DATE ISSUED: August 31, 2007 **REPORT NO. PC-07-121**

ATTENTION: **Planning Commission, Agenda of September 6, 2007**

SUBJECT: AMENDMENTS TO CONDOMINIUM CONVERSION REGULATIONS. PROCESS FIVE.

APPLICANT: City of San Diego.

SUMMARY

Issue: Should the Planning Commission recommend to the City Council that it adopt the proposed amendments to the Condominium Conversion Regulations?

Staff Recommendation: Recommend that the City Council **Adopt** the ordinance amending condomium conversion regulations as presented.

Community Planning Group Recommendation: This draft ordinance has not been presented to community Planning Groups or the Community Planners Committee.

Other Recommendations: In closed session on March 27, 2007, the City Council authorized the approval of a settlement agreement in *Citizens For Responsible Equitable Environmental Development v. City of San Diego* Superior Court Case No. GIC871259; *Affordable Housing Coalition of San Diego County, et al. v. City of San Diego, et al.*, Court of Appeal Case No. D049665 (Superior Court Case No. 857723); *Citizens For Responsible Equitable Environmental Development, et al. v. City of San Diego*, et al.,Court of Appeal Case No. D049637 (Superior Court Case No. GIC858098); and *Citizens For Responsible Equitable Environmental Development, et al., v. City of San Diego* Superior Court Case No. GIC876017. The Settlement Agreement requires the Council to docket amendments of the Condominium Coversion Regulations for consideration at a public hearing. The settlement agreement was approved by the following vote: the motion was made by Councilmember Donna Frye with a second by Councilmember Toni Atkins. It passed 6 to 0 with Council President Scott Peters and Council President Pro Tem Tony Young absent.

Environmental Review: This project is covered under Environmental Impact Report No. 96-0333 as well as addendums to that EIR. The activity is adequately addressed in the environmental document and there is no change in circumstance, additional information, or project changes to warrant additional environmental review. Because the prior environmental documents adequately cover this activity as part of the previously approved project, the activity is not a separate project for purposes of CEQA Guidelines Section 1506(c)(3) and 15378(c).

Fiscal Impact Statement: If the amendments are adopted, the Settlement Agreement in the above-referenced matters limits the amount of attorneys' fees to be paid by the City to the petitioner to $75,000.

Housing Impact Statement: If these amendments are adopted, the number of apartment units converted to condominiums will be limited to 1,000 annually, and the number of tenants displaced by condominium conversions may be significantly reduced.

BACKGROUND

On March 27, 2007, the City Council entered into a Settlement Agreement that requires the Council to docket amendments to the Condominium Coversion Regulations for consideration at a public hearing. The amendments generally include the following: (1) a prohibition on the conversion of more than 1,000 rental housing units to condominiums per calendar year, (2) a requirement that City, prior to approval of any application for the conversion of rental housing units to condominiums, survey the tenants of the units and issue an annual report on the results of the surveys, and (3) a provision allowing the approval of a final subdivision map, notwithstanding the fact that certain required improvements have not yet been completed, provided that a certified copy of a recorded covenant and restriction has been provided to the City which ensures completion of such improvements will be made prior to sale of a unit. If the City Council adopts the amendments, the Petitioner will dismiss *Affordable Housing Coalition of San Diego County, et al. v. City of San Diego, et al.*, Court of Appeal Case No. D049665 (Superior Court Case No. 857723), will accept $75,000 as attorneys fees, and will not seek fees from the City in any of the other matters.

Before the City and the Petitioners entered into the above-referenced Settlement Agreement, all parties to the lawsuits, as well as some non-parties with general interests in condominium conversions, were involved in settlement discussions. When global negotiations failed, the City and the Petitioners entered into the aforementioned Settlement Agreement. Subsequently, many of the condominium converters who were parties to one or more of the lawsuits entered into a separate Settlement Agreement with the Petitioners.

ALTERNATIVE

Recommend that the City Council **Deny** adoption of the ordinance amending condomium conversion regulations as presented. If the City Council does not adopt the ordinance, the Petitioners in the condominium litigation matters may elect to proceed with the litigation, are not

required to dismiss the above-referenced *Affordable Housing* matter, and will not be limited to recovery of $75,000 in attorneys' fees against the City.

Recommend the City Council **Adopt** the ordinance with modifications. Depending on the type and scope of the modifications, this alternative may or may not be deemed to be consistent with the settlement agreements and therefore the Petitioners in the condominium litigation matters may or may not elect to proceed with the litigation, may or may not be required to dismiss the above-referenced *Affordable Housing* matter, and may or may not be limited to $75,000 in attorneys' fees against the City.

Respectfully submitted,

Malinda R. Dickenson
Deputy City Attorney

Attachments: 1. Strikeout/underline of Draft Amendment to the Regulations for Condominium Conversions
2. Draft Amendment to the Regulations for Condominium Conversions