

**Council Meeting: January 27, 2009**

**SUBJECT:** **2008-0238 - Dale Meyer Associates** [Applicant] **Nikoley Richard L and Beatrice F** [Owner]: Application for related proposals for a property located at **127 W. California Avenue** (near N. Murphy Ave.) in an R-3 (Medium Density Residential) Zoning District. (APN: 204-043-007) SB;

Introduction of an Ordinance **Rezone** from R-3 (Medium Density Residential) to R-3/PD (Medium Density Residential/Planned Development) Zoning District,  
Motion **Special Development Permit** to allow 5 residential townhomes,  
Motion **Tentative Map** to subdivide one lot into five lots and one common lot.

**REPORT IN BRIEF**

**Existing Site Conditions** Rental units, accessory utility buildings, carports and outdoor storage

**Surrounding Land Uses**

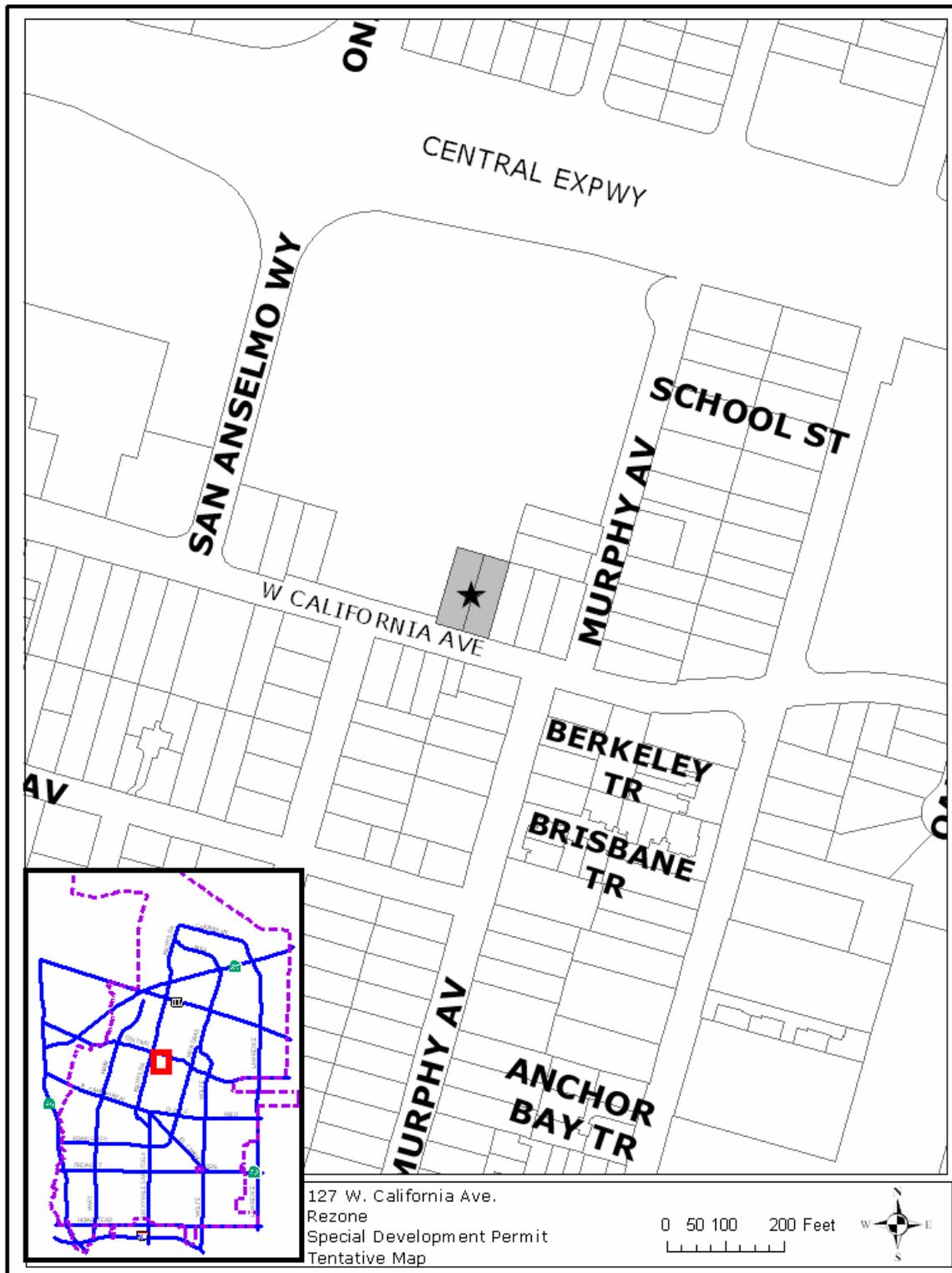
North	Apartment complex
South	Single family homes
East	Single-family home
West	Apartment complex

**Issues** Privacy impacts, Neighborhood compatibility

**Environmental Status** A Class 32 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines.

**Staff recommendation** Approval with conditions

**Planning Commission recommendation** Approval with conditions



**PROJECT DATA TABLE**

	<b>EXISTING</b>	<b>PROPOSED</b>	<b>REQUIRED/ PERMITTED</b>
<b>General Plan</b>	Residential High Density	Same	Residential High Density
<b>Zoning District</b>	R-3	R-3/PD	By Re-zone
<b>Lot Size (s.f.)</b>	12,278	Same	8,000 min.
<b>Gross Floor Area (s.f.)</b>	3,220	10,447	No max.
<b>Lot Coverage (%) (including garages/carports/sheds)</b>	30 % approx.	36 %	40% max.
<b>Floor Area Ratio (FAR)</b>	30% approx.	85%	No max.
<b>No. of Units</b>	6	5	6 max.
<b>Density (units/acre)</b>	24	20	24 max.
<b>Meets 75% min?</b>	Yes	Yes	5 min.
<b>Bedrooms/Unit</b>	Unknown	2 or 3 per unit	No min.
<b>Unit Sizes (s.f.) (Including garage)</b>	Unknown	Unit 1: 2,142 Unit 2: 2,249 Unit 3: 2,109 Unit 4: 2,164 Unit 5: 2,055	N/A
<b>No. of Buildings On-Site</b>	2 + 1 shed + 1 carport	2	No max.
<b>Distance Between Buildings</b>	Unknown	20'	20' min.
<b>Building Height (ft.)</b>	11' approx.	31'3"	35' max.
<b>No. of Stories</b>	1	2	3 max.
<b>Setbacks (First/Second story)</b>			
<b>★ Front (facing California Avenue)</b>	20'4"	<b>9'0" (as measured from porch support columns) / 15'(to the face of the building)</b>	20' min.
<b>Left Side</b>	5'10"	<b>Garage level: 9' First story: 9' Second story: 6'</b>	** 9' min. (18' combined)
<b>Right Side</b>	6'	<b>Garage level: 9' First story: 9' Second story: 6'</b>	** 9' min. (18' combined)
<b>Rear</b>	46'	20'	20' min.

	<b>EXISTING</b>	<b>PROPOSED</b>	<b>REQUIRED/ PERMITTED</b>
<b>Landscaping (sq. ft.)</b>			
<b>Total Landscaping</b>	2,209	3,061	2,125 min.
<b>Landscaping/Unit</b>	368	607	425 min.
<b>Usable Open Space/Unit</b>	Unknown	505	400 min.
<b>Frontage Width (ft.)</b>	10'	15 ft.	15 ft. min.
<b>Parking</b>			
<b>Total Spaces</b>	8	13	13 min.
<b>Covered Spaces</b>	Unknown	10	10 min.
<b>Guest parking spaces</b>	Unknown	3	3 min.
<b>Aisle Width (ft.)</b>	20	24'	24 min.
<b>Stormwater</b>			
<b>Impervious Surface Area (s.f.)</b>	10,011	8,393	N/A
<b>Impervious Surface (%)</b>	81%	68.3%	N/A

★ Starred items indicate deviations from Sunnyvale Municipal Code requirements.

## **ANALYSIS**

### **Description of Proposed Project**

The proposed project includes the demolition of the six existing units and the construction of five new townhomes. In order to consider deviations from Municipal Code requirements, the site requires rezoning to R-3/PD (Medium Density Residential/Planned Development). A Tentative Map is proposed for the individual ownership lots and common lot. In addition, the project proposes 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. On July 30, 2008, a Variance was approved through the Administrative hearing process to allow individual trash enclosures in each unit.

### **Background**

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

**Environmental Review**

A Class 32 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines. Class 32 Categorical Exemptions include infill developments that do not exceed the overall density allowed by the General Plan.

**Rezoning**

**Change under Consideration:** The project proposes to re-zone the site from R-3 (Medium Density Residential) to R-3/PD (Medium Density Residential/Planned Development) Zoning District.

**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 certain design elements. Requested deviations of the project are discussed in the following section of this report.

**Special Development Permit**

**Site Layout:** The site is an interior lot located mid-block facing W. California Avenue between N. Murphy and San Anselmo Way. The proposed layout consists of two separate buildings i.e. buildings A and B with 3 and 2 townhome units respectively, for a total of 5 units. Units 1, 2 and 3 are located in Building A while units 4 and 5 are located in Building B. A central driveway is positioned off of California Avenue. In addition, both buildings are three-

stories tall each with a garage located at ground level with two levels of living space above.

Each of the units has two-car garages that are positioned towards the central driveway. Pedestrian entrances to the middle and rear units are located off of the central driveway while entrance to the front units is through a porch facing W. California Avenue.

The project, as designed, with a front yard setback of 9' does not meet the minimum 20' front yard setback requirement. Also, the second story has been designed at a setback of 6' from the side property lines on both sides and hence encroaches into the minimum 9' side yard setback. The applicant is requesting a deviation from front yard and side yard setback requirements for the second story.

Three guest parking spaces and bicycle parking spaces have been provided at the rear of the site (see Site and Architectural Plans, Attachment C). The site also includes a fairly large common open space area located behind Building B. Ample landscaping has been provided all around the front, sides and rear of the building.

**Floor Plan:** The development offers two different floor plans, with two and three bedrooms options. Units 1, 3 and 5 are designed as two-bedroom units whereas units 2 and 4 have three bedrooms and two bathrooms each. The units range from approximately 2,055 s.f. to 2,214 s.f. including garages. Each unit contains a storage area adjacent to the garage area. Differences are noted within the layouts of the storage areas provided for each unit. The garage level of the units will be approximately 3'6" below the grade of the top of curb. The garages are designed to be larger than 400 sq. ft. with room for utilities and trash enclosures within each garage.

**Privacy Impacts on Neighbors:** Per staff comments, the applicant has redesigned the project siting the three townhome units comprising Building A on the left side of the property immediately adjacent to the two-story apartment building. Staff was contacted by the property owner of 125 California Avenue (single family home on the right side of the property) who raised concerns about impacts on the privacy of his lot. The redesigned project has Building B located on the right side of the property with two townhome units and a large common area behind. This significantly reduces the extent of impacts on the privacy of the single family homeowner residing at 125 California Avenue.

**Easements and Undergrounding:** The Public Works Department is requiring a 12' wide right-of-way dedication along the project frontage on California Avenue. Staff has also included a condition of approval requiring that 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.

<b>Design Policy or Guideline (Site Layout)</b>	<b>Comments</b>
<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 with vehicular access provided by means of a central driveway off California Avenue. Unassigned guest parking is hidden from public view at the rear of the site.

**Architecture:** The proposed townhomes are traditional in style and offer a variety of interesting elements along each façade. The units 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 two stories tall plus a basement and reach a peak height of 31’ 6” as measured from the top of curb. The front porches have been designed using gabled roofs and include tapered columns with a wide stone base.

Each unit has a small outdoor patio area facing the side property line that is surrounded by wooden railings and includes a small staircase leading into the garage and storage area located on the ground floor. The pedestrian entrances to the units are located at the center and rear of each building facing the central driveway immediately adjacent to the garage door.

The materials proposed for both buildings include composition shingle on the roof, wood shingles on the third floor, wooden board and batten on the second floor and cultured river rock around the garage level on the ground floor and on the chimney. The applicant proposes to pave the entrance to the central driveway as well as a portion of the driveway in front of each two-car garage using a color and texture that would tie into the materials used on the buildings.

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

<b>City-Wide Design Guidelines (Architecture)</b>	<b>Comments</b>
<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>	The proposed architecture upgrades the visual aesthetics of the neighborhood with high quality design and detailing while utilizing similar materials and color that are evident in the surrounding multi-family neighborhood.
<i>B1. Break up large buildings into groups of smaller segments whenever possible, to appear smaller in mass and bulk.</i>	The two buildings are designed such that horizontal and vertical massing is broken up with various pop-outs and changes in materials.

**Landscaping:** The R-3 Zoning District requires a minimum of 425 square feet of total landscaping per unit. The site exceeds this requirement by providing 607 square feet per unit. The proposed usable open space consists of small outdoor areas that vary in size amongst each unit. In addition, there is a fairly large outdoor usable open space area proposed at the rear of the site behind building B that could be used as an outdoor gathering space by the residents. The proposal exceeds the minimum 400 square feet per unit of usable open space by providing approximately 505 sq. ft. of usable open space per unit.

According to the arborist report submitted by the applicant, all the trees on or near the site are of exotic species with the exception of a live oak on the neighbor's property. The report states that the trees on the subject property consist of non-native trees such as pines, eucalyptus and a poplar and hence should be removed. The site currently has eight trees including those located along the street. Six 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.

The applicant has submitted a detailed landscaping plan which indicates that several new 24-inch box trees shall be planted on the site. In addition, several new 5-15 gallon size trees are proposed to be planted in the interior of the site in the front yard and rear open space area. Conditions of Approval require that 10% of the trees are 24-inch box or greater. Staff has also included a condition requiring that larger trees be planted along the east property line to further minimize impacts on the privacy of neighbors. Moreover, the conditions of approval require that 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.

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

<b>City-Wide Design Guidelines (Landscaping)</b>	<b>Comments</b>
<i>A4 Properly landscape all areas not covered by structures, driveways and parking.</i>	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.

**Parking/Circulation:** The project complies with the parking requirements by providing two covered parking spaces per unit and three unassigned guest parking spaces. These unassigned spaces are located at the rear of the lot. A new private street/driveway composed of pervious pavers would allow for access from California Avenue. The driveway area complies with Zoning Code requirements for aisle width and backup distance.

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 northern end 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 applied for a Variance to allow this exception. The applicant’s rationale for the Variance was that for this particular development a centralized location would not be appropriate and would detract visually and functionally from the project. Additional garage area has been provided to accommodate storage area for individual trash and recycling bins. The Solid Waste Division reviewed the request and stated that a centralized location is discouraged for the proposed development due to lot size constraints that impact the ability of trucks to access the rear of the site. Locating a trash enclosure in front of the units is not desirable given its visibility to the public street. Furthermore, a location at the rear of the site is not ideally accessible and would result in a loss in parking.

On July 30, 2008 the Variance request was reviewed and approved by the Administrative hearing office. No comments were received from neighbors.

**Compliance with Development Standards/Guidelines:** The site meets most development standards except for front yard and side yard setback requirements, and lack of a centralized trash enclosure for which a Variance has been approved.

**Expected Impact on the Surroundings:** The proposal would result in a net decrease in density from six units to five townhomes. The number of units is in conformance with allowable density in the R-3 Zoning District. The proposed density is more in character with existing neighborhood pattern which is combination of apartment units and single family homes thus creating a more gradual transition. Visually, the new units will have an impact to the area as compared to the existing one-story units that currently exist on the site. Two-story structures are located nearby that compare similarly in overall height to the proposed two-story townhomes. 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 one parcel into five 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 jointly by the residents of the property.

### **Fiscal Impact**

*Transportation/Park/Housing Fee:* No fiscal impacts other than normal fees and taxes are expected. The Park Dedication in-lieu fees are required for the five units/lots for an approximate fee of \$47,044, or approximately \$9,408.96 per unit. Park dedication fees must be paid prior to approval of the final map.

### **Public Contact**

Prior to the Planning Commission hearing, staff received a letter from a nearby resident along California Avenue. The letter noted concerns related to privacy impacts that could result from the new development. The letter is included in Attachment H. Staff worked with the applicant and the project has since been redesigned to reduce these impacts. A detailed discussion of this issue is included in a previous section of the report.

Notice of Public Hearing	Staff Report	Agenda
<ul style="list-style-type: none"> <li>• Published in the <i>Sun</i> newspaper</li> <li>• Posted on the site</li> <li>• 76 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 June 9, 2008 the subject project was reviewed and approved by the Planning Commission subject to a list of conditions including the following:

- setback for the second-story shall meet the setback requirements;
- the roofline on the non-garage sides of the building shall have added gables to make them look less linear with staff defining what proportion they should be in relation to the windows on both the two unit and three unit parts of the project
- the sidelights to the front door shall be full length
- the windows by the two front doors should be horizontally even and balanced vertically;
- different colors of the pervious driveway shall define a walkway area within the driveway on both sides of the driveway all the way to the rear of the property
- new trees shall be of native species and as large as appropriate for placement on the development
- amenities shall be included in the common area that would be sufficient to meet the needs of homeowners, e.g. gathering for general board meetings and social gatherings.

The applicant has re-designed the project to address almost all of the issues listed above except for meeting the second story minimum setback requirement. The project has been re-designed to reduce the extent of encroachment into the side yards. However, the proposed layout of the second story has projections that are designed at a setback of 6' where a 9' minimum setback is required for two-story structures.

Staff has included a condition of approval requiring that outdoor benches be provided in the common open space area at the rear of the property.

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## Conclusion

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**Discussion:** The primary issues of this proposal relate to setbacks, privacy impacts on the adjoining property and the lack of a centralized trash and

recycling enclosure. Since the Planning Commission hearing, the project has been redesigned to minimize the privacy impacts on neighbors by switching the locations of the buildings and by providing additional landscaping along the east property line adjacent to the single family home. A separate Variance application was reviewed and approved to allow individual trash enclosures for the units instead of a centralized enclosure as required by Code.

With regards to the front setback issue, the project has been designed at a setback of 9'0" from the front property line instead of 20' as required by Code. Although the main bulk of the structure is located at 15' from the front property line, the front porches extend out further. Building A has two guest parking spaces located behind it so it may not be possible to move that building farther back without relocating at least one guest parking space. Even though it may be possible to relocate the guest parking spaces behind Building B, it will result in the loss of common open space area.

With regards to the side setback issue, the Zoning code requires a minimum side setback of 9' for two-story structures at the ground level. The project, as proposed, has a side setback of 9' for the first floor and 6' for the second floor. Staff notes that the second story wall has several windows facing the side property line that will likely impact the privacy of neighbors. However, in staff's opinion the side setback deviation is a reasonable request as several other projects have been designed and approved with similar deviation requests.

The subject property is a small lot and hence poses several challenges for a project to be designed to meet all code requirements. 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. Staff finds that deviations have been minimized to create optimal use of the site. The townhouse development enables a modest sized project with regards to the number of units for the site which is in conformance with the R-3 Zoning density.

**Findings and General Plan Goals:** Staff was able to make the required Findings based on the justifications for the Special Development Permit. Findings and General Plan Goals are located in Attachment A.

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

## **Alternatives**

1. Recommend that the City Council introduce an Ordinance to Rezone 127-133 W. California Avenue from R-3 to R-3/PD and approve the Special Development Permit and Tentative Map for five units and one common lot with attached conditions
2. Recommend that the City Council introduce an Ordinance to Rezone 127-133 W. California 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.
3. Do not introduce an Ordinance to Rezone 127-133 W. California Avenue from R-3 to R-3/PD and deny the Special Development Permit and Tentative Map for five units and one common lot

## **Recommendation**

Staff recommends Alternative 1.

Reviewed by:

Hanson Hom, Director, CDD  
Prepared by: Surachita Bose, Associate Planner  
Approved by:

Gary M. Luebbers  
City Manager

## **Attachments:**

- A. Recommended Findings
- B. Recommended Conditions of Approval
- C. Site and Architectural Plans
- D. Letter from the Applicant
- E. Arborist report submitted by the applicant
- F. Site photos
- G. Letters from Other Interested Parties
- H. Minutes from the Planning Commission meeting held on June 9, 2008
- I. Draft Rezoning Ordinance

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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 five additional ownership units.

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**Recommended Findings - Special Development Permit**

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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.

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.

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**

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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

## **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. ***The pervious driveway shall be required to address any required mitigation of storm water runoff and if there are any other storm water requirements then it will trigger additional mitigation (per PC).***
- 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. For Building A, front yard setbacks for each story of 9' where 20' is required along W. California Avenue.
  2. For Building B, front yard setback of 9' for each story where 20' is required along W. California Avenue.

- G. Execute a Special Development Permit document prior to issuance of the building permit.
- H. The property owner shall provide relocation assistance to the tenants including adequate notice of at least 60 days or more and a month of free rent. The property owner shall submit to the Director of Community Development adequate proof of relocation assistance provided to the tenants prior to issuance of building permits.

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

- A. Obtain necessary permits 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. All unassigned spaces shall be marked as "guest parking" spaces. 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 Director of Community Development prior to issuance of a building permit.
- B. Roof material shall be 50-year dimensional composition shingle, or other material as approved by the Director of Community Development.
- C. ***Different colors of the pervious driveway shall define a walkway area within the driveway on both sides of the driveway all the way to the rear of the property and define the***

***entryways; gloss sealant shall be used on the colored pervious material to give a stronger contrast to the materials (per PC).***

- D. ***Outdoor benches shall be provided in the common open space area at the rear of the property (per PC).***

**5. EASEMENTS AND DEDICATIONS**

- A. Dedicate a 12' right-of way along the project frontage on California Avenue prior to issuance of a Building Permit or Final Map.

**6. EXTERIOR EQUIPMENT**

- A. The individual air conditioning units shall be located within private outdoor landscape areas and screened from view. The locations of individual air-conditioning units shall be reviewed and approved by the Director of Community Development. A/C units shall meet the City's noise standard.

**7. FEES**

- A. Pay Park In-lieu fees estimated at \$47,044, 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 meters for domestic and irrigation water systems.
- D. The landscape plan shall include all street trees along the project frontage and shall be submitted and approved by 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 (there are six protected trees on the subject property), shall be replaced with a specimen tree of at least 36-inch box size.
- I. Ground cover shall be planted so as to ensure full coverage eighteen months after installation.
- J. 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.
- K. New trees shall be native large species trees as large as appropriate for placement on the site.
- L. Larger trees shall be planted along the eads property line to minimize impacts on the privacy of neighbors.

**10. TREE PRESERVATION**

- A. A tree protection plan shall be submitted for any existing trees on the site as well as for trees on neighboring properties that may be impacted during construction. 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.
  4. ***New trees shall be native and as large as appropriate for placement on the development (per PC).***
- 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. All three unassigned spaces can be marked as “guest parking” spaces. 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. The required number of Class I and Class II on-site bicycle parking will have to follow the 2007 VTA Bicycle Technical Guidelines (or latest standards available at time of submittal for building permits). The type, model, dimensions of the proposed bicycle parking will have to be provided as part of the design details and specifications for the on-site improvements.
- E. Sliding garage doors shall be provided that slide either upwards or sideways.
- F. No trees or large signs/obstructions taller than 3 ft will be allowed within the 10-foot driveway vision triangles at the project driveway.
- G. Unenclosed storage of any vehicle longer than 18-feet intended for recreation purposes shall be prohibited on the premises.

**13. RECYCLING AND SOLID WASTE**

- A. Unless approved by Variance, a centralized trash and recycling enclosure shall be provided on the site. The location, size and appearance of the enclosure shall be reviewed and approved by the Director of Community Development.
- B. All exterior recycling and solid waste shall be confined to approved receptacles and enclosures unless otherwise approved by a Variance.

**14. 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. A 12' wide street dedication will be required all along the project frontage on W. California Avenue. The dedication shall be reviewed and approved by the Director of Public Works.
- D. 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.
- E. Remove and repair any damage caused by trees and install root barrier.
- F. All sidewalks along project frontage shall provide minimum 4' ADA clearance around all poles, streetlights and any other obstructions.

- G. Replace stop sign, pole and street name signs.
- H. 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.
- I. 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.
- J. Public improvements shall be constructed to the latest revision of Caltrans Standard Plans and Specifications, City Plans and Specifications, and CA MUTCD.
- K. New driveways shall be built to City standards (5C-1).
- L. 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.
- M. 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.
- N. Installation of new Radio Read meters will be required.
- O. Provide locations of existing City fire hydrants. Onsite fire hydrants or a new City fire hydrant may be needed depending on existing hydrant locations.
- P. Fire service and domestic service shall be separate unless otherwise approved by Public Works Director for multi-family residential developments.
- Q. 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.
- R. Each unit should function independently in terms of utility service lines, unless otherwise provided in the Conditions, Covenants and Restrictions (CC&Rs) for shared usage and maintenance responsibilities. Easements shall be established for cross-parcel functions.
- S. Obtain an encroachment permit from the Public Works Department for all improvements in the public right-of-way.

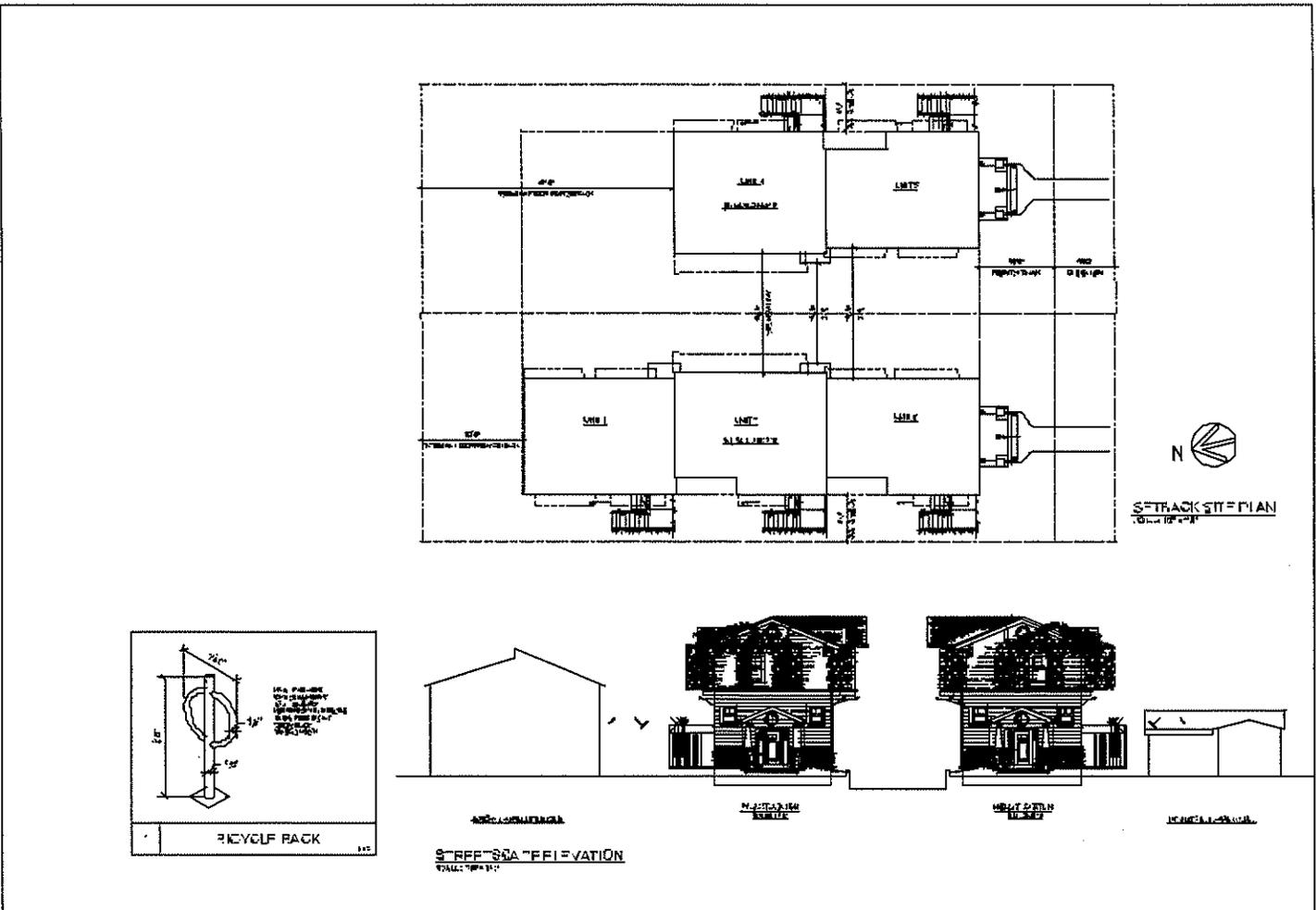
**15. UNDERGROUND UTILITIES**

- 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.

**16. 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.





<b>DALE MEYER ASSOCIATES</b> ARCHITECTS 1100 N. WASHINGTON ST. SUITE 100 CHICAGO, IL 60610 TEL: 312.467.1000 FAX: 312.467.1001 WWW.DALEMEYER.COM		<b>NIKOLEY TOWNHOMES</b> 2015 W. 116th St.   LAWRENCE, KS 66044	
DATE:	1/8/2009	SCALE:	AS SHOWN
PROJECT:	NIKOLEY TOWNHOMES	NO.:	2640P1A
CLIENT:	TRISTAR DEVELOPMENT	REV:	3
DESIGNER:	DALE MEYER ASSOCIATES	DATE:	1/8/2009
DRAWN BY:	SRACHITA BOSE	CHECKED BY:	DALE MEYER
IN CHARGE:	DALE MEYER	DATE:	1/8/2009

ATTACHMENT  
 Page 2 of 16  
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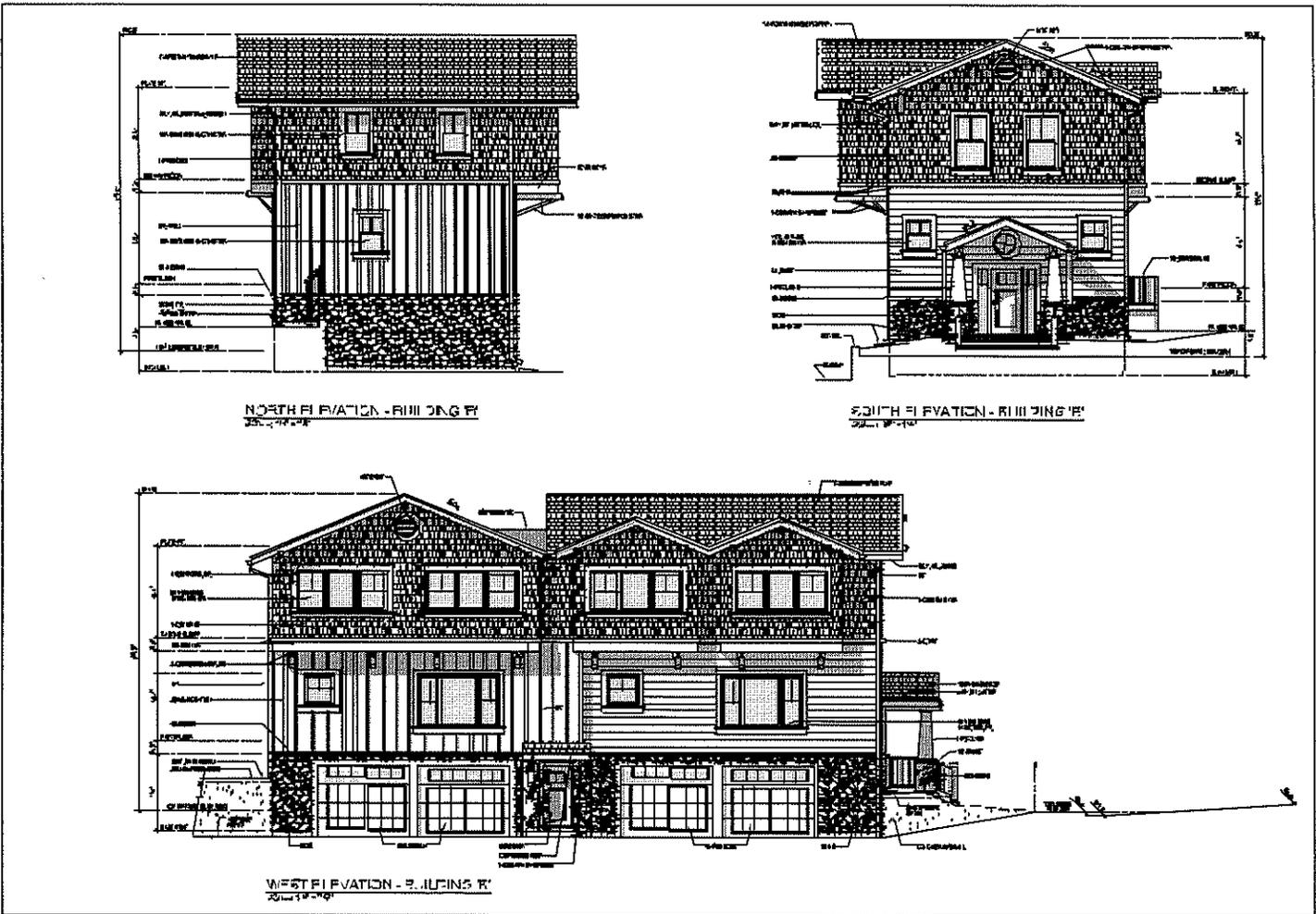












NORTH ELEVATION - RIII JING 'E'

SOUTH ELEVATION - RIII JING 'E'

WEST ELEVATION - RIII JING 'E'

DALE MEYER ASSOCIATES  
 ARCHITECTS  
 2011 W. 11th Avenue, Lincoln, NE 68502  
 (402) 441-1111  
 www.dalemeyer.com

SENIOR ARCHITECT/DESIGNER

DATE: 1/8/2009  
 PROJECT: SURACHITA BOSE - 2640P8

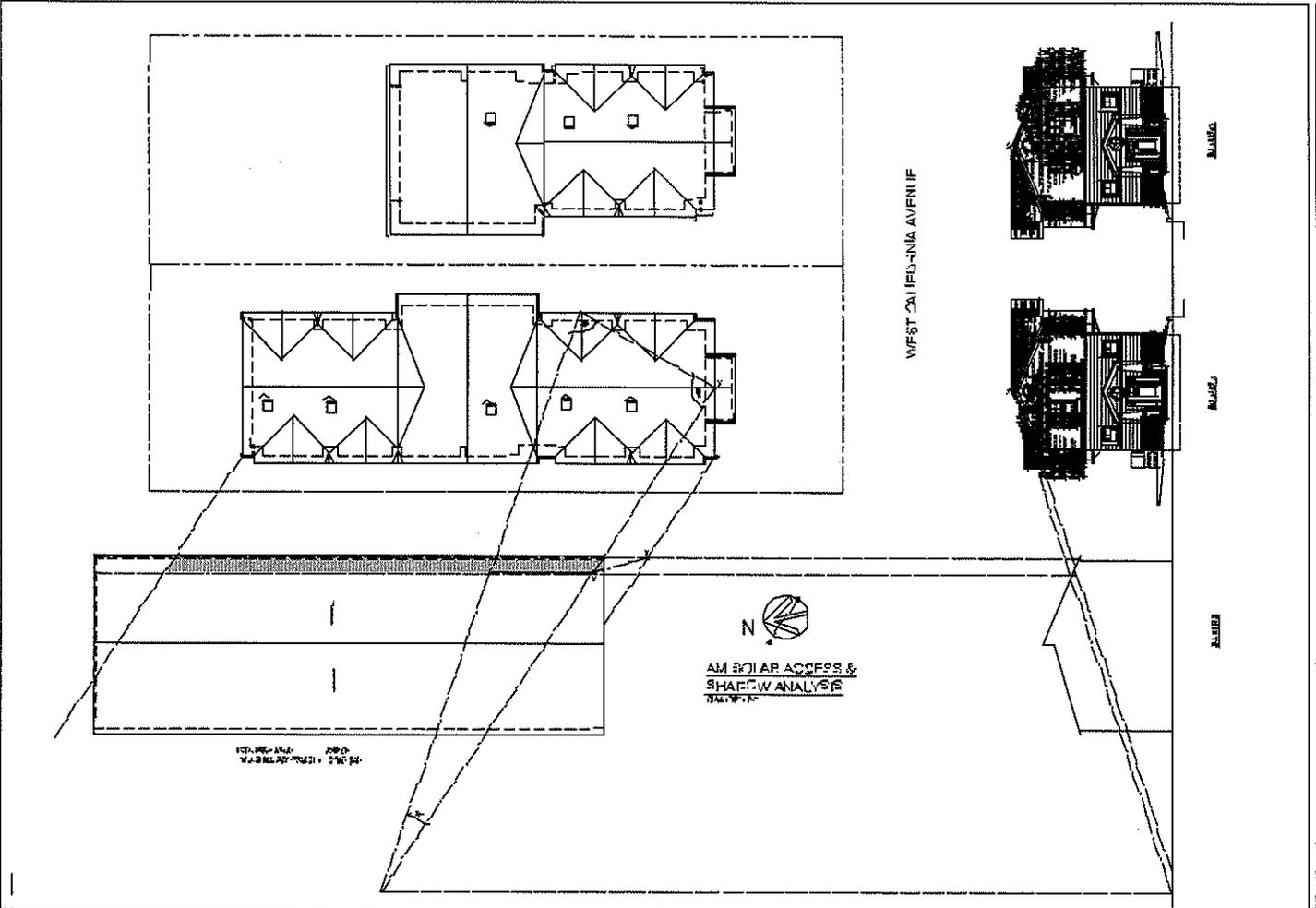
SCALE: 1/8" = 1'-0"

ATTACHMENT C  
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DATE	1/8/2009	PROJECT	2640 CALIFORNIA AVENUE
BY	DALE MEYER ASSOCIATES	SCALE	AS SHOWN
CHECKED		DATE	
APPROVED		DATE	
DALE MEYER ASSOCIATES 11111 15TH AVENUE, SUITE 100 DENVER, CO 80232 TEL: 303.755.1111 FAX: 303.755.1112 WWW.DALEMEYERASSOCIATES.COM		2640 CALIFORNIA AVENUE, DENVER, CO SEMICHONKALYEV DMIN	
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ATTACHMENT C  
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ATTACHMENT <sup>C</sup>

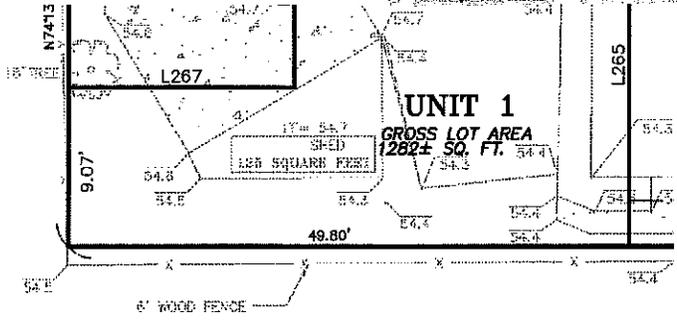
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SITE/CITY NOTES

- 1) PROVIDE BUILDINGS WITH FULLY AUTOMATIC FIRE SPRINKLER SYSTEM IN ACCORDANCE WITH NFPA-13 OR NFPA-130.
- 2) STREET TRENCHING FOR NEW WATER SERVICE MUST BE BACKFILLED WITH CLSM ACCORDING TO CITY STANDARDS.
- 3) ON-SITE DRAINAGE & SEWER SYSTEM SHALL BE PRIVATELY OWNED & MAINTAINED.
- 4) FIRE PROTECTION SYSTEM SHALL BE OWNED & MAINTAINED BEYOND THE METER.
- 5) AN ENCROACHMENT PERMIT SHALL BE OBTAINED PRIOR TO ANY CHANGES TO (E) SIDEWALK, DRIVEWAYS, AND/OR CURB & GUTTERS, TO CITY UTILITIES, AND ANY OTHER IMPROVEMENTS IN THE PUBLIC RIGHT-OF-WAY.
- 6) REMOVE AND REPLACE ALL BROKEN/UNLIFTED/DEPRESSED CURB, GUTTER & SIDEWALK ALONG PROJECT FRONTAGE. REPAINT ALL EXISTING FADED CURB LINES.
- 7) ALL EXISTING UTILITY LINES AND/OR THEIR APPURTENANCES NOT SERVING THE PROJECT AND/OR HAVE CONFLICTS WITH THE PROJECT, SHALL BE CAPPED, ABANDONED, REMOVED, RELOCATED AND/OR DISPOSED TO THE SATISFACTION OF THE CITY.
- 8) THE DEVELOPER IS RESPONSIBLE FOR ALL CHANGES OR MODIFICATIONS TO EXISTING CITY UTILITIES, STREETS, AND OTHER PUBLIC UTILITIES WITHIN OR ADJACENT TO THE PROJECT SITE, INCLUDING BUT NOT LIMITED TO UTILITY FACILITIES/CONDUITS/VAULTS RELOCATIONS CAUSED BY THE DEVELOPMENT.
- 9) ANY EXISTING DEFICIENT PUBLIC IMPROVEMENTS UPGRADED TO CURRENT CITY STANDARDS, SUCH AS DRIVEWAY APPROACHES, UPGRADE EXISTING WATER TO RADIO-READ WATER METER, CURB, GUTTER SIDEWALK.
- 10) OVERHEAD UTILITY LINES SHALL BE UNDERGROUND. DEVELOPER SHALL PAY FAIR SHARE TOWARDS UNDERGROUNDING OF ALL UTILITIES ALONG CALIFORNIA AVENUE.
- 11) STREET LIGHTS ALONG PROPERTY FRONTAGE SHALL BE UPGRADED AS REQUIRED, TO THE SATISFACTION OF THE CITY.
- 12) NO TREES OR LARGE SIGNS/OBSTRUCTIONS HIGHER THAN THREE FEET WILL BE ALLOWED WITHIN THE 10-1 TRIANGLES AT THE PROJECT DRIVEWAY.
- 13) A TRAFFIC CONTROL PLAN (TO BE PROVIDED BY THE CONTRACTOR) IS REQUIRED FOR ANY WORK BEING PERFORMED IN THE PUBLIC RIGHT-OF-WAY, SHORT-TERM AND LONG-TERM. THIS PLAN MUST BE SUBMITTED WITH AN ENCROACHMENT PERMIT AND MUST BE APPROVED BY A TRANSPORTATION ENGINEER.

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CONSTRUCT CATCH BASINS (CB) AND/OR JUNCTION BOXES (JB) WITH A SUMP DEPTH OF 12" TO CATCH HEAVY SOLIDS AND DEBRIS. BOXES SHOULD BE SET ON MIN. 12 THICK GRAVEL BED TO PROMOTE GROUNDWATER RECHARGE OF LOW FLOW VOLUMES AND NATURAL FILTRATION.

STORM DRAIN (SD) LINES (FROM DRAIN INLETS & AREA DRAINS) SHALL REMAIN AS SEPARATE AND DEDICATED LINES FROM ANY AND ALL SUBSURFACE (SUBDRAIN) LINES AND SHALL CONNECT ONLY TO THE ULTIMATE OUTFALL STRUCTURE (WHERE APPLICABLE).

THE CONTRACTOR / DEVELOPER SHALL NOTIFY THE OWNER (IN WRITING) OF THE NEED FOR PERIODIC INSPECTION AND MAINTENANCE OF THE ON-SITE DRAINAGE SYSTEM. INSPECTIONS SHOULD BE DONE AT THE FOLLOWING TIMES (AT LEAST): 1) BEGINNING OF EACH RAINY SEASON, 2) FOLLOWING HEAVY RAINSTORMS DURING THE FIRST YEAR OR TWO AFTER LANDSCAPING IS DONE, 3) IF THE SYSTEM BEGINS TO BACK-UP, & 4) AT THE END OF EACH RAINY SEASON.

**PROJECT DESCRIPTION**

**127 & 133 West California Avenue  
Sunnyvale, CA 94086**

The proposed project consists of two new buildings one with three 3-bedroom residential units and one with two 3-bedroom units. Each unit is two stories plus a basement. All the garages have similar floor plans varying slightly in window placement and/or entry location. All of the garages are located approximately 24 inches below existing grade. The materials proposed for both buildings are composition shingle on the roof, wood shingles on the second floor, wood board and batten on the first floor, and cultured river rock around the basement level and on the chimney. The entry of the driveway as well as a border in front of each 2-car garage will be paved in a color and texture that will tie into the materials of the units as well as creating visual interest. Landscaping will be taken into consideration to create a residential feeling within the development. A large common open space will be provided that will create a nice gathering area for the residents. In addition to review by the Planning Commission this project will also need a Rezone approval.



## Mayne Tree Expert Company, Inc.

ESTABLISHED 1931

STATE CONTRACTOR'S LICENSE NO. 276793

GRADUATE FORESTER • CERTIFIED ARBORISTS • PEST CONTROL • ADVISORS AND OPERATORS

RICHARD L. HUNTINGTON  
PRESIDENT

KEVIN R. KIELTY  
OPERATIONS MANAGER

535 BRAGATO ROAD, STE. A  
SAN CARLOS, CA 94070-6228

TELEPHONE: (650) 593-4400

FACSIMILE: (650) 593-4443

EMAIL: info@maynetree.com

February 5, 2007

Mr. Dale Meyer  
Dale Meyer Associates  
851 Burlway Road  
Suite 700  
Burlingame, CA 94010

Dear Mr. Meyer,

Site: 127 West California, Sunnyvale

At your request, on Wednesday, January 31, 2007, I visited the above site for the purpose of inspecting and commenting on the trees on site. New construction is planned for this site and a tree protection plan will be included in this report.

### Method:

The trees on this site were located on a map provided by you. Each tree was given an identification number. This number was inscribed on a metal foil tag and nailed to the tree at eye level. The trees were then measured for diameter at 54 inches above ground level. Each tree was given a condition rating from 1 – 100 for form and vitality using the following scale.

1	–	29	Very Poor
30	–	49	Poor
50	–	69	Fair
70	–	89	Good
90	–	100	Excellent

The height of each tree was estimated and the spread was paced off. Lastly, a comments section is provided.

## Tree Survey

Tree #	Species (Common)	DBH (inches)	Condition (percent)	Height (feet)	Spread (feet)	Comments
1	Podocarpus	21.3	60	30	35	Topped for utilities. In small root zone.
2	English Walnut	15.2	65	25	30	At edge of sidewalk in hedge.
3	Redwood (neighbor's)	20 (est.)	75	45	20	10' from property line.
4	Redwood (neighbor's)	22 (est.)	80	50	25	10' from property line.
5	Monterey Pine	7.8	40	25	20	Leans heavily over parking. Poor specimen; suppressed.
6	Monterey Pine	31.6	65	45	50	Good vigor; no bark beetles. Heavy lateral limbs.
7	Monterey Pine	19.2	45	35	55	Has good vigor, but extremely poor form. Leans over garage at near 45° angle.
8	Red Ironbark Eucalyptus	22.1	55	50	25	Foliage thin. Poor limb attachment at 20'.
9	Lombardy Poplar (neighbor's)	38 (est.)	60	55	25	15' from corner of lot.
10	Lombardy Poplar	12.1	70	45	15	At edge of garage. Tall for DBH.
11	Coast Live Oak (neighbor's)	36 (est.)	65	35	70	Good vigor, but poor limb attachment.
12	Almond (neighbor's)	20 (est.)	45	15	30	Over mature; suppressed by #11.

**Summary:**

The trees on or near this site are all imported trees (exotics) with the exception of the live oak on the neighbor's property. The trees on this lot range from poor to good. The trees that are actually on the property contribute little to the neighborhood environment. The trees on this property are of poor species consisting of pines, eucalyptus and a poplar. These trees should be removed and replaced at the time of landscaping with species that will thrive on this site. The neighboring trees with proper tree protection will have only little or no negative impacts to their root zones.

**Tree Protection Plan:**

Tree protection zones should be installed and maintained throughout the entire length of the project. Fencing for protection zones should be 6-foot tall metal chain link, supported by steel poles pounded into the ground. Location for protection zones should be as close to the driplines as possible still allowing room for construction to safely continue. On this site, the existing wood fencing will adequately protect the neighbor's trees. Store no equipment or materials inside protection zones nor shall any equipment be cleaned there.

Any roots to be cut should be monitored and documented; prior to cutting, the site arborist should inspect large roots or large masses of roots. Fertilization or irrigation may be recommended at this time. Cut roots clean with a saw or loppers. Roots to be left exposed for a period of time should be covered with layers of burlap and kept moist.

Trenching for irrigation, electrical, drainage or any other reason should be hand dug when beneath the driplines of desired trees. Hand digging and carefully placing pipes below or beside protected roots will dramatically reduce root loss. Reducing root loss will reduce trauma to desired trees.

Normal irrigation should be maintained throughout the warm season months. The neighbor's live oak should not need summer irrigation unless roots are traumatized. The imported trees to this site, including the redwoods, should be watered twice a month, at a minimum, during the warm season. Mulching the root zone will help the soil to retain moisture and will improve soil structure.

This information should be kept on site at all times. The information included in this report is believed to be true and based on sound arboricultural principles and practices.

Sincerely,

  
Kevin R. Kielty  
Certified Arborist WE#0476A

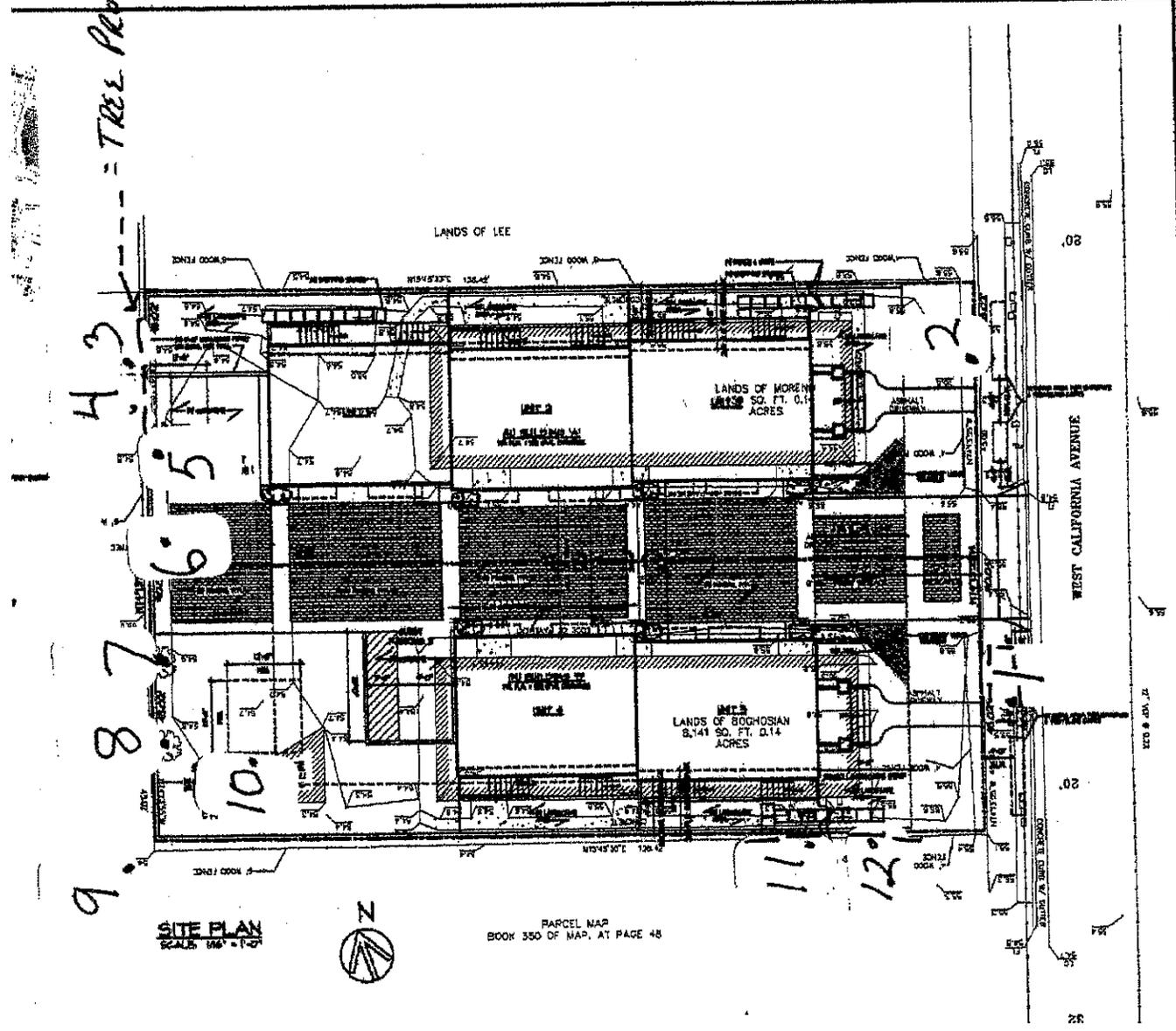


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--- = Tree Protection

SITE PLAN  
SCALE 1" = 10'

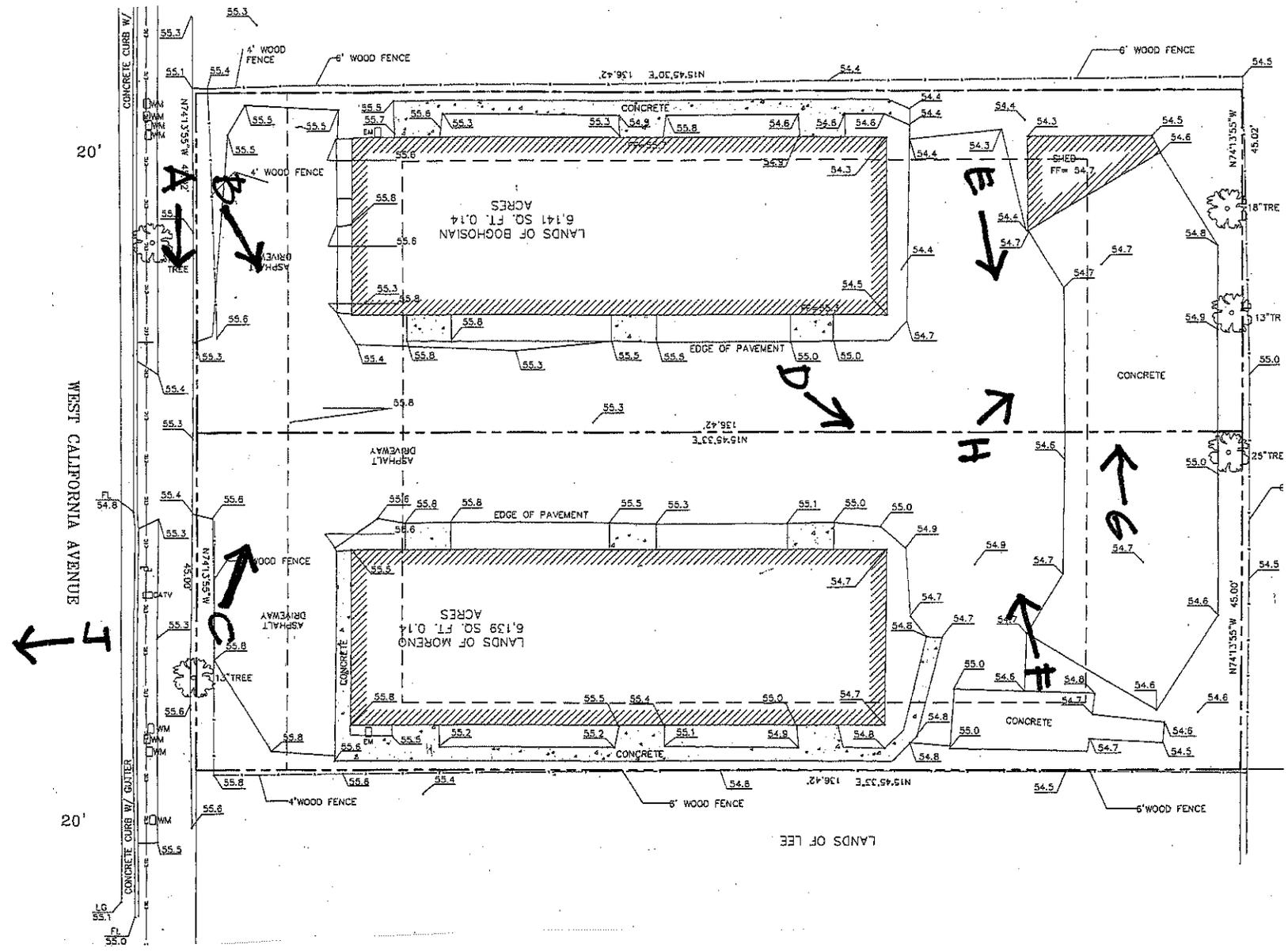


PARCEL MAP  
BOOK 350 OF MAP, AT PAGE 48



WEST CALIFORNIA AVENUE

<p><b>NIKOLEY TOMNHOES</b> 127 855 N. CALIFORNIA AVE. SUNNYVALE CA 94086</p>		<p><b>Dale Meyer Associates</b> ARCHITECTS • PLANNERS • INTERIOR DESIGNERS 1000 CALIFORNIA AVENUE SUNNYVALE, CALIF. 94086 Phone: (415) 335-1000</p>	
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127 & 133 W. California Avenue  
 Sunnyvale, CA  
 January 17, 2007  
 #2640

Dale Meyer Associates  
 851 Burlingame Road, Suite 700  
 Burlingame, CA 94010-1707  
 Ph: 650-348-5054



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PHOTOS

127 & 133 W. California Avenue  
Sunnyvale, CA  
January 17, 2007  
#2640

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ATTACHMENT   G  Page   1   of   1  

**From:** "Lee, Greg" [REDACTED]  
**To:** "Surachita Bose" [REDACTED]  
**CC:** [REDACTED]  
**Date:** 5/28/2008 8:09 AM  
**Subject:** RE: Rezone/Special Development Permit for 127 WestCaliforniaAvenue

Dear Surachita,

Thank you very much for taking the time to show me the above-reference preliminary development plan. After reviewing, we are very concerned and see several potential issues, specifically loss of privacy, construction nuisances, noise, debris and traffic congestion.

My understanding is that the intended 2.5 story high townhouses will come very close to the common fence which means that the townhouses will look directly into our property (house and garden) not to mention significantly lower the amount of direct sun exposure we get. We are very unhappy about the thought that our private garden may in the future be overlooked by all of the second story windows of the new townhouses and in the shade of these tall buildings. Right now our garden is very private and a major asset of the property. There are several ways that this could be addressed. A higher fence could be build. The townhouses could be situated further away from the fence and their parking lot directly opposite our garden (as opposed to a town house). Large trees could be planted along the fence.

We are currently renting our property but may come back for job reasons. We are very worried that the nuisances associated with this major construction plans, and result, may drive our tenants away. One of our tenants is telecommuting from home. The excessive noises will impact her work (phone communication and teleconferencing). What are the plans to address these issues?

Also, apart from the noise, construction will generate a lot of debris and dust into our property. Again, what are the plans to address this?

Last but not least is the street parking and road congestion. There is only one side street parking on our narrow but heavy traffic street. Construction trucks and workers will take away those parking from the neighborhood residences. Also that street has a speed limit of 25 MPH but most drives go much fast than the posted limit. The construction loading/unloading will slow down the traffic and cause congestion. What are the parking plans for the final property? Doubtless the new townhouses owners will have more cars than the current residents of the property. Please let us know how this will be addressed.

-----Original Message-----

**From:** Surachita Bose [mailto:[REDACTED]]  
**Sent:** Wednesday, May 21, 2008 9:59 AM  
**To:** Lee, Greg  
**Subject:** RE: Rezone/Special Development Permit for 127 WestCaliforniaAvenue

Ok, lets just meet on Thursday at 2:00 p.m. I have a meeting right after

**PLANNING COMMISSION MINUTES OF JUNE 9, 2008**

**2008-0238 - Dale Meyer Associate [Applicant] Nikoley Richard L and Beatrice F [Owner]:** Application for related proposals located at **127 W. California Avenue** (near N. Murphy Ave.) in an R-3 (Medium Density Residential) Zoning District. (APN: 204-043-007) SB;

- **Rezone** from R-3 (Medium Density Residential) to R-3/PD (Medium Density Residential/Planned Development) Zoning District,
- **Special Development Permit** to allow 5 town homes,
- **Tentative Map** to subdivide one lot into five lots and one common lot.

**Surachita Bose**, Associate Planner, presented the staff report. She said staff recommends that the location of buildings A and B be switched so that the two townhome building is located adjacent to the right property line. She said since the writing of the staff report, that staff was contacted by a current resident of the property who was concerned that they had not been informed regarding the project and had not received a copy of the notice. She said staff researched the list of addresses that were mailed notices and records indicate that mailings were made to the neighbors and two notices were posted at the site 21 days before the hearing. Ms. Bose said that, overall, staff believes that this project meets the intent of General Plan and recommends approval of the project.

**Comm. Babcock** discussed with staff the zoning of the adjacent lot, which is R-3, and the zoning in the neighborhood. Comm. Babcock discussed with staff the front and side yard setbacks and staff's reasoning for not recommending the side setbacks near the single-family neighbors be closer to the requirement. Comm. Babcock discussed with staff about possibly making the units smaller to help meet the setback requirements with staff confirming that it would be within the Planning Commission's purview, and would reduce the size of the units significantly.

**Comm. Klein** referred to condition 2.B regarding the requirement of obtaining approval from the Crime Prevention Division which staff said is included in most Conditions of Approval. Comm. Klein discussed the roofline and the three unit building with the long, straight roofline and whether there was color differentiation. Ms. Bose said all three units are the same color and staff received input from an architectural consultant on the proposal and felt this was a balanced design.

**Comm. Simons** commented that the non-driveway side of building and the roofline have little detail and is almost monolithic confirming with staff that it is possible to add more detail and that the project architect could probably provide more information. Comm. Simons commented that the sidelights of the front doorways would look better if the windows were changed. Ms. Bose said the architect could provide input. Comm. Simons and staff discussed the entryway with Comm. Simons stating that the entryway needs to be a full entryway.

**Comm. Hungerford** said he has an issue with the facade of the two units that are facing California Avenue. He said the two windows are odd placed and unsymmetrical. Comm. Hungerford discussed with staff the units that are not facing California Avenue and whether there are sidewalks providing access to front doors. Ms. Bose commented about sidewalks, and confirmed that there are no separate sidewalks that lead to the units in the back and the driveway would be used to access the back units. Comm. Hungerford discussed with staff that by switching buildings A and B that the impact of the townhomes on the adjacent property owner's backyard is reduced. Ms. Bose said the neighbors were concerned about the impacts to their backyard.

**Vice Chair Rowe** said she is concerned about the trash pick up. **Trudi Ryan**, Planning Officer, said tonight's action cannot waive the condition requiring the applicant to process a Variance application before this project is considered by City Council. Vice Chair Rowe asked about the open space and whether there are any amenities in this area. Ms. Bose said currently there is common open space with landscaping and said that amenities could be added as a requirement in the conditions. Vice Chair Rowe discussed parking with staff and options for requiring that the garage interior be maintained for parking.

**Chair Sulser** asked why this application came to the Planning Commission when the Variance for a trash enclosure has not been applied for and there is not a central trash area designed into the project. Ms. Ryan said that staff gave the applicant the option of moving forward to the public hearing without the Variance request as staff identified that this location may be appropriate for the use of carts instead of a trash enclosure. Chair Sulser confirmed with staff that if the Variance application were denied, the project would have to be referred back to the Planning Commission as the conditions require that the Variance be in place before going to City Council.

**Comm. Simons** confirmed with staff that if the Commission determines there are too many changes needed to approve the project that it would be an option to continue this project to a later date.

**Chair Sulser opened the public hearing.**

**Dale Meyer**, architect for the project addressed issues that the Commission discussed including the trash issue, the design of this project, the lot coverage, the height, and the landscaping area. He addressed the staff recommendation to flip the buildings and said they have no problem with switching the location of building A and B. Mr. Meyer said, regarding the open space, that the current landscape plan has three benches and he could add a barbeque to the area. Mr. Meyer also commented about the sidelights on the entryway and said they could easily continue the sidelights down. He commented regarding modifying the roofline and said they could make a change and that they felt that the breaking up of the materials on the facade provided enough variation. He said the two small windows on the front elevation are unsymmetrical as there is a staircase and dropping the window lower would result in seeing the side of the steps. Mr. Meyer provided a picture showing a home similar in design to the proposed units as a sample.

**Comm. Simons** discussed the architecture with Mr. Meyer including the style. Comm. Simons provided pictures showing some samples of architecture and options of different materials and scales that could be options for breaking up the three unit townhome on the non-driveway side. Comm. Simons said that he was having difficulty with the road side for both buildings. Comm. Simons discussed possible options for the balancing of the two windows on the front elevation with Mr. Meyer explaining some of the difficulties in changing the windows.

**Comm. Klein** asked Mr. Meyer for clarification about the stairways going into unit 5 and 3 and commented about the odd placement of the windows on the front elevation. Mr. Meyer referred to Attachment C, page 3, P2 and described the floor plans. Comm. Klein asked if there were any issues with increasing the size of the windows. Mr. Meyer said he thinks that there may be a way the windows can be changed. Comm. Klein asked about the open space to rear of building B. Mr. Meyer said the area is flush with the driveway and said there is a retaining wall and landscaping.

**Comm. Simons** further asked Mr. Meyer about raising the entryway to the second level and having steps going up to the second level. Mr. Meyer said it could be done and the concern is that the proposed design allows the guest parking spaces to be in the back and the impact on the feel of the neighborhood for the front setback would be affected. Mr. Meyer further explained his concerns with changing the entryway.

**Patrice Navarro**, a Sunnyvale resident and tenant of the existing site asked what would happen to the tenants that currently live on this site. Ms. Navarro said that she received a notice about the project and spoke with other tenants on the site who said they did not receive a notice of the project. She said the people she spoke with were unaware of the proposed project, and said that there were two signs posted and one was removed. She asked if this project is approved, how long it would be before their apartments would be torn down.

**Mr. Meyer** responded to Ms. Navarro's question by advising what processes are still ahead and the estimated length of time the processes may take. He said they still need to go through the public hearing process with the Planning Commission for a Variance for the trash enclosures, and that it would be a couple of months before the project would be considered by City Council. He said once the project is approved, that they would start the construction documents, which would take several months. He said then the project would need to go out for bid. He said the demolition of the apartment might possibly begin early next year unless something changes. Ms. Ryan commented that unlike mobile home parks where there are prescribed methods for protecting tenants that this project does not fall into that area. Ms. Ryan said she can take the speaker's contact information and provide it to the Housing Division who can contact Ms. Navarro and find out if the tenants are eligible for something or at least offer some suggestions. **David Nikoley**, Project Manager for the owner, said that they plan on crediting one month's rent as part of the eviction plan.

**Chair Sulser closed the public hearing.**

**Vice Chair Rowe** commented about the three guest parking spaces and said that homeowners cannot stay in the guest parking for more than 48 hours, which could block the use for guests, asking staff if this is normal. Ms. Ryan said what is normal is changing and what staff has tried to recently do is to indicate that the percentage of spaces that should be guest parking. Ms. Ryan said the guest parking is defined by the Homeowners Association. Vice Chair Rowe said she is concerned about parking and if the trash totes are eventually approved that the parking would be difficult when the totes are on the street.

**Comm. Simons** requested that the Commission discuss what the issues are to determine if there is consensus for modifications before making the motion. Comm. Simons confirmed some of the Commissioners are concerned about the setback of the second floor of the proposed development with respect to the single-family neighbors. Comm. Babcock confirmed that if the homes are being considered three-story that she has a problem with the middle story.

**Comm. Simons** confirmed that some of the Commissioners feel the roofline on the non-garage side is too linear; that the sidelights of the front door should go all the way down to the bottom of the door; that the front windows need to be changed; and that mitigation for runoff could be addressed with pervious pavers and used to add color as design.

**Comm. Simons** made a motion for **Alternative 2** that the **Planning Commission** recommend that the **City Council** introduce an ordinance to **Rezone 127-133 W. California Avenue** from **R-3** to **R-3/PD** and approve the **Special Development Permit** and **Tentative map** for five units and one common lot with modified conditions: to add to the conditions that the setback for the second-story shall meet the setback requirements; that the roofline on the non-garage sides of the building have added gables to make them look less linear with staff defining what proportion they should be in relation to the windows on both the two unit and three unit parts of the project; the sidelights to the front door shall be full length; that the windows by the two front doors should be horizontally even and balanced vertically; to modify **COA 1.E** that the pervious driveway shall be required to address any required mitigation of storm water runoff and if there is any other requirements of storm water then it will trigger additional mitigation; and different colors of the pervious driveway shall define a walkway area within the driveway on both sides of the driveway all the way to the rear of the property and define the entryways; to recommend that gloss sealant be used on the colored pervious material to make the material look higher contrast; and to modify condition **9.G** to add that the new trees installed, "shall be native as large as appropriate a species for the placement on the development". Vice Chair Rowe said she would like to add a condition that amenities are included in the common area that would be sufficient to meet the needs of the homeowners ingathering for general board meetings and social gatherings. She said the applicant has currently proposed benches and she would like the common area to be more sufficient to allow for gatherings. The consensus was that the three benches were adequate.

**Comm. Klein** seconded the motion and asked for a clarification about meeting the setbacks for the second floor and the third floor. **Comm. Simons, Comm. Klein** and staff discussed the setbacks and determined that the second floor would have a 9 foot setback and the third floor would have a 12 foot setback. **Comm. Klein** proposed this as a **Friendly Amendment** which was acceptable to the maker of the motion.

**Comm. Klein** asked for a **Friendly Amendment** that the conditions include that the location of buildings **A** and **B** be switched as staff recommended. This was acceptable to the maker of the motion.

**Comm. Klein** asked for a **Friendly Amendment** requesting differentiation of color between the units. **Comm. Simons, Comm. Klein** and staff discussed

**this amendment and determined that the conditions should include that the middle unit of the three unit townhome should have a different color and/or style of materials used to differentiate where one unit begins subject to the approval of the Director of Community Development. This was acceptable to the maker of the motion.**

**Chair Sulser reopened the public hearing.**

**Mr. Meyer** suggested that an easy way to address the concerns about the middle unit might be to take the middle unit and change the horizontal siding on the middle unit to stucco. The maker of the motion and the seconder agreed that the Friendly Amendment, as previously accepted, would allow for this option.

**Chair Sulser closed the public hearing.**

**Comm. Simons** commented that at the beginning of this public hearing he felt there were too many changes that needed to be addressed to recommend approval of the project. He said he thinks this will be a nice project with the changes that have been made.

**Comm. Klein** said he agrees and he does not like to make this many changes on the dais. He commented that the Planning Commission would see this project again related to the trash enclosures. He said fixing how this project looks from the street will benefit how it fits into the community and he likes the different design of the architecture.

**Vice Chair Rowe** said she will support the motion and she is disappointed that requiring more amenities in the common area was not added to the conditions. She further expressed the need for having enough amenities in a common area even for small developments and said that the absence of additional amenities is not enough for her to turn down the whole project.

**ACTION:** Comm. Simons made a motion on 2008-0238 to recommend that the City Council introduce an Ordinance to Rezone 127-133 W. California Avenue from R-3 to R-3/PD and approve the Special Development Permit and Tentative Map for five units and one common lot with modified conditions: to add to the conditions that the setback for the second-story meet the setback requirements with the minimum setback for the second floor being a 9-foot setback and the minimum for the third floor being a 12-foot setback; to add to the conditions that the roofline on the non-garage sides of the buildings have added gables resulting in a less linear look with staff defining the proportions of the gables in relation to the windows on both the two unit and three unit parts of the project; to add to the conditions that the sidelights of the front door be full length; to add to the conditions that the two windows on either side of the front doors be horizontally aligned; to modify COA 1.E, to address mitigation of storm water runoff, that a pervious driveway be required and if there is any other requirements for storm water then it will trigger additional mitigation; to add to the conditions that different colors of the pervious driveway be used to define a walkway area within the driveway on both sides all the way to the rear of the property and defining the entryways; to recommend that gloss sealant be used on the colored pervious material to make the material look higher contrast; to modify COA 9.G adding that the new trees installed, "shall be native as large as appropriate a species for the placement on the development"; to add to the conditions that the location of buildings A and B be switched as staff recommended; to add to the conditions that the middle unit of the three unit townhome have different color and/or style of materials used to differentiate where one unit begins and another ends, subject to the approval of the Director of Community Development. Comm. Klein seconded. Motion carried unanimously, 7-0.

**APPEAL OPTIONS:** This recommendation will be forwarded to City Council for consideration. This item was originally scheduled to be heard at the July 15, 2008 City Council Meeting and staff will request an indefinite continuance to allow time for the applicant time to prepare a Variance request for trash enclosures. This item will be renoticed when it is completed.

**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 127 W. CALIORNIA 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-0 (Low Density Residential) Zoning District. The location of the properties is set forth on the scale drawing attached as Exhibit "A."

SECTION 2. CLASS 32 CEQA EXEMPTION. The City Council hereby determines that this action is exempt from California Environmental Quality Act provisions. A Class 32 Categorical Exemption relieves this project from CEQA provisions and City Guidelines, including urban infill sites that do not exceed the overall density allowed by the General Plan.

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 \_\_\_\_\_, 2009, and adopted as an ordinance of the City of Sunnyvale at a regular meeting of the City Council held on \_\_\_\_\_, 2009, by the following vote:

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

ATTEST:

APPROVED:

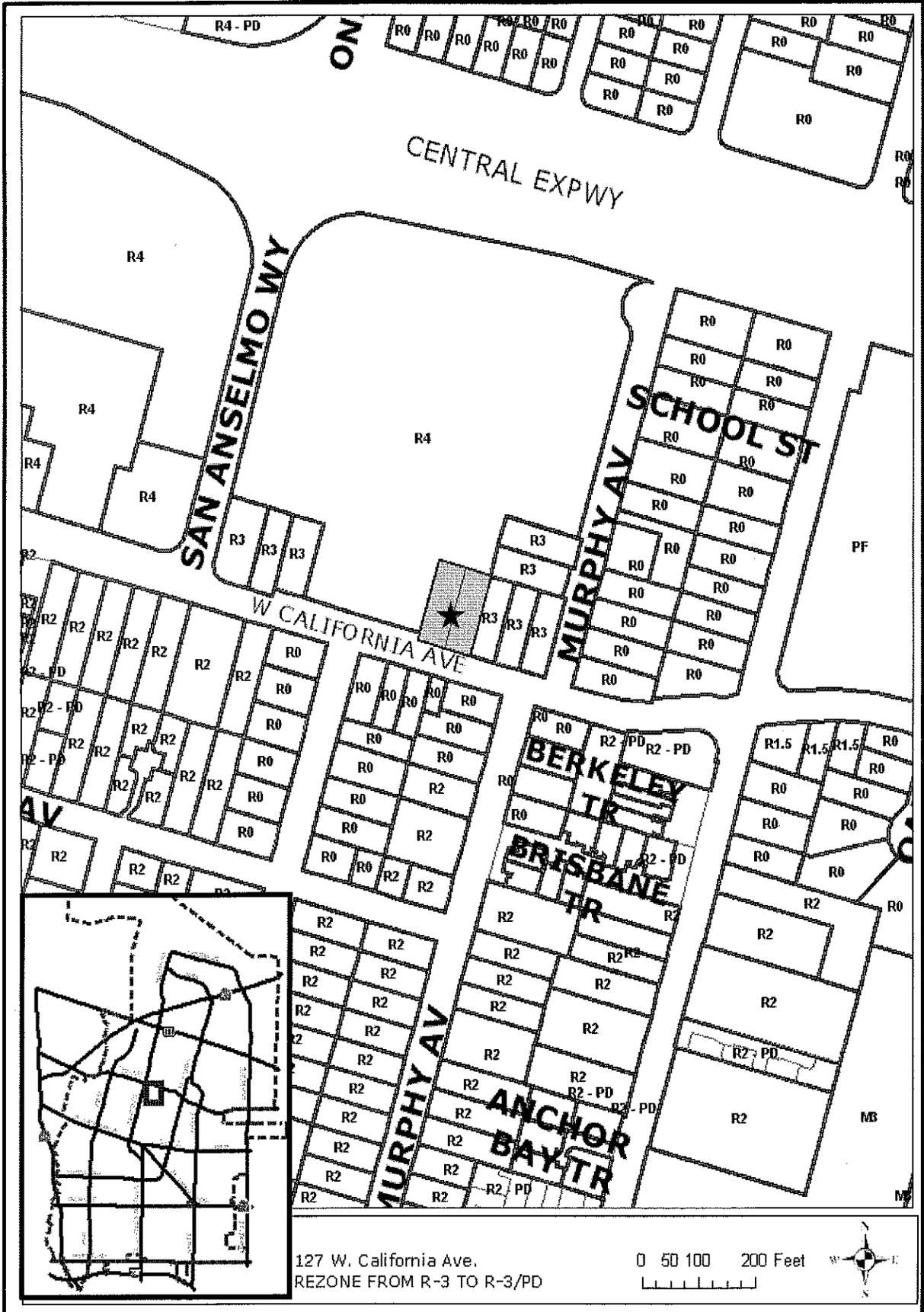
\_\_\_\_\_  
City Clerk  
Date of Attestation \_\_\_\_\_  
SEAL

\_\_\_\_\_  
Mayor

APPROVED AS TO FORM AND LEGALITY:

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

EXHIBIT A



127 W. California Ave.  
REZONE FROM R-3 TO R-3/PD

