

**MINUTES OF THE REGULAR MEETING  
OF THE CITY OF SAN CLEMENTE  
PLANNING COMMISSION  
March 2, 2022 @ 6:00 p.m.  
San Clemente Community Center Auditorium  
100 Calle Seville, San Clemente, CA 92672  
Teleconference via [www.san-clemente.org/live](http://www.san-clemente.org/live) or Cox Channel 854**

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**CALL TO ORDER**

Commissioner Crandell called the Regular Meeting of the Planning Commission of the City of San Clemente to order at 6:08 p.m. The meeting was offered in person at The City of San Clemente Community Center Auditorium, located at 100 Calle Seville, San Clemente California, and also via live stream from the City's YouTube Channel or live on Cox Channel 854.

**2. PLEDGE OF ALLEGIANCE**

Commissioner Cosgrove led the Pledge of Allegiance.

**3. ROLL CALL**

Commissioners Present: Cameron Cosgrove, Gary P. McCaughan, M.D., Karen Prescott-Loeffler; Chair pro tem Scott McKhann, Chair Barton Crandell.

Commissioners Absent: M. Steven Camp, Vice Chair Hannah M. Tyler

Staff Present: Adam Atamian, Deputy Community Development Director  
Jonathan Lightfoot, Economic Development Officer  
\*David Carrillo, Assistant Planner  
\*Zachary Ponsen, Acting Deputy Public Works Director  
Alisha Winterswyk, Deputy City Attorney  
Eileen White, Recording Secretary

\*Participated in meeting via teleconference

**4. SPECIAL ORDERS OF BUSINESS**

None

**5. MINUTES**

A. Minutes from the Regular Planning Commission meeting of February 16, 2022.

IT WAS MOVED BY COMMISSIONER PRESCOTT-LOEFFLER,  
SECONDED BY COMMISSIONER MCCAUGHAN AND UNANIMOUSLY

CARRIED TO RECEIVE AND FILE THE MINUTES FROM THE FEBRUARY 16, 2022, PLANNING COMMISSION MEETING AS SUBMITTED.

B. Minutes from the Regular Planning Commission meeting of February 16, 2022.

IT WAS MOVED BY COMMISSIONER MCCAUGHAN, SECONDED BY COMMISSIONER PRESCOTT-LOEFFLER AND UNANIMOUSLY CARRIED TO RECEIVE AND FILE THE MINUTES FROM THE FEBRUARY 16, 2022, PLANNING COMMISSION MEETING AS SUBMITTED.

**6. ORAL AND WRITTEN COMMUNICATION**

None

**7. CONSENT CALENDAR**

None

**8. PUBLIC HEARING**

A. Variance 21-001 and Minor Exception Permit 22-021, Piloti Residence Variance, APN 679-021-05 (Carrillo)

A request to consider deviations from the required setbacks for side, street-side, and rear yards, and maximum wall heights, to accommodate a new single-family residence on a vacant lot with assessor's Parcel Number 675-193-03, located adjacent to 27002 Paseo Activo in the City of San Juan Capistrano.

David Carrillo, Assistant Planner, narrated a PowerPoint Presentation entitled, "Piloti Residence Variance, Variance 21-001, Minor Exception Permit 22-021, dated March 2, 2022." A copy of the Presentation is on file in Planning Division.

AkbarPiloti, applicant, thanked staff for their assistance with the application; described efforts to meet with neighbors in advance to ensure all concerns were addressed; advised he lives adjacent, and is building the home for a family member.

James Conrad, project architect, stated the proposed residence is compatible with the neighborhood, similar to other homes with regard to the setback variance request, and complies with massing and rooftop requirements. Stakes and Story Poles were installed to help the neighbors envision the project.

Lawrence Nokes, Attorney representing the applicant, clarified that City staff researched and is recommending that the project is exempt from CEQA; the project is located in a single-family residential zone, on a development

building site, with utility services already in place; the applicant is not proposing a lot line adjustment.

Chair Crandell opened the public hearing.

John Conley, resident, opposed the project due to questions regarding the meaning of "public purpose only" on the deed tract map; whether the project is exempt from CEQA, project massing, mature tree removal, and enforcement of garage/parking restrictions.

Rachel Dunne, resident, supports the project architecture but questioned the results of a survey indicating her fence is encroaching 2 feet onto the subject property.

Jim Boyd, resident, opposed the reduced back yard setback as his privacy and family recreation may be negatively affected; requested an official survey be performed indicating confirmed property lines.

Brian Dempsey, Capistrano Beach resident, opposed the project due to concerns regarding negative impacts to adjacent residents' property during massive dirt removal/grading of property, water runoff/drainage issues and loss of green space.

Jean-Louis Selam, resident, opposed the project as the lot is too small for the massive structure proposed; commented it is not compatible with the existing spaciousness between homes in the neighborhood.

Richard Utas (No city of residence given) supported the project as proposed as it features similar setbacks and massing as adjacent lots; commented that property values in the area would be negatively impacted if a small, pre-fab, or mobile home was situated on the lot instead.

Bill Cunningham, resident, opposed and questioned whether the project qualifies for CEQA exemption as per the relevant sections cited; opined the variances requested are substantial and excessive rather than minor.

Chair Crandell closed the public hearing.

Zachary Ponsen, Acting Deputy Public Works Director, clarified that the applicant has submitted a preliminary survey, which is required to be confirmed when the project is submitted for building plans; confirmed that the deed submitted does not have a use restriction. In addition, other required, certified and/or official documents will have to be submitted as the project works through the approval process. With regard to fence installations and property lines, he noted inaccurate fence placement is a very common issue with neighbors and most often worked out between the parties.

Alisha Winterswyk, Deputy City Attorney, advised that the project as proposed meets the CEQA findings necessary to find the project Categorical Exempt because it is a Single-Family Residence (SFR) with an average slope of less than 20% and is located within a developed residential neighborhood with existing utility services. In addition, she recommended the Commission add that the project is also exempt pursuant to CEQA Guidelines Section 15303. In addition, she noted that the "public purpose only" deed restriction referenced during public testimony is not on the official property deed submitted by the applicant, which will also be certified during the approval process.

Adam Atamian, Deputy Community Development Director, stated that at the onset of the application process, City staff relies upon the applicant to provide truthful information and accurate documentation. In the event it is determined information was false and/or documents are not accurate to a material degree, staff will not support issuance of the permits, and the application may have to come back through this process.

Chair Crandell clarified that for the purpose of the Commission's discussion and action, their concern is the siting of the building on the lot, and not whether an adjacent property owner has encroached onto the subject property with a fence. The boundaries will either be clarified/corrected between the parties, become a civil matter between the two parties, or brought back to staff/the Planning Commission if inaccurate and further action is necessary.

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

- The 1-foot to 1.5-foot variances requested for the side/back yards will not make a difference overall in terms of privacy for adjacent neighbors; variances are the code elements which allow compatible building when lots are challenging.
- The lot is a legal, non-conforming lot upon which the property owner has a right to build; the minor variances requested will allow the property owner to build a home compatible with the neighborhood.
- The proposed structure has been designed to reduced massing, features beautiful architecture, and is compatible with adjacent structures.
- The subject property is located at the bottom of the slope, hence any damage from drainage from above will be on his property. It is in the property owner's best interest to install proper drainage channels.
- In response to concerns expressed regarding preliminary reports indicating that a fence on an adjacent property is encroaching onto the subject property by 2 feet, staff noted that the true boundaries of the property will be determined during the approval process; at that time the subject property owner can make a determination of how to

proceed in the event the neighbor's fence is encroaching on the property.

- Although the applicant submitted copies of a survey and the property deed, concerns have been raised regarding the accuracy/legitimacy of the documents; suggested it may be prudent to wait until the accuracy of the documents has been confirmed before moving forward with the project.

James Conrad, representing the applicant, suggested in the alternative, the property owner could shift the house one foot northerly closer to the street, and reduce the garage by one foot. This will increase the interior side yard setback to 6 feet as per the requirements and eliminate the need for the variance.

Adam Atamian, Deputy Community Development Director, advised the Commission has provided sufficient direction to allow staff to work with the applicant to relocate/modify design of the subject property.

IT WAS MOVED BY CHAIR PRO TEM MCKHANN, SECONDED BY COMMISSIONER COSGROVE, AND CARRIED 4-1-2, WITH COMMISSIONER MCCAUGHAN OPPOSED, AND COMMISSIONER CAMP AND VICE CHAIR TYLER ABSENT, TO ADOPT RESOLUTION NO. PC 22-002, A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING MINOR EXCEPTION PERMIT 22-021 AND VARIANCE 21-001, PILOTI RESIDENCE VARIANCE, TO CONSIDER DEVIATIONS FROM THE REQUIRED SETBACKS FOR SIDE, STREET-SIDE, AND REAR YARDS, AND MAXIMUM WALL HEIGHTS, TO ACCOMMODATE A NEW SINGLE-FAMILY RESIDENCE ON A VACANT LOT WITH ASSESSOR'S PARCEL NUMBER 675-193-03.

Amended as follows.

- The CEQA findings shall be revised to reflect that the project is also exempt pursuant to CEQA Guidelines Section 15303.
- The side yard setback for the south side will be increased by 1 foot, thereby meeting the minimum setback requirement of 6 feet. This eliminates the request for a Minor Exception Permit for the south side; all other MEP requests associated with the application remain.
- In order to accommodate the 6-foot minimum setback along the south side, the house shall be shifted northerly for one foot, and the garage shall be reduced by 1 foot on the north elevation.

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

- B. Conditional Use Permit 21-290, Root and Blossom Academy, 2021 Calle Frontera (Atamian/Mith)

A request for the establishment of a preschool through 3<sup>rd</sup> grade private school in the Residential Medium-Low (RML) zoning district, within an existing one-story building previously utilized as an adult daycare. The project provides a parking circulation plan that incorporates a reciprocal parking easement agreement with the existing church located to the south of the subject property.

Adam Atamian, Deputy Community Development Director, narrated a PowerPoint Presentation entitled, "Root and Blossom Academy, CUP 21-290, dated March 2, 2022. A copy of the Presentation is on file in Planning Division.

Doug Ely, architect representing the applicant, announced that the Academy will be using the existing playground associated with the adjacent church, and will not be constructing its own playground as originally envisioned. He introduced key personnel for the Academy.

Meera Kharbanda is the Co-Headmistress of the Academy. She provided her education background and described the Academy's mission.

Kendra Azure, the Academy's Director of Education, provided her education background, described the Academy's teaching methods, amenities proposed for the site, and the Academy's focus.

Marissa Goldenstein, Co-Headmistress, provided her education background, discussed the theory of education to be used at the Academy, outlined the proposed learning environment, and noted the program's focus on combination of cultivating life skills and learning.

Doug Ely described the proposed gradual buildup of students, drop off procedures, and reciprocal parking agreement with the adjacent church. The sound study was performed with the maximum number of children allowed on the playground at a time and they intend to immediately address any complaints that come in regarding unacceptable sound levels. A separate area of the property will be used as a sensory learning area. In response to questions, he described how the parking/traffic circulation will operate, and noted two school employees will provide direction for motorists. Pick up/drop off times are staggered, and the Academy will offer an afterschool program until 5:00-5:30 p.m.

Chair Crandell opened the public hearing.

Ron Lyons, resident, expressed concern regarding potential noise pollution negatively affecting the adjacent residents, suggested consideration of moving the playground to the other side of the property away from homes.

Karen Lyons, resident, expressed concern regarding their ability to quietly enjoy their rooms with windows that overlook the Academy and/or sit outside

their homes. A majority of the neighbors are retired seniors; suggested consideration of installing a solid wall to block noise.

Chair Crandell closed the public hearing.

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

- Staff confirmed that requests to use the property for certain events, such as Back to School nights, fundraising events, etc., will require the Academy procure a Special Activities Permit from the City.
- Confirmed with the applicant that they shall install at the onset a sound wall or other sound attenuation barrier to prevent noise standards exceedances. In addition, the Academy will be mindful of potential negative noise impacts while using the outside amenities.
- Requested staff add conditions of approval to require the applicant work with staff and the Design Review Subcommittee (DRSC) to design a sound wall or some type of sound attenuation barrier along the west property line adjacent to the patio.

IT WAS MOVED BY COMMISSIONER COSGROVE, SECONDED BY COMMISSIONER PRESCOTT-LOEFFLER, AND UNANIMOUSLY CARRIED TO ADOPT RESOLUTION NO. PC 22-004, A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT 21-290, FOR ROOT AND BLOSSOM ACADEMY (ACADEMY) TO ESTABLISH A NEW PRIVATE SCHOOL AT 2021 CALLE FRONTERA.

Amended as follows:

Staff will add new conditions of approval as follows:

Prior to issuance of certificate of occupancy, the Academy shall install sound attenuation devices along the western property line adjacent to the existing patio with Design Review Subcommittee input prior to approval for the installation of such features.

No areas of the existing parking lot may be converted to playground or other outdoor use areas except for the purpose of parking.

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

C. Zoning Amendment for Temporary Outdoor Dining and Parklets (Lightfoot)

Consideration of regulations and design guidelines for a temporary "Parklet Program" for 2022-2023 that would establish permitting and licensing guidelines for temporary outdoor dining facilities pursuant to State Legislative Acts pertaining to Business Pandemic Relief (Assembly Bill 61 and Senate Bill 314).

Jonathan Lightfoot, Economic Development Officer, narrated a PowerPoint Presentation entitled, "Parklets for Dining, dated March 2, 2022." A copy of the Presentation is on file in Planning Division.

In addition to the staff report, Jonathan summarized the results of a poll of downtown business owners. Of the 10 restaurant owner respondents, 100% desired outdoor dining to return; 80% indicated that they would apply for the program knowing the likely costs; but only 50% would participate if they were required to remove the decks over winter.

Chair Crandell opened the public hearing.

Mikie Rathman, Ave. Del Mar merchant, endorsed outdoor dining for the benefit of restaurants; requested careful planning to ensure the outdoor dining/parklets do not block the sidewalk in front or visibility of other businesses, such as retail, on Ave. Del Mar. She acknowledged the additional signs will be helpful to advertise retail businesses, but will not equal the impact of her store blocked by outdoor dining. She advised her store experienced a 27% increase in sales without outdoor dining in February 2022 vs. February 2021.

Mark McGuire, resident, representing a restaurant in the Pier Bowl, thanked staff for their efforts to maintain outdoor dining in the Pier Bowl area. He asked that staff consider certain cases where a limit of 16 outdoor dining seats is not necessary, such as when there is additional space outside. Stated that La Galette and other restaurants have moved most of their seating outdoors. Indoor seats/tables can be moved outdoors at will to not necessarily increase total occupancy, but to increase the number of patrons able to eat outdoors. Noted that the Downtown gets lots of customers arriving by train and Trolley who do not use parking spaces.

Donatella Polizzi, resident, thanked staff for working to support outdoor dining along Ave. Del Mar as patrons prefer outdoor to indoor dining; requested the City organize the purchase and installation of materials for decks to reduce prices for restaurateurs; requested the City keep the costs for businesses in mind when determining scale, materials, requirements, etc., for both building and dismantling the decks; commented that requiring the restaurants to dismantle the decks over winter causes thousands of dollars in increased costs and will discourage restaurants from participating; requested the City consider reducing the amount of landscaping being required for the parklets as the landscaping bulk reduces the amount of outdoor dining seats that can be installed.

Chair Crandell closed the public hearing.

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



- In response to questions, staff commented that reserved parking spaces for pickup/takeout dining were used during the pandemic, but those signs are no longer used; also commented that the DBA's Car Show event was a success in spite of sharing the street with outdoor dining in 2021; clarified that this Code Amendment will sunset at the end of 2023 if approved and that additional environmental review and Coastal Commission approval will be required if the City desires to implement a permanent program separate of AB-61/SB-314.
- Suggested money set aside for additional parking counts/studies is better spent on finding solutions already identified in previous parking studies; in the alternative, the parking study funds could be used to study the Outdoor Dining Program results/successes/potential improvements/potential to make the temporary program permanent.
- Expressed concern about unlimited seating. Supported limiting the number of outdoor seats to 16 as the businesses' kitchens, number of restrooms, crowd control strategies, etc., are based on the original occupancy maximums. Or, suggested those desiring to add more than 16 spaces outdoors and have sufficient area should be required to reduce their indoor seating in order to add outdoor seating beyond 16 spaces.
- Acknowledged that enforcement of seat counts will be challenging for Code Enforcement staff.
- Endorsed not limiting the outdoor seat count in order to allow restaurants to recoup losses from the pandemic and maintain flexibility in seating in the event the State experiences another Covid surge where customers would feel more comfortable eating outdoors.
- Supported variation in standards for the Pier Bowl businesses, such as larger decks than described in the "blueprint" standardized plans.
- Landscaped areas should not include plants that attract bees or wasps.
- Encouraged staff to establish outdoor dining equipment/parklets removal agreements, which can also be accomplished administratively.
- Support as a temporary measure; cautioned that making the expanded dining permanent and/or allowing restaurants to keep the additional seating without establishing guidelines for long term use may be problematic.

IT WAS MOVED BY COMMISSIONER COSGROVE, SECONDED BY COMMISSIONER MCKHANN, AND UNANIMOUSLY CARRIED TO ADOPT RESOLUTION NO. PC 22-003, A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN CLEMENTE, CALIFORNIA, RECOMMENDING THE CITY COUNCIL APPROVE AND ADOPT AN ORDINANCE AMENDING THE CITY OF SAN CLEMENTE MUNICIPAL CODE TITLE 17, ZONING TO ADD SECTION 17.28.206, TEMPORARY PARKLET DINING, WHICH PRESCRIBES REGULATIONS AND DESIGN STANDARDS FOR OUTDOOR DINING AREAS AND SUNSETS ON DECEMBER 31, 2023.

Amended as follows:

Incorporate 3 modifications as recommended by Public Works and stated in the staff presentation; namely:

- Street deck/platforms should have a 5"x18" minimum opening for curb drainage, unless approved otherwise by the City Engineer.
- Locations adjacent to intersections may require further analysis by the Public Works Department for line of sight conflicts.
- The locations on private property should be within parking stalls, unless approved otherwise by the City Engineer or City Planner.

**[ACTION SUBJECT TO CITY COUNCIL APPROVAL.]**

**9. NEW BUSINESS**

None

**10. OLD BUSINESS**

None

**11. REPORTS OF COMMISSIONERS AND STAFF**

- A. Tentative Future Agenda
- B. Staff Waiver Memo and Reports

Deputy Director Atamian highlighted that the Commission's next Study Session will begin at 5:00 p.m.

**12. ADJOURNMENT**

IT WAS MOVED BY COMMISSIONER PRESCOTT-LOEFFLER, SECONDED BY COMMISSIONER MCCAUGHAN, AND UNANIMOUSLY CARRIED TO ADJOURN AT 7:37 P.M. TO THE REGULAR MEETINGS TO BE HELD ON MARCH 16, 2022, AT 5:00 P.M. IN-PERSON AT THE COMMUNITY CENTER, LOCATED AT 100 CALLE SEVILLE, SAN CLEMENTE, CA, 92672, AND TELECONFERENCE AVAILABLE TO THE PUBLIC VIA LIVE STREAM FROM THE CITY'S YOUTUBE CHANNEL OR LIVE ON COX CHANNEL 854.

[Signatures on next page.]

Respectfully submitted,

  
Bart Crandell, Chairman

Attest:

  
Adam Atamian, Deputy Community Development Director