

DATE ISSUED: January 19, 2006 **REPORT NO. PC-06-012**

ATTENTION: **Planning Commission, Agenda of January 26, 2006**

SUBJECT: **THIRD AVENUE TENTATIVE MAP AND PUBLIC RIGHT-OF-WAY VACATION - PROJECT NO. 33105, PROCESS FIVE**

OWNER: Stone Meadows, LLC, Judy Preston, Ann Garwood and Nancy Moors, members

APPLICANT: Stone Meadows, LLC, c/o Bankers Hill Properties, Attention: Judy Preston

SUMMARY

Issue(s): Should the Planning Commission recommend to the City Council approval of a Tentative Map for the conversion of five (5) existing residential apartment units into condominiums, a waiver of the requirement to underground the existing overhead utilities and a Street Vacation at 3065 Third Avenue, in the RS-1-1 zone, within the Uptown Community Plan area?

Staff Recommendation:

1. Recommend **Approval** of Tentative Map No. 143420 and
2. Recommend **Approval** of Public Right-of-Way Vacation No. 143422; and
2. Recommend **Approval** of a waiver of the requirement to underground the existing overhead utilities.

Community Planning Group Recommendation: On November 2, 2004, the Uptown Community Planning Committee voted 14-0-1 to recommend approval of the project with their five standard 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). A valid appeal of the environmental determination has not been filed.

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 five existing apartments to condominiums, there would be a loss of five rental units and a gain of five for-sale units. This condominium conversion project was deemed complete on June 21, 2004, 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 \$9,231 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 0.32-acre site is located at 3065 Third Avenue (Attachment 1), on the east side of Third Avenue, between Quince Street and Redwood Street, in the RS-1-1 zone, within the Uptown Community Plan (Attachment 3). The RS-1-1 zone is intended to provide for single-family development. The Uptown Community Plan designates the site for residential development at 10-15 dwelling units per acre. The site is presently developed with a two story multi-family structure which was constructed in 1910. The building contains three, one-bedroom units and two, two-bedroom units, for a total of five units. The site is currently developed with five surface parking spaces which are located just west of the project site in an area that is currently designated as public right-of-way for Third Avenue. A public right-of-way vacation to vacate the undeveloped portion of Third Avenue which includes this parking area, has been included in the project scope.

On May 2, 1994, the City Council approved a public right-of-way vacation for this area of Third Avenue, from Redwood Street to Quince Street. A condition of this May 2, 1994 vacation was that the applicant relocate an existing onsite water meter. The approval issued by the City Council on May 2, 1994 required that this condition be satisfied within eighteen months or the approval would expire. The applicant did not relocate the water meter, therefore, the approval of the public right-of-way vacation expired. A new public right-of-way vacation request has been included as a part of this project. Please note this new vacation request has been enlarged from the original 1994 request to include 40 additional feet to the north, which would allow the inclusion of the existing parking area for this site. The requested street vacation has been reviewed and accepted by City staff from all relevant departments and is discussed in greater detail in the *Project Description* section of this document.

No parking spaces were required when the building was constructed in 1910, however, five parking spaces are currently provided in the undeveloped portion of the Third Avenue right-of-way, which is proposed for vacation as a part of this project. Utilizing current development standards, seven parking spaces would be required. The project is surrounded by multi-family residential development to the north and west and City-owned open space to the east and south.

The site was incorporated into the RS-1-1 zone in May 198 . There was no official zoning designation for this site when the original structure was built in 1910. However, in 1930, the site was zoned R-4, which would have allowed the construction of the five units onsite. Under current development standards, one unit could be built on the subject property. Although the existing five 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.

DISCUSSION

Project Description:

The project proposes a Tentative Map for the subdivision of a 032 -acre site to convert five 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.

The applicant is also requesting a public right-of-way vacation for a portion of the undeveloped Third Avenue right-of-way which extends from Redwood Street to Quince Street. The undeveloped portion of the Third Avenue right-of-way measures approximately 340 feet by 80 feet. The vacation request is for roughly the eastern half of the existing undeveloped right-of-way. The western half not included in this vacation would remain as dedicated right-of-way to allow ingress and egress for the properties located to the west. The southern 200 feet of the proposed vacation would abut City-owned open space. The vacated right-of-way adjacent to this open space parcel would revert to the City and enlarge the existing open-space parcel. The proposed vacation incorporates the reservation of a general utility access and slope easement on the southern 200 feet of the vacated area, as is shown on the vacation exhibit (Attachment 6).

The segment of Third Avenue proposed for vacation has remained unimproved primarily due to its alignment over the steep slopes of the adjoining canyon area. The northern portion of the area to be vacated is currently utilized as the front-yard and parking area for the subject property. The existing improvements on the developed portions of Third Avenue and Redwood Street would not be altered and traffic flow and on-street parking areas would remain as currently configured.

A previous property owner of the project site processed a Public Right-of-Way Vacation for this portion of Third Avenue, which was approved by the City Council on March 30, 1994. A condition of this previously approved vacation was that the water meter which serves the project

site be relocated into the public right-of-way within 18 months of the date of approval. This condition was never completed therefore, the approved vacation was voided. The current vacation proposal has been enlarged from the 1994 vacation approval by 40 feet to the north to encompass the existing five-space parking area utilized by the project site. City staff has reviewed the requested vacation and the previously approved vacation and is supportive of the project as proposed.

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 power poles located along the alley right-of-way at the rear of the property. One power pole, which serves multiple properties, is located at the northeast corner of the site. The City's Undergrounding Master Plan for Fiscal Year 2006 designates the site within Block 2B, which does not have a scheduled date for undergrounding (Attachment 10).

COMMUNITY PLANNING GROUP RECOMMENDATION

On November 2, 2004, the Uptown Community Planning Committee voted 14-0-1 to approve the project with five conditions, which are listed below (Attachment 7).

1. *Provide New and Appropriate Landscaping as Needed:* The existing structure includes substantial landscaped areas. No additional landscaping would be provided as no additional development is proposed.
2. *Place all new utilities and backflow preventers outside of the public right-of-way and shielded from view:* As described in the project conditions, these devices must be installed to the satisfaction of the City Water Department Director and may not be placed in the public right-of-way.
3. *Replace all adjacent sidewalk, curb and gutter:* The LDR-Engineering section has included a project condition that requires the applicant to replace the existing sidewalk, driveways and curb ramp along the Third Avenue frontage.

4. *Save Historic sidewalk stamps and scoring:* The Land Development Code requires the preservation of all historic sidewalk markers.
5. *Deny request to waive undergrounding of utilities:* The applicant's request to waive the requirement to underground existing overhead utilities was reviewed by Engineering staff, who determined that the waiver request meets the requirements of City Council Policy 600-25.

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 September 14, 2005 (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 June 21, 2004, 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 \$9,231 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 five 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 has also reviewed the request for a Public Right-of-Way Vacation and has not identified a need to retain this public right-of-way. The proposed vacation would expand the area of the abutting City-owned open space lot and not adversely affect any applicable land use plans. The purpose for which this right-of-way was originally acquired has been fully improved and utilized within the currently developed Third Avenue and Redwood Street rights-of-way, which would be retained.

Staff believes the required findings can be supported and recommends the Planning Commission recommend approval the project as proposed.

ALTERNATIVES

1. **Approve** Tentative Map No. 143420; and Public Right-of-Way Vacation No. 143422, **with modifications.**
2. **Deny** Tentative Map No. 143420; and Public Right-of-Way Vacation No. 143422, **if the findings required to approve the project cannot be affirmed.**

Respectfully submitted,

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Development Project Manager,
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STROHMINGER/PBG

Attachments:

1. Aerial Photo
2. Community Plan Land Use Map
3. Project Location Map
4. Project Data Sheet
5. Tentative Map
6. Public Right-of-Way Vacation
7. Draft Map Conditions and Subdivision Resolution
8. Draft Public Right-of-Way Vacation Resolution
9. Previous Right-of-Way Vacation Documentation
10. Community Planning Group Recommendation
11. Ownership Disclosure Statement
12. Project Chronology
13. City's Undergrounding Master Plan – Map 2B
14. Copy of Tenant Notices