

DATE ISSUED: September 8, 2005 **REPORT NO. PC-05-243**

ATTENTION: **Planning Commission, Agenda of September 15, 2005**

SUBJECT: MILLAZO CONDOMINIUMS - PROJECT NO. 43646
PROCESS FOUR

OWNER/

APPLICANT: Vista Court LTD., Owner (Attachment 9)
Michael Knapton, Engineer

SUMMARY

Issue: Should the Planning Commission approve Vesting Tentative Map No. 128329 to convert 250 residential units to condominiums on a 10.16-acre site located at 10024 Paseo Montril within the Rancho Penasquitos Community Planning area?

Staff Recommendation: Approve Vesting Tentative Map No.128329.

Community Planning Group Recommendation: The Rancho Penasquitos Community Planning Board met on October 6, 2004 and voted 9-2-1 to unconditionally recommend approval of this project (Attachment 8).

Environmental Review: The project is categorically 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 from a deposit account maintained by the applicant.

Code Enforcement Impact: None with this action.

Housing Impact Statement: With the proposed conversion of 250 existing apartments to condominiums, there would be a loss of 250 rental units and a gain of 250 for-sale units. The project is subject to the requirements of both the inclusionary housing

ordinance and the condominium conversion ordinance. In order to meet the requirements of the inclusionary ordinance, the applicant has indicated they will pay an in-lieu fee. In order to comply with the relocation requirements of the condominium conversion ordinance, a tenant survey will be completed to determine the income levels of the current tenants. Based upon the outcome of the survey, the applicant may be responsible for relocation benefits.

BACKGROUND

The 10.16-acre property is located at the northwest corner of Rancho Penasquitos Boulevard and Paseo Montril in the CV-1-1 zone of the Rancho Penasquitos Community Plan area (Attachments 1 & 2). The site is developed with 250 residential units in multiple buildings (Attachment 5). There are 160 one-bedroom and 90 two-bedroom units in the project. There are a total of 436 parking spaces on site within three (3) parking garages, open parking and tuck-under parking to support the project. Current criteria require only 420 on site spaces.

The 250-unit residential project was constructed in 1986/87 when the site was zoned CR (Commercial Recreation) and permitted up to 295 units. The site is currently zoned CV-1-1. This is the Commercial Visitor zone which replaced the earlier CR zone in January 2000 with the adoption of the Land Development Code. Under current regulations, residential development would be permitted only as a part of a mixed use (commercial/residential) project. However, the project has previously conforming rights to be maintained as outlined in Chapter 12, Article 7, Division 1, of the Land Development Code.

The surrounding neighborhood include single family residences to the west and commercial development consisting of the Rancho Villas apartments to the north, a Kinder Care and 7/11 convenience store to the south, and the Arbors – Assisted Living Facility and a gas station to the east. The neighborhood is fully developed with all street improvements and utilities existing and no new improvements are required for this application.

DISCUSSION

Project Description:

The project proposes a Vesting Tentative Map for the subdivision of a 10.16-acre site to convert 250 residential apartment units into condominiums on one existing lot (Attachment No. 5). Section 125.0410 of the San Diego Municipal Code (SDMC) requires a Tentative Map be processed for the subdivision of land. According to San Diego Municipal Code Section 144.0444, *Findings for Tentative Maps for Condominium Conversion*, 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. Municipal Code Section 125.0130 provides that a Vesting Tentative Map may be filed instead as provided by the

Subdivision Map Act (Section 66498.1). Staff reviewed the proposed condominium conversion, and determined it complies with both the Subdivision Map Act and the Municipal Code.

The construction of the existing 250 unit apartment project (the "Project") was financed with the proceeds from the sale of certain bonds (the "Bonds") issued by the Housing Authority of the City of San Diego. In connection with the issuance of the Bonds, the Project is currently subject to the Amended and Restated Regulatory Agreement and Declaration of Restrictive Covenants between the Housing Authority of the City of San Diego, U.S. Bank Trust National Association and Vista Court Ltd, a California limited partnership (the "Regulatory Agreement", Attachment 11). The Regulatory Agreement specifically allows at any time the obtaining and recording of a condominium plan and map for the project and the processing of a white report with the California Department of Real Estate. Under the Regulatory Agreement, the Project was also required to provide for occupancy by lower income tenants in at least twenty percent of the units. Under the terms of the Regulatory Agreement, this requirement expires as of July 1, 2005.

As a condition of the approval of the Vesting Tentative Map and filing of the final map, a restriction running with the land, as approved and drafted by General Counsel for the Housing Commission, must be recorded against the property providing that no low income tenant's occupancy may be terminated during the term of the bond regulatory agreement and for one year thereafter. Further said restriction shall provide that no low income unit may be sold, until the bond affordability term plus one year has terminated. Following the termination of the Regulatory Agreement, the proposed conversion of the project to condominium units will be entirely financed by private entities and no governmental or public funds will be utilized in connection with said conversion.

San Diego Municipal Code §125.0444 (b) and (c) require that the decision maker must find that "the project was not financed by funds obtained from a governmental agency to provide for elderly, disabled, or low income housing;" and that "For any project that was developed to provide housing for the elderly, disabled or to provide low-income housing, provisions have been made to perpetuate the use for which the project was developed." After receiving City building permits in 1986 and 1987, the project was built. There is no mention made in any of the approved drawings or other documentation available regarding this project that identifies it as being approved by the City in order to provide low-income housing. "Project," as used in subsections (b) and (c) refer to that development previously approved by the City. In this case, the project, as previously approved by the City, was neither financed by government agency funds nor was it approved for the purpose of providing low-income housing.

Project-Related Issues:

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 Condominiums were provided to the tenants on July 28, 2004 (Attachment 7).

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 July 15, 2004, and is therefore subject to these new regulations. The project has been conditioned to require the subdivider to 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.

Conclusion:

Staff has reviewed the request for a Vesting Tentative Map for the subdivision of land for the conversion of 250 residential apartment units into a condominium project, and found the project is in conformance with the applicable sections of the San Diego Municipal Code regulating Vesting Tentative Maps. Staff believes the required findings can be supported and recommends the Planning Commission approve the project as proposed.

ALTERNATIVES

- 1. Approve Vesting Tentative Map No. 128329, with modifications.**
- 2. Deny Vesting Tentative Map No. 128329, if the findings required to approve the project cannot be affirmed.**

Respectfully submitted,

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

Robert P. Tucker
Development Project Manager
Development Services Department

STROHMINGER/RPT

Attachments:

1. Aerial Photograph
2. Community Plan Land Use Map
3. Project Location Map
4. Project Data Sheet
5. Vesting Tentative Map
6. Draft Map Conditions and Subdivision Resolution
7. Certification of Tenant Notice for Condominium Map
8. 60-Day Notice Mailed to Tenants
9. Summary of Tenant Benefits
10. Community Planning Group Recommendation
11. Ownership Disclosure Statement
12. Project Chronology
13. Regulatory Agreement