

**Council Meeting: November 18, 2008**

**SUBJECT:** **2008-0870 – Ryan Madson** [Applicant] **Cherry Garden Apartments LLC** [Owner]: Application for related proposals located at **1248 Brookfield Avenue** (near S. Knickerbocker Dr.) in R-3 (Medium Density Residential) Zoning District.

Ordinance **Rezone** from R-3 (Medium Density Residential) to R-3/PD (Medium Density Residential/Planned Development) Zoning District;

Motion **Special Development Permit** to convert an existing 8-unit apartment complex to 6 condominiums;

Motion **Tentative Map** to create 6 new condominium units.

**REPORT IN BRIEF**

**Existing Site Conditions** 8-unit Apartment Complex

**Surrounding Land Uses**

North Apartments

South Two Fourplexes

East Apartments

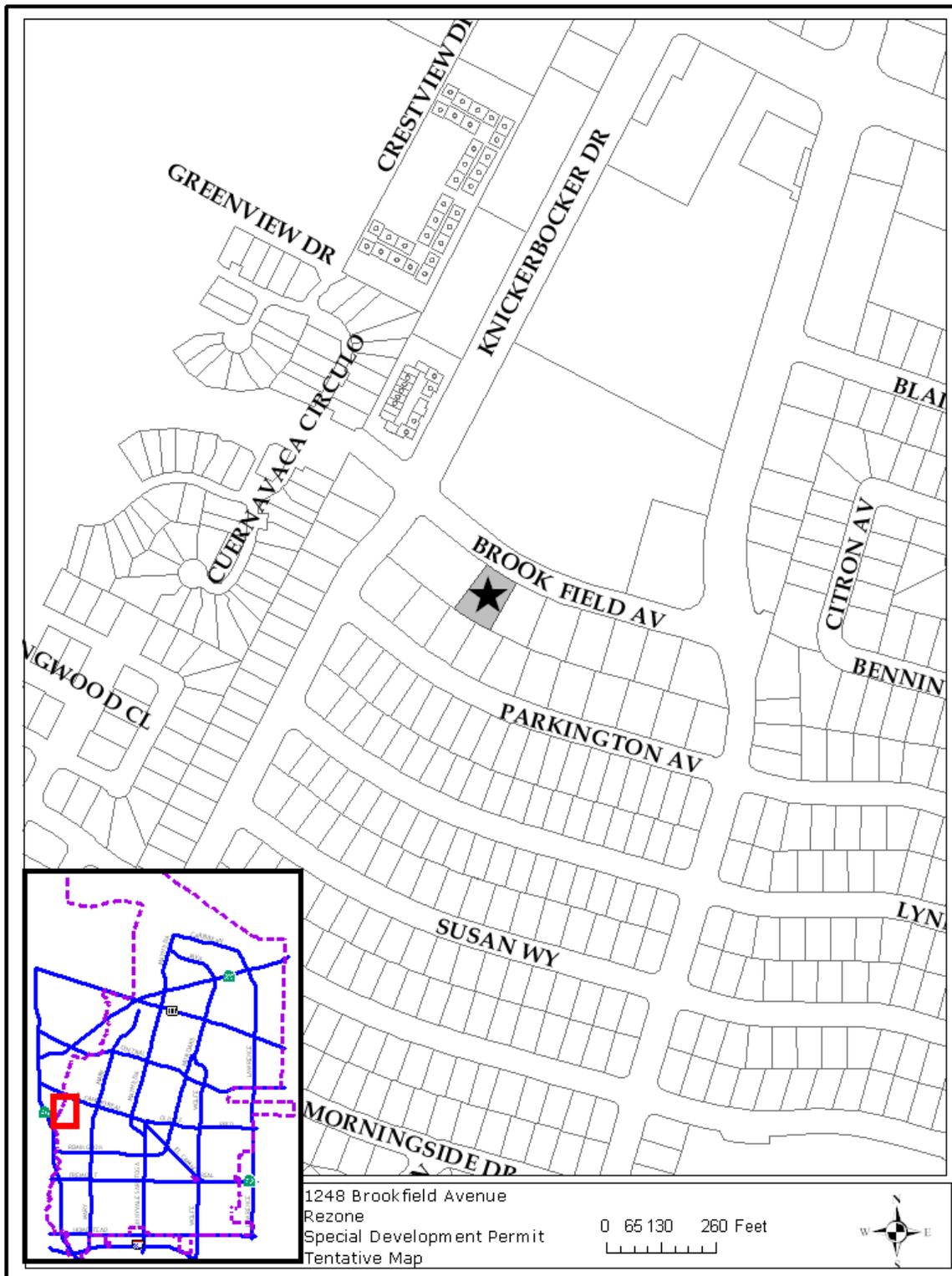
West Apartments

**Issues** Site Layout, Setbacks

**Environmental Status** A Class 1 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines.

**Staff Recommendation** Approve with Conditions

**Planning Commission Recommendation** Approve with Conditions



**PROJECT DATA TABLE**

	<b>EXISTING</b>	<b>PROPOSED</b>	<b>REQUIRED/ PERMITTED</b>
<b>General Plan</b>	Residential Medium Density	Same	Residential Medium Density
<b>Zoning District</b>	R-3	R-3/PD	By Rezone
<b>Lot Size (s.f.)</b>	11,890	Same	8,000 min.
<b>Gross Floor Area (s.f.)</b>	6,961	6,954	No max.
<b>Lot Coverage (%)</b>	35%	36%	40% max.
<b>Floor Area Ratio (FAR)</b>	58.5%	58.5%	No max.
<b>No. of Units</b>	8	6	6 max.
<b>Density (units/acre)</b>	31.9 du/ac	21.6 du/ac	24 du/ac max.
<b>Meets 75% min?</b>	Yes	Yes	5 min.
<b>Bedrooms/Unit</b>	8 one bedroom units	4 one bedroom units & 2 three bedroom units	---
<b>Unit Sizes (s.f.)</b>	Average 870 per unit	Average 1,159 per unit	N/A
<b>Lockable Storage/Unit</b>	0	338 cu. Ft.	300 cu. ft. min.
<b>No. of Buildings On-Site</b>	3	2	---
<b>Distance Between Buildings</b>	5'	21'	10' min.
<b>Building Height (ft.)</b>	21' 2"	22'	30' max.
<b>No. of Stories</b>	2	2	2 max.
<b>Setbacks (First/Second Facing the Building)</b>			
★ <b>Front</b>	19'7" / 19'7"	19' 7" / 14'	20' min.
<b>Left Side</b>	16' 3" / 16' 3"	16' 3" / 16' 3"	6' min. (15' total) / 9' (21' total)
★ <b>Right Side</b>	7' 10" / 7' 10"	7' 5" / 6' 4"	6' min. (15' total) / 9' (21' total).
<b>Rear</b>	31' 9" / 31' 9"	22' 4 / 31' 9"	20' min. (10' for no more than 25% of rear yard)

<b>Setbacks (First/Second Facing the Carport(s)/Trash Enclosure)</b>			
<b>Front</b>	Approx. 108'	68'	20' min.
<b>Left Side</b>	Approx. 1'	Approx. 1'	6' min. (15' total) / 9' (21' total)
<b>Right Side</b>	Approx. 3'	78'	6' min. (15' total) / 9' (21' total).
<b>Rear</b>	Approx. 2' 6"	11'	20' min. (10' for no more than 25% of rear yard)
<b>Landscaping (sq. ft.)</b>			
<b>Total Landscaping</b>	3,005	3,525	2,550 min.
<b>Landscaping/Unit</b>	500.8	587.5	425 min.
<b>Usable Open Space/Unit</b>	1,348 / 168.5	2,649 / 441.5	2,400 / 400 min.
<b>Frontage Width (ft.)</b>	20'	12 - 20	15 ft. min.
<b>Parking Lot Area Shading (%)</b>	60%	52-55%	50% min. in 15 years
<b>Water Conserving Plants (%)</b>	N/A	82%	70% min.
<b>Parking</b>			
<b>Total Spaces</b>	8	10	10 min.
<b>Accessible Spaces</b>	0	1	1 min.
<b>Covered Spaces</b>	8	6	6 min.
<b>Aisle Width (ft.)</b>	10'	10'-12'	10' min.
<b>Bicycle Parking</b>	None	2 Class I	Min.
<b>Stormwater</b>			
<b>Impervious Surface Area (s.f.)</b>	8,950	8,032	N/A
<b>Impervious Surface (%)</b>	75%	67%	N/A

★ Starred items indicate deviations from Sunnyvale Municipal Code requirements.

## **ANALYSIS**

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### **Description of Proposed Project**

The proposal is for the conversion of eight apartment units to six ownership condominium units at a density of 21.6 units per acre. The project includes an application to Rezone the site to Planned Development, which does not change the existing permitted maximum density of the site but allows the application to seek relief from specified zoning standards. The site has a General Plan Land Use designation of Residential Medium Density (RMED) and is Zoned R-3 (Medium Density Residential).

A Special Development Permit is requested for the modified design and layout of the site and a Tentative Subdivision Map is also needed to delineate the new individual property dimensions. As further described in this report, the applicant is proposing modifications to the layout including a new parking configuration and larger common landscaping and usable hardscaped areas. The existing carports will be replaced with a new carport at a different location which matches the design of the remodeled building.

### **Background**

**Previous Actions on the Site:** There are no previous planning applications related to this site. The apartment complex was built in 1957.

**Planning Commission Hearing:** On October 27, 2008, the project was considered at a Planning Commission Hearing. The project was recommended for approval by a 7-0 vote. More discussion is noted in the “Public Contact” section of this report.

### **Environmental Review**

A Class 1 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines. Class 1 Categorical Exemptions include the divisions of multiple family residences into common interest ownership.

### **Rezoning**

**Change Under Consideration:** The subject property is located within the R-3 (Medium Density Residential) Zoning District. The applicant is requesting the addition of a PD (Planned Development) Combining District requiring a Rezone to R-3/PD (Medium Density Residential, Planned Development).

**Objective:** This Rezoning request is being made to allow the applicant to concurrently apply for a Special Development Permit (SDP) to convert 8 apartment units into 6 ownership condominiums. The purpose of the Planned Development is to provide modifications, additions and limitations to other zoning districts in order to meet special conditions and situations. In 1998, the City Council approved guidelines for the use of PDs and SDP. The subject request for a PD meets all of the three applicable established guidelines.

- *To facilitate development or redevelopment of a site to improve the neighborhood.* The PD enables the existing apartment complex to convert to ownership units while essentially maintaining a similar layout of the existing building with various improvements to the architecture, landscaping, and open space. Additional sustainable design methods have also been introduced.
- *To allow for a proposed use that is compatible with the neighborhood but requires deviations from development standards for a successful project.* The project allows the applicant to provide covered parking spaces for each unit through setback deviations, which already exist under the current layout. The proposed carports are compatible with the existing medium density projects on surrounding parcels.
- *To allow for the development and creation of lots that are less than the minimum size required in the base-zoning district.* The project is for condominium units only and does not require this standard PD deviation.

### **Special Development Permit**

**Detailed Description of Use:** The proposed project consists of six ownership condominium units at a density of 21.6 units per acre. The maximum allowed density under the R-3 Zoning designation is 24 (27 with density bonus). A six unit project satisfies the housing goal of achieving at least 75 percent of the maximum allowable density (24 units/acre).

**Site Layout:** The site layout consists of an L-shaped multi-family unit building positioned towards west and north sides of the lot. The northwest corner of the existing apartment building encroaches into the required setback by 5 inches. All other setbacks to the main building are met. The existing carports do not meet side or rear yard setbacks as shown in the “Project Data Table” on page 3.

The proposal does not include significant modifications to the general layout of the residential building; however, newly created patio and balcony areas will project from the building. As a result, the front yard setback is reduced to approximately 14’ for this cantilevered deck area. On the first floor, an uncovered low-fenced (approx. 4’ high) private patio area is proposed for one of

the units. Additional offsets from the existing building are proposed on other sides of the building as shown within the reconfigured floor plans. These locations do not create increased non-conformity with required setbacks. An external stairway will be constructed at the interior portion of the building facing the open patio. (See Floor Plans in Attachment C for more detail.) The existing plan has this stairwell located along the rear elevation of the building, positioned closer to neighboring property.

A drive aisle allows entry to the site from the northeast corner of the lot and leads to a common parking area at the rear of the site. A carport will be demolished and replaced with a new 4-space carport towards the southeast corner of the site. Two covered spaces are also proposed within the south portion of the building which is partially underneath second story living area. A new common open landscaped area is also created at the southwest corner of the lot. Pedestrian connections to the parking area are noted on the landscape plans. A connection from the enclosed patio area at the front facing unit to the public sidewalk is indicated.

**Architecture:** The existing apartment building was constructed in 1957. As part of the proposal, significant modifications to the façade of the building are proposed. These alterations include gabled elements at the front and side elevations. The brick façade will remain along the front of the building and a portion of the side (east elevation). Furthermore, the building is proposed to be repainted. The applicant proposes to incorporate a variety of colors to the building to improve the aesthetics and update an older facade that currently lacks any noteworthy character. The applicant proposes to replace all windows along each elevation and add trim and sill depth. Additionally, the applicant has worked with staff to improve the design of the stairwell and second story railing. Staff has included Condition of Approval 4A to work with staff to finalize a color palette for the façade of the building.

The proposed carport matches the general design and roof form of the main building. The trash enclosure, located in front of the carport, predominately utilizes brick material that is also found along the front of the main building. A wooden trellis feature above the enclosure helps soften the appearance of this structure as well as the carport elevation that is facing the public street.

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

<b>Design Policy or Guideline (Architecture)</b>	<b>Comments</b>
<b>City Wide Design Guidelines Scale and Character B1.</b> Break up large buildings into groups of smaller segments whenever possible, to appear smaller in mass and bulk.	The proposed projections and gabled elements break up the monotonous roof form that currently exists within this 50+ year old building.
<b>Architecture C2:</b> In areas where no prevailing architectural style exists, maintain the general neighborhood character by the use of similar scale, forms, and materials providing that it enhances the neighborhood.	The brick and stucco building style is compatible and enhances the character of the surrounding neighborhood.
<b>Architecture C9:</b> Include decorative building elements in the design of all buildings. Add more interest to buildings by incorporating changes in wall plane and height, etc.	The proposal introduces changes in wall plane through gabled roof form along each elevation. Each side of the building will also be improved through repainting and window detailing.

**Landscaping:** The proposal includes significant modifications to the existing landscaping of the site. Increased landscaping will be positioned throughout the site including new area along the periphery and a larger open area at the rear southwest corner. At the center of the site, a modified landscaping layout is proposed interwoven with a common paved walkway/patio area.

The most notable change is the removal of a large Oregon ash tree located at the center of the site. This tree meets the definition of a protected tree by Sunnyvale Municipal Code. Protected trees are those that measure 38 inches or greater in circumference when measured at four and a half feet from the ground. With consultation from the City Arborist, it was determined that the tree had outgrown the site and it is recommended for removal. The new plan proposes a paved surface at this location to accommodate a new parking and drive aisle configuration. Three palm trees, not defined as “protected,” are being removed as well. A total of 13 trees of varying species will be added to the site as part of the new landscaping plan.

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

<b>Design Policy or Guideline (Landscape)</b>	<b>Comments</b>
<b>Landscaping A4:</b> Properly landscape all areas not covered by structures, driveways, and parking.	The site exceeds the total landscaping requirement for each unit and will provide approximately 13 new trees throughout the site.
<b>Open Space C8.</b> Provide direct access to common useable open space from buildings. Common open spaces shall be useable for recreational purposes.	Each unit is provided patio/balcony space. A larger common open space is also provided within the central patio and lawn area at the back of the site.

**Parking/Circulation:** The existing apartments were deficient in parking by providing only eight spaces (four covered) for the eight one-bedroom units. One bedroom units with carports parking require 1 covered plus .5 unassigned spaces per unit; therefore a total of 12 spaces (8 covered) were needed.

The proposal includes modifications to the parking layout of the site which enable conformance to current parking standards. The reduction in the number of units and changes to the interior floor plan layout (incl. bedroom count) results in a requirement for 10 parking spaces as shown in the chart below.

<b>Unit #</b>	<b># of Bedrooms</b>	<b>Required Parking (covered + unassigned)</b>
1	3	1 + 1
2	1	1 +.5
3	1	1 +.5
4	3	1 + 1
5	1	1 +.5
6	1	1 +.5
<i>Total</i>	<i>10</i>	<i>6 covered + 4 unassigned (10 spaces)</i>

The proposal meets the required parking by providing 6 covered spaces and 4 unassigned spaces. Recently, the City Council adopted new policies and Code standards for parking management related to commercial and multi-family residential uses. To comply with recent Council actions, staff is recommending the establishment of a “Parking Management Program,” per Condition of Approval #9A, to ensure maximum efficiency of the parking supply on-site.

As noted in the site layout section of the report, the configuration of the driveway is also modified. To ensure adequate emergency vehicle access to the

site, Condition of Approval #12C requires that the first 15 feet of curb along the drive aisle from Brookfield Avenue shall be painted red.

**Bicycle Parking:** Multi-family residential developments of five or more units are required to have secured bicycle parking at a ratio of one secured bicycle parking space for every four units, but no fewer than four spaces. To meet VTA Guidelines two Class I and two Class II are required. The project provides 4 secured bicycle lockers (Class I) on-site. Staff finds that the additional lockers meet the intent of VTA Guidelines.

**Required Storage:** Sunnyvale Municipal Code 19.38.040 requires multi-family residential projects to provide a minimum of 300 cubic feet of separate, lockable, and weatherproof storage space. These storage areas are proposed adjacent to the carport areas as well as adjacent to covered parking areas within the main building.

**Stormwater Management:** This project does not require compliance with the Stormwater Management requirements since the project is not disturbing more than 10,000 s.f. of area. The project voluntarily will incorporate a number of stormwater control measures such as a covered dumpster area (drain to sanitary sewer), beneficial landscaping (minimizes irrigation, runoff, pesticides and fertilizers; promotes treatment), outdoors material storage protection, and reduced overall impervious surface.

**Green Building Features:** The project would be subject to providing the applicable Build It Green Checklist, as defined as a remodel of a multifamily residential use, per the newly adopted framework by the City Council. Condition of Approval #1E states that the applicant shall provide a “Multifamily GreenPoint Rated checklist” available from Build It Green. The project includes a variety of measures that are considered green building design methods such as:

- Re-use/remodel of an existing building
- Increasing outdoor gathering area
- Natural ventilation
- Protection of soil, vegetation and water during construction
- Construction and demolition waste management
- Water heater replacement (higher energy equipment)
- Water efficient fixtures
- Window replacement that improves energy efficiency (low emittance glazing)
- Durable siding and drainage planes
- Quality installation of insulation
- Sustainable landscaping through species selection and appropriate placement

The applicant has also expressed the desire to explore and implement additional green building techniques including; engineered lumber, photovoltaic systems, recycled paint, low emitting flooring, recycled aggregate and many other construction methods and materials. Future solar panel locations are shown along the roof line of the east elevation of the provided plans.

**Condominium Conversion Requirements:** In addition to State law which requires certain protections for existing tenants and future owners, this application is subject to specific SMC requirements found in §19.70.050. These requirements include tenant protection provisions, right to purchase requirements, notice of terminating leases, etc. In general, the provisions do not require payment to relocate tenants or payment of any portion of tenant leases. The project will comply with all the following conversion requirements.

Minimum conversion requirements include:

- (a) Prohibition of Discrimination against Prospective Buyers with Children;
- (b) Tenant Protections (such as preemptive right to purchase, extension of tenancy, and right to terminate lease);
- (c) Buyer Protection (Property report, Structural pest report, Building history report, Soils report, and Statement of compliance from the California Real Estate Department);
- (d) Site Improvements and Amenities:
  - (1) Minimum of 300 cubic feet of weatherproof, lockable storage space for each unit, which may be substituted by garage space.
  - (2) Individual washing machines and dryers hookups in each unit, unless new common facilities provided.
  - (3) Underground all utilities to the nearest off-site pole.
  - (4) Off-street parking provided as required by Chapter 19.46.
  - (5) Fire prevention and building safety standards met (wall and floor/ceiling assemblies compliant with fire wall separation standards, sound insulation performance criteria, and smoke detectors for each unit).
  - (6) Utility distribution system modifications (separately metered Gas and electric service, and water service for community housing projects).
  - (7) Utility safety devices (water shutoff valves and accessible electric panels) provided for each unit:

- (8) Shock mounted or isolated appliances to minimize vibration or noise.
- (9) All major appliances guaranteed for one year.
- (10) Compliance with all building, fire, housing, subdivision and zoning Codes.

**Compliance with Development Standards/Guidelines:** The project meets most development standards with the exception of the following:

Requested Deviations	Justifications
<ul style="list-style-type: none"> <li>• 1’ side yard setbacks for carport and trash enclosure’ where 6’ is the minimum required</li> <li>• Second story front yard setbacks of 14’ where 20’ is required for new cantilevered balcony</li> </ul>	<ul style="list-style-type: none"> <li>• Recognize that deviations in similar townhome style developments are typical, particularly for building setbacks</li> <li>• Original carports (to be demolished) did not meet side or rear setbacks</li> <li>• Architectural enhancements improve visual aesthetics of the site</li> <li>• Project makes effective reuse of an existing development</li> <li>• Project exceeds landscaping and open space requirements</li> <li>• Overall project meets lot coverage</li> <li>• The project will provide additional ownership housing, including smaller units</li> <li>• “Green Building” design enhancements</li> </ul>

Sunnyvale Municipal Code Section 19.70 .075 specifies that no more than 175 units shall be converted within a twelve month period unless a specific finding can be made. There has been one approved conversion of rental units to ownership (2 unit conversion at 866 E. Evelyn Ave) within the previous 12 months.

**Expected Impact on the Surroundings:** The project results in a reduction of units; therefore no increase in traffic will result from the project. Noise impacts should be limited to the initial construction phase of the project. A visual impact will result from the loss of the significant tree located at the center of the site. The proposed improvements to the architecture and landscaping will improve the aesthetics of the site considerably from the street as well as internally within the site.

**Tentative Map**

**General:** The proposed project requires the subdivision of the existing eight unit apartment complex to 6 condominium units, or air space lots, and one

common lot. The proposed project meets the required minimum lot size (8,000 sq. ft.) in the R-3 Zoning District.

**Access:** All 6 units will obtain vehicular access from a single, one-way driveway located at the northeast corner of the site. Utilities will also be placed underground in the common lot via a public utilities easement. Staff is recommending as a Condition of Approval that a maintenance agreement shall be recorded with the Tentative Map.

**Fiscal Impact**

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**Transportation Impact Fee**

There would be no net increase in the trip generation at this site; therefore, no Traffic Impact Fees will be required for this project.

**Park Dedication Fee**

This project is not subject to Park Dedication Fees since it is a conversion to condominium units from existing rental units.

**Public Contact**

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Staff has not received any written comments from the public related to the project.

<b>Notice of Public Hearing</b>	<b>Staff Report</b>	<b>Agenda</b>
<ul style="list-style-type: none"> <li>• Published in the <i>Sun</i> newspaper</li> <li>• Posted on the site</li> <li>• 72 notices mailed to the property owners and residents within 300 ft. of the project site</li> </ul>	<ul style="list-style-type: none"> <li>• Posted on the City of Sunnyvale's Website</li> <li>• Provided at the Reference Section of the City of Sunnyvale's Public Library</li> </ul>	<ul style="list-style-type: none"> <li>• Posted on the City's official notice bulletin board</li> <li>• City of Sunnyvale's Website</li> </ul>

**Planning Commission Hearing:** On October 27, 2008 a Planning Commission hearing was held to discuss the project. One member of the public, an existing tenant, spoke during the public hearing. The resident expressed objection to the conversion due to the financial impact it would cause and the inability to retain the residence. The resident expressed the need to retain adequate affordable rental housing within the City. The Planning Commission discussed with staff the applicable Code requirements and State law related to tenant protection for existing residents of conversion projects. The Planning

Commission voted 7-0 to approve the project with modified Conditions of Approval including the following:

- Add Condition of Approval to require the newly formed Homeowners' Association to provide contact information to the City (*Added as Condition of Approval #3E.7*)
- Modify Condition of Approval #7E to require that 10% of new trees to be installed shall be 36" box trees or larger, and no tree shall be less than 15-gallon size (*Modified*).
- Add a Condition of Approval that the applicant shall prepare a tenant relocation assistance plan subject to approval by the Director of Community Development and that the plan include that the developer pay for services of a housing specialist (*Added as Condition of Approval 1F*).

## **Conclusion**

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**Discussion:** The proposed conversion provides numerous benefits to the City, including increased home ownership opportunities, improved architecture and increased landscaping and usable open space for the individual units as well as shared areas. Such improvements can greatly enhance the appearance of the site and create an impetus to promote similar improvement within the surrounding neighborhood. Additional green building design techniques, as described earlier, are also incorporated into the project. Staff finds adequate justification to approve the requested deviations with the 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, Recommended Findings and General Plan Goals are located in Attachment A.

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

**Alternatives**

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1. Introduce an Ordinance to Rezone 1248 Brookfield Ave from R-3 to R-3/PD and approve the Special Development Permit and Tentative Map with the attached conditions.
2. Introduce an Ordinance to Rezone 1248 Brookfield Ave from R-3 to R-3/PD and approve the Special Development Permit and Tentative Map with modified conditions.
3. Do not introduce an Ordinance to Rezone 1248 Brookfield Ave from R-3 to R-3/PD and deny the Special Development Permit and Tentative Map.
4. Direct staff as to where additional environmental analysis is required.

**Recommendation**

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Recommend Alternative 1.

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. Site and Architectural Plans
- D. Letter from the Applicant
- E. Draft Rezoning Ordinance
- F. Minutes from the Planning Commission Meeting of 10/27/08

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**Recommended Findings - Rezone**

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In order to approve a Rezoning request the City Council is required by Zoning Code Section 19.92.050 to make a finding that "the amendment, as proposed, changed, or modified, is deemed to be in the public interest." The proposed Rezoning is consistent with this finding because it is consistent with the proposed General Plan land use designation and assists the City in meeting its housing goals by adding six condominium ownership units.

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**Recommended Findings - Special Development Permit**

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Goals and Policies that relate to this project are:

**Housing and Community Revitalization Sub-Element**

**Policy A.2:** *All new residential developments should build at least 75 percent of the permitted density.*

The proposal meets this goal with six housing units, where 55 units would be the 75 percent minimum allowed.

**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.*

The multi-family style of housing is compatible with the adjacent uses and the architectural design of the development will enhance the 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.*

The project provides additional ownership opportunities within a multi-family style of residential development. The proposal meets this goal with four one-bedroom and two three-bedroom units.

**Land Use and Transportation Element**

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

The development provides an additional six ownership housing units where the project is currently situated within a medium and density housing neighborhood, as well as commercial uses.

**Community Design Sub-Element**

**Policy C.4:** *Encourage quality architectural design, which improves the City's identity, inspires creativity, and heightens individual as well as cultural identity.*

The proposed architecture incorporates high quality design with and significant improves the visual appearance of the site.

1. The proposed use attains the objectives and purposes of the General Plan of the City of Sunnyvale as the project (*Finding Met*). The proposed conversion of apartments to condominium units, together with the provisions for its design and improvements, is consistent with the objectives, policies, general land uses, and programs of the General Plan. The project, in conjunction with an approved Special Development Permit, meets the overall density allowed in the proposed R-3 Zoning District and supports a land use that is compatible with the neighborhood. The proposed project will create six ownership units and is consistent with the goals and policies of the General Plan.
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. The proposed improvements to the architecture meet the City-Wide Design Guidelines, and will further encourage improvement to the surrounding neighborhood without causing and incompatibility to nearby residential commercial uses.

**Recommended Findings - Tentative Map**

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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

Staff was not able to make any of the findings (B.1-8), and recommends approval of the Tentative Map.

**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. The Conditions of Approval shall be reproduced on a page of the plans submitted for a Building permit for this project.
- C. 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 received prior to expiration date and is approved by the Director of Community Development.
- D. 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.
- E. Provide a completed "Multifamily GreenPoint Rated" checklist from Build It Green indicating sustainable design features that are incorporated into the project.
- F. The applicant shall prepare a tenant relocation assistance plan subject to the review and approval of the Director of Community Development and that plan shall include that the developer pay for the services of a housing specialist.

**2. COMPLY WITH OR OBTAIN OTHER PERMITS**

- A. Obtain necessary permits from the Department of Public Works for all proposed off-site improvements.

**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 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 review for consistency with the Conditions of Approval by the City Attorney and Director of Community Development prior to approval of the Final Map. The Conditions of Approval shall be attached as an exhibit to the CC&R's created for this project.
- C. 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 and Tentative Map shall be incorporated into the CC&R's as an exhibit or attachment.
- D. 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. 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."
- E. The homeowner's association is the responsible party to enforce the following operational conditions:
1. Enforcement of the "Parking Management Plan" as specified in the in Condition of Approval #9
  2. Garages are to be used as the primary parking spaces for residents.
  3. The Homeowner's Association shall determine the definition and parking timeframes of a guest.

4. Residents cannot occupy unassigned spaces for more than 48 hours.
5. No parking spaces shall be offered for rent by the property owners or homeowners association.
6. Responsibility for the roof and driveway is included as part of the common area to be maintained by the Homeowner's Association.
7. The Homeowner's Association shall continuously provide detailed contact information to the City.

**4. DESIGN/EXTERIOR COLORS AND MATERIALS**

- A. Final exterior building materials and color scheme are subject to review and approval of the Director of Community Development prior to issuance of a building permit.

**5. EXTERIOR EQUIPMENT**

- A. Individual air conditioning units shall be screened with architecture or landscaping features.

**6. FENCES**

- A. Design and location of any proposed fencing and/or walls are subject to the review and approval by the Director of Community Development.
- B. Only fences, hedges and shrubs or other natural objects 3 feet or less in height may be located within a "vision triangle"

**7. 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. The final design, color, and placement of all hardscape shall be approval by the Director of Community Development and shall be in substantial conformance with the approved plans.
- C. Provide separate meter for domestic and irrigation water systems.
- D. 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.
- E. Of new trees installed, 10% shall be 36-inch box size or larger and no tree shall be less than 15-gallon size.

- F. At the expense of the subdivider, City staff shall install required street trees of a species determined by the Public Works Department.
- G. Ground cover shall be planted so as to ensure full coverage eighteen months after installation.
- H. All areas not required for parking, driveways or structures shall be landscaped.

**8. 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.
  - 7. Prior to issuance of a Building Permit submit a contour photometric plan for approval by the Director of Community Development. The plan shall meet the specifications noted in the Standard Development Requirements.
  - 8. Pole heights not to exceed 8 feet.
  - 9. Installation of lights at a minimum of 50 feet intervals along all private streets.

**9. PARKING**

- A. A Parking Management Plan shall be developed. The Parking Management Plan should describe how the homeowner's association will meet the following requirements:
  - 1. Give homeowner's association (with approval by the Director of Community Development) the latitude to define "guest," since ultimate enforcement is the responsibility of that entity.

2. Specify that 25% - 75% of unassigned spaces be reserved for guest use only, at the discretion of the homeowners association.
3. Note that property owners and HOA's cannot rent unassigned spaces, except that a nominal fee may be charged for parking management.
4. Require tenants to use their assigned parking spaces prior to using the unassigned parking spaces.
5. Confirm the responsibility of the homeowner's association to enforce provisions of the parking management plan.
6. Require tenants to maintain assigned spaces for parking of automobiles and motorcycles (RVs, trailers, boats, etc. are prohibited).
7. Clearly notify potential residents of the number of parking spaces provided for each unit on-site in order to reduce overuse by specific residents.

**10. BICYCLE PARKING**

- A. Provide 2 Class I and 2 Class II (or 4 Class 1) bicycle parking spaces (per VTA Bicycle Technical Guidelines) as approved by the Director of Community Development.

**11. RECYCLING AND SOLID WASTE**

- A. All exterior recycling and solid waste shall be confined to approved receptacles and enclosures.
- B. The enclosure shall be of masonry construction and shall match the exterior design, materials and color of the main building.
- C. All recycling and solid waste containers shall be metal or State Fire Marshall listed non-metallic.
- D. Trash enclosures, within five feet of building exterior walls or overhangs require fire sprinkler protection (16.52.250 SMC).

**12. RIGHT-OF-WAY IMPROVEMENTS**

- A. Obtain a Development Permit from the Department of Public Works for improvements.
- B. 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.
- C. The first 15 feet of the drive aisle on-site shall be painted red for a fire access road.

**13. UNDERGROUND UTILITIES**

- A. All existing and proposed utilities shall be undergrounded.
- 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. Improvement plans showing conduits for future undergrounding of existing overhead utilities shall be submitted to the Planning Division for review and approval prior to issuance of a Building Permit. Complete installation of conduits prior to occupancy.

**14. 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.

# THE MADSON PROJECT

1248 BROOKFIELD AVE.  
SUNNYVALE, CALIFORNIA  
94087

## PROJECT TEAM

### ARCHITECT

WILLIAM MADSON ARCHITECT & ASSOCIATES  
384 CASTRO STREET  
MOUNTAIN VIEW, CALIFORNIA 94041  
PH: (650) 568-1920  
FAX: (650) 568-4913

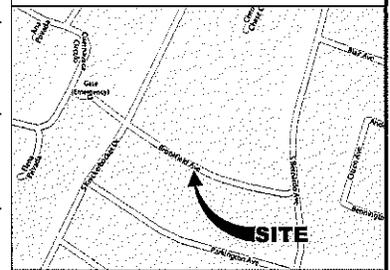
### CIVIL

GIULIANI & KULL, INC.  
4800 STEVENS CREEK BLVD, SUITE 209  
SAN JOSE, CALIFORNIA 95129  
PH: (408) 615-4000  
FAX: (408) 615-4004

### LANDSCAPE

FAUBION DESIGN  
P.O. BOX 6899  
AUBURN, CA 95604  
PH: (530) 759-1560

## VICINITY PLAN



## PROJECT DATA

APN 198-15-013  
PROPERTY OWNER CHERRY GARDEN APARTMENTS, LLC  
P.O. BOX 16101  
SAN FRANCISCO, CA 94126  
PROPERTY ADDRESS 1248 BROOKFIELD AVE.  
SUNNYVALE, CA 94087  
ZONING DISTRICT R3  
EXISTING USE 3 UNIT APARTMENT  
NUMBER OF STORIES 2

DESCRIPTIONS	EXISTING	ALLOWABLE	NEW
<b>LOT SIZE</b>	11800#	8000# MIN.	11800#
<b>DENSITY</b>	1 UNIT, 1486#	1 UNIT/800# (MAX)	1 UNIT/824#
<b>SETBACK</b>			
<b>MAIN BLDG FRONT</b>	10'-7"	20'-0"	19'-7"
<b>MAIN BLDG REAR</b>	31'-9"	20'-0"	22'-4"
<b>MAIN BLDG SIDE</b>			
<b>1ST STORY</b>	18'-3 1/4" - 10'	6'-0" (15' TOTAL)	18'-3 1/4" - 10'
<b>2ND STORY</b>	18'-3 1/4" - 10'	9'-0" (21' TOTAL)	18'-3 1/4" - 10'
			(GABLE + 6'-5")
<b>CARPORT FRONT</b>	10'7" - 6"	20'-0"	6'7" - 5"
<b>CARPORT REAR</b>	2'-1"	20'-0"	11'-2"
<b>CARPORT SIDE</b>	1'-3 1/2" - 11"	6'-0" (15' TOTAL)	5'7 1/3" - 11"
<b>BUILDING HEIGHT</b>	21'-2"	30'-0"	22'-0"
<b>LANDSCAPING</b>	300# (25.3%)	420# UNIT (2.550# TOTAL)	3525.35# (29.7%)
<b>OPEN AREA</b>	1342#	4000# UNIT	2649.65#
<b>SITE COVERAGE</b>			
<b>MAIN BUILDING</b>	3000#		3322.0#
<b>CARPORT</b>	101#		918.58#
<b>TOTAL LOT COVERAGE</b>	4181# (35.2%)	4756# (40.0%)	4240.58# (35.7%)
<b>PAVING</b>	4698#	--	423.46#
<b>PARKING</b>	6 COVERED 4 UNASSIGNED	6 COVERED 4 UNASSIGNED	6 COVERED 4 UNASSIGNED
<b>FLOOR AREA</b>		<b>DIFFERENCE</b>	
<b>CARPORT STORAGE</b>	161#	-156	1337#
<b>FIRST FLOOR</b>	2583#	+319	2712#
<b>SECOND FLOOR</b>	2791#	-150	2641#
<b>TOTAL FLOOR AREA</b>	6954#		6954#

## DRAWING INDEX

A0.01 COVER SHEET, PROJECT DATA, VICINITY MAP, SHEET INDEX & RENDERED PERSPECTIVES  
A0.02 GRAPHIC & QUANTATIVE CALCULATIONS

### CIVIL

1 (E) SITE PLAN

### TENTATIVE MAP

1 TENTATIVE MAP FOR 6 UNIT CONDOMINIUM CONVERSION (SITE MAP)  
2 TENTATIVE MAP FOR 6 UNIT CONDOMINIUM CONVERSION (UNIT MAP)

### ARCHITECTURAL

A1.01 (E) & (N) SITE PLANS  
A1.02 (E) & (N) 1ST FLOOR AND 2ND FLOOR (1/8" SCALE)  
A1.03 (N) ROOF CARPORT & CARPORT ROOF PLANS (1/8" SCALE)  
A2.01 (E) & (N) EXTERIOR ELEVATIONS (1/8" SCALE)  
A2.02 (N) NORTH & WEST EXTERIOR ELEVATIONS  
A2.03 (N) SOUTH & EAST EXTERIOR ELEVATIONS  
A2.04 (N) CARPORT EXTERIOR ELEVATIONS  
A2.05 FRONT RENDERING & REAR RENDERING  
A2.06 (E) PHOTOGRAPHIC DISPLAY

### LANDSCAPE

1 LANDSCAPE PLAN  
2 IRRIGATION PLAN

## SCOPE OF WORK

TO REMODEL (E) & APARTMENT UNITS AND CONVERT THEM INTO 6 CONDOMINIUM UNITS, DEMO AND RELOCATE (E) CARPORTS AND TO UPDATE THE FACADE.



WILLIAM MADSON  
ARCHITECT & ASSOCIATES  
384 CASTRO STREET  
MOUNTAIN VIEW, CA 94041  
PH: (650) 568-1920  
FAX: (650) 568-4913

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MADSON PROJECT  
1248 BROOKFIELD AVE.  
SUNNYVALE, CA 94087

TITLE, PROJECT DATA,  
VICINITY MAP AND  
INDEX

DATE 08/2009

SCALE NONE

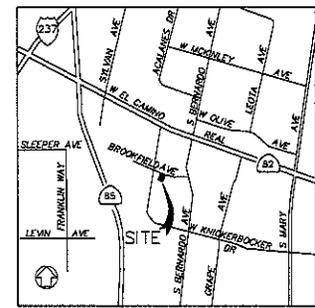
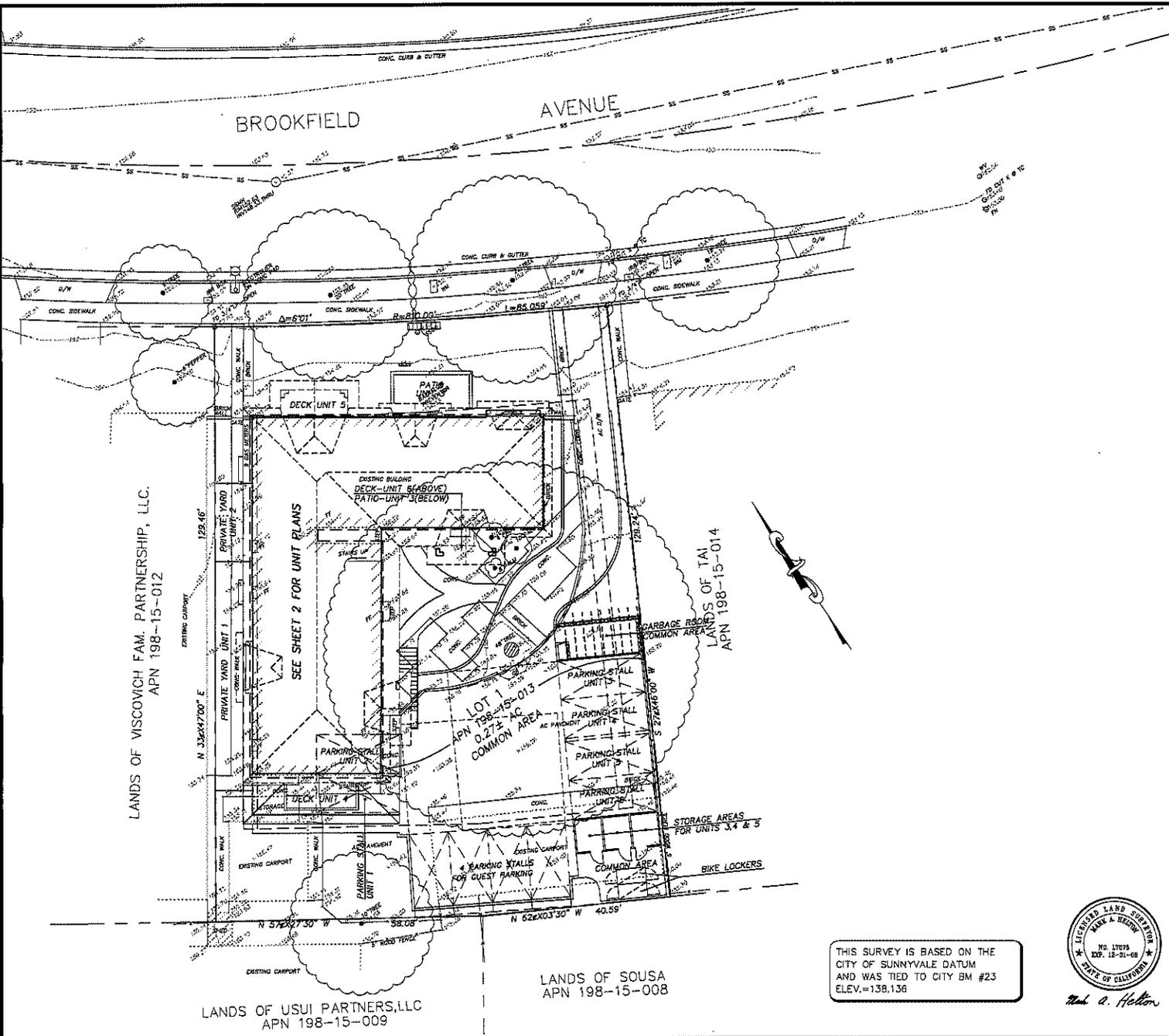
DRAWN GCP

JOB PHD 07060

SHEET

A0.01

13



VICINITY MAP  
N.T.S.

TENTATIVE MAP NOTES

OWNER/SUBROVIDER: RYAN MADSON  
P.O. BOX 28701  
SAN FRANCISCO, CA 94126

LAND SURVEYOR: GIULIANI & KUIL, INC.  
4880 STEVENS CREEK BLVD, SUITE 205  
SAN JOSE, CA 95128  
MARK A. HELTON 15 7078

AREA: 0.92± AC  
EXISTING ZONING: R3 RESIDENTIAL  
PROPOSED ZONING: R3-PD RESIDENTIAL  
NUMBER OF LOTS: 7 (6 UNITS & 1 COMMON AREA)

BENCH MARK: CITY BM # 23 ELEV.=138.136

NOTES:  
1) THERE ARE NO WELLS ON THIS SITE.  
2) THERE ARE NO PUBLIC AREAS PROPOSED.  
3) THERE ARE NO SEPTIC TANKS.

- LEGEND
- PROPERTY LINE
  - BUILDING FOOTPRINT
  - TREE
  - FIRE HYDRANT
  - WATER VALVE
  - WATER METER
  - JOINT POLE
  - SANITARY MANHOLE
  - SANITARY CLEANOUT
  - CONTOUR LINE
  - CONC. CURB & GUTTER
  - CATCH BASIN
  - WATER LINE (APPROX. LOCATION)
  - STORM DRAIN LINE (APPROX. LOCATION)
  - SANITARY SEWER LINE (APPROX. LOCATION)
  - RETAINING WALL
  - FENCE LINE
  - EDGE OF PAVEMENT

THIS SURVEY IS BASED ON THE CITY OF SUNNYVALE DATUM AND WAS TIED TO CITY BM #23 ELEV.=138.136



Mark A. Helton

SCALE	1"=10'
DRAWN BY	E.L.
REPORT BY	E.L.
DATE	

**GK** Giuliani & Kuil, Inc.  
ENGINEERS • SURVEYORS • ARCHITECTS  
4880 Stevens Creek Blvd., Suite 205, San Jose, CA 95128  
Mark A. Helton, Surveyor License # 17079  
Auburn • San Jose • Oakland

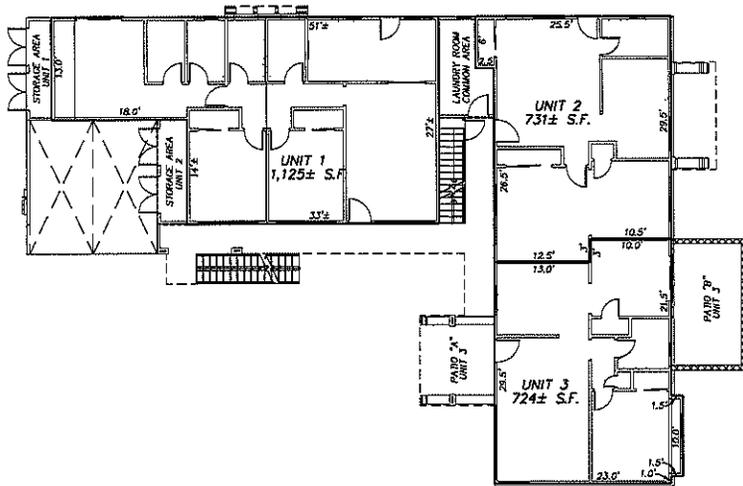
1248 BROOKFIELD AVENUE  
SUNNYVALE, CALIFORNIA

TENTATIVE MAP FOR 6 UNIT  
CONDOMINIUM CONVERSION

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JOB NO.	08108

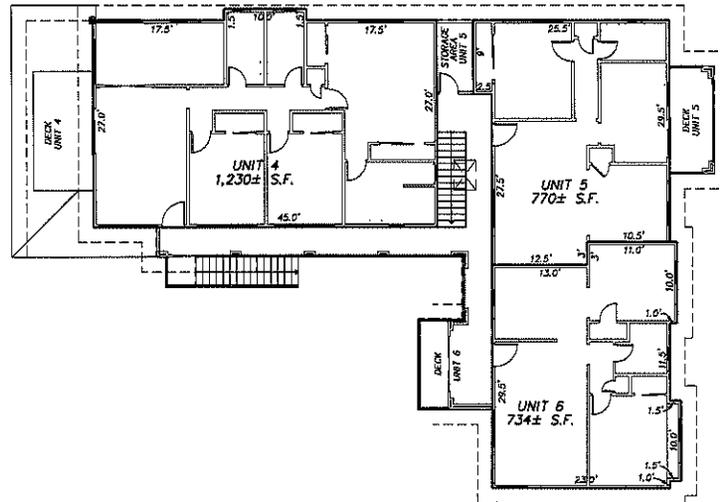
Page 2 of 13

ATTACHMENT



FIRST FLOOR UNITS 1-3

SCALE: 1"=8'



SECOND FLOOR UNITS 4-6

SCALE: 1"=8'



Mark A. Reilly

Page 3 of 13

PRELIMINARY MAP FOR 6 UNIT  
**ATTACHMENT**  
 CONDOMINIUM CONVERSION

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 JOB NO. 08108

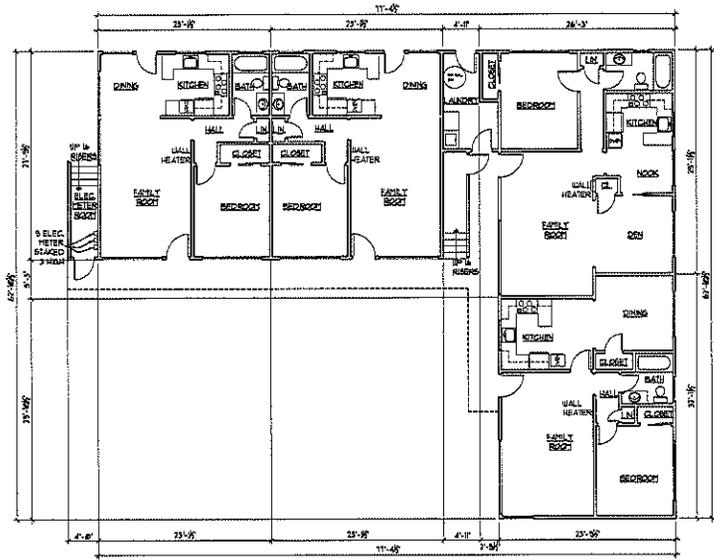
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SUNNYVALE, CALIFORNIA

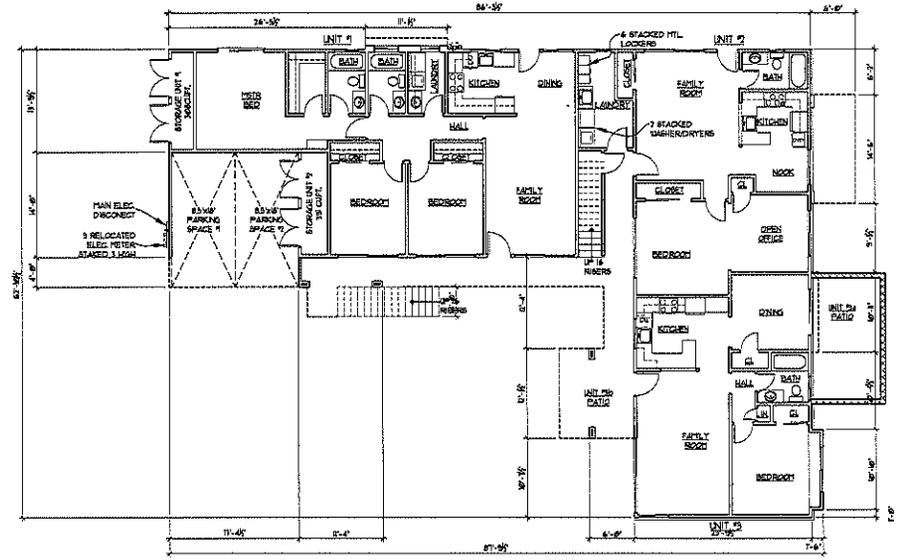
**GK Giuliani & Kull, Inc.**  
 ENGINEERS • PLANNERS • SURVEYORS  
 480 Stevens Creek Blvd., Suite 205, San Jose, CA 95128  
 4000 N. First Street, Suite 100, Oakland, CA 94612  
 Auburn • San Jose • Oakland

SCALE	1"=10'
DRAWN BY	E.L.
REPORT BY	C. SUTIN
DATE	6/26/08
DESIGNED BY	M.H.
REVISIONS	
DATE	

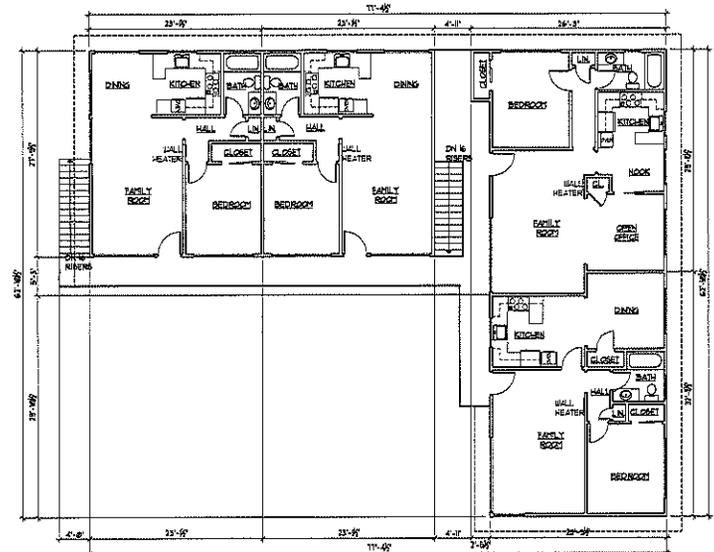




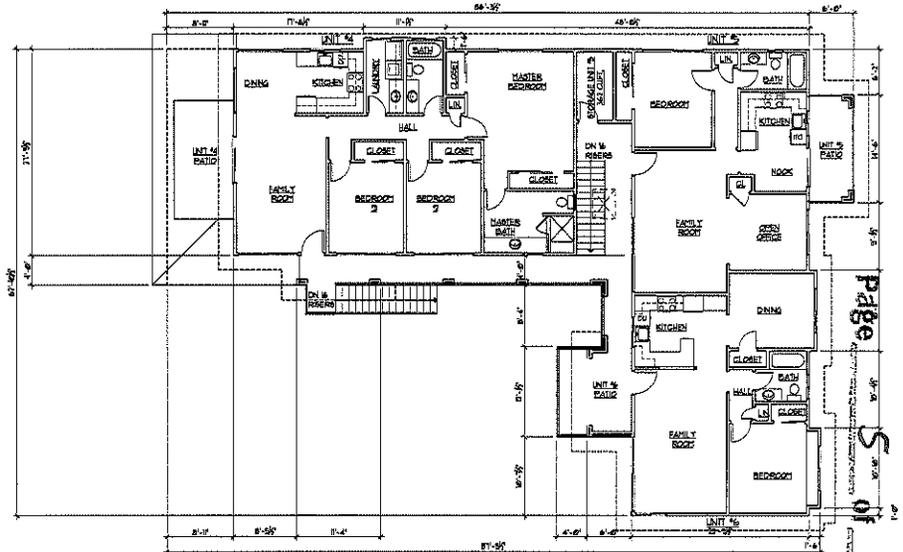
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1/8" = 1'-0"



**(N) FIRST FLOOR PLAN**  
1/8" = 1'-0"



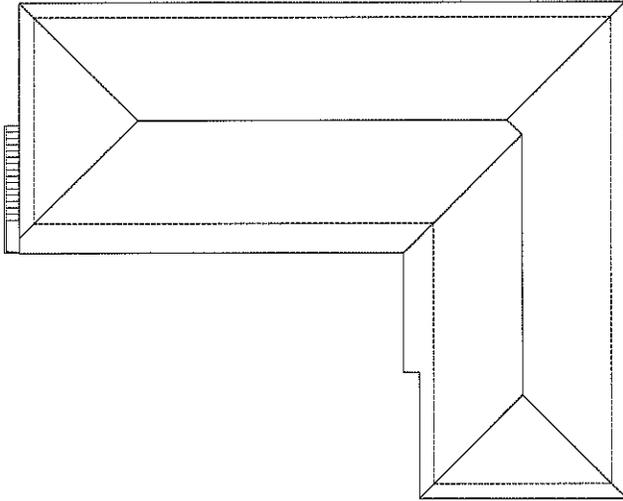
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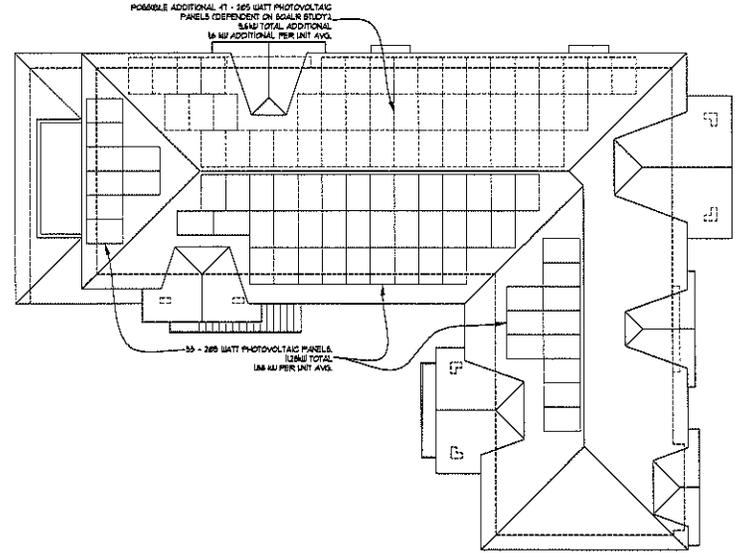
**(N) SECOND FLOOR PLAN**  
1/8" = 1'-0"

REVISION	BY
1. FIRST COMPONENTS	
2. REVISIONS	
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<p><b>MADSON PROJECT</b>          1248 BROOKFIELD AVE.          SUNNYVALE, CA 94087</p>	
<p><b>(E) &amp; (N) 1ST &amp; 2ND FLOOR PLANS</b></p>	
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SHAUN	CCP
JOB	730 07/08/07
SHEET	A2.01

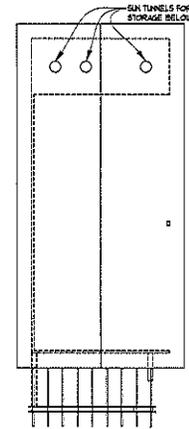
Page 13 of 13



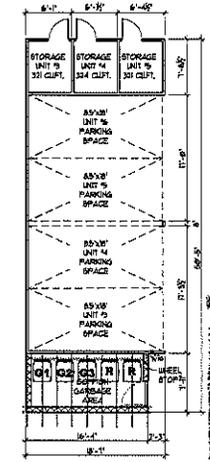
**(E) ROOF PLAN**  
1/8" = 1'-0"



**(N) ROOF PLAN**  
1/8" = 1'-0"



**(N) CARPORT ROOF PLAN**  
1/8" = 1'-0"



**(N) CARPORT PLAN**  
1/8" = 1'-0"

REVISION	BY
1.000	DRG
2.000	DRG
3.000	DRG
4.000	DRG
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8.000	DRG
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SUNNYVALE, CA 94087

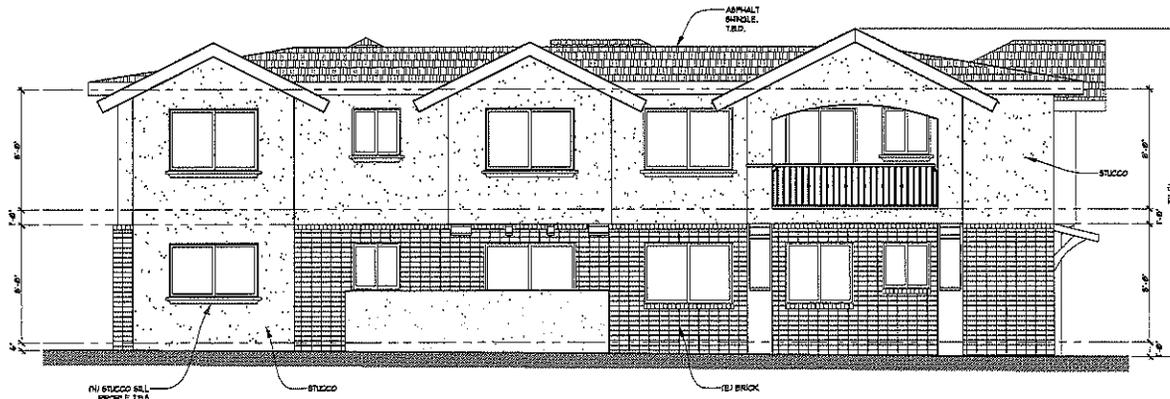
**(E) & (N) ROOF PLANS**  
**(N) CARPORT FLOOR & ROOF PLANS**

**ATTACHMENT C**

Page 6 of 13

DATE: 05/02/08  
SCALE: 1/8" = 1'-0"  
DRAWN: GCR  
APP: HCD 6/2000  
SHEET: **A2.02**





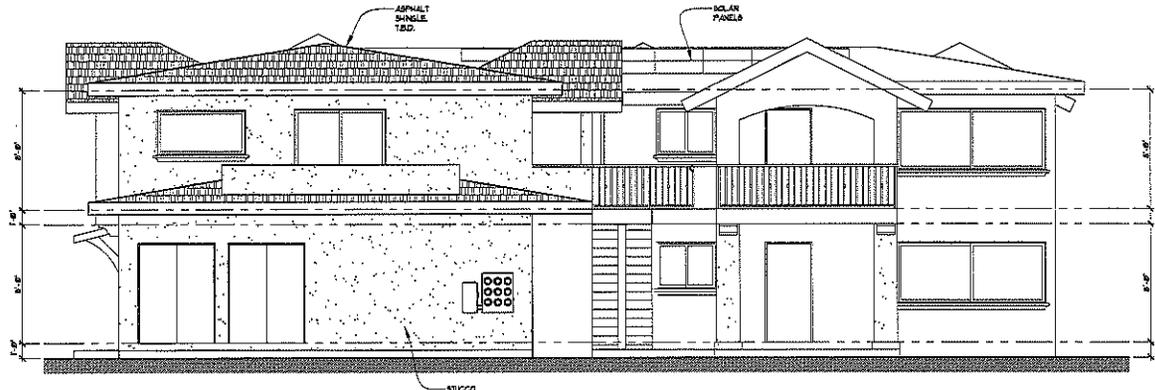
**(N) FRONT ELEVATION**  
1/4" = 1'-0"



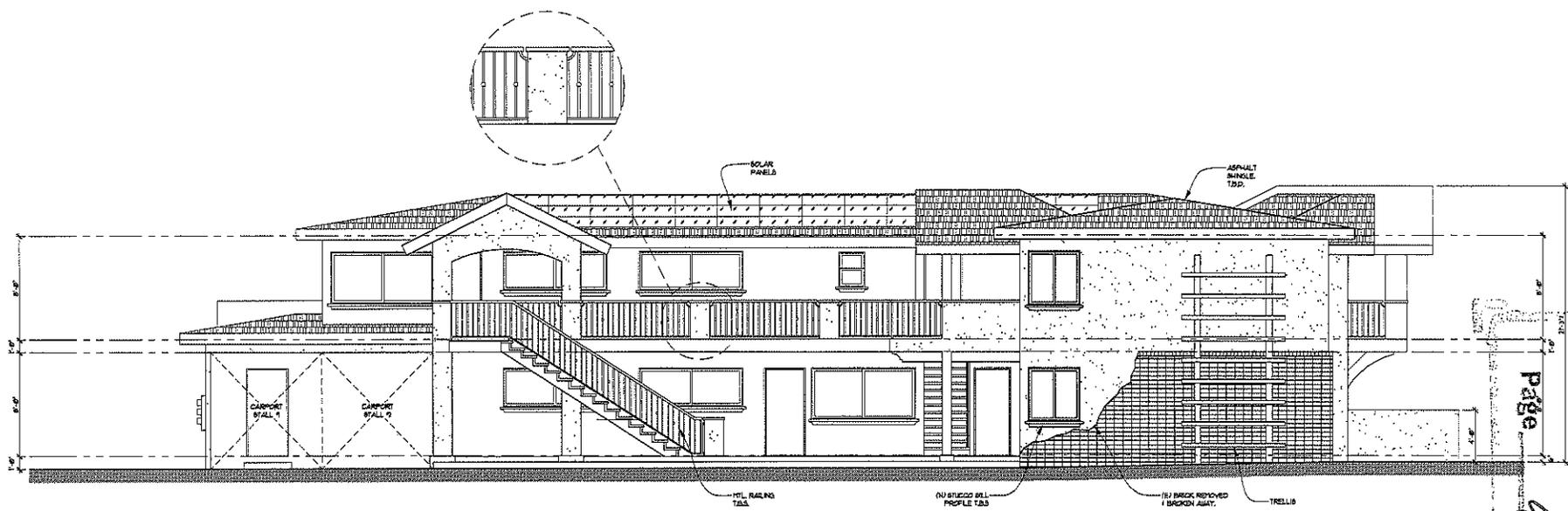
**(N) SIDE ELEVATION**  
1/4" = 1'-0"

Page 8 of 13  
ATTACHMENT 4

REVISION	BY
A. SHEET COMMENTS	2/21/2008
<p>© 2008 ALL RIGHTS RESERVED          FOR ANY AND ALL RIGHTS RESERVED          UNINCORPORATED MATERIAL, AS ALL INFORMATION OF          ARCHITECTS &amp; ASSOCIATES AND IS          WITHOUT WARRANTY OF AUTHORIZATION BY          MADSON ARCHITECTS &amp; ASSOCIATES</p>	
<p><b>WILLIAM MADSON ARCHITECTS &amp; ASSOCIATES</b>          1248 BROOKFIELD AVE          SUNNYVALE, CA 94087</p>	
<p><b>MADSON PROJECT</b>          1248 BROOKFIELD AVE          SUNNYVALE, CA 94087</p>	
<p><b>(N) ELEVATIONS</b></p>	
DATE	08/05/08
SCALE	1/4" = 1'-0"
DRAWN	GG
CHECKED	MSD 07/22/08
<p><b>A5.02</b></p>	



**(N) FRONT ELEVATION**  
1/4" = 1'-0"

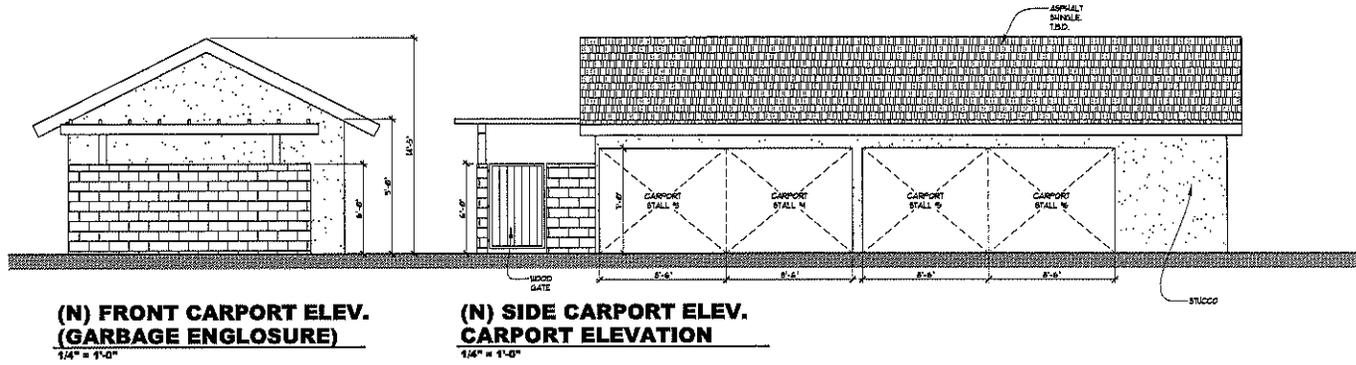


**(N) SIDE ELEVATION**  
1/4" = 1'-0"

Page 9 of 13

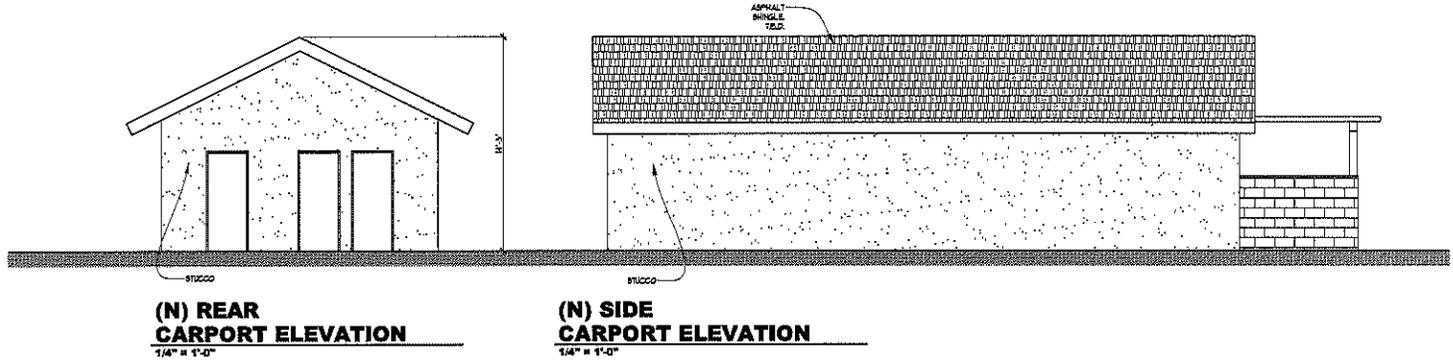
ATTACHMENT 2

<p>REVISION DATE COMMENTS 06/02/2008</p>	<p>BY JCP</p>
<p>© 2008 ALL RIGHTS RESERVED UNREGISTERED ARCHITECT IN THE STATE OF CALIFORNIA WILLIAM MADSON ARCHITECTS &amp; ASSOCIATES 12248 BROOKFIELD AVE. SUITE 100 SUNNYVALE, CA 94087 (415) 968-1500 www.williammadson.com</p>	
<p><b>MADSON PROJECT</b> 12248 BROOKFIELD AVE. SUNNYVALE, CA 94087</p>	
<p><b>(N) ELEVATIONS</b></p>	
<p>DATE 06/02/08 SCALE 1/4" = 1'-0" DRAWN JCP DWG MAD 073660</p>	<p>BY <b>A5.03</b></p>



**(N) FRONT CARPORT ELEV.  
(GARBAGE ENCLOSURE)**  
1/4" = 1'-0"

**(N) SIDE CARPORT ELEV.  
CARPORT ELEVATION**  
1/4" = 1'-0"



**(N) REAR  
CARPORT ELEVATION**  
1/4" = 1'-0"

**(N) SIDE  
CARPORT ELEVATION**  
1/4" = 1'-0"

ATTACHMENT  
 Page 10 of 13

REVISION DATE BY
WILBERT MESSING ARCHITECT ASSOCIATES 10000 Wilshire Blvd., Suite 1000 Los Angeles, CA 90024 (310) 206-1100 www.wilbertmessing.com
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<b>MADSON PROJECT</b> 1248 BROOKFIELD AVE. SUNNYVALE, CA 94087
<b>(N) CARPORT ELEVATIONS</b>
DATE: 06/05/08 SCALE: 1/4" = 1'-0" DRAWN: CCP SITE: MAD 070000 SHEET: <b>A5.04</b>









**William Maston**

**ARCHITECT & ASSOCIATES**

ATTACHMENT D

Page 1 of 2

August 7, 2008

Ryan Kuchenig, Associate Planner  
Dept. of Community Development  
Planning Staff  
Planning Commission  
City Council  
City of Sunnyvale  
456 W. Olive Avenue  
Sunnyvale, CA 94088-3707

Re: Condominium Conversion at 1248 Brookfield Avenue, Sunnyvale 94087

Ladies and Gentlemen:

Please consider this overview letter as part of our submittal for the proposed condominium conversion.

Over the last nine months we've worked with Planning Staff and various other departments to identify and solve areas of concern regarding proposed development in order to maximize the potential benefits of the proposed project.

We have worked with Staff to create more pleasant exterior architectural elements, better site planning internal to the project, more usable open space and less impervious surface area, as currently exists on the site. In order to achieve these goals, we have reduced the original number of apartment units from eight (8) to six (6), and expanded and updated condominium units to be consistent with the current zoning.

During our interaction with Planning Staff, we identified one area of concern regarding the preservation of an existing tree that is in only "fair" health condition. The tree's health condition and its location potentially compromised available design solutions. After reviewing information supplied by a local arborist and reviewing alternative site plan alternatives suggested by Planning Staff, we concluded that removal of the existing (Heritage) tree was in the best interest of the project. Its life expectancy has already been compromised by its age and poor maintenance and its location compromised our ability to create more usable open spaces and reduce impervious surface areas. After weighing the benefits of preservation verses better site plan, we chose removal of the tree.

Ryan Kuchenig  
Re: 1248 Brookfield Avenue, Sunnyvale  
August 7, 2008  
Page 2

As part of the removal of the tree, we have created two usable open space areas at the rear of the property and added thirteen (13) additional trees to compensate for its removal. We believe these enhancements create a much greater benefit in the long term for the project and the site.

Additional enhancements to the project include new covered and dedicated parking areas, new covered and dedicated garbage collection area, additional storage for each unit and four (4) permanently dedicated bicycle lockers. While these amenities are required by Code, we believe we've located them in areas that benefit the open space, provide convenience for the users and security for the same.

Overall we believe that we have constructively incorporated various suggestions made by Planning Staff and other City departments to create a project that benefits and enhances the surrounding community.

We are available to answer any of your questions and look forward to working with you during the public review process.

Sincerely,



William J. Maston  
Enclosure: 1

**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 1248 BROOKFIELD 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 - EXEMPTION. The City Council finds, pursuant to Title 14 of the California Code of Regulations, Section 15061(b)(3), that this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a Project which has the potential for causing a significant effect on the environment. The Council therefore directs that the Planning Division may file a Notice of Exemption with the Santa Clara County Clerk in accordance with the Sunnyvale Guidelines for the implementation of CEQA adopted by Resolution No. 118-04.

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:

\_\_\_\_\_  
City Clerk  
Date of Attestation \_\_\_\_\_

\_\_\_\_\_  
Mayor

SEAL

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
David E. Kahn, City Attorney



**PLANNING COMMISSION MINUTES OF OCTOBER 27, 2008**

**2008-0870 – Cherry Garden Apartments LLC** [Applicant] **Ryan Madson** [Owner]: Application for related proposals located at **1248 Brookfield Avenue** (near S. Knickerbocker Dr.) in R-3 (Medium Density Residential) Zoning District. (APN: 198-15-013) RK;

- **Rezone** from R-3 (Medium-Density Residential) to R-3/PD (Medium Density Residential/Planned Development) Zoning District;
- **Special Development Permit** to convert an existing 8-unit apartment complex to 6 condominiums;
- **Tentative Map** to create 6 new condominium units.

**Ryan Kuchenig**, Associate Planner, presented the staff report. He said staff finds adequate justification to approve the requested deviations subject to the conditions of approval. He said that this project is scheduled to be considered by City Council at the November 18, 2008 Council meeting.

**Comm. Klein** confirmed with staff that the ash tree is the only protected tree on site that the applicant is requesting permission to remove. Comm. Klein asked staff to comment about the City rules regarding maintaining a certain percentage of rental units versus ownership units and asked how the City is maintaining an appropriate stock of rentals and what is the appropriate qualifications for condominium conversions. Mr. Kuchenig said there are a number of improvements required for the conversion of rental units to ownership units which are noted in the report. Mr. Kuchenig said that the proposed project meets all density requirements of this specific zoning district. Comm. Klein asked whether the City is meeting the City goals regarding the number of rental versus ownership units. **Trudi Ryan**, Planning Officer, said City policy is to encourage the development of ownership, and said that the City cannot require the development of ownership units. She said the condominium conversion regulations were put in place to protect tenants and potential buyers, discussing the history of the regulations. Ms. Ryan said the original regulations severely limited the ability to convert to condominiums as the establishment of the regulations occurred during a period when the City Council was trying to encourage rental housing. She said the tides have turned a bit and the City is currently about 50% rental/50% ownership units. She said the condominium conversions are now more simplified. Ms. Ryan said the Commission needs to decide whether the proposed project satisfies all the conditions for conversion. Comm. Klein commented that the Planning Commission sees almost zero proposals for rentals. Ms. Ryan said that some of the projects recently reviewed

were mapped and initially may be used for rental housing, eventually being converted to condominiums.

**Comm. Hungerford** commented that the CC&Rs (Conditions, Covenants and Restrictions) in Attachment B, page 1 seem more detailed than usual and asked staff if the increased details are an outgrowth of the current Study Issue regarding enforceability of CC&Rs. **Kathryn Berry**, Senior Assistant City Attorney, said that most of the applications that come through have this level of detail in the CC&Rs. Ms. Berry said the CC&Rs have been expanding over time and that the City has been trying to create CC&Rs that can be enforced by the Homeowners' Association (HOA) so the City can be sure that the issues that are a concern of the City are addressed. She said that staff is now requiring that the Conditions of Approval (COAs) be incorporated into the CC&Rs. Comm. Hungerford confirmed with staff that the CC&Rs for the proposed project are not dramatically different than in the past, however there has been some evolutionary change. Comm. Hungerford discussed with staff that the conditions should include that the HOA be identified with contact information provided to the City so if there are issues it is evident who to contact. Ms. Ryan said that this possible condition was discussed at study session and the Commission could add a condition if they would like to.

**Chair Rowe** asked staff what the reasoning is for the external stairway in the back. Mr. Kuchenig said the stairway is for access to the upper units. Chair Rowe asked additional questions clarifying with staff that the stairway is only in the courtyard.

**Chair Rowe opened the public hearing.**

**Bill Maston**, architect for the project, represented the applicant. He said they have worked with staff over a period of time and are in support of the staff report and recommendations. He discussed the outdoor landscape elements. Mr. Maston said overall that the site has more open space, better privacy, less focus on cars and more focus on landscaping. Mr. Maston offered to answer any questions the Commission might have.

**Comm. Hungerford** confirmed with Mr. Maston that the proposed project started with eight units and then after working with staff was cut down to six units. Mr. Maston said that this was a non-conforming condition and that sometime since 1957 the zoning in this area changed so the existing site was over the allowable maximum units for the zoning district.

**Vice Chair Chang** asked Mr. Maston if any trees would be planted on the site. Mr. Maston said he they are adding 13 new trees that are either 24-inch or 36-inch box size depending on the placement on the site. Mr. Maston explained the justification for the proposed removal of the ash tree due to its poor health and commented that removing the tree opens up the roof for the photo voltaic panels.

**Comm. McKenna** asked Mr. Maston about the placement of two of the bathrooms. Mr. Maston explained that the downstairs units are slab on grade and they did not want to move the bathrooms, however with the upstairs units the bathrooms can be moved more easily. He said also, the existing units are eight, the proposal is for six units, and they are trying to take advantage of where the plumbing is.

**Angela Omorad**, a long-time Sunnyvale resident and tenant in the Cherry Garden Apartments, said that if these apartments are converted she will be displaced. She said that she would probably have a difficult time finding a similarly situated, affordable apartment in Sunnyvale. She said as far as she knows Sunnyvale has always had a commitment to moderate income housing and converting these apartments will take them out of that range. She said depending on the ultimate price of the converted condominiums that she does not know whether she could afford to buy one of the units. She said these units would be in an area almost completely surrounded by other apartments which could affect the value of the converted condominiums. She asked, considering the downward trend in condominium prices and the current economy, whether this project is a wise decision at this time. Ms. Omorad said that she had a discussion with the owner, Ryan Madson, and he said, depending on the market, he might convert them and keep them off the market for a while so price would go up before he sells them. She asked the Commission to vote no on the approval of this proposed conversion as she said she does not think she would be able to afford the same unit after the upgrade.

**Comm. Travis** asked staff if there are going to be BMR (Below Market Rate) units with this conversion. Ms. Ryan said no, as the minimum number of units to require BMR is nine.

**Chair Rowe** asked staff if there are any requirements regarding providing assistance to help tenants move. Ms. Ryan said there are no requirements like there are for closing mobile home parks. Ms. Ryan said generally bigger developments might hire a housing specialist to help displaced tenants and a requirement for this could be included in the COAs. Ms. Ryan said there are minimum standards required by State law. Chair Rowe asked if one of the

standards is a timeframe for notification. Ms. Berry explained that the City's local ordinance provides some tenant protections including: that the developer shall offer an extension of tenancy to expire not less than 90 days after the units go on the market for sale; that the developer shall permit any tenant to terminate the lease without any penalty if the tenant finds another place to move; that there are expenses for temporary location and some moving costs; that rent cannot be increased during the remaining period of residency; and that the tenants are offered the opportunity to purchase the units as a type of right of first refusal.

**Comm. Klein** commented that the applicant will be refurbishing both the interior and exterior of the units and asked Ms. Berry how the time frames work with the City's ordinance mentioned. Ms. Berry said that sometimes tenants can be moved out temporarily while the units are being upgraded, and if the tenant plans on staying in the unit, the applicant and owner would have to help pay for the temporary relocation. Ms. Berry confirmed with Comm. Klein that his question was regarding the 90 days after the project is completed and how that would work. Ms. Berry said she is not sure what establishes the end date, that it would probably be the certificate of occupancy, and then the 90 days would follow that. Comm. Klein asked how it would work if the owner decided not to sell the units immediately and instead re-rented the units. Ms. Berry said she thinks the rents could go up as there is no rent control in Sunnyvale.

**Chair Rowe closed the public hearing.**

**Comm. Hungerford moved for Alternative 2, to introduce an Ordinance to Rezone 1248 Brookfield Avenue from R-3 to R-3/PD and approve the Special Development Permit and Tentative Map with modified conditions: to add a condition that detailed contact information for the Homeowners' Association be provided to and retained by the City; and to modify condition 7.E that of the new trees installed, 10% shall be 36-inch box size or larger and no tree shall be less than 15-gallon size.**

**Comm. Hungerford** said, before the public hearing tonight, he thought there would be little reason to oppose the idea of taking an apartment complex that needs some work and upgrading the complex. He said he still thinks that the upgrading overrides the concerns that have been expressed tonight. He said the City wants to keep affordable units in Sunnyvale, and has a program in place to add affordable housing requirements in the City. Comm. Hungerford said he is relying on that program to keep affordable units accessible and available and at the same time being able to promote needed improvements to existing units.

**Comm. McKenna** said she agrees with Comm. Hungerford. She said that this is not a particularly dilapidated building, but it probably did need some upgrading and would be a nice addition to the neighborhood. Comm. McKenna said that the major concern of the Commission is the people currently living in the units. She said she hopes with the COAs and other programs that the developer will hear the words, and that the people currently living there will have the first opportunity to take advantage of the upgrade. She said if the tenants cannot remain in the units she hopes that they will have opportunity to look for and relocate to other locations within Sunnyvale.

**Comm. Sulser** said he has mixed feelings about this proposal, and said he would be supporting the motion. He said he is not thrilled about removing rental units given the current housing market. He said this proposal is consistent with the General Plan and what the City wants to do as the City upgraded the conversion ordinance to make it easier for these types of conversions. He complimented the architect stating that he thinks the project is a nice upgrade to the site and that he likes the architecture and the green building features.

**Comm. Klein** commented that in the past when a mobile home park was closed that there was assistance with relocation. He asked staff about helping the existing tenants with relocation issues and if a condition could be added to address this. Ms. Ryan said there are differences between this situation and the mobile home park as the tenants in the mobile home park owned their coaches and these are rental units. Ms. Ryan said in the past there have been apartment complex projects and the conditions included the requirement that there be a tenant relocation assistance plan. Ms. Ryan said the Commission could include a condition for relocation assistance and suggested possible ways to include a relocation plan.

**Comm. Klein offered a Friendly Amendment that the applicant prepare a tenant relocation assistance plan subject to the approval by the Director of Community Development and that the plan includes that the developer pay for the services of a housing specialist.** Comm. Hungerford asked staff if priority for affordable housing could be given in this situation. Ms. Ryan said that is not something that could be provided as there is a well-defined program for BMR rentals and purchases. She said the tenants would need to apply to see if they are eligible for BMR units. **The maker and the seconder of the motion accepted the Friendly Amendment.** Comm. Klein said he had mixed feelings about the project and that the upgrades proposed are beneficial. He said his one worry is what happens to the existing tenants during the upgrade and if the units become rentals. He said that staff did not lay out a plan to assist the tenants and he feels the condition added will help with tenants. He commended the applicant

for working with the Build it Green checklist and said he looks forward to seeing this project completed.

**Chair Rowe** said she agrees with Comm. Klein's comment about the applicant working with the Build It Green checklist. She said she agrees with the efforts to help the tenants.

**ACTION:** Comm. Hungerford made a motion on 2008-0870 to introduce an Ordinance to Rezone 1248 Brookfield Avenue from R-3 to R-3/PD and approve the Special Development Permit and Tentative Map with modified conditions: to add a condition that detailed contact information for the Homeowners' Association be provided to and retained by the City; and to modify condition 7.E that of new trees installed, 10% shall be 36-inch box size or larger and no tree shall be less than 15-gallon size; and to add a condition that the applicant prepare a tenant relocation assistance plan subject to the approval by the Director of Community Development and that the plan includes that the developer pay for the services of a housing specialist. Comm. McKenna seconded. Motion carried unanimously, 7-0.

**APPEAL OPTIONS:** This recommendation will be forwarded to City Council for consideration at the November 18, 2008 City Council meeting.