



AGENDA REPORT

CITY OF SAN CLEMENTE

City Council Meeting

910 Calle Negocio
2nd Floor
San Clemente, California
www.san-clemente.org

Meeting Date: 4/18/2023

Agenda Item: 6G

Department: Public Works
Prepared By Zak Ponsen, Assistant City Engineer

Subject:
APPROVAL OF A FINAL PARCEL MAP 2020-121, 411 AVENIDA VICTORIA, DUPLEX CONDOMINIUM SUBDIVISION

Summary:

441 Avenida Victoria, LLC, an Arizona Limited Liability Company, the Subdivider of Final Parcel Map 2020-121, has submitted the Final Parcel Map for City Council approval. Staff has confirmed that the proposed Final Parcel Map is in conformance with the approved Tentative Parcel Map and recommends approval of the Final Parcel Map.

Background:

Parcel Map 2020-121 contains two residential condominium dwelling units on one 3,986 square-foot lot (see attached Location Map). The California Coastal Commission approved the De Minimis waiver on January 13, 2021. The Conditions, Covenants and Restrictions (CC&Rs) for the project have been reviewed and approved by the former City Attorney and the Subdivider has reimbursed the City for the costs of that review as required by the Conditions of Approval. The City Engineer has reviewed and is satisfied with the quitclaims in favor of the City that the Subdivider 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 Subdivider has satisfied all other Conditions of Approval that are required prior to Final Parcel Map approval. The only remaining Conditions of Approval are for the Subdivider to record the CC&Rs, which will be recorded immediately after the Final Parcel Map, and to dedicate water rights, which have been addressed on the Final Parcel Map.

Council Options:

Pursuant to the provisions of the Subdivision Map Act and the City Municipal Code Chapter 16, Final Parcel Maps require City Council action for approval, denial, or modifications. Per Subdivision Map Act Section 66474.1, a legislative body shall not deny approval of a Final Parcel Map if it has previously approved a Tentative Parcel Map for the proposed subdivision and if it finds that the Final Parcel Map is in substantial compliance with the previously approved Tentative Parcel Map. The Tentative Parcel Map 2020-121 (previously referred to as 2020-110) was approved by the Zoning Administrator on December 22, 2020 through Resolution ZA 20-025.

Fiscal Impact:

None.

Environmental Review/Analysis:

This project was previously found Categorically Exempt from the requirements of the California Environmental Quality Act pursuant to CEQA Guidelines Section 15315 (Class 15: Minor Land Divisions) and 15301.k (Class 1: Existing Facilities) in connection with the approval of the Tentative Parcel Map.

Recommended Actions:

Staff Recommendation

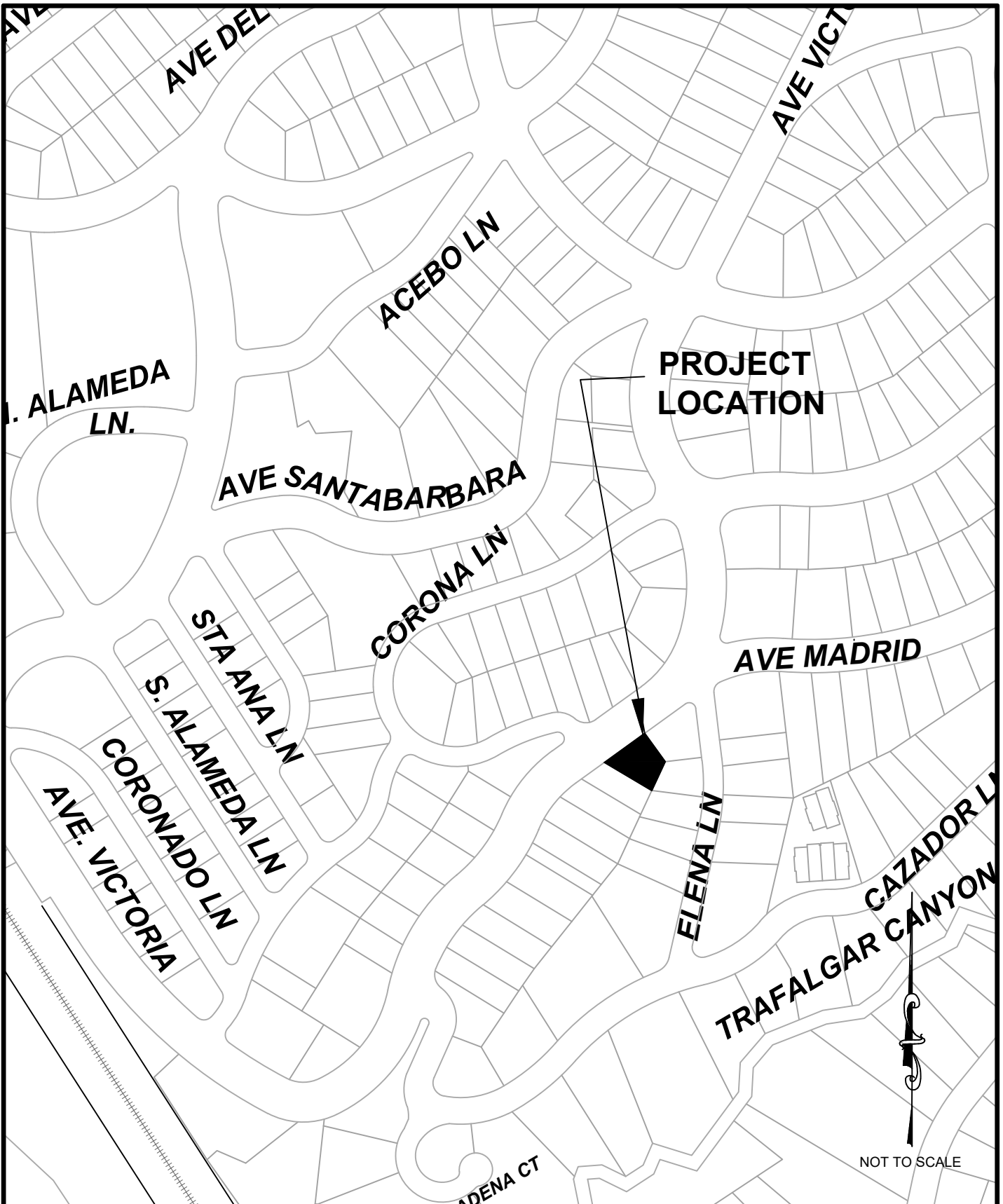
1. Accept on behalf of the City of San Clemente the water rights as dedicated;
2. Approve the Final Parcel Map 2020-121 as it conforms to the requirements set forth in the Subdivision Map Act and the previously approved Tentative Parcel Map;
3. Authorize and direct the Public Works Director / City Engineer to sign the Final Parcel Map; and
4. Authorize and direct the City Clerk to sign and submit the Final Parcel Map for recordation with the County of Orange Recorder's Office.

Attachments:

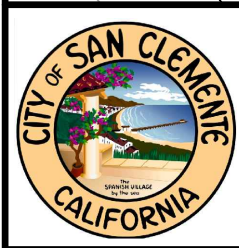
1. Location Map
2. Resolution ZA 20-025

Notification:

None.



S:\public\CMMS\GIS\Users Files\Joke Ohana\CAD\Location Plan (Admin Report).dwg Friday, April 7, 2023 3:50:20 PM



City of San Clemente

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LOCATION MAP

**Parcel Map 2020-121
411 Avenida Victoria**

RESOLUTION NO. ZA 20-025

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING TENTATIVE PARCEL MAP 2020-110 (PLN 20-158), RIDER CONDOMINIUM CONVERSION, A REQUEST TO CONSIDER A DUPLEX CONDOMINIUM SUBDIVISION TO ALLOW FOR INDIVIDUAL OWNERSHIP OF TWO DWELLING UNITS, LOCATED AT 411 AVENIDA VICTORIA

WHEREAS, on May 28, 2020 an application was submitted by Becky Johnson, 1880 Compton Avenue, Suite 100, Corona, CA 92881 for Tentative Parcel Map (TPM) 2020-110, and deemed complete on September 24, 2020; 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 20-158. The subject site is located at 411 Avenida Victoria, which is in the Residential-Medium Zoning District and the Coastal Zone Overlay District (RM-CZ). The site's legal description is Lot 2, Block 3, of Tract 785, and the Assessor's Parcel Number is 692-032-12; 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) and 15301.k (Class 1: Existing Facilities). This is recommended because the project falls within the Minor Land Division exemption for a division of property; and

WHEREAS, on June 11 and September 3, 2020, 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, in accordance with City and State requirements, notice of the public hearing was published in the *San Clemente Times* newspaper on October 8, 2020, posted at the project site, and mailed to all property owners within 300 feet of the subject parcel; and

WHEREAS, on October 22, 2020, 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) and 15301.k (Class 1: Existing Facilities).

The project is Categorically Exempt from California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15315 (Class 15, Minor Land Divisions) and 15301.k (Existing Facilities) because the project involves the subdivision of a developed property in urbanized areas zoned for residential use into four or fewer parcels or 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) 2020-110 (PLN 20-158), 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 multi-family residential building into two condominium units for individual ownership purposes; and
 2. Building permits were issued in 1977 when the 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. The development onsite maintains compliance with the applicable regulations and policies in the City's current Municipal Code
- 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 per the Coastal Land Use Plan (LUP). The subject site is approximately 4,155 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 site is already developed as a multifamily residential building in a developed area with no sensitive habitat for threatened species or coastal resources;
 2. The proposed project does not expand the footprint of the existing development and no physical modifications to the building will result from the proposed subdivision;
 3. The project is limited to subdividing airspace into two condominiums to allow for separate ownership of each dwelling unit; and
 4. 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;
 2. No physical modifications to the building will result from the proposed subdivision; and
 3. The site is in a developed 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:
1. The project is limited to subdividing the airspace of an apartment 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 existing duplex received building permits in 1977 after review for compliance with the California Building Code as well as other applicable zoning regulations and policies at that time including but not limited to regulations regarding land use, setbacks, utility connections, easement access, traffic and parking design standards.
 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 duplex is compatible with similar multifamily developments along Avenida Victoria, and along Elena Ln. and Corona Ln.

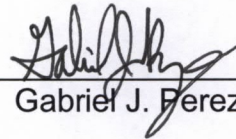
F. The design of the condominium subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of the property within the proposed subdivision in that:

1. The proposed project is limited to subdividing an apartment building with two units into two condominium units for individual ownership purposes.

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 2020-110 (PLN 20-158), Rider Condominium Conversion, 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 October 22, 2020.



Gabriel J. Perez, Zoning Administrator

CONDITIONS OF APPROVAL
TENTATIVE PARCEL MAP 2020-110 (PLN 20-158)
RIER CONDOMINIUM CONVERSION

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. | 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
Comp |
| 1.6 | TPM 2020-110 (PLN 20-158) 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 |

- 1.7 The Applicant (including any property owners and managers, and their designees) shall ensure that discharge of washwater and other pollutants is prohibited from entering the storm drain system. Applicant must prevent pollutants (e.g. sediment, trash, food waste etc.) and any washwater used during cleanup from entering the storm drain system.

Code
Comp
WQ**
- 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**
- 1.9 The Applicant (including any property owners and managers, and their designees) understands and acknowledges that short-term lodging and boarding house uses are not permitted with the approval of this permit. Short-term lodging units (STLUs) and boarding houses require City-approval, and any unpermitted STLU or boarding house operations are prohibited. Applicant, property owner, and any successors in interest of the property shall be responsible for ensuring that all residential uses abide by the City's zoning requirements for the subject zone. [Citation - Section 17.04.060(B) & 17.32.030/17.36.020/17.40.030/17.52.030 of the SCMC]

Code
Comp**
- 1.10 Prior to the recordation of the final map and required building permits to demolish the existing unpermitted wall along the front yard property line, landscaping improvements to the site shall be approved by Planning Staff and incorporate within any areas of the front yard setback area not necessary for hardscape, such as driveways and walkways, permeable soil with drought-tolerant, California native species, and one 15-gallon tree per 25 lineal feet of the front yard property line.

Planning
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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

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
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 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 The final map shall depict the location of the required sidewalk easement needed for public pedestrian access over the sidewalk through the drive approach. (SCMC Section 12.08, 16.28.030) Public Works**
- 2.37 Unless approved otherwise by the City Engineer, all street trees Public

shall be located outside of the public right of way, unless an Encroachment Permit is obtained from the Engineering Department. All landscaping within the public right of way shall be maintained by the property owners. (SCMC Chapter 12.24)

Works*

2.38 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*

* Denotes a modified Standard Condition of Approval

** Denotes a project-specific Condition of Approval