

**DATE ISSUED:** June 16, 2005 **REPORT NO. PC-05-212.**

**ATTENTION:** **Planning Commission, Agenda of June 30, 2005**

**SUBJECT:** 4827 NIAGARA AVENUE [PACIFIC PALMS]  
PROJECT No. 57762. PROCESS 4

**OWNER:** Mark Gosselin, Trustee, Pacific Palms Apartments, L.P.

**APPLICANT:** Philip Buckley, CB Richard Ellis

**SUMMARY**

**Issue:** Should the Planning Commission approve an application for a Tentative Map and Coastal Development Permit to convert 9 existing residential units to condominiums and waive the requirement to underground existing overhead utilities?

**Staff Recommendation:**

1. APPROVE Tentative Map No. 169297
2. APPROVE Coastal Development Permit No. 174854and
3. WAIVE the requirement to underground overhead utilities.

**Community Planning Group Recommendation:** The Ocean Beach Planning Board considered this item at their meeting on June 1, 2005 where a motion to approve the project carried by a vote of 6-4-0.

**Environmental Review:** The project has been determined to be exempt from the California Environmental Quality Act (CEQA) in accordance with the State CEQA Guidelines 15301(k), existing facilities.

**Fiscal Impact:** The cost of processing this application is paid for by the applicant.

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

**Housing Impact Statement:** The proposed project is the conversion of 9 existing apartment units to condominiums. There would be a loss of 9 rental units and a gain of 9 for-sale units. This project is subject to the Coastal Overlay Zone Affordable Housing Replacement Regulations. However, no low- or moderate-income households currently exist at this site, therefore, the project would only have the obligation of the Inclusionary Housing regulations and would elect to pay the in lieu fee of \$512 2.25 to fulfill their obligation pursuant to these regulations.

## **BACKGROUND**

A “Tentative Map for a Condominium Conversion” is a Process Four, Planning Commission decision per San Diego Municipal Code Section 125.0430. A Tentative Map for Condominium Conversion may be approved if the decision maker finds that the proposed division of land complies with the requirements of the Subdivision Map Act and the San Diego Municipal Code.

The developed 7,305 square foot ( 0.168 acre ) site is located at 4827 Niagara Avenue between Sunset Cliffs Boulevard and Cable Street within the South Ocean Beach neighborhood of the Ocean Beach Precise Plan and Local Coastal Program. The land is designated multifamily residential in the community plan at a density of 25 du/ac. The site is zoned RM-2-4 and is within the Coastal Overlay Zone (Map C-730) permit jurisdiction of the City of San Diego (non-appealable), the Beach Parking Impact Zone (Map C-731), the Residential Tandem Parking Overlay Zone (Map C-903), Airport Approach Overlay Zone (AAOZ), Airport Environs Overlay Zone (AEOZ), Ocean Beach Emerging Historic District, and Council District 2. The surrounding area contains multifamily and single family development. The two-story structure was built as 9 units with 9 parking spaces in 1973.

## **DISCUSSION**

**Project Description:** The project proposes a change of ownership to convert the existing 9 apartments to 9 condominiums. The project contains a mix of 6 one-bedroom units (approximately 572 square feet each), and three 2-bedroom units (approximately 768 – 827 square feet each), for a total of 5,854 square feet of living space. The project consists of a two-story building built in 1973 with 9 parking spaces (five spaces accessible from the alley, and four spaces accessible from Niagara Avenue). There are no zoning or code violations associated with the property. A Final Map is required to consolidate the existing five lots into one lot and to subdivide the ownership interest as a condition of the tentative map.

### **Project-Related Issues:**

**Municipal Code Conformance** - The 7305 square foot site is currently in the RM-2-4 zone as applied to the site in January 2000. Previous zoning includes the R-1750 zone established in April 1985, and the original R-4 zone applied in April 1930. The two-story structure was built as 9 units with 9 parking spaces in 1973 under the requirements of the R-4 Zone. Under the current RM-2-4 zone, only 4 units could be constructed on the site (one unit per 1,750 square feet of lot area on a 7,305 square foot site). Under the R-4 zone as constructed, 9 spaces were provided and

9spaces would remain. However, if constructed today, the 9-unit project within the Parking Impact Overlay Zone would require 18 parking spaces for this mix of one- and two-bedroom units. The site deviates from current density and parking requirements. However, the project was in conformance with the development codes at the time of development. No code violations exist on the project site. Although the existing multi-unit complex does not meet the current parking or zoning requirements, it has previously conforming rights in accordance with Chapter 12, Article 7, Division 1 of the San Diego Municipal Code.

The site is within the Coastal Overlay Zone (Map C-730) permit jurisdiction of the City of San Diego (non-appealable), the Beach Parking Impact Zone (Map C-731), the Residential Tandem Parking Overlay Zone (Map C-903), Airport Approach Overlay Zone (AAOZ), Airport Environs Overlay Zone (AEOZ), and Ocean Beach Emerging Historic District. Future expansion or redevelopment of the project site would be subject to review under these regulations as outlined in Chapter 13, Article 2 of the Land Development Code.

Coastal Overlay Zone – The project location is within the Coastal Overlay Zone (Map C-730) which is permit jurisdiction of the City of San Diego and non-appealable to the California Coastal Commission. Pursuant to §126.0708(a) of the San Diego Municipal Code, findings for Coastal Development Permit 174854 are substantiated in the Resolution attached. The project site is not within the First Public Roadway, contains no Environmentally Sensitive Lands, is a consistent land use as designated in the Precise Plan, and does not encroach on physical or visual access to the ocean.

Airport Environs Overlay Zone (AEOZ) - The project site is within the Airport Environs Overlay Zone (AEOZ) and within the 65 - 70decibel (dB) Community Noise Equivalent Level (CNEL) for Lindbergh Field operations. As a permit condition, an Avigation Easement shall be granted to the airport operator for airport noise. Under the existing Lindbergh Field Comprehensive Land Use Plan (CLUP), a recorded Avigation Easement would make this a compatible land use.

Airport Approach Overlay Zone (AAOZ) - The project site is within the Airport Approach Overlay Zone (AEOZ) for Lindbergh Field operations. Pursuant to §132.0202, structures less than 30 feet high are exempt from further requirements of the AAOZ.

Undergrounding Waiver Request - There are existing overhead facilities adjacent to the project site. San Diego Municipal Code Section 144.0240 allows the subdivider to apply for a waiver of the requirement to underground the existing overhead utilities within the boundary of the parcel or subdivision. Staff has determined the undergrounding waiver request qualifies under the guidelines of Council Policy 600-25, Underground Conversion of Utility Lines at the Developers Expense, in that it would not represent a logical extension to an underground facility, would represent an isolated undergrounding, and involves a short span (less than a full block in length). The project is located within Block 2Q for which an undergrounding date has been set by Council for Fiscal Year 2010 allocation.

Affordable Housing - This project is subject to the requirements of the Coastal Overlay Zone Affordable Housing Replacement Regulations of the San Diego Municipal Code at Chapter 14, Article 3, Division 8. The San Diego Housing Commission completed a tenant income survey of the existing residents that found no low- or moderate-income tenants. Pursuant to the April 7, 2005 direction from the Housing Commission (Attachment 15), the applicant therefore has no further obligation under the Coastal Affordable Housing requirements.

This project is subject to the Inclusionary Housing requirements of the San Diego Municipal Code Chapter 14, Article 2, Division 13. The Inclusionary Housing regulations require that 10 percent of the units be affordable at 65 percent AMI for a minimum of 55 years or the applicant may pay an in-lieu fee of \$5,122.25 (based on 5,854 square feet of living space at a rate of \$0.875/square foot).

Noticing - California State Law and the City's Municipal Code require that all tenants living within a proposed condominium conversion project, and all persons applying for a rental unit within such a project, must receive adequate notice (see California Government Code Section 66427.1 and San Diego Municipal Code Sections 125.0431 and 125.0640). The applicant has certified that the required 60-day Notice of Intent to Convert to Condominiums was provided to the tenants on October 20, 2004 (Attachment 12). Government Code 66452.3, requires that a copy of the staff report be served to each tenant, on each least 72-hours (three calendar days) prior to the Hearing Officer hearing.

**Conclusion:**

Staff has reviewed the proposed condominium conversion and found it to be in conformance with the applicable sections of the San Diego Municipal Code regulating Tentative Maps and land use policies. Staff has determined that the required findings can be made as the project meets the applicable San Diego Municipal Code regulations and requirements. Staff recommends approval of the project as proposed.

**ALTERNATIVES**

1. Approve Tentative Map No. 169297 and Coastal Development Permit No. 174854 with modifications.
2. Deny Tentative Map No. 169297 and Coastal Development Permit No. 174854 if the findings required to approve the project cannot be affirmed.

**Respectfully submitted,**

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**Jeffrey D. Strohminger**  
**Assistant Deputy Director**  
**Customer Support and Information Division**  
**Development Services Department**

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**Cory Wilkinson**  
**Development Project Manager**  
**Customer Support and Information Division**  
**Development Services Department**

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**Attachments:**

1. Site Location
2. Aerial Photograph
3. Zone
4. Community Plan Land Use Map
5. Project Data Sheet
6. Tentative Map
7. Draft Tentative Map Resolution
8. Draft Coastal Development Permit Resolution
9. Draft Coastal Development Permit
10. Ownership Disclosure Statement
11. Project Chronology
12. Noticing
13. Ocean Beach Planning Board Recommendation
14. Undergrounding Map and Schedule
15. Housing Commission Requirements