



# AGENDA REPORT

## CITY OF SAN CLEMENTE

### CITY COUNCIL MEETING

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

Meeting Date: March 19, 2024

Agenda Item: 10J

**Department:** Public Works

**Prepared By** Zak Ponsen, Assistant City Engineer

**Subject:**

**CONSIDERATION OF A RESOLUTION APPROVING FINAL PARCEL MAP 2021-116, A COMMERCIAL CONDOMINIUM CONVERSION TO ALLOW FOR INDIVIDUAL OWNERSHIP OF FOUR COMMERCIAL SUITES, LOCATED AT 1050 CALLE AMANECER**

**Fiscal Impact:**

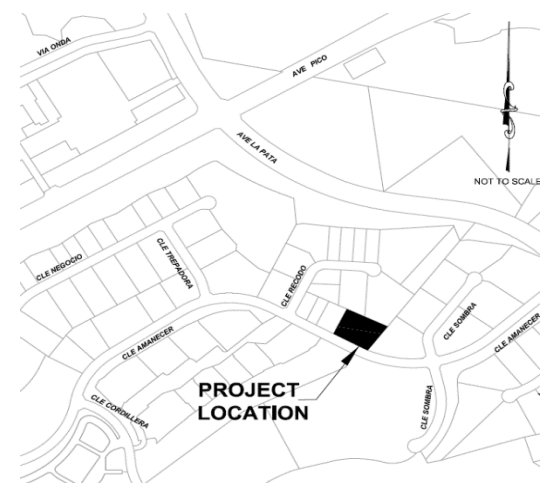
None.

**Summary:**

Project 1050, LLC, the property owner and Subdivider of Final Parcel Map 2021-116, 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. The Tentative Parcel Map 2021-116 (previously known as 2021-057) was approved by the Zoning Administrator on May 19, 2022 on Resolution ZA22-005. Pursuant to the Subdivision Map Act, 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. Thus, while the Subdivision Map Act and San Clemente Municipal Code Chapter 16 require City Council action to approval the Final Parcel Map, that action is ministerial.

**Background:**

Parcel Map 2021-116 contains four commercial condominium units on one 1.096 acre lot (see Location Map to the right). The Conditions, Covenants and Restrictions (CC&Rs) for the project have been reviewed and approved by the 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 quitclaim deeds 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. Copies of the proposed Final Parcel Map and approved Tentative Parcel Map are available for review at City Hall in the Public Works-Engineering Division.

***Council Options:***

- Adopt Resolution No. 24-45 (Attachment 2) approving the Final Parcel Map 2021-116 as it conforms to the requirements set forth in the Subdivision Map Act and the previously approved Tentative Parcel Map.
  
- Modify and adopt Resolution No. 24-45.
  
- Continue the item and direct staff to provide additional information.
  
- Identify and make a finding that the Final Parcel Map is not in substantial compliance with the previously approved Tentative Parcel Map, and based on that finding do not adopt Resolution No. 24-45 and reject the Final Parcel Map. Note: Per the Subdivision Map Act (Government Code 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 2021-116 (previously referred to as 21-057) was approved by the Zoning Administrator on May 19, 2022 through Resolution ZA 22-003. See Attachment 3.

***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. The approval of a Final Parcel Map is a ministerial action and not a “project” under CEQA.

***Recommended Actions:***

Staff recommends that the City Council approve Resolution No. 24-45, which would:

1. Approve the Final Parcel Map 2021-116 as it conforms to the requirements set forth in the Subdivision Map Act and the previously approved Tentative Parcel Map;
  
2. Accept on behalf of the City of San Clemente the water rights as dedicated;
  
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

***Attachment:***

1. Final Parcel Map Resolution No. 24-45
2. Resolution ZA 22-005

***Notification:***

None.

RESOLUTION NO. 24-45

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING FINAL PARCEL MAP 2021-116, A COMMERCIAL CONDOMINIUM CONVERSION TO ALLOW FOR INDIVIDUAL OWNERSHIP OF FOUR COMMERCIAL SUITES, LOCATED AT 1050 CALLE AMANECER

WHEREAS, the property owner and subdivider, Project 1050, LLC, owns an existing four-suite commercial building located at 1050 Calle Negocio; and

WHEREAS, the subdivider applied for a Tentative Parcel Map in order to subdivide the four-suite commercial building into four condominium unit that allow individual ownership; and

WHEREAS, the Tentative Parcel Map 2021-116 was approved by the Zoning Administrator on May 19, 2022 through Resolution ZA 22-005; and

WHEREAS, Resolution ZA 22-005 included Conditions of Approval for the subdivider to obtain City Attorney approval of Conditions, Covenants and Restrictions (CC&Rs), and to obtain from all persons having any interest in existing rights of way for pipelines for the conveyance of water and the rights to all underground water; and

WHEREAS, the subdivider has satisfied all the Conditions of Approval and offered to the City all water rights as dedicated on the Final Parcel Map; and

WHEREAS, the Final Parcel Map 2021-116 conforms to the requirements set forth in the Subdivision Map Act and the previously approved Tentative Parcel Map; and

WHEREAS, 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; and

WHEREAS, pursuant to the provisions of the Subdivision Map Act and San Clemente Municipal Code Chapter 16, Final Parcel Maps require City Council action for approval, denial, or modifications.

NOW, THEREFORE, the City Council of the City of San Clemente does hereby find, determine and resolve as follows:

SECTION 1. That the above recitations are true and correct and incorporated fully herein.

SECTION 2. That the San Clemente City Council hereby approves Final Parcel

Map 2021-116.

SECTION 3. That the San Clemente City Council hereby accepts on behalf of the City of San Clemente the water rights as dedicated on Final Parcel Map 2021-116.

SECTION 4. That the Public Works Director/City Engineer is authorized to execute the Final Parcel Map.

SECTION 5. That the City Clerk is authorized to sign and submit the Final Parcel Map for recordation with the County of Orange Recorder’s Office.

SECTION 6. That the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED AND ADOPTED this \_\_\_\_\_ day of March, 2024.

\_\_\_\_\_  
Mayor of the City of  
San Clemente, California

ATTEST:

\_\_\_\_\_  
CITY CLERK of the City of  
San Clemente, California

STATE OF CALIFORNIA     )  
 COUNTY OF ORANGE     ) §  
 CITY OF SAN CLEMENTE    )

I, LAURA CAMPAGNOLO, City Clerk of the City of San Clemente, California, do hereby certify that Resolution No. 24-45 was adopted at a regular meeting of the City Council of the City of San Clemente held on \_\_\_\_\_ day of March, 2024, by the following vote:

AYES:

NOES:

ABSENT:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of San Clemente, California, this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
 CITY CLERK of the City of  
 San Clemente, California

Approved as to form:

\_\_\_\_\_  
 Elizabeth A. Mitchell, City Attorney

RESOLUTION NO. ZA 22-005

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING TENTATIVE PARCEL MAP 2021-116 (TPM 21-057), PROJECT 1050 CONDOMINIUM CONVERSION, TO CONSIDER A COMMERCIAL CONDOMINIUM CONVERSION TO ALLOW FOR INDIVIDUAL OWNERSHIP OF FOUR COMMERCIAL SUITES, LOCATED AT 1050 CALLE AMANECER

WHEREAS, on June 2, 2021, an application was submitted by Kurt Bruggeman, 9838 Research Drive, Irvine, CA, 92618, for Tentative Parcel Map 2021-116 (TPM 21-057) and deemed complete on April 12, 2022; a request to consider a commercial condominium conversion to allow for individual ownership of four commercial suites, located at 1050 Calle Amanecer and in the Business Park Zone within the Rancho San Clemente Specific Plan. The site's legal description is N TR 12402 BLK LOT 41, and Assessor's Parcel Number 688-142-25; 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 involves a condominium conversion of four commercial suites located within a developed industrial area and no exceptions identified in CEQA Guidelines Section 15300.2 are applicable: and

WHEREAS, on June 2, 2021, October 28, 2021, and April 14, 2022 the City's Development Management Team (DMT) reviewed the proposed project and determined it complies with the General Plan, Zoning Ordinance, and other applicable City ordinances and codes; and

WHEREAS, on May 19, 2022, 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 Categorical Exempt from CEQA pursuant to State CEQA Guidelines Section 15315 (Class 15: Minor Land Divisions).

The project is Categorical Exempt from California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15315 (Class 15, Minor Land Divisions) because the project involves the condominium conversion of four commercial suites, for individual ownership, in an urbanized area zoned for industrial use. 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 2021-116 (TPM 21-057), 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 commercial building into four condominium suites for individual ownership purposes; and
  2. The existing development is subject to 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 proposed density on the site complies with the maximum allowed for properties in the Business Park Zone within the Rancho San Clemente Specific Plan. The site has a floor area ratio less than .5, where the subject zone allows a maximum floor area ratio of .5.
  2. Ample parking is provided to support uses permitted in the Business Park Zone within the Rancho San Clemente Specific Plan.
- 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:

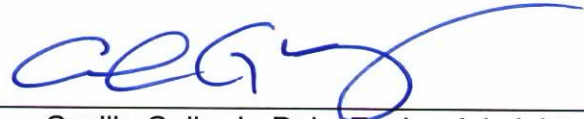


1. The project is limited to subdividing airspace into four condominiums to allow for separate ownership of each commercial suite;
  2. No physical modifications to the site will result from the proposed subdivision; and
  3. The site is in a developed industrial area served by existing utilities and 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 airspace into four condominiums to allow for separate ownership of each commercial suite;
  2. No physical modifications to the site will result from the proposed subdivision; and
  3. The site is in a developed industrial 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, in that:
1. The project is limited to subdividing airspace into four condominiums to allow for separate ownership of each commercial suite. The project is consistent with the Industrial Land Use Designation of the site; and
  2. The existing development is subject to the Rancho San Clemente Specific Plan, 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 project is limited to subdividing airspace into four condominiums to allow for separate ownership of each commercial suite;
  2. Easements have been indicated on the tentative map; and
  3. The existing development is subject to the Rancho San Clemente Specific Plan, 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.

Section 4. Zoning Administrator Approval.

Based on the foregoing recitals and findings, and the written and oral comments, facts, and evidence presented, the City of San Clemente Zoning Administrator approves Tentative Parcel Map 2021-116 (TPM 21-057), Project 1050 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 May 19, 2022.



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Cecilia Gallardo-Daly, Zoning Administrator

CONDITIONS OF APPROVAL  
TENTATIVE PARCEL MAP 2021-116 (TPM 21-057)  
PROJECT 1050 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<br>Comp |
| 1.6 | Tentative Parcel Map 2021-116 (TPM 21-057) 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
- City of San Clemente Wastewater Treatment Plant
- Orange County Flood Control Channel

**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

- 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.

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| 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 |
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**Easements**

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| 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 | Public Works |

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)

- 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 Per Municipal Code 12.08, discretionary projects with building permit valuations of \$50,000 or more are required to dedicate easements for public pedestrian sidewalk purposes if necessary. The current design shows that an easement is not necessary, but in the event the design changes, the City reserves the right to require that an easement be granted to the City on the Final Map. Additionally, if the design changes so that an easement is necessary, the City reserves the right to require the garage doors be setback at least 18 feet from the back of the sidewalk easement to the satisfaction of the City Engineer. (SCMC Chapter 12.08) Public Works  
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- 2.37 The Applicant (including any property owners and managers, and their designees) shall obtain approval of a Tentative Parcel Map from the California Coastal Commission, for the duplex condominium conversion. Planning  
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- 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  
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**7.0 OPERATIONAL CONDITIONS OF APPROVAL**

- 7.17 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  
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\* Denotes a modified Standard Condition of Approval

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