THE CITY OF SAN DIEGO

REPORT TO THE PLANNING COMMISSION

DATE ISSUED: August 23, 2007 **REPORT NO.** PC-07-111

ATTENTION: Planning Commission, Agenda of August 30, 2007

SUBJECT: **THIRD AVENUE TENTATIVE MAP** - PROJECT NO. 82295. PROCESS 4.

OWNER/ APPLICANT: M.S. Browar Family Trust, Owners/Applicants (Attachment 9)

SUMMARY

Issue(s) - Should the Planning Commission approve Tentative Map No. 258106 and waive the requirement to underground existing utilities to convert sixteen existing residential units to condominiums at 2350-2360 Third Avenue within the Uptown Community Plan area?

Staff Recommendation -

1. **APPROVE** Tentative Map No. 258106

2. **APPROVE** Waiver of the requirement to underground existing overhead utilities.

Community Planning Group Recommendation - The Uptown Planners, on March 13, 2006, voted 10:0:1 to recommend denial of Tentative Map No. 258106 and waiver of the requirement to underground existing overhead utilities (Attachment 8).

Environmental Review - The project was determined to be exempt from the California Environmental Quality Act (CEQA) on October 3, 2005 pursuant to Article 19, Section 15301(k) as "Existing Facilities". An appeal of the CEQA determination was previously made and the City Council denied the CEQA appeal on July 31, 2006. The scope of the subject hearing only includes the project, and not the environmental determination.

DIVERSITY BRINGS US ALL TOGETHER

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 sixteen existing apartments to condominiums, there would be a loss of 16 rentals units and a gain of 16 for-sale units. This Tentative Map request was deemed complete subsequent to February 7, 2004, and is required to comply with the inclusionary affordable housing requirements.

BACKGROUND

The Land Use Element of the Uptown Community Plan designates the site for Office Residential 4 in the Uptown Community Plan, which would allow 29-44 dwelling units per acre (Attachment 1). The designator number "4" refers to the medium-high residential density. The 0.23 acre site is located at 2350-2360 Third Avenue in the NP-2 zone of Mid-City Communities Planned District within the Uptown Community Plan area between Kalmia and Juniper Streets (Attachment 2). The surrounding land uses are multi-family residential and commercial development. The 0.23 acre site has been developed at an approximate density of 69 dwelling units per acre. Within areas designated for attached housing, the Uptown Community Plan does not address the issue of single versus condominium or fractional ownership.

The existing development, constructed in 1928 and 1936, was zoned R4 at the time of construction. When developed, the approved construction met all regulations in effect. The site is presently improved with three two-story apartment buildings. All sixteen units have one bedroom. The units vary in size from 521 to 850 square feet. The original development provided no parking spaces and none exist presently. There are no Building or Zoning Code violations recorded against the property (Attachment 3).

DISCUSSION

Project Description

The current application proposes a Tentative Map to convert the existing sixteen residential apartments to condominiums. Utilities are existing above ground in the right-of-way of Third Avenue fronting the property (Attachment 4).

Section 125.0410 of the San Diego Municipal Code (SDMC) requires a Tentative Map be processed for the subdivision of land. According to SDMC §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 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 it complies with both the Subdivision Map Act and San Diego Municipal Code.

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, the conversion would represent an isolated undergrounding with a minimum probability of extension in the future, and the conversion would not represent a logical extension to an undergrounding facility. The applicant would be required to underground any new service run to any new or proposed structures within the subdivision per Condition No. 6 of the draft Tentative Map resolution (Attachment 5).

Presently two utility poles are located in the right-of-way of Third Avenue in front of the project site near the northeast and southeast property corners. Neighboring sites adjacent and across Third Avenue from the subject property receive electrical, telephone and/or cable service from these overhead lines. Undergrounding those services would disrupt properties not included in the proposed project. The City's Undergrounding Master Plan does not designate this block of Third Avenue to be undergrounded until 2026 (Attachment 6).

Condominium Conversion Regulations

The proposed project was deemed complete on September 19, 2005 and is regulated by "old code" regulations. These regulations did not require a building conditions report, landscape plans or parking. The applicant has voluntarily provided the Building conditions report and a landscape plan.

All condominium conversion projects deemed complete on or after February 7, 2004, must comply with regulations addressing inclusionary housing and tenant relocation benefits. This approval would be subject to these regulations and has been conditioned to comply with the requirements. The draft Tentative Map Resolution, condition number fourteen requires the subdivider to pay an Inclusionary Affordable Housing In-Lieu Fee of $25,367.50.

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

The applicant has certified the required 60-day Notice of Intent to Convert to Condominium was provided to the tenants on May 9, 2005 (Attachment 7).

The environmental exemption for this Tentative Map was appealed by Briggs Law Corporation. On July 31, 2006, at a public hearing, the City Council denied the appeal and upheld the

environmental determination as being categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Article 19, Section 15301(k) as "Existing Facilities". The City Council expressly exempted these tentative maps from the new condominium conversion regulations which went into effect in mid 2006. Therefore, the project is not subject to the current condominium regulations requiring a building conditions report, landscape plans or parking requirements.

Uptown Planners Committee Recommendation

On March 13, 2006, the Uptown Planners voted 10:0:1 to recommend denial of Tentative Map No. 258106 and waiver of the requirement to underground existing utilities (Attachment 8). The Planning Committee cited the following reasons for their vote:

1.) The applicant failed to present a detailed site, landscaping, and parking plan for the project. Additionally the applicant failed to indicate the nature of any improvements or modifications that would take place as a result of the condominium conversion. *As discussed earlier in this report, the information referenced by the community group is not a submittal requirement pursuant to City Council direction. The Planning Committee was provided a Tentative Map Exhibit. There is no construction proposed with this project, therefore no additional improvements are required. The project has previously conforming rights to be maintained as outlined in Chapter 12, Article 7, Division 1 of the Land Development Code.*

2.) The applicant is seeking a blind entitlement, based on a claim of a ministerial right to a condominium conversion, which is unsupportable. *The applicant applied for a Tentative Map Approval (Process Four) to convert the existing sixteen apartment units to condominium units consistent with the California Subdivision Map act and the San Diego Municipal Code.*

3.) In making the motion the Uptown Planners states it favors the preservation of the structure in question and would encourage the applicant to return to the Uptown Planners with specific plans and documents indicated in this motion. *There is no construction proposed with this project, therefore no additional improvements are required. The project has previously conforming rights to be maintained as outlined in Chapter 12, Article 7, Division 1 of the Land Development Code.*

4.) The Board recommends the owner consider having the property designated historically. *The project was reviewed for a tentative map application with no substantial changes to the structure. The city cannot require this structure be historically designated.*

CONCLUSION

Staff has reviewed the request for a Tentative Map for the conversion of sixteen residential units into condominiums and has found the project to be in conformance with the applicable sections of the San Diego Municipal Code regulating Tentative Maps and the waiver from the requirement to underground the existing overhead utilities. Staff has provided draft findings to support approval of the Tentative Map and recommends the Planning Commission approve the project as proposed (Attachment 5).

ALTERNATIVES

1. Approve Tentative Map No. 258106 and waive the requirement to underground existing overhead utilities, with modifications.

2. Deny Tentative Map No. 258106 and the waiver of the requirement to underground existing overhead utilities, if the findings required to approve the project cannot be affirmed.

Respectfully submitted,

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WESTLAKE/hmd

Attachments:
1. Community Plan Land Use Map
2. Project Location Map
3. Aerial Photograph
4. Tentative Map
5. Draft Map Conditions and Subdivision Resolution
6. Underground Project Schedule
7. Government Code 66452.3; self-certification statement
8. Community Planning Group Recommendation
9. Ownership Disclosure Statement
10. Project Chronology
11. Project Data Sheet