



STAFF REPORT

SAN CLEMENTE ZONING ADMINISTRATOR

Meeting Date: October 17, 2024

PLANNER: David Carrillo, Associate Planner

SUBJECT: **Public Hearing Project (PHP) 24-304, Mariposa Duplex Condominium Subdivision**, a request to approve Tentative Parcel Map (TPM) 24-314 allowing a duplex condominium subdivision for individual ownership of two dwelling units, and finding that the project is Categorically Exempt from the California Environmental Quality Act under Sections 15301 (14 CCR § 15301, Class 1: Existing Facilities) and 15315 (14 CCR § 15315, Class 15: Minor Land Divisions) of the CEQA Guidelines.

LOCATION: 214 W. Mariposa (APN 692-073-06)

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

PROJECT SUMMARY:

- **Background:**
 - The site is a 4,051 square-foot interior lot, currently undergoing construction of a two-story duplex building, under Building Permit B21-2554. The site abuts a historic resource at 212 W. Mariposa to the east. Surrounding land uses include single- and multi-family residences to the north, east, south, and west.
 - The RM Zone permits one dwelling unit per 1,800 square feet of lot area, so two dwelling units are the maximum that may be authorized on the subject site.
- **Proposed Project:** The applicant requests to subdivide the airspace of the lot to allow for two condominium units. The proposal would allow for separate ownership of each condominium unit and a portion of common areas.
- **Approval Authority:** Municipal Code Section 16.04.015(G)(1) requires Zoning Administrator approval of Tentative Parcel Map applications for condominium subdivisions.
- **Project Findings:** The project meets required findings and staff supports the proposed request based on the following:

- The project is limited to subdividing the lot's airspace to allow for separate ownership of two condominium units and does not have any potential environmental impacts.
 - The City limits the number of annual condominium conversions that can occur; however, per SCMC 16.14.010, that restriction "shall not apply to condominium projects involving buildings which have not been previously occupied or buildings for which the City has not issued a final inspection or certificate of occupancy for a use other than condominiums". As the duplex at this property is still under construction, these units are not subject to (and do not count towards) the annual limit on conversions.
 - 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).
- **Public Comment:** Public comments have not been received on this item.
- **Coastal Act:** The site is within the Coastal Zone, within the Categorical Exclusion Order Area, but subdivisions/parcel maps are not an excluded category of development; therefore, the project requires review and approval by the California Coastal Commission. The project is not subject to the Mello Act in that there are no occupied residences at the subject site. The approved duplex under construction improves a vacant lot, and the condominium subdivision does not remove or convert any occupied housing units, including affordable units, within the Coastal Zone.
 - **CEQA:** The project is Categorically Exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301 (Class 1: Existing Facilities) and 15315 (Class 15: Minor Land Divisions):
 - The project involves the subdivision of airspace for two condominium units 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.

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 Categorical Exempt from the requirements of the CEQA pursuant to CEQA Guidelines Section 15301 (Class 1: Existing Facilities) and 15315 (Class 15: Minor Land Divisions); and
2. Adopt Resolution ZA 24-019, approving Public Hearing Project (PHP) 24-304 for Tentative Parcel Map 24-314, Mariposa Duplex Condominium Subdivision, subject to conditions of approval.

Attachments:

1. Resolution ZA 24-019
Exhibit A - Conditions of Approval
2. Location Map
3. Tentative Parcel Map

RESOLUTION NO. ZA 24-019

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING TENTATIVE PARCEL MAP (TPM) 24-314, MARIPOSA DUPLEX CONDOMINIUM SUBDIVISION, A REQUEST TO ALLOW A DUPLEX CONDOMINIUM SUBDIVISION FOR INDIVIDUAL OWNERSHIP OF TWO DWELLING UNITS ON A PROPERTY LOCATED AT 214 WEST MARIPOSA, AND FINDING THAT THE PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT SECTIONS 15301 (14 CCR § 15301, CLASS 1: EXISTING FACILITIES) AND 15315 (14 CCR § 15315, CLASS 15: MINOR LAND DIVISIONS) OF THE CEQA GUIDELINES.

WHEREAS, on June 27, 2024 an application was submitted by Harold Alzate, for Tentative Parcel Map (TPM) 24-030, and deemed complete on September 16, 2024; a request to allow a duplex condominium subdivision for individual ownership of two dwelling units. The subject site is under construction for a duplex permitted by Building Permit B21-2554, located in the Residential Medium Zoning District and Coastal Zone Overlay District (RM-CZ). The site's legal description is N TR 793 BLK 20 LOT 6 and the Assessor's Parcel Number is 692-073-06; 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 15315 (Class 15: Minor Land Divisions). This is recommended because the project involves a two-unit condominium subdivision of a duplex in an urbanized area and no exceptions identified in CEQA Guidelines Section 15300.2 are applicable; and

WHEREAS, on August 22, 2024 the City's Development Management Team (DMT) reviewed the proposed project to ensure 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 3, 2024, posted at the project site, and mailed to all property owners within 300 feet of the subject parcel; and

WHEREAS, on October 17, 2024, 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 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 two dwelling units, for individual ownership, in an urbanized area zoned for residential 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 (TPM) 24-314, the Zoning Administrator finds as follows:

A. The site is physically suitable for the type of development, in that:

1. The project is limited to subdividing the airspace of a duplex into two condominium units for individual ownership purposes; and
2. There is an active building permit at the site to construct a new duplex. The building permit has been 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, et al.

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 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 4,051 square feet, with an allowed density of two units.

- C. The design of the condominium conversion or the proposed improvements is not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat, in that:
1. The project is limited to subdividing airspace into two condominiums to allow for separate ownership of each dwelling unit; and
 2. The site is in a developed residential 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 the airspace of a duplex into two condominiums to allow for separate ownership of each dwelling unit; and
 2. 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, in that:
1. The project is limited to subdividing the airspace of a duplex into two condominium units for individual ownership purposes. The project is consistent with the Residential Medium General Plan Land Use Classification of the site; and
 2. There is an active building permit at the site to construct a new duplex. The building permit has been 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, et al; and
 3. The City limits the number of annual condominium conversions that can occur; however, per SCMC 16.14.010, that restriction “shall not apply to condominium projects involving buildings which have not been previously occupied or buildings for which the City has not issued a final inspection or certificate of occupancy for a use other than condominiums”. As the duplex at this property is still under construction, these units are not subject to (and do not count towards) the annual limit on conversions.
- F. The design of the condominium subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of the property within the proposed subdivision in that:
1. The proposed project is limited to subdividing a duplex into two condominium units for individual ownership purposes; and

2. There is an active building permit at the site to construct a new duplex. The building permit has been 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, et al.

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 24-314, Mariposa Duplex 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 October 17, 2024.

Adam Atamian, Zoning Administrator

CONDITIONS OF APPROVAL
TENTATIVE PARCEL MAP (TPM) 24-314
MARIPOSA DUPLEX 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. Failure to submit this acknowledgement may be grounds to revoke this approval. | Planning |
| 1.2 | The applicant shall defend (with council acceptable to the City), 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, Zoning Administrator, or City employees or environmental finding. 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 at the applicant's cost. 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 24-314 shall be deemed to have expired if within three years of approval the project is not commenced, or the project permitted | Planning |

by the approved application has lapsed, as defined by Zoning Ordinance Section 17.12.150.

- 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

- 2.1 Prior to final Parcel Map approval, the owner shall obtain final approval of all building permits, including, but not limited to, B21-2554, required for the development of the duplex. Planning
**
- 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
- 2.3 The applicant shall ensure the final map and construction drawings have consistent information between both documents, in areas such as, but not limited to, length and location of property lines, easements, building footprint and setbacks, and location and height of all walls. Planning
**

Buyer Notification

- 2.4 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.

- 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

Public
Works

feet. No drainage facilities accepted for dedication or maintenance by the City shall be located within slopes. (SCMC Section 16.28.030)

- 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 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
**

* Denotes a modified Standard Condition of Approval

** Denotes a project-specific Condition of Approval

RESOLUTION NO. ZA 24-019

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING TENTATIVE PARCEL MAP (TPM) 24-314, MARIPOSA DUPLEX CONDOMINIUM SUBDIVISION, A REQUEST TO ALLOW A DUPLEX CONDOMINIUM SUBDIVISION FOR INDIVIDUAL OWNERSHIP OF TWO DWELLING UNITS ON A PROPERTY LOCATED AT 214 WEST MARIPOSA, AND FINDING THAT THE PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT SECTIONS 15301 (14 CCR § 15301, CLASS 1: EXISTING FACILITIES) AND 15315 (14 CCR § 15315, CLASS 15: MINOR LAND DIVISIONS) OF THE CEQA GUIDELINES.

WHEREAS, on June 27, 2024 an application was submitted by Harold Alzate, for Tentative Parcel Map (TPM) 24-030, and deemed complete on September 16, 2024; a request to allow a duplex condominium subdivision for individual ownership of two dwelling units. The subject site is under construction for a duplex permitted by Building Permit B21-2554, located in the Residential Medium Zoning District and Coastal Zone Overlay District (RM-CZ). The site's legal description is N TR 793 BLK 20 LOT 6 and the Assessor's Parcel Number is 692-073-06; 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 15315 (Class 15: Minor Land Divisions). This is recommended because the project involves a two-unit condominium subdivision of a duplex in an urbanized area and no exceptions identified in CEQA Guidelines Section 15300.2 are applicable; and

WHEREAS, on August 22, 2024 the City's Development Management Team (DMT) reviewed the proposed project to ensure 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 3, 2024, posted at the project site, and mailed to all property owners within 300 feet of the subject parcel; and

WHEREAS, on October 17, 2024, 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 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 two dwelling units, for individual ownership, in an urbanized area zoned for residential 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 (TPM) 24-314, the Zoning Administrator finds as follows:

A. The site is physically suitable for the type of development, in that:

1. The project is limited to subdividing the airspace of a duplex into two condominium units for individual ownership purposes; and
2. There is an active building permit at the site to construct a new duplex. The building permit has been 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, et al.

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 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 4,051 square feet, with an allowed density of two units.