



CITY COUNCIL AGENDA REPORT

MEETING DATE: NOVEMBER 6, 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: OCTOBER 25, 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 (Chair 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.

The subject application was scheduled for the October 2, 2007 City Council meeting, but was continued to this meeting per the applicant's request.

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 as apartments or condominiums.

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

This application was not subject to the conversion moratorium since it was submitted prior to the adoption of the ordinance.

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

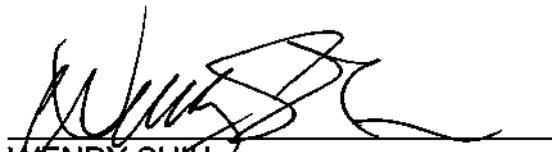
Legal review is not required.

ENVIRONMENTAL REVIEW

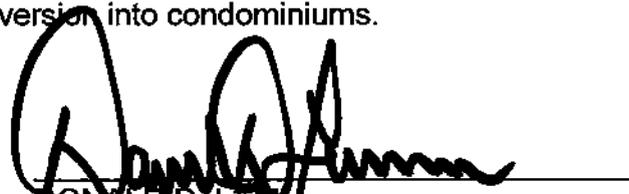
Pursuant to Section 15301 (Existing Facilities) of the California Environmental Quality Act (CEQA) Guidelines, this project is exempt from CEQA.

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. LAM
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

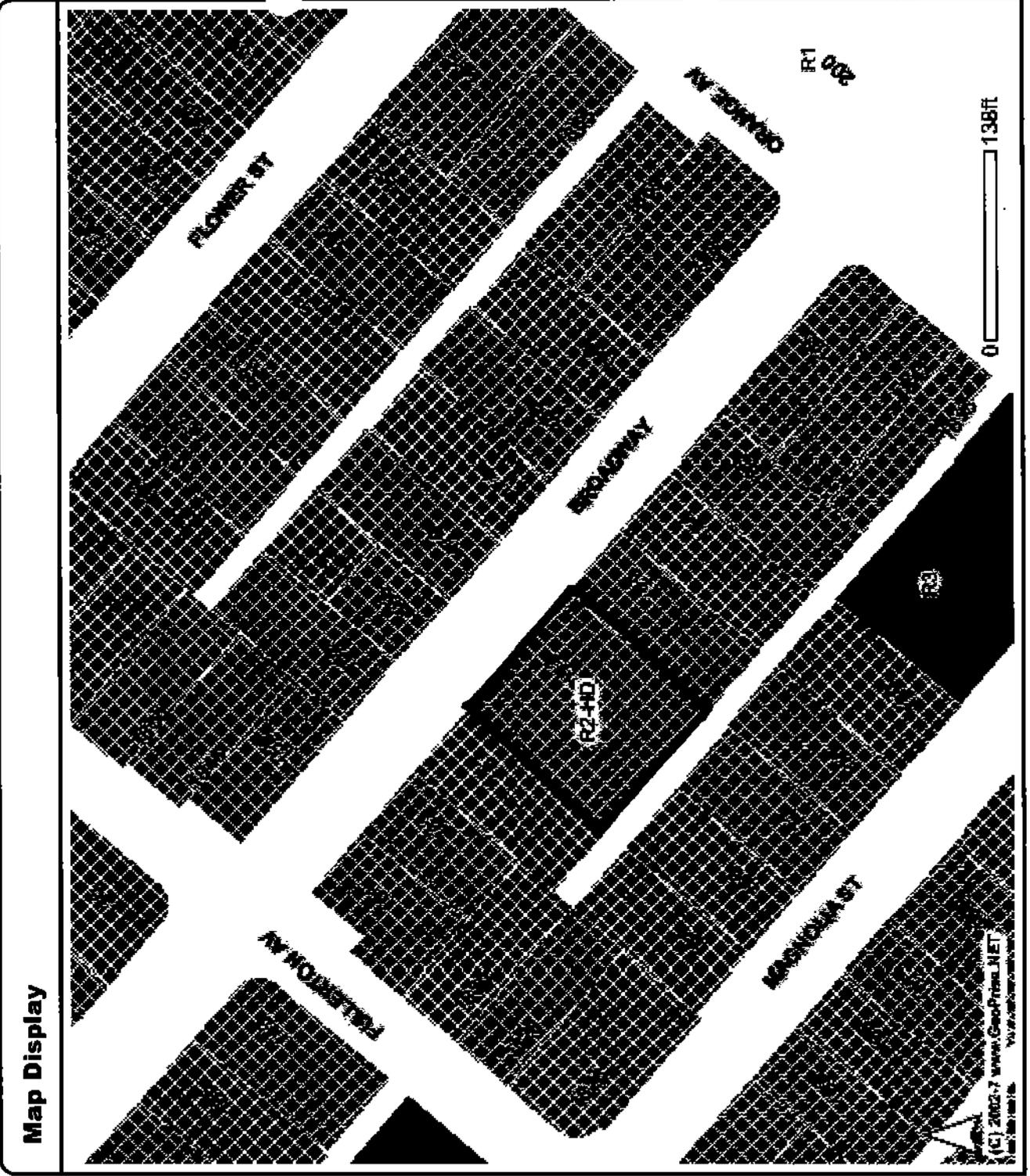
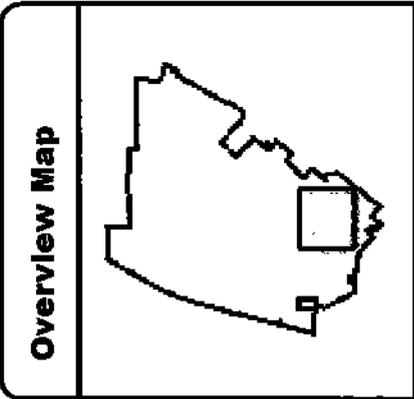
Occupant
173 Broadway, Unit B-2
Costa Mesa, CA 92627

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

File: 110607PA0703Appeal	Date: 102507	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]



Legend

Address Medium	C1-S	■
Address Points	C2	●
Street Names	CL	—
Parcel Lines	IAR	—
Zoning	IAR-S	■
AP	MG	■
C1 (cont)	MP	■
	P	■
	PDC	■
	PDI	■
	PDR-HD	■
	PDR-LD	■
	PDR-MD	■
	PDR-HCM	■
	(cont)	■

Overview Map



Map Display



Legend

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

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.

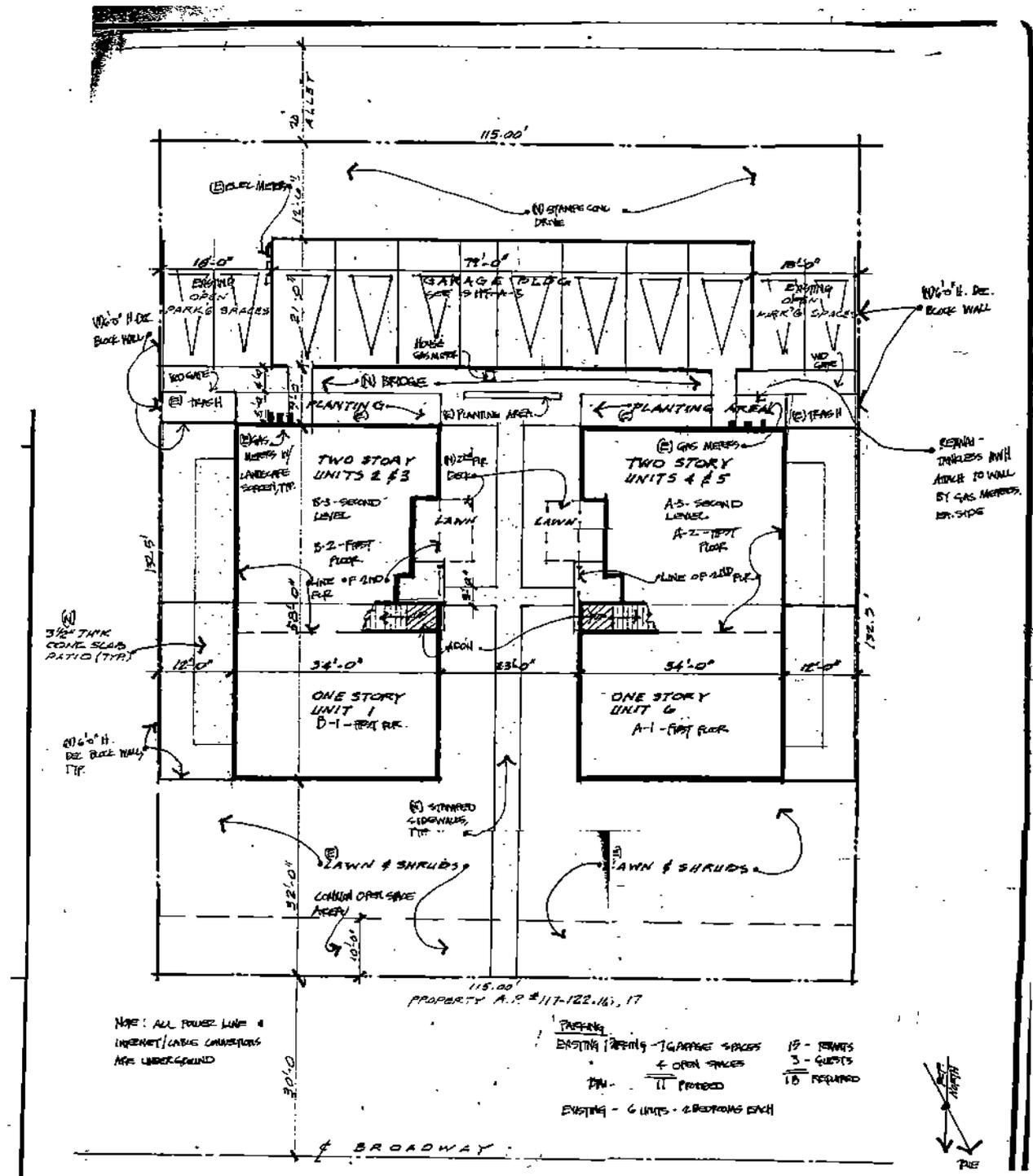
DEVELOPMENT STANDARD COMPARISON

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.



Square Footages:

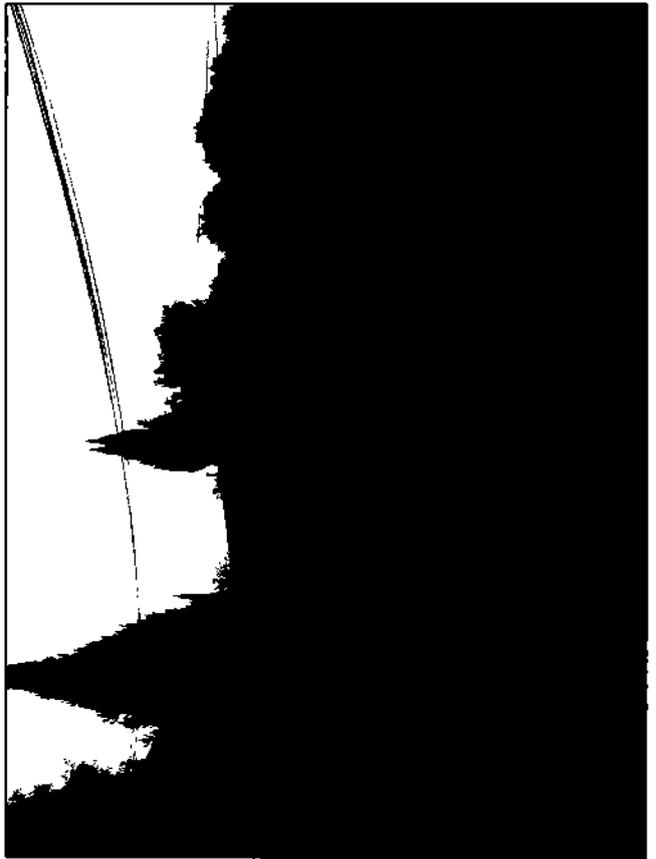
Lot Size	15237.5sf	
Open Space	7360.00sf	New 7301.00sf = 46%
Building A	1869.21sf	1999.00sf
Building B	1869.21sf	1999.00sf
Garage	1632.00sf	1632.00sf
TOTAL	5397.42sf	5637.00sf = 37%
WALKWAY 838.5 SQUARE 311.5 NEW Area of paved driveways & parking 2401.00sf = 16%		

PROPOSED
 EXISTING PARKING - 1 GARAGE SPACES
 + OPEN SPACES
 TOTAL - 11 PROVIDED
 EXISTING - 6 UNITS - 2 BEDROOMS EACH
 19 - ROOMS
 3 - QUEETS
 18 - REQUIRED

AUG - 7 2007

AUG - 7 2007





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, and continued to November 6, 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 6th day of November 2007.

Mayor of the City of Costa Mesa

ATTEST:

Deputy City Clerk 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, and continued to November 6, 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 6th day of November 2007.

Mayor 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 6th day of November 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.

TJ Design

5215 River Avenue
Suite A
Newport Beach, CA 92663
(949) 515-3713
timjdesign@sbcglobal.net

RECEIVED
CITY OF COSTA MESA
DEVELOPMENT DEPARTMENT

JUL 19 2007

Feb. 12, 2007

Planning Department
City of Costa Mesa
77 Fair Drive
Costa Mesa, CA 92628

Subject: Condominium Conversion at 173/175 Broadway

Planning Department:

As required as part of the Condominium Conversion process, we are providing you with a brief description of the subject property.

Built in ¹⁹⁷⁹~~1983~~, this existing sixplex is located midway between Fullerton Avenue and Orange Avenue on Broadway. It currently consists of six two bedroom, 1 bath apartment type units. The existing property is being used as rental income. All units have private garages and there are additional ~~carport~~ ^{open} spaces at the property as well. This complex appears structurally sound.

As part of the conversion process, the following improvements will be made:

1. Improvements and upgrades to exterior landscaping throughout the property.
2. Re-asphalt the existing parking area.
3. Separation of existing garage area into private garages with direct access from each unit.
4. Upgrades to existing patio fencing and enclosures at the sides of the property.
5. Provide new fiberglass composition roofing to the building.
6. All the interiors will be completely remodeled with new travertine floors, granite countertops and stainless steel appliances.
7. All units will have stackable washer/dryers in the units. Bathrooms will have new toilets, new cabinetry and new fixtures.
8. All new crown molding, baseboard and window casing throughout the building.

9. **All windows will be replaced with higher end retrofit windows. Any windows in bedroom areas not meeting egress requirements will be enlarged as required.**
10. **Any deficiencies in decking, or building code upgrades will be addressed as part of the remodel.**
11. **Reconfiguration of the existing floor plans is anticipated with no increase in the bedroom count, also additional insulation will be added in the separation walls to meet the STC 50 rating between attached units.**
12. **Ceiling fans in all bedrooms will be installed.**
13. **Plumbing – All plumbing is installed per code when the original building was constructed. As improvements to the units occur, plumbing within walls and floors will be checked and updated as required to meet codes.**
14. **Electrical – No major work is anticipated, any new improvements required to meet condo conversion requirements will be completed per current code.**
15. **Additional upgrades to the exterior of the property to create an upgraded feel and presence.**

If any additional information is required please call.

Sincerely,

TJ DESIGN SOLUTIONS

Tim Johnson,

CC: Maximillion Investments



RECEIVED
CITY CLERK

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

FEE: \$ 1085⁰⁰

2007 SEP 11 PM 1:32

APPLICATION FOR REVIEW, APPEAL OR REHEARING

CITY OF COSTA MESA
Applicant Name BY Maximilian Group LLC - Keith Scheinberg (owner)
Address 1582 MONROVIA Ave
Phone 949-289-7467 Representing _____

REQUEST FOR: REVIEW** APPEAL REHEARING

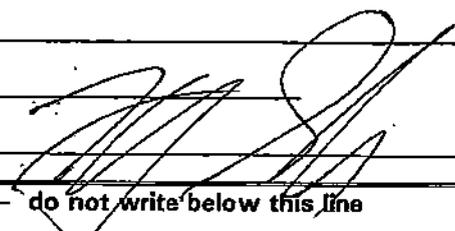
Decision of which review, appeal or rehearing is requested: (give number of rezone, zone exception, ordinance, etc., if applicable, and the date of the decision, if known.)

Planning Commission decision 9-10-07
RE: PA-07-03
TROOP MAP T-17123

Decision by: PC Reasons for requesting review, appeal or rehearing: _____

Planning Commission did not evaluate the crucial issues involved in granting acceptance of this project. Planning Staff recommended Approval and due to extensive research that planning commission did not evaluate

- Both the nature and location of this project are perfect for a condo conversion and I respectfully request City Council to review and overturn planning commission decision

Date: 9-10-07 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

09-10-07 PC Minute Excerpt for PA-07-03 and T-17123 - Unofficial Until Approved

4. Planning Application PA-07-03 and Tentative Tract Map T-17123, for Jacob Sharp/D. Wooley and Associates, authorized agent for Maximillian Group, LLC, to convert six apartment units to a one-lot airspace residential common interest development and a tentative tract map to facilitate the conversion, located at 173 Broadway, in an R2-HD zone. Environmental determination: exempt.

Associate Planner Wendy Shih reviewed the information in the staff report and there were no questions of staff.

Keith Scheinberg, representing Maximillian Group, LLC, agreed to all the conditions of approval.

Mr. Scheinberg discussed with Commissioner Righeimer about the number of bathrooms in the units.

Kent Riley, Costa Mesa, asked that the trees remain or that there be foliage up against the deck. He also asked that the gas meter be placed up against the block wall.

Mark Abrams, Costa Mesa, expressed his concern that there is not enough parking.

In response to a question from the Chair about the number of required parking spaces, Ms. Shih replied that this project is legal, non-conforming in respect to onsite parking.

Mr. Abrams reiterated his concern about parking.

Mr. Riley asked that the Saturday construction hours be changed to 9:00 a.m. - 5:00 p.m. instead of 8:00 a.m. - 6:00 p.m.

Glen Snively, Costa Mesa, spoke about privacy concerns and requested that the five-foot wall be raised to six feet.

Takayo Snively, Costa Mesa, also asked for the wall to be raised a foot and the Saturday construction hours be changed to 9:00 a.m. - 5:00 p.m.

Mr. Scheinberg said the wall is at least six feet tall; the square footage of the units is 1,000; and the 75-foot trees will be left in.

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

MOTION: Deny Planning Application PA-07-03 and Tentative Tract Map T-17123, by adoption of Planning Commission Resolution PC-07-62, on the basis (Findings) as follows:

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.

Moved by Vice Chair James Fisler, seconded by Commissioner James Righeimer.

Commissioner Clark and Commissioner Egan agreed with previous comments and said the project is too dense.

The motion carried by the following roll call vote:

Ayes: Vice Chair James Fisler, Commissioner Sam Clark, Commissioner Eleanor Egan, and Commissioner James Righeimer

Noes: Chair Donn Hall

Absent: None.

The Chair stated the appeal process.



PLANNING COMMISSION AGENDA REPORT

VII . 4

MEETING DATE: SEPTEMBER 10, 2007

ITEM NUMBER:

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

DATE: AUGUST 30, 2007

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

DESCRIPTION

The applicant proposes to convert a 6-unit apartment complex into a common interest development (condominiums), with a tentative tract map to facilitate the conversion.

APPLICANT

Jacob Sharp of D. Wooley & Associates is the authorized agent for Maximillian Group, LLC, the property owner.

RECOMMENDATION

Approve by adoption of Planning Commission resolution, subject to conditions.


WENDY SHIH
Associate Planner


R. MICHAEL ROBINSON, AICP
Asst. Development Services Director

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

<u>Development Standard</u>	<u>Code Requirement</u>	<u>Proposed/Provided</u>
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.

BACKGROUND

The subject property is located between Orange Avenue and Fullerton Avenue, on the south side of Broadway. The lot contains two, 2-story triplexes, a detached 7-car garage and 4 open parking spaces. The property owner proposes to convert the 6-unit apartment complex into condominiums.

Pursuant to Code Section 13-42(g), Planning Commission review is required when occupied apartments are proposed to be converted to a common interest development. The review is required to confirm compliance with applicable development standards and to consider potential impacts on the rental housing supply and displacement of tenants if the City's vacancy rate is below 3%.

The owner is also processing a tentative tract map to facilitate the conversion. The proposed map will subdivide the airspace to allow the individual units to be sold independent of one another.

ANALYSIS

Design Review

Common interest developments must comply with additional development standards above those applicable to apartments. These additional development standards include provision of a 10-foot by 10-foot private open space for each unit, having a break in the front plane of the building of at least 4 feet every 2 dwelling units, and provision of on-site lighting. The proposed upgrades will comply with these standards. The building upgrades include addition of private open spaces (expansion and addition of decks) for each of the second story units. Proposed are 10-foot by 10-foot decks off of the living rooms as well as constructing a connection from the main bedrooms to the garage for approximately 350 square foot private rooftop decks. The units on the first floor already exceed minimum private open space requirements. New tile roof, window trims, paint, stone base, and other architectural upgrades are proposed to provide visual interest.

The Planning Commission recommended a minimum requirement of 2.5 parking spaces for each 2-bedroom unit under the new condominium conversion ordinance, which would be a minimum requirement of 15 spaces for this project; 11 spaces are provided off of the alley. The existing site configuration precludes any opportunity to increase on-site parking. The proposed ordinance will be considered by City Council on September 4, 2007.

The apartments were constructed in 1979 and based on current condominium conversion standards that are applicable to this project, they are considered legal, nonconforming because the density and number of parking spaces do not comply with current Zoning Code requirements – whether apartments or condominiums. The proposed change in the type of ownership will not increase the project's degree of nonconformity.

There is concern that conversions may diminish the supply of rental housing and displace residents unreasonably, particularly senior citizens, very low-, low- and moderate-income

families, and families with school-age children. Consequently, City Council established 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%.

The property contains six 2-bedroom units. The tenants are currently paying \$1,300 to \$1,450 a month for their units. The current affordable rental rates are as follows:

	Very-Low Income	Low-Income	Moderate Income
2-Bedroom Units	\$882 a month	\$1,058 a month	\$1,381 a month

Affordable Rental Rate Based Upon Fair Market Rent Established by US Dept. of Housing and Urban Development (HUD) for 2007 and 2008.

Based on this information, the monthly rents for the units exceed the affordable rental rates for very-low and low-income households. Therefore, the conversion of the units would not result in a loss of these affordable rental units. Two of the units currently pay less than the affordable rental rate for moderate income households. Conversion of the units would not result in the displacement of seniors or school-age children because there are none residing on the property. To ensure that existing tenants are not displaced unreasonably, the owner will be required to offer right of first refusal to the tenants, with terms more favorable than those offered to the general public. As conditioned, if the tenants confirm that they are not interested in purchasing the units, the property owner will be required to register the tenants with an apartment referral service acceptable to both parties, with registration fees (if any) paid by the property owner.

It is staff's opinion that conversion of the apartments into condominiums will not substantially diminish the supply of rental housing and displace residents unreasonably since 60% of the City's housing units are renter occupied and General Plan Goal LU-1A.4 seeks to "improve the balance between rental and ownership housing opportunities".

As required by Code, a property inspection report as well as a termite report was submitted, and a City property inspection report was prepared. Based on those reports, Planning staff's inspection of the site, and to allow a general upgrading of the site, staff recommends the following improvements:

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. Complete building, plumbing, and electrical corrections or upgrades as noted in the City property inspection report (also listed in the recommended conditions of approval in Exhibit "B").
4. Complete other site improvements as outlined in the recommended conditions of approval in Exhibit "B".

Tentative Tract Map

If the Planning Commission approves the conversion, the tract map will facilitate the ownership housing project. The map is in compliance with the requirements of the Subdivision Map Act and Chapter XI (Subdivision) of the Zoning Code. A condition is included requiring a provision in the CC&Rs for the use of garages for parking purposes only.

Other Issues

City Council enacted an urgency ordinance adopting a moratorium on the submittal of new common interest development conversions. Because this application was submitted prior to the adoption of the ordinance, it is not subject to the moratorium.

GENERAL PLAN CONFORMITY

Approval of the conversion will satisfy General Plan Goal LU-1A.4 that encourages additional home ownership opportunities in the City. The proposed conversion meets the General Plan's Land Use and Housing Element goals and objectives for additional ownership housing and will improve the balance between rental and ownership housing opportunities within the City. The units, whether utilized as apartments or condominiums, are consistent with the High Density General Plan land use designation because they are existing legal nonconforming.

ALTERNATIVES

The units could continue to be rented without the site upgrades, if the request is denied.

ENVIRONMENTAL DETERMINATION

The project is exempt from the provisions of the California Environmental Quality Act under Sections 15301 for Existing Facilities.

CONCLUSION

Conversion of the apartments will provide additional home ownership opportunities, which would balance the ratio of rental to ownership housing, and will result in a general upgrading of the property. Additionally, current tenants will be offered right of first refusal to purchase, or the property owner will pay registration fees for an apartment search service to help them find a new apartment if they decide not to purchase. The tentative tract map is also in compliance with applicable State and City requirements.

Attachments: Draft Planning Commission Resolution
 Exhibit "A" - Draft Findings
 Exhibit "B" - Draft Conditions of Approval
 Inspection Reports
 Location Map
 Plans
 Tenant Notices

cc: Deputy City Manager - Dev. Svs. Director
Deputy City Attorney
City Engineer
Fire Protection Analyst
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

RESOLUTION NO. PC-07-*62*

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

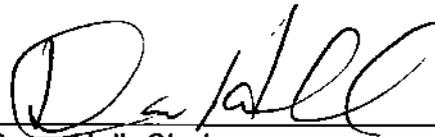
THE PLANNING COMMISSION OF THE CITY OF COSTA MESA HEREBY RESOLVES AS FOLLOWS:

WHEREAS, an application was filed by Jacob Sharp of D. Wooley & Associates, authorized agent for property owner Maximillian Group, LLC, 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.

BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit "A", the Planning Commission hereby **DENIES** Planning Application PA-07-03 and Tentative Tract Map T-17123 with respect to the property described above.

PASSED AND ADOPTED this 10th day of September 2007.



Donn Hall, Chair
Costa Mesa Planning Commission

STATE OF CALIFORNIA)
)ss
COUNTY OF ORANGE)

I, R. Michael Robinson, secretary to the Planning Commission of the City of Costa Mesa, do hereby certify that the foregoing Resolution was passed and adopted at a meeting of the City of Costa Mesa Planning Commission held on September 10, 2007, by the following votes:

AYES: COMMISSIONERS: FISLER, CLARK, EGAN, RIGHEIMER

NOES: COMMISSIONERS: HALL

ABSENT: COMMISSIONERS: NONE

ABSTAIN: COMMISSIONERS: NONE

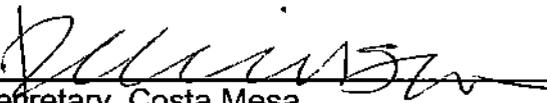

Secretary, Costa Mesa
Planning Commission

EXHIBIT "A"

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.