

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
TUESDAY, MARCH 20, 2007
AT 9:00 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 9:57 a.m. Council President Peters recessed the meeting at 11:09 a.m. for the purpose of a break. Council President Peters reconvened the meeting at 11:14 a.m. with all Council Members present. The meeting was recessed by Council President Peters at 11:44 a.m. to reconvene at 2:00 p.m.

The meeting was reconvened by Council President Peters at 2:02 p.m. with Council Members Madaffer and Hueso not present. Council President Peters recessed the meeting at 2:44 p.m. to convene the Redevelopment Agency. Council President Peters reconvened the regular meeting at 2:53 p.m. with all Council Members present. Council President Peters recessed the meeting at 2:54 p.m. to convene the Housing Authority. Council President Peters reconvened the regular meeting at 3:02 p.m. with all Council Members present. Council President Peters recessed the meeting at 3:02 p.m. to convene the Housing Authority. Council President Peters reconvened the regular meeting at 3:36 p.m. with all Council Members present. The meeting was adjourned by Council President Peters at 3:48 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:

Al Stohlein commented on questions previously presented to Council.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:17 a.m. – 10:18 a.m.)

PUBLIC COMMENT-2:

Hud Collins commented on the pension and financial crisis.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:19 a.m. – 10:22 a.m.)

PUBLIC COMMENT-3:

Scott McLachlan commented on revenue from annual events in the City.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:23 a.m. – 10:25 a.m.)

PUBLIC COMMENT-4:

Marvin Winters commented on storm drain pollution.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:26 a.m. – 10:29 a.m.)

PUBLIC COMMENT-5:

Ron Boshun commented on Council actions.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:30 a.m. – 10:32 a.m.)

PUBLIC COMMENT-6:

Phil Hart commented on Council procedures.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:33 a.m. – 10:35 a.m.)

PUBLIC COMMENT-7:

Jarvis Ross commented on Mayoral actions.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:36 a.m. – 10:38 a.m.)

PUBLIC COMMENT-8:

Stewart Payne commented on storm water compliance.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:39 a.m. – 10:39 a.m.)

PUBLIC COMMENT-9:

Dave Thompson commented on Mayoral actions.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:40 – 10:42 a.m.)

COUNCIL COMMENT:

COUNCIL COMMENT-1:

Council Member Frye commented on her concern that customers are being overcharged on water bills and that she has yet to receive a response.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 10:10 a.m. – 10:11 a.m.)

COUNCIL COMMENT-2:

Council Member Faulconer commented on his recent back surgery.

FILE LOCATION: MINUTES

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

INDEPENDENT BUDGET ANALYST COMMENT:

None.

CITY ATTORNEY COMMENT:

(None.

ITEM-30: Women in Law Enforcement Day.

COUNCILMEMBER ATKINS' RECOMMENDATION:

Adopt the following resolution:

(R-2007-887) ADOPTED AS RESOLUTION R-302420

Recognizing the diversity and strength that women bring to the law enforcement community and commending Immigration and Customs Enforcement for organizing San Diego's Women's Pistol Invitational;

Proclaiming March 23, 2007, to be "Women in Law Enforcement Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 9:58 a.m. – 10:04 a.m.)

MOTION BY ATKINS 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: Vicki Touchstone Day.

COUNCILMEMBER MAIENSCHIEIN'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-833) ADOPTED AS RESOLUTION R-302421

Proclaiming March 20, 2007, to be "Vicki Touchstone Day" in the City of San Diego in recognition of the community services that she has provided the citizens of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:05 a.m. – 10:09 a.m.)

MOTION BY MAIENSCHIEIN 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-50: Joint Use Agreement with the San Diego Unified School District for Future Thurgood Marshall Middle School.

(Scripps Miramar Ranch Community Area. District 5.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 2/27/2007, Item 50. (Council voted 8-0):

(O-2007-53) ADOPTED AS ORDINANCE O-19582 (New Series)

Authorizing the Mayor, or his designee, to execute, for and on behalf of the City of San Diego (City), the lease and Agreement between the City and San Diego Unified School District (District), for the construction, operation and maintenance of turfed fields, restroom, parking lot, drinking fountains, backstops, and recreational facilities at Thurgood Marshall Middle School in the Scripps Miramar Ranch Community Planning Area;

Authorizing the addition of CIP-29-920.0, Future Thurgood Marshall Middle School, to the Fiscal Year 2007 Capital Improvements Program;

Authorizing a \$2,059,000 increase in the Fiscal Year 2007 Capital Improvements Program Budget in CIP-29-920.0, Future Thurgood Marshall Middle School, by \$1,370,000 in Special Park Fee, Fund No. 11230, \$480,000 from CIP-29-717.0, Fairbrook Neighborhood Park-Acquisition, Fund No. 11230, \$33,702 in Village and Country Settlement, Fund No. 10604, and a total of \$175,298 from Miramar Ranch North Development Agreement Funds 392110 (\$24,192), 392131 (\$21,210), 392133 (\$23,901), 392143 (\$23,691), 392162 (\$2,962), and 392164 (\$79,342);

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$2,059,000 from CIP-29-920.0, Future Thurgood Marshall Middle School, for the purpose of reimbursement to District for the construction of facilities as described in the Future Thurgood Marshall Middle School Joint Use Agreement;

Declaring this activity is categorically exempt from CEQA Guidelines pursuant to State CEQA Guidelines Section 15301.

NOTE: 6 votes required.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:13 a.m. – 10:17 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: First Amendment to Agreement with URS Corporation for the Mira Sorrento Place - Scranton Road to Vista Sorrento Parkway Project.

(Mira Mesa Community Area. District 5.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 2/27/2007, Item 51. (Council voted 8-0):

(O-2007-99) ADOPTED AS ORDINANCE O-19583 (New Series)

Authorizing the Mayor, or his designee, to execute, for and on behalf of the City of San Diego, a First Amendment to the Agreement with URS Corporation for additional professional environmental services, under the terms and conditions set forth in the document on file in the Office of the City Clerk, for CIP-52-676.0, Mira Sorrento Place - Scranton Road to Vista Sorrento Parkway, in the amount of \$63,900, Fund 79006, Mira Mesa Facilities Benefit Assessment (FBA);

Authorizing the City Auditor and Comptroller to expend an amount not to exceed \$63,900 from CIP-52-676.0, Mira Sorrento Place - Scranton Road to Vista Sorrento Parkway, Fund 79006, Mira Mesa Facilities Benefit Assessment (FBA), for the purpose of executing the aforementioned first amendment, contingent upon the City Auditor and Controller first certifying that the funds are, or will, be available in the City Treasury;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess funds, if any, to the appropriate reserves.

NOTE: 6 votes required.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:13 a.m. – 10:17 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.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 3/6/2007, Item 52. (Council voted 7-1. Councilmember Frye voted nay):

(O-2007-104) ADOPTED AS ORDINANCE O-19584 (New Series)

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.

FILE LOCATION: PURCHASE

COUNCIL ACTION: (Time duration: 10:13 a.m. – 10:17 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-nay, Madaffer-yea, Hueso-yea.

ITEM-53: Phase I Reformat of Planned District Ordinances.

(See Report to the City Council No. 07-033. Citywide.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinances which were introduced on 2/20/2007, Item 334. (Council voted 7-0. Councilmember Madaffer not present):

Subitem-A: (O-2007-65) ADOPTED AS ORDINANCE O-19585 (New Series)

Repealing Chapter 10, Article 3, Division 1, of the San Diego Municipal Code, and amending Chapter 15, Article 1, Division 1 titled "General Provisions for Planned Districts," by adding Sections 151.0101, 151.0102, and 151.0103; Division 2 titled "Permits and Procedures For Planned Districts," Sections 151.0201, 151.0202, 151.0203, and 151.0204; Division 3 titled "Zones for Planned Districts," Section 151.0301; and Division 4 titled "General and Supplemental Regulations," Section 151.0401, all relating to the General Provisions for Planned Districts.

Subitem-B: (O-2007-68) ADOPTED AS ORDINANCE O-19586 (News Series)

Repealing Chapter 10, Article 3, Division 2, of the San Diego Municipal Code, and amending Chapter 15, by adding Article 16, Division 1 titled "General Rules," Sections 1516.0101, 1516.0102, 1516.0103, 1516.0104, and 1516.0105; Division 2 titled "Permits and Procedures," Sections 1516.0201, 1516.0202, 1516.0203, and 1516.0204; Division 3 titled "Zoning and Subdistricts," Sections 1516.0301, 1516.0302, and 1516.0303; Division 4 titled "General and

Supplemental Regulations,” Sections 1516.0401, 1516.0402, 1516.0403, 1516.0404, and 1516.0405, all pertaining to the Old Town San Diego Planned District.

Subitem-C: (O-2007-78) ADOPTED AS ORDINANCE O-19587 (New Series)

Repealing Chapter 10, Article 3, Division 3, of the San Diego Municipal Code, and amending Chapter 15, Article 10, Division 1 titled “General Rules,” Sections 1510.0101, 1510.0102, 1510.0103, 1510.0104, 1510.0105, 1510.0106, 1510.0107, and 1510.0108; Division 2 titled “Permits and Procedures,” Sections 1510.0201, and 1510.0202; Division 3 titled “Zones,” Sections 1510.0301, 1510.0302, 1510.0303, 1510.0304, 1510.0305, 1510.0306, 1510.0307, 1510.0308, 1510.0309, 1510.0310, 1510.0311, 1510.0313, and 1510.0314; Division 4 titled “General and Supplemental Regulations,” Sections 1510.0401, 1510.0402, and 1510.0403, all relating to the La Jolla Shores Planned District.

Subitem-D: (O-2007-64) ADOPTED AS ORDINANCE O-19588 (New Series)

Repealing Chapter 10, Article 3, Division 4, and amending Chapter 15, by adding Article 7, Division 1 titled “General Rules,” Sections 157.0101, 157.0102, 157.0103, and 157.0104; Division 2 titled “Permits and Procedures,” Sections 157.0201, 157.0202, 157.0203, 157.0204, 157.0205 and 157.0206; Division 3 titled “Zoning and Subdistricts,” Sections 157.0301, 157.0302 and 157.0303; Division 4 titled “General and Supplemental Regulations,” Sections 157.0401, 157.0402, 157.0403, 157.0404, and 157.0405, all relating to the Gaslamp Planned District.

Subitem-E: (O-2007-80) ADOPTED AS ORDINANCE O-19589 (New Series)

Repealing Chapter 10, Article 3, Division 5, of the San Diego Municipal Code, and amending Chapter 15, by adding Article 13, Division 1 titled “General Rules,” Sections 1513.0101, 1513.0102, 1513.0103, 1513.0104, and 1513.0105; Division 2 titled “Permits and Procedures,” Sections 1513.0201, 1513.0202, and 1513.0203; Division 3 titled “Zones and Subdistricts,” Sections 1513.0301, 1513.0302, 1513.0303, 1513.0304, 1513.0305, 1513.0306, and 1513.0307; Division 4 titled “General and Supplemental Regulations,” Sections 1513.0401, 1513.0402, 1513.0403, and 1513.0404, all relating to the Mission Beach Planned District.

Subitem-F: (O-2007-62) ADOPTED AS ORDINANCE O-19590 (New Series)

Repealing Chapter 10, Article 3, Division 6, of the San Diego Municipal Code, and amending Chapter 15, by adding Article 3, Division 1 titled "General Rules," Sections 153.0101, 153.0102, and 153.0103; Division 2 titled "Permits and Procedures," Sections 153.0201 and 153.0202; Division 3 titled "Zones," Sections 153.0301, 153.0302, 153.0303, 153.0304, 153.0305, 153.0306, 153.0307, 153.0308, 153.0309, 153.0310, 153.0311, 153.0312, 153.0313, and 153.0314; Division 4 titled "General Supplemental Regulations," Sections 154.0401, 154.0402 and 154.0403, all relating to the Carmel Valley Planned District.

Subitem-G: (O-2007-76) ADOPTED AS ORDINANCE O-19591 (New Series)

Repealing Chapter 10, Article 3, Division 7, and amending Chapter 15, by adding Article 8, Division 1 titled "General Rules," Sections 158.0101, 158.0102, 158.0103, and 151.0104; Division 2 titled "Permits and Procedures," Sections 158.0201, 158.0202, 158.0203, 158.0204, 158.0205, 158.0206, and 158.0207; Division 3 titled "Zoning," Sections 158.0301, 158.0302, and 158.0303; Division 4 titled "General and Supplemental Regulations," Sections 158.0401, 158.0402, 158.0403, 158.0404, 158.0405, 158.0406, 158.0407, 158.0408, and Appendix, all relating to the Golden Hill Planned District.

Subitem-H: (O-2007-75) ADOPTED AS ORDINANCE O-19592 (New Series)

Repealing Chapter 10, Article 3, Division 9 of the San Diego Municipal Code, and amending Chapter 15, by adding Article 2, Division 1 titled "General Rule," Sections 152.0100, 152.0101, 152.0102, 152.0103, and 152.0104; Division 2 titled "Permits and Procedures," Sections 152.0201 and 152.0202; Division 3 titled "Zoning and Subdistricts," Sections 152.0301, 152.0302, 152.0303, 152.0304, 152.0305, 152.0306, 152.0307, 152.0308, 152.0309, 152.0310, 152.0311, 152.0312, 152.0313, 152.0314, 152.0315, 152.0316, 152.0317, 152.0318, and 152.0319; Division 4 titled "General and Supplemental Regulations," all relating to Barrio Logan Planned District.

Subitem-I: (O-2007-67) ADOPTED AS ORDINANCE O-19593 (New Series)

Repealing Chapter 10, Article 3, Division 10, of the San Diego Municipal Code, and amending Chapter 15, Division 1 titled "General Rules," Sections 1515.0101, 1515.0102, and 1515.0103; Division 2 titled "Permits and Procedures," Sections 1515.0201 and 1515.0202; Division 3 titled "Zoning and Subdistricts," Sections 1515.0301, 1515.0302, 1515.0303, 1515.0304, 1515.0305, 1515.0306,

1515.0307, 1515.0308, 1515.0309, and 1515.0310; Division 4 titled "General and Supplemental Regulations," Sections 1515.0401, 1515.0402, 1515.0403, 1515.0404, 1515.0405, and 1515.0406, all relating to the Mount Hope Planned District.

Subitem-J: (O-2007-82) ADOPTED AS ORDINANCE O-19594 (New Series)

Repealing Chapter 10, Article 3, Division 11, of the San Diego Municipal Code, and amending Chapter 15, by adding Article 17, Division 1 titled "General Rules," Sections 1517.0101, 1517.0102, 1517.0103, and 1517.0104; Division 2 titled "Permits and Procedures," Sections 1517.0201, 1517.0202, 1517.0203, 1517.0204, and 1517.0205; Division 3 titled "Zones and Subdistricts," Sections 1517.0301, 1517.0302, 1517.0303, 1517.0304, 1517.0305, and 1517.0306; Division 4 titled "General and Supplemental Regulations," Sections 1517.0401, 1517.0402, 1517.0403, and 1517.0404, all relating to the Otay Mesa Development District.

Subitem-K: (O-2007-77) ADOPTED AS ORDINANCE O-19595 (New Series)

Repealing Chapter 10, Article 3, Division 12, of the San Diego Municipal Code, and amending Chapter 15, by adding Article 9, Division 1 titled "General Rules," Sections 159.0101, 159.0102, 159.0103, 159.0110, and 159.0111; Division 2 titled "Permits and Procedures," Sections 159.0201, 159.0202, 159.0204, 159.0205, 159.0206, 159.0207, 159.0208, 159.0210, and 159.0211; Division 3 titled "Zones," Sections 159.0301, 159.0302, 159.0303, 159.0304, 159.0305, 159.0306, 159.0307, 159.0308, and 159.0309; Division 4 titled "General and Supplemental Regulations," Sections 159.0401, 159.0402, 159.0403, 159.0404, 159.0405, 159.0406, 159.0407, 159.0408, and 159.0409, and Appendixes A through G, all relating to the La Jolla Planned District.

Subitem-L: (O-2007-70) ADOPTED AS ORDINANCE O-19596 (New Series)

Repealing Chapter 10, Article 3, Division 13, of the San Diego Municipal Code, and amending Chapter 15, by adding Article 20, Division 1 titled "General Rules," Sections 1520.0101, 1520.0102, and 1520.0103; Division 2 titled "Permits and Procedures," Sections 1520.0201, 1520.0202, and 1520.0203; Division 3 titled "Zones," Sections 1520.0301, 1520.0302, and 1520.0303; Division 4 titled "General and Supplemental Regulations," Sections 1520.0401 and 1520.0402, all related to the West Lewis Street Planned District.

Subitem-M: (O-2007-63) ADOPTED AS ORDINANCE O-19597 (New Series)

Repealing Chapter 10, Article 3, Division 14, of the San Diego Municipal Code, and amending Chapter 15, by adding Article 4, Division 1 titled "General Rules," Sections 154.0101, 154.0102, 154.0103, and 154.0104; Division 2 titled "Permits and Procedures," Sections 154.0201, 154.0202, 154.0203, 154.0204, 154.0205, and 154.0206; Division 3 titled "Zoning and Subdistricts," Sections 154.0301, 154.0302, 154.0303, and 154.0304; Division 4 titled "General and Supplemental Regulations," Sections 154.0401, 154.0402, 154.0403, 154.0405, and 154.0406, all relating to the Cass Street Commercial Planned District.

Subitem-N: (O-2007-79) ADOPTED AS ORDINANCE O-19598 (New Series)

Repealing Chapter 10, Article 3, Division 15, of the San Diego Municipal Code, and amending Chapter 15, by adding Article 12, Division 1 titled "General Rules," Sections 1512.0101, 1512.0102, 1512.0103, and 1512.0110; Division 2 titled "Permits and Procedures," Sections 1512.0201, 1512.0202, 1512.0203, and 1512.0204; Division 3 titled "Zoning," Sections 1512.0301, 1512.0302, 1512.0303, 1512.0304, 1512.0305, 1512.0306, 1512.0307, 1512.0308, 1512.0309, 1512.0310, 1512.0311, and 1512.0312; Division 4 titled "General and Supplemental Regulations," Sections 1512.0401, 1512.0402, 1512.0403, 1512.0404, 1512.0405, 1512.0406, 1512.0407, and 1512.0408, all relating to the Mid-City Planned District.

Subitem-O: (O-2007-83) ADOPTED AS ORDINANCE O-19599 (New Series)

Repealing Chapter 10, Article 3, Division 17, of the San Diego Municipal Code, and amending Chapter 15, by adding Article 19, Division 1 titled "General Rules," Sections 1519.0101, 1519.0102, and 1519.0103; Division 2 titled "Permits and Procedures," Sections 1519.0201, 1519.0202, 1519.0203, 1519.0204, and 1519.0205; Division 3 titled "Zoning," Sections 1519.0301, 1519.0302, 1519.0303, 1519.0304, and 1519.0305; Division 4 titled "General and Supplemental Regulations," Sections 1519.0401, 1519.0402, 1519.0403, 1519.0404, 1519.0405, 1519.0406, 1519.0407, and Appendixes A through U, all relating to the Southeastern San Diego Planned District.

Subitem-P: (O-2007-66) ADOPTED AS ORDINANCE O-19600 (New Series)

Repealing Chapter 10, Article 3, Division 20, of the San Diego Municipal Code, and amending Chapter 15, by adding Article 11, Division 1 titled "General Rules," Sections 1511.0101, 1511.0102, 1511.0103, and 1511.0104; Division 2 titled "Permits and Procedures," Sections 1511.0201, 1511.0202, 1511.0203, and

1511.0204; Division 3 titled "Zoning and Subdistricts," Sections 1511.0301 and 1511.0302; Division 4 titled "General and Supplemental Regulations," Sections 1511.0401, 1511.0402, 1511.0403, and 1511.0404, all relating to the Marina Planned District.

Subitem-Q: (O-2007-81) ADOPTED AS ORDINANCE O-19601 (New Series)

Repealing Chapter 10, Article 3, Division 21, and amending Chapter 15, by adding Article 14, Division 1 titled "General Rules," Sections 1515.0101, 1515.0102, 1514.0103, and 1514.0104; Division 2 titled "Permits and Procedures," Sections 1514.0201, 1514.0202, 1514.0203, 1514.0204, and 1514.0205; Division 3 titled "Zoning and Subdistricts," Sections 1514.0301, 1514.0302, 1514.0303, 1514.0304, 1514.0305, 1514.0306, and 1514.0307; Division 4 titled "General and Supplemental Regulations," Sections 1514.0401, 1514.0402, 1514.0403, 1514.0404, 1514.0405, 1514.0406, 1514.0407, 1514.0408, and Appendixes B through E, all relating to the Mission Valley Planned District.

Subitem-R: (O-2007-69) ADOPTED AS ORDINANCE O-19602 (New Series)

Repealing Chapter 10, Article 3, Division 22, of the San Diego Municipal Code, and amending Chapter 15, by adding Article 18, Division 1 titled "General Rules," Sections 1518.0101, 1518.0102, and 1518.0103; Division 2 titled "Permits and Procedures," Sections 1518.0201, 1518.0202, and 1518.0203; Division 3 titled "Zoning," Sections 1518.0301 and 1518.0302; Division 4 titled "General and Supplemental Regulations," Sections 1518.0401 and 1518.0402, and Appendixes A, B and C, all relating to the San Ysidro Planned District.

Subitem-S: (O-2007-74) ADOPTED AS ORDINANCE O-19603 (New Series)

Amending Chapter 11, Article 1, Division 1 of the San Diego Municipal Code by amending Section 111.0101, pertaining to the title "Land Development Code," and by amending Chapter 14, Article 1, Division 3 titled "Residential Use Category-Separately Regulated Uses," by amending Section 141.0302, pertaining to Companion Units.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:43 a.m. – 10:46 a.m.)

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

ITEM-100: Inviting Bids for the Public Works Contract of Sidewalk Replacement Group I FY 2007.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-840) CONTINUED TO TUESDAY, MARCH 27, 2007

Amending the Fiscal Year 2007 Capital Improvements Program Budget for CIP-59-002.0, Sidewalks-Replacement and Reconstruction, by increasing the budget amount by \$964,691;

Authorizing the City Auditor and Comptroller to transfer an amount not to exceed \$964,691 from Street Division General Operating Fund 100 to Street Division CIP-63-022.1, for the purpose of funding CIP-59-002.0, Sidewalks-Replacement and Reconstruction, contingent upon the City Auditor and Comptroller first certifying that the funds are, or will be, on deposit with the City Treasurer;

Authorizing the appropriation and expenditure of an amount not to exceed \$964,691 from CIP-59-002.0, solely and exclusively, for the purpose of funding a construction contract and related expenses for Sidewalk Replacement Group I, FY 07, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditures are, or will be, on deposit with the City Treasurer;

Approving the plans and specifications for the construction of Sidewalk Replacement Group I, FY 07 (Project);

Authorizing the Mayor, or his designee, after advertising for bids in accordance with law, to award the Project contract to the lowest responsible and reliable bidder in an amount not to exceed \$722,000, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer;

Approving the use of City Forces on the Project for the purpose of funding a construction contract and related expenses for a cost not to exceed \$964,691;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess budgeted funds, if any, to the appropriate reserves;

Declaring this activity is exempt from the California Environmental Quality Act pursuant to CEQA Guidelines Section 15301 because this activity is the repair of existing public facilities.

STAFF SUPPORTING INFORMATION:

This action will provide for the replacement of concrete surfaces in all Council Districts which have been damaged by parkway trees. The contractor will be required to carefully remove existing tree roots before replacing the damaged concrete. Extensive coordination is also required between the contractor and the root pruning service in order to preserve the trees. The Street Division maintains over 5,000 miles of sidewalks. Specific sidewalk and curb/gutter locations for this project were selected from the Street Division's concrete repair backlog for tree root damaged sites. Locations which need repair are reported by City personnel, and/or residents.

Street Division uses the following factors to identify and prioritize repair locations for both contractual services and City forces work: the severity of the damage, the age of the request, other repair projects occurring at the same location, and utility conflicts. While the severity of the damage and the age of the request are the highest priorities, if best management practices dictate grouping jobs in the same geographic area, that course of action will be considered regardless of the age of the request. Damage rating factors from 1 to 4, with "1" being extensive damage to the right-of-way, "2" moderate, "3" routine, and "4" minimal damage, are also applied and considered in the prioritization.

It is projected that approximately 341 locations will be completed by this contract. Locations to be repaired include sidewalks, curbs/gutters, and curb ramps throughout the City. A list of locations will be provided to the Mayor and Council Members, which may be revised prior to construction in order to coordinate with any construction conflicts that may arise. Construction is expected to start in May of 2007 and be completed in November of 2007.

In addition to the construction contract of \$722,000, the following costs will be paid for by the Street Division Operating Fund: \$98,291 for Tree Maintenance, \$36,100 for Construction

Contingency, and \$108,300 for Design, Project Management and Inspection, for a total of \$964,691.

FISCAL CONSIDERATIONS:

\$964,691 in funds for this project are available in Street Division Operating Fund 100. The Auditors Certificate will be issued prior to award.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The list of locations for sidewalk replacement on this contract will be provided at the Council Staff Briefing.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Citizens will be notified by the contractor when sidewalk replacement at their property will begin.

Sierra/Haas

Aud. Cert. 2700567.

Staff: Mohammad Sammak - (619) 527-7504
Timothy J. Miller - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:12 a.m. – 10:13 a.m.)

MOTION BY ATKINS TO CONTINUE THIS ITEM TO TUESDAY, MARCH 27, 2007, FOR FURTHER REVIEW. 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-101: Inviting Bids for the Public Works Contract for Sidewalk Replacement Group II FY 2007.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-839) CONTINUED TO TUESDAY, MARCH 27, 2007

Amending the Fiscal Year 2007 Capital Improvements Program Budget for CIP-59-002.0, Sidewalks-Replacement and Reconstruction, by increasing the budget amount by \$600,000;

Authorizing the City Auditor and Comptroller to transfer an amount not to exceed \$600,000 from Street Division General Operating Fund 100 to Street Division CIP-63-022.1, for the purpose of funding CIP-59-002.0, Sidewalks-Replacement and Reconstruction, contingent upon the City Auditor and Comptroller first certifying that the funds are, or will be, on deposit with the City Treasurer;

Authorizing the appropriation and expenditure of an amount not to exceed \$600,000 from CIP-59-002.0, solely and exclusively, for the purpose of providing funds for Sidewalk Replacement Group II, FY 07, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditures are, or will be, on deposit with the City Treasurer;

Approving the plans and specifications for the construction of Sidewalk Replacement Group II, FY 07 (Project);

Authorizing the Mayor, or his designee, after advertising for bids in accordance with law, to award the Project contract to the lowest responsible and reliable bidder in an amount not to exceed \$480,000, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess budgeted funds, if any, to the appropriate reserves;

Declaring this activity is exempt from the California Environmental Quality Act pursuant to CEQA Guidelines Section 15301 because this activity is the repair of existing public facilities.

STAFF SUPPORTING INFORMATION:

This action will provide for the replacement of damaged concrete surfaces in all Council Districts. The Street Division maintains over 5,000 miles of sidewalks. Specific sidewalk and curb/gutter locations for this project were selected from the Street Division's concrete repair

backlog. Locations which need repair are reported by City personnel, and/or residents. Street Division uses the following factors to identify and prioritize repair locations for both contractual services and City forces work: the severity of the damage, the age of the request, other repair projects occurring at the same location, and utility conflicts.

While the severity of the damage and the age of the request are the highest priorities, if best management practices dictate grouping jobs in the same geographic area, that course of action will be considered regardless of the age of the request. Damage rating factors from 1 to 4, with "1" being extensive damage to the right-of-way, "2" moderate, "3" routine, and "4" minimal damage, are also applied and considered in the prioritization.

It is projected that approximately 240 locations will be completed by this contract. Locations to be repaired include sidewalks, curbs/gutters, cross gutters, and curb ramps throughout the City. A list of locations will be provided to the Mayor and Council Members, which may be revised prior to construction in order to coordinate with any construction conflicts that may arise. Construction is expected to start in June of 2007 and be completed in October of 2007.

In addition to the construction contract of \$480,000, the following costs will be paid for by the Street Division Operating Fund: \$24,000 for Construction Contingency, and \$96,000 for Design, Project Management and Inspection, for a total of \$600,000.

FISCAL CONSIDERATIONS:

\$600,000 in funds for this project are available in Street Division Operating Fund 100. The Auditors Certificate will be issued prior to award.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The list of locations for sidewalk replacement on this contract will be provided at the Council Staff Briefing.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Citizens will be notified by the contractor when sidewalk replacement at their property will begin.

Sierra/Haas

Aud. Cert. 2700566.

Staff: Mohammad Sammak - (619) 527-7504
Timothy J. Miller - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:12 a.m. – 10:13 a.m.)

MOTION BY ATKINS TO CONTINUE THIS ITEM TO TUESDAY, MARCH 27, 2007, FOR FURTHER REVIEW. 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-102: Additional Funding for Participation Agreement for Wastewater Mains 39th Street Village Sewer Project.

(See MWWD's Executive Summary Sheet dated November 2, 2006. City Heights Community Area. District 3.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2007-667) ADOPTED AS RESOLUTION R-302422

Authorizing the City Auditor and Comptroller to transfer the amount of \$250,317 within Sewer Fund 41506, from CIP-45-975.0, Annual Allocation - Developer Projects, to CIP-44-001.0, Annual Allocation - Sewer Main Replacements, Metro Career Center 39th Street Village Project;

Authorizing the Mayor, or his designee, to execute the First Amendment to the Participation Agreement;

Authorizing the expenditure of an amount not to exceed \$250,317 from Sewer Fund 41506, CIP-44-001.0, Annual Allocation - Sewer Main Replacements, Metro Career Center 39th Street Village Project, solely and exclusively, to provide funds for the above amendment;

Declaring that this activity is exempt from the California Environmental Quality Act pursuant to CEQA Guidelines Sections 15301(b) and 15282(k) and Public Resources Code Section 21080.21 as repair or replacement of existing sewer pipe.

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 1/24/2007, NR&C voted 4 to 0 to approve. (Councilmembers Faulconer, Maienschein, Frye, and Hueso voted yea.)

SUPPORTING INFORMATION:

As a condition of the development of the Metro Career Center 39th Street Village Project (Metro Villas), the Developer was required to make improvements to the public wastewater system. The City of San Diego entered into a Participation Agreement with the San Diego Revitalization Corporation for the design and construction of approximately 2,800 linear feet of 8" (PVC) sewer main and appurtenant facilities pursuant to City Drawing No. 31906-D, on file in the Office of the City Clerk per Resolution R-299383.

The original scope of the project included replacement of old sewer mains within the footprint of the development. During construction, it was found that the mains downstream of the project were deteriorated and in poor condition and in need of replacement. The contractor replaced 1,940 feet of old main downstream of his project in order to reduce the chance of sewer spills.

Additional costs were incurred during the installation of 1,700 lineal feet of new 8" sewer main from University Ave. to Landis St. The soils in the area are expansive clays that become soft and flowable when wet. During construction, the trench in the alley caved in on both sides. As a result, the contractor had to utilize wider trench shoring, and in some places a trench shield box had to be brought in to protect workers. A considerable amount of saturated soil needed to be removed from the site as it was unsuitable for trench backfill, and replacement soil had to be brought in. Because of soil undermining and the difficult construction challenges resulting from the type of shoring required, much of the alley paving was damaged and needed replacement. Also in some places extra work had to be done because of unforeseen, non-recorded utilities including unmarked traffic signal cables, water laterals and fiber optic lines.

All work has been completed to the satisfaction of the City Engineer. Field Engineering (City of San Diego) has reviewed the documentation submitted by Urban Development, the contractor for this project, pertaining to the change order in the amount of \$250,317 associated with the Metro Career Center project and approved the documentation. The project is a utility located in the public right of way at the previous grade and alignment, so it is exempt from CEQA. On future projects, environmental review for offsite mains will be performed if applicable.

This action provides for the authorization of funding to pay for the final change order to the Participation Agreement.

FISCAL CONSIDERATIONS:

The total estimated cost of this project is \$568,978. Funding for this action in the amount of \$250,317 will be transferred in and will be available in Sewer Fund 41506, CIP-44-226.7, Metro Career Center 39th Street Village Project. No additional funding is anticipated. This action can potentially be funded from future bond issues.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

Council Resolution R-299383 (6/24/2004).

This item was reviewed and approved by the Natural Resources & Culture Committee on January 24, 2007. The approval received was unanimous.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The Developer contacted and briefed the community on the project.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

San Diego Revitalization Corporation
Urban-Waste Development

Ferrier

Aud. Cert. 2700368.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:13 a.m. – 10:17 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: Additional Funding for Annual Allocations-Point Loma and South Bay Plants.

(See Executive Summary Sheet dated 10/25/2006. Peninsula and Tijuana River Valley Community Areas. Districts 2 and 8.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2007-646) ADOPTED AS RESOLUTION R-302423

Authorizing the City Auditor and Comptroller to transfer the amount of \$1,500,000 from Sewer Fund No. 41509, CIP-41-926.0, Annual Allocation - Metropolitan System Pump Station, as follows: \$750,000 to Sewer Fund No. 41508, CIP-46-119.0, Annual Allocation - Point Loma Treatment Plant and Related Facilities; and \$750,000 to Sewer Fund No. 41509, CIP-45-932.0, Annual Allocation - South Bay Water Reclamation Plant;

Authorizing the expenditure of an amount not to exceed \$1,500,000, solely and exclusively, to provide funds for various renovations and upgrades, to be expended as follows: \$750,000 from Sewer Fund No. 41508, CIP-46-119.0, Annual Allocation - Point Loma Treatment Plant & Related Facilities, including the South Use Areas and 84-inch Penstock Improvements; and \$750,000 from Sewer Fund No. 41509, CIP-45-932.0, Annual Allocation - South Bay Water Reclamation Plant, including the third reclaimed water pump, reclaimed water drain line, and telemetry work;

Declaring the above expenditures are contingent on appropriate approval and award of one or more contracts for performance of the above projects, if said projects will not be performed by City forces, and provided that the City Auditor and Comptroller first furnishes one or more certificates demonstrating that the funds necessary for expenditure under such contracts are, or will be, on deposit in the City Treasury;

Declaring this activity is not a project and therefore is not subject to the California Environmental Quality Act pursuant to CEQA Guidelines Sections 15060(c)(3) and 15004.

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 12/06/2006, NR&C voted 3 to 0 to approve. (Councilmembers Faulconer, Frye, and Hueso voted yea. Councilmember Atkins not present.)

SUPPORTING INFORMATION:

The Metropolitan Wastewater Department (MWWD) uses annual allocations to fund minor renovations and upgrades of equipment and facilities at its treatment plants and pump stations. Due to budget constraints related to a lack of bond financing, MWWD conducted a review of proposed Capital Improvement Projects at all of its treatment plants and pump stations and updated its list of priority projects. Based on the revised priority list, there are insufficient funds in the Annual Allocations for the Point Loma Wastewater Treatment Plant (CIP-46-119.0) and

the South Bay Water Reclamation Plant (CIP-45-932.0) to implement priority projects at these facilities. This request is to transfer funds from lower priority projects into these two Annual Allocations. Funds are available in Annual Allocation - Metropolitan System Pump Stations (CIP-41-926.0) for transfer.

Funding for the Point Loma Treatment Plant will be used for construction of the South Use Area improvements and seismic retrofit of the 84-inch penstock. Funding for the South Bay Water Reclamation Plant will be used for installation of a third reclaimed water pump, motor and variable frequency drive, a reclaimed water drain line and telemetry systems.

FISCAL CONSIDERATIONS:

The total amount of this request is \$1,500,000. This transfer will not impact the sewer rate case. Funds are available from Sewer Fund 41509, CIP-41-926.0 Annual Allocation - Metropolitan System Pump Stations. With this transfer lower priority pump station projects will be deferred by one year. The potential risk associated with this delay is not considered significant.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

This item was reviewed and approved by the Natural Resources and Culture Committee on December 6, 2006.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

This item was reviewed and approved by the Metro Commission on February 8, 2007.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable): N/A

Ferrier/Haas

Aud. Cert. 2700344.

FILE LOCATION: MEET

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

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

* ITEM-104: Consultant Agreement with Psomas for Seismic Upgrades.

(See Water Department/Engineering & CIP Management Division's Executive Summary Sheet.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2007-844) ADOPTED AS RESOLUTION R-302424

Authorizing the Mayor, or his designee, to execute, for and on behalf of the City of San Diego, the Agreement with Psomas, for an amount not to exceed \$352,034 for design engineering services for seismic upgrades, under the terms and conditions set forth in the Agreement, together with any reasonably necessary modifications or amendments thereto which do not increase the Project scope or cost and which the Mayor, or his designee, shall deem necessary in order to carry out the purposes and intent of this Project and Agreement;

Authorizing the appropriation and expenditure of an amount not to exceed \$228,814 from Water Fund No. 41500, CIP-73-910.0, Annual Allocation Seismic Upgrades (Fault Crossing Retrofits to Large Pipelines) and \$299,220 from Water Fund No. 41500, CIP-73-910.0, Annual Allocation Seismic Upgrades (Landslide/Liquefaction Pipeline Mitigation), solely and exclusively, for the purpose of providing funds for the design engineering services and Project related costs, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditures are, or will be, on deposit with the City Treasurer;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess funds, if any, to the appropriate reserves;

Declaring that this activity is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15301.

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 1/24/2007, NR&C voted 4 to 0 to approve. (Councilmembers Faulconer, Maienschein, Frye, and Hueso voted yea.)

SUPPORTING INFORMATION:

A Seismic Vulnerability Study of the City's water system was completed in January 2002 identifying a number of large diameter pipelines that cross the active Rose Canyon Fault or cross liquefiable soils. The transmission pipelines identified cross the Rose Canyon fault and serve the coastal communities of Midtown, Mission Hills, Old Town, Little Italy, Pacific Beach, Bay Park and Barrio Logan; and the other transmission pipelines cross liquefiable soils located in Serra Mesa, Mission Valley East, Kearny Mesa, Tiersasanta, and Grantville are identified for improvement. For each of the locations, a seismic retrofit will be developed to support rapid restoration of water service to these areas. The program objective is to reduce the overall risk and reduce or avoid costs of disaster-related damage to public infrastructures.

In 2005, the City's Office of Homeland Security applied for Federal Emergency Management Administration (FEMA) grant for \$3 million to retrofit 14 sites. The Grant was approved on April 3, 2006, through "Notification of Application Approval FY05 Pre-Disaster Mitigation Competitive Program Grant #20050011, OES #073-660000, Project #PJ105." This grant program is a 75% Federal share of approved mitigation projects based on favorable cost benefit analysis. The project grant performance period is from February 1, 2006 through January 31, 2009.

The Water Department initiated a Request For Qualifications (RFQ) process and selected Psomas to prepare plans, specifications, emergency response plan and operations and maintenance manual for these sites for a lump sum amount of \$352,034.

FISCAL CONSIDERATIONS:

The total cost for Psomas consultant contract and in-house cost is \$528,034. Funding in amount of \$228,814 is available as follows: \$88,635 in CIP-73-910.1 (Fault Crossing Retrofits to Large

Pipelines) Account 4279 and \$140,179 from CIP-73-910.0 - Annual Allocation-Seismic Upgrades. Funding in amount of \$299,220 is available as follows: \$113,000 in CIP-73-910.3 (Landslide/Liquefaction Pipeline Mitigation) Account 4279 and \$186,220 from CIP-73-910.0 - Annual Allocation-Seismic Upgrades. This funding is not part of the proposed rate increase. Of the total project cost, FEMA will reimburse 75% (\$396,025.50) when grant conditions are met, 20% (\$105,606.80) will be reimbursed from proceeds from the Subordinated Water Revenue Notes, Series 2007A, and the remaining 5% (\$26,401.70) will be cash funded.

PREVIOUS COUNCIL COMMITTEE ACTION:

On May 3, 2005, Council authorized the City Manager (R-300373) to apply for and receive the FEMA Grant in support of the Seismic Retrofit of Water Transmission Pipelines. On January 24, 2007, Natural Resources and Culture Committee approved this requested action.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Community outreach to affected areas will be conducted prior to construction of the improvements to be designed under this contract.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

The key stakeholders are the water rate payers and residents of the City of San Diego, Water Department customers, State OES and FEMA, Psomas and sub-consultants: DEC Consultants, Katz, Okitzu & Associates, Ninyo & Moore, and ABS Consulting. Failure to mitigate these transmission pipelines could hinder the City's ability to fight fires and could limit the rapid restoration of water service after a large earthquake event along the Fault Crossing and Landslide/Liquefaction areas.

Barrett/Haas

Aud. Cert. 2700558.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:13 a.m. – 10:17 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: Approval of CSAC-EIA (California State Association of Counties-Excess Insurance Authority) Joint Powers Agreement as Amended February 28, 2006.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-834) ADOPTED AS RESOLUTION R-302425

Authorizing the Mayor to execute, for and on behalf of the City, an agreement with the California State Association of Counties-Excess Insurance Authority (CSAC-EIA), Joint Powers Agreement as amended on February 28, 2006, providing for the merger of California State Association of Counties (CSAC) and California Public Entities Insurance Authority (CPEIA), its sister organization, under one governance agreement to continue participation in Property and Liability programs.

STAFF SUPPORTING INFORMATION:

In 1994 the County of San Diego joined CSAC-EIA (California State Association of Counties-Excess Insurance Authority) as a full member, for purchase of All Risk Property Insurance. At the time, the City, County and Housing Commission jointly purchased their property insurance together. CSAC agreed to provide coverage for the City and San Diego Housing Commission under a separate contract from the County. The City Council authorized this contract and the purchase of Property Insurance under Council Resolution R-284234 on July 5, 1994 and by Resolution R-295325 August 2001 and by Resolution R-300766 in August 2005, valid thru August 2010. For clarification, CSAC-EIA is a separate legal entity unrelated to the "CSAC Legislative Organization".

Approximately five years ago CSAC created a sister organization CPEIA (California Public Entities Insurance Authority) to allow other non-counties to join CSAC for acquisition of insurance. Although non-county members acquire insurance through the same programs, they do not participate directly in the governing board of CSAC. This year CSAC-EIA is restructuring to allow non-counties to join CSAC directly instead of via their sister organization CPEIA with the intent of (1) incorporating CPEIA into CSAC and (2) eliminating CPEIA. Council adoption of this agreement allows non-county members limited participation in CSAC's Board of Directors and Executive Committee that was not previously available. The restructure will not impact the coverages the City receives and the City will continue to participate in the same insurance programs.

CSAC is the largest pooled casualty insurance joint power authority in the nation. The joint purchase of insurance through CSAC has allowed the City to obtain broader coverages, greater earthquake capacity and higher coverage limits that may not have been available without CSAC's joint buying power. The combined size of the organization has also led to long term rate stability. Approval of the requested action authorizes the Mayor to execute the revised Joint Powers Agreement.

Failure to adopt this new Joint Powers Agreement will result in the City's withdrawal from membership, effective March 31, 2007 for Property Insurance and July 1, 2007 for General Liability, and staff will need to secure other insurance coverages with other carriers by those dates at an increased cost.

FISCAL CONSIDERATIONS: N/A

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

Approval of continuing membership with CSAC and purchase of Property and Liability Insurance from August 2005 to August 2010 by Resolution R-300766 on August 8, 2005.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A.

KEY STAKEHOLDERS AND PROJECTED IMPACTS: N/A.

Bych/Goldstone

Staff: Peter Yee - (619) 533-6188
William J. Gersten - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:13 a.m. – 10:17 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: Balboa Park Informational Kiosk Donation and Operating Agreement.

(District 3.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-235) ADOPTED AS RESOLUTION R-302426

Authorizing the Mayor, or his designee, to execute a Donation and Operating Agreement (Agreement) between the City and Friends of Balboa Park, a California public benefit corporation (Friends), for a three-year pilot program, after which the Mayor, or his designee, shall report to the Council on the results of the pilot program and recommend further action;

Authorizing the Mayor, or his designee, to accept on behalf of the City, a donation from Friends of up to five interactive informational kiosks in Balboa Park pursuant to the Agreement;

Authorizing the City Auditor and Comptroller to accept, appropriate, and expend funds generated under the Agreement on Balboa Park projects, within the following accounting: Fund # 10365, Park and Recreation Community Matching Funds, Department # 10365, Organization # 2443, Job Order # 244345, Balboa Park Kiosks.

STAFF SUPPORTING INFORMATION:

The Balboa Park Master Plan provides for directories/kiosks as a benefit to residents and Park visitors (adopted by City Council on July 25, 1989). This recommendation is repeated and further defined in the subsequent Central Mesa Precise Plan (adopted by City Council on October 20, 1992).

The Friends of Balboa Park (Friends) is a 501(c)(3) non-profit organization whose mission is to preserve and promote Balboa Park's resources. To that end, the Friends wish to implement the recommendation of the information kiosks identified in the Central Mesa Precise Plan. The Friends have hired a consultant to prepare drawings for the kiosks, and have raised funds for their construction. The kiosks will be donated to the City, with long-term management of the kiosks being performed by the Friends. Friends will sub-contract the long-term management of the kiosks to Kiosk Arts, LLC.

FISCAL CONSIDERATIONS:

Friends will be responsible for the cost of construction and installation of the kiosks as well as maintenance of the electronics and hardware. The City will provide electrical service to the kiosks and provide exterior maintenance of the kiosks, exclusive of exterior displays.

The proposed Agreement will generate revenue that will be shared equally by the City and the Friends sub-contractor, Kiosk Arts, LLC. Revenue due the City will be deposited into a special account for use by the City, in conjunction with the Friends, on Balboa Park projects.

PREVIOUS COUNCIL and/or COMMITTEE ACTION

On July 25, 1989, City Council adopted the Balboa Park Master Plan (Resolution No. R-274089).

On October 20, 1992, City Council adopted the Balboa Park Central Mesa Precise Plan (Resolution No. R-280920).

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On November 14, 2001, the Park and Recreation Board's Design Review Committee recommended approval of the design and locations of the kiosks.

On October 6, 2005, the Park and Recreation Board's Balboa Park Committee recommended approval of the design and location of the kiosks and the Donation and Operating Agreement.

On November 30, 2006, the Historical Resources Board's Design Assistance Subcommittee recommended approval of the design and location of the kiosks

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

This project has been presented to the Balboa Park Cultural Partnership and the Balboa Park Cultural Assembly, and has received endorsement from both groups. Other stakeholders include Estrada Land Planning as the design consultant and Kiosk Arts LLC as the maintenance and management subcontractor to Friends.

Penera/Kummerman

Staff: Gary Stromberg - (619) 235-1157
Brock Ladewig – Chief Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:13 a.m. – 10:17 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-107: Accepting Developer Impact Fees Fiscal Year 2006 Annual Report.

(See Report to the City Council No. 07-051.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-855) ADOPTED AS RESOLUTION R-302427

Declaring that the Council of the City of San Diego has reviewed and accepts the Developer Fees FY 2006 Annual Report, with attachments, as set forth in the Report to the City Council No. 07-051;

Finding, with respect to funds reflected in the Developer Fees FY 2006 Annual Report as having been collected over five years before June 30, 2006, and as stated in Attachment 6 of the Developer Fees FY 2006 Annual Report, that the documentation: (1) Identifies the purpose to which the fee is to be put; (2) Demonstrates a reasonable relationship between the fee and the purpose for which it is charged; and (3) Identifies sources and amounts of funding anticipated to complete financing of incomplete improvements and the approximate dates on which such funding is expected to be deposited into the appropriate fund.

Staff: Pam Bernasconi - (619) 533-3677
Brant C. Will - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:47 a.m. – 11:03 a.m.)

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

* ITEM-108: Spay Day USA.

COUNCILMEMBER ATKINS' RECOMMENDATION:

Adopt the following resolution:

(R-2007-835) ADOPTED AS RESOLUTION R-302428

Proclaiming February 27, 2007, to be "Spay Day USA" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:13 a.m. – 10:17 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-109: Dr. William W. Beck Day.

COUNCILMEMBER ATKINS' RECOMMENDATION:

Adopt the following resolution:

(R-2007-846) ADOPTED AS RESOLUTION R-302429

Recognizing Dr. William W. Beck and commending him for his commitment to
the political process and the Lesbian, Gay, Bisexual and Transgender (LGBT)
community;

Proclaiming March 2, 2007 to be “Dr. William W. Beck Day” in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:13 a.m. – 10:17 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-110: Pamela Lawton Wilson Day.

COUNCILMEMBER ATKINS’ RECOMMENDATION:

Adopt the following resolution:

(R-2007-845) ADOPTED AS RESOLUTION R-302430

Recognizing Pamela Lawton Wilson Esq., and commending her for her commitment to the law, the political process, and the Lesbian, Gay, Bisexual and Transgender (LGBT) community;

Proclaiming March 2, 2007, to be “Pamela Lawton Wilson Day” in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:13 a.m. – 10:17 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-111: The Vietnamese 30th Anniversary Commemoration Day.

COUNCILMEMBER MAIENSCHIN'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-842) ADOPTED AS RESOLUTION R-302431

Proclaiming March 4, 2007, to be "The Vietnamese 30th Anniversary Commemoration Day" in the City of San Diego in recognition of all their accomplishments and contributions.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:13 a.m. – 10:17 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-112: Jim Denton Day.

COUNCILMEMBER MAIENSCHIN'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-843) ADOPTED AS RESOLUTION R-302432

Proclaiming March 15, 2007 to be "Jim Denton Day" in the City of San Diego in recognition of the community services that he has provided the citizens of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:13 a.m. – 10:17 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-113: World Water Day.

COUNCILMEMBER FRYE'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-868) ADOPTED AS RESOLUTION R-302433

Declaring that on behalf of the people of San Diego, the Council of the City of San Diego, with support from United Nations Association San Diego, Surfrider Foundation, and SurfAid International, does hereby proclaim March 22, 2007, to be "World Water Day" in the City of San Diego and does hereby urge all to commemorate, through water conservation and education, World Water Day.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:13 a.m. – 10:17 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-114: Excusing Councilmember Madaffer from Attending the Budget and Finance Committee Meeting of February 28, 2007.

COUNCILMEMBER MADAFFER'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-836) ADOPTED AS RESOLUTION R-302434

Excusing Councilmember Jim Madaffer from attending the regularly scheduled
Committee on Budget and Finance Meeting of February 28, 2007.

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

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:13 a.m. – 10:17 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-115: Excusing Councilmember Madaffer from Attending the City Council Meeting of
February 20, 2007.

COUNCILMEMBER MADAFFER'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-827) ADOPTED AS RESOLUTION R-302435

Excusing Councilmember Jim Madaffer from attending the regularly scheduled
City Council Meeting on February 20, 2007.

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

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:13 a.m. – 10:17 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-116: 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-2007-653) ADOPTED AS RESOLUTION R-302436

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: 10:13 a.m. – 10:17 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-117: 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-2007-687) ADOPTED AS RESOLUTION R-302437

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: 11:03 a.m. – 11:09 a.m.)

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

ITEM-330: 740 Genter Map Waiver, Project No. 120245.

DENIED APPEAL; ADOPTED AS RESOLUTION
R-302438

Owner – Michelle Wong.

(Continued from the meeting of March 6, 2007, Item 348, at the request of Councilmember Frye, to allow appellant to be present.)

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.)

NOTE: Hearing open. Testimony taken on March 6, 2007.

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

3. 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: 2:06 p.m. – 2:13 p.m.)

Testimony in opposition of the appeal by Chris Christensen.

Testimony in favor of the appeal by Cory Briggs.

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

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

DENIED APPEAL; ADOPTED AS RESOLUTION
R-302439

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

(Continued from the meeting of March 6, 2007, Item 331, at the request of Councilmember Frye, to allow appellant to be present.)

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.)

NOTE: Hearing open. Testimony taken on March 6, 2007.

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: 2:13 p.m. – 2:15 p.m.)

Testimony in opposition of the appeal by Robert Bateman.

Testimony in favor of the appeal by Cory Briggs.

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

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

DENIED APPEAL; ADOPTED AS RESOLUTION
R-302440

Owners – George Kung and Jean Cheng.

(Continued from the meeting of March 6, 2007, Item 332, at the request of Councilmember Frye, to allow appellant to be present.)

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.)

NOTE: Hearing open. Testimony taken on March 6, 2007.

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: 2:16 p.m. – 2:16 p.m.)

Testimony in favor of the appeal by Cory Briggs.

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

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

DENIED APPEAL; ADOPTED AS RESOLUTION
R-302441

Owners – George Kung and Jean Cheng.

(Continued from the meeting of March 6, 2007, Item 333, at the request of Councilmember Frye, to allow appellant to be present.)

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.)

NOTE: Hearing open. Testimony taken on March 6, 2007.

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: 2:16 p.m. – 2:16 p.m.)

Testimony in favor of the appeal by Cory Briggs.

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

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

DENIED APPEAL; ADOPTED AS RESOLUTION
R-302442

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

(Continued from the meeting of March 6, 2007, Item 334, at the request of Councilmember Frye, to allow appellant to be present.)

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.)

NOTE: Hearing open. Testimony taken on March 6, 2007.

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: 2:17 p.m. – 2:17 p.m.)

Testimony in favor of the appeal by Cory Briggs.

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

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

DENIED APPEAL; ADOPTED AS RESOLUTION
R-302443

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

(Continued from the meeting of March 6, 2007, Item 335, at the request of Councilmember Frye, to allow appellant to be present.)

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.)

NOTE: Hearing open. Testimony taken on March 6, 2007.

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: 2:17 p.m. – 2:17 p.m.)

Testimony in favor of the appeal by Cory Briggs.

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

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

DENIED APPEAL; ADOPTED AS RESOLUTION
R-302444

Owners – EQR – Derwood Vistas, Inc.

(Continued from the meeting of March 6, 2007, Item 336, at the request of Councilmember Frye, to allow appellant to be present.)

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.)

NOTE: Hearing open. Testimony taken on March 6, 2007.

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: 2:17 p.m. – 2:17 p.m.)

Testimony in favor of the appeal by Cory Briggs.

MOTION BY MAIENSCHIN TO ADOPT THE RESOLUTION TO DENY THE APPEAL. Second by Madaffer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

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

DENIED APPEAL; ADOPTED AS RESOLUTION
R-302445

Owners – Dan Floit and L-20, LLC.

(Continued from the meeting of March 6, 2007, Item 337, at the request of Councilmember Frye, to allow appellant to be present.)

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.)

NOTE: Hearing open. Testimony taken on March 6, 2007.

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: 2:18 p.m. – 2:18 p.m.)

Testimony in favor of the appeal by Cory Briggs.

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

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

DENIED APPEAL; ADOPTED AS RESOLUTION
R-302446

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

(Continued from the meeting of March 6, 2007, Item 338, at the request of Councilmember Frye, to allow appellant to be present.)

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.)

NOTE: Hearing open. Testimony taken on March 6, 2007.

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: 2:18 p.m. – 2:22 p.m.)

Testimony in opposition of the appeal by Evelyn Heidelberg.

Testimony in favor of the appeal by Cory Briggs.

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

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

**DENIED APPEAL; ADOPTED AS RESOLUTION
R-302447**

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

(Continued from the meeting of March 6, 2007, Item 339, at the request of Councilmember Frye, to allow appellant to be present.)

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.)

NOTE: Hearing open. Testimony taken on March 6, 2007.

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: 2:22 p.m. – 2:22 p.m.)

Testimony in favor of the appeal by Cory Briggs.

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

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

DENIED APPEAL; ADOPTED AS RESOLUTION
R-302448

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

(Continued from the meeting of March 6, 2007, Item 340, at the request of Councilmember Frye, to allow appellant to be present.)

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.)

NOTE: Hearing open. Testimony taken on March 6, 2007.

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: 2:23 p.m. – 2:23 p.m.)

Testimony in opposition of the appeal by Evelyn Heidelberg.

Testimony in favor of the appeal by Cory Briggs.

MOTION BY YOUNG TO ADOPT THE RESOLUTION TO DENY THE APPEAL.

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

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

DENIED APPEAL; ADOPTED AS RESOLUTION
R-302449

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

(Continued from the meeting of March 6, 2007, Item 341, at the request of Councilmember Frye, to allow appellant to be present.)

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.)

NOTE: Hearing open. Testimony taken on March 6, 2007.

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: 2:23 p.m. – 2:23 p.m.)

Testimony in favor of the appeal by Cory Briggs.

MOTION BY FAULCONER TO ADOPT THE RESOLUTION TO DENY THE APPEAL. Second by Atkins. Passed by the following vote: Peters-yea, Falconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

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

DENIED APPEAL; ADOPTED AS RESOLUTION
R-302450

Owners – James Mcinnis, Jr.

(Continued from the meeting of March 6, 2007, Item 342, at the request of Councilmember Frye, to allow appellant to be present.)

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.)

NOTE: Hearing open. Testimony taken on March 6, 2007.

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: 2:24 p.m. – 2:24 p.m.)

Testimony in opposition of the appeal by Evelyn Heidelberg.

Testimony in favor of the appeal by Cory Briggs.

MOTION BY ATKINS TO ADOPT THE RESOLUTION TO DENY THE APPEAL.

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

DENIED APPEAL; ADOPTED AS RESOLUTION
R-302451

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

(Continued from the meeting of March 6, 2007, Item 343, at the request of Councilmember Frye, to allow appellant to be present.)

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.)

NOTE: Hearing open. Testimony taken on March 6, 2007.

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: 2:24 p.m. – 2:24 p.m.)

Testimony in favor of the appeal by Cory Briggs.

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

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

DENIED APPEAL; ADOPTED AS RESOLUTION
R-302452

Owner – William R. Clapperton.

(Continued from the meeting of March 6, 2007, Item 344, at the request of Councilmember Frye, to allow appellant to be present.)

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.)

NOTE: Hearing open. Testimony taken on March 6, 2007.

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: 2:25 p.m. – 2:25 p.m.)

Testimony in favor of the appeal by Cory Briggs.

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

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

DENIED APPEAL; ADOPTED AS RESOLUTION
R-302453

Owner – Mercedes La Fond.

(Continued from the meeting of March 6, 2007, Item 345, at the request of Councilmember Frye, to allow appellant to be present.)

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.)

NOTE: Hearing open. Testimony taken on March 6, 2007.

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: 2:25 p.m. – 2:25 p.m.)

Testimony in favor of the appeal by Cory Briggs.

MOTION BY ATKINS TO ADOPT THE RESOLUTION TO DENY THE APPEAL.

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

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

DENIED APPEAL; ADOPTED AS RESOLUTION
R-302454

Owner – Katherine Phomphakdy.

(Continued from the meeting of March 6, 2007, Item 346, at the request of Councilmember Frye, to allow appellant to be present.)

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.)

NOTE: Hearing open. Testimony taken on March 6, 2007.

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: 2:26 p.m. – 2:26 p.m.)

Testimony in favor of the appeal by Cory Briggs.

MOTION BY YOUNG TO ADOPT THE RESOLUTION TO DENY THE APPEAL.
Second by Madaffer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

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

DENIED APPEAL; ADOPTED AS RESOLUTION
R-302455

Owner – Jonah Mechanic.

(Continued from the meeting of March 6, 2007, Item 347, at the request of Councilmember Frye, to allow appellant to be present.)

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.)

NOTE: Hearing open. Testimony taken on March 6, 2007.

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: 2:26 p.m. – 2:26 p.m.)

Testimony in favor of the appeal by Cory Briggs.

MOTION BY FAULCONER TO ADOPT THE RESOLUTION TO DENY THE APPEAL. 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-348: Two actions related to Pacific Beach Drive Tentative Map.

Matter of the appeal by Matt Browar, Owner and Applicant, of the Planning Commission's decision denying an application for a Coastal Development Permit and Tentative Map (Process 4) including a request to waive the requirement to underground the existing utilities and to convert an existing, 32 residential dwelling unit apartment complex into 32 residential condominium units on a 0.575 acre site. The property is located at 1327-1335 Pacific Beach Drive, in the RM-2-4 Zone, Coastal Overlay Zone (non-appealable), Coastal Height Limit Overlay Zone, Beach Parking Impact Overlay Zone and within the Pacific Beach Community Plan Area.

Should the condominium conversion project be approved, tenants may be required to vacate the premises. No units may be sold in this building unless the conversion is approved by the city and until after a public report is issued by the

Department of Real Estate. Each tenant has the exclusive right to contract for the purchase of his or her respective unit upon the same terms and conditions that such unit will be initially offered to the general public or terms more favorable to the tenant. The right shall run for a period of not less than 90 days from the date of issuance of the subdivision public report pursuant to Section 11018.2 of the Business and Professions Code, unless the tenant gives prior written notice of his or her intention not to exercise the right.

If you are an existing tenant within this project, you may have rights to certain benefits as outlined in San Diego Municipal Code Section 144.0503. To learn more information regarding these benefits, please contact the Housing Commission at (619) 578-7580, or find the details on their website at: <http://www.sdhc.net/haotherprog1h.shtml>.

This project was determined to be categorically exempt from the California Environmental Quality Act (CEQA) on August 24, 2005, and the opportunity to appeal that determination ended September 7, 2005. The scope of the subject hearing only includes the project, and not the environmental determination.

(Project No. 78142. Pacific Beach Community Plan Area. District 2.)

STAFF'S RECOMMENDATION:

Take the following actions:

Subitem-A: (R-2007-) GRANTED APPEAL AND GRANTED MAP;
ADOPTED AS RESOLUTION R-302456

Adoption of a Resolution granting or denying the appeal and granting or denying Tentative Map No. 242528, including the waiver of the requirement to underground existing overhead utilities No. 242528, with appropriate findings to support Council action;

Directing the City Attorney to prepare the appropriate resolution(s) according to Section 40 of the City Charter.

Subitem-B: (R-2007-) GRANTED APPEAL AND GRANTED PERMIT;
ADOPTED AS RESOLUTION R-302457

Adoption of a Resolution granting or denying the appeal and granting or denying Coastal Development Permit No. 245571, with appropriate findings to support Council action;

Directing the City Attorney to prepare the appropriate resolution(s) according to Section 40 of the City Charter.

OTHER RECOMMENDATIONS:

Planning Commission on January 11, 2007, voted 6-0-1 to deny; no opposition.

Ayes: Griswold, Ontai, Schultz, Garcia, Otsuji, Naslund
(one vacancy)

The Pacific Beach Community Planning Committee has recommended approval of this project.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

Appeal of the Planning Commission's denial of a Coastal Development Permit, Tentative Map, and Waiver of Undergrounding of Utilities to allow for the conversion of thirty-two existing dwelling units to condominium ownership on a 29,989 square-foot site zoned RM-2-4 at 1327 Pacific Beach Drive within the Pacific Beach Community Planning area.

STAFF RECOMMENDATION:

APPROVE the appeal and approve Coastal Development Permit No. 245571 and Tentative Map and Waiver of Undergrounding No. 242528.

EXECUTIVE SUMMARY:

The '1327 Pacific Beach Drive' project proposes to convert thirty-two residential dwelling units to condominium ownership. No physical changes are proposed for the site. The request to waive the undergrounding of existing overhead utilities complies with the City Council's Policy No. 600-25 for the granting of the request. The City Council's regulations for condominium conversions, adopted on June 13, 2006, have not been certified by the California Coastal Commission and are not therefore applicable to this project.

The applicant is appealing the Planning Commission's decision to require a Building Conditions Report and Landscape Concept Plan, and to execute the physical improvements required by those plans prior to approval of the Final Map and satisfactory to the City Engineer. Had this project not been located within the Coastal Overlay Zone and deemed complete after June 13, 2006, this project would have been required to comply with the amendments to the Condominium Conversion Ordinance. However, the new condominium conversion regulations are not applicable to this project, which means there is no legal requirement for either a Building Conditions Report or Landscape Concept Plan (This is City Staff's rationale for recommending approval of the appeal).

In three previous appeals by this applicant, the City Council adopted a compromise which allowed this condo converter to complete a Building Conditions Report and execute the required physical improvements prior to the sale of the first unit (which will likely occur long after the recordation of the final map). City staff does not recommend this approach as it does not provide a mechanism for the City Engineer to verify that the improvements have been completed. If City Council should desire to impose these requirements, they should uphold the Planning Commission's decision to require compliance prior to recordation of a final map.

The San Diego Housing Commission has determined that an in-lieu fee of \$114,000.00 is required under the City of San Diego Affordable Housing requirements of the Inclusionary Housing Ordinance. All 'findings' for approval of the project by the City Council are contained in the Tentative Map and Coastal Development Permit Resolutions attached to the Report to the Planning Commission No. PC-07-005.

FISCAL CONSIDERATIONS:

All costs associated with the processing of this project are paid by the applicant.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

On January 11, 2007, the Planning Commission voted 6-0-1 to deny these actions based on Finding No. 2 of the Tentative Map Resolution No. 4200-PC. Finding No. 2 requires the decision-maker to consider the effects of the subdivision on the housing needs of the region balanced against the needs for public services, and fiscal and environmental resources. The Planning Commission requests that applicants voluntarily submit a Building Conditions Report and agree to implement repairs and upgrades accordingly as recommended prior to map recordation. The applicant stated that because of no immediate plans to convert within 5 years, and most likely longer, he did not want to abide by this encumbrance.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The Pacific Beach Community Planning Committee voted 7-6-0 on January 25, 2006, to recommend approval of this application with no conditions. There was some concern regarding the off-street parking requirement.

KEY STAKEHOLDERS:

Matthew S. and Nancy A. Browar, M. S. Browar Family Trust, Owner/Applicant.

Waring/Escobar-Eck/GG

Staff: Glenn Gargas – (619) 446-5142

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:28 p.m. – 2:40 p.m.)

MOTION BY FAULCONER TO GRANT THE APPEAL AND GRANT THE MAP IN SUBITEM A AND GRANT THE APPEAL AND GRANT THE PERMIT IN SUBITEM B. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-349: 7090 Caminito La Benera.

Matter of approving, conditionally approving, modifying or denying an application for Coastal Development Permit No. 253217, Planned Development Permit No. 376832 to amend Planned Residential Development (PRD) No. 11, Lot-Line Adjustment No. 376833, and Easement Vacation No. 387178 for the reallocation of 1,031.9 square feet of private open space from lot 170-A to lot 115 within La Jolla Soledad West Unit No. 2, located at 7090 Caminito La Benera within the La Jolla Community Plan.

(Coastal Development Permit No. 253217/Planned Development Permit No. 376832/Easement Vacation No. 387178/Lot Line Adjustment No. 376833/Project No. 80936. La Jolla Community Plan Area. District 1.)

STAFF'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2007-695) ADOPTED AS RESOLUTION R-302458

Adoption of a Resolution vacating and abandoning a 1,031.9 square foot portion of an open space easement located in La Jolla on Lot 170-A, Parcel 2, Map No. 7268.

Subitem-B: (R-2007-696) ADOPTED AS RESOLUTION R-302459

Adoption of a Resolution granting a Coastal Development Permit and Planned Development Permit to amend Planned Residential Development Permit No. 11 for La Jolla Soledad West Unit No. 2, Map No. 7268 and Lot 170-A, Parcel 2, Map No. 7268.

Subitem-C: (R-2007-856) ADOPTED AS RESOLUTION R-302460

Adoption of a Resolution approving a Lot Line Adjustment of the boundaries between Lot 115, La Jolla Soledad West Unit No. 2, Map No. 7268 and Lot 170-A, Parcel 2, Map No. 7268.

OTHER RECOMMENDATIONS:

Planning Commission on November 2, 2006, voted 6-0-1 to approve; no opposition.

Ayes: Schultz, Garcia, Chase, Ontai, Otsuji, Naslund

Not present: Griswold

The La Jolla Community Planning Association has recommended approval of this project.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

Approve, modify or deny a request for the reallocation of 1,031.9 square feet of an open space easement from lot 170-A to lot 115 within La Jolla Soledad West Unit No. 2, located at 7090 Caminito La Benera within the La Jolla Community Plan area.

STAFF RECOMMENDATION:

1. Recommend that the City Council **Approve** Coastal Development Permit No. 253217 and Planned Development Permit No. 376832;
2. Recommend that the City Council **Approve** Easement Vacation No. 387178;

EXECUTIVE SUMMARY:

This property is developed with a detached single-family residence, attached two-car garage, driveway, three patios, fencing, and landscaping. The project proposes a lot line adjustment to reallocate 1,031.9 square feet of lot area by reducing the size of lot 170-A (containing an open space easement) from 34,808.55 square feet to 33,776.65 square feet, and increasing the size of lot 115 (developed lot) from 7,097.28 square feet to 8,129.18 square feet. The lot line adjustment will incorporate additions to the original house which were built over the original property line and into the adjacent open space lot. These additions were built with City of San Diego Permit No. A40500.

On December 9, 2004, the Homeowners Association for La Jolla Soledad West (known as “La Jolla Soledad West, Inc.”) and Justin Halenza, Owner/Applicant agreed to a Settlement and Release to resolve the encroachment and any differences between the parties. The Coastal Development Permit (CDP) is required within the boundaries of the Coastal Overlay Zone for a Lot Line Adjustment (LLA) to incorporate the encroached area into the applicant’s ownership.

The Planned Development Permit (PDP) is required to remove the encroached area from the existing Planned Residential Development (PRD) No. 11. The Easement Vacation is required as the encroached upon area is a manufactured slope landscaped and maintained by La Jolla Soledad West, Inc. as PRD open space covered by an open space easement.

FISCAL CONSIDERATIONS:

None with this action. All costs associated with the processing of this project application are borne by the applicant through a deposit account maintained throughout the process.

PREVIOUS COMMITTEE ACTION

Planning Commission Recommendation: On November 2, 2006, the Planning Commission voted 6-0-1 to recommend approval of the project.

There were no speakers in opposition at the Planning Commission Recommendation Hearing.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On August 3, 2006, the La Jolla Community Planning Association voted 13-0-0 on their consent agenda to approve the project with no conditions.

KEY STAKEHOLDERS:

Justin Halenza, Owner/Applicant and La Jolla Soledad West, Inc., Owner.

Waring/Escobar-Eck/JC

NOTE: The City of San Diego as Lead Agency under CEQA has determined that the proposed activity is categorically exempt pursuant to Article 19, Section 15301(K), Existing Facilities, of the State CEQA Guidelines.

Staff: John Cruz – (619) 446-5439
Nina M. Fain – Deputy City Attorney

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:23 p.m. – 2:23 p.m.)

MOTION BY MADAFFER TO ADOPT THE RESOLUTIONS. 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-350: 4321 Cass Street Tentative Map.

Matter of the appeal by Matt Brower from the decision by the Planning Commission denying an application for a Coastal Development Permit and Tentative Map including a request to waive the requirement to underground the existing utilities and to convert an existing, 10 residential dwelling unit apartment complex into 10 residential condominium units on a 0.14 acre site. The property is located at 4321 Cass Street, in the CC-4-2 Zone, Coastal Overlay Zone (non-appealable), Coastal Height Limit Overlay Zone, Beach Parking Impact Overlay Zone and within the Pacific Beach Community Plan Area.

(Project No. 78866/Coastal Development Permit No. 248157/Tentative Map and Waiver of Undergrounding No. 245473. Pacific Beach Community Plan Area. District 2.)

STAFF'S RECOMMENDATION:

Take the following actions:

Subitem-A: (R-2007-) GRANTED APPEAL AND GRANTED PERMIT;
ADOPTED AS RESOLUTION R-302461

Adoption of a Resolution granting or denying the appeal and granting or denying Coastal Development Permit No. 248157, with appropriate findings to support Council action;

Directing the City Attorney to prepare the appropriate resolutions according to Section 40 of the City Charter.

Subitem-B: (R-2007-) GRANTED APPEAL AND GRANTED MAP;
ADOPTED AS RESOLUTION R-302462

Adoption of a Resolution granting or denying the appeal and granting or denying Tentative Map and Waiver of Undergrounding No. 245473, with appropriate findings to support Council action;

Directing the City Attorney to prepare the appropriate resolutions according to Section 40 of the City Charter.

OTHER RECOMMENDATIONS:

Planning Commission on January 11, 2007, voted 6-0-1 to deny staff's recommendation; no opposition.

Nays: Schultz, Garcia, Griswold, Ontai, Otsuji, Naslund
(One vacancy)

The Pacific Beach Community Planning Committee has recommended approval of this project.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

Appeal of the Planning Commission's denial of a Coastal Development Permit, Tentative Map, and Waiver of Undergrounding of Utilities to allow for the conversion of ten existing dwelling units to condominium ownership on a 6,246 square-foot site zoned CC-4-2 at 4321 Cass Street with in the Pacific Beach Community Planning area.

STAFF RECOMMENDATION:

APPROVE the appeal and approve Coastal Development Permit No. 248157 and Tentative Map and Waiver of Undergrounding No. 245473.

EXECUTIVE SUMMARY:

The '4321 Cass Street TM' project proposes to convert ten residential dwelling units to condominium ownership. No physical changes are proposed for the site. The request to waive the undergrounding of existing overhead utilities complies with the City Council's Policy No. 600-25 for the granting of the request. The City Council's regulations for condominium conversions, adopted on June 13, 2006, have not been certified by the California Coastal Commission and are therefore not applicable to this project.

The applicant is appealing the Planning Commission's decision to require a Building Conditions Report and Landscape Concept Plan, and to execute the physical improvements required by those plans prior to approval of the Final Map and satisfactory to the City Engineer. Had this project not been located within the Coastal Overlay Zone and deemed complete after June 13, 2006, this project would have been required to comply with the amendments to the Condominium Conversion Ordinance. However, the new condominium conversion regulations are not applicable to this project, which means there is no legal requirement for either a Building Conditions Report or Landscape Concept Plan (This is City Staff's rationale for recommending approval of the appeal).

In three previous appeals by this applicant, the City Council adopted a compromise which allowed this condo converter to complete a Building Conditions Report and execute the required physical improvements prior to the sale of the first unit (which will likely occur long after the recordation of the final map).

City staff does not recommend this approach as it does not provide a mechanism for the City Engineer to verify that the improvements have been completed. If City Council should desire to impose these requirements, they should uphold the Planning Commission's decision to require compliance prior to recordation of a final map.

The San Diego Housing Commission has determined that an in-lieu fee of \$7,875 is required under the City of San Diego Affordable Housing requirements of the Inclusionary Housing Ordinance. All 'findings' for approval of the project by the City Council are contained in the Tentative Map and Coastal Development Permit Resolutions attached to the Report to the Planning Commission No. PC-07-008.

FISCAL CONSIDERATIONS:

All costs associated with the processing of this project are paid by the applicant.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

On January 11, 2007, the Planning Commission voted 6-0-1 to deny these actions based on Finding No. 2 of the Tentative Map Resolution No. 4203-PC. Finding No. 2 requires the decision-maker to consider the effects of the subdivision on the housing needs of the region balanced against the needs for public services, and fiscal and environmental resources. The Planning Commission requests that applicants voluntarily submit a Building Conditions Report and agree to implement repairs and upgrades accordingly as recommended prior to map recordation. The applicant stated that because of no immediate plans to convert within 5 years, and most likely longer, he did not want to abide by this encumbrance.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The Pacific Beach Community Planning Committee voted 10-3-0 on January 25, 2006, to recommend approval of this application with no conditions

KEY STAKEHOLDERS:

Matthew S. and Nancy A. Browar, M. S. Browar Family Trust, Owner/Applicant.

Waring/Escobar-Eck/GG

Staff: Glenn Gargas – (619) 446-5142

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:32 p.m. – 2:41 p.m.)

MOTION BY FAULCONER TO GRANT THE APPEAL AND GRANT THE PERMIT IN SUBITEM A AND GRANT THE APPEAL AND GRANT THE MAP IN SUBITEM B. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-351: 6504 La Jolla Tentative Map.

Matter of the appeal by Matt Browar, Owner & Applicant, of the Planning Commission's decision denying an application for a Coastal Development Permit and Tentative Map (Process 4) including a request to waive the requirement to underground the existing utilities and to convert an existing, 11 residential dwelling unit apartment complex into 11 residential condominium units on a 0.25 acre site. The property is located at 6504-6512 La Jolla Boulevard, in the RM-3-7 Zone, Coastal Overlay Zone (non-appealable), Coastal Height Limit Overlay Zone and within the La Jolla Community Plan Area.

Should the condominium conversion project be approved, tenants may be required to vacate the premises. No units may be sold in this building unless the conversion is approved by the city and until after a public report is issued by the Department of Real Estate. Each tenant has the exclusive right to contract for the purchase of his or her respective unit upon the same terms and conditions that such unit will be initially offered to the general public or terms more favorable to the tenant. The right shall run for a period of not less than 90 days from the date of issuance of the subdivision public report pursuant to Section 11018.2 of the Business and Professions Code, unless the tenant gives prior written notice of his or her intention not to exercise the right.

If you are an existing tenant within this project, you may have rights to certain benefits as outlined in San Diego Municipal Code Section 144.0503. To learn more information regarding these benefits, please contact the Housing Commission at (619) 578-7580, or find the details on their website at: <http://www.sdhc.net/haotherprog1h.shtml>.

This project was determined to be categorically exempt from the California Environmental Quality Act (CEQA) on August 23, 2005 and the opportunity to appeal that determination ended September 7, 2005. The scope of the subject hearing only includes the project, and not the environmental determination.

(Project No. 78327. La Jolla Community Plan Area. District 1.)

STAFF'S RECOMMENDATION:

Take the following actions:

Subitem-A: (R-2007-) GRANTED APPEAL AND GRANTED PERMIT;
ADOPTED AS RESOLUTION R-302463

Adoption of a Resolution granting or denying the appeal and granting or denying Coastal Development Permit No. 246499, with appropriate findings to support Council action;

Directing the City Attorney to prepare the appropriate resolution according to Section 40 of the City Charter.

Subitem-B: (R-2007-) GRANTED APPEAL AND GRANTED MAP;
ADOPTED AS RESOLUTION R-302464

Adoption of a Resolution granting or denying the appeal and granting or denying Tentative Map No. 243257, including the waiver of the requirement to underground existing overhead utilities No. 243257, with appropriate findings to support Council action.

OTHER RECOMMENDATIONS:

Planning Commission on January 11, 2007, voted 6-0-1 to deny; no opposition.

Ayes: Griswold, Ontai, Schultz, Garcia, Otsuji, Naslund
(one vacancy)

The La Jolla Community Planning Group has recommended approval of this project.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

Appeal of the Planning Commission's denial of a Coastal Development Permit, Tentative Map, and Waiver of Undergrounding of Utilities to allow for the conversion of eleven existing dwelling units to condominium ownership on an 11,125 square-foot site zoned RM-3-7 at 6504 La Jolla Boulevard within the La Jolla Community Planning area.

STAFF RECOMMENDATION:

APPROVE the appeal and approve Coastal Development Permit No. 246499 and Tentative Map and Waiver of Undergrounding No. 243257.

EXECUTIVE SUMMARY:

The '6504 La Jolla TM' project proposes to convert eleven residential dwelling units to condominium ownership. No physical changes are proposed for the site. The request to waive the undergrounding of existing overhead utilities complies with the City Council's Policy No. 600-25 for the granting of the request. The City Council's regulations for condominium conversions, adopted on June 13, 2006, have not been certified by the California Coastal Commission and are not therefore applicable to this project.

The applicant is appealing the Planning Commission's decision to require a Building Conditions Report and Landscape Concept Plan, and to execute the physical improvements required by those plans prior to approval of the Final Map and satisfactory to the City Engineer. Had this project not been located within the Coastal Overlay Zone and deemed complete after June 13, 2006, this project would have been required to comply with the amendments to the Condominium Conversion Ordinance. However, the new condominium conversion regulations are not applicable to this project, which means there is no legal requirement for either a Building Conditions Report or Landscape Concept Plan (This is City Staff's rationale for recommending approval of the appeal).

In three previous appeals by this applicant, the City Council adopted a compromise which allowed this condo converter to complete a Building Conditions Report and execute the required physical improvements prior to the sale of the first unit (which will likely occur long after the recordation of the final map). City staff does not recommend this approach as it does not provide a mechanism for the City Engineer to verify that the improvements have been completed. If City Council should desire to impose these requirements, they should uphold the Planning Commission's decision to require compliance prior to recordation of a final map.

The San Diego Housing Commission has determined that an in-lieu fee of \$10,213.75 is required under the City of San Diego Affordable Housing requirements of the Inclusionary Housing Ordinance. All 'findings' for approval of the project by the City Council are contained in the Tentative Map and Coastal Development Permit Resolutions attached to the Report to the Planning Commission No. PC-07-007.

FISCAL CONSIDERATIONS:

All costs associated with the processing of this project are paid by the applicant.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

On January 11, 2007, the Planning Commission voted 6-0-1 to deny these actions based on Finding No. 2 of the Tentative Map Resolution No. 4202-PC. Finding No. 2 requires the decision-maker to consider the effects of the subdivision on the housing needs of the region balanced against the needs for public services, and fiscal and environmental resources. The Planning Commission requests that applicants voluntarily submit a Building Conditions Report and agree to implement repairs and upgrades accordingly as recommended prior to map recordation. The applicant stated that because of no immediate plans to convert within 5 years, and most likely longer, he did not want to abide by this encumbrance.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The La Jolla Community Planning Association voted 10-0-0 on January 5, 2007, to recommend approval of this application with no conditions.

KEY STAKEHOLDERS:

Matthew S. and Nancy A. Browar, M. S. Browar Family Trust, Owner/Applicant.

Waring/Escobar-Eck/GG

Staff: Glenn Gargas – (619) 446-5142

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:33 p.m. – 2:42 p.m.)

MOTION BY FAULCONER TO GRANT THE APPEAL AND GRANT THE PERMIT IN SUBITEM A AND GRANT THE APPEAL AND GRANT THE MAP IN SUBITEM B. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-352: 1237 Hornblend Street Tentative Map.

Matter of the appeal by Matt Brower from the decision by the Planning Commission denying an application for a Coastal Development Permit and Tentative Map including a request to waive the requirement to underground the existing utilities and to convert an existing, 11 residential dwelling unit apartment

complex into 11 residential condominium units on a 0.14 acre site. The property is located at 1237-1239 Hornblend Street, in the RM-2-5 Zone, Coastal Overlay Zone (non-appealable), Coastal Height Limit Overlay Zone, Beach Parking Impact Overlay Zone and within the Pacific Beach Community Plan Area.

(Project No. 80555/Coastal Development Permit No. 255428/Tentative Map and Waiver of Undergrounding No. 251703. Pacific Beach Community Plan Area. District 2.)

STAFF'S RECOMMENDATION:

Take the following actions:

Subitem-A: (R-2007-) GRANTED APPEAL AND GRANTED PERMIT;
ADOPTED AS RESOLUTION R-302465

Adoption of a Resolution granting or denying the appeal and granting or denying Coastal Development Permit No. 255428, with appropriate findings to support Council action;

Directing the City Attorney to prepare the appropriate resolutions according to Section 40 of the City Charter.

Subitem-B: (R-2007-) GRANTED APPEAL AND GRANTED MAP AS
AMENDED; ADOPTED AS RESOLUTION
R-302466

Adoption of a Resolution granting or denying the appeal and granting or denying Tentative Map and Waiver of Undergrounding No. 251703, with appropriate findings to support Council action;

Directing the City Attorney to prepare the appropriate resolutions according to Section 40 of the City Charter.

OTHER RECOMMENDATIONS:

Planning Commission on January 11, 2007 voted 6-0-1 to deny staff's recommendation; no opposition.

Nays: Schultz, Garcia, Griswold, Ontai, Otsuji, Naslund
(One vacancy)

The Pacific Beach Community Planning Committee has recommended denial of this project.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

Appeal of the Planning Commission's denial of a Coastal Development Permit, Tentative Map, and Waiver of Undergrounding of Utilities to allow for the conversion of eleven existing dwelling units to condominium ownership on a 6,214 square-foot site zoned RM-2-5 at 1237 Hornblend Street within the Pacific Beach Community Planning area.

STAFF RECOMMENDATION:

APPROVE the appeal and approve Coastal Development Permit No. 255428 and Tentative Map and Waiver of Undergrounding No. 251703.

EXECUTIVE SUMMARY:

The '1237 Hornblend Street' project proposes to convert eleven residential dwelling units to condominium ownership. No physical changes are proposed for the site. The request to waive the undergrounding of existing overhead utilities complies with the City Council's Policy No. 600-25 for the granting of the request. The City Council's regulations for condominium conversions, adopted on June 13, 2006, have not been certified by the California Coastal Commission and are therefore not applicable to this project.

The applicant is appealing the Planning Commission's decision to require a Building Conditions Report and Landscape Concept Plan, and to execute the physical improvements required by those plans prior to approval of the Final Map and satisfactory to the City Engineer. Had this project not been located within the Coastal Overlay Zone and deemed complete after June 13, 2006, this project would have been required to comply with the amendments to the Condominium Conversion Ordinance. However, the new condominium conversion regulations are not applicable to this project, which means there is no legal requirement for either a Building Conditions Report or Landscape Concept Plan (This is City Staff's rationale for recommending approval of the appeal).

In three previous appeals by this applicant, the City Council adopted a compromise which allowed this condo converter to complete a Building Conditions Report and execute the required physical improvements prior to the sale of the first unit (which will likely occur long after the recordation of the Final Map). City staff does not recommend this approach as it does not

provide a mechanism for the City Engineer to verify that the improvements have been completed. If City Council should desire to impose these requirements they should uphold the Planning Commission's decision to require compliance prior to the recordation of the final map.

The San Diego Housing Commission has determined that an in-lieu fee of \$62,200 is required under the City of San Diego Affordable Housing requirements of the Inclusionary Housing Ordinance. All 'findings' for approval of the project by the City Council are contained in the Tentative Map and Coastal Development Permit Resolutions attached to the Report to the Planning Commission No. PC-07-006.

FISCAL CONSIDERATIONS:

All costs associated with the processing of this project are paid by the applicant.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

On January 11, 2007, the Planning Commission voted 6-0-1 to deny these actions based on Finding No. 2 of the Tentative Map Resolution No. 4201-PC. Finding No. 2 requires the decision-maker to consider the effects of the subdivision on the housing needs of the region balanced against the needs for public services, and fiscal and environmental resources. The Planning Commission requests that applicants voluntarily submit a Building Conditions Report and agree to implement repairs and upgrades accordingly as recommended prior to map recordation. The applicant stated that because of no immediate plans to convert within 5 years, and most likely longer, he did not want to abide by this encumbrance.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The Pacific Beach Community Planning Committee voted 13-0-0 on January 25, 2006, to recommend denial of this application with no conditions. They stated a concern regarding a storage shed located at the rear of the property that encroaches approximately one foot into the public alley.

KEY STAKEHOLDERS:

Matthew S. and Nancy A. Browar, M. S. Browar Family Trust, Owner/Applicant.

Waring/Escobar-Eck/GG

Staff: Glenn Gargas – (619) 446-5142

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:35 p.m. – 2:40 p.m.)

Testimony in favor of the appeal by Matt Peterson.

MOTION BY FAULCONER TO GRANT THE APPEAL AND GRANT THE PERMIT IN SUBITEM A AND GRANT THE APPEAL AND GRANT THE MAP AS AMENDED IN SUBITEM B TO REFLECT THE REMOVAL OF THE STORAGE SHED AND THE BUILDINGS CONDITION REPORT BE INCLUDED AS STATED, “CLIENT AGREES TO RECORD DEED RESTRICTIONS AGAINST THE PROPERTIES, AND TO COMPLETE THE PROPERTY CONDITIONS REPORT WHICH WILL PUT NEW OWNERS ON NOTICE WHICH WOULD REQUIRE THAT THE CONDITION REPORTS BE DONE AT THE TIME THE CONVERSIONS WOULD OCCUR.” Second by Madaffer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-353: Statewide Community Infrastructure Program (SCIP).

Proposed participation by the City of San Diego in the Statewide Communities Infrastructure Program of the California Statewide Communities Development Authority. Participation in said program will enable property owners to finance development impact fees for public capital improvements imposed on new development. Said Development impact fees will be used by the City to pay for public capital improvements which will be located in the City, and which will be of a type and nature authorized under the Municipal Improvement Act of 1913 (codified at California Streets and Highways Code Sections 10000 et seq.). Participation in said program does not itself authorize new or additional development impact fees on any property owner.

(See Report to the City Council No. 07-046. Citywide.)

STAFF’S RECOMMENDATION:

Adopt the following resolution:

(R-2007-738)

CONTINUED TO TUESDAY, APRIL 17, 2007

Adoption of a Resolution joining the Statewide Community Infrastructure Program and authorizing the California Statewide Communities Development Authority to accept applications from property owners, conduct special assessment proceedings and levy assessments within the territory of the San Diego and authorizing related actions.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

Should the Council: 1) authorize the City of San Diego to join the Statewide Community Infrastructure Program; 2) authorize the California Statewide Communities Development Authority to accept applications from property owners, conduct special assessment proceedings and levy assessments within the City of San Diego; and 3) authorize related actions?

STAFF RECOMMENDATION:

Authorize the City of San Diego to join the Statewide Community Infrastructure Program; 2) authorize the California Statewide Communities Development Authority to accept applications from property owners, conduct special assessment proceedings and levy assessments within the City of San Diego; and 3) authorize related actions.

EXECUTIVE SUMMARY:

The California Statewide Communities Development Authority (CSCDA) is a joint powers authority sponsored by the League of California Cities and the California State Association of Counties. The member agencies of CSCDA include approximately 325 cities and 58 counties throughout California, including the City of San Diego.

The Statewide Community Infrastructure Program (SCIP) was instituted by CSCDA in 2002 to allow owners of property in participating cities and counties to finance the development impact fees (Facilities Benefit Assessment or Development Impact Fee) that would be payable by property owners upon receiving development entitlements or building permits. If a property owner chooses to participate, the development impact fees owed to the City will be financed by the issuance of tax-exempt bonds by CSCDA. CSCDA will impose a special assessment on the owner's property to repay the portion of the bonds issued to finance the fees paid with respect to the property. The property owner will either pay the impact fees at the time of permit issuance, and will be reimbursed from the SCIP bonds proceeds when the SCIP bonds are issued or the fees will be prepaid to the City of San Diego from the proceeds of the SCIP bonds. In this way, the City is never at risk for the receipt of the impact fees.

The recommended resolution authorizes CSCDA to accept applications from owners of property within the jurisdiction of the City of San Diego to apply for tax exempt financing of development

impact fees through SCIP. It also authorizes CSCDA to form an assessment district covering the jurisdiction of the City of San Diego, conduct assessment proceedings and levy assessments against the property of participating owners. It also authorizes miscellaneous related actions and makes certain findings and determinations required by law.

Attached to the Resolution as "Attachment" is a "Form of CSCDA Resolution of Intention." This is for informational purposes and does not require action by the City Council.

FISCAL CONSIDERATION:

There is no fiscal impact as a result of membership in the Statewide Community Infrastructure Program (SCIP).

PREVIOUS COUNCIL and/or COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION and PUBLIC OUTREACH EFFORTS:

City Planning and Community Investment staff presented the SCIP Program to the Building Industry Association of San Diego County's City/County Legislation Committee on February 16, 2007.

KEY STAKEHOLDERS and PROJECTED IMPACTS (if applicable):

It is anticipated that land developers and other property owners will be interested in participation in the SCIP Program.

Waring/Anderson/PB

NOTE: This activity is not a "project" and is therefore not subject to CEQA pursuant to State-CEQA Guidelines Section 15060(c)(3).

Staff: Pam Bernasconi – (619) 533-3677
David E. Miller – Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:53 p.m. – 2:54 p.m.)

MOTION BY FRYE TO CONTINUE TO TUESDAY, APRIL 17, 2007 FOR FURTHER REVIEW. 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-354: Piper Ranch Business Park Public Right-of-Way Vacation.

Matter of approving, conditionally approving, modifying or denying an application for vacating a portion of Aviator Road. The vacation will include a 440-foot long portion of Aviator Road containing approximately 36,000 square feet of undeveloped land located west of Piper Ranch Road, east of La Media Road and north of Air Wing Road within the Otay Mesa Community Planning area. The proposed vacated street ends at State Route 125 which is currently under construction. The vacated street will be utilized as a parking area for a future industrial development.

(Project No. 71055/Public Right-of-Way Vacation No. 334299. Otay Mesa Community Plan Area. District 8.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-754) ADOPTED AS RESOLUTION R-302467

Adoption of a Resolution vacating a public right-of-way street easement on the portion of Aviator Road westerly of State Route 125 with sewer and drainage easements reserved from street vacation.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

Should the City Council approve or deny Public Right-of-Way Vacation No. 334299 located in Council District 8, within the Otay Mesa Community Planning area of the Otay Mesa Development District Industrial Subdistrict, west of I-125 and north of Otay Mesa Road.

STAFF RECOMMENDATION:

APPROVE Public Right-of-Way Vacation No. 334299.

EXECUTIVE SUMMARY:

The project is a Public Right-of-Way Vacation for a portion of Aviator Road. The vacation will include a 440-foot long portion of Aviator Road containing approximately 36,000 square feet of undeveloped land. The proposed vacated street ends at State Route 125 which is currently under construction. The vacated street will be utilized as a parking area for a proposed future industrial development. The proposed vacation meets all of the criteria that would allow a decision maker

to affirm the required findings. Access to the new development will be taken from Air Wing Road.

The portion of the street proposed to be vacated does not provide access to any of the abutting properties. The proposed vacated area travels over an existing sewer easement which is to be reserved and remain unchanged as part of the street vacation approval.

The City has determined that this public right-of-way is no longer needed as the street is currently unimproved, will not benefit the public, and is not part of the current or proposed circulation plan for the Otay Mesa Community Plan. In addition, the city has no future plans to improve the street.

Regulatory Framework

The Land Development Code establishes a process for approving applications to vacate public rights-of-way and includes the applicable findings that a decision maker must make to approve the requested vacation (Attachment 5). The findings generally establish that there is no present or prospective use for the right-of-way, either for the use for which it was intended, or a public use of a similar nature; that the public will benefit from the vacation by the improved use of the land; that the vacation will not adversely affect the applicable land use plan; and that the public facility for which the right-of-way was originally acquired will not be detrimentally affected by the vacation. As described in Section 125.0910(b) and 125.0940(c) of the Municipal Code, this section of right-of-way is eligible to be summarily vacated, therefore, a recommendation by the Planning Commission is not required.

FISCAL CONSIDERATIONS:

None associated with this action. All costs associated with the processing for this project are paid by the applicant.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

None associated with this project.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The Otay Mesa Community Planning Group voted 13-0-0 on October 20, 2006, to recommend approval of the project with the condition that the applicant incorporate an Irrevocable Offer to Dedicate (IOD) over the proposed vacated portion of Aviator Road. An IOD is a reservation of land in which the City has determined may be used in the future for public use. The City is not requiring an IOD for the portion of Aviator Road being proposed to be vacated because the section of Aviator Road proposed for vacating is not identified within the circulation element of the Otay Mesa Community Plan and therefore is not needed.

KEY STAKEHOLDERS & PROJECTED IMPACTS:

Master Development Corporation (Ownership Disclosure Form Attachment 7)

Waring/Escobar-Eck/WZ

NOTE: This activity is exempt from California Environmental Quality Act (CEQA) pursuant to section 15311(b) of the State CEQA Guidelines (small parking lot).

Staff: William Zounes – (619) 687-5942
Nina M. Fain – Deputy City Attorney

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

FILE LOCATION: DEED-F-10042

COUNCIL ACTION: (Time duration: 2:43 p.m. – 2:43 p.m.)

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

ITEM-355: Three actions related to Otay Mesa FY 2007 Public Facilities Financing Plan and Facilities Benefit Assessment.

(See Report to the City Council No. 07-030. Otay Mesa Public Facilities Financing Plan and Facilities Benefit Assessment Fiscal Year 2007, October 18, 2006. Otay Mesa Community Area. District 8.)

(Third Public Hearing was held on February 20, 2007, Item 331. Second Public Hearing was held on January 8, 2007, Item 203. First Public Hearing was held on November 13, 2006, Item 203.)

STAFF'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2007-446 Cor. Copy)

ADOPTED AS RESOLUTION R-302468

Resolution of the Council of the City of San Diego designating an Area of Benefit in Otay Mesa and the boundaries thereof, confirming the description of Public Facilities projects, the Community Financing Plan and Capital Improvement Program with respect to Public Facilities Projects, the method for apportioning the costs of the Public Facilities Projects among the parcels within the Area of Benefit and the amount of the Facilities Benefit Assessments charged to each such parcel, the basis and methodology for assessing and levying discretionary automatic annual increases in Facilities Benefit Assessments, and proceedings thereto, and ordering of proposed Public Facilities Project in the matter of one Facilities Benefit Assessment Area.

Subitem-B: (R-2007-447) ADOPTED AS RESOLUTION R-302469

Resolution of the Council of the City of San Diego approving the Development Impact Fee Schedule for properties within Otay Mesa.

Subitem-C: (R-2007-448) ADOPTED AS RESOLUTION R-302470

Resolution of the Council of the City of San Diego authorizing the Auditor and Comptroller to modify the individual CIP Program Project Budgets to conform with the adopted Otay Mesa Public Facilities Financing Plan and Facilities Benefit Assessments.

STAFF SUPPORTING INFORMATION:

The Otay Mesa Public Facilities Financing Plan for Fiscal Year 2007 was approved by the City Council on November 13, 2006, by Resolution R-302040. The Public Facilities Financing Plan details the public facilities that will be needed through the ultimate development of Otay Mesa. Otay Mesa is an area in the earlier stage of development where significant infrastructure construction is yet to occur. This plan revises and updates the Fiscal Year 2005 Plan, which had been approved on August 3, 2004.

The objective of the FBA is to insure that funds will be available in sufficient amounts to provide community facilities when needed. The FBA will be collected at the building permit issuance stage of development and deposited into two separate special interest earning funds for Otay Mesa.

The Otay Mesa Public Facilities Financing Plan for Fiscal Year 2007 identifies significant cost increases to the remaining projects to be funded by the FBA. The cost increases necessitate a revision in the rate of the assessment resulting in an increase of 52%.

Should the City Council not approve the proposed increase in the facilities benefit assessments, then the existing fees would remain in place and new development would not be contributing its proportional share for new facilities identified in the Otay Mesa Community Plan. Alternative funding sources would have to be identified to fund the share of the identified facilities attributable to new development.

The proposed assessments for Fiscal Year 2007 are as follows:

LAND USE	CURRENT ASSESSMENT	PROPOSED ASSESSMENT per UNIT/ACRE in FY 2007
SINGLE-FAMILY UNIT	\$13,610	\$20,687
MULTI-FAMILY UNIT	\$9,527	\$14,481
WEST COMMERCIAL ACRE	\$78,260	\$118,954
WEST INDUSTRIAL ACRE	\$27,220	\$41,374
EAST COMMERCIAL ACRE	\$82,217	\$124,970
EAST INDUSTRIAL ACRE	\$27,132	\$41,240
OTAY INTERNATIONAL CENTER (INDUSTRIAL)	\$27,132	\$41,240
OTAY INTERNATIONAL CENTER (BUSINESS)	\$79,749	\$121,218
OTAY INTERNATIONAL CENTER (COMMERCIAL)	\$106,060	\$161,211

FISCAL CONSIDERATION:

Adoption of this revised Public Facilities Financing Plan will continue to provide a funding source for the public facilities identified in Otay Mesa.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

On November 13, 2006, R-302040, the City Council voted unanimously to approve the Otay Mesa Public Facilities Financing Plan for Fiscal Year 2007.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On October 18, 2006, the Otay Mesa Community Planning Group considered the Otay Mesa Public Facilities Financing Plan for Fiscal Year 2007. The planning group voted unanimously to support the financing plan and the increased assessment.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

All property owners with remaining new development are listed on the Otay Mesa Public Facilities Financing Plan, Fiscal Year 2007 Assessment roll, starting on page 249 and will have received notice and a copy of this document in the mail. These property owners will have liens placed on their property and will be required to pay Facility Benefit Assessments upon any building permit issuance when developing their property. Any redevelopment, which increases the intensity of existing uses, may be subject to an impact fee per Attachment 2.

NOTE: This plan is a financing measure and is exempt from CEQA pursuant to State CEQA Guidelines Section 15060(c)(3).

Waring/Anderson/FVJ

Staff: Frank January – (619) 533-3699
David E. Miller - Deputy City Attorney

FILE LOCATION: STRT-FB-6 (33)

COUNCIL ACTION: (Time duration: 2:44 p.m. – 2:44 p.m.)

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

NOTE: Item 356 has been withdrawn and will not be considered today.

ITEM-357: Centerpointe at Grantville.

Matter of approving, conditionally approving, modifying or denying an application for a Community Plan Amendment to redesignate the land use from Commercial and Industrial to Mixed-Use; a Rezone to rezone a portion of the property from the existing IL-3-1 and CC-4-2 zones to RM-3-9 and CO-1-1; a Site Development Permit for a Pedestrian Bridge over an on-site public alley; for affordable/in-fill housing with deviations from the development regulations of the underlying zone; and for development within the Community Plan

Implementation Overlay Zone (CPIOZ) Type A that does not comply with the development standards in the applicable Community Plan; and a Vesting Tentative Map for condominium purposes.

The approximately 22.2-acre site covers an entire block, surrounded by Vandever Avenue to the north, Mission Gorge Road to the east, Twain Avenue to the south, and Fairmount Avenue to the west. The site is currently zoned IL-3-1 and CC-2-4 and is located within the Navajo Community Plan and the Community Plan Implementation Overlay Zone (Type A), within the Grantville Redevelopment Project Area and Council District 7. The requested approvals are to allow for the demolition of six existing service-commercial, industrial, and office buildings containing a total of approximately 180,630 square feet; the construction of seven new buildings, including 4 multi-family residential, 2 mixed-use multi-family residential and retail, and 1 mixed-use office, retail, and multi-family residential; the remodeling of one existing office building of approximately 54,800 square feet, to include new ground floor retail uses; the development of community recreation space, including approximately 55,000 square feet of common open space and approximately 2,800 linear feet of pathways; and construction of a pedestrian bridge over the onsite alley.

(Project No. 80450. Navajo Community Plan Area. District-7.)

STAFF'S RECOMMENDATION:

Adopt the resolutions in Subitems A, B, D, and E; and introduce the ordinance in Subitem C:

Subitem-A: (R-2007-) CONTINUED TO TUESDAY, MAY 15, 2007

Adoption of a Resolution certifying that the information contained in Supplement to an Environmental Impact Report (SEIR) No. 80450, has been completed in compliance with the California Environmental Quality Act of 1970 and State CEQA guidelines, and that said SEIR has been reviewed and considered by the Council and reflects the independent judgment of the City of San Diego as Lead Agency.

Stating for the record that the final SEIR has been reviewed and considered prior to approving the project; Adopting the Statement of Overriding Considerations; And adopting the Mitigation Monitoring and Reporting Program pursuant to California Public Resources Code Section 21081;

That the City Clerk is directed to file a Notice of Determination (NOD) with the Clerk of the Board of Supervisors for the County of San Diego regarding the above project.

Subitem-B: (R-2007-) CONTINUED TO TUESDAY, MAY 15, 2007

Adoption of a Resolution amending the Progress Guide and General Plan, and the Navajo Community Plan, No. 251399.

Subitem-C: (O-2007-) CONTINUED TO TUESDAY, MAY 15, 2007

Introduction of an Ordinance approving Rezone No. 251401.

Subitem-D: (R-2007-) CONTINUED TO TUESDAY, MAY 15, 2007

Adoption of a Resolution granting Site Development Permit No. 270199, with appropriate findings to support Council action.

Subitem-E: (R-2007-) CONTINUED TO TUESDAY, MAY 15, 2007

Adoption of a Resolution granting Vesting Tentative Map No. 251403, with appropriate findings to support Council action.

OTHER RECOMMENDATIONS:

Planning Commission on January 11, 2007, voted 5-0-2 to recommend approval; no opposition.

Ayes: Griswold, Naslund, Schultz, Ontai, Otsuji
Recusing: Garcia
(one vacancy)

The Navajo Community Planning Group has recommended approval of this project.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

Approval of a Community Plan Amendment for a 22.2-acre site and approval of a 12-acre mixed-use project that would provide approximately 588 multi-family dwelling units, including 10% (59) affordable units and 135,228 square feet of office and retail uses within the block bound by Vandever Avenue, Fairmount Avenue, Twain Avenue, and Mission Gorge Road in the Navajo Community Planning Area.

STAFF RECOMMENDATION:

Recommend that the City Council: Certify Supplemental Environmental Impact Report (No. 80450) to the Grantville Redevelopment Project Program Environmental Impact Report; **Adopt** the Statement of Overriding Considerations, and Adopt the Mitigation, Monitoring, and Reporting Program; **Approve** amendments to the Progress Guide and General Plan, and the Navajo Community Plan, No. 251399; **Approve** Rezone No. 251401; **Approve** Site Development Permit No. 270199; and **Approve** Vesting Tentative Map No. 251403.

EXECUTIVE SUMMARY:

The approximately 22.2-acre site covers an entire block, surrounded by Vandever Avenue to the north, Mission Gorge Road to the east, Twain Avenue to the south, and Fairmount Avenue to the west. The site is currently zoned IL-3-1, Light Industrial, and CC-4-2, Community Commercial, (proposed to be rezoned to RM-3-9 & CO-1-1) and is located within the Navajo Community Plan and the Community Plan Implementation Overlay Zone (Type A), within the Grantville Redevelopment Project Area and Council District 7 (See Attachment 2). The subject block is surrounded by commercial and light industrial uses to the north and south, across Vandever and Twain Avenues; by office and light industrial to the west, across Fairmount Avenue; and by general commercial uses to the east, across Mission Gorge Road. More specifically, the project site is located within a land use environment of existing industrial and service commercial/fast

food uses. Off-site properties consist of two-story office buildings on the west side of Fairmount Avenue; mostly one-story commercial and industrial buildings south of Twain Avenue and north of Vandever Avenue; and a strip retail center, fast food restaurants and automotive sales and services on the east side of Mission Gorge Road. Although the project site is within the Grantville Redevelopment Project Area, no assistance has been requested from the City's Redevelopment Agency at this time.

The Centerpointe at Grantville project would involve an amendment to the Navajo Community Plan for the entire block (approximately 22 acres) surrounded by Vandever Avenue, Fairmount Avenue, Twain Avenue, and Mission Gorge Road, and approval of a Rezone, Site Development Permit, and Vesting Tentative Map for the approximately 12-acre project site to allow a mixed-use development of 588 multi-family dwelling units, including 59 affordable units, and approximately 135,228 square feet of office, retail, and restaurant space.

One existing 54,800-square-foot four-story commercial building would be retained on the project site and five existing service commercial, industrial, and office buildings containing a total of approximately 180,630 square feet would be removed. Please see the Report to the Planning Commission Report (Attachment 4) for further detail.

FISCAL CONSIDERATIONS:

All costs associated with the processing of this project are paid from a deposit account maintained by the applicant.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: Not Applicable

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On January 11, 2007, the Planning Commission Recommended Approval of the Staff Recommendation by a unanimous vote of 5 to 0 with one recusal, with the addition of the following condition:

The Applicant shall implement the Conceptual Sustainability Plan Guidelines contained in Sheets A and B of Site Development Permit No 270199 by noting on project plans for each phase of any grading or building permit, the specific Elements of Sustainable Design and Energy Efficiency ("Elements") listed in Sheets A and B that will be implemented by the current phase of the project. Proposed Elements shall be described in writing and illustrated in plan view and detail for the current phase of development. Development Services Department staff shall review the plans and determine whether the proposed Elements adequately comply with the objectives of Sheets A and B and whether alternative methods could accomplish similar sustainable design and energy efficiency objectives.

The majority of the discussion focused on transportation issues; more specifically, linkage to the Grantville Trolley Station. The Commission discussed the need for a city-lead, joint public private effort to establish a shuttle which would provide service from the greater Grantville area businesses, including the Kaiser Hospital and medical offices, to the Grantville Trolley Station.

On May 15, 2006, the Navajo Community Planning Group voted 9-5-1 to approve the project design and entitlement as proposed.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

The owners are Mission Corporate Industrial Center L. P., a California Limited Partnership; Mission Corporate Center, L. L. C., a California Limited Liability Company; and Parma Property Company, Inc., a California Corporation, and applicant is Coastal Development Company, A California Corporation.

Waring/Escobar-Eck/DS

LEGAL DESCRIPTION:

The project site is contained within a city block bounded by Mission Gorge Road on the east, Twain Avenue on the south, Fairmount Avenue on the west, and Vandever Avenue on the north, within the Navajo Community Plan area, and in the Grantville Redevelopment area and is more particularly described as Lots 2 & 3 of Padre Center, Map No. 5147; and Parcels 1, 2, and 3, map No. 18793.)

Staff: Daniel Stricker – (619) 446-5251

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

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:04 p.m. – 2:06 p.m.)

MOTION BY MADAFFER TO CONTINUE TO TUESDAY, MAY 15, 2007, FOR FURTHER REVIEW. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-358: Establishment of an Independent Rates Oversight Committee Incorporating the Duties of the Public Utilities Advisory Commission.

(See Mayor Sanders memorandum dated 2/15/2007. Citywide.)

MAYOR SANDERS' RECOMMENDATION:

Introduce the following ordinance:

(O-2007-109) INTRODUCED AS AMENDED; TO BE ADOPTED ON
TUESDAY, APRIL 10, 2007

Introduction of an Ordinance amending Chapter 2, Article 6, of the San Diego Municipal Code by adding Division 20, titled City of San Diego Independent Rates Oversight Committee, and adding Sections 26.2001, 26.2002, and 26.2003; and by repealing Division 11, Sections 26.1101, 26.1102, and 26.1103; all relating to the City of San Diego Independent Rates Oversight Committee.

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 11:15 a.m. – 11:44 a.m.)

MOTION BY MADAFFER TO INTRODUCE THE ORDINANCE AS AMENDED FIRST AS SUGGESTED BY THE IBA THAT ALL IROC ACTIVITIES THAT FALL WITHIN THE OVERSIGHT RESPONSIBILITIES OF THE AUDIT COMMITTEE OR PERMANENT RULES OR THE CHARTER SHOULD BE FULLY COORDINATED WITH AND REPORTED TO THE AUDIT COMMITTEE. THE SECOND ITEM, ON PAGE 2 OF 6 OF THE ORDINANCE, SECTION 26.2002 (A) REPLACE THE WORDS "CONSIDERATION SHOULD BE MADE TO MAINTAIN A DIVERSE COMMITTEE OF MEMBERSHIP OF PERSONS WHOSE PROFESSIONAL BACKGROUND OR EXPERIENCE ARE IN THE FIELDS OF," WITH THE WORDS "A MAJORITY OF THE MEMBERS OF THE COMMITTEE SHALL POSSESS EXPERTISE IN ONE OR MORE OF THE FOLLOWING AREAS," AND REPLACING "SCIENCE, ENVIRONMENTAL," WITH "BIOLOGY OR ENVIRONMENTAL SCIENCE." Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-359: Morena Boulevard Traffic Signal Modification in North Bay Redevelopment Project Area.

(See Report to the City Council No. RA-07-07/RTC-07-020. Linda Vista Community Area. District 6.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-645) ADOPTED AS RESOLUTION R-302471

Finding and determining that Morena Boulevard Traffic Signal Project (Project) is of benefit to the North Bay Redevelopment Project Area; that no other reasonable means for financing is available to the community; that the Project will assist in eliminating one or more blighting conditions in the Project Area; and that the Project is consistent with the Implementation Plan adopted for the Project by the Agency July 29, 2003 on file as Document No. 03664 in the Office of the Secretary to the Agency pursuant to California Health and Safety Code Section 33490. These findings are set forth in more detail in Attachment 1;

Amending and increasing the Capital Improvement Program Budget No. 68-011.0 to include the \$30,000 in Agency contributions;

Accepting, appropriating and expending the funds from the Agency in the amount not to exceed \$30,000 for implementation of the Project;

Declaring that this activity is exempt from CEQA pursuant to State CEQA Guidelines Section 15301 and 15303(d).

STAFF SUPPORTING INFORMATION:

The North Bay Redevelopment Project Area, has been requested to fund the modification of a traffic signal on Morena Boulevard at Linda Vista Road for a total project cost of \$30,000. The project is currently on a backlog needs list of unfunded signal modification projects. The total cost for all projects on the needs list is \$7.4 million. The E&CP Department receives a total of \$750,000 each fiscal year to address projects on the Citywide needs list. The request for a traffic signal modification on Morena Boulevard would likely remain unfunded for many years without the use of redevelopment funds.

The recommendation of the E&CP Department is to modify the existing signal on northbound Morena Boulevard to address the traffic on southbound Morena Boulevard at Linda Vista Road intersection. The signal will not only separate the traffic on Morena Boulevard and Linda Vista Road, but it will also allow traffic on both Morena Boulevard and Linda Vista Road to continue as two lanes throughout the intersection and beyond. The separation of the traffic will eliminate the right-merge conflicts on Morena Boulevard.

FISCAL CONSIDERATIONS:

Funds in the amount of \$30,000 are available from the North Bay Redevelopment Project Area. If approved, the requested action will appropriate North Bay funds in an amount not to exceed \$30,000 for the Morena Boulevard traffic signal modification.

PREVIOUS AGENCY and/or COUNCIL ACTION: None.

COMMUNITY PARTICIPATION & PUBLIC OUTREACH EFFORTS:

At the regularly scheduled December 6, 2006 Project Area Committee (PAC) meeting, the North Bay PAC voted (13-1-1) to recommend approval of up to \$30,000 for the Morena Boulevard Traffic Signal Modification Project with any excess funds returned.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Key stakeholders include the North Bay PAC and the Linda Vista Community Planning Area. The modification of the traffic signal will make the area safer for those using Morena Boulevard and Linda Vista Road including residents, business occupants, business owners, and customers.

Weinrick/Waring

Staff: Melissa Garcia - (619) 533-5265
Carol A. Leone - Deputy City Attorney

NOTE: See the Redevelopment Agency Agenda of March 20, 2007 for a companion item.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:53 p.m. – 2:53 p.m.)

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

ITEM-360: Two actions related to Fire Station 1 Rehabilitation – Funding Assistance – Core Redevelopment District of the Expansion Sub Area of the Centre City Redevelopment Project.

(See Centre City Development Corporation Report No. CCDC-07-06/
CCDC-07-04. District 2.)

CENTRE CITY DEVELOPMENT CORPORATION'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2007-830) ADOPTED AS RESOLUTION R-302472

Making certain findings and determinations pursuant to Health and Safety Code Section 33445 with respect to the rehabilitation of the City of San Diego Fire Station 1 in the Centre City Redevelopment Project Area.

Subitem-B: (R-2007-831) ADOPTED AS RESOLUTION R-302473

Authorizing the expenditure of funds, bidding and contracting as needed for Station 1 rehabilitation in an amount not to exceed \$1.5 million;

Approving a Cooperation Agreement between the Agency and City of San Diego that governs the Station 1 rehabilitation's administration and implementation by the City and oversight of the expenditure of Agency funds by CCDC;

Authorizing the Mayor, or his designee, to execute, for and on behalf of the City, an agreement for Fire Station 1 improvements, under the terms and conditions set forth in the Agreement, together with any reasonably necessary modifications or amendments thereto which do not increase project scope or cost and which the Mayor, or his designee, shall deem necessary from time to time in order to carry out the purposes and intent of this project and agreement;

Declaring this activity is categorically exempt from the California Environmental Quality Act (CEQA), pursuant to CEQA Guidelines Section 15301(c).

SUPPORTING INFORMATION:

The City of San Diego Fire-Rescue Department ("Fire-Rescue") has requested that the Agency fund the rehabilitation of the existing Station 1, located north of B Street between Front Street and First Avenue. Station 1 is among the top five busiest stations in the City, and is the largest downtown station.

As part of its on-going evaluation of its facilities, Fire-Rescue determined several years ago that the interior portions of the building are insufficient to provide a suitable living and working environment for the personnel that operate out of the station. Station 1 lacks adequate ventilation of truck fumes through its existing exhaust extraction system, dependable roll-up doors for fire vehicles to enter and exit the station, a dependable power generator, an ADA-accessible restroom, and suitable meeting, operations, kitchen and dormitory spaces for fire personnel to work and live during round-the-clock shifts.

Fire-Rescue has developed a plan for rehabilitating Station 1 to make it more habitable and meet their operational needs for the immediate future. Fire-Rescue and the Engineering and Capital Projects Department estimate that the rehabilitation improvements would cost \$1.5 million. Unfortunately, due to the City's inability to issue bonds over the past two years and provide funding for the rehabilitation, the project has been placed on hold. Fire-Rescue has determined that its ability to provide adequate service to the downtown area would be hampered if the rehabilitation project does not proceed, and has asked that the Agency fund the rehabilitation as a capital project.

FISCAL CONSIDERATIONS:

Funds are available from tax increment and/or bond proceeds in the Centre City Redevelopment Project Area, and an amendment to the Fiscal Year 2007 budget is necessary for implementation.

CENTRE CITY DEVELOPMENT CORPORATION RECOMMENDATION:

On January 31, 2007, the Centre City Development Corporation Board, by a 6-0 vote, voted to support the staff recommendation.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On January 24, 2007, the Centre City Advisory Committee ("CCAC") reviewed the proposed Agency funding of the Station 1 rehabilitation as an information item along with an update of all downtown fire station projects. Comments provided by CCAC members included that the costs of the Station 1 rehabilitation should be paid through development impact fees or considered as a repayment of CDBG loans owed by the Agency to the City of San Diego.

Collum/Phillips/Graham

NOTE: See the Redevelopment Agency Agenda of March 20, 2007 for a companion item.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:02 p.m. – 3:02 p.m.)

MOTION BY FAULCONER TO ADOPT. Second by Hueso. 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:

To view the list of all available City Council Closed Session Meetings Reports refer to the link below:

<http://www.sandiego.gov/city-clerk/closedsess.shtml>

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 2:03 p.m. – 2:04 p.m.)

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Council President Peters at 3:48 p.m. in honor of the memory of:

Frank Pettit as requested by Council Member Faulconer;
Leslie “Bud” Fink as requested by Council Member Atkins;
Al Gaynor as requested by Council Member Maienschein; and
Marc Van Buskirk as requested by Council President Peters.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 3:42 p.m. – 3:48 p.m.)

Elizabeth S. Maland, City Clerk
City of San Diego