

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
TUESDAY, SEPTEMBER 9, 2008
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 10:02 a.m. The meeting was recessed by Council President Peters at 12:01 p.m. to reconvene at 2:00 p.m.

The meeting was reconvened by Council President Peters at 2:02 p.m. with Council Member Young and Council Member Frye not present. Council President Peters recessed the meeting at 2:35 p.m. to meet in Closed Session in the 12th floor Conference Room. The meeting was reconvened by Council President Peters at 3:03 p.m. with all Council Members present. Council President Peters recessed the meeting at 5:02 p.m. to convene the Housing Authority. Council President Peters reconvened the regular meeting at 5:03 p.m. with Council President Pro Tem Madaffer not present. The meeting was adjourned by Council President Peters at 5:23 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 (dlc/mz)

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:

Don Stillwell commented on prayer and Proposition B.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:35 a.m. - 10:38 a.m.)

PUBLIC COMMENT-2:

Nancelle Lauffer commented on the homeless in San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:39 a.m. - 10:41 a.m.)

PUBLIC COMMENT-3:

Joy Amdemikeol commented on the housing crisis.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:41 a.m. - 10:44 a.m.)

PUBLIC COMMENT-4:

Cricket Bradburn commented on various concerns.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:45 a.m. - 10:46 a.m.)

PUBLIC COMMENT-5:

Al Strohlein commented on documents.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:46 a.m. - 10:48 a.m.)

PUBLIC COMMENT-6:

Jarvis Ross commented on reflection.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-7:

Phil Hart commented on City management.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-8:

Reginald Tisdale commented on bus passes.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:56 a.m. - 10:59 a.m.)

PUBLIC COMMENT-9:

Izean Rim Jr. commented on public safety.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:59 a.m. - 11:02 a.m.)

PUBLIC COMMENT-10:

Referred to City Attorney: Micheal Petrovich commented on dog waste.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:02 a.m. - 11:05 a.m.)

PUBLIC COMMENT-11:

Thomas Glasser commented on various attacks.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:05 a.m. - 11:07 a.m.)

PUBLIC COMMENT-12:

Joy Sunyata commented on collateral damage.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:08 a.m. - 11:10 a.m.)

PUBLIC COMMENT-13:

Referred to Mayor's Office: Helen commented on the police.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:10 a.m. - 11:13 a.m.)

PUBLIC COMMENT-14:

Referred to Mayor's Office: Davis Ross commented on the displaced in San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:16 a.m. - 11:16 a.m.)

COUNCIL COMMENT:

None.

INDEPENDENT BUDGET ANALYST COMMENT:

None.

CITY ATTORNEY COMMENT:

None.



[ITEM-30:](#) John Hudkins Day.

COUNCIL PRESIDENT PETERS' RECOMMENDATION:

Adopt the following resolution:

(R-2009-130) ADOPTED AS RESOLUTION R-304083

Commending John Hudkins for his outstanding service to the citizens of San Diego;

Proclaiming September 9, 2008, to be "John Hudkins Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:04 a.m. – 10:07 a.m.)

MOTION BY HUESO TO ADOPT. 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-31: H.P. “Sandy” Purdon Day.

COUNCILMEMBER FAULCONER’S RECOMMENDATION:

Adopt the following resolution:

(R-2009-236) ADOPTED AS RESOLUTION R-304084

Proclaiming September 9, 2008, as “H.P. ‘Sandy’ Purdon Day” in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:08 a.m. – 10:10 a.m.)

MOTION BY FAULCONER 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-32:](#) Big Sister League Day.

COUNCILMEMBER ATKINS' RECOMMENDATION:

Adopt the following resolution:

(R-2008-1065) ADOPTED AS RESOLUTION R-304085

Commending and thanking the Big Sister League for the difference it has made in the lives of many women in San Diego and congratulating it on 66 years of success and the 30th anniversary of its Mentor Program;

Proclaiming September 9, 2008, to be "Big Sister League Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:10 a.m. – 10:15 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-33:](#) Ted Brengel Day.

COUNCILMEMBER MAIENSCHIN'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-190) ADOPTED AS RESOLUTION R-304086

Proclaiming September 9, 2008, to be "Ted Brengel Day" in the City of San Diego in recognition of his many outstanding contributions and services to San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:15 a.m. – 10:20 a.m.)

MOTION BY MAIENSCHIN 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-34: Keith and Ginny Turnham Day.

COUNCIL PRESIDENT PRO TEM MADAFFER'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-199) ADOPTED AS RESOLUTION R-304087

Proclaiming September 9, 2008, to be “Keith and Ginny Turnham Day” in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:21 a.m. – 10:34 a.m.)

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



ITEM-100: Authorizing Purchasing and Contracting to Initiate a Memorandum of Understanding Between the City of San Diego and Pierce Manufacturing Inc., to Procure Four (4) Fire Engines in Accordance with the City of Portland Contract.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-168) ADOPTED AS RESOLUTION R-304088

Authorizing a Memorandum of Understanding between the City of San Diego and Pierce Manufacturing Inc., to procure Triple Combination Pumper Fire Trucks in accordance with the City of Portland Solicitation RFP 105909/Contract No. 41113 for an estimated per vehicle cost of \$527,385 plus sales and tire tax; terms net thirty (30) days; with option to renew the contract for four additional one-year terms through September 17, 2012;

Authorizing the purchase of Type 1 Fire Engines for the duration of the contract period predicated on Fleet Services Annual Motive Equipment Acquisition Plan approved by Council within the General Services Department annual budget process;

Authorizing the City Auditor and Comptroller to expend \$2,273,071.35 from Fund 500311 for the purpose of purchasing four Triple Combination Pumper Fire Trucks;

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

STAFF SUPPORTING INFORMATION:

Purchase four (4) Triple Combination Pumper Truck via City of Portland, OR. Solicitation RFP 105909/Contract No. 41133 which was competitively bid and awarded to Pierce Manufacturing, Inc., September 18, 2007. Purchasing and Contracting has verified that this cooperative procurement is to the City's economic advantage and meets the requirements of San Diego Municipal Code Section 22.3212.

This purchase will allow General Services Fleet Services Division to replace four (4) overage fire engines that were approved for replacement in the Fleet Services FY08 Acquisition Plan and will authorize the purchase of Type 1 Fire Engines for the duration of the contract period predicated on Fleet Services Annual Motive Equipment Acquisition Plan approved by Council within the General Services Department annual budget process.

EQUAL OPPORTUNITY CONTACTING

This agreement is subject to the City's Equal Opportunity Contracting (San Diego Ordinance No. O-18173, Sections 22.2701 through 22.2702) and Non-Discrimination in Contracting Ordinance (San Diego Municipal Code Sections 22.3501 through 22.3517).

FISCAL CONSIDERATIONS:

The total cost for this action is \$2,273,071.35 and is available in General Services Department Fund 500311, Org. 120.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTIONS: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Pierce Manufacturing, Inc.

Sierra/Jarrell

Aud. Cert. 2900123.

Staff: John Alley - (619) 527-6020
Michael Calabrese – Chief Deputy City Attorney

FILE LOCATION: Purchase-Pierce Manufacturing Inc.

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

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

- * ITEM-101: Joint Use Agreement with San Diego Gas & Electric Company and Pacific Bell Telephone Company for Los Peñasquitos View Trunk Relocation. (Rancho Peñasquitos Community Area. District 5.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-191) ADOPTED AS RESOLUTION R-304089

Authorizing the Mayor, or his designee, to accept the Joint Use Agreement with San Diego Gas & Electric Company and Pacific Bell Telephone Company, for Los Peñasquitos View Trunk Relocation;

Authorizing the City Comptroller to disburse, \$30,000 from CIP-46-196.7 (Job Order 177169), Fund 41506, \$5,000 for acquisition of property rights and \$25,000 for labor charges and related costs of acquisition.

STAFF SUPPORTING INFORMATION:

Los Peñasquitos View Trunk Sewer is part of the City of San Diego's Sewer Main Replacement Program as mandated by the Environmental Protection Agency (EPA). It includes the abandonment of approximately 5,765 linear feet of 12-and 15-inch sewer mains and the associated manholes in the Canyonside Community Park and Los Peñasquitos Canyon Preserve and installing approximately 1,500 feet of 18-inch sewer main. Project design requires these sewer mains to traverse existing utility easements maintained by SDG&E and Pac Bell. This action will approve agreements for the joint use of the easements for the purpose of installation of sewer mains by the City.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

During design, the Project Manager and Project Engineer presented the project to the community. Residents and businesses will be notified by mail at least one (1) month before construction begins by the City's Engineering and Capital Projects Department and again ten (10) days before construction begins by the contractor through hand distribution of the notices. Traffic control plans have been prepared for this project and will be implemented during the construction operations.

FISCAL CONSIDERATIONS:

\$5,000 for acquisition of property rights and \$25,000 for labor charges and related costs of acquisition from Fund 41506, CIP-46-196.7.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

Residents will experience minor impacts during construction. After completion, residents will experience improved reliability of the sewer collection systems.

Barwick/Anderson

Aud. Cert. 2900089.

Staff: Lane MacKenzie - (619) 236-6050
Todd Bradley - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:34 a.m. – 10:35 a.m.)

CONSENT MOTION BY ATKINS 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-102: Grant Application to California Department of Conservation - Division of Recycling for Purchase and Installation of Trash and Recycling Containers for Fiscal Year 2009-2013. (All City Parks and Waterfront Areas.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-111) ADOPTED AS RESOLUTION R-304090

Authorizing the Mayor, or his designee, to apply for, negotiate with, execute agreements for, and accept grants from the California Department of Conservation - Division of Recycling, with one- to five-year terms for the purchase and installation of trash and recycling containers and related public education for Fiscal Year 2009/2010 through and including Fiscal Year 2013/2014;

Designating the Environmental Services Department Director or Deputy Director as the person authorized, for and on behalf of the City, to conduct grant negotiations and execute all grant documents, including but not limited to: applications, agreements, amendments, and payment requests necessary to secure grant funding and to carry out and administer the City's obligations, responsibilities, and duties under the terms and conditions of the grant(s) for Fiscal Year 2009/2010 through and including Fiscal Year 2013/2014;

Authorizing the City Comptroller to establish a separate fund to track expenditures and receive grant-related reimbursements for eligible expenditures and to accept, appropriate, and expend grant funds, contingent on the City's execution of a grant agreement;

Declaring that the City's grant application and acceptance activity is not a project and therefore is not subject to the California Environment Quality Act (CEQA) pursuant to CEQA Guidelines Sections 15060(c)(3) and 15378(b)(4); and that installing and servicing trash and recycling containers at parks and other public use facilities is categorically exempt from CEQA pursuant to CEQA Guidelines Section 15311.

STAFF SUPPORTING INFORMATION:

This proposed project is a partnership between the City of San Diego's Environmental Services Department (ESD) and P&R, and will include an initial pilot with the Port of San Diego, to develop and implement a comprehensive recycling and litter reduction program at target San Diego parks. This project falls under one of the categories contained within the California Department of Conservation (DOC), Division of Recycling (DOR) Beverage Container Recycling Grant Program. The DOR administers the California Beverage Container Recycling and Litter Reduction Act (Act) which governs the recycling of California Redemption Value (CRV) beverage containers. The Act provides up to \$1.5 million annually in grant funds to promote increased recycling of beverage containers throughout California, pursuant to Public Resources Code (PRC), Division 12.1, Chapter 7, Section 14581 (a)(6). The DOR administers Beverage Container Recycling Grants funding to assist organizations with establishing convenient beverage container recycling and litter abatement projects, and to encourage market development and expansion activities for beverage container materials. Eligible recycling and litter reduction projects include parks/recreational areas, entertainment/hospitality venues, sporting complexes, and beverage container/litter prevention and reduction.

This proposed project would include installation of special recycling and refuse containers, provision of collection equipment, and a comprehensive public education and outreach campaign to promote "away from home" recycling at several P&R sites and water front parks.

The target areas are very well attended throughout the year, have a need for recycling infrastructure, and will serve as pilot programs and models for future expansion of the City's and potentially the Port District's efforts to extend recycling in parks and waterfront areas. Installing recycling containers in the target areas will significantly increase general awareness about recycling in the City, and assist the City in meeting state mandated recycling goals. The selected areas are also very popular tourist points, which will assist in projecting and solidifying, nationally and internationally, the image of the City of San Diego as an environmentally responsible City.

FISCAL CONSIDERATIONS:

ESD is eligible to apply for \$150,000 from a DOC funded grant per year pursuant to Public Resources Code (PCR), Division 12.1, Chapter 7, Section 14581(a)(6). ESD will be responsible for \$150,000 in matching funds, from the Recycling Enterprise Fund. These matching funds are budgeted in ESD's FY09 budget and will be budgeted on FY 10, 11, 12, and 13 budgets, contingent on Council approval of the corresponding budgets.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

As a result of previous Council approvals, in 2000 ESD received \$6,840,000 from a DOC grant to expand automated recycling collections to a minimum of 190,000 City of San Diego single-family homes, which allowed for the City's expansion of the very successful curbside recycling program. In 2004, ESD worked in partnership with Keep California Beautiful on a \$50,000 grant they received for purchasing recycling containers for Balboa Park, Horton Plaza and UTC shopping malls.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The special recycling and refuse bins proposed on this project have been successfully used in other cities such as Solana Beach, Encinitas, Oceanside, Lancaster, San Clemente, and Long Beach, among many others. All these cities have experienced enhancement in the communities' cleanliness and safety, which are also our goals. The expectation is that communities will benefit from the program by:

1. Eliminating or minimizing lifter problems at the selected locations.
2. Reducing vandalism of recycling and refuse bins.
3. Enhancing public safety by decreasing confrontations between staff and scavengers.

An educational/outreach campaign is also planned, involving proper container signage and a possible media event documenting the kick-off of the program in each community.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

The program includes close evaluation of the use and convenience of the containers for each site. A community survey will be conducted to assess the program's strengths and weaknesses and to address public concerns and suggestions. ESD will work with P&R staff, the San Diego Port and all the involved community councils to evaluate the program and look for ways to improve it and expand it to all City parks and shoreline areas. The key stakeholders for this project will be primarily City residents and City visitors, Mission Beach Town Council and Recreation Council, Shorelines Recreation Council, P&R and San Diego Port staff.

Gonaver/Heap

Aud. Cert. 2900126.

Staff: Steven Fontana - (858) 492-5077
Grace C. Lowenberg - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:34 a.m. – 10:35 a.m.)

CONSENT MOTION BY ATKINS 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-103: Howard and Kathleen Atkinson Day.

COUNCILMEMBER ATKINS' RECOMMENDATION:

Adopt the following resolution:

(R-2009-182) ADOPTED AS RESOLUTION R-304091

Congratulating Howard and Kathleen Atkinson for 70 wonderful years full of love and happiness;

Proclaiming July 11, 2008, to be "Howard and Kathleen Atkinson Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:34 a.m. – 10:35 a.m.)

CONSENT MOTION BY ATKINS 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-104: Richard M. Valdez Day.

COUNCILMEMBER ATKINS' RECOMMENDATION:

Adopt the following resolution:

(R-2009-183) ADOPTED AS RESOLUTION R-304092

Commending and thanking Richard Valdez for the contribution he has made to the City of San Diego's LGBT community;

Proclaiming August 17, 2008, to be "Richard M. Valdez Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:34 a.m. – 10:35 a.m.)

CONSENT MOTION BY ATKINS 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-105: Joe Frichtel Day.

COUNCILMEMBER MAIENSCHHEIN'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-189) ADOPTED AS RESOLUTION R-304093

Proclaiming September 9, 2008, as "Joe Frichtel Day" in the City of San Diego in recognition of his many outstanding contributions and service to San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:34 a.m. – 10:35 a.m.)

CONSENT MOTION BY ATKINS 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-106: George “King” Stahlman Day.

COUNCILMEMBER FRYE’S RECOMMENDATION:

Adopt the following resolution:

(R-2009-174) ADOPTED AS RESOLUTION R-304094

Proclaiming September 12, 2008, to be “George ‘King’ Stahlman Day” in the City of San Diego, and commending George Stahlman for his contributions to his county and the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:34 a.m. – 10:35 a.m.)

CONSENT MOTION BY ATKINS 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-107: Temple Emanu-El Day.

COUNCIL PRESIDENT PRO TEM MADAFFER'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-180) ADOPTED AS RESOLUTION R-304095

Proclaiming September 14, 2008, to be "Temple Emanu-El Day" in the City of San Diego and encouraging all citizens to become involved in social justice issues on a local, national, and international level.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:34 a.m. – 10:35 a.m.)

CONSENT MOTION BY ATKINS 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-330: City Council Response to Grand Jury Report: "San Diego City Attorney's Office."

INDEPENDENT BUDGET ANALYST'S RECOMMENDATION:

Take the following actions:

(R-2009-234) ADOPTED AS RESOLUTION R-304097

Approving and adopting as its own the response to the 2007-2008 San Diego County Grand Jury Report filed on June 4, 2008, and titled "San Diego City Attorney's Office" as set forth in Independent Budget Analyst's Report No. 08-89, dated August 28, 2008;

Authorizing and directing the Council President, on behalf of the San Diego City Council, to execute and deliver the above-described response to the Presiding Judge of the San Diego County Superior Court, no later than September 19, 2008;

Directing the City Attorney to prepare the appropriate resolutions and/or ordinances in accordance with Charter Section 40.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 4:55 p.m. – 5:06 p.m.)

MOTION BY HUESO TO ADOPT. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea (nay on portion regarding to Response Finding No.1 of the Independent Budget Analyst's Report No. 08-89), Madaffer-not present, Hueso-yea.



ITEM-331: Response of the City Council to the Grand Jury Report "CCDC: What Does it Develop and With Whose Money?"

INDEPENDENT BUDGET ANALYST'S RECOMMENDATION:

Take the following actions:

(R-2009-296) ADOPTED AS RESOLUTION R-304098

Approving and adopting as its own the response to the 2007-2008 San Diego County Grand Jury in its report filed on June 2, 2008, and titled "CCDC: What Does It Develop and With Whose Money?" prepared by the Independent Budget Analyst (Council's Response);

Authorizing and directing the City Council President, on behalf of the City of San Diego and the City Council, to execute and deliver the Council's Response to the Presiding Judge of the San Diego County Superior Court no later than September 19, 2008;

Directing the City Attorney to prepare the appropriate resolutions and/or ordinances in accordance with Charter Section 40.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:02 p.m. – 2:13 p.m.)

MOTION BY FAULCONER 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-332: Response of the City Council to the Grand Jury Report “The Fire Next Time-Will We Be Ready?”

INDEPENDENT BUDGET ANALYST’S RECOMMENDATION:

Take the following actions:

(R-2009- 271 Cor. Copy) ADOPTED AS RESOLUTION R-304096

Approving and adopting as its own the response to the 2007-2008 San Diego County Grand Jury in its report filed on May 29, 2008, and titled “The Fire Next Time-Will We Be Ready?” prepared by the Independent Budget Analyst (Council’s Response);

Authorizing and directing the City Council President, on behalf of the City of San Diego and the City Council, to execute and deliver the Council’s Response to the Presiding Judge of the San Diego County Superior Court no later than September 19, 2008;

Directing the City Attorney to prepare the appropriate resolutions and/or ordinances in accordance with Charter Section 40.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:34 a.m. – 10:35 a.m.)

MOTION BY MADAFFER 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-333: Library Business Process Reengineering (BPR) Study.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-46) ADOPTED AS RESOLUTION R-304099

Accepting the recommendations of the Library Business Process Reengineering Study, pursuant to the Business Process Reengineering Ordinance.

STAFF SUPPORTING INFORMATION:

The Mayor of the City of San Diego has commenced BPR efforts to improve efficiencies, reduce the cost of City government and to maximize the services offered to our residents. To support the Mayor's BPR initiative, the Library Department conducted a department-wide BPR. The San Diego Public Library (SDPL) BPR Steering Committee focused on how to make operations more efficient while maintaining or enhancing core services to the public and identified the following processes to review:

- Circulation (making materials available to the public);
- Delivery (transporting materials throughout the system);
- Purchasing (ordering materials and have them ready for the public);
- Reference (answering customers questions and providing information); and
- Selecting materials for library collections.

Library BPR activities included business process mapping, process analysis, development of improvement ideas, benchmarking, developing draft performance measures, and examination of best business practices. Along with employees and stakeholders, labor representatives from MEA participated and contributed to this comprehensive review.

The extensive experience and knowledge of BPR Team members, as well as the best practice information gathered from other jurisdictions, resulted in a number of recommendations that would improve the efficiency and effectiveness of the Library Department on a City-wide basis.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The Department included a number of external stakeholders with background and familiarity with the Department's operations.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Meet and Confer with the Municipal Employees Association has been completed.

Tatar/Heap

Staff: Anna Tatar - (619) 236-5843
Paul F. Prather - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:16 p.m. – 2:35 p.m.)

MOTION BY YOUNG 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-334: Litigation Tolling of Tentative Maps and Associated Development Permits for 29 Projects while the projects are subject to pending CREED litigation. Due to the volume of projects, the format has been consolidated into one request. (Greater North Park, Uptown, Eastern, City Heights, Normal Heights, Navajo, Pacific Beach, Kensington-Talmadge, Peninsula, and Greater Golden Hill Community Plan Areas. Districts 2, 3, 4, 7 and 8.)

Evelyn Heidelberg of Procopio, Cory, Hargreaves & Savitch LLP, representing the property owners of the subject projects, has requested that the City Council consider a resolution to stay (toll) the expiration date for 29 Tentative Maps for condominium conversion due to litigation by Citizens for Responsible Equitable Environmental Development (CREED). Due to the volume of projects, the format has been consolidated into one request. All approvals consisted of Tentative Maps for the conversion of existing residential apartments to condominiums. Some of the approvals also required associated development permits due to their location within the Coastal Overlay Zone. The applicant has requested that the City Council consider a resolution to stay (toll) the expiration dates of the listed Tentative Maps (and associated development permits) approvals due to the CREED legal actions. Greater North Park, Uptown, Eastern, City Heights, Normal Heights, Navajo, Pacific Beach, Kensington-Talmadge, Peninsula, and Greater Golden Hill Community Areas.

SPECIFIC PROJECTS

Project Name/Location	Project No.	Project Approval Date	Community Plan Area	Council District
2015 Robinson Ave. TM	50742	12/15/05	Greater North Park	3
Terrace Park Map Waiver; 1801-43 Myrtle Ave & 1804 Upas St	62881	1/12/06	Greater North Park	3
3746 31 st St TM	67478	10/27/05	Greater North Park	3
4585 Hamilton St. TM	73745	3/16/06	Greater North Park	3
610 W. Laurel St. TM	75067	11/10/05	Uptown	2
4342 Idaho St. TM	77455	12/15/05	Greater North Park	3
4146-52 32 nd St. VTM	77457	12/15/05	Greater North Park	3
4657 Oregon St. TM	78882	3/16/06	Greater North Park	3
Hampton Square TM; 4845 70 th Street	63383	6/8/06	Eastern	7
4074 Cherokee Ave. TM	68048	5/11/06	City Heights	3
4469 Ohio St. TM	73427	3/30/06	Greater North Park	3
4816 W. Mountain View Dr. TM	74764	6/8/06	Normal Heights	3
445 W. University Ave. TM	75019	7/20/06	Uptown	3
3812 Keating St. TM	76069	5/18/06	Uptown	2
3989 Richmond Ave. TM	77270	6/8/06	Uptown	3
4658 E. Mountain View Dr. TM	78317	5/18/06	Normal Heights	3
4757 "A" St. TM	78325	6/15/06	Eastern	4
4555 Vandever Ave. TM	78951	7/13/06	Navajo	7
4450 Boundary St. TM	78968	6/8/06	Greater North Park	3
4718 Kenmore St. TM	80837	3/16/06	Normal Heights	3
4728 Lamont St. TM	81193	6/29/06	Pacific Beach	2
4447 49th St. TM	81200	5/25/06	Kensington-Talmadge	3
4435 Estrella Ave. TM	81211	6/29/06	Kensington-Talmadge	3
4517 W. Point Loma Ave. TM	81215	3/2/06	Peninsula	2
4436 56 th St. TM	81567	6/22/06	Eastern	7
4674 Utah St. TM	82975	6/29/06	Greater North Park	3
3654 42 nd St. TM	86204	5/18/06	City Heights	3
2404 "C" St. TM	84521	11/2/06	Greater Golden Hill	8
4545 Georgia St. TM	78971	1/24/08	Greater North Park	3

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-129) ADOPTED AS AMENDED AS RESOLUTION R-304100

Adoption of a Resolution denying request to stay (toll) expiration date for the Tentative Map and associated Development Permit approvals for 29 Condominium Conversion projects;

That the staff recommends denial to stay request since there are timeframes built into the subdivision Map Act (Gov't Code §§ 66452 (a), 66452(e) and the San Diego Municipal Code Sections 126.0111, 125.0461) to allow Extensions of Time to be requested to extend the life of these subdivision approvals and associated development permits;

That the applicant for these projects has not exhausted these administration abilities to request such Extensions of Time;

That the Courts have not stopped the applicants from continuing their processing of their projects, and all projects have been able to submit, process, and obtain Final Maps since the original project approval dates.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

Request to stay (toll) the expiration date for the Tentative Map and associated development permit approvals for 29 condominium conversion projects for the projects listed on Attachment 1.

STAFF RECOMMENDATION:

Deny a resolution to stay (toll) the expiration date for the Tentative Map and associated development permit approvals for 29 condominium conversion projects for the projects listed on Attachment 1.

EXECUTIVE SUMMARY:

Due to the volume of projects for this general single issue, staff has consolidated the format in this one request. The 29 condominium conversion projects listed on Attachment 1 were approved by Planning Commission on a variety of dates, as delineated in the attachment.

All approvals consisted of Tentative Maps for the conversion of existing residential apartments to condominiums. Some of the approvals also required associated development permits due to their location within the Coastal Overlay Zone. The specific projects listed in Attachment 1 were the subject of litigation by Citizens for Responsible Equitable Environmental Development (CREED) against the owners, and the City of San Diego.

CREED has several pending lawsuits regarding condominium conversions. Each suit has different projects, and is at a different stage in the court system. For the purposes of this action, they are named CREED I, CREED II, CREED III, and CREED IV. Some of these projects have submitted their Final Maps for review.

In each of these subject projects, the applicants' representative has indicated that these projects have been dismissed from the CREED cases. Evelyn Heidelberg, the legal counsel for these projects, has requested that the City Council consider a resolution to stay (toll) the expiration dates of the Tentative Maps (and associated development permits) approvals due to the legal actions for CREED I, II, III, and IV.

The State Subdivision Map Act – Government Code Sections 66452.6 and 66452.12 authorizes the City to stay the running of the expiration date for the project approvals under these conditions (Attachment 3). Ms. Heidelberg's request for a stay of the project approvals is consistent with the Subdivision Map Act.

These individual condominium conversion projects were originally reviewed under CEQA and all were determined to be exempt from CEQA per CEQA Guidelines Section 15301, Existing Facilities. The request to stay (toll) the expiration dates is not a 'project,' therefore this is not subject to CEQA review pursuant to State CEQA Guidelines Section 15060(c)(2).

Staff recommends denial of the stay requests since there are timeframes built into the Subdivision Map Act and the San Diego Municipal Code to allow Extensions of Time to be requested to extend the life of these subdivision approvals. The applicants for these projects have not exhausted their administrative abilities to request such Extensions of Time. In addition, the Courts have not stopped the applicants from continuing their processing of their projects, and all projects have been able to submit, process, and obtain Final Maps since the original project approval dates.

Note that if the City Council does approve these tolling requests, the number of days until the specific Tentative Maps expire will need to be defined in the resolution.

FISCAL CONSIDERATIONS:

All costs associated with the processing of these projects are recovered by a deposit account maintained by the applicant.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

The issue of staying (tolling) the expiration date for these projects has not been before the City Council.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of staying (tolling) the expiration date for these projects has not been before the community planning groups or the Planning Commission.

KEY STAKEHOLDERS AND PROJECTED IMPACTS):

Please reference the attached spreadsheet for property owners (Attachment 1). Other key stakeholders include CREED, those associated with condominium conversions in the development industry, the housing industry, and residents.

Broughton/Anderson/MS

NOTE: This activity is not a ‘project’ and is therefore not subject to CEQA per CEQA Guidelines Section 15060(c)(2). The individual condominium conversion projects were reviewed under CEQA and all were determined to be exempt from CEQA Guidelines Section 15301, Existing Facilities.

Staff: Michelle Sokolowski – (619) 446-5278
Marianne Greene – Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:02 p.m. – 3:45 p.m.)

MOTION BY MADAFFER TO ADOPT AS AMENDED TO DENY STAFF’S RECOMMENDATION AND GRANT THE TOLLING REQUEST FOR THE TENTATIVE MAP AND ASSOCIATED DEVELOPMENT PERMIT APPROVALS FOR 29 CONDOMINIUM CONVERSION PROJECTS WITH EXPIRATION DATES AS SET FORTH IN EXHIBIT “B” OF MS. HEIDELBERG’S LETTER OF AUGUST 27, 2008; AND TO DIRECT THE CITY ATTORNEY TO CREATE THE APPROPRIATE RESOLUTION. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-nay, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.



ITEM-335: 1020 Dennery Tentative Map, Project No. 78473. Appeal of Planning Commission's decision approving an application for a Tentative Map to convert 346 existing residential apartment units to condominiums on a 15-acre site located at 1020 Dennery Road. (Otay Mesa Community Plan Area. District 8.)

Matter of the appeal by Affordable Housing Coalition of San Diego County and Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation, from the decision by the Planning Commission approving an application for a Tentative Map to convert 346 existing residential apartment units to condominiums on a 15-acre site located at 1020 Dennery Road within the RM-2-5 Zone within the Otay Mesa Community Plan.

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 on September 23, 2005, and the opportunity to appeal that determination ended October 8, 2005. (TM No. 243888.)

STAFF'S RECOMMENDATION:

Take the following actions:

(R-2009-000) CONTINUED TO MONDAY, OCTOBER 13, 2008

Granting or denying the appeal and upholding or overturning the decision by the Planning Commission approving Tentative Map No. 243888;

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

OTHER RECOMMENDATIONS:

Planning Commission on July 10, 2008, voted 4-1-2 to approve.

Ayes: Otsuji, Naslund, Ontai, Golba

Nays: Schultz

Not present: Griswold, Smiley

The Otay Mesa Community Planning Committee voted 12-0 to recommend approval of this project.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

That the City Council deny these eight project appeals and approve the condominium conversion projects listed on the attached spreadsheet (Attachment 1), in various community plans.

STAFF RECOMMENDATION: DENY the appeals and APPROVE the Tentative Maps for all eight projects, including the Coastal Development Permit for Leilani Bay, PTS 105191.

EXECUTIVE SUMMARY:

This Executive Summary describes eight condominium conversion projects that were approved by the Planning Commission and subsequently appealed by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation (Attachment 2). The appeal language is the same for all eight projects included in this group and is not specific to any individual project features, therefore one Executive Summary is provided. Please note these are project appeals not environmental appeals, therefore the environmental issues raised are not relevant to these project appeals.

All of the projects included in this group were determined to be exempt from review under the California Environmental Quality Act (CEQA) and the appeal period for that decision has either expired or an appeal of the CEQA exemption has been previously heard and rejected by the City Council.

Although the majority of the concerns raised in the Appeal Application are environmental issues that have been previously addressed, there are references to several San Diego Municipal Code (SDMC) and California Government Code sections which are not CEQA related and may be addressed through this project appeal.

These codes sections and staff's responses are contained below:

SDMC Sections 125.0440(a)-(h): These sections describe the required findings for a Tentative Map. The State Map Act (SMA) restricts the scope of the City's review and limits the findings that apply to the conversion of existing buildings into condominiums. SMA Section 66427 precludes the City from reviewing the building design and the division of the airspace and SMA Section 66427.2 exempts condo conversions from six of the eight standard Tentative Map findings. Based on the above, only findings 125.0440 (b) and (h) apply to condominium conversion projects and the appellant's assertion that all of the findings listed in 125.0440 (a)-(h) apply is incorrect. The two findings that do apply are described below.

SDMC Section 125.0440(b): *"The proposed subdivision complies with the applicable zoning and development regulations of the Land Development Code."* All of the condominium projects included in this group have been reviewed by staff and determined to be in compliance with the applicable zoning and development regulations, including the new condominium conversion regulations, as appropriate. Although some of the projects do not comply with the current requirements for new construction, they are allowed to maintain their current configuration because no additional units or expansions are proposed and they are considered previously conforming for density and development standards.

SDMC Section 125.0440(h) and California Government Code Section 66412.3: *"The decision-maker has considered the effects of the proposed subdivision on the housing needs of the region and that those needs are balanced against the needs for public services and the available fiscal and environmental resources."* All of the condominium projects included in this group have been approved by the Planning Commission, who was the decision-maker required to make this finding. Staff believes the intent of this required finding is to respond to "leapfrog" development and to provide necessary public facilities for additional housing in communities.

In this instance there is no net loss or gain of housing units, therefore, staff believes this appeal point is not valid.

SDMC Sections 142.1304 and 142.1305: These sections describe the requirements for approving a variance or waiver from the City's inclusionary housing requirements. All of the projects in this group would comply with the City's requirements either by paying an in-lieu fee or by providing onsite affordable housing. None of the projects are requesting a variance or waiver from the inclusionary housing requirements, therefore, these code sections are not relevant to these approved condominium conversion projects.

The appeal also asserts that the Housing Element of the City's General Plan has become invalid due to the City's failure to revise it lawfully and in a timely manner. The current Housing Element was adopted by the City Council on December 5, 2006, and certified by the U.S. Department of Housing and Urban Development on February 5, 2007. All of the projects in this group were approved after the certification of the most recent Housing Element update. A 2007 California appeals court case addressed the question about whether a housing element updated beyond time periods identified in Government Code Section 65588 is invalid and determined that it was not. Therefore, the City's Housing Element has never been considered invalid and would not be grounds for denial of these projects.

FISCAL CONSIDERATIONS:

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

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

All eight condominium projects included in this group have been heard and issued a recommendation from the appropriate Community Planning Group and all of the projects have been approved by the Planning Commission.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. 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.

Anderson/Broughton

Staff: William Zounes – (619) 687-5942
Karen Huemann – Deputy City Attorney

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:13 p.m. – 2:13 p.m.)

MOTION BY MADAFFER TO CONTINUE TO MONDAY, OCTOBER 13, 2008, AT THE REQUEST OF THE APPLICANT FOR FURTHER REVIEW. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-not present, Frye-yea, Madaffer-yea, Hueso-yea.



ITEM-336: 1560 Coronado Avenue, Project No. 82897. Appeal of Planning Commission's decision approving an application for a Tentative Map to convert 76 existing units to condominiums on a 1.72-acre site located at 1560 Coronado Avenue, between 15th Street and Thermal Avenue. (Otay Mesa-Nestor Community Plan Area. District 8.)

Matter of the appeal by Affordable Housing Coalition of San Diego County and Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation, from the decision by the Planning Commission approving an application for a Tentative Map to convert 76 existing units to condominiums on a 1.72-acre site located at 1560 Coronado Avenue, between 15th Street and Thermal Avenue in the RM-3-7 Zone within the Otay Mesa-Nestor Community Plan.

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 on October 21, 2005. An appeal of the environmental document was filed and the City Council heard the appeal on July 31, 2006, and denied the appeal.

(TM No. 164757/Waiver of undergrounding of existing overhead utilities.)

STAFF'S RECOMMENDATION:

Take the following actions:

(R-2009-000) DENIED APPEAL/ UPHELD THE DECISION OF
THE PLANNING COMMISSION/GRANTED
TENTATIVE MAP, ADOPTED AS RESOLUTION
R-304101

Granting or denying the appeal and upholding or overturning the decision by the Planning Commission approving Tentative Map No. 243888 and approving the waiver to the requirement to underground existing overhead utilities;

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

OTHER RECOMMENDATIONS:

Planning Commission on June 19, 2008, voted 5-0-2 to approve.

Ayes: Ontai, Naslund, Schultz, Otsuji, Golba
Not present: Griswold, Smiley

The Otay Mesa-Nestor Community Planning Group has recommended approval of this project.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

That the City Council deny these eight project appeals and approve the condominium conversion projects listed on the attached spreadsheet (Attachment 1), in various community plans.

STAFF RECOMMENDATION: DENY the appeals and APPROVE the Tentative Maps for all eight projects, including the Coastal Development Permit for Leilani Bay, PTS 105191.

EXECUTIVE SUMMARY:

This Executive Summary describes eight condominium conversion projects that were approved by the Planning Commission and subsequently appealed by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation (Attachment 2). The appeal language is the same for all eight projects included in this group and is not specific to any individual project features, therefore one Executive Summary is provided. Please note these are project appeals not environmental appeals, therefore the environmental issues raised are not relevant to these project appeals.

All of the projects included in this group were determined to be exempt from review under the California Environmental Quality Act (CEQA) and the appeal period for that decision has either expired or an appeal of the CEQA exemption has been previously heard and rejected by the City Council.

Although the majority of the concerns raised in the Appeal Application are environmental issues that have been previously addressed, there are references to several San Diego Municipal Code (SDMC) and California Government Code Sections which are not CEQA related and may be addressed through this project appeal. These Codes Sections and staff's responses are contained below:

SDMC Sections 125.0440(a)-(h): These sections describe the required findings for a Tentative Map. The State Map Act (SMA) restricts the scope of the City's review and limits the findings that apply to the conversion of existing buildings into condominiums. SMA Section 66427 precludes the City from reviewing the building design and the division of the airspace and SMA Section 66427.2 exempts condo conversions from six of the eight standard Tentative Map findings. Based on the above, only findings 125.0440 (b) and (h) apply to condominium conversion projects and the appellant's assertion that all of the findings listed in 125.0440 (a)-(h) apply is incorrect. The two findings that do apply are described below.

SDMC Section 125.0440(b): *“The proposed subdivision complies with the applicable zoning and development regulations of the Land Development Code.”* All of the condominium projects included in this group have been reviewed by staff and determined to be in compliance with the applicable zoning and development regulations, including the new condominium conversion regulations, as appropriate. Although some of the projects do not comply with the current requirements for new construction, they are allowed to maintain their current configuration because no additional units or expansions are proposed and they are considered previously conforming for density and development standards.

SDMC Section 125.0440(h) and California Government Code Section 66412.3: *“The decisionmaker has considered the effects of the proposed subdivision on the housing needs of the region and that those needs are balanced against the needs for public services and the available fiscal and environmental resources.”* All of the condominium projects included in this group have been approved by the Planning Commission, who was the decisionmaker required to make this finding. Staff believes the intent of this required finding is to respond to “leapfrog” development and to provide necessary public facilities for additional housing in communities. In this instance there is no net loss or gain of housing units, therefore, staff believes this appeal point is not valid.

SDMC Sections 142.1304 and 142.1305: These sections describe the requirements for approving a variance or waiver from the City’s inclusionary housing requirements. All of the projects in this group would comply with the City’s requirements either by paying an in-lieu fee or by providing onsite affordable housing. None of the projects are requesting a variance or waiver from the inclusionary housing requirements, therefore, these code sections are not relevant to these approved condominium conversion projects.

The appeal also asserts that the Housing Element of the City’s General Plan has become invalid due to the City’s failure to revise it lawfully and in a timely manner. The current Housing Element was adopted by the City Council on December 5, 2006, and certified by the U.S. Department of Housing and Urban Development on February 5, 2007. All of the projects in this group were approved after the certification of the most recent Housing Element update. A 2007 California appeals court case addressed the question about whether a housing element updated beyond time periods identified in Government Code Section 65588 is invalid and determined that it was not. Therefore, the City’s Housing Element has never been considered invalid and would not be grounds for denial of these projects.

FISCAL CONSIDERATIONS:

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

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

All eight condominium projects included in this group have been heard and issued a recommendation from the appropriate Community Planning Group and all of the projects have been approved by the Planning Commission.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. 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.

Anderson/Broughton

Staff: William Zounes – (619) 687-5942
Karen Heumann – Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:49 p.m. – 4:08 p.m.)

Testimony in favor by Joy Sunyata and Cory Briggs.

Testimony in opposition by Craig White.

MOTION BY HUESO TO ADOPT STAFF'S RECOMMENDATION TO DENY THE APPEAL; UPHOLD THE DECISION OF THE PLANNING COMMISSION; GRANT THE TENTATIVE MAP; AND APPROVE THE WAIVER TO THE REQUIREMENT TO UNDERGROUND EXISTING OVERHEAD UTILITIES. Second by Faulconer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.



ITEM-337: 4933 Saratoga Tentative Map, Project No. 89835. Appeal of the decision by the Planning Commission denying an application for a Tentative Map, Coastal Development Permit and a waiver of the requirement to underground the existing overhead utilities, to convert 12 existing residential units to condominiums. (Ocean Beach Community Plan Area. District 2.)

Matter of the appeal by DGB Survey and Mapping and Richard Speare, filed on behalf of the property owner, Saxony Villas, L.P., regarding the decision of the Planning Commission denying an application for a Tentative Map, Coastal Development Permit and a waiver of the requirement to underground the existing overhead utilities, to convert 12 existing residential units to condominiums, on a 0.24-acre site located at 4933 Saratoga Avenue, in the RM-2-4 Zone, within the Ocean Beach Precise Plan, Coastal Overlay Zone (non-appealable), Coastal Height Overlay Zone, Ocean Beach Historic District, and the Ocean 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 the 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>.

STAFF'S RECOMMENDATION:

Take the following actions:

Subitem A	(R-2009-340)	GRANTED APPEAL/GRANTED TENTATIVE MAP, ADOPTED AS RESOLUTION R-304102
Subitem B	(R-2009-341)	GRANTED APPEAL/GRANTED COASTAL DEVELOPMENT PERMIT, ADOPTED AS RESOLUTION R-304164

Granting or denying the appeal and granting or denying the Tentative Map No. 287633 and Coastal Development Permit No. 288562 including the request to waive the requirement to underground existing overhead utilities, with appropriate findings to support Council action;

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

OTHER RECOMMENDATIONS:

Planning Commission on June 5, 2008, voted 4-2-1 to deny Tentative Map No. 287633, Coastal Development Permit No. 288562 and waiver of the requirement to underground the existing overhead facilities.

Ayes: Griswold, Golba, Schultz, Naslund

Nays: Ontai, Otsuji

Not present: Smiley

The Ocean Beach Community Planning Group has recommended denial of this project.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

A Tentative Map for the conversion of 12 existing residential units to condominiums at 4933 Saratoga Avenue, within the Ocean Beach Community Plan Area.

STAFF RECOMMENDATION:

Grant the appeal and approve the Tentative Map, including the request to waive the requirement to underground existing overhead utilities.

EXECUTIVE SUMMARY:

Granting the appeal would allow the applicant to process their Final Map and convert the existing apartment units to condominiums.

Basis for Appeal: On June 5, 2008, the Planning Commission voted 4-2 to deny the requested Tentative Map. The applicant's appeal form indicates the project is in compliance with applicable laws and should therefore be approved (Attachment 2).

Staff Response:

Staff concurs with the applicant's request. The Planning Commission's decision to deny the proposed Tentative Map was based on Finding No. 2, which states: "*The decision-maker has considered the effects of the proposed subdivision on the housing needs of the region and that those needs are balanced against the needs for public services and the available fiscal and environmental resources.*" Staff believes the intent of this required finding is to respond to leapfrog development and to ensure that the necessary public facilities are provided for additional housing in communities. In this instance, there is no net loss or gain of housing units and no expansion of the existing development is proposed.

The property owner of the existing complex is requesting a change in the form of ownership from single ownership to multiple ownerships. During the testimony, the Planning Commission discussed their concerns regarding the physical condition of the building, the existing parking count and their preference of having applicants provide affordable housing on-site, rather than paying the in-lieu fee. The regulations applicable to this project allow applicants to maintain previously-conforming developments for density, parking, and development standards. Additionally, the Inclusionary Housing Regulations allow projects such as this the option of paying the in-lieu fee to satisfy the affordable housing requirements.

This project is subject to the new condominium conversion regulations approved by City Council on June 13, 2006, with the exception of the parking requirements. As required by those regulations, the applicant has submitted a landscape plan and building conditions report, which have been reviewed and approved by City staff. The building conditions report requires that the applicant repair and/or replace all major building systems with a lifespan of less than five years and the project has been conditioned accordingly. Therefore, the project as proposed complies with the applicable regulations.

Please reference Report to the Planning Commission No. PC-06-023 for project details (Attachment 1).

FISCAL CONSIDERATIONS:

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

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On March 13, 2008, the Ocean Beach Community Planning Group voted 8-0 to recommend denial of the project because there are more units existing than would allowed by the current zoning and Community Plan and the group felt that the parking provided was not appropriate for the density.

On June 5, 2008, the Planning Commission voted 4-2 to recommend denial of the project. At the hearing, the property owner's representative spoke in favor of the project and Landry Watson, Chair of the Ocean Beach Community Planning Group, spoke in opposition to the project.

KEY STAKEHOLDERS:

The property owner is the Saxony Villas, LP, Frank and Margaret Brown, partners. The applicant's agents are their attorney, Richard Spear and DGB Survey and Mapping. Other key stakeholders include the property tenants and the Ocean Beach Community Planning Group.

Broughton/Anderson/PG

Staff: Paul Godwin – (619) 446-5103
Karen Heumann – Deputy City Attorney

NOTE: This project is exempt from the California Environmental Quality Act pursuant to State CEQA Guidelines Section 15301 (Existing Facilities).

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 4:19 p.m. – 4:33 p.m.)

Testimony in opposition by Mekaela Gladden.

Testimony in favor by Richard Speare and Joy Sunyata.

MOTION BY FAULCONER TO ADOPT STAFF'S RECOMMENDATION TO GRANT THE APPEAL; APPROVE THE RESOLUTION IN SUBITEM A TO GRANT THE TENTATIVE MAP; APPROVE THE RESOLUTION IN SUBITEM B TO GRANT THE COASTAL DEVELOPMENT PERMIT, AND APPROVE THE WAIVER TO THE REQUIREMENT TO UNDERGROUND EXISTING OVERHEAD UTILITIES, WITH APPROPRIATE FINDINGS TO SUPPORT COUNCIL ACTION. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-nay, Young-yea, Maienschein-yea, Frye-nay, Madaffer-not present, Hueso-yea.



ITEM-338: Costa Verde North, Project No. 71264. Appeal regarding the decision of the Planning Commission approving an application for a Tentative Map to convert 651 existing residential units to condominiums. (University Community Plan Area. District 1.)

Matter of the appeals by Cory J. Briggs, Briggs Law Corporation, filed on behalf of Citizens for Responsible Equitable Environmental Development and a separate appeal filed by Paul E. Robinson on behalf of the project owner, Costa Verde North Village, LLC, regarding the decision of the Planning Commission approving an application for a Tentative Map to convert 651 existing residential units to condominiums, on a 9.17-acre site located at 8720-8950 Costa Verde Boulevard, in the RS-1-4 Zone, within the University 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 the 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>.

STAFF'S RECOMMENDATION:

Take the following actions:

(R-2009-000) CONTINUED TO MONDAY, OCTOBER 13, 2008

Granting or denying the appeal and granting or denying the Tentative Map No. 216983, with appropriate findings to support Council action;

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

OTHER RECOMMENDATIONS:

Planning Commission on June 5, 2008, voted 6-0-1 to approve Tentative Map No. 216983 as presented in Report No. PC-08-059.

Ayes: Naslund, Otsuji, Schultz, Griswold, Ontai, Golba
Not present: Smiley

The University Community Planning Group has recommended approval of this project on January 10, 2006.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

That the City Council deny the project appeals for Costa Verde North and South and approve the condominium conversions as conditioned by the Planning Commission.

STAFF RECOMMENDATION: DENY the appeals and APPROVE the Tentative Maps.

EXECUTIVE SUMMARY:

The Costa Verde North & South projects are related, contiguous projects that were built as part of the same development permit, as described in the attached Planning Commission Reports (Attachments 1 & 2). Two separate project appeals (Attachments 3 & 4) of the Planning Commission's decision to approve these condominium conversion projects have been filed, one by Briggs Law Corporation and one by the applicant. One Executive Summary has been prepared because the appeal language for each project and the project applicant is the same.

Briggs Law Appeal: The majority of the issues raised in the appeal filed by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation (Attachment 3) are environmental concerns that are not relevant to a project appeal. Both projects were determined to be exempt from review under the California Environmental Quality Act (CEQA) and the appeal period for that decision expired in June 2005. Although the majority of the concerns raised in the Appeal Application are environmental issues that have been previously addressed, there are references to several San Diego Municipal Code (SDMC) and California Government Code sections which are not CEQA related and may be addressed through this project appeal.

These codes sections and staff's responses are below:

SDMC Sections 125.0440(a)-(h): These sections describe the required findings for a Tentative Map. The State Map Act (SMA) restricts the scope of the City's review and limits the findings that apply to the conversion of existing buildings into condominiums. SMA Section 66427 precludes the City from reviewing the building design and the division of the airspace and SMA Section 66427.2 exempts condo conversions from six of the eight standard Tentative Map findings. Based on the above, only findings 125.0440 (b) and (h) apply to condominium conversion projects and the appellant's assertion that all of the findings listed in 125.0440 (a)-(h) apply is incorrect. The two findings that do apply are described below.

SDMC Section 125.0440(b): *"The proposed subdivision complies with the applicable zoning and development regulations of the Land Development Code."* All of the condominium projects included in this group have been reviewed by staff and determined to be in compliance with the applicable zoning and development regulations, including the new condominium conversion regulations, as appropriate. Although some of the projects do not comply with the current requirements for new construction, they are allowed to maintain their current configuration because no additional units or expansions are proposed and they are considered previously conforming for density and development standards.

SDMC Section 125.0440(h) and California Government Code Section 66412.3: *“The decision-maker has considered the effects of the proposed subdivision on the housing needs of the region and that those needs are balanced against the needs for public services and the available fiscal and environmental resources.”* Both projects were approved by the Planning Commission, who made this required finding. Staff believes the intent of this finding is to respond to “leapfrog” development and to provide necessary public facilities for additional housing in communities. This appeal point is not valid because there is no net loss or gain of housing units.

SDMC Sections 142.1304 and 142.1305: These sections describe the requirements for approving a variance or waiver from the City’s inclusionary housing requirements. Both projects are conditioned to comply with the inclusionary housing requirements, including the provision of onsite affordable housing. These code sections are not relevant to these projects because neither is requesting a variance or waiver from the inclusionary housing requirements.

The appeal also asserts that the Housing Element of the City’s General Plan has become invalid due to the City’s failure to revise it lawfully and in a timely manner. The current Housing Element was adopted by the City Council on December 5, 2006, and certified by the U.S. Department of Housing and Urban Development on February 5, 2007, prior to the approval of these projects on June 5, 2008.

A 2007 California appeals court case determined that housing elements updated beyond time periods identified in Government Code Section 65588 are not invalid. Therefore, this appeal point would not be grounds for denial of these projects.

Applicant’s Appeal: The applicant asserts that these two projects should be allowed to pay an affordable housing in-lieu fee as opposed to being required to provide onsite affordable housing, as conditioned by the Planning Commission. The current condominium conversion regulations approved by Council on June 13, 2006, require projects such as these with 20+ units to provide onsite affordable housing. The applicant argues that because these projects were deemed complete in May 2005, before the Council’s adoption of those regulations, the requirement to provide onsite affordable housing should not apply. The Council included language in the ordinance which specifically states that any condominium conversion project that was deemed complete but not yet approved as of June 13, 2006, was subject to the new regulations, with the exception of parking. The California Government Code allows public agencies to apply regulations that were not in effect when the project was deemed complete when notice of the proposed changes has been provided per Section 66474.2. Because the potential condominium conversion ordinance changes were publicly known prior to the deemed complete date of these projects, the current condominium conversion regulations apply to these projects.

FISCAL CONSIDERATIONS: None, applicant pays all costs associated with the project.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Both projects were approved by the University Community Planning Group on January 10, 2006, and approved by the Planning Commission on June 5, 2008.

KEY STAKEHOLDERS:

Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation, Paul Robinson, attorney for the applicant and Garden Communities, applicant.

Broughton/Anderson/PG

NOTE: This project is exempt from the California Environmental Quality Act pursuant to State CEQA Guidelines Section 15301 (Existing Facilities).

Staff: Paul Godwin – (619) 446-5103
Karen Heumann – Deputy City Attorney

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:13 p.m. – 2:13 p.m.)

MOTION BY MADAFFER TO CONTINUE TO MONDAY, OCTOBER 13, 2008, AT THE REQUEST OF THE APPLICANT FOR FURTHER REVIEW. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-not present, Frye-yea, Madaffer-yea, Hueso-yea.



ITEM-339: Costa Verde South, Project No. 71257. Appeal regarding the decision of the Planning Commission approving an application for a Tentative Map to convert 606 existing residential units to condominiums. (University Community Plan Area. District 1.)

Matter of the appeals by Cory J. Briggs, Briggs Law Corporation, filed on behalf of Citizens for Responsible Equitable Environmental Development and a separate appeal filed by Paul E. Robinson on behalf of the project owner, Costa Verde Developers, LLC, regarding the decision of the Planning Commission approving an application for a Tentative Map to convert 606 existing residential units to

condominiums, on a 8.6-acre site located at 8510-8550 Costa Verde Boulevard, in the RS-1-4 Zone, within the University 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 the 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>.

STAFF'S RECOMMENDATION:

Take the following actions:

(R-2009-000) CONTINUED TO MONDAY, OCTOBER 13, 2008

Granting or denying the appeal and granting or denying the Tentative Map No. 216966, with appropriate findings to support Council action;

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

OTHER RECOMMENDATIONS:

Planning Commission on June 5, 2008, voted 6-0-1 to approve Tentative Map No. 216966 as presented in Report No. PC-08-058.

Ayes: Naslund, Otsuji, Schultz, Griswold, Ontai, Golba
Not present: Smiley

The University Community Planning Group has recommended approval of this project on January 10, 2006.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

That the City Council deny the project appeals for Costa Verde North and South and approve the condominium conversions as conditioned by the Planning Commission.

STAFF RECOMMENDATION: DENY the appeals and APPROVE the Tentative Maps.

EXECUTIVE SUMMARY:

The Costa Verde North & South projects are related, contiguous projects that were built as part of the same development permit, as described in the attached Planning Commission Reports (Attachments 1 & 2). Two separate project appeals (Attachments 3 & 4) of the Planning Commission's decision to approve these condominium conversion projects have been filed, one by Briggs Law Corporation and one by the applicant. One Executive Summary has been prepared because the appeal language for each project and the project applicant is the same.

Briggs Law Appeal: The majority of the issues raised in the appeal filed by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation (Attachment 3) are environmental concerns that are not relevant to a project appeal. Both projects were determined to be exempt from review under the California Environmental Quality Act (CEQA) and the appeal period for that decision expired in June 2005. Although the majority of the concerns raised in the Appeal Application are environmental issues that have been previously addressed, there are references to several San Diego Municipal Code (SDMC) and California Government Code sections which are not CEQA-related and may be addressed through this project appeal.

These codes sections and staff's responses are below:

SDMC Sections 125.0440(a)-(h): These sections describe the required findings for a Tentative Map. The State Map Act (SMA) restricts the scope of the City's review and limits the findings that apply to the conversion of existing buildings into condominiums. SMA Section 66427 precludes the City from reviewing the building design and the division of the airspace and SMA Section 66427.2 exempts condo conversions from six of the eight standard Tentative Map findings. Based on the above, only findings 125.0440 (b) and (h) apply to condominium conversion projects and the appellant's assertion that all of the findings listed in 125.0440 (a)-(h) apply is incorrect. The two findings that do apply are described below.

SDMC Section 125.0440(b): *“The proposed subdivision complies with the applicable zoning and development regulations of the Land Development Code.”* All of the condominium projects included in this group have been reviewed by staff and determined to be in compliance with the applicable zoning and development regulations, including the new condominium conversion regulations, as appropriate. Although some of the projects do not comply with the current requirements for new construction, they are allowed to maintain their current configuration because no additional units or expansions are proposed and they are considered previously conforming for density and development standards.

SDMC Section 125.0440(h) and California Government Code Section 66412.3: *“The decision-maker has considered the effects of the proposed subdivision on the housing needs of the region and that those needs are balanced against the needs for public services and the available fiscal and environmental resources.”* Both projects were approved by the Planning Commission, who made this required finding. Staff believes the intent of this finding is to respond to “leapfrog” development and to provide necessary public facilities for additional housing in communities. This appeal point is not valid because there is no net loss or gain of housing units.

SDMC Sections 142.1304 and 142.1305: These sections describe the requirements for approving a variance or waiver from the City’s inclusionary housing requirements. Both projects are conditioned to comply with the inclusionary housing requirements, including the provision of onsite affordable housing. These code sections are not relevant to these projects because neither is requesting a variance or waiver from the inclusionary housing requirements.

The appeal also asserts that the Housing Element of the City’s General Plan has become invalid due to the City’s failure to revise it lawfully and in a timely manner. The current Housing Element was adopted by the City Council on December 5, 2006, and certified by the U.S. Department of Housing and Urban Development on February 5, 2007, prior to the approval of these projects on June 5, 2008.

A 2007 California appeals court case determined that housing elements updated beyond time periods identified in Government Code Section 65588 are not invalid. Therefore, this appeal point would not be grounds for denial of these projects.

Applicant’s Appeal: The applicant asserts that these two projects should be allowed to pay an affordable housing in-lieu fee as opposed to being required to provide onsite affordable housing, as conditioned by the Planning Commission. The current condominium conversion regulations approved by Council on June 13, 2006, require projects such as these with 20+ units to provide onsite affordable housing. The applicant argues that because these projects were deemed complete in May 2005, before the Council’s adoption of those regulations, the requirement to

provide onsite affordable housing should not apply. The Council included language in the ordinance which specifically states that any condominium conversion project that was deemed complete but not yet approved as of June 13, 2006, was subject to the new regulations, with the exception of parking. The California Government Code allows public agencies to apply regulations that were not in effect when the project was deemed complete when notice of the proposed changes has been provided per Section 66474.2. Because the potential condominium conversion ordinance changes were publicly known prior to the deemed complete date of these projects, the current condominium conversion regulations apply to these projects.

FISCAL CONSIDERATIONS: None, applicant pays all costs associated with the project.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Both projects were approved by the University Community Planning Group on January 10, 2006, and approved by the Planning Commission on June 5, 2008.

KEY STAKEHOLDERS:

Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation, Paul Robinson, attorney for the applicant and Garden Communities, applicant.

Broughton/Anderson/PG

NOTE: This project is exempt from the California Environmental Quality Act pursuant to State CEQA Guidelines Section 15301 (Existing Facilities).

Staff: Paul Godwin – (619) 446-5103
Karen Heumann – Deputy City Attorney

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:13 p.m. – 2:13 p.m.)

MOTION BY MADAFFER TO CONTINUE TO MONDAY, OCTOBER 13, 2008, AT THE REQUEST OF THE APPLICANT FOR FURTHER REVIEW. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-not present, Frye-yea, Madaffer-yea, Hueso-yea.



ITEM-340: 4024 Georgia Tentative Map, Project No. 89197. Appeal from the decision of the Planning Commission approving an application for a Tentative Map to convert seven existing residential units to condominiums, including a request to waive the requirement to underground existing overhead utilities. (Greater North Park Community Plan Area. District 3.)

Matter of the appeal by Cory J. Briggs, Briggs Law Corporation, on behalf of Citizens for Responsible Equitable Environmental Development from the decision of the Planning Commission approving an application for a Tentative Map to convert seven existing residential units to condominiums, including a request to waive the requirement to underground existing overhead utilities, on a 0.160-acre site located at 4024 Georgia Street in the MR-800B Zone of the Mid-City Communities Planned District, within the Greater North Park 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 the 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>.

STAFF'S RECOMMENDATION:

Take the following actions:

(R-2009-347) DENIED APPEAL/GRANTED TENTATIVE MAP,
ADOPTED AS RESOLUTION R-304103

Granting or denying the appeal and granting or denying the Tentative Map No. 285443 including the request to waive the requirement to underground existing overhead utilities, with appropriate findings to support Council action;

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

OTHER RECOMMENDATIONS:

Planning Commission on September 14, 2006, voted 6-1-0 to approve Tentative Map No. 285443 with two additional conditions voluntarily agreed to by the applicant.

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

The Greater North Park Planning Committee on April 18, 2006, voted 10-1-1 to recommend approval of the proposed project.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

That the City Council deny the appeal and approve Tentative Map No. 285443, including the request to waive the requirement to underground existing overhead utilities, to convert seven existing residential units to condominiums at 4024 Georgia Street in the Greater North Park Community Plan area.

STAFF RECOMMENDATION: DENY the appeal and APPROVE the project.

EXECUTIVE SUMMARY:

On December 2, 2005, the Development Services Department exempted this condominium conversion project from CEQA with proper notice. On December 12, 2005, Cory J. Briggs, Briggs Law Corporation, filed an appeal of the environmental determination, on behalf of Citizens for Responsible Equitable Environmental Development.

On July 31, 2006 (Item 237), the City Council heard the appeal of the environmental determination for this project, and denied that appeal. The project was then scheduled for public hearing before the Planning Commission.

On September 12, 2006, Mr. Briggs filed a letter with the Planning Commission Chairman expressing his objections to the project. On September 14, 2006, the Planning Commission, voted 6-1-0, to approve the project. No opposition was present. On September 21, 2006, Mr. Briggs filed an appeal of the Planning Commission decision citing factual error, findings not supported, new information, City-wide significance, CEQA and the Subdivision Map Act. However, Mr. Briggs' appeal of the environmental determination was previously denied by the City Council on July 31, 2006. The only non-environmental issue included in the appeal was a reference to the Subdivision Map Act. Staff reviewed the proposed condominium conversion, and determined it conformed to the Subdivision Map Act. Therefore, the Development Services Department rejected the appeal of September 21, 2006 (see Attachment 7).

On November 27, 2006, Briggs Law Corporation filed Case No. GIC876017 in the Superior Court of the State of California, County of San Diego arguing the City erred in rejecting the appeal of September 21, 2006. On June 16, 2008, the Honorable Ronald S. Prager ruled in favor of the plaintiff and promulgated a ruling directing the City to schedule a public hearing before the City Council for the purpose of hearing the appeal filed on September 21, 2006. The language of Mr. Briggs' appeal is primarily related to environmental issues.

The 0.16-acre site is located at 4024 Georgia Street, in the MR-800B Zone of the Greater North Park Community Plan Area. The site is bounded on all sides by multi-family residential uses. The Greater North Park Community Plan designates the site for Multi-family Residential at 11-15 dwelling units per acre.

The existing development was constructed in 1993. At the time the property was developed the approved construction met all current regulations. The site is presently developed with 1, two-story structure containing 1, one-bedroom unit and 6, two-bedroom units. Fourteen off-street parking spaces are provided on the site: 4 spaces are accessed from Georgia Street at the front and 10 are accessed from the alley at the rear.

The development complied with the zoning and development regulations in effect at the time of construction. No Building or Zoning Code violations are recorded against the property. The project has previously conforming rights to be maintained as outlined in Chapter 12, Article 7, Division 1 of the Land Development Code. The new regulations adopted by the City Council regarding condominium conversions do not apply as the application was deemed complete prior to their adoption.

The current application requires a Tentative Map to convert the existing seven residential units to condominiums. Utilities are existing above ground in the alley at the rear of the property.

No physical changes to the site are proposed or will occur should the City Council approve the application, except as detailed in the submitted Building Conditions Report.

FISCAL CONSIDERATIONS:

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

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The Planning Commission voted 6-1-0 to approve all requested actions on September 14, 2006. The Greater North Park Planning Committee voted 10-1-1 to recommend approval of the proposed project on April 18, 2006.

KEY STAKEHOLDERS:

Southern Seven, LLC, Owner (Steven Worley and Patsy Worley, members); Cory J. Briggs, Briggs Law Briggs Law Corporation, on behalf of Citizens for Responsible Equitable Environmental Development.

Broughton/Anderson/MS

NOTE: This project is exempt from the California Environmental Quality Act pursuant to State CEQA Guidelines Section 15301 Existing Facilities.

Staff: Michelle Sokolowski – (619) 446-5278
Karen Heumann – Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 4:33 p.m. – 4:39 p.m.)

MOTION BY ATKINS TO ADOPT STAFF’S RECOMMENDATION TO DENY THE APPEAL; GRANT THE TENTATIVE MAP; AND WAIVE THE REQUIREMENT TO UNDERGROUND EXISTING OVERHEAD UTILITIES, WITH APPROPRIATE FINDINGS TO SUPPORT COUNCIL ACTION. Second by Faulconer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-not present, Hueso-yea.

ITEM-341: 1709 Missouri Map Waiver, Project No. 154891. Appeal from the decision of the City of San Diego as Lead Agency under the California Environmental Quality Act (CEQA) that the subject project is exempt pursuant to State CEQA Guidelines Section 15301(k) [Existing Facilities]. (Pacific Beach Community Plan Area. District 2.)

Matter of the appeal by Cory J. Briggs, Briggs Law Corporation, on behalf of Affordable Housing Coalition of San Diego County and Citizens for Responsible Equitable Environmental Development from the decision of the City of San Diego as Lead Agency under the California Environmental Quality Act (CEQA) that the subject project is exempt pursuant to State CEQA Guidelines Section 15301(k) [Existing Facilities].

The project is for a Map Waiver to waive the requirement to file a Tentative Map to convert two existing residential units to condominiums and a Waiver from the requirement to underground the existing overhead utilities at 1709 Missouri 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 the 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>.

(See Report to the City Council No. 08-120.)

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 eight condominium conversions within the Skyline-Paradise Hills, Pacific Beach, Normal Heights, Mid-City, Ocean Beach, La Jolla, and the Greater North Park Community Plan areas. The projects are known as 2228 Reo Drive Map Waiver PTS 145758; 1709 Missouri Map Waiver PTS 154891; 4846 West Mountain View Map Waiver PTS 151733; 4073 Kendall Tentative Map PTS 144251; Winona Map Waiver PTS 135053; 4736 Oregon Street Map Waiver PTS 156577; 8111 Camino Del Oro Tentative Map PTS 152137; 5104 Cape May Tentative Map PTS 126046.

STAFF RECOMMENDATIONS:

Take the following actions:

(R-2009-000) WITHDRAWN BY THE APPELLANT

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 these eight condominium conversion appeals are similar to the batches of 76 such appeals heard and denied by the City Council on July 31, 2006, 18 such appeals heard and denied by the City Council on March 20, 2007, and two such appeals heard and denied by the City Council on June 12, 2007. Accordingly, the Executive Summary, Staff report, and attachments are nearly identical to those already provided in the prior hearings.

Denial of the appeals would allow the applicants to continue processing their Tentative Map or 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 or Map Waivers 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.

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 the limited availability of affordable housing in the City of San Diego is an issue of concern. However, these concerns are policy issues within the purview of City Council, and revisions to relevant policies and regulations are a more appropriate way to address the concerns of the appellant. 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:

The processing of each individual project to a decision will be charged to deposit accounts established by the applicants. 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 by the applicants.

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. Furthermore, a second batch of these same types of appeals were scheduled before the City Council on March 20, 2007. On that date, there were 18 appeals scheduled; the City Council concurred with staff and denied all 18 of the appellant's appeals. In addition, two more appeals were scheduled on June 12, 2007; the City Council concurred with staff and denied both appeals.

Planning Commission Decision: The Planning Commission has not acted (and is not required to act) 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 AND 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.

Broughton/Anderson/FM

Staff: Farah Mahzari – (619) 446-5360
Karen Heumann – Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 4:01 p.m. – 4:06 p.m.)



ITEM-342: 8111 Camino Del Oro Tentative Map, Project No. 152137. Appeal from the decision of the City of San Diego as Lead Agency under the California Environmental Quality Act (CEQA) that the subject project is exempt pursuant to State CEQA Guidelines Section 15301(k) [Existing Facilities]. (Pacific Beach Community Plan Area. District 2.)

Matter of the appeal by Cory J. Briggs, Briggs Law Corporation, on behalf of Affordable Housing Coalition of San Diego County and Citizens for Responsible Equitable Environmental Development from the decision of the City of San Diego as Lead Agency under the California Environmental Quality Act (CEQA) that the subject project is exempt pursuant to State CEQA Guidelines Section 15301(k) [Existing Facilities].

The project is for a Coastal Development Permit and Tentative Map to convert 17 existing residential units to condominiums on a 0.30-acre site, and a waiver to waive the requirements for the undergrounding of existing overhead utilities. The project site is located at 8111 Camino Del Oro in the MF-2 (Multi-Family) Zone in the La Jolla Shores Planned District within the La Jolla Community Plan Area, Local Coastal Program Land Use Plan, Coastal Overlay Zone (Non-Appealable, Area 2), Coastal Height Limitation Overlay Zone, Parking Impact Overlay Zone, and Residential Tandem Parking Overlay Zone.

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 the 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>.

(See Report to the City Council No. 08-120.)

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 eight condominium conversions within the Skyline-Paradise Hills, Pacific Beach, Normal Heights, Mid-City, Ocean Beach, La Jolla, and the Greater North Park Community Plan areas. The projects are known as 2228 Reo Drive Map Waiver PTS 145758; 1709 Missouri Map Waiver PTS 154891; 4846 West Mountain View Map Waiver PTS 151733; 4073 Kendall Tentative Map PTS 144251; Winona Map Waiver PTS 135053; 4736 Oregon Street Map Waiver PTS 156577; 8111 Camino Del Oro Tentative Map PTS 152137; 5104 Cape May Tentative Map PTS 126046.

STAFF RECOMMENDATIONS:

Take the following actions:

(R-2009-000) DENIED APPEAL/UPHELD ENVIRONMENTAL
DETERMINATION, ADOPTED AS
RESOLUTION R-304104

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 these are eight condominium conversion appeals are similar to the batches of 76 such appeals heard and denied by the City Council on July 31, 2006, 18 such appeals heard and denied by the City Council on March 20, 2007 and two such appeals heard and denied by the City Council on June 12, 2007. Accordingly, the Executive Summary, Staff report, and attachments are nearly identical to those already provided in the prior hearings.

Denial of the appeals would allow the applicants to continue processing their Tentative Map or 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 or Map Waivers 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.

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 the limited availability of affordable housing in the City of San Diego is an issue of concern.

However, these concerns are policy issues within the purview of City Council, and revisions to relevant policies and regulations are a more appropriate way to address the concerns of the appellant. 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:

The processing of each individual project to a decision will be charged to deposit accounts established by the applicants. 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 by the applicants.

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. Furthermore, a second batch of these same types of appeals were scheduled before the City Council on March 20, 2007. On that date, there were 18 appeals scheduled; the City Council concurred with staff and denied all 18 of the appellant's appeals. In addition, two more appeals were scheduled on June 12, 2007; the City Council concurred with staff and denied both appeals.

Planning Commission Decision: The Planning Commission has not acted (and is not required to act) 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 AND 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.

Broughton/Anderson/FM

Staff: Farah Mahzari – (619) 446-5360
Karen Heumann – Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 4:51 p.m. – 4:52 p.m.)

MOTION BY HUESO TO ADOPT STAFF'S RECOMMENDATION TO DENY THE APPEAL; UPHOLD THE ENVIRONMENTAL DETERMINATION; AND MAKE AN EXPRESS FINDING THAT THE INFORMATION PROVIDED BY THE APPELLANT AND HIS EXPERTS SHOULD BE EXCLUDED FROM THE RECORD. Second by Faulconer. Passed by the following vote: Peters-recused, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-not present, Hueso-yea.



ITEM-343: 4846 West Mountain View Map Waiver, Project No. 151733. Appeal from the decision of the City of San Diego as Lead Agency under the California Environmental Quality Act (CEQA) that the subject project is exempt pursuant to State CEQA Guidelines Section 15301(k) [Existing Facilities]. (Pacific Beach Community Plan Area. District 2.)

Matter of the appeal by Cory J. Briggs, Briggs Law Corporation, on behalf of Affordable Housing Coalition of San Diego County and Citizens for Responsible Equitable Environmental Development from the decision of the City of San Diego as Lead Agency under the California Environmental Quality Act (CEQA) that the subject project is exempt pursuant to State CEQA Guidelines Section 15301(k) [Existing Facilities].

The project is for a Map Waiver to waive the requirements of a Tentative Map to convert three existing residential units at 4846 West Mountain View to condominiums and a Waiver from the requirement to underground the existing overhead utilities within the Normal Heights 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 the 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>.

(See Report to the City Council No. 08-120.)

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 eight condominium conversions within the Skyline-Paradise Hills, Pacific Beach, Normal Heights, Mid-City, Ocean Beach, La Jolla, The Greater North Park Community Plan areas. The projects are known as 2228 Reo Drive Map Waiver PTS 145758; 1709 Missouri Map Waiver PTS 154891; 4846 West Mountain View Map Waiver PTS 151733; 4073 Kendall Tentative Map PTS 144251; Winona Map Waiver PTS 135053; 4736 Oregon Street Map Waiver PTS 156577; 8111 Camino Del Oro Tentative Map PTS 152137; 5104 Cape May Tentative Map PTS 126046.

STAFF RECOMMENDATIONS:

Take the following actions:

(R-2009-395)	DENIED APPEAL/UPHELD ENVIRONMENTAL DETERMINATION, ADOPTED AS RESOLUTION R-304105
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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 these are eight condominium conversion appeals are similar to the batches of 76 such appeals heard and denied by the City Council on July 31, 2006, 18 such appeals heard and denied by the City Council on March 20, 2007, and two such appeals heard and denied by the City Council on June 12, 2007. Accordingly, the Executive Summary, Staff Report, and Attachments are nearly identical to those already provided in the prior hearings.

Denial of the appeals would allow the applicants to continue processing their Tentative Map or 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 or Map Waivers 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.

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 the limited availability of affordable housing in the City of San Diego is an issue of concern.

However, these concerns are policy issues within the purview of City Council, and revisions to relevant policies and regulations are a more appropriate way to address the concerns of the appellant. 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:

The processing of each individual project to a decision will be charged to deposit accounts established by the applicants. 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 by the applicants.

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. Furthermore, a second batch of these same types of appeals were scheduled before the City Council on March 20, 2007. On that date, there were 18 appeals scheduled; the City Council concurred with staff and denied all 18 of the appellant's appeals. In addition, two more appeals were scheduled on June 12, 2007; the City Council concurred with staff and denied both appeals.

Planning Commission Decision: The Planning Commission has not acted (and is not required to act) 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 AND 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.

Broughton/Anderson/FM

Staff: Farah Mahzari – (619) 446-5360
Karen Heumann – Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 4:43 p.m. – 4:47 p.m.)

Testimony in opposition by Ray Robertson and Joy Sunyata.

MOTION BY FAULCONER TO ADOPT STAFF'S RECOMMENDATION TO DENY THE APPEAL; UPHOLD THE ENVIRONMENTAL DETERMINATION; AND MAKE AN EXPRESS FINDING THAT THE INFORMATION PROVIDED BY THE APPELLANT AND HIS EXPERTS SHOULD BE EXCLUDED FROM THE RECORD. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-not present, Hueso-yea.



ITEM-344: 4176 Oregon Tentative Map, Project No. 78873. Appeal of the decision by the Planning Commission approving an application for a Tentative Map and a waiver of the requirement to underground the existing overhead utilities, to convert nine existing residential units to condominiums. (North Park Community Plan Area. District 3.)

Matter of the appeal by Cory J. Briggs, Briggs Law Corporation, filed on behalf of Citizens for Responsible Equitable Environmental Development, regarding the decision of the Planning Commission approving an application for a Tentative Map and a waiver of the requirement to underground the existing overhead utilities, to convert nine existing residential units to condominiums, on a 0.16-acre site located at 4176 Oregon Street, in the MR-1250B Zone of the Mid-City Communities Planned District, within the Greater North Park 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 the 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>.

STAFF'S RECOMMENDATION:

Take the following actions:

(R-2009-437) GRANTED APPEAL/DENIED TENTATIVE MAP,
ADOPTED AS RESOLUTION R-304106

Granting or denying the appeal and granting or denying the Tentative Map No. 245495 including the request to waive the requirement to underground existing overhead utilities, with appropriate findings to support Council action;

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

OTHER RECOMMENDATIONS:

Planning Commission on July 24, 2008, voted 4-2-1 to approve Tentative Map No. 245495; and approve waiver to the requirement to underground existing overhead utilities as presented in Planning Commission Report No. PC-08-095.

Ayes: Ontai, Naslund, Otsuji, Golba
Nays: Schultz, Griswold
Not present: Smiley

The Greater North Park Community Planning Group has recommended denial of this project.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

That the City Council deny these eight project appeals and approve the condominium conversion projects listed on the attached spreadsheet (Attachment 1), in various community plans.

STAFF RECOMMENDATION: DENY the appeals and APPROVE the Tentative Maps for all eight projects, including the Coastal Development Permit for Leilani Bay, PTS 105191.

EXECUTIVE SUMMARY:

This Executive Summary describes eight condominium conversion projects that were approved by the Planning Commission and subsequently appealed by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation (Attachment 2). The appeal language is the same for all eight projects included in this group and is not specific to any individual project features, therefore one Executive Summary is provided.

Please note these are project appeals not environmental appeals, therefore the environmental issues raised are not relevant to these project appeals. All of the projects included in this group were determined to be exempt from review under the California Environmental Quality Act (CEQA) and the appeal period for that decision has either expired or an appeal of the CEQA exemption has been previously heard and rejected by the City Council.

Although the majority of the concerns raised in the Appeal Application are environmental issues that have been previously addressed, there are references to several San Diego Municipal Code (SDMC) and California Government Code sections which are not CEQA related and may be addressed through this project appeal. These codes sections and staff's responses are contained below:

SDMC Sections 125.0440(a)-(h): These sections describe the required findings for a Tentative Map. The State Map Act (SMA) restricts the scope of the City's review and limits the findings that apply to the conversion of existing buildings into condominiums. SMA Section 66427 precludes the City from reviewing the building design and the division of the airspace and SMA Section 66427.2 exempts condo conversions from six of the eight standard Tentative Map findings. Based on the above, only findings 125.0440 (b) and (h) apply to condominium conversion projects and the appellant's assertion that all of the findings listed in 125.0440 (a)-(h) apply is incorrect. The two findings that do apply are described below.

SDMC Section 125.0440(b): *"The proposed subdivision complies with the applicable zoning and development regulations of the Land Development Code."* All of the condominium projects included in this group have been reviewed by staff and determined to be in compliance with the applicable zoning and development regulations, including the new condominium conversion regulations, as appropriate. Although some of the projects do not comply with the current requirements for new construction, they are allowed to maintain their current configuration because no additional units or expansions are proposed and they are considered previously conforming for density and development standards.

SDMC Section 125.0440(h) and California Government Code Section 66412.3: *"The decision-maker has considered the effects of the proposed subdivision on the housing needs of the region and that those needs are balanced against the needs for public services and the available fiscal and environmental resources."* All of the condominium projects included in this group have been approved by the Planning Commission, who was the decision-maker required to make this finding. Staff believes the intent of this required finding is to respond to "leapfrog" development and to provide necessary public facilities for additional housing in communities.

In this instance there is no net loss or gain of housing units, therefore, staff believes this appeal point is not valid.

SDMC Sections 142.1304 and 142.1305: These sections describe the requirements for approving a variance or waiver from the City's inclusionary housing requirements. All of the projects in this group would comply with the City's requirements either by paying an in-lieu fee or by providing onsite affordable housing.

None of the projects are requesting a variance or waiver from the inclusionary housing requirements, therefore, these code sections are not relevant to these approved condominium conversion projects.

The appeal also asserts that the Housing Element of the City's General Plan has become invalid due to the City's failure to revise it lawfully and in a timely manner. The current Housing Element was adopted by the City Council on December 5, 2006, and certified by the U.S. Department of Housing and Urban Development on February 5, 2007. All of the projects in this group were approved after the certification of the most recent Housing Element update. A 2007 California appeals court case addressed the question about whether a housing element updated beyond time periods identified in Government Code Section 65588 is invalid and determined that it was not. Therefore, the City's Housing Element has never been considered invalid and would not be grounds for denial of these projects.

FISCAL CONSIDERATIONS:

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

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

All eight condominium projects included in this group have been heard and issued a recommendation from the appropriate Community Planning Group and all of the projects have been approved by the Planning Commission.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. 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.

Broughton/Anderson/PG

NOTE: This project is exempt from the California Environmental Quality Act pursuant to State CEQA Guidelines Section 15301 (Existing Facilities).

Staff: Paul Godwin – (619) 446-5103
Karen Heumann – Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:54 p.m. – 4:08 p.m.)

Testimony in opposition by Joy Sunyata.

MOTION BY ATKINS TO GRANT THE APPEAL AND DENY THE TENTATIVE MAP. Second by Frye. Passed by the following vote: Peters-nay, Faulconer-nay, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Hueso-yea.



ITEM-345: 4611 Ohio Tentative Map, Project No. 83623. Appeal of the decision by the Planning Commission approving an application for a Tentative Map and a waiver of the requirement to underground the existing overhead utilities, to convert 36 existing residential units to condominiums. (North Park Community Plan Area. District 3.)

Matter of the appeal by Cory J. Briggs, Briggs Law Corporation, filed on behalf of Citizens for Responsible Equitable Environmental Development, regarding the decision of the Planning Commission approving an application for a Tentative Map and a waiver of the requirement to underground the existing overhead utilities, to convert 36 existing residential units to condominiums, on a 0.75-acre site located at 4611 Ohio Street, in the MR-800B Zone of the Mid-City Communities Planned District, within the Greater North Park 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 the 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>.

STAFF'S RECOMMENDATION:

Take the following actions:

(R-2009-000) CONTINUED TO TUESDAY, SEPTEMBER 16, 2008

Granting or denying the appeal and granting or denying the Tentative Map No. 263258 including the request to waive the requirement to underground existing overhead utilities, with appropriate findings to support Council action;

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

OTHER RECOMMENDATIONS:

Planning Commission on July 24, 2008, voted 4-2-1 to approve Tentative Map No. 263258; and approve waiver to the requirement to underground existing overhead utilities as presented in Report No. PC-08-094.

Ayes: Naslund, Ontai, Otsuji, Golba
Nays: Schultz, Griswold
Not present: Smiley

The Greater North Park Community Planning Group has recommended denial of this project.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

That the City Council deny these eight project appeals and approve the condominium conversion projects listed on the attached spreadsheet (Attachment 1), in various community plans.

STAFF RECOMMENDATION:

DENY the appeals and APPROVE the Tentative Maps for all eight projects, including the Coastal Development Permit for Leilani Bay, PTS 105191.

EXECUTIVE SUMMARY:

This Executive Summary describes eight condominium conversion projects that were approved by the Planning Commission and subsequently appealed by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation (Attachment 2). The appeal language is the same for all eight projects included in this group and is not specific to any individual project features, therefore one Executive Summary is provided.

Please note these are project appeals not environmental appeals, therefore the environmental issues raised are not relevant to these project appeals. All of the projects included in this group were determined to be exempt from review under the California Environmental Quality Act (CEQA) and the appeal period for that decision has either expired or an appeal of the CEQA exemption has been previously heard and rejected by the City Council.

Although the majority of the concerns raised in the Appeal Application are environmental issues that have been previously addressed, there are references to several San Diego Municipal Code (SDMC) and California Government Code sections which are not CEQA related and may be addressed through this project appeal. These codes sections and staff's responses are contained below:

SDMC Sections 125.0440(a)-(h): These sections describe the required findings for a Tentative Map. The State Map Act (SMA) restricts the scope of the City's review and limits the findings that apply to the conversion of existing buildings into condominiums. SMA Section 66427 precludes the City from reviewing the building design and the division of the airspace and SMA Section 66427.2 exempt's condo conversions from six of the eight standard Tentative Map findings. Based on the above, only findings 125.0440 (b) and (h) apply to condominium conversion projects and the appellant's assertion that all of the findings listed in 125.0440 (a)-(h) applies is incorrect. The two findings that do apply are described below.

SDMC Section 125.0440(b): *"The proposed subdivision complies with the applicable zoning and development regulations of the Land Development Code."* All of the condominium projects included in this group have been reviewed by staff and determined to be in compliance with the applicable zoning and development regulations, including the new condominium conversion regulations, as appropriate. Although some of the projects do not comply with the current requirements for new construction, they are allowed to maintain their current configuration because no additional units or expansions are proposed and they are considered previously conforming for density and development standards.

SDMC Section 125.0440(h) and California Government Code Section 66412.3: *“The decision maker has considered the effects of the proposed subdivision on the housing needs of the region and that those needs are balanced against the needs for public services and the available fiscal and environmental resources.”* All of the condominium projects included in this group have been approved by the Planning Commission, who was the decision maker required to make this finding. Staff believes the intent of this required finding is to respond to “leapfrog” development and to provide necessary public facilities for additional housing in communities.

In this instance there is no net loss or gain of housing units, therefore, staff believes this appeal point is not valid.

SDMC Sections 142.1304 and 142.1305: These sections describe the requirements for approving a variance or waiver from the City’s inclusionary housing requirements. All of the projects in this group would comply with the City’s requirements either by paying an in-lieu fee or by providing onsite affordable housing.

None of the projects are requesting a variance or waiver from the inclusionary housing requirements, therefore, these code sections are not relevant to these approved condominium conversion projects.

The appeal also asserts that the Housing Element of the City’s General Plan has become invalid due to the City’s failure to revise it lawfully and in a timely manner. The current Housing Element was adopted by the City Council on December 5, 2006, and certified by the U.S. Department of Housing and Urban Development on February 5, 2007. All of the projects in this group were approved after the certification of the most recent Housing Element update. A 2007 California appeals court case addressed the question about whether a housing element updated beyond time periods identified in Government Code Section 65588 is invalid and determined that it was not. Therefore, the City’s Housing Element has never been considered invalid and would not be grounds for denial of these projects.

FISCAL CONSIDERATIONS:

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

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

All eight condominium projects included in this group have been heard and issued a recommendation from the appropriate Community Planning Group and all of the projects have been approved by the Planning Commission.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. 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.

Broughton/Anderson/PG

NOTE: This project is exempt from the California Environmental Quality Act pursuant to State CEQA Guidelines Section 15301 (Existing Facilities).

Staff: Paul Godwin – (619) 446-5103
Karen Heumann – Deputy City Attorney

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 3:56 p.m. – 4:11 p.m.;
5:07 p.m. – 5:07 p.m.)

Testimony in opposition by Joy Sunyata.

Motion by Atkins to grant the appeal and overturn the Planning Commission's decision to approve the Tentative Map. Second by Frye. Failed. Yeas - 3, 4, 6, 8; Nays - 1, 2, 5; Not present - 7.

MOTION BY YOUNG TO CONTINUE TO TUESDAY, SEPTEMBER 16, 2008, AT THE SUGGESTION OF THE CITY ATTORNEY, FOR FULL COUNCIL. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Hueso-yea.



ITEM-346: Leilani Bay Tentative Map, an application to approve Tentative Map No. 350428, Coastal Development Permit No. 350429 and waive the requirement to underground existing utilities to convert 15 existing residential units to condominiums. (Mission Beach Community Plan Area. District 2.)

Matter of the appeal by Cory J. Briggs, Briggs Law Corporation, filed on behalf of Citizens for Responsible Equitable Environmental Development, regarding the decision of the Planning Commission approving an application for a Tentative Map, Coastal Development Permit and a waiver of the requirement to underground the existing overhead utilities, to convert 15 existing residential units to condominiums on a 0.101-acre site located at 3550 Bayside Walk, in the RS Zone of the Mission Beach Planned District, Coastal (appealable), Coastal Height Limit, Parking Impact, Residential Tandem and Transit area Overlay zones within the Mission Beach Precise 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 the 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>.

(See Report to Planning Commission No. PC-08-071/Coastal Development Permit No. 350429/Tentative Map No. 350428/ Waiver to Underground Existing Overhead Utilities/Project No. 105191.)

EXECUTIVE SUMMARY:

This Executive Summary describes eight condominium conversion projects that were approved by the Planning Commission and subsequently appealed by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation (Attachment 2). The appeal language is the same for all eight projects included in this group and is not specific to any individual project features, therefore one Executive Summary is provided. Please note these are project appeals not environmental appeals, therefore the environmental issues raised are not relevant to these project appeals. All of the projects included in this group were determined to be exempt from review under the California Environmental Quality Act (CEQA) and the appeal period for that decision has either expired or an appeal of the CEQA exemption has been previously heard and rejected by the City Council.

Although the majority of the concerns raised in the Appeal Application are environmental issues that have been previously addressed, there are references to several San Diego Municipal Code (SDMC) and California Government Code sections which are not CEQA related and may be addressed through this project appeal. These codes sections and staff's responses are contained below:

SDMC Sections 125.0440(a)-(h): These sections describe the required findings for a Tentative Map. The State Map Act (SMA) restricts the scope of the City's review and limits the findings that apply to the conversion of existing buildings into condominiums. SMA Section 66427 precludes the City from reviewing the building design and the division of the airspace and SMA Section 66427.2 exempts condo conversions from six of the eight standard Tentative Map findings. Based on the above, only findings 125.0440 (b) and (h) apply to condominium conversion projects and the appellant's assertion that all of the findings listed in 125.0440 (a)-(h) apply is incorrect. The two findings that do apply are described below.

SDMC Section 125.0440(b): *"The proposed subdivision complies with the applicable zoning and development regulations of the Land Development Code."* All of the condominium projects included in this group have been reviewed by staff and determined to be in compliance with the applicable zoning and development regulations, including the new condominium conversion regulations, as appropriate. Although some of the projects do not comply with the current requirements for new construction, they are allowed to maintain their current configuration because no additional units or expansions are proposed and they are considered previously conforming for density and development standards.

SDMC Section 125.0440(h) and California Government Code Section 66412.3: *“The decision-maker has considered the effects of the proposed subdivision on the housing needs of the region and that those needs are balanced against the needs for public services and the available fiscal and environmental resources.”* All of the condominium projects included in this group have been approved by the Planning Commission, who was the decision-maker required to make this finding. Staff believes the intent of this required finding is to respond to “leapfrog” development and to provide necessary public facilities for additional housing in communities. In this instance there is no net loss or gain of housing units, therefore, staff believes this appeal point is not valid.

SDMC Sections 142.1304 and 142.1305: These sections describe the requirements for approving a variance or waiver from the City’s inclusionary housing requirements. All of the projects in this group would comply with the City’s requirements either by paying an in-lieu fee or by providing onsite affordable housing. None of the projects are requesting a variance or waiver from the inclusionary housing requirements, therefore, these code sections are not relevant to these approved condominium conversion projects.

The appeal also asserts that the Housing Element of the City’s General Plan has become invalid due to the City’s failure to revise it lawfully and in a timely manner. The current Housing Element was adopted by the City Council on December 5, 2006, and certified by the U.S. Department of Housing and Urban Development on February 5, 2007. All of the projects in this group were approved after the certification of the most recent Housing Element update. A 2007 California appeals court case addressed the question about whether a housing element updated beyond time periods identified in Government Code Section 65588 is invalid and determined that it was not. Therefore, the City’s Housing Element has never been considered invalid and would not be grounds for denial of these projects.

FISCAL CONSIDERATIONS:

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

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

All eight condominium projects included in this group have been heard and issued a recommendation from the appropriate Community Planning Group and all of the projects have been approved by the Planning Commission.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. 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.

Broughton/Anderson/JF

NOTE: This project is exempt from environmental review pursuant to Article 19, Section 15301(k), Existing Facilities, of the California Environmental Quality Act (CEQA). The environmental exemption determination for this project was made on June 26, 2006, and the opportunity to appeal that determination ended July 17, 2006.

Staff: Jeannette Temple – (619) 557-7908

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 4:01 p.m. – 4:04 p.m.)



ITEM-347: 5104 Cape May Tentative Map, an application for a Tentative Map to convert five existing units to condominiums and waiver from the requirement to underground the existing overhead utilities within the Ocean Beach Community Plan Area. (Ocean Beach Community Plan Area. District 2.)

Matter of the appeal filed by Cory J. Briggs, Briggs Law Corporation, on behalf of Citizens for Responsible Equitable Environmental Development, for the decision of the City of San Diego as Lead Agency under the California Environmental Quality Act (CEQA), who determined that the subject project is exempt pursuant to State CEQA Guidelines Section 15301 (k).

This appeal applies only to the environmental determination on an application for a Tentative Map and waiver to underground existing overhead utilities to convert five existing residential units to condominiums on a 0.19 acre site at 5104 Cape May in the RM-2-4 Zone within the Ocean 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 the 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>.

(See Report to the City Council No. 08-120.)

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 eight condominium conversions within the Skyline-Paradise Hills, Pacific Beach, Normal Heights, Mid-City, Ocean Beach, La Jolla, and Greater North Park Community Plan areas. The projects are known as 2228 Reo Drive Map Waiver PTS 145758; 1709 Missouri Map Waiver PTS 154891; 4846 West Mountain View Map Waiver PTS 151733; 4073 Kendall Tentative Map PTS 144251; Winona Map Waiver PTS 135053; 4736 Oregon Street Map Waiver PTS 156577; 8111 Camino Del Oro Tentative Map PTS 152137; 5104 Cape May Tentative Map PTS 126046.

STAFF RECOMMENDATIONS:

Take the following actions:

(R-2009-000)	DENIED APPEAL/UPHELD ENVIRONMENTAL DETERMINATION, ADOPTED AS RESOLUTION R-304107
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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 these are eight condominium conversion appeals are similar to the batches of 76 such appeals heard and denied by the City Council on July 31, 2006, 18 such appeals heard and denied by the City Council on March 20, 2007, and two such appeals heard and denied by the City Council on June 12, 2007. Accordingly, the Executive Summary, Staff Report, and Attachments are nearly identical to those already provided in the prior hearings.

Denial of the appeals would allow the applicants to continue processing their Tentative Map or 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 or Map Waivers 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.

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 the limited availability of affordable housing in the City of San Diego is an issue of concern. However, these concerns are policy issues within the purview of City Council, and revisions to relevant policies and regulations are a more appropriate way to address the concerns of the appellant. 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:

The processing of each individual project to a decision will be charged to deposit accounts established by the applicants. 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 by the applicants.

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. Furthermore, a second batch of these same types of appeals were scheduled before the City Council on March 20, 2007. On that date, there were 18 appeals scheduled; the City Council concurred with staff and denied all 18 of the appellant's appeals. In addition, two more appeals were scheduled on June 12, 2007; the City Council concurred with staff and denied both appeals.

Planning Commission Decision: The Planning Commission has not acted (and is not required to act) 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 AND 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.

Broughton/Anderson/HD/FM

Staff: Farah Mahzari – (619) 446-5360
Karen Heumann – Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 4:47 p.m. – 4:48 p.m.)

Testimony in opposition by Joy Sunyata.

MOTION BY FAULCONER TO ADOPT STAFF'S RECOMMENDATION TO DENY THE APPEAL; UPHOLD THE ENVIRONMENTAL DETERMINATION; AND MAKE AN EXPRESS FINDING THAT THE INFORMATION PROVIDED BY THE APPELLANT AND HIS EXPERTS SHOULD BE EXCLUDED FROM THE RECORD. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-not present, Hueso-yea.



ITEM-348: 4736 Oregon Map Waiver, an application to waive the requirements of a Tentative Map and underground overhead utilities to convert one existing residential unit to a condominium and create one residential condominium unit (under construction) within the Greater North Park Community Plan Area. (Greater North Park Community Plan Area. District 3.)

Matter of the appeal filed by Cory J. Briggs, Briggs Law Corporation, on behalf of Citizens for Responsible Equitable Environmental Development, for the decision of the City of San Diego as Lead Agency under the California Environmental Quality Act (CEQA), who determined that the subject project is exempt pursuant to State CEQA Guidelines Section 15301 (k).

This appeal applies only to the environmental determination on an application to waive the requirements of a Tentative Map and undergrounding overhead utilities to convert one existing residential unit to condominium and create one residential condominium unit (under construction) on a 0.16-acre site. The property is located at 4736 Oregon Street in the MR-3000 Zone of the Mid-City Communities Planned District within the Greater North Park Community Plan.

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 the 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>.

(See Report to the City Council No. 08-120.)

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 eight condominium conversions within the Skyline-Paradise Hills, Pacific Beach, Normal Heights, Mid-City, Ocean Beach, La Jolla, and Greater North Park Community Plan areas. The projects are known as 2228 Reo Drive Map Waiver PTS 145758; 1709 Missouri Map Waiver PTS 154891; 4846 West Mountain View Map Waiver PTS 151733; 4073 Kendall Tentative Map PTS 144251; Winona Map Waiver PTS 135053; 4736 Oregon Street Map Waiver PTS 156577; 8111 Camino Del Oro Tentative Map PTS 152137; 5104 Cape May Tentative Map PTS 126046.

STAFF RECOMMENDATIONS:

Take the following actions:

(R-2009-408) DENIED APPEAL/UPHELD ENVIRONMENTAL
DETERMINATION, ADOPTED AS RESOLUTION
R-304108

- 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 these eight condominium conversion appeals are similar to the batches of 76 such appeals heard and denied by the City Council on July 31, 2006, 18 such appeals heard and denied by the City Council on March 20, 2007, and two such appeals heard and denied by the City Council on June 12, 2007. Accordingly, the Executive Summary, Staff Report, and Attachments are nearly identical to those already provided in the prior hearings.

Denial of the appeals would allow the applicants to continue processing their Tentative Map or 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 or Map Waivers 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.

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 the limited availability of affordable housing in the City of San Diego is an issue of concern.

However, these concerns are policy issues within the purview of City Council, and revisions to relevant policies and regulations are a more appropriate way to address the concerns of the appellant. 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:

The processing of each individual project to a decision will be charged to deposit accounts established by the applicants. 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 by the applicants.

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. Furthermore, a second batch of these same types of appeals were

scheduled before the City Council on March 20, 2007. On that date, there were 18 appeals scheduled; the City Council concurred with staff and denied all 18 of the appellant's appeals. In addition, two more appeals were scheduled on June 12, 2007; the City Council concurred with staff and denied both appeals.

Planning Commission Decision: The Planning Commission has not acted (and is not required to act) 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 AND 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.

Broughton/Anderson/RM/FM

Staff: Farah Mahzari – (619) 446-5360
Karen Heumann – Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 4:48 p.m. – 4:48 p.m.)

Testimony in opposition by Joy Sunyata.

MOTION BY ATKINS TO ADOPT STAFF'S RECOMMENDATION TO DENY THE APPEAL; UPHOLD THE ENVIRONMENTAL DETERMINATION; AND MAKE AN EXPRESS FINDING THAT THE INFORMATION PROVIDED BY THE APPELLANT AND HIS EXPERTS SHOULD BE EXCLUDED FROM THE RECORD. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-not present, Hueso-yea.



ITEM-349: 7444 Miramar Avenue Street Vacation. Street Vacation to Vacate an approximate 60 x 130 foot unimproved portion of Miramar Avenue just north of Rhoda Drive. The property is located at 7444 Miramar Avenue. (La Jolla Community Plan Area. District 1.)

Matter of approving, conditionally approving, modifying or denying an application for a (PROCESS 5) Street Vacation to Vacate an approximate 60 x 130 foot unimproved portion of Miramar Avenue just north of Rhoda Drive. The property is located at 7444 Miramar Avenue in Zone RS-1-7, Coastal Height Limit, Coastal City, Parking Impact, Residential/Tandem Parking, Council District 1.

(CDP No. 570110/Street Vacation No. 344108.)

STAFF'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2009-178 Cor. Copy) ADOPTED AS RESOLUTION R-304109

Adoption of a Resolution granting Coastal Development Permit No. 570110-7444 Miramar Avenue Street Vacation, Project No. 104039.

Subitem-B: (R-2009-179) ADOPTED AS RESOLUTION R-304110

Adoption of a Resolution approving Public Right-of-Way Vacation No. 344108 7444 Miramar Avenue Street Vacation – Project No. 104039.

OTHER RECOMMENDATIONS:

The street vacation qualifies as a summary vacation and a Planning Commission Recommendation is not required for this action.

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

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

Vacation of a portion of Miramar Avenue.

STAFF RECOMMENDATION:

1. APPROVE Coastal Development Permit No. 570110, and

2. APPROVE Street Vacation No. 344108.

EXECUTIVE SUMMARY:

The proposed Vacation includes a full width portion of un-improved public right-of-way at the southern terminus of Miramar Avenue, between Pearl Street and Rhoda Drive, located in front of 7444 Miramar Avenue (Lot 3). The proposed area to be vacated is an approximately 6,647 square foot rectangular shaped portion of excess right-of-way that forms the northern intersection of Miramar Avenue and Rhoda Drive. Approximately 3,300 square feet of the proposed vacated area fronts along the adjacent lot to the east, Parcel 2. The area of the proposed vacation is excess right-of-way, and is currently a landscaped area with low retaining walls and fences which visually appear as part of each property owner's front and side yards. The portion to be vacated has never been utilized by public vehicular or public pedestrian activity.

The proposed Vacation will not alter vehicular, pedestrian or bicycle use along this portion of Miramar Avenue. The area of the Vacation would be within the required setback for the existing residence, thus no structure, except for a fence/wall could be placed within this area.

The Street Vacation qualifies as a summary vacation and a Planning Commission Recommendation is not required for this action. A Street Vacation may be summarily vacated if it does not contain public facilities, and if the portion of the street to be vacated is excess and not required for present or future use. The proposed street vacation constitutes "development", by definition, within the Coastal Zone, which pursuant to the Land Development Code (Section 126.0702) requires a Coastal Development Permit.

The required findings to approve the Street Vacation as contained in Attachment 4 can be made in the affirmative. The area of the proposed vacation is unimproved excess right-of-way and there is no present or prospective public use for a public right-of-way. The portion of Miramar Avenue to be vacated is not a part of the Transportation Element of the General Plan or La Jolla/La Jolla Shores Local Coastal Program, and will not be detrimentally affected by the vacation. Miramar Avenue has been constructed to its ultimate length and the reservation area is no longer needed.

FISCAL CONSIDERATION:

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

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

The street vacation qualifies as a summary vacation and a Planning Commission Recommendation is not required for this action.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The La Jolla Community Planning Association voted 13-2-0 to recommend denial of the proposed project at their meeting on August 2, 2007, due to concerns raised by adjacent neighbors. The neighbors would prefer that the City retain ownership of the subject property.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Mary Ellen Morgan, Property Owner

Anderson/Broughton

LEGAL DESCRIPTION:

The location of this activity is the portion of Miramar Street that fronts 7444 Miramar Street, 1260 Rhoda Drive, and 1302 Rhoda Drive within the La Jolla Community Plan.

NOTE: This activity is categorically exempt from CEQA pursuant to State Guidelines Section 15305, Minor Alteration in Land Use.

Staff: Glenn Gargas – (619) 446-5142
Shirley R. Edwards – Deputy City Attorney

FILE LOCATION: STRT-J-2987 (39)

COUNCIL ACTION: (Time duration: 4:52 p.m. – 4:54 p.m.)

MOTION BY FAULCONER TO ADOPT THE RESOLUTION IN SUBITEM A TO GRANT THE COASTAL DEVELOPMENT PERMIT AND TO ADOPT THE RESOLUTION IN SUBITEM B TO GRANT THE PUBLIC RIGHT-OF-WAY VACATION. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-nay, Young-yea, Maienschein-nay, Frye-yea, Madaffer-not present, Hueso-yea.



ITEM-350: 909 Diamond Tentative Map, an application for a Coastal Development Permit, Tentative Map and waiver from the requirement to underground existing overhead utilities to convert eight existing residential units to condominiums at 909 Diamond Street. (Pacific Beach Community Plan Area. District 2.)

Matter of the appeal filed by Cory J. Briggs, Briggs Law Corporation, on behalf of Citizens for Responsible Equitable Environmental Development from the decision of the Planning Commission approving an application for a Coastal Development Permit, Tentative Map and waiver from undergrounding existing utilities at a 0.28 acre site located at 909 Diamond Street between Bayard and Cass Streets in 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 the 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>.

(Coastal Development Permit (CPD) No. 302289/Tentative Map No. 301491/
Waiver to Underground Existing Overhead Utilities/Project No. 93544.)

STAFF'S RECOMMENDATION:

Take the following actions:

Subitem-A: (R-2009-392) DENIED APPEAL/GRANTED TENTATIVE
MAP, ADOPTED AS RESOLUTION R-304111

Granting or denying the appeal and granting or denying Tentative Map No.
301491 and Waiver to Underground Existing Overhead Utilities, 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-2009-393) DENIED APPEAL/GRANTED CONDITIONAL
USE PERMIT, ADOPTED AS
RESOLUTION R-304112

Granting or denying the appeal and granting or denying Coastal Development
Permit No. 302289, 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 August 31, 2006, voted 7-0-0 to approve.

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

The Pacific Beach Community Planning Group has been notified of this project and has
not submitted a recommendation.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

That the City Council deny the appeal and approve Tentative Map No. 301491, Coastal Development Permit No. 302289 and waive the requirement to underground existing utilities to convert eight existing residential units to condominiums at 909 Diamond Street in the Pacific Beach Community Plan area.

STAFF RECOMMENDATION:

DENY the appeal and APPROVE the project.

EXECUTIVE SUMMARY:

On January 31, 2006, Development Services Department exempted the project from CEQA with proper notice. On February 6, 2006, Cory J. Briggs, Briggs Law Corporation, filed an appeal, on behalf of Citizens for Responsible Equitable Environmental Development, of the environmental determination. On March 15, 2006, Mr. Briggs filed a letter with the City Clerk' Office withdrawing his appeal, without prejudice. On August 29, 2006, Mr. Briggs filed a letter with the Planning Commission Chairman expressing his objections to the project. On August 31, 2006, the Planning Commission, by a vote of 7:0:0, approved Tentative Map No. 301491, Coastal Development Permit No. 302289, and waived the requirement to underground existing utilities to convert eight existing residential units to condominiums at 909 Diamond Street. No opposition was present. On September 5, 2006, Mr. Briggs filed an appeal of the Planning Commission decision citing factual error, findings not supported, new information, City-wide significance, CEQA and the Subdivision Map Act. However, Mr. Briggs' right to appeal the environmental determination expired on November 7, 2005. The only non-environmental issue included in the appeal is a reference to the Subdivision Map Act. Staff has reviewed the proposed condominium conversion, and determined it conforms to the Subdivision Map Act. Therefore, the Development Services Department rejected the appeal of September 5, 2006. See the letter dated September 15, 2006. On November 27, 2006, Briggs Law Corporation filed Case No. GIC876017 in the Superior Court of the State of California, County of San Diego arguing the City erred in rejecting the appeal of September 5, 2006. On June 16, 2008, the Honorable Ronald S. Prager ruled in favor of the plaintiff and promulgated a ruling directing the City to schedule a public hearing before the City Council for the purpose of hearing the appeal filed on September 5, 2006. The language of Mr. Briggs' appeal is primarily related to environmental issues.

The 0.29 acre site is located at 909 Diamond Street in the RM-1-1 zone between Bayard and Cass Streets in the Pacific Beach Community Plan area. The surrounding land uses are residential to the north, east, south and west, specifically multi-family and a small number of single family uses. The Land Use Element of the Pacific Beach Community Plan designates the site for Multi-family Residential at 9-14 dwelling units per acre.

The existing development was constructed in the 1970's. At the time the property was developed the approved construction met all current regulations. The site is presently improved with three apartment buildings. The buildings include a total of six two-bedroom units at 1,034 square feet each, one one-bedroom unit at 845 square feet and one one-bedroom unit at 1,621 square feet. The original development provided fourteen parking spaces.

The development complied with the zoning and development regulations in effect at the time of construction. No Building or Zoning Code violations are recorded against the property. The project has previously conforming rights to be maintained as outlined in Chapter 12, Article 7, Division 1 of the Land Development Code. The site of the proposed conversion of apartments to condominiums is within the Coastal Zone. The new regulations adopted by the City Council regarding condominium conversions do not apply as the application was deemed complete prior to their adoption.

The current application requires a Tentative Map and Coastal Development Permit to convert the existing eight residential units to condominiums. Utilities are existing above ground in the alley between Bayard and Cass Streets. No physical changes to the site are proposed or will occur should the City Council approve the application, except as detailed in the submitted Building Conditions Report.

FISCAL CONSIDERATIONS:

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

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The Planning Commission voted 7:0:0 to approve all requested actions on August 31, 2006. The Pacific Beach Community Planning Group has not provided a recommendation.

KEY STAKEHOLDERS:

Bruce McKillican, Owner

Broughton/Anderson/JF

NOTE: This project is exempt from environmental review pursuant to Article 19, Section 15301(k), Existing Facilities, of the California Environmental Quality Act (CEQA). This project is not pending an appeal of the environmental determination. The environmental exemption determination for this project was made on October 24, 2005, and the opportunity to appeal that determination ended November 7, 2005. This Tentative Map has no outstanding environmental appeals.

Staff: John S. Fisher – (619) 446-5231

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 4:33 p.m. – 4:39 p.m.)

MOTION BY FAULCONER TO ADOPT THE RESOLUTION IN SUBITEM A TO DENY THE APPEAL AND GRANT THE TENTATIVE MAP; ADOPT THE RESOLUTION IN SUBITEM B TO DENY THE APPEAL AND GRANT THE CONDITIONAL USE PERMIT; AND WAIVE THE REQUIREMENT TO UNDERGROUND EXISTING UTILITIES, WITH APPROPRIATE FINDINGS TO SUPPORT COUNCIL ACTION. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-not present, Hueso-yea.



ITEM-351: 2228 Reo Drive Map Waiver, Project No. 145758. Appeal of the decision by the City of San Diego as Lead Agency under the California Environmental Quality Act (CEQA) that the subject project is exempt pursuant to State CEQA Guidelines Section 15301(k) [Existing Facilities]. (Skyline-Paradise Hills Community Plan Area. District 4.)

Matter of the appeal by Affordable Housing Coalition of San Diego County and Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation, from the decision of the City of San Diego as Lead Agency under the California Environmental Quality Act (CEQA) that the subject project is exempt pursuant to State CEQA Guidelines Section 15301(k) [Existing Facilities].

The project is for a Map Waiver from the requirement to file a Tentative Map to convert 4 existing residential units to condominiums, and a Waiver from the requirement to underground the existing overhead utilities on a site located at 2228 Reo Drive within the Skyline-Paradise Hills Communities Plan Area.

(See Report to the City Council No. 08-120.)

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 eight condominium conversions within the Skyline-Paradise Hills, Pacific Beach, Normal Heights, Mid-City, Ocean Beach, La Jolla, and Greater North Park Community Plan areas. The projects are known as 2228 Reo Drive Map Waiver PTS 145758; 1709 Missouri Map Waiver PTS 154891; 4846 West Mountain View Map Waiver PTS 151733; 4073 Kendall Tentative Map PTS 144251; Winona Map Waiver PTS 135053; 4736 Oregon Street Map Waiver PTS 156577; 8111 Camino Del Oro Tentative Map PTS 152137; 5104 Cape May Tentative Map PTS 126046.

STAFF RECOMMENDATIONS:

Take the following actions:

(R-2009-409) DENIED APPEAL/UPHELD ENVIRONMENTAL
DETERMINATION ADOPTED AS
RESOLUTION R-304113

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 these eight condominium conversion appeals are similar to the batches of 76 such appeals heard and denied by the City Council on July 31, 2006, 18 such appeals heard and denied by the City Council on March 20, 2007, and two such appeals heard and denied by the City Council on June 12, 2007. Accordingly, the Executive Summary, Staff Report, and Attachments are nearly identical to those already provided in the prior hearings.

Denial of the appeals would allow the applicants to continue processing their Tentative Map or 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 or Map Waivers 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.

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 the limited availability of affordable housing in the City of San Diego is an issue of concern. However, these concerns are policy issues within the purview of City Council, and revisions to relevant policies and regulations are a more appropriate way to address the concerns of the appellant. 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:

The processing of each individual project to a decision will be charged to deposit accounts established by the applicants. 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 by the applicants.

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.

Furthermore, a second batch of these same types of appeals were scheduled before the City Council on March 20, 2007. On that date, there were 18 appeals scheduled; the City Council concurred with staff and denied all 18 of the appellant's appeals. In addition, two more appeals were scheduled on June 12, 2007; the City Council concurred with staff and denied both appeals.

Planning Commission Decision: The Planning Commission has not acted (and is not required to act) 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 AND 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.

Anderson/Broughton

Staff: Farah Mahzari – (619) 446-5360
Karen Heumann – Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 4:48 p.m. – 4:49 p.m.)

MOTION BY YOUNG TO ADOPT STAFF'S RECOMMENDATIONS TO DENY THE APPEAL; UPHOLD THE ENVIRONMENTAL DETERMINATION; AND MAKE AN EXPRESS FINDING THAT THE INFORMATION PROVIDED BY THE APPELLANT AND HIS EXPERTS SHOULD BE EXCLUDED FROM THE RECORD. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-not present, Hueso-yea.



ITEM-352: Winona Map Waiver, Project No. 135053. Appeal of the decision of the City of San Diego as Lead Agency under the California Environmental Quality Act (CEQA) that the subject project is exempt pursuant to State CEQA Guidelines Section 15301(k) [Existing Facilities]. (Kensington-Talmadge Community Plan Area. District 3.)

Matter of the appeal by Affordable Housing Coalition of San Diego County and Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation, from the decision of the City of San Diego as Lead Agency under the California Environmental Quality Act (CEQA) that the subject project is exempt pursuant to State CEQA Guidelines Section 15301(k) [Existing Facilities].

The project is for a Map Waiver application to waive the requirements of a Tentative Map and undergrounding overhead utilities to convert 4 existing residential units to condominiums on a 0.143 acre site located at 4571 Winona Avenue in the RM-1-1 Zone of Central Urbanized Planned District within the Kensington-Talmadge Neighborhood of Mid-City Communities Plan Area, Council District 3, City and County of San Diego, CA, 92115 (APN No. 465-642-06).

(See Report to the City Council No. 08-120.)

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 eight condominium conversions within the Skyline-Paradise Hills, Pacific Beach, Normal Heights, Mid-City, Ocean Beach, La Jolla, and Greater North Park Community Plan areas. The projects are known as 2228 Reo Drive Map Waiver PTS 145758; 1709 Missouri Map Waiver PTS 154891; 4846 West Mountain View Map Waiver PTS 151733; 4073 Kendall Tentative Map PTS 144251; Winona Map Waiver PTS 135053; 4736 Oregon Street Map Waiver PTS 156577; 8111 Camino Del Oro Tentative Map PTS 152137; 5104 Cape May Tentative Map PTS 126046.

STAFF RECOMMENDATIONS:

Take the following actions:

(R-2009-410) DENIED APPEAL/UPHELD ENVIRONMENTAL
DETERMINATION, ADOPTED AS
RESOLUTION R-304114

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 these are eight condominium conversion appeals are similar to the batches of 76 such appeals heard and denied by the City Council on July 31, 2006, 18 such appeals heard and denied by the City Council on March 20, 2007, and two such appeals heard and denied by the City Council on June 12, 2007. Accordingly, the Executive Summary, Staff Report, and Attachments are nearly identical to those already provided in the prior hearings.

Denial of the appeals would allow the applicants to continue processing their Tentative Map or 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 or Map Waivers 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.

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 the limited availability of affordable housing in the City of San Diego is an issue of concern. However, these concerns are policy issues within the purview of City Council, and revisions to relevant policies and regulations are a more appropriate way to address the concerns of the appellant. 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:

The processing of each individual project to a decision will be charged to deposit accounts established by the applicants. 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 by the applicants.

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.

Furthermore, a second batch of these same types of appeals were scheduled before the City Council on March 20, 2007. On that date, there were 18 appeals scheduled; the City Council concurred with staff and denied all 18 of the appellant's appeals. In addition, two more appeals were scheduled on June 12, 2007; the City Council concurred with staff and denied both appeals.

Planning Commission Decision: The Planning Commission has not acted (and is not required to act) 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 AND 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.

Anderson/Broughton

Staff: Farah Mahzari – (619) 446-5360
Karen Heumann – Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 4:49 pm. – 4:50 p.m.)

MOTION BY ATKINS TO ADOPT STAFF'S RECOMMENDATION TO DENY THE APPEAL; UPHOLD THE ENVIRONMENTAL DETERMINATION; AND MAKE AN EXPRESS FINDING THAT THE INFORMATION PROVIDED BY THE APPELLANT AND HIS EXPERTS SHOULD BE EXCLUDED FROM THE RECORD. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-not present, Hueso-yea.



ITEM-353: 2775 A Street Tentative Map, Project No. 79486. Appeal of Planning Commission's decision approving an application for a Tentative Map to convert nine existing residential units to condominiums and a request to waive the requirement to underground existing overhead utilities on an 8,426 square-foot site located at 2775 A Street. (Greater Golden Hill Community Plan Area. District 8.)

Matter of the appeal by Affordable Housing Coalition of San Diego County and Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation, from the decision by the Planning Commission approving an application for a Tentative Map to convert nine existing residential units to condominiums and a request to waive the requirement to underground existing overhead utilities on a 8,426 square-foot site located at 2775 A Street within the GH-2500 Zone of Golden Hill Planned District within the Greater Golden Hill Community Plan.

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 on September 14, 2005, and the opportunity to appeal that determination ended September 29, 2005.

(TM No. 247911/Waiver of requirement to underground existing overhead utilities.)

STAFF'S RECOMMENDATION:

Take the following actions:

(R-2009-404) DENIED APPEAL/ UPHELD THE DECISION OF
THE PLANNING COMMISSION /GRANTED
TENTATIVE MAP, ADOPTED AS
RESOLUTION R-304115

Granting or denying the appeal and upholding or overturning the decision by the Planning Commission approving Tentative Map No. 247911 and approving the waiver to the requirement to underground existing overhead utilities.

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

OTHER RECOMMENDATIONS:

Planning Commission on June 12, 2008, voted 5-1-1 to approve.

Ayes: Otsuji, Golba, Schultz, Naslund, Ontai
Nays: Griswold
Not present: Smiley

The Golden Hill Community Planning Committee has recommended approval of this project.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

That the City Council deny these eight project appeals and approve the condominium conversion projects listed on the attached spreadsheet (Attachment 1), in various community plans.

STAFF RECOMMENDATION: DENY the appeals and APPROVE the Tentative Maps for all eight projects, including the Coastal Development Permit for Leilani Bay, PTS 105191.

EXECUTIVE SUMMARY:

This Executive Summary describes eight condominium conversion projects that were approved by the Planning Commission and subsequently appealed by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation (Attachment 2). The appeal language is the same for all eight projects included in this group and is not specific to any individual project features, therefore one Executive Summary is provided. Please note these are project appeals not environmental appeals, therefore the environmental issues raised are not relevant to these project appeals.

All of the projects included in this group were determined to be exempt from review under the California Environmental Quality Act (CEQA) and the appeal period for that decision has either expired or an appeal of the CEQA exemption has been previously heard and rejected by the City Council.

Although the majority of the concerns raised in the Appeal Application are environmental issues that have been previously addressed, there are references to several San Diego Municipal Code (SDMC) and California Government Code sections which are not CEQA related and may be addressed through this project appeal. These codes sections and staff's responses are contained below:

SDMC Sections 125.0440(a)-(h): These sections describe the required findings for a Tentative Map. The State Map Act (SMA) restricts the scope of the City's review and limits the findings that apply to the conversion of existing buildings into condominiums. SMA Section 66427 precludes the City from reviewing the building design and the division of the airspace and SMA Section 66427.2 exempts condo conversions from six of the eight standard Tentative Map findings. Based on the above, only findings 125.0440 (b) and (h) apply to condominium conversion projects and the appellant's assertion that all of the findings listed in 125.0440 (a)-(h) apply is incorrect. The two findings that do apply are described below.

SDMC Section 125.0440(b): *“The proposed subdivision complies with the applicable zoning and development regulations of the Land Development Code.”* All of the condominium projects included in this group have been reviewed by staff and determined to be in compliance with the applicable zoning and development regulations, including the new condominium conversion regulations, as appropriate. Although some of the projects do not comply with the current requirements for new construction, they are allowed to maintain their current configuration because no additional units or expansions are proposed and they are considered previously conforming for density and development standards.

SDMC Section 125.0440(h) and California Government Code Section 66412.3: *“The decision-maker has considered the effects of the proposed subdivision on the housing needs of the region and that those needs are balanced against the needs for public services and the available fiscal and environmental resources.”* All of the condominium projects included in this group have been approved by the Planning Commission, who was the decision-maker required to make this finding. Staff believes the intent of this required finding is to respond to “leapfrog” development and to provide necessary public facilities for additional housing in communities. In this instance there is no net loss or gain of housing units, therefore, staff believes this appeal point is not valid.

SDMC Sections 142.1304 and 142.1305: These sections describe the requirements for approving a variance or waiver from the City’s inclusionary housing requirements. All of the projects in this group would comply with the City’s requirements either by paying an in-lieu fee or by providing onsite affordable housing. None of the projects are requesting a variance or waiver from the inclusionary housing requirements, therefore, these code sections are not relevant to these approved condominium conversion projects.

The appeal also asserts that the Housing Element of the City’s General Plan has become invalid due to the City’s failure to revise it lawfully and in a timely manner. The current Housing Element was adopted by the City Council on December 5, 2006, and certified by the U.S. Department of Housing and Urban Development on February 5, 2007. All of the projects in this group were approved after the certification of the most recent Housing Element update. A 2007 California appeals court case addressed the question about whether a housing element updated beyond time periods identified in Government Code Section 65588 is invalid and determined that it was not. Therefore, the City’s Housing Element has never been considered invalid and would not be grounds for denial of these projects.

FISCAL CONSIDERATIONS:

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

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

All eight condominium projects included in this group have been heard and issued a recommendation from the appropriate Community Planning Group and all of the projects have been approved by the Planning Commission.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. 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.

Anderson/Broughton

Staff: William Zounes – (619) 687-5942
Karen Heumann – Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:55 p.m. – 4:06 p.m.)

Testimony in opposition by Joy Sunyata.

MOTION BY HUESO TO DENY THE APPEAL; UPHOLD THE DECISION OF THE PLANNING COMMISSION; GRANT THE TENTATIVE MAP; AND APPROVE THE WAIVER TO THE REQUIREMENT TO UNDERGROUND EXISTING OVERHEAD UTILITIES. Second by Faulconer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Hueso-yea.



ITEM-354: 4073 Kendall Tentative Map, Project No. 144251. Appeal of the decision by the City of San Diego as Lead Agency under the California Environmental Quality Act (CEQA) that the subject project is exempt pursuant to State CEQA Guidelines Section 15301(k) [Existing Facilities]. (Pacific Beach Community Plan Area. District 2.)

Matter of the appeal by Affordable Housing Coalition of San Diego County and Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation, from the decision of the City of San Diego as Lead Agency under the California Environmental Quality Act (CEQA) that the subject project is exempt pursuant to State CEQA Guidelines Section 15301(k) [Existing Facilities].

The project is for a Coastal Development Permit and Tentative Map to convert 5 existing residential units to condominiums, and a Waiver from the requirement to underground the existing overhead utilities on a site located at 4073 Kendall Street within the Pacific Beach Community Plan Area.

(See Report to the City Council No. 08-120.)

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 eight condominium conversions within the Skyline-Paradise Hills, Pacific Beach, Normal Heights, Mid-City, Ocean Beach, La Jolla, and Greater North Park Community Plan areas. The projects are known as 2228 Reo Drive Map Waiver PTS 145758; 1709 Missouri Map Waiver PTS 154891; 4846 West Mountain View Map Waiver PTS 151733; 4073 Kendall Tentative Map PTS 144251; Winona Map Waiver PTS 135053; 4736 Oregon Street Map Waiver PTS 156577; 8111 Camino Del Oro Tentative Map PTS 152137; 5104 Cape May Tentative Map PTS 126046.

STAFF RECOMMENDATIONS:

Take the following actions:

(R-2009-000) DENIED APPEAL/UPHELD ENVIRONMENTAL
DETERMINATION, ADOPTED AS
RESOLUTION R-304116

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 these are eight condominium conversion appeals are similar to the batches of 76 such appeals heard and denied by the City Council on July 31, 2006, 18 such appeals heard and denied by the City Council on March 20, 2007, and two such appeals heard and denied by the City Council on June 12, 2007. Accordingly, the Executive Summary, Staff Report, and attachments are nearly identical to those already provided in the prior hearings.

Denial of the appeals would allow the applicants to continue processing their Tentative Map or 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 or Map Waivers 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.

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 the limited availability of affordable housing in the City of San Diego is an issue of concern. However, these concerns are policy issues within the purview of City Council, and revisions to relevant policies and regulations are a more appropriate way to address the concerns of the appellant. 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:

The processing of each individual project to a decision will be charged to deposit accounts established by the applicants. 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 by the applicants.

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.

Furthermore, a second batch of these same types of appeals were scheduled before the City Council on March 20, 2007. On that date, there were 18 appeals scheduled; the City Council concurred with staff and denied all 18 of the appellant's appeals. In addition, two more appeals were scheduled on June 12, 2007; the City Council concurred with staff and denied both appeals.

Planning Commission Decision: The Planning Commission has not acted (and is not required to act) 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 AND 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.

Anderson/Broughton

Staff: Farah Mahzari – (619) 446-5360
Karen Heumann – Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 4:50 p.m. – 4:51 p.m.)

MOTION BY FAULCONER TO ADOPT STAFF'S RECOMMENDATION TO DENY THE APPEAL; UPHOLD THE ENVIRONMENTAL DETERMINATION; AND MAKE AN EXPRESS FINDING THAT THE INFORMATION PROVIDED BY THE APPELLANT AND HIS EXPERTS SHOULD BE EXCLUDED FROM THE RECORD. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-not present, Hueso-yea.



ITEM-355: 3953 Centre Tentative Map, Project No. 79752. Appeal of Planning Commission's decision approving an application for a Tentative Map to convert 21 existing residential units to condominiums and a request to waive the requirements to underground existing overhead utilities on a 16,540 square-foot site located at 3953 Centre Street. (Uptown Community Plan Area. District 3.)

Matter of the appeal by the Affordable Housing Coalition of San Diego County and Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation, from the decision by the Planning Commission approving an application for a Tentative Map to convert 21 existing residential units to condominiums and a request to waive the requirements to underground existing overhead utilities on a 16,540 square-foot site located at 3953 Centre Street in the MR-800B Zone of Mid-City Communities Planned District within the Uptown Community Plan.

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 on August 31, 2005, and the opportunity to appeal that determination ended September 15, 2005.

(TM No. 248795/Waiver of requirement to underground existing overhead utilities.)

STAFF'S RECOMMENDATION:

Take the following actions:

(R-2009-000) CONTINUED TO TUESDAY, SEPTEMBER 16, 2008

Granting or denying the appeal and upholding or overturning the decision by the Planning Commission approving Tentative Map No. 248795 and approving the waiver to the requirement to underground existing overhead utilities;

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

OTHER RECOMMENDATIONS:

Planning Commission on June 12, 2008, voted 5-1-1 to approve.

Ayes: Otsuji, Golba, Schultz, Naslund, Ontai

Nays: Griswold

Not present: Smiley

The Uptown Planners has recommended denial of this project.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

That the City Council deny these eight project appeals and approve the condominium conversion projects listed on the attached spreadsheet (Attachment 1), in various community plans.

STAFF RECOMMENDATION: DENY the appeals and APPROVE the Tentative Maps for all eight projects, including the Coastal Development Permit for Leilani Bay, PTS 105191.

EXECUTIVE SUMMARY:

This Executive Summary describes eight condominium conversion projects that were approved by the Planning Commission and subsequently appealed by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation (Attachment 2). The appeal language is the same for all eight projects included in this group and is not specific to any individual project features, therefore one Executive Summary is provided. Please note these are project appeals not environmental appeals, therefore the environmental issues raised are not relevant to these project appeals.

All of the projects included in this group were determined to be exempt from review under the California Environmental Quality Act (CEQA) and the appeal period for that decision has either expired or an appeal of the CEQA exemption has been previously heard and rejected by the City Council.

Although the majority of the concerns raised in the Appeal Application are environmental issues that have been previously addressed, there are references to several San Diego Municipal Code (SDMC) and California Government Code sections which are not CEQA related and may be addressed through this project appeal. These codes sections and staff's responses are contained below:

SDMC Sections 125.0440(a)-(h): These sections describe the required findings for a Tentative Map. The State Map Act (SMA) restricts the scope of the City's review and limits the findings that apply to the conversion of existing buildings into condominiums. SMA Section 66427 precludes the City from reviewing the building design and the division of the airspace and SMA Section 66427.2 exempts condo conversions from six of the eight standard Tentative Map findings. Based on the above, only findings 125.0440 (b) and (h) apply to condominium conversion projects and the appellant's assertion that all of the findings listed in 125.0440 (a)-(h) apply is incorrect. The two findings that do apply are described below.

SDMC Section 125.0440(b): *“The proposed subdivision complies with the applicable zoning and development regulations of the Land Development Code.”* All of the condominium projects included in this group have been reviewed by staff and determined to be in compliance with the applicable zoning and development regulations, including the new condominium conversion regulations, as appropriate. Although some of the projects do not comply with the current requirements for new construction, they are allowed to maintain their current configuration because no additional units or expansions are proposed and they are considered previously conforming for density and development standards.

SDMC Section 125.0440(h) and California Government Code Section 66412.3: *“The decision-maker has considered the effects of the proposed subdivision on the housing needs of the region and that those needs are balanced against the needs for public services and the available fiscal and environmental resources.”* All of the condominium projects included in this group have been approved by the Planning Commission, who was the decision-maker required to make this finding. Staff believes the intent of this required finding is to respond to “leapfrog” development and to provide necessary public facilities for additional housing in communities. In this instance there is no net loss or gain of housing units, therefore, staff believes this appeal point is not valid.

SDMC Sections 142.1304 and 142.1305: These sections describe the requirements for approving a variance or waiver from the City’s inclusionary housing requirements. All of the projects in this group would comply with the City’s requirements either by paying an in-lieu fee or by providing onsite affordable housing. None of the projects are requesting a variance or waiver from the inclusionary housing requirements, therefore, these code sections are not relevant to these approved condominium conversion projects.

The appeal also asserts that the Housing Element of the City’s General Plan has become invalid due to the City’s failure to revise it lawfully and in a timely manner. The current Housing Element was adopted by the City Council on December 5, 2006, and certified by the U.S. Department of Housing and Urban Development on February 5, 2007. All of the projects in this group were approved after the certification of the most recent Housing Element update. A 2007 California appeals court case addressed the question about whether a housing element updated beyond time periods identified in Government Code Section 65588 is invalid and determined that it was not. Therefore, the City’s Housing Element has never been considered invalid and would not be grounds for denial of these projects.

FISCAL CONSIDERATIONS:

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

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

All eight condominium projects included in this group have been heard and issued a recommendation from the appropriate Community Planning Group and all of the projects have been approved by the Planning Commission.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. 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.

Anderson/Broughton

Staff: William Zounes – (619) 687-5942
Karen Heumann – Deputy City Attorney

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 3:56 p.m. – 4:11 p.m.;
5:07 p.m. – 5:07 p.m.)

Testimony in opposition by Joy Sunyata.

Motion by Atkins to grant the appeal and overturn the Planning Commission's decision to approve the Tentative Map. Second by Frye. Failed. Yeas - 3, 4, 6, 8; Nays - 1, 2, 5; Not present - 7.

MOTION BY YOUNG TO CONTINUE TO TUESDAY, SEPTEMBER 16, 2008, AT THE SUGGESTION OF THE CITY ATTORNEY, FOR FULL COUNCIL. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Hueso-yea.

REPORT OUT OF CLOSED SESSION:

None.

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Council President Peters at 5:23 p.m. in honor of the memory of:

Dorothy “Del” Martin as requested by Council Member Atkins;
Jauntai J. Arnold-Williams as requested by Council Member Young; and
April Marie Goldstein as requested by Council Member Young.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 5:18 p.m. – 5:23 p.m.)

Elizabeth S. Maland, City Clerk
City of San Diego