

DATE ISSUED: November 15, 2000

REPORT NO. 00-248

ATTENTION:Honorable Mayor and City Council
Docket of November 21, 2000

SUBJECT: Draper Avenue Condominiums. Tentative Map, Coastal Development Permit, La Jolla Planned District Permit No. 98-0835. Council District 1.
Appeal of a Process 4.

REFERENCE:Manager's Report No. P-00-015, dated January 12, 2000.

SUMMARY

Issue - Should the City Council approve the applicant's appeal of the Planning Commission's decision to deny the project (Attachment 1)?

Manager's Recommendation - Approve the appeal;

- 1.CERTIFY the Mitigated Negative Declaration, LDR No. 98-0835 and adopt the Mitigation, Monitoring, and Reporting Program; and
2. APPROVE the Tentative Map, Coastal Development Permit, and La Jolla Planned District Permit, No. 98-0835.

Planning Commission Recommendation - Denied Staff's recommendation to Approve the project and Certify the Mitigated Negative Declaration, based on their belief that Finding "A" of the La Jolla Planned District Ordinance cannot be made; that the project would not fulfill a community need.

Community Planning Group Recommendation - On August 5, 1999 the La Jolla Community Planning Association voted 13-0 with no abstentions to recommend approval of the proposed project.

Other Recommendations - None with this action.

Environmental Impact - The City of San Diego, as lead agency under CEQA has prepared and completed a Mitigated Negative Declaration (MND), LDR No. 98-0835, dated June 23, 1999, and a Mitigation, Monitoring, and Reporting Program covering this activity. The MND concludes that this project will not have a significant effect on the environment due to mitigation measures for Historical Resources and Paleontological Resources that have been added to the project.

Fiscal Impact - A deposit has been collected from the applicant to cover all costs associated with processing the proposed project.

Code Enforcement Impact - None with this action.

Housing Affordability Impact - The Owner and Permittee of the subject project is required to comply with Council Policy 600-3 (Coastal Housing Program) as administered by the San Diego Housing Commission. The Owner and Permittee has executed a "Compliance

Permit and Agreement Imposing Covenants and Restrictions on Real Property" with the Chief Executive Officer of the Housing Commission, which shall be recorded. Said Compliance Agreement requires the Owner and Permittee to provide to the Housing Commission an acceptable performance security towards the provision of any required replacement units prior to the City staff's recordation of the Coastal Development Permit and the La Jolla Planned District Permit No. 98-0835. City staff's recordation of this permit with the County of San Diego Recorder's Office shall be withheld until the Housing Commission has provided written confirmation of the Owner and Permittee's compliance with the performance security requirement of the agreement. Failure to satisfy the terms of the compliance agreement shall deem this permit null and void.

BACKGROUND

The Draper Avenue Condominium Project proposes the demolition of 13 multi-family units in six existing buildings, the relocation of a single-family home at 7520 Draper Avenue, and the construction of 12 townhouse condominiums in two three-story buildings, with a subterranean parking garage. As proposed, the development requires a Tentative Map, Coastal Development Permit, and a La Jolla Planned District Permit.

The project site is located at 7518 - 7534 Draper Avenue, in a block with mixed-use development, consisting of one story, single-family residential, two to five story multi-family residential, with some retail, cultural (library), and commercial office space. The project site is within Zone 5 of the La Jolla Planned District, and is in the La Jolla Community Planning Area and the Coastal Zone (Non-Appealable Area 2). The La Jolla Community Plan designates the site for medium density (14-34 dwelling units per acre) residential use.

Based on the project application, the applicant was required to obtain a Coastal Affordable Housing Compliance Permit from the San Diego Housing Commission, subject to the provisions of Council Policy 600-3. This policy requires developers in the Coastal Zone to mitigate for the loss of affordable housing units, either through the construction of replacement units or the payment of a fee to be paid to the San Diego Housing Commission. Fees paid under Council Policy 600-03 are used to provide affordable housing units within the Coastal Zone, and if not feasible, within 3 miles of the Coastal Zone boundary.

In response to the application for the Coastal Affordable Housing Compliance Permit, the San Diego Housing Commission performed an income survey of the tenants who reside at the proposed development site. The survey determined that ten of the fourteen units were occupied by low income person or families. On March 5, 1999, the Housing Commission approved the Chief Executive Officer's Compliance Permit Determination, and authorized the Chief Executive Officer to execute a Coastal Affordable Housing Compliance Agreement to provide for replacement units or payment of an in-lieu fee for the ten units occupied by low income persons or families.

On May 18, 1999, following an appeal by the applicant of the Housing Commission's approval, the City Council confirmed the Compliance Permit Determination, by denying the applicant's appeal. In addition, the City Council directed the Housing Commission, as a part of the negotiations with the applicant, to negotiate a satisfactory relocation arrangement for the tenants.

On October 28, 1999, the Planning Commission denied Staff's recommendation to approve the project and certify the Mitigated Negative Declaration, on a 5-2 vote. The Planning Commission based their decision on their belief that Finding 'A' of the La Jolla Planned District Ordinance could not be made, and that the project would not fulfill a community need for affordable housing units. The Commission was concerned about the removal of 10 affordable housing units from a community that was lacking affordable units.

The Planning Commission discussion was critical of the following three aspects of Council Policy 600-03:

1. The policy does not require the replacement of the affordable housing units, rather allows for the option of in-lieu payments, based on a fee schedule, per affordable residential unit being removed.
2. Should the replacement of units be the option chosen by a developer, the policy allows three years before a development project which removes affordable housing units, is required to replace the units.
3. The policy allows the replacement to occur at another location within the Coastal Zone, or within 3 miles of the Coastal Zone boundary.

DISCUSSION

On October 24, 2000, the City Council approved a motion for reconsideration of the Draper Avenue Condominiums project. At the October 24, 2000 hearing, the item was docketed on the City Council agenda of November 21, 2000.

On December 7, 1999 the Draper Avenue Condominiums appeal was first brought before the City Council. The item consisted of an appeal by the applicant of a Planning Commission decision to deny the project. After two continuances, the item was heard by the Council on February 1, 2000. The City Council deadlocked on a motion to approve the project, by a vote of 4-4. The effect of the Council's decision was to affirm the decision of the Planning Commission. While the City Council did not adopt any formal findings, many of the Councilmembers in opposition to the project were concerned that the \$179,800 in-lieu fee would not directly benefit the tenants who would have to relocate.

Since the project was before the City Council on February 1, 2000, the applicant has agreed to the following conditions:

1. The applicant will pay an in-lieu fee of \$300,300 instead of the previously negotiated \$179,800 fee. The \$300,300 is based on an updated Housing Commission calculation;
2. As previously offered, the applicant will provide the tenants with six months notice to vacate; and
3. The applicant will provide each low income person or family with a relocation assistance payment equal to four months rent, double the two months rent previously offered by the applicant.

The applicant's appeal of the Planning Commission's decision of October 28, 1999, states that the action taken by the Planning Commission was to ignore Council Policy 600-03 and deny a project that meets all relevant City regulations and policies. The appeal also states that the Planning Commission's action was not supported by the evidence presented at the hearing, and that the Planning Commission's action to ignore a council policy is of City-wide significance.

City Staff supports the applicant's appeal for the following reasons:

1. Council Policy 600-03 allows for the option of payment of in-lieu fees towards the provision of replacement affordable housing units;
2. The applicant has agreed to pay an in-lieu fee of \$300,300 towards the provision of replacement affordable housing units, based on an updated calculation, although only \$179,800 was required per Council Policy 600-03 at the time the submittal application was deemed complete by the City of San Diego;
3. The applicant has followed Council Policy 600-03 and has entered into an Coastal Affordable Housing Agreement with the San Diego Housing Commission;
4. The applicant has agreed to provide a relocation assistance payment, equal to four months current rent, to the ten low income persons or families displaced by the development;
5. The proposed development complies with the development standards of Zone 5 of the La Jolla Planned District;
6. All issues identified by City staff during the review of the project have been resolved in accordance with the requirements of the Municipal Code and the California Environmental Quality Act; and
7. The findings of the Tentative Map, Coastal Development Permit, and La Jolla Planned District Permit can be met.

ALTERNATIVES

1. Approve the applicant's appeal with further conditions and/or modifications.

2. Deny the appeal.

Respectfully submitted,

Tina P. Christiansen, A.I.A.
Planning and Development Review Director

Approved: George I. Loveland
Assistant City Manager

CHRISTIANSEN/DES

- Attachments:
1. Copy of Applicant's Appeal
 2. Location Map
 3. Draft Tentative Map Resolution and Conditions
 4. Draft Permit and Conditions
 5. Draft Findings of Approval