

DATE ISSUED: March 31, 2005

REPORT NO. PC-05-098

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

SUBJECT: HEISEY RESIDENCES - PROJECT NO. 6574.
PROCESS 3 – APPEAL OF HEARING OFFICER DECISION TO APPROVE

REFERENCE: Report to the Hearing Officer No. HO 05-002 (Attachment 12)
Uptown Community Plan available online at:
<http://www.sandiego.gov/planning/pdf/commplans/uptown/ucpfullversion.pdf>

OWNER/ Cottages Etc., Inc, Owner (Attachment 10)
APPLICANT: Reese Jarrett/Kathleen Ferrier

SUMMARY

Issue(s): Should the Planning Commission uphold the Hearing Officer's decision to approve a request for a Site Development Permit to demolish two existing units and construct four apartment units with deviations to the development regulations at 1818 McKee Street within the Uptown Community Plan area?

Staff Recommendation:

1. **Certify** Negative Declaration No. 6574; and
2. **Deny** the appeal and **Uphold** the Hearing Officer's decision to **Approve** Site Development Permit No. 10759.

Community Planning Group Recommendation: The Uptown Planners voted 13-2-0 to recommend approval of the proposed project on January 6, 2004, with recommendations discussed within this report. Not all of the Uptown Planners' specific recommendations have been incorporated by the applicant or supported by staff, however the Uptown Planners have subsequently provided a letter confirming their position that the current proposal substantially conforms with their recommendations, which is included within this report.

Environmental Review: A Negative Declaration, LDR No. 6574, has been prepared for the project in accordance with State of California Environmental Quality Act (CEQA)

Guidelines.

Fiscal Impact Statement: 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 demolition of two rental units and the construction of four new apartment units, there will be a net gain of two rental units. The new construction is subject to the current regulations regarding inclusionary housing, which will be addressed during the construction permit review process. Condition 10 of the draft permit confirms the applicability of the Inclusionary Housing Ordinance. The applicant has indicated they will meet this requirement by paying the Affordable Housing In-Lieu Fee, which calculates to \$10,113.44 at the current rate (\$1.25 per square foot). However, the amount of this fee is determined by the date the construction plans are submitted and the regulations in effect at that time.

BACKGROUND

The 0.134-acre project site is located at 1818 McKee Street in the MR-1500 Zone of the Mid-City Communities Planned District, within the Uptown Community Plan area (Attachment 3). The MR-1500 Zone is a multi-family residential zone that permits residential development at a density of one unit per 1,500 square feet of lot area. The project site is currently improved with two existing dwelling units, proposed for demolition.

The proposed project was approved by the Hearing Officer on January 12, 2005. An appeal of that decision to the Planning Commission was filed on January 27, 2005. A discussion of the appeal is contained further within this report.

DISCUSSION

Project Description:

The proposed project includes the construction of a new four level, four-unit multi-unit building above subterranean parking. The four units proposed complies with the density of the MR-1500 zone, with four units being allowed on this 5,850-square-foot site. The eight parking spaces within the subterranean garage conforms with the City's off-street parking regulations.

The development of this multi-unit structure on this site is allowed ministerially. However, the applicant has requested a Site Development Permit for the Mid-City Communities Planned District for the project to deviate from minimum requirements for setbacks, street yard, floor area ratio and driveway width. All such deviations are permissible in conjunction with a Site Development Permit for the Mid-City Communities Planned District.

The proposed project has been designed to implement the policies embodied within the Uptown

Community Plan, as well as with the purpose and intent of the underlying MR-1500 Zone, as allowed through the Development Permit process.

Environmental Analysis:

A Negative Declaration was prepared for the proposed project in accordance with the State of California Environmental Quality Act after the initial study determined that the proposed project would not have potentially significant environmental effects.

Community Plan Analysis:

According to the Land Use Element of the Uptown Community Plan, the site is designated for medium density residential development at 15 to 29 dwelling units per acre. The 0.13-acre site could therefore accommodate between two and four residential dwelling units and four are proposed.

The Urban Design Element of the plan recommends new construction be compatible with the existing architectural detail and overall appearance or the quality development in the surrounding neighborhood. The design of new buildings should be articulated so as to relate to the form and scale of surrounding structures through the use of compatible setbacks, building coverage and floor area ratios. Further, a specific objective found in the Plan for Mission Hills includes the preservation of views from the western slopes.

In support of these goals, the project has gone through numerous design revisions to reduce the deviations to the setbacks and floor area ratio in order to ensure that the project would be compatible with the existing multi-family residential character of the surrounding neighborhood. The development would conform to the 30-foot height limit and would not impact any existing public view sheds. The project would improve the pedestrian environment through the provision enhanced landscaping as well as the construction of new curb, gutter and sidewalk where none currently exists.

Based on the aforementioned plan recommendations, staff has determined that the development of a new four-unit residential development at this location meets the guidelines set forth in the Land Use and Urban Design Elements of the plan and therefore would not adversely affect the policies embodied in the Uptown Community Plan. The Uptown Community Plan is available online at: <http://www.sandiego.gov/planning/pdf/commplans/uptown/ucpfullversion.pdf> .

Community Planning Group Recommendation:

The project has been the subject of several reviews by the Uptown Planners. After an initial recommendation of denial, the applicant chose to make modifications to the project consistent with that group's recommendation. Based on those changes, the Uptown Planners voted 13-2-0 to recommend approval of the project at their January 6, 2004, meeting. The changes are included as conditions within their recommendation (Attachment 7). Staff's response to these recommended conditions are:

1. **Recommendation:** Require a 15-foot rear setback, where 15 feet is the minimum required. **Response:** The project proposes a 15-foot setback for approximately 1/3 of the western portion of the rear yard, while the remainder of the building will observe 12 feet, with one small section observing 9'-6". The small section observing 9'-6" actually is providing two levels of bay windows, which do not meeting the exceptions specified in San Diego Municipal Code Section 131.0461.a.3 in that the bay window is 8'-5" wide (where 8'-0" is the maximum allowed) and separated from the adjacent bay window by 4'-6" (where a minimum of 16'-0" is required). The staggered building setbacks provide visual interest and conform with the Craftsman-style design of the building, which meet the design goals of the Uptown Community Plan.
2. **Recommendation:** Require a minimum 7-foot front yard set back where 10 feet is the minimum required. **Response:** The project provides a front setback of 10 feet on the ground level, but has a balcony observing a front setback of 3 feet on Level Two, and one small portion of the building observing 7 feet from Level One up, and the remainder of the building observing 8'-2" and 10 feet where 10 feet is the minimum required front setback. The major encroachment (the balcony) is open on all three sides and cantilevers over the driveway. As is the case with the rear setback deviation, the majority of the encroachments into the front setback are related to bay windows, which do not meeting the exceptions specified in San Diego Municipal Code Section 131.0461.a.3 in that the bay windows exceed the 8'-0" allowed and provide a reduced separation from the adjacent bay window. Again, the staggered building setbacks provide visual interest and conform with the Craftsman-style design of the building, which meet the design goals of the Uptown Community Plan.
3. **Recommendation:** Allow a Floor Area Ratio (FAR) of 1.35 where 1.25 is the maximum allowed. **Response:** The applicant is proposing an FAR of 1.38, which is 193.25 square feet larger than that recommended by the group. The ability to maximize the density on the project site with a building providing visual interest and enhanced detailing meets the design goals of the Uptown Community Plan and the increased FAR is supported by staff.
4. **Recommendation:** Allow a side yard setback of 4'-8" where 6 feet is required. **Response:** The applicant's proposal reflects this recommendation. The west side yard observes 4'-8" for approximately one-half of the building length, while the rest of the building observes approximately 11'-6". The neighboring building on the adjacent site is 11'-7" from this side property line. The reduced setback is requested to provide functionality in both the living spaces above and for the 21-foot required back-up in the garage below this level. The east side yard observes 6'-2" where a minimum of 6 feet is required, which conforms with the requirements.
5. **Recommendation:** Allow a minimum driveway of 16 feet where 20 feet is the minimum required. **Response:** 16 feet will allow adequate access to the parking area while still reducing the curb cut dimension, consistent with the goals of the Uptown Community Plan. In addition, the usable landscape area within the street yard will be increased.

6. **Recommendation:** Extend the sidewalk through the property. **Response:** The project has been conditioned to require the extension of the sidewalk along the street frontage as a standard requirement of the Land Development Code no deviation is required for this action.
7. Although the Uptown Planners did not provide a specific recommendation regarding the request for deviation regarding the street yard, they were informed this deviation was being requested with this project, according to the applicant. The depth of the building is determined by the 18-foot minimum width required by each unit's garage plus the 8' area separation walls. With the building held to the minimum front setback on the ground level, an acceptable rear yard can be achieved. The remaining street yard is 600 square feet. The curb-to-property line distance of 18 feet negatively affects the ability to conform with the street yard requirements.

Staff has reviewed the current proposal and has determined that although there are minor differences from the Uptown Planners' specific recommendations, the proposal generally conforms with their recommendations. Hearing Officer Report No. 05-002 described the Uptown Planners' recommendations as well as staff's response. The Uptown Planners have provided a letter (Attachment 9) at the January 12, 2005, Hearing Officer hearing confirming their support of the revised project in response to their review of Hearing Officer Report No. HO-05-002

Hearing Officer Hearing and Appeal to Planning Commission:

The Hearing Officer approved the project as proposed on January 12, 2005 (reference Hearing Officer Report No. HO-05-002; Attachment 12). Several speakers were present at the Hearing Officer hearing and spoke regarding the project. As indicated above, the Uptown Planners provided a letter confirming their support of the project (Attachment 9), and a former member of Uptown Planners (Mr. Russell Elrod) provided testimony confirming his vote of approval on the project at their meeting. The applicant and architect were also present.

Three residents of the large condominium complex adjacent to the east spoke in opposition to the proposed project (Mr. Randall McCluskey, Mr. Jeff Altman, and Mr. David Sauer). Concerns expressed during the hearing related to: building safety; vehicular access to the property; deficient parking; traffic safety on McKee Street; elimination of private views; revision of plans since Uptown Planners recommendation of approval; reduction of their property values; size of parcel vs. size of building; and extension of sidewalk to the end of the block. The Hearing Officer heard discussion during the hearing which responded to each of these concerns.

On January 27, 2005, Mr. Jeff Altman appealed the Hearing Officer's approval to the Planning Commission (Attachment 7). The appeal indicates factual error and findings not supported as being reasons for the appeal. Staff's response to these items is summarized below:

1. No reason to grant deviations; fire and emergency access concerns: The required findings

detail the reasons for support of the project as proposed. The proposed development is compatible with the existing and planned land use on the adjoining properties, including the large condominium complex to the east. The site is bounded by residential development and the proposed structure steps down the McKee Street hill, following the contour of the street. The provision of additional dwelling units on the site maximizes the density which allows for more residential opportunities. The deviations enable the project to conform with recommendations within the Uptown Community Plan regarding new construction being compatible with existing architectural detail and overall appearance in the surrounding neighborhood, articulation, underground parking, and minimal curb cuts. The Fire Department has reviewed the proposal and their comments regarding fire and emergency access have been incorporated into the project. The Fire Department provides additional detailed review during the construction document phase of the project.

2. Deviation for minimum driveway width creates a potential traffic hazard on McKee Street: The project proposes to allow a minimum driveway of 16 feet where 20 feet is the minimum required. The Transportation Development engineers have provided a thorough analysis of the proposed project. McKee Street is identified as a local residential street in this area and the proposed project is anticipated to generate 32 average daily trips (ADT), with three(3) AM hour trips and three (3) PM peak hour trips. This street is designed to handle a desired 1,500 ADT, and is too small to be included in the City's traffic count database. The scope of this project did not require a traffic study to further evaluate the traffic counts. This proposed four-unit development will not presumably cause high volumes of traffic in and out of the parking structure resulting in traffic back-ups and stoppages on McKee Street. The Uptown Community Plan goals include the reduction of curb cuts and the provision of underground parking. The provision of a 16-foot-wide driveway to the underground parking meets the community plan goals, Uptown Planners recommendations, while still allowing safe and efficient access to the project site and providing more opportunities for on-street parking.
3. Deviation to the Floor Area Ratio (FAR)/maximization of profits: The project includes a request to permit an FAR of 1.38 where 1.25 is the maximum allowed. As indicated within the required findings, the ability to maximize the density on the project site with a building providing visual interest and enhanced detailing meets the design goals of the Uptown Community Plan while maximizing housing opportunities within the Uptown community. Applicant profits are not considered when the required findings are made.
4. The project contains only one on-street parking space for four 3-bedroom apartments: This statement was made at the Hearing Officer hearing as well, and is incorrect. The project provides two parking spaces per unit, as required within the San Diego Municipal Code. There are no deviations requested for deficient parking.
5. The Uptown Planners did not have an opportunity to review the proposed changes: As indicated by the January 11, 2005, letter from the Chair of Uptown Planners, Mr. David

Gardner, the group indicates the current proposal “substantially conforms to the project presented and approved by the Uptown Planners on January 6, 2004.”

Critical Project Features to Consider During Substantial Conformance Review

- SITE DESIGN: The deviations proposed are maximums. Fewer deviations or elimination of deviations may be permitted through Substantial Conformance Review.
- ARCHITECTURE: As indicated in Condition 36 of the draft permit, all architectural details, materials, and features as shown on Exhibit “A” shall be required. Modification of the architectural elements shown on Exhibit “A” may be approved by the City Manager for higher or equivalent design quality.

Conclusion:

Staff has reviewed the current proposal and has determined that the proposed project conforms with the required Site Development Permit and Mid-City Development Permit findings. The “factual error” and “findings not supported” items listed by the appellant were discussed at the January 12, 2005, Hearing Officer hearing and addressed by the Hearing Officer. Staff recommends the Planning Commission deny the appeal and approve the proposed project, with the deviations specified within the draft permit.

ALTERNATIVES

1. Deny the appeal and Approve Site Development Permit No. 10759, with modifications.
2. Deny Site Development Permit No. 10759, if the findings required to approve the project cannot be affirmed.

Respectfully submitted,

**Marcela Escobar-Eck
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Information Division
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ESCOBAR-ECK/MAS

Attachments:

1. Aerial Photograph
2. Community Plan Land Use Map
3. Project Location Map
4. Project Data Sheet
5. Project Plans
6. Draft Permit and Resolution
7. Copy of Appeal
8. Community Planning Group Recommendation
9. January 11, 2005 letter from Uptown Planners
10. Ownership Disclosure Statement
11. Project Chronology
12. Hearing Officer Report No. HO 05-002