BACKGROUND:
The purpose of this report is to follow up on the City Council's consideration of an issue presented by Mr. D. Wayne Brechtel on behalf of his client Nick Nicholas in the matter of a proposed lot split at 538 South Nardo Ave. In this report Staff has provided two alternatives, either of which would provide the opportunity for a favorable Staff recommendation to the City Council for its consideration of this subdivision. Staff is seeking Council direction on the two proposed alternatives. The first creates a new policy on the application of the code requirement for a maximum lot width to depth ratio of 1 to 3. If this action is taken, this new policy would apply to this subdivision and any other proposals that are similar to it. The second alternative is based upon the applicant choosing to include two accessory living units as affordable housing as a part of the project proposal. This second alternative would allow Staff to favorably recommend the proposed subdivision under the existing provisions of the City's affordable housing ordinance without the policy modification noted in alternative one.

The proposed subdivision to create two lots from an existing lot located at 538 South Nardo Avenue was originally presented to Council on June 28, 2006. The Council denied the proposed subdivision by adoption of Resolution 2006-117, finding the tentative parcel map did not meet the requirements of Solana Beach Municipal Code (SBMC) Section 15.16.010 which requires that lot depth shall be no greater than three times the average width. This provision limits lots from becoming too long and narrow in proportion.

Since that time Mr. Brechtel has presented various proposals to Staff, and most recently the City Council. He presented various potential modifications to the Municipal Code, as well as alternative configurations for the proposed lot split and subdivision of 538 South Nardo into two buildable lots.

CITY COUNCIL ACTION:

________________________________________

AGENDA ITEM

C.2.
Most recently this matter was discussed at the August 27, 2008 meeting of the City Council. Staff provided a report which recommended that Council not adopt any of the changes to the Municipal Code that were proposed by Mr. Brechtel. Council took no action on the matter, except to request further information from Staff which is discussed in this report.

**DISCUSSION:**
The property at 538 South Nardo is zoned Low Residential which contains an existing dwelling on it that is proposed to be demolished. The issue under discussion is a proposed subdivision of one lot into two individual lots, each of approximately 65.8 feet in width, 220 feet in depth and 14,476 square feet in area (Attachment 1). In the Low Residential (LR) zone, SBMC requires a minimum lot width of 65 feet, and a minimum lot depth of 100 feet and a minimum lot area of 14,000 square feet. Therefore, this lot configuration meets the minimum width, depth and square footage requirements of the zoning code. However, the lot proportions exceed the maximum width to depth ratio allowed by SBMC section 16.16.010(I) subdivision regulations which states that “...lot depth shall be no greater than three times the average width...”. The proposed lot configuration has a width to depth ratio of 1 to 3.49. Consequently, this was the reason for the City Council’s denial of the proposed subdivision at a hearing on the matter in June, 2006.

At its meeting on August 27, 2008 the Council asked what the origin was of the lot width to depth requirement of the Code, whether other cities have this type of requirement and whether this occurrence is unique in the SBMC.

It appears that the requirement for a lot width to depth ratio was originally a part of the County ordinances which the City adopted. As such, it is also a feature of several other city municipal codes in the region. This includes the cities of Carlsbad, Vista, San Marcos, El Cajon, Imperial Beach and Lemon Grove, all of which have similar requirements stating the lot depth shall be no greater than three times the average width. The cities of Encinitas and Del Mar do not contain this provision.

Staff notes that it is not uncommon for subdivision regulations to have several requirements which all must be met individually. Within these types of regulations there is not necessarily a built in mathematical relationship between each of the requirements. In other words, the minimum requirements for lot width and depth do not all need to add up, or multiply, to produce the minimum requirement stated for the minimum lot area. Typically these regulations are written so that lot configurations must pass all of the tests in order to comply with the Municipal Code requirements for approval of a subdivision.

SBMC Table 17.20.030 is reproduced below (*italics*), and lists the minimum lot area, width and depth requirements for each zone. A review of this table shows that for the ER-1, ER-2, LR, and the LMR zones there is not a mathematical relationship of the minimum lot width and depth listed to the minimum required area.
17.20.030 Property development regulations

A. Minimum Lot Sizes and Dimensions.

1. The minimum lot sizes and dimensions for the (ER-1), (ER-2), (LR), (LMR), (MR), (MHR), and (HR) zones shall be as follows:

<table>
<thead>
<tr>
<th>Zone</th>
<th>Minimum Area in Sq. Ft.</th>
<th>Minimum Street Frontage</th>
<th>Minimum Width (interior)</th>
<th>Minimum Width (corner)</th>
<th>Minimum Depth</th>
</tr>
</thead>
<tbody>
<tr>
<td>(ER-1)</td>
<td>40,000</td>
<td>100’</td>
<td>100’</td>
<td>105’</td>
<td>150’</td>
</tr>
<tr>
<td>(ER-2)</td>
<td>20,000</td>
<td>80’</td>
<td>80’</td>
<td>85’</td>
<td>150’</td>
</tr>
<tr>
<td>(LR)</td>
<td>14,000</td>
<td>65’</td>
<td>65’</td>
<td>70’</td>
<td>100’</td>
</tr>
<tr>
<td>(LMR)</td>
<td>10,000</td>
<td>60’</td>
<td>60’</td>
<td>65’</td>
<td>100’</td>
</tr>
<tr>
<td>(MR)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>East of 101</td>
<td>6,000</td>
<td>60’</td>
<td>60’</td>
<td>65’</td>
<td>100’</td>
</tr>
<tr>
<td>West of 101</td>
<td>5,000</td>
<td>50’</td>
<td>50’</td>
<td>55’</td>
<td>100’</td>
</tr>
<tr>
<td>(MHR)</td>
<td>5,000</td>
<td>50’</td>
<td>50’</td>
<td>55’</td>
<td>100’</td>
</tr>
<tr>
<td>(HR)</td>
<td>10,000</td>
<td>60’</td>
<td>60’</td>
<td>65’</td>
<td>100’</td>
</tr>
</tbody>
</table>

For example, the minimum width (100 ft.) for the lot by the minimum depth (150 ft) produces a lot area of 15,000 square feet for the ER-1 zone which does not produce the minimum lot area for that zone listed in the table as 40,000 square feet.

It should be further noted that Staff follows a practice of strict interpretation of each of these requirements related to rounding, as a more liberal interpretation would allow for more lot subdivisions City-wide. Staff utilizes a plain reading of the code provisions, “not greater than, shall not exceed and minimum” as absolute numbers. Therefore, minimum and maximum lot dimensions are absolute numbers with no rounding allowed. If the proposed lot subdivision falls below the minimum allowed, even by a small amount, then Staff concludes that the proposed subdivision does not comply with the requirement and recommends denial of the proposed subdivision unless it is modified to meet the requirement stated in the code.

One alternative the Council could consider, should it wish to modify how Staff applies the SBMC provision for lot width to depth ratio, is to allow for a less restrictive approach and allow rounding of fractional numbers for this particular provision of the code. Council could direct that a policy be prepared which allows for rounding of this particular provision.
If such a policy is to be implemented, Staff would be allowed to round down for any fractional amount below 0.5 to the nearest whole number for depth in the case of the maximum 1 to 3 lot width to depth ratio requirement. All of the other provisions in the Municipal Code for minimum lot width, depth and area would need to be met and these three minimum requirements must be met by actual dimensions or measurement without rounding.

In the instance of the proposed lot split for 538 South Nardo Avenue, the actual lot width, depth and lot area are above the minimum required. The actual lot width to depth ratio is calculated at 1 to 3.49 (Attachment 1). The application of the proposed rounding rule, if approved by Council, would then allow the rounding down of the ratio to a final result of 1 to 3. This would then allow Staff to favorably recommend the lot split for approval by the Council.

If adopted, this rule would apply equally in all zones, and could have the affect of allowing a favorable Staff recommendation for the consideration of subdivision of other lots (approximately three lots) in the City, which have similar attributes to 538 South Nardo Avenue, should the property owners request it. This is discussed more fully below.

Staff has reviewed the City’s database for lots that have adequate area, and estimated those that may have adequate street frontage allowing for a potential subdivision. Condominium and apartment properties were not included because of the unlikely potential for the buildings on these properties being proposed for demolition to allow for the subdivision of land. It is estimated that there are 30 to 40 lots in the City which may be subdivided and could meet all of the code requirements including the 1 to 3 ratio. However, there are only a few, approximately three lots, which meet the minimum lot width, depth and square footage, but not the 1 to 3 ratio. These few lots would, in addition to 538 South Nardo Ave., be able to be subdivided if the Council directs that the rounding policy be brought back for Council adoption.

It should be noted that all the lots that were identified by Staff as having potential for subdivision also have dwelling units on them currently, and subdividing these lots probably could not be considered without removal of the existing dwelling. This is similar to what is proposed by the 538 South Nardo applicant, which includes the proposed demolition of the house on that lot. This is only an estimate. An exact site by site subdivision analysis was not performed due to limited Staff resources. This estimate is intended only to provide the Council an indication of the potential magnitude of the number of lots which could be affected should the new policy be adopted.

To conclude the discussion of this first alternative, should Council wish to consider a policy that directs Staff to utilize a new rounding rule for the requirements for a maximum lot width to depth ratio, the Council could direct preparation of an Council Policy for Council consideration which will require noticing and environmental analysis requirements may apply.
Staff has identified a second alternative that is available to the applicant. Should the applicant propose the inclusion of low income Accessory Living Units with each lot that is being proposed to be subdivided for 538 Nardo and request a reduction or relaxation of the City’s developmental standards, a provision of the SBMC may allow for the granting of such request. The SBMC provision noted below allows for the reduction of the City’s development standards for projects that contain affordable housing as a part of the proposal.

The zoning regulations contained in SBMC 17.20.040 D Accessory Living Units, subsection 11 states:

"The city may offer incentives to encourage development of accessory dwelling units. If owners of accessory units elect to file a 30-year deed restriction to rent the unit to lower income households at the rate defined in subsection (D)(8) of this section, the city will consider waiving fees, reducing parking and development standards, and implementing a faster permit approval process through a conditional use permit issued by the director of community development."

Further, the general regulations for subdivisions contained in SBMC 16.04.130 states:

"Consideration of housing needs. In making decisions pursuant to this title, the decision maker shall consider the effect of that decision on the housing needs of the region and balance those needs against the public service needs of its residents and available fiscal and environmental resources."

The Staff has provided this information and the alternatives in this report to Mr. Brechtel who will address the Council regarding the issue at its meeting July 8, 2009.

**CEQA COMPLIANCE STATEMENT:**
Not applicable at this time. A CEQA analysis will be performed with the development of the final proposal if Council directs the preparation of a policy modifying the rounding rules for the subdivision regulations for its consideration.

**FISCAL IMPACT:**
N/A

**WORKPLAN:**
N/A

**OPTIONS:**
- Take no action on the matter.
- Direct Staff to prepare a policy for Council consideration which provides for a rounding rule that allows rounding down for any fractional amount below 0.5 to the nearest whole number for depth in the case of the maximum 1 to 3 lot width to depth ratio requirement contained in SBMC 16.16.10 (l).
• Encourage the applicant to consider the inclusion of two low income Accessory Living Units in the proposed lot split for 538 Nardo as noted in this report.
• Provide alternative direction to Staff.

DEPARTMENT RECOMMENDATION:
Staff recommends that the City Council:

1. Receive the report and provide direction.

CITY MANAGER RECOMMENDATION:
Approve Department Recommendation

[Signature]
David Ott, City Manager

Attachments:
1. Vicinity map and Proposed lot subdivision of 538 South Nardo Avenue