



Agenda Item 7-A
Approvals:
 City Manager [Signature]
 Dept. Head [Signature]
 Attorney _____
 Finance _____

AGENDA REPORT
SAN CLEMENTE CITY COUNCIL MEETING
 Meeting Date: March 19, 2013

Department: Community Development
Prepared By: Christopher Wright, Associate Planner *CW*

Subject: *STREAMLINING CONDOMINIUM MAP PROCESS*

Summary: This is a request to consider amendments to Title 16 "Subdivisions" of the Municipal Code. The Planning Commission recommends the City Council consider amendments that would:

1. Streamline tentative parcel and tract map procedures for subdivisions that convert apartments into condominiums and that subdivide the airspace of new buildings to allow for various forms of property ownership, such as condominiums, time shares, stock cooperatives, community apartments, etc. These subdivisions are referred to as "condominium maps" in this report. The review process would not change for land subdivisions (e.g. split one lot into two parcels so two houses may be built instead of one).
2. Reduce the Tentative Parcel Map fee for condominium maps.
3. Make minor clean up edits (e.g. fix broken text references).

BACKGROUND

The City Council initiated the amendments on May 15, 2012. This action was taken to improve customer service. The proposed amendments are the next phase of a larger project to expedite permit procedures in instances where it is reasonable to make decisions at a lower level.

On February 20, 2013, the Planning Commission recommended the Council adopt the draft ordinance (Attachment 1). Refer to Attachment 5 for Commission meeting minutes. The Commission made minor changes to the ordinance in response to a public comment letter provided as Attachment 6. The changes are identified in the minutes. Since the Commission meeting, staff corrected time extension procedures to be consistent with State law.

Streamlined review process overview

City permit applications should be decided at the lowest public hearing level able to address the typical amount of public concern for a request. The City Council often approves condominium maps without debate, questions, issues of concern, or public testimony. That said, staff believes it is appropriate for the Zoning Administrator to take final action on Tentative Parcel Maps (subdivision of four or fewer units). Tentative Tract Map applications are more likely to have site plan issues than parcel maps because five or more units are

involved. As a result, there is a greater potential for the public to have concerns with these requests. Therefore, staff recommends for the Planning Commission to take final action on tract maps. The City Council or and public would have the opportunity to appeal decisions. If these changes are made, the number of required public hearings would be reduced from two to one. In doing this, the review process would be reduced from three and one-half months to about two months (from the date a complete application is received).

What is the current review process for subdivisions?

The subdivision review process has three main steps: the tentative map, final map, and recording subdivisions with the county recorder's office. The tentative map step is required to ensure a subdivision meets requirements of the State Subdivision Map Act and the Municipal Code. If a subdivision meets requirements, they may be approved or approved with conditions. State law requires a Tentative Parcel Map to subdivide four or less units and requires a Tentative Tract Map to subdivide five or more units. The final map is the second step in the process. The final map is required to ensure the legal description and other technical documents are accurate and in compliance with regulations. This must be done before a map can be recorded with the county. The draft ordinance streamlines the tentative map part of the review process. The tentative map review process involves three steps:

1. *Development Management Team review.* The Development Management Team (DMT) reviews applications to determine whether they comply with City regulations and the Subdivisions Map Act. The DMT recommends conditions of approval for the Commission and Council to consider.
2. *Planning Commission hearing.* The Planning Commission serves as an advisory committee that reviews applications and forwards a recommendation to the Council.
3. *City Council hearing.* The City Council considers the Planning Commission's recommendation, public testimony, and then makes a decision.

ANALYSIS

The staff's Continual Improvement Team (CIT) researched the procedures of 17 California cities and found the majority have a more streamlined process than San Clemente. In these instances, the Planning Commission, Zoning Administrator, or lower level of approval authority is involved. Table 1 summarizes code sections that would be amended, explains proposed changes, and refers to Sections of Attachment 3 where amendments are shown in track changes.

Table 1 – Proposed Title 16 Municipal Code Amendments

Proposed amendment	Explanation/Comments
Amend Chapter 16.04 “General provisions.” See Sections 1-7 of Attachment 3.	Main changes are: a) clarifies responsibilities of review authorities like the City Council (“CC”), b) clarifies appeal procedures, c) expands responsibilities of Zoning Administrator (“ZA”) and Planning Commission (“PC”) on condominium maps; and related requests like changes to condition of approval, d) defines terms, and e) clarifies public hearing notification standards based on Zoning Ordinance text.
Amend Chapter 16.08 “Tentative Parcel Map” and Chapter 16.12 “Tentative Tract Map.” See Sections 8-14 of Attachment 3.	Main changes are: a) updates Tentative Parcel Map procedures to reflect new ZA and PC approval authority, b) clarifies findings required by state law, and) makes time extension procedures consistent with the Zoning Ordinance process streamlined by the Council in 2011.
Amends Chapter 16.16 “Final Tract and Parcel Map.” See Section 15 of Attachment 3.	Changes term “Subdivision Committee” to Development Management Team. A “Subdivision Committee” does not exist.
Amends Chapter 16.28 “Design standards”, and 16.40 “Condo Conversions.” See Sections 16 to 20 of Attachment 3.	Main changes are: a) replaces PC and CC references with a general term “decision making authority”, where the review process for condominium maps differs from other subdivisions, and b) refers to new Section 16.04.015 where the “decision making authority” is identified.

Fees

The purpose of application fees is to recover the cost of processing applications so the General Fund, and more importantly tax payers, do not bear the expense of processing development projects. The Finance Department does periodic accounting studies of costs associated with processing applications. With this information, the Council makes a policy decision regarding how much money should be recovered for each type of permit. The Council previously determined tentative parcel and tract map costs should be fully recovered.

The fee schedule requires flat fees for Tentative Parcel Maps (four or fewer units) and a deposit account for Tentative Tract Maps (five or more units). The streamlined review process will reduce expenses by \$881 or 28 percent for Parcel Map reviews. For both Parcel Maps and Tract Maps, the number of hearings would be reduced from two to one so there

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would be less time spent writing reports, posting public notices, and giving presentations. An analysis of the costs is provided as Attachment 4. The Tentative Parcel Map fee can be reduced because the costs associated with processing these applications will go down due to the streamlined process. The existing and proposed fees are summarized below:

Table 2 – Existing and proposed fees

Type of request	Existing fee	Proposed fee
Tentative Parcel Map	\$3,170 per map plus \$53 imaging fee	\$2,289 per map (28% reduction) plus \$53 imaging fee
Tentative Tract Map	Deposit account determined by staff with charges at hourly rates	No change. Continue to require a deposit account; however, refunds are more likely to occur since less deposit account funds should be used

Recommended Action:

THE PLANNING COMMISSION RECOMMENDS THAT the City Council:

1. Adopt an Ordinance (Attachment 1) amending Title 16 of the City of San Clemente Municipal Code to reduce time required to process tentative maps for building airspace subdivisions; and
2. Adopt a Resolution (Attachment 2) reducing the fee of a Tentative Parcel Map for building airspace subdivisions.

Fiscal Impact:

The streamlined process is cost/revenue neutral. The application revenue will do down to reflect a reduction in processing time and expenses. A higher volume of applications may be the result of the streamlined process.

Attachments:

1. Draft Ordinance
Exhibit A – Title 16 Municipal Code amendments
2. Resolution adopting new fee structure
3. Title 16 SCMC amendments in track changes format
4. Cost analysis
5. Planning Commission hearing minutes - February 20, 2013
6. Public comments

Notification:

L. Sue Loftin, Esq., Joe Bulwa

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ATTACHMENT 1

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AMENDING TITLE 16 OF THE MUNICIPAL CODE TO STREAMLINE SUBDIVISION REVIEW PROCEDURES FOR CONDOMINIUMS, CONDOMINIUM CONVERSIONS, TIME SHARES, COMMUNITY APARTMENTS, AND STOCK COOPERATIVES

WHEREAS, on May 15, 2012, the City Council initiated Municipal Code amendments to streamline the subdivision review process for condominiums, condominium conversions, and other options for property ownership, such as time shares, community apartments, and stock cooperatives; and

WHEREAS, the existing review process involves a Planning Commission recommendation to the City Council and a City Council decision. This ordinance makes it so Zoning Administrator approval is required to subdivide four or fewer units, and Planning Commission approval is required to subdivide five or more units; and

WHEREAS, the City's Development Management Team reviewed the application for consistency with the General Plan and other applicable requirements; and

WHEREAS, the proposed code amendments are not defined as a project pursuant to California Environmental Quality Act (CEQA) Guidelines Section 21065, therefore the request is not subject to CEQA; and

WHEREAS, on February 6, 2013, the Planning Commission reviewed the proposed amendments and recommended the Council adopt this ordinance; and

WHEREAS, on March 19, 2013, the City Council held a duly noticed public hearing on the subject application, and considered evidence presented by City staff, the applicant, and other interested parties; and

NOW, THEREFORE, the City Council of the City of San Clemente, California, hereby ordains as follows:

Section 1: The City Council adopts the ordinance, amending Title 16 of the Municipal Code as shown on Exhibit A.

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Section 2: The City Clerk shall certify to the passage of this ordinance and cause the same to be published as required by law, and the same shall take effect as provided by law.

APPROVED AND ADOPTED this ____ day of _____, _____.

ATTEST:

City Clerk of the City of
San Clemente, California

Mayor of the City of San
Clemente, California

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STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss.
CITY OF SAN CLEMENTE)

I, JOANNE BAADE, 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:

CITY ATTORNEY

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Section 1: The section index of Municipal Code Chapter 16.04, "General provisions and administration", is hereby amended as follows:

Sections:

- 16.04.010 - General provisions.
- 16.04.015 - Advisory Agency and Review Authorities.
- 16.04.020 - Definitions.
- 16.04.040 - Taxes and assessments.

Section 2: Municipal Code Chapter 16.04.010 is hereby amended as follows:

16.04.010 - General provisions.

A. Local Regulations. Pursuant to the provisions of the Subdivision Map Act and in addition to any regulations provided by law, the regulations contained in this code shall apply to all subdivisions within the incorporated territory of the City.

B. Public Hearing Notification.

1. **Purpose.** This section defines procedures 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.
2. **Notice of Public Hearings.** 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. 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:
 - a. **Publication.** Publication in a newspaper of general circulation in the City of San Clemente.
 - b. **Mailing.** Mailing a notice of the time, place and purpose of such hearing to all of the following:
 - i. Required property owners.
 - ii. 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.

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- iii. Persons requesting notice.
- iv. Owners of property within 300 feet of the exterior boundaries of the subject property (radius of notice). The City may place a one-eighth page ad (or larger) in at least one newspaper of general circulation in lieu of mailing notices to property owners required by this subsection, provided that there are greater than 1,000 owners of property within 300 feet of the subject site. The notice must be displayed in the newspaper at least 10 days prior to the hearing.

- c. 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.

3. Affidavit of Mailing, Publication and/or Posting. Once a notice of public hearing has been given, in accordance with subsection 2 of 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 shall be responsible for the affidavit of mailing and publication if the hearing is held by the Zoning Administrator or Planning Commission. The City Clerk shall be responsible for the affidavit of mailing and publication if the hearing is held by the City Council.
- b. Posting. The City Planner shall be responsible for the affidavit of posting. If the hearing is held by the Zoning Administrator or Planning Commission. The City Clerk 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. General Plan Consistency. Tentative maps shall be consistent with all elements of the San Clemente General Plan and any applicable specific plan. The Director shall determine if tentative map applications are consistent with the General Plan and applicable specific plans. If found inconsistent, the subdivider may appeal the Director's determination to the Planning Commission. In this instance, the Planning Commission's determination shall be binding on the decision making authority designated for the tentative map (specified in Section 16.04.015)

D. Modifications.

- 1. Whenever the land involved in a subdivision is of such size or shape, or is subject to such title limitation of record, or is affected by such topographical location or conditions, or is to be devoted to such use, or is subject to such regulations by the Zoning Code that it is impractical in

the particular case to conform to the strict application of the requirements of this chapter, the advisory agency may make such modifications thereof as are reasonably necessary or expedient; provided, that the modification is in conformity with the City's General Plan and with the spirit and intent of the Subdivision Map Act and of this Chapter; and provided further, that the Planning Director transmits, with the recommendation of the tentative map of the subdivision to the City Council, a report in writing setting forth each modification allowed and the facts relied upon by the advisory agency for the allowance of the modification.

2. When a conditional use permit has been granted for a planned residential development in any district and such development is subdivided, exceptions to certain subdivision standards, in addition to those exceptions which may be authorized pursuant to subsection (D)(1) of this section, may be recommended by the Planning Commission and authorized by the City Council as follows:
 - a. Exceptions to the requirements and regulations relative to lot size, width and shape may be permitted when:
 - i. An open space or recreational area is to be provided for the use and benefit of all the dwelling units in the development; and
 - ii. The total land area of the development divided by the total number of dwelling units provides an average building site area per dwelling unit equal to or more than that required by the regulations of the base district in which the development is located. Total land area of the development shall include the land area of open spaces, private driveways and walkways and recreational areas, but shall not include any land area being set aside for public street rights of way.
 - b. Exceptions to the requirement that lots abut on a street may be permitted when:
 - i. Adequate and permanent legal access from a street to each family dwelling unit is provided for pedestrians and emergency vehicles; and
 - ii. Adequate and permanent provisions for two accessible roofed automobile storage spaces, each not less than 10 feet by 19 feet, are assured for each family dwelling unit, plus one parking space for each five units for guest parking.
 - c. Maintenance of Open Space. As a condition of approving the subdivision of a planned residential development and granting modifications to the standard subdivision requirements, the subdivider shall present in writing with the tentative tract maps the means by which the preservation and permanent maintenance of the open spaces or recreation area is to be accomplished and the payment of all taxes thereon assured. No exception to the standard subdivision requirements shall be permitted unless the City

Council determines that the subdivider has adequately provided for such maintenance and payment of taxes. Covenants, conditions and restrictions will be approved by the planning staff, in regard to ongoing maintenance in open spaces or recreational areas by homeowners' associations.

E. Change in Conditions.

1. A subdivider shall submit a written application to modify or eliminate conditions of approval for a subdivision. Conditions of approval may be changed or eliminated only if the original decision making authority finds grading, traffic, water quality, infrastructure, or other aspects of the subdivision changed and such changes made conditions of approval unreasonable or arbitrary. Applications shall provide sufficient facts to demonstrate that characteristics of a subdivision have changed since its approval and prove such changes have made the conditions of approval arbitrary or unreasonable.
2. Upon receipt of the application, the decision making authority shall fix the time and place for its consideration and give notice thereof to the subdivider or owner and the City departments referred to in Section 16.12.080(A) of this code.

F. Reference to Other Laws. Whenever reference is made to any portion of this chapter, the provisions of this code or other ordinance or statute, such reference applies to all amendments and additions now or hereafter made.

G. Enforcement. No land shall be conveyed, nor shall any building be constructed, nor shall a permit for the construction of a building be issued, nor shall any land be used or a certificate of use and occupancy be issued, except for model homes, until a final parcel map or final tract map substantially in conformance with an approved tentative parcel map or tentative tract map has been recorded by the County Recorder; and any deed of conveyance, sale or contract to sell made contrary to these provisions is voidable to the extent and in the same manner provided in the Subdivision Map Act.

H. Certificate of Compliance.

1. No City department or agency shall issue any permit or grant any approval necessary to develop any real property which has been divided, or which has resulted from a division, in violation of the provisions of the Subdivision Map Act and the provisions of this code, if the Director finds that development of such real property is contrary to the public health or the public safety. The authority to deny such a permit or such approval shall apply whether the applicant therefor was the owner of the real property at the time of such violation or whether the applicant therefor is the current owner of the real property with, or without, actual or constructive knowledge of the violation at the time of the acquisition of his or her interest in such real property.

2. If a City department or agency proposes to issue a permit or grant approval for the development of any such real property referred to above, the matter shall first be referred to the Planning Commission, which may impose such additional conditions as would have been applicable to the division of the property at the time the current owner of record acquired the property.
3. Any person owning real property may request, and the Director shall determine, whether such real property complies with the provisions of the Subdivision Map Act and of this code. Upon making such a determination, the City shall cause a certificate of compliance to be filed with the County Recorder. The certificate of compliance shall identify the real property and shall state that the division thereof complies with applicable provisions of the Subdivision Map Act and of this code.
4. If the Director determines that such real property does not comply with the provisions of the Subdivision Map Act and of this code, the Director shall refer the matter to the Planning Commission which, as a condition to granting a certificate of compliance, may impose conditions as cited in subsection (H)(2) of this section. Such conditions may be fulfilled and implemented by the property owner who has applied for a certificate of compliance or by a grantee.
5. A certificate of compliance shall be issued for any real property which has been approved for development pursuant to this section.
6. A recorded final tract map or final parcel map shall constitute a certificate of compliance with respect to the parcels of real property described therein.
7. A fee for processing an application for a certificate of compliance shall be collected by the Planning Director at the time such application is filed. Such fee shall be the same as charged for tentative parcel maps, in the case of four or less contiguous parcels, or tentative tract maps, in the case of five or more contiguous parcels.

I. Exceptions.

1. The provisions of this chapter shall be inapplicable to:
 - a. The financing or leasing of apartments, offices, stores or similar space within apartment buildings, industrial buildings, commercial buildings, mobile home parks or trailer parks;
 - b. Mineral, oil or gas leases;
 - c. Land dedicated for cemetery purposes under the state Health and Safety Code.

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2. Any conveyance of land to a governmental agency, public entity or public utility shall not be considered a division of land for purposes of computing the number of parcels.
- J. **Standards.** All public ways to be installed or agreed to be installed in any subdivision or parcel map shall conform to "Minimum Design Standards for Public Works," as adopted by the city council on April 5, 1967, by Resolution 35-67, and any and all revisions or additions hereinafter adopted.

Section 3: Chapter 16.04.015 is hereby added to the Municipal Code as follows:

16.04.015 – Advisory Agency and Review Authorities.

A. Advisory Agency and Review Authorities

1. The designated advisory agencies specified in this Section shall have the duty of reviewing the design and improvement of proposed applications for the division of real property, imposing requirements and conditions, and shall have the authority to act upon the applications.
2. A subdivision shall be subject to review and hearing procedures required in Chapter 17.12, if its requested in conjunction with a discretionary zoning application.

B. Appeal Boards.

1. The Commission shall be the review authority for any appeal of a Director decision.
2. The Council shall be the review authority for any appeal of Zoning Administrator or Commission decisions.
3. The Council may appeal a decision of the City Engineer, Director, Zoning Administrator, or Commission by a majority vote.
4. Appeals procedures are identified in Section 17.12.140.

C. Development Management Team. The Development Management Team has a responsibility to review the design and improvement of proposed subdivisions and report findings to advisory agencies responsible for making recommendations and/or decisions on subdivisions.

D. City Planner. The responsibilities of the City Planner include the following:

1. Sending proper notice of proceedings in compliance with this Title.
2. Certifying, as Secretary of the Commission, that the Commission has approved, conditionally

approved, or denied a tentative map.

3. Scheduling, as Secretary of the Commission, any appeal of a Director or City Engineer decisions.
4. The City Planner may designate and authorize a representative to act on the City Planner's behalf.

E. City Engineer.

1. The responsibilities of the City Engineer include the following:
 - a. Determining if proposed subdivision improvements comply with the Subdivision Map Act and this Title.
 - b. Examining and certifying final maps are in substantial compliance with the approved tentative map.
 - c. Processing and certification of reversion to acreage maps and amended maps.
 - d. Processing, plan checking, and approval of subdivision improvement plans.
 - e. Reviewing grant deeds for subdivision dedications which are outside a subdivision boundary.
 - f. Collecting engineering plan check, inspection, and development fees.
 - g. Reviewing and providing recommendations on improvement agreements.
 - h. Processing and approval of lot mergers.
 - i. Reviewing lot line adjustments.
 - j. Processing waivers of tentative parcel maps.
 - k. Collecting of all required application fees and deposits for Public Works requests.
 - l. Determining violations of the Subdivision Map Act or this Title.

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2. The City Engineer may designate and authorize a representative to act on the City Engineer's behalf per Government Code 66416.5, 66431.

F. Community Development Director.

1. The responsibilities of the Director include the following:
 - a. Certificate of compliances.
 - b. Processing of tentative maps.
 - c. Processing and approval of lot line adjustments.
 - d. Determining whether a proposed subdivision conforms to the General Plan, applicable Specific Plans, and the Municipal Code.
 - e. Making recommendations on the approval, conditional approval, or denial of tentative map applications (including recommendations of other departments and agencies).
 - f. Processing and approving a one year time extension of Tentative Parcel and Tract Maps according to Section 17.12.160 and Government Code 66452 et seq. The Director shall forward time extension requests to the original decision making authority if required findings can not be made.
 - g. Conducting environmental analyses related to proposed applications in compliance with the California Environmental Quality Act (CEQA) specified in Public Resources Code Section 21000 et seq.
2. The Director may designate and authorize a representative to act on the Director's behalf.

G. Zoning Administrator. The Zoning Administrator has the powers and duties provided in the Subdivision Map Act and this Title including:

1. The approval, conditional approval, or denial of tentative parcel map applications for condominiums, condominium conversions, community apartments, time shares, and stock cooperatives, involving the subdivision of *four or fewer units*.

2. Review the design and improvement of proposed subdivisions and imposing requirements and conditions on subdivisions approved by the Zoning Administrator.
3. The approval, conditional approval, or denial of tentative parcel map amendments for Zoning Administrator approved subdivisions.
4. The approval, conditional, approval, or denial of time extensions for tentative maps approved by the Zoning Administrator, when the duration of a request exceeds one year or a time extension request does not comply with Section 17.16.160(C)(1).

H. Planning Commission. The Planning Commission has powers and duties provided in the Subdivision Map Act and this Title including:

1. The approval, conditional approval, or denial of tentative tract map applications for condominiums, condominium conversions, community apartments, time shares, and stock cooperatives, involving the subdivision of *five or more units*.
2. Review the design and improvement of proposed subdivisions and imposing requirements and conditions on subdivisions approved by the Planning Commission.
3. Review the design and improvement of proposed subdivisions and recommending requirements and conditions on the subdivisions to be considered by the City Council.
4. Making recommendations to the City Council for approval, conditional approval, or denial of subdivisions, excluding condominiums, condominium conversions, community apartments, time shares, or stock cooperatives.
5. The approval, conditional approval, or denial of tentative map amendments for subdivisions approved by the Planning Commission.
6. The approval, conditional, approval, or denial of time extensions for tentative maps approved by the Planning Commission, when the duration of a request exceeds one year or a time extension request does not comply with Section 17.16.160(C)(1).
7. Acting as the appeal board for Director decisions.

I. City Council. The City Council has powers and duties by the Subdivision Map Act and this Title including:

1. The approval, conditional approval, or denial of tentative parcel and tract map applications for subdivisions, excluding condominiums, condominium conversions, community apartments, time shares, and stock cooperatives.

2. The approval, conditional approval, or denial of tentative map amendments for subdivisions approved by the City Council.
3. The approval, conditional, approval, or denial of time extensions for tentative maps approved by the City Council, when the duration of a request exceeds one year or a time extension request does not comply with Section 17.16.160(C)(1).
4. Approving grant deeds for subdivision dedications.
5. Acting as the appeal board for hearing appeals of Zoning Administrator or Planning Commission actions.
6. Approving final maps or delegating action on final maps to the City Engineer if dedications are not proposed.
7. Approving reversions to acreage.
8. Approving subdivision improvement agreements.
9. Accepting land or improvements proposed for dedication.
10. Establishing processing fees necessary to implement the provisions of this Title.

J. City Attorney.

1. The City Attorney's responsibilities include reviewing and approving as to form all legal related documents associated with subdivisions.

Section 4: The definition "Advisory agency" is hereby added to Municipal Code Section 16.04.020 as follows:

"Advisory agency" means the City staff member or review authority designated to act on subdivision applications with powers and duties provided in the Subdivision Map Act and this Title.

Section 5: The definition "Appeal board" is hereby added to Municipal Code Section 16.04.020 as follows:

"Appeal board" means the designated review authority to consider and decide upon appeals to the decision of an earlier decision making body.

Section 6: The definition "Decision making authority" is hereby added to Municipal Code

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Section 16.04.020 as follows:

"Decision making authority" means the designated review authority to make the final decision on a subdivision application.

Section 7: The definition "Director" in Municipal Code Section 16.04.020 is hereby amended as follows:

"Director" means the Director of Community Development, appointed by the City Manager, as authorized by Chapter 3, Title 7, of the Government Code of the state

Section 8: Municipal Code Chapter 16.08 is hereby amended as follows:

Chapter 16.08 - TENTATIVE PARCEL MAPS

Sections:

- 16.08.010 - Filing.
- 16.08.020 - Specifications.
- 16.08.030 - Requirements.
- 16.08.040 - Certification of owner.
- 16.08.050 - Compliance for filing.
- 16.08.060 - Tentative Parcel Map Processing and Action.
- 16.08.070 - Limitation of approval.
- 16.08.080 - Final parcel map.
- 16.08.090 - Drainage fees.
- 16.08.100 - Filing fee.

16.08.010 - Filing.

- A. Any property owner or his or her authorized agent proposing to subdivide any parcel of improved or unimproved land, or any portion thereof, shown on the latest equalized county assessment roll as a unit or as contiguous units, which will result in the creation of four parcels or less, shall file a tentative parcel map with the Community Development Department, showing the parcels proposed by such subdivision, except in the following instances:
1. Subdivisions of a portion of the operating right-of-way of a railroad corporation defined as such by Section 230 of the Public Utilities Code, which are created by short-term leases (terminable by either party on not more than 30 days' notice in writing; or
 2. Land conveyed to or from a governmental agency, public entity, public utility, or for land conveyed to a subsidiary of a public utility for conveyance to such public utility for conveyance to such public utility for rights-of-way, unless a showing is made in individual cases, upon

substantial evidence, that public policy necessitates such a parcel map; or

3. Subdivisions for which the City Council finds and determines comply with this Chapter 35 as to area, improvement and design, flood water drainage control, appropriate improved public roads, sanitary disposal facilities, water supply availability, environmental protection, and other requirements of this title. Provided, that in the event a parcel map waiver is requested for property which is not currently proposed for development, the City shall not approve such a waiver until it has issued a conditional certificate of compliance, which shall be recorded in the Orange County Recorder's Office, which shall identify the real property and state that development thereof shall not be permitted to occur until the owner or owners of record shall comply with applicable provisions of this title.
- B. Each tentative parcel map filed shall comply with any master, general or official plan, or any amendments thereto, adopted pursuant to the state Planning and Zoning Law.
 - C. Each tentative parcel map filed shall also comply with the regulations of the zoning district within which it is located. However, where a change of zone has been recommended by the Planning Commission but not yet approved or adopted by ordinance by the City Council a tentative parcel map need not comply with the existing zoning district regulations in effect at the time it is filed; provided, that it complies with the regulations of the zoning district recommended by the Planning Commission. The filing of any such tentative parcel map shall be at the sole option and risk of the subdivider, and the City shall not be deemed to have assumed any commitment or responsibility as to the final adoption of the recommended zoning.
 - D. Except as provided in subsection A of this section, a parcel of land proposed to be subdivided under the terms of this chapter by an owner shall be limited to the creation of ultimately four (4) parcels. Any additional parcels proposed to be created from such land by such owner shall require the filing of a tentative tract map.

16.08.020 - Specifications.

A tentative parcel map shall be legibly drawn to scale on sheets of tracing paper or cloth measuring not less than 8 1/2 inches by 11 inches. Such map shall be suitable for reproduction. The Planning Director shall furnish such 8 1/2 inch by 11 inch tracing sheets upon request.

16.08.030 - Requirements.

The tentative parcel map shall show, contain or be accompanied in writing by the following matters:

- A. The current assessor's map parcel numbers for all parcels involved in the proposed subdivision;
- B. If the parcel being subdivided is a parcel on a recorded parcel map, or a record of survey map or a lot on a recorded tract map, reference shall be made to such recorded map;

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- C. Name, address and telephone number of the person filing the map;
- D. Location of property in relation to existing streets;
- E. The layout and square footage of the parcels proposed and the dimensions of each with a number within each proposed parcel;
- F. The location of each existing building or structure above ground in relation to the parcel lines being created;
- G. The location of existing wells, cesspools, irrigation lines and underground structures;
- H. A statement of certification from the proposed water supplier, if other than the City, indicating that it holds a valid permit in accordance with Sections 4010 to 4025 of the State Health and Safety Code and can provide an adequate water supply to the parcels;
- I. Type of street improvements and utilities proposed;
- J. A statement of certification from the proposed sewerage agency, if other than the City, indicating that it can serve the parcels;
- K. Proposed method of storm drainage disposal, and where applicable, reference to any duly adopted master plan of drainage;
- L. Proposed use of parcels;
- M. The width and approximate locations of all existing or proposed easements or rights-of-way, whether public or private, for roads, drainage, sewers or flood control purposes;
- N. The locations of all areas subject to inundation or flood hazard and the locations, width and directions of flow of all watercourses and flood control channels;
- O. The location of any excavation within the subdivision or within 200 feet of any portion of the subdivision, the location of any existing wells, cesspools, sewers, culverts, storm drains and underground structures within the subdivision, and a statement noting whether or not such uses are to be abandoned, to be removed or to remain.

16.08.040 - Certification of owner.

- A. When a tentative parcel map is filed with the Building and Planning Department, the person filing the map shall provide one of the following:

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1. Certification that he or she is the record owner of the property;
2. A statement signed by the record owner of the property consenting to the filing of the map.

B. The Planning Director shall furnish forms for such certification upon request.

16.08.050 - Compliance for filing.

- A. Each tentative parcel map shall be reviewed by the Director before it may be accepted. If the Director finds the requirements for filing have been fully met, the map shall be accepted and referred to the Development Management Team for review.
- B. Within 80 days after such acceptance, the decision making authority (specified in Section 16.04.015) shall approve, conditionally approve or disapprove an application.
- C. The time limits for acting and reporting on tentative parcel maps as provided in this chapter may be extended upon mutual consent of the persons filing such map and the City.

16.08.060 - Tentative Parcel Map Processing and Action

- A. The Development Management Team shall review tentative parcel maps to determine if they comply with the statutes of the state and with the provisions of this code and other ordinances of the City.
- B. Public hearings. A public hearing shall be held before the Zoning Administrator or Planning Commission take action on a tentative parcel map application.
- C. Required findings. The review authority (specified in Section 16.04.015) shall approve, conditionally approve, or recommend approval of a tentative parcel map if a map complies with State and City regulations and the map meets the following required findings:
 1. The site is physically suitable for the type of development.
 2. The site is physically suitable for the proposed density of the development.
 3. The design of the subdivision or the proposed improvements is not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
 4. The design of the subdivision or the type of improvements is not likely to cause serious public health problems.
 5. The subdivision, with its provisions for any design and improvements, is consistent with the

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General Plan and any applicable specific plan.

6. If there is an easement, either of the following findings shall be made:
 - a. The design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of the property within the proposed subdivision.
 - b. Alternate easements for access or for use will be provided, substantially equivalent to ones previously acquired by the public, that are easements of record or easements established by judgment of a court of competent jurisdiction.
- D. Conditions of approval may be required. If they are, the subdivider shall agree to fully comply with such conditions prior to the recordation of a final parcel map. Improvements required as a condition of approval shall be limited to the dedication of rights-of-way, easements, construction of necessary improvements for the development, and construction of reasonable off-site improvements for the parcels being created.
- E. Documentation of decisions. The City Clerk shall stamp and sign the tentative parcel map to signify the decision making authority's action on a map.

16.08.070 - Limitation of approval.

- A. The approval or conditional approval of such map shall be valid for a period of 24 months from the date of final action thereon. Upon written request, such approval or conditional approval may be extended one year by the Director according to Section 17.12.160. The original decision making authority may approve additional time extensions in compliance with Government Code 66452 et esq. Time extension requests must be submitted prior to the expiration date.
- B. Upon granting such extension of time, the decision making authority may require compliance with any additional requirements deemed necessary to carry out the spirit and intent of this chapter.

16.08.080 - Final parcel map.

When a tentative parcel map has been approved or conditionally approved in accordance with this section, a final parcel map substantially in conformance with such approved tentative parcel map shall be recorded within 24 months of the date of approval or conditional approval. The final parcel map shall be based upon a survey of the land and shall meet the requirements for a record of survey map as set out in Section 8764 (a), (b), (c), (d) (e) and (g) of the Business and Professions Code. Failure to record a final parcel map within such 24 month period shall render the approval or conditional approval null and void, unless an extension of time has been granted by the City Council pursuant to Section 16.08.70(A).

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16.08.090 - Drainage fees.

If the land being divided lies within an area for which a master plan of drainage has been duly adopted, the required per acre drainage fee shall be paid in accordance with Section 16.32.020(J) of this code on that area divided which cannot be further divided under the existing applicable regulations of the Zoning Code.

16.08.100 - Filing fee.

Upon filing the application referred to in this division, the applicant shall pay a fee as established by resolution of the City Council.

Section 9: The section index of Municipal Code Chapter 16.12 is hereby amended as follows:

Chapter 16.12 - TENTATIVE TRACT MAPS

Sections:

- 16.12.010 - Generally.
- 16.12.020 - Compliance with plans, standards and zoning.
- 16.12.030 - Format.
- 16.12.040 - Information—On face of map.
- 16.12.050 - Information—To accompany maps.
- 16.12.060 - Tract numbers.
- 16.12.070 - Filing.
- 16.12.080 - Tentative Tract Map Processing.
- 16.12.090 - Tentative Map Approval or Denial.
- 16.12.100 - Limitations of Planning Commission and City Council actions.

Section 10: Municipal Code Section 16.12.010(B), describing general tentative tract map requirements, is hereby amended as follows:

- B. Any subdivider may file with the City a tentative map of a proposed subdivision of unincorporated territory adjacent to the City. The map, in the discretion of the City, may be acted upon in the manner provided in Section 16.12.90 of this chapter; except, that if it is approved, such approval shall be conditioned upon annexation of the property to the City within such period of time as shall be specified by the City, and such approval shall not be effective until annexation of such property to the City has been completed. If annexation is not completed within the time specified or any extension thereof, then the approval of such map by the City shall be null and void. No subdivision of unincorporated territory may be affected by approval of a map by the City unless annexation thereof to the City is completed prior to the approval of the final map thereof.

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Section 11: Municipal Code Section 16.12.050(H) is hereby amended as follows:

H. Hydrology Study. A preliminary hydrology study may be required Development Management Team.

Section 12: Municipal Code Section 16.12.080, describing tentative tract map submittal requirements, is hereby amended as follows:

16.12.080 – Tentative Map Processing.

After the tentative tract map has been filed, it shall be reviewed by the Development Management Team and all other interested persons, officers, departments, districts or agencies in accordance with the following procedures:

A. Distribution of Copies. When a tentative tract map has been properly filed and the subdivider has furnished the required number of copies, the Planning Director shall, within three working days, forward a copy thereof to the following:

1. Development Management Team
2. County flood control district
3. Capistrano Unified School District
4. Utility companies
5. Any public agency or officer having an interest in the proposed subdivision, who requests copies of tentative tract maps

B. Development Management Team Meetings. The Development Management Team shall hold at least one meeting on each tentative tract map filed, and as many additional meetings as may be necessary, with the subdivider or his or her agent. The Development Management Team shall review subdivisions and make a determination on the following:

1. The tentative tract map complies with all of the requirements of the San Clemente Zoning Code, or with pending zoning requirements that have been adopted by the City Council but have not yet become effective.
2. The tentative tract map complies with all of the requirements of the Local Park Code.
3. Except where modifications are requested for exceptions, the tentative tract map complies

with all of the requirements of the Subdivision Code and public works design standards.

4. The tentative tract map complies with those provisions of the California Environmental Quality Act.
 5. The tentative tract map is compatible with the objectives, policies, general land uses and programs specified in the General Plan and any adopted applicable specific plan.
- C. Distribution of Report to Applicant.** Any reports or recommendations on the tentative tract map that are submitted to the Planning Commission or City Council shall also be submitted, in writing, to the subdivider at least three calendar days prior to any meeting or action on the map by the Planning Commission or City Council.
- D. Failure to Receive Response from Agencies Reviewing Map.** If any person, officer, department, municipality, district or agency does not report to the Planning Commission or City Council, in writing, within 20 days after the tentative tract map has been delivered or placed in the mail directed to the designated address and bearing the proper postage, such tentative tract map shall be deemed to be approved by that person, officer, department, municipality, district or agency.

Section 13: Municipal Code Section 16.12.090 is hereby amended as follows:

16.12.090 – Tentative Map Approval or Denial

- A. Public Hearing.** A public hearing shall be held before the Planning Commission or City Council take action on a tentative tract map application.
- B. Required Findings.** The review authority (specified in Section 16.04.015) shall approve, conditionally approve, or recommend approval of a tentative tract map if a map complies with State and City regulations and the map meets the following required findings:
1. The site is physically suitable for the type of development.
 2. The site is physically suitable for the proposed density of the development.
 3. The design of the subdivision or the proposed improvements is not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
 4. The design of the subdivision or the type of improvements is not likely to cause serious public health problems.
 5. The subdivision, with its provisions for any design and improvements, is consistent with the General Plan and any applicable specific plan.

6. If there is an easement, either of the following findings shall be made:
 - a. The design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of the property within the proposed subdivision.
 - b. Alternate easements for access or for use will be provided, substantially equivalent to ones previously acquired by the public, that are easements of record or easements established by judgment of a court of competent jurisdiction.
- C. **Documentation of Decisions.** The City Clerk shall stamp and sign the tentative tract map to signify the decision making authority's action on a map.
- D. **Conditions of Approval.** The Planning Commission or City Council may include conditions of approval for a tentative tract map not in compliance with existing zoning regulations; provided, that such map complies with zoning regulations adopted by ordinance by the City Council but not yet effective. Such action shall include a condition that a final tract map of the subject parcel of land shall not be recorded until the appropriate zoning regulations have become effective.
- E. **Public Access Requirements for Subdivisions Fronting Coastline or Shoreline.** When a subdivision fronts coastline or shoreline, reasonable public access by fee or easement shall be provided from public highways to land below the ordinary high water mark on the ocean coastline or a bay shoreline within or at a reasonable distance from the proposed subdivision as a condition of approval of any tentative tract map. Such public access shall be expressly designated on the final tract map, and such map shall designate such access is dedicated to the City.
 1. "Reasonable public access" shall be determined by the review authority, considering the following:
 - a. That access may be by highway, foot trail, bike trail, horse trail or any other means of travel.
 - b. The size of the subdivision.
 - c. The type of coastline or shoreline and the various appropriate recreational, educational and scientific uses; including, but not limited to, diving, sunbathing, surfing, walking, swimming, fishing, beachcombing, taking of shell fish and scientific exploration.
 - d. The likelihood of trespass on private property and reasonable means of avoiding such trespasses.

2. If reasonable public access is not provided through or across the subdivision itself, the review authority shall find: "public access is a reasonable distance from the subdivision." The finding shall be shown on the final tract map.

F. Time Limits.

1. A tentative tract map shall be acted upon within 50 days after the Director accepted and dated the filing of the tentative tract map; except, that such time limit may be extended by mutual consent of the subdivider and the decision making authority.
2. As specified in Section 16.04.015, the Planning Commission is responsible for making recommendations to the City Council on the approval, conditional approval, or denial of subdivisions, excluding condominiums, condominium conversions, community apartments, time shares, and stock cooperatives. For these subdivisions, the City Council shall act upon the tentative tract map within 30 days after the Planning Commission action; except, that such time limit may be extended by mutual consent of the subdivider and the City Council.
3. If no action is taken within the time limits stated in subsections (F)(1) and (2) above, the tentative tract map, as filed, shall be deemed to be approved.

G. Distribution of report to Subdivider. The approval, conditional approval or disapproval of a tentative tract map shall be reported, in writing, directly to the subdivider. This requirement shall be deemed to have been complied with when a report of the action has been placed in the mail directed to the subdivider at his or her designated address and bearing the proper postage.

H. Withdrawal of Tentative Tract Maps. Any subdivider or record owner of property upon which a tentative tract map has been filed may withdraw such map at any time before a decision is made on a subdivision. Upon receipt of such notice, each person, officer, department, municipality, district or agency shall be notified from which a report was requested when the tentative tract map was filed. Upon the completion of such notification, the tentative tract map shall have been officially withdrawn. No refund in filing fee for any such map withdrawn shall be made.

Section 14: Municipal Code Section 16.12.100 is hereby amended as follows:

16.12.100 - Limitations of Planning Commission and City Council actions.

A. Time Limit for Recording. Within a period of 24 months after the date of the approval or conditional approval of a tentative tract map, the subdivider may cause the subdivision, or any part thereof, to be surveyed, and a final tract map to be prepared and recorded in accordance with the tentative tract map as approved. Upon written request, such approval or conditional approval may be extended one year by the Director according to Section 17.12.160. The original decision making authority may approve additional time extensions in compliance with Government Code 66452 et

esq. Time extension requests must be submitted prior to the expiration date.

B. Failure to Record. Any failure to record a final tract map within the time period specified by subsection A of this section shall terminate all proceedings, and the approval or conditional approval of the tentative tract map shall be null and void. Before a final tract map may thereafter be recorded on the same parcel of land, a new tentative tract map shall be filed and approved.

C. Revised Tentative Tract Maps.

1. After the approval or conditional approval of a tentative tract map by the City Council any revised map shall comply with all regulations in effect at the time such revised map is filed.
2. When a tentative tract map has been approved, no other subdivider shall file a different tentative tract map for the parcel of land without the express written consent of the current property owner or the original subdivider unless such previous tentative tract map has been invalidated by action of the City Council or by expiration of time.
3. The approval or conditional approval by the City Council of any revised tentative tract map shall nullify all currently active approved tentative tract maps that are applicable to the same parcel of land.

D. Changes in Tentative Tract Map. If a subdivider proposes to make significant changes to an approved tentative tract map, the subdivider shall request such change in writing and receive approval of the review authority that decided on the tentative map, prior to recording the final tract map.

E. Changes in Conditions of Approval.

1. A subdivider shall submit a written request to change conditions of approval prior to recordation of the final tract map. Such requests shall be reviewed and decided upon by the original decision making authority for the subdivision.
2. Any such revision of conditions, shall not affect the time limit for recording a final tract map.

F. Recordation of Tentative Tract Number. When a tentative tract is recorded in increments, the number used for the tentative tract shall be used to record the final increment.

G. Exceptions to Final Action. The action of the review authority on any tentative tract is final except as contained in this section.

Section 15: Municipal Code Section 16.16.010(D), describing final tract and parcel map procedures, is hereby amended as follows:

D. Reports of Compliance or Noncompliance. Each department represented on the Development Management Team shall submit a report for:

1. Final tract maps: a report in writing to the City Council as to the compliance or noncompliance of the final tract map with laws as to matters coming under its jurisdiction, together with a statement of the changes necessary thereon to cause such map to comply with the law. These reports shall be transmitted to the City Engineer and he or she shall include them with his or her transmittal of the final tract map to the City Council.
2. Final parcel maps: a report in writing to the City Engineer as to the compliance or noncompliance of the final parcel map with laws as to matters coming under its jurisdiction, together with a statement of the changes necessary thereon to cause such map to comply with the law.

Section 16: Municipal Code Section 16.28.050(F), describing lot requirements, is hereby amended as follows:

- F. Lots to Abut a Street.** All proposed lots or parcels in any and all types of subdivisions shall abut upon a dedicated public street except as herein provided. Any lots or parcels which are proposed to face upon a private street shall be approved by the decision making authority (specified in Section 16.04.015). A written request for private streets shall be made by the owners of the property, and shall contain any and all reasons why such streets should be private.

Section 17: Municipal Code Section 16.28.090(D), describing access requirements for dangerous, is hereby amended as follows:

- D. Access.** Any subdivision must have access to an all weather road, the design, location and width of which are approved by the City Council.

Section 18: Municipal Code Section 16.28.090(E), describing fire protection safeguards for dangerous, is hereby amended as follows:

- E. Fire Protection.** Any subdivision located within an area found by the City Council or Planning Commission to be a high fire hazard area, must be protected from fire danger by means of fire breaks, access roads, accessibility of sufficient water of sufficient pressure and cleared of highly hazardous natural ground covering from slopes and canyons, as determined by the Development Management Team.

Section 19: Subsection D of Municipal Code Section 16.28.100, describing cable television access, is hereby amended as follows:

D. Conditions Must be Met Before Map Approval. The City shall not approve tentative tract maps or parcel maps without the imposition of the conditions expressed in subsection A of this section.

Section 20: Subsections B-E of Municipal Code Chapter 16.40, describing condominium conversion requirements, is hereby amended as follows:

B. Requirements for Conversion.

1. A tentative tract map shall be filed if the number of units proposed for conversion exceeds four (4) units per Chapter 16.12. If the project is less than four units the parcel map procedure shall be followed per Chapter 16.08.
2. Parking shall be consistent with the present requirements of the district.
3. Density, where possible, should be brought into line with present zoning.
4. Modification or the addition of landscaping may be required.
5. Separate water meters shall be installed for each unit. At least one water meter shall be installed for any common areas.
6. Prior to the issuance of a certificate of occupancy pursuant to subsection D of this code, inspectors of the Community Development Department shall inspect each unit and verify that all requirements of subsection B of this section have been met.

C. Contingency Fund Deposits for Unit Developments, Time Share Uses or Projects, and Condominium Projects.

1. It is the intent of the City in requiring the creation of a contingency or reserve fund for condominium projects, time share uses or projects, or other forms of independently owned dwelling units having common areas, to provide a surety for emergency repairs or restoration of such common areas and exteriors of buildings in the interests of the economic, aesthetic and environmental betterment of the City, as well as to protect the general welfare. The City does not intend to intrude into those areas regulated by the Real Estate Commissioner pursuant to the laws of the state. The sole purpose of the City Council in requiring such funds is to preserve those interests as set forth hereinabove for the entire community of the City.
2. The subdivider is required to deposit with the homeowners' or occupiers' association's established fund the sum of two hundred dollars (\$200.00) per unit in any planned unit development, condominium project, or time share use or project. Such deposit shall be used solely and exclusively as a contingency fund for emergencies which may arise relating to open space areas, exterior portions of dwelling units and such other restoration or repairs as may be

assumed by the home owners' or occupiers' association or management corporation.

D. Certificate of Occupancy Required. In accordance with Section 306 and Section 502 of the Uniform Building Code, no building or project which has been converted to independent ownership of the units by means of a statutory condominium or subdivision of land shall be made available for sale until the Building Official has issued a certificate of occupancy therefor.

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ATTACHMENT 2

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AMENDING THE FEE SCHEDULE FOR CERTAIN PLANNING APPLICATIONS ADOPTED BY RESOLUTION NO. 08-81

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 City desires to amend the fee schedule for Tentative Parcel Maps involving condominiums, condominium conversions, time shares, stock cooperatives, community apartments, and other subdivisions of building airspace to allow for various forms of property ownership.

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

Section 1: The Planning Fee "Tentative Parcel Map" is hereby replaced on Exhibit A of Resolution No. 08-81 as follows:

SERVICE	PROPOSED FEE
TENTATIVE PARCEL MAP	
Condominium conversions, condominiums, community apartments, time shares, stock cooperatives, and other airspace subdivisions, involving <i>four or fewer units.</i>	\$2,069 per map plus \$53 imaging fee
Other subdivisions involving four or fewer parcels	\$3,170 per map plus \$53 imaging fee

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.

Section 3: The fees set forth in Exhibit "A" shall be adjusted on July 1 of each year after the date this resolution is adopted, 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.

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Resolution No. _____

Section 4: 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 _____, 2013.

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Resolution No.

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, JOANNE BAADE, City Clerk of the City of San Clemente, California, do hereby certify that Resolution No. _____ 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:

City Attorney

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Section 1: The section index of Municipal Code Chapter 16.04, "General provisions and administration", is hereby amended as follows:

Sections:

16.04.010 - General provisions.

16.04.015 - Advisory Agency and Review Authorities.

16.04.020 - Definitions.

16.04.040 - Taxes and assessments.

Section 2: Municipal Code Chapter 16.04.010 is hereby amended as follows:

16.04.010 - General provisions.

A. Local Regulations. Pursuant to the provisions of the Subdivision Map Act and in addition to any regulations provided by law, the regulations contained in this code shall apply to all subdivisions within the incorporated territory of the City.

~~**B. Designation of Advisory Agencies.**~~

~~**1. Planning Commission.**~~

- ~~a. The Planning Commission of the City is designated as the Advisory Agency as that term is used in the Subdivision Map Act and is charged with the duty of making investigations and reports on design and improvement of proposed subdivisions; and is hereby authorized to recommend, conditionally approve or recommend denial of tentative maps of subdivisions prepared and filed according to this chapter and Subdivision Map Act, to prescribe the kinds, nature and extent of the improvements required to be installed in subdivisions and to report its findings and recommendations directly to the City Council with a copy to the subdivider of the action taken on any tentative subdivision map submitted to the City.~~
- ~~b. Prior to any final action recommending approval or denial of an application for a tentative parcel map or tentative tract map, the Planning Commission shall hold a public hearing and notice thereof shall be given at least ten (10) days prior thereto by publication in a newspaper of general circulation in the City, and by mailing postage prepaid a notice of the time, place and purpose of such hearing to all persons whose names and addresses appear on the latest tax roll of the City, or as known to the Clerk as owners from the exterior boundaries of the area which is the subject of the hearing and by posting three (3) notices adjacent to the subject property in conspicuous places facing the public street.~~
- ~~c. Upon completion of the mailing, posting and publication of notices provided herein, the Secretary of the Planning Commission shall cause an affidavit of such mailing, posting and publication to be filed in the permanent records of the particular proceedings to which such~~

~~notices pertain.~~

~~2. Subdivision Committee. The Subdivision Committee is designated as an advisory agency as that term is used in the Subdivision Map Act, and is charged with the duty of making investigations and reports on the design and improvements of proposed subdivisions and to report their findings directly to the Planning Commission on all tentative maps.~~

B. Public Hearing Notification.

1. **Purpose.** This section defines procedures 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.

2. **Notice of Public Hearings.** 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. 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:

- a. Publication. Publication in a newspaper of general circulation in the City of San Clemente.
- b. Mailing. Mailing a notice of the time, place and purpose of such hearing to all of the following:
 - i. Required property owners.
 - ii. 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.
 - iii. Persons requesting notice.
 - iv. Owners of property within 300 feet of the exterior boundaries of the subject property (radius of notice). The City may place a one-eighth page ad (or larger) in at least one newspaper of general circulation in lieu of mailing notices to property owners required by this subsection, provided that there are greater than 1,000 owners of property within 300 feet of the subject site. The notice must be displayed in the newspaper at least 10 days prior to the hearing.

c. 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.

3. Affidavit of Mailing, Publication and/or Posting. Once a notice of public hearing has been given, in accordance with subsection 2 of 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 shall be responsible for the affidavit of mailing and publication if the hearing is held by the Zoning Administrator or Planning Commission. The City Clerk shall be responsible for the affidavit of mailing and publication if the hearing is held by the City Council.

b. Posting. The City Planner shall be responsible for the affidavit of posting. If the hearing is held by the Zoning Administrator or Planning Commission. The City Clerk 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. City Council Action. The City Council may, by majority vote of the members present, approve, deny, modify or add to any recommendation or requirements of the advisory agency.~~

~~**D.C. General Plan Consistency.** Tentative maps shall be consistent with all elements of the San Clemente General Plan and any applicable specific plan. The Director shall determine if tentative map applications are consistent with the General Plan and applicable specific plans. If found inconsistent, the subdivider may appeal the Director's determination to the Planning Commission. In this instance, the Planning Commission's determination shall be binding on the decision making authority designated for the tentative map (specified in Section 16.04.015) As a determination of consistency frequently calls for the exercise of discretion, the determination of the Director for purposes of accepting a map for filing shall not be binding upon any advisory agency or the City Council. Conversely, because it is inconsistent with the San Clemente General Plan, the subdivider may request a determination of consistency from the Planning Commission. The Planning Commission's determination on the question shall prevail over that of the Director and shall be binding on any advisory agency in the absence of new information or amendments to the General Plan when the tentative map is acted upon.~~

~~**E.D. Modifications.**~~

1. Whenever the land involved in a subdivision is of such size or shape, or is subject to such title limitation of record, or is affected by such topographical location or conditions, or is to be devoted to such use, or is subject to such regulations by the Zoning Code that it is impractical in

the particular case to conform to the strict application of the requirements of this chapter, the advisory agency may make such modifications thereof as are reasonably necessary or expedient; provided, that the modification is in conformity with the City's General Plan and with the spirit and intent of the Subdivision Map Act and of this Chapter; and provided further, that the Planning Director transmits, with the recommendation of the tentative map of the subdivision to the City Council, a report in writing setting forth each modification allowed and the facts relied upon by the advisory agency for the allowance of the modification.

2. When a conditional use permit has been granted for a planned residential development in any district and such development is subdivided, exceptions to certain subdivision standards, in addition to those exceptions which may be authorized pursuant to subsection (ED)(1) of this section, may be recommended by the Planning Commission and authorized by the City Council as follows:
 - a. Exceptions to the requirements and regulations relative to lot size, width and shape may be permitted when:
 - i. An open space or recreational area is to be provided for the use and benefit of all the dwelling units in the development; and
 - ii. The total land area of the development divided by the total number of dwelling units provides an average building site area per dwelling unit equal to or more than that required by the regulations of the base district in which the development is located. Total land area of the development shall include the land area of open spaces, private driveways and walkways and recreational areas, but shall not include any land area being set aside for public street rights of way.
 - b. Exceptions to the requirement that lots abut on a street may be permitted when:
 - i. Adequate and permanent legal access from a street to each family dwelling unit is provided for pedestrians and emergency vehicles; and
 - ii. Adequate and permanent provisions for two ~~(2)~~ accessible roofed automobile storage spaces, each not less than ~~ten (10)~~ feet by ~~nineteen (19)~~ feet, are assured for each family dwelling unit, plus one ~~(1)~~ parking space for each five ~~(5)~~ units for guest parking.
 - c. Maintenance of Open Space. As a condition of approving the subdivision of a planned residential development and granting modifications to the standard subdivision requirements, the subdivider shall present in writing with the tentative tract maps the means by which the preservation and permanent maintenance of the open spaces or recreation area is to be accomplished and the payment of all taxes thereon assured. No

exception to the standard subdivision requirements shall be permitted unless the City Council determines that the subdivider has adequately provided for such maintenance and payment of taxes. Covenants, conditions and restrictions will be approved by the planning staff, in regard to ongoing maintenance in open spaces or recreational areas by homeowners' associations.

F.E. Change in Conditions.

- ~~1. If a change in conditions affecting the proposed subdivision occurs which renders a requirement or condition of approval of a tentative map unreasonable or arbitrary, the City Council may, upon written application of the subdivider or owner, eliminate or modify such requirement or condition. A subdivider shall submit a written application to modify or eliminate conditions of approval for a subdivision. Conditions of approval may be changed or eliminated only if the original decision making authority finds grading, traffic, water quality, infrastructure, or other aspects of the subdivision changed and such changes made conditions of approval unreasonable or arbitrary. Such applications shall set forth the facts showing the provide sufficient facts to demonstrate that changes in characteristics of a subdivision have changed since its approval and prove such changes have made the conditions of approval arbitrary or unreasonable. conditions affecting the proposed subdivision which has occurred since the approval or conditional approval and the particular requirement or condition, the enforcement of which is claimed to have become arbitrary or unreasonable by reason of changed conditions.~~
2. Upon receipt of the application, the City Council decision making authority shall fix the time and place for its consideration and give notice thereof to the subdivider or owner and the City departments referred to in Section 16.12.080(A) of this code.

G.F. Reference to Other Laws. Whenever reference is made to any portion of this chapter, the provisions of this code or other ordinance or statute, such reference applies to all amendments and additions now or hereafter made.

H.G. Enforcement. No land shall be conveyed, nor shall any building be constructed, nor shall a permit for the construction of a building be issued, nor shall any land be used or a certificate of use and occupancy be issued, except for model homes, until a final parcel map or final tract map substantially in conformance with an approved tentative parcel map or tentative tract map has been recorded by the County Recorder; and any deed of conveyance, sale or contract to sell made contrary to these provisions is voidable to the extent and in the same manner provided in the Subdivision Map Act.

H.H. Certificate of Compliance.

1. No City department or agency shall issue any permit or grant any approval necessary to develop any real property which has been divided, or which has resulted from a division, in violation of

the provisions of the Subdivision Map Act and the provisions of this code, if the Director finds that development of such real property is contrary to the public health or the public safety. The authority to deny such a permit or such approval shall apply whether the applicant therefor was the owner of the real property at the time of such violation or whether the applicant therefor is the current owner of the real property with, or without, actual or constructive knowledge of the violation at the time of the acquisition of his or her interest in such real property.

2. If a City department or agency proposes to issue a permit or grant approval for the development of any such real property referred to above, the matter shall first be referred to the Planning Commission, which may impose such additional conditions as would have been applicable to the division of the property at the time the current owner of record acquired the property.
3. Any person owning real property may request, and the Director shall determine, whether such real property complies with the provisions of the Subdivision Map Act and of this code. Upon making such a determination, the City shall cause a certificate of compliance to be filed with the County Recorder. The certificate of compliance shall identify the real property and shall state that the division thereof complies with applicable provisions of the Subdivision Map Act and of this code.
4. If the Director determines that such real property does not comply with the provisions of the Subdivision Map Act and of this code, the Director shall refer the matter to the Planning Commission which, as a condition to granting a certificate of compliance, may impose conditions as cited in subsection (H)(2) of this section. Such conditions may be fulfilled and implemented by the property owner who has applied for a certificate of compliance or by a grantee. ~~The certificate of compliance shall have no force or effect upon any subsequent transfer of the property, and any subsequent transferee or assignee shall make a new application for a certificate of compliance pursuant to this section, and the Planning Commission may impose such conditions as would have been applicable at the time such assignee or transferee acquired the property.~~
5. A certificate of compliance shall be issued for any real property which has been approved for development pursuant to this section.
6. A recorded final tract map or final parcel map shall constitute a certificate of compliance with respect to the parcels of real property described therein.
7. A fee for processing an application for a certificate of compliance shall be collected by the Planning Director at the time such application is filed. Such fee shall be the same as charged for tentative parcel maps, in the case of four ~~(4)~~ or less contiguous parcels, or tentative tract maps, in the case of five ~~(5)~~ or more contiguous parcels.

J.I. Exceptions.

1. The provisions of this chapter shall be inapplicable to:
 - a. The financing or leasing of apartments, offices, stores or similar space within apartment buildings, industrial buildings, commercial buildings, mobile home parks or trailer parks;
 - b. Mineral, oil or gas leases;
 - c. Land dedicated for cemetery purposes under the state Health and Safety Code.
2. Any conveyance of land to a governmental agency, public entity or public utility shall not be considered a division of land for purposes of computing the number of parcels.

K.J. Standards. All public ways to be installed or agreed to be installed in any subdivision or parcel map shall conform to "Minimum Design Standards for Public Works," as adopted by the city council on April 5, 1967, by Resolution 35-67, and any and all revisions or additions hereinafter adopted.

Section 3: Chapter 16.04.015 is hereby added to the Municipal Code as follows:

16.04.015 – Advisory Agency and Review Authorities.

A. Advisory Agency and Review Authorities

1. The designated advisory agencies specified in this Section shall have the duty of reviewing the design and improvement of proposed applications for the division of real property, imposing requirements and conditions, and shall have the authority to act upon the applications.
2. A subdivision shall be subject to review and hearing procedures required in Chapter 17.12, if its requested in conjunction with a discretionary zoning application.

B. Appeal Boards.

1. The Commission shall be the review authority for any appeal of a Director decision.
2. The Council shall be the review authority for any appeal of Zoning Administrator or Commission decisions.
3. The Council may appeal a decision of the City Engineer, Director, Zoning Administrator, or Commission by a majority vote.

4. Appeals procedures are identified in Section 17.12.140.

C. Development Management Team. The Development Management Team has a responsibility to review the design and improvement of proposed subdivisions and report findings to advisory agencies responsible for making recommendations and/or decisions on subdivisions.

D. City Planner. The responsibilities of the City Planner include the following:

1. Sending proper notice of proceedings in compliance with this Title.

2. Certifying, as Secretary of the Commission, that the Commission has approved, conditionally approved, or denied a tentative map.

3. Scheduling, as Secretary of the Commission, any appeal of a Director or City Engineer decisions.

4. The City Planner may designate and authorize a representative to act on the City Planner's behalf.

E. City Engineer.

1. The responsibilities of the City Engineer include the following:

a. Determining if proposed subdivision improvements comply with the Subdivision Map Act and this Title.

b. Examining and certifying final maps are in substantial compliance with the approved tentative map.

c. Processing and certification of reversion to acreage maps and amended maps.

d. Processing, plan checking, and approval of subdivision improvement plans.

e. Reviewing grant deeds for subdivision dedications which are outside a subdivision boundary.

f. Collecting engineering plan check, inspection, and development fees.

g. Reviewing and providing recommendations on improvement agreements.

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- h. Processing and approval of lot mergers.
 - i. Reviewing lot line adjustments.
 - j. Processing waivers of tentative parcel maps.
 - k. Collecting of all required application fees and deposits for Public Works requests.
 - l. Determining violations of the Subdivision Map Act or this Title.
2. The City Engineer may designate and authorize a representative to act on the City Engineer's behalf per Government Code 66416.5, 66431.

F. Community Development Director.

1. The responsibilities of the Director include the following:
- a. Certificate of compliances.
 - b. Processing of tentative maps.
 - c. Processing and approval of lot line adjustments.
 - d. Determining whether a proposed subdivision conforms to the General Plan, applicable Specific Plans, and the Municipal Code.
 - e. Making recommendations on the approval, conditional approval, or denial of tentative map applications (including recommendations of other departments and agencies).
 - f. Processing and approving a one year time extension of Tentative Parcel and Tract Maps according to Section 17.12.160 and Government Code 66452 et seq. The Director shall forward time extension requests to the original decision making authority if required findings can not be made.
 - g. Conducting environmental analyses related to proposed applications in compliance with the California Environmental Quality Act (CEQA) specified in Public Resources Code Section

21000 et seq.

2. The Director may designate and authorize a representative to act on the Director's behalf.

G. Zoning Administrator. The Zoning Administrator has the powers and duties provided in the Subdivision Map Act and this Title including:

1. The approval, conditional approval, or denial of tentative parcel map applications for condominiums, condominium conversions, community apartments, time shares, and stock cooperatives, involving the subdivision of *four or fewer units*.

2. Review the design and improvement of proposed subdivisions and imposing requirements and conditions on subdivisions approved by the Zoning Administrator.

3. The approval, conditional approval, or denial of tentative parcel map amendments for Zoning Administrator approved subdivisions.

4. The approval, conditional, approval, or denial of time extensions for tentative maps approved by the Zoning Administrator, when the duration of a request exceeds one year or a time extension request does not comply with Section 17.16.160(C)(1).

H. Planning Commission. The Planning Commission has powers and duties provided in the Subdivision Map Act and this Title including:

1. The approval, conditional approval, or denial of tentative tract map applications for condominiums, condominium conversions, community apartments, time shares, and stock cooperatives, involving the subdivision of *five or more units*.

2. Review the design and improvement of proposed subdivisions and imposing requirements and conditions on subdivisions approved by the Planning Commission.

3. Review the design and improvement of proposed subdivisions and recommending requirements and conditions on the subdivisions to be considered by the City Council.

4. Making recommendations to the City Council for approval, conditional approval, or denial of subdivisions, excluding condominiums, condominium conversions, community apartments, time shares, or stock cooperatives.

5. The approval, conditional approval, or denial of tentative map amendments for subdivisions approved by the Planning Commission.

6. The approval, conditional, approval, or denial of time extensions for tentative maps approved

by the Planning Commission, when the duration of a request exceeds one year or a time extension request does not comply with Section 17.16.160(C)(1).

7. Acting as the appeal board for Director decisions.

I. City Council. The City Council has powers and duties by the Subdivision Map Act and this Title including:

1. The approval, conditional approval, or denial of tentative parcel and tract map applications for subdivisions, excluding condominiums, condominium conversions, community apartments, time shares, and stock cooperatives.

2. The approval, conditional approval, or denial of tentative map amendments for subdivisions approved by the City Council.

3. The approval, conditional, approval, or denial of time extensions for tentative maps approved by the City Council, when the duration of a request exceeds one year or a time extension request does not comply with Section 17.16.160(C)(1).

4. Approving grant deeds for subdivision dedications.

5. Acting as the appeal board for hearing appeals of Zoning Administrator or Planning Commission actions.

6. Approving final maps or delegating action on final maps to the City Engineer if dedications are not proposed.

7. Approving reversions to acreage.

8. Approving subdivision improvement agreements.

9. Accepting land or improvements proposed for dedication.

10. Establishing processing fees necessary to implement the provisions of this Title.

J. City Attorney.

1. The City Attorney's responsibilities include reviewing and approving as to form all legal related documents associated with subdivisions.

Section 4: The definition "Advisory agency" is hereby added to Municipal Code Section 16.04.020 as follows:

“Advisory agency” means the City staff member or review authority designated to act on subdivision applications with powers and duties provided in the Subdivision Map Act and this Title.

Section 5: The definition “Appeal board” is hereby added to Municipal Code Section 16.04.020 as follows:

“Appeal board” means the designated review authority to consider and decide upon appeals to the decision of an earlier decision making body.

Section 6: The definition “Decision making authority” is hereby added to Municipal Code Section 16.04.020 as follows:

“Decision making authority” means the designated review authority to make the final decision on a subdivision application.

Section 7: The definition “Director” in Municipal Code Section 16.04.020 is hereby amended as follows:

“Director” means the Director of ~~Building and Planning~~Community Development, appointed by the City Manager, as authorized by Chapter 3, Title 7, of the Government Code of the state

Section 8: Municipal Code Chapter 16.08 is hereby amended as follows:

Chapter 16.08 - TENTATIVE PARCEL MAPS

Sections:

16.08.010 - Filing.

16.08.020 - Specifications.

16.08.030 - Requirements.

16.08.040 - Certification of owner.

16.08.050 - Compliance for filing.

~~16.08.060 - City Council action. 16.08.070 - Extension of time.~~

~~16.08.080 - Advisory agency's action.~~

~~16.08.090-060 - City Council Tentative Parcel Map Processing and Action approval or conditional approval.~~

~~16.08.100 - City Council disapproval.~~

16.08.~~110-070~~ - Limitation of approval.

16.08.~~120-080~~ - Final parcel map.

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16.08.~~130-090~~ - Drainage fees.

16.08.~~140-100~~ - Filing fee.

16.08.010 - Filing.

- A. Any property owner or his or her authorized agent proposing to subdivide any parcel of improved or unimproved land, or any portion thereof, shown on the latest equalized county assessment roll as a unit or as contiguous units, which will result in the creation of four ~~(4)~~ parcels or less, shall file a tentative parcel map with the Community Development Department, showing the parcels proposed by such subdivision, except in the following instances:
1. Subdivisions of a portion of the operating right-of-way of a railroad corporation defined as such by Section 230 of the Public Utilities Code, which are created by short-term leases (terminable by either party on not more than ~~thirty (30)~~ days' notice in writing); or
 2. Land conveyed to or from a governmental agency, public entity, public utility, or for land conveyed to a subsidiary of a public utility for conveyance to such public utility for conveyance to such public utility for rights-of-way, unless a showing is made in individual cases, upon substantial evidence, that public policy necessitates such a parcel map; or
 3. Subdivisions for which the City Council finds and determines comply with this Chapter 35 as to area, improvement and design, flood water drainage control, appropriate improved public roads, sanitary disposal facilities, water supply availability, environmental protection, and other requirements of this title. Provided, that in the event a parcel map waiver is requested for property which is not currently proposed for development, the City shall not approve such a waiver until it has issued a conditional certificate of compliance, which shall be recorded in the Orange County Recorder's Office, which shall identify the real property and state that development thereof shall not be permitted to occur until the owner or owners of record shall comply with applicable provisions of this title.
- B. Each tentative parcel map filed shall comply with any master, general or official plan, or any amendments thereto, adopted pursuant to the state Planning and Zoning Law.
- C. Each tentative parcel map filed shall also comply with the regulations of the zoning district within which it is located. However, where a change of zone has been recommended by the Planning Commission but not yet approved or adopted by ordinance by the City Council a tentative parcel map need not comply with the existing zoning district regulations in effect at the time it is filed; provided, that it complies with the regulations of the zoning district recommended by the Planning Commission. The filing of any such tentative parcel map shall be at the sole option and risk of the subdivider, and the City shall not be deemed to have assumed any commitment or responsibility as to the final adoption of the recommended zoning.

- D. Except as provided in subsection A of this section, a parcel of land proposed to be subdivided under the terms of this chapter by an owner shall be limited to the creation of ultimately four (4) parcels. Any additional parcels proposed to be created from such land by such owner shall require the filing of a tentative tract map.

16.08.020 - Specifications.

A tentative parcel map shall be legibly drawn to scale on sheets of tracing paper or cloth measuring not less than ~~eight and one-half (8 1/2)~~ inches by ~~eleven (11)~~ inches. Such map shall be suitable for reproduction. The Planning Director shall furnish such ~~eight and one-half (8 1/2)~~ inch by ~~eleven (11)~~ inch tracing sheets upon request.

16.08.030 - Requirements.

The tentative parcel map shall show, contain or be accompanied in writing by the following matters:

- A. The current assessor's map parcel numbers for all parcels involved in the proposed subdivision;
- B. If the parcel being subdivided is a parcel on a recorded parcel map, or a record of survey map or a lot on a recorded tract map, reference shall be made to such recorded map;
- C. Name, address and telephone number of the person filing the map;
- D. Location of property in relation to existing streets;
- E. The layout and square footage of the parcels proposed and the dimensions of each with a number within each proposed parcel;
- F. The location of each existing building or structure above ground in relation to the parcel lines being created;
- G. The location of existing wells, cesspools, irrigation lines and underground structures;
- H. A statement of certification from the proposed water supplier, if other than the City, indicating that it holds a valid permit in accordance with Sections 4010 to 4025 of the State Health and Safety Code and can provide an adequate water supply to the parcels;
- I. Type of street improvements and utilities proposed;
- J. A statement of certification from the proposed sewerage agency, if other than the City, indicating that it can serve the parcels;
- K. Proposed method of storm drainage disposal, and where applicable, reference to any duly adopted

master plan of drainage;

- L. Proposed use of parcels;
- M. The width and approximate locations of all existing or proposed easements or rights-of-way, whether public or private, for roads, drainage, sewers or flood control purposes;
- N. The locations of all areas subject to inundation or flood hazard and the locations, width and directions of flow of all watercourses and flood control channels;
- O. The location of any excavation within the subdivision or within ~~two hundred (200)~~ feet of any portion of the subdivision, the location of any existing wells, cesspools, sewers, culverts, storm drains and underground structures within the subdivision, and a statement noting whether or not such uses are to be abandoned, to be removed or to remain.

16.08.040 - Certification of owner.

- A. When a tentative parcel map is filed with the Building and Planning Department, the person filing the map shall provide one ~~(1)~~ of the following:
 - 1. Certification that he or she is the record owner of the property;
 - 2. A statement signed by the record owner of the property consenting to the filing of the map.
- B. The Planning Director shall furnish forms for such certification upon request.

16.08.050 - Compliance for filing.

- ~~A. Each tentative parcel map shall be reviewed by the Planning Director prior to the acceptance thereof before it may be accepted. When it is found by him if the Director finds that the requirements for filing have been fully met, he shall accept it for filing the map shall be accepted and referred to and forthwith refer it to the Subdivision Committee Development Management Team for action review.~~
- ~~B. Within 80 days after such acceptance, the decision making authority (specified in Section 16.04.015) shall approve, conditionally approve or disapprove an application.~~
- ~~C. The time limits for acting and reporting on tentative parcel maps as provided in this chapter may be extended upon mutual consent of the persons filing such map and the City.~~

~~**16.08.060 - City Council action.**~~

~~Within eighty (80) days after such acceptance the City Council shall approve, conditionally approve or~~

~~disapprove the map by majority vote of the full membership thereof.~~

~~**16.08.070 - Extension of time.**~~

~~The time limits for acting and reporting on tentative parcel maps as provided in this chapter may be extended upon mutual consent of the persons filing such map and the City.~~

~~**16.08.080 - Advisory agency's action.**~~

~~A. The Development Management Team shall consider all tentative parcel maps and determine if such maps comply with the statutes of the state and with the provisions of this code and other ordinances of the City.~~

~~**16.08.090-060 - City Council Tentative Parcel Map Processing and Action approval or conditional approval.**~~

~~A. In the event the City Council finds that the map complies with the statutes of the state and the provisions of this code and other ordinances of the City, it shall approve the map and signify its action on the face thereof by the appropriate stamp and signature of the City Clerk.~~

~~B. The City Council may conditionally approve a tentative parcel map when it finds that substantial compliance with the requirements of Section 16.08.080(A) can be reasonably met. When such map is conditionally approved by the City Council it shall signify its action as hereinbefore provided in subsection A of this section and attach the conditions appertaining thereto. Full compliance with such conditions shall be made or agreed to be made prior to the recordation of the final parcel map. Before a deed of conveyance, sale, contract of sale or division into parcels is made, the final parcel map shall be recorded. Improvements required as a condition of approval shall be limited to the dedication of rights of way, easements and construction of reasonable off-site improvements for the parcels being created.~~

A. The Development Management Team shall review tentative parcel maps to determine if they comply with the statutes of the state and with the provisions of this code and other ordinances of the City.

B. Public hearings. A public hearing shall be held before the Zoning Administrator or Planning Commission take action on a tentative parcel map application.

C. Required findings. The review authority (specified in Section 16.04.015) shall approve, conditionally approve, or recommend approval of a tentative parcel map if a map complies with State and City regulations and the map meets the following required findings:

1. The site is physically suitable for the type of development.

2. The site is physically suitable for the proposed density of the development.

3. The design of the subdivision or the proposed improvements is not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
4. The design of the subdivision or the type of improvements is not likely to cause serious public health problems.
5. The subdivision, with its provisions for any design and improvements, is consistent with the General Plan and any applicable specific plan.
6. If there is an easement, either of the following findings shall be made:
 - a. The design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of the property within the proposed subdivision.
 - b. Alternate easements for access or for use will be provided, substantially equivalent to ones previously acquired by the public, that are easements of record or easements established by judgment of a court of competent jurisdiction.

D. Conditions of approval may be required. If they are, the subdivider shall agree to fully comply with such conditions prior to the recordation of a final parcel map. Improvements required as a condition of approval shall be limited to the dedication of rights-of-way, easements, construction of necessary improvements for the development, and construction of reasonable off-site improvements for the parcels being created.

~~16.08.100 – City Council disapproval.~~

E. Documentation of decisions. In the event that the City Council finds that the map cannot be made to comply with the requirements of Section 16.08.080(A), it shall disapprove the map and The City Clerk shall stamp and sign the tentative parcel map to signify its the decision making authority's action in the same manner as hereinbefore provided in Section 16.08.090(A) action on a map.

16.08.110-070 - Limitation of approval.

- A. The approval or conditional approval of such map shall be valid for a period of ~~eighteen (1824)~~ months from the date of final action thereon. Upon written request, such approval or conditional approval may be extended one year by the Director according to Section 17.12.160. The original decision making authority may approve additional time extensions in compliance with Government Code 66452 et esq. for a period not to exceed two (2) additional years by the City Council upon written request; provided, that such request is made at least fourteen (14) days prior to the time extension requests must be submitted prior to the expiration of the eighteen (18) month approval or conditional approval period date.
- B. Upon granting such extension of time, the ~~City Council~~ decision making authority ~~may~~ require

compliance with any additional requirements deemed necessary to carry out the spirit and intent of this chapter.

16.08.120-080 - Final parcel map.

When a tentative parcel map has been approved or conditionally approved in accordance with this section, a final parcel map substantially in conformance with such approved tentative parcel map shall be recorded within ~~twenty-four (24)~~ months of the date of approval or conditional approval. The final parcel map shall be based upon a survey of the land and shall meet the requirements for a record of survey map as set out in Section 8764 (a), (b), (c), (d) (e) and (g) of the Business and Professions Code. Failure to record a final parcel map within such ~~twenty-four (24)~~ month period shall render the approval or conditional approval null and void, unless an extension of time has been granted by the City Council pursuant to Section 16.08.11070(A).

16.08.130-090 - Drainage fees.

If the land being divided lies within an area for which a master plan of drainage has been duly adopted, the required per acre drainage fee shall be paid in accordance with Section 16.32.020(J) of this code on that area divided which cannot be further divided under the existing applicable regulations of the Zoning Code.

16.08.140-100 - Filing fee.

Upon filing the application referred to in this division, the applicant shall pay a fee as established by resolution of the City Council.

Section 9: The section index of Municipal Code Chapter 16.12 is hereby amended as follows:

Chapter 16.12 - TENTATIVE TRACT MAPS

Sections:

16.12.010 - Generally.

16.12.020 - Compliance with plans, standards and zoning.

16.12.030 - Format.

16.12.040 - Information—On face of map.

16.12.050 - Information—To accompany maps.

16.12.060 - Tract numbers.

16.12.070 - Filing.

16.12.080 — ~~- Tentative Tract Map~~ Processing.

16.12.090 — ~~- Tentative Map Approval or Denial~~ ~~Action by Planning Commission and City Council.~~

16.12.100 - Limitations of Planning Commission and City Council actions.

Section 10: Municipal Code Section 16.12.010(B), describing general tentative tract map requirements, is hereby amended as follows:

B. Any subdivider may file with the City a tentative map of a proposed subdivision of unincorporated territory adjacent to the City. The map, in the discretion of the City, may be acted upon in the manner provided in Section 16.12.~~100-90~~ of this chapter; except, that if it is approved, such approval shall be conditioned upon annexation of the property to the City within such period of time as shall be specified by the City, and such approval shall not be effective until annexation of such property to the City has been completed. If annexation is not completed within the time specified or any extension thereof, then the approval of such map by the City shall be null and void. No subdivision of unincorporated territory may be affected by approval of a map by the City unless annexation thereof to the City is completed prior to the approval of the final map thereof.

Section 11: Municipal Code Section 16.12.050(H) is hereby amended as follows:

H. **Hydrology Study.** A preliminary hydrology study may be required ~~_as determined by the Subdivision Committee~~ Development Management Team.

Section 12: Municipal Code Section 16.12.080, describing tentative tract map submittal requirements, is hereby amended as follows:

16.12.080 -- Tentative Map Processing.

After the tentative tract map has been filed, it shall be reviewed by the Development Management Team and all other interested persons, officers, departments, districts or agencies in accordance with the following procedures:

A. **Distribution of Copies.** When a tentative tract map has been properly filed and the subdivider has furnished the required number of copies, the Planning Director shall, within three ~~(3)~~ working days, forward a copy thereof to the following:

1. Development Management Team
2. ~~Chief Engineer of the county~~ County flood control district
3. Capistrano ~~unified~~ Unified school ~~School district~~ District
4. Utility companies

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5. Any public agency or officer having an interest in the proposed subdivision, who requests copies of tentative tract maps

B. Development Management Team Meetings. The Development Management Team shall hold at least ~~(1)~~ one meeting on each tentative tract map filed, and as many additional meetings as may be necessary, with the subdivider or his or her agent. ~~Such meeting shall be held for the purpose of submitting technical and factual reports to the subdivider and for the purpose of preparing a report including a report on the environmental impact report, if any, on the tract and making recommendations to the Planning Commission. The Development Management Team shall review subdivisions and make a determination on the following:~~

- ~~1. The tentative tract map complies with all of the requirements of the San Clemente Zoning Code, or with pending zoning requirements that have been adopted by the City Council but have not yet become effective.~~
- ~~2. The tentative tract map complies with all of the requirements of the Local Park Code.~~
- ~~3. Except where modifications are requested for exceptions, the tentative tract map complies with all of the requirements of the Subdivision Code and public works design standards.~~
- ~~4. The tentative tract map complies with those provisions of the California Environmental Quality Act.~~
- ~~5. The tentative tract map is compatible with the objectives, policies, general land uses and programs specified in the General Plan and any adopted applicable specific plan.~~

C. ~~Reports to Planning Commission~~ Distribution of Report to Applicant. Any reports or recommendations on the tentative tract map that are submitted to the Planning Commission ~~or City Council~~ shall also be submitted, in writing, to the subdivider at least three ~~(3)~~ calendar days prior to any meeting or action on the map by the Planning Commission or City Council.

D. Failure to Receive Response from Agencies Reviewing MapReport. If any person, officer, department, municipality, district or agency does not report to the Planning Commission or City Council, in writing, within ~~twenty~~ (20) days after the tentative tract map has been delivered or placed in the mail directed to the designated address and bearing the proper postage, such tentative tract map shall be deemed to be approved by that person, officer, department, municipality, district or agency.

~~E. Verification by Development Management Team. The Development Management Team shall make a determination and verification of the following:~~

- ~~1. The tentative tract map complies with all of the requirements of the San Clemente Zoning Code, or with pending zoning requirements that have been adopted by the City Council but~~

~~have not yet become effective;~~

- ~~2. The tentative tract map complies with all of the requirements of the Local Park Code;~~
- ~~3. Except where modifications are requested for exceptions, the tentative tract map complies with all of the requirements of the Subdivision Code;~~
- ~~4. The tentative tract map complies with those provisions of the environmental impact report procedures for the City applicable to tentative tract maps;~~
- ~~5. The tentative tract map is compatible with the objectives, policies, general land uses and programs specified in the General Plan and any adopted applicable specific plan.~~

Section 13: Municipal Code Section 16.12.090 is hereby amended as follows:

16.12.090 ~~-- Action by Planning Commission and City Council.~~ Tentative Map Approval or Denial

~~A. Procedure. The Planning Commission shall hold a public meeting for the purpose of taking action on each tentative map.~~

- ~~1. The action of the Planning Commission shall be to recommend approval, conditional approval or disapproval of the tentative map as filed to the City Council.~~
- ~~2. The Planning Commission shall not recommend approval of a tentative tract map which is not, together with the provisions for its design and improvements, consistent with the adopted General Plan and any applicable adopted specific plan and the objectives, policies, general land uses and programs specified therein.~~
- ~~3. The City Council shall approve, conditionally approve or disapprove of the tentative tract map as filed.~~
- ~~4. The Planning Commission shall not recommend approval, or the City Council shall not approve any tentative tract map if it makes any of the following findings:~~
 - ~~a. That the site is not physically suitable for the type of development;~~
 - ~~b. That the site is not physically suitable for the proposed density of the development;~~
 - ~~c. That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or~~

~~their habitat;~~

- ~~d. That the design of the subdivision or the type of improvements are likely to cause serious public health problems;~~
 - ~~e. That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of the property within the proposed subdivision. In this connection, a map may be approved if alternate easements for access or for use will be provided and if these will be substantially equivalent to ones previously acquired by the public. The provision shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction.~~
- ~~5. The Planning Commission shall recommend and the City Council shall require that reasonable public access by fee or easement be provided from public highways to land below the ordinary high water mark on the ocean coastline or a bay shoreline within or at a reasonable distance from the proposed subdivision as a condition of approval of any tentative tract map for any proposed subdivision fronting upon the coastline or shoreline. Such public access shall be expressly designated on the final tract map, and such map shall designate such access is dedicated to the City.~~
- ~~a. "Reasonable public access," as used in subsection (A)(5) of this section, shall be determined by the Planning Commission and the City Council, which shall consider the following in making such determination:
 - ~~1. That access may be by highway, foot trail, bike trail, horse trail or any other means of travel;~~
 - ~~2. The size of the subdivision;~~
 - ~~3. The type of coastline or shoreline and the various appropriate recreational, educational and scientific uses; including, but not limited to, diving, sunbathing, surfing, walking, swimming, fishing, beachcombing, taking of shell fish and scientific exploration;~~
 - ~~4. The likelihood of trespass on private property and reasonable means of avoiding such trespasses.~~~~
 - ~~b. If such reasonable public access is not provided through or across the subdivision itself, the Planning Commission may recommend the map if it makes a finding that such access is a reasonable distance from the subdivision. Any such finding shall be set forth on the face of the final tract map.~~

~~6. The action of the Planning Commission and City Council may include conditional approval of a tentative tract map not in compliance with existing zoning regulations; provided, that such map complies with zoning regulations adopted by ordinance by the City Council but not yet effective. Such action shall include a condition that a final tract map of the subject parcel of land shall not be recorded until the appropriate zoning regulations have become effective.~~

A. Public Hearing. A public hearing shall be held before the Planning Commission or City Council take action on a tentative tract map application.

B. Required Findings. The review authority (specified in Section 16.04.015) shall approve, conditionally approve, or recommend approval of a tentative tract map if a map complies with State and City regulations and the map meets the following required findings:

1. The site is physically suitable for the type of development.
2. The site is physically suitable for the proposed density of the development.
3. The design of the subdivision or the proposed improvements is not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
4. The design of the subdivision or the type of improvements is not likely to cause serious public health problems.
5. The subdivision, with its provisions for any design and improvements, is consistent with the General Plan and any applicable specific plan.
6. If there is an easement, either of the following findings shall be made:
 - a. The design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of the property within the proposed subdivision.
 - b. Alternate easements for access or for use will be provided, substantially equivalent to ones previously acquired by the public, that are easements of record or easements established by judgment of a court of competent jurisdiction.

C. Documentation of Decisions. The City Clerk shall stamp and sign the tentative tract map to signify the decision making authority's action on a map.

D. Conditions of Approval. The Planning Commission or City Council may include conditions of approval for a tentative tract map not in compliance with existing zoning regulations; provided,

that such map complies with zoning regulations adopted by ordinance by the City Council but not yet effective. Such action shall include a condition that a final tract map of the subject parcel of land shall not be recorded until the appropriate zoning regulations have become effective.

E. Public Access Requirements for Subdivisions Fronting Coastline or Shoreline. When a subdivision fronts coastline or shoreline, reasonable public access by fee or easement shall be provided from public highways to land below the ordinary high water mark on the ocean coastline or a bay shoreline within or at a reasonable distance from the proposed subdivision as a condition of approval of any tentative tract map. Such public access shall be expressly designated on the final tract map, and such map shall designate such access is dedicated to the City.

1. "Reasonable public access" shall be determined by the review authority, considering the following:
 - a. That access may be by highway, foot trail, bike trail, horse trail or any other means of travel.
 - b. The size of the subdivision.
 - c. The type of coastline or shoreline and the various appropriate recreational, educational and scientific uses; including, but not limited to, diving, sunbathing, surfing, walking, swimming, fishing, beachcombing, taking of shell fish and scientific exploration.
 - d. The likelihood of trespass on private property and reasonable means of avoiding such trespasses.
2. If reasonable public access is not provided through or across the subdivision itself, the review authority shall find: "public access is a reasonable distance from the subdivision." The finding shall be shown on the final tract map.

B.F. Time Limits.

1. The public meeting and the action of the Planning Commission~~A tentative tract map~~ shall be acted upon made ~~within fifty (50)~~ days after the Planning Director accepted and dated the filing of the tentative tract map; except, that such time limit may be extended by mutual consent of the subdivider and the Planning Commission~~decision making authority.~~
2. As specified in Section 16.04.015, the Planning Commission is responsible for making recommendations to the City Council on the approval, conditional approval, or denial of subdivisions, excluding condominiums, condominium conversions, community apartments, time shares, and stock cooperatives. For these subdivisions, the City Council shall act upon

the tentative tract map within ~~thirty (30)~~ days after the Planning Commission action; except, that such time limit may be extended by mutual consent of the subdivider and the City Council.

3. If no action is taken within the time limits stated in subsections ~~(B)~~(1) and (2) above, the tentative tract map, as filed, shall be deemed to be approved.

G.G. Distribution of Report to Subdivider. The approval, conditional approval or disapproval of ~~the a~~ tentative tract map ~~by the City Council~~ shall be reported, in writing, directly to the subdivider. This requirement shall be deemed to have been complied with when a report of the ~~City Council's~~ action has been placed in the mail directed to the subdivider at his or her designated address and bearing the proper postage.

D.H. Withdrawal of Tentative Tract Maps. Any subdivider or record owner of property upon which a tentative tract map has been filed may withdraw such map at any time ~~prior to the action thereon by the City Council in writing before a decision is made on a subdivision~~. Upon receipt of such notice, ~~the City Council shall notify~~ each person, officer, department, municipality, district or agency shall be notified from which a report was requested when the tentative tract map was filed. Upon the completion of such notification, ~~by the City Council~~, the tentative tract map shall have been officially withdrawn. No refund in filing fee for any such map withdrawn shall be made.

Section 14: Municipal Code Section 16.12.100 is hereby amended as follows:

16.12.100 - Limitations of Planning Commission and City Council actions.

~~The action of the City Council to approve, conditionally approve or disapprove a tentative tract map shall be final.~~

A. Time Limit for Recording. Within a period of ~~twenty four (24)~~ months after the date of the approval or conditional approval of a tentative tract map ~~by the City Council~~, the subdivider may cause the subdivision, or any part thereof, to be surveyed, and a final tract map to be prepared and recorded in accordance with the tentative tract map as approved. ~~Upon the application of the subdivider, an extension of time not exceeding twelve (12) months may be granted by the City Council. Such application for extension of time shall be made at least fourteen (14) days prior to the expiration date as previously approved by the City Council. Upon written request, such approval or conditional approval may be extended one year by the Director according to Section 17.12.160. The original decision making authority may approve additional time extensions in compliance with Government Code 66452 et esq. Time extension requests must be submitted prior to the expiration date.~~

B. Failure to Record. Any failure to record a final tract map within the time period specified by subsection A of this section shall terminate all proceedings, and the approval or conditional approval ~~action of the City Council of the tentative tract map~~ shall be null and void. Before a final

tract map may thereafter be recorded on the same parcel of land, a new tentative tract map shall be filed and approved.

C. Revised Tentative Tract Maps.

1. After the approval or conditional approval of a tentative tract map by the City Council any revised map shall comply with all regulations in effect at the time such revised map is filed.
2. When a tentative tract map has been approved, no other subdivider shall file a different tentative tract map for the parcel of land without the express written consent of the current property owner or the original subdivider unless such previous tentative tract map has been invalidated by action of the City Council or by expiration of time.
3. The approval or conditional approval by the City Council of any revised tentative tract map shall nullify all currently active approved tentative tract maps that are applicable to the same parcel of land.

D. Changes in Tentative Tract Map. ~~After the approval or conditional approval of a tentative tract map by the City Council, if a subdivider proposes to make significant~~ any changes to is made by the subdivider in the information shown on, or supplied with an approved the tentative tract map, the subdivider shall request such change in writing and receive approval of the City Council review authority that decided on the tentative map, ~~—~~ prior to recording the final tract map.

E. Changes in Conditions of Approval.

1. ~~After the conditional approval of a tentative tract map and prior to the recordation of the final tract map, the subdivider may request and the City Council may approve revisions in the conditions of approval. A subdivider shall submit a written request to change conditions of approval prior to recordation of the final tract map. Such requests shall be reviewed and decided upon by the original decision making authority for the subdivision.~~
2. Any such revision of conditions, ~~by the City Council~~ shall not affect the time limit for recording a final tract map.

F. Recordation of Tentative Tract Number. When a tentative tract is recorded in increments, the number used for the tentative tract shall be used to record the final increment.

G. Exceptions to Final Action. The action of the review authority on any tentative tract is final except as contained in this section.

Section 15: Municipal Code Section 16.16.010(D), describing final tract and parcel map procedures, is hereby amended as follows:

D. Reports of Compliance or Noncompliance. Each department represented on the ~~Subdivision Committee~~ Development Management Team shall submit a report for:

1. Final tract maps: a report in writing to the City Council as to the compliance or noncompliance of the final tract map with laws as to matters coming under its jurisdiction, together with a statement of the changes necessary thereon to cause such map to comply with the law. These reports shall be transmitted to the City Engineer and he or she shall include them with his or her transmittal of the final tract map to the City Council.
2. Final parcel maps: a report in writing to the City Engineer as to the compliance or noncompliance of the final parcel map with laws as to matters coming under its jurisdiction, together with a statement of the changes necessary thereon to cause such map to comply with the law.

Section 16: Municipal Code Section 16.28.050(F), describing lot requirements, is hereby amended as follows:

F. Lots to Abut a Street. All proposed lots or parcels in any and all types of subdivisions shall abut upon a dedicated public street except as herein provided. Any lots or parcels which are proposed to face upon a private street shall be ~~subject to approval of the City Council~~ approved by the decision making authority (specified in Section 16.04.015). A written request for private streets shall be made by the owners of the property, and shall contain any and all reasons why such streets should be private.

Section 17: Municipal Code Section 16.28.090(D), describing access requirements for dangerous, is hereby amended as follows:

D. Access. Any ~~subdivision parcel of land created from another parcel by means of filing or recording a map, the approval of which is required by the City Council, or the Planning Commission, by any law,~~ must have access to an all weather road, the design, location and width of which are approved by the City Council.

Section 18: Municipal Code Section 16.28.090(E), describing fire protection safeguards for dangerous, is hereby amended as follows:

E. Fire Protection. Any ~~subdivision parcel of land created from another parcel by means of filing or recording a map, the approval of which is required of the City Council or the Planning Commission, which is~~ _located within an area found by the City Council or Planning Commission to be a high fire hazard area, must be protected from fire danger by means of fire breaks, access roads, accessibility

of sufficient water of sufficient pressure and cleared of highly hazardous natural ground covering from slopes and canyons, as determined by the ~~Subdivision Committee~~Development Management Team.

Section 19: Subsection D of Municipal Code Section 16.28.100, describing cable television access, is hereby amended as follows:

- D. ~~City Council Action~~Conditions Must be Met Before Map Approval. The City shall not approve tentative tract maps or parcel maps without the imposition of the conditions expressed in subsection A of this section.

Section 20: Subsections B-E of Municipal Code Chapter 16.40, describing condominium conversion requirements, is hereby amended as follows:

B. Requirements for Conversion.

1. A tentative tract map shall be filed if the number of units proposed for conversion exceeds four (4) units— per Chapter 16.12. If the project is less than four ~~(4)~~ units the parcel map procedure shall be followed— per Chapter 16.08.
2. Parking shall be consistent with the present requirements of the district.
3. Density, where possible, should be brought into line with present zoning.
4. Modification or the addition of landscaping may be required.
5. Separate water meters shall be installed for each unit. At least one ~~(1)~~ water meter shall be installed for any common areas.
6. Prior to the issuance of a certificate of occupancy pursuant to subsection ~~E-D~~ of this code, inspectors of the Community Development Department shall inspect each unit and verify that all requirements of subsection B of this section have been met.

~~C. Procedure.~~

- ~~1. Plans and maps submitted and reviewed by staff.~~
- ~~2. Plans submitted to the Development Management Team by staff.~~
- ~~3. Planning Commission considers report by staff and makes recommendations to the City Council.~~

~~4.—City Council hears project.~~

~~5.—Request for conversion is approved or denied.~~

D.C. Contingency Fund Deposits for Unit Developments, Time Share Uses or Projects, and Condominium Projects.

1. It is the intent of the City in requiring the creation of a contingency or reserve fund for condominium projects, time share uses or projects, or other forms of independently owned dwelling units having common areas, to provide a surety for emergency repairs or restoration of such common areas and exteriors of buildings in the interests of the economic, aesthetic and environmental betterment of the City, as well as to protect the general welfare. The City does not intend to intrude into those areas regulated by the Real Estate Commissioner pursuant to the laws of the state. The sole purpose of the City Council in requiring such funds is to preserve those interests as set forth hereinabove for the entire community of the City.
2. The subdivider is required to deposit with the homeowners' or occupiers' association's established fund the sum of two hundred dollars (\$200.00) per unit in any planned unit development, condominium project, or time share use or project. Such deposit shall be used solely and exclusively as a contingency fund for emergencies which may arise relating to open space areas, exterior portions of dwelling units and such other restoration or repairs as may be assumed by the home owners' or occupiers' association or management corporation.

E.D. Certificate of Occupancy Required. In accordance with Section 306 and Section 502 of the Uniform Building Code, no building or project which has been converted to independent ownership of the units by means of a statutory condominium or subdivision of land shall be made available for sale until the Building Official has issued a certificate of occupancy therefor.

Tentative parcel map cost analysis for streamlined process

Division	Title	Existing staff hours	Staff hours w/ new process	Rate w/overhead	Existing cost per staff person	Cost per staff person w/ new process	Reason for change
Engineering Administration	City Engineer	0.1	0.1	140	11	11	
Engineering Design and Development	Associate Civil Engineer	3.3	2.3	107	347	241	Less material review
Engineering Design and Development	Principal Civil Engineer	1.5	1.0	133	199	133	Less meetings
Building	Building Official	0.1	0.1	193	15	15	
Building	Senior Plan Check Engineer		1.5	183		275	Involved in DMT process
Community Development Administration	Community Development Director	0.8	0.2	146	121	25	Less meetings
Public Works Administration	Public Works Director	0.1	0.1	142	11	11	
Planning	Associate Planner	15.3	10.0	102	1,561	1,024	Less report, notice, presentation prep, no Council or Commission meeting
Planning	City Planner	1.3	0.8	171	214	128	Less report review
Planning	Department Assistant	2.8	2.0	70	199	140	Less report, notice, minutes admin
Planning	Principal Planner	1.7	0.8	147	246	122	Less report review
Maintenance Services Administration	Maintenance Services Manager	0.8	0.5	108	81	54	Less meetings
Parks Development	Senior Park Planner	0.8	0.5	103	78	52	Less meetings
Storm Drain Maintenance	Utilities Manager	0.8	0.5	115	87	58	Less meetings

Total cost \$ 3,170 \$ 2,289
 Difference \$ 881
 % reduction 28%

Change =

7A-6A

ATTACHMENT 5

These minutes will be considered for approval at the Planning Commission meeting of 03-20

**MINUTES OF THE ADJOURNED REGULAR MEETING
OF THE CITY OF SAN CLEMENTE
PLANNING COMMISSION
February 20, 2013 @ 6:00 p.m.**

3. ROLL CALL

Commissioners Present: Nesa Anderson, Barton Crandell, Michael Kaupp and Jim Ruehlin;
Chair pro Tem Donald Brown, Vice Chair Julia Darden, Chairman
Lew Avera

Commissioners Absent: None

Staff Present: Jim Pechous, City Planner
Amber Gregg, Associate Planner
Christopher Wright, Associate Planner
Zachary Ponsen, Senior Civil Engineer
Ajit Thind, Assistant City Attorney
Eileen White, Recording Secretary

9. NEW BUSINESS

B. Subdivision Ordinance Amendment – Condominium Map Process (Wright)

A request to discuss City initiated amendments to Title 16 "Subdivisions" of the Municipal Code. The proposed amendments would: 1) streamline the subdivision review process for condominiums, condominium conversions, time shares, community apartments, and stock cooperatives, and 2) make minor clean up edits (e.g. repair inaccurate or "broken" text references). The review process would not change for subdivisions of land to create parcels for new development. Specifically, the Municipal Code amendments would make it so Zoning Administrator approval is required to subdivide four or fewer units (e.g. into condominiums), and require Planning Commission approval to subdivide five or more units. Currently, all subdivisions require a Planning Commission recommendation to the City Council and City Council approval.

Christopher Wright, Associate Planner, reviewed the staff report; referred to letter dated February 15, 2013 from The Loftin Firm LLP, Attorneys at Law; recommended revisions identified by staff/The Loftin Firm LLP; recommended the Commission recommend Council adopt the ordinance containing the proposed amendments.

7A-45

Ajit Thind, Assistant City Attorney, noted he reviewed the letter from "The Loftin Firm LLP" and recommended the Commission to make two changes for the ordinance to be clearer and consistent with State law: 1) remove the last sentence from Section 16.04.010(H)(4) on page 6 of 29 of Attachment 1, Exhibit A, and 2) change 18 months to 24 months in the first paragraph of Section 16.08.070 on Page 17 of 29. Mr. Thind stated the letter recommends other changes and the City Attorney's office believes those edits are unnecessary.

In response to questions from the Commissioners, Associate Planner Wright clarified the proposed amendments will not affect land subdivisions (e.g. subdivide lot into two so one house can be built instead of two) or change affordable housing requirements; noted the proposed review process is comparable to other California cities researched; stated City Council would have the ability to call up Zoning Administrator and Planning Commission decisions; and advised the revised regulations pertain to all condominium conversions, including the conversion of a mobile home park.

IT WAS MOVED BY COMMISSIONER ANDERSON SECONDED BY CHAIR PRO TEM BROWN, AND UNANIMOUSLY CARRIED TO RECOMMEND THE COUNCIL ADOPT THE DRAFT ORDINANCE with the following revisions:

Page 6 of 29, no. 4, eliminate the last sentence starting with "The certificate..." in its entirety.

Page 10 of 29, under, "G. Zoning Administrator", switch no. 1 and no. 2, making no. 2 the new no. 1, etc. (page 10)

Page 10 of 29, under "H. Planning Commission", switch no. 1 and no. 2, making no. 2 the new no. 1, etc.

Page 17 of 29, first paragraph of Section 16.08.070, replace "eighteen (18) months" with "24 months."



Via U.S. Mail and Electronic Mail (Planning@san-clemente.org)

February 15, 2013

City of San Clemente
Attn: Planning Commission
100 Avenida Presidio
San Clemente, CA 92673

RE: Agenda Item: 9-B – San Clemente Planning Commission 2-20-13

Dear Honorable Chairman and Commission Members:

While we understand that the aim of the amendments to Title 16 "Subdivisions" of the Municipal is to streamline procedures for subdivisions that convert apartments into condominiums, we have several concerns as it relates to Section H-4 (Page 6 of 29) on the Municipal Code amendments in track changes format.

First, we would propose the following changes:

If the Director determines that such real property does not comply with the provisions of the Subdivision Map Act and of this code, the Director shall refer the matter to the Planning Commission which, as a condition to granting a certificate of compliance, may impose conditions as cited in subsection (1)(2) of this section. *provided however in the event of a certificate of compliance pursuant to Government Code 86642.5, the Planning Commission may not impose any off site improvements except as necessary to mitigate any health and safety conditions.* Such conditions may be fulfilled and implemented by the property owner who has applied for a certificate of compliance or by a grantee. *The application for certificate of compliance not approved or finalized by the Planning Commission shall have no force or effect upon any subsequent transfer of the property, and any subsequent transferee or assignee shall make a new application for a certificate of compliance pursuant to this section, and the Planning Commission may impose such conditions as would have been applicable at the time such assignee or transferee acquired the property.*

5760 Fleet Street, Suite 110 • Carlsbad • California • 92008
T: 760.431.2111 • F: 760.431.2003 • www.loftinfirm.com • sloftin@loftinfirm.com

Next, we would propose an addition section (3) be added to Section 1 – Exceptions:

(3) Nothing herein shall effect a mobilehome Manufactured Housing condominium conversion pursuant to Government Code §66428.1 and a Certificate of Compliance for such mobilehome Manufactured Home conversion pursuant to Government Code §66428.1

Lastly, we would like to bring to your attention that on Page 17 of 29 of the Municipal Code amendments in track changes format **16.08.070 – Limitation of approval**, it is stated that such map shall be valid for a period of eighteen (18) months from the date of final action. Pursuant to statute, this period is twenty four (24) months.

Thank you in advance and please contact regarding any of the proposed changes.

Sincerely,



L. Sue Loftin, Esq.

cc:

City Clerk, City of San Clemente (*via email only with enclosures CityClerk@san-clemente.org*)
Client (*via email*)

Encls.

- (1) Government Code §66428.1
- (2) Staff Report, San Clemente Planning Commission, Agenda Item: 9-B (Overview pg. 1, Exhibit A, page 6, and page 17)

7A-68

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TOC: Deering's California Code Annotated > / . . . / > Article 1. General Provisions > § 66428.1. Waiver of requirement for parcel map or tentative and final map

Citation: **CA Gov Code 66428.1**

Cal Gov Code § 66428.1

Deering's California Codes Annotated
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*** This document is current through the 2013 Supplement ***

(All 2012 legislation, 2012 Governor's Reorg. Plan No. 2 and all propositions approved by the electorate at the June and November 2012 elections)

GOVERNMENT CODE
Title 7. Planning and Land Use
Division 2. Subdivisions
Chapter 2. Maps
Article 1. General Provisions

GO TO CALIFORNIA CODES ARCHIVE DIRECTORY

Cal Gov Code § 66428.1 (2013)

§ 66428.1. Waiver of requirement for parcel map or tentative and final map

(a) When at least two-thirds of the owners of mobilehomes who are tenants in the mobilehome park sign a petition indicating their intent to purchase the mobilehome park for purposes of converting it to resident ownership, and a field survey is performed, the requirement for a parcel map or a tentative and final map shall be waived unless any of the following conditions exist:

(1) There are design or improvement requirements necessitated by significant health or safety concerns.

(2) The local agency determines that there is an exterior boundary discrepancy that requires recordation of a new parcel or tentative and final map.

(3) The existing parcels which exist prior to the proposed conversion were not created by a

7A-69

recorded parcel or final map.

(4) The conversion would result in the creation of more condominium units or interests than the number of tenant lots or spaces that exist prior to conversion.

(b) The petition signed by owners of mobilehomes in a mobilehome park proposed for conversion to resident ownership pursuant to subdivision (a) shall read as follows:

[Click here to view form](#)

(c) The local agency shall provide an application for waiver pursuant to this section. After the waiver application is deemed complete pursuant to Section 65943, the local agency shall approve or deny the application within 50 days. The applicant shall have the right to appeal that decision to the governing body of the local agency.

(d) If a tentative or parcel map is required, the local agency shall not impose any offsite design or improvement requirements unless these are necessary to mitigate an existing health or safety condition. No other dedications, improvements, or in-lieu fees shall be required by the local agency. In no case shall the mitigation of a health or safety condition have the effect of reducing the number, or changing the location, of existing mobilehome spaces.

(e) If the local agency imposes requirements on an applicant to mitigate a health or safety condition, the applicant and the local agency shall enter into an unsecured improvement agreement. The local agency shall not require bonds or other security devices pursuant to Chapter 5 (commencing with Section 66499) for the performance of that agreement. The applicant shall have a period of one year from the date the agreement was executed to complete those improvements.

(f) If the waiver application provided for in this section is denied by the local agency pursuant to the provisions of subdivision (a), the applicant may proceed to convert the mobilehome park to a tenant-owned condominium ownership interest, but shall file a parcel map or a tentative and final map. The local agency may not require the applicant to file and record a tentative and final map unless the conversion creates five or more parcels shown on the map. The number of condominium units or interests created by the conversion shall not determine whether the filing of a parcel or a tentative and final map shall be required.

(g) For the purposes of this section, the meaning of "resident ownership" shall be as defined in Section 50781 of the Health and Safety Code.

History:

Added Stats 1991 ch 745 § 4 (AB 1863).

Collateral References:

Cal. Forms Pleading & Practice (Matthew Bender(R)) ch 369 "Mobilehomes And Mobilehome Parks".

Cal. Legal Forms, (Matthew Bender(R)) §§ 25A.132, 25A.232, 25B.203, 26.272, 26A.16, 26A.234, 27A.01, 27A.10, 27A.101, 27A.12, 33C.140, 28C.170, 28C.112, 30B.22, 30D.100, 33C.33, 33D.121, 34.36, 34.121, 34.145, 39.28, 39.29, 39.212.

Hierarchy Notes:

Tit. 7 Note

Tit. 7, Div. 2 Note

Tit. 7, Div. 2, Ch. 2 Note

Tit. 7, Div. 2, Ch. 2, Art. 1 Note

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TOC: Deering's California Code Annotated > / . . . / > Article 1. General Provisions > § 66428.1. Waiver
of requirement for parcel map or tentative and final map

Citation: **CA Gov Code 66428.1**

View: Full

Date/Time: Monday, February 18, 2013 - 6:28 PM EST

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*Waiver of Subdivision
Certificate Compliance*
AGENDA ITEM: 9-B

STAFF REPORT SAN CLEMENTE PLANNING COMMISSION

Date: February 20, 2013

PLANNER: Christopher Wright, Associate Planner

SUBJECT: Condominium map streamlining, a request to consider amendments to Title 16 "Subdivisions" of the Municipal Code.

BACKGROUND

This is a request for the Commission to review and make a recommendation on amendments to Title 16 "Subdivisions" of the Municipal Code. Staff will forward the Commission's comments to the City Council who will take final action on the draft ordinance (Attachment 1). The proposed amendments would:

1. Streamline tentative parcel and tract map procedures for subdivisions that convert apartments into condominiums and that subdivide the airspace of new buildings to allow for various forms of property ownership, such as condominiums, time shares, stock cooperatives, community apartments, etc. These subdivisions are referred to as "condominium maps" in this report. The review process would not change for land subdivisions (e.g. split one lot into two parcels so two houses may be built instead of one).
2. Make minor clean up edits (e.g. fix broken text references).

The City Council initiated amendments to the Subdivision Ordinance on May 15, 2012 to improve customer service. The proposed amendments are the next phase of a larger project to expedite permit procedures in instances where it is reasonable to make decisions at a lower level.

What is the current review process for subdivisions?

The subdivision review process has three main steps: the tentative map, final map, and recording subdivisions with the county recorder's office. The tentative map step is required to ensure a subdivision meets requirements of the State Subdivision Map Act and the Municipal Code. If a subdivision meets requirements, they may be approved or approved with conditions. State law requires a tentative parcel map to subdivide four or less units and requires a tentative tract map to subdivide five or more units. The final map is the second step in the process. The final map is required to ensure the legal description and other technical documents are accurate and in compliance with regulations. This must be done before a map can be recorded with the county.

Section 1: The section index of Municipal Code Chapter 16.04, "General provisions and administration", is hereby amended as follows:

Sections:

- 16.04.010 - General provisions.
- 16.04.015 - Advisory Agency and Review Authorities
- 16.04.020 - Definitions.
- 16.04.040 - Taxes and assessments.

Section 2: Municipal Code Chapter 16.04.010 is hereby amended as follows:

16.04.010 - General provisions.

A. Local Regulations. Pursuant to the provisions of the Subdivision Map Act and in addition to any regulations provided by law, the regulations contained in this code shall apply to all subdivisions within the incorporated territory of the City.

~~8. Designation of Advisory Agencies.~~

~~1. Planning Commission.~~

- ~~a. The Planning Commission of the City is designated as the Advisory Agency as that term is used in the Subdivision Map Act and is charged with the duty of making investigations and reports on design and improvement of proposed subdivisions; and is hereby authorized to recommend, conditionally approve or recommend denial of tentative maps of subdivisions prepared and filed according to this chapter and Subdivision Map Act, to prescribe the kinds, nature and extent of the improvements required to be installed in subdivisions and to report its findings and recommendations directly to the City Council with a copy to the subdivider of the action taken on any tentative subdivision map submitted to the City.~~
- ~~b. Prior to any final action recommending approval or denial of an application for a tentative parcel map or tentative tract map, the Planning Commission shall hold a public hearing and notice thereof shall be given at least ten (10) days prior thereto by publication in a newspaper of general circulation in the City, and by mailing postage prepaid a notice of the time, place and purpose of such hearing to all persons whose names and addresses appear on the latest tax roll of the City, or as known to the Clerk as owners from the exterior boundaries of the area which is the subject of the hearing and by posting three (3) notices adjacent to the subject property in conspicuous places facing the public street.~~
- ~~c. Upon completion of the mailing, posting and publication of notices provided herein, the Secretary of the Planning Commission shall cause an affidavit of such mailing, posting and publication to be filed in the permanent records of the particular proceedings to which such~~

~~notices pertain.~~

- ~~2. Subdivision Committee. The Subdivision Committee is designated as an advisory agency as that term is used in the Subdivision Map Act, and is charged with the duty of making investigations and reports on the design and improvements of proposed subdivisions and to report their findings directly to the Planning Commission on all tentative maps.~~

B. Public Hearing Notification.

1. Purpose. This section defines procedures 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.
2. Notice of Public Hearings. 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. 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:
 - a. Publication. Publication in a newspaper of general circulation in the City of San Clemente.
 - b. Mailing. Mailing a notice of the time, place and purpose of such hearing to all of the following:
 - i. Required property owners.
 - ii. 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.
 - iii. Persons requesting notice.
 - iv. Owners of property within 300 feet of the exterior boundaries of the subject property (radius of notice). The City may place a one-eighth page ad (or larger) in at least one newspaper of general circulation in lieu of mailing notices to property owners required by this subsection, provided that there are greater than 1,000 owners of property within 300 feet of the subject site. The notice must be displayed in the newspaper at least 10 days prior to the hearing.

c. 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.

3. Affidavit of Mailing, Publication and/or Posting. Once a notice of public hearing has been given, in accordance with subsection 2 of 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 shall be responsible for the affidavit of mailing and publication if the hearing is held by the Zoning Administrator or Planning Commission. The City Clerk shall be responsible for the affidavit of mailing and publication if the hearing is held by the City Council.

b. Posting. The City Planner shall be responsible for the affidavit of posting. If the hearing is held by the Zoning Administrator or Planning Commission, The City Clerk 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. City Council Action. The City Council may, by majority vote of the members present, approve, deny, modify or add to any recommendation or requirements of the advisory agency.~~

~~D.C. General Plan Consistency. Tentative maps shall be consistent with all elements of the San Clemente General Plan and any applicable specific plan.— The Director shall determine if tentative map applications are consistent with the General Plan and applicable specific plans. If found inconsistent, the subdivider may appeal the Director's determination to the Planning Commission. In this instance, the Planning Commission's determination shall be binding on the decision making authority designated for the tentative map (specified in Section 16.04.015) As a determination of consistency frequently calls for the exercise of discretion, the determination of the Director for purposes of accepting a map for filing shall not be binding upon any advisory agency or the City Council. Conversely, because it is inconsistent with the San Clemente General Plan, the subdivider may request a determination of consistency from the Planning Commission. The Planning Commission's determination on the question shall prevail over that of the Director and shall be binding on any advisory agency in the absence of new information or amendments to the General Plan when the tentative map is acted upon.—~~

~~E.D. Modifications.~~

1. Whenever the land involved in a subdivision is of such size or shape, or is subject to such title limitation of record, or is affected by such topographical location or conditions, or is to be

devoted to such use, or is subject to such regulations by the Zoning Code that it is impractical in the particular case to conform to the strict application of the requirements of this chapter, the advisory agency may make such modifications thereof as are reasonably necessary or expedient; provided, that the modification is in conformity with the City's General Plan and with the spirit and intent of the Subdivision Map Act and of this Chapter; and provided further, that the Planning Director transmits, with the recommendation of the tentative map of the subdivision to the City Council, a report in writing setting forth each modification allowed and the facts relied upon by the advisory agency for the allowance of the modification.

2. When a conditional use permit has been granted for a planned residential development in any district and such development is subdivided, exceptions to certain subdivision standards, in addition to those exceptions which may be authorized pursuant to subsection (E)(1) of this section, may be recommended by the Planning Commission and authorized by the City Council as follows:
 - a. Exceptions to the requirements and regulations relative to lot size, width and shape may be permitted when:
 - i. An open space or recreational area is to be provided for the use and benefit of all the dwelling units in the development; and
 - ii. The total land area of the development divided by the total number of dwelling units provides an average building site area per dwelling unit equal to or more than that required by the regulations of the base district in which the development is located. Total land area of the development shall include the land area of open spaces, private driveways and walkways and recreational areas, but shall not include any land area being set aside for public street rights of way.
 - b. Exceptions to the requirement that lots abut on a street may be permitted when:
 - i. Adequate and permanent legal access from a street to each family dwelling unit is provided for pedestrians and emergency vehicles; and
 - ii. Adequate and permanent provisions for two ~~(2)~~ accessible roofed automobile storage spaces, each not less than ~~ten (10)~~ feet by ~~nineteen (19)~~ feet, are assured for each family dwelling unit, plus one ~~(1)~~ parking space for each five ~~(5)~~ units for guest parking.
 - c. Maintenance of Open Space. As a condition of approving the subdivision of a planned residential development and granting modifications to the standard subdivision requirements, the subdivider shall present in writing with the tentative tract maps the means by which the preservation and permanent maintenance of the open spaces or

recreation area is to be accomplished and the payment of all taxes thereon assured. No exception to the standard subdivision requirements shall be permitted unless the City Council determines that the subdivider has adequately provided for such maintenance and payment of taxes. Covenants, conditions and restrictions will be approved by the planning staff, in regard to ongoing maintenance in open spaces or recreational areas by homeowners' associations.

F.E. Change in Conditions.

1. ~~If a change in conditions affecting the proposed subdivision occurs which renders a requirement or condition of approval of a tentative map unreasonable or arbitrary, the City Council may, upon written application of the subdivider or owner, eliminate or modify such requirement or condition. A subdivider shall submit a written application to modify or eliminate conditions of approval for a subdivision. Conditions of approval may be changed or eliminated only if the original decision making authority finds grading, traffic, water quality, infrastructure, or other aspects of the subdivision changed and such changes made conditions of approval unreasonable or arbitrary. Such applications shall set forth the facts showing the provide sufficient facts to demonstrate that changes in characteristics of a subdivision have changed since its approval and prove such changes have made the conditions of approval arbitrary or unreasonable. conditions affecting the proposed subdivision which has occurred since the approval or conditional approval and the particular requirement or condition, the enforcement of which is claimed to have become arbitrary or unreasonable by reason of changed conditions.~~
2. Upon receipt of the application, the City Council decision making authority shall fix the time and place for its consideration and give notice thereof to the subdivider or owner and the City departments referred to in Section 16.12.080(A) of this code.

G.F. Reference to Other Laws. Whenever reference is made to any portion of this chapter, the provisions of this code or other ordinance or statute, such reference applies to all amendments and additions now or hereafter made.

H.G. Enforcement. No land shall be conveyed, nor shall any building be constructed, nor shall a permit for the construction of a building be issued, nor shall any land be used or a certificate of use and occupancy be issued, except for model homes, until a final parcel map or final tract map substantially in conformance with an approved tentative parcel map or tentative tract map has been recorded by the County Recorder; and any deed of conveyance, sale or contract to sell made contrary to these provisions is voidable to the extent and in the same manner provided in the Subdivision Map Act.

H.H. Certificate of Compliance.

1. No City department or agency shall issue any permit or grant any approval necessary to develop

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any real property which has been divided, or which has resulted from a division, in violation of the provisions of the Subdivision Map Act and the provisions of this code, if the Director finds that development of such real property is contrary to the public health or the public safety. The authority to deny such a permit or such approval shall apply whether the applicant therefor was the owner of the real property at the time of such violation or whether the applicant therefor is the current owner of the real property with, or without, actual or constructive knowledge of the violation at the time of the acquisition of his or her interest in such real property.

2. If a City department or agency proposes to issue a permit or grant approval for the development of any such real property referred to above, the matter shall first be referred to the Planning Commission, which may impose such additional conditions as would have been applicable to the division of the property at the time the current owner of record acquired the property.

3. Any person owning real property may request, and the Director shall determine, whether such real property complies with the provisions of the Subdivision Map Act and of this code. Upon making such a determination, the City shall cause a certificate of compliance to be filed with the County Recorder. The certificate of compliance shall identify the real property and shall state that the division thereof complies with applicable provisions of the Subdivision Map Act and of this code.

application for H
not approved or denied
PC
4. If the Director determines that such real property does not comply with the provisions of the Subdivision Map Act and of this code, the Director shall refer the matter to the Planning Commission which, as a condition to granting a certificate of compliance, may impose conditions as cited in subsection (1)(2) of this section. Such conditions may be fulfilled and implemented by the property owner who has applied for a certificate of compliance or by a grantee. The certificate of compliance shall have no force or effect upon any subsequent transfer of the property, and any subsequent transferee or assignee shall make a new application for a certificate of compliance pursuant to this section, and the Planning Commission may impose such conditions as would have been applicable at the time such assignee or transferee acquired the property.

5. A certificate of compliance shall be issued for any real property which has been approved for development pursuant to this section.

6. A recorded final tract map or final parcel map shall constitute a certificate of compliance with respect to the parcels of real property described therein.

7. A fee for processing an application for a certificate of compliance shall be collected by the Planning Director at the time such application is filed. Such fee shall be the same as charged for tentative parcel maps, in the case of four (4) or less contiguous parcels, or tentative tract maps, in the case of five (5) or more contiguous parcels

a. The design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of the property within the proposed subdivision.

b. Alternate easements for access or for use will be provided, substantially equivalent to ones previously acquired by the public, that are easements of record or easements established by judgment of a court of competent jurisdiction.

D. Conditions of approval may be required. If they are, the subdivider shall agree to fully comply with such conditions prior to the recordation of a final parcel map. Improvements required as a condition of approval shall be limited to the dedication of rights-of-way, easements, construction of necessary improvements for the development, and construction of reasonable off-site improvements for the parcels being created.

~~16.08.100 - City Council disapproval.~~

E. Documentation of decisions. In the event that the City Council finds that the map cannot be made to comply with the requirements of Section 16.08.080(A), it shall disapprove the map and The City Clerk shall stamp and sign the tentative parcel map to signify its the decision making authority's action in the same manner as hereinbefore provided in Section 16.08.090(A): action on a map

~~16.08.110-070 - Limitation of approval.~~

A. The approval or conditional approval of such map shall be valid for a period of ~~eighteen (18)~~ 24 mo months from the date of final action thereon. Such approval or conditional approval may be extended for a period not to exceed two ~~(2)~~ additional years by the ~~City Council~~ decision making authority (see Section 16.04.015) upon written request; provided, that such request is made at least ~~fourteen (14)~~ days prior to the expiration of the ~~eighteen (18)~~ month approval or conditional approval period.

B. Upon granting such extension of time, the ~~City Council~~ decision making authority may require compliance with any additional requirements deemed necessary to carry out the spirit and intent of this chapter.

~~16.08.120-080 - Final parcel map.~~

When a tentative parcel map has been approved or conditionally approved in accordance with this section, a final parcel map substantially in conformance with such approved tentative parcel map shall be recorded within ~~twenty-four (24)~~ months of the date of approval or conditional approval. The final parcel map shall be based upon a survey of the land and shall meet the requirements for a record of survey map as set out in Section 8764 (a), (b), (c), (d) (e) and (g) of the Business and Professions Code. Failure to record a final parcel map within such ~~twenty-four (24)~~ month period shall render

