

THE CITY OF SAN DIEGO, CALIFORNIA  
MINUTES FOR REGULAR COUNCIL MEETING  
OF  
TUESDAY, MARCH 6, 2007  
AT 10:00 A.M.  
IN THE COUNCIL CHAMBERS - 12TH FLOOR

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**CHRONOLOGY OF THE MEETING:**

The meeting was called to order by Council President Peters at 10:05 a.m. Council President Peters recessed the meeting at 11:00 a.m. for the purpose of a break. Council President Peters reconvened the meeting at 11:05 a.m. with all Council Members present. The meeting was recessed by Council President Peters at 11:47 a.m.

The meeting was reconvened by Council President Peters at 2:04 p.m. with all Council Members present. Council President Peters recessed the meeting at 3:13 p.m. for the purpose of a break. Council President Peters reconvened the meeting at 3:18 p.m. with Council Member Faulconer not present. Council President recessed the meeting at 4:39 p.m. for the purpose of a break. Council President Pro Tem Young reconvened the meeting at 4:43 p.m. with Council President Peters not present. The meeting was adjourned by Council President Pro Tem Young at 4:43 p.m.

**ATTENDANCE DURING THE MEETING:**

- (1) Council Member Peters-present
  - (2) Council Member Faulconer-present
  - (3) Council Member Atkins-present
  - (4) Council Member Young-present
  - (5) Council Member Maienschein-present
  - (6) Council Member Frye-present
  - (7) Council Member Madaffer-present
  - (8) Council Member Hueso-present
- Clerk-Maland (sr/dlc)

FILE LOCATION: MINUTES



ITEM-300: ROLL CALL

Clerk Maland called the roll:

- (1) Council Member Peters-present
- (2) Council Member Faulconer-present
- (3) Council Member Atkins-present
- (4) Council Member Young-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Hueso-present

NON-AGENDA COMMENT:

PUBLIC COMMENT-1:

Judy McCarty commented on changing administrative regulations.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:27 a.m. – 10:29 a.m.)

PUBLIC COMMENT-2:

Barbara Cleves Anderson commented on Dale Shockley and changing administrative policy.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:30 a.m. – 10:31 a.m.)

**PUBLIC COMMENT-3:**

Al Strohlein commented on alcohol in Pacific Beach.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:32 a.m. – 10:34 a.m.)

**PUBLIC COMMENT-4:**

Theresa Quiroz commented on Closed-Door Policies.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:35 a.m. – 10:37 a.m.)

**PUBLIC COMMENT-5:**

Don Stillwell commented on violations of the Brown Act.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:38 a.m. – 10:40 a.m.)

**PUBLIC COMMENT-6:**

Ron Boshun commented on Council Actions.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:41 a.m. – 10:43 a.m.)

**PUBLIC COMMENT-7:**

Carolyn Chase commented on Government Mottos.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:44 a.m. – 10:47 a.m.)

PUBLIC COMMENT-8:

Phil Hart commented on internal auditing in the City.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:48 a.m. – 10:51 a.m.)

PUBLIC COMMENT-9:

Jim Varnadore commented on the Regional Transportation Plan and widening Euclid Avenue.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:52 a.m. – 10:53 a.m.)

PUBLIC COMMENT-10:

Jarvis Ross commented on the transparency of government actions and the public.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:54 a.m. – 10:56 a.m.)

PUBLIC COMMENT-11: **REFERRED TO CITY ATTORNEY'S OFFICE**

Katheryn Rhodes commented on the 30-foot height limit.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:57 a.m. – 10:59 a.m.)

COUNCIL COMMENT:

COUNCIL COMMENT-1:

Council Member Frye acknowledged Victor in the audience and wished him a happy birthday back in February. Council Member Frye also received a fax from Randy Burkman regarding FEMA issues and referred this item to the City Attorney's Office.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 11:06 a.m. – 11:07 a.m.)

CITY ATTORNEY COMMENT:

None.



ITEM-30: Energy Efficiency Awareness Week.

**MAYOR SANDERS' RECOMMENDATION:**

Adopt the following resolution:

(R-2007-789) ADOPTED AS RESOLUTION R-302407

Reaffirming the City of San Diego's partnerships with the U.S. Department of Energy, Environmental Protection Agency, U.S. Green Building Council, California Flex Your Power, and San Diego Gas & Electric for the purpose of creating a sustainable future that supports environmental quality, economic security and quality of life for all;

Proclaiming March 4<sup>th</sup> through March 10<sup>th</sup>, 2007 to be "Energy Efficiency Awareness Week" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:05 a.m. – 10:12 a.m.)

MOTION BY FAULCONER TO ADOPT. Second by Frye. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-31: Carolyn D. Chase Day.

**COUNCILMEMBER FRYE'S RECOMMENDATION:**

Adopt the following resolution:

(R-2007-776) ADOPTED AS RESOLUTION R-302408

Commending Carolyn Chase for the many hours of community volunteer work that she has given the City of San Diego;

Proclaiming March 6, 2007, to be "Carolyn D. Chase Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:12 a.m. – 10:25 a.m.)

MOTION BY FRYE TO ADOPT. Second by Faulconer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

\* ITEM-50: Appropriation of Fiscal Year 2007 Proposition 42 Funds and Inviting Bids for the Asphalt Overlay Group II, FY 07.

(Districts 2, 3, 4, 7, and 8.)

**CITY COUNCIL'S RECOMMENDATION:**

Adopt the following ordinance which was introduced on 2/20/2007, Item 60, Subitem A.  
(Council voted 7-0. Councilmember Madaffer not present):

(O-2007-92 Cor. Copy)      ADOPTED AS ORDINANCE O-19580  
(New Series)

Amending Ordinance No. O-19522 entitled “An Ordinance Adopting the Annual Budget for the Fiscal Year 2006-2007 and Appropriating the Necessary Money to Operate the City of San Diego for said Fiscal Year,” by accepting and appropriating an additional \$4,513,653 in by accepting Proposition 42 Motor Vehicle Fuel Tax Revenue from the State of California and increasing the appropriation in the General Fund in an amount not to exceed \$6,037,844 for Streets Division Operating Budget.

FILE LOCATION:                      MEET

COUNCIL ACTION:                      (Time duration: 10:26 a.m. – 10:27 a.m.)

CONSENT MOTION BY MADAFFER TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

\* ITEM-51:    Exempting the Program Manager Position from Classified Service.

**CITY COUNCIL’S RECOMMENDATION:**

Adopt the following ordinance which was introduced on 2/20/2007, Item 52. (Council voted 7-0. Councilmember Madaffer not present):

(O-2007-95)                      ADOPTED AS ORDINANCE O-19581 (New Series)

Exempting the position of Program Manager for the Debt Management Department from the classified service and declaring to be in the unclassified service of the City of San Diego, pursuant to Section 117(a)17 of the City Charter, after having been reviewed and commented upon favorably by the Civil Service Commission on January 11, 2007, as meeting the Charter criterion for exemption from the classified service, and after having considered and reviewed the

memorandum from the Personnel Director to the Mayor and Council dated January 12, 2007.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:26 a.m. – 10:27 a.m.)

CONSENT MOTION BY MADAFFER TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.



ITEM-52: Lease Purchase Agreement with Koch Financial Corporation for the Acquisition of Motive and Public Safety Equipment.

(See Report to the City Council No. 07-045. Citywide.)

**STAFF'S RECOMMENDATION:**

Introduce the following ordinance:

(O-2007-104) INTRODUCED, TO BE ADOPTED ON  
TUESDAY, MARCH 20, 2007

Introduction of an Ordinance authorizing the Mayor, or the Chief Financial Officer, to execute, for and on behalf of the City of San Diego, a Master Lease Agreement with Koch Financial for a period not to exceed seven years for the purpose of financing and refinancing the acquisition of equipment through lease-purchase. The Master Lease Agreement shall be in substantially the form presented to this Council, with such additions and changes therein as the Mayor, or the Chief Financial Officer, shall, in consultation with the City Attorney, shall approve as being in the best interest of the City; provided however that (i) the acquisition cost of the equipment under the Master Lease Agreement shall not exceed \$14.6 million (comprised of \$11.6 million for the motive equipment and \$3.0 million for the Public Safety Communication's equipment), (ii) the term of any equipment lease shall not exceed seven (7) years (iii) the interest rate on any such equipment shall not exceed the maximum limit permitted by law and (iv) the City Auditor and Comptroller certifies, as required by City Charter Section 39,

that funds are available to make lease payments under the Master Lease Agreement.

**NOTE:** 6 votes required.

**STAFF SUPPORTING INFORMATION:**

The City is seeking to finance, via a master lease-purchase agreement, the acquisition of motive and public safety equipment. A request for proposals ("RFP") was issued through the City's Purchasing Division on January 9, 2007, to solicit financing proposals for the motive equipment and Enterprise Resource Planning System<sup>1</sup>. Koch was the sole bidder to finance the motive equipment acquisition. Staff considers the rate quoted by Koch to be competitive, while adhering to the stringent conditions set forth in the RFP and given the City's inability to produce audited financial statements. Subsequently, staff was advised of the need to finance the last segment of the City's Public Safety Communications project, in an amount of approximately \$3 million.

Due to the fact that Koch was the sole respondent to the RFP for the motive equipment and their rate was competitive, staff inquired with, and it was accepted by Koch, to finance this additional project, under the same terms and conditions spelled out in its RFP response.

**FISCAL CONSIDERATIONS:**

**Motive Equipment (Estimated)**

Total proposed acquisition totaling \$11.6 million

Portion to be financed on a 7-year term: \$10,944,420 @ 4.30%

Portion to be financed on a 5-year term: \$618,000 @ 4.28%

FY07: No fiscal impact.

FY08: \$2,027,200 (including one semi-annual payment of \$978,000, sales tax totaling \$896,100 sales tax and \$153,100 in fitting costs.

FY09-FY12: \$1,957,000 each year

FY13: \$1,887,000

FY14: \$1,818,000

FY15: \$909,000

**Public Safety Equipment (Estimated)**

Total proposed acquisition of \$3 million financed over seven years @ 4.30%

FY07: No fiscal impact.

FY08: \$436,000 (including one semi-annual payment of \$250,000 and \$186,000 in sales tax cash funded)

FY09-FY14: \$501,000 each year

FY15: \$250,000

PREVIOUS COUNCIL/COMMITTEE ACTIONS:

The current contract in place for the acquisition of motive equipment was established by a competitive bid process, and was adopted by the City Council on December 1, 2003 in Resolution # R-298641. Ordinance O-19458 was adopted on January 17, 2006, authorizing the contract with Motorola to supply and integrate the upgraded safety communications equipment.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

A contract totaling \$14.6 million for the financing of motive equipment and public safety equipment will be with Koch Financial Corporation.

Kommi/Goldstone

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<sup>1</sup> The City issued an RFP to solicit financing proposals for 2 separate projects – acquisition of motive equipment and implementation of the Enterprise Resource Planning System. The financing proposal being brought forward for City Council approval at this time is for the acquisition of motive equipment.

Staff: Jyothi Pantulu - (619) 236-6917  
Mark D. Blake – Chief Deputy City Attorney

FILE LOCATION: PURCHASE

COUNCIL ACTION: (Time duration: 11:07 a.m. – 11:23 a.m.;  
11:25 a.m. – 11:47 a.m.)

MOTION BY MADAFFER TO INTRODUCE. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

\* ITEM-100: Lease Agreement with San Diego Unified School District for Use and Rental of City of San Diego Swimming Pools.

(Allied Gardens, City Heights, Clairemont, Colina Del Sol, Kearny Mesa, Logan Heights, Mira Mesa, North Park, Tierrasanta, and Valencia Park Community Areas. Districts 1, 3, 4, 5, 6, 7, and 8.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2007-125)                      ADOPTED AS RESOLUTION R-302409

Authorizing the Mayor, or his representative, to execute, for and on behalf of the City, a Five Year Lease Agreement with the San Diego Unified School District for the use and rental of the following City owned swimming pools: Allied Gardens, City Heights, Clairemont, Colina Del Sol, Bud Kearns, Kearny Mesa, Martin Luther King Jr., Memorial, Ned Baumer, Swanson and Tierrasanta Community Pool, under the terms and conditions set forth in the Lease Agreement;

Declaring this activity is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3), as defined by the State CEQA Guidelines.

**STAFF SUPPORTING INFORMATION:**

As far back as 1975, there has been an agreement between the City of San Diego and the San Diego Unified School District for the use of City of San Diego swimming pools in order to assist the District in providing both swimming and water polo programs. This has been mutually beneficial in that we provide the facilities for their programs and many of the students who train at our sites often become City of San Diego Pool Guards. The Board of Education approved this agreement at its regularly scheduled meeting on May 9, 2006.

**FISCAL CONSIDERATIONS:**

Per agreement the District will pay the City of San Diego a monthly rental fee (listed in Exhibit 1) for the use of the facilities. This revenue will be deposited into the General Fund 100. In Fiscal Year 2005 the total revenue received was \$81,267.

**PREVIOUS COUNCIL and/or COMMITTEE ACTION:**

None.

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:**

None.

**KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):**

Stakeholders: CD-1, CD-3, CD-4, CD-5, CD-6, CD-7, and CD-8 constituents.

Impact: San Diego Unified School District will be able to offer instructional swimming programs.

Medina/Martinez

Staff: Isabel Vargas - (619) 685-1308  
Alex Sachs - Deputy City Attorney

**FILE LOCATION:** LEAS – SAN DIEGO UNIFIED SCHOOL DISTRICT

**COUNCIL ACTION:** (Time duration: 10:26 a.m. – 10:27 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

\* ITEM-101: FY 2007 Agreement with Hillcrest Business Association.

(Uptown Community Area. District 3.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2007-775) ADOPTED AS RESOLUTION R-302410

Authorizing the Mayor to execute, on behalf of the City of San Diego, an agreement with the Hillcrest Business Association for administration of Contracts for Goods and Contracts for Services for the Hillcrest Commercial Core Maintenance Assessment District (MAD) for a one year period from July 1, 2006 through June 30, 2007, in accordance with San Diego Municipal Code Section 65.0212;

Reimbursing the Hillcrest Business Association for an amount not to exceed 15% or \$8,995 for administration of the Hillcrest Commercial Core MAD, provided that the City Auditor and Comptroller provides one or more Auditor's Certificates

certifying that said funds are available for reimbursement from the Hillcrest Commercial Core MAD account;

Authorizing the City Auditor and Comptroller to transfer an amount not to exceed 4% or \$3,598 from the Hillcrest Commercial Core MAD account to Fund 70267 to cover City administrative fees for the District;

Declaring that the expenditure of funds from Fund 70267 be increased to not to exceed \$199,093 in Fiscal Year 2007 in conformance with the above action.

**STAFF SUPPORTING INFORMATION:**

The San Diego Municipal Code allows non-profit corporations to administer MADs when an assessment weighted majority of district property owners support the selection of a particular non-profit corporation for their district. The San Diego Municipal Code Section 65.0212 paragraph (b)(2), authorizes the City Council to approve a one year Agreement with non-profit corporations to administer the Contracts for Goods and Contracts for Services in Maintenance Assessment Districts ("MADs").

The property owner selected the Hillcrest Business Association, non-profit corporations ("Association") to manage the annual Agreement from July 1, 2006 through June 30, 2007. This action will authorize the Mayor to execute an Agreement between the City and the Association for a period of one year beginning on July 1, 2006 and ending on June 30, 2007. The Agreement provides the following:

1. The Association will administer Contracts for Goods and Contracts for Services and prepare financial statements for their respective Districts as provided for in the Maintenance Assessment District Ordinance, Landscape and Lighting Act of 1972, and as set forth in the Assessment Engineer's Report for the Hillcrest Commercial Core Maintenance Assessment District.
2. The Association will perform all duties as set forth in each of their respective Agreement under Article I, Section B, referred to as Specific Requirements.
3. The Association will be compensated for administration in an amount not to exceed 15% of the total approved assessments for FY07. Projected total annual assessments for the following Maintenance Assessment District in FY07 is \$89,950.

This action will also authorize the transfer of \$3,598 to Fund 70267 to fund City administration (by the Economic Development Division of the City Planning and Community Investment Department) of the Hillcrest Commercial Core self-managed MAD for Fiscal Year 2007.

Currently the total approved expenditures for City Admin is \$195,495 and includes six other assessment districts. This action will bring the total funding for MAD and PBID administration by Economic Development Division to an amount not to exceed \$199,093 in Fiscal Year 2007. City administrative fees in self-managed maintenance assessment districts range from a minimum of \$3,500 to a maximum of 4% of total assessments and will be used to fund engineering, auditing, payment processing, budgeting and other services related to the administration of each district.

<u>District</u>	<u>Assessment Amount</u>	<u>Non-Profit Administration Fee</u>	<u>City Administration Fee</u>
Hillcrest Commercial Core MAD	\$89,950	\$8,995	\$3,598
Total	\$89,950		\$3,598

FISCAL CONSIDERATIONS:

Under the terms of the agreements, the City will be reimbursed \$3,598 for administrative services.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

The non-profit business association was approved by benefiting property owners through Proposition 218 ballot procedure and passed by Council action on May 16, 2006 as Item-333 to administer the contracts for goods and services for the District. Per R-301852, on August 8, 2006 the City Council authorized the expenditure of funds in an amount not to exceed \$195,495 from Fund 70267 for City administration of self managed maintenance assessments districts for Fiscal Year 2007.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The District holds regular meetings and publishes regular newsletters which are distributed to the property owners in the respective MADs.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

Key stakeholders are the business community and the property owners within the self managed districts.

Anderson/Waring

Aud. Cert. 2700532.

Staff: Luis Ojeda - (619) 533-4246  
Alex Sachs - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:26 a.m. – 10:27 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

\* ITEM-102: Regional Interoperable Communications Development Grant Funded Expenditure.

(See Report to the City Council No. 07-044 and COPS Interoperable Communications Technology FY 2004 Program Proposal.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2007-818) ADOPTED AS RESOLUTION R-302411

Authorizing the Mayor, or his representative, to enter into an agreement with Enforcement Support Agency (ESA) as outlined in the draft Statement of Work;

Authorizing the City Auditor and Comptroller to appropriate and expend \$544,000 in grant funds with ESA in the continuing development, implementation and refinement of this project;

Declaring that the Chief of Police and the Director of the City's Office of Homeland Security are to direct and oversee this expenditure, in compliance with the grant program.

Staff: Kimberly Glenn - (619) 531-2415  
John C. Hemmerling - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:26 a.m. – 10:27 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

\* ITEM-103: Nomination of Alternate to the North Embarcadero Joint Powers Authority.

(See memorandum from Mayor Sanders and Council President Peters dated 2/9/2007. Citywide.)

**COUNCIL PRESIDENT PETERS' RECOMMENDATION:**

Adopt the following resolution:

(R-2007-795)                      ADOPTED AS RESOLUTION R-302412

Confirming the appointment by Mayor Jerry Sanders and Council President Peters of Councilmember Ben Hueso, to serve as the alternate to the North Embarcadero Joint Powers Authority Board.

FILE LOCATION:                      MEET

COUNCIL ACTION:                      (Time duration: 10:26 a.m. – 10:27 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

\* ITEM-104: Disability Awareness Month.

**COUNCILMEMBER FRYE'S RECOMMENDATION:**

Adopt the following resolution:

(R-2007-783)                    ADOPTED AS RESOLUTION R-302413

Proclaiming March 2007, to be "Disability Awareness Month" in the City of San Diego and commending The Arc of San Diego for advocating the awareness of and providing services for those with disabilities.

FILE LOCATION:                    AGENDA

COUNCIL ACTION:                    (Time duration: 10:26 a.m. – 10:27 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

\* ITEM-105: Declaring a Continued State of Emergency Regarding the Discharge of Raw Sewage from Tijuana, Mexico.

(District 8.).

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2007-652)                    ADOPTED AS RESOLUTION R-302414

Declaring a Continued State of Emergency regarding the discharge of raw sewage from Tijuana, Mexico.

FILE LOCATION: GEN'L - State of Emergency Regarding the Discharge of  
Raw Sewage from Tijuana, Mexico

COUNCIL ACTION: (Time duration: 10:26 a.m. – 10:27 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

\* ITEM-106: Declaring a Continued State of Emergency Due to Severe Shortage of Affordable Housing in the City.

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2007-689) ADOPTED AS RESOLUTION R-302415

Declaring a Continued State of Emergency Due to Severe Shortage of Affordable Housing in the City of San Diego.

FILE LOCATION: GEN'L - State of Emergency Due to Severe Shortage of  
Affordable Housing in the City of San Diego

COUNCIL ACTION: (Time duration: 10:26 a.m. – 10:27 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.



[ITEM-330:](#) Executive Center Court Public Right-of-Way Vacation.

Matter of approving, conditionally approving, modifying or denying an application for Executive Center Court Vacation, a Public Street/Right-of-Way Vacation.

(Project No. 105977/Public Right-of-Way Vacation No. 351846. Otay Mesa Community Plan Area. District 8.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2007-736)                      ADOPTED AS RESOLUTION R-302416

Adoption of a Resolution certifying that the Executive Center Court easement located west of Exposition Way, between Heritage Road and Ocean View Hills Parkway, as more particularly described in the legal description marked as Exhibit

“A,” and shown on Drawing No. 20551-B, marked as Exhibit “B,” and on file in the Office of the City Clerk, which are by this reference incorporated herein and made a part hereof, is ordered vacated;

That the City Clerk shall cause a certified copy of this resolution, with attached exhibits attested by her under seal, to be recorded in the Office of the County Recorder.

**STAFF SUPPORTING INFORMATION:**

**REQUESTED ACTION:**

Should the City Council approve or deny Public Right-of-Way Vacation No. 351846.

**STAFF RECOMMENDATION:**

**Approve** Public Right-of-Way Vacation No. 351846.

**EXECUTIVE SUMMARY:**

**Project Description**

The proposed project, requested by the owner of four adjacent parcels, is to vacate the Executive Center Court right-of-way within the Otay Mesa Community Plan area (Attachments 1 and 2). The right-of-way, 64 feet wide and 395 feet long, is located west of Exposition Way between Heritage Road and Ocean View Hills Parkway. The 0.671-acre site was granted on Map No. 15157 on October 27, 2005 and is unimproved. Vehicular access and required utilities to the four parcels will be provided from Exposition Way (Attachment 3).

Regulatory Framework

Land Development Code Sections 125.0901 through 125.0950, and Council Policy 600-15 provide a process for approving applications to vacate excess public rights-of-way provided the City Council makes specific findings (Attachment 4). The four contiguous legal lots have been consolidated by recording a Covenant and Agreement to hold the lots under one ownership and may not be sold separately. There is no present or prospective public use for the right-of-way and ownership will revert to the owner of the consolidated lots. The current Circulation Map of the Transportation Element in the Otay Mesa Community Plan does not include Executive Center Court. The vacation of this excess right-of-way will not adversely affect the Community Plan. The draft Resolution is included as Attachment 5.

PLANNING COMMISSION RECOMMENDATION:

The project is a summary vacation and does not require a Planning Commission recommendation.

FISCAL CONSIDERATIONS:

There is no fiscal impact. The application is processed through a fee paid for by the applicant.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On August 24, 2006, copies of the application and associated exhibits were distributed to the Otay Mesa Community Planning Group. As of January 12, 2007, no recommendation had been received from the Group.

KEY STAKEHOLDERS AND PROJECTED IMPACTS

Property Owner: PPF Sudberry Ocean View Hills, LP, a Delaware limited partnership - Rich Simons and Candice Todd, Partners.

Waring/Escobar-Eck/BT

**NOTE:** This activity is exempt from CEQA pursuant to State CEQA Guidelines Section 15301(1), existing facilities.

Staff: Bill Tripp – (619) 446-5273  
Kimberly Ann Davies – Deputy City Attorney

**NOTE:** This item is not subject to Mayor's veto.

FILE LOCATION: DEED F-10041

COUNCIL ACTION: (Time duration: 11:24 a.m. – 11:24 a.m.)

MOTION BY HUESO TO ADOPT. Second by Young. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-331: 7827 Stalmer Tentative Map, Project No. 104906.

CONTINUED TO TUESDAY, MARCH 20, 2007

Owners - Mesa Villas Investors, LLC, a California Limited Liability Company.

Matter of the appeal by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determination by City staff that the request to convert 20 existing residential dwelling units to condominium ownership is exempt from the California Environmental Quality Act (CEQA) under CEQA Guideline Section 15301. The 0.792-acre site is located at 7827 Stalmer Street in the RM-2-5 Zone, the Residential Tandem Parking Overlay Zone, and the Clairemont Mesa Height Limit Overlay Zone, within the Clairemont Mesa Community Plan area.

It should be noted that the decision of whether to approve or deny the above referenced Tentative Map will be made at a future hearing. That hearing will be publicly noticed in accordance with the San Diego Municipal Code. The purpose of this appeal hearing is only to consider the matter of the environmental determination.

(See Report to the City Council No. 07-043. Clairemont Mesa Community Plan Area. District 6.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or

- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

**STAFF SUPPORTING INFORMATION:**

**REQUESTED ACTION:**

Affirm the Development Services Department's environmental determination of exemption prepared for the 18 tentative maps/map waivers for condominium conversions listed on the attached spreadsheet, within various community plan areas.

**STAFF RECOMMENDATIONS:**

1. **Deny** the appeals and uphold the Environmental Determinations.
2. Make an express finding that the information provided by the appellant and his experts should be excluded from the record because it is argument, speculation, unsubstantiated opinion or narrative, evidence that is clearly inaccurate or erroneous, or evidence of social or economic impacts that do not contribute to, or are not caused by, physical impacts on the environment.

**EXECUTIVE SUMMARY:**

Note that this is a batch of condominium conversion appeals similar to the batch of 76 such appeals heard and denied by the City Council on July 31, 2006. Accordingly, the Executive Summary, Staff Report, and Attachments are nearly identical to those already provided in the prior hearing.

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

**Basis for Appeal:** The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant 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."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds.

Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City staff have determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant. The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. The processing of each individual project to a decision will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant costs could be incurred.

**PREVIOUS COUNCIL and/or COMMITTEE ACTION:**

These same types of appeals were scheduled before the City Council on July 31, 2006. On that date, there were 76 appeals scheduled; the City Council concurred with staff and denied all 76 of the appellant's appeals.

**Planning Commission Decision:** The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:**

The issue of the appeal of the environmental determination has not been presented to community planning groups.

**KEY STAKEHOLDERS & PROJECTED IMPACTS:**

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry and residents.

Waring/Escobar-Eck/MS

Staff: Martha Blake - (619) 446-5375  
Karen Heumann - Deputy City Attorney

**NOTE:** This item is not subject to Mayor's veto.

**FILE LOCATION:** MEET

**COUNCIL ACTION:** (Time duration: 2:04 p.m. – 2:07 p.m.)

Testimony in opposition of appeal by Robert Bateman and Evelyn Heidelberg.

**MOTION BY FRYE TO CONTINUE TO TUESDAY, MARCH 20, 2007, TO ALLOW APPELLANT TO BE PRESENT.** Second by Madaffer. Passed by the following vote: Peters-nay, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-332: Santa Barbara Cove Tentative Map, Project No. 105096.

CONTINUED TO TUESDAY, MARCH 20, 2007

Owners – George Kung and Jean Cheng.

Matter of the appeal by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determination by City staff that the request to convert 10 existing residential dwelling units to condominium ownership is exempt from the California Environmental Quality Act (CEQA) under CEQA Guideline Section 15301. The 0.110-acre site is located at 713 Santa Barbara Place in the MBPD-R-S Zone of the Mission Beach Planned District, the Coastal Overlay Zone (State jurisdiction), the Coastal Height Limitation Overlay Zone, the Parking Impact Overlay Zone, the Residential Tandem Parking Overlay Zone, and the Transit Overlay Zone, within the Mission Beach Community Plan and Local Coastal Program Land Use Plan Area.

It should be noted that the decision of whether to approve or deny the above referenced Tentative Map will be made at a future hearing. That hearing will be publicly noticed in accordance with the San Diego Municipal Code. The purpose of this appeal hearing is only to consider the matter of the environmental determination.

(See Report to the City Council No. 07-043. Mission Beach Community Plan Area. District 2.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520,

to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

**STAFF SUPPORTING INFORMATION:**

**REQUESTED ACTION:**

Affirm the Development Services Department's environmental determination of exemption prepared for the 18 tentative maps/map waivers for condominium conversions listed on the attached spreadsheet, within various community plan areas.

**STAFF RECOMMENDATIONS:**

1. **Deny** the appeals and uphold the Environmental Determinations.
2. Make an express finding that the information provided by the appellant and his experts should be excluded from the record because it is argument, speculation, unsubstantiated opinion or narrative, evidence that is clearly inaccurate or erroneous, or evidence of social or economic impacts that do not contribute to, or are not caused by, physical impacts on the environment.

**EXECUTIVE SUMMARY:**

Note that this is a batch of condominium conversion appeals similar to the batch of 76 such appeals heard and denied by the City Council on July 31, 2006. Accordingly, the Executive Summary, Staff Report, and Attachments are nearly identical to those already provided in the prior hearing.

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

**Basis for Appeal:** The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant 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."

**Staff Response:** Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds.

Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City staff have determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant. The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

**FISCAL CONSIDERATIONS:**

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. The processing of each individual project to a decision will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant costs could be incurred.

**PREVIOUS COUNCIL and/or COMMITTEE ACTION:**

These same types of appeals were scheduled before the City Council on July 31, 2006. On that date, there were 76 appeals scheduled; the City Council concurred with staff and denied all 76 of the appellant's appeals.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS & PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry and residents.

Waring/Escobar-Eck/MS

Staff: Martha Blake - (619) 446-5375

Karen Heumann - Deputy City Attorney

**NOTE:** This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:04 p.m. – 2:07 p.m.)

Testimony in opposition of appeal by Robert Bateman and Evelyn Heidelberg.

MOTION BY FRYE TO CONTINUE TO TUESDAY, MARCH 20, 2007, TO ALLOW APPELLANT TO BE PRESENT. Second by Madaffer. Passed by the following vote: Peters-nay, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-333: Sand Pebbles Map Waiver, Project No. 105190.

CONTINUED TO TUESDAY, MARCH 20, 2007

Owners – George Kung and Jean Cheng.

Matter of the appeal by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determination by City staff that the request to convert 4 existing residential dwelling units to condominium ownership is exempt from the California Environmental Quality Act (CEQA) under CEQA Guideline Section 15301. The 0.099-acre site is located at 3225 Ocean Front Walk in the MBPD-R-S Zone of the Mission Beach Planned District, the Coastal Overlay Zone (State jurisdiction), the Coastal Height Limitation Overlay Zone, the Sensitive Coastal Resource Overlay Zone, the First Public Roadway, and the Parking Impact Overlay Zone, within the Mission Beach Community Plan and Local Coastal Program Land Use Plan Area.

It should be noted that the decision of whether to approve or deny the above referenced Map Waiver will be made at a future hearing. That hearing will be publicly noticed in accordance with the San Diego Municipal Code. The purpose of this appeal hearing is only to consider the matter of the environmental determination.

(See Report to the City Council No. 07-043. Mission Beach Community Plan Area. District 2.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

**STAFF SUPPORTING INFORMATION:**

**REQUESTED ACTION:**

Affirm the Development Services Department's environmental determination of exemption prepared for the 18 tentative maps/map waivers for condominium conversions listed on the attached spreadsheet, within various community plan areas.

**STAFF RECOMMENDATIONS:**

1. **Deny** the appeals and uphold the Environmental Determinations.
2. Make an express finding that the information provided by the appellant and his experts should be excluded from the record because it is argument, speculation, unsubstantiated opinion or narrative, evidence that is clearly inaccurate or erroneous, or evidence of social or economic impacts that do not contribute to, or are not caused by, physical impacts on the environment.

**EXECUTIVE SUMMARY:**

Note that this is a batch of condominium conversion appeals similar to the batch of 76 such appeals heard and denied by the City Council on July 31, 2006. Accordingly, the Executive Summary, Staff Report, and Attachments are nearly identical to those already provided in the prior hearing.

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

**Basis for Appeal:** The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant 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."

**Staff Response:** Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds.

Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City staff have determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant. The appellant has not proved his argument. The subject projects do

not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

**FISCAL CONSIDERATIONS:**

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. The processing of each individual project to a decision will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant costs could be incurred.

**PREVIOUS COUNCIL and/or COMMITTEE ACTION:**

These same types of appeals were scheduled before the City Council on July 31, 2006. On that date, there were 76 appeals scheduled; the City Council concurred with staff and denied all 76 of the appellant's appeals.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS & PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry and residents.

Waring/Escobar-Eck/MS

Staff: Martha Blake - (619) 446-5375  
Karen Heumann - Deputy City Attorney

**NOTE:** This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:04 p.m. – 2:07 p.m.)

Testimony in opposition of appeal by Robert Bateman and Evelyn Heidelberg.

MOTION BY FRYE TO CONTINUE TO TUESDAY, MARCH 20, 2007, TO ALLOW APPELLANT TO BE PRESENT. Second by Madaffer. Passed by the following vote: Peters-nay, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-334: 4078 Hamilton Tentative Map, Project No. 93907.

CONTINUED TO TUESDAY, MARCH 20, 2007

Owners – John H. Shale, M.D. and Charlotte R. Shale.

Matter of the appeal by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determination by City staff that the request to convert 10 existing residential dwelling units to condominium ownership is exempt from the California Environmental Quality Act (CEQA) under CEQA Guideline Section 15301. The 0.16-acre site is located at 4078 Hamilton Street in the MR-1250B Zone of the Mid-City Communities Planned District and the Transit Overlay Zone, within the Greater North Park Community Plan Area.

It should be noted that the decision of whether to approve or deny the above referenced Tentative Map will be made at a future hearing. That hearing will be publicly noticed in accordance with the San Diego Municipal Code. The purpose of this appeal hearing is only to consider the matter of the environmental determination.

(See Report to the City Council No. 07-043. Greater North Park Community Plan Area. District 3.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

**STAFF SUPPORTING INFORMATION:**

**REQUESTED ACTION:**

Affirm the Development Services Department's environmental determination of exemption prepared for the 18 tentative maps/map waivers for condominium conversions listed on the attached spreadsheet, within various community plan areas.

**STAFF RECOMMENDATIONS:**

1. **Deny** the appeals and uphold the Environmental Determinations.
2. Make an express finding that the information provided by the appellant and his experts should be excluded from the record because it is argument, speculation, unsubstantiated opinion or narrative, evidence that is clearly inaccurate or erroneous, or evidence of social or economic impacts that do not contribute to, or are not caused by, physical impacts on the environment.

**EXECUTIVE SUMMARY:**

Note that this is a batch of condominium conversion appeals similar to the batch of 76 such appeals heard and denied by the City Council on July 31, 2006. Accordingly, the Executive Summary, Staff Report, and Attachments are nearly identical to those already provided in the prior hearing.

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant 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."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds. Several issues were considered during the reviews, including traffic, parking, and visual quality.

Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City staff have determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant. The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

**FISCAL CONSIDERATIONS:**

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. The processing of each individual project to a decision will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant costs could be incurred.

**PREVIOUS COUNCIL and/or COMMITTEE ACTION:**

These same types of appeals were scheduled before the City Council on July 31, 2006. On that date, there were 76 appeals scheduled; the City Council concurred with staff and denied all 76 of the appellant's appeals.

**Planning Commission Decision:** The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS & PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry and residents.

Waring/Escobar-Eck/MS

Staff: Martha Blake - (619) 446-5375  
Karen Heumann - Deputy City Attorney

**NOTE:** This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:04 p.m. – 2:07 p.m.)

Testimony in opposition of appeal by Robert Bateman and Evelyn Heidelberg.

MOTION BY FRYE TO CONTINUE TO TUESDAY, MARCH 20, 2007, TO ALLOW APPELLANT TO BE PRESENT. Second by Madaffer. Passed by the following vote: Peters-nay, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-335: 4712 W. Point Loma Boulevard Tentative Map, Project No. 107269.

CONTINUED TO TUESDAY, MARCH 20, 2007

Owners – Peter Davies [Thomas P. Davies] and Nadia Quintana Davies [Nadia Q. Davies].

Matter of the appeal by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determination by City staff that the request to convert 8 existing residential dwelling units to condominium ownership is exempt from the California Environmental Quality Act (CEQA) under CEQA Guideline Section 15301. The 0.168-acre site is located at 4712 W. Point Loma Boulevard in the RM-2-4 Zone, the Ocean Beach Emerging Historic District, the Coastal Overlay Zone (nonappealable area), the Coastal Height Limit Overlay Zone, the Airport Approach Overlay Zone, the Airport Environs Overlay Zone, and the Parking Impact Overlay Zone, within the Ocean Beach Precise Plan and Local Coastal Program Area.

It should be noted that the decision of whether to approve or deny the above referenced Tentative Map will be made at a future hearing. That hearing will be publicly noticed in accordance with the San Diego Municipal Code. The purpose of this appeal hearing is only to consider the matter of the environmental determination.

(See Report to the City Council No. 07-043. Ocean Beach Community Plan Area. District 2.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

**STAFF SUPPORTING INFORMATION:**

**REQUESTED ACTION:**

Affirm the Development Services Department's environmental determination of exemption prepared for the 18 tentative maps/map waivers for condominium conversions listed on the attached spreadsheet, within various community plan areas.

**STAFF RECOMMENDATIONS:**

1. **Deny** the appeals and uphold the Environmental Determinations.
2. Make an express finding that the information provided by the appellant and his experts should be excluded from the record because it is argument, speculation, unsubstantiated opinion or narrative, evidence that is clearly inaccurate or erroneous, or evidence of social or economic impacts that do not contribute to, or are not caused by, physical impacts on the environment.

**EXECUTIVE SUMMARY:**

Note that this is a batch of condominium conversion appeals similar to the batch of 76 such appeals heard and denied by the City Council on July 31, 2006. Accordingly, the Executive Summary, Staff Report, and Attachments are nearly identical to those already provided in the prior hearing.

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

**Basis for Appeal:** The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant 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."

**Staff Response:** Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds.

Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City staff have determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant. The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

**FISCAL CONSIDERATIONS:**

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. The processing of each individual project to a decision will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant costs could be incurred.

**PREVIOUS COUNCIL and/or COMMITTEE ACTION:**

These same types of appeals were scheduled before the City Council on July 31, 2006. On that date, there were 76 appeals scheduled; the City Council concurred with staff and denied all 76 of the appellant's appeals.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:**

The issue of the appeal of the environmental determination has not been presented to community planning groups.

**KEY STAKEHOLDERS & PROJECTED IMPACTS:**

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry and residents.

Waring/Escobar-Eck/MS

Staff: Martha Blake - (619) 446-5375  
Karen Heumann - Deputy City Attorney

**NOTE:** This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:04 p.m. – 2:07 p.m.)

Testimony in opposition of appeal by Robert Bateman and Evelyn Heidelberg.

MOTION BY FRYE TO CONTINUE TO TUESDAY, MARCH 20, 2007, TO ALLOW APPELLANT TO BE PRESENT. Second by Madaffer. Passed by the following vote: Peters-nay, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-336: Rancho Bernardo Tentative Map, Project No. 106141.

CONTINUED TO TUESDAY, MARCH 20, 2007

Owners – EQR – Derwood Vistas, Inc.

Matter of the appeal by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determination by City staff that the request to convert 316 existing residential dwelling units to condominium ownership is exempt from the California Environmental Quality Act (CEQA) under CEQA Guideline Section 15301. The 27.05-acre site is located at 15640 Bernardo Center Drive in the RM-1-1 Zone, within the Rancho Bernardo Community Plan Area.

It should be noted that the decision of whether to approve or deny the above referenced Tentative Map will be made at a future hearing. That hearing will be publicly noticed in accordance with the San Diego Municipal Code. The purpose of this appeal hearing is only to consider the matter of the environmental determination.

(See Report to the City Council No. 07-043. Rancho Bernardo Community Plan Area. District 5.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

**STAFF SUPPORTING INFORMATION:**

**REQUESTED ACTION:**

Affirm the Development Services Department's environmental determination of exemption prepared for the 18 tentative maps/map waivers for condominium conversions listed on the attached spreadsheet, within various community plan areas.

**STAFF RECOMMENDATIONS:**

1. **Deny** the appeals and uphold the Environmental Determinations.

2. Make an express finding that the information provided by the appellant and his experts should be excluded from the record because it is argument, speculation, unsubstantiated opinion or narrative, evidence that is clearly inaccurate or erroneous, or evidence of social or economic impacts that do not contribute to, or are not caused by, physical impacts on the environment.

**EXECUTIVE SUMMARY:**

Note that this is a batch of condominium conversion appeals similar to the batch of 76 such appeals heard and denied by the City Council on July 31, 2006. Accordingly, the Executive Summary, Staff Report, and Attachments are nearly identical to those already provided in the prior hearing.

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant 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."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds.

Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City staff have determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City

Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant. The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

**FISCAL CONSIDERATIONS:**

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. The processing of each individual project to a decision will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant costs could be incurred.

**PREVIOUS COUNCIL and/or COMMITTEE ACTION:**

These same types of appeals were scheduled before the City Council on July 31, 2006. On that date, there were 76 appeals scheduled; the City Council concurred with staff and denied all 76 of the appellant's appeals.

**Planning Commission Decision:** The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:**

The issue of the appeal of the environmental determination has not been presented to community planning groups.

**KEY STAKEHOLDERS & PROJECTED IMPACTS:**

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry and residents.

Waring/Escobar-Eck/MS

Staff: Martha Blake - (619) 446-5375  
Karen Heumann - Deputy City Attorney

**NOTE:** This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:04 p.m. – 2:07 p.m.)

Testimony in opposition of appeal by Robert Bateman and Evelyn Heidelberg.

MOTION BY FRYE TO CONTINUE TO TUESDAY, MARCH 20, 2007, TO ALLOW APPELLANT TO BE PRESENT. Second by Madaffer. Passed by the following vote: Peters-nay, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-337: Albatross Street Condos, Project No. 103928.

CONTINUED TO TUESDAY, MARCH 20, 2007

Owners – Dan Floit and L-20, LLC.

Matter of the appeal by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determination by City staff that the request to convert 24 existing residential dwelling units to condominium ownership is exempt from the California Environmental Quality Act (CEQA) under CEQA Guideline Section 15301. The 0.35-acre site is located at 2353 Albatross Street in the MR-1000 zone of the Mid-City Communities Planned District, the Airport Approach Overlay Zone, the Airport Environs Overlay Zone, the Transit Area Overlay Zone, and the Residential Tandem Parking Overlay Zone, within the Uptown Community Plan Area.

It should be noted that the decision of whether to approve or deny the above referenced project will be made at a future hearing. That hearing will be publicly noticed in accordance with the San Diego Municipal Code. The purpose of this appeal hearing is only to consider the matter of the environmental determination.

(See Report to the City Council No. 07-043. Uptown Community Plan Area. District 2.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

**STAFF SUPPORTING INFORMATION:**

**REQUESTED ACTION:**

Affirm the Development Services Department's environmental determination of exemption prepared for the 18 tentative maps/map waivers for condominium conversions listed on the attached spreadsheet, within various community plan areas.

**STAFF RECOMMENDATIONS:**

1. **Deny** the appeals and uphold the Environmental Determinations.
2. Make an express finding that the information provided by the appellant and his experts should be excluded from the record because it is argument, speculation, unsubstantiated opinion or narrative, evidence that is clearly inaccurate or erroneous, or evidence of social or economic impacts that do not contribute to, or are not caused by, physical impacts on the environment.

EXECUTIVE SUMMARY:

Note that this is a batch of condominium conversion appeals similar to the batch of 76 such appeals heard and denied by the City Council on July 31, 2006. Accordingly, the Executive Summary, Staff Report, and Attachments are nearly identical to those already provided in the prior hearing.

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant 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."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds.

Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City staff have determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant. The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

**FISCAL CONSIDERATIONS:**

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. The processing of each individual project to a decision will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant costs could be incurred.

**PREVIOUS COUNCIL and/or COMMITTEE ACTION:**

These same types of appeals were scheduled before the City Council on July 31, 2006. On that date, there were 76 appeals scheduled; the City Council concurred with staff and denied all 76 of the appellant's appeals.

**Planning Commission Decision:** The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:**

The issue of the appeal of the environmental determination has not been presented to community planning groups.

**KEY STAKEHOLDERS & PROJECTED IMPACTS:**

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry and residents.

Waring/Escobar-Eck/MS

Staff: Martha Blake - (619) 446-5375

Karen Heumann - Deputy City Attorney

**NOTE:** This item is not subject to Mayor's veto.

**FILE LOCATION:** MEET

**COUNCIL ACTION:** (Time duration: 2:04 p.m. – 2:07 p.m.)

Testimony in opposition of appeal by Robert Bateman and Evelyn Heidelberg.

MOTION BY FRYE TO CONTINUE TO TUESDAY, MARCH 20, 2007, TO ALLOW APPELLANT TO BE PRESENT. Second by Madaffer. Passed by the following vote: Peters-nay, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-338: 3635 College Tentative Map, Project No. 99090.

CONTINUED TO TUESDAY, MARCH 20, 2007

Owners – William R. Mundt, Trustee of the William R. Mundt Trust dated February 11, 1998.

Matter of the appeal by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determination by City staff that the request to convert 98 existing residential dwelling units to condominium ownership is exempt from the California Environmental Quality Act (CEQA) under CEQA Guideline Section 15301. The 1.59-acre site is located at 3635 College Avenue in the CC-5-3 Zone of the Central Urbanized Planned District within the Eastern Neighborhood of the Mid-City Communities Plan Area.

It should be noted that the decision of whether to approve or deny the above referenced Tentative Map will be made at a future hearing. That hearing will be publicly noticed in accordance with the San Diego Municipal Code. The purpose of this appeal hearing is only to consider the matter of the environmental determination.

(See Report to the City Council No. 07-043. Eastern Neighborhood of the Mid-City Communities Plan Area. District 7.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

**STAFF SUPPORTING INFORMATION:**

**REQUESTED ACTION:**

Affirm the Development Services Department's environmental determination of exemption prepared for the 18 tentative maps/map waivers for condominium conversions listed on the attached spreadsheet, within various community plan areas.

**STAFF RECOMMENDATIONS:**

1. **Deny** the appeals and uphold the Environmental Determinations.
2. Make an express finding that the information provided by the appellant and his experts should be excluded from the record because it is argument, speculation, unsubstantiated opinion or narrative, evidence that is clearly inaccurate or erroneous, or evidence of social or economic impacts that do not contribute to, or are not caused by, physical impacts on the environment.

**EXECUTIVE SUMMARY:**

Note that this is a batch of condominium conversion appeals similar to the batch of 76 such appeals heard and denied by the City Council on July 31, 2006. Accordingly, the Executive Summary, Staff Report, and Attachments are nearly identical to those already provided in the prior hearing.

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant 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."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California

Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds.

Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City staff have determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant. The appellant has not proved his argument. The subject projects do

not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

**FISCAL CONSIDERATIONS:**

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. The processing of each individual project to a decision will be charged to a deposit account established by the applicant. Should the City Council remand the matter back

to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant costs could be incurred.

**PREVIOUS COUNCIL and/or COMMITTEE ACTION:**

These same types of appeals were scheduled before the City Council on July 31, 2006. On that date, there were 76 appeals scheduled; the City Council concurred with staff and denied all 76 of the appellant's appeals.

**Planning Commission Decision:** The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:**

The issue of the appeal of the environmental determination has not been presented to community planning groups.

**KEY STAKEHOLDERS & PROJECTED IMPACTS:**

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry and residents.

Waring/Escobar-Eck/MS

Staff: Martha Blake - (619) 446-5375  
Karen Heumann - Deputy City Attorney

**NOTE:** This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:04 p.m. – 2:07 p.m.)

Testimony in opposition of appeal by Robert Bateman and Evelyn Heidelberg.

MOTION BY FRYE TO CONTINUE TO TUESDAY, MARCH 20, 2007, TO ALLOW APPELLANT TO BE PRESENT. Second by Madaffer. Passed by the following vote: Peters-nay, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-339: 3125 Cowley Way Vesting Tentative Map, Project No. 106917.

CONTINUED TO TUESDAY, MARCH 20, 2007

Owners – Evans Withycombe Residential, L.P., a Delaware Limited Partnership.

Matter of the appeal by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determination by City staff that the request to convert 162 existing residential dwelling units to condominium ownership is exempt from the California Environmental Quality Act (CEQA) under CEQA Guideline Section 15301. The 8.10-acre site is located at 3125 Cowley Way in the RM-1-1 Zone and the Clairemont Mesa Height Limit Overlay Zone, within the Clairemont Mesa Community Plan Area.

It should be noted that the decision of whether to approve or deny the above referenced Vesting Tentative Map will be made at a future hearing. That hearing will be publicly noticed in accordance with the San Diego Municipal Code. The purpose of this appeal hearing is only to consider the matter of the environmental determination.

(See Report to the City Council No. 07-043. Clairemont Mesa Community Plan Area. District 6.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

**STAFF SUPPORTING INFORMATION:**

**REQUESTED ACTION:**

Affirm the Development Services Department's environmental determination of exemption prepared for the 18 tentative maps/map waivers for condominium conversions listed on the attached spreadsheet, within various community plan areas.

**STAFF RECOMMENDATIONS:**

1. **Deny** the appeals and uphold the Environmental Determinations.
2. Make an express finding that the information provided by the appellant and his experts should be excluded from the record because it is argument, speculation, unsubstantiated opinion or narrative, evidence that is clearly inaccurate or erroneous, or evidence of social or economic impacts that do not contribute to, or are not caused by, physical impacts on the environment.

**EXECUTIVE SUMMARY:**

Note that this is a batch of condominium conversion appeals similar to the batch of 76 such appeals heard and denied by the City Council on July 31, 2006. Accordingly, the Executive Summary, Staff Report, and Attachments are nearly identical to those already provided in the prior hearing.

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant 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."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds.

Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City staff have determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant. The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

**FISCAL CONSIDERATIONS:**

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. The processing of each individual project to a decision will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant costs could be incurred.

**PREVIOUS COUNCIL and/or COMMITTEE ACTION:**

These same types of appeals were scheduled before the City Council on July 31, 2006. On that date, there were 76 appeals scheduled; the City Council concurred with staff and denied all 76 of the appellant's appeals.

**Planning Commission Decision:** The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:**

The issue of the appeal of the environmental determination has not been presented to community planning groups.

**KEY STAKEHOLDERS & PROJECTED IMPACTS:**

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry and residents.

Waring/Escobar-Eck/MS

Staff: Martha Blake - (619) 446-5375  
Karen Heumann - Deputy City Attorney

**NOTE:** This item is not subject to Mayor's veto.

**FILE LOCATION:** MEET

**COUNCIL ACTION:** (Time duration: 2:04 p.m. – 2:07 p.m.)

Testimony in opposition of appeal by Robert Bateman and Evelyn Heidelberg.

MOTION BY FRYE TO CONTINUE TO TUESDAY, MARCH 20, 2007, TO ALLOW APPELLANT TO BE PRESENT. Second by Madaffer. Passed by the following vote: Peters-nay, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-340: 5492 Imperial Tentative Map, Project No. 100125.

CONTINUED TO TUESDAY, MARCH 20, 2007

Owners –William R. Mundt, Trustee of the William R. Mundt Trust, dated February 11, 1998.

Matter of the appeal by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determination by City staff that the request to convert 47 existing residential dwelling units to condominium ownership is exempt from the California Environmental Quality Act (CEQA) under CEQA Guideline Section 15301. The 1.59-acre site is located at 5492 Imperial Avenue in the MF-1500 Zone of the Southeastern San Diego Planned District within the Encanto Neighborhood of the Southeastern San Diego Community Plan Area.

It should be noted that the decision of whether to approve or deny the above referenced Tentative Map will be made at a future hearing. That hearing will be publicly noticed in accordance with the San Diego Municipal Code. The purpose of this appeal hearing is only to consider the matter of the environmental determination.

(See Report to the City Council No. 07-043. Encanto Neighborhood of the Southeastern San Diego Community Plan Area. District 4.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or

- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

**STAFF SUPPORTING INFORMATION:**

**REQUESTED ACTION:**

Affirm the Development Services Department's environmental determination of exemption prepared for the 18 tentative maps/map waivers for condominium conversions listed on the attached spreadsheet, within various community plan areas.

**STAFF RECOMMENDATIONS:**

1. **Deny** the appeals and uphold the Environmental Determinations.
2. Make an express finding that the information provided by the appellant and his experts should be excluded from the record because it is argument, speculation, unsubstantiated opinion or narrative, evidence that is clearly inaccurate or erroneous, or evidence of social or economic impacts that do not contribute to, or are not caused by, physical impacts on the environment.

**EXECUTIVE SUMMARY:**

Note that this is a batch of condominium conversion appeals similar to the batch of 76 such appeals heard and denied by the City Council on July 31, 2006. Accordingly, the Executive Summary, Staff Report, and Attachments are nearly identical to those already provided in the prior hearing.

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

**Basis for Appeal:** The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant 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."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds.

Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City staff have determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant. The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. The processing of each individual project to a decision will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant costs could be incurred.

**PREVIOUS COUNCIL and/or COMMITTEE ACTION:**

These same types of appeals were scheduled before the City Council on July 31, 2006. On that date, there were 76 appeals scheduled; the City Council concurred with staff and denied all 76 of the appellant's appeals.

**Planning Commission Decision:** The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:**

The issue of the appeal of the environmental determination has not been presented to community planning groups.

**KEY STAKEHOLDERS & PROJECTED IMPACTS:**

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry and residents.

Waring/Escobar-Eck/MS

Staff: Martha Blake - (619) 446-5375  
Karen Heumann - Deputy City Attorney

**NOTE:** This item is not subject to Mayor's veto.

**FILE LOCATION:** MEET

**COUNCIL ACTION:** (Time duration: 2:04 p.m. – 2:07 p.m.)

Testimony in opposition of appeal by Robert Bateman and Evelyn Heidelberg.

**MOTION BY FRYE TO CONTINUE TO TUESDAY, MARCH 20, 2007, TO ALLOW APPELLANT TO BE PRESENT.** Second by Madaffer. Passed by the following vote: Peters-nay, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-341: 4878 Cape May Tentative Map, Project No. 108208.

CONTINUED TO TUESDAY, MARCH 20, 2007

Owners – Howard J. Thompson, Jr. and Gail Thompson.

Matter of the appeal by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determination by City staff that the request to convert 9 existing residential dwelling units to condominium ownership is exempt from the California Environmental Quality Act (CEQA) under CEQA Guideline Section 15301. The 0.160-acre site is located at 4878 Cape May Avenue in the RM-2-4 Zone, the Coastal Overlay Zone (nonappealable area), the Coastal Height Limit Overlay Zone, the Airport Approach Overlay Zone, the Airport Environs Overlay Zone, the Parking Impact Overlay Zone, and the Ocean Beach Emerging Historic District, within the Ocean Beach Precise Plan and Local Coastal Program Area.

It should be noted that the decision of whether to approve or deny the above referenced Tentative Map will be made at a future hearing. That hearing will be publicly noticed in accordance with the San Diego Municipal Code. The purpose of this appeal hearing is only to consider the matter of the environmental determination.

(See Report to the City Council No. 07-043. Ocean Beach Community Plan Area. District 2.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

**STAFF SUPPORTING INFORMATION:**

**REQUESTED ACTION:**

Affirm the Development Services Department's environmental determination of exemption prepared for the 18 tentative maps/map waivers for condominium conversions listed on the attached spreadsheet, within various community plan areas.

**STAFF RECOMMENDATIONS:**

1. **Deny** the appeals and uphold the Environmental Determinations.
2. Make an express finding that the information provided by the appellant and his experts should be excluded from the record because it is argument, speculation, unsubstantiated opinion or narrative, evidence that is clearly inaccurate or erroneous, or evidence of social or economic impacts that do not contribute to, or are not caused by, physical impacts on the environment.

**EXECUTIVE SUMMARY:**

Note that this is a batch of condominium conversion appeals similar to the batch of 76 such appeals heard and denied by the City Council on July 31, 2006. Accordingly, the Executive Summary, Staff Report, and Attachments are nearly identical to those already provided in the prior hearing.

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

**Basis for Appeal:** The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant 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."

**Staff Response:** Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds.

Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City staff have determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant. The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

**FISCAL CONSIDERATIONS:**

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. The processing of each individual project to a decision will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant costs could be incurred.

**PREVIOUS COUNCIL and/or COMMITTEE ACTION:**

These same types of appeals were scheduled before the City Council on July 31, 2006. On that date, there were 76 appeals scheduled; the City Council concurred with staff and denied all 76 of the appellant's appeals.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:**

The issue of the appeal of the environmental determination has not been presented to community planning groups.

**KEY STAKEHOLDERS & PROJECTED IMPACTS:**

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry and residents.

Waring/Escobar-Eck/MS

Staff: Martha Blake - (619) 446-5375

Karen Heumann - Deputy City Attorney

**NOTE:** This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:04 p.m. – 2:07 p.m.)

Testimony in opposition of appeal by Robert Bateman and Evelyn Heidelberg.

MOTION BY FRYE TO CONTINUE TO TUESDAY, MARCH 20, 2007, TO ALLOW APPELLANT TO BE PRESENT. Second by Madaffer. Passed by the following vote: Peters-nay, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-342: 3918 Mississippi Tentative Map, Project No. 95317.

CONTINUED TO TUESDAY, MARCH 20, 2007

Owners – James Mcinnis, Jr.

Matter of the appeal by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determination by City staff that the request to convert 8 existing residential dwelling units to condominium ownership is exempt from the California Environmental Quality Act (CEQA) under CEQA Guideline Section 15301. The 0.16-acre site is located at 3918 Mississippi Street in the MR-800B Zone of Mid-City Communities Planned District and the Transit Overlay Zone, within the Greater North Park Community Plan Area.

It should be noted that the decision of whether to approve or deny the above referenced Tentative Map will be made at a future hearing. That hearing will be publicly noticed in accordance with the San Diego Municipal Code. The purpose of this appeal hearing is only to consider the matter of the environmental determination.

(See Report to the City Council No. 07-043. Greater North Park Community Plan Area. District 3.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

**STAFF SUPPORTING INFORMATION:**

**REQUESTED ACTION:**

Affirm the Development Services Department's environmental determination of exemption prepared for the 18 tentative maps/map waivers for condominium conversions listed on the attached spreadsheet, within various community plan areas.

**STAFF RECOMMENDATIONS:**

1. **Deny** the appeals and uphold the Environmental Determinations.
2. Make an express finding that the information provided by the appellant and his experts should be excluded from the record because it is argument, speculation, unsubstantiated opinion or narrative, evidence that is clearly inaccurate or erroneous, or evidence of social or economic impacts that do not contribute to, or are not caused by, physical impacts on the environment.

**EXECUTIVE SUMMARY:**

Note that this is a batch of condominium conversion appeals similar to the batch of 76 such appeals heard and denied by the City Council on July 31, 2006. Accordingly, the Executive Summary, Staff Report, and Attachments are nearly identical to those already provided in the prior hearing.

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

**Basis for Appeal:** The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act

(CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant 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."

**Staff Response:** Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds.

Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City staff have determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant. The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

**FISCAL CONSIDERATIONS:**

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. The processing of each individual project to a decision will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant costs could be incurred.

**PREVIOUS COUNCIL and/or COMMITTEE ACTION:**

These same types of appeals were scheduled before the City Council on July 31, 2006. On that date, there were 76 appeals scheduled; the City Council concurred with staff and denied all 76 of the appellant's appeals.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS & PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry and residents.

Waring/Escobar-Eck/MS

Staff: Martha Blake - (619) 446-5375  
Karen Heumann - Deputy City Attorney

**NOTE:** This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:04 p.m. – 2:07 p.m.)

Testimony in opposition of appeal by Robert Bateman and Evelyn Heidelberg.

MOTION BY FRYE TO CONTINUE TO TUESDAY, MARCH 20, 2007, TO ALLOW APPELLANT TO BE PRESENT. Second by Madaffer. Passed by the following vote: Peters-nay, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-343: 4233 Euclid Tentative Map, Project No. 100347.

CONTINUED TO TUESDAY, MARCH 20, 2007

Owners – William R. Mundt, Trustee of the William R. Mundt Trust, dated February 11, 1998.

Matter of the appeal by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determination by City staff that the request to convert 16 existing residential dwelling units to condominium ownership is exempt from the California Environmental Quality Act (CEQA) under CEQA Guideline Section 15301. The 0.29-acre site is located at 4233 Euclid Avenue in the RM-1-1 Zone of the Central Urbanized Planned District and the Transit Overlay Zone, within the City Heights Neighborhood of the Mid-City Communities Plan Area.

It should be noted that the decision of whether to approve or deny the above referenced Tentative Map will be made at a future hearing. That hearing will be publicly noticed in accordance with the San Diego Municipal Code. The purpose of this appeal hearing is only to consider the matter of the environmental determination.

(See Report to the City Council No. 07-043. City Heights Neighborhood of the Mid-City Communities Plan Area. District 7.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

**STAFF SUPPORTING INFORMATION:**

**REQUESTED ACTION:**

Affirm the Development Services Department's environmental determination of exemption prepared for the 18 tentative maps/map waivers for condominium conversions listed on the attached spreadsheet, within various community plan areas.

**STAFF RECOMMENDATIONS:**

1. **Deny** the appeals and uphold the Environmental Determinations.
2. Make an express finding that the information provided by the appellant and his experts should be excluded from the record because it is argument, speculation, unsubstantiated
3. opinion or narrative, evidence that is clearly inaccurate or erroneous, or evidence of social or economic impacts that do not contribute to, or are not caused by, physical impacts on the environment.

**EXECUTIVE SUMMARY:**

Note that this is a batch of condominium conversion appeals similar to the batch of 76 such appeals heard and denied by the City Council on July 31, 2006. Accordingly, the Executive Summary, Staff Report, and Attachments are nearly identical to those already provided in the prior hearing.

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

**Basis for Appeal:** The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant 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."

**Staff Response:** Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds.

Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City staff have determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant. The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

**FISCAL CONSIDERATIONS:**

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. The processing of each individual project to a decision will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant costs could be incurred.

**PREVIOUS COUNCIL and/or COMMITTEE ACTION:**

These same types of appeals were scheduled before the City Council on July 31, 2006. On that date, there were 76 appeals scheduled; the City Council concurred with staff and denied all 76 of the appellant's appeals.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS & PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry and residents.

Waring/Escobar-Eck/MS

Staff: Martha Blake - (619) 446-5375  
Karen Heumann - Deputy City Attorney

**NOTE:** This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:04 p.m. – 2:07 p.m.)

Testimony in opposition of appeal by Robert Bateman and Evelyn Heidelberg.

MOTION BY FRYE TO CONTINUE TO TUESDAY, MARCH 20, 2007, TO ALLOW APPELLANT TO BE PRESENT. Second by Madaffer. Passed by the following vote: Peters-nay, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-344: 3867 Mission Boulevard Tentative Map, Project No. 103946.

CONTINUED TO TUESDAY, MARCH 20, 2007

Owner – William R. Clapperton.

Matter of the appeal by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the

determination by City staff that the request to convert 2 existing residential dwelling units and 1 commercial unit to condominium ownership is exempt from the California Environmental Quality Act (CEQA) under CEQA Guideline Section 15301. The 3,068-square-foot site is located at 3867 Mission Boulevard in the NC-N Zone of the Mission Beach Planned District Zone, the Coastal Overlay Zone (Coastal-Appealable Area and Coastal Commission Jurisdiction), the Coastal Height Limit Overlay Zone, the Beach Parking Impact Overlay Zone, the Residential Tandem Parking Overlay Zone, the Transit Area Overlay Zone, the Mission Beach Precise Plan and Local Coastal Program Area.

It should be noted that the decision of whether to approve or deny the above referenced Tentative Map will be made at a future hearing. That hearing will be publicly noticed in accordance with the San Diego Municipal Code. The purpose of this appeal hearing is only to consider the matter of the environmental determination.

(See Report to Council No. 07-043. Mission Beach Community Plan Area. District 2.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

**STAFF SUPPORTING INFORMATION:**

**REQUESTED ACTION:**

Affirm the Development Services Department's environmental determination of exemption prepared for the 18 tentative maps/map waivers for condominium conversions listed on the attached spreadsheet, within various community plan areas.

**STAFF RECOMMENDATIONS:**

1. **Deny** the appeals and uphold the Environmental Determinations.
2. Make an express finding that the information provided by the appellant and his experts should be excluded from the record because it is argument, speculation, unsubstantiated opinion or narrative, evidence that is clearly inaccurate or erroneous, or evidence of social or economic impacts that do not contribute to, or are not caused by, physical impacts on the environment.

**EXECUTIVE SUMMARY:**

Note that this is a batch of condominium conversion appeals similar to the batch of 76 such appeals heard and denied by the City Council on July 31, 2006. Accordingly, the Executive Summary, Staff Report, and Attachments are nearly identical to those already provided in the prior hearing.

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

**Basis for Appeal:** The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant 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."

**Staff Response:** Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds.

Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the

projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City staff have determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant. The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

**FISCAL CONSIDERATIONS:**

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. The processing of each individual project to a decision will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant costs could be incurred.

**PREVIOUS COUNCIL and/or COMMITTEE ACTION:**

These same types of appeals were scheduled before the City Council on July 31, 2006. On that date, there were 76 appeals scheduled; the City Council concurred with staff and denied all 76 of the appellant's appeals.

**Planning Commission Decision:** The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:**

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS & PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry and residents.

Waring/Escobar-Eck/MS

Staff: Martha Blake - (619) 446-5375  
Karen Heumann - Deputy City Attorney

**NOTE:** This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:04 p.m. – 2:07 p.m.)

Testimony in opposition of appeal by Robert Bateman and Evelyn Heidelberg.

MOTION BY FRYE TO CONTINUE TO TUESDAY, MARCH 20, 2007, TO ALLOW APPELLANT TO BE PRESENT. Second by Madaffer. Passed by the following vote: Peters-nay, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-345: 4411 Cherokee Map Waiver, Project No. 112481.

CONTINUED TO TUESDAY, MARCH 20, 2007

Owner – Mercedes La Fond.

Matter of the appeal by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determination by City staff that the request to convert 2 existing residential dwelling units to condominium ownership is exempt from the California Environmental Quality Act (CEQA) under CEQA Guideline Section 15301. The 0.14-acre site is located at 4411-4413 Cherokee Avenue in the RM-1-1 Zone of the Central Urbanized Planned District and the Transit Area Overlay Zone, within the Normal Heights Neighborhood of the Mid-City Communities Plan Area.

It should be noted that the decision of whether to approve or deny the above referenced Map Waiver will be made at a future hearing. That hearing will be publicly noticed in accordance with the San Diego Municipal Code. The purpose of this appeal hearing is only to consider the matter of the environmental determination.

(See Report to Council No. 07-043. Normal Heights Neighborhood of the Mid-City Communities Plan Area. District 3.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

**STAFF SUPPORTING INFORMATION:**

**REQUESTED ACTION:**

Affirm the Development Services Department's environmental determination of exemption prepared for the 18 tentative maps/map waivers for condominium conversions listed on the attached spreadsheet, within various community plan areas.

**STAFF RECOMMENDATIONS:**

1. **Deny** the appeals and uphold the Environmental Determinations.
2. Make an express finding that the information provided by the appellant and his experts should be excluded from the record because it is argument, speculation, unsubstantiated opinion or narrative, evidence that is clearly inaccurate or erroneous, or evidence of social or economic impacts that do not contribute to, or are not caused by, physical impacts on the environment.

EXECUTIVE SUMMARY:

Note that this is a batch of condominium conversion appeals similar to the batch of 76 such appeals heard and denied by the City Council on July 31, 2006. Accordingly, the Executive Summary, Staff Report, and Attachments are nearly identical to those already provided in the prior hearing.

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant 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."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds.

Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City staff have determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant. The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

**FISCAL CONSIDERATIONS:**

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. The processing of each individual project to a decision will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant costs could be incurred.

**PREVIOUS COUNCIL and/or COMMITTEE ACTION:**

These same types of appeals were scheduled before the City Council on July 31, 2006. On that date, there were 76 appeals scheduled; the City Council concurred with staff and denied all 76 of the appellant's appeals.

**Planning Commission Decision:** The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:**

The issue of the appeal of the environmental determination has not been presented to community planning groups.

**KEY STAKEHOLDERS & PROJECTED IMPACTS:**

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry and residents.

Waring/Escobar-Eck/MS

Staff: Martha Blake - (619) 446-5375

Karen Heumann - Deputy City Attorney

**NOTE:** This item is not subject to Mayor's veto.

**FILE LOCATION:** MEET

**COUNCIL ACTION:** (Time duration: 2:04 p.m. – 2:07 p.m.)

Testimony in opposition of appeal by Robert Bateman and Evelyn Heidelberg.

MOTION BY FRYE TO CONTINUE TO TUESDAY, MARCH 20, 2007, TO ALLOW APPELLANT TO BE PRESENT. Second by Madaffer. Passed by the following vote: Peters-nay, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-346: 4585 Hilltop Map Waiver, Project No. 109331.

CONTINUED TO TUESDAY, MARCH 20, 2007

Owner – Katherine Phomphakdy.

Matter of the appeal by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determination by City staff that the request to convert 3 existing residential dwelling units to condominium ownership is exempt from the California Environmental Quality Act (CEQA) under CEQA Guideline Section 15301. The 0.23-acre site is located at 4585 Hilltop Drive in the MF-3000 Zone of the Southeastern San Diego Planned District within the Encanto Neighborhood of the Southeastern San Diego Community Plan area.

It should be noted that the decision of whether to approve or deny the above referenced Map Waiver will be made at a future hearing. That hearing will be publicly noticed in accordance with the San Diego Municipal Code. The purpose of this appeal hearing is only to consider the matter of the environmental determination.

(See Report to Council No. 07-043. Encanto Neighborhood of the Southeastern San Diego Community Plan Area. District 4.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

**STAFF SUPPORTING INFORMATION:**

**REQUESTED ACTION:**

Affirm the Development Services Department's environmental determination of exemption prepared for the 18 tentative maps/map waivers for condominium conversions listed on the attached spreadsheet, within various community plan areas.

**STAFF RECOMMENDATIONS:**

1. **Deny** the appeals and uphold the Environmental Determinations.
2. Make an express finding that the information provided by the appellant and his experts should be excluded from the record because it is argument, speculation, unsubstantiated opinion or narrative, evidence that is clearly inaccurate or erroneous, or evidence of social or economic impacts that do not contribute to, or are not caused by, physical impacts on the environment.

**EXECUTIVE SUMMARY:**

Note that this is a batch of condominium conversion appeals similar to the batch of 76 such appeals heard and denied by the City Council on July 31, 2006. Accordingly, the Executive Summary, Staff Report, and Attachments are nearly identical to those already provided in the prior hearing.

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

**Basis for Appeal:** The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act

(CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant 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."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds.

Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City staff have determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant. The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

**FISCAL CONSIDERATIONS:**

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. The processing of each individual project to a decision will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant costs could be incurred.

**PREVIOUS COUNCIL and/or COMMITTEE ACTION:**

These same types of appeals were scheduled before the City Council on July 31, 2006. On that date, there were 76 appeals scheduled; the City Council concurred with staff and denied all 76 of the appellant's appeals.

**Planning Commission Decision:** The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:**

The issue of the appeal of the environmental determination has not been presented to community planning groups.

**KEY STAKEHOLDERS & PROJECTED IMPACTS:**

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry and residents.

Waring/Escobar-Eck/MS

Staff: Martha Blake - (619) 446-5375  
Karen Heumann - Deputy City Attorney

**NOTE:** This item is not subject to Mayor's veto.

**FILE LOCATION:** MEET

**COUNCIL ACTION:** (Time duration: 2:04 p.m. – 2:07 p.m.)

Testimony in opposition of appeal by Robert Bateman and Evelyn Heidelberg.

MOTION BY FRYE TO CONTINUE TO TUESDAY, MARCH 20, 2007, TO ALLOW APPELLANT TO BE PRESENT. Second by Madaffer. Passed by the following vote: Peters-nay, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-347: 824 Sapphire Map Waiver, Project No. 117186.

CONTINUED TO TUESDAY, MARCH 20, 2007

Owner – Jonah Mechanic.

Matter of the appeal by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determination by City staff that the request to convert 4 existing residential dwelling units to condominium ownership is exempt from the California Environmental Quality Act (CEQA) under CEQA Guideline Section 15301. The 0.137-acre site is located at 824 Sapphire Street in the RM-1-1 Zone, the Coastal Overlay Zone (non-appealable area), the Coastal Height Limit Overlay Zone, the Parking Impact Overlay Zone, and the Transit Area Overlay Zone, within the Pacific Beach Community Plan Area.

It should be noted that the decision of whether to approve or deny the above referenced Map Waiver will be made at a future hearing. That hearing will be publicly noticed in accordance with the San Diego Municipal Code. The purpose of this appeal hearing is only to consider the matter of the environmental determination.

(See Report to Council No. 07-043. Pacific Beach Community Plan Area. District 2.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or

- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

**STAFF SUPPORTING INFORMATION:**

**REQUESTED ACTION:**

Affirm the Development Services Department's environmental determination of exemption prepared for the 18 tentative maps/map waivers for condominium conversions listed on the attached spreadsheet, within various community plan areas.

**STAFF RECOMMENDATIONS:**

1. **Deny** the appeals and uphold the Environmental Determinations.
2. Make an express finding that the information provided by the appellant and his experts should be excluded from the record because it is argument, speculation, unsubstantiated opinion or narrative, evidence that is clearly inaccurate or erroneous, or evidence of social or economic impacts that do not contribute to, or are not caused by, physical impacts on the environment.

**EXECUTIVE SUMMARY:**

Note that this is a batch of condominium conversion appeals similar to the batch of 76 such appeals heard and denied by the City Council on July 31, 2006. Accordingly, the Executive Summary, Staff Report, and Attachments are nearly identical to those already provided in the prior hearing.

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

**Basis for Appeal:** The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant 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."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds.

Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City staff have determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant. The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. The processing of each individual project to a decision will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant costs could be incurred.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

These same types of appeals were scheduled before the City Council on July 31, 2006. On that date, there were 76 appeals scheduled; the City Council concurred with staff and denied all 76 of the appellant's appeals.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS & PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry and residents.

Waring/Escobar-Eck/MS

Staff: Martha Blake - (619) 446-5375  
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:04 p.m. – 2:07 p.m.)

Testimony in opposition of appeal by Robert Bateman and Evelyn Heidelberg.

MOTION BY FRYE TO CONTINUE TO TUESDAY, MARCH 20, 2007, TO ALLOW APPELLANT TO BE PRESENT. Second by Madaffer. Passed by the following vote: Peters-nay, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-348: 740 Genter Map Waiver, Project No. 120245.

CONTINUED TO TUESDAY, MARCH 20, 2007

Owner – Michelle Wong.

Matter of the appeal by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determination by City staff that the request to convert 2 existing residential dwelling units to condominium ownership is exempt from the California Environmental Quality Act (CEQA) under CEQA Guideline Section 15301. The 0.167-acre site is located at 740 Genter Street in the RM-1-1 Zone, the Coastal Overlay Zone (non-appealable area), the Coastal Height Limit Overlay Zone, the Parking Impact Overlay Zone, the Transit Area Overlay Zone, and the La Jolla Community Plan and Local Coastal Program area.

It should be noted that the decision of whether to approve or deny the above referenced Map Waiver will be made at a future hearing. That hearing will be publicly noticed in accordance with the San Diego Municipal Code. The purpose of this appeal hearing is only to consider the matter of the environmental determination.

(See Report to Council No. 07-043. La Jolla Community Plan Area. District 1.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

**STAFF SUPPORTING INFORMATION:**

**REQUESTED ACTION:**

Affirm the Development Services Department's environmental determination of exemption prepared for the 18 tentative maps/map waivers for condominium conversions listed on the attached spreadsheet, within various community plan areas.

**STAFF RECOMMENDATIONS:**

1. **Deny** the appeals and uphold the Environmental Determinations.
2. Make an express finding that the information provided by the appellant and his experts should be excluded from the record because it is argument, speculation, unsubstantiated opinion or narrative, evidence that is clearly inaccurate or erroneous, or evidence of social or economic impacts that do not contribute to, or are not caused by, physical impacts on the environment.

**EXECUTIVE SUMMARY:**

Note that this is a batch of condominium conversion appeals similar to the batch of 76 such appeals heard and denied by the City Council on July 31, 2006. Accordingly, the Executive Summary, Staff Report, and Attachments are nearly identical to those already provided in the prior hearing.

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

**Basis for Appeal:** The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant 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."

**Staff Response:** Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds.

Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City staff have determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant. The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

**FISCAL CONSIDERATIONS:**

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. The processing of each individual project to a decision will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant costs could be incurred.

**PREVIOUS COUNCIL and/or COMMITTEE ACTION:**

These same types of appeals were scheduled before the City Council on July 31, 2006. On that date, there were 76 appeals scheduled; the City Council concurred with staff and denied all 76 of the appellant's appeals.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS & PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry and residents.

Waring/Escobar-Eck/MS

Staff: Martha Blake - (619) 446-5375  
Karen Heumann - Deputy City Attorney

**NOTE:** This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:04 p.m. – 2:07 p.m.)

Testimony in opposition of appeal by Robert Bateman and Evelyn Heidelberg.

MOTION BY FRYE TO CONTINUE TO TUESDAY, MARCH 20, 2007, TO ALLOW APPELLANT TO BE PRESENT. Second by Madaffer. Passed by the following vote: Peters-nay, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.



ITEM-349: Consideration of Nominees for Appointment to the San Diego Unified Port District Board of Commissioners.

(See memorandums from Mayor Sanders dated 1/4/2007 and 10/23/2006; Council President Peters and Councilmember Madaffer dated 1/4/2007; Councilmember Brian Maienschein dated 12/5/2006; and City Attorney dated 1/26/2007.)

**COUNCIL PRESIDENT PETERS' RECOMMENDATION:**

Consider the following list of nominees and select one (1) to fill vacancies on the San Diego Unified Port District Board of Commissioners:

NOMINEE

Stephen P. Cushman  
(Scripps Ranch, District 5)  
(reappointment requires a waiver of the two-  
consecutive term limit provision of  
Council Policy 000-13)

NOMINATED BY

Councilmember Brian Maienschein

Laurie J. Black  
(Mission Hills, District 2)

Council President Scott Peters and  
Councilmember Jim Madaffer

**TODAY'S ACTION IS:**

(R-2007-794)                      ADOPTED AS RESOLUTION R-302418

Adoption of a Resolution making one (1) appointment.

**NOTE:** Council Policy 000-13, as amended on 12-3-84, provides for the following procedure:

1. The Council President calls on each candidate whose name appears on the docket as a nominee to make a presentation to the Council in support of his candidacy for appointment (maximum of 3 minutes presentation each).
2. The Council President calls on members of the Council to ask brief questions of any of the candidates concerning either the presentation or matters contained in their application filed with the City.
3. The City Clerk provides ballots to the Council and each Councilmember votes for the candidates he/she feels to be most qualified for each vacancy and returns the ballots to the City Clerk. Each Councilmember has one vote per vacancy.
4. The candidates receiving the highest number of votes (minimum of five) shall be appointed to the vacancy.
5. If no candidates receive a minimum of five votes, balloting continues until there are sufficient candidates receiving a majority to fill those vacancies. In a tie

among the top vote getters, those candidates run off for the vacancies. If an insufficient number of candidates receive a majority of votes to fill all vacancies, a run off will be held among the remaining candidates to fill the remaining vacancies.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:08 p.m. – 4:42 p.m.)

Motion by Maienschein to waive the term limit policy. Second by Frye. Failed. Yeas-4, 5, 6, 8. Nays-1, 2, 3, 7.

Motion by Madaffer to Appoint Laurie J. Black to the San Diego Unified Port District Board of Commissioners. Second by Peters. Failed. Yeas-1, 2, 3, 7. Nays-4, 5, 6, 8.

MOTION BY ATKINS TO RECONSIDER THE PREVIOUS MOTION TO WAIVE THE TERM LIMIT POLICY. Second by Frye. Passed by the following vote: Peters-nay, Faulconer-nay, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-nay, Hueso-yea.

MOTION BY MAIENSCHIEIN TO WAIVE THE TERM LIMIT POLICY. Second by Frye. Passed by the following vote: Peters-nay, Faulconer-nay, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-nay, Hueso-yea.

MOTION BY FRYE TO RECONSIDER THE PREVIOUS MOTION TO APPOINT LAURIE J. BLACK TO THE SAN DIEGO UNIFIED PORT DISTRICT BOARD OF COMMISSIONERS. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

MOTION TO REAPPOINT STEPHEN CUSHMAN TO THE SAN DIEGO UNIFIED PORT DISTRICT BOARD OF COMMISSIONERS. Passed by the following vote: Peters-nay, Faulconer-nay, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-nay, Hueso-yea.

ITEM-350: Preliminary Items for Multifamily Revenue Bonds for Redwood Villa Apartments.

(See San Diego Housing Commission Report HAR-07-004. Eastern Community Area. District 4.)

**SAN DIEGO HOUSING COMMISSION'S RECOMMENDATION:**

Adopt the following resolution:

(R-2007-826)                      ADOPTED AS RESOLUTION R-302419

Declaring that this City Council, as the applicable elected representative under Section 147(f) of the Code, approves the issuance of not to exceed \$7,000,000 aggregate principal amount of multifamily housing revenue bonds (Bonds) by the Housing Authority of the City of San Diego (Authority), to finance the acquisition and rehabilitation of a multifamily rental housing project in the City of San Diego described in the Notice of Public Hearing attached as Exhibit A (Project);

Declaring that the City does not warrant the creditworthiness of the Bonds or guarantee, in any way, the payment of the Bonds. No moneys of the City will be pledged or applied to the repayment of the Bonds.

**SUPPORTING INFORMATION:**

Redwood Villa is an existing 92-unit affordable housing development for seniors located at 3060 53rd Street in the community of Oak Park. The project contains 66 one-bedroom units, 24 two-bedroom units, and two three-bedroom staff units. Interfaith proposes to refinance and rehabilitate the project using tax exempt bonds and 4% tax credits. The refinancing will allow for financial stabilization of the project, an increased term of affordability, and substantial rehabilitation of the project.

Redwood Villa currently has rent and occupancy restrictions on 74 of its 92 total units: 17 units are restricted at 50% Area Median Income (AMI) (\$27,600 for a family of two), 46 units are restricted at 60% AMI (\$33,100 for a family of two), and 11 units are restricted at 65% AMI (\$35,900 for a family of two). The remaining 18 units are unrestricted.

Through the proposed refinancing, Redwood Villa will continue to provide housing for low income seniors. As part of its agreement with the State to payoff its RHCP loan, Interfaith will continue to restrict at least 27 units at 50% AMI until the year 2018.

In addition, under the Housing Commission's Multifamily Bond Program, the project will restrict 9 units at 50% AMI and 81 units at 60% AMI for 55 years.

**FISCAL CONSIDERATIONS:**

Approval of these preliminary actions does not commit the Housing Authority to issue bonds. Should the Housing Authority at a later date authorize the issuance of bonds for the project, the bonds would not constitute a financial liability to the Housing Authority or the City of San Diego because security for repayment of the bonds would be limited to the value of the property and its revenues. Neither the faith and credit nor the taxing power of the City or the Authority would be pledged to the payment of the bonds. No local housing funds.

**PREVIOUS COUNCIL and/or COMMITTEE ACTION:**

From 1983 through 1988 the Housing Commission, City Council, and Housing Authority approved several items to facilitate the financing of Redwood Villa Apartments. On February 9, 2007, the Housing Commission recommended that the Housing Authority and City Council approve the actions described in this report.

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:**

Interfaith anticipates presenting an informational item on the refinancing and rehabilitation of the project to the Eastern Area Planning Group in the near future.

**KEY STAKEHOLDERS & PROJECTED IMPACTS:**

Low income seniors are the intended residents of the project. Interfaith will refinance and rehabilitate the project. Red Capital Group will provide debt and equity for the project. The Housing Commission has selected Public Financial Management and Stradling, Yocca Carlson & Rauth to assist in preparing the proposed financing.

Fisher/Morris

**NOTE:** See the Housing Authority Agenda of March 6, 2007 for a companion item.

**FILE LOCATION:** MEET

**COUNCIL ACTION:** (Time duration: 4:43 p.m. – 4:52 p.m.)

**MOTION BY HUESO TO ADOPT.** Second by Madaffer. Passed by the following vote: Peters-recused, Faulconer-not present, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.



ITEM-S500: Application to Workforce Housing Reward Program (WFH) for Grant Funds.

(See Report to the City Council No. 07-049 and memorandum from James T. Waring dated 2/28/2007.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2007-821) ADOPTED AS RESOLUTION R-302417

Authorizing the Mayor, the Director of the City Planning & Community Investment Department and the Assistant Director of the City Planning & Community Investment Department, or any of them, to execute, apply for, and submit the 2006 Calendar Year Workforce Housing Reward Program Application Package;

Authorizing the Mayor, the Director of the City Planning & Community Investment Department and the Assistant Director of the City Planning & Community Investment Department, or any of them, upon approval of the application by the State of California, Department of Housing and Community Development, to enter into, execute, and deliver a State of California Standard Agreement and any other WFH grant documents subject to review and approval of the City Attorney's Office, and to approve funding allocations;

Declaring this activity is not a project and therefore is exempt from the California Environmental Quality Act (CEQA) pursuant to the CEQA Guidelines Section 15060(c)(3).

Staff: Michele St. Bernard - (619) 533-4218  
Huston Carlyle – Chief Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:24 a.m. – 11:24 a.m.)

MOTION BY ATKINS TO ADOPT. Second by Young. Passed by the following vote:  
Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea,  
Madaffer-yea, Hueso-yea.

REPORT OUT OF CLOSED SESSION:

None.

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Council President Pro Tem Young at 4:54 p.m. in honor  
of the memory of:

Warren D. Phillips as requested by Council Member Atkins.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 4:53 p.m. – 4:54 p.m.)