



STAFF REPORT SAN CLEMENTE ZONING ADMINISTRATOR

Meeting Date: February 7, 2019

PLANNER: Michael Allocco, Planning Intern, Veronica Morones, Assistant Planner

SUBJECT: **Tentative Parcel Map 2017-151 (TPM 18-640), Dominguez Condominium Conversion**, a request to consider the subdivision of a duplex's airspace into two condominiums to allow for individual ownership of dwelling units. The duplex is under construction.

LOCATION: 104 Avenida Dominguez

ZONING/GENERAL PLAN: Residential Medium Zoning District (RM)

PROJECT SUMMARY:

- The site is an approximately 4,523 square foot lot. Surrounding land uses include multi-family residential buildings to the north and south, single family homes to the east, and mixed use development to the 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 November 2018, a building permit (B16-1888) was issued for the duplex. The units are currently under construction. The two units are approximately 1,500 square-feet for unit A and 2,341 square feet for unit B

Figure 1: Existing Site Conditions



- The applicant requests to subdivide the duplex into two leased units.
- The applicant intends to occupy the two units prior to recording of the final map. Condition of approval no. 1.7 ensures tenants are notified according to State Law requirements.
- The proposal would allow for separate ownership of each condominium unit.
- 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:
 - No development is proposed. The project is limited to subdividing a duplex into two condominium units 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.
- 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 19-001, approving Tentative Parcel Map 2017-151, Dominguez Condominium Subdivision, subject to conditions of approval.

Attachments:

1. Resolution ZA 19-001
Exhibit A - Conditions of Approval
2. Location Map
3. Photos
4. Plans

RESOLUTION NO. ZA 19-001

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING TENTATIVE PARCEL MAP 2017-151 (PLN 18-640), DOMINGUEZ CONDOMINIUMS SUBDIVISION, A REQUEST TO CONSIDER A DUPLEX CONDOMINIUM SUBDIVISION TO ALLOW FOR INDIVIDUAL OWNERSHIP OF TWO DWELLING UNITS, LOCATED AT 104 AVENIDA DOMINGUEZ

WHEREAS, on November 15, 2018 an application was submitted by Jose Castro, 25402 Village Road, Dana Point, CA 92629, for Tentative Parcel Map (TPM) 2017-151; 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 18-640. The subject site is located at 104 Avenida Dominguez in the Residential-Medium Zoning. The site's legal description is Lot 33, Block 3, of Tract 900, and Assessor's Parcel Number is 060-091-02; 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 December 6, 2018 and January 10, 2019, 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 January, 24, 2019, 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 February 7, 2019, 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) 2017-151 (PLN 18-640), the Zoning Administrator finds as follows:

- A. The site is physically suitable for the type of development, in that the project is limited to subdividing the airspace of a duplex building into two condominium units for individual ownership purposes. The duplex was approved for construction through the building permit process to ensure 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 project is limited to subdividing a duplex building into two condominium units for individual ownership purposes. The duplex was approved for construction through the building permit process to ensure 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.; and
 2. 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 4,523 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. No development is proposed. 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. No development or alteration to the construction of the approved duplex is proposed. The project is limited to subdividing the airspace of a duplex 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.
- E. The condominium subdivision, with its provisions for any design and improvements, is consistent with the General Plan, in that the project is limited to subdividing the airspace of a duplex building into two condominium units for individual ownership purposes. The duplex was approved for construction through the building permit process to ensure 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 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 2017-151 (PLN 18-640), Dominguez 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 February 7, 2019.

Adam Atamian, Zoning Administrator

CONDITIONS OF APPROVAL
TENTATIVE PARCEL MAP 2017-151
DOMINGUEZ CONDOMINIUM SUBDIVISION

1.0 GENERAL CONDITIONS OF APPROVAL

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| 1.1 | Within 30 days of approval of this application, the applicant shall submit to the City Planner a signed acknowledgement concurring with all conditions of approval on a form to be provided by the City. Failure to submit this acknowledgement may be grounds to revoke this approval. | Planning |
| 1.2 | 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. | Planning |
| 1.3 | Use and development of this property shall be in substantial conformance with the approved plans, material boards and other applicable information submitted with this application, and with these conditions of approval. | Planning |
| 1.4 | The applicant shall comply with all applicable current and future provisions of the San Clemente Municipal Code, adopted ordinances, and state laws. | All |
| 1.5 | Use of the subject property shall conform to all occupancy requirements, including posting of signs related to the maximum occupancy limitations. | Code
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| 1.6 | Within two (2) years after the approval date of Tentative Parcel Map (TPM) 2017-151, 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 | Planning |

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.

- 1.7 The property owner shall notify all current and prospective tenants in accordance with State law of the submitted Tentative Parcel Map, and provide written confirmation to the Planning Division, to the satisfaction of City Planner or designee. The notice shall adhere to the format required by the Planning Division's Tentative Map application. Planning

2.0 PRIOR TO APPROVAL OF A FINAL MAP

- 2.1 The applicant shall submit to the City Planner, and the City Planner, City Engineer, Fire Chief and City Attorney's Office shall approve, Covenants, Conditions and Restrictions (CC&R's) which shall include the following provisions: Planning
Public
Works

A. Creation of a Master Association and/or a Sub-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, (delete or add as appropriate) all common areas, open space, slopes, fuel modification zones, private medians and greenbelts, arterial highway parkway landscaping, irrigation systems, landscaped areas, walls, driveways, parking areas, trash areas, structures, private streets, street lights, and drainage. All streets, drainage, street lights, street signage and striping improvements within the interior of the subdivision designated as private shall remain private and shall be maintained by the Master Association and/or Sub-association, or such other provision for maintenance which may be subsequently approved by the City Council. In addition, the CC&R's shall indicate all other areas to be owned and maintained by the Master Association and/or Sub-association and that maintenance of all private drainage facilities shall be in conformance with NPDES requirements.

B. Within 15 days of the establishment of the homeowners association and/or the commercial property owners association, the owner or designee is required to furnish the Board or Officers of each association a copy of each 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 various residential model types, and approved plans indicating the locations and characteristics of all major project components, utilities, and related data.

- C. Following recordation of each final tract map, each Master Association of this tract shall submit to the City Planner, for distribution to the Fire and Beaches, Parks and Recreation Departments, and shall re-submit annually, a list of all current Property Owner Association officers of the Association.
- D. A statement indicating that proposed amendments to any of the CC&R's shall be submitted for review to the City Planner, and shall be approved by the City Attorney's Office, prior to the amendments being valid.
- E. A statement indicating that the City has the right, but not the obligation, to enforce any of the provisions of the CC&R's.
- F. A statement indicating that storm drain facilities shall be inspected regularly as follows:
 - 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.
- G. A statement obligating the Association(s) to provide to the City Engineer annual reports in the month of June in compliance with the reporting requirements of codes and ordinances adopted by the City with respect to the NPDES program.
- H. Identification of all fire prevention and defense provisions including: a) a fire lane map; b) provisions which prohibit parking in fire lanes and a method of enforcement; and c) provisions for maintenance of fuel modification zones including the removal of all dead and dying vegetation and the inspection and correction of any deficiencies in the irrigation system three times a year; and a method for keeping fire protection access easements unobstructed. A statement shall acknowledge that approval of the Chief of Fire Protection Services shall be required for any modifications such as speed bumps, control gates, or

parking changes.

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| 2.2 | The applicant shall reimburse the City all costs associated with review of the project CC&Rs, Disclosure Statements, and any other applicable documents by the City Attorney's Office. | Planning |
| 2.3 | The final map shall depict the location of all easements for open space, trails, water and sewer easements, storm drains and storm drain maintenance access, public street lights, utilities, reciprocal access, emergency access, slopes and slope maintenance, 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. (SCMC Section 16.28.030) | Public Works |
| 2.4 | The applicant shall demonstrate to the satisfaction of the City Engineer 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 right to all underground water, but without right of entry to the surface thereof, shall be conveyed to the City. No easements shall be granted nor recorded over any portion of the property shown on the submitted record map between the date the tentative map is approved by the Planning Commission and the date the final or record map is recorded by the County Recorder. (SCMC Section 13.04.500) | Public Works |
| 2.5 | Per Municipal Code Chapter 12.08, the Final Map shall include the necessary offer for dedication of a one-foot wide public sidewalk and pedestrian access easement along the Avenida Dominguez frontage. | Public Works |
| 2.6 | The applicant shall demonstrate to the satisfaction of the City Planner that each existing tenant has received the following notices: | Planning |
| A. | Ten days' written notification by mail that an application for a public report will be, or has been, submitted to the Department of Real Estate, and that such report will be available on request. | |
| B. | Written notification by mail of the intention to convert 180 days prior to the termination of tenancy due to the conversion. | |

Notice of an exclusive right to contract for the purchase of the tenant's respective unit upon the same terms and conditions that

such unit will be initially offered to the general public, or terms more favorable to the tenant. The right shall run for a period of not less than 90 days from the date of issuance of the subdivision public report, unless the tenant gives prior written notice of the intent to not exercise the right.

- 2.7 The applicant shall submit to the City Planner, and the City Attorney's Office shall approve, a buyer's notification disclosure form, to be given to all potential buyers of the lots/units, which indicates the existence, operations, characteristics, and potential exposure to nuisance/objectionable odors/risk of upset/hazards of the following:

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

- 2.8 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. Plan check of this Final Map may involve third party review or County review as applicable and other plan check fees may apply.
- 2.9 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.

3.0 CONDITIONS TO BE SATISFIED PRIOR TO RECORDATION

- 3.1 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.



City of San Clemente

Project: TPM 18-640

Address: 104 Avenida Dominguez







