



CONDOMINIUM CONVERSION/PARCEL MAP WAIVER PROCEDURES AND REQUIREMENTS

CITY OF ENCINITAS PLANNING AND BUILDING DEPARTMENT

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Chapter 24.40 of the Municipal Code contains procedures for minor airspace subdivisions (four or fewer units) for the conversion of existing residential units to condominiums. Section 24.60.050 of the Municipal Code allows for such condominiums to be approved via the parcel map waiver process. This process allows the recordation of a certificate of compliance in lieu of the typical requirement to file a final parcel map. The parcel map waiver process is an administrative process that requires no public hearing under normal circumstances.

The purpose of this handout is to summarize the procedures and submittal requirements. For complete information, please refer to Municipal Code sections referenced above. In addition, the project must meet the City's General Plan policy for condominium conversions (Exhibit A) and Coastal Regulations (Exhibit B).

A. Submittal Requirements

1. A completed administrative application.
2. Appropriate public notice package.
3. Copy of vesting deed.
4. Ten (10) copies of Parcel Map Waiver Plat (shall provide all information as required by the Municipal Code for a tentative parcel map). Plat shall be prepared by a registered surveyor or a civil engineer. Maps are to be folded to 8 ½ x 11. **Two (2) of the ten (10) copies shall be wet signatures (signed, sealed, and dated from all parties).**
5. Physical elements and pest control reports.
6. Soils report (new construction).
7. Evidence of notice to tenants (Sections 66452.17 and 66452.18 of the State Subdivision Map Act), certifying that any current tenants (or prospective tenants) have received notice of intent to condominiumize at least 60 days prior to application submittal (see attachment).
8. Statement of any planned improvements.

9. Evidence supporting any known legal non-conforming condition of any aspect of the structure not conforming to current code standards.
10. Applicable fees.
11. A statement of justification detailing how the project meets the findings in Chapter 24.40.100 of the Municipal Code (attached) and Housing Element Policy 1.5 of the General Plan (Exhibit A).
12. Income Verification Form **(VF)**. As noted in Section 24.40.100 (Findings for Conversions) of the Encinitas Municipal Code, "The conversion would not displace predominantly low and moderate income families or tenants without adequate provisions for suitable relocation of such families or tenants." Please provide an Income Verification Form (contained herein) for each tenant of the units being converted.

B. Initial Process

1. Application is submitted to the Planning and Building Department and reviewed by appropriate in-house departments.
2. The City Engineer, after determining that the application conforms with required standards, shall sign the Final Parcel Map Waiver Plat.
3. The Planning and Building Department, after determining that all City departments requirements are satisfied, shall issue a Notice of Decision providing tentative approval of the subdivision. Tentative approval is valid for two years, allowing time for recordation of certificates of compliance.

C. Final Process

1. Copies of closure calculations and record of survey are given to the Planning and Building Department for review.
2. The City Engineer reviews the new documents to ensure their correctness and provides written confirmation to the Director of Planning and Building that all the above items are correct and in order.
3. The Director of Planning and Building then prepares and records one certificate of compliance, indicating the total number of units of the condominium.

CHAPTER 24.40

CONVERSION OF RESIDENTIAL PROPERTY

24.40.010 Purpose. The purpose of this Chapter is: (Ord. 87-10)

- A. To establish criteria for the conversion of existing housing to condominiums or stock cooperative.
- B. To reduce the impact of such conversions on residents in rental housing who may be required to relocate due to the conversion of apartments to condominiums by providing for procedures for notification and adequate time and assistance for such relocation.
- C. To assure that purchasers of converted housing have been properly informed as to the physical conditions of the structure which is offered for purchase.
- D. To insure that converted housing achieves a high degree of appearance, quality, and safety and is consistent with the goals of the City.

24.40.020 Physical Elements Report. A report on the physical elements of all structures and facilities shall be submitted with the tentative subdivision or parcel map. The report shall include, but not be limited to, the following:

- A. A report by a licensed engineer detailing the structural condition of all elements of the property including foundations, electrical, plumbing, utilities, walls, ceiling, windows, recreational equipment, parking facilities and appliances. Regarding each such element, the report shall state, to the best knowledge or estimate of the applicant, when such element was built; the condition of each element; when said element was replaced; the approximate condition of each element; the approximate date upon which said application for conversion was filed and accepted by the City. The report shall identify any defective or unsafe elements and set forth the proposed corrective measures to be employed.
- B. A report from a licensed structural pest control operator, approved by the City, on each structure and each unit within the structure.
- C. A report by a licensed geotechnical engineer on any known soil and geological conditions regarding soil deposits, rock formations, faults, groundwater, and landslides or other geological hazards in the vicinity of the project and a statement regarding any known evidence of soils problems relating to the structures. Reference shall be made to any previous soils reports for the site and a copy submitted with said report.
- D. A statement of repairs and improvements to be made by the subdivider necessary to refurbish and restore the project to achieve a high degree of appearance and safety.

24.40.030 Acceptance of Reports. The final form of the physical elements report and other documents shall be subject to approval by the City. The reports in their accepted form shall remain on file with the community development department for review by any interested persons. The report shall be referenced in the subdivision report to the authorized agency.

24.40.040 Copy to Buyers. The subdivider shall provide each purchaser with a copy of all reports (in their final, accepted form), prior to said purchaser executing any purchase agreement or other contract to purchase a unit in the project and said developer shall give the purchaser sufficient time to review said reports. Copies of the reports shall be made available at all times at the sales office and shall be posted at various locations, as approved by the City, at the project site.

24.40.050 Physical Standards for Condominium Conversions.

- A. To achieve the purpose of this Chapter, the City shall require that all condominium conversions conform to the Municipal Code in effect at the time of tentative map approval except as otherwise provided in this Chapter.
- B. All provisions of the Municipal Code must be met and violations corrected prior to the approval of the final map.

24.40.060 Specific Physical Standards. The City shall require conformance with the standards of this section in approving the map.

- A. Building Regulations. The project shall conform to the applicable standards of the City building code in effect at the time the application for conversion was accepted by the City except as herein provided.
- B. Zoning Regulations. The project shall conform to all applicable standards of the Zoning Ordinance, in effect at the time the application for conversion was accepted by the City except as herein provided. Except, if the applicant demonstrates that some aspect of the property or improvements is legally nonconforming, the structure may be converted so long as the nonconforming aspect is not expanded. In cases where modification of the nonconformity can be reasonably achieved in terms of financial or structural feasibility, the City shall require such modification as a condition of approval for conversion.
- C. Fire Prevention.
 - 1. Smoke Detectors. Each living unit shall be provided with approved detectors of products of combustion other than heat conforming to the latest Uniform Building Code standards, mounted on the ceiling or wall at a point centrally located in the corridor or area giving access to rooms used for sleeping purposes.

2. Maintenance of Fire Protection Systems. All fire hydrants, fire alarm systems, portable fire extinguishers and other fire protective appliances shall be retained in an operable condition at all times.

D. Sound Transmission.

1. Shock Mounting of Mechanical Equipment. All permanent mechanical equipment such as motors, compressors, pumps, and compactors which is determined by the Department of Planning and Community Development to be a source of structural vibration or structure-borne noise shall be shock mounted with inertia blocks or bases and/or vibration isolators in a manner approved by the Department of Planning and Community Development.
2. Noise Standards. The structure shall conform to all interior and exterior sound transmission standards of the Uniform Building Code. In such cases where present standards cannot reasonably be met, the authorized agency may require the applicant to notify potential buyers of the noise deficiency currently existing within these units.

E. Utility Metering. Each dwelling unit shall be separately metered for gas and electricity. A plan for equitable sharing of communal water metering shall be developed prior to final map approval and included in the covenants, conditions and restrictions. In such cases where the subdivider can demonstrate that this standard cannot or should not reasonably be met, this standard may be modified by the authorized agency.

F. Private Storage Space. Each unit shall have at least 200 cubic feet of enclosed weather-proofed and lockable private storage space in addition to closets customarily provided. Such space may be provided in any location approved by the Department of Planning and Community Development, but shall not be divided into two or more locations. In such cases where the subdivider can demonstrate that this standard cannot or should not reasonably be met, this standard may be modified by the authorized agency.

G. Laundry Facilities. A laundry area shall be provided in each unit; or if common laundry areas are provided, such facilities shall consist of not less than one automatic washer and dryer for each five units or fraction thereof. In such cases where the subdivider can demonstrate that this standard cannot or should not reasonably be met, this standard may be modified by the authorized agency.

H. Landscape Maintenance. All landscaping shall be restored as necessary and maintained to achieve a high degree of appearance and quality.

- I. Condition of Equipment and Appliances. The developer shall provide written certification to the buyer of each unit at the close of escrow that any dishwashers, garbage disposals, stoves, refrigerators, hot water tanks, and air conditioners that are provided are in operable working condition as of the close of escrow. At such time as the homeowners' association takes over management of the development, the developer shall provide written certification to the association that any pool and pool equipment (filter, pumps, chlorinator) and any appliances and mechanical equipment to be owned in common by the association is in operable working condition.

24.40.070 Notice to Tenants.

- A. The authorized agency shall not approve a final map or parcel map for a subdivision to be created from the conversion of residential real property into a condominium project, a community apartment project, or a stock cooperative project unless it makes all of the findings set forth in Section 66427.1 of the Act relating to notices and offers to tenants.
- B. The subdivider shall give notice to prospective tenants in accordance with Section 66452.8 of the Act.
- C. In accordance with Section 66452.9 of the Act, subdivider shall give notice of the filing of the tentative map or tentative parcel map.
- D. Subdivider shall provide evidence of receipt of each tenant of the notices required herein.

24.40.080 Stock Cooperatives Owners' Vote. In accordance with Section 66452.10 of the Act, a stock cooperative will not be converted to a condominium unless a majority of the owners have voted in favor of the conversion.

24.40.090 Conversion to Stock Cooperative. The City shall approve or disapprove the conversion of an existing building to a stock cooperative within 120 days following receipt of a completed application for approval of such conversion. (Gov. Code Section 66427.2)

24.40.100 Findings. The authorized agency shall not approve an application for conversion unless the authorized agency finds that:

- A. All provisions of this Chapter are met;
- B. The proposed conversion is not inconsistent with any objectives or policies in the City General Plan specifically directed to the conversion;
- C. The proposed conversion will conform to the Municipal Code in effect at the time of tentative map approval except as otherwise provided in this Chapter;

- D. The overall design and physical condition of the conversion achieves a high degree of appearance, quality and safety; and
- E. The conversion would not displace predominantly low and moderate income families or tenants without adequate provision for suitable relocation of such families or tenants.

24.60.050 Parcel Map Waiver. Under the circumstances and subject to the provisions specified in this Section, in lieu of the requirements to file and receive approval of a tentative and final parcel map and to record a final parcel map, a subdivider may file for approval of a parcel map waiver. (Ord. 88-10)

- A. A parcel map waiver may be applied to the following types of subdivisions:
 - 1. Lot consolidations resulting in the creation of one (1) single lot; or
 - 2. A condominium conversion when no new units or lots are being created. (Ord.92-39)
- B. Prior to approval of a parcel map waiver, the following finding shall be made: The proposed subdivision and each of the lots proposed to be created comply with requirements as to area, on-site improvements, design, access, floodwater drainage control, adequate boundary monumentation, dedications of right-of-way, payment of development fees, appropriate improved public streets and other off-site improvements, sanitary disposal facilities, water supply availability, fire protection facilities, environmental review and protection, grading, and any and all other requirements of this Title and the State Subdivision Map Act which would be applicable to review and approval of a tentative final parcel map. (Ord. 92-39)
- C. For purposes of consideration of a parcel map waiver application, the Director shall be the authorized agency. Any determination of the Director may be *appealed to the next higher approval authority as provided under this Title. (Ord. 92-14). (*See Chapter 1.12.010 through 1.12.060).
- D. An application for a parcel map waiver shall be submitted on such form and with such material as shall be determined by the Director. Such material shall include a parcel map waiver plat, which shall provide all information required by this Title to be provided on a tentative parcel map. Such fee, as may be adopted by the City for a parcel map waiver application, shall be paid. The application shall be distributed for review and comment as determined by the Director. Such distribution shall include review by the City Engineer to determine compliance with technical requirements applicable under the state Subdivision Map Act.
- E. After receipt of all comments and review of the proposed subdivision, the Director shall determine if the required findings can be made and the application for parcel map waiver is approved or denied. Prior to any determination of approval,

acceptance by the City Engineer by signature on the Final Parcel Map waiver plat shall be obtained. A letter of determination shall be provided to the applicant. An approval shall be valid for a period of one (1) year from the date of approval, within which time the remaining procedures under paragraph F below shall be completed, otherwise said approval shall expire. (Ord. 88-10)

- F. If no appeal is filed or if approval is granted after an appeal, upon notification of approval the applicant(s) for a parcel map waiver shall have a site survey done and have a record of survey prepared and recorded at the County Recorder's office conforming to the lots and lot lines approved in the parcel map waiver application. The applicant(s) shall also have prepared and recorded new deeds of property ownership to conform to the lots approved. The applicant(s) shall deliver to the Director copies of the recorded record of survey plat and the recorded deeds of ownership, together with closure calculations for each of the new lots. Upon confirmation that these instruments are in substantial compliance with the parcel map waiver application as approved, the Director shall have prepared and recorded a certificate of compliance for each of the new lots. Recordation of the certificate(s) of compliance shall complete the parcel map waiver process for an approved application. (Ord. 92-14)

Exhibit A

General Plan Housing Element Policy 1.5

If a diminishing inventory of rental housing creates an imbalance, the City should make every effort to preserve the existing stock of quality rental housing by discouraging apartment conversions to condominiums. [V-b]

Exhibit B

Coastal Overlay Zone Affordable Housing Replacement Regulations

Purpose of Coastal Zone Affordable Housing Replacement Regulations (143.0810):

The purpose of these regulations is to preserve existing dwelling units within the Coastal Overlay Zone that are occupied by *low income* or *moderate income families* as defined by Government Code Section 65590(b). These regulations are intended to implement Government Code Section 65590, by providing for replacement housing within the Coastal Overlay Zone.

When Coastal Overlay Zone Affordable Housing Replacement Regulations Apply (143.0815):

- a) Any *development* that proposes the conversion or demolition of dwelling units within the Coastal Overlay Zone that are occupied by persons or *families* of *low income* or moderate income, except as provided in Section 143.0820.
- b) The following *development* types shall be reviewed for compliance with the regulations in this division:
 - 1) Conversion from rental units to condominium units (cooperative or similar form of ownership);
 - 2) Conversion from residential to nonresidential use; and
 - 3) Demolition of a residential *structure* with three or more dwelling units or demolition of at least eleven units when two or more *structures* are involved.
- c) Contiguous *lots* or *structures* owned by the *applicant* are considered as one project.

Exemption from the Coastal Overlay Zone Affordable Housing Replacement Regulations (143.020):

This division is not applicable to the following:

- a) The demolition of a residential structure that has been declared a *public nuisance*;

- b) The conversion or demolition of a residential *structure* to nonresidential use that is coastal-dependant or coastal-related, as defined by the California Coastal Act of 1976, as amended, when the nonresidential use is consistent with the applicable *land use plan*;
- c) The conversion or demolition of a residential *structure* that contains less than three dwelling units; and
- d) The conversion or demolition of 10 or fewer dwelling units on a *premises* with more than one residential *structure*.

