



AGENDA REPORT

Meeting Date: July 15, 2008

Item Number: D-1

To: Honorable Mayor & City Council

From: Anne Browning McIntosh, AICP, Interim Director of Community Development
Rita Naziri, Senior Planner

Subject: AN APPEAL OF THE PLANNING COMMISSION'S DECISION TO DENY THE REQUEST FOR A CHARACTER CONTRIBUTING DETERMINATION FOR THE CONVERSION OF AN EXISTING APARTMENT BUILDING INTO A COMMON INTEREST DEVELOPMENT FOR THE PROPERTY LOCATED AT 404 NORTH MAPLE DRIVE (BETWEEN ALDEN DRIVE AND BEVERLY BOULEVARD)

Attachments:

1. Appeal Statement
2. Appeal Brief
3. Planning Commission Staff Report and Minutes
4. Application and Supplemental Document
5. Applicable Municipal Code Sections
6. Architectural Plans (Separate Cover)

RECOMMENDATION

Staff recommends the City Council deny the subject appeal, upholding the Planning Commission's determination to deny the request for a character contributing application. It should be noted that the Council continued this item from the May 6 and June 17, 2008 City Council meeting to the July 15, 2008 City Council meeting as requested by the appellant.

INTRODUCTION

An appeal was filed of the Planning Commission's January 24, 2008 decision denying a request for a character contributing determination for the streamlined conversion of an

existing apartment building into common interest development for the property at 404 North Maple Drive (between Alden Drive and Beverly Boulevard).

The appeal was filed by John K. Rachlin on behalf of Standard Management Company, the property owner and applicant (hereafter referred to as the "applicant" or "appellant"). It should be noted that the appellant has submitted an appeal brief containing additional information on June 13, 2008.

The Planning Commission denied the request on the basis that the building did not have character contributing design features due its proportions, scale and its relationship to the surrounding developments in the same block. As such, the Commission determined that the required findings could not be made to designate the building as "character contributing" and allow the applicant to proceed with the condominium conversion process.

BACKGROUND

Basis for Appeal. The appeal filed by the applicant states that the Planning Commission's decision was not consistent with the Municipal Code findings for condominium conversion. The appellant asserts the following:

1. The Planning Commission erred in its evaluation by not considering the larger commercial and multi-family buildings in the area.
2. The lack of public opposition of the project should be factored into the decision making process.
3. The appellant also makes reference to the General Plan and interest in the property being zoned for mixed use. However, it is unclear the significance of this statement relative to this appeal, given that the General Plan update is several months from being completed. This appeal statement is not evaluated in this report.

Project Description

The property is located on the east side of North Maple Drive between Alden Drive and Beverly Boulevard. The property was originally developed in 1976 as an apartment building. The project site consists of 23,090 square feet of land and contains twenty-five apartment units with a subterranean garage with 52 parking spaces accessed from the alley.

The table below shows each unit bedroom counts:

Unit Type	Number of Units
Two bedrooms and den	6
One bedroom	12
One bedroom and den	6
Single	1
Total of number of units	25

The building is three stories and 36 feet in height. The applicant describes the building's architecture as early 20th Century European Modernist Bauhaus design.

The applicant has submitted plans and color photos of the property in order to outline the design features of the building. Planning Commission and staff have also conducted site visits.

Area Characteristics

The site is located on the east side of North Maple Drive. There are multiple family residential buildings to the north and east (across the alley) of the project site. To the south of the site, there are three two-story single family residences located at the corner of Maple Drive and Alden Drives, one of which is facing Maple Drive, the other two residences are facing Alden Drive. Commercial offices are located to the west of the subject property across Maple Drive, which includes the Fox Interactive Media building at 407 N. Maple Drive. An alley separates the subject property from the properties to the east.

Architectural Style

The applicant indicates that this building is a representative example of California Bauhaus architecture from the 1970s. In California, the Bauhaus style is used interchangeably with Modern and International architectural styles. The International/Modern style was based on the principles of the Bauhaus architecture that began in Germany.

Bauhaus refers to a German school of art, design, and architecture that was originated by Walter Gropius in Weimar, Germany, in 1919. The stylistic features of Bauhaus architecture include large, flat-roofed buildings, horizontal stripes of standardized windows, bold horizontal projections and balanced design and the utilization of glass, steel and concrete as preferred building materials. Structures built in this style are functional with minimal ornamentation.

The subject building exhibits the following architectural elements:

- Three stories
- Flat roof
- Horizontal orientation of volumes arranged asymmetrically, including balconies throughout the front façade.
- Stucco facade with textured finish, painted in pastel colors

Zoning Analysis

The subject property is located on the east side of the street with R-4 Multi-Family zoning designation. The following chart provides the City's applicable zoning standards and the building's compliance. The building does not currently provide the required number of parking spaces or meet front yard building modulation or minimum side setback requirements.

PROJECT DATA SUMMARY

Category	Existing	Code Requirement (R-4 Standards)
Use	Multiple-family dwelling	Multiple-family dwelling
Number of Lots	1	N/A
Lot Frontage	153.93'	50' Min.
Lot Size	23,090 sq.ft.	N/A
Density/Number of Units	25 units	25 units 1 unit / 900 sq.ft. of site area
Stories/Building Height	3-story, 36 feet high	4-story / 45 feet
Building Modulation	None	Three percent (3%) of the aggregate principal building area or one thousand five hundred (1,500) square feet whichever is less
Parking Spaces	52 spaces	66 spaces
Outdoor Living Space	5,560 sq.ft.	5,000 sq.ft.
Front Setback	25 feet	25 feet
Side Setback	9 feet 1 inch on each side 18 feet 2 inches combined	North: 8 feet South: 11 feet 19 feet combined
Rear Setback	15 feet	15 feet

PLANNING COMMISSION ACTION

At its meeting of January 24, 2008, the Planning Commission conducted a public meeting, reviewed the request and determined that the findings for a character contributing determination could not be made for the subject building due to the building mass and lot coverage in comparison to the other developments in the same block. Specifically, the Planning Commission found that the subject building has significantly greater street frontage, mass and building height compared to other residential properties on the same block. Therefore, the Planning Commission was unable to make findings in support of the requested determination.

The Planning Commission noted that a goal of the City's regulations with respect to condominium conversions is to preserve the architecturally unique structures that contribute to the aesthetic value and unique character of the City's existing residential neighborhood. Another goal is to extend the life of certain legal nonconforming buildings that are unique in character and to preserve the original integrity of human-scaled buildings that are compatible in mass and scale with the surrounding streetscape.

ANALYSIS

Because a large percentage of the City's rental housing stock comprised of architecturally unique structures that date from the 1920s and 1930s contribute to the character and quality of life for its residents, the City has developed regulations and procedures to regulate the conversion of existing residential buildings to common interest developments. In mid 2005, the Planning Commission held hearings and recommended an ordinance to the City Council to establish criteria for the conversion of existing apartment buildings into common interest developments. The goal of the process established by the ordinance is to extend the life of certain legally nonconforming buildings that contribute to the aesthetic value and unique character of the City's residential neighborhoods by preservation of the original, human-scaled, and aesthetically pleasing properties. The ordinance was adopted on March 7, 2006.

Section 10-2-707 of the Beverly Hills Municipal Code (attached) requires that the conversion of an existing building to a common interest development must comply with the Building Codes and Zoning regulations and all other requirements of the code in effect at the time of application. However, there is an exception that would permit the conversion without full compliance of all existing regulations if the Planning Commission makes a determination that the building has "character contributing design features" that are worth preserving and full compliance with current development standards cannot be feasibly be attained. Since the adoption of the ordinance, six properties have received the character contributing designation.

The Code defines a "character contributing building" as follows:

A character contributing building shall mean any multi-family residential building that the Planning Commission determines, due to its proportions and scale, design elements, and relationship to the surrounding development, is of continued value and contributes to defining the character of the community as a whole. In making this determination, the Planning Commission or City Council on appeal, need to make the following findings:

1. The building to be converted is not substantially greater in massing and scale than the surrounding streetscape. In making this determination, the Planning Commission may compare the relative lot coverage, height and setbacks of the building being converted to the lot coverage, height and setbacks of developments on parcels in the same block.

2. either:

a. The building to be converted and/or the project site design contribute(s) to community character through the use of: 1) architecturally pure styles that foster congruous designs and details that are similar or complementary in scale and mass to other nearby structures; 2) features visible from the public street, including, but not limited to, courtyards, balconies, open space, building modulation, or any other similar characteristics that, as a result of the conversion, would be maintained, restored or refined in a manner consistent with the general criteria of architectural review;

Or

- b. The interior spaces of the building to be converted contribute to community character through the use of architectural features and high quality construction finishes and features such as crown molding, hardwood floors, fireplaces, stairways, and built in cabinets in individual units; private courtyards, balconies, and/or interior open spaces; interior fountains; or any other similar characteristics or features that, as a result of the conversion, would be maintained, restored or refined in a manner consistent with the general criteria of architectural review. [BHMC Sec. 10-2-707]***

In assessing the subject application, the Planning Commission found that the existing structure did not meet this criterion. While the Commission has the authority to evaluate overall streetscape and improvements on both sides of the street, the Commission appropriately chose to compare the subject building to other residential buildings within the same block and not the commercial buildings across the street.

The appellant asserts that the Planning Commission erred in this analysis and that it should have evaluated the larger, more massive commercial buildings on Maple Drive. In doing so, the appellant suggests that the Commission may have found that the subject building was compatible with the overall streetscape. This perspective, however, ignores the fact that one side of the street is dominated by residential land uses while the other side contains commercial buildings land uses. And, while the subject parcel may be comparable in scale to the commercial buildings across the street and other multi-family residential buildings in the adjacent streets, it is substantially greater in mass and scale to residential buildings located adjacent to it and within the same block. The pedestrian experience and rhythm of lower profile, smaller scaled development is disrupted by the subject building and inconsistent with other residential properties in the same block. More specifically, the subject building has a street frontage of approximately 135 feet compared to the more modest frontage of 45 feet of other residential buildings. The parcel coverage on the subject property, which occupies several lots, is far greater than the parcel coverage of other residential buildings on the same block. Additionally, the height of the subject building is three stories where other residential buildings are one and two stories.

Using the commercial buildings on Maple as the standard for analysis as opposed to, or even in concert with the residential buildings, is inappropriate given that commercial building have different development standards and are functionally designed for different purposes. The commercial developments on this street do not contribute to the overall pedestrian experience and should not be used a model to assess whether the subject property is character contributing. A more appropriate standard is the approach taken by the Planning Commission, which was to evaluate the building in the context of other residential properties on the same block as defined by the Municipal Code¹.

The appeal brief states that the Planning Commission erred in interpreting the same block to include only parcels on the same side of the street that the property is located on and not to include other multi-family developments in the adjacent streets, contrary to the Code's definition of a block. The Planning Commission also conducted a site visit prior to the Planning Commission meeting on January 24, 2008 and toured the block of Maple Drive between Alden Drive and Beverly Boulevard to make an informed decision about

¹ The Municipal Code Section 10-3-100 defines block as a property abutting on one side of a street and lying between the two (2) nearest intersecting and intercepting streets or between the nearest intersecting or intercepting street and its own termination.

Meeting Date: July 15, 2008

the subject property for the character contributing determination. As noted before, the Planning Commission is charged to make its determination by comparing the relative lot coverage, height, density and setback to the properties within the same block as defined by the Municipal Code.

Regarding the appellant's other point that a lack of public opposition should factor into the determination is misguided and fails to recognize the Commission's role in the entitlement process. While the City recognizes the importance and value of public input in all discretionary projects, the input or lack of input generated on a specific application does not determine the outcome of the project, rather this information is used by decision-makers to help inform their understanding of the issues. The Planning Commission and City Council do not abdicate responsibility to evaluate a project based on required findings even if no one is present to protest the action. Therefore, asserting that there was no opposition to the project is not a reasonable justification for overturning the Planning Commission's determination, which was based on sound findings associated with the project.

For these reasons, staff supports the Planning Commission's determination and recommends that the City Council deny the subject appeal.

NOTIFICATION

The public hearing for this case was continued from May 6, 2008 to June 17, 2008 by the City Council; therefore, no additional public hearing notices are required. A notice of public hearing was mailed on April 25, 2008 to all property owners and residential tenants within a 300-foot radius of the property. The hearing notice was also published in the Beverly Hills Courier on Friday, April 25, 2008 and the Beverly Hills Weekly on Thursday, May 1, 2008.

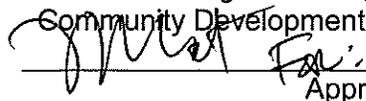
ENVIRONMENTAL DETERMINATION

This project involves a review of the building's architectural style, design and building features and does not involve any physical or operational changes to the existing multifamily building. As such, the project is exempt from California Environmental Quality Act (CEQA) pursuant to Section 15061 b (3) of the State CEQA Guidelines, and the environmental regulations of the City.

FISCAL IMPACT

Denial of this request does not have any significant fiscal impacts to the City.

Anne Browning McIntosh, AICP, Interim Director of
Community Development


Approved By

Attachment 1
Appeal Statement

APPEAL PETITIONS MUST BE FILED WITH THE CITY CLERK'S OFFICE WITHIN
14 CALENDAR DAYS AFTER THE DATE OF THE DECISION

APPEAL TO _____ COMMISSION OR CITY COUNCIL

PLEASE TYPE OR PRINT CLEARLY IN BLACK INK

02/05/08

Date

In accordance with the appeals procedure as authorized by the provisions of the Beverly Hills Municipal Code, the undersigned hereby appeals from the decision of The Planning Commission (Official, Board or Commission involved) rendered on January 24, 2008; which decision consisted of: The grounds submitted for this appeal are as follows: (*WARNING: State all grounds for appeal. Describe how decision is inconsistent with law. Use extra paper if necessary.*)

See attached "Exhibit A".

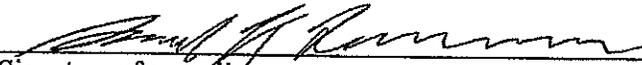
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PLANNING & COMMUNITY
DEVELOPMENT DEPARTMENT

The undersigned discussed the decision being appealed with:

Rita Naziri on January 24, 2008
(Department Head(s) Involved) Date

It is requested that written notice of the time and place for the hearing on this appeal before the City Council be sent to:

Standard Management Company, Attention: John K. Rachlin
Name Address


Signature of appealing party
6151 West Century Blvd, Suite 300
Los Angeles, CA 90045
Address
Tel: (310) 410-2300 ext 321
Fax: (310) 410-2919
Telephone Number & Fax Number

Fee Paid _____ (For City Clerk's use) DATE RECEIVED

LOG NO. _____ Written Notice mailed to appellant:

Copies to: City Council, City Manager, City Attorney, _____
Involved Department

EXHIBIT A

1. The Planning Commissions misinterpreted the Beverly Hills Municipal Code which states that the Commission "may" compare the relative lot coverage, height and setbacks of the subject building to those of developments on parcels on the same block, by interpreting it to mean that it was mandatory for the Commission to make said comparisons individually per item. Under the rules of statutory interpretation, if the intent had been mandatory, the ordinance would have said "shall" and the purpose of the ordinance is to look at the project in totality, not focus on any one item.
2. In comparing the subject building in mass and scaling to other buildings on the "same" block, the Commission interpreted "same" to mean only those buildings on same side of the street as the subject property. Across the street there is development of significant mass and scaling. Since the direction in the ordinance is discretionary, "may" rather than "shall", the purposes of the ordinance is to preserve the surrounding streetscape and residential character is best served by considering both sides.
3. In determining character contributing, the Ordinance states that the building to be converted is not to be substantially greater in massing and scale than the surrounding streetscape. Since the surrounding streetscape includes the visual appearance of physical features, such as buildings, on both sides of the street, the Commission's failure to consider buildings on the both sides of the street, was clearly in error.
4. No renter and no neighbor of the subject property spoke in opposition to the application. Previous land use changes in the area had drawn considerable neighborhood opposition; however there was not even one opposition speaker.
5. Apparently, the commission gave some informal consideration to possible zoning changes that might be contained in the proposed general plan. There was a suggestion that the subject property could be an appropriate site for mixed use. References to changes in the general plan have been discouraged in past land use deliberations.

**Attachment 2
Appeal Brief**

1 JOHN K. RACHLIN (Bar No. 166214)
2 SANDERSON PLAZA LLC
3 6151 WEST CENTURY BOULEVARD, SUITE 300
4 LOS ANGELES, CALIFORNIA 90045
5 TELEPHONE (310) 410-2300
6 FACSIMILE (310) 410-2919

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5 Attorney for Appellant, SANDERSON PLAZA LLC

6 SANDERSON PLAZA LLC,) Case No.
7)
8 Appellant,) APPEAL BRIEF
9)
10) Appeal Hearing: June 17, 2008
11)
12)
13)

14 I. INTRODUCTION

15
16 Appellant, Sanderson Plaza LLC (the "Appellant") is the owner of a twenty five unit
17 apartment building located at 404 N. Maple Drive, Beverly Hills, California (the "Property").
18 Appellant is in the process of applying to the City of Beverly Hills for a tentative map for the
19 conversion of the Property to a common interest development. On or about August 27, 2007,
20 Appellant filed a Common Interest Development Determination of Character Form with the
21 City of Beverly Hills.

22 Under the current Beverly Hills Municipal Code, in order for an existing Beverly
23 Hills apartment building to acquire a tentative map for conversion to a common interest
24 development, the apartment building must comply with the building codes and zoning
25 regulations in effect at the time of the application for common interest development.
26 Beverly Hills Municipal Code Section 10-2-707 (B) sets forth an exception to this
27 requirement for "Character Contributing Buildings" and states as follows:
28

1 For the purposes of this article, and all related sections of this code, a
2 character contributing building shall mean any multi-family residential
3 building that the planning commission determines, due to its proportions and
4 scale, design elements, and relationship to the surrounding development, is of
5 continued value and contributes to defining the character of the community as
6 a whole. In making this determination, the planning commission shall make
7 the following finding:

8 **1. The building to be converted is not substantially**
9 **greater in massing and scale than the surrounding streetscape. In**
10 **making this determination, the planning commission may compare**
11 **the relative lot coverage, height and setbacks of the building being**
12 **converted to the lot coverage, height and setbacks of developments**
13 **on parcels in the same block.**

14 On January 24, 2008, a Determination of Character hearing (the "Planning
15 Commission Hearing") took place before the Beverly Hills Planning Commission (the
16 "Planning Commission"). The Planning Commission denied Appellant's request for a
17 Character Contributing Determination but failed to properly interpret and follow the
18 provisions of Beverly Hills Municipal Code 10-2-707 (B)(1) and consider all relevant
19 information in formulating its decision.

20 The Planning Commission erred in interpreting and following the provisions of
21 Beverly Hills Municipal Code 10-2-707 (B)(1) by: 1) failing to consider the streetscape
22 surrounding the Property 2) interpreting the word "may" to mean "shall" as it relates to
23 comparing the relative lot coverage, height and setbacks of the building being converted to
24 the lot coverage, height and setbacks of developments on parcels in the same block 3)
25 interpreting "same block" to encompass only the particular street the Property is located on,
26 as opposed to considering all four streets that define and inclose a block when comparing
27 the relative lot coverage, height and setbacks of the building being converted to the lot
28 coverage, height and setbacks of developments on parcels in the same block.

1 II. ARGUMENT

2
3 A. The Planning Commission failed to Consider the Streetscape When Making
4 Its Character Contributing Determination

5
6 At the Planning Commission hearing, the oral arguments made by the members of the
7 Planning Commission against designating the Property as a Character Contributing Building
8 were based almost entirely on the premise that the Property was greater in massing and scale
9 than the apartment buildings on eastside of the street of North Maple Drive between Beverly
10 Blvd., and Alden Drive, pursuant to Beverly Hills Municipal Code Section 10-2-707 (B)(1).
11 No argument was made by the Planning Commission that the Property didn't meet the
12 criteria set forth in Beverly Hills Municipal Code Section 10-2-707 (B)(2)(a) and Beverly
13 Hills Municipal Code Section 10-2-707 (B)(2)(b.)

14 Beverly Hills Municipal Code Section 10-2-707 (B) states that in making the
15 character contributing determination, the planning commission *shall* make the findings that
16 the building to be converted is not substantially greater in massing and scale than the
17 *surrounding streetscape*. Streetscape is defined as, "All the elements that constitute the
18 physical makeup of a street and that, as a group, define its character, including building
19 frontage, street paving, street furniture, landscaping, including trees and other plantings,
20 awnings and marquees, signs, and lighting. (Moskowitz, Harvey S., The New Illustrated
21 Book of Development Definitions (Center for Urban Policy Research, 1993). Streetscape is
22 further defined to "include the relationship of buildings to each other and the larger
23 environment. This includes the view along streets and how the buildings complement and
24 reinforce one another through their placement, height, and the rhythm of their facades."
25 Streetscape consists of both sides of the street.

26 At the Planning Commission Hearing, the Planning Commission's argument gave no
27 consideration to the streetscape on the west side of the street on North Maple Drive, directly
28 across from the Property. The Property is a Bauhaus design, three-story apartment building

1 on three lots. Attached hereto and marked as "Exhibit A" are photos of the Property.
2 Adjacent to the Property along the east side of North Maple Drive between Beverly Blvd.
3 and Alden Drive are two-story apartment buildings. The west side of North Maple Drive is
4 comprised entirely of large scale commercial development which is significantly greater in
5 massing and scale than the Property. Attached hereto and marked as "Exhibit B" are photos
6 depicting the commercial development that runs along North Maple Drive between Beverly
7 Blvd., and Alden Drive. As is evidenced by these photos, the Property is significantly
8 smaller in massing and scale than the commercial development that makes up the streetscape
9 across from the Property.

10 Had the Planning Commission followed the provision set forth in 10-2-700 (B)(1) and
11 considered the *surrounding* streetscape (i.e. both sides of the street), as opposed to only
12 considering the streetscape along the east side of North Maple Drive, it could only have
13 reasonably determined that the Property is not only no greater in massing and scale than the
14 surrounding streetscape, but is actually lesser in massing and scale than the majority of
15 development that comprises the surrounding streetscape of the Property.

16
17 B. The Planning Commission erred in interpreting the word "May" to mean
18 "Shall" as it relates to comparing the relative lot coverage, height and setbacks
19 of the building being converted to the lot coverage, height and setbacks of
20 developments on parcels in the same block

21
22 At the Planning Commission hearing, oral argument was made on behalf of the
23 Planning Commission that it had to consider the relative lot coverage, height and
24 setbacks of the two-story buildings on the east side of North Maple Drive in its
25 determination that the Property is not substantially greater in massing and scale than the
26 surrounding streetscape. Beverly Hills Municipal Code Section 10-2-707 (B)(1) states
27 that, "In making this determination, the planning commission *may* compare the relative
28

1 lot coverage, height and setbacks of the building being converted to the lot coverage,
2 height and setbacks of developments on parcels in the same block. “

3 The Planning Commission erred in its interpretation of Beverly Hills Municipal
4 Code Section 10-2-707 (B)(1), by interpreting the word *may* to mean *shall*. California
5 case law states that the usual rule with California codes is that "shall" is mandatory and
6 "may" is permissive unless the context requires otherwise. (Roseville Community
7 Hosp. v. State of California (1977) 74 Cal. App. 3d 583, 587-588, fn. 4 [141 Cal. Rptr.
8 593]; Gov. Code, §§ 5, 14.)”

9 By failing to properly interpret the language of Beverly Hills Municipal Code
10 Section 10-2-707 (B)(1) as it is written, the Planning Commission’s determination is
11 prejudicial and should not be considered.

12
13 C. The Planning Commission Erred in Interpreting “Same Block” to Incompass only Parcels
14 on the Particular Side of the Street that the Property is Located On.

15
16 Beverly Hills Municipal Code Section 10-2-707 (B)(1), states that in making its
17 determination, the Planning Commission may compare the relative lot coverage, height and
18 setbacks of the building being converted to the lot coverage, height and setbacks of
19 developments on the parcels in the *same block*. According to Black’s Law Dictionary (5th
20 ed.), a block is defined as: “A block is a square or portion of a city enclosed by street,
21 whether partially or wholly occupied by buildings or containing only vacant lots. Also used
22 synonymous with “square”. St. Louis-San Francisco R. Co. V. City Tulsa, Ok., C.C.A.Okl.,
23 15 F.2d 960, 963.

24 Although the apartment buildings that run adjacent to the Property on the east side of
25 North Maple Drive are two-story and cover one to two lots, all seven apartment buildings
26 that run along North Palm Drive, the street directly behind the Property on the same block as
27 the Property, are at least three to four-stories in height and cover one to four lots. Attached
28 hereto as “Exhibit C” are photos of five of the seven buildings that run along North Palm

1 Drive, which is the street directly behind the Property on the same block as the Property. As
2 such, the relative lot coverage, height and setback of the Property, is consistent with the lot
3 coverage, height and setbacks of developments on parcels in the same block.

4 On the afternoon of January 24, 2008, just prior to the Planning Commission hearing,
5 the Planning Commission took a "bus tour" of the Property. The bus tour drove north on
6 Maple Drive, made a U-turn in front of the Property and dropped off the Planning
7 Commission members attending the tour, across the street from the Property. The bus tour
8 did not drive the Planning Commission along Alden Drive, which runs along the south side
9 of the block; along North Palm Drive, which runs along the East side of the block; or along
10 Beverly Blvd., which runs along the north side of the block. On that tour, the only area of
11 "the same block" shown to the Planning Commission was the area on North Maple Drive
12 between Alden and Beverly Blvd. That area constitutes only one of the four streets which
13 makeup and incloses "the same block".

14 The Planning Commission was never actually shown the entire area that would
15 constitute "the same block". Without showing the Planning Commission "the same block"
16 there was no way for the Planning Commission members to make an informed comparison of
17 the relative lot coverage, height and setback of the Property to the lot coverage, height and
18 setbacks of developments on parcels in the same block. Had that Planning Commission
19 actually been shown all four streets that make up "the same block", it would have seen that
20 all seven buildings that run along North Palm Drive are three or more stories, covering one to
21 four lots and that the Property is consistent in lot coverage, height and setback with
22 developments on parcels in the same block.

23
24 D. The Planning Commission's Decision To Deny Appellant's Request For a Character
25 Contributing Determination Should Not Be Considered By the City Council Due to the
26 Planning Commission's Failure to Consider All Relevant Information In Making It's
27 Determination.

1 California law holds that if a public agency fails to follow the law or include relevant
2 information in its decision making process in a particular matter, such failures constitute a
3 prejudicial abuse of discretion and its decision in such matter should be set aside.

4 The Supreme Court described what constitutes prejudicial abuse of discretion in *Sierra*
5 *Club v. State Bd. of Forestry* (1994) 7 Cal. 4th 1215 [32 Cal. Rptr. 2d 19, 876 P.2d 505]. "Only
6 if the manner in which an agency failed to follow the law is shown to be prejudicial, or is
7 presumptively prejudicial, as when [an agency] fails to comply with mandatory procedures, must
8 the decision be set aside." (*Id. at p. 1236.*) Thus, a prejudicial abuse of discretion occurs if, for
9 example, "the failure to include relevant information [in an EIR (environmental impact report)]
10 precludes informed decision making and informed public participation, thereby thwarting the
11 statutory goals of the EIR process." (*Kings County Farm Bureau v. City of Hanford* (1990) 221
12 *Cal. App. 3d 692, 712 [270 Cal. Rptr. 650].*)

13 In *Rural Landowners Assn. v. City Council* (1983) 143 Cal. App. 3d 1013 [192 Cal.
14 Rptr.325], Respondent development company sought to have 58 acres of farmland annexed
15 into respondent city. Respondent city approved the environmental impact report (EIR) for
16 annexation and development of agricultural lands without following its own procedures by
17 taking comments without all reports being filed. The trial court denied petitioner
18 landowners' request for a writ of mandate to compel respondents to vacate approval of the
19 EIR. The court reversed and held that the trial court's application of its standard of review
20 was incorrect. The court held that respondent city's failure to comply with the law and wait
21 for all the reports to be filed before it made comments or received comments resulted in
22 subversion of the environmental review process and was prejudicial error. The Court went
23 on to say that, when the trial court considered the appropriate scope of review, it
24 formulated a dual standard of review: (1) "as to factual determinations made by the City
25 Council and the Planning Commission this Court would support the determination of those
26 agencies unless it is not supported by substantial evidence As to matters required to
27 be done by regulations, the Court would apply the standard of requiring (1) a good faith
28 effort at full disclosure and (2) no failure to include information which would cause

1 sufficient prejudice to the public opportunity to present their views that they may be denied
2 due process and might have made a difference to the determination made by the agencies."

3 Failure by the Planning Commission to view parcels on three of the four streets that
4 comprise the "same block" as the Property, constituted a failure to include relevant
5 information that precluded an informed decision by the Planning Commission. Such a
6 preclusion of information was clearly prejudicial to Appellant.

7
8 III. CONCLUSION

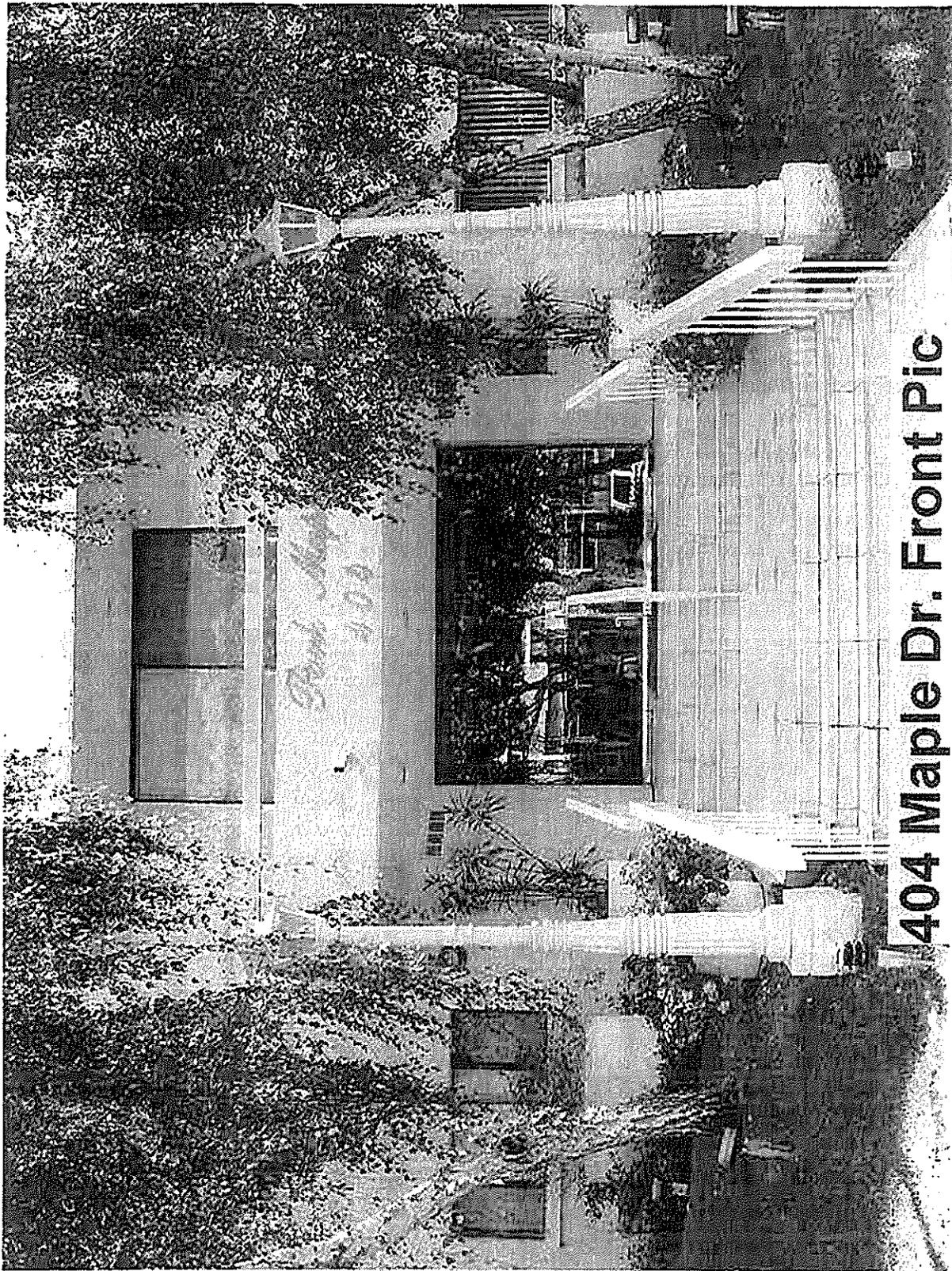
9
10 By failing interpret streetscape to include both the east and west sides of North Maple
11 Drive between Beverly Blvd. and Alden Drive, the Planning Commission misinterpreted
12 the definition of streetscape and failed to consider relevant information regarding the
13 surrounding streetscape of the Property. By interpreting the term "may" to mean "shall" in
14 Beverly Hills Municipal Code Section 10-2-707 (B)(1), the Planning Commission based its
15 decision on a misinterpretation of the language of the Code. Failure to view three of the four
16 streets that comprise the "same block" as the Property, was a failure to include relevant
17 information that precluded an informed decision by the Planning Commission when
18 making its comparison of the relative lot coverage, height and setback of the Property to
19 the lot coverage, height and setbacks of developments on parcels in the same block. The
20 Planning Commission's failure to follow the provisions set forth in Beverly Hills
21 Municipal Code Section 10-2-707 (B)(1), failure to property interpret the Code Sections
22 and failure to include relevant information in its decision making process was prejudicial to
23 Appellant, and its decision must be set aside.

24 Dated: June 12, 2008

25
26 By: 

27 JOHN K. RACHLIN
28 Counsel for Sanderson Plaza, LLC

EXHIBIT A



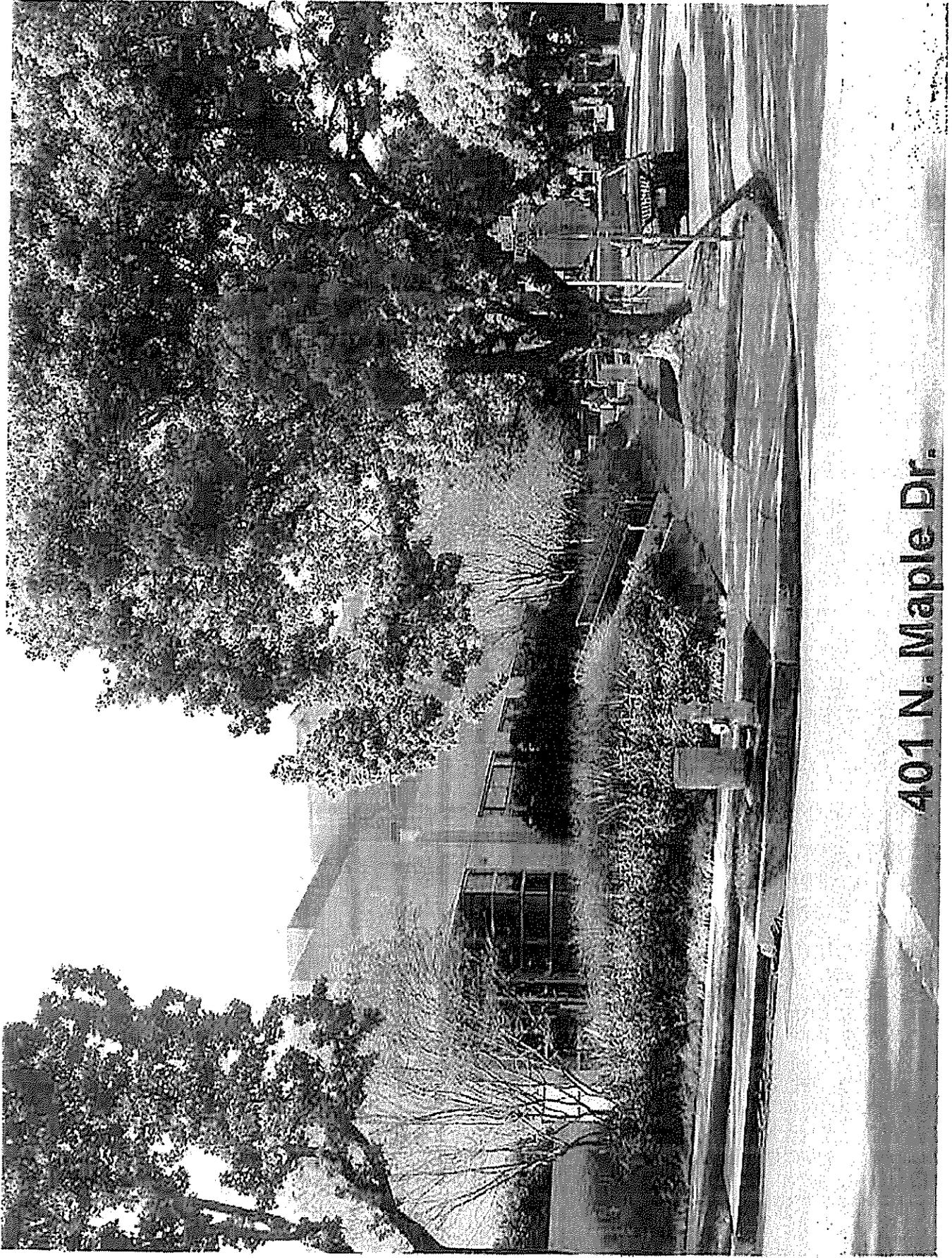
404 Maple Dr. Front Pic



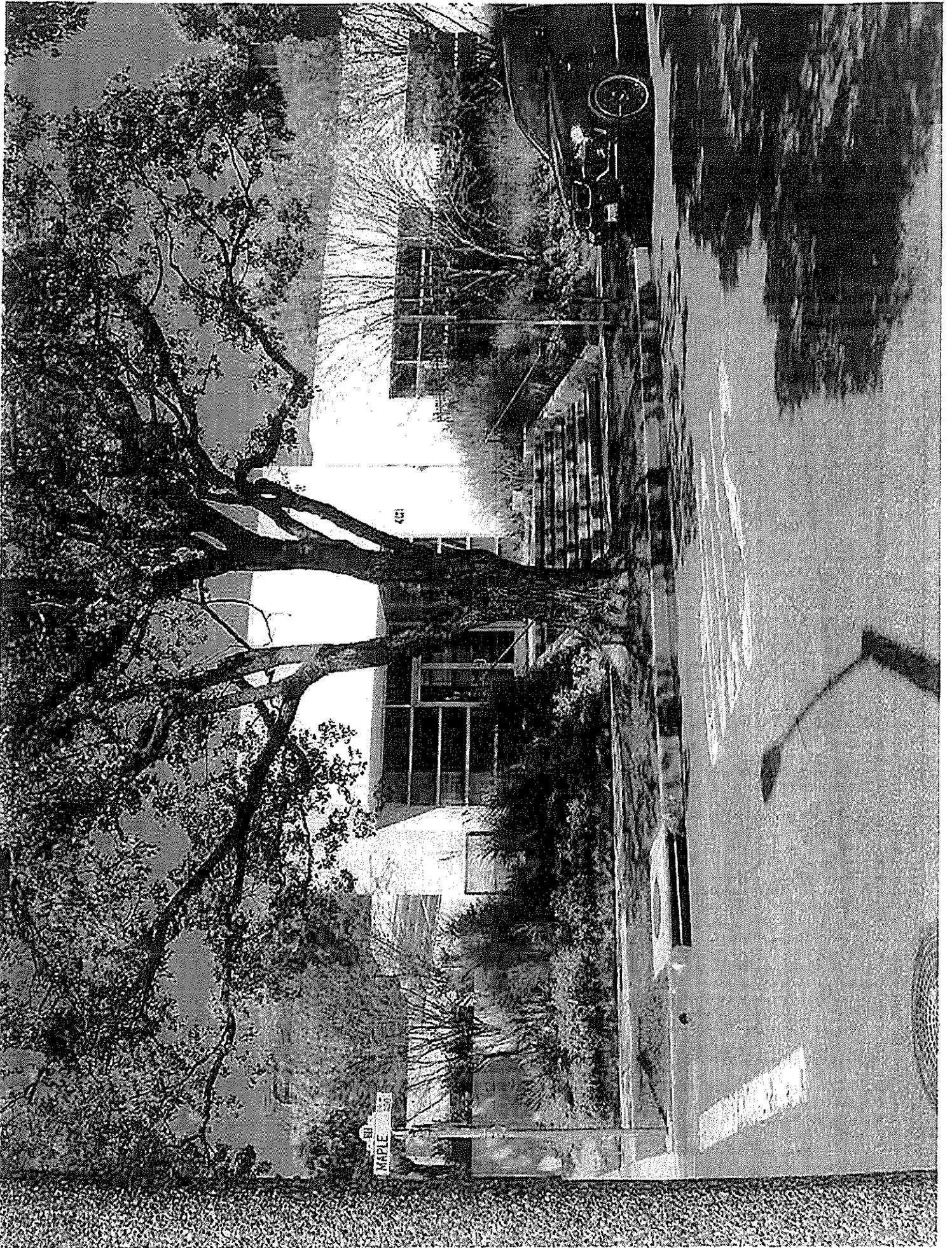
1 BEDROOM

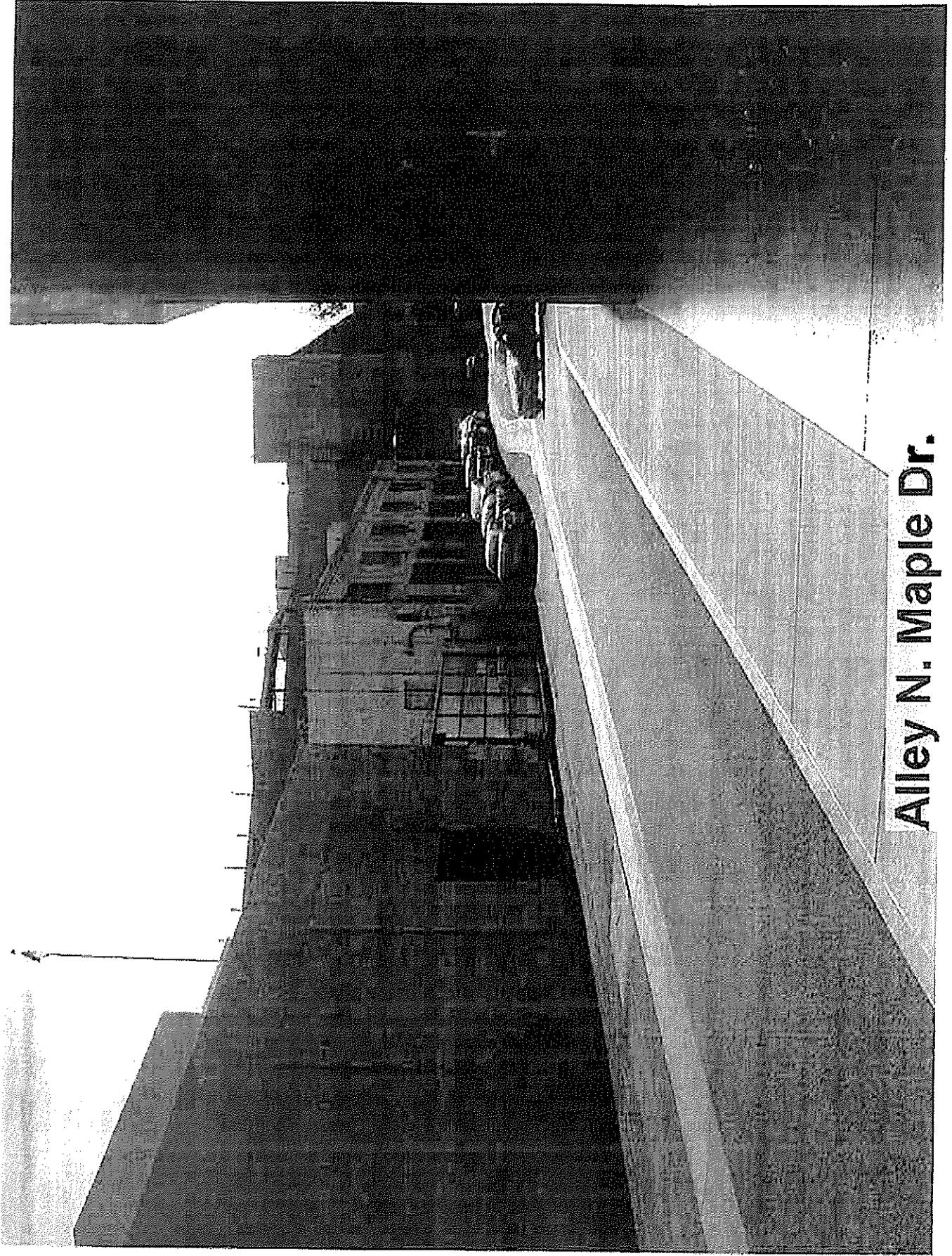
Maple Dr. Front Pic

EXHIBIT B

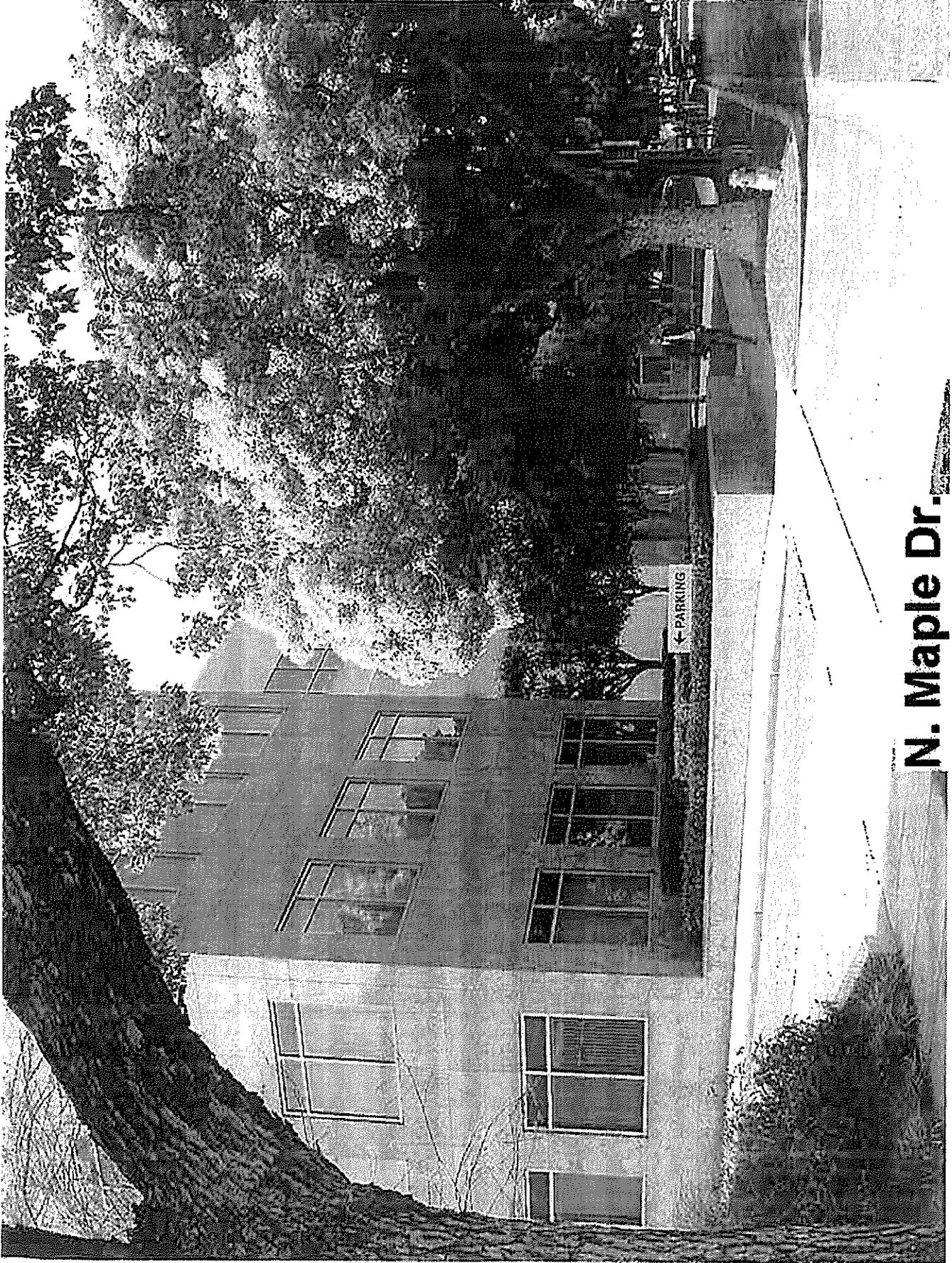


401 N. Maple Dr.

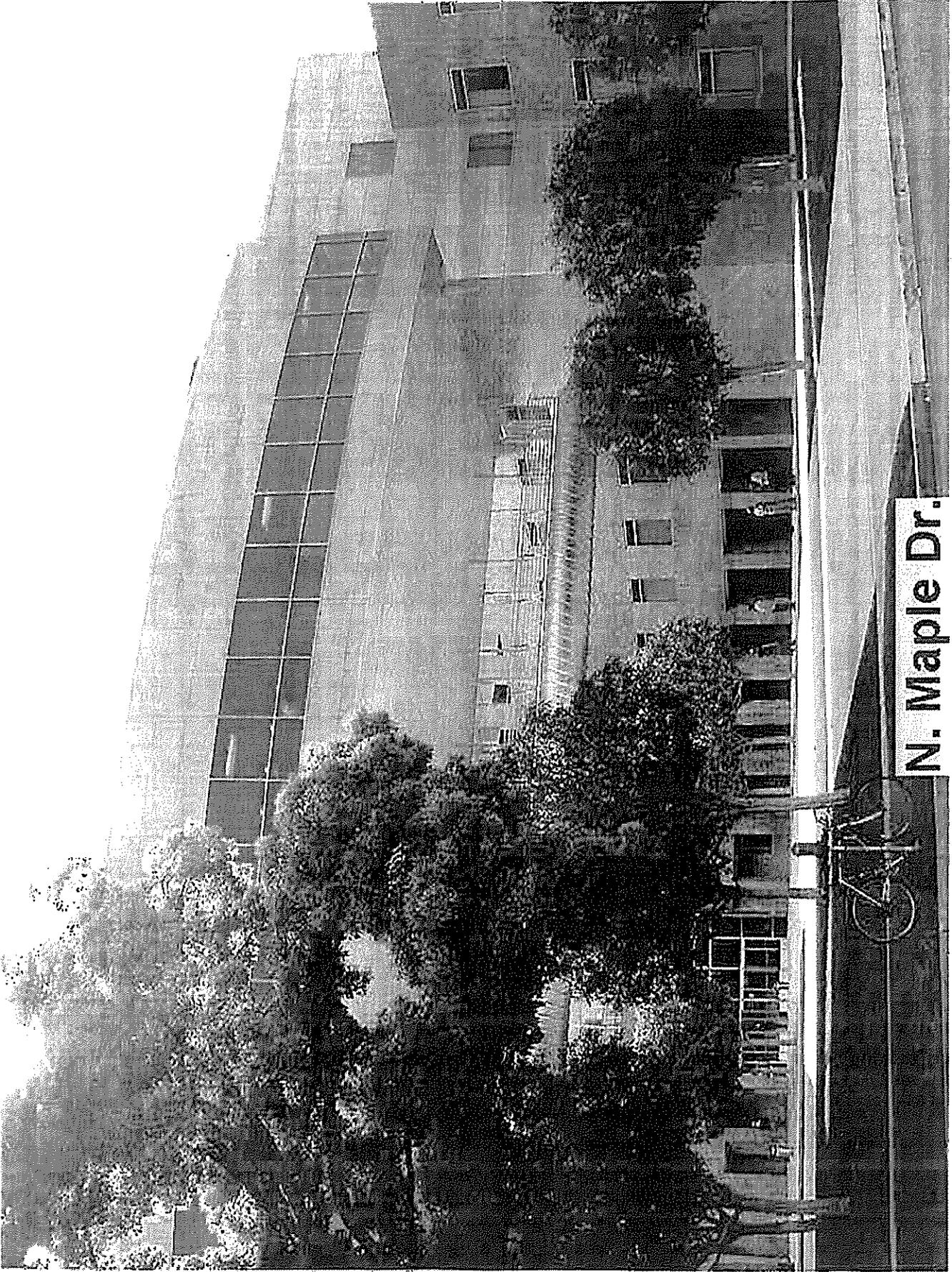




Alley N. Maple Dr.



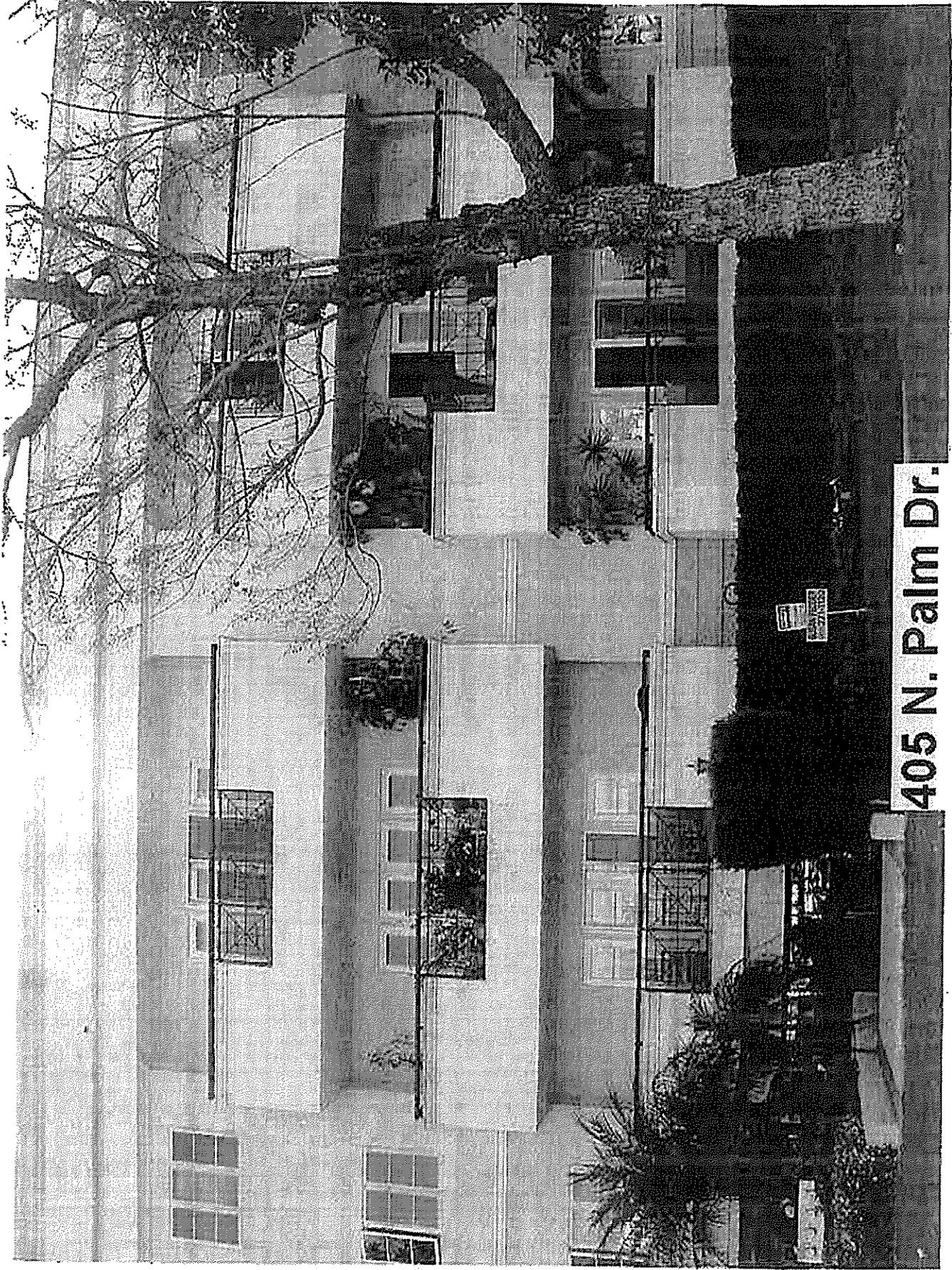
N. Maple Dr.



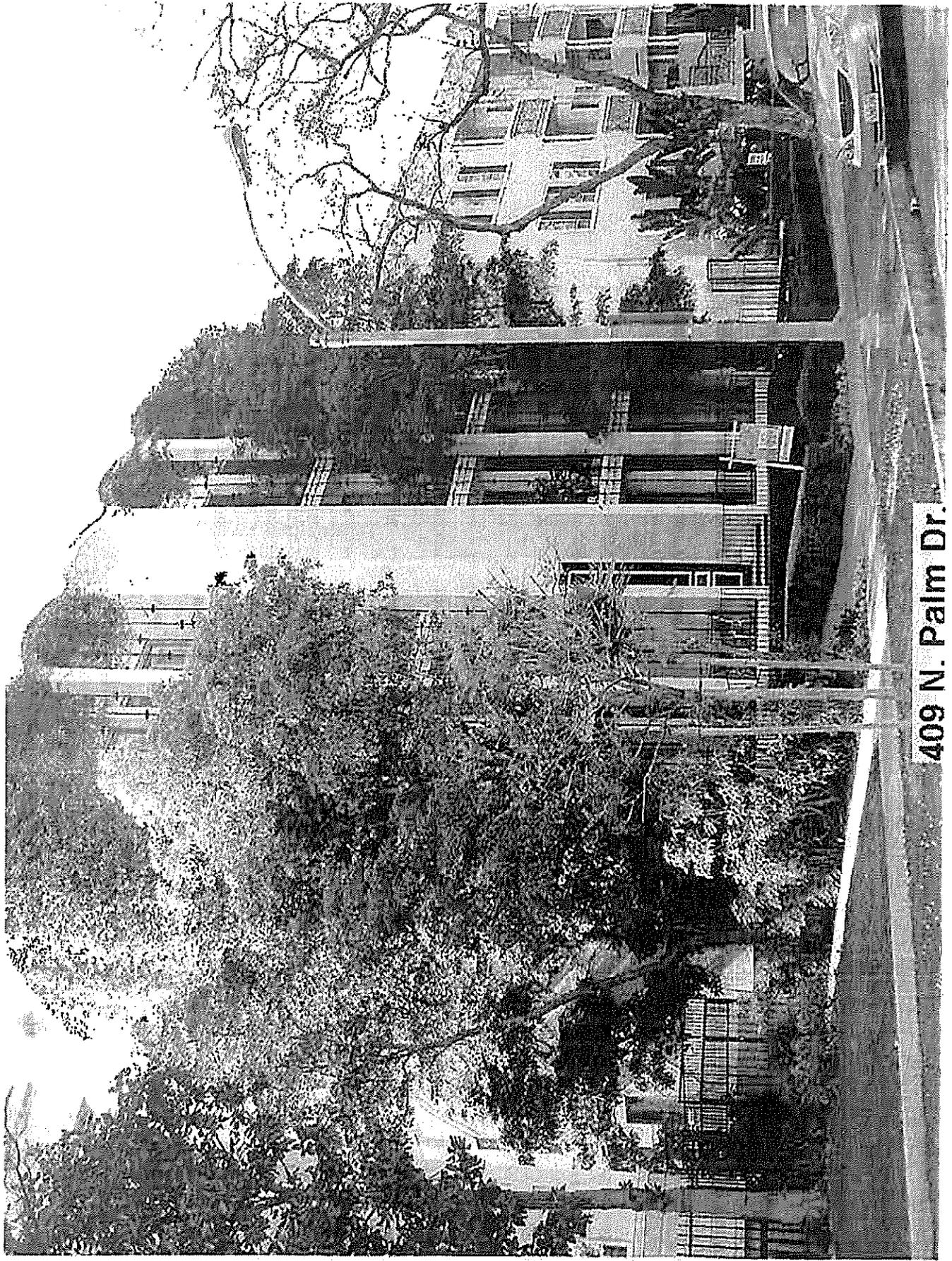
N. Maple Dr.



EXHIBIT C



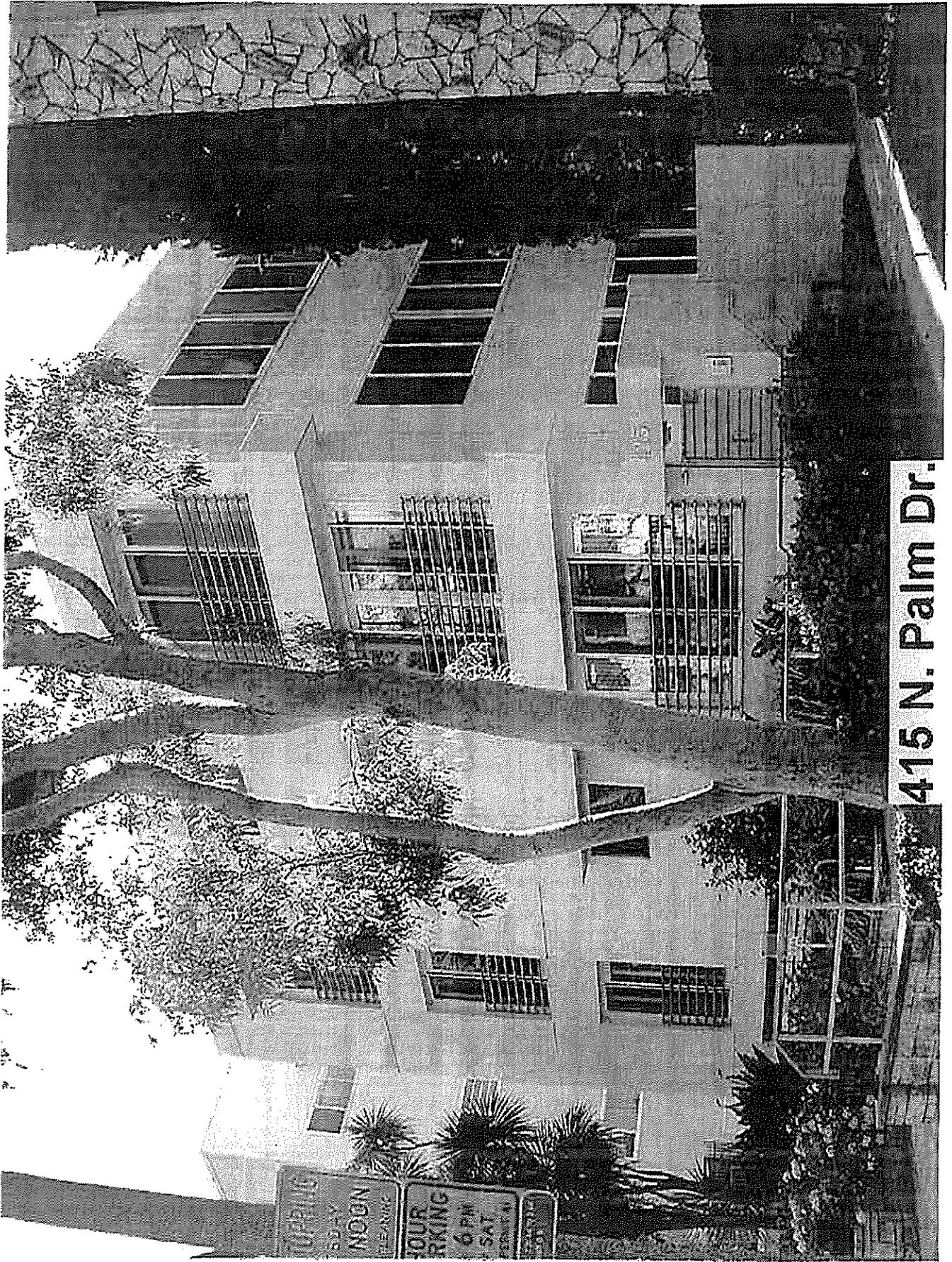
405 N. Palm Dr.



409 N. Palm Dr.

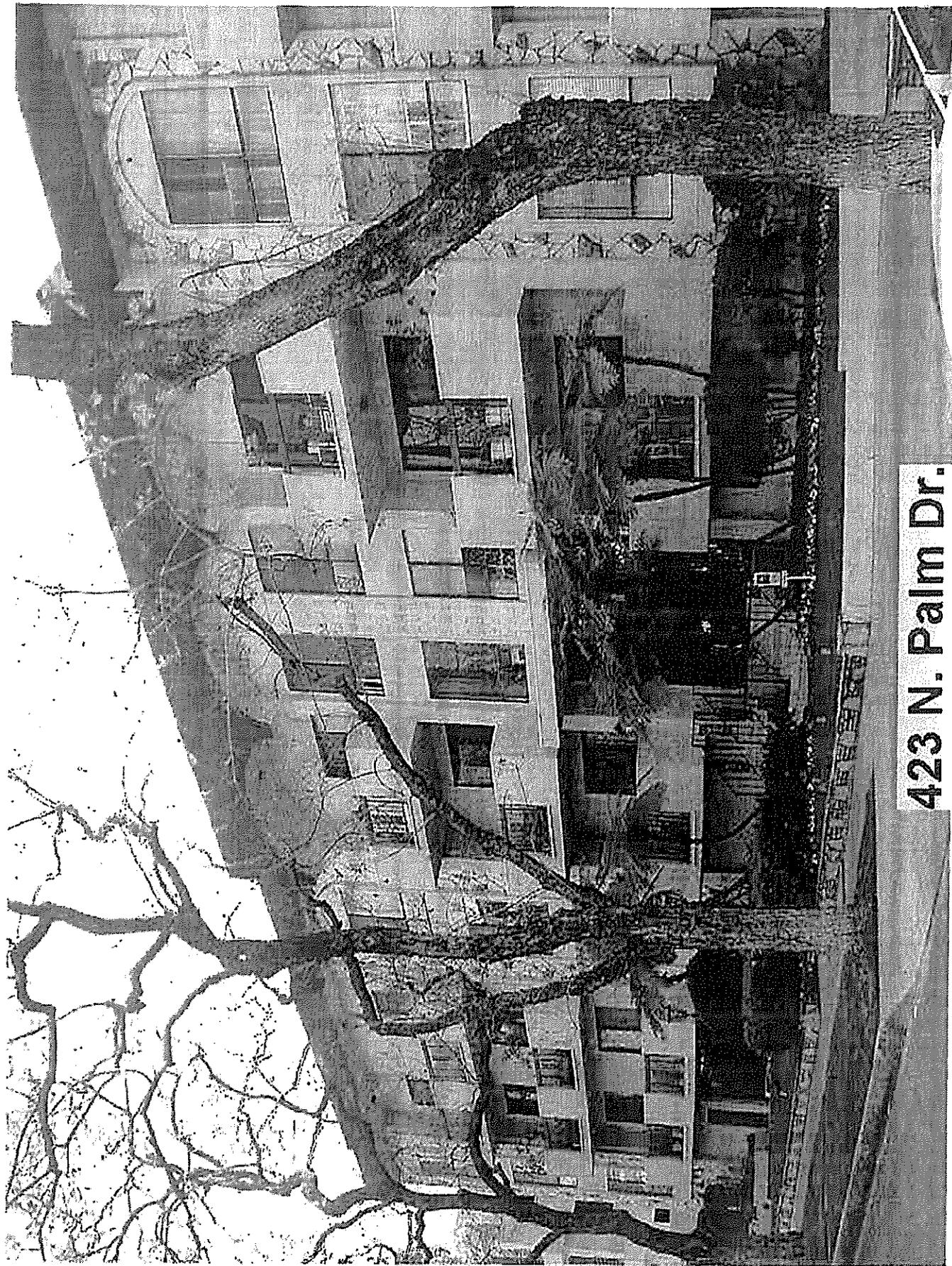


411 N. Palm Dr.



415 N. Palm Dr.

STOPPING
NOON
CLEANING
PARKING
6 PM
SAT
SUN



423 N. Palm Dr.

**Attachment 3
Planning Commission Staff Report and
Minutes**



**STAFF REPORT
CITY OF BEVERLY HILLS**

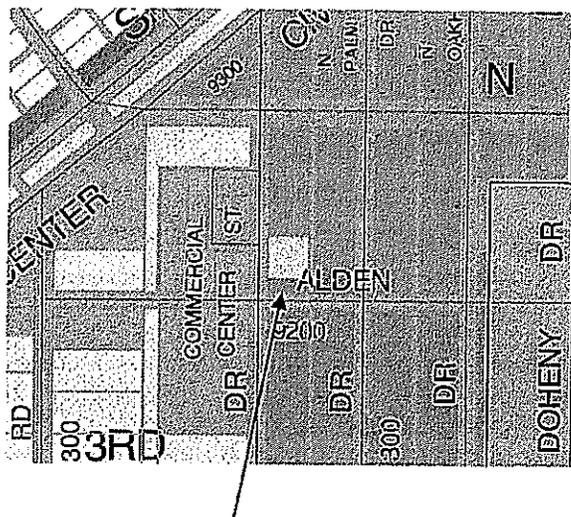
FOR THE PLANNING COMMISSION
MEETING OF JANUARY 24, 2008

TO: Planning Commission

FROM: Rita Naziri, Senior Planner

THROUGH: Vince Bertoni, AICP, Community Development Director
Jonathan Lait, AICP, City Planner

SUBJECT: Request for a character contributing determination for the conversion of an existing apartment building into common interest development for the property located at 404 N. Maple Drive between Alden Drive and Beverly Boulevard.



PROJECT SITE

EXECUTIVE SUMMARY

An application has been filed by Samuel K. Freshman on behalf of Sanderson Plaza, LLC, requesting for the Planning Commission to consider if the property located at 404 N. Maple Drive is a character contributing building to qualify for the conversion of the existing apartment building to common interest development units.

Pending testimony received at the public hearing, based on the information submitted, staff does not feel that the building contains qualities that would merit a determination that the building is "Character Contributing".

GENERAL INFORMATION	
Applicant	Samuel K. Freshman
Project Owner	Sanderson Plaza, LLC
Zoning District	R-4 – Multi-residential
Parcel Size	23,090

PROJECT DESCRIPTION

The property is located on the east side of north Maple Drive between Alden Drive and Beverly Boulevard. The property was originally developed in 1976¹ as an apartment building. The project site consists of 23,090 square feet of land and contains twenty five apartment units with a subterranean garage that house 52 parking spaces accessed from the alley.

The table below shows each unit bedroom counts:

Unit Type	Number of Units
Two bedrooms and den	6
One bedroom	12
One bedroom and den	6
Single	1
Total of number of units	25

The building is three stories and 36 feet in height. The applicant describes the building's architecture as early 20th century European Modernist Bauhaus design.

The applicant has submitted plans and color photos of the property in order to outline the design features of the building. Staff has also conducted a site visit and pictures of the building including lobby and roof area were taken. During the site visit, the applicant did not permit staff to take pictures of the units' interior for privacy reasons.

AREA CHARACTERISTICS

The site is located on the east side of North Maple Drive. There are multiple family residential buildings to the north and east (across the alley) of the project. To the south of the site, there are three two-story single family residences located at the corner of Maple Drive and Alden Drives, one of which is facing Maple Drive, the other two residences are facing Alden Drive². Commercial offices are located to the west of the subject property across Maple Drive which includes the AOL building at 407 N. Maple Drive. An alley separates the subject property from the properties to the east.

ARCHITECTURAL STYLE

The applicant indicates that this building is prime example of California Bauhaus architecture from the 1970s. In California, the Bauhaus style is used interchangeably

¹ Based on the records on file in the Building and Safety Division

² These three single family residences are located within a legal lot.

with Modern and International architectural styles. The International /Modern style was based on the principles of the Bauhaus architecture that began in 1919 in Germany.

Bauhaus refers to a German school of art, design, and architecture that was originated by Walter Gropius in Weimar, Germany, in 1919. The stylistic features of Bauhaus architecture include large, flat-roofed buildings, horizontal stripes of standardized windows, bold horizontal projections and balanced design with different types of materials like concrete. Structures built in this style are functional with minimal ornamentation.

The current building features are as follows:

- Three stories
- Flat roof
- Horizontal orientation of volumes arranged asymmetrically, including balconies throughout the front façade.
- Numerous modulations in the form of balconies and patios
- Stucco facade with textured finish, painted in pastel colors

COMPLIANCE WITH CODE REQUIREMENTS

A large percentage of the City's rental housing stock comprised of architecturally unique structures that date from the 1920s and 1930s. These buildings contribute to the character and quality of life in the City. The City conducted a lengthy process to develop regulations and procedures to regulate the conversion of existing residential buildings to common interest developments. In mid 2005, the Planning Commission conducted a number of meetings and later on recommended an ordinance to the City Council for its consideration establishing criteria for the conversion of existing apartment buildings into common interest developments. The goal of the process established by the ordinance is to extend the life of certain legally nonconforming buildings that contribute to the aesthetic value and unique character of the City's residential neighborhoods by preservation of the original, human-scaled, and aesthetically pleasing properties. The ordinance was adopted on March 7, 2006. Since the adoption of the ordinance, five properties received the character contributing designation including: 355 S. Rexford Drive (1937), 200 Lasky Drive (1937), 145 Camden Drive (1938), 356 S. Doheny Drive (1937) and 350 S. Rodeo Drive (1947).

The criteria, as noted in Section 10-2-707 of the Beverly Hills Municipal Code (copy attached) requires that any conversion of an existing building to comply with the Building Codes and Zoning regulations and all other requirements of the code in effect at the time of application. However, there is an exception that would permit the

conversion of an existing building if the Planning Commission makes a determination that the building has "character contributing design features" that are worth preserving and full compliance with the current provisions of code cannot be feasibly complied with.

The Code defines "character contributing building" as follows:

A character contributing building shall mean any multi-family residential building that the Planning Commission determines, due to its proportions and scale, design elements, and relationship to the surrounding development, is of continued value and contributes to defining the character of the community as a whole. In making this determination, the Planning Commission shall make the following findings:

1. The building to be converted is not substantially greater in massing and scale than the surrounding streetscape. In making this determination, the Planning Commission may compare the relative lot coverage, height and setbacks of the building being converted to the lot coverage, height and setbacks of developments on parcels in the same block.
2. And either:
 - a. The building to be converted and/or the project site design contribute(s) to community character through the use of: 1) architecturally pure styles that foster congruous designs and details that are similar or complementary in scale and mass to other nearby structures; 2) features visible from the public street, including, but not limited to, courtyards, balconies, open space, building modulation, or any other similar characteristics that, as a result of the conversion, would be maintained, restored or refined in a manner consistent with the general criteria of architectural review; or
 - b. The interior spaces of the building to be converted contribute to community character through the use of architectural features and high quality construction finishes and features such as crown molding, hardwood floors, fireplaces, stairways, and built in cabinets in individual units; private courtyards, balconies, and/or interior open spaces; interior fountains; or any other similar characteristics or features that, as a result of the conversion, would be maintained, restored or refined in a manner consistent with the general criteria of architectural review.
- C. Architectural Review Required: Nothing in this article shall relieve a project to convert an existing building to a common interest development from the architectural review requirements.

Should the Planning Commission make the required findings and make the determination that the building would contribute to defining the character of the community as a whole then the applicant would be cleared to continue on with the

process of conversion. The applicant would be required to comply with all of the criteria contained under Section 10-2-709 (attached) and the application would be forwarded to the Commission for its review and approval.

In the following chart the City's applicable zoning code requirements and the buildings existing build-out are presented for comparison. The building does not currently provide the required number of parking spaces, front modulation or side setbacks.

PROJECT DATA SUMMARY

Category	Existing	Code Requirement (K-1 Standalone)
Use	Multiple-family dwelling	Multiple-family dwelling
Number of Lots	1	N/A
Lot Frontage	153.93 ¹	50' Min.
Lot Size	23,090 Sq.ft.	N/A
Density/Number of Units	25 units	25 units 1 unit / 900 sq.ft. of site area
Stories/Building Height	3-story, 36 feet high	4-story / 45 feet
Building Modulation	None	Three percent (3%) of the aggregate principal building area or one thousand five hundred (1,500) square feet whichever is less
Parking Spaces	52 spaces ²	Varies (based on number of bedrooms per unit)
Outdoor Living Space	5,560 Sq.Ft.	5,000 Sq.ft.
Front Setback	25 feet	25 feet
Side Setback	9 feet 1 inch on each side 18 feet 2 inches " combined	North: 8 feet South: 11 feet 19 feet combined
Rear Setback	15 feet	15 feet

¹ Three lots were tied when the building was built in 1976.

² Based on the current Code, the existing 25-unit apartment building is required to provide 59 parking spaces including 7 parking for guests.

ANALYSIS

The subject property is located on 400 block of North Maple Drive and is fairly visible due to its height and mass along the street comparing to other existing multi-family structures on the east side of the street. The building was built based on the City's regulation for multi-family developments in 1970's which are similar to the current Code requirements with some exceptions regarding parking, side setbacks and modulations.

In making a character contributing determination, the building shall be evaluated based on the following findings:

- 1. The building to be converted is not substantially greater in massing and scale than the surrounding streetscape. In making this determination, the planning commission may compare the relative lot coverage, height and setbacks of the building being converted to the lot coverage, height and setbacks of developments on parcels in the same block.***

The 400 block of North Maple Drive has two different zoning designations. The west side of the street is designated as C-5 Commercial zone and contains various commercial/office buildings with a maximum height of 3 stories and 45 feet. The subject property is located on the east side of the street with R-4 Multi-Family zoning designation. The 404 N. Maple Drive building contains approximately 135 feet frontage where the nearby buildings typically have no more than 45 feet building frontage. In this segment of the Maple Drive, all the buildings are two stories in height while the subject building includes three stories. The subject property also is a newer building compared to the other buildings in the same block. Most of the buildings were built in twenties through forties. The subject building meets the front and rear setback requirements based on the current Code. The building has cumulative side setback of eighteen feet two inches while current code requires a cumulative side setback of 19 feet. In assessing the streetscape of this block, the subject building presents more mass compared to other buildings along the east of street in terms of height, scale and bulk and lot coverage.

- 2. And either:***

- a. The building to be converted and/or the project site design contribute(s) to community character through the use of: 1) architecturally pure styles that foster congruous designs and details that are similar or complementary in scale and mass to other nearby structures; 2) features visible from the public street, including, but not limited to, courtyards, balconies, open space, building modulation, or any other similar characteristics that, as a result of the conversion, would be maintained, restored or refined in a manner consistent with the general criteria of architectural review;***

The applicant notes that the building has design elements that are identified with the "Bauhaus architecture" style and it appears that the building has been maintained relatively in its original condition and appearance. The project open space is located on the roof area. The building does not include any courtyard or open space within the floors. The only existing modulation is the symmetrical balconies facing Maple Drive. As noted previously, in comparison to other existing buildings in this block, the subject property presents greater mass and bulk and it is not compatible or similar in terms of architectural style including scale and mass to the adjacent buildings within this street segment. Examples of apartment buildings with similar architectural style are present in the adjacent streets.

Or

- b. The interior spaces of the building to be converted contribute to community character through the use of architectural features and high quality construction finishes and features such as crown molding, hardwood floors, fireplaces, stairways, and built in cabinets in individual units; private courtyards, balconies, and/or interior open spaces; interior fountains; or any other similar characteristics or features that, as a result of the conversion, would be maintained, restored or refined in a manner consistent with the general criteria of architectural review.***

Based on staff site visit, the building interior is covered with tiles and carpeting throughout the building. The applicant notes that all units contain crown moldings and fireplaces. The front façade contains row of balconies and patios (ground floor) along front façade. Although the building lay out is appropriate and spacious, the building interior does not include architectural features or high quality construction finishes that qualify the building for the requested designation.

Overall, the building is maintained and includes an appropriate landscaping; however, the architecture of the existing building does not present architectural details similar or complementary in scale and mass to other structures within this street segment. In general, staff does not support the character contributing designation for this building and would not recommend that the building be given a determination that it has character contributing features based on the assessment of the building exterior or interior, streetscape compatibility and the ordinance goal which is to preserve the architecturally unique structures that contribute to the aesthetic value and unique character of the City's existing residential neighborhood.

Additionally designating buildings that do not meet current code standards as "Character Contributing" may result in a prolongation of impacts to residential neighborhoods. Although the subject property provides 52 parking spaces within one-level subterranean garage, however, it does not meet the current code standards in regards to the required parking. Any additional parking required for this

Staff Report
404 N. Maple Drive
For the Planning Commission Meeting of January 24, 2008

building would be dependent on street parking along adjacent streets and therefore may tend to impact the on-street parking supply.

Staff does not believe that findings can be made to consider this building as a character contributing building based on its qualifications noted above.

PUBLIC NOTICE AND COMMENTS

Notice of the proposed project and public hearing was mailed on January 14, 2007 to all property owners and residential tenants within a 300-foot radius of the property. As of the date of the preparation of this report, no correspondence or calls were received.

ENVIRONMENTAL DETERMINATION

This project involves a review of the building's architectural style, design and building features and does not involve any physical or operational changes to the existing multifamily building. As such, the project is exempt from California Environmental Quality Act (CEQA) pursuant to Section 15061 b(3) of the State CEQA Guidelines, and the environmental regulations of the City.

RECOMMENDATION

Based on the foregoing analysis and pending the information and conclusions that may result from testimony received at the public hearing and Planning Commission deliberations, and pending discussion of the issues raised, Staff recommends that the Planning Commission do not consider the request for designation of the existing apartment building as "Character Contributing".


Rita Naziri

Attachments:
Sections of Beverly Hills Municipal Code
Application and supporting documents

COMMUNICATIONS FROM THE COMMISSION

None.

INFORMATION ITEMS

- 1. Proposed Amendments to the Municipal Code: Amendments to the Municipal Code Affecting how the City Reviews Changes to Hotels that Result in a Reduction in Guestroom Area and how the City Reviews the Conversion of Hotels to Residential Uses.**

For Information only.

PLANNING COMMISSION/BOARD OF ZONING ADJUSTMENTS/PLANNING AGENCY PUBLIC HEARINGS

- 2. Character Contributing Determination of a Building Located at 404 N. Maple Drive. Request for a character contributing determination for the conversion of an existing apartment building into common interest development for the property located at 404 N. Maple Drive.**

Senior Planner Naziri summarized the staff report and it was made part of the record. She noted the purpose of the Ordinance for the Character Contributing Buildings was to extend the life of non-conforming buildings with pure architectural style, to maintain and keep them. Most buildings on the block were one-lot developments of two stories, built in the 1930's and 1940's. She stated the project under consideration is a 3-lot development of three stories and was built in the 1970's.

Rudy Cole, representing the applicant noted the preservation of a building should also include how it relates to the neighborhood in 'look' and 'feel.' This area could be a major target by developers to change from residential to commercial, which would result in a loss of housing.

John Rachlin, representing the applicant, noted the building meets code in every way except side setbacks, parking, and modulation. The side setback is within 10 inches of the current requirement. The current parking is 52 spaces, substantially more than typical buildings of this size in the area, and the height and scale is smaller than the massing of the commercial buildings across the street. There are 52 parking spaces for 25 units, which contain 31 bedrooms – a ratio of 1.68 spaces per bedroom. Code required parking would be 59. Mr. Macklin noted available street parking in the area. He summarized that the building substantially meets Code, fits into surrounding streetscape, and the interior features include a large, dramatic lobby.

Planning Commission Meeting Minutes
January 24, 2008

Mr. Freshman spoke to the uniqueness of the apartments, noting the 1-bedroom apartments are 1,300 square feet. They could bring the building to Code by combining several units, at extra cost; it would also reduce the housing stock by approximately 5 units.

Mr. Cole wrapped up the discussion, noting stabilization of the area would be achieved by retaining housing stock, letters of support for the project had been received, and urged approval of the application by the Commission.

Chair Furie closed the Public Hearing.

Assistant City Attorney Snow responded to questions regarding the findings that have to be made: Finding 1. must be made; and then make a Finding of either 2. A. or B. If Finding 1. Is not made, then an opinion on the latter is at the Commission's discretion.

Chair Furie noted the Ordinance findings and the State requirements under SB 1818.

Commissioner Marks noted the unique situation on Maple Drive with commercial on one side and residential on the other. Regarding where mixed-use could fit in the General Plan discussions: there are no guarantees and nothing set in Code that Maple Drive was a street that would be amenable to mixed-use.

Commissioner Marks also spoke to the intent of the Ordinance noting the Commission must look to the Code, although this building has many great features. It is not as massive as the commercial, but the residential must also be used for comparison and it is more massive in scale to residences on the street. She spoke to precedent. Commissioner Marks noted while the parking appears ample; however, in terms of Character Contributing buildings, parking does not come into the deliberation. Vice Chair Reims concurred.

Commissioner Bosse stated the building has many wonderful interior features; however, the building is large for its block and zone and has more mass than its neighbors.

Commissioner Cole expressed concern that she had not received the materials on this matter, so would not be participating in this decision.

Chair Furie discussed Finding 1. He noted that one building at the end of the block is a double lot with two stories; the rest are single lot developments. He stated that lot coverage of the project is much greater than the rest of the buildings on the block and he could not make the finding.

ACTION:

Moved by Chair Furie and seconded by Commissioner Marks.

The Commission concurred that the findings for a character contributing determination could not be made for the building located at 404 North Maple Drive and staff was instructed to prepare a letter informing the applicant of this action.

AYES: Commissioners Bosse, Marks, Vice Chair Reims, and Chair Furie.

NOES: None.

RECUSED: Commissioner Cole.

ABSENT: None.

CARRIED.

**3. Request for Continuance – 309-325 South Elm Drive at Gregory
A Request for Continuance of a request for Development Plan Review
Permit and Tentative Tract Map No. 69145 for a three-story, 33-foot high,
26-unit condominium development at 309-325 South Elm Drive.**

Assistant City Attorney Snow responded to Vice Chair Reims' inquiries, noting this project was referred back, but the applicant wanted to bridge the building to save the need for 2 staircases. Adding 3 affordable housing units was discussed, but the project is looking at 4 stories. He recommended not discussing the project at this time. The applicant can make proposals and the Commission can determine whether they meet the findings. Discussion should be held until there is an actual plan before the Commission.

Chair Furie requested the Assistant City Attorney prepare an analysis of what the Commission is required to do under the State mandate.

Community Development Director Bertoni discussed State Law requirements noting if a developer builds a certain number of affordable housing units, the Commission is mandated to allow bonus units and allow for other incentives which could include relief from zoning standards.

ACTION:

Moved by Commissioner Marks and seconded by Commissioner Bosse.

Attachment 4
Application and Supplemental
Document



**CITY OF BEVERLY HILLS
COMMUNITY DEVELOPMENT DEPARTMENT
COMMON INTEREST DEVELOPMENT
DETERMINATION OF CHARACTER FORM**

The purpose of this form is to provide Common Interest Development projects special additional regulations because of special problems resulted from the divided ownership of individual units. These regulations will help avoid the needless destruction and impairment of those buildings that contribute to the aesthetic value and unique character of the City's existing residential neighborhoods.

Preparing the Application:

- A. A complete and signed Common Interest Development Determination of Character Form
- B. A set of Pictures showing the following: structure(s), surrounding structure(s), landscape, etc. that display the character of the neighborhood as well as the structure in question.
- C. A floor plan - on CD
- D. An elevation plan - on CD

DETERMINATION OF CHARACTER FORM

Project Address: 404 North Maple Drive, Beverly Hills CA

Legal or Assessor's Description: Lots 2, 3 and 4 in block 10 of Tract 5647, in the City of Beverly Hills, as per map recorded in Book 60 page 88 of map in the office of the County recorder of said County.

Landowner SANDERSON PLAZA, LLC

Applicant or Agent

Name: ~~XXXXXXXXXX~~ JFB

Name: SAMUEL K. FRESHMAN ~~XXXXXXXXXX~~ *Delisaul*

Address: 6151 West Century Blvd. #300

Address: 6151 West Century Blvd. #300

City: Los Angeles,

City: Los Angeles,

State & Zip: California 90045

State & Zip: California 90045

Phone: 310-410-2300

Phone: 310-410-2300

Fax: 310-410-2919

Fax: 310-410-2919

Proposed Tract No. #5647

Engineer or Surveyor

Name: Mollenhauer Group

Address: 601 S. Figueroa Street, 4th Floor

City: Los Angeles

State & Zip: California 90017

Phone: 213-624-2661

Fax: 213-614-1863

Legal description of all parcels of property under consideration:

Lots 2, 3 and 4 in block 10 of Tract 5647 in the City of Beverly Hills, as per map recorded in Book 60 page 88 of maps, in the office of the County recorder of said County.

Project Description:

Designer's Name: _____

Architect's Name: Hamid Gabbay

Year Built: 1978

Site Size: Appx 0.53 acres (23,090 sf)

Floor area of existing structure: 43,551* FAR: _____

Floor area of proposed addition or new structure: _____ FAR: _____

Square footage of basement, ^{and garage} non-story and/or parking levels: 17,850

Square footage of total roof area: 14,584 sq ft

Square footage of "roof features" (^{sundeck and spa} skylights, elevestories): 4,200 sq ft.

Distance from front property line: 34 feet

Distance from side property lines: 9 ft 1 inch

Distance from rear property line: 15 ft

- *1st Fl - 14,551
- 2nd Fl - 14,416
- 3rd Fl - 14,584

Height of existing structure (as defined by Code): Appx 40 ft*

Number of stories: 3 In Feet: Appx 40 ft

Height of proposed addition or of new structure (as defined by Code):

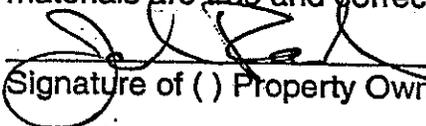
Number of stories: 3 In Feet: Appx 40 ft

Characteristics/Features that contribute to surrounding area: From its sloping lines and angular profile, to its dramatic and unique lobby area,

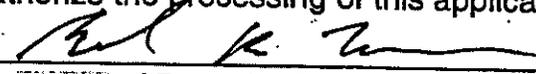
404 N. Maple Drive is a prime example of California Bauhaus architecture from the 1970s. Situated in the architecturally electric "Industrial Area" of Beverly Hills, this building illustrates many of the design characteristics found in early 20th Century European Modernist Bauhaus

design. With commercial development spanning the entire block directly across the street from 404 N. Maple Drive, preserving this type of 1960s and 1970s contemporary design not only helps maintain the residential characteristic of the neighborhood, but the "Electric" design elements (below)**

I, John Rackin, have read and understand all statements including the supplement to application attached to this application. I am the property owner or authorized agent of the subject property. I hereby declare (affirm) that the foregoing statements, facts, and attached plans and materials are true and correct.

 08/24/07
Signature of () Property Owner or (✓) Authorized Agent Date

I, SAM FRESHMAN, , am the property owner of the subject property. I have read and understand all foregoing statements, and hereby authorize the processing of this application.

 08/24/07
Signature of Property Owner Date

(for office use only)

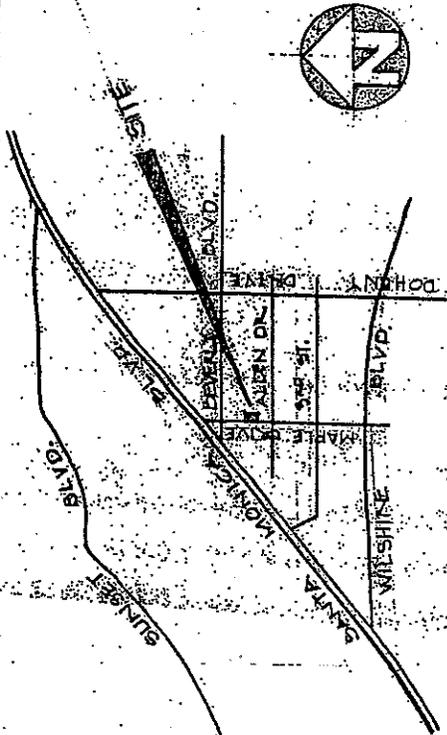
Date received: _____
Application fee Paid: _____
Notice fee Paid: _____

*1st Floor to top parapet plus 14 ft 2.5 inches roof top equipment room.
**and unique charm, that if not preserved, will be lost.

commencement of such work.

13. Ventilation: All interior bathrooms, laundry rooms, and other habitable rooms requiring

VICINITY MAP



JOB ADDRESS:

404 NORTH MAPLE DRIVE
BEVERLY HILLS, CALIFORNIA 90210

BUILDING ANALYSIS

BUILDING ZONE: S-4 HT. DIST: _____
 CONSTRUCTION TYPE: _____
 BUILDING TYPE: TYPE V - THK
 GARAGE TYPE: _____
 OCCUPANCY: _____
 BUILDING: H H _____
 GARAGE: _____ F1 _____
 FIRE ZONE: _____ 5 _____
 BUILDING CODE: UBC, 1970 EDITION
 NUMBER OF STORIES: _____ 3 _____
 BUILDING: _____ 1 _____
 GARAGE: _____
 AREA SUMMARY: _____
 BUILDING: 435 SQ. FT.
 GARAGE: 17850 SQ. FT.

A.B. Anchor Bolt
 C.A.P.F. Cablins
 D.A. Double Acting

ANCHOR BOLT
 CABLINS
 DOUBLE ACTING

BUILDING SUMMARY

UNIT TYPE	NO. UNITS PER FLOOR			TOTAL UNITS	AREA UNIT SQ. FT.	TOTAL AREA SQ. FT.
	1st	2nd	3rd			
A 2 BR + DEN	2	2	2	6	1692	11352
D 1 BR	2	2	2	6	1380	8280
C 1 BR + DEN	2	2	2	6	1549	9294
D 1 BR	1	1	1	3	1204	3612
E 1 BR	1	1	1	3	1202	3606
F SINGLE	-	-	1	1	1131	1131
TOTAL	0	0	9	25		37275
TOTAL RENTABLE UNITS						
GTM						
PUBLIC AREAS						
GROSS TOTAL						
GARAGE						

N S

L. ... National, Kansas
 C. ... in contract
 H. ...
 S. D. ...
 R. C. ...
 R. C. ...

BUILDING AREA SUMMARY

FLOOR	NET RENTABLE AREA	PUBLIC SPACE	* GROSS FLOOR AREA
1 st	12048 SF	2503 SF	14551 SF
2 nd	12048 SF	2368 SF	14416 SF
3 rd	13179 SF	1405 SF	14584 SF
TOTALS	37275 SF	6276 SF	43551 SF

BASEMENT
 * INCLUDES CORRIDORS, STAIRS, ELEVATOR, TRASH, LAUNDRIES, GYMNASIUM, ETC.

TOTALS	17850 SF
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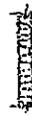
OUTDOOR RECREATIONAL AREA

ROOF	4200 SF
1 st FLOOR OUTDOOR YARD SPACE (GREEN UNITS ONLY)	1360 SF
TOTAL OUTDOOR RECREATIONAL AREA	5560 SF

PARKING REQUIREMENTS

UNIT TYPE	PARKING REQUIS PER UNIT	TOTAL UNITS	TOTAL PARKING
A	2 1/2	6	15
B, C, D, E	2	15	30
F	1	1	1
TOTALS		25	52

WALL LEGEND

-  2 1/2" STUDS @ 16" O.C. UNITS NOTED OTHERWISE. 1/4" STUDS @ FIRST FLOOR OR 3/4" STUDS (BASED)
-  SOUND-INSULATED WALLS (PARTY WALLS)

- ST: STAIRS
- SUSP: SUSPENDED
- SYMA: SYMBLIND
- W: WALL
- W/... WITH
- W/O... WITHOUT
- WB... WALL BOARD
- WI... WALL INSULATION

Department of Community Development
Planning Division
City of Beverly Hills
City Hall
Beverly Hills, CA 90210

Re: 404 North Maple Drive
Beverly Hills, CA 90210

To understand why the preservation of the subject property has historical significance and meets the "character" designation, aside from its design elements, a brief history of the area needs to be considered:

One of the areas of Beverly Hills that has gone through the most dramatic use changes, is the section called the "Industrial Area." Quite wisely, the City purchased considerable property there in the late 1940s and early 1950s in anticipation of growing demands for municipal services.

In the past ten years, City owned properties in this area have been developed for a major public works building, the abandonment of a waste management station and the leasing of property to entertainment industry entities (including Dream Works, Fox and an international internet provider). The City's presently owed inventory includes land now under consideration for a possible Community/Sports Center, combined with a development lease plan being formulated by International Creative Management (ICM).

From the 1940s to the mid-1970a, much of the area was single family residential. With the adoption of a new general plan in the 1960s, for the next 30 or 40 years some important changes took place. A proposal to build a major condominium project, that would have included "swapping" city owned land so that the developer would have contiguous land for development, although approved by the city council, was defeated in a referendum. This defeat led to rezoning of single family to multi-family and commercial and saw the advent of a major new post office, a large private tennis club and some of the largest office buildings in the city. Few, if any, single family homes remained. Incidentally, industrial zones still remain and houses various utilities. There are also offices and some retailing next to what was the T (Transportation) zone adjacent to Santa Monica Boulevard.

However, since preservation of residential inventory is a major planning goal for the city, this can only be supported if the apartment buildings created in the 1970s and 1980s are preserved, including some to common interest development. This is a critical historic need because the land in question could be rezoned, as much of the area has been, for commercial use. This "industrial area" is the only major area of the city that has changed from residential to commercial and/or has failed to approve zoning from commercial to residential.

A side issue has been the resistance of many residents north of Santa Monica Boulevard, in the "flats", who oppose any non-residential uses, in part, because they oppose "opening" of streets that would permit "through" traffic across Santa Monica Boulevard from the Industrial Area.

Although there are significant design elements of the subject property that lend themselves to "character" preservation including a large, very atypical reception area, the history of the surrounding area, the land use intent of preserving residential inventory, all argue in favor of common interest development as a tool of preservation.

Sincerely yours

Rudy Cole

Former Chair, Recreation and Parks Commission

Former Vice Chair, Industrial Area Study Committee

August 22, 2007



RECEIVED
CITY OF BEVERLY HILLS

JAN 10 2008

PLANNING & COMMUNITY
DEVELOPMENT DEPARTMENT

COMMUNITY DEVELOPMENT DEPARTMENT

455 N. Rexford Drive
Beverly Hills, CA 90210-4817
(310) 285-1123
FAX: (310) 858-5966

www.beverlyhills.org

CITY OF BEVERLY HILLS

Categorical Exemption

NAME OF PROJECT 404 N. Maple Drive

LOCATION 404 North Maple Drive, Beverly Hills, CA 90210

TYPE OF BUSINESS (IF COMMERCIAL) Multi-unit Residential Building

PROJECT DESCRIPTION Common Interest Development:

Conversion of multi-unit residential building to condominium.

APPLICANT'S NAME Sanderson Plaza, LLC PHONE 310-410-2300

APPLICANT'S ADDRESS 6151 West Century Blvd. #300, Los Angeles, CA 90045

CITY Los Angeles, California ZIP 90045

IF DIFFERENT, PROVIDE:

AGENT'S NAME Samuel K. Freshman PHONE 310-410-2300

AGENT'S ADDRESS 6151 West Century Blvd. Suite 300

CITY Los Angeles, CA ZIP 90045

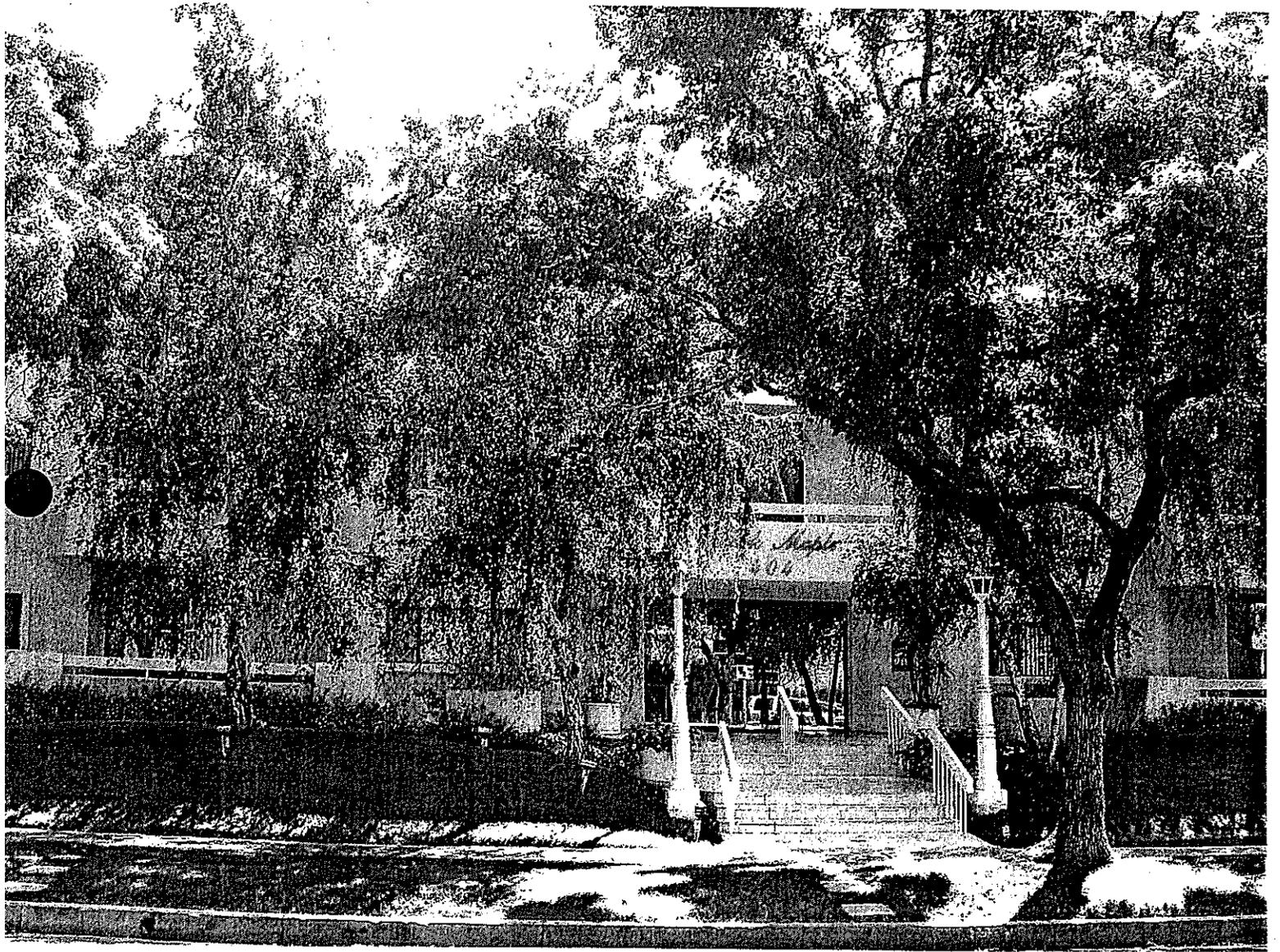
The undersigned, having received this project for processing, has reviewed it for environmental impact and concluded that the project qualifies for a categorical exemption under the procedures adopted by the City of Beverly Hills and no further environmental assessment is necessary.

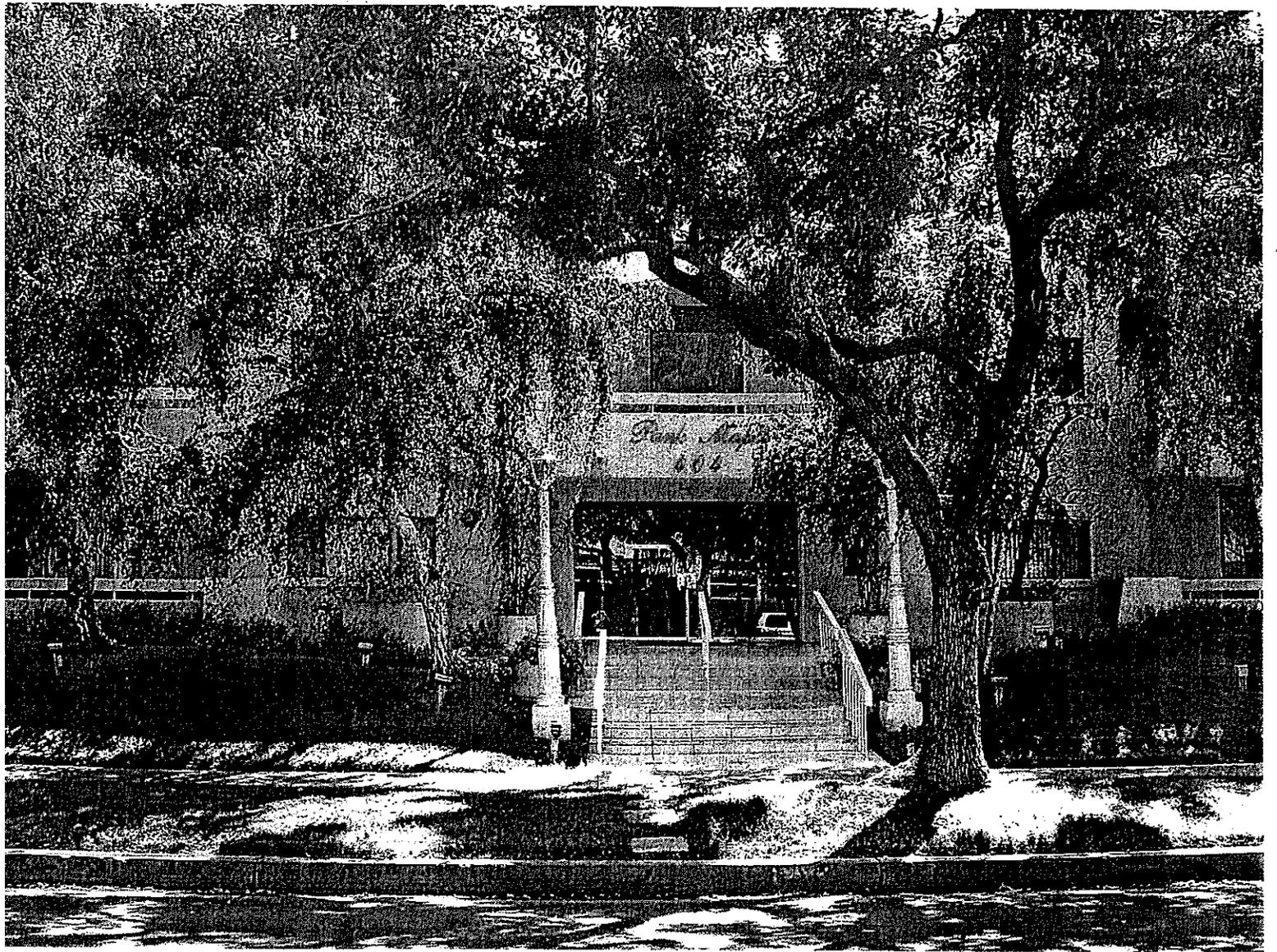
Applicable Exemption Class 150616(3)

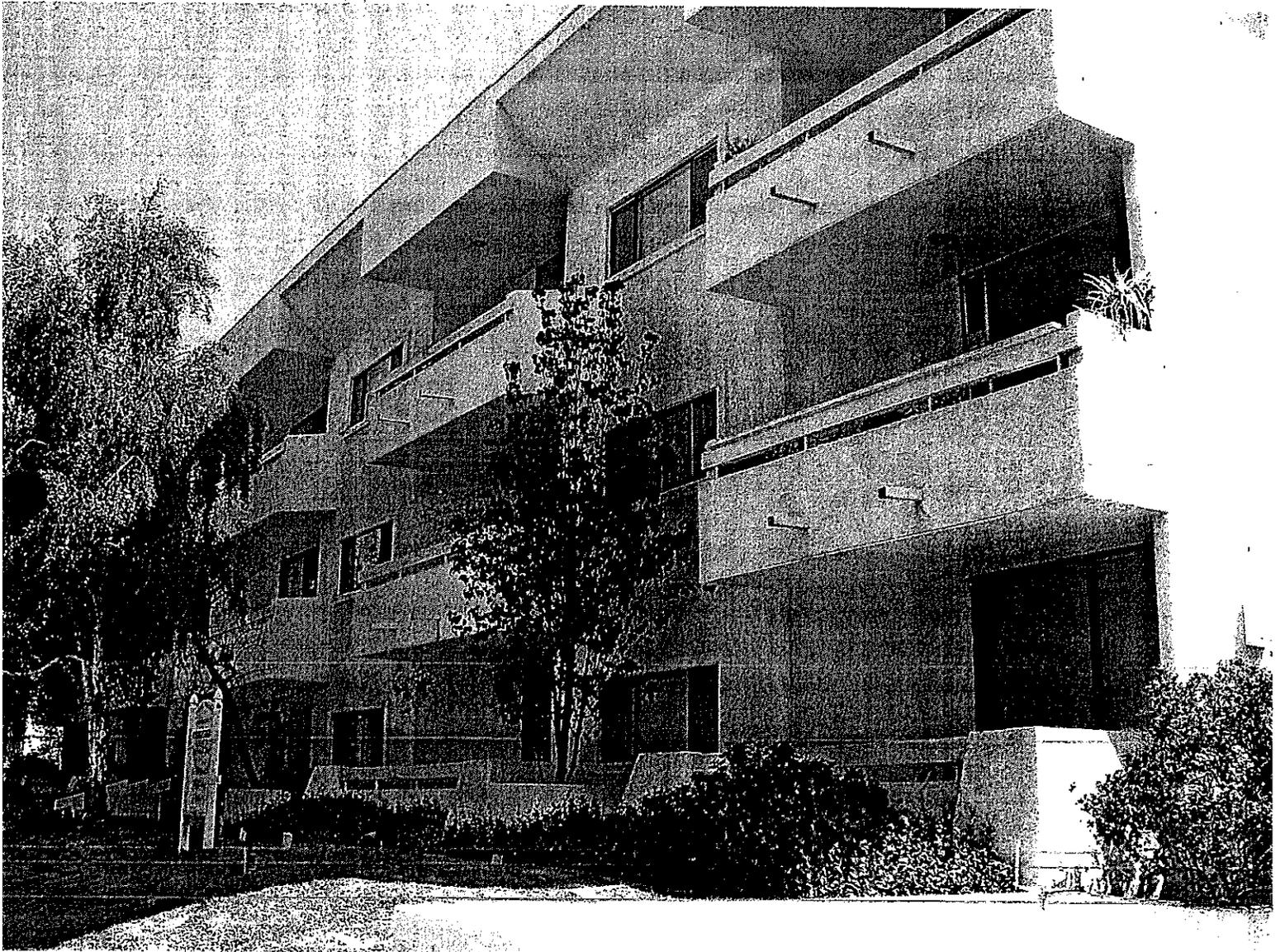
COMMENTS _____

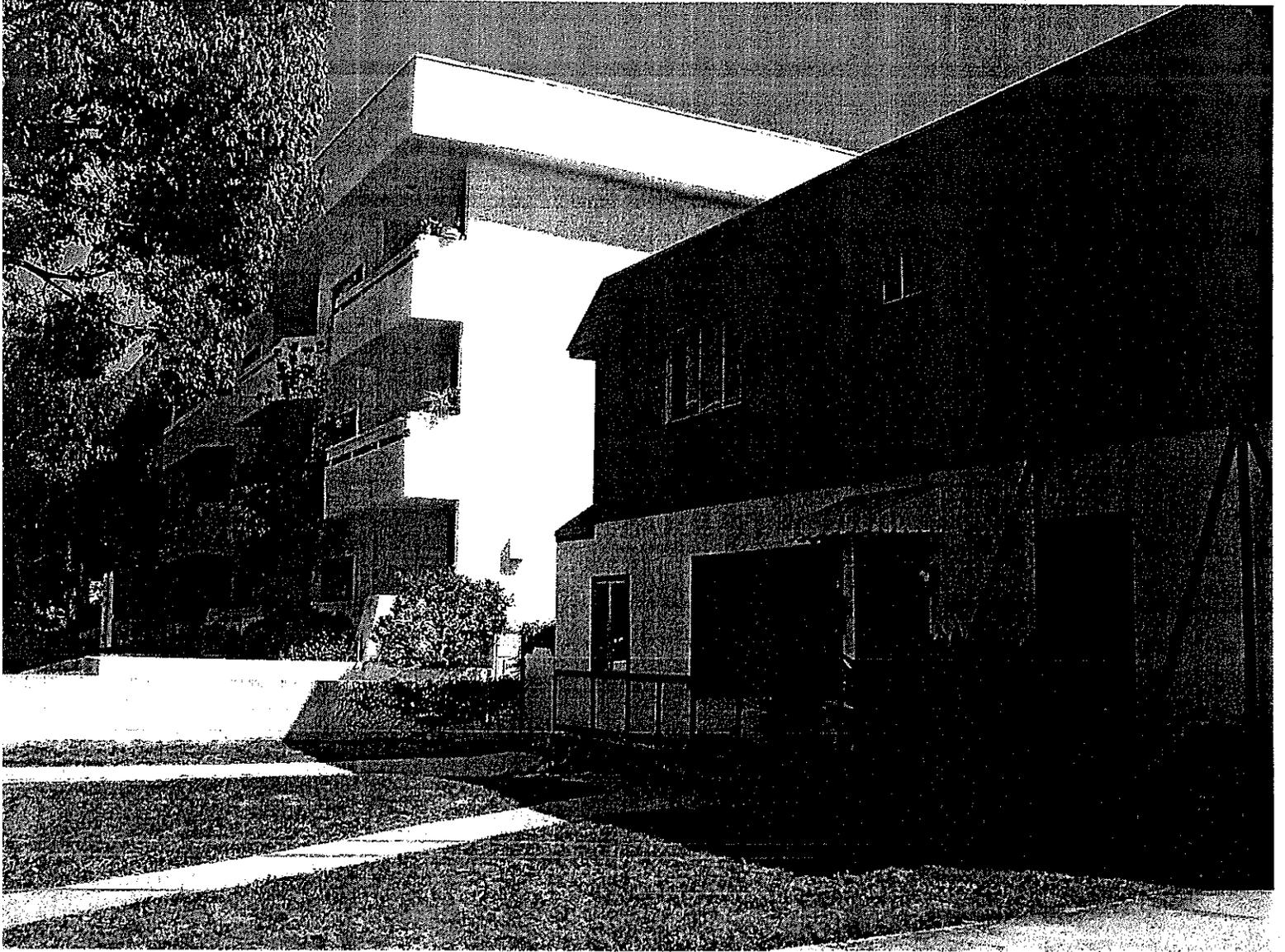
REVIEWED BY Pete Nijzi Date January 14, 08

FEE \$ _____ (See current Planning Department Fee Schedule)



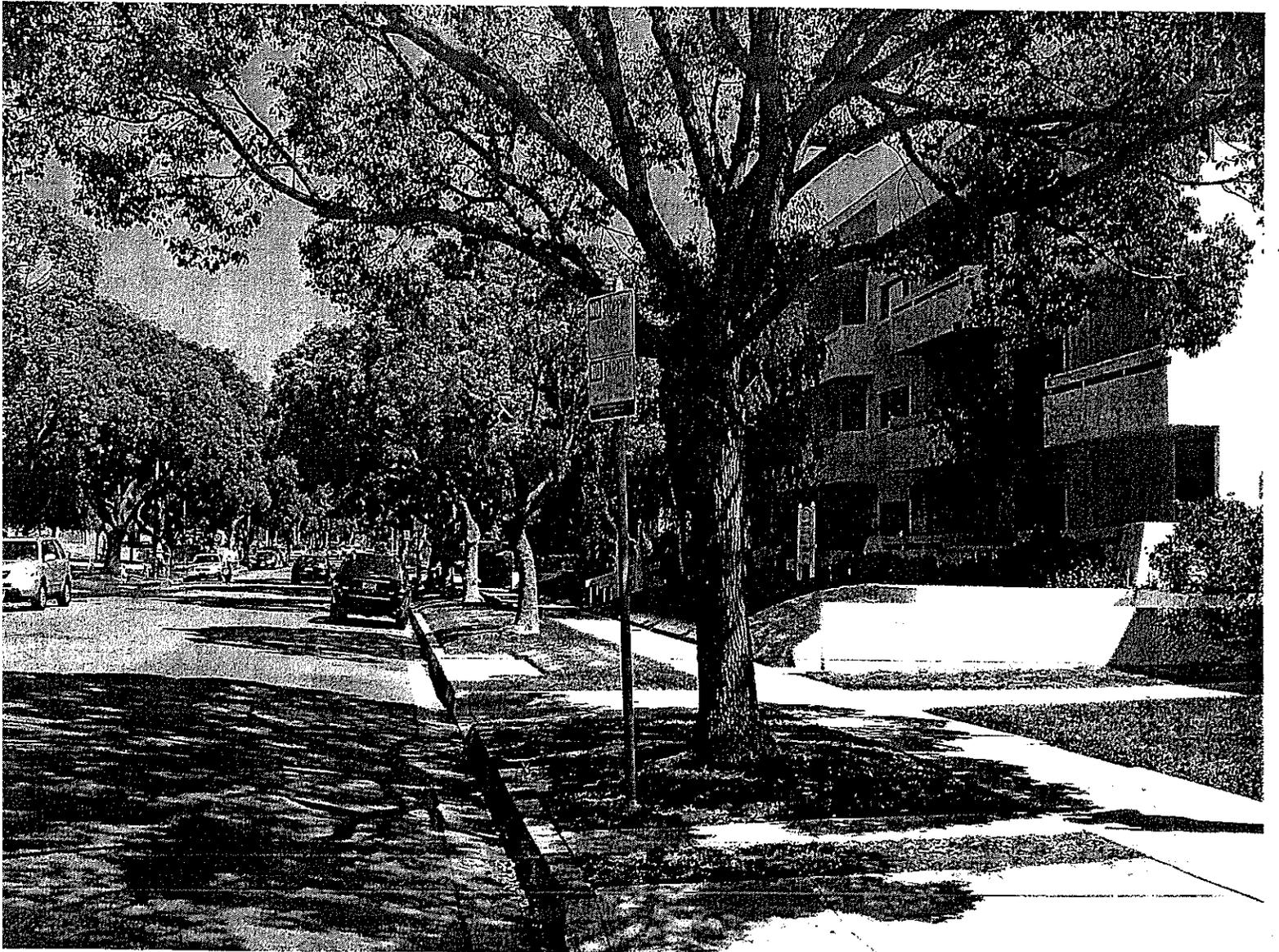


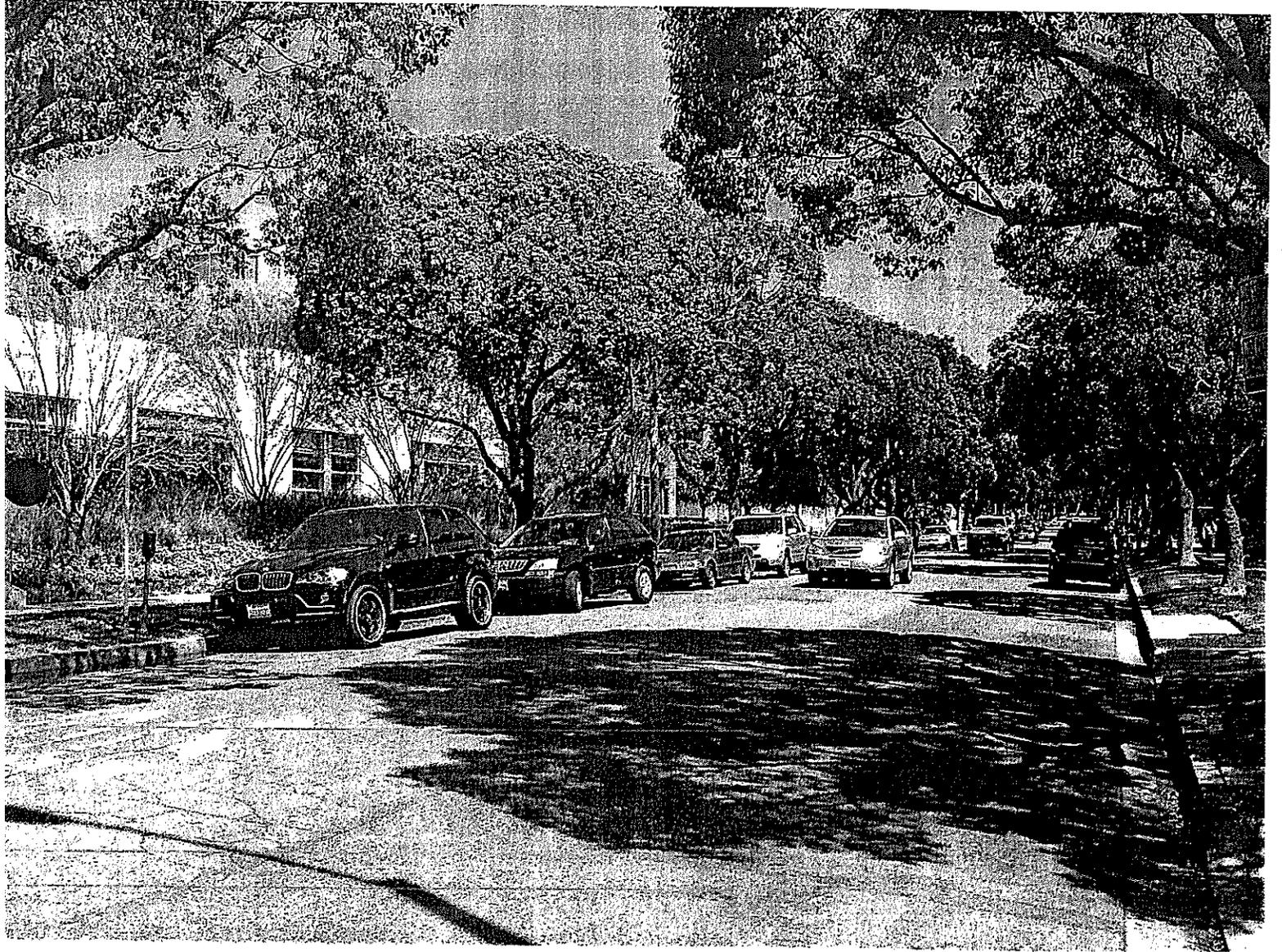


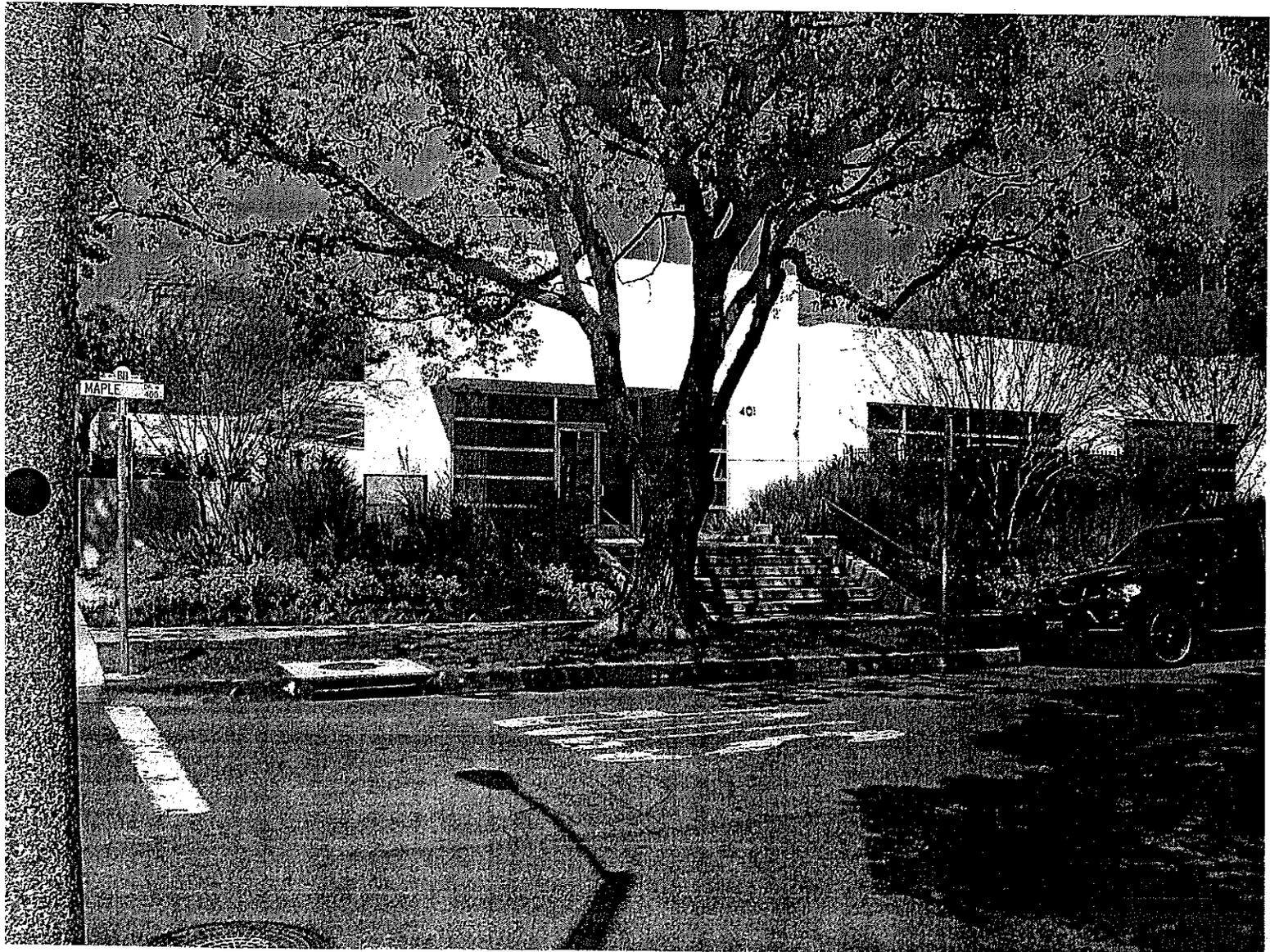


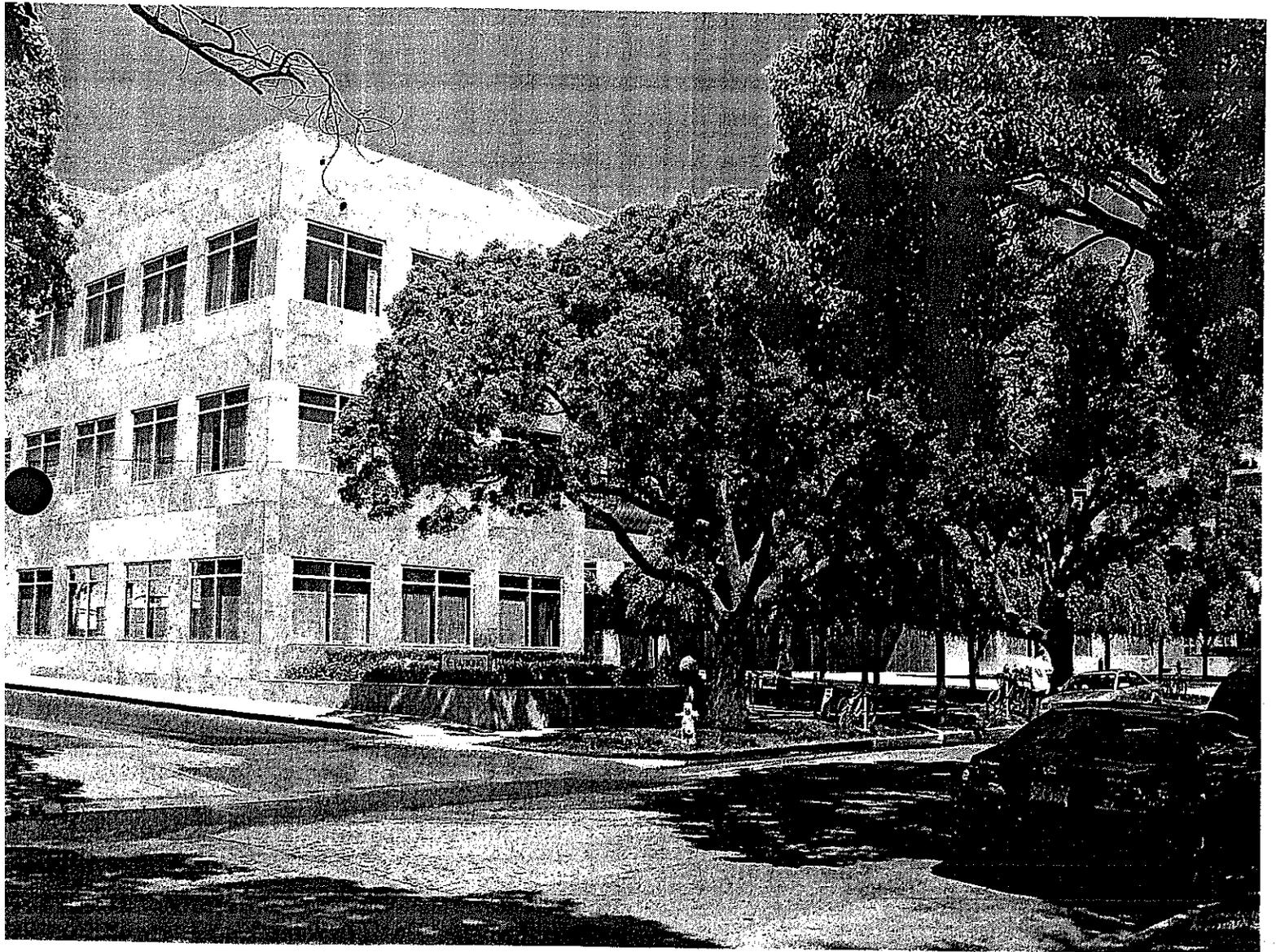












Attachment 5
Applicable Municipal Code Sections

10-2-707: COMPLIANCE WITH CODE PROVISIONS:

- A. Code Compliance Required: Except as otherwise provided by this article, neither a tentative map nor a precise plan of design for a new common interest development project or for the conversion of an existing building to a common interest development or the conversion of an existing common interest development created prior to January 1, 2006, to another form of common interest development shall be approved unless the project will comply with the building codes and zoning regulations and all the other requirements of this code in effect at the time of application.
- B. Exception For Conversion Of Character Contributing Buildings: Notwithstanding the provisions of subsection A of this section, it is recognized that certain multi-family residential buildings that cannot feasibly comply with current building codes and zoning regulations may be of continued value if otherwise allowed to be converted to common interest developments, and upgraded and rehabilitated to generally conform to the provisions of this article and other code requirements.

For the purposes of this article, and all related sections of this code, a character contributing building shall mean any multi-family residential building that the planning commission determines, due to its proportions and scale, design elements, and relationship to the surrounding development, is of continued value and contributes to defining the character of the community as a whole. In making this determination, the planning commission shall make the following findings:

1. The building to be converted is not substantially greater in massing and scale than the surrounding streetscape. In making this determination, the planning commission may compare the relative lot coverage, height and setbacks of the building being converted to the lot coverage, height and setbacks of developments on parcels in the same block.
 2. And either:
 - a. The building to be converted and/or the project site design contribute(s) to community character through the use of: 1) architecturally pure styles that foster congruous designs and details that are similar or complementary in scale and mass to other nearby structures; 2) features visible from the public street, including, but not limited to, courtyards, balconies, open space, building modulation, or any other similar characteristics that, as a result of the conversion, would be maintained, restored or refined in a manner consistent with the general criteria of architectural review set forth in section 10-3-3010 of this title; or
 - b. The interior spaces of the building to be converted contribute to community character through the use of architectural features and high quality construction finishes and features such as crown molding, hardwood floors, fireplaces, stairways, and built in cabinets in individual units; private courtyards, balconies, and/or interior open spaces; interior fountains; or any other similar characteristics or features that, as a result of the conversion, would be maintained, restored or refined in a manner consistent with the general criteria of architectural review set forth in section 10-3-3010 of this title.
- C. Architectural Review Required: Nothing in this article shall relieve a project to convert an existing building to a common interest development from the architectural review

requirements of chapter 3, article 30 of this title. (Ord. 06-O-2497, eff. 4-6-2006)

**Attachment 6
Architectural Plans
(Separate Cover)**