



STAFF REPORT SAN CLEMENTE PLANNING COMMISSION

Date: February 18, 2015

PLANNER: Sean Nicholas, Associate Planner *SN*

SUBJECT: Tentative Tract Map 14-252 – Del Reposo Condo Map, a request to consider a seven-unit condominium map for an approved apartment project under construction located at 117 Avenida Del Reposo within the Residential Medium (RM) density zone.

REQUIRED FINDINGS

Prior to approval of the proposed project, the following findings shall be made. The draft Resolution (Attachment 1) and analysis section of this report provide an assessment of the project's compliance with these findings.

Tentative Tract Map, Section 16.08 of the Municipal Code requires TTM for the subdivision of air space for condominium purposes for the five-units. A recent code amendment assigns the Planning Commission as the final approving body for the application.

- A. The site is physically suitable for the type of development.
- B. The site is physically suitable for the proposed density of the development.
- C. 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.
- D. The design of the subdivision or the type of improvements is not likely to cause serious public health problems.
- E. The subdivision, with its provisions for any design and improvements, is consistent with the General Plan and any applicable specific plan.

BACKGROUND

On October 19, 2011, the Planning Commission unanimously approved a request to demolish a single family residence, and construct a two-story seven unit development with a subterranean garage. The project is located at 117 Avenida Del Reposo and is in the Residential Medium (RM) density zoning district.

The applicant, Harold Alzate, now requests approval for a Tentative Tract Map to subdivide the seven-units into individual ownership airspace condominiums. The project is currently under construction and staff is completing site inspections to ensure consistency with the approved plans.

The two-story development, currently under construction, consists of two duplexes at the front of the project site adjacent to Avenida Del Reposo, and a triplex at the rear of the lot

adjacent to the alley. The architectural style of the development is Italian Tuscan Revival and the residential units range in size from 1,618 square feet to 2,128 square feet. Each unit has private outdoor deck/patio areas ranging from 67 square feet to 475 square feet. Common outdoor areas, walkways, and courtyards are designed into the project.

Development Management Team Meeting

The Development Management Team reviewed the item on November 16, 2014 and supported the project subject to conditions of approval provided in the exhibits of the attached resolution.

Noticing

This project was noticed according to State law and Municipal Code requirements. To date staff has received no comments from the public.

PROJECT DESCRIPTION

Development Standards

The project is consistent with all applicable development standards and was approved by Planning Commission on October 19, 2011. Building Permits for the development were issued February 27, 2014, at which time all conditions of approval and development standards were again verified.

PROJECT ANALYSIS

Tentative Tract Map

The applicant is requesting the approval of a Tentative Tract Map for a subdivision of airspace for the purposes of condominiums. There are no physical changes proposed to the project approved in 2011. The Engineering Division has reviewed the project in compliance with the Subdivision Map Act, and as conditioned is supportive of the proposed subdivision. Planning staff has again verified that the project density is below the allowed maximum for the zoning district. Staff has reviewed the required findings in the Municipal Code for a Tentative Tract Map and determined that all the necessary findings can be made, in that:

- The site is suitable for the density and is consistent with surrounding development.
- Will not be injurious to anyone or to any of the surrounding development as it complies with building code.
- Is consistent with all applicable development standards.
- The subdivision for individual ownership is consistent with the General Plan and is less dense than allowed in the Specific Plan.

ENVIRONMENTAL REVIEW/COMPLIANCE (CEQA):

An environmental assessment was completed in accordance with the California Environmental Quality Act (CEQA), and recommends that the Planning Commission determine this project categorically exempt from CEQA as a Class 1 exemption pursuant to CEQA Guidelines Section 15301, because the project involves the division of an approved and under construction multi-family development into common-interest ownership, where no physical changes occur.

CALIFORNIA COASTAL COMMISSION REVIEW

The project is subject to California Coastal Commission review and a Coastal Development Permit is required prior to recordation of a final map.

ALTERNATIVES; IMPLICATIONS OF ALTERNATIVES

1. The Planning Commission can concur with staff and approve the proposed project.

This action would result in the approval of the tentative tract map for a condo map for the seven-unit project under construction and consistent with development standards.

2. The Planning Commission can, at its discretion, add, modify or delete provisions of the proposed projects or conditions.

This action would result in any modifications being incorporated into the proposed project and included in the conditions of approval, if needed.

3. The Planning Commission can recommend denial of the proposed projects.

This action would result in the denial of the application. The applicant would be able to appeal to the City Council.

RECOMMENDATION

STAFF RECOMMENDS THAT the Planning Commission approve TTM 14-252 – Del Reposo Condo Map, subject to the attached Resolutions and Conditions of Approval.

Attachments:

1. Resolution No. 15-004
Exhibit A – Conditions of Approval
2. Location Map
Condo Map

RESOLUTION NO. PC 15-004

A RESOLUTION OF THE PLANNING COMMISSION OF THE
CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING TENTATIVE
TRACT MAP 14-252, DEL REPOSO CONDO MAP, A REQUEST TO
APPROVE A CONDO MAP FOR A SEVEN-UNIT PROJECT UNDER
CONSTRUCTION LOCATED IN THE RESIDENTIAL MEDIUM DENSITY
ZONE AT
117 AVENIDA DEL REPOSO

WHEREAS, on June 18, 2014 an application was submitted, and on December 22, 2014, the application was made complete by Harold Alzate, 101 South El Camino Real #104, San Clemente, CA, 92672, for a seven-unit condo map for a development currently under construction at 117 Avenida Del Reposo, in the Residential Medium (RM) density zoning district. The legal description being Lots 24 and 25, of Block 3, of Tract 820, Assessor's Parcel Number 692-363-09; and

WHEREAS, the Planning Division completed an environmental assessment for the project in accordance with the California Environmental Quality Act (CEQA), and recommends that the Planning Commission determine this project categorically exempt from CEQA as a Class 1 exemption pursuant to CEQA Guidelines Section 15301, because the project involves the division of an approved and under construction multi-family development into common-interest ownership, where no physical changes occur; and

WHEREAS, on February 18, 2015, the Planning Commission held a duly noticed public hearing on the subject application, and considered evidence presented by City staff, the applicant, and other interested parties.

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

Section 1: This project is categorically exempt from CEQA as a Class 1 exemption pursuant to CEQA Guidelines Section 15301, because the project involves the division of an approved and under construction multi-family development into common-interest ownership, where no physical changes occur.

Section 2: In regard to Tentative Tract Map 14-252, the Planning Commission finds:

- A. The site is physically suitable for the proposed development in that the project already went through a separate development process and the densities approved are below the allowed densities pursuant to the General Plan and Zoning Ordinance.
- B. The site is physically suitable for the proposed density of the development in that the project already went through a separate development process and the densities approved are below the allowed densities pursuant to the General Plan and Zoning Ordinance.

- C. 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 in that in that the project already went through a separate development process and it was determined that the site is not home to any such sensitive habitat. This approval is for the map only and the project is under construction.

- D. The design of the subdivision or the type of improvements is not likely to cause serious public health problems in that the subdivision is for air spaces purposes only so the development can be subdivided into condominiums. The area is zoned for multi-family residential and has been reviewed for compliance with all Building and Safety codes and is currently under construction.

- E. The subdivision, with its provisions for any design and improvements, is consistent with the General Plan and Zoning Ordinance in that the project already went through a separate development process and the densities approved are below the allowed densities pursuant to the General Plan and Zoning Ordinance.

Section 3: The Planning Commission hereby approves TTM 14-252, subject to the above Findings, and the Conditions of Approval attached hereto as Exhibit A.

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the City of San Clemente on February 18, 2015.

Chair

TO WIT:

I **HEREBY CERTIFY** that the foregoing resolution was duly adopted at a regular meeting of the Planning Commission of the City of San Clemente on February 18, 2015, and carried by the following roll call vote:

AYES:	COMMISSIONERS:
NOES:	COMMISSIONERS:
ABSTAIN:	COMMISSIONERS:
ABSENT:	COMMISSIONERS:

Secretary of the Planning Commission

EXHIBIT A

**CONDITIONS OF APPROVAL
TTM14-252, Del Reposo Condo Map**

1. The applicant or the property owner or other holder of the right to the development entitlement(s) or permit(s) approved by the City for the project, if different from the applicant (herein, collectively, the "Indemnitor") shall indemnify, defend, and hold harmless the City of San Clemente and its elected city council, its appointed boards, commissions, and committees, and its officials, employees, and agents (herein, collectively, the "Indemnitees") from and against any and all claims, liabilities, losses, fines, penalties, and expenses, including without limitation litigation expenses and attorney's fees, arising out of either (i) the City's approval of the project, including without limitation any judicial or administrative proceeding initiated or maintained by any person or entity challenging the validity or enforceability of any City permit or approval relating to the project, any condition of approval imposed by City on such permit or approval, and any finding or determination made and any other action taken by any of the Indemnitees in conjunction with such permit or approval, including without limitation any action taken pursuant to the California Environmental Quality Act ("CEQA"), or (ii) the acts, omissions, or operations of the Indemnitor and the directors, officers, members, partners, employees, agents, contractors, and subcontractors of each person or entity comprising the Indemnitor with respect to the ownership, planning, design, construction, and maintenance of the project and the property for which the project is being approved. The City shall notify the Indemnitor of any claim, lawsuit, or other judicial or administrative proceeding (herein, an "Action") within the scope of this indemnity obligation and request that the Indemnitor defend such Action with legal counsel reasonably satisfactory to the City. If the Indemnitor fails to so defend the Action, the City shall have the right but not the obligation to do so and, if it does, the Indemnitor shall promptly pay the City's full cost thereof. Notwithstanding the foregoing, the indemnity obligation under clause (ii) of the first sentence of this condition shall not apply to the extent the claim arises out of the willful misconduct or the sole active negligence of the City. *[Citation – City Attorney Legal Directive/City Council Approval June 1, 2010]* (PIng.)_____
2. Thirty (30) days after project approval, the owner or designee shall submit written consent to all of these imposed conditions of approval to the Community Development Director or designee. *[Citation – City Attorney Legal Directive/City Council Approval June 1, 2010]* (PIng.)_____
3. Within two (2) years after the approval date of TTM 14-252, unless an extension is granted as provided in Section 35 of the Code of the City of San Clemente and Section 66452.6 of the Government Code of the State of California (Subdivision Map Act), the owner or designee shall file a substantially complete submittal for review and approval by the City for a final map or multiple final maps prepared by a registered civil engineer. The final map(s) shall be subject to all pertinent requirements of the Subdivision Map Act and shall conform to the approved

tentative tract/parcel map, City standards, and all other applicable approved plans, codes, ordinances, statutes and regulations.

[Citation - Section 16.12.100.A of the SCMC]

(PInG.) _____

CONDITIONS TO BE SATISFIED PRIOR TO FINAL TRACT MAP APPROVAL

4. Prior to final tract map approval, the owner or designee shall submit for review to the Community Development Department, and shall obtain the approval of the City Attorney or designee for, Covenants, Conditions and Restrictions (CC&R's) which shall provide for the following: *[Citation – City Attorney Legal Directive/ City Council Approval June 1, 2010]*
 - A. Creation of an Association for the purpose of providing for control over the uniformity of boundary fencing, and the perpetual maintenance responsibility of areas including, but not limited to, all common areas, irrigation systems, landscaped areas, walls, driveways, parking areas, trash areas, structures, private accesses and drainage. All drainage and other improvements within the interior of the subdivision designated as private shall remain private and shall be maintained by the Association. In addition, the CC&R's shall indicate all other areas to be owned and maintained by the Association and that maintenance of all private drainage facilities shall be in conformance with NPDES requirements. Notwithstanding the foregoing, for projects consisting of four units or less, the CC&R's may provide for the maintenance described above by a mechanism other than the creation of an Association.

(PInG.) ____ (Fire) ____
 - B. Within 15 days after the establishment of the Association, the owner or designee shall furnish the Board or Officers of the Association a copy of the approved tract map, a copy of the approved site and fencing plan, copies of all approved landscaping plans, a complete set of construction plans for the units, and approved plans indicating the locations and characteristics of all major project components, utilities, and related data (collectively, the "Approved Plans"). For projects consisting of four units or less, where the owner has elected not to create an Association, the CC&R's shall provide that the owner or designee shall provide copies of all of the Approved Plans to the purchaser of each individual unit at the close of escrow. (PInG.) _____
 - C. Following recordation of the final tract map, the Association shall submit to the Community Development Department for distribution to the Fire and Beaches, Parks and Recreation Departments and, shall resubmit annually, a list of all current Officers of the Property Owner Association (this condition applicable only if an Association is created). (PInG.) _____
 - D. Proposed amendments to any of the CC&R's shall be submitted for review to the Community Development Director or designee, and shall be approved by the Community Development Director and the City Attorney prior to the amendments being valid. In the event a proposed amendment materially alters any of the provisions required by the City to be included in the

CC&R's, the Community Development Director may require the proposed amendment to be approved by the City Council. (PIng.)_____

E. A statement indicating that the City is deemed to be an express third party beneficiary of the CC&R's and has the right, but not the obligation, to enforce any of the provisions of the CC&R's (PIng.)_____

F. Agreement by the owner or designee and Association that on an annual basis in the month of June, reports will be furnished to the City in compliance with the reporting requirements of codes and ordinances adopted by the City with respect to the NPDES program (this condition applicable only if an Association is created). *[Citation - Section 13.40 of the SCMC]*
(Eng.)_____

G. A statement indicating City of San Clemente may enter the common Areas at any time for the purpose of administering and enforcing compliance by all Members with (a) any permit issued to the City of San Clemente by the San Diego Regional Water Quality Control Board, as such permit may be amended from time to time, and (b) all NPDES requirements. *[Citation - Section 13.40 of the SCMC]*
(Eng.)_____

H. The CC&R's shall contain fire prevention and defense provisions including a fire lane map, provisions that prohibit parking in fire lanes, and a method of enforcement. Also, a method for keeping fire protection access easements unobstructed shall be included. The approval of the Chief of Fire Protection Services shall be required for any modifications such as control gates, or parking changes. *[Citation - Service Codes: 2.12 of the OCFA]*
(Fire) _____

I. Agreement by and between the owner or designee and Association, that storm drain facilities shall be inspected regularly as follows: *[Citation - Section 13.40 of the SCMC]*.
(Eng.)_____

1) Open channels, catch basins and pipelines inspected annually before storm season and removal of debris as necessary.

2) All facilities shall have debris and sediment removed either manually or by mechanical methods. Flushing shall be used in emergency situations only.

5. Prior to final tract map approval, the owner or designee shall pay or reimburse (as determined by the City Planner) the City all costs associated with City Attorney review of the project CC&R's, Disclosure Statements, and any other applicable documents. *[Citation - City Attorney Directive, Planning Division Fee Schedule/City Council Approval June 1, 2010]* (Eng.)_____ (PIng.)_____

6. Prior to final tract map approval, owner shall indicate on the map, the location of all applicable easements for storm drains, utilities, and reciprocal access. *[Citation - Section 16.28.030.A & B of the SCMC]* (Eng.)_____

7. Prior to final tract map approval, the owner or designee shall demonstrate to the satisfaction of the City Engineer or designee, that quitclaims in favor of the City have been obtained from all persons having any interest in existing rights of way for pipelines for the conveyance of water, and for all rights to all underground water. The owner or designee shall convey the right to all underground water, but without right of entry to the surface thereof, to the City. The owner or designee shall cause no easements to be granted nor recorded over any portion of the property shown on the submitted record map between the tentative map approval date by the Planning Commission and the recording date of the final or record map by the County Recorder. *[Citation - Section 13.04.500.A, B & C of the SCMC]*
(Eng.)_____
8. Prior to the review of final tract map, plans, CC&R's, and legal documents, the owner shall deposit minimum \$5,000.00 for plan check. *[Citation - Fee Resolution No. 08-81 and Section 16.32.010.B of the SCMC]* (Eng.)_____
9. Prior to final tract map approval, the owner shall pay or reimburse the City all costs associated with City Attorney review of the project CC&Rs, Disclosure Statements, and any other applicable documents. Also the owner shall pay all applicable development and final map fees for each unit, which may include, but are not limited to, City Consultants review fees, RCFPP, park acquisition and development, water and sewer connection, drainage, grading. *[Citation - S.C.M.C. Title 15, Building and Construction, Sections 15.52, 15.56, 15.60, 15.64, 15.68, 15.72].*
(Eng.)_____(Plng.)_____
10. Prior to final tract map approval, the owner or his designee shall be required to construct and/or replace all damaged improvements along the entire property frontage on both streets as approved by the City Engineer or his designee, including but not limited to sidewalks, curbs, gutters, street lights, driveways, failed pavement section, etc. All work shall be per City Standards. *[Citation - Title 12 and Section 16.28 of the SCMC]*
(Eng.)_____
11. Prior to final tract map approval, the owner shall be responsible for providing independent water meters and separate services for each unit and the common area. All water meters shall be located in the public ROW. *[Citation - Section 16.32.010.E of the SCMC]*
(Eng.)_____
12. Prior to final tract map approval, the owner or designee shall indicate on the final map, the location of all easements for open space, trails, storm drains, public street lights, utilities, reciprocal access, sidewalk, slopes, and landscaping. All drainage easements shall be a minimum of 15 feet. No drainage facilities accepted for dedication or maintenance by the City shall be located within slopes. Improvements may not be constructed within any easements to be accepted by the City, without approval of an Encroachment Permit. A Hold Harmless agreement

approved by the City Attorney shall be required for all encroachments into the public ROW. *[Citation - Section 16.28.030.B of the SCMC]*

(Eng.)_____

CONDITIONS TO BE SATISFIED PRIOR TO RECORDATION

13. Prior to recordation of the final tract map, the owner or designee shall submit for review, and shall obtain the approval of the County Surveyor for, a digitized tract map pursuant to Orange County Ordinance No. 3809 of January 28, 1991. The owner or designee shall pay for all costs of said digital submittals, including supplying digital copies to the City of the final County Surveyor-approved digital map in DXF format. The owner shall be responsible for providing the City a duplicate mylars of the recorded Final Map. *[Citation - Ordinance No. 3809 of the County of Orange]*

(Eng.)_____

Covenants, Conditions & Restriction's (CC&R's)

14. Within 15 days after the establishment of the Association, the owner or designee shall furnish the Board or Officers of the Association a copy of the approved parcel map, a copy of the approved site and fencing plan, copies of all approved landscaping plans, a complete set of construction plans for the units, and approved plans indicating the locations and characteristics of all major project components, utilities, and related data (collectively, the "Approved Plans"). For projects consisting of four units or less, where the owner has elected not to create an Association, the CC&R's shall provide that the owner or designee shall provide copies of all of the Approved Plans to the purchaser of each individual unit at the close of escrow. (PIng.)_____
15. Following recordation of the final parcel map, the Association shall submit to the Community Development Department for distribution to the Fire and Beaches, Parks and Recreation Departments and, shall resubmit annually, a list of all current Officers of the Property Owner Association (this condition applicable only if an Association is created). (PIng.)_____
16. Proposed amendments to any of the CC&R's shall be submitted for review to the Community Development Director or designee, and shall be approved by the Community Development Director and the City Attorney prior to the amendments being valid. In the event a proposed amendment materially alters any of the provisions required by the City to be included in the CC&R's, the Community Development Director may require the proposed amendment to be approved by the City Council. (PIng.)_____
17. A statement indicating that the City is deemed to be an express third party beneficiary of the CC&R's and has the right, but not the obligation, to enforce any of the provisions of the CC&R's (PIng.)_____
18. Agreement by the owner or designee and Association that on an annual basis in the month of June, reports will be furnished to the City in compliance with the

reporting requirements of codes and ordinances adopted by the City with respect to the NPDES program (this condition applicable only if an Association is created).
(Eng.)_____

19. A statement indicating City of San Clemente may enter the common Areas at any time for the purpose of administering and enforcing compliance by all Members with (a) any permit issued to the City of San Clemente by the San Diego Regional Water Quality Control Board, as such permit may be amended from time to time, and (b) all NPDES requirements. *[Citation - Section 13.40 of the SCMC]*
(Eng.)_____
20. The CC&R's shall contain fire prevention and defense provisions including a fire lane map, provisions that prohibit parking in fire lanes, and a method of enforcement. Also, a method for keeping fire protection access easements unobstructed shall be included. The approval of the Chief of Fire Protection Services shall be required for any modifications such as control gates, or parking changes. *[Citation - Service Codes: 2.12 of the OCFA]* (Fire) _____
21. Agreement by and between the owner or designee and Association, that storm drain facilities shall be inspected regularly as follows: *[Citation - Section 13.40 of the SCMC]*.
(Eng.)_____
- A. Open channels, catch basins and pipelines inspected annually before storm season and removal of debris as necessary.
- B. All facilities shall have debris and sediment removed either manually or by mechanical methods. Flushing shall be used in emergency situations only.
22. Prior to final tract map approval, the owner or designee shall pay or reimburse (as determined by the City Planner) the City all costs associated with City Attorney review of the project CC&R's, Disclosure Statements, and any other applicable documents. *[Citation - City Attorney Directive, Planning Division Fee Schedule/City Council Approval June 1, 2010]* (PIng.)_____
23. Prior to final tract map approval, the owner or designee shall pay all applicable development and final map fees, which may include, but are not limited to, City Attorney CC&R's review, park acquisition and development, water and sewer connection, drainage, grading, traffic, soils and hydrology review, plan check deposit (minimum plan check deposit shall be \$5,000). *[Citation - Fee Resolution No. 08-81]*
(Eng.)_____

Coastal Commission

24. Prior to final tract map approval, the owner or designee shall demonstrate to the satisfaction of the City Planner or designee that approval by the California Coastal Commission has been obtained for the tentative tract/parcel map. *[Citation - Section 17.56.050 of the SCMC & Division 20, Public Resources Code]*
(PIng.) _____

*All Conditions of Approval are standard, unless indicated as follows:

- Denotes modified standard Condition of Approval
- ■ Denotes project specific Condition of Approval



LOCATION MAP

TTM 14-252, Del Reposo Condo Map
117 Avenida Del Reposo

