



AGENDA REPORT

SAN CLEMENTE CITY COUNCIL MEETING
Meeting Date: November 19, 2019

Agenda Item 7B

Approvals:

City Manager gm

Dept. Head CGD

Attorney _____

Finance ga

Department: Community Development
Prepared By: Jennifer Savage, Senior Planner

Subject: *ZONING AMENDMENT 19-343 MODIFYING NONCONFORMING PROVISIONS FOR MOBILEHOMES AND MOBILEHOME PARKS.*

Fiscal Impact: No impact.

Summary: Staff recommends that the City Council approve a zoning amendment (ZA 19-343) of San Clemente Municipal Code Title 17 modifying nonconforming regulations for mobilehomes and mobilehome parks. The purpose of the zoning amendment is to clarify regulations regarding nonconforming mobilehomes and mobilehome parks.

Background: On September 17, 2019, the City Council directed the Planning Commission to initiate the necessary Zoning Amendments to clarify the application of the Zoning Ordinance's nonconformance provisions to mobilehomes and mobilehome parks. This direction is a result of a settlement agreement in Capistrano Shores, Inc. on behalf of itself and its members. v. City of San Clemente (Orange County Superior Court Case No. 30-2014-007099897-CU-EI-CXC) approved at by City Council on August 20, 2019.

Capistrano Shores, Inc. owns the Capistrano Shores Mobilehome Park located at 1880 N El Camino Real in San Clemente. The lawsuit concerned a number of issues relating to the City's General Plan, Zoning Ordinance (SCMC), and Coastal Land Use Plan such as the land use designation, nonconforming status of the Mobilehome Park, and permitting authority. As part of the settlement, the City agreed to process an amendment to its Zoning Ordinance which would, with specific changes, clarify the provisions of the Zoning Ordinance that control nonconforming structures and uses, and how the provisions relate to mobilehomes. Specifically, the subject amendment would clarify that legal non-conforming mobilehomes and mobilehome parks are defined by State law for SCMC nonconforming provisions, shall comply with State and Federal laws and permitting requirements, and are not subject to the SCMC special uses provisions.

On October 16, 2019, the Planning Commission (Commission) reviewed the proposed Amendments. The Commission voted 2-2 to recommend approval (Attachment 3). As a result, the item is to be considered by the Council without a Commission recommendation for approval or denial.

Discussion: Existing Requirements

Chapter 17.72, Nonconforming Structures and Uses, "regulates Nonconforming Structures and Uses that were lawfully established, but that are prohibited, regulated, or restricted differently by existing requirements." (SCMC; § 17.72.010.A.) For nonconforming mobilehomes, the Zoning Ordinance states that:

"Nonconforming mobilehomes may be replaced, renovated, remodeled, expanded or repaired. New mobilehome accessory structures and utility improvements are permitted. Mobilehome park common areas, roadways, and utility improvements may also be added, repaired, renovated, remodeled, expanded or replaced. All mobilehome and mobilehome park improvements shall comply with California Code of Regulations, Title 25, Division 1, Chapter 2. Mobilehome Parks and Installations." (SCMC, § 17.72.060.E.)

Unlike for other nonconforming uses and structures, the intent of the above provision is to allow mobilehomes to be fully replaced or renovated without limitations to encourage eventual conformance with the current Zoning Ordinance.

Proposed Amendments

There are four proposed amendments and the changes are summarized below. The changes are contained in the draft Ordinance (Attachment 1) and in Attachment 2.

The proposed amendment would add an exception in the Nonconforming Structures and Uses regulations specifying that definitions related to Mobilehome Parks and Mobilehomes are located in State law and regulations.

The second change would add a provision to Subsection 17.72.030.C.3 (Exemptions) that mobilehome parks in compliance with a Conditional Use Permit will be exempt from the Nonconforming Structures and Uses, and that mobilehome park improvements are permitted and must comply with State and Federal mobilehome statutes, regulations and policies.

The nonconforming mobilehome and mobilehome park uses subsection 17.72.060.E states that improvements must comply with California Code of Regulations, Title 25. The third change expands the regulation reference to include State regulations found in the Mobilehome Parks Act and Manufactured Housing Act, and Federal regulations in the National Manufactured Housing Construction and Safety Standards Act of 1974.

The fourth change is located in the Special Uses chapter in the Mobilehomes section. Under the Purpose and Intent subsection, the changes would add a sentence to specify that the Mobilehome Special Uses provisions do not apply to existing mobilehomes and mobilehome parks, including existing nonconforming mobilehomes and mobilehome parks. The Mobilehome Special Uses provisions will continue to apply to new mobilehomes and new mobilehome parks.

Recommended

Action: STAFF RECOMMENDS THAT the City Council:

1. Find and determine that the proposed amendments are not a project as defined by the State CEQA Guidelines sections 15378(b)(2) and 15378(b)(5); and
2. Introduce an ordinance entitled: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AMENDING SUBSECTION 17.28.190.A, SECTION 17.72.020, SUBSECTION 17.72.030.C.3, AND SUBSECTION 17.72.060.E OF TITLE 17 OF THE SAN CLEMENTE MUNICIPAL CODE TO CLARIFY STANDARDS REGULATING NONCONFORMING MOBILEHOME AND MOBILEHOME PARK USES.

Attachments:

1. Proposed Ordinance
2. Proposed Changes
3. City Council Staff Report and Minutes for September 17, 2019
4. Planning Commission Meeting Staff Report and Minutes for October 16, 2019

Notification: An 1/8 page ad was published in the local newspaper.

ATTACHMENT 1

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AMENDING SUBSECTION 17.28.190.A, SECTION 17.72.020, SUBSECTION 17.72.030.C.3, AND SUBSECTION 17.72.060.E OF TITLE 17 OF THE SAN CLEMENTE MUNICIPAL CODE TO CLARIFY STANDARDS REGULATING NONCONFORMING MOBILEHOME AND MOBILEHOME PARK USES

WHEREAS, Capistrano Shores Mobilehome Park (sometimes referred to herein as the "Mobilehome Park") located in the City of San Clemente, California ("Park") owned by Capistrano Shores, Inc., a California mutual benefit nonprofit corporation, was approved by the City Council of the City San Clemente on September 16, 1959 for construction, occupancy and incidental uses through a Conditional Use Permit; and

WHEREAS, on the date of approval the Mobilehome Park use was consistent with the underlying zoning; and

WHEREAS, the Mobilehome Park has operated continuously since that time; and

WHEREAS, it is the intent of Capistrano Shores, Inc., and its members, owners of mobilehomes, assigns, or transferees, to continue operation, maintenance, repair and rehabilitation of the Mobilehome Park, the mobile/manufactured homes; and

WHEREAS, the City's 2018 update amendment to its comprehensive Local Coastal Program Land Use Plan (the "2018 LCP/LUP Update") excludes the Mobilehome Park and depicts the site on the Land Use Map as an "Area of Deferred Certification (ADC);" and

WHEREAS, through this process, the City committed to not asserting or exercising land use jurisdiction or permitting authority over the Mobilehome Park; and

WHEREAS, the uses at the Mobilehome Park remain as they were when the Mobilehome Park was approved by the City in 1959; and

WHEREAS, although the City's zoning regulations have since that time changed, the City considers the Mobilehome Park generally and the individual mobilehomes and common areas to be legal non-conforming uses and in compliance with the City's non-conforming use ordinance and, as such, in compliance with the City's zoning ordinance; and

WHEREAS, with completion of the 2018 LCP/LUP Update, the City wishes to confirm in its zoning ordinance that all discretionary land use permitting authority and building permit authority over the Mobilehome Park, amenities, mobile/manufactured homes, or accessory structures lies vested solely in the State; and

WHEREAS, State CEQA Guidelines sections 15378(b)(2) and 15378(b)(5) provide that ongoing administrative activities and organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment do not constitute a "project" as defined by the State CEQA Guidelines (Cal. Code Regs., title 14, § 15000 et seq.) and therefore are exempt from CEQA and no further environmental review is required; and

WHEREAS, for the health and safety of the residents of the Mobilehome Park, the City of San Clemente is further clarifying application of the Nonconforming Use Ordinance to the Mobilehome Park with this Amendment.

WHEREAS, on October 16, 2019, the Planning Commission held a duly noticed public hearing on the proposed Zoning amendments, considered testimony and other evidence, and forwarded the matter to City Council ; and

WHEREAS, on November 19, 2019, the City Council held a duly noticed public hearing on this Ordinance, considered the agenda report, including the policy considerations discussed therein, and the written and oral testimony received. The City Council has also reviewed and considered the Planning Commission's recommendation, and the agenda report and other evidence that was considered by the Commission, in connection with the proposed amendments that affect the City's Zoning Ordinance.

NOW, THEREFORE, City Council of the City of San Clemente hereby ordains as follows:

Section 1: Incorporation of Recitals.

The recitals above are each incorporated by reference and adopted as findings by the City Council.

Section 2. CEQA Findings.

Based upon all the evidence presented in the administrative record, including but not limited to the staff report for the proposed Zoning Amendment, the City Council hereby finds and determines that this Zoning Amendment is not a "project" for purposes of CEQA and is exempt from further CEQA review pursuant to State CEQA Guidelines sections 15378(b)(2) and 15378(b)(5).

Section 3. Zoning Amendment (ZA) Findings.

With regards to Zoning Amendment 19-343, the City Council finds the following:

A. The Zoning Amendment is consistent with the General Plan, including the following goals and policies:

- A primary goal of the General Plan Land Use Element is "*...maintaining...a diversity of residential neighborhoods and housing opportunities*" (p. LU-2). The clarification of standards and of the permitting authority would ensure the maintenance of the existing residential neighborhood and housing opportunities.
- A primary goal of the General Plan Coastal Element is to "*Be characterized by land uses and development that follow the City's Local Coastal Program and are consistent with the Coastal Act*" (p. C-2). The clarification of standards and of the permitting authority would ensure land uses, development, and the Municipal Zoning Ordinance follows the City's Local Coastal Program, consistent with the Coastal Act.
- Policy G-1.11 of the General Plan Governance Element is to "*reflect new information, changing conditions, needs and community preferences. This may require updating one or more specific plans and other regulatory documents to maintain consistency*" (p. G-3). The proposed amendment would update a regulatory document, the Municipal Code, to reflect new information and conditions, and provide consistency with the City's Local Coastal Program.

B. The Zoning Amendment will not adversely affect the public health, safety, and welfare in that:

- The Zoning Amendment would appropriately distinguish that permitting authority for the subject properties lies solely with the State as identified in State laws and regulations, including without limitation, Mobilehome Parks Act, California Health and Safety Code §§ 18200 et seq.; Manufactured Housing Act, California Health and Safety Code §§ 18000 et seq.; and California Code of Regulations, Title 25, §§ 1000 et seq., as amended from time to time."

Section 4: Section 17.72.020 of the San Clemente Municipal Code is hereby amended to read as follows:

"17.72.020.-- Definitions.

Definitions of terms used in this Chapter are located in Section 17.88.030 of this Title, except that definitions of terms related to Mobilehome Parks and Mobilehomes are located in the State laws and regulations, including without limitation, Mobilehome Parks Act, California *Health and Safety Code* §§ 18200 *et seq.*; Manufactured Housing Act, California *Health and Safety Code* §§ 18000 *et seq.*; and California *Code of Regulations, Title 25, §§ 1000 et seq.*, as amended from time to time."

Section 5: Subsection 17.72.030.C.3 of the San Clemente Municipal Code is hereby amended to read as follows:

"C. Exceptions,

* * *

3. Land uses. The following land uses are exempt from this chapter:

a. Multiple-family dwellings constructed in the Residential Low Density zoning district prior to April 4, 1962.

b. Service stations and vehicle service and repair-related facilities are exempt, provided the uses were lawfully established on or before February 4, 2014 (adoption date of General Plan), the uses have not been discontinued more than 365 consecutive calendar days, and the uses meet any of the criteria below:

i. The service station or vehicle service repair-related use is on property fronting El Camino Real, or fronting other arterial streets defined in Section 17.88.030, or

ii. The service station use is located on property in gateway areas (identified in the General Plan Urban Design Element) abutting Interstate-5 off-ramps and intersections.

c. Nonconforming uses associated with the historical significance of national, state or locally designated historic structures may be exempted from this Chapter with the approval of a Cultural Heritage Permit per Table 17.16.100.B.

d. Mobilehome Parks in compliance with any applicable Conditional Use Permit shall be exempt from all provisions of Chapter 17.72, except as provided in SCMC subsection 17.72.060.E."

Section 6: Subsection 17.72.060.E of the San Clemente Municipal Code is hereby amended to read as follows:

“E. Nonconforming Mobilehome and Mobilehome Park Uses. Nonconforming mobilehomes may be replaced, renovated, remodeled, expanded or repaired. New mobilehome accessory structures and utility improvements are permitted. Mobilehome park common areas, roadways, and utility improvements may also be added, repaired, renovated, remodeled, expanded or replaced. All mobilehome and mobilehome park improvements shall comply with state mobilehome statutes, regulations and policies, including, without limitation Mobilehome Parks Act, California Health and Safety Code §§ 18200 et seq.; Manufactured Housing Act, California Health and Safety Code §§ 18000 et seq.; California Code of Regulations, Title 25, §§ 1000 et seq; as well as federal mobilehome statutes including the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. §§ 5401 et seq. and applicable regulations. SCMC subsections 17.72.030.C.3.d and 17.72.060.E shall control as to Mobilehome Parks and Mobilehomes.”

Section 7: Subsection 17.28.190.A. of the San Clemente Municipal Code is hereby amended to read as follows:

“A. Purpose and Intent. This section provides standards and procedures for individual mobilehomes on individual lots in residential zones and the development of new mobilehome parks. These standards are provided to ensure the compatibility of mobilehomes with other surrounding permitted uses, create a safe and desirable living environment for mobilehome residences, and address land use compatibility. This subsection shall not apply to existing mobilehomes and mobilehome parks, including existing nonconforming mobilehomes and mobilehome parks.”

Section 8: The City Clerk shall certify to the passage of this ordinance and cause the same to be published as required by law, and the same shall take effect as provided by law.

Section 9. Severability.

If any section, sentence, clause or phrase of this Ordinance or the application thereof to any entity, person or circumstance is held for any reason to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. The City Council hereby declares that it would have adopted this Ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 10. Effective Date.

This Ordinance takes effect 30 days after adoption of this Ordinance by the City Council.

Section 11. Reference to Existing Provisions.

All existing provisions of the Municipal Code that are repeated herein are repeated only to aid decision-makers and the public in understanding the effect of the proposed changes. Restatement of existing provisions does not constitute a new enactment.

Section 12. Custodian of Records.

The documents and materials associated with this ordinance that constitute the record of proceedings on which the City Council's findings and determinations are based are located at San Clemente City Hall, 910 Calle Negocio, San Clemente, CA 92672.

Section 13. Certification and Publication.

The City Clerk shall certify to the adoption of this ordinance and shall cause it, or a summary of it, to be published within 15 days of adoption, and shall post a certified copy of this Ordinance, including the vote for and against the same, in the Office of the City Clerk in accordance with California Government Code section 36933.

APPROVED, ADOPTED AND SIGNED this ___ day of ___, 2019.

ATTEST:

City Clerk of the City of
San Clemente, California

Mayor of the City of San
Clemente, California

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss.
CITY OF SAN CLEMENTE)

I, JOANNE BAADE, City Clerk of the City of San Clemente, California, hereby certify that Ordinance No. _____ having been regularly introduced at the meeting of __, 2019, was again introduced, the reading in full thereof unanimously waived, and duly passed and adopted at a regular meeting of the City Council held on the __ day of __, 2019, and said ordinance was adopted 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 __, 2019.

CITY CLERK of the City of
San Clemente, California

APPROVED AS TO FORM:

CITY ATTORNEY

ATTACHMENT 2

PROPOSED CHANGES
for
Zoning Amendment 19-343
(deletions ~~stricken~~, additions underlined)

17.72.020 – Definitions.

Definitions of terms used in this Chapter are located in Section 17.88.030 of this Title, except that definitions of terms related to Mobilehome Parks and Mobilehomes are located in the State laws and regulations, including without limitation, Mobilehome Parks Act, California Health and Safety Code §§ 18200 et seq.; Manufactured Housing Act, California Health and Safety Code §§ 18000 et seq.; and California Code of Regulations, Title 25, §§ 1000 et seq., as amended from time to time.

17.72.030.C.3 – Exemptions.

3.Land uses. The following land uses are exempt from this chapter:

- a. Multiple-family dwellings constructed in the Residential Low Density zoning district prior to April 4, 1962.
- b. Service stations and vehicle service and repair-related facilities are exempt, provided the uses were lawfully established on or before February 4, 2014 (adoption date of General Plan), the uses have not been discontinued more than 365 consecutive calendar days, and the uses meet any of the criteria below:
 - i. The service station or vehicle service repair-related use is on property fronting El Camino Real, or fronting other arterial streets defined in Section 17.88.030, or
 - ii. The service station use is located on property in gateway areas (identified in the General Plan Urban Design Element) abutting Interstate-5 off-ramps and intersections.
- c. Nonconforming uses associated with the historical significance of national, state or locally designated historic structures may be exempted from this Chapter with the approval of a Cultural Heritage Permit per Table 17.16.100.B.
- d. Mobilehome Parks in compliance with any applicable Conditional Use Permit shall be exempt from all provisions of Chapter 17.72, except as provided in SCMC subsection 17.72.060.E.

17.72.060.E. – Nonconforming mobilehome and mobilehome park uses.

Nonconforming mobilehomes may be replaced, renovated, remodeled, expanded or repaired. New mobilehome accessory structures and utility improvements are permitted. Mobilehome park common areas, roadways, and utility improvements may also be added, repaired, renovated, remodeled, expanded or replaced. All mobilehome and mobilehome park improvements shall comply with California Code of Regulations, Title 25, Division 4, Chapter 2, Mobilehome Parks and Installations, state mobilehome statutes, regulations and policies, including, without limitation Mobilehome Parks Act, California Health and

ATTACHMENT 2

Safety Code §§ 18200 et seq.; Manufactured Housing Act, California Health and Safety Code §§ 18000 et seq.; California Code of Regulations, Title 25, §§ 1000 et seq; as well as federal mobilehome statutes including the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. §§ 5401 et seq. and applicable regulations. SCMC subsections 17.72.030.C.3.d and 17.72.060.E shall control as to Mobilehome Parks and Mobilehomes.

17.28.190.A. – Purpose and Intent.

This section provides standards and procedures for individual mobilehomes on individual lots in residential zones and the development of new mobilehome parks. These standards are provided to ensure the compatibility of mobilehomes with other surrounding permitted uses, create a safe and desirable living environment for mobilehome residences, and address land use compatibility. This subsection shall not apply to existing mobilehomes and mobilehome parks, including existing nonconforming mobilehomes and mobilehome parks.



AGENDA REPORT

SAN CLEMENTE CITY COUNCIL MEETING
Meeting Date: September 17, 2019

ATTACHMENT 3

Agenda Item 67

Approvals:

City Manager [Signature]

Dept. Head [Signature]

Attorney _____

Finance _____

Department: Community Development
Prepared By: City Attorney

Subject: INITIATION OF PROCESS TO AMEND THE MUNICIPAL CODE TITLE 17 (ZONING) TO FURTHER CLARIFY THE APPLICATION OF TITLE 17'S NONCONFORMANCE PROVISIONS TO MOBILEHOMES.

Fiscal Impact: This initiative will have no fiscal effect impact on the City.

Summary: This item is for the City Council to consider initiation of a Zoning Amendment that would further clarify the application of the Zoning Code's nonconformance provisions (specifically, sections 17.72.020, 17.72.030.C.3, 17.72.060.E, and 17.28.198.A).

Background: This proposed initiation of a Zoning Amendment stems from a settlement agreement in *Capistrano Shores, Inc. on behalf of itself and its members. v. City of San Clemente* (Orange County Superior Court Case No. 30-2014-007099897-CU-El-CXC) approved by City Council on August 20, 2019. Capistrano Shores, Inc. owns the Capistrano Shores Mobilehome Park located at 1880 N El Camino Real in San Clemente. The lawsuit concerned a number of issues relating to the City's General Plan, Zoning Code, and Coastal Land Use Plan. As part of the settlement, the City agreed to process an amendment to its Zoning Code which would, with specific changes, clarify (with references to existing Municipal Code provisions) that the specific provisions of the Zoning Code control general nonconformance provisions as they relate to mobilehomes.

The general purpose of nonconformance provisions in the City's Zoning Code is to "regulate where lawfully established, but that are prohibited, regulated, or restricted differently by existing requirements." (SCMC, § 17.72.010.A.) For nonconforming mobilehomes, the Zoning Code states that:

Nonconforming mobilehomes may be replaced, renovated, remodeled, expanded or repaired. New mobilehome accessory structures and utility improvements are permitted. Mobilehome park common areas, roadways, and utility improvements may also be added, repaired, renovated, remodeled, expanded or replaced. All mobilehome and mobilehome park improvements shall comply with California Code of Regulations, Title 25, Division 1, Chapter 2. Mobilehome Parks and Installations.

(SCMC, § 17.62.060.E.)

Unlike for other nonconforming uses and structures, the intent of the above provision would be to allow mobilehomes to be fully replaced or renovated without limitations that would encourage eventual conformance with the current zoning code.

Discussion: This Initiation would direct the Planning Commission to develop a Zoning Amendment that would further clarify the Zoning Code's current intent with respect to mobilehomes. The Zoning Amendment would accomplish the following:

1. Amend section 17.72.020 to, for purposes of the nonconformance provisions, rely on the State law (e.g., the Mobilehome Parks Act and the Manufactured Housing Act) for definitions relating to mobilehomes and mobilehome parks (see current SCMC, § 17.72.020).
2. Amend section 17.72.030.C.3 to add mobilehome parks compliant with a conditional use permit to the list of uses generally exempt from the Zoning Code's nonconformance provision (see current SCMC, § 17.72.030.C.3).
3. Amend section 17.72.060.E to clarify that all improvements to nonconforming mobilehomes and mobilehome parks shall comply with State law (e.g., the Mobilehome Parks Act and the Manufactured Housing Act) as well as Federal law (e.g., the National Manufactured Housing Construction and Safety Standards Act of 1974).
4. Amend section 17.28.190.A to clarify that the City's special use provisions for mobilehomes do not apply existing and existing nonconforming mobilehomes and mobilehome parks.

The Planning Commission and Council are not required to recommend or approve these amendments, but only to consider them. If the amendments are enacted, their passage would resolve all outstanding issues in the lawsuit.

Environmental Review:

Since this action would not, in itself, in any way impact or alter the physical environment. Accordingly, this action is exempt from environmental review under State CEQA Guidelines, section 15061(b)(3), the General Rule Exemption.

Recommended Action:

STAFF RECOMMENDS THAT the City Council take the following actions:

Direct the Planning Commission to initiate the necessary Zoning Amendment to clarify the application of the Zoning Code's nonconformance provisions.

Attachments: Not applicable.

Notification: Not applicable.

J. **Declaration of Surplus and Disposition of Pier Interpretive Signs**

MOTION BY COUNCILMEMBER WARD, SECOND BY COUNCILMEMBER HAMM, CARRIED 3-0 (COUNCILMEMBER FERGUSON ABSENT), to declare the pier Interpretive signs identified in Attachment #1 of the Administrative Report, dated September 17, 2019, as surplus and approve and authorize PierPride to sell the signs as a fundraising opportunity.

K. **Initiation of Amendment to Municipal Code Title 17 (Zoning) to Further Clarify the Application of Title 17's Nonconformance Provisions to Mobile Homes**

MOTION BY COUNCILMEMBER WARD, SECOND BY COUNCILMEMBER HAMM, CARRIED 3-0 (COUNCILMEMBER FERGUSON ABSENT), to direct the Planning Commission to initiate the necessary Zoning Amendment to clarify the application of the Zoning Code's nonconformance provisions.

ITEMS REMOVED FROM THE CONSENT CALENDAR FOR DISCUSSION

L. **Barbecue for 2nd Battalion, 4th Marine Regiment - Budget Appropriation**

Assistant City Manager Sund reviewed the contents of the Administrative Report and responded to Council inquiries.

Council took a straw poll to determine Councilmembers' preliminary sentiments concerning the level of barbecue funding to be provided by the City for the marine barbeque, which revealed that all Councilmembers present support full funding of the event.

Rick Loeffler, San Clemente, spoke in support of funding 100% of the Marine barbecue, but suggested that future events be paid from money raised via private fundraisers.

Wayne Eggleston, San Clemente, noted that the City adopted the 2nd Battalion, 4th Marines and that the City subsequently requested that the San Clemente Chamber of Commerce serve as a liaison; thanked the City for agreeing to fund the barbeque and noted the ways that the marines contribute to the community.



STAFF REPORT
SAN CLEMENTE PLANNING COMMISSION

Date: October 16, 2019

PLANNER: Jennifer Savage, Senior Planner

SUBJECT: Zoning Amendment (ZA) 19-343 - Nonconforming Provisions for Mobilehomes, amending Subsection 17.28.190.A, Section 17.72.020, Subsection 17.72.030.C.3, and Subsection 17.72.060.E of Title 17 of the San Clemente Municipal Code regarding nonconforming mobilehome and mobilehome park uses.

REQUIRED FINDINGS

The following findings shall be made to approve the proposed amendments. The draft Resolution (Attachment 1) provides an assessment of the proposed amendments' compliance with these findings.

The Planning Commission is requested to forward a recommendation to the City Council regarding zoning amendments based on the findings per Section 17.16.040

1. General Findings. Prior to approval of a zoning amendment or amendment to the zoning maps, the following findings shall be made:
 - a. The proposed amendment is consistent with the General Plan.
 - b. The proposed amendment will not adversely affect the public health, safety and welfare.

BACKGROUND

On September 17, 2019, the City Council directed the Planning Commission to initiate the necessary Zoning Amendments to clarify the application of the Zoning Code's nonconformance provisions to mobilehomes and mobilehome parks. This direction is a result of a settlement agreement in *Capistrano Shores, Inc. on behalf of itself and its members. v. City of San Clemente* (Orange County Superior Court Case No. 30-2014-007099897-CU-EI-CXC) approved at by City Council on August 20, 2019.

Capistrano Shores, Inc. owns the Capistrano Shores Mobilehome Park located at 1880 N El Camino Real in San Clemente. The lawsuit concerned a number of issues relating to the City's General Plan, Zoning Code (SCMC), and Coastal Land Use Plan such as the land use designation, nonconforming status of the Mobilehome Park, and permitting authority. As part of the settlement, the City agreed to process an amendment to its Zoning Code which would, with specific changes, clarify the provisions of the Zoning Code that control nonconforming structures and uses, and how the provisions relate to mobilehomes. Specifically, the subject amendment would clarify that legal non-

conforming mobilehomes and mobilehome parks are defined by State law for SCMC nonconforming provisions, shall comply with State and Federal laws and permitting requirements, and are not subject to the SCMC special uses provisions.

DISCUSSION

Existing Requirements

Chapter 17.72, Nonconforming Structures and Uses, "regulates Nonconforming Structures and Uses that were lawfully established, but that are prohibited, regulated, or restricted differently by existing requirements." (SCMC, § 17.72.010.A.) For nonconforming mobilehomes, the Zoning Code states that:

Nonconforming mobilehomes may be replaced, renovated, remodeled, expanded or repaired. New mobilehome accessory structures and utility improvements are permitted. Mobilehome park common areas, roadways, and utility improvements may also be added, repaired, renovated, remodeled, expanded or replaced. All mobilehome and mobilehome park improvements shall comply with California Code of Regulations, Title 25, Division 1, Chapter 2. Mobilehome Parks and Installations. (SCMC, § 17.72.060.E.)

Unlike for other nonconforming uses and structures, the intent of the above provision is to allow mobilehomes to be fully replaced or renovated without limitations to encourage eventual conformance with the current zoning code.

Council Direction

The City Council directed the Planning Commission to develop a Zoning Amendment that would further clarify the Zoning Code's current intent with respect to mobilehomes and accomplish the following:

1. Amend section 17.72.020 to, for purposes of the nonconformance provisions, rely on the State law (e.g., the Mobilehome Parks Act and the Manufactured Housing Act) for definitions relating to mobilehomes and mobilehome parks (see current SCMC, § 17.72.020).
2. Amend section 17.72.030.C.3 to add mobilehome parks compliant with a conditional use permit to the list of uses generally exempt from the Zoning Code's nonconformance provision (see current SCMC, § 17.72.030.C.3).
3. Amend section 17.72.060.E to clarify that all improvements to nonconforming mobilehomes and mobilehome parks shall comply with State law (e.g., the Mobilehome Parks Act and the Manufactured Housing Act) as well as Federal law (e.g., the National Manufactured Housing Construction and Safety Standards Act of 1974).

4. Amend section 17.28.190.A to clarify that the City's special use provisions for mobilehomes do not apply to existing and existing nonconforming mobilehomes and mobilehome parks.

The Planning Commission and Council are not required to recommend or approve these amendments, but only to consider them. If the amendments are enacted, their passage would satisfy settlement agreement terms.

Proposed Amendments

The Planning Commission should consider the changes below to the Zoning Code (deletions ~~stricken~~, additions underlined) as directed by the City Council. These changes are also contained in the draft Ordinance (Attachment 2).

17.72.020 – Definitions.

Definitions of terms used in this Chapter are located in Section 17.88.030 of this Title, except that definitions of terms related to Mobilehome Parks and Mobilehomes are located in the State laws and regulations, including without limitation, Mobilehome Parks Act, California Health and Safety Code §§ 18200 et seq.; Manufactured Housing Act, California Health and Safety Code §§ 18000 et seq.; and California Code of Regulations, Title 25, §§ 1000 et seq., as amended from time to time.

17.72.030.C.3 – Exemptions.

3. Land uses. The following land uses are exempt from this chapter:
 - a. Multiple-family dwellings constructed in the Residential Low Density zoning district prior to April 4, 1962.
 - b. Service stations and vehicle service and repair-related facilities are exempt, provided the uses were lawfully established on or before February 4, 2014 (adoption date of General Plan), the uses have not been discontinued more than 365 consecutive calendar days, and the uses meet any of the criteria below:
 - i. The service station or vehicle service repair-related use is on property fronting El Camino Real, or fronting other arterial streets defined in Section 17.88.030, or
 - ii. The service station use is located on property in gateway areas (identified in the General Plan Urban Design Element) abutting Interstate-5 off-ramps and intersections.
 - c. Nonconforming uses associated with the historical significance of national, state or locally designated historic structures may be exempted from this Chapter with the approval of a Cultural Heritage Permit per Table 17.16.100.B.

- d. Mobilehome Parks in compliance with any applicable Conditional Use Permit shall be exempt from all provisions of Chapter 17.72, except as provided in SCMC subsection 17.72.060.E.

17.72.060.E. – Nonconforming mobilehome and mobilehome park uses.

Nonconforming mobilehomes may be replaced, renovated, remodeled, expanded or repaired. New mobilehome accessory structures and utility improvements are permitted. Mobilehome park common areas, roadways, and utility improvements may also be added, repaired, renovated, remodeled, expanded or replaced. All mobilehome and mobilehome park improvements shall comply with ~~California Code of Regulations, Title 25, Division 1, Chapter 2. Mobilehome Parks and Installations.~~ state mobilehome statutes, regulations and policies, including, without limitation Mobilehome Parks Act, California Health and Safety Code §§ 18200 et seq.; Manufactured Housing Act, California Health and Safety Code §§ 18000 et seq.; California Code of Regulations, Title 25, §§ 1000 et seq; as well as federal mobilehome statutes including the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. §§ 5401 et seq. and applicable regulations. SCMC subsections 17.72.030.C.3.d and 17.72.060.E shall control as to Mobilehome Parks and Mobilehomes.

17.28.190.A. – Purpose and Intent.

This section provides standards and procedures for individual mobilehomes on individual lots in residential zones and the development of new mobilehome parks. These standards are provided to ensure the compatibility of mobilehomes with other surrounding permitted uses, create a safe and desirable living environment for mobilehome residences, and address land use compatibility. This subsection shall not apply to existing mobilehomes and mobilehome parks, including existing nonconforming mobilehomes and mobilehome parks.

GENERAL PLAN CONSISTENCY

The proposed amendments are consistent with goals and policies of the Centennial General Plan, as outlined in Table 1 below.

Table 1 – General Plan Consistency

Policies and Objectives	Consistency Finding
<p><i>Land Use Element Primary Goal #:1</i> “Achieve the City’s Vision by ...maintaining...a diversity of residential neighborhoods and housing opportunities...”</p>	<p>Consistent. The clarification of standards and of the permitting authority would ensure the maintenance of the existing residential neighborhood and housing opportunities.</p>
<p><i>Coastal Element Primary Goal:</i> “...Be characterized by land uses and development that follow the City’s Local Coastal Program and are consistent with the Coastal Act.”</p>	<p>Consistent. The clarification of standards and of the permitting authority would ensure land uses, development, and the Municipal Zoning Code follows the City’s Local Coastal Program, consistent with the Coastal Act.</p>
<p><i>Policy G-1.11 Keeping the General Plan and Specific Plans Current.</i> The City amends the General Plan to reflect new information, changing conditions, needs and community preferences. This may require updating one or more specific plans and other regulatory documents to maintain consistency.</p>	<p>Consistent. The proposed amendment would update a regulatory document, the Municipal Code, to reflect new information and conditions.</p>

CALIFORNIA COASTAL COMMISSION REVIEW

The location is within the Coastal Zone. The City’s 2018 Local Coastal Program Land Use Plan depicts the site on the Land Use Map as an “Area of Deferred Certification” and the City does not assert or exercise authority over the property. Rather, all discretionary land use permitting authority and building permit authority over Capistrano Shores Mobilehome Park, amenities, mobile/manufactured homes, or accessory structures lies with the State.

ENVIRONMENTAL REVIEW/COMPLIANCE (CEQA)

Staff recommends the Planning Commission determine the proposed amendments are not a project as defined by the State CEQA Guidelines. State CEQA Guidelines sections 15378(b)(2) and 15378(b)(5) provide that ongoing administrative activities and organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment do not constitute a “project” as defined by the State CEQA Guidelines (Cal. Code Regs., title 14, § 15000 et seq.) and therefore are exempt from CEQA and no further environmental review is required

RECOMMENDATION

Staff recommends that the Planning Commission:

1. Determine the proposed amendments are not a project as defined by the State CEQA Guidelines sections 15378(b)(2) and 15378(b)(5) and;
2. Adopt Resolution PC 19-035, recommending approval of the proposed Zoning Code amendments.

Attachments:

1. Resolution No. PC 19-035
2. Draft Ordinance

RESOLUTION NO. PC 19-035

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN CLEMENTE RECOMMENDING THE CITY COUNCIL APPROVE AN ORDINANCE TO ENACT ZONING AMENDMENT 19-343, AMENDING MUNICIPAL CODE TITLE 17 (ZONING), CHAPTERS 17.28 (SPECIAL USES) AND 17.36 (COMMERCIAL ZONES AND STANDARDS TO CLARIFY STANDARDS REGULATING NONCONFORMING MOBILEHOMES AND MOBILEHOME PARKS

WHEREAS, Capistrano Shores Mobilehome Park (sometimes referred to herein as the "Mobilehome Park") located in the City of San Clemente, California ("Park") owned by Capistrano Shores, Inc., a California mutual benefit nonprofit corporation, was approved by the City Council of the City San Clemente on September 16, 1959 for construction, occupancy and incidental uses through a Conditional Use Permit; and

WHEREAS, on the date of approval the Mobilehome Park use was consistent with the underlying zoning; and

WHEREAS, the Mobilehome Park has operated continuously since that time; and

WHEREAS, it is the intent of Capistrano Shores, Inc., and its members; owners of mobilehomes, assigns, or transferees, to continue operation, maintenance, repair and rehabilitation of the Mobilehome Park, the mobile/manufactured homes; and

WHEREAS, the City's 2018 update amendment to its comprehensive Local Coastal Program Land Use Plan (the "2018 LCP/LUP Update") excludes the Mobilehome Park and depicts the site on the Land Use Map as an "Area of Deferred Certification (ADC);" and

WHEREAS, through this process, the City committed to not asserting or exercising land use jurisdiction or permitting authority over the Mobilehome Park; and

WHEREAS, the uses at the Mobilehome Park remain as they were when the Mobilehome Park was approved by the City in 1959; and

WHEREAS, although the City's zoning regulations have since that time changed, the City considers the Mobilehome Park generally and the individual mobilehomes and common areas to be legal non-conforming uses and in compliance with the City's non-conforming use ordinance and, as such, in compliance with the City's zoning code; and

WHEREAS, with completion of the 2018 LCP/LUP Update, the City wishes to confirm in its zoning code that all discretionary land use permitting authority and building permit authority over the Mobilehome Park, amenities, mobile/manufactured homes, or accessory structures lies vested solely in the State; and

WHEREAS, for the health and safety of the residents of the Mobilehome Park, the City of San Clemente is further clarifying application of the Nonconforming Use Ordinance to the Mobilehome Park with this Amendment; and

WHEREAS, State CEQA Guidelines sections 15378(b)(2) and 15378(b)(5) provide that ongoing administrative activities and organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment do not constitute a "project" as defined by the State CEQA Guidelines (Cal. Code Regs., title 14, § 15000 et seq.) and therefore are exempt from CEQA and no further environmental review is required; and

WHEREAS, on October 16, 2019, the Planning Commission held a duly noticed public hearing on the proposed Zoning Amendment, considered testimony and other evidence, and recommended the City Council approve and adopt this Ordinance.

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

Section 1. Incorporation of Recitals.

The recitals above are each incorporated by reference and adopted as findings by the City Council.

Section 2. CEQA Findings.

Based upon all the evidence presented in the administrative record, including but not limited to the staff report for the proposed Zoning Amendment, the Planning Commission hereby finds and determines that this Zoning Amendment is not a "project" for purposes of CEQA and is exempt from further CEQA review pursuant to State CEQA Guidelines sections 15378(b)(2) and 15378(b)(5).

Section 3. Zoning Amendment (ZA) Findings.

With regard to Zoning Amendment 19-343, the Planning Commission finds the following:

- A. The Zoning Amendment is consistent with the General Plan, including the following goals and policies:
 - A primary goal of the General Plan Land Use Element is "*...maintaining...a diversity of residential neighborhoods and housing opportunities*" (p. LU-2). The clarification of standards and of the permitting authority would ensure the maintenance of the existing residential neighborhood and housing opportunities.

- A primary goal of the General Plan Coastal Element is to *"Be characterized by land uses and development that follow the City's Local Coastal Program and are consistent with the Coastal Act"* (p. C-2). The clarification of standards and of the permitting authority would ensure land uses, development, and the Municipal Zoning Code follows the City's Local Coastal Program, consistent with the Coastal Act.
- Policy G-1.11 of the General Plan Governance Element is to *"reflect new information, changing conditions, needs and community preferences. This may require updating one or more specific plans and other regulatory documents to maintain consistency"* (p. G-3). The proposed amendment would update a regulatory document, the Municipal Code, to reflect new information and conditions, and provide consistency with the City's Local Coastal Program.

B. The Zoning Amendment will actually promote the public health, safety, and welfare in that:

- The Zoning Amendment would appropriately distinguish that permitting authority for the subject properties lies solely with the State as identified in State laws and regulations, including without limitation, Mobilehome Parks Act, California Health and Safety Code §§ 18200 et seq.; Manufactured Housing Act, California Health and Safety Code §§ 18000 et seq.; and California Code of Regulations, Title 25, §§ 1000 et seq., as amended from time to time."

Section 4. Planning Commission Recommendation.

Based on the entire record before the Planning Commission, all written and oral evidence presented to the Planning Commission, and the findings made and evidence discussed in the staff report and this Resolution, the Planning Commission hereby recommends that the City Council approve and adopt an Ordinance entitled: "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AMENDING SUBSECTION 17.28.190.A, SECTION 17.72.020, SUBSECTION 17.72.030.C.3, AND SUBSECTION 17.72.060.E OF TITLE 17 OF THE SAN CLEMENTE MUNICIPAL CODE TO CLARIFY STANDARDS REGULATING NONCONFORMING MOBILEHOME AND MOBILEHOME PARK USES", set forth as Exhibit 2 to the accompanying staff report, and incorporated here by reference.

PASSED AND ADOPTED at a regular meeting of the City of San Clemente Planning Commission on October 16, 2019.

Chair

CERTIFICATION:

I HEREBY CERTIFY this Resolution was adopted at a regular meeting of the City of San Clemente Planning Commission on October 16, 2019, carried by the following roll call vote:

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

Secretary of the Planning Commission

ORDINANCE NO.
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF SAN CLEMENTE, CALIFORNIA, AMENDING
SUBSECTION 17.28.190.A, SECTION 17.72.020,
SUBSECTION 17.72.030.C.3, AND SUBSECTION
17.72.060.E OF TITLE 17 OF THE SAN CLEMENTE
MUNICIPAL CODE TO CLARIFY STANDARDS
REGULATING NONCONFORMING MOBILEHOME AND
MOBILEHOME PARK USES

WHEREAS, Capistrano Shores Mobilehome Park (sometimes referred to herein as the "Mobilehome Park") located in the City of San Clemente, California ("Park") owned by Capistrano Shores, Inc., a California mutual benefit nonprofit corporation, was approved by the City Council of the City San Clemente on September 16, 1959 for construction, occupancy and incidental uses through a Conditional Use Permit; and

WHEREAS, on the date of approval the Mobilehome Park use was consistent with the underlying zoning; and

WHEREAS, the Mobilehome Park has operated continuously since that time; and

WHEREAS, it is the intent of Capistrano Shores, Inc., and its members, owners of mobilehomes, assigns, or transferees, to continue operation, maintenance, repair and rehabilitation of the Mobilehome Park, the mobile/manufactured homes; and

WHEREAS, the City's 2018 update amendment to its comprehensive Local Coastal Program Land Use Plan (the "2018 LCP/LUP Update") excludes the Mobilehome Park and depicts the site on the Land Use Map as an "Area of Deferred Certification (ADC);" and

WHEREAS, through this process, the City committed to not asserting or exercising land use jurisdiction or permitting authority over the Mobilehome Park; and

WHEREAS, the uses at the Mobilehome Park remain as they were when the Mobilehome Park was approved by the City in 1959; and

WHEREAS, although the City's zoning regulations have since that time changed, the City considers the Mobilehome Park generally and the individual mobilehomes and common areas to be legal non-conforming uses and in compliance with the City's non-conforming use ordinance and, as such, in compliance with the City's zoning code; and

WHEREAS, with completion of the 2018 LCP/LUP Update, the City wishes to confirm in its zoning code that all discretionary land use permitting authority and building permit authority over the Mobilehome Park, amenities, mobile/manufactured homes, or accessory structures lies vested solely in the State; and

WHEREAS, State CEQA Guidelines sections 15378(b)(2) and 15378(b)(5) provide that ongoing administrative activities and organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment do not constitute a "project" as defined by the State CEQA Guidelines (Cal. Code Regs., title 14, § 15000 et seq.) and therefore are exempt from CEQA and no further environmental review is required; and

WHEREAS, for the health and safety of the residents of the Mobilehome Park, the City of San Clemente is further clarifying application of the Nonconforming Use Ordinance to the Mobilehome Park with this Amendment.

WHEREAS, on October 16, 2019, the Planning Commission held a duly noticed public hearing on the proposed Zoning amendments, considered testimony and other evidence, and recommended the City Council approve and adopt this Ordinance; and

WHEREAS, on _____, 2019, the City Council held a duly noticed public hearing on this Ordinance, considered the agenda report, including the policy considerations discussed therein, and the written and oral testimony received. The City Council has also reviewed and considered the Planning Commission's recommendation, and the agenda report and other evidence that was considered by the Commission, in connection with the proposed amendments that affect the City's Zoning code.

NOW, THEREFORE, City Council of the City of San Clemente hereby ordains as follows:

Section 1: Incorporation of Recitals.

The recitals above are each incorporated by reference and adopted as findings by the City Council.

Section 2. CEQA Findings.

Based upon all the evidence presented in the administrative record, including but not limited to the staff report for the proposed Zoning Amendment, the City Council hereby finds and determines that this Zoning Amendment is not a "project" for purposes of CEQA and is exempt from further CEQA review pursuant to State CEQA Guidelines sections 15378(b)(2) and 15378(b)(5).

Section 3. Zoning Amendment (ZA) Findings.

With regards to Zoning Amendment 19-343, the City Council finds the following:

A. The Zoning Amendment is consistent with the General Plan, including the following goals and policies:

- A primary goal of the General Plan Land Use Element is "...maintaining...a diversity of residential neighborhoods and housing opportunities" (p. LU-2). The clarification of standards and of the permitting authority would ensure the maintenance of the existing residential neighborhood and housing opportunities.
- A primary goal of the General Plan Coastal Element is to "Be characterized by land uses and development that follow the City's Local Coastal Program and are consistent with the Coastal Act" (p. C-2). The clarification of standards and of the permitting authority would ensure land uses, development, and the Municipal Zoning Code follows the City's Local Coastal Program, consistent with the Coastal Act.
- Policy G-1.11 of the General Plan Governance Element is to "reflect new information, changing conditions, needs and community preferences. This may require updating one or more specific plans and other regulatory documents to maintain consistency" (p. G-3). The proposed amendment would update a regulatory document, the Municipal Code, to reflect new information and conditions, and provide consistency with the City's Local Coastal Program.

B. The Zoning Amendment will actually promote the public health, safety, and welfare in that:

- The Zoning Amendment would appropriately distinguish that permitting authority for the subject properties lies solely with the State as identified in State laws and regulations, including without limitation, Mobilehome Parks Act, California Health and Safety Code §§ 18200 et seq.; Manufactured Housing Act, California Health and Safety Code §§ 18000 et seq.; and California Code of Regulations, Title 25, §§ 1000 et seq., as amended from time to time."

Section 4: Section 17.72.020 of the San Clemente Municipal Code is hereby amended to read as follows:

"17.72.020 – Definitions.

Definitions of terms used in this Chapter are located in Section 17.88.030 of this Title, except that definitions of terms related to Mobilehome Parks and Mobilehomes are located in the State laws and regulations, including without limitation, Mobilehome Parks Act, California *Health and Safety Code* §§ 18200 *et seq.*; Manufactured Housing Act, California *Health and Safety Code* §§ 18000 *et seq.*; and California *Code of Regulations, Title 25, §§ 1000 et seq.*, as amended from time to time."

Section 5: Subsection 17.72.030.C.3 of the San Clemente Municipal Code is hereby amended to read as follows:

"C. Exceptions.

* * *

3. Land uses. The following land uses are exempt from this chapter:

a. Multiple-family dwellings constructed in the Residential Low Density zoning district prior to April 4, 1962.

b. Service stations and vehicle service and repair-related facilities are exempt, provided the uses were lawfully established on or before February 4, 2014 (adoption date of General Plan), the uses have not been discontinued more than 365 consecutive calendar days, and the uses meet any of the criteria below:

i. The service station or vehicle service repair-related use is on property fronting El Camino Real, or fronting other arterial streets defined in Section 17.88.030, or

ii. The service station use is located on property in gateway areas (identified in the General Plan Urban Design Element) abutting Interstate-5 off-ramps and intersections.

c. Nonconforming uses associated with the historical significance of national, state or locally designated historic structures may be exempted from this Chapter with the approval of a Cultural Heritage Permit per Table 17.16.100.B.

d. Mobilehome Parks in compliance with any applicable Conditional Use Permit shall be exempt from all provisions of Chapter 17.72, except as provided in SCMC subsection 17.72.060.E."

Section 6: Subsection 17.72.060.E of the San Clemente Municipal Code is hereby amended to read as follows:

"E. Nonconforming Mobilehome and Mobilehome Park Uses. Nonconforming mobilehomes may be replaced, renovated, remodeled, expanded or repaired. New mobilehome accessory structures and utility improvements are permitted. Mobilehome park common areas, roadways, and utility improvements may also be added, repaired, renovated, remodeled, expanded or replaced. All mobilehome and mobilehome park improvements shall comply with state mobilehome statutes, regulations and policies, including, without limitation Mobilehome Parks Act, California Health and Safety Code §§ 18200 et seq.; Manufactured Housing Act, California Health and Safety Code §§ 18000 et seq.; California Code of Regulations, Title 25, §§ 1000 et seq; as well as federal mobilehome statutes including the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. §§ 5401 et seq. and applicable regulations. SCMC subsections 17.72.030.C.3.d and 17.72.060.E shall control as to Mobilehome Parks and Mobilehomes."

Section 7: Subsection 17.28.190.A. of the San Clemente Municipal Code is hereby amended to read as follows:

"A. Purpose and Intent. This section provides standards and procedures for individual mobilehomes on individual lots in residential zones and the development of new mobilehome parks. These standards are provided to ensure the compatibility of mobilehomes with other surrounding permitted uses, create a safe and desirable living environment for mobilehome residences, and address land use compatibility. This subsection shall not apply to existing mobilehomes and mobilehome parks, including existing nonconforming mobilehomes and mobilehome parks."

Section 8: The City Clerk shall certify to the passage of this ordinance and cause the same to be published as required by law, and the same shall take effect as provided by law.

Section 9. Severability.

If any section, sentence, clause or phrase of this Ordinance or the application thereof to any entity, person or circumstance is held for any reason to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. The City Council hereby declares that it would have adopted this Ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 10. Effective Date.

This Ordinance takes effect 30 days after adoption of this Ordinance by the City Council.

Section 11. Reference to Existing Provisions.

All existing provisions of the Municipal Code that are repeated herein are repeated only to aid decision-makers and the public in understanding the effect of the proposed changes. Restatement of existing provisions does not constitute a new enactment.

Section 12. Custodian of Records.

The documents and materials associated with this ordinance that constitute the record of proceedings on which the City Council's findings and determinations are based are located at San Clemente City Hall, 910 Calle Negocio, San Clemente, CA 92672.

Section 13. Certification and Publication.

The City Clerk shall certify to the adoption of this ordinance and shall cause it, or a summary of it, to be published within 15 days of adoption, and shall post a certified copy of this Ordinance, including the vote for and against the same, in the Office of the City Clerk in accordance with California Government Code section 36933.

APPROVED, ADOPTED AND SIGNED this ___ day of ___, 2019.

ATTEST:

City Clerk of the City of
San Clemente, California

Mayor of the City of San
Clemente, California

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss.
CITY OF SAN CLEMENTE)

I, JOANNE BAADE, City Clerk of the City of San Clemente, California, hereby certify that Ordinance No. _____ having been regularly introduced at the meeting of ___, 2019, was again introduced, the reading in full thereof unanimously waived, and duly passed and adopted at a regular meeting of the City Council held on the ___ day of ___, 2019, and said ordinance was adopted 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 ___, 2019.

CITY CLERK of the City of
San Clemente, California

APPROVED AS TO FORM:

CITY ATTORNEY

B. Zoning Amendment 19-343 -- Nonconforming Provisions for Mobilehomes (Savage)

Notice is hereby given that the City of San Clemente shall have a public hearing to consider a city-initiated proposal to amend San Clemente Municipal Code Title 17, the Zoning Ordinance, regarding nonconforming mobilehomes and mobilehome parks. The Planning Commission will be considering changes to the Zoning Ordinance in Chapters 17.28 and 17.72 related to special uses and nonconforming structures and uses.

Jennifer Savage, Senior Planner, summarized the staff report; recommended the Commission approve the proposed revisions, which are a result of a settlement agreement in ongoing legislation between Capistrano Shores and the City of San Clemente. The subject amendments will clarify that legal non-conforming mobilehomes and mobilehome parks are defined by State law for the City's Zoning code nonconforming provisions, shall comply with State and Federal laws and permitting requirements, and are not subject to special uses provisions in the City's Zoning Code.

David Pierucci, Deputy City Attorney, described how the existing Zoning code is applied and explained how the proposed amendment will operate; clarified that the proposed amendment will ensure the City's regulations are consistent with State and Federal regulations with regard to mobilehomes and mobilehome parks; noted the subject mobilehomes are currently regulated with a Conditional Use Permit (CUP) approved by the City in 1961; advised the proposed amendments address a provision that is unique to this location, situation, and legal settlement: The City is not ceding authority in that the City-imposed regulations are still the same, a permit is required and alterations and expansions have to be approved by Federal and State laws.

Eric Anderson, representing Capistrano Shores Mobilehome Park, discussed compromises the mobilehome park is making as part of the lawsuit settlement; provided a history of litigation between the park and the City; noted partial intent of the amendment is to address the mobilehome park's options in the event of fire destroying up to 50% of the mobilehomes.

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

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

- Suggested that settlement agreements arising from ongoing legislation should not be the basis of revising City code; indicated inability to make the required findings and approve the amendment

due to the proposed reduction of ability for the City to exercise its power to regulate mobilehomes and mobilehome parks in the future.

- Supported the proposed amendment in order to settle litigation; suggested additional revisions can be made in the future.

IT WAS MOVED BY COMMISSIONER TALLEY, SECONDED BY COMMISSIONER WU, AND FAILED ON A 2-2-0 VOTE, WITH COMMISSIONER WU AND VICE CHAIR BLACKWELL IN FAVOR, AND COMMISSIONER TALLEY AND COMMISSIONER BROWN OPPOSED, TO APPROVE RESOLUTION NO. PC 19-035, A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN CLEMENTE RECOMMENDING THE CITY COUNCIL APPROVE AN ORDINANCE TO ENACT ZONING AMENDMENT 19-343, AMENDING MUNICIPAL CODE TITLE 17 (ZONING), CHAPTERS 17-28 (SPECIAL USES) AND 17.36 (COMMERCIAL ZONES AND STANDARDS) TO CLARIFY STANDARDS FOR REGULATING NONCONFORMING MOBILEHOMES AND MOBILEHOME PARKS.

David Pierucci, Deputy City Attorney, clarified that the motion to approve Resolution no. PC 19-035 resulted in a tie vote, without approval or denial, and will be forwarded to City Council for their consideration without a recommendation from the Planning Commission.

9. NEW BUSINESS

A. Consideration of Speed Cushions on West El Portal, 200 Block (Mangohig)

That the Planning Commission discuss and provide direction regarding the use of speed cushion traffic calming treatments on the 200 block of West El Portal and other roadways that do not qualify for traffic calming per the City Traffic Calming Policy and do not satisfy the City Speed Hump/Cushion Policy basic installation criteria.

Nestor Mangohig, Senior Traffic Engineer, summarized the staff report and displayed photos of the proposed location. He confirmed that the street did not meet the minimum point score specified in the traffic calming manual required for traffic calming treatments, and did not meet all the basic installation criteria for speed cushions. The speed hump/cushion policy indicates that even if a street does not meet the basic criteria, it can be brought forward for Planning Commission consideration if 67% of residents support cushion installation. A subsequent petition submitted satisfied the 67% support requirement.

Helen McCue, petitioner, described the existing conditions on West El Portal. It's used for both school and beach access in addition to