PLANNING COMMISSION MINUTES OF JULY 25, 2005

2005-0556 – **430 Toyama LLC** [Applicant] **Ivy Chi Trustee** [Owner]: Application for related proposals on a 32,000 square-foot site located at **1038 Morse Avenue** (near Toyama Dr) as the second phase of a related development in an MS/ITR/R3/PD (Industrial & Service/ Industrial to Residential/Medium Density Residential/Planned Development) Zoning District. (Negative Declaration) (APN: 110-14-085) JM

- Special Development Permit to develop 17 townhomes, and
- Tentative Map to subdivide one lot into 17 lots and one common lot.

Gerri Caruso, Principal Planner, presented the staff report. She said this project is the second phase of a townhouse project. The first phase was on the lot that wraps around the corner of Toyama Dr. and Morse Ave., but did not include the actual lot at the corner. Phase II of the project fills in the corner. The project is for 17 units and matches the architecture of Phase I. There are a couple of changes to the Conditions of Approval (COA) based on staff's recent conversation with the applicant. COA A.10.a., regarding front facades design will be removed as it applies to Phase I of the development. COA A.12., regarding the outer turning radius on private streets, will be reworded indicating that Phase II needs to meet this requirement. Phase I already accommodates this requirement, only needing a few minor changes and does not need a full redesign. Ms. Caruso noted that staff still recommends COA A.14., regarding reduction of the number of units by 1, as this helps to meet landscaping and open space requirements. The applicant is opposed to this condition. Other than these few minor changes to the COAs, this project substantially matches the Phase 1 portion of the project. Staff is recommending approval in accordance with the Findings and subject to the COAs with the minor changes discussed.

Comm. Simons asked staff, with the reduction of the number of units by 1, does that reduce some of the setback deviations completely or partially. Ms. Caruso said there are still some setback deviations. The reduction in landscaping is acceptable for the architectural elements, but in general the project as a whole still needs to meet some greater landscaping numbers. Comm. Simons asked if it was flexible how the landscaping would be applied or does staff already have an idea of how the extra space would be used. Ms. Caruso said by removing one unit, staff feels that the area could be landscaped to make up the numbers.

Chair Hungerford clarified with staff that reducing the units from 17 to 16 would remove the deviation on the landscaping requirement. Ms. Caruso said that the staff report indicates that the concern of the landscaping would be addressed by reducing the units from 17 to 16.

Comm. Sulser asked if the property being annexed into the project is the location of Excelfab and Compact Media Group businesses. Ms. Caruso said she does not know which businesses are there, but it is the property to the right at the corner of Toyama and Morse. Comm. Sulser noted that both businesses are mentioned as noise impacts in the Noise Assessment Study and that if they were the businesses being annexed then that effectively gets rid of the potential noise impacts.

Trudi Ryan, Planning Officer, answered Chair Hungerford's previous landscape question. She said there is a difference of 2080 sq. ft. in terms of what is provided and what is required. The removal of one unit, some of the surrounding pathways and shortening the driveway, would collectively provide added space near the 2080 sq. ft. additional needed. If the corner were then redesigned, it would allow the applicant to get close to the required 30,144 sq. ft. total landscaping requirement.

Comm. Moylan pointed out that on page 1 of the report, under Staff Recommendation it should read "…including *reduction* of one unit" not redirection. Staff confirmed he is correct.

Comm. Klein referred to page 7 of 16 in the staff report. One of the issues under Design Policy and Guidelines is pedestrian walkways. He said he recalled from Phase I that designing the pedestrian walkways was a critical issue. He noticed multiple references regarding walkways in the COAs, but all walkways appear to be on the streets. Ms. Ryan said she does not know the specific discussion between the planner and applicant regarding the location of pathways, but it would be appropriate to add pathways that would provide some cross-access across the project.

Comm. Babcock commented that the elimination of one unit addresses the landscaping issue, but does not address two of the other major deviations, the distance between buildings, and front setbacks. Ms. Ryan confirmed that the deviations she mentioned would still exist.

Chair Hungerford opened the public hearing.

Dave Gibbons, Vice President of Barry Swenson Builder and the manager of 430 Toyama, LLC, addressed some of the major issues related to COA A.14.a. He said he appreciates staff's assistance with COA 10.A. He referred to the items starred, requested deviations, indicated on the Project Data Table on pages 3 and 4 of the staff report. He commented that the "Distance Between Buildings", is correct and that there is a reduction in Phase II to 11 feet in a couple of instances due to breaking a long building into shorter length buildings. The second deviation, "Front Setback", he said he is not sure how staff is calculating it, but the applicant is being consistent with what was previously approved in Phase 1. The third deviation "Total Landscaping", he said there is a

small error in the total square footage of the site. The report shows it is 151,742 sq. ft., but it is actually 147,799 sq. ft. He said even with this correction they still do not meet the landscaping requirement. He said they are at 19% instead of 20%, but they are exactly consistent with what was approved for Phase 1. One item not starred in the report, but he addressed was the "Usable Open Space/Unit." It indicated that they were counting the area in the front at the corner. It has been recalculated correctly, because they were not supposed to be counting that area, and the new numbers are 422 sq. ft. per unit for both phases instead of the 451. The fourth deviation is the "Frontage Width" which shows Phase II at 10 ft., but by their calculations they are at 18 feet, exactly the same as they had with Phase 1. Ms. Caruso, asked if the projection of the turret would be 10 ft. at the minimum where the largest projection goes out. Mr. Gibbons said they may need to refer to drawings to answer that, but they believe they matched the frontage width from Phase I to Phase II. The fifth deviation, "No. of Accessible" stalls, he said they will definitely add an additional handicapped stall. He commented that he brings all these items up as he thinks they have been consistent with Phase I and feel some of the numbers in the report are not the same as their calculations. He also commented that if they have to lose one unit that it would be a significant blow to the project that might cause them to abandon the Phase II portion. He said he hopes the Commission would consider everything they have brought up and approve the 17 units.

Harriet Rowe, a Sunnyvale resident, commented that this is a development that she does not think is in the best interest of the City. She commented that there are 117 units proposed for the two phases of the projects. She commented that she was not happy with reduction of the meeting area, the front setback deviations, the distance between the buildings, the usable open space, and the common meeting area to be only semi-covered. She said they should have a community room. She said she sees the people who live in these homes as leaving one set of cubicles at work and going to another small cubicle at home.

Ms. Ryan clarified there are only 67 units and not 117 and that the confusion may have resulted from double-counting the Phase 1 units. She said the common area is for the entire project and that the proposed project is going from a 50 unit development to a 67 unit development.

Mr. Gibbons commented that they are not reducing the meeting area and are in fact adding a meeting area that did not exist in Phase I.

Chair Hungerford closed the public hearing.

Comm. Klein asked staff about the numbers of Phase I and Phase II and how they do not equal 67. He asked of the 17 proposed new units, what the breakdown is for sizes. Ms. Ryan said the reason the size of the units for Phase II is not shown is because some of units straddle the current property line. She said the report only shows the change from the previously approved project to

the new project. The numbers that are given for the landscaping and the useable space is the breakdown for the entire project. Comm. Klein pointed out the numbers based on unit counts by bedroom do not total 67.

Chair Hungerford asked for clarification of what the Commission is voting on. Ms. Ryan said the Commission is voting on the expanded project which includes both Phase I and Phase II and that if they reject this proposal Phase I still stands.

Comm. Simons moved for Alternative 2, to adopt the Negative Declaration and approve the Special Development Permit and Tentative Map with modified conditions; to add language to COA C.1.E. that reads "large species trees as appropriate for the site".; to add language to COA A.14. that the space provided "from the reducing the number of units by 1" be put towards the separation of the buildings so there is a full 23 ft. separation as in the other buildings, **and that the rest of the space be added to the frontage if needed, otherwise it can be distributed as general open space.**

Comm. Moylan asked if the wording should include "if possible" as he did not know if by removing the one unit that it would meet the specifications requested on the separation of buildings. After a brief discussion with staff and the Commission, Comm. Simons said the wording regarding the separation of buildings should read **"to maximize the separation between the buildings as much as possible." Comm. Sulser seconded.**

Comm. Simons said he is concerned about the landscaping and commented that in the diagrams the frontage looked even with the Phase I project. He would have requested the extra space go towards the frontage if he thought there was a big difference from Phase I. He would like to see the extra space be added to the distance between the buildings.

Comm. Babcock said she will not be supporting the motion as she feels there are too many discrepancies between the developer's numbers and staff report. She is uncomfortable with the large number of deviations. She would like to see this project go back for a redesign or a change in the report and status.

Comm. Fussell offered a Friendly Amendment to add COA D.6., "Meet minimum accessible parking units to two." This was acceptable to the maker and the seconder.

Comm. Simons said he would like to have a little more discussion. His concern about the frontage is gone. He asked staff why the reduction of the one unit would not add the full separation of the buildings. Ms. Ryan explained the reason why the 20 ft. would not solve all the building separations. Comm. Simons also asked if the removal of the one unit would bring up the total landscaping requirement for Phase I and Phase II. He said he is very concerned about the Stormwater runoff and made lots of notations in the report regarding

special work that needs to be done. Ms. Ryan said that staff felt that there are techniques to assure that Phase II can meet the Stormwater requirements.

Final Motion:

Comm. Simons made a motion on Item 2005-0556 for Alternative 2, to adopt the Negative Declaration and approve the Special Development Permit and Tentative Map with modified conditions; to add language to COA C.1.E., "large species trees as appropriate for the site"; to add language to COA A.14. that the space provided from the reduction of the number of units by 1, be put towards maximizing the separation between the buildings as much as possible with the rest of the space to be added to the frontage, if needed, otherwise to be distributed as general open space; addition of COA D.6. to read, "Meet minimum accessible parking units to two." Comm. Sulser seconded.

Motion carried 4-3, Chair Hungerford, Comm. Babcock and Comm. Klein dissenting.

This is appealable to the City Council no later that August 9, 2005.