MINUTES

PLANNING COMMISSION MEETING

JANUARY 27, 2003

The meeting of the El Cajon City Planning Commission is called to order at 7:00 PM.

PLEDGE OF ALLEGIANCE

COMMISSIONERS PRESENT:	BURGERT, AGURS, AMBROSE, BUTCHER, TURNER
COMMISSIONERS ABSENT:	NONE
OTHERS PRESENT:	GRIFFIN, Director of Community Development FOLEY, City Attorney ODIORNE, City Engineer MOSSAY, Minutes Clerk
MINUTES OF January 13, 2003:	Motion by BUTCHER, seconded by AGURS to approve the Minutes of January 13, 2003 pro forma. Motion carries 5-0.

Chair Turner presents Commissioner Butcher with a resolution commending her 12 ½ years of service on the Planning Commission. This is Vickie's last meeting.

PLANNED UNIT DEVELOPMENT 197 – Westone Management Consultants for D.G. & W, LLC
(public hearing) Resolution No. 9753
P.C. Meeting 1/27/03

The subject property is located on the north side of East Lexington Avenue between North First and Ballard Streets, and addressed as 1160 E. Lexington Avenue; APN 489-231-07; General Plan Designation: Medium Density Residential.

Request to convert a 24-unit apartment complex to a common interest subdivision in the R-3 (Multiple Family) zone.

AND

TENTATIVE SUBDIVISION MAP 508 – Westone Management Consultants for D.G. & W, LLC
(public hearing) Resolution No. 9754
P.C. Meeting 1/27/03

The subject property is located on the north side of East Lexington Avenue between North First and Ballard Streets, and addressed as 1160 E. Lexington Avenue; APN 489-231-07; General Plan Designation: Medium Density Residential.

Request a one-lot subdivision map in the R-3 (Multiple Family) zone.

GRIFFIN states this is the fifth application received recently to convert existing apartments to a common interest subdivision. That means if approved, the individual units can be sold to individual owners. The City's planned unit development ordinance has provisions for both new construction of condominiums (in a generic term) and the conversion of apartments to condominiums. In this case, this complex has been here for many years, and in the staff's opinion, has not been maintained to the highest standards. In fact, staff believes this is a mediocre project in its current state.

As the Commission is aware, the City has changed a lot of the City requirements to convert apartments to condominiums. One of the most recent changes that just went into effect earlier this month was to eliminate the minimum parking requirement. Previously, it was necessary to provide at least 1½ spaces per unit. This project is the first one that will not meet that requirement. In fact, for the 24 units, there are only 20 parking spaces on the property.

The applicant has complied with all the requirements to notify the tenants. The staff has provided the tenants with a notice of this hearing tonight and also a sent each of them a copy of the staff report. The applicant has also submitted a Physical Elements Report, which is required by the City's Ordinance. There is a copy of that report in the staff report.

GRIFFIN explains the Physical Elements Report is an effort to identify any problems with the various components of this property. That is, the roofs, the exterior surfaces, the parking lot, the landscaping, any common amenities such as swimming pools and recreation areas, and also anything inside the units that might be of a health and safety nature.

In this case, the Physical Elements Report, which was prepared by a professional engineer, has identified a number of issues that, though not of immediate concern to the report preparer today, are identified to be issues within the next one-to-three years. Staff believes this timeframe is almost the same as being immediate, because staff believes it would be unfair to approve this project without considering these items now and then have these things become conditions that the new homeowners' association is

going to have to take care of one-to-three years down the road. These are very significant issues in staff's opinion. They include the need to re-roof the project, repave and resurface the parking lot, resurface the swimming pool and the deck around the pool, paint all the exterior surfaces of the buildings and the fences, as well as repairing some of the fences. There are also some individual unit issues: there are questions on the suitability of the windows, on whether the air conditioning and heating systems are satisfactory. Staff believes the Commission should consider all of these things tonight and that the Commission recommend that all of these things be upgraded as a condition of approval of this project.

The staff's recommendation is that the Commission recommend approval of this planned unit development to convert the 24 units to common interest units with the conditions listed in the staff report. Staff is also recommending that the Commission recommend approval of the subdivision map that must be recorded in order to sell these units to the eventual owners. GRIFFIN adds that the City's conversion requirements include paying one month's rent to any resident who chooses not to buy his or her unit and the applicant will be required to allow each of the current residents to buy their unit if they wish.

The public hearing is now open.

Joseph SCARLATTI, Westone Management Consultants, 294 Chambers Street, represents D.G. & W, LLC. He agrees with the staff report and adds for the record that his client has always intended to upgrade all of the items in the Physical Elements Report (Conditions 1 through 9). He thinks a memo was sent to staff about that a couple of weeks ago.

GRIFFIN responds that staff did not receive the memo. In fact, staff was not aware that the applicant intended to do anything to upgrade the interiors. That was staff's concern, because in the other conversion projects, the applicants who have indicated a desire to rehab the inside of the units as well—replace the kitchen appliances, re-carpet the units, and repaint the inside. Staff did not receive that information on this project.

SCARLATTI states his client's intent on this project, because of its age, was to take it down to the frame and start over--interior and exteriors. Everything is so old, it needs to be removed and replaced and there is no alternative.

TURNER asks SCARLATTI to give a copy of the memo regarding his client's intentions to staff. He agrees to do that.

AGURS asks if his client is going to gut the interior and the exterior.

SCARLATTI answers yes. He thinks some of the gyp rock in this particular building may be removed and replaced. Otherwise, it will be new cabinets, new carpets, paint, light covers, windows and roof.

AGURS asks if that is included in what staff is expecting to get.

GRIFFIN answers not the interior changes, because that is not an ordinance requirement. If the Commission feels that is important, and staff certainly does, then that would be something to add to the staff recommendation.

AGURS thinks this is one of the older style apartments and just doing the outside is not enough. Even though it is not a condition, he would certainly like to see the interior improved, because if not, it is going to fall onto the homeowners later and they are going to be very unhappy.

GRIFFIN agrees.

SCARLATTI can only speak for his clients for the various conversions he's processing through the City and none of them that he knows of are leaving any of the interiors un-renovated.

AGURS says the Commission would like staff to get a copy of whatever the applicant is going to upgrade and would like to have that added as a Condition 10.

BUTCHER asks how the applicant works with the tenants in terms of their need to either purchase or to relocate. She knows it has been discussed that the applicant would help with the rent, but the staff report said that they would look to having special help for the tenants, as opposed to just giving the tenants the right of first refusal to buy a unit. She asks SCARLATTI if they have done that and if so, how does it work?

SCARLATTI answers not so far. That help will have to come from City funding, if there are funds available. He understands that the City's funds are not available to the whole city; there are just certain areas. He doesn't know if this building falls within that area or not.

GRIFFIN says the City is funding its First Time Homebuyers' Program from different sources of funds. One is through the federal HOME funds, which are provided to the City as a grant each year. Unfortunately, the amount of HOME funds is not enough to provide funding for everyone in the city who wants to buy a house. The City has supplemented that grant the last couple of years using Redevelopment Agency Set Aside housing funds. That money comes from the City's Redevelopment Agency—20% of the tax increment. The problem with the set aside funds is the governor requested that all cities send all of their uncommitted funds to the State to help the State budget problems.

No one else comes forward to speak.

Motion by AGURS, second by BUTCHER to close the public hearings on Planned Unit Development 197 and Tentative Subdivision Map 508. Motion carries 5-0.

Motion by AGURS, second by AMBROSE to RECOMMEND APPROVAL of the Planned Unit Development 197 in accordance with the staff report and adding a Condition 10: "Prior to the final map being recorded, the applicant shall provide upgraded interiors, including kitchen cabinets and appliances, floor coverings, wall coverings and bathroom fixtures." Motion carries 5-0.

Motion by AMBROSE, second by BUTCHER to RECOMMEND APPROVAL of Tentative Subdivision Map 508 in accordance with the staff report. Motion carries 5-0.

These are recommendations to the City Council. There will be another noticed public hearing by the City Council, probably within four weeks.

PLANNED UNIT DEVELOPMENT 198 – Westone Management Consultants for Pacifica Villa Royale, LLC
(public hearing) Resolution No. 9755
P. C. Meeting 1/27/03

The subject property is located on the east side of Ballantyne Street between East Madison and East Park Avenues, and addressed as 451 Ballantyne Street; APN 483-310-15; existing LUC 1141A, proposed LUC 1141B; General Plan Designation: High Density Residential.

Request to convert a 114-unit apartment complex to a common interest subdivision in the R-4 (High Density Residential) zone.

AND

TENTATIVE SUBDIVISION MAP 509 – Westone Management Consultants for Pacifica Villa Royale, LLC
(public hearing) Resolution No. 9756
P.C. Meeting 1/27/03

The subject property is located on the east side of Ballantyne Street between East Madison and East Park Avenues, and addressed as 451 Ballantyne Street; APN 483-310-15; existing LUC 1141A, proposed LUC 1141B; General Plan Designation: High Density Residential.

Request a one-lot subdivision map in the R-4 (High Density Residential) zone.

GRIFFIN states this is another apartment conversion project, but is much larger than the last one on tonight's agenda with 114 units. It is near City Hall, on the East side of Ballantyne between Cajon Valley Junior High School and Madison.

This project is in better shape to start with, in staff's opinion, primarily because a loan was made a few years ago to this property by the Redevelopment Agency for upgrades of the property. He doesn't know if it is the current owner that received the loan or a previous owner. The building exteriors have been painted and are in good shape, the fences are painted, and the walls are painted, so the project is starting out in much better condition than the project just discussed (PUD 197).

The tenant noticing that is required was completed for this project, however, about a third of the notices were apparently not actually received. The applicant is required to do the noticing by certified mail showing that he has initiated the request to convert the project from apartments to common interest or provide proof that an attempt was made. The applicant has proven that that effort was accomplished by providing copies of the certified notices, but for some reason almost 30% of the units did not accept the original 60-day notice. The other tenant-noticing requirements have been satisfied, including the noticing of tonight's meeting as well as receiving copies of the staff recommendation.

A Physical Elements Report was also prepared for this project. There is an issue with the roofs--they apparently were not upgraded as part of the Redevelopment Agency loan. As in the other project, the roofs are indicated to have a life of about one to three years. Staff is concerned that will be a large burden on the future homeowners' association and staff believes that should be a requirement of this conversion.

This project has two swimming pools and the insides of both pools need to be resurfaced. Staff is recommending that that also be a requirement. He has not spoken with Mr. Scarlatti, the representative of this project, about what the applicant intends to do. Whether or not the applicant intends to do basically a revamp of the entire project, the interiors as well, was not provided to staff, but if the applicant is doing that on the other project, then Griffin assumes they will be doing the same on this project, although that has not been part of the proposal at this point.

Staff recommends that the Commission recommend approval of PUD 198, with the conditions in the staff report. There is also a requirement that the applicant provide one month's tenant relocation assistance prior to the tenant actually leaving the property should they choose not to buy their unit, once it is made available to them to purchase.

Staff also recommends that the Commission recommend approval of Tentative Subdivision Map 509 in accordance with the staff report.

The public hearing is now open.

Joseph SCARLATTI, Westone Mangement Consultants, 294 Chambers Street, represents Pacifica Villa Royale, LLC and wishes to address several issues. First, he wants to be perfectly clear on what staff is expecting regarding the conditions. Does staff want the upgrades and repairs to be completed before the final map is approved by Council or can they just be bonded so that the client can get better financing?

GRIFFIN responds that staff's intent would be that the applicant could bond or provide some other financial guarantee for the required upgrades and repairs, but the applicant would not be able to record the map without completing them or guaranteeing them in a manner acceptable to the City Attorney's office.

SCARLATTI states the inside and outside renovations on this particular project could run around $1.8 million. If they can bond this and obtain a final map, they get a whole different kind of financing. As far as doing the work itself, these condo conversions are like any other real estate development project—it is market driven. One can't sell these units without repaired front doors, landscaping, water heaters and whatever it takes. If the market doesn't control all of these things being upgraded, the Department of Real Estate requires that the applicant produce a great deal of documentation about the renovations—their life, how it will affect the HOA, etc.

SCARLATTI is willing to include the interior upgrades in this project. He will provide the staff a memo of his client's intentions.

TURNER asks if that means there will be another condition.

GRIFFIN says it would be Condition #10.

The Commission wishes to add the same language regarding interior upgrades as was added to PUD 197.

Diane JONES, 455 Ballantyne, is a tenant in this complex. She wants to respond to the issue of why one third of the people did not pick up their certified letters. JONES told the on-site manager that she received notice of a certified letter in the mail and the manager said don't bother going to pick it up—that it was just advertising and it doesn't really say anything. She would like to have that on the record, because that is why she never picked hers up. She thinks others were told the same thing.

JONES doesn't know if this is the time or place to bring this up, but there is asbestos in the ceilings, the ceiling heat doesn't work, the water pipes run through the bedrooms, the hallways and the living room, and the ceilings in the hallway are less than 8 feet high—the ceilings were lowered in order to put the water pipes in. She wants to know if the electrical is going to be redone, because if you run your blow dryer or your iron or a couple of different appliances at one time, you blow fuses. The south roof has never been fixed properly because it keeps leaking. She has heard, but she cannot prove this, that there is a slow water leak under the slab of the building that is right next to her.

There are many issues with this 30-year-old complex, and she wants to be sure things have been looked at and someone has inspected them.

GRIFFIN responds that assuming the project is approved tonight, and this must go to the City Council in approximately four weeks for final approval, then at that point, the applicant can begin to submit the final paperwork necessary to complete the conversion. In many cases, that would require processing building permits to the extent that there would be changes in the plumbing systems, electrical systems and things like that, which would involve a review of plans and inspections by City building inspectors. If asbestos is present, then there are State regulations dealing with the removal and treatment of asbestos, so that people's health is not jeopardized. The applicant will have to show that there is no asbestos present if they are going to proceed. That will be covered in the building inspection process.

JONES asks if it goes on record anywhere the reason why she didn't pickup her certified letter?

GRIFFIN responds that fortunately she is here tonight, so she hasn't missed out completely. What she has missed is the applicant's intent to tell her that they intend to convert this project. They have initiated that process. Another required notice that he didn't mention is that the applicant must give the tenants 180 days notice of eviction, so once they get farther along in the process, they must notify all of the tenants, not only that they have a right to buy their unit, but if they don't buy their unit, that they have 180 days from that point during which they need to find a new place to live and then along with that they would receive the tenant relocation assistance that he mentioned earlier.

JONES asks if she heard Griffin correctly when he said there were 29 apartment conversion projects in this city.

GRIFFIN thinks he said there were 5 that have been done. The conversion of apartments has just started in the city. One of the consequences of that effort was that some of the City's conversion standards, including the parking requirement, were found by the City Council to be a deterrent. The City Council has taken the position that converting apartments to opportunities for home ownership is a desirable thing; that getting more homeowners in the city of El Cajon is a desirable thing. With that said, it is also understood that the current availability of apartments is very tight. It is probably the tightest it has ever been in San Diego County, not just El Cajon. Rents are going up. Housing prices are going up. The cost of living in a house, whether it is a condominium or an apartment, is the highest it has ever been in San Diego County.

JONES states that the City is potentially displacing 114 families.

GRIFFIN thinks the City Council recognizes that. They must make the final decision.

AGURS points out that if it is her intent to become the owner of one of these condominiums, she, as a buyer, has the right to hire her own professional inspector to

thoroughly inspect that unit, regardless of whatever the developer does for rehabilitation.

Lisa MARGETTS, 505 E. Madison Ave, #104, is the on-site manager for the apartments. She wants to say on behalf of her tenants, since she sees the majority of them coming in and out of her office everyday, that a lot of them are confused. They did get three notices in the mail from Mr. Scarlatti. She believes everybody was notified. She wants to make it known that a lot of people do not want to move and are scared. There are 114 families that are low income and cannot afford to purchase a unit. They are not aware of the cost; that has not been disclosed to them.

Kathy SYKES, 467 Ballantyne Street, is a tenant. She reads a statement that her husband and she do not want their apartment to be turned into condominiums. They cannot afford to buy a condominium and would be forced to move. They love their apartment and have made themselves a nice home there. They know their bus routes to work, to the grocery store and to their favorite restaurants and feel safe here and are very scared of having to move into a place that is less safe. She asks the Commission to understand that she hope this does not happen.

TURNER thanks SYKES for coming forward and says she knows change is hard.

Kevin LINKER, 459 Ballantyne, #42, is a tenant. He did not get the certified notice, but it is not up to his manager to explain to him whether he wants to open it or not. He received the staff report on Friday after he got home from school. He did not have time to take it to his attorney. There are many people that are disabled, challenged, elderly, families with low income living here. He needs the Commission to give him a little time so that he can possibly get a committee of people that were just not physically able to attend tonight, so these people's grievances or concerns can be acknowledged. He wants to get the media involved in this. This is very important. He has a distressing family crisis right now. He is going to college at Grossmont. He is going to the career center. The logistics are going to blow him all out of proportion. His unemployment is gone. One month's rent is not going to help him pay a first and last month's rent and a deposit someplace else.

Bill MURPHY, 245 Lincoln, states a few weeks ago the Commission had another conversion project come before it. This conversion has already been approved by Council. It is a building of which he is very familiar, because he lived there for 22 years. When he had a chance to read the Physical Elements Report for that project after the council meeting, he discovered that it was filled with discrepancies--wrong information and bad information.

MURPHY has seen the Physical Elements Report for this particular complex, too, and again, it is filled with a lot of inaccurate information. Staff has already corrected some of it. For instance, it mentions that there are 200 parking spaces, when we have already been told there are 142 spaces. It is inaccurate on the trash facilities and on several other things. One of the main issues brought up is the plumbing. Two of the very large

buildings have numerous slab leaks. The hot water system is plumbed on the outside of the building. It runs in between the floors on the exterior of the building and is covered by some kind of wood covering. When they re-plumbed on the inside, it caused many apartments to have a 7-½ foot ceiling instead of an 8-foot ceiling inside. He would presume that the Physical Elements Report would have at least addressed this and say there are some plumbing problems but it is not mentioned. In this report, it says the units have wall heaters. They don't—these are all ceiling heat. He feels having read some of these Physical Elements Reports, that there are a lot of discrepancies in them and he doesn't think the City is getting true, factual information. He asks the Commission to bear that in mind when they get these Physical Elements Reports.

GRIFFIN states the Physical Elements Reports are required to be prepared by a licensed individual. It could be an engineer, a building inspector, a building surveyor, or someone of that type who then certifies what is recommended. The theory behind this is that person is standing behind whatever professional certificate they have received that says they have the credentials to prepare the report. The City does not have the staff resources to do physical elements reports and, until about 8 years ago, the City didn't even have this requirement. Of course, there weren't people attempting to convert apartments then either, but this is a relatively recent requirement.

It was staff's intent that physical elements reports would give the Commission and the City Council, as decision makers, as much knowledge as they could get about the condition of the property before they considered the conversion. If there are errors in the report, he is sorry to hear that and staff will have to make sure to continue to insist that certified people do the reports. If there are discrepancies as the end of the process nears, then that person is jeopardizing whatever certificate or credential they have.

GRIFFIN adds there is also the issue of defect liability requirements. That is one of the major things that developers have been complaining about in building new condominiums.

On conversions, there hasn't been as much defect liability action, but the same consideration is there. The developer is going to have to protect him or herself, because once they sell the unit, the homeowners' associations are raising that issue. The City is hoping, if these conversion projects are approved, that they will be upgraded residential units. The City is not trying to displace residents or trying to create more problem units. The City is trying to create improved housing in the City of El Cajon. The City Council feels conversions are one way to do that, because there isn't a lot of vacant land in the city.

Leroy GUERRERO, 455 Ballantyne, is a tenant and states there are nine buildings on this complex. He is hoping the developer will not displace all 114 tenants at one time and asks for their plans.

GRIFFIN states the whole complex is being converted, but thinks Mr. Guerrero is probably suggesting that the developer would go through and do one or two buildings at a time and then allow people who wanted to buy a unit to move into the rehabbed units and then renovate another building, rather than to vacate the entire complex at one time. He thinks that is probably the way it will work. SCARLATTI shakes his head "yes".

GUERRERO imagines the applicant would probably hold some meetings to find out who actually would like to stay, maybe buy and move into a converted unit.

GRIFFIN is sure Mr. Scarlatti or the developers will be meeting with the residents to tell them how they plan to proceed, assuming they get approval from the City Council and move forward to convert the project.

SCARLATTI returns to the podium to explain. He wishes to explain four of the things that have been brought up. The tenant notification issue comes as somewhat of a surprise to him. The applicant sends out an informal letter that everybody gets and they don't have to sign for. Then they send out the double-registered letters and it is the post office's obligation to deliver them, so he doesn't know what might have gone wrong there. As far as the repairs that aren't covered in the Physical Elements Report—he has yet to see a project where there aren't a couple of surprises when the doors get opened. And again, his clients intend to sell these on the open market for a fairly good dollar. They intend to do more than less to make these units long term livable, because everything they don't do affects the homeowners' association fee. The higher the fee is, the tougher it is to sell the units. The developers' money is better spent fixing the units to the extreme as opposed to not fixing them. The selling phase will be about 20 units at a time, and not just by building because some of the buildings are too big.

TURNER confirms that the developer will take 20 units, rehab them, sell them and then go to the next 20 units?

SCARLATTI says his client has done this in the past, because he only has larger projects. His clients will shuffle tenants around. If some can't find a place to live and they have a vacancy in the next building, they will move them around. His clients are good to work with. There will be all sorts of meetings on site for those who want to buy. There are various programs where they can save a little money.

TURNER asks for anyone who would like to add new information to come forward.

Ola SAGARNAGA, 559 E. Madison Avenue, is a tenant and states she is a single parent with four kids. She cannot afford to move, let alone buy her apartment. There has not yet been a word about how much the units will sell for or the down payments, taxes, that sort of thing. Is there any way the tenants can get a rough idea on how much they are planning to sell the units for?

TURNER doesn't think the applicant would know the costs right now, because if the applicant gets into some problems with some of the items that have been brought up, they won't know the total costs of the rehab. Regarding financing, there are many opportunities to get some. She suggests Sagarnaga go to the meetings that the applicants will have with the tenants. It sounds like the developer is willing to work with people.

AGURS feels that some of the tenants don't understand the timeline and he doesn't think the timeline has been made clear to them. He thinks it should be made clearer to the tenants. He believes that would give the tenants a little more idea of what to expect, so they can start planning now. This is a long-term project and he doesn't want the tenants going away thinking this conversion is going to happen tomorrow or next month.

SCARLATTI returns to the podium. In the first letter they sent out, they clearly state in big, bold, and underlined letters that the tenants need not concern themselves about moving for the next 8-10 months.

AGURS states regardless, it is still confusing to the tenants and we are obligated to make sure that the conversion process is clear to them.

In response to TURNER, SCARLATTI says that by the time the City Council gets this approved, it will be another month from now. By the time he gets the conditions satisfied and the City's engineering division reviews the subdivision map, that will take three more months. By the time his clients get out of the DRE, it is going to be six more months. This all adds up to at least early in 2004.

GRIFFIN states that the City hasn't actually been through a conversion all the way, but he wouldn't disagree with Mr. Scarlatti's guess on timing. There are a lot of things that have to be done just in the conversion process, not counting the new construction.

TURNER hopes that helps clarify the timeline for the audience and the tenants and reiterates that it sounds like it will be at least a year from now before the project is ready for sale.

City Attorney FOLEY reiterates what Griffin mentioned earlier regarding the City of El Cajon offering a number of first time homebuyer programs.

GRIFFIN adds the interested tenants can come to the Housing Division on the third floor of City Hall. There are a number of brochures that explain the various first time homebuyer programs that the City currently has. They can be picked up any time between 8AM and 5PM, Monday through Friday.

No one else comes forward on this item.

Motion by AGURS, second by BUTCHER to close the public hearings on PUD 198 and TSM 509. Motion carries 5-0.

Under discussion, AGURS states that obviously converting some of these older apartments to condominiums creates homeownership opportunities. Everything that has been discussed this evening is creating homeowner opportunities. Unfortunately, that causes some tenants to get displaced if they make the decision not to purchase a unit for one reason or another, be it credit, not being able to afford a unit or just not wanting to own it. The City is going to see more of these projects and he suggests including the First Time Homebuyer Assistance brochures from the Housing Division when staff sends out the public hearing notifications to the tenants. This way, the tenants would have information on who to contact.

TURNER asks staff if the City sends out the notices or does the applicant?

GRIFFIN responds that there are notices required of the applicant and of the City. The City notified the tenants of this public hearing tonight. The applicant is required to notify every tenant 60 days before submittal of the application that he/she intends to initiate this process. The applicant is also required to provide 180 days notice of intention to evict if someone chooses not to buy their unit. As Mr. Scarlatti indicated, there is also a 90-day notice to the tenant to decide whether they want to buy a unit. And then at the end of the process, there is another time period.

TURNER asks if the brochure can be put into the notice that the City sends out on the public hearing?

GRIFFIN answers yes, staff could do it for the Planning Commission hearing. His only concern is that it would be sent very early on in the process and, perhaps, be confusing.

AGURS knows everything revolves around whether there are any monies available, whether the Community Development Block Grant or Federal housing money or State housing money is available. If there is no money, then they can't get assistance.

Motion by BUTCHER, second by BURGERT to RECOMMEND APPROVAL of Planned Unit Development 198 in accordance with the staff report, adding a Condition 10 to read: "Prior to the final map being recorded, the applicant shall provide upgraded interiors, including kitchen cabinets and appliances, floor coverings, bathroom fixtures and wall coverings." Motion carries 5-0.

BUTCHER urges the applicant to stay in touch with the tenants, because they do need to know the status of the project.

Motion by AMBROSE, second by BURGERT to RECOMMEND APPROVAL of Tentative Subdivision Map 509 in accordance with the staff report. Motion carries 5-0.

These are recommendations to the City Council. There will be another noticed public hearing by the City Council.

TURNER knows for the people living in the apartment complex that this is a very difficult situation and suggests taking advantage of some of the financing that is available. She reiterates that there will be quite a bit of time for the tenants to find another place to live in El Cajon if they don't purchase a unit. She wishes them well and thanks them for coming out to speak at the public hearing.

AGURS urges the tenants to call the Housing Division regarding the first time homebuyer program. They have a year or more before this is going to happen and if they don't contact the Housing Division, they are missing a great opportunity. With some of the programs available, they could probably pay something similar to buy a unit as to what they are paying in rent.

RECESS from 8:10 - 8:17 p.m.

TENTATIVE SUBDIVISION MAP 510 - Marchesini
(public hearing) Resolution No. 9757
P.C. Meeting 1/27/03

The subject property is located on the west side of Avocado Avenue between Horizon Hills Drive and Dewitt Court; APN 497-081-52; General Plan Designation: Low-Low Density Residential.

Request a five-lot residential subdivision in R-S-14 (Residential Suburban 14,000 sq. ft.) zone.

GRIFFIN states this property is what he would call a remnant parcel. The properties around it were originally subdivided a number of years ago. This particular property is at the end of El Jardin Court and the applicant is proposing to subdivide it into five lots. It is zoned R-S-14 which means single-family residential---one house per lot that is at least 14,000 square feet in size. The City's Zoning Ordinance includes a provision to allow what is called lot averaging. What that means is that up to 50% of the lots in a proposed subdivision may be less than the minimum lot size, in this case 14,000 square feet, as long as the average size of all lots is at least 14,000 square feet (in this case) and as long as no lot is less than 9,000 square feet. In this case, the applicant is proposing two of the five lots to be less than 14,000, but the average size of all five lots will be 14,000 square feet minimum.

This is a property that is above the grade of some of the adjacent properties and the staff has been advised that there are some CC&Rs on some of the adjacent properties. These are private covenants, conditions and restrictions not imposed by the City but apparently imposed by the original developer. The CC&Rs are only enforced by the residents whose properties are affected. The City would not enforce private CC&Rs.

Last Friday, staff met with some of the neighbors, along with the applicant, to discuss some of their concerns, including the issue of CC&Rs. At that meeting, the applicant indicated that he intends to impose his own CC&Rs on this property if it is approved, such as establishing the minimum size of a house; limiting the parking of RVs, boats and trailers to not be in the front of the property; restricting parking on the street---CC&R's that the applicant has apparently used in other projects that he has developed elsewhere in San Diego County. The City has not had a project done by Mr. Marchesini before.

If in fact some CC&Rs are adopted, they would not be ones imposed by the City nor enforced by the City. It would only be the people that buy the houses that are in this project. The neighbors would not be able to enforce them because they would not be part of it. However, Mr. Marchesini indicated that he would work with the neighbors to come up with a set of CC&Rs that he could live with and hopefully the neighbors could live with, also. The staff is not recommending the application of CC&Rs.

One of the five lots is a so-called panhandle or flag lot and it appears that the applicant may have included the area of the panhandle in the calculation of that lot's area. If so, that is not permitted. The applicant's engineer will have to show the City that there are no more than two lots less than 14,000 square feet and that the average size of all lots is 14,000 square feet. That is a requirement of the final map, if this project is approved.

There is a negative declaration with this project, which is a recommendation by the staff that there are no significant environmental impacts associated with this project that would require further mitigation.

Staff's recommendation is that the Planning Commission recommend approval of this project in accordance with the conditions in the staff report. This will also have to go on to the City Council at another public hearing if the Commission recommends approval this evening.

The public hearing is now open.

Larry MARCHESINI, 15336 Lyons Valley Road, Jamul, is the applicant. He agrees with the staff recommendation. He questions the Public Works Item #7 in the staff report, "drainage pipe shall be RCP" and asks if they could have HDPE pipe instead.

ODIORNE states that is a condition of the Public Works Department to require use of the RCP pipe. There have been some concerns with HDPE pipe, especially on more elevated slopes. The thickness of the HDPE pipe is so thin that staff doesn't have a lot of confidence in that pipe still being there in 50 years. They will certainly look at the design with the applicant.

GRIFFIN asks if the applicant would talk a little about the private CC&Rs he's considered. He was not present at the meeting the applicant had with some of the

neighbors and staff and perhaps there are others in the audience that weren't there either who might be interested in the CC&Rs.

MARCHESINI states the CC&Rs for the homes around his property were originally established in 1963. One of the existing CC&R restrictions calls for single-story houses, but there are about five two-story houses in the area so they haven't adhered totally to their CC&Rs. He doesn't think his project will affect any existing views. In the original CC&Rs the heights of trees were limited but they are now taller with age. He will be removing some of the eucalyptus trees for safety reasons.

TURNER asks the applicant if those were the only items he is considering for his CC&Rs?

MARCHESINI says his CC&Rs will address the color and roof style of the proposed houses. They have some CC&Rs that have been used before that are a little more updated and they will work with the people around them. He will be moving to this property, which is the reason they are actually doing the development.

TURNER asks if there is anyone else wishing to speak on this item to come forward.

Tom PARRY, 397 Horizon Hills Drive, has some questions. The back of his lot faces the subject property. Between his lot and the applicant's property is the SDG&E substation. Then there is an unimproved dirt road, which goes up to the present home. Right next to where the dirt road intersects Avocado, people continually dump trash. In fact, somebody dumped a bunch of tires there and they stayed there for a few weeks. His question to the builder is what is he going to do with that unimproved road? Is it going to remain an unimproved driveway? Is somebody actually going to own that? Or is it just going to lie there and become a no man's land, because no one is going to want ownership of it because the access to Lots 1-5 will be from DeWitt Court.

GRIFFIN states the dirt road will disappear. It is actually going to be incorporated into one of the lots. There will be no further access to Avocado; all of the access will be from the new cul-de-sac that the applicant will be adding to the existing El Jardin Court off of DeWitt Court. There will be no access except from within the project off of the cul-de-sac that will be developed.

PARRY understands that someone will own it and that makes complete sense. However, there is the road and then a slope of 30-50 feet that is going up to where these lots are going to sit. Someone is probably going to put a wall up there and they are never going to look over that wall down to Avocado. He guarantees it because that is the way people are, because they don't have to worry about it—they don't live down there. He asks that the builder put into his CC&Rs that the dirt road has to be maintained to the satisfaction of those that have to look at it.

GRIFFIN states that any slopes the developer creates are also going to have to be landscaped in accordance with City standards and so the applicant is going to have to

do something with that space. He doesn't see how the applicant can continue to leave it the way it is. The City Engineer pointed out to Griffin that Public Works is also recommending that there be no access to Avocado, so the developer is going to have to cure that in some fashion. As far as long-term maintenance of those slopes, that is an issue all over El Cajon and in every city in this state, that there is a requirement that people have to maintain their property. That is just something that is a fact of life. He is sure there are homes in this neighborhood that are not maintained at a standard that everyone else would like to see. The City has some authority to enforce weed abatement and trash abatement, but otherwise, the property owners themselves are going to have to take care of their own properties. These are going to be very expensive homes and he thinks there won't be much of a problem that they won't be maintained properly.

David SPRIGGS, 1861 El Jardin Court, is adjacent to Lot 1 on the map. He was present at the meeting on Friday that was mentioned. They did go over a number of items. He disagrees with reasons C and D on page 6 of the staff report that the density of this project is suitable for this property. He would support fewer lots because he thinks it is inevitable that this site is going to be developed.

Regarding the Public Works comments items 4 and 5, about the dedication of the additional public street right of way and the construction of the full width street improvements at the cul-de-sac, part of the land is his property. He hopes he won't be responsible for those improvements.

At the meeting on Friday, the neighbors main concerns were traffic and density. He bought there because it is the last house on the street, and now it will be the middle house on the street. They would like to maintain the continuity with the surrounding homes which are all one-story. The current zoning allows up to a 35-foot height for a home. In some instances, that will cause a problem and certainly be out of character with the surroundings. They would like to keep the buildings within scale, and thinks the proposed CC&Rs can address that. They want to work with the applicant on his CC&Rs.

He would prefer that this be continued so that there is more time to review the proposal.

TURNER will seek answers to his questions. On the Public Works issues, the Commission doesn't have any jurisdiction over them.

ODIORNE states Items 4 and 5 pertain to a drainage easement coming from the property just south of Lot 5. For the applicant to fully develop the cul-de-sac to City standards, he will need to have more property dedicated. Item 5 requires full street improvements to complete the cul-de-sac at the end of the street. Staff is looking at the drainage plan proposed on the tentative map and has recommended changes to improve the drainage flow through that area.

Regarding the density, GRIFFIN states the number of lots, as he indicated before, is consistent with the zoning. That is a decision the Commission has to make tonight: are five lots justified on this property? The subdivision, it appears, meets the minimum lot requirements to have five 14,000 square foot lots. Obviously, if you buy a home next to a vacant lot, you probably hope that it will always remain vacant. But unless the neighbors want to buy the property, that owner has a right to request the ability to develop it. What the applicant is proposing tonight meets the minimum requirements of the Zoning Ordinance for lot size and density. If the Commission believes there is a reason to reduce the number of lots, then that is a decision the Commission can make and recommend to the City Council.

BUTCHER says GRIFFIN mentioned that the panhandle lot was going to be discussed further and asks what staff's thoughts are about that.

GRIFFIN says if the Commission recommends approval of the five lots and the City Council agrees, the final map will have to show that each of the lots meets the minimum requirements as to lot size. That may be a lot that he will lose if he can't show that is complies.

AGURS addresses the unimproved road issue that the neighbors were concerned about. From what staff is saying, it goes away. There will no longer be a dirt road, so nobody has access from that road onto Avocado Blvd.

Susan FREEDMAN, 343 Horizon Hills Drive, has several issues. Her property is above Lot 3. Her backyard and pool are near that dirt road. They own part of that easement road down to Avocado. They have access from their backyard gate that goes down to Avocado. She wants that on record that the City can't just close it off without discussing with her.

She has a concern about the height of the proposed houses. She is here to get information and request that there is a continuance of the hearing.

TURNER asks staff for information on the five-foot strip.

GRIFFIN says five feet is not enough for vehicular access. The minimum that the City would require would be ten feet. If she has an easement over this property, then that will have to be respected by the applicant. His point was that if the City Council approves this project, none of these five homes will have access to Avocado.

FREEDMAN asks for clarification of the public hearing notice map that says the surrounding area is zoned R-E-20-H, not R-S-14.

GRIFFIN says that it is an error. All of these properties on this side of Avocado are zoned R-S-14.

FREEDMAN wants the Commission to recognize that most of the properties around this property are large. She is not sure of the sizes of her neighbors' lots, but her lot is 29,000 square foot. That is one of the reasons why they purchased homes here. The lots the applicant is proposing are quite small.

TURNER asks for an explanation of the noticing process.

GRIFFIN says the City is required to send out notices 21 days before a public hearing, which was done. In that notice, it was indicated that if anyone has any questions and concerns to call the project planner at the phone number that is given. There has been, in his opinion, ample opportunity for people to call staff, ask about the project, and come in and see the project at City Hall. He realizes that some people work 8 to 5 and the City is only open 8 to 5. But if people don't call and tell staff they have a question, staff doesn't know. Staff did meet with some of the neighbors last Friday as he said. People have to call and let staff know they have concerns so the staff can attempt to answer their questions. If they don't do that, then they come here tonight and tell the Commission that they haven't had an opportunity to study the project and they want a continuance. Staff has no objection to a continuance, but he doesn't know if Mr. Marchesini agrees.

Larry DAVIS, 1891 El Jardin Court, lives about four lots away from the proposed subdivision. He has several comments to make, but first he would like to address the notice issue. Following what Mr. Griffin indicated, he did some due diligence and came to the Planning Division offices on January 13. He made his comments to Ms. Ramirez, who was quite helpful and gave him all sorts of information. He told her at that time that he had spoken with at least six of the property owners on the street in the immediate area and that there was a universal and unanimous concern about limiting the development on the subject property to one story. He sees in reading the staff report tonight, that there was a new map submitted on January 14. How is he supposed to do his due diligence in a timely fashion only to have additional information submitted after he thinks he has accomplished that?

Secondly, he is a civil litigation attorney for the SDG&E. This is the first he has heard about the private road issue. He doesn't know if SDG&E has any formal legal rights to it as far as easements. He can tell the Commission that he has seen SDG&E workers in and out of that substation a number of times. It appears that the dirt road is used. He does not know how that will impact the lot requirements, but he just wants to point that out that it may be an issue.

With respect to his other comments, Mr. Griffin indicated that the CC&Rs were adopted a long time ago on the 65 lots that surround this particular property and implied that it is the neighbors' "tough luck" that they aren't consistent with whatever Mr. Marchesini wants to do on this lot. He would just point out that in a city with as high a density of apartments and smaller homes as El Cajon has, that a subdivision such as the El Jardin Verde subdivision, should be supported. As a member of the three-person CC&R enforcement committee for Unit 3, he knows of no situation where any of the CC&R

restrictions have been relieved as Mr. Marchesini suggested. He thinks there may be five of the 65 units that were originally built as two stories. None of those are on El Jardin Court. They have view restrictions. They have tree restrictions. The view of the proposed project from his lot would certainly impact the views that he has from a window in his living room that looks out towards the north over the hills.

He is very much concerned about this project. He has spoken with six of the seven property owners on El Jardin Court. Five of those properties are represented here tonight. The sixth one is not here but told him he could speak for him. They are not satisfied with anything that would permit anything more than single story units. In looking at the City's Zoning Ordinances, he sees where there are maximum height restrictions. He doesn't see anything in there that says that the Commission or the City Council can't set discretionary standards at a lower level. He has not met Mr. Marchesini and was not aware of the meeting with Planning staff. He would have liked to have been there.

TURNER asks for a comment by the City Attorney on the easement.

FOLEY states Mr. Davis is probably aware of what rights these individuals might have to the easements in light of his occupation, but also what restrictions or abilities the City has in the way of "down zoning", so to speak, by changing the City's standards for this particular project. Certainly, the Planning Commission and City Council can look at a project and say it is not compatible without certain other restrictions, but what Mr. Davis is suggesting sounds almost like an inverse condemnation claim if the City were to impose a height restriction. It is not part of the City's Zoning Ordinance. Staff would have to research that a bit more. The position of the City has always been that the enforcement of CC&Rs is that of the property owners. The City may require CC&Rs in certain types of projects; this is not one of them—it is not a planned unit development. It is simply a tentative subdivision map. If there are problems with the development, as long as the development is within the City's guidelines, within the building code and standards and the Zoning Ordinance requirements and the approval of the map, the City doesn't get involved in any disputes over a tree being too high or a view corridor being removed. There is no view corridor protection ordinance in El Cajon. He suggests that the neighbors discuss that themselves as a homeowners' association and decide whether they want to seek an order from the court to enforce those types of restrictions.

TURNER asks about Mr. Davis' question on the revised map.

GRIFFIN says the change in the map was insignificant. It just clarified the size of one of the lots; the number of lots was not changed. In his opinion, there was no material change to the notice or to what information the neighbors received with the original notice. He was not party to the discussion Mr. Davis had with Ms. Ramirez, but she is an excellent staff member and planner, and he can't believe she would have told him one thing and recommended something different in the staff report. His point regarding the CC&Rs was that this property is not part of those CC&Rs that apply to the rest of

the neighborhood and, therefore, the neighbors do not have the authority to impose CC&Rs on this property unless the applicant is willing to self-impose them. Regardless, the City does not enforce them anyway. Regarding the height limit, the R-S-14 zone allows a building 35 feet high. The applicant or the buyers of these lots could build a structure to that height. There is not any other restriction on this property at that time. If someone came in tomorrow to build a house 35 feet high on any one of those lots, the City would issue that permit. It would be up to the homeowners in that area to enforce their CC&Rs.

AGURS, as a point of information, doesn't even think we are discussing issues tonight involving constructing homes on the proposed lots. We are just looking at subdividing the property, are we not?

GRIFFIN says that is correct. The owner has not indicated whether he intends to build the houses or sell the lots off, although the staff does have some concerns if he does choose to sell, to make sure that all of the site improvements and grading are done up front so that we don't end up with each homeowner going out and doing their own thing, creating drainage problems on each other's properties or on the neighbors' properties. There isn't a requirement that the applicant build the homes. His understanding, however, is that the applicant wants to make sure that the homes that are built are all going to be compatible with his home, which is going to be the first one built. GRIFFIN knows things can change, but that is what the applicant indicated to staff.

AGURS says his point is that even discussing the building of homes is putting the cart before the horse. We should only be focusing on the subdivision issues.

GRIFFIN answers yes.

DAVIS did not mean to be impliedly critical of Mrs. Ramirez, because she was quite helpful and he thought that's what he had said. He does not think she misled him. His understanding from her was that there really was no future opportunity to raise the issue with respect to the type of building that is placed on there, which is the reason that most everyone is here tonight to make their positions known. If he is wrong, they will come back at the proper time and location.

In response to TURNER, GRIFFIN states once the subdivision map is approved and recorded, that is the last opportunity for any input. The issuance of a building permit is a ministerial process. As long as the houses meet the City's zoning requirements and building codes, the staff would issue the permits.

In response to TURNER, GRIFFIN says if the Planning Commission recommends approval tonight, there is no need for an appeal because this will automatically go to the City Council and they will have that opportunity to express their concerns on the items they have talked about. As Commissioner Agurs has indicated, we are not talking about the houses, this is not a PRD or PUD. This is a standard subdivision where the focus should be on the lot size, the lot shape, the lot frontage and as long as those meet the

requirements, the discussion of the houses, although it is important to the neighbors, is not really part of the Commission's decision tonight.

Calvin MASSEE, 1840 Circo del Cielo, asks, as a point of clarification, if the staff recommendation is to continue this public hearing to February 24, 2003 or to approve it tonight?

GRIFFIN states the staff is recommending approval and for the Planning Commission to recommend approval to the City Council. At one point, staff had considered recommending a continuance, but the staff felt that after the meeting between the applicant and neighbors last week, the neighbors were going to be able to work with the applicant on the issue of CC&Rs, which are not a City issue, and then come to some conclusion before the City Council hearing.

MASSEE questions if staff is amending Reason G in the staff report which includes a recommendation for a continuance to February 24, 2003?

GRIFFIN says that reference is a clerical error and should have been removed.

MASSEE is disappointed and concerned about the Public Works' recommendation not discussing traffic. He is concerned that this project may be the last opportunity for the City to get a contribution for a traffic signal at Avocado and DeWitt or Avocado and Horizon Hills. Avocado traffic is very high speed and entering Avocado from side streets is dangerous. He thinks now is the time for the City to determine if it wishes to regulate traffic on Avocado. If you ask the traffic police, they have two motorcycle cops out there every so often and they can't write tickets fast enough. He can use either Horizon Hills or DeWitt Court to access Avocado as well as everybody else on Circo del Cielo and most of the surrounding subdivision. Most people are using DeWitt Court, because Horizon Hills is horrible. There have been several accidents there. This project will be overloading DeWitt Court because of the danger on Horizon Hills. He thinks this should be continued so that these traffic issues can be addressed.

In response to TURNER, GRIFFIN says the staff did an environmental assessment as he indicated and staff concluded that this project would not have any significant environmental impacts and so prepared a negative declaration. The normal traffic generation figures that staff uses are 10 trips per day per dwelling, so this project, if approved, would generate 50 trips onto El Jardin and onto DeWitt Court and onto Avocado. In reviewing this project with the City's Traffic Engineer, it was determined that that number of trips would not be a significant generation of traffic to warrant mitigation such as suggested by the speaker. If the Commission doesn't agree with that and wants to recommend that some type of traffic signal be put in, then the Commission can make that recommendation. But he thinks it would be difficult to say that this applicant should be required to pay a significant share of the cost of a signal. This is five houses compared to a larger number of houses that are already there.

TURNER asks if the speaker can write a letter to the City regarding the traffic and ask for a traffic study outside of this hearing.

GRIFFIN says the Traffic Commission does exist as a separate body, which makes recommendations to the City Council. Anyone in that neighborhood could present something to the Traffic Commission and ask them to study the need for a traffic signal at any of those intersections along Avocado.

TURNER suggests that Mr. Massee go to the Traffic Commission because this applicant should not be burdened on this particular project with a traffic light on Avocado, if there is already a traffic problem in that area.

MASSEE asks for additional time to shed more light on the traffic issue.

TURNER says there is nothing the Planning Commission can do on the traffic issue at this hearing.

MASSEE previously served on the Planning Commission. During his service, subdivisions along Avocado came in and were of great concern as to what the traffic volumes on Avocado were going to become. There was extensive traffic study done at one time. However, nothing came of it. Traffic volumes have grown on Avocado and it is dangerous. He thinks that the City should have some sort of a plan for what it is going to do. He is not suggesting that this applicant has to bear the entire cost of it, but he is saying that now is the time to re-look at it.

TURNER thanks Mr. Massee and appreciates his past experience on the Planning Commission.

Larry WALSH, 1076 Broadway, is the engineer for the project. He wants to answer a question on the easements on site. There are no private easements on the subject property which show up on the title report. There is one SDG&E easement from 1949. He has a copy of that document and it is describing adjacent to the southerly boundary of the property.

ODIORNE asks what proposed lot is affected by the SDG&E easement?

WALSH answers it is adjacent to the south line of the subject property.

ODIORNE states then it is really Lots 1 and 5 and not the access road off of Avocado.

WALSH says that is correct.

ODIORNE says that is the only description he saw on any private easements or utility easements across the subject property.

Bill HORNE, owns the property adjacent to proposed Lot 5. He has spoken with Mr. Marchesini about the use of part of their easement and he doesn't have a problem with that; however, in listening to Commissioner Agurs about only discussing the subdivision. He would like to suggest that the Planning Commission take another look at the proposed lots, because if you actually look at the pie shapes of the lots, he believes there is only one lot there that can actually hold a single-story dwelling and that is Lot 5. The others would have to be two-story if you are going to keep the cars off the street. That was not indicated when the neighbors first talked with Mr. Marchesini that that was even an option. He would like to recommend that the number of lots be reduced to four. That would help insure that the proposed houses will more likely be one-story.

In response to TURNER, GRIFFIN repeats that if this subdivision is approved for five lots, the applicant's engineer will have to show that each of the lots meets the minimum requirements in terms of size, width and frontage in order to record the map. The staff is saying tonight that one of the lots, Lot 5, looks like it may be very close to the minimum size. He thinks the last speaker was saying is that he would like to see the property limited to one story, and one way to accomplish that is to reduce the number of lots. If the Commission believes that the density issue is appropriate, then that is something the Commission can do. As far as imposing a one-story limitation, that is not something the Commission has the authority to do.

TURNER asks for new information not addressed yet.

Rosemarie SHELTON, 1885 El Jardin Court, is seems to her that this new project is taking advantage of all the good things in the neighborhood but the neighbors are bearing the brunt of the development. They are losing their views, and, even if this is not the forum to talk about two-story or one-story homes, it seems to her that it needs to be addressed. People have worked for years to buy these homes because they are not dense, because they want to have a lovely home, they want that view and then this project comes along; it doesn't seem fair. She doesn't understand the map—she has looked at it but she really wouldn't know the elevations of the lots.

TURNER says they have already covered the concerns about the lot density and heights, some of which the Commission cannot address at this hearing. As for the slopes, those are covered in the Public Works comments, so that would be addressed there.

SHELTON asks when will the neighbors be able to comment on the final lots?

GRIFFIN says the final map is not a public hearing. The final map is what results from the decision that the Commission makes and the City Council makes. If approved, the Commission will tell the staff and the applicant how they want the subdivision to look. It will have to meet all of the zoning regulations, all the subdivision ordinance requirements and whatever conditions recommended tonight and the Council ends up imposing. The actual review of the final map is not a public hearing process. That will end after the City Council hearing in approximately a month, unless the Commission

takes some other action tonight. If the Commission recommends approval tonight, the Council hearing will be in a month, and at that point the neighbors will have one last opportunity to express their concerns. The Council will either make changes to the Commission's recommendation, send the whole thing back to the Commission, or they could also choose to deny the project if they believe there are reasons it should not be approved. Those are the choices. But once the Council approves it, that is the last of any public input on the final project.

SHELTON wonders if the neighbors will have any input about how the property is graded? There has been discussion here to do with the neighborhood enforcing its CC&Rs. How would they enforce them?

GRIFFIN says that it is his understanding that the neighbors' CC&Rs only apply to their properties and don't apply to this property. Unless the neighbors have some way of imposing their CC&Rs, it is up to Mr. Marchesini to decide whether or not he is willing to impose similar CC&Rs on his property. He is not required to that by the City. He is apparently indicating a willingness to work with the neighborhood and come up with what he thinks are reasonable CC&R requirements for his property to make them similar to the ones the neighbors have. Whether that includes a height limit or not, he does not know. Staff is not recommending that as a condition of approval; it is not a City requirement that he apply CC&Rs. If he doesn't choose to do that, then there is no say that the neighbors will have over the building of the homes on his property because the CC&Rs in Shelton's area were not applied to the subject property when her area was subdivided. This property was not ever part of the original subdivision. It was always under a separate ownership.

SHELTON asks isn't it clearly part of the community if he is using their road to reach the proposed lanes? His address is going to be El Jardin Court.

GRIFFIN doesn't disagree. It is part of the same area. But in terms of legal obligations, there is no set of CC&Rs including a height restriction, currently on the subject property.

SHELTON says the information that she and her husband received when they bought their home included height restrictions.

GRIFFIN states that only applies to her property and to her neighbors' property. Did the CC&Rs include the subject property?

SHELTON says no, but it clearly is part of it. It is using all the access roads, it is taking all the benefits of this neighborhood and the neighbors are bearing the brunt of the responsibility and she objects to that. If they are going to use the access roads, she thinks they should be part of the association; otherwise, come in off of Avocado.

Robert BOWEN, 210 DeWitt Court, has heard the height of the proposed houses is not an issue. The only thing the Commission can deal with is the planning for this. His position is that the City is considering opening a cul-de-sac now, expanding an existing

community now and it is in the Commission's power to plan how that is going to be opened and how that is going to be expanded. If the Commission can't control how the houses are built, at least it can plan how the land is going to be subdivided and make the applicant build the same kind of houses that are in the existing community. The Commission can do that by voting to approve four lots instead five lots.

Daniel MINGO, 1873 El Jardin Court, states the density of the proposed five lots would be 2.92 lots per acre. The density of the surrounding properties is between 1.48 and 1.65 lot per acre. The new development is going to be near the maximum General Plan density of 3 units per acre. In his opinion, this density doesn't fit in with the rest of the community. He wants the Commission to think of it as a community rather than just a developer.

No one else comes forward to speak on this item.

Motion by AGURS, second by BUTCHER to close the public hearing. Motion carries 5-0.

Under discussion, AGURS says he sees this as a property rights issue. Listening to the concerns of the community and at the same time addressing the property rights of the applicant, obviously the community bought their properties because they wanted large lots. If the neighbors have a 28-29,000 square foot lot, that is tremendous. But at the same time, their CC&Rs clearly impact their community. They don't impact the subject property. To say that the applicant cannot develop his property in a manner that conforms to City regulations as far as lot size is hard for him to accept. At the same time, there is an issue that the community would like four lots instead of five lots. Based on what the City's ordinances say, he believes the applicant is entitled to five lots unless, based on staff review, the fifth lot does not meet the minimum size requirement, then it is automatically going to go to four lots. The fact that their CC&Rs have no application to the applicant's land may be something that the community wants to sit down in good faith with the applicant and discuss. The applicant may be amenable to that, or he may not. If his property does not fall within the CC&Rs which the Commission has no jurisdiction over anyway, that is a private issue between the applicant and his neighbors. As far as the applicant building single-story homes or two-story homes, once again, that is not a subdivision issue. If the community is concerned about building two-story homes instead of one-story homes, he thinks that is something that they can take to the City Council. There were people in here tonight on other applications who are barely able to afford a two-bedroom condominium. He has a hard time sympathizing with this neighborhood over the affects of 14,000 square feet lots. If the applicant is within the ordinance guidelines, Agurs finds it hard not to approve 5 lots.

BURGERT respects what the residents on El Jardin Court have done, but their CC&Rs have no bearing whatsoever on the applicant. It seems like the lot area for Lot 4 is an issue. He asks for clarification on the panhandle lot area measuring. He thinks a continuance might be warranted to make sure this lot is acceptable.

GRIFFIN says the City's Zoning Ordinance says the flag or panhandle portion of a lot cannot be included in the calculation of the minimum lot area. The way staff read the size of Lot 4, it appeared that the panhandle portion was included. If the applicant subtracts the panhandle portion from the indicated lot area, it will drop below 14,000 square feet. If that happens, then the applicant has too many lots less than 14,000 square feet to use the lot averaging opportunity. There doesn't appear to be a way to take land from other lots to make up for that, otherwise, he is sure the applicant would have already figured that out. If the applicant can't make Lot 4 at least 14,000 square feet without the panhandle, then he is going to have to lose a lot. If the Commission wants to see that final calculation before they make a recommendation to the City Council, that is the Commission's prerogative. Staff is recommending that the Commission recommend approval of the proposed map with the applicant to work that out before the map records.

BURGERT states in talking about the development of this community, it seems like the residents on El Jardin Court are unified and have been trying to be open with the applicant. At the same time, there are possible points for controversy to come up and it seems like some of them haven't had the time to work together with the applicant. That could be another reason for a continuance, in his opinion, so that there would be better clarification and so all people could meet with planning staff and all the players can get on the same page and see where they are going. It needs to be made clear that the Commission is only dealing with the splitting up of this property. He adds there is a full income spectrum of people within our city and the people in this area have the means to be able to have large lots and that is something they have worked towards. We want to have people that are going to be happy with where they live. He believes the applicant has a right to divide his property if it satisfies the City's ordinances. We must live together and develop this community in a manner that is going to be conducive to all people that live here. He is leaning toward a continuance.
TURNER says it sounds like the applicant is willing to work with the neighborhood regarding the CC&R issue. Regarding Lot 4 with the panhandle, if it doesn't meet the requirements, there won't be a Lot 4. Some of those things would come out through the process. She doesn't know what would be gained by a continuance.

AMBROSE doesn't really believe that what he has heard here this evening prompts him to want to support a continuance on this item. He thinks the issue of whether it is four or five lots is an issue that cannot be resolved here this evening. It is going to go to City Council. City Council will ultimately make the decision. The Commission is only going to be making a recommendation this evening and he thinks if the applicant has gone through and processed a map in good faith and he is following City ordinances and has demonstrated a willingness to work with the neighborhood regarding the one-story issue, the Commission should let him proceed to the City Council.

GRIFFIN states everyone will be re-notified for the Council hearing which will likely be four weeks from tonight, February 25, 2003.

Motion by AMBROSE, second by AGURS to adopt the proposed Negative Declaration. Motion carries 5-0.

Motion by AMBROSE, second by AGURS to RECOMMEND APPROVAL of Tentative Subdivision Map 510 in accordance with the staff report, recommending that the City Council refer the consideration of traffic conditions on Avocado to the Traffic Commission as a separate matter. Motion carries 5-0.

TURNER thanks the neighborhood for coming tonight and for all their comments. She suggests working with the developer and attending the City Council meeting on February 25, 2003.

RECESS from 9:30 – 9:35 p.m.

CONDITIONAL USE PERMIT 1946 – Sawyer
(public hearing) Resolution No. 9758
P.C. Meeting 1/27/03

The subject property is located on the south side of Aldwych Road between North Westwind Drive and Willis Road, and addressed as 578 Aldwych Road; APN 486-181-25; General Plan Designation: Low Density Residential.
Request a second-family unit in the R-1-6 (Residential One Family 6,000 sq. ft.) zone.

GRIFFIN says this is a situation where a garage was converted without permits about six years ago. In an attempt to legitimize that conversion, the applicant has asked to process a so-called "second-family unit" conditional use permit. The Zoning Ordinance allows second-family units in the single-family zones with a conditional use permit, although the Commission has recently recommended an amendment, that is mandated by a new State law, that would remove the conditional use permit and make it a non-discretionary process. However, this application was in the system and that ordinance amendment has not yet been approved by the City Council. Other than just having that as information, it really isn't applicable to this application.

The applicant is requesting that the Commission approve his request for his second-family unit, which was the previous garage on this property. If the Commission does approve it, he will be adding two new parking spaces for the second unit and a garage for a total of four parking spaces for the property. This property has an unusual configuration. It has legal frontage on Aldwych, but physically you can't get there because the topography is too steep up to Aldwych. The usable access for this property is out to Silvery Lane by means of an easement that was approved to Silvery

Lane. That will be the access to the home and to the second-family unit, which is apparently the access that is used today.

The Commission received a letter from one neighbor expressing concerns about the property owner's display and storage of trash. There also had been a City Manager's complaint on the same question, as well as the speed the residents drive when using the driveway. The letter is from the owner on the property in front, the property over which the easement is located.

Griffin gave the Commissioners a faxed memo tonight from another property owner who could not be present. Their name is Leimbach and they have expressed a number of concerns. Unfortunately, the way this letter came through the fax machine, part of it is very difficult to read. They were expressing some concerns about parking and whether or not the neighbors would be notified of any subsequent actions after tonight if the Commission grants this CUP. The answer to that is 'no'. If the Commission grants this tonight, then that is the end of the public hearing process, unless appealed.

The staff recommendation is that the Commission grant this request, with the understanding the applicant is going to cure all of the current violations and provide the parking, the separate utilities and all of the other requirements that are in the City's second-family ordinance.

TURNER opens the public hearing and asks the applicant to come forward.
No one comes forward.

Treesi STEPHENS, 539 Silvery Lane, is the person who wrote the letter. She lives in the house in front of the Sawyers. As she stated in her letter, there is an ongoing problem with the issue of trash. The Sawyers and their various tenants use the front of her property for trash pickup. On a weekly basis during the last 4½ years, she has had the sole responsibility of cleaning up after these people, as their trash has blown onto her property because they refuse to use lids on their cans. When the City went to the new trashcans with the attached lids, she thought her problems were solved. However, one can is obviously insufficient for the number of people who live there. They continue to overstuff their can and she still ends of picking up trash on a weekly basis. In addition, they make it a habit to place their trash containers in front of her mailbox, which is out next to the street. Over the last 4½ years, she has complained to the City Manager, Waste Management, the Department of Health and Environmental Services, and Neighborhood Code Compliance about this problem.

Her request is that they use the front of their own property to locate their trash containers. She understands that it is much easier for them to use the front of her property because their driveway takes up their frontage. If they won't use the front of their own property, she says there is an island between the driveway easement and their son's property next door that she asks they use, or that they be required to put their trashcans so as to not block her mailbox.

The staff report recommends that no trash container can be put out at the curb prior to 4 o'clock the day before trash pickup and has to be brought in by 12:00 of the day of trash pickup. That was not her complaint and isn't the issue she has. It had been for a number of years, but that has been taken care of. They do bring in their trashcans right away. It is the issue of the over stuffing of the can. She called today to find out if the second unit could be required to have its own trash container.

GRIFFIN states there is currently no requirement in the Municipal Code, where there is more than one dwelling on a property, that each dwelling has separate trash containers. Obviously, this is a concern in this circumstance and all he can offer her tonight is that it looks like it would have to be addressed as an amendment to the Municipal Code. However, if the Commission believes this is an issue, they can recommend that this applicant be required to provide sufficient trash service for each of the two units on this property. That is also something he can try to get included in the ordinance amendment that the Commission recommended approval of a few weeks ago and add separate trash service as a standard requirement: That all properties with second-family units provide sufficient trash facilities. It is unfortunate that the applicant isn't here. He understands that he is elderly and not in the best of health condition, but it would have been helpful for him to be here and hear his neighbor's comments, although he guesses she has been complaining for a long time and he hasn't "heard" her to date.

Where the applicant and his tenant put their cans, he is not sure how staff can control that. The curb is not owned by anyone. That is public right-of-way and that is normally where trashcans are placed. However, the City does expect people to be good neighbors and not block mailboxes, etc. He doesn't know if there has been a problem from the post office to say they can't deliver to her home because the trashcans are in front of her mailbox.

TURNER asks the speaker if her mail has ever not been delivered.

STEPHENS says the Post Office won't deliver it if access is blocked. When she explained to the postal service that these were neighbors putting the trashcans there, she was told she would need to get a post office box if she wanted to be able to collect her mail without interruption.

In response to a question, FOLEY believes the trash ordinance requires them to place their containers out on the public right-of-way. He is not sure, as a City, how they could resolve this dilemma. He is not sure if the speaker has a private right of action against this person for creating a nuisance in some way, shape or form. He is also not sure whether we even consider adding a condition that they locate their trash in a certain place. It is done for commercial development, but in this situation, he is not sure how that type of condition would be enforced, because there is always going to be a dispute as to who put the trashcan there. There would always be a denial that they put the trashcan there. Waste Management has an interest in making sure they get all the customers that they can. The City has an interest that Waste Management gets those customers. Griffin's suggestion that the applicant be required to provide adequate solid

waste collection at the residence to support the additional unit is a very good condition to be added. Hopefully, the neighbors can work this out.

No one else comes forward on this item.

Motion by BUTCHER, second by AMBROSE to close the public hearing. Motion carries 5-0.

Motion by AGURS, second by BUTCHER to GRANT Conditional Use Permit 1946 in accordance with the staff report, modifying Condition 2.g) to require the applicant to provide adequate trash facilities. Motion carries 5-0.

TURNER hopes the modified condition will help Ms. Stephens.

This is final action, unless appealed to the City Clerk's Office by February 10, 2003.

CONDITIONAL USE PERMIT 1947 – M & A Gabaee, LP
(public hearing) Resolution No. 9759
P.C. Meeting 1/27/03

The subject property is located on the northeast corner of East Chase Avenue and Avocado Boulevard, and addressed as 426-450 E. Chase Avenue; APN 493-430-22 & -24; existing LUC 9410, proposed LUC 5913/5310A; General Plan Designation: Neighborhood Retail Commercial.

Request a drugstore with drive-through facilities in the C-1 (Neighborhood Commercial) zone.

GRIFFIN is sure this property is well known to the Commission. It has been in front of the City a number of times. Most recently, it has been vacated and the property has been fenced off. The applicants are proposing to remove the westerly portion of the existing small commercial center and refurbish the remaining building into a new Sav-On Drugstore. The Commission has copies of the proposed store elevations in their packets and there are colored elevations behind him that show the changes they wish to make. The easterly portion of that building, which was the Candles Restaurant, would be made available to a future commercial tenant that is permitted in the C-1 zone.

The new change that is proposed is a new building along the east property line close to Chase Avenue. The plan shows that building as being used by two tenants, one of which would be a Starbuck's coffee facility. The original plan showed a Starbuck's without a drive-through. Subsequently, the applicant decided they wanted to add a

drive-through for Starbuck's. There is also a drive-through pharmacy shown for Sav-On on the west side of the building at the northwest corner of the property. This type of drive-through is not new. It was done for the new Sav-On on Broadway and Second. The Commission has also approved one for the Walgreen's on Second Street. However, the staff does have a number of concerns about the drive-through for the Starbuck's. The proposed building is so close to the street that it is going to require people to make a major decision almost as soon as they enter the property. They are going to have to make an immediate right turn to go across the front of the building, which is where the window will be to order coffee. That will only allow a maximum stacking capacity of about two vehicles before the entire driveway and frontage driveway will be blocked by the third car. The staff believes that that is not sufficient stacking capacity and the location of that turn is too close to the street. Staff cannot support the request for the drive-through for the Starbuck's.

The staff's recommendation is that the Commission not approve the Starbuck's drive-through, but if the Commission wants to continue this hearing to let the applicants work with the staff to come up with a better design, then the Commission could recommend that this item be continued. The staff can work with the applicant to come up with a better solution.

There are other issues in this neighborhood associated with this property and the Commission may recall when they were looking at the Candles Restaurant, there was concern about noise, trash, and the issue of access through this property from people living on Taft and Herbert to go to Chase and vice versa. That driveway has since been closed, although this new plan shows a new driveway being constructed. The staff is not recommending that that access be reopened. He thinks a lot of problems were solved by closing off that driveway. The staff is recommending that if the Commission goes forward with this tonight, that the driveway onto Taft not be reopened. Although staff is recommending approval, it is approval in part to not include the drive-through for Starbuck's; if the applicant wants to work out the Starbuck's problems, it may be better for the Commission to continue this hearing so that staff and the applicant can try to work out a better plan.

AMBROSE states the Commission wouldn't even be seeing this proposal to convert and add the new building if it weren't for the drive-throughs, correct?

GRIFFIN says that is correct.

The public hearing is now open.

Timothy REEVES, with Reeves Associates Architects, 625 Fair Oaks Ave, South Pasadena, represents the applicant as well as Albertson's/Sav-On. They did talk with staff on Friday, and it was his understanding at that point that a continuance wasn't being proposed but that a condition would be recommended to bring back a site plan within a certain period of time that would be acceptable to staff. That is the way the staff report reads to him as well. For clarification, Starbuck's is not a certainty, but they

did bring in a site plan the second time that did show a drive-through and that was mainly to show Starbuck's that they were trying to work a drive-through into it.

As far as the adjacent property at Taft and Herbert with the remote parking lot is concerned, that is not an issue. Leaving it closed off is fine. The only reason they added it to the plan was because they were one parking space short to meet code. They can rework the site plan to add a parking spot and it shouldn't be too difficult to do.

GRIFFIN says he did error and misstated the staff recommendation. The staff recommendation was to allow the staff to work out a solution to the proposed "Starbuck's" drive-through; however, because of the amount of input that they had received from neighbors, the decision to continue or grant is the Commission's. If the Commission wants to see the revised plan before it is approved, then the Commission needs to continue the hearing. If the Commission is willing to let the staff work it out with the applicant, then that is the staff's recommendation.

AGURS got lost in the dialogue regarding the Starbuck's drive-through. Did the applicant say that they would remove the drive-through from that location or remove it from the plan?

REEVES responds they had added it after the original plan was submitted to the City. They had initially submitted their application on December 17, 2002 but then his client, M&A Gabaee, wanted to add the drive-through for the prospective tenant Starbuck's. They called the City and the staff allowed them to submit the revised site plan with the drive-through and still maintain this date for a hearing.

AGURS asks if the applicant would be looking at relocating the drive-through on the backside of the building or removing the drive-through altogether? He is familiar with Chase and Avocado and it is a very bad traffic location.

GRIFFIN says staff is willing to try to work something out with the applicant. One solution may be to move the driveway on Chase to the west, closer to the corner. The question is whether the Commission is willing to let the staff resolve the design issues or if the Commission wants to make the decision so require it to come back after a continuance with whatever has been worked out. There are neighbors here tonight that may have opinions that they want to express as well.

REEVES adds they have done numerous projects in the City and have worked very well with staff. He feels it would not be difficult for them to work out a redesign.

TURNER states this looks like a great improvement for that corner, and she hopes the neighborhood is looking at it that way, too.

David ADAMS, 550 Herbert Street, lives just east of the "parking lot" on Taft and Herbert. He is glad to see they are not going to put a parking lot there. But, he has a couple of concerns. He is all for making this property look better because it looks very

shoddy now, but he is concerned that a drive-through with Starbuck's or any kind of drive-through on Chase and Avocado are going to go back into the neighborhood and become a disaster. Traffic on Avocado and Chase in the early morning and the late afternoon is just phenomenally bad. He has lived in the neighborhood about a year and he knows when he first moved in there was a driveway going from the property out onto Taft and Herbert. It was then closed but some people are driving over the curb. The only time that stopped is when they put up the temporary chain link fence. His one concern is whatever goes in there, what are they going to do on that side of Herbert and Taft? He would propose they might put a wall or some kind of greenery or something there so it is not possible for any drive-through traffic. People walk their dogs in the neighborhood; kids walk up and down there, and it can become a real safety hazard. The company he works for has had the maintenance contracts for Starbuck's in San Diego for the last few years. He has been to every Starbuck's in San Diego doing maintenance for them. We all know that Starbuck's is very busy in early morning. People are going to stack up everywhere. The parking lot is going to be full. If there is a drive-through, it is going to be so congested there. Starbuck's would probably be great there, but not with a drive-through.

ADAMS asks why they need another drugstore across the street from another large drugstore?

GRIFFIN states there will be no driveway out to Taft unless the Commission approves it. The staff recommendation is that it not be provided. The plan shows a landscaped area adjacent to that property line at Taft and Herbert that is about 10 feet deep all the way along there. Within that landscaping, they can make sure there is enough heft to it to keep it from becoming a passageway for vehicles. If someone wants to build a drugstore and they can meet the city's requirements, then the City is not going to tell them no.

TURNER states, once again, the only reason this is in front of them, is because of the drive-through.

GRIFFIN answers that is correct. If they did not have the drive-through for the drugstore or for the Starbuck's, then this would be an administrative process.

ADAMS thinks before the Commission can consider the drive-through or not, especially on the Starbuck's, they need to consider the traffic issue. It is a big deal.

REEVES returns to the podium. He asks if they withdrew the portion of the drive-through on the Starbuck's from this application, would that make it easier for staff?

GRIFFIN says it would eliminate any concerns staff has with that. But it is up to the Commission now. They have to decide tonight if they are willing to grant the conditional use permit for the drive-through for Sav-On only and eliminate the drive-through for Starbuck's. The applicant can come back later and before they build the new building, can make a proposal for another drive-through, if that is what they wish to do.

REEVES says the Sav-On is the main tenant as far as they are concerned. So they would be willing to do that to make it easier for the Commission not to continue this.

GRIFFIN says that works for staff.

Ray DERRINGER, 1002 Taft Avenue, says his main concern was the driveway again, because people do cut through in both directions. It makes no difference whether they are jumping the curb or driving over the curb. He would like to see something up there to prevent traffic going down Taft.

His second concern is the vacant lot across the street at the corner of Taft and Herbert. He has lived at his address for 17 years and that lot has been paved once or twice, and there is a light pole that has never worked. It is a collection point for trash. There have been abandoned cars, etc. With the housing shortage the way it is, this is a lot that could be used for a new house. If not, would it be possible for that lot to just be made grass if nothing else, because it is an eyesore as it stands?

The third point is the condition of the existing chain link fence at this time. The entire area has been fenced off and on the west and east sides there are several sections that have been flattened. Trash has blown up next to it. While this is being ironed out, and before construction starts, is there any way the fence can get repaired?

REEVES is nodding his head affirmatively.

No one else comes forward.

Motion by AGURS, second by BURGERT to close the public hearing. Motion carries 5-0.

Motion by AGURS, second by BUTCHER to GRANT Conditional Use Permit 1947 in accordance with the staff report, with the applicant agreeing to withdraw the Starbuck's drive-through and deleting condition 1.b) and modifying condition 2.d) in their reference to the "food service" drive-thru. Motion carries 5-0.

TURNER wishes the applicant good luck on the project and adds the neighborhood needs a boost—they have put up with a lot.

This is final action unless this item is appealed to the City Clerk's Office by February 10, 2003.

LETTER FROM JANET LIGHT
(discussion)

Request to discuss use of front yards in single-family residential zones, regarding Zoning Ordinance 17.64.050 and the use of exterior setback areas, particularly A-3.

Janet LIGHT, 416 Garfield Ave, states her concern is what she calls "urban landscape blight" in her neighborhood. She submits photos of 391 Garfield to the City Attorney. She has a copy of the development standards from the Zoning Ordinance that have recently changed according to how much of a front yard can be used for various purposes. The parking of vehicles, boats and trailers in the front yard has gone from 25% to 50%. It allows anything from boats, trailers, RV's, fifth wheels, and in her neighbor's case (see photos submitted) there is a cut-off truck bed that has been in the front yard with a for sale sign on it for more than six months. This neighbor recently added another item to the front yard that the next speaker will show the Commission. It is some kind of a dune buggy body with no wheels. There are also cars, a fifth wheel that is enormous, trucks, and their trash cans are lined up against the front of their house. This property is an absolute disaster. There are people that live in the city of La Mesa because that city has an ordinance that doesn't allow this. There are people that have moved from La Mesa to the city of El Cajon because El Cajon does.

She thinks the question is, "What kind of people does the city of El Cajon want to attract?" She feels this "urban blight" is driving property values down. Her second question is, "How did this happen; how did it get to 50%?" Her third question is, "Would the commissioners want to live in a neighborhood that is in the picture that was submitted?"

Lita DYSON, 469 Garfield, states the subject property is down the street from her and there seems to be more and more houses with vehicles and other things parked in the front yard. She didn't realize they could have 50% of their yard filled with this stuff. She thought there were rules that stopped that. When did it change from 25% to 50%? She would like clarification on that and who did it. Her house is for sale and people go by and see this property and they don't even stop. They don't want to deal with it and she doesn't blame them.

GRIFFIN says because this is a discussion item, he can only make comments. This is not a public hearing, so nothing can be done tonight other than to refer this to public hearing if that is the Commission's desire.

When the City reviewed the residential zones in the year 2000, one of the things that was looked at was this very question. The previous ordinance, although it had a 25% limit, did not specify what would happen to the remaining front yard. The revised ordinance is a compromise to allow 50% to be used to park vehicles, including the driveway, but to also require the remaining 50% to be landscaped. The problem that the staff expressed about enforcing this provision to both the Planning Commission and the City Council was that unless they had a 100% survey of the city, it would not be

feasible for staff to know when somebody started parking in their front without some evidence from neighbors. If they were doing it before the ordinance was adopted (before the year 2000), they would be what is called "legal, nonconforming". The Zoning Compliance Officer went out and photographed hundreds of properties at the time the Zoning Ordinance was being reviewed and that information and photos were shown to the Planning Commission.

The staff is left with a dilemma that unless someone can swear to and prove that excess front yard parking began after the year 2000, staff has no way of proving it. It is one person's word against another. The City Attorney can advise how he would deal with something like that if it went to court, but unless there is absolute proof that it occurred after the year 2000, there is no easy way of enforcing the current ordinance which says no more than 50% parking on a paved surface and a minimum of 50% must be landscaped or decorative hardscape. If these ladies are willing to certify that this violation occurred after the year 2000, then perhaps that will give the City Attorney the necessary ammunition to enforce the current ordinance. Otherwise, he doesn't know of an easy solution.

FOLEY had an assignment in his earlier years as a City Attorney to enforce a city's zoning ordinance (it wasn't in El Cajon) and try to seek compliance with a similar type of ordinance where they had a collection of nonconforming uses on the property. It took thousands of dollars to try to get a judge to agree with them. They were only successful because they finally wore down the opposition. It took years to get this taken care of. It is a monstrous sort of task to try to get a grasp on, and with the assistance of folks in the neighborhood like these two ladies, we can be successful. He cautions them that it is not an immediate solution; it is not an easy solution; and it is not an inexpensive solution to try to get resolution. When the City does get complaints from the Zoning Compliance Officer, staff does notify the property owners that they are in violation and the City does proceed with prosecution when they believe it has some success in their prosecution of those types of things. The City Attorney's Office will look at those complaints when they come in. They come from the Community Development Department and they may come from the City Manager's Office. They are looked at on a case-by-case basis. To be honest with the two speakers, he states they are very difficult to try to get resolved. There are some that are still open where they have tried to get people to resolve their problems and sometimes the City is successful only because the property finally changes hands and a new property owner is willing to come in and clear the property. Mr. Griffin is correct—it is always more difficult to try to prove the "negative"; in essence, that you did not have these offending vehicles and uses on the property at the time the ordinance was changed. It can get very confusing, it can become extremely difficult to try to make the proper proof before the judge that this was not a nonconforming use at the time of the change of the ordinance and the City is not always successful.

LIGHT comments that she did contact the Zoning Compliance Officer. Mr. Hagen came out and took a photo. When she spoke with him again, he said that everything she sees

on the picture is perfectly legal and in compliance, with the exception of the black dune buggy vehicle.

BUTCHER will use her last opportunity on this Commission to say that what cannot be done by legislation and by ordinance can be done as good neighbors. Sometimes, as difficult as it may be, we do have to break the ice and tell our neighbors how their behavior impacts us. It is very difficult to point a finger and she knows what we are looking at and dealing with, but sometimes that is your last and best recourse. And neighbors are neighbors and everyone wants the neighborhood to improve. Even people that park their boats and their dune buggies may cooperate. Maybe a neighborhood watch will work or a neighborhood club. She got laughed off a panel once when she suggested that they encourage one another to have gardens. She knows it is worth the effort to create an environment where people want the neighborhood to look and feel better. She thanks both persons for their diligence and coming forward tonight.

The Planning Commission took no formal action.

PREDRAFTED RESOLUTIONS

To reflect the actions of the Planning Commission on tonight's agenda items. Motion by AMBROSE, second by BUTCHER to adopt Resolution Nos. 9753, 9754, 9755, 9756, 9757, 9758 and 9759 pro forma. Motion carries 5-0.

ORAL COMMUNICATIONS

Director Griffin informs the Commission that there will be Council considerations of Planning Commission appointments Tuesday night, January 28, 2003. The Commission will then consider its election of officers at the meeting of February 24, 2003 to select a Chairperson and Chair Pro Tem for this calendar year.

Commissioner Butcher thanks each commissioner and adds she has enjoyed learning from them and looks forward to sharing good times in the future.

Chair Turner wishes Vickie Butcher good luck and thanks her for all her years of service. She will be missed.

CORRESPONDENCE

There is no written correspondence.

ADJOURNMENT

The meeting of the El Cajon City Planning Commission adjourned at 10:26 PM this 27th day of January 2003.

_____
Debra TURNER, Chair

ATTEST:

_____
James S. GRIFFIN, Secretary