



CITY COUNCIL AGENDA REPORT

MEETING DATE: JANUARY 2, 2007

ITEM NO:

SUBJECT: APPEAL OF PLANNING APPLICATION PA-06-58
780 AND 790 HAMILTON STREET

DATE: DECEMBER 21, 2006

FROM: DEVELOPMENT SERVICES DEPARTMENT – PLANNING DIVISION

PRESENTATION BY: MEL LEE, AICP. SENIOR PLANNER

FOR FURTHER INFORMATION CONTACT: MEL LEE, AICP, SENIOR PLANNER (714)754-5611

RECOMMENDED ACTION

Conduct public hearing and adopt a resolution to uphold, reverse, or modify Planning Commission's decision.

BACKGROUND

On November 27, 2006, Planning Commission denied Planning Application PA-06-58 for conversion of an existing 40-unit apartment complex into a common interest development (condominiums), with a variance from private open space requirements, on a 3-2 vote (Commissioner Garlich and Vice Chair Hall voting no). On December 4, 2006, an appeal of Commission's decision was filed by the applicant.

ANALYSIS

In his appeal, the applicant states the conversion would provide the following upgrades to the property: enclosed patios and balconies, stamped concrete at the driveway entry, more landscaped areas, and a substantial addition of trees along the street frontages. The applicant also states the project will provide affordable homeownership opportunities in the area.

At the hearing, no one spoke for or against the project, other than the applicant. Planning Commission denied the conversion because the apartments, which were built in 1964, are nonconforming to current density, parking, and common open space requirements. Commission determined that the upgrades proposed by the applicant as part of the conversion were not sufficient to offset the nonconforming nature of the project.

ALTERNATIVES CONSIDERED

City Council may consider the following alternatives:

1. Uphold Planning Commission's decision to deny the conversion. If the request is denied, the units can still be continue to be rented.
2. Reverse Planning Commission's decision and approve the request, subject to conditions of approval. If the request is approved, appropriate findings would need to be made.

FISCAL REVIEW

Fiscal review is not required.

LEGAL REVIEW

Legal review is not required.

ENVIRONMENTAL REVIEW

Pursuant to Section 15301 (Existing Facilities) of the California Environmental Quality Act (CEQA) Guidelines, this project is exempt from CEQA.

CONCLUSION

The Planning Commission denied the applicant's request because the existing development is nonconforming with current density, and open space standards. The applicant feels the conversion will provide substantial upgrades to the property and homeownership opportunities within the City.



MEL LEE, AICP
Senior Planner



DONALD D. LAMM, AICP
Deputy City Mgr. – Dev. Svs. Director

Attachments: Zoning/Location Map
 Plans
 Photo Exhibit
 Draft City Council Resolution
 Exhibit "A" – Draft Findings
 Exhibit "B" – Draft Conditions of Approval
 Appeal Application
 Minutes of Planning Commission meeting of November 27, 2006
 Planning Division Staff Report with Supplemental Information
 Planning Commission Resolution

Distribution: City Manager
Assistant City Manager
City Attorney
Deputy City Mgr.,-Development Svs. Dir.
Public Services Director
City Clerk (2)
Staff (4)
File (2)

Mesa West, LLC
Attn: David A. Stern
227 Broadway #201
Santa Monica, CA 90401

Occupant
790 Hamilton Street, Unit 1
Costa Mesa, CA 92627

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790 Hamilton Street, Unit 2
Costa Mesa, CA 92627

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790 Hamilton Street, Unit 3
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Occupant
780 Hamilton Street, Unit 41
Costa Mesa, CA 92627

ZONING/LOCATION MAP

780 AND 790 HAMILTON ST.

Legend

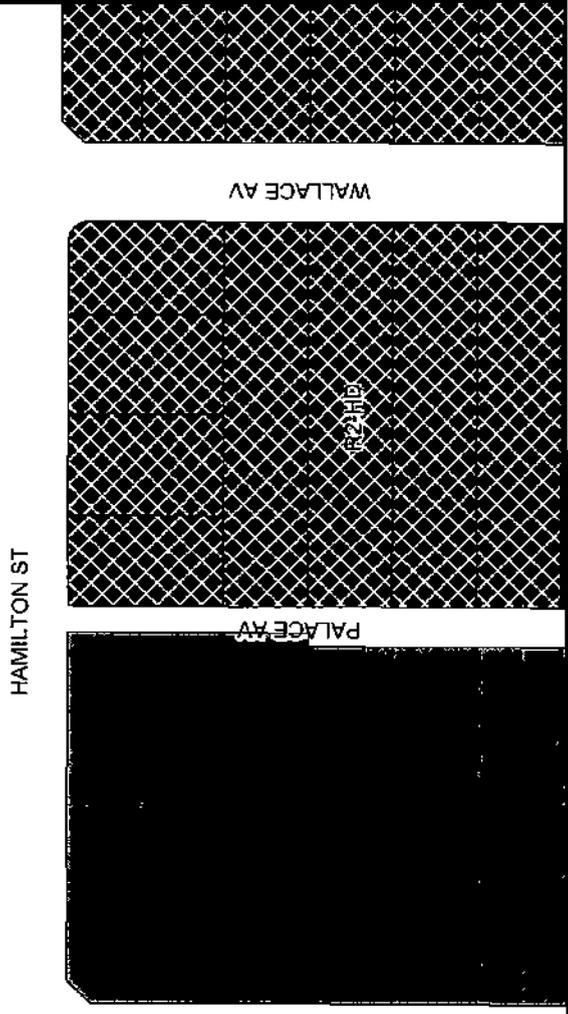
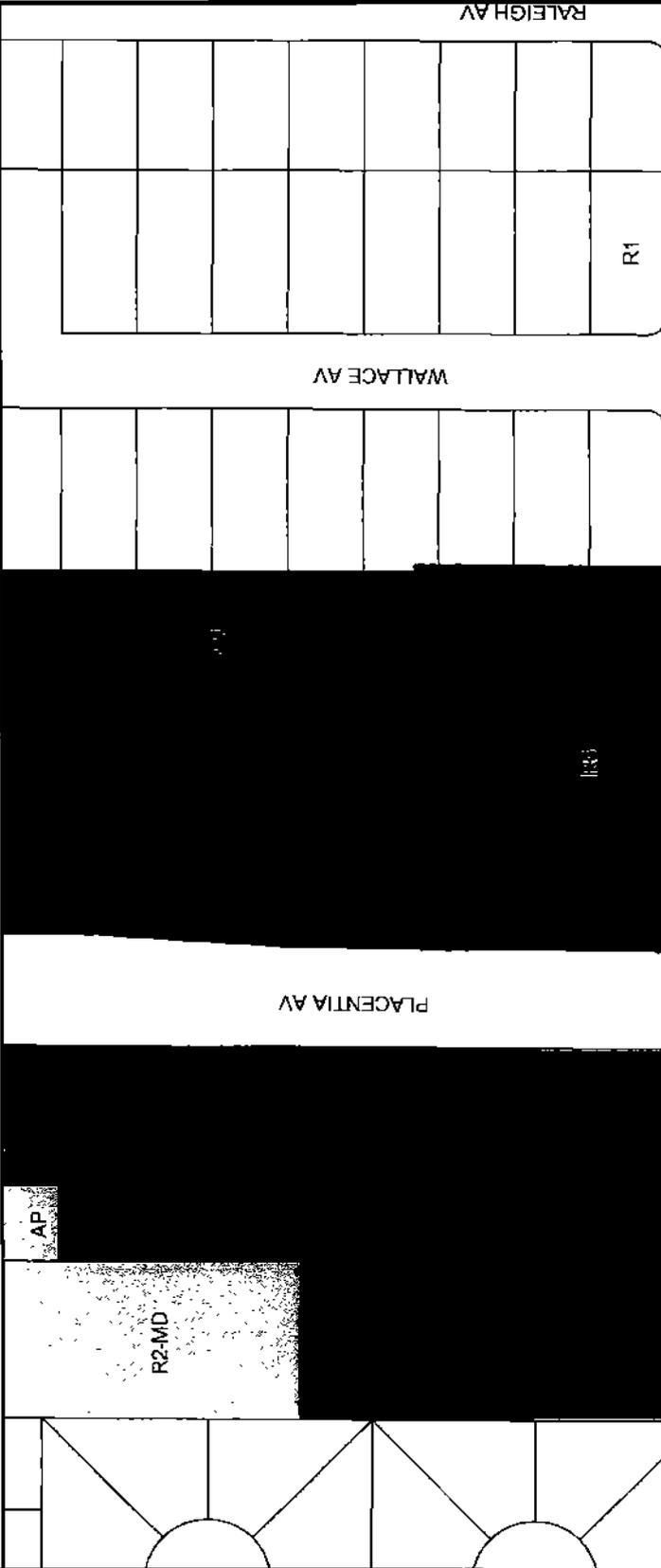
Street Names

Parcel Lines

Zoning



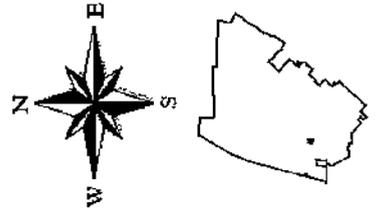
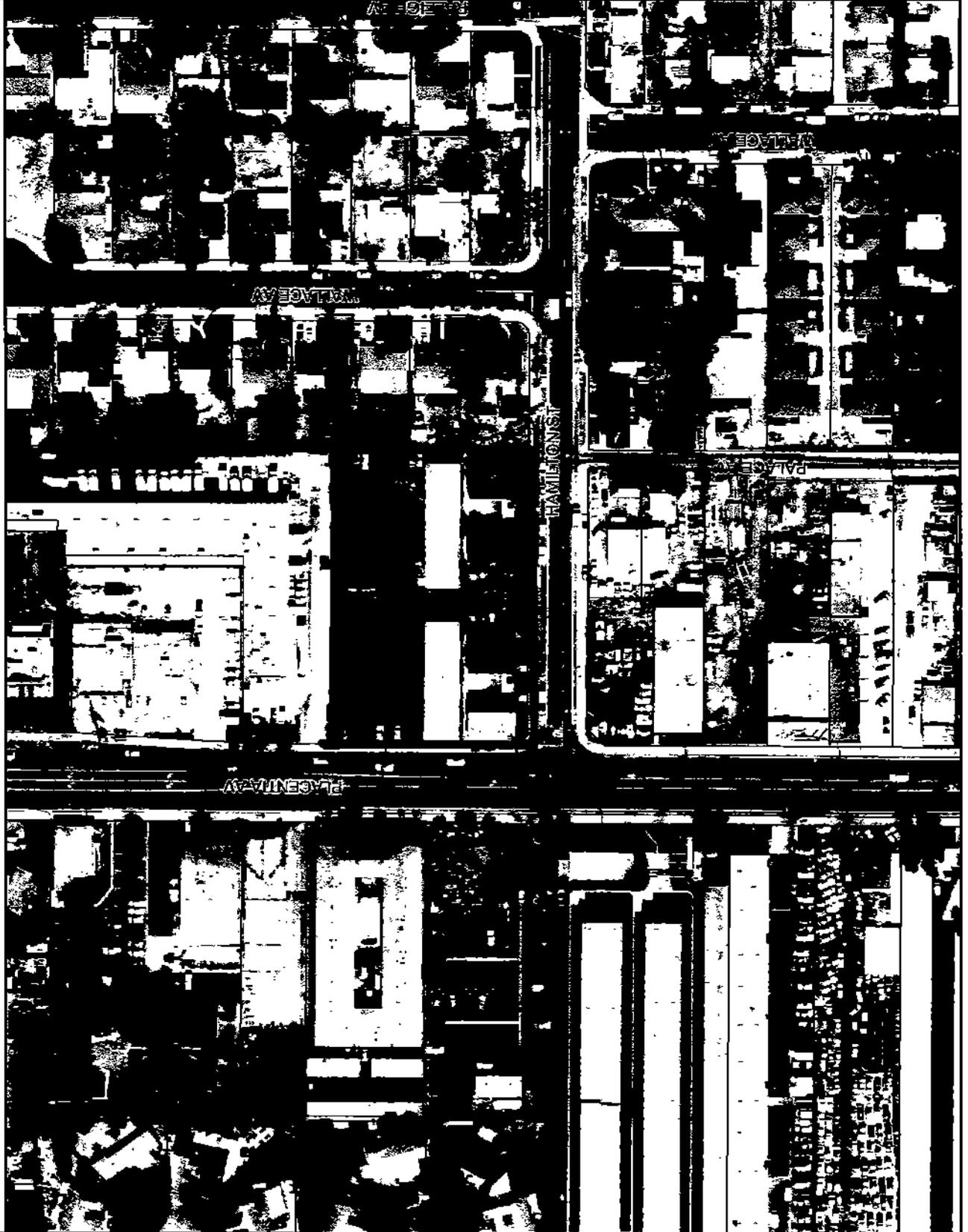
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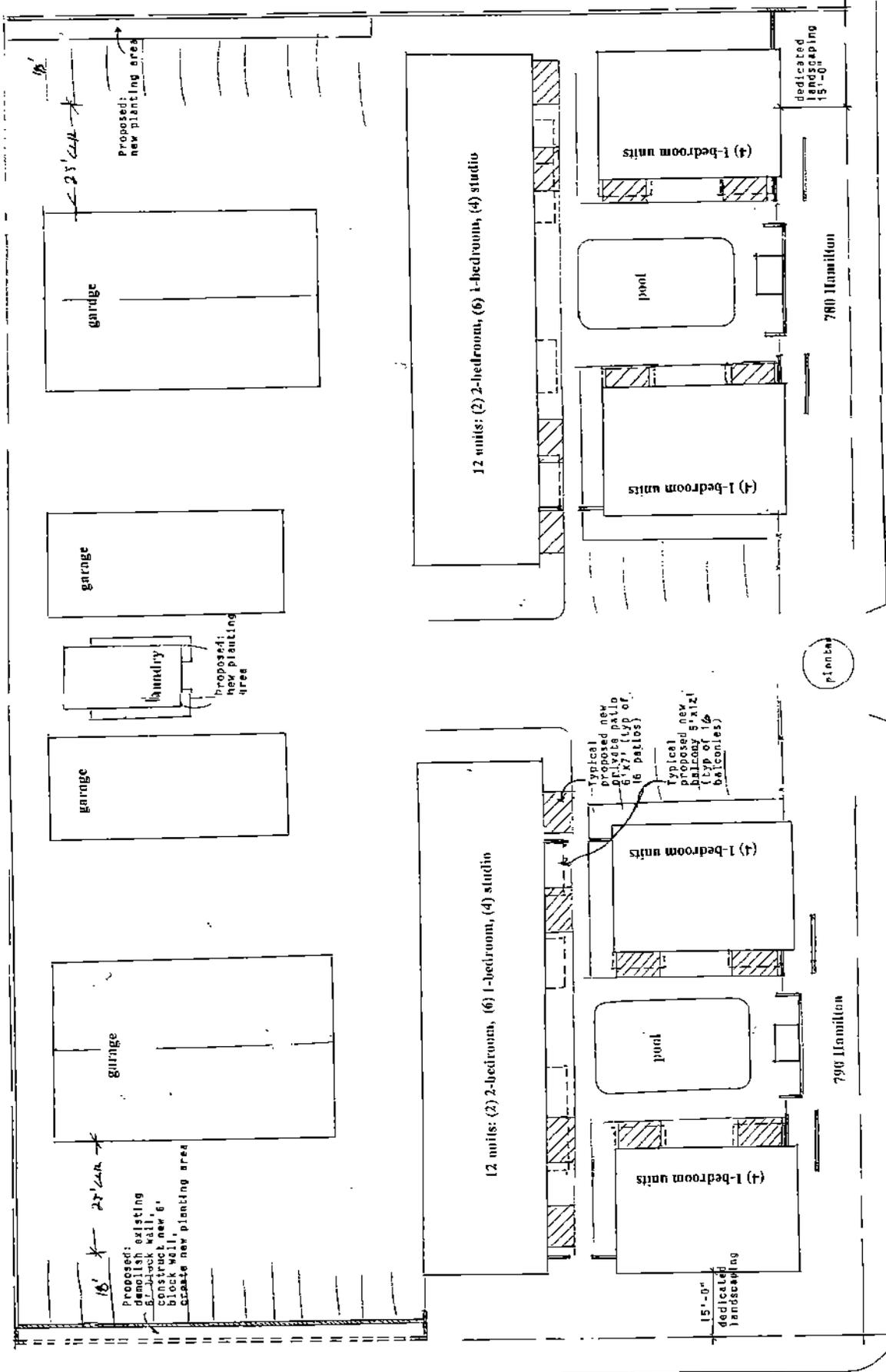


PA-06-58

Legend

- Street Names
- Parcel Lines
- Ortho Photography
- Parcels





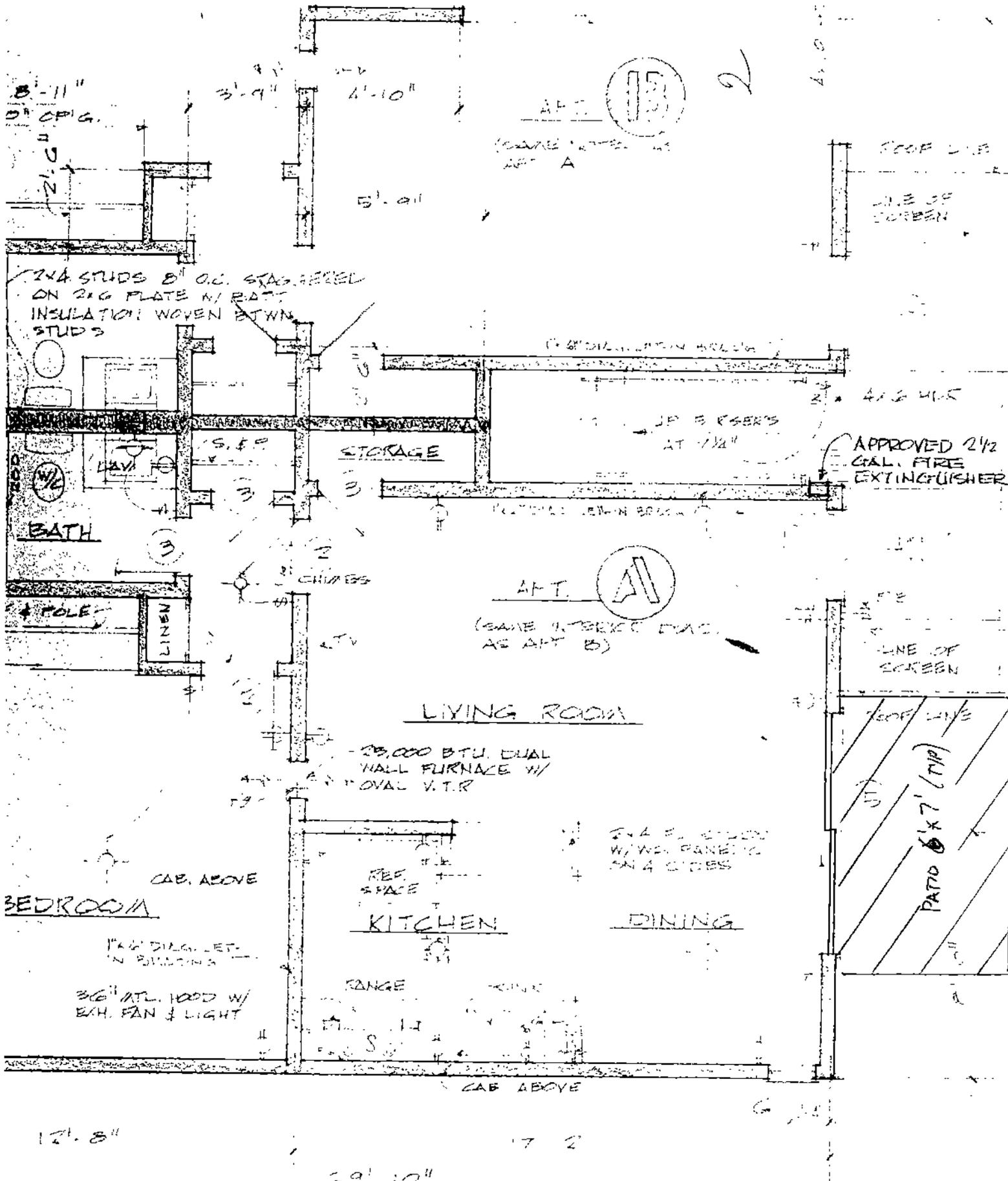
Placenta Avenue

Mesa West

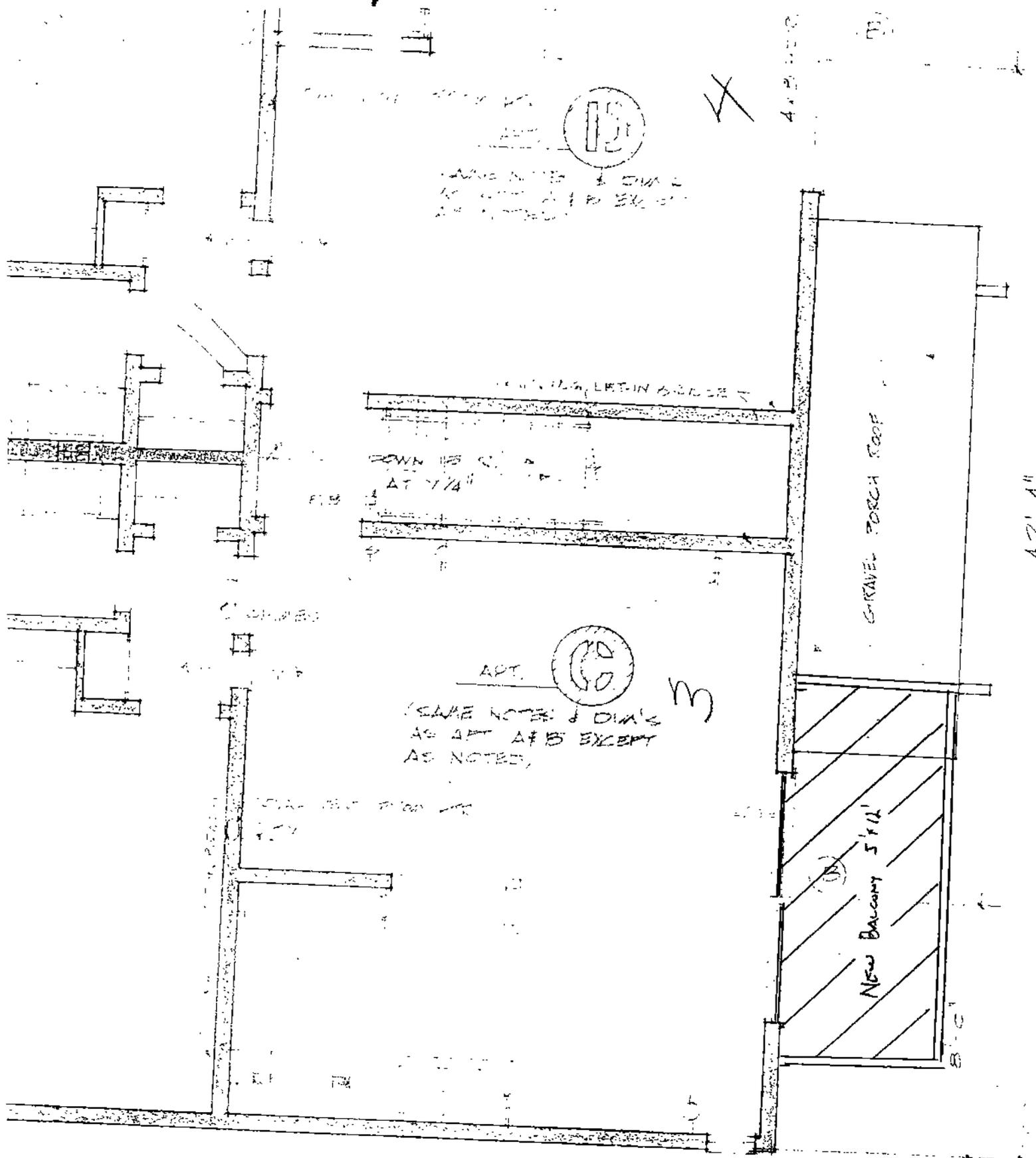
plot plan series 1/16" drawn 3/30/05 updated 10/19/05

Owner: Mesa West, LLC contact: David Stern (310) 395-3066

Hamilton Street



780-790 Hamilton
 FIRST FLOOR



LEAVE NOTES & DIM'S
AS NOTED AT 7/4"



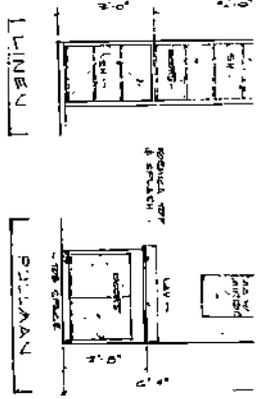
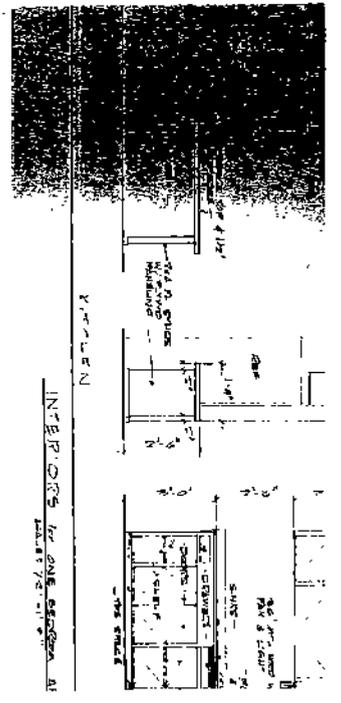
APT.

LEAVE NOTES & DIM'S
AS NOTED AT 7/4" EXCEPT
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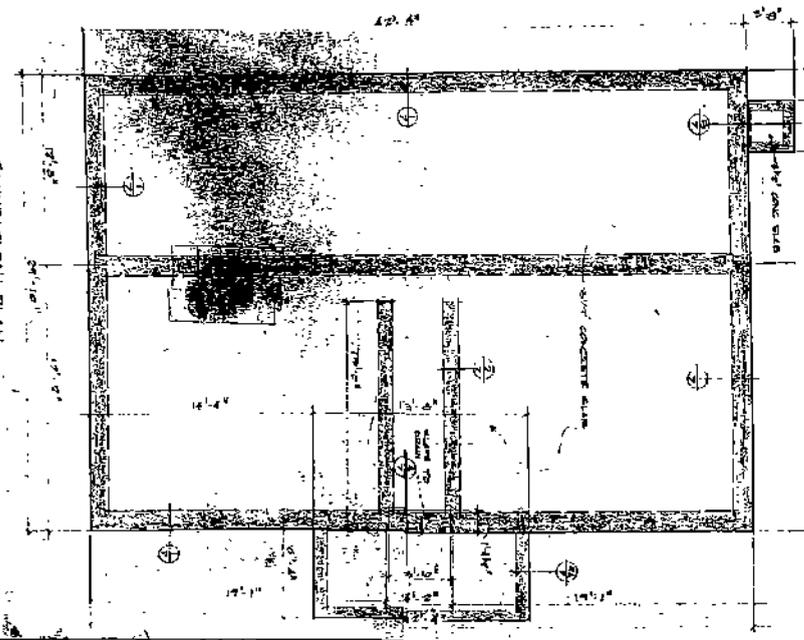
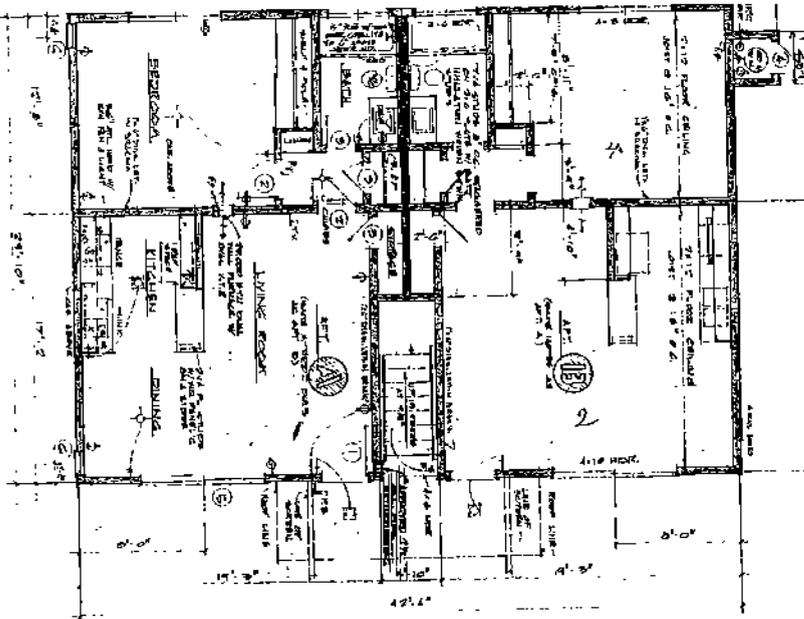
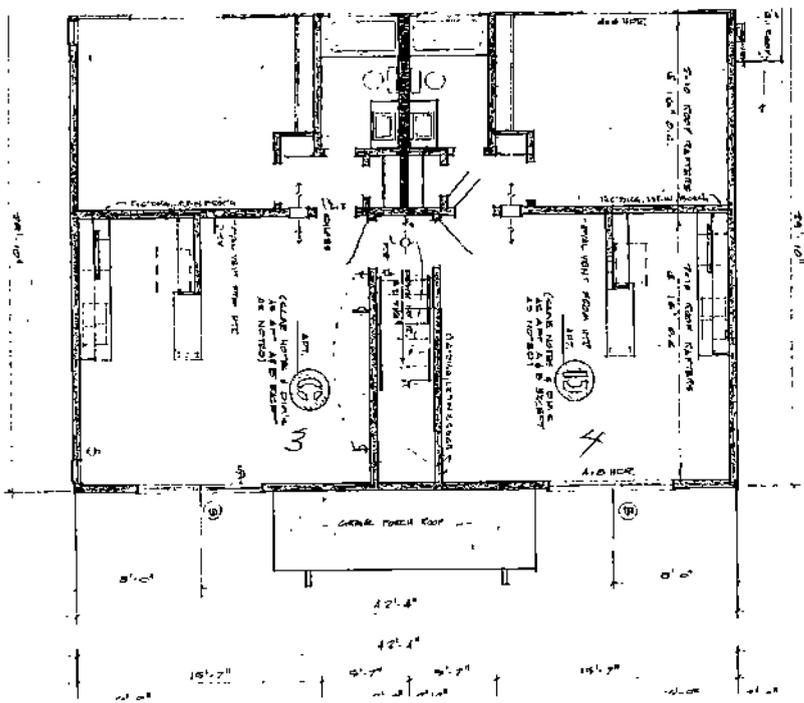
780-790 Hamilton

SECOND FLOOR

42'1.4" = 1'-0"



NO.	DESCRIPTION	QUANTITY	UNIT	PRICE	TOTAL
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13

RAYMOND LEVNAS
ARCHITECT AIA, INC.
288 W. OREGON
NEWPORT BEACH OREGON 97131

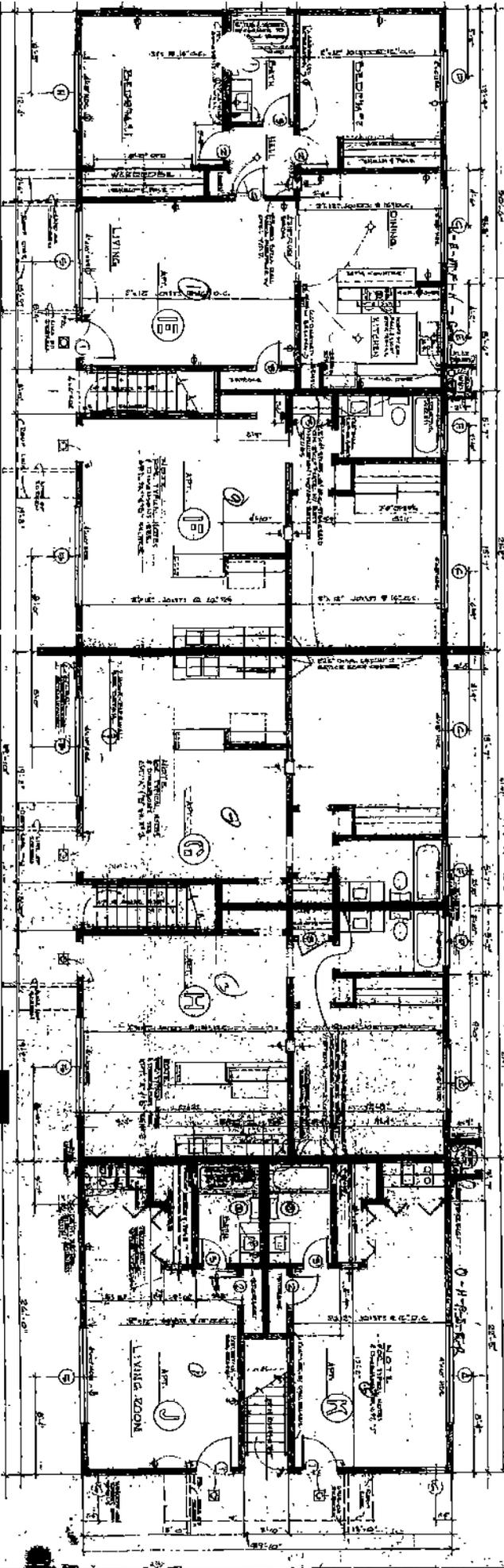


194 NO.
SHEET NO. 2

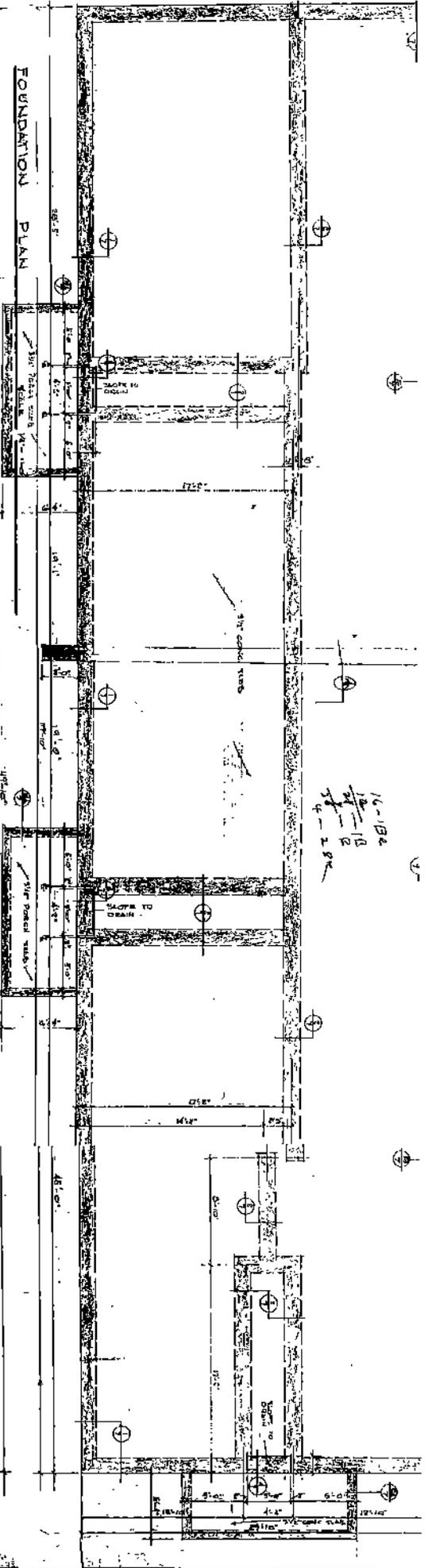
FIRST FLOOR PLAN

SCALE 1/4" = 1'-0"

RAYMOND LEVYNAS
ARCHITECT AIA INC.
2420 VAN GORP RD
NEWPORT NEWS VA 23601
PHONE 804/241-3700



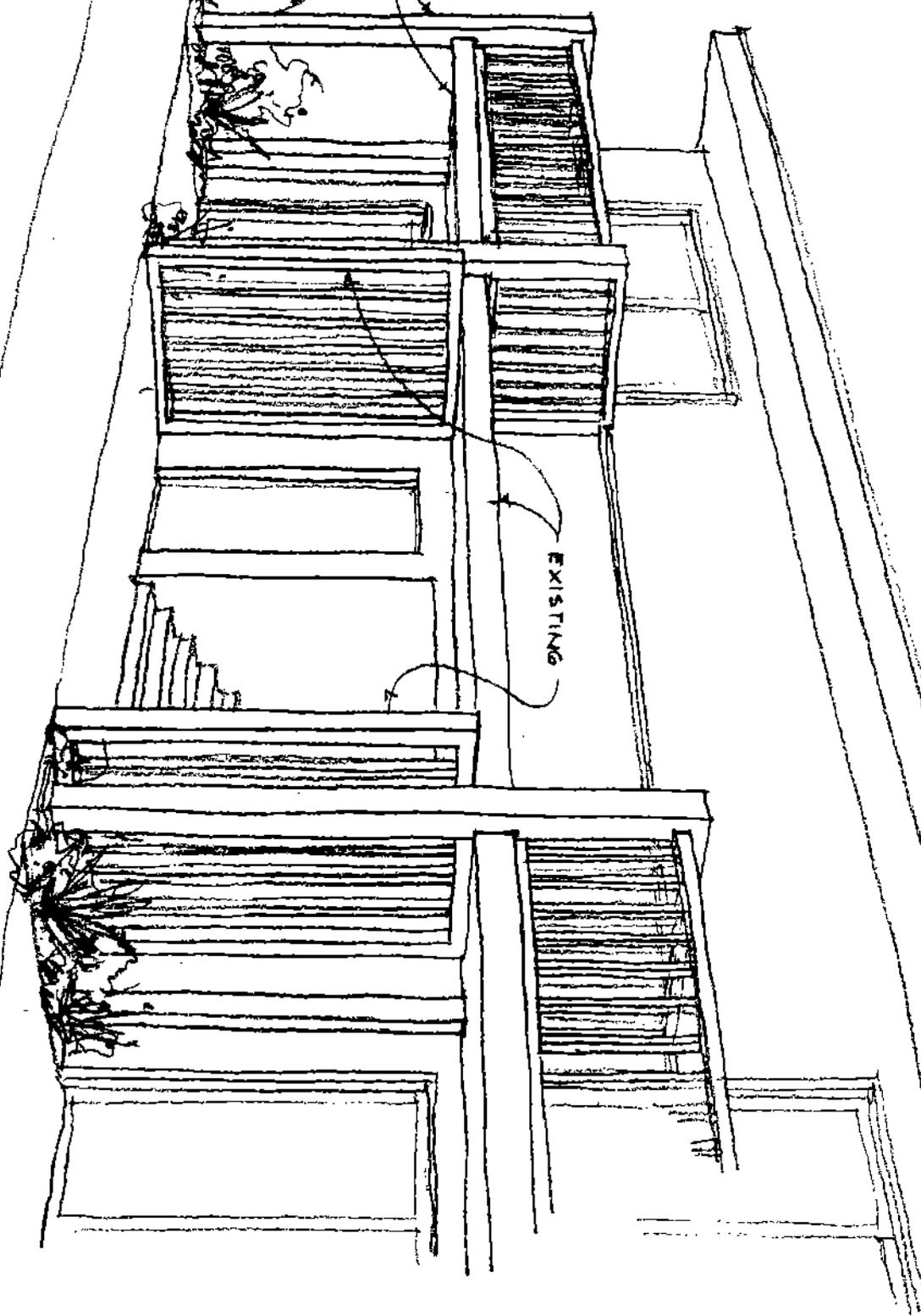
FOUNDATION PLAN



10-1024
10-1018
10-1018
10-1018

NEW BALCONY:
6X6 POSTS,
EXTEND LINE
OF EXISTING
ENTRANCE COVER,
DETAILING TO
REFLECT EXISTING

EXISTING



RESOLUTION NO. 07-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
COSTA MESA DENYING PLANNING APPLICATION PA-06-
58**

THE CITY COUNCIL OF THE CITY OF COSTA MESA HEREBY RESOLVES AS
FOLLOWS:

WHEREAS, an application was filed by David Stern of Mesa West, LLC owner of the real property located at 780 and 790 Hamilton Street, requesting approval to convert an existing 2-story, 40-unit apartment complex into a common interest development (condominiums) to allow the units to be sold independent of one another, in an R3 zone; and

WHEREAS, the Planning Commission denied the request at a public hearing on November 27, 2006; and

WHEREAS, on December 4, 2006, Planning Commission's denial of PA-06-58 was appealed by the applicant to City Council; and

WHEREAS, a duly noticed public hearing was held by the City Council on January 2, 2007.

NOW, THEREFORE, BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit "A", the City Council of the City of Costa Mesa hereby **DENIES** Planning Application PA-06-58 with respect to the property described above.

PASSED AND ADOPTED this 2nd day of January, 2007.

Mayor of the City of Costa Mesa

ATTEST:

Deputy City Clerk of the City of Costa Mesa

STATE OF CALIFORNIA)
COUNTY OF ORANGE)ss
CITY OF COSTA MESA)

I, Julie Folcik, Deputy City Clerk and ex-officio Clerk of the City Council of the City of Costa Mesa, do hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the said City Council at a regular meeting thereof held on the 2nd day of January, 2007.

Deputy City Clerk and ex-officio Clerk of the
City Council of the City of Costa Mesa

EXHIBIT "A"

FINDINGS (DENIAL)

- A. The information presented does not comply with Costa Mesa Municipal Code Section 13-29(10) in that the critical vacancy rate is less than the rate established in Section 13-42(c) (Residential Common Interest Development Conversions). Although the condominium conversion will not significantly diminish affordable housing stock within the City, conversion of the apartments will not result in a substantial upgrade of the property. Specifically, the project was constructed in 1964 and is nonconforming to current density, parking, and common open space requirements. The upgrades proposed by the applicant for the conversion are not sufficient to offset the nonconforming nature of the property.
- B. The information presented does not comply with Section 13-29(g)(1) of the Costa Mesa Municipal Code in that special circumstances applicable to the property do not exist, such as an unusual lot size, lot shape, topography, or similar features, to justify granting of the variance from private open space requirements. Strict application of the zoning ordinance would not deprive the property owner of privileges enjoyed by owners of other properties in the vicinity under an identical zoning classification.
- C. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City environmental procedures, and has been found to be exempt from CEQA under Section 15301 (Existing Facilities).
- D. The project is exempt from Chapter XII, Article 3, Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

RESOLUTION NO. 07-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
COSTA MESA APPROVING PLANNING APPLICATION PA-06-
58**

THE CITY COUNCIL OF THE CITY OF COSTA MESA HEREBY RESOLVES AS FOLLOWS:

WHEREAS, an application was filed by David Stern of Mesa West, LLC owner of the real property located at 780 and 790 Hamilton Street, requesting approval to convert an existing 2-story, 40-unit apartment complex into a common interest development (condominiums) to allow the units to be sold independent of one another, in an R3 zone; and

WHEREAS, the Planning Commission denied the request at a public hearing on November 27, 2006; and

WHEREAS, on December 4, 2006, Planning Commission's denial of PA-06-58 was appealed by the applicant to City Council; and

WHEREAS, a duly noticed public hearing was held by the City Council on January 2, 2007.

NOW, THEREFORE, BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit "A", the City Council of the City of Costa Mesa hereby **APPROVES** Planning Application PA-06-58 with respect to the property described above.

BE IT FURTHER RESOLVED that the Costa Mesa City Council does hereby find and determine that adoption of this Resolution is expressly predicated upon the activity as described in the Staff Report for Planning Application PA-06-58 and upon applicant's compliance with each and all of the conditions contained in Exhibit "B". Any approval granted by this resolution shall be subject to review, modification or revocation if there is a material change that occurs in the operation, or if the applicant fails to comply with any of the conditions of approval.

PASSED AND ADOPTED this 2nd day of January, 2007.

Mayor of the City of Costa Mesa

EXHIBIT "A"

FINDINGS (APPROVAL)

- A. The information presented substantially complies with Costa Mesa Municipal Code Section 13-29(10) in that, although the critical vacancy rate is less than the rate established in Section 13-42(c) (Residential Common Interest Development Conversions), the condominium conversion will not significantly diminish affordable housing stock within the City. Conversion of the apartments will result in an upgrade of the property, as well as satisfying General plan Goal LU-1A.4 of providing additional home ownership opportunities within the City. To ensure that existing tenants are not displaced unreasonably, tenants will be offered right of first refusal to purchase, or the property owner pay registration fees for an apartment search service to help them find a new apartment if they decide not to purchase.
- B. The information presented substantially complies with Costa Mesa Municipal Code Section 13-29(e) in that:
- a. The project is compatible and harmonious with existing development and uses in the general neighborhood.
 - b. Safety and compatibility of the design of buildings, parking areas, landscaping, luminaries and other site features, which includes functional aspect of the site development such as automobile and pedestrian circulation, have been considered.
 - c. The project is consistent with the General Plan.
 - d. The planning application is for a project-specific case and is not to be construed to be setting a precedent for future development.
 - e. The cumulative effect of all the planning applications has been considered.
- C. The information presented complies with Section 13-29(g)(1) of the Costa Mesa Municipal Code in that special circumstances applicable to the property exist to justify granting of the variances from private open space requirements. Specifically, because of the design of the existing buildings, code complaint patios cannot be provided, creating a special circumstance based upon the existing site improvements. Additionally, it should be noted that the project contains two common pool areas.
- D. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City environmental procedures, and has been found to be exempt from CEQA under Section 15301 (Existing Facilities).
- E. The project is exempt from Chapter XII, Article 3, Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

EXHIBIT "B"

CONDITIONS OF APPROVAL (If Project Is Approved)

- Plng. 1. All improvements listed in the applicant's property report shall be completed in all units under the direction of the Planning staff. In addition, the applicant shall provide decorative paving and upgraded landscaping, including increasing in the amount of landscaping by incorporating more planter areas between buildings and within the driveway and open parking areas where appropriate, under the direction of the Planning Division.
2. Applicant shall contact the Building Safety Division to provide proof that the Uniform Building Code requirements for condominiums have been satisfied, and to complete any additional items created through this conversion, prior to final Planning Division inspection.
3. Applicant shall treat termite infestations and repair dryrot damage as recommended by a termite control company prior to Planning Division final.
4. The conditions of approval and ordinance or code provisions and special district requirements of Planning Application PA-06-58 shall be blueprinted on the face of the site plan.
5. The applicant shall contact the Planning Division to arrange for an inspection of the site prior to the final Building Safety Division inspections. This inspection is to confirm that the conditions of approval and code requirements have been satisfied.
6. The applicant shall offer the existing tenants right of first refusal to purchase the units with terms more favorable than those offered to the general public. If the existing tenants confirm in writing that they are not interested in purchasing the units, the property owner will pay the registration fee for an apartment referral service. The applicant shall provide Planning Division staff a copy of the written offer and the tenant's written response to the offer prior to final inspections. The applicant shall also provide evidence of the payment of the registration fee for an apartment referral service for tenants not accepting the purchase offer.
7. The CC&R's shall disclose that the available parking on-site is short of the current condominium parking standards because of its existing nonconforming status.
8. The applicant shall expand the existing patio areas, where appropriate, to comply with the minimum 10-foot by 10-foot private open space dimensions per code.
9. Utility meters shall be screened from view of streets and adjacent properties.
- Bldg. 10. Comply with all building, plumbing, electrical, and mechanical corrections listed in the Building Safety Division memo.

CODE REQUIREMENTS

The following list of federal, state and local laws applicable to the project has been compiled by staff for the applicant's reference. Any reference to "City" pertains to the City of Costa Mesa.

- | | |
|--------------|--|
| Plng. | <ol style="list-style-type: none"> 1. Approval of the planning action is valid for one (1) year and will expire at the end of that period unless building permits are obtained and construction commences, or the applicant applies for and is granted an extension of time. A written request for an extension of time must be received by Planning staff prior to the expiration of the planning action. 2. A tract map shall be processed, approved, and recorded prior to sale of the individual units. 3. All garages shall be provided with automatic garage door openers. 4. CC&Rs and articles of incorporation and bylaws for the homeowners' association shall be reviewed and approved by <u>both</u> the Planning Division and the Department of Real Estate (DRE) <u>prior to recordation</u>. CC&Rs shall include provisions as required in Costa Mesa Municipal Code Section 13-41, as well as applicable conditions of approval and code requirements. The applicant shall provide the Planning Division proof of review and approval of the CC&Rs by the DRE prior to recordation. A copy of the recorded CC&Rs shall be submitted to the Planning Division prior to map recordation. 5. Included in the required CC&Rs shall be a provision that will permit the installation of solar heating systems, subject to applicable zoning district requirements, the Uniform Building Code, and associated ordinances, and reasonable architectural review by the project's architectural review committee. 6. The CC&Rs shall include a provision as to use and maintenance of all open parking spaces, driveways and common open space. |
| Eng. | <ol style="list-style-type: none"> 7. Submit subdivision application and comply with conditions of approval and code requirements. 8. Remove any private improvements within the public right-of-way. |
| Bus.
Lic. | <ol style="list-style-type: none"> 9. All contractors and subcontractors must have valid business licenses to do business in the City of Costa Mesa. Final inspections will not be granted until all such licenses have been obtained. |
| Bldg. | <ol style="list-style-type: none"> 10. Comply with the requirements of the California Code of Regulations, Title 24, also known as the California Building Standards Code, as amended by the City of Costa Mesa. |
| Fire | <ol style="list-style-type: none"> 11. Provide approved smoke detectors to be installed in accordance with the 2001 Edition of the Uniform Fire Code. |

SPECIAL DISTRICT REQUIREMENTS

The requirement of the following special district is hereby forwarded to the applicant:

- | | |
|-------|---|
| Sani. | <ol style="list-style-type: none"> 1. It is recommended that the developer contact the Costa Mesa Sanitary District at 949.645.8400 for current district requirements. |
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RECEIVED
CITY CLERK

2006 DEC 14 PM 12:58

CITY OF COSTA MESA
P. O. Box 1200
Costa Mesa, CA 92628-1200

FEE: \$1,070.00

CITY OF COSTA MESA
BY _____
APPLICATION FOR REVIEW, APPEAL OR REHEARING

Applicant Name Mesa West LLC, c/o David Stern
Address 227 Broadway, #201 Santa Monica, CA 90401
Phone (310) 395-3066 Representing Mesa West

REQUEST FOR: REVIEW** APPEAL REHEARING

Decision of which review, appeal or rehearing is requested: (give number of rezona, zone exception, ordinance, etc., if applicable, and the date of the decision, if known.) denial by Planning Commission of application PA-06-58 on November 27, 2006 for condominium conversion of a 40-unit apartment building located at 780-790 Hamilton Street, despite the recommendation of Staff for approval, with conditions.

The application was denied due to the following findings of the Commission:
Parking: The property has substantial parking (40 private garages, and 38 surface spaces) and therefore complies based on the recently enacted Code Section 13-41.
Common Open Space: The property has substantial common open space (two pools, extensive landscaped areas). The property will be upgraded to enclose the private open space adjacent to most of the first floor units, and an architectural renderings was included to show the balconies that will be added to the second floor units. In accordance with the recommendations of staff, to offset the shortfall of private open space, the property will incorporate stamped concrete at the entry, more landscaped areas, and a substantial addition of trees along both the east and west (Placencia Avenue) property lines.
Affordability: This issue was not discussed by the Commission until after the comment period was closed. These units will be extremely affordable, and per the staff's recommendation, existing tenant's will be given first choice, and at a lower rate. Furthermore, we are prepared to designate 25 percent of the units as 'affordable to median income buyers'.

Date: December 4, 2006

Signature: 

For office use only -- do not write below this line

SCHEDULED FOR THE CITY COUNCIL/PLANNING COMMISSION MEETING OF:
If review, appeal or rehearing is for person or body other than City Council/Planning Commission, date of hearing of review, appeal or rehearing:

* If you are serving as the agent for another person, please identify the person you represent and provide proof of agency.
** Review may be requested only by City Council or City Council Member
Costa Mesa/Forms/1/Application for Review-Appeal-Rehearing

11-27-06 PC Minute Excerpts for PA-06-58 - Unofficial until Approved

PLANNING APPLICATION
PA-06-58

**DAVID STERN/MESA WEST
LLC**

The Chair opened the public hearing for consideration of Planning Application PA-06-58, for David Stern/Mesa West LLC, for a residential common interest development conversion of an existing 40-unit apartment project to condominiums, with variances from private open space requirements for eight of the units and from minimum private open space dimensions (6 ft to 7 ft. proposed; 10 ft. required), for 32 units of the units, located at 780 and 790 Hamilton Street, in an R3 zone. Environmental determination: exempt.

Senior Planner Mel Lee reviewed the information in the staff report and gave a presentation. He said staff is recommending approval by adoption of Planning Commission resolution, subject to conditions.

In response to a question from Commissioner Fislser, Mr. Lee confirmed that this project, if approved, would have a patio or balcony for each of the 40 units, and 98 parking spaces (includes quest parking) is the current code requirement, which this project does not meet.

David Stern, applicant, 227 Broadway, Santa Monica, confirmed that he had read the staff report and is in agreement with the conditions of approval. He also gave a presentation.

In response to questions from the Chair concerning the length of time of ownership by the applicant; the reason for the conversion of this property; the current percentage of occupancy; and how often the applicant visits the property; Mr. Stern replied two years, the appropriateness of this building for conversion, 92 percent, and once a week, respectively.

The Chair opened the public hearing for public comment, and no one wished to speak, so he closed the public hearing.

A motion was made by Vice Chair Hall to approve Planning Application PA-06-58, seconded by Commissioner Garlich.

During discussion on the motion, Commissioner Egan said she would not support the motion citing the lack of parking, private open space, and general open space.

Commissioner Fislser also voiced his opposition to the motion citing a density concern.

The Chair agreed with Commissioners Egan and Fislser and made a substitute motion.

MOTION:

A substitute motion was made by Chairman Perkins, seconded by

11-27-06 PC Minute Excerpts for PA-06-58 - Unofficial until Approved

PA-06-58

Commissioner Fidler and carried 3 to 2 (Garlich and Hall voted no) to deny Planning Application PA-06-58, by adoption of Planning Commission Resolution PC-06-88, based on findings discussed above.

DENIED

During discussion on the substitute motion, Vice Chair Hall, and Commissioners Egan, Garlich and Fidler discussed their views and made comments on this item.

The Chair explained the appeal process.



CITY OF COSTA MESA

P.O. BOX 1200 • 77 FAIR DRIVE • CALIFORNIA 92628-1200

DEVELOPMENT SERVICES DEPARTMENT

FOR ATTACHMENTS NOT INCLUDED IN THIS REPORT,

PLEASE CONTACT THE CITY CLERK'S OFFICE AT

(714) 754-5121