



**CITY OF SUNNYVALE  
REPORT  
Administrative Hearing**

**July 30, 2008**

**SUBJECT:**           **2008-0238 - Dale Meyer Associates** [Applicant] **127-137 California St Townhomes LLC** [Owner]: Application for a property located at **127-137 W. California Avenue** (near N. Murphy Ave.) in an R-3 (Medium Density Residential) Zoning District.

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

**REPORT IN BRIEF**

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

**Surrounding Land Uses**

North                   Apartment complex

South                   Single family homes

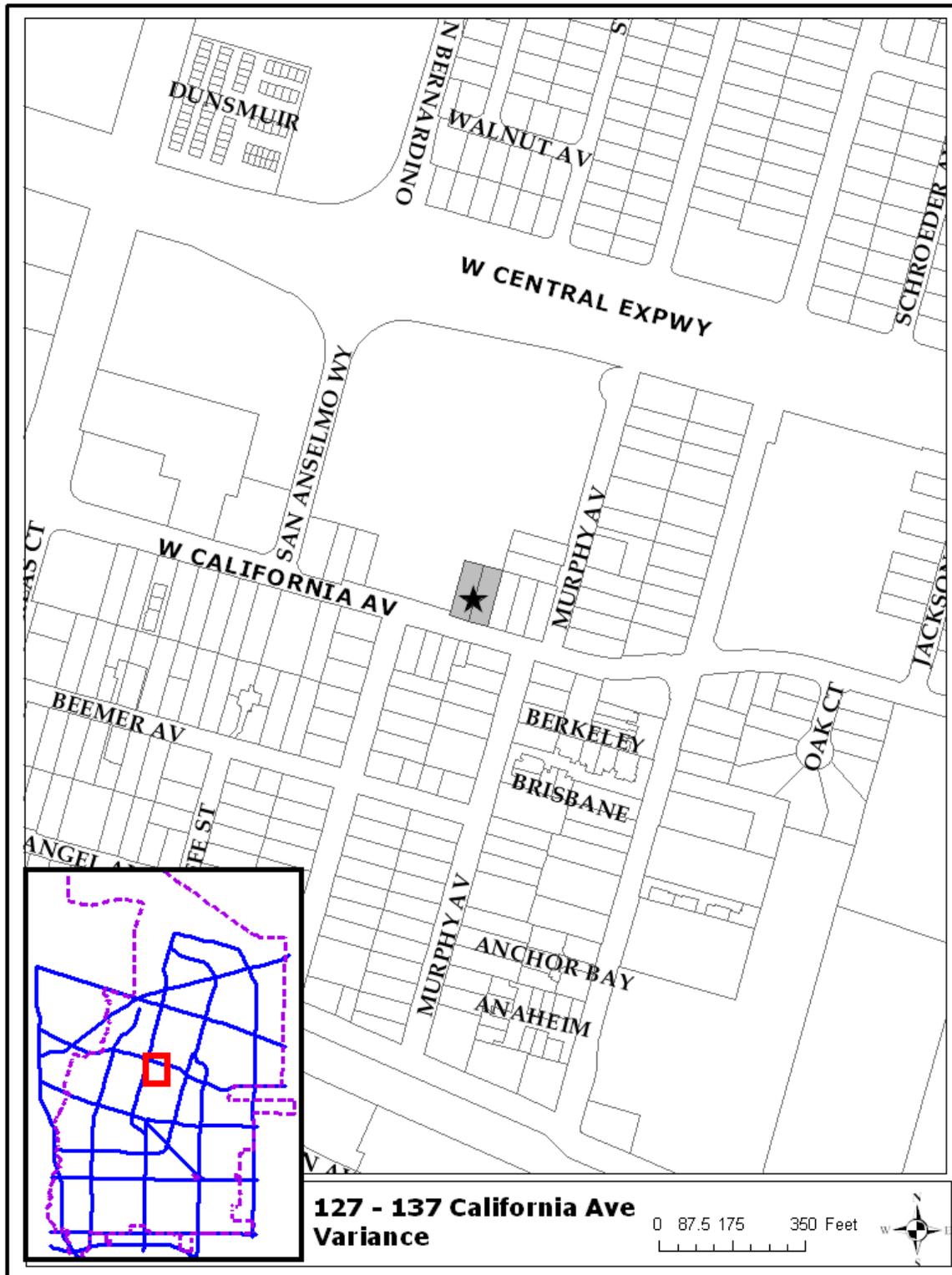
East                    Single-family home

West                   Apartment complex

**Issues**                   Visual impacts, safety

**Environmental Status**           A Class 5 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines.

**Staff Recommendation**           Approval with conditions



**PROJECT DATA TABLE**

	<b>EXISTING</b>	<b>PROPOSED</b>	<b>REQUIRED/ PERMITTED</b>
<b>General Plan</b>	Residential High Density	Same	Residential High Density
<b>Zoning District</b>	R-3	R-3/PD	By Re-zone
<b>Lot Size (s.f.)</b>	12,278	Same	8,000 min.
<b>Gross Floor Area (s.f.)</b>	3,220	10,447	No max.
<b>Lot Coverage (%) (including garages/carports/sheds)</b>	30 % approx.	34 %	40% max.
<b>Floor Area Ratio (FAR)</b>	30% approx.	85%	No max.
<b>No. of Units</b>	6	5	6 max.
<b>Setbacks (First/Second story)</b>			
<b>Front (facing California Avenue)</b>	20'4"	9'6" (as measured from porch support columns) / 15' (to the face of the building)  <b>Per PC Approval of RZ/SDP/TM application 2008-0238</b>	20' min.
<b>Left Side</b>	5'10"	7'6"/10'6"  <b>Per PC Approval of RZ/SDP/TM application 2008-0238</b>	**12' min. (24' combined)
<b>Right Side</b>	6'	7'6"/10'6"  <b>Per PC Approval of RZ/SDP/TM application 2008-0238</b>	**12' min. (24' combined)
<b>Rear</b>	46'	20'	20' min.

<b>Landscaping (sq. ft.)</b>			
<b>Total Landscaping</b>	2,209	3,035	2,125 min.
<b>Landscaping/Unit</b>	368	607	425 min.
<b>Usable Open Space/Unit</b>	Unknown	485	400 min.
<b>Frontage Width (ft.)</b>	10'	15 ft.	15 ft. min.
<b>Parking</b>			
<b>Total Spaces</b>	8	13	13 min.
<b>Covered Spaces</b>	Unknown	10	10 min.
<b>Guest parking spaces</b>	Unknown	3	3 min.
<b>Aisle Width (ft.)</b>	20	24	24 min.

★ Starred items indicate deviations from Sunnyvale Municipal Code requirements.

## **ANALYSIS**

### **Description of Proposed Project**

This Variance application is part of a larger project that includes the demolition of the six existing apartment units at the site and construction of five new townhomes. A Rezone, Special Development Permit and Tentative Map application (2008-0238) for the subject site was approved by the Planning Commission on June 9, 2008 with a condition requiring that a Variance for individual trash enclosures be approved prior to the project being reviewed by City Council. Sunnyvale Municipal Code Section 19.38.030 requires a centralized trash enclosure for residential developments of four or more units. Since the subject project proposes 5 townhome units and the applicant is proposing individual solid waste and recycling carts, a Variance approval is required to allow deviation from the code requirement.

### **Background**

**Previous Actions on the Site:** There are no previous planning actions related to the site other than the Planning Commission action on the townhouse proposal.

**Environmental Review**

A Class 5 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines. Class 5 Categorical Exemptions include minor alterations in land use limitations such as variances and lot line adjustments which do not result in any changes to land use or density.

**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 a centralized enclosure. The applicant states that for this particular development a centralized location is not appropriate and would detract visually and functionally from the project (see Variance Justifications, Attachment D). Additional garage area has been provided to accommodate storage area for individual trash and recycling bins.

The Solid Waste Division of Public Works staff reviewed the plans and has stated that a centralized location is discouraged for the proposed development due to lot size constraints that impact the ability of trucks to access the rear of the site. Locating a trash enclosure in front of the units is not desirable given its visibility to the public street. Furthermore, a location at the rear of the site is not ideally accessible and would result in loss of parking spaces. Staff also finds that a front entrance location for a centralized enclosure would result in a deviation from front yard setbacks along California Avenue. Furthermore, a loss of landscaping and open space for the site would also result.

Staff noted that most homes along California Avenue are single-family residential units and hence do not have a centralized trash enclosure. Typically, the residents roll out their individual recycling and solid waste bins to the sidewalk on the designated trash collection day.

The site plan submitted by the applicant indicates that the staging area for trash and recycling carts would occupy portions of the sidewalk that are a maximum of 2'3" wide. This leaves approximately 4' or more of the sidewalk available for pedestrian circulation which complies with ADA requirements for handicapped access. Staff consulted with the Solid Waste Division staff who confirmed that they had no concerns regarding the proposed location of carts on the sidewalk.

A similar variance request was reviewed and approved by Council on January 29, 2007. The variance was also for individual trash enclosures for eight townhome units for a property located at 185 South Bernardo Avenue (2002-1107). The property at 185 S. Bernardo was similar to the subject property in terms of lot size and lot width constraints.

***Variance Findings:*** In order to approve a Variance at the subject site the following findings must be made:

- *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.* As discussed previously, the size and width of the subject property limit the ability of the property owner to meet the centralized trash enclosure requirement.
- *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.* Approval of the Variance for individual trash and recycling bins would have little or no impact to nearby developments if maintained and regulated appropriately by the Homeowners Association. Staff has included a condition of approval requiring that individual trash and recycling carts shall be stored inside the garage on all days of the week except on the designated trash collection day.
- *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.* Staff found that this particular project site has a number of limitations in terms of lot size, lot width and layout of the proposed townhomes that impact the ability of trucks to access the rear of the site. Moreover, the neighborhood contains a mix of developments that contain either a centralized trash and recycling enclosure or individualized bins.

**Compliance with Development Standards/Guidelines:** Overall, the project site meets most development standards except for front and side yard setback requirements (setback deviations have been reviewed as part of the associated permit application for the RZ/SDP/TM project). The lack of a centralized trash enclosure requires the approval of a Variance since it is not one of the possible deviations that can be considered with an SDP.

**Expected Impact on the Surroundings:** Impacts on the surrounding neighborhood will be minimal since the project has been designed with sufficient area in the garage designated for storage of individual trash and recycling carts. Many of the existing single family homes on the street already have individual trash enclosures. The carts are likely to be readily visible from the public street one day a week when they are rolled out to the sidewalk for collection of trash. The carts would only be permitted along this street on the days they are to be serviced. To ensure that carts are not stored outdoors at all times, staff has included a condition of approval requiring that individual trash and recycling carts shall be stored inside the garage on all days of the week except on the designated trash collection day.

### **Fiscal Impact**

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

### **Public Contact**

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<b>Notice of Public Hearing</b>	<b>Staff Report</b>	<b>Agenda</b>
<ul style="list-style-type: none"> <li>• Published in the <i>Sun</i> newspaper</li> <li>• Posted on the site</li> <li>• 76 notices mailed to property owners and residents adjacent to 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 based on the justifications for the Variance. Findings and General Plan Goals are located in Attachment A.

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

## **Alternatives**

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1. Approve the Variance application with attached conditions.
2. Approve the application with modified conditions.
3. Deny requested Variance

## **Recommendation**

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Staff recommends Alternative 1.

Prepared by:

**Surachita Bose**

Project Planner

Reviewed by:

**Andrew Miner**

Principal Planner

Attachments:

- A. Recommended Findings
- B. Recommended Conditions of Approval
- C. Site and Architectural Plans
- D. Variance Justifications submitted by the applicant
- E. Minutes from the Planning Commission Hearing dated June 9th, 2008

## **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*).

Staff found that this particular project site has a number of limitations in terms of lot size, lot width and layout of the proposed townhomes that impact the ability of trucks to access the rear of the site. To design the project with a centralized trash enclosure the applicant would have to either lose a townhome unit (which would reduce the density below 75% minimum) or place the enclosure in front of the buildings which is not a desirable design option.

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 and recycling bins would have little impact to nearby development if maintained and regulated appropriately by the Homeowners Association. Staff has included a condition of approval requiring that individual trash and recycling carts shall be stored inside the garage on all days of the week except on the designated trash collection day.

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 multi-family developments contain a centralized enclosure while smaller developments such as single-family units and duplexes do not. Staff found that this particular project site has a number of limitations in terms of lot size, lot width and layout of the proposed townhomes that impact the ability of trucks to access the rear of the site. Furthermore, a location at the rear of the site is not ideally accessible and would result in loss of parking spaces. Alternatively, locating a trash enclosure in front of the units is not desirable given its visibility to the public street. Staff also finds that a front entrance location for a centralized enclosure would result in a deviation from front

yard setbacks along California Avenue. Furthermore, a loss of landscaping and open space for the site would also result. Hence, the size limitations and design constraints on the site establish that no special privileges are being granted to the subject property owner by the granting the Variance request for individual trash enclosures. A similar variance request was reviewed and approved by Council on January 29, 2007. The variance was also for individual trash enclosures for eight townhome units for a property located at 185 South Bernardo Avenue (2002-1107). The property at 185 S. Bernardo was similar to the subject property in terms of lot size and lot width constraints.

**Recommended Conditions of Approval - Variance**

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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. The conditions of approval on the subject Variance application shall apply in addition to all conditions of approval associated with RZ/SDP/TM permit 2008-0238.
- B. The Variance for the use shall expire if the use is discontinued for a period of one year or more.
- C. The Variance 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.

**2. RECYCLING AND SOLID WASTE**

- A. Submit a detailed recycling and solid waste disposal plan to the Director of Community Development for approval.
- B. There shall be no exterior storage of recycling and solid waste on the site. All waste material shall be confined to approved receptacles and enclosures and stored within the designated area located inside the garage.
- C. Individual trash and recycling carts shall be stored inside the garage on all days of the week except on the designated trash collection day.











# VARIANCE JUSTIFICATIONS

All three of the following findings must be made in order to approve a Variance application.

The Sunnyvale Municipal code states that all three of the following justifications must be met before granting the Variance. Please provide us information on how your project meets **all** of the following criteria.

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 of privileges enjoyed by other properties in the vicinity and within the same zoning district.

SEE ATTACHED SHEET

AND

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.

SEE ATTACHED SHEET

AND

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.

SEE ATTACHED SHEET.

If you need assistance in answering any of these justifications, contact the Planning Division staff at the One-Stop Permit Center.

CITY OF SUNNYVALE  
VARIANCE JUSTIFICATIONS  
For  
127 & 133 West California Avenue

1. The property is not large enough to accommodate a trash or recycling truck to pick up trash in a community trash area on the property and turn around to drive off of the property. The project is proposing each unit having their own trash and recycling bins stored in their garage. The Owner of each unit will roll their bins on to the sidewalk in front of the property for the trash and recycling trucks to pick it up. We have
2. There is a 4 foot clear of sidewalk, as required by the City, with the trash bins on the sidewalk for people to walk by. This would be in keeping with the same system utilized by the other single family residences in the neighborhood.
3. The Variance would allow each Owner to dispose of their trash and recycle within their own homes much like a single family home would do similar to the other single family homes in the neighborhood.

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

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

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

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

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

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

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

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

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

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

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

**Chair Sulser opened the public hearing.**

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

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

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

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

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

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

**Chair Sulser closed the public hearing.**

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

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

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

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

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

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

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

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

**Chair Sulser reopened the public hearing.**

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

**Chair Sulser closed the public hearing.**

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

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

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

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

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