



AGENDA REPORT

CITY OF SAN CLEMENTE

CITY COUNCIL MEETING

910 Calle Negocio
2nd Floor
San Clemente, California
www.san-clemente.org

Meeting Date: September 17, 2024

Agenda Item: 10D

Submitted By: Community Development

Prepared By: Andy Hall, City Manager

Adam Ataman, Community Development Director

Subject:

CONSIDERATION OF A RESOLUTION TO INITIATE A ZONING AMENDMENT TO THE SAN CLEMENTE MUNICIPAL CODE TO ENHANCE DEVELOPMENT STANDARDS RELATED TO VISITOR-SERVING COMMERCIAL USES TO ENCOURAGE DEVELOPMENT THAT SUPPORTS THE ECONOMIC DEVELOPMENT GOALS OF THE GENERAL PLAN

Fiscal Impact:

There are fiscal impacts resulting from the cost for staff to draft an ordinance, and process an amendment through the Planning Commission prior to its return for City Council consideration. Drafting an ordinance will involve costs for staff and legal counsel time, and required California Environmental Quality Act (CEQA) review, and such costs are estimated to be approximately \$55,000. As part of the recommended actions, staff requests a supplemental appropriation to General Fund account #001-433-43890.

Summary:

For the City Council's consideration, staff presents a resolution directing staff to initiate an amendment to San Clemente Municipal Code (SCMC) Title 17, Zoning ("Zoning Ordinance"), to enhance development standards related to visitor-serving commercial uses, including roof-top decks, and other accessory structures. The purpose of this amendment is to encourage commercial development that supports the economic development goals of the General Plan in certain areas where it can be demonstrated that such enhanced development would not have significant, negative impacts on residential neighborhoods. From various communications from individual City Council members, staff understands there is a desire from at least some of the City Council to better incentivize certain visitor-serving, commercial projects to achieve the City's economic development goals. Staff has taken such communicated City Council desires and provided one potential example of enhanced zoning regulations, included as Attachment 2, and seeks City Council direction to clarify desired outcomes of such an amendment and inform the process moving forward.

Background:

San Clemente's existing regulations, outlined in the City's Zoning Ordinance, govern the use and development standards applicable within certain zones, including areas regulated by the City's various specific plans. These development standards are designed to achieve the goals of future development described in the City's General Plan. These goals include the preservation and enhancement of existing residential neighborhoods, the preservation of the City's historic resources, encouraging vibrant and distinct commercial and mixed-use areas, architectural consistency and compatibility of in-fill development within existing developed areas, to name a

few. Along with these development goals, the General Plan also includes policies to encourage economic development that is integrated within the existing business landscape and provides vitality to the business community.

Specific policies contained within the General Plan require the City to investigate the possibility to create new initiatives to achieve unmet General Plan goals. One such example is Economic Development Policy ED-3.03, Fiscal Benefits, which states: “We continuously seek ways to increase the net fiscal benefits from tourism and to efficiently allocate revenues to implement the economic development strategy.”

Additionally, Policy ED-4.05, Marblehead Coastal, states: “We require initiatives, investments, and development approvals for the Marblehead Coastal commercial area to contribute to the vision of the area as the primary shopping destination for regional and national chain retailers with lodging and restaurants that attract local and regional shoppers. If the Marblehead Coastal Development Plan is not realized by the expiration date specified in the Development Agreement, the City will initiate a new planning process for the area.” While the Development Agreement remains vested, this area’s development has been halted by changing economic conditions that could reasonably be determined to require new initiatives to achieve the General Plan’s unmet goals.

Furthermore, over the past few years, there have been a number of commercial projects that demonstrated a need to continually investigate the possibility of amending the Zoning Ordinance to reduce uncertainty for developers and streamline the zoning-permitting process. Such amendments could be tailored to better facilitate and encourage certain amenities that will foster responsible and beneficial commercial development. Potential amendments would also provide more clarity of allowable features, helping to reduce trepidation for those interested in investing in the community. This would be especially suited for commercial developments that are designed to avoid adverse impacts on existing residential neighborhoods.

Discussion:

Staff has considered the necessary components of an amendment to the Zoning Ordinance to achieve the City Council’s communicated desires to encourage and foster economically-beneficial, visitor-serving, commercial development. Specifically, staff recommends a new Zoning Overlay District to accomplish the City Council’s desires. Such Overlay District could include the following parameters, which are more fully described in Attachment 2:

- **Applicability:** The provisions proposed would apply to properties on the west side of Interstate 5 in proximity to the Vista Hermosa Freeway Interchange (VHFI) that are outside of the Coastal Zone.
- **Project Enhancements:** Allow for enhancements of certain regulations contained in the underlying zoning and specific plan, to include:
 - Expedited City-permit processing
 - Additional directional signage to ensure efficient traffic circulation
 - Reduced building setbacks, when necessary to improve vehicle circulation
 - Roof-top decks and patios exceeding underlying height limits

- Sound walls and noise attenuation devices to reduce impacts from freeway noise and dust on applicable commercial projects.

Other options are available, as well, which staff has reviewed and determined to be less optimal at timely achieving the City Council's desires. These options include a Zoning Amendment to SCMC Chapter 17.24, General Development Standards, which would make such enhancements applicable City-wide in applicable districts. For this, and other similar, types of amendments, the environmental review process would be extended to encompass the additional review required. Additionally, more time would be required to identify strategies to ensure that City-wide regulations would not inadvertently apply to areas that have the potential to create adverse impacts on neighboring residential areas or negatively impact adjacent businesses.

After City Council initiation, staff will develop the requested amendment. The Planning Commission will review the proposed amendment and provide a recommendation to the City Council. The City Council will be the final hearing body for the Zoning Amendment.

Council Options:

- Adopt Resolution No. 24-144 to initiate a zoning amendment to enhance development standards related to visitor-serving commercial uses, including roof-top decks, and other accessory structures, to encourage development that supports the economic development goals of the General Plan in certain areas that can be demonstrated to have a low-impact on residential neighborhoods.
- Modify and then adopt Resolution No. 24-144. Modification could include directing staff to draft an amendment that applies to areas beyond the VHFI, or specifies fewer or more development enhancements.
- Continue the item with the direction to staff to provide additional information.
- Do not approve Resolution No. 24-144. This action will result in no new ordinance being drafted to enhance and encourage visitor-serving commercial development, thereby leaving existing SCMC provisions in place unamended.

Environmental Review/Analysis:

The initiation of an amendment of an ordinance does not qualify as a "project" under the California Environmental Quality Act (CEQA) because it only involves the work of staff to draft such an ordinance for future City Council consideration and has no potential to result in either a direct, or reasonably foreseeable indirect, physical change in the environment (State CEQA Guidelines, § 15378, subd. (a)). The action merely provides approval to allocate staff time to draft a potential ordinance, and does not introduce any new activities or changes that could affect the environment. The proposed ordinance itself after being drafted would go through the appropriate environmental review.

However, if the attached resolution is approved, staff would be required to conduct an environmental assessment under CEQA and such final determination would be made by the City Council upon consideration of the proposed zoning amendment. It is not clear at this time what

type of CEQA document would be required, as that will be a function of City Council's direction on how to proceed with the proposed project.

Recommended Actions:

STAFF RECOMMENDS that the City Council adopt Resolution No. 24-144, which would direct staff to do the following:

1. Initiate an amendment to the Zoning Ordinance to establish enhanced development standards related to visitor-serving commercial uses, including roof-top decks, and other accessory structures, to encourage development that supports the economic development goals of the General Plan in certain areas that can be demonstrated to have a low-impact on residential neighborhoods; and
2. Authorize a supplemental appropriation from General Fund unassigned fund balance to account #001-433-43890 (other contractual services) for \$55,000 to cover the costs for staff and legal counsel review, and processing of required CEQA analysis.

Attachments:

1. Proposed Resolution No. 24-144
2. Example Zoning Amendment, new SCMC Overlay District Chapter 17.56.130

Notification:

None.

ATTACHMENT 1

RESOLUTION NO. 24-144

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, TO INITIATE AN ORDINANCE TO AMEND THE SAN CLEMENTE MUNICIPAL CODE TO ENHANCE DEVELOPMENT STANDARDS RELATED TO VISITOR-SERVING COMMERCIAL USES, INCLUDING ROOF-TOP DECKS, AND OTHER ACCESSORY STRUCTURES, TO ENCOURAGE DEVELOPMENT THAT SUPPORTS THE ECONOMIC DEVELOPMENT GOALS OF THE GENERAL PLAN

WHEREAS, San Clemente's land development regulations, specified in the San Clemente Municipal Code, Chapter 17, Zoning, govern the use and development standards applicable within certain zones, including areas regulated by the City's various specific plans, and are designed to achieve the goals of future development described in the City's General Plan; and

WHEREAS, the goals of the City's General Plan include the preservation and enhancement of existing residential neighborhoods, the preservation of the City's historic resources, encouraging vibrant and distinct commercial and mixed-use areas, architectural consistency and compatibility of in-fill development within existing developed areas, among others; and

WHEREAS, the City's General Plan includes Economic Development Policy ED-3.03, Fiscal Benefits, which states: "We continuously seek ways to increase the net fiscal benefits from tourism and to efficiently allocate revenues to implement the economic development strategy"; and

WHEREAS, the City's General Plan includes Economic Development Policy ED-4.05, Marblehead Coastal, states: "We require initiatives, investments, and development approvals for the Marblehead Coastal commercial area to contribute to the vision of the area as the primary shopping destination for regional and national chain retailers with lodging and restaurants that attract local and regional shoppers. If the Marblehead Coastal Development Plan is not realized by the expiration date specified in the Development Agreement, the City will initiate a new planning process for the area." While the Development Agreement remains vested, this area's development has been halted by changing economic conditions, which are determined to require new initiatives to achieve the General Plan's unmet goals; and

WHEREAS, the City Council desires to better incentivize certain visitor-serving, commercial projects to achieve the City's economic development goals by enhancing development standards related to visitor-serving commercial uses, including roof-top decks, and other accessory structures.

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

Section 1. That the above recitations are true and correct and incorporated fully herein.

Section 2. That the City Council hereby directs staff to initiate an ordinance to amend the San Clemente Municipal Code to establish enhanced development standards related to visitor-serving commercial uses, including roof-top decks, and other accessory structures, to encourage development that supports the economic development goals of the General Plan in certain areas that can be demonstrated to have a low-impact on residential neighborhoods, in a fashion similar to that provided in Attachment 2 of the Agenda Report, entitled, "CONSIDERATION OF A RESOLUTION TO INITIATE A ZONING AMENDMENT TO THE SAN CLEMENTE MUNICIPAL CODE TO ENHANCE DEVELOPMENT STANDARDS RELATED TO VISITOR-SERVING COMMERCIAL USES, INCLUDING ROOF-TOP DECKS, AND OTHER ACCESSORY STRUCTURES, TO ENCOURAGE DEVELOPMENT THAT SUPPORTS THE ECONOMIC DEVELOPMENT GOALS OF THE GENERAL PLAN," dated September 17, 2024.

Section 3. That the City Council hereby directs staff conduct the appropriate environmental review pursuant to the California Environmental Quality Act (CEQA).

Section 4. That the City Council hereby authorizes and directs staff to make a supplemental appropriation to General Fund account #001-433-43890 for \$55,000 to cover the costs for staff and legal counsel review, and processing of required CEQA analysis.

Section 5. That 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 _____, 2024.

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. 24-144 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

17.56.130 – Vista Hermosa Freeway Interchange [VHFI] Overlay.

A. Purpose and Intent. It is the purpose and intent of the Vista Hermosa Freeway Interchange (VHFI) Overlay to encourage the most effective use of uniquely situated commercial property in a manner that allows development projects to take advantage of a prime location to realize an economic return that will benefit the entire community without significant impacts on surrounding properties.

B. Applicability. The provisions in this section apply to properties on the west side of Interstate 5 in proximity to the VHFI, as indicated on the map below. These provisions are intended to complement and enhance the underlying zoning and Marblehead Coastal Specific Plan. If there is conflict between this Overlay Zone and any other provision of the San Clemente Municipal Code, Zoning Ordinance or Specific Plan, the provisions of this Overlay Zone shall prevail to the extent that they are consistent with the General Plan. Except as specifically indicated herein, all other provisions of the San Clemente Municipal Code, General Plan, Zoning Ordinance, or Specific Plan shall apply.

C. Project Enhancements Allowed. The following project enhancements are expressly allowed in the VHFI Overlay and only in the manner provided below:

1. Expedited Processing. Successful commercial projects in the VHFI Overlay area will benefit the entire community through revenue generation that can be used to provide public safety services, maintenance of community resources, and economic development support. Therefore, project applications in the VHFI Overlay area will be given high priority by staff and scheduling priority by the Planning Commission or any other body reviewing the application.

2. Directional Signage. In addition to allowable project signage, projects in the VHFI Overlay area will be allowed to provide additional signage deemed necessary for efficient traffic circulation in the high traffic area of a freeway interchange. This enhancement is intended to improve traffic safety and circulation and the request for additional signage should demonstrate how the signage will achieve the intended purpose.

3. Location Specific Enhancements. The property in the VHFI Overlay area is ideally situated near a freeway interchange, in the proximity of a large commercial center (The Outlets at San Clemente), with potential ocean views, and high traffic volumes. These attributes, when properly incorporated into project development, can create project interest, viability, and sustainability. To capitalize on these attributes, the following enhancements are specifically allowed in the VHFI Overlay area:

a. Reduced Set Backs. Site design near freeway interchanges is complex. In order to properly accommodate traffic patterns, improve the safety of pedestrian facilities, and expand vehicular site lines, the placement of structures on the site is critical. Projects in the VHFI Overlay area can be modified when it can be demonstrated that reduced setbacks can improve the overall site design.

b. Roof top decks and patios. Structures in the VHFI Overlay area may implement a roof top deck or patio that exceeds the allowable building height provided the following regulations are satisfied:

- The surface on which the roof top deck or patio is situated must be in compliance with all other height requirements of the underlying zoning district or Specific Plan.

- The roof top deck or patio may not be enclosed, except that an enclosed kitchen or bar area may be allowed that is demonstrated to be no larger than necessary to serve the roof top deck or patio area; an elevator shaft providing access to the roof top deck or patio may be enclosed; and bathrooms no larger than necessary to serve the roof top deck or patio area may be enclosed.
- All enclosed areas allowed above must incorporate the architectural features employed in the remainder of the building.
- A roof top deck or patio must be situated in a manner that allows the intended locational enhancement, such as ocean views, that will minimize impacts on surrounding properties. In other words, the rooftop deck or patio shall be placed on the western side of the structure with views toward the ocean.

c. **Sound walls and Noise Attenuation.** Projects near interstate freeways are often subjected to noise, dust and other impediments associated with their location near major roadways. Projects in the HVFI Overlay area are eligible to propose sound walls or other attractive barriers that are consistent and complementary to the primary structures within the project.