

**DATE ISSUED:** March 31, 2005 **REPORT NO. PC-05-042**

**ATTENTION:** **Planning Commission, Agenda of April 7, 2005**

**SUBJECT:** 42<sup>ND</sup> STREET TENTATIVE MAP  
PROJECT NO. 48268, PROCESS FOUR

**OWNER/** **Hazel Reid (Attachment 8)**

**APPLICANT:** **Curtis Gabhart**

**SUMMARY**

**Issue(s):** Should the Planning Commission approve a Tentative Map for the conversion of six (6) existing residential units into condominium units with a waiver of the requirement to underground existing overhead utilities at 4070 42nd Street within the City Heights Neighborhood of the Mid-City Communities Plan area?

**Staff Recommendation:**

1. **Approve** Tentative Map No. 42645; and
2. **Approve** waiver from the requirement to underground existing overhead utilities.

**Community Planning Group Recommendation:** On January 3, 2005 the City Heights Area Planning Committee voted to approve the request for the Tentative Map Waiver and deny the request to waive the requirement to underground the existing overhead utilities. (Attachment 7).

**Environmental Review:** This project is exempt from environmental review pursuant to Article 19, Section 15301(k), Existing Facilities, of the California Environmental Quality Act (CEQA).

**Fiscal Impact:** None with this action. All costs associated with the processing of this project are paid by the applicant.

**Code Enforcement Impact:** None with this action.

**Housing Impact Statement:** With the proposed conversion of the six (6) existing

apartments to condominiums, there would be a loss of six (6) rental units and a gain of six (6) for-sale units. This condominium conversion project is required to comply with the Inclusionary Affordable Housing Ordinance and tenant relocation assistance which have been included as a condition of the Tentative Map. The subdivider has elected to pay the In-Lieu Fee to satisfy the Inclusionary Affordable Housing Ordinance.

## **BACKGROUND**

The 0.16 acre site is located at 4070 42<sup>nd</sup> Street, between Polk Avenue and University Avenue in the RM-1-3 zone of the Central Urbanized Planned District, in the City Heights neighborhood of the Mid-City Communities Plan area, which designates the site for residential 21-25 dwelling units per acre (Attachment 2). The site is presently developed with one, two story structure on two lots. The two story structure contains three (3), three bedroom units on the first floor and two (2), three bedroom units and one (1) two bedroom unit on the second floor. The site provides six garage parking spaces and four additional off-street parking spaces for the six units.

The existing improvements were constructed in 1987 when the site was zoned MR1500B of the Mid City Planned District. The MR1500B zone allowed one unit per 1,500 square feet of lot area and permitted the five units and one density bonus unit per a provision of the zone on this 7,013 square foot site. The Density Bonus allowed the development of six units with the provision that one (1) three-bedroom unit remain rent and occupancy restricted to low income households for a term of 20 years pursuant to an Agreement Authorizing Affordable Housing Density Bonus and Imposing Covenants And Restrictions on Real Property recorded at the San Diego Recorder's Office on February 3, 1987, as document No.87-061657. The "Agreement" will terminate on August 1, 2007. How this related to the proposed project is discussed under Project Related Issues below.

All development is assumed to have complied with the zoning and development regulations in effect at the time of construction. No Building or Zoning Code violations have been recorded against the property.

The project has previously conforming rights to be maintained as outlined in Chapter 12, Article 7, Division 1, of the Land Development Code.

## **DISCUSSION**

The project proposes a Tentative Map for the subdivision of a 0.164 acre site to convert six (6) existing dwelling units into condominiums on one lot (Attachment 5). The applicant is also requesting that the requirement for the under-grounding of the existing overhead utilities be waived.

Section 125.0410 of the San Diego Municipal Code (SDMC) requires that a Tentative Map be processed for the subdivision of land. According to SDMC Sections 125.0440 and 125.0444, *Findings for Tentative Maps and for Condominium Conversions*, the decisionmaker may approve

a Tentative Map for the purposes of the conversion of residential property into a condominium project if the decisionmaker finds that the proposed conversion complies with the requirements of the Subdivision Map Act and the San Diego Municipal Code. Staff has reviewed the proposed condominium conversion and determined that it complies with both the Subdivision Map Act and the San Diego Municipal Code.

**Undergrounding Waiver Request:**

San Diego Municipal Code Section 144.0240 allows the subdivider to apply for a waiver from the requirement to underground the existing overhead utilities within the boundary of the subdivision or within the abutting public rights of way. City staff has determined the undergrounding waiver request qualifies under the guidelines of Council Policy 600-25, *Underground Conversion of Utility Lines at the Developer's Expense*, in that the conversion is a requirement of a condominium conversion of an existing development and the conversion involves a short span of overhead facilities less than a full block in length and the conversion would not represent a logical extension to an under-grounding facility. The applicant would be required to underground any new service run to any new or proposed structures within the subdivision per Condition No. four (4) of the draft Tentative Map Resolution (Attachment 6).

The City's Under-grounding Master Plan for Fiscal Year 2004 designates the rear alley serving 42<sup>nd</sup> Street as being scheduled for under-grounding in 2021. Currently all properties along 42<sup>nd</sup> Street access utilities from the alley.

**Project-Related Issues:**

The requested conversion of these residential units to condominiums represents primarily a change in ownership. The applicant has certified that the required 60-day Notice of Intent to Convert to Condominiums was provided to the tenants on September 15, 2004 (Attachment 11).

The Housing Commission has indicated that they have no objection to the City approving a Tentative Map (TM ) to authorize the property owner to process for final condominium approval from the State Department of Real Estate. However, as a condition of the Tentative Map language has been added requiring the property owner to incorporate into the project's Department of Real Estate White Paper Report specific language identifying the Density Bonus Agreement and the remaining term of restrictions on the one density bonus unit. The restricted unit is one (1) three-bedroom unit which must remain a rental unit and may not be sold individually as a condominium during the remaining term of the "Agreement" which expires August 1, 2007. At that time the unit would be released from the terms of the agreement and may be sold individually a condominium by the subdivider(Condition 10-12).

This project was Deemed Complete on September 30, 2004. All condominium conversion projects Deemed Complete after February 7, 2004, must conform to the regulations regarding inclusionary housing and tenant relocation benefits adopted by the City Council on March 15, 2004. Conditions No. thirteen (13) and fourteen (14) in the draft Tentative Map resolution

require compliance with this ordinance (Attachment 6)

On January 3, 2005 the City Heights Area Planning Committee voted to approve the request for the Tentative Map Waiver and deny the Utility Undergrounding Waiver (Attachment 7) As stated above, staff continues to support the waiver request as it qualifies under Council Policy 600-25.

**Conclusion:**

Staff has reviewed the request for a Tentative Map for the conversion of the six (6) residential units into condominiums and the request to waive the requirements of the under-grounding of existing overhead utilities, and has found the project to be in conformance with the applicable sections of the San Diego Municipal Code regulating Tentative Maps and Council Policy 600-25 regulating undergrounding of existing overhead utilities. Staff believes the required findings can be supported and recommends the Planning Commission approve the project as proposed.

**ALTERNATIVES**

1. **Approve** Tentative Map No. 42645, and the waiver to underground the existing Utilities **with modifications.**
2. **Deny** Tentative Map No. 42645, **if the findings required to approve the project cannot be affirmed.**

**Respectfully submitted,**

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**Marcela Escobar-Eck**  
**Deputy Director, Project Management Division**  
**Development Services Department**

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**Helene Deisher**  
**Development Project Manager**  
**Development Services Department**

Attachments:

1. Aerial Photograph
2. Community Plan Land Use Map
3. Project Location Map
4. Project Data Sheet
5. Tentative Map Exhibit
6. Draft Map Conditions and Subdivision Resolution

7. Community Planning Group Recommendation and Minutes
8. Ownership Disclosure Statement
9. Project Chronology
10. City's Undergrounding Master Plan – Block 6AA and 6Z
11. Copy Of Tenant Notice and Certification