

DATE ISSUED: February 14, 2008

REPORT NO. PC-08-018

ATTENTION: Planning Commission, Agenda of February 21, 2008

SUBJECT: **559 61ST. STREET TM** – Project No. 91508. PROCESS 4

**OWNER/
APPLICANT:** SUSAN E. READY (Attachment 13)

SUMMARY

Issue(s) - Should the Planning Commission approve a condominium conversion and waive the requirement to underground existing utilities to convert seven existing residential units to condominiums at 559 61St. Street in the Encanto Neighborhoods Community Plan area?

Staff Recommendation -

1. **Approve** Tentative Map No. 293842, Site Development Permit No. 448381 and waive the requirement to underground existing utilities.

Community Planning Group Recommendation - The Encanto Neighborhoods Community Planning Group voted unanimously on April 17, 2007 to continue their discussion until the following month. No further action has been taken and a final recommendation has not been provided.

Environmental Review - The project is exempt from the California Environmental Quality Act (CEQA) pursuant to Article 19, Section 15301(k) as "Existing Facilities." This project is not pending an appeal of the environmental determination. The environmental exemption determination for this project was made on December 20, 2006, and the opportunity to appeal that determination ended January 5, 2007.

Fiscal Impact Statement - No fiscal impact. All costs associated with the processing of the application are recovered through a deposit account funded by the applicant.

Code Enforcement Impact - None with this action.

Housing Impact Statement - With the proposed conversion of seven existing apartments to condominiums, there would be a loss of seven rentals units and a gain of seven for-sale units. This condominium conversion project was deemed complete on December 12, 2006 and is subject to the regulations regarding Inclusionary housing and tenant relocation assistance. All seven dwelling units would be designated as affordable units for sale at 150 percent of area median income and comply with an agreement and terms established by the Housing Commission.

BACKGROUND

This Tentative Map project is subject to the condominium conversion regulations effective June 13, 2006. At the June 13, 2006, hearing, the City Council adopted regulations for additional requirements for landscaping, a building conditions report, onsite inclusionary housing, noticing and parking. Based on the adopted language and project timing, all of these new regulations apply to this project. Accordingly, this project has been reviewed against the new regulations, and this project can proceed to its discretionary hearing.

The Land Use Element of the Encanto Neighborhoods Community Plan designates the site for Residential use at a density range of 5-10 dwelling units per acre (Attachment 1). The 0.37 acre site has been developed at an approximate density of 18 dwelling units per acre (Attachment 2). The 0.378 acre site is located at 559 61St. Street in the SF-6000 zone between Akins Avenue and Brooklyn Avenue in the Encanto Neighborhoods Community Plan area (Attachment 3). The surrounding land uses are single and multiple-unit residential to the north, east, south and west. Within areas designated for residential use, the Encanto Neighborhoods Community Plan does not address the issue of single versus condominium or fractional ownership.

The existing development was constructed in 1940. At the time the property was developed the approved construction met all current regulations. The site is presently improved with four one-story apartment buildings. One of the buildings contains one dwelling unit, the other three buildings contain two dwelling units each. The site has six two-bedroom units and one four bedroom unit. The two bedroom units are 650 square feet each while the four-bedroom unit is 1,750 square feet. The original development provided seven parking spaces.

The development complied with the zoning and development regulations in effect at the time of construction. No Building or Zoning Code violations are recorded against the property. 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 current application proposes a Tentative Map and Site Development Permit to convert the existing seven residential units to condominiums and to deviate from the Condominium Conversion Regulations. The Tentative Map is being processed in accordance with the regulations found in the Land Development Code Section 125.0401. The deviation to the Condominium Conversion Regulations is processed in accordance with the Land Development Code (LDC) Section 144.0509. Section 144.0509 states that deviations to the condominium conversion regulations may be requested in accordance with a Process Four Site Development Permit.

The development regulations for condominium conversions may be found in the LDC Section 144.0507(a) through 144.0507(f). The proposed project meets all of these regulations with the exception of 144.0507(f) which states that all required parking shall be in accordance to LDC Section 142.0525(a) through 142.0525(d). The regulation requires all required parking be provided outside of any required yard area. For example, no parking could be allowed in the front street yard without a deviation. The applicant has requested the Site Development Permit to allow this specific deviation. The project proposes to deviate from the location requirement for the required parking and allow the parking to be provided within the required front yard setback. The project would provide the required number of parking spaces, yet do so within the front yard setback. All code sections quoted have been provided in the order cited as Attachment 4.

Utilities are existing above ground on the opposite side of 61st. Street in the public right-of-way. Physical changes to the developed site are proposed consistent with the findings of the building conditions report and those shown on the Landscape Development Plan, should the Planning Commission action be to approve the application. The Building Conditions Report is provided as Attachment 5. All seven dwelling units would be sold as units affordable to persons earning no more than 150 percent of the area median income.

Section 125.0410 of the San Diego Municipal Code (SDMC) requires a Tentative Map (Attachment 6) be processed for the subdivision of land. According to SDMC §125.0440 and §125.0444, Findings for Tentative Maps and for Condominium Conversions, 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 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 Nos. 6 and 7 of the draft Tentative Map resolution (Attachment 7).

An existing power pole is immediately across the street from the property in the public right-of-way of 61st Street and at the southwest corner of the property. Neighboring sites adjacent and across the street 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 for Fiscal Year 2007 designates the site within Block 4R1 with completion anticipated in 2058, and at this time is not yet funded (Attachment 8).

Inclusionary Housing Ordinance and Tenant Relocation Benefits Conformance

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.

Condominium conversion projects of twenty or more units are required to satisfy the inclusionary housing requirements on-site in accordance with Section 142.1306 of the San Diego Municipal Code. The project is not conditioned to conform with this requirement as it only proposes to convert seven units, not twenty or more units.

Building Conditions Report and Landscape Requirements

In accordance with the current regulations, the applicant provided a Building Conditions Report and Landscape Development Plan. Both of these documents have been reviewed for conformance with the applicable regulations within Land Development Code Chapter 14, Article 4, Division 5. Staff has determined the proposed project conforms to the regulations. The list of required improvements contained in the approved Building Conditions report is provided as Attachment 7 and the Landscape Development Plan is Attachment 9.

Noticing

The proposed project will be required to conform to all new noticing requirements for condominium conversions.

CONDOMINIUM CONVERSION REGULATIONS

The requested conversion of these residential units to condominiums represents primarily a change in ownership. The applicant has certified that the required 60-day Notice of Intent to Convert to Condominium was provided to the tenants on June 14, 2005 (Attachment 10). No new tenants have occupied the dwelling units since that date and a new notice is not required.

All condominium conversion projects deemed complete on or after February 7, 2004, must comply with new regulations addressing inclusionary housing and tenant relocation benefits adopted by the City Council on March 15, 2004. This proposed project was deemed complete on October 10, 2005, is subject to these regulations and has been conditioned to comply with the requirements.

CONCLUSION

Staff has reviewed the application to convert seven 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, Site Development Permits and the waiver from the requirement to underground the existing overhead utilities and all adopted City policies. Draft findings to support approval of the Tentative Map (Attachment 7) and the Site Development Permit (Attachment 11) are provided and staff recommends the Planning Commission approve the project as proposed.

ALTERNATIVES

1. **Approve** Tentative Map No. 293842, Site Development Permit No. 448381 and waive the requirement to underground existing utilities, **with modifications**.
2. **Deny** Tentative Map No. 293842, Site Development Permit No. 448381 and waive the requirement to underground existing utilities, **if the findings required to approve the project cannot be affirmed**.

Respectfully submitted,

Mike Westlake
Program Manager
Development Services Department

John S. Fisher
Development Project Manager
Development Services Department

BROUGHTON/JSF

Attachments:

1. Community Plan Land Use Map
2. Aerial Photograph
3. Project Location Map
4. Land Development Code sections
5. Building Conditions Report, under separate cover
6. Tentative Map
7. Draft Tentative Map Conditions and Subdivision Resolution
8. Overhead Undergrounding Program, Block 4R1
9. Landscape Development Plan
10. 60-day Notice of Intent to tenants
11. Draft Site Development Resolution with Findings
12. Draft Permit with Conditions
13. Ownership Disclosure Statement
14. Project Chronology
15. Project Data Sheet
16. Encanto Neighborhoods Community Planning Group minutes