

**DATE ISSUED:** March 3, 2005 **REPORT NO.** PC-05-063

**ATTENTION:** **Planning Commission, Agenda of March 10, 2005**

**SUBJECT:** FALCON STREET TENTATIVE MAP – PROJECT NO. 33107  
PROCESS FOUR

**OWNER/  
APPLICANT:** JSK PROPERTIES, LLC, OWNER  
INGENUITY ENGINEERNG CORPORATION, APPLICANT

**SUMMARY**

**Issue(s)** - Should the Planning Commission approve a Tentative Map for the conversion of ten (10) existing residential units into condominiums and waive the requirement to underground existing overhead utilities at 4090 Falcon Street, within the Uptown Community Plan area?

**Staff Recommendation:**

1. **Approve** Tentative Map No. 90733; and
2. **Approve** waiver to the requirement for the undergrounding of the existing overhead utilities.

**Community Planning Group Recommendation** - The Uptown Planners voted 14-0-1 to recommend approval of the proposed project on November 2, 2004, with specific recommendations detailed within this report (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 10 existing apartments to condominiums, there would be a loss of 10 rental units and a gain of 10 for-sale units. This condominium conversion project was deemed complete on June 21, 2004, and is therefore subject to the new regulations regarding inclusionary housing and tenant relocation assistance.

## **BACKGROUND**

The 0.230-acre site is located at the northeast corner of Falcon Street and West Lewis Street at 4090 Falcon Street, in the MR-1000 Zone of the Mid-City Communities Planned District within the Uptown Community Plan area (Attachment 3). The site is presently developed with one, two-story structure containing 10 two-bedroom units, with off-street parking spaces accommodating 10 vehicles. The 10 off-street parking spaces are in the front of the property, accessed from Falcon Street. There is no alley adjacent to the property. The site is bounded by multi-family residential development to the east, west, and south. Unimproved West Lewis Street and a canyon area are adjacent to the north. An existing encroachment removal agreement, recorded in 1963, allows a non-standard driveway from Falcon Street to provide access to the site.

There is a separate, unrelated proposal in the neighborhood to create a pocket park adjacent to this site to the north, and there has been some discussion from Uptown Planners and the neighbors about how the park can be accomplished and how it relates to the condominium conversion project. The proposed park area includes the unimproved West Lewis Street and canyon area to the north, as well as a portion of the Falcon Street right-of-way in the front of the subject property. This existing area contains large trees within a landscaped finger extending from West Lewis Street and in front of the subject site.

Essentially, there is no nexus between the proposed condominium conversion and the proposed park. However, the applicant has indicated their support of the proposed park and has confirmed their voluntary acceptance of conditions to be placed in the Tentative Map resolution for their condominium conversion project to facilitate the park proposal (Conditions 12, 13 and 14). Namely, the applicant has voluntarily agreed to quitclaim the portion of West Lewis Street (excepting the 10' x 15' portion shown on the Exhibit "A" drawing. Also, the applicant will be terminating the old encroachment removal agreement, and providing a new encroachment removal agreement for the situation shown on Exhibit "A."

The site was incorporated into MR-1000 Zone in May 1989. Previous zoning included the R-3 (R-1000) established in March 1976 and the R-4 zone applied in October 1930. The 10 unit residential project was constructed in 1962. At that time the site was zoned R-4 and permitted as many as 25 units, only one on-site parking space was required per unit, and parking in the front setback was allowed. The development complied with the zoning and development regulations in effect at the time of construction and no Building or Zoning Code violations have been recorded against the property.

The project conforms with the current density requirement of one unit per 1,000 square feet in the MR-1000 Zone, which would allow 10 units to be constructed today. The 10 existing off-street parking spaces comply with the 1962 requirements, which only required 10 parking spaces for the 10 units. Under current criteria, 20 spaces would be required. However, the project has previously conforming rights to be maintained as outlined in Chapter 12, Article 7, Division 1 of the Land Development Code.

## **DISCUSSION**

### **PROJECT DESCRIPTION:**

The project proposes a Tentative Map for the subdivision of a 0.230-acre site to convert 10 existing dwelling units into condominiums on one existing lot (Attachment 5). The applicant is also requesting that the requirement for the undergrounding 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.

Original staff comments included a recommendation that the existing trees within the Falcon Street right-of-way be removed and that the area be improved to City standards. Based on recommendations from the community planning group, identification of goals within the Uptown Community Plan, and feedback from other neighbors and the Park and Recreation Department, the project was modified to reflect the current proposal which includes the maintenance of existing conditions, with a few changes described in detail further within this report.

### **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 facility (less than 600 feet in length) and it has been determined that such conversion is not a part of a continuing effort to accomplish a total undergrounding within a specific street or area. The applicant would be required to underground any new service run to any new or proposed structures within the subdivision per Condition No. 4 of the draft Tentative Map resolution (Attachment 6).

The neighborhood currently contains power poles and overhead utility lines the Falcon and West Lewis Streets rights-of-way. There is one power pole located within the West Lewis Street right-of-way, near the intersection with Falcon Street. The utility lines to this pole extend to others located both north and south along Falcon Street, and east and west along West Lewis Street. The City's Undergrounding Master Plan for Fiscal Year 2004 designates the site within Block 2D, and the date for undergrounding has yet to be determined by the City Council (Attachment 10).

## **COMMUNITY PLANNING GROUP AND NEIGHBORHOOD RECOMMENDATIONS:**

The Uptown Planners voted 14-0-1 to recommend approval of the proposed project on November 2, 2004, with specific recommendations: they do not support the widening of Falcon Street or the removal of trees within the right-of-way at this location; they support the continued use of the encroachment removal agreement for an access easement and the non-exclusive use of parallel parking spaces within the West Lewis Street right-of-way; the concept of parallel parking spaces within the Falcon Street right-of-way; and requested the applicant transfer adjacent right-of-way title to the City of San Diego for use as a public park.

The current proposal by the applicant addresses all the recommendations provided by Uptown Planners. The proposed design does not incorporate the widening of Falcon Street, nor the removal of existing trees within that right-of-way. While the existing encroachment removal agreement is proposed to be terminated, the proposal includes a new encroachment maintenance removal agreement to allow the continued use of the driveway and the new use of parallel parking within the Falcon Street right-of-way. The applicant is not seeking to maintain parallel parking within the West Lewis Street right-of-way. And finally, as indicated above, the applicant has voluntarily agreed to quitclaim a portion of West Lewis Street to the City of San Diego for park and recreation purposes, consistent with the Park and Recreation Department's evaluation of the proposed project.

The proposal has been reviewed by a neighborhood ad hoc group supporting the proposed pocket park. That group has indicated their support of the project as proposed.

## **PROJECT RELATED ISSUES:**

The requested conversion of these residential units to condominiums represents primarily a change in ownership.

The entire structure has been vacant as of September 2002. Accordingly, the required 60-day Notice of Intent to Convert to Condominium to existing tenants was not provided, since there were no tenants to notice. The applicant has provided a statement indicating this information (Attachment 11). It should be noted that the draft Tentative Map contains all the required findings and conditions relating to tenants in case the property becomes rented prior to conversion to condominiums.

All condominium conversion projects Deemed Complete on or after February 7, 2004, must conform with the new regulations regarding inclusionary housing and tenant relocation benefits adopted by the City Council on March 15, 2004. This proposed project was Deemed Complete on June 21, 2004, and is therefore subject to these new regulations. The project has been conditioned to require the subdivider conform with the City's Inclusionary Housing Ordinance (Chapter 14, Article 2, Division 13 of the Land Development Code) and demonstrate conformance with the Municipal Code provisions for Tenant Relocation Benefits (Chapter 14, Article 4, Division 5) to the satisfaction of the City Manager and the Housing Commission, prior to the recordation of the Final Map.

**CONCLUSION:**

Staff has reviewed the request for a Tentative Map for the conversion of 10 residential units into condominiums and the request to waive the requirements of the undergrounding 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. 90733, with modifications.**
2. **Deny Tentative Map No. 90733, if the findings required to approve the project cannot be affirmed.**

**Respectfully submitted,**

---

**Marcela Escobar-Eck  
Deputy Director, Customer Support and  
Information Division  
Development Services Department**

---

**Michelle Sokolowski  
Customer Support and  
Information Division  
Development Services Department**

ESCOBAR-ECK/MAS

Attachments:

1. Aerial Photograph
2. Community Plan Land Use Map
3. Project Location Map
4. Project Data Sheet
5. Tentative Map
6. Draft Map Conditions and Subdivision Resolution
7. Community Planning Group Recommendation
8. Ownership Disclosure Statement
9. Project Chronology
10. City's Undergrounding Master Plan – Map 2D
11. Copy of Owner's confirmation of site vacancy
12. Existing Encroachment Removal Agreement recorded August 5, 1963