CITY COUNCIL AGENDA REPORT

MEETING DATE: APRIL 17, 2007 **ITEM NO:**

SUBJECT: **APPEAL OF PLANNING APPLICATION PA-07-04**
679 WEST 18TH STREET

DATE: **APRIL 5, 2007**

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 March 26, 2007, Planning Commission denied Planning Application PA-07-04, a proposal to convert 4 apartment units into a common interest development (condominiums) with a variance from private open space requirements, on a 3-2 vote (Chair Hall and Commissioner Egan voting no). On March 30, 2007, 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: painting of the buildings, addition of exterior slate and window trim, replacement of all exterior windows and doors, and complete renovation of exterior landscaping, driveways, and lighting.

At the hearing, no one spoke for or against the project, other than the applicant. Planning Commission noted the apartments, which were built in the mid-1970's, are nonconforming to current density, parking, and common open space requirements. Commission denied the project, finding that there was no basis for approving the requested variance from private open space requirements for two of the units (10-foot minimum private open space dimension required; 5 foot-10 inches for Unit C and 8 foot-6 inches for Unit D proposed).

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 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 finding there was no basis for approving the requested variance from private open space requirements. Additionally, the existing development is nonconforming with current density, parking, and open space standards. The applicant feels the conversion will provide substantial upgrades to the property.

MEL LEE, AICP
Senior Planner

KHANH NGUYEN
Acting 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 March 26, 2007
- 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)

Barry Saywitz
4740 Von Karman Ave., Ste. 100
Newport Beach, CA 92660

Occupant
679 W. 18th St., Unit A
Costa Mesa, CA 92627

Occupant
679 W. 18th St., Unit B
Costa Mesa, CA 92627

Occupant
679 W. 18th St., Unit C
Costa Mesa, CA 92627

Occupant
679 W. 18th St., Unit D
Costa Mesa, CA 92627

File: 041707PA0704Appeal	Date: 040207	Time: 12:00 p.m.

City of Costa Mesa

679 WEST 18TH STREET - [Created: 3/14/2007 1:06:04 PM] [Scale: 154.25] [Page: 8.5 x 11 / Landscape]

Overview Map

Legend

Address Medium

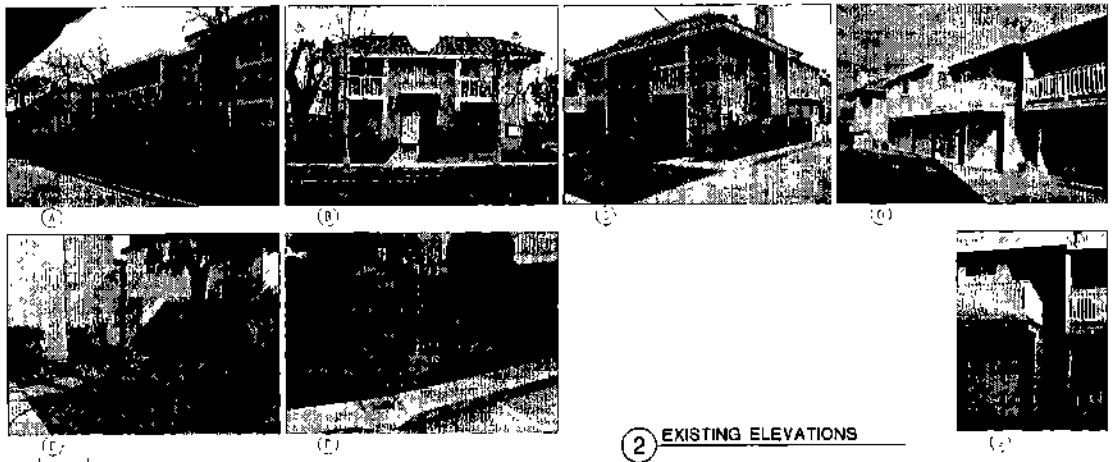
Street Names

Parcel Lines

Zoning

AP
C1
C1-S
C2 (cont)
CL
I&R
I&R-S
MG
MP
P
PDC
PDI
PDR-HD
PDR-LD
PDR-MD
PDR-NCM
R1 (cont)

Map Display

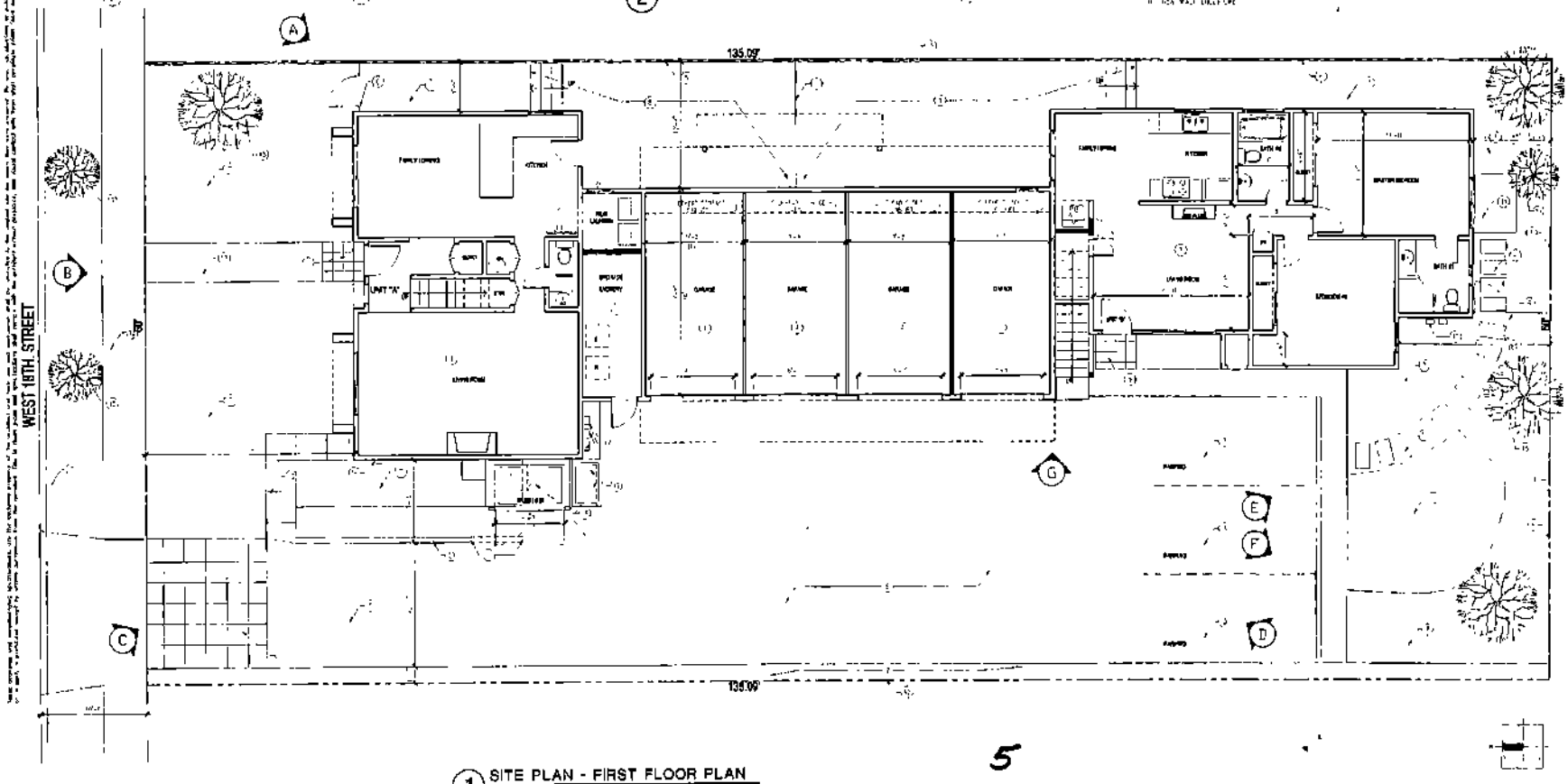


2 EXISTING ELEVATIONS

SYMBOLS LEGEND

KEYNOTES

EXTERIOR NOTES



1 SITE PLAN - FIRST FLOOR PLAN
1/4"=1'-0"

5

S T E R
ARCHITEC

CONSULTANT

PROJECT TITLE
CONVERSION OF DUPLEX FOUR PLEX TO
CONDOMINIUMS
AT:
679 WEST 18TH STREET
COSTA MESA, CA 92627

REVISIONS

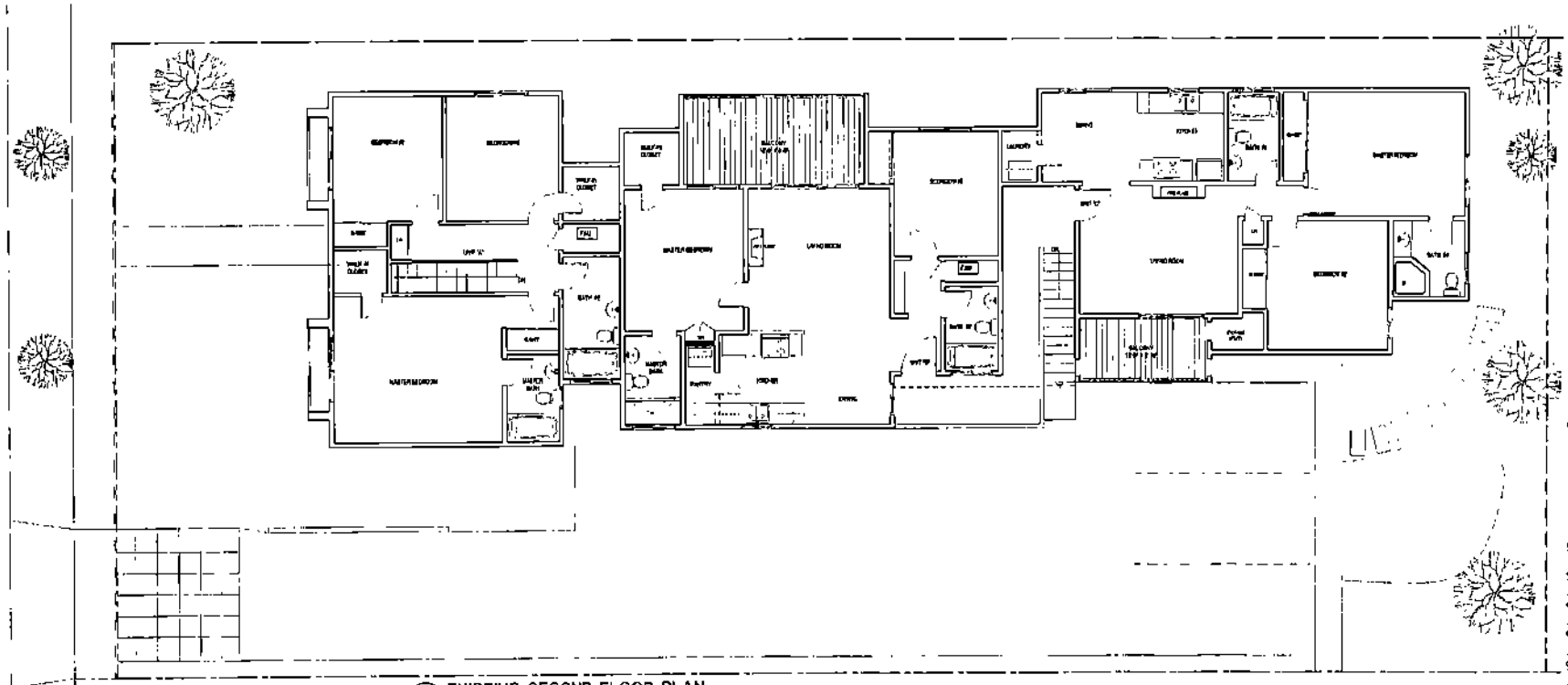
PROJECT NO.
SCALE
DATE
DRAWN BY
CHECKED BY
SHEET TITLE
FIRST FLOOR PLAN

SHEET NUMBER
A-1

S T E R
ARCHITEC

WALL LEGEND

KEYNOTES



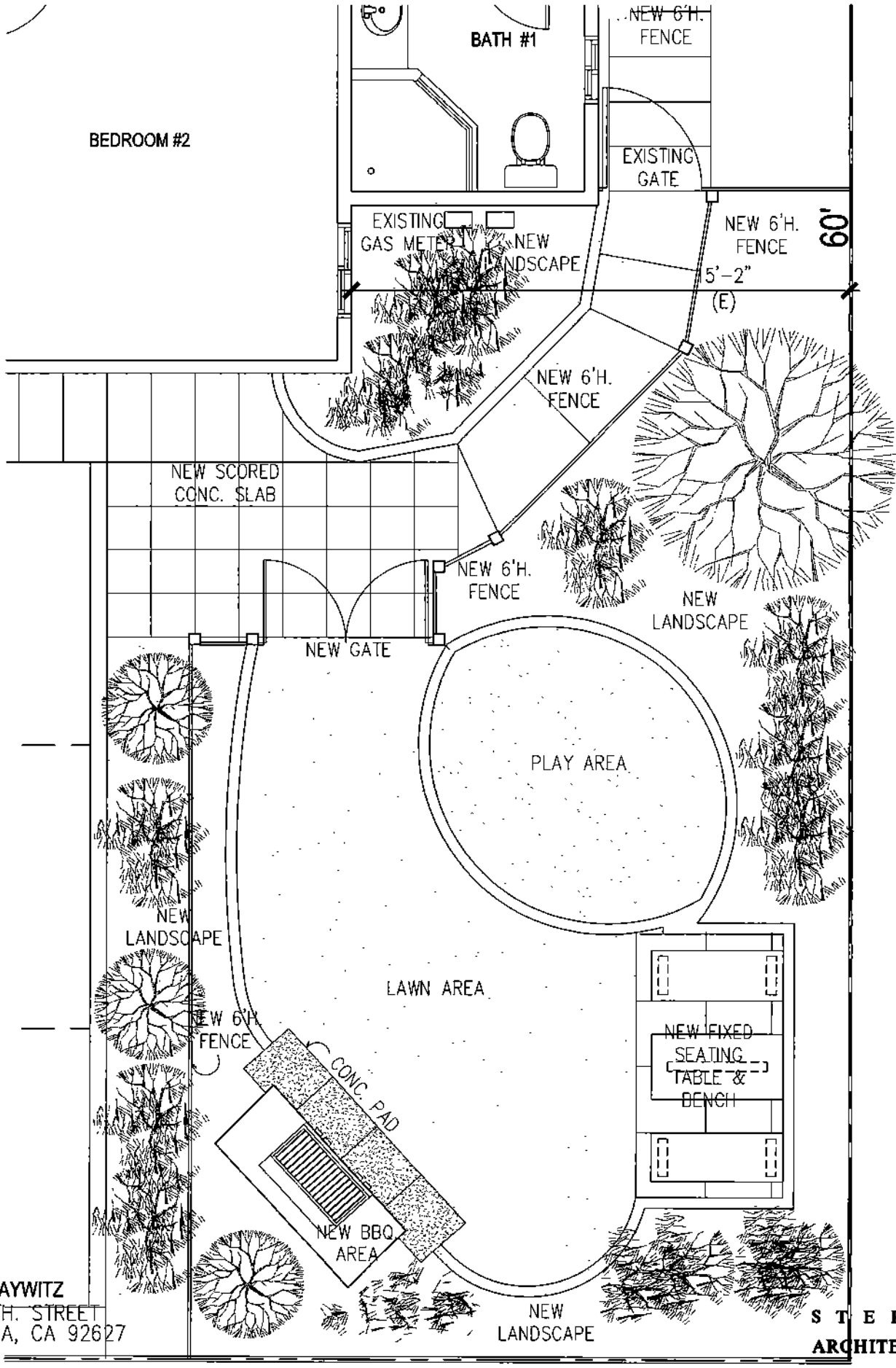
2 EXISTING SECOND FLOOR PLAN
SCALE: 1/8" = 1' - 0"

CONDOMINIUM
AT:
579 WEST 18TH STREET
COSTA MESA, CA 9262

SECOND FLOOR PLA

A-2

6



Mr. BARRY SAYWITZ
679 W. 18TH. STREET
COSTA MESA, CA 92627

STERN ARCHITECTS

RECREATION AREA

07-03 DATE: 03.21.07

City of Costa Mesa

679 WEST 18TH STREET - [Created: 3/14/2007 1:04:29 PM] [Scale: 154.25] [Page: 8.5 x 11 / Landscape]

Overview Map

Legend

- Address Medium
- Street Names
- Parcel Lines
- Level1 Ortho Photo
- City

Map Display

(C) 2002-7 GeoPrise.net (GeoVec, Inc.) - (866)422-2505

RESOLUTION NO. 07-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA DENYING PLANNING APPLICATION PA-07-04

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

WHEREAS, an application (PA-07-04) was filed by Barry Saywitz of Barry Saywitz Properties One, property owner with respect to the real property located at 679 West 18th Street, Units A through D, requesting approval of the conversion of 4 apartment units into a common interest development (condominiums) with a variance from private open space requirements, in the R3 zone; and

WHEREAS, a duly noticed public hearing was held by the Planning Commission on March 26, 2007, and PA-07-04 was denied; and

WHEREAS, on March 30, 2007, Planning Commission's denial of PA-07-04 was appealed to City Council; and

WHEREAS, a duly noticed public hearing was held by the City Council on April 17, 2007.

BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit "A", the City Council hereby **DENIES** Planning Application PA-07-04 with respect to the property described above.

PASSED AND ADOPTED this 17th day of April, 2007.

ATTEST:

City Clerk of the City of Costa Mesa	**Mayor of the City of Costa Mesa**
	APPROVED AS TO FORM:
	City Attorney

EXHIBIT "A"

FINDINGS (DENIAL)

A. The information presented does not comply with Costa Mesa Municipal Code Section 13-29(10) in that the Zoning Code establishes a "critical vacancy rate" of 3% as the threshold for discouraging conversion of apartments to common interest developments. When the citywide rental vacancy rate is 3% or less, Planning Commission may deny any requested conversions. The 2000 census data indicates the City's rental vacancy rate is 2.8%.

B. The information presented substantially does not comply with Costa Mesa Municipal Code Section 13-29(e) in that:
   a. The project is not compatible and harmonious with existing development and uses in the general neighborhood.

C. The proposed project does not comply with Costa Mesa Municipal Code Section 13-29 (g)(1) because special circumstances applicable to the property do not exist to justify approval of the variance from private open space requirements. Specifically, the two existing second floor balconies do not have the minimum 10-foot dimension required by Code. Granting the deviation would constitute a grant of a special privilege inconsistent with the limitation upon other properties in the vicinity and zone in which the property is situated.

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 for Existing Facilities.

E. 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-07-04

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

WHEREAS, an application (PA-07-04) was filed by Barry Saywitz of Barry Saywitz Properties One, property owner with respect to the real property located at 679 West 18th Street, Units A through D, requesting approval of the conversion of 4 apartment units into a common interest development (condominiums) with a variance from private open space requirements, in the R3 zone; and

WHEREAS, a duly noticed public hearing was held by the Planning Commission on March 26, 2007, and PA-07-04 was denied; and

WHEREAS, on March 30, 2007, Planning Commission's denial of PA-07-04 was appealed to City Council; and

WHEREAS, a duly noticed public hearing was held by the City Council on April 17, 2007.

NOW, THEREFORE, BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit "A", and subject to the conditions contained in Exhibit "B", the City Council hereby **APPROVES** Planning Application PA-07-04 for 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-07-04 and upon applicant's compliance with each and all of the conditions contained in Exhibit "B". Should any material change occur in the operation, or should the applicant fail to comply with the Conditions of Approval, then this Resolution, and any recommendation for approval herein contained, shall be deemed null and void.

PASSED AND ADOPTED this 17th day of April, 2007.

ATTEST:

City Clerk of the City of Costa Mesa	**Mayor of the City of Costa Mesa**
	APPROVED AS TO FORM:
	City Attorney

//

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 result in the loss of affordable units or displacement of senior citizens or school age children. Conversion of the apartments will provide additional home ownership opportunities and improve the ratio of rental to ownership housing within the City. To ensure that existing tenants are not displaced unreasonably, a condition is included to require that current tenants be offered right of first refusal to purchase, or the property owner pay registration fees for an apartment search service mutually acceptable to both parties 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:
   b. The project is compatible and harmonious with existing development and uses in the general neighborhood.
   c. 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.
   d. The project is consistent with the General Plan's Land Use and Housing Element goals and objectives for additional ownership housing and to improve the balance between rental and ownership housing opportunities within the City.
   e. The planning application is for a project-specific case and is not to be construed to be setting a precedent for future development.

C. The proposed project complies with Costa Mesa Municipal Code Section 13-29 (g)(1) because special circumstances applicable to the property exist to justify approval of the variance from private open space requirements. Specifically, one of the balconies will exceed the 100 square feet of area that would result in the provision of the minimum dimension required, and the project has an approximately 600 square-foot open space area at the rear of the lot for the common use of residents. The deviation granted does not constitute a grant of a special privilege inconsistent with the limitation upon other properties in the vicinity and zone in which the property is situated. Granting of the deviation will not allow a use, density, or intensity which is not in accordance with the general plan designation for the property.

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 for Existing Facilities.

E. The project is exempt from Chapter XII, Article 3, Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

CONDITIONS OF APPROVAL (IF PROJECT IS APPROVED)

Plng. 1. The following improvements shall be made:

a. Complete all exterior and interior improvements recommended/proposed in the letter provided by Stern Architects dated February 19, 2007. All requirements are to be completed under the direction of the Planning staff.

b. Treat termite infestations as recommended by a termite control company.

2. The address of the property and individual units (A through D) shall be blueprinted on the site plan and on all floor plans in the working drawings as part of the plan check submittal package.

3. Prior to issuance of building permits, applicant shall contact the US Postal Service with regard to location and design of mail delivery facilities. Such facilities shall be shown on the site plan, landscape plan, and/or floor plan.

4. Street addresses shall be displayed on the complex identification sign or, if there is no complex identification sign, on the wall in a manner visible to the public street. Street address numerals shall be a minimum 6" in height with not less than ½" stroke and shall contrast sharply with the background. Identification of individual units shall be provided adjacent to the unit entrances. Letters or numerals shall be 4" in height with not less than ¼" stroke and shall contrast sharply with the background.

5. Applicant shall contact the Building Safety Division, prior to the release of utilities for any units, to provide proof that the Uniform Building Code requirements for condominiums have been satisfied, to obtain a change of occupancy permit, and to complete any additional paperwork created through this conversion.

6. The site plan shall show provisions for the placement of centralized mail delivery units, if applicable. Specific locations for such units shall be to the satisfaction of the Planning Division, Engineering Division, and the US Postal Service.

7. The conditions of approval and code requirements of Planning Application PA-07-04 shall be blueprinted on the face of the site plan as part of the plan check submittal package.

8. The applicant shall contact the Planning Division to arrange for an inspection of the site prior to the final map approval. This inspection is to confirm that the conditions of approval and code requirements have been satisfied.

9. The applicant shall show proof of compliance with all applicable conditions of approval and code requirements prior to recordation of the final map. This condition shall be completed under the direction of the Planning Division.

10. The applicant shall offer the existing tenants right of first refusal to purchase any of the units with terms more favorable than those offered to the general public. The right shall run for a period of not less than 90 days unless the tenant gives prior written notice of his or her intention not to exercise the right. If an existing tenant confirms in writing that

he/she is not interested in purchasing any of the units, the applicant shall register the tenant with an apartment/rental referral service that is mutually acceptable to the applicant and tenant, and if a registration fee is required, the applicant shall pay said fee. The applicant shall provide the Planning Division staff a copy of the written offer and the tenant's written response prior to map recordation. The applicant shall also provide written evidence that all tenants not accepting the purchase offer are registered with an apartment/rental referral service and the registration fee has been paid, if applicable.

11. The CC&Rs shall disclose that the available parking on-site is 4 spaces short of the current condominium parking standards because of its legal nonconforming status.
12. The CC&R's shall require that garage spaces be used for parking purposes only. Any changes made to this provision require prior review and approval by the City of Costa Mesa.
13. In conjunction with project plan check review and approval, submit two (2) sets of detailed landscaped and irrigation plans which comply with Municipal Code requirements regarding landscaping materials and irrigation including percentage of turf allowed, number of trees and shrubs, etc., and provision of benderboard or other separation between turf and shrub areas.
14. The exterior of all building elevations shall be completely repainted (unless recently painted within 1 or 2 years of application submittal). A minimum two colors shall be used- three colors recommended.
15. Install energy efficient exterior doors and windows on all building elevations.
16. Provide exterior storage area for every unit under the direction of the Planning staff.
17. Underground overhead power line connections, if feasible.
18. Install rain gutters on all appropriate building elevations.
19. Replace any broken sidewalks, driveways, or other hardscape improvements.
20. Repair, replace, or construct interior property walls and/or fences.
21. Deleted.
22. Screen utility meters, pedestals, etc. from the public right-of-way under the direction of the Planning Division.
23. Replace all appliances, water heater, and light fixtures with Energy Star (or better) rated appliances/fixtures, including a programmable heating system, unless the applicant demonstrates that the existing appliances, etc. are energy efficient.
24. Provide a washer/dryer hook-up in either the interior of every unit where feasible.
25. Provide appropriate interior separation of any common attic space areas and upgrade attic insulation to the maximum extent feasible.

Bldg. 26. The following Building Division corrections shall be made to all units:
   a. Provide GFCI Protected receptacles at all required areas.
   b. Provide duct at laundry room through wall penetrations.
   c. Verify seismic anchoring for water heater.
   d. Install smoke detectors at all required areas.
   e. Verify window at bottom landing is tempered.

RECEIVED
CITY CLERK
2007 MAR 30 PM 2:22
CITY OF COSTA MESA
BY

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

FEE: $ 1085.00

APPLICATION FOR REVIEW, APPEAL OR REHEARING

Applicant Name Barry Saywitz / Barry Saywitz Properties One

Address 4740 Von Karman Ave.

Phone 949-930-7502 Representing* Barry Saywitz Properties One

REQUEST FOR: ☐ **REVIEW**** ☒ **APPEAL** ☐ **REHEARING**

Decision of which review, appeal or rehearing is requested: (give number of rezone, zone exception, ordinance, etc., if applicable, and the date of the decision, if known.) March 26, 2007 Planning Commission Hearing for 679 W. 18th St. Condo conversion application PA-07-04

Decision by: Planning Commission Reasons for requesting review, appeal or rehearing: See attached

Date: 3/28/07 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/Forms1/Application for Review-Appeal-Rehearing

THE SAYWITZ COMPANY
4740 VON KARMAN, SUITE 100 • NEWPORT BEACH, CA 92660 • 949•930•7500 • FAX 949•930•7555

March 30, 2007

City of Costa Mesa
City Council
PO Box 1200
Costa Mesa, CA 92628-1200

Re: Appeal for condo conversion application: PA-07-04 (679 W. 18th Street, Costa Mesa)

Dear City Council and Planning Department:

This letter will serve as formal request for appeal with regards to the above referenced condo conversion application for the property that I own at 679 W. 18th Street in Costa Mesa.

I wanted to provide you with some brief history on the property, the surrounding properties and the planning process to date, as well as the reasons for appealing the recent Planning Commission denial of the application.

The subject property is located on the west side of Costa Mesa on W. 18th Street between Pomona and Anaheim. It is currently being used as a rental dwelling for a fourplex. The property consists of a front 3 bedroom, 2.5 bath, 2-story townhouse unit, and three additional 2 bedroom, 2 bath apartments, each with a balcony, patio area, and/or private yard area. All units have fireplaces, private garages and additional parking. I also own the property immediately adjacent, at 685 W. 18th Street, as well as the property directly behind 685, at 686 W. Park Drive. I also own the fourplex three doors down at 1798 Pomona. All of those properties are currently being used as apartment rental dwellings. The property at 1798 Pomona was approved by the Planning Commission for condo conversion in December, 2006, and the property at 685 W. 18th Street, and 686 W. Park Drive were approved for condo conversion in January, 2007, by the Planning Commission.

The property at 685 W. 18th Street had the exact same variance application as the subject property and was approved by the Planning Commission without any issues. Therefore, I am disturbed and confused by the Planning Commission's decision to deny the property immediately next door when only a few weeks prior my other property was approved under the same circumstances.

You should note that we are beginning construction on the property at 1798 Pomona for condo conversion in April 2007. We expect to commence the conversion process at 685 W. 18th Street and 686 W. Park Drive, which is a combined ten units, later this year. There is also a condo conversion project of six units which was recently completed directly across the street from the subject property. They are in the process of being marketed for sale as condos. It is apparent to me that the transition of the neighborhood is to convert the rental dwellings into condos and in the process, upgrade the aesthetics and quality of the properties.

It would be my intention for the subject property, as well as all the other properties which are in the process of being converted, to completely renovate the interior and exterior of the property. The exterior would be completely upgraded in conjunction with the planning department and would comply with all of their requests, guidelines and conditions. This would include painting of the building, addition of exterior slate and window trim, replacement of all exterior windows and doors and complete renovation of exterior landscaping, driveway, exterior lighting. The garage doors would be replaced and all of the common fences for the exterior of the property would be redone as well.

The interiors of the units would have travertine floors, granite countertops, stainless steel appliances, all new high baseboard and crown molding throughout. We would also be installing all new fixtures, hardware, doors and would upgrade all electrical as necessary. Fireplaces would be trimmed in granite and travertine. Existing tubs would be replaced with Jacuzzi tubs and all units would have high end finishes throughout.

The application for the variance is due to the fact that the A and D units currently comply with the city's minimum requirement for open space of a 10x10 private area. In fact these units private open area is significantly larger than the minimum requirements. However, the B & C units, because of the configuration of the property, currently have a front balcony area and a back patio area. Neither of these areas by themselves comply with the City's minimum requirements. If the two areas were to be combined the combined are would be approximately consistent with the City's minimum requirements. However, it is my understanding that the minimum requirements, in order to comply, need to be in one central area. Therefore, we were applying for a variance on this basis.

The property next door at 685 W. 18th Street and 686 W. Park Drive had a similar issue and the exact same variance was applied for. That variance was approved without any issues from the Planning Commission. What is even more disturbing are the reasons for the denial by the Planning Commission.

At the subject property the parking currently does not meet current code, however the parking is grandfathered in and therefore is not an issue in terms of the application. The concern from Planning Commissioner Righeimer was that his denial was based upon the fact that the parking did not meet current specifications. However, none of the other condo conversions that I have had approved meet the current parking requirements and it is my understanding from the planning department that the subject property is grandfathered and the parking is a non-issue.

Additionally, Planning Commissioner Clark sited at the hearing that the basis for his denial of the application was that the property did not comply with the minimum open space requirement per the city's standards. This standard requires that the property have a minimum of 40% of the parcel dedicated to open space. However, this requirement again is grandfathered for an existing structure. The subject property does have 38% open area as opposed to the 40%, and the incremental difference, even if it did apply, is negligible.

Planning Commissioner Fisler cited his reason for denial as the fact that he did not like condo conversions in general and did not feel a necessity to approve a property that did not comply in its entirety. Commissioners Egan and Chairman Hall voted to approve the project.

I want to take the opportunity to provide the City council with some additional information which I hope will be helpful in their decision making process:

1. In all of the other Planning Commission hearings that I have attended I, as the owner, I had the opportunity to speak on behalf of the project. After that the subject was open to public comments. Once the public comments were heard the Planning Commissioners had an opportunity to voice their opinions and after all of that was completed, I then had an opportunity to address the concerns either voiced by the public or by the commissioners. At this particular hearing I was not given that opportunity until after a vote had been taken, and I was told that the vote was final regardless of my comments. I believe that Commissioner Righeimer and Commissioner Clarks reasoning for denial of the project is unfounded based on the fact that the reasoning behind their vote to deny was based on factors that the property had already been grandfathered in and were not applicable in this case.

2. Regardless of the parking being grandfathered in or not, the practical application here is that an apartment building clearly provides more of a burden to the neighborhood and the property itself as a rental dwelling than as condo ownership. I have converted numerous properties in Newport Beach, and we have done a study on the Newport Peninsula of all condo conversions, not only our own, but other conversions over the past three years and in every instance the number of cars on the property was reduced from rental property to condo ownership. Obviously, if a 3 bedroom unit has 3 or 4 roommates, each with its own car, versus a husband and wife, or single parent, or individual with a maximum of one or two cars the parking is fewer as condos than with rentals. Additionally, as condos the CC&R's can require that the garages be used solely for the storage of automobiles and not for the storage of personal belongings. I cannot enforce this requirement as rental dwellings and therefore in the event that units are used for storage of personal items the cars are then either parked in the driveway or on the street which burdens the property and the neighborhood.

3. With respect to the open space requirement, the property was deficient by 2%. Based on the total square footage of the parcel this equates to approximately 8100 square feet. I believe this is a negligible number. However, there is an existing approximate 600 square feet of area that is common to the property that is currently not being utilized. This area currently has trees, weeds and some sparse flowerings that are not being maintained by any tenant in particular, nor are they specific to any unit. It was our intention, as part of the conversion of this property, to convert this area into a common courtyard/playground to be utilized for all of the owners of the property. This area could include common amenities such as a basketball hoop, playground, jungle gym, sandbox, barbecue area and picnic area. I have provided two different renderings of scenarios which we had proposed which I believe would provide additional amenities that would not be available under normal circumstances. This area would be fenced and locked so that only the owners or occupants of the property could utilize it and it would provide for an area far greater than the minimum requirement 10x10 that the city requires. This area would then be maintained by the association which would then defray the long term costs of maintenance as opposed to each individual owner maintaining its private yard. Each of the units will still have their own private yard or patio area which would be for their exclusive use.

I strongly believe that the addition of this common courtyard/playground will provide an amenity that any other property in the immediate area could not provide and that the benefits of this far outweigh the deficiency of the two units in the private open area. I am also confused as to why the Planning Commission would approve the property adjacent on the same basis without the dedication of the common open space and vote differently here. Additionally, it was our intention to convert both properties in a similar time frame to allow us to redo the common fences and common landscaping and trees for both properties. Should the conversion not be allowed, I believe it would be a detriment to the neighborhood and would not assist in forwarding the upgrade that I know the city has been strongly pushing for in that area.

As an owner of numerous properties throughout Costa Mesa, both for rental and condo, I am well aware of the cost, benefits, etc. of each scenario and feel strongly that this property would be better served as four condos than a fourplex as rentals. A denial of this condo conversion project would insure that this property would not receive the upgrades that the rest of the street is getting, would do nothing to increase the tax base, quality and caliber of the occupants, or reduce any parking in the neighborhood.

I appreciate your consideration in reviewing this information and am hopeful that you will look positively in favor of the condo conversion.

I am aware of a recent condo conversion application for the properties located at 780 and 790 Hamilton that was denied by the Planning Commission on the same basis for the exact same variance which was then voted favorably by the city council, allowing the project to go forward. I am hopeful that the combination of the significant upgrades to the property in conjunction with the upgrade and renovation of the rest of the street provide for enough incentive to allow an approval of this project.

Should you have any questions with regards to the property, the proposed improvements, or the conversion I would be happy to discuss them with you directly. I can be reached at (949) 930-7502. Thank you for your consideration in this matter.

Sincerely,

Barry Saywitz
President

3. **Planning Application PA-07-04, for The Saywitz Company, to allow a common interest development conversion of four apartment units to condominiums with a variance from private open space requirements for two second-floor balconies (10 ft. minimum dimension required; 5 ft., 10 in. and 8 ft., 6 in. minimum dimensions existing), located at 679 W. 18th Street, in an R3 zone. Environmental determination: exempt.**

Senior Planner Mel Lee reviewed the information in the staff report and made a presentation.

Vice Chair Fisler and Mr. Lee discussed the 40% required open space for new development and that the open space is not applied because the project is nonconforming.

Barry Saywitz, applicant, property owner, thanked the Planning Commission and handed them information to review on this project. He made a presentation, discussing the project timing and his intent to work with the current tenants and give adequate notice.

In response to Vice Chair Fisler's question about combining this property with an abutting development he owns and making the parking better with one lot, Mr. Saywitz replied that there would be difficulty with the driveway setup and the current parking. He said it would be a significant disruption and a lot more effort.

No one else wished to speak and the Chair closed the public hearing.

MOTION: Deny Planning Application PA-07-04, by adoption of Planning Commission Resolution PC-07-31, based on the evidence in the record and the findings contained in Exhibit "A". Moved by Commissioner James Righeimer, seconded by Vice Chair James Fisler.

During discussion on the motion, Commissioner Righeimer explained his motion.

Vice Chair Fisler gave his support for the motion noting inadequate parking.

Commissioner Clark stated he could not support the variance in light of only 38% open space and will support the motion.

Commissioner Egan shared everyone's sentiments, but mentioned that the building is built the way it is and the parking is the way it is, and opposes the motion. She said that she may make a substitute motion.

Commissioner Righeimer restated his motion and the Chair asked Mr. Lee to explain the overall open space provision.

SUBSTITUTE MOTION: Approve variance and Planning Application PA-07-04, based on evidence in the record and findings contained in Exhibit "A", subject to conditions in Exhibit "B", with the deletion of Condition No. 21. Moved by Commissioner Egan, seconded by Chair Hall.

Commissioner Egan's substitute motion did not carry; Vice Chair Fisler, Commissioner Clark, and Commissioner Righeimer voting no.

Chair Hall called for a vote on the original motion.

The motion carried by the following roll call vote:
Ayes: Vice Chair James Fisler, Commissioner Sam Clark, and Commissioner James Righeimer
Noes: Chair Donn Hall, and Commissioner Eleanor Egan
Absent: None.

Mr. Saywitz asked if he could come forward to make some comments.

Deputy City Attorney Christian Bettenhausen said that the public hearing was closed and the vote was already taken, but Chair Hall allowed Mr. Saywitz to speak.

Mr. Saywitz noted his disappointment in the decision made.

The Chair explained the appeal process.

CITY OF COSTA MESA

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DEVELOPMENT SERVICES DEPARTMENT

FOR ATTACHMENTS NOT INCLUDED IN THIS REPORT,

PLEASE CONTACT THE CITY CLERK'S OFFICE AT

(714) 754-5121