

**Council Date: June 9, 2009**

**SUBJECT:** **2008-1259 – M Design Group** [Applicant] **Muhammed Irfan Et Al** [Owner]: Appeal by the Applicant of a decision of the Planning Commission of an application for related proposals located at **585 Old San Francisco Road** (near S Fair Oaks Ave) in an R-3/PD (Medium-Density Residential/Planned Development) Zoning District.

Motion **Special Development Permit** to allow 6 new townhomes;

Motion **Tentative Parcel Map** to subdivide one lot into 6 condominium lots and 1 common lot;

Motion **Variance** to allow individual solid waste bin carts.

#### **REPORT IN BRIEF**

**Existing Site Conditions** Single Family Residence

#### **Surrounding Land Uses**

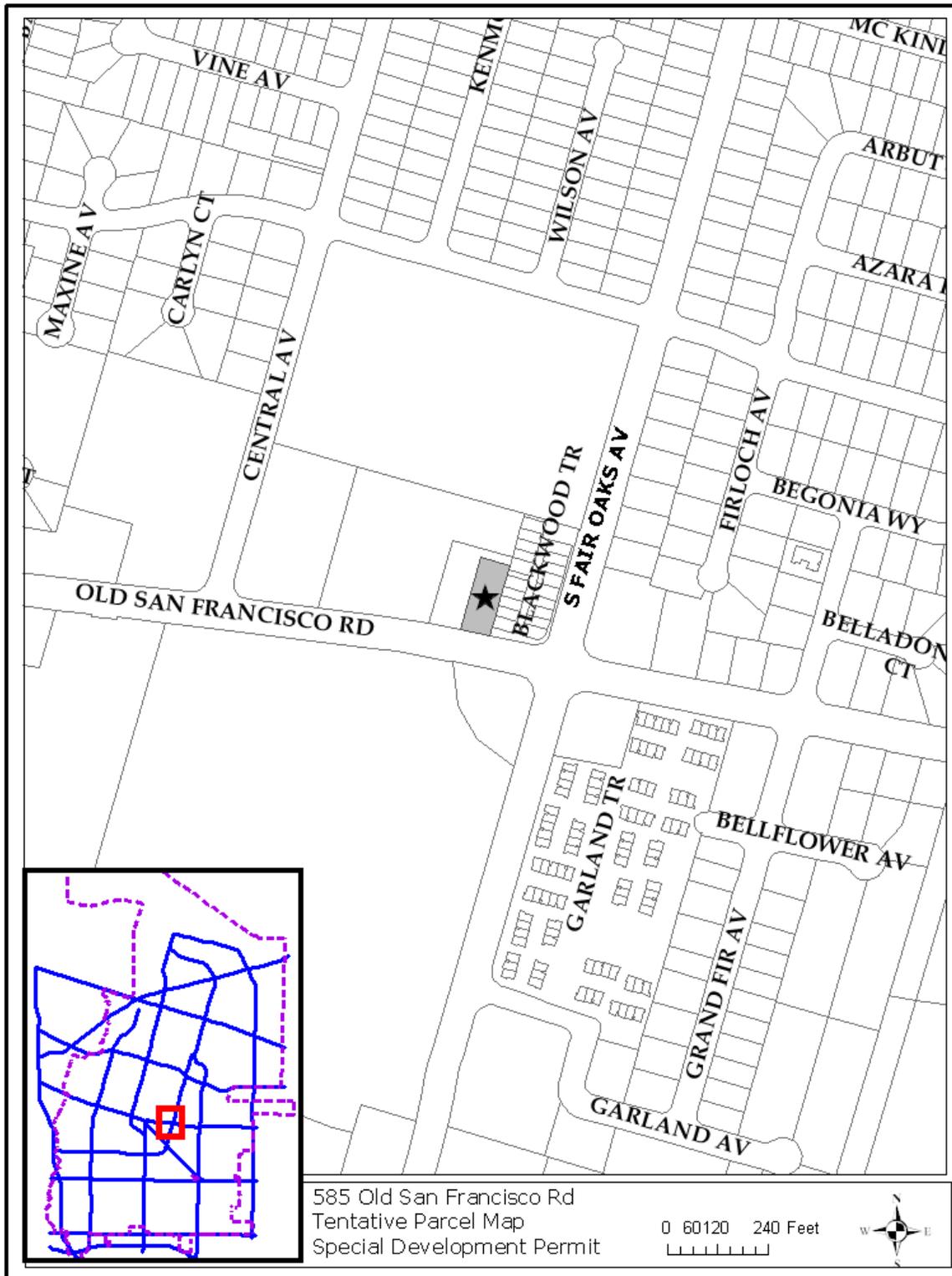
North	Church
South	Neighborhood Commercial (Restaurant)
East	Multi Family Residences (Blackwood Terraces)
West	Multi Family Residences (Cathedral Heights Aparts.)

**Issues** Neighborhood Compatibility, Parking, and Setbacks.

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

**Planning Commission's Action** Denied the project

**Staff Recommendation** Grant with appeal and approve the project.



**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/PD	Same	R-3/PD
<b>Lot Size (s.f.)</b>	12,086	Same	8,000 min.
<b>Lot Coverage (%)</b>	13%	41%	41% max.
<b>Floor Area Ratio (FAR)</b>	1,587	10,599	N/A
<b>No. of Units</b>	1	6	6 max.
<b>Density (units/acre)</b>	3	21	24 max.
<b>Meets 75% min?</b>	N/A	Yes	5 min.
<b>Bedrooms/Unit</b>	N/A	3-4	N/A
<b>Unit Sizes (s.f.)</b>	N/A	1600-1800	N/A
<b>Lockable Storage/Unit</b>	N/A	2 car Garages + 155 sf. storage	300 cu. ft. min. or 2 car garages
<b>No. of Buildings On-Site</b>	1	1	N/A
<b>Distance Between Buildings</b>	N/A	N/A	N/A
★ <b>Building Height (ft.)</b>	25'	33' 7"	30' max.
<b>No. of Stories</b>	1	2	2 max.
<b>Setbacks (First/Second Facing Property)</b>			
<b>Front</b>	51'	20' 8" / 26'	20' min.
<b>Left Side</b>	7'	9' / 9'	6' / 9' min.
<b>Right Side</b>	34'	19' / 16' 6"	6' / 9' min.
<b>Total Side Yards</b>	41'	28' / 25' 6"	15' / 21' min.
★ <b>Rear</b>	41'	14' 6" / 20'	20' min.
<b>Landscaping (sq. ft.)</b>			
<b>Total Landscaping</b>	N/A	5,265	2,550 min.
<b>Landscaping/Unit</b>	N/A	877	425 min.
<b>Usable Open Space/Unit</b>	N/A	497	400 min.
<b>Frontage Width (ft.)</b>	N/A	20' 8"	15 ft. min.
<b>Water Conserving Plants (%)</b>	N/A	90%	70% min.

	EXISTING	PROPOSED	REQUIRED/ PERMITTED
<b>Parking</b>			
<b>Total Spaces</b>	2	16	15 min.
<b>Standard Spaces</b>	2	16	15 min.
<b>Compact Spaces/ % of Total</b>	0	0	35% max.
<b>Accessible Spaces</b>	0	1	1 min.
<b>Covered Spaces</b>	2	16	12 min.
<b>Aisle Width (ft.)</b>	N/A	32' 3"	24 min.
★ <b>Driveway Width</b>	N/A	14'	18' min
★ <b>Bicycle Parking</b>	N/A	Garages	0 min.
<b>Stormwater</b>			
<b>Impervious Surface Area (s.f.)</b>	N/A	6,031	---
<b>Impervious Surface (%)</b>	N/A	49%	---

★ Starred items indicate deviations from Sunnyvale Municipal Code requirements.

## ANALYSIS

### Description of Proposed Project

**Present Site Conditions:** The project site includes one single family home on a lot. The home was constructed in 1904 but is not listed on the City's Heritage Resource list. The home was reviewed for possible Heritage significance by the City's Heritage Preservation Commission on November 9, 2005 and was determined not to be eligible for listing.

**Proposed Project:** The proposed project includes the demolition of the existing residence and construction of six condominium units, in one building, above underground parking. A Variance application is proposed to consider individual trash and recycling bins for each unit, rather than a centralized trash enclosure, as required by Sunnyvale Municipal Code Section 19.38.030 for residential developments of four or more units. A Tentative Map is also proposed for the individual ownership lots and common lot.

## **Background**

This project was initially submitted to the City in February 2008 through a Preliminary Design Review. At that time, staff had serious reservations about the design, deviations from Sunnyvale Municipal Code (SMC), and significant impacts to the surrounding developments. The applicant subsequently submitted three additional Preliminary Design Review applications with different architects. The current application was submitted in November 2008.

Staff and the applicant have worked closely to resolve many issues with this project which have resulted primarily from the density allowed/required under the R-3 zoning district as well as the narrow configuration of the lot. While there are still some deviations requested under the current proposal, they have been significantly minimized to the best practical extent.

**Previous Actions on the Sites:** This application was heard before the Planning Commission at their April 13, 2009 meeting. The Commission voted 5-1 to deny the project. This decision was appealed by the applicant on April 16, 2009. For additional details, see Attachment G Letter of Appeal.

## **Environmental Review**

A Class 32 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines. The Class 32 Categorical Exemptions may apply to projects that meet the following criteria:

- Project size of five acres or less and surrounded by urban uses
- Meets existing General Plan and Zoning regulations
- Project land cannot be used for endangered species habitat
- Project site can be served by existing public utilities
- Project will not result in any significant traffic, air, noise, or water quality impacts

## **Special Development Permit**

**Site Layout:** The proposed development includes one, multi-family building sited above one level of underground parking. The underground parking contains six, 2-car garages, and four guest parking spaces. The project's six units are arranged so they front on three sides of the building. The front unit has been designed to present or front directly on Old San Francisco Road in order to create a residential character for the project. See Attachment E for additional details.

The private open space areas are located adjacent to each unit so they have small private yards or patio areas. There is also a common open space area in the rear yard of the site.

The driveway entering/exiting from the underground garage level is 14’ wide where SMC require 18’. Staff is supporting this deviation due to three factors. First the relatively low volume of traffic entering/exiting the garage will not create a high conflict area. Second, the 14’ wide portion is only the 20’ long ramp leading into the garage. Third, minimizing the garage opening to the building will increase the residential face of the building. Staff and the applicant believe an increase in the residential building face will create a more significant residential street presence.

The proposed design exceeds the overall lot coverage standards at 41% where 40% is the maximum allowed. The City’s Solar Incentive Ordinance allows for an extra 1% lot coverage for projects that include solar power that reduce the projected project’s electrical usage by 1%. The project will be eligible for this incentive, so will meet the City’s lot coverage requirements.

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

<b>Design Policy or Guideline (Site Layout)</b>	<b>Comments</b>
<p><b>City Wide Design Guidelines</b>  <b>Site Design B9:</b> Residential projects may have a primarily internal orientation for privacy, providing the site is visually linked with its surroundings by appropriate use of landscaping and building siting.</p>	<p>The proposed project offers private open space to each unit and private circulation through an underground parking level. The units are oriented to the exterior but will have a private walkway leading to the front entrances. Additional landscaping to the site will provide an attractive overall streetscape.</p>

**Architecture:** The proposed architecture is a modern design with elements such as, shed and butterfly roof forms, wood siding, cable railings, scored stucco siding, etc. In general, staff believes the applicant has met the goals of the City-Wide Design Guidelines with the proposed architecture and that the styling meets the requirements for high quality architecture. The applicant has also provided a streetscape context elevation which shows the proposed building is similar in mass and scale to the exiting building on adjacent parcels. See Attachment E for additional details.

The maximum height of the building, as measured from the top of curb is 33’ 7” to the highest point of the buildings, where 30’ is the maximum height requirement. Building height deviations are not uncommon in R-3 multi-family developments, as it is otherwise difficult to meet the minimum density requirement of 75% and provide required parking, open space, and site circulation; particularly when developments include underground parking

garages. If the proposed design was for townhomes, the maximum height would be 35'. Staff is supporting this deviation.

**Privacy Impacts to the Adjacent Developments:** The project site is surrounded by residential developments on two sides (east and west), and both developments are fairly close to the property lines of the subject property (15'-20'). The site to the east is the Blackwood Terraces townhome site with 19 units. The units are three-story and are oriented towards an interior drive aisle with the private rear yards facing towards the subject site. The property to the west is the Cathedral Oaks Apartments with nine units located in one building, which is two stories. Staff acknowledges there will be new privacy impacts to both adjacent projects resulting from the new project but also acknowledges that this neighborhood is zoned for multi-family development. Therefore, a certain level of impact is unavoidable.

One issue staff believes has merit is the concern with the interface between the raised walkways leading to the rear patio yards (not front doors) and the Blackwood Terraces rear yards. The walkways are raised approximately five feet to be at the level of the first story, which means that future residents walking to their rear patio yards may be able to peer into the Blackwood Terraces' rear yards. The applicant has proposed a line of low-medium height bushes in a two foot landscaping strip adjacent to this property line. Staff is recommending a new species that will form a more solid hedge row. The intent is to more fully screen the two projects from immediate privacy impacts. This recommendation has been added as a condition of approval subject to the review and approval of the City Arborists.

Staff is also recommending a condition of approval that a gate be added to the end of the eastern path leading to the patio yard areas. This gate should remain locked at all times and be utilized as a secondary means of egress only. This recommendation has been added as a condition of approval.

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

<b>Design Policy or Guideline (Architecture)</b>	<b>Comments</b>
<p><b>City Wide Design Guidelines</b>  <b>Scale and Character B1:</b> Break up large buildings into groups of smaller segments whenever possible, to appear smaller in mass and bulk.</p>	<p>The proposed building design uses articulation, roof forms, and colors in order to visually break up the buildings by unit.</p>

Design Policy or Guideline (Architecture)	Comments
<b>Scale B2:</b> Adjacent buildings shall be compatible in height and scale.	The adjacent projects are similar in scale, with a two-story apartment building and a three-story town house development.
<b>Architecture and Design C1:</b> Maintain diversity and individuality in style but be compatible with the character of the neighborhood.	The modern style of the project will be unique relative to the adjacent townhouse project, but will be compatible with the character of the surrounding neighborhood in terms of mass and scale.
<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 architecture of the buildings has a number of design elements that create a high-quality product, including shed and butterfly roof forms, wood siding, cable railings, etc.

**Landscaping:** Residential uses within the R-3 Zoning District are required to provide a minimum average of 400 square feet of usable open space and 425 square feet of landscaping per unit. The project meets the requirement for usable open space with 497 square foot per unit. The site also provides adequate landscaping area with 877 square foot of landscaping per unit.

The applicant has submitted an Arborist’s Report showing there are 11 trees on site, of which seven are considered protected under SMC. All 11 trees are proposed for removal since they will be impacted by the redevelopment of the site; primarily due to the underground parking construction. The report also states the trees are in poor to good condition. The city arborist has reviewed the Arborist’s Report and concurs with the findings that the existing trees are impacted by proposed development.

The applicant is also proposing to make substantial upgrades to the existing landscaping. The project includes the installation of approximately 11 new trees of varying species and the addition of bushes throughout the site. A landscaping plan with tree types, quantities, and sizes has been submitted and can be found in Attachment E. Staff is recommending two conditions of approval for landscaping. The first is that all new street trees are at least 24 inch box trees or larger. The second is that the three palm trees proposed for the front yard shall be replaced with a more appropriate species (California native shade trees), subject to the review and approval of the City Arborist.

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

Design Policy or Guideline (Landscape)	Comments
<b>City Wide Design Guidelines Landscaping A2:</b> Preserve and incorporate existing natural features, particularly trees, on a site into the landscape design of projects.	The project proposes to add new landscaping and trees which will enhance the site with appropriately placed trees.
<b>Landscaping A4:</b> Properly landscape all areas not covered by structures, driveways, and parking.	The site meets the total landscaping requirement for each unit and will provide approximately 11 new trees throughout the site.
<b>Site Organization B14.</b> Design multi-building residential complexes to differentiate between private, semi-private, and common spaces through building placement, landscaping, etc. Delineate each space for proper use and access by residents.	The site design creates a combination of private, semiprivate, and common landscape areas. The areas are properly delineated through the use of patio walls and pathways, to allow proper use and access by residents.
<b>Open Space C8.</b> Provide direct access to common useable open space from buildings. Common open spaces shall be useable for recreational purposes.	The exterior pathways provide direct access between front doors, street, and open space areas.

**Variance:** Sunnyvale Municipal Code Section 19.38.030 requires a centralized trash enclosure for multi-family developments of four or more units. A Variance is required to grant an exemption from providing an enclosure. The applicant states that for this particular development a centralized location is not appropriate given the narrow lot configuration and underground parking design. If required, the solid waste dumpster would need to be located in the front of the building and would significantly detract from the residential character of the design.

The applicant has also pointed out that existing nearby developments have been approved without centralized enclosures. The Blackwood Terrace project has 19 units and utilizes individual carts.

The City’s Solid Waste Division has stated that individual carts are the preferred solid waste removal design for this project, given the small number of units and underground parking. Additional garage area has been provided for each unit to accommodate storage area for individual trash and recycling bins. Individual carts will be taken from the garage storage areas and placed on the street during trash pick-up days. Staff is supporting this Variance request.

**Stormwater Management:** This project requires compliance with the Stormwater Management requirements. The City of Sunnyvale requires Stormwater Management Plans to be certified by a qualified third party consultant prior to issuance of building permits. The applicant has been advised of the associated Stormwater Management Plan costs and responsibilities for construction and long term maintenance and reporting. The applicant has provided a preliminary plan that indicates generally how they will comply. Staff finds the initial submittal sufficient; however, a third-party certified set of plans will be required prior to issuance of Building permits.

**Green Building Features:** The applicant has stated they intend to certify this project through Build It Green. They have incorporated a significant number of green features including solar photovoltaic, native/drought tolerant landscaping, renewable materials, etc. If Building Permits are submitted after January 1, 2010, this project will be required to achieve LEED or Build It Green requirements.

**Easements/Undergrounding:** All existing and new services are required to be undergrounded.

**Compliance with Development Standards/Guidelines:**

Requested Deviations	Justifications
<ul style="list-style-type: none"> <li>• Building heights of 33’ 7” where 30’ is the maximum allowed.</li> <li>• A rear yard setback of 14’ 6” where 20’ is the minimum is required.</li> </ul>	<ul style="list-style-type: none"> <li>• Building height deviations are typical for multi-family projects in Sunnyvale. If the housing product type was a townhome, the maximum allowed height would be 35’.</li> <li>• The parcel is relatively narrow and deep, thereby limiting certain site planning options. The portions of the building in the rear yard area are the stairs and elevator, for exit from the underground parking level; it is not living space.</li> </ul>

Requested Deviations	Justifications
<ul style="list-style-type: none"> <li>The driveway width is 14' where 18' is the minimum allowed.</li> </ul>	<ul style="list-style-type: none"> <li>The relatively low volume of traffic entering/exiting the garage will not create a high conflict area. The 14' wide portion is only the 20' long ramp leading into the garage. The garage opening to the building will increase the residential face of the building presenting to the street.</li> </ul>

**Expected Impact on the Surroundings:** Staff finds that the proposed project will not have a significant impact on the surrounding neighborhood. No significant traffic or noise impacts are expected as a result of the project and no visual impacts are expected. The applicant has worked with staff to address the project's compatibility with the existing neighborhood and to minimize any potentially negative impacts.

**Tentative Map:** The proposed project requires a Tentative Map to subdivide one parcel, totaling 12,086 sf. into six condominium lots and one common lot.

**Planning Commission Hearing:** On April 13, 2009 the Planning Commission reviewed this application and received testimony from several members of the public. The speakers generally stated their opposition to the proposed project due to privacy impacts, safety concerns, density, on-street parking, and architectural compatibility. At the hearing, the Commission discussed the project issues including neighborhood compatibility, density, and General Plan goals and policies. The Commission voted 5-1 to deny the application. The Commission stated that while the architecture and green features of the project were interesting, the density was too much for the site. See Planning Commission Meeting Minutes in Attachment H for additional detail.

**Appeal:** On April 16, 2009 the applicant appealed the Planning Commission's decision (see Attachment G Letter of Appeal). The letter states a number of reasons for the appeal, including: the Planning Commission acted improperly by allowing public testimony after the close of the public hearing portion of the meeting; the property is zoned to allow for the proposed density; security and privacy issues will be addressed at the City Council meeting with a slight redesign of the rear yard areas; and the project will be a leader in "Green" features.

**Staff Comment on Appeal:** The privacy impacts to both of the adjacent projects, resulting from the new project, will be minimal and typical for in-fill developments. The applicant has attempted to place the noisier and busier side of the building on the Cathedral Oaks side of the property. The quiet, or

passive recreation side, has been placed adjacent to the Blackwood Terrace side. This parcel is zoned for multi-family development (up to 6 units allowed) and the density is consistent with the surrounding developments.

**Fiscal Impact**

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No fiscal impacts other than normal fees and taxes are expected.

This project is subject to Park In-Lieu and Transportation Impact Fees. The Park In-lieu fees are estimated at \$65,340 (5 new units x \$13,068). This fee shall be collected prior to action on a Final Map. Transportation Impact Fees are estimated at \$5,498.28, and are paid prior to issuance of a Building Permit.

**Public Contact**

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<b>Notice of Negative Declaration and 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>• 847 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>

**Conclusion**

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**Findings and General Plan Goals:** Staff was able to make the required Findings for the Special Development Permit, Variance, and Tentative Map. Recommended Findings and General Plan Goals are located in Attachment A.

Alternatively, the Planning Commission was not able to make the required Findings and the Findings for Denial of the Special Development Permit, Variance, and Tentative Map are shown in Attachment F.

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

**Alternatives**

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1. Grant the appeal and thereby approve the Special Development Permit, Variance, and Tentative Map with the Conditions of Approval.
2. Grant the appeal and thereby approve the Special Development Permit, Variance, and Tentative Map with modified Conditions of Approval.

3. Deny the appeal and uphold the decision of the Planning Commission thereby, denying the Special Development Permit, Variance, and Tentative Map

**Staff Recommendation**

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Alternative 1: Grant the appeal and thereby approve the Special Development Permit, Variance, and Tentative Map with the Conditions of Approval.

Reviewed by:

Hanson Hom  
Director of Community Development

Reviewed by: Trudi Ryan, Planning Officer  
Prepared by: Steve Lynch, Project Planner

Approved by:

Gary Luebbers  
City Manager

Attachments:

- A. Recommended Findings
- B. Recommended Conditions of Approval
- C. Letters from Neighbors
- D. Perspective
- E. Site and Architectural Plans
- F. Planning Commission Findings for Denial
- G. Letter of Appeal
- H. Planning Commission Meeting Minutes of April 13, 2009

## General Plan Goals and Policies

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### 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 exceeds this policy with six housing units, where five units would meet 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 project provides needed housing opportunities within an existing residential neighborhood. While the character of the existing neighborhood is a mix of architectural styles, the project preserves the high quality residential character and identity of the immediate 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.

### 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 choices.*

This project achieves this policy with six ownership housing units.

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

The project site is situated between existing medium density multi-family projects. All properties surrounding the site are zoned medium and high density residential. The proposed project is compatible with the adjacent land uses and the zoning for the area.

**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 and significantly improves the visual appearance of the site.

**Recommended Findings - Special Development Permit**

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1. The proposed use attains the objectives and purposes of the General Plan of the City of Sunnyvale.

The project meets the goals and policies of the General Plan, as enumerated above.

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 architecture meets the City-Wide Design Guidelines and meets the intent of the R-3 zoning district. There will be no change in Sunnyvale code requirements as a result of this project therefore, the existing uses on adjacent properties will not be impacted, interfered, or otherwise damaged by the proposed use.

**Recommended Findings - Variance**

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1. Because of exceptional or extraordinary circumstances or conditions applicable to the property, or use, including size, shape, topography, location or surroundings, the strict application of the ordinance is found to deprive the property owner or privileges enjoyed by other properties in the vicinity and within the same zoning district. *(Finding Met)*

The SMC requirement for a centralized solid waste enclosure, while possible to achieve, would be undesirable in the project given the lot configuration (narrow), number of units (six), and proposed design of the project (underground parking). If required, the solid waste dumpster would need to be located in the front of the building and would significantly detract from the residential character of the design.

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

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

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

The neighborhood contains a mix of developments that contain either a centralized trash and recycling enclosure or individualized bins. Generally the larger developments contain a centralized enclosure while smaller developments, such as the adjacent townhomes, do not. Staff found that this particular project has more limited location options than the proposal at this site. In that case, an enclosure was either be difficult to access at the rear of the site or would have more significant visual impact along the only street frontage.

### **Recommended Findings - Tentative Map**

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

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

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/Variance/Tentative Map**

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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. Execute a Special Development Permit document prior to issuance of the building permit.
- B. 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.
- C. 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.
- D. The Conditions of Approval shall be reproduced on a page of the plans submitted for a Building permit for this project.
- E. Submit a complete plan check for the first Building Permit submittal; no partial sets are allowed.
- F. Building Permit plans shall be accompanied by an annotated set of the conditions of approval indicating how the project complies with each condition.
- G. The Special Development Permit and Variance 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.
- H. Any expansion or modification of the approved use shall be approved by separate application at a public hearing by the Planning Commission.
- I. Deviations allowed under this Special Development Permit are:
  1. Building heights of 33' 7" where 30' is the maximum allowed.
  2. A rear yard setback of 14' 6" where 20' is the minimum is required.
  3. The driveway width is 14' where 18' is the minimum allowed.

- J. 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.
- K. A final Stormwater Management Plan is subject to the review of the Director of Community Development prior to issuance of a building permit.

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

- A. 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.
- B. Obtain necessary development permit 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 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 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&Rs created for this subdivision. 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 2008-1259 Special Development Permit and Tentative Map shall be incorporated into the CC&Rs as an exhibit or attachment.
- 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."
- D. All public/private easements pertaining to the project shall be identified and/or defined and made aware to the homeowners in the CC&R's.
- E. There shall be provisions of post construction Best Management Practices in the CC&R's in regards to the stormwater management.
- F. At the time the Home Owner's Association (HOA) is released by the developer to the individual property owners (typically at election of HOA board members), the developer shall schedule a meeting between the HOA, the City of Sunnyvale, and the developer to review the project's Conditions of Approval and other applicable City requirements.

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

- A. The final plans shall be in substantial conformance with the approved architecture.
- B. Final exterior building materials and color scheme are subject to review and approval of the Planning Commission/Director of Community Development prior to issuance of a building permit.
- C. Roof material shall be 50-year dimensional composition shingle, or as approved by the Director of Community Development.
- D. If Building Permits are submitted after January 1, 2010, this project will be required to achieve LEED or Build It Green requirements.

**5. EASEMENTS AND DEDICATIONS**

- A. This project requires a 10-foot wide dedication for a public utility easement (PUE) along the Old San Francisco project frontage prior to issuance of a Building Permit or Final Map.
- B. This project requires dedication of emergency vehicle access easement on the common lot.

**6. EXTERIOR EQUIPMENT**

- A. Individual air conditioning units shall be screened with architecture or landscaping features.
- B. Any modification or expansion of unenclosed uses shall require approval from the Director of Community Development.
- C. All unenclosed materials, equipment and/or supplies of any kind shall be maintained within approved enclosure area. Any stacked or stored items shall not exceed the height of the enclosure.

**7. FEES**

- A. Pay Transportation Impact fee estimated at \$5,498.28, prior to issuance of a Building Permit. (SMC 3.50) Fees will be calculated based on the fee in effect at the time of Building Permit issuance.
- B. Pay Park In-lieu fees estimated at \$65,340 (5 new units x \$13,068), prior to approval of the Final Map or Parcel Map. (SMC 18.10)

**8. FENCES**

- A. A gate shall be added to the end of the eastern path leading to the patio yard areas. This gate shall remain locked at all times, with the intent of it being utilized as a secondary means of egress only
- B. Design and location of any proposed fencing and/or walls are subject to the review and approval by the Director of Community Development.
- C. Such fences may extend along side property lines, but do not extend beyond the front line of the main building on each lot.
- D. Install and maintain the fences and masonry walls as shown in the approved set of plans attached to this report.
- E. Only fences, hedges and shrubs or other natural objects 3 feet or less in height may be located within a “vision triangle” (For definition, refer to Vision Triangle brochure or SMC 19.12.040(16), SMC 19.12.050 (12))

**9. LANDSCAPING**

- A. Provide separate meter for domestic and irrigation water systems.
- B. The landscape plan shall including street trees and shall be submitted and approved per the City Arborist.
- C. The three palm trees proposed for the front yard shall be replaced with a species to the review and approval of the City Arborist.
- D. The new City street trees shall be 24-inch box size or larger.
- E. Of new trees installed, 10% shall be 24-inch box size or larger and no tree shall be less than 15-gallon size.
- F. The two foot landscaping strip adjacent to the east property line shall be planted with a dense bush species that will form a solid hedge row, subject to the review and approval of the City Arborists.

The intent is to more fully screen the adjacent residential project from an immediate privacy impact.

- G. All backflow devices, including DCDA's, must be fully screened by a metal cage or landscaping.
- H. All landscaping shall be installed in accordance with the approved landscape plan and shall thereafter be maintained in a neat, clean, and healthful condition.
- I. 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.
- J. Ground cover shall be planted so as to ensure full coverage eighteen months after installation.
- K. All areas not required for parking, driveways or structures shall be landscaped.

#### **10. TREE PRESERVATION**

- A. 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.
- B. 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.
- C. The tree protection plan shall remain in place for the duration of construction.
- D. 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.
- E. 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 lights are not allowed in this project.
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.

## **12. PARKING**

### **Multi-family Uses:**

- A. A Parking Management Plan must be submitted to the Director of Community Development prior to issuance of a building permit. The Parking Management Plan shall include the following:
  1. Give the property managers/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% to 75% of unassigned spaces be reserved for guest use only at the discretion of the property owner or homeowner's association.
  3. Note that property owners and homeowner's association 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 unassigned parking spaces.
  5. Do not allow tenants to park RV's, trailer, or boats in assigned spaces.
  6. Clearly notify potential residents that number of parking spaces provided for each unit on-site.
- B. The parking lot shall be maintained as follows:
  1. Garage spaces shall be maintained at all times so as to allow for parking of vehicles.
  2. Clearly mark all assigned, guest, and compact spaces. This shall be specified on the Building Permit plans and completed prior to occupancy.
  3. Maintain all parking lot striping and marking.
  4. Assure that adequate lighting is available in parking lots to keep them safe and desirable for the use.

**13. RECYCLING AND SOLID WASTE**

- A. All exterior recycling and solid waste shall be confined to approved receptacles and enclosures.

**14. 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. Any existing deficient or missing public improvements (i.e. curb, gutter, sidewalk, driveway, streetlight, etc.) shall be upgraded to current City standards as required by the Director of Public Works.
- D. The project shall submit a traffic control plan for any work in the public right-of-way, short and/or long term.
- E. Provide an engineer's estimate for all off-site, public improvement work.
- F. Slurry seal to the centerline of Old San Francisco Roadalong the project frontage, if the Department of Public Works determines damage has been caused in the street.
- G. Any pavement markings damaged by the project construction (such as the bike lane and center two-way left-turn lane) must be reinstated with thermo plastic.
- H. The existing 35 mph speed limit sign fronting the project site must be retained and only the damaged pole needs to be replaced.

**15. ROOF/ROOF SCREENS**

- A. Roof vents, pipes and flues shall be combined and/or collected together on slopes of roof or behind parapets out of public view to meet code requirements as noted in Sunnyvale Municipal Code Section 19.38.020.

**16. STORAGE**

- A. Unenclosed storage of any vehicle shall be prohibited.
- B. Unenclosed storage of any kind shall be prohibited on the premises.

**17. MISCELLANEOUS**

- A. All utility meters and other mechanical devises must be fully screened or placed within the building.

**18. TRAILERS**

- A. The temporary trailer(s) shall be subject to following requirements:

1. Trailer(s) shall be placed on the premises not sooner than 15 days following the date of City.
2. Trailer entrance(s) shall be oriented towards the nearest building.
3. Any variation from the location of the trailer(s), as represented by the submitted plan, shall be subject to approval by the Director of Community Development.
4. Area lighting shall be provided in the vicinity of the trailer(s).

**19. UNDERGROUND UTILITIES**

- A. All proposed utilities shall be under grounded, including transformers.
- 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.
- G. Any additional poles are proposed to be added, developer shall have PG&E submit the preliminary plans to the Director of 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.
- H. A copy of an agreement with affected utilities companies for existing overhead utilities which are on-site or within adjoining rights-of-way shall be provided to the Director of Community Development prior to issuance of a Building Permit or a deposit or bond in an amount sufficient to cover the cost of undergrounding shall be made with the City.

- I. A copy of an agreement with affected utilities companies for undergrounding all existing and proposed overhead service drops to the building shall be provided to the Director of Community Development prior to issuance of a Building Permit.

**20. TENTATIVE MAP CONDITIONS**

- A. Full development fees shall be paid for each project parcel or lot shown on the Parcel Map and the fees shall be calculated in accordance with City Resolutions current at the time of payment.
- B. The developer is required to pay 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 relocation due to grade change in the park strip area, caused by the development.
- C. All public improvements shall be installed per City's design standards pursuant to Sunnyvale Municipal Code Sections 18.12 unless otherwise approved by the Director of Public Works.
- D. Comply with all applicable code requirements as noted in the Standard Development Requirements.

**21. SUBDIVISIONS**

- A. The developer shall execute a Subdivision Agreement and post surety bonds and/or cash deposits for all proposed public and/or private improvements prior to any permit issuance.
- B. Remove all debris, structures, area light poles, and paving from the site prior to recordation of a final map.
- C. All lots/parcels shall be served by utilities, allowing each lot/parcel to function separately from one another. Individual water services and meters shall be provided to each residential unit/lot.
- D. Provide the Public Works Department with a detailed estimate of water consumption in gallons per day (GPD) and peak water demand in gallons per minute (GPM), and estimate of sanitary sewer generation in gallons per day (GPD).
- E. Install cleanout(s) at the property line.
- F. The applicant needs to coordinate with the property owner to the west for connection of the storm drain pipes to the storm drain system as the storm drain pipes will be in conflict with the proposed new driveway and approach. Additionally, storm drain pipes are no longer allowed to be placed through the curb.

**22. PUBLIC SAFETY – FIRE PREVENTION**

- A. As applicable, comply with the requirements contained in Sunnyvale Municipal Code Chapter 16.52, 16.53 and 16.54; California Fire Code, and Title 19 California Code of Regulations.

- B. The water supply for fire protection and fire fighting shall be approved by the Department of Public Safety.
- C. Provide a fully automatic fire sprinkler system in accordance with NFPA 13/13D depending on construction type. (MC 16.52.270) with a fire sprinkler system inside the garage, if living space is above.
- D. Install approved smoke detectors in accordance with the California codes.
- E. Provide approved fire extinguishers (minimum size of 2A10BC).
- F. An 11% grade of the driveway (A5.1) will prohibit the use of the driveway as a fire access road. All measurements for fire access will be taken from the street.
- G. If a fire access road is required, provide a fire access road with a minimum unobstructed width of 20 feet and a minimum inside turning radius of 30 feet. Fire access roads in excess of 150 feet require an approved area for turning around fire apparatus (MC 16.52.170 and Section 503 CFC).
- H. Fire access roads shall be marked in accordance with MC 16.52.170.
- I. Fire hydrant location as shown on A 6.2 would need to be at the street or provide a fire access road to reach the hydrant.
- J. Trash enclosures, within 5 feet of building exterior walls or overhangs require fire sprinkler protection (304.3.3 CFC, MC 16.52.270).
- K. Prior to any combustible construction or materials on site, provide fire access drives and operational on-site fire protection systems. (Chapter 14, CFC).
- L. Provide a written construction Fire Protection Plan. (Section 1408 CFC) (Refer to Unidocs.org Fire Prevention documents).
- M. As an Alternate Materials and Methods to the 150 foot hose reach requirement to the rear of the building, standpipes may be a possibility. Suggested locations for the standpipes would be exterior northwest corner of the building, the exterior southeast corner near the proposed yard access landing, and several inside the below-grade garage.
- N. Standpipes shall require a dedicated water line should the fire sprinkler system for the building be a NFPA 13D rather than a 13 system.
- O. A DCDA/FDC at the street would be required for a dedicated standpipe/NFPA 13 system.
- P. A City fire hydrant would need to be within 50 feet of the FDC on the same side of the street.
- Q. Access to the enclosed yards would require Knox padlocks on each gate, and CCR conditions that would provide for a clear path between yards (from gate to gate)(in other words, one could not store

property that would inhibit access between yards). This would allow fire department access from yard to yard.

**Steve Lynch - Concern for Planned Condominium Development at 585 Old San Francisco Rd**

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**From:** Jiarong Zhou  
**To:** <slynch@ci.sunnyvale.ca.us>  
**Date:** 4/7/2009 8:06 PM  
**Subject:** Concern for Planned Condominium Development at 585 Old San Francisco Rd

---

Dear Steve Lynch and City of Sunnyvale Officials,

As owners of the 573 Blackwood Terrace of Sunnyvale, my wife and I want to voice my concern of the new planned condominium development right next to our complex. That area has already congested with a lot apartment, condo churches and commercial buildings. Adding more condense condominiums will make situation worse.

Currently, my wife and I are living out of state for my employment reason. But, we still planning to go back to Sunnyvale and live in our property at 573 Blackwood Terrace. As a result, we can not attend the meeting on April 13, 2009. We hope city of Sunnyvale will consider our concern of the issue.

Best regards.

Owner of 573 Blackwood Terrace, Sunnyvale, CA 94086  
Jiarong Zhou (husband)  
Zhiping Tan (wife)

Good evening. My name is Marjorie Lane, I reside at 599 Blackwood Terrace.

As an owner-resident, I have direct concerns regarding the development of 585 Old San Francisco Road, and comments regarding the Staff Report.

**Privacy Impacts to the Adjacent Developments:** “Staff acknowledges there will be new privacy impacts to both adjacent projects resulting from the new project but also acknowledges that this neighborhood is zoned for multi-family development. Therefore a certain level of impact is unavoidable.”

Creating a structure that requires underground parking creates an egregious and avoidable level of impact. The impact is not restricted to privacy but also to security and existing home values. With the decrease of privacy and associated security, the value of the Blackwood Terrace homes is significantly decreased.

Staff comments “the walkways are raised approximately five feet to be at the level of the first story, which means that future residents walking to their rear patio yards may be able to peer into the Blackwood Terraces' rear yards.”...“The applicant has proposed a line of low-medium height bushes in a two foot landscaping strip adjacent to this property line”

1

2The proposed yardspace is elevated by five feet. The existing property fence is six feet high. This provides an effective fence height of one foot making it all too easy for anyone, resident or guest, to gain access to the Blackwood Terrace yards, both physically and by noise and light.

3

4Peering into the rear yards is of concern, but the greater concern is also the physical access. With only a relative one-foot clearance the current fences are of no value to providing privacy

5

6Two of the yards are relatively very large – 12' by 40'. Anticipated usage cannot be exact but a yard of that size is ideal for parties, and the associated noise and nuisance level will be hurtful to the Blackwood Terrace properties

The elevated architecture renders the neighboring Blackwood Terrace homes' yards to a basement or subterranean level.

Additionally the second story balconies directly face the bedroom levels of the Blackwood Terrace home.

Regarding Parking, collection bins:

2 Staff comments: “it was pointed out that the neighboring Blackwood Terrace utilizes individual collection bins”

This statement is misleading - Blackwood Terrace has through street access and individual driveways and garages, and is not reliant upon city sidewalk for placement of the bins. The collection of recycling and refuse bins for 585 Old San Francisco Road will be a safety concern for pedestrians and a challenge for the collection trucks.

The garage height of seven feet, and tight parking spaces makes the garage inaccessible to vehicles such as Escalades, GMC cars, minivans, and anything with a roof rack. These vehicles will have to seek street parking in an already congested area

Unless the garage dividers are load bearing walls, the complex rests structurally on the perimeter

walls.

Garage lighting – unless recessed, it will further diminish accessibility to vehicles.

Slope of driveway is at least 7%, starting immediately at the sidewalk. This neighborhood is used heavily by seniors and children. The residents of “Life's Garden”, the seniors attending activities at the the Methodist church, the families walking the neighborhood, children walking to Ellis School are at risk; both from cars entering and exiting the narrow driveway, and potentially stumbling on the slope. Additionally, cars entering and exiting will not have a clear view of pedestrians with the proposed landscaping and masonry wall.

I welcome the development of 585 Old San Francisco Road; but not this design; it has a negative impact on the value, privacy, and safety of the Blackwood Terrace properties, a negative impact on traffic flow and street parking, and a negative impact on the safety of passers-by. These concerns stem from the need for underground parking to accommodate the six units.

I ask you: “Would you want to live next door to this proposed development?” From the alternatives listed on page 12 of the Staff Report, I encourage the Planning Commission members to select Alternative 3: Deny the Special Development Permit, Variance and Tentative Map.

ATTACHMENT C  
Page 4 of 4

**From:** Craig and Naomi Easson <  
**To:** <slynch@ci.sunnyvale.ca.us>  
**CC:**  
**Date:** 4/11/2009 11:56 AM  
**Subject:** Proposed project file number 2008-1259, 585 Old San Francisco Road.

Dear Steve Lynch,

I am a resident of Blackwood Terrace, the town home complex next door to where the proposed project will eventually stand. I attended a meeting recently with other residents from Blackwood Terrace and learned more about the proposed development that will replace the old house that sits there at the moment.

After looking at the plans for the new complex I have a few concerns that I hope will be taken into further consideration before all the plans are finalized.

My concerns are as follows:

- 1) My unit will not back onto the new development but I feel that the designs show a complete lack of privacy and security for both Blackwood Terrace residents and future residents of the proposed complex. I feel that there should be at least be some wall of foliage between the back fences of Blackwood Terrace and the proposed catwalk that will run parallel to those garden fences. The elevation of the catwalk above the existing gardens of Blackwood Terrace also poses a security issue since it reduces the existing fences to an effective 1 foot height from a reasonable 6 foot height. I think a secure entrance gate to the catwalk area should be incorporated into the proposed design to maintain the security that is in place at the moment by having the existing 6 foot fence.
- 2) The steep slope to the underground parking that drops off right at the sidewalk poses a safety hazard, especially during the early morning when residents will be leaving for work and lots of children are walking to the schools in the neighborhood (Ellis Elementary and St Martins Catholic school). Cars will have to accelerate aggressively to get up the 7% slope from the underground parking and will not always be able to stop before the sidewalk. The slope would be better to start further back from the sidewalk..
- 3) The new complex proposes to have separate garbage collection bins for each unit instead of one large communal garbage container. That will potentially be 12 bins on the side of the road on collection day and the night before collection. The parking along Old San Francisco Road is already at saturation point and I feel that separate garbage bins will only add to the congestion along those parking areas. These 'on road' parking areas will be needed even more since the new complex only has 4 proposed visitor parking spaces, which seems somewhat inadequate.

I am unable to attend the public hearing on Monday evening, April 13th, as I will be out of town but I sincerely hope that my concerns, all of which are reasonable, will be noted at the hearing.

Yours faithfully,

Naomi Easson.  
590 Blackwood Terrace  
Sunnyvale, 94086.

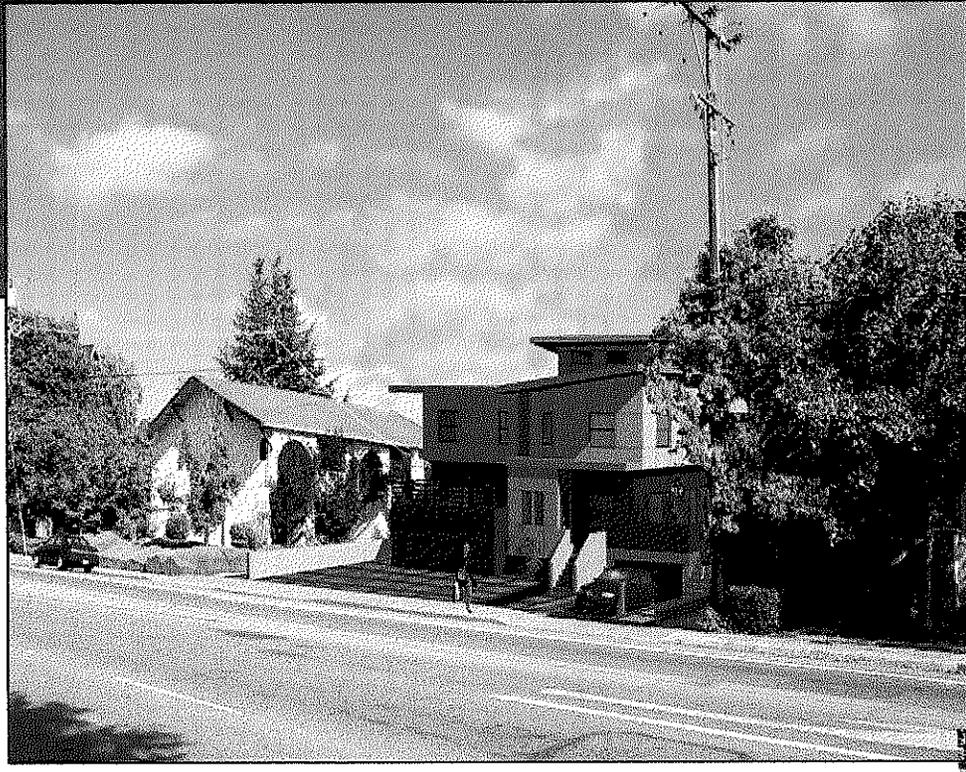


- SUSTAINABLE MATERIAL KEY:**
- 1, DUNN-EDWARDS TERRACOTTA SAND
  - 2, DUNN-EDWARDS MODERN IVORY
  - 3, HARDI BOARD-PAINTED
  - 4, EXPOSED CONCRETE
  - 5, VINYL OR FIBER GLASS WINDOWS TYP
  - 6, DRIVABLE GRASS
  - 7, STANDING SEAM ROOF-GRAY
  - 8, CABLE RAIL-TYP

DATE	REVISION



**PERSPECTIVE VIEW**



**STREET VIEW**

IRFAN ABSAR  
TOWN HOMES  
585 OLD SAN FRANCISCO RD  
SUNNYVALE, CA.

# NEW TOWNHOMES FOR: IRFAN ABSAR

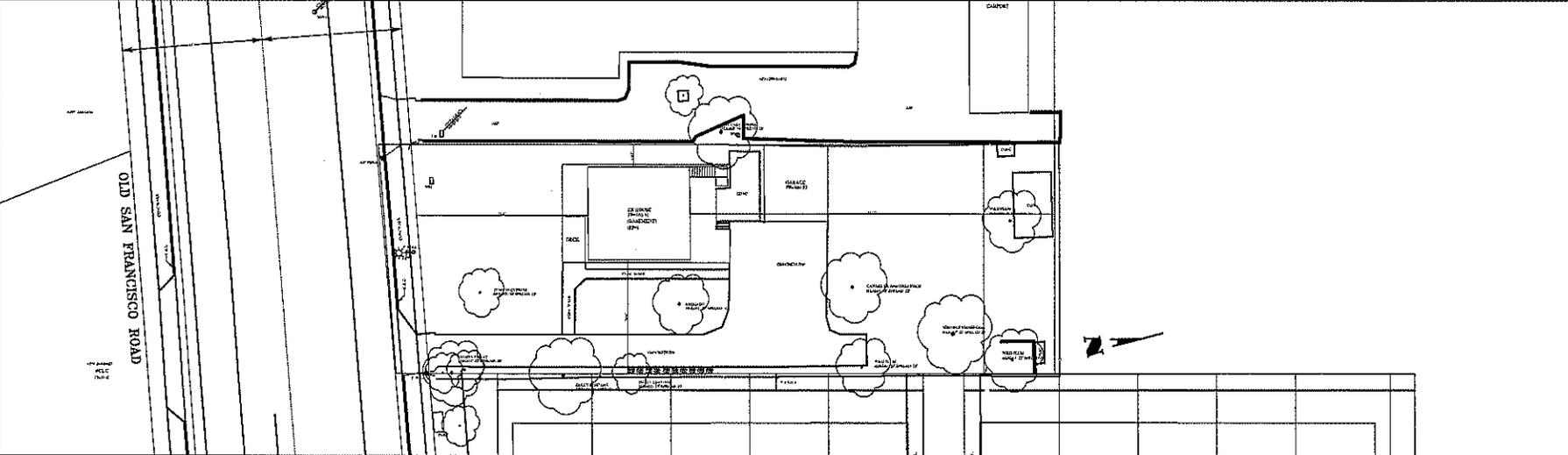
DATE	REVISION



M-DESIGNS ARCHITECTS  
25 W PORTOLA AVE,  
LOS ALTOS, CA

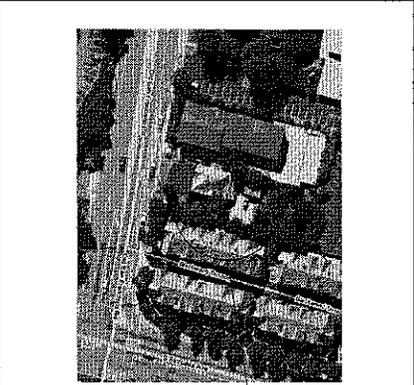


VICINITY MAP



NOT TO SCALE

VICINITY MAP



IRFAN ABSAR TOWN HOMES  
585 OLD SAN FRANCISCO ROAD  
SUNNYVALE, CA,

## PROJECT DESCRIPTION

SUMMARY OF WORK:  
**NEW CONSTRUCTION**  
NEW 8 UNITS TOWN HOMES

## CODE SUMMARY

OCCUPANCY GROUPS:  
STORYS: 2-3  
ZONING: R-3/PD  
CODE COMPLIANCE:  
2007 CALIFORNIA BUILDING CODE BASED ON THE 2006 EDITION OF IBC  
2006 CALIFORNIA FIRE CODE  
2007 CALIFORNIA PLUMBING CODE BASED ON 2004 UPC  
2007 CALIFORNIA MECHANICAL CODE BASED ON 2006 IMC  
2007 CALIFORNIA ELECTRICAL CODE BASED ON 2005 NEC  
2001 CALIFORNIA CODE FOR BUILDING CONSERVATION (NOTE: CHAPTER 8 AND APPENDIX 1, 6 & 8 ADAPTED)  
2006 BUILDING ENERGY EFFICIENCY STANDARDS

## DRAWING INDEX

ARCHITECTURAL:  
TITLE SHEET  
EXISTING SITE PLAN  
LANDSCAPE  
PROPOSED SITE PLAN  
PROPOSED SITE PLAN  
STREET SCAPE WITH PROPOSED ELEVATION  
PROPOSED FLOOR PLAN - BASEMENT FLOOR  
PROPOSED FLOOR PLAN - GROUND FLOOR  
PROPOSED FLOOR PLAN - FIRST FLOOR  
PROPOSED ROOF PLAN  
PROPOSED EXTERIOR ELEVATIONS  
SECTIONS  
AREA LANDSCAPE & AREA OPEN SPACE  
SHOWING STUDY

## PROJECT TEAM

OWNER:  
IRFAN ABSAR  
1200 CORNELIUS BLVD  
LOS ALTOS, CA 94024  
PHONE: (408) 245-7280

ARCHITECT:  
M-DESIGNS ARCHITECTS  
CONTACT: MUSA ALI ABAD  
25 W PORTOLA AVE  
LOS ALTOS, CA 94024  
PHONE: 650-955-8038  
CELL: 650-955-7988  
EMAIL: mdesigns@earthlink.net

ENGINEER:  
N/A

TITLE 24:  
N/A

## PROJECT DATA

	EXISTING CONDITIONS	PROPOSED PROJECT	REQUIRED PERMITS
GENERAL PLAN CATEGORY	-	-	-
ZONING DISTRICT	R-3/PD	R-3/PD	R-3/PD
LOT SIZE (SQ. FT.)	12088	12088	
GROSS FLOOR AREA (SQ. FT.)	N/A	20000	N/A
LOT COVERAGE %	N/A	41%	40%
NUMBER OF UNITS	1	8	8
DENSITY (UNITS/ACRE)	N/A	21.6	
NETS PER ACR	N/A	153	N/A
NEIGHBOR ADJ	N/A	3 TO 4	N/A
UNIT/ACRE (SQ. FT)	-	1600-1800	N/A
LOCKABLE STORAGE UNIT (OLA)	-	1-155	N/A
NUMBER OF BUILDING ON SITE	1	1	
DISTANCE BETWEEN BUILDINGS	0	0	
BUILDING HEIGHT (ft)	16'	32'	32'
NO OF STORIES	2	2	2
FRONT SETBACKS (1st STORY/2STORY)	8'/N/A	20'-0"/ 20'	20'
LEFT SIDE SETBACKS (1st STORY/2STORY FACING PROPERTY)	7'/N/A	6'/N/A	6'
RIGHT SIDE SETBACKS (1st STORY/2 STORY FACING PROPERTY)	34'/N/A	18'/N/A-6'	
REAR SETBACK	4'/N/A	16'-0"/20'	20'
LANDSCAPING TOTAL SQ. FT.		2300	2300
LANDSCAPING (SQ. FT.)		2300	2300
PERKLE OPEN SPACE (SQ. FT.)		2300	2300
PARKING LOT AREA SHADING (SQ. FT.)		N/A	N/A
WATER CONSERVATION PLANTS (SQ. FT.)		18	18
TOTAL NO. OF PARKING SPACES		8	8
TYPE		0	N/A
IMPERVIOUS % OF TOTAL		1	1
IMPERVIOUS SPACES		1	12
COVERED SPACES		2	24
AREA WITH (FT)		25'-0"	
PERKLE PARKING		2	2
IMPERVIOUS SURFACE AREA (SQ. FT)		620	
IMPERVIOUS SURFACE (FT)		424	

IRFAN ABSAR  
TOWN HOMES  
585 OLD SAN FRANCISCO RD  
SUNNYVALE, CA

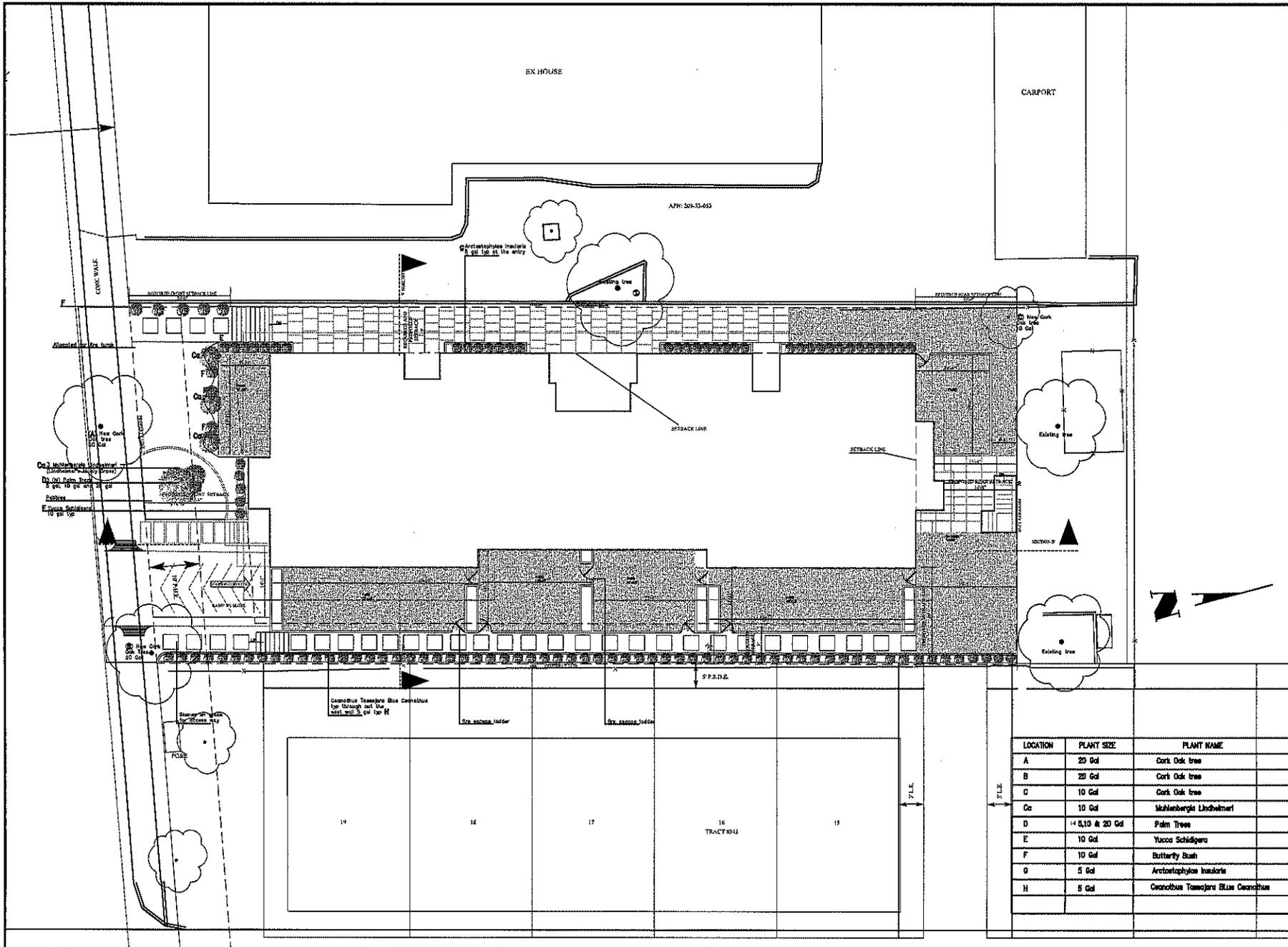
VICINITY MAP, GENERAL NOTES,  
CODE SUMMARY, DRAWING INDEX,  
AND PROJECT DATA

JAN 28, 2008

To 1

Page 1 of 10  
ATTACHMENT





DATE	REVISION

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**BUILD IT GREEN**  
MEMBER

IRFAN ABSAR  
TOWN HOMES  
585 OLD SAN FRANCISCO RD  
SUNNYVALE, CA.

LOCATION	PLANT SIZE	PLANT NAME
A	20 Gal	Oak tree
B	20 Gal	Oak tree
C	10 Gal	Oak tree
Co	10 Gal	Muhlenbergia Lindheimeri
D	14, 10 & 20 Gal	Palm Tree
E	10 Gal	Yucca Schottiana
F	10 Gal	Butterfly Bush
G	5 Gal	Arctostaphylos leucota
H	5 Gal	Ceanothus Tamarjani Blue Ceanothus

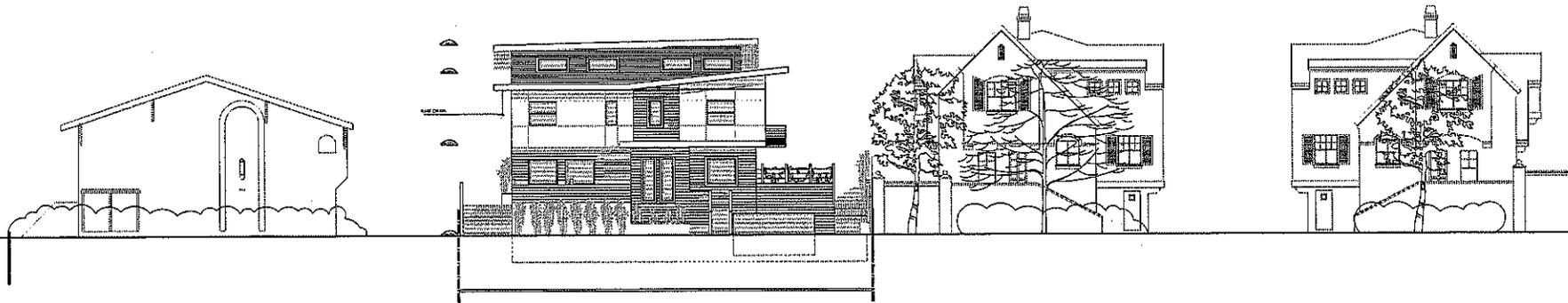
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Page 2 of 2

IRFAN ABSAR

DATE	REVISION

  
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NEW TOWNHOMES FOR:  
 IRFAN ABSAR TOWN HOMES  
 585 OLD SAN FRANCISCO ROAD  
 SUNNYVALE, CA.

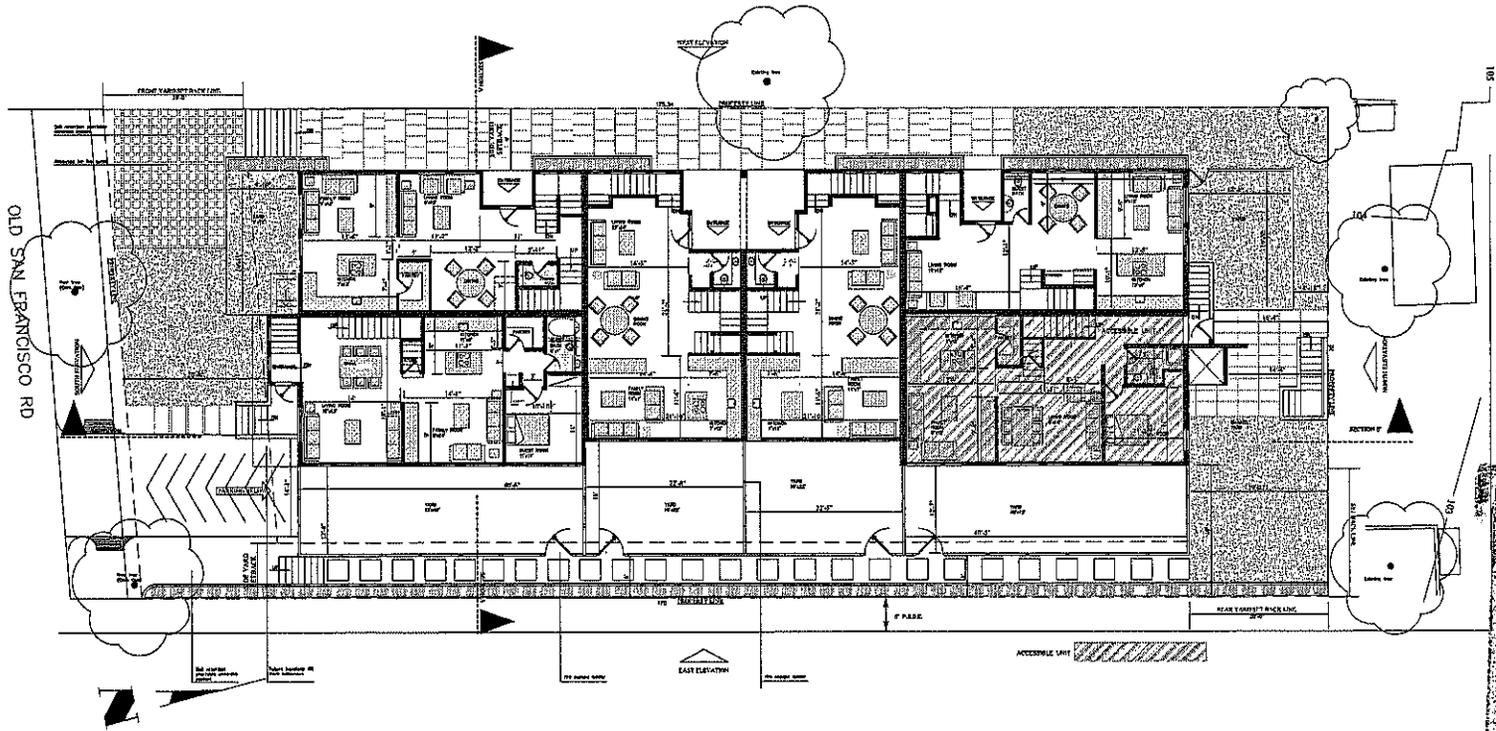
STREET SCAPE  
 WITH PROPOSED ELE. N

JAN 08, 2008

A1

ATTACHMENT E  
 Page 4 of 10





DATE	REVISION
	1
	2

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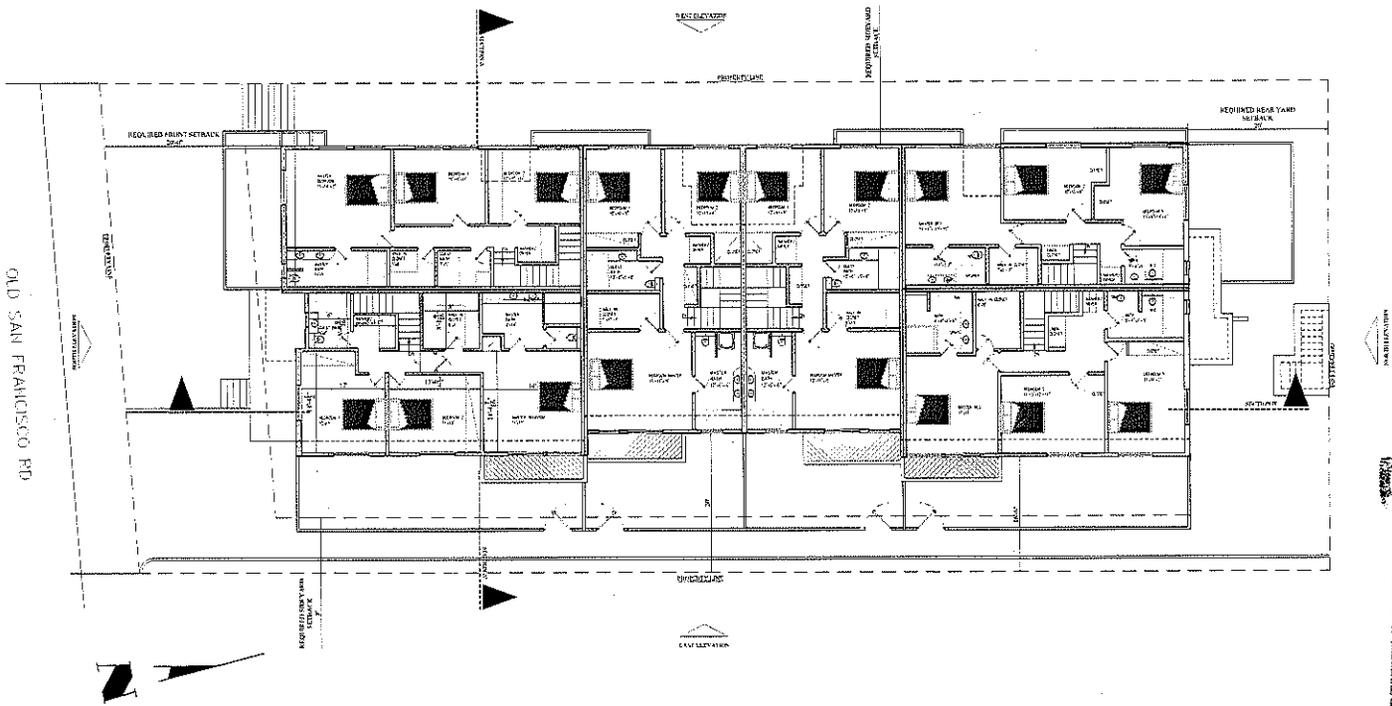
NEW TOWNHOMES FOR:  
 IRFAN ABSAR TOWN HOMES  
 585 OLD SAN FRANCISCO ROAD  
 SUNNYVALE, CA.

PROPOSED FIRST FLOOR

**ATTACHMENT F**  
 Page 10 of 10

SCALE: 1/8"=1'

A1.2



OLD SAN FRANCISCO RD

**ATTACHMENT F**  
 Page F of 10  
 SCALE: 1/8"=1'

DATE	REVISION

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NEW TOWNHOMES FOR:  
 IRFAN ABSAR TOWN HOMES  
 585 OLD SAN FRANCISCO ROAD  
 SUNNYVALE, CA.

PROPOSED SECOND FLOOR

A1.2

DATE	REVISION

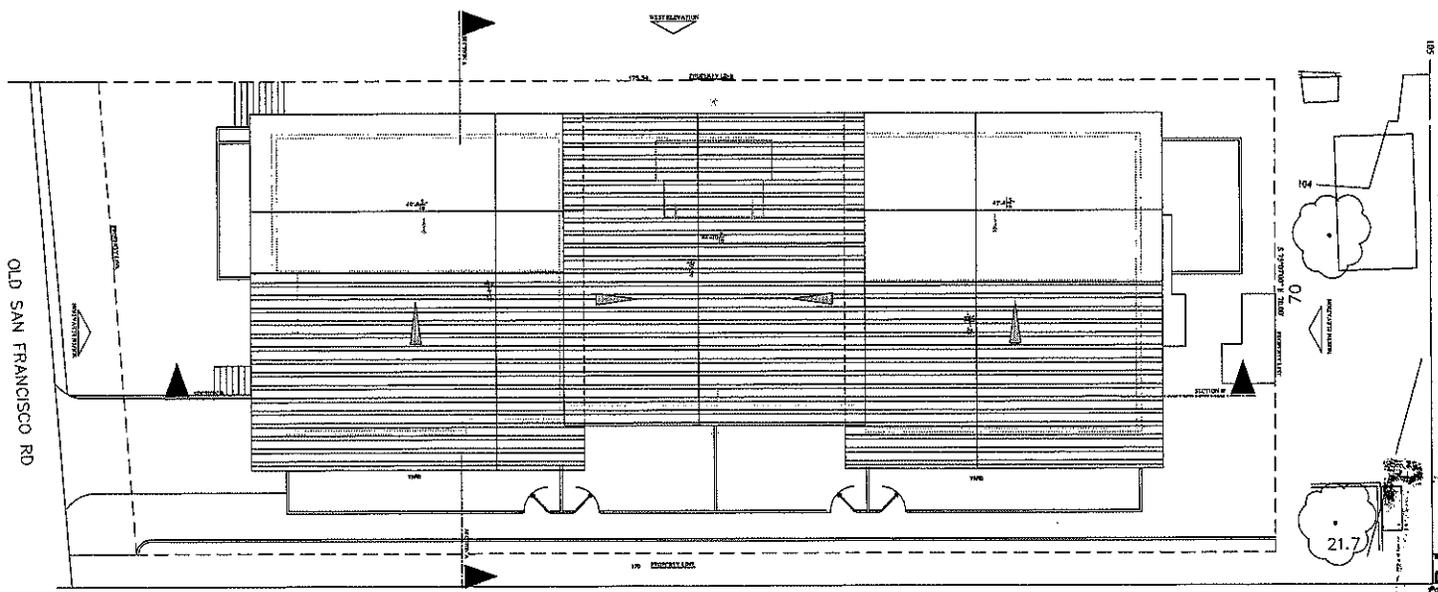


NEW TOWNHOMES FOR:  
 IRFAN ABSAR TOWN HOMES  
 585 OLD SAN FRANCISCO ROAD  
 SUNNYVALE, CA.

PLAN ROOF

JUN 06, 2010

A1.4



**ATTACHMENT E**  
 Page 8 of 110

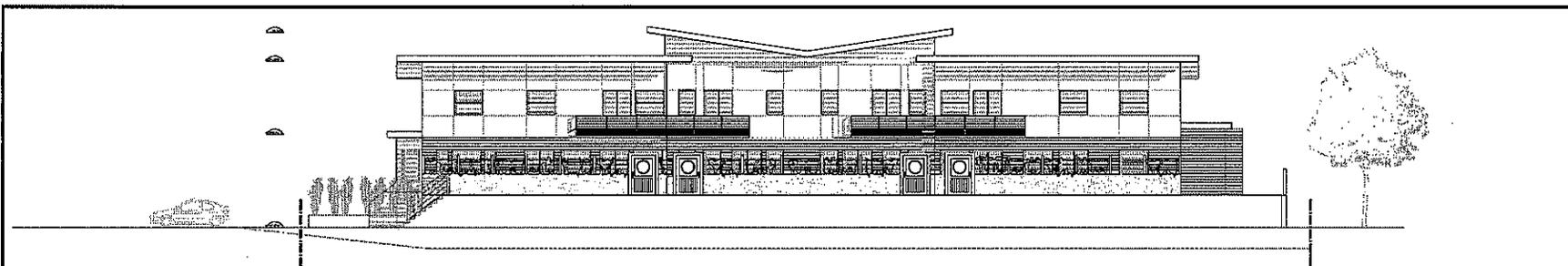
DATE	REVISION

  
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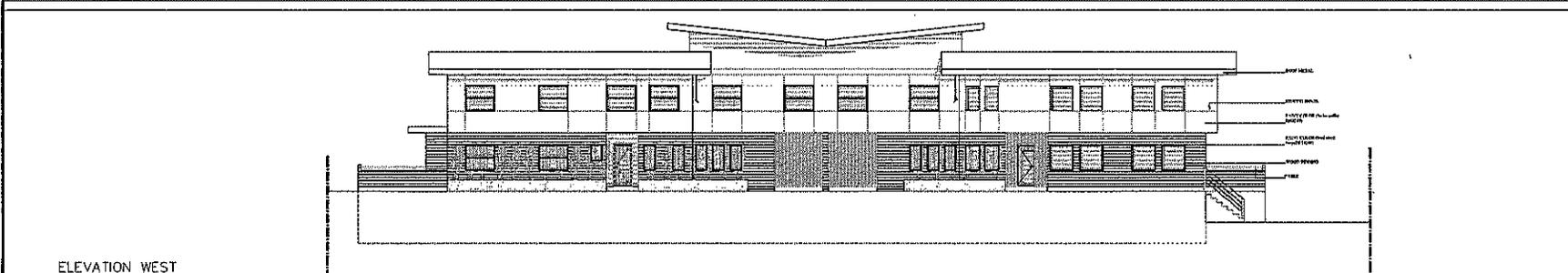
NEW TOWNHOMES FOR:  
 IRFAN ABSAR TOWN HOMES  
 585 OLD SAN FRANCISCO ROAD  
 SUNNYVALE, CA.

PROPOSED ELEVATIONS

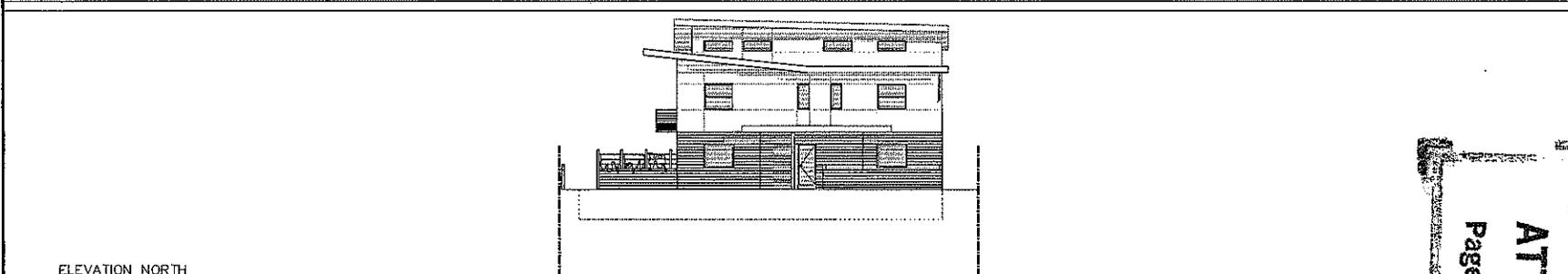
A3.1



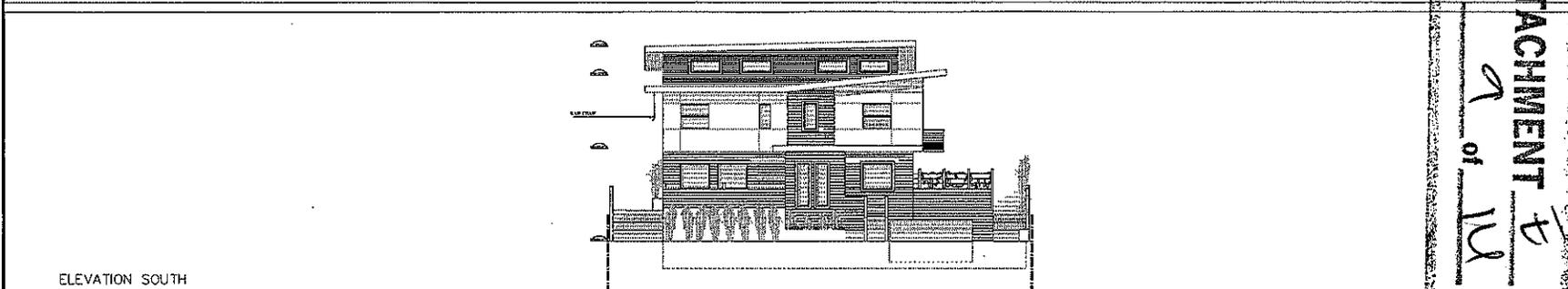
ELEVATION EST



ELEVATION WEST



ELEVATION NORTH



ELEVATION SOUTH

ATTACHMENT #  
 Page 9 of 14



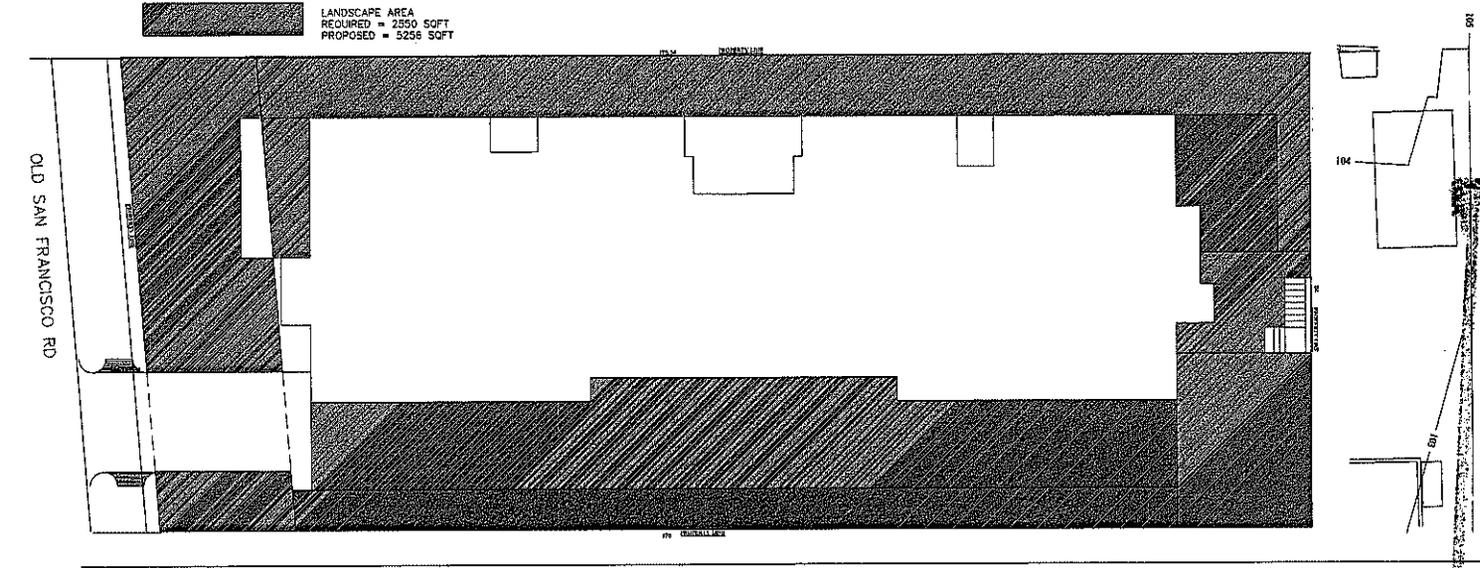
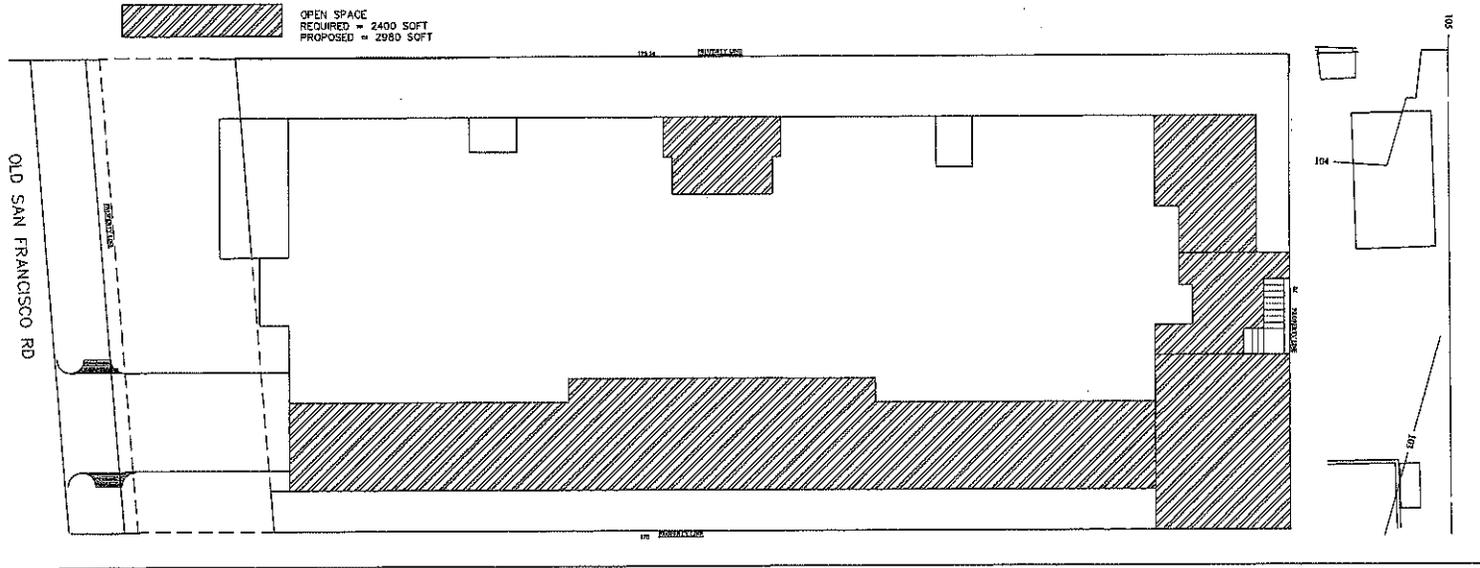
DATE	REVISION

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 www.mdesigndesign.com  
 650-947-1234 FAX 650-947-1235

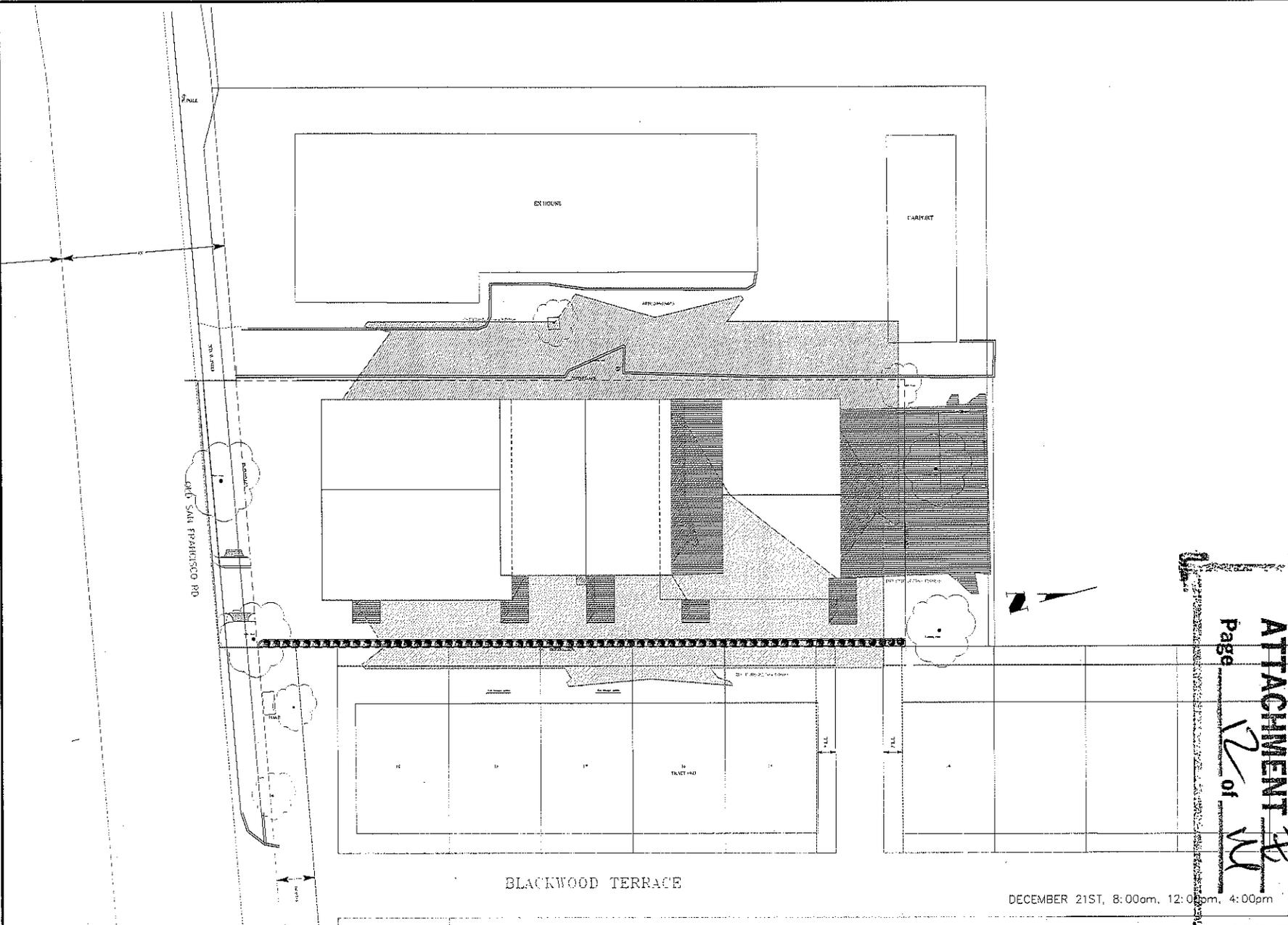
NEW TOWNHOMES FOR:  
 IRFAN ABSAR TOWN HOMES  
 585 OLD SAN FRANCISCO ROAD  
 SUNNYVALE, CA,

AREA LANDSCAPE &  
 AREA OPEN SPACE

A6.1



**ATTACHMENT**  
 Page 11 of 10



DATE	REVISION

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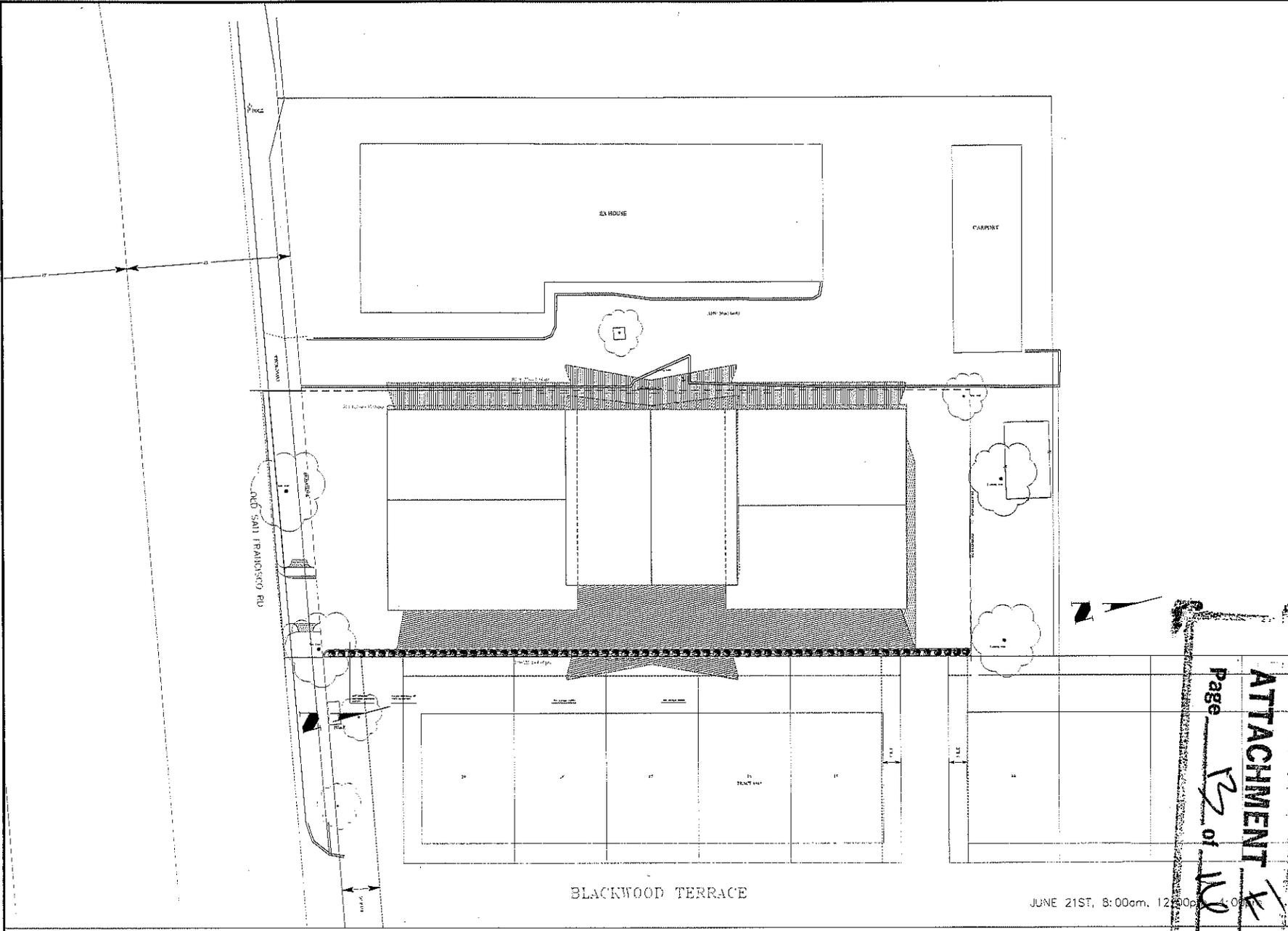
TOWNHOMES FOR:  
 IRFAN ABSAR TOWN HOMES  
 585 OLD SAN FRANCISCO ROAD  
 SUNNYVALE, CA.

**ATTACHMENT**  
 Page 12 of 14

SHADOW STUDY  
 DECEMBER 21ST

DECEMBER 21ST, 8:00am, 12:00pm, 4:00pm

A8.1



DATE	REVISION

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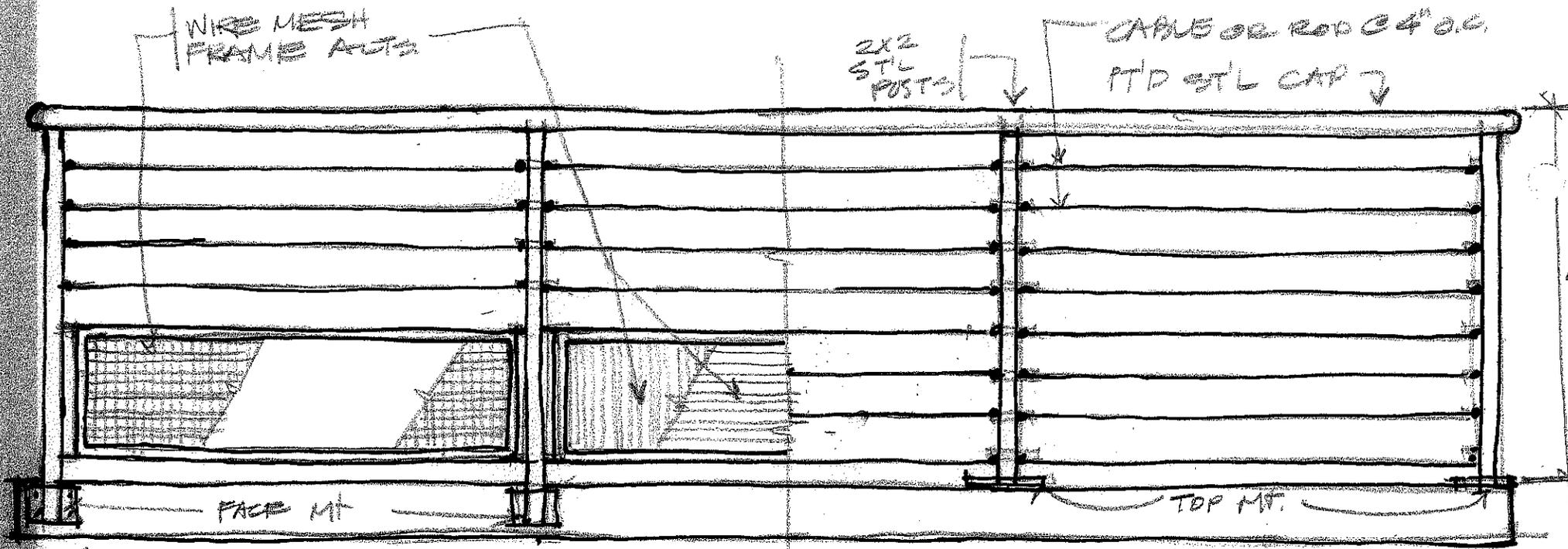
NEW TOWNHOMES FOR:  
 IRFAN ABSAR TOWN HOMES  
 585 OLD SAN FRANCISCO ROAD  
 SUNNYVALE, CA,

SHADOW STUDY  
 JUN 21ST

A8.1

**ATTACHMENT**  
 Page 13 of 100

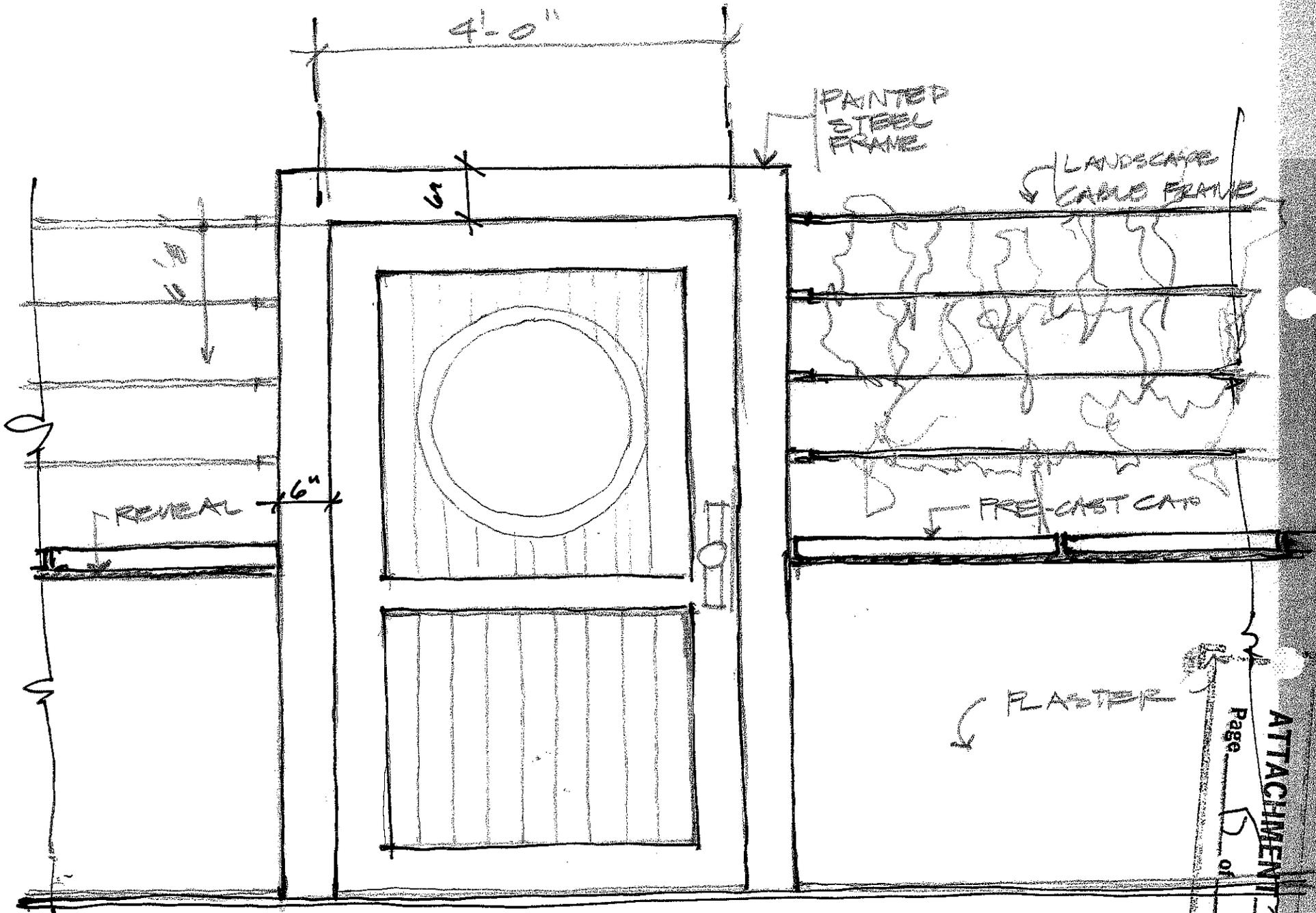
JUNE 21ST, 8:00am, 12:00pm, 4:00pm



← RAIL OPT. 1 →      ← 2 →      ← 3 →      ← 4 →

FACE MT.      TOP MT.

DECK RAILING OPTIONS



YARD GATE

Page

15 of 100

ATTACHMENT

100

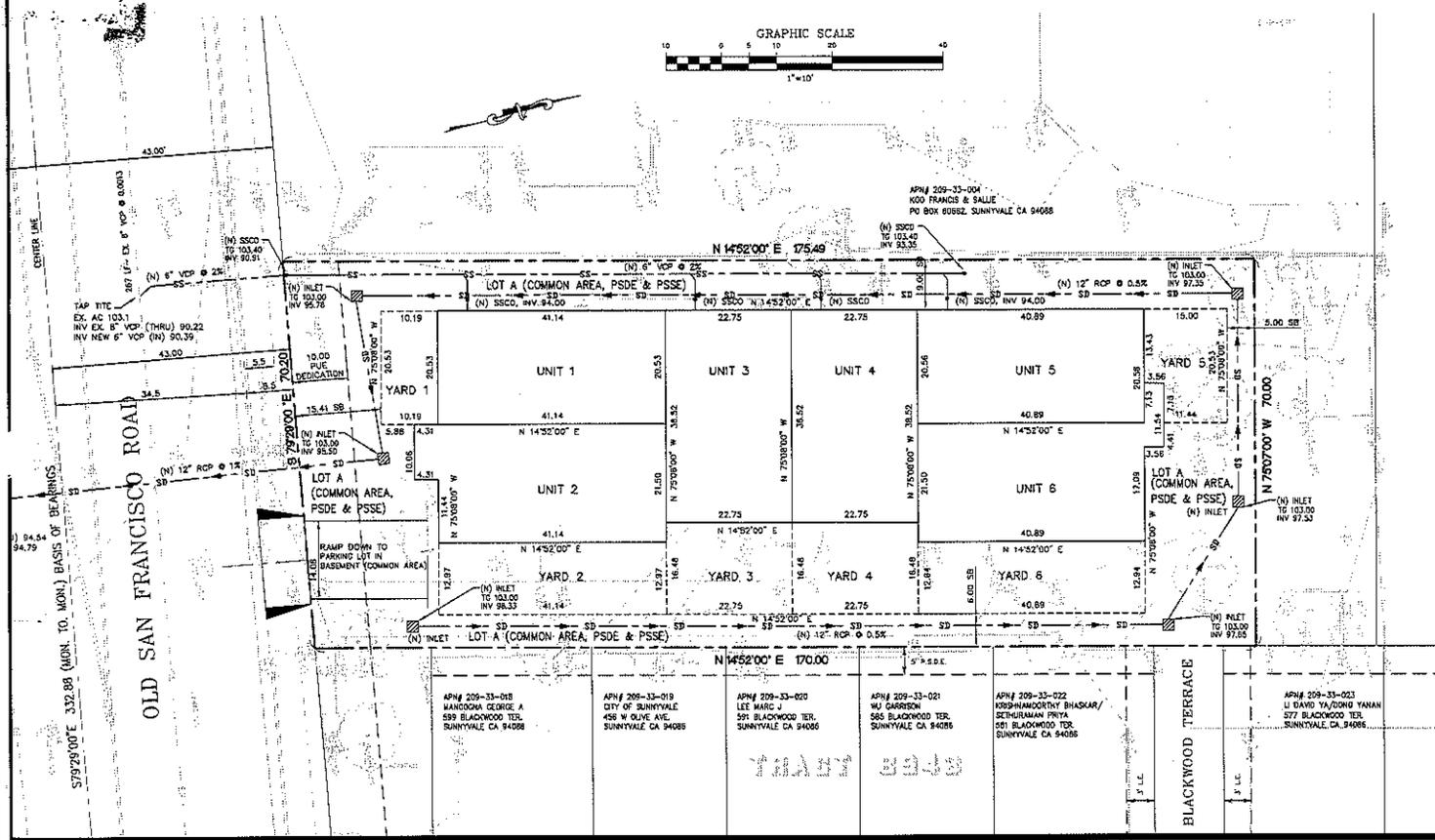
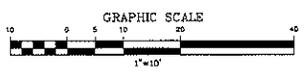
Attachment E  
Page 10 of 10

LOCATION MAP  
N.T.S.

UNIT AREA TABLE	AREA (SQFT)	AREA (ACRES)
UNIT 1	845	0.019
UNIT 2	928	0.021
UNIT 3	876	0.020
UNIT 4	876	0.020
UNIT 5	840	0.019
UNIT 6	920	0.021
<b>TOTAL UNITS</b>	<b>6,286</b>	<b>0.121</b>
YARD 1	209	0.005
YARD 2	534	0.012
YARD 3	375	0.008
YARD 4	375	0.008
YARD 5	283	0.006
YARD 6	530	0.012
<b>TOTAL YARDS</b>	<b>2,306</b>	<b>0.053</b>
<b>COMMON AREA</b>	<b>4,601</b>	<b>0.103</b>
<b>TOTAL (EX. PARCEL)</b>	<b>12,092</b>	<b>0.278</b>

LEGEND AND ABBREVIATIONS

---	STREET CENTER LINE
- - -	DISTINCTIVE BORDER LINE
---	UNIT LINE
---	BUILDING FOOTPRINT
---	YARD EXCLUSIVE USE COMMON AREA
---	EASEMENT LINE
---	EXISTING LOT LINE
L.L.	LANDSCAPING EASEMENT
P.S.D.E.	PRIVATE STORM DRAINAGE EASEMENT
P.S.S.E.	PRIVATE SANITARY SEWER EASEMENT
P.S.U.E.	PUBLIC UTILITY EASEMENT



VESTING TENTATIVE MAP

A SINGLE LOT SUBDIVISION  
SIX (6) UNIT CONDOMINIUM DEVELOPMENT ON A COMMON LOT  
CONSISTING OF ONE (1) SHEET

585 OLD SAN FRANCISCO ROAD  
SUNNYVALE, CALIFORNIA 94086  
APN# 209-33-003

BEING A PORTION OF LOT 15 AS SHOWN UPON THE MAP OF THE M.A. GARROD SUBDIVISION OF RECORD IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, IN BOOK "T" OF MAPS, AT PAGE 35.

LYING ENTIRELY WITHIN THE  
CITY OF SUNNYVALE, COUNTY OF SANTA CLARA, CALIFORNIA

FEBRUARY 2009  
SMP ENGINEERS

1534 CAROL LANE  
LOS ALTOS, CA 94024



1534 CAROL LANE  
LOS ALTOS, CA 94024  
TEL (650) 941-8555  
FAX (650) 941-8755

OWNER/APPLICANT:  
IRFAN MUHAMMAD AND ABSAR ILYAS  
1200 CARMEL TERRACE  
LOS ALTOS CA 94024

DATE: FEBRUARY 17, 2009  
DRAWN BY: V.G.  
CHECKED BY: S.R.  
SCALE: AS SHOWN

A SINGLE LOT SUBDIVISION  
A SINGLE LOT CONDOMINIUM DEVELOPMENT ON A COMMON LOT  
SIX (6) UNIT CONDOMINIUM DEVELOPMENT ON A COMMON LOT  
585 OLD SAN FRANCISCO ROAD  
SUNNYVALE, CALIFORNIA 94086  
VESTING TENTATIVE MAP

GENERAL NOTES & STATEMENTS

- OWNERS AND DEVELOPERS: IRFAN MUHAMMAD AND ABSAR ILYAS, 1200 CARMEL TERRACE, LOS ALTOS CA 94024
- APPLICANT: SAME AS ABOVE.
- EXISTING ZONING: R3/PD
- EXISTING APN: 209-33-003
- EXISTING USE: SINGLE FAMILY RESIDENTIAL
- PROPOSED USE: RESIDENTIAL CONDOMINIUM UNITS
- EXISTING WELLS: NONE
- FLOOD ZONE: X
- STREETS: ALL PROPOSED STREET MODIFICATIONS WILL BE DEDICATED AND IMPROVED TO THE SATISFACTION OF THE DIRECTOR OF PUBLIC WORKS
- EXISTING USE OF ADJACENT PROPERTIES: RESIDENTIAL
- WATER: CITY OF SUNNYVALE
- FIRE PROTECTION: CITY OF SUNNYVALE
- STORM/SANITARY SEWER: SUNNYVALE SANITARY DISTRICT
- POWER AND GAS: PACIFIC GAS AND ELECTRIC
- TELEPHONE/CABLE: AT&T/COMCAST
- STREET TREES: STREET TREE(S) TO BE PLANTED PER CITY OF SUNNYVALE DIRECTION.
- SITE AREA: 0.278 ACRES (12,092 SQUARE FEET)
- EASEMENT: UNDERGROUND PARKING LOT IS COMMON TO ALL UNITS.
- CONTOUR ELEVATION: LOCAL DATUM AND MONUMENTS
- ALL DIMENSIONS ARE IN FEET AND DECIMALS THEREOF.
- ALL EXISTING STRUCTURES ON THE SITE ARE TEMPORARY AND WILL BE REMOVED AS THE PROJECT IS DEVELOPED, PRIOR TO THE ISSUANCE OF A BUILDING PERMIT FOR THE PROJECT.
- UTILITIES SHOWN ARE CONCEPTUAL AND ARE SUBJECT TO CHANGE IN FINAL CONSTRUCTION PLANS.

Date: FEBRUARY 17, 09  
Scale: 1"=10'  
Prepared by: V.G.  
Checked by: S.R.  
Job #: 28106  
Sheet: 1 OF 1  
TM-1

## **General Plan Goals and Policies**

---

### **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 exceeds this policy with six housing units. If the project were reduced by one unit down to five units, the project would meet the 75 percent minimum goal.

**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 project provides needed housing opportunities within an existing residential neighborhood. While the character of the existing neighborhood is a mix of architectural styles, the project preserves the high quality residential character and identity of the immediate 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, but is not compatible (mass and scale) with the existing surrounding developments.

### **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 choices.*

This project achieves this policy with six ownership housing units.

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

The proposed project is not compatible with the existing projects due to the proposed mass, scale, and privacy impacts on the adjacent development.

**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 and significantly improves the visual appearance of the site, although the size for the building should be reduced to be compatible with the neighborhood.

**Recommended Findings - Special Development Permit**

---

1. The proposed use attains the objectives and purposes of the General Plan of the City of Sunnyvale.

The project does not meet the goals and policies of the General Plan, as enumerated above.

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.

While the proposed architecture meets the City-Wide Design Guidelines and meets the density of the R-3 zoning district, the mass, scale, and privacy impacts will impair the orderly development of, and existing uses on adjacent properties.

**Recommended Findings - Variance**

---

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

The SMC requirement for a centralized solid waste enclosure could be met by locating the enclosure in the front of the building. The site does not possess any exceptional or extraordinary circumstances.

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

Approval of the Variance for individual trash bins could be materially detrimental to the surrounding property owners since there is already a shortage of street parking in the neighborhood.

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

The neighborhood contains a mix of developments that contain either a centralized trash and recycling enclosure or individualized bins. Generally the larger developments contain a centralized enclosure while smaller developments, such as the adjacent townhomes, do not. The Planning Commission found that this particular project has more limited location options than the proposal at this site. In that case, an enclosure was either be difficult to access at the rear of the site or would have more significant visual impact along the only street frontage.

### **Recommended Findings - Tentative Map**

---

In order to approve the Tentative Map, the proposed subdivision must be consistent with the general plan. However, if any of the following findings can be made, the Tentative Map shall be denied. The Planning Commission was able to make some of the following findings and denied 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

The Planning Commission was not able to make Findings B.1, B.2, B.3, and B.4, and denied the Tentative Map.



April 21, 2009

City Council Members  
City of Sunnyvale  
Sunnyvale, CA

Re: Absar/Irfan Townhomes  
585 Old San Francisco Road  
Sunnyvale, CA

Subject: Appeal of Planning Commission Decision

Dear Members of the City Council:

On behalf of our clients, Ilyas Absar and Muhammed Irfan, we are appealing the decision of the Planning Commission, dated April 13, 2009, to deny our application for a Use Permit and Variance to allow construction of a six unit condominium project at 585 Old San Francisco Road.

The local zoning allows construction of multi-family condominium and townhouse developments. The size and configuration of our site permits construction of six units. The immediate neighbors are a rental apartment building and a 19-unit condominium project called Blackwood Terrace. Both neighboring properties appear to be developed at a similar density to what is proposed for 585 Old San Francisco Road. All required elements mandated by the Zoning Ordinance and other City Codes were achieved in the design and planning process. Each concern and requirement of the various City departments – Fire, Public Works, Planning, Building, etc. – was addressed and responded to. The few questions brought to the attention of the planning staff in advance of the meeting – even at the eleventh hour – by the neighbors at Blackwood Terrace were addressed. The analysis of the City's planning staff was that the project met or exceeded the findings required for approval and recommended approval based on the findings.

It is our contention that the Planning Commission has acted improperly in denying the application for the following reasons:

- The Planning Commission demonstrated bias in favor of the Blackwood Terrace neighbors (please note that no one attended the public hearing from the other immediate neighboring property) by permitting them to present information to the Commission after the public hearing was closed and prevented us from providing either a rebuttal to or clarification of the information presented to the Commission (The information was provided in the guise of an off-the-record private conversation when Ms. McKenna stepped away from the podium so that it would not be construed as being part of the Planning Commission meeting);

- The findings that are required to be met were deemed to be met by the Staff. (The text of the staff report addressing the findings is included as an attachment to this letter.) There was no discussion of the findings by the Commission except by Commissioner Chang and no determination by the Commission that the Staff had acted improperly in reaching the findings.

The Guidelines and requirements for development of this property have been met:

- 6 units are allowed by zoning and 6 units are proposed. Please note that the habitable floor levels are such that the first floor level at 585 Old San Francisco Road is approximately two feet higher than the first floor at Blackwood Terrace and the second floor at Blackwood Terrace is approximately two feet higher than the second floor at 585. The privacy of the two developments is not compromised in any way – because of distance, difference in floor elevations, proposed fencing, and landscaping.
- Security, while not a specific requirement, was a concern for the design team. The property is fenced. In addition, we have proposed the construction of security gates limiting access to the fire access walkway to the Fire Department and the individual homeowners.
- Parking for the development at 585 was located under the living spaces (as at Blackwood Terrace) to maximize the potential for active living space and landscaping and to minimize the amount of aboveground utility (car, parking, trash, etc.) space. Furthermore, more parking than is required is being provided so as to limit the need for anyone (residents or guests) to park on and add to any congestion on Old San Francisco Road. This parking is not visible from the street or from Blackwood Terrace. (Please note: the driveway slope is seven percent. The parking level could be deeper which would necessitate a steeper slope which the City has allowed in the past. That would enable us to lower the ground floor elevation by approximately 12". It is our opinion, however, that that would not provide any significant benefit to the Blackwood Terrace neighbors.)
- Individual trash/recycling (as at Blackwood Terrace) rather than centralized collection are proposed as being easier to maintain. This was thoroughly discussed with the relevant City agencies and approved as being the most effective way to handle garbage. (We can provide a fenced at-grade centralized trash/recycling space at the front of the building though it is our opinion that that serves no one's interest.)

Issues were raised by the Blackwood Terrace neighbors that were either not germane to the purview of the Planning Commission or represented conjecture with no basis in fact including:

- An assertion that the development of the property would be detrimental to the property values of the residents of Blackwood Terrace. (While we cannot speculate on the assertion it has been our experience that the creation of high-quality developments tends to improve the property values of neighboring residences rather than the opposite.)
- That the security of the residents of Blackwood Terrace would be compromised by the design for the new project. (We find this comment to be curious as there is currently no effective security other than the existing fence separating Blackwood Terrace from 585. The development of 585 will have the benefit of neighboring homeowners and security fencing and locked gates all of which limit access to anyone but people with a reason to be on the property.)

- That the privacy of the residents of Blackwood Terrace would be compromised by the design for the new project. (Orienting the building as we have provides the homeowners at 585 and Blackwood Terrace maximum separation distance and privacy between their homes. Furthermore, the fire access pathway serves as a de facto privacy easement: there are no sight lines into the yards facing each other at Blackwood Terrace and 585.)
- That congestion on Old San Francisco Road would be increased. (As noted earlier, the City zoning permits the density of development that is being proposed. To support that, we have provided off-street parking for each unit, accessible parking, and additional guest/visitor parking in excess of what is required. The Planning staff and other departments within the City have rigorously evaluated the project and determined that what's being proposed is not excessive. Consequently, it's our opinion that the neighbor's concerns are overblown.)
- That maintenance of the property at 585 Old San Francisco Road couldn't be assured. (We can sympathize with the neighbors concerns that the benefits they've enjoyed while living at Blackwood Terrace will be compromised. However, the City has very clear and coherent rules about CC&R's that must be met as well as enforcement power should there be a problem. We, therefore, doubt that maintenance will be any more of a problem for the residents at 585 than they are for the residents of Blackwood Terrace.)

Before discussing the "green" building elements of the project there are two additional issues that were not addressed adequately or properly in our opinion. The first addresses the discussion of the "excessive" height of the development and the second issue concerns lot coverage:

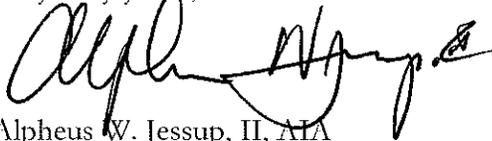
- The project was originally submitted as a Townhouse project with a 35 foot height limit. (We are obviously below that height.) Without our knowledge the classification of the project was changed to "Condominium." Previously this had never been an issue for the Planning Commission and the planners indicated this would not be a problem. (Please note that the structure is proportionally in keeping with its neighbors. It is slightly taller than the apartment building to the left and slightly shorter than Blackwood Terrace on the right. Please also note that with very minor reconfiguring of the individual units the definition the project could be re-classified as "Townhomes" rather than "Condominiums" which would then resolve the question of building height.)
- With respect to lot coverage, it is our understanding that the City Council passed new rules allowing increases in lot coverage if "green" or sustainable building practices are incorporated in a project. There is an irony in that the 585 Old San Francisco Road project incorporates "Green" Building Practices that exceed what the City's new legislation mandates. Consequently, the minor relief we were requesting from the City relating to building height and lot coverage should not have been considerations for the Planning Commission to find fault with. The lot coverage is a non issue since we are only 1% above the general 40% allowed but we are still under the lot coverage limits according to the new incentives since we are planning to install solar water heaters within each individual unit. The Planning Commissioners apparently were not aware that the Council had enacted the new rules.

Additional sustainable design considerations included:

- The use of native landscaping and drought tolerant planting materials;
- The use of a High Efficiency Irrigation system (Including Smart controllers, a drip system etc)
- The use of pervious paving rather than asphalt or concrete where warranted within the front setback in order to reduce heat Island effect;
- The use of locally/regionally produced SIPS (Structural insulated panels) as a primary construction material with engineered lumber as a second choice;
- Durable, low maintenance and non-combustible siding materials ("Hardi-Panels" or equivalent) for exterior vertical finishes;
- Durable non-combustible metal roofing rather than petroleum-based or wood finished roofing;
- Orientation of the building to utilize passive shading and to allow the installation of solar panels for supplemental water heating and, in the future, solar photovoltaic panels for electrical power generation;
- The use of fly ash as part of the concrete mix;
- Use of natural day lighting to offset the use of electricity during the day time

We are hopeful that this discussion and the exhibits adequately convey our certainty that the 585 Old San Francisco Road project meets or exceeds all the criteria and level of quality in design that the City of Sunnyvale demands of significant projects. We respectfully request approval of our appeal of the decision of the Planning Commission.

Very truly yours,



Alpheus W. Jessup, II, AIA  
Architect, License #C-11784

Enclosure

**PLANNING COMMISSION MINUTES OF APRIL 13, 2009**

**2008-1259 – M Design Group** [Applicant] **Muhammed Irfan Et Al** [Owner]: Application for related proposals located at **585 Old San Francisco Road** (near S Fair Oaks Ave) in an R-3/PD (Medium-Density Residential/Planned Development) Zoning District. (APN: 209-33-003) SL;

- **Tentative Parcel Map** to subdivide one lot into 6 condominium lots and 1 common lot.
- **Special Development Permit** to allow 6 new town homes.
- **Variance** to allow individual solid waste bin carts.

**Steve Lynch**, Senior Planner, presented the staff report with staff recommending approval of the Special Development Permit, Variance, and Tentative Map with modified Conditions of Approval (COAs). He said the modifications provided on the dais, are three changes to the CC&Rs (Conditions, Covenants and Restrictions) reflecting recent Council action. He said also on the dais are two letters received from neighbors after the report was completed.

**Comm. Hungerford** confirmed with staff that part of the Commission's action tonight is to review the proposed design.

**Comm. Sulser** had staff clarify information regarding the trash carts, Build it Green (BIG) certification, and the proposed building height in relation to product type, i.e. town home or condominium.

**Vice Chair Chang** discussed fire access with staff.

**Chair Rowe** asked staff about the height of the proposed building and neighboring building, and concern from a member of the public that larger vehicles would not be able to fit in the garage.

**Chair Rowe opened the public hearing.**

**Malika Junaid**, representing the applicant, addressed questions regarding the BIG checklist and presented a PowerPoint presentation regarding the proposed development. She provided information on pervious surfaces, neighboring properties, the building orientation considering the privacy of the Blackwood Terrace residents, and the efforts made to limit the footprint of the building. She discussed the underground parking, and said they have addressed the COAs. She discussed the green building features including drivable grass, the cool roof, solar panels, siding material, landscape options, and privacy and security. The applicant's architect, **Chip Jessup**, provided details about the proposed landscaping options.

**Chair Rowe** discussed with the applicant the fencing, privacy screening, slope on the property, parking in relation to the trash carts, and the garage height.

**Comm. Hungerford** discussed with the applicant pervious paving and parking, and limiting the grass to less than 30% to meet green building goals. Comm. Hungerford asked about the façade of the unit being solid with the applicant saying there would be trees and siding to make the wall area more attractive.

**Comm. Sulser** commended the applicant on the architecture and green building features. He discussed with the applicant the Variance for the trash carts, and possible impacts on the existing bike lane, and said he is still undecided on whether the findings can be met.

**Comm. McKenna** discussed with the applicant why six condominiums were proposed with Ms. Junaid explaining that one unit must be accessible for handicapped and that the unit resulted in a slight overage in lot coverage.

**Jeff Jones**, a Sunnyvale resident, spoke against the project as proposed addressing the deviations listed in the report. He said he would like to see the applicant redesign the project as it is oversized and does not fit into the neighborhood.

**Andrew Mangogna**, a Sunnyvale resident, spoke against the project as proposed. He said he is not opposed to developing this lot, however the current proposal is intrusive, affects the neighbors' privacy, has too many units, and the mitigation is inadequate.

**Marjorie Lane**, a Sunnyvale resident, said she has concerns about the project including privacy, security, and issues regarding the garage and the walkway. She said she would like the property developed, however the current proposal needs to be rethought.

**Garrison Wu**, a Sunnyvale resident, said he welcomes the development, is excited about the green building plans, however he has concerns regarding security and privacy.

**Chair Rowe** discussed with Mr. Wu about the way his unit is situated in relation to the proposed project.

**Julian Dong**, a Sunnyvale resident, said he is concerned about the density of the project, and the affects on traffic and on his home value. He said he does not like the design and he hopes the Commission will require the project be redesigned and decreased in size.

**Arthur Schwartz**, a Sunnyvale resident, commented about his likes and dislikes of the project. The pros include green building, and native vegetation; the cons include architecture incompatibility, lack of a central garbage collection, and the garage and driveway slope. He said he thinks this project needs to be redesigned with four or five units.

**Ms. Junaid** responded to neighbors' concerns commenting that the proposed vegetation is native and drought tolerant. She said the architectural design is within Sunnyvale's guidelines and that this neighborhood does not have a prevailing style. She said the zoning allows deviations and that six units are not excessive in relation to the adjacent properties. She addressed security and privacy concerns, landscaping and fencing, garage and driveway slope, the recycling of the existing building, parking, and said there would be a Homeowners Association.

**Comm. Sulser** discussed with the applicant the proposed native vegetation, the grade, the driveway slope, the grading and drainage plan, and the garage.

**Vice Chair Chang** discussed with the applicant the rear yard setback and the accessibility lift in relation to the setback.

**Chair Rowe** discussed with the applicant that there is a two car garage for each unit, the elevation being three feet from grade, the fence height, and other garage issues.

**Chair Rowe closed the public hearing.**

**Trudi Ryan**, Planning Officer, commented that there is a 1% increase in lot coverage as an incentive for projects that would put solar panels on the property. She said if 10% of the electrical needs are met with solar then the project would be eligible for the 1% increase in lot coverage.

**Comm. Hungerford** discussed with staff the minimum density, with City policy being that a site should be built at least 75% of what the zoning would permit, which would be a minimum of four or five units for this project, where six are allowed.

**Comm. McKenna** asked staff further about the garage height with staff replying that this is a level of detail that would come later.

**Comm. Hungerford** commented that he thought the height of the project was set and if the garage needed more height that the result would be digging deeper. Staff said there are some risks involved with planning approvals as the fine engineering has not been done.

**Comm. McKenna** commented that she thinks this project is too much for this site.

**Comm. Hungerford moved for Alternative 3 to deny the Special Development Permit, Variance, and Tentative Map. Comm. McKenna seconded the motion.**

**Comm. Hungerford** said that he thinks there are too many units for the size and configuration of the lot, that there are privacy issues, and that he does not care for the architecture, which is a subjective issue.

**Comm. McKenna** said she agrees with Comm. Hungerford, and likes the architecture, but does not think it fits the neighborhood. She said she likes the green building plans, but this is too much for the property. She said the garbage cans will also be an impact.

**Comm. Travis** said he has flip-flopped on his thoughts about this project. He said he likes a lot of the aspects of this project, and cannot get around the privacy issue. He said if this proposal were for four units he could support it.

**Comm. Sulser** said he has problems with the project and would be supporting the motion due to the privacy issues for the neighbors. He said he likes the architecture and the green building proposed.

**Vice Chair Chang** said he agrees there are privacy and security issues and thinks these can be mitigated. He said he can make the three findings and would not be supporting the motion. He said the project is good and it could be modified to meet the neighbors' and applicant's wants.

**Chair Rowe** said she feels there were some unanswered questions regarding height of the catwalk and privacy issues, and that beauty is in the eye of the beholder regarding the architecture. She said she has concerns about straight walls, and her main concern is the applicant is trying to get too many houses on a small lot. She said that she thinks this project needs some reworking.

**ACTION: Comm. Hungerford made a motion on 2008-1259 to deny the Special Development Permit, Variance, and Tentative Map. Comm. McKenna seconded. Motion carried, 5-1, with Vice Chair Chang dissenting, and Comm. Klein absent.**

**APPEAL OPTIONS: This action is final unless appealed to the City Council no later than April 28, 2009.**