



CITY OF PALM DESERT

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PLANNING COMMISSION MEETING NOTICE OF ACTION

September 11, 2023

Ms. Shana Shamloo
135 Chelsea Circle
Palm Desert, California 92260

Dear Ms. Shamloo:

Subject: Consideration to Adopt a Notice of Exemption Pursuant to the Environmental Quality Act (CEQA) and approve a Tentative Parcel Map (TPM) and a Conditional Use Permit (CUP) to Convert Apartment Units to Condominium Units

The Planning Commission of the City of Palm Desert considered your request and took the following action at its regular meeting on September 5, 2023:

*Waived further reading and adopted Planning Commission Resolution No. 2842:
1) Adopting a Notice of Exemption for a Class 1 Categorical Exemption in accordance with CEQA Guidelines, and 2) Approving Case Nos. TPM23-0004/CUP23-0011, subject to findings and conditions, including an added Condition of Approval that the Applicant submit a landscape application to the City for review and approval of landscape improvements throughout the site.
The motion carried by a 5-0 vote.*

Enclosed for your records is a fully executed copy of Resolution No. 2842. Any appeal of the above action may be made in writing to the City Clerk, City of Palm Desert, within 15 days of the date of the decision. If you have any questions or require additional information, please do not hesitate to contact Associate Planner Anna Dan at adan@palmdesert.gov (760) 776-6309.

Sincerely,

Richard D. Cannone, AICP, Secretary
Palm Desert Planning Commission

rdc/mlo
Enclosure
cc: File
Building & Safety Division
Fire Marshal

PLANNING COMMISSION RESOLUTION NO. 2842

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF PALM DESERT, CALIFORNIA, ADOPTING A NOTICE OF EXEMPTION PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA); AND APPROVING A TENTATIVE PARCEL MAP (TPM) AND CONDITIONAL USE PERMIT (CUP) TO ALLOW THE CONVERSION OF AN EXISTING FOUR-UNIT APARTMENT DEVELOPMENT INTO FOUR RESIDENTIAL CONDOMINIUMS LOCATED AT 74375 EL CAMINO
CASE NOS. TPM23-0004/CUP23-0011

WHEREAS, Shana Shamloo ("Applicant") submitted a TPM and CUP application to convert an existing four-unit (4) apartment development into four (4) residential condominium units located at 74375 El Camino ("Project"); and

WHEREAS, condominium conversions are allowed in any district in which condominium uses are permitted, subject to the approval of a CUP, TPM, and all other provisions and requirements of Palm Desert Municipal Code (PDMC) 25.34.050; and

WHEREAS, the proposed Project substantially conforms to the General Plan land use designation of the Town Center Neighborhood and development standards listed in the City's Zoning Ordinance for the Multifamily Residential (R-3) zoning district; and

WHEREAS, the proposed Project is compatible with the uses in the vicinity of the location on El Camino and conforms to the zoning designation and overlay district; and

WHEREAS, under Section 21067 of the Public Resources Code, Section 15367 of the State CEQA Guidelines (Cal. Code Regs., tit. 14, § 15000 et seq.), and the City of Palm Desert's ("City's") Local CEQA Guidelines, the City is the lead agency for the proposed Project; and

WHEREAS, the said application has complied with the requirements of the "City of Palm Desert Procedure for Implementation of CEQA" Resolution No. 2019-41, in that the Director of Development Services has determined that the Project will not have a significant impact on the environment and that the Project is categorically exempt under Article 19, Section 15301 Existing Facilities (Class 1) of the CEQA Guidelines, and is not subject to any exceptions as identified in CEQA Guidelines Section 15300.2; therefore, no further environmental review is necessary; and

WHEREAS, the Planning Commission of the City of Palm Desert, California, did on the 5th day of September 2023, hold a duly noticed public hearing to consider the request by the Applicant for approval of the above-noted Project request, subject to conditions; and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred; and

WHEREAS, at the said public hearing, upon hearing and considering all testimony and arguments, if any, of all interested persons desiring to be heard, the Planning Commission did find the following facts and reasons, which are outlined in the staff report, exist to justify approval of said request:

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NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Palm Desert, California, as follows:

SECTION 1. Recitals. The Planning Commission hereby finds that the foregoing recitals are true and correct and are incorporated herein as substantive findings of this Resolution.

SECTION 2. Findings on Condominium Conversion Permit. Under PDMC Section 25.72.060(C), the findings for the residential condominium conversions are the following:

1. That the condominium conversion project is consistent with the applicable findings specified in PDMC Section 25.72.050 Conditional Use Permits.
 - i. That the proposed location of the conditional use is in accordance with the objectives of this title and the purpose of the district in which the site is located.

The project is located in the Multifamily Residential District (R-3) where residential condominiums are permitted with a CUP. The R-3 zoning district is intended for moderate to high-intensity neighborhood development and mixed uses near retail and commercial services. The surrounding area primarily consists of residential apartments and condominiums, which makes the four-unit apartment, constructed in 1974, appropriate for the existing neighborhood. The proposed conversion of the residential condos will not affect the current structures or building footprint.

- ii. That the proposed location of the conditional use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare, or be materially injurious to properties or improvements in the vicinity.

The proposed condominium conversion will not be detrimental to public health, safety, or welfare, or be materially injurious to properties or improvements in the vicinity. No additional square footage or structural alterations are proposed.

- iii. That the proposed conditional use will comply with each of the applicable provisions of this title, except for approved variances or adjustments.

The proposed condominium conversion shall comply with the objective requirements of the zoning ordinance. While the land use satisfies the intent and purpose of the R-3, there are certain development standards to which the existing structures do not conform. Firstly, the project site does not meet the minimum parking requirement. The zoning ordinance requires eight (8) spaces, and there are only seven (7), one of which is irregularly shaped. The Applicant is seeking a parking reduction from two (2) spaces to 1.5 spaces per unit for a total requirement of six (6) spaces. The parking memorandum demonstrates the six (6) existing parking spaces are sufficient to support the use. Additionally,

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one (1) of the apartment buildings encroaches approximately ten (10") inches into the required eight-foot (8') side-yard setback. Both nonconformities exist; however, and do not pose adverse impacts on the neighboring properties.

- iv. That the proposed conditional use complies with the goals, objectives, and policies of the City's General Plan.

The project site has a General Plan land use designation of Town Center Neighborhood. This land use designation is intended to provide a range of single-family and multifamily residential uses organized along walkable streetscapes with commercial and retail activity within walking distance. The project would convert an existing four (4) apartment units into four (4) condominium units with the units maintaining the same building footprint. The proposed conversion enacts City Goal 5 of the General Plan Land Use Element by preserving and improving the existing housing stock, enabling additional opportunities of homeownership for the Palm Desert residents, and supporting a mix of potential housing types.

2. That the Applicant does not seek to convert an apartment complex or development, which received a Certificate of Occupancy for any unit, located therein within the preceding 12 months.

The existing fourplex was originally constructed in 1974. A Certificate of Occupancy has not been issued for any unit located in the development within the preceding 12 months.

3. That the average rental vacancy rate in apartment dwelling units within the City during the 24 months preceding the filing of the application is equal to or greater than five percent (5%). Upon submission of the application, the City Manager or designee shall obtain, at Applicant's sole expense, a written study or report from an objective, unbiased third party which provides such studies and/or reports as part of its ordinary course and scope of business on a statewide or nationwide basis, which, in the reasonable opinion of the City Manager or designee, reflects that the average rental vacancy rate in apartment units then available in the City is five percent (5%) or higher. If the average rental vacancy rate in the City during the 24 months preceding the filing of the application is less than five percent (5%) or if as a result of the approval of said condominium conversion the vacancy rate would be less than five percent (5%), the condominium conversion project shall be denied unless the Commission/Council determines that at least one of the following overriding considerations exist:
 - i. Evidence has been submitted that at least 50 percent plus one of the eligible tenants has voted to recommend approval of the conversion.
 - ii. That the evidence presented to the Commission/Council as part of the application for the project overwhelmingly complies with the policies and intent of this chapter. Applicants shall be able to request that the Commission/Council

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allow for a condominium conversion project to be considered for approval where the vacancy rate and/or tenant approval percentage requirements have not been met but have been substantially complied with.

The proposed condominium conversion is exempt from these vacancy requirements as it seeks to convert an existing project containing four (4) units in accordance with PDMC Section 25.34.050(K)(4).

SECTION 3. CEQA. The application has complied with the requirements of the “City of Palm Desert Procedure for Implementation of CEQA” Resolution No. 2019-41, in that the Planning Commission finds that the project is exempt from CEQA per Section 15301(k) of the State CEQA guidelines as the project is a Class 1 Existing Development. Class 1 is intended for projects involving the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use. Subsection K permits the division of existing multiple-family residences into common-interest ownership. As analyzed, the project proposes converting an existing apartment development into residential condominiums, which would not alter or expand the existing building. The proposed project complies with the development standards within the R-3 zoning designation and does not result in any additional square footage.

Additionally, the project is not subject to any of the exceptions for categorical exemptions identified in CEQA Guidelines Section 15300.2:

1. The project qualifies as a Class 1 exemption, which is not listed as one of the classes under 15300.2 (A). The project is not located on a site where it may have an adverse impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies. The project site will not impact designated environmental or biological resources as it is not located within a conservation area as identified by the (MSHCP).
2. The project will not have a cumulative impact on the environment. The proposal does not propose any structural changes to the site which would result in increased square footage or a demand for more resources. The proposal does require additional parking to support the proposed use; however, the staggered hours of operation offer enough relief to avoid vehicular congestion.
3. There are no unusual circumstances identified in relation to the proposed use or project site which would result in a significant impact on the environment. The project site is not located within a flood zone per the latest FEMA Flood Zone Maps. The project site is located within an Urban Unzoned area per Fire Hazard Severity Zone maps depicted in Figure 8.5 on Page 119 of the General Plan. The project site is not identified within an Alquist-Priolo Fault Zone per the latest maps on file with the California Department of Conservation; the nearest fault zone is the San Andreas Fault located north of the Palm Desert City Limits.

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4. The project site is not located within proximity of any officially designated state Scenic Highway. The nearest officially designated scenic highway is Highway 74, south of Highway 111, located approximately 1.4 miles west of the site.
5. Hazardous Waste Site: The project site has not been identified as a hazardous waste site per maps and databases provided by the California Department of Toxic Substances Control (DTSC).
6. The project site does not contain any structure or title that would designate it as a historical resource. Therefore, the project will not cause a substantial adverse change in the significance of a historical resource.

SECTION 4. Project Approval. The Planning Commission hereby recommends approval of TPM23-0004/CUP23-0011; and


SECTION 5. Custodian of Records. The documents and materials that constitute the record of proceedings on which these findings are based are located at the City's office at 73510 Fred Waring Drive, Palm Desert, CA 92260. Richard D. Cannone, AICP, the Secretary to the Palm Desert Planning Commission, is the custodian of the record of proceedings.

SECTION 6. Execution of Resolution. The Chairperson of the Planning Commission signs this Resolution, and the Secretary to the Commission shall attest and certify to the passage and adoption thereof.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Palm Desert, California, as follows:


1. That the above recitations are true and correct and constitute the findings for approval of the Planning Commission in this case.
2. That the Planning Commission does hereby approve Case Nos. TPM23-0004/CUP23-0011.

ADOPTED ON September 5, 2023.



Joe Pradetto (Sep 12, 2023 11:05 PDT)
JOSEPH PRADETTO
CHAIRPERSON

ATTEST:



RICHARD D. CANNONE, AICP
SECRETARY

PLANNING COMMISSION RESOLUTION NO. 2842

I, Richard D. Cannone, AICP, Secretary of the City of Palm Desert, hereby certify that Resolution No. 2842 is a full, true, and correct copy, and was duly adopted at a regular meeting of the Planning Commission of the City of Palm Desert on September 5, 2023, by the following vote:

AYES: DE LUNA, GREENWOOD, GREGORY, HOLT, and PRADETTO
NOES: NONE
ABSENT: NONE
ABSTAIN: NONE
RECUSED: NONE

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Palm Desert, California, on September 12, 2023.



RICHARD D. CANNONE, AICP
SECRETARY

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EXHIBIT A

**CONDITIONS OF APPROVAL
CASE NOS. TPM23-0004/CUP23-0011**

PLANNING DIVISION:

1. The development of the property shall conform substantially with exhibits on file with the Development Services Department, except as modified by the following conditions. Any variation from the approved plans must be reviewed and approved by the Planning Division prior to building permit issuance and may require review and approval by the ARC, Planning Commission, and/or City Council.
2. The Applicant agrees that in the event of any administrative, legal, or equitable action instituted by a third party challenging the validity of any of the procedures leading to the adoption of these Project Approvals for the Project, or the Project Approvals themselves, the Developer and City each shall have the right, in their sole discretion, to elect whether or not to defend such action. The Developer, at its sole expense, shall defend, indemnify, and hold harmless the City (including its agents, officers, and employees) from any such action, claim, or proceeding with counsel chosen by the City, subject to the Developer's approval of counsel, which shall not be unreasonably denied, and at the Developer's sole expense. If the City is aware of such an action or proceeding, it shall promptly notify the Developer and cooperate in the defense. The Developer, upon such notification, shall deposit with City sufficient funds in the judgment of the City Finance Director to cover the expense of defending such action without any offset or claim against said deposit to assure that the City expends no City funds. If both Parties elect to defend, the Parties hereby agree to affirmatively cooperate in defending said action and to execute a joint defense and confidentiality agreement in order to share and protect the information under the joint defense privilege recognized under applicable law. As part of the cooperation in defending an action, City and Developer shall coordinate their defense in order to make the most efficient use of legal counsel and to share and protect information. Developer and City shall each have sole discretion to terminate its defense at any time. The City shall not settle any third-party litigation of Project approvals without the Developer's consent, which consent shall not be unreasonably withheld, conditioned, or delayed unless the Developer materially breaches this indemnification requirement.
3. The development of the property described herein shall be subject to the restrictions and limitations set forth herein, which are in addition to the approved development standards listed in the PDMC, and state and federal statutes now in force, or which hereafter may be in force.
4. A Final Parcel Map shall be recorded within two years from the date of final approval unless an extension of time is granted, otherwise the parcel map and conditional use permit shall become null and void.
5. The approved CUP shall only be modified with written City approval per PDMC Chapter 25.72.050. Any proposed changes to this CUP will require an amendment to the application, which may result in a new public hearing.

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6. This approval authorizes the conversion of an existing four-unit residential apartment development with a gross floor area of 4,383-square-foot, into four (4) condominium units located at 74375 El Camino.
7. The Applicant shall, at the Applicant's cost, provide each buyer with a housing inspection report prepared by an architect or structural engineer licensed by the State of California and in good standing with the California Architects Board or the Board for Professional Engineers and Land Surveyors, respectively. Said housing inspection report shall detail the structural condition and use life of all elements of the property, including but not limited to foundations, roofs, electricity, plumbing, utilities, walls, ceilings, windows, frames, recreational facilities, sound transmissions of each building, mechanical equipment, parking facilities, and drainage facilities. Such report also shall describe the condition of refuse disposal facilities, swimming pools, saunas, fountains, stone and brickwork, fireplaces, exterior lighting, appliances, mechanical equipment for heating and cooling, interior and exterior paint, and/or stucco.
8. All construction documentation shall be coordinated for consistency, including, but not limited to, architectural, structural, mechanical, electrical, plumbing, landscape and irrigation, grading, and street improvement plans. All such plans shall be consistent with the approved entitlement plans on file with the Development Services Department.
9. The Applicant shall execute a written acknowledgment to the Planning Division stating acceptance of and compliance with all the Conditions of Approval of Resolution No. 2842 for TPM23-0004/CUP23-0011 and that the plans submitted are in compliance with the Conditions of Approval. No modifications shall be made to said plans without written approval from the appropriate decision-making body.
10. Prior to the issuance of a building permit for the construction of any use or structure contemplated by this approval, the Applicant shall first obtain permits and or clearance from the following agencies:
 - Coachella Valley Water District (CVWD)
 - Public Works Department
 - Fire Department
 - Building and Safety DivisionEvidence of said permit or clearance from the above agencies shall be presented to the Building & Safety Division at the time of issuance of a building permit for the use contemplated herewith.
11. The Applicant or any successor in interest shall comply with all applicable local, state, and federal laws and regulations.
12. All site landscaping, fences, and walls shall be maintained by the homeowners' association (HOA).
13. Common private open space shall be provided and maintained by the HOA.

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14. Prior to the approval of the Final Map, the Applicant shall submit a landscape application to the City for review and approval of landscape improvements throughout the site.
15. A copy of the Conditions, Covenants, and Restrictions (CC&Rs) for the proposed conversion shall be provided to the Department of Development Services for review prior to the approval of a final map.
16. Prior to the approval of a final map, the Applicant shall provide written evidence of compliance with all requirements of California Government Code Section 66427.1 and its subsections.
17. In the event that Applicant enters into any leases for any of the four (4) dwelling units, or portions thereof, prior to the recordation of the final map, the Applicant shall provide a tenant relocation plan and consumer protection to the City's Development in accordance with PDMC Section 25.34.050 (F) and PDMC Section 25.34.050 (G).
18. Prior to the recordation of the final map, permanent survey monuments shall be installed at all parcel/lot corners by a California-licensed land surveyor or registered civil engineer authorized to practice land surveying in accordance with California Government Code Section 66495.
19. A copy of the herein-listed Conditions of Approval shall be included in the construction documentation package for the Project, which shall be continuously maintained on-site during Project construction.
20. The Applicant shall provide payment for filing fees for the Notice of Exemption within five (5) days of project approval.

LAND DEVELOPMENT DIVISION:

21. The following plan is hereby referenced: TPM 38751 (For Condominium Purposes), prepared by Fomotor Engineering and dated August 25, 2023.
22. The Applicant shall comply with the State of California Subdivision Map Act and all applicable City ordinances and resolutions, including the PDMC, unless otherwise modified by the conditions listed herein.
23. It is assumed that easements shown on the TPM are shown correctly and include all the easements that encumber the subject property. A current preliminary title report and vesting deed for the site shall be submitted during the technical plan review.
24. Final Parcel Map (prepared by a registered civil engineer and/or licensed surveyor) shall be submitted for review and approved by the City Engineer per the current submittal requirements.

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25. All common areas will be permitted, as shown on the tentative exhibit, subject to these Conditions of Approval and the CC&Rs, or equivalent responsible mechanism, as approved by the City Engineer and City Attorney. The CC&Rs shall include, but not limited to, access easements, reciprocal access, private and/or public utility easements, and common area maintenance, as may be relevant to the project.

26. After recordation, a digital (pdf) copy of the recorded map shall be submitted to the City.

END OF CONDITIONS OF APPROVAL