



AGENDA REPORT

CITY OF SAN CLEMENTE

CITY COUNCIL MEETING

910 Calle Negocio
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San Clemente, California
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Meeting Date: September 5, 2023

Agenda Item: 8B

Department: Community Development

Prepared By: Christopher Wright, Associate Planner II

Subject:

INTRODUCTION (FIRST READING) OF ZONING AMENDMENT 22-366, AN ORDINANCE RELATED TO ZONING PERMIT STREAMLINING

Summary:

The City Council initiated zoning amendments to streamline various Zoning Code procedures to simplify and improve the review process for projects that require zoning permits. Proposed Zoning Amendment 22-366 would consolidate 10 application types into 4, update the staff-level permit for architectural review of minor projects to have objective standards, include various clean-up items and streamline the level of review required to approve several project types. In addition to supporting the proposed Ordinance, the Planning Commission recommends being granted authority by the City Council to call-up Zoning Administrator decisions and to reduce the appeal fee to \$100.

The items for Council's consideration include: 1) the introduction of the proposed Ordinance, 2) providing direction on whether to change the appeals process and fee per the Planning Commission's recommendation; and 3) updating the fee schedule for the consolidation of applications, reflecting the proposed zoning amendments.

Background:

On May 25, 2022, the City Council supported streamlining various permit procedures in the Zoning Code and directed staff to discuss the ideas with the Planning Commission, which occurred on June 8, 2022. Following this, on August 16, 2022, the City Council initiated the proposed zoning amendments with staff direction to pursue the ideas presented at the meeting. The amendments can be characterized as:

- Zoning clarifications
- Changes in the decision level to reduce processing times for non-controversial projects
- Simplification of permit procedures

On January 8, 2023, the Planning Commission held a noticed public hearing on the zoning amendments that was continued to March 8, March 22, April 19 and June 7, 2023. On June 7, 2023, the Planning Commission concluded the hearings on the amendments, recommending that the City Council adopt the proposed zoning amendments. Additionally, the Planning Commission recommended that the City Council designate the Planning Commission as the appeal body for Zoning Administrator decisions and reduce the appeal fee to \$100. Related Planning Commission staff reports and meeting minutes are provided as Attachments 5 and 6. As of the date this report was prepared for publication, staff has received correspondence on this item provided as Attachment 7.

The proposed zoning amendments clarify, streamline, and consolidate permit procedures. This report provides a summary of the zoning amendments and an analysis of Planning Commission's recommended changes to appeals. Details on the proposed zoning amendments are provided in two attachments:

- Attachment 1: Provides a summary of proposed streamlining to zoning processes and applications and the Planning Commission's recommended changes.
- Attachment 2: Provides the proposed amendments in redlined text. Also, staff made minor clean up edits since the June 7 Planning Commission hearing. The modified text is highlighted.

Consolidate Planning Applications

The proposed amendments consolidate 10 planning applications into 4, making it easier for the public to understand which zoning permits and applications are required. Also, these changes will reduce staff time on report writing, shortening the time between application submittal and decision. These amendments preserve findings for project consistency with the City's planning documents, such as the General Plan, Zoning Ordinance, and Design Guidelines. Findings related to use compatibility, quality design, historic preservation, and other planning issues are still required, but consolidated under fewer entitlement types to reduce redundancies in staff reports and resolutions.

The fee schedule must be updated to reflect the proposed changes to applications. The attached Resolution updates the name of applications. No changes are proposed to the amount of permit fees or the situations in which fees are currently required, except for nonresidential special activities. Currently, special activities require a Special Activity Permit without a required application fee. The City processes approximately 24 permits per year. The proposed zoning amendments consolidate Special Activity Permits so that a Temporary Use Permit is required instead, to allow special activities. Temporary Use Permits have a subsidized fee of \$104.84, generating less than \$2,600 of new annual revenue. This will offset a portion of staff time expenses for permit reviews.

Update Staff-Level Approval Process

The proposed amendments would update the staff-level approval process for minor architectural changes. This would reduce time and work involved for the public and staff to process these projects, which allows resources to be reallocated to other projects and City priorities. Currently, the Zoning Code has a "staff waiver" application that functions as a permit rather than a waiver. There are approval findings, an ability to add conditions, and types of eligible projects, including an overly broad category: "Other minor projects that do not substantially alter the visual appearance and/or architectural integrity of the property or structure." The proposed Ordinance replaces the staff waiver application with an "Administrative Development Permit" that:

1. Establishes criteria for review of administrative applications. These changes add objective general and project-specific standards (e.g., projects that won't affect character-defining features of historic structures, such as a privacy fence constructed of certain materials). The general standards address design issues, such as architectural style, materials, colors, massing, scale, and historic considerations. The project-specific standards are additional objective criteria for eligible projects, such as types of accepted window materials and design.

Projects that don't meet criteria eligible for administrative approval would require a public hearing. Also, the City Planner would continue to have the authority to refer applications to a public hearing if they determine a proposal has the potential for significant public concern or impacts.

2. Lists specific types of projects that would be eligible for staff approval, replacing the broader categories of projects currently eligible for staff-level review.

Streamline Review of Several Project Types

The proposed amendments would streamline the level of review required to approve several project types, while maintaining public minutes of decisions and appeal procedures, when experience has shown that similar projects have not previously involved issues of significant public concern or impact to prompt a higher level of public review. The proposed streamlining is described in Attachment 1. The streamlining includes: 1) reducing the level of hearing required, such as changing the review authority for a project type from a Planning Commission decision to Zoning Administrator review; and 2) changing the decision process from a discretionary public hearing decision to a staff level process, limited to:

1. Beer and wine sales, with food service. This modification would allow the sale of beer and wine for indoor consumption to be a permitted use by-right with a State license at an establishment providing food service. Currently, this type of request requires Zoning Administrator approval of a Minor Conditional Use Permit.
2. Height of detached accessory buildings. This modification would allow detached accessory buildings to exceed a height of 15 feet, up to the height limit of the applicable zoning district, if the building complies with required setbacks. Currently, this type of request requires Planning Commission approval of a Conditional Use Permit.
3. Special activities for nonresidential uses. These changes are recommended in response to Planning Commission comments. The changes would clarify code requirements and allow nonresidential uses to have one-day or two-day special events, up to 15 total days in a calendar year. Special activities that are three or more consecutive days would continue to require a Zoning Administrator decision. There must be five days between events and special activities for nonresidential uses in residential or mixed-use zones would require public notification mailings to property owners within 300 feet of an event site. Currently, the Zoning Code is ambiguous on whether staff can approve a one-day event per year or more than one, up to 15 days per year. As a result, businesses have been limited to a one-day event per year with staff approval. No public notification is currently required. A Zoning Administrator decision has been required to allow events that involve 2 to 15 days per year. The proposed changes are to clarify requirements and allow businesses to have shorter multiple one or two-day events with staff review, while ensuring surrounding properties are notified when events are in proximity to residential uses. This would allow staff to consider the success of previous events when considering evaluating a request for a repeat event. As proposed, the City Planner will forward special activities to the Zoning Administrator if warranted.
4. Holiday and seasonal sales. The change would maintain the current Temporary Use Permit approval process for these types of requests, but would increase the allowance for seasonal

events, like Christmas tree lots, from 45 days to 55 days. This change is recommended in response to Planning Commission comments.

Appeals Fee and Authority

The Planning Commission recommended being granted authority by the Zoning Ordinance to call-up Zoning Administrator decisions and to reduce the appeal fee from \$500 to \$100.

Currently, the City Council has the option to appeal a Zoning Administrator decision with a majority vote when it reviews the subject meeting minutes. The Planning Commission recommends being designated as the appeal body because they routinely evaluate land use planning proposals and receive training, so they are adept to evaluate the appropriateness of planning decisions at a lower level. If the proposed change were implemented, the Planning Commission could appeal a Zoning Administrator decision with a majority vote and then a public hearing must be held within 60 days to consider the appeal. Following a Planning Commission decision, the City Council would review the meeting minutes with the option to call-up the appeal by majority vote. The appeal also must be heard within a 60-day period. The change would add transparency and oversight of lower level decisions but adds a step that can extend the appeals process up to 120 days, which is inconsistent with permit streamlining goals. The attached proposed Ordinance maintains the existing appeals process, but can be edited if Council agrees with the Planning Commission on this issue.

Regarding fees, in 2021, the City Council reduced the fee to \$500 following an evaluation of costs. Staff recommends to maintain the fee, concluding it continues to be a reasonable subsidized amount to process appeals. The \$500 fee is subsidized to be below the lowest cost of \$749 to process an appeal over a three-year period between 2018 to 2021. The average cost per year was found to be \$1,667. For more background on fees, the prior reports to City Council are provided as Attachment 8.

Council Options:

- Introduce Ordinance 1759 regarding the zoning amendments; adopt Resolution No. 23-93 that updates the fee schedule to reflect the proposed zoning amendments; and maintain the appeals process and fee.
- Modify and introduce Ordinance 1759 and/or modify and adopt Resolution No. 23-93.
- Continue the item and provide staff with alternative direction, such as changes to the proposed zoning amendments, appeals process, or fee schedule.
- Decide to not to move forward with the zoning amendments.

Fiscal Impact:

The proposed zoning amendments may generate less than \$2,600 in new annual revenue from permit processing for nonresidential special activities on private property. Currently, special activities are processed without a required fee. The application for these activities would change with a required fee that would apply.

Environmental Review/Analysis:

The proposed zoning amendments and fee schedule updates do not constitute a “project” as defined by the California Environmental Quality Act (CEQA) Guidelines Sections 15378(b)(2) and 15378(b)(5) because the Ordinance and Resolution involve continuing administrative activities and organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment.

Recommended Actions:

Planning Commission Recommendation

1. Introduce an Ordinance adopting Zoning Amendment (ZA) 22-366 to Sections and Tables of Title 17 (Zoning) of the San Clemente Municipal Code that clarify, streamline, and consolidate zoning permit procedures.
2. Designate the Planning Commission as the appeals body for Zoning Administrator.
3. Reduce the appeals fee to \$100.

Staff Recommendation

1. Introduce an Ordinance adopting Zoning Amendment (ZA) 22-366 to Sections and Tables of Title 17 (Zoning) of the San Clemente Municipal Code that clarify, streamline, and consolidate zoning permit procedures.
2. Adopt a Resolution that updates the fee schedule to reflect the proposed zoning amendments.
3. Maintain the current permit appeals process and fee.

Attachment:

1. Summary of Proposed Amendments
2. Tracked Changes for Zoning Amendments
3. Ordinance 1759 for ZA 22-366:
Exhibit A - Zoning Amendments
4. Resolution 23-93 for Fee Schedule Update
5. City Council Meeting May 25, 2022 Minutes and Report
6. Planning Commission Meeting Minutes
7. Public Correspondence
8. Background on Prior Change to Appeals Fee

Notification:

1/8-page notice was published in the San Clemente Times and sent to project interest/special notice list.

TABLE 1 - SUMMARY OF PROPOSED STREAMLINING (dated June 7, 2023)

Item	Page # Redline	Section & Subject	Description	Existing Process	Proposed Changes
1	89	17.72.050(A) Nonconforming structure additions	Additions 50 percent or greater to single-family residences with less than 1,400 square feet of floor area, as of March 21, 1996, up to 2,100 square feet.	ZA Zoning Administrator approval of a Minor Architectural Permit or Minor Cultural Heritage Permit, with a Design Review Subcommittee recommendation.	ZA This would require Zoning Administrator approval of a Development Permit or Cultural Heritage Permit (for historic resources) without a Design Review Subcommittee review unless referred by the City Planner or Zoning Administrator. For approval, projects must meet design guidelines, meet zoning standards, and be in character with the neighborhood. Therefore, it is not apparent why DRSC review is needed by default, which adds time to the City's review process. The project must meet the standards and guidelines. Routinely, projects are reviewed for architectural styling when the focus is on massing and scale to maintain a nonconforming aspect of a structure with a larger addition to a single-family residence. The City Planner or Zoning Administrator may require Design Review Committee review.

TABLE 1 - PROPOSED ZONING STREAMLINING (dated June 7, 2023)

Item	Page # Redline	Section & Subject	Description	Existing Process	Proposed Changes
2	67	17.24.040 (C)(2), General development standards, accessory buildings and structures	Height limits for detached accessory structures and buildings Detached accessory structures over 15 feet high, up the height limit of the zone, that are in the rear one-half of the lot.	PC Planning Commission approval of a Conditional Use Permit for buildings to be over 15 feet, up to the height limit of the zone, regardless of whether the accessory building complies with setbacks. If the accessory building were attached, the zone's height limit applies so no review process is required.	PC This would require Planning Commission approval of a Development Permit or Cultural Heritage Permit for buildings that encroach into required setbacks. If setbacks are met, the height limit of the zone would apply. This is proposed because: 1. The height limit would be similar for an attached or detached accessory building that meets setbacks for compatibility between adjacent properties. 2. If this change weren't made, the incentive is to attach an accessory building to increase the height limit over 15 feet, up to the height of the zone. Therefore, the current height standard encourages larger massing with less articulation than a detached accessory building that must be separated a minimum of five feet. The changes are more in line with the intent of zoning standards to encourage articulation and compatibility between uses on adjacent properties. Note that Accessory Dwelling Units have different height limits in another section of the Zoning Code.

TABLE 1 - PROPOSED ZONING STREAMLINING (dated June 7, 2023)

Item	Page # Redline	Section & Subject	Description	Existing Process	Proposed Changes
3	44	17.16.100, Nonresidential accessory buildings new, not historic	Development of nonresidential accessory buildings on property that is not on the City's listed of designated historic structures and landmarks. The buildings are screened from adjoining public right-of-way, where the proposed building has floor area less than or equal to 2,000 square feet and less than 50 percent of the primary building's floor area.	PC Planning Commission approval of a Site Plan Permit, and Architectural Permit or Cultural Heritage Permit if proposed in the Architectural Overlay.	ZA This would require Zoning Administrator approval of a Development Permit. The Zoning Code allows nonresidential building additions less than 2,000 square feet with Zoning Administrator approval. The proposed changes allow a new building of a similar size to be reviewed by the Zoning Administrator if screened from public right-of-way. Otherwise, Planning Commission approval is required as it is currently. Staff recommends this change to allow an addition to have a similar level of review to a new building of a comparable size. The City Planner or Zoning Administrator may require Design Review Committee review.

TABLE 1 - PROPOSED ZONING STREAMLINING (dated June 7, 2023)

Item	Page # Redline	Section & Subject	Description	Existing Process	Proposed Changes
4	45	17.16.100, Residential dwellings, not historic	Development of a single-family dwelling or duplex across a street from and abutting the City’s designated historic resources and landmarks list.	PC Planning Commission approval of an Architectural Permit or Cultural Heritage Permit if proposed in the Architectural Overlay or abutting a historic resource (including across a street).	ZA This would require Zoning Administrator approval of a Development Permit. The streamlining would be limited to projects with significant separation from historic resources to ensure they do not have a massing and scaling impact on them. Projects must be across the street from a historic resource. Public right-of-way for collector streets ranges from 40 to 60 feet in width with required front setbacks beyond that for 70-90 feet of separation between a project and a historic resource. Planning Commission changes: Initially, staff proposed reducing which projects are subject to a public hearing to single-family dwellings and duplexes with less than: a) a five-foot front setback between the first and second floors; or b) a 30-foot front setback for building height above the tallest roofline of historic buildings. If a project had a larger setback or lower height, staff would be eligible to approve the projects without a hearing. The Planning Commission didn’t support eliminating public hearings on development or expansion of single-family dwellings or duplexes regardless of whether they had larger setbacks or a lower height.

TABLE 1 - PROPOSED ZONING STREAMLINING (dated June 7, 2023)

Item	Page # Redline	Section & Subject	Description	Existing Process	Proposed Changes
5	45	17.16.100, New dwellings, not historic	Development of three or more dwelling units on properties located within 300 feet from residentially zoned buildings on the City's designated historic resources and landmarks list.	PC Planning Commission approval of a Cultural Heritage Permit if proposed in the Architectural Overlay or projects are on sites with a triplex or more dwelling units visible a public view corridor or from public right-of-way adjoining historic structures.	ZA Reduces the level of review from Planning Commission to Zoning Administrator approval of a Development Permit. This streamlines projects with significant separation to avoid potential massing and architectural character impacts on historic resources. Planning Commission changes: Initially, staff also proposed reducing which projects are subject to a public hearing to projects located within 120 feet (vs. 300 feet) or two parcels from residentially zoned buildings on the City's list of designated historic structures and landmarks. If a project was more than 120 feet and two parcels from a historic structure, staff would be eligible to approve the projects without a hearing. The Planning Commission didn't support eliminating public hearings by reducing the distance from 300 feet.

TABLE 1 - PROPOSED ZONING STREAMLINING (dated June 7, 2023)

Item	Page # Redline	Section & Subject	Description	Existing Process	Proposed Changes
6	45	17.16.100, Residential accessory buildings new, not historic	Development of residential accessory buildings on property that is not on the City's listed of designated historic structures and landmarks. The buildings are screened from adjoining public right-of-way, where the proposed building has floor area less than or equal to 500 square feet and less than 50 percent of the primary building's floor area.	PC Planning Commission approval of a Cultural Heritage Permit if proposed in the Architectural Overlay, proposed on a site with a single-family residence or duplex abutting a historic resource (i.e. includes across the street), or projects are on sites with a triplex or more dwelling units within 300 feet of the project site, <i>unless exempt when projects are not visible from a public view corridor or from public right-of-way adjoining historic structures.</i>	ZA 1. Reduces the level of review from Planning Commission to Zoning Administrator approval of a Cultural Heritage Permit. 2. Currently, the Zoning Code allows Zoning Administrator approval of additions under 500 square feet but requires Planning Commission approval of new buildings of any size. Staff recommends reducing the level of review for a new accessory building under 500 square feet so it is reviewed similar to an addition of a similar size and potential impact. The changes also specify the building must be under 50 percent of the primary building's floor area so it is accessory. Currently, such a limit isn't included. Lastly, the accessory building must be screened from public right-of-way.

TABLE 1 - PROPOSED ZONING STREAMLINING (dated June 7, 2023)

Item	Page # Redline	Section & Subject	Description	Existing Process	Proposed Changes
7	56	17.16.110, Nonresidential accessory buildings, historic	Development of nonresidential accessory buildings on the City's listed of designated historic structures and landmarks. The buildings are screened from adjoining public right-of-way, where the proposed building has floor area less than or equal to 500 square feet and less than 50 percent of the primary building's floor area.	PC Planning Commission approval of a Site Plan Permit and Cultural Heritage Permit.	ZA Reduces the level of review from Planning Commission to Zoning Administrator approval of a Cultural Heritage Permit. Currently, the Zoning Code allows Zoning Administrator additions under 2,000 square feet but requires Planning Commission approval of new buildings of any size. Staff recommends reducing the level of review for a new accessory building under 500 square feet, smaller than an addition under 2,000 square feet allowed with Zoning Administrator approval, and that has more potential impact. The changes also specify the building must be screened from adjoining public right-of-way and be under 50 percent of the primary building's floor area so it is accessory. Currently, such a limit isn't included. Lastly, the accessory building must be screened from public right-of-way.

TABLE 1 - PROPOSED ZONING STREAMLINING (dated June 7, 2023)

Item	Page # Redline	Section & Subject	Description	Existing Process	Proposed Changes
8	56	17.16.110, Residential accessory buildings new, historic	New residential accessory buildings screened from adjoining public right-of-way with less than or equal to 500 square feet and less than 50 percent of the primary building's floor area.	PC Planning Commission approval of a Cultural Heritage Permit.	ZA Reduces the level of review from Planning Commission to Zoning Administrator approval of a Cultural Heritage Permit. Currently, the Zoning Code allows the Zoning Administrator to act on additions under 500 square feet but requires Planning Commission approval of new buildings of any size. Staff recommends reducing the level of review for a new accessory building under 500 square feet so it is reviewed similar to an addition of a similar size and potential impact. The changes also specify the building must be under 50 percent of the primary building's floor area so it is accessory. Currently, such a limit isn't included.

TABLE 1 - PROPOSED ZONING STREAMLINING (dated June 7, 2023)

Item	Page # Redline	Section & Subject	Description	Existing Process	Proposed Changes
9	33	17.16.095, Accessory structures and exterior changes, not historic	Types of structures and exterior changes (numbering is consistent with the list in proposed section 17.16.095): <ol style="list-style-type: none"> 1. Additions to Private Recreational Facilities 2. Accessory Structures: Other Minor 3. Awnings 4. Chimneys and Metal Flues 5. Color and Finishes: Exterior 6. Decks or patios 7. Doors 8. Driveways/Paving/Minor Site Work 9. Fences 11. Landscape Alterations 12. Lighting: Exterior 13. Mechanical Equipment: General 14. Mechanical Equipment: Rooftop 15. Porches 16. Roofs (and “Reroofs”) 17. Sheds or spas 	City Planner City Planner approval of a staff waiver of a Minor Architectural Permit.	City Planner Replaces staff waivers of Minor Architectural Permits and Minor Cultural Heritage Permits with a new permit type, Administrative Development Permits. Administrative Development Permits are an administrative approval process of minor projects requiring design review in the Architectural Overlay that are adjacent to, or involve, historic structures and nonresidential properties; these modifications would add general standards, project-specific standards, and change the types of projects and circumstances which would be eligible for staff-level approval, subject to appeal, with all permits disclosed publicly for transparency. Currently, there is a broader category of projects eligible for administrative approval. This would be replaced with lists of types of projects that may be approved by staff if those projects meet general and project-specific standards (e.g., projects that won’t affect character-defining features of historic structures, such as a privacy fence constructed of certain materials). The City Planner would have discretion to require a public hearing depending on the level of public concern anticipated for a project.

TABLE 1 - PROPOSED ZONING STREAMLINING (dated June 7, 2023)

Item	Page # Redline	Section & Subject	Description	Existing Process	Proposed Changes
9	Same as above	Same as above	18. Sidewalk Seating and Enclosures for Commercial Outdoor Dining Areas 19. Skylights 20. Trellises, pergolas, or arbors 21. Walls 22. Windows	Same as above	<p>(continued from above)</p> <p>The proposed changes are streamlining because the process would be more objective. This reduces the time, paperwork, and record keeping for the public and staff to process these minor projects. There would be no need to draft findings, conditions of approval, and have the applicant sign forms. There could be a simpler application with less work to complete. This frees up time for other tasks such as plan review or public hearing projects.</p> <p>Planning Commission changes: The Planning Commission revised several criteria and did not support staff's proposal to allow the following to be approved by staff versus the Planning Commission:</p> <ol style="list-style-type: none"> 1. The development and expansion of a single-family dwelling or duplex across a street and abutting the City's designated historic resources and landmarks list, in which the building has at minimum: i) a five-foot front setback between the first and second floors; and ii) a 30-foot front setback for building height above the tallest roofline of historic buildings; 2. The development or expansion of three or more dwellings on a site separated more than 120 feet, up to 300 feet, and at least two parcels from residentially zoned buildings on the City's historic resources and landmarks list.

TABLE 1 - PROPOSED ZONING STREAMLINING (dated June 7, 2023)

Item	Page # Redline	Section & Subject	Description	Existing Process	Proposed Changes
10	33	17.16.095, Accessory structures and exterior changes, historic	<p>Types of structures and exterior changes (numbering is consistent with the list in proposed section 17.16.095):</p> <ol style="list-style-type: none"> 2. Accessory Structures: <ul style="list-style-type: none"> Other Minor (six feet high maximum, screened from public right-of-way and are detached) 3. Awnings 4. Chimneys and Metal Flues (limited to improving historic integrity) 5. Color and Finishes: Exterior 6. Decks or patios (screened from public right-of-way and detached) 7. Doors (rehabilitate and repair unless this cannot be done) 8. Driveways/Paving/Minor Site Work (providing access to entrances, exits, patios, courtyards, and utility pathways) 9. Fences (not in yards adjacent to street frontages) 	<p>City Planner City Planner approval of a staff waiver of a Minor Cultural Heritage Permit.</p>	<p>City Planner Replaces staff waivers of Minor Architectural Permits and Minor Cultural Heritage Permits with a new permit type, Administrative Development Permits. Administrative Development Permits are an administrative approval process of minor projects requiring design review in the Architectural Overlay that are adjacent to, or involve, historic structures and nonresidential properties; these modifications would add general standards, project-specific standards, and change the types of projects and circumstances which would be eligible for staff-level approval, subject to appeal, with permits disclosed publicly for transparency.</p> <p>Currently, there is a broader category of projects eligible for administrative approval. This would be replaced with lists of types of projects that may be approved by staff if those projects meet general and project-specific standards (e.g., projects that won't affect character-defining features of historic structures, such as a privacy fence constructed of certain materials). The City Planner would have discretion to require a public hearing depending on the level of public concern anticipated for a project.</p>

TABLE 1 - PROPOSED ZONING STREAMLINING (dated June 7, 2023)

Item	Page # Redline	Section & Subject	Description	Existing Process	Proposed Changes
10		Same as above	<p>10. Historic Resources, Minor</p> <p>11. Landscape Alterations (except landscaping on historic survey as a contributor to a resource’s significance)</p> <p>12. Lighting: Exterior</p> <p>13. Mechanical Equipment: General</p> <p>14. Mechanical Equipment: Rooftop (fully screened from public view)</p> <p>16. Roofs (and “Reroofs”)</p> <p>17. Sheds or spas</p> <p>18. Sidewalk Seating and Enclosures for Commercial Outdoor Dining Areas</p> <p>19. Skylights (over non-original building areas)</p> <p>20. Trellises, pergolas, or arbors (screened from public right-of-way)</p> <p>21. Walls</p> <p>22. Windows</p>	Same as above	<p>(continued from above)</p> <p>The proposed changes are streamlining because the process would be more objective. This reduces the time, paperwork, and record keeping for the public and staff to process these minor projects. There would be no need to draft findings, conditions of approval, and have the applicant sign forms. There could be a simpler application with less work to complete. This frees up time for other tasks such as plan review or public hearing projects.</p>

TABLE 1 - PROPOSED ZONING STREAMLINING (dated June 7, 2023)

Item	Page # Redline	Section & Subject	Description	Existing Process	Proposed Changes
11	74	17.36.020, Commercial zone uses for alcohol service, amusement centers, bowling alleys, pool halls, and theaters	Requests to establish uses for alcohol service, amusement centers, bowling alleys, pool halls, and theaters.	<p>1. ZA Zoning Administrator approval of a Minor Conditional Use Permit for beer and wine with food service indoors.</p> <p>2. PC Planning Commission approval of a Conditional Use Permit to allow amusement centers, bowling alleys, pool halls, and theaters.</p>	<p>1. Staff Reduces level of review to staff for allowance of beer and wine on-site indoors with food service without a public hearing.</p> <p>2. ZA Reduces level of review to Zoning Administrator approval of a Minor Conditional Use Permit, allowing amusement centers, bowling alleys, pool halls, and theaters.</p>

TABLE 1 - PROPOSED ZONING STREAMLINING (dated June 7, 2023)

Item	Page # Redline	Section & Subject	Description	Existing Process	Proposed Changes
12	78	17.40.040, Mixed zone uses, alcohol service and residential accessory buildings	<ol style="list-style-type: none"> 1. Alcohol service indoors with food service at restaurants, event and entertainment venues, lodging facilities; and 2. Residential accessory buildings over 15 feet in height in Mixed Use 3.1, 3.3, and 5 zones. 	<ol style="list-style-type: none"> 1. ZA Zoning Administrator approval of a Minor Conditional Use Permit for beer and wine with food service indoors. 2. PC Planning Commission approval of a Conditional Use Permit to allow detached residential accessory buildings over 15 feet in height in the Mixed Use 5 zone only. 	<ol style="list-style-type: none"> 1. Staff Reduces level of review to staff for allowance of beer and wine on-site indoors with food service without a public hearing. 2. Staff Reduces the level of review to staff for specific circumstances. This would allow detached residential buildings up to the height of the zone if the building meets required setbacks for the primary structure. This would apply to the Mixed Use 3.1 (MU 3.1), MU 3.3, and MU 5 zones where standalone residential uses are allowed, like a residential zone.
13	87	17.64.110, Off-site parking for nonresidenti al uses	Provide required nonresidential use parking offsite within a certain distance of the use with a recorded agreement.	PC Planning Commission of a Conditional Use Permit.	ZA Zoning Administrator approval of a Minor Conditional Use Permit. Also, the maximum for parking off-site would be increased to 1,000 square feet. This was a City Council directive for the prior parking studies in North Beach and the Downtown.

TABLE 1 - PROPOSED ZONING STREAMLINING (dated June 7, 2023)

Item	Page # Redline	Section & Subject	Description	Existing Process	Proposed Changes
14	87	17.64.110, Shared parking nonresidential and mixed-use projects	Share private parking facilities between multiple uses in nonresidential and mixed-use zones when peak operating hours are offset.	PC Planning Commission of a Conditional Use Permit.	ZA Zoning Administrator approval of a Minor Conditional Use Permit.
15	65	17.16.250, Signage	Requests to allow various signage exceeding a sign area or number of signs to require public hearing approval.	PC Planning Commission approval of a Discretionary Sign Permit	ZA Zoning Administrator approval, except signage proposed in the Architectural Overlay, freestanding signs, and Master Sign Programs for new development. In these instances, the signage would continue to be reviewed by the Planning Commission. Planning Commission changes: Initially, staff proposed designating the Zoning Administrator for signage decisions, except signage proposed in conjunction with development. The Planning Commission also added exceptions for the Architectural Overlay and freestanding signs.

TABLE 1 - PROPOSED ZONING STREAMLINING (dated June 7, 2023)

16	91	17.28.300, Temporary uses and structures, seasonal holiday sales and nonresidential special activities	Requests to allow: 1) seasonal holiday sales like Christmas tree lots and pumpkin sales, and 2) nonresidential special activities. A special activity is on private property (commercial or non-commercial) within any zoning district which temporarily intensifies the impacts of a permitted use, such as art shows, open houses, grand openings, circus/carnivals, food truck and/or music festivals, promotion, entertainment, fireworks displays, tent sales, farmers markets.	<p>1. For seasonal and holidays sales, activities are limited to 45 days per year with a Temporary Use Permit, like Christmas tree lots.</p> <p>2. A Special Activity Permit is allowed to permit a nonresidential special activity. The Zoning Code is ambiguous on whether staff can approve a one-day event per year or more than one, up to 15 days per year. As a result, businesses have been limited to a one-day event per year with staff approval. No public notification is required. A Zoning Administrator decision has been required to allow events that involve 2 to 15 days per year.</p>	<p>The Planning Commission recommended these changes through the hearing process.</p> <p>1. For seasonal holiday sales, the ordinance would increase the allowance for sales from 45 days to 55 days with a Temporary Use Permit.</p> <p>2. For special activities, the changes would clarify code requirements and allow nonresidential uses to have one-day or two-day special events, up to 15 total days in a calendar year with the approval of a Temporary Use Permit. Special activities that are three or more consecutive days would continue to require a Zoning Administrator decision. There must be five days between events and special activities for nonresidential uses in residential or mixed-use zones would require public notification mailings to property owners within 300 feet of an event site. This would allow businesses to have shorter multiple one-or-two day events with staff review, while ensuring surrounding properties are notified when events are in proximity to residential uses. Staff could consider the success of events when considering a repeat event. The City Planner may forward special activities to the Zoning Administrator if warranted.</p>
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TABLE 1 - PROPOSED ZONING STREAMLINING (dated June 7, 2023)

Item	Page # Redline	Section & Subject	Description	Existing Process	Proposed Changes
Changes to General Procedures					
17	7	17.12.040, Filing an Application	The changes update story pole requirements. The Zoning Code allows the City to require story poles, other visual analysis tools, or other information as needed to review a project	<p>Story poles are required to allow three story projects in the Architectural Overlay or projects with potential to affect public view corridors in the Coastal Zone.</p> <p>When story poles are required, the Zoning Code currently requires connecting thick colored lines or pennants, which accurately represent “the full extent of the proposed structure, including decks and eaves, shall be constructed.” This is ambiguous, often leading to installations with many poles that are costly and can be challenging to visualize.</p>	<p>The Planning Commission recommended these changes through the hearing process.</p> <p>Rather than require story poles automatically, the proposed changes make it so story poles “may be required” as one of several tools to evaluate visual impacts, but emphasizes story poles are more likely to be required for coastal view corridors and larger projects in the Architectural Overlay. Also, the changes adds text to clarify how story poles should be installed: “the outermost corners of the building’s roof area and along the tallest roof ridgelines or peaks, or other areas necessary to evaluate visual impacts at the discretion of the City Planner or Review Authority.” This would reduce the number of story poles to what is needed to define the outermost profile of the building, while providing some discretion if needed. The City Planner shall have final approval authority over the location of the story poles to ensure that they do not detrimentally impact the public or the then current use of the property.</p>

TABLE 1 - PROPOSED ZONING STREAMLINING (dated June 7, 2023)

Item	Page # Redline	Section & Subject	Description	Existing Process	Proposed Changes
18	12	17.12.060, General procedures, Referrals to higher level	If a project has potential for significant public impact or concern, this section identifies authority to refer such projects to a higher public hearing level for more transparency, group committee decisions, and public participation.	The City Planner may refer items to the Zoning Administrator.	<p>Allows the City Planner to also refer items to the Planning Commission if warranted. This could streamline a review process in a situation where significant public concern is expected. By forwarding to a higher level early, it reduces potential for a multiple hearing process with appeals.</p> <p>Planning Commission changes: The Planning Commission did not support staff's proposals to allow the Zoning Administrator to refer projects to the City Council, Planning Commission referrals to the City Council, or add a means for the City Council to waive Planning Commission review by a majority vote.</p>

TABLE 1 - PROPOSED ZONING STREAMLINING (dated June 7, 2023)

Item	Page # Redline	Section & Subject	Description	Existing Process	Proposed Changes
19	13	17.12.065, Withdrawal of Inactive Applications	Modifies the process for City withdrawal inactive applications	Currently, the City must send a certified letter that gives an applicant 90 days notice an application could be withdrawn and then gives another 90 days to submit requested materials or funds that were described in an incomplete letter. If materials aren't received by that deadline, the City may withdraw the inactive application	<p>The proposed amendments change this process so that the incomplete letter specifies a timeline for submitting requested items or the application is inactive and subject to withdrawal. The timeline is six months unless an alternate timeframe or an extension is granted by the City Planner. An extension requires the applicant to submit a letter prior to the timeline, explaining the reasons for the inactivity. The City Planner may grant an extension if a finding is made that there were unusual circumstances preventing the applicant from resubmitting the application within the timeframe. The extension would specify a certain timeline to submit the materials necessary to resume the review process. These changes simplify the process to close inactive projects, reducing work time taken away from other projects in order to contact applicants for necessary materials or funds to continue the review process</p> <p>Planning Commission changes: Initially, staff had a proposal to reduce the 90 day periods to 30 days and allow other forms of written correspondence to notify applicants of inactive applications. The Planning Commission favored giving six months for the process with options to deviate in special circumstances</p>

TABLE 2 – APPLICATION CONSOLIDATION

Item	Page # Redline	Section (Proposed)	Existing Application	Proposed Application
1	33	17.16.095, Administrative Development Permit	<p>Staff Waiver of Minor Architectural Permit or Minor Cultural Heritage Permit.</p> <p>The City Planner may approve a staff waiver of a Minor Architectural Permit or Minor Cultural Heritage Permit to allow minor architectural changes. The application that functions as a permit rather than a waiver. There are approval findings, an ability to add conditions, and types of eligible projects, including an overly broad category: “Other minor projects that do not substantially alter the visual appearance and/or architectural integrity of the property or structure.”</p>	<p>Administrative Development Permit.</p> <p>The staff waiver application is replaced with a new “Administrative Development Permit.” The City Planner would no longer make discretionary findings to make a decision on a project. For approval, projects must meet new objective general and project-specific standards to meet State law for staff level permits. The new general standards address design issues, such as architectural style, materials, colors, massing, scale, and historic considerations. The project-specific standards are additional objective criteria for eligible projects, such as criteria for materials, size, height, etc. Projects that don’t meet criteria would require a public hearing. Also, the City Planner would retain authority to refer applications to a public hearing if they determine a proposal has the potential for significant public concern or impacts.</p> <p>The use of objective standards reduces subjectivity and probability of errors for decision making. Also, the changes reduce the time, paperwork, and record keeping for the public and staff to process these minor projects. There would be no need to draft findings, conditions of approval, and have the applicant sign extra forms. There could be a simpler application with less work to complete. This frees up time for other tasks such as plan review or public hearing projects.</p>

TABLE 2 – APPLICATION CONSOLIDATION

Item	Page # Redline	Section (Proposed)	Existing Application	Proposed Application
2	44	17.16.100, Development Permit	<p>Minor Site Plan Permits, Site Plan Permits, Minor Architectural Permit Architectural Permits, Minor Cultural Heritage Permit, and Cultural Heritage Permits</p> <p>These applications are required to allow various development, such as nonresidential development, development of five or more residential units, projects on properties in the Architectural Overlay district, and projects on residential properties adjacent to historic structures.</p> <p>The Zoning Administrator makes decisions on Minor Site Plan Permits, Minor Architectural Permits, and Minor Cultural Heritage Permits. The Planning Commission considers Site Plan Permits, Architectural Permits, and Cultural Heritage Permits.</p>	<p>Development Permit.</p> <p>“Development Permit” is a new application that consolidates applications with similar findings: Minor Site Plan Permits, Site Plan Permits, Minor Architectural Permits, and Architectural Permits. Also, Development Permits would be required for several projects instead of a Minor Cultural Heritage Permit or Cultural Heritage Permit that do not involve historic resources. This includes projects in the Architectural Overlay district, single-family and duplex sites abutting historic resources, and sites with triplexes or more units within 300 feet of residentially zoned historic resources. The Ordinance adds a table that lists project types subject to the permit and specifies what level of review is required for each project type. If a project requires review for more than one reason, a decision would be made by the highest review body for what is requested.</p>

TABLE 2 – APPLICATION CONSOLIDATION

Item	Page # Redline	Section (Proposed)	Existing Application	Proposed Application
3	56	17.16.110, Cultural Heritage Permits	<p>Minor Site Plan Permits, Site Plan Permits, Minor Cultural Heritage Permits, and Cultural Heritage Permits.</p> <p>These permits are required to allow projects involving historic structures. The Zoning Administrator makes decisions on Minor Site Plan Permits and Minor Cultural Heritage Permits. The Planning Commission considers Site Plan Permits and Cultural Heritage Permits.</p>	<p>Cultural Heritage Permits.</p> <p>Cultural Heritage Permits are repurposed to focus entirely on reviewing projects involving sites on the City's designated list of historic resources, excluding exemptions and minor projects eligible for an Administrative Development Permit. Unless historic resources are involved, Cultural Heritage Permits would no longer be required for projects in the Architectural Overlay area or abutting historic or adjacent to historic resources. That would now be the role of the Development Permits process with different findings and policy focus. Similar to Development Permits, the Ordinance adds a table that lists project types subject to the permit and specifies what level of review is required for each project type. If a project requires review for more than one reason, a decision would be made by the highest review body for what is requested.</p>
4	91	17.16.150, Temporary Use Permits	<p>Special Activity Permits.</p> <p>This permit is required to allow a nonresidential special activity on private property that temporarily intensifies the impacts of a permitted use.</p>	<p>Temporary Use Permits.</p> <p>The Ordinance consolidates Special Activity Permits into Temporary Use Permits that are required for other temporary special activity type uses such as holiday seasonal sales and parking lot sales.</p>

MINOR CLEAN UP REVISIONS

Staff made minor clean up revisions to the proposed zoning amendments since the June 7, 2023 Planning Commission's action to recommend City Council adoption of the proposed Ordinance. These minor clean up amendments are limited to Sections 14 and 15 of this attachment.

SECTION 1. Section 17.12.020 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

17.12.020 Review Authorities.

This section identifies the review authorities responsible for making decisions on applications required by the Zoning Ordinance.

- A. **City Council.** Refer to Chapter 2.04 for a description of the City Council's function, duties, and powers.
- B. **Planning Commission.** Refer to Chapter 2.32 for a description of the Planning Commission's function, duties, and powers.
- C. **Zoning Administrator.** Refer to Chapter 2.34 for a description of the Zoning Administrator's function, duties, and powers.
- D. **The Planning Division.**

~~1. Duties.~~ The Planning Division is responsible for the administration of the Zoning Ordinance, including the following functions:

- a. **Application Process.** The Planning Division shall process applications consistent with goals and policies in the General Plan and the Zoning Ordinance. If a project is located in a Specific Plan area, then applications shall also be processed consistent with the Specific Plan. ~~If the application is in the coastal zone, then the application shall be processed consistent with the goals and policies of the Coastal Land Use Plan (CLUP).~~
- b. **Public Information.** The Planning Division shall have the responsibility to provide information to the public on provisions and requirements ~~of~~ in the Zoning Ordinance.
- c. **Coordination.** The Planning Division shall be responsible for coordinating matters related to the administration of this title with other agencies, City departments and divisions, and City boards and commissions. The Planning Division participates in the Development Management Team (DMT), which is a group of City staff from various departments and staff from other agencies (e.g., the Orange County Fire Authority) that meets regularly to coordinate on the review of applications for completeness, consistency with requirements, guidelines, and policies. The DMT also makes non-binding recommendations to the applicable review authority. Unless required by this Title, the City Planner has discretion on whether to bring an application to the DMT for review and a recommendation.
- d. **Application Status Updates.** The Planning Division shall provide information to applicants and interested parties on the status of applications.

E. ~~Designated Powers. Review Authority for Required Approvals. Please refer to Table 17.12.020, Review Authority for Permits or Entitlements and Entitlements, for the review authority designated to act upon a list of applications reviewed and acted upon by the City Planner. required by this Title, according to procedures described in Section 17.12.060. The City Planner may refer applications to the Zoning Administrator for review and final action.~~ **Table 17.12.020**

Review Authority for Permits ~~and or~~ Entitlements

Permit Application	Final Review Authority ¹	Process Levels in Section 17.12.060	Public Hearings
Administrative Development Permit	City Planner	Process 1	No
Administrative Sign Permit	City Planner	Process 1	No
Architectural Permit/Cultural Heritage Permit	See Table 17.16.110 Planning Commission	Process 2 for Zoning Administrator decisions. Process 3 for Planning Commission.	Yes
City Antenna Permit	City Manager	Process 1	No
Coastal Review In-Concept	City Planner	Process 1	No
Conditional Use Permit	Planning Commission, except height for actions on exceptions to height limits of the exceptions in MU 3.0 and MU 3.3 zones that require City Council approval. The City Council is the review authority for such height exceptions	Process 3 for Planning Commission decisions. Process 4 for City Council.	Yes
Demolition of Historic Properties	City Council	Process 5	Yes
Designation of Historic Resources and Landmarks	City Council	Process 5	Yes
Development Agreements	City Council	Process 5	Yes
Development Permit	See Table 17.16.100	Process 2 for Zoning Administrator decisions. Process 3 for Planning Commission.	Yes
Discretionary Sign Permit	See Section 17.16.250	Process 2 for Zoning Administrator decisions. Process 3 for Planning Commission.	Yes

General Plan Amendment	City Council	Process 5	Yes
Historic Property Preservation (Mills Act) Agreements	City Council	Process 4	Yes
Home Occupation Permit	City Planner	Process 1	No
Interpretations			
Interpretations , Minor	City Planner	Process 1	No
Interpretations , Major	Planning Commission	Process 3	No -Yes
Minor Architectural Permit/Minor Cultural Heritage Permit	Zoning Administrator		Yes
Staff Waiver	City Planner		No
Minor Conditional Use Permit	Zoning Administrator	Process 2	Yes
Minor Exception Permit	Zoning Administrator	Process 2	Yes
Short-Term Lodging Unit Zoning Permit	City Planner	Process 1	No
Short-term Apartment Rental	Zoning Administrator	Process 2	Yes
Minor Site Plan Permit	Zoning Administrator		Yes
Special Activities Permit	City Planner	Process 1	No
Specific Plan Amendment	City Council	Process 5	Yes
Temporary Use Permit	City Planner	Process 1	No
Tentative Parcel Map	See Municipal Code Title 16		Yes
Tentative Tract Maps	See Municipal Code Title 16		Yes
Variance	Planning Commission	Process 3	Yes
Waiver of Development Standards for Historic Resources and Landmarks	Planning Commission	Process 3	Yes
Wireless Permit	City Planner	Process 1	No
Zoning Amendment	City Council	Process 5	Yes

¹ Refer to Section 17.12.090, Consideration of Concurrent Applications, regarding review of concurrent applications.

SECTION 2. Section 17.12.025 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

17.12.025 - Design Review Subcommittee.

This section describes the Design Review Subcommittee's function, duties, and applications that may require design review.

A. Function and Duties.

The Design Review Subcommittee is an advisory body, not an approval body. The Subcommittee advises applicants on how projects can best comply with policies and design guidelines that relate to various visual impact issues, such as site planning, architecture, landscaping, and the preservation of cultural and aesthetic resources. The policies and guidelines are contained in various planning documents, such as the General Plan, Design Guidelines, Specific Plans (when projects are located in a Specific Plan area), Zoning Ordinance, and Coastal Land Use Plan.

The Design Review Subcommittee does not focus on land use issues, which are the purview of the review authority. The Design Review Subcommittee forwards a recommendation to the review authority that acts upon a project. [For sites on the City’s designated historic structures and landmarks list, the Design Review Subcommittee \(DRSC\) functions as the Cultural Heritage Subcommittee \(CHSC\). The CHSC has similar duties as the DRSC but with added emphasis on historic resource preservation.](#)

B. Referrals to the Design Review Subcommittee.

~~The review authority may refer applications to the City Planner and review authority may refer projects to the~~ [Design Review Subcommittee if not required otherwise by Chapter 17.16 for specific applications.](#)

C. Applications that May Require Design Review Subcommittee Review.

Table 17.12.025 identifies applications that may require projects to be reviewed by the Design Review Subcommittee. For each application shown below, the table provides examples of common design issues reviewed by the Design Review Subcommittee.

Table 17.12.025 - Applications and Design Review Process

Application	Zoning Ordinance Code Section No.	DRSC review	Examples of design issues reviewed by Design Review Subcommittee
Administrative Development Permit	17.16.095	City Planner discretion.	Issues similar to those listed for Cultural Heritage Permits and Development Permits
City Antenna Permit	17.16.130	Required.	Aesthetics of new wireless antennas on City property
Conditional Use Permit	17.16.060	Required for new antenna projects and exceptions to development standards.	Design, scale, materials, and massing of certain development projects, such as new wireless antennas and density bonus requests for eligible housing projects. Visual impacts of requests for height increases and limited exceptions to other development standards
Cultural Heritage Permit	17.16.110	Required. Refer to Section 17.16.110.	Preservation and restoration of historic resources and landmarks, site planning, setbacks, compatibility and relationships with

			adjacent development, and architectural design issues, such as architectural quality and style, massing, scale, proportions, landscaping, materials, design features, and visual impacts on aesthetic resources
Designation of Historic Resources and Landmarks	17.16.160	Required.	Designation of historic resources and landmarks
Development Permit	17.16.100	Required — Refer to Section 17.16.100.	Site planning, parking lot design, setbacks, compatibility and relationships with adjacent development, and architectural design issues, such as design quality and style, massing, scale, proportions, landscaping, materials, design features, visual impacts on aesthetic resources and adjacent historic resources
Discretionary Sign Permit	17.16.250	Required.	Design, scale, materials, location, and other visual aspects of signs that require a public hearing process
Historic Property Preservation (Mills Act) Agreement	17.16.175	Required.	Design, scale, materials, location, and other visual aspects of improvements to preserve and restore historic resources
Site Plan Permit	17.16.050	Required	Site planning, parking lot design, setbacks, compatibility and relationships with adjacent development
Minor Site Plan Permit	17.16.050	City Planner determination	Similar issues as Site Plan Permit
Conditional Use Permit	17.16.060	Required for new antenna projects and exceptions to development standards	Design, scale, materials, and massing of certain development projects, such as new wireless antennas and density bonus requests for eligible housing projects. Visual impacts of requests for height increases and limited exceptions to other development standards
Variance	17.16.080	Required.	Visual impacts of development standard exceptions
Architectural Permit	17.16.100	Required	Architectural design issues, such as architectural quality and style, massing, scale, proportions, landscaping, materials, design

			features, visual impacts on aesthetic resources
Minor Architectural Permit	17.16.100	City Planner determination	Similar issues as Architectural Permit
Cultural Heritage Permit	17.16.100	Required	Preservation and restoration of historic resources and landmarks. Visual impacts of projects on nearby historic resources and landmarks. Architectural design issues, such as architectural quality and style, massing, scale, proportions, landscaping, materials, design features, and visual impacts on aesthetic resources
Minor Cultural Heritage Permit	17.16.100	City Planner determination	Similar issues as Cultural Heritage Permit
City Antenna Permit	17.16.130	Required	Aesthetics of new wireless antennas on City property
Designation of historic resources and landmarks	17.16.160	Required	Designation of historic resources and landmarks
Historic Property Preservation (Mills Act) Agreement	17.16.175	Required	Design, scale, materials, location, and other visual aspects of improvements to preserve and restore historic resources
Discretionary Sign Permit	17.16.250	Required	Signage design, size, materials, lighting, visual impacts
Sign Exception Permit	17.16.260	Required	Visual impacts of sign standard exceptions

SECTION 3. Section 17.12.040 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

17.12.040 Filing an Application.

- A. **Persons Who May File an Application (or Pre-application).** Unless otherwise specified, an application required or permitted by this title will only be accepted if signed by the owner of the subject property or by the property owner's authorized agent. When the property owner's authorized agent submits an application, the application must be accompanied by written

authorization from the property owner. If the property for which an application is submitted is in more than one ownership, all the owners or their authorized agents must either sign the application or submit a written, signed document indicating their consent to the application.

- B. **Application Forms.** Unless indicated otherwise by Chapter 17.16, Applications, of this title, applications required or authorized by this title shall be submitted to the Planning Division and shall include forms and any other materials, reports, dimensioned plans or other information required by the application checklist available from the Planning Division. If a public hearing is required prior to issuance or approval of the application, all public notification materials required by Table 17.12.100, Public Hearing Requirements, must be included with the application. It is the responsibility of the applicant to ensure that all required information is provided.
- C. **Fees.** The City Council shall, by resolution, establish and amend from time to time a schedule of fees for applications required or authorized by Chapter 17.16, Applications, of this title. Applicants shall pay the fees and costs for processing applications when the application is filed with the Planning Division. The purpose of the application fees is to reimburse the City for all costs incurred as the result of its administration of the provisions of this title.
- D. **Waiver of Fees.** For special circumstances, the City Council may waive or reduce the application fees established by resolution of the City Council, based on the merit of the request. Waiver of fees shall be approved prior to application submittal. The applicant must file a request for waiver of fees with the City's Planning Division. The letter shall explain the reasons for the request for a waiver. The Planning Division shall forward the letter requesting a waiver of fees to the City Council for their review at the next regularly scheduled City Council meeting at which time the request can be agendaized under New Business.
- E. **Supplemental Information.** The City Planner, or review authority, may request the applicant submit information to clarify, correct, or otherwise supplement submitted information beyond that originally submitted in the course of processing the application should he or she find that additional information is necessary to adequately review a request. Such a request shall not invalidate the original determination that the application was complete at the time the determination was originally made. Supplemental information may include, but is not limited to, visual analysis tools such as story pole staking, photo simulations, and models. Such a request shall not invalidate the original determination that the application was complete at the time the determination was originally made. Projects with added concern for visual impacts are more likely to require story poles that include construction or expansion of three story structures in the Architectural Overlay district and structures with the potential to affect public view corridors from public places in the Coastal Overlay zone.
1. ~~— Story Pole Staking. Specific Projects that Require Story Pole Staking. At minimum, story pole staking is required for the construction or expansion of structures with the potential to affect public view corridors from public places in the Coastal Overlay zone, regardless of number of stories, and the construction or expansion of three story structures in the Architectural Overlay district.~~
 2. ~~— Story Pole Exemption for Time Extensions. Time extensions are exempt from story pole staking, unless the City Planner or review authority determines story poles are necessary.~~ Certification of Visual Analysis Tools. When visual analysis tools are required, the accuracy of the materials shall be certified by a licensed architect or engineer prior to scheduling the first public hearing for a project.

32. Story Pole Installation Requirements. When story poles are required, they shall be erected at least 14 calendar days prior to the first public hearing or meeting on the Project, as determined by the City Planner, except that the approval authority shall have discretion to require that they be erected earlier, but not to exceed 28 calendar days prior to the hearing. The following must be completed for a site to be deemed to have been properly staked with story poles:
- a. Story poles and connecting thick colored lines or pennants, which accurately represent the limits of the proposed structure's envelope. This includes the outermost corners of the building's roof area and along the tallest roof ridgelines or peaks, or other areas necessary to evaluate visual impacts at the discretion of the City Planner or Review Authority. The City Planner shall have final approval authority over the location of the story poles to ensure that they do not detrimentally impact the public or the then current use of the property; and
 - b. A staking plan with the location and height of the story poles must be certified as accurate by a registered land surveyor or registered civil engineer. If a complete and certified staking of story poles for a project is not in place in the time required, the project shall be continued to a later date. Neither the applicant, a relative of the applicant, nor any other person possessing a financial interest in the property or the project may certify the location and height accuracy of the staking poles.
43. Story Pole Re-certification. Re-certification is required at least 14 calendar days prior to the first public hearing as described above in 2. Requirements, in the following instances:
- a. If the project is modified during the design review process requiring the project to be re-staked; and/or
 - b. If the initial installation of story poles was completed one year prior to the final hearing date.
54. Story Pole Removal. A deposit in the amount the City Planner determines to be reasonably necessary to remove the story poles shall be made prior to the time the project is scheduled for public hearing. Story poles shall be removed by the applicant within 20 calendar days after the appeal period for the project has expired. Upon timely removal of the story poles, the deposit shall be returned to the applicant. The applicant's failure to remove the story poles within the prescribed time period shall result in the automatic forfeiture of the deposit, and the City shall have the ability to access the site to remove the poles. Story poles must be removed if a project has been inactive for a period longer than six months. Story pole placement shall be photo-documented from viewpoints determined by the City Planner to document size, mass, height, and scale, and shall be submitted to [be] retained by the City with the project file. Prior to the first public hearing on the project, the applicant shall grant to the City a written right of entry for purposes of pole removal.

SECTION 4. Section 17.12.050 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

17.12.050 Application Completeness.

- A. **Review for Completeness.** The Planning Division shall determine the completeness of an application within the time period specified by State law, ~~(Government Code Section 65943),~~ after receiving a submitted application and associated information. No application shall be processed pursuant to this title ~~until prior to the determination by~~ the Planning Division ~~determines~~ that the application is complete. If the Planning Division fails to make a determination as to completeness of an application or resubmitted application within the time period specified by State law, (Government Code Section 65943), the application shall be automatically deemed complete and processed pursuant to the provisions of this title.
- B. ~~Complete Applications~~ **Applicant Notification.** If an application is deemed complete, the Planning Division shall notify the applicant in writing. The application shall then be processed pursuant to the provisions of this title.
- ~~C. Incomplete Applications.~~ If an application is deemed incomplete, the Planning Division shall notify the applicant in writing, outlining the reason(s) for the determination and the information necessary to complete the application. ~~The letter shall also indicate that in the event the applicant does not wish to resubmit the application, a request can be made to the Planning Division within 90 days of the date of the letter for a refund of unused fees. Fees not requested for refund within this 90-day period shall be forfeited to the City.~~
- ~~D. Resubmitted Applications. The Planning Division shall determine in writing the completeness of the resubmitted application within the time period specified by State law, Government Code Section 65943, and transmit the determination to the applicant in the manner provided in Subsection (C) of this section.~~
- ~~E. Failure to Determine Completeness. If the Planning Division fails to make a determination as to completeness of an application or resubmitted application within the time period specified by State law, Government Code Section 65943, the application shall be automatically deemed complete and processed pursuant to the provisions of this title.~~

SECTION 5. The former Section 17.12.080 of the San Clemente Municipal Code is hereby re-numbered to Section 17.12.055 and is amended to read in its entirety as follows:

17.12.080-055 Environmental Review.

All applications will be reviewed by the Planning Division for compliance with the California Environmental Quality Act (CEQA). No application shall be approved pursuant to this title prior to the completion and/or certification of applicable environmental documentation required by CEQA. Applications shall be processed within the time limits prescribed in CEQA (Government Code Section 65920 et seq.).

SECTION 6. The existing provisions of Section 17.12.060 of the San Clemente Municipal Code are hereby struck and replaced with the following:

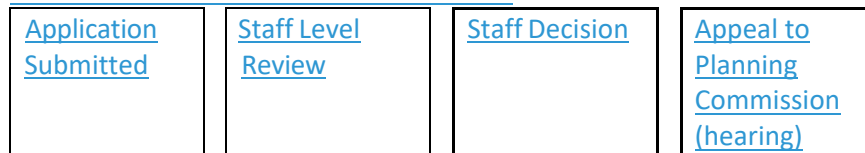
17.12.060 Decision Process

Application for permits or other matters shall be acted upon in accordance with one of the five decision processes established shown on Figure 17.12.060.A, except for capital improvement program projects. The subject matter of the development application determines the process that shall be followed for each application. The provisions of Chapter 17.16 that pertain to each permit, map, or other matter describe

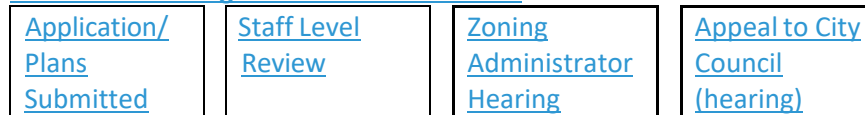
the decision process in more detail. Depending on the proposal, the review process may also require review by an advisory body such as the Design Review Subcommittee or Cultural Heritage Subcommittee. Figure 17.12.060.A is provided for convenience of reference only and does not define, describe, or limit the scope, meaning, or intent of any provision of this Title. This diagram describes the City of San Clemente’s processes only, not decision processes that may be required by other agencies such as the California Coastal Commission.

Figure 17.12.060.A, Decision Processes

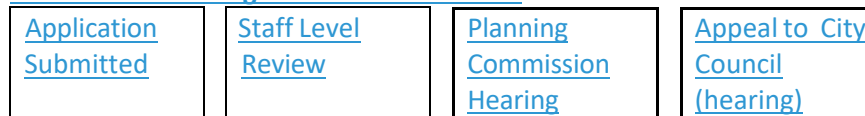
Process 1 – Staff Decision Without Notice



Process 2 – Zoning Administrator Decision



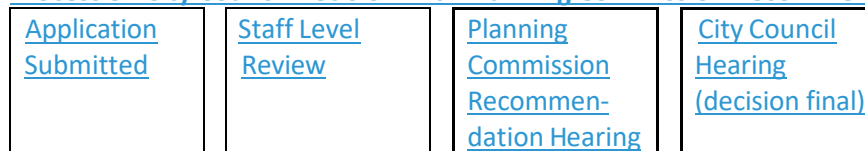
Process 3 – Planning Commission Decision



Process 4 – City Council Decision



Process 5– City Council Decision with Planning Commission Recommendation



* Depending on the proposal, the review process may also require review by an advisory body such as the Design Review Subcommittee or Cultural Heritage Subcommittee.

A. Process One – Staff Decision Without Public Hearing

A Process One decision on an application may be approved or denied by a City staff person specified in Table 17.12.020 or their designee. A public hearing will not be held. A decision may be appealed to the Planning Commission according to Section 17.12.140.

B. Process Two – Zoning Administrator Decision

A Process Two decision on an application shall be made as follows:

1. Decision Process. The Zoning Administrator may approve, conditionally approve, or deny the application at a public hearing.
2. Public Notification. Notice of a public hearing shall be provided according to Section 17.12.100 with necessary materials provided by an applicant.
3. Appeals. The Zoning Administrator’s decision may be appealed to the City Council according to Section 17.12.140.

C. Process Three – Planning Commission Decision

A Process Three decision on application shall be made as follows:

1. Decision Process. The Planning Commission may approve, conditionally approve, or deny the application at a public hearing.
2. Public Notification. Notice of a public hearing shall be provided according to Section 17.12.100 with necessary materials provided by an applicant.
3. Appeals. The Planning Commission’s decision may be appealed to the City Council according to Section 17.12.140.

D. Process Four – City Council Decision

1. A Process Four decision on an application may be approved, conditionally approved, or denied by the City Council at a public hearing.
2. Public Notification. Notice of a public hearing shall be provided according to Section 17.12.100 with necessary materials provided by an applicant.
3. Ability to Act as Review Authority for a Lower Level Process.

The City Council by majority vote may decide to serve as the Review Authority for any applications that require a lower level Process according to Table 17.12.020.

E. Process Five – City Council Decision with Planning Commission Recommendation

A Process Five decision on an application shall be made by the City Council as follows:

1. Planning Commission Recommendation.

Before the City Council decision, the Planning Commission shall hold a public hearing to consider the application. The hearing shall be noticed in accordance with Section 17.12.100. The hearing may be continued if desired by the Commission to solicit and obtain information needed to make a recommendation. However, the hearing shall be concluded no later than 60 calendar days after the initial hearing date. At the conclusion of the public hearing, the Planning Commission shall make a written recommendation to the City Council to approve, conditionally approve, or deny the application. If the Planning Commission fails to act within this 60-day period the matter shall proceed to City Council without a recommendation.

2. Decision Process.

After receiving the Planning Commission’s recommendation or expiration of the 60-day time period with no recommendation, the City Council shall hold a public hearing to consider the application. The hearing shall be noticed in accordance with Section 17.12.100. The City Council may approve, conditionally approve, or deny the application at the conclusion of the hearing.

F. Referrals to Higher Review Level. A Review Authority has the discretion to refer applications to a higher review level, as follows:

1. The City Planner may refer Process 1 decisions to the Zoning Administrator or Planning Commission, depending on level of public concern anticipated for a matter. If decisions are referred to the Zoning Administrator or Planning Commission, a public hearing and notification shall be required according to Chapter 17.12; and
2. The Zoning Administrator may refer Process 2 decisions to the Planning Commission, depending on level of public concern anticipated for a matter.

~~17.12.060 Applications Requiring Additional Information.~~

~~The City Planner, or review authority, may request the applicant submit information to clarify, amplify, correct, or otherwise supplement submitted information beyond that originally submitted in the course of processing the application should he or she find that additional information is necessary to adequately review a request. Supplemental information may include, but is not limited to, visual analysis tools such as story pole staking, photo simulations, and models. Such a request shall not invalidate the original determination that the application was complete at the time the determination was originally made.~~

~~A. Story Pole Staking.~~

- ~~1. Specific Projects that Require Story Pole Staking. At minimum, story pole staking is required for the following projects:

 - ~~a. The construction or expansion of structures with the potential to affect public view corridors from public places in the Coastal Overlay zone, regardless of number of stories.~~
 - ~~b. The construction or expansion of three story structures in the Architectural Overlay district.~~~~
- ~~2. Exemption for Time Extensions. Time extensions are exempt from story pole staking, unless the City Planner or review authority determines story poles are necessary.~~
- ~~3. General Requirements. When story poles are required, they shall be erected at least 14 calendar days prior to the first public hearing or meeting on the Project, as determined by the City Planner, except that the approval authority shall have discretion to require that they be erected earlier, but not to exceed 28 calendar days prior to the hearing. The following must be completed for a site to be deemed to have been properly staked with story poles:

 - ~~a. Story poles and connecting thick colored lines or pennants, which accurately represent the full extent of the proposed structure, including decks and eaves, shall be~~~~

constructed. The City Planner shall have final approval authority over the location of the story poles to ensure that they do not detrimentally impact the public or the then current use of the property; and

- b. ~~A staking plan with the location and height of the story poles must be certified as accurate by a registered land surveyor or registered civil engineer. If a complete and certified staking of story poles for a project is not in place in the time required, the project shall be continued to a later date. Neither the applicant, a relative of the applicant, nor any other person possessing a financial interest in the property or the project may certify the location and height accuracy of the staking poles.~~

4. ~~Re-certification. Re-certification is required at least 14 calendar days prior to the first public hearing as described above in 1. Requirements, in the following instances:~~

- a. ~~If the project is modified during the design review process requiring the project to be re-staked; and/or~~
- b. ~~If the initial installation of story poles was completed one year prior to the final hearing date.~~

SECTION 7. Section 17.12.065 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

17.12.065 ~~Withdrawal of~~ Inactive Applications.

~~The City may close inactive applications according this Section. The City Planner has the authority to withdraw applications that are inactive for 180 days or more due to inactivity. Applications are inactive when requested materials, funds, or other information necessary to proceed with the processing of an application is not submitted.~~

- A. ~~**Withdrawal Procedures**~~ **Incomplete Letters.** The City determines the completeness of an application within the time period specified by State law as described in Section 17.12.050. If the application is incomplete, the City notifies the applicant in writing to describe what is needed to process the application, such as studies, development plans, forms, and fees. The letter specifies a timeframe for submitting the requested items.
- B. **Resubmittal Timeframe.** Applications shall be deemed inactive and be closed at the discretion of the City Planner if the applicant does not submit requested items for six consecutive months following the date of the incomplete letter, unless the incomplete letter is specifies an alternate timeframe or an extension is granted according to Subsection C. ~~When an application is inactive for 90 days or more, a letter is sent via certified mail to inform applicants that they have 90 days to submit requested materials, funds or other information necessary to proceed with the processing of an application. If requested materials or funds are not received within the 90 days (a total of 180 calendar days since an application begins to be inactive), then the City Planner has the authority to:~~
1. ~~Withdraw the application; or~~
 2. ~~Schedule for the designated decision making authority (see Table 17.12.020) to consider the application as a consent item at the next available meeting. The City Planner may recommend for the decision making authority to deny the application without prejudice. The applicant would be notified of the meeting in advance.~~

C. **Request for Time Extension.** The applicant may request an extension of time to resubmit the application. The time extension request shall be made in writing and received within the resubmittal timeline described in Subsection B. The written request shall provide a detailed explanation of the reason(s) for the request and the additional time needed to provide the requested information and/or application fees. Such reasons may include by way of example and not by limitation, additional time needed to conduct a required seasonal biological survey or to secure a professional consultant to carry out a required analysis.

The City Planner shall review the written request and provide the applicant a written determination, approving or denying the request, based on finding whether there are unusual circumstances preventing the applicant from resubmitting the application within the given timeframe. If the City Planner grants the applicant's request, the written determination shall specify the additional time granted to resubmit the application. Then, the applicant shall submit requested items within extended resubmittal timeframe or the City shall have discretion to close the application.

~~B.D~~ **Return of Unused Deposit** ~~deposit a~~ **Account Funds and materials.** If an application is withdrawn by the City or the applicant, the City shall contact the applicant to refund any unused deposit account fees, ~~are refunded and materials are returned upon request.~~ If an applicant is unresponsive, the City will refund fees when an opportunity arises to communicate with the applicant. Fixed fee applications are not refundable.

SECTION 8. Section 17.12.100 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

17.12.100 Public Hearing and Notification.

- A. **Purpose.** This section defines procedures for public notification~~for conducting public hearings for applications~~ when required by this title. The purpose of this section is to ensure public awareness and full and open public discussion and debate regarding proposed actions being taken pursuant to this title. ~~A public hearing shall be held prior to action by the Zoning Administrator, Planning Commission, or City Council when required by State law or the City's local ordinances, guidelines or policies.~~
- B. **Notice of Public Hearings.** A notice of public hearing is required for processes 32 to 65 in Section 17.12.060 that involve a public hearing action by the Zoning Administrator, Planning Commission, or City Council. The City Planner is authorized to advertise and notice Zoning Administrator and Planning Commission public hearings. The City Clerk is authorized to advertise and notice City Council public hearings. Table 17.12.020, Review Authority for Permits and Entitlements, identifies the applications that require a public hearing, as well as the review authorities for applications.

Notice of public hearings shall be given pursuant to applicable provisions of State law, Government Code Sections 65090 and 65091, and this title, including all of the following requirements which must be complied with at least 10 days prior to the public hearing:

1. Publication. Publication in a newspaper of general circulation in the City of San Clemente;
~~and~~
2. Mailing Recipients. ~~Mailing a notice of~~ A notice of public hearing shall be mailed to the time, place and purpose of such hearing to all of the following:

- a. ~~Required~~ Owners of property within 300 feet of a site that is the subject of the public hearing. If the number of owners to whom notice would be mailed or delivered pursuant to this subsection is greater than 1,000, the City, in lieu of mailed or delivered notice, may provide notice by placing a display advertisement of at least one-eighth page in at least one newspaper of general circulation within the City at least 10 days prior to the hearing;
- b. Local agencies expected to provide water, sewage, streets, roads, schools, or other essential facilities or services to the project, where ability to provide these facilities and services may be significantly affected; ~~and~~
- c. Persons requesting notice ~~of such hearing;~~
- d. The City of San Clemente as owning property within a specified distance from the exterior boundaries of the subject property (radius of notice), unless the City is the sole applicant for the hearing that is the subject of the notice; and

~~Table 17.12.100, Public Hearing Requirements, lists the radius of notice required and the number of copies of mailing labels and envelopes that must be provided with an application. If the number of owners to whom notice would be mailed or delivered pursuant to this subsection is greater than 1,000, the City, in lieu of mailed or delivered notice, may provide notice by placing a display advertisement of at least one-eighth page in at least one newspaper of general circulation within the local agency in which the proceeding is conducted at least 10 days prior; and~~

3. Notice Content. At a minimum, the notice of public hearing shall include all of the following:

- a. General subject of the public hearing;
- b. The location of the property that is the subject of the application;
- c. The date, time, and place of the public hearing;
- d. The Review Authority holding the public hearing; and
- e. The name, telephone number, and address of the City staff person to contact for additional information.

~~4~~3. Posting. Posting three notices adjacent to the subject property in conspicuous places facing the public street. Posting of public hearing notices may be delegated by the City Planner to the project applicant. If posting is delegated to the project applicant, notices must be provided to the applicant by the Planning Division.

~~5~~C. Affidavit of Mailing, Publication and/or Posting. Once a notice of public hearing has been given, in accordance with this Subsection ~~n (B) of this section~~, an affidavit shall be filed in the permanent records of the subject project, according to the following requirements:

- ~~1~~a. Mailing and Publication. The City Planner, if the hearing is held by the Zoning Administrator or Planning Commission, or the City Clerk, if the hearing is held by the City Council, shall be responsible for the affidavit of mailing and publication; and
- ~~2~~b. Posting. The City Planner, if the hearing is held by the Zoning Administrator or Planning Commission, or the City Clerk, if the hearing is held by the City Council, shall be responsible for the affidavit of posting. If posting is delegated to the project applicant, an

affidavit of posting must be provided by the City and signed by the applicant or the applicant's representative.

~~D.C.~~ **Failure of Any Person to Receive a Mailed Notice.** Failure of any person to receive notice according to ~~this specified in Subsection (B) Section of this section~~ shall not invalidate any proceedings.

D. **Materials for Notice Mailings.** Applicants shall provide all necessary materials for each public notice required by this Title, including: one set of stamped, labeled envelopes; a mailing list in label format; a radius map (for mailings); and a signed form certifying all materials are accurate at the time within six months of notice distribution.

Table 17.12.100—Public Hearing Requirements

Application (required by this Title unless stated otherwise)	Required Radius	Number of Sets	
		Stamped, Labeled Envelopes [±]	Mailing List
Architectural/Cultural Heritage Permit	300 feet	±	±
Conditional Use Permit	300 feet	±	±
Development Agreements	300 feet	2	±
General Plan Amendment	300 feet	2	±
Minor Architectural/Cultural Heritage Permit	300 feet	±	±
Minor Conditional Use Permit	300 feet	±	±
Minor Exception Permit	300 feet	±	±
Minor Site Plan Permit	300 feet	±	±
Sidewalk Waiver Appeal (see Municipal Code Chapter 12.08)	300 feet	±	±
Site Plan Permit	300 feet	±	±
Specific Plan Amendment	300 feet	2	±
Variance	300 feet	±	±
Zoning Amendment	300 feet	2	±

~~±—Projects requiring the processing of a number of applications should provide one set of stamped, labeled envelopes for each review body plus one mailing list for the project file.~~

SECTION 9. Section 17.12.140 of the San Clemente Municipal Code is hereby amended in its entirety as follows:

17.12.140 Appeals of an Action.

A. Appeals by the Public.

1. Right to Appeal.

- a. Decisions of the Community Development Director or City Planner. Any person may appeal a decision of the Community Development Director and/or City Planner, ~~except for a decision on a Wireless Permit,~~ to the Planning Commission, except for a decision on a Wireless

- [Permit](#). The Planning Commission's decision may be appealed to the City Council, whose decision shall be final. Appeals of decisions of the City Planner on Wireless Permits are governed by Section 17.16.075(b)(2).
- b. Decisions of the City Manager on City Antenna Permits. Any person may appeal a decision of the City Manager on City Antenna Permits to the Planning Commission. The Planning Commission's decision may be appealed to the City Council, whose decision shall be final.
 - c. Decisions of the Zoning Administrator, or Planning Commission. Any person may appeal a decision of the Zoning Administrator or Planning Commission to the City Council. The City Council's decision on the appeal shall be final.
2. **Time Limits for Filing an Appeal.**
- a. **Decisions of the Community Development Director or City Planner.** Except for appeals on Wireless Permit decisions, an appeal of a decision made by the Community Development Director or City Planner shall be filed with the Planning Division within ten consecutive calendar days following the decision sought to be appealed. Appeals of decisions of the City Planner on Wireless Permits are governed by Section 17.16.075(b)(2).
 - b. **Decisions of the City Manager on City Antenna Permits.** An appeal of a decision made by the City Manager on a City Antenna Permit shall be filed with the Planning Division within ten consecutive calendar days following the decision sought to be appealed.
 - c. **Decisions of the Zoning Administrator or Planning Commission.** An appeal of the decision of the Zoning Administrator, or Planning Commission shall be filed in the office of the City Clerk or with the City Planner within ten consecutive calendar days following the decision sought to be appealed.
 - d. **Calculation of the Appeal Period.** For the purpose of calculating the appeal period, the first day of the appeal period shall be the day immediately following the day on which the decision occurred. Other than appeals on Wireless Permits, the final day of the appeal period shall be the tenth calendar day following the first day of the appeal period, at 5:00 p.m. If the last day to appeal falls on a holiday or on a Saturday or Sunday, the following business day shall be deemed the last day to appeal.
3. **Method of Appeal.** Appeals shall be in writing on a form obtained from the Planning Division or City Clerk. The appellant shall ~~State-state~~ the specific reasons for the appeal. ~~Appeal applications shall include-~~ submit funds to pay the required appeal fee, and submit public notification materials. Unless otherwise provided for in Table 17.12.100, Public Hearing Requirements, of this chapter public notification materials shall consist of postage pre-paid envelopes addressed to each person owning property within 300 feet of the property which is the subject of the appeal, as such names appear on the latest County equalized tax assessment role.
- B. **Appeals by the City Council.**
1. **Right to Appeal.** The City Council may appeal any decision of the Zoning Administrator or Planning Commission by calling up the decision for consideration by the City Council, in accordance with Subsection (B)(3) of this section.

2. **Time Limits for Appealing a Decision.** An appeal by the City Council shall be made by the time the City Council receives and files the official transmittal of the decision on an application, through minutes, action memorandum or otherwise, by the body having original jurisdiction over the matter.
 3. **Method of Appeal.** Appeals by the City Council shall be by a majority vote of the City Council at a regular or adjourned regular City Council meeting.
- C. **Public Notice of the Appeal.** Notice of the public hearing on the appeal shall be provided as required in Section 17.12.100, Public Hearing and Notification, of this title. As indicated in Subsection (D) of this section, Time Limit for Hearing an Appeal, stamped envelopes for mailing the public hearing notices shall be provided by the appellant.
 - D. **Time Limit for Hearing an Appeal.** Public hearings on appeals shall be held within 60 days of the City Clerk or Planning Division's receipt of a completed appeal application. The City Clerk shall notify the applicant, in writing, of the date established for the public hearing within 10 days of receipt of a completed appeal application. The appellant, or applicant if the City Council is the appellant, must provide the City with stamped envelopes for public notification, by 20 days prior to the scheduled hearing on the appeal, or the appeal shall be taken off the City Council's calendar and the appellant shall have waived any and all rights to such appeal.
 - E. **Scope of Review.** The body hearing the appeal shall not be limited to the issues raised on the appeal, but rather shall be entitled to review new evidence and to consider all elements of the appealed action. At the close of the public hearing on the appeal, the appellate body may reverse, affirm, revise or modify original action on the application being appealed.
 - F. **Effective Date of Appealed Actions.** Please refer to Section 17.12.130, Effective Date of Decision on an Action, of this chapter, Effective Date of Decision.

SECTION 10. Section 17.16.050 of the San Clemente Municipal Code is hereby deleted in its entirety.

~~17.16.050 – Site Plan Permit and Minor Site Plan Permits.~~

~~A. Purpose and Intent.~~

- ~~1. Site Plan Permits. It is the purpose and intent of the Site Plan Permit process to provide for the review of physical improvements to a site which due to their scale, proximity to environmentally sensitive resource areas, or unique design features, require special discretionary consideration. The Site Plan Permit process is intended to encourage site and structural development which 1) respect the physical and environmental characteristics of the site, 2) ensures safe and convenient access and circulation for pedestrians and vehicles, 3) exemplifies the best professional design practices, 4) encourages individual identity for specific uses and structures, 5) encourages a distinct community or neighborhood identity, and 6) minimizes visual impacts.~~
- ~~1. 2. Minor Site Plan Permits. It is the purpose of the Minor Site Plan Permit process to provide for the streamlined review of certain minor classes of development projects which are large enough to require discretionary consideration, but due to their scale, nature or location do not require discretionary consideration by the Planning Commission. The Minor Site Plan Permit process for major development has as its purpose the same goals for development described for the Site Plan Permit process for major development included above.~~

~~B. Review Authority.~~

- ~~1. Site Plan Permits. The Planning Commission is the final authority on Site Plan Permits, subject to the concurrent review and appeal provisions of Sections 17.12.090, Consideration of Concurrent Applications, and 17.12.140, Appeals of an Action.~~
- ~~2. Minor Site Plan Permits. The Zoning Administrator is the final authority on Minor Site Plan Permits, subject to the concurrent review and appeal provisions listed above. The Zoning Administrator has the discretion to refer applications to the Planning Commission for review and final action.~~

~~C. Applicability.~~

- ~~1. Site Plan Permits. A Site Plan Permit is required for:

 - ~~a. Adoption of a PRD overlay, as provided for in Section 17.56.040(C)(2), Planned Residential District (-PRD Overlay), Adoption and Amendment of the Planned Residential Overlay District;~~
 - ~~b. All tentative maps for sites on which development is existing or currently proposed, except condominium projects;~~
 - ~~c. New golf courses in the OSC zone, as provided for in Table 17.44.020, Open Space Zone Uses;~~~~

- d. ~~Increases in the allowed floor area ratio based on public benefit, as provided for in Section 17.24.100, Increase in Floor Area Ratios;~~
 - e. ~~All new nonresidential and mixed-use buildings;~~
 - f. ~~Additions or alterations to nonresidential and mixed-use buildings, as indicated in Table 17.16.050, Additions or Alterations Requiring Site Plan Permits or Minor Site Plan Permits.~~
2. ~~Minor Site Plan Permits. A Minor Site Plan Permit is required for:~~
- a. ~~Development adjacent to residentially zoned property, per Section 17.24.170(B).~~
 - b. ~~Additions or alterations to nonresidential and mixed-use buildings, per Table 17.16.050.~~

Table 17.16.050 Additions or Alterations Requiring Site Plan Permits or Minor Site Plan Permits

Project Type (FAR Compliance)	Site Plan Permit Required	Minor Site Plan Permit Required	Exempt From Site Plan Permit
Project/Site Complies with FAR Standards for Zone	Additions of greater than 2,000 sq. ft.	Additions between 750 and 2,000 sq. ft.	1. Additions of less than 750 sq. ft.
			2. Internal remodels, tenant improvements, general maintenance, and repair.
			3. External remodels, facade treatment, minor external alterations.

~~D. Submittal Requirements. Please refer to the submittal requirements in Section 17.12.040, Filing an Application, and Section 17.12.060, Applications Requiring Additional Information.~~

~~E. Application Filing, Processing, and Review.~~

~~1. Application Filing. The review process is initiated when the Planning Division receives an application package. The application package shall include the required information and materials specified in the application and any additional information required by the City Planner or review authority to conduct a thorough review of the proposed project.~~

~~a.~~

~~2. Application Review. Each application shall be reviewed to ensure that proposals are consistent with the purpose of this chapter; applicable development standards, policies, regulations, and guidelines.~~

~~a. Development Management Team Review. The Development Management Team reviews an application to determine if it is complete and complies with applicable development standards, policies, regulations, and guidelines. Within 30 calendar days of application filing, the applicant is notified if their application is complete or if information is needed to complete the application and resume the review process. The Development Management Team also makes comments and recommendations to provide helpful information to applicants and notify them when a proposal does not comply with development standards, policies, regulations, and guidelines.~~

~~1. b. Environmental Review. After an application is complete, the project shall be reviewed in compliance with the California Environmental Quality Act to determine if environmental studies are required. If studies are required, then they shall be completed at the applicant's expense, which may involve the selection of a consultant. Design Review Subcommittee Review. The Design Review Subcommittee shall review Site Plan Permit applications. For Minor Site Plan Permits, the Design Review Subcommittee shall review applications if the City Planner determines a proposal does not meet required findings. If the City Planner determines Design Review Subcommittee review is unnecessary, the determination should be noted in the staff report to the review authority. The Design Review Subcommittee is an advisory body that reviews design issues and provides a recommendation to the review authority per procedures in Section 17.12.025. c. 3. Public Hearing and Appeal Provisions.~~

~~a. Public Hearing is Required. A public hearing and notification shall be conducted in compliance with Section 17.12.100. b. The review authority shall review the proposed project and approve, approve with conditions, or deny the application at a public hearing based on an ability to meet required findings. c. The review authority's decision may be appealed per Section 17.12.140.~~

~~F. Required Findings.~~

~~1. General Findings. Prior to the approval of an application for a Site Plan Permit or Minor Site Plan Permit, the following findings shall be made:~~

~~a. The proposed development is permitted within the subject zone pursuant to the approval of a Site Plan Permit and complies with all the applicable provisions of this title (or the specific plan as appropriate), the goals, and objectives of the San Clemente General Plan, and the purpose and intent of the zone in which the development is being proposed.~~

~~b. The site is suitable for the type and intensity of development that is proposed.~~

- ~~c. The proposed development will not be detrimental to the public health, safety or welfare, or materially injurious to properties and improvements in the vicinity.~~
- ~~d. The proposed development will not be unsightly or create disharmony with its locale and surroundings.~~
- ~~e. The proposed development will minimize or eliminate adverse physical or visual effects which might otherwise result from unplanned or inappropriate development, design or location.~~
- ~~2. Specific Findings. In addition to the general findings required in Subdivision 1 of this subsection, General Findings, specific findings shall be made prior to the approval of an application for a Site Plan Permit for the following requests, as follows:~~
- ~~a. New construction and additions on sites which increase the FAR based on public benefit, as provided for in Section 17.24.100, Increase in Floor Area Ratios, of this title, specific findings in accordance with Section 17.24.120(B), Required Findings, shall be made.~~
- ~~G. Appeals. An appeal of the decision on a Site Plan Permit shall be reviewed in accordance with Section 17.12.140, Appeals of an Action.~~
- ~~H. Modifications Requested by the Applicant. Modifications to approved Site Plan Permits or Minor Site Plan Permits shall be reviewed in accordance with Section 17.12.180, Modifications of Approved Application.~~
- ~~I. Modifications and/or Revocations Initiated by the City. The City may make changes or revoke the approval of applications when conditions of approval are violated, it is necessary to resolve a nuisance, and/or when the application contained incorrect, false, or misleading information. Refer to Section 17.12.175 for related procedures and required findings.~~
- ~~J. Other Review Requirements. Refer to Chapter 17.12, Development Review Process, for general application processing requirements, such as modifications to applications, time limits on approvals, time extensions, and the review of multiple applications concurrently.~~
- ~~K. Approval Runs with the Land. The approval of a Site Plan Permit or Minor Site Plan Permit shall run with the land, and shall continue to be valid upon a change of ownership of the site to which it applies.~~

SECTION 11. Section 17.16.060 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

17.16.060 Conditional Use Permits.

- A. **Purpose and Intent.** It is the purpose and intent of the Conditional Use Permit process to provide for the review of uses that may, because of their nature, have an impact on the surrounding environment and for the determination of whether or not the proposed use is appropriate for its proposed location. The Conditional Use Permit process is intended to encourage uses to be located in a manner that is: 1) consistent with the City's zones; 2) sensitive to community and

neighborhood identity; and 3) minimizes impacts to adjacent uses. Review of a use may require the consideration of site plan issues related to the use, as well. For a discussion of the purpose of site plan review, please refer to Section 17.16.050(A), Purpose and Intent, in this chapter.

- B. Review Authority.** The review authority for Conditional Use Permits is as follows:
1. **Planning Commission.** The Planning Commission is the review authority for Conditional Use Permits, except for requests to exceed height limitations on sites with sloping topography in the Mixed Use 3.0 Zone (Table 17.40.43) and Mixed Use 3.3 Zone (Table 17.40.46). For these requests, the Planning Commission is an advisory body that reviews applications and forwards a recommendation to the City Council.
 2. **City Council.** The City Council is the review authority for requests to exceed height limitations on sites with sloping topography in the Mixed Use 3.0 Zone (Table 17.40.43) and Mixed Use 3.3 Zone (Table 17.40.46).
 3. **Concurrent Review.** If a Conditional Use Permit is processed concurrently with other applications, refer to Section 17.12.090 for the final review authority.
 4. **Appeal of an Action.** If a Conditional Use Permit is appealed, the City Council is the final review authority per Section 17.12.140, Appeals of an Action.
- C. Applicability.** Conditional Use Permits are required as indicated by the use tables in Chapters 17.32, Residential Zones and Standards, through 17.48, Public Zones and Standards, in this Title. Conditional Use Permits are also required for the following requests:

Use/Modifications	As Provided for in:
Antennas, new, on City property	Section 17.28.070(C), Review Requirements
Chimneys which exceed the height limit of the zone in which they are located by more than two feet	Table 17.24.080(B), Maximum Encroachments into Setbacks and Height Limits
Density bonus requests	Section 17.24.070(E), Review Procedures
Development standards, determination of, for development in the following zones: RVL Zone, Open Space Zones, Public Zone	Table 17.32.040, Residential Zone Development Standards; Table 17.44.030, Open-Space Zone Development Standards; Table 17.48.030, Public Zone Development Standards
Exceptions to the Development Standards of Mixed Use Zone Lots of 12,000 Square Feet or Smaller	Section 17.40.050(C), Required Findings for Exceptions
Exceptions to the Development Standards for Mixed Use 3.2 Zone on Lots of 8,000 Square feet or Smaller	Section 17.40.050(E), Required Findings for Exceptions

Fences, hedges, and walls exceeding six feet in height for specific purposes in residential zones	Section 17.24.090((C)(2)(b), Review Procedures
Flag poles and church steeples in residential zones that exceed the height limits of the zone where they are located	Table 17.24.080(B), Maximum Encroachments into Setbacks and Height Limits
Flag poles, antennas (other than satellite antennas or antennas on City property), church steeples, cupolas, and monuments, and similar structures in nonresidential and mixed-use zones that exceed the height limits of the zone where they are located	Table 17.24.080(B), Maximum Encroachments into Setbacks and Height Limits
Storage tanks and similar structures in nonresidential zones that exceed the height limits of the zone where they are located	Table 17.24.080(B), Maximum Encroachments into Setbacks and Height Limits
Grading requests not accompanying development requests	Section 17.28.130(B), Review Requirements
Historic Structures, exceptions to the minimum commercial floor area for mixed-use projects in Mixed Use zones	Section 17.40.050(D), Exceptions to the Minimum Floor Area Requirements for the Commercial Portion of Mixed-use Projects for Buildings on the City's Designated Historic Structure List
Home occupations conducted outside enclosed structures	Section 17.28.160(B), Review Requirements
Neighborhood Commercial 2 (NC 2) Height Increase	Table 17.36.030E, Row "Height Limitations", Subsection 2
Neighborhood Commercial 3 (NC 2) Height Increase	Table 17.36.030F, Row "Height Limitations", Subsection 2
Height limitation exception for sloping topography in Mixed Use 3.0 (MU 3.0) Zone	Table 17.40.040D, Row "Height Limitations"
Mixed Use 3.2 (MU 3.2) Top of Roof Height Ceiling Increase	Table 17.40.040F, Row "Height Limitations", Subsection 1
Height limitation exception for sloping topography in Mixed Use 3.3 (MU 3.3) Zone	Table 17.40.040G, Row "Height Limitations"
Nonconforming uses: change from prohibited use to a different prohibited use	Section 17.72.060(C)(3), Changes of Use.
Nonresidential uses allowed in the zone located on the same level-floor <u>of a vertically mixed-use building</u> in the MU 1, MU 2, MU 3.0, and MU 3.2 zones <u>Mixed Use zones</u>	Section 17.40.030(A)(2)(a), Special Use Regulations

	for the MU 1, MU 2, MU 3.0, and MU 3.2 zones
Outdoor dining areas	Section 17.28.205(C), Review Requirements
Parking modifications for: Bed and Breakfast Inns; Uses in and out of the Downtown Parking Study Area; Historic nonresidential and mixed-use structures; Historic structures in the RM and RH Zones; Relocation of historic structures; Hotels; Off-site parking for nonresidential uses; Public utilities, Shared parking	Section 17.28.090(D), Minimum Standards for Bed and Breakfast Inns in All Zones; Section 17.64.125, Waivers of parking requirements; Section 17.64.110, Off-Site Parking; Section 17.28.240(C)(2)(d), Minor Utilities; Section 17.64.120, Shared Parking
Patio covers, detached, exceeding 15 feet in height and located within certain setback areas	Table 17.24.080(B), Maximum Encroachments into Setbacks and Height Limits
Public utilities, major, initiated by outside agencies	Section 17.28.240(B)(2)(a), Projects Initiated by Outside Agencies/Applicants
Residential uses on the street level, buildings on the City's Designated Historic Structure List	Section 17.40.030(A)(2)(a), Location of Residential Uses
Urban Private Storage in Mixed-Use Zones	Section 17.28.305, Urban Private Storage
Height exceptions for residential development on Lots 46 through 64 of Tract 4938 in the RL-11 special residential overlay zone	Appendix A, Subsection (K.4.B) in this Title

D. **Submittal Requirements.** Please refer to the submittal requirements in Section 17.12.040, Filing an Application, and Section 17.12.060, Applications Requiring Additional Information.

E. **Application Filing, Processing, and Review.**

1. Application Filing. The review process is initiated when the Planning Division receives an application package. The application package shall include the required information and materials specified in the application and any additional information required by the City Planner or review authority to conduct a thorough review of the proposed project.
2. Application Review. Each application shall be reviewed to ensure that proposals are consistent with the purpose of this chapter; applicable development standards, policies, regulations, and guidelines.

- a. **Development Management Team Review.** The Development Management Team reviews an application to determine if it is complete and complies with applicable development standards, policies, regulations, and guidelines. Within 30 calendar days of application filing, the applicant is notified if their application is complete or if information is needed to complete the application and resume the review process. The Development Management Team also makes comments and recommendations to provide helpful information to applicants and notify them when a proposal does not comply with development standards, policies, regulations, and guidelines.
 - b. **Environmental Review.** After an application is complete, the project shall be reviewed in compliance with the California Environmental Quality Act to determine if environmental studies are required. If studies are required then they shall be completed at the applicant's expense, which may involve the selection of a consultant.
 - c. **Design Review Subcommittee.** The Design Review Subcommittee shall review proposals for new wireless antenna projects and development standard exceptions. The Design Review Subcommittee is an advisory body that reviews design issues and provides a recommendation to the review authority per procedures in Section 17.12.025.
3. **Public Hearing and Appeal Provisions.**
 - a. Public hearing is required. A public hearing and notification shall be conducted in compliance with Section 17.12.100.
 - b. The review authority shall review the proposed project and approve, approve with conditions, or deny the application at a public hearing based on an ability to meet required findings.
 - c. The review authority's decision may be appealed per Section 17.12.140.
- F. Required Findings.**
1. **General Findings.** Prior to approval of an application for a Conditional Use Permit (other than for a multifamily dwelling with five or more units, which is addressed in subsection F.2 below), all of the following findings shall be made:
 - a. The proposed use is permitted within the subject zone pursuant to the approval of a Conditional Use Permit and complies with all the applicable provisions of this title, the San Clemente General Plan and the purpose and intent of the zone in which the use is being proposed.
 - b. The site is suitable for the type and intensity of use that is proposed.
 - c. The proposed use will not be detrimental to the public health, safety or welfare, or materially injurious to properties and improvements in the vicinity.
 - d. The proposed use will not negatively impact surrounding land uses.
 2. Prior to approval of a Conditional Use Permit, a multifamily dwelling with five or more units, only the following findings must be made: those in subsection F.1.a and b. and a finding that the

proposed use will not be detrimental to the public health and safety to properties and improvements in the vicinity.

3. Specific Findings. In addition to the general findings required in subsection F.1, above specific findings shall be made prior to the approval of an application for a Conditional Use Permit for the following requests, as follows:

Use/Modifications	As Provided for in:
New antennas on City property	Section 17.28.070(F), Required Findings for Conditional Use Permits
Density bonus requests	Section 17.24.070(F), Required Findings
Exceptions to the Development Standards of Mixed Use Zone Lots of 12,000 Square Feet or Smaller	Section 17.40.050(C), Required Findings for Exceptions
Exceptions to the Development Standards for Mixed Use 3.2 Zone on Lots of 8,000 Square feet or Smaller	Section 17.40.050(E), Required Findings for Exceptions
Fences, hedges, and walls exceeding six feet in height for specific purposes in residential zones	Section 17.24.090(D)(2), Required Findings
Grading requests not accompanying development requests	Section 17.28.130(C), Required Findings
Height limitation exception for sloping topography in Mixed Use (MU) 3.0 and 3.3 Zones	Section 17.40.050(F), Building Height and Stories in the Downtown Core
Historic Structures, exceptions to the minimum commercial floor area for mixed-use projects in Mixed Use Zones	Section 17.40.050(D)(2), Required Findings
Home occupations conducted outside enclosed structures	Section 17.28.160(B), Review Requirements
Neighborhood Commercial 2 (NC 2) Height Increase	Table 17.36.030E, Row "Height Limitations", Subsection 2
Neighborhood Commercial 3 (NC 2) Height Increase	Table 17.36.03F, Row "Height Limitations", Subsection 2
Mixed Use 3.2 (MU 3.2) Top of Roof Height Ceiling Increase	Table 17.40.040F, Row "Height Limitations", Subsection 1
Nonconforming structures: replace structures in non-residential zones that are damaged by an accident with repair costs that are 50 percent or greater than a structure's replacement cost	Section 17.72.070(B)(3)(b), Structures damaged by 50 percent or greater of replacement cost
Nonconforming uses: change from prohibited use to a different prohibited use	Section 17.72.060(C)(3), Changes of Use.

Outdoor dining areas	Section 17.28.205(E), Required Findings
Parking waivers for the Downtown Parking Study Area, and certain projects and land uses outside the Downtown Parking Study Area, such as: historic nonresidential and mixed-use structures; historic structures in the RM and RH Zone; and hotel uses. Parking modifications for off-site parking for nonresidential uses, and shared parking	Section 17.64.125(A), Waivers of Parking Requirements in the Downtown Parking Study Area; Section 17.64.125(B), Waivers of Parking Requirements Outside the Downtown Parking Study Area; Section 17.64.110, Off-Site Parking; Section 17.64.120(C), Shared Parking
Public utilities	Section 17.28.240(C)(2)(d), Minor Utilities
Residential uses on the street level, buildings on the City's Designated Historic Structure List	Section 17.40.030(A)(2)(a), Location of Residential Uses
Height exceptions for residential development on Lots 46 through 64 of Tract 4938	Appendix A, Subsection (K.4.B.2) of this Title

- G. **Appeals.** An appeal of the action on a Conditional Use Permit shall be reviewed in accordance with Section 17.12.140, Appeals of an Action.
- H. **Modifications Requested by the Applicant.** Modifications to approved Conditional Use Permits shall be reviewed in accordance with Section 17.12.180, Modifications of an Approved Application.
- I. **Modifications and/or Revocations Initiated by the City.** The City may make changes or revoke the approval of applications when conditions of approval are violated, it is necessary to resolve a nuisance, and/or when the application contained incorrect, false, or misleading information. Refer to Section 17.12.175 for related procedures and required findings. For antennas on City property, a Conditional Use Permit may also be revoked or modified if other findings can be met pursuant to Section 17.28.070(G).
- J. **Other Review Requirements.** Refer to Chapter 17.12, Development Review Process, for general review process requirements and procedures, such as time limits on approvals, time extensions, and the review of multiple applications concurrently.
- K. **Mandatory Condition of Approval for Alcohol Sales Establishments.** For all Conditional Use Permits which are approved for sale of alcohol for on- or off-site consumption pursuant to Section 17.28.040, or per the use tables in Chapters 17.32 through 17.48 of this title, the Planning Commission shall place the following mandatory condition of approval: "The applicant shall be responsible for ensuring that all employees receive 'Responsible Alcoholic Beverage Service' training as offered through programs established by the Orange County Health Care Agency and Alcoholic Beverage Control of the State of California. Evidence of such training and the training

records of all employees shall be maintained on-site during business hours, and made available for inspection upon request." This mandatory condition of approval may be modified to allow corporate training programs or other alcohol sales responsibility programs if such modification is found by the Planning Commission to provide training on the sale and dispensing of alcohol by employees which is the equivalent of Responsible Alcoholic Beverage Service training.

- L. **Approval Runs with the Land.** The approval of a Conditional Use Permit shall run with the land, and shall continue to be valid upon a change of ownership of the site to which it applies.

SECTION 12. Section 17.16.070 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

17.16.070 Minor Conditional Use Permits.

- A. **Purpose and Intent.** It is the purpose of the Minor Conditional Use Permit process to provide for the streamlined review of uses that may have an impact on the surrounding environment and require discretionary review, but due to their nature, scale or location, do not require discretionary consideration by the Planning Commission. The Minor Conditional Use Permit process has as its purpose the same goals for uses described for the Conditional Use Permit process included in Section 17.16.060(A), Conditional Use Permits, Purpose and Intent, of this chapter.
- B. **Authority.** The Zoning Administrator is the final authority on Minor Conditional Use Permits, subject to the concurrent review and appeal provisions of Sections 17.12.090, Consideration of Concurrent Applications, and 17.12.140, Appeals of an Action. The Zoning Administrator has the discretion to refer applications to the Planning Commission for review and final action.
- C. **Applicability.** Minor Conditional Use Permits are required as indicated by the use tables in Chapters 17.32, Residential Zones and Standards through 17.48, Public Zones and Standards. Minor Conditional Use Permits are also required for the following requests:
1. Outdoor dining areas per Section 17.16.205(C), Review Requirements;
 2. Outdoor display, permanent, accessory, as provided for in Section 17.28.210(B), Review Requirements;
 3. Waivers of fees/development standards for Historic Resources and Landmarks per Section 17.16.180;
 4. Relocations of structures, as provided for in Section 17.24.160, Relocation of Structures;
 5. Parking modifications for the Downtown Parking Study Area, as provided for in Section 17.64.125(A), Waivers of Parking Requirements in the Downtown Parking Study Area;
 6. Parking modifications for outdoor dining for a restaurant, as provided for in Section 17.28.205(D)(5), Parking, and Section 17.64.125(B), Waivers of Parking Requirements Outside the Downtown Parking Study Area.
 7. Elevator towers that exceed the height limits of the zone in which they are located by more than six feet.
 8. [Off-site parking according to Section 17.64.110.](#)
 9. [Shared parking according to Section 17.64.120.](#)
- D. **Submittal Requirements.** Please refer to the submittal requirements in Section 17.12.040, Filing an Application, and Section 17.12.060, Applications Requiring Additional Information.
- E. **Application Filing, Processing, and Review.**

1. Application Filing. The review process is initiated when the Planning Division receives an application package, The application package shall include the required information and materials specified in the application and any additional information required by the City Planner or review authority to conduct a thorough review of the proposed project.
2. Application Review. Each application shall be reviewed to ensure that proposals are consistent with the purpose of this chapter; applicable development standards, policies, regulations, and guidelines.
 - a. Development Management Team Review. The Development Management Team reviews an application to determine if it is complete and complies with applicable development standards, policies, regulations, and guidelines. Within 30 calendar days of application filing, the applicant is notified if their application is complete or if information is needed to complete the application and resume the review process. The Development Management Team also makes comments and recommendations to provide helpful information to applicants and notify them when a proposal does not comply with development standards, policies, regulations, and guidelines.
 - b. Environmental Review. After an application is complete, the project shall be reviewed in compliance with the California Environmental Quality Act to determine if environmental studies are required. If studies are required, then they shall be completed at the applicant's expense, which may require consultant services.
3. Public Hearing and Appeal Provisions.
 - a. Public hearing is required. A public hearing and notification shall be conducted in compliance with Section 17.12.100.
 - b. The review authority shall review the proposed project and approve, approve with conditions, or deny the application at a public hearing based on an ability to meet required findings.
 - c. The review authority's decision may be appealed per Section 17.12.140.

F. Required Findings.

1. General Findings. Prior to approval of an application for a Minor Conditional Use Permit, the same findings shall be made as required for approval of a Conditional Use Permit.
2. Specific Findings. In addition to the general findings required in Subsection (F)1., above, specific findings shall be made prior to the approval of an application for a minor Conditional Use Permit for the following requests, as follows:
 - a. Outdoor dining areas per Section 17.28.205(E), Required Findings;
 - b. Parking modifications for the Downtown Parking Study Area, specific findings in accordance with Section 17.64.125(A) (Waivers of Parking Requirements), The Downtown Parking Study Area, of this title;

- c. Parking modifications for outdoor dining for a restaurant, as provided for in Section 17.64.125(B)(7), Waivers of Parking Outside the Downtown Parking Study Area.
 - d. [Shared Parking findings according to Section 17.64.120.](#)
- G. **Appeals.** An appeal of the action on a Minor Conditional Use Permit shall be reviewed in accordance with Section 17.12.140, Appeals of an Action.
 - H. **Modifications Requested by the Applicant.** Modifications to approved Minor Conditional Use Permits shall be reviewed in accordance with Section 17.12.180, Modifications of an Approved Application.
 - I. **Modifications and/or Revocations Initiated by the City.** The City may make changes or revoke the approval of applications when conditions of approval are violated, it is necessary to resolve a nuisance, and/or when the application contained incorrect, false, or misleading information. Refer to Section 17.12.175 for related procedures and required findings.
 - J. **Other Review Requirements.** Refer to Chapter 17.12, Development Review Process, for general application processing requirements, such as time limits on approvals, time extensions, and the review of multiple applications concurrently.
 - K. **Mandatory Condition of Approval for Alcohol Sales Establishments.** For all Minor Conditional Use Permits which are approved for sale of alcohol for on- or off-site consumption pursuant to Section 17.28.040, or per the use tables in Chapters 17.32 through 17.48 of this title, the Zoning Administrator shall place the following mandatory condition of approval: "The applicant shall be responsible for ensuring that all employees receive 'Responsible Alcoholic Beverage Service' training as offered through programs established by the Orange County Health Care Agency and Alcoholic Beverage Control of the State of California. Evidence of such training and the training records of all employees shall be maintained on-site during business hours, and made available for inspection upon request." This mandatory condition of approval may be modified to allow corporate training programs or other alcohol sales responsibility programs if such modification is found by the Zoning Administrator to provide training on the sale and dispensing of alcohol by employees which is the equivalent of Responsible Alcoholic Beverage Service training.
 - L. **Approval Runs with the Land.** The approval of Minor Conditional Use Permits shall run with the land, and shall continue to be valid upon a change of ownership of the site to which it applies.

SECTION 13. Subsection (C) of Section 17.16.090 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

- C. **Applicability.** Minor Exception Permits are required for deviations in the following standards:
 1. Arbors, as provided for in Section 17.32.050(A), Arbors;
 2. Encroachment from the median front yard setback, as provided for in ~~Table 17.24.080B~~[Section 17.24.080](#), ~~Maximum~~ Encroachments into Setbacks and Height Limits;
 3. Encroachments of architectural projections and cornices, eaves, and roof overhangs into any required front yard setback areas, as provided for in [Section 17.24.080](#), ~~Table 17.24.080(B)~~, ~~Maximum~~ Encroachments into Setbacks and Height Limits;
 4. Encroachments of balconies, porches, decks, landing places, and stairways, into any required front, rear, or side yard setback area, as provided for in [Section 17.24.080](#), ~~Table 17.24.080(B)~~, ~~Maximum~~ Encroachments into Setbacks and Height Limits;

5. Encroachments of bay windows into any required front yard setback areas, as provided for in [Section 17.24.080, Table 17.24.080\(B\), Maximum Encroachments into Setbacks and Height Limits](#);
6. Fences, walls or hedges as provided for in Section 17.24.090(C)(2), Exceptions;
7. Garage encroachments, as provided for in Section 17.32.050(E), Garage Encroachments into the Front Setback;
8. Landscaping requirements for Residential Zones, as provided for in Section 17.68.050(A)(1)(a), Landscaping Requirements for Specific Zones, Residential Zones;
9. Parking modifications for historic structures in RM and RH Zones, as provided for in Section 17.64.125(B), Historic Structures in RM and RH Zones;
10. Nonconforming structure requirements, exception for single-family dwellings with less than 1,400 square feet of gross floor area [per Section 17.72.050(E)(4)(b) and Section 17.72.050(1)(3)(b)(i)];
11. Parking modifications for nonresidential and mixed-use historic structures, as provided for in Section 17.64.125(B), Historic Nonresidential and Mixed-Use Structures;
12. Parking modifications for minor additions to nonresidential and the commercial portion of mixed-use structures, as provided for in Section 17.64.125(B), Minor Additions to Nonresidential and the Commercial Portion of Mixed-Use Structures;
13. Parking modifications for changes of uses on sites that cannot meet the parking requirements, as provided for in Section 17.64.125(B), Changes of Use;
14. Parking modifications for restaurants, due to joint use of parking and off-peak parking demand periods, as provided for in Section 17.64.125(B), Indoor Seating for Restaurants;
15. Swimming pools, spas, hot tubs, and other bodies of water within the front and street side yard setbacks, as provided for in [Section 17.24.080, Table 17.24\(B\), Maximum Encroachments into Setbacks and Height Limits](#);
16. Retaining walls, as provided for in Section 17.24.180(D)2(b) and 17.24.180(D)(4), Exceptions;
17. Satellite antennas, as provided for in Section 17.28.080(B)(2), Minor Exception Permits;
18. Setbacks for ~~primary and accessory structures, as well as the setback line from which encroachments into a setback are measured, in accordance with Table 17.24(B), Maximum Encroachments into Setbacks and Height Limits~~ [buildings provided encroachments comply with length limitations in Section 17.24.080\(B\)](#), as follows:
 - a. A decrease of not more than 20 percent of the required width of a side yard or the yard between buildings,
 - b. Continuation of legal nonconforming side yard setbacks up to within 30 inches of the side property line for any stories, existing or new,
 - c. A decrease of not more than 15 percent of the required front or rear yard with the combined total not to exceed 20 percent,
 - d. For lots subject to a 16-foot height limit in accordance with Appendix A of this Title, subsections (L) and (K), a decrease of not more than 25 percent of the required rear yard.
19. Tandem parking, maximum curb break, as provided for in Section 17.64.090(A), Curb Break.

SECTION 14. A new Section 17.16.095 is hereby added to the San Clemente Municipal Code and shall read in its entirety as follows:

17.16.095 – Administrative Development Permit

A. Purpose.

This section provides administrative approval of minor projects without significant impacts. Administrative Development Permits are intended to ensure that these minor projects comply with City standards and guidelines, yet provide a streamlined review procedure to facilitate and incentivize minor projects encouraged by City goals and policies.

B. Applicability. Administrative Development Permits are required to allow eligible projects on the following properties:

1. Nonresidential sites (within nonresidential zones or by legally-established use of property);
2. Properties within the Architectural Overlay district;
3. Properties abutting the City’s historic resources and landmarks list (“historic structures list”);
4. Properties on the City’s historic resources and landmarks list; and
5. Properties with three or more dwelling units located within 300 feet of residentially zoned buildings on the City’s historic resources and landmarks list, if projects are visible from public right-of-way adjoining historic structures and landmarks or are visible from public view corridors designated in the General Plan.

C. Exemptions. The following activities are exempt from an Administrative Development Permit:

1. Improvements necessary to comply with State or Federal law (e.g. new or modified ramp to meet Americans with Disabilities Act [ADA] Requirements), in which feasible landscaping and architectural changes shall be made proportional to the scope of the proposed project, at the discretion of the City Planner, to maintain compliance with zoning standards and City Design Guidelines.
2. Interior projects not visible on the exterior of structures and from adjoining public right-of-way.
3. Landscaping of area under 500 square feet according to standards in Subsection F.11.
4. Removal and replacement of trees according to standards in Subsection F.11 and at the discretion of the City Planner, provided that a landscape professional demonstrates to the City Planner that the tree(s) meet at least one of the following criteria:
 - I. Dead/dying;
 - II. Diseased and unlikely to be rehabilitated;
 - III. Dangerous; or
 - IV. Destructive.

D. Projects Eligible for Administrative Approval.

The following types of projects are eligible for ministerial approval of an Administrative Development Permit, if proposed projects comply with this Title, and both the general standards and project specific standards in this Section. If standards are unmet, projects shall require a Site Development Permit (Section 17.16.100) or Cultural Heritage Permit (Section 17.16.110).

- [1. Additions to Private Recreational Facilities](#)
- [2. Accessory Structures: Other Minor](#)
- [3. Awnings](#)
- [4. Chimneys and Metal Flues](#)
- [5. Color and Finishes: Exterior](#)
- [6. Decks or Patios](#)
- [7. Doors](#)
- [8. Driveways/Paving/Minor Site Work](#)
- [9. Fences](#)
- [10. Historic Resources, Minor](#)
- [11. Landscape Alterations](#)
- [12. Lighting: Exterior](#)
- [13. Mechanical Equipment: General](#)
- [14. Mechanical Equipment: Rooftop](#)
- [15. Porches](#)
- [16. Roofs \(and "Reroofs"\)](#)
- [17. Sheds or Spas](#)
- [18. Sidewalk Seating and Enclosures for Commercial Outdoor Dining Areas](#)
- [19. Skylights](#)
- [20. Trellises, Pergolas, or Arbors](#)
- [21. Walls](#)
- [22. Windows](#)

E. General Review Standards.

For approval of a permit, eligible projects must comply with the following general standards and applicable project specific standards in Subsection F.

- [1. Design. The architectural design of the addition, alteration, or site change is compatible with the style of buildings that will remain on site. One overall architectural style is required.](#)
- [2. Materials. The exterior finish materials of the proposed project match the existing exterior finishes of the structures on the lot, or may be altered if compatible with the architectural style of structures.](#)
- [3. Style. Style is expressed through architectural elements such as windows, doors, lighting, railings, trim, eaves, roof pitch, element proportions and materials. The style of the proposed work should be stated on the project plans and matches the existing style or style required for a design district if applicable, such as the Architectural Overlay. Wherever this document references a requirement for style compatibility, the following method is used to determine style compatibility. Staff may reference style books to confirm the proposed style classification. Staff will check for consistency of style of a structure's proposed elements with the elements for the chosen style as described in reference materials. Staff will also check that any patterns or materials created by the existing elements are repeated in the proposed work.](#)
- [4. Additions. Additions shall match the architectural style of the building with similar materials, details and colors.](#)
- [5. Alterations. Alterations shall match the architectural style of the building or result in one](#)

- architectural style consistent with Subsection E.3. Alterations are welcome that modify the structure's appearance to be a more traditional form of the style on the site or the style required. Alterations to implement an architectural style that is not typical for the neighborhood or required by this Title are in eligible for an Administrative Development Permit.
6. Colors. Additions must match the existing colors of the building, siding or trim; or may be altered if compatible with the architectural style that meets guidelines in Subsection E.3. For Spanish architecture, existing colors may be substituted with colors selected from the City Planner-approved color palette.
 7. Scale. The scale of all additions is compatible with the scale of the existing structure, style of the building, and surrounding area. The scale of a project is consistent with the prevailing development patterns of additions in the area. The review criteria utilized to determine correct scale shall be the degree of project visibility, plate heights, roof pitch and maximum building heights. Additions or alterations out of character with the surrounding area or inappropriately sited on the lot, as determined by the City Planner, are not eligible for an Administrative Development Permit.
 8. Historic Considerations. Minor alterations to City-, State-, or Federally-designated historic resources, or other potentially significant structures, shall maintain character-defining features or avoid any adverse change to the significance to a historic resource in order to be eligible for administrative approval. The City Planner has the discretion to consult with a licensed professional at the applicants cost to make a determination on the significance of structures and impacts of projects. If this guideline is not met, then the project shall be referred to the Zoning Administrator with required consultation of the Cultural Heritage Subcommittee.
 9. Objective Design Standards. Projects shall comply with any objective design standards adopted by the City Council.
 10. Not subject to CEQA. Projects are eligible only if they are categorically or statutorily exempt or otherwise not subject to the California Environmental Quality Act (CEQA).

F. Project Specific Standards.

In addition to complying with the general requirements specified in Subsection E above, projects seeking administrative approval must also comply with any applicable project specific requirements in this Subsection. The project specific standards identify which projects are eligible for administrative review, not limit projects permissible in this Zoning Code (Title 17).

1. Additions to Private Recreational Facilities. Additions to buildings are eligible for administrative approval that are up to 500 square feet, less than 50 percent of the existing building's floor area, and meet the following criteria:
 - a. The project is not located in the Architectural Overlay;
 - b. The site is not on the City's designated historic resources and landmarks list;
 - c. The addition is to a private recreational facility building;
 - d. The project is not visible from a scenic corridor designated in the General Plan.

2. Accessory Structures: Other Minor. Minor accessory structures, such as barbeques, fire pits, and low counter tops, not addressed otherwise in the project-specific standards (this Subsection) are eligible for administrative approval if the following apply:
 - a. For the City's designated historic resources and landmarks list, accessory structures are limited to those that are a maximum height of six feet and are detached from buildings; and
 - b. Structures are screened from adjoining public right-of-way and have materials that meet general standards in Subsection E.
3. Awnings. Awnings over window or door openings that are compatible with the style and colors of the structure are eligible. Awnings shall be canvas with wrought-iron supports on new buildings and major remodels in the Architectural Overlay and on historic structures with Spanish architecture.
4. Chimneys and Metal Flues. All of the following standards must be met:
 - a. For the City's designated historic resources and landmarks list, the project is limited to repairing or altering the chimney and flue to improve the resource's historical integrity with a design, style, and materials to restore the original condition or be architecturally compatible.
 - b. Chimneys are consistent with the style of the existing structure and use masonry, stone, stucco, or metal pipe.
 - c. Wood material is not used on chimneys.
 - d. Metal flues are of traditional design and are painted to match the roof color.
 - e. The shape of the chimney is fairly uniform, i.e. there is no awkward extensive projection of exposed pipe beyond the top of the chimney in response to Building and Safety requirements.
5. Color and Finishes: Exterior. The project is consistent with Subsection E, General Standards, Colors and Materials. For the Architectural Overlay and historic structures with Spanish architecture, stucco shall be 'steel, hand trowel' applied with a smooth Mission finish, slight undulations, bull-nosed corners and edges, including archways; and no control/expansion joints.
6. Decks or patios. New or altered decks or patios less than 200 square feet at the first floor level are eligible for administrative approval if the following standards are met:
 - a. For the City's designated historic resources and landmarks list, the decks or patios must be screened from public right-of-way and detached to be eligible.
 - b. New decks or patios are of a scale and style which is compatible with the structure to which the deck is attached.
 - c. When viewed from a public viewing location, the proposed deck or patio is not likely to be more noticeable than the structure it is attached to.
 - d. New decks or patios are not located to cause potential privacy or noise impacts to

adjacent properties.

e. Deck or patio materials are finished to be compatible with the color scheme of the primary structure.

7. Doors. Minor door alterations — for example, to enhance access by the physically challenged and for compliance with the Americans with Disabilities Act (ADA) — are covered by this provision. Installation of guard/hand rails shall be referred to the consent calendar. The modification of doors and sidelights within existing rough openings should be designed to comply with the following requirements for Administrative approvals:

a. For the City's designated historic resources and landmarks list, every effort shall be made to avoid alterations first with repairs and maintaining the original doors. If this cannot be done, projects shall replace doors to match the originals to the best extent possible based on historical photos or the existing condition.

b. The type of proposed doors and color of frames are compatible with the architectural style of the building and appear compatible with existing doors.

c. If the doors of an addition are the same size and material as existing nearby doors, the proposed doors match the existing nearby doors in appearance.

d. Door and sidelight sash material matches the window material.

e. Where adjacent windows are "divided light" type, the new doors and sidelights shall also mimic the appearance of divided lite windows. Where dual glaze glass is used, the mullions should break the exterior pane.

f. In door pairs, both doors should have the same width.

g. In doors with sidelights, sidelights should have the same width if feasible.

h. Doors and sidelights should be placed symmetrically within architectural elements.

i. Any changes in paving material associated with the door alteration match the existing material.

8. Driveways/Paving/Minor Site work. Extensions, modifications, and additions to driveways are eligible for administrative approval if all of the following requirements are met:

a. For the City's designated historic resources and landmarks list, changes to site work shall be limited to providing access to entrances and exits, patios, courtyards, and utility pathways; so landscape area is preserved. The exceptions are changes to provide safe access to required parking and pedestrian sidewalks that meet City standards;

b. There is no drainage impact on adjoining lots;

c. Any paving or driveway additions or modifications are of the same materials as the existing paving or driveway materials;

d. For residential development, the driveway width complies with Engineering technical standards;

e. Any new driveway paving materials are compatible with the existing structure and surrounding area; and

- f. New paved parking areas, such as expansions to commercial parking lots, are screened from adjoining public property through fencing, landscaping or other structures.
- 9. Fences. Chain link, chicken wire, metal, plastic, vinyl, wire-mesh and unfaced cement block fence materials are not eligible for administrative approval. Fences not specifically excluded in the preceding sentence may be reviewed and approved administratively if:
 - a. The fences meet zoning requirements;
 - b. For the City's designated historic resources and landmarks list, eligible fences are not in yards adjacent to street frontages;
 - c. The fence height shall preserve views of traffic to-and-from driveways and the public right-of-way; and
 - d. The fence design and materials shall be compatible with the street scene and the materials and finishes of the primary structure.
- 10. Historic Resources, Minor. In addition to the general standards above (Subsection E) and other project-specific standards in this Subsection, the following applies to repairs and upgrades to historic resources and landmarks on the City's designated historic resources and landmarks list; Repairs and refinishing of existing materials are eligible; such as stucco, roof tiles, pavers, wood trim, and stone, if the following apply:
 - a. Repairs and refinishing of existing materials shall be completed according to the Secretary of the Interior's Standards for the Treatment of Historic Properties; such as repairs to stucco, roof tiles, pavers, wood trim, and stone;
 - b. Original materials are to be repaired and refinished to every extent possible versus replacement. Photographs of the existing material conditions and of the work completed shall be provided for the property file;
 - c. Minor alterations are eligible that improve the historical integrity of historic resources and landmarks on the City's designated historic resources and landmarks list; such as installation of painted decorative tiles on stair risers or replacing non-original features with documented traditional period appropriate materials, such as replacing vinyl windows with wood windows that meet window standards in this Subsection;
 - d. For historic structures with Spanish architecture, work shall be completed according to the City's Henry Lenny Design Guidelines; and
 - e. If material replacement is demonstrated to be necessary, the materials shall be selected to mimic the original conditions unless alterations will improve the significance such as replacing vinyl with wood windows (see window guidelines for more on that work). Photographs of the existing material conditions and of the work completed shall be provided for the property file.
- 11. Landscape Alterations. Excluding exempt landscaping changes in Subsection C, the following standards apply to landscape alterations eligible for administrative approval:
 - a. For the City's designated historic resources and landmarks list, changes shall exclude landscaping noted on a historic survey form identified as a contributor to the significance of a historic resource;

- b. The project adds or alters 500 square feet or more of landscaping;
 - c. The alteration complies with zoning requirements;
 - d. The alteration is consistent with City Design Guidelines, including the recommended plant list;
 - e. Tree Removal. The removal or replacement of trees shall meet the following criteria:
 - i. Replacement trees shall be a minimum of a 24-inch box size;
 - ii. Trees are ineligible if taller than 25 feet high and replaced within yard area between a building and public right-of-way; and
 - iii. Trees are ineligible if located within a public view corridor designated in the General Plan, or if required to screen hillside ridgelines according to the Hillside Development Ordinance in Chapter 15.40 of this Municipal Code.
- 12. Lighting: Exterior. The following standards must be met for administrative approval:
 - a. Replacement or installation of additional fixtures is compatible in style, color and scale with the existing structure or building to which lighting is attached;
 - b. Lighting fixtures and placement meet the lighting requirements and Design Guidelines; and
 - c. For the City's designated historic resources and landmarks list, see Subsection F.10 for additional standards.
- 13. Mechanical Equipment: General. Equipment such as water heaters, water heater enclosures, electrical or gas metering equipment and pool and spa equipment must be located and screened as follows in order to be eligible for administrative approval:
 - a. If the new mechanical equipment is installed at ground level, it is placed as close to the building as practicable and screened from view through fencing, landscaping or other structures. Landscape screening, the preferred method of screening, is indicated on project plans to be maintained;
 - b. All cables connecting outdoor equipment are properly secured and/or buried in the ground;
 - c. Equipment shall be installed over existing hardscape surfaces first if possible; and
 - d. All pool and spa equipment is located as far away from adjoining properties as reasonably practicable in consideration of neighbors, and the equipment's property line decibel level is consistent with the Noise Ordinance.
- 14. Mechanical Equipment: Rooftop. Transmitting antennas, including wireless facilities, are not eligible for administrative approvals. Satellite antennas and other rooftop equipment reviewed by Staff must comply with the following standards:
 - a. Equipment shall be screened from on-site parking areas, adjacent public streets and adjacent residentially zoned property. The height of equipment screens shall be less than 10 feet tall and under the height limit of the zone;
 - b. If equipment must be visible from off-site locations, despite screening or in cases where

only vegetative screening is used, the equipment is painted the same color as the roof or adjacent background, as specified by the City Planner. However, for the City's designated historic resources and landmarks list, visible equipment on historic resources and landmarks is ineligible for administrative approval; and

c. Screening shall be integrated into the appearance of the overall building; and

15. Porches. Porches are covered outdoor spaces attached to the primary structure eligible for administrative approval that meet the standards below, excluding the City's designated historic resources and landmarks list.

a. Porches may be a maximum of 200 square feet;

b. Porches unscreened from the public right-of-way shall be on less than 50 percent of a building elevation's length;

c. The porch shall be integrated into the primary structure with a compatible design and materials; and

d. Porch railings have open pickets, glass, or other design and material with spacing to maintain visibility of the primary structure from the public right-of-way, unlike than a solid guardrail.

16. Roofs (and "Reroofs"). Roofs (including new roof material and "reroofs") must comply with the following standards:

a. The type and color of roofing material is compatible with the architectural style of the structure;

b. Roofs of additions or accessory buildings match the existing roof pitch of the structure;

c. For the Architectural Overlay and historic structures with Spanish architecture, roof tiles shall have materials and be installed according to the Henry Lenny Design Guidelines.

17. Sheds or Spas. The following standards must be met:

a. The shed or spa is entirely screened from public right-of-way and separated from buildings according to the Building Code;

b. The shed or spa area is 120 square feet or smaller;

c. Materials match site fencing or the main structure's materials and colors; and

d. Any mechanical equipment meets criteria Subsection F.13 and F.14 above.

18. Sidewalk Seating and Enclosures for Commercial Outdoor Dining Areas.

The placement, style, color and types of outdoor dining furniture and barriers shall be consistent with and complement the design and appearance of the building and site, consistent with General Standards in Subsection E. The outdoor dining furniture and barriers shall also be in conformity with Public Works standards.

19. Skylights. Skylights must meet the following standards for eligibility:

- a. For the City's designated historic resources and landmarks list, skylights shall not be installed over original building areas;
 - b. Skylights are compatible with the architectural style of the building and with the character of the surrounding area;
 - c. Skylights are screened from adjoining properties; and
 - d. Skylights shall have an orientation and design to avoid light trespass and glare on other properties in evenings, such as glazing, shades, or tint.
20. Trellises, Pergolas, and Arbors. Trellises, pergolas, and arbors are architectural elements with posts or columns on the sides and connected by beams and topped with open rafters. They can also include trellis overhead between the rafters. Trellises, pergolas, and arbors are eligible for administrative approval if:
- a. For the City's designated historic resources and landmarks list, the trellis, pergola, or arbor is screened from public right-of-way and separated from neighboring buildings and property lines according to the Building Code;
 - b. The structure covers less than 250 square feet of lot area and is less than 12 feet tall; and
 - c. The structure's height, size and materials are compatible with the surrounding area.
21. Walls. Accessory structure walls shall meet the following criteria:
- a. For historic resources and landmarks, eligible walls are not in yards adjacent to street frontages;
 - b. The wall meets zoning standards in Sections 17.24.090, 17.24.180, and 17.24.190; and
 - c. The wall materials shall match the color and finish of the primary structure.
22. Windows. Windows may be replaced or added if the following standards are met:
- a. For the City's designated historic resources and landmarks list, see Subsection F.10 for additional standards;
 - b. Windows of additions match the predominant windows of the existing structure;
 - c. The window types are of appropriate size and scale for the proposed location(s); and
 - d. For the Architectural Overlay and historic structures with Spanish architecture:
 - I. Window design shall mimic the appearance of true divided lite windows.
 - II. The window surround or flange is to be constructed as part of the frame, not a plant on detail.
 - III. Factory color finishes are acceptable.
 - IV. Windows materials shall be consistent with allowed types shown in Table 17.16.095 below.

<u>Material Type</u>	<u>Non-residential</u>	<u>Residential with Architectural Overlay</u>	<u>Residential without Architectural Overlay</u>	<u>Historic Structure (original)</u>	<u>Historic Structure (addition)</u>
<u>Wood</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>
<u>Metal - Steel or aluminum</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	<u>No</u>	<u>Yes</u>
<u>Fiberglass</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	<u>No</u>	<u>Yes</u>
<u>Vinyl Ground floor</u>	<u>No</u>	<u>No</u>	<u>Yes (non-visible)</u>	<u>No</u>	<u>No</u>
<u>Upper levels non-visible</u>	<u>No</u>	<u>Yes</u>	<u>Yes</u>	<u>No</u>	<u>No</u>

G. Application Process.

1. Application Submittal. Administrative Development Permit review is initiated upon submittal of an application in compliance with Section 17.12.040, Filing an application.
2. Application Review.
Projects are reviewed upon submittal of an application in compliance with Section 17.12.040, Filing an application. Then, a case planner is assigned to coordinate the review of the application upon receipt of an application, provided information and materials are reviewed to determine if applications meet criteria for approval of a permit.
3. Decisions. The City Planner shall approve or deny an application based on whether a project is consistent with the following:
 - a. General design standards in Subsection E.
 - b. Project-specific standards in Subsection F.
 - c. The City’s objective design standards.
4. Appeals. Decisions are subject to appeal processes according to Section 17.12.140.

H. Reporting of Decisions. A summary of decisions will be provided to the Planning Commission at the next regularly scheduled meeting of those hearing bodies in the agenda packet, including permits issued up until the time of packet preparation.

I. Quality Assurance. Projects shall be completed in accordance with City approvals and code compliance procedures in this Municipal Code. City staff have authority to require an inspection of approved projects to ensure work is completed according to approved materials.

J. General Review Requirements. Refer to Chapter 17.12, Development Review Process, for general application processing requirements, such as modifications to applications, time limits on approvals, time extensions, and the review of multiple applications concurrently.

K. Approval Runs with the Land. The approval of an Administrative Development Permit shall run with the land, and shall continue to be valid upon a change of ownership of the property to which it applies.

SECTION 15. The existing provisions of Section 17.16.100 are hereby struck and replaced in their entirety with the following:

17.16.100 - Development Permit

A. Purpose.

1. Development Permits are required to ensure development projects, not involving the City's designated historic resources and landmarks list, will:
 - a. Promote the orderly development of the City in compliance with the goals, objectives, and policies of the General Plan, any applicable Specific Plan, and the standards specified in this Zoning Code.
 - b. Preserve and strengthen the City's unique atmosphere as a Spanish village;
 - c. Comply with the purpose and intent of the Architectural Overlay district for projects within the overlay area identified on the Zoning Map;
 - d. Encourage site design and architecture sensitive to community and neighborhood character;
 - e. Enhance the visual environment and protects the economic value of existing structures.
 - f. Respect the physical and environmental characteristics of the site;
 - g. Ensure safe and convenient access and circulation for pedestrians and vehicles;
 - h. Exemplify the best professional design practices through consistency with the City's Design Standards and Guidelines;
 - i. Allow for and encourage individual identity for specific uses and structures;
 - j. Encourage a distinct community or neighborhood identity;
 - k. Minimize or eliminate negative or undesirable visual impacts, especially on historic resources and landmarks on the City's designated historic resources and landmarks list;
 - l. Prevent inappropriate design or development of structures; and
 - m. Maintain and increase the desirability of other properties within the vicinity for the uses for which they are zoned.

B. Definitions. For purposes of this Section, the term "Sensitive areas" shall mean:

- a. Properties located within the Architectural Overlay district;
- b. Properties with single-family residences or duplexes abutting the City's designated historic resources and landmarks list.
- c. Properties with three or more dwelling units located within 300 feet from residentially zoned buildings on the City's designated historic resources and landmarks list.

C. Applicability.

1. When Required. Development activities listed in Table 17.16.100 require Development Permits for the development of structures and improvement of property, when a project site is not on

the City’s list of designated historic structures and landmarks. In that circumstance, refer to Section 17.16.110.

2. Exemptions. The following activities are exempt from a Development Permit.

- a. Activities exempted from an Administrative Development Permit specified in Section 17.16.095;
- b. Improvements State or Federal law requires or preempts from local discretionary review procedures;
- c. Interior projects not visible on the exterior of structures and from adjoining public right-of-way;
- d. Maintenance of property and structures;
- e. Projects proposed on properties with three or more dwelling units located within 300 feet of residentially zoned historic buildings on the City’s designated historic resources and landmarks list, if all of the following criteria apply:
 - i. Projects are not located in the Architectural Overlay district;
 - ii. Projects are not visible from public right-of-way that adjoins properties on the City’s designated historic resources and landmarks list;
 - iii. Projects are not proposed on property abutting properties on the City’s designated historic resources and landmarks list; and
 - iv. Projects are not visible from public view corridors designated in the General Plan.
- f. Public park facilities other than the development or expansion of buildings as described in Chapter 17.28.

D. Review Authority.

Table 17.16.100 identifies the required review authority and review process in Section 17.12.060 for each project. Development Permits are acted upon by the highest review authority designated in Table 17.16.100 for proposed development, or if a Development Permit is reviewed concurrently with other applications according to Section 17.12.090, Consideration of Concurrent Applications.

Table 17.16.100 – Review Process for Development Permit

<u>Development Activities</u>	<u>Review Process (Section 17.12.060)</u>
<u>A. New development of nonresidential buildings.</u>	
<u>1. New nonresidential primary buildings, excluding public park facilities.</u>	<u>Process 3</u>
<u>2. Public park facilities, new buildings and additions with 1,500 square feet of floor area or greater in compliance with Chapter 17.28.</u>	<u>Process 3</u>
<u>3. Public park facilities, new buildings and additions less than 1,500 square feet of floor area in compliance with Chapter 17.28.</u>	<u>Process 2</u>

<p style="text-align: center;"><u>Development Activities</u></p>	<p style="text-align: center;"><u>Review Process (Section 17.12.060)</u></p>
<p><u>4. New nonresidential accessory buildings that are screened from adjoining public right-of-way, where the proposed building has floor area less than or equal to 2,000 square feet and less than 50 percent of the primary building’s floor area.</u></p> <p><u>5. New nonresidential accessory buildings that are unscreened from adjoining public right-of-way, or the building has floor area larger than 2,000 square feet or greater than 50 percent of the primary building’s floor area.</u></p>	<p><u>Process 2</u></p> <p><u>Process 3</u></p>
<p><u>B. Nonresidential building additions.</u></p> <p><u>1. Nonresidential building additions of floor area 2,000 square feet or less to nonresidential buildings, excluding public park facilities.</u></p> <p><u>2. Nonresidential building additions of floor area larger than 2,000 square feet to nonresidential buildings, excluding public park facilities.</u></p>	<p><u>Process 2</u></p> <p><u>Process 3</u></p>
<p><u>C. New development of residential buildings.</u></p> <p><u>1. Development of residential primary buildings that results in five or more dwelling units on a property.</u></p> <p><u>2. New residential primary buildings proposed in the Architectural Overlay District.</u></p> <p><u>3. New residential primary buildings on properties adjoining the City’s designated historic resources and landmarks list.</u></p> <p><u>4. Development of two-story single-family dwellings and duplexes across a street and abutting a property on the City’s designated historic resources and landmarks list.</u></p> <p><u>5. Development of three or more dwelling units on properties that are not abutting historic structures but located within 300 feet of residentially zoned buildings on the City’s designated resources and landmarks list, unless exempted by Subsection 17.16.100(C)(2).</u></p> <p><u>6. New residential accessory buildings in sensitive areas (defined in Subsection B) screened from adjoining public right-of-way, where the proposed building has floor area less than or equal to 500 square feet and less than 50 percent of the primary building’s floor area.</u></p> <p><u>7. New residential accessory buildings in sensitive areas (defined in Subsection B) that are unscreened from adjoining public right-of-way or the proposed building has floor area larger than 500 square feet or greater than 50 percent of the primary building’s floor area.</u></p> <p><u>8. Accessory Dwelling Units that vary from standards as specified in Section 17.28.270 in which discretionary review is allowed by State law.</u></p>	<p><u>Process 3</u></p> <p><u>Process 3</u></p> <p><u>Process 3</u></p> <p><u>Process 2</u></p> <p><u>Process 2</u></p> <p><u>Process 2</u></p> <p><u>Process 3</u></p> <p><u>Process 3</u></p>
<p><u>D. Residential building additions.</u></p>	

<u>Development Activities</u>	<u>Review Process (Section 17.12.060)</u>
<ol style="list-style-type: none"> 1. <u>Residential building additions to residential buildings in sensitive areas (defined in Subsection B) screened from adjoining public right-of-way where the addition of floor area is less than or equal to 500 square feet and less than 50 percent of the primary building’s floor area.</u> 	<u>Process 2</u>
<ol style="list-style-type: none"> 2. <u>Residential building additions to residential buildings in sensitive areas (defined in Subsection B) where the addition of floor area is unscreened from adjoining public right-of-way or the addition is larger than 500 square feet or greater than 50 percent of the primary building’s floor area.</u> 	<u>Process 3</u>
<ol style="list-style-type: none"> 3. <u>Residential building additions of floor area 50 percent or greater to nonconforming single-family residences with less than 1,400 square feet of floor area as of March 21, 1996, expanded up to 2,100 square feet.</u> 	<u>Process 2</u>
<p><u>E. New accessory structures.</u></p> <ol style="list-style-type: none"> 1. <u>New accessory structures that are ineligible for an Administrative Development Permit according to Section 17.16.095.</u> 	<u>Process 2</u>
<p><u>F. Exterior changes.</u></p> <ol style="list-style-type: none"> 1. <u>Exterior changes to structures and sites that are ineligible for an Administrative Development Permit according to Section 17.16.095.</u> 	<u>Process 2</u>
<p><u>G. Subdivisions and general provisions.</u></p> <ol style="list-style-type: none"> 1. <u>Development on new parcels created from a subdivision of property.</u> 2. <u>New Planned Residential Developments (PRD).</u> 3. <u>New golf courses.</u> 4. <u>Nonresidential projects abutting residentially zoned properties in compliance with Section 17.24.170.</u> 5. <u>Relocation of structures according to Section 17.24.160, Relocation of Structures.</u> 6. <u>Neighborhood Electrical Vehicle (NEV) parking credit in the North Beach Parking Overly according to Section 17.56.080.</u> 7. <u>Subdivisions excluding condominiums.</u> 8. <u>Residential detached accessory buildings over 15 feet in height that encroach into required setbacks.</u> 9. <u>Residential detached accessory structures over 15 feet in height.</u> 	<u>Process 3</u> <u>Process 3</u> <u>Process 3</u> <u>Process 2</u> <u>Process 2</u> <u>Process 2</u> <u>Process 5</u> <u>Process 3</u> <u>Process 3</u>

E. Application Filing, Processing, and Review.

1. Application Filing.

- a. An application for a Development Permit shall be filed and processed according to Chapter 17.12.

b. The application shall include the information and materials specified in the application for a Development Permit with required fees, and any additional information required by the City Planner or Review Authority to conduct a thorough review of the proposed project, as described according to Section 17.12.060.

c. It is the responsibility of the applicant to provide evidence in support of the findings required by Section 17.16.100.F below.

2. Application Review.

A Development Permit review is initiated when the Planning Division receives an application package. Then, a case planner is assigned to coordinate the review of the application with City staff and other agencies as needed. At the direction of the City Planner, proposals are reviewed by the Development Management Team (DMT), staff from City departments with expertise in various subject areas. Upon receipt of an application, provided information and materials are reviewed to determine if applications are:

- i. Complete in compliance with Section 17.12.050;
- ii. In compliance with the California Environmental Quality Act as specified in Section 17.12.080. If studies or consultant work is required for this review, this shall be completed at the applicant's expense according to City policies and the City Planner's direction;
- iii. Consistent with the purpose of this Chapter and required findings in Subsection F to support the requested Development Permit; and
- iv. Meets applicable development standards, policies, regulations, and guidelines.

3. Design Review Subcommittee Review.

Applications require Design Review Subcommittee (DRSC) review if the application requires Planning Commission or City Council approval. Applications may also be referred to the DRSC by the City Planner or Zoning Administrator.

4. Decision and Appeal Process.

Table 17.16.100 identifies the Review Authority and Review Process described in Section 17.12.100 for each project. Refer to Section 17.12.060 for details on the review process. Notification procedures are in Section 17.12.100.

F. Required Findings.

1. General Findings. For approval of a Development Permit, the Review Authority shall make the following findings:

- a. The proposed project is consistent with the General Plan;
- b. The proposed project complies with zoning regulations;
- c. The proposed project is consistent with the City's Design Guidelines;
- d. The proposed development will not be detrimental to the public health, safety, or welfare, or materially injurious to properties and improvements in the vicinity; and
- e. The proposed project is in character and compatible with the properties in the neighborhood.

2. Additional Findings for Requests. In addition to the general findings in Subsection F.1, the Review Authority shall make findings for approval of a Development Permit to allow the following.
- a. For projects in the Architectural Overlay District, the Review Authority shall find: the proposed project complies with the purpose and intent of the Architectural Overlay District, Section 17.56.020.
 - b. For new structures and major remodels in the Architectural Overlay, the Review Authority shall also find one of the following:
 - i. The proposed project/use preserves and strengthens the pedestrian-orientation of the district and/or San Clemente's historic identity as a Spanish village; or
 - ii. The proposed project/use is a minor remodel and it is not practical or desirable, in this particular case, to attempt conversion to a pedestrian-orientation and/or Spanish Colonial Revival style. The proposed changes, however, improve the quality and architectural integrity of the proposed project.
 - c. For projects reviewed because they are abutting or within 300 feet of an historic property, the Review Authority shall find: the proposed project will not have negative visual or physical impacts upon the historic structure.
 - d. For Planned Residential Developments (PRDs), the Review Authority shall make findings in Section 17.56.040(G).

G. General Review Requirements. Refer to Chapter 17.12, Development Review Process, for general application processing requirements, such as appeals, modifications to applications, time limits on approvals, time extensions, and the review of multiple applications concurrently.

H. Approval Runs with the Land. The approval of a Development Permit shall run with the land, and shall continue to be valid upon a change of ownership of the property to which it applies.

~~17.16.100 Architectural Permits/Cultural Heritage Permits and Minor Architectural Permits/Minor Cultural Heritage Permits.~~

~~A. Purpose and Intent. As detailed in this section, Architectural Permits are required for different types of projects within the City, including projects affecting the City's cultural and historic resources. Because of these unique resources, the Architectural Permit process has been divided into two categories: Architectural Permits and Cultural Heritage Permits. In addition, minor versions of these permits have been established for less significant projects.~~

~~1. Architectural Permits and Cultural Heritage Permits.~~

~~a. Architectural Permits. The purpose and intent of the Architectural Permit process is to provide for architectural review of certain classes of development projects to ensure their compliance with the General Plan Urban Design Element and the City's Design Guidelines. The Architectural Permit process is intended to preserve and strengthen San Clemente's unique atmosphere as a Spanish village and to encourage: 1) architecture which is sensitive to community and neighborhood~~

~~character; 2) architectural design that enhances the visual environment and protects the economic value of existing structures; and 3) site and structural development which exemplify the highest professional design standards. Architectural review shall include the consideration of a number of issues, including but not limited to, architectural style, building massing and scale, building orientation in relation to the street and parking, and building materials, textures and colors.~~

- ~~b. Cultural Heritage Permits. The purpose and intent of the architectural review with a cultural heritage emphasis is to provide for the review of projects affecting the City's cultural and/or historical resources. Along with the general goals for architectural review provided above, the process is intended to: 1) preserve and strengthen San Clemente's historic identity as a Spanish village, 2) preserve and strengthen the pedestrian-oriented areas designated in the General Plan as such, 3) preserve and protect those places, sites, buildings, structures, neighborhoods, objects, and improvements, manmade or natural, having a special historical, cultural, or architectural interest, 4) protect and enhance the City's attraction as a historic community to tourists and visitors, 5) promote the use of historic properties for the education, pleasure, and welfare of the people of the City, 6) encourage and, where specified by this title, require architecture which reflects the community's historic pedestrian-oriented character, and 7) ensure compliance with the purpose and intent of the City's Architectural Overlay District for those projects within the district.~~

~~2. Minor Architectural Permits and Minor Cultural Heritage Permits.~~

- ~~a. Minor Architectural Permits. The purpose of the minor architectural permit process is to provide for streamlined architectural review of certain minor classes of development projects. These projects require discretionary review to ensure their compliance with the General Plan Urban Design Element and the City's Design Guidelines. Because of their scale, however, these minor projects do not require discretionary consideration by the Planning Commission. The Minor Architectural Permit process is intended to achieve the same goals as the Architectural Permit process described in above.~~
- ~~b. Minor Cultural Heritage Permits. The purpose of the Minor Architectural/Cultural Heritage Permit process is to provide for streamlined review of minor development projects that may affect the City's cultural and/or historical resources and neighborhoods. Because of their limited scale, however, these projects do not require discretionary consideration by the Planning Commission. The Minor Architectural/Cultural Heritage Permit process has as its purpose the same goals for~~

~~development described in the Architectural/Cultural Heritage Permit process described above.~~

~~A process for waiving architectural review of projects which are extremely minor or have no potential to impact historic structures has been established. Please refer to Section 17.16.110, Staff Waivers of Architectural/Cultural Heritage Permits and Minor Architectural/Cultural Heritage Permits and Section 17.16.120, Planning Commission/Zoning Administrator Waivers of Cultural Heritage/Minor Cultural Heritage Permits, of this chapter.~~

~~B. Authority.~~

- ~~1. Architectural Permits and Cultural Heritage Permits. The Planning Commission is the final authority on architectural/cultural heritage permits, subject to the concurrent review and appeal provisions of Section 17.12.090, Consideration of Concurrent Applications and Section 17.12.140, Appeals of an Action.~~
- ~~2. Minor Architectural Permits and Minor Cultural Heritage Permits. The Zoning Administrator is the final authority on minor architectural/cultural heritage permits, subject to the concurrent review and appeal provisions of Section 17.12.090, Consideration of Concurrent Applications, and Section 17.12.140, Appeals of an Action. The Zoning Administrator has the discretion to refer application to the Planning Commission for review and final action.~~

~~C. Applicability.~~

- ~~1. Architectural Permits. Architectural Permits are required for the following:

 - ~~a. Major public park facilities per Section 17.28.230(B)(1), Major Park Structures;~~
 - ~~b. Development outside the Architectural Overlay District per Table 17.16.100(A), Architectural and Minor Architectural Permits Required.~~~~
- ~~2. Minor Architectural Permits. Minor Architectural Permits are required for the following:

 - ~~a. Minor public park facilities per Section 17.28.230(B)(2), Minor Park Structures;~~
 - ~~b. Relocations of structures per Section 17.24.160, Relocation of Structures;~~
 - ~~c. Development outside Architectural Overlay Districts per Table 17.16.100(A), Architectural and Minor Architectural Permits Required, below.~~~~
- ~~3. Cultural Heritage Permits and Minor Cultural Heritage Permits. Cultural Heritage Permits and Minor Cultural Heritage Permits are required for development within the Architectural Overlay District and/or historic sites and adjacencies, as indicated in Table 17.16.100(B), Cultural Heritage and Minor Cultural Heritage Permits Required.~~
- ~~4. Staff Waivers. Some projects may be eligible for a staff waiver of a Minor Architectural Permit or Minor Cultural Heritage Permit. Refer to Section 17.16.110.~~

~~5. Exemptions. The following exemptions shall apply:~~

- ~~a. Per State law, solar installations are exempt from this section unless the Building Official finds a solar energy system project will have a specific, adverse impact upon the public health or safety.~~
- ~~b. Projects are exempt from Architectural Permits that involve the construction of four or fewer residential units.~~
- ~~c. Projects on sites with three or more residential units are exempt from Cultural Heritage Permits and Minor Cultural Heritage Permits, provided that all of the following criteria are met:~~
 - ~~i. Projects sites are residentially zoned and not located within the Architectural Overlay district.~~
 - ~~ii. Projects are not visible from public right of way that adjoins properties on the City's Designated Historic Resources and Landmarks Lists.~~
 - ~~iii. Project sites do not abut properties on the City's Designated Historic Resources and Landmarks Lists.~~
 - ~~iv. Projects are not visible from view corridors.~~

Table 17.16.100(A)
Architectural and Minor Architectural Permits Required

Project Type	Architectural Permit Required	Minor Architectural Permit Required	Other/Exempt Projects
A. Nonresidential and Mixed Use Sites			
New Buildings	✗		
Additions	>2,000 s.f. addition	≤2,000 s.f. addition	Some Minor Architectural Permits may be waived.
New Accessory Structures and Expansions		✗	Refer to Section 17.16.110 for eligible projects.
Minor Exterior Alterations		✗	
B. Residential and Mixed Use Sites			
New Residential Projects	5 or more units		Refer to subsection 17.16.100(C)(5) for exempt projects.
C. Nonconforming Structures – This subsection shall be applied in conjunction with subsections A and B to:			
Additions 50 percent or		✗	

greater to single-family residences with less than 1,400 square feet of floor area, as of March 21, 1996, up to 2,100 square feet			
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**Table 17.16.100(B)
Cultural Heritage and Minor Cultural Heritage Permits Required**

Project Type	Cultural Heritage Permit Required	Minor Cultural Heritage Permit Required	Other/Exempt Projects
A. Nonresidential and Mixed Use Sites—This subsection applies to: 1) resources listed on the City's Designated Historic Resources and Landmarks Lists¹; 2) development within the Architectural Overlay District (Please refer to Section 17.56.020); and 3) sites within 300 feet of residentially-zoned buildings listed on the City's Designated Historic Resources and Landmarks Lists.			
New Buildings	✗		Some Minor Cultural Heritage Permits may be waived. Refer to Section 17.16.110 for eligible projects.
Additions	>2,000 s.f. addition	≤2,000 s.f. addition	
New Accessory Structures and Expansions		✗	Refer to subsection 17.16.100(C)(5) for exempt projects.
Minor Exterior Alterations		✗	
B. Residential Sites—This subsection shall be applied to: 1) resources listed on the City's Designated Historic Resources and Landmarks Lists¹; 2) single-family homes and duplexes abutting sites listed on the City's Designated Historic Resources and Landmarks Lists; 3) sites with three or more dwelling units within 300 feet of residentially-zoned buildings listed on the City's Designated Historic Resources and Landmarks Lists; and 4) development within the Architectural Overlay District (Please refer to Section 17.56.020).			
New Buildings	✗		Some Minor Cultural Heritage Permits may be waived for additions, accessory structures, and exterior alterations. Refer to Section 17.16.110 for eligible projects.
Additions	>500 s.f. addition, or 50 percent or greater	≤500 s.f. addition or less than 50 percent, whichever is smaller	

New Accessory Structures and Expansions		✗	Refer to subsection 17.16.100(C)(5) for exempt projects.
Minor Exterior Alterations		✗	
C. Nonconforming Structures—This subsection shall be applied in conjunction with subsections A and B.			
Additions 50 percent or greater to single family residences with less than 1,400 square feet of floor area, as of March 21, 1996, up to 2,100 square feet.		✗	
Historic structure and use exemption from requirements in Chapter 17.72. Nonconforming Structures and Uses. Refer to Section 17.72.030(C).	✗		

¹—~~See Department of Parks and Recreation Primary Record Forms on file with the City of San Clemente Planning Division for the type of resource listed (building, structure)~~

~~**D. Submittal Requirements.** Please refer to the submittal requirements in Section 17.12.040, Filing an Application, and Section 17.12.060, Applications Requiring Additional Information.~~

~~**E. Application Filing, Processing, and Review.**~~

- ~~1. Application Filing. The review process is initiated when the Planning Division receives an application package. The application package shall include the required information and materials specified in the application and any additional information required by the City Planner or review authority to conduct a thorough review of the proposed project.~~

~~2.—Application Review. Each application shall be reviewed to ensure that proposals are consistent with the purpose of this chapter; applicable development standards, policies, regulations, and guidelines.~~

~~a.—Development Management Team Review. The Development Management Team reviews an application to determine if it is complete and complies with applicable development standards, policies, regulations, and guidelines. Within 30 calendar days of application filing, the applicant is notified if their application is complete or if information is needed to complete the application and resume the review process. The Development Management Team also makes comments and recommendations to provide helpful information to applicants and notify them when a proposal does not comply with development standards, policies, regulations, and guidelines.~~

~~b.—Environmental Review. After an application is complete, the project shall be reviewed in compliance with the California Environmental Quality Act to determine if environmental studies are required. If studies are required, then they shall be completed at the applicant's expense, which may require consultant services.~~

~~c.—Design Review Subcommittee Review. The Design Review Subcommittee shall review applications for Architectural Permits and Cultural Heritage Permits. For Minor Architectural Permits and Minor Cultural Heritage Permits, applications shall be reviewed by the Design Review Subcommittee if the City Planner determines proposals do not meet required findings, or if a project involves a 50 percent or greater expansion of a single family dwelling with less than 1,400 square feet of floor area. If the City Planner determines Design Review Subcommittee review is unnecessary, the determination should be noted in the staff report to the review authority. The Design Review Subcommittee is an advisory body that reviews design issues and provides a recommendation to the review authority per procedures in Section 17.12.025.~~

~~3.—Public Hearing and Appeal Provisions:~~

~~a.—Public hearing is required. A public hearing and notification shall be conducted in compliance with Section 17.12.100.~~

~~b.—The review authority shall review the proposed project and approve, approve with conditions, or deny the application at a public hearing based on an ability to meet required findings.~~

~~c.—The review authority's decision may be appealed per Section 17.12.140.~~

~~F.—Required Findings:~~

- ~~1. Architectural and Minor Architectural Permits. Prior to approval of an application for an Architectural or Minor Architectural Permit, the following findings shall be made:~~
 - ~~a. The architectural treatment of the project complies with the San Clemente General Plan;~~
 - ~~b. The architectural treatment of the project complies with any applicable specific plan and this title in areas including, but not limited to, height, setback color, etc.;~~
 - ~~c. The architectural treatment of the project complies with the architectural guidelines in the City's Design Guidelines;~~
 - ~~d. The general appearance of the proposal is in keeping with the character of the neighborhood; and~~
 - ~~e. The proposal is not detrimental to the orderly and harmonious development of the City.~~
- ~~2. Cultural Heritage and Minor Cultural Heritage Permits. In addition to the general findings for approval of an Architectural or Minor Architectural Permit, the following specific findings shall be made prior to approval of an application for a Cultural Heritage or Minor Cultural Heritage Permit:~~
 - ~~a. For new structures and remodels in the Architectural Overlay District, one of the following findings shall be made:~~
 - ~~i. The proposed project/use preserves and strengthens the pedestrian orientation of the district and/or San Clemente's historic identity as a Spanish village; or~~
 - ~~ii. The proposed project/use is a minor remodel and it is not practical or desirable, in this particular case, to attempt conversion to a pedestrian orientation and/or Spanish Colonial Revival style. The proposed changes, however, improve the quality and architectural integrity of the proposed project.~~
 - ~~b. For historic resources, the following finding shall be made:~~
 - ~~i. The City finds that the proposed modifications, alterations, or additions are sufficiently in conformance with the Secretary of the Interior Standards for the Treatment of Historic Properties and the San Clemente Design Guidelines to substantially further the City's goals of historic preservation; or~~
 - ~~ii. For resources on the City's Landmarks List, the proposed rehabilitation, restoration, preservation, or reconstruction, including modifications, alterations, or additions, are found to be in conformance with the Secretary of the Interior Standards for the Treatment of Historic Properties and preserve to the extent feasible the character defining features.~~

~~c. For projects reviewed because they are abutting or within 300 feet of an historic property, the following finding shall be made:~~

~~The proposed project will not have negative visual or physical impacts upon the historic structure.~~

~~d. For projects reviewed because they are in the Architectural Overlay District, the following finding shall be made: the proposed project complies with the purpose and intent of the Architectural Overlay District, Section 17.56.020.~~

~~G. Appeals. An appeal of the action on an Architectural Permit shall be reviewed in accordance with Section 17.12.140, Appeals of an Action.~~

~~H. Modifications Requested by the Applicant. Modifications to approved Architectural/Cultural Heritage or Minor Architectural/Cultural Heritage Permits shall be reviewed in accordance with Section 17.12.180, Modification of an Approved Application.~~

~~I. Modifications and/or Revocations Initiated by the City. The City may make changes or revoke the approval of applications when conditions of approval are violated, it is necessary to resolve a nuisance, and/or when the application contained incorrect, false, or misleading information. Refer to Section 17.12.175 for related procedures and required findings.~~

~~J. Other Review Requirements. Refer to Chapter 17.12, Development Review Process, for general application processing requirements, such as time limits on approvals, time extensions, and the review of multiple applications concurrently.~~

~~K. Approval Runs with the Land. The approval of Architectural/Cultural Heritage and Minor Architectural/Cultural Heritage Permits shall run with the land, and shall continue to be valid upon a change of ownership of the site to which it applies.~~

SECTION 16. The existing provisions of Section 17.16.110 of the San Clemente Municipal Code are hereby struck and replaced in their entirety with the following:

17.16.110 - Cultural Heritage Permits

A. Purpose. Cultural Heritage Permits are required for projects affecting sites on the City's list of designated historic structures to ensure projects:

1. Preserve and strengthen the City's identity as a Spanish village;
2. Comply with the purpose and intent of the Architectural Overlay district for projects involving cultural and historical resources within the overlay zone identified on the Zoning Map;
3. Preserve and strengthen the pedestrian-oriented areas designated in the General Plan;
4. Preserve and protect those places, sites, buildings, structures, neighborhoods, objects, and improvements, manmade or natural, having a special historical, cultural, or architectural interest;
5. Protect and enhance the City's attraction as a historic community to tourists and visitors;

6. Promote the use of historic properties for the education, pleasure, and welfare of the people of the City;
7. Encourage and, where specified by this title, require architecture which reflects the community's historic pedestrian-oriented character;
8. Promote the orderly development of the City in compliance with the goals, objectives, and policies of the General Plan, any applicable Specific Plan, and the standards specified in this Zoning Code.
9. Encourage site design and architecture sensitive to community and neighborhood character;
10. Enhance the visual environment and protects the economic value of existing structures.
11. Respect the physical and environmental characteristics of the site;
12. Ensure safe and convenient access and circulation for pedestrians and vehicles;
13. Exemplify the best professional design practices through consistency with the City's Design Standards and Guidelines;
14. Allow for and encourage individual identity for specific uses and structures;
15. Encourage a distinct community or neighborhood identity;
16. Minimize or eliminate negative or undesirable visual impacts, especially on historic resources and landmarks on the City's designated historic resources and landmarks list;
17. Prevent inappropriate design or development of structures; and
18. Maintain and increase the desirability of other properties within the vicinity for the uses for which they are zoned.

B. Applicability.

1. When Required. Development activities listed in Table 17.16.110 require Cultural Heritage Permits for the development of structures and improvement of property on the City's designated historic resources and landmarks list, unless exempted by Subsection B.2.
2. Exemptions. The following activities are exempt from a Cultural Heritage Permit.
 - a. Activities exempted from an Administrative Development Permit specified in Section 17.16.095.
 - b. Improvements State or Federal law requires or preempts from local discretionary review procedures;
 - c. Interior projects not visible on the exterior of structures and from adjoining public right-of-way; and
 - d. Public park facilities other than the development or expansion of buildings as described in Chapter 17.28.

C. Review Authority.

Table 17.16.110 identifies the required review authority and review process in Section 17.12.060 for each project. Cultural Heritage Permits (CHP) are acted upon by the highest review authority designated in Table 17.16.110 for proposed development, or if a Cultural Heritage Permit is

[reviewed concurrently with other applications according to Section 17.12.090, Consideration of Concurrent Applications.](#)

Table 17.16.110 – Review Process for Cultural Heritage Permit

<p align="center"><u>Development Activities</u></p>	<p align="center"><u>Review Process (Section 17.12.060)</u></p>
<p><u>A. New nonresidential buildings.</u></p> <ol style="list-style-type: none"> <u>1. New nonresidential primary buildings, excluding public park facilities.</u> <u>2. Public park facilities, new buildings and additions with 1,500 square feet of floor area or greater in compliance with Chapter 17.28.</u> <u>3. Public park facilities, new buildings and additions less than 1,500 square feet of floor area in compliance with Chapter 17.28.</u> <u>4. New nonresidential accessory buildings screened from adjoining public right-of-way, where the proposed building has floor area less than or equal to 500 square feet and less than 50 percent of the primary building’s floor area.</u> <u>5. New nonresidential accessory buildings unscreened from adjoining public right-of-way, or the building has floor area larger than 500 square feet or greater than 50 percent of the primary building’s floor area.</u> 	<p align="center"><u>Process 3</u></p> <p align="center"><u>Process 3</u></p> <p align="center"><u>Process 2</u></p> <p align="center"><u>Process 2</u></p> <p align="center"><u>Process 3</u></p>
<p><u>B. Nonresidential building additions.</u></p> <ol style="list-style-type: none"> <u>1. Nonresidential building additions of floor area 2,000 square feet or less to nonresidential buildings, excluding public park facilities.</u> <u>2. Nonresidential building additions of floor area larger than 2,000 square feet to nonresidential buildings, excluding public park facilities.</u> 	<p align="center"><u>Process 2</u></p> <p align="center"><u>Process 3</u></p>
<p><u>C. New residential buildings.</u></p> <ol style="list-style-type: none"> <u>1. New residential primary buildings.</u> <u>2. New residential accessory buildings screened from adjoining public right-of-way with less than or equal to 500 square feet and less than 50 percent of the primary building’s floor area, and meets zoning standards.</u> <u>3. New residential accessory buildings unscreened from adjoining public right-of-way or larger than 500 square feet or greater than 50 percent of the primary building’s floor area.</u> <u>4. Accessory Dwelling Units that vary from standards as specified in Section 17.28.270 in which discretionary review is allowed by State law.</u> 	<p align="center"><u>Process 3</u></p> <p align="center"><u>Process 2</u></p> <p align="center"><u>Process 3</u></p> <p align="center"><u>Process 3</u></p>
<p><u>D. Residential building additions.</u></p> <ol style="list-style-type: none"> <u>1. Residential building additions of floor area less than or equal to 500 square feet and less than 50 percent of the primary building’s floor area.</u> <u>2. Residential building additions of floor area larger than 500 square feet or greater than 50 percent of the primary building’s floor area.</u> 	<p align="center"><u>Process 2</u></p> <p align="center"><u>Process 3</u></p>
<p><u>E. New accessory structures.</u></p>	

<u>Development Activities</u>	<u>Review Process (Section 17.12.060)</u>
<ol style="list-style-type: none"> 1. <u>New accessory structures that are ineligible for an Administrative Development Permit according to Section 17.16.095.</u> 	<u>Process 2</u>
<p><u>F. Exterior changes.</u></p> <ol style="list-style-type: none"> 1. <u>Exterior changes to structures and sites that are ineligible for an Administrative Development Permit according to Section 17.16.095.</u> 	<u>Process 2</u>
<p><u>G. Subdivisions and general provisions.</u></p> <ol style="list-style-type: none"> 1. <u>Development on new parcels created from a subdivision of property.</u> 2. <u>New Planned Residential Developments (PRD).</u> 3. <u>New golf courses.</u> 4. <u>Nonresidential projects abutting residentially zoned properties in compliance with Section 17.24.170.</u> 5. <u>Relocation of structures according to Section 17.24.160, Relocation of Structures.</u> 6. <u>Neighborhood Electrical Vehicle (NEV) parking credit in the North Beach Parking Overlay according to Section 17.56.080.</u> 7. <u>Subdivisions excluding condominiums.</u> 8. <u>Residential detached accessory buildings over 15 feet in height that encroach into required setbacks.</u> 9. <u>Residential detached accessory structures over 15 feet in height.</u> 	<p style="text-align: center;"><u>Process 5</u></p> <p style="text-align: center;"><u>Process 3</u></p> <p style="text-align: center;"><u>Process 3</u></p> <p style="text-align: center;"><u>Process 2</u></p> <p style="text-align: center;"><u>Process 3</u></p> <p style="text-align: center;"><u>Process 2</u></p> <p style="text-align: center;"><u>Process 5</u></p> <p style="text-align: center;"><u>Process 3</u></p> <p style="text-align: center;"><u>Process 3</u></p>

D. Application Filing, Processing, and Review.

1. Application Filing.

- a. An application for a Cultural Heritage Permit shall be filed and processed according to Chapter 17.12.
- b. The application shall include the information and materials specified in the application for a Cultural Heritage Permit with required fees, and any additional information required by the City Planner or Review Authority to conduct a thorough review of the proposed project, as described according to Section 17.12.060.
- c. It is the responsibility of the applicant to provide evidence in support of the findings required by Subsection E below.

2. Application Review. A Cultural Heritage Permit review is initiated when the Planning Division receives an application package. Then, a case planner is assigned to coordinate the review of the application with City staff and other agencies as needed. At the direction of the City Planner, proposals are reviewed by the Development Management Team (DMT), staff from City departments with expertise in various subject areas. Upon receipt of an application, provided information and materials are reviewed to determine if applications are:

- i. Complete in compliance with Section 17.12.050;
 - ii. In compliance with the California Environmental Quality Act as specified in Section 17.12.080. If studies or consultant work is required for this review, this shall be completed at the applicant's expense according to City policies and the City Planner's direction;
 - iii. Consistent with the purpose of this Chapter and required findings in Subsection E to support the requested Cultural Heritage Permit; and
 - iv. Meets all applicable City and State development standards, policies, regulations, and guidelines.
3. Cultural Heritage Subcommittee Review. Applications require Cultural Heritage Subcommittee (CHSC) review if the application requires Planning Commission or City Council approval. Applications may also be referred to the CHSC by the City Planner or Zoning Administrator. The Design Review Subcommittee serves as the CHSC.
 4. Decision and Appeal Process. Table 17.16.110 identifies the Review Authority and Review Process described in Section 17.12.100 for each project. Refer to Section 17.12.060 for details on the review process. Notification procedures are in Section 17.12.100. Appeals are addressed in Section 17.12.140.

E. Required Findings.

1. For approval of Cultural Heritage Permit, the Review Authority shall make the following findings:
 - a. The proposed project is consistent with the General Plan;
 - b. The proposed project complies with zoning regulations;
 - c. The proposed development will not be detrimental to the public health, safety or welfare, or materially injurious to properties and improvements in the vicinity;
 - d. The proposed project is in character and compatible with the properties in the neighborhood;
 - e. The proposed project is in conformance with the Secretary of the Interior's Standards for the Treatment of Historic Properties and City's Design Guidelines to substantially further the City's goals of historic preservation, and
 - f. The proposed project preserves to the extent feasible the character defining features.
2. Additional Findings for Requests. In addition to the general findings in Subsection E.1, the Review Authority shall make findings for approval of a Cultural Heritage Permit to allow the following.
 - a. For projects in the Architectural Overlay District, the Review Authority shall find: the proposed project complies with the purpose and intent of the Architectural Overlay District, Section 17.56.020. And, for new structures and remodels in the Architectural Overlay District, the Review Authority shall also find one of the following:
 - i. The proposed project/use preserves and strengthens the pedestrian-orientation of the district and/or San Clemente's historic identity as a Spanish village; or
 - ii. The proposed project/use is a minor remodel and it is not practical or desirable, in this particular case, to attempt conversion to a pedestrian-orientation and/or Spanish Colonial Revival style. The proposed changes, however, improve the quality and architectural integrity of the proposed project.

b. For exemptions from Chapter 17.72, Nonconforming Structures and Uses, the Review Authority shall find: the proposed exemption from nonconforming regulations is warranted to maintain the historical significance of national, state or a locally designated historic structure.

F. **General Review Requirements.** Refer to Chapter 17.12, Development Review Process, for general application processing requirements, such as appeals, time limits on approvals, time extensions, and the review of multiple applications concurrently.

G. **Approval Runs with the Land.** The approval of Cultural Heritage Permits shall run with the land, and shall continue to be valid upon a change of ownership of the site to which it applies.

~~**17.16.110 – Staff waivers of Minor Architectural Permits and Minor Cultural Heritage Permits.**~~

~~A. — Purpose and Intent. For eligible projects, the City Planner may waive Minor Architectural Permits and Minor Cultural Heritage Permits. The purpose of staff waivers is to shorten the review process of minor projects that maintain or improve quality of life, that are clearly consistent with the General Plan and City Design Guidelines, and that meet required findings for permits waived. The intent of this provision is to facilitate and incentivize minor projects that are encouraged by City goals and policies.~~

~~B. — Authority. The City Planner is the final authority on staff waivers, subject to the concurrent review and appeal provisions of Section 17.12.090, Consideration of Concurrent Applications, and Section 17.12.140, Appeals of an Action. The City Planner has the discretion to refer applications to the Zoning Administrator for review and final action.~~

~~C. — Applicability.~~

~~1. — Eligible Request. The City Planner may approve staff waivers for the following items:~~

~~a. — Minor repair and preservation of historic resources and landmarks. Minor exterior repairs and preservation measures that improve the historical integrity of historic resources and landmarks.~~

~~b. — Minor exterior changes to buildings and structures, excluding historic resources and landmarks. Exterior changes minor in nature that improve a structure's appearance and architectural integrity. The building's design, footprint, massing, and height are essentially kept intact, but minor height changes are allowed to modify roofing materials or to remove roof details that are unattractive, such as a mansard Spanish roof element on a contemporary building. Exterior changes shall be consistent with the City's Design Guidelines, and Architectural Overlay District policies when applicable.~~

~~c. — Minor additions to private recreational facilities and minor utility buildings located outside the Architectural Overlay District. Additions up to 2,000 square feet or less than 50 percent of existing floor area, whichever is smaller. Additions must be mostly or entirely screened from public property view and view corridors.~~

~~d. — Basement and interior additions to historic resources and landmarks. Additions that are below ground and within buildings such as lofts and the conversion of crawlspace into floor area.~~

- e. ~~Additions to residential buildings, excluding historic resources and landmarks. Additions up to 500 square feet that do not have adverse visual impacts on historic resources and landmarks. Additions must be mostly or entirely screened from public right-of-way that adjoins properties on the City's Designated Historic Resources and Landmarks Lists. Additions shall maintain or reduce a building's height, except for minor height increases to change roofing materials. For example, this would include an addition to the front of a residence that is adjacent to the rear of a historic structure and the addition would not increase the height of the house. When a building is nonconforming, waivers shall not be issued for projects that expand the floor area of buildings by 50 percent or greater since the adoption date of the Zoning Ordinance (March 21, 1996).~~
 - f. ~~Accessory structures on sites not identified on the City's Designated Historic Resources and Landmarks List. Construction, expansion, or modification of accessory structures that do not have adverse visual impacts on historic resources and landmarks. Structures must be mostly or entirely screened from public right-of-way that adjoins properties on the City's Designated Historic Resources and Landmarks Lists. For properties in the Architectural Overlay District, accessory structures may be visible from public property view if they are minor in nature and their design, materials, and colors are clearly compatible with adjacent buildings and consistent with the City's Design Guidelines and Architectural Overlay District policies. This includes but is not limited to: fences, walls, pilasters, gates, small at-grade decks and stairs, fountains, trash enclosures, equipment screens, patio covers (residential sites), and pools (residential sites).~~
 - g. ~~Minor landscaping and hardscape changes.~~
 - h. ~~Minor site alterations required by State or Federal law. Minor site alterations required to comply with disabled access requirements or other State or Federal regulations.~~
 - i. ~~Other minor projects that do not substantially alter the visual appearance and/or architectural integrity of the property or structure.~~
2. ~~Ineligible Requests. The following items are ineligible for a staff waiver:~~
- a. ~~Nonresidential retaining walls, walls, fences, or hedges over six feet high.~~
 - b. ~~Exterior additions to nonconforming nonresidential buildings, except private recreational facilities and minor utility buildings located outside the Architectural Overlay District, per Subsection 1.c.~~
 - c. ~~Additions to nonconforming residential buildings that increase a building's height or expand its floor area by 50 percent or greater since the adoption date of the Zoning Ordinance (March 21, 1996).~~
- D. ~~Submittal Requirements. Please refer to the submittal requirements in Section 17.12.040, Filing an application, and Section 17.12.060, Applications Requiring Additional Information.~~
- E. ~~Application Filing, Processing, and Review. The City Planner shall approve, approve with modifications and/or conditions, or deny a staff waiver request within 15 days following receipt of a completed application. If more than 15 days lapse, and a decision is not made, the City Planner, the applicant~~

~~may request that the waiver application be forwarded to the Planning Commission for review and action. The Planning Commission shall be provided a summary of staff waiver decisions at the next regularly scheduled meeting.~~

~~F. Required Findings. The review authority shall meet the required findings for the Minor Architectural Permit or Minor Cultural Heritage Permit being waived [Section 17.16.100(F)].~~

~~G. Appeals. An appeal of a staff waiver decision shall be reviewed per Section 17.12.140, Appeals of an Action.~~

~~H. Modifications Requested by the Applicant. The City may make changes or revoke the approval of applications when conditions of approval are violated, it is necessary to resolve a nuisance, and/or when the application contained incorrect, false, or misleading information. Refer to Section 17.12.175 for related procedures and required findings.~~

~~I. Other Review Requirements. Refer to Chapter 17.12, Development Review Process, for general application processing requirements, such as time limits on approvals, time extensions, and the review of multiple applications concurrently.~~

SECTION 17. Subsection (D) of Section 17.16.145 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

D. **Review Procedures.** Following receipt of a completed application, the City Planner shall review the application for compliance with the Zoning Ordinance. ~~When a Minor/Site Plan Permit, Minor/Architectural Permit, or Minor/Conditional Use Permit is approved for the property, STLU zoning permit Applications are also reviewed to ensure they are consistent with plans approved through the discretionary review process.~~

SECTION 18. Subsection (A) of Section 17.16.175 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

A. **Purpose and Intent.** In order to preserve and protect the cultural, historical, and architectural heritage of San Clemente, certain incentives are provided in various sections of this title to owners of designated historically significant properties. The purpose and intent of this section is to outline the process for obtaining property tax reduction incentives available through the execution of a voluntary Historic Property Preservation Agreement with the City of San Clemente. For other, regulatory incentives, see Sections 17.16.180, Waivers of Fees/Development Standards, Relocation of Historic Structures; ~~17.24.100, Increase in Floor Area Ratios;~~ 17.64.120, Modifications and Waivers of Parking Requirements; and ~~Table Section 17.16.1100B.~~ Please refer to the City's Building Division for additional provisions related to the use of the State Historical Building Code.

SECTION 19. Subsection (J) of Section 17.16.175 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

J. **Cancellation of Agreement.**

1. The City Council may cancel an Historic Property Preservation Agreement if the City Council determines that the property owner has breached any of the terms of the

- Agreement, or has allowed the property to deteriorate to the extent that it no longer meets the criteria in Section 17.16.160(F)(1).
2. Following completion of the Enforcement of Agreement procedures contained within each Historic Property Preservation Agreement and prior to the cancellation of ~~an~~ a Historic Property Preservation Agreement, the City Council may initiate and review cancellation of an Agreement ~~in the same manner as revocation of a Site Plan Permit,~~ as described in Section 17.12.175, City Initiated Changes of Revocation of Approved Applications.
 3. If the City Council cancels an Agreement, the property owner shall pay a penalty of 12½ percent of the full market value of the property, as determined by the County Tax Assessor, to the State.

SECTION 20. Section 17.16.180 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

17.16.180 Waiver of Fees/Development Standards for Historic Resources and Landmarks.

- A. **Purpose and Intent.** In order to preserve and protect the cultural, historical, and architectural heritage of San Clemente, certain incentives are provided in various sections of this title to owners of designated historically significant properties. The purpose and intent of this section is to describe the waiver of fees/development standards for historic resources [and landmarks on the City's designated historic resources and landmarks list](#). For other regulatory incentives, see Sections 17.16.175, Historic preservation incentives, historic property preservation (Mills Act) agreements; ~~17.24.100, Increase in Floor Area Ratios;~~ 17.64.120, Modifications and Waivers of Parking Requirements; and ~~17.72.100, Tables 17.16.100(B)~~ [Section 17.16.110](#). Please refer to the City's Building Division for additional provisions related to the use of the State Historical Building Code.
- B. **Authority.** The City Council is the final authority on the authorization and approval of fee/development standard waivers for properties on the City's Designated Historic Resources List.
- C. **Fee waivers.**
 1. The fees for the first eight hours of time required to process a Cultural Heritage Permit shall be waived for the following eligible properties:
 - a. All resources sites listed on the City's List of Designated Historic Structures Resources and Landmarks Lists.
 - b. All abutting single-family homes and duplexes.
 - c. All sites with three or more dwelling units within 300 feet of residentially zoned sites listed on the City's List of Designated Historic Structures Resources and Landmarks Lists.

The fee waiver shall not apply to non-historic properties located within the Architectural Overlay District.

The fee waiver shall not apply to any costs incurred for any required technical studies, miscellaneous associated fees with processing the application, additional permits, etc. Projects taking less than eight hours of staff time to process shall not be provided a credit for the value of the unused portion of the fee waiver.

SECTION 21. Section 17.16.250 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

17.16.250 - Discretionary Sign Permits

- A. **Purpose and Intent.** The purpose of this section is to provide a discretionary review process for signs that are significant in terms of size, number, location or type. The intent of discretionary review is to ensure signs are compatible and harmonious with the architecture of the buildings they serve and with the surrounding neighborhood. The intent of discretionary review is also to ensure that signs comply with the purpose and intent of the City's sign regulations.
- B. **Authority.** The ~~Planning Commission~~Zoning Administrator is the final authority on Discretionary Sign Permits, ~~subject to the concurrent review and appeal provisions of Section 17.12.090, Consideration of Concurrent Applications, and Section 17.12.140, Appeals of an Action.~~ is as follows:
1. Planning Commission for signage in the Architectural Overlay district, freestanding signs, pole signs, and Master Sign Programs for new development.
 2. Zoning Administrator for other signage requiring a Discretionary Sign Permit.
- C. **Applicability.** A Discretionary Sign Permit is required to allow any of the following:
1. Sign types for which a Discretionary Sign Permit is required in Table 17.84.030(A), Matrix of Sign Types.
 2. ~~Multiple signs for a tenant with total sign area~~ exceeding 64 square feet at a property outside of the Architectural Overlay District.
 3. Tenant signage exceeding 25 square feet at a property within the Architectural Overlay District. ~~An Individual sign for a tenant located within an Architectural Overlay District that is larger than 25 square feet.~~
 4. ~~Multiple signs for a tenant located within an Architectural Overlay District with total sign area exceeding 25 square feet.~~
 5. Signs with neon lighting.
 6. Master Sign Programs according to Section 17.84.020(G).
- D. **Submittal Requirements.** Please refer to the submittal requirements in Section 17.12.140, Filing an Application, and Section 17.12.060, Applications Requiring Additional Information.
- E. **Application Filing, Processing, and Review.**
1. Application Filing. The review process is initiated when the Planning Division receives a complete application package. The application package shall include the required information and materials specified in the application and any additional information required by the City Planner or review authority to conduct a thorough review of the proposed project.
 2. Application Review. Each application shall be reviewed to ensure that proposals are consistent with the purpose of this chapter; applicable development standards, policies, regulations, and guidelines.

- a. Development Management Team review. The Development Management Team reviews an application to determine if it is complete and complies with applicable development standards, policies, regulations, and guidelines. Within 30 calendar days of application filing, the applicant is notified if their application is complete or if information is needed to complete the application and resume the review process. The Development Management Team also makes comments and recommendations to provide helpful information to applicants and notify them when a proposal does not comply with development standards, policies, regulations, and guidelines.
 - b. Environmental Review. After an application is complete, the project shall be reviewed in compliance with the California Environmental Quality Act and determine if environmental studies are required. If studies are required, then they shall be conducted at the applicant's expense, which may involve the selection of a consultant.
 - c. Design Review Subcommittee review. The Design Review Subcommittee shall review applications. The Design Review Subcommittee is an advisory body that reviews design issues and provides a recommendation to the review authority per procedures in Section 17.12.025.
3. Public Hearing and Appeal Provisions.
- a. Public hearing is required. A public hearing and notification shall be conducted in compliance with Section 17.12.100.
 - b. The review authority shall review the proposed project and approve, approve with conditions, or deny the application at a public hearing based on an ability to meet required findings.
 - c. The review authority's decision may be appealed per Section 17.12.140.
- F. **Required Findings.** Prior to approval of a Discretionary Sign Permit, all of the following findings shall be made:
1. The design, including lighting, scale, length and materials, of the sign is consistent with the intent of the design elements of the General Plan, Design Guidelines, respective specific plan or Architectural Overlay District in which the sign is to be located;
 2. The design, scale and materials of the sign harmonize with the architectural design and details of the building or site it serves;
 3. The design and scale of the sign is appropriate to the distance from which the sign is normally viewed;
 4. The design and materials of the sign provide a contrast between the background and letters;
 5. If a freestanding sign is included in the sign application, the design, scale or location of the building dictates the use of freestanding signs, rather than building-mounted signs;
 6. If a pole sign is included in the sign application, the design, scale or location of the building dictates the use of a pole sign rather than a monument sign;
 7. For Master Sign Programs:

- a. The provisions of the Master Sign Program ensure consistency in design and style of all new signs,
 - b. The provisions of the Master Sign Program address compatibility of the design and style of any existing signs on the building or site, and
 - c. All new signs within the Master Sign Program are in compliance with the design standards of this chapter.
- G. **Appeals.** An appeal of the action upon a Discretionary Sign Permit shall be reviewed in accordance with Section 17.12.140, Appeals of an Action.
- H. **Modifications Requested by the Applicant.** Modifications requested by the applicant to approved Temporary Use Permits shall be reviewed in accordance with Section 17.12.180, Modifications of an Approved Application.
- I. **Modifications and/or Revocations Initiated by the City.** The City may make changes or revoke the approval of applications when conditions of approval are violated, it is necessary to resolve a nuisance, and/or when the application contained incorrect, false, or misleading information. Refer to Section 17.12.175 for related procedures and required findings.
- J. **Other Review Requirements.** Refer to Chapter 17.12, Development Review Process, for general application processing requirements, such as [consideration of concurrent applications](#), time limits on approvals and time extensions.

SECTION 22. Subsection (D) of Section 17.24.090 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

- D. **Standards for Fences, Walls and Hedges in Nonresidential Zones.** In nonresidential zones, fences, walls, and hedges shall comply with the following requirements:
- 1. **Height and Materials.** The height limit and other features of fences, walls, and hedges are ~~reviewed~~ [determined through an architectural review process with required approval of a Development Permit \(Section 17.16.100\), or Cultural Heritage Permit \(Section 17.16.110\) for historic resources and landmarks on the City's designated historic resources and landmarks list. and approved through the discretionary review process per Section 17.16.100](#)
 - 2. **Fencing Around Parking Areas.** For requirements for fencing around parking lots, please refer to Section 17.28.220, Parking Lots.

SECTION 23. Subsection 17.24.040(C)(2) of the San Clemente Municipal Code is amended in its entirety as follows:

- 2. **Height Limits for Detached Accessory Structures.** Except as modified by ~~Table 17.24.080~~ [Section 17.24.080B](#), Maximum Encroachments into Setbacks and Height Limits, ~~General~~; ~~of this Title~~, the height limit for detached accessory ~~buildings/~~structures shall be as follows:
 - a. [Front Half of the Lot.](#) Detached accessory ~~buildings/~~structures in the front ~~one~~-half of the lot shall not exceed 15 feet in height;
 - b. [Rear Half of the Lot.](#) ~~Detached accessory buildings or structures (See Table 17.24.080B, Maximum Encroachments into Setbacks and Height Limits of this Title for additional restrictions for accessory structures) in the rear one-half of the lot may exceed the 15-foot height limit and be constructed to the height limit of the zone through a Conditional Use~~

~~Permit in accordance with Section 17.16.060, Conditional Use Permits, of this Title. Exception: through lots. Please refer to the standards for through lots provided in Section 17.24.210, Through Lots, Rear Setbacks For, of this Title; Detached accessory structures shall have a maximum height of 15 feet, however; the height limit may be increased to the height limit of the zone with the approval of a Development Permit (Section 17.16.100) or Cultural Heritage Permit (Section 17.16.110).~~

~~c. When portions of the detached accessory buildings/structures are located in both the front and rear half of the lot, both subdivisions a and b shall apply.~~

3. Height Limits for Detached Accessory Buildings. Except as modified by Section 17.24.080, Maximum Encroachments into Setbacks and Height Limits, General; the height limit for detached accessory buildings shall be as follows:

a. Front Half of the Lot. Detached accessory buildings in the front one-half of the lot shall not exceed 15 feet in height;

b. Rear Half of the Lot.

i. Accessory Buildings with Setback Encroachments. Detached accessory buildings in the rear half of the lot encroaching into required setbacks may be constructed over 15 feet high, up to the height limit of the zone with the approval of a Development Permit (Section 17.16.100) or Cultural Heritage Permit (Section 17.16.110). Setback encroachments require compliance with Section 17.24.080 or the approval of an application in Chapter 17.16; and

ii. Accessory Buildings with Setback Compliance. Detached accessory buildings in the rear one-half of the lot may be constructed up to the height limit of the zone if detached accessory buildings comply with required setbacks of the zoning district for the primary building.

SECTION 24. Subsection 17.24.040(C)(2) of the San Clemente Municipal Code is hereby struck in its entirety and retitled as “Reserved.”

~~**17.24.100 Increase in Permitted Floor Area Ratios.** The standard floor ratio for commercial and mixed-use zones is specified in Chapters 17.36, Commercial Zones and Standards, and 17.40, Mixed-Use Zones and Standards, of this title. New buildings and additions to existing buildings may be allowed to increase the maximum floor area ratio for the zone in which they are located through either the Site Plan Permit process or Minor Site Plan Permit process, in accordance with Section 17.16.050, Site Plan Permits and Minor Site Plan Permits, of this title. In no event shall the increased floor area ratio approved exceed the maximum floor area ratios specified below:~~

~~**Table 17.24.100 Increase in Floor Area Ratios**~~

Zone	FAR
Mixed-Use (MU) 3.0, 3.1, and 3.3	
Commercial projects	1.0

Mixed-use projects	2.0
Neighborhood Commercial (NC 2), excluding the Coastal Overlay Zone:	
On-site historic preservation	Maximum increase equal to existing historic structure's SF
Relocation of historic structure	Maximum increase less than existing historic structure's SF

SECTION 25. Subsection (B)(1) of Section 17.24.110 of the San Clemente Municipal Code is hereby amended to read follows:

B. **General Regulations for the Measurement of Height.** The following regulations for calculating height shall apply to all development within the City of San Clemente:

1. Measurement of Height From Original or Finished Grade.
 - a. Developments With Mass Recontouring. In the case of subdivisions and/or land development where mass recontouring has been or will be permitted by the City, building height shall be measured from finished grade ~~based on City approved plans, subject to approval through the site plan permit process, as described in Section 17.16.050, Site Plan Permits and Minor Site Plan Permits, of this title.~~ Please refer to Figure 17.24.110A for a map of those areas in the City which have had mass recontouring. This subsection does not include properties with significant grading which have received the approval of a variance from height limits; please refer to the following paragraph b, for the method of measuring height on these properties.
 - b. All Other Development. In the case of developments where mass recontouring has not been permitted, or where significant grading has been allowed but through the approval of a variance from the height limit, building height shall be measured from original grade.
 - c. In cases where it is ambiguous whether building height should be measured from finished or original grade, or where a determination of finished or original grade is difficult, the City Planner shall make such determination, subject to the appeal provisions in Section 17.12.140, Appeals of an Action, of this title.

SECTION 26. Section 17.24.160 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

17.24.160 - Relocation of Structures.

A. **Review Requirements.** The relocation of a building or other structure from one lot to another, ~~from within or outside and to within or outside the City,~~ requires the approval of a Minor Conditional Use Permit ~~and a Minor Architectural Permit, as detailed in~~ Sections 17.16.0760) ~~and a Development Permit (17.16.100) or , Minor Conditional Use Permits, and 17.16.100, Architectural/Cultural Heritage Permits and Minor Architectural/Cultural Heritage Permits of this title~~ Cultural Heritage Permit (17.16.110) for historic resources and landmarks on the City’s designated historic resources and landmarks list.

- B. **Minimum Standards.** The relocation of a building or structure requires the following:
1. Compliance. Compliance with the requirements, relative to the building or structure, of the zone to which the building is being relocated; and
 2. Conformance. Conformance with or improvement upon the general character of the existing buildings in the neighborhood, ~~as determined through the architectural review process detailed in Section 17.16.100, Architectural/Cultural Heritage Permits and Minor Architectural/Cultural Heritage Permits, of this title.~~
- C. **Public Notification.** Public notification for the required discretionary approvals shall be provided, as described in Section 17.12.100, Public Hearing and Notification, of this title, and shall be provided for both the original location of the building or structures and the location to which the building or structure is being moved.

SECTION 27. Section 17.24.170 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

17.24.170 - Residentially Zoned Property, Development Adjacent to.

- A. **Purpose and Intent.** The purpose of this section is to establish review procedures for nonresidential and mixed-use development adjacent to residentially zoned property. The purpose of review is to allow development adjacent to residential property while addressing potential impacts related to noise, light and glare, parking and circulation and privacy.
- B. **Building Setbacks from Adjacent Residentially Zoned Property.** Except as provided for within this section, new nonresidential and mixed-use buildings and/or additions to existing buildings shall maintain a minimum 20-foot setback from adjacent residential property lines. Encroachment of the nonresidential or mixed-use building and/or addition into this setback shall be allowed through the discretionary review process required for the project based on measures included in the project to address noise, parking, lighting, massing and other similar impacts upon adjacent residential development. ~~If no discretionary review is required for the building and/or additions, then it shall be reviewed through a Minor Site Plan Permit, in accordance with Section 17.16.050, Site Plan Permits and Minor Site Plan Permits, of this title.~~
- C. **Additions Within 50 Feet of Existing Single-Family Residences.** Any nonresidential or mixed-use building addition that is closer than 50 feet to an existing single-family residence shall require the approval of a ~~Minor Site Plan Permit, in accordance with Section 17.16.050, Site Plan Permits and Minor Site Plan Permits, of this title, if no other discretionary review is required by this title.~~ Development Permit (Section 17.16.100), or a Cultural Heritage Permit (Section 17.16.110) for historic resources and landmarks on the City's designated historic resources and landmarks list.

SECTION 28. Subsection (C) of Section 17.24.180 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

- C. **Standards for Retaining Walls In Nonresidential Zones.** The height limit, design, materials, stepping, and other retaining wall features of retaining walls ~~are reviewed and approved through the discretionary review process. A Minor Architectural Permit or Minor Cultural Heritage Permit is required to allow retaining walls per Section 17.16.100 are determined~~ reviewed and approved through an architectural review process with the required approval of a Development Permit (Section 17.16.100), or a Cultural Heritage Permit (Section 17.16.110) for historic resources and landmarks on the City's designated historic resources and landmarks list.

SECTION 29. Subsections (C)(1) and (C)(2) of Section 17.28.205 of the San Clemente Municipal Code are hereby amended to read in their entirety as follows:

C. Review Requirements.

1. Outdoor Dining Areas on Private Property. To allow an outdoor dining area on private property, the following is required:
 - a. Review of Exterior Modifications. [Exterior modifications to establish outdoor dining areas require review in compliance with Section 17.16.095 \(Administrative Development Permit\), Section 17.16.100 \(Development Permit\), or Section 17.16.110 \(Cultural Heritage Permit\) for historic resources and landmarks on the City's designated historic resources and landmarks list.](#) ~~A Minor Architectural Permit or Minor Cultural Heritage Permit is required to allow exterior modifications, unless a staff waiver may be issued. Refer to Section 17.16.100 (Minor Architectural Permit/Minor Cultural Heritage Permit) and Section 17.16.110 (Staff Waivers of Minor Architectural Permit/Minor Cultural Heritage Permit).~~
 - b. Outdoor Dining Without Alcohol Service or Entertainment. The City Planner may approve outdoor dining areas with a maximum of 16 seats and four tables on private property, provided that alcohol service or live entertainment is not proposed. A Minor Conditional Use Permit is required to allow outdoor dining areas with more than 16 seats and four tables.
 - c. Outdoor Dining with Alcohol Service or Entertainment. Alcohol and/or entertainment may be allowed on outdoor dining areas, on private property, as a restaurant accessory use with the approval of a Conditional Use Permit or Minor Conditional Use Permit. Refer to Chapters 17.36 (Commercial Zones) through Chapter 17.48 (Public Zones) to determine if this is allowed.
2. Outdoor Dining on Public Property. The following procedures are required to allow outdoor dining areas on public property, such as sidewalks:
 - a. Review of Exterior Modifications. [Exterior modifications to establish outdoor dining areas require review in compliance with Section 17.16.095 \(Administrative Development Permit\), Section 17.16.100 \(Development Permit\), or Section 17.16.110 \(Cultural Heritage Permit\) for historic resources and landmarks on the City's designated historic resources and landmarks list.](#) ~~A Minor Architectural Permit or Minor Cultural Heritage Permit is required to allow exterior modifications, unless a staff waiver may be issued.~~
 - b. Number of Outdoor Seats. A Minor Conditional Use Permit is required to allow outdoor dining areas with a maximum of 16 seats and four tables. A Conditional Use Permit is required to allow outdoor dining areas with more than 16 seats and four tables.
 - c. Encroachment into Public Property. An Encroachment Permit is required to allow outdoor dining on public property per Chapter 12.20.
 - d. Location of Outdoor Dining on Public Property. A Minor Conditional Use Permit is required to allow outdoor dining areas that are adjacent to private property. A Conditional Use Permit is required to allow outdoor dining in other areas, such as in a parkway, areas separated from private property, or areas directly adjacent to a street or parking.
 - e. Outdoor Dining with Alcohol Service or Entertainment. Alcohol and/or entertainment may be allowed on outdoor dining areas, on public property, as a restaurant accessory use with the approval of a Conditional Use Permit or Minor Conditional Use Permit. Refer to

Chapters 17.36 (Commercial Zones) through Chapter 17.48 (Public Zones) to determine if this is allowed.

SECTION 30. Section 17.28.230 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

17.28.230 - Public Park Facilities.

- A. **Purpose and Intent.** The purpose of this section is to describe the architectural review procedures for public park facilities. For specific details regarding the review of parks and recreational facilities, please refer to the interim policy for the review of recreational facilities and streetscapes, until such time as this policy has been incorporated into the City's Parks and Recreation Master Plan.
- B. **Review Requirements.** ~~Architectural review procedures shall be as follows for the development of public parks:~~
1. ~~**Buildings. Major Park Structures.** Requests to develop new buildings which are 1,500 square feet or greater or additions of 1,500 square feet or greater require the approval of an Architectural Permit, in accordance with Section 17.16.100, Architectural/Cultural Heritage Permits and Minor Architectural/Cultural Heritage Permits, of this title. The development of new park facility buildings or additions to existing buildings require architectural review with the approval of a Development Permit (Section 17.16.100), or Cultural Heritage Permit (17.16.110) for historic resources and landmarks on the City's designated historic resources and landmarks list, such as the Municipal Golf Course. The Review Authority considers architectural and aesthetic impacts of the proposals shall be considered by the permitting authority.~~
 2. ~~**Minor Park Structures and Facilities.** Requests to develop new buildings of less than 1,500 square feet or additions of less than 1,500 square feet require the approval of a Minor Architectural Permit, in accordance with Section 17.16.100, Architectural/Cultural Heritage Permits and Minor Architectural/Cultural Heritage Permits, of this title. The architectural and aesthetic impacts of the proposal shall be considered by the permitting authority.~~
 3. **Other Facilities.** The development or addition of sports courts, landscaping, benches, trails and other recreational facilities which do not include the development of buildings shall be exempt from the discretionary review requirements of the Zoning Ordinance.

SECTION 31. The former Subsection (G)—which, following City Council Ordinance No. 1742, is now subsection (H)—of Section 17.28.270 of the San Clemente Municipal Code is hereby amended to read as follows:

17.28.270(GH) Accessory Dwelling Units, Non-qualifying conforming ADUs and JADUs and Discretionary Approval.

Any proposed ADU or JADU that does not conform to the objective standards set forth in subsections A through F of this section may be allowed by the City with an ~~Architectural Permit~~ [Development Permit](#) ~~or Cultural Heritage Permit~~, in accordance with the other provisions of this title.

SECTION 32. Subsection (E) of Section 17.28.090 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

- E. **Converted Service Stations.** When a service station use is converted to another use, the service station structures and other improvements shall be removed or modified to an extent that makes the site compatible with the neighborhood and conforming to rules. The modification or removal of improvements requires the approval of [an Administrative Development Permit \(17.16.095\) or Development Permit \(Section 17.16.100\)](#). ~~Minor Architectural Permit or Minor Cultural Heritage Permit (Section 17.16.100) unless a waiver may be issued per Section 17.16.110.~~ For example, the conversion of a service station could involve the removal of all fuel equipment and underground storage tanks, pole signs, removal of canopies, removal of pump islands, removal of overhead doors, the addition or modification of landscaping, addition of missing street improvements, exterior remodeling, etc. For nonconforming service stations, refer to change of use requirements in Chapter 17.72, Nonconforming Structures and Uses.

SECTION 33. Subsection (l) of Section 17.28.300 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

- I. **Other Temporary Fencing for Security and Screening.** Temporary fencing, other than what is required for active construction projects, is allowed for the purpose of providing security and screening to ensure the health, safety and welfare of the community at the discretion of the City Planner, subject to the following regulations.
 1. **Review Requirements.** Temporary fencing and similar structures erected higher than 42 inches and up to six feet in height shall require [an Administrative Development Permit- according to, Section 17.16.095.](#) ~~the approval of a Minor Architectural Permit/Minor Cultural Heritage Permit in accordance with Section 17.16.100, Architectural Permits/Cultural Heritage Permits and Minor Architectural Permits/Minor Cultural Heritage Permits.~~
 2. **Expiration of Permits.** Any permit issued pursuant to this section shall become invalid upon the expiration of an approved permit for which the use has been approved.
 3. **Minimum Standards.** Temporary fencing and similar structures shall not be chainlink. Acceptable materials are more permanent in nature and include wrought iron, wood, or similar material and must be compatible with the existing style of surrounding development. Temporary fences and similar structures shall be maintained in good condition with no unintentional rips/tears (except for minimization of wind effects), fading, or general disrepair. Maintenance shall not become so defective, unsightly, or in such condition of deterioration or disrepair to create a public nuisance as set forth in Section 5.82.030.

SECTION 34. The rows for “Accessory Buildings” entries in Table 17.32.030 of Section 17.32.030 of the San Clemente Municipal Code is hereby amended to read as follows:

Table 17.32.030 - Residential Zone Uses

Use	RVL	RL	RML	RM	RH
5. Unclassified Uses					
Accessory Buildings, Residential¹⁵ Detached, Over 15 Feet in Height;	€	€	€	€	€
a. Accessory Buildings, Residential¹⁵ Detached, Over 15 Feet in Height that Encroach into Required Setbacks	O	O	O	O	O
a b. All Others, Residential	P	P	P	P	P
b c. Accessory Buildings, Nonresidential ¹⁶	MCC	€ MC	€ MC	€ MC	€ MC

SECTION 35. Table 17.36.020 of Section 17.36.020 of the San Clemente Municipal Code is hereby amended as follows:

1. Within Section 1’s “Commercial” entries, new rows are hereby regarding for Liquor Sales for On-Site Consumption and Dancing and/or entertainment;
2. Within Section 8’s “Restaurant and Bars” entries are amended in their entirety;
3. Within Section 9’s “Unclassified” entries for “Amusement Center”, “Bowling Alley”, “Pool Halls”, and “Theaters”; and
4. Footnotes 14 to 22 are amended and renumbered.

Table 17.36.020 - Commercial Zone Uses

Use	Zones										NOTE	
	NC 1.1	NC 1.2	NC 1.3	NC 2	NC 3	CC 1	CC 2	CC 3	CC 4	RMF1		
1. Commercial												
Nurseries (Outdoor Garden Retail Sales)			C	C	C	C	C	C	C	C		
<u>Liquor Sales for On-Site Consumption:</u>												
<u>a. Hard alcohol</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>			
<u>b. Beer and wine indoors with active food service</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>			
<u>c. Beer and Wine in outdoor dining areas with active food service</u>	<u>MC</u>	<u>MC</u>	<u>MC</u>	<u>MC</u>	<u>MC</u>	<u>MC</u>	<u>MC</u>	<u>MC</u>	<u>MC</u>			
<u>d. Beer and Wine without active food service</u>	<u>MC</u>	<u>MC</u>	<u>MC</u>	<u>MC</u>	<u>MC</u>	<u>MC</u>	<u>MC</u>	<u>MC</u>	<u>MC</u>			
<u>Dancing and/or entertainment that has:</u>												
<u>a. No amplified sound.</u>	<u>MC</u>	<u>MC</u>	<u>MC</u>	<u>MC</u>	<u>MC</u>	<u>MC</u>	<u>MC</u>	<u>MC</u>	<u>MC</u>			
<u>b. Amplified sound.</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>			
8. Restaurants and bars	NC 1.1	NC 1.2	NC 1.3	NC 2	NC 3	CC 1	CC 2	CC 3	CC 4	RMF1		
Bars, cocktail lounges (with or without dancing and/or entertainment)	P	P	P	P	P	P	P	P	P			

Microbreweries (with limited production up to 5,000 barrels and tasting room) as defined in Section 17.88	P	P	P	P	P	P	P	P	P		
Taprooms as defined in Section 17.88	P	P	P	P	P	P	P	P	P		
Restaurants <u>without a drive-through</u> :	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>		
a. Restaurants with drive-through			C	C	C	C	C	C	C		13
b. With no on-site consumption of liquor, no dancing, no entertainment	P	P	P	P	P	P	P	P	P		
c. With on-site sale of beer and wine:											
— i. Indoors	MC	MC	MC	MC	MC	MC	MC	MC	MC		
— ii. Outdoors with up to 16 outdoor seats or four tables	MC	MC	MC	MC	MC	MC	MC	MC	MC		
— iii. Outdoors with more than 16 outdoor seats and/or four tables	MC	MC	MC	MC	MC	MC	MC	MC	MC		
d. With on-site sale of hard alcohol:											
— i. Indoors	€	€	€	€	€	€	€	€	€		
— ii. Outdoors with up to 16 outdoor seats or four tables	MC/€	MC/€	MC/€	MC/€	MC/€	MC/€	MC/€	MC/€	MC/€		14, 15
— iii. Outdoors with more than outdoor 16 seats and/or four tables	€	€	€	€	€	€	€	€	€		14, 15
e. With dancing and/or entertainment that has:											
— i. No amplified sound.	MC	MC	MC	MC	MC	MC	MC	MC	MC		
— iii. Amplified sound.	€	€	€	€	€	€	€	€	€		

9. Unclassified Uses	NC 1.1	NC 1.2	NC 1.3	NC 2	NC 3	CC 1	CC 2	CC 3	CC 4		
Amusement Centers	C	C	MCE	MCE	MCE	MCE	MCE	MCE	MCE		1714
Bowling Alley	C	C	MCE	MCE	MCE	MCE	MCE	MCE	MCE		
Pool Halls	C	C	MCE	MCE	MCE	MCE	MCE	MCE	MCE		2018
Theaters	C	C	MCE	MCE	MCE	MCE	MCE	MCE	MCE		

~~14. When a restaurant has an approved CUP for the service of alcohol indoors and a CUP is required for the service of alcohol outdoors, then the applicant may request an amendment to the existing CUP to extend service outdoors. When a restaurant has an approved CUP for the service of alcohol indoors and an MCUP is required for the service of alcohol outdoors, an MCUP is the only application necessary (an amendment to the existing CUP shall not be necessary).~~

~~15. If a CUP has been previously approved for service of hard alcohol indoors, then that service may be extended outdoors for outdoor facilities with no more than 16 seats or four tables with the approval of an MCUP. If no CUP has been approved for service of hard alcohol indoors, then any service of hard alcohol outdoors requires a CUP.~~

~~1614.~~ Refer to Section 17.28.040, Alcoholic beverages and motor vehicle fuel, concurrent sale of, of this title, for special provisions for concurrent sales of motor fuel and alcoholic beverages.

~~1715.~~ Refer to Section 17.28.050, Amusement Centers, of this title, for special provisions for arcades/amusement centers.

~~1816.~~ Refer to Section 17.28.130, Grading, of this title, for special provisions for grading requests that are not accompanying development requests.

~~1917.~~ Massage is subject to Section 5.28 of the City of San Clemente Municipal Code. Refer to Section 17.28.185, Massage Establishments, of this title, for special provisions for massage establishments and accessory massage establishments.

~~2018.~~ The provisions for amusement centers shall apply to pool halls. Please refer to Section 17.28.050, Amusement Centers, for special provisions for amusement centers.

~~2119.~~ Refer to Section 17.28.250, Recycling Facilities, of this title, for special provisions for recycling facilities.

~~2220.~~ Refer to Section 17.28.290, Service Stations, of this title, for special provisions.

~~2321.~~ Refer to Section 17.28.310, Vehicle Dealerships, Rental, and Sales of this title, for special provisions for vehicle dealerships.

~~2422.~~ Refer to Section 17.28.320, Vehicle Service and Repair-Related Facilities, of this title, for special provisions.

SECTION 36. Table 17.36.030(A) of the San Clemente Municipal Code is hereby amended in its entirety as follows:

17.36.030 Commercial Zone General Development Standards.

The following property development standards shall apply to all land and permitted or conditionally permitted buildings located within their respective commercial zones.

A. **Creation of New Lots.** The creation of new lots within commercial zones following the date of adoption of this title shall conform to the minimum dimensions for lots established within this zone, except in the case of condominium lots or individual lots within a shopping center, in which case minimum dimensions shall be applied to the boundaries around the entire center. Individual lots created within shopping centers are exempt from the site development standards stated herein, as they relate to minimum lot areas and lot width, as long as the following conditions are met:

1. ~~A Site Plan Permit for the entire~~The commercial -center has been processed and approved pursuant to Section 17.16.10050, ~~Site Plan~~Development Permits and ~~Minor Site Plan Permits~~Section 17.16.110, Cultural Heritage Permits, ~~of this title~~;
2. Easements for reciprocal access, parking and maintenance are recorded in a form approved by the City Attorney and maintained; and
3. All applicable setbacks adjacent to the exterior boundaries of the shopping center or commercial development are met.

SECTION 37. Section 17.36.040 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

17.36.040 Commercial Zone Special Development Standards.

Chapter 17.24, General Development Standards, of this title includes a number of special provisions affecting commercial properties. Unless otherwise indicated in the referenced sections, or in other City documents regulating commercial development, the development standards listed in Chapter 17.24, General Development Standards, of this title shall apply to all zones described in this chapter.

**Table 17.36.040
Special Development Standards for All Commercial Zones**

Standards	Sections
Accessory Buildings	Section 17.24.040
Building Equipment and Services and Their Screening	Section 17.24.050
Encroachment into Setbacks and Height Limits, General	Section 17.24.080
Fences, Walls, Hedges	Section 17.24.090
Height Limitations	Section 17.24.110
Increase in Floor Area Ratios	Section 17.24.100
Lighting	Section 17.24.130
Off-Street Loading Area	Section 17.24.150
Relocation of Structures	Section 17.24.160
Residentially Zoned Properties, Development Adjacent To	Section 17.24.170
Retaining Walls	Section 17.24.180
Skirt Walls	Section 17.24.190
Substandard Lots	Section 17.24.200
Through Lots, Rear Yard Setback For	Section 17.24.210
Trip Reduction Measures for Projects With Greater than 100 Employees	Chapter 17.76

SECTION 38. Subsection (A)(2)(a) of Section 17.40.030 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

2. Special Use Regulations.

- a. Residential and Nonresidential Uses on the Same [Building Floor](#). [In vertical mixed-use projects](#)~~In the MU 1, MU 2, MU 3.0, and MU 3.2 zones~~, nonresidential uses may be permitted on the same [building](#) floor as a residential use with the approval of a Conditional Use Permit, in accordance with Section 17.16.060, Conditional Use Permits, of this title.

SECTION 39. Table 17.40.030 of Section 17.40.030 of the San Clemente Municipal Code is hereby amended as follows:

- 1. Within Section 1’s “Commercial” entries, new rows are hereby regarding for Liquor Sales for On-Site Consumption and Dancing and/or entertainment;
- 2. Within Section 8’s “Restaurant and Bars” entries are amended in their entirety;
- 3. Within Section 9’s “Unclassified” entries for “Accessory Buildings, Residential”, “Amusement Center” and “Pool Halls” are amended as shown below; and
- 4. Footnotes 16 to 30 are amended and renumbered.

Table 17.40.030 – Mixed Zone Uses.

Use	Zones							NOTE
	MU 1	MU 2	MU 3.0	MU 3.1	MU 3.2	MU 3.3	MU 5	
1. Commercial								
Liquor Sales for On-Site Consumption:								
a. Hard alcohol	C	C	C	C	C	C	C	
b. Beer and wine indoors with active food service	P	P	P	P	P	P	P	
c. Beer and Wine in outdoor dining areas with active food service	MC	MC	MC	MC	MC	MC	MC	
d. Beer and Wine without active food service	MC	MC	MC	MC	MC	MC	MC	
Dancing and/or entertainment that has:								
a. No amplified sound.	MC	MC	MC	MC	MC	MC	MC	
b. Amplified sound.	C	C	C	C	C	C	C	
8. Restaurants and bars	MU 1	MU 2	MU 3.0	MU 3.1	MU 3.2	MU 3.3	MU 5	NOTE

Bars, cocktail lounges (with or without dancing and/or entertainment)	P	P	P	P	P	P	P	
Microbreweries (with limited production up to 5,000 barrels and tasting room) as defined in Section 17.88	P	P	P	P	P	P	P	
Taprooms as defined in Section 17.88	P	P	P	P	P	P	P	
Restaurants <u>without drive-through</u> :	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	
-a. Restaurants with drive-through			C	C	C	C	C	16
-b. With no on-site consumption of liquor, no dancing, no entertainment	P	P	P	P	P	P	P	
-c. With on-site sale of beer and wine:								
—i. Indoors	MC	MC	MC	MC	MC	MC	MC	
—ii. Outdoors with up to 16 outdoor seats or four tables	MC	MC	MC	MC	MC	MC	MC	
—iii. Outdoors with more than 16 outdoor seats and/or four tables	MC	MC	MC	MC	MC	MC	MC	
-d. With on-site sale of hard alcohol:								17, 18, 19
—i. Indoors	€	€	€	€	€	€	€	
—ii. Outdoors with up to 16 outdoor seats or four tables	MC/€	MC/€	MC/€	MC/€	MC/€	MC/€	MC/€	
—iii. Outdoors with more than outdoor 16 seats and/or four tables	€	€	€	€	€	€	€	
-e. With dancing and/or entertainment that has:								
—i. No amplified sound	MC	MC	MC	MC	MC	MC	MC	
—ii. Amplified sound	€	€	€	€	€	€	€	
9. Unclassified Uses	MU 1	MU 2	MU 3.0	MU 3.1	MU 3.2	MU 3.3	MU 5	NOTE
Accessory Buildings, Residential				<u>P</u>		<u>P</u>	<u>P</u>	<u>20</u>
-a. Detached, Over 15-Foot in Height							€	20

b. All Others							P	
Accessory Buildings, Nonresidential	C	C	C	C	C	C	C	
Amusement Centers	C	C	C	C	C	C	C	22 18
Bowling Alley	C	C	C	C	C	C	C	
Pool Halls	C	C	C	C	C	C	C	25 21
Theaters	C	C	C	C	C	C	C	

16. Refer to Section 17.28.260, Drive-Throughs.

~~17. When a restaurant has an approved CUP for the service of alcohol indoors and a CUP is required for the service of alcohol outdoors, then the applicant may request an amendment to the existing CUP to extend service outdoors.~~

~~18. When a restaurant has an approved CUP for the service of alcohol indoors and an MCUP is required for the service of alcohol outdoors, an MCUP is the only application necessary (an amendment to the existing CUP shall not be necessary).~~

~~19. If a CUP has been previously approved for service of hard alcohol indoors, then that service may be extended outdoors for outdoor facilities with no more than 16 seats or four tables with the approval of an MCUP. If no CUP has been approved for service of hard alcohol indoors, then any service of hard alcohol outdoors requires a CUP.~~

~~20~~17. Refer to Section 17.24.040, Accessory Buildings.

~~21~~18. Refer to Section 17.28.040, Alcoholic beverages and motor vehicle fuel, concurrent sale of, of this title, for special provisions for concurrent sales of motor fuel and alcoholic beverages.

~~19~~22. Refer to Section 17.28.050, Amusement Centers.

~~20~~23. Refer to Section 17.28.130, Grading.

214. Massage is subject to Section 5.28 of the City of San Clemente Municipal Code. Refer to Section 17.28.185, Massage Establishments, of this title, for special provisions for massage establishments. To the extent otherwise allowed, Accessory Massage is permitted only in the commercial portion of a mixed-use building.

225. The provisions for amusement centers shall apply to pool halls. Refer to Section 17.28.050, Amusement Centers.

236. Refer to Section 17.28.250, Recycling Facilities.

247. Refer to Section 17.28.305, Urban Private Storage.

258. Refer to Section 17.28.320, Vehicle Service and Repair-Related Facilities.

269. A boarding house may not be located within 300 feet of any other boarding house measured by following a straight line without regard to intervening buildings from the nearest point of the parcel on which the proposed boarding house is to be located to the nearest point of the parcel that contains the existing boarding house. No more than one boarding house is allowed on a legal parcel.

~~27~~30. Refer to Section 17.28.292, Short-Term Lodging Units, of this title for special provisions for STLUs and STARS.

SECTION 40. Section 17.40.050 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

17.40.050 Mixed-Use Zone Special Development Standards.

This section and Chapter 17.24, General Development Standards, of this title, includes a number of special provisions affecting mixed-use properties. Unless otherwise indicated in the referenced sections, or in other City documents regulating mixed-use development, the development standards listed in Chapter 17.24, General Development Standards, of this title shall apply to all zones described in this chapter.

**Table 17.40.050
Special Development Standards for All Mixed-Use Zones**

Standards	Sections
Accessory Buildings	Section 17.24.040
Arbors (Residential Structures Only)	Section 17.32.050(A), Arbors
Building Equipment and Services and Their Screening	Section 17.24.050
Density Allowance for Lots with Less than 3,600 Square Feet of Lot Area (Residential Lots Only)	Section 17.32.050(B), Density Allowance for Lots with Less than 3,600 Square Feet of Lot Area (residential lots only)
Distance Between Primary Buildings, Minimum Required	Section 17.32.050(C), Distance Between Primary Buildings, Minimum Required
Encroachment into Setbacks and Height Limits, General	Section 17.24.080
Fences, Walls, Hedges	Section 17.24.090
Front Setback, Special Provisions for Reduction (Residential Lots Only)	Section 17.32.050(D)
Garage Encroachment into the Front Yard Setback (Residential Lots Only)	Section 17.32.050(E)
Height Limitations	Section 17.24.110, Front Setbacks, Special Provisions for Reductions (residential lots only), Section 17.32.050(D), Garage Encroachment into the Front Yard Setbacks (residential lots only), Section 17.32.050(E)
Increase in Floor Area Ratios	Section 17.24.100
Lighting	Section 17.24.130
Off-Street Loading Area	Section 17.24.150
Relocation of Structures	Section 17.24.160
Residential/Nonresidential Use Restrictions for MU 3.0-CB	Please refer to Section 17.56.030, Central Business District Overlay.
Residential/Nonresidential Use Restrictions for MU 5 (Minimum Contiguous Use)	Please refer to subsection (A), Residential/Nonresidential Use Restrictions for MU 5.
Residentially Zoned Properties, Development Adjacent to	Section 17.24.170
Retaining Walls	Section 17.24.180

Skirt Walls	Section 17.24.190, Special Provisions for Dwelling Units with Front Entrances Located Along the Side Property Line (residential lots only), Section 17.32.050(F)
Special Provisions for Dwelling Units with Front Entrances Located Along the Side Property Line (Residential Lots Only)	Section 17.32.050(F)
Substandard Lots	Section 17.24.200
Through Lots, Rear Yard Setback For	Section 17.24.210
Trip Reduction Measures for Projects With Greater Than 100 Employees	Chapter 17.76
Unit Size, Minimum	Please refer to subsection (B), Unit Size, Minimum

SECTION 41. Footnote 2 of Table 17.44.020 of Section 17.44.020 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

~~Table 17.44.020, Open Space Zone Uses, Footnote 2~~

2 New golf courses in the OSC zone require approval of a [Development Permit \(-Section 17.16.100\) or Cultural Heritage Permit \(17.16.110\)](#) ~~Site Plan Permit, in accordance with Section 17.16.050, Site Plan Permits and Minor Site Plan Permits, of this title.~~

SECTION 42. Section 17.52.040 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

17.52.040 - General Requirements for Specific Plan Zones.

- A. **Determination of Land Uses and Development Regulations.** Precise locations of land uses and development regulations within the SP Zone shall not be fixed or predetermined until a specific plan has been adopted by the City in accordance with Section 17.16.030, Specific Plan Adoption and Amendments, of this title.
- B. **Limitations on Grading Permits, Building Permits, and Land Use Permits.** No Grading Permits, Building Permits, or Land Use Permits, or other development entitlements, shall be issued for any property with an SP designation prior to the adoption of a specific plan for the property, unless such permits or entitlements are solely for emergency measures, restoration or remedial maintenance and do not in any way predispose the future use of the land.
- C. **Scope of Specific Plan.**
 - 1. Each specific plan shall include the specific land uses, standards and criteria necessary for the development, maintenance and use of the subject property, in compliance with the policies and programs of the General Plan. Each specific plan shall clearly specify how and to what extent the plan is to improve upon, supplement or supersede the City's Zoning Ordinance.
 - 2. New specific plans and amendments to existing specific plans may be required, at the City's discretion, to include standards and a financing program for the installation of public facilities and utilities, schools, flood control and transportation facilities, and other public and private improvements and facilities related to the specific plan.

3. Specific plans shall address the applicable portions of State law related to the preparation of a specific plan.
- D. **Amendment of the Zoning Ordinance and Map.** Adoption of a specific plan shall include an amendment to the Zoning Ordinance and Zoning Maps in accordance with Section 17.16.040, Zoning Amendments, of this title. Each specific plan shall be named. The Zoning Map shall not indicate the land use designations within the specific plan, but shall show the letters "SP" and an abbreviation of the specific plan name. Thereafter, all land use, development and improvements shall conform to the provisions of the adopted specific plan.
- E. **Inclusion of Specific Plan Text and Maps.** Adoption of a specific plan shall include the incorporation of the specific plan text and maps as an appendix to the Zoning Ordinance.
- F. **Reference of Specific Plan Text and Maps.** Adoption of a specific plan shall require the amendment of Table 17.52.060, Adopted Specific Plans, of this chapter to include a reference to the new specific plan.
- G. **Development Agreements.** Specific plans shall not be required to but may be accompanied by development agreements. Approved development agreements related to specific plans are listed in Table 17.52.060, Adopted Specific Plans, of this chapter.
- H. **Requirements Not Specified.** The standards in the Zoning Ordinance shall apply when development standards are not specified within individual specific plans. Any use that is not expressly permitted or prohibited in a specific plan is subject to the City's general zoning ordinance. This includes, among other things, the citywide prohibition on all cultivation of industrial hemp, as defined in Section 11018.5 of the California Health and Safety Code, and all marijuana dispensary, marijuana manufacturer, marijuana delivery, and marijuana testing laboratory uses.
- I. **Zoning Applications and Review Procedures.** Specific plans shall identify when a proposal requires zoning approval and refer to this Zoning Ordinance for applications, submittal requirements, and general review procedures, unless specific procedures are designated in a Specific Plan. If a Specific Plan requires approval of an application unaddressed in Chapter 17.16, the current procedures and applications within this Title shall apply.

SECTION 43. Subsections (A)-(C)(3) of Section 17.56.040 of the San Clemente Municipal Code are hereby amended to read in their entirety as follows:

17.56.040 - Planned Residential District (-PRD) Overlay.

- A. **Purpose and Intent.** The purpose of the Planned Residential District (-PRD) Overlay is to provide flexible regulations in order to foster innovation, variety, amenities, and a sensitivity to the natural topography in residential development. The intent is to allow development to deviate from conventional residential standards to achieve higher quality rather than increased density.
- B. **Applicability.** The provisions in this section apply to all areas with the Planned Residential District (-PRD) designation.
- C. **Adoption and Amendment of the Planned Residential Overlay District (-PRD).**
 1. Adoption and amendment of the -PRD Overlay on any properties shall occur in accordance with the provisions described in Section 17.16.040, Zoning Amendments, of this title.
 2. Adoption of the -PRD Overlay shall require the concurrent approval of a Tentative Map, if property is being subdivided according to the City's Subdivision Ordinance and concurrent

~~approval of a Development Permit,— (Section 17.16.100) or Cultural Heritage Permit (17.16.110). Site Plan Permit, in accordance with Section 17.16.050, Site Plan Permits and Minor Site Plan Permits, of this title, as well as the concurrent approval of a tentative map, if property is being subdivided, in accordance with the City's Subdivision Ordinance.~~

3. Prior to submitting an application for adoption of the -PRD Overlay, the applicant or prospective developer shall schedule a preapplication review conference with the City Planner. Please refer to Section 17.12.030, Preapplication Review, of this title for the general purpose and intent of preapplication review.

SECTION 44. Subsection (D) of section 17.56.020 of the San Clemente Municipal Code is hereby amended to read as follows:

- D. **Development Review.** Development ~~in areas with this~~within the Architectural Overlay ~~overlay designation will be subject to architectural review for compliance with the City's Design Guidelines. See Section 17.16.100, Architectural/Cultural Heritage Permits and Minor Architectural/Cultural Heritage Permits for requirements regarding architectural review.~~may require approvals specified in Chapter 17.16, such as an Administrative Development Permit; Section 17.16.100, Development Permit; or Section 17.16.110, Cultural Heritage Permit for historic resources and landmarks on the City's designated historic resources and landmarks list.

SECTION 45. Subsection (D)(6) of Section 17.56.050 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

6. Coastal Bluff and Canyon Preservation.
 - a. Landscaping. Landscaping in coastal canyon setback areas or the coastal bluff setback areas, as defined in the subsections above, shall be primarily composed of native plant species. The removal of native plant species and the introduction of nonnative plant species in the canyons shall be discouraged. The use of native plant species in and adjacent to the canyons shall be encouraged.
 - b. Landscape thinning and clearing within Costal Canyons and Bluffs, including setback areas as defined in the subsections above, for areas located within 30 feet of any habitable structure or parking garage, shall be allowed when done in accordance with the following criteria:
 - i. Dead and dying plants, leaves and similar debris shall be removed.
 - ii. Non-native (also termed as ornamental or exotic) vegetation may be removed.
 - iii. Vegetation located next to or under combustible structures shall be removed.
 - iv. 30 feet shall be provided between the building and native (also defined as non-ornamental or non-exotic), non-irrigated vegetation, unless the vegetation is on a slope, in which case the native, non-irrigated plants shall be trimmed and thinned while retaining root structures in place for slope and soil stability. Where root zone is not sufficiently established, to be determined by the City Engineer, alternative measures for slope and soil stability may be required, to the satisfaction of the City Engineer and Coastal Commission staff.
 - v. Best Management Practices (BMPs) must be utilized to prevent any discharge of soil, vegetation or other material to the storm drain system (including natural canyons, area

drains, streets, gutters, catch basins, pipes, channels or receiving waters) in compliance with the municipal storm water permit issued by the San Diego Regional Water Quality Control Board, the city's local implementation plan and the Orange County Drainage area management plan.

- c. Landscape thinning and clearing within Coastal Canyons and Bluffs, including setback areas as defined in the subsections above, for areas located within 100 feet of any habitable structure or parking garage, shall be allowed when done in accordance with the following criteria:
 - i. Dead and dying plants, leaves and similar debris shall be removed.
 - ii. Non-native (also termed as ornamental or exotic) vegetation may be removed.
 - iii. Nominal trimming of native vegetation is allowed. In no case shall plants be trimmed down to the root stalk, unless in-concept approved by the City Planner and approved by the California Coastal Commission.
 - iv. Best Management Practices (BMPs) must be utilized to prevent any discharge of soil, vegetation or other material to the storm drain system (including natural canyons, area drains, streets, gutters, catch basins, pipes, channels or receiving waters) in compliance with the municipal storm water permit issued by the San Diego Regional Water Quality Control Board, the city's local implementation plan and the Orange County Drainage area maintenance plan.
- d. New landscaping and landscape modification, other than as described above, must be in-concept approved by the City Planner and reviewed and approved by the California Coastal Commission.
- e. Subdivision. Any subdivision of property in or adjacent to coastal bluffs and/or coastal canyons shall be reviewed for consistency with the coastal bluff and canyon preservation policies. New parcels that do not have an adequate building site area to comply with the setback standards of these policies shall not be created.
- f. Review of Projects:
 - i. Projects Requiring ~~Site-Plan-Review~~ [Development Permit or Cultural Heritage Permit](#). Review of all projects within the Coastal Zone requiring ~~Site-Plan~~[Development Permit](#), [Cultural Heritage Permit](#), ~~Review~~ or Conditional Use Permit review shall include an assessment of the potential impact on natural habitat areas. Site plan review of all development projects located adjacent to parks and recreation areas shall include an evaluation of potential impacts on coastal bluffs and coastal canyons.
 - ii. Mitigation measures identified during site plan review stages to limit a project's effect on the coastal bluff or coastal canyon environment shall be incorporated into final project design plans.
 - iii. Large-Scale Projects. The analysis and evaluation of large-scale development projects shall include a comprehensive inventory of biological resources. A determination should

be made of the area's importance as a native habitat, including identification of rare or endangered species, or those species being considered to be listed as rare or endangered.

SECTION 46. Subsection (C)(3) of Section 17.56.080 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

3. Neighborhood Electric Vehicles. Parking for Neighborhood Electric Vehicles (NEV), as defined in Vehicle Code Section 385.5, may be applied toward the total required parking at a maximum of four percent and not more than eight spaces of the required number of parking spaces for a project through the approval of a ~~Site Plan Permit~~ [Development Permit or Cultural Heritage Permit](#). Additional NEV spaces can be provided however those spaces will not apply to the required parking. NEV spaces shall be located in areas of parking lots that cannot accommodate a standard parking space, unless the required number of standard spaces has been satisfied.

SECTION 47. Subsection (D) of Section 17.56.090 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

- D. **Review Requirements.** Affordable housing projects are a permitted use in the [AH] Overlay. Refer to use tables in Sections 17.36.030 (Commercial Zone Uses) and 17.40.030 (Mixed-Use Zone Uses). Affordable housing projects in commercial and mixed-use zones require [the approval of a Development Permit \(Section 17.16.100\); or a Cultural Heritage Permit \(Section 17.16.110\) for historic resources and landmarks on the City's designated historic resources and landmarks list](#) ~~either a Cultural Heritage Permit or Architectural Permit per Section 17.16.100,~~ [. Additionally, d](#) Depending on the project, other discretionary processes may apply ~~per~~ [in compliance with](#) Chapter 17.16.

SECTION 48. Subsection (D)(7) of Section 17.56.100 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

D. **Emergency Shelter Development Standards.**

7. Architectural Review. Emergency Shelters shall comply with the City's Design Guidelines, Specific Plans, and the Zoning Ordinance regarding architectural and development standards to ensure shelters are compatible with their surroundings, provide adequate privacy between uses, and minimize potential impacts of the proposed shelter on adjacent uses.

The process to review emergency shelter compliance with these requirements shall be a ministerial review that shall be considered at the time of building permit review or business license review, ~~which ever~~ [whichever](#) comes first. Emergency shelters shall be exempt from all discretionary review processes ~~including Site Plan Permit (Zoning Ordinance Section 17.16.070) and Architectural Permit (Zoning Ordinance Section 17.16.100)~~ [in accordance](#) [compliance](#) with State law.

SECTION 49. Section 17.64.110 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

17.64.110 Off-Site Parking.

Where permitted by this chapter, parking required for nonresidential uses may be provided off-site, within ~~3~~1,000 feet of a use, through the execution of a legal document. The document shall comply with the following restrictions:

- A. The agreement shall restrict the use of the land on which the off-site parking is located for the duration of the use for which that parking is provided;
- B. The agreement shall be executed by the owner of the property on which the parking is located. Only the property owner may enter into these agreements; and
- C. The agreement shall be submitted for the review and approval of the City Attorney; and
- D. Following its approval of a Minor Conditional Use Permit pursuant to Section 17.16.07~~60~~, the agreement shall be recorded by the applicant and a copy furnished to the Community Development Department when applying for a permit, for inclusion in any related discretionary application files and the Building Division address files.

SECTION 50. Subsection (A) of Section 17.64.120 of the San Clemente Municipal Code is hereby amended to read as follows:

17.64.120 Shared Parking.

In all nonresidential and mixed-use zones, private parking facilities may be shared by multiple uses whose activities are not normally conducted during the same hours, or when hours of peak use vary. The applicant shall have the burden of proof for a reduction in the total number of required off-street parking spaces.

A. Review Requirements.

1. Existing Buildings with Change of Use [Except a Change to a Mixed Use (Residential/Commercial on the Same Site)]. Shared parking may be granted through the approval of a Minor Conditional Use Permit, in accordance-compliance with Section 17.16.070, Minor Conditional Use Permits, ~~of this title, subject to the requirements and findings in subsections (B) and (C) of this section.~~
2. New Mixed Use (Residential/Commercial on Same Site) Buildings. Shared parking may be granted through the approval of a Minor Conditional Use Permit, in complianceaccordance with Section 17.16.~~060~~070, Minor Conditional Use Permits, ~~of this title, subject to the requirements and findings in sub_sections (B) and (C) of this section.~~
3. All Other Projects. Shared parking may be granted through the approval of a Conditional Use Permit, in accordance-compliance with Section 17.16.~~060~~070, Minor Conditional Use Permits, ~~of this title, subject to the requirements and findings in subsections (B) and (C) of this section.~~

SECTION 51. Subsections (B)(2) and (B)(3) of Section 17.72.030 of the San Clemente Municipal Code are hereby amended to read in its entirety as follows:

B. Exemptions.

2. Nonconforming Structures. The following structures are exempt from nonconforming structure regulations in this Chapter:
 - a. Structures that comply with all zoning requirements except landscape standards.
 - b. Single-family dwellings constructed with a single-car garage or carport (“parking structure”) in residential zones prior to April 4, 1962 are exempt from being a Nonconforming Structure due to insufficient parking, except when a project removes or alters the single-family dwelling’s structural frame in 50 percent or greater of the structure’s exterior walls, as described in Section 17.72.050(E). Then, the residence and parking structure shall be made to comply zoning requirements as described in this Chapter.
 - c. In-the-bank garages located in residential zones which do not comply with front yard setback regulations.
 - d. National, state or locally designated historic structures may be exempted from this Chapter with the approval of a Cultural Heritage Permit ~~per Table~~ [in compliance with Section 17.16.100B](#).
3. ~~Nonconforming~~—[Nonconforming](#) Uses. The following land uses are exempt from nonconforming use regulations in 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~~ [in compliance with Section 17.16.100110-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 52. Subsection (B) of Section 17.72.040 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

- B. **Code compliance of projects.** ~~Projects shall~~ [The expansion and alteration of nonconforming structures shall not make structures and uses more nonconforming comply with development standards, unless exceptions are granted with the approval of a Minor Exception Permit, Variance, or other provision in this Title.](#)

SECTION 53. Subsection (A) of Section 17.72.050 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

~~17.72.050(A), Repair, Alteration, and Expansion of Nonconforming Structures, Applicability of other review procedures.~~

- A. **Applicability of other review procedures.** ~~Section 17.16.050 (Site Plan Permits and Minor Site Plan Permits) or Section 17.16.100 (Architectural/Cultural Heritage Permits and Minor Architectural/Cultural Heritage Permits) may apply to projects that change Nonconforming Structures. These permits may be required to ensure site plans and architecture are reviewed through a discretionary process, where applicable.~~ This Title may require approval of permits to allow the modification of nonconforming structures according to Chapter 17.16. Projects are consistent with the General Plan, Design Guidelines, and regulations.

SECTION 54. Subsection (I)(2)(a)(i) of Section 17.72.050 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

~~17.72.050(I)(2)(a), Nonconforming structures, 50 percent or greater additions~~

- a. Nonconforming status shall be terminated. Nonconforming Buildings expanded by 50 percent or greater shall be made to conform to zoning requirements, except as follows:
 - i. Exception for single-family dwellings less than 1,400 square feet. Nonconforming single-family dwellings, smaller than 1,400 square feet, may be expanded to a maximum of 2,100 square feet with the approval of a Development Permit (Section 17.16.100) or a Cultural Heritage Permit (17.16.110) for historic resources and landmarks on the City's designated historic resources and landmarks list, provided that a Minor Architectural Permit or Minor Cultural Heritage Permit is approved in compliance with Section 17.16.100. The Design Review Subcommittee shall review projects, prior to a Zoning Administrator hearing, to ensure additions are in character with a neighborhood and are consistent with the City's Design Guidelines. ~~if they are expanded to a maximum of 2,100 square feet with the approval of a Development Permit (Section 17.16.100) or a Cultural Heritage Permit (17.16.110) for historic resources and landmarks on the City's designated historic resources and landmarks list, provided that a Minor Architectural Permit or Minor Cultural Heritage Permit is approved in compliance with Section 17.16.100. The Design Review Subcommittee shall review projects, prior to a Zoning Administrator hearing, to ensure additions are in character with a neighborhood and are consistent with the City's Design Guidelines.~~

SECTION 55. The rows for “Banner Signs” and “Grand Opening Signs” in Table 17.84.030A in Section 17.87.030 of the San Clemente Municipal Code are hereby amended to read in their entirety as follows:

Table 17.84.030A, Matrix of Sign Types, Banner Signs and Grand Opening Signs

Table 17.84.030A, Matrix of Sign Types

Sign Type	Maximum Number of Signs Permitted	Maximum Size per Sign	Maximum Height per Sign	Sign Permits Required	Other Special Considerations
Banner Signs	One per business	64 sq. ft.	—	Temporary <u>BannerAdm.</u> Sign Permit	See Section 17.84.030(H) for criteria
Grand Opening Signs	1 per site	4 sq. ft.	—	Temp. <u>BannerAdm.</u> Sign Permit	Will not count toward banner allowance during calendar year.

					<p>May be displayed for a maximum of 30 days. The application for a Temp. Banner Permit must accompany a new business license application or new certificate of occupancy.</p>
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SECTION 56. Subsection (H)(1) of Section 17.84.030 of the San Clemente Municipal Code is hereby amended to read as follows:

H. **Temporary Banner Signs.** Temporary Banner Signs shall be allowed for businesses city-wide, excluding home-occupations.

1. Temporary Banner Sign Criteria.

- a. Each business shall be permitted a maximum of one temporary banner sign per business at any given time.
- b. The temporary banner sign cannot exceed 64 square feet. A temporary banner sign will not count towards a business's total sign area allowance.
- c. The temporary banner sign shall be placed on-site and flush on the building. These banners are prohibited in the following locations: city right-of-way, free-standing walls, fences or other areas or fixtures not part of the business's primary structure; other locations as determined by the City Planner to be inconsistent with the intent of this section. No portion of the temporary banner sign shall be free-hanging and all corners of the banner shall be secured to the building.
- d. Temporary banner signs shall be constructed of cloth, canvas, fabric, plastic or other similar durable material.
- e. The temporary banner sign shall be maintained in good condition, free of any defects, including cracking, torn or ripped material, or faded copy.
- f. Each business may have up to four ~~banner~~ permits per calendar year. [Each permit allows the display of a banner sign up to 30 calendar days.](#) Renewals of ~~banner~~ permits are allowed, but in no case shall a business display a temporary banner for more than 120 days per calendar year. ~~A minimum of 14 days between permits is required, except upon renewal of an existing banner permit.~~ Banners may be replaced during the authorized period so long as they are the same or smaller size and installed in the approved location. These provisions are to ensure temporary banner signs are not used as permanent display or in-lieu of permanent signs for the business.

SECTION 57. Section 17.16.150 of the San Clemente Municipal Code is hereby amended to read as follows:

17.16.150 - Temporary Use Permits.

- A. **—Purpose and Intent.** The purpose of the Temporary Use Permit process is to provide for the review of certain temporary land use activities on private property, as detailed in Section 17.28.300, Temporary Uses and Structures, to ensure that adverse impacts on surrounding properties, residents and businesses are minimized, that the time limitations for temporary uses are specified and complied with, and that the site of temporary use is restored to its condition prior to establishment of the use.
- B. **—Authority.** The table below describes the authority on Temporary Use Permits, subject to the concurrent review and appeal provisions of Section 17.12.090, Consideration of Concurrent Applications, and Section 17.12.140, Appeals of an Action. ~~City Planner is the final authority on Temporary Use Permits.~~The City Planner ~~has the discretion to refer applications to the Zoning Administrator for review and final action. If an application is referred to the Zoning Administrator, a public hearing and notification is required per Section 17.12.100.~~

Table 17.16.155A
Review Requirements for Temporary Use Permits

<u>Threshold for review</u>	<u>City Planner</u>	<u>Discretionary – Zoning Administrator</u>
<u>Temporary Uses and Structures Not Specified</u>	<u>X</u>	
<u>Annual and Seasonal Holiday Sales</u>	<u>X</u>	
<u>Temporary Construction Project Uses and Structures</u>	<u>X</u>	
<u>Model Home Complexes and Sales Offices</u>	<u>X</u>	
<u>Temporary Outdoor Displays</u>	<u>X</u>	
<u>Other Temporary Fencing for Security and Screening</u>	<u>X</u>	
<u>Special Activities:</u>		
<u>Parking Lot Sales</u>	<u>X</u>	

<u>Threshold for review</u>	<u>City Planner</u>	<u>Discretionary – Zoning Administrator</u>
<u>Residential uses when providing shuttle/valet services</u>	<u>X</u>	
<u>Commercial or Non-commercial Special Activities and non-residential shuttle/valet services:</u>		
<u>Up to 2 consecutive days</u>	<u>X</u>	
<u>Three or more consecutive days and not to exceed 15 consecutive days</u>		<u>X</u>

- C. ~~___~~ **Applicability**-. The provisions of this section shall apply to all temporary uses and structures requiring the approval of a Temporary Use Permit, as required in Section 17.28.300, Temporary Uses and Structures.
- D. ~~___~~ **Submittal Requirements**-. Please refer to the submittal requirements in Section 17.12.040, Filing an Application, and Section 17.12.060, Applications Requiring Additional Information.
- E. ~~___~~ **Review Procedures**-. ~~The City Planner shall approve, conditionally approve, or deny the application, Temporary Uses and Structures, within 15 days following receipt of a completed application. If an application is not acted upon within 30 days, the application shall be put on the agenda for the next regularly scheduled Planning Commission meeting as a New Business item. The Planning Commission shall approve, approve with modifications, or deny the Temporary Use Permit. Following the receipt of a complete application, the Review Authority, identified in Table 17.16.155A, shall review a Temporary Use Permit request for compliance with minimum standards and make a decision based on an ability to meet required findings pursuant to 17.16.150(G), Required Findings.~~
 - 1. If the City Planner is the review authority and an application is not acted upon within 30 days, the application shall be put on the next available agenda for ~~the next~~ a regularly scheduled Zoning Administrator meeting as a New Business Item.
 - 2. A public hearing and notification is required when the review authority is the Zoning Administrator. The Zoning Administrator then shall approve, approve with modifications and/or conditions, or deny the Temporary Use Permit.
- F. **Conditions**-. Please refer to Section 17.28.300(~~J~~**H**), Conditions, for a list of potential conditions of approval for temporary uses.
- G. **Required Findings**-. ~~Prior to the approval of an application for a Temporary Use Permit, all of the following findings shall be made:~~
 - 1. City Planner Decisions. For administrative approval of a Temporary Use Permit, the City Planner shall find the application complies with the Zoning Code (Municipal Code Title 17).

2. Zoning Administrator Decisions. For discretionary approval of a Temporary Use Permit, the Zoning Administrator shall find all of the following:

- a. The proposed use is permitted within the subject zone pursuant to the approval of a Temporary Use Permit and complies with all the applicable provisions of this title, the San Clemente General Plan and the purpose and intent of the zone in which the use is being proposed; and.
 - b. The site is suitable for the type and intensity of use that is proposed; and.
 - c. The proposed use will not be detrimental to the public health, safety or welfare, or materially injurious to properties and improvements in the vicinity; and.
 - d. The proposed use will not negatively impact surrounding land uses.
- H. **Appeals**. An appeal of the decision on a Temporary Use Permit shall be reviewed in accordance with Section 17.12.140, Appeals of an Action.
- I. **Modifications Requested by the Applicant**. Modifications requested by the applicant to approved Temporary Use Permits shall be reviewed in accordance with Section 17.12.180, Modifications of an Approved Application.
- J. —Modifications and/or Revocations Initiated by the City. The City may take code enforcement action ~~make changes or revoke the approval of applications~~ when conditions of approval are violated, or it is necessary to resolve a nuisance, and/or when the application contained incorrect, false, or misleading information, including but not limited to making changes to conditions of approvals or require activities to cease. If the City finds the application contained incorrect, false, or misleading information, the City may revoke the approval of applications Refer to Section 17.12.175 for related procedures and required findings. If issues arise from a permitted special activity, the Review Authority may consider such issues as part of the administrative record for decisions on future special activity requests.
- K. **Other Review Requirements**. Refer to Chapter 17.12, Development Review Process, for general application processing requirements, such as time limits on approvals and time extensions.
- L. **Approval Runs with the Land**. The approval of ~~applicant/location~~ permits shall run with the land, and shall continue to be valid for the specific dates of the approved use or activity upon a change of ownership of the site to which it applies.

SECTION 58. Section 17.28.300 of the San Clemente Municipal Code is hereby amended to read as follows:

17.28.300 - Temporary Uses and Structures.

- A. —Purpose and Intent. The purpose of this section is to control and regulate land use activities of a temporary nature on private property which may adversely affect the public health, safety and welfare. The intent is to ensure that temporary uses will be compatible with surrounding land uses, to protect the rights of adjacent residences, businesses, and land owners, and to minimize any adverse effects on surrounding properties and the environment.
- B. —Applicability. This section shall apply to the temporary uses and structures on private property described in subsections (D) through ~~(G)~~ of this section. All other temporary uses and structures not

deemed similar by the City Planner shall be prohibited on private property, ~~except for those provided for through Special Events Permits.~~ For temporary uses and activities allowed on public ~~or private~~ property through Special Events Permits, please refer to SCMC 12.34 and contact the City's Beaches, Parks and Recreation Department regarding the application process and fees for Special Events Permits.

- C. ~~___~~ **—Review Requirements.** The review procedures for the temporary uses and structures allowed by this section are specified for each use in subsections (D) through ~~(G)~~ of this section.
- D. ~~___~~ **—Annual and Seasonal Holiday ~~Christmas Tree and Pumpkin Sales~~ Sales Lots.** Annual and Seasonal Holiday Sales, including Christmas trees, pumpkins, or temporary uses of a similar nature as determined by the City Planner, ~~Christmas tree and/or pumpkin sales lots~~ shall be permitted, subject to the following regulations:
1. ~~___~~ **—Elimination of Parking.** Areas used for ~~pumpkin or Christmas tree~~ Annual and Seasonal Holiday Sales shall not eliminate or decrease the number of required parking spaces for the primary use on the site, if there is one, or for any other site.
 2. **Lighting.** All lighting shall be directed away from and shielded from adjacent residential areas.
 3. **Location.** Annual and ~~Pumpkin and Christmas tree~~ Seasonal Holiday Sales shall be permitted for in any nonresidential use zone in the City, ~~and on all church sites and school sites~~ and on vacant residential property abutting arterial highways.
 4. ~~___~~ **—Merchandise.** Annual and Seasonal Holiday Sales ~~A pumpkin or Christmas tree sales lot~~ shall not engage in the sale of any merchandise not directly associated with the holidays with which the seasonal sales is associated.
 - ~~5. **—Other Requirements.** Each site occupied by a temporary use shall be left free of debris, litter, or any other evidence of the temporary use upon completion or removal of the use, and shall thereafter be used, pursuant to the provisions of this Zoning Ordinance.~~
 - ~~5~~6. ~~___~~ **—Review Requirements.** ~~Christmas tree or pumpkin sales lots~~ Annual and Seasonal Holiday Sales shall be permitted without benefit of a Discretionary Permit from the Planning Division, provided the standards of this section are met.
 - ~~6~~7. **Signs.** The total temporary signage on the site shall be limited to an aggregate sign area of one times the linear frontage of longest street frontage of the lot. No sign shall exceed 64 square feet. No prohibited signs, as defined in Chapter 17.84, Sign Regulations, shall be allowed.
 - ~~7~~8. ~~___~~ **—Outdoor Storage.** Temporary outdoor storage containers or trailers ancillary to the permitted use are permitted for the storage of merchandise and other materials necessary for the display of Annual and Seasonal Holiday Sales items with review and approval by the City's Building, Planning, and Engineering Divisions.
 8. **Time Limits.** ~~Pumpkin and Christmas tree sales~~ Annual and Seasonal Holiday Sales ~~lots~~ shall be limited to ~~55~~45 days of operation per calendar year.
- E. ~~___~~ **—Temporary Construction Project Uses and Structures.** Construction offices, security quarters, storage yards, large containers, temporary fencing and similar structures on the site of an active construction project shall be conditionally permitted, subject to the following regulations:
1. ~~___~~ **—Expiration of Permits.** Any permit issued pursuant to this section in conjunction with a construction project shall become invalid upon cancellation or completion of the Building Permit

for which the use has been approved, or the expiration of the time for which the approval has been granted.

2. ~~___~~—Review Requirements. Construction offices, security quarters, storage yards, large containers, temporary fencing and similar structures on the site of an active construction project shall require the approval of Temporary Uses Permit in accordance with Section 17.16.150, Temporary Use Permits, of this title.

F. ~~___~~—**Model Home Complexes and Sales Offices**-. Model home complexes and sales offices shall be conditionally permitted solely for the first sale of homes within a recorded tract or condominium subdivision, subject to the following regulations:

1. Location. The model home complex and/or sales office shall be located on the same or adjacent premises as the subdivision or building project.
2. ~~___~~—Expiration of Permits. Permits are valid for one calendar year from the permit approval date, or six months after 90 percent or greater of homes are sold, whichever is sooner. The City Planner may approve 180 day time extensions. A maximum of two time extensions may be approved. To receive a time extension, a written request shall be submitted before the expiration date and state justified reasons for delays. For approval, the City Planner must meet required findings for a Temporary Use Permit. When a permit expires, the applicant may submit a new application and fees to request a Temporary Use Permit to maintain a model home complex and sales office use and improvements.
3. ~~___~~—Review Requirements. A Temporary Use Permit is required to allow model home complexes and/or sales offices for the sale of homes in any subdivision containing five or more units.
4. Use. The sales office shall be used only for transactions involving the sale, rent or lease of lots or units within the tract or condominium subdivision.
5. ~~___~~—Other Issues for Consideration. The decision-making body responsible for reviewing the application for a model home complex and/or sales office shall consider the hours of operation, lighting, landscaping, signage, and any other factors that may affect the model home complexes maintenance and impacts on the surrounding area and shall condition the project accordingly. Please refer to Subsection (JH), Conditions, of this section.

~~6. Site Restoration Required. Each site occupied by a temporary use shall be left free of debris, litter, or any other evidence of the temporary use upon completion or removal of the use, and shall thereafter be used, pursuant to the provisions of the Zoning Ordinance. The City may require a bond to ensure this requirement is met.~~

G. **Temporary Outdoor Displays. Parking Lot Sales/Temporary Outdoor Display. 1.**—Temporary Outdoor Displays ~~for Grocery Stores~~. The temporary outdoor display of merchandise ~~for grocery stores~~ shall be permitted, subject to the following regulations.

- 1a. ~~___~~—Authorization. Written authorization for the sale/display shall be obtained from the property owner.
- 2b. ~~___~~—Hazards. ~~The activity shall not present a hazard to pedestrians or encroach on a required building exit. No item shall be displayed in a manner that causes a safety hazard; obstructs the entrance to any building; interferes with, or impedes the flow of, pedestrian or vehicle traffic; is unsightly or creates any other condition that is detrimental to the appearance of the premises or any surrounding property; or in any other manner is detrimental to the public health, safety or welfare or causes a public nuisance.~~

- 3c. —Location. Merchandise cannot be displayed in required parking spaces for a business. Merchandise goods must be displayed along the front entrance of the store. ~~Goods cannot be displayed in required parking spaces for a store. (Refer to section I, Special Activities, for considerations of parking lot sales.)~~
- 4d. —Merchandise. Only goods and materials associated with ~~pre~~-existing, indoor primary uses may be displayed and sold. The displayed item(s) shall not have advertisements or other signs attached. Where there is ambiguity, the Code Compliance Manager or designee shall decide.
- 5e. —Parking. Adequate parking shall be provided and maintained during the course of the activity.
- 6f. —Public Property. No item, or any portion thereof, shall be displayed on public property unless a Special Events Permit has been obtained from the City's Beaches, Parks and Recreation Department.
- 7g. —Review Requirements. The temporary outdoor display of merchandise, including at grocery stores, goods at a grocery store shall be permitted without benefit of a ~~Discretionary Temporary Use~~ Permit from the Planning Division, provided the standards of this section are met. Temporary outdoor display of merchandise not specified in this section, shall require the approval of a Temporary Use Permit, in accordance with Section 17.16.150, Temporary Use Permits.
- 8h. —Time Limits. The temporary outdoor display of goods at a ~~business~~grocery store shall only be displayed during the business operating hours of the business displaying merchandise and shall be brought indoors after the closing of the business each day.~~not be subject to any time limits, provided the standards of this section are met.~~
- 9i. —Vehicle Ingress and Egress. Safe vehicle ingress and egress shall be provided at all times.
- ~~j. —Other Requirements.~~
- ~~i. —No item shall be displayed in a manner that: causes a safety hazard; obstructs the entrance to any building, interferes with, or impedes the flow of, pedestrian or vehicle traffic; is unsightly or creates any other condition that is detrimental to the appearance of the premises or any surrounding property; or in any other manner is detrimental to the public health, safety or welfare or causes a public nuisance.~~
- ~~ii. —The site shall be maintained free of debris, litter, and upon completion or removal of the temporary use shall thereafter be used pursuant to the provisions of this Zoning Ordinance.~~
- ~~2. —Temporary Outdoor Displays (Other than Grocery Store Displays and Parking Lot Sales) is allowed provided that all of the following standards are met:~~
- ~~a. —Authorization. Written authorization for the sale/display shall be obtained from the property owner.~~
- ~~b. —Hazards. The activity shall not present a hazard to pedestrians or encroach on a required building exit. No item shall be displayed in a manner that causes a safety hazard; obstructs the entrance to any building; interferes with, or impedes the flow of, pedestrian or vehicle traffic; is unsightly or creates any other condition that is detrimental to the appearance of the premises or any surrounding property; or in any other manner is detrimental to the public health, safety or welfare or causes a public nuisance.~~
- ~~c. —Merchandise. Only goods and materials associated with the business's pre-existing, indoor primary uses may be displayed and sold. Only one item of merchandise shall be displayed at~~

~~any time. The displayed item shall not have any sales tag, prices, advertisements or other signs attached. Where there is ambiguity, the Code Compliance Manager or designee shall decide.~~

- ~~d.—Parking. Adequate parking shall be provided and maintained during the course of the activity.~~
- ~~e.—Public Property. No item, or any portion thereof, shall be displayed on public property unless a Special Events Permit has been obtained from the City's Beaches, Parks and Recreation Department.~~
- ~~f.—Review Requirements. The general temporary outdoor display of merchandise is permitted.~~
- ~~g.—Time Limits. All merchandise shall only be displayed during the business hours of the business displaying merchandise and shall be brought indoors after the closing of the business each day.~~
- ~~h.—Vehicle Ingress and Egress. Safe vehicle ingress and egress shall be provided at all times.~~
- ~~3.—All Other Temporary Outdoor Display/All Parking Lot Sales. Parking lot sales and/or all other temporary outdoor display of merchandise shall be conditionally permitted, subject to the following regulations:~~
 - ~~a.—Authorization. Written authorization for the sale/display shall be obtained from the property owner.~~
 - ~~b.—Hazards. The activity shall not present a hazard to pedestrians or encroach on a required building exit.~~
 - ~~c.—Merchandise. Only goods and materials associated with pre-existing, indoor primary uses may be displayed and sold.~~
 - ~~d.—Parking. Adequate parking shall be provided and maintained during the course of the activity.~~
 - ~~e.—Public Property. No item, or any portion thereof, shall be displayed on public property unless a Special Events Permit has been obtained from the City's Beaches, Parks and Recreation Department.~~
 - ~~f.—Review Requirements. Parking lot sales and/or the temporary outdoor display of merchandise, shall require the approval of a Temporary Use Permit, in accordance with Section 17.16.150, Temporary Use Permits.~~
 - ~~g.—Time Limits. Parking lot sales and/or outdoor display may not exceed three days during any three-month period.~~
 - ~~h.—Vehicle Ingress and Egress. Safe vehicle ingress and egress shall be provided at all times.~~
 - ~~i.—Other Requirements.~~
 - ~~i.—No item shall be displayed in a manner that: causes a safety hazard; obstructs the entrance to any building; interferes with, or impedes the flow of, pedestrian or vehicle traffic; is unsightly or creates any other condition that is detrimental to the appearance of the premises or any surrounding property; or in any other manner is detrimental to the public health, safety or welfare or causes a public nuisance.~~
 - ~~ii.—Refer to conditions to be considered in Subsection (H), Conditions, in this section.~~
 - ~~iii.—Each site occupied by a temporary use shall be left free of debris, litter, or any other evidence of the temporary use upon completion or removal of the use, and shall thereafter be used, pursuant to the provisions of this Zoning Ordinance.~~

- H. ~~___~~~~I.~~ **Other Temporary Fencing for Security and Screening.** Temporary fencing, other than what is required for active construction projects, is allowed for the purpose of providing security and screening to ensure the health, safety and welfare of the community at the discretion of the City Planner, subject to the following regulations.

1. ~~___~~—Review Requirements. Temporary fencing and similar structures erected higher than 42 inches and up to six feet in height shall require the approval of a ~~Minor Architectural Permit/Minor Cultural Heritage Permit in accordance with Section 17.16.100, Architectural Permits/Cultural Heritage Permits and Minor Architectural Permits/Minor Cultural Heritage Permits~~Temporary Use Permit.
2. ~~___~~—Expiration of Permits. Any permit issued pursuant to this section shall become invalid upon the expiration of an approved permit for which the use has been approved.
3. ~~___~~—Minimum Standards. Temporary fencing and similar structures shall not be chain ~~link~~. Acceptable materials are more permanent in nature and include wrought iron, wood, or similar material and must be compatible with the existing style of surrounding development. Temporary fences and similar structures shall be maintained in good condition with no unintentional rips/tears (except for minimization of wind effects), fading, or general disrepair. Maintenance shall not become so defective, unsightly, or in such condition of deterioration or disrepair to create a public nuisance as set forth in Section 5.82.030.

I. Special Activities. A Special Activity is defined as any activity on private property (commercial or non-commercial) within any zoning district which temporarily intensifies the impacts (i.e., parking, traffic, noise, light and glare, etc.) of an existing permitted use or which create a potential conflict among land uses. Normal sales or functions which are incidental to the existing permitted use (i.e. sales conducted within the structure of an existing retail use, live entertainment if currently permitted under a Conditional Use Permit, etc.) shall not be considered a Special Activity. Special Activities typically include, but are not limited to, art shows, open houses, grand openings, circus/carnivals, food truck and/or music festivals, promotion, entertainment, firework displays, tent sales, farmers markets selling produce such as strawberries and similar goods, and activities providing shuttle or valet services. ~~!—~~

1. Commercial or Non-Commercial Special Activities. ~~(may include art shows, open house, or similar event)~~. Commercial or non-commercial Special Aactivities shall be permitted, subject to the following regulations:
 - a. ~~1—~~Location. Commercial or non-commercial ~~activities~~Special Activities shall be permitted in any ~~commercial/mixed-use and business park/industrial zone~~zoning district in the city, except on publicly owned land.
 - b. ~~2—~~Number of Occurrences. ~~Commercial or non-commercial Commercial or non-commercial activities~~Special Activities shall be limited to a maximum occurrence of 15 days during a calendar year and no more than 15 consecutive days for one property with a minimum of 5 days between commercial-Special Activities on the same site.
 - ~~b-c.~~ Notification Requirements. Special Activities proposed for non-residential uses located in residential or mixed use zoning districts shall require mailing notifications to all property owners within 300 foot radius from the exterior boundaries of the subject property. The applicant shall provide notification materials as part of an application.
 - ~~c.~~ ~~3—~~Other Requirements. ~~Each site occupied by a temporary use shall be left free of debris, litter, or any other evidence of the temporary use upon completion or removal of the use, and shall thereafter be used, pursuant to the provisions of this Zoning Ordinance.~~
 - d. ~~4—~~Review Requirements. Commercial or non-commercial Special Aactivities shall require the approval of a Temporary Use~~Special Activities~~ Permit, in accordance with Section 17.16.1505, Temporary Use~~Special Activities~~ Permits, of this title.

2. J.—Special Activities Providing Valet Parking and/or Shuttle Service. Special Aactivities providing valet parking and/or shuttle service shall be permitted, subject to the following regulations:
- a. 1.—Location. Special Aactivities providing valet parking and/or shuttle service shall be permitted upon approval of a Temporary Use Permit in any zoning district commercial/mixed-use and business park/industrial zone in the city, except publicly owned land on City property which is subject to the Special Events Permits process referenced in SCMC 12.3412.34 and as implemented by the Beaches, Parks, and Recreation Department.
 - b. 2.—Number of Occurrences. Special Aactivities providing valet parking and/or shuttle service shall be limited to a maximum occurrence of 15 days during a calendar year with a minimum of 5 days between Special Activities on the same site.
 - c. 3.—Parking. Public parking shall not be negatively impacted.
 - ~~e.~~d. Notification Requirements. Special Activities proposing shuttle or valet services on residential and non-residential properties require mailing notifications to all property owners within 300 foot radius measured from the exterior boundaries of the subject property.
 - ~~d.~~ 4.—~~Other Requirements. Each site occupied by a temporary use shall be left free of debris, litter, or any other evidence of the temporary use upon completion or removal of the use, and shall thereafter be used, pursuant to the provisions of this Zoning Ordinance.~~
 - e. 5.—Review Requirements. Special Aactivities providing valet parking and/or shuttle service shall require the approval of a Temporary Use Permit, in accordance with Section 17.16.150, Temporary Use Permits, of this title.
3. Parking Lot Sales. Special Activities proposing the sale of merchandise by a business in its on-site parking lot shall be permitted, subject to the following regulations:
- a. Authorization. Written authorization for the sale/display shall be obtained from the property owner.
 - b. Number of Occurrences. Parking Lot Sales shall be limited to a maximum occurrence of 15 days during a calendar year with a minimum of 5 days between Special Activities on the same site.
 - c. Hazards. The activity shall not present a hazard to pedestrians or encroach on a required building exit. No item shall be displayed in a manner that causes a safety hazard; obstructs the entrance to any building; interferes with, or impedes the flow of, pedestrian or vehicle traffic; is unsightly or creates any other condition that is detrimental to the appearance of the premises or any surrounding property; or in any other manner is detrimental to the public health, safety or welfare or causes a public nuisance.
 - d. Merchandise. Only goods and materials associated with pre-existing, indoor primary uses may be displayed and sold.
 - e. Parking. Adequate parking shall be provided and maintained during the course of the activity.
 - f. Public Property. No item, or any portion thereof, shall be displayed on public property unless a Special Events Permit has been obtained from the City's Beaches, Parks and Recreation Department.

g. Review Requirements. Parking Lot Sales shall require the approval of a Temporary Use Permit, in accordance with Section 17.16.150, Temporary Use Permits, of this title.~~Special Activities Permit, in accordance with Section 17.16.155, Special Activities Permits, of this title.~~

J. Conditions. ~~As specified in Subsection (C), Review Requirements, of this section, a number of different permits are required for temporary uses and structure.~~ In approving a Temporary Use Permit, ~~any of the required discretionary applications for a temporary use or structure,~~ the review authority ~~shall~~may impose conditions deemed necessary to ensure that the permit will be in accordance with the standards prescribed in this section and the findings required for the ~~Discretionary Permit,~~permit. These conditions may include, but are not limited to:

1. ~~___~~—Regulation of operating hours and days;
2. ~~___~~—Provision for temporary parking facilities, including vehicular ingress and egress;
3. ~~___~~—Regulation of nuisance factors such as, but not limited to, prevention of glare or direct illumination on adjacent properties, noise, vibration, smoke, dust, dirt, odors, gases and heat;
4. ~~___~~—Regulation of temporary structures and facilities, including placement, height and size, location of equipment and open spaces, including buffer areas and other yards;
5. ~~___~~—Provision for sanitary and medical facilities;
6. ~~___~~—Provision for solid, hazardous and toxic waste collection and disposal;
7. ~~___~~—Provision for security and safety measures;
8. ~~___~~—Regulation of signs;
9. ~~___~~—Submission of a performance bond or other surety devices, satisfactory to the review authority, to ensure that any temporary facilities or structures used will be removed from the site within a reasonable time following the event and that the property will be restored to its former condition;
10. Each site occupied by a temporary use shall be left free of debris, litter, or any other evidence of the temporary use upon completion or removal of the use, and shall thereafter be used, pursuant to the provisions of the Zoning Ordinance. The City may require a bond to ensure this requirement is met.
11. If alcoholic beverages are available in conjunction with a Special Activity, signs shall be placed at each exit with the text, “No alcohol beyond this point.” Each sign shall be no smaller than one square foot;
12. The proposed sale and/or service of alcohol at a Special Activity within non-residential uses requires the applicant to obtain a liquor license issued by the California Department of Alcoholic Beverage Control (“ABC Office”);
13. Any other conditions which will ensure ~~the operation of~~ the proposed temporary use operates in an orderly and efficient manner and in accordance with the intent and purpose of this section.

~~17.16.155—Special Activities Permits.~~

- A. ~~**Purpose and Intent**~~. The purpose of the Special Activities Permit process is to provide for the review of certain temporary land use activities on private property, as detailed in Section 17.28.295, Special Activities, of this title, to ensure that adverse impacts on surrounding properties, residents and businesses are minimized, that the time limitations for special activities are specified and complied with, and that the site of special activity is restored to its condition existing prior to establishment of the activity.
- B. ~~**Authority**~~. The table below describes the authority on Special Activities Permits, subject to the concurrent review and appeal provisions of Section 17.12.090, Consideration of Concurrent Applications, and Section 17.12.140, Appeals of an Action. The Community Development Director and Zoning Administrator have the discretion to refer applications to the Planning Commission for review and final action. When an application is referred, a public hearing and notification is required per Section 17.12.100.

Table 17.16.155A
Review Requirements for Applicable Special Activities in Non-Residential Zones

Threshold for review— Number of days the special activity will occur during a calendar year	Discretionary— Community Development Director	Discretionary— Zoning Administrator	Discretionary— Planning Commission
One day:	X		
With beer and wine consumption	X		
With hard alcohol consumption	X		
Two or more days and not to exceed 15 days:		X	
With beer and wine consumption		X	
With hard alcohol consumption			X

- C. ~~**Applicability**~~. The provisions of this section shall apply to all special activities on private property requiring the approval of a Special Activities Permit, as required in Section 17.28.295, Special Activities.

- ~~1. Non-residential Zones. A Special Activity is defined as any activity on private property (commercial or non-commercial) which temporarily intensifies the impacts (i.e., parking, traffic, noise, light and glare, etc.) of an existing permitted use or which create a potential conflict among land uses. Normal sales or functions which are incidental to the existing permitted use (i.e., sales conducted within the structure of an existing retail use, live entertainment if currently permitted under a Conditional Use Permit, etc.) shall not be considered a Special Activity. Typical activities that would be considered a Special Activity within non-residential zones would include, but not be limited to, art shows, open house, grand openings, and activities providing shuttle or valet service.~~

- ~~D. **Submittal Requirements** . Please refer to the submittal requirements in Section 17.12.040, Filing an Application, and Section 17.12.060, Applications Requiring Additional Information.~~
- ~~E. **Review Procedures** . Following the receipt of a complete application, the review authority, identified in Table 17.16.155A, shall review a Special Activities Permit request for compliance with minimum standards and make a decision based on an ability to meet required findings below. A public hearing and notification is required when the review authority is the Zoning Administrator or Planning Commission. If the Community Development Director is the review authority and an application is not acted upon within 30 days, the application shall be put on the agenda for the next regularly scheduled Planning Commission meeting as a New Business item. The Planning Commission then shall approve, approve with modifications, or deny the application.~~
- ~~F. **Conditions** . Please refer to Section 17.28.295F, Conditions, for a list of potential conditions of approval for temporary uses.~~
- ~~G. **Required Findings** . Prior to the approval of an application for a Special Activities Permit, the following findings shall be made:~~
- ~~1. The proposed use is permitted within the subject zone pursuant to the approval of a Special Activities Permit and complies with all the applicable provisions of this title, the San Clemente General Plan and the purpose and intent of the zone in which the use is being proposed.~~
 - ~~2. The site is suitable for the type and intensity of use that is proposed.~~
 - ~~3. The proposed use will not be detrimental to the public health, safety or welfare, or materially injurious to properties and improvements in the vicinity.~~
 - ~~4. The proposed use will not negatively impact surrounding land uses.~~
- ~~H. **Appeals** . An appeal of the decision on a Special Activities Permit shall be reviewed in accordance with Section 17.12.140, Appeals of an Action.~~
- ~~I. **Modifications Requested by the Applicant** . Modifications requested by the applicant to approved Special Activities Permits shall be reviewed in accordance with Section 17.12.180, Modifications of an Approved Application.~~
- ~~J. **Modifications and/or Revocations Initiated by the City** . The City may make changes or revoke the approval of applications when conditions of approval are violated, it is necessary to resolve a nuisance, and/or when the application contained incorrect, false, or misleading information. Refer to Section 17.12.175 for related procedures and required findings. When a Special Activities Permit has been revoked, another Special Activities Permit shall not be issued to the same location within one calendar year of the date of revocation.~~
- ~~K. **Other Review Requirements** . Refer to Chapter 17.12, Development Review Process, for general application processing requirements, such as time limits on approvals and time extensions.~~
- ~~L. **Approval Runs with the Land** . The approval of applicant/location permits shall run with the land, and shall continue to be valid upon a change of ownership of the site to which it applies.~~

~~17.28.295 – Special Activities.~~

- ~~A. **Purpose and Intent**. The purpose of this section is to control and regulate land use activities of a temporary nature on private property which may adversely affect the public health, safety and welfare. The intent is to ensure that temporary uses will be compatible with surrounding land uses, to protect the rights of adjacent residences, businesses, and land owners, and to minimize any adverse effects on surrounding properties and the environment.~~
- ~~B. **Applicability**. This section shall apply to the special activities on private property described in (1) and (2) below and subsections (D), and/or (E) of this section. All other special activities not deemed similar by the City Planner~~

~~shall be prohibited on private property, except for those provided for through Special Events Permits. For special activities allowed on public or private property through Special Events Permits, please refer to the City's Beaches, Parks and Recreation Department.~~

~~1. Non-Residential Zones. A Special Activity is defined as any activity on private property (commercial or non-commercial) which temporarily intensifies the impacts (i.e., parking, traffic, noise, light and glare, etc.) of an existing permitted use or which create a potential conflict among land uses. Normal sales or functions which are incidental to the existing permitted use (i.e., sales conducted within the structure of an existing retail use, live entertainment if currently permitted under a Conditional Use Permit, etc.) shall not be considered a Special Activity. Typical activities that would be considered a Special Activity within non-residential zones would include, but not be limited to, art shows, open house, grand openings, and activities providing shuttle or valet service.~~

~~C. Review Requirements. The review procedures for the temporary uses and structures allowed by this section are specified for each use in subsections (D), and/or (E) of this section.~~

~~D. Commercial or Non-Commercial Special Activities (may include art shows, open house, or similar event). Commercial or non-commercial activities shall be permitted, subject to the following regulations:~~

~~1. Location. Commercial or non-commercial activities shall be permitted in any commercial/mixed-use and business park/industrial zone in the city.~~

~~2. Number of Occurrences. Commercial or non-commercial activities shall be limited to 15 days during a calendar year.~~

~~3. Other Requirements. Each site occupied by a temporary use shall be left free of debris, litter, or any other evidence of the temporary use upon completion or removal of the use, and shall thereafter be used, pursuant to the provisions of this Zoning Ordinance.~~

~~4. Review Requirements. Commercial or non-commercial activities shall require the approval of a Special Activities Permit, in accordance with Section 17.16.155, Special Activities Permits, of this title.~~

~~E. Special Activities Providing Valet Parking and/or Shuttle Service. Special activities providing valet parking and/or shuttle service shall be permitted, subject to the following regulations:~~

~~1. Location. Special activities providing valet parking and/or shuttle service shall be permitted in any commercial/mixed-use and business park/industrial zone in the city.~~

~~2. Number of Occurrences. Special activities providing valet parking and/or shuttle service shall be limited to 15 days during a calendar year.~~

~~3. Parking. Public parking shall not be negatively impacted.~~

~~4. Other Requirements. Each site occupied by a temporary use shall be left free of debris, litter, or any other evidence of the temporary use upon completion or removal of the use, and shall thereafter be used, pursuant to the provisions of this Zoning Ordinance.~~

~~5. Review Requirements. Special activities providing valet parking and/or shuttle service shall require the approval of a Special Activities Permit, in accordance with Section 17.16.155, Special Activities Permits, of this title.~~

~~F. Conditions. As specified in Subsection (C), Review Requirements, of this section, a number of different permits are required for special activities. In approving any of the required discretionary applications for special activities, the review authority may impose conditions deemed necessary to ensure that the permit will be in accordance with the standards prescribed in this section and the findings required for the Discretionary Permit. These conditions may include, but are not limited to:~~

~~1. Regulation of operating hours and days;~~

~~2. Provision for temporary parking facilities, including vehicular ingress and egress;~~

- ~~3. Regulation of nuisance factors such as, but not limited to, prevention of glare or direct illumination on adjacent properties, noise, vibration, smoke, dust, dirt, odors, gases and heat;~~
- ~~4. Regulation of temporary structures and facilities, including placement, height and size, location of equipment and open spaces, including buffer areas and other yards;~~
- ~~5. Provision for sanitary and medical facilities;~~
- ~~6. Provision for solid, hazardous and toxic waste collection and disposal;~~
- ~~7. Provision for security and safety measures;~~
- ~~8. Regulation of signs;~~
- ~~9. Submission of a deposit or other surety devices, satisfactory to the review authority, to ensure that any temporary facilities or structures used will be removed from the site within a reasonable time following the event and that the property will be restored to its former condition;~~
- ~~10. If alcoholic beverages are available in conjunction with the Special Activity, signs shall be placed at each exit that say, "No alcohol beyond this point." Each sign shall be no smaller than one square foot;~~
- ~~11. Any other conditions which will ensure the operation of the proposed special activity in an orderly and efficient manner and in accordance with the intent and purpose of this section.~~

ATTACHMENT 3

ORDINANCE NO. 1759

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING ZONING AMENDMENT 22-366 AMENDING CERTAIN SECTIONS AND TABLES OF TITLE 17 (ZONING) OF THE SAN CLEMENTE MUNICIPAL CODE TO CLARIFY, STREAMLINE, AND CONSOLIDATE PERMIT PROCEDURES, WHILE MAINTAINING ADEQUATE REVIEW OF PROPOSALS THAT ARE REGULARLY WITHOUT SIGNIFICANT IMPACTS AND PUBLIC CONCERNS

WHEREAS, on February 4, 2014, the City Council of the City of San Clemente adopted the Centennial General Plan, which, among other provisions, included changes to land use designations, particular types of uses, and development criteria for certain designations; and

WHEREAS, on February 4, 2014, as part of its action on the Centennial General Plan, the City Council certified Environmental Impact Report SCH No. 2013041021 (“General Plan EIR”) pursuant to the California Environmental Quality Act (“CEQA”), approved mitigation measures, and adopted a Statement of Overriding Considerations; and

WHEREAS, subsequent to adoption of the General Plan EIR, the City Council adopted several Addenda:

- A. On November 3, 2015, the City Council adopted General Plan Amendment (“GPA”) 15-049, approved Ordinance Nos. 1609 and 1610 for Zoning Amendment (“ZA”) 14-456, and certified EIR Addendum No. 1 (the “2015 Addendum”);
- B. On September 5, 2017, the City Council adopted GPA 15-331, approved EIR Addendum No. 2 (the “2017 Addendum”), and approved Ordinance No. 1645 for ZA 17-251;
- C. On December 17, 2019, the San Clemente City Council adopted GPA 19-291 and SPA 19-292 (an update to the *Pier Bowl Specific Plan*), and approved EIR Addendum No. 3 (the “2019 Addendum”); and
- D. On October 18, 2022, the City Council adopted GPA 21-238, SPA 21-239, ZA 21-240, and Land Use Plan Amendment (“LUPA”) 21-241, and approved EIR Addendum No. 4 (the “2022 Addendum”).

WHEREAS, on July 19, 2022, the City Council initiated Zoning Amendment 22-366 (the “Project”) to Title 17 (Zoning) of the San Clemente Municipal Code to:

- A. Clarify planning permit review procedures to facilitate staff implementation and promote public understanding;
- B. Consolidate planning applications, making it easier for the public to understand which zoning permits are required and to submit applications, and reduce staff time on report writing, which allows the reallocation of those resources to other City priorities and review of other project applications. These amendments preserve findings for project consistency with planning documents, such as the General Plan, Zoning Ordinance, and Design Guidelines; use compatibility, quality design, historic preservation, and other planning issues. Therefore, the amendments maintain a focus on ensuring projects implement community goals and policies for quality of a life;
- C. Update the staff-level approval process for minor architectural changes. Currently, the Zoning Code has a “staff waiver” application that functions as a permit rather than a waiver. There are approval findings, an ability to add conditions, and types of eligible projects, including a broad category: “Other minor projects that do not substantially alter the visual appearance and/or architectural integrity of the property or structure.” The proposed Ordinance replaces the staff waiver application with an “Administrative Development Permit” that:
 - 1. Establishes criteria for review of administrative applications. These changes add objective general and project-specific standards (e.g., projects that won’t affect character-defining features of historic structures, such as a privacy fence constructed of certain materials). The general standards address design issues, such as architectural style, materials, colors, massing, scale, and historic considerations. The project-specific standards are additional objective criteria for eligible projects, such as types of windows that are minor for staff approval. Projects that don’t meet criteria would require a public hearing. Also, the City Planner would continue to have the authority to refer applications to a public hearing if determining a proposal has potential for significant public concern or impacts; and
 - 2. Lists specific types of projects that would be eligible for staff approval, replacing the broader categories of projects staff can currently review.
- D. Streamline the level of review required to approval several project types, while maintaining public minutes of decisions and appeal procedures, when experience has shown the projects have not had issues of significant public concerns or impacts to prompt a higher level of public review. The proposed streamlining is described in Attachment 2 of the administrative staff report. The streamlining includes: 1) reducing the level of hearing required, such as changing the review authority for a project type from a Planning Commission decision to Zoning Administrator review; and 2) in three limited instances, the proposed amendments change the decision process from a discretionary

public hearing decision to a staff level ministerial process with required approval of an Administrative Development Permit.

WHEREAS, this Ordinance (the “Ordinance”) amends various provisions within Title 17 of the San Clemente Municipal Code (“SCMC”) to effectuate the Project and the Council’s directives on the same; and

WHEREAS, the City, as Lead Agency, conducted an environmental review of the proposed SCMC amendments for compliance with the CEQA and the State CEQA Guidelines. The amendments do not constitute a “project” as defined by the State CEQA Guidelines Sections 15378(b)(2) and 15378(b)(5) (Cal. Code Regs., Title 14, §§ 15378(b)(2) and 15378(b)(5)) because the amendments involve continuing administrative activities and organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment; and

WHEREAS, on January 18, 2023, the Planning Commission held a duly noticed public hearing on the Project, considered evidence presented by City staff and comments from other interested parties, and continued the hearing on March 8, March 22, and April 19, 2023; and

WHEREAS, on June 7, 2023, the Planning Commission held a continued duly noticed public hearing on the attached Ordinance, considered evidence presented by City staff and comments from other interested parties, and made a recommendation to the City Council; and

WHEREAS, on September 5, 2023, the City Council held a duly noticed public hearing, considered evidence presented by City staff including the Ordinance and exhibits attached thereto, and heard other interested parties; and

WHEREAS, all legal prerequisites to the adoption of this Ordinance have occurred.

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

Section 1. Incorporation of Recitals.

The City Council hereby finds that all of the facts in the Recitals are true and correct and are incorporated and adopted as findings of the City Council as fully set forth in this Ordinance.

Section 2. Zoning Amendment Findings.

With respect to ZA 22-366, the City Council finds the following with respect to the amendments to the Zoning Ordinance:

- A. The amendments are consistent with the General Plan, in that:
1. The amendments improve the effectiveness of processes that directly implement goals and policies Centennial General Plan (as adopted on February 14, 2014 and by subsequent amendments thereafter) pursuant to Government Code Section 65860(c); and
 2. The zoning amendments clarify, consolidate, and streamline permits procedures and improve the effectiveness of regulations, making the City's review process more understandable, predictable, and timely; appropriate to the level of public concern, potential impacts, and nature of projects proposed to implement the General Plan, consistent with Governance Element Policy G-1.01, Effective Governance, *"We practice effective governance by adhering to a planning, budgeting, and implementation process which is publicly accessible, understandable, predictable and timely."*
- B. The zoning amendments adopting the use provisions and development criteria as proposed will not adversely impact the public health, safety, and welfare since they further the Centennial General Plan objectives of (1) meeting community values, needs, and conditions; (2) guiding long-term public and private land use, transportation, economic development, resource preservation, urban design, and other public policy actions; and (3) reflecting the City Council's review, direction, and independent judgement regarding land use.

Section 3. SCMC Code Amendments. Title 17 (Zoning) of the San Clemente Municipal Code is hereby amended and replaced in full to read as set forth in Exhibit "A-1," attached hereto and incorporated herein fully by reference.

Section 4. Severability.

If any section, subsection, sentence, clause, or phrase of this Ordinance is, for any reason, held to be invalid or unenforceable by a court of competent jurisdiction, such decision shall not affect the validity or enforceability of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause, or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, and phrases would be declared invalid or unenforceable.

Section 5. The City Clerk shall certify to the passage of this Ordinance and publish the same in the manner required by law, and this Ordinance shall take effect as provided by law.

APPROVED, ADOPTED AND SIGNED this 5th day of September, 2023.

ATTEST:

City Clerk of the City of
San Clemente, California
STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss.
CITY OF SAN CLEMENTE)

Mayor of the City of San
Clemente, California

I, LAURA CAMPAGNOLO, City Clerk of the City of San Clemente, California, hereby certify that Ordinance No. _____ having been regularly introduced at the meeting of _____, 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 _____, _____, 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 _____, _____.

CITY CLERK of the City of
San Clemente, California

APPROVED AS TO FORM:

Elizabeth A. Mitchell, CITY ATTORNEY

SECTION 1. Section 17.12.020 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

17.12.020 Review Authorities.

This section identifies the review authorities responsible for making decisions on applications required by the Zoning Ordinance.

- A. **City Council.** Refer to Chapter 2.04 for a description of the City Council's function, duties, and powers.
- B. **Planning Commission.** Refer to Chapter 2.32 for a description of the Planning Commission's function, duties, and powers.
- C. **Zoning Administrator.** Refer to Chapter 2.34 for a description of the Zoning Administrator's function, duties, and powers.
- D. **The Planning Division.** The Planning Division is responsible for the administration of the Zoning Ordinance, including the following functions:
 - a. **Application Process.** The Planning Division shall process applications consistent with goals and policies in the General Plan and the Zoning Ordinance. If a project is located in a Specific Plan area, then applications shall also be processed consistent with the Specific Plan.
 - b. **Public Information.** The Planning Division shall have the responsibility to provide information to the public on provisions and requirements of the Zoning Ordinance.
 - c. **Coordination.** The Planning Division shall be responsible for coordinating matters related to the administration of this title with other agencies, City departments and divisions, and City boards and commissions. The Planning Division participates in the Development Management Team (DMT), which is a group of City staff from various departments and staff from other agencies (e.g., the Orange County Fire Authority) that meets regularly to coordinate on the review of applications for completeness, consistency with requirements, guidelines, and policies. The DMT also makes non-binding recommendations to the applicable review authority. Unless required by this Title, the City Planner has discretion on whether to bring an application to the DMT for review and a recommendation.
 - d. **Application Status Updates.** The Planning Division shall provide information to applicants and interested parties on the status of applications.
- E. **Designated Review Authority for Required Approvals.** Refer to Table 17.12.020, Review Authority for Permits or Entitlements, for the review authority designated to act upon applications required by this Title, according to procedures described in Section 17.12.060.

(Continue on next page)

Table 17.12.020 - Review Authority for Permits or Entitlements

Permit Application	Review Authority¹	Process Levels in Section 17.12.060	Public Hearings
Administrative Development Permit	City Planner	Process 1	No
Administrative Sign Permit	City Planner	Process 1	No
Cultural Heritage Permit	See Table 17.16.110	Process 2 for Zoning Administrator decisions. Process 3 for Planning Commission	Yes
City Antenna Permit	City Manager	Process 1	No
Coastal Review In-Concept	City Planner	Process 1	No
Conditional Use Permit	Planning Commission, except height exceptions in MU 3.0 and MU 3.3 that require City Council approval	Process 3 for Planning Commission decisions. Process 4 for City Council	Yes
Demolition of Historic Properties	City Council	Process 5	Yes
Designation of Historic Resources and Landmarks	City Council	Process 5	Yes
Development Agreements	City Council	Process 5	Yes
Development Permit	See Table 17.16.100	Process 2 for Zoning Administrator decisions. Process 3 for Planning Commission	Yes
Discretionary Sign Permit	See Section 17.16.250	Process 2 for Zoning Administrator decisions. Process 3 for Planning Commission	Yes
General Plan Amendment	City Council	Process 5	Yes
Historic Property Preservation (Mills Act) Agreements	City Council	Process 4	Yes
Home Occupation Permit	City Planner	Process 1	No
Interpretations, Minor	City Planner	Process 1	No
Interpretations, Major	Planning Commission	Process 3	Yes
Minor Conditional Use Permit	Zoning Administrator	Process 2	Yes
Minor Exception Permit	Zoning Administrator	Process 2	Yes
Short-Term Lodging Unit Zoning Permit	City Planner	Process 1	No
Short-term Apartment Rental	Zoning Administrator	Process 2	Yes
Special Activities Permit	City Planner	Process 1	No

Specific Plan Amendment	City Council	Process 5	Yes
Temporary Use Permit	City Planner	Process 1	No
Tentative Parcel Map	See Municipal Code Title 16		Yes
Tentative Tract Maps	See Municipal Code Title 16		Yes
Variance	Planning Commission	Process 3	Yes
Waiver of Development Standards for Historic Resources and Landmarks	Planning Commission	Process 3	Yes
Wireless Permit	City Planner	Process 1	No
Zoning Amendment	City Council	Process 5	Yes

¹ Refer to Section 17.12.090, Consideration of Concurrent Applications, regarding review of concurrent applications.

SECTION 2. Section 17.12.025 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

17.12.025 - Design Review Subcommittee.

This section describes the Design Review Subcommittee's function, duties, and applications that may require design review.

A. Function and Duties.

The Design Review Subcommittee is an advisory body, not an approval body. The Subcommittee advises applicants on how projects can best comply with policies and design guidelines that relate to various visual impact issues, such as site planning, architecture, landscaping, and the preservation of cultural and aesthetic resources. The policies and guidelines are contained in various planning documents, such as the General Plan, Design Guidelines, Specific Plans (when projects are located in a Specific Plan area), Zoning Ordinance, and Coastal Land Use Plan.

The Design Review Subcommittee does not focus on land use issues, which are the purview of the review authority. The Design Review Subcommittee forwards a recommendation to the review authority that acts upon a project. For sites on the City’s designated historic structures and landmarks list, the Design Review Subcommittee (DRSC) functions as the Cultural Heritage Subcommittee (CHSC). The CHSC has similar duties as the DRSC but with added emphasis on historic resource preservation.

B. Referrals to the Design Review Subcommittee.

The review authority may refer applications to the Design Review Subcommittee if not required otherwise by Chapter 17.16 for specific applications.

C. Applications that May Require Design Review Subcommittee Review.

Table 17.12.025 identifies applications that may require projects to be reviewed by the Design Review Subcommittee. For each application shown below, the table provides examples of common design issues reviewed by the Design Review Subcommittee.

Table 17.12.025 - Applications and Design Review Process

Application	Code Section	DRSC review	Examples of design issues reviewed by Design Review Subcommittee
Administrative Development Permit	17.16.095	City Planner discretion.	Issues similar to those listed for Cultural Heritage Permits and Development Permits
City Antenna Permit	17.16.130	Required.	Aesthetics of new wireless antennas on City property
Conditional Use Permit	17.16.060	Required for new antenna projects and exceptions to development standards.	Design, scale, materials, and massing of certain development projects, such as new wireless antennas and density bonus requests for eligible housing projects. Visual impacts of requests for height increases and limited exceptions to other development standards
Cultural Heritage Permit	17.16.110	Refer to Section 17.16.110.	Preservation and restoration of historic resources and landmarks, site planning, setbacks, compatibility and relationships with adjacent development, and architectural design issues, such as architectural quality and style, massing, scale, proportions, landscaping, materials, design features, and visual impacts on aesthetic resources
Designation of Historic Resources and Landmarks	17.16.160	Required.	Designation of historic resources and landmarks
Development Permit	17.16.100	Refer to Section 17.16.100.	Site planning, parking lot design, setbacks, compatibility and relationships with adjacent development, and architectural design issues, such as design quality and style, massing, scale, proportions, landscaping, materials, design features, visual impacts on aesthetic resources and adjacent historic resources
Discretionary Sign Permit	17.16.250	Required.	Design, scale, materials, location, and other visual aspects of signs that require a public hearing process

Historic Property Preservation (Mills Act) Agreement	17.16.175	Required.	Design, scale, materials, location, and other visual aspects of improvements to preserve and restore historic resources
Variance	17.16.080	Required.	Visual impacts of development standard exceptions

SECTION 3. Section 17.12.040 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

17.12.040 Filing an Application.

- A. **Persons Who May File an Application (or Pre-application).** Unless otherwise specified, an application required or permitted by this title will only be accepted if signed by the owner of the subject property or by the property owner's authorized agent. When the property owner's authorized agent submits an application, the application must be accompanied by written authorization from the property owner. If the property for which an application is submitted is in more than one ownership, all the owners or their authorized agents must either sign the application or submit a written, signed document indicating their consent to the application.
- B. **Application Forms.** Unless indicated otherwise by Chapter 17.16, Applications, of this title, applications required or authorized by this title shall be submitted to the Planning Division and shall include forms and any other materials, reports, dimensioned plans or other information required by the application checklist available from the Planning Division. If a public hearing is required prior to issuance or approval of the application, all public notification materials required by Table 17.12.100, Public Hearing Requirements, must be included with the application. It is the responsibility of the applicant to ensure that all required information is provided.
- C. **Fees.** The City Council shall, by resolution, establish and amend from time to time a schedule of fees for applications required or authorized by Chapter 17.16, Applications, of this title. Applicants shall pay the fees and costs for processing applications when the application is filed with the Planning Division. The purpose of the application fees is to reimburse the City for all costs incurred as the result of its administration of the provisions of this title.
- D. **Waiver of Fees.** For special circumstances, the City Council may waive or reduce the application fees established by resolution of the City Council, based on the merit of the request. Waiver of fees shall be approved prior to application submittal. The applicant must file a request for waiver of fees with the City's Planning Division. The letter shall explain the reasons for the request for a waiver. The Planning Division shall forward the letter requesting a waiver of fees to the City Council for their review at the next regularly scheduled City Council meeting at which time the request can be agendized under New Business.
- E. **Supplemental Information.** The City Planner, or review authority, may request the applicant submit information to clarify, correct, or otherwise supplement submitted information beyond that originally submitted in the course of processing the application should he or she find that additional information is necessary to adequately review a request. Such a request shall not invalidate the original determination that the application was complete at the time the determination was originally made. Supplemental information may include, but is not limited to, visual analysis tools such as story pole staking, photo simulations, and models. Projects with added concern for visual impacts are more likely to require story poles that include construction or expansion of three-story

structures in the Architectural Overlay district and structures with the potential to affect public view corridors from public places in the Coastal Overlay zone.

1. **Certification of Visual Analysis Tools.** When visual analysis tools are required, the accuracy of the materials shall be certified by a licensed architect or engineer prior to scheduling the first public hearing for a project.
2. **Story Pole Installation Requirements.** When story poles are required, they shall be erected at least 14 calendar days prior to the first public hearing or meeting on the Project, as determined by the City Planner, except that the approval authority shall have discretion to require that they be erected earlier, but not to exceed 28 calendar days prior to the hearing. The following must be completed for a site to be deemed to have been properly staked with story poles:
 - a. Story poles and connecting thick colored lines or pennants, which accurately represent the limits of the proposed structure's envelope. This includes the outermost corners of the building's roof area and along the tallest roof ridgelines or peaks, or other areas necessary to evaluate visual impacts at the discretion of the City Planner or Review Authority. The City Planner shall have final approval authority over the location of the story poles to ensure that they do not detrimentally impact the public or the then current use of the property; and
 - b. A staking plan with the location and height of the story poles must be certified as accurate by a registered land surveyor or registered civil engineer. If a complete and certified staking of story poles for a project is not in place in the time required, the project shall be continued to a later date. Neither the applicant, a relative of the applicant, nor any other person possessing a financial interest in the property or the project may certify the location and height accuracy of the staking poles.
3. **Story Pole Re-certification.** Re-certification is required at least 14 calendar days prior to the first public hearing as described above in 2. Requirements, in the following instances:
 - a. If the project is modified during the design review process requiring the project to be re-staked; and/or
 - b. If the initial installation of story poles was completed one year prior to the final hearing date.
4. **Story Pole Removal.** A deposit in the amount the City Planner determines to be reasonably necessary to remove the story poles shall be made prior to the time the project is scheduled for public hearing. Story poles shall be removed by the applicant within 20 calendar days after the appeal period for the project has expired. Upon timely removal of the story poles, the deposit shall be returned to the applicant. The applicant's failure to remove the story poles within the prescribed time period shall result in the automatic forfeiture of the deposit, and the City shall have the ability to access the site to remove the poles. Story poles must be removed if a project has been inactive for a period longer than six months. Story pole placement shall be photo-documented from viewpoints determined by the City Planner to document size, mass, height, and scale, and shall be submitted to [be] retained by the City with the project file. Prior to the first public hearing on the project, the applicant shall grant to the City a written right of entry for purposes of pole removal.

SECTION 4. Section 17.12.050 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

17.12.050 Application Completeness.

- A. **Review for Completeness.** The Planning Division shall determine the completeness of an application within the time period specified by State law (Government Code Section 65943), after receiving a submitted application and associated information. No application shall be processed pursuant to this title until the Planning Division determines the application is complete. If the Planning Division fails to make a determination as to completeness of an application or resubmitted application within the time period specified by State law (Government Code Section 65943), the application shall be automatically deemed complete and processed pursuant to the provisions of this title.
- B. **Applicant Notification.** If an application is deemed complete, the Planning Division shall notify the applicant in writing. The application shall then be processed pursuant to the provisions of this title. If an application is deemed incomplete, the Planning Division shall notify the applicant in writing, outlining the reason(s) for the determination and the information necessary to complete the application.

SECTION 5. The former Section 17.12.080 of the San Clemente Municipal Code is hereby re-numbered to Section 17.12.055 and is amended to read in its entirety as follows:

17.12.055 Environmental Review.

All applications will be reviewed by the Planning Division for compliance with the California Environmental Quality Act (CEQA). No application shall be approved pursuant to this title prior to the completion and/or certification of applicable environmental documentation required by CEQA. Applications shall be processed within the time limits prescribed in CEQA (Government Code Section 65920 et seq.).

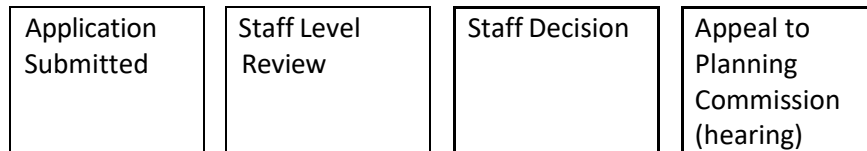
SECTION 6. The existing provisions of Section 17.12.060 of the San Clemente Municipal Code are hereby struck and replaced with the following:

17.12.060 Decision Process

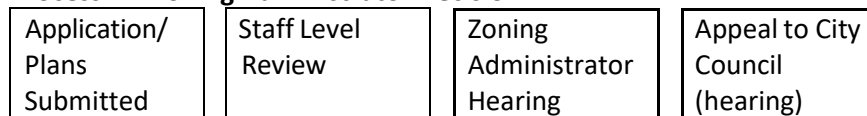
Application for permits or other matters shall be acted upon in accordance with one of the five decision processes established shown on Figure 17.12.060.A, except for capital improvement program projects. The subject matter of the development application determines the process that shall be followed for each application. The provisions of Chapter 17.16 that pertain to each permit, map, or other matter describe the decision process in more detail. Depending on the proposal, the review process may also require review by an advisory body such as the Design Review Subcommittee or Cultural Heritage Subcommittee. Figure 17.12.060.A is provided for convenience of reference only and does not define, describe, or limit the scope, meaning, or intent of any provision of this Title. This diagram describes the City of San Clemente's processes only, not decision processes that may be required by other agencies such as the California Coastal Commission.

Figure 17.12.060.A, Decision Processes

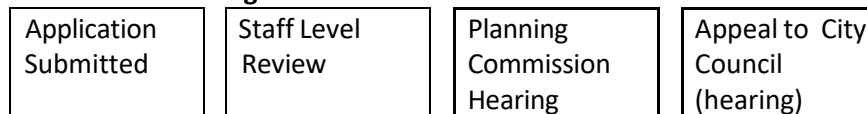
Process 1 – Staff Decision Without Notice



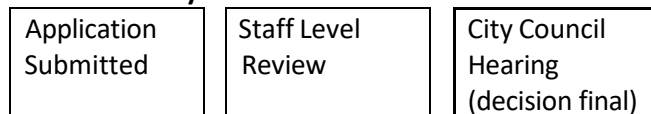
Process 2 – Zoning Administrator Decision



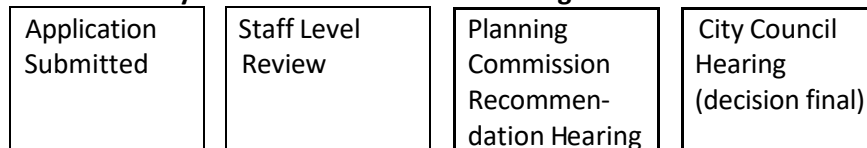
Process 3 – Planning Commission Decision



Process 4 – City Council Decision



Process 5– City Council Decision with Planning Commission Recommendation



* Depending on the proposal, the review process may also require review by an advisory body such as the Design Review Subcommittee or Cultural Heritage Subcommittee.

A. Process One – Staff Decision Without Public Hearing

A Process One decision on an application may be approved or denied by a City staff person specified in Table 17.12.020 or their designee. A public hearing will not be held. A decision may be appealed to the Planning Commission according to Section 17.12.140.

B. Process Two – Zoning Administrator Decision

A Process Two decision on an application shall be made as follows:

1. Decision Process. The Zoning Administrator may approve, conditionally approve, or deny the application at a public hearing.
2. Public Notification. Notice of a public hearing shall be provided according to Section 17.12.100 with necessary materials provided by an applicant.
3. Appeals. The Zoning Administrator’s decision may be appealed to the City Council according to Section 17.12.140.

C. Process Three – Planning Commission Decision

A Process Three decision on application shall be made as follows:

1. Decision Process. The Planning Commission may approve, conditionally approve, or deny the application at a public hearing.
2. Public Notification. Notice of a public hearing shall be provided according to Section 17.12.100 with necessary materials provided by an applicant.
3. Appeals. The Planning Commission's decision may be appealed to the City Council according to Section 17.12.140.

D. Process Four – City Council Decision

1. A Process Four decision on an application may be approved, conditionally approved, or denied by the City Council at a public hearing.
2. Public Notification. Notice of a public hearing shall be provided according to Section 17.12.100 with necessary materials provided by an applicant.
3. Ability to Act as Review Authority for a Lower Level Process.

The City Council by majority vote may decide to serve as the Review Authority for any applications that require a lower level Process according to Table 17.12.020.

E. Process Five – City Council Decision with Planning Commission Recommendation

A Process Five decision on an application shall be made by the City Council as follows:

1. Planning Commission Recommendation.

Before the City Council decision, the Planning Commission shall hold a public hearing to consider the application. The hearing shall be noticed in accordance with Section 17.12.100. The hearing may be continued if desired by the Commission to solicit and obtain information needed to make a recommendation. However, the hearing shall be concluded no later than 60 calendar days after the initial hearing date. At the conclusion of the public hearing, the Planning Commission shall make a written recommendation to the City Council to approve, conditionally approve, or deny the application. If the Planning Commission fails to act within this 60-day period the matter shall proceed to City Council without a recommendation.

2. Decision Process.

After receiving the Planning Commission's recommendation or expiration of the 60-day time period with no recommendation, the City Council shall hold a public hearing to consider the application. The hearing shall be noticed in accordance with Section 17.12.100. The City Council may approve, conditionally approve, or deny the application at the conclusion of the hearing.

F. Referrals to Higher Review Level. A Review Authority has the discretion to refer applications to a higher review level, as follows:

1. The City Planner may refer Process 1 decisions to the Zoning Administrator or Planning Commission, depending on level of public concern anticipated for a matter. If decisions are referred to the Zoning Administrator or Planning Commission, a public hearing and notification shall be required according to Chapter 17.12; and

2. The Zoning Administrator may refer Process 2 decisions to the Planning Commission, depending on level of public concern anticipated for a matter.

SECTION 7. Section 17.12.065 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

17.12.065 Inactive Applications.

The City may close inactive applications according this Section.

- A. **Incomplete Letters.** The City determines the completeness of an application within the time period specified by State law as described in Section 17.12.050. If the application is incomplete, the City notifies the applicant in writing to describe what is needed to process the application, such as studies, development plans, forms, and fees. The letter specifies a timeframe for submitting the requested items.
- B. **Resubmittal Timeframe.** Applications shall be deemed inactive and be closed at the discretion of the City Planner if the applicant does not submit requested items for six consecutive months following the date of the incomplete letter, unless the incomplete letter specifies an alternate timeframe or an extension is granted according to Subsection C.
- C. **Request for Time Extension.** The applicant may request an extension of time to resubmit the application. The time extension request shall be made in writing and received within the resubmittal timeline described in Subsection B. The written request shall provide a detailed explanation of the reason(s) for the request and the additional time needed to provide the requested information and/or application fees. Such reasons may include by way of example and not by limitation, additional time needed to conduct a required seasonal biological survey or to secure a professional consultant to carry out a required analysis.

The City Planner shall review the written request and provide the applicant a written determination, approving or denying the request, based on finding whether there are unusual circumstances preventing the applicant from resubmitting the application within the given timeframe. If the City Planner grants the applicant's request, the written determination shall specify the additional time granted to resubmit the application. Then, the applicant shall submit requested items within extended resubmittal timeframe or the City shall have discretion to close the application.

- D. **Return of Unused Deposit Account Funds.** If an application is withdrawn by the City or the applicant, the City shall contact the applicant to refund any unused deposit account fees. If an applicant is unresponsive, the City will refund fees when an opportunity arises to communicate with the applicant. Fixed fee applications are not refundable.

SECTION 8. Section 17.12.100 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

17.12.100 Public Hearing and Notification.

- A. **Purpose.** This section defines procedures for public notification when required by this title. The purpose of this section is to ensure public awareness and full and open public discussion and debate regarding proposed actions being taken pursuant to this title.

- B. **Notice of Public Hearings.** A notice of public hearing is required for processes 2 to 5 in Section 17.12.060 that involve a public hearing action by the Zoning Administrator, Planning Commission, or City Council. The City Planner is authorized to advertise and notice Zoning Administrator and Planning Commission public hearings. The City Clerk is authorized to advertise and notice City Council public hearings. Table 17.12.020, Review Authority for Permits and Entitlements, identifies the applications that require a public hearing, as well as the review authorities for applications.

Notice of public hearings shall be given pursuant to applicable provisions of State law, Government Code Sections 65090 and 65091, and this title, including all of the following requirements which must be complied with at least 10 days prior to the public hearing:

1. **Publication.** Publication in a newspaper of general circulation in the City of San Clemente;
2. **Mailing Recipients.** A notice of public hearing shall be mailed to the following:
 - a. Owners of property within 300 feet of a site that is the subject of the public hearing. If the number of owners to whom notice would be mailed or delivered pursuant to this subsection is greater than 1,000, the City, in lieu of mailed or delivered notice, may provide notice by placing a display advertisement of at least one-eighth page in at least one newspaper of general circulation within the City at least 10 days prior to the hearing;
 - b. Local agencies expected to provide water, sewage, streets, roads, schools, or other essential facilities or services to the project, where ability to provide these facilities and services may be significantly affected;
 - c. Persons requesting notice of such hearing;
 - d. The City of San Clemente as owning property within a specified distance from the exterior boundaries of the subject property (radius of notice), unless the City is the sole applicant for the hearing that is the subject of the notice; and
3. **Notice Content.** At a minimum, the notice of public hearing shall include all of the following:
 - a. General subject of the public hearing;
 - b. The location of the property that is the subject of the application;
 - c. The date, time, and place of the public hearing;
 - d. The Review Authority holding the public hearing; and
 - e. The name, telephone number, and address of the City staff person to contact for additional information.
4. **Posting.** Posting three notices adjacent to the subject property in conspicuous places facing the public street. Posting of public hearing notices may be delegated by the City Planner to the project applicant. If posting is delegated to the project applicant, notices must be provided to the applicant by the Planning Division.
5. **Affidavit of Mailing, Publication and/or Posting.** Once a notice of public hearing has been given, in accordance with this Section, an affidavit shall be filed in the permanent records of the subject project, according to the following requirements:

- a. Mailing and Publication. The City Planner, if the hearing is held by the Zoning Administrator or Planning Commission, or the City Clerk, if the hearing is held by the City Council, shall be responsible for the affidavit of mailing and publication; and
 - b. Posting. The City Planner, if the hearing is held by the Zoning Administrator or Planning Commission, or the City Clerk, if the hearing is held by the City Council, shall be responsible for the affidavit of posting. If posting is delegated to the project applicant, an affidavit of posting must be provided by the City and signed by the applicant or the applicant's representative.
- C. **Failure of Any Person to Receive a Mailed Notice.** Failure of any person to receive notice according to this Section shall not invalidate any proceedings.
- D. **Materials for Notice Mailings.** Applicants shall provide all necessary materials for each public notice required by this Title, including: one set of stamped, labeled envelopes; a mailing list in label format; a radius map (for mailings); and a signed form certifying all materials are accurate within six months of notice distribution.

SECTION 9. Section 17.12.140 of the San Clemente Municipal Code is hereby amended in its entirety as follows:

17.12.140 Appeals of an Action.

A. **Appeals by the Public.**

1. **Right to Appeal.**

- a. Decisions of the Community Development Director or City Planner. Any person may appeal a decision of the Community Development Director and/or City Planner to the Planning Commission, except for a decision on a Wireless Permit. The Planning Commission's decision may be appealed to the City Council, whose decision shall be final. Appeals of decisions of the City Planner on Wireless Permits are governed by Section 17.16.075(b)(2).
- b. Decisions of the City Manager on City Antenna Permits. Any person may appeal a decision of the City Manager on City Antenna Permits to the Planning Commission. The Planning Commission's decision may be appealed to the City Council, whose decision shall be final.
- c. Decisions of the Zoning Administrator, or Planning Commission. Any person may appeal a decision of the Zoning Administrator or Planning Commission to the City Council. The City Council's decision on the appeal shall be final.

2. **Time Limits for Filing an Appeal.**

- a. **Decisions of the Community Development Director or City Planner.** Except for appeals on Wireless Permit decisions, an appeal of a decision made by the Community Development Director or City Planner shall be filed with the Planning Division within ten consecutive calendar days following the decision sought to be appealed. Appeals of decisions of the City Planner on Wireless Permits are governed by Section 17.16.075(b)(2).

the scheduled hearing on the appeal, or the appeal shall be taken off the City Council's calendar and the appellant shall have waived any and all rights to such appeal.

- E. **Scope of Review.** The body hearing the appeal shall not be limited to the issues raised on the appeal, but rather shall be entitled to review new evidence and to consider all elements of the appealed action. At the close of the public hearing on the appeal, the appellate body may reverse, affirm, revise or modify original action on the application being appealed.
- F. **Effective Date of Appealed Actions.** Please refer to Section 17.12.130, Effective Date of Decision on an Action, of this chapter, Effective Date of Decision.

SECTION 10. Section 17.16.050 of the San Clemente Municipal Code is hereby deleted in its entirety.

SECTION 11. Section 17.16.060 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

17.16.060 Conditional Use Permits.

- A. **Purpose and Intent.** It is the purpose and intent of the Conditional Use Permit process to provide for the review of uses that may, because of their nature, have an impact on the surrounding environment and for the determination of whether or not the proposed use is appropriate for its proposed location. The Conditional Use Permit process is intended to encourage uses to be located in a manner that is: 1) consistent with the City's zones; 2) sensitive to community and neighborhood identity; and 3) minimizes impacts to adjacent uses. Review of a use may require the consideration of site plan issues related to the use, as well. For a discussion of the purpose of site plan review, please refer to Section 17.16.050(A), Purpose and Intent, in this chapter.
- B. **Review Authority.** The review authority for Conditional Use Permits is as follows:
 1. Planning Commission. The Planning Commission is the review authority for Conditional Use Permits, except for requests to exceed height limitations on sites with sloping topography in the Mixed Use 3.0 Zone (Table 17.40.43) and Mixed Use 3.3 Zone (Table 17.40.46). For these requests, the Planning Commission is an advisory body that reviews applications and forwards a recommendation to the City Council.
 2. City Council. The City Council is the review authority for requests to exceed height limitations on sites with sloping topography in the Mixed Use 3.0 Zone (Table 17.40.43) and Mixed Use 3.3 Zone (Table 17.40.46).
 3. Concurrent Review. If a Conditional Use Permit is processed concurrently with other applications, refer to Section 17.12.090 for the final review authority.
 4. Appeal of an Action. If a Conditional Use Permit is appealed, the City Council is the final review authority per Section 17.12.140, Appeals of an Action.
- C. **Applicability.** Conditional Use Permits are required as indicated by the use tables in Chapters 17.32, Residential Zones and Standards, through 17.48, Public Zones and Standards, in this Title. Conditional Use Permits are also required for the following requests:

Use/Modifications	As Provided for in:
Antennas, new, on City property	Section 17.28.070(C), Review Requirements
Chimneys which exceed the height limit of the zone in which they are located by more than two feet	Table 17.24.080(B), Maximum Encroachments into Setbacks and Height Limits
Density bonus requests	Section 17.24.070(E), Review Procedures
Development standards, determination of, for development in the following zones: RVL Zone, Open Space Zones, Public Zone	Table 17.32.040, Residential Zone Development Standards; Table 17.44.030, Open-Space Zone Development Standards; Table 17.48.030, Public Zone Development Standards
Exceptions to the Development Standards of Mixed Use Zone Lots of 12,000 Square Feet or Smaller	Section 17.40.050(C), Required Findings for Exceptions
Exceptions to the Development Standards for Mixed Use 3.2 Zone on Lots of 8,000 Square feet or Smaller	Section 17.40.050(E), Required Findings for Exceptions
Fences, hedges, and walls exceeding six feet in height for specific purposes in residential zones	Section 17.24.090((C)(2)(b), Review Procedures
Flag poles and church steeples in residential zones that exceed the height limits of the zone where they are located	Table 17.24.080(B), Maximum Encroachments into Setbacks and Height Limits
Flag poles, antennas (other than satellite antennas or antennas on City property), church steeples, cupolas, and monuments, and similar structures in nonresidential and mixed-use zones that exceed the height limits of the zone where they are located	Table 17.24.080(B), Maximum Encroachments into Setbacks and Height Limits
Storage tanks and similar structures in nonresidential zones that exceed the height limits of the zone where they are located	Table 17.24.080(B), Maximum Encroachments into Setbacks and Height Limits
Grading requests not accompanying development requests	Section 17.28.130(B), Review Requirements

Use/Modifications	As Provided for in:
Historic Structures, exceptions to the minimum commercial floor area for mixed-use projects in Mixed Use zones	Section 17.40.050(D), Exceptions to the Minimum Floor Area Requirements for the Commercial Portion of Mixed-use Projects for Buildings on the City's Designated Historic Structure List
Home occupations conducted outside enclosed structures	Section 17.28.160(B), Review Requirements
Neighborhood Commercial 2 (NC 2) Height Increase	Table 17.36.030E, Row "Height Limitations", Subsection 2
Neighborhood Commercial 3 (NC 2) Height Increase	Table 17.36.030F, Row "Height Limitations", Subsection 2
Height limitation exception for sloping topography in Mixed Use 3.0 (MU 3.0) Zone	Table 17.40.040D, Row "Height Limitations"
Mixed Use 3.2 (MU 3.2) Top of Roof Height Ceiling Increase	Table 17.40.040F, Row "Height Limitations", Subsection 1
Height limitation exception for sloping topography in Mixed Use 3.3 (MU 3.3) Zone	Table 17.40.040G, Row "Height Limitations"
Nonconforming uses: change from prohibited use to a different prohibited use	Section 17.72.060(C)(3), Changes of Use.
Nonresidential uses allowed in the zone located on the same floor as residential uses of a vertically mixed-use building in Mixed Use zones	Section 17.40.030(A)(2)(a), Special Use Regulations
Outdoor dining areas	Section 17.28.205(C), Review Requirements
Parking modifications for: Bed and Breakfast Inns; Uses in and out of the Downtown Parking Study Area; Historic nonresidential and mixed-use structures; Historic structures in the RM and RH Zones; Relocation of historic structures; Hotels	Section 17.28.090(D), Minimum Standards for Bed and Breakfast Inns in All Zones; Section 17.64.125, Waivers of parking requirements
Public utilities, major, initiated by outside agencies	Section 17.28.240(B)(2)(a), Projects Initiated by Outside Agencies/Applicants
Residential uses on the street level, buildings on the City's Designated Historic Structure List	Section 17.40.030(A)(2)(a), Location of Residential Uses

Use/Modifications	As Provided for in:
Urban Private Storage in Mixed-Use Zones	Section 17.28.305, Urban Private Storage
Height exceptions for residential development on Lots 46 through 64 of Tract 4938 in the RL-11 special residential overlay zone	Appendix A, Subsection (K.4.B) in this Title

D. **Submittal Requirements.** Please refer to the submittal requirements in Section 17.12.040, Filing an Application, and Section 17.12.060, Applications Requiring Additional Information.

E. **Application Filing, Processing, and Review.**

1. **Application Filing.** The review process is initiated when the Planning Division receives an application package. The application package shall include the required information and materials specified in the application and any additional information required by the City Planner or review authority to conduct a thorough review of the proposed project.
2. **Application Review.** Each application shall be reviewed to ensure that proposals are consistent with the purpose of this chapter; applicable development standards, policies, regulations, and guidelines.
 - a. **Development Management Team Review.** The Development Management Team reviews an application to determine if it is complete and complies with applicable development standards, policies, regulations, and guidelines. Within 30 calendar days of application filing, the applicant is notified if their application is complete or if information is needed to complete the application and resume the review process. The Development Management Team also makes comments and recommendations to provide helpful information to applicants and notify them when a proposal does not comply with development standards, policies, regulations, and guidelines.
 - b. **Environmental Review.** After an application is complete, the project shall be reviewed in compliance with the California Environmental Quality Act to determine if environmental studies are required. If studies are required then they shall be completed at the applicant's expense, which may involve the selection of a consultant.
 - c. **Design Review Subcommittee.** The Design Review Subcommittee shall review proposals for new wireless antenna projects and development standard exceptions. The Design Review Subcommittee is an advisory body that reviews design issues and provides a recommendation to the review authority per procedures in Section 17.12.025.
3. **Public Hearing and Appeal Provisions.**
 - a. **Public hearing is required.** A public hearing and notification shall be conducted in compliance with Section 17.12.100.
 - b. **The review authority shall review the proposed project and approve, approve with conditions, or deny the application at a public hearing based on an ability to meet required findings.**
 - c. **The review authority's decision may be appealed per Section 17.12.140.**

F. Required Findings.

1. General Findings. Prior to approval of an application for a Conditional Use Permit (other than for a multifamily dwelling with five or more units, which is addressed in subsection F.2 below), all of the following findings shall be made:
 - a. The proposed use is permitted within the subject zone pursuant to the approval of a Conditional Use Permit and complies with all the applicable provisions of this title, the San Clemente General Plan and the purpose and intent of the zone in which the use is being proposed.
 - b. The site is suitable for the type and intensity of use that is proposed.
 - c. The proposed use will not be detrimental to the public health, safety or welfare, or materially injurious to properties and improvements in the vicinity.
 - d. The proposed use will not negatively impact surrounding land uses.

2. Prior to approval of a Conditional Use Permit, a multifamily dwelling with five or more units, only the following findings must be made: those in subsection F.1.a and b. and a finding that the proposed use will not be detrimental to the public health and safety to properties and improvements in the vicinity.

3. Specific Findings. In addition to the general findings required in subsection F.1, above specific findings shall be made prior to the approval of an application for a Conditional Use Permit for the following requests, as follows:

Use/Modifications	As Provided for in:
New antennas on City property	Section 17.28.070(F), Required Findings for Conditional Use Permits
Density bonus requests	Section 17.24.070(F), Required Findings
Exceptions to the Development Standards of Mixed Use Zone Lots of 12,000 Square Feet or Smaller	Section 17.40.050(C), Required Findings for Exceptions
Exceptions to the Development Standards for Mixed Use 3.2 Zone on Lots of 8,000 Square feet or Smaller	Section 17.40.050(E), Required Findings for Exceptions
Fences, hedges, and walls exceeding six feet in height for specific purposes in residential zones	Section 17.24.090(D)(2), Required Findings
Grading requests not accompanying development requests	Section 17.28.130(C), Required Findings
Height limitation exception for sloping topography in Mixed Use (MU) 3.0 and 3.3 Zones	Section 17.40.050(F), Building Height and Stories in the Downtown Core
Historic Structures, exceptions to the minimum commercial floor area for mixed-use projects in Mixed Use Zones	Section 17.40.050(D)(2), Required Findings

Use/Modifications	As Provided for in:
Home occupations conducted outside enclosed structures	Section 17.28.160(B), Review Requirements
Neighborhood Commercial 2 (NC 2) Height Increase	Table 17.36.030E, Row "Height Limitations", Subsection 2
Neighborhood Commercial 3 (NC 2) Height Increase	Table 17.36.03F, Row "Height Limitations", Subsection 2
Mixed Use 3.2 (MU 3.2) Top of Roof Height Ceiling Increase	Table 17.40.040F, Row "Height Limitations", Subsection 1
Nonconforming structures: replace structures in non-residential zones that are damaged by an accident with repair costs that are 50 percent or greater than a structure's replacement cost	Section 17.72.070(B)(3)(b), Structures damaged by 50 percent or greater of replacement cost
Nonconforming uses: change from prohibited use to a different prohibited use	Section 17.72.060(C)(3), Changes of Use.
Outdoor dining areas	Section 17.28.205(E), Required Findings
Parking waivers for the Downtown Parking Study Area, and certain projects and land uses outside the Downtown Parking Study Area, such as: historic nonresidential and mixed-use structures; historic structures in the RM and RH Zone; and hotel uses.	Section 17.64.125(A), Waivers of Parking Requirements in the Downtown Parking Study Area; Section 17.64.125(B), Waivers of Parking Requirements Outside the Downtown Parking Study Area
Public utilities	Section 17.28.240(C)(2)(d), Minor Utilities
Residential uses on the street level, buildings on the City's Designated Historic Structure List	Section 17.40.030(A)(2)(a), Location of Residential Uses
Height exceptions for residential development on Lots 46 through 64 of Tract 4938	Appendix A, Subsection (K.4.B.2) of this Title

- G. **Appeals.** An appeal of the action on a Conditional Use Permit shall be reviewed in accordance with Section 17.12.140, Appeals of an Action.
- H. **Modifications Requested by the Applicant.** Modifications to approved Conditional Use Permits shall be reviewed in accordance with Section 17.12.180, Modifications of an Approved Application.

- I. **Modifications and/or Revocations Initiated by the City.** The City may make changes or revoke the approval of applications when conditions of approval are violated, it is necessary to resolve a nuisance, and/or when the application contained incorrect, false, or misleading information. Refer to Section 17.12.175 for related procedures and required findings. For antennas on City property, a Conditional Use Permit may also be revoked or modified if other findings can be met pursuant to Section 17.28.070(G).
- J. **Other Review Requirements.** Refer to Chapter 17.12, Development Review Process, for general review process requirements and procedures, such as time limits on approvals, time extensions, and the review of multiple applications concurrently.
- K. **Mandatory Condition of Approval for Alcohol Sales Establishments.** For all Conditional Use Permits which are approved for sale of alcohol for on- or off-site consumption pursuant to Section 17.28.040, or per the use tables in Chapters 17.32 through 17.48 of this title, the Planning Commission shall place the following mandatory condition of approval: "The applicant shall be responsible for ensuring that all employees receive 'Responsible Alcoholic Beverage Service' training as offered through programs established by the Orange County Health Care Agency and Alcoholic Beverage Control of the State of California. Evidence of such training and the training records of all employees shall be maintained on-site during business hours, and made available for inspection upon request." This mandatory condition of approval may be modified to allow corporate training programs or other alcohol sales responsibility programs if such modification is found by the Planning Commission to provide training on the sale and dispensing of alcohol by employees which is the equivalent of Responsible Alcoholic Beverage Service training.
- L. **Approval Runs with the Land.** The approval of a Conditional Use Permit shall run with the land, and shall continue to be valid upon a change of ownership of the site to which it applies.

SECTION 12. Section 17.16.070 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

17.16.070 Minor Conditional Use Permits.

- A. **Purpose and Intent.** It is the purpose of the Minor Conditional Use Permit process to provide for the streamlined review of uses that may have an impact on the surrounding environment and require discretionary review, but due to their nature, scale or location, do not require discretionary consideration by the Planning Commission. The Minor Conditional Use Permit process has as its purpose the same goals for uses described for the Conditional Use Permit process included in Section 17.16.060(A), Conditional Use Permits, Purpose and Intent, of this chapter.
- B. **Authority.** The Zoning Administrator is the final authority on Minor Conditional Use Permits, subject to the concurrent review and appeal provisions of Sections 17.12.090, Consideration of Concurrent Applications, and 17.12.140, Appeals of an Action. The Zoning Administrator has the discretion to refer applications to the Planning Commission for review and final action.
- C. **Applicability.** Minor Conditional Use Permits are required as indicated by the use tables in Chapters 17.32, Residential Zones and Standards through 17.48, Public Zones and Standards. Minor Conditional Use Permits are also required for the following requests:
 1. Outdoor dining areas per Section 17.16.205(C), Review Requirements;
 2. Outdoor display, permanent, accessory, as provided for in Section 17.28.210(B), Review Requirements;

3. Waivers of fees/development standards for Historic Resources and Landmarks per Section 17.16.180;
 4. Relocations of structures, as provided for in Section 17.24.160, Relocation of Structures;
 5. Parking modifications for the Downtown Parking Study Area, as provided for in Section 17.64.125(A), Waivers of Parking Requirements in the Downtown Parking Study Area;
 6. Parking modifications for outdoor dining for a restaurant, as provided for in Section 17.28.205(D)(5), Parking, and Section 17.64.125(B), Waivers of Parking Requirements Outside the Downtown Parking Study Area.
 7. Elevator towers that exceed the height limits of the zone in which they are located by more than six feet.
 8. Off-site parking according to Section 17.64.110.
 9. Shared parking according to Section 17.64.120.
- D. **Submittal Requirements.** Please refer to the submittal requirements in Section 17.12.040, Filing an Application, and Section 17.12.060, Applications Requiring Additional Information.
- E. **Application Filing, Processing, and Review.**
1. Application Filing. The review process is initiated when the Planning Division receives an application package, The application package shall include the required information and materials specified in the application and any additional information required by the City Planner or review authority to conduct a thorough review of the proposed project.
 2. Application Review. Each application shall be reviewed to ensure that proposals are consistent with the purpose of this chapter; applicable development standards, policies, regulations, and guidelines.
 - a. Development Management Team Review. The Development Management Team reviews an application to determine if it is complete and complies with applicable development standards, policies, regulations, and guidelines. Within 30 calendar days of application filing, the applicant is notified if their application is complete or if information is needed to complete the application and resume the review process. The Development Management Team also makes comments and recommendations to provide helpful information to applicants and notify them when a proposal does not comply with development standards, policies, regulations, and guidelines.
 - b. Environmental Review. After an application is complete, the project shall be reviewed in compliance with the California Environmental Quality Act to determine if environmental studies are required. If studies are required, then they shall be completed at the applicant's expense, which may require consultant services.
 3. Public Hearing and Appeal Provisions.
 - a. Public hearing is required. A public hearing and notification shall be conducted in compliance with Section 17.12.100.

- b. The review authority shall review the proposed project and approve, approve with conditions, or deny the application at a public hearing based on an ability to meet required findings.
- c. The review authority's decision may be appealed per Section 17.12.140.

F. Required Findings.

1. General Findings. Prior to approval of an application for a Minor Conditional Use Permit, the same findings shall be made as required for approval of a Conditional Use Permit.
2. Specific Findings. In addition to the general findings required in Subsection (F)1., above, specific findings shall be made prior to the approval of an application for a minor Conditional Use Permit for the following requests, as follows:
 - a. Outdoor dining areas per Section 17.28.205(E), Required Findings;
 - b. Parking modifications for the Downtown Parking Study Area, specific findings in accordance with Section 17.64.125(A) (Waivers of Parking Requirements), The Downtown Parking Study Area, of this title;
 - c. Parking modifications for outdoor dining for a restaurant, as provided for in Section 17.64.125(B)(7), Waivers of Parking Outside the Downtown Parking Study Area.
 - d. Shared Parking findings according to Section 17.64.120.

G. Appeals. An appeal of the action on a Minor Conditional Use Permit shall be reviewed in accordance with Section 17.12.140, Appeals of an Action.

H. Modifications Requested by the Applicant. Modifications to approved Minor Conditional Use Permits shall be reviewed in accordance with Section 17.12.180, Modifications of an Approved Application.

I. Modifications and/or Revocations Initiated by the City. The City may make changes or revoke the approval of applications when conditions of approval are violated, it is necessary to resolve a nuisance, and/or when the application contained incorrect, false, or misleading information. Refer to Section 17.12.175 for related procedures and required findings.

J. Other Review Requirements. Refer to Chapter 17.12, Development Review Process, for general application processing requirements, such as time limits on approvals, time extensions, and the review of multiple applications concurrently.

K. Mandatory Condition of Approval for Alcohol Sales Establishments. For all Minor Conditional Use Permits which are approved for sale of alcohol for on- or off-site consumption pursuant to Section 17.28.040, or per the use tables in Chapters 17.32 through 17.48 of this title, the Zoning Administrator shall place the following mandatory condition of approval: "The applicant shall be responsible for ensuring that all employees receive 'Responsible Alcoholic Beverage Service' training as offered through programs established by the Orange County Health Care Agency and Alcoholic Beverage Control of the State of California. Evidence of such training and the training records of all employees shall be maintained on-site during business hours, and made available for inspection upon request." This mandatory condition of approval may be modified to allow corporate training programs or other alcohol sales responsibility programs if such modification is found by the Zoning Administrator to provide training on the sale and dispensing of alcohol by employees which is the equivalent of Responsible Alcoholic Beverage Service training.

- L. **Approval Runs with the Land.** The approval of Minor Conditional Use Permits shall run with the land, and shall continue to be valid upon a change of ownership of the site to which it applies.

SECTION 13. Subsection (C) of Section 17.16.090 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

- C. **Applicability.** Minor Exception Permits are required for deviations in the following standards:
1. Arbors, as provided for in Section 17.32.050(A), Arbors;
 2. Encroachment from the median front yard setback, as provided for in Section 17.24.080, Encroachments into Setbacks and Height Limits;
 3. Encroachments of architectural projections and cornices, eaves, and roof overhangs into any required front yard setback areas, as provided for in Section 17.24.080, Encroachments into Setbacks and Height Limits;
 4. Encroachments of balconies, porches, decks, landing places, and stairways, into any required front, rear, or side yard setback area, as provided for in Section 17.24.080, Encroachments into Setbacks and Height Limits;
 5. Encroachments of bay windows into any required front yard setback areas, as provided for in Section 17.24.080, Encroachments into Setbacks and Height Limits;
 6. Fences, walls or hedges as provided for in Section 17.24.090(C)(2), Exceptions;
 7. Garage encroachments, as provided for in Section 17.32.050(E), Garage Encroachments into the Front Setback;
 8. Landscaping requirements for Residential Zones, as provided for in Section 17.68.050(A)(1)(a), Landscaping Requirements for Specific Zones, Residential Zones;
 9. Parking modifications for historic structures in RM and RH Zones, as provided for in Section 17.64.125(B), Historic Structures in RM and RH Zones;
 10. Nonconforming structure requirements, exception for single-family dwellings with less than 1,400 square feet of gross floor area [per Section 17.72.050(E)(4)(b) and Section 17.72.050(1)(3)(b)(i)];
 11. Parking modifications for nonresidential and mixed-use historic structures, as provided for in Section 17.64.125(B), Historic Nonresidential and Mixed-Use Structures;
 12. Parking modifications for minor additions to nonresidential and the commercial portion of mixed-use structures, as provided for in Section 17.64.125(B), Minor Additions to Nonresidential and the Commercial Portion of Mixed-Use Structures;
 13. Parking modifications for changes of uses on sites that cannot meet the parking requirements, as provided for in Section 17.64.125(B), Changes of Use;
 14. Parking modifications for restaurants, due to joint use of parking and off-peak parking demand periods, as provided for in Section 17.64.125(B), Indoor Seating for Restaurants;
 15. Swimming pools, spas, hot tubs, and other bodies of water within the front and street side yard setbacks, as provided for in Section 17.24.080, Encroachments into Setbacks and Height Limits;
 16. Retaining walls, as provided for in Section 17.24.180(D)2(b) and 17.24.180(D)(4), Exceptions;
 17. Satellite antennas, as provided for in Section 17.28.080(B)(2), Minor Exception Permits;
 18. Setbacks for buildings provided encroachments comply with length limitations in Section 17.24.080(B), as follows:

- a. A decrease of not more than 20 percent of the required width of a side yard or the yard between buildings,
- b. Continuation of legal nonconforming side yard setbacks up to within 30 inches of the side property line for any stories, existing or new,
- c. A decrease of not more than 15 percent of the required front or rear yard with the combined total not to exceed 20 percent,
- d. For lots subject to a 16-foot height limit in accordance with Appendix A of this Title, subsections (L) and (K), a decrease of not more than 25 percent of the required rear yard.

19. Tandem parking, maximum curb break, as provided for in Section 17.64.090(A), Curb Break.

SECTION 14. A new Section 17.16.095 is hereby added to the San Clemente Municipal Code and shall read in its entirety as follows:

17.16.095 – Administrative Development Permit

A. Purpose.

This section provides administrative approval of minor projects without significant impacts. Administrative Development Permits are intended to ensure that these minor projects comply with City standards and guidelines, yet provide a streamlined review procedure to facilitate and incentivize minor projects encouraged by City goals and policies.

B. Applicability. Administrative Development Permits are required to allow eligible projects on the following properties:

1. Nonresidential sites (within nonresidential zones or by legally-established use of property);
2. Properties within the Architectural Overlay district;
3. Properties abutting the City’s historic resources and landmarks list (“historic structures list”);
4. Properties on the City’s historic resources and landmarks list; and
5. Properties with three or more dwelling units located within 300 feet of residentially zoned buildings on the City’s historic resources and landmarks list, if projects are visible from public right-of-way adjoining historic structures and landmarks or are visible from public view corridors designated in the General Plan.

C. Exemptions. The following activities are exempt from an Administrative Development Permit:

1. Improvements necessary to comply with State or Federal law (e.g. new or modified ramp to meet Americans with Disabilities Act [ADA] Requirements), in which feasible landscaping and architectural changes shall be made proportional to the scope of the proposed project, at the discretion of the City Planner, to maintain compliance with zoning standards and City Design Guidelines.
2. Interior projects not visible on the exterior of structures and from adjoining public right-of-way.
3. Landscaping of area under 500 square feet according to standards in Subsection F.11.

4. Removal and replacement of trees according to standards in Subsection F.11 and at the discretion of the City Planner, provided that a landscape professional demonstrates to the City Planner that the tree(s) meet at least one of the following criteria:
 - I. Dead/dying;
 - II. Diseased and unlikely to be rehabilitated;
 - III. Dangerous; or
 - IV. Destructive.

D. Projects Eligible for Administrative Approval.

The following types of projects are eligible for ministerial approval of an Administrative Development Permit, if proposed projects comply with this Title, and both the general standards and project specific standards in this Section. If standards are unmet, projects shall require a Site Development Permit (Section 17.16.100) or Cultural Heritage Permit (Section 17.16.110).

1. Additions to Private Recreational Facilities
2. Accessory Structures: Other Minor
3. Awnings
4. Chimneys and Metal Flues
5. Color and Finishes: Exterior
6. Decks or Patios
7. Doors
8. Driveways/Paving/Minor Site Work
9. Fences
10. Historic Resources, Minor
11. Landscape Alterations
12. Lighting: Exterior
13. Mechanical Equipment: General
14. Mechanical Equipment: Rooftop
15. Porches
16. Roofs (and "Reroofs")
17. Sheds or Spas
18. Sidewalk Seating and Enclosures for Commercial Outdoor Dining Areas
19. Skylights
20. Trellises, Pergolas, or Arbors
21. Walls
22. Windows

E. General Review Standards.

For approval of a permit, eligible projects must comply with the following general standards and applicable project specific standards in Subsection F.

1. Design. The architectural design of the addition, alteration, or site change is compatible with the style of buildings that will remain on site. One overall architectural style is required.
2. Materials. The exterior finish materials of the proposed project match the existing exterior finishes of the structures on the lot, or may be altered if compatible with the architectural style of structures.

3. Style. Style is expressed through architectural elements such as windows, doors, lighting, railings, trim, eaves, roof pitch, element proportions and materials. The style of the proposed work should be stated on the project plans and matches the existing style or style required for a design district if applicable, such as the Architectural Overlay. Wherever this document references a requirement for style compatibility, the following method is used to determine style compatibility. Staff may reference style books to confirm the proposed style classification. Staff will check for consistency of style of a structure's proposed elements with the elements for the chosen style as described in reference materials. Staff will also check that any patterns or materials created by the existing elements are repeated in the proposed work.
4. Additions. Additions shall match the architectural style of the building with similar materials, details and colors.
5. Alterations. Alterations shall match the architectural style of the building or result in one architectural style consistent with Subsection E.3. Alterations are welcome that modify the structure's appearance to be a more traditional form of the style on the site or the style required. Alterations to implement an architectural style that is not typical for the neighborhood or required by this Title are in eligible for an Administrative Development Permit.
6. Colors. Additions must match the existing colors of the building, siding or trim; or may be altered if compatible with the architectural style that meets guidelines in Subsection E.3. For Spanish architecture, existing colors may be substituted with colors selected from the City Planner-approved color palette.
7. Scale. The scale of all additions is compatible with the scale of the existing structure, style of the building, and surrounding area. The scale of a project is consistent with the prevailing development patterns of additions in the area. The review criteria utilized to determine correct scale shall be the degree of project visibility, plate heights, roof pitch and maximum building heights. Additions or alterations out of character with the surrounding area or inappropriately sited on the lot, as determined by the City Planner, are not eligible for an Administrative Development Permit.
8. Historic Considerations. Minor alterations to City, State, or Federally-designated historic resources, or other potentially significant structures, shall maintain character-defining features or avoid any adverse change to the significance to a historic resource in order to be eligible for administrative approval. The City Planner has the discretion to consult with a licensed professional at the applicants cost to make a determination on the significance of structures and impacts of projects. If this guideline is not met, then the project shall be referred to the Zoning Administrator with required consultation of the Cultural Heritage Subcommittee.
9. Objective Design Standards. Projects shall comply with any objective design standards adopted by the City Council.
10. Not subject to CEQA. Projects are eligible only if they are categorically or statutorily exempt or otherwise not subject to the California Environmental Quality Act (CEQA).

F. Project Specific Standards.

In addition to complying with the general requirements specified in Subsection E above, projects seeking administrative approval must also comply with any applicable project specific requirements in this Subsection. The project specific standards identify which projects are eligible for administrative review, not limit projects permissible in this Zoning Code (Title 17).

1. Additions to Private Recreational Facilities. Additions to buildings are eligible for administrative approval that are up to 500 square feet, less than 50 percent of the existing building's floor area, and meet the following criteria:
 - a. The project is not located in the Architectural Overlay;
 - b. The site is not on the City's designated historic resources and landmarks list;
 - c. The addition is to a private recreational facility building;
 - d. The project is not visible from a scenic corridor designated in the General Plan.
2. Accessory Structures: Other Minor. Minor accessory structures, such as barbeques, fire pits, and low counter tops, not addressed otherwise in the project-specific standards (this Subsection) are eligible for administrative approval if the following apply:
 - a. For the City's designated historic resources and landmarks list, accessory structures are limited to those that are a maximum height of six feet and are detached from buildings; and
 - b. Structures are screened from adjoining public right-of-way and have materials that meet general standards in Subsection E.
3. Awnings. Awnings over window or door openings that are compatible with the style and colors of the structure are eligible. Awnings shall be canvas with wrought-iron supports on new buildings and major remodels in the Architectural Overlay and on historic structures with Spanish architecture.
4. Chimneys and Metal Flues. All of the following standards must be met:
 - a. For the City's designated historic resources and landmarks list, the project is limited to repairing or altering the chimney and flue to improve the resource's historical integrity with a design, style, and materials to restore the original condition or be architecturally compatible.
 - b. Chimneys are consistent with the style of the existing structure and use masonry, stone, stucco, or metal pipe.
 - c. Wood material is not used on chimneys.
 - d. Metal flues are of traditional design and are painted to match the roof color.
 - e. The shape of the chimney is fairly uniform, i.e. there is no awkward extensive projection of exposed pipe beyond the top of the chimney in response to Building and Safety requirements.

5. Color and Finishes: Exterior. The project is consistent with Subsection E, General Standards, Colors and Materials. For the Architectural Overlay and historic structures with Spanish architecture, stucco shall be 'steel, hand trowel' applied with a smooth Mission finish, slight undulations, bull-nosed corners and edges, including archways; and no control/expansion joints.
6. Decks or patios. New or altered decks or patios less than 200 square feet at the first floor level are eligible for administrative approval if the following standards are met:
 - a. For the City's designated historic resources and landmarks list, the decks or patios must be screened from public right-of-way and detached to be eligible.
 - b. New decks or patios are of a scale and style which is compatible with the structure to which the deck is attached.
 - c. When viewed from a public viewing location, the proposed deck or patio is not likely to be more noticeable than the structure it is attached to.
 - d. New decks or patios are not located to cause potential privacy or noise impacts to adjacent properties.
 - e. Deck or patio materials are finished to be compatible with the color scheme of the primary structure.
7. Doors. Minor door alterations — for example, to enhance access by the physically challenged and for compliance with the Americans with Disabilities Act (ADA) — are covered by this provision. Installation of guard/hand rails shall be referred to the consent calendar. The modification of doors and sidelights within existing rough openings should be designed to comply with the following requirements for Administrative approvals:
 - a. For the City's designated historic resources and landmarks list, every effort shall be made to avoid alterations first with repairs and maintaining the original doors. If this cannot be done, projects shall replace doors to match the originals to the best extent possible based on historical photos or the existing condition.
 - b. The type of proposed doors and color of frames are compatible with the architectural style of the building and appear compatible with existing doors.
 - c. If the doors of an addition are the same size and material as existing nearby doors, the proposed doors match the existing nearby doors in appearance.
 - d. Door and sidelight sash material matches the window material.
 - e. Where adjacent windows are "divided light" type, the new doors and sidelights shall also mimic the appearance of divided lite windows. Where dual glaze glass is used, the mullions should break the exterior pane.
 - f. In door pairs, both doors should have the same width.
 - g. In doors with sidelights, sidelights should have the same width if feasible.
 - h. Doors and sidelights should be placed symmetrically within architectural elements.
 - i. Any changes in paving material associated with the door alteration match the existing material.

8. Driveways/Paving/Minor Site work. Extensions, modifications, and additions to driveways are eligible for administrative approval if all of the following requirements are met:
 - a. For the City's designated historic resources and landmarks list, changes to site work shall be limited to providing access to entrances and exits, patios, courtyards, and utility pathways; so landscape area is preserved. The exceptions are changes to provide safe access to required parking and pedestrian sidewalks that meet City standards;
 - b. There is no drainage impact on adjoining lots;
 - c. Any paving or driveway additions or modifications are of the same materials as the existing paving or driveway materials;
 - d. For residential development, the driveway width complies with Engineering technical standards;
 - e. Any new driveway paving materials are compatible with the existing structure and surrounding area; and
 - f. New paved parking areas, such as expansions to commercial parking lots, are screened from adjoining public property through fencing, landscaping or other structures.

9. Fences. Chain link, chicken wire, metal, plastic, vinyl, wire-mesh and unfaced cement block fence materials are not eligible for administrative approval. Fences not specifically excluded in the preceding sentence may be reviewed and approved administratively if:
 - a. The fences meet zoning requirements;
 - b. For the City's designated historic resources and landmarks list, eligible fences are not in yards adjacent to street frontages;
 - c. The fence height shall preserve views of traffic to-and-from driveways and the public right-of-way; and
 - d. The fence design and materials shall be compatible with the street scene and the materials and finishes of the primary structure.

10. Historic Resources, Minor. In addition to the general standards above (Subsection E) and other project-specific standards in this Subsection, the following applies to repairs and upgrades to historic resources and landmarks on the City's designated historic resources and landmarks list; repairs and refinishing of existing materials are eligible; such as stucco, roof tiles, pavers, wood trim, and stone, if the following apply:
 - a. Repairs and refinishing of existing materials shall be completed according to the Secretary of the Interior's Standards for the Treatment of Historic Properties; such as repairs to stucco, roof tiles, pavers, wood trim, and stone;
 - b. Original materials are to be repaired and refinished to every extent possible versus replacement. Photographs of the existing material conditions and of the work completed shall be provided for the property file;
 - c. Minor alterations are eligible that improve the historical integrity of historic resources and landmarks on the City's designated historic resources and landmarks list; such as installation of painted decorative tiles on stair risers or replacing non-original features

with documented traditional period appropriate materials, such as replacing vinyl windows with wood windows that meet window standards in this Subsection;

- d. For historic structures with Spanish architecture, work shall be completed according to the City's Henry Lenny Design Guidelines; and
 - e. If material replacement is demonstrated to be necessary, the materials shall be selected to mimic the original conditions unless alterations will improve the significance such as replacing vinyl with wood windows (see window guidelines for more on that work). Photographs of the existing material conditions and of the work completed shall be provided for the property file.
11. Landscape Alterations. Excluding exempt landscaping changes in Subsection C, the following standards apply to landscape alterations eligible for administrative approval:
- a. For the City's designated historic resources and landmarks list, changes shall exclude landscaping noted on a historic survey form identified as a contributor to the significance of a historic resource;
 - b. The project adds or alters 500 square feet or more of landscaping;
 - c. The alteration complies with zoning requirements;
 - d. The alteration is consistent with City Design Guidelines, including the recommended plant list;
 - e. Tree Removal. The removal or replacement of trees shall meet the following criteria:
 - i. Replacement trees shall be a minimum of a 24-inch box size;
 - ii. Trees are ineligible if taller than 25 feet high and replaced within yard area between a building and public right-of-way; and
 - iii. Trees are ineligible if located within a public view corridor designated in the General Plan, or if required to screen hillside ridgelines according to the Hillside Development Ordinance in Chapter 15.40 of this Municipal Code.
12. Lighting: Exterior. The following standards must be met for administrative approval:
- a. Replacement or installation of additional fixtures is compatible in style, color and scale with the existing structure or building to which lighting is attached;
 - b. Lighting fixtures and placement meet the lighting requirements and Design Guidelines; and
 - c. For the City's designated historic resources and landmarks list, see Subsection F.10 for additional standards.
13. Mechanical Equipment: General. Equipment such as water heaters, water heater enclosures, electrical or gas metering equipment and pool and spa equipment must be located and screened as follows in order to be eligible for administrative approval:
- a. If the new mechanical equipment is installed at ground level, it is placed as close to the building as practicable and screened from view through fencing, landscaping or other structures. Landscape screening, the preferred method of screening, is indicated on project plans to be maintained;

- b. All cables connecting outdoor equipment are properly secured and/or buried in the ground;
 - c. Equipment shall be installed over existing hardscape surfaces first if possible; and
 - d. All pool and spa equipment is located as far away from adjoining properties as reasonably practicable in consideration of neighbors, and the equipment's property line decibel level is consistent with the Noise Ordinance.
14. Mechanical Equipment: Rooftop. Transmitting antennas, including wireless facilities, are not eligible for administrative approvals. Satellite antennas and other rooftop equipment reviewed by Staff must comply with the following standards:
- a. Equipment shall be screened from on-site parking areas, adjacent public streets and adjacent residentially zoned property. The height of equipment screens shall be less than 10 feet tall and under the height limit of the zone;
 - b. If equipment must be visible from off-site locations, despite screening or in cases where only vegetative screening is used, the equipment is painted the same color as the roof or adjacent background, as specified by the City Planner. However, for the City's designated historic resources and landmarks list, visible equipment on historic resources and landmarks is ineligible for administrative approval; and
 - c. Screening shall be integrated into the appearance of the overall building; and
15. Porches. Porches are covered outdoor spaces attached to the primary structure eligible for administrative approval that meet the standards below, excluding the City's designated historic resources and landmarks list.
- a. Porches may be a maximum of 200 square feet;
 - b. Porches unscreened from the public right-of-way shall be on less than 50 percent of a building elevation's length;
 - c. The porch shall be integrated into the primary structure with a compatible design and materials; and
 - d. Porch railings have open pickets, glass, or other design and material with spacing to maintain visibility of the primary structure from the public right-of-way, unlike than a solid guardrail.
16. Roofs (and "Reroofs"). Roofs (including new roof material and "reroofs") must comply with the following standards:
- a. The type and color of roofing material is compatible with the architectural style of the structure;
 - b. Roofs of additions or accessory buildings match the existing roof pitch of the structure;
 - c. For the Architectural Overlay and historic structures with Spanish architecture, roof tiles shall have materials and be installed according to the Henry Lenny Design Guidelines.

17. Sheds or Spas. The following standards must be met:
 - a. The shed or spa is entirely screened from public right-of-way and separated from buildings according to the Building Code;
 - b. The shed or spa area is 120 square feet or smaller;
 - c. Materials match site fencing or the main structure's materials and colors; and
 - d. Any mechanical equipment meets criteria Subsection F.13 and F.14 above.

18. Sidewalk Seating and Enclosures for Commercial Outdoor Dining Areas.

The placement, style, color and types of outdoor dining furniture and barriers shall be consistent with and complement the design and appearance of the building and site, consistent with General Standards in Subsection E. The outdoor dining furniture and barriers shall also be in conformity with Public Works standards.

19. Skylights. Skylights must meet the following standards for eligibility:
 - a. For the City's designated historic resources and landmarks list, skylights shall not be installed over original building areas;
 - b. Skylights are compatible with the architectural style of the building and with the character of the surrounding area;
 - c. Skylights are screened from adjoining properties; and
 - d. Skylights shall have an orientation and design to avoid light trespass and glare on other properties in evenings, such as glazing, shades, or tint.

20. Trellises, Pergolas, and Arbors. Trellises, pergolas, and arbors are architectural elements with posts or columns on the sides and connected by beams and topped with open rafters. They can also include trellis overhead between the rafters. Trellises, pergolas, and arbors are eligible for administrative approval if:
 - a. For the City's designated historic resources and landmarks list, the trellis, pergola, or arbor is screened from public right-of-way and separated from neighboring buildings and property lines according to the Building Code;
 - b. The structure covers less than 250 square feet of lot area and is less than 12 feet tall; and
 - c. The structure's height, size and materials are compatible with the surrounding area.

21. Walls. Accessory structure walls shall meet the following criteria:
 - a. For historic resources and landmarks, eligible walls are not in yards adjacent to street frontages;
 - b. The wall meets zoning standards in Sections 17.24.090, 17.24.180, and 17.24.190; and
 - c. The wall materials shall match the color and finish of the primary structure.

22. Windows. Windows may be replaced or added if the following standards are met:
- a. For the City’s designated historic resources and landmarks list, see Subsection F.10 for additional standards;
 - b. Windows of additions match the predominant windows of the existing structure;
 - c. The window types are of appropriate size and scale for the proposed location(s); and
 - d. For the Architectural Overlay and historic structures with Spanish architecture:
 - I. Window design shall mimic the appearance of true divided lite windows.
 - II. The window surround or flange is to be constructed as part of the frame, not a plant on detail.
 - III. Factory color finishes are acceptable.
 - IV. Windows materials shall be consistent with allowed types shown in Table 17.16.095 below.

Material Type	Non-residential	Residential with Architectural Overlay	Residential without Architectural Overlay	Historic Structure (original)	Historic Structure (addition)
Wood	Yes	Yes	Yes	Yes	Yes
Metal - Steel or aluminum	Yes	Yes	Yes	No	Yes
Fiberglass	Yes	Yes	Yes	No	Yes
Vinyl					
Ground floor	No	No	Yes (non-visible)	No	No
Upper levels non-visible	No	Yes	Yes	No	No

G. Application Process.

1. Application Submittal. Administrative Development Permit review is initiated upon submittal of an application in compliance with Section 17.12.040, Filing an application.
2. Application Review.
 Projects are reviewed upon submittal of an application in compliance with Section 17.12.040, Filing an application. Then, a case planner is assigned to coordinate the review of the application upon receipt of an application, provided information and materials are reviewed to determine if applications meet criteria for approval of a permit.
3. Decisions. The City Planner shall approve or deny an application based on whether a project is consistent with the following:
 - a. General design standards in Subsection E.

- b. Project-specific standards in Subsection F.
 - c. The City's objective design standards.
- 4. Appeals. Decisions are subject to appeal processes according to Section 17.12.140.
- H. **Reporting of Decisions**. A summary of decisions will be provided to the Planning Commission at the next regularly scheduled meeting of those hearing bodies in the agenda packet, including permits issued up until the time of packet preparation.
- I. **Quality Assurance**. Projects shall be completed in accordance with City approvals and code compliance procedures in this Municipal Code. City staff have authority to require an inspection of approved projects to ensure work is completed according to approved materials.
- J. **General Review Requirements**. Refer to Chapter 17.12, Development Review Process, for general application processing requirements, such as modifications to applications, time limits on approvals, time extensions, and the review of multiple applications concurrently.
- K. **Approval Runs with the Land**. The approval of an Administrative Development Permit shall run with the land, and shall continue to be valid upon a change of ownership of the property to which it applies.

SECTION 15. The existing provisions of Section 17.16.100 are hereby struck and replaced in their entirety with the following:

17.16.100 - Development Permit

A. Purpose.

1. Development Permits are required to ensure development projects, not involving the City's designated historic resources and landmarks list, will:
 - a. Promote the orderly development of the City in compliance with the goals, objectives, and policies of the General Plan, any applicable Specific Plan, and the standards specified in this Zoning Code.
 - b. Preserve and strengthen the City's unique atmosphere as a Spanish village;
 - c. Comply with the purpose and intent of the Architectural Overlay district for projects within the overlay area identified on the Zoning Map;
 - d. Encourage site design and architecture sensitive to community and neighborhood character;
 - e. Enhance the visual environment and protects the economic value of existing structures.
 - f. Respect the physical and environmental characteristics of the site;
 - g. Ensure safe and convenient access and circulation for pedestrians and vehicles;
 - h. Exemplify the best professional design practices through consistency with the City's Design Standards and Guidelines;
 - i. Allow for and encourage individual identity for specific uses and structures;
 - j. Encourage a distinct community or neighborhood identity;

- k. Minimize or eliminate negative or undesirable visual impacts, especially on historic resources and landmarks on the City's designated historic resources and landmarks list;
- l. Prevent inappropriate design or development of structures; and
- m. Maintain and increase the desirability of other properties within the vicinity for the uses for which they are zoned.

B. Definitions. For purposes of this Section, the term "Sensitive areas" shall mean:

- a. Properties located within the Architectural Overlay district;
- b. Properties with single-family residences or duplexes abutting the City's designated historic resources and landmarks list.
- c. Properties with three or more dwelling units located within 300 feet from residentially zoned buildings on the City's designated historic resources and landmarks list.

C. Applicability.

1. **When Required.** Development activities listed in Table 17.16.100 require Development Permits for the development of structures and improvement of property, when a project site is not on the City's list of designated historic structures and landmarks. In that circumstance, refer to Section 17.16.110.
2. **Exemptions.** The following activities are exempt from a Development Permit.
 - a. Activities exempted from an Administrative Development Permit specified in Section 17.16.095;
 - b. Improvements State or Federal law requires or preempts from local discretionary review procedures;
 - c. Interior projects not visible on the exterior of structures and from adjoining public right-of-way;
 - d. Maintenance of property and structures;
 - e. Projects proposed on properties with three or more dwelling units located within 300 feet of residentially zoned historic buildings on the City's designated historic resources and landmarks list, if all of the following criteria apply:
 - i. Projects are not located in the Architectural Overlay district;
 - ii. Projects are not visible from public right-of-way that adjoins properties on the City's designated historic resources and landmarks list;
 - iii. Projects are not proposed on property abutting properties on the City's designated historic resources and landmarks list; and
 - iv. Projects are not visible from public view corridors designated in the General Plan.
 - f. Public park facilities other than the development or expansion of buildings as described in Chapter 17.28.

D. Review Authority.

Table 17.16.100 identifies the required review authority and review process in Section 17.12.060 for each project. Development Permits are acted upon by the highest review authority designated

in Table 17.16.100 for proposed development, or if a Development Permit is reviewed concurrently with other applications according to Section 17.12.090, Consideration of Concurrent Applications.

Table 17.16.100 – Review Process for Development Permit

Development Activities	Review Process (Section 17.12.060)
<p>A. New development of nonresidential buildings.</p> <ol style="list-style-type: none"> 1. New nonresidential primary buildings, excluding public park facilities. 2. Public park facilities, new buildings and additions with 1,500 square feet of floor area or greater in compliance with Chapter 17.28. 3. Public park facilities, new buildings and additions less than 1,500 square feet of floor area in compliance with Chapter 17.28. 4. New nonresidential accessory buildings that are screened from adjoining public right-of-way, where the proposed building has floor area less than or equal to 2,000 square feet and less than 50 percent of the primary building’s floor area. 5. New nonresidential accessory buildings that are unscreened from adjoining public right-of-way, or the building has floor area larger than 2,000 square feet or greater than 50 percent of the primary building’s floor area. 	<p>Process 3</p> <p>Process 3</p> <p>Process 2</p> <p>Process 2</p> <p>Process 3</p>
<p>B. Nonresidential building additions.</p> <ol style="list-style-type: none"> 1. Nonresidential building additions of floor area 2,000 square feet or less to nonresidential buildings, excluding public park facilities. 2. Nonresidential building additions of floor area larger than 2,000 square feet to nonresidential buildings, excluding public park facilities. 	<p>Process 2</p> <p>Process 3</p>
<p>C. New development of residential buildings.</p> <ol style="list-style-type: none"> 1. Development of residential primary buildings that results in five or more dwelling units on a property. 2. New residential primary buildings proposed in the Architectural Overlay District. 3. New residential primary buildings on properties adjoining the City’s designated historic resources and landmarks list. 4. Development of two-story single-family dwellings and duplexes across a street and abutting a property on the City’s designated historic resources and landmarks list. 	<p>Process 3</p> <p>Process 3</p> <p>Process 3</p> <p>Process 2</p>

Development Activities	Review Process (Section 17.12.060)
5. Development of three or more dwelling units on properties that are not abutting historic structures but located within 300 feet of residentially zoned buildings on the City’s designated resources and landmarks list, unless exempted by Subsection 17.16.100(C)(2).	Process 2
6. New residential accessory buildings in sensitive areas (defined in Subsection B) screened from adjoining public right-of-way, where the proposed building has floor area less than or equal to 500 square feet and less than 50 percent of the primary building’s floor area.	Process 2
7. New residential accessory buildings in sensitive areas (defined in Subsection B) that are unscreened from adjoining public right-of-way or the proposed building has floor area larger than 500 square feet or greater than 50 percent of the primary building’s floor area.	Process 3
8. Accessory Dwelling Units that vary from standards as specified in Section 17.28.270 in which discretionary review is allowed by State law.	Process 3
<p>D. Residential building additions.</p> <p>1. Residential building additions to residential buildings in sensitive areas (defined in Subsection B) screened from adjoining public right-of-way where the addition of floor area is less than or equal to 500 square feet and less than 50 percent of the primary building’s floor area.</p> <p>2. Residential building additions to residential buildings in sensitive areas (defined in Subsection B) where the addition of floor area is unscreened from adjoining public right-of-way or the addition is larger than 500 square feet or greater than 50 percent of the primary building’s floor area.</p> <p>3. Residential building additions of floor area 50 percent or greater to nonconforming single-family residences with less than 1,400 square feet of floor area as of March 21, 1996, expanded up to 2,100 square feet.</p>	<p>Process 2</p> <p>Process 3</p> <p>Process 2</p>
<p>E. New accessory structures.</p> <p>1. New accessory structures that are ineligible for an Administrative Development Permit according to Section 17.16.095.</p>	Process 2
<p>F. Exterior changes.</p> <p>1. Exterior changes to structures and sites that are ineligible for an Administrative Development Permit according to Section 17.16.095.</p>	Process 2
<p>G. Subdivisions and general provisions.</p> <p>1. Development on new parcels created from a subdivision of property.</p> <p>2. New Planned Residential Developments (PRD).</p> <p>3. New golf courses.</p> <p>4. Nonresidential projects abutting residentially zoned properties in compliance with Section 17.24.170.</p>	<p>Process 3</p> <p>Process 3</p> <p>Process 3</p> <p>Process 2</p>

Development Activities	Review Process (Section 17.12.060)
5. Relocation of structures according to Section 17.24.160, Relocation of Structures.	Process 2
6. Neighborhood Electrical Vehicle (NEV) parking credit in the North Beach Parking Overlay according to Section 17.56.080.	Process 2
7. Subdivisions excluding condominiums.	Process 5
8. Residential detached accessory buildings over 15 feet in height that encroach into required setbacks.	Process 3
9. Residential detached accessory structures over 15 feet in height.	Process 3

E. Application Filing, Processing, and Review.

1. Application Filing.

- a. An application for a Development Permit shall be filed and processed according to Chapter 17.12.
- b. The application shall include the information and materials specified in the application for a Development Permit with required fees, and any additional information required by the City Planner or Review Authority to conduct a thorough review of the proposed project, as described according to Section 17.12.060.
- c. It is the responsibility of the applicant to provide evidence in support of the findings required by Section 17.16.100.F below.

2. Application Review.

A Development Permit review is initiated when the Planning Division receives an application package. Then, a case planner is assigned to coordinate the review of the application with City staff and other agencies as needed. At the direction of the City Planner, proposals are reviewed by the Development Management Team (DMT), staff from City departments with expertise in various subject areas. Upon receipt of an application, provided information and materials are reviewed to determine if applications are:

- i. Complete in compliance with Section 17.12.050;
- ii. In compliance with the California Environmental Quality Act as specified in Section 17.12.080. If studies or consultant work is required for this review, this shall be completed at the applicant’s expense according to City policies and the City Planner’s direction;
- iii. Consistent with the purpose of this Chapter and required findings in Subsection F to support the requested Development Permit; and
- iv. Meets applicable development standards, policies, regulations, and guidelines.

3. Design Review Subcommittee Review.

Applications require Design Review Subcommittee (DRSC) review if the application requires Planning Commission or City Council approval. Applications may also be referred to the DRSC by the City Planner or Zoning Administrator.

4. Decision and Appeal Process.

Table 17.16.100 identifies the Review Authority and Review Process described in Section 17.12.100 for each project. Refer to Section 17.12.060 for details on the review process. Notification procedures are in Section 17.12.100.

F. Required Findings.

1. General Findings. For approval of a Development Permit, the Review Authority shall make the following findings:

- a. The proposed project is consistent with the General Plan;
- b. The proposed project complies with zoning regulations;
- c. The proposed project is consistent with the City's Design Guidelines;
- d. The proposed development will not be detrimental to the public health, safety, or welfare, or materially injurious to properties and improvements in the vicinity; and
- e. The proposed project is in character and compatible with the properties in the neighborhood.

2. Additional Findings for Requests. In addition to the general findings in Subsection F.1, the Review Authority shall make findings for approval of a Development Permit to allow the following.

- a. For projects in the Architectural Overlay District, the Review Authority shall find: the proposed project complies with the purpose and intent of the Architectural Overlay District, Section 17.56.020.
- b. For new structures and major remodels in the Architectural Overlay, the Review Authority shall also find one of the following:
 - i. The proposed project/use preserves and strengthens the pedestrian-orientation of the district and/or San Clemente's historic identity as a Spanish village; or
 - ii. The proposed project/use is a minor remodel and it is not practical or desirable, in this particular case, to attempt conversion to a pedestrian-orientation and/or Spanish Colonial Revival style. The proposed changes, however, improve the quality and architectural integrity of the proposed project.
- c. For projects reviewed because they are abutting or within 300 feet of an historic property, the Review Authority shall find: the proposed project will not have negative visual or physical impacts upon the historic structure.
- d. For Planned Residential Developments (PRDs), the Review Authority shall make findings in Section 17.56.040(G).

G. General Review Requirements. Refer to Chapter 17.12, Development Review Process, for general application processing requirements, such as appeals, modifications to applications, time limits on approvals, time extensions, and the review of multiple applications concurrently.

- H. **Approval Runs with the Land.** The approval of a Development Permit shall run with the land, and shall continue to be valid upon a change of ownership of the property to which it applies.

SECTION 16. The existing provisions of Section 17.16.110 of the San Clemente Municipal Code are hereby struck and replaced in their entirety with the following:

17.16.110 - Cultural Heritage Permits

- A. **Purpose.** Cultural Heritage Permits are required for projects affecting sites on the City's list of designated historic structures to ensure projects:
1. Preserve and strengthen the City's identity as a Spanish village;
 2. Comply with the purpose and intent of the Architectural Overlay district for projects involving cultural and historical resources within the overlay zone identified on the Zoning Map;
 3. Preserve and strengthen the pedestrian-oriented areas designated in the General Plan;
 4. Preserve and protect those places, sites, buildings, structures, neighborhoods, objects, and improvements, manmade or natural, having a special historical, cultural, or architectural interest;
 5. Protect and enhance the City's attraction as a historic community to tourists and visitors;
 6. Promote the use of historic properties for the education, pleasure, and welfare of the people of the City;
 7. Encourage and, where specified by this title, require architecture which reflects the community's historic pedestrian-oriented character;
 8. Promote the orderly development of the City in compliance with the goals, objectives, and policies of the General Plan, any applicable Specific Plan, and the standards specified in this Zoning Code.
 9. Encourage site design and architecture sensitive to community and neighborhood character;
 10. Enhance the visual environment and protects the economic value of existing structures.
 11. Respect the physical and environmental characteristics of the site;
 12. Ensure safe and convenient access and circulation for pedestrians and vehicles;
 13. Exemplify the best professional design practices through consistency with the City's Design Standards and Guidelines;
 14. Allow for and encourage individual identity for specific uses and structures;
 15. Encourage a distinct community or neighborhood identity;
 16. Minimize or eliminate negative or undesirable visual impacts, especially on historic resources and landmarks on the City's designated historic resources and landmarks list;
 17. Prevent inappropriate design or development of structures; and
 18. Maintain and increase the desirability of other properties within the vicinity for the uses for which they are zoned.

B. Applicability.

1. When Required. Development activities listed in Table 17.16.110 require Cultural Heritage Permits for the development of structures and improvement of property on the City’s designated historic resources and landmarks list, unless exempted by Subsection B.2.
2. Exemptions. The following activities are exempt from a Cultural Heritage Permit.
 - a. Activities exempted from an Administrative Development Permit specified in Section 17.16.095.
 - b. Improvements State or Federal law requires or preempts from local discretionary review procedures;
 - c. Interior projects not visible on the exterior of structures and from adjoining public right-of-way; and
 - d. Public park facilities other than the development or expansion of buildings as described in Chapter 17.28.

C. Review Authority.

Table 17.16.110 identifies the required review authority and review process in Section 17.12.060 for each project. Cultural Heritage Permits (CHP) are acted upon by the highest review authority designated in Table 17.16.110 for proposed development, or if a Cultural Heritage Permit is reviewed concurrently with other applications according to Section 17.12.090, Consideration of Concurrent Applications.

Table 17.16.110 – Review Process for Cultural Heritage Permit

Development Activities	Review Process (Section 17.12.060)
A. New nonresidential buildings.	
1. New nonresidential primary buildings, excluding public park facilities.	Process 3
2. Public park facilities, new buildings and additions with 1,500 square feet of floor area or greater in compliance with Chapter 17.28.	Process 3
3. Public park facilities, new buildings and additions less than 1,500 square feet of floor area in compliance with Chapter 17.28.	Process 2
4. New nonresidential accessory buildings screened from adjoining public right-of-way, where the proposed building has floor area less than or equal to 500 square feet and less than 50 percent of the primary building’s floor area.	Process 2
5. New nonresidential accessory buildings unscreened from adjoining public right-of-way, or the building has floor area larger than 500 square feet or greater than 50 percent of the primary building’s floor area.	Process 3

Development Activities	Review Process (Section 17.12.060)
<p>B. Nonresidential building additions.</p> <ol style="list-style-type: none"> 1. Nonresidential building additions of floor area 2,000 square feet or less to nonresidential buildings, excluding public park facilities. 2. Nonresidential building additions of floor area larger than 2,000 square feet to nonresidential buildings, excluding public park facilities. 	<p>Process 2</p> <p>Process 3</p>
<p>C. New residential buildings.</p> <ol style="list-style-type: none"> 1. New residential primary buildings. 2. New residential accessory buildings screened from adjoining public right-of-way with less than or equal to 500 square feet and less than 50 percent of the primary building’s floor area, and meets zoning standards. 3. New residential accessory buildings unscreened from adjoining public right-of-way or larger than 500 square feet or greater than 50 percent of the primary building’s floor area. 4. Accessory Dwelling Units that vary from standards as specified in Section 17.28.270 in which discretionary review is allowed by State law. 	<p>Process 3</p> <p>Process 2</p> <p>Process 3</p> <p>Process 3</p>
<p>D. Residential building additions.</p> <ol style="list-style-type: none"> 1. Residential building additions of floor area less than or equal to 500 square feet and less than 50 percent of the primary building’s floor area. 2. Residential building additions of floor area larger than 500 square feet or greater than 50 percent of the primary building’s floor area. 	<p>Process 2</p> <p>Process 3</p>
<p>E. New accessory structures.</p> <ol style="list-style-type: none"> 1. New accessory structures that are ineligible for an Administrative Development Permit according to Section 17.16.095. 	<p>Process 2</p>
<p>F. Exterior changes.</p> <ol style="list-style-type: none"> 1. Exterior changes to structures and sites that are ineligible for an Administrative Development Permit according to Section 17.16.095. 	<p>Process 2</p>
<p>G. Subdivisions and general provisions.</p> <ol style="list-style-type: none"> 1. Development on new parcels created from a subdivision of property. 2. New Planned Residential Developments (PRD). 3. New golf courses. 4. Nonresidential projects abutting residentially zoned properties in compliance with Section 17.24.170. 5. Relocation of structures according to Section 17.24.160, Relocation of Structures. 	<p>Process 5</p> <p>Process 3</p> <p>Process 3</p> <p>Process 2</p> <p>Process 3</p>

Development Activities	Review Process (Section 17.12.060)
6. Neighborhood Electrical Vehicle (NEV) parking credit in the North Beach Parking Overlay according to Section 17.56.080.	Process 2
7. Subdivisions excluding condominiums.	Process 5
8. Residential detached accessory buildings over 15 feet in height that encroach into required setbacks.	Process 3
9. Residential detached accessory structures over 15 feet in height.	Process 3

D. Application Filing, Processing, and Review.

1. Application Filing.

- a. An application for a Cultural Heritage Permit shall be filed and processed according to Chapter 17.12.
- b. The application shall include the information and materials specified in the application for a Cultural Heritage Permit with required fees, and any additional information required by the City Planner or Review Authority to conduct a thorough review of the proposed project, as described according to Section 17.12.060.
- c. It is the responsibility of the applicant to provide evidence in support of the findings required by Subsection E below.

2. Application Review. A Cultural Heritage Permit review is initiated when the Planning Division receives an application package. Then, a case planner is assigned to coordinate the review of the application with City staff and other agencies as needed. At the direction of the City Planner, proposals are reviewed by the Development Management Team (DMT), staff from City departments with expertise in various subject areas. Upon receipt of an application, provided information and materials are reviewed to determine if applications are:

- i. Complete in compliance with Section 17.12.050;
- ii. In compliance with the California Environmental Quality Act as specified in Section 17.12.080. If studies or consultant work is required for this review, this shall be completed at the applicant’s expense according to City policies and the City Planner’s direction;
- iii. Consistent with the purpose of this Chapter and required findings in Subsection E to support the requested Cultural Heritage Permit; and
- iv. Meets all applicable City and State development standards, policies, regulations, and guidelines.

3. Cultural Heritage Subcommittee Review. Applications require Cultural Heritage Subcommittee (CHSC) review if the application requires Planning Commission or City Council approval. Applications may also be referred to the CHSC by the City Planner or Zoning Administrator. The Design Review Subcommittee serves as the CHSC.

4. Decision and Appeal Process. Table 17.16.110 identifies the Review Authority and Review Process described in Section 17.12.100 for each project. Refer to Section 17.12.060 for details on the review process. Notification procedures are in Section 17.12.100. Appeals are addressed in Section 17.12.140.

E. Required Findings.

1. For approval of Cultural Heritage Permit, the Review Authority shall make the following findings:
 - a. The proposed project is consistent with the General Plan;
 - b. The proposed project complies with zoning regulations;
 - c. The proposed development will not be detrimental to the public health, safety or welfare, or materially injurious to properties and improvements in the vicinity;
 - d. The proposed project is in character and compatible with the properties in the neighborhood;
 - e. The proposed project is in conformance with the Secretary of the Interior's Standards for the Treatment of Historic Properties and City's Design Guidelines to substantially further the City's goals of historic preservation, and
 - f. The proposed project preserves to the extent feasible the character defining features.
2. Additional Findings for Requests. In addition to the general findings in Subsection E.1, the Review Authority shall make findings for approval of a Cultural Heritage Permit to allow the following.
 - a. For projects in the Architectural Overlay District, the Review Authority shall find: the proposed project complies with the purpose and intent of the Architectural Overlay District, Section 17.56.020. And, for new structures and remodels in the Architectural Overlay District, the Review Authority shall also find one of the following:
 - i. The proposed project/use preserves and strengthens the pedestrian-orientation of the district and/or San Clemente's historic identity as a Spanish village; or
 - ii. The proposed project/use is a minor remodel and it is not practical or desirable, in this particular case, to attempt conversion to a pedestrian-orientation and/or Spanish Colonial Revival style. The proposed changes, however, improve the quality and architectural integrity of the proposed project.
 - b. For exemptions from Chapter 17.72, Nonconforming Structures and Uses, the Review Authority shall find: the proposed exemption from nonconforming regulations is warranted to maintain the historical significance of national, state or a locally designated historic structure.

F. General Review Requirements. Refer to Chapter 17.12, Development Review Process, for general application processing requirements, such as appeals, time limits on approvals, time extensions, and the review of multiple applications concurrently.

G. Approval Runs with the Land. The approval of Cultural Heritage Permits shall run with the land, and shall continue to be valid upon a change of ownership of the site to which it applies.

SECTION 17. Subsection (D) of Section 17.16.145 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

- A. **Review Procedures.** Following receipt of a completed application, the City Planner shall review the application for compliance with the Zoning Ordinance.

SECTION 18. Subsection (A) of Section 17.16.175 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

- A. **Purpose and Intent.** In order to preserve and protect the cultural, historical, and architectural heritage of San Clemente, certain incentives are provided in various sections of this title to owners of designated historically significant properties. The purpose and intent of this section is to outline the process for obtaining property tax reduction incentives available through the execution of a voluntary Historic Property Preservation Agreement with the City of San Clemente. For other, regulatory incentives, see Sections 17.16.180, Waivers of Fees/Development Standards, Relocation of Historic Structures; 17.64.120, Modifications and Waivers of Parking Requirements; and Section 17.16.110. Please refer to the City's Building Division for additional provisions related to the use of the State Historical Building Code.

SECTION 19. Subsection (J) of Section 17.16.175 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

J. **Cancellation of Agreement.**

1. The City Council may cancel an Historic Property Preservation Agreement if the City Council determines that the property owner has breached any of the terms of the Agreement, or has allowed the property to deteriorate to the extent that it no longer meets the criteria in Section 17.16.160(F)(1).
2. Following completion of the Enforcement of Agreement procedures contained within each Historic Property Preservation Agreement and prior to the cancellation of a Historic Property Preservation Agreement, the City Council may initiate and review cancellation of an Agreement as described in Section 17.12.175, City Initiated Changes of Revocation of Approved Applications.
3. If the City Council cancels an Agreement, the property owner shall pay a penalty of 12½ percent of the full market value of the property, as determined by the County Tax Assessor, to the State.

SECTION 20. Section 17.16.180 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

17.16.180 Waiver of Fees/Development Standards for Historic Resources and Landmarks.

- A. **Purpose and Intent.** In order to preserve and protect the cultural, historical, and architectural heritage of San Clemente, certain incentives are provided in various sections of this title to owners of designated historically significant properties. The purpose and intent of this section is to describe the waiver of fees/development standards for historic resources and landmarks on the City's designated historic resources and landmarks list. For other regulatory incentives, see Sections 17.16.175, Historic preservation incentives, historic property preservation (Mills Act) agreements; 17.64.120, Modifications and Waivers of Parking Requirements; and Section 17.16.110. Please refer to the City's Building Division for additional provisions related to the use of the State Historical Building Code.

- B. **Authority.** The City Council is the final authority on the authorization and approval of fee/development standard waivers for properties on the City's Designated Historic Resources List.
- C. **Fee waivers.**
1. The fees for the first eight hours of time required to process a Cultural Heritage Permit shall be waived for the following eligible properties:
 - a. All resources sites listed on the City's List of Designated Historic Structures Resources and Landmarks Lists.
 - b. All abutting single-family homes and duplexes.
 - c. All sites with three or more dwelling units within 300 feet of residentially zoned sites listed on the City's List of Designated Historic Structures Resources and Landmarks Lists.

The fee waiver shall not apply to non-historic properties located within the Architectural Overlay District.

The fee waiver shall not apply to any costs incurred for any required technical studies, miscellaneous associated fees with processing the application, additional permits, etc. Projects taking less than eight hours of staff time to process shall not be provided a credit for the value of the unused portion of the fee waiver.

SECTION 21. Section 17.16.250 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

17.16.250 - Discretionary Sign Permits

- A. **Purpose and Intent.** The purpose of this section is to provide a discretionary review process for signs that are significant in terms of size, number, location or type. The intent of discretionary review is to ensure signs are compatible and harmonious with the architecture of the buildings they serve and with the surrounding neighborhood. The intent of discretionary review is also to ensure that signs comply with the purpose and intent of the City's sign regulations.
- B. **Authority.** The final authority on Discretionary Sign Permits is as follows:
1. Planning Commission for signage in the Architectural Overlay district, freestanding signs, pole signs, and Master Sign Programs for new development.
 2. Zoning Administrator for other signage requiring a Discretionary Sign Permit.
- C. **Applicability.** A Discretionary Sign Permit is required to allow any of the following:
1. Sign types for which a Discretionary Sign Permit is required in Table 17.84.030(A), Matrix of Sign Types.
 2. Tenant exceeding 64 square feet at a property outside of the Architectural Overlay District.
 3. Tenant signage exceeding 25 square feet at a property within the Architectural Overlay District.
 4. Signs with neon lighting.
 5. Master Sign Programs according to Section 17.84.020(G).

- D. **Submittal Requirements.** Please refer to the submittal requirements in Section 17.12.140, Filing an Application, and Section 17.12.060, Applications Requiring Additional Information.
- E. **Application Filing, Processing, and Review.**
1. Application Filing. The review process is initiated when the Planning Division receives a complete application package. The application package shall include the required information and materials specified in the application and any additional information required by the City Planner or review authority to conduct a thorough review of the proposed project.
 2. Application Review. Each application shall be reviewed to ensure that proposals are consistent with the purpose of this chapter; applicable development standards, policies, regulations, and guidelines.
 - a. Development Management Team review. The Development Management Team reviews an application to determine if it is complete and complies with applicable development standards, policies, regulations, and guidelines. Within 30 calendar days of application filing, the applicant is notified if their application is complete or if information is needed to complete the application and resume the review process. The Development Management Team also makes comments and recommendations to provide helpful information to applicants and notify them when a proposal does not comply with development standards, policies, regulations, and guidelines.
 - b. Environmental Review. After an application is complete, the project shall be reviewed in compliance with the California Environmental Quality Act and determine if environmental studies are required. If studies are required, then they shall be conducted at the applicant's expense, which may involve the selection of a consultant.
 - c. Design Review Subcommittee review. The Design Review Subcommittee shall review applications. The Design Review Subcommittee is an advisory body that reviews design issues and provides a recommendation to the review authority per procedures in Section 17.12.025.
 3. Public Hearing and Appeal Provisions.
 - a. Public hearing is required. A public hearing and notification shall be conducted in compliance with Section 17.12.100.
 - b. The review authority shall review the proposed project and approve, approve with conditions, or deny the application at a public hearing based on an ability to meet required findings.
 - c. The review authority's decision may be appealed per Section 17.12.140.
- F. **Required Findings.** Prior to approval of a Discretionary Sign Permit, all of the following findings shall be made:
1. The design, including lighting, scale, length and materials, of the sign is consistent with the intent of the design elements of the General Plan, Design Guidelines, respective specific plan or Architectural Overlay District in which the sign is to be located;

2. The design, scale and materials of the sign harmonize with the architectural design and details of the building or site it serves;
 3. The design and scale of the sign is appropriate to the distance from which the sign is normally viewed;
 4. The design and materials of the sign provide a contrast between the background and letters;
 5. If a freestanding sign is included in the sign application, the design, scale or location of the building dictates the use of freestanding signs, rather than building-mounted signs;
 6. If a pole sign is included in the sign application, the design, scale or location of the building dictates the use of a pole sign rather than a monument sign;
 7. For Master Sign Programs:
 - a. The provisions of the Master Sign Program ensure consistency in design and style of all new signs,
 - b. The provisions of the Master Sign Program address compatibility of the design and style of any existing signs on the building or site, and
 - c. All new signs within the Master Sign Program are in compliance with the design standards of this chapter.
- G. **Appeals.** An appeal of the action upon a Discretionary Sign Permit shall be reviewed in accordance with Section 17.12.140, Appeals of an Action.
- H. **Modifications Requested by the Applicant.** Modifications requested by the applicant to approved Temporary Use Permits shall be reviewed in accordance with Section 17.12.180, Modifications of an Approved Application.
- I. **Modifications and/or Revocations Initiated by the City.** The City may make changes or revoke the approval of applications when conditions of approval are violated, it is necessary to resolve a nuisance, and/or when the application contained incorrect, false, or misleading information. Refer to Section 17.12.175 for related procedures and required findings.
- J. **Other Review Requirements.** Refer to Chapter 17.12, Development Review Process, for general application processing requirements, such as consideration of concurrent applications, time limits on approvals and time extensions.

SECTION 22. Subsection (D) of Section 17.24.090 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

- D. **Standards for Fences, Walls and Hedges in Nonresidential Zones.** In nonresidential zones, fences, walls, and hedges shall comply with the following requirements:
1. **Height and Materials.** The height limit and other features of fences, walls, and hedges are determined through an architectural review process with required approval of a Development Permit (Section 17.16.100), or Cultural Heritage Permit (Section 17.16.110) for historic resources and landmarks on the City's designated historic resources and landmarks list.
 2. **Fencing Around Parking Areas.** For requirements for fencing around parking lots, please refer to Section 17.28.220, Parking Lots.

SECTION 23. Subsection 17.24.040(C)(2) of the San Clemente Municipal Code is amended in its entirety as follows:

2. Height Limit for Detached Accessory Structures. Except as modified by Section 17.24.080, Maximum Encroachments into Setbacks and Height Limits, General; the height limit for detached accessory structures shall be as follows:
 - a. Front Half of the Lot. Detached accessory structures in the front half of the lot shall not exceed 15 feet in height;
 - b. Rear Half of the Lot. Detached accessory structures shall have a maximum height of 15 feet, however; the height limit may be increased to the height limit of the zone with the approval of a Development Permit (Section 17.16.100) or Cultural Heritage Permit (Section 17.16.110).

3. Height Limits for Detached Accessory Buildings. Except as modified by Section 17.24.080, Maximum Encroachments into Setbacks and Height Limits, General; the height limit for detached accessory buildings shall be as follows:
 - a. Front Half of the Lot. Detached accessory buildings in the front one-half of the lot shall not exceed 15 feet in height;
 - b. Rear Half of the Lot.
 - i. Accessory Buildings with Setback Encroachments. Detached accessory buildings in the rear half of the lot encroaching into required setbacks may be constructed over 15 feet high, up to the height limit of the zone with the approval of a Development Permit (Section 17.16.100) or Cultural Heritage Permit (Section 17.16.110). Setback encroachments require compliance with Section 17.24.080 or the approval of an application in Chapter 17.16; and
 - ii. Accessory Buildings with Setback Compliance. Detached accessory buildings in the rear one-half of the lot may be constructed up to the height limit of the zone if detached accessory buildings comply with required setbacks of the zoning district for the primary building.

SECTION 24. Subsection 17.24.040(C)(2) of the San Clemente Municipal Code is hereby struck in its entirety and retitled as “Reserved.”

SECTION 25. Subsection (B)(1) of Section 17.24.110 of the San Clemente Municipal Code is hereby amended to read follows:

- B. **General Regulations for the Measurement of Height.** The following regulations for calculating height shall apply to all development within the City of San Clemente:
 1. Measurement of Height from Original or Finished Grade.
 - a. Developments With Mass Recontouring. In the case of subdivisions and/or land development where mass recontouring has been or will be permitted by the City, building height shall be measured from finished grade based on City approved plans. Please refer to Figure 17.24.110A for a map of those areas in the City which have had mass recontouring. This subsection does not include properties with significant grading which have received the approval of a variance from height limits; please refer to the following paragraph b, for the method of measuring height on these properties.

- b. All Other Development. In the case of developments where mass recontouring has not been permitted, or where significant grading has been allowed but through the approval of a variance from the height limit, building height shall be measured from original grade.
- c. In cases where it is ambiguous whether building height should be measured from finished or original grade, or where a determination of finished or original grade is difficult, the City Planner shall make such determination, subject to the appeal provisions in Section 17.12.140, Appeals of an Action, of this title.

SECTION 26. Section 17.24.160 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

17.24.160 - Relocation of Structures.

- A. **Review Requirements.** The relocation of a building or other structure from one lot to another requires the approval of a Minor Conditional Use Permit (Section 17.16.060) and a Development Permit (17.16.100) or Cultural Heritage Permit (17.16.110) for historic resources and landmarks on the City's designated historic resources and landmarks list.
- B. **Minimum Standards.** The relocation of a building or structure requires the following:
 - 1. Compliance. Compliance with the requirements, relative to the building or structure, of the zone to which the building is being relocated; and
 - 2. Conformance. Conformance with or improvement upon the general character of the existing buildings in the neighborhood.
- C. **Public Notification.** Public notification for the required discretionary approvals shall be provided, as described in Section 17.12.100, Public Hearing and Notification, of this title, and shall be provided for both the original location of the building or structures and the location to which the building or structure is being moved.

SECTION 27. Section 17.24.170 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

17.24.170 - Residentially Zoned Property, Development Adjacent to.

- A. **Purpose and Intent.** The purpose of this section is to establish review procedures for nonresidential and mixed-use development adjacent to residentially zoned property. The purpose of review is to allow development adjacent to residential property while addressing potential impacts related to noise, light and glare, parking and circulation and privacy.
- B. **Building Setbacks from Adjacent Residentially Zoned Property.** Except as provided for within this section, new nonresidential and mixed-use buildings and/or additions to existing buildings shall maintain a minimum 20-foot setback from adjacent residential property lines. Encroachment of the nonresidential or mixed-use building and/or addition into this setback shall be allowed through the discretionary review process required for the project based on measures included in the project to address noise, parking, lighting, massing and other similar impacts upon adjacent residential development.
- C. **Additions Within 50 Feet of Existing Single-Family Residences.** Any nonresidential or mixed-use building addition that is closer than 50 feet to an existing single-family residence shall require the approval of a Development Permit (Section 17.16.100), or a Cultural Heritage Permit (Section

17.16.110) for historic resources and landmarks on the City's designated historic resources and landmarks list.

SECTION 28. Subsection (C) of Section 17.24.180 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

- C. **Standards for Retaining Walls In Nonresidential Zones.** The height limit, design, materials, stepping, and other retaining wall features of retaining walls are reviewed and approved through an architectural review process with the required approval of a Development Permit (Section 17.16.100), or a Cultural Heritage Permit (Section 17.16.110) for historic resources and landmarks on the City's designated historic resources and landmarks list.

SECTION 29. Subsections (C)(1) and (C)(2) of Section 17.28.205 of the San Clemente Municipal Code are hereby amended to read in their entirety as follows:

C. **Review Requirements.**

1. **Outdoor Dining Areas on Private Property.** To allow an outdoor dining area on private property, the following is required:
 - a. **Review of Exterior Modifications.** Exterior modifications to establish outdoor dining areas require review in compliance with Section 17.16.095 (Administrative Development Permit), Section 17.16.100 (Development Permit), or Section 17.16.110 (Cultural Heritage Permit) for historic resources and landmarks on the City's designated historic resources and landmarks list.
 - b. **Outdoor Dining Without Alcohol Service or Entertainment.** The City Planner may approve outdoor dining areas with a maximum of 16 seats and four tables on private property, provided that alcohol service or live entertainment is not proposed. A Minor Conditional Use Permit is required to allow outdoor dining areas with more than 16 seats and four tables.
 - c. **Outdoor Dining with Alcohol Service or Entertainment.** Alcohol and/or entertainment may be allowed on outdoor dining areas, on private property, as a restaurant accessory use with the approval of a Conditional Use Permit or Minor Conditional Use Permit. Refer to Chapters 17.36 (Commercial Zones) through Chapter 17.48 (Public Zones) to determine if this is allowed.
2. **Outdoor Dining on Public Property.** The following procedures are required to allow outdoor dining areas on public property, such as sidewalks:
 - a. **Review of Exterior Modifications.** Exterior modifications to establish outdoor dining areas require review in compliance with Section 17.16.095 (Administrative Development Permit), Section 17.16.100 (Development Permit), or Section 17.16.110 (Cultural Heritage Permit) for historic resources and landmarks on the City's designated historic resources and landmarks list.
 - b. **Number of Outdoor Seats.** A Minor Conditional Use Permit is required to allow outdoor dining areas with a maximum of 16 seats and four tables. A Conditional Use Permit is required to allow outdoor dining areas with more than 16 seats and four tables.
 - c. **Encroachment into Public Property.** An Encroachment Permit is required to allow outdoor dining on public property per Chapter 12.20.

- d. **Location of Outdoor Dining on Public Property.** A Minor Conditional Use Permit is required to allow outdoor dining areas that are adjacent to private property. A Conditional Use Permit is required to allow outdoor dining in other areas, such as in a parkway, areas separated from private property, or areas directly adjacent to a street or parking.
- e. **Outdoor Dining with Alcohol Service or Entertainment.** Alcohol and/or entertainment may be allowed on outdoor dining areas, on public property, as a restaurant accessory use with the approval of a Conditional Use Permit or Minor Conditional Use Permit. Refer to Chapters 17.36 (Commercial Zones) through Chapter 17.48 (Public Zones) to determine if this is allowed.

SECTION 30. Section 17.28.230 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

17.28.230 - Public Park Facilities.

- A. **Purpose and Intent.** The purpose of this section is to describe the architectural review procedures for public park facilities. For specific details regarding the review of parks and recreational facilities, please refer to the interim policy for the review of recreational facilities and streetscapes, until such time as this policy has been incorporated into the City's Parks and Recreation Master Plan.
- B. **Review Requirements.**
 - 1. **Buildings.** The development of new park facility buildings or additions to existing buildings require architectural review with the approval of a Development Permit (Section 17.16.100), or Cultural Heritage Permit (17.16.110) for historic resources and landmarks on the City's designated historic resources and landmarks list, such as the Municipal Golf Course. The Review Authority considers architectural and aesthetic impacts of proposals.
 - 2. **Other Facilities.** The development or addition of sports courts, landscaping, benches, trails and other recreational facilities which do not include the development of buildings shall be exempt from the discretionary review requirements of the Zoning Ordinance.

SECTION 31. The former Subsection (G)—which, following City Council Ordinance No. 1742, is now subsection (H)—of Section 17.28.270 of the San Clemente Municipal Code is hereby amended to read as follows:

17.28.270(H) Accessory Dwelling Units, Non-qualifying ADUs and JADUs and Discretionary Approval.

Any proposed ADU or JADU that does not conform to the objective standards set forth in subsections A through F of this section may be allowed by the City with a Development Permit or Cultural Heritage Permit, in accordance with the other provisions of this title.

SECTION 32. Subsection (E) of Section 17.28.090 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

- E. **Converted Service Stations.** When a service station use is converted to another use, the service station structures and other improvements shall be removed or modified to an extent that makes the site compatible with the neighborhood and conforming to rules. The modification or removal of

improvements requires the approval of an Administrative Development Permit (17.16.095) or Development Permit (Section 17.16.100). For example, the conversion of a service station could involve the removal of all fuel equipment and underground storage tanks, pole signs, removal of canopies, removal of pump islands, removal of overhead doors, the addition or modification of landscaping, addition of missing street improvements, exterior remodeling, etc. For nonconforming service stations, refer to change of use requirements in Chapter 17.72, Nonconforming Structures and Uses.

SECTION 33. Subsection (l) of Section 17.28.300 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

- I. **Other Temporary Fencing for Security and Screening.** Temporary fencing, other than what is required for active construction projects, is allowed for the purpose of providing security and screening to ensure the health, safety and welfare of the community at the discretion of the City Planner, subject to the following regulations.
 - 1. Review Requirements. Temporary fencing and similar structures erected higher than 42 inches and up to six feet in height shall require an Administrative Development Permit according to Section 17.16.095.
 - 2. Expiration of Permits. Any permit issued pursuant to this section shall become invalid upon the expiration of an approved permit for which the use has been approved.
 - 3. Minimum Standards. Temporary fencing and similar structures shall not be chainlink. Acceptable materials are more permanent in nature and include wrought iron, wood, or similar material and must be compatible with the existing style of surrounding development. Temporary fences and similar structures shall be maintained in good condition with no unintentional rips/tears (except for minimization of wind effects), fading, or general disrepair. Maintenance shall not become so defective, unsightly, or in such condition of deterioration or disrepair to create a public nuisance as set forth in Section 5.82.030.

SECTION 34. The rows for “Accessory Buildings” entries in Table 17.32.030 of Section 17.32.030 of the San Clemente Municipal Code is hereby amended to read as follows:

Table 17.32.030 - Residential Zone Uses

Use	RVL	RL	RML	RM	RH
5. Unclassified Uses					
Accessory Buildings:					
a. Accessory Buildings, Residential ¹⁵ Detached, over 15 Feet in Height that Encroach into Required Setbacks	O	O	O	O	O
b. All Others, Residential	P	P	P	P	P
c. Accessory Buildings, Nonresidential ¹⁶	MC	MC	MC	MC	MC

SECTION 35. Table 17.36.020 of Section 17.36.020 of the San Clemente Municipal Code is hereby amended as follows:

- 1. Within Section 1’s “Commercial” entries, new rows are hereby regarding for Liquor Sales for On-Site Consumption and Dancing and/or entertainment;

2. Within Section 8’s “Restaurant and Bars” entries are amended in their entirety;
3. Within Section 9’s “Unclassified” entries for “Amusement Center”, “Bowling Alley”, “Pool Halls”, and “Theaters”; and
4. Footnotes 14 to 22 are amended and renumbered.

Table 17.36.020 - Commercial Zone Uses

Use	Zones										
	NC 1.1	NC 1.2	NC 1.3	NC 2	NC 3	CC 1	CC 2	CC 3	CC 4	RMF1	NOTE
1. Commercial											
Nurseries (Outdoor Garden Retail Sales)			C	C	C	C	C	C	C	C	
Liquor Sales for On-Site Consumption:											
a. Hard alcohol	C	C	C	C	C	C	C	C	C		
b. Beer and wine indoors with active food service	P	P	P	P	P	P	P	P	P		
c. Beer and Wine in outdoor dining areas with active food service	MC	MC	MC	MC	MC	MC	MC	MC	MC		
d. Beer and Wine without active food service	MC	MC	MC	MC	MC	MC	MC	MC	MC		
Dancing and/or entertainment that has:											
a. No amplified sound.	MC	MC	MC	MC	MC	MC	MC	MC	MC		
b. Amplified sound.	C	C	C	C	C	C	C	C	C		
8. Restaurants and bars	NC 1.1	NC 1.2	NC 1.3	NC 2	NC 3	CC 1	CC 2	CC 3	CC 4	RMF1	NOTE
Bars, cocktail lounges (with or without dancing and/or entertainment)	P	P	P	P	P	P	P	P	P		
Microbreweries (with limited production up to 5,000 barrels and tasting room) as defined in Section 17.88	P	P	P	P	P	P	P	P	P		

Use	Zones										
Taprooms as defined in Section 17.88	P	P	P	P	P	P	P	P	P		
Restaurants without a drive-through	P	P	P	P	P	P	P	P	P		
Restaurants with drive-through			C	C	C	C	C	C	C		13
9. Unclassified Uses	NC 1.1	NC 1.2	NC 1.3	NC 2	NC 3	CC 1	CC 2	CC 3	CC 4		
Amusement Centers	C	C	MC	MC	MC	MC	MC	MC	MC		14
Bowling Alley	C	C	MC	MC	MC	MC	MC	MC	MC		
Pool Halls	C	C	MC	MC	MC	MC	MC	MC	MC		18
Theaters	C	C	MC	MC	MC	MC	MC	MC	MC		

14. Refer to Section 17.28.040, Alcoholic beverages and motor vehicle fuel, concurrent sale of, of this title, for special provisions for concurrent sales of motor fuel and alcoholic beverages.

15. Refer to Section 17.28.050, Amusement Centers, of this title, for special provisions for arcades/amusement centers.

16. Refer to Section 17.28.130, Grading, of this title, for special provisions for grading requests that are not accompanying development requests.

17. Massage is subject to Section 5.28 of the City of San Clemente Municipal Code. Refer to Section 17.28.185, Massage Establishments, of this title, for special provisions for massage establishments and accessory massage establishments.

18. The provisions for amusement centers shall apply to pool halls. Please refer to Section 17.28.050, Amusement Centers, for special provisions for amusement centers.

19. Refer to Section 17.28.250, Recycling Facilities, of this title, for special provisions for recycling facilities.

20. Refer to Section 17.28.290, Service Stations, of this title, for special provisions.

21. Refer to Section 17.28.310, Vehicle Dealerships, Rental, and Sales of this title, for special provisions for vehicle dealerships.

22. Refer to Section 17.28.320, Vehicle Service and Repair-Related Facilities, of this title, for special provisions.

SECTION 36. Table 17.36.030(A) of the San Clemente Municipal Code is hereby amended in its entirety as follows:

17.36.030 Commercial Zone General Development Standards.

The following property development standards shall apply to all land and permitted or conditionally permitted buildings located within their respective commercial zones.

- A. **Creation of New Lots.** The creation of new lots within commercial zones following the date of adoption of this title shall conform to the minimum dimensions for lots established within this zone, except in the case of condominium lots or individual lots within a shopping center, in which

case minimum dimensions shall be applied to the boundaries around the entire center. Individual lots created within shopping centers are exempt from the site development standards stated herein, as they relate to minimum lot areas and lot width, as long as the following conditions are met:

1. The commercial center has been processed and approved pursuant to Section 17.16.100, Development Permits and Section 17.16.110, Cultural Heritage Permits;
2. Easements for reciprocal access, parking and maintenance are recorded in a form approved by the City Attorney and maintained; and
3. All applicable setbacks adjacent to the exterior boundaries of the shopping center or commercial development are met.

SECTION 37. Section 17.36.040 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

17.36.040 Commercial Zone Special Development Standards.

Chapter 17.24, General Development Standards, of this title includes a number of special provisions affecting commercial properties. Unless otherwise indicated in the referenced sections, or in other City documents regulating commercial development, the development standards listed in Chapter 17.24, General Development Standards, of this title shall apply to all zones described in this chapter.

**Table 17.36.040
Special Development Standards for All Commercial Zones**

Standards	Sections
Accessory Buildings	Section 17.24.040
Building Equipment and Services and Their Screening	Section 17.24.050
Encroachment into Setbacks and Height Limits, General	Section 17.24.080
Fences, Walls, Hedges	Section 17.24.090
Height Limitations	Section 17.24.110
Lighting	Section 17.24.130
Off-Street Loading Area	Section 17.24.150
Relocation of Structures	Section 17.24.160
Residentially Zoned Properties, Development Adjacent To	Section 17.24.170
Retaining Walls	Section 17.24.180
Skirt Walls	Section 17.24.190
Substandard Lots	Section 17.24.200
Through Lots, Rear Yard Setback For	Section 17.24.210
Trip Reduction Measures for Projects with Greater than 100 Employees	Chapter 17.76

SECTION 38. Subsection (A)(2)(a) of Section 17.40.030 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

2. Special Use Regulations.

- a. Residential and Nonresidential Uses on the Same Building Floor. In vertical mixed-use projects, nonresidential uses may be permitted on the same building floor as a residential use with the approval of a Conditional Use Permit, in accordance with Section 17.16.060, Conditional Use Permits, of this title.

SECTION 39. Table 17.40.030 of Section 17.40.030 of the San Clemente Municipal Code is hereby amended as follows:

- 1. Within Section 1’s “Commercial” entries, new rows are hereby regarding for Liquor Sales for On-Site Consumption and Dancing and/or entertainment;
- 2. Within Section 8’s “Restaurant and Bars” entries are amended in their entirety;
- 3. Within Section 9’s “Unclassified” entries for “Accessory Buildings, Residential”, “Amusement Center” and “Pool Halls” are amended as shown below; and
- 4. Footnotes 16 to 30 are amended and renumbered.

Table 17.40.030 – Mixed Zone Uses.

Use	Zones							
	MU 1	MU 2	MU 3.0	MU 3.1	MU 3.2	MU 3.3	MU 5	NOTE
1. Commercial								
Liquor Sales for On-Site Consumption:								
a. Hard alcohol	C	C	C	C	C	C	C	
b. Beer and wine indoors with active food service	P	P	P	P	P	P	P	
c. Beer and Wine in outdoor dining areas with active food service	MC	MC	MC	MC	MC	MC	MC	
d. Beer and Wine without active food service	MC	MC	MC	MC	MC	MC	MC	
Dancing and/or entertainment that has:								
a. No amplified sound.	MC	MC	MC	MC	MC	MC	MC	
b. Amplified sound.	C	C	C	C	C	C	C	
8. Restaurants and bars	MU 1	MU 2	MU 3.0	MU 3.1	MU 3.2	MU 3.3	MU 5	NOTE
Bars, cocktail lounges (with or without dancing and/or entertainment)	P	P	P	P	P	P	P	
Microbreweries (with limited production up to 5,000 barrels and tasting room) as defined in Section 17.88	P	P	P	P	P	P	P	

Use	Zones							
	P	P	P	P	P	P	P	
Taprooms as defined in Section 17.88	P	P	P	P	P	P	P	
Restaurants without drive-through	P	P	P	P	P	P	P	
Restaurants with drive-through			C	C	C	C	C	16
9. Unclassified Uses	MU 1	MU 2	MU 3.0	MU 3.1	MU 3.2	MU 3.3	MU 5	NOTE
Accessory Buildings, Residential				P		P	P	20
Accessory Buildings, Nonresidential	C	C	C	C	C	C	C	
Amusement Centers	C	C	C	C	C	C	C	18
Bowling Alley	C	C	C	C	C	C	C	
Pool Halls	C	C	C	C	C	C	C	21
Theaters	C	C	C	C	C	C	C	

- 16. Refer to Section 17.28.260, Drive-Throughs.
- 17. Refer to Section 17.24.040, Accessory Buildings.
- 18. Refer to Section 17.28.040, Alcoholic beverages and motor vehicle fuel, concurrent sale of, of this title, for special provisions for concurrent sales of motor fuel and alcoholic beverages.
- 19. Refer to Section 17.28.050, Amusement Centers.
- 20. Refer to Section 17.28.130, Grading.
- 21. Massage is subject to Section 5.28 of the City of San Clemente Municipal Code. Refer to Section 17.28.185, Massage Establishments, of this title, for special provisions for massage establishments. To the extent otherwise allowed, Accessory Massage is permitted only in the commercial portion of a mixed-use building.
- 22. The provisions for amusement centers shall apply to pool halls. Refer to Section 17.28.050, Amusement Centers.
- 23. Refer to Section 17.28.250, Recycling Facilities.
- 24. Refer to Section 17.28.305, Urban Private Storage.
- 25. Refer to Section 17.28.320, Vehicle Service and Repair-Related Facilities.
- 26. A boarding house may not be located within 300 feet of any other boarding house measured by following a straight line without regard to intervening buildings from the nearest point of the parcel on which the proposed boarding house is to be located to the nearest point of the parcel that contains the existing boarding house. No more than one boarding house is allowed on a legal parcel.
- 27. Refer to Section 17.28.292, Short-Term Lodging Units, of this title for special provisions for STLUs and STARS.

SECTION 40. Section 17.40.050 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

17.40.050 Mixed-Use Zone Special Development Standards.

This section and Chapter 17.24, General Development Standards, of this title, includes a number of special provisions affecting mixed-use properties. Unless otherwise indicated in the referenced sections, or in other City documents regulating mixed-use development, the development standards listed in Chapter 17.24, General Development Standards, of this title shall apply to all zones described in this chapter.

**Table 17.40.050
Special Development Standards for All Mixed-Use Zones**

Standards	Sections
Accessory Buildings	Section 17.24.040
Arbors (Residential Structures Only)	Section 17.32.050(A), Arbors
Building Equipment and Services and Their Screening	Section 17.24.050
Density Allowance for Lots with Less than 3,600 Square Feet of Lot Area (Residential Lots Only)	Section 17.32.050(B), Density Allowance for Lots with Less than 3,600 Square Feet of Lot Area (residential lots only)
Distance Between Primary Buildings, Minimum Required	Section 17.32.050(C), Distance Between Primary Buildings, Minimum Required
Encroachment into Setbacks and Height Limits, General	Section 17.24.080
Fences, Walls, Hedges	Section 17.24.090
Front Setback, Special Provisions for Reduction (Residential Lots Only)	Section 17.32.050(D)
Garage Encroachment into the Front Yard Setback (Residential Lots Only)	Section 17.32.050(E)
Height Limitations	Section 17.24.110, Front Setbacks, Special Provisions for Reductions (residential lots only), Section 17.32.050(D), Garage Encroachment into the Front Yard Setbacks (residential lots only), Section 17.32.050(E)
Lighting	Section 17.24.130
Off-Street Loading Area	Section 17.24.150
Relocation of Structures	Section 17.24.160
Residential/Nonresidential Use Restrictions for MU 3.0-CB	Please refer to Section 17.56.030, Central Business District Overlay.
Residential/Nonresidential Use Restrictions for MU 5 (Minimum Contiguous Use)	Please refer to subsection (A), Residential/Nonresidential Use Restrictions for MU 5.
Residentially Zoned Properties, Development Adjacent to	Section 17.24.170
Retaining Walls	Section 17.24.180
Skirt Walls	Section 17.24.190, Special Provisions for Dwelling Units with Front Entrances Located Along the Side Property Line (residential lots only), Section 17.32.050(F)

Standards	Sections
Special Provisions for Dwelling Units with Front Entrances Located Along the Side Property Line (Residential Lots Only)	Section 17.32.050(F)
Substandard Lots	Section 17.24.200
Through Lots, Rear Yard Setback For	Section 17.24.210
Trip Reduction Measures for Projects With Greater Than 100 Employees	Chapter 17.76
Unit Size, Minimum	Please refer to subsection (B), Unit Size, Minimum

SECTION 41. Footnote 2 of Table 17.44.020 of Section 17.44.020 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

2 New golf courses in the OSC zone require approval of a Development Permit (Section 17.16.100) or Cultural Heritage Permit (17.16.110).

SECTION 42. Section 17.52.040 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

17.52.040 - General Requirements for Specific Plan Zones.

- A. **Determination of Land Uses and Development Regulations.** Precise locations of land uses and development regulations within the SP Zone shall not be fixed or predetermined until a specific plan has been adopted by the City in accordance with Section 17.16.030, Specific Plan Adoption and Amendments, of this title.
- B. **Limitations on Grading Permits, Building Permits, and Land Use Permits.** No Grading Permits, Building Permits, or Land Use Permits, or other development entitlements, shall be issued for any property with an SP designation prior to the adoption of a specific plan for the property, unless such permits or entitlements are solely for emergency measures, restoration or remedial maintenance and do not in any way predispose the future use of the land.
- C. **Scope of Specific Plan.**
 - 1. Each specific plan shall include the specific land uses, standards and criteria necessary for the development, maintenance and use of the subject property, in compliance with the policies and programs of the General Plan. Each specific plan shall clearly specify how and to what extent the plan is to improve upon, supplement or supersede the City's Zoning Ordinance.
 - 2. New specific plans and amendments to existing specific plans may be required, at the City's discretion, to include standards and a financing program for the installation of public facilities and utilities, schools, flood control and transportation facilities, and other public and private improvements and facilities related to the specific plan.
 - 3. Specific plans shall address the applicable portions of State law related to the preparation of a specific plan.
- D. **Amendment of the Zoning Ordinance and Map.** Adoption of a specific plan shall include an amendment to the Zoning Ordinance and Zoning Maps in accordance with Section 17.16.040, Zoning Amendments, of this title. Each specific plan shall be named. The Zoning Map shall not indicate the land use designations within the specific plan, but shall show the letters "SP" and an abbreviation of

the specific plan name. Thereafter, all land use, development and improvements shall conform to the provisions of the adopted specific plan.

- E. **Inclusion of Specific Plan Text and Maps.** Adoption of a specific plan shall include the incorporation of the specific plan text and maps as an appendix to the Zoning Ordinance.
- F. **Reference of Specific Plan Text and Maps.** Adoption of a specific plan shall require the amendment of Table 17.52.060, Adopted Specific Plans, of this chapter to include a reference to the new specific plan.
- G. **Development Agreements.** Specific plans shall not be required to but may be accompanied by development agreements. Approved development agreements related to specific plans are listed in Table 17.52.060, Adopted Specific Plans, of this chapter.
- H. **Requirements Not Specified.** The standards in the Zoning Ordinance shall apply when development standards are not specified within individual specific plans. Any use that is not expressly permitted or prohibited in a specific plan is subject to the City's general zoning ordinance. This includes, among other things, the citywide prohibition on all cultivation of industrial hemp, as defined in Section 11018.5 of the California Health and Safety Code, and all marijuana dispensary, marijuana manufacturer, marijuana delivery, and marijuana testing laboratory uses.
- I. **Zoning Applications and Review Procedures.** Specific plans shall identify when a proposal requires zoning approval and refer to this Zoning Ordinance for applications, submittal requirements, and general review procedures, unless specific procedures are designated in a Specific Plan. If a Specific Plan requires approval of an application unaddressed in Chapter 17.16, the current procedures and applications within this Title shall apply.

SECTION 43. Subsections (A)-(C)(3) of Section 17.56.040 of the San Clemente Municipal Code are hereby amended to read in their entirety as follows:

17.56.040 - Planned Residential District (-PRD) Overlay.

- A. **Purpose and Intent.** The purpose of the Planned Residential District (-PRD) Overlay is to provide flexible regulations in order to foster innovation, variety, amenities, and a sensitivity to the natural topography in residential development. The intent is to allow development to deviate from conventional residential standards to achieve higher quality rather than increased density.
- B. **Applicability.** The provisions in this section apply to all areas with the Planned Residential District (-PRD) designation.
- C. **Adoption and Amendment of the Planned Residential Overlay District (-PRD).**
 - 1. Adoption and amendment of the -PRD Overlay on any properties shall occur in accordance with the provisions described in Section 17.16.040, Zoning Amendments, of this title.
 - 2. Adoption of the -PRD Overlay shall require the concurrent approval of a Tentative Map, if property is being subdivided according to the City's Subdivision Ordinance and concurrent approval of a Development Permit (Section 17.16.100) or Cultural Heritage Permit (17.16.110)..
 - 3. Prior to submitting an application for adoption of the -PRD Overlay, the applicant or prospective developer shall schedule a preapplication review conference with the City Planner. Please refer to Section 17.12.030, Preapplication Review, of this title for the general purpose and intent of preapplication review.

SECTION 44. Subsection (D) of section 17.56.020 of the San Clemente Municipal Code is hereby amended to read as follows:

- D. **Development Review.** Development within the Architectural Overlay may require approvals specified in Chapter 17.16, such as an Administrative Development Permit; Section 17.16.100, Development Permit; or Section 17.16.110, Cultural Heritage Permit for historic resources and landmarks on the City's designated historic resources and landmarks list.

SECTION 45. Subsection (D)(6) of Section 17.56.050 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

6. Coastal Bluff and Canyon Preservation.
 - a. Landscaping. Landscaping in coastal canyon setback areas or the coastal bluff setback areas, as defined in the subsections above, shall be primarily composed of native plant species. The removal of native plant species and the introduction of nonnative plant species in the canyons shall be discouraged. The use of native plant species in and adjacent to the canyons shall be encouraged.
 - b. Landscape thinning and clearing within Coastal Canyons and Bluffs, including setback areas as defined in the subsections above, for areas located within 30 feet of any habitable structure or parking garage, shall be allowed when done in accordance with the following criteria:
 - i. Dead and dying plants, leaves and similar debris shall be removed.
 - ii. Non-native (also termed as ornamental or exotic) vegetation may be removed.
 - iii. Vegetation located next to or under combustible structures shall be removed.
 - iv. 30 feet shall be provided between the building and native (also defined as non-ornamental or non-exotic), non-irrigated vegetation, unless the vegetation is on a slope, in which case the native, non-irrigated plants shall be trimmed and thinned while retaining root structures in place for slope and soil stability. Where root zone is not sufficiently established, to be determined by the City Engineer, alternative measures for slope and soil stability may be required, to the satisfaction of the City Engineer and Coastal Commission staff.
 - v. Best Management Practices (BMPs) must be utilized to prevent any discharge of soil, vegetation or other material to the storm drain system (including natural canyons, area drains, streets, gutters, catch basins, pipes, channels or receiving waters) in compliance with the municipal storm water permit issued by the San Diego Regional Water Quality Control Board, the city's local implementation plan and the Orange County Drainage area management plan.
 - c. Landscape thinning and clearing within Coastal Canyons and Bluffs, including setback areas as defined in the subsections above, for areas located within 100 feet of any habitable structure or parking garage, shall be allowed when done in accordance with the following criteria:
 - i. Dead and dying plants, leaves and similar debris shall be removed.

- ii. Non-native (also termed as ornamental or exotic) vegetation may be removed.
 - iii. Nominal trimming of native vegetation is allowed. In no case shall plants be trimmed down to the root stalk, unless in-concept approved by the City Planner and approved by the California Coastal Commission.
 - iv. Best Management Practices (BMPs) must be utilized to prevent any discharge of soil, vegetation or other material to the storm drain system (including natural canyons, area drains, streets, gutters, catch basins, pipes, channels or receiving waters) in compliance with the municipal storm water permit issued by the San Diego Regional Water Quality Control Board, the city's local implementation plan and the Orange County Drainage area maintenance plan.
- d. New landscaping and landscape modification, other than as described above, must be in-concept approved by the City Planner and reviewed and approved by the California Coastal Commission.
- e. Subdivision. Any subdivision of property in or adjacent to coastal bluffs and/or coastal canyons shall be reviewed for consistency with the coastal bluff and canyon preservation policies. New parcels that do not have an adequate building site area to comply with the setback standards of these policies shall not be created.
- f. Review of Projects:
- i. Projects Requiring a Development Permit or Cultural Heritage Permit. Review of all projects within the Coastal Zone requiring Development Permit, Cultural Heritage Permit, or Conditional Use Permit review shall include an assessment of the potential impact on natural habitat areas. Site plan review of all development projects located adjacent to parks and recreation areas shall include an evaluation of potential impacts on coastal bluffs and coastal canyons.
 - ii. Mitigation measures identified during site plan review stages to limit a project's effect on the coastal bluff or coastal canyon environment shall be incorporated into final project design plans.
 - iii. Large-Scale Projects. The analysis and evaluation of large-scale development projects shall include a comprehensive inventory of biological resources. A determination should be made of the area's importance as a native habitat, including identification of rare or endangered species, or those species being considered to be listed as rare or endangered.

SECTION 46. Subsection (C)(3) of Section 17.56.080 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

- 3. Neighborhood Electric Vehicles. Parking for Neighborhood Electric Vehicles (NEV), as defined in Vehicle Code Section 385.5, may be applied toward the total required parking at a maximum of four percent and not more than eight spaces of the required number of parking spaces for a project through the approval of a Development Permit or Cultural Heritage Permit. Additional NEV spaces can be provided however those spaces will not apply to the required parking. NEV

spaces shall be located in areas of parking lots that cannot accommodate a standard parking space, unless the required number of standard spaces has been satisfied.

SECTION 47. Subsection (D) of Section 17.56.090 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

- D. **Review Requirements.** Affordable housing projects are a permitted use in the [AH] Overlay. Refer to use tables in Sections 17.36.030 (Commercial Zone Uses) and 17.40.030 (Mixed-Use Zone Uses). Affordable housing projects in commercial and mixed-use zones require the approval of a Development Permit (Section 17.16.100); or a Cultural Heritage Permit (Section 17.16.110) for historic resources and landmarks on the City's designated historic resources and landmarks list.. Additionally, depending on the project, other discretionary processes may apply in compliance with Chapter 17.16.

SECTION 48. Subsection (D)(7) of Section 17.56.100 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

D. **Emergency Shelter Development Standards.**

7. **Architectural Review.** Emergency Shelters shall comply with the City's Design Guidelines, Specific Plans, and the Zoning Ordinance regarding architectural and development standards to ensure shelters are compatible with their surroundings, provide adequate privacy between uses, and minimize potential impacts of the proposed shelter on adjacent uses.

The process to review emergency shelter compliance with these requirements shall be a ministerial review that shall be considered at the time of building permit review or business license review, whichever comes first. Emergency shelters shall be exempt from all discretionary review processes in compliance with State law.

SECTION 49. Section 17.64.110 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

17.64.110 Off-Site Parking.

Where permitted by this chapter, parking required for nonresidential uses may be provided off-site, within 1,000 feet of a use, through the execution of a legal document. The document shall comply with the following restrictions:

- A. The agreement shall restrict the use of the land on which the off-site parking is located for the duration of the use for which that parking is provided;
- B. The agreement shall be executed by the owner of the property on which the parking is located. Only the property owner may enter into these agreements; and
- C. The agreement shall be submitted for the review and approval of the City Attorney; and
- D. Following its approval of a Minor Conditional Use Permit pursuant to Section 17.16.070, the agreement shall be recorded by the applicant and a copy furnished to the Community Development Department when applying for a permit, for inclusion in any related discretionary application files and the Building Division address files.

SECTION 50. Subsection (A) of Section 17.64.120 of the San Clemente Municipal Code is hereby amended to read as follows:

17.64.120 Shared Parking.

In all nonresidential and mixed-use zones, private parking facilities may be shared by multiple uses whose activities are not normally conducted during the same hours, or when hours of peak use vary. The applicant shall have the burden of proof for a reduction in the total number of required off-street parking spaces.

A. Review Requirements.

1. Existing Buildings with Change of Use [Except a Change to a Mixed Use (Residential/Commercial on the Same Site)]. Shared parking may be granted through the approval of a Minor Conditional Use Permit, in compliance with Section 17.16.070, Minor Conditional Use Permits.
2. New Mixed Use (Residential/Commercial on Same Site) Buildings. Shared parking may be granted through the approval of a Minor Conditional Use Permit, in compliance with Section 17.16.070, Minor Conditional Use Permits.
3. All Other Projects. Shared parking may be granted through the approval of a Conditional Use Permit, in compliance with Section 17.16.070, Minor Conditional Use Permits.

SECTION 51. Subsections (B)(2) and (B)(3) of Section 17.72.030 of the San Clemente Municipal Code are hereby amended to read in its entirety as follows:

B. Exemptions.

2. Nonconforming Structures. The following structures are exempt from nonconforming structure regulations in this Chapter:
 - a. Structures that comply with all zoning requirements except landscape standards.
 - b. Single-family dwellings constructed with a single-car garage or carport (“parking structure”) in residential zones prior to April 4, 1962 are exempt from being a Nonconforming Structure due to insufficient parking, except when a project removes or alters the single-family dwelling’s structural frame in 50 percent or greater of the structure’s exterior walls, as described in Section 17.72.050(E). Then, the residence and parking structure shall be made to comply zoning requirements as described in this Chapter.
 - c. In-the-bank garages located in residential zones which do not comply with front yard setback regulations.
 - d. National, state or locally designated historic structures may be exempted from this Chapter with the approval of a Cultural Heritage Permit in compliance with Section 17.16.100.
3. Nonconforming Uses. The following land uses are exempt from nonconforming use regulations in 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 in compliance with Section 17.16.110.
- 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 52. Subsection (B) of Section 17.72.040 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

- B. **Code compliance of projects.** The expansion and alteration of nonconforming structures shall comply with development standards, unless exceptions are granted with the approval of a Minor Exception Permit, Variance, or other provision in this Title.

SECTION 53. Subsection (A) of Section 17.72.050 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

- A. **Applicability of other review procedures.** This Title may require approval of permits to allow the modification of nonconforming structures according to Chapter 17.16 to projects are consistent with the General Plan, Design Guidelines, and regulations.

SECTION 54. Subsection (I)(2)(a)(i) of Section 17.72.050 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

- a. Nonconforming status shall be terminated. Nonconforming Buildings expanded by 50 percent or greater shall be made to conform to zoning requirements, except as follows:
 - i. Exception for single-family dwellings less than 1,400 square feet. Nonconforming single-family dwellings, smaller than 1,400 square feet, may be expanded to a maximum of 2,100 square feet and continue to be nonconforming with the approval of a Development Permit (Section 17.16.100) or a Cultural Heritage Permit (17.16.110) for historic resources and landmarks on the City's designated historic resources and landmarks list.

SECTION 55. The rows for “Banner Signs” and “Grand Opening Signs” in Table 17.84.030A in Section 17.87.030 of the San Clemente Municipal Code are hereby amended to read in their entirety as follows:

Table 17.84.030A, Matrix of Sign Types, Banner Signs and Grand Opening Signs

Table 17.84.030A, Matrix of Sign Types

Sign Type	Maximum Number of Signs Permitted	Maximum Size per Sign	Maximum Height per Sign	Sign Permits Required	Other Special Considerations
Banner Signs	One per business	64 sq. ft.	—	Adm. Sign Permit	See Section 17.84.030(H) for criteria
Grand Opening Signs	1 per site	4 sq. ft.	—	Adm. Sign Permit	Will not count toward banner allowance during calendar year. May be displayed for a maximum of 30 days. The application for a Temp. Banner Permit must accompany a new business license application or new certificate of occupancy.

SECTION 56. Subsection (H)(1) of Section 17.84.030 of the San Clemente Municipal Code is hereby amended to read as follows:

- H. **Temporary Banner Signs.** Temporary Banner Signs shall be allowed for businesses city-wide, excluding home-occupations.
 - 1. Temporary Banner Sign Criteria.
 - a. Each business shall be permitted a maximum of one temporary banner sign per business at any given time.
 - b. The temporary banner sign cannot exceed 64 square feet. A temporary banner sign will not count towards a business's total sign area allowance.
 - c. The temporary banner sign shall be placed on-site and flush on the building. These banners are prohibited in the following locations: city right-of-way, free-standing walls, fences or other areas or fixtures not part of the business's primary structure; other locations as determined by the City Planner to be inconsistent with the intent of this section. No portion

of the temporary banner sign shall be free-hanging and all corners of the banner shall be secured to the building.

- d. Temporary banner signs shall be constructed of cloth, canvas, fabric, plastic or other similar durable material.
- e. The temporary banner sign shall be maintained in good condition, free of any defects, including cracking, torn or ripped material, or faded copy.
- f. Each business may have up to four permits per calendar year. Each permit allows the display of a banner sign up to 30 calendar days. Renewals of permits are allowed, but in no case shall a business display a temporary banner for more than 120 days per calendar year. Banners may be replaced during the authorized period so long as they are the same or smaller size and installed in the approved location. These provisions are to ensure temporary banner signs are not used as permanent display or in-lieu of permanent signs for the business.

SECTION 57. Section 17.16.150 of the San Clemente Municipal Code is hereby amended to read as follows:

17.16.150 - Temporary Use Permits.

- A. **Purpose and Intent.** The purpose of the Temporary Use Permit process is to provide for the review of certain temporary land use activities on private property, as detailed in Section 17.28.300, Temporary Uses and Structures, to ensure that adverse impacts on surrounding properties, residents and businesses are minimized, that the time limitations for temporary uses are specified and complied with, and that the site of temporary use is restored to its condition prior to establishment of the use.
- B. **Authority.** The table below describes the authority on Temporary Use Permits, subject to the concurrent review and appeal provisions of Section 17.12.090, Consideration of Concurrent Applications, and Section 17.12.140, Appeals of an Action. The City Planner has the discretion to refer applications to the Zoning Administrator for review and final action. If an application is referred to the Zoning Administrator, a public hearing and notification is required per Section 17.12.100.

**Table 17.16.155A
Review Requirements for Temporary Use Permits**

Threshold for review	City Planner	Discretionary – Zoning Administrator
Temporary Uses and Structures Not Specified	X	
Annual and Seasonal Holiday Sales	X	
Temporary Construction Project Uses and Structures	X	

Threshold for review	City Planner	Discretionary – Zoning Administrator
Model Home Complexes and Sales Offices	X	
Temporary Outdoor Displays	X	
Other Temporary Fencing for Security and Screening	X	
Special Activities:		
Parking Lot Sales	X	
Residential uses when providing shuttle/valet services	X	
Commercial or Non-commercial Special Activities and non-residential shuttle/valet services:		
Up to 2 consecutive days	X	
Three or more consecutive days and not to exceed 15 consecutive days		X

- C. **Applicability.** The provisions of this section shall apply to all temporary uses and structures requiring the approval of a Temporary Use Permit, as required in Section 17.28.300, Temporary Uses and Structures.
- D. **Submittal Requirements.** Please refer to the submittal requirements in Section 17.12.040, Filing an Application, and Section 17.12.060, Applications Requiring Additional Information.
- E. **Review Procedures.** Following the receipt of a complete application, the Review Authority, identified in Table 17.16.155A, shall review a Temporary Use Permit request for compliance with minimum standards and make a decision based on an ability to meet required findings pursuant to 17.16.150(G), Required Findings.
 - 1. If the City Planner is the review authority and an application is not acted upon within 30 days, the application shall be put on the next available agenda for a regularly scheduled Zoning Administrator meeting as a New Business Item.

2. A public hearing and notification is required when the review authority is the Zoning Administrator. The Zoning Administrator then shall approve, approve with modifications and/or conditions, or deny the Temporary Use Permit.
- F. **Conditions.** Please refer to Section 17.28.300(J), Conditions, for a list of potential conditions of approval for temporary uses.
- G. **Required Findings.**
1. City Planner Decisions. For administrative approval of a Temporary Use Permit, the City Planner shall find the application complies with the Zoning Code (Municipal Code Title 17).
 2. Zoning Administrator Decisions. For discretionary approval of a Temporary Use Permit, the Zoning Administrator shall find all of the following:
 - a. The proposed use is permitted within the subject zone pursuant to the approval of a Temporary Use Permit and complies with all the applicable provisions of this title, the San Clemente General Plan and the purpose and intent of the zone in which the use is being proposed; and
 - b. The site is suitable for the type and intensity of use that is proposed; and
 - c. The proposed use will not be detrimental to the public health, safety or welfare, or materially injurious to properties and improvements in the vicinity; and
 - d. The proposed use will not negatively impact surrounding land uses.
- H. **Appeals.** An appeal of the decision on a Temporary Use Permit shall be reviewed in accordance with Section 17.12.140, Appeals of an Action.
- I. **Modifications Requested by the Applicant.** Modifications requested by the applicant to approved Temporary Use Permits shall be reviewed in accordance with Section 17.12.180, Modifications of an Approved Application.
- J. **Modifications and/or Revocations Initiated by the City.** The City may take code enforcement action when conditions of approval are violated or it is necessary to resolve a nuisance, including but not limited to making changes to conditions of approvals or require activities to cease. If the City finds the application contained incorrect, false, or misleading information, the City may revoke the approval of applications. Refer to Section 17.12.175 for related procedures and required findings. If issues arise from a permitted special activity, the Review Authority may consider such issues as part of the administrative record for decisions on future special activity requests.
- K. **Other Review Requirements.** Refer to Chapter 17.12, Development Review Process, for general application processing requirements, such as time limits on approvals and time extensions.
- L. **Approval Runs with the Land.** The approval of permits shall run with the land, and shall continue to be valid for the specific dates of the approved use or activity upon a change of ownership of the site to which it applies.

SECTION 58. Section 17.28.300 of the San Clemente Municipal Code is hereby amended to read as follows:

17.28.300 - Temporary Uses and Structures.

- A. **Purpose and Intent.** The purpose of this section is to control and regulate land use activities of a temporary nature on private property which may adversely affect the public health, safety and

welfare. The intent is to ensure that temporary uses will be compatible with surrounding land uses, to protect the rights of adjacent residences, businesses, and land owners, and to minimize any adverse effects on surrounding properties and the environment.

- B. **Applicability.** This section shall apply to the temporary uses and structures on private property described in subsections (D) through (I) of this section. All other temporary uses and structures not deemed similar by the City Planner shall be prohibited on private property. For temporary uses and activities allowed on public property through Special Events Permits, please refer to SCMC Chapter 12.34 and contact the City's Beaches, Parks and Recreation Department regarding the application process and fees for Special Events Permits.
- C. **Review Requirements.** The review procedures for the temporary uses and structures allowed by this section are specified for each use in subsections (D) through (I) of this section.
- D. **Annual and Seasonal Holiday Sales.** Annual and Seasonal Holiday Sales, including Christmas trees, pumpkins, or temporary uses of a similar nature as determined by the City Planner, shall be permitted, subject to the following regulations:
1. **Elimination of Parking.** Areas used for Annual and Seasonal Holiday Sales shall not eliminate or decrease the number of required parking spaces for the primary use on the site, if there is one, or for any other site.
 2. **Lighting.** All lighting shall be directed away from and shielded from adjacent residential areas.
 3. **Location.** Annual and Seasonal Holiday Sales shall be permitted for any nonresidential use in the City, and on vacant residential property abutting arterial highways.
 4. **Merchandise.** Annual and Seasonal Holiday Sales shall not engage in the sale of any merchandise not directly associated with the holidays with which the seasonal sales is associated.
 5. **Review Requirements.** Annual and Seasonal Holiday Sales shall be permitted without benefit of a Discretionary Permit from the Planning Division, provided the standards of this section are met.
 6. **Signs.** The total temporary signage on the site shall be limited to an aggregate sign area of one times the linear frontage of longest street frontage of the lot. No sign shall exceed 64 square feet. No prohibited signs, as defined in Chapter 17.84, Sign Regulations, shall be allowed.
 7. **Outdoor Storage.** Temporary outdoor storage containers or trailers ancillary to the permitted use are permitted for the storage of merchandise and other materials necessary for the display of Annual and Seasonal Holiday Sales items with review and approval by the City's Building, Planning, and Engineering Divisions.
 8. **Time Limits.** Annual and Seasonal Holiday Sales shall be limited to 55 days of operation per calendar year.
- E. **Temporary Construction Project Uses and Structures.** Construction offices, security quarters, storage yards, large containers, temporary fencing and similar structures on the site of an active construction project shall be conditionally permitted, subject to the following regulations:
1. **Expiration of Permits.** Any permit issued pursuant to this section in conjunction with a construction project shall become invalid upon cancellation or completion of the Building Permit for which the use has been approved, or the expiration of the time for which the approval has been granted.

2. Review Requirements. Construction offices, security quarters, storage yards, large containers, temporary fencing and similar structures on the site of an active construction project shall require the approval of Temporary Uses Permit in accordance with Section 17.16.150, Temporary Use Permits, of this title.
- F. **Model Home Complexes and Sales Offices.** Model home complexes and sales offices shall be conditionally permitted solely for the first sale of homes within a recorded tract or condominium subdivision, subject to the following regulations:
1. Location. The model home complex and/or sales office shall be located on the same or adjacent premises as the subdivision or building project.
 2. Expiration of Permits. Permits are valid for one calendar year from the permit approval date, or six months after 90 percent or greater of homes are sold, whichever is sooner. The City Planner may approve 180 day time extensions. A maximum of two time extensions may be approved. To receive a time extension, a written request shall be submitted before the expiration date and state justified reasons for delays. For approval, the City Planner must meet required findings for a Temporary Use Permit. When a permit expires, the applicant may submit a new application and fees to request a Temporary Use Permit to maintain a model home complex and sales office use and improvements.
 3. Review Requirements. A Temporary Use Permit is required to allow model home complexes and/or sales offices for the sale of homes in any subdivision containing five or more units.
 4. Use. The sales office shall be used only for transactions involving the sale, rent or lease of lots or units within the tract or condominium subdivision.
 5. Other Issues for Consideration. The decision-making body responsible for reviewing the application for a model home complex and/or sales office shall consider the hours of operation, lighting, landscaping, signage, and any other factors that may affect the model home complexes maintenance and impacts on the surrounding area and shall condition the project accordingly. Please refer to Subsection (J), Conditions, of this section.
- G. **Temporary Outdoor Displays.** Temporary Outdoor Displays. The temporary outdoor display of merchandise shall be permitted, subject to the following regulations.
1. Authorization. Written authorization for the sale/display shall be obtained from the property owner.
 2. Hazards. No item shall be displayed in a manner that causes a safety hazard; obstructs the entrance to any building; interferes with, or impedes the flow of, pedestrian or vehicle traffic; is unsightly or creates any other condition that is detrimental to the appearance of the premises or any surrounding property; or in any other manner is detrimental to the public health, safety or welfare or causes a public nuisance.
 3. Location. Merchandise cannot be displayed in required parking spaces for a business. Merchandise must be displayed along the front entrance of the store. (Refer to section I, Special Activities, for considerations of parking lot sales.)
 4. Merchandise. Only goods and materials associated with existing, indoor primary uses may be displayed and sold. The displayed item(s) shall not have advertisements or other signs attached. Where there is ambiguity, the Code Compliance Manager or designee shall decide.
 5. Parking. Adequate parking shall be provided and maintained during the course of the activity.

6. **Public Property.** No item, or any portion thereof, shall be displayed on public property unless a Special Events Permit has been obtained from the City's Beaches, Parks and Recreation Department.
 7. **Review Requirements.** The temporary outdoor display of merchandise, including at grocery stores, shall be permitted without benefit of a Temporary Use Permit from the Planning Division, provided the standards of this section are met. Temporary outdoor display of merchandise not specified in this section, shall require the approval of a Temporary Use Permit, in accordance with Section 17.16.150, Temporary Use Permits.
 8. **Time Limits.** The temporary outdoor display of goods at a business shall only be displayed during the operating hours of the business displaying merchandise and shall be brought indoors after the closing of the business each day.
 9. **Vehicle Ingress and Egress.** Safe vehicle ingress and egress shall be provided at all times.
- H. **Other Temporary Fencing for Security and Screening.** Temporary fencing, other than what is required for active construction projects, is allowed for the purpose of providing security and screening to ensure the health, safety and welfare of the community at the discretion of the City Planner, subject to the following regulations.
1. **Review Requirements.** Temporary fencing and similar structures erected higher than 42 inches and up to six feet in height shall require the approval of a Temporary Use Permit.
 2. **Expiration of Permits.** Any permit issued pursuant to this section shall become invalid upon the expiration of an approved permit for which the use has been approved.
 3. **Minimum Standards.** Temporary fencing and similar structures shall not be chain link. Acceptable materials are more permanent in nature and include wrought iron, wood, or similar material and must be compatible with the existing style of surrounding development. Temporary fences and similar structures shall be maintained in good condition with no unintentional rips/tears (except for minimization of wind effects), fading, or general disrepair. Maintenance shall not become so defective, unsightly, or in such condition of deterioration or disrepair to create a public nuisance as set forth in Section 5.82.030.
- I. **Special Activities.** A Special Activity is defined as any activity on private property (commercial or non-commercial) within any zoning district which temporarily intensifies the impacts (i.e., parking, traffic, noise, light and glare, etc.) of an existing permitted use or which create a potential conflict among land uses. Normal sales or functions which are incidental to the existing permitted use (i.e. sales conducted within the structure of an existing retail use, live entertainment if currently permitted under a Conditional Use Permit, etc.) shall not be considered a Special Activity. Special Activities typically include, but are not limited to, art shows, open houses, grand openings, circus/carnivals, food truck and/or music festivals, promotion, entertainment, firework displays, tent sales, farmers markets selling produce such as strawberries and similar goods, and activities providing shuttle or valet services.
1. **Commercial or Non-Commercial Special Activities.** Commercial or non-commercial Special Activities shall be permitted subject to the following regulations:
 - a. **Location.** Commercial or non-commercial Special Activities shall be permitted in any zoning district in the city, except on publicly owned land.

- b. Number of Occurrences. Commercial or non-commercial Special Activities shall be limited to a maximum occurrence of 15 days during a calendar year with a minimum of 5 days between Special Activities on the same site.
 - c. Notification Requirements. Special Activities proposed for non-residential uses located in residential or mixed-use zoning districts shall require mailing notifications to all property owners within 300-foot radius from the exterior boundaries of the subject property. The applicant shall provide notification materials as part of an application.
 - d. Review Requirements. Commercial or non-commercial Special Activities shall require the approval of a Temporary Use Permit, in accordance with Section 17.16.150, Temporary Use Permits, of this title.
 2. Special Activities Providing Valet Parking and/or Shuttle Service. Special Activities providing valet parking and/or shuttle service shall be permitted, subject to the following regulations:
 - a. Location. Special Activities providing valet parking and/or shuttle service shall be permitted upon approval of a Temporary Use Permit in any zoning district in the city, except on City property which is subject to the Special Events Permits process referenced in SCMC 12.34 and as implemented by the Beaches, Parks, and Recreation Department.
 - b. Number of Occurrences. Special Activities providing valet parking and/or shuttle service shall be limited to a maximum occurrence of 15 days during a calendar year with a minimum of 5 days between Special Activities on the same site.
 - c. Parking. Public parking shall not be negatively impacted.
 - d. Notification Requirements. Special Activities proposing shuttle or valet services on residential and non-residential properties require mailing notifications to all property owners within 300-foot radius measured from the exterior boundaries of the subject property.
 - e. Review Requirements. Special Activities providing valet parking and/or shuttle service shall require the approval of a Temporary Use Permit, in accordance with Section 17.16.150, Temporary Use Permits, of this title.
 3. Parking Lot Sales. Special Activities proposing the sale of merchandise by a business in its on-site parking lot shall be permitted, subject to the following regulations:
 - a. Authorization. Written authorization for the sale/display shall be obtained from the property owner.
 - b. Number of Occurrences. Parking Lot Sales shall be limited to a maximum occurrence of 15 days during a calendar year with a minimum of 5 days between Special Activities on the same site.
 - c. Hazards. The activity shall not present a hazard to pedestrians or encroach on a required building exit. No item shall be displayed in a manner that causes a safety hazard; obstructs the entrance to any building; interferes with, or impedes the flow of, pedestrian or vehicle traffic; is unsightly or creates any other condition that is detrimental to the appearance of the premises or any surrounding property; or in any other manner is detrimental to the public health, safety or welfare or causes a public nuisance.
 - d. Merchandise. Only goods and materials associated with pre-existing, indoor primary uses may be displayed and sold.

- e. Parking. Adequate parking shall be provided and maintained during the course of the activity.
 - f. Public Property. No item, or any portion thereof, shall be displayed on public property unless a Special Events Permit has been obtained from the City's Beaches, Parks and Recreation Department.
 - g. Review Requirements. Parking Lot Sales shall require the approval of a Temporary Use Permit, in accordance with Section 17.16.150, Temporary Use Permits, of this title.
- J. Conditions.** In approving a Temporary Use Permit, the review authority shall impose conditions deemed necessary to ensure that the permit will be in accordance with the standards prescribed in this section and the findings required for the permit. These conditions may include, but are not limited to:
- 1. Regulation of operating hours and days;
 - 2. Provision for temporary parking facilities, including vehicular ingress and egress;
 - 3. Regulation of nuisance factors such as, but not limited to, prevention of glare or direct illumination on adjacent properties, noise, vibration, smoke, dust, dirt, odors, gases and heat;
 - 4. Regulation of temporary structures and facilities, including placement, height and size, location of equipment and open spaces, including buffer areas and other yards;
 - 5. Provision for sanitary and medical facilities;
 - 6. Provision for solid, hazardous and toxic waste collection and disposal;
 - 7. Provision for security and safety measures;
 - 8. Regulation of signs;
 - 9. Submission of a performance bond or other surety devices, satisfactory to the review authority, to ensure that any temporary facilities or structures used will be removed from the site within a reasonable time following the event and that the property will be restored to its former condition;
 - 10. Each site occupied by a temporary use shall be left free of debris, litter, or any other evidence of the temporary use upon completion or removal of the use, and shall thereafter be used, pursuant to the provisions of the Zoning Ordinance. The City may require a bond to ensure this requirement is met.
 - 11. If alcoholic beverages are available in conjunction with a Special Activity, signs shall be placed at each exit with the text, "No alcohol beyond this point." Each sign shall be no smaller than one square foot;
 - 12. The proposed sale and/or service of alcohol at a Special Activity within non-residential uses requires the applicant to obtain a liquor license issued by the California Department of Alcoholic Beverage Control ("ABC Office");
 - 13. Any other conditions which will ensure the proposed temporary use operates in an orderly and efficient manner and in accordance with the intent and purpose of this section.

ATTACHMENT 4

RESOLUTION NO. 23-93

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AMENDING THE FEE SCHEDULE TO REFLECT ZONING ORDINANCE AMENDMENTS THAT CONSOLIDATE AND MODIFY SEVERAL PLANNING APPLICATIONS

WHEREAS, on September 2, 2008, the City Council of the City of San Clemente adopted Resolution No. 08-81, amending the fee schedule for certain public works, engineering and planning applications; and

WHEREAS, the fee schedule has been subsequently amended several times since September 2, 2008; and

WHEREAS, on September 5, 2023, the City Council introduced Zoning Amendment 22-366 (ZA 22-366) to Title 17 (Zoning) of the San Clemente Municipal Code that consolidates several planning applications and procedures, which, if adopted would require an update to name of services in the fee schedule to reflect the following zoning amendments. More specifically,

- Minor Architectural Permits, Architectural Permits, Minor Site Plan Permits, and Site Plan Permits are consolidated into a new permit type “Development Permit.”
- Minor Cultural Heritage Permits, Minor Site Plan Permits, and Site Plan Permits are consolidated into Cultural Heritage Permit for review of projects involving historic resources.
- Staff Waivers of a Minor Architectural Permit are replaced with a new permit type “Administrative Development Permits.”
- Staff Waivers of Minor Cultural Heritage Permits are replaced with a new permit type “Administrative Development Permits.”

NOW, THEREFORE, the City Council of the City of San Clemente hereby finds, determines and resolves as follows:

Section 1. Exhibit A of Resolution No. 08-81 is hereby amended by striking service fees for Minor Architectural Permits, Architectural Permits, Minor Site Plan Permits, Site Plan Permits, Cultural Heritage Permits, Minor Cultural Heritage Permits, Staff Waivers of Minor Architectural Permits, and Staff Waivers of Minor Cultural Heritage Permits; and replacing those corresponding fees with the service fees as listed below.

SERVICE	FEE
PLANNING FEES	
Administrative Development Permit for projects involving the City's list of designated historic structures and landmarks, single-family residences and duplexes abutting historic structures, and projects with three or more units within 300 feet of historic structures	\$0
Administrative Development Permit for applicable projects unspecified in this fee schedule. See Section 17.16.095 for project types.	\$197.90**
Cultural Heritage Permit requiring a Zoning Administrator decision	\$0
Cultural Heritage Permit requiring a Planning Commission or City Council decision	Deposit (1st 8 hours waived per 17.16.180.C)
Development Permit requiring a Zoning Administrator decision for single-family residences and duplexes abutting historic structures, and projects with three or more units within 300 feet of historic structures	\$0
Development Permit requiring a Zoning Administrator decision for applicable projects unspecified in this fee schedule. See Table 17.16.100 for project types	\$455
Development Permit requiring a Zoning Administrator decision development adjacent to residentially zoned property	\$2,778.38**
Development Permit requiring a Zoning Administrator decision involving nonresidential buildings	\$3,233.38**
Development Permit requiring a Planning Commission or City Council decision	Deposit (1st 8 hours waived for single-family homes and duplexes abutting historic resource(s), and projects with 3 or more units within 300 feet of historic resource(s) per 17.16.180.C)

Section 2. The fees established in Section 1 are equal to or less than the estimated cost required to provide the service for which the fee is levied, and the amendments do not increase or change fee amounts for services. The fee schedule amendments are limited to updating services to reflect procedural changes resulting from the adoption of ZA 22-366.

Section 3. The fees set forth in Exhibit "A" marked by asterisks above ("***"), shall be adjusted on July 1 of each year after the date this resolution becomes effective, by the same percentage increase or decrease in the Consumer Price Index ("CPI") as reflected in the "Consumer Price Index-Los Angeles-Anaheim-Riverside-All Urban Consumers, 1982-84 = One Hundred" as published by the United States Department of Labor, Bureau of Labor Statistics. The change in CPI shall be determined by comparing the "Base Period Index" with the "Index" for the same month in the subsequent year. For the purpose of this annual adjustment, the "Base Period Index" shall be the CPI for the calendar month April.

Section 4. This resolution shall become effective on the effective date of ZA 22-366.

Section 5. The City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED AND ADOPTED this _____ day of _____, 2023.

ATTEST:

City Clerk of the City of
San Clemente, California

Mayor of the City of San
Clemente, California

STATE OF CALIFORNIA)
 COUNTY OF ORANGE) §
 CITY OF SAN CLEMENTE)

I, LAURA CAMPAGNOLO, City Clerk of the City of San Clemente, California, do hereby certify that Resolution No. 23-93 was adopted at a regular meeting of the City Council of the City of San Clemente held on the _____ day of _____, _____, 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 _____, _____.

 CITY CLERK of the City of
 San Clemente, California

Approved as to form:

 Elizabeth A. Mitchell, City Attorney

6. Closed Session Report - City Attorney.

City Attorney Smith announced that Council took no reportable action during this evening's Closed Session; noted that Council completed the City Manager's evaluation and authorized the Mayor and Mayor Pro Tem to meet with the City Manager to debrief him on the results; advised that Closed Session Item B related to Family Assistance Ministries was deferred to a later date.

7. Special Presentations.**A. Update on Homeless Issue (April Update)**

Deputy Community Development Director Atamian and Community Outreach Worker Hunter reviewed the April 2022 City Outreach and Engagement Report and responded to Council inquiries. A hard copy of the April 2022 report is on file with the City Clerk.

B. Presentation of Proclamation - National Beach Safety Week

Mayor James presented a Proclamation to Marine Safety Captain Mellot, and Lieutenant Staudenbaur, proclaiming May 23-30, 2022, as National Beach Safety Week. Marine Safety staff displayed a video concerning beach safety.

8. PUBLIC HEARINGS

(Budget Public Hearing was held at 3:00 p.m.)

9. UNFINISHED BUSINESS

None.

10. NEW BUSINESS

MOTION BY MAYOR JAMES, SECOND BY COUNCILMEMBER FERGUSON, CARRIED 5-0, to hear Agenda Item 10E as the first item under New Business.

- A. **Permit Streamlining** (Agendized at the March 1, 2022 City Council Meeting by Councilmember Knoblock, with the support of Councilmember Ferguson and Mayor James).

Report from the Community Development Director concerning permit streamlining opportunities.

Zhen Wu, San Clemente, requested clarification on the dispute between the City of San Clemente and California Coastal Commission concerning major remodels; suggested the delay in processing permits is due to staffing shortages.

Deputy Community Development Director Atamian and Senior Planner Toma reviewed the contents of the Administrative Report and responded to Council inquiries.

Following discussion, MOTION BY MAYOR JAMES, SECOND BY COUNCILMEMBER KNOBLOCK, CARRIED 5-0, to agendize a Special Presentation for the June 21, 2022 Regular Council meeting to outline a timeline to implement the streamlining opportunities identified and discuss the possibility of implementing a shot clock on project approvals.

- B. **Outlets at San Clemente – Conditional Use Permit for Special Events**
(Agendized at the February 15, 2022 City Council Meeting by Mayor James, with the support of Mayor Pro Tem Duncan and Councilmember Ward).

Report from the Community Development Director concerning the Outlets at San Clemente Conditional Use Permit for Special Events.

Deputy Community Development Director Atamian reviewed the contents of the Administrative Report and responded to Council inquiries.

MOTION BY COUNCILMEMBER KNOBLOCK, SECOND BY COUNCILMEMBER FERGUSON, CARRIED 5-0, to receive and file the Administrative Report dated May 25, 2022, and on file with the City Clerk.

- C. **Actions to Prevent Human Trafficking in Massage Establishments and Similar Businesses**

Report from the Community Development Director concerning actions to prevent human trafficking in massage establishments and similar businesses.

Alejandra Baker, I-5 Freedom Network, urged Council to direct enforcement of massage establishments to the business, not the workers; thanked the Public Safety Committee for working with the I-5 Freedom Network on this effort.

Deputy Community Development Director Atamian reviewed the contents of the Administrative Report and responded to Council inquiries.



AGENDA REPORT

SAN CLEMENTE CITY COUNCIL MEETING
Meeting Date: May 25, 2022

Agenda Item 10A
Approvals:
City Manager CS
Dept. Head CGD
Attorney CJ
Finance JW

Department: Community Development, Planning Division
Prepared By: Sara Toma, AICP, Senior Planner

Subject: *PERMIT STREAMLINING – REPORT TO CITY COUNCIL*

Fiscal Impact: None to receive this report. The City Council previously allocated funding for the work programs outlined below in the Fiscal Year 2021-22 Budget. Any additional projects initiated may require an appropriation of supplemental funding to undertake.

Summary: This report provides information about opportunities to streamline the City’s permit approval process. Current efforts to accomplish this task include the Housing Element Rezoning Program, the development of the Implementation Plan of the City’s Local Coastal Program, six Specific Plan Updates, and an upgrade to the Community Development Department’s permit-tracking system.

Background: On March 1, 2022, the City Council directed staff to bring back a report on potential code or design guideline modifications to streamline the permitting process.

As an ongoing work program, staff routinely amends the zoning code to clarify procedures, streamline or eliminate various planning permits, and modify or eliminate some ineffective rules. Some of the topics of focus have been general procedures, permit and process eliminations, permit exemptions, formalization of procedures/role of the design review subcommittee, and allowing more staff-level decisions to shorten the review process. This report identifies streamlining processes currently underway, and future streamlining ideas that staff has compiled to bring forward in the future when the current efforts have been completed.

Discussion:

Planning Division Work Program

The Planning Division is working on four major projects that will facilitate the streamlining permit process by removing barriers that cause project delays such as the level of hearing body review, amendments to regulations, application submittal requirements, and design review time. These projects will help promote a faster development review process, create certainty for developers, and further the goals, policies, and implementation measures of the City’s General Plan.

The Planning Division’s current work program includes the Housing Element Rezoning Program, the preparation of the Implementation Plan of the City’s Local Coastal

Program, six Specific Plan Updates, and an upgrade to the Community Development Department's permit tracking system.

I. Housing Element Rezoning Program

The Housing Element Rezoning Program would implement the Zoning Program in the 6th Cycle Housing Element (2021-2029). This effort will amend zoning regulations to:

- Update the City's existing Affordable Housing Overlay District;
- Require by-right approval of residential development if 20 percent of the units are set aside for lower income (very low and low) households;
- Remove Conditional Use Permit Requirements for 5+ units for projects that meet certain objective standards up to a certain threshold;
- Develop and codify objective design standards; and
- Evaluate, and revise the development standards for height limits, lot coverage, and parking requirements to ensure that residential development projects have the ability to achieve the allowable densities.

II. Implementation Plan of the Local Coastal Program

The City is working on obtaining a fully certified Local Coastal Program (LCP) and is currently preparing the Implementation Plan, which is the companion document to the recently certified Coastal Land Use Plan. This effort will result in a new Title 18 of the municipal code for development in the Coastal Zone. Having a certified LCP will give the City more control over approving projects within the Coastal Zone and provide greater certainty to local property owners and businesses.

The result of this LCP effort will be a streamlined Coastal Development Permit (CDP) process for local property owners by enabling them to obtain a single permit from the City. The efforts on the Housing Element and Specific Plan updates described in this report will also need to be incorporated into the Coastal Implementation Plan.

III. Specific Plan Updates

Staff is updating six Specific Plans to be consistent with the City's General Plan and the recently certified Coastal Land Use Plan. The amendments include the allowance of auto uses, including electric vehicle delivery service centers, in the Business Parks, and a streamlined review process for development in the Los Molinos area with codified design guidelines. The six Specific Plan Updates include the following:

1. West Pico Corridor,
2. Forster Ranch,
3. Marblehead Coastal,
4. Marblehead Inland,
5. Rancho San Clemente, and

6. Talega.

IV. Permit Tracking System Upgrade

The City’s permit tracking system (TRAKiT) which allows applicants to submit building permits, check project status, and provide other property search features is currently in the process of being upgraded. The update will include an e-TRAKiT planning and building application submittal portal that will allow prospective applicants to submit ministerial or discretionary permit applications and required documents online. This will reduce time and cost for both the applicant and City by reducing submittal errors and ensuring faster processing time. This customer friendly web based system upgrade will track all building permits, inspections, site plan reviews, and code enforcement violations. The workflow provided by the system allows for the efficient transfer of work, providing visibility, comprehensive collaboration tools, and reporting.

Moreover, the public will continue to be able to utilize the upgraded e-TRAKiT system to view application status and review comments, allowing users to manage projects more effectively.

Future Streamlining Opportunities

Staff has compiled a list of future streamlining opportunities. This list is provided as Attachment 1. These prospective recommendations include simplification of some applications, addressing the processing of minor additions and remodels in proximity to historic resources, allowing more staff level decisions and changing some process levels from Planning Commission to a Zoning Administrator approval. A future Planning Division work program includes updating the City’s Design Guidelines and codifying objective design standards to simplify review and process decisions.

Staff anticipates bringing forward these potential code modifications to City Council for consideration once the current efforts underway have been completed. Staff expects to pursue these opportunities to further streamline the review process once work on the Housing Element update and rezoning program, and Specific Plan updates are completed and we have made progress in merging these updates into the Local Coastal Program. Staff anticipates initiating some of these efforts, including updating the City’s Design Guidelines, in Fiscal Year 2023.

Recommended

Action: STAFF RECOMMENDS THAT the City Council receive and file this report.

Attachments: Attachment 1: List of Future Streamlining Opportunities

Notification: None.

List of Future Streamlining Opportunities	
Signs	<ul style="list-style-type: none"> • Sign programs with City Planner approval, except for historic structures and signage on new development and major remodels approved through a discretionary process. For such signage, allow subsequent review with ZA approval (vs. PC). • Monument signs with City Planner approval when they consolidate advertising of multiple tenants.
Simplify Applications	<ul style="list-style-type: none"> • Finish work on consolidating applications with similar findings to simplify our process and make it more intuitive (note: Council initiated this in the past). We would expand this to include signage applications and possibly combining special events/temporary use permits.
Residential Buildings	<ul style="list-style-type: none"> • Currently, new development and additions over 500 square feet on sites with 3+ units within 300 feet of residential zoned historic structures are subject to PC approval of Cultural Heritage Permits, except for projects: <ol style="list-style-type: none"> 1) Not visible from right of way adjoining historic structure sites, 2) Not in the architectural overlay, 3) Not abutting historic structure sites, 4) Not on sites with historic structure sites, or 5) Not visible from a public view corridor. New buildings and additions over 500 square feet require PC approval. Staff suggests allowing projects with City Planner approval vs. PC if located 100-300 feet from historic structures. • Minor remodels/additions to single-family and duplexes adjoining historic structure sites (not in architectural overlay). <ul style="list-style-type: none"> ○ Allow additions under 50% with ZA approval vs. PC if not screened from the street. Currently, the limit is 500 square feet w/ZA approval. ○ Allow ZA to approve accessory buildings visible from street (currently PC). ○ Allow staff to approve accessory buildings screened from the street.
Accessory Structures	<ul style="list-style-type: none"> • Accessory structures (all sites) - Allow with City Planner approval where a project has proposed materials and design in character with the primary building's appearance and has a height and size that maintain visual focus of primary buildings from the public right-of-way and support an open street scene along the block on the same side of the street as the project. • Residential accessory buildings - Allow with City Planner approval up to height limit of the zone (vs. 15 feet) if they comply with setbacks. • Nonresidential accessory buildings with ZA approval vs. PC. • Allow walls over 3 ½ feet in front yard/street side yard with City Planner approval if criteria are met (and we incorporate common conditions into the zoning code).

ATTACHMENT 1

Parking	<ul style="list-style-type: none">• Allow off-site and shared parking agreements with ZA or City Planner approval (vs. PC).
Design Guidelines	<ul style="list-style-type: none">• Update City Design Guidelines (General Plan Implementation Measure)• Codify design guidelines as objective development standards to simplify review and processing (some of this work is underway with the Housing Element Rezoning Program and the West Pico Corridor Specific Plan Update).

These minutes will be considered for approval at the Planning Commission meeting of 06-22-2022.



MINUTES OF THE REGULAR MEETING OF THE CITY OF SAN CLEMENTE PLANNING COMMISSION

June 8, 2022 @ 6:00 p.m.

San Clemente Community Center Auditorium
100 Calle Seville, San Clemente, CA 92672

Teleconference via www.san-clemente.org/live or Cox Channel 854

CALL TO ORDER

Commissioner Crandell called the Regular Meeting of the Planning Commission of the City of San Clemente to order at 6:02 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 through 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

Staff Present: Adam Atamian, Deputy Community Development Director
Sara Toma, Senior Planner
*Christopher Wright, Associate Planner 11
*David Carrillo, Assistant Planner
Matthew Richardson, Assistant 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 May 18 2022.

~~IT WAS MOVED BY eCOMMISSIONER-MCCA~~JGHAN-SECe>NDED -sy
COMMISSIONER PRESCOTT-LOEFFLER, AND UNANIMOUSLY CARRIED

TO RECEIVE AND FILE THE MINUTES FROM THE MAY 18, 2022, PLANNING COMMISSION MEETING AS SUBMITTED.

6. ORAL AND WRITTEN COMMUNICATION

None

7. CONSENT CALENDAR

None

8. PUBLIC HEARING

A. Conditional Use Permit, 22-165, Ashiatsu by the Sea Massage (Carrillo)

A request to consider a massage establishment at a multi-tenant suite, within a commercial plaza, located at 1401 North El Camino Real, Suite 100, within the Neighborhood Commercial 2 Zoning District.

David Carrillo, Assistant Planner, narrated a PowerPoint Presentation entitled, "Ashiatsu by the Sea, CUP 22-165," dated June 8, 2022. A copy of the Presentation is on file in the Planning Division.

Sheila Neumann, applicant, was available for questions.

Chair Crandell opened the public hearing.

Deputy Director Atamian read aloud two letters received concerning this item.

Susan Neal, partner at previous location, submitted a letter recounting the positive experience she had with Ms. Neumann during their partnership; supported approval of the current proposal.

Suzette Shoulders, provided a letter detailing her experience as a customer of Ms. Neumann at her previous workplace and recommended approval of the request due to Ms. Neuman's professionalism and skill; described the results she experienced as a patient.

Chair Crandell closed the public hearing.

In response to questions from the Commission, Assistant Planner Carrillo and Deputy Community Development Director Atamian described the formal certification, documentation and license requirements to be fulfilled during the approval process; described staff's ability to access and inspect the workplace unannounced.

IT WAS MOVED BY COMMISSIONER MCKHANN, SECONDED BY COMMISSIONER MCCAUGHAN, AND UNANIMOUSLY CARRIED TO:

1) DETERMINE THE PROJECT IS CATEGORICALLY EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO CEQA GUIDELINES SECTION 15301 (CLASS 1: EXISTING FACILITIES); AND;

2) ADOPT RESOLUTION NO. PC 22-012, A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT 22-165, ASHIATSU BY THE SEA MASSAGE, TO ALLOW A MASSAGE ESTABLISHMENT AT A MULTI-TENANT SUITE WITHIN A COMMERCIAL PLAZA LOCATED AT 1401 NORTH EL CAMINO REAL, SUITE 100.

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

9. NEW BUSINESS

A. Permit Streaming (Atamian)

A City-initiated review of potential streamlining opportunities.

Sara Toma, Senior Planner narrated a PowerPoint Presentation entitled, "Permit Streamlining, San Clemente," dated June 8, 2022. A copy of the Presentation is on file in the Planning Division.

Deputy Director Atamian advised that, in response to direction from City Council, Planning Staff has prepared a list of potential streamlining opportunities and is requesting input from the Planning Commission. The List will be presented to City Council for review at its June 21, 2022, regular meeting. Comments, suggestions and proposed revisions/concerns from the Commission will also be presented to Council at that time.

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

The Commission reviewed the List with staff and provided the following commentary:

- Expressed concern with proposed relegation of review level for certain types of projects that may generate controversy and public interest/testimony; opposed changing certain projects' review levels from a governing body with noticing requirements, to staff/department review that does not require resident notification.
- Suggested that in order to allow changes to levels of review, such as monument signage, the City should develop and codify objective and detailed design standards to ensure projects are complementary to the building architecture, area themes, and location designations.

- Expressed concern with relaxing level of review for projects within prescribed distance of historic homes; requested staff identify situations/instances where the level of review may be bumped up to a higher level.
- Requested examples, potential exemptions, and identified instances where changes in level of review, and subsequent elimination of notification requirement, could occur for accessory structures, including setbacks, height limits, wall heights, locations within proscribed distance of historic homes, accessory structures joined to existing structures, etc.
- Requested identification of landscape/hardscape projects subject/not subject to review level especially with regard to historic homes and locations within proscribed distance of historic homes, including clarification of “minor” designation, the use of historic landscaping materials and architectural standards.
- With regard to parking agreements, commented that level of review that includes public notification is important when the subject properties seeking agreements are located in or adjacent to residential areas.
- Requested examples of standards, real instances and potential scenarios that would allow a level of review change for allowing residential on different floors of mixed-use buildings.
- Commented that before permit streamlining can occur, the City’s Specific Plans need to be updated and scrutinized carefully with permit streamlining in mind.
- Check boxes on applications are a great addition to alert applicants as to when additional plans/documents/certifications/licenses, etc., have to be submitted.
- Commented that permit streamlining may be difficult to achieve if the City does not have adequate Planning staff.
- Although a premium price to expedite may help, an economic downturn will also affect the streamlining effort.
- The City currently has the ability to estimate the time an application will take as it moves through the process, and this should be shared with the applicants. However, staff should avoid attaching automatic timelines to projects; tickler files to ensure projects are on track are more efficient and increase transparency.
- Outreach to other departments, such as Engineering and Inspections, will also help to coordinate and maintain accurate timelines.
- Ensure the public/applicants are consistently kept informed as to the status of projects to increase transparency and manage expectations.
- Incorporate text messaging when there are time delays; codify guidelines with objective standards; encourage complete packages (as much as possible) at time of submittal.
- Expressed concern with changing any height standards, movement of property lines, and Zoning Code changes without the public notification process.

Larry Culbertson, President of the San Clemente Historical Society was in attendance and expressed concerns with streamlining's impact on historical resources.

Deputy Director Atamian noted this draft will be presented for City Council input at its June 21, 2022, meeting; requested Commissioners contact staff if they think of any other comments.

10. OLD BUSINESS

None

11. REPORTS OF COMMISSIONERS AND STAFF

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

Deputy Director Atamian announced that Council has canceled its July 5, 2022, meeting; noted there are no items of business currently on the Commission's July 6, 2022, agenda. The Commissioners expressed support for canceling their July 6, 2022, meeting.

Chair Crandell commented that there is an upcoming Planning Commission Seminar in Dana Point in November; requested staff consider organizing and supporting Planning Commissioner attendance.

12. ADJOURNMENT

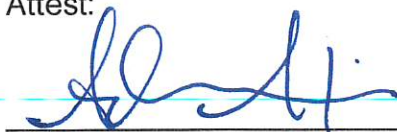
IT WAS MOVED BY COMMISSIONER MCCAUGHAN, SECONDED BY COMMISSIONER COSGROVE AND UNANIMOUSLY CARRIED TO ADJOURN AT 9:45 P.M. TO THE REGULAR MEETING TO BE HELD ON JUNE 22, 2022, AT 6:00 P.M. IN-PERSON AT THE COMMUNITY CENTER, LOCATED AT 100 CALLE SEVILLE, SAN CLEMENTE, CA, 92672, AND TELECONFERENCE AVAILABLE TO THE PUBLIC VIA LIVE STREAM FROM THE CITY'S YOUTUBE CHANNEL OR LIVE ON COX CHANNEL 854.

Respectfully submitted,



Bart Crandell, Chairman

Attest:



Adam Atamian, Deputy Community Development Director

**MINUTES OF THE REGULAR MEETING
OF THE CITY OF SAN CLEMENTE
PLANNING COMMISSION
January 18, 2023 @ 6:00 p.m.
San Clemente City Hall Council Chambers
910 Calle Negocio, San Clemente, CA 92673
Teleconference via www.san-clemente.org/live or Cox Channel 854**

CALL TO ORDER

Chair McKhann called the Regular Meeting of the Planning Commission of the City of San Clemente to order at 6:00 p.m. The meeting was offered in person at San Clemente City Hall Council Chambers, 910 Calle Negocio, San Clemente, California, 92673, and also via live stream from the City's YouTube Channel or live on Cox Channel 854.

2. PLEDGE OF ALLEGIANCE

Chair pro tem Camp led the Pledge of Allegiance.

3. ROLL CALL

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

Commissioners Absent: None

Staff Present: Adam Atamian, Deputy Community Development Dir./City Planner
John Ciampa, Contract Planner
Jonathan Lightfoot, Economic Development Officer
Christopher Wright, Associate Planner II
Matthew Richardson, Assistant City Attorney
Ryan Stager, Deputy City Attorney (Item 8.C.)

4. SPECIAL ORDERS OF BUSINESS

None.

5. MINUTES

A. **Minutes from the Regular Planning Commission Meeting of December 21, 2022.**

Amended as follows:

- 1) Modify Condition 3.19, and add Conditions 4.20, 4.21, and 7.21 as proposed by Economic Development Officer Lightfoot.
- 2) Add a new condition of approval (4.22) authorizing an additional Increased Density Bonus to allow the applicant the opportunity to adopt and design the best uses for the two existing Urban Open Areas located in the upper parking area.
- 3) Ensure the project is adequately conditioned (COA 4.23) to require the applicant to ensure the roof mechanical units do not exceed the height of the parapet wall intended to screen the units.

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

Chair McKhann recessed the meeting at 7:55 p.m. and reconvened at 8:10 p.m.

C. Zoning Amendment 22-366 – Zoning Permit Streamlining

A request to consider a City-initiated amendment to Title 17 (Zoning) of the San Clemente Municipal Code to:

- 1) Reduce the level of public hearing decisions for several planning application types, while maintaining public minutes of decisions and appeal procedures when experience has shown the projects have not had issues of significant public concerns or impacts to prompt a higher level of public review. For example, smaller additions to residences less than 500 square feet visible from the street currently require Planning Commission review, and are proposed by this ordinance to be reviewed by the Zoning Administrator;
- 2) Modify the Zoning Code for administrative approval of minor projects requiring design review in the Architectural Overlay, adjacent to, or involving, historic structures, and nonresidential properties; to add general standards, project-specific standards, and change the types of projects and circumstances which would be eligible for staff-level approval, subject to appeal with permits disclosed publicly for transparency. Currently, there is a broader category of projects eligible for administrative approval. The proposed ordinance replaces this with lists of projects that may be approved by staff if they meet the general and project-specific standards (e.g., projects that won't affect character defining features of historic structures, such as a privacy fence constructed of certain materials), and the City Planner would have discretion to forward applications to a public hearing if warranted;
- 3) Consolidate planning applications to simplify submittals and administrative processing;

- 4) Allow beer and wine sales for indoor, on-site consumption in restaurants with food service by-right with a State license; and
- 5) Clarify planning permit review procedures to facilitate staff and public understanding and implementation (e.g., how requests for alcohol sales/service are processed for hotels and entertainment venues).

Christopher Wright, Associate Planner II, narrated a PowerPoint Presentation entitled, "Zoning Permit Streaming, ZA 22-366," dated January 18, 2023. A copy of the Presentation is on file in Planning Division.

Deputy Director Atamian explained that at its meeting on May 25, 2022, City Council directed staff work with the Planning Commission to identify a list of ideas for streamlining various permit procedures in the Zoning Code. On June 8, 2022, the Planning Commission reviewed staff's suggested streamlining ideas and provided input. At its meeting of August 16, 2022, City Council considered the Planning Commission's input, initiated the proposed zoning amendments, directed staff to pursue the ideas presented at the meeting.

Chair McKhann opened the public hearing. The public hearing will remain open until the item is re-agendized for Commission consideration.

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

- Suggested that Public Noticing should still be completed for those projects that currently require a Public Notice to ensure that residents living adjacent to and/or those that could be negatively affected have the opportunity to provide input.
- Established that staff would have the ability to refer applications to a higher level at a public hearing if the City Planner determines a proposal has potential for significant public concerns or impacts.
- Requested staff identify where the bottlenecks are in the permit approval process to determine the best path to improve.
- Expressed concern regarding the number of applications that would be changed, especially in locations in areas of the City that have established character.
- Requested staff provide the date and time of City Council's review of this proposal for the Commissioners' review of the meeting discussion.
- Discussed the pros and cons of story poles, including high costs, value to the public, and purpose if the applicant provides adequate and accurate computerized before and after views.

Deputy Director Atamian encouraged the Commission to contact staff in the event they have additional questions or comments. Additionally, the Commissioners can request to meet with staff individually or in small groups

for a better understanding of the proposed Amendments. The Commissioners should arrange to meet with staff within the next two weeks in order to bring back the item for the March 8, 2023, Regular Planning Commission meeting.

IT WAS MOVED BY COMMISSIONER MCCAUGHAN, SECONDED BY COMMISSIONER CRANDELL AND UNANIMOUSLY CARRIED TO CONTINUE ZONING AMENDMENT 22-366 – ZONING PERMIT STREAMLINING, WITH THE PUBLIC HEARING HELD OPEN, TO THE REGULAR PLANNING COMMISSION MEETING OF MARCH 8, 2023.

[ITEM CONTINUED. PLANNING COMMISSION DECISION PENDING.]

9. NEW BUSINESS

None

10. OLD BUSINESS

None

11. REPORTS OF COMMISSIONERS AND STAFF

A. Staff Waivers

B. Tentative Future Agenda

Reports received and filed.

Commissioner Crandell commented that as a rule, the City requires developers provide storage areas for residential units. Storage area (that can only be used for storage, and does not reduce maximum square footage) in order to charge electric cars, store surfboards, gardening equipment, etc., in order to maintain order in the neighborhood. He requested staff review the State's and City's regulations regarding storage and report back regarding any potential opportunities to require storage for additional units.

Vice Chair Cosgrove reported that homes above the Beach Trail by Linda Lane have lost ground under their patios and it appears there has been landslides in the area. He expressed concern with public safety and requested information on the City's policies and liability protections on ground movement.

Deputy Director Atamian will forward him information regarding the City's hazards and bluff erosion policies.

12. ADJOURNMENT

**MINUTES OF THE REGULAR MEETING
OF THE CITY OF SAN CLEMENTE
PLANNING COMMISSION
March 8, 2023 @ 6:00 p.m.
San Clemente City Hall Council Chambers
910 Calle Negocio, San Clemente, CA 92673
Teleconference via www.san-clemente.org/live or Cox Channel 854**

CALL TO ORDER

Chair McKhann called the Regular Meeting of the Planning Commission of the City of San Clemente to order at 6:01 p.m. The meeting was offered in person at San Clemente City Hall Council Chambers, 910 Calle Negocio, San Clemente, California, 92673, and also via live stream from the City's YouTube Channel or live on Cox Channel 854.

2. PLEDGE OF ALLEGIANCE

Chair pro tem Camp led the Pledge of Allegiance.

3. ROLL CALL

Commissioners Present: Barton Crandell, Brent Davis, Gary P. McCaughan, M.D. Karen Prescott-Loeffler (8:25 p.m. arrival); Chair pro tem M. Steven Camp, Vice Chair Cameron Cosgrove, Chair Scott McKhann

Commissioners Absent: None

Staff Present: Jonathan Lightfoot, Economic Development Officer, (Acting Commission Secretary)
Cecilia Gallardo-Daly, Community Development Director
Christopher Wright, Associate Planner II
Matthew Richardson, Assistant City Attorney

4. SPECIAL ORDERS OF BUSINESS

None

5. MINUTES

A. Minutes from the Regular Planning Commission Meeting of February 22, 2023.

IT WAS MOVED BY COMMISSIONER MCCAUGHAN, SECONDED BY COMMISSIONER CRANDELL AND UNANIMOUSLY CARRIED TO RECEIVE AND FILE THE MINUTES FROM THE FEBRUARY 22, 2023, PLANNING COMMISSION REGULAR MEETING AS SUBMITTED.

6. ORAL AND WRITTEN COMMUNICATION

None

7. CONSENT CALENDAR

None

8. PUBLIC HEARING

A. Zoning Amendment 22-366 – Zoning Permit Streamlining

A request to consider a City-initiated amendment to Title 17 (Zoning) of the San Clemente Municipal Code to:

A. Clarify planning permit review procedures to facilitate staff implementation and promote public understanding;

B Consolidate planning applications, making it easier for the public to understand which zoning permits are required and to submit applications, and reduce staff time on report writing, which allows the reallocation of those resources to other City priorities and review of other project applications. These amendments preserve findings for project consistency with planning documents, such as the General Plan, Zoning Ordinance, and Design Guidelines, use compatibility, quality design, historic preservations, and other planning issues. Therefore, the amendments maintain a focus on ensuring projects implement community goals and policies for quality of life;

C. Update the staff-level approval process for minor architectural changes. Currently the Zoning Code has a “staff waiver” application that functions as a permit rather than a waiver. There are approval findings, an ability to add conditions, and types of eligible projects, including a broad category: “Other minor projects that do not substantially alter the visual appearance and/or architectural integrity of the property or structure.” The proposed Ordinance replaces the staff waiver application with an “Administrative Development Permit” to:

1) Replace criteria for review of administrative applications. Currently, there are required findings that would be replaced with objective general and project-specific standards, (e.g., projects that won’t affect character-defining features of historic structures, such as a privacy fence constructed of certain materials). The general standards address design issues, such as architectural style, materials, colors, massing, scale, and historic considerations. The project-specific standards are additional objective criteria for eligible projects, such as types of windows that are minor for staff approval.

2) List types of eligible projects for staff approval that meet general and project standards. The existing broad category for eligible projects would be removed with a list of specific set of projects staff has authority to act upon. This makes the administrative process more objective. The projects that don’t meet eligibility criteria would require a public hearing. Also, the City Planner would continue to have the authority to refer applications to a public hearing if finding a proposal has potential for significant public concern or impacts; and

3) Record of staff approvals would be included in City Council packets for transparency and public oversight of staff decisions. Currently, staff waiver decisions are reported to the Planning Commission in their agenda packet and the City Council reviews the minutes at the follow-up hearing with review of Planning Commission minutes.

D. Streamline the level of review required to approve several project types, while maintaining public minutes of decisions and appeal procedures, when experience has shown the project have not had issues of significant public concerns or impacts to prompt a higher level of public review.

Christopher Wright, Associate Planner II, narrated a PowerPoint Presentation entitled, "Zoning Permit Streamlining, ZA 22-36," dated March 8, 2023. A copy of the Presentation is on file in Planning Division.

Chair McKhann opened the public hearing.

Larry Culbertson, San Clemente Historical Society President, requested staff clarify standards and guidelines; opined that reducing the level of review required for qualifying projects located near historic structures is not sufficient to protect the historic structure; recommended full environmental review of the proposed amendment due to its potential to negatively impact the environment; suggested complete overhauls of the Zoning Code and Planning Division are unnecessary.

Wayne Eggleston, former Planning Commissioner and City Councilmember, cautioned that the proposed revisions in the amendment may not sufficiently protect San Clemente's assets, which are primarily the beach and historical structures; recounted an example whereby a less seasoned Planning Division official approved a large project on a Coastal Canyon lot that was ultimately unanimously denied by the California Coastal Commission. Advocated for more projects to require public hearings, including reviews of vacation rental units and development on any Coastal canyon or bluff, to protect neighbors' property rights.

Acting Secretary Lightfoot read a letter submitted by Commissioner Prescott-Loeffler detailing her concerns regarding proposed revisions that would eliminate or reduce public hearings on projects, as well as revisions to reduce the 500 feet review requirements for historical structures.

Commissioner Davis read his statement listing concerns he has with the proposed amendment. He thanked staff for their efforts and diligence; commented that although the proposed amendment is an attempt to reduce staff's workload, it will also reduce the City's oversight of projects that may result in negative impacts on the City and its residents; suggested increase in permit fees to cover the costs of the review process; confirmed the need for the Commission to ensure no negative impacts will occur before moving forward with changes.

Chair McKhann closed the public hearing.

Commissioner Prescott Loeffler arrived at 8:25 p.m. and noted she had been listening to the meeting via the City's website while in transit from the airport to the meeting.

Discussion ensued regarding the proposed revisions as presented in the Summary of Proposed Permit Streamlining Items, dated March 8, 2023, as well as the corresponding red-lined and draft copies. Planner Wright responded to questions, provided clarifications and revised language when warranted; and suggested continuing discussion of the item to the next Commission meeting on March 22, 2023.

Commission Comments/Suggestions:

- Suggested that the Commission systematically review each streamlining proposal within Attachment 2, one at a time.
- Expressed a preference that public notice and hearings should be maintained. Streamlining of review from a public hearing decision to staff should not be pursued.
- Commented that protection of historic resources is important to the community so the review process should continue to reflect this.
- Supported a change to allow the Planning Commission to appeal administrative approvals of minor architectural and site plan changes, in addition to City Council. This will provide added oversight and transparency of decisions.
- Supported consolidating public hearing applications in a way that preserves focus on General Plan consistency and quality of life. This will save time for staff, review authorities, and the public.
- Supported clarifying zoning regulations to facilitate consistent City implementation and use by the public, so long as the updated tables and language reflect the Commission's recommendations for changes to the streamlining proposals
- The Commission provided recommendations on support or modifications to item numbers 1-10 of Attachment 2, which summarized the proposed streamlining initiatives. Staff tracked and annotated the recommendations, which are generally summarized above.
- The Commission expressed a desire to continue discussion of the streamlining initiatives to complete their review of item numbers 11-17 of Attachment 2 at the next Planning Commission meeting.

Staff indicated that a memo would be prepared for the March 22nd meeting, but that the primary report materials would remain the same for the continuance.

IT WAS MOVED BY COMMISSIONER MCCAUGHAN, SECONDED BY COMMISSIONER CRANDELL AND UNANIMOUSLY CARRIED TO CONTINUE ZONING AMENDMENT 22-366, ZONING PERMIT STREAMLINING, TO THE MEETING OF MARCH 22, 2023.

[ITEM CONTINUED. PLANNING COMMISSION DECISION PENDING.]

9. NEW BUSINESS

**MINUTES OF THE REGULAR MEETING
OF THE CITY OF SAN CLEMENTE
PLANNING COMMISSION
March 22, 2023 @ 6:00 p.m.
San Clemente City Hall Council Chambers
910 Calle Negocio, San Clemente, CA 92673
Teleconference via www.san-clemente.org/live or Cox Channel 854**

CALL TO ORDER

Chair McKhann called the Regular Meeting of the Planning Commission of the City of San Clemente to order at 6:01 p.m. The meeting was offered in person at San Clemente City Hall Council Chambers, 910 Calle Negocio, San Clemente, California, 92673, and also via live stream from the City's YouTube Channel or live on Cox Channel 854.

2. PLEDGE OF ALLEGIANCE

Commissioner Crandell led the Pledge of Allegiance.

3. ROLL CALL

Commissioners Present: Barton Crandell, Gary P. McCaughan, M.D., Vice Chair Cameron Cosgrove, Chair Scott McKhann

Commissioners Absent: Brent Davis, Karen Prescott-Loeffler, Chair pro tem M. Steven Camp

Staff Present: Jonathan Lightfoot, Economic Development Officer, (Acting Secretary of the Planning Commission)
Cecilia Gallardo-Daly, Community Development Director
John Ciampa, Contract Planner
Christopher Wright, Associate Planner II
Ryan Stayer, Deputy City Attorney

4. SPECIAL ORDERS OF BUSINESS

None

5. MINUTES

A. Minutes from the Regular Planning Commission Meeting of March 8, 2023.

IT WAS MOVED BY COMMISSIONER MCCAUGHAN, SECONDED BY COMMISSIONER CRANDELL AND UNANIMOUSLY CARRIED TO RECEIVE AND FILE THE MINUTES FROM THE MARCH 8, 2023, PLANNING COMMISSION REGULAR MEETING AS SUBMITTED.

BUILDING AND SHARED PARKING AGREEMENT LOCATED AT 1351 CALLE AVENZADO.

Amended as follows:

Add Condition No. 7.8 as follows: “All doors and windows to remain closed during religious services and events.”

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

B. Zoning Amendment 22-366 – Zoning Permit Streamlining

A request to consider a City-initiated amendment to Title 17 (Zoning) of the San Clemente Municipal Code to:

A. Clarify planning permit review procedures to facilitate staff implementation and promote public understanding;

B. Consolidate planning applications, making it easier for the public to understand which zoning permits are required and to submit applications, and reduce staff time on report writing, which allows the reallocation of those resources to other City priorities and review of other project applications. These amendments preserve findings for project consistency with planning documents, such as the General Plan, Zoning Ordinance, and Design Guidelines, use compatibility, quality design, historic preservations, and other planning issues. Therefore, the amendments maintain a focus on ensuring projects implement community goals and policies for quality of life;

C. Update the staff-level approval process for minor architectural changes. Currently the Zoning Code has a “staff waiver” application that functions as a permit rather than a waiver. There are approval findings, an ability to add conditions, and types of eligible projects, including a broad category: “Other minor projects that do not substantially alter the visual appearance and/or architectural integrity of the property or structure.” The proposed Ordinance replaces the staff waiver application with an “Administrative Development Permit” that:

- 1) Replace criteria for review of administrative applications. Currently, there are required findings that would be replaced with objective general and project-specific standards, (e.g., projects that won’t affect character-defining features of historic structures, such as a privacy fence constructed of certain materials). The general standards address design issues, such as architectural style, materials, colors, massing, scale, and historic considerations. The project-specific standards are additional objective criteria for eligible projects, such as types of windows that are minor for staff approval;

2) List types of eligible projects for staff approval that meet general and project standards. The existing broad category for eligible projects would be removed with a list of specific set of projects staff has authority to act upon. This makes the administrative process more objective. The projects that don't meet eligibility criteria would require a public hearing. Also, the City Planner would continue to have the authority to refer applications to a public hearing if finding a proposal has potential for significant public concern or impacts; and

3) Record of staff approvals would be included in City Council packets for transparency and public oversight of staff decisions. Currently, staff waiver decisions are reported to the Planning Commission in their agenda packet and the City Council reviews the minutes at the follow-up hearing with review of Planning Commission minutes.

D. Streamline the level of review required to approve several project types, while maintaining public minutes of decisions and appeal procedures, when experience has shown the project have not had issues of significant public concerns or impacts to prompt a higher level of public review. The proposed streamlining is described in Attachment 2 of the administrative staff report. The streamlining includes: 1) reducing the level of hearing required, such as changing the review authority for a project type from a Planning Commission decision to Zoning Administrator Review; and 2) in three limited instances, the proposed amendments change the decision process from a discretionary public hearing decision to a staff level ministerial process with required approval of an Administrative Development Permit.

Christopher Wright, Associate Planner II, narrated a PowerPoint Presentation entitled, "Zoning Permit Streamlining, ZA 22-36," dated March 22, 2023. A copy of the Presentation is on file in Planning Division.

Chair McKhann opened the public hearing.

Don Brown, former Planning Commissioner, opined that most of the existing time delays, which led to direction from the City Council that staff streamline the permit process, are caused by administrative delays out of the Commission's control. On the Planning Division end, the previous permit streamlining exercise has reduced time delays. Existing time delays occur either outside of the Commission control, due to a lack of trained employees, and/or lack of coordination between the departments. The Commission needs to continue its oversight in order to guide the City's growth in accordance with the General Plan.

Larry Culbertson, San Clemente Historical Club President, opposed the majority of the proposed streamlining revisions because they are unnecessary and could lead to disastrous results. The level of specificity and discretionary review are needed for guided growth; applicants and residents alike benefit when a panel of

experts review projects; buffers for historic structures are important for preservation and recent history has shown that insufficient review can result in far-reaching negative impacts. He noted that Wayne Eggleston, former Planning Commissioner and City Councilmember, shares his views but was unable to attend tonight's meeting due to illness.

George Gregory, resident, commented on difficulties he's faced during Planning and Engineering review; noted damage to a historic building near his property as a result of chronic homelessness; encouraged streamlining of minor projects.

Chair McKhann closed the public hearing.

Discussion ensued regarding the proposed revisions as presented in the Summary of Proposed Permit Streamlining Items, dated March 22, 2023, as well as the corresponding red-lined and draft copies saved from the last meeting. Planner Wright responded to questions, provided clarifications and revised language when warranted and advised the changes should be ready for review at the Commission's Regular Meeting of April 19, 2023.

Comments/Suggestions:

- Agreed with speaker Don Brown that many of the delays are outside Planning Division staff or Planning Commission control.
- Suggested thorough review of how/when project roadblocks/delays have occurred in the past in order to specify the exact reasons why the project did not proceed in a timely manner, and make recommendations for changes according to the facts discovered; proposed a future "phase 2" of streamlining, to include meetings with architects who routinely submit projects to clarify where/when the roadblocks occur.
- Recounted a recent Design Review Subcommittee (DRSC) meeting where a "minor remodel" was reviewed. DRSC review revealed the project had been mischaracterized as "minor". The difference between a "minor" and "major" remodel must be carefully and thoroughly delineated.
- When streamlining projects results in Planning Commission/staff loss of control and oversight, the result will be loss of City legacy, charm and quality of life for its residents. The existing process has played an essential role in guiding development to its current status as a city well known for its charm, historical preservation and enduring legacy.
- Commended Planner Wright for his knowledge, ethical standards and longevity with the City as he is an asset to both the Planning Division and Planning Commission; commented the City needs a specialized historic planner on staff to continue its legacy as preserved historical enclave;

suggested the recent misclassified project undergoing review greatly emphasized the importance of the DRSC and Planning Commission providing oversight for new and/or inexperienced planners.

- Expressed a desire to meet with the City Manager to encourage additional staffing resources.
- Commented that the new standards are being proposed in lieu of maintaining/increasing funds and budget for the Planning Division;
- Opined that many project delays/roadblocks are due to lack of communication and/or cooperation between departments.
- Suggested implementation of applicant advocates or ombudsmen to help applicants navigate the system.
- Supported retaining the 300 feet separation of projects from historic resources.
- Established that Planning Division staff undergoes historic structure training and that staff has the Secretary of the Interior standards for guidance.
- Suggested that the City Planner or Zoning Administrator should be involved in minor or major classification decisions.
- Reviewed the “Summary of Proposed Zoning Permit Streamlining Items” (Attachment 2 of the staff report), focusing on items 11-17 which were not reviewed during the March 8, 2023 public hearing.
- Suggested revisions including maintaining the existing 300-foot distance from historic properties standard currently in use;
- For the proposed Administrative Development Permit, which would replace the Staff Waiver, the Commission recommended several changes, including:
 - Requiring canvas for awnings on historic structures, but allowing flexibility of materials on properties that are not historic or in the Architectural (A) Overlay;
 - Supported staff approval of certain improvements if adequately screened from the street;
 - Agreed that landscape changes hidden from public view can be considered minor and that tree removals that meet certain criteria should be exempt from a zoning permit, such as trees that are unhealthy or destructive to surrounding property

- Recommended standard language for roof tiles, stucco treatment, and window types should be specific to historic structures and those located in Architectural Overlay;
 - Noted that porches are referenced in two separate sections of the standards;
 - Supported staff’s proposal to develop a City color palette for exterior colors of historic/Spanish architecture buildings.
 - Recommended including the table version of the City’s Window Policy in the Amendment.
- The Commission supported the staff recommendations on items 13-17, including removing the requirement for a Minor Conditional Use Permit to allow beer and wine service at restaurants and accessory to other limited uses; and supported review of shared parking, off-site parking, and Discretionary Parking Permits by the Zoning Administrator instead of the Planning Commission.

IT WAS MOVED BY CHAIR MCKHANN, SECONDED BY VICE CHAIR COSGROVE AND UNANIMOUSLY CARRIED TO CONTINUE ZONING AMENDMENT 22-366, ZONING PERMIT STREAMLINING, TO THE MEETING OF APRIL 19, 2023.

[ITEM CONTINUED. PLANNING COMMISSION DECISION PENDING.]

9. NEW BUSINESS

None

10. OLD BUSINESS

None

11. REPORTS OF COMMISSIONERS AND STAFF

A. Tentative Future Agenda

Reports received and filed.

Chair McKhann thanked his fellow Commissioners for attending the meeting and being engaged with its topic; requested staff review other areas of Planning that are frustrating the public and alert the Planning Commission to affect change.

**MINUTES OF THE REGULAR MEETING
OF THE CITY OF SAN CLEMENTE
PLANNING COMMISSION
April 19, 2023 @ 6:00 p.m.
San Clemente City Hall Council Chambers
910 Calle Negocio, San Clemente, CA 92673
Teleconference via www.san-clemente.org/live or Cox Channel 854**

CALL TO ORDER

Chair McKhann called the Regular Meeting of the Planning Commission of the City of San Clemente to order at 6:00 p.m. The meeting was offered in person at San Clemente City Hall Council Chambers, 910 Calle Negocio, San Clemente, California, 92673, and also via live stream from the City's YouTube Channel or live on Cox Channel 854.

2. PLEDGE OF ALLEGIANCE

Chair pro tem Camp led the Pledge of Allegiance.

3. ROLL CALL

Commissioners Present: Gary P. McCaughan, M.D., Chair pro tem M. Steven Camp, Vice Chair Cameron Cosgrove, Chair Scott McKhann

Commissioners Absent: Barton Crandell, Brent Davis, Karen Prescott-Loeffler,

Staff Present: Jonathan Lightfoot, Economic Development Officer, (Acting Planning Commission Secretary)
Laura Coury, Assistant Planner
Kyle Webber, Assistant Planner
Christopher Wright, Associate Planner II
Elizabeth Mitchell, City Attorney
Eileen White, Recording Secretary

On a 4-0 straw vote, the Commission voted to rearrange the agenda. These minutes reflect the order in which items appeared on the meeting agenda and do not necessarily reflect the order in which items were actually considered.

4. SPECIAL ORDERS OF BUSINESS

None

1) Determine the Project is Categorically Exempt from the requirements of CEQA pursuant to CEQA Guidelines Section 15301 (Class 1: Existing Facilities) and;

2) Adopt Resolution no. PC 23-007, entitled, "A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT 22-255, SANCHO'S TACOS ALCOHOL SERVICE, LOCATED AT 1101 SOUTH EL CAMINO REAL AND FIND THE PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) UNDER SECTION 15301 OF THE CEQA GUIDELINES (14 CCR § 15301, CLASS 1: EXISTING FACILITIES)."

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

Deputy City Attorney Michelle stated for the record that the Planning Commission's action may be appealed within ten days of its decision.

B. Zoning Amendment 22-366 – Zoning Permit Streamlining

A request to consider a City-initiated amendment to Title 17 (Zoning) of the San Clemente Municipal Code to:

A. Clarify planning permit review procedures to facilitate staff implementation and promote public understanding;

B. Consolidate planning applications, making it easier for the public to understand which zoning permits are required and to submit applications, and reduce staff time on report writing, which allows the reallocation of those resources to other City priorities and review of other project applications. These amendments preserve findings for project consistency with planning documents, such as the General Plan, Zoning Ordinance, and Design Guidelines, use compatibility, quality design, historic preservations, and other planning issues. Therefore, the amendments maintain a focus on ensuring projects implement community goals and policies for quality of life;

C. Update the staff-level approval process for minor architectural changes. Currently the Zoning Code has a "staff waiver" application that functions as a permit rather than a waiver. There are approval findings, an ability to add conditions, and types of eligible projects, including a broad category: "Other minor projects that do not substantially alter the visual appearance and/or architectural integrity of the property or structure." The proposed Ordinance replaces the staff waiver application with an "Administrative Development Permit" that:

1) Replace criteria for review of administrative applications. Currently, there are required findings that would be replaced with objective general

choice to install story poles or utilize computer programs; requiring third-party certification of the simulation results; or only requiring story poles/computer simulations if requesting a height variance. Discussion of this topic will continue at the June 7 meeting.

- Discussion of revising language regarding deadlines on inactive projects, including number of days before applicant is contacted as well as the amount of time the applicant has to respond after being contacted. Planner Wright will bring back revised language for further discussion.
- Discussion of public noticing requirements and whether in-concept reviews for non-discretionary applications in the Coastal Zone should require noticing or whether certain types of applications in the Coastal Zone should require noticing. Staff noted that the Long Range Planning team is currently working on the Local Coastal Program, and that considerations of this issue could be addressed under that work program..
- Suggestion to revise the Special Activities Permit request process, including potential to allow for approval of several activities at the same time rather than limiting it to one approval per year. Also suggested that certain types of Special Activities Permits may require Planning Commission review to ensure that proper notification is occurring for events and additional scrutiny for events in sensitive areas.. Staff clarified that Special Activities Permits are managed by the Planning division for activities on private property, while Special Event Permits are managed by the Beaches Parks and Recreation Department for activities on City Properties, including City-sponsored events.
- Consideration of revising the appeal process to allow the Planning Commission to appeal projects approved at the Zoning Administrator level.
- Established from staff that any testimony provided by a Planning Commissioner at higher level meetings can only be presented as a private citizen unless permission has been granted to speak for the Commission.

The public hearing for this agenda item will remain open during its continuance.

IT WAS MOVED BY COMMISSIONER MCCAUGHAN, SECONDED BY VICE CHAIR COSGROVE AND UNANIMOUSLY CARRIED TO CONTINUE ZONING AMENDMENT 22-366, ZONING PERMIT STREAMLINING, WITH THE PUBLIC HEARING HELD OPEN, TO THE MEETING OF JUNE 7, 2023.

[ITEM CONTINUED. PLANNING COMMISSION DECISION PENDING.]

9. NEW BUSINESS

A. General Plan Strategic Implementation Program (SIP)

A request to forward a recommendation to the City Council on the approval of an annual update to the General Plan Strategic Implementation Program for Fiscal Year 2023-2024 ("FY24")



"Forward with the Dream"

June 7, 2023

To: San Clemente Planning Commission

From: Larry Culbertson

Re: Zoning Amendment 22-366 – Zoning Permit Streamlining

Dear Planning Commissioners,

The Historical Society's concern regarding Zoning Amendment 22-366 has not diminished since our letter of February 15. Despite city staff's explanations, we believe that this Amendment would be a step backward in the long march toward providing protection for San Clemente's historic resources and enhancing the village character we all cherish.

Of the 16 Proposed Permit Streamlining Items in Attachment 1 of the Staff Report, eight would affect historic resources or the projects within 300 feet of them. The effect would be less protection for those historic resources and the neighborhoods around them.

It is important to remember that our Municipal Code requires that we protect not only our historic resources, but also our entire city's identity as a Spanish village. The following is Municipal Code 17.16.100.A.1.b.Cultural Heritage Permit Purpose and Intent.

The purpose and intent of the architectural review with a cultural heritage emphasis is to provide for the review of projects affecting the City's cultural and/or historical resources. Along with the general goals for architectural review provided above, the process is intended to: **1) preserve and strengthen San Clemente's historic identity as a Spanish village**, 2) preserve and strengthen the pedestrian-oriented areas designated in the General Plan as such, 3) preserve and protect those places, sites, buildings, structures, neighborhoods, objects, and improvements, manmade or natural, having a special historical, cultural, or architectural interest, 4) protect and enhance the City's attraction as a historic community to tourists and visitors, 5) promote the use of historic properties for the education, pleasure, and welfare of the people of the City.

The proposed changes to the decision levels would be a disaster. Errors have occurred over the years with the existing Staff Waiver process. To rename the process Administrative Development Permit and then give one individual even more responsibility just about guarantees even more errors.

The combination of the Design Review Subcommittee review followed by the scrutiny of the seven-member Planning Commission has guaranteed high quality results with San Clemente

San Clemente Historical Society

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discretionary projects for decades. Although not required, it seems we have historically had at least half of the Commissioners be experienced architects. The idea of turning over any of the decision-making process of important projects to a Zoning Administrator or City Planner of unknown experience and talent does not sound wise. The established criteria for what are important projects have worked well and do not need to be rewritten.

It is interesting how little interest the public has demonstrated for Streamlining. Over the past year, only two letters, your attachment 7, have been submitted. Neither was supportive of the proposed amendment. It would seem that no one is unhappy with the existing Zoning Code or decision-making process. Please, just leave it as be.

In closing, I urge you not to relinquish any of the decision-making responsibilities you have to staff. And to not downgrade the quality of protection afforded our historic resources in the existing Zoning Code.

Sincerely,
Larry Culbertson, President

San Clemente Historical Society

“Forward with the Dream”

February 15, 2023

To: San Clemente Planning Commission

From: Larry Culbertson

Re: Zoning Amendment 22-366 – Zoning Permit Streamlining

Dear Planning Commissioners,

The Historical Society is concerned about the Zoning Permit Streamlining being considered by the City. The project proposes many changes in a lot of areas, our concern lies in the effect it would have on our historic resources and the “village character” that is so important to what makes up San Clemente.

I apologize for not attending the January 18, 2023, Planning Commission Meeting to address our concerns. Frankly, the 213-page Staff Report was rather intimidating, and I did not feel qualified to testify. After carefully reading the report, listening closely to the recording of that meeting, and meeting with staff, a vague understanding of the project is emerging.

So many great points were raised by Commissioners at that meeting.

- High level of concern for the importance of preserving San Clemente history (that warmed my heart).
- Support for the sanctity of the public’s right to know about projects, before they happen, and being able to have their concerns heard and considered.
- Council need to appreciate that they are asking for tradeoffs – faster approvals for less public input.
- Need to consider the property rights of the neighbors as well as the applicant.
- Need to appreciate that the writers of our current Code had determined that our historic resources were the heart of the City and they wanted to protect it.
- The 300-foot discussion was had, and they decided in favor of protection.
- There have been projects 300 feet away from historic resources that did affect the resource.
- The number of CHP’s each year is not large.
- Need for Council to appreciate that much of the delay in the permitting process has nothing to do with Planning. Engineering, Building, OCFA, Public Works, et. al., all contribute to delays.

Environmental Review - What is being proposed is an enormous change to our Zoning Code. Some changes would adversely affect our historic resources. The changes to our discretionary review process would have dire consequences on those resources. The proposal to decrease the protected area surrounding some historic resources from 300 feet to 120 feet is particularly odious. Frankly, I do not understand how staff can recommend that the amendments be found exempt from CEQA. There is absolutely no certainty that the Ordinance would not have a significant effect on our cultural environment. It certainly would.



"Forward with the Dream"

February 15, 2023

Administrative Development Permit – If I understand correctly, this would be reviewed only by staff. It is what we used to call a Staff Waiver. It would have a list of items eligible for this process. The problem is we are understaffed. We do not even have a City Planner. You should not consider approving this new program until we get a full staff who has been here for a few years. It would be insanity to turn over even low level decision making to people who are not completely familiar with San Clemente's Code and culture.

San Clemente is a historic town. We have 203 Designated Historic Resources, 5 of them on the National Register. Yet we have no Historic Preservation Officer. For years, the City has placed inexperienced planners to act in that position. As soon as they become proficient, they are transferred, or they leave. How can we have any hope that this proposed more lenient system will be good for historic preservation. It cannot.

120 feet vs. 300 feet - Staff has proposed that we slash the area within which Planning Commission approval is required from a 300-foot radius down to a 120-foot radius. The rationale offered is that the purpose and intent of a Cultural Heritage Permit is focused on the historic building. The proposed changes would make the CHP be just about the historic building. The Architectural Overlay and proximity to historic resources are less important and would receive less review. Development in that outer ring would no longer receive PC review it would drop all the way down to Administrative Development Permit which would only receive Staff Decision Without Public Hearing. This would be a catastrophe for historic preservation.

I believe that a thorough reading of Municipal Code 17.16.100.A.1.b. Cultural Heritage Permit Purpose and Intent (copied below) indicates that the zone of architectural review should extend far enough to ensure that projects do not negatively impact our historic identity as a Spanish village. 120 feet would not provide the necessary protection that our resources deserve.

The purpose and intent of the architectural review with a cultural heritage emphasis is to provide for the review of projects affecting the City's cultural and/or historical resources. Along with the general goals for architectural review provided above, the process is intended to: 1) preserve and strengthen San Clemente's historic identity as a Spanish village, 2) preserve and strengthen the pedestrian-oriented areas designated in the General Plan as such, 3) preserve and protect those places, sites, buildings, structures, neighborhoods, objects, and improvements, manmade or natural, having a special historical, cultural, or architectural interest, 4) protect and enhance the City's attraction as a historic community to tourists and visitors, 5) promote the use of historic properties for the education, pleasure, and welfare of the people of the City, 6) encourage and, where specified by this title, require architecture which reflects the community's historic pedestrian-oriented character, and 7) ensure compliance with the purpose and intent of the City's Architectural Overlay District for those projects within the district.

San Clemente Historical Society

“Forward with the Dream”

February 15, 2023

Regarding the phrase, **“Properties located further than 120 feet and two parcel, whichever is greater, up to 300 feet...”** I do not understand it. What does the, “whichever is greater” refer to? What happens at the 300-foot line? We had a nice straight forward 300-foot rule. Replacing it with this new confusing standard is not streamlining.

We have been monitoring development for many years. We have not agreed with every decision the City has made. But the overall effect of existing Municipal Code on cultural heritage has been positive. The discretionary oversight given to the Planning Commission by Municipal Code has resulted in high quality projects that are sensitive to preservation. This is not limited to projects directly involving historic resources but all of those in the Architectural Overlay and those outside the AO but in proximity to historic resources, even 300 feet away. And thank you for expanding the Architectural Overlay in the upper pier bowl, great move.

Council gave you a mandate to streamline the Zoning Permit process. Staff did an incredible job of assembling ideas to make this happen. Consolidating applications and clarifying procedures will help the effort. If replacing the Staff Waiver process with an Administrative Development Permit is what it takes to placate Council, then by all means do it. But please do not strip away the protections that have served our historic resources so well for all these many years. Please leave historic resources out of any attempt at streamlining. It is not needed and would be harmful.

Sincerely,
Larry Culbertson, President

From: Jim Holloway

Sent: Thursday, February 2, 2023 2:55 PM

To: Chris Duncan; James, Gene; Atamian, Adam; Gallardo-Daly, Cecilia; Lightfoot, Jonathan; Crandell, Barton

Cc: Jim Holloway

Subject: Suggestions for maintenance and improvement of process.

I have recently run into many of you at the grocery store, Zebra cafe, Chamber meetings, and elsewhere. The topic of streamlining keeps coming up So...

The following [on the next pages] are some ideas I put together in 2021 for Don Brown, at his request, on ways to improve the process.

The suggestions have to do with operational improvements, rather than policy. The suggestions are very simple and cheap and should lead to operational efficiency for both the staff and applicants.

Jim

March 23, 2021

Hello Don,

Hope your recovery is going well and you will soon be on the pool deck again. Speaking of the pool deck, that reminds me of one of our pool deck discussions.

You said that sometimes people ask you how the planning process is going these days. Your standard reply is that it's like being on a ship. You see about 15% of what's going on, above deck. But, you have no idea what's going on in the Boiler Room. (No mistaking you are a Navy guy!)

That said, the following are some observations about what's going on below decks. I have discussed some of these ideas with Gabriel and have mentioned a few other items to Stephanie.

The 1531 North El Camino Real Publik House application was recently approved by the Planning Commission. The application consisted of plans for the rehabilitation and reuse of an existing historic building and site.

In addition to the normal application requirements there were five reports and studies that were requested in order to process this application.

1. A traffic study
2. A noise study
3. A historic resources report
4. A valet parking plan
5. A public safety and operations report (PSOR)

1. Traffic Report

The engineering department's traffic engineer asked for a traffic study, as a part of the first round of DMT review. In my mind this was an inappropriate request given the zoning and scale of the project. Fortunately, Gabriel suggested and Stephanie facilitated a meeting regarding this topic.

Prior to the meeting I pointed out via email the following information:

- The project complied with General Plan policy.

- The project complied with all Zoning code requirements.
- Because of the first two items above, the project qualified for an exemption to the CEQA process.
- The project density was only at 80% of the FAR allowed by Zoning codes for this property.
- EIRs and traffic analysis for recent General Plan updates analyzed property at maximum FARs allowed by underlying General Plan designations. The calculations show that if projects along El Camino Real are at or below allowable FAR standards, then traffic levels of service allowed by the General Plan would be maintained.
- Following the adoption of the most recent General Plan, the Zoning Code was updated, including EIR and traffic analysis, which showed that if projects were limited to or below maximum allowed FAR square footages, then traffic level of service goals would be maintained.
- As mentioned above, this project is at 80% of allowable FAR.
- At the facilitated meeting, the City's traffic engineer quickly dropped his request for a traffic study for this project.

Suggestion:

The City's Traffic Engineer is fairly new to the City. Additional training regarding the planning process, previous CEQA analysis (including traffic analysis), and the CEQA exemption process would save both the applicant and multiple City staff members some time.

2. Noise Study

As the restaurant and entertainment sector of the local economy become more and more significant, it will be important to consider impacts upon residential areas of noise generated in commercial districts. Noise studies are therefore important and should be produced when applications are requesting alcohol service, amplified music, or live entertainment.

Suggestion:

Noise studies are not listed on the standard submittal checklist. It is not expected that noise studies would be requested for all applications (just as grading plans and drainage plans are not requested for every application). However, when a noise study is going to be requested (i.e. alcohol permits, amplified noise permits, live entertainment permits), it should be noted on the submittal checklist. Otherwise, the applicant is not even aware that a noise study will be requested. This happened in our case.

When the applicant became aware that a noise study was required, the applicant was given the responsibility to hire a noise consultant. The applicant did hire a professional noise consultant who then conducted necessary noise measurements and produced the study. Unfortunately, some of the vocabulary used by the consultant was unfamiliar or unclear to the staff. This ultimately resulted in the need to produce three iterations of the noise study.

Suggestion:

It would be much more time efficient and cost-efficient if the City simply retained a qualified noise consultant with whom the staff is familiar. That consultant would produce the study, saving both the applicant and City staff the time necessary to go through several reviews, edits, comments and iterations of the study. This process would be similar to the existing City practice of sending out landscape plans to the City's landscape plan check consultant. Also the City sends out plans to the City's historic resources consultant for historic resources reports.

3. Historic Resource Report

This went well. Because the City trusted and understood the vocabulary used by the historic resource consultant, and was familiar with this consultant the production and review of the historic resources report went smoothly.

Suggestion:

The way the historic resources report was handled should be a model for how noise reports should be produced.

4. Valet Parking Plan

Production of the valet parking plan went fairly well. Perhaps predictably, the engineering staff asked for more and more detail as the plans were

developed. The engineering staff also came up with multiple "what if" scenarios. Meanwhile, the planning staff kept their eye on the bigger picture. If a valet parking plan couldn't be worked out, then the alternative would be for the applicant to ask for parking waivers (based upon historic property parking waiver provisions in the code) which could potentially impact adjacent residential areas. Finally, a valet operations plan was agreed upon, produced and presented to the Planning Commission for approval.

Suggestion:

More of an observation than a suggestion, details and a view of the big picture are both important. Three-way conversations between engineering, planning and the applicant are vital in order to achieve the best possible plans. The sooner we can get back to face-to-face meetings to work out issues the better.

Note: We recently had a three-way, face-to-face meeting w/ Planning and Engineering regarding The Sea Cliff project. Much better result.

5. Public Safety and Operations Report (PSOR)

The intent of the PSOR is to consolidate a description of operational practices and procedures of a proposed project into one concise narrative. This is thought to make it easier and more efficient for Sheriff and Code Enforcement staff to reference the operational conditions and requirements of a project that has received City Planning approvals. There are several significant problems with this approach.

The first problem is that if this is to be a standard practice for projects involving alcohol, amplified music, or live entertainment, then this requirement should be communicated to applicants prior to submittal of plans. Currently this requirement is not made known to applicants until they have gone through one round of DMT reviews. This requirement should be added to the submittal checklist and checked as required if it is applicable. Informing applicants of this requirement upfront and prior to submittal will save the applicant and staff a considerable amount of time.

The second problem is that once the applicant is informed of the requirement to submit a PSOR, there is no guidance given to the applicant as to the content or format of PSOR. In the case of the Publik House application, guidance as to content and format of the PSOR was not given until very late in the process. Only after the third round of DMT review was a PSOR template offered to the applicant.

Finally, the most serious problem with the PSOR is that it will not accomplish its intended purpose. In fact, it will make more work for the Sheriff's and Code Enforcement staff and make their enforcement activities not more but less efficient. You may ask, why is this? How can this be?

Over time, as a result of the development review process and good work by the City staff, Planning Commission and applicant teams, a high-quality mosaic of developments has been established in the City. This high-quality mosaic is measured in terms of form and function. Examples of high quality form is demonstrated by our great Spanish Colonial Revival architecture and quality landscape plans. Examples of thoughtful and efficient function include our considerations for placement of trash enclosures, parking, ADA access, etc.

Over time and having seen the benefits of this thoughtful development review process, the Sheriff's department and Code Enforcement, among others, have begun to add operational conditions to applications. Examples of these operational conditions include requiring alcohol beverage service training for employees, requirements for Security Personnel in certain circumstances, hours of operation for live entertainment, etc. The PSOR is meant to consolidate these operation conditions into one concise document. However there are several significant problems with this approach.

Many complaints regarding operational conditions occur at night. The Code Enforcement staff does not work 24/7 365 and is not available at night to enforce or even ascertain if certain conditions pertaining to a specific project are being met. The Sheriff's deputies have limited access and knowledge regarding specific conditions of approval which apply to specific projects. Therefore, the deputies cannot enforce conditions of approval.

Since applications for individual projects are processed over many years, conditions of approval regarding operational issues vary from project to project over that long time period. As a consequence, operational conditions are inconsistent from one property to the next. Even adjacent properties that have identical real life operations will have different conditions of approval concerning the operations of those properties. This makes it nearly impossible for Sheriff's deputies to enforce conditions that have to do with operations.

Suggestion:

The City should abandon efforts to apply operational conditions of approval, on a case-by-case basis as applications are made to the City. Instead the City should form a working group that will come up with general legislation that applies operational best practices across the board and consistently to all properties in the commercial districts. For example, all businesses that serve alcohol must provide training to servers, all live entertainment shall cease at 10 p.m., security personnel will be required when specific criteria are met (i.e. anticipated crowd levels). Previous conditions of approval having to do with operational issues will be superseded by the general legislation reviewed by the Planning Commission and adopted by the City Council.

Don,

So much for my observations about what is going on in the Boiler Room. To continue the analogy, all systems require periodic maintenance and replacement of obsolete parts. The development review process is generally achieving good results. My suggestions are meant as a checklist for ongoing maintenance and replacement of some parts.

See you on the pool deck

Jim

San Clemente Historical Society

“Forward with the Dream”

June 7, 2023

To: San Clemente Planning Commission

From: Larry Culbertson

Re: Zoning Amendment 22-366 – Zoning Permit Streamlining

Dear Planning Commissioners,

The Historical Society’s concern regarding Zoning Amendment 22-366 has not diminished since our letter of February 15. Despite city staff’s explanations, we believe that this Amendment would be a step backward in the long march toward providing protection for San Clemente’s historic resources and enhancing the village character we all cherish.

Of the 16 Proposed Permit Streamlining Items in Attachment 1 of the Staff Report, eight would affect historic resources or the projects within 300 feet of them. The effect would be less protection for those historic resources and the neighborhoods around them.

It is important to remember that our Municipal Code requires that we protect not only our historic resources, but also our entire city’s identity as a Spanish village. The following is Municipal Code 17.16.100.A.1.b.Cultural Heritage Permit Purpose and Intent.

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San Clemente Historical Society

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It is interesting how little interest the public has demonstrated for Streamlining. Over the past year, only two letters, your attachment 7, have been submitted. Neither was supportive of the proposed amendment. It would seem that no one is unhappy with the existing Zoning Code or decision-making process. Please, just leave it as be.

In closing, I urge you not to relinquish any of the decision-making responsibilities you have to staff. And to not downgrade the quality of protection afforded our historic resources in the existing Zoning Code.

Sincerely,
Larry Culbertson, President

Approvals:

City Manager CGDept. Head CDGAttorney JLFinance JL

AGENDA REPORT

SAN CLEMENTE CITY COUNCIL MEETING

Meeting Date: July 20, 2021

Department: Community Development
Prepared By: Cecilia Gallardo-Daly, Community Development Director

Subject: *CONSIDERATION OF ESTABLISHING AN APPEAL HEARING FEE*

Fiscal Impact: Yes. At this time, the cost for all unsuccessful appeals is covered by the appeal hearing fee deposit charged to the appellants. A change from a cost-recoverable deposit to a flat fee would result in a partial coverage of the City's costs to prepare and conduct an appeal hearing. The proposed appeal hearing fee would partially cover the costs to prepare and conduct an appeal hearing, resulting in the remaining costs to be covered by the City, whether or not an appellant is successful in their appeal. Based on the average City staff-time costs per hearing and the typical number of hearing requests received each year, the average yearly fiscal impact is estimated to be \$11,672.20, should all appeals result in a hearing.

Summary: Staff recommends that Council adopt a Resolution establishing an appeal hearing fee of \$500.

Background: On June 15, 2021, the City Council introduced Ordinance No. 1715 which eliminates the full cost recovery provisions of San Clemente Municipal Code (SCMC) Chapter 1.22 and provides instead for an appeal fee for unsuccessful appeals should the City Council establish a fee by resolution. The City Council, at that meeting, directed staff to provide a proposed resolution to establish a hearing fee for the Council's consideration at the time of the Ordinance No. 1715 second reading. The City Council expressed interest in a flat fee that is not burdensome for potential appellants, but also expressed concern with establishing a fee that is too low and would not allow the City to have some recovery of the true costs of preparing for and conducting the appeal hearing.

Discussion: The City is authorized to charge a fee that does not exceed the estimated reasonable costs of conducting an appeal hearing. Based on the appeals filed in the preceding three years, staff's average cost estimate to provide appeal hearings was \$1,667.22, with a lowest cost estimate of \$748.43. Due to the significantly varying complexity of appeal hearings and the staff time required to conduct them, determining a minimum set fee is challenging. Attachment 3 provides examples of staff's estimated hearing fees for two appeals. These examples provide an analysis of the costs of appeals while also demonstrating the variation in their complexity.

In order to offset some of the costs of conducting appeal hearings, while also ensuring that no appellants pay more than the potential minimum cost of a hearing, staff proposes a hearing fee of \$500. This amount would cover the minimum costs of the

contracted hearing officers' time and incidentals, such as the hearing officer's mileage costs, and materials and postage. This fee is based on the minimum amount of time a hearing officer would be required for any hearing, that being three hours. The City's contracts with hearing officers stipulate an hourly rate of \$150, and three hours of their time costs \$450. With mileage, materials, and postage costs typically about \$50, the total fee would be \$500. The proposed hearing fee will result in an average cost to the City of \$1,167.22 per hearing, the amount of the \$1,667.22 average hearing cost uncovered by the proposed hearing fee. The City typically receives about 10 appeal-hearing requests per year, which would amount to an average yearly fiscal impact of \$11,672.20 should all appeals result in a hearing.

Recommended**Action:**

STAFF RECOMMENDS THAT the City Council 1) adopt a Resolution entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, ESTABLISHING A FIXED FEE FOR APPEALS UNDER CHAPTER 1.22 OF THE SAN CLEMENTE MUNICIPAL CODE, and 2) adopt Ordinance No. 1715 entitled AN ORDINANCE OF THE CITY COUNCIL OF SAN CLEMENTE, CALIFORNIA AMENDING SAN CLEMENTE MUNICIPAL CODE CHAPTER 1.22 RELATING TO FEES FOR ADMINISTRATIVE HEARINGS AND APPEALS.

Attachments:

1. Resolution – Appeal Hearing Fee
2. Introduced Ordinance No. 1715
3. Fee Analysis – Two Estimated Hearing Fee Calculators
4. City Council Agenda Report dated June 15, 2021 and Ordinance No. 1715.

Notification:

None.



AGENDA REPORT

SAN CLEMENTE CITY COUNCIL MEETING
Meeting Date: June 15, 2021

Department: City Attorney
Community Development Department

Prepared By: Scott C. Smith, City Attorney
Cecilia Gallardo-Daly, Community Development Director

Subject: *CONSIDERATION OF AN ORDINANCE AMENDING SAN CLEMENTE MUNICIPAL CODE CHAPTER 1.22 TO SET A FIXED FEE FOR APPEALS AND ADMINISTRATIVE HEARINGS*

Fiscal Impact: The fiscal impact of this amendment is dependent upon the appeal hearing fee cost. At this time, the cost for all unsuccessful appeals is covered by the appeal hearing fees charged to the appellants. Any set appeal hearing fee that does not cover the cost of some or all hearings will have a negative impact on the City's finances, as those currently unbudgeted costs will then be paid for by the general fund.

Background: In 2018, the City Council amended Chapter 1.22 of the San Clemente Municipal Code ("SCMC") to authorize full recovery of costs of administrative hearings and appeals from individuals seeking those hearings and appeals ("appellants") when their appeals are unsuccessful. At its meeting on June 1, 2021, the City Council asked that staff prepare and present an ordinance repealing that full cost recovery and providing instead for a fixed fee.

Discussion: The current version of SCMC Chapter 1.22 contains basic provisions relating to fees for administrative hearings and appeals ("appeals"). Sections 1.22.010 through 1.22.030 provide for payment of the costs of unsuccessful appeals from unsuccessful appellants rather than coverage of them by the general fund. At its June 1, 2021 meeting, the City Council asked staff to return with (1) an ordinance amending Chapter 1.22 to provide instead that appeals be subject to a fixed fee, which would be recoverable by successful appellants, with the inclusion of a provision to allow a hardship waiver, and information on a fixed fee amount.

The attached draft Ordinance eliminates the full cost recovery provisions of Chapter 1.22 and provides instead for an appeal fee for unsuccessful appeals as set by resolution of the City Council. (The provisions of Section 1.22.040 providing for fee refunds from unsuccessful appellants are now consolidated into Section 1.22.020.) If Council were to introduce this draft Ordinance for first reading, it could simultaneously give instruction of what, if any appeals fee should follow. Staff could then prepare and notice a resolution adopting an appeals fee for subsequent Council consideration. The fee could be set to take effect concurrently with the effective date of the Ordinance. The remainder of

Chapter 1.22 would remain intact. The current information related to fees is based on the actual amount of fees collected for the cost of the appeal hearings held.

Appeal Hearing	Fee Collected
Highest appeal hearing fee collected	\$3,597.27
Lowest appeal hearing fee collected	\$1,614.37
Average of hearing fees collected	\$2,501.85

Appeals tend to involve complicated cases that require additional staff time for the preparation of the report and supporting documentation. In addition, the hearing may take up to a full day of staff and the Administrative Hearing Officer's time. Prior to the appeal hearing fee, the cost of the Administrative Hearing Officer was covered by the General Fund. The last budgeted amount for the hearings to cover the cost of the Administrative Hearing Officer was \$10,000. The consideration of a flat fee for an appeal hearing in the amount of \$250 to \$500 per appeal would likely not be cost recoverable. In comparison, the fee to appeal a Planning Permit by a hearing body is a flat fee of \$1,250.99.

Recommended

Actions: STAFF RECOMMENDS THAT the City Council:

1. Consider introducing for first reading an Ordinance entitled:

AN ORDINANCE OF THE CITY COUNCIL OF SAN CLEMENTE, CALIFORNIA AMENDING SAN CLEMENTE MUNICIPAL CODE CHAPTER 1.22 RELATING TO FEES FOR ADMINISTRATIVE HEARINGS AND APPEALS

2. Give staff direction on the possibility of bringing back a resolution establishing an appeals fee pursuant to this Ordinance.

Attachments: 1) Proposed Ordinance
2) Agenda Report from June 1, 2021



This Staff report from 2018 as provided as an historical reference from Council as it considers Agenda Item 9C relating to possible repeal of Ordinance No. 1655 that requires unsuccessful appellants to pay the hearing cost associated with Administrative Hearings.

AGENDA REPORT

SAN CLEMENTE CITY COUNCIL MEETING
Meeting Date: May 1, 2018

Agenda Item 9-A
 Approvals:
 City Manager [Signature]
 Dept. Head [Signature]
 Attorney [Signature]
 Finance [Signature]

Department: City Attorney
Prepared By: Scott Smith, City Attorney

Subject: ORDINANCE AMENDING MUNICIPAL CODE TO RECOVER COSTS OF ADMINISTRATIVE HEARINGS AND APPEALS

Fiscal Impact: If adopted, together with a resolution establishing reasonable fees, the City will be able to recover the costs associated with conducting administrative hearings and appeals in those cases where the City prevails in the proceeding.

Summary: Staff recommends that the City Council a) introduce the attached ordinance which authorizes the recovery of fees for administrative hearings and appeals, gives the City sole discretion to consolidate multiple administrative citation challenges by the same person into one hearing, limits the number of times a hearing may be continued, and makes some minor corrections to the code relating to administrative citations, and b) direct staff to notice a public hearing pursuant to Government Code Sections 66016 and 66018 to adopt a resolution establishing reasonable hearing fees.

Background: The City Manager requested that an ordinance be prepared to allow the City to recover the costs associated with conducting administrative hearings and appeals in those cases where the City prevails in the proceeding.

Discussion: Currently when the City conducts an administrative hearing or appeal, it bears the financial burden of processing and conducting these proceedings, including all staff time, materials and the fees and costs for a hearing officer, with the exception of hearings conducted pursuant to Municipal Code section 8.60.020 relating to shopping carts. Since these proceedings are typically initiated by persons seeking review of an administrative decision or challenging the imposition of a fine, the cost of the proceedings should be borne by such persons, unless they prevail in the proceeding.

New Chapter 1.22 provides that any person seeking an administrative hearing or filing an appeal under any provision of the Municipal Code shall be required to pay the costs associated with the hearing, and deposit those costs with the request for hearing/notice of appeal, unless such person prevails in the hearing/appeal. In the event that a person seeking the hearing or appeal prevails on some of the claims, it shall be responsible for only 1/2 of the costs.

In addition to the cost recovery provisions of new Chapter 1.22, the ordinance amends Municipal Code Section 1.20.080C to give the City sole discretion to

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consolidate challenges to multiple administrative citations by the same person into a single hearing, and limits the number of continuances that may be granted for administrative hearings and appeals, and make several other modifications in Chapter 1.20 to be consistent with the new provisions relating to cost recovery. The proposed ordinance also amends Section 1.20.080 relating to judicial review of administrative citations to correct a reference to the California Government Code and to update the address of the Orange County Superior Court where appeals from administrative citation determinations are filed.

Lastly, in order to comply with Government Code Sections 66016 and 66018, it is recommended that the City Council direct staff to provide notice for a public hearing to be held before the City Council to adopt, by resolution, the new fees for appeals, which will be on a time and materials recovery basis.

Recommended Action:

STAFF RECOMMENDS THAT the City Council a) introduce the attached ordinance which 1) adds a new Chapter 1.22 to the Municipal Code relating to fees for administrative hearings and appeals and 2) amends Section 1.20.080 relating to judicial review of administrative citations to correct a reference to the Government Code and update the address for the Orange County Superior Court, and b) direct staff to notice a public hearing pursuant to Government Code Sections 66016 and 66018 to establish reasonable hearing fees.

Attachments:

1. ORDINANCE NO. _____, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, ADDING A NEW CHAPTER 1.22 TO TITLE 1 OF THE SAN CLEMENTE MUNICIPAL CODE RELATING TO FEES FOR ADMINISTRATIVE HEARINGS AND APPEALS AND AMENDING SECTIONS 1.20.080 AND 1.20.090 OF CHAPTER 1.20 OF TITLE 1 OF THE MUNICIPAL CODE RELATING TO JUDICIAL REVIEW OF ADMINISTRATIVE CITATIONS.

Notification:

Notice of fee to be published as noted above.

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