

**DATE ISSUED:** September 30, 2004

**REPORT NO. PC-04-161**

**ATTENTION:** Planning Commission, Agenda of October 7, 2004

**SUBJECT:** 37<sup>th</sup> STREET TENTATIVE MAP - PROJECT NO. 5685  
**PROCESS FOUR**

**OWNER/** Dann Schuetz, Owner

**APPLICANT:** Neil Prescott, KLS Engineering, Applicant

**SUMMARY**

**Issue(s):** Should the Planning Commission approve a Tentative Map for the conversion of five (5) existing residential apartment units into condominiums and waive the requirement to underground existing overhead utilities at 3731 37<sup>th</sup> Street, within the RM-2-5 zone of the Central Urbanized Planned District, within the City Heights neighborhood of the Mid-City Communities Plan area?

**Staff Recommendation:**

1. **Approve** Tentative Map No. 36303; and
2. **Approve** waiver to the requirement for the undergrounding of existing overhead utilities.

**Community Planning Group Recommendation:** The City Heights Community Planning Committee voted 14-2-2 on May 5, 2003 to recommend approval of the proposed project with no recommended conditions (Attachment 7).

**Environmental Review:** This project is exempt from environmental review pursuant to Article 19, Section 15301(k), Existing Facilities, of the California Environmental Quality Act (CEQA).

**Fiscal Impact:** None associated with this action. All costs associated with the processing of this project are paid by the applicant

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

**Housing Impact Statement:** With the proposed conversion of 5 existing apartments to condominiums, there would be a loss of 5 rental units and a gain of 5 for-sale units. This condominium project was deemed complete prior to February 7, 2004, and is therefore exempt from the new regulations regarding inclusionary housing and tenant relocation assistance. An affordable housing density bonus agreement is currently in effect for this property, which requires that one of the two-bedroom units remain an affordable rental unit until October 1, 2007. A condition has been included in the Tentative Map Resolution which requires compliance with the existing affordable housing density bonus agreement.

## **BACKGROUND**

The 0.15-acre site is located at 3731 37<sup>th</sup> Street, between Wightman and Landis Streets in the RM-2-5 zone of the Central Urbanized Planned District, within the City Heights neighborhood of the Mid-City Communities Plan area (Attachment 3). The site is presently developed with one, two-story structure containing three two-bedroom units and two three-bedroom units. There are 8 parking spaces provided, which includes 3 uncovered and 5 garage parking spaces. The site is bordered by the future Cherokee School site to the east, multi-family development to the north and south and single- and multi-family development to the west.

The site was incorporated into the RM-2-5 zone of the Central Urbanized Planned District in October 2000. When the improvements were constructed in 1988, the property was zoned MR-1500B of the Mid-City Communities Planned District, which was applied in January 1986. This zone allowed for a maximum of four dwelling units on the subject site. However, a density bonus of one unit was granted to the developer via an affordable housing density bonus agreement through the San Diego Housing Commission. This agreement requires that the monthly rent for one of the two-bedroom units shall not exceed 30% of the monthly income of a household earning 80% of the median income for the area. As a part of review of this Tentative Map, the San Diego Housing Commission reviewed the affordable housing density bonus agreement associated with this property and determined that the affordable unit must remain an affordable rental unit until October 1, 2007. After that date, the unit may be sold as a market-rate unit.

The required parking for this project at the time of construction was 8 spaces and 8 spaces are provided. Current parking regulations would require 9 spaces, however, the project has previously conforming rights as described below. The development complied with the zoning and development regulations in effect at the time of construction and no Building or Zoning Code violations have been recorded against the property. The project exceeds the maximum density allowance of 4 dwelling units that would be allowed under the current RM-2-5 zone. However, 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 project proposes a Tentative Map for the subdivision of a 0.15-acre site to convert 5 existing dwelling units into condominiums on two existing, contiguous lots (Attachment 5). The applicant is also requesting that the requirement for the undergrounding of the existing overhead utilities be waived.

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

### **Undergrounding Waiver Request**

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 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. 4 of the draft Tentative Map resolution (Attachment 6).

The site is served by a single existing power pole and overhead utility lines on the northeast side of the property, in the unimproved alley right-of-way. The City's Undergrounding Master Plan for Fiscal Year 2004 designates the site within Block 3A, and is proposed to be undergrounded in Fiscal Year 2022 (Attachment 10).

### **Community Plan Analysis:**

The City Heights Community Planning Committee recommended approval of the proposed project at their May 5, 2003 meeting by a vote of 14-2-2. There were no recommended conditions provided. Please see Attachment 7.

**Project-Related Issues:**

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 Condominiums was provided to the tenants on June 10, 2004 (Attachment 11).

All condominium conversion projects Deemed Complete on or after February 7, 2004, must conform with the new regulations regarding inclusionary housing and tenant relocation benefits adopted by the City Council on March 15, 2004. This proposed project was Deemed Complete on December 12, 2002, and is therefore not subject to these new regulations.

**Conclusion:**

Staff has reviewed the request for a Tentative Map for the conversion of 5 residential units into condominiums and the request to waive the requirements of the undergrounding of existing overhead utilities, and has found the project to be in conformance with the applicable sections of the San Diego Municipal Code regulating Tentative Maps and Council Policy 600-25 regulating undergrounding of existing overhead utilities. Staff believes the required findings can be supported and recommends the Planning Commission approve the project as proposed.

**ALTERNATIVES**

1. **Approve Tentative Map No. 36303, with modifications.**
2. **Deny Tentative Map No. 36303, if the findings required to approve the project cannot be affirmed.**

**Respectfully submitted,**

---

**Marcela Escobar-Eck  
Deputy Director, Project Management Division  
Development Services Department**

---

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

ESCOBAR-ECK/PBG

Attachments:

1. Aerial Photo
2. Community Plan Land Use Map
3. Project Location Map
4. Project Data Sheet
5. Tentative Map

6. Draft Map Conditions and Subdivision Resolution
7. Community Planning Group Recommendation
8. Ownership Disclosure
9. Project Chronology
10. City's Undergrounding Master Plan – Map 3A
11. Copy of Tenant Notices