

These minutes were approved by the Zoning Administrator 10-28-2019

**CITY OF SAN CLEMENTE  
MINUTES OF THE REGULAR MEETING  
OF THE ZONING ADMINISTRATOR  
OCTOBER 17, 2019**

**1. CALL TO ORDER**

The Regular Meeting of the City of San Clemente Zoning Administrator was called to order on October 17, 2019 at 3:04 p.m. in Conference Room A of the Community Development Department, located at 910 Calle Negocio, San Clemente, California, by Zoning Administrator (ZA) Gabriel J. Perez.

Staff Present: Gabriel J. Perez, Zoning Administrator; Erin Guy, Community Development Technician; Lisa Acosta, Office Specialist I.

**2. MINUTES**

- A. The minutes of the Zoning Administrator meeting of September 19, 2019 were received and filed.

**3. ORAL AND WRITTEN COMMUNICATION**

None

**4. PUBLIC HEARINGS**

**A. 119 Avenida San Pablo – Short Term Apartment Rental (STAR) 19-295 – Boki STAR (Guy)**

A request to consider a short term apartment rental (STAR) located at 119 Avenida San Pablo Units B, C, and D.

Erin Guy, Community Development Technician, summarized the staff report.

Ignat Boki, applicant, stated his target market for his short term renters/customers are potential homeowners, business travelers, local individuals and/or families going through housing transitions due to home remodel or renovation, and families on vacation. He uses a decibel monitoring device to detect level of noise within the unit and the exterior is under audio and video surveillance. He also uses real time monitoring for fire and carbon monoxide. His guests are required to park on the property in designated areas. He expressed the importance to ensure his neighbors and community are taken care of.

ZA Perez stated the City has received six public comment letters opposed to this project.

ZA Perez opened the public hearing.

Donald Craig, resident, is opposed to the project and is concerned with potential problems with noise, drug addicts, theft, parties, parking, and decreased property values. He also states there are eight motels within three blocks of S. El Camino Real and this project isn't needed in his community and questions if the applicant will be required to pay hotel tax.

Janette Fletcher, resident, is opposed to the project and states there are plenty of established nearby hotels to accommodate temporary guests.

Gray McElroy, resident, is opposed to the project and expressed concern with additional traffic on a one-way street, parking, trash, noise, and foot traffic.

Tiffany Mohr, resident, is opposed to the project stating that having a revolving door of people in her neighborhood isn't conducive to the mission statement of San Clemente as the Spanish Village by the Sea. She resides in a historic home directly across the street from the proposed project. She is listed on the Mills Act and has gone through the process with the City to ensure that she has complied to receive the benefits. She must comply with a list of costly requirements within ten years for the benefit of San Clemente. She asks, "why she should hold her end of the bargain with the City if the City isn't going to maintain the zoning regulations that is set out in the General Plan?". The street is zoned Residential Low Density. She also asked how the property for the proposed permit became a multifamily building, the regulations the building is subject to, and why the property is the only multifamily building on a single residential family street. She also stated that the applicant is not enforcing the on-site parking and renters drive the wrong way on a one-way street.

Brian Staudenbaur, resident, is opposed to the project and is concerned if this project gets approved, other short term rentals in their neighborhood will be approved as well.

ZA Perez closed the public hearing.

ZA Perez asked the applicant to address some areas of concerns addressed in the public comments such as homelessness, renting process, parking, drugs and/or smoking, other Short Term Lodging Unit's (STLU) or STAR's in the neighborhood, and fees to be charged.

Ignat Bokl stated the City of San Clemente has an issue with homelessness, but this will not be an area of concern at his property as these are paying customers.

To book his location, the renters must go through a three level tier system to ensure there are background checks, verifying the customers are not on the terrorist no fly zone, and customers must be reviewed by the platform and other hosts. His target market of customers for his short term renters/customers are potential homeowners, business travelers, local individuals and/or families going through housing transitions due to home remodel or renovation, and families here on vacation; not the partiers and bar goers. The parking concerns have been addressed by the City requirements. Guests will be parking on the property and not parking on the street. There is a strict no smoking policy. The nearest licensed STAR or STLU is 1,116 linear square feet away. If someone is operating a STAR or STLU within that area without a license they are subject to City Code Compliance. His fees are based on the market and the season.

ZA Perez asked staff to clarify how there is an apartment complex allowed within a single family residential zone.

Staff explained this property has a valid building permit issued in 1953 for a four unit apartment building and was constructed as such. It is allowed to continue to operate as a four unit apartment building until the owner chooses to make a change converting it to lesser units or a single family dwelling. At that point, the property would not be allowed to convert back to a multifamily dwelling under current zoning density allowances.

ZA Perez asked the difference between STLU's and STAR's, their restrictions and any special process or requirements that need to be followed.

Staff clarified there are designated outlined allowed areas within the City where a STLU permit can be obtained by right. The proposed project does not fall into any of these areas; however, the code does have a special allowance for multifamily dwellings outside the allowed areas. Multifamily dwelling buildings are permitted to go through a discretionary permit application process to obtain a STAR permit. Additionally, a STAR must be located at least 300 feet from every other valid and licensed STAR or STLU. The nearest valid and licensed STLU or STAR is approximately 1,116 linear feet away. If the applicant were to be granted a licensed STAR permit, there could not be another one permitted within 300 feet.

ZA Perez asked staff to highlight the conditions of approval that may address any impacts the STAR may have.

Staff explained if approved, the STAR permit is conditioned and will become null and void if:

- There is a change in ownership.
- The STAR use is not commenced within one year.

Further conditions will apply if the STAR permit is approved including:

- The applicant will be required to renew the STAR operating license on an annual basis.
- If at the time of renewal, the City has received numerous complaints or has a history of Code violations, the property may not be relicensed.
- The owner may be required to sound proof the STAR unit if deemed necessary by the Community Development Director or their designee
- The owner of the STAR unit must own and operate the STAR and must sleep on-site while a separate unit is rented for short term lodging purposes.
- The STAR owner must provide current 24-hour contact information with a required response time of 30 minutes or less. If response is outside the 30 minutes or no response, Code Compliance maybe contacted to file a complaint.
- The maximum number of renters allowed in any of the permitted STAR units is limited to no more than four people at any time.
- The STAR may only be used for overnight lodging. It shall not be used for a wedding, bachelor or bachelorette party, or other party conference, or any similar event.

ZA Perez viewed the site plan and determined the parking configuration does not conform to current standards for an apartment complex. He added a condition restricting parking to one vehicle per unit and revocable if the applicant or renters do not comply. He also added a condition requiring the applicant to provide a plan for the physical delineation of on-site parking to the satisfaction of the Community Development Director or their designee.

ZA Perez stated for disclosure purposes that he previously visited this site when it was listed as a long term rental. He disclosed this information to the City Attorney, and there being no financial interest this would not be a conflict of interest.

ZA Perez asked staff to clarify the 300 feet radius for STLU and STAR permits, if this is fixed, and how it can be modified.

Staff explained the 300 feet radius is the current requirement in the zoning code. In order to amend this requirement in the Zoning Ordinance, staff would need to receive direction from the City Council. A member of the public could file for a zoning amendment to initiate that change.

ZA Perez stated he read the staff report and conditions of approval, reviewed the plans, and visited the site and was able to make the findings.

ZA Perez approved Short Term Apartment Rental (STAR) 19-295 based on the following findings: The proposed use is permitted within the subject zone and complies with all the applicable provisions of this title, the San Clemente General

Plan, and the purpose and intent of the zone. The proposal is consistent with the types of permitted and intended uses in the zone, and special use requirements are applied to ensure the existing character of residential neighborhoods are preserved and not adversely impacted. The project must comply with all code requirements, including Fire Code, California Building Code, the San Clemente Municipal Code, and must adhere to the Conditions of Approval. The STAR owner proposes to operate the STAR and sleep within a habitable room or unit on the property every night a room or unit is rented for short-term lodging purposes so STAR operation and use is monitored and controlled by the property owner to ensure compliance with Municipal Code requirements. The STAR is required to be located at least 300 feet from every other existing STAR or STLU. Currently, the nearest STAR or STLU is approximately 1,116 linear feet away.

The project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15301 (Class 1: Existing Facilities).

Action: The Zoning Administrator approved and adopted Resolution ZA 19-017, Short Term Apartment Rental 19-295, Bokl STAR, subject to the Conditions of Approval with the following modifications:

- Added Condition of Approval to read: The applicant (including any lessee, or other person or entity with the responsibility to manage the subject property, future property owners and managers, and their designees) shall maintain noise level monitoring equipment at the subject property, installed in a fashion to capture and record a representative noise level occurring indoors and outdoors on the property at all times, and shall maintain all records of noise-level measurement and all historical data generated by the noise level monitoring equipment and service.
- Added Condition of Approval to read: Parking for any STAR Unit is limited to the available parking on site. Each of the four units on site has been allocated one, on-site parking space. Each on site parking space shall be clearly delineated for use by individual units using inconspicuous signage. The STAR owner shall post a copy of the parking rules and assigned parking spaces that comply with the conditions set forth in this section in a conspicuous place in the STAR. The STAR owner shall include in all advertising and lease agreements for the STAR the use of the assigned parking spaces, and the limitation that all parking must be contained on site. STAR Permit number 19-295 may be subject to revocation if it is demonstrated that the applicant is out of compliance with this condition of approval.

- Added Condition of Approval to read: Prior to the issuance of STAR Permit number 19-295, the applicant shall provide a plan for the physical delineation of on site parking to the satisfaction of the Community Development Director or their designee.

**B. 218 Avenida Victoria – Minor Exception Permit 19-185/Staff Waiver of a Minor Cultural Heritage Permit 19-353/Staff Waiver of a Minor Architectural Permit 19-360 – Vaaler Addition (Guy)**

A request to consider a 328 square foot addition to an existing legal non-conforming single family home within the Residential Medium Density Zone.

Erin Guy, Community Development Technician, summarized the staff report and added the Historical Society was informed of the project, and to date, no public comments have been received.

Lars Vaaler, homeowner, and Armando Carlos, representative for applicant, were present and available for questions.

ZA Perez opened the public hearing, and there being no one desiring to speak to this issue, closed the public hearing.

ZA Perez stated he read the staff report and conditions of approval, reviewed the plans, and visited the site and was able to make the findings.

ZA Perez approved Minor Exception Permit 19-185 based on the following findings: The proposed project will not interfere with the purpose of the zone or the standards of the zone. The neighboring properties will not be adversely affected. The continuation of the nonconforming setback is for an addition that is single-story in height, and is in character with the neighboring properties. The proposed project will not be detrimental to the health, safety or welfare of the general public. Conditions are included requiring the construction of a public sidewalk in conjunction with the project to improve accessibility in the neighborhood.

ZA Perez approved Staff Waiver of Minor Cultural Heritage Permit 19-353 based on the following findings: The architectural treatment of the project complies with the San Clemente General Plan, the Zoning Code, and the architectural guidelines in the City's Design Guidelines. The general appearance of the proposal is in keeping with the character of the neighborhood. The proposed project will not have negative visual or physical impacts upon the historic structure. The proposed addition is located at the rear of the structure against an interior side yard setback and is mostly screened from public view.

ZA Perez approved Staff Waiver of Minor Architectural Permit 19-360 based on the following findings: The architectural treatment of the project complies with

the San Clemente General Plan, the Zoning Code, and the architectural guidelines in the City's Design Guidelines. The building's scale, massing, and setbacks are in character with and compatible with adjacent properties. The general appearance of the proposal is in keeping with the character of the neighborhood. The proposed project complies with all applicable development standards, with the exception of the continuation of the legal non-conforming side yard setback requested.

The project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15301 (Class 1: Existing Facilities).

Action: The Zoning Administrator approved and adopted Resolution ZA 19-016, Minor Exception Permit 19-185, Staff Waiver of Minor Cultural Heritage Permit 19-353, and Staff Waiver of Minor Architectural Permit 19-360, Vaaler Addition, subject to the Conditions of Approval.

5. **NEW BUSINESS**

None

6. **OLD BUSINESS**

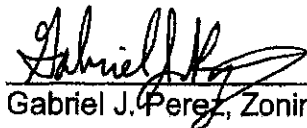
None

7. **ADJOURNMENT**

The meeting adjourned at 4:11 p.m. to the Regular Meeting of the Zoning Administrator which will be held Thursday, October 17, 2019 at 3:00 p.m., at the Community Development Department, Conference Room A, located at 910 Calle Negocio, Suite 100, San Clemente, California.

Respectfully submitted,

SAN CLEMENTE ZONING ADMINISTRATOR

  
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Gabriel J. Perez, Zoning Administrator

