

**DATE ISSUED:** March 23, 2006                      **REPORT NO. PC-06-066**

**ATTENTION:**        **Planning Commission, Agenda of March 30, 2006**

**SUBJECT:**            VISTA DIEGO- PROJECT NO. 59986  
PROCESS FIVE

**OWNER:**              1858 San Diego Avenue, LLC

**APPLICANT:**        Greg Smith

**SUMMARY**

**Issue:** Should the Planning Commission RECOMMEND to the City Council approval of an Affordable/In-Fill Housing Expedite Project to demolish an existing auto repair services office, repair garage, and two existing carports to construct a new 35,813 square-foot, four-story, mixed-use development containing 11 for-sale residential units and two commercial retail spaces on a 14,506-square-foot site located at 1858 and 1866 San Diego Avenue within the Uptown Community Planning Area?

**Staff Recommendation:**

1. Recommend that the City Council **CERIFY** Mitigated Negative Declaration No. 59986, and **ADOPT** Mitigation, Monitoring and Reporting Program (MMRP);
2. Recommend that the City Council **APPROVE** Site Development Permit No. 177769;
3. Recommend that the City Council **APPROVE** Tentative Map No. 177770;
4. Recommend that the City Council **APPROVE** Public Right-Of-Way Use Permit No. 305646and
5. Recommend that the City Council **APPROVE** Angle Parking on San Diego Avenue.

**Community Planning Group Recommendation:** On October 4, 2005, the Uptown Planners voted 4-8-1 on a failed motion to approve the project. A second motion to deny the height deviation passed with a vote of 7-5-1 (Attachment 25).

**Environmental Review:** A Mitigated Negative Declaration has been prepared for the project in accordance with State of California Environmental Quality Act (CEQA) guidelines, which address potential impacts to Noise, Paleontological Resources, and Historical Resources (Archaeology). A Mitigation, Monitoring and Reporting Program would be implemented with this project to reduce the impacts to a level below significance.

**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:** The project proposes to demolish the existing buildings on site for the construction of a mixed-use development containing 11 for-sale residential units and two commercial retail spaces. The proposed project site, occupying 0.336 acres, could accommodate between 5 and 10 dwelling units based on the Uptown Community Plan designation for the site at 15-29 dwelling units/per acre (du/ac). However, with an Affordable Housing Density Bonus component the site could accommodate 11 dwelling units.

As a component of the application, the proposed project would conform with the Inclusionary Affordable Housing Requirements and Council Policy 600-27(A) criteria for the Affordable/In-Fill Housing Expedite Program by setting aside at least 10 percent (minimum one unit) of the total for-sale dwelling units on-site for households with an income at or below 100 percent Area Median Income (AMI), currently \$63,400 for a family of four. The proposal would help the City address its shortage of affordable housing during a time when the City Council has determined that the City of San Diego is in a Housing State of Emergency.

## **BACKGROUND**

The proposed project site is located at 1858 and 1866 San Diego Avenue on the corner of California Street and San Diego Avenue, east of Interstate 5 (Attachment 1). The site is located within the Uptown Community Plan (Attachment 3), the CL-6 Zone of the Mid-City Communities Planned District (Attachment 4), and the Airport Approach Overlay Zone (AAOZ) (Attachment 5). The zoning designation provides for automobile oriented commercial districts in which residential or mixed-use development is also encouraged and allows for one-unit per 1,500 square foot of lot area. The project site, occupying 0.336 acres, could accommodate 10 dwelling units based on the zoning designation, and between 5 and 10 dwelling units based on the Uptown Community Plan designation for the site at 15-29 dwelling units/per acre (du/ac). However, with an Affordable Housing Density Bonus component, the site could accommodate 11 dwelling units based on the zoning designation and the community plan.

The project site is a triangular lot with frontage on San Diego Avenue and California Street. The majority of the site is relatively flat; however, steep slopes occur along the northeastern edge of the site. These slopes descend from California Street down to the flat portion of the site at inclinations ranging from approximately 2:1 to near vertical. The slopes vary from approximately five feet high at the southeastern corner of the site to nearly 35 feet high at the northwestern corner of the site. The site is currently developed with an auto repair services office, an auto repair garage, and two existing carports.

The subject property is immediately surrounded by commercial/retail development to the north and west along San Diego Avenue, a single family residence to the north along California Street, and a two and three-story multi-family development over parking that is directly to the east along California Street (Attachment 7). Land use designations for the areas adjacent to the site are predominantly commercial/mixed-use (CL-6) and multi family residential (MR-1500) along San Diego Avenue, multi-family residential (MR-1500) to the east, and single family residential (R-1-7) to the north along California Street.

## **DISCUSSION**

### **Project Description:**

The project proposes to demolish the existing auto repair services office, the auto repair garage, and two existing carports, and consolidate the three parcels into one lot for the construction of a mixed-use development containing 11 for-sale residential units and two commercial retail spaces. The proposed first floor would contain a grade level parking garage with 15 parking spaces and two commercial condominiums, and the second floor would contain a parking garage with 12 parking spaces and three residential condominiums. The proposed third and fourth floors would contain four flat residential condominiums and four town home condominiums.

The first floor parking garage would be accessed off San Diego Avenue and the second floor parking garage would be accessed off California Street. The estimated overall trip generation for the mixed-use development is 244 Average Daily Trips (ADT) with 12 trips during the AM peak hour and 23 trips during the PM peak hour. A total of 27 off-street parking spaces and 4 motorcycle spaces would be provided where 27 are required (total includes guest parking).

An existing San Diego Gas and Electric gas main is located within the public right-of-way under the eastern sidewalk along San Diego Avenue, fronting the proposed development. The gas main would interfere with the minimum root clearance requirement for any proposed street tree. As an alternative, the proposed project would remove four on-street parallel parking spaces and construct 12 on-street angle parking spaces with five landscaped islands on San Diego Avenue. These landscaped islands would provide the planting area required for the project to be in conformance with the City's *Land Development Manual -Landscape Standards*, and provide for additional on street parking for the surrounding community. To improve traffic flow, the traffic island at the intersection of San Diego Avenue and California Street would be reconfigured and landscaped, and the existing San Diego Transit bus stop at the corner would be relocated to the corner of San Diego Avenue and Pringle Street.

Development of the proposed project requires the approval of a Site Development Permit (SDP) for development within the Mid-City Communities Planned District and for deviations to the regulations (height, front yard setback, interior side yard setback, and street yard setback); Tentative Map (TM) for condominium units (residential and commercial); Public Right-of-Way (ROW) Use Permit for the reconfigured and landscaped traffic island at the intersection of San Diego Avenue and California Street; and for Angle Parking. The City Council may by resolution permit angle parking on any street pursuant to Chapter 8, Article 6, Division 0, Section 86.03 of the San Diego Municipal Code (Attachment 8).

### **Community Plan Analysis:**

The project site is located within the Middletown neighborhood of the Uptown Community Plan which designates the site for commercial and residential use that allows for 15-29 dwelling units/per acre (du/ac). According to the plan, the proposed project, occupying 0.336-acre, could accommodate between 5 and 10 dwelling units; however, with an Affordable Housing Density Bonus component, the site could accommodate 11 dwelling units. The proposal to construct a mixed-use development containing 10 for-sale residential units, one affordable for-sale residential units, and two commercial retail spaces, implements the community plan's Land Use Element.

The Urban Design Element of the community plan specifically focuses on the commercial area along San Diego Avenue and encourages the development of commercial use in this area since it is visually and physically accessible to Interstate 5 and aids in buffering freeway noise. A specific objective identified within the community plan is to "preserve views on the western slopes" (Attachment 10- Page 112- Objective No.2). This objective is to preserve the public views and is not intended to preserve the individual property owner views. Figure 31 of the community plan shows the project site to be just outside of the public view triangle (Attachment 10). In addition, Figure 32 of the community plan (Attachment 10) shows the northeastern tip of the project site (estimate 5-10%) is located within a 30-foot height limit area along California Street, but the remaining portion of the project site (estimate 90-95%) is not located within this 30-foot height limit area (Attachment 11). However, the CL-6 Zone of the Mid-City Communities Planned District does have a 30-foot height limit. The applicant is requesting a height deviation, which is discussed in greater detail in the *Project Related Issues* section below.

The project site has a considerable grade change between California Street and San Diego Avenue, with slopes on the California Street side of the site while the site is essentially flat on the San Diego Avenue side. Since the San Diego Avenue side of the project site is a valley at the bottom of the westerly slopes, the California Street side would have potential views. The proposed building height would fit within the 30-foot height limit from both California Street and San Diego Avenue at the southern end of the site. Although the project requests a deviation for height along San Diego Avenue and portions along California Street, no public views would be affected because San Diego Avenue is lower than California Street. In addition, the proposed building would provide multiple public view slots in the western direction along California Street; therefore, there would be no significant impact to public views.

The surrounding character of the community is composed of primarily multi-family development to the east, single-family development to the north, and commercial to the west. Architectural harmony with the surrounding neighborhood and community would be achieved by providing a number of elements including: ground floor unit entries and patio features, enhanced facade articulation and increased retail transparencies, historically-scored sidewalks, new street trees to line the parkways of all street frontages, and by enlisting a variety of building materials that can also be found in the neighborhood; therefore, the proposed project would substantially conform to the existing neighborhood character.

### **Community Planning Group Recommendation:**

On October 4, 2005, the proposed project was presented to the Uptown Planners where community members spoke in opposition to the project. The group first voted on a motion to approve the project, which failed in a vote of 4-9-0. A second motion, "To deny the project based on the objection to the height deviation sought which would violate the height limitation for the location contained in the Uptown Community Plan," was approved in a vote of 7-5-1 (Attachment 25). The Board motion was solely based on the height limitation issue; other issues were discussed but not included in the motion.

As discussed above, Figure 32 of the community plan shows the northeastern tip of the project site (estimate 5-10%) is located within a 30-foot height limit area along California Street, but the remaining portion of the project site (estimate 90-95%) is not located within this 30-foot height limit area. Although the project requests a deviation for height along San Diego Avenue and portions along California Street, no public views would be affected because San Diego Avenue is lower than California Street. In addition, in response to the Uptown Planners and the community issue regarding the height, the building height was reduced by 10 feet 8 inches by omitting one floor located at the northern property line and by providing multiple public view slots through the building in the western direction along California Street.

### **Environmental Analysis:**

A Mitigated Negative Declaration has been prepared for the project in accordance with State of California Environmental Quality Act (CEQA) guidelines, which addresses potential impacts and a Mitigation, Monitoring and Reporting Program would be implemented with this project to reduce the impacts to a level below significance. The following environmental issues were considered during review and determined to be significant (Noise, Paleontological Resources, and Historical Resources -Archaeology).

Noise - A noise report titled, "Noise Technical Report, Vista Diego, City Home", dated August 2, 2005, was prepared by URS for the proposed project. The project site is located outside the 60 CNEL noise contour for San Diego Lindbergh Field. Therefore, the primary noise source would be vehicular traffic on Interstate 5 and secondary noise sources from vehicular traffic on San Diego Avenue and California Street. According to the report, future (year 2030) exterior noise levels from vehicular traffic would range from approximately 80 dBA CNEL at the upper southern façade of the building to 70 dBA CNEL at the lower northern façade of the building. Exterior noise levels exceeding 65 dBA CNEL at required outdoor useable areas would be

considered a significant impact. In addition, because portions of the project would be exposed to noise levels exceeding 60 dBA CNEL, interior noise levels could exceed 45 dBA CNEL, which would also be considered a significant impact. Mitigation measures outlined in Section V. of the Mitigated Negative Declaration would ensure that both exterior and interior noise levels would be reduced to below a level of significance.

Paleontological Resources - The project area is underlain with Point Loma Formation, a geologic formation that has produced diverse and well-preserved assemblages of marine invertebrate fossils, as well as rare dinosaur remains. Therefore, the Point Loma Formation has been assigned a high paleontological resource sensitivity. Based on the sensitivity of the formation and the proposed excavation depth of over ten feet, the project could result in significant impacts to paleontological resources. To reduce this impact below a level of significance, excavation within previously undisturbed formations shall be monitored by a qualified paleontologist or paleontological monitor. Any significant paleontological resources encountered shall be recovered and curated, as outlined in Section V. of the Mitigated Negative Declaration. These measures would ensure that any impacts to paleontological resources would be reduced to below a level of significance.

Historical Resources (Archaeology) - The project site is located in an area of high cultural and historical resource sensitivity. In addition, several known archaeological sites are located within a mile of the project site. Due to the proximity of known archaeological resources, the construction of the proposed project could have a significant impact to historical resources. To reduce this impact below a level of significance, all grading and excavation activities shall be monitored by a qualified archaeologist. Any significant archaeological resources encountered shall be recovered and curated, as outlined in Section V. of the Mitigated Negative Declaration. These measures would ensure that any impacts to archaeological resources would be reduced to below a level of significance.

Other Environmental Issues - The environmental issues for Aesthetic/Neighborhood Character, Hazardous Materials, Geology, and Land Use were considered during review and determined not to be significant, as outlined in Section IV. of the Mitigated Negative Declaration.

### **Project-Related Issues:**

Airport Approach Overlay Zone - The project site is located within the Airport Approach Overlay Zone (AAOZ) for San Diego International Airport. The Federal Aviation Administration (FAA) performed an aeronautical study on the five corners of the proposed building, which was submitted as a five-story building with a maximum height at 133 feet above mean sea level. On September 29, 2005, the FAA concluded that “the structure does not exceed obstruction standards and would not be a hazard to air navigation,” and issued “Determination of No Hazard to Air Navigation” letters for all five corners of the proposed building (Attachment 18). On November 10, 2005, the San Diego County Regional Airport Authority, Airport Land Use Commission issued a letter which determined that the project site is located outside the Airport Influence Area and therefore, does not require an Airport Land Use Commission consistency determination (Attachment 19).

The proposed project has been revised since the FAA determination to a four-story building with a maximum height of 122 feet 4 inches above mean sea level (Attachment 20). The applicant worked with City staff regarding reducing the height, bulk and scale, and by revising the design features to be more architecturally in harmony with the surrounding neighborhood. In direct response to the Uptown Planners and the community issue regarding the height, the building height was reduced by 10 feet 8 inches by omitting one floor located at the northern property line. Since the proposed height is less than what was approved by the FAA, a new FAA determination would not be required.

Density Bonus Deviations and Senate Bill No.1818 - On January 1, 2005, Senate Bill No. 1818 (SB 1818) became effective, which amended Government Code Section 65915 to make numerous changes relating to the provisions of affordable housing and density bonuses (Attachment 21). Government Code Section 65915 requires local governments to provide residential developers with incentives or concessions if the developer agrees to construct affordable housing. The project proposes to demolish the existing buildings on site for the construction of a mixed-use development containing 11 for-sale residential units and two commercial retail spaces. The project contains an Affordable Housing Density Bonus component and would be setting aside at least 10 percent (minimum one unit) of the total for-sale dwelling units on site for households with an income at or below 100 percent AMI. The proposal would be considered a “moderate income” development based on the 100 percent AMI.

Government Code Section 65915(d)(2)(A) requires the granting of one concession or incentive for projects that include at least 10 percent for persons and families of moderate income in a condominium or planned development. Government Code Section 65915(l) clarifies the definition of concession or incentive to mean those reductions in development standards, zoning code requirements, design requirements or regulatory incentives or concessions that result in identifiable, financially sufficient and actual cost reductions. The applicant is requesting a concession or incentive to the 30-foot height limit regulation within the CL-6 Zone of the Mid-City Communities Planned District. See greater detail in the *Height Deviation* section below.

Pursuant to Government Code Section 65915(d)(1), the City shall grant the concession or incentive requested by the applicant unless the City makes a written finding, based upon substantial evidence, of either of the following:

- (A) The concession or incentive is not required in order to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for the targeted units to be set as specified in subdivision (c) (Attachment 22).
- (B) The concession or incentive would have a specific adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety of physical environment or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households (Attachment 23).

Height Deviation - The proposed four-story building includes a maximum 15 foot 6 ½ inches of height deviation for a total of 45 feet 6 ½ inches where 30 feet is the maximum building height

allowed within the zone. The applicant worked with City staff regarding height, bulk and scale, and the architectural harmony with the surrounding neighborhood. The building height was reduced from the original submittal by 10 feet 8 inches by omitting one floor located at the northern property line, reduced the bulk and scale, and revised the setbacks (Attachment 20).

The applicant is requesting a deviation from the 30-foot height limit regulation pursuant to Government Code Section 65915. Based upon substantial evidence listed above, which includes the FAA determination and the Mitigated Negative Declaration that has been prepared for the project, staff has determined that the deviation poses no adverse impact upon public health and safety or the physical environment. In addition, the existing structures located on the site have been determined not to be of historical significance and are not listed in the California Register of Historical Resources. The requested deviation is required to provide the affordable housing unit, without the deviations the project would lose one full unit and reduce four-units to one-bedroom units and would make the project economically infeasible. Therefore, the finding identified in Government Code Section 65915(d)(1) to deny the request cannot be made. Pursuant to Government Code Section 65915, the City shall grant the deviation to the 30-foot height limit regulation as requested by the applicant, upon approval of the proposed development.

Front Yard Deviations - The project site is a triangular lot with frontage on San Diego Avenue and California Street. The narrowest street frontage is along San Diego Avenue, and pursuant to Section 113.0246 of the San Diego Municipal Code (SDMC), is designated as the front yard with a minimum 10-foot setback. In addition, every story or portion of a story above the second story along the front yard shall be set back an additional six feet, calculated from the minimum requirement for the story below.

The applicant is requesting a nine foot deviation on the first and second levels, a 15-foot deviation on the third level, and a 21-foot deviation for a portion of the fourth level along San Diego Avenue. The Urban Design Element of the community plan specifically focuses on the commercial area along San Diego Avenue and encourages the development of commercial use in this area. The community plan recommends preserving and expanding pedestrian-oriented commercial uses; improving pedestrian safety, access, and circulation within the commercial areas; and that these areas should be higher intensity use areas that act as both visual and activity focal points. The subject property is immediately surrounded by commercial/retail development to the north and west along San Diego Avenue. Land use designations for the areas adjacent to the site are predominantly commercial/mixed-use (CL-6) and multi family residential (MR-1500) along San Diego Avenue. To achieve these goal and recommendations, the constraints of the site and to be in architectural harmony with the surrounding neighborhood, staff is able to support the requests.

Street Yard and Interior SideYard Deviations - The project site is a triangular lot with frontage on San Diego Avenue and California Street. The narrowest street frontage is along San Diego Avenue and pursuant to Section 113.0246 of the SDMC, California Street is designated as the street yard with a minimum 10-foot setback. The north property line is designated as an interior side yard with a minimum six-foot setback. The site has a considerable grade change between California Street and San Diego Avenue, with an approximate 35-foot grade differential.



The applicant is requesting a nine foot deviation to the street yard on the first and second levels for that portion of the building that is above grade , and a maximum four-foot deviation to the street yard on the third and fourth levels for that portion of the building along California Street. In addition, the applicant is requesting a four-foot eleven-inch deviation to the interior side yard on the first and second levels for the portion of the building that is above grade and a maximum one-foot deviation to the interior side yard on the third and fourth levels. The surrounding character of the community is composed of primarily multi-family development to the east, single-family development to the north, and commercial to the west. The single-family development along the western portion of California Street contains reduced front yards due to the constraints of the site and the slopes. The applicant worked with City staff regarding reducing the height, bulk and scale, and by revising the design features to be more architecturally in harmony with the surrounding neighborhood. In direct response to the Uptown Planners and the community issue regarding the height, the building height was reduced by 10-feet 8-inches by omitting one floor located at the northern property line and revising the setbacks; therefore, staff is able to support the requests.

### **Community Interest:**

The proposed project has generated community opposition in the form of two petitions with approximately 47 signatures (Attachment 24). The cover letter identifies the community issue and opposition to the proposed project is the height of the building. The Development Services Department received the petitions in August 2005 and in accordance with SDMC Section 112.0302(b), all persons who signed the petitions were sent a Notice of Public Hearing.

As discussed above, since receiving the petitions the building height was reduced by 10-feet 8-inches by omitting one floor located at the northern property line and by providing multiple public view slots through the building in the western direction along California Street. The applicant is requesting a deviation from the 30-foot height limit regulation within the CL-6 Zone of the Mid-City Communities Planned District pursuant to Government Code Section 65915.

### **Critical Project Features to Consider During Substantial Conformance Review**

- Height, Bulk and Scale – The building design and/or site design should be fully analyzed for any revisions to the building height and/or the bulk and scale of the building to ensure the changes would be in architectural harmony with the surrounding neighborhood and community.

### **Conclusion:**

The proposed project site is located within the Middletown neighborhood of the Uptown Community Plan and the CL-6 Zone of the Mid-City Communities Planned District. The zoning designation provides for automobile oriented commercial districts in which residential or mixed-use development is also encouraged and allows for one unit per 1,500 square foot of lot area. The project site, occupying 0.336-acres, could accommodate 10 dwelling units based on the zoning designation, and between 5 and 10 dwelling units based on the Uptown Community Plan

designation for the site at 15-29 dwelling units/per acre (du/ac). However, with an Affordable Housing Density Bonus component, the site could accommodate 11 dwelling units (with one affordable unit) based on the zoning designation and the community plan.

The proposal to construct a mixed-use development containing 11 for-sale residential units and two commercial retail spaces, implements the many goals and recommendations within the community plan. In addition, the project would conform to the Inclusionary Affordable Housing Requirements and Council Policy 600-27(A) criteria by setting aside at least 10 percent of the total for-sale dwelling units on-site for households with an income at or below 100 percent AMI. The proposal would help the City address its shortage of affordable housing during a time when the City Council has determined that the City of San Diego is in a Housing State of Emergency.

**ALTERNATIVES:**

1. Recommend that the City Council **CERIFY** Mitigated Negative Declaration No. 59986, and **ADOPT** Mitigation, Monitoring and Reporting Program (MMRP); **APPROVE** Site Development Permit No. 177769; **APPROVE** Tentative Map No. 177770; **APPROVE** Public Right-Of-Way Use Permit No. 305646 and **APPROVE** the Angle Parking, **with modifications.**
2. Recommend that the City Council **DO NOT CERIFY** Mitigated Negative Declaration No. 59986, and **DO NOT ADOPT** Mitigation, Monitoring and Reporting Program (MMRP); **DENY** Site Development Permit No. 177769; **DENY** Tentative Map No. 177770; **DENY** Public Right-Of-Way Use Permit No. 305646 and **DENY** the Angle Parking, **if the findings required to approve the project cannot be affirmed.**

Respectfully submitted,

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

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**Jeffrey A. Peterson**  
**Development Project Manager**  
**Development Services Department**

STROHMINGER/JAP

Attachments:

1. Aerial Photograph
2. Project Location Map
3. Community Plan Land Use Map
4. Zoning Map

5. Airport Approach Overlay Zone (AAOZ) Map
6. Project Data Sheet
7. Project Site Photos
8. SDMC- Section 86.03
9. Project Plan
10. Middletown - Uptown Community Plan
11. Middletown - Uptown Community Plan – Overlay Zones (Enlarged Figure 32)
12. Draft Planning Commission Recommendation to City Council Resolution
13. Draft TMD Conditions and Subdivision Resolution
14. Draft SDP and Public ROW Use Permit with Conditions
15. Draft SDP and Public ROW Use Permit Resolution with Findings
16. Draft Angle Parking Resolution
17. Draft Resolution for Certification of the MND
18. FAA Determination Letters
19. Airport Authority Letter
20. Original and Revised Building Elevations
21. SB 1818 (includes revision to Government Code Section 65915)
22. Health and Safety Code Section 50052.5
23. Government Code Section 65589.5
24. Opposition Petitions
25. Community Planning Group Recommendation
26. Ownership Disclosure Statement
27. Project Chronology