

DATE ISSUED: July 28, 2005

REPORT NO. PC-05-241

ATTENTION: Planning Commission, Agenda of August 4, 2005

PROJECT: 5059 NIAGARA AVENUE TENTATIVE. PROJECT NO. 61911.
PROCESS 4

OWNER/

APPLICANT: Ronald P. James and Kathy S. James, Urban Living and Housing LLC
(Attachment 13).

SUMMARY

Issue(s): Should the Planning Commission approve an application for a Coastal Development Permit and a Tentative Map to convert nine existing residential units to condominiums and waive the requirement to underground existing overhead utilities on a 0.16-acre site located 5059 Niagara Avenue within the Ocean Beach Community Plan area?

Staff Recommendations:

1. APPROVE Coastal Development Permit No. 86164;
2. APPROVE Tentative Map No. 86165 and
3. WAIVE the requirement to underground existing overhead utilities.

Community Planning Group Recommendation: On June 1, 2005, the Ocean Beach Planning Board, Inc. voted 7:3:0 to approve the project as proposed with no conditions (Attachment 12).

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 Statement: 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: The proposed project is the conversion of nine existing apartment units to condominiums. There would be a loss of nine rental units and a gain of nine for-sale units. This project is subject to the Coastal Overlay Zone Affordable Housing Replacement Regulations and is required to provide one 2-bedroom unit at rents affordable to low-income households and one 1-bedroom unit at rents affordable to moderate-income households, or pay an in-lieu fee to the Housing Commission. For this project, the in-lieu fee for the one 2-bedroom, low income unit is \$30,800 and the one 1-bedroom, moderate-income unit \$12,800 for a total of \$43,600.

BACKGROUND

The developed 0.16-acre site is located at 5059 Niagara Avenue between Ocean Boulevard and Bacon Street (Attachments 1 and 2). The proposed project is within the RM-2-4 Zone, the Coastal Overlay Zone (Coastal Appealable Area) (Map C-730), the Coastal Height Overlay Zone, the First Public Roadway (Map C-731), the Beach Parking Impact Zone (Map C-731), the Residential Tandem Parking Overlay Zone (Map C-903), the Airport Approach Overlay Zone, the Airport Environs Overlay Zone, the Ocean Beach Emerging Cottage Historic District, the Ocean Beach Community Plan and Local Coastal Program areas.

The site is designated in the Ocean Beach Community Plan for multi-family residential use at a density of 37 dwelling units per acre (Attachment 3). The surrounding area consists predominantly of multi-family development.

DISCUSSION

Project Description:

The project proposes a change of ownership to convert the existing nine apartments to nine condominiums (Attachment 4). The project consists of one structure containing four 1-bedroom units and five 2-bedroom units (Attachment 6). The nine units were built in 1970. There are no zoning or code violations associated with the property. A Final Map is required to consolidate the existing two lots into one lot and to subdivide the ownership interest as a condition of the Tentative Map.

Project Related Issues:

Municipal Code Conformance

The subject site is currently in the RM-2-4 Zone as applied to the site in January, 2000. The existing nine units were built in 1970, by a City issued Building Permit G18105/Plan File #26373D with nine parking spaces when the site was zoned R-4. The R-4 Zone allowed one unit per 400-square feet of lot area. Under the R-4 Zone 18 units could have been constructed. Under the current RM-2-4 Zone, only four units could be constructed on the site (one unit per 1,750 square feet of lot area). The site deviates from current density requirements and may deviate from other development criteria. However, the project was in conformance with the development regulations at the time of development; therefore, it has previously conforming rights to be maintained as outlined in Chapter 12, Article 7, Division 1 of the Land Development Code (Attachment 5).

The site is also within the Coastal Overlay Zone (Coastal Appealable Area) (Map C-730), the Coastal Height Overlay Zone, the First Public Roadway (Map C-731), the Beach Parking Impact Zone (Map C-731), the Residential Tandem Parking Overlay Zone (Map C-903), the Airport Approach Overlay Zone, the Airport Environs Overlay Zone, the Ocean Beach Emerging Cottage Historic District, the Ocean Beach Community Plan and Local Coastal Program Areas. Future expansion or redevelopment of the project site would be subject to review under these regulations as outlined in Chapter 13, Article 2 of the Land Development Code.

Coastal Overlay Zone – The project location is within the Coastal Overlay Zone (Map C-730) and the permit is appealable to the California Coastal Commission. The site contains no Environmentally Sensitive Lands, is a consistent land use as designated in the Community Plan, and does not encroach on physical or visual access to the ocean.

Airport Environs Overlay Zone (AEOZ) - Because the project is not proposing an increase in the number of existing dwelling units an avigation easement is not required.

Airport Approach Overlay Zone (AAOZ) - The project site is within the Airport Approach Overlay Zone (AEOZ) for Lindbergh Field operations. Pursuant to Section 132.0202, structures less than 30 feet high are exempt from further requirements of the AAOZ.

Condominium Conversions

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 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 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 regulations.

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 underground effort associated with this development would result in a short span (50 feet) of undergrounding and would require the addition or relocation of a power pole. The site is located in Residential District Block 2-Q, comprehensive undergrounding for the block will occur in 2010 (Attachment 7).

Affordable Housing

This project is subject to the requirements of the Citywide Inclusionary Housing Ordinance and the Coastal Overlay Zone Affordable Housing Replacement Regulations. The San Diego Housing Commission completed a tenant income survey of the existing residents which found the following existing conditions: one 2-bedroom unit occupied by low-income tenants and one 1-bedroom unit occupied by a moderate-income tenants.

Pursuant to the Coastal Overlay Zone Affordable Housing Replacement regulations (San Diego Municipal Code Sections 143.0810 through 143.0860) and based upon the results of the tenant income survey the project is required to provide one 2-bedroom unit at rents affordable to low-income households and one 1-bedroom unit at rents affordable to moderate-income households, or pay an in-lieu fee to the Housing Commission. The in-lieu fee for the one 2-bedroom, low income unit is \$30,800 and the one 1-bedroom, moderate-income unit \$12,800 for a total of \$43,600.

This project is also subject to the Inclusionary Housing requirements of the San Diego Municipal Code Chapter 14, Article 2, Division 13. The Inclusionary Housing regulations require that 10 percent of the units be affordable at 65 percent AMI for a minimum of 55 years or the applicant may pay an in-lieu fee of \$11,403 (based on 6,516 square feet of living space at a rate of \$1.75/square foot).

For projects that have both Inclusionary Housing and Coastal Affordable Housing requirements, The project is only subject to the more stringent of the two requirements, not both. In this case, The Coastal Affordable Housing In-Lieu fee of \$43,600 is more stringent .

Noticing

California State Law and the City's Municipal Code require that all tenants living within a proposed condominium conversion project, and all persons applying for a rental unit within such a project, must receive adequate notice (see California Government Code Section 66427.1 and San Diego Municipal Code Sections 125.0431 and 125.0640). The applicant has certified that the required 60-day Notice of Intent to Convert to Condominiums was provided to the tenants on January 20, 2005 (Attachment 8). Government Code 66452.3, requires that a copy of the staff report be served to each tenant, on each least 72-hours (three calendar days) prior to the public hearing.

CONCLUSION

Staff has reviewed the request for a Coastal Development and Tentative Map for the conversion of nine residential units into nine condominiums and has found the project to be in conformance with the applicable sections of the San Diego Municipal Code regulating Coastal Development Permits and Tentative Maps, including the Inclusionary Housing Regulations, Coastal Overlay Zone Affordable Housing Replacement Regulations and Council Policy 600-25, regulating undergrounding of existing overhead utilities. The project is exempt from CEQA review and has the support of the Ocean Beach Planning Board. Staff believes the required findings can be supported and recommends the Planning Commission approve the project as conditioned.

ALTERNATIVES

1. Approve Coastal Development Permit No. 86164; Tentative Map No. 86165; and waive the requirement to underground existing overhead utilities.
2. Deny Coastal Development Permit No. 86164; Tentative Map No. 86165; and waive the requirement to underground existing overhead utilities if the findings required approving the project cannot be affirmed.

Respectfully submitted,

Jeffery D. Strohminger
Assistant Deputy Director, Customer Support
and Information Division
Development Services Department

Patricia Grabski, AICP
Project Manager, Customer Support
and Information Division
Development Services Department

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Attachments:

1. Aerial Photograph
2. Location Map
3. Community Plan Land Use Map
4. Tentative Map
5. Project Data Sheet
6. Project Photographs
7. Underground Master Plan and Schedule
8. Sample 60-Day Notice
9. Draft Map Conditions and Subdivision Resolution
10. Draft Permit with Conditions
11. Draft Coastal Development Permit Resolution with Findings
12. Community Planning Group Recommendation
13. Ownership Disclosure Statement
14. Summary of Tenant's Benefits