

**CITY OF SAN CLEMENTE  
MINUTES OF THE REGULAR MEETING  
OF THE ZONING ADMINISTRATOR  
JUNE 23, 2022**

**San Clemente City Hall  
First Floor Community Room  
910 Calle Negocio  
San Clemente, California 92673**

**1. CALL TO ORDER**

Zoning Administrator Gallardo-Daly called the Regular Meeting of the City of San Clemente Zoning Administrator to order on June 23, 2022 at 3:00 p.m. The meeting was held in the First Floor Community Room of City Hall, 910 Calle Negocio, San Clemente, California.

Staff Present: Cecilia Gallardo-Daly, Zoning Administrator  
Sara Toma, Senior Planner  
Karla Morales, Community Development Technician  
David Carrillo, Assistant Planner  
Nancy Mith, Contract Planner  
Tamara Tatich, Office Specialist

**2. MINUTES**

- A. Receive and file the minutes of the Regular Zoning Administrator Meeting held on May 19, 2022.
- B. Receive and file the minutes of the Special Zoning Administrator Meeting held on May 24, 2022.

**3. ORAL AND WRITTEN COMMUNICATION**

None

**4. PUBLIC HEARING**

- A. **202 Avenida Cabrillo – Special Activities Permit 22-063 Garden Cabaret at Cabrillo Playhouse**

A request for an outdoor musical performance occurring for a maximum of fifteen non-consecutive days in 2022 between 5:00 P.M. and 9:30 P.M. at the Cabrillo Playhouse outdoor patio.

David Carrillo, Assistant Planner, summarized the staff report.

Applicant, **Michael Lopez**, Assistant Director of Cabrillo Playhouse added that there were assets purchased during the pandemic for the purpose of outdoor performances that they would like to continuing using this summer, and Lopez summarized the measures taken for those performances that will be implemented if approved.

ZA Gallardo-Daly opened the public hearing.

City staff read public comments into the record which are on file with the Community Development Department.

**Debbi & TJ Orr**, neighbor, two opposition emails were received and attached for filing.

**John Traub**, Long Beach resident who frequents San Clemente, email of support was received and attached for filing.

**Holly Jones**, resident, email of support was received and attached for filing.

**Marcella Jarvinen**, Ranch Cucamonga resident and season ticket holder, email of support was received and attached for filing.

**Lee Tilles**, resident and board member of Cabrillo Playhouse, explained those that attend enjoy the outdoor performances, similar to outdoor dining now approved by the City.

**Sandra Weaver**, resident and Box Office Manager at Cabrillo Playhouse, explained that the patio has always been utilized for socializing before and during performances with no complaints from the community. Weaver stated that the board worked through all issues on sound and lighting to not be a nuisance to neighbors, and commended Lopez on his efforts on the Garden Cabaret project.

There being no further public comments, ZA Gallardo-Daly closed the public hearing.

ZA Gallardo-Daly stated she reviewed the staff reports, findings, conditions of the approval and visited the property.

ZA Gallardo-Daly approved Special Activities Permit 22-063 based on the following:

ZA Gallardo-Daly considered Mr. and Mrs. Orr's comments and didn't find that the outdoor space would have an impact on their Avenida Sera property. ZA Gallardo-Daly did not observe any electrical cords or equipment being utilized in an unsafe manner during her site visit, and the Special Activities Permit is limited to performances this summer.

ZA Gallardo-Daly stated that the landscaping and the building structure mitigate the noise between the patio and the adjacent residential neighborhood.

ZA Gallardo-Daly found the project meets the required use that is allowed within the zone with the special activities permit.

ZA Gallardo-Daly stated that the special activities permit would contribute to the mix of neighborhood and community serving commercial uses and provide additional opportunities for visitors to enjoy performing arts outdoors.

ZA Gallardo-Daly confirmed that there is a condition in the permit that requires speakers and light be directed away from neighboring properties and that the sound for outdoor events terminate no later than 10:00 p.m. There will be no duplication of activities indoors and outdoors occurring simultaneously so there will be no impact on parking; and the Code Compliance Division, the Building Division, and the Orange County Sheriff's Deputies have reviewed the request and are all in support.

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 adopted Resolution ZA22-012, and approved Special Activities Permit 22-063, Garden Cabaret at Cabrillo Playhouse, subject to the Conditions of Approval.

#### **B. 701 Avenida Columbo – Minor Exception Permit 22-046 Tetheron Fence**

A request to legalize an existing non-conforming over-height fence in the street side yard and front yard setbacks of a residence.

Nancy Mith, Contract Planner, summarized the staff report.

ZA Gallardo-Daly asked staff how the fence would unify and enhance the neighborhood, to which staff replied that there are several properties in the neighborhood and surrounding area with over-height fences in the front yard setbacks making it consistent; the applicant is not going beyond what is allowed and they're maintaining the colors and materials with current style.

ZA Gallardo-Daly read the code for Fences, Walls and Hedges, Municipal Code §17.24.090: The purpose and intent of this section is to establish standards for fences, walls and hedges that limit their visual and traffic impacts, but allow for the privacy and architectural interest afforded by such structures. The purpose of a stricter fence height limit in the front yard is to provide for an open street scene, to allow the primary structures on a street to be visible and to contribute to the visual character of the neighborhood, and to allow for unobstructed views of traffic to and from driveways.

ZA Gallardo-Daly stated that Engineering has already determined that there are no impediments from the driveways for visibility; but asked staff about the open street scene. Upon ZA Gallardo-Daly's site visit, the fence appeared counter to the code requirements. Staff stated that the property is located on a slope. As you drive by, the fence only covers a portion of the first floor, and that intent was for privacy of the yard area; however it maintains the open street scene in that the fence is not covering up all the property from the side yard.

Staff proceeded to read the findings per ZA Gallardo-Daly request:

- A. The requested minor exception will not interfere with the purpose of the zone or the standards of the zone in which the property is located, in that the fence does not exceed the 6' height. The standards of the zone is being met.
- B. The neighboring properties will not be adversely affected as a result of the approval or conditional approval of the Minor Exception Permit, in that neighboring properties will not have an issue with traffic views, as the neighboring properties are located on a slope that mitigate any visual impacts or safety hazards due to the height of the fence.
- C. The approval or conditional approval of the Minor Exception Permit will not be detrimental to health, safety or welfare of the general public, which is included in Findings B above.
- D. The height of the fence, wall or hedge will not be unsightly or incompatible with the character of or uses in the neighborhood, in that the fence that exists is constructed with a dark gray metal, which is compatible with other property fences in the area.
- E. The height of the fence, wall or hedge will not have negative visual impacts upon the street scene or obstruct views of traffic to and from driveways. The fence will not impact the street scene in that the fence tapers down along the hill with the slope of the street, so it's not a consistent height of 6' along the side yard setback, but rather it stays within the height of the slope in that it tapers down to approximately 5' so that it maintains a more pleasing visual impact versus a block wall.

Applicant, Kristen Tetherton stated that the fence installation has been a two-year project, and understood that there is a neighbor that does not live in close proximity objecting to the fence. Tetherton stated that multiple neighbors support the fence and other improvements to the property. The location of the property is on a corner where there is a lot of foot and vehicular traffic. The fence provides privacy, as well as security.

ZA Gallardo-Daly confirmed that Tetherton is planning to install landscaping between the wall that is behind the sidewalk and fence, per the examples provided with the application, yet noted that the plant selection was all 3' or less in height.

ZA Gallardo-Daly opened the public hearing.

**Richard “Dick” Veale**, neighbor, spoke in support of the applicant’s fence.

There being no further public comments, ZA Gallardo-Daly closed the public hearing.

ZA Gallardo-Daly stated she reviewed the staff reports, findings, conditions of the approval and visited the property.

ZA Gallardo-Daly stated that the code is clear that side yard and front yard fences, walls and hedges have a stricter height limit in order to maintain an open street scene and preserve the visibility of the primary structure, to not create a walled-effect, and to enhance character and provide visual interest. ZA Gallardo-Daly expressed concern that the solid wall appears oversized and could present a visually adverse impact on the street scene.

ZA Gallardo-Daly stated that during her site visit, she did not observe any properties with fences and walls at that height along Salvador or Columbo. There was one property with a slope from Salvador with a 5' or 6' high masonry wall, but only 5' in length. Fences should contribute to the visual character of the neighborhood and provide an open street scene. Without an open fence design, there is concern that a solid wall at the street at 6' in height would establish a negative visual precedent. The standard of review are the findings and why staff was requested to read the finding.

ZA Gallardo-Daly suggested an alternative design that might provide more openness toward the top and to create a superior landscape plan.

Applicant Tetherton stated that Engineering stressed avoiding tall or vining plants that could develop a visual impact and safety hazard when matured. She continued to state that only one section is 6' and that the other sections are lower.

ZA Gallardo-Daly asked staff to display examples and described the project being shown as a combination of a solid on the bottom with masonry and open at the top with a wire design.

ZA Gallardo-Daly stated that there is a condition in the permit that landscaping in the front 10' from the curb face be maintained so it does not interfere with the vehicle line of sight in the intersection.

ZA Gallardo-Daly added a condition to revise the landscape plan to provide more enhanced landscaping along the Salvador side consistent with the Engineering requirements to help soften the visual appearance of the fence along that frontage to the satisfaction of the City Planner.

With that added Condition, ZA Gallardo-Daly approved Minor Exception Permit 22-046, Tetheron Fence located at 704 Avenida Columbo.

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 adopted Resolution ZA22-011, and approved Minor Exemption Permit 22-046, The Tetheron Fence at 701 Avenida Columbo, subject to the Revised Conditions of Approval.

**C. 209 Avenida Rosa – Short Term Apartment Rental 22-045, Bennett STAR**

A request to consider a short-term apartment rental within an existing three unit multi-family building located in the Residential Medium (RM) Zoning District. The proposal would convert Unit A and Unit B into short-term rentals for rentals less than 30 days. A full-time on-site property manager would occupy unit C.

Karla Morales, Community Development Technician, summarized the staff report.

Applicant **Jordan Bennett** addressed the Zoning Administrator by providing more detail to the staff report that highlighted the additional rental on Mariposa that has been successful and fully compliant, that Bennett's objectives are consistent with neighboring residents in that there will be less impact on parking, and the rental agreement prohibits parties and loud noise. There is an online rating system that will eradicate problem renters.

ZA Gallardo-Daly asked if 209 and 211 Avenida Rosa are on the same parcel, whereby Bennett responded that they probably were at one time, but that they are now separate ownerships and separate units.

ZA Gallardo-Daly opened the public hearing.

**Linda Jund**, neighbor and owner of Casa Rosa, an Ole Hanson historical home, commented that she acquired Casa Rosa with the intention of applying for a STAR, but that the unit was too close in proximity to another unit at 227 Avenida Rosa that is listed in the proposal. Jund expressed a concern that she couldn't apply for a unit, and wasn't sure how two units across the street from her residence could meet the requirements of the ordinance that is must be 300' apart from an existing short term rental. Jund stated that she most likely would not be approved if this application is approved. The other concern is unit A has occupancy for ten, and that it would attract large parties with multiple cars. Parking is an issue.

ZA Gallardo-Daly suggested Jund connect with staff for the process of processing a Mills Act application for Casa Rosa.

**Fred Cimino**, neighbor expressed concerns for parking and noise. The units were built so that everyone can overhear everything. Has a concern with short term rentals, but finds comfort that Bennett has experience in the industry and is pleased with the upgrades being made. Does not believe parking will be an issue.

**Maureen Shea**, neighbor, email received and attached for filing.

There being no further public comments, ZA Gallardo-Daly closed the public hearing.

ZA Gallardo-Daly inquired if Bennett would like to respond to the comments, whereby he stated the Airbnb rating system greatly reduces the potential of an abusive renter. The Rental Rules include parking, whereby Bennett clearly defines the limitations in the rental listing. They will do everything in their control to mitigate any noise issues, and they do not allow pets on a short term rental

ZA Gallardo-Daly confirmed that Bennett has agreed to parking per the City Regulations; and of no smoking, no storage outside the confines of the unit, no noise or music after 10:00 p.m., no parties, no pets without previous approval, and no trash or debris to be left outside of the property. 1.10 of the Conditions of Approval address parking; and 7.18 requires a full-time property manager on site, which will help with the neighbors' concerns. Condition 7.20 does not allow parties or events.

ZA Gallardo-Daly informed that one of the requirements to be fulfilled prior to operating is that the applicant will need to obtain a Business License from the City, and as a condition of the license, he will have to send out a notice to

everyone within a specified area identifying that he is applying for an STLU Permit with his contact information for questions, comments, issues and complaints. The Zoning Administrator's expectation is that the on-site property manager's information be provided for that purpose.

ZA Gallardo-Daly reviewed the staff reports, findings, conditions of the approval and visited the property.

ZA Gallardo-Daly stated she is very familiar with the Short Term Lodging Unit Ordinance and the STAR Permits, which are better than a vacation rental because of the on-site property manager. The STAR does support the City's Visitor Serving Land Use and development policies and expands the City's inventory of overnight accommodations. It is located in a neighborhood zoned for Short Term Lodging Units. Unit C will be occupied by an on-site property manager. It doesn't contribute to an over-concentration of Short Term Apartment Rentals or STLUs in the area as it is 300' from the nearest vacation rental.

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 adopted Resolution ZA22-006, approved Short Term Apartment Rental Permit 22-045, Bennett STAR, 209 Avenida Rosa, subject to the attached Conditions of Approval.

**B. 701 Avenida Columbo – Minor Exception Permit 22-046 Tetherton Fence**

ZA Gallardo-Daly reopened the public hearing for Agenda Item B and read the objection email from **Chris Ahola**, resident that was received and attached for filing.

ZA Gallardo-Daly closed the public hearing.

**5. NEW BUSINESS**

None

**6. OLD BUSINESS**

None



7. **ADJOURNMENT**

The meeting adjourned at 4:25 p.m. to the Regular Meeting of the Zoning Administrator, which will be held Thursday, July 21, 2022 at 3:00 p.m. at Community Development Department, City Hall, First Floor Community Room, located at 910 Calle Negocio, San Clemente, California.

Respectfully submitted,

SAN CLEMENTE ZONING ADMINISTRATOR

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Cecilia Gallardo-Daly, Zoning Administrator

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