

**DATE ISSUED:** August 25, 2005 **REPORT NO. PC-05-225**

**ATTENTION:** **Planning Commission, Agenda of September 1, 2005**

**SUBJECT:** **3564 43<sup>rd</sup> STREET TENTATIVE MAP - PROJECT NO. 58760,  
PROCESS FOUR**

**OWNER:** Maverick Real Estate Investments, LLC

**APPLICANT:** Alta Consultants

**SUMMARY**

**Issue(s):** Should the Planning Commission approve a Tentative Map for the conversion of six (6) existing residential apartment units into condominiums and waive the requirement to underground existing overhead utilities at 3564 43rd Street, in the CU-3-6 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. 172785; and
2. **Approve** waiver to the requirement for the undergrounding of existing overhead utilities.

**Community Planning Group Recommendation:** On April 4, 2005, the City Heights Community Planning Committee voted 8-2-1 to recommend approval of the project but deny the request to waive the requirement to underground existing overhead utilities (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 six existing apartments to condominiums, there would be a loss of six rental units and a gain of six for-sale units. This condominium conversion project was deemed complete on February 4, 2005, and is therefore subject to the new regulations regarding inclusionary housing and tenant relocation assistance. The project has been conditioned to require the subdivider to pay an Inclusionary Affordable Housing In-Lieu Fee of \$9,167 based on a \$1.75 fee per residential square foot, pursuant to the Affordable Housing Requirements of the City's Inclusionary Housing Ordinance.

## **BACKGROUND**

The 0.16-acre site is located at 3564 43<sup>rd</sup> Street (Attachment 1), between Dwight Avenue and Myrtle Avenue, in the CU-3-6 Zone of the Central Urbanized Planned District, within the City Heights Neighborhood of the Mid-City Communities Plan (Attachment 3). The CU-3-6 Zone is intended to accommodate development with strip commercial characteristics and medium density residential uses. The Mid-City Communities Plan designates the site for mixed use development with a density of 29 dwelling units per acre. The site is presently developed with a two-story multi-family structure containing a total of six two bedroom units and was constructed in 1990. The project currently provides 12 parking spaces, consisting of eight garage spaces and four surface parking spaces located behind the garage spaces accessed from the alley. The parking provided complies with the requirements that were in effect when the project was constructed in 1990. The project is surrounded by multi-family development on all sides

The site was incorporated into the CU-3-6 zone of the Central Urbanized Planned District in October 2000. The site was zoned MR-1500 when the structure was constructed in 1990, which would have allowed a maximum of five units onsite. The original project applicant was allowed to build six units on the subject site by entering into an affordable housing density bonus agreement, which allowed the construction of one additional unit. This affordable housing agreement restricts the monthly rent of one of the two-bedroom two-bathroom units to an amount not to exceed 30 percent of the monthly income of a household earning 80 percent of the Area Median Income (AMI). Additionally, any tenant(s) who rent the affordable unit must be verified for income eligibility. All terms, conditions and requirements of this affordable housing agreement will remain in effect for the property until January 29, 2012, as specified in Conditions No. 10 and 12, Attachment 6. After that time, the unit may be sold as a market-rate unit.

Under current development standards, four units could be built on the subject property. Although the existing six units exceeds this amount, the project has previously conforming rights, to be maintained as outlined in Chapter 12, Article 7, Division 1 of the Land Development Code. The development complies with the zoning and development regulations in effect at the time of construction and there are no active Building or Zoning Code violations for the subject property. A code violation was previously issued for the property due to non-conformance with the approved landscape plan for the site. A revised and enhanced landscape plan and associated landscape

permit was approved on July 12, 2005. Conformance with this revised plan will be assured through the inspection process required by the associated landscape permit.

## **DISCUSSION**

### **Project Description:**

The project proposes a Tentative Map for the subdivision of a 0.16-acre site to convert six existing dwelling units into condominiums (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 existing overhead utility lines which are connected to a power pole located at the rear of the property on the opposite side of the alley right-of-way, which serves multiple properties. The City's Undergrounding Master Plan for Fiscal Year 2004 designates the site within Block 3M, which is scheduled for funding in fiscal year 2020 (Attachment 10).

## **COMMUNITY PLANNING GROUP RECOMMENDATION**

On April 4, 2005, the City Heights Community Planning Committee voted 8-2-1 to recommend approval of the project but disapprove of the proposed waiver of the requirement to underground existing overhead utilities (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 November 9, 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 February 4, 2005, and is therefore subject to these new regulations.

With their application submittal, the applicant has indicated their decision to pay the in-lieu fee to satisfy these requirements as allowed by these regulations. The project has been conditioned to require the subdivider pay an Inclusionary Affordable Housing In-Lieu Fee of \$9,165 based on a \$1.75 fee per residential square footage, pursuant to the Affordable Housing Requirements of 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.

## **CONCLUSION**

Staff has reviewed the request for a Tentative Map for the conversion of six 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. 172785 with modifications.**
2. **Deny Tentative Map No. 172785 if the findings required to approve the project cannot be affirmed.**

**Respectfully submitted,**

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**Assistant Deputy Director,**  
**Customer Support and Information Division**  
**Development Services Department**

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**Paul B. Godwin**  
**Development Project Manager,**  
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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 Statement
9. Project Chronology
10. City's Undergrounding Master Plan – Map 3M
11. Copy of Tenant Notices