society President, supported the proposed revisions, as they are consistent with the Secretary of the Interior's standards. He is hopeful that this area could potentially receive historic district status in the future.

Chair Crandell closed the public hearing.

Comments from Discussion:

- This project will bring a historic building back to life to be appreciated once again.
- Commented that live music will be good for the North Beach District.
- Suggested the applicant be allowed to offer the indoor entertainment up to the same cease time as adjacent businesses, including The Casino and Ole Hanson Beach Club.
- Expressed concern that restaurant patrons will park on the surrounding neighborhood streets rather than pay for parking; noted the neighborhood is interested in creating a neighborhood parking permit program to avoid losing neighborhood parking space to commercial patrons.
- Confirmed with staff that this project will be on the Consent Calendar when it goes to City Council, and will only be discussed if removed by a member of the public or Council.
- Suggestion to require the applicant install a sound alarm meter that would notify the performer and/or restaurant owner that the sound has exceeded the maximum decibels allowed.
- Suggested an alarm meter is unnecessary due to existing Code Compliance regulations in place; noted the area is already subject to existing traffic, ocean, train, etc., noise.
- Suggested the applicant be allowed to add music from other instruments rather than just guitar; indicated that instruments such as the ocarina, harmonica, and cajon would be acceptable; suggested rather than listing the instruments that can be featured, the condition be revised to list traditionally loud instruments that cannot be featured, such as percussion and brass.

The Commissioners briefly discussed potential to expand notification for this project to 400 feet, which would include the Boca de Playa neighborhood. Staff noted that no additional noticing would occur as the project will only be on the Consent Calendar for City Council. The Assistant City Attorney noted that 300 feet is the standard radius for all projects and is consistent with the state standard. He did note, however, that staff could expand the notice area in the future if they felt that certain businesses or residents would take interest in a particular project.

IT WAS MOVED BY VICE CHAIR RUEHLIN, SECONDED BY COMMISSIONER WU, AND UNANIMOUSLY CARRIED TO ADOPT RESOLUTION NO. PC 19-017, A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING AMENDED CONDITIONAL USE PERMIT 18-441,(PLN 10-055) MINOR CULTURAL HERITAGE PERMIT 19-054, AND MINOR CONDITIONAL USE PERMIT 19-136, FOR OC FRESCA TO REHABILITATE THE HISTORIC AQUARIUM CAFÉ BUILDING AND TO ESTABLISH A NEW RESTAURANT WITH ON-SALE SERVICE OF ALCOHOL WITH LIVE ACOUSTIC ENTERTAINMENT BOTH INDOORS AND OUTDOORS AT 1814 N. EL CAMINO REAL.

Amended as follows:

Exhibit A, Page 3, no. 7.16, replace "consist of...only," with "not consist of brass or percussion,"

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

- B. Conditional Use Permit 18-652, Special Activities Permit 19-154, The Local Full Range of Alcohol and Special Events, 207 South El Camino Real (Carrillo)

A request to consider the on-site sale and consumption of a full range of alcohol and 15 special events for the remainder of 2019 at a restaurant located at 207 South El Camino Real in the Mixed Use 3 Zoning District and Architectural and Central Business Overlay Districts (MU3-A-CB).

David Carrillo, Assistant Planner, narrated a PowerPoint Presentation entitled, "The Local Full Range of Alcohol and Special Events, CUP 18-652/SAP 19-154," dated June 5, 2019. A copy of the Presentation is on file in Planning Division. He recommended the Commission add Condition of Approval no. 7.5, which requires hot food to be available concurrently with alcohol.

Adam Atamian, Associate Planner, addressed a correction notice the applicants were issued at an outdoor event. The correction notice was issued because the applicant did not have the permit on hand at the time the Code Enforcement Officer visited the site. The correction notice was withdrawn when the permit was subsequently produced. He agreed the staff report is in error where it states that the correction notice was issued due to service of hard liquor.

Hooman Mofidi, applicant, advised the focus of his restaurant is food service; noted agreement with the conditions of approval; stated the correction notice was due to absence of permit posting and no hard liquor was served at the event.

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

The Commissioners suggested staff consider assigning to businesses/tracking the number of public parking spaces used by businesses in this area to ensure the amount of parking available can support the number of businesses/restaurants utilizing the public parking spaces. Additionally, the Commissioners confirmed that the applicant was in agreement with Condition of Approval no. 7.5.

IT WAS MOVED BY COMMISSIONER BROWN, SECONDED BY COMMISSIONER TALLEY, AND UNANIMOUSLY CARRIED TO ADOPT RESOLUTION NO. PC 19-016, A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT 18-652, AND SPECIAL ACTIVITIES PERMIT 19-154, THE LOCAL FULL RANGE OF ALCOHOL AND SPECIAL EVENTS, TO ALLOW THE ON-SITE SALE AND CONSUMPTION OF A FULL RANGE OF ALCOHOL AND A SPECIAL ACTIVITIES PERMIT FOR 15 SPECIAL EVENTS IN 2019, AT A RESTAURANT LOCATED AT 207 SOUTH EL CAMINO REAL.

Amended as follows:

Staff report, Page 2, 4th paragraph, 1st sentence, strike, "and hard alcohol service"

Exhibit A, Page 3, add Condition no. 7.5 as follows: "The service and consumption of alcoholic beverages shall only be permitted in conjunction with hot food service, with same hot foods prepared on site. The hot foods shall be available at all times that alcoholic beverages are being served."

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

C. Regulation of Leaf Blower Operations (Wright)

A request to forward a recommendation to the City Council on the adoption of City-initiated amendments to Municipal Code Title 8 related to leaf blower operations.

Christopher Wright, Associate Planner II, narrated a PowerPoint Presentation entitled, "Leaf Blower Regulations," dated June 5, 2019. A copy of the Presentation is on file in Planning Division.

Chair Crandell opened the public hearing and acknowledged emails from a resident. There being no public testimony in person, he closed the public hearing.

Comments/Suggestions:

- The ordinance was initiated in response to 12 (now 13) complaints regarding leaf blowers within a 2-year period. There was questions as to why the City was spending resources on establishing and imposing restrictions on the use of lawn maintenance equipment for the entire City given a low number of complaints received for the estimated 25,000 households in the City. According to code enforcement staff, "a significant number of existing leaf blowers complaints were resolved with existing mechanisms." Generally, complaints have been received in the middle of the day, rather than early morning or late afternoon hours.
- Commented that direction from City Council does not indicate the area of focus for the Planning Commission, e.g. whether the Commission is to focus its efforts on reducing pollution or reducing/eliminating noise. After studying the issue and based on the Planning Commission's best understanding of the Council's direction, the ordinance should add definitions and require commercially operated leaf blowers after a one-year phase-in period to have contact information on them and a noise certification sticker to show leaf blowers don't produce more than 65 decibels of sound from 50 feet away. According to staff, these rules would allow code compliance to avoid having to use a noise meter to verify if there is a noise ordinance violation. Instead, leaf blowers would need to have a noise certification sticker, so staff can easily see if equipment meets the code or not.
- Commented that although leaf blowers were the focus of the direction provided to staff, lawn mowers and lawn edging equipment also generate noise. Suggested the use of leaf blowers are more of a pollution issue than just a sound issue. Leaf blowers are used to blow debris and dust that can be directed into gutters, onto neighbors' properties, onto streets, and goes into the ocean. This is a difficult issue for code compliance to monitor and address due to timing, staffing, tools, and amount of time offender is on site, etc. Any new regulations should make it easier, not harder for staff to enforce the code.
- The Commission discussed options for operating hours, but decided existing restrictions were adequate. The Commission concurred with staff to remove new restrictions on operating hours and deposit of debris (such as cuttings, clipping, leaves, etc.) from the draft ordinance, after confirming with staff that existing code has regulations and remedies that deal with these issues. The City has existing operating hours for property maintenance and leaf blowers should have the same operating hours as other lawn maintenance equipment, such as lawn mowers that also produce noise.

IT WAS MOVED BY COMMISSIONER TALLEY, SECONDED BY CHAIR CRANDELL, AND UNANIMOUSLY CARRIED TO ADOPT RESOLUTION NO. PC 19-018, A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN CLEMENTE, CALIFORNIA, RECOMMENDING THE CITY COUNCIL MAKE CEQA FINDINGS AND AMEND THE CITY OF SAN CLEMENTE MUNICIPAL CODE TITLE 8, CHAPTER 8.50 RELATED TO STANDARDS FOR LEAF BLOWER OPERATION.

Amended as follows:

Attachment 1, Page 1, revise Resolution no. PC 19-018 title with strikeout as follows:

IT WAS MOVED BY COMMISSIONER TALLEY, SECONDED BY CHAIR CRANDELL, AND UNANIMOUSLY CARRIED TO ADOPT RESOLUTION NO. PC 19-018, A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN CLEMENTE, CALIFORNIA, RECOMMENDING THE CITY COUNCIL MAKE CEQA FINDINGS AND AMEND THE CITY OF SAN CLEMENTE MUNICIPAL CODE TITLE 8, ~~CHAPTER 8.48, NOISE CONTROL AND~~ CHAPTER 8.50 RELATED TO STANDARDS FOR LEAF BLOWER OPERATION.

Attachment 1, Page 1, second whereas, replace "draft an...blowers;" with "consider an ordinance to establish regulations on leaf blowers;"

Attachment 1, Page 2, revise Section 3 with strikeout as follows:

... the Planning Commission hereby recommends that the City Council adopt an Ordinance entitled: "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, MAKING CEQA FINDINGS AND AMENDING THE CITY OF SAN CLEMENTE MUNICIPAL CODE TITLE 8, ~~CHAPTER 8.48, NOISE CONTROL AND~~ CHAPTER 8.50 RELATED TO STANDARDS FOR LEAF BLOWER OPERATION", ..."

Attachment 1, Exhibit A Page 1, revise Ordinance title with strikeout as follows:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, MAKING CEQA FINDINGS AND AMENDING THE CITY OF SAN CLEMENTE MUNICIPAL CODE TITLE 8, ~~CHAPTER 8.48, NOISE CONTROL AND~~ CHAPTER 8.50 RELATED TO STANDARDS FOR LEAF BLOWER OPERATION

Exhibit A, Page 1, second whereas, replace "draft an...blowers;" with "consider an ordinance to establish regulations on leaf blowers;"

Exhibit A, Page 3, strike "Section 8.48.090, Exemptions from Chapter, Subsection G is amended and Subsection P is added, as follows:..." in its entirety.

Exhibit A, Page 3, under "Chapter 8.50 – Leaf Blower Operation, is hereby added as follows:", replace text in Subsection A with "The use and operation of leaf blowers must comply with Chapter 8.48.", strike Subsection B, and reorder Subsection C to be Subsection B.

[ACTION SUBJECT TO CITY COUNCIL APPROVAL.]

9. NEW BUSINESS

In response to a comment, Gabriel J. Perez, City Planner, agreed to provide a report on the timeliness of projects going through the project approval process with regard to the City's self-imposed timeframes.

10. OLD BUSINESS

None

11. REPORTS OF COMMISSIONERS/STAFF

- A. Tentative Future Agenda
- B. Staff Waivers 19-132, 19-147, 19-162, 19-184
- C. Staff Waiver 19-172

12. ADJOURNMENT

IT WAS MOVED BY COMMISSIONER BROWN, SECONDED BY VICE CHAIR RUEHLIN, AND UNANIMOUSLY CARRIED TO ADJOURN AT 8:48 TO THE NEXT STUDY SESSION AND REGULAR MEETING OF THE PLANNING COMMISSION TO BE HELD ON JUNE 19, 2019, AT 6:00 P.M. IN COUNCIL CHAMBERS LOCATED AT 100 AVENIDA PRESIDIO, SAN CLEMENTE, CALIFORNIA.

Respectfully submitted,

Barton Crandell, Chair

Attest:

Gabriel J. Perez, City Planner

DRAFT