



CITY COUNCIL AGENDA REPORT

MEETING DATE: OCTOBER 2, 2007

ITEM NO:

SUBJECT: APPEAL OF PLANNING APPLICATION PA-07-03 AND TENTATIVE TRACT MAP T-17123
173 BROADWAY, UNITS A-1 THROUGH B-3

DATE: SEPTEMBER 20, 2007

FROM: DEVELOPMENT SERVICES DEPARTMENT – PLANNING DIVISION

PRESENTATION BY: WENDY SHIH, ASSOCIATE PLANNER

FOR FURTHER INFORMATION CONTACT: WENDY SHIH, ASSOCIATE PLANNER (714)754-5136

RECOMMENDED ACTION

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

BACKGROUND

At their meeting of September 10, 2007, by a vote of 4 to 1 (Donn Hall voted no), Planning Commission denied Planning Application PA-07-03 and Tentative Tract Map T-17123 for the conversion of an existing 6-unit apartment complex into a common interest development (condominiums). On September 11, 2007 the property owner, Maximillian Group, appealed their decision.

ANALYSIS

The apartment project was constructed in 1979 and is legal, nonconforming because the density and number of parking spaces do not comply with current Zoning Code requirements – whether apartments or condominiums.

The Planning Commission determined that the existing development is not suitable for conversion due to its substantial nonconformity.

ALTERNATIVES CONSIDERED

If the Planning Commission's denial is upheld, the units could continue to be rented without the proposed upgrades.

If the Planning Commission's decision is overturned and the project is approved, the individual units could be sold separately, subject to conditions of approval and Code requirements.

FISCAL REVIEW

Fiscal review is not required.

LEGAL REVIEW

Legal review is not required.

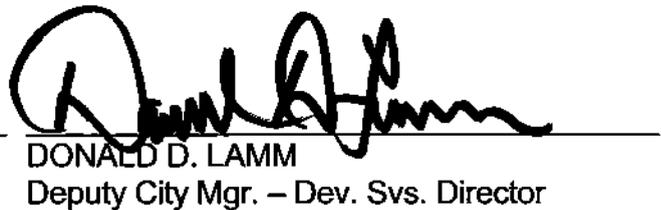
ENVIRONMENTAL REVIEW

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 substantially nonconforming with regards to density and parking. The applicant feels that the existing development is suitable for conversion into condominiums.


WENDY SHIH
Associate Planner


DONALD D. LAMM
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 September 10, 2007
 - Planning Division Staff Report
 - Planning Commission Resolution
 - Exhibit "A" – Findings
 - Exhibit "B" - Conditions

- Distribution:
- City Manager
 - Asst. City Manager
 - City Attorney
 - Deputy City Manager-Development Svs. Dir.
 - Public Service Director
 - City Clerk (2)
 - Staff (4)
 - File (2)

Maximillian Group, LLC
1582 Monrovia Avenue
Newport Beach, CA 92663

Jacob Sharp
D. Wooley & Associates
2832 Walnut Avenue, #A
Tustin, CA 92780

Occupant
173 Broadway, Unit A-1
Costa Mesa, CA 92627

Occupant
173 Broadway, Unit A-2
Costa Mesa, CA 92627

Occupant
173 Broadway, Unit A-3
Costa Mesa, CA 92627

Occupant
173 Broadway, Unit B-1
Costa Mesa, CA 92627

Occupant
173 Broadway, Unit B-2
Costa Mesa, CA 92627

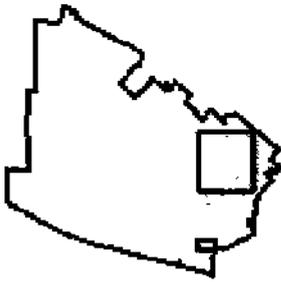
Occupant
173 Broadway, Unit B-3
Costa Mesa, CA 92627

File: 100207PA0703Appeal	Date: 092007	Time: 9:00 a.m.
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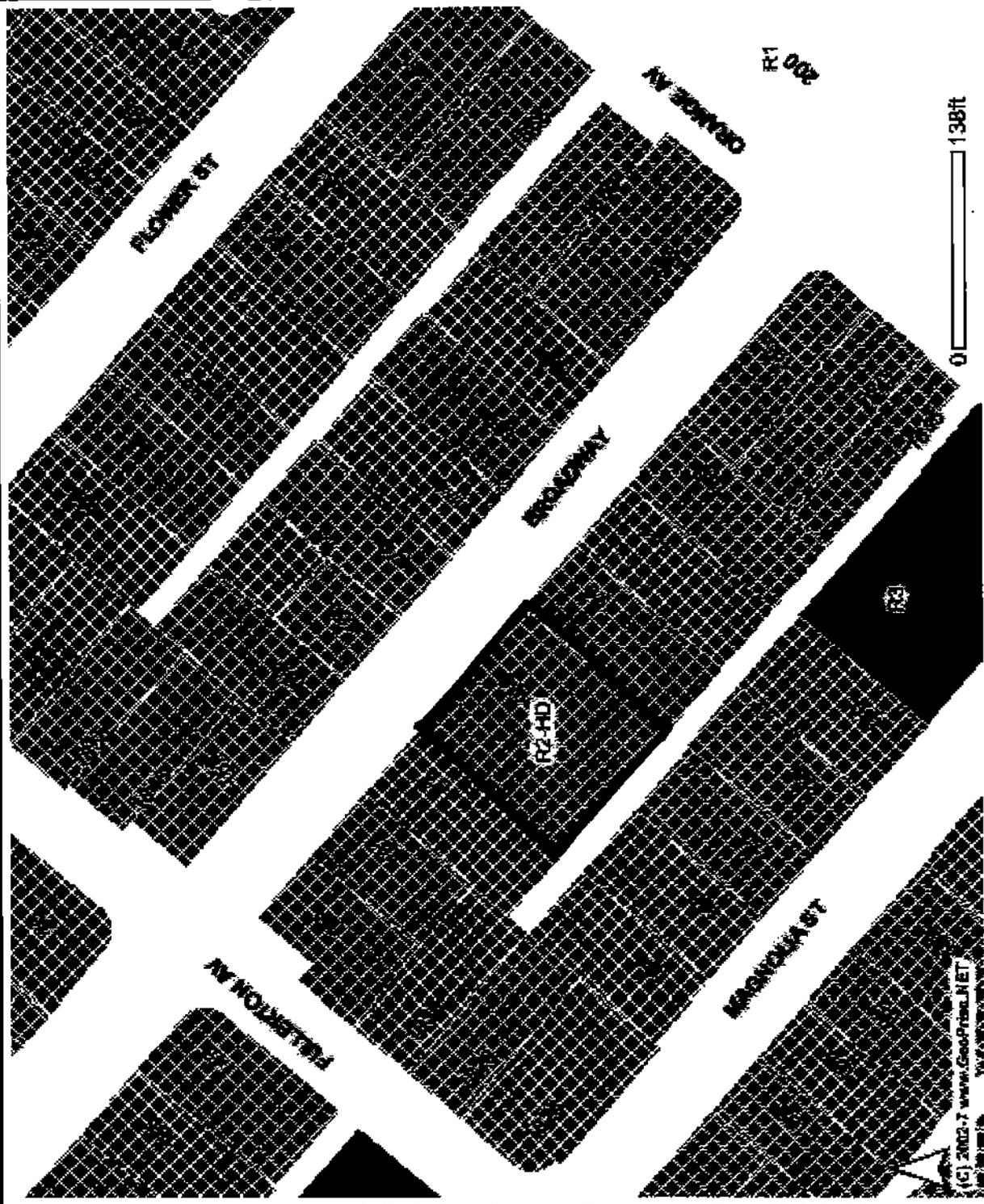
City of Costa Mesa

173 BROADWAY - [Created: 8/23/2007 10:18:30 AM] [Scale: 137.72] [Page: 8.5 x 11 / Landscape]

Overview Map



Map Display



Legend

- Address Medium
- Address Points
- Street Names
- Parcel Lines
- Zoning
- AP
- C1 (cont)
- C1-S
- C2
- CL
- MR
- MR-S
- MG
- MP
- P
- PDC
- PDI
- PDR-HD
- PDR-LD
- PDR-MD
- PDR-MCM
- (cont)

(C) 2002-7 www.GeoPrise.NET
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Overview Map



Map Display



Legend

- Address Medium
- Address Points
- Street Names
- Parcel Lines
- General Plan Specific Land
- Level 1 Ortho Photo
- Parcels
- ROW Polygons

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PLANNING APPLICATION SUMMARY

Location: 173 Broadway Application: PA-07-03/T-17123

Request: Convert an existing 6-unit apartment complex to a common interest development (condominiums) with a tentative tract map to facilitate the conversion.

Zone: R2-HD North: Surrounding properties
 General Plan: High Density Residential South: are all R2-HD
 Lot Dimensions: 115 ft. x 132 ft. East: zoned and contain
 Lot Area: 15,237 sq.ft. West: residences.
 Existing Development: Two 2-story triplexes and a detached 7-car garage.

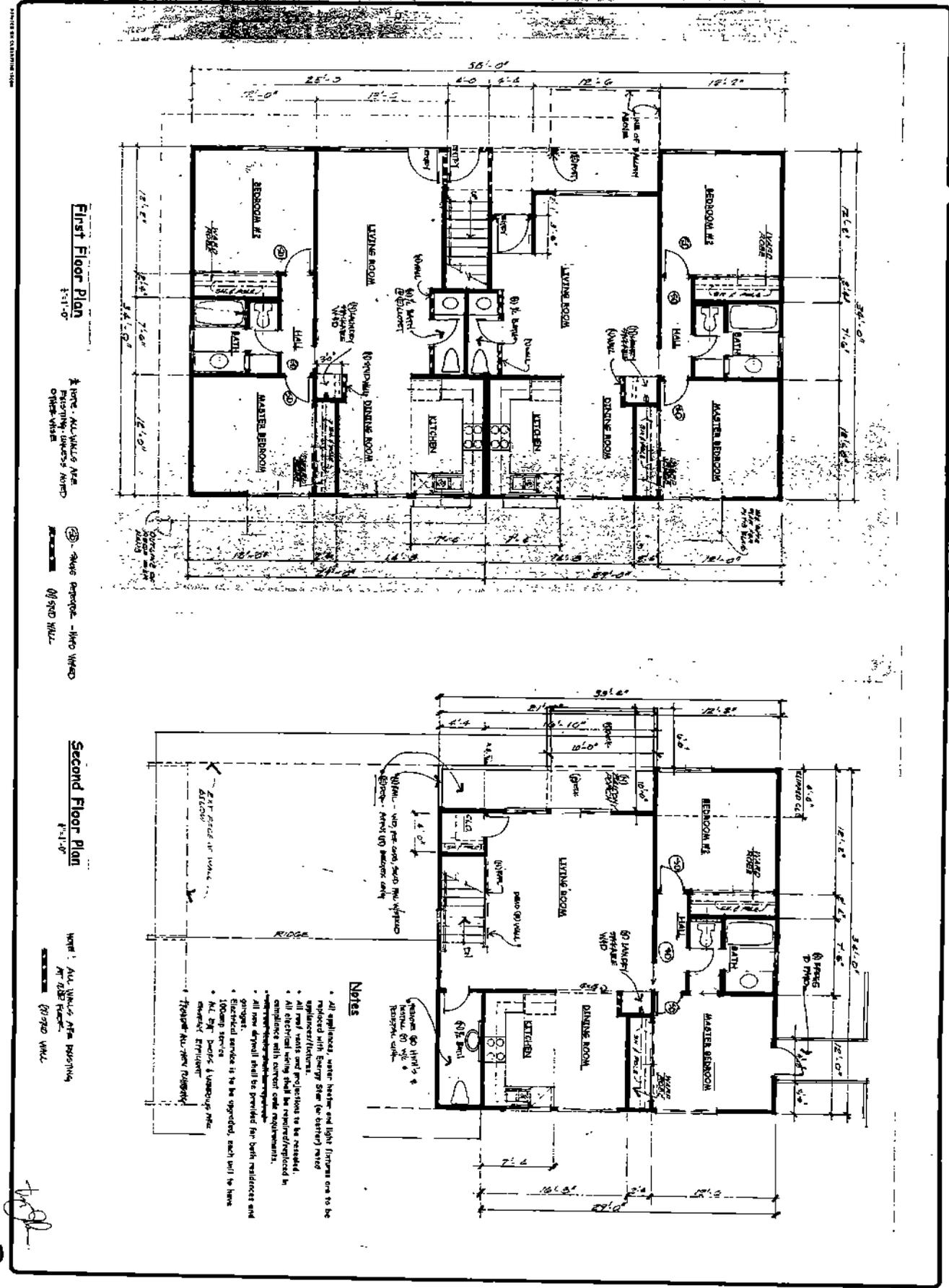
DEVELOPMENT STANDARD COMPARISON

Development Standard Code Requirement Proposed/Provided

Lot size:		
Lot width	100 ft.	115 ft.
Lot area	12,000 sq.ft.	15,237 sq.ft.
Density: Zone/GP	1 du/3,000 sq.ft.	1 du/ 2,540 sq.ft. ¹
Building coverage:		
Buildings	NA	37% (5,657 sq.ft.)
Paving	NA	16% (2,481 sq.ft.)
Open Space	40% (6,095 sq.ft.)	47% (7,099 sq.ft.)
TOTAL	100%	100%
Min. private open space dimension	10 ft. min. dimension	10 ft. min. dimension
Building Height:	2-stories/27 ft.	2-stories/ 22 ft.
Setbacks:		
Front	20 ft.	32 ft.
Side (left/right)	5 ft./5 ft.	12 ft./12 ft.
Rear (alley)	5 ft.	12 ft.
Parking:		
Covered	6	7
Open	9	4
Guest	3	0
TOTAL	18 spaces	11¹ spaces

CEQA Status Exempt, Class 1
 Final Action Planning Commission

¹ Existing, nonconforming.



First Floor Plan
1'-1'-0"

NOTE: ALL WALLS ARE FINISHING UNLESS NOTED OTHERWISE
 (2) SHOW DEPENDENT - WHO WHEN
 (3) SHOW WALL

Second Floor Plan
1'-1'-0"

NOTE: ALL WALLS ARE FINISHING UNLESS NOTED OTHERWISE
 (3) SHOW WALL

NOTES

- All appliances, water, heater and light fixtures are to be installed in accordance with Energy Star (or better) rated.
- All new walls and partitions to be finished.
- All electrical wiring shall be installed in accordance with current code requirements.
- All new drywall shall be provided for both residences and garage.
- Electrical service to be upgraded, each unit to have 100amp service.
- All 5/8" pipes & unions are to be installed in accordance with current code requirements.
- Floor: All new flooring.

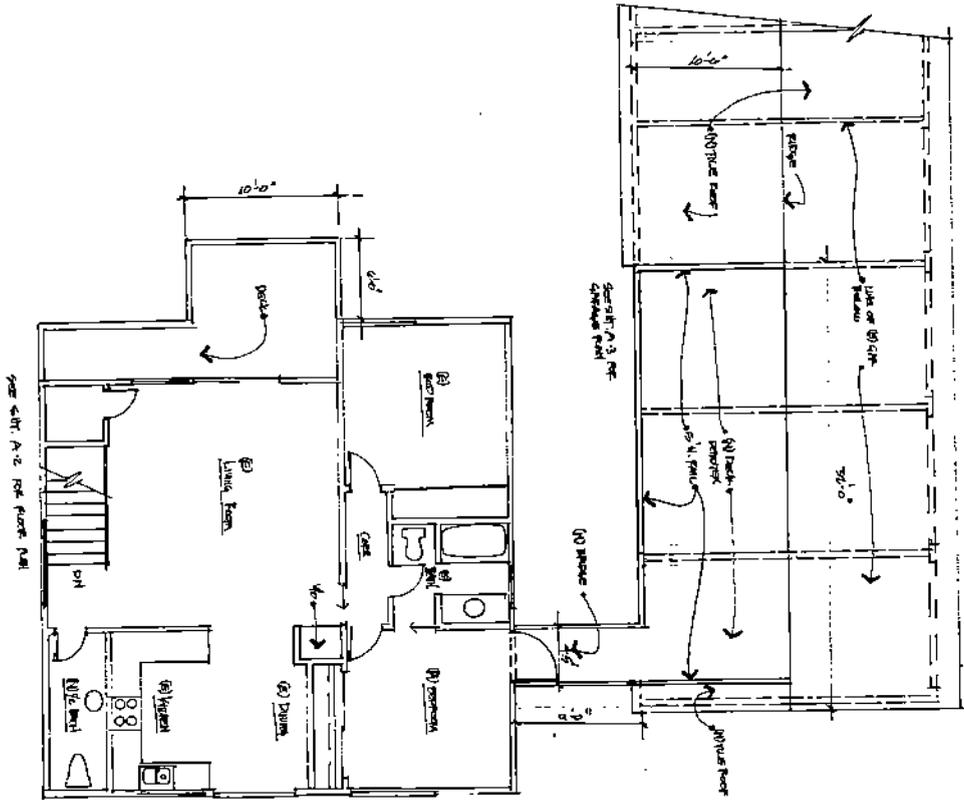
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NO.	DATE	BY	CHKD.
A-1	1/11/00	T.J. DESIGN	

Broadway Apartment Conversion
 173 Broadway
 Costa Mesa, CA

T.J. Design
 5215 River Avenue, Suite A
 Newport Beach, CA 92663
 (949) 515-3713

NO.	DATE	BY	CHKD.



SECOND FLOOR PLAN W/ BEAM DECK

SCALE 1/8" = 1'-0"

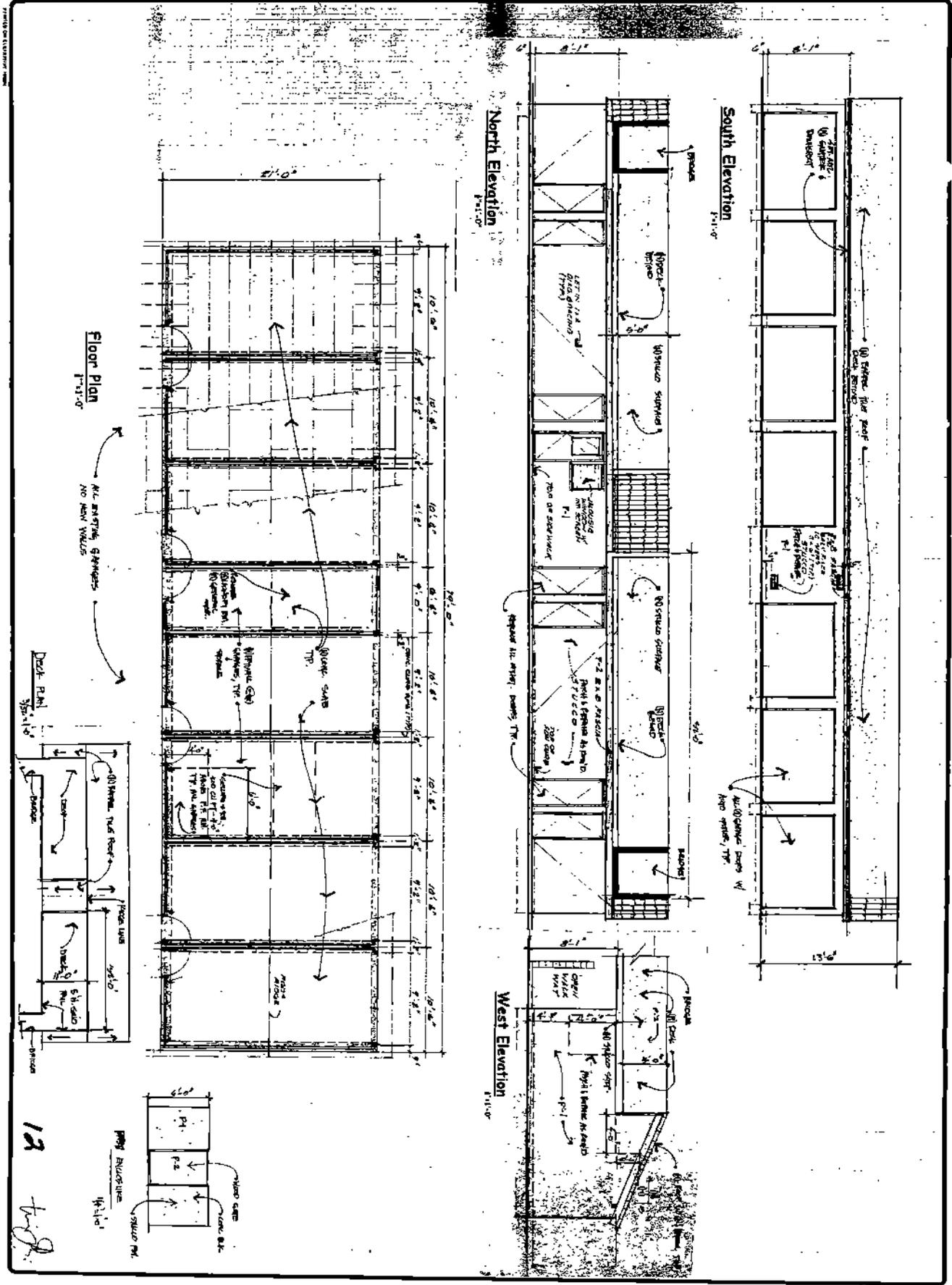
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T.J. Design

A-1A	PROJECT NO.	
	DATE	
	SCALE	
	BY	

BROADWAY APARTMENT CONVERSION
 173 BROADWAY
 COSTA MESA CA.

T.J. Design
 5215 River Avenue, Suite A
 Newport Beach, CA 92663
 (949) 515-3713

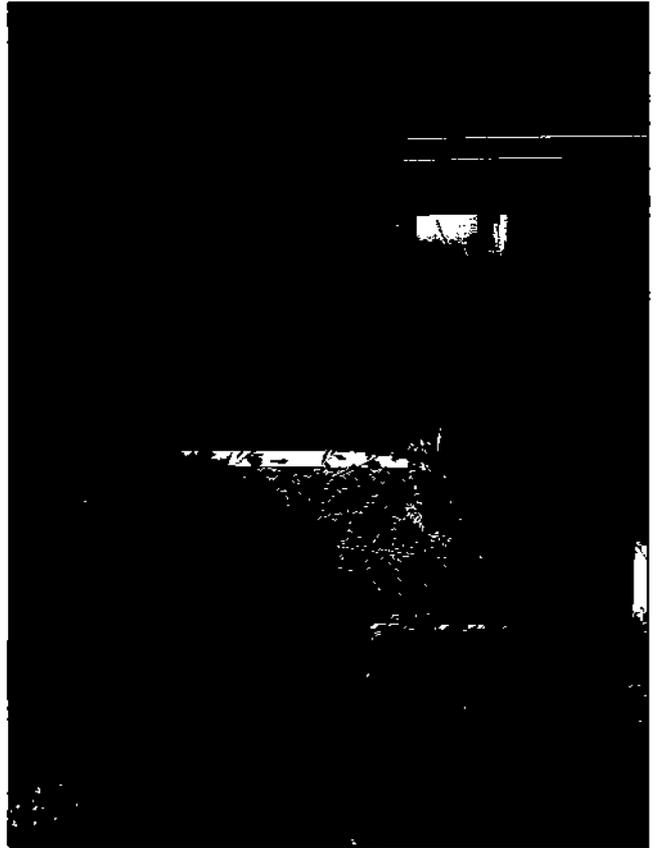
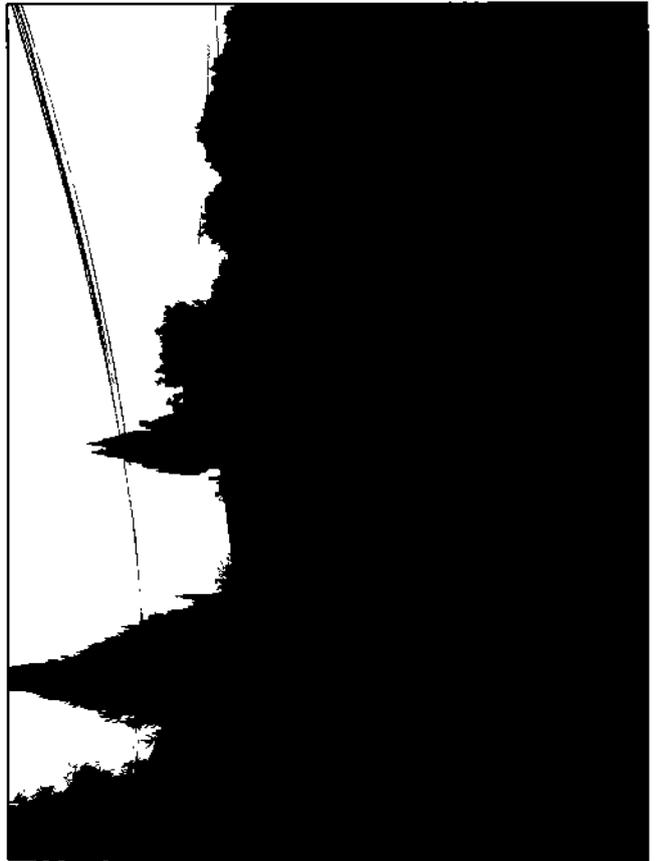


A-3	DATE	1/11/10
	BY	T.J.
A-3	DATE	1/11/10
	BY	T.J.

Broadway Apartment Conversion
173 Broadway
Costa Mesa, CA

T.J. Design
5215 River Avenue, Suite A
Newport Beach, CA 92663
(949) 515-3713

NO. OF SHEETS	12
SHEET NO.	12



RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
COSTA MESA DENYING PLANNING APPLICATION PA-07-
03 AND TENTATIVE TRACT MAP T-17123**

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

WHEREAS, an application was filed by Jacob Sharp of D. Wooley & Associates, authorized agent for property owner Maximillian Group, with respect to the real property located at 173 Broadway, Units A-1 through B-3, requesting approval of the conversion of an existing 6-unit apartment complex into a common interest development (condominiums), in the R2-HD zone; and

WHEREAS, a duly noticed public hearing was held by the Planning Commission on September 10, 2007, and PA-07-03/T-17123 was denied by Planning Commission; and

WHEREAS, the item was appealed by Keith Scheinberg of Maximillian Group to the City Council on September 11, 2007; and

WHEREAS a duly noticed public hearing was held by the City Council on October 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-07-03 and Tentative Tract Map T-17123 with respect to the property described above.

PASSED AND ADOPTED this 2nd day of October 2007.

Mayor of the City of Costa Mesa

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
COSTA MESA APPROVING PLANNING APPLICATION PA-07-
03 AND TENTATIVE TRACT MAP T-17123**

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

WHEREAS, an application was filed by Jacob Sharp of D. Wooley & Associates, authorized agent for property owner Maximillian Group, with respect to the real property located at 173 Broadway, Units A-1 through B-3, requesting approval of the conversion of an existing 6-unit apartment complex into a common interest development (condominiums), in the R2-HD zone; and

WHEREAS, a duly noticed public hearing was held by the Planning Commission on September 10, 2007, and PA-07-03/T-17123 was denied by Planning Commission; and

WHEREAS, the item was appealed by Keith Scheinberg of Maximillian Group to the City Council on September 11, 2007; and

WHEREAS a duly noticed public hearing was held by the City Council on October 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-07-03 and Tentative Tract Map T-17123 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-07-03 and Tentative Tract Map T-17123 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 October 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 October 2007.

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

EXHIBIT "A" (DENIAL)

FINDINGS

- A. The information presented 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. Specifically, it is substantially non-conforming with regards to parking and density, which makes it not suitable for conversion.
 - 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 not consistent with the General Plan.
 - d. The cumulative effect of all the planning applications has been considered.
- B. The subject property is not physically suitable to accommodate T-17123 in terms of type, design and density of development as indicated in Finding "A."
- 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.

EXHIBIT "A" (APPROVAL)

FINDINGS

- A. The information presented substantially complies with Costa Mesa Municipal Code Section 13-29(g)(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 conversion of the units would not result in the displacement of seniors or school-age children because there are none residing on the property and would not result in a loss of affordable rental units. Conversion of the apartments will result in a general upgrading of the property, as well as providing additional home ownership opportunities within the City. To ensure that existing tenants are not displaced unreasonably, a condition of approval is included requiring current tenants 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'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.
 - 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 proposed single lot airspace subdivision is consistent with the City's General Plan and Zoning Ordinances.
- D. Approval of the subdivision will allow additional home ownership opportunities without impacting affordable rental housing. This is consistent with the objectives, policies, general land use, and programs specified in the General Plan.
- E. The subject property is physically suitable to accommodate T-17123 in terms of type, design and density of development, and will not result in substantial environmental damage nor public health problems, based on compliance with the City's Zoning Code and General Plan.
- F. The design of the subdivision provides, to the extent feasible, for future passive or natural heating and cooling opportunities in the subdivision, as required by Government Code Section 66473.1.
- G. The subdivision and development of the property will not unreasonably interfere with the free and complete exercise of the public entry and/or public utility rights-of-way

and/or easements within the tract.

- H. The discharge of sewage from this subdivision into the public sewer system will not violate the requirements of the California Regional Water Quality Control Board pursuant to Division 7 (commencing with Section 13000 of the Water Code).
- I. 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.
- J. 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. Complete all exterior and interior improvements listed in the applicant's letter dated February 12, 2007. All requirements are to be completed under the direction of the Planning staff.
 2. Treat termite infestations as recommended by a termite control company.
 3. The address of the property and individual units (173 Broadway Units A1 through A3 and B1 through B3) shall be blueprinted on the site plan and on all floor plans in the working drawings as part of the plan check submittal package.
 4. Prior to issuance of building permits, applicant shall contact the US Postal Service with regards to location and design of mail delivery facilities. Such facilities shall be shown on the site plan, landscape plan, and/or floor plan.
 5. 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 1/2" 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 1/4" stroke and shall contrast sharply with the background.
 6. 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.
 7. 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.
 8. The conditions of approval and code requirements of Planning Application PA-07-03/T-17123 shall be blueprinted on the face of the site plan as part of the plan check submittal package.
 9. 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.
 10. 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.
 11. 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.
12. The CC&Rs shall disclose that the available parking on-site is 7 spaces short of the current condominium parking standards because of its legal nonconforming status.
 13. 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.
 14. The applicant shall contact utility companies for requirements and to obtain separate meters for each unit, including, but not limited to, separate irrigation meters.
 15. 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.
 16. The exterior of all building elevations shall be completely repainted. A minimum two colors shall be used- three colors recommended. Exterior façade improvements shall be completed per plans and under the direction of the Planning Staff.
 17. Provide minimum 5 ft. high privacy/screen walls on the exterior sides (east and west) of the second floor decks above the garage.
 18. Install energy efficient exterior doors and windows on all building elevations.
 19. Provide exterior storage area for every unit under the direction of the Planning staff.
 20. Underground overhead power line connections.
 21. Install rain gutters on all appropriate building elevations.
 22. Replace any broken sidewalks, driveways, or other hardscape improvements. Install decorative paving for driveway and walkway as shown on the conceptual site plan. This condition shall be completed under the direction of the Planning staff.
 23. Repair, replace, or construct interior property walls and/or fences.
 24. Screen utility meters, pedestals, etc. from the public right-of-way under the direction of the Planning Division.
 25. 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.
 26. Provide a washer/dryer hook-up in the interior of every unit.
 27. Provide appropriate interior separation of any common attic space areas and upgrade attic insulation to the maximum extent feasible.
 28. Each unit shall have access to the electrical branch circuits that serve the unit, and each unit shall have a minimum 100-amp service.
 29. Provide separate water heaters for each unit.
 30. Replace all electrical wiring, outlets, switches, interior lighting (title 24) sub panels and exterior lighting.
 31. Replace all above ground plumbing and add tankless water heaters,

- camera test the sewer line and replace if needed, add main sewer clean outs and complete a water test.
- 32. Replace all gas lines (interior and exterior) and conduct a pressure test.
 - 33. Install new ducting as needed, registers, and gas efficient HVACs.
 - 34. Check all framing for integrity and replace if needed.
 - 35. Install all new double paned low E glass windows and exterior doors.
 - 36. Replace all insulation.
 - 37. Install new stucco, paint, and carpet as needed.
 - 38. Replace all drywall with soundboard.
 - 39. All construction-related activity shall be limited to between the hours of 7 a.m. and 8 p.m., Monday through Friday, and 8 a.m. to 6 p.m. Saturday. Construction is prohibited on Sundays and federal holidays. Exceptions may be made for activities that will not generate noise audible from off-site, such as painting and other quiet interior work.
 - 40. The project is subject to compliance with all applicable federal, state, and local laws. A copy of the applicable Costa Mesa Municipal Code requirements has been forwarded to the applicant and, where applicable, the authorized agent, for reference.
 - Bldg. 41. The following Building Division corrections shall be made to all units:
 - a. Provide GFCI Protected receptacles at all required areas.
 - b. Verify Ground Electrode Conductor and water bond.
 - c. Provide proper accessibility for electrical service.
 - d. Drain pans for water heaters and provide separate piping from T/P relief piping.
 - e. Provide seismic support for water heaters.
 - f. Install smoke detectors at all required areas.
 - Eng. 42. Comply with conditions contained within the letter prepared by the City Engineer dated June 5, 2007.



CITY OF COSTA MESA

CALIFORNIA 92628-1200

P.O. BOX 1200

FROM THE OFFICE OF THE CITY CLERK

**IF YOU ARE INTERESTED IN VIEWING THE REMAINDER
OF THE THIS DOCUMENT
PLEASE CONTACT THE CITY CLERK'S OFFICE
AT (714) 754-5221**