

**DATE ISSUED:** April 7, 2006 **REPORT NO. PC-06-099**

**ATTENTION:** **Planning Commission, Agenda of April 13, 2006**

**SUBJECT:** 4140 38<sup>TH</sup> STREET TENTATIVE MAP – PROJECT NO. 81036  
PROCESS FOUR

**OWNERS:** 4140-4152 38<sup>th</sup> Street Properties, LLC. (Attachment 8)

**APPLICANT:** Sterling Land Services

**SUMMARY**

**Issue:** Should the Planning Commission approve a Tentative Map for the conversion of 7 existing residential units to condominiums at 4140-4152 38th Street in the City Heights neighborhood of the Mid-City Communities Plan?

**Staff Recommendation:**

1. **Approve** Tentative Map No. 257705 and
2. **Approve** waiver to the requirement to underground existing overhead utilities.

**Community Planning Group Recommendation:** The City Heights Planning Committee voted 10-4-1 to recommend approval of the project on November 0 , 2005, with recommendations as detailed within this report. (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). This project is not pending an appeal of the environmental determination. The environmental exemption determination for this project was made on September 12, 2005, and the opportunity to appeal that determination ended October 3, 2005.

**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:** With the proposed conversion of 7 existing apartments to condominiums, there would be a loss of 7 rental units and a gain of 7 for-sale units. This condominium conversion project was deemed complete on August 29, 2005, and is therefore subject to the new regulations regarding Inclusionary housing and tenant relocation assistance.

## **BACKGROUND**

The 0.24-acre site is located at 4140 38th Street in the RM-2-5 Zone of the Central Urbanized Planned District within the City Heights neighborhood of the Mid-City Communities Plan (Attachment 3). The site is presently developed with 7, one-story structures containing 1, two-bedroom unit and 6, one-bedroom units. Six off-street parking spaces are provided in garages on the site: all are accessed from the alley at the rear. The site is bounded on all sides by multi-family residential uses.

The existing improvements for 4140 through 4146 were constructed in 1926 and 4138 through 4150 were constructed in 1928. There were no zoning or parking regulations at the time of construction. The development complied with the zoning and development regulations in effect at the time of construction and no Building or Zoning code violations have been recorded against the property.

The project does conform with the current density requirement of one unit per 1500 square feet in the RM-2-5 Zone, which would allow for 7 units. Under current criteria, 11 off-street parking spaces would be required. The project has previously-conforming rights to be maintained as outlined in Chapter 12, Article 7, Division 1 of the Land Development Code.

## **DISCUSSION**

### **Project Description:**

The project proposes a Tentative Map for the subdivision of a 0.24-acre site to convert seven existing dwelling units into condominiums on three existing lots (Attachment 5). The applicant is also requesting that the requirement for the undergrounding of 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 of Existing Utilities

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*, the conversion involves a short span of overhead facility (less than 600 feet in length) and it has been determined that such conversion is not a part of a continuing effort to accomplish a total undergrounding within a specific street or area.

The applicant will be required to underground all existing service to the site per Condition No. 19 of the draft Tentative Map resolution (Attachment 6). The applicant would also 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 neighborhood currently contains power poles and overhead utilities lines on the alley. The utility lines to these poles extend to other properties located north and south within the street. The pole closest to this property, which carries the line serving this site, is located within the rear alley right-of-way, approximately 10 feet east of this site. As indicated above, all utilities serving this property will be required to be undergrounded. The waiver is being requested for the requirement to underground adjacent utilities serving the surrounding properties. The City's Undergrounding Master Plan for Fiscal Year 2006 designates the site within Block 3A, and the date for undergrounding has been established for the year 2024 (Attachment 10).

### **Community Planning Group and Neighborhood Recommendations:**

The City Heights Planning Committee voted 10-4-1 to recommend approval of the project on November 10, 2005, with the following recommendations: (Attachment 7):

1. Recommend installation of motion sensitive flood lighting of the alley area. *Although this recommendation is not a standard requirement of the Municipal Code, the applicant has voluntarily agreed to provide this lighting.*
2. Recommend installation of street address numbers on the rear of the buildings to facilitate fire and life services. *Although this recommendation is not a standard requirement of the Municipal Code, the applicant has voluntarily agreed to provide these address numbers..*
3. No waiver or exemption from state and local requirements that existing utility services for this property be placed underground be granted. *Based on the preceding information regarding the undergrounding of the existing utilities, staff continues to support the undergrounding waiver request.*

**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 Notices of Intent to Convert to Condominiums were provided to the tenants June 29, 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 August 29, 2005, and is therefore subject to these new regulations. The project has been conditioned to require the subdivider 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.

The applicant has elected to pay an in-lieu fee of \$7396.25( 5,917square feet x \$1.25 ) to satisfy the Inclusionary Housing requirement, as allowed by the City's Inclusionary Housing Ordinance (Chapter 14, Article 2, Division 13 of the Land Development Code).

**Conclusion:**

Staff has reviewed the request for a Tentative Map for the conversion of 7 residential units into condominiums and has found the project to be in conformance with the applicable sections of the San Diego Municipal Code regulating Tentative Maps. Staff believes the requirement findings can be supported and recommends the Planning Commission approve the project as proposed.

**ALTERNATIVES**

- 1. Approve Tentative Map No. 257705with modifications.**
- 2. Deny Tentative Map No. 257705if the findings required to approve the project cannot be affirmed.**

**Respectfully submitted,**

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

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**Renee Mezo**  
**Customer Support and**  
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Attachments:

1. Aerial Photograph
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 3A
11. A sample of the 60-Day Notice of Intent to Convert
12. Photos of Existing Front and Rear Elevations