

**MINUTES OF THE REGULAR MEETING
OF THE CITY OF SAN CLEMENTE
PLANNING COMMISSION
November 6, 2019 @ 7:00 p.m.
Council Chambers
100 Avenida Presidio
San Clemente, California 92672**

1. CALL TO ORDER

Chair Ruehlin called the Regular Meeting of the Planning Commission of the City of San Clemente to order at 7:10 p.m.

2. PLEDGE OF ALLEGIANCE

Chair pro tem Crandell led the Pledge of Allegiance.

3. ROLL CALL

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

Commissioners Absent: None

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

4. SPECIAL ORDERS OF BUSINESS

None

5. MINUTES

- A. Minutes from the Regular Planning Commission Study Session of September 4, 2019 (Continued from 10/16/19)

IT WAS MOVED BY COMMISSIONER TALLEY, SECONDED BY COMMISSIONER BROWN, AND CARRIED 5-0-2, WITH COMMISSIONER TALLEY AND VICE CHAIR BLACKWELL ABSTAINING, TO APPROVE THE MINUTES OF THE PLANNING COMMISSION REGULAR STUDY SESSION OF SEPTEMBER 4, 2019, AS SUBMITTED.

B. Minutes from the Regular Planning Commission Meeting of September 4, 2019 (Continued from 10/16/19)

IT WAS MOVED BY COMMISSIONER TALLEY, SECONDED BY COMMISSIONER BROWN, AND CARRIED 5-0-2, WITH COMMISSIONER TALLEY AND VICE CHAIR BLACKWELL ABSTAINING, TO APPROVE THE MINUTES OF THE PLANNING COMMISSION REGULAR MEETING OF SEPTEMBER 4, 2019, AS SUBMITTED.

C. Minutes from the Adjourned Regular Planning Commission meeting of October 2, 2019 (Continued from 10/16/19)

IT WAS MOVED BY COMMISSIONER TALLEY, SECONDED BY VICE CHAIR BLACKWELL, AND CARRIED 4-0-3, WITH COMMISSIONER TALLEY, COMMISSIONER BROWN, AND CHAIR PRO TEM CRANDELL ABSTAINING, TO APPROVE THE MINUTES OF THE PLANNING COMMISSION ADJOURNED MEETING OF OCTOBER 2, 2019, AS SUBMITTED.

D. Minutes from the Regular Study Session meeting of October 16, 2019

IT WAS MOVED BY COMMISSIONER TALLEY, SECONDED BY VICE CHAIR BLACKWELL AND CARRIED 5-0-2, WITH CHAIR PRO TEM CRANDELL AND CHAIR RUEHLIN ABSTAINING, TO APPROVE THE MINUTES OF THE PLANNING COMMISSION REGULAR STUDY SESSION OF OCTOBER 16, 2019, AS SUBMITTED.

E. Minutes from the Regular Planning Commission meeting of October 16, 2019

IT WAS MOVED BY COMMISSIONER TALLEY, SECONDED BY COMMISSIONER BROWN, AND CARRIED 5-0-2, WITH CHAIR PRO TEM CRANDELL AND CHAIR RUEHLIN ABSTAINING, TO APPROVE THE MINUTES OF THE PLANNING COMMISSION REGULAR MEETING OF OCTOBER 16, 2019, AS SUBMITTED.

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

6. ORAL AND WRITTEN COMMUNICATION

Jeff Perkin, resident, thanked the Commission for delaying the installation of the 4G (with potential to house 5G) small cell sites; discussed studies indicating that the cell sites have increased cancer rates in people living nearby; urged the City to make regulations as strict as possible, be involved in litigation/efforts to

overturn the Federal standards, and ensure that children are not exposed to harmful effects.

Kortney Morrow, no city of residence given, urged the City to pass a governing ordinance as restrictive as the one passed by the Encinitas City Council; requested the Commission and City Council protect the City and its residents to the fullest extent of the law; suggested the 4G sites would have negative effects on disabled persons; suggested the area's high fire danger zone should also be a consideration. She encouraged the public to attend, provide testimony, and listen to the information that will be presented at the November 20, 2019, Study Session in Council Chambers.

James Nelson, no city of residence given, requested the Commission protect the City's residents and citizens by ensuring that any small cell site is a minimum of 500 feet away from a residential property; requested the Commission pay particular attention to the two small cell sites that are currently under appeal as they are especially close to his and another family home.

Laura Fischer, resident, distributed a handout entitled, "Safe Cell Sites for SC;" discussed applicant preparation work done at the proposed project site before the applications from AT&T were approved; requested denial of the two sites currently under appeal based on height aesthetics and suggested a decrease in property values if approved. Additionally, she distributed flyers entitled, "The Science on Wireless Radiation," and "5G Technology vs. Science and Freedom of Choice."

7. **CONSENT CALENDAR**

None

8. **PUBLIC HEARING**

- A. 212 South Calle Seville – Cultural Heritage Permit 19-370/ Minor Exception Permit 19-380/ Sidewalk Waiver 19-017 – Wolter Remodel and Addition (Lightfoot)

A request to consider a remodel and second story addition to an existing duplex. The project also proposes to construct a 7.5-foot-tall arbor in the front yard setback as well as miscellaneous walls and hedges above 42" in the front and street side yard setback areas. The project site abuts a historic property at 210 S. Calle Seville. The project site is within the Residential High Zoning District and within the Coastal Zone Overlay. A sidewalk waiver is requested for the drive approach and a portion of the frontage along Avenida Santa Barbara due to topographic constraints.

Jonathan Lightfoot, Assistant Planner, narrated a PowerPoint Presentation entitled, "Wolter Remodel and Addition, Cultural Heritage Permit 19-370, Minor Exception Permit 19-380, and Sidewalk Waiver 19-

017,” dated November 6, 2019. A copy of the Presentation is on file in Planning Division.

In response to questions, Zachary Ponsen, Senior Civil Engineer, discussed the Sidewalk Waiver application. The decision whether to allow the Waiver or require the sidewalk installation is at the discretion of the City Manager. The City Manager approved the waiver for a portion of the sidewalk in April. With regard to potential damage to the historic structure from the relocation of the garage, he noted the building official will review the plans for additional details including soils reports recommendations and commented that building contractors are typically aware of potential liability related to adjacent property damage during construction and monitor as warranted.

Lisa and John Wolter, applicants, described topographical constraints associated with the property; noted support of the project from neighbors; related their desire to improve the existing structure’s curb appeal and architecture consistent with the Spanish Colonial Revival aesthetic of the San Clemente.

Chair Ruehlin opened the public hearing.

Letter on the dais dated October 31, 2019, from Mary J. Mevelith, owner of the historic home located at 210 South Calle Seville, supporting the proposed project and requesting that appropriate review and actions be taken to protect her historic home from structural damage during construction at the neighboring property.

Larry Culbertson, representing the San Clemente Historical Society and as an individual citizen, expressed support of the project; thanked the applicant for the photo simulations as they are very helpful in assessing the project; commented that the second level setback on the proposed addition was sensitive to the historic home; supported waiver of the sidewalk due to site constraints. He requested Engineering staff canvas neighborhoods, determine the best side/location for continuous sidewalks along an entire block, and ensure no sidewalk waivers are allowed on that side or location.

Chair Ruehlin closed the public hearing.

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

- Supported the proposed architecture, landscaping plans, and project massing.
- Suggested the hedges should be held to a maximum of 42-inches rather than allowing the hedges to extend up to 6 feet.

- Suggested that staff's recommendation for conditioning the height of some hedges as indicated in the presentation would be sufficient.
- Suggested the project could be conditioned to require installation of an easement for an up-and-around sidewalk at the existing driveway.
- Supported the architectural design as it is sensitive to the adjacent historic structure.
- Commended the applicant for the thorough plans and the photosimulations that help the Commission to properly evaluate the project.
- Commented that a complete sidewalk would have been desirable at this location, but acknowledged that the City Manager is the approving authority for sidewalk waivers.
- Expressed disappointment that waivers sometimes result in disjointed sidewalks in the city, and recommended that the Public Works division evaluate waiver requests with an aim at providing complete sidewalks on at least one side of any street.

IT WAS MOVED BY COMMISSIONER TALLEY AND SECONDED BY CHAIR PRO TEM CRANDELL TO ADOPT RESOLUTION NO. PC 19-038, A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING CULTURAL HERITAGE PERMIT 19-370, MINOR EXCEPTION PERMIT 19-380, , WOLTER REMODEL AND ADDITION, A REQUEST TO CONSTRUCT A SECOND FLOOR ADDITION ON AN EXISTING DUPLEX AT 212 S. CALLE SEVILLE AND TO INSTALL AN ARBOR, LANDSCAPING, AND WALLS TALLER THAN 42" IN THE FRONT AND STREET-SIDE SETBACK AREAS.

IT WAS MOVED BY COMMISSIONER WU TO AMEND THE MOTION TO ELIMINATE HEDGES HIGHER THAN 42" AND DEDICATE A 4-FOOT WIDE EASEMENT ON THE CURB CUT LEADING TO THE GARAGE DOOR.

THE SUBSTITUTE MOTION MADE BY COMMISSION WU DIED DUE TO LACK OF A SECOND.

THE ORIGINAL MOTION MOVED BY COMMISSIONER TALLEY AND SECONDED BY CHAIR PRO TEM CRANDELL PASSED ON A UNANIMOUS VOTE.

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

- B. General Plan Amendment 19-291/Specific Plan Amendment 19-292 – Pier Bowl Specific Plan Update – Continued from October 2, 2019 (Wright)

A continued public hearing to consider forwarding a recommendation to the City Council on the adoption of a City initiated update of the Pier Bowl Specific Plan and a cleanup General Plan Amendment. The Specific Plan is being updated for consistency with updates to the General Plan and the Coastal Land Use Plan (LUP). General Plan maps are being updated for consistency with the LUP, including changing two properties on the block of Coronado Lane from Residential High (RH) to Mixed Use 4 (MU 4).

Christopher Wright, Associate Planner II, briefly reviewed the staff report; distributed and recommended approval of Errata Item 8B; distributed a letter suggesting a clarification dated November 6, 2019, from Dan Phu, Manager, Environmental Programs, OCTA; summarized changes made as a result of revisions suggested at the October 2, 2019, Regular Planning Commission meeting.

Commissioner Brown and Commissioner Talley separately stated for the record that although they were unable to attend the Planning Commission Regular Meeting of October 2, 2019, they had reviewed the video of the meeting and felt prepared to take action.

Chair Ruehlin opened the public hearing.

Lori Donchak, representing Pier Pride, distributed and summarized a letter dated November 4, 2019, from Pier Pride recommending the City 1) Strengthen the importance of Economic Development for the Pier Bowl, and 2) Continue to build on the success of the Safety Quiet Zone. She suggested the City consider establishing a business round table with stakeholders and businesses as part of its efforts to protect the Pier Bowl area.

Mark McGuire, resident representing John McKinley, who owns several parcels in the Pier Bowl area, requested staff review the Floor Area Ratio (FAR) requirements for parcels in Mixed Use Zones versus those in Commercial Zones as they should be equal because the uses are similar; requested the City support parking in-lieu fees, such as financial support of the popular Trolley Program, as a means to provide parking for new development.

Chair Ruehlin closed the public hearing.

Comments/suggestions:

- Expressed support for the business round table concept.
- Suggested additional information needs to be provided and studies need to be done before an informed opinion on an in-lieu parking program could be established.

- Requested staff provide research and provide the rationale for the FAR differences with potential for revising General Plan to address FAR in Mixed Use Zones throughout the City.
- Suggested revised language to broaden the field of available funding opportunities; suggested revised language to introduce potential programs that would address comprehensive circulation and parking improvement strategies.

IT WAS MOVED BY COMMISSIONER TALLEY, SECONDED BY COMMISSIONER BROWN, AND UNANIMOUSLY CARRIED TO ADOPT RESOLUTION NO. PC 19-034, A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN CLEMENTE, CALIFORNIA, RECOMMENDING THE CITY COUNCIL CERTIFY ADDENDUM NO. 3 TO THE GENERAL PLAN ENVIRONMENTAL IMPACT REPORT, AND APPROVE GENERAL PLAN AMENDMENT 19-291 AND SPECIFIC PLAN AMENDMENT 19-292; TO ACHIEVE CONSISTENCY BETWEEN THE GENERAL PLAN, LOCAL COASTAL PROGRAM, AND PIER BOWL SPECIFIC PLAN.

Amended as shown in the provided Errata, except as follows:

Pier Bowl Specific Plan, Page 4-4, add to the end of the last paragraph, “as well as the possibility of programs such as establishing an in-lieu fee program, parking master plan, and other measures to relieve circulation and parking impacts.”

Errata Item 8B, Page 3, last sentence, following “private”, insert “County, Regional,”

[ACTION SUBJECT TO CITY COUNCIL APPROVAL.]

9. NEW BUSINESS

- A. Transfer of a 4 by 325-foot (1,300-square foot) portion of Senda de la Playa to the Capistrano Shores Mobilehome Park (Continued from October 16, 2019) (Pierucci)

A request to forward a recommendation to the City Council (1) that the transfer is of the common benefit, (2) that the transfer conforms to the City’s General Plan, (3) that the transfer is categorically exempt from environmental review under CEQA as a Class 5 project and to direct staff to file a Notice of Exemption, as well as (4) to direct staff to execute and record the grant deed effectuating the transfer.

David Pierucci, Deputy City Attorney, summarized the staff report. In response to questions, he advised the Mobilehome Park is not paying any cash for the subject property as it is a condition of the settlement

agreement in *Capistrano Shores, Inc., on behalf of itself and its members v. the City of San Clemente*, which was approved by City Council on August 20, 2019. He is not aware of the property tax implications resulting from the transfer of property. Additionally, he advised the City Engineer has determined the subject transfer of property will not impact the street right of way; stated the City currently holds title to the property in fee. He noted staff has worked closely and in good faith with the Capistrano Shores attorney to settle the zoning issue of the larger lawsuit. As a result of this settlement, Capistrano Shores Mobilehome Park forgoes zoning challenges in the future.

Chair Ruehlin opened the public hearing.

Eric Anderson, representing Capistrano Shores Mobilehome Park, discussed details of the proposed settlement; noted the settlement will clear the existing cloud on the subject property's title.

Chair Ruehlin closed the public hearing.

Comments/Suggestions:

- Comment that although there is no public access along the street currently, the street is owned by the City, and could potentially be opened up to allow the public coastal access, which would result in a significant public benefit.
- Expressed concern regarding being uninformed regarding settlement details and waivers being made; suggested continuing the item to the first meeting in December to allow additional information to be provided.
- Questioned how the property will be recorded with the Orange County Assessor's Office with regard to how it will be assessed for tax payments.
- Commented on the number of previous lawsuits with the City dating back to the 1940's.
- Established the proposed transfer is a 4' x 325' stretch along the road; the remainder of the road will remain owned in fee by the City.
- Expressed concern that the public is prohibited from using a public road to access a public beach; suggested the settlement decision should be considered from a land use perspective.

IT WAS MOVED BY COMMISSIONER TALLEY, SECONDED BY CHAIR PRO TEM CRANDELL AND UNANIMOUSLY CARRIED TO ADOPT RESOLUTION NO. PC 19-037, A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN CLEMENTE, CALIFORNIA, REGARDING THE TRANSFER OF A 4 BY 325-FOOT (1,300-SQUARE FOOT) PORTION OF SENDA DE LA PLAYA TO THE CAPISTRANO

SHORES MOBILEHOME PARK, RECOMMENDING THE CITY COUNCIL DETERMINE THAT THE TRANSFER IS OF THE COMMON BENEFIT, DETERMINE THAT THE TRANSFER CONFORMS TO THE CITY'S GENERAL PLAN, DETERMINE THAT THE TRANSFER IS CATEGORICALLY EXEMPT FROM ENVIRONMENTAL REVIEW UNDER CEQA AS A CLASS 5 PROJECT, DIRECT STAFF TO FILE A NOTICE OF EXEMPTION, AND DIRECT STAFF TO EXECUTE AND RECORD THE GRANT DEED EFFECTUATING THE TRANSFER.

Amended as follows:

Page 3, last section, under "Planning Commission Recommendation", add the following after item no. 4:

- "5. Direct staff to inform the Orange County Assessor about the transfer, and the imputed additional significant value to each of the landowners."
- "6. Direct staff to inquire about potential of utilizing the public property to allow the public use of the public land and to ensure use of the public land is unrestricted."

[ACTION SUBJECT TO CITY COUNCIL APPROVAL.]

10. OLD BUSINESS

None

11. REPORTS OF COMMISSIONERS/STAFF

- A. Tentative Future Agenda
- B. Zoning Administrator Minutes of October 17, 2019
- C. Staff Waiver Memo and Reports
- D. Review tentative 2020 Planning Commission meeting dates and discuss whether to cancel the January 8, 2020 Planning Commission meeting as City Council has cancelled their scheduled meeting of January 7, 2020.

Chair pro tem Crandell announced he will be absent from the Planning Commission's November 20, 2019, Regular Meeting.

City Planner Perez announced the Commission's next meeting on November 20, 2019, will start at 5:00 p.m. to allow a Small Cell Site Public Workshop. The draft Ordinance will be considered and an expert in RF emissions will be present for a presentation and to answer questions.

Chair Ruehlin shared that he has been recently made aware there may be some concerns regarding the way the City prioritizes required Mills Act improvements

such as seismic retrofits over improvements visible to the public. He will follow up with Jonathan Lightfoot and provide additional information at a future meeting.

12. ADJOURNMENT

IT WAS MOVED BY COMMISSIONER TALLEY, SECONDED BY COMMISSIONER WU, AND UNANIMOUSLY CARRIED TO ADJOURN AT 9:47 P.M. TO THE NEXT REGULAR MEETINGS OF THE STUDY SESSION AND PLANNING COMMISSION TO BE HELD ON NOVEMBER 20, 2019 AT **5:00 P.M.** IN COUNCIL CHAMBERS LOCATED AT 100 AVENIDA PRESIDIO, SAN CLEMENTE, CALIFORNIA.

Respectfully submitted,

Jim Ruehlin, Chair

Attest:

Gabriel J. Perez, City Planner

DRAFT