

COUNCIL DOCKET OF _____

Supplemental Adoption Consent Unanimous Consent Rules Committee Consultant Review

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O -

Interim Height Limitation in the Uptown Community Ordinance

Reviewed Initiated By LU&H On 3/12/08 Item No. 4

RECOMMENDATION TO:

Support the ordinance with the following recommendations: 1) direct City Planning staff to provide flexibility for rooftop amenities; 2) direct the City Attorney to analyze CEQA requirements of the ordinances; 3) set a southern boundary at Upas Street; and 4) forward the Committee's actions to the San Diego Planning Commission.

VOTED YEA: Hueso, Atkins, Maienschein

VOTED NAY:

NOT PRESENT: Madaffer

CITY CLERK: Please reference the following reports on the City Council Docket:

REPORT TO THE CITY COUNCIL NO. 08-036

INDEPENDENT BUDGET ANALYST NO.

COUNCIL COMMITTEE CONSULTANT ANALYSIS NO.

OTHER:

William Anderson's March 12, 2008, memorandum; City Planning and Community Investment Department's March 12, 2008, PowerPoint; Independent Task Force for the Uptown Interim Height Ordinance's March 10, 2008, memorandum; Independent Task Force for the Uptown Interim Height Ordinance's March 12, 2008, PowerPoint; Citizens' written comments

COUNCIL COMMITTEE CONSULTANT

 6/22/08



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LU&H MAR 12 2008 #4

THE CITY OF SAN DIEGO

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07/08

REPORT TO THE CITY COUNCIL

DATE ISSUED: March 5, 2008 REPORT NO.: 08-036

ATTENTION: Land Use and Housing Committee
Agenda of March 12, 2008

SUBJECT: Amendment to the Mid-City Communities Planned District Ordinance (MCCPDO) for an Interim Height Limitation in the Uptown Community

REFERENCE: Planning Commission Report No PC-08-029.

REQUESTED ACTION:

Recommend City Council Approval of the Amendment

STAFF RECOMMENDATION:

1. CERTIFY that the proposed Amendment to the MCCPDO is exempt from the California Environmental Equality Act (CEQA) pursuant to Section 15061(b)(3) of the State CEQA Guidelines (this activity is not a project as defined in Section 15378)
2. RECOMMEND the proposed amendment for adoption by the City Council

SUMMARY:

The Planning Commission is scheduled to make a recommendation to City Council on the proposed amendment on March 6, 2008.

Background

Please refer to the attached Planning Commission Report for project description, community plan analysis, and related issues.

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Environmental Analysis

The proposed amendment is exempt from CEQA pursuant to Section 15061(b)(3) of the State CEQA Guidelines (this activity is not a project as defined in Section 15378).

FISCAL CONSIDERATIONS:

Costs associated with the processing of the amendment are being managed by CPCI's work program.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

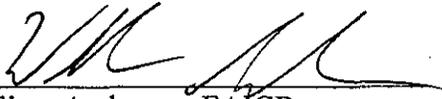
None

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

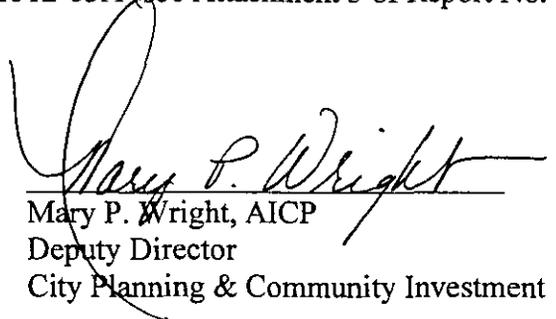
At the regularly scheduled and noticed planning committee meeting of November 6, 2007, Uptown Planners voted 11-3-1 to support the proposed amendment with conditions (see Attachment 2 of Report No. PC-08-029):

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Key stakeholders affected by the amendment would be those property owners with property north of Brookes Avenue who would be restricted from developing their properties beyond a maximum building height of 50 feet and 65 feet in areas identified by Figure 1512-03A (see Attachment 3 of Report No. PC-08-029).



William Anderson, FAICP
Deputy Chief Operating Officer
Executive Director of City Planning and Development



Mary P. Wright, AICP
Deputy Director
City Planning & Community Investment

WA/MPW/MP/ah

Attachment: Planning Commission Report PC-08-029 with attachments



001189

THE CITY OF SAN DIEGO

REPORT TO THE PLANNING COMMISSION

DATE ISSUED: February 29, 2008 **REPORT NO.** PC-08-029

ATTENTION: Planning Commission, Agenda of March 6, 2008

SUBJECT: **Amendment to the Mid-City Communities Planned District Ordinance (MCCPDO) for an Interim Height Limitation in the Uptown Community**

SUMMARY

Issue – Should the Planning Commission RECOMMEND for adoption by the City Council, an amendment to Chapter 15, Article 12, Division 2, and Chapter 12, Article 6, Division 5 by amending sections 1512.0203 of the San Diego Municipal Code, relating to the Land Development Code?

Staff Recommendation:

1. **RECOMMEND** the proposed amendment for adoption by the City Council.
2. **CERTIFY** that the proposed Amendment to the MCCPDO is exempt from CEQA pursuant to Section 15061 (b)(3) of the State CEQA Guidelines (this activity is not a project as defined in Section 15378).

Community Planning Group Recommendation – At the regularly scheduled and noticed planning committee meeting of November 6, 2007, Uptown Planners voted 11-3-1 to support the proposed amendment with conditions.

Environmental Impact – The proposed amendment is exempt from CEQA pursuant to Section 15061(b)(3) of the State CEQA Guidelines (this activity is not a project as defined in Section 15378).

Fiscal Impact – None.

Housing Impact Statement – The request to amend the MCCPDO would not result in a loss of existing for-sale or affordable housing, the creation of additional units beyond what is currently allowed under existing regulations, or preclude the ability of meeting



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the minimum residential densities recommended in the Uptown Community Plan. The provisions of the proposed amendment would not supercede affordable housing density bonus regulations.

BACKGROUND

On October 14, 2006, City Planning & Community Investment Department, Uptown Planners, Council Districts 2 and 3 sponsored an Uptown Community Plan Issues Workshop to hear issues from the community, developers, and residents regarding the impacts of new development, updating Uptown Community Plan, historic preservation, density and building height, preserving community character, concerns over traffic and mobility, and the need for more public facilities. Of the issues that were discussed, the desire to update the community plan and establish an "interim height ordinance" were consistently raised as measures for the community to seek relief from high-rise development in the core of Hillcrest that they considered out of scale with the existing character of the surrounding neighborhood and responsible for the exacerbating deficiencies in public facilities. The community had expressed that the current community plan, which was adopted in 1988, and the associated zoning neither reflected the current sentiment of the community nor contributed to enhancing the quality of life of the Uptown community.

As a follow-up to the Uptown Community Plan Issues Workshop, City Planning & Community Investment Department staff announced at the June 5, 2007 Uptown Planners meeting that an update to the Uptown Community Plan would commence in spring 2008 and that an amendment to the Mid-City Communities Planned District Ordinance (MCCPDO) to impose an interim height restriction would be pursued during the plan update process. It was also communicated to the community that while most of the development that the community had been concerned about were projects that would undergo a discretionary review process under current regulations, the amendment would ensure that all large-scale projects in the core area would undergo discretionary review. In addition, the community was informed that such an ordinance would not reduce allowable housing capacity, include a sunset provision, and that the State Density Bonus regulations would still apply.

An initial draft of the proposed amendment to the MCCPDO was introduced and discussed as an informational item at two public meetings of the Uptown Planners on September 4, 2007 and October 2, 2007. City staff's initial draft took into consideration the areas recommended by the community. These areas were located along portions of Washington Street between Ibis and Dove Streets in the Mission Hills neighborhood and properties primarily along portions along Robinson Avenue between 4th and 7th Avenues, University Avenue between Front Street and Park Boulevard, Washington Street between Dove Street and 5th Avenue, 5th Avenue between Washington and Kalmia Streets, and 6th Avenue between Walnut Avenue and Laurel Street, and 6th Avenue between University and Pennsylvania Avenues within the Park West/Bankers Hill neighborhood of the Uptown Community. Properties within these areas are zoned CN-1, (Commercial Node), CN-1A, CN-2A, CV-1 (Commercial Village), and MR-400 (Multi-Family Residential). These zones allow maximum building heights of 100 and 150 in the CN-1A, CV-1, and MR-400 zones, and 200 feet in the CN-2A zone. The CN-1 zone does not have associated maximum building height (See Attachment 1).

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Additionally, a portion of 4th Avenue between Upas and Maple Streets was also included within the amendment area. This portion is currently zoned NP-1 (Neighborhood Professional). Although the existing zoning for this portion allows a maximum building height of 50 feet and 60 feet where a building is above enclosed parking, it was included at the request of the community in order to account for potential rezone requests by potential projects to develop at higher development intensities attributed to adjacent properties.

The initial draft established a Process 4 discretionary approval process and additional findings of approval for projects with structures greater than 50 feet in height primarily in the Mission Hills neighborhood and 65 feet in height in the Hillcrest and Bankers Hill/Park West neighborhoods. In response to the initial draft, residents and members of the community expressed that creating an overall discretionary process would still allow multiple-story buildings that were significantly out of scale with the surrounding neighborhood based on the existing regulations and adopted policies. Residents also expressed that the sunset provision could upset the plan update process if 30 months had gone by and the adoption of the plan update was delayed.

On September 27, 2007, staff met with representatives of the community and advocates for the interim height ordinance to discuss bifurcating the height limitation area within the community that would be affected by the proposed interim height ordinance. This new proposal would establish a Process 4 discretionary review of projects greater than 65 feet south of Upas Street and restrict buildings over 50 and 65 feet north of Upas Street in specified areas. Staff considered this request and revised the ordinance to designate Brookes Avenue instead of Upas Street as the dividing line between the two interim height areas. Brookes Avenue was chosen out of fairness to developers and property owners with development proposals south of Brookes Avenue that staff was aware of. Also revised in this draft was the ability for an extension to the provisions of the interim height ordinance through a majority vote of the City Council in case the Uptown Community Plan update could not be adopted prior to the expiration of 30 months. This proposal was presented to the Uptown Planners on November 6, 2007, and was supported by a vote of 11-3-1 with conditions (See Attachment 2).

DISCUSSION

The proposed amendment to the MCCPDO would amend Chapter 15, Article 12, Division 2, and Chapter 12, Article 6, Division 5 by amending sections 1512.0203 of the San Diego Municipal Code, relating to the Land Development Code. In summary the amendment would do the following (See Attachment 3):

1. Require a Mid-City Communities Development Permit in accordance with Process 4 for any structure south of the centerline of Brookes Avenue which exceeds a building height of 65 feet in Area 'B' as shown on Figure 1512-03A, as depicted on Map C-928.
2. Projects exceeding 65 feet in Area 'B' would require the decision maker to approve or conditionally approve a Mid-City Communities Permit if the decision maker finds that the proposed building height is appropriate because of the location of the site, existing neighborhood characteristics and project design including massing, stepbacks, façade compositions and modulations, material and fenestration patterns when considered

together, would ensure the project's compatibility with the existing and intended character of Uptown, in addition to the general findings for Site Development Permits.

3. Restrict maximum buildings heights to 50 and 65 feet in Area 'A' north of the centerline of Brookes Avenue, as shown on figure 1512-03A, as depicted on Map C-928.
4. Maintain this provisions in the proposed amendment for 30 months or until the Uptown Community Plan is updated whichever occurs first.
5. Allow the City Council through a majority vote to extend these provisions for two 180-day periods in accordance with Process 5 should the 30-month limitation expire prior to the adoption of the Uptown Community Plan Update.
6. Provide an exception to the provisions of the proposed amendment for projects *deemed complete* prior to the adoption of this ordinance.

Community Plan Analysis

The Uptown Community Plan designates the areas within the proposed height limitation area for Mixed-Use development at 44 to 110 dwelling units per acre, Commercial-Residential development at 44 to 110 dwelling units per acre, Very High Residential development at 73 to 110 dwelling units per acre and Office Residential development 44 to 73 dwelling units per acre (See Attachment 4).

The proposed amendment to the MCCPDO would not result in the amendment, modification, or change to the City of San Diego Progress Guide and General Plan or the Uptown Community Plan. In addition, the proposed amendment would not change planned residential densities or rezone any property within the Uptown community. The amendment's incorporation of a Process 4 approval process and strict height limit where they are applied, would ensure discretionary review which would meet several objectives of the community plan for preserving the diverse and unique character of each neighborhood in the Uptown community, ensuring that development is compatible in character and scale, preserving and enhancing the pedestrian scale and orientation within the Hillcrest neighborhood, and limiting the intensity of development in areas subject to airport noise and where structures may obstruct flight operations.

Potential Modifications

During staff's drafting of the proposed amendment, several issues have been raised by the community as well as developers and architects regarding considering flexibility towards the proposed strict height limitation north of Brookes Avenue, as well as the designating Upas Street instead of Brookes Avenue, as the boundary street that would delineate areas where the strict height limit and discretionary process would be applied. Although these issues are not formally part of staff's amendment to the Mid-City Communities Planned District Ordinance, staff requests that the Planning Commission consider the following potential modifications and any others not currently identified to the amendment proposal:

001193. Height Exceptions and Flexibility

Incorporating height exceptions in areas where the strict height limitation would be applied could address instances where building constraints would force functional stairway or elevator access and elevator overrides beyond the roofline as well as accommodate the installation of sustainable development measures such as green roofs or photovoltaic technology. Exceptions could also be considered for the provision of public and/or on-site amenities that lend to active use of roofs, the provision of useable public park space and the preservation of potential historic resources. Public support of a project, especially one that poses clear benefits to the community could also constitute a mechanism for exceeding the proposed strict height limitations of the proposed amendment.

2. Delineation of the proposed strict height limit and discretionary review areas

The centerline of Brookes Avenue is currently proposed as the boundary street that would differentiate the strict height limit and discretionary review areas of the proposed amendment. It has been expressed by the community that the boundary should be Upas Street since that is the boundary street between the Hillcrest and Bankers-Hill/Park West neighborhoods as depicted by the Uptown Community Plan. Staff had designated this street as the boundary out of fairness to the developers and property owners who had development proposals that staff was aware of. Since the selection of Brookes Avenue as the boundary street, one of the two proposed projects between Brookes Avenue and Upas Street has already undergone ministerial review for building permits. The remaining project proposal, which had submitted a development proposal for preliminary review in May 2007, has not since returned with a new proposal or redesign (See Attachment 5)

CONCLUSION

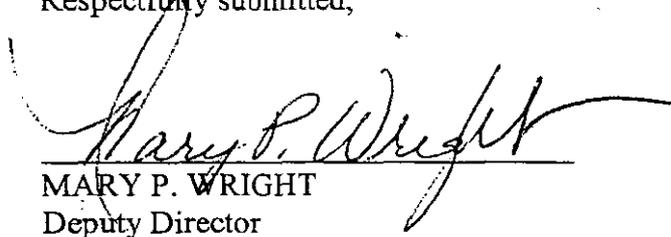
As discussed previously, City Staff will begin updating the Uptown Community Plan and MCCPDO in Spring 2008 to address land use policies and regulations such as those related to transportation and land use connections, historic preservation, urban design, etc. The proposed amendment would address the community's concerns over the compatibility of new development and ensure that during the community plan update process, new development would not adversely affect the community's efforts in creation of design objectives and the re-evaluation of the overall vision of the community.

ALTERNATIVES

1. Recommend that the City Council **adopt** the proposed amendment to the Mid-City Communities Planned District Ordinance with modifications.
2. Recommend that the City Council **deny** the proposed amendment to the Mid-City Communities Planned District Ordinance.

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Respectfully submitted,



MARY P. WRIGHT
Deputy Director
City Planning & Community Investment

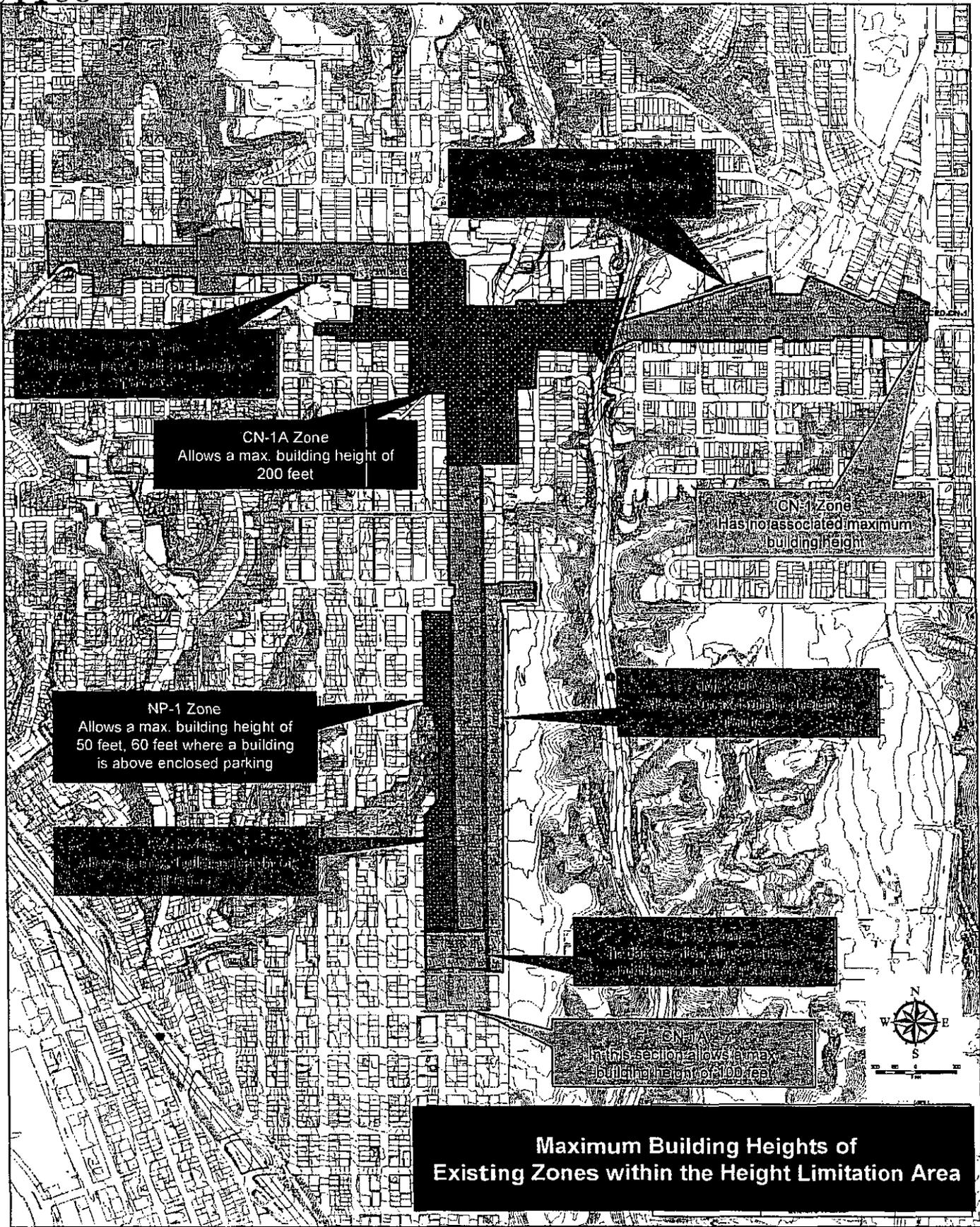


MARLON I. PANGILINAN
Senior Planner
City Planning & Community Investment

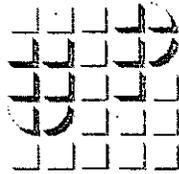
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- Attachments:
1. Existing Zoning Map
 2. Uptown Planners meeting minutes of November 6, 2007
 3. Draft Amendment to the Mid-City Communities Planned District Ordinance
 4. Uptown Community Plan Map
 5. Hillcrest Development North of Upas Street and South of Brookes Avenue

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UPTOWN PLANNERS

Uptown Community Planning Committee

November 11, 2007

Meeting Minutes

Members Present: Present: Liddell, Towne, Grinchuk, Epley, Satz, Dahl, Gatzke, Hyde, Wilson (Chair), O'Dea, Adler, Matthews (late), Wendorf (late), Edwards, Sachs

I. Parliamentary Items:

B. Adoption of Agenda: Wilson (Chair) suggested moving the following action items to the consent agenda: letters of support requested by City Fest, the Hillcrest Mardi Gras and Father Joe's Village Thanksgiving Day 5K Run/Walk; adoption of the revised bylaws. Sachs said that he wanted to discuss the bylaws as an action item. Wilson agreed not to recommend putting that item on the consent agenda. The board agreed to put the remaining items (the letters of support) on the consent agenda by voice vote (12,0,1; Chair abstaining.)

Appointment of Secretary: Towne elected secretary by voice vote (12,0,1; Chair abstaining)

Board Members Matthews and Wendorf arrive – 14 members of Board Present.

C. Approval of October Minutes: O'Dea moved to approve October minutes. Motion passed by voice vote 14,0,1; Chair abstained)

D. Treasurer's Report: Treasurer Dahl reported on the current bank balance and last month's income for Uptown Planners.

E. Chair/ CPC Report: Wilson (Chair) announced that he has copies of the plans for expanding Lindbergh Field if anyone wants to see them. He noted that a request for a letter of support from "In Motion" arrived too late for the board to take action at the time requested. He said that he has information on a request for a water main replacement in the Bankers Hill area for anyone who wants to find out more. He noted that the last CPC meeting was delayed by the fires. He noted that progress is being made on an indemnification ordinance for planning groups. He noted that the COW training for new planning group members will take place on November 29, but that those who cannot attend can attend the next workshop.

II. Public Communications:

Sheila Hardin representing the CCDC announced upcoming workshops on parking and affordable housing. Dale Purcell, Uptown Planners liaison to the North Bay Planning Area Committee (Middletown) asked the board for direction on any height limit that might be proposed in Middletown. Wilson (Chair) said that he will put that item on the agenda for a later meeting. Epley said that no buildings higher than 65' are allowed in Middletown at the present time. City Planner Marlon Pangalinan announced an upcoming community forum on the Hillcrest Corridor Mobility Strategy.

Representatives of Elected Officials: James Lawson introduced himself as the new representative for Councilmember Faulconer.

Jeffrey Tom announced his impending departure as Councilmember Atkins' liaison to Uptown and introduced the new liaison. He said that the State of California is looking for a developer to develop the DMV site in Hillcrest. Community suggestions for the DMV development can be forwarded to the State through Jeffrey Tom or City Planner Marlon Pangalinan. Suggestions already made include preserving the Farmers Market, including affordable housing, creating a pedestrian friendly environment and using green building methods. Tom said that he was working on resolving the problem of standing water (sewage) at 7th and Brookes.

Wilson (Chair) praised Jeffrey Tom as one of the best representatives of a city official that he had encountered in his many years of working with San Diego city officials.

Todd Gloria, representing Congresswoman Davis, announced that his position would be taken over in a few months by Nick Norbel. He noted that there was a limited time for fire victims to register with FEMA. He announced some upcoming community meetings with Davis. In reply to a question from Epley, he said that Davis voted to forward H.R. 333 -- the bill to impeach the Vice-President -- to the House Judiciary Committee.

III. Consent Agenda:

The following three items were moved to consent upon the adoption of the agenda:

1. **REQUEST FOR LETTER OF SUPPORT – FATHER JOE'S VILLAGE THANKSGIVING DAY 5K RUN/WALK (Special Event)** – Bankers Hill/Park West – Event will take place on November 22, 2007.
2. **REQUEST FOR LETTER OF SUPPORT – MARDIS GRAS -- (Special Event)** – Hillcrest – Event will take place on February 8, 2009
3. **REQUEST FOR LETTER OF SUPPORT – CITY FEST -- (Special Event)** -- Hillcrest – Event will take place in August 2008.

Gatzke moved to approve the consent agenda. Sachs seconded. Motion passed by voice vote 14,0,1 (Chair abstained)

IV. Action Items: Proposed Interim Height Limitation

PROPOSED INTERIM HEIGHT LIMITATION ORDINANCE -- Uptown – Would impose a mandatory interim height limitation for a section of the Uptown community planning area north of Brookes Street, which would apply to any proposed structure that exceeds 50 feet in Area "A", and 65 feet in Area "B"; as identified in the map attached to the proposed ordinance;

Would impose a discretionary height limitation for a section of the Uptown community planning area south of Brookes Street, which would apply to any proposed structure that exceeds 65 feet in Area "B"; as identified in the map attached to the proposed ordinance;

The interim ordinance would expire either: (1.) upon the adoption of an updated Uptown Community Plan, or (2.) 30 months from the date of adoption of the amendment, at which time for the City Council would decide whether to extend it for an additional period of time.

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City Planner Marlon Pangalinan presented the mayor's proposal for an interim height limitation in Uptown. Uptown resident Barry Hager, Chair of the Independent Task Force for the Interim Height Ordinance, said that his task force would reluctantly endorse the mayor's proposal (the task force wanted a strict limit north of Upas; the Mayor proposed a strict limit north of Brookes) with the following conditions: 1) delete "and intended" from language in the ordinance concerning the character of the community; 2) insert "mid-range assumptions" in language concerning acceptable heights; 3) delete language regarding the city's intention to comply with state law in granting density bonuses for affordable housing (state law would apply anyway); 4) delete exceptions granted to applicants who have completed applications on file with the city as of the date the ordinance is finally approved by the city council; instead, the ordinance should be retroactive to the date it was first proposed.

Public Comment: Rick Wilson said that the strict height limit should be north of Upas, not north of Brookes. George Wiedemeyer said that he was not impressed by the discretionary review proposed in the mayor's version of the ordinance and that he would be interested in asking a judge for an injunction against any tall buildings approved under such review based on the five elements cited by the judge who stopped the 301 University Ave. project. Marc Perrault said that he supported "building up, not building out" in keeping with smart growth principles advocated by Al Gore as a corrective to long commutes and suburban sprawl. Tom Mullaney said that the height limit in the core of Hillcrest should be even lower than that proposed in the interim ordinance -- 25-30' -- using Santa Barbara as a model. Former City Planner Ron Buckley said that he agreed with Perrault, that height limits were a bad idea reflecting a misunderstanding of the community plan by newcomers to the community, and that adopting a height limit would make Uptown "like El Cajon Boulevard".

Satz moved to approve the mayor's proposal, attaching Barry Hager's conditions. Towne seconded. Epley proposed a substitute motion to deny the proposal with attached conditions by Hager. Gatzke seconded. Motion failed 3,11,1 with the Chair abstaining and Liddell, Epley and Gatzke voting in favor. Sachs offered a friendly amendment (to Satz's original motion) to change the dividing line for the strict height limit from Brookes to Upas. Satz asked James Lawson and Jeffrey Tom (respectively, the representatives for councilmembers Faulconer and Atkins) whether the councilmembers would support Upas as the dividing line. They said they did not know. Satz then said that he would not accept Sachs's amendment. Sachs then moved for the adoption of the amendment as an unfriendly amendment. Towne seconded. Wilson (Chair) said that insisting on Upas would kill the strict height limit for the rest of Hillcrest. Motion failed 5,8,1,1 (Chair and Adler abstained; Sachs, Towne, Epley, Wendorf and O'Dea voted in favor.) Adler called the question on the original, unamended motion by Satz to approve the mayor's proposal, attaching Barry Hager's conditions. Adler's motion to vote on the original, unamended motion passed 11,3,1 (Chair abstained; Sachs, Gatzke and Dahl voted against.) Motion to approve the mayor's proposal, attaching Barry Hager's conditions, passed 11,3,1 (Chair abstained; Liddell, Epley and Gatzke voted against.)

VI. Action Items

ST. PAUL'S CATHEDRAL – (Process Five) – Encroachment/Street Public Right of Way -- Bankers Hill/Park West – Early Consideration before the City Council, pursuant to San Diego Municipal Code Section 129.0710(c), for proposed encroachment of an underground parking garage into the public right of way of Fifth Avenue and Nutmeg Streets; Airport Approach Overlay Zone; Proposed Sixth Avenue/ Balboa Park Urban Edge Landscape District.

Representatives from the Cathedral presented plans for two high-rise mixed use buildings on Cathedral property, including plans for underground garages that would encroach on the public right of way. They said that the project would provide 18 affordable units, preserve the historic La Moderne apartments, provide more than two parking spaces per unit plus an additional 59 spaces for use by the cathedral, and strive to comply with LEED certification standards.

**Independent Task Force for the
Uptown Interim Height Ordinance
Status Report
November 1, 2007**

In September 2007, the City Planning & Community Investment Department (CPCI) released a draft version of the Uptown interim height ordinance (IHO), which would require discretionary review for all projects above 50 and 65 feet in the designated areas of Uptown, but with no firm limit on height. Due to our concerns that the proposal by CPCI offered little real protection against projects seeking to exceed the specified heights, our task force proposed a compromise to bifurcate the ordinance, so that there would be a mandatory height limit north of Upas Street, with a "discretionary review" of all projects over 65 feet south of Upas.

We met with Bill Anderson and members of the CPCI on Thursday, September 27, 2007 to discuss the ordinance. At that time, Mr. Anderson committed to consider our proposal for the bifurcated ordinance, and let us know whether the Mayor would support our compromise proposal. Meanwhile, at the Uptown Planners meeting on October 2, 2007, the proposed ordinance was discussed as an informational item. Individual board members and members of the public expressed their opinions. The comments were overwhelmingly against a discretionary limitation and in support of a mandatory limitation, as originally recommended by Uptown Planners in June 2006.

Recently, CPCI has responded with a counter-proposal for an interim ordinance that involves a mandatory height limitation north of Brookes Street (which is two blocks north of Upas) and a discretionary review south of Brookes Street.

This task force strongly prefers a mandatory height limitation north of Upas Street, but will reluctantly endorse the proposal by CPCI as a compromise to move the ordinance forward, conditioned on the following:

1. CPCI accept the task force's proposed changes in the recital portions of the ordinance as presented during our meeting on September 27, 2007 (see attachment);
2. The same height restrictions will apply to any proposed re-zone with Uptown during the same time period.
3. No exceptions to the mandatory height limitation north of Brookes Streets are set forth in the ordinance itself; and,
4. The CPCI proceeds with processing the ordinance with all due speed;

Summary of Recommendation to Uptown Planners: The task force recommends that Uptown Planners pass a motion adopting the above recommendation, that Uptown Planners strongly prefers a mandatory height limitation north of Upas Street, but will reluctantly endorse the proposal by CPCI as a compromise to move the ordinance forward, including the above conditions.

Submitted by: Barry E. Hager

WHEREAS, the Uptown Community Plan was adopted on February 2, 1988 to provide land use policy guidance for the Uptown Community; and

WHEREAS, the Mid-City Communities Planned District Ordinance was adopted on January 21, 1986, and subsequently amended on May 30, 1989, to provide development regulations to implement the Uptown Community Plan; and

WHEREAS, multiple-story buildings have recently been constructed and are proposed in the Uptown Community with are significantly higher than previously constructed buildings; and

WHEREAS, the Mayor's Office will commence an update of the Uptown Community Plan and the Mid-City Communities Planned District in 2008 to address land use policies, transportation and land use connections, and regulations including urban design objectives; and

WHEREAS, long-term design of the Uptown Community will benefit from a design review process of new structures to determine their compatibility with the existing community character during the update of the Uptown Community Plan and the Mid-City Communities Planned District to ensure they do not adversely affect the urban design objectives of the community; and

WHEREAS, there is a recognition of the role that the residential density that is in the adopted Uptown Community Plan, as provided as the mid-range assumptions set forth in Appendix J thereof, plays in meeting the City housing goals; and

WHEREAS, there is a general agreement that structures less than 50 to 65 feet in height in Areas 'A' and 'B,' respectively, as shown in Figure 1512.02, as depicted on Map C-928, are more likely to be compatible in bulk and scale with existing Development than structures that exceed such height;

WHEREAS, the Uptown Community Plan was adopted on February 2, 1988 to provide land use policy guidance for the Uptown Community; and

WHEREAS, the Mid-City Communities Planned District Ordinance was adopted on January 21, 1986, and subsequently amended on May 30, 1989, to provide development regulations to implement the Uptown Community Plan; and

WHEREAS, multiple-story buildings have recently been constructed and are proposed in the Uptown Community with are significantly higher than previously constructed buildings; and

WHEREAS, the Mayor's Office will commence an update of the Uptown Community Plan and the Mid-City Communities Planned District in 2008 to address land use policies, transportation and land use connections, and regulations including urban design objectives; and

WHEREAS, long-term design of the Uptown Community will benefit from a design review process of new structures to determine their compatibility with the existing community character during the update of the Uptown Community Plan and the Mid-City Communities Planned District to ensure they do not adversely affect the urban design objectives of the community; and

WHEREAS, there is a recognition of the role that the residential density that is in the adopted Uptown Community Plan, as provided as the mid-range assumptions set forth in Appendix J thereof, plays in meeting the City housing goals; and

WHEREAS, there is a general agreement that structures less than 50 to 65 feet in height in Areas 'A' and 'B,' respectively, as shown in Figure 1512.02, as depicted on Map C-928, are more likely to be compatible in bulk and scale with existing Development than structures that exceed such height;

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DRAFT 02-28-08

(O-200X-XX)

ORDINANCE NUMBER O-XXXXX (NEW SERIES)

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO AMENDING CHAPTER 15, ARTICLE 12, DIVISION 2, AND CHAPTER 12, ARTICLE 6, DIVISION 5 BY AMENDING SECTIONS 1512.0203 OF THE SAN DIEGO MUNICIPAL CODE, RELATING TO THE LAND DEVELOPMENT CODE.

WHEREAS, the Uptown Community Plan was adopted on February 2, 1988 to provide land use policy guidance for the Uptown Community; and

WHEREAS, the Mid-City Communities Planned District Ordinance was adopted on January 21, 1986, and subsequently amended on May 30, 1989, to provide development regulations to implement the Uptown Community Plan; and

WHEREAS, on November 6, 2007, the Uptown Planners voted 11-3-1 to support an amendment to the Mid-City Communities Planned District Ordinance to support an interim height restriction to provide time to analyze the potential impacts of recently constructed and proposed multiple-storied structures on the community character of the Uptown Community Planning Area; and

WHEREAS, the Mayor's Office will commence an update of the Uptown Community Plan and the Mid-City Communities Planned District in 2008 to address land use policies, transportation and land use connections, and regulations including urban design objectives; and

WHEREAS, the update of the Uptown Community Plan and the Mid-City Communities Planned District Ordinance will result in a long-term design vision for Uptown Community; and

001206 WHEREAS, implementation of an interim height ordinance in those geographic areas where current height allowances impact community character, would benefit the community by providing a design review process of new structures to determine their compatibility with the existing and intended community character during the update of the Uptown Community Plan and the Mid-City Communities Planned District to ensure they do not adversely affect the City's and communities urban design objectives of the community; and

WHEREAS, there is a recognition that the residential density that is in the adopted Uptown Community Plan contributes to the City's housing goals, including opportunities provided by the Density Bonus regulations and that these are not affected by this ordinance; and

WHEREAS, there is a general agreement that structures less than 50 and 65 feet in height in specified areas of the Uptown Community Planning Area are likely to be compatible in bulk and scale with existing development; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego as follows:

Section 1. That Chapter 15, Article 12, Division 2, of the San Diego Municipal Code is amended by amending section 1512.02, as follows:

§1512.0203 Mid-City Communities Development Permit

(a) [No change.]

(b) (1) through (7) [No change.]

(8) Any structure proposed to be located within the boundaries of Areas A or B designated on Map C-928 filed in the Office of the City Clerk as Document No. [INSERT CLERK DOCUMENT

NO], and as illustrated in Figure 1512-03A in accordance with Section 1512.0203(g), Interim Height Limit.

Table 1512.02A [No change.]

- (c) An application for a Mid-City Communities Development Permit in accordance with 1512.0203(b)(1-7) may be approved, conditionally approved or denied by a Hearing Officer in accordance with Process Three. The Hearing Officer's decision may be appealed to the Planning Commission in accordance with the Land Development Code Section 112.0506.
- (d) The Hearing Officer or Planning Commission may approve or conditionally approve a Process Three Mid-City Communities Development Permit, if the Hearing Officer or Planning Commission determines that the application is complete and conforms with all City regulations, policies, guidelines, design standards and density, and it is found from the evidence presented that all of the following facts exist:
- (1) through (6) [No change.]
- (e) An application for a Mid-City Communities Development Permit in accordance with 1512.0203(b)(8) may be approved or conditionally approved or denied by the Planning Commission in accordance with Process Four. The Planning Commission's decision may be appealed to the City Council in accordance with the Land Development Code Section 112.0507.

(f) The Planning Commission or City Council may approve or conditionally approve or deny a Process Four Mid-City Communities Development Permit, if the Planning Commission or the City Council or determines that the application is complete and conforms with all City regulations, policies, guidelines, design standards and density, and it is found from the evidence presented that all of the following facts exist:

- (1) The facts in Section 1512.0203(d) exist; and
- (2) The proposed building height is appropriate because the location of the site, existing neighborhood characteristics and project design including massing, setbacks, façade composition and modulation, material and fenestration patterns when considered together, would ensure the project's compatibility with the existing and intended character of Uptown; and
- (3) That the findings required for Site Development Permits in Section 126.0504(a) of the Land Development Code can be made.

(g) Interim Height Limit.

This interim height limit applies to all development within the boundaries of Areas A and B designated on Map C-928 filed in the Office of the City Clerk as Document No. [INSERT CLERK DOCUMENT NO], and as illustrated in Figure 1512-03A.

(1) North of Brookes Avenue.

No structure north of the centerline of Brookes Avenue exceeding a structure height of 50 feet in Area A, or 65 feet in Area B, as

illustrated on Figure 1512-03A, shall be issued a Mid-City Communities Development Permit while the interim height limit is in effect.

(2) South of Brookes Avenue

No structure south of the centerline of Brookes Avenue exceeding a structure height of 65 feet in Area 'B', as illustrated on Figure 1512-03A, shall be issued a construction permit without approval of a Mid-City Communities Development Permit in accordance Section 1512.0203(e) and (f) while the interim height limit is in effect.

[INSERT FIGURE 1512-03A]

[Editors Note: The regulations approved in the interim height limit ordinance (INSERT ORDINANCE NUMBER) shall be in effect until adoption of the update to the Uptown Community Plan or 30 months from the adoption of this ordinance whichever comes first, except that up to two 180 day extensions may be approved by a majority of the City Council in accordance with a Process Five if at such time the updated Uptown Community Plan has not been adopted.]

Section 2. That the regulations approved within this interim height limit ordinance shall be in effect until adoption of the update to the Uptown Community Plan or 30 months from the adoption of this ordinance whichever comes first, except that up to two 180 day extensions may be approved by a majority vote of the City Council in accordance with a Process Five if at such time the updated Uptown Community Plan has not been adopted.

Section 3. That a full reading of this ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the City Council and the

001210

public a day prior to its final passage. That this ordinance shall take effect and be in force on the thirtieth day from and after its passage.

Section 4. That City departments are instructed not to issue any permit for development that is inconsistent with this ordinance unless application for such permit was submitted and deemed complete prior to the date this ordinance becomes effective.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By _____
Deputy City Attorney

I hereby certify that the following Ordinance was passed by the Council of the City of San Diego, at its meeting of _____.

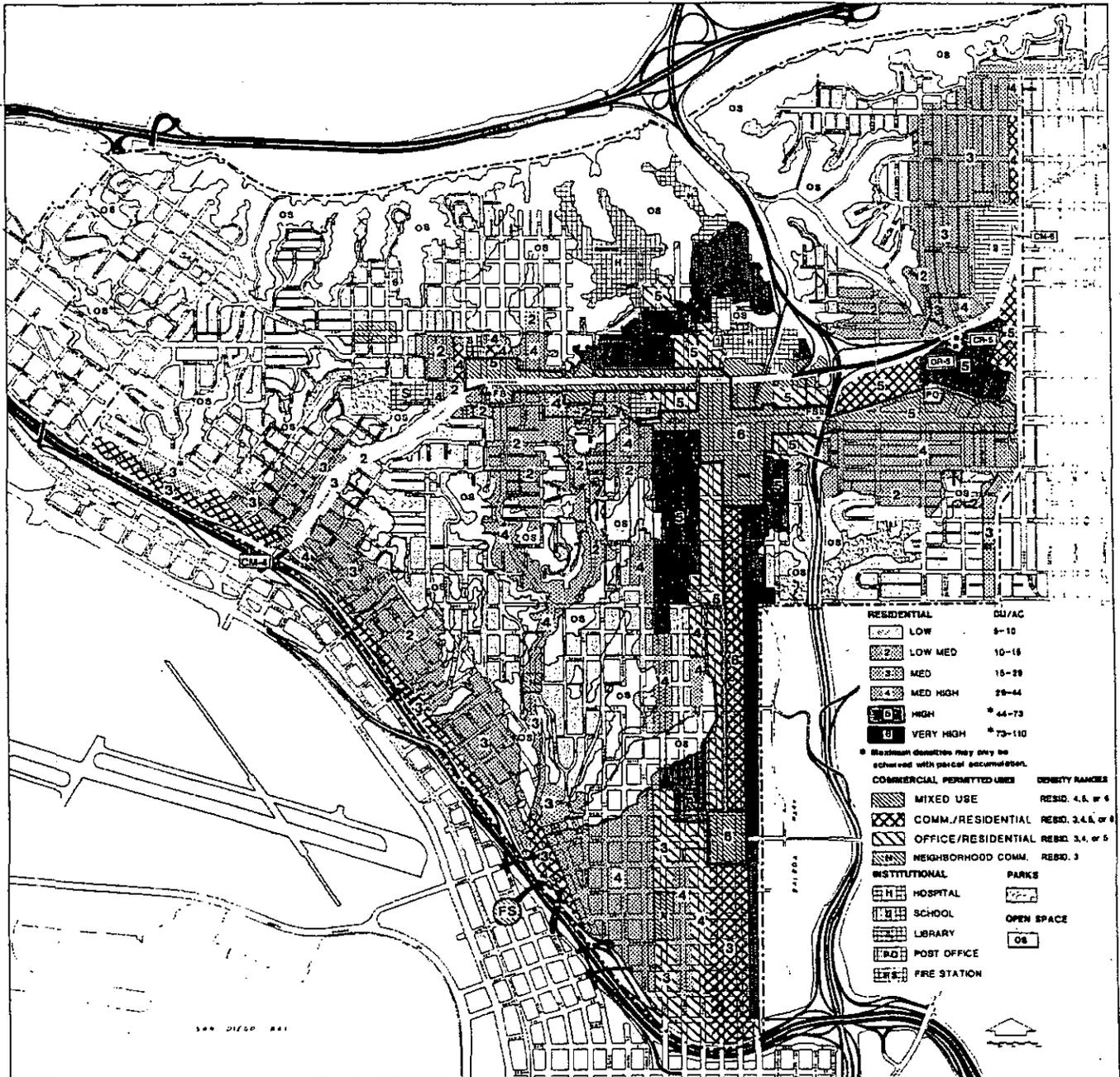
ELIZABETH S. MALAND
City Clerk

By _____
Deputy City Clerk

Approved: _____
JERRY SANDERS, Mayor

Vetoed: _____
JERRY SANDERS, Mayor

001212



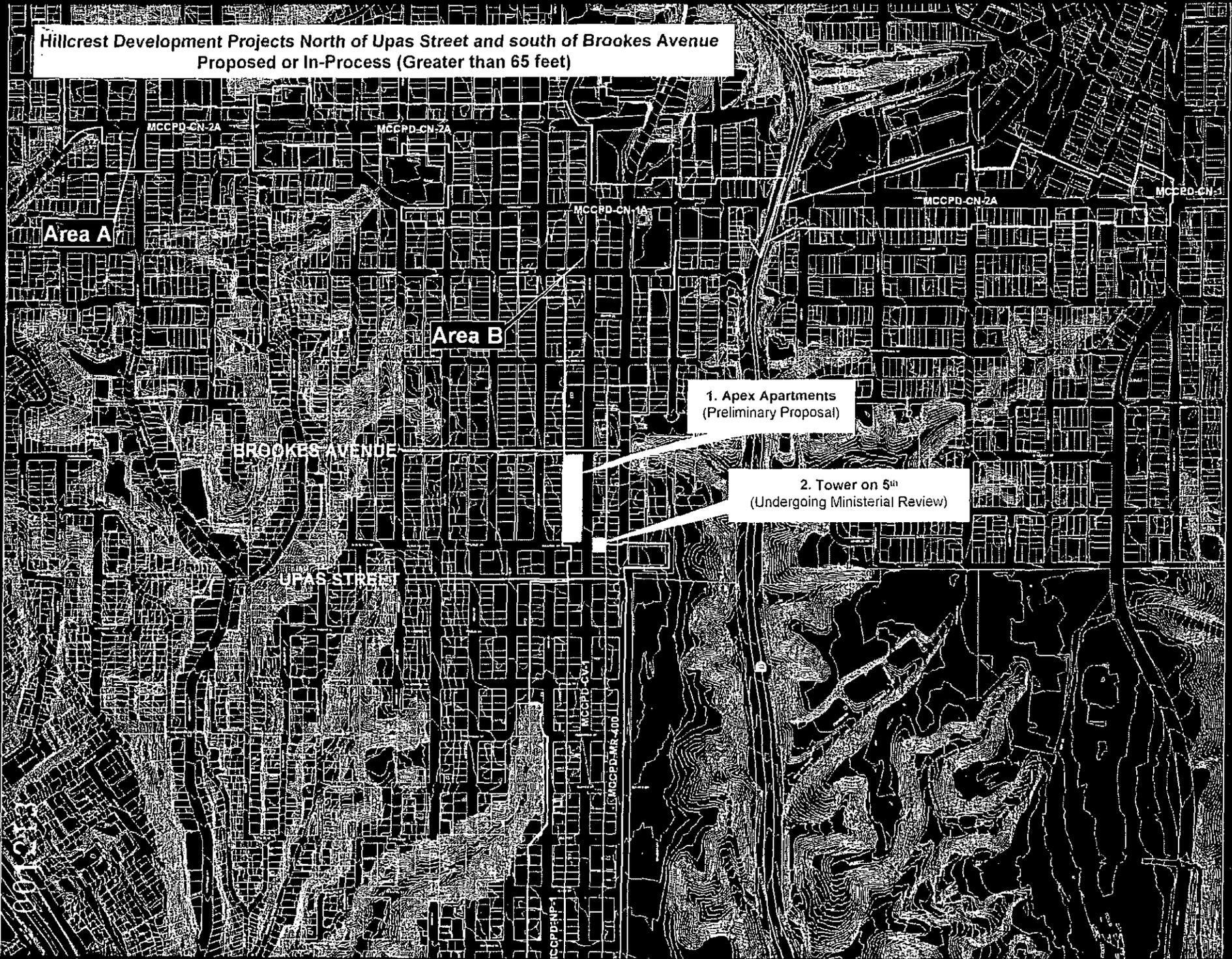
Note: (1) This community plan map is a schematic illustration of the proposals found in the accompanying plan text and the official display map, which should be consulted for more detail. (2) Should there be a conflict between this plan and any other plan located within the Uptown Community Plan document, this Plan shall prevail. (3) The following pages show this map at a larger scale.



COMMUNITY LAND USE PLAN
UPTOWN Community Plan
 CITY OF SAN DIEGO PLANNING DEPARTMENT

FIGURE
33

Hillcrest Development Projects North of Upas Street and south of Brookes Avenue
Proposed or In-Process (Greater than 65 feet)



Area A

Area B

BROOKES AVENUE

UPAS STREET

1. Apex Apartments
(Preliminary Proposal)

2. Tower on 5th
(Undergoing Ministerial Review)

001215



THE CITY OF SAN DIEGO
MAYOR JERRY SANDERS

MEMORANDUM

DATE: March 12, 2008

TO: Honorable Councilmember Ben Hueso, District 8

FROM: William Anderson, Deputy Chief Operating Officer, City Planning and Development

SUBJECT: Land Use and Housing Committee Agenda of March 12, 2008 – Item 4: Interim Height Limitation in the Uptown Community

This memo is to inform the Land Use and Housing Committee of the Planning Commission's decision to continue the proposed Amendment to the Mid-City Communities Plan District Ordinance for an Interim Height Limitation in the Uptown Community.

On March 6, 2008, the Planning Commission voted 4-0-0 to continue the proposed amendment and direct staff from the City Planning & Community Investment Department to provide the following information:

- Establish the purpose for an interim height ordinance
- Justify the conclusion that an interim height ordinance is exempt under CEQA
- Provide the advantages and disadvantages to allowing height exceptions in the proposed strict height limitation area north of Brookes Avenue
- Provide the advantages or disadvantages of moving the boundary between the strict height limitation and discretionary areas from Brookes Avenue to Upas Street
- Determine what would be an appropriate duration for the ordinance
- Determine whether "height" or building "stories" would be the appropriate criteria
- Provide the reasons why there are two different height limitation areas (discretionary and strict height limit areas)
- Provide an economic analysis of the impacts of the proposed ordinance

Honorable Councilmember Ben Hueso, District 8

March 12, 2008

001216

City staff is scheduled to return to the Planning Commission on April 3, 2008. Because of this, staff is now requesting that the Land Use and Housing Committee provide direction and comment on the proposed ordinance and whether alternatives should be presented to the Planning Commission.

Should you have any questions regarding this matter, please contact Marlon I. Pangilinan, Senior Planner at (619) 235-5293, or send email to: mpangilinan@sandiego.gov.



William Anderson, FAICP
Deputy Chief Operating Officer
Executive Director of City Planning and Development

MIP/mip

Distribution:

Honorable Councilmember Toni Atkins, District 3
Honorable Councilmember Jim Madaffer, District 7
Honorable Councilmember Brian Maienschein, District 5
Alonzo Gonzalez, Committee Consultant

cc: Beth Murray, Assistant Deputy Chief Operating Officer
Mary P. Wright, Deputy Director
Marlon I. Pangilinan, Senior Planner

001217

Amendment to the
Mid-City Communities Planned District Ordinance
For An Interim Height Restriction in the
Uptown Community

Land Use and Housing Committee
March 12, 2008



City Planning & Community Investment Department

Location

- Approximately 179 acres within the Uptown Community
- Located within portions of the Mission Hills, Hillcrest, and Bankers Hill/Park West neighborhoods
- Within zones which currently allow max. buildings heights at 100, 150, and 200 feet.



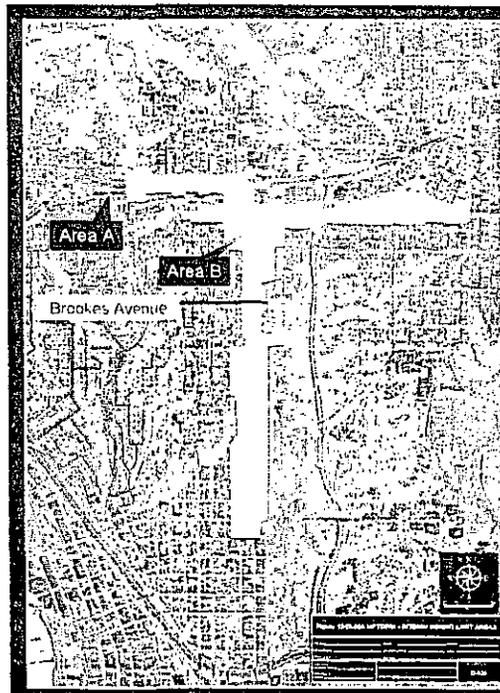
Background

- October 14, 2006 – Uptown Community Plan Issues Workshop
- June 5, 2007 – Uptown Planners Meeting
 - CPCI Staff announced planned update and processing of an interim height ordinance
- September 4, 2007 and October 2, 2007- Uptown Planners Meeting
 - Discussion of initial draft
- September 27, 2007 – Community and City staff meeting
 - Discussion of bifurcating the height limitation area
- November 6, 2007 – Uptown Planners Meeting
 - Voted 11-3-1 with conditions to support the proposed amendment to the MCCPDO
- March 6, 2008 – Planning Commission
 - Voted 4-0-0 to continue the proposed amendment

Description

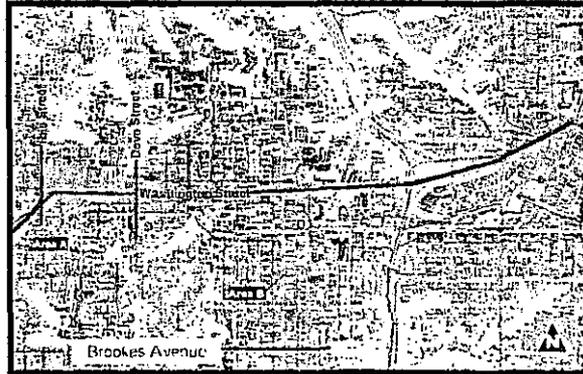
Areas “A” and “B”

- Establishes a strict max. building height limit north of Brookes Avenue
- Establishes a Process 4 approval process for projects exceeding a max. building height of 65 feet south of Brookes subject to additional findings



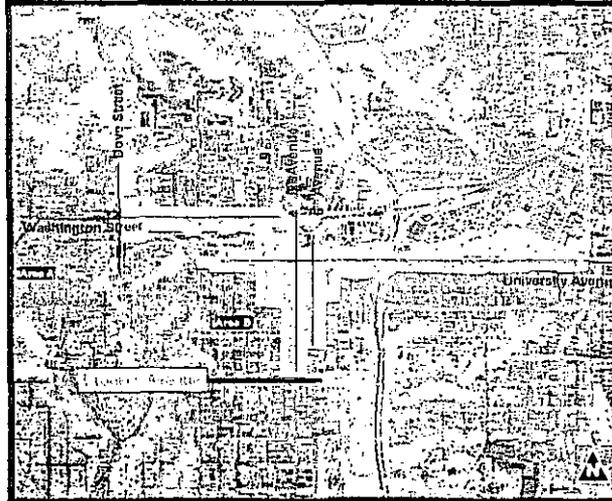
Description
Area "A" – North of Brookes Avenue

- Located along Washington Street between Ibis Street and Dove Street within the CN-2A zone
- Establishes a strict maximum building height limit of 50 feet



Description
Area "B" – North of Brookes Avenue

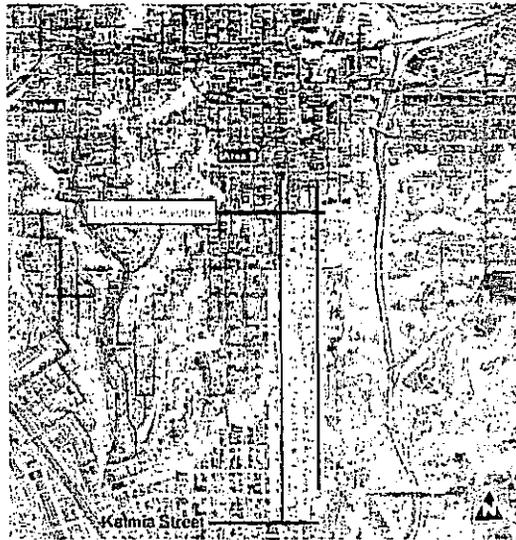
- Located along portions of Washington Street between Dove Street and 5th Ave, University Avenue between Front Street and Park Blvd, 5th & 6th Avenue between Brookes Ave. and University Avenue within the CN-1, CN-1A, CN-2A, and CV-1 zones
- Establishes a strict max. building height limit of 65 feet north of Brookes Avenue



Description

Area "B" – South of Brookes Avenue

- Located generally along portions of 4th, 5th & 6th Avenues between Brookes Avenue and Kalmia Street within the CN-1A, CV-1, NP-1 and MR-400 zones
- Establishes a Process 4 approval process for projects that exceed a max. building height of 65 feet subject to additional conditions



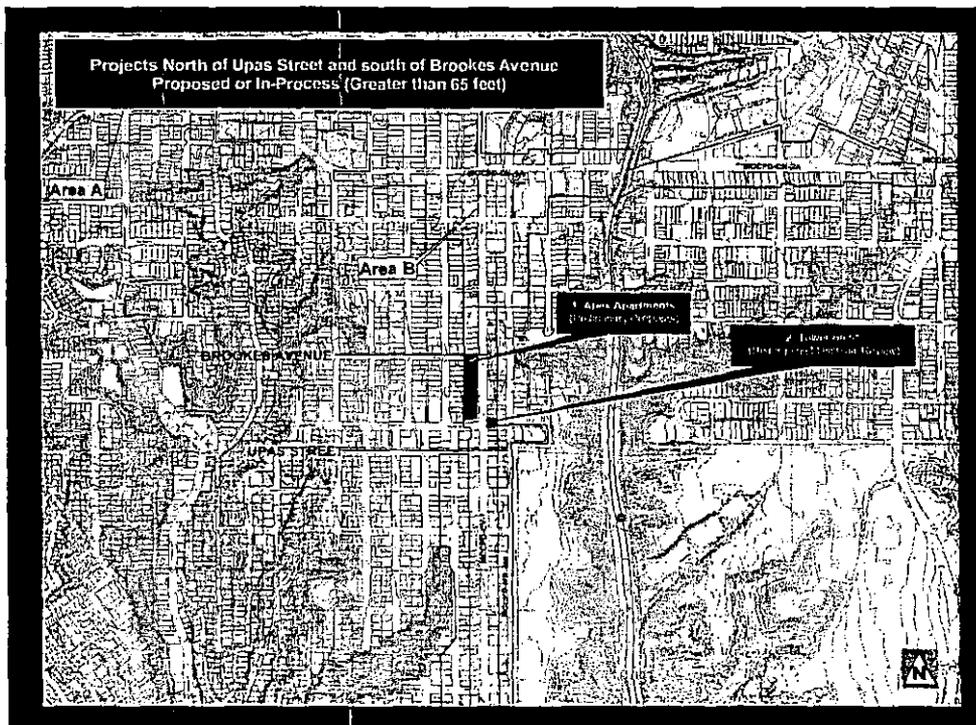
Description

Other provisions include:

- The ordinance will remain in effect for 30 months after adoption or until the Uptown Community Plan Update is adopted, whichever occurs first
- The City Council may extend the provisions of the ordinance for up to two 180-day extensions through a majority vote, if the Plan Update is not adopted within the 30 month period
- The ordinance will go into effect on the 30th day after it's 2nd reading at City Council
- Projects *deemed complete* prior to the date that the ordinance becomes effective would not be subject the height restriction provisions in the ordinance

Potential Modifications for Consideration:

- Height Exceptions and Flexibility
 - to promote active use of roofs, for sustainable development measures, elevator overrides, enclosed stairways, and other non-habitable spaces
- Height Restriction Delineation
 - Upas Street or Brookes Avenue
 - On March 4, 2008 Uptown Planners voted 12-3-1 to support Upas Street as the "dividing line"



Community Plan Analysis and Housing Impact

- The proposed amendment would not result in the amendment, modification, or change in the Uptown Community Plan
 - Plan does not address minimum building height
 - Would ensure development compatibility and preservation of existing character
- The proposed amendment would not reduce residential densities below the density that was used to calculate total unit housing capacity
 - Density study conducted by staff determined no reduction in dwelling units beyond that which was determined for the housing inventory
 - Trend of projects show similarity the number dwelling units proposed between projects with less than 5-6 stories and those greater than 5-6 stories
 - Result of the amendment would a reduction in unit size

Planning Commission

On March 6, 2008, the Planning Commission considered the proposed amendment and voted 4-0-0 to continue the item and direct staff to look into the following issues:

- Establish the purpose of an interim height ordinance
- Justify the conclusion that the interim height ordinance is exempt under CEQA
- Provide the advantages and disadvantages of allowing height exceptions
- Provide the advantages and disadvantages of moving the boundary between the strict height limitation area and the discretionary review area from Brookes Avenue to Upas Street
- Determine the appropriate duration of the ordinance
- Determine whether "height" or building "stories" would be the appropriate criteria
- Provide reasons as to why there are two different height limitation areas
- Provide an economic analysis of the impacts of the proposed ordinance

Staff Request

Staff requests that the Land Use and Housing Committee provide:

- Input on the proposed Amendment to the Mid-City Communities Planned District Ordinance
- Direction on whether an alternative ordinance should be presented to the Planning Commission
 - Process 4 Discretionary Review for all projects above a maximum building height of 50 and 65 feet.
 - Consideration of building "stories" instead of "height"
 - No extension beyond 30 months
 - Remand the debate on height to the community plan update

Amendment to the Mid-City Communities Planned District Ordinance For An Interim Height Restriction in the Uptown Community

Land Use and Housing Committee
March 12, 2008



City Planning & Community Investment Department

LUH 3/12/08 #4

001225

**INDEPENDENT TASK FORCE
FOR THE UPTOWN INTERIM HEIGHT ORDINANCE**

Memorandum

To: Committee on Land Use and Housing of the San Diego City Council

From: Barry E. Hager, Chairman of the Independent Task Force

Memo Date: March 10, 2008

**Project Name: AMENDMENT TO THE MID-CITY COMMUNITIES PLANNED
DISTRICT ORDINANCE FOR AN INTERIM HEIGHT LIMITATION IN
THE UPTOWN COMMUNITY**

Hearing Date: March 12, 2008 (Item-4)

This Independent Task Force is an *ad hoc* committee formed in 2006 to promote the proposed Interim Height Ordinance for Uptown (IHO). Please accept the following comments on behalf of the Independent Task Force.

Background

The current Uptown Community Plan was adopted in 1988 and the related zoning ordinance a year later. The zoning contains provisions for building heights up to 150 and 200 feet tall along portions of Washington Street, University Avenue and 4th, 5th and 6th Avenue.

Much has changed in the 20 years since the current community plan and zoning were adopted. There has been a growing awareness of the historical nature of Uptown's neighborhoods and commercial districts, and a shared community desire to protect the historical nature of the area and assure that any new development projects compliment and blend with the existing community character. In recent years numerous projects have come forward for taller buildings, which many residents and business owners in the community feel overwhelm the character and scale of the existing community. There has also been an alarming trend toward projects involving luxury condominiums with as few as one unit per floor, pushing projects taller than anticipated while not providing affordable housing.

There is little disagreement that an update is needed to the Uptown community plan and attendant zoning so the entire community can re-evaluate the guidelines for future development in Uptown. However the plan update will be a multi-year process. The proposed IHO would temporarily limit height on new projects in specified areas of Uptown until our community plan and related zoning are updated so that new projects will not conflict with the contemplated community plan update.

The IHO also fits within the City of Villages goals of (1) *recognizing the unique character of communities* and (2) *involving the public in planning*. The IHO is also consistent with previous interim ordinances, including the Uptown Height Limitation Zone (Ordinance No. O-16464), which was effective from 1985 to 1992.

Community Support for the IHO

In response to an outcry of concern in the community, Uptown Planners voted 12-2 in June 2006 to recommend that the City of San Diego adopt the IHO. This concept involved a firm limit of 65 feet along 4th, 5th and 6th Avenues north of Laurel Street, most of Washington Street and University Avenue, and 50 feet on Washington Street from Dove to Ibis Street in Mission Hills. The concept of the IHO has very strong support in the Uptown community. In 2006 and early 2007, over 1,200 people signed a petition supporting the IHO. Copies of the petition signatures have been lodged with the offices of Councilmembers Toni Atkins and Kevin Faulconer.

In addition, the following civic groups and organizations have endorsed the IHO:

- Save Our Heritage Organisation (SOHO)
- Mission Hills Business Improvement District
- Mission Hills Heritage
- University Heights Community Development Corporation
- University Heights Historical Society
- Hillcrest Business Improvement Association
- Hillcrest Town Council
- Hillcrest History Guild

Requested Changes to the City's Version of the IHO

While the community and Uptown Planners has been requesting adoption of the IHO since mid-2006, it took over a year for the Mayor's office and Planning Department to announce support for the IHO in principle, and several months thereafter to release an initial draft of the proposed ordinance to the public. In November 2007, Uptown Planners reluctantly endorsed the Planning Department's then-latest version of the IHO, which includes a firm height limit north of Brookes Street, with a "discretionary" height limit between Laurel and Brookes Street. However, Uptown Planner's approval was subject to the following conditions:

1. The Planning Department accept the task force's proposed changes in the recital portions of the ordinance (see attachment);
2. The same height restrictions will apply to any proposed re-zone within Uptown during the same time period;
3. No exceptions to the mandatory height limitation north of Brookes Streets are set forth in the ordinance itself; and,
4. The Planning Department proceeds with processing the ordinance with all due speed;

Since that time, the Hillcrest Town Council voted to recommend that the firm height limit be extended south to the centerline of Upas Street, which is the boundary between Bankers Hill and Hillcrest. The Independent Task Force now concurs with the Hillcrest Town Council and recommends that the firm height limit be extended south to the centerline of **Upas Street**. On March 4, 2008, Uptown Planners voted to recommend that the firm height limit extend to Upas Street.

We also request that Items 1 and 2 above be incorporated into the IHO. We are also concerned that the approval process has taken much longer than the community desires.

Response to Objections Raised by the Development Industry

Some developers and architects have objected that the 50 and 65 foot limits are "arbitrary" in terms of number of feet. However, it should be noted that the areas adjacent to the proposed limit in Mission Hills are mostly zoned for 40 or 50 feet in height, and the areas adjacent to the proposed limit in the other neighborhoods are mostly zoned for 50 or 60 feet in height. Thus, the proposed limits are consistent with the allowable heights in adjacent areas, with an extra margin to allow for slightly taller buildings in the Hillcrest and Bankers Hill area. Rather than being arbitrary, the proposed height limits will promote *consistency* with adjoining blocks in these neighborhoods.

The task force is also aware that some developers and architects have proposed exceptions to the height limits for architectural appurtenances, mechanic equipment and "rooftop amenities." No such exceptions are present in the existing height limits in the areas proposed for this ordinance or in the adjoining areas, and none should be included in the IHO. Allowing for these types of exceptions would simply result in taller buildings, frustrating the intention of this interim ordinance.

At least one architect has proposed that the limit should be expressed in number of stories (e.g. five or six stories) rather than height. However, since the intent of this ordinance is to alleviate the impact of height on community character, it is the overall height that should be regulated, *not the number of stories*. Also, there is no precedent for a limitation on number of stories in Uptown. Again, the height limits in all of the areas proposed for this ordinance and in the adjoining areas are expressed in number of feet, not stories. (If the limit were expressed in number of stories, this would certainly promote buildings with very tall ceilings.) This ordinance is not the place to experiment with limitations on the number of stories.

Some developers and architects have objected that the proposed height limits will result in "boxy" buildings of uniform height. However, the Uptown neighborhoods are replete with historic buildings of one-three stories, that form the community character we wish to preserve. Additionally, if the City enforces existing regulations for set-backs, step-backs, yard space and other requirements, new buildings will not be "boxy."

////

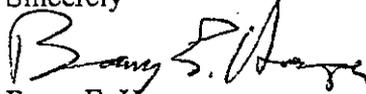
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001228

Conclusions

The Uptown Community needs a time-out on taller projects so that the community's desires can be taken into consideration during the community plan update process, while there is still something left to plan. We urge this committee to recommend passage of the IHO with the recommendations proposed above.

Sincerely



Barry E. Hager
Chairman, Independent Task Force

Attachment

Cc: William Anderson, Deputy Chief Operating Officer, CPIC

Attachment

WHEREAS, the Uptown Community Plan was adopted on February 2, 1988 to provide land use policy guidance for the Uptown Community; and

WHEREAS, the Mid-City Communities Planned District Ordinance was adopted on January 21, 1986, and subsequently amended on May 30, 1989, to provide development regulations to implement the Uptown Community Plan; and

WHEREAS, multiple-story buildings have recently been constructed and are proposed in the Uptown Community which are significantly higher than previously - constructed buildings; and

WHEREAS, the Mayor's Office will commence an update of the Uptown Community Plan and the Mid-City Communities Planned District in 2008 to address land use policies, transportation and land use connections; and regulations including urban design objectives; and

WHEREAS, long-term design of the Uptown Community will benefit from a design review process of new structures to determine their compatibility with the existing community character during the update of the Uptown Community Plan and the Mid-City Communities Planned District to ensure they do not adversely affect the urban design objectives of the community; and

WHEREAS, there is a recognition of the role that the residential density that is in the adopted Uptown Community Plan, as provided at the mid-range assumptions set forth in Appendix J thereof, plays in meeting the City's housing goals; and

WHEREAS, there is a general agreement that structures less than 50 to 65 feet in height - in Areas 'A' and 'B,' respectively, as shown on Figure 1512.02, as depicted on Map C-928, are more likely to be compatible in bulk and scale with existing development than structures that exceed such height;

**INDEPENDENT TASK FORCE
FOR THE UPTOWN INTERIM HEIGHT ORDINANCE**

Presentation to the
Committee on Land Use and Housing
Of the San Diego City Council
Wednesday, March 12, 2008

001231

LMFH 3/12/08 #4

Reasons to Adopt the Interim Height Ordinance:

- The current Uptown Community Plan and related zoning is 20 years old and in need of updating.
- There is growing awareness of the historical nature of Uptown and a shared community desire to protect the character of the community.
- Concern that the allowed heights of 150 and 200 feet in portions of Mission Hills, Hillcrest and other parts of Uptown doesn't fit with the community.
- Many Uptown residents and business and business owners feel that taller buildings overwhelm the character and scale of the existing community.
- There is an alarming trend toward super luxury condo buildings with as few as one unit per floor that push projects taller and provide no affordable housing.
- There is general agreement that the Uptown Plan needs updating so the community can re-evaluate future development in Uptown.
- While the plan update process will begin in uptown this year, it will be a multi-year process, therefore, the height limit is needed now so that new projects will not conflict with the contemplated plan update.

Strong Support for the Interim Height Ordinance

- Uptown Planners has repeatedly voted to endorse the height restriction.
- Over 1200 Uptown residents and business owners have signed a petition supporting the Interim Height Ordinance.
- Many civic groups and organizations have endorsed the IHO:
 - Save Our Heritage Organisation (SOHO)
 - Mission Hills Business Improvement District
 - Mission Hills Heritage
 - University Heights Community Development Corporation
 - University Heights Historical Society
 - Hillcrest Business Improvement Association
 - Hillcrest Town Council
 - Hillcrest History Guild

Rebuttal to Common Opposition Claims

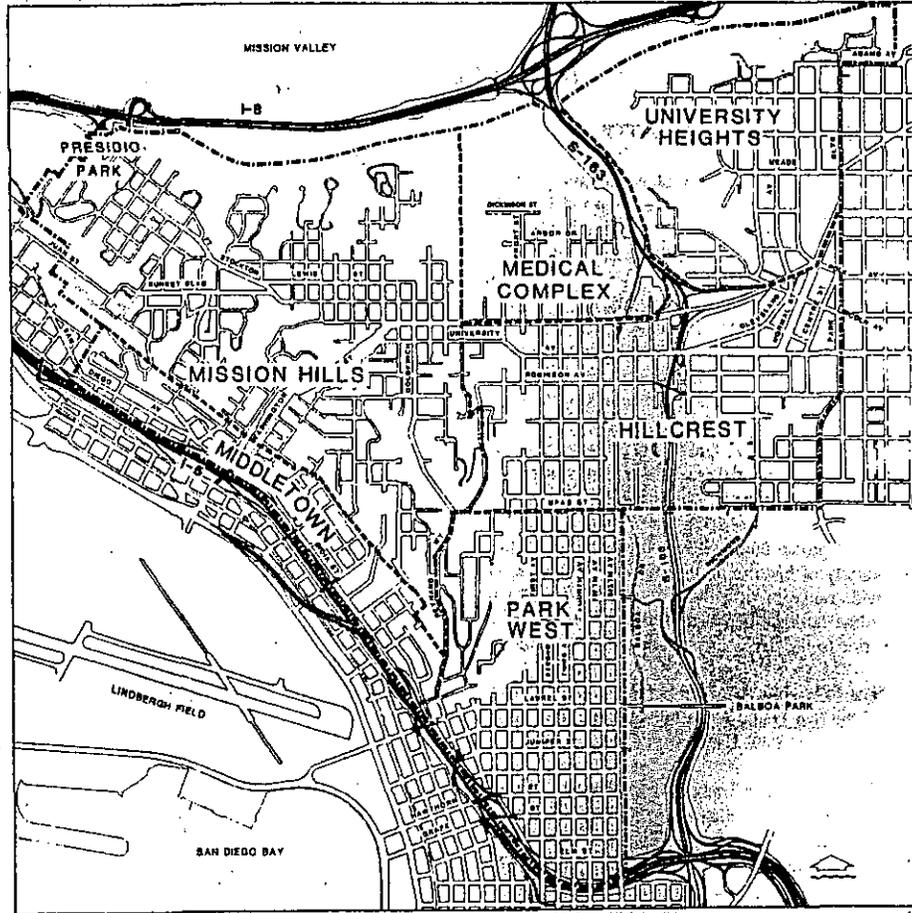
- Not a Moratorium or Downzone.
Property owners can still build the currently allowable density within the proposed height limits.
- Not a Taking.
Government has the power to change zoning, and there is no “taking” unless there is a complete deprivation of use.
- The Height Restriction Will Not Result in “Boxy” Buildings of Uniform Height.
 - Uptown is peppered with historic buildings of 1-3 stories, that form the character that the community wishes to preserve.
 - Existing regulations require setbacks, yard space and other requirements that will prevent boxy buildings if enforced.
- The 50’ and 65’ Height Limits are Not Arbitrary.
Adjacent blocks in Mission Hills are mostly 40-50 feet, and adjacent blocks in Area B are mostly 50-60 feet.
 - Proposed limits will promote *consistency* in these neighborhoods, and are anything but arbitrary.

Rebuttal to Common Opposition Claims (continued)

- No Exceptions should be allowed for Appurtenances, Equipment and “Rooftop Amenities”.
 - No exceptions for such items currently exist in the proposed areas or *anywhere* in Uptown.
 - This is simply a “backdoor” request to build higher than the proposed limits.
 - “Rooftop amenities” are a downtown concept, not Uptown—activity in Uptown should be focused on the street level, not the roof.
- Height should be Limited, Not Number of Stories.
 - The purpose of the IHO is to limit the height of buildings, *not the number of stories*.
 - There is no precedent for regulating number of stories, and this is not the time to experiment with such regulation.
 - Adjoining blocks and all of Uptown is regulated in terms of height.

Requested Changes to CPCI's version of the IHO

- Change the “recitals” as follows:
 - (1) To delete reference to compatibility with “intended” character of community, as “intended” is vague and open-ended;
 - (2) Refer to the mid-range assumptions at Appendix J of the Uptown Community Plan;
 - (3) To add that structures less than 50 or 65 feet are *more* likely to be compatible in bulk and scale to existing development than structures that exceed such height.
- The same restrictions should apply to any re-zone in the Uptown area so that re-zones do not frustrate the intent of the IHO.
- The firm height limit should extend north from Upas Street, not Brookes Street (see next slide).



The area of the firm height limit should extend north from Upas Street, not Brookes:

- Residents of Hillcrest overwhelmingly support a firm height limit in their neighborhood
- Upas Street is the boundary line between Hillcrest and Bankers Hill/Park West.



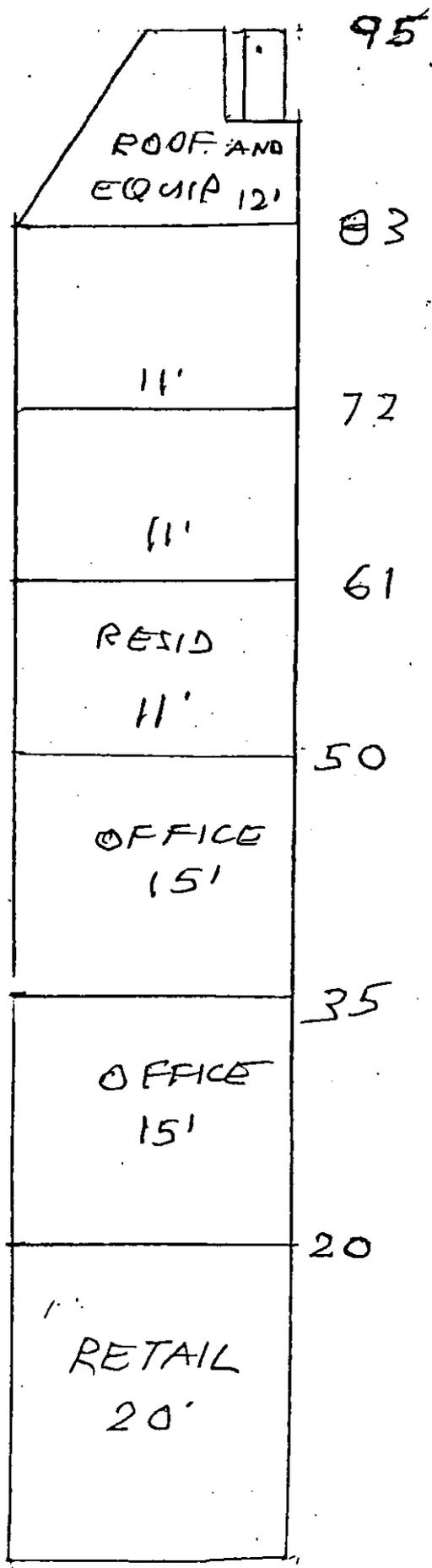
FIGURE
1

001238

6 STORIES

COULD BE

95' TALL



LUSH 3/12/08 #4

001239

From: Gonzalez, Alonso
Sent: Wednesday, March 12, 2008 11:08 AM
To: Ketcham, Manuel
Subject: FW: Hillcrest Interim Height Ordinance

From: Rich Gorin [mailto:jaguar943-one@yahoo.com]
Sent: Wednesday, March 12, 2008 11:08 AM
To: Atkins, Councilmember; Maienschein, Councilmember; Madaffer, Councilmember Jim; Hueso, Councilmember Ben; Gonzalez, Alonso
Subject: Hillcrest Interim Height Ordinance

I urge you to give favorable consideration to the Interim Height Ordinance which is on your agenda for this afternoon's meeting of the Land Use and Housing Committee for property north of Upas Street.

The character of Hillcrest is being threatened by highrise development at a time when the City has agreed to review its plans for the future of the area. Barring a standstill, developers will create by *fait accompli* the destruction of one of the ten most livable neighborhoods in the United States.

While the City must be mindful of the property rights of owners, it must also be mindful of the rights of neighbors who will be overshadowed by tall buildings, and overwhelmed by additional congestion. The current zoning invites a skyscraper war which is not even in the interests of future residents of highrises, whose views will be blocked by competing construction on neighboring properties.

The planning process is the best place to sort out all of these competing interests. Stopping developers from overriding the process by grandfathering projects now is necessary to ensure that the process is meaningful.

Sincerely,
Richard Gorin
3560 1st Avenue Unit 19
San Diego, CA 92103

3/12/2008

LUH 3/12/08

001241

March 12, 2008

To: Land Use and Housing Subcommittee,
From: Leo Wilson, Chair, Uptown Planners

Uptown Planners is in strong support of the Interim Height limitation ordinance. It voted in June 2006 to recommend approval of the ordinance by a 12-2-1 vote; since that time, one of the two board members who opposed the ordinance has changed his position and now supports the ordinance. As a non-voting chair, I was the abstention in the vote in June 2006; however, my support of the ordinance is well-known.

The vote by Uptown Planners reflects the community feelings in Uptown on this issue – over 1,200 signatures have been submitted in favor of an Interim Height Limitation. Often more than 100 people have attended meetings of Uptown Planners where the proposed Interim Height Limitation was discussed.

The enactment of the Interim Height Limitation will help implement the City of Village strategy. What the Uptown community is seeking is to preserve the pedestrian ambiance unique character, and also to ensure the provision of a mix of housing, including affordable and workforce housing in Uptown.

What we are getting in Uptown are high rise, low density projects, with units selling for over one million dollars.

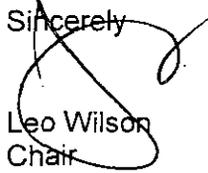
There is something wrong when a 14 story building is approved ministerial, with only 14 units – with the units selling price being between approximately 1.2 and 2.1 million dollars.

At the Planning Commission hearing, a significant number of the individuals testifying against the project were associated with the St. Paul's Cathedral project in Park West – who testified they need the height to meet density requirements – in fact the density of their proposed project is below that recommended by the Uptown Community Plan, and the applicant expressly stated they cannot provide affordable housing on site because their units were "tremendously large." (See attachment)

I urge you to vote to approve the Interim Height Limitation Ordinance; and to move it forward to City Council for review on the expedited basis supported by the Mayor's Office.

Attached is a fact sheet regarding two current project proposed in Uptown: – both are low density and high market price; Uptown wishes to preserve its status as an inclusive, diverse and affordable community; and need the Interim Height Limitation to make this to happen.

Sincerely


Leo Wilson
Chair
Uptown Planners

INTERIM HEIGHT LIMITATION FACT SHEET

St. Paul's Episcopal Cathedral Project: 2665 & 2761 Fifth Avenue

(Statement by project applicant's representative: Tucker Sadler, in response to Planning staff's recommendation to add more units and spread affordable housing units throughout the two proposed buildings.)

“. . . Lastly, the **units in the new structures are tremendously large** and will have high maintenance, energy, and HOA cost that would not be economically feasible for low-income households.”

(Below are excerpts from the City Planning Departments Review, indicating the project does not meet the density requirements of the Uptown Community Plan.)

Although building heights are regulated by zoning, recommendations in the community plan call for limiting development intensities where it could affect airport operations for the purpose of ensuring public safety. Based on comments provided by LDR-Planning and Planning-Airport, outstanding issues remain. Staff recommends reducing building heights to comply with applicable height regulations and/ **considering a reduction in market-rate unit size to add more for-sale units.**”

The Uptown Community Plan designates the 1.95 acre proposed project site for Commercial/ Residential (approx. 1.15 acres) and Very High Residential (approx. 0.80) acres. Both land use designations allow a residential density of 73 to 110 dwelling units per acre. Based on the proposed area of the site, 142 to 215 dwelling units would be allowed on site. A development proposal consisting of a total of 130 units would not meet the recommended density called for by the community plan.”

The Uptown Community Plan designates the 1.95 acre proposed project site for Commercial/ Residential (approx. 1.15 acres) and Very High Residential (approx. 0.80) acres. Both land use designations allow a residential density of 73 to 110 dwelling units per acre. Based on the proposed area of the site, 142 to 215 dwelling units would be allowed on site. **A development proposal consisting of a total of 130 units would not meet the recommended density called for by the community plan.**

Tower On Fifth

“Tower on Fifth Avenue is to be a 14 –story, 16- unit residential building with one floor reserved for class a office space. . . Residential units would range from the mid-\$800,000 to \$ 4.5 million for a 3,500-square-foot-penthouse.” (North Park News, Vol. 16, No. 3, March2008)

LUGH 3/12/08 #4

001245

Ketcham, Manuel

From: Gonzalez, Alonso
Sent: Wednesday, March 12, 2008 9:31 AM
To: Ketcham, Manuel
Subject: FW: Land Use and Housing Meeting (3/12) Interim Height Uptown

From: Ernie Bonn [mailto:uhcdc@netzero.net]
Sent: Tuesday, March 11, 2008 4:44 PM
To: Gonzalez, Alonso
Subject: Fw: Land Use and Housing Meeting (3/12) Interim Height Uptown

----- Original Message -----

From: Allen Hazard
To: benhueso@san diego.gov ; Council Member Kevin Faulconer ; bmaienschein@san diego.gov ; toniatkins@san diego.gov ; jim@JimMadaffer.com
Cc: William Anderson ; donnafrye@san diego.gov ; James Lawson ; Bruce Coons ; wilson Leo ; Barry Hager ; anthonyyoung@san diego.gov ; scottpeters@san diego.gov
Sent: Tuesday, March 11, 2008 12:00 PM
Subject: Land Use and Housing Meeting (3/12) Interim Height Uptown

Dear City Council Land Use and Housing Committee Members;

Tomorrow (March 12), the Land Use and Housing Committee will meet to discuss the INTERIM HEIGHT LIMITATION IN THE UPTOWN COMMUNITY ORDINANCE. **I support this temporary ordinance 100% for the reasons listed below and more....**

I will be unable to attend (work commitment), I watched last week's Planning Commission meeting on local cable TV and I had a few thoughts about this very important temporary ordinance.

1. **Tall is as Tall does:** The proposed temporary solution to tall buildings can be either a height limit (50 feet or 65 feet) or a height limit according to stories (4 or 5 or 6 stories) - the intent is the same, the Uptown community does not want Tall Buildings (see the 2,000+ Uptown residents who signed the Paseo de Mission Hills petition - the 65 ft mixed use building was deemed Too Big for the area; see the 301 University Ave 2,000+ Uptown resident's petition).

2. **Green Building?** Developers and planners often use the Green Building rationale to build really Big Buildings. **The reality is that the "greenest buildings" are the older buildings that are being threatened by demolition to make room for so-called, "smart growth".**

The real green buildings are the 70 year old Spanish Revival bungalow courts along Sixth Avenue, the 90 year old bungalows (all made out of old-growth wood, which is no longer

3/12/2008

001246

available) - **about 40% of our landfill is construction and demolition debris** (EPA estimate is that about 136 tons per year or *2.8 lbs per person, per day!*).

Another example of thoughtless waste - a **10,000 square foot building is bulldozed - that wipes out the environmental benefit from the last 2,688,000 aluminum cans that were recycled** - we might just as well have thrown them all in the trash.

Furthermore, modern development is built of the least environmentally friendly and the most energy consumptive materials - plastic, steel, vinyl and aluminum. **Older buildings were generally made of the least energy consumptive of materials - brick, plaster, concrete and old growth timber.**

Older buildings were built to last hundreds of years, new buildings will only last 30 to 40 years.

3. Its not "infill" its "Refill" - Uptown "infill" is code for lets demolish that old single or two-story bungalow to make room for the latest favor of the month (infill suggests a vacant lot - there are very very few left in Uptown) - often times the argument is made that *a. it would cost too much to fix a historic building or b. the building is "not worth saving" and should be sacrificed for the greater good of "density near transit" or c. because the project will not "pencil out"*.

What this really means is that the developer will make obscene profits on a development that they feel they are entitled to.

I cannot buy the theory that a two lane road (University Ave) or four lane road (Washington Street) with a bus is a "major transportation corridor". This is just an excuse to build, build, build - most European cities do NOT do this - Munich, London, Paris, Rome - the historic core is protected for good reason (*which tourists want to see a 15 story skyscraper and not the historic buildings that were good enough for hundreds of years?*).

"Infill" development and "smart growth" does NOT pencil out for the Uptown residents.

4. "Smart Growth"? There is talk about the New Urbanism, but not much about the Old Urbanism. Most cities already have transit-oriented development. They used to be called streetcar suburbs, at least until somebody stupidly ripped out the streetcars (1948 in San Diego).

If the City of San Diego truly believes in a "City of Villages" or "Smart Growth" they would replace the old streetcar trolleys (the tracks are still there - buried underneath the asphalt - think of the Heritage Tourism \$\$\$\$ that streetcars would bring - see San Francisco!).

5. \$729,000 = Affordable Housing? Developers want to tear down older buildings in our bungalow belt (University Heights, Hillcrest, Mission Hills, etc.) to build so-called "infill" projects. One of their excuses is that they are providing "affordable housing" - **a quick search of Hillcrest and Mission Hills condos for sale found the "cheapest" condo (2 bed, 2 bath) for \$729,000.**

001247

There are **49 condos for sale (Hillcrest and Mission Hills) and NONE are affordable** for teachers, police officers, fire fighters, small business owners - the middle class. Throwing in a few "affordable" units among the 80 or 100 \$800,000 condos is also not the answer, its a cop-out.

Older buildings ARE affordable housing. Often times, when "infill" development project wipe out older homes, **they remove the ONLY affordable housing from the market.** Those single story bungalows, two-story Craftsman or sweet little bungalow courts provide the middle class with affordable housing. Building million dollar condos does very little to deal with San Diego's affordable housing problem.

6. The many vs. the few. The Uptown community is a 101 year old bungalow community with a few three and four-story buildings. **Uptown is not Downtown.** A City of Villages means that we have an existing identity - we the home to some of San Diego's most historic buildings and homes. We have already lost too many important older homes and buildings. So-called, infill development will negatively affect our community.

Too many times, developers moan about the lost of their investments, I would argue that the thousands of home owners in Uptown would equally moan about our loss of investment should 8, 10, 12, 15-story buildings be built alongside our historic homes. **What about our property value rights? Does not the interests of several thousand outweigh the interests of a few developers?**

Please consider these points when you discuss adoption of the INTERIM HEIGHT LIMITATION IN THE UPTOWN COMMUNITY ORDINANCE on March 12.

Our community needs a temporary limit on overbuilding, demolition of our historic homes and inappropriate massive too-tall for the community projects.

Thank you for your time and consideration.

Sincerely,

Allen A. Hazard
Mission Hills CAL

Thanks to Jane Powell, an Oakland based, noted bungalow author and speaker for her insightful comments on historic preservation, green building and "smart growth"

LU&H 3/12/08 #4

001249

Ketcham, Manuel

From: Gonzalez, Alonso
Sent: Wednesday, March 12, 2008 9:41 AM
To: Ketcham, Manuel
Subject: FW: Interim Height Ordinance - LU&H March 12 Agenda (Item 4)

From: Molina-Rodriguez, Ana **On Behalf Of** Hueso, Councilmember Ben
Sent: Tuesday, March 11, 2008 2:29 PM
To: Gonzalez, Alonso
Subject: FW: Interim Height Ordinance - LU&H March 12 Agenda (Item 4)

From: Ernie Bonn [mailto:uhcdc@netzero.net]
Sent: Tuesday, March 11, 2008 1:56 PM
To: Hueso, Councilmember Ben; Atkins, Councilmember; Faulconer, Council Member Kevin; Maienschein, Councilmember; Madaffer, Councilmember Jim
Cc: Anderson, William; Frye, Donna; Barry E Hager; Leo Wilson; BDCoons@aol.com
Subject: Interim Height Ordinance - LU&H March 12 Agenda (Item 4)

Dear City Council Land Use and Housing Committee Members:

As a member of the Uptown Independent Task Force for the Interim Height Limitation Ordinance, my concerns are centered on the push by the City for high rises that move through the permit process both on a ministerial and a discretionary basis without appropriate City oversight and with total disregard for the Uptown Community Plan. I strongly support this Ordinance, and both the City Planning Dept. and the Mayor are finally also recognizing the urgency of this request.

In addition, the Mid-City Planned District that applies to the Uptown Planning Area also is being overlooked when approving projects in Uptown. "The purpose of the Mid-City Planned District is to assist in implementing the goals and objectives of the adopted community plans for older, developed communities generally located east of Interstate 5 and south of Interstate 8 and to assist in implementation of the Progress Guide and General Plan of the City."

"It is also the purpose of the Mid-City Planned District to encourage the development of quality multiple residential structures within the Greater North Park and Uptown communities, which relate in scale and design to the surrounding neighborhood, and provide an attractive street environment. For the facility-deficient neighborhoods, it is also the purpose of the Planned District to limit residential development until adequate public facilities are available." One luxury unit per floor and in lieu fees instead of affordable housing units are not equitable solutions when wiping out the existing housing stock. Cumulative impacts to the older built environment is definitely not being addressed.

Since neither our Community Plan nor our Mid-City Planned District is being respected in the projects coming forward, it is essential that our communities have this time-lock in the form of an Interim Height Limitation Ordinance attached to the update of the Uptown Community Plan.

Sincerely,

Ernie Bonn
UHCDC

3/12/2008

001250

4452 Park Blvd., San Diego, 92116

Tel: 619-297-3166

RECEIVED
CITY CLERK'S OFFICE
08 JUN 27 PM 1:38
SAN DIEGO, CALIF.

RECOMMENDATIONS

COMMUNITY PLANNING GROUP/STAFF'S/PLANNING COMMISSION

Project Manager **must** complete the following information for the Council docket:

CASE NO. XXXX

STAFF'S

Adopt the proposed amendment to the Mid-City Communities Planned District Ordinance for an interim height ordinance in the Uptown Community, Ordinance O-2008-164.

PLANNING COMMISSION (list names of Commissioners voting yea or nay)

YEAS: 4 (Chair Schultz, Vice-Chair Naslund, Ontai, & Otsuji)

NAYS: 0

ABSTAINING: 3 (Griswold-recusing, Smiley-absent & one vacancy)

TO: Recommend that the City Council adopt the proposed amendment to the Mid-City Communities Planned District Ordinance with a discretionary review process and approval (Process 4) instead of a strict height limit and include additional findings pertaining to design and community benefit for projects exceeding 50 and 65 feet within the overall area affected by the amendment, and that the proposed amendment include height limit exceptions as identified in staff report PC-08-029 for stairways, rooftop equipment and screening, and sustainable development features.

COMMUNITY PLANNING GROUP (choose one)

LIST NAME OF GROUP: Uptown Planners

- No officially recognized community planning group for this area.
- Community Planning Group has been notified of this project and has not submitted a recommendation.
- Community Planning Group has been notified of this project and has not taken a position.
- Community Planning Group has recommended approval of this project.
- Community Planning Group has recommended denial of this project.
- This is a matter of City-wide effect. The following community group(s) has taken a position on the item:

In favor: 11

Opposed: 3

By Marlon I. Pangilinan, Senior Planner
(Name and Title)



THE CITY OF SAN DIEGO
REPORT TO THE CITY COUNCIL

DATE ISSUED: July 2, 2008 REPORT NO. 08-095

ATTENTION: Honorable Council President Peters and City Council
Docket of July 8, 2008

SUBJECT: Proposed Interim Height Limitation in the Uptown Community

REFERENCE: Planning Commission Report No. PC-08-029
Planning Commission Memorandum, dated April 11, 2008

REQUESTED ACTION:

Approve the amendment to the Mid-City Communities Planned District Ordinance (MCCPDO) for an interim height limitation in the Uptown Community, Ordinance O-2008-164.

STAFF RECOMMENDATION:

Approve the requested action.

SUMMARY:

Background

On October 14, 2006, the City Planning & Community Investment Department, Uptown Planners, Council Districts 2 and 3 sponsored an Uptown Community Plan Issues Workshop to hear a multitude of issues from the community, developers, and residents regarding impacts of new development, updating the Uptown Community Plan, historic preservation, density and building height, preserving community character, concerns over traffic and mobility, and the need for more public facilities. Of the issues that were discussed, the desire to update the community plan was consistently raised to address the community's concerns. Additionally, many raised concerns about the potential height of buildings allowed by the community plan and existing zoning, and its effect on community character, while others spoke in favor of height as a contributing factor to creating vibrant and exciting urban communities.

Prior to the October workshop, in response to recent approvals and proposals for high-rise buildings, the Uptown Planners voted 12-0-0 on June 6, 2006, to recommend that the City Council adopt an interim height ordinance. Proponents of the ordinance expressed that such a measure was needed to seek relief from high-rise development that they considered out of scale with the existing character of the surrounding neighborhood and responsible for the exacerbating deficiencies in public facilities. They also expressed that the current community plan, which was adopted in 1988, and the associated zoning neither reflected the current sentiment of the community nor contributed to enhancing the quality of life of the Uptown community.

Given that the main issue of controversy was centered on the issue of building height, staff considered that an interim height measure could be utilized to prevent high-rise development projects from circumventing the public debate on building height during the update process and ensure that all development projects were vetted with the public during this process. After further consideration, the City Planning & Community Investment Department agreed to process an amendment to the MCCPDO as part of the upcoming community plan update and to take it forward for City Council consideration.

On June, 2007, City Planning & Community Investment Department staff announced at the June 5, 2007 Uptown Planners meeting that an update to the Uptown Community Plan would commence in 2008 and that an amendment to the Mid-City Communities Planned District Ordinance (MCCPDO) to impose an interim height restriction would be pursued to be in effect during the plan update process. It was also communicated at the meeting that while most development projects were reviewed through a discretionary process, the proposed amendment would ensure that all large-scale projects in the core area would undergo discretionary review. In addition, the community was informed that such an ordinance would not reduce allowable housing capacity, include a sunset provision, and that the State Density Bonus regulations would still apply.

An initial draft of the proposed amendments to the MCCPDO was introduced and discussed as an informational item at two public meetings of the Uptown Planners on September 4, 2007 and October 2, 2007. City staff's initial draft took into consideration the areas recommended by the community. These areas were located along portions of Washington Street between Ibis and Dove Streets in the Mission Hills neighborhood and properties primarily along portions along Robinson Avenue between 4th and 7th Avenues, University Avenue between Front Street and Park Boulevard, Washington Street between Dove Street and 5th Avenue, 5th Avenue between Washington and Kalmia Streets, and 6th Avenue between Walnut Avenue and Laurel Street, and 6th Avenue between University and Pennsylvania Avenues within the Park West/Bankers Hill neighborhood of the Uptown Community. Properties within these areas are zoned CN-1, (Commercial Node), CN-1A, CN-2A, CV-1 (Commercial Village), and MR-400 (Multi-Family Residential). These zones allow maximum building heights of 100 and 150 in the CN-1A, CN-2A, CV-1, and MR-400 zones, and 200 feet in the CN-1A zone primarily in the Hillcrest neighborhood core. The CN-1 zone does not have an associated maximum building height (Attachment 1).

Additionally, a portion of 4th Avenue between Upas and Maple Streets was also included within the amendment area. This portion is currently zoned NP-1 (Neighborhood Professional). Although the existing zoning for this portion allows a maximum building height of 50 feet and

60 feet where a building would be proposed above enclosed parking, it was included at the request of the community in order to account for potential rezone requests by potential applicants to develop at higher development intensities attributed to adjacent properties.

The initial draft established an overall Process 4 discretionary approval process and additional findings of approval for projects with structures greater than 50 feet in height primarily in the Mission Hills neighborhood and 65 feet in height in the Hillcrest and Bankers Hill/Park West neighborhoods. In response to the initial draft, proponents of the interim height ordinance expressed that creating an overall discretionary process would still allow multiple-story buildings that were significantly out of scale with the surrounding neighborhood based on the existing regulations and adopted policies. They also expressed that the sunset provision could upset the plan update process if 30 months had gone by and the adoption of the plan update was delayed.

On September 27, 2007, staff met with advocates of the interim height ordinance to discuss bifurcating the overall height limitation area within the community. This new proposal would establish a Process 4 discretionary review for projects greater than 65 feet south of Brookes Avenue and restrict buildings over 50 and 65 feet north of Brookes Avenue in specified areas. Although the community members suggested Upas Street as the boundary street, staff considered designating Brookes Avenue instead of Upas Street as the dividing line between the two interim height areas. Brookes Avenue was chosen out of fairness to project applicants with development proposals south of Brookes Avenue that staff were aware of.

Also included this proposal was an extension of up to two 180-day extensions to the provisions of the interim height ordinance through a majority vote of the City Council in case the Uptown Community Plan update could not be adopted prior to the expiration of 30 months and an exemption for projects deemed complete prior to the adoption of the amended ordinance. It was also communicated to the advocates of the interim height ordinance that staff would also present potential modifications during the scheduled hearings to consider whether Upas Street or Brookes Avenue would be the appropriate street to bifurcate the proposed height limitation areas and exceptions to the height limits for architectural appurtenances such as stairways, rooftop equipment and screening, and the incorporation of sustainable measures as they were concerns raised by architects and project applicants.

This proposal was presented to the Uptown Planners on November 6, 2007, and was supported by a vote of 11-3-1 with conditions that CPCI accept changes to the recital portions of the ordinance, that the height restrictions apply to any proposed rezone, that no exceptions be given to exceed the strict height limits in the amendment, and that CPCI proceeds with processing the amendments with all due speed. On March 4, 2008, the Uptown Planners voted 12-3-1 to designate Upas Street instead of Brookes Avenue as the boundary between the strict height and discretionary review areas within the overall area affected by the proposed amendments (Attachments 2 & 3).

On March 6, 2008, the proposed amendment was presented to the Planning Commission for consideration and was continued by a vote of 4-0-3 so that staff could return with additional analysis that would address several issues (Attachment 4). These issues are addressed in the discussion section of the staff report and include:

- The purpose of the interim height ordinance
- The advantages and disadvantages of allowing exceptions within the strict height limitation area
- What the timeline and appropriate duration of the ordinance should be
- The advantages and disadvantages of selecting Upas Street over Brookes Avenue as the boundary between the strict height limitation areas and discretionary review areas
- The rationale for having two distinct height limitation areas
- Considering whether “height” or “stories” should be the appropriate measure within the ordinance
- The economic impact of the proposed ordinance, and
- The justification as to why the proposed ordinance is exempt from CEQA.

On March 12, 2008, the proposed amendment was presented to the Land Use and Housing Committee to seek direction and to determine what alternatives should be presented to the Planning Commission. The Committee voted 3-0-0 to recommend that the City Council adopt the proposed amendment to the Mid-City Communities Planned District Ordinance and that they include an exception to the strict height limitation for sustainable development features, elevator overrides, enclosed stairways, and other non-habitable spaces in addition to designating Upas Street as the boundary between the strict height limitation and discretionary review areas within the subject area.

On April 3, 2008, staff returned to the Planning Commission to address additional issues brought up during the previous hearing, but the item was continued due to a loss of a quorum and was continued to May 8th, 2008. Staff did make an effort in accordance with proper noticing procedures to have the proposed amendment heard earlier at the April 17, 2008 hearing, however the Planning Commission voted to maintain the May 8th hearing out of fairness to both those in favor and in opposition to the proposed amendment.

On May 8, 2008, the Planning Commission voted 4-0-3 to not include a strict height limitation within the proposed amendment but to instead, recommend that the City Council adopt the proposed amendments to the MCCPDO with an overall discretionary review/approval process (Process 4) and additional findings for projects exceeding 50 and 65 feet within the entire area affected by the amendments and that limited criteria for exceeding the height limit be included. The Planning Commission came to this recommendation after expressing concern that having a strict height limit would make it difficult for project applicants to incorporate good design while at the same time maximizing the number dwelling units on site as well as affect opportunities for providing affordable housing within the community. Additionally, the recommendation to include an overall discretionary process would allow project applicants and the community to work together to ensure that new development projects would be compatible with the character of the community (Attachment 5 and 6).

Discussion

The proposed amendments to the MCCPDO would amend Chapter 15, Article 12, Division 2, of the San Diego Municipal Code, relating to the Land Development Code. In summary the amendment would do the following (Attachment 7):

1. Require a Mid-City Communities Development Permit in accordance with Process 4 for any structure south of the centerline of Upas Street which exceeds a building height of 65 feet in Area 'B' as shown on Figure 1512-03A, as depicted on Map C-928.
2. Projects exceeding 65 feet in Area 'B' south of Upas Street would require the decision maker to approve or conditionally approve a Mid-City Communities Permit if the decision maker finds that the proposed building height is appropriate because of the location of the site, existing neighborhood characteristics and project design including massing, setbacks, façade compositions and modulations, material and fenestration patterns when considered together, would ensure the project's compatibility with the existing and intended character of Uptown, in addition to the general findings for Site Development Permits.
3. Restrict maximum buildings heights to 50 and 65 feet in Areas 'A' and 'B' north of the centerline of Upas Street, as shown on figure 1512-03A, as depicted on Map C-928.
4. Maintain the height limitation for 30 months or until the Uptown Community Plan is updated, whichever occurs first.
5. Allow the City Council through a majority vote to extend these provisions for two 180-day periods in accordance with Process 5 should the 30-month limitation expire prior to the adoption of the Uptown Community Plan Update.
6. Provide an exception to the height limits for stairways, mechanical equipment and screening, decks, sustainable development features, and enclosed communal space.
7. Provide an exemption for projects deemed complete prior to the adoption of this ordinance.

Community Plan/General Plan Analysis

The Uptown Community Plan designates the areas within the proposed height limitation area for Mixed-Use development at 44 to 110 dwelling units per acre, Commercial-Residential development at 44 to 110 dwelling units per acre, Very High Residential development at 73 to 110 dwelling units per acre and Office Residential development 44 to 73 dwelling units per acre (Attachment 8).

The proposed amendments to the MCCPDO would not result in the amendment, modification, or change to the General Plan or the Uptown Community Plan. In addition, the proposed amendments would not change planned residential densities or rezone any property within the Uptown community. The amendments' incorporation of a Process 4 approval process and strict height limit where they are applied, would ensure discretionary review which would meet several objectives of the community plan for preserving the diverse and unique character of each neighborhood in the Uptown community, ensuring that development is compatible in character and scale, preserving and enhancing the pedestrian scale and orientation within the Hillcrest

neighborhood, and limiting the intensity of development in areas subject to airport noise and where structures may obstruct flight operations.

The proposed amendment would assist in implementing the goals in the Urban Design Element of the General Plan that recognize the City's distinctive neighborhoods. These goals include creating a pattern and scale of development that respects desirable, existing community character and context; recognizing that the quality of a neighborhood is linked to the overall quality of the built environment; and having development that protects and improves upon the desirable features of San Diego's neighborhoods. The amendment would also implement the recommendation for projects to be reviewed as part of a larger neighborhood or community plan area in which they are located for design continuity and compatibility.

Density Analysis

Staff conducted a general density analysis in order to determine whether the maximum density of the base zones affected by the proposed height limitations, could reasonably be achieved. For this analysis staff contemplated potential mixed-use developments which considered typical lot sizes within the areas affected by the ordinance, current zoning and parking regulations in the municipal code, and factored in general assumptions for building efficiency ratio, and square footage needed for internal plumbing, elevator shafts, and other internal equipment. Staff's analysis concluded that the maximum residential density could be achieved under the strict height limitations proposed by the amendments to the MCCPDO (Attachments 9). However, it should be noted that maximizing the residential density for a development under the strict height limitations could result in smaller units and buildings with less design articulation, since additional square footage would be needed for additional offsetting planes, articulated surfaces, and other architectural measures that contribute to breaking up the façade elevations of buildings.

Since off-street parking requirements are a significant factor in the feasibility of development projects, staff took into account the number of bedrooms per unit, minimum area for commercial-retail space, plumbing and internal equipment, required dimensions for parking spaces and drive aisles, and concluded that at least one floor of underground parking would be necessary in addition to ground-level or multi-level, above-ground parking. Additionally, given the results of staff's density analysis, it could be possible for project applicants to include affordable housing within their project and request incentives provided through the density bonus regulations to address any off-street parking deficiencies.

Alternatives

An alternative to the proposed interim height limitation would be to provide an overall discretionary review/approval process (Process 4) over the entire area affected by the amendment and subject projects that exceed the 50 and 65-foot height limits to additional findings as recommended by the Planning Commission on May 8, 2008. These findings would address the compatibility of a proposed project's design with the existing and intended character of Uptown and that the proposed projects include a benefit to the community (Attachment 10).

Such an alternative would prevent ministerial review of proposed high-rise projects exceeding 50 and 65 feet, include notice to residents within 300 feet of the project site, as well as allow residents to work with project applicants through their recognized planning group.

Another alternative for consideration has also been raised by advocates of the interim height ordinance regarding the exceptions to height. In the proposed amendment to the MCCPDO, development projects could exceed the 50 and 65-foot maximum building height for stairways, mechanical equipment and screening, decks, sustainable development features such as green roofs and solar power generating devices, and enclosed communal spaces. These exceptions also limit roof projections to 15 feet in height, no more than 20 percent of the roof area, and non-habitable spaces. Although staff believes that the height exception language is definitive, several advocates of the interim height ordinance have expressed that any exceptions to the height limits should be considered under a discretionary process involving community input. In addition, it has also been expressed by the community that an exception of 15 feet above the height limit is too excessive and that 10 feet is more reasonable.

Consequences

Should the recommended action be approved, high rise developments with 1 to 2 units per floor that also capitalize on private views could continue to be proposed in the designated discretionary review areas within the Bankers Hill/Park West neighborhood as the market dictates. With the application of a Process 4 discretionary review for projects exceeding a maximum building height of 65 feet, additional staff time and processing fees could be incurred by projects that would have had the ability to be processed through ministerial review under current regulations. During subsequent hearings on the proposed amendment, it has been expressed by those in opposition that the proposed amendment would create structures with poor architectural design as a result of project applicants wishing to maximize the allowable residential density on site. However this has yet to be realized and would need to be observed once the interim height limitation is in effect.

Should the recommended action not be approved, project applicants would be able to continue submitting development applications to the City as allowable under the existing regulations. Taller buildings with an emphasis on larger units that maximize views could continue to be proposed. Ministerial review of high-rise projects, although limited in recent history, would remain possible under the current regulations. Additionally, denial of the proposed action would not preclude the community plan update for the Uptown Community Plan from moving forward.

FISCAL CONSIDERATION:

Costs associated with the processing of the amendments are being managed by the City Planning & Community Investment Department's work program.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

The proposed amendment was presented to the Land Use and Housing Committee on March 12, 2008 to seek direction from the Committee and to determine what alternatives should be

presented to the Planning Commission. The Committee voted 3-0-0 to recommend that the City Council adopt the proposed amendment to the Mid-City Communities Planned District Ordinance and that they include an exception to the strict height limitation for sustainable development features, elevator overrides, enclosed stairways, and other non-habitable spaces in addition to designating Upas Street as the boundary between the strict height limitation and discretionary review areas within the subject area.

COMMUNITY PARTICIPATION and PUBLIC OUTREACH EFFORTS:

City staff presented earlier drafts of the proposed amendments to the Uptown Planners on September 4, 2007 and October 2, 2007 where they were discussed as an informational item. On November 6, 2007, the Uptown Planners voted to support the proposed amendments 11-3-1 with conditions. On March 4, 2008, the Uptown Planners voted 12-3-1 to designate Upas Street instead of Brookes Avenue as the boundary between the strict height and discretionary review areas within the overall area affected by the proposed amendments.

On March 6, 2008, the proposed amendment was presented to the Planning Commission for consideration and was continued by a vote of 4-0-3 so that staff could return with additional analysis that would address issues raised by the Commissioners.

On May 8, 2008, the Planning Commission voted 4-0-3 to recommend that the City Council adopt the proposed amendment to the MCCPDO with a discretionary review/approval process (Process 4) instead of a strict height limitation, include additional findings for projects exceeding 50 and 65 feet within the overall area affected by the amendments and that limited criteria for exceeding the height limit be included.

Various organizations have testified at each of the meetings and hearings offered by the Uptown Planners, Planning Commission, and the Land Use and Housing Committee. Organizations that expressed support of the proposed amendment include: Uptown Planners, Mission Hills Heritage, the Independent Interim Height Ordinance Task Force, Save Our Heritage Organization, Hillcrest History Guild, and the Hillcrest Town Council. Organizations that have expressed opposition to the proposed amendment include: San Diego Regional Chamber of Commerce, San Diego Association of Realtors, Building Industry Association, and the San Diego Housing Federation.

KEY STAKEHOLDERS and PROJECTED IMPACTS (if applicable):

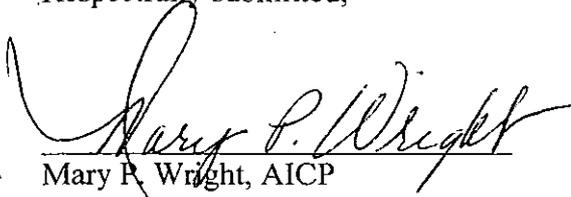
Key stakeholders involved in the proposed action include Allen Matkins Leck Gamble Mallory & Natsis, LLP, Attorneys at Law; St. Paul's Cathedral; CLB Partners; private developers, consultants, and architects; various residents and property owners of the Uptown Community; and stakeholders listed above.

It is not anticipated that the proposed amendments would impact community residents or existing businesses within the Uptown Community. Land owners with property located north of Upas Street, who wish to redevelop their properties, would be affected by the strict height limitations proposed by the amendments. Land owners with properties south of Upas Street, would be

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allowed to develop structures that exceed a maximum building height of 65 feet. However, they would be required to undergo a discretionary review and approval by the Planning Commission and subject to additional findings.

Respectfully submitted,



Mary P. Wright, AICP
Deputy Director
City Planning & Community Investment

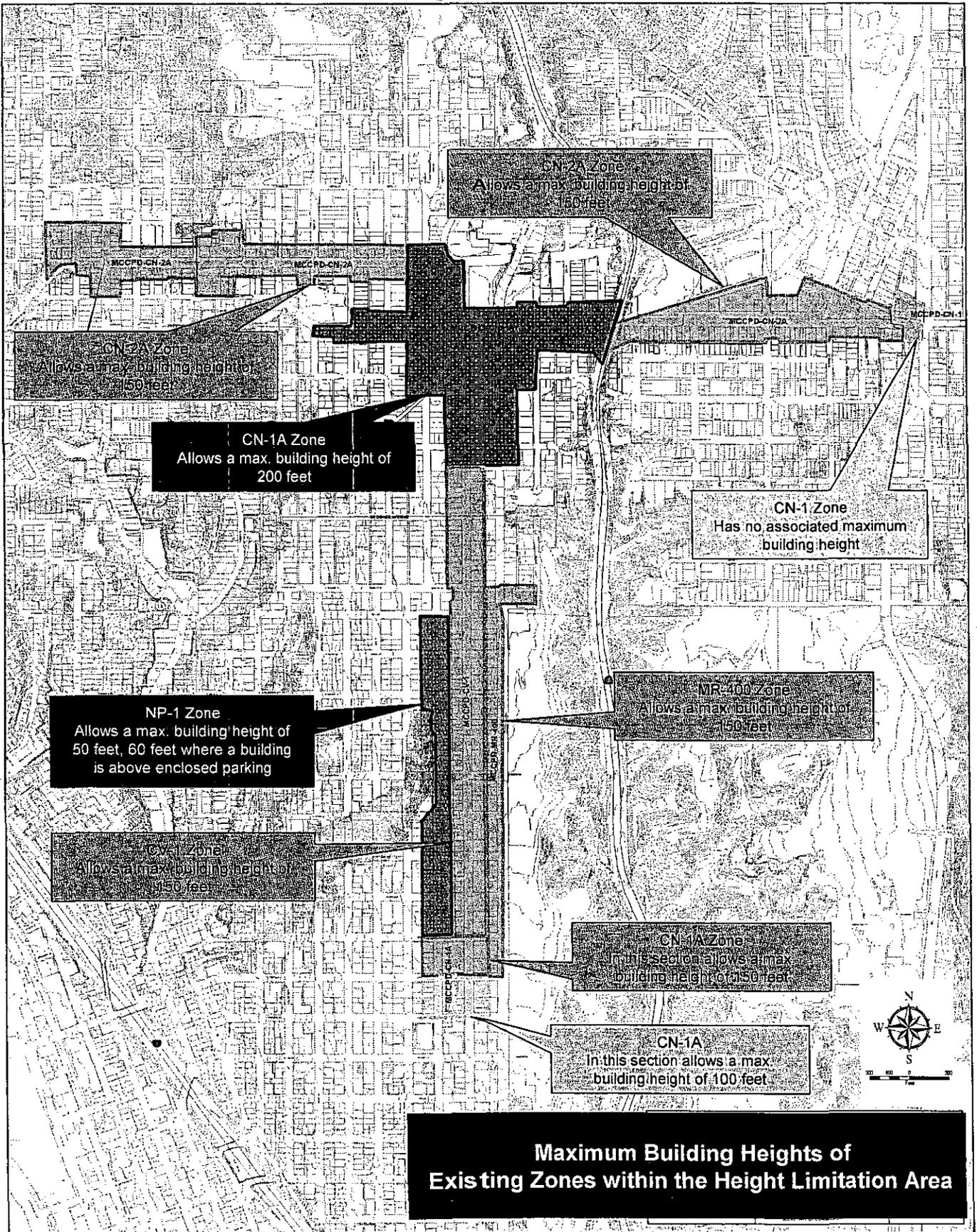


William Anderson, FAICP
Deputy Chief Operating Officer
City Planning and Development

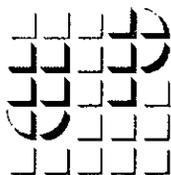
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- Attachment(s):
1. Existing Zoning Map
 2. Uptown Planners meeting minutes of November 6, 2007
 3. Uptown Planners meeting minutes of March 4, 2008
 4. Planning Commission Report PC-08-029
 5. Planning Commission minutes of May 8, 2008
 6. Planning Commission Resolution No. 4401-PC
 7. Draft Strike-out Ordinance Version 1 Height Limit
 8. Uptown Community Plan Map
 9. Memorandum to the Planning Commission dated April 11, 2008
 10. Draft Strike-out Ordinance Version 2 Discretionary

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UPTOWN PLANNERS
 Uptown Community Planning Committee
 November 11, 2007
 Meeting Minutes

Members Present: Present: Liddell, Towne, Grinchuk, Epley, Satz, Dahl, Gatzke, Hyde, Wilson (Chair), O'Dea, Adler, Matthews (late), Wendorf (late), Edwards, Sachs

I. Parliamentary Items:

B. Adoption of Agenda: Wilson (Chair) suggested moving the following action items to the consent agenda: letters of support requested by City Fest, the Hillcrest Mardi Gras and Father Joe's Village Thanksgiving Day 5K Run/Walk; adoption of the revised bylaws. Sachs said that he wanted to discuss the bylaws as an action item. Wilson agreed not to recommend putting that item on the consent agenda. The board agreed to put the remaining items (the letters of support) on the consent agenda by voice vote (12,0,1; Chair abstaining.)

Appointment of Secretary: Towne elected secretary by voice vote (12,0,1; Chair abstaining)

Board Members Matthews and Wendorf arrive – 14 members of Board Present.

C. Approval of October Minutes: O'Dea moved to approve October minutes. Motion passed by voice vote 14,0,1; Chair abstained)

D. Treasurer's Report: Treasurer Dahl reported on the current bank balance and last month's income for Uptown Planners.

E. Chair/ CPC Report: Wilson (Chair) announced that he has copies of the plans for expanding Lindbergh Field if anyone wants to see them. He noted that a request for a letter of support from "In Motion" arrived too late for the board to take action at the time requested. He said that he has information on a request for a water main replacement in the Bankers Hill area for anyone who wants to find out more. He noted that the last CPC meeting was delayed by the fires. He noted that progress is being made on an indemnification ordinance for planning groups. He noted that the COW training for new planning group members will take place on November 29, but that those who cannot attend can attend the next workshop.

II. Public Communications:

Sheila Hardin representing the CCDC announced upcoming workshops on parking and affordable housing. Dale Purcell, Uptown Planners liaison to the North Bay Planning Area Committee (Middletown) asked the board for direction on any height limit that might be proposed in Middletown. Wilson (Chair) said that he will put that item on the agenda for a later meeting. Epley said that no buildings higher than 65' are allowed in Middletown at the present time. City Planner Marlon Pangalinan announced an upcoming community forum on the Hillcrest Corridor Mobility Strategy.

Representatives of Elected Officials: James Lawson introduced himself as the new representative for Councilmember Faulconer.

Jeffrey Tom announced his impending departure as Councilmember Atkins' liaison to Uptown and introduced the new liaison. He said that the State of California is looking for a developer to develop the DMV site in Hillcrest. Community suggestions for the DMV development can be forwarded to the State through Jeffrey Tom or City Planner Marlon Pangalinan. Suggestions already made include preserving the Farmers Market, including affordable housing, creating a pedestrian friendly environment and using green building methods. Tom said that he was working on resolving the problem of standing water (sewage) at 7th and Brookes.

Wilson (Chair) praised Jeffrey Tom as one of the best representatives of a city official that he had encountered in his many years of working with San Diego city officials.

Todd Gloria, representing Congresswoman Davis, announced that his position would be taken over in a few months by Nick Norbel. He noted that there was a limited time for fire victims to register with FEMA. He announced some upcoming community meetings with Davis. In reply to a question from Epley, he said that Davis voted to forward H.R. 333 -- the bill to impeach the Vice-President -- to the House Judiciary Committee.

III. Consent Agenda:

The following three items were moved to consent upon the adoption of the agenda:

1. **REQUEST FOR LETTER OF SUPPORT – FATHER JOE'S VILLAGE THANKSGIVING DAY 5K RUN/WALK (Special Event) – Bankers Hill/Park West – Event will take place on November 22, 2007.**
2. **REQUEST FOR LETTER OF SUPPORT – MARDIS GRAS -- (Special Event) – Hillcrest – Event will take place on February 8, 2009**
3. **REQUEST FOR LETTER OF SUPPORT – CITY FEST -- (Special Event) -- Hillcrest – Event will take place in August 2008.**

Gatzke moved to approve the consent agenda. Sachs seconded. Motion passed by voice vote 14,0,1 (Chair abstained)

IV. Action Items: Proposed Interim Height Limitation



PROPOSED INTERIM HEIGHT LIMITATION ORDINANCE – Uptown – Would impose a mandatory interim height limitation for a section of the Uptown community planning area north of Brookes Street, which would apply to any proposed structure that exceeds 50 feet in Area "A" ; and 65 feet in Area "B"; as identified in the map attached to the proposed ordinance;

Would impose a discretionary height limitation for a section of the Uptown community planning area south of Brookes Street, which would apply to any proposed structure that exceeds 65 feet in Area "B"; as identified in the map attached to the proposed ordinance;

The interim ordinance would expire either: (1.) upon the adoption of an updated Uptown Community Plan, or (2.) 30 months from the date of adoption of the amendment, at which time for the City Council would decide whether to extend it for an additional period of time.

City Planner Marlon Pangalinan presented the mayor's proposal for an interim height limitation in Uptown. Uptown resident Barry Hager, Chair of the Independent Task Force for the Interim Height Ordinance, said that his task force would reluctantly endorse the mayor's proposal (the task force wanted a strict limit north of Upas; the Mayor proposed a strict limit north of Brookes) with the following conditions: 1) delete "and intended" from language in the ordinance concerning the character of the community; 2) insert "mid-range assumptions" in language concerning acceptable heights; 3) delete language regarding the city's intention to comply with state law in granting density bonuses for affordable housing (state law would apply anyway); 4) delete exceptions granted to applicants who have completed applications on file with the city as of the date the ordinance is finally approved by the city council; instead, the ordinance should be retroactive to the date it was first proposed.

Public Comment: Rick Wilson said that the strict height limit should be north of Upas, not north of Brookes. George Wiedemeyer said that he was not impressed by the discretionary review proposed in the mayor's version of the ordinance and that he would be interested in asking a judge for an injunction against any tall buildings approved under such review based on the five elements cited by the judge who stopped the 301 University Ave. project. Marc Perrault said that he supported "building up, not building out" in keeping with smart growth principles advocated by Al Gore as a corrective to long commutes and suburban sprawl. Tom Mullaney said that the height limit in the core of Hillcrest should be even lower than that proposed in the interim ordinance -- 25-30' -- using Santa Barbara as a model. Former City Planner Ron Buckley said that he agreed with Perrault, that height limits were a bad idea reflecting a misunderstanding of the community plan by newcomers to the community, and that adopting a height limit would make Uptown "like El Cajon Boulevard".

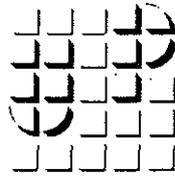
Satz moved to approve the mayor's proposal, attaching Barry Hager's conditions. Towne seconded. Epley proposed a substitute motion to deny the proposal with attached conditions by Hager. Gatzke seconded. Motion failed 3,11,1 with the Chair abstaining and Liddell, Epley and Gatzke voting in favor. Sachs offered a friendly amendment (to Satz's original motion) to change the dividing line for the strict height limit from Brookes to Upas. Satz asked James Lawson and Jeffrey Tom (respectively, the representatives for councilmembers Faulconer and Atkins) whether the councilmembers would support Upas as the dividing line. They said they did not know. Satz then said that he would not accept Sachs's amendment. Sachs then moved for the adoption of the amendment as an unfriendly amendment. Towne seconded. Wilson (Chair) said that insisting on Upas would kill the strict height limit for the rest of Hillcrest. Motion failed 5,8,1,1 (Chair and Adler abstained; Sachs, Towne, Epley, Wendorf and O'Dea voted in favor.) Adler called the question on the original, unamended motion by Satz to approve the mayor's proposal, attaching Barry Hager's conditions. Adler's motion to vote on the original, unamended motion passed 11,3,1 (Chair abstained; Sachs, Gatzke and Dahl voted against.) Motion to approve the mayor's proposal, attaching Barry Hager's conditions, passed 11,3,1 (Chair abstained; Liddell, Epley and Gatzke voted against.)

VI. Action Items

ST. PAUL'S CATHEDRAL – (Process Five) – Encroachment/Street Public Right of Way -- Bankers Hill/Park West – Early Consideration before the City Council, pursuant to San Diego Municipal Code Section 129.0710(c), for proposed encroachment of an underground parking garage into the public right of way of Fifth Avenue and Nutmeg Streets; Airport Approach Overlay Zone; Proposed Sixth Avenue/ Balboa Park Urban Edge Landscape District.

Representatives from the Cathedral presented plans for two high-rise mixed use buildings on Cathedral property, including plans for underground garages that would encroach on the public right of way. They said that the project would provide 18 affordable units, preserve the historic La Moderne apartments, provide more than two parking spaces per unit plus an additional 59 spaces for use by the cathedral, and strive to comply with LEED certification standards.

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UPTOWN PLANNERS

Uptown Community Planning Committee
MEETING MINUTES
 March 4, 2008

Present: Towne, Grinchuk, Dahl, Epley, Wilson (Chair), Gottschalk, O'Dea, Adler, Liddell, Hyde, Sachs, Satz, Wendorf, Singleton, Gatzke, Edwards

Board Election: Eight candidates ran for seven open positions. Dahl, Satz and Chair Wilson were reelected to the board. Ernestine Bonn (University Heights), John Lamb (Bankers Hill/Park West), James Mellos (Middletown/Mission Hills), and Michael Seidel (Hillcrest) joined the board as new members.

Total ballots cast:	92
Leo Wilson	90
John Lamb	79
Ernestine Bonn	76
Roy Dahl	74
Steven Satz	74
Michael Seidel	72
James Mellos	69
Ian Epley	19

Adoption of Agenda and Rules of Order:

O'Dea moved to pull 806 West Pennsylvania from the Consent Agenda. Motion passed by voice vote, Chair Wilson abstaining.

Approval of Minutes:

Corrections were made to the February minutes:

O'Dea noted that Kelley Broughton is a "he", not a "she", and that Stacey Lomedico is Director of Parks and Recreation, not an Uptown resident.

Gatzke noted that his motion to table a motion regarding the Hillcrest Town Council did not have anything to do with recognizing or not recognizing the Hillcrest Town Council as a community voice. The "community voice" language should be stricken from the minutes.

Parking Zone; Transit Overlay Zone. *DRS (the Design Review Subcommittee) voted to approve the application, subject to the conditions that: (1) as recommended by planning staff, the three foot encroachment along Sixth Avenue into the public right of way be removed; and (2) the frontage on Sixth Avenue be made pedestrian friendly and visually attractive. (Vote: 7-0 in favor)*

Hyde moved (with Grinchuk seconding) to approve the Consent Agenda. Motion passed unanimously, with Chair Wilson abstaining.

Action Items:

(Pulled from Consent Agenda:) 806 West Pennsylvania Avenue NDP ("Shinnick Residence NDP) -- (Process Two) -- Mission Hills -- Neighborhood Development Permit to move a second residence onto the project site with a deviation to the maximum floor area on a 6,750 sq. ft. parcel located at 806 West Pennsylvania Avenue in the MR-3000 Zone; Part 77 Notification. *DRS voted to approve with the request that the applicant provide, and aid in obtaining, information regarding the process by which the structure in question was relocated out of its current location in Little Italy. (Vote: 7-0 in favor)*

Board Discussion: O'Dea said that Little Italy should have discretionary review of the removal of the house from the Little Italy neighborhood. Sachs suggested that the item be continued until April and that the Board try to get information on the removal process from Marlon Pangilinan of City Planning and Community Investment. Chair Wilson said that the Board should be pleased to have a good house relocated to Uptown instead of an unsightly "Huffman" and that the Board should not discourage such relocations.

Gatzke moved to approve the NDP, with Dahl seconding.

O'Dea offered a friendly amendment to condition the approval by requiring historic review of the house. Gatzke did not accept the friendly amendment.

O'Dea then offered the amendment as an unfriendly amendment, with Sachs seconding. Motion (with unfriendly amendment) failed 5,10,1 (Sachs, Adler, O'Dea, Towne and Wendorf voting in favor; Chair Wilson abstaining.)

Gatzke's original motion to approve (seconded by Dahl) passed 11,4,1 (Adler, O'Dea, Towne and Wendorf voting against; Chair Wilson abstaining.)



Draft Interim Height Limitation Ordinance -- Uptown -- Will impose a mandatory interim height limitation for a section of the Uptown community planning area north of Brookes Street, which would apply to any proposed structure that exceeds 50 feet in Area "A", and 65 feet in Area "B", as identified in the map attached to the proposed ordinance; Planning Staff has indicated that the option of extending the mandatory limitation to Upas Street will be included as an alternative when the item is heard by the City Planning Commission on March 6, 2008.

Would impose a discretionary height limitation for a section of the Uptown community planning area south of Brookes Street (or alternatively Upas Street), which would apply to any proposed structure that exceeds 65 feet in Area "B"; as identified in the map attached to the proposed ordinance;

The interim ordinance would expire either: (1) upon the adoption of an updated Uptown Community Plan, or (2) 30 months from the date of adoption of the amendment, at which time the City Council would decide whether to extend it for an additional period of time.

Discussion:

Marlon Pangalinan, representing City Planning and Community Investment, noted that certain changes had been made in the wording of the proposed ordinance, and that it would only take a simple majority vote of the City Council to extend the ordinance beyond 30 months.

Barry Hager, Mission Hills resident and president of SOHO (Save Our Heritage Organization), asked that wording of the ordinance be changed regarding the compatibility of large new multi-story structures with existing structures, the use of the term "intended character", and several other items. He noted that the Hillcrest Town Council had endorsed Upas as the dividing line between an outright prohibition of structures higher than 65 feet (north of the dividing line) and discretionary review of such structures (south of the dividing line), and that the Mayor had said that Upas as the dividing line was reasonable. He suggested that the Board pass a motion to change the dividing line from Brookes to Upas.

Board Discussion: Towne noted that the Mayor had said that he thought Thorn or Redwood were to be the dividing line when he spoke at a meeting of the Hillcrest Town Council.

Edwards (with Wendorf seconding) moved to approve the Draft Interim Height Limitation Ordinance with Upas as the dividing line (see discussion above.) Motion passed 12,3,1 (Singleton, Epley and Gatzke voting against; Chair Wilson abstaining.)

Subcommittee Reports/Other Business:

Satz submitted proposed motions to: (1) submit a letter of support for California State Assembly Member Lori Saldana's efforts to increase the requirements for providing affordable housing in return for granting density bonuses to developers; and (2) to ask Assembly Member Saldana to write legislation that would duplicate the condo conversion regulations recommended by the CPC on October 25, 2005. The CPC recommended improved landscaping and structural standards for conversions; enhanced disclosure (including a building condition report) to prospective purchasers of apartments converted to condos; relocation assistance to all tenants, regardless of their time in residence; reduced requirements for off-street parking in cases where the converted apartments are historic or otherwise architecturally significant; a requirement that new



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THE CITY OF SAN DIEGO

REPORT TO THE PLANNING COMMISSION

DATE ISSUED: March 28, 2008 **REPORT NO.** PC-08-029

ATTENTION: Planning Commission
Agenda of April 3, 2008

SUBJECT: **Process 5 - Amendment to the Mid-City Communities Planned District Ordinance (MCCPDO) for an Interim Height Limitation in the Uptown Community**

REFERENCE: Planning Commission hearing of March 6, 2008; Report No. PC-08-029

SUMMARY

Issue – Should the Planning Commission RECOMMEND for adoption by the City Council, an amendment to Chapter 15, Article 12, Division 2 of the San Diego Municipal Code, relating to the Mid-City Communities Planned District Ordinance?

Staff Recommendation:

RECOMMEND the proposed amendment for adoption by the City Council.

Community Planning Group Recommendation – At the regularly scheduled and noticed planning committee meeting of November 6, 2007, Uptown Planners voted 11-3-1 to support the proposed amendment with conditions.

Environmental Impact – The proposed amendment is exempt from CEQA pursuant to Sections 15061(b)(3) and 15308 of the State CEQA Guidelines.

Fiscal Impact – None.

Housing Impact Statement – The request to amend the MCCPDO would not result in a loss of existing for-sale or affordable housing, the creation of additional units beyond what is currently allowed under existing regulations, or preclude the ability of meeting the minimum residential densities recommended in the Uptown Community Plan. The proposed amendment would result in multi-family development with smaller units and with multiple dwelling units per floor compared to existing developments that have built

to the maximum building height allowed by the current zoning. The proposed amendment would still allow the maximum density of the base zone to be reasonably achieved and therefore would not preclude the use of affordable housing density bonus regulations.

BACKGROUND

On October 14, 2006, the City Planning & Community Investment Department, Uptown Planners, Council Districts 2 and 3 sponsored an Uptown Community Plan Issues Workshop to hear issues from the community, developers, and residents regarding the impacts of new development, updating the Uptown Community Plan, historic preservation, density and building height, preserving community character, concerns over traffic and mobility, and the need for more public facilities. Of the issues that were discussed, the desire to update the community plan and establish an "interim height ordinance" were consistently raised as measures for the community to seek relief from high-rise development in the core of Hillcrest that they considered out of scale with the existing character of the surrounding neighborhood and responsible for the exacerbating deficiencies in public facilities. The community had expressed that the current community plan, which was adopted in 1988, and the associated zoning neither reflected the current sentiment of the community nor contributed to enhancing the quality of life of the Uptown community.

As a follow-up to the Uptown Community Plan Issues Workshop, City Planning & Community Investment Department staff announced at the June 5, 2007 Uptown Planners meeting that an update to the Uptown Community Plan would commence in spring 2008 and that an amendment to the Mid-City Communities Planned District Ordinance (MCCPDO) to impose an interim height restriction would be pursued during the plan update process. It was also communicated to the community that while most of the development that the community had been concerned with were projects that would undergo a discretionary review process under current regulations, the proposed amendment would ensure that all large-scale projects in the core area would undergo discretionary review. In addition, the community was informed that such an ordinance would not reduce allowable housing capacity, include a sunset provision, and that the State Density Bonus regulations would still apply.

An initial draft of the proposed amendment to the MCCPDO was introduced and discussed as an informational item at two public meetings of the Uptown Planners on September 4, 2007 and October 2, 2007. City staff's initial draft took into consideration the areas recommended by the community. These areas were located along portions of Washington Street between Ibis and Dove Streets in the Mission Hills neighborhood and properties primarily along portions along Robinson Avenue between 4th and 7th Avenues, University Avenue between Front Street and Park Boulevard, Washington Street between Dove Street and 5th Avenue, 5th Avenue between Washington and Kalmia Streets, and 6th Avenue between Walnut Avenue and Laurel Street, and 6th Avenue between University and Pennsylvania Avenues within the Park West/Bankers Hill neighborhood of the Uptown Community. Properties within these areas are zoned CN-1, (Commercial Node), CN-1A, CN-2A, CV-1 (Commercial Village), and MR-400 (Multi-Family Residential). These zones allow maximum building heights of 100 and 150 in the CN-1A, CV-1,

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and MR-400 zones, and 200 feet in the CN-2A zone. The CN-1 zone does not have an associated maximum building height (See Attachment 1).

Additionally, a portion of 4th Avenue between Upas and Maple Streets was also included within the amendment area. This portion is currently zoned NP-1 (Neighborhood Professional). Although the existing zoning for this portion allows a maximum building height of 50 feet and 60 feet where a building is above enclosed parking, it was included at the request of the community in order to account for potential rezone requests by potential applicants to develop at higher development intensities attributed to adjacent properties.

The initial draft established a Process 4 discretionary approval process and additional findings of approval for projects with structures greater than 50 feet in height primarily in the Mission Hills neighborhood and 65 feet in height in the Hillcrest and Bankers Hill/Park West neighborhoods. In response to the initial draft, residents and members of the community expressed that creating an overall discretionary process would still allow multiple-story buildings that were significantly out of scale with the surrounding neighborhood based on the existing regulations and adopted policies. Residents also expressed that the sunset provision could upset the plan update process if 30 months had gone by and the adoption of the plan update was delayed.

On September 27, 2007, staff met with representatives of the community and advocates for the interim height ordinance to discuss bifurcating the overall height limitation area within the community. This new proposal would establish a Process 4 discretionary review for projects greater than 65 feet south of Upas Street and restrict buildings over 50 and 65 feet north of Upas Street in specified areas. Staff considered this request and revised the ordinance to designate Brookes Avenue instead of Upas Street as the dividing line between the two interim height areas. Brookes Avenue was chosen out of fairness to projects applicants with development proposals south of Brookes Avenue that staff was aware of. Also included in this draft was an extension of up to two 180-day extensions to the provisions of the interim height ordinance through a majority vote of the City Council in case the Uptown Community Plan update could not be adopted prior to the expiration of 30 months. This proposal was presented to the Uptown Planners on November 6, 2007, and was supported by a vote of 11-3-1 with conditions (See Attachment 2).

On March 6, 2008, the proposed amendment was presented to the Planning Commission for consideration and was continued by a vote 4-0-0 so that staff could return with additional analysis that would address several issues. These issues are addressed in the discussion section of the staff report and include:

- The purpose of the interim height ordinance
- The advantages and disadvantages of allowing exceptions within the strict height limitation area
- What the timeline and appropriate duration of the ordinance should be
- The advantages and disadvantages of selecting Upas Street over Brookes Avenue as the boundary between the strict height limitation areas and discretionary review areas
- The rationale for having two distinct height limitation areas

- Considering whether “height” or “stories” should be the appropriate measure within the ordinance
- The economic impact of the proposed ordinance, and
- The justification as to why the proposed ordinance is exempt from CEQA. These issues are addressed in the discussion section of the staff report.

On March 12, 2008, CPCI presented the proposed amendment to the Land Use and Housing Committee to solicit input and direction on whether an alternative ordinance should be presented to the Planning Commission. Upon consideration, the Land Use and Housing Committee voted 3-0-0 to recommend that the City Council adopt the proposed amendment to the MCCPDO and that the ordinance include exceptions to the strict height limitation for sustainable development measures, elevator overrides, enclosed stairways, and other non-habitable spaces, and move the boundary that delineates the proposed strict height limitation areas and the discretionary review areas from Brookes Avenue to Upas Street.

DISCUSSION

The proposed amendment to the MCCPDO would amend Chapter 15, Article 12, Division 2 of the San Diego Municipal Code, relating to the Mid-City Communities Planned District Ordinance. In summary the, amendment would do the following (See Attachment 3):

1. Require a Mid-City Communities Development Permit in accordance with Process 4 for any structure south of the centerline of Brookes Avenue which exceeds a building height of 65 feet in Area ‘B’ as shown on Figure 1512-03A, as depicted on Map C-928.
2. Projects exceeding 65 feet in Area ‘B’ would require the decision maker to approve or conditionally approve a Mid-City Communities Permit if the decision maker finds that the proposed building height is appropriate because of the location of the site, existing neighborhood characteristics and project design including massing, stepbacks, façade compositions and modulations, material and fenestration patterns when considered together, would ensure the project’s compatibility with the existing and intended character of Uptown, in addition to the general findings for Site Development Permits.
3. Restrict maximum buildings heights to 50 and 65 feet in Area ‘A’ north of the centerline of Brookes Avenue, as shown on figure 1512-03A, as depicted on Map C-928.
4. Maintain this provisions in the proposed amendment for 30 months or until the Uptown Community Plan is updated whichever occurs first.
5. Allow the City Council through a majority vote to extend these provisions for up to two 180-day periods in accordance with Process 5, should the 30-month limitation expire prior to the adoption of the Uptown Community Plan Update.
6. Provide an exception to the provisions of the proposed amendment for projects *deemed complete* prior to the adoption of this ordinance.

Community Plan Analysis

The Uptown Community Plan designates the areas within the proposed height limitation area for Mixed-Use development at 44 to 110 dwelling units per acre, Commercial-Residential development at 44 to 110 dwelling units per acre, Very High Residential development at 73 to 110 dwelling units per acre and Office Residential development 44 to 73 dwelling units per acre (See Attachment 4).

The proposed amendment to the MCCPDO would not result in the amendment, modification, or change to the City of San Diego Progress Guide and General Plan or the Uptown Community Plan. In addition, the proposed amendment would not change planned residential densities or rezone any property within the Uptown community. The amendment's incorporation of a Process 4 approval process and strict height limit where they are applied, would ensure discretionary review which would meet several objectives of the community plan for preserving the diverse and unique character of each neighborhood in the Uptown community, ensuring that development is compatible in character and scale, preserving and enhancing the pedestrian scale and orientation within the Hillcrest neighborhood, and limiting the intensity of development in areas subject to airport noise and where structures may obstruct flight operations.

Density Analysis

Staff conducted a general density analysis in order to determine whether the maximum density of the base zones affected by the proposed height limitations, could reasonably be achieved. For this analysis staff contemplated potential mixed-use developments which considered typical lot sizes within the areas affected by the ordinance, current zoning and parking regulations in the municipal code, and factored in general assumptions for building efficiency ratio, and square footage needed for internal plumbing, elevator shafts, and other internal equipment.

In regards to potential floor-to-ceiling heights, staff considered 15 feet for ground floor commercial-retail, 10 feet for each residential floor, and 5 feet to account for rooftop equipment screening. In areas where the proposed ordinance applied a 50-foot height limit, staff calculated 3 floors of residential use and in areas and where the ordinance applied a 65-foot height limit, 4 floors of residential were calculated.

Based on the density analysis staff conducted, the maximum density allowed by the zone could be met or exceeded. In one scenario, staff considered a 20,000 square foot site (200'x100') along Washington Street within the CN-2A zone where the proposed ordinance would establish a strict 50-foot height limit. Based on the zone's maximum density of 1 unit per 800 square feet, the maximum number of dwelling units on site would be 25 dwelling units. Assuming total site coverage of 20,000 square feet, an assumption of 3,200 square feet for elevator shafts, stairs, plumbing, and internal equipment, and a building efficiency ratio of 75 to 85 percent for total for-sale or leasable residential area, approximately 12,600 to 14,280 square feet would remain for the total area attributed to dwelling units per floor. Based on staff's consideration that each dwelling unit could be at least 1,000 square feet, approximately 12 to 14 dwelling units could be available on each building floor. Given 3 floors of residential under this scenario, 36 to 42 dwelling units could be available on site.

Staff also considered another scenario involving a 40,500 square foot site (300'x135') along 4th Avenue within the CN-1A zone where the proposed ordinance would establish a strict 65-foot height limit. Based on the zone's maximum density of 1 unit per 400 square feet, the maximum number of dwelling units allowed on site would be 101 dwelling units. Again, considering the same assumptions as in the previous example, approximately 27,975 to 29,840 square feet would remain for the potential area dedicated to dwelling units per floor. Utilizing the same consideration of 1,000 square foot units, approximately 28 to 31 units could be available for each building floor. Given the possibility of having 4 residential floors under the 65-foot height limit scenario, 112 to 124 dwelling units could be available on site.

Since off-street parking requirements are a significant factor in the feasibility of development projects, staff took into account the number of bedrooms per unit, minimum area for commercial-retail space, plumbing and internal equipment, required dimensions for parking spaces and drive aisles, and concluded that at least one floor of underground parking would be necessary in addition to ground-level or multi-level, above-ground parking. Additionally, given the results of staff's density analysis, it could be possible for project applicants to include affordable housing within their project and request incentives provided through the density bonus regulations to address any off-street parking deficiencies.

Potential Modifications

During staff's drafting of the proposed amendment, several issues have been raised by the community as well as developers and architects regarding considering flexibility towards the proposed strict height limitation north of Brookes Avenue, as well as the designating Upas Street instead of Brookes Avenue, as the boundary street that would delineate areas where the strict height limit and discretionary process would be applied. Although these issues are not formally part of staff's amendment to the Mid-City Communities Planned District Ordinance, staff requests that the Planning Commission consider the following potential modifications and any others not currently identified in the amendment proposal:

1. Height Exceptions and Flexibility

Incorporating height exceptions in areas where the strict height limitation would be applied could address instances where building constraints would force functional stairway, elevator access, and elevator overrides beyond the roofline as well as accommodate the installation of sustainable development measures such as green roofs or photovoltaic technology. Exceptions could also be considered for the provision of public and/or on-site amenities that lend to active use of roofs, the provision of useable public park space and the preservation of potential historic resources. Public support of a project, especially one that poses clear benefits to the community could also constitute a mechanism for exceeding the proposed strict height limitations of the proposed amendment. On March 12, 2008, the Land Use and Housing Committee recommended that height exceptions be included in the proposed ordinance. A draft of what these exceptions could allow is included as Attachment 5. This draft language allows a 15 foot height allowance for stairways, mechanical equipment screening, decks, sustainable

development features, and enclosed communal space. The draft also provides that such allowances not exceed 20 percent of the total roof area. Although staff considers the draft language specific and definitive, members of the community have expressed that such allowances should be considered only through a discretionary process.

2. Delineation of the proposed strict height limit and discretionary review areas

The centerline of Brookes Avenue is currently proposed as the boundary street that would differentiate the strict height limit and discretionary review areas of the proposed amendment. It has been expressed by the community that the boundary should be at Upas Street since it is the boundary street between the Hillcrest and Bankers-Hill/Park West neighborhoods as depicted by the Uptown Community Plan. Staff had designated Brookes Avenue as the boundary out of fairness to the project applicants who had development proposals south of Brookes Avenue that staff was aware of. Since the selection of Brookes Avenue as the boundary street, one of the two proposed projects between Brookes Avenue and Upas Street has already undergone ministerial review for building permits. The remaining project proposal, which had submitted a development proposal for preliminary review in May 2007, has not since returned with a new proposal or redesign (See Attachment 6).

Additional Analysis Requested by the Planning Commission

On March 6, 2008, the Planning Commission continued the proposed amendment to the MCCPDO and requested that staff address the following issues:

1. Establish the purpose for interim height ordinance.

Given the recent development activity with the Mission Hills, Hillcrest, and Bankers Hill/Park West neighborhoods and the upcoming update to the Uptown Community Plan, the proposed interim height ordinance would ensure that high-rise developments would not circumvent the debate on height, neighborhood scale, and character during the update process. Within the proposed strict height limitation areas proposed by the amendment, particularly in the Mission Hills neighborhood, the ordinance would allow development that would compliment the existing heights of lower-scale buildings. The selection of a strict height limitation of 50 feet would complement adjacent zones that allow maximum buildings heights from 30 to 40 feet and up to 50 feet where portions of buildings would be above enclosed parking. Similarly, the same situation exists in the core of Hillcrest where a 65-foot strict height limit would complement adjacent zones that allow a maximum building height of 50 feet and up to 60 feet where a building is above enclosed parking.

Within the discretionary review areas proposed by the amendment, which are primarily located in the Bankers Hill/Park West neighborhood, the ordinance would allow the opportunity for potential high-rise developments to be reviewed within the context of a neighborhood that has both high-rise buildings interspersed with lower scale development. Also, with current regulations that allow for ministerial processing of high-rise development and project applicants continuing to submit development applications,

this process would ensure that both the project applicants and the community could have an opportunity to engage in a dialogue regarding new high-rise development within an already built-out community.

2. Advantages and disadvantages of including height exceptions within the strict height limitation area proposed in the ordinance.

With the proposed reduction in building height, project applicants would be interested in maximizing building square footage for residential uses and therefore, would be relegating accessory features to the roof. The inclusion of height exceptions within the proposed ordinance would serve to provide a limited level of flexibility in cases where accessory features such as rooftop equipment would need to exceed the height limits set forth in the proposed. Exceptions to the strict building height limit could also allow for enclosed stairways and elevator overrides in order to provide access to the roof and promote roofs as an open space amenity for residents. Height exceptions could further allow the use of rooftops for non-habitable, communal gathering spaces which could provide additional on-site amenities for residents. Additionally, with the City's promotion of sustainable development policies, exceptions could allow the provision of sustainable development features as defined by such as green roofs and photo-voltaic devices.

The Land Development Code (LDC) currently does not have regulations that allow exceptions to building height. Typically, any request to exceed the maximum building height of a particular base zone would be sought through the application of a variance or deviation associated with a development proposal. A possible disadvantage of incorporating height exceptions within the ordinance could be the use of existing height exceptions to justify even greater height exceptions for newer development. However, this could be countered by the establishment of a defined height allowance, specific criteria, and or specific accessory uses.

3. Advantages and disadvantages to moving the boundary between the strict height limitation areas and the discretionary review areas from Brookes Avenue to Upas Street.

The advantage to moving the boundary from Brookes Avenue to Upas Street would be to bring the height limitation areas consistent with neighborhood boundaries as identified in the Uptown Community Plan, and allow clear understanding as to which neighborhoods in the Uptown Community would be subject to a strict height limitation and which ones would be subject to a discretionary review process. The disadvantage would be that project applicants and property owners interested in constructing high-rise developments north of Upas Street and south of Brookes and not in any other areas, would be restricted to a maximum building height of 65 feet and would not receive the opportunity of building significantly higher structures through a discretionary review process.

4. Timeline of the proposed ordinance and appropriate duration.

Should the proposed ordinance be approved by City Council, the ordinance would go into effect 30 days after its second reading. The second reading would occur at City Council after a minimum of 12 days after the initial City Council hearing according to the City

Charter. The ordinance would be in effect for 30 months or until the update to the Uptown Community Plan is adopted, whichever occurs first. Should the plan update not be adopted after 30 months after the ordinance goes into effect, the City Council may extend the duration of the ordinance for up to two 180-day extensions. Based on this limit, the proposed amendment would not exceed 3 years and 6 months. This timeframe for the ultimate duration of the proposed ordinance would be appropriate since the update to the Uptown Community Plan is scheduled to take 2 and a half years to complete. The extra year afforded by the City Council's ability to extend the ordinance would allow for any unanticipated delays in the plan update process.

5. Rationale for having two distinct limitation areas.

The two distinct height limitation areas reflect a compromise between City staffs' initial proposal to establish an overall discretionary process for the entire subject area and the community's desire to have an overall strict height limitation. The strict height limitation was relegated north of Brookes Avenue within the Mission Hills and Hillcrest neighborhoods since the existing development within this portion of the Uptown community was predominantly low-scale and where proposed high-rise developments would have the potential to conflict with the existing scale and character of existing development. In contrast, the area south of Brookes Avenue already had existing high-rise developments that were part of a growing characteristic of the Bankers Hill/Park West neighborhood. Therefore, a discretionary process would be more appropriate in this area, so that potential high-rise projects could be reviewed in the context of a neighborhood with varied scales of development.

6. The consideration of utilizing "height" or "stories."

Although the utilization of building stories allows flexibility to how tall building can appear or how interior building spaces can be designed, height is more definitive for use in an ordinance. The use of building stories can also be ambiguous since the actual floor to ceiling distance of a building story typically could range in height. Currently, there is no utilization of building stories in the Land Development Code to measure how tall a building can be or appear. The current Land Development Code utilizes height as opposed to building stories in determining how tall a particular building can be for a particular zone. The use of the building stories would be more appropriately used within a community plan where the end result of a desired building form is a plan objective or design recommendation.

7. Economic analysis on the impact of the proposed ordinance.

In order to determine the practical, economic impacts of the proposed ordinance on future development, a thorough economic analysis would need to be conducted on a case-by-case basis taking into consideration existing conditions. At this time staff does not have the necessary resources to conduct such a study. However, given the provisions of the proposed ordinance, high-rise developments with 1 to 2 units per floor that capitalize on views could continue to proceed in the discretionary review areas within the Bankers Hill/Park West neighborhood as the market dictates. Currently, existing regulations do allow high-rise projects to be processed under ministerial review. With the application of a Process 4 discretionary review for projects exceeding a maximum building height of 65

feet, additional staff time and processing fees could be incurred for projects that would have been able to be processed through ministerial review under the current regulations.

Within the strict height limitation areas of the proposed ordinance, it can be reasonably assumed that housing units would be smaller, with multiple units per floor in order for project applicants to maximize the density on site. Contrary to large, high-rise units where views are charged at a premium, smaller units could be more affordable and attractive to a larger spectrum of potential residents. Also, based on staffs' density analysis, the proposed ordinance would not reduce the maximum residential densities allowed by the zones affected by this ordinance, and therefore would not preclude project applicants and property owners from building to those densities. Additionally, under a reduced height limit, expensive building frame-type construction costs would be deferred by project applicants, since it would not be necessary to require expensive steel frame construction that is characteristic of high-rise development. With the upcoming plan update, a more comprehensive economic analysis would be conducted on the potential design conditions that are produced during the update process.

8. Justify the conclusion that the proposed action is exempt under CEQA.

CEQA is triggered when a discretionary project may result in physical impacts on the environment. The Environmental Analysis Section (EAS) of the Development Services Department reviews each project to determine whether or not implementation of the project could potentially result in a significant environmental impact. If it is determined that no significant impacts would result, then a CEQA exemption may be prepared.

In this case no direct impacts would result from the proposed amendment to the PDO because it is an implementing ordinance and not a specific development project. However, CEQA does require that reasonably foreseeable impacts be evaluated.

The project is an amendment to the Mid-City Communities Planned District Ordinance; and the amendment would implement a temporary interim height limit. Currently, the areas to be affected by the amendment have height limits that range from 50 feet to 200 feet or have no height limit. The amendment would limit heights to 50 or 65 feet depending upon the area of implementation.

While staff has determined that the proposed height limits would not result in a loss of units or a decrease in plan or zone density, due to the constraints of the height limitation, it is feasible that the design of future projects could result in buildings with a reduced density or smaller units with fewer bedrooms. Since required parking is calculated based on the number of bedrooms, it is likely that the amendment could result in a decrease in Transportation and Air Quality impacts related to the number of cars associated with new buildings. It is also anticipated that a reduction in impacts to Visual Effects and Neighborhood Character could result with the proposed height limitation as the resulting projects would likely be in keeping with the bulk and scale of the existing physical form of the community.

New projects allowed under the proposed height limit would be reduced in scale and would be subject to the regulations of the PDO and the LDC regarding setbacks and floor area ratio, etc. Numerous factors enter into the decisions related to the eventual size of buildings proposed. Therefore, EAS considers it speculative to conclude that any significant increased impacts would result from the implementation of this amendment.

EAS has determined that two CEQA exemptions would apply to this project:

CEQA Section 15061(b)(3): This exemption is called the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

CEQA Section 15308: This exemption is used for actions taken by regulatory agencies to protect the environment where the regulatory process involves procedures for protection of the environment. In this case, it is anticipated that potential impacts related to visual quality, as well as transportation and air quality would be reduced.

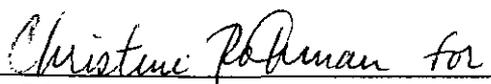
CONCLUSION

As discussed previously, City Staff will begin updating the Uptown Community Plan and MCCPDO in the coming months to address land use policies and regulations such as those related to transportation and land use connections, historic preservation, urban design, etc. The proposed amendment would address the community's concerns over the compatibility of new development and ensure that during the community plan update process new development would not adversely affect the community's efforts in the creation of design objectives and the re-evaluation of the overall vision of the community.

ALTERNATIVES

1. Recommend that the City Council **adopt** the proposed amendment to the Mid-City Communities Planned District Ordinance with modifications.
2. Recommend that the City Council **deny** the proposed amendment to the Mid-City Communities Planned District Ordinance.

Respectfully submitted,


 MARY P. WRIGHT
 Deputy Director
 City Planning & Community Investment


 MARLON I. PANGILINAN
 Senior Planner
 City Planning & Community Investment

001284

MPW/MIP

- Attachments:
1. Existing Zoning Map
 2. Uptown Planners meeting minutes of November 6, 2007
 3. Draft Amendment to the Mid-City Communities Planned District Ordinance
 4. Uptown Community Plan Map
 5. Draft height exception language
 6. Hillcrest Development North of Upas Street and South of Brookes Avenue

001285

PLANNING COMMISSION OF THE CITY OF SAN DIEGO
MINUTES OF REGULAR SCHEDULED MEETING OF
MAY 8, 2008
IN CITY COUNCIL CHAMBERS - 12TH FLOOR
CITY ADMINISTRATION BUILDING

CHRONOLOGY OF THE MEETING:

Chairperson Schultz called the meeting to order at 9:07a.m. Chairperson Schultz adjourned the meeting at 1:05 p.m.

ATTENDANCE DURING THE MEETING:

Chairperson Barry Schultz - present
Vice-Chairperson -Vacant
Commissioner Robert Griswold - present
Commissioner Gil Ontai -present
Commissioner Dennis Otsuji - present
Commissioner Eric Naslund – present
Commissioner Mike Smiley – not present

Staff

Paul Prather, City Attorney - present
Mary Wright, Planning Department – present
Mike Westlake, Development Services Department - present
Elisa Contreras, Recorder - present

001286

ITEM 1: **ANNOUNCEMENTS/PUBLIC COMMENT - ISSUES WITHIN THE JURISDICTION OF THE COMMISSION NOT PREVIOUSLY HEARD:**

None

ITEM 2: **REQUESTS FOR CONTINUANCE AND/OR ITEMS TO BE WITHDRAWN:**

None given

ITEM 3: **REQUESTS FOR ITEMS TO BE PLACED ON THE CONSENT AGENDA:**

Item 10 was placed on consent.

ITEM 4: **DIRECTOR'S REPORT:**

Mike Westlake announced the upcoming appointment of Tim Golba, reappointment of Commissioner Otsuji, and appointment of a New Chairperson.

ITEM -5: **COMMISSION COMMENT:**

None given

ITEM-6: **APPROVAL OF THE MINUTES MARCH 6, 2008 AND APRIL 3, 2008**

MOTION BY COMMISSIONER GRISWOLD TO APPROVE THE MINUTES FOR MARCH 6, 2008. Second by Commissioner Otsuji. Passed by a vote of 5-0-2 with Commissioner Smiley not present and one vacancy.

MOTION BY COMMISSIONER GRISWOLD TO APPROVE THE MINUTES FOR APRIL 3, 2008. With a spelling correction on item 15. Second by Commissioner Otsuji. Passed by a vote of 5-0-2 with Commissioner Smiley not present and one vacancy.

ITEM-7: *Continued from April 17, 2008*

AMERICAN TOWER - AVIATION - PROJECT NO. 92076

City Council District: 4; Plan Area: Skyline Paradise Hills

Staff: Karen Lynch-Ashcraft

001287

Speaker slips in favor by Robert Jystad

No speaker slips in opposition

COMMISSION ACTION:

CONTINUANCE MOTION BY COMMISSIONER NASLUND TO A DATE CERTAIN OF JULY 10, 2008. Second by Commissioner Otsuji. Passed by a vote 4-0-3 with Commissioner Griswold recusing, Commissioner Smiley not present and one vacancy. Resolution No. 4400-PC

Break from 10:38-10:48

ITEM-8: *Continued from April 17, 2008*

**AMENDMENT TO THE MID-CITY ORDINANCE-
COMMUNITIES PLANNED DISTRICT ORDINANCE (MCCPDO)
FOR AN INTERIM HEIGHT LIMITATION IN THE UPTOWN
COMMUNITY**

City Council District: 2 & 3; Plan Area: Uptown

Staff: Marlon Pangilinan

Speaker slips submitted in favor of the project Barry Hager, Ann Garwood, Julianne Peters-Hyde, Joy Sunyata, Nancy Moors, and Denise Bradshaw

Speaker slips submitted opposed to the project by Robin Munro, Scott Malloy, Tim Rubesh, Ron Buckley, Mike McPhee, Robin Munro, Mike Nagy, Ian Epley, Janelle Riella, Jim O'Connell, Julie Dillon, and Tom Scott, Woo Chio, Neville Willsmore, Bruce Leidenberger.

COMMISSION ACTION:

MOTION BY COMMISSIONER NASLUND TO RECOMMEND THE PROPOSED AMENDMENT FOR ADOPTION BY THE CITY COUNCIL AS PRESENTED IN REPORT NO. PC-08-029 Second by Commissioner Ontai. Passed by a vote 4-0-3 of with Commissioner Griswold recusing, Commissioner Smiley not present and one vacancy.

001288

ADDITIONAL RECOMMENDATION BY COMMISSIONER NASLUND TO INCLUDE AN OVERALL DISCRETIONARY REVIEW PROCESS SUBJECT TO PLANNING COMMISSION APPROVAL FOR ALL PROJECTS EXCEEDING 50 AND 65 FEET IN APPLICABLE AREAS WITH ADDITIONAL FINDINGS ADDRESSING DESIGN AND COMMUNITY BENEFIT, AND EXCEPTIONS TO THE HEIGHT LIMITS FOR STAIRWAYS, ROOFTOP EQUIPMENT AND SCREENING, SUSTAINABLE DEVELOPMENT MEASURES.

Resolution No. 4401-PC

ITEM-9: **LINDA VISTA ROAD CENTER-PROJECT NO. 108435**
City Council District: 6; Plan Area: Linda Vista

Staff: Jeannette Temple

Speaker slip in favor of the project by Gordon T. Frost jr. and Tim Rubesh

No speaker slips in opposition

COMMISSION ACTION:

MOTION BY COMMISSIONER ONTAI TO RECOMMEND THAT THE CITY COUNCIL CERTIFY MITIGATED NEGATIVE DECLARATION No. 108435; AND ADOPT THE MITIGATION MONITORING AND REPORTING PROGRAM (MMRP);

RECOMMEND THAT THE CITY COUNCIL ADOPT REZONE NO. 361571.

RECOMMEND THAT THE CITY COUNCIL APPROVE EASEMENT VACATION No. 532246 AND PLANNED DEVELOPMENT PERMIT No. 532247 AS PRESENTED IN REPORT NO. PC-08-047. Second by Commissioner Naslund . Passed by a vote of 4-1-2 with Commissioner Otsuji voting nay, Commissioner Smiley not present and one vacancy. Resolution No. 4402-PC

RECOMMENDATION THAT THE APPLICANT MAKE AN EFFORT TO WORK WITH SUSTAINABLE BUILDING AND SITE TECHNIQUES TO ENHANCE ENVIRONMENTAL PERFORMANCE AND REDUCE THE CARBON FOOTPRINT, AND REDESIGN SITE

001289

PLAN TO HAVE NEW STRUCTURES CLOSER TO THE STREET
WITH ADDITIONAL PARKING AT THE REAR.

ITEM-10

WINONA TENTATIVE MAP-PROJECT NO. 80488

City Council District: 3; Plan Area: Kensington Talmadge

Staff: Karen Lynch-Ashcraft

Speaker slips in favor of project Chris Christensen and Robert Bateman.

No speaker slips submitted in opposition

COMMISSION ACTION:

CONSENT MOTION BY COMMISSIONER OTSUJI TO APPROVE
TENTATIVE MAP NO. 251503.

APPROVE WAIVER TO THE REQUIREMENT TO UNDERGROUND
EXISTING OVERHEAD UTILITIES AS PRESENTED IN REPORT
NO. PC-08-045. Second by Commissioner Naslund. Passed by a vote of
5-1-2 with Commissioner Griswold voting nay, Commissioner Smiley not
present and one vacancy. Resolution No. 4403-PC

Meeting was adjourned by Chairperson Schultz @ 1:05pm

*This hearing was not televised due to another hearing in Council
Chambers.*

001291

PLANNING COMMISSION RESOLUTION NO. 4401-PC

RECOMMENDING APPROVAL OF AN AMENDMENT TO THE MID-CITY
COMMUNITIES PLANNED DISTRICT ORDINANCE FOR AN INTERIM HEIGHT
LIMITATION IN THE UPTOWN COMMUNITY

WHEREAS, on May 8th, 2008, the Planning Commission of the City of San Diego held a public hearing for the purpose of considering a recommendation to the City Council for an amendment to the Mid-City Communities Planned District Ordinance for an interim height limitation in the Uptown Community; and

WHEREAS, the proposed amendment would limit structures above a building height of 50 and 65 feet along specific portions of 5th Avenue, Robinson Avenue, University Avenue, and Washington Street within the CN-1, CN-1A, CN-2A, and CV-1 zones and a building height of 65 feet along specific portions of 4th Avenue, 5th Avenue, and 6th Avenue within the CN-1A, NP-1, CV-1, and MR-400 zones of the Uptown Community; and

WHEREAS, the Planning Commission of the City of San Diego considered all maps, exhibits, and written documents presented for this project, and had considered the oral presentations given at the public hearing, and

WHEREAS, The Planning Commission of the City of San Diego believed that a strict height limitation would not allow for potential development proposals to incorporate compatible and innovative architectural design while maximizing residential density and that such a limitation could affect the ability to create more affordable housing opportunities in the Uptown Community; NOW, THEREFORE,

BE IT RESOLVED by the Planning Commission of the City of San Diego hereby recommends City Council approval of the amendment to the Mid-City Communities Planned District Ordinance for an interim height limitation in the Uptown Community; and

BE IT FURTHER RESOLVED, that the Planning Commission of the City of San Diego hereby recommends to the City Council that the amendment provide an overall discretionary review process subject to Planning Commission approval for all projects that exceed a maximum structure height of 50 and 65 feet where applicable; include additional findings related to design and community benefit; and exceptions to the 50 and 65-foot height limits of the amendments for stairways, rooftop equipment and screening, and sustainable development features and that such exceptions not exceed 15 feet, 20 percent of the rooftop area, and include non-habitable space.



MARLON I. PANGILINAN
Senior Planner
City Planning & Community Investment



ELISA CONTRERAS
Legislative Recorder to the
Planning Commission

001292

Scenario 1: South Side of Washington Street between Goldfinch Street and Falcon Street

Site Info		Analysis		
Zoning	MCCPDO - CN-2A	Residential Floors		
Lot Size	20,000 s.f. (100' x 200')	1st & 2nd (200' x 85')		17,000 s.f.
Max. Res. Density	1:800	Less Vertical Penetrations	3,200 s.f.	13,800 s.f.
Max. Units	25 du's	Building Efficiency	0.75	10,350 s.f.
Property Line (PL) Frontage			0.85	11,730 s.f.
Washington	200'			
Falcon	100'	# of 1,000 s.f. units p/floor		10 to 11 du's
Goldfinch	100'	total (1st & 2nd Flrs of Residential)		20 to 22 du's
Interior PL (southern portion of site)	200'			
Parking	2.0 per 2-bedroom unit			
Height Limit				
Existing	150'			
Proposed (strict)	50'			

Constraints		3rd (170' x 85')		
Ground level setbacks		Less Vertical Penetrations	3,200 s.f.	11,250 s.f.
15 feet from shared PL where streetwall is greater than 48 feet along Washington Street and 36 feet in all other areas	15' from southern PL. Affects all floors.	Building Efficiency	0.75	8,437 s.f.
Upper Floor Setbacks			0.85	9,562 s.f.
15 feet where structure exceeds a street wall of 48 feet along Washington Street and 36 feet in all other areas	15' setback from Falcon and Goldfinch Streets above 36 feet and a 15' from Washington Street above 48 feet. Affects 3rd floor of residential and rooftop screen wall.	# of 1,000 s.f. units p/floor		8 to 9 du's
		total (3rd Flr of Residential)		8 to 9 du's

Assumptions		Scenario TOTAL		
Commercial Floor to Floor Height	15'			28 to 31 du's
Residential Floor to Floor Height	10'			
Roof equipment screening	5'			
Residential Unit size	1,000 s.f.			
Vertical Penetrations	3,200 s.f.			
Building Efficiency Ratio	75 to 85%			

Scenario 2: East side of 4th Avenue, Mid-way between Washington Street and University Avenue

Site Info		Analysis		
Zoning	CN-1A	Residential Floors		
Lot Size	40,500 s.f. (135' x 300')	1st & 2nd (270' x 132')		35,775 s.f.
Max. Res. Density	1:400	Less Vertical Penetrations	3,200 s.f.	32,575 s.f.
Max. Units	101 du's	Building Efficiency	0.75	24,431 s.f.
Property Line (PL) Frontage			0.85	2,7688 s.f.
Fourth Avenue	300'			
Alley (15' wide)	300'	# of 1,000 s.f. units p/floor		24 to 27 du's
Northern Interior PL	135'	total (1st & 2nd Flrs of Residential)		48 to 54 du's
Southern Interior PL	135'			
Parking	2.0 per 2-bedroom unit			
Height Limit				
Existing	200'			
Proposed (strict)	65'			
Constraints		3rd, 4th & 5th (270' x 117.5')		31,725 s.f.
Ground level setbacks		Less Vertical Penetrations	3,200 s.f.	28525 s.f.
15 feet from shared PL where streetwall is greater than 48 feet along Washington Street and 36 feet in all other areas	15' feet from shared PL to the north and south. Affects all floors	Building Efficiency	0.75	21,393 s.f.
Alley Dedication			0.85	24,246 s.f.
For future access/circulation	2.5'			
Upper Floor Setbacks		# of 1,000 s.f. units p/floor		21 to 24 du's
15 feet where structure exceeds a street wall of 48 feet along Washington Street and 36 feet in all other areas	15' setback from 4th Avenue. Affects third, fourth, and fifth floors of residential	total (3rd, 4th & 5th Flrs of Residential)		63 to 72 du's
Assumptions				
Commercial Floor to Floor Height	15'	Scenario TOTAL		111 to 126 du's
Residential Floor to Floor Height	10'			
Roof equipment screening	5'			
Residential Unit size	1,000 s.f.			
Vertical Penetrations	3,200 s.f.			
Building Efficiency Ratio	75 to 85%			

001295

CITY ATTORNEY DIGEST

ATTACHMENT 7

ORDINANCE NUMBER O-_____ (NEW SERIES)

ADOPTED ON _____

EFFECTIVE DATE _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO AMENDING CHAPTER 15, ARTICLE 12, DIVISION 2 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 1512.0203, BY AMENDING AND RENUMBERING PREVIOUS SECTION 1512.0204 TO SECTION 1512.0207, AND BY ADDING NEW SECTIONS 1512.0204, 1512.0205, 1512.0206, AND FIGURE 1512-03A, ALL RELATING TO STRUCTURE HEIGHT LIMITS AND A PROCESS FOUR MID-CITY COMMUNITIES DEVELOPMENT PERMIT REQUIREMENT FOR STRUCTURE HEIGHTS IN EXCESS OF 50 OR 65 FEET WITHIN THE UPTOWN COMMUNITY PLAN AREA WITH A SUNSET PROVISION.

This ordinance changes the San Diego Municipal Code by limiting structure heights north of Upas Street in the Uptown Community Plan area to 50 feet in Area A or 65 feet in Area B, as designated on Figure 1512-03A. The ordinance also changes the San Diego Municipal Code by requiring a Process Four Mid-City Communities Development Permit [MCPD Permit] for development located south of Upas Street that includes structure heights in excess of 65 feet in Area B, as designated on Figure 1512-03A. Limited exceptions to the height limits and MCPD Permit requirement are provided for certain roof top appurtenances including stairs for roof access, elevator overrides, mechanical equipment and screening, and/or sustainable development features such as green roofs or solar power devices.

The ordinance is temporary, and contains a sunset provision that will automatically repeal the applicable provisions within 30 months of the adoption date of the ordinance unless

001296 extended by majority vote of City Council. City Council may grant no more than two (2) 180 day extensions.

This ordinance contains a notice that a full reading of this ordinance is dispensed with prior to its passage, since a written copy was made available to the City Council and the public a day prior to passage.

This ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

A complete copy of the ordinance is available for inspection in the office of the City Clerk of the City of San Diego, 2nd Floor, City Administration Building, 202 C Street, San Diego, CA 92101.

NMF:mm
06/17/08
Or.Dept:City Planning & Comm.
O-2008-164
MMS#6368

STRIKE OUT ORDINANCE

OLD LANGUAGE: ~~Struck Out~~

NEW LANGUAGE: Underline

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO AMENDING CHAPTER 15, ARTICLE 12, DIVISION 2 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 1512.0203, BY AMENDING AND RENUMBERING PREVIOUS SECTION 1512.0204 TO SECTION 1512.0207, AND BY ADDING NEW SECTIONS 1512.0204, 1512.0205, 1512.0206, AND FIGURE 1512-03A, ALL RELATING TO STRUCTURE HEIGHT LIMITS AND A PROCESS FOUR MID-CITY COMMUNITIES DEVELOPMENT PERMIT REQUIREMENT FOR STRUCTURE HEIGHTS IN EXCESS OF 50 OR 65 FEET WITHIN THE UPTOWN COMMUNITY PLAN AREA WITH A SUNSET PROVISION.

§1512.0203 Mid-City Communities Development Permit

(a) [No changes]

(b) ~~As set forth in this division, a~~ A Process Three Mid-City Communities Development Permit decided in accordance with Chapter 11, Article 2, Division 5 of the Land Development Code is required ~~by~~ for the following ~~projects~~ types of development:

(1) [No changes]

(A) [No changes]

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(B) [No changes]

(2) [No changes]

(3) [No changes]

(4) [No changes]

(5) [No changes]

(6) [No changes]

(7) [No changes]

Table 1512.02A

Mid-City Communities Development Permit Thresholds

[No changes]

(c) ~~An application for a Mid-City Communities Development Permit may be approved, conditionally approved or denied by a Hearing Officer in accordance with Process Three. The Hearing Officer's decision may be appealed to the Planning Commission in accordance with Land Development Code Section 112.0506. A Process Four Mid-City Communities Development Permit decided in accordance with Chapter 11, Article 2, Division 5 of the Land Development Code is required for development located south of the centerline of Upas Street in Area B, as designated on Figure 1512-03A, on file in the Office of the~~

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City Clerk as Document No. [INSERT CLERK DOCUMENT NUMBER] that includes structure height in excess of 65 feet, unless excepted pursuant to Section 1512.0205(b).

~~(d) — The Hearing Officer may approve or conditionally approve a Mid-City Communities Development Permit, if the Hearing Officer determines that the application is complete and conforms with all City regulations, policies, guidelines, design standards and density, and it is found from the evidence presented that all of the following facts exist:~~

~~(1) — Conformance With Community Plan and Design Manuals. The proposed use and project design meet the purpose and intent of the Mid-City Communities Planned District (Section 1512.0101), and the following documents, as applicable to the site: the Mid-City Community Plan, the Greater North Park Community Plan, the State University Community Plan, the Uptown Community Plan, the Mid-City Design Plan (California State Polytechnic University, Pomona; Graduate studies in Landscape Architecture; June, 1983), Design Manual for the Normal Heights Demonstration Area and the City Heights Demonstration Area (HCH Associates and Gary Coad; April, 1984), The Design Study for the Commercial Revitalization of~~

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~~El Cajon Boulevard (Land Studio, Rob Quigley, Kathleen McCormick), The North Park Design Study, Volume 1, Design Concept and Volume 2, Design Manual (The Jerde Partnership, Inc. and Lawrence Reed Moline, Ltd.); Sears Site Development Program (Gerald Gast and Williams Kuebelbeck and Assoc.; 1987) and will not adversely affect the Greater North Park Community Plan, the Uptown Community Plan or the Progress Guide and General Plan of the City of San Diego; and~~

- ~~(2) Compatibility with surrounding development. The proposed development will be compatible with existing and planned land use on adjoining properties and will not constitute a disruptive element to the neighborhood and community. In addition, architectural harmony with the surrounding neighborhood and community will be achieved as far as practicable; and~~
- ~~(3) No Detriment to Health, Safety and Welfare. The proposed use, because of conditions that have been applied to it, will not be detrimental to the health, safety and general welfare of persons residing or working in the area, and will not adversely affect other property in the vicinity; and~~
- ~~(4) Adequate Public Facilities. For residential and mixed residential/commercial projects within the park deficient~~

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~~neighborhoods shown on Map Number B-4104 that are not exempted by Section 1512.0203(b)(1)(A) or (B), the proposed development provides a minimum of 750 square feet of on-site usable recreational open space area per dwelling unit. The on-site usable recreational open space area shall not be located within any area of the site used for vehicle parking, or ingress and egress, and shall be configured to have a minimum of 10 feet in each dimension. The area will be landscaped and may also include hardscape and recreational facilities.~~

~~(5) Adequate Lighting. In the absence of a street light within 150 feet of the property, adequate neighborhood-serving security lighting consistent with the Municipal Code is provided on-site.~~

~~(6) The proposed use will comply with the relevant regulations in the San Diego Municipal Code.~~

§1512.0204 ~~Previously Conforming Structures~~

~~(a) In addition to the provisions in Land Development Code Chapter 12, Article 7, Division 1 (General Review Procedures for Previously Conforming Premises and Uses) regarding previously conforming structures, the provisions outlined in Section 1512.0204 apply where uses conform but structures do not~~

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~~conform to the Mid-City Communities Planned District requirements.~~

~~(b) Notwithstanding the provisions of Land Development Code Chapter 12, Article 7, Division 1 (General Review Procedures for Previously Conforming Premises and Uses), where an addition of floor area on a property with a previously conforming structure would create greater nonconformity in terms of diagonal plan dimension, coverage, or other developmental requirements, the City Manager may approve or deny, in accordance with Process One, such an addition without requiring Administrative Review (Section 1512.0202) or a Mid-City Communities Development Permit (Section 1512.0203), subject to the following conditions and restrictions:~~

- ~~(1) The addition must be to a property where there is no existing improvement benefiting from a previous variance or other property development exception.~~
- ~~(2) No improvement on the property may have required an approval since the property was included in the Mid-City Communities Planned District, or its predecessor, the Mid-City Planned District.~~
- ~~(3) The addition may not exceed 200 square feet in plan view, nor provide more than 200 square feet of roofed floor area.~~

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nor have any vertical or horizontal dimension greater than 24 feet.

- (4) ~~The addition must observe all currently required setbacks.~~
- (5) ~~All existing and new storage areas must be screened by fencing, walls or landscaping to the satisfaction of the City Manager.~~
- (6) ~~Any additional parking required by Land Development Code Chapter 14, Article 2, Division 5 (Parking Regulations) must be provided.~~
- (7) ~~The City Manager may require additional landscaping that may be feasibly placed in the street, yard or the adjacent right-of-way (parkway), up to the maximum current street yard point requirements.~~
- (e) ~~Where a use for a single room occupancy hotel or historic structure designated by the Historical Resources Board conforms to the Mid-City Communities Planned District requirements but a structure does not conform, the City Manager may nonetheless permit, in accordance with Land Development Code Chapter 12, Article 7, Division 1 (General Review Procedures for Previously Conforming Premises and Uses), such repair and rehabilitation of a previously conforming structure without requiring Administrative Review (Section 1512.0202) or a Mid-City Communities Development Permit (Section 1512.0203), subject to the City~~

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Manager's finding that there is no addition of floor area and no expansion of the use or structure.

~~(d) Exception: Floor Area Additions to One or Two Unit Projects~~

~~If units or other floor area are added to a one or two dwelling unit residential project where the existing structures are previously conforming, and if the proposed addition would not cause the project to exceed permitted density, the City Manager shall not require existing structures to meet the requirements of this Division.~~

Findings for Mid-City Communities Development Permit Approval

(a) Process Three Mid-City Communities Development Permit Findings. The Hearing Officer may approve or conditionally approve a Mid-City Communities Development Permit as required by Section 1512.0203(b), if the Hearing Officer determines that the application is complete and conforms with all City regulations, policies, guidelines, design standards, and density, and the Hearing Officer makes all of the following findings:

(1) Conformance With Community Plan and Design Manuals. The proposed use and project design meet the purpose and intent of the Mid-City Communities Planned District (Section 1512.0101), and the following documents, as applicable to the site: the Mid-City Community Plan, the Greater North Park Community Plan, the State University

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Community Plan, the Uptown Community Plan, the Mid-City Design Plan (California State Polytechnic University, Pomona; Graduate studies in Landscape Architecture; June, 1983), Design Manual for the Normal Heights Demonstration Area and the City Heights Demonstration Area (HCH Associates and Gary Coad; April, 1984), The Design Study for the Commercial Revitalization of El Cajon Boulevard (Land Studio, Rob Quigley, Kathleen McCormick), The North Park Design Study, Volume 1, Design Concept and Volume 2, Design Manual (The Jerde Partnership, Inc. and Lawrence Reed Moline, Ltd.), Sears Site Development Program (Gerald Gast and Williams-Kuebelbeck and Assoc.; 1987) and will not adversely affect the Greater North Park Community Plan, the Uptown Community Plan or the General Plan of the City of San Diego;

- (2) Compatibility with surrounding development. The proposed development will be compatible with existing and planned land use on adjoining properties and will not constitute a disruptive element to the neighborhood and community. In addition, architectural harmony with the

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surrounding neighborhood and community will be achieved as far as practicable:

- (3) No Detriment to Health, Safety and Welfare. The proposed use, because of conditions that have been applied to it, will not be detrimental to the health, safety and general welfare of persons residing or working in the area, and will not adversely affect other property in the vicinity:
- (4) Adequate Public Facilities. For residential and mixed residential/commercial projects within the park-deficient neighborhoods shown on Map Number B-4104 that are not exempted by Section 1512.0203(b)(1)(A) or (B), the proposed development provides a minimum of 750 square feet of on-site usable recreational open space area per dwelling unit. The on-site usable recreational open space area shall not be located within any area of the site used for vehicle parking, or ingress and egress, and shall be configured to have a minimum of 10 feet in each dimension. The area will be landscaped and may also include hardscape and recreational facilities:
- (5) Adequate Lighting. In the absence of a street light within 150 feet of the property, adequate neighborhood-serving security lighting consistent with the Municipal Code is provided on-site; and

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- (6) The proposed use will comply with the relevant regulations in the San Diego Municipal Code.
- (b) Process Four Mid-City Communities Development Permit Findings. The Planning Commission may approve or conditionally approve a Process Four Mid-City Communities Development Permit as required by Section 1512.0203(c), if the Planning Commission determines that the application is complete and conforms with all City regulations, policies, guidelines, design standards, and density, and the Planning Commission makes all of the following findings:
- (1) All of the findings required for a Process Three Mid-City Communities Development Permit approval in accordance with Section 1512.0204(a);
- (2) All of the findings required for a Site Development Permit approval in accordance with Section 126.0504(a) of the Land Development Code; and
- (3) The proposed structure height is appropriate because the location of the site, existing neighborhood character, and project design including massing, setbacks, building façade composition and modulation, material and fenestration patterns when considered together, would ensure the development's compatibility with the existing character of the Uptown Community Plan Area.

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- (4) The proposed development includes an additional benefit to the community.

§1512.0205 Structure Height Limits

- (a) The following structure height limits apply, unless an exception applies pursuant to Section 1512.0205(b):
- (1) North of Upas Street. Development located north of the centerline of Upas Street shall not exceed a structure height of 50 feet in Area A or 65 feet in Area B, as designated on Figure 1512-03A, on file in the Office of the City Clerk as Document No. [INSERT CLERK DOCUMENT NUMBER].
- (2) South of Upas Street. Development located south of the centerline of Upas Street shall not exceed a structure height of 65 feet in Area B, as designated on Figure 1512-03A, on file in the Office of the City Clerk as Document No. [INSERT CLERK DOCUMENT NUMBER], without approval of a Process Four Mid-City Communities Development Permit in accordance with Section 1512.0204(b).
- (b) Exceptions to Structure Height Limits.
- Where development would not otherwise exceed the applicable structure heights under Section 1512.0205(a), the following appurtenances causing the development to exceed the applicable

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structure height limits are excepted from the height limits and/or Process Four Mid-City Communities Development Permit requirement provided the appurtenances do not exceed fifteen feet in height, do not provide habitable space, and do not exceed twenty percent of the roof area:

- (a) Stairs for roof access;
- (b) Elevator overrides, mechanical equipment and screening;
and/or
- (c) Sustainable development features such as green roofs or solar power devices.

Figure 1512-03A

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§1512.0206 **Sunset Provision**

The structure height limits and the Process Four Mid-City Communities Development Permit requirement of this Division shall remain in effect for thirty (30) months from [INSERT ADOPTION DATE OF ORDINANCE], at which time Sections 1512.0203(c), 1512.0204(b), 1512.0205, 1512.0206 and Figure 1512-03A shall be automatically repealed unless an extension is approved by majority vote of the City Council. City Council may approve no more than two (2) 180 day extensions.

§1512.0207 **Previously Conforming Structures**

- (a) In addition to the provisions in Land Development Code Chapter 12, Article 7, Division 1 (General Review Procedures for Previously Conforming Premises and Uses) regarding previously conforming structures, the provisions outlined in Section 1512.0207 apply where uses conform but structures do not conform to the Mid-City Communities Planned District requirements.
- (b) Notwithstanding the provisions of Land Development Code Chapter 12, Article 7, Division 1 (General Review Procedures for Previously Conforming Premises and Uses), where an addition of floor area on a property with a previously conforming structure would create greater nonconformity in terms of diagonal plan dimension, lot coverage, or other development requirements, the

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City Manager may approve or deny, in accordance with Process One, such an addition without requiring Administrative Review (Section 1512.0202) or a Mid-City Communities Development Permit (Section 1512.0203), subject to the following conditions and restrictions:

- (1) The addition must be to a property where there is no existing improvement benefiting from a previous variance or other property development exception.
- (2) No improvement on the property may have required an approval since the property was included in the Mid-City Communities Planned District, or its predecessor, the Mid-City Planned District.
- (3) The addition may not exceed 200 square feet in plan view, nor provide more than 200 square feet of roofed floor area, nor have any vertical or horizontal dimension greater than 24 feet.
- (4) The addition must observe all currently required setbacks.
- (5) All existing and new storage areas must be screened by fencing, walls or landscaping to the satisfaction of the City Manager.
- (6) Any additional parking required by Land Development Code Chapter 14, Article 2, Division 5 (Parking Regulations) must be provided.

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- (7) The City Manager may require additional landscaping that may be feasibly placed in the street, yard or the adjacent right-of-way (parkway), up to the maximum current street yard point requirements.
- (c) Where a use for a single-room occupancy hotel or designated historical resource conforms to the Mid-City Communities Planned District requirements but a structure does not conform, the City Manager may nonetheless permit, in accordance with Land Development Code Chapter 12, Article 7, Division 1 (General Review Procedures for Previously Conforming Premises and Uses), such repair and rehabilitation of a previously conforming structure without requiring Administrative Review (Section 1512.0202) or a Mid-City Communities Development Permit (Section 1512.0203), subject to the City Manager's finding that there is no addition of floor area and no expansion of the use or structure.
- (d) Exception: Floor Area Additions to One- or Two-Unit Projects.
If units or other floor area are added to a one- or two-dwelling unit residential project where the existing structures are previously conforming, and if the proposed addition would not cause the

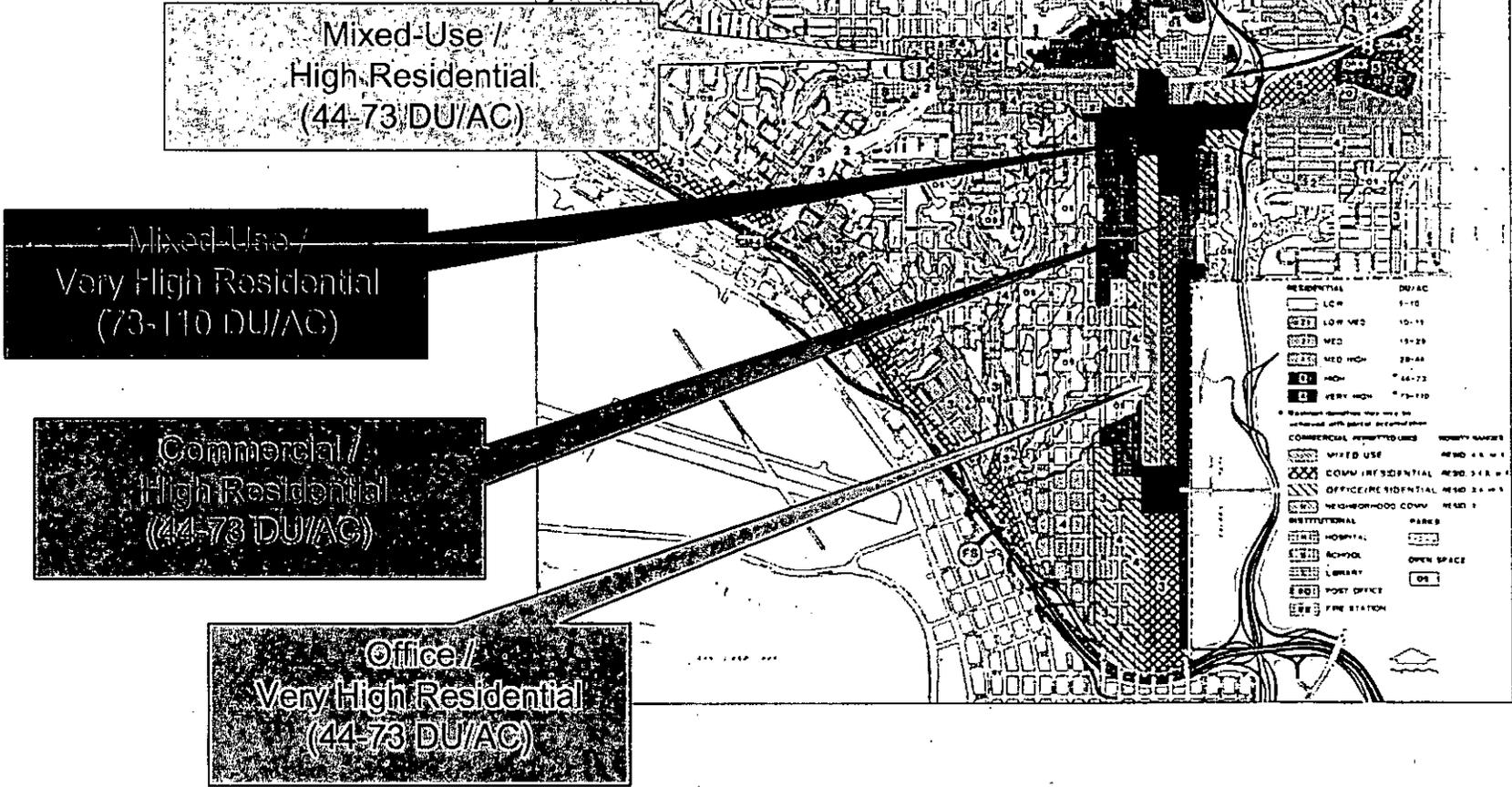
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project to exceed permitted density, the City Manager shall
not require existing structures to meet the requirements of this
Division.

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06/17/08
Or. Dept: CPCI
O-2008-164
MMS#6368

Uptown Community Plan Land Use Relationship to the Proposed Amendment

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Note: (1) This community plan map is a schematic illustration of the proposals found in the accompanying plan text and the official display map, which should be consulted for more detail. (2) Should there be a conflict between this plan and any other plan located within the Uptown Community Plan document, this Plan shall prevail. (3) The following pages show this map at a larger scale.

001317

CITY OF SAN DIEGO
M E M O R A N D U M

DATE: April 11, 2008

TO: Barry Schultz, Chairperson, Planning Commission

FROM: Marlon I. Pangilinan, Senior Planner, City Planning & Community Investment *MP*

SUBJECT: Proposed Amendment to the Mid-City Communities Planned District Ordinance for a Limitation in the Uptown Community

REFERENCE: Planning Commission hearing of April 3, 2008; Report No. PC-08-029

On April 3rd, 2008, the proposed Amendment to the Mid-City Communities Planned District Ordinance (MCCPDO) for a Height Limitation in the Uptown Community was continued to May 8th, due to a loss of quorum and to give additional time for staff to address questions raised regarding building setbacks included in the density analysis. Upon further review, staff has revised the initial analysis regarding density and is prepared to address this item on the April 17th Planning Commission agenda. The attachments included with this memo detail the revised analysis.

Should you or the members of the Planning Commission have questions, staff will be available during the hearing to answer any additional questions and address any further issues.

Marlon I. Pangilinan

MP/mip

Attachments

1. Scenario 1: South Side of Washington Street between Goldfinch Street and Falcon Street
2. Scenario 2: East Side of 4th Avenue, Mid-way between Washington Street and University Avenue

Distribution:

Planning Commissioners

Page 2

Barry Schultz, Chairperson, Planning Commission

April 11, 2008

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cc: William Anderson, Deputy Chief Operating Officer MS-9A
Mary P. Wright, Deputy Director, MS-4A
Marilyn Mirrasoul, Senior Planner, MS-501

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CITY ATTORNEY DIGEST

ATTACHMENT 10

ORDINANCE NUMBER O-_____ (NEW SERIES)

ADOPTED ON _____

EFFECTIVE DATE _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO AMENDING CHAPTER 15, ARTICLE 12, DIVISION 2 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 1512.0203, BY AMENDING AND RENUMBERING PREVIOUS SECTION 1512.0204 TO SECTION 1512.0207, AND BY ADDING NEW SECTIONS 1512.0204, 1512.0205, 1512.0206, AND FIGURE 1512-03A, ALL RELATING TO PROCESS FOUR MID-CITY COMMUNITIES DEVELOPMENT PERMIT REQUIREMENTS FOR STRUCTURE HEIGHTS IN EXCESS OF 50 OR 65 FEET WITHIN THE UPTOWN COMMUNITY PLAN AREA WITH A SUNSET PROVISION.

This ordinance changes the San Diego Municipal Code by requiring a Process Four Mid-City Communities Development Permit [MCPD Permit] for development including structure heights in excess of 50 or 65 feet in certain areas of the Uptown Community Plan area. Specifically, the ordinance requires an MCPD Permit where the development would include any structure height in excess of 50 feet within Area A or 65 feet within Area B, as designated on Figure 1512-03A. Limited exceptions to the MCPD Permit requirement are provided for certain roof top appurtenances including stairs for roof access, elevator overrides, mechanical equipment and screening, and/or sustainable development features such as green roofs or solar power devices.

The ordinance is temporary, and contains a sunset provision that will automatically repeal the applicable provisions within 30 months of the adoption date of the ordinance unless

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extended by majority vote of City Council. City Council may grant no more than two (2) 180 day extensions.

This ordinance contains a notice that a full reading of this ordinance is dispensed with prior to its passage, since a written copy was made available to the City Council and the public a day prior to passage.

This ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

A complete copy of the ordinance is available for inspection in the office of the City Clerk of the City of San Diego, 2nd Floor, City Administration Building, 202 C Street, San Diego, CA 92101.

NMF:mm
06/17/08
Or.Dept:City Planning & Comm.
O-2008-164
MMS#6368

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ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO AMENDING CHAPTER 15, ARTICLE 12, DIVISION 2 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 1512.0203, BY AMENDING AND RENUMBERING PREVIOUS SECTION 1512.0204 TO SECTION 1512.0207, AND BY ADDING NEW SECTIONS 1512.0204, 1512.0205, 1512.0206, AND FIGURE 1512-03A, ALL RELATING TO PROCESS FOUR MID-CITY COMMUNITIES DEVELOPMENT PERMIT REQUIREMENTS FOR STRUCTURE HEIGHTS IN EXCESS OF 50 OR 65 FEET WITHIN THE UPTOWN COMMUNITY PLAN AREA WITH A SUNSET PROVISION.

§1512.0203 Mid-City Communities Development Permit

(a) [No changes]

(b) ~~As set forth in this division, a~~ A Process Three Mid-City

Communities Development Permit decided in accordance with

Chapter 11, Article 2, Division 5 of the Land Development Code is

required ~~by~~ for the following ~~projects~~ types of development:

(1) [No changes]

(A) [No changes]

(B) [No changes]

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- (2) [No changes]
- (3) [No changes]
- (4) [No changes]
- (5) [No changes]
- (6) [No changes]
- (7) [No changes]

Table 1512.02A

Mid-City Communities Development Permit Thresholds

[No changes]

- (c) ~~An application for a Mid-City Communities Development Permit may be approved, conditionally approved or denied by a Hearing Officer in accordance with Process Three. The Hearing Officer's decision may be appealed to the Planning Commission in accordance with Land Development Code Section 112.0506. A Process Four Mid-City Communities Development Permit decided in accordance with Chapter 11, Article 2, Division 5 of the Land Development Code is required for development including any structure height in excess of 50 feet within Area A or 65 feet within Area B as designated on Figure 1512-03A, on file in the Office of the City Clerk as Document No. [INSERT DOCUMENT NUMBER].~~

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~~(d) — The Hearing Officer may approve or conditionally approve a Mid-City Communities Development Permit, if the Hearing Officer determines that the application is complete and conforms with all City regulations, policies, guidelines, design standards and density, and it is found from the evidence presented that all of the following facts exist:~~

~~(1) — Conformance With Community Plan and Design Manuals.~~

~~The proposed use and project design meet the purpose and intent of the Mid-City Communities Planned District (Section 1512.0101), and the following documents, as applicable to the site: the Mid-City Community Plan, the Greater North Park Community Plan, the State University Community Plan, the Uptown Community Plan, the Mid-City Design Plan (California State Polytechnic University, Pomona; Graduate studies in Landscape Architecture; June, 1983), Design Manual for the Normal Heights Demonstration Area and the City Heights Demonstration Area (HCH Associates and Gary Coad; April, 1984), The Design Study for the Commercial Revitalization of El Cajon Boulevard (Land Studio, Rob Quigley, Kathleen McCormick), The North Park Design Study, Volume 1, Design Concept and Volume 2, Design Manual (The Jerde Partnership, Inc. and Lawrence Reed Moline,~~

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~~Ltd.); Sears Site Development Program (Gerald Gast and Williams Kuebelbeck and Assoc.; 1987) and will not adversely affect the Greater North Park Community Plan, the Uptown Community Plan or the Progress Guide and General Plan of the City of San Diego; and~~

~~(2) Compatibility with surrounding development. The proposed development will be compatible with existing and planned land use on adjoining properties and will not constitute a disruptive element to the neighborhood and community. In addition, architectural harmony with the surrounding neighborhood and community will be achieved as far as practicable; and~~

~~(3) No Detriment to Health, Safety and Welfare. The proposed use, because of conditions that have been applied to it, will not be detrimental to the health, safety and general welfare of persons residing or working in the area, and will not adversely affect other property in the vicinity; and~~

~~(4) Adequate Public Facilities. For residential and mixed residential/commercial projects within the park deficient neighborhoods shown on Map Number B-4104 that are not exempted by Section 1512.0203(b)(1)(A) or (B), the proposed development provides a minimum of 750 square feet of on-site usable recreational open space area per~~

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~~dwelling unit. The on-site usable recreational open space area shall not be located within any area of the site used for vehicle parking, or ingress and egress, and shall be configured to have a minimum of 10 feet in each dimension. The area will be landscaped and may also include hardscape and recreational facilities.~~

~~(5) Adequate Lighting. In the absence of a street light within 150 feet of the property, adequate neighborhood serving security lighting consistent with the Municipal Code is provided on-site.~~

~~(6) The proposed use will comply with the relevant regulations in the San Diego Municipal Code.~~

§1512.0204 Previously Conforming Structures

~~(a) In addition to the provisions in Land Development Code Chapter 12, Article 7, Division 1 (General Review Procedures for Previously Conforming Premises and Uses) regarding previously conforming structures, the provisions outlined in Section 1512.0204 apply where uses conform but structures do not conform to the Mid-City Communities Planned District requirements.~~

~~(b) Notwithstanding the provisions of Land Development Code Chapter 12, Article 7, Division 1 (General Review Procedures for Previously Conforming Premises and Uses), where an addition of~~

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~~floor area on a property with a previously conforming structure would create greater nonconformity in terms of diagonal plan dimension, coverage, or other developmental requirements, the City Manager may approve or deny, in accordance with Process One, such an addition without requiring Administrative Review (Section 1512.0202) or a Mid-City Communities Development Permit (Section 1512.0203), subject to the following conditions and restrictions:~~

- ~~(1) — The addition must be to a property where there is no existing improvement benefiting from a previous variance or other property development exception.~~
- ~~(2) — No improvement on the property may have required an approval since the property was included in the Mid-City Communities Planned District, or its predecessor, the Mid-City Planned District.~~
- ~~(3) — The addition may not exceed 200 square feet in plan view, nor provide more than 200 square feet of roofed floor area, nor have any vertical or horizontal dimension greater than 24 feet.~~
- ~~(4) — The addition must observe all currently required setbacks.~~
- ~~(5) — All existing and new storage areas must be screened by fencing, walls or landscaping to the satisfaction of the City Manager.~~

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- ~~(6) — Any additional parking required by Land Development Code Chapter 14, Article 2, Division 5 (Parking Regulations) must be provided.~~
- ~~(7) — The City Manager may require additional landscaping that may be feasibly placed in the street, yard or the adjacent right of way (parkway), up to the maximum current street yard point requirements.~~
- ~~(e) — Where a use for a single room occupancy hotel or historic structure designated by the Historical Resources Board conforms to the Mid-City Communities Planned District requirements but a structure does not conform, the City Manager may nonetheless permit, in accordance with Land Development Code Chapter 12, Article 7, Division 1 (General Review Procedures for Previously Conforming Premises and Uses), such repair and rehabilitation of a previously conforming structure without requiring Administrative Review (Section 1512.0202) or a Mid-City Communities Development Permit (Section 1512.0203), subject to the City Manager's finding that there is no addition of floor area and no expansion of the use or structure.~~
- ~~(d) — Exception: Floor Area Additions to One or Two Unit Projects~~
- ~~If units or other floor area are added to a one or two dwelling unit residential project where the existing structures are previously conforming, and if the proposed addition would not cause the~~

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~~project to exceed permitted density, the City Manager shall not require existing structures to meet the requirements of this Division.~~

Findings for Mid-City Communities Development Permit Approval

(a) Process Three Mid-City Communities Development Permit Findings. The Hearing Officer may approve or conditionally approve a Mid-City Communities Development Permit as required by Section 1512.0203(b), if the Hearing Officer determines that the application is complete and conforms with all City regulations, policies, guidelines, design standards, and density, and the Hearing Officer makes all of the following findings:

(1) Conformance With Community Plan and Design Manuals. The proposed use and project design meet the purpose and intent of the Mid-City Communities Planned District (Section 1512.0101), and the following documents, as applicable to the site: the Mid-City Community Plan, the Greater North Park Community Plan, the State University Community Plan, the Uptown Community Plan, the Mid-City Design Plan (California State Polytechnic University, Pomona; Graduate studies in Landscape Architecture; June, 1983), Design Manual for the Normal Heights Demonstration Area and the City Heights Demonstration Area (HCH Associates and Gary Coad; April, 1984).

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The Design Study for the Commercial Revitalization of El Cajon Boulevard (Land Studio, Rob Quigley, Kathleen McCormick), The North Park Design Study, Volume 1, Design Concept and Volume 2, Design Manual (The Jerde Partnership, Inc. and Lawrence Reed Moline, Ltd.), Sears Site Development Program (Gerald Gast and Williams-Kuebelbeck and Assoc.; 1987) and will not adversely affect the Greater North Park Community Plan, the Uptown Community Plan or the General Plan of the City of San Diego;

- (2) Compatibility with surrounding development. The proposed development will be compatible with existing and planned land use on adjoining properties and will not constitute a disruptive element to the neighborhood and community. In addition, architectural harmony with the surrounding neighborhood and community will be achieved as far as practicable;
- (3) No Detriment to Health, Safety and Welfare. The proposed use, because of conditions that have been applied to it, will not be detrimental to the health, safety and general welfare of persons residing or working in the area, and will not adversely affect other property in the vicinity;

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- (4) Adequate Public Facilities. For residential and mixed residential/commercial projects within the park-deficient neighborhoods shown on Map Number B-4104 that are not exempted by Section 1512.0203(b)(1)(A) or (B), the proposed development provides a minimum of 750 square feet of on-site usable recreational open space area per dwelling unit. The on-site usable recreational open space area shall not be located within any area of the site used for vehicle parking, or ingress and egress, and shall be configured to have a minimum of 10 feet in each dimension. The area will be landscaped and may also include hardscape and recreational facilities;
- (5) Adequate Lighting. In the absence of a street light within 150 feet of the property, adequate neighborhood-serving security lighting consistent with the Municipal Code is provided on-site; and
- (6) The proposed use will comply with the relevant regulations in the San Diego Municipal Code.
- (b) Process Four Mid-City Communities Development Permit Findings. The Planning Commission may approve or conditionally approve a Process Four Mid-City Communities Development Permit as required by Section 1512.0203(c), if the Planning Commission determines that the application is complete and

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conforms with all City regulations, policies, guidelines, design standards, and density, and the Planning Commission makes all of the following findings:

- (1) All of the findings required for a Process Three Mid-City Communities Development Permit approval in accordance with Section 1512.0204(a);
- (2) All of the findings required for a Site Development Permit approval in accordance with Section 126.0504(a) of the Land Development Code; and
- (3) The proposed structure height is appropriate because the location of the site, existing neighborhood character, and project design including massing, setbacks, building façade composition and modulation, material and fenestration patterns when considered together, would ensure the development's compatibility with the existing character of the Uptown Community Plan Area.
- (4) The proposed development includes an additional benefit to the community.

§1512.0205 Exceptions to Process Four Mid-City Communities Development Permit Requirement

Where development would not otherwise require a Process Four Mid-City Communities Development Permit, the following appurtenances causing the development to exceed the applicable structure height under Section

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1512.0203(c) do not trigger the Process Four Mid-City Communities Development Permit requirement provided they do not exceed fifteen feet in height, do not provide habitable space, and do not exceed twenty percent of the roof area:

- (a) Stairs for roof access;
- (b) Elevator overrides, mechanical equipment and screening; and/or
- (c) Sustainable development features such as green roofs or solar power devices.

Figure 1512-03A

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§1512.0206 Sunset Provision

The Process Four Mid-City Communities Development Permit requirement of this Division shall remain in effect for thirty (30) months from [INSERT ADOPTION DATE OF ORDINANCE], at which time Sections 1512.0203(c), 1512.0204(b), 1512.0205, 1512.0206 and Figure 1512-03A shall be automatically repealed unless an extension is approved by majority vote of the City Council. City Council may approve no more than two (2) 180 day extensions.

§1512.0207 Previously Conforming Structures

(a) In addition to the provisions in Land Development Code Chapter 12, Article 7, Division 1 (General Review Procedures for Previously Conforming Premises and Uses) regarding previously conforming structures, the provisions outlined in Section 1512.0207 apply where uses conform but structures do not conform to the Mid-City Communities Planned District requirements.

(b) Notwithstanding the provisions of Land Development Code Chapter 12, Article 7, Division 1 (General Review Procedures for Previously Conforming Premises and Uses), where an addition of floor area on a property with a previously conforming structure would create greater nonconformity in terms of diagonal plan dimension, lot coverage, or other development requirements, the City Manager may approve or deny, in accordance with Process

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One, such an addition without requiring Administrative Review (Section 1512.0202) or a Mid-City Communities Development Permit (Section 1512.0203), subject to the following conditions and restrictions:

- (1) The addition must be to a property where there is no existing improvement benefiting from a previous variance or other property development exception.
- (2) No improvement on the property may have required an approval since the property was included in the Mid-City Communities Planned District, or its predecessor, the Mid-City Planned District.
- (3) The addition may not exceed 200 square feet in plan view, nor provide more than 200 square feet of roofed floor area, nor have any vertical or horizontal dimension greater than 24 feet.
- (4) The addition must observe all currently required setbacks.
- (5) All existing and new storage areas must be screened by fencing, walls or landscaping to the satisfaction of the City Manager.
- (6) Any additional parking required by Land Development Code Chapter 14, Article 2, Division 5 (Parking Regulations) must be provided.

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- (7) The City Manager may require additional landscaping that may be feasibly placed in the street, yard or the adjacent right-of-way (parkway), up to the maximum current street yard point requirements.
- (c) Where a use for a single-room occupancy hotel or designated historical resource conforms to the Mid-City Communities Planned District requirements but a structure does not conform, the City Manager may nonetheless permit, in accordance with Land Development Code Chapter 12, Article 7, Division 1 (General Review Procedures for Previously Conforming Premises and Uses), such repair and rehabilitation of a previously conforming structure without requiring Administrative Review (Section 1512.0202) or a Mid-City Communities Development Permit (Section 1512.0203), subject to the City Manager's finding that there is no addition of floor area and no expansion of the use or structure.
- (d) Exception: Floor Area Additions to One- or Two-Unit Projects.
If units or other floor area are added to a one- or two-dwelling unit residential project where the existing structures are previously conforming, and if the proposed addition would not cause the

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project to exceed permitted density, the City Manager shall
not require existing structures to meet the requirements of this
Division.

NMF:nda:mm
06/17/08
Or. Dept: CPCI
O-2008-164
MMS#6368

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THE CITY OF SAN DIEGO

REPORT TO THE PLANNING COMMISSION

DATE ISSUED: March 28, 2008 **REPORT NO.** PC-08-029

ATTENTION: Planning Commission
Agenda of April 3, 2008

SUBJECT: **Process 5 - Amendment to the Mid-City Communities Planned District Ordinance (MCCPDO) for an Interim Height Limitation in the Uptown Community**

REFERENCE: Planning Commission hearing of March 6, 2008; Report No. PC-08-029

SUMMARY

Issue – Should the Planning Commission RECOMMEND for adoption by the City Council, an amendment to Chapter 15, Article 12, Division 2 of the San Diego Municipal Code, relating to the Mid-City Communities Planned District Ordinance?

Staff Recommendation:

RECOMMEND the proposed amendment for adoption by the City Council.

Community Planning Group Recommendation – At the regularly scheduled and noticed planning committee meeting of November 6, 2007, Uptown Planners voted 11-3-1 to support the proposed amendment with conditions.

Environmental Impact – The proposed amendment is exempt from CEQA pursuant to Sections 15061(b)(3) and 15308 of the State CEQA Guidelines.

Fiscal Impact – None.

Housing Impact Statement – The request to amend the MCCPDO would not result in a loss of existing for-sale or affordable housing, the creation of additional units beyond what is currently allowed under existing regulations, or preclude the ability of meeting the minimum residential densities recommended in the Uptown Community Plan. The proposed amendment would result in multi-family development with smaller units and with multiple dwelling units per floor compared to existing developments that have built



to the maximum building height allowed by the current zoning. The proposed amendment would still allow the maximum density of the base zone to be reasonably achieved and therefore would not preclude the use of affordable housing density bonus regulations.

BACKGROUND

On October 14, 2006, the City Planning & Community Investment Department, Uptown Planners, Council Districts 2 and 3 sponsored an Uptown Community Plan Issues Workshop to hear issues from the community, developers, and residents regarding the impacts of new development, updating the Uptown Community Plan, historic preservation, density and building height, preserving community character, concerns over traffic and mobility, and the need for more public facilities. Of the issues that were discussed, the desire to update the community plan and establish an "interim height ordinance" were consistently raised as measures for the community to seek relief from high-rise development in the core of Hillcrest that they considered out of scale with the existing character of the surrounding neighborhood and responsible for the exacerbating deficiencies in public facilities. The community had expressed that the current community plan, which was adopted in 1988, and the associated zoning neither reflected the current sentiment of the community nor contributed to enhancing the quality of life of the Uptown community.

As a follow-up to the Uptown Community Plan Issues Workshop, City Planning & Community Investment Department staff announced at the June 5, 2007 Uptown Planners meeting that an update to the Uptown Community Plan would commence in spring 2008 and that an amendment to the Mid-City Communities Planned District Ordinance (MCCPDO) to impose an interim height restriction would be pursued during the plan update process. It was also communicated to the community that while most of the development that the community had been concerned with were projects that would undergo a discretionary review process under current regulations, the proposed amendment would ensure that all large-scale projects in the core area would undergo discretionary review. In addition, the community was informed that such an ordinance would not reduce allowable housing capacity, include a sunset provision, and that the State Density Bonus regulations would still apply.

An initial draft of the proposed amendment to the MCCPDO was introduced and discussed as an informational item at two public meetings of the Uptown Planners on September 4, 2007 and October 2, 2007. City staff's initial draft took into consideration the areas recommended by the community. These areas were located along portions of Washington Street between Ibis and Dove Streets in the Mission Hills neighborhood and properties primarily along portions along Robinson Avenue between 4th and 7th Avenues, University Avenue between Front Street and Park Boulevard, Washington Street between Dove Street and 5th Avenue, 5th Avenue between Washington and Kalmia Streets, and 6th Avenue between Walnut Avenue and Laurel Street, and 6th Avenue between University and Pennsylvania Avenues within the Park West/Bankers Hill neighborhood of the Uptown Community. Properties within these areas are zoned CN-1, (Commercial Node), CN-1A, CN-2A, CV-1 (Commercial Village), and MR-400 (Multi-Family Residential). These zones allow maximum building heights of 100 and 150 in the CN-1A, CV-1,

and MR-400 zones, and 200 feet in the CN-2A zone. The CN-1 zone does not have an associated maximum building height (See Attachment 1).

Additionally, a portion of 4th Avenue between Upas and Maple Streets was also included within the amendment area. This portion is currently zoned NP-1 (Neighborhood Professional). Although the existing zoning for this portion allows a maximum building height of 50 feet and 60 feet where a building is above enclosed parking, it was included at the request of the community in order to account for potential rezone requests by potential applicants to develop at higher development intensities attributed to adjacent properties.

The initial draft established a Process 4 discretionary approval process and additional findings of approval for projects with structures greater than 50 feet in height primarily in the Mission Hills neighborhood and 65 feet in height in the Hillcrest and Bankers Hill/Park West neighborhoods. In response to the initial draft, residents and members of the community expressed that creating an overall discretionary process would still allow multiple-story buildings that were significantly out of scale with the surrounding neighborhood based on the existing regulations and adopted policies. Residents also expressed that the sunset provision could upset the plan update process if 30 months had gone by and the adoption of the plan update was delayed.

On September 27, 2007, staff met with representatives of the community and advocates for the interim height ordinance to discuss bifurcating the overall height limitation area within the community. This new proposal would establish a Process 4 discretionary review for projects greater than 65 feet south of Upas Street and restrict buildings over 50 and 65 feet north of Upas Street in specified areas. Staff considered this request and revised the ordinance to designate Brookes Avenue instead of Upas Street as the dividing line between the two interim height areas. Brookes Avenue was chosen out of fairness to projects applicants with development proposals south of Brookes Avenue that staff was aware of. Also included in this draft was an extension of up to two 180-day extensions to the provisions of the interim height ordinance through a majority vote of the City Council in case the Uptown Community Plan update could not be adopted prior to the expiration of 30 months. This proposal was presented to the Uptown Planners on November 6, 2007, and was supported by a vote of 11-3-1 with conditions (See Attachment 2).

On March 6, 2008, the proposed amendment was presented to the Planning Commission for consideration and was continued by a vote 4-0-0 so that staff could return with additional analysis that would address several issues. These issues are addressed in the discussion section of the staff report and include:

- The purpose of the interim height ordinance
- The advantages and disadvantages of allowing exceptions within the strict height limitation area
- What the timeline and appropriate duration of the ordinance should be
- The advantages and disadvantages of selecting Upas Street over Brookes Avenue as the boundary between the strict height limitation areas and discretionary review areas
- The rationale for having two distinct height limitation areas

- Considering whether “height” or “stories” should be the appropriate measure within the ordinance
- The economic impact of the proposed ordinance, and
- The justification as to why the proposed ordinance is exempt from CEQA. These issues are addressed in the discussion section of the staff report.

On March 12, 2008, CPCI presented the proposed amendment to the Land Use and Housing Committee to solicit input and direction on whether an alternative ordinance should be presented to the Planning Commission. Upon consideration, the Land Use and Housing Committee voted 3-0-0 to recommend that the City Council adopt the proposed amendment to the MCCPDO and that the ordinance include exceptions to the strict height limitation for sustainable development measures, elevator overrides, enclosed stairways, and other non-habitable spaces, and move the boundary that delineates the proposed strict height limitation areas and the discretionary review areas from Brookes Avenue to Upas Street.

DISCUSSION

The proposed amendment to the MCCPDO would amend Chapter 15, Article 12, Division 2 of the San Diego Municipal Code, relating to the Mid-City Communities Planned District Ordinance. In summary the, amendment would do the following (See Attachment 3):

1. Require a Mid-City Communities Development Permit in accordance with Process 4 for any structure south of the centerline of Brookes Avenue which exceeds a building height of 65 feet in Area ‘B’ as shown on Figure 1512-03A, as depicted on Map C-928.
2. Projects exceeding 65 feet in Area ‘B’ would require the decision maker to approve or conditionally approve a Mid-City Communities Permit if the decision maker finds that the proposed building height is appropriate because of the location of the site, existing neighborhood characteristics and project design including massing, stepbacks, façade compositions and modulations, material and fenestration patterns when considered together, would ensure the project’s compatibility with the existing and intended character of Uptown, in addition to the general findings for Site Development Permits.
3. Restrict maximum buildings heights to 50 and 65 feet in Area ‘A’ north of the centerline of Brookes Avenue, as shown on figure 1512-03A, as depicted on Map C-928.
4. Maintain this provisions in the proposed amendment for 30 months or until the Uptown Community Plan is updated whichever occurs first.
5. Allow the City Council through a majority vote to extend these provisions for up to two 180-day periods in accordance with Process 5, should the 30-month limitation expire prior to the adoption of the Uptown Community Plan Update.
6. Provide an exception to the provisions of the proposed amendment for projects *deemed complete* prior to the adoption of this ordinance.

Community Plan Analysis

The Uptown Community Plan designates the areas within the proposed height limitation area for Mixed-Use development at 44 to 110 dwelling units per acre, Commercial-Residential development at 44 to 110 dwelling units per acre, Very High Residential development at 73 to 110 dwelling units per acre and Office Residential development 44 to 73 dwelling units per acre (See Attachment 4).

The proposed amendment to the MCCPDO would not result in the amendment, modification, or change to the City of San Diego Progress Guide and General Plan or the Uptown Community Plan. In addition, the proposed amendment would not change planned residential densities or rezone any property within the Uptown community. The amendment's incorporation of a Process 4 approval process and strict height limit where they are applied, would ensure discretionary review which would meet several objectives of the community plan for preserving the diverse and unique character of each neighborhood in the Uptown community, ensuring that development is compatible in character and scale, preserving and enhancing the pedestrian scale and orientation within the Hillcrest neighborhood, and limiting the intensity of development in areas subject to airport noise and where structures may obstruct flight operations.

Density Analysis

Staff conducted a general density analysis in order to determine whether the maximum density of the base zones affected by the proposed height limitations, could reasonably be achieved. For this analysis staff contemplated potential mixed-use developments which considered typical lot sizes within the areas affected by the ordinance, current zoning and parking regulations in the municipal code, and factored in general assumptions for building efficiency ratio, and square footage needed for internal plumbing, elevator shafts, and other internal equipment.

In regards to potential floor-to-ceiling heights, staff considered 15 feet for ground floor commercial-retail, 10 feet for each residential floor, and 5 feet to account for rooftop equipment screening. In areas where the proposed ordinance applied a 50-foot height limit, staff calculated 3 floors of residential use and in areas and where the ordinance applied a 65-foot height limit, 4 floors of residential were calculated.

Based on the density analysis staff conducted, the maximum density allowed by the zone could be met or exceeded. In one scenario, staff considered a 20,000 square foot site (200'x100') along Washington Street within the CN-2A zone where the proposed ordinance would establish a strict 50-foot height limit. Based on the zone's maximum density of 1 unit per 800 square feet, the maximum number of dwelling units on site would be 25 dwelling units. Assuming total site coverage of 20,000 square feet, an assumption of 3,200 square feet for elevator shafts, stairs, plumbing, and internal equipment, and a building efficiency ratio of 75 to 85 percent for total for-sale or leasable residential area, approximately 12,600 to 14,280 square feet would remain for the total area attributed to dwelling units per floor. Based on staff's consideration that each dwelling unit could be at least 1,000 square feet, approximately 12 to 14 dwelling units could be available on each building floor. Given 3 floors of residential under this scenario, 36 to 42 dwelling units could be available on site.

Staff also considered another scenario involving a 40,500 square foot site (300'x135') along 4th Avenue within the CN-1A zone where the proposed ordinance would establish a strict 65-foot height limit. Based on the zone's maximum density of 1 unit per 400 square feet, the maximum number of dwelling units allowed on site would be 101 dwelling units. Again, considering the same assumptions as in the previous example, approximately 27,975 to 29,840 square feet would remain for the potential area dedicated to dwelling units per floor. Utilizing the same consideration of 1,000 square foot units, approximately 28 to 31 units could be available for each building floor. Given the possibility of having 4 residential floors under the 65-foot height limit scenario, 112 to 124 dwelling units could be available on site.

Since off-street parking requirements are a significant factor in the feasibility of development projects, staff took into account the number of bedrooms per unit, minimum area for commercial-retail space, plumbing and internal equipment, required dimensions for parking spaces and drive aisles, and concluded that at least one floor of underground parking would be necessary in addition to ground-level or multi-level, above-ground parking. Additionally, given the results of staff's density analysis, it could be possible for project applicants to include affordable housing within their project and request incentives provided through the density bonus regulations to address any off-street parking deficiencies.

Potential Modifications

During staff's drafting of the proposed amendment, several issues have been raised by the community as well as developers and architects regarding considering flexibility towards the proposed strict height limitation north of Brookes Avenue, as well as the designating Upas Street instead of Brookes Avenue, as the boundary street that would delineate areas where the strict height limit and discretionary process would be applied. Although these issues are not formally part of staff's amendment to the Mid-City Communities Planned District Ordinance, staff requests that the Planning Commission consider the following potential modifications and any others not currently identified in the amendment proposal:

1. Height Exceptions and Flexibility

Incorporating height exceptions in areas where the strict height limitation would be applied could address instances where building constraints would force functional stairway, elevator access, and elevator overrides beyond the roofline as well as accommodate the installation of sustainable development measures such as green roofs or photovoltaic technology. Exceptions could also be considered for the provision of public and/or on-site amenities that lend to active use of roofs, the provision of useable public park space and the preservation of potential historic resources. Public support of a project, especially one that poses clear benefits to the community could also constitute a mechanism for exceeding the proposed strict height limitations of the proposed amendment. On March 12, 2008, the Land Use and Housing Committee recommended that height exceptions be included in the proposed ordinance. A draft of what these exceptions could allow is included as Attachment 5. This draft language allows a 15 foot height allowance for stairways, mechanical equipment screening, decks, sustainable

development features, and enclosed communal space. The draft also provides that such allowances not exceed 20 percent of the total roof area. Although staff considers the draft language specific and definitive, members of the community have expressed that such allowances should be considered only through a discretionary process.

2. Delineation of the proposed strict height limit and discretionary review areas

The centerline of Brookes Avenue is currently proposed as the boundary street that would differentiate the strict height limit and discretionary review areas of the proposed amendment. It has been expressed by the community that the boundary should be at Upas Street since it is the boundary street between the Hillcrest and Bankers-Hill/Park West neighborhoods as depicted by the Uptown Community Plan. Staff had designated Brookes Avenue as the boundary out of fairness to the project applicants who had development proposals south of Brookes Avenue that staff was aware of. Since the selection of Brookes Avenue as the boundary street, one of the two proposed projects between Brookes Avenue and Upas Street has already undergone ministerial review for building permits. The remaining project proposal, which had submitted a development proposal for preliminary review in May 2007, has not since returned with a new proposal or redesign (See Attachment 6).

Additional Analysis Requested by the Planning Commission

On March 6, 2008, the Planning Commission continued the proposed amendment to the MCCPDO and requested that staff address the following issues:

1. Establish the purpose for interim height ordinance.

Given the recent development activity with the Mission Hills, Hillcrest, and Bankers Hill/Park West neighborhoods and the upcoming update to the Uptown Community Plan, the proposed interim height ordinance would ensure that high-rise developments would not circumvent the debate on height, neighborhood scale, and character during the update process. Within the proposed strict height limitation areas proposed by the amendment, particularly in the Mission Hills neighborhood, the ordinance would allow development that would compliment the existing heights of lower-scale buildings. The selection of a strict height limitation of 50 feet would complement adjacent zones that allow maximum buildings heights from 30 to 40 feet and up to 50 feet where portions of buildings would be above enclosed parking. Similarly, the same situation exists in the core of Hillcrest where a 65-foot strict height limit would complement adjacent zones that allow a maximum building height of 50 feet and up to 60 feet where a building is above enclosed parking.

Within the discretionary review areas proposed by the amendment, which are primarily located in the Bankers Hill/Park West neighborhood, the ordinance would allow the opportunity for potential high-rise developments to be reviewed within the context of a neighborhood that has both high-rise buildings interspersed with lower scale development. Also, with current regulations that allow for ministerial processing of high-rise development and project applicants continuing to submit development applications,

this process would ensure that both the project applicants and the community could have an opportunity to engage in a dialogue regarding new high-rise development within an already built-out community.

2. Advantages and disadvantages of including height exceptions within the strict height limitation area proposed in the ordinance.

With the proposed reduction in building height, project applicants would be interested in maximizing building square footage for residential uses and therefore, would be relegating accessory features to the roof. The inclusion of height exceptions within the proposed ordinance would serve to provide a limited level of flexibility in cases where accessory features such as rooftop equipment would need to exceed the height limits set forth in the proposed. Exceptions to the strict building height limit could also allow for enclosed stairways and elevator overrides in order to provide access to the roof and promote roofs as an open space amenity for residents. Height exceptions could further allow the use of rooftops for non-habitable, communal gathering spaces which could provide additional on-site amenities for residents. Additionally, with the City's promotion of sustainable development policies, exceptions could allow the provision of sustainable development features as defined by such as green roofs and photo-voltaic devices.

The Land Development Code (LDC) currently does not have regulations that allow exceptions to building height. Typically, any request to exceed the maximum building height of a particular base zone would be sought through the application of a variance or deviation associated with a development proposal. A possible disadvantage of incorporating height exceptions within the ordinance could be the use of existing height exceptions to justify even greater height exceptions for newer development. However, this could be countered by the establishment of a defined height allowance, specific criteria, and or specific accessory uses.

3. Advantages and disadvantages to moving the boundary between the strict height limitation areas and the discretionary review areas from Brookes Avenue to Upas Street.

The advantage to moving the boundary from Brookes Avenue to Upas Street would be to bring the height limitation areas consistent with neighborhood boundaries as identified in the Uptown Community Plan, and allow clear understanding as to which neighborhoods in the Uptown Community would be subject to a strict height limitation and which ones would be subject to a discretionary review process. The disadvantage would be that project applicants and property owners interested in constructing high-rise developments north of Upas Street and south of Brookes and not in any other areas, would be restricted to a maximum building height of 65 feet and would not receive the opportunity of building significantly higher structures through a discretionary review process.

4. Timeline of the proposed ordinance and appropriate duration.

Should the proposed ordinance be approved by City Council, the ordinance would go into effect 30 days after its second reading. The second reading would occur at City Council after a minimum of 12 days after the initial City Council hearing according to the City

Charter. The ordinance would be in effect for 30 months or until the update to the Uptown Community Plan is adopted, whichever occurs first. Should the plan update not be adopted after 30 months after the ordinance goes into effect, the City Council may extend the duration of the ordinance for up to two 180-day extensions. Based on this limit, the proposed amendment would not exceed 3 years and 6 months. This timeframe for the ultimate duration of the proposed ordinance would be appropriate since the update to the Uptown Community Plan is scheduled to take 2 and a half years to complete. The extra year afforded by the City Council's ability to extend the ordinance would allow for any unanticipated delays in the plan update process.

5. Rationale for having two distinct limitation areas.

The two distinct height limitation areas reflect a compromise between City staffs' initial proposal to establish an overall discretionary process for the entire subject area and the community's desire to have an overall strict height limitation. The strict height limitation was relegated north of Brookes Avenue within the Mission Hills and Hillcrest neighborhoods since the existing development within this portion of the Uptown community was predominantly low-scale and where proposed high-rise developments would have the potential to conflict with the existing scale and character of existing development. In contrast, the area south of Brookes Avenue already had existing high-rise developments that were part of a growing characteristic of the Bankers Hill/Park West neighborhood. Therefore, a discretionary process would be more appropriate in this area, so that potential high-rise projects could be reviewed in the context of a neighborhood with varied scales of development.

6. The consideration of utilizing "height" or "stories."

Although the utilization of building stories allows flexibility to how tall building can appear or how interior building spaces can be designed, height is more definitive for use in an ordinance. The use of building stories can also be ambiguous since the actual floor to ceiling distance of a building story typically could range in height. Currently, there is no utilization of building stories in the Land Development Code to measure how tall a building can be or appear. The current Land Development Code utilizes height as opposed to building stories in determining how tall a particular building can be for a particular zone. The use of the building stories would be more appropriately used within a community plan where the end result of a desired building form is a plan objective or design recommendation.

7. Economic analysis on the impact of the proposed ordinance.

In order to determine the practical, economic impacts of the proposed ordinance on future development, a thorough economic analysis would need to be conducted on a case-by-case basis taking into consideration existing conditions. At this time staff does not have the necessary resources to conduct such a study. However, given the provisions of the proposed ordinance, high-rise developments with 1 to 2 units per floor that capitalize on views could continue to proceed in the discretionary review areas within the Bankers Hill/Park West neighborhood as the market dictates. Currently, existing regulations do allow high-rise projects to be processed under ministerial review. With the application of a Process 4 discretionary review for projects exceeding a maximum building height of 65

feet, additional staff time and processing fees could be incurred for projects that would have been able to be processed through ministerial review under the current regulations.

Within the strict height limitation areas of the proposed ordinance, it can be reasonably assumed that housing units would be smaller, with multiple units per floor in order for project applicants to maximize the density on site. Contrary to large, high-rise units where views are charged at a premium, smaller units could be more affordable and attractive to a larger spectrum of potential residents. Also, based on staffs' density analysis, the proposed ordinance would not reduce the maximum residential densities allowed by the zones affected by this ordinance, and therefore would not preclude project applicants and property owners from building to those densities. Additionally, under a reduced height limit, expensive building frame-type construction costs would be deferred by project applicants, since it would not be necessary to require expensive steel frame construction that is characteristic of high-rise development. With the upcoming plan update, a more comprehensive economic analysis would be conducted on the potential design conditions that are produced during the update process.

8. Justify the conclusion that the proposed action is exempt under CEQA.

CEQA is triggered when a discretionary project may result in physical impacts on the environment. The Environmental Analysis Section (EAS) of the Development Services Department reviews each project to determine whether or not implementation of the project could potentially result in a significant environmental impact. If it is determined that no significant impacts would result, then a CEQA exemption may be prepared.

In this case no direct impacts would result from the proposed amendment to the PDO because it is an implementing ordinance and not a specific development project. However, CEQA does require that reasonably foreseeable impacts be evaluated.

The project is an amendment to the Mid-City Communities Planned District Ordinance; and the amendment would implement a temporary interim height limit. Currently, the areas to be affected by the amendment have height limits that range from 50 feet to 200 feet or have no height limit. The amendment would limit heights to 50 or 65 feet depending upon the area of implementation.

While staff has determined that the proposed height limits would not result in a loss of units or a decrease in plan or zone density, due to the constraints of the height limitation, it is feasible that the design of future projects could result in buildings with a reduced density or smaller units with fewer bedrooms. Since required parking is calculated based on the number of bedrooms, it is likely that the amendment could result in a decrease in Transportation and Air Quality impacts related to the number of cars associated with new buildings. It is also anticipated that a reduction in impacts to Visual Effects and Neighborhood Character could result with the proposed height limitation as the resulting projects would likely be in keeping with the bulk and scale of the existing physical form of the community.

New projects allowed under the proposed height limit would be reduced in scale and would be subject to the regulations of the PDO and the LDC regarding setbacks and floor area ratio, etc. Numerous factors enter into the decisions related to the eventual size of buildings proposed. Therefore, EAS considers it speculative to conclude that any significant increased impacts would result from the implementation of this amendment.

EAS has determined that two CEQA exemptions would apply to this project:

CEQA Section 15061(b)(3): This exemption is called the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

CEQA Section 15308: This exemption is used for actions taken by regulatory agencies to protect the environment where the regulatory process involves procedures for protection of the environment. In this case, it is anticipated that potential impacts related to visual quality, as well as transportation and air quality would be reduced.

CONCLUSION

As discussed previously, City Staff will begin updating the Uptown Community Plan and MCCPDO in the coming months to address land use policies and regulations such as those related to transportation and land use connections, historic preservation, urban design, etc. The proposed amendment would address the community's concerns over the compatibility of new development and ensure that during the community plan update process new development would not adversely affect the community's efforts in the creation of design objectives and the re-evaluation of the overall vision of the community.

ALTERNATIVES

1. Recommend that the City Council **adopt** the proposed amendment to the Mid-City Communities Planned District Ordinance with modifications.
2. Recommend that the City Council **deny** the proposed amendment to the Mid-City Communities Planned District Ordinance.

Respectfully submitted,



 MARY P. WRIGHT
 Deputy Director
 City Planning & Community Investment

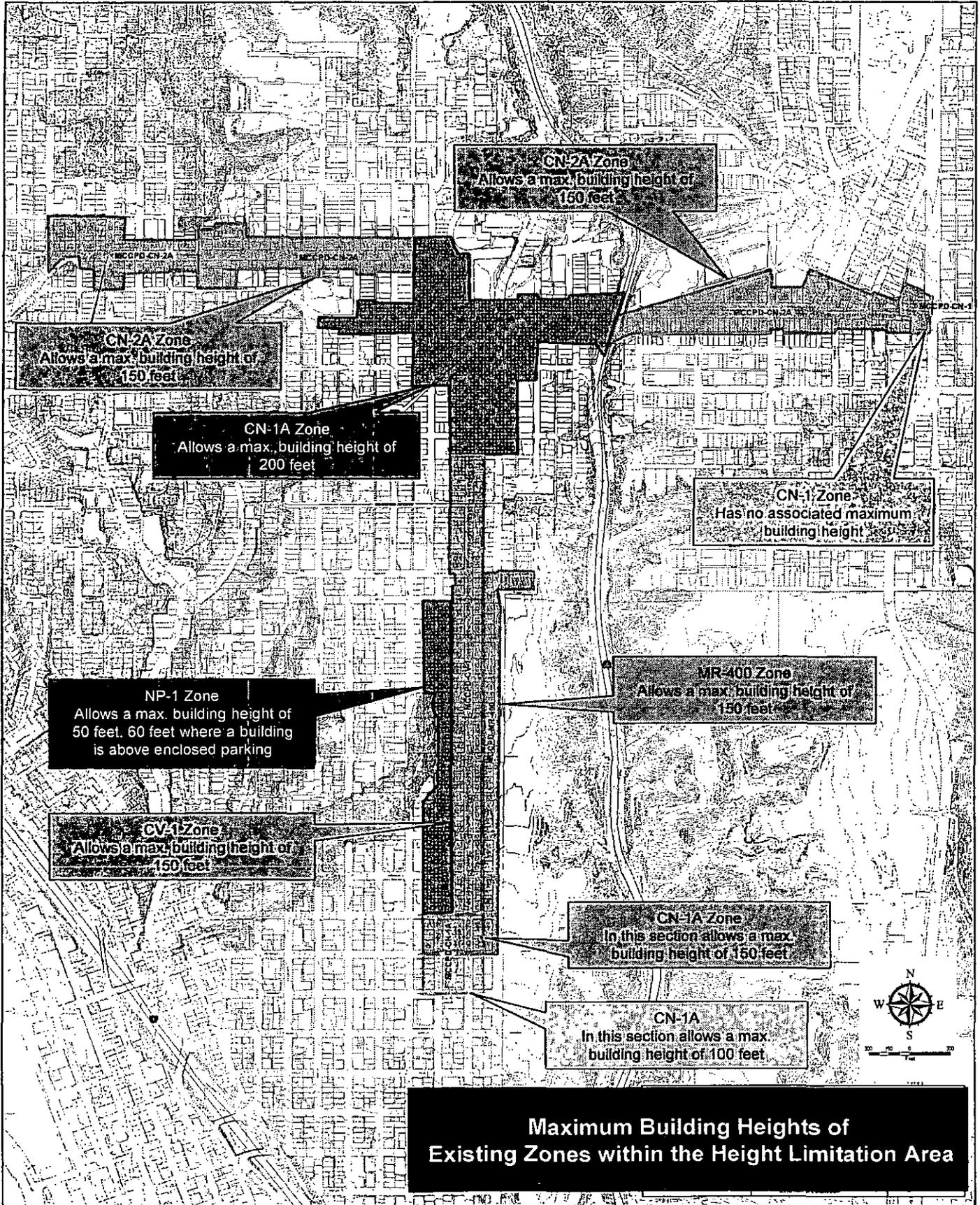


 MARLON I. PANGILINAN
 Senior Planner
 City Planning & Community Investment

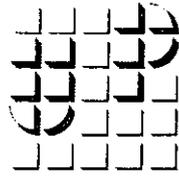
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MPW/MIP

- Attachments:
1. Existing Zoning Map
 2. Uptown Planners meeting minutes of November 6, 2007
 3. Draft Amendment to the Mid-City Communities Planned District Ordinance
 4. Uptown Community Plan Map
 5. Draft height exception language
 6. Hillcrest Development North of Upas Street and South of Brookes Avenue



001353



UPTOWN PLANNERS

Uptown Community Planning Committee

November 11, 2007

Meeting Minutes

Members Present: Present: Liddell, Towne, Grinchuk, Epley, Satz, Dahl, Gatzke, Hyde, Wilson (Chair), O'Dea, Adler, Matthews (late), Wendorf (late), Edwards, Sachs

I. Parliamentary Items:

B. Adoption of Agenda: Wilson (Chair) suggested moving the following action items to the consent agenda: letters of support requested by City Fest, the Hillcrest Mardi Gras and Father Joe's Village Thanksgiving Day 5K Run/Walk; adoption of the revised bylaws. Sachs said that he wanted to discuss the bylaws as an action item. Wilson agreed not to recommend putting that item on the consent agenda. The board agreed to put the remaining items (the letters of support) on the consent agenda by voice vote (12,0,1; Chair abstaining.)

Appointment of Secretary: Towne elected secretary by voice vote (12,0,1; Chair abstaining)

Board Members Matthews and Wendorf arrive – 14 members of Board Present.

C. Approval of October Minutes: O'Dea moved to approve October minutes. Motion passed by voice vote 14,0,1; Chair abstained)

D. Treasurer's Report: Treasurer Dahl reported on the current bank balance and last month's income for Uptown Planners.

E. Chair/ CPC Report: Wilson (Chair) announced that he has copies of the plans for expanding Lindbergh Field if anyone wants to see them. He noted that a request for a letter of support from "In Motion" arrived too late for the board to take action at the time requested. He said that he has information on a request for a water main replacement in the Bankers Hill area for anyone who wants to find out more. He noted that the last CPC meeting was delayed by the fires. He noted that progress is being made on an indemnification ordinance for planning groups. He noted that the COW training for new planning group members will take place on November 29, but that those who cannot attend can attend the next workshop.

II. Public Communications:

Sheila Hardin representing the CCDC announced upcoming workshops on parking and affordable housing. Dale Purcell, Uptown Planners liaison to the North Bay Planning Area Committee (Middletown) asked the board for direction on any height limit that might be proposed in Middletown. Wilson (Chair) said that he will put that item on the agenda for a later meeting. Epley said that no buildings higher than 65' are allowed in Middletown at the present time. City Planner Marlon Pangalanan announced an upcoming community forum on the Hillcrest Corridor Mobility Strategy.

Representatives of Elected Officials: James Lawson introduced himself as the new representative for Councilmember Faulconer.

Jeffrey Tom announced his impending departure as Councilmember Atkins' liaison to Uptown and introduced the new liaison. He said that the State of California is looking for a developer to develop the DMV site in Hillcrest. Community suggestions for the DMV development can be forwarded to the State through Jeffrey Tom or City Planner Marlon Pangalinan. Suggestions already made include preserving the Farmers Market, including affordable housing, creating a pedestrian friendly environment and using green building methods. Tom said that he was working on resolving the problem of standing water (sewage) at 7th and Brookes.

Wilson (Chair) praised Jeffrey Tom as one of the best representatives of a city official that he had encountered in his many years of working with San Diego city officials.

Todd Gloria, representing Congresswoman Davis, announced that his position would be taken over in a few months by Nick Norbel. He noted that there was a limited time for fire victims to register with FEMA. He announced some upcoming community meetings with Davis. In reply to a question from Epley, he said that Davis voted to forward H.R. 333 -- the bill to impeach the Vice-President -- to the House Judiciary Committee.

III. Consent Agenda:

The following three items were moved to consent upon the adoption of the agenda:

1. **REQUEST FOR LETTER OF SUPPORT – FATHER JOE'S VILLAGE THANKSGIVING DAY 5K RUN/WALK (Special Event) – Bankers Hill/Park West – Event will take place on November 22, 2007.**
2. **REQUEST FOR LETTER OF SUPPORT – MARDIS GRAS -- (Special Event) – Hillcrest – Event will take place on February 8, 2009**
3. **REQUEST FOR LETTER OF SUPPORT – CITY FEST – (Special Event) -- Hillcrest – Event will take place in August 2008.**

Gatzke moved to approve the consent agenda. Sachs seconded. Motion passed by voice vote 14,0,1 (Chair abstained)

IV. Action Items: Proposed Interim Height Limitation



PROPOSED INTERIM HEIGHT LIMITATION ORDINANCE -- Uptown – Would impose a mandatory interim height limitation for a section of the Uptown community planning area north of Brookes Street, which would apply to any proposed structure that exceeds 50 feet in Area "A", and 65 feet in Area "B"; as identified in the map attached to the proposed ordinance;

Would impose a discretionary height limitation for a section of the Uptown community planning area south of Brookes Street, which would apply to any proposed structure that exceeds 65 feet in Area "B"; as identified in the map attached to the proposed ordinance;

The interim ordinance would expire either: (1.) upon the adoption of an updated Uptown Community Plan, or (2.) 30 months from the date of adoption of the amendment, at which time for the City Council would decide whether to extend it for an additional period of time.

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City Planner Marlon Pangalinan presented the mayor's proposal for an interim height limitation in Uptown. Uptown resident Barry Hager, Chair of the Independent Task Force for the Interim Height Ordinance, said that his task force would reluctantly endorse the mayor's proposal (the task force wanted a strict limit north of Upas; the Mayor proposed a strict limit north of Brookes) with the following conditions: 1) delete "and intended" from language in the ordinance concerning the character of the community; 2) insert "mid-range assumptions" in language concerning acceptable heights; 3) delete language regarding the city's intention to comply with state law in granting density bonuses for affordable housing (state law would apply anyway); 4) delete exceptions granted to applicants who have completed applications on file with the city as of the date the ordinance is finally approved by the city council; instead, the ordinance should be retroactive to the date it was first proposed.

Public Comment: Rick Wilson said that the strict height limit should be north of Upas, not north of Brookes. George Wiedemeyer said that he was not impressed by the discretionary review proposed in the mayor's version of the ordinance and that he would be interested in asking a judge for an injunction against any tall buildings approved under such review based on the five elements cited by the judge who stopped the 301 University Ave. project. Marc Perrault said that he supported "building up, not building out" in keeping with smart growth principles advocated by Al Gore as a corrective to long commutes and suburban sprawl. Tom Mullaney said that the height limit in the core of Hillcrest should be even lower than that proposed in the interim ordinance – 25-30' – using Santa Barbara as a model. Former City Planner Ron Buckley said that he agreed with Perrault, that height limits were a bad idea reflecting a misunderstanding of the community plan by newcomers to the community, and that adopting a height limit would make Uptown "like El Cajon Boulevard".

Satz moved to approve the mayor's proposal, attaching Barry Hager's conditions. Towne seconded. Epley proposed a substitute motion to deny the proposal with attached conditions by Hager. Gatzke seconded. Motion failed 3,11,1 with the Chair abstaining and Liddell, Epley and Gatzke voting in favor. Sachs offered a friendly amendment (to Satz's original motion) to change the dividing line for the strict height limit from Brookes to Upas. Satz asked James Lawson and Jeffrey Tom (respectively, the representatives for councilmembers Faulconer and Atkins) whether the councilmembers would support Upas as the dividing line. They said they did not know. Satz then said that he would not accept Sachs's amendment. Sachs then moved for the adoption of the amendment as an unfriendly amendment. Towne seconded. Wilson (Chair) said that insisting on Upas would kill the strict height limit for the rest of Hillcrest. Motion failed 5,8,1,1 (Chair and Adler abstained; Sachs, Towne, Epley, Wendorf and O'Dea voted in favor.) Adler called the question on the original, unamended motion by Satz to approve the mayor's proposal, attaching Barry Hager's conditions. Adler's motion to vote on the original, unamended motion passed 11,3,1 (Chair abstained; Sachs, Gatzke and Dahl voted against.) Motion to approve the mayor's proposal, attaching Barry Hager's conditions, passed 11,3,1 (Chair abstained; Liddell, Epley and Gatzke voted against.)

VI. Action Items

ST. PAUL'S CATHEDRAL – (Process Five) – Encroachment/Street Public Right of Way -- Bankers Hill/Park West – Early Consideration before the City Council, pursuant to San Diego Municipal Code Section 129.0710(c), for proposed encroachment of an underground parking garage into the public right of way of Fifth Avenue and Nutmeg Streets; Airport Approach Overlay Zone; Proposed Sixth Avenue/ Balboa Park Urban Edge Landscape District.

Representatives from the Cathedral presented plans for two high-rise mixed use buildings on Cathedral property, including plans for underground garages that would encroach on the public right of way. They said that the project would provide 18 affordable units, preserve the historic La Moderne apartments, provide more than two parking spaces per unit plus an additional 59 spaces for use by the cathedral, and strive to comply with LEED certification standards.

ORDINANCE NUMBER O-XXXXX (NEW SERIES)

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO
AMENDING CHAPTER 15, ARTICLE 12, DIVISION 2 OF THE SAN
DIEGO MUNICIPAL CODE, RELATING TO THE MID-CITY
COMMUNITIES PLANNED DISTRICT ORDINANCE

WHEREAS, the Uptown Community Plan was adopted on February 2, 1988 to provide land use policy guidance for the Uptown Community; and

WHEREAS, the Mid-City Communities Planned District Ordinance was adopted on January 21, 1986, and subsequently amended on May 30, 1989, to provide development regulations to implement the Uptown Community Plan; and

WHEREAS, on November 6, 2007, the Uptown Planners voted 11-3-1 to support an amendment to the Mid-City Communities Planned District Ordinance to support an interim height restriction to provide time to analyze the potential impacts of recently constructed and proposed multiple-storied structures on the community character of the Uptown Community Planning Area; and

WHEREAS, the Mayor's Office will commence an update of the Uptown Community Plan and the Mid-City Communities Planned District in 2008 to address land use policies, transportation and land use connections, and regulations including urban design objectives; and

WHEREAS, the update of the Uptown Community Plan and the Mid-City Communities Planned District Ordinance will result in a long-term design vision for Uptown Community; and

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WHEREAS, implementation of an interim height ordinance in those geographic areas where current height allowances impact community character, would benefit the community by providing a design review process of new structures to determine their compatibility with the existing community character during the update of the Uptown Community Plan and the Mid-City Communities Planned District to ensure they do not adversely affect the City's and communities urban design objectives of the community; and

WHEREAS, there is a recognition that the residential density that is in the adopted Uptown Community Plan contributes to the City's housing goals, including opportunities provided by the Density Bonus regulations and that these are not affected by this ordinance; and

WHEREAS, there is a general agreement that structures less than 50 and 65 feet in height in specified areas of the Uptown Community Planning Area are likely to be compatible in bulk and scale with existing development; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego as follows:

Section 1. That Chapter 15, Article 12, Division 2, of the San Diego Municipal Code is amended by amending section 1512.02, as follows:

§1512.0203 Mid-City Communities Development Permit

- (a) [No change.]
- (b) (1) through (7) [No change.]
- (8) Any structure proposed to be located within the boundaries of Areas A or B designated on Map C-928 filed in the Office of the City Clerk as Document No. [INSERT CLERK DOCUMENT

NO], and as illustrated in Figure 1512-03A in accordance with Section 1512.0203(g), Interim Height Limit.

Table 1512.02A [No change.]

- (c) An application for a Mid-City Communities Development Permit in accordance with 1512.0203(b)(1-7) may be approved, conditionally approved or denied by a Hearing Officer in accordance with Process Three. The Hearing Officer's decision may be appealed to the Planning Commission in accordance with the Land Development Code Section 112.0506.
- (d) The Hearing Officer or Planning Commission may approve or conditionally approve a Process Three Mid-City Communities Development Permit, if the Hearing Officer or Planning Commission determines that the application is complete and conforms with all City regulations, policies, guidelines, design standards and density, and it is found from the evidence presented that all of the following facts exist:
- (1) through (6) [No change.]
- (e) An application for a Mid-City Communities Development Permit in accordance with 1512.0203(b)(8) may be approved or conditionally approved or denied by the Planning Commission in accordance with Process Four. The Planning Commission's decision may be appealed to the City Council in accordance with the Land Development Code Section 112.0507.

(f) The Planning Commission or City Council may approve or conditionally approve or deny a Process Four Mid-City Communities Development Permit, if the Planning Commission or the City Council or determines that the application is complete and conforms with all City regulations, policies, guidelines, design standards and density, and it is found from the evidence presented that all of the following facts exist:

- (1) The facts in Section 1512.0203(d) exist; and
- (2) The proposed building height is appropriate because the location of the site, existing neighborhood characteristics and project design including massing, stepbacks, façade composition and modulation, material and fenestration patterns when considered together, would ensure the project's compatibility with the existing character of Uptown; and
- (3) That the findings required for Site Development Permits in Section 126.0504(a) of the Land Development Code can be made.

(g) Interim Height Limit.

This interim height limit applies to all development within the boundaries of Areas A and B designated on Map C-928 filed in the Office of the City Clerk as Document No. [INSERT CLERK DOCUMENT NO], and as illustrated in Figure 1512-03A.

(1) North of Brookes Avenue.

No structure north of the centerline of Brookes Avenue exceeding a structure height of 50 feet in Area A, or 65 feet in Area B, as

illustrated on Figure 1512-03A, shall be issued a Mid-City Communities Development Permit while the interim height limit is in effect.

(2) South of Brookes Avenue

No structure south of the centerline of Brookes Avenue exceeding a structure height of 65 feet in Area 'B', as illustrated on Figure 1512-03A, shall be issued a construction permit without approval of a Mid-City Communities Development Permit in accordance Section 1512.0203(e) and (f) while the interim height limit is in effect.

[INSERT FIGURE 1512-03A]

[Editors Note: The regulations approved in the interim height limit ordinance (INSERT ORDINANCE NUMBER) shall be in effect until adoption of the update to the Uptown Community Plan or 30 months from the adoption of this ordinance whichever comes first, except that up to two 180 day extensions may be approved by a majority of the City Council in accordance with a Process Five if at such time the updated Uptown Community Plan has not been adopted.]

Section 2. That the regulations approved within this interim height limit ordinance shall be in effect until adoption of the update to the Uptown Community Plan or 30 months from the adoption of this ordinance whichever comes first, except that up to two 180 day extensions may be approved by a majority of the City Council in accordance with a Process Five if at such time the updated Uptown Community Plan has not been adopted.

Section 3. That a full reading of this ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the City Council and the

public a day prior to its final passage. That this ordinance shall take effect and be in force on the thirtieth day from and after its passage.

Section 4. That City departments are instructed not to issue any permit for development that is inconsistent with this ordinance unless application for such permit was submitted and deemed complete prior to the date this ordinance becomes effective.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By _____
Deputy City Attorney

I hereby certify that the following Ordinance was passed by the Council of the City of San Diego, at its meeting of _____.

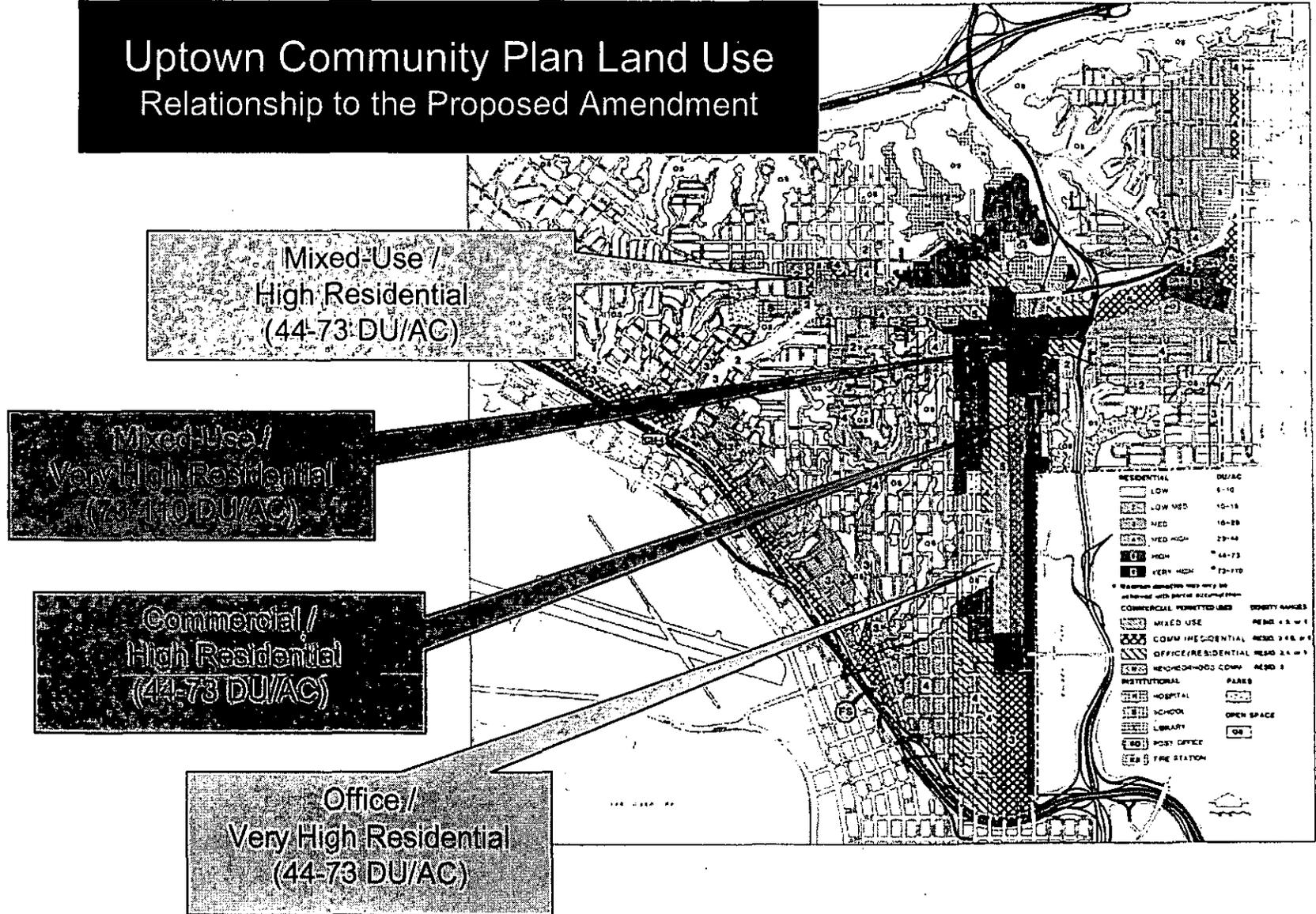
ELIZABETH S. MALAND
City Clerk

By _____
Deputy City Clerk

Approved: _____
JERRY SANDERS, Mayor

Vetoed: _____
JERRY SANDERS, Mayor

Uptown Community Plan Land Use Relationship to the Proposed Amendment



Note: (1) This community plan map is a schematic illustration of the proposals found in the accompanying plan text and the official display map, which should be consulted for more detail. (2) Should there be a conflict between this plan and any other plan located within the Uptown Community Plan document, this Plan shall prevail. (3) The following pages show this map at a larger scale.



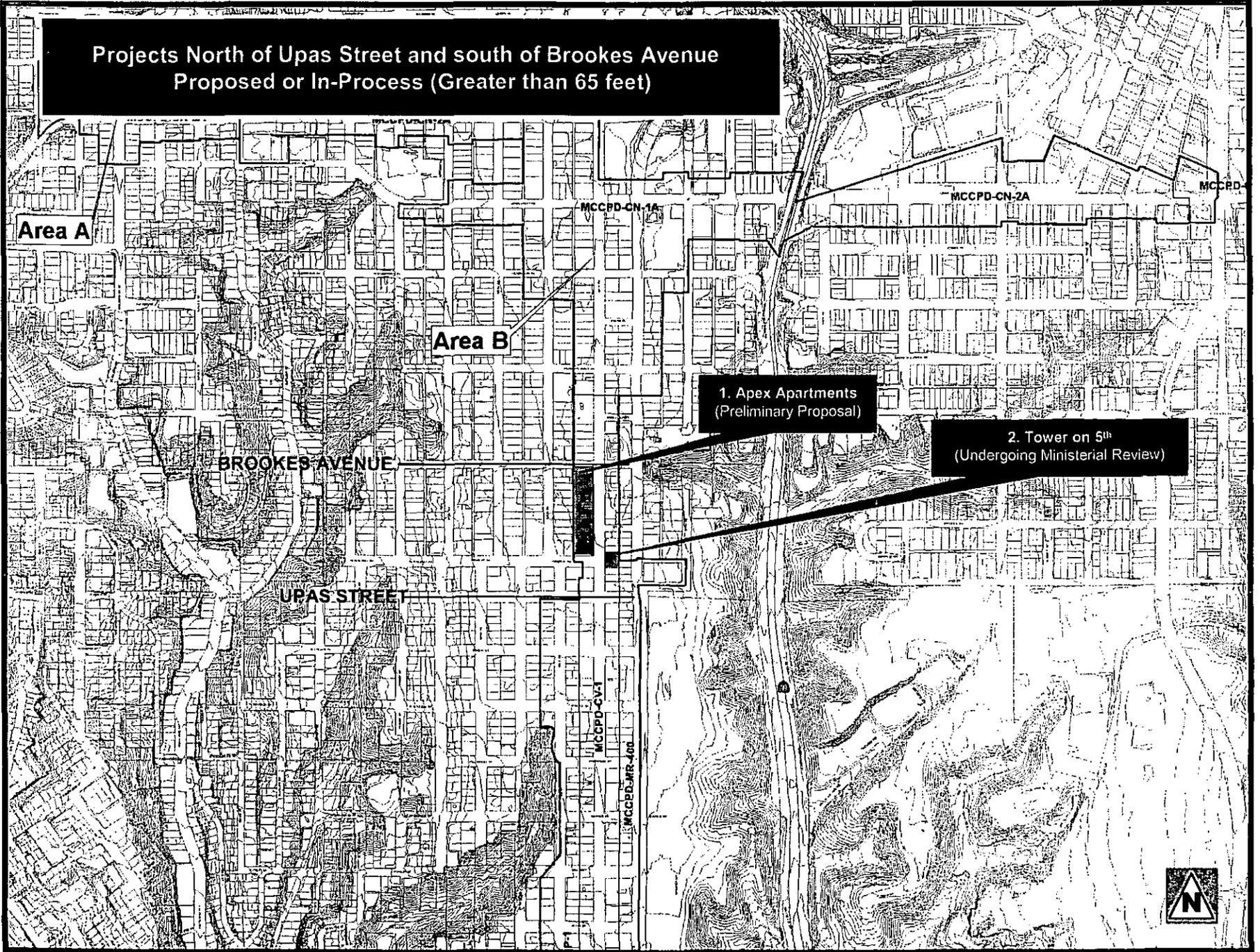
Draft Height Exception Language

The following are exempt from the height limits in Sections

1512.0203(g)(1) and 1512.0203(g)(2) provided they do not exceed 15 feet in height, do not provide habitable space, and do not exceed 20 percent of the roof area:

- (i) Stairways;
- (ii) Mechanical equipment and screening;
- (iii) Decks;
- (iv) Sustainable development features such as green roofs and solar power generating devices; and
- (v) Enclosed communal space.

Projects North of Upas Street and south of Brookes Avenue
Proposed or In-Process (Greater than 65 feet)



Area A

Area B

1. Apex Apartments
(Preliminary Proposal)

2. Tower on 5th
(Undergoing Ministerial Review)

BROOKES AVENUE

UPAS STREET

MCCPD-CN-1A

MCCPD-CN-2A

MCCPD

MCCPD-CV1

MCCPD-MS-4m



001371

CITY OF SAN DIEGO
M E M O R A N D U M

DATE: April 11, 2008

TO: Barry Schultz, Chairperson, Planning Commission

FROM: Marlon I. Pangilinan, Senior Planner, City Planning & Community Investment *MP*

SUBJECT: Proposed Amendment to the Mid-City Communities Planned District Ordinance for a Limitation in the Uptown Community

REFERENCE: Planning Commission hearing of April 3, 2008; Report No. PC-08-029

On April 3rd, 2008, the proposed Amendment to the Mid-City Communities Planned District Ordinance (MCCPDO) for a Height Limitation in the Uptown Community was continued to May 8th, due to a loss of quorum and to give additional time for staff to address questions raised regarding building setbacks included in the density analysis. Upon further review, staff has revised the initial analysis regarding density and is prepared to address this item on the April 17th Planning Commission agenda. The attachments included with this memo detail the revised analysis.

Should you or the members of the Planning Commission have questions, staff will be available during the hearing to answer any additional questions and address any further issues.

Marlon I. Pangilinan

MP/mip

Attachments

1. Scenario 1: South Side of Washington Street between Goldfinch Street and Falcon Street
2. Scenario 2: East Side of 4th Avenue, Mid-way between Washington Street and University Avenue

Distribution:

Planning Commissioners

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Barry Schultz, Chairperson, Planning Commission

April 11, 2008

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cc: William Anderson, Deputy Chief Operating Officer MS-9A
Mary P. Wright, Deputy Director, MS-4A
Marilyn Mirrasoul, Senior Planner, MS-501