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VIA ELECTRONIC MAIL ONLY

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**Re: The Hotel Clemente Approval and Appeal
File No. 575-23916**

Dear Councilors:

My firm has been retained by Jorge Alvarez to represent his interests as it regards the Hotel Clemente and Loretta's Restaurant and the approval of the new construction by the City of San Clemente Planning Commission. The purpose of this correspondence is to address some issues that we believe require the denial of the current application due to deficiencies in that application.

The Staff Report submitted for the San Clemente Planning Commission regarding the Hotel Clemente and Loretta's Restaurant (the "Project") recommends that the Planning Commission shall determine that the Project is exempt from the CEQA requirements because it qualifies under Section 15331, Section 15332, or Section 15301. None of these exemptions apply.

Section 15331 allows for an exemption from the CEQA process where the project is "limited to the maintenance, repair, stabilization, rehabilitation, restoration, preservation, conservation or reconstruction of historical resources in a manner consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties". Here, this

is not a project limited as required to meet the stated exemption. Rather, the Project is a substantial addition; the construction of two entirely new buildings with a hotel and restaurant. The historical nature of the existing structure is merely a vehicle that the developer is using to avoid the CEQA requirements. As everyone is well aware, the existing structure is a two-story building totaling less than three thousand square feet. The proposed new construction is a two-story building with a rooftop patio and elevator towers on the third floor with a separate structure that includes parking which totals more than twenty seven thousand square feet. This is not a project limited to repairing, restoring or preserving the historical resource. Rather, it is a completely new construction that is almost ten times bigger than the existing structure that has been grafted onto the historical building in order to avoid the appropriate CEQA review. This is categorically improper under Section 15331.

Even if the Project could come under Section 15331's exemptions, the Section 15300.2 exceptions foreclose that option. Pursuant to Section 15300.2(f), the historical resource exemption "shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource". Here, the Antoinette Apartments will be overtaken by the Hotel Clemente entirely. The design relegates the Antoinette Apartments to a back corner hidden behind the massive hotel structure, a substantial adverse change in its significance as a historical resource.

Instead of the Antoinette Apartments being a historical resource, the Hotel Clemente will be the main focal point. This is even reflected in the Historical Resource Analysis Report which states that the "new building will annex the historic building". Contrary to the conclusions offered in that report, the addition of the new building and connection to the historic building will "create a false sense of historical development" and drastically and adversely impact the significance of the historical resource. This false sense of historical development created by the hotel building and its direct connection *through* the Antoinette Apartments violates the Secretary of Interior's Standards for Rehabilitation. As stated in those standards, "Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, **shall not be undertaken.**" One would expect that the Historical Resource Analysis Report would attempt to address this glaring issue with an explanation as to why the construction of the entirely new hotel and the three new connection points through the historic structure created with the removal of the existing wall on the left elevation.

As set forth in the Department of the Interior's explanation of the building standards, the new additions shall not overpower the historical integrity of the property and its environment and "should always be subordinate to the historic building". The design of the Project creates two new buildings which are be design not subordinate to the historic building. Rather, the historic building is but an annex to the new additions. These new additions are taller and immensely larger than the Antoinette Apartments; they are in no way subordinate to the historic building. Using the historic structure exemption to avoid

CEQA review is an attempt to put a square peg in a round hole. The project simply does not fit the Standards for Rehabilitation in order to invoke the exemption. As a result, the Project should be required to go through the CEQA process including the preparation of the requisite environmental impact report.

Section 15332 allows for “In-Fill Development Projects” to be excluded from CEQA. In order for this exclusion to be applied, the Project must “not result in any significant effects relating to traffic, noise, air quality, or water quality.” This exclusion has no application here. The very fact that the Planning Commission required a traffic and parking study demonstrates that the project will have significant effects related to traffic and parking.

The parking study itself is materially deficient in numerous ways. It attempts to use a completely distinguishable hotel in Manhattan Beach as the standard for traffic patterns and parking in the surrounding area in San Clemente. However, the hotel used for that comparison is located in a built-up area without substantial residential development. There are nearby public parking structures (including a three story public parking structure less than one block from that hotel) and not homes which require street parking for residents. Similarly, the LAX airport is nearby and it is likely that many hotel guests would be able to utilize public transportation and taxis / rideshares when visiting the area.

This area of San Clemente has none of those characteristics. There are not nearby parking structures, the residents park on the street (which is already substantially impacted), and there is not a local international airport where visitors can take public transportation. Further, the very nature of San Clemente and its tourist attractions will force hotel guests to either drive or rent their own cars. There is simply not the public transportation options and local attractions that exist in the LAX area. While the developers focus on Avenida Del Mar, the proposed project connects all the way through to Avenida Granada, which is a residential street with numerous homes that will be impacted by the increased parking requirements necessitated by the Hotel Clemente’s 28 rooms and 130 seat restaurant. This does not even include the event spaces and rooftop patio that the Hotel Clemente will offer to its customers. When the Hotel Clemente hosts a wedding, where will all the guests park? These simple facts highlight yet more issues with the parking and traffic study and undermine the conclusion that the “Project will not result in any significant effects relating to traffic, noise, air quality, or water quality.”

According to that study, the Hotel Clemente will only need 36 parking spaces. These spaces were calculated based on 28 guest rooms, 130 seats in the restaurant, and 6-12 employees. While the requirement of only 36 parking spaces for the 28 guest rooms results in slightly more than one parking space per room, it completely discounts the restaurant capacity as well as the employees that will be needed to operate the hotel and restaurant. In this regard, the 6-12 employee estimate is farcical. A restaurant with a capacity of 130 seats will require far more than twelve employees to operate at any given

time. An appropriate number for staffing is likely more than triple that estimate. Similarly, the operating staff of a hotel with 28 rooms will be more than just one manager and one front desk employee, with cleaning, maintenance, security, and event staff. And these figures do not even include the valet parking staff that will be required to find parking spots for all of the guests of the hotel, restaurant, bar, and event spaces. To put it succinctly, the parking analysis does not pass the smell test and should not have been relied on as the basis for a CEQA exemption.

As it regards noise, the proposed Project includes a rooftop deck, a restaurant, a hotel bar, and an outdoor patio along with the delivery trucks and patrons that come with those additions. These create significant effects related to noise that will substantially change the nature of the surrounding area, which consists primarily of residences. As designed, the Hotel Clemente will result in loud parties, delivery trucks, and traffic backups on both Avenida Del Mar and Avenida Granada. To accommodate even the limited parking called for by the Project, the developers have relied on car lifts that will also increase the noise in the surrounding areas. These are substantial issues which are ignored in the analysis relied on by the Planning Commission in deciding the Project is exempt from CEQA. The Planning Commission instead focus on limiting the amount of amplified noise and requiring a fountain be added. Yet again, the real issues are ignored and brushed under the rug as simply unimportant.

In order for the Planning Commission to utilize this exclusion, the Planning Commission must have relied on substantial evidence to make its decision. In this regard, the evidence that has been submitted demonstrates that there are substantial and significant effects related to traffic and noise. The Planning Commission decision to exempt the Project from the CEQA process ignores all of these issues and simply

There was also a reference to using the Section 15301 exclusion, however, that section is limited by its very terms and is only applicable where there is “no expansion of existing or former use”. This Project is clearly an expansion of the existing use and this exclusion is completely inapplicable.

Here, the Project does not fit any of the proposed exclusions and the developer must be required to go through the CEQA process and obtain the necessary impact reports. The attempt to shoehorn the Project into exemptions that do not fit are inappropriate and will likely be the subject of litigation should this Project be approved as currently proposed.

Which begs the question, why is this Project not going through the CEQA process? The developer is seeking to drastically change the nature of the community by taking a historic building and grafting a massive hotel onto its side. While the Project may bring additional revenue to the City of San Clemente, that revenue should not blind the City of San Clemente to the potential pitfalls of this construction and the impact it will have on the community.

City of San Clemente
October 14, 2024
Page 5

The CEQA process is not the rejection of the Project as a whole. If the developer wishes to construct the Hotel Clemente it should go through the proper stages of development and not sidestep those requirements. As the exemptions are inapplicable and the exceptions foreclose those exemptions, the Project should not be approved until after the developer has gone through the process mandated by CEQA, including the submission of the required Environmental Impact Report.

Should you require any additional information regarding the foregoing, we would be happy to accommodate your requests were possible.

Sincerely,

MURTAUGH TREGLIA STERN & DEILY LLP

A handwritten signature in blue ink, appearing to read 'Mark L. Armstrong', with a long horizontal flourish extending to the right.

Mark L. Armstrong

MLA:df