

**Council Meeting: January 29, 2007**

SUBJECT: **2007-1106 - Nathan Merlin** [Applicant] **Two Corners LLC** [Owner]: Application for related proposals located at **1202-1204 Cortez Drive and 189-191 South Bernardo Avenue** in an R-3 (Medium-Density Residential) Zoning District.

Introduction of an Ordinance Rezone from R-3 (Medium Density Residential) to R-3/P-D (Medium-Density Residential/Planned Development) Zoning District,

Motion Special Development Permit to allow the construction of eight townhomes,

Motion Tentative Map to subdivide two lots into eight lots and one common lot, and

Motion Variance from Sunnyvale Municipal Code section 19.38.030 to allow individual solid waste and recycling carts instead of a centralized waste enclosure.

REPORT IN BRIEF

Existing Site Conditions Fourplex

Surrounding Land Uses

North Fourplex

South Apartments

East Single Family Homes

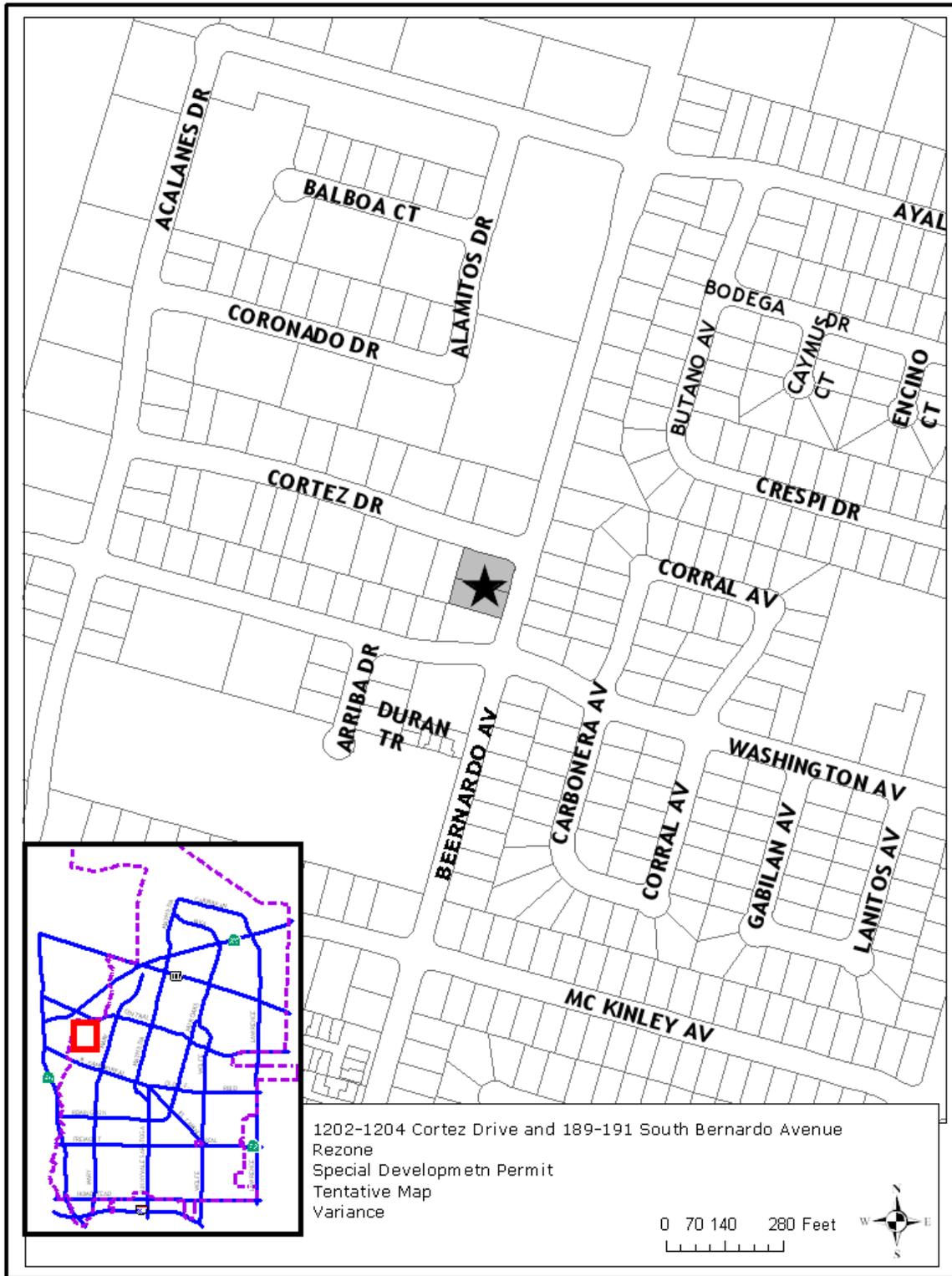
West Apartments

Issues Centralized Trash Enclosure, Setbacks, Usable Open Space

Environmental Status A Negative Declaration has been prepared in compliance with California Environmental Quality Act provisions and City Guidelines.

Planning Commission Recommendation Approve the Rezoning, Special Development Permit, and Tentative Map. Deny the Variance.

Staff Recommendation Approve with Conditions in accordance with Planning Commission Recommendation



PROJECT DATA TABLE

| | EXISTING | PROPOSED | REQUIRED/ PERMITTED |
|---|----------------------------|--|--------------------------------|
| General Plan | Residential Medium Density | Same | Residential Medium Density |
| Zoning District | R-3 | R-3/PD | By Rezone |
| Lot Size (s.f.) | 17,434 | Same | 8,000 min. |
| Gross Floor Area (s.f.) | 6,503 | 16,945 | No max. |
| Lot Coverage (%) | 37.3% | 39.8% | 40% max. |
| Floor Area Ratio (FAR) | 37.3% | 97.2% | No max. |
| No. of Units | 4 | 8 | 9 max. |
| Density (units/acre) | 7.5 | 20 | 24 max. |
| Meets 75% min? | No | Yes | 7 min. |
| Bedrooms/Unit | 2-3 | 3 | --- |
| Unit Sizes (s.f.) (incl. garage) | Approx 1,700 per unit | Unit Style A: 2,044 Unit Style B: 2,281 | N/A |
| No. of Buildings On-Site | 2 | 2 | --- |
| Distance Between Buildings | 14' | 26' at garage level (20'10" at third story) | 20' min. |
| Building Height (ft.) | Approx. 12' | 34' | 35' max. |
| No. of Stories | 1 | 3 | 3 max. |
| Setbacks (for each story) | | | |
| Front (Cortez Drive) | 11' | 21' | 20' min. |
| Left Side | 20' | 12' | 6' min. (15' combined) |
| Right Side (S. Bernardo Ave) | 20' | 15' | 20' min. |
| Rear | 12' 6" | 20' | 20' min. |
| Landscaping (sq. ft.) | | | |
| Total Landscaping | Unknown | 5,447 | 3,400 min. |
| Landscaping/Unit | Unknown | 681 | 425 min. |
| Usable Open Space/Unit | Unknown | 267 | 400 min. |
| Frontage Width (ft.) | 11' | 15'-21' | 15 ft. min. |
| Parking | | | |
| Total Spaces | 8 | 20 | 20 min. |
| Covered Spaces | 4 | 16 | 16 min. |
| Aisle Width (ft.) | N/A | 26' | 26' min. |
| Stormwater | | | |
| Impervious Surface Area (s.f.) | 13,368 | 9,970 | N/A |

| | EXISTING | PROPOSED | REQUIRED/ PERMITTED |
|-----------------------------------|-----------------|-----------------|--------------------------------|
| Impervious Surface (%) | 77% | 57% | N/A |

★ Starred items indicate deviations from Sunnyvale Municipal Code requirements.

ANALYSIS

Description of Proposed Project

The proposed project includes the demolition of the existing fourplex and the construction of eight townhomes. In order to consider deviations from Municipal Code requirements, the site requires rezoning to R-3/PD (Medium Density Residential/Planned Development). A Variance application is proposed to consider individual trash and recycling bins for each unit, rather than a centralized trash enclosure, as required by Sunnyvale Municipal Code Section 19.38.030 for residential developments of four or more units. A Tentative Map is proposed for the individual ownership lots and common lot.

Background

Previous Actions on the Site: There are no previous planning actions related to the site.

A similar project (2007-1107) is concurrently being proposed at 185 S. Bernardo Avenue directly north of the site. That proposal mirrors this project and contains slight differences in layout and design.

On December 10, 2007, the Planning Commission reviewed the project and voted 5-1 to recommend approval of the Special Development Permit, Rezone and Tentative Map. The Variance request was recommended for denial. More discussion is noted in the “Public Contact” section of this report.

Environmental Review

A Negative Declaration has been prepared in compliance with the California Environmental Quality Act provisions and City Guidelines. An initial study has determined that the proposed project would not create any significant environmental impacts (see Attachment C, Initial Study)

Rezoning

Discussion of Rezoning: The applicant is requesting a Planned Development Combining District (PD) in conjunction with the existing R-3 zoning for the site.

The request does not change the permitted density of the site but instead is a common tool utilized throughout Sunnyvale for the development of infill and small lot development projects. PD is intended to allow for flexibility in meeting the City's development standards and in some instances to place stricter controls on new development. The applicant may propose deviations to the zoning standards through the requested Special Development Permit.

Below are the City Council Policy Guidelines from 1998 for approving a PD zoning request

- *To facilitate development or redevelopment of a site to improve the neighborhood.* (The PD facilitates the development of ownership units on substandard lots while staying within required density ranges)
- *To allow for a proposed use that is compatible with the neighborhood but requires deviations from development standards for a successful project.*
- *To allow for the development and creations of lots that are less than the minimum size required in the base zoning district.*

The project involves a complete redevelopment of the project site. In order to design a residential project on a relatively small lot of this type, certain deviations will be necessary to allow for design elements such as a three story building and narrow driveway access. Deviations required of the project are discussed in the following section of this report.

Special Development Permit

Site Layout: The site is a corner lot at Bernardo Avenue and Cortez Drive. The proposed layout consists of two buildings, each with four units. One building faces Bernardo Avenue while the second building would be parallel to the other and face a private street. A driveway to the development is positioned off of Cortez Drive.

The applicant requests a deviation from front yard setback requirements for each story. Due the corner lot layout, the site contains two front yards that each requires a 20' setback. The site meets the setback requirement along Cortez Drive while a minimum 15' setback is provided along Bernardo Avenue. The design of the homes allow for a various insets and articulation and setbacks increase to 18'6" at portions within each story. Near the corners, the building is inset a few additional feet.

A survey of the surrounding neighborhood indicates similar building setbacks as the proposed development along Bernardo Avenue (See Applicant's Justifications in Attachment E). Specifically, development on corner lots along the west side of S. Bernardo Avenue, which are Zoned R-3, all have setbacks

less than the minimum 20'. In most cases, the setbacks are less than what is proposed for the project.

Each of the units has two-car garages that are positioned towards the private street. Pedestrian entrances to the central units are positioned directly off Bernardo Avenue for the front building and towards a pedestrian walkway at the rear building. For corner units the pedestrian entrances are positioned toward the side; therefore entrances for two units are seen from Cortez Drive.

Floor Plan: The development offers two different floor plans, each with three bedrooms and three bathrooms. The units range from approximately 2,044 s.f. to 2,282 s.f. including garages. The two buildings contain four units and mirror each other in layout. Differences are noted within the layouts of the patio areas provided for each unit. For one type of unit, an office area is provided (Unit Style “B”). To ensure that this room is not converted to a bedroom, staff has required Condition of Approval #1G which requires that this room remain open to the living room as it is currently proposed. Another bedroom would have required additional parking. Each unit contains a storage area (or “basement/crawl space” as noted on the plans) adjacent to the garage area. The garage level of the units will be approximately 3 feet below the grade of the top of curb.

Easements and Undergrounding: The Public Works Department is requiring an 11' right-of-way and 10' public utility easement along the project frontage on Bernardo and Cortez. Staff has confirmed with the Public Works Department that the proposed fencing will not conflict with this easement. Per Condition of Approval #16A, all existing and proposed utilities shall be undergrounded, including boundary lines and service drops.

The following Guidelines were considered in analysis of the project site design.

| Design Policy or Guideline (Site Layout) | Comments |
|--|--|
| <i>City-wide Design Guidelines B1. Locate site components such as structures, parking, driveways, walkways, landscaping and open spaces to maximize visual appeal and functional efficiency.</i> | The site layout allows for a stronger visual and pedestrian connection along Bernardo with vehicular access along Cortez Drive. Unassigned guest parking is hidden from public view at the rear of the site. |
| <i>B10. Provide convenient and safe pedestrian and automobile access to the site from adjacent streets.</i> | Vehicular access to the site is taken from the smaller arterial street Cortez Drive to ensure a more efficient and safe connection. |

Architecture: The proposed townhomes are contemporary in style and offer a variety of interesting elements along each façade. A painted stucco material is utilized along each elevation with stone veneer incorporated throughout. At the

corners of the buildings, the stone treatment is utilized more significantly to add interest to the design. The units also include windows that vary in shape and size. Gabled and hipped roof elements help break up the mass of the structure. Brackets are also incorporated to add relief along the roof line. The townhomes are three stories and reach a peak of 34’ in height as measured from the top of curb. In response to comments from the Planning Commission Study Session, the applicant has modified the plans including adding shutters around certain windows and arcuated detailing with a projecting keystone over the entryway doors. The applicant is also considering modifying the color selection. To address concerns by the Planning Commissioners, staff has included Condition of Approval #4B to consider more variety in color selection and the use of less beige as originally proposed.

The proposal includes decorative fencing delineating patio areas for each of the units and will be either prominently located along the S. Bernardo Avenue or at the rear of the site for units not along the street. These 4’6” fences are composed with stucco and wrought-iron railing.

The following Guidelines were considered in the analysis of the project architecture.

| City-Wide Design Guidelines (Architecture) | Comments |
|--|--|
| <p><i>II Building Design: Buildings shall enhance the neighborhood and be harmonious in character, style, scale, color and material with existing buildings in the neighborhood.</i></p> | <p>The proposed architecture upgrades the visual aesthetics of the neighborhood with high quality design and detailing while utilizing similar materials and color that is evident in the surrounding multi-family neighborhood.</p> |
| <p><i>B1. Break up large buildings into groups of smaller segments whenever possible, to appear smaller in mass and bulk.</i></p> | <p>The two four-unit buildings are designed such that horizontal and vertical massing is broken up with various pop-outs and change in materials.</p> |

Landscaping/Open Space: The R-3 Zoning District requires a minimum of 425 square feet of total landscaping per unit. The site exceeds this requirement by providing 681 square feet per unit. The proposed usable open space consists of small patio areas that vary in size amongst each unit. The two corner units of the rear building contain two outdoor terraces. These areas could allow for outdoor picnic and seating areas. Within the usable open space a pedestrian walkway connects four units and a bicycle rack at the corner of the site. The proposal does not meet the minimum 400 square feet per unit of usable open space. Sunnyvale Municipal Code defines usable open space as an outdoor or unenclosed area on the ground, roof, balcony, porch, pool area or recreation building, which is accessible for outdoor recreation, landscaping or pedestrian

access. For an area to be considered usable open space, it must have the following characteristics:

- Required front yards – cannot be counted towards usable open space.
- Side and rear yards – must be 12 ft. in any direction and 200 sq. ft. minimum total area.
- Roofs, decks or porches – must be 10 ft. in any direction and 120 sq. ft. minimum total area.
- Private balconies – must be 7 ft. in any direction and 80 sq. ft. minimum total area.

As a corner lot with two front yards, this condition significantly limits the area on the site that can be counted towards the open space requirement. Per code, the site provides only 267 s.f. of usable open space per unit. If one of the street side yards could be counted, a total of 524 s.f. would be provided. Page 4 of Attachment D illustrates how usable open space is calculated. The applicant has modified the project to increase usable open space for the project. To achieve conformance to this code requirement, a reduction in overall units would have to be considered. Given the layout of the site and that overall landscaping exceeds requirement by almost 300 feet per unit, staff finds that this deviation is reasonable to consider. Staff has found that the current sizes of the proposed units are similar to other small lot townhouse development that has been recently approved in the City; however, a modest increase to usable open space could also be achieved through further reduction in the size of the units.

The site currently has 12 trees including those positioned along the street. Four of these trees are considered “protected.” Protected trees are those that measure 38 inches or greater in circumference when measured at four feet and six inches from the ground. Most of the trees on the interior lot are fruit and palm trees and will be removed. New trees are planned for the interior of the site. Conditions of Approval require that 10% of the trees are 24-inch box or greater. A majority of the street trees will remain with exception of a pistache tree which is positioned adjacent to a driveway cut along Cortez Drive. Two new pistache trees will be planted along this frontage.

The following Guidelines were considered in analysis of the project landscaping.

| City-Wide Design Guidelines (Landscaping) | Comments |
|---|---|
| <p><i>A4 Properly landscape all areas not covered by structures, driveways and parking.</i></p> | <p>A preliminary landscaping plan indicates new trees and groundcover at various locations of the site. All areas not dedicated to structures, driveway or access requirements are noted as landscaped.</p> |

Parking/Circulation: The project complies with the parking requirements by providing two covered parking spaces per unit and four unassigned spaces. These unassigned spaces are located at the rear of the lot. A new private street composed of pervious pavers would allow for access from Cortez Drive. The driveway area complies with Zoning Code requirements for aisle width and backup distance. A pedestrian path links the units at the rear of the site to Cortez Drive.

The Municipal Code (SMC 19.46.050) establishes a requirement for secured bicycle parking. As a matter of practice, the City uses the VTA Bicycle Technical Guidelines as the standard for both covered/enclosed (Class I) and uncovered/rack (Class II) bicycle parking for new developments. Standard practice has determined that developments with fully enclosed garages satisfy the covered/secured parking requirement. The current site plan includes fully enclosed garages for each unit. In addition, the applicant has provided a bicycle rack location at the southwest corner of the site.

Variance: Sunnyvale Municipal Code Section 19.38.030 requires a centralized trash enclosure for multi-family developments of four or more units. A Variance is required to grant an exemption from providing an enclosure. The applicant states that for this particular development a centralized location is not appropriate and would detract visually and functionally from the project. (See Applicant’s Justification in Attachment E.) Additional garage area has been provided to accommodate storage area for individual trash and recycling bins. The applicant has stated that due to issues such as identity theft, individuals prefer more control over the security of their trash. The applicant has also pointed out that existing nearby developments have been approved without centralized enclosures. A recent subdivision developed on Bernardo allowed the use of individualized bins. The analysis noted concerns with aesthetic compatibility if an enclosure is positioned at the front of the lot along Bernardo and access mobility concerns at the rear of the site.

Although options are limited, a possible location for a centralized bin within the current layout would be adjacent to the private street near the entrance to the site. The applicant notes that this location is not desirable given its visibility to

the public street. A location at the rear of the site is not ideally accessible and would result in a loss in parking. The Solid Waste Division has stated that a centralized location is strongly desired for the proposed development. Staff finds that an enclosure could be designed architecturally to match the homes so that the facility will not visually stand out from the public right of way. A front entrance location, however, would result in a deviation from front yard setbacks along Cortez Drive. Furthermore, a loss of landscaping and open space for the site would also result.

If individual solid waste and recycling carts are approved, adequate space will need to be allocated for the carts on garbage collection days. A possible staging area on the site could be a location adjacent to the buildings near Cortez Drive just beyond either side of the proposed drive aisle. Otherwise a location along Cortez Drive at the west side of the intersection of the private street could be appropriate. A specific location would be considered in consultation with the Solid Waste Division staff. The carts would only be permitted along this street on the days they are to be serviced.

Compliance with Development Standards/Guidelines: The site meets most development standard except for front yard setbacks along S. Bernardo Avenue, usable open space and lack of a centralized trash enclosure.

Expected Impact on the Surroundings: The proposal would allow for an increase in density from four units to eight townhomes. The number of units conforms to the R-3 Zoning District, and staff does not find the increase to be significant. The proposed density is more in character with neighborhood pattern to the west. Visually, the new units will have an impact to the area as compared to the existing one-story homes that lie on the site. Two-story structures are located nearby that compare similarly in overall height to the proposed three-story townhomes. Other three-story homes have been built along Bernardo Avenue closer to El Camino Real that compare similarly in height. As noted in the report, the architecture introduces high quality materials and design that should have a beneficial impact to the surrounding neighborhood.

Tentative Map

Description of Tentative Map: The project includes the subdivision of two parcels into eight lots and one common lot. Connections to utilities will be done in accordance with City standard specifications. All required public right-of-way dedications will be provided by the project. The common lot will be maintained by a Home Owners Association.

Fiscal Impact

No fiscal impacts other than normal fees and taxes are expected. A traffic impact fee is assessed for the net gain of four units resulting in an estimated fee of \$4,746.84. The Park Dedication in-lieu fees are required for the eight units/lots for an approximate fee of \$75,271.68, or approximately \$9,408.96 per unit. Park dedication fees must be paid prior to approval of the final map.

Public Contact

Since the public hearing, staff received a letter from a nearby resident along Bernardo Avenue. The letter notes a concern with increased traffic that could result from the new development. The letter is included in Attachment H. As noted in the report and within the Negative Declaration, the proposed density is in accordance with the current zoning designation of the site and the increased density should not significantly increase traffic in the area.

Planning Commission Study Session: The project was introduced to the Planning Commission at a study session on November 12, 2007. At the study session, Commissioners had a variety of opinions regarding the project. Concerns were noted regarding usable open space, density, setbacks, and architecture. Although meeting requirements, a concern was noted regarding parking. Most commissioners stated a preference for a centralized trash enclosure location. Since the Study Session, the applicant has revised the proposal to provide an increased setback from Bernardo (from 13' 6" to 15') which in turn increases usable open space. Lot coverage was reduced below 40%, which had originally been a proposed deviation. Additionally, the area at the rear of the site has been increased to provide more open space.

Planning Commission Public Hearing: On December 10, 2007, the Planning Commission considered the project and voted 5-1 to recommend approval of the Special Development Permit, Rezone and Tentative Map. The Variance request was recommended for denial. Prior to the final motion, a motion to approve the project and Variance failed by a 4-2 vote. Much of the discussion during the public hearing related to the issues of a centralized trash enclosure. Modified conditions were included in the final motion and are noted in bold, italics in Attachment B. These conditions included the following:

- Condition of Approval #1F.2 to review with staff an alternative location for the trash enclosure other than within the front setback.
- Condition of Approval #3C.10 to require a minimum 25% and up to 50% of the unassigned spaces to be marked as "guest." The Homeowner's Associations shall determine the definition and parking timeframes of a guest.

Since the public hearing, the applicant has met with staff to further explore alternative locations for the trash enclosure. A possible location at the opposite side of the site next to the units is being considered. This location would be considered ideal in terms of its internal location and minimal visibility from the public street. Consideration is being given to ensure that adequate access exists for pick-up service at this possible location. The applicant prefers the current plan with individual bins and pick-up service; therefore the Variance application has not been withdrawn.

| Notice of Negative Declaration and Public Hearing | Staff Report | Agenda |
|---|--|--|
| <ul style="list-style-type: none"> • Published in the <i>Sun</i> newspaper • Posted on the site • 321 notices mailed to the property owners and residents within 300 ft. of the project site | <ul style="list-style-type: none"> • Posted on the City of Sunnyvale's Website • Provided at the Reference Section of the City of Sunnyvale's Public Library | <ul style="list-style-type: none"> • Posted on the City's official notice bulletin board • City of Sunnyvale's Website |

Conclusion

Discussion: The primary issues of this proposal relate to usable open space, setbacks and the lack of a centralized trash and recycling enclosure. The project has been modified to increase usable open space and setbacks, by reducing the depth of the units; however the proposal still does not meet Municipal Code Standards. The revised proposal has reduced the requested deviations through increased front yard setbacks and conforming lot coverage. Although a deviation exists for usable open space, staff finds that the modifications have significantly improved the project. Alternatively, a proposal for apartments or condominium flats (units on a single floor) may produce a project with few or no deviations. The developer has noted that it would likely consist of more units for the site in order to make investment in the site financially feasible as townhouse style units produce a higher rate of profits than flats. The townhouse style of development has been the typical and preferred style of development for home ownership within the R-3 Zoning District by residential builders in the city.

Due to the size and configuration of the lot with two street frontages, a site layout composed for townhouse development is challenging to design that meets all zoning standards. Staff finds that deviations have been reduced adequately to create optimal use of the site. The townhouse development enables a modest increase in the number of units for the site while meeting R-3 Zoning density. As stated in the report, staff cannot support the individual

trash and recycling bins for the units and have required placement of a centralized location on the plan per Conditions of Approval.

Findings and General Plan Goals: Staff was able to make the required Findings based on the justifications for the Special Development Permit. Staff was not able to make the Findings for the Variance. Findings and General Plan Goals are located in Attachment A.

Conditions of Approval: Conditions of Approval are located in Attachment B.

Alternatives

1. Adopt the Negative Declaration and introduce an Ordinance to Rezone 1202 - 1204 S. Bernardo Avenue and 189 - 191 S. Bernardo Avenue from R-3 to R-3/PD and approve the Special Development Permit and Tentative Map for eight units and one common lot with attached conditions and deny the Variance for individual trash & recycling carts.
2. Adopt the Negative Declaration and introduce an Ordinance to Rezone 1202 - 1204 S. Bernardo Avenue and 189 - 191 S. Bernardo Avenue from R-3 to R-3/PD and approve the Special Development Permit and Tentative Map for eight units and one common lot with modified conditions and deny the Variance for individual trash & recycling carts.
3. Adopt the Negative Declaration and introduce an Ordinance to Rezone 1202 - 1204 S. Bernardo Avenue and 189 - 191 S. Bernardo Avenue from R-3 to R-3/PD and approve the Special Development Permit, Tentative Map for eight units and one common lot and approve the Variance for individual trash & recycling carts. with attached conditions (except C.O.A #15A)
4. Do not adopt the Negative Declaration and direct staff as to where additional environmental analysis is required.

Recommended Findings - Special Development Permit

Goals and Policies that relate to this project are:

Land Use and Transportation Element

Policy C2.2 *Encourage the development of ownership housing to maintain a majority of housing in the City for ownership choice.*

Policy N1.2 *Require new development to be compatible with the neighborhood adjacent land uses and the transportation system.*

Housing and Community Revitalization Sub-Element

Policy C.1 *Continue efforts to balance the need for additional housing with other community values, such as preserving the character of established neighborhoods, high quality design, and promoting a sense of identity in each neighborhood.*

Goal D *Maintain diversity in tenure, type, size and location of housing to permit a range of individual choices for all current residents and those expected to become city residents.*

1. The proposed use attains the objectives and purposes of the General Plan of the City of Sunnyvale as the project provides a compatible development in terms of density and architectural design. The project meets most development standards and provides additional ownership housing opportunities and reinvestment in an existing medium density neighborhood.
2. The proposed use ensures that the general appearance of proposed structures, or the uses to be made of the property to which the application refers, will not impair either the orderly development of, or the existing uses being made of, adjacent properties as the proposal is more compatible in density to adjacent residential development. The architecture of the new development complements as well as enhances the neighborhood. The proposal may encourage additional reinvestment and redevelopment in the surrounding area.

Recommended Findings - Tentative Map

In order to approve the Tentative Map, the proposed subdivision must be consistent with the general plan. Staff finds that the Tentative Map is in conformance with the General Plan. However, if any of the following findings can be made, the Tentative Map shall be denied. Staff was not able to make any of the following findings and recommends approval of the Tentative Map.

1. That the subdivision is not consistent with the General Plan.
2. That the design or improvement of the proposed subdivision is not consistent with the General Plan.
3. That the site is not physically suitable for the proposed type of development.
4. That the site is not physically suitable for the proposed density of development.
5. That the design of the subdivision or proposed improvements is likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
6. That the design of the subdivision or type of improvements is likely to cause serious public health problems.
7. That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision.
8. That the map fails to meet or perform one or more requirements or conditions imposed by the "Subdivision Map Act" or by the Municipal Code

Recommended Findings - Variance

1. Because of exceptional or extraordinary circumstances or conditions applicable to the property, or use, including size, shape, topography, location or surroundings, the strict application of the ordinance is found to deprive the property owner or privileges enjoyed by other properties in the vicinity and within the same zoning district. *(Finding Not Met)*

The corner lot configuration and current site layout limits options on the site, however an enclosure can be located and designed appropriately to meet the intent of the ordinance.

2. The granting of the Variance will not be materially detrimental to the public welfare or injurious to the property, improvements or uses within the immediate vicinity and within the same zoning district. *(Finding Met)*

Approval of the Variance for individual trash bins would have little impact to nearby development if maintained and regulated appropriately by the Homeowners Association.

3. Upon granting of the Variance, the intent and purpose of the ordinance will still be served and the recipient of the Variance will not be granted special privileges not enjoyed by other surrounding property owners within the same zoning district. *(Finding Met)*

The neighborhood contains a mix of developments that contain either a centralized trash and recycling enclosure or individualized bins. Generally the larger developments contain a centralized enclosure while smaller developments such as duplexes do not. A recent six unit townhouse development that was built further south on Bernardo was approved without this facility. Staff found that this particular project has more limited location options than the proposal at this site. In that case, an enclosure was either be difficult to access at the rear of the site or would have more significant visual impact along the only street frontage on Bernardo Avenue.

Recommended Conditions of Approval - Special Development Permit

In addition to complying with all applicable City, County, State and Federal Statutes, Codes, Ordinances, Resolutions and Regulations, Permittee expressly accepts and agrees to comply with the following conditions of approval of this Permit:

Unless otherwise noted, all conditions shall be subject to the review of approval of the Director of Community Development.

1. GENERAL CONDITIONS

- A. Project shall be in conformance with the plans approved at the public hearing(s). Minor changes may be approved by the Director of Community Development, major changes may be approved at a public hearing.
- B. Any major site and architectural plan modifications shall be treated as an amendment of the original approval and shall be subject to approval at a public hearing except that minor changes of the approved plans may be approved by staff level by the Director of Community Development.
- C. The Conditions of Approval shall be reproduced on a page of the plans submitted for a Building permit for this project.
- D. The Special Development Permit shall be null and void two years from the date of approval by the final review authority at a public hearing if the approval is not exercised, unless a written request for an extension is considered and approved prior to expiration date.
- E. To address storm water runoff pollution prevention requirements, an Impervious Surface Calculation worksheet is required to be completed and submitted for the California Regional Water Quality Control Board prior to issuance of a Building Permit.
- F. This Special Development Permit is valid only in accordance with the approved plans. Specific deviations allowed with this Special Development Permit are as follows:
 1. Front yard setbacks for each story of 15' where 20' is required along S. Bernardo Ave.
 2. Front yard setback for centralized trash and recycling enclosure, if Variance denied and recommended location is approved near Cortez Drive; ***however an alternative location for the trash enclosure, other than within the front setback, shall first be considered and reviewed with staff.***

Recommendation

Alternative 1.

As conditioned, the proposed development is compatible with the surrounding development in terms of architectural design and site layout. The project meets density requirements and most development standards. The project will introduce high quality architectural design within an older multifamily residential neighborhood and may help encourage reinvestment to the surrounding area.

Reviewed by:

Hanson Hom, Director, Community Development

Prepared by: Ryan M. Kuchenig, Project Planner

Reviewed by Trudi Ryan, Planning Officer

Approved by:

Amy Chan

City Manager

Attachments

- A. Recommended Findings
- B. Recommended Conditions of Approval
- C. Negative Declaration
- D. Site and Architectural Plans
- E. Justifications from the Applicant
- F. Draft Rezoning Ordinance
- G. Planning Commission Minutes of 12/10/07
- H. Letter from Nearby Resident

3. The individual usable space per unit is not met with 267 s.f. where 400 s.f. is required.
- G. The office area designated on Unit Style "B" shall remain open to the living room areas and shall not be converted to a bedroom.
- H. Execute a Special Development Permit document prior to issuance of the building permit.

2. COMPLY WITH OR OBTAIN OTHER PERMITS

- A. Obtain necessary permits from the Development Permit from the Department of Public Works for all proposed off-site improvements.
- B. Obtain approval from the Crime Prevention Division of Public Safety Department for crime prevention measures appropriate to the proposed development prior to issuance of a Building Permit.

3. CC&R's (CONDITIONS, COVENANTS AND RESTRICTIONS)

- A. Any proposed deeds, covenants, restrictions and by-laws relating to the subdivision are subject to review and approval by the Director of Community Development and the City Attorney.
- B. The developer/Owner shall create a Homeowner's Association that comports with the state law requirements for Common Interest Developments. Covenants, conditions and restrictions (CC&Rs) relating to the development are subject to approval by the City Attorney and Director of Community Development prior to approval of the Final Map. In addition to requirements as may be specified elsewhere, the CC&R's shall include the following provisions:
 1. Membership in and support of an association controlling and maintaining all common facilities shall be mandatory for all property owners within the development.
 2. The homeowners association shall obtain approval from the Director of Community Development prior to any modification of the CC&R's pertaining to or specifying the City.
 3. The developer shall maintain all utilities and landscaping for a period of three years following installation of such improvements or until the improvements are transferred to a homeowners association, following sale of at least 75% of the units, whichever comes first.
 4. The Conditions of Approval of this Special Development Permit.
- C. The CC&Rs shall contain the following language:
 1. "Right to Remedy Failure to Maintain Common Area. In the event that there is a failure to maintain the Common Area so that owners, lessees, and their guests suffer, or will suffer,

substantial diminution in the enjoyment, use, or property value of their Project, thereby impairing the health, safety and welfare of the residents in the Project, the City, by and through its duly authorized officers and employees, will have the right to enter upon the subject Property, and to commence and complete such work as is necessary to maintain said Common Area. The City will enter and repair only if, after giving the Association and Owners written notice of the failure to maintain the Common Area, they do not commence correction of such conditions in no more than thirty (30) days from the giving of the notice and proceed diligently to completion. All expenses incurred by the City shall be paid within thirty (30) days of written demand. Upon a failure to pay within said thirty (30) days, the City will have the right to impose a lien for the proportionate share of such costs against each Lot in the Project.

2. It is understood that by the provisions hereof, the City is not required to take any affirmative action, and any action undertaken by the City will be that which, in its sole discretion, it deems reasonable to protect the public health, safety and general welfare, and to enforce it and the regulations and ordinances and other laws.
3. It is understood that action or inaction by the City, under the provisions hereof, will not constitute a waiver or relinquishment of any of its rights to seek redress for the violation of any of the provisions of these restrictions or any of the rules, regulations and ordinances of the City, or of other laws by way of a suit in law or equity in a court of competent jurisdiction or by other action.
4. It is further understood that the remedies available to the City by the provision of this section or by reason of any other provisions of law will be cumulative and not exclusive of the maintenance of any other remedy. In this connection, it is understood and agreed that the failure to maintain the Common Area will be deemed to be a public nuisance and the City will have the right to abate said condition, assess the costs thereof, and cause the collection of said assessments to be made on the tax roll in the manner provided by appropriate provisions of the Sunnyvale Municipal Code or any other applicable law.
5. No Waiver. No failure of the City of Sunnyvale to enforce any of the covenants or restrictions contained herein will in any event render them ineffective.
6. Third-Party Beneficiary. The rights of the City of Sunnyvale pursuant to this Article will be the rights of an intended third

party beneficiary of a contract, as provided in Section 1559 of the California Civil Code, except that there will be no right of Declarant, the Association, or any Owner(s) to rescind the contract involved so as to defeat such rights of the City of Sunnyvale.

7. Hold Harmless. Declarant, Owners, and each successor in interest of Declarant and said Owners, hereby agree to save, defend and hold the City of Sunnyvale harmless from any and all liability for inverse condemnation which may result from, or be based upon, City's approval of the Development of the subject Property."
8. In each garage, the minimum parking area for two vehicles (17 feet wide by 18 feet deep) shall remain clear and free of debris or storage such that two covered parking spaces are available for each unit at any time.
9. Garages are to be used as the primary parking spaces for residents.
10. ***A minimum 25% and up to 50% of the unassigned spaces shall be marked as "guest." The Homeowner's Associations shall determine the definition and parking timeframes of a guest.***
11. Residents cannot occupy unassigned spaces for more than 48 hours.
12. No parking spaces shall be offered for rent by the property owners or homeowners association.
13. Responsibility for the roof and driveway is included as part of the common area to be maintained by the Homeowner's Association.
14. Each unit shall maintain the garage in a manner that enables two cars to be parked at all times.

4. DESIGN/EXTERIOR COLORS AND MATERIALS

- A. Final exterior building materials and color scheme are subject to review and approval of the Planning Commission/Director of Community Development prior to issuance of a building permit.
- B. The paint color of the units shall contain more variety and less beige as currently proposed.
- C. Roof material shall be 50-year dimensional composition shingle, or other material as approved by the Director of Community Development.

5. EASEMENTS AND DEDICATIONS

- A. Dedicate an 11' right-of way and 10' public utility easement along the project frontage on Bernardo and Cortez prior to issuance of a Building Permit or Final Map

6. EXTERIOR EQUIPMENT

- A. The individual air conditioning units shall be located within patio areas and screened from view.

7. FEES

- A. Pay Traffic Impact fee estimated at \$4,746.84, prior to issuance of a Building Permit. (SMC 3.50)
- B. Pay Park In-lieu fees estimated at \$75,271.68, prior to approval of the Final Map or Parcel Map. (SMC 18.10)

8. FENCES

- A. Final design and location of the proposed fencing and/or walls are subject to the review and approval by the Director of Community Development.

9. LANDSCAPING

- A. Landscape and irrigation plans shall be submitted to the Director of Community Development subject to approval by the Director of Community Development prior to issuance of a Building Permit. Landscaping and irrigation shall be installed prior to occupancy.
- B. A decorative permeable paving shall be incorporated within the entire project drive aisle. The final design, pattern, colors and materials to be approved by the Director of Community Development.
- C. Provide separate meter for domestic and irrigation water systems.
- D. The landscape plan shall including street trees and shall be submitted and approved per the City Arborist.
- E. All landscaping shall be installed in accordance with the approved landscape plan and shall thereafter be maintained in a neat, clean, and healthful condition.
- F. Trees shall be allowed to grow to the full genetic height and habit (trees shall not be topped). Trees shall be maintained using standard arboriculture practices.
- G. Of new trees installed, 10% shall be 24-inch box size or larger and no tree shall be less than 15-gallon size.

- H. Any “protected trees”, (as defined in SMC 19.94) approved for removal, shall be replaced with a specimen tree of at least 36-inch box size.
- I. At the expense of the subdivider, City staff shall install required street trees of a species determined by the Public Works Department.
- J. Ground cover shall be planted so as to ensure full coverage eighteen months after installation.
- K. All areas not required for parking, driveways or structures shall be landscaped. Landscaping shall be designed with efficient irrigation to reduce runoff, promote surface infiltration, and minimize the use of fertilizers and pesticides than can contribute to water pollution.
- L. New trees shall be native large species trees as large as appropriate for placement on the site.

10. TREE PRESERVATION

- A. A tree protection plan shall be submitted for any existing trees on the site. Where possible, trees shall be protected and saved. Provide an inventory and valuation of any trees proposed to be removed prior to issuance of building permits.
- B. Prior to issuance of a Demolition Permit, a Grading Permit or a Building Permit, whichever occurs first, obtain approval of a tree protection plan from the Director of Community Development. Two copies are required to be submitted for approval.
- C. The tree protection plan shall be installed prior to issuance of any Building Permits, subject to the on-site inspection and approval by the City Arborist.
- D. The tree protection plan shall remain in place for the duration of construction.
- E. The tree protection plan shall include measures noted in Sunnyvale Municipal Code Section 19.94.120 and at a minimum:
 - 1. An inventory shall be taken of all existing trees on the plan including the valuation of all ‘protected trees’ by a certified arborist, using the latest version of the “Guide for Plant Appraisal” published by the International Society of Arboriculture (ISA).
 - 2. All existing (non-orchard) trees on the plans, showing size and varieties, and clearly specify which are to be retained.
 - 3. Provide fencing around the drip line of the trees that are to be saved and ensure that no construction debris or equipment is

stored within the fenced area during the course of demolition and construction.

- F. Overlay Civil plans including utility lines to ensure that the tree root system is not damaged.

11. LIGHTING

- A. Prior to issuance of a Building Permit submit an exterior lighting plan, including fixture and pole designs, for approval by the Director of Community Development. Driveway and parking area lights shall include the following:
 - 1. Sodium vapor (of illumination with an equivalent energy savings).
 - 2. Pole heights to be uniform and compatible with the areas, including the adjacent residential areas. Light standards shall not exceed 18 feet on the interior of the project and 8 feet in height on the periphery of the project near residential uses.
 - 3. Provide photocells for on/off control of all security and area lights.
 - 4. All exterior security lights shall be equipped with vandal resistant covers.
 - 5. Wall packs shall not extend above the roof of the building.
 - 6. Lights shall have shields to prevent glare onto adjacent residential properties.
- B. Prior to issuance of a Building Permit submit a contour photometric plan for approval by the Director of Community Development. This requirement may be waived by the Director of Community Development if the proposed lighting plan does not appear to impact the private space on the neighboring properties.

12. PARKING

- A. Garage parking spaces shall be maintained at all times to allow for the parking of two automobiles.
- B. Up to 50% of unassigned spaces can be marked for "guest" use only. The Homeowner's Associations shall determine the definition and parking timeframes of a guest.
- C. Each unit shall be assigned two covered parking spaces in an enclosed garage.
- D. Unenclosed storage of any vehicle longer than 18-feet intended for recreation purposes shall be prohibited on the premises.

13. STREETS

- A. The common lot shall be assigned a private street name in accordance with the official Street Name System, as selected by the Community Development Department.

14. RECYCLING AND SOLID WASTE

- A. Unless approved by Variance, a centralized trash and recycling enclosure shall be provided on the site. The enclosure shall be positioned north of the rear building adjacent to Cortez Drive.
- B. The enclosure shall be of masonry construction and shall match the exterior design, materials and color of the main building.
- C. All exterior recycling and solid waste shall be confined to approved receptacles and enclosures.
- D. Trash enclosures, within five feet of building exterior walls or overhangs require fire sprinkler protection (16.52.250 SMC).

15. RIGHT-OF-WAY IMPROVEMENTS

- A. Obtain a Development Permit from the Department of Public Works for improvements.
- B. Replace all damaged, uplifted, and cracked sidewalk, curb and gutter.
- C. Curbs, gutters, sidewalks, streets, utilities, traffic control signs, electroliers (underground wiring) shall be designed, constructed and/or installed in accordance with City standards prior to occupancy. Plans shall be approved by then Department of Public Works.
- D. Remove and repair any damage caused by trees and install root barrier.
- E. All sidewalks along project frontage shall provide minimum 4' ADA clearance around all poles, streetlights and any other obstructions.
- F. Remove and replace existing curb ramp on southwest corner with ADA/City standard.
- G. Remove and replace existing Storm Drain Catch Basin in driveway on Cortez with City Standard.
- H. Replace stop sign, pole and street name signs.
- I. A traffic control plan will be required for any work that may impact the public right of way. Plans will be prepared and included with public/private improvement plans. Plans will conform to CA MUTCD and be approved by the Transportation and Traffic Division.

- J. All construction materials and equipment must be stored on site and street must be kept free of debris. No staging of construction materials or equipment on public right of way. Public Right of Way shall be kept clean of all construction debris.
- K. Public improvements shall be constructed to the latest revision of Caltrans Standard Plans and Specifications, City Plans and Specifications, and CA MUTCD.
- L. New driveways shall be built to City standards (5C-1).
- M. This project shall not cause any negative impact on the drainage pattern for adjacent properties. Provide adequate drainage modification on adjacent properties as needed with consent from adjacent property owners. Adequate drainage/erosion control shall be provided at all times during each phase of the development.
- N. Installation of the water system shall conform to City standards and shall be part of the City (or franchised utility) system up to the master water meter serving the project.
- O. Installation of new Radio Read meters will be required.
- P. Any existing fire hydrants shall be upgraded to Clow-Rich 75 or 76. Install new double check detector assembly for fire services.
- Q. Fire service and domestic service shall be separate unless otherwise approved by Public Works Director for multi-family residential developments.
- R. Install an approved backflow prevention device on the discharge side of the irrigation and fire service meters. The device shall be painted or screened as determined necessary to reduce visual impact.

16. UNDERGROUND UTILITIES

- A. All existing and proposed utilities shall be undergrounded, including boundary lines and service drops.
- B. Applicant shall provide a copy of an agreement with affected utility companies for undergrounding of existing overhead utilities which are on-site or within adjoining rights-of-way prior to issuance of a Building Permit or a deposit in an amount sufficient to cover the cost of undergrounding shall be made with the City.
- C. If any additional poles are proposed to be added, developer shall have PG&E submit the preliminary plan to Public Works Department for review. City Council shall make the decision if any additional poles are acceptable or not. Under no circumstances shall additional poles be permitted along the frontage of this development.
- D. Install conduits along frontage for Cable TV, electrical and telephone lines in accordance with standards required by utility companies,

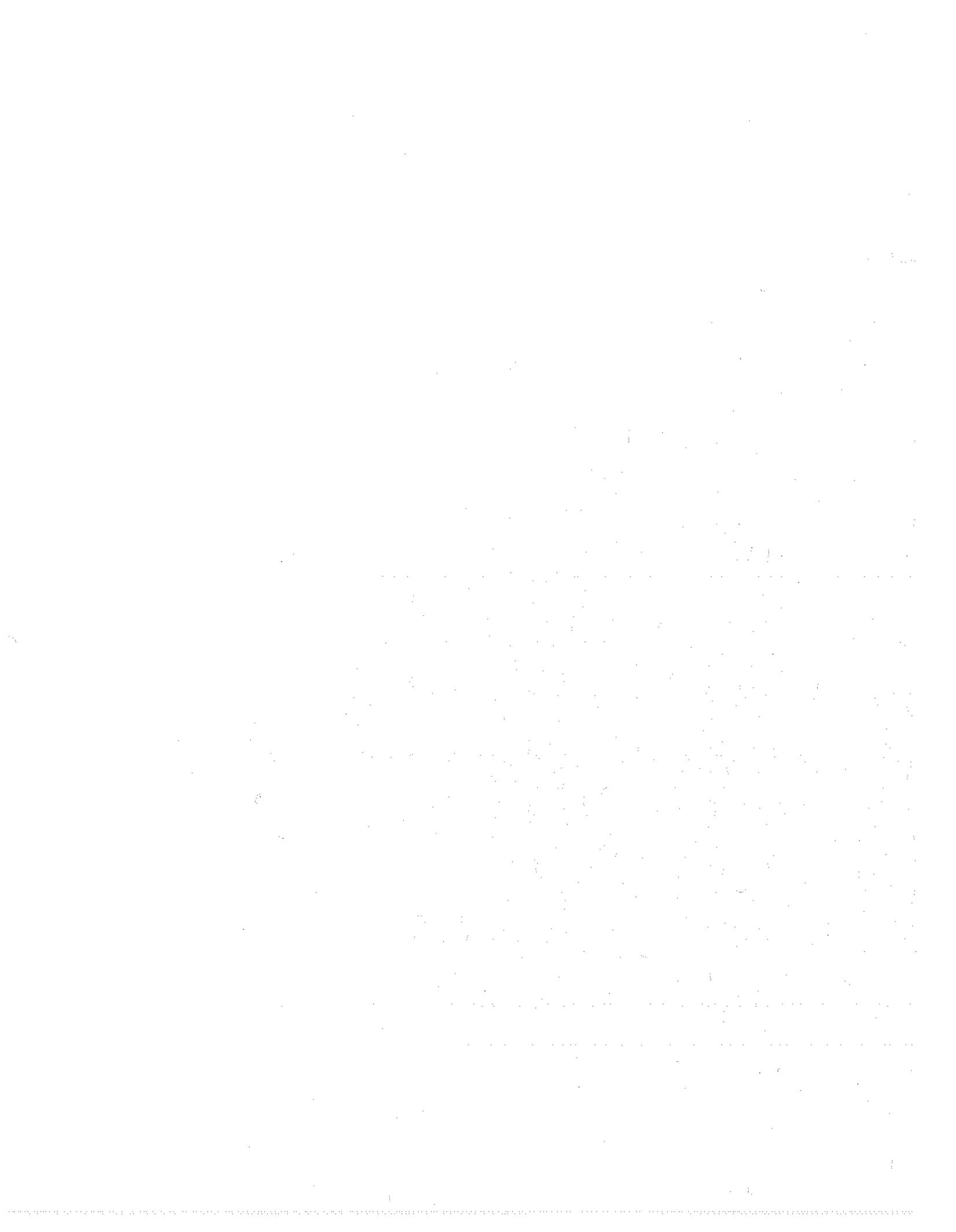
prior to occupancy. Submit conduit plan to Planning Division prior to issuance of a Building Permit.

- E. Conduit sizing and locations shall be included on street improvement plans. Submit one copy to the Planning Division.
- F. Any transformer placed between the face of the building and the street shall be placed in an underground vault. At any other location, the transformer shall be screened as approved by the Director of Community Development.

17. TENTATIVE MAP CONDITIONS

- A. Full development fees shall be paid for each project parcel or lot shown on Tentative Map and the fees shall be calculated in accordance with City Resolutions current at the time of payment.
- B. Comply with all applicable code requirements as noted in the Standard Development Requirements.

Attachment C





PLANNING DIVISION
CITY OF SUNNYVALE
P.O. BOX 3707
SUNNYVALE, CALIFORNIA 94088-3707

E-14416

ATTACHMENT 6
Page 1 of 17
File Number: 2007-1106
No. 07-26

**NOTICE OF INTENT TO ADOPT
NEGATIVE DECLARATION**

This form is provided as a notification of an intent to adopt a Negative Declaration which has been prepared in compliance with the provisions of the California Environmental Quality Act of 1970, as amended, and Resolution #193-86.

PROJECT TITLE:

Application for a **Rezone, Tentative Map, Variance** and **Special Development Permit** by **Nathan Merlin**.

PROJECT DESCRIPTION AND LOCATION (APN):

2007-1106 - Nathan Merlin [Applicant] Two Corners LLC [Owner]: Application for related proposals located at 1202-1204 Cortez Drive and 189-191 South Bernardo Avenue in an R-3 (Medium-Density Residential) Zoning District. (APN's: 161-18-025 and 161-18-026) RK;

- **Rezone** from R-3 (Medium Density Residential) to R-3/P-D (Medium-Density Residential/Planned Development) Zoning District,
- **Special Development Permit** to allow the construction of eight townhomes,
- **Tentative Map** to subdivide two lots into eight lots and one common lot, and
- **Variance** from Sunnyvale Municipal Code section 19.38.030 to allow individual solid waste and recycling carts instead of a centralized waste enclosure.

WHERE TO VIEW THIS DOCUMENT:

The **Negative Declaration**, its supporting documentation and details relating to the project are on file and available for review and comment in the Office of the Secretary of the Planning Commission, City Hall, 456 West Olive Avenue, Sunnyvale.

This **Negative Declaration** may be protested in writing by any person prior to 5:00 p.m. on **Monday, December 10, 2007**. Protest shall be filed in the Department of Community Development, 456 W. Olive Avenue, Sunnyvale and shall include a written statement specifying anticipated environmental effects which may be significant. A protest of a **Negative Declaration** will be considered by the adopting authority, whose action on the protest may be appealed.

HEARING INFORMATION:

A public hearing on the project is scheduled for:

Monday, December 10, 2007 at 8:00 p.m. and **Tuesday, January 15, 2007 at 7:00 p.m.** in the Council Chambers, City Hall, 456 West Olive Avenue, Sunnyvale.

TOXIC SITE INFORMATION:

(No) listed toxic sites are present at the project location.

Circulated On November 13, 2007

Signed: 

Andrew Miner, Principal Planner

INITIAL STUDY
 City of Sunnyvale
 Department of Community Development
 Planning Division
 P.O. Box 3707
 Sunnyvale, CA 94088-3707

Project #: 2007-1106
 Project Address: 181-191 S. Bernardo Avenue &
 1202-1294 Cortez Drive, Sunnyvale
 Applicant: Nathan Merlin

| | |
|--|--|
| Project Title | Application for a Special Development Permit to allow the construction of 8 townhomes. |
| Lead Agency Name and Address | City of Sunnyvale PO Box 3707 Sunnyvale, CA 94088-3707 |
| Contact Person | Ryan Kuchenig, Associate Planner |
| Phone Number | (408) 730-7431 |
| Project Location | 189-191 S. Bernardo Ave & 1202 – 1204 Cortez Dr., Sunnyvale, CA 94086 |
| Project Sponsor's Name | Nathan Merlin |
| Address | 625 Ellis St., Ste.101 Mountain View, CA 94043 |
| Zoning | R-3 (Proposed R-3/PD) |
| General Plan | Residential Medium Density |
| Other Public Agencies whose approval is required | None |

Description of the Project

The project consists of an application for a Special Development Permit for the construction of 8 townhomes on a 17,434 s.f. site. In conjunction with this permit, a Rezone from R-3 (Residential Medium Density) to R-3/PD (Residential Medium Density/Planned Development) is also requested. The proposal includes a Tentative Map to subdivide one lot into 8 lots and one common lot. The existing parcel currently consists of a fourplex. The existing structures will be demolished prior to construction of the new homes.

The layout of the proposal includes two four unit buildings intersected by a drive aisle that attain access to Cortez Drive. Each townhome is three stories and contains three bedrooms with two different layouts. Each home includes a two car garage. Four unassigned guest parking spaces are provided.

Environmental Context

The surrounding Zoning includes Residential Medium Density (Zoned R-3) to the north, west and south and composed of mostly apartment style units. East of the site across S. Bernardo Avenue lies R-2 Zoned (Low Medium Density/Planned Development) property that are mostly duplex units, with some single family townhomes located closer to Washington Avenue. Most of the development nearby was built in the 1960s or early 1970s with the exception of a nearby 6-unit development that was completed early this year at Eaton Terrace.

Environmental Checklist Form

Project #: 2007-1107

Project Address: 189-191 S. Bernardo Avenue,
& 1202-1204 Cortez Drive, Sunnyvale

Applicant: Nathan Merlin

EVALUATION OF ENVIRONMENTAL IMPACTS

1. A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g. the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (e.g. the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).
2. A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g. the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (e.g. the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).
3. All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
4. Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.
5. "Negative Declaration: Potentially Significant Unless Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level (mitigation measures from Section 17, "Earlier Analysis," may be cross-referenced).
6. Earlier analysis may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063 (c) (3) (d). In this case, a brief discussion should identify the following:
7. Earlier Analysis Used. Identify and state where they are available for review.
8. Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.
9. Mitigation Measures. For effects that are "Less than Significant with Mitigation Measures Incorporated," describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project

Environmental Checklist Form

Project Address: 189-191 S. Bernardo Avenue,
& 1202-1204 Cortez Drive, Sunnyvale

Applicant: Nathan Merlin

10. Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g. general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

- Aesthetics
- Agricultural Resources
- Air Quality
- Biological Resources
- Cultural Resources
- Geology/Soils
- Hazards & Hazardous Materials
- Hydrology/Water Quality
- Land Use/Planning
- Mineral Resources
- Noise
- Population/Housing
- Public Services
- Recreation
- Transportation/Traffic
- Utilities/Service Systems
- Mandatory Findings of Significance

DETERMINATION: (To be completed by the Lead Agency)

On the basis of this initial evaluation:

I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.

I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.

I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

I find that the proposed project MAY have a "potential significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect (1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and (2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.

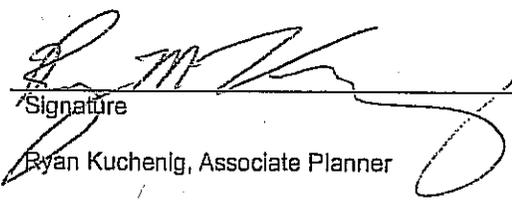
I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Environmental Checklist Form

Project #: 2007-1107

Project Address: 189-191 S. Bernardo Avenue,
& 1202-1204 Cortez Drive, Sunnyvale

Applicant: Nathan Merlin


Signature
Ryan Kuchenlg, Associate Planner

12/13/07
Date

For the City of Sunnyvale
(Lead Agency)

| | Potentially Significant Impact | Less than Sig. With Mitigation | Less Than Significant | No Impact | Source |
|---|--------------------------------|--------------------------------|-------------------------------------|-------------------------------------|---------------------|
| 1. AESTHETICS. Would the project: | | | | | |
| a. Have a substantial adverse effect on a scenic vista? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | 2, 94 |
| b. Substantially damage scenic resources, including, but not limited to trees, rock outcroppings, and historic buildings within a state scenic highway? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | 2, 94 |
| c. Substantially degrade the existing visual character or quality of the site and its surroundings? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | See discussion |
| d. Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | 2, 94 |
| 2. AIR QUALITY: Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project: | | | | | |
| a. Conflict with or obstruct implementation of the applicable air quality plan? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | 3, 94, 100, 111 |
| b. Violate any air quality standard or contribute substantially to an existing or projected air quality violation. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | 3, 94, 100, 111 |
| c. Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | 3, 96, 97, 100, 111 |
| d. Expose sensitive receptors to substantial pollutant concentrations? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | See discussion |
| e. Create objectionable odors affecting a substantial number of people? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | 111, 112 |

Environmental Checklist Form

Project #: 2007-1107

Project Address: 189-191 S. Bernardo Avenue,
 & 1202-1204 Cortez Drive, Sunnyvale

Applicant: Nathan Merlin

| | Potentially Significant Impact | Less than Sig. With Mitigation | Less Than Significant | No Impact | Source |
|---|--------------------------------|--------------------------------|--------------------------|-------------------------------------|-------------------------|
| 3. BIOLOGICAL RESOURCES: | | | | | |
| a. Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U. S. Fish and Wildlife Service? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | 2, 94, 111, 112, 109 |
| b. Have a substantially adverse impact on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Game or U.S Wildlife Service? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | 2, 94, 111, 112, 109 |
| c. Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | 2, 94, 111, 112, 109 |
| d. Interfere substantially with the movement of any resident or migratory fish or wildlife species or with established native resident migratory wildlife corridors, or impede the use of native wildlife nursery sites? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | 2, 94, 111, 112, 109 |
| e. Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | 2, 94, 111, 112, 109 |
| f. Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Conservation Community Plan, other approved local, regional, or state habitat conservation plan? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | 41,94, 111, 112 |
| 4. CULTURAL RESOURCES. Would the project: | | | | | |
| a. Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | 10, 42, 60, 61, 94, 111 |
| b. Cause a substantial adverse change in the significance of an archaeological resources pursuant to Section 15064.5 | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | 10, 42, 94 |

Project Address: 189-191 S. Bernardo Avenue,
 & 1202-1204 Cortez Drive, Sunnyvale

Applicant: Nathan Merlin

| | Potentially Significant Impact | Less than Sig. With Mitigation | Less Than Significant | No Impact | Source |
|---|--------------------------------|--------------------------------|-------------------------------------|-------------------------------------|------------------------------|
| c. Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | 10, 42, 94, 111 |
| d. Disturb any human remains, including those interred outside of formal cemeteries? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | 2, 111, 112 |
| 5. LAND USE AND PLANNING. Would the project: | | | | | |
| a. Physically divide an established community? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | 2, 11, 12, 21, 28 |
| b. Conflict with an applicable land use plan, policy or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | 31, 28, 111 |
| c. Conflict with any applicable habitat conservation plan or natural communities conservation plan? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | 2, 41, 94, 111 |
| 6. MINERAL RESOURCES. Would the project: | | | | | |
| a. Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | 2, 94 |
| b. Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | 2, 94 |
| 7. NOISE. Would the project result in: | | | | | |
| a. Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | 2, 16, 26, 94, 111, 112 |
| b. Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | See discussion |
| c. A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | 2, 16, 26, 94, 111, 112, 115 |

Environmental Checklist Form

Project #: 2007-1107

Project Address: 189-191 S. Bernardo Avenue,
& 1202-1204 Cortez Drive, Sunnyvale

Applicant: Nathan Merlin

| | Potentially Significant Impact | Less than Sig. With Mitigation | Less Than Significant | No Impact | Source |
|---|--------------------------------|--------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|
| d. A substantially temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | See discussion |
| 8. POPULATION AND HOUSING. Would the project: | | | | | |
| a. Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | See discussion |
| b. Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | 2, 11, 111, 112 |
| c. Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | 2, 11, 111, 112 |
| 9. PUBLIC SERVICES. Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered government facilities, need for new or physically altered government facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services: | | | | | |
| a. Schools? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | 2, 111, 112 |
| b. Police protection? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | 26, 65, 66, 103, 104 |
| c. Fire protection? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | 26, 65, 66, 103, 104 |
| d. Parks? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | See discussion |
| e. Other services? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | 111 |
| 10. MANDATORY FINDINGS OF SIGNIFICANCE | | | | | |
| a. Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | 2, 10, 26, 42, 59, 60, 61, 111, 112 |

Environmental Checklist Form

Project #: 2007-1107

Project Address: 189-191 S. Bernardo Avenue,
& 1202-1204 Cortez Drive, Sunnyvale

Applicant: Nathan Merlin

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|--|--------------------------------|--------------------------------|--------------------------|-------------------------------------|--------------------|
| animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory? | | | | | |
| b. Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of the past projects, the effects of other current projects, and the effects of probable future projects)? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | 1, 2, 111, 112 |
| c. Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | 111, 112 |
| 11. GEOLOGY AND SOILS. Would the project: | | | | | |
| a. Expose people or structures to potential substantial adverse effects, including the risk of loss, injury or death involving: | | | | | |
| i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | UBC, UPC, UMC, NEC |
| ii) Strong seismic ground shaking? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | " |
| iii) Seismic-related ground failure, including liquefaction? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | " |
| iv) Landslides? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | " |
| b. Result in substantial soil erosion or the loss of topsoil? | | | | | " |
| c. Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | " |

Environmental Checklist Form

Project #: 2007-1107

Project Address: 189-191 S. Bernardo Avenue,
& 1202-1204 Cortez Drive, Sunnyvale

Applicant: Nathan Merlin

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|--|--------------------------------|--------------------------------|--------------------------|-------------------------------------|-------------------------------------|
| result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse? | | | | | |
| d. Be located on expansive soil, as defined in Table 18-a-B of the Uniform Building Code (1994), creating substantial risks to life or property? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | " |
| e. Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | " |
| 12. UTILITIES AND SERVICE SYSTEMS. Would the project: | | | | | |
| a. Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | 2, 20, 24, 87, 88, 89, 90, 111, 112 |
| b. Require or result in construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | 2, 20, 24, 25, 87, 88, 89, 111, 112 |
| c. Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | 2, 20, 24, 25, 87, 88, 89, 111, 112 |
| d. Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | 2, 20, 24, 25, 87, 88, 89, 111, 112 |
| e. Result in a determination by the wastewater treatment provider which services or may serve the project determined that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | 2, 20, 24, 25, 87, 88, 89, 111, 112 |
| f. Be served by a landfill with sufficient permitted capacity to accommodate the | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | 2, 22, 90, 111, 112 |

Environmental Checklist Form

Project #: 2007-1107

Project Address: 189-191 S. Bernardo Avenue,
 & 1202-1204 Cortez Drive, Sunnyvale

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|--|--------------------------------|--------------------------------|-------------------------------------|-------------------------------------|------------------------------------|
| project's solid waste disposal needs? | | | | | |
| g. Comply with federal, state, and local statutes and regulations related to solid waste? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | 2, 22, 90, 111, 112 |
| 13. TRANSPORTATION/TRAFFIC. Would the project: | | | | | |
| a. Cause an increase in the traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | See discussion |
| b. Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | See discussion |
| c. Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | 2, 111, 112, 113 |
| d. Substantially increase hazards to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment)? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | 2, 12, 71, 75-77, 80, 84, 111, 112 |
| e. Result in inadequate emergency access? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | 2, 111, 112 |
| f. Result in inadequate parking capacity? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | 37, 111 |
| g. Conflict with adopted policies or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | 2, 12, 81, 111, 112 |
| 14. HAZARDS AND HAZARDOUS MATERIALS. Would the project: | | | | | |
| a. Create a significant hazard to the public or the environment through the routine transport, use or disposal of hazardous materials? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | UFC, UBC, SVMC |
| b. Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the likely release of hazardous | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | UFC, UBC, SVMC |

Environmental Checklist Form

Project #: 2007-1107

Project Address: 189-191 S. Bernardo Avenue,
& 1202-1204 Cortez Drive, Sunnyvale

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|--|--------------------------------|--------------------------------|--------------------------|-------------------------------------|-----------------|
| materials into the environment? | | | | | |
| c. Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | UFC, UBC, SVMC |
| d. Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result would it create a significant hazard to the public or the environment? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | UFC, UBC, SVMC |
| e. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | UFC, UBC, SVMC |
| f. For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | UFC, UBC, SVMC |
| g. Impair implementation of, or physically interfere with an adopted emergency response plan or emergency evacuation plan? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | UFC, UBC, SVMC |
| h. Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | UFC, UBC, SVMC |
| 15. RECREATION | | | | | |
| a. Would the project increase the use of existing neighborhood or regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | 2, 18, 111, 112 |
| b. Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | 2, 18, 111, 112 |
| 16. AGRICULTURE RESOURCES: In determining whether impacts to agricultural resources are | | | | | |

Environmental Checklist Form

Project #: 2007-1107

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 & 1202-1204 Cortez Drive, Sunnyvale

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|---|--------------------------------|--------------------------------|--------------------------|-------------------------------------|---------------------|
| significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. Would the project: | | | | | |
| a. Convert Prime Farmland, Unique Farmland or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency to non-agricultural use? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | 94 |
| b. Conflict with existing zoning for agricultural use, or a Williamson Act contract? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | 94 |
| c. Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | 94 |
| 17. HYDROLOGY AND WATER QUALITY. Would the project: | | | | | |
| a. Violate any water quality standards or waste discharge requirements? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | 2, 24, 25, 111, 112 |
| b. Substantially degrade groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | 2, 24, 25, 111, 112 |
| c. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | 2, 24, 25, 111, 112 |
| d. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | 2, 24, 25, 111, 112 |

Environmental Checklist Form

Project #: 2007-1107

Project Address: 189-191 S. Bernardo Avenue,
& 1202-1204 Cortez Drive, Sunnyvale

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| the rate or surface runoff in a manner which would result in flooding on- or off site? | | | | | |
| e. Create or contribute runoff which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | 2, 24, 25, 111, 112 |
| f. Otherwise substantially degrade water quality? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | 2, 24, 25, 111, 112 |
| g. Place housing within a 100-year floodplain, as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | 2, 24, 25, 111, 112 |
| h. Place within a 100-year flood hazard area structures which would impede or redirect flood flows? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | 2, 24, 25, 111, 112 |
| i. Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | 2, 24, 25, 111, 112 |
| j) Inundation by seiche, tsunami, or mudflow? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | 2, 24, 25, 111, 112 |

DISCUSSION OF IMPACTS THAT ARE LESS THAN SIGNIFICANT

1. AESTHETICS (c) The City's implementation of the Citywide Design Guidelines and staff's review of final development plans, which will be submitted for final Building Permit review, will ensure that the final design of the project is consistent with the plans reviewed by the Planning Commission. The project will not degrade the visual character or quality of the site and its surroundings. As a result, this impact will be less than significant.

7. NOISE (b&d) The project will introduce short-term and temporary additional sources of noise to the project area during construction. Through the City's implementation of the Municipal Code noise regulations, this impact will be lessened to a less than significant level during construction.

The construction associated with this project would increase the noise levels in the neighborhood. Sunnyvale Municipal Code Section 16.08.150 regulates the hours of construction in order to reduce the noise impact on surrounding properties. Construction is permitted between the hours of 7:00 a.m. and 6:00 p.m. Monday through Friday, 8:00 a.m. to 5:00 p.m. on Saturday and construction is prohibited on Sundays and national holidays. These restrictions are sufficient to reduce noise impact.

8. POPULATION AND HOUSING (a) This project will introduce eight townhomes where there were four units. The city contains approximately 50,000 housing units, and this population increase is not substantial in relation to the existing population or adequacy of the infrastructure to support it.

9. PUBLIC SERVICES (d) The proposed project will result in a slight increase in the use of existing park facilities. The project will comply with the City's Park Dedication Fee requirement. The proposed project will generate funds for the citywide acquisition and improvement of park facilities to offset the increase of park facilities usage. Thus, this can be considered a less than significant impact.

11. GEOLOGY AND SOILS (ii) and (iii) The project site is not located in an area with any active faults, but may experience strong seismic ground shaking in the event of an earthquake. Through the City's implementation of the Uniform Building Code requirements for area's with potential for seismic activity this aspect of the project will be reduced to a less than significant level.

13. TRANSPORTATION AND TRAFFIC (a) The Traffic Division of the Public Works Department has determined the project does not warrant the preparation of a Traffic Study and the proposed project will not have a significant impact on transportation or traffic because the project will not generate additional peak hour traffic trips.

13. TRANSPORTATION AND TRAFFIC (b) The Traffic Division of the Public Works Department has determined the project does not warrant the preparation of a Traffic Study and the proposed project will not have a significant impact on transportation or traffic because the project density is below the adopted maximum density for the project site that is noted in the General Plan.

Ryan Kuchenig, Associate Planer

11/7/2007

Completed By

Date

Project Address: 189-191 S. Bernardo Avenue, &
1202-1204 Cortez Drive, Sunnyvale

Applicant: Nathan Merlin

City of Sunnyvale General Plan:

2. Map
3. Air Quality Sub-Element
4. Community Design Sub-Element
5. Community Participation Sub-Element
6. Cultural Arts Sub-Element
7. Executive Summary
8. Fire Services Sub-Element
9. Fiscal Sub-Element
10. Heritage Preservation Sub-Element
11. Housing & Community Revitalization Sub-Element
12. Land Use & Transportation Sub-Element
13. Law Enforcement Sub-Element
14. Legislative Management Sub-Element
15. Library Sub-Element
16. Noise Sub-Element
17. Open Space Sub-Element
18. Recreation Sub-Element
19. Safety & Seismic Safety Sub-Element
20. Sanitary Sewer System Sub-Element
21. Socio-Economic Sub-Element
22. Solid Waste Management Sub-Element
23. Support Services Sub-Element
24. Surface Run-off Sub-Element
25. Water Resources Sub-Element

26. **City of Sunnyvale Municipal Code:**
27. Chapter 10
28. Zoning Map
29. Chapter 19.42. Operating Standards
30. Chapter 19.28. Downtown Specific Plan District
31. Chapter 19.18. Residential Zoning Districts
32. Chapter 19.20. Commercial Zoning Districts
33. Chapter 19.22. Industrial Zoning Districts
34. Chapter 19.24. Office Zoning Districts
35. Chapter 19.26. Combining Zoning Districts
36. Chapter 19.28. Downtown Specific Plan
37. Chapter 19.46. Off-Street Parking & Loading
38. Chapter 19.56. Solar Access
39. Chapter 19.66. Affordable Housing
40. Chapter 19.72. Conversion of Mobile Home Parks to Other Uses
41. Chapter 19.94. Tree Preservation
42. Chapter 19.96. Heritage Preservation
- Specific Plans**
43. El Camino Real Precise Plan
44. Lockheed Site Master Use Permit
45. Moffett Field Comprehensive Use Plan
46. 101 & Lawrence Site Specific Plan
47. Southern Pacific Corridor Plan

Environmental Impact Reports

48. Futures Study Environmental Impact Report
49. Lockheed Site Master Use Permit Environmental Impact Report
50. Tasman Corridor LRT Environmental Impact Study (supplemental)

51. Kaiser Permanente Medical Center Replacement Center Environmental Impact Report (City of Santa Clara)
52. Downtown Development Program Environmental Impact Report
53. Caribbean-Moffett Park Environmental Impact Report
54. Southern Pacific Corridor Plan Environmental Impact Report

Maps

55. City of Sunnyvale Aerial Maps
56. Flood Insurance Rate Maps (FEMA)
57. Santa Clara County Assessors Parcel
58. Utility Maps (50 scale)

Lists/Inventories

59. Sunnyvale Cultural Resources Inventory List
60. Heritage Landmark Designation List
61. Santa Clara County Heritage Resource Inventory
62. Hazardous Waste & Substances Sites List (State of California)
63. List of Known Contaminants in Sunnyvale

Legislation/Acts/Bills/Codes

64. Subdivision Map Act
65. Uniform Fire Code, including amendments per SMC adoption
66. National Fire Code (National Fire Protection Association)
67. Title 19 California Administrative Code
68. California Assembly Bill 2185/2187 (Waters Bill)
69. California Assembly Bill 3777 (La Follette Bill)
70. Superfund Amendments & Reauthorization Act (SARA) Title III

Transportation

71. California Department of Transportation Highway Design Manual
72. California Department of Transportation Traffic Manual
73. California Department of Transportation Standard Plan
74. California Department of Transportation Standard Specification
75. Institute of Transportation Engineers - Trip Generation
76. Institute of Transportation Engineers Transportation and Traffic Engineering Handbook
77. U.S. Dept. of Transportation Federal Highway Admin. Manual on Uniform Traffic Control Devices for Street and Highways
78. California Vehicle Code
79. Traffic Engineering Theory & Practice by L. J. Pagnataro
80. Santa Clara County Congestion Management Program and Technical Guidelines

Environmental Checklist Form

ATTACHMENT C

Page 17 of 17

E-14416

Project #: 2007-1107

Project Address: 189-191 S. Bernardo Avenue, &
1202-1204 Cortez Drive, Sunnyvale

Applicant: Nathan Merlin

- 81. Santa Clara County Transportation Agency Short Range Transit Plan
- 82. Santa Clara County Transportation Plan
- 83. Traffic Volume Studies, City of Sunnyvale Public works Department of Traffic Engineering Division
- 84. Santa Clara County Sub-Regional Deficiency Plan
- 85. Bicycle Plan

Public Works

- 86. Standard Specifications and Details of the Department of Public Works
- 87. Storm Drain Master Plan
- 88. Sanitary Sewer Master Plan
- 89. Water Master Plan
- 90. Solid Waste Management Plan of Santa Clara County
- 91. Geotechnical Investigation Reports
- 92. Engineering Division Project Files
- 93. Subdivision and Parcel Map Files

Miscellaneous

- 94. Field Inspection
- 95. Environmental Information Form
- 96. Annual Summary of Containment Excesses (BAAQMD)
- 97. Current Air Quality Data
- 98. Chemical Emergency Preparedness Program (EPA Interim Document in 1985?)

- 99. Association of Bay Area Governments (ABAG) Population Projections
- 100. Bay Area Clean Air Plan
- 101. City-wide Design Guidelines
- 102. Industrial Design Guidelines

Building Safety

- 103. Uniform Building Code, Volume 1, (Including the California Building Code, Volume 1)
- 104. Uniform Building Code, Volume 2, (Including the California Building Code, Volume 2)
- 105. Uniform Plumbing Code, (Including the California Plumbing Code)
- 106. Uniform Mechanical Code, (Including the California Mechanical Code)
- 107. National Electrical Code (Including California Electrical Code)
- 108. Title 16 of the Sunnyvale Municipal Code

Additional References

- 109. USFWS/CA Dept. F&G Special Status Lists
- 110. Project Traffic Impact Analysis
- 111. Project Description
- 112. Project Development Plans
- 113. Santa Clara County Airport Land Use Plan
- 114. Federal Aviation Administration
- 115. Accoustical Analysis by Illingsworth & Rodkin, 2006

BERNARDO TERRACE TOWN HOMES

185 BERNARDO AVENUE, SUNNY VALE, CA

AN 8 UNIT TOWN HOME COMMUNITY

FOR

TIM PROSCHOLD

625 ELLIS STREET, SUITE: 101
MOUNTAIN VIEW, 94043, CA

DRAWING INDEX

ARCHITECTURAL

- 1 COVER SHEET
- 2 SITE PLAN
- 3 DIMENSION PLAN
- 4 LANDSCAPE & OPEN SPACE CALCULATION
- 5 BUILDING PLAN
- 6 A UNIT PLANS
- 7 B UNIT PLANS
- 8 ELEVATIONS
- 9 ELEVATIONS
- 10 SITE SECTION

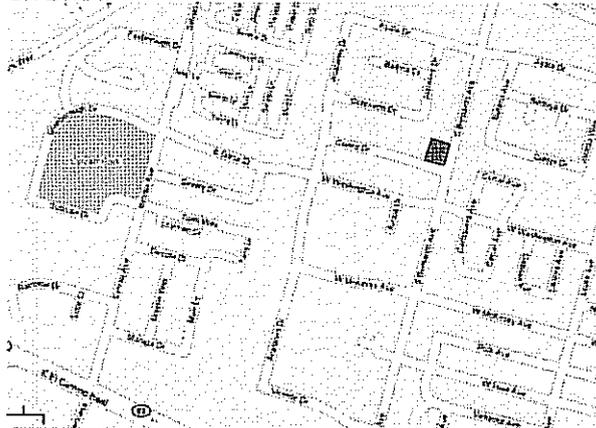
LANDSCAPE

- 11 LANDSCAPE PLAN

PROJECT DATA

| | |
|-------------------------------|-------------------------|
| GENERAL PLAN CATEGORY: | RESIDENTIAL |
| ZONING: | RH |
| LOT SIZE: | 17,034 SQ. FT. (1.4 AC) |
| GROSS FLOOR AREA: | 16,945 SQ. FT. |
| NO. OF UNITS: | 8 |
| DENSITY UNITS/AC: | 20.31 A |
| NO. OF BEDROOMS/TOT: | 12401 A: 3 BEDROOMS |
| UNITS (SQ. FT.): | 12401 B: 2 BEDROOMS |
| | 12401 A: 1594 SQ. FT. |
| | 12401 B: 1796 SQ. FT. |
| LOT COVERAGE: | 33.82% |
| FLOOR AREA RATIO: | 97.24% |
| NO. OF BIRDBATHS: | 2 |
| DISTANCE BETWEEN BIRDBATHS: | 20'-10" |
| NO. OF STORES: | 2 |
| SETBACKS FRONT: | |
| CORNER: | 24' |
| REARLAND: | 15' |
| SIDE: | 10' |
| SIDE: | 12' |
| LANDSCAPE (TOTAL SQ. FT.): | 1,166 SQ. FT. |
| LANDSCAPING (SQ. FT./PROP): | 483 SQ. FT. |
| USABLE OPEN SPACE (SQ. FT.): | 2,121 SQ. FT. |
| USABLE OPEN SPACE (PROP): | 125 SQ. FT. |
| TOTAL ALL LIF PARKING SPACES: | 10 |
| NO. OF STAIRWAYS: | 10 |
| NO. OF HANDICAPS: | 0 |
| NO. OF COVERED SPACES: | 16 |

SITE MAP



104 SPANISH CREEK DRIVE, SUITE 104
SAN ANTONIO, CALIFORNIA 78203
650.372.0111 WWW.IGA-ARCHITECT.COM



**BERNARDO
TERRACE
TOWN HOMES**

SUNNYVALE,
CALIFORNIA

TIM PROSCHOLD
625 ELLIS STREET, SUITE: 101
MOUNTAIN VIEW, MOUNTAIN VIEW, CA

COVER SHEET

JOB NUMBER _____
DATE 10/11/07
SCALE _____

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ATTACHMENT D
1 of 14
11/07



**BERNARDO TERRACE
TOWN HOMES**
SUNNYVALE, CALIFORNIA

100 PROJECT BLVD
435 EGG STREET, SUITE 101
ARLINGTON, VIRGINIA, VA 22204

DEMOLITION PLAN

JOB NUMBER
DATE 10/11/07
SCALE 1/8"=1'-0"

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ATTACHMENT 14

TREE SURVEY

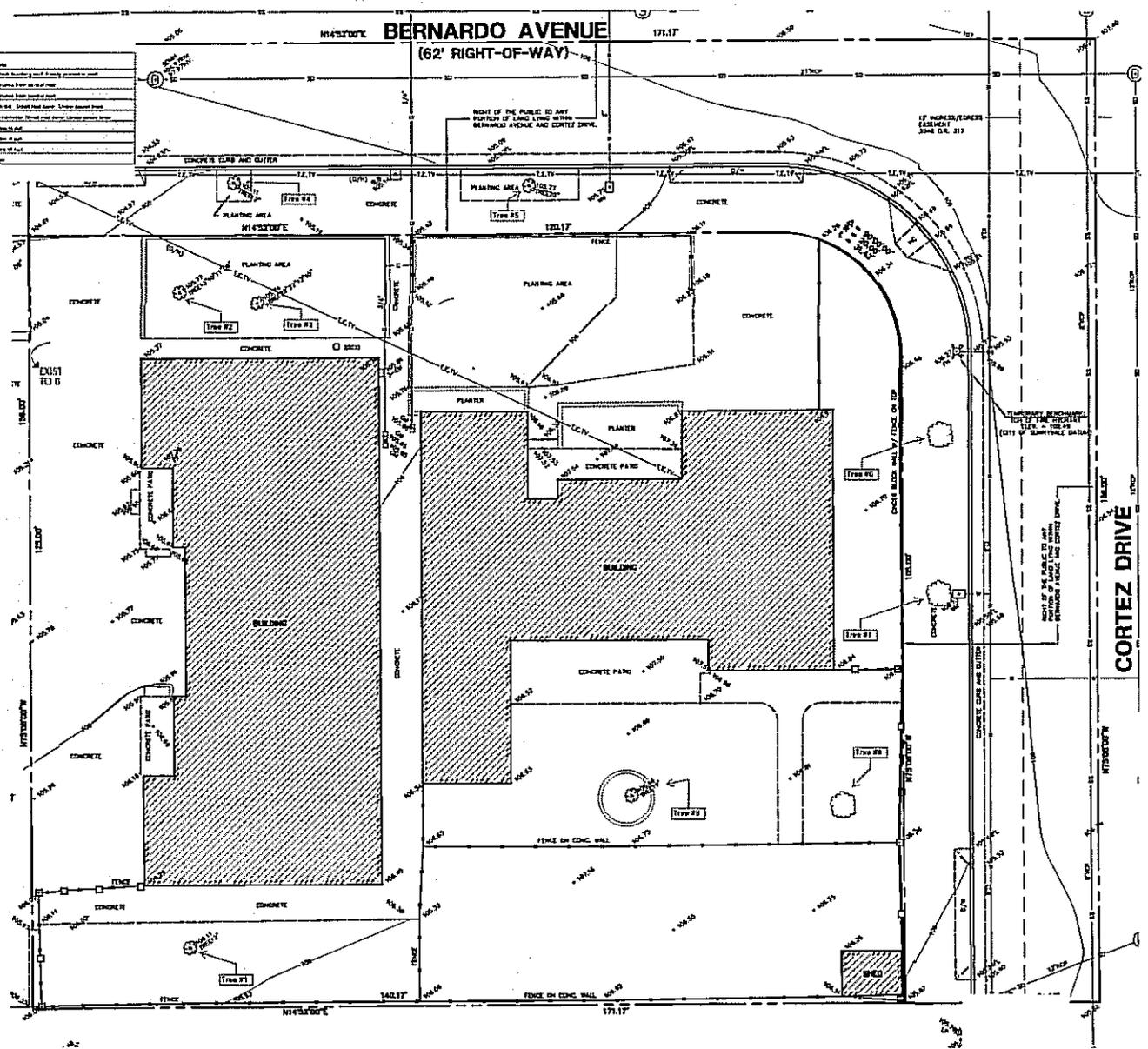
| Reference | Tree # | Species | DBH (inches) | Height (feet) | Condition | Notes |
|-----------|--------|----------|--------------|---------------|-----------|--------|
| 1001 | 1 | Fraxinus | 12.0 | 25.0 | 100 | Remove |
| 1002 | 2 | Fraxinus | 12.0 | 25.0 | 100 | Remove |
| 1003 | 3 | Fraxinus | 12.0 | 25.0 | 100 | Remove |
| 1004 | 4 | Fraxinus | 12.0 | 25.0 | 100 | Remove |
| 1005 | 5 | Fraxinus | 12.0 | 25.0 | 100 | Remove |
| 1006 | 6 | Fraxinus | 12.0 | 25.0 | 100 | Remove |
| 1007 | 7 | Fraxinus | 12.0 | 25.0 | 100 | Remove |
| 1008 | 8 | Fraxinus | 12.0 | 25.0 | 100 | Remove |
| 1009 | 9 | Fraxinus | 12.0 | 25.0 | 100 | Remove |
| 1010 | 10 | Fraxinus | 12.0 | 25.0 | 100 | Remove |
| 1011 | 11 | Fraxinus | 12.0 | 25.0 | 100 | Remove |

TREE SURVEY PERFORMED BY KEVIN M. BILLY CERTIFIED ARBORIST, ON AUGUST 29TH, 2007

IMPERVIOUS SURFACE DATA TABLE

| PROPOSED DEVELOPMENT | |
|--|-------------|
| SURFACE | AREAS |
| DRIVEWAY | 6,622 SQFT |
| WALKWAY/STAIRS | 1,146 SQFT |
| CURBS/PARKING MARKS | 3,379 SQFT |
| CONCRETE | 1,400 SQFT |
| TOTAL | 12,547 SQFT |
| % SITE AREA (127,000 SQFT) | 78.3 % |
| EXISTING DEVELOPMENT | |
| SURFACE | AREAS |
| ASPHALT/CONCRETE DRIVEWAYS/CONCRETE WALKWAYS | 10,768 SQFT |
| TOTAL | 10,768 SQFT |
| % SITE AREA | 78.3 % |

*NOTE:
ALL EXISTING STRUCTURES TO BE REMOVED INCLUDING CONCRETE PATIOWALKS, DRIVEWAYS AND PLANTERS



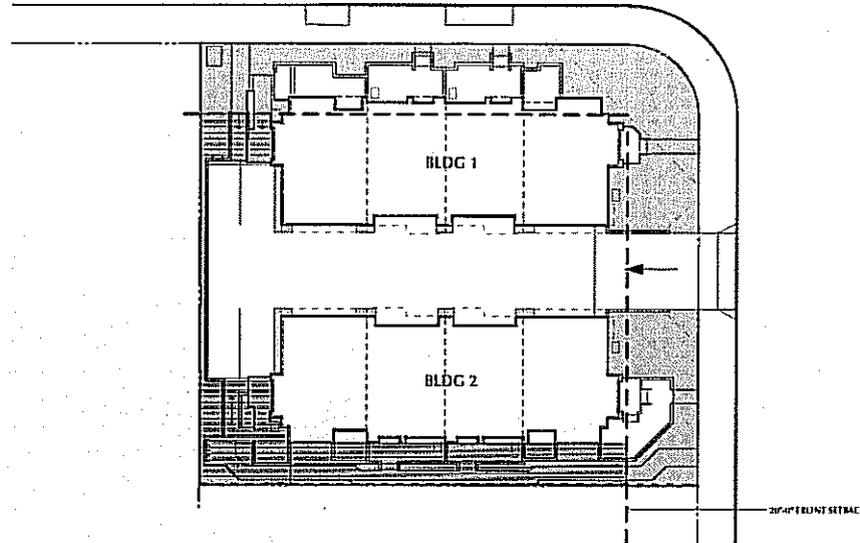


**BERNARDO
TERRACE
TOWN HOMES**

SUNNYVALE,
CALIFORNIA

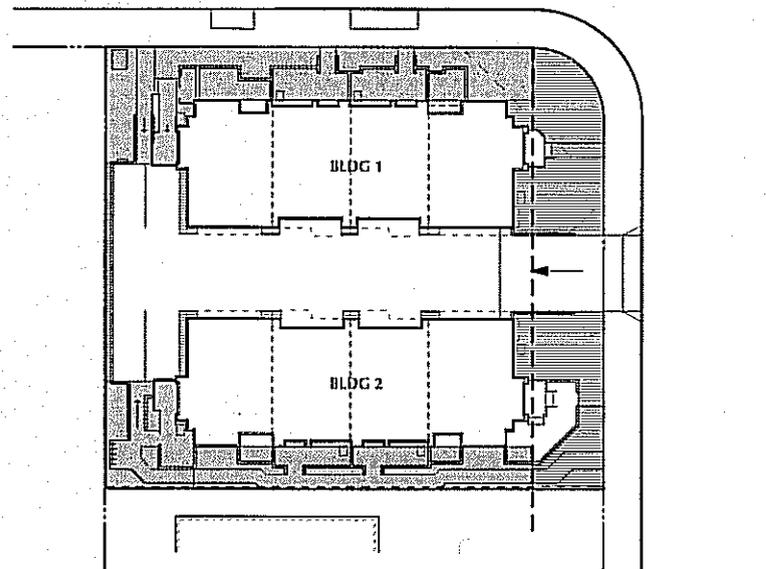
TIM PRENCHARD
425 FOLLY STREET, SUITE 300
SACRAMENTO, CALIFORNIA

**LANDSCAPE & OPEN SPACE
CALCULATION**



**LANDSCAPE & USABLE OPEN SPACE AREAS
PER CODE**

| | | |
|----------------------|---|---------------|
| USABLE OPEN SPACE |  2,171 SQFT | 215 SQFT/UNIT |
| LANDSCAPING |  1,145 SQFT | 110 SQFT/UNIT |
| TOTAL LANDSCAPE AREA | 2,021 + 2,345 = 4,366 SQFT | 485 SQFT/UNIT |



**LANDSCAPE & USABLE OPEN SPACE AREAS
PER SINGLE FRONT YARD SETBACK**

| | | |
|----------------------|--|------------------|
| USABLE OPEN SPACE |  4,170 SQFT | 523.75 SQFT/UNIT |
| LANDSCAPING |  2,014 SQFT | 251.25 SQFT/UNIT |
| TOTAL LANDSCAPE AREA | 4,170 + 2,014 = 6,184 SQFT | 775.0 SQFT/UNIT |

JOB NUMBER _____
DATE 10/11/07
SCALE 1/16"=10'-0"

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44 of 14

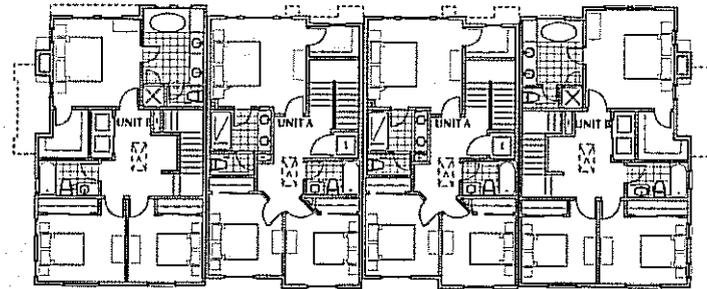


**BERNARDO
TERRACE
TOWN HOMES**

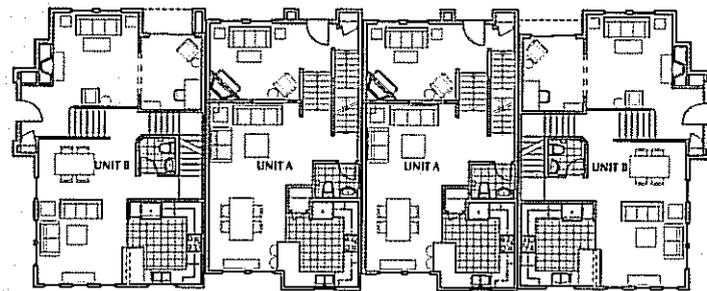
SUNNYVALE,
CALIFORNIA

TEAM PROJECT NO. 10-11-07-033
643 ELLIS STREET, SUITE 100
SAN MATEO, CALIFORNIA 94401

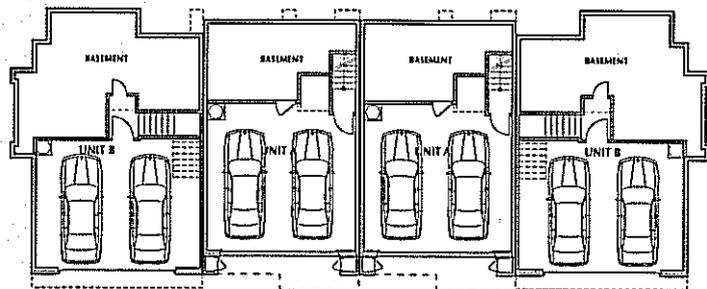
BUILDING PLAN



SECOND FLOOR LEVEL 1



FIRST FLOOR LEVEL 2



GARAGE LEVEL 1

JOB NUMBER _____

DATE 10/11/07

SCALE 1/8" = 1'-0"

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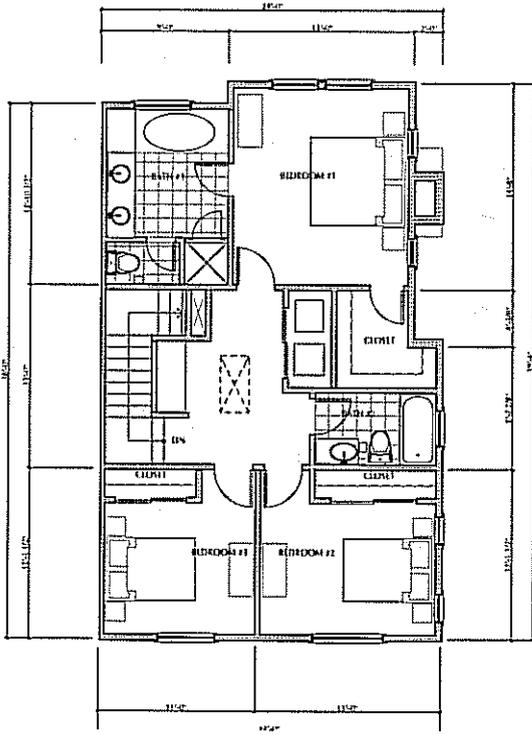


**BERNARDO
TERRACE
TOWN HOMES**

SUNNYVALE,
CALIFORNIA

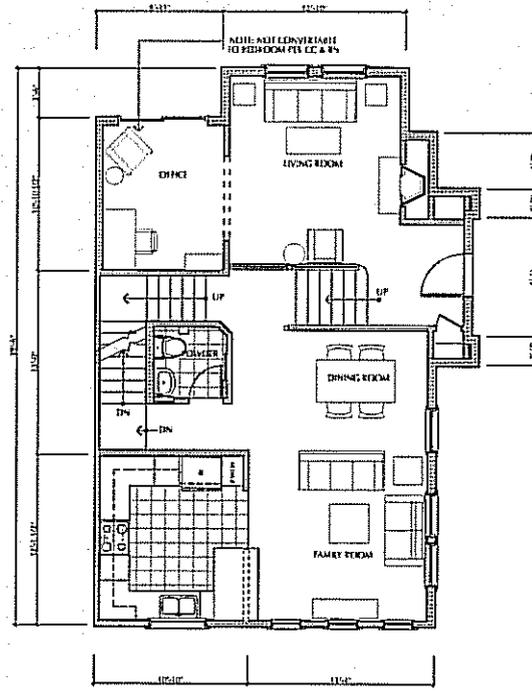
100 POTOSI ROAD
425 ELLIS STREET, SUITE 101
MOUNTAIN VIEW, CALIFORNIA

B UNIT PLANS



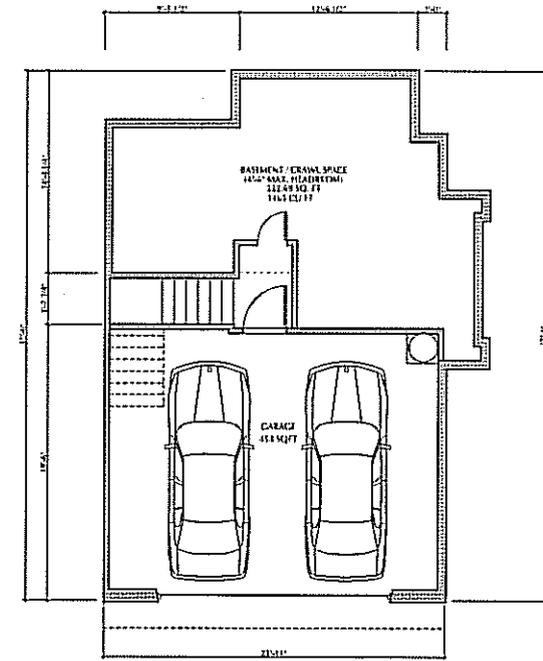
SECOND FLOOR
889 SQFT

3



FIRST FLOOR LEVEL
938 SQFT

2



GARAGE LEVEL

1

| | |
|------------|------------|
| JOB NUMBER | |
| DATE | 10/11/07 |
| SCALE | 1/4"=1'-0" |

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 7 of 14
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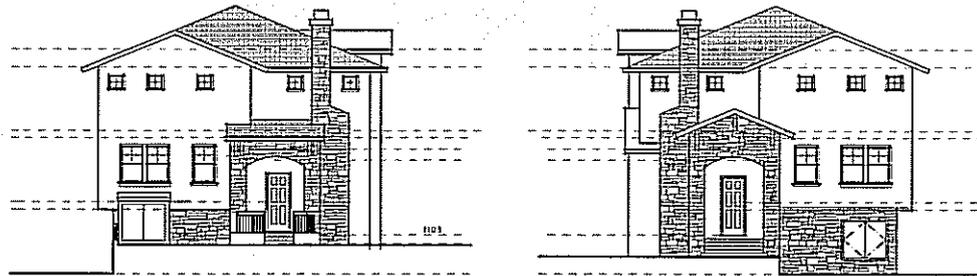


**BERNARDO
TERRACE
TOWN HOMES**

SUNNYVALE,
CALIFORNIA

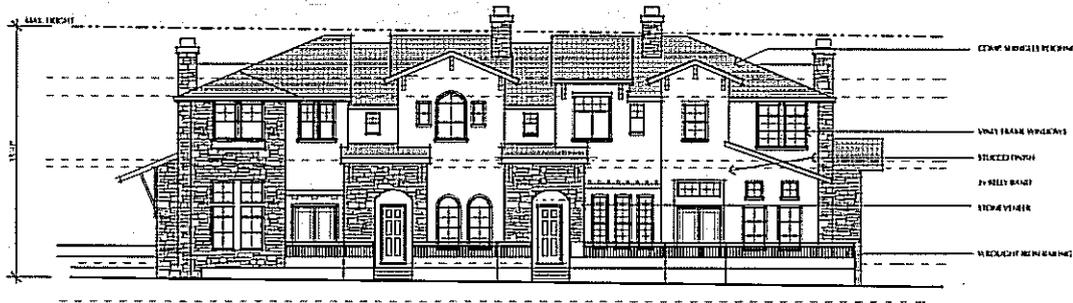
TIM PROSCHOLD
415 ELLIS STREET, SUITE 100
ARLINGTON, TEXAS 76010

ELEVATIONS



SIDE ELEVATIONS

2



FRONT ELEVATION

1

JOB NUMBER

DATE 10/11/07

SCALE 1/8"=1'-0"

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100 of 14

JUL 14 2008



**BERNARDO
TERRACE
TOWN HOMES**

SUNNYVALE,
CALIFORNIA

381 PHOENIX ROAD
CITY CENTER SQUARE, SUITE 101
ARLINGTON HEIGHTS, ILLINOIS 60014

ELEVATIONS



REAR ELEVATION

1

JOB NUMBER _____

DATE 11/11/17

SCALE 1/8" = 1'-0"

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9 of 14



**BERNARDO
TERRACE
TOWN HOMES**

SUNNYVALE,
CALIFORNIA

(BY PROJECT) 101
127 ELLIS STREET, SUITE 101
MOUNTAIN VIEW, CALIFORNIA

SITE SECTION

APN # 161-17-001
185 SOUTH BERNARDO AVENUE

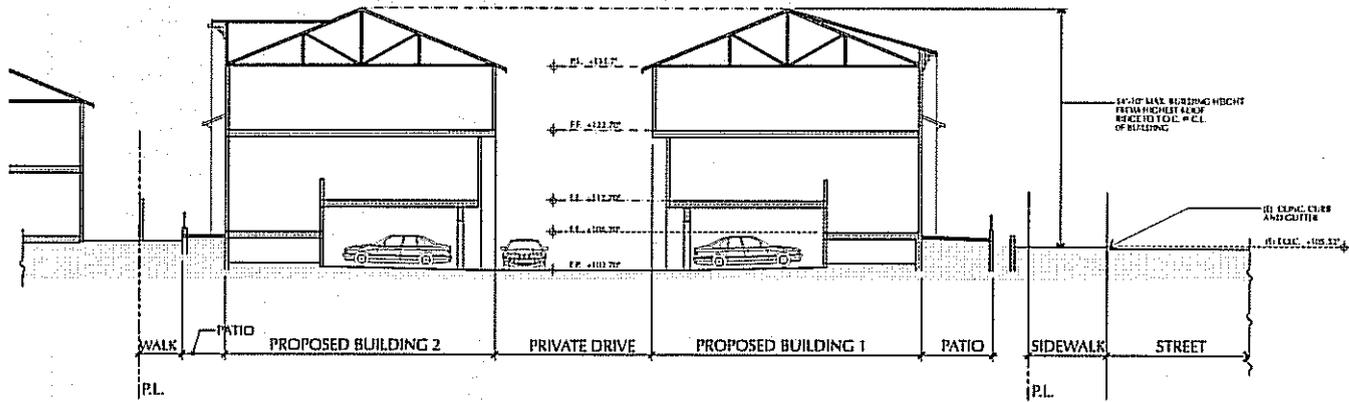
JOB NUMBER

DATE 10/11/07

SCALE 1/8"=1'-0"

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ATTACHMENT 2
10 of 14



BERNARDO TERRACE SITE SECTION

1

Plant Legend

| KEY | SIZE | BOTANICAL NAME | COMMON NAME |
|-----|------|------------------------------|------------------|
| PC | 18" | Palmetto stramonium | Chinese Palmetto |
| CC | 18" | Caran Forest Fern | Eastern Bamboo |
| LI | 18" | Lagerströmia indica Tulipane | Crape Myrtle |

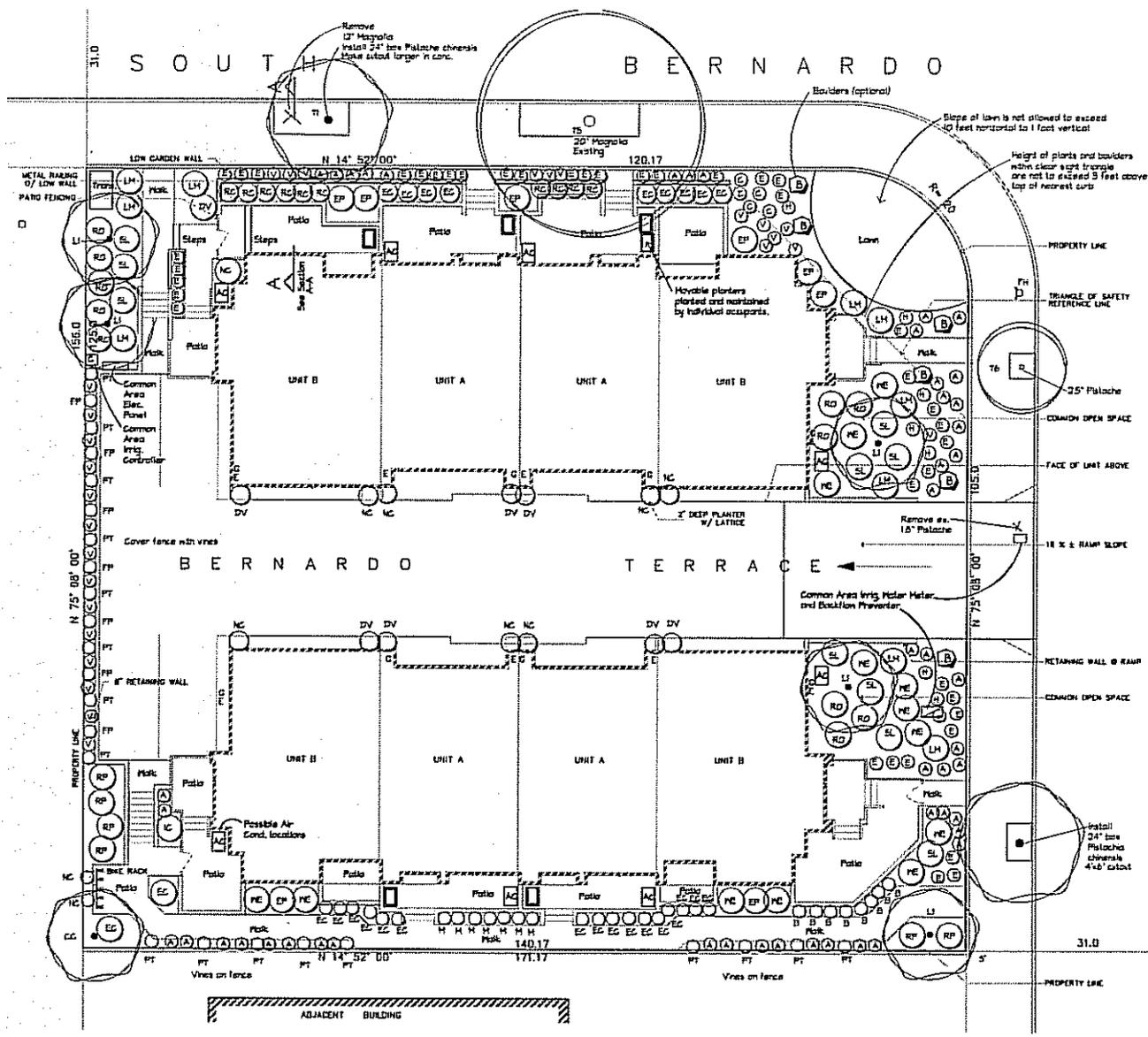
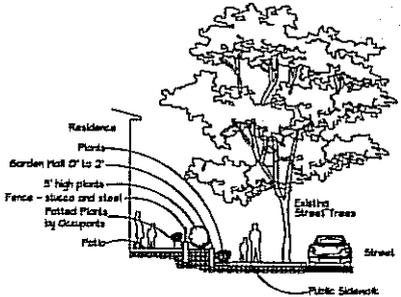
| | | | |
|----|----|----------------|---------------|
| WV | 8" | Waxflower | Waxflower |
| FP | 8" | Ficus purpurea | Drumstick Fig |

| MEDIUM SHRUBS | | | |
|---------------|----|---------------------|-----------------------|
| CP | 8" | Corymba pedunculata | Corymba Daisy |
| WC | 8" | Waxflower | Waxflower |
| RP | 8" | Rhododendron | Red Flowering Dogwood |
| CC | 8" | Caran Forest Fern | Eastern Bamboo |
| DV | 8" | Dioscorea | Yam |
| EC | 8" | Eucalyptus | Eucalyptus |
| HC | 8" | Hemlock | Hemlock |
| M | 8" | Myrica | Myrica |
| IC | 8" | Ironwood | Ironwood |
| SC | 8" | Scaevola | Scaevola |
| S | 8" | Sida | Sida |

| GROUND COVERS | | | |
|---------------|----|------------------|------------------|
| L | 1" | Liriodendron | Purple Loraine |
| E | 1" | Erythronium | White Anemone |
| A | 1" | Agapanthus | Lily of the Nile |
| Lawn | 1" | Turf Tall Fescue | Turf Tall Fescue |
| S | 1" | Sida | Sida |
| C | 1" | Cyperus | Cyperus |
| H | 1" | Horsetail | Horsetail |
| V | 1" | Vallisneria | Savory Grass |

Landscape Notes

1. First building permit plans to include an automatic irrigation system for all outdoor areas.
2. Plant spacing of plants in this plan is to be adjusted as to best accordance with approved local codes, utility, drainage factors, and so on.
3. Do not plant in sunken areas.
4. Use 2 foot deep mulch in all planting areas. Provide cover with different color mulches and press including Salsolite mulch from Sun Up in Sacramento (916) 331-1881 or equivalent for best.
5. Small plants for all plant areas shown on the plan even if they aren't needed. Call for confirmation. For better purposes, if no one is available to answer questions, assume that any plant code means 18" or 24" size.
6. The plan is schematic. Do not plant in areas where signs of planting or drainage. Do not plant in areas where signs of planting or drainage. Do not plant in areas where signs of planting or drainage.
7. The plants will be shown in their natural colors and textures and that they are to be maintained during building construction.
8. See notes concerning soil amendments and fertilizer. For better purposes call the soil and fertility test in area, but if none is available, use a balanced fertilizer and 18 plants of 18-18-18 fertilizer over the top of it at 8" of top after rhying and to 12" deep except lower existing area or on steep slopes.
9. The lawn area is less than 50% of the total planting area.
10. See the Adjacent Report and notes to be furnished by the Owner. Plant near by the Architect.
11. Schedules are optional depending on final landscape budget. See Schedule for more info on average size of 10000 sq. ft. with. Planting budget to appear above and do not exceed budget size in final plan.



Landscape Plan 1/8" = 1'-0"

Gregory Lewis
Landscape
Architect
#2176
736 Park Way
Santa Cruz, CA 95065
(831) 425-4747
FAX (831) 425-1107
lewislandscape@earthlink.net



BERNARDO
TERRACE
TOWNHOMES
SUNNYVALE,
CALIFORNIA

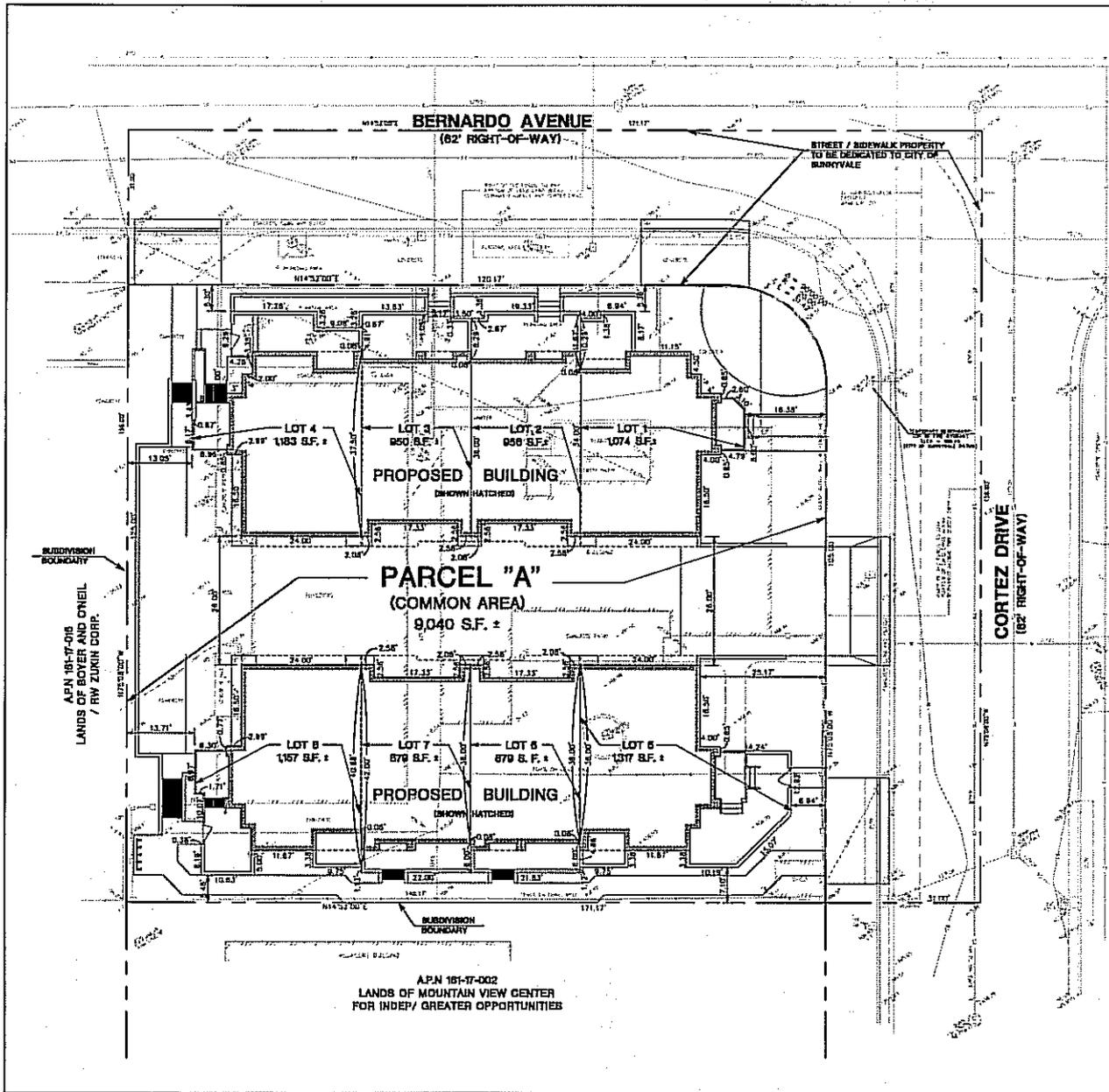
TIM PROSCHOLD
825 ELLIS STREET, SUITE 101
MOUNTAIN VIEW, 94043, CA

LANDSCAPE PLAN

| | |
|------------|--------------|
| JOB NUMBER | |
| DATE | 10/5/07 |
| SCALE | 1/8" = 1'-0" |

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Attachment D
11 of 14
8072 2/2007



LEGEND:

| | | | |
|-------|--------------------------|------------|---------------------------|
| FG | FINISHED GRADE | TS | TOP OF STEP |
| TW | TOP OF WALL | BS | BOTTOM OF STEP |
| FP | FINISHED PAVEMENT | H.P. | HIGH POINT |
| (O/A) | OVERHEAD | TO | TOP OF GRATE |
| CD | CLEANOUT | HY | HYDRANT |
| SSM | SANITARY SEWER MANHOLE | D/W | DRIVEWAY |
| INV. | INVERT | W | WATER METER |
| JP | JOINT UTILITY POLE | CONC. | CONCRETE |
| FL | FLOWLINE | WM | WATER METER |
| FF | FINISHED FLOOR ELEVATION | EM | ELECTRIC METER |
| MH | MANHOLE | GM | GAS METER |
| SS | SANITARY SEWER LINE | A.C. PAVE. | ASPHALT CONCRETE PAVEMENT |
| EV | CABLE TV LINE | GAR. | GARAGE |
| G | GAS LINE | ⊗ | EXIST. TREE TO BE REMOVED |
| E | ELECTRIC LINE | TS | TOP OF STEP |
| W | WATER LINE | GF | GARAGE FINISHED FLOOR |
| T | TELEPHONE LINE | C.B. | GRADE BREAK |
| SL | STREET LIGHT LINE | | |
| NSD | NEW STORM DRAIN | | |
| FW | FORCEMAN | | |

RECORD OWNER AND SUBDIVIDER:
TWO CORNERS LLC
820 ELIAS STREET, SUITE 101
MOUNTAIN VIEW, CA. 94043

LAND SURVEYOR AND CIVIL ENGINEER:
MACLEOD & ASSOCIATES
985 CENTER STREET
SAN CARLOS, CA. 94070
(850) 593-8500

ASSESSOR'S PARCEL NUMBERS:
APN NO: 181-17-001

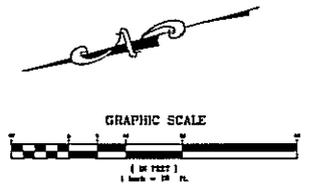
EXISTING AND PROPOSED ZONING:
R-3

- UTILITIES:**
- GAS AND ELECTRICITY: PACIFIC GAS & ELECTRIC COMPANY
 - SANITARY SEWER: CITY OF SUNNYVALE
 - WATER: CITY OF SUNNYVALE
 - TELEPHONE: AT & T
 - FIRE PROTECTION: CITY OF SUNNYVALE
 - STORM DRAIN: CITY OF SUNNYVALE

BENCHMARK:
CITY BENCHMARK 363.21 BRASS INCH IN TOP OF CURB NEXT TO CATCH BASIN AT THE SOUTHEAST CORNER INTERSECTION OF BERNARDO AVENUE AND W. HICKLEY AVENUE. ELEV. = 117.775

BASIS OF BEARINGS:
THE CENTERLINE BEARING N 14°32'00" E OF BERNARDO AVENUE AS SHOWN ON THAT MAP FILED IN BOOK 138 OF MAPS AT PAGES 12, WAS USED AS THE BASIS OF BEARINGS FOR THIS MAP.

UTILITY NOTE:
THE UTILITIES EXISTING ON THE SURFACE AND SHOWN ON THIS DRAWING HAVE BEEN LOCATED BY FIELD SURVEY. ALL UNDERGROUND UTILITIES SHOWN ON THIS DRAWING ARE FROM RECORDS OF THE VARIOUS UTILITY COMPANIES AND THE SURVEYOR/ENGINEER DOES NOT ASSUME RESPONSIBILITY FOR THEIR COMPLETENESS, INDICATED LOCATION, OR SIZE. RECORD UTILITY LOCATION SHOULD BE CONFIRMED BY EXPOSING THE UTILITY.



| | |
|-------------|--|
| DATE | |
| BY | |
| DESCRIPTION | |
| REV. | |
| DATE | |
| BY | |
| DESCRIPTION | |
| REV. | |

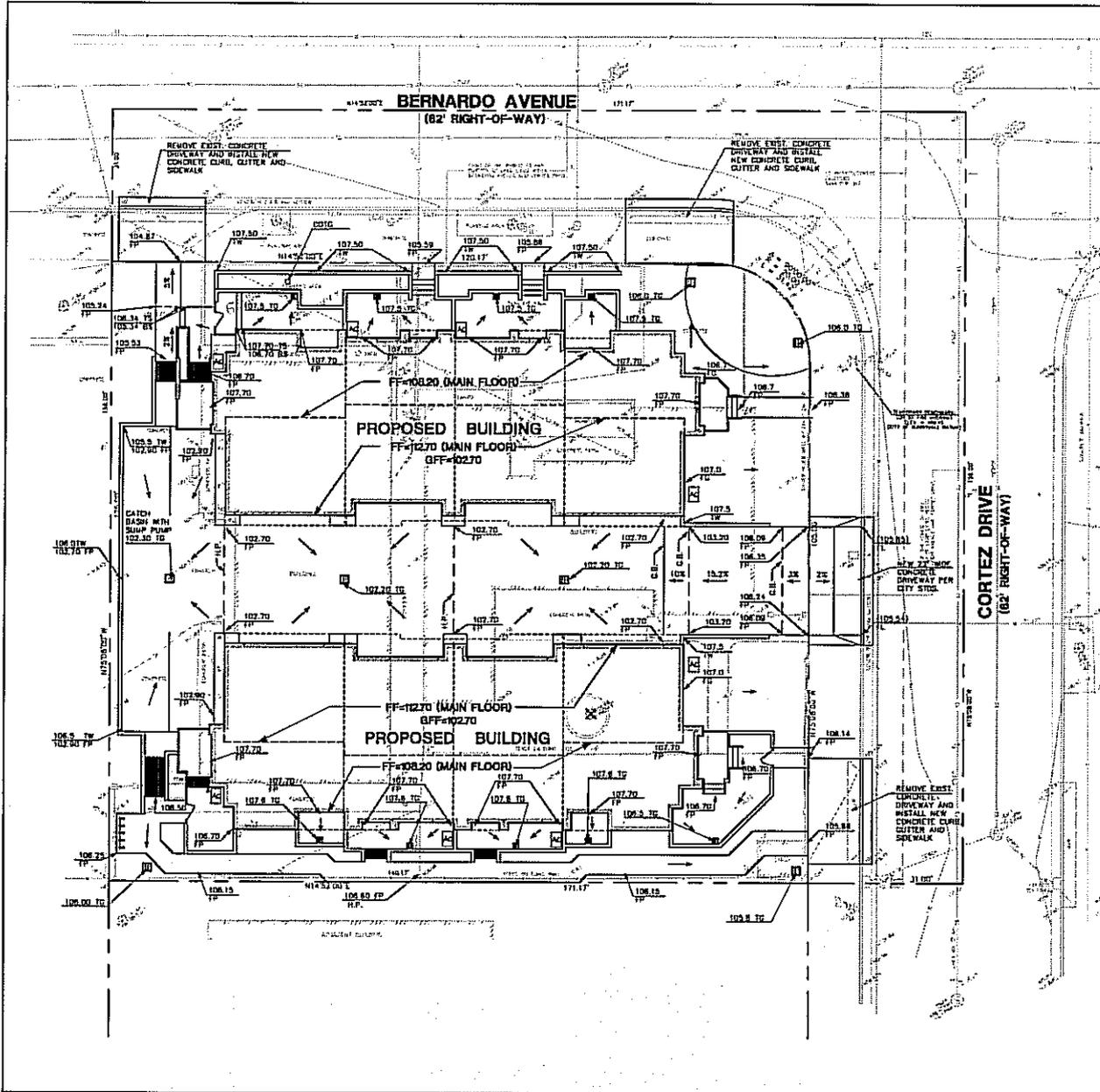
MACLEOD AND ASSOCIATES
CIVIL ENGINEERING - LAND SURVEYING
985 CENTER STREET - SAN CARLOS, CA 94070 (850) 593-8500

PREPARED FOR:
TWO CORNERS LLC

TENTATIVE SUBDIVISION MAP
"BERNARDO TERRACE TOWNHOUSES"
WITH A SUBDIVISION BOUNDARY AND LOTS 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000

ATTACHMENT 1

1 of 14



LEGEND:

| | | | |
|-------|-------------------------|------------|---------------------------|
| FG | FRESHED GRADE | TS | TOP OF STEP |
| TW | TOP OF WALL | BS | BOTTOM OF STEP |
| FF | FRESHED PAVEMENT | H.P. | HIGH POINT |
| (D/H) | OVERHEAD | TD | TOP OF GRADE |
| CD | CLEANOUT | HY | HYDRANT |
| SMH | SANITARY SEWER MANHOLE | D/W | DRIVEWAY |
| RW | RIVER | CONC. | CONCRETE |
| JF | JOINT UTILITY POLE | WM | WATER METER |
| FL | FLOWLINE | EM | ELECTRIC METER |
| FF | FRESHED FLOOR ELEVATION | GM | GAS METER |
| MM | MANHOLE | A.C. PAVE. | ASPHALT CONCRETE PAVEMENT |
| SS | SANITARY SEWER LINE | CAR. | CARAGE |
| TV | CABLE TV LINE | GR. | EXIST. TREE TO BE REMOVED |
| G | GAS LINE | TS | TOP OF STEP |
| E | ELECTRIC LINE | GT | CARAGE FINISHED FLOOR |
| W | WATER LINE | G.B. | GRADE BREAK |
| T | TELEPHONE LINE | | |
| SL | STREET LIGHT LINE | | |
| NSD | NEW STORM DRAIN | | |
| FM | FORCEMAIN | | |

GENERAL NOTES:

1. RAIN WATER LEADERS SHALL BE CONNECTED TO UNDERGROUND STORM DRAIN SYSTEM AS SHOWN.
2. ALL MATERIALS SHALL BE FURNISHED BY AND INSTALLED BY THE CONTRACTOR UNLESS OTHERWISE NOTED.
3. WHEN APPLICABLE, ALL CONSTRUCTION MATERIALS AND METHODS SHALL COMPLY WITH THE ORDINANCES, SPECIFICATIONS AND STANDARDS OF THE CITY OF SAN MARINO, UNLESS OTHERWISE NOTED.
4. CONTRACTOR SHALL NOTIFY UNDERGROUND SERVICE ALERT (U.S.A.) PRIOR TO START OF CONSTRUCTION. PHONE (800) 942-2444.
5. UNLESS OTHERWISE SPECIFIED, ALL STORM DRAIN PIPES SHALL BE P.V.C. PER ASTM D-3034 SIZE 18" AND SMOOTH RUBBER CASSET JOINTS OR BETTER. STORM DRAIN INSTALLATION SHALL BEGIN FROM THE DOWNSTREAM POINT OF CONNECTION.
6. THE CONTRACTOR SHALL BE RESPONSIBLE FOR DETERMINING ANY EXCESS MATERIAL OR SUPPLYING MATERIAL FOR DEFICIENCIES TO BRING DRIVEWAY AND BUILDING PADS TO REQUIRED GRADE.
7. THE CONTRACTOR IS RESPONSIBLE FOR MATCHING EXISTING SURROUNDING LANDSCAPE AND OTHER IMPROVEMENTS WITH A SMOOTH TRANSITION IN PAVING, GRADING, ETC., AND TO AVOID ABRUPT OR APPARENT CHANGES OR CROSS SLOPES, LOW SPOTS OR HAZARDOUS CONDITIONS.
8. THE CONTRACTOR SHALL OBTAIN AN ENCROACHMENT PERMIT FROM THE CITY OF SAN MARINO (ENGINEERING DEPARTMENT) PRIOR TO START OF WORK WITHIN PUBLIC RIGHT-OF-WAY.
9. THE GEOTECHNICAL INVESTIGATION REPORT PREPARED BY MURRAY ENGINEERS INC. PROJECT NO. 993-001, DATED AUGUST 24, 2007 SHALL BE MADE A PART OF THIS PLAN.
10. THE CONTRACTOR SHALL OBTAIN ALL NECESSARY PERMITS FOR ALL WORK SHOWN ON THIS PLAN.

| | |
|-------------|--|
| DATE | |
| REVISION | |
| NO. | |
| DESCRIPTION | |

AT TOWNHOMES

GRADING AND DRAINAGE PLAN
"BERNARDO TERRACE TOWNHOMES"
 APRIL 18-17-08
 SAN MARINO, SANTA CLARA COUNTY, CALIFORNIA

PREPARED FOR:
 TWO CORRIERS LLC

DESIGNED BY: [Signature]
 CHECKED BY: [Signature]
 SCALE: 1" = 10'
 DATE: 11/17/07
 SHEET: 1 OF 1

APPENDIX D



MacLeod and Associates
 CIVIL ENGINEERING - LAND SURVEYING
 985 CENTER STREET, SAN CARLOS, CA 94070 (850) 951-8580

STATEMENT OF JUSTIFICATION

Project Name: Bernardo Terrace

Project Location: 185 South Bernardo Avenue, Sunnyvale, California

Applicant: Timothy Proschold

This project creates a new 8-unit townhome complex with a private street. Along with its sister development across the street, it creates a beautiful gateway entrance into a neighborhood in need of new growth and revitalization. This development marks the beginning of a transitional phase that will help reshape and improve the neighborhood. The project is unique and challenging because it is an infill development on a small, corner lot. Through the City's Planned Development (PD) process, the project is able to present an excellent design that will both compliment and enhance the neighborhood.

The objectives for the proposed project are:

- Improve the existing property
- Achieve the best and highest land use
- Revitalize the neighborhood
- Attract more owner-occupied residents
- Encourage investment into the neighborhood while setting a high standard for future redevelopment.

This re-development project fully meets the objectives and requirements set forth in the City's General Plan and Housing and Community Revitalization Sub-element. Specific goals being met include:

1. This project contributes to Sunnyvale's goal to increase housing supply.
2. New residential developments are required to build to at least 75 percent of permitted densities. Based on current zoning regulations, the site is allowed a maximum of 11 units. $[11 \times (75\%) = 8.25]$ By proposing 8 units, we meet the 75 percent minimum requirement.
3. Sunnyvale uses the Planned Development Combining District, which allows consideration of deviations from development standards specifically to accommodate a variety of development types and to improve design and amenities. The PD process is particularly useful for lots that are at greater risk of underdevelopment due to size, shape, topography, surroundings, location, etc. This project exemplifies the intent and purpose of the PD process because it is restricted by large front yard setbacks on two sides of the property.

Deviation Requests (2)

Front Yard Setback

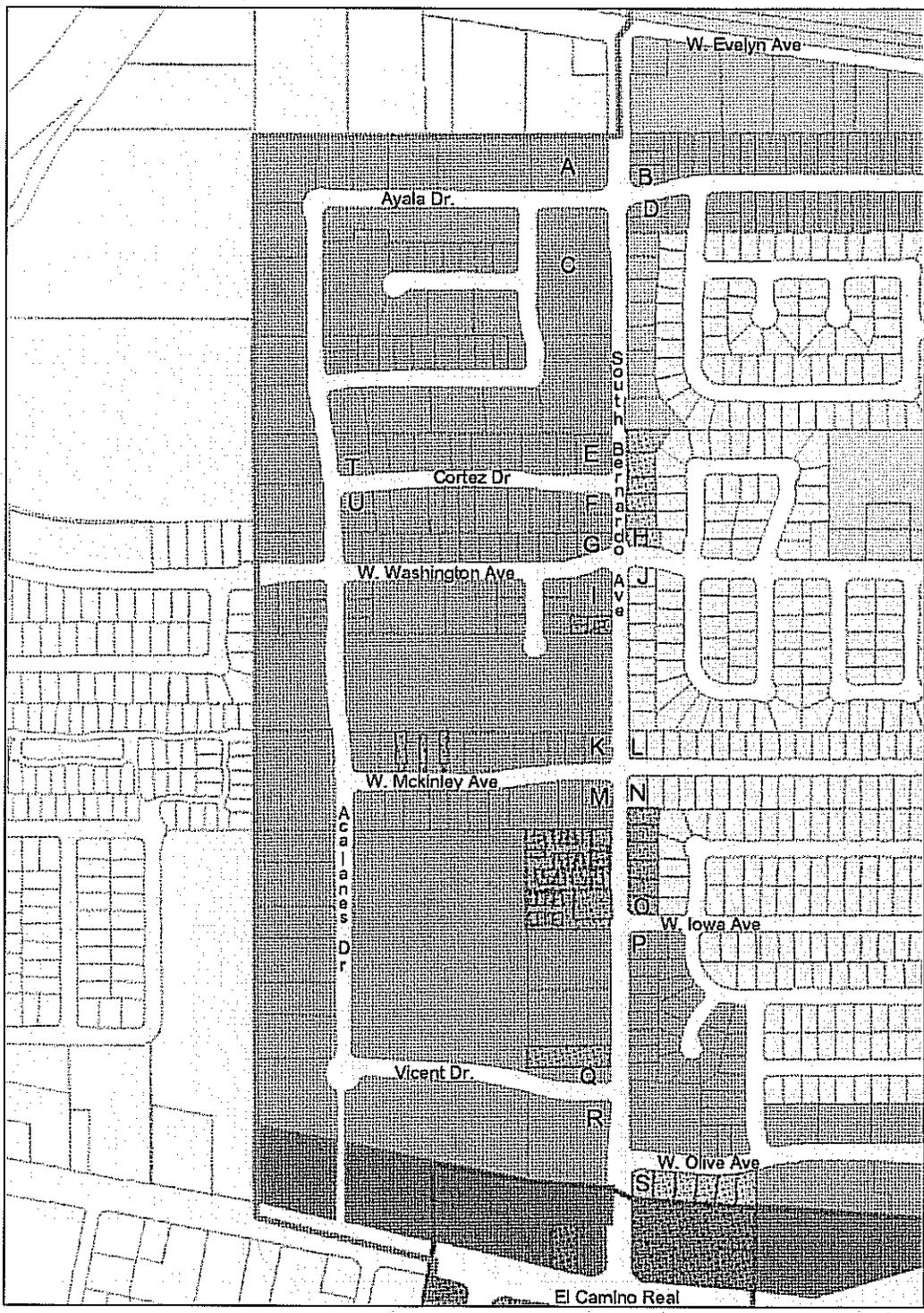
The existing front yard setback at the site is only 11 feet along Cortez Drive. Therefore, this project is actually increasing the minimum front yard set from the current 11 feet to a proposed 15 feet. Corner lots often require a deviation from one of the two front yard setbacks in order to achieve the minimum required density of the zoning district. In the R-0, R-1, R-1.5 and R-2 zoning districts, corner lots are allowed a reducible front yard along one side with a nine (9) foot setback.

We are requesting a deviation from the front yard setback requirement on the side of the property facing South Bernardo Avenue. The project meets or exceeds the setback requirements on the other three sides as detailed below.

| Side | Required Setback (feet) | Proposed Setback (feet) |
|--------------------------|-------------------------|-------------------------|
| Front (Bernardo) | 20 | 15 |
| Front (Cortez) | 20 | 21 |
| Rear (opposite Cortez) | 20 | 20 |
| Side (opposite Bernardo) | 6 | 12 |
| Total | 66 | 68 |

The sum of all setbacks is shown above to illustrate that the reduced setback along Bernardo is more than made up for by the other three sides. By evaluating at all four setbacks collectively, one can tell that this deviation request is not being made with the intent of overbuilding the lot, but rather to improve the overall design by increasing usable open space, landscaping, private open space and patios.

A survey was performed to evaluate front yard setbacks for corner lots on both Cortez Drive and South Bernardo Avenue. The figure below identifies every residential corner-lot on these streets between West Evelyn Avenue and El Camino Real.



The following table summarizes the existing minimum setbacks for every residential corner-lot on Cortez Drive.

| Lot | Address | Existing Minimum Setback For Front Yards (feet) |
|-----------------------------------|----------------------|---|
| E | 185 S. Bernardo Ave. | 11' |
| F | 1202 Cortez Dr. | 11' |
| T | 188 Acalanes Dr. | 10' 6" |
| U | 1292 Cortez Dr. | 20' |
| | | |
| Average Front Yard Setback | | 13' 2" |

The following table summarizes the existing minimum setbacks for every residential corner-lot on South Bernardo Avenue between West Evelyn and El Camino Real.

| Lot | Address (listed North to South) | Existing Minimum Setback For Front Yards (feet) |
|-----------------------------------|---------------------------------|---|
| A | 1209 Ayala Dr. | 8' 10" |
| B | 140 S. Bernardo Ave. | 21' 9" |
| C | 151 S. Bernardo Ave. | 15' |
| D | 142 S. Bernardo Ave. | 16' 6" |
| E | 185 S. Bernardo Ave. | 11' |
| F | 1202 Cortez Dr. | 11' |
| G | 1209 W. Washington Ave. | 15' 10" |
| H | 1177 W. Washington Ave. | 15' |
| I | 1212 W. Washington Ave. | 6' |
| J | 208 S. Bernardo Ave. | 7' |
| K | 1203 W. McKinley Ave. | 18' 3" |
| L | 2985 S. Bernardo Ave. | 0' |
| M | 1202 W. McKinley Ave. | 12' 7" |
| N | 302 S. Bernardo Ave. | 0' |
| O | 396 S. Bernardo Ave. | 9' 10" |
| P | 1198 W. Iowa Ave. | 17' 8" |
| Q | 1205 Vicente Dr. | 14' 4" |
| R | 503 S Bernardo Ave. | 14' 9" |
| S | 1192 W. Iowa Ave. | 10' 9" |
| T | 188 Acalanes Dr. | 10' 6" |
| U | 1292 Cortez Dr. | 20' |
| | | |
| Average Front Yard Setback | | 12' 7" |

As evident from the existing setbacks in the area, this deviation request is consistent with the existing conditions in the area and justified by the improvement it provides to the overall design such as increased usable open space, landscaping, private open space and patios.

Usable Open Space

We are requesting a deviation from the 400 sq-ft per unit requirement for usable open space. The project provides 265 sq-ft of usable open space per unit, 135 sq-ft short of the requirement. The shortfall is merely due to the fact the project is located on a corner lot. Regulations forbid us from counting the usable open space within the front yard setback, which we have along two sides of our lot. However, what we lack in usable open space we make up for in landscaping. The proposed Total Landscape Area (683 sq-ft per unit) exceeds the 425 sq-ft requirement by 258 sq-ft or by 61 percent, far overcompensating for the 34 percent shortfall in usable open space.

Development projects on corner lots often fall short of the usable open space requirements due to a double penalty for having two front yards. Because of this, it is common to ignore one front yard setback for the purpose of open space calculations similar to the way R-1 corner lots are allowed a reducible front yard setback on one side. Both of these concepts allow corner lots to be developed to their best and highest land use. For comparison purposes, Sheet 4 of our submittal illustrates what our usable open numbers would look like if just one front yard was included in the calculations. The usable open space would then increase to 524 sq-ft per unit and exceed the minimum requirement by 31 percent. This number is more representative of the actual open space provided at the site as opposed to the first set of numbers that only report some of the open space.

There are many development standards that both guide and assess a projects design such as minimum lot areas, lot coverage, setbacks, building heights, minimum landscaping, useable open space, storage area and parking to name a few. No one standard trumps the rest, nor tells the entire story. The standards should be viewed collectively. For higher density zoning districts, these development standards are regularly adjusted through the PD process to facilitate the achievement of density requirements in the General Plan. As stated in the City of Sunnyvale Municipal Code, the purpose of the PD process is to accommodate a variety of development types and to improve design and amenities for lots that are at greater risk of underdevelopment due to size, shape, topography, surroundings, location, etc. The fact that this design meets all but two development standards, while having to deal with two full front yard setbacks, indicates that design carefully balances and optimizes each development standard to achieve a superior overall project.

Variance Requests (1)

Trash Enclosure

While a trash enclosure shields the visibility of garbage bins, the enclosure itself is often times the most unattractive structure in any development. We are requesting a variance from the requirement to build a centralized trash enclosure in order to create a more beautiful residential development for the neighborhood and future home owners. Instead, we recommend that each unit place individual bins inside their garage, which has been oversized to accommodate the storage of bins.

All three findings can be made to justify the variance as detailed below:

1. Due to the size, shape, and location of the subject property, possible locations for placing a trash enclosure on the property are limited. The most likely location is within the front yard setback area, which would create an unsightly structure in plain sight of pedestrian traffic, neighbors and future home owners. Because each unit has a garage in excess of 400 square feet and additional storage areas, we feel it reasonable and prudent to place individual trash and recycling bins in the garage. This privilege is enjoyed by many other properties in the vicinity and within the same zoning district, such as the Eaton Terrace townhome development.
2. Granting this variance will in no way be detrimental to public welfare. Instead, it will benefit public welfare by creating additional landscaping and open space, reduce lot coverage and eliminate the view of trash enclosures. By placing bins inside each garage, property owners will have more control of their trash and recycling materials. This control is an important issue in today's world of identity theft and credit card fraud. Combine this security feature with the lower cost for smaller garbage bins and you will create multiple incentives for each owner to recycle more and produce less landfill waste, a benefit to public welfare both locally and globally.
3. The intent and purpose of the cities residential trash and recycling ordinance will be served by this variance because adequate storage space will be provided for bins within each garage unit and storage within garages provides screening equivalent to and even better than a trash enclosure.

On the issue of trash enclosures, it is important to have more than just a yes or no answer. Realistic scenarios should be developed and compared side by side. Therefore, we have done some analysis to determine the most probable scenario for implementing a centralized trash enclosure. The alterative to this variance request involves placing one or more trash enclosures in a portion of the site that is currently available for landscaping or open space. The most likely solution would involve two smaller trash enclosures placed at opposite corners of the complex. Because there is no one centralized location, two enclosures would be necessary. And because the complex is on a corner lot, most

available open space is located in the front yard. One enclosure would be placed along the sidewalk on Cortez and the other at the opposite corner of the site along South Bernardo within the front yard. This alternative would require several deviations from current design guidelines for trash enclosures and front yard setbacks. Due to the proximity of the enclosures to proposed and existing buildings, it may be necessary to place a roof on each enclosure to mitigate the view of trash bins from second story windows, which would then trigger lighting and fire sprinkler requirements. Both enclosures would eliminate at least one tree planting location each as shown on the landscaping plan (i.e. 2 to 4 less trees per site).

The two scenarios (garage storage vs. trash enclosures) outlined above have some similarities. Both options involve roll-out bins as opposed to a dumpster and both could employ either curb service or roll-out service. However, the differences are far more numerous, which is why we feel that this variance request is substantially justified. The lack of any discrete location for trash enclosures is the biggest obstacle. Placing enclosures anywhere on this particular site would significantly tarnish the overall living experience for neighbors and future residents.

Conclusion

Through the use of the City's PD process and two deviations, an excellent project has been created to breathe new life into an aging neighborhood. The complex provides more than 160% of the required landscaping. Although 11 units are allowed on the lot, the project proposes only 8 townhomes in order to optimize several design elements and compliment the surrounding residential developments. Ultimately, the project creates a beautiful new gateway into the neighborhood.

We hope the detailed analysis above has further convinced you that these requests are being made with much consideration and care on our part, not simply out of ease or oversight. The requests are fair and necessary to development of the property in a way that benefits the neighborhood, the City of Sunnyvale, and the future home owners. For in the end, it is our collective goal to create a superior project by achieving a balance between form, function and design standards.

Thank you for your time and consideration!

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE AMENDING THE PRECISE ZONING PLAN, ZONING DISTRICTS MAP, TO REZONE CERTAIN PROPERTY LOCATED AT 1202-1204 CORTEZ DRIVE AND 189-191 SOUTH BERNARDO AVENUE FROM R-3 (MEDIUM DENSITY RESIDENTIAL) TO R-3/PD (MEDIUM DENSITY RESIDENTIAL/ PLANNED DEVELOPMENT) ZONING DISTRICT

THE CITY COUNCIL OF THE CITY OF SUNNYVALE DOES ORDAIN AS FOLLOWS:

SECTION 1. AMENDMENT OF PRECISE ZONING PLAN. The Precise Zoning Plan, Zoning Districts Map, City of Sunnyvale (Section 19.16.050 of the Sunnyvale Municipal Code) hereby is amended in order to include certain properties within the R-3/PD (MEDIUM DENSITY RESIDENTIAL/PLANNED DEVELOPMENT) ZONING DISTRICT which properties are presently zoned R-3 (MEDIUM DENSITY RESIDENTIAL) ZONING DISTRICT. The location of the properties is set forth on the scale drawing attached as Exhibit "A."

SECTION 2. CEQA-NEGATIVE DECLARATION. The City Council hereby determines that the Negative Declaration prepared for this ordinance has been completed in compliance with the requirements of the California Environmental Quality Act (CEQA) and reflects the independent judgment of the City, and finds that adoption of the ordinance will have no significant negative impact on the area's resources, cumulative or otherwise. The Director of Community Development may file a Notice of Determination with the County Clerk pursuant to CEQA guidelines. Any future project that may benefit from these changes will still need to undergo its own environmental review, if required by CEQA, and potential impacts may be determined at that time.

SECTION 3. EFFECTIVE DATE. This ordinance shall be in full force and effect thirty (30) days from and after the date of its adoption.

SECTION 4. PUBLICATION. The City Clerk is directed to cause copies of this ordinance to be posted in three (3) prominent places in the City of Sunnyvale and to cause publication once in The Sun, the official newspaper for publication of legal notices of the City of Sunnyvale, of a notice setting forth the date of adoption, the title of this ordinance, and a list of places where copies of this ordinance are posted, within fifteen (15) days after adoption of this ordinance.

Introduced at a regular meeting of the City Council held on _____, 2008, and adopted as an ordinance of the City of Sunnyvale at a regular meeting of the City Council held on _____, 2008, by the following vote:

- AYES:
- NOES:
- ABSTAIN:
- ABSENT:

ATTEST:

APPROVED:

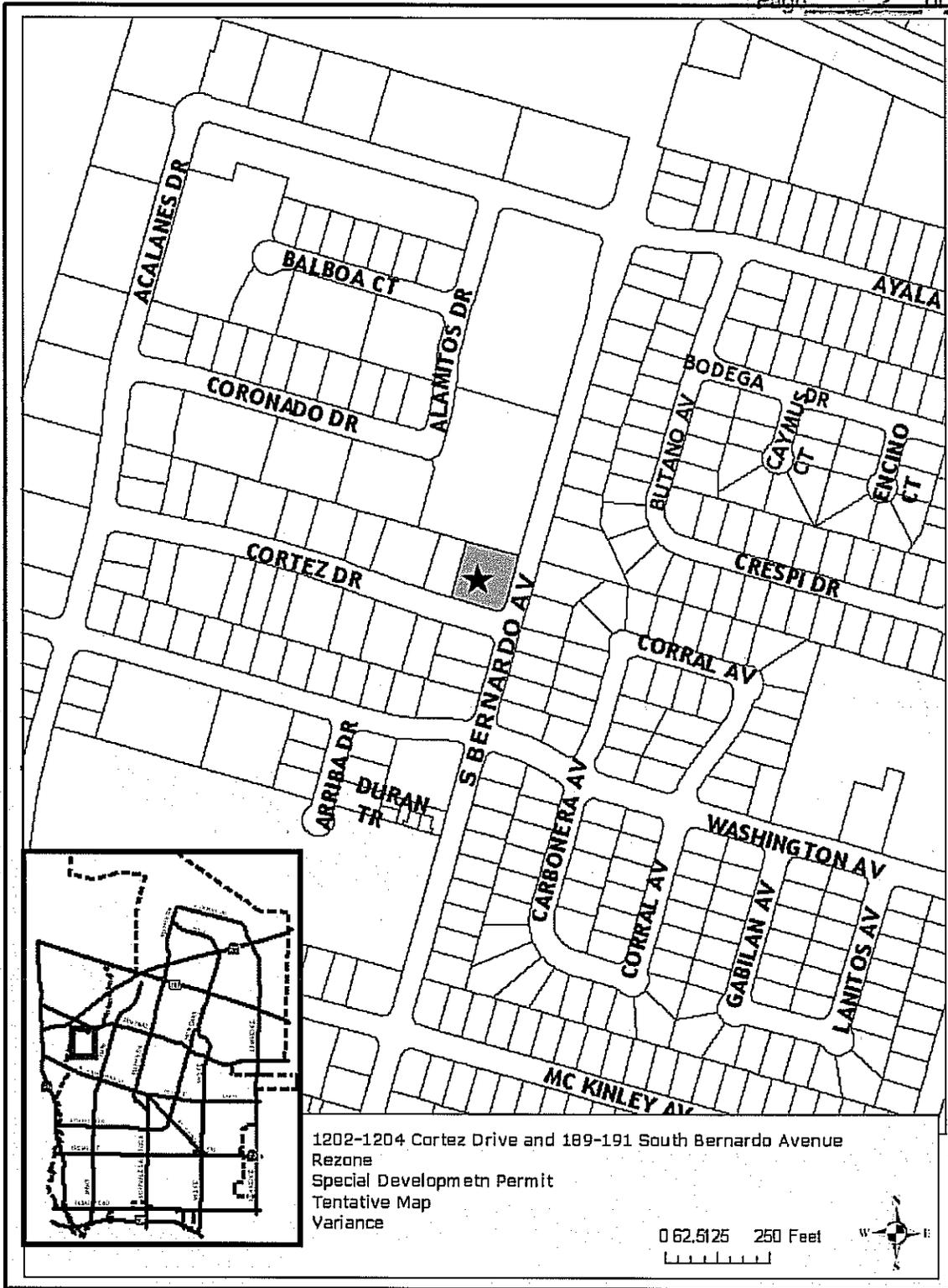
ATTACHMENT F
Page 2 of 3

City Clerk
SEAL

Mayor

APPROVED AS TO FORM AND LEGALITY:

David E. Kahn, City Attorney



2007-1106 1202-1204 Cortez Drive and
189-191 South Bernardo Avenue and
2007-1107 185 South Bernardo Avenue

Approved Minutes
December 10, 2007
Page 1 of 8

PLANNING COMMISSION MINUTES OF DECEMBER 10, 2007

Trudi Ryan, Planning Officer, offered the Planning Commission the option of conducting the public hearing for project numbers 2007-1106 and 2007-1107, both on tonight's agenda. She said these items could be considered at the same time as the two projects are companion projects, though two different sites and two different ownerships. Chair Sulser and staff determined that these items would be heard together yet two separate motions would be taken at the end of the hearing.

2007-1106 - Nathan Merlin [Applicant] Two Corners LLC [Owner]: Application for related proposals located at **1202-1204 Cortez Drive and 189-191 South Bernardo Avenue** in an R-3 (Medium-Density Residential) Zoning District. (Negative Declaration) (APN's: 161-18-025 and 161-18-026) RK;

- **Rezone** from R-3 (Medium Density Residential) to R-3/P-D (Medium-Density Residential/Planned Development) Zoning District,
- **Special Development Permit** to allow the construction of eight townhomes,
- **Tentative Map** to subdivide two lots into eight lots and one common lot, and
- **Variance** from Sunnyvale Municipal Code section 19.38.030 to allow individual solid waste and recycling carts instead of a centralized waste enclosure.

2007-1107 - Timothy Proschold [Applicant] Two Corners LLC [Owner]: Application for related proposals located at **185 South Bernardo Avenue** (at Cortez Dr.) in an R-3 (Medium-Density Residential) Zoning District. (Negative Declaration) (APN: 161-17-001) RK;

- **Rezone** from R-3 (Medium-Density Residential) to R-3/P-D (Medium-Density Residential/Planned Development) Zoning District,
- **Special Development Permit** to allow the construction of eight townhomes,
- **Tentative Map** to subdivide one lot into eight lots and one common lot, and
- **Variance** from Sunnyvale Municipal Code section 19.38.030 to allow individual solid waste and recycling carts instead of a centralized waste enclosure.

Chair Sulser announced that the Planning Commission would be considering both 2007-1106 and 2007-1107 at the same time.

Ryan Kuchenig, Associate Planner, presented the staff report. He said staff recommends for project 2007-1106 and project 2007-1107, approval of the Rezones, Special Development Permits and Tentative Maps, with denial of the variances for individual trash and recycling carts. He provided a correction, referring to page 4 of the report, in the "Description of Proposed Project" section of each project and said that the reference to R-2 zoning should be R-3 as shown in the rest of the reports. Mr. Kuchenig said the differences between the two projects are: that there is a slightly different grade between the two sites so the height of the buildings is a difference of

2007-1106 1202-1204 Cortez Drive and
189-191 South Bernardo Avenue and
2007-1107 185 South Bernardo Avenue

about 10 inches; and the existing landscaping is different between the sites. He said the layout of the two projects are the same and mirror each other in design. He said there will be some differences in the colors used. He noted, based on a suggestion by the Planning Commission at the Study Session on November 12, 2007, that a Condition of Approval has been included for both projects to provide a change in the paint color selection.

Comm. Babcock discussed with staff the trash situation and referred to a rendering provided by the applicant this evening that shows a possible location for a trash enclosure. Staff commented that the design shown would not necessarily be used. Staff said the location of the trash receptacle would be in the same approximate location for each project on Cortez Drive. Comm. Babcock asked staff about the usable open space and whether consideration was given to using some of the setback on Cortez and Bernardo to give the units more private open space. Staff said that the usable open space is an average per unit, there is not a requirement that it be private, though a portion of the usable open space is private and a portion is shared, and moving the building would most likely affect the opposite side of the project which is shared open space area. Comm. Babcock further discussed with staff the possibility of moving the building and whether rooftop gardens were considered. Staff said the rooftop gardens were discussed, but not considered. Staff said if the Commission would like the building moved a foot closer that it probably would not be that noticeable in the streetscape, but the applicant may want to comment on whether the slope of the driveway would be affected. Comm. Babcock commented about a parking problem in this area and confirmed with staff that the minimum amount of parking is proposed. Comm. Babcock asked how many spaces are designated for guest spaces. Ms. Ryan said that staff is comfortable with designating a portion of the parking for guest use only and is recommending that up to 50% of the unassigned spaces be marked for "guest" use only.

Comm. Klein asked about the incremental noise during construction mentioned in the Negative Declaration stating he was surprised there were no noise issues on the Bernardo Avenue side of the projects. Ms. Ryan said that staff uses a noise contour map to determine if additional analysis is needed and there is not additional analysis needed for Bernardo Avenue.

Vice Chair Rowe commented that she sometimes has a problem with how many units are allowed on a lot versus how many are built and that sometimes a project has to be reduced by a unit to meet open space and setback requirements. She asked if the solution might be to remove one unit or make the proposed units smaller. Ms. Ryan confirmed that removing a unit is an option to meet the requirements. Vice Chair Rowe said this might help the trash enclosure from being in the front yard and commented that she agrees with Comm. Babcock that there is a parking problem in this area.

Comm. Hungerford asked whether pedestrian access from South Bernardo to the back four units would be easily apparent to pedestrians. Mr. Kuchenig said the pedestrian access for the back four units would be from Cortez.

Chair Sulser opened the public hearing.

Nathan Merlin, applicant for 2007-1106, said this proposal for a new 8-unit townhome complex in combination with the sister development, project 2007-1107, propose to create a new, beautiful entryway into this neighborhood. He said the goals are to improve the property, while achieving the best land use, revitalize the neighborhood, provide more owner-occupied residences, and encourage new investment into the neighborhood while setting a high standard for future redevelopments. He said they have incorporated many of the staff and Commission suggestions except the request for a variance for the trash enclosure. He said the major obstacle for building a trash enclosure is the lack of a discreet location. He said they are requesting the variance from the requirement to build a centralized trash enclosure to create a more beautiful residential development and are recommending that each unit place individual bins in their garages, which have been oversized to accommodate the storage of the bins. He said to deny the trash enclosure variance, in their minds, is to deny the entire project because the trash will need to go somewhere. He said they have provided a rendering of the most feasible location of a trash enclosure which might be the next best alternative if the variance is denied, yet it is not attractive and has other negative consequences. He said granting the variance will not be detrimental to the neighborhood and there is adequate storage space in garage units. He said the solution that they are proposing has been approved for other townhome projects in Sunnyvale. He said he understands that all three findings must be made to approve the variance request and he hopes that he has provided enough information for the Commission to approve the variance. He said he can also address any additional questions.

Tim Proschold, applicant for project 2007-1107, addressed Vice Chair Rowe's question regarding the density and said that both projects are under the allowable density for the sites. He said they are building to the minimum lot based on the General Plan for the City. He said they meet the usable open space requirements and are proposing approximately 60% more landscaping than required. He said, regarding setbacks, that they are consistent with other buildings in this area and commented that they are basically being penalized for building on a corner lot. He said, regarding shifting the building, one of the issues they have is dealing with vision triangles and shifting the building would impinge on a vision triangle. He said, regarding rooftop gardens, that they would not be consistent with neighborhood. He said they meet the City requirements on parking and have no problem with designating some of the unassigned spaces as guest parking. Mr. Proschold said, regarding pedestrian access, that there are stairs that lead from Bernardo down into the parking lot that can be used for access. He said, regarding the trash enclosure, that centralized trash is often a problem with illegal dumping, overstuffing of bins with large items, and people sifting through trash, putting residents at a higher risk for identity theft. He said placing the trash enclosure in the front of the development could negatively affect the property value. He said they are willing to work further on the trash situation. He said this project will offer homebuyers state-of-the-art amenities, a good location, functional interior floor

plans, and exterior beauty through landscaping and architecture. He said if the Commission selects Alternative 3 for their motion, the Commission would be approving more quality housing within the City and using available land in the City to the best use. He said this would be a beautiful new gateway to the west side of the City.

Chair Sulser closed the public hearing.

Vice Chair Rowe asked staff about the requirement for a centralized trash and recycling enclosure, and does that mean it has to be a dumpster or can there be smaller trash enclosure areas with totes for the houses. Ms. Ryan said they do not have to use dumpsters and there have been other projects where multiple carts were selected as the preferred method. Vice Chair Rowe discussed with staff if indentions were made in the walls near the driveway to place the totes, whether that would result in the landscaping requirement no longer being met as it would be a loss in some of the usable open space. Staff said it would reduce landscaping, but it would still probably be met. Ms. Ryan said if the intent is to create space for 8 carts that she does not think there would be any gain versus what would be provided with a centralized trash enclosure. Ms. Ryan said that the applicant's proposal is for each home to have their own cart to be stored in their garages and rolled out into the street on trash collection days. Ms. Ryan said if Vice Chair Rowe's intent is to create space for communal carts that what she discussed might meet the centralized trash enclosure requirement. Vice Chair Rowe and staff further discussed possible solutions to the trash enclosure issue. Vice Chair Rowe asked about lot coverage and whether driveways are counted towards part of the lot coverage. Mr. Kuchenig said that only the housing units are considered in the lot coverage.

Comm. Babcock referred to the findings in Attachment A, page 3, Finding 3 regarding a recent six unit development on Bernardo and asked why a trash enclosure that is too ugly to be allowed on Bernardo in that development would be allowed on Cortez in this development. Mr. Kuchenig explained that the six unit development only has one front yard and this development has two front yards. She said she is surprised about the staff recommendation as it takes away open space, and has a huge visual impact instead of just having a row of totes one day a week. Mr. Kuchenig said staff met with the Public Works staff and decided, after balancing everything, on the planning staff recommendation.

Vice Chair Rowe confirmed with staff that individual carts would have to be placed out on the street on trash collection days.

Comm. Klein commented about the trash enclosure issue and said that the individual cart proposal would result in 16 bins placed on the street one day a week in a neighborhood where parking is an issue. Ms. Ryan said that the code requires that four or more units have a centralized enclosure and that there were multiple factors considered in evaluating the preferable type of trash collection for the site. Comm. Klein referred to Attachment B, page 4, Condition of Approval 3.10 that reads that "Up to 50% of unassigned spaces can be marked for "guest" use only." He asked if staff has a

2007-1106 1202-1204 Cortez Drive and
189-191 South Bernardo Avenue and
2007-1107 185 South Bernardo Avenue

recommendation of a minimum or can the homeowner association determine there are no guest spaces. Ms. Ryan said staff would typically look at a minimum of 25% or in this case 2 spaces.

Comm. Hungerford asked staff about the front setback and open space requirement. He asked about usable open space and setbacks on corner lots and whether this is different for larger lots and single-family lots. Ms. Ryan said that single-family homes do not have a requirement for usable open space and that the same restrictions would be applied to a lot regardless of the size. She said that other corner properties in this area had reduced setbacks approved and that staff feels the precedent for the reduced setbacks has already been set in this neighborhood.

Comm. Hungerford moved for Alternative 3 (recommend approval of all the applications including the variance for trash enclosure) on project number 2007-1106. Comm. Babcock seconded the motion.

Comm. Hungerford said that he agrees with the discussion about the trash enclosures and that he can make the findings for the variance. He said he thinks this will be a good project for this neighborhood.

Ms. Ryan requested that during the deliberations regarding the variance that the Commission state now they are able to make Finding 1, "Because of exceptional or extraordinary circumstances or conditions applicable to the property..."

Comm. Babcock said she was able to make the findings as she thinks the "something special" about this particular development is that it is all front yards. She said, as far as the look of the development, she would rather see guest parking in the front rather than trash containers. She said she does not agree that a trash container on one street has less visual impact than a trash container on another street.

Comm. Hungerford commented that staff agreed that Findings 2 and 3 could be made.

Comm. Klein said he would not be supporting the motion. He said he understands the site is somewhat restrictive, but feels there are things that could be done regarding the trash enclosure that would look good and not affect the parking on trash collection day. He said he feels that staff and the applicant need to continue to work on this and come up with a different solution.

Comm. Chang said he agrees with Comm. Klein regarding the trash situation, and that staff and the applicant need to continue to work towards a solution.

Vice Chair Rowe said she would not be supporting the motion and that she agrees with Comm. Klein and Comm. Chang. She said some further thinking, possibly putting the trash enclosure in the back, and rethinking the term "centralized trash enclosure" need to occur in order for this development to make this as fine a development as it could be.

2007-1106 1202-1204 Cortez Drive and
189-191 South Bernardo Avenue and
2007-1107 185 South Bernardo Avenue

She said she did see some small dumpster trash enclosures in the area and they were not attractive.

The motion failed 2-4 with Chair Sulser, Vice Chair Rowe, Comm. Chang, and Comm. Klein dissenting. Comm. Simons was absent.

Comm. Klein moved for Alternative 2 on project 2007-1106, to adopt the Negative Declaration and introduce an Ordinance to Rezone 1202 - 1204 Cortez Drive and 189 - 191 S. Bernardo Avenue from R-3 to R-3/PD and approve the Special Development Permit and Tentative Map for eight units and one common lot with modified conditions and deny the Variance for individual trash & recycling cart; to modify the percentage used in condition 3.C.10 to "Require 25% to 50% of unassigned spaces can be marked for "guest" use only". Comm. Klein discussed with staff the trash enclosure locations. Comm. Klein said the motion should include: to modify condition 1.F.2 to include the wording "after exploring alternative locations for the trash enclosure on the site." Comm. Chang seconded with motion.

Comm. Klein said he could not support the Variance for the trash enclosure. He said he understands the issue of having a trash enclosure on the site, but the affect on the neighborhood of having possibly 16 new carts on the street where there is already a parking problem is not good. He said in general the site is good construction and improves the corner visually.

Comm. Chang said this is a beautiful project and it will definitely enhance the neighborhood and values of property. He said there is one minor issue with the centralized trash enclosures location and he thinks this motion will take care of it.

Comm. Babcock offered a Friendly Amendment that condition 1.F.2 be further modified to include that the centralized trash container not be in the front yard, and require that it be in the back of the property. Comm. Klein did not accept the Friendly Amendment and said he does not want to remove staff's flexibility when determining the location of the container.

ACTION: Comm. Klein made a motion on 2007-1106 to adopt the Negative Declaration and introduce an Ordinance to Rezone 1202 - 1204 Cortez Drive and 189 - 191 S. Bernardo Avenue from R-3 to R-3/PD and approve the Special Development Permit and Tentative Map for eight units and one common lot with modified conditions and deny the Variance for individual trash & recycling cart; to modify the percentage indicated in condition 3.C.10 to read, "Require 25% to 50% of unassigned spaces be marked for "guest" use only"; to modify condition 1.F.2 to include the wording "after exploring alternative locations for the trash enclosure on the site." Comm. Chang seconded. Motion carried, 4-2, Comm. Babcock and Comm. Hungerford dissenting, Comm. Simons absent.

APPEAL OPTIONS: This action will be forwarded to the City Council as a recommendation to be heard on revised meeting date of January 29, 2008.

Ms. Ryan advised that this item was originally scheduled for the January 15, 2008 City Council meeting and will be re-advertised to be heard at the January 29, 2008 City Council meeting. She said the applicant has been advised of the change in date.

Chair Sulser asked for the Commission to make a motion on project number 2007-1107.

Comm. Klein moved for Alternative 2 on project 2007-1107, to adopt the Negative Declaration and introduce an Ordinance to Rezone 185 S. Bernardo Avenue from R-3 to R-3/PD and approve the Special Development Permit and Tentative Map for eight units and one common lot with modified conditions and deny the Variance for individual trash & recycling carts: to modify the percentage used in condition 3.C.10 to "Require 25% to 50% of unassigned spaces be marked for "guest" use only"; to modify condition 1.F.2 to include that the applicant work with staff and the Director of Community Development to strongly look for an alternate location for the trash enclosures other than the front yard setback. Vice Chair Rowe seconded the motion.

Comm. Klein said he was not able to make the findings for the trash enclosure for the project at 185 S. Bernardo Avenue. He said this project would be a visually positive addition to the neighborhood. He said he thinks that the staff and the applicant should be able to find a more appropriate location for the trash enclosures.

Vice Chair Rowe said that she agrees.

Chair Sulser said he is excited about the redevelopment of this property and will be enthusiastically supporting this motion.

ACTION: Comm. Klein made a motion on 2007-1107 to adopt the Negative Declaration and introduce an Ordinance to Rezone 185 S. Bernardo Avenue from R-3 to R-3/PD and approve the Special Development Permit and Tentative Map for eight units and one common lot with modified conditions and deny the Variance for individual trash & recycling carts: to modify the percentage used in condition 3.C.10 to "Require 25% to 50% of unassigned spaces be marked for "guest" use only"; to modify condition 1.F.2 to include that the applicant work with staff and the Director of Community Development to strongly look for an alternate location for the trash enclosures other than the front yard setback. Vice Chair Rowe seconded. Motion carried, 4-2, Comm. Babcock and Comm. Hungerford dissenting, Comm. Simons absent.

2007-1106 1202-1204 Cortez Drive and
189-191 South Bernardo Avenue and
2007-1107 185 South Bernardo Avenue

Approved Minutes
December 10, 2007
Page 8 of 8

APPEAL OPTIONS: This action will be forwarded to City Council as a recommendation to be heard on the revised meeting date of January 29, 2008.

Ms. Ryan advised that this item was originally scheduled for the January 15, 2008 City Council meeting and will be re-advertised to be heard at the January 29, 2008 City Council meeting. She said the applicant has been advised of the change in date.

Ryan Kuchenig
Project Planner
City of Sunnyvale,
Calif.

Dear Mr. Kuchenig,

I spoke with you by phone about a month ago regarding the letter I received about a public notice regarding eight units to be built on the corners of South Bernardo/Cortez Drive. I have been out of town for the past eight days and so I am a bit late getting this letter to you. I explained to you at that time that all apartments, condo's ,duplexes etc. from Evelyn Ave. to El Camino on the West side of Bernardo Ave. all feed unto Bernardo. There is no other exit from those streets but on Bernardo. There is only one stop light and no strips or bumps from Evelyn to El Camino so needless to say the cars SPEED up and down Bernardo I personally had a dog killed on Bernardo and it is only a question of time before a child will be killed or injured. I might add we also have a retirement home on Bernardo which is not a safe place for seniors to walk.

There are crossing guards on two different streets (Bernardo & Ayala) which does not even have a stop sign & (Bernardo & Washington) during the school hours and the guards say even that does not seem to slow traffic when cars are in a hurry.

I can not see how the street can handle any more traffic than it already bears. Mary Ave. has a signal on both Washington and Iowa and is four lanes across and still has trouble handling the traffic on that street There are safety strips and bumps on many streets across El Camino that don't get HALF the traffic we get on Bernardo. How do they rate safety precautions and we don't have any.

If you want to add more buildings than we already have than you must put more signals and or speed strips to slow the traffic. I guess this is why the police use Bernardo to get to El Camino or Evelyn to get to El Camino. I guess this is why we have the sirens all the time to add to all the traffic.

I ask you please do not let them build any more housing in this area until we can correct the traffic problems we now have.

Yours truly,

Mary Lou Austin
174 South Bernardo Ave.
Sunnyvale, Calif.]