



STAFF REPORT

SAN CLEMENTE ZONING ADMINISTRATOR

Meeting Date: December 6, 2018

PLANNER: Jonathan Lightfoot, Assistant Planner

SUBJECT: **Tentative Parcel Map 2018-167 (PLN 18-514), 140 W. Canada Duplex Condominium Subdivision** a request to consider the subdivision of a duplex's airspace into two condominiums to allow for individual ownership of dwelling units. Plans to construct the duplex are currently under review in plan check.

LOCATION: 140 W. Canada

ZONING/GENERAL PLAN: Residential Medium Zoning District and Coastal Zone Overlay District (RM-CZ)

PROJECT SUMMARY:

- The site is an approximately 4,139 square foot lot which is currently vacant. Surrounding land uses include multi-family residential buildings to the north, east, south, and west. Figure 1 below is an image of the site.
- The RM zone permits one dwelling unit per 1,800 square feet of lot area, or up to two dwelling units on the subject site.
- In October of 2017, a building permit application was submitted for a new duplex on the site (B17-1820). The permit is under review. The proposed duplex includes 3,977 square-feet of living area above a 1,388 square foot subterranean garage.

Figure 1: Existing Site Conditions



- The applicant requests to subdivide the duplex into two condominium units prior to occupancy of the building. The proposal would allow for separate ownership of each condominium unit and a portion of common areas.
- Municipal Code Section 16.04.015(G)(1) requires Zoning Administrator approval of a Tentative Parcel Map (TPM) to allow the subdivision of an apartment building into condominiums.
- The project meets required findings for approval because:
 - The project is limited to subdividing a duplex into two condominium units, prior to occupancy of the building, to allow for separate ownership and does not have any potential environmental impacts.
 - Conditions of approval are included requiring Covenants, Conditions, and Restrictions (CC&Rs) to establish maintenance responsibilities over all common areas, including driveways, parking, landscaped areas, walls, private accesses, and drainage. The CC&R's may include the creation of an Association.
 - The duplex complies with the Municipal Code, building, health, and safety codes, and other applicable regulations and policies. This includes, but is not limited to, parking and density requirements for condominium subdivisions in the Municipal Code (Title 16).
- The project is Categorically Exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15315 (Class 15: Minor Land Divisions) because:
 - The project involves the subdivision of airspace for an apartment duplex into two condominiums located in an urbanized area zoned for multi-family residential use.
 - The project conforms to the San Clemente General Plan and Zoning Ordinance, and no variances or exceptions are required.
 - All public services and access to the project site are available.
 - The site was not involved in a division of a larger parcel within the last two years.
 - The parcel does not have an average slope greater than 20 percent.
- Because the site is located in the Coastal Zone Overlay, the project is subject to Coastal Commission review. Condition of approval 6 requires the owner to obtain Coastal Commission approval prior to the final map.
- Public comments have not been received on this item.

RECOMMENDATION

Based on the information in the staff report and subject to the required findings and conditions of approval, staff recommends that the Zoning Administrator:

1. Determine the project is Categorically Exempt from the requirements of the CEQA pursuant to CEQA Guidelines Section 15315 (Class 15: Minor Land Divisions); and
2. Adopt Resolution ZA 18-046, approving Tentative Parcel Map 2018-167, 140 W. Canada Duplex Condominium Subdivision, subject to conditions of approval.

Attachments:

1. Resolution ZA 18-046
Exhibit A - Conditions of Approval
2. Location Map
Plans (under separate cover)

ATTACHMENT 1

RESOLUTION NO. ZA 18-046

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING TENTATIVE PARCEL MAP 2018-167 (PLN 18-514), 140 W. CANADA CONDOMINIUMS SUBDIVISION, A REQUEST TO CONSIDER A DUPLEX CONDOMINIUM SUBDIVISION TO ALLOW FOR INDIVIDUAL OWNERSHIP OF TWO DWELLING UNITS, LOCATED AT 140 W. CANADA

WHEREAS, on August 16, 2018 an application was submitted by Ethan Namvar of Hedgemon Sc, LLC, 5000 Birch Street, Ste. 3000, Newport Beach, CA 92660, for Tentative Parcel Map (TPM) 2018-167; a request to consider a duplex condominium subdivision to allow for individual ownership of two dwelling units. The City's project reference number is PLN 18-514. The subject site is located at 140 W. Canada in the Residential-Medium Zoning District and the Coastal Zone Overlay District (RM-CZ). The site's legal description is Lot 24 of Block 12 of Tract 793, and Assessor's Parcel Number is 692-395-44; and

WHEREAS, the Planning Division has completed an initial environmental assessment of the above matter in accordance with the California Environmental Quality Act (CEQA) and recommends the Zoning Administrator determine the project is Categorically Exempt from CEQA pursuant to State CEQA Guidelines Section 15315 (Class 15: Minor Land Divisions). This is recommended because the project falls within the Minor Land Division exemption for a division of property; and

WHEREAS, on August 23, 2018 and November 7, 2018, the City's Development Management Team (DMT) reviewed the proposed project for compliance with the General Plan, Zoning Ordinance, and other applicable City ordinances and codes; and

WHEREAS, on November 21, 2018, a Notice of Public Hearing for the Zoning Administrator of the City of San Clemente was mailed to each required property owner pursuant to the applicable provisions of State Law; and

WHEREAS, on December 6, 2018, the Zoning Administrator of the City of San Clemente held a duly noticed public hearing on the subject application, considered written and oral comments, and facts and evidence presented by the applicant, City staff, and other interested parties.

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

Section 1. Incorporation of Recitals.

The Zoning Administrator hereby finds that all of the facts in the Recitals are true and correct and are incorporated and adopted as findings of the Zoning Administrator as fully set forth in this resolution.

Section 2. CEQA Findings.

Based upon its review of the entire record, including the Staff Report, any public comments or testimony presented to the Zoning Administrator, and the facts outlined below, the Zoning Administrator hereby finds and determines that the proposed project is Categorically Exempt from CEQA pursuant to State CEQA Guidelines Section 15315 (Class 15: Minor Land Divisions).

The project is Categorically Exempt from California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15315 (Class 15, Minor Land Divisions) because the project involves the subdivision of property in urbanized areas zoned for residential use into four or fewer parcels or condominium units, the division is in conformance with the General Plan, Subdivision Map Act, and zoning, no variances or exceptions are required, all public services and access to the proposed condominium units to local standards are available, the parcel was not involved in a division of a larger parcel within the previous two years, and the parcel does not have an average slope greater than 20 percent

Section 3. Tentative Parcel Map Findings

With respect to Tentative Parcel Map (TPM) 2018-167 (PLN 18-514), the Zoning Administrator finds as follows:

- A. The site is physically suitable for the type of development, in that:
 1. The project is limited to subdividing the airspace of a duplex building into two condominium units for individual ownership purposes. The duplex is currently under review for a building permit, which will ensure that the development complies with the Zoning Ordinance, building, health, and safety codes, and other applicable regulations and policies. This includes but is not limited to policies and regulations on land use, setbacks, utility connections, easement access, traffic design standards, etc.

- B. The site is physically suitable for the proposed density of the development, in that:
 1. The density of the development on the site complies with the maximum allowed for properties in the RM Zoning district. The Zoning district allows a maximum residential density of one unit per 1,800 square feet of lot area. The subject site is approximately 4,139 square feet, with an allowed density of two units.

- C. The design of the condominium conversion 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:
 1. The project is limited to subdividing airspace into two condominiums to allow for separate ownership of each dwelling unit. This does not have any potential environmental impacts; and

2. The site is in a developed area with no sensitive habitat for threatened species and the site is served by utilities and public services.
- D. The design of the condominium subdivision or the type of improvements is not likely to cause serious public health problems, in that:
1. The project is limited to subdividing the airspace of a duplex into two condominiums to allow for separate ownership of each dwelling unit. A building permit is required prior to construction of the dwelling units; and
 2. The site is in a developed area with no sensitive habitat for threatened species and the site is served by utilities and public services.
- E. The condominium subdivision, with its provisions for any design and improvements, is consistent with the General Plan, in that:
1. The project is limited to subdividing the airspace of a duplex building into two condominium units for individual ownership purposes. The project is consistent with the Residential Medium Land Use Designation of the site.
 2. The duplex is currently under review for a building permit, which will ensure that the development complies with the Zoning Ordinance, building, health, and safety codes, and other applicable regulations and policies. This includes but is not limited to policies and regulations on land use, setbacks, utility connections, easement access, traffic design standards, etc.
- F. The design of the condominium 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 in that:
1. The proposed project is limited to subdividing a duplex with two units into two condominium units for individual ownership purposes.

G. Section 4. Zoning Administrator Approval.

Based on the foregoing recitals and findings above, and the written and oral comments, facts, and evidence presented, the City of San Clemente Zoning Administrator approves Tentative Parcel Map 2018-167 (PLN 18-514), 140 W. Canada Condominium Subdivision, subject to the above Findings, and the Conditions of Approval set forth in Exhibit A.

PASSED AND ADOPTED at a regular meeting of the City of San Clemente Zoning Administrator on December 6, 2018.

Cecilia Gallardo-Daly, Zoning Administrator

CONDITIONS OF APPROVAL
TENTATIVE PARCEL MAP 2018-167
LINDLEY/PEN CONDOMINIUM SUBDIVISION

1. The applicant shall defend, indemnify, and hold harmless the City of San Clemente and its officers, employees, and agents from and against any claim, action, proceeding, fines, damages, expenses, and attorneys' fees, against the City, its officers, employees, or agents to attack, set aside, void, or annul any approval or condition of approval of the City concerning this project, including but not limited to any approval or condition of approval of the City Council, Planning Commission, or City Planner. Applicant shall pay all costs, The City shall promptly notify the applicant of any claim, action, or proceeding concerning the project and the City shall cooperate fully in the defense of the matter. The City reserves the right, at its own option, to choose its own attorney to represent the City, its officers, employees, and agents in the defense of the matter. If the applicant fails to so defend the matter, the City shall have the right, at its own option, to do so and, if it does, the applicant shall promptly pay the City's full cost of the defense. (PIng.)_____

2. Within two (2) years after the approval date of Tentative Parcel Map (TPM) 2018-167, 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.)_____

3. 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.)_____

4. The applicant shall comply with all applicable provisions of the San Clemente Municipal Code, adopted ordinances, and state laws. (PIng.)(Eng.)(Bldg.)_____

CONDITIONS TO BE SATISFIED PRIOR TO FINAL PARCEL MAP APPROVAL

5. Prior to final parcel map approval, the owner or designee shall submit to the City Attorney for review the form of (i) grant deed and (ii) purchase and sale agreement (or applicable portions thereof) to be used in connection with the applicant's sale of the units/lots to individual buyers. Said grant deed and purchase agreement shall include disclosures, approved by the City Attorney or designee, that indicate the existence, operations, characteristics, and potential exposure to nuisance/objectionable odors/risk of upset/hazards of the following:

[Citation – City Attorney Legal Directive/City Council Approval June 1, 2010]

(PInG.) _____

United States Marine Corps, Camp Pendleton
San Onofre Nuclear Generating Station

6. Prior to final parcel 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 project. *[Citation – Division 20 of the Public Resources Code & Section 17.56.050 of the S.C.M.C.]* (PInG.) _____

7. Prior to final parcel 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 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.) _____

C. 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.) _____

- 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.
8. Prior to final parcel 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.)_____(Plng.)_____

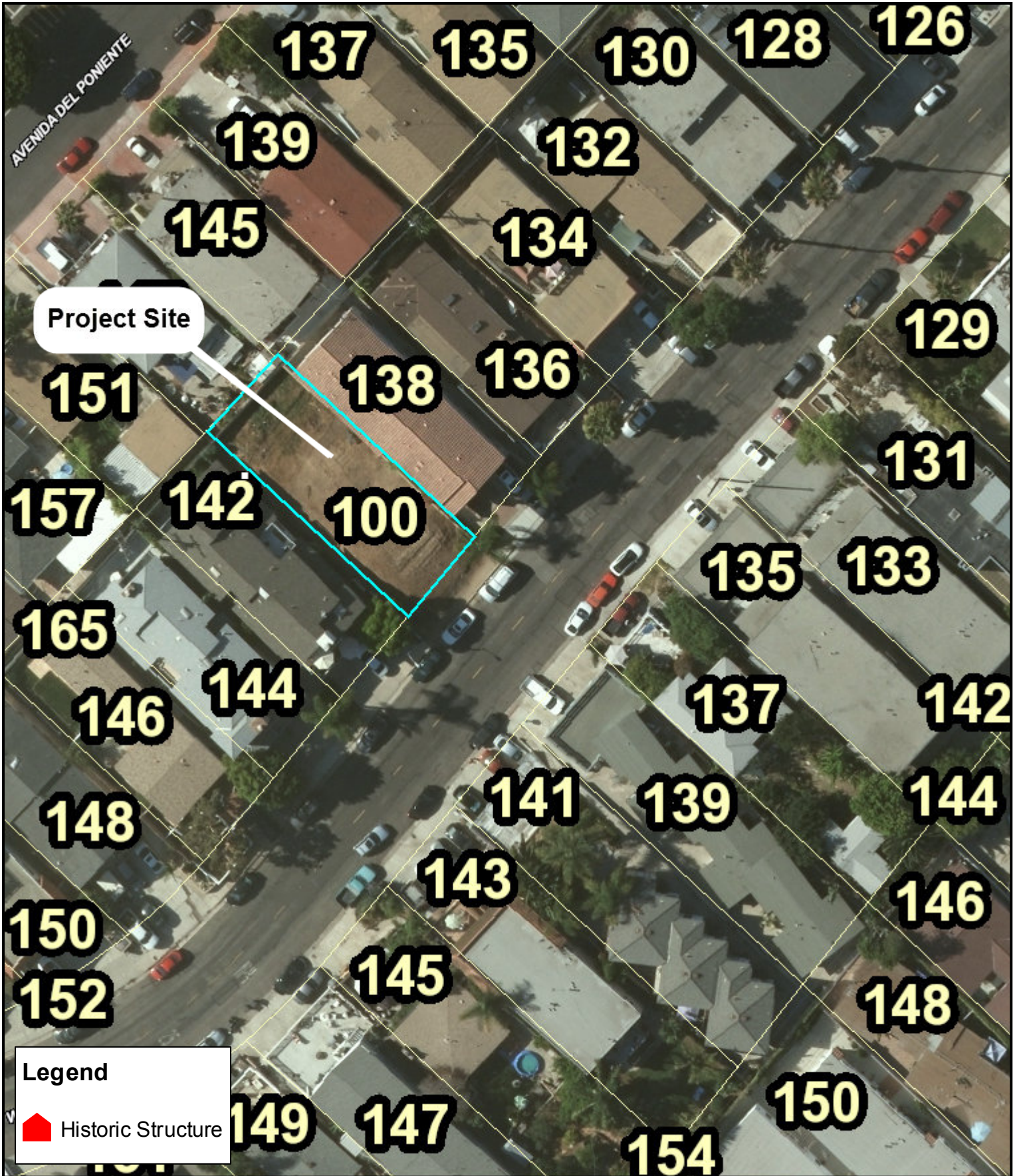
9. Prior to final parcel map approval, the owner or designee shall demonstrate to the satisfaction of the City Engineer or designee, that quitclaims in favor of the City have been obtained from all persons having any interest in existing rights of way for pipelines for the conveyance of water, and for 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.)_____
10. As determined by the City Engineer, prior to the review of final parcel map, plans, CC&R's, and legal documents, the owner shall deposit minimum \$5,000.00 for plan check. Plancheck of this Final Map will involve third party review and/or County review as applicable and other plan check fees will apply for the County's review. *[Citation – Fee Resolution No. 08-81 and Sections 12.08 and 16.32.010.B of the SCMC]* ■ (Eng.)_____
11. Prior to final parcel 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, 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.)_____
12. Unless otherwise approved by the City Engineer, prior to final parcel 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 or as otherwise approved by the City Engineer. *[Citation – Section 16.32.010.E of the SCMC]* ■(Eng.)_____
13. Trash containers for the development are required to be screened from public view. *[Citation – Section 8.28.040 of the SCMC]* ■ (Eng.)_____

CONDITIONS TO BE SATISFIED PRIOR TO RECORDATION


14. Prior to recordation of the final parcel map, the owner or designee shall submit for review, and shall obtain the approval of the County Surveyor for, a digitized parcel 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.)_____

- * All Conditions of Approval are standard, unless indicated as follows:
 - Denotes modified standard Condition of Approval
 - Denotes project specific Condition of Approval

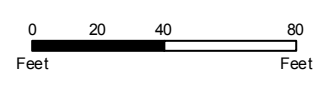


Legend

 Historic Structure



City of San Clemente
 Project: TPM 18-514
 Address: 140 W. Canada



For Condominium Purposes

TENTATIVE PARCEL MAP NO. 2018-167

LOT 14 IN BLOCK 13 OF TRACT NO. 793, IN THE CITY OF SAN CLEMENTE, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 1A, PAGES 1 THROUGH 5, INCLUSIVE OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

DATE OF PREPARATION:

October 15, 2018

#	DATE	DESCRIPTION

Notes:
 1) ALL LOTS ARE 65' ACROSS NET
 2) RESIDENTIAL CONDOMINIUM UNITS PROPOSED
 EXISTING SITE IS VACANT.
 NO PARKS TO BE DESIGNATED OR OVERFLOW.
 NO GRADING PROPOSED.

Purpose Statement:
 THIS PARCEL MAP SHOWS THE PROPOSED CONSTRUCTION OF TWO CONDOMINIUM UNITS ON ONE PARCEL LAND DIVISION ONLY. NO CONSTRUCTION PROPOSED.

Assessor's Parcel Numbers:
 692-395-44

Existing Zoning:
 M1 RESIDENTIAL MEDIUM DENSITY
 COASTAL ZONE

Legal Description:
 LOT 14 IN BLOCK 13 OF TRACT NO. 793, IN THE CITY OF SAN CLEMENTE, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 1A, PAGES 1 THROUGH 5, INCLUSIVE OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

Basis of Bearings:
 THE BEARINGS SHOWN HEREON ARE BASED UPON THE BEARINGS SHOWN ON TRACT NO. 793, A.M. 2475.

Site Address:
 140 WEST CANADA
 SAN CLEMENTE, CA

Flood Zone:
 ZONE X, OUTSIDE THE 100 YEAR FLOOD BOUNDARIES.

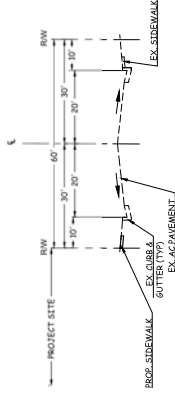
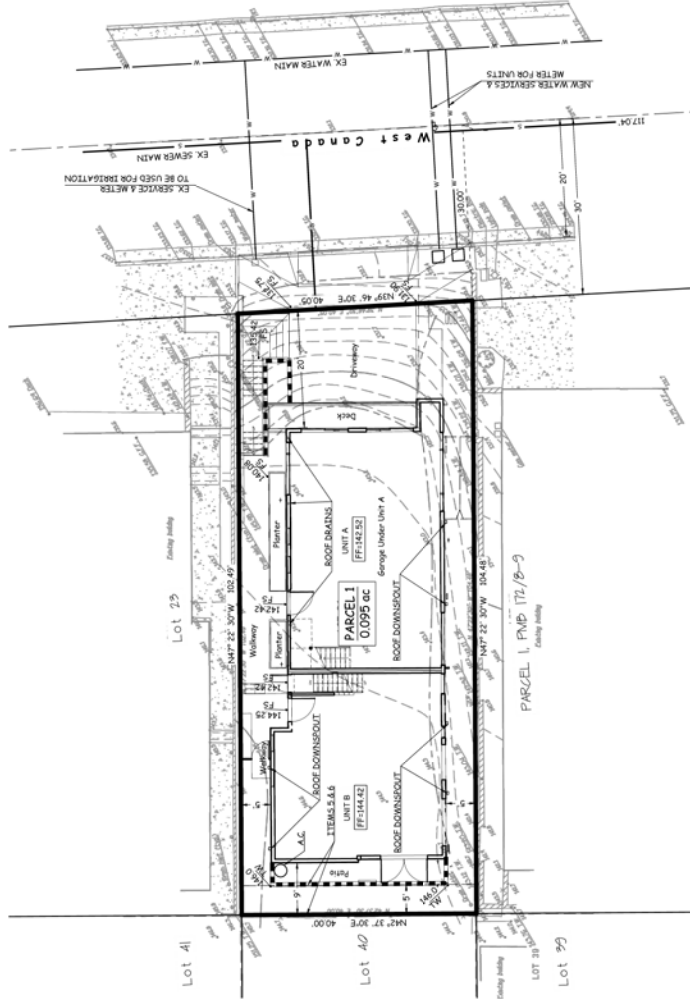
Utility Providers:
 NEW WATER SERVICES & METERS FOR UNITS
 CITY OF SAN CLEMENTE UTILITIES DIVISION
 AT&T
 COX COMMUNICATION
 CABLE
 REC
 GAS
 5046
 SCHOOL BUS TRACT
 CAPSTRAND UNITED SCHOOL DISTRICT

Engineer:
 MJB Engineering
 404 S. Live Oak Park Road, Fullerton, CA 92608
 Fullerton, CA 92608
 (714) 831-6603

Subdivider:
 G.E. Ethen Vancouver
 10000 15th Avenue, Suite 3000
 Newport Beach, CA 92660
 949 444-2295

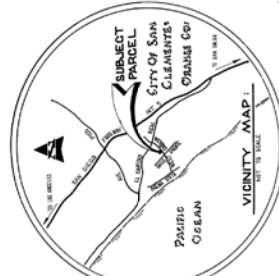
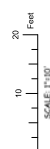
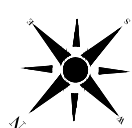
Subdivider's Statement:
 I hereby certify that the property owner has given his consent to the filing of the tentative map.

By: _____ Date: _____
 Name: _____
 Title: _____



Typical Section: West Canada
 NOT TO SCALE

Easements:
 ITEM 1 - AN EASEMENT FOR SEWER PURPOSES RECORDED 3/21/79 IN BOOK 256, PAGE 106, O.R.
 ITEM 2 - AN EASEMENT FOR UTILITIES AND INCIDENTAL PURPOSES RECORDED 4/28/46 IN BOOK 140, PAGE 395, O.R.
 ITEM 3 - AN EASEMENT FOR UTILITIES AND INCIDENTAL PURPOSES RECORDED 4/28/46 IN BOOK 140, PAGE 395, O.R.



- Legend:**
- AC ASPHALTIC CONCRETE
 - EX EXISTING
 - FM FINISHED MANT
 - FS FINISHED SURFACE
 - L1 L1
 - SF SQUARE FEET
 - TC TOP OF CURB
 - CENTERLINE
 - CURB & GUTTER
 - DRAINAGE SWALE
 - PROPERTY LINE
 - SEWER
 - TRACT BOUNDARY
 - WATER MAIN
 - WATER METER



MLB Engineering
 Professional Civil Engineers and Land Surveyors
 404 S. Live Oak Park Road, Fullerton, CA 92608
 Phone: 714-831-6603 • Fax: 714-831-6603
 Michael L. Kresch, P.E. (37893) 10/15/18 Date