

**DATE ISSUED:** ONE WEEK PRIOR TO HEARING      **REPORT NO. PC-08-019**

**ATTENTION:**      **Planning Commission, Agenda of February 21, 2008**

**SUBJECT:**      5130 SARATOGA MAP WAIVER - PROJECT NO. 138048.  
PROCESS THREE APPEAL

**REFERENCE:**      Report to the Hearing Officer No. HO-07-204 (Attachment 9)

**OWNER/  
APPLICANT:**      Judge Ryan and Sandra Ryan (Attachment 13)  
Beth Reiter / Von Reiter Group.

**SUMMARY**

**Issue(s):** Should the Planning Commission approve or deny an appeal of the Hearing Officer's decision to approve a Map Waiver to waive the requirements for a Tentative Map to create two condominium ownerships from two residential units (currently under construction), and to waive the requirement to underground existing overhead utilities?

**Staff Recommendation:** **DENY** the appeal and **UPHOLD** the Hearing Officer's decision to **APPROVE** Map Waiver No. 480583 including a waiver of the requirement to underground existing overhead utilities.

**Community Planning Group Recommendation:** The Ocean Beach Planning Board voted 6-3-0 to recommend denial of the proposed project on November 7, 2007.

**Environmental Review:** The project has been determined to be exempt from the California Environmental Quality Act (CEQA) in accordance with the State CEQA Guidelines, Article 19, Section 15332, Infill Development. This project is not pending an appeal of the environmental determination. The environmental exemption determination for this project was made on September 24, 2007, and the opportunity to appeal that determination ended on October 2, 2007.

**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. There are no open cases in the Neighborhood Code Compliance Department for this property.

**Housing Impact Statement:** The Ocean Beach Precise Plan designates the 0.10-acre site for “Multi-Family” land use with a recommended density range of up to 25 dwelling units/acre (du/ac). The proposed project is currently under construction, to create two new apartments in two separate buildings. The two unit project has a density of 2 units on 0.10 acres or 25 du/ac, which is consistent with the recommended land use and density of the Community Plan.

The proposed project is exempt from the Coastal Overlay Zone Affordable Housing Replacement Requirements division of the Land Development Code because the proposal for conversion or demolition of a residential structure contains less than 10 dwelling units. The project meets the requirements of the Affordable Inclusionary Housing Ordinance through the payment of an in-lieu fee.

## **BACKGROUND**

The project is located at 5130-5132 Saratoga Avenue within the Ocean Beach Precise Plan and Local Coastal Program Land Use Plan (Attachment 1). The Precise Plan designates the 0.10-acre site and surrounding neighborhood for multi-family land use at a maximum density of 25 dwelling units per acre (Attachment 3). The site is zoned RM 2-4 and subject to the applicable development regulations of the Land Development Code (Attachment 2).

The property is currently under construction to develop two residential units with two, 2-car garages with access from an existing alley to the north of the property. Compliance with all applicable regulations for development of the site were evaluated with Building Permit numbers 387163 & 387167 (PTS No. 114831), which were approved in February, 2007, and California Coastal Development Permit No. 6-06-065 dated September 20, 2006. The project site is surrounded by established multi-family residential developments to the west, east, north, and Ocean Beach Dog Park to the southwest (Attachment 2)

The property is located in the jurisdiction of the State Coastal Overlay Zone and the applicant is working directly with the Coastal Commission to obtain a Coastal Development Permit required for the subdivision action.

The project is exempt from the Coastal Overlay Zone Affordable Housing Replacement regulations per Section 143.0820(d) of the Land Development Code, which allows the conversion of 10 or fewer dwelling units on premises with more than one residential structure. No new construction or grading will take place under Map Waiver No. 480583.

The applicant is also requesting a waiver of the requirement to underground existing overhead utilities per Council Policy 600-25. The waiver is only for existing overhead utilities. All new utilities are required to be underground. Staff has evaluated the request and has determined it would represent an isolated undergrounding and the request meets the criteria in Council Policy 600-25.

On December 19, 2007, the Hearing Officer approved Map Waiver No. 480583, including the waiver of the requirement to underground existing overhead utilities.

On January 4, 2008, the Ocean Beach Planning Board filed an appeal of the Process 3 Hearing Officer's decision.

## **DISCUSSION**

### **Project Description:**

This project is a request to waive the requirements for the Tentative Map for the subdivision of a 0.10-acre site to allow the conversion of two (2) residential units (currently under construction) to two (2) condominium units, which will allow the sale of each unit. Additionally, the project requests a waiver from the requirement to underground the existing overhead utilities adjacent to the project site. This type of development is consistent with the General Plan and the Ocean Beach Precise Plan, which designate the area for multi-family residential use. The project is within the Coastal Height Limit overlay zone, the State Coastal Overlay Zone and is within the Airport Influence Overlay Zone and the Airport Environs Overlay Zone.

The 3,500-square-foot flat, rectangular lot is zoned RM-2-4, a multiple unit residential zone permitting one dwelling unit for each 1,750 square feet. The project consists of one 1-bedroom unit (915 square feet), and one 2-bedroom unit (915 square feet), for a total of 1,830 square feet of living area. The minimum parking requirement for this project is 4 automobile spaces (at a rate of 2.25 spaces per two-bedroom unit & 1.75 spaces per one-bedroom unit in the beach impact area). In addition, condominium conversion standards requires a minimum of 3 parking spaces for the proposed project (at a rate of 1.5 spaces per two-bedroom unit & 1.25 spaces per one-bedroom unit in the beach impact area), Per Land Development Code Section 142.0525 (LDC) Table 142-05C. This project provides four (4) parking spaces; the project is in conformance with both current parking standards and condo conversion standards.

The proposed project is in conformance with the current development codes, and meets all the development requirements for the RM-2-4 Zone. Future expansion or redevelopment of the project site shall be reviewed for compliance with the regulations of the underlying zone(s).

### **Community Plan Analysis:**

The 0.10-acre site, located at 5130-5132 Saratoga Avenue, is designated as Medium Residential in the Ocean Beach Precise Plan, which allows a maximum density of up to 25 dwelling units per acre and a density yield of two units. The applicant is proposing two dwellings on the site and therefore, the proposal would not have a negative impact on the community plan.

### **Community Planning Group Recommendation**

The Ocean Beach Planning Board voted 6-3-0 to recommend denial of the proposed project on November 7, 2007, for the following reasons: 1) Inadequate parking, 2) Increase in density (Attachment 12). As previously stated, the project was issued a building permit pursuant to the

RM-2-4 zone and no previous discretionary approval was required. The parking and density comply with the Land Development Code and the Ocean Beach Precise Plan.

Project-Related Issues:

Appeal Issues:

On January 4, 2008, an appeal of the Hearing Officer's decision was filed by the Ocean Beach Planning Board asserting conflict with other matters, and findings not supported (Attachment 10). These issues are addressed below in the approximate order they appear within the appeal and include staff's response:

Appeal Issue No. 1: The appeal states that the proposed project has insufficient parking based on the assumption that the den will be converted to an additional bedroom.

Staff Response: Any room within a dwelling unit that is designed without a permanent door and has an opening width that exceeds 36" is not considered a bedroom. The Land Development Code does not consider living area such as a den or office to be potential bedrooms and therefore, these areas are not calculated for required parking.

Parking requirements are based on the number of bedrooms in each unit, and not on the assumption of converting the den area to a bedroom any time in the future. In addition, as stated above, condominium conversion standards require a minimum of 3 parking spaces for the proposed project (at a rate of 1.5 spaces per two-bedroom unit & 1.25 spaces per one-bedroom unit in the beach impact area), Per Land Development Code Section 142.0525 (LDC) Table 142-05C. Staff determined the proposed development meets the minimum parking requirements of the Land Development Code. The new construction would provide two residential units and four on-site parking spaces in accordance with the Land Development Code Section 142.0525.

Appeal Issue No. 2: The appellant claims that the **Findings required to approve the project are not supported** and the Hearing Officer determined that the parking is sufficient considering one of the rooms as a den area and not a bed-room.

Staff Response: The proposed project as presented is in conformance with the current development codes, and meets all the development requirements for the RM-2-4 Zone. The Land Development Code does not consider living area such as a den or office to be potential bedrooms and therefore, these areas are not calculated for required parking. Future expansion or redevelopment of the project site shall be reviewed for compliance with the regulations of the underlying zone(s). The Hearing Officer has determined that the draft findings necessary to approve the project can be made.

Conclusion:

The Development Services Staff has reviewed the request for a Map Waiver to waive the requirements for a Tentative Map for the subdivision of land for the conversion of two residential units into a condominium project, including the request to waive the requirement to underground

existing overhead utilities. Staff has determined the project is in conformance with the applicable sections of the San Diego Municipal Code regulating Map Waivers and Council Policy 600-25 regulating undergrounding of existing overhead utilities. Staff has also determined that the required parking for the proposed project is in compliance with the Land Development Code. Therefore, staff believes the required findings can be supported as substantiated in the Findings (Attachment 8) and recommends that the Planning Commission deny the appeal and uphold the approval of the project as conditioned.

### **ALTERNATIVES**

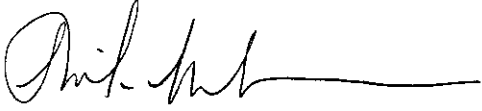
1. **Approve Map Waiver No. 480583, with modifications.**
2. **Deny Map Waiver No. 480583, if the findings required to approve the project cannot be affirmed.**

Respectfully submitted,



---

Mike Westlake  
Program Manager  
Development Services Department



---

Laila Iskandar  
Project Manager  
Development Services Department

### **Attachments:**

1. Project Location Map
2. Aerial Photograph
3. Community Plan Land Use Map
4. Project Data Sheet
5. Project Site Plan(s)
6. Tentative/Vesting Tentative Map
7. Project Plans
8. Draft Map Conditions and Subdivision Resolution
9. Report to the Hearing Officer No. HO-07-204
10. Copy of Appeal(s)
11. Copy of Recorded (existing) Permit(s)
12. Community Planning Group Recommendation
13. Ownership Disclosure Statement
14. Project Chronology