



City of San Diego
 Office of the City Clerk
 202 C Street
 Second Floor
 San Diego, CA 92101
 (619) 533-4000

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01/13

Recommendations
 Community Planning Group/
 Staff's/Planning Commission

000841

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

CASE NUMBER: 78878

Staff's:

Please indicate the recommended action for each item (i.e. Resolution/Ordinance):

Deny the appeal and uphold the Planning Commission's decision to approve the Tentative Map and approve the waiver to the requirement to underground existing overhead utilities.

Planning Commission:

(List names of Commissioners voting yea or nay)

YEAS: Ostuji, Ontai, Golba, Naslund & Schultz

NAYS: Griswold

ABSTAINING: Smiley

Recommended Action: Approve Tentative Map No. 245505 & approve the waiver to the requirement to underground existing overhead utilities.

Community Planning Group:

Choose one:

LIST NAME OF GROUP:

- 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) have taken a position on the item:

In favor:

Opposed: 10-0-1

By: _____

Project Manager

*This information is available in alternative formats for persons with disabilities.
 To request this information in alternative format, call (619)446-5446 or (800)735-2929 (TDD)*



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THE CITY OF SAN DIEGO

REPORT TO THE PLANNING COMMISSION

DATE ISSUED: October 30, 2008 **REPORT NO. PC-08-141**

ATTENTION: Planning Commission, Agenda of November 6, 2008

SUBJECT: 3558 5th AVENUE TENTATIVE MAP - PROJECT NO. 78878
PROCESS 4

**OWNER/
APPLICANT:** Matthew Browar and Nancy Browar (Attachment 9)/
D. Scott Peters, Sterling Land Services, Inc.

SUMMARY

Issue(s): Should the Planning Commission approve Tentative Map No. 245505 and waive the requirement to underground existing overhead utilities to convert twelve existing residential units to condominium at 3558 5th Avenue in Uptown Community Plan area?

Staff Recommendations:

1. APPROVE Tentative Map No. 245505; and
2. APPROVE waiver to the requirement to underground existing overhead utilities.

Community Planning Group Recommendation: On March 13, 2006, the Uptown Community Planning Committee voted 10-0-1 to recommend denial of the project (Attachment 8).

Environmental Review: The project is exempt from the California Environmental Quality Act (CEQA) pursuant to Article 19, Section 15501(k) as Existing Facilities. This project is not pending an appeal of the environmental determination. The environmental exemption determination for this project was made on September 1, 2005, and the opportunity to appeal that determination ended September 26, 2005.

Fiscal Impact Statement: None with this action. All costs associated with the processing of this project are paid by the applicant.



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Code Enforcement Impact: None with this action.

Housing Impact Statement: With the proposed conversion of twelve existing apartments to condominiums, there would be a loss of twelve rental units and a gain of twelve for-sale units. This project was deemed complete August 9, 2005 and is subject to the current inclusionary housing regulations and tenant relocation assistance.

BACKGROUND

This Tentative Map project is subject to the condominium conversion regulations effective June 13, 2006, with the exception of the parking regulations, based on the City Council's specific adoption language for the "new" condominium conversion regulations. On June 13, 2006, the City Council adopted regulations for additional requirements for landscaping, a building conditions report, inclusionary housing, noticing, and parking. Based on the adopted language and the project timing, all of these new regulations apply to this project, with the exception of the parking requirements.

The 0.23 acre project site is located at 3558-3572 1/2 5th Avenue in the CV-1 zone of the Mid-City Communities Planned District within the Uptown Community Plan (Attachment 1). The Uptown Community Plan area designates this site for commercial/residential (Attachment 2). The site is presently development with five residential buildings for a total of twelve residential units. The buildings are arranged around a center courtyard with walkway. Four single-story buildings are located on the perimeter of the courtyard with a two-story building at the end of the courtyard. The single-story buildings each contain two, one-bedroom and one-bathroom units. The two-story building contains four, one-bedroom and one-bathroom units. Two single-car garages are provided on site and are accessed from the alley. One garage is located on the north and the other to south of the two-story building. Commercial development is located north, east, and west of the subject property, and a parking lot facility is located to the south.

Research indicates the buildings were constructed about 1926-1927 and there were no zoning regulations at the time the five residential buildings were built. Zoning started in 1930 and at that time, the property was zoned C (Commercial). The original development of the site had no parking requirements. On May 30, 1989, the Mid City Communities Planned District (MCCPD) Ordinance came into effect and applied MCCPD-CV-1 (Commercial Village) zoning to the property. Today, the site is currently zoned MCCD-CV-1. Current parking regulations would require fifteen parking spaces on site and two, single-car garages are provided to be maintained with previously conforming rights. The development complied with the zoning and development regulations in effect at the time of construction.

DISCUSSION

Project Description:

The current application proposes a Tentative Map for the subdivision of a 0.23 acre site to

convert twelve existing residential units into condominiums. The applicant is also requesting the requirement for the undergrounding of existing overhead utilities. Section 125.0410 of the San Diego Municipal Code (SDMC) requires a Tentative Map be processed for the subdivision of land. According to SDMC Sections 125.0440 and 124.0444, Findings for Tentative Maps and for Condominium Conversions, the decision maker may approve a Tentative Map for the purposes of the conversion of residential property into a condominium project if the decision maker finds that the proposed conversion complies with the requirements of the Subdivision Map Act and the SDMC. City staff has reviewed the proposed condominium conversion and determined that it complies with both the Subdivision Map Act and the SDMC.

Undergrounding of Existing Utilities

SDMC Section 144.0240 allows the subdivider to apply for a waiver from the requirement to underground the existing overhead utilities within the boundary of the subdivision or within the abutting public rights of way. City staff has determined the undergrounding waiver request qualifies under the guidelines of Council Policy 600-25, Underground Conversion of Utility Lines at the Developer's Expense, in that the conversion involves a short span of overhead facility (less than 600 feet in length) and the conversion would not represent a logical extension to an underground facility.

The applicant will be required to underground all existing services to the site per Condition No. 20 of the draft Tentative Map resolution (Attachment 7). The applicant would also be required to underground any new service run to any new or proposed structures within the subdivision per Condition No. 19 of the draft Tentative Map resolution (Attachment 7).

The neighborhood currently contains power poles and overhead utility lines on the north of the property and along the alley, which the utility lines to these poles extend to other properties. As indicated above, all utilities serving this property will be required to be undergrounded. The City's Undergrounding Master Plan designates the site within Block 3T2, and the date for undergrounding has been established for the year 2021 (Attachment 11).

Project-Related Issues:

All condominium conversion applications not decided upon by July 25, 2006, must conform with the current regulations regarding inclusionary housing, tenant relocation benefits, the provision of a building conditions report, conformance with landscape regulations, and conformance with noticing requirements. This project is not required to conform with the new parking regulations for condominium conversions, based on specific language adopted by the City Council.

The requested conversion of these residential units to condominiums represents primarily a change in ownership. The applicant has certified that the required 60-day Notice of Intent to Convert to Condominiums was provided to the tenants on May 12, 2005.

Inclusionary Housing Ordinance and Tenant Relocation Benefits Conformance:

The project has been conditioned to require the subdivider to conform with the City's Inclusionary Housing Ordinance (Chapter 14, Article 2, Division 13 of the Land Development Code) and demonstrate conformance with the Municipal Code provisions for Tenant Relocation Benefits (Chapter 14, Article 4, Division 5).

The applicant must pay or enter into an agreement for the payment of the in-lieu fee prior to receiving a Final Map in accordance with the City's Inclusionary Housing Ordinance. The in-lieu fee for this project will be \$12,850.00. The applicant must also show evidence that relocation assistance has been paid to eligible tenants or enter into an agreement with the San Diego Housing Commission to demonstrate conformance with Tenant Relocation Benefits.

Building Conditions Report and Landscape Requirements

In accordance with the current regulations, the applicant provided a Building Conditions Report and Landscape Concept Plan. Both of these documents have been reviewed for conformance with the applicable regulations within Land Development Code (Chapter 14, Article 4, Division 5) and have been accepted by staff as conforming with the regulations.

Noticing

The proposed project has been conditioned to conform with all noticing requirements for condominium conversions.

Community Planning Group Recommendation

On March 13, 2006, the Uptown Community Planning Committee voted 10-0-1 to deny the project with the following motions:

1. *The motion is based on the applicant's failure to present detailed site, landscaping and parking plans for the project, and also to indicated the nature of any improvements or modifications that will take place as a result of the proposed condominium conversion.*

Staff's response: The applicant has provided the City with the Tentative Map, Landscaping Plans, and Building Conditions Report required for this project based on the applicable condominium conversion regulations.

2. *Applicant is seeking a blind entitlement, based on a claim of a ministerial right to a condominium conversion, which is unsupported.*

Staff's response: This Tentative Map project is a process four decision, to be decided by Planning Commission and is a discretionary action. This project is not a blind entitlement and not a ministerial action.

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3. *In making this motion to deny, the Uptown Planners state it favors the preservation of the structure in question, and would encourage the applicant to return to Uptown Planners with the specific plans and documents indicated in this motion.*

Staff's response: The applicant chooses not to return to the Uptown Planners for another vote.

4. *The Board recommends the owner consider having the property designated historically.*

Staff's response: The property is not designated historical. The property owner has agreed to perform all repair work consistent with the Secretary of the Interior's Standards for Rehabilitation (the Standards).

Standard five conditions attached to condominium conversions:

1. *No waiver or exemption shall be granted from state and local requirements that existing utility services for this property be placed underground. Exceptions may only be made for utilities located in back alleys, or for streets which have a definite schedule date to have their utilities placed underground within the next five years;*

Staff's response: The project has been conditioned to underground all onsite utilities serving the subdivision and is condition number 20 of the draft Tentative Map resolution. Staff continues to support the waiver to underground existing utilities abutting the right-of-way and determined the undergrounding waiver is consistent with the guidelines of Council Policy 600-25, *Underground Conversion of Utility Lines at the Developer's Expense*.

2. *The right of first refusal to purchase a unit shall be given to the current tenants;*

Staff's response: In accordance with the State Map Act and Government Code provisions regulating condominium conversions, renters have the first right of refusal to purchase the units which they occupy. The Subdivider is required to provide each of the tenants of the proposed condominiums notification of their exclusive right to contract for the purchases of his or her respective unit and is condition number ten of the draft Tentative Map resolution.

3. *Historic sidewalk stamps and scoring of existing sidewalks shall be preserved, and any replacement or new sidewalks shall be constructed so that the new scoring matches the existing sidewalk scoring, color, texture and type of contractor date stamp;*

Staff's response: The Land Development Code and Street Design Manual require the preservation of historic sidewalks and imprints. All public improvements and incidental facilities shall be designed in accordance with criteria established in the Street Design Manual and is condition number 22 of the draft Tentative Map resolution.

4. *Landscaping shall be brought into conformance with the current Land Development Code regulations of the City of San Diego, including the placing of street trees at required locations as*

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indicated in the San Diego Street Design Manual;

Staff's response: The project's landscaping complies with current Landscape Regulations. The project proposes two street trees along 5th Avenue and shown on the landscape plans.

5. Current on street parking will be preserved, and where feasible, the provision of new parking should be provided both onsite and offsite. The latter goal can be accomplished by minimizing curb cuts, and other innovative measures. There should be no net loss of on street parking.

Staff's response: This project has previously conforming rights to be maintained as outlined in Chapter 12, Article 7, Division 1 of the Land Development Code. The existing development was constructed in conformance with the development regulations governing the site at the time original construction permits were issued. The existing development provides two one-car garages adjacent to the alley. Additional parking on the site is not a requirement of this application.

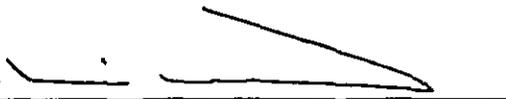
CONCLUSION

Staff has reviewed the request for a Tentative Map for the conversion of twelve residential units into condominiums and has found the project to be in conformance with the applicable sections of the San Diego Municipal Code regulating Tentative Maps and the waiver from the requirement to underground the existing overhead utilities. City staff recommends the Planning Commission approve the project as proposed.

ALTERNATIVES

1. **Approve** Tentative Map No. 245505 and the waiver from the requirement to underground existing overhead utilities, **with modifications.**
2. **Deny** Tentative Map No. 245505 and waiver of the requirement to underground existing overhead utilities, **if the findings required to approve the project cannot be affirmed.**

Respectfully submitted,



Mike Westlake
Program Manager
Development Services Department



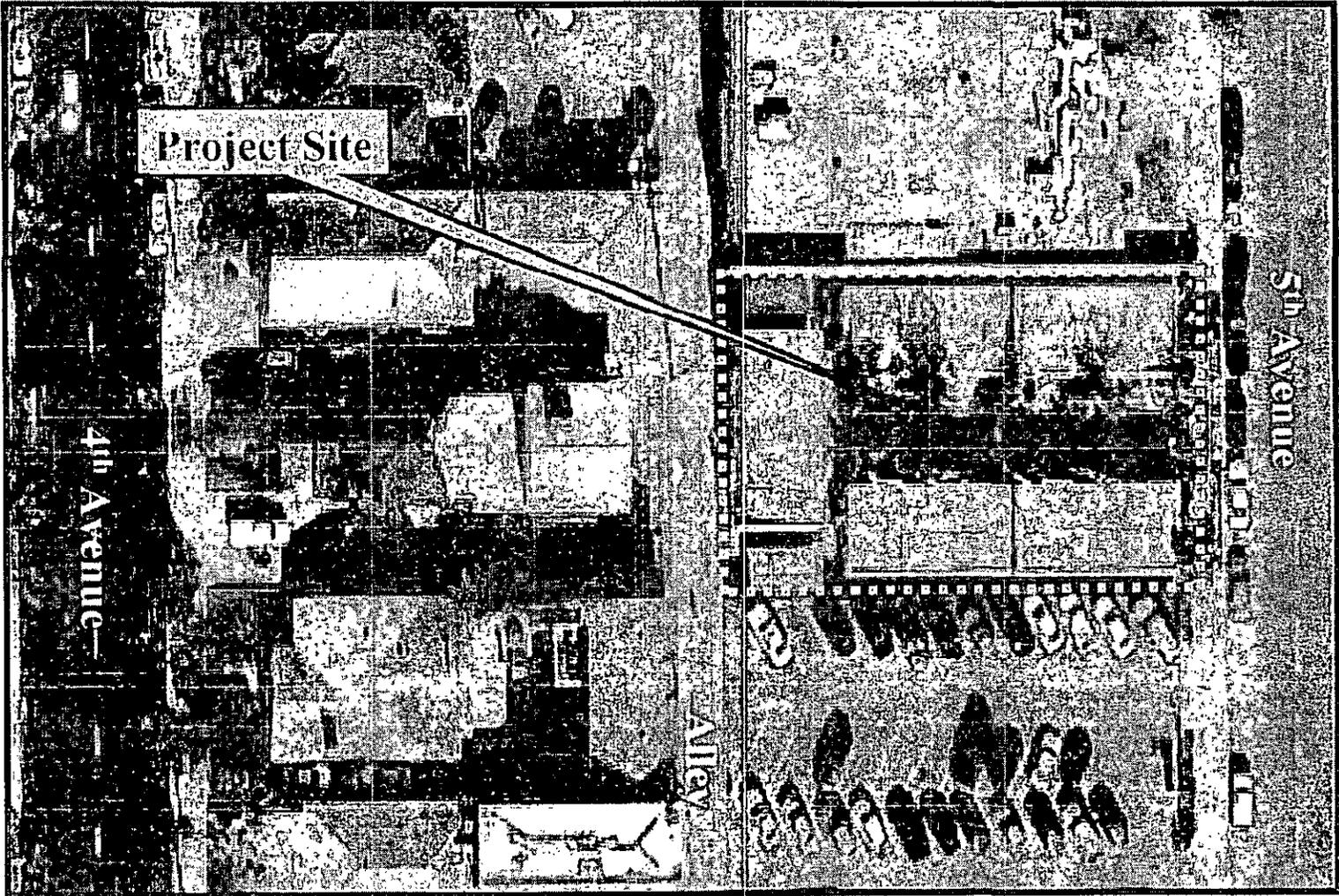
Cherlyn Cac
Project Manager
Development Services Department

KGB/CTC

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Attachments:

1. Aerial Photograph
2. Community Plan Land Use Map
3. Project Location Map
4. Project Data Sheet
5. Tentative Map
6. Landscape Plan
7. Draft Map Conditions and Subdivision Resolution
8. Community Planning Group Recommendation
9. Ownership Disclosure Statement
10. Project Chronology
11. Utility Underground Project Schedule
12. Sample 60-Day Notice of Intent to Convert
13. Photos of Existing Elevations
14. Building Conditions Report (under separate cover)



Aerial Photo

3558 5TH AVENUE TENTATIVE MAP - PROJECT NO. 78878

3558-3572 ½ 5TH AVENUE



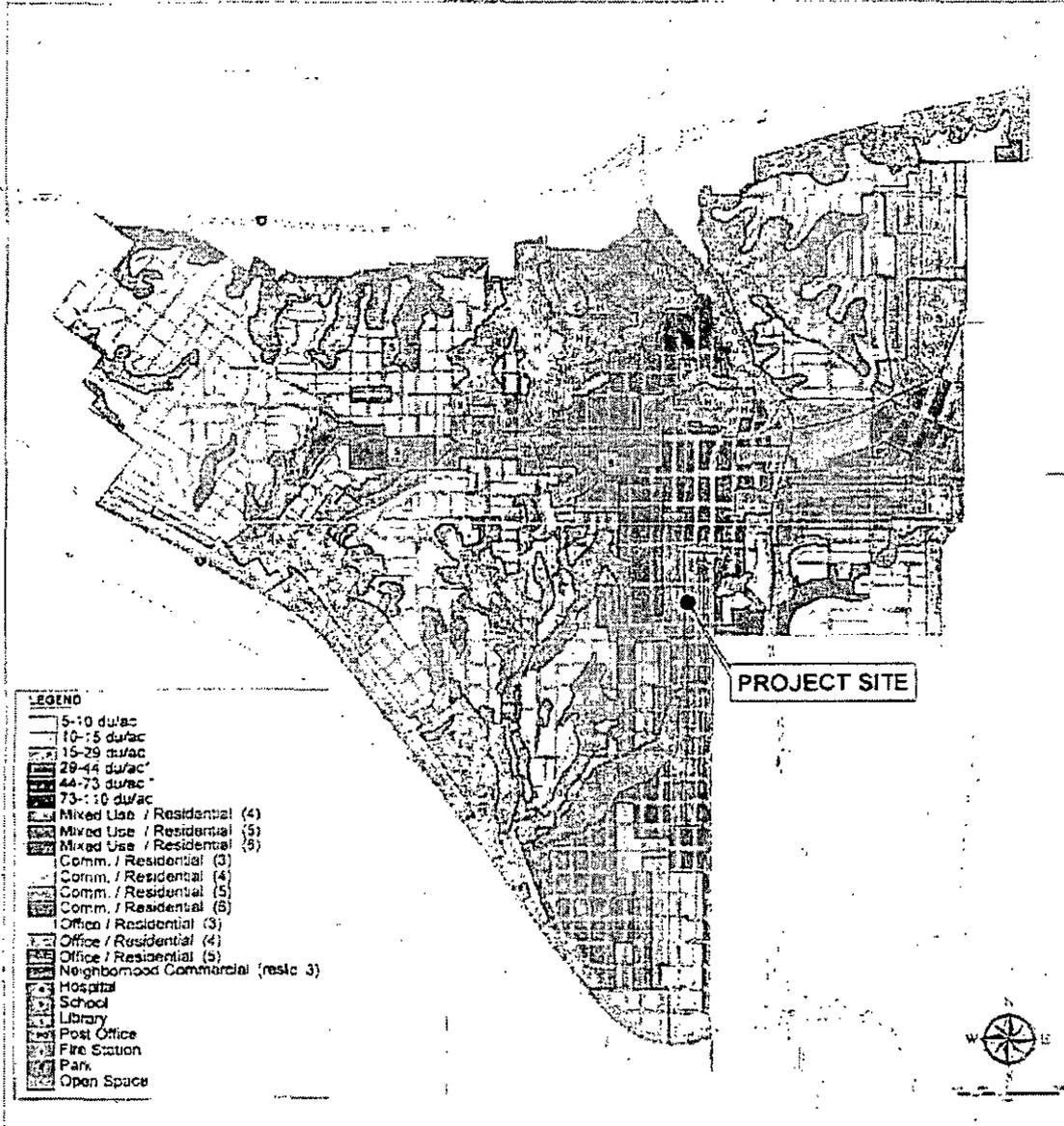
ATTACHMENT 1

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City of San Diego Planning Department

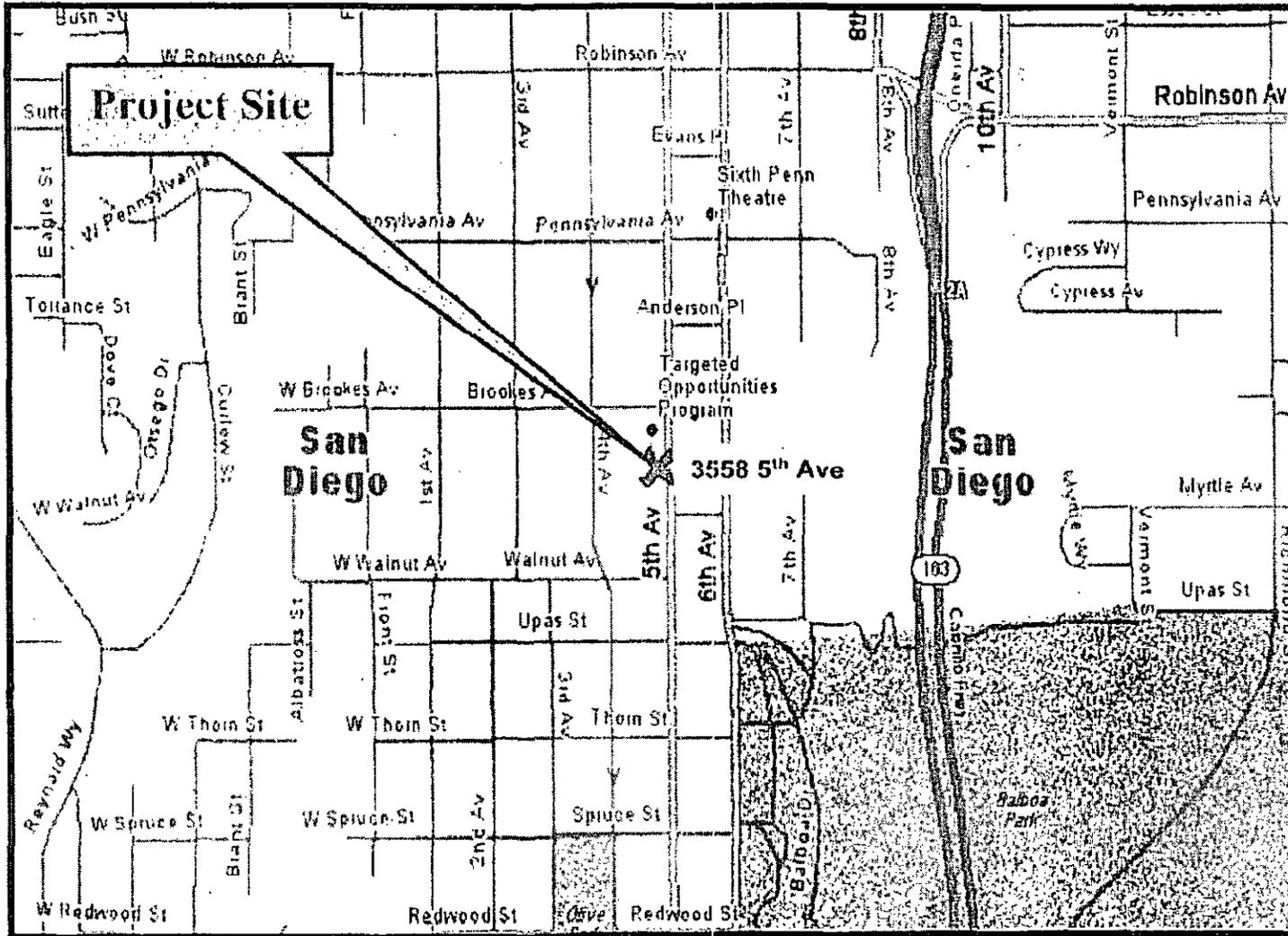
Uptown Community Plan Land Use



Community Plan Land Use Map

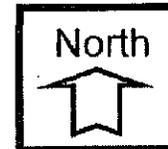
3558 5th AVENUE TENTATIVE MAP -PROJECT NO. 78878
3558-3572 1/2 5th Avenue

DATE: 10/1/01
BY: [illegible]
CHECKED BY: [illegible]
APPROVED BY: [illegible]



Project Location Map

3558 5TH AVENUE TENTATIVE MAP - PROJECT NO. 78878
 3558-3572 1/2 5TH AVENUE



PROJECT DATA SHEET FOR CONDOMINIUM CONVERSIONS		
PROJECT NAME:	3558 5 th Ave Tentative Map	
PROJECT DESCRIPTION:	Consolidate two lots into one and convert 12 dwelling units to condominiums	
COMMUNITY PLAN AREA:	Uptown	
DISCRETIONARY ACTIONS:	Tentative Map	
COMMUNITY PLAN LAND USE DESIGNATION:	Commercial/Residential (73-110 du/ac)	
ZONE: DENSITY: HEIGHT LIMIT: LOT SIZE: FLOOR AREA RATIO: FRONT SETBACK: SIDE SETBACK: STREETSIDE SETBACK: REAR SETBACK: PARKING:	CURRENT ZONING INFORMATION: CV-1; Comm/Res/Mixed Use 1 du/600 sf (17 du) 150 feet 6,000 sf minimum 1.5 for Comm - No max FAR for Res None None N/A None 15 required by current code	CONSTRUCTED: Unzoned (1926) 12 dwelling units Four 1-story bldgs and one 2-story building in rear 10,125 sf (0.23 ac) 0.66 FAR 2' 1.1' (north side) - 2.4' (south side) N/A 2.6' 2 spaces
ADJACENT PROPERTIES:	LAND USE DESIGNATION & ZONE	EXISTING LAND USE
NORTH:	Comm/Res (73-110 du/ac); MCCPD-CV-1	Commercial
SOUTH:	Comm/Res (73-110 du/ac); MCCPD-CV-1	Parking lot
EAST:	Comm/Res (73-110 du/ac); MCCPD-CV-1	Office
WEST:	Office/Res (44-73 du/ac); MCCPD-NP-1	Office
DEVIATIONS OR VARIANCES REQUESTED:	None	
COMMUNITY PLANNING GROUP RECOMMENDATION:	On March 13, 2006, the Uptown Community Planning Committee voted 10-0-1 to recommend denial of the project.	

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PLANNING COMMISSION RESOLUTION NO.
TENTATIVE MAP NO. 245505
3558 5th AVENUE TENTATIVE MAP - PROJECT NO. 78878
DRAFT

WHEREAS, MATTHEW S. BROWAR AND NANCY A. BROWAR, IN THEIR CAPACITY AS TRUSTEES OF THE M.S. BROWAR FAMILY TRUST DATED FEBRUARY 9, 1988, Applicant/Subdivider, and DONALD SCOTT PETERS, Surveyor, submitted an application with the City of San Diego for a Tentative Map, No. 245505, to convert 12 residential units into condominiums and to waive the requirement to underground existing overhead utilities. The project site is located 3558-3572 1/2 5th Avenue, between Brookes Avenue and Walnut Avenue, in the CV-1 Zone of Mid City Communities Planned District within the Uptown Community Plan area. The property is legally described as Lot 18 and the South 25 feet of Lot 19 in Block 3 of Loma Grande, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 692, filed in the Office of the County Recorder of San Diego County, November 23, 1891; and

WHEREAS, the Map proposes the subdivision of a 0.23 acre site into one (1) lot for a 12 unit residential condominium conversion; and

WHEREAS, the project is exempt from environmental review pursuant to Section 15301 (k) of the California Environmental Quality Act (CEQA) on the basis that the facilities are existing; and

WHEREAS, a preliminary soils and geological reconnaissance report are waived by the City Engineer pursuant to the Subdivision Map Act and Section 144.0220 of the Municipal Code of the City of San Diego; and

WHEREAS, the subdivision is a condominium project as defined in Section 1350 et seq. of the Civil Code of the State of California and filed pursuant to the Subdivision Map Act. The total number of condominium dwelling units is 12; and

WHEREAS, on November 6, 2008, the Planning Commission of the City of San Diego considered Tentative Map No. 245505, including the waiver of the requirement to underground existing overhead utilities, and pursuant to Sections 125.0440 (tentative map), 125.0444 (condo conversion), and 144.0240 (underground) of the Municipal Code of the City of San Diego and Subdivision Map Act Section 66428, received for its consideration written and oral presentations, evidence having been submitted, and heard testimony from all interested parties at the public hearing, and the Planning Commission having fully considered the matter and being fully advised concerning the same; NOW THEREFORE,

BE IT RESOLVED by the Planning Commission of the City of San Diego, that it adopts the following findings with respect to Tentative Map No. 245505:

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1. The proposed subdivision complies with the applicable zoning and development regulations of the Land Development Code (Land Development Code Section 125.0440.b).
2. The decision maker has considered the effects of the proposed subdivision on the housing needs of the region and that those needs are balanced against the needs for public services and the available fiscal and environmental resources (Land Development Code Section 125.0440.h and State Map Act Section 66412.3).
3. Each of the tenants of the proposed condominium project has received, pursuant to State Map Action Section 66452.9, written notification of intention to convert at least 60 days prior to the filing of a tentative map (Land Development Code 125.0444 and State Map Act Section 66427.1(a)).
4. The project has been conditioned that the Subdivider will give each tenant, and each person applying for the rental of a unit in such residential real property, all applicable notices and rights now or hereafter required by the State Map Act (Land Development Code Section 125.0444 and State Map Act Section 66427.1(a)).
5. The project has been conditioned that the Subdivider will give each tenant 10 days' written notification that an application for a public report will be, or has been, submitted to the Department of Real Estate, and that such report will be available on request (Land Development Code Section 125.0444 and State Map Act Section 66427.1(a)).
6. The project has been conditioned that the Subdivider will give each tenant of the proposed condominium project written notification within 10 days of approval of a final map for the proposed conversion (Land Development Code Section 125.0444 and State Map Act Section 66427.1(b)). If the subdivider chooses to provide affordable housing units, the subdivider shall enter into an affordable housing agreement with the Housing Commission, prior to recordation of the Final Map.
7. The project has been conditioned that the Subdivider will give each of the tenants of the proposed condominium project 180 days' written notice of intention to convert prior to termination of tenancy due to the conversion or proposed conversion (Land Development Code Section 125.0444 and State Map Act Section 66427.1(c)).
8. The project has been conditioned that the Subdivider will give each of the tenants of the proposed condominium project notice of an exclusive right to contract for the purchase of his or her respective unit upon the same terms and conditions that such unit will be initially offered to the general public or terms more favorable to the tenant, which notice shall be provided within 5 working days of the issuance

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- of the Subdivision Public Report.. The right shall run for a period of not less than 90 days from the date of issuance of the subdivision public report pursuant to Section 11018.2 of the Business and Professions Code, unless the tenant gives *prior written notice of his or her intention not to exercise the right* (Land Development Code Section 125.0444 and State Map Act Section 66427.1(d)).
9. The project was not financed by funds obtained from a governmental agency to provide for elderly, disabled, or low income housing (Land Development Code Section 125.0444.b).
 10. For any project that was developed to provide housing for the elderly, disabled or to provide low income housing, provisions have been made to perpetuate the use for which the project was developed (Land Development Code Section 125.0444.c).
 11. Each of the tenants of the proposed condominium project has received written notification of the project application for the condominium conversion within 10 days after the application was deemed complete (Land Development Code 125.0431(a)(3)).
 12. The project has been conditioned that the subdivider will give each person applying for the rental of a unit in such residential real property written notification that the project application for the condominium conversion was deemed complete (Land Development Code 125.0431(a)(3)).
 13. The project has been conditioned that the subdivider will give each tenant a notice of termination of tenancy 60 days prior to being required to vacate the property. (Land Development Code Section 125.0431(a)(4)).
 14. A Building Conditions Report has been prepared in accordance with the Land Development Manual by a registered architect or engineer licensed by the State of California (Land Development Code Section 144.0504(b)).
 15. The project has been conditioned that the subdivider will provide to a prospective purchaser a copy of the Building Conditions Report prior to the opening of an escrow account. (Land Development Code Section 144.0504(c)).
 16. The project has been conditioned that the subdivider will provide a relocation assistance payment to all tenants of the project whose tenancy has terminated due to the condominium conversion. (Land Development Code Section 144.0505).
 17. The project has been conditioned for the subdivider to complete the physical improvements as outlined in Land Development Code Section 144.0507, to the satisfaction of the City Engineer prior to final map approval.

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18. The project has been conditioned for the subdivider to satisfy the inclusionary housing requirements in accordance with Land Development Code Section 142.1306. (Land Development Code Section 144.0508).
 19. The requested underground waiver of the existing overhead facilities, qualifies under the guidelines of Council Policy No. 600-25 *Underground Conversion of Utility Lines at Developers Expense* in that:
 - a. The conversion involves a short span of overhead facility (less than 600 feet in length).
 - b. The conversion is a requirement of a condominium conversion of an existing development and the conversion would not represent a logical extension to an underground facility.
 20. That said Findings are supported by the minutes, maps, and exhibits, all of which are herein incorporated by reference.

BE IT FURTHER RESOLVED, that, based on the Findings hereinbefore adopted by the Planning Commission, Tentative Map No. 245505, including the waiver of the requirement to underground existing overhead utilities, is hereby granted to MATTHEW S. BROWAR AND NANCY A. BROWAR, IN THEIR CAPACITY AS TRUSTEES OF THE M.S. BROWAR FAMILY TRUST DATED FEBRUARY 9, 1988, Applicant/Subdivider, subject to the following conditions:

GENERAL

1. This Tentative Map will expire November 6, 2011.
2. Compliance with all of the following conditions shall be assured, to the satisfaction of the City Engineer, prior to the recordation of the Final Map, unless otherwise noted.
3. Prior to the Tentative Map expiration date, a Final Map to consolidate the existing lots into one lot shall be recorded in the Office of the County Recorder.
4. Prior to the issuance of the Final Map, taxes must be paid on this property pursuant to section 66492 of the Subdivision Map Act. A tax certificate, recorded in the office of the County Recorder, must be provided to satisfy this condition.
5. The applicant shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees, against the City or its agents, officers, or employees, including, but not limited to, any to any action to attack, set aside, void, challenge, or annul this development approval and any

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environmental document or decision. The City will promptly notify applicant of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the applicant shall not thereafter be responsible to defend, indemnify, and hold harmless the City or its agents, officers, and employees. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, applicant shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs. In the event of a *disagreement between the City and applicant regarding litigation issues*, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the applicant shall not be required to pay or perform any settlement unless such settlement is approved by applicant

6. The subdivider shall provide a Notice of Tenants Rights and Notices for Condominium Conversion, consistent with the Land Development Manual to be provided as follows:
 - a. For existing tenants, within 10 days of the project application for the condominium conversion being deemed complete; or
 - b. For prospective tenants, upon application for the rental of a unit in the proposed condominium conversion.
7. The Subdivider shall provide each tenant, and each person applying for the rental of a unit in such residential real property, all applicable notices and rights now or hereafter required by the State Map Act.
8. The Subdivider shall provide the tenants a Notice of Application for a Public Report at least 10 days prior to the submittal to the Department of Real Estate (DRB), pursuant to Section 66427.1(a) of the Subdivision Map Act.
9. The Subdivider shall provide each of the tenants of the proposed condominiums written notice of intention to convert at least 180 days prior to termination of tenancy due to the conversion or proposed conversion in conformance with Section 66427.1(c) of the Subdivision Map Act. The provisions of this subdivision shall not alter nor abridge the rights or obligations of the parties in performance of their covenants, including, but not limited to, the provision of services, payment of rent, or the obligations imposed by Sections 1941, 1941.1 and 1941.2 of the Civil Code.
10. The Subdivider shall provide each of the tenants of the proposed condominiums notification of their exclusive right to contract for the purchase of his or her respective unit upon the same terms and conditions that such unit will be initially offered to the general public or terms more favorable to the tenant, in

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conformance with Section 66427.1(d) of the State Map Act. The right shall run for a period of not less than 90 days from the date of issuance of the subdivision public report, pursuant to Section 11018.2 of the Business and Professions Code, unless the tenant gives prior written notice of his or her intention not to exercise the right.

11. The Subdivider shall provide the tenants of the proposed condominiums with written notification within 10 days or approval of a Final Map for the proposed conversion, in conformance with Section 66427.1(b) of the Subdivision Map Act.

AFFORDABLE HOUSING

12. Prior to recordation of the Final Map, the Subdivider shall comply with the Affordable Housing Requirements of the City's Inclusionary Housing Ordinance (Chapter 14, Article 2, Division 13 of the Land Development Code). The Subdivider has elected to pay an in-lieu fee of \$12,850.00 to meet these requirements. Prior to receiving a final map, the applicant must either pay the entire in-lieu fee amount or enter into an agreement with the San Diego Housing Commission to assure the payment of the in-lieu fee.
13. Prior to the recordation of the Final Map, the Subdivider either show evidence that relocation assistance has been paid to eligible tenants or enter into an agreement with the San Diego Housing Commission to demonstrate conformance with the Municipal Code provisions for Tenant Relocation Benefits (Chapter 14, Article 4, Division 5), to the satisfaction of the Development Services Department and the Housing Commission. In addition, the Subdivider must pay the appropriate fees incurred by the Housing Commission for compliance monitoring (Chapter 14, Article 4, Division 5).
14. The Subdivider will give each tenant a notice of termination of tenancy 60 days prior to being required to vacate the property. (Land Development Code Section 125.0431(a)(4)).
15. The Subdivider will provide to a prospective purchaser a copy of the Building Conditions Report prior to the opening of an escrow account. (Land Development Code Section 144.0504(c)).

ENGINEERING

16. The Subdivider shall dedicate and improve an additional 2.5 feet of the adjacent alley, and shall also replace the western third of the alley, which is damaged.
17. The Subdivider shall obtain an Encroachment Maintenance and Removal Agreement, for landscaping and a private walkway on 5th Avenue.

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18. The Subdivider shall comply with all current street lighting standards according to the City of San Diego Street Design Manual (Document No. 297376, filed November 25, 2002) and the amendment to Council Policy 200-18 approved by City Council on February 26, 2002 (Resolution R-296141) satisfactory to the City Engineer. This may require (but not limited to) installation of new street light(s), upgrading light from low pressure to high pressure sodium vapor and/or upgrading wattage.
19. The Subdivider shall underground any new service run to any new or proposed structures within the subdivision.
20. The Subdivider shall ensure that all existing onsite utilities serving the subdivision shall be undergrounded with the appropriate permits. The subdivider shall provide written confirmation from applicable utilities that the conversion has taken place, or provide other means to assure the undergrounding, satisfactory to the City Engineer.
21. Prior to the recordation of the Final Map, the Subdivider shall demonstrate conformance with the Municipal Code provisions for building and landscape improvements (Land Development Code Sections 144.0507), to the satisfaction of the City Engineer. The parking requirements in Land Development Code Sections 144.0507 and 142.0525.a do not apply, since this project was deemed complete prior to the effective date of this ordinance (July 27, 2006).
22. Conformance with the "General Conditions for Tentative Subdivision Maps," filed in the Office of the City Clerk under Document No. 767688 on May 7, 1980, is required. Only those exceptions to the General Conditions which are shown on the tentative map and covered in these special conditions will be authorized.

All public improvements and incidental facilities shall be designed in accordance with criteria established in the Street Design Manual, filed with the City Clerk as Document No. RR-297376.

MAPPING

23. "Basis of Bearings" means the source of uniform orientation of all measured bearings shown on the map. Unless otherwise approved, this source will be the California Coordinate System, Zone 6, North American Datum of 1983 (NAD 83).
24. "California Coordinate System means the coordinate system as defined in Section 8801 through 8819 of the California Public Resources Code. The specified zone for San Diego County is "Zone 6," and the official datum is the "North American Datum of 1983."

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25. The Final Map shall:

- a. Use the California Coordinate System for its "Basis of Bearing" and express all measured and calculated bearing values in terms of said system. The angle of grid divergence from a true median (theta or mapping angle) and the north point of said map shall appear on each sheet thereof. Establishment of said Basis of Bearings may be by use of existing Horizontal Control stations or astronomic observations.
- b. Show two measured ties from the boundary of the map to existing Horizontal Control stations having California Coordinate values of Third Order accuracy or better. These tie lines to the existing control shall be shown in relation to the California Coordinate System (i.e., grid bearings and grid distances). All other distances shown on the map are to be shown as ground distances. A combined factor for conversion of grid-to-ground distances shall be shown on the map.

SEWER AND WATER

26. Water and Sewer Requirements:

- a. The Subdivider shall install appropriate private back flow prevention devices on all existing and proposed water services (domestic, irrigation, and fire) adjacent to the project site in a manner satisfactory to the Water Department Director.
- b. The Subdivider shall provide a letter, agreeing to prepare CC&Rs for the operation and maintenance of all private water and sewer facilities that serve or traverse more than a single condominium unit or lot.

LANDSCAPE

27. Prior to recordation of the Final Map, complete landscape and irrigation construction documents consistent with the Landscape Standards shall be submitted to the Development Services Department for approval. The construction documents shall be in substantial conformance with the Exhibit "A," Landscape Development Plan, on file in the Office of the Development Services Department.
28. Prior to recordation of the Final Map, and after Landscape and Irrigation Construction Documents have been approved by Development Services, the subdivider shall install all required landscaping consistent with the approved plans and the Land Development Manual, Landscape Standards.

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29. Prior to recordation of the Final Map, it shall be the responsibility of the Permittee/Owner to install all required landscape and obtain all required landscape inspections. A "No Fee" Street Tree Permit shall be obtained for the installation, establishment, and on-going maintenance of all street trees.
30. The Landscape Construction Plan shall take into account a 40 square-foot area around each tree which is unencumbered by hardscape and utilities as set forth under LDC.142.0403(b)5.
31. All required landscape shall be maintained in a disease, weed and litter free condition at all times. Severe pruning or "topping" of trees is not permitted. The trees shall be maintained in a safe manner to allow each tree to grow to its mature height and spread.
32. The Permittee or subsequent owner shall be responsible for the maintenance of all landscape improvements in the right-of-way consistent with the Land Development Manual Landscape Standards unless long-term maintenance of said landscaping will be the responsibility of a Landscape Maintenance District or other approved entity. In this case, a Landscape Maintenance Agreement shall be submitted for review by a Landscape Planner.
33. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved construction document plans is damaged or removed during demolition or construction, it shall be repaired and/or replaced in kind and equivalent size per the approved documents to the satisfaction of the Development Services Department within 30 days of damage or prior to a Certificate of Occupancy or a Final Landscape Inspection.

INFORMATION:

- The approval of this Tentative Map by the Planning Commission of the City of San Diego does not authorize the subdivider to violate any Federal, State, or City laws, ordinances, regulations, or policies including but not limited to, the Federal Endangered Species Act of 1973 and any amendments thereto (16 USC Section 1531 et seq.).
- If the subdivider makes any request for new water and sewer facilities (including services, fire hydrants, and laterals), then the subdivider shall design and construct such facilities in accordance with established criteria in the most current editions of the City of San Diego water and sewer design guides and City regulations, standards and practices pertaining thereto. Off-site improvements may be required to provide adequate and acceptable levels of service and will be determined at final engineering.

Project No. 78878

TM No. 245505

November 6, 2008

ATTACHMENT 7

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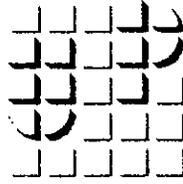
- Subsequent applications related to this Tentative Map will be subject to fees and charges based on the rate and calculation method in effect at the time of payment.
- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of the Tentative Map, may protest the imposition within 90 days of the approval of this Tentative Map by filing a written protest with the City Clerk pursuant to California Government Code Section 66020.
- Where in the course of development of private property, public facilities are damaged or removed the property owner shall at no cost to the City obtain the required permits for work in the public right-of-way, and repair or replace the public facility to the satisfaction of the City Engineer. Municipal Code Section 142.0607.

PASSED AND ADOPTED BY THE PLANNING COMMISSION OF THE CITY OF SAN DIEGO, CALIFORNIA, ON NOVEMBER 6, 2008.

By

Cherlyn Cac
Development Project Manager
Development Services Department

Job Order No. 42-4937



UPTOWN PLANNERS
 Uptown Community Planning Committee
 MINUTES

SPECIAL MEETING: CONDOMINIUM CONVERSIONS
 Monday, March 13, 2006

Present: Marilee Kapsa, Janet O'Dea, Jay Hyde, Ernie Bonn, Mary Wendorf, Mike Singleton, Leo Wilson, Roy Dahl, Steve Satz, Dan Horrigan, Alex Sachs Peggy Mazzella

I. Consent Agenda: Approved by vote of: 8 - 0 - 2

1. **MONDE MAP WAIVER - (Process Three)** - Hillcrest - TMW application to waive the requirements of a Tentative Map to create 12 residential condominiums and 1 commercial condominium (under construction) on a 0.241 acre site at 3970 Ninth Avenue in the CN-1A Zone: **Conditions: (1.) Applicant to examine the feasibility of installing solar panels on the roof of the building; (2.) and the use of green products, such as fumeless paint and carpets, also be considered; (3.) Standard conditions re: condo conversions.**
2. **3760 THIRD AVENUE TENTATIVE MAP -- (Process Four)** - Hillcrest - Tentative Map to convert six existing residential units to condominiums on a 0.15 acre site at 3760 Third Avenue in the MR-800B Zone. **Conditions: (1.) Applicant to examine the feasibility of installing solar panels on the roof of the building; (2.) standard conditions re: condo conversions.**

II. Action Items

1. **4046 NORMAL STREET TENTATIVE MAP - (Process Three)** - Hillcrest - TM to convert seven existing residential units to condominiums on a 6653 sq. ft. site at 4046 Normal Street in the MR-800B Zone.

MOTION TO APPROVE (Wendorf, 2nd.Horrigan: Vote 10 - 0 - 1)

Subject to the following conditions:

- (1.) **The approval of this project is expressly conditioned on the design being in substantial compliance with the rendition presented to Uptown Planners by the applicant at the Board meeting on March 13, 2006. (A copy of the rendition is attached to these minutes and incorporated by reference.) Any substantial deviation from the attached rendition will nullify this motion, and Uptown Planners requests the project be returned to Uptown Planners for reconsideration;**
- (2.) **It is recommended that the applicant be allowed by the City to add two additional parking spaces to the project, so that a total of six parking spaces will be created. This is important, as the area the project is located is parking deficient. The**

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Board indicated to the applicant the locations at which the additional two parking spaces could be appropriately located.

- (3.) It is recommended there be no reserve parking.
 - (4.) The standard five conditions for condominium conversions in Uptown shall apply (see attachment "A," at end of minutes for text of standard conditions)
2. **134 WEST HAWTHORNE MAP WAIVER – (Process Three) – Bankers Hill/Park West** – Application to waive the requirements of a Tentative Map to convert eighteen (18) residential units to condominiums, located at 134 West Hawthorne in the MR-1000 Zone: Airport Approach Overlay Zone, Airports Environs Overlay Zone, Tandem Parking Zone, Transit Area Overlay Zone.

MOTION TO APPROVE (Singleton, 2nd Satz: Vote: 10- 0 - 1)

Subject to the following conditions:

- (1.) The applicant should investigate having the project designated historical under the California Mills Act.
 - (2.) An attempt should be made to get the City to approve angle parking on the street in front of the project. Applicant should work with Uptown Partnership to obtain such approval.
 - (3.) Trellises shall be installed below the first band on the building side.
 - (4.) All widows should be double-hung, casement.
 - (5.) The applicant should provide affordable housing onsite, rather than pay in lieu fees.
 - (5.) The standard five conditions for condominium conversions in Uptown shall apply (see attachment "A," at the end of these minutes for the text of the standard conditions)
3. **3700 TENTH AVENUE TENTATIVE MAP – (Process Four – Tentative Map) – Hillcrest** – Tentative Map to convert 51 residential units to condominiums on a 0.97 acre site at 3700 Tenth Avenue in the MR-1000 Zone.

MOTION TO APPROVE (Sachs, 2nd O'Dea: Vote: 8- 2 - 1)

- (1.) The applicant should provide affordable housing onsite, rather than pay in lieu fees.
- (2.) The large ficus tree in the front of the project property should be preserved.
- (3.) The applicant should explore having the building historically designated.
- (4.) The standard five conditions for condominium conversions in Uptown shall apply, including placing the utilities underground and scoring the sidewalk (see attachment "A," at the end of these minutes for the text of the standard conditions)

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4. **3517 SIXTH AVENUE TENTATIVE MAP – (Process Four) – Hillcrest – Tentative Map** to convert 11 existing residential units to condominiums on a 8, 175 sq. ft. site at 3517 Sixth Avenue in the MR-800B Zone.

MOTION TO DENY (Sachs, 2nd Dahl: Vote 10 – 0 – 1)

- (1.) The motion is based on the applicant's failure to present detailed site, landscaping and parking plans for the project, and also to indicate the nature of any improvements or modifications that will take place as a result of the proposed condominium conversion.
- (2.) Applicant is seeking a blind entitlement, based on a claim of a ministerial right to a condominium conversion, which is unsupportable.
- (3.) In making this motion to deny, the Uptown Planners states it favors the preservation of the structure in question, and would encourage the applicant to return to Uptown Planners with the specific plans and documents indicated in this motion.
- (4.) Uptown Planners recommends the owner consider having the property designated historically.

5. **4082 FOURTH AVENUE MAP WAIVER – (Process Three) – Hillcrest – TMW** application to waive the requirements of a Tentative Map to create seven commercial condominium units at a site located at 4082 Fourth Avenue in the NP-1 Zone.

MOTION TO APPROVE (Singleton, 2nd Sachs: Vote: 9- 1 - 1)

- (1.) Landscaping treatment be brought up to City Code.
- (2.) During normal business hours, the underground parking should be reserved for tenant use.
- (3.) Utilities should be placed underground, pursuant to the Uptown Planner's standard residential condominium conversion condition number one.



6. **3558 FIFTH AVENUE TENTATIVE MAP – (Process Four) – Hillcrest – Tentative Map** to convert 12 existing residential units to condominiums on a 10,210 sq. ft. site located at 3558 Fifth Avenue in the NP-1 Zone.

MOTION TO DENY (Sachs, 2nd Dahl: Vote 10 – 0 – 1)

- (1.) The motion is based on the applicant's failure to present detailed site, landscaping and parking plans for the project, and also to indicate the nature of any improvements or modifications that will take place as a result of the proposed condominium conversion.
- (2.) Applicant is seeking a blind entitlement, based on a claim of a ministerial right to a condominium conversion, which is unsupportable.
- (3.) In making this motion to deny, the Uptown Planners states it favors the preservation of the structure in question, and would encourage the applicant to return to Uptown Planners with the specific plans and documents indicated in this motion.

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(4.) The Board recommends the owner consider having the property designated historically.

7. **2350 THIRD AVENUE TENTATIVE MAP – (Process Four) – Bankers Hill/Park West** -- Tentative Map to convert 16 existing residential units to condominiums on a 10.037 sq. ft. site at 2350 Third Avenue in the NP-2 Zone. Airport Environs Overlay Zone, Airport Approach Overlay Zone.

MOTION TO DENY (Sachs, 2nd Dahl: Vote 10 – 0 – 1)

- (1.) The motion is based on the applicant's failure to present detailed site, landscaping and parking plans for the project, and also to indicate the nature of any improvements or modifications that will take place as a result of the proposed condominium conversion.
- (2.) Applicant is seeking a blind entitlement, based on a claim of a ministerial right to a condominium conversion, which is unsupportable.
- (3.) In making this motion to deny, the Uptown Planners states it favors the preservation of the structure in question, and would encourage the applicant to return to Uptown Planners with the specific plans and documents indicated in this motion.
- (4.) The Board recommends the owner consider having the property designated historically.

8. **3953 CENTRE STREET TENTATIVE MAP – Resubmittal -- (Process Four) – Hillcrest** – Tentative Map to convert 21 existing residential units to condominiums on a 16, 540 sq. ft. site at 3953 Centre Street in the MR-800B Zone.

MOTION TO DENY (Sachs, 2nd Dahl: Vote 10 – 0 – 1)

- (1.) The motion is based on the applicant's failure to present detailed site, landscaping and parking plans for the project, and also to indicate the nature of any improvements or modifications that will take place as a result of the proposed condominium conversion.
- (2.) Applicant is seeking a blind entitlement, based on a claim of a ministerial right to a condominium conversion, which is unsupportable.
- (3.) In making this motion to deny, the Uptown Planners states it favors the preservation of the structure in question, and would encourage the applicant to return to Uptown Planners with the specific plans and documents indicated in this motion.
- (4.) The Board recommends the owner consider having the property designated historically.

9. **450 WEST UNIVERSITY TENTATIVE MAP – (Process 4) – Hillcrest** – Tentative Map to convert 13 existing residential units to condominiums on a 0.31 acre site at 445 West University in the MR-1000 Zone

MOTION TO APPROVE (Sachs, 2nd Dahl: Vote 10- 0 – 1)

- (1.) Applicant should explore having the property designated historically.

(2.) The standard five conditions for condominium conversions in Uptown shall apply, including placing the utilities underground and scoring the sidewalk (see attachment "A," at the end of these minutes for the text of the standard conditions)

10. **1415 ESSEX VILLAS WEST MAP WAIVER – (Process Four) – Hillcrest –**
Application to waive the requirement of a Tentative Map to convert six residential units (under construction) to condominiums on a 0.21 acre site, located at 1415 Essex Street in the MR-1000 Zone. Transit Area Overlay Zone, Residential Tandem Parking Overlay Zone.

CONTINUED: At the request of the applicant.

11. **4250 FOURTH AVENUE TENTATIVE MAP – (Process Four) – Hillcrest – Tentative**
Map to convert 126 existing residential units to condominiums and to waive the requirement to underground utilities on a site located at 4053 Fourth Avenue in the MR-800B Zone; Transit Overlay Zone.

12.

OFF-CALENDAR: No representative of applicant attended meeting.

13. **4202 FOURTH AVENUE TENTATIVE MAP -- (Process Four) – Hillcrest – Tentative**
Map to convert 30 existing residential units to condominiums and waive the requirement to underground utilities on a 0.34 acre site at 4202 Fourth Avenue in the MR-800B Zone.

CONTINUED: At the request of the applicant.

STANDARD FIVE CONDITIONS ATTACHED TO CONDOMINIUM CONVERSIONS:

- 1) No waiver or exemption shall be granted from state and local requirements that existing utility services for this property be placed underground. Exceptions may only be made for utilities located in back alleys, or for streets which have a definite schedule date to have their utilities placed underground within the next five years;
- 2) The right of first refusal to purchase a unit shall be given to the current tenants;
- 3) Historic sidewalk stamps and scoring of existing sidewalks shall be preserved, and any replacement or new sidewalks shall be constructed so that the new scoring matches the existing sidewalk scoring, color, texture and type of contractor date stamp;
- 4) Landscaping shall be brought into conformance with the current Land Development Code regulations of the City of San Diego, including the placing of street trees at required locations as indicated in the San Diego Street Design Manual;
- 5) Current on street parking will be preserved, and where feasible, the provision of new parking should be provided both onsite and offsite. The latter goal can be accomplished by minimizing curb cuts, and other innovative measures. There should be no net loss of on street parking;

Respectfully Submitted,
Leo Wilson
Chair

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City of San Diego
Development Services
1222 First Ave., MS-302
San Diego, CA 92101
(619) 446-5000

Ownership Disclosure Statement

Approval Type: Check appropriate box for type of approval (s) requested: Neighborhood Use Permit Coastal Development Permit
 Neighborhood Development Permit Site Development Permit Planned Development Permit Conditional Use Permit
 Variance Tentative Map Vesting Tentative Map Map Waiver Land Use Plan Amendment Other _____

Project Title: 3558 - 72 1/2 5th AVENUE TM Project No. For City Use Only: 78878

Project Address: 3558 - 72 1/2 5th AVENUE

Part I - To be completed when property is held by Individual(s)

By signing the Ownership Disclosure Statement, the owner(s) acknowledge that an application for a permit, map or other matter, as identified above, will be filed with the City of San Diego on the subject property, with the intent to record an encumbrance against the property. Please list below the owner(s) and tenant(s) (if applicable) of the above referenced property. The list must include the names and addresses of all persons who have an interest in the property, recorded or otherwise, and state the type of property interest (e.g., tenants who will benefit from the permit, all individuals who own the property). A signature is required of at least one of the property owners. Attach additional pages if needed. A signature from the Assistant Executive Director of the San Diego Redevelopment Agency shall be required for all project parcels for which a Disposition and Development Agreement (DDA) has been approved / executed by the City Council. Note: The applicant is responsible for notifying the Project Manager of any changes in ownership during the time the application is being processed or considered. Changes in ownership are to be given to the Project Manager at least thirty days prior to any public hearing on the subject property. Failure to provide accurate and current ownership information could result in a delay in the hearing process.

Additional pages attached Yes No

Name of Individual (type or print): MAH BROWAR
 Owner Tenant/Lessee Redevelopment Agency
Street Address: 2207 GARNET AVE. # J
City/State/Zip: SAN DIEGO, CA 92109
Phone No: (619) 270-5500 Fax No: _____
Signature: [Signature] Date: 7/19/05

Name of Individual (type or print): NANCY A. BROWAR
 Owner Tenant/Lessee Redevelopment Agency
Street Address: 2207 GARNET AVE # J
City/State/Zip: SAN DIEGO, CA 92109
Phone No: (619) 270-5500 Fax No: _____
Signature: _____ Date: _____

Name of Individual (type or print): _____
 Owner Tenant/Lessee Redevelopment Agency
Street Address: _____
City/State/Zip: _____
Phone No: _____ Fax No: _____
Signature: _____ Date: _____

Name of Individual (type or print): _____
 Owner Tenant/Lessee Redevelopment Agency
Street Address: _____
City/State/Zip: _____
Phone No: _____ Fax No: _____
Signature: _____ Date: _____

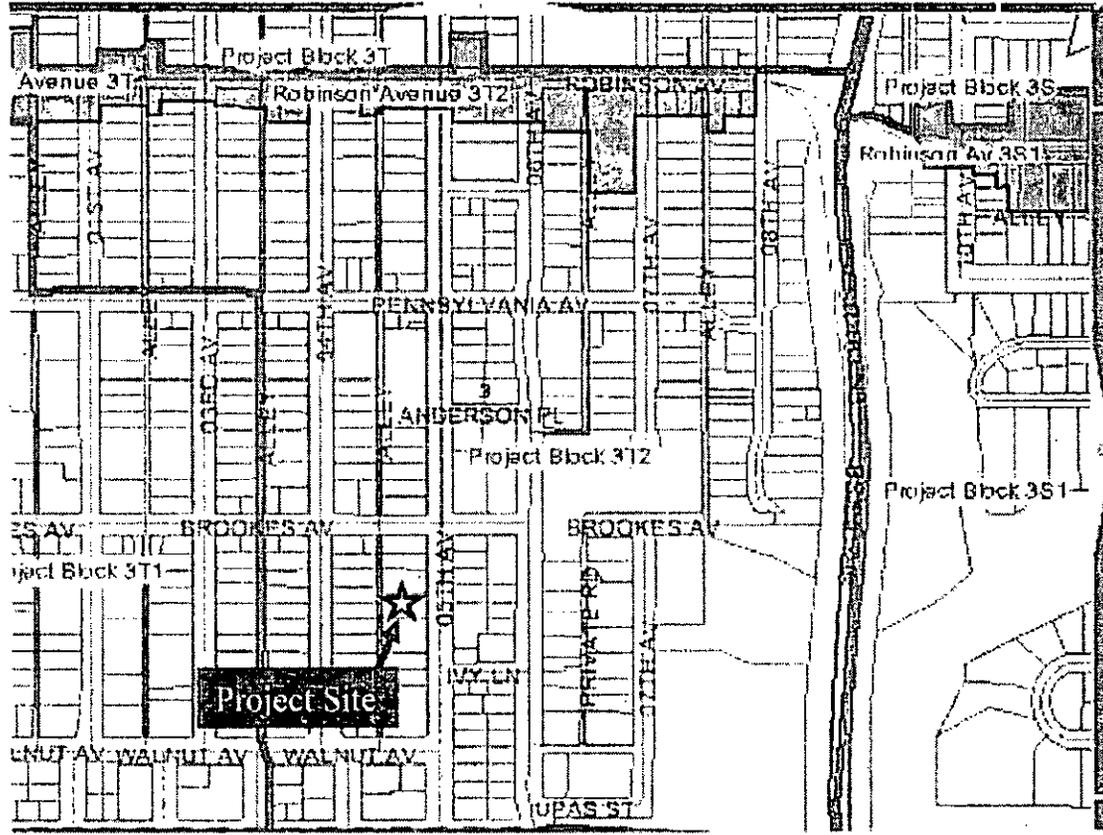
DEVELOPMENT SERVICES
Project Chronology
 3558 5th AVENUE TENTATIVE MAP – PROJECT NO. 78878

Date	Action	Description	City Review Time	Applicant Response
7/27/05	First Submittal	Project Deemed Complete		
8/26/05	First Assessment Letter		22 days	
11/2/05	Second Submittal			1 month, 17 days
11/25/05	Second Review Complete		15 days	
3/17/06	Third Submittal			2 months, 18 days
4/21/06	Third Review Complete		25 days	
7/25/06	Condo conversion regulations	Review landscape plans & building conditions report for projects in review		
6/26/07	Fourth Submittal	Review includes building conditions report & landscape		9 months, 28 days
7/24/07	Fourth Review Complete		19 days	
7/23/07	Historical Review			
8/1/07	Historical Review Complete		7 days	
10/2/07	Fifth Submittal			1 month, 13 days
11/19/07	Fifth Review Complete		34 days	
3/28/08	Sixth Submittal			2 months
4/30/08	Sixth Review Complete		23 days	
5/13/08	Seventh Submittal	Building conditions report review		9 days
6/3/08	Seventh Review Complete		15 days	
6/17/08	Eighth Submittal	Building conditions report review		9 days
7/3/08	Eighth Review Complete		12 days	
9/30/08	All issues resolved		60 days	
11/06/08	Public Hearing	Planning Commission	27 days	

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ATTACHMENT 10

TOTAL STAFF TIME	Averaged at 30 days per month	8 months, 19 days	
TOTAL APPLICANT TIME	Averaged at 30 days per month		1 year, 7 months, 5 days
TOTAL PROJECT RUNNING TIME	From Deemed Complete to Hearing	2 years, 3 months, 24 days	



Identify Results

Council Districts

Council District: 3
 Member Name: Toni Atkins
 Office Phone: (619) 236-6633

Utilities Undergrounding

Projects

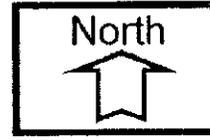
Project Name: Project Block 3T2
 Year Allocated: 2021
 Project Start: May 21, 2023
 Project End: May 10, 2025
 Contact Person: Carol Drummond
 Phone #: 6195333841
 Email: undergrounding@sandiego.gov
 Website: www.sandiego.gov
 Council District: 3
 Phase: unallocated



Underground Project Schedule

3558-5th AVENUE TENTATIVE MAP - PROJECT NO. 78878

3558-3572 1/2 5th Avenue



000876

Browar Development Corporation

2207 Garnet Avenue, Suite J

San Diego, CA 92109

(858) 270-5500

Tenant 60 Day Notice of Intent to Convert to Condominiums

May 12, 2005

Francesca Bestetti
3558 5th Ave.
San Diego, CA 92103

The owner(s) of this building, 3558 5th Ave., San Diego, CA 92103 plans to file a Tentative Map or Map Wavier with the City of San Diego to convert this building to a condominium project.

You shall be given notice of each hearing for which notice is required pursuant to Sections 66451.3 and 66452.5 of the Government Code, and you have the right to appear and the right to be heard at any such hearing.

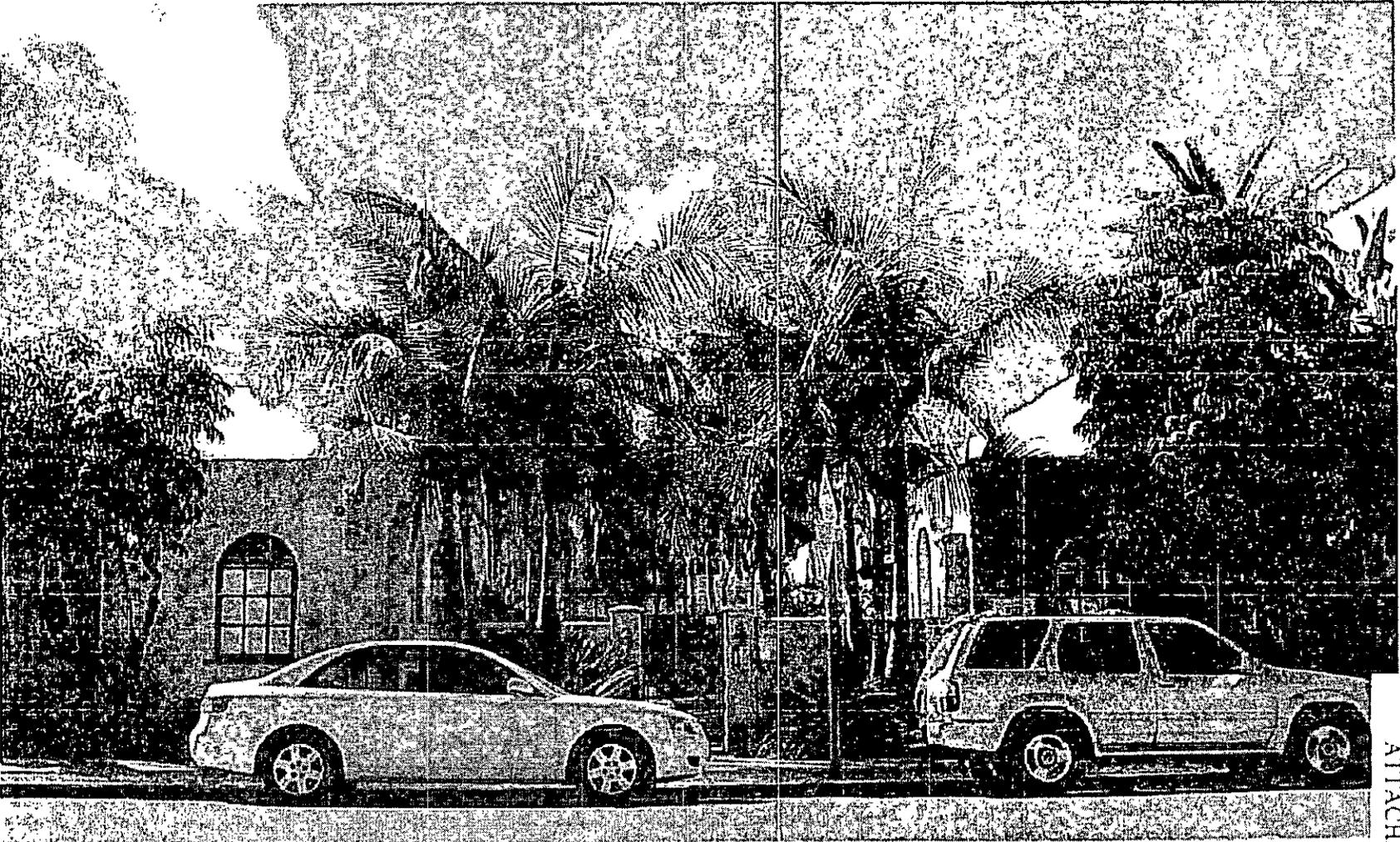
Should the condominium conversion project be approved, tenants may be required to vacate the premises.

Please Note: It is not my intention to sell these apartments as condominiums now or in the near future. This conversion process is only being pursued as a precaution to possible future City of San Diego changes which may make a conversion in the future cost prohibitive or impossible. It is being done solely for the purpose of having the opportunity to put a condominium map on the property while it is still possible to do so. We have no intention of making the physical change, but I feel it is important to the value of the building to have this process in place should the real estate climate have any radical changes in the future.



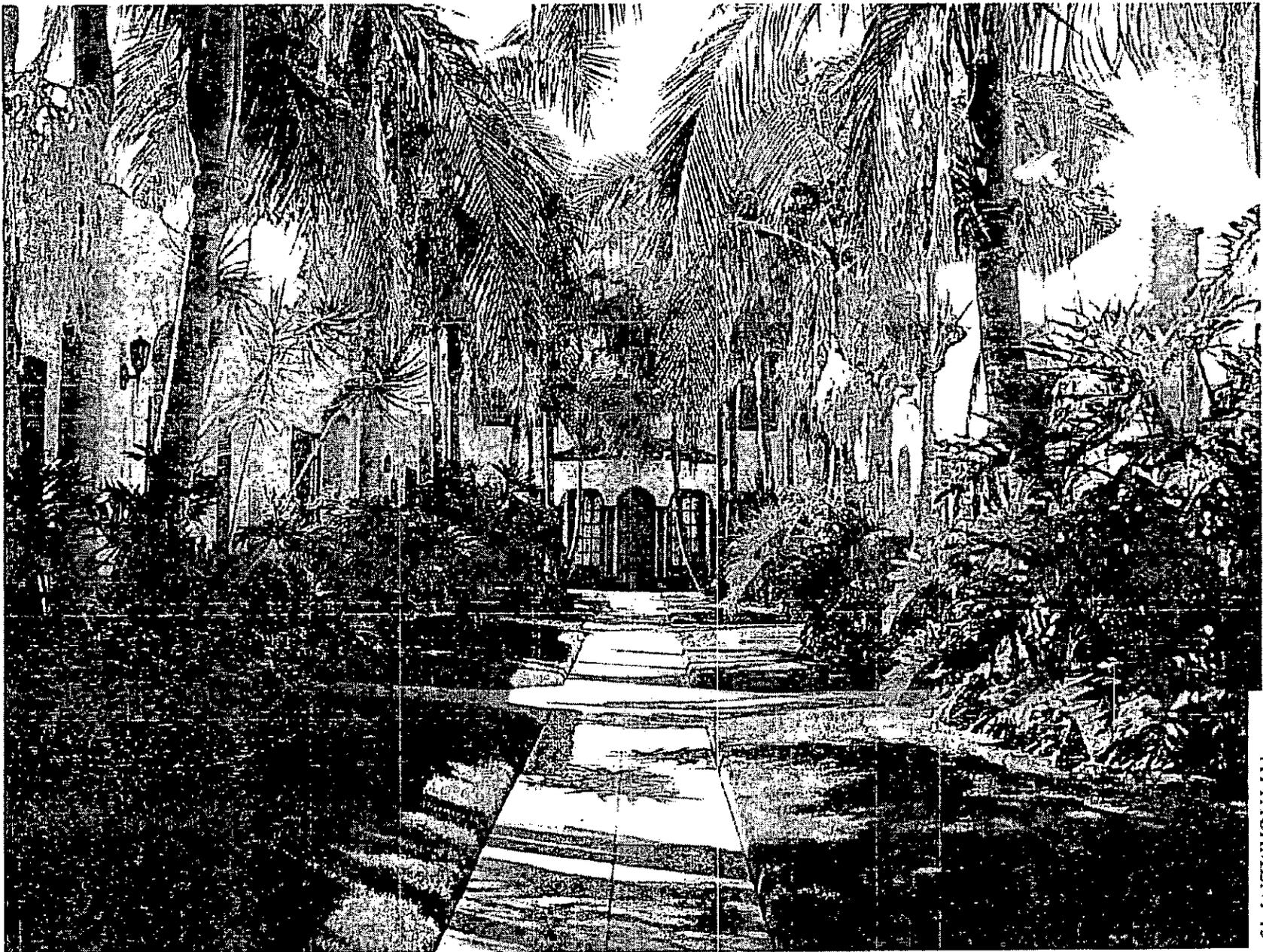
(Signature of owner or owner's agent)

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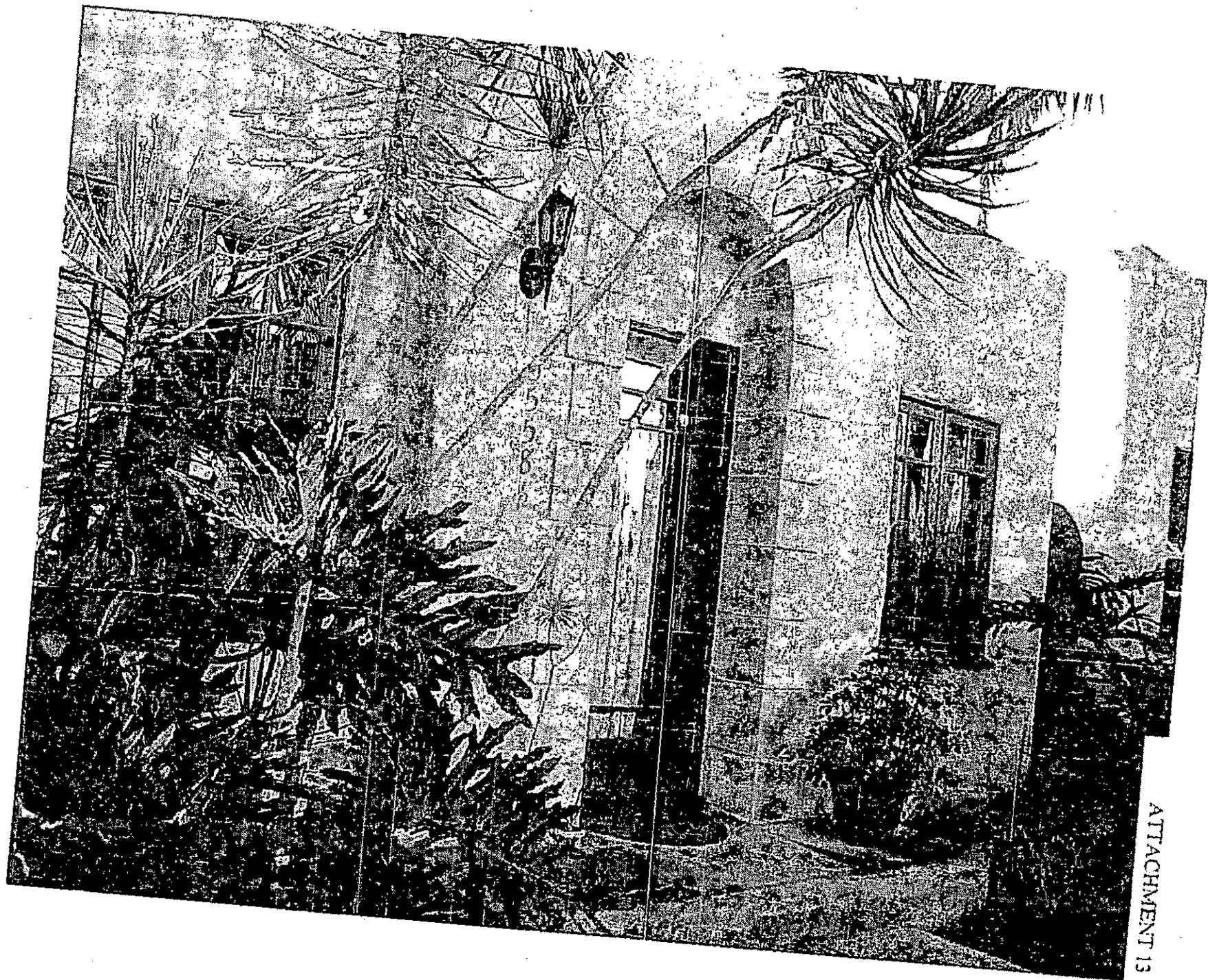


ATTACHMENT 13

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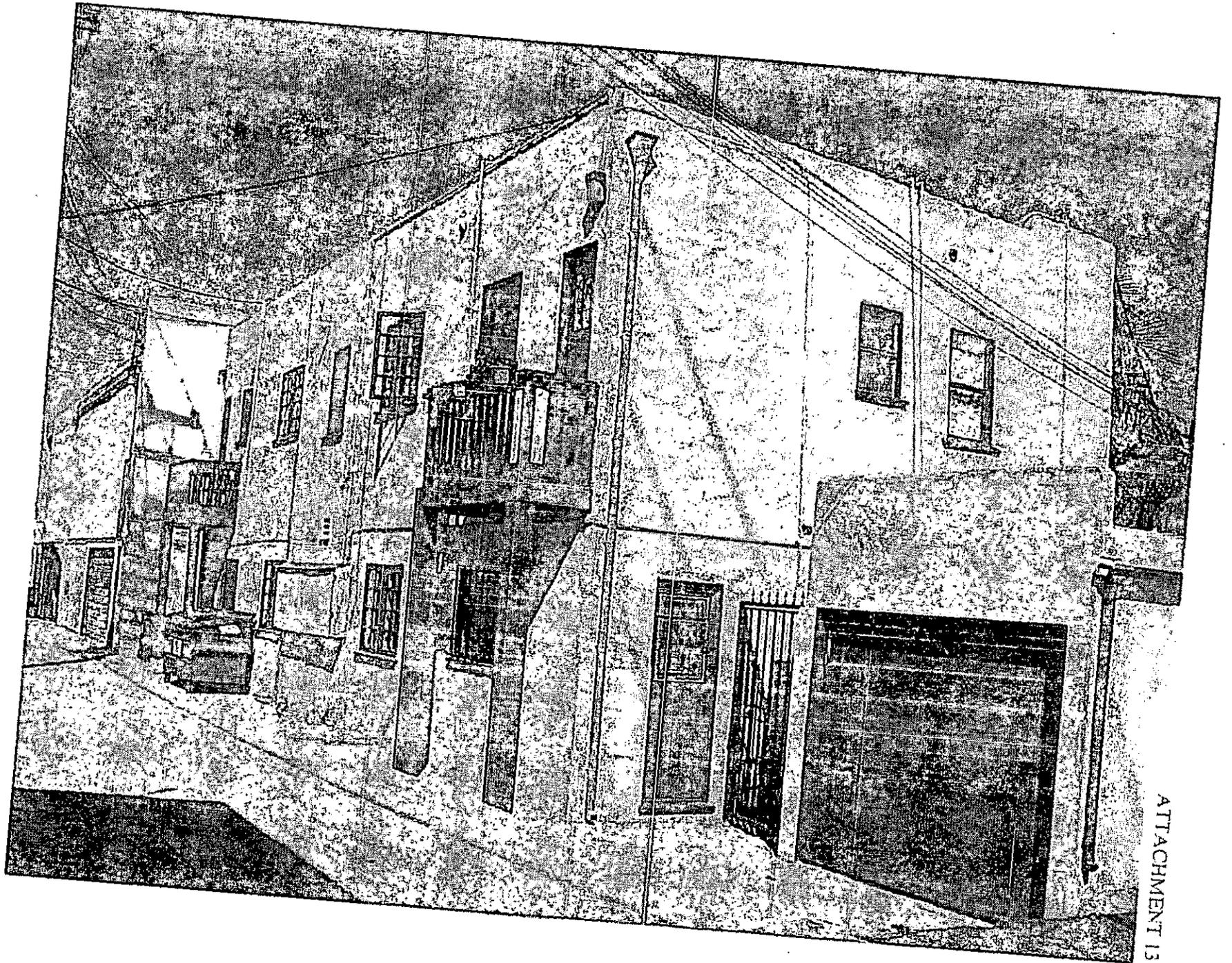


ATTACHMENT 13



ATTACHMENT 15

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ATTACHMENT 13

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01/13



City of San Diego
Development Services
1222 First Ave. • 3rd Floor
San Diego, CA 92101-4154
(619) 446-5210
www.sandiego.gov/development/services

RECEIVED
CITY CLERK'S OFFICE

Development Permit Appeal Application

08 NOV 12 AM 10:30

See Information Bulletin 505, "Development Permits Appeal Procedure," for information on the appeal procedure.

1. Type of Appeal:

- Process Two Decision - Appeal to Planning Commission
- Process Three Decision - Appeal to Planning Commission
- Process Three Decision - Appeal to Board of Zoning Appeals
- Appeal of a Hearing Officer Decision to revoke a permit
- Process Four Decision - Appeal to City Council

2. Appellant Name Please check one Applicant Officially recognized Planning Committee "Interested Person" (Per M.C. Sec. 113.0103)
Affordable Housing Coalition of San Diego County and Citizens for Responsible Equitable Environmental Development,
c/o Cory J. Briggs, Briggs Law Corporation

Address	City	State	Zip Code	Telephone
99 East "C" Street, Suite 111, Upland, CA 91786				909-949-7115

3. Applicant Name (As shown on the Permit/Approval being appealed). Complete if different from appellant.

Unknown

4. Project Information

Permit/Approval Being Appealed & Permit/Approval No.:	Date of Decision:	City Project Manager:
78878 (3558 5th Ave. T.M)	11/6/08	Cherlyn Coe

Decision (describe the permit/approval decision):
The Planning Commission approved the application for a tentative map to convert residential units to condominiums without preparing an initial study or performing other study under the California Environmental Quality Act and in violation of other applicable laws, including the Subdivision Map Act.

5. Reason for Appeal

- Factual Error
- Conflict with other matters
- Findings Not Supported
- New Information
- City-wide Significance (Process Four decisions only)

Description of Reasons for Appeal (Please relate your description to the allowable reasons for appeal noted above. Attach additional sheets if necessary.)

The Planning Commission erred in approving the project without first preparing an initial study or performing any other study under the California Environmental Quality Act and in violation of San Diego Municipal Code §§ 125.0440(a)-(h), 142.1304, and 142.1305 and Government Code § 66412.3. The project does not qualify for exemption under section 15301 of the CEQA Guidelines. Furthermore, the project does not qualify for exemption due to the cumulative and other potential adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing. The City also has an independent obligation to conduct this environmental review under CEQA and the Subdivision Map Act (§ 66474). The opposition letter submitted by Briggs Law Corporation prior to approval of the project provides additional information that supports this appeal, including but not limited to the City's inability to make the finding required by Government Code § 66473.5 because the housing element has become invalid due to the City's failure to revise it lawfully and in a timely manner under Government Code § 65588(e). Evidence of cumulative impacts and other potential adverse environmental impacts of the conversions may not have been available to the person(s) on staff who made the determination of exemption or to the public until after the appeal period for the determination expired.

6. Appellant's Signature: I certify under penalty of perjury that the foregoing, including all names and addresses, is true and correct.

Signature Cory J. Briggs

Date November 12, 2008

Note: Faxed appeals are not accepted.

000883

BRIGGS LAW CORPORATION

San Diego Office:
5663 Balboa Avenue, No. 376
San Diego, CA 92111-2705

Telephone: 858-495-9082
Facsimile: 858-495-9138

Please respond to: Inland Empire Office

Inland Empire Office:
99 East C Street, Suite 111
Upland, CA 91786

Telephone: 909-949-7115
Facsimile: 909-949-7121

BLLC Tele/f: 1007.98

Planning Commission
City of San Diego
202 C Street
San Diego, CA 92101

November 5, 2008

Re: Project Number: 78878
Project Name: 3558 5th Avenue Tentative Map
Commission Meeting Date: November 6, 2008

Dear Planning Commission:

On behalf of Citizens for Responsible Equitable Environmental Development and the Affordable Housing Coalition of San Diego County, I am writing to express my clients' opposition to approval of the above-referenced project, which is scheduled to be considered by the Planning Commission on the above-identified date.

My clients oppose approval of the project on the grounds that converting apartments to condominiums is subject to environmental review under the California Environmental Quality Act. The exemptions set forth in Section 15301 of the CEQA Guidelines do not apply to the project. Furthermore, the cumulative and other potential significant impacts of converting apartments to condominiums make the exemption inapplicable. Evidence of the project's cumulative adverse impacts is contained in, among other sources, (i) the City Attorney's memorandum dated November 10, 2005, regarding the applicability of CEQA to condominium conversions; (ii) the City Manager's report no. 05-060; (iii) the City Manager's report no. 05-060 rev.; (iv) the City Manager's report no. 05-106; (v) the City Manager's report no. 05-163; (vi) the City Council's prior resolutions declaring a state of emergency over the lack of affordable housing; and (vii) the City's current housing element (e.g., its comments about the environmental effects of condo conversions and the loss of affordable housing). Additionally, the project should be denied because your action in approving it would violate San Diego Municipal Code §§ 125.0440(a)-(h), 142.1304, and 142.1305 and Government Code §§ 66412.3 and 66474 (by not proceeding in the manner prescribed by law, not making all necessary findings, and not supporting the findings with sufficient evidence). Lastly, the project should not be approved because it is inconsistent with the housing element, thus precluding the necessary finding under Government Code § 66473.5; the housing element has not been lawfully revised as required by Government Code § 65588(e)(5) and therefore is invalid. My clients therefore urge the City of San Diego to comply with all applicable laws before approving the project or to deny approval.

Thank you for giving this matter the attention that it deserves.

Sincerely,

BRIGGS LAW CORPORATION

Cory J. Briggs
Cory J. Briggs

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DETERMINATION OF
ENVIRONMENTAL EXEMPTION
 Pursuant to the California Environmental Quality Act (CEQA) and State CEQA Guidelines

337
01/13

Agency: CITY OF SAN DIEGO

Project No.: 78878

Date: September 01, 2005

Action/Permit(s): TENTATIVE MAP

Description of Activity: 3558-72 ½ 5th Avenue: A Tentative Map to convert 12 existing residential units to condominiums on a 10,210 square-foot site at 3558 5th Avenue in the MCCPD-CV-1 zone of the Mid Cities Community Planned District within the Uptown Community Plan. Council District 3.

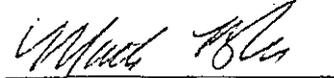
Location of Activity: 3558-72 ½ 5th Avenue, San Diego, CA 92103

1. This activity is EXEMPT FROM CEQA pursuant to:
- Section 15061(b) (3) of the State CEQA Guidelines (the activity is not a project as defined in Section 15378).
2. This project is EXEMPT FROM CEQA pursuant to State CEQA Guidelines Section checked below:

ARTICLE 19 of GUIDELINES CATEGORICAL EXEMPTIONS (Incomplete list)		ARTICLE 18 of GUIDELINES STATUTORY EXEMPTIONS (Incomplete list)	
Section	Short Name	Section	Short Name
<input checked="" type="checkbox"/> 15301	Existing Facilities	<input type="checkbox"/> 15261	Ongoing Project
<input type="checkbox"/> 15302	Replacement or Reconstruction	<input type="checkbox"/> 15262	Feasibility and Planning Studies
<input type="checkbox"/> 15303	New Construction or Conversion of Small Structures	<input type="checkbox"/> 15265	Adoption of Coastal Plans and Programs
<input type="checkbox"/> 15304	Minor Alterations to Land	<input type="checkbox"/> 15268	Ministerial Projects
<input type="checkbox"/> 15305	Minor Alteration in Land Use	<input type="checkbox"/> 15269	Emergency Projects
<input type="checkbox"/> 15306	Information Collection	<input type="checkbox"/> Other	
<input type="checkbox"/> 15311	Accessory Structures		
<input type="checkbox"/> 15312	Surplus Government Property Sales		
<input type="checkbox"/> 15315	Minor Land Divisions		
<input type="checkbox"/> 15317	Open Space Contracts or Easements		
<input type="checkbox"/> 15319	Annexation of Existing Facilities and Lots for Exempt Facilities		
<input type="checkbox"/> 15325	Transfer of Ownership of Interest in Land to Preserve Open Space		
<input type="checkbox"/> Other			

It is hereby certified that the City of San Diego
has determined the above activity to be exempt:

Distribution:
Project Management


 Senior Planner
 Environmental Analysis Section

000887

NOTICE OF EXEMPTION

TO: X RECORDER/COUNTY CLERK
P.O. BOX 1750, MS A-33
1600 PACIFIC HWY, ROOM 260
SAN DIEGO, CA 92101-2422

FROM: CITY OF SAN DIEGO
DEVELOPMENT SERVICES DEPARTMENT
1222 FIRST AVENUE, MS 501

OFFICE OF PLANNING AND RESEARCH
1400 TENTH STREET, ROOM 121
SACRAMENTO, CA 95814

RECEIVED
COUNTY CLERK'S OFFICE
SAN DIEGO, CALIF.
08 DEC 23 AM 11:36

PROJECT NO.: 78878

PROJECT TITLE: 3558 5TH AVENUE

PROJECT LOCATION-SPECIFIC: 3558 5th Avenue, San Diego CA 92103

PROJECT LOCATION-CITY/COUNTY: San Diego

DESCRIPTION OF PROJECT: Tentative Map and waive the requirement to underground existing overhead utilities to convert 12 existing residential units to condominiums on a 10,210 square-foot site located at 3558 5th Avenue in the MCCPD-CV-1 zone of the Mid Cities Community Planned District within the Uptown Community Plan. Council District 3.

NAME OF PUBLIC AGENCY APPROVING PROJECT: City of San Diego

NAME OF PERSON OR AGENCY CARRYING OUT PROJECT: Matt Browar, (858) 414-4396

EXEMPT STATUS: (CHECK ONE)

- () MINISTERIAL (SEC. 15268)
- () DECLARED EMERGENCY [SEC. 15269 (A)]
- () EMERGENCY PROJECT [SEC. 15269 (B) AND (C)]
- (X) CATEGORICAL EXEMPTION (STATE TYPE AND SECTION NUMBER): Existing Facilities, Section 15301(e)
- () OTHER (STATE TYPE AND SECTION NUMBER):

REASONS WHY PROJECT IS EXEMPT: The proposed project would not have the potential for causing a significant effect on the environment because the structure is not historic and there are no sensitive resources on or adjacent to the site.

CONTACT PERSON: Marc Cass

TELEPHONE: (619) 446-5330

IF FILED BY APPLICANT:

1. ATTACH CERTIFIED DOCUMENT OF EXEMPTION FINDING.
2. HAS A NOTICE OF EXEMPTION BEEN FILED BY THE PUBLIC AGENCY APPROVING THE PROJECT?
(X) YES () NO

Marc Cass / Associate Planner
SIGNATURE/TITLE

November 25, 2008
DATE

CHECK ONE:

- (X) SIGNED BY LEAD AGENCY
- () SIGNED BY APPLICANT

DATE RECEIVED FOR FILING: _____

December 1, 2008

000889

CITY COUNCIL
RESOLUTION NO. _____
TENTATIVE MAP NO. 245505
3558 5th AVENUE TENTATIVE MAP - PROJECT NO. 78878
DRAFT

WHEREAS, MATTHEW S. BROWAR AND NANCY A. BROWAR, IN THEIR CAPACITY AS TRUSTEES OF THE M.S. BROWAR FAMILY TRUST DATED FEBRUARY 9, 1988, Applicant/Subdivider, and DONALD SCOTT PETERS, Surveyor, submitted an application with the City of San Diego for a Tentative Map, No. 245505, to convert 12 residential units into condominiums and to waive the requirement to underground existing overhead utilities. The project site is located 3558-3572 1/2 5th Avenue, between Brookes Avenue and Walnut Avenue, in the CV-1 Zone of Mid City Communities Planned District within the Uptown Community Plan area. The property is legally described as Lot 18 and the South 25 feet of Lot 19 in Block 3 of Loma Grande, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 692, filed in the Office of the County Recorder of San Diego County, November 23, 1891; and

WHEREAS, the Map proposes the subdivision of a 0.23 acre site into one (1) lot for a 12 unit residential condominium conversion; and

WHEREAS, the project is exempt from environmental review pursuant to Section 15301 (k) of the California Environmental Quality Act (CEQA) on the basis that the facilities are existing; and

WHEREAS, a preliminary soils and geological reconnaissance report are waived by the City Engineer pursuant to the Subdivision Map Act and Section 144.0220 of the Municipal Code of the City of San Diego; and

WHEREAS, the subdivision is a condominium project as defined in Section 1350 et seq. of the Civil Code of the State of California and filed pursuant to the Subdivision Map Act. The total number of condominium dwelling units is 12; and

WHEREAS, on November 6, 2008, the Planning Commission of the City of San Diego considered Tentative Map No. 245505, including the waiver of the requirement to underground existing overhead utilities, voted 5-1-1 to approve the project, by Resolution No. _____-PC; and

WHEREAS, on December 1, 2008, the City Council of the City of San Diego considered Tentative Map No. 245505, including the waiver of the requirement to underground existing overhead utilities, and pursuant to Sections 125.0440 (tentative map), 125.0444 (condo conversion), and 144.0240 (underground) of the Municipal Code of the City of San Diego and Subdivision Map Act Section 66428, received for its consideration written and oral presentations, evidence having been submitted, and heard testimony from all

000830
Tentative Map No. 245505
December 1, 2008

interested parties at the public hearing, and the Planning Commission having fully considered the matter and being fully advised concerning the same; NOW THEREFORE,

BE IT RESOLVED by the Planning Commission of the City of San Diego, that it adopts the following findings with respect to Tentative Map No. 245505:

1. The proposed subdivision complies with the applicable zoning and development regulations of the Land Development Code (Land Development Code Section 125.0440.b).
2. The decision maker has considered the effects of the proposed subdivision on the housing needs of the region and that those needs are balanced against the needs for public services and the available fiscal and environmental resources (Land Development Code Section 125.0440.h and State Map Act Section 66412.3).
3. Each of the tenants of the proposed condominium project has received, pursuant to State Map Action Section 66452.9, written notification of intention to convert at least 60 days prior to the filing of a tentative map (Land Development Code 125.0444 and State Map Act Section 66427.1(a)).
4. The project has been conditioned that the Subdivider will give each tenant, and each person applying for the rental of a unit in such residential real property, all applicable notices and rights now or hereafter required by the State Map Act (Land Development Code Section 125.0444 and State Map Act Section 66427.1(a)).
5. The project has been conditioned that the Subdivider will give each tenant 10 days' written notification that an application for a public report will be, or has been, submitted to the Department of Real Estate, and that such report will be available on request (Land Development Code Section 125.0444 and State Map Act Section 66427.1(a)).
6. The project has been conditioned that the Subdivider will give each tenant of the proposed condominium project written notification within 10 days of approval of a final map for the proposed conversion (Land Development Code Section 125.0444 and State Map Act Section 66427.1(b)). If the subdivider chooses to provide affordable housing units, the subdivider shall enter into an affordable housing agreement with the Housing Commission, prior to recordation of the Final Map.
7. The project has been conditioned that the Subdivider will give each of the tenants of the proposed condominium project 180 days' written notice of intention to convert prior to termination of tenancy due to the conversion or proposed conversion (Land Development Code Section 125.0444 and State Map Act Section 66427.1(c)).

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8. The project has been conditioned that the Subdivider will give each of the tenants of the proposed condominium project notice of an exclusive right to contract for the purchase of his or her respective unit upon the same terms and conditions that such unit will be initially offered to the general public or terms more favorable to the tenant, which notice shall be provided within 5 working days of the issuance of the Subdivision Public Report.. The right shall run for a period of not less than 90 days from the date of issuance of the subdivision public report pursuant to Section 11018.2 of the Business and Professions Code, unless the tenant gives prior written notice of his or her intention not to exercise the right (Land Development Code Section 125.0444 and State Map Act Section 66427.1(d)).
9. The project was not financed by funds obtained from a governmental agency to provide for elderly, disabled, or low income housing (Land Development Code Section 125.0444.b).
10. For any project that was developed to provide housing for the elderly, disabled or to provide low income housing, provisions have been made to perpetuate the use for which the project was developed (Land Development Code Section 125.0444.c).
11. Each of the tenants of the proposed condominium project has received written notification of the project application for the condominium conversion within 10 days after the application was deemed complete (Land Development Code 125.0431(a)(3)).
12. The project has been conditioned that the subdivider will give each person applying for the rental of a unit in such residential real property written notification that the project application for the condominium conversion was deemed complete (Land Development Code 125.0431(a)(3)).
13. The project has been conditioned that the subdivider will give each tenant a notice of termination of tenancy 60 days prior to being required to vacate the property. (Land Development Code Section 125.0431(a)(4)).
14. A Building Conditions Report has been prepared in accordance with the Land Development Manual by a registered architect or engineer licensed by the State of California (Land Development Code Section 144.0504(b)).
15. The project has been conditioned that the subdivider will provide to a prospective purchaser a copy of the Building Conditions Report prior to the opening of an escrow account. (Land Development Code Section 144.0504(c)).

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16. The project has been conditioned that the subdivider will provide a relocation assistance payment to all tenants of the project whose tenancy has terminated due to the condominium conversion. (Land Development Code Section 144.0505).
17. The project has been conditioned for the subdivider to complete the physical improvements as outlined in Land Development Code Section 144.0507, to the satisfaction of the City Engineer prior to final map approval.
18. The project has been conditioned for the subdivider to satisfy the inclusionary housing requirements in accordance with Land Development Code Section 142.1306. (Land Development Code Section 144.0508).
19. The requested underground waiver of the existing overhead facilities, qualifies under the guidelines of Council Policy No. 600-25 *Underground Conversion of Utility Lines at Developers Expense* in that:
 - a. The conversion involves a short span of overhead facility (less than 600 feet in length).
 - b. The conversion is a requirement of a condominium conversion of an existing development and the conversion would not represent a logical extension to an underground facility.
20. That said Findings are supported by the minutes, maps, and exhibits, all of which are herein incorporated by reference.

BE IT FURTHER RESOLVED, that, based on the Findings hereinbefore adopted by the City Council, Tentative Map No. 245505, including the waiver of the requirement to underground existing overhead utilities, is hereby granted to MATTHEW S. BROWAR AND NANCY A. BROWAR, IN THEIR CAPACITY AS TRUSTEES OF THE M.S. BROWAR FAMILY TRUST DATED FEBRUARY 9, 1988, Applicant/Subdivider, subject to the following conditions:

GENERAL

1. This Tentative Map will expire December 1, 2011.
2. Compliance with all of the following conditions shall be assured, to the satisfaction of the City Engineer, prior to the recordation of the Final Map, unless otherwise noted.
3. Prior to the Tentative Map expiration date, a Final Map to consolidate the existing lots into one lot shall be recorded in the Office of the County Recorder.

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4. Prior to the issuance of the Final Map, taxes must be paid on this property pursuant to section 66492 of the Subdivision Map Act. A tax certificate, recorded in the office of the County Recorder, must be provided to satisfy this condition.
5. The applicant shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees, against the City or its agents, officers, or employees, including, but not limited to, any to any action to attack, set aside, void, challenge, or annul this development approval and any environmental document or decision. The City will promptly notify applicant of any claim; action, or proceeding and, if the City should fail to cooperate fully in the defense, the applicant shall not thereafter be responsible to defend, indemnify, and hold harmless the City or its agents, officers, and employees. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, applicant shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs. In the event of a disagreement between the City and applicant regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the applicant shall not be required to pay or perform any settlement unless such settlement is approved by applicant
6. The subdivider shall provide a Notice of Tenants Rights and Notices for Condominium Conversion, consistent with the Land Development Manual to be provided as follows:
 - a. For existing tenants, within 10 days of the project application for the condominium conversion being deemed complete; or
 - b. For prospective tenants, upon application for the rental of a unit in the proposed condominium conversion.
7. The Subdivider shall provide each tenant, and each person applying for the rental of a unit in such residential real property, all applicable notices and rights now or hereafter required by the State Map Act.
8. The Subdivider shall provide the tenants a Notice of Application for a Public Report at least 10 days prior to the submittal to the Department of Real Estate (DRB), pursuant to Section 66427.1(a) of the Subdivision Map Act.
9. The Subdivider shall provide each of the tenants of the proposed condominiums written notice of intention to convert at least 180 days prior to termination of tenancy due to the conversion or proposed conversion in conformance with Section 66427.1(c) of the Subdivision Map Act. The provisions of this

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subdivision shall not alter nor abridge the rights or obligations of the parties in performance of their covenants, including, but not limited to, the provision of services, payment of rent, or the obligations imposed by Sections 1941, 1941.1 and 1941.2 of the Civil Code.

10. The Subdivider shall provide each of the tenants of the proposed condominiums notification of their exclusive right to contract for the purchase of his or her respective unit upon the same terms and conditions that such unit will be initially offered to the general public or terms more favorable to the tenant, in conformance with Section 66427.1(d) of the State Map Act. The right shall run for a period of not less than 90 days from the date of issuance of the subdivision public report, pursuant to Section 11018.2 of the Business and Professions Code, unless the tenant gives prior written notice of his or her intention not to exercise the right.
11. The Subdivider shall provide the tenants of the proposed condominiums with written notification within 10 days or approval of a Final Map for the proposed conversion, in conformance with Section 66427.1(b) of the Subdivision Map Act.

AFFORDABLE HOUSING

12. Prior to recordation of the Final Map, the Subdivider shall comply with the Affordable Housing Requirements of the City's Inclusionary Housing Ordinance (Chapter 14, Article 2, Division 13 of the Land Development Code). The Subdivider has elected to pay an in-lieu fee of \$12,850.00 to meet these requirements. Prior to receiving a final map, the applicant must either pay the entire in-lieu fee amount or enter into an agreement with the San Diego Housing Commission to assure the payment of the in-lieu fee.
13. Prior to the recordation of the Final Map, the Subdivider either show evidence that relocation assistance has been paid to eligible tenants or enter into an agreement with the San Diego Housing Commission to demonstrate conformance with the Municipal Code provisions for Tenant Relocation Benefits (Chapter 14, Article 4, Division 5), to the satisfaction of the Development Services Department and the Housing Commission. In addition, the Subdivider must pay the appropriate fees incurred by the Housing Commission for compliance monitoring (Chapter 14, Article 4, Division 5).
14. The Subdivider will give each tenant a notice of termination of tenancy 60 days prior to being required to vacate the property. (Land Development Code Section 125.0431(a)(4)).
15. The Subdivider will provide to a prospective purchaser a copy of the Building Conditions Report prior to the opening of an escrow account. (Land Development Code Section 144.0504(c)).

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ENGINEERING

16. The Subdivider shall dedicate and improve an additional 2.5 feet of the adjacent alley, and shall also replace the western third of the alley, which is damaged.
17. The Subdivider shall obtain an Encroachment Maintenance and Removal Agreement, for landscaping and a private walkway on 5th Avenue.
18. The Subdivider shall comply with all current street lighting standards according to the City of San Diego Street Design Manual (Document No. 297376, filed November 25, 2002) and the amendment to Council Policy 200-18 approved by City Council on February 26, 2002 (Resolution R-296141) satisfactory to the City Engineer. This may require (but not limited to) installation of new street light(s), upgrading light from low pressure to high pressure sodium vapor and/or upgrading wattage.
19. The Subdivider shall underground any new service run to any new or proposed structures within the subdivision.
20. The Subdivider shall ensure that all existing onsite utilities serving the subdivision shall be undergrounded with the appropriate permits. The subdivider shall provide written confirmation from applicable utilities that the conversion has taken place, or provide other means to assure the undergrounding, satisfactory to the City Engineer.
21. Prior to the recordation of the Final Map, the Subdivider shall demonstrate conformance with the Municipal Code provisions for building and landscape improvements (Land Development Code Sections 144.0507), to the satisfaction of the City Engineer. The parking requirements in Land Development Code Sections 144.0507 and 142.0525.a do not apply, since this project was deemed complete prior to the effective date of this ordinance (July 27, 2006).
22. Conformance with the "General Conditions for Tentative Subdivision Maps," filed in the Office of the City Clerk under Document No. 767688 on May 7, 1980, is required. Only those exceptions to the General Conditions which are shown on the tentative map and covered in these special conditions will be authorized.

All public improvements and incidental facilities shall be designed in accordance with criteria established in the Street Design Manual, filed with the City Clerk as Document No. RR-297376.

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MAPPING

23. "Basis of Bearings" means the source of uniform orientation of all measured bearings shown on the map. Unless otherwise approved, this source will be the California Coordinate System, Zone 6, North American Datum of 1983 (NAD 83).
24. "California Coordinate System means the coordinate system as defined in Section 8801 through 8819 of the California Public Resources Code. The specified zone for San Diego County is "Zone 6," and the official datum is the "North American Datum of 1983."
25. The Final Map shall:
 - a. Use the California Coordinate System for its "Basis of Bearing" and express all measured and calculated bearing values in terms of said system. The angle of grid divergence from a true median (theta or mapping angle) and the north point of said map shall appear on each sheet thereof. Establishment of said Basis of Bearings may be by use of existing Horizontal Control stations or astronomical observations.
 - b. Show two measured ties from the boundary of the map to existing Horizontal Control stations having California Coordinate values of Third Order accuracy or better. These tie lines to the existing control shall be shown in relation to the California Coordinate System (i.e., grid bearings and grid distances). All other distances shown on the map are to be shown as ground distances. A combined factor for conversion of grid-to-ground distances shall be shown on the map.

SEWER AND WATER

26. Water and Sewer Requirements:
 - a. The Subdivider shall install appropriate private back flow prevention devices on all existing and proposed water services (domestic, irrigation, and fire) adjacent to the project site in a manner satisfactory to the Water Department Director.
 - b. The Subdivider shall provide a letter, agreeing to prepare CC&Rs for the operation and maintenance of all private water and sewer facilities that serve or traverse more than a single condominium unit or lot.

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LANDSCAPE

27. Prior to recordation of the Final Map, complete landscape and irrigation construction documents consistent with the Landscape Standards shall be submitted to the Development Services Department for approval. The construction documents shall be in substantial conformance with the Exhibit "A," Landscape Development Plan, on file in the Office of the Development Services Department.
28. Prior to recordation of the Final Map, and after Landscape and Irrigation Construction Documents have been approved by Development Services, the subdivider shall install all required landscaping consistent with the approved plans and the Land Development Manual, Landscape Standards.
29. Prior to recordation of the Final Map, it shall be the responsibility of the Permittee/Owner to install all required landscape and obtain all required landscape inspections. A "No Fee" Street Tree Permit shall be obtained for the installation, establishment, and on-going maintenance of all street trees.
30. The Landscape Construction Plan shall take into account a 40 square-foot area around each tree which is unencumbered by hardscape and utilities as set forth under LDC 142.0403(b)5.
31. All required landscape shall be maintained in a disease, weed and litter free condition at all times. Severe pruning or "topping" of trees is not permitted. The trees shall be maintained in a safe manner to allow each tree to grow to its mature height and spread.
32. The Permittee or subsequent owner shall be responsible for the maintenance of all landscape improvements in the right-of-way consistent with the Land Development Manual Landscape Standards unless long-term maintenance of said landscaping will be the responsibility of a Landscape Maintenance District or other approved entity. In this case, a Landscape Maintenance Agreement shall be submitted for review by a Landscape Planner.
33. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved construction document plans is damaged or removed during demolition or construction, it shall be repaired and/or replaced in kind and equivalent size per the approved documents to the satisfaction of the Development Services Department within 30 days of damage or prior to a Certificate of Occupancy or a Final Landscape Inspection.

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INFORMATION:

- The approval of this Tentative Map by the Planning Commission of the City of San Diego does not authorize the subdivider to violate any Federal, State, or City laws, ordinances, regulations, or policies including but not limited to, the Federal Endangered Species Act of 1973 and any amendments thereto (16 USC Section 1531 et seq.).
- If the subdivider makes any request for new water and sewer facilities (including services, fire hydrants, and laterals), then the subdivider shall design and construct such facilities in accordance with established criteria in the most current editions of the City of San Diego water and sewer design guides and City regulations, standards and practices pertaining thereto. Off-site improvements may be required to provide adequate and acceptable levels of service and will be determined at final engineering.
- Subsequent applications related to this Tentative Map will be subject to fees and charges based on the rate and calculation method in effect at the time of payment.
- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of the Tentative Map, may protest the imposition within 90 days of the approval of this Tentative Map by filing a written protest with the City Clerk pursuant to California Government Code Section 66020.
- Where in the course of development of private property, public facilities are damaged or removed the property owner shall at no cost to the City obtain the required permits for work in the public right-of-way, and repair or replace the public facility to the satisfaction of the City Engineer. Municipal Code Section 142.0607.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF SAN DIEGO,
CALIFORNIA, ON DECEMBER 1, 2008.

By

CITY ATTORNEY

Job Order No. 42-4937

000899

PLANNING COMMISSION RESOLUTION NO. (TBD)

PLANNING COMMISSION APPROVAL OF
TENTATIVE MAP NO. 245505 AND WAIVE THE REQUIREMENT TO UNDERGROUND
EXISTING OVERHEAD UTILITIES
3558 5th AVENUE TENTATIVE MAP - PROJECT NO. 78878

WHEREAS, on November 6, 2008, the Planning Commission of the City of San Diego held a public hearing to consider Tentative Map No. 245505 and to waive the requirement to underground existing overhead utilities; and

WHEREAS, Matthew S. Browar and Nancy A. Browar, in their capacity as Trustees of the M.S. Broward Family Trust dated 2/9/88, Owner/Permittee, requested Tentative Map No. 245505 to convert 12 existing residential units into condominiums and to waive the requirement to underground existing overhead utilities; and

WHEREAS, the Planning Commission of the City of San Diego has considered all maps, exhibits, and written documents contained in the file for this project on record in the City of San Diego, and has considered the oral presentations given at the public hearing; NOW
THEREFORE,

BE IT RESOLVED, by the Planning Commission of the City of San Diego that it hereby approve Tentative Map No. 245505 and approve the waiver to the requirement to underground existing overhead utilities.

Cherlyn Cac
Development Project Manager
Development Services

Dated November 6, 2008
By a vote of: 5:1:1

000901

Item 16

**PLANNING COMMISSION OF THE CITY OF SAN DIEGO
MINUTES OF REGULAR SCHEDULED MEETING OF
NOVEMBER 6, 2008
IN CITY COUNCIL CHAMBERS - 12TH FLOOR
CITY ADMINISTRATION BUILDING**

CHRONOLOGY OF THE MEETING:

Chairperson Schultz called the meeting to order at 9:11 am. Chairperson Schultz adjourned the meeting at 5:10 pm.

ATTENDANCE DURING THE MEETING:

Chairperson Barry Schultz – present (left at 2:00pm returned at 3:19pm)
Vice-Chairperson - Eric Naslund –present
Commissioner Robert Griswold – present
Commissioner Gil Ontai –present
Commissioner Dennis Otsuji - present
Commissioner Mike Smiley – not present
Commissioner Tim Golba - present

Staff

Keith Bauerle, City Attorney - present
Christine Rothman, Planning Department – present
Mike Westlake, Development Services Department - present
Brenda Clark, Legislative Recorder - present
Elisa Contreras, Recorder – present

ITEM- 16: **3558 5TH AVENUE TENTATIVE MAP – PROJECT NO.78878**
City Council District: 3; Plan Area: Uptown

Staff: Cherlyn Cac

No speaker slips submitted in favor of project.

No speaker slips submitted oppose to project.

COMMISSION ACTION:

**CONSENT MOTION BY COMMISSIONER OTSUJI TO APPROVE
TENTATIVE MAP NO. 245505; AND**

**APPROVE WAIVER TO THE REQUIREMENT TO UNDERGROUND
EXISTING OVERHEAD UTILITIES AS PRESENTED IN REPORT NO. PC-
08-141. Second by Commissioner Naslund. Passed by a vote of 5-1-0 with
Commissioner Griswold voting NAY and Commissioner Smiley not present.
Resolution No. 4477-PC**

#333

and

#337

1/13/2009

From: Matthew A. Peterson [MAP@petersonprice.com]
Sent: Tuesday, January 13, 2009 8:56 AM
To: Hueso, Council President Ben; Lightner, Councilmember Sherri; KFAULCONER@sandiego.gov; Gloria, Councilmember Todd; Young, Anthony; De Maio, Councilmember Carl; Frye, Donna; Emerald, Councilmember Marti
Cc: SDAT City Attorney; Maland, Elizabeth; CLK City Clerk; Biagi, George; Hill, Stephen; Matt Browar; Scott Peters; Scott Peters; Kina Aziewicz
Subject: Today's docket 2:00pm Items #333 Biona St. appeal, & #337 3558 5th Ave appeal
Importance: High

Dear President Hueso and Members of the City Council, I represent Matt Browar, the owner. I am dealing with a family medical crisis today & tomorrow. Therefore, I cannot attend the hearing today. While it has historically been the practice of the City Council to deny the various Cory Briggs environmental and project appeals, if there is any question about the merits (or lack thereof) of the appeals that the City Attorney and/or staff cannot address, then I'd would request a *continuance to 2/3/09*. However, if it is the decision of the City Council to deny the appeals, then I would have no problem allowing that action to take place today. Thank you for your consideration and sorry about the late notice of my inability to attend the hearing today. Matt

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