**AGENDA ITEM: 4-B** 



# STAFF REPORT SAN CLEMENTE ZONING ADMINISTRATOR

Meeting Date: March 18, 2021

**PLANNER:** Katie Crockett, Associate Planner

SUBJECT: Tentative Parcel Map 2018-195 (PLN 19-488), Cazador

Condominium Subdivision, a request to convert an existing

fourplex into condominiums for individual ownership

**LOCATION:** 301 Cazador Ln (APN 692-045-01)

**ZONING/GENERAL** Residential Medium Zoning District; Coastal Zone Overlay (RM-

PLAN: CZ)

## **PROJECT SUMMARY:**

• The subject site is a 9,750 square-foot lot located at the corner of Cazador Lane and South Ola Vista in the RM-CZ district (see Figure 1, below). The property is improved with a fourplex apartment building completed in 2018 (Building Permit B13-1959). The existing fourplex was reviewed through a Cultural Heritage Permit and Minor Exception Permit (CHP 12-359, AMCHP 13-317, MEP 13-325) since the project is within 300 feet of a historic structure at 307 Avenida Madrid. Minor exceptions were permitted to allow the building encroach into the street side setback, to permit a spa within the street side setback, and a 5.5-foot wall for the spa enclosure in the front and street side setback. Existing conditions are shown in Figure 2a and 2b, below.

# Figure 1 – Location Map



Figure 2a - Existing Conditions - Cazador Frontage



Figure 2b – Existing Conditions – A Ola Vista Frontage



- The RM zone permits one dwelling unit per 1,800 square feet of lot area, or up to five dwelling units on the subject site.
- The applicant requests to subdivide the airspace of the lot to create four condominium units. The proposal would allow for separate ownership of each condominium unit and a portion of common areas. No physical modifications to the existing building or site are requested.
- San Clemente Municipal Code Section 16.40.010.A restricts the number of rental units that may be converted to for-sale condominiums in a given year if the prior year's vacancy rate is below 10 percent. Because the 2019 vacancy rate (based upon the City's Draft Consolidation plan) was 8.2%, the number of condominium conversions is limited to 25 units plus 50 percent of the yearly average number of duplex and multifamily rental units constructed in the two years immediately preceding. In 2020, four units were approved for condominium conversions. In 2021, two units have been approved for conversion to condominiums. With the proposed four units, the total number in 2021 would be six units. This is well below the maximum permitted (25 units plus 50% of the total duplex/multi-family units created in the preceding two years).

- San Clemente Municipal Code Section 16.40.010.B specifies requirements for condominium conversions. All requirements of this section have been met, including the density being consistent with the zoning, required parking is provided, and appropriate, attractive landscape is present on the subject property.
- Municipal Code Section 16.04.015(G)(1) requires Zoning Administrator approval of Tentative Parcel Map (TPM) applications for condominiums and condominium conversions.
- The project meets required findings for approval because:
  - The project is limited to subdividing the airspace of an existing residential fourplex into four condominium units for individual owner ship purposes, and no physical modifications to the building or the property are proposed.
  - o 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 proposal 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 Mello Act, requires one-to-one replacement of affordable housing units when residential dwelling units within the Coastal Zone occupied by persons or families of low or moderate income (generally defined to mean households earning 120% or less of the countywide median income) and the landlord converts them to condominiums. In order to determine if the Mello Act applies, the City mailed a survey to all current tenants. The responses received did not indicate any persons or households of low or moderate income currently occupy the units. Therefore, the Mello Act does not apply.
- The project is Categorically Exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301 (Class 1: Existing Facilities) and Section 15315 (Class 15: Minor Land Divisions) because:
  - The project involves the subdivision of airspace for four condominium units located on a developed lot 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 are required.
  - All public services and access to the project site are available.
  - o 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 any relevant policies within the City's Coastal Land Use Plan (LUP) and will require Coastal Commission review. The RM zone allows a density of 24 units per net acre;

this site qualifies for 5.3 units based on that density calculation. The condo subdivision complies with the LUP's general policy GEN-6, which requires that subdivisions do not adversely impact community character, compatibility, or coastal resources. Condition of approval 2.4 requires the owner to obtain California 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:

- Determine the project is Categorically Exempt from the requirements of the CEQA pursuant to CEQA Guidelines Section 15315 (Class 15: Minor Land Divisions) and 15301.k (Class 1: Existing Facilities); and
- 2. Adopt Resolution ZA 21-006, approving Tentative Parcel Map 2018-195 (PLN 19-488), Cazador Condominium Subdivision, subject to conditions of approval.

### Attachments:

- Resolution ZA 21-006
   Exhibit A Conditions of Approval
- 2. Plans Tentative Parcel Map

#### **RESOLUTION NO. ZA 21-006**

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING TENTATIVE PARCEL MAP 2018-195 (PLN 19-488), CAZADOR CONDOMINIUM SUBDIVISION, A REQUEST TO CONSIDER A CONDOMINIUM SUBDIVISION OF AN EXISTING FOURPLEX, LOCATED AT 301 CAZADOR LN

WHEREAS, on January 19, 2019 an application was submitted by Christopher Pierce, 301 Cazador Ln., Unit A, San Clemente, CA 92672, for Tentative Parcel Map (TPM) 2018-195, and deemed complete on January 27, 2021; a request to consider a condominium subdivision of an existing fourplex. The City's project reference number is PLN 19-488. The subject site is located at 301 Cazador Ln., which is in the Residential-Medium Zoning District, and the Coastal Zone Overlay (RM-CZ). The site's legal description is Tract 822 Block 10 Lot 1, and the Assessor's Parcel Number is 692-045-01; 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 15301 (Class 1: Existing Facilities) and Section 15315 (Class 15: Minor Land Divisions). This is recommended because the project involves a four-unit condominium conversion of an existing approved fourplex in an urbanized area and no exceptions identified in CEQA Guidelines Section 15300.2 are applicable; and

WHEREAS, the proposed project was reviewed by the Development Management Team (DMT) which supports the project with incorporated conditions of approval; and

WHEREAS, the City Planner advertised and noticed the Zoning Administrator public hearing for this item at least ten days in advance of the hearing by both publication in a newspaper of general circulation in the City of San Clemente and by mailing a notice of the time, place and purpose of such hearing to required recipients, including property owners within 300 feet of the subject parcel; and

WHEREAS, on March 18, 2021, 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 15301 (Class 1: Existing Facilities) and Section 15315 (Class 15: Minor Land Divisions). The Class 1 exemption applies to the operation, repair, maintenance, permitting, leasing, or licensing of existing structures that involve negligible or no expansion of the existing or former use, including the division of existing multiple family residences into commoninterest ownership, where no physical changes occur. The Class 15 exemption applies to the division of property in urbanized areas zoned for residential use into four or fewer parcels when the division is in conformance with the General Plan and zoning and all services and access is available, and which was not involved in a division of a larger parcel within the previous 2 years. Here the project involves the subdivision of an existing fourplex building in a residentially zoned area into four condominium units. The airspace subdivision 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) 2018-195 (PLN 19-488), 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 an existing residential fourplex into four condominium units for individual ownership purposes; and
  - 2. The existing fourplex received building permits for construction (B13-1959). Building permits were issued after construction plans were reviewed to 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. Building permits were finaled following all required inspections on December 8, 2015.
- B. The site is physically suitable for the proposed density of the development, in that:
  - The density of the development on the site complies with the maximum allowed for properties in the RM zoning district. The RM zoning district allows a maximum residential density of one unit per 1,800 square feet of lot area per the Coastal Land Use Plan (LUP). The subject site is approximately 9,750 square feet, with an allowed density of five units.

- 2. The project density was reviewed through the entitlements for the fourplex construction (CHP 12-359, AM CHP 13-317, and MEP 13-325) and was found to comply with the General Plan and Zoning Ordinance.
- C. The design of the condominium 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:
  - 1. The project is limited to subdividing airspace into four condominiums to allow for separate ownership of each dwelling unit;
  - 2. No physical modifications to the site will result from the proposed subdivision; and
  - 3. The infill site is served by existing 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 four condominiums to allow for separate ownership of each dwelling unit;
  - 2. No physical modifications to the site will result from the proposed subdivision; and
  - 3. The site is in a developed residential area served by existing utilities and public services.
- E. The condominium subdivision, with its provisions for any design and improvements, is consistent with the General Plan and Coastal Land Use Plan (LUP), in that:
  - The project is limited to subdividing the airspace of an apartment building into four condominium units for individual ownership purposes, and proposes no physical modifications to the site;
  - 2. The existing fourplex was reviewed in 2013 for compliance with the General Plan through CHP 12-359, AM CHP 13-317, and MEP 13-325, and no physical changes are proposed; and
  - 3. LUP Policy GEN-6 prohibits lot combinations, subdivisions, and lot mergers for redevelopment where the result would adversely impact community character, compatibility or coastal resources. The project is consistent with this policy in that the airspace subdivision will not cause a variation in the community character. The existing approved building is compatible with other residential properties in the vicinity along Cazador Lane and S. Ola Vista, consisting primarily of other multifamily developments.

- 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 an apartment building with four units into four condominium units for individual ownership purposes; and
  - 2. Easements, including those for utilities and drainage, have been indicated on the tentative map. No public access is required or provided through the property.

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 2018-195 (PLN 19-488), Cazador Condominium Subdivision, subject to 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 March 18, 2021.

Cecilia Gallardo-Daly, Zo	ning Administrato

Resolution No. ZA 21-006 EXHIBIT A

# CONDITIONS OF APPROVAL TENTATIVE PARCEL MAP 2018-195 (PLN 19-488) CAZADOR CONDOMINIUM SUBDIVISION

## 1.0 GENERAL CONDITIONS OF APPROVAL

1.1 Within 30 days of receipt of the signed conditions of approval, 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, unless an extension is granted by the City Planner.

**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. Any modifications to the project shall be reviewed by the City Planner in accordance with Zoning Ordinance Section 17.12.180.

**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.

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1.5 Use of the subject property shall conform to all occupancy requirements, including posting of signs related to the maximum occupancy limitations.

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1.6 TPM 2018-195 (PLN 19-488) shall be deemed to have expired if within three years of approval the project is not commenced, or the project permitted by the approved application has lapsed, as defined by Zoning Ordinance Section 17.12.150.

Planning

1.8 The Applicant (including any property owners and managers, and their designees) shall use her/his best judgment and best management practices to ensure residential activities on the premises will be conducted in a manner that will not be disruptive to neighbors. The property owner(s) shall be responsible for ensuring compliance with the San Clemente Municipal Code (SCMC), and all conditions of approval contained herein. The Applicant (including any property owners and managers, and their designees) hereby understands that noncompliance with regulations and conditions of approval, shall be immediate grounds for citation pursuant to SCMC Section 8.52.030(Y), which states, "It is declared a public nuisance for any person owning, leasing, occupying or having charge or possession of any premises in this City to maintain such premises in such manner that ... A structure. improvement, property, and/or land use is not in compliance with terms and/or conditions of any City of San Clemente issued permit or approval," and any subsequent revision of this section of the code. [Citation - Section 8.52.030(Y) of the SCMC]

Code Comp\*\*

### 2.0 PRIOR TO APPROVAL OF A FINAL MAP

2.2 Prior to recordation of the final map, the applicant shall submit to the City Engineer evidence that the County Surveyor has approved a digitized tract/parcel map pursuant to Orange County Ordinance No. 3809 dated 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. Public Works

### **Buyer Notification**

2.3 A buyer's notification disclosure form shall 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:

**Planning** 

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

# **Coastal Commission Approval**

2.4 The Tentative Map shall be subject to review and approval by the California Coastal Commission.

**Planning** 

### **Condominium Conversion**

2.5 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.
- C. 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.

# **Covenants, Conditions & Restrictions (CC&Rs)**

2.6 The applicant shall submit to the City Planner, and must obtain approval from the City Attorney's Office, Covenants, Conditions and Restrictions (CC&R's) which shall include the following provisions:

**Planning** 

Creation of a Master Association and/or a Sub-association Α. 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 Subassociation, 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 any dedicated open space shall be retained by deed restriction as designated open space in perpetuity and maintained by a Master Association and/or the Sub-association, and that no development or encroachment shall be permitted within the designated open space.
- E. 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.
- F. A statement indicating that the City has the right, but not the obligation, to enforce any of the provisions of the CC&R's.
- G. 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.
- H. A statement obligating the Association(s) to provide to the Utilities Director 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.
- I. 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.

2.7 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** 

## **Easements**

2.8 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

2.9 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

2.24 Unless otherwise approved by the City Engineer, the owner shall provide independent water meters and separate services for each unit in the common area. All water meters shall be located in the public right of way or as otherwise approved by the City Engineer. (SCMC Section 16.32.010)

Public Works

2.36 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. In addition, the owner shall pay all applicable development and final map fees for each unit, which may include, but are not limited to, park acquisition and development impact fees. [Citation - S.C.M.C. Title 15, Building and Construction, Sections 15.52, 15.56, 15.60, 15.64, 15.68, 15.72].

Public Works\*\*

## 7.0 OPERATIONAL CONDITIONS OF APPROVAL

7.17 The Applicant (including any property owners and managers, and their designees) shall use her/his best judgment and best management practices to ensure residential activities on the premises will be conducted in a manner that will not be disruptive to neighbors. The property owners shall be responsible for ensuring compliance with the San Clemente Municipal Code (SCMC), and all conditions of approval contained herein. The Applicant (including any property owners and managers, and their designees) hereby understands that noncompliance with regulations and conditions of approval, shall be immediate grounds for citation pursuant to SCMC Section 8.52.030(Y), which states. "It is declared a public nuisance for any person owning, leasing, occupying or having charge or possession of any premises in this City to maintain such premises in such manner that ... A structure, improvement, property, and/or land use is not in compliance with terms and/or conditions of any City of San Clemente issued permit or approval," and any subsequent revision of this section of the code. [Citation - Section 8.52.030(Y) of the SCMC]

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- Denotes a modified Standard Condition of Approval
- \*\* Denotes a project-specific Condition of Approval

