

DATE ISSUED: November 2, 2006 **REPORT NO. PC-06-284**

ATTENTION: **Planning Commission, Agenda of November 9, 2006**

SUBJECT: METRO CAREER CENTER MAP WAIVER - PROJECT NO. 99860
PROCESS THREE APPEAL

OWNER BR Workforce, LLC, Charles Boxenbaum and Jordon Ross, Members
(Attachment 8)

APPLICANT: BR Workforce, LLC

SUMMARY

Issue(s): Should the Planning Commission approve or deny an appeal of the Hearing Officer's approval of a map waiver to allow the conversion of seven existing commercial units into condominiums?

Staff Recommendations:

1. **DENY** the appeal and **APPROVE** Map Waiver No. 327132

Community Planning Group Recommendation: The City Heights Community Planning Group did not issue a formal recommendation for this project. However, this project is scheduled to be heard by the Planning Group on November 6, 2006. For more information, please see the *Community Planning Group Recommendation* section listed on Page Three of this report.

Environmental Review: This project was determined to be categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Article 19 Section 15301(k), Existing Facilities. This determination was made on April 18, 2006, and the opportunity to appeal that determination ended May 8, 2006.

Fiscal Impact Statement: All costs associated with the processing of this project are paid from a deposit account maintained by the applicant.

Code Enforcement Impact: None with this action.

Housing Impact Statement: The proposed project would allow seven existing commercial units to be sold individually as condominiums. No residential units are proposed as part of this project.

BACKGROUND

The subject 1.236 acre property would be subdivided into seven commercial condominium units. The site is located at 3910 University Avenue, at the northeast corner of University Avenue and 39th Street (Attachment 1), in the CU-2-3 Zone of the Central Urbanized Planned District, within the City Heights neighborhood of the Mid-City Communities Plan area (Attachment 2).

The existing 82,611-square-foot commercial/office structure was built in 2003 and is four stories tall. Existing uses include a daycare center, a community use room, and retail and office space. There are a total of 171 parking spaces required for this project, with 21 parking spaces provided on-site and 150 parking spaces provided in a parking structure on the adjoining lot to the north. All lots on the block are tied together by Planned Development Permit (PDP) No. 6572, which allowed this building to be developed as part of a mixed-use commercial/residential project that covers the entire block. No changes to the parking provided for the specified uses on the block (including this project) can occur without first processing an amendment to the PDP. Additionally, Condition No. 8 of the attached Resolution requires the applicant to provide a shared parking agreement between the lots prior to issuance of the Certificate of Compliance.

On September 20, 2006, the Hearing Officer reviewed the proposed project and staff's recommendation to approve the Map Waiver. The Hearing Officer approved the Map Waiver as presented and conditioned by City staff.

DISCUSSION

Project Description:

The project proposes to establish seven commercial condominiums units in an existing commercial building. Section 125.0410 of the San Diego Municipal Code requires that a Tentative Map be processed for the subdivision of land. The Tentative Map request is a Process Three Hearing Officer decision as outlined in San Diego Municipal Code Section 125.0430 (Decision Process for a Tentative Map). According to San Diego Municipal Code Section 125.0440, Findings for Tentative Maps, the decision maker may approve a Tentative Map 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. According to San Diego Municipal Code Section 144.0444, Findings for Tentative Maps for Condominium Conversion, the decision maker may approve a Tentative Map for the purposes of the conversion of residential property into a condominium project if the decision maker finds that the proposed conversion complies with the requirements of the Subdivision Map Act and the San Diego Municipal Code.

The Subdivision Map Act and the Land Development Code provide a process to waive the requirement for a Tentative Map for condominium conversion on one parcel. The waiver process provides a process for a condominium conversion on one parcel where the site was previously developed and no additional infrastructure is required. Since the subject project meets these requirements and includes the conversion of seven existing commercial units on one parcel, the project is eligible for a Process Three Map Waiver.

Underground Utility Waiver :

No underground utility waiver has been requested for this project as there are no overhead utilities which serve this site.

Environmental Analysis:

This project was determined to be categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Article 19 Section 15301(k), Existing Facilities. This determination was made on April 18, 2006, and the opportunity to appeal that determination ended May 8, 2006.

Community Planning Group Recommendation:

The applicant has not received a formal recommendation from the City Heights Community Planning Group. However, the applicant has met with the group on several occasions. In November 2005, Council District 3 staff arranged a meeting with the Chairman of the City Heights Planning Committee, the Chairman of the City Heights Planning Area Committee (PAC), a Committee member, the President /CEO of the Workforce Partnership (Larry Fitch), Council District 3 staff and the applicant. After discussing the proposal and the history of the building it was agreed that the applicant would attend upcoming meetings of both the Planning Committee and the PAC in order to inform the community of the project.

On January 4, 2006, the applicant attended the City Heights Planning Committee Meeting and made a presentation. Metro Center was placed on the agenda as an information item. On January 9, 2006, the applicant attended the City Heights PAC Meeting and made a presentation. Metro Center was placed on the agenda as an information item. On April 3, 2006, the applicant attended the City Heights Planning Committee Meeting and made a presentation. Metro Center was placed on the agenda as an information item. On April 10, 2006, the applicant attended the City Heights PAC Meeting and made a presentation. Metro Center was placed on the agenda as an information item.

The project is scheduled to appear before the Planning Committee on November 6, 2006 for a recommendation. Because this vote did not occur before the distribution date of this report, the official vote and recommendation will be provided to the Commissioners in a memo on the morning of the November 9, 2006 Planning Commission hearing.

Appeal Issues:

The Hearing Officer's decision to approve the map waiver was appealed by two different parties. One appeal was filed by the City Heights Area Planning Committee on the grounds that the project had not received a formal recommendation from their group (Attachment 7). Since the filing of the appeal, the applicant and the Planning Committee have discussed the situation and the applicant has agreed to appear before the group for a formal recommendation on November 6, 2006. The voting results and recommendation of the group were not available as of the distribution date of this report, so a memo will be distributed the morning of the Planning Commission hearing on November 9, 2006, to inform the Commissioners of the outcome.

The other appeal was filed by Mr. Jim Varnadore (Attachment 7). A summarization of the issues raised in Mr. Varnadore's appeal application are listed below, along with staff's response:

1. *Concern that the project did not have a formal Planning Committee recommendation:*
As stated above in the response to the first appeal, the applicant is scheduled to appear before the Planning Committee for a formal recommendation on November 6, 2006.
2. *Would the property/parking structure remain off the tax roles and how fee-in-lieu payments would be made:*
As stated by the Hearing Officer during the September 20, 2006 public hearing, the applicability of property tax laws and regulations and who would make such payments is beyond the scope of this project.
3. *Would the new ownership configuration continue to honor the agreement which allows the Metro Villas Apartments to utilize the parking structures:*
A Shared Parking Agreement must be provided to the City prior to the issuance of the Certificate of Compliance, which is Condition 8 of the attached Resolution. There would be no change in the parking configuration approved by the original PDP.
4. *Would the new ownership configuration continue to honor community access to the onsite meeting room, including provisions that City Heights has preferential access:*
There would be no change in the use of and agreements regarding the community room. The San Diego Workforce Partnership, who is the main tenant and who has administered this room to date would continue to do so and would be responsible for room access, site security and scheduling. Nothing in the proposed Map Waiver would change this situation.
5. *Would the new ownership configuration allow the continued encroachment of available site parking for commercial uses:*
The proposed Map Waiver would not change the current parking configuration and requirements of the site or the original permits which allowed construction. Additionally, a shared parking agreement is a requirement of the Map Waiver.

Conclusion:

Staff has reviewed the application for the Map Waiver in conjunction with the appeal applications and has determined that the proposed project complies with the applicable sections of the Municipal Code. Staff believes the required findings can be made to support the project (Attachment 6). The proposed project was reviewed and exempted from the California Environmental Quality Act and as existing facilities the project is Categorically Exempt from further environmental review. Therefore, staff recommends that the Planning Commission deny the appeal and approve the Map Waiver.

ALTERNATIVES

1. **Deny the Appeal and Approve Map Waiver No. 327132 with modifications.**
2. **Approve the Appeal and Deny Conditional Use Permit No. 327132 if the findings required to approve the project cannot be affirmed.**

Respectfully submitted,

**Mike Westlake
Program Manager
Development Services Department**

**Paul B. Godwin
Development Project Manager
Development Services Department**

MW/PBG

Attachments:

1. Aerial Photograph
2. Community Plan Land Use Map
3. Project Location Map
4. Project Data Sheet
5. Map Waiver Exhibit
6. Draft Map Waiver Resolution with Findings and Conditions
7. Copy of Appeal Applications
8. Ownership Disclosure Statement
9. Project Chronology