



REPORT TO PLANNING COMMISSION

Hearing Date: September 23, 2013

FILE #: 2013-7522

Location: **435 Toyama Drive**
(APN: 110-14-057)

Proposed Project: **Special Development Permit** to allow the development of 17 townhome units; including the removal of an existing light industrial building.
Vesting Tentative Map to subdivide one property into 17 condominium lots and six common lots.

Applicant / Owner: Classic Communities / Adam Kates

Environmental Review: Categorical Exemption

Staff Contact: David Hogan, (408) 730-7637,
dhogan@sunnyvale.ca.gov

REPORT IN BRIEF:

General Plan: Industrial-to-Residential

Zoning: MS/ITR/R-3/PD

Existing Site Conditions One single-story light industrial building with outdoor storage area.

Surrounding Land Uses

North	Residential, Apartments
South	Residential, Townhomes (across Toyama Drive)
East	Research and Development
West	Residential, Townhomes

Issues Deviations for required minimum yards, distance between buildings, and solar access.

Environmental Status The project is Categorically Exempt (Class 32, Infill Development).

Staff Recommendation Approve with Conditions

BACKGROUND:

The proposed project includes the demolition of an existing 8,000 square foot light industrial building and the construction of 17 townhouse dwellings. There are no relevant previous actions at the site.

Preliminary Review

The project applicant submitted an application for preliminary review on April 17, 2013. The proposed plans were reviewed by various departments to identify issues that may affect the site design and layout. The initial design included 18 three bedroom units each with individual townhouse lots, private backyards and individual driveway aprons. During the preliminary review staff indicated concern about the architecture, the integration of this project with the adjacent site located at the corner of Morse Avenue and Toyama Drive, and the lack of landscaping. The only change that was made to project was the widening of the access drive to meet the requirements of the Fire Department.

Planning Commission Study Session

A Planning Commission Study Session was held on August 12, 2013. During the session the Commissioners requested that the applicant modify the project to reduce the number of Code deviations and modify the proposed color palette. In order to provide sufficient time to modify the project to incorporate the feedback provided by the Commission members, the project was continued to the September 23, 2013 meeting. In response to the comments of the Planning Commission, the project was reduced from 18 units to 17 units.

DISCUSSION:

Project Description

The proposed project includes the demolition of the two existing structures and the construction of 14 three-bedroom townhouse units and 3 four-bedroom townhouse units. All of the units are three-stories and will have a two-car garage. Access to the garages is provided via a private access drive that loops internally through the site and connects to Toyama Drive via two driveways. The Vicinity Map is located in Attachment A.

The proposed project includes the development of four residential buildings, landscaping, and uncovered guest parking. The number of units per building varies from three to seven. Thirteen of the units will have private fenced rear yards. Four of the units have the entrance to front door facing Toyama Drive. The Data Table for the project is located in Attachment B. The site plan and architectural information is located in Attachment E.

Requested Permit(s)

The proposed project, including the demolition of the existing light industrial/warehouse structure, grading of the site, and the construction of 17 townhouse units, requires the following City permits.

- **Special Development Permit**

A Special Development Permit (SDP) is required for site and architectural review to allow the development of 17 residential units located within the MS/ITR/R-3/PD Zoning District.

- **Vesting Tentative Map**

The proposed project requires a Vesting Tentative Map to subdivide the area to allow for future development of residential units. The purpose of the Vesting Tentative Map is to entitle the project shown on the site plans, by displaying the location of lot lines for buildings, streets (public or private), etc., and displaying areas of future ownership lots. As indicated on the plans, a total of 17 residential units are proposed. The Vesting Tentative Map vests the developer’s right to build the project for the life of the map. It also secures the approved project against future Sunnyvale Municipal Code (SMC) changes by the City that might otherwise affect the project.

ANALYSIS:

Site Layout

The proposed project includes the development of four residential buildings clustered around a “U” shaped access drive. Three of the buildings are adjacent to Toyama Drive while the fourth building is located along the rear property line. Front entries for the residences will be located adjacent to the garage door for a majority of the units. The project will provide a centralized trash enclosure near Unit 12. The project will also install new curb, gutter and sidewalk improvements along Toyama Drive.

Architecture

The proposed development will consist of four buildings containing between three and seven units. The buildings have been designed in a Craftsman style vernacular, using horizontal and shingle siding, stone base material and carriage style garage doors. The proposed architectural style, massing and architecture will complement the adjacent residential uses. The proposed architecture is identical to the adjacent Toyama I project, though the color scheme has been modified to differentiate the projects. The site and architectural plans are located in Attachment E.

Development Standards

Compliance with the requirements of the Zoning Code is demonstrated in the Project Data Table located in Attachment C. A General Plan policy states that residential projects should be developed at least at 75% of the maximum density specified in the General Plan or 18 dwelling units per acre in this case.

To satisfy this requirement, a 0.87 acre site would require the construction of at least 16 units. The applicant is currently proposing the construction of 17 units with a density of 19.5 units per acre.

• **Requested Deviations**

This proposed project is similar in layout and style to an earlier adjacent project (Toyama I) located at the corner of Morse Avenue and Toyama Drive. When approved by the Planning Commission, the Toyama I project required 8 deviations. Based upon feedback by the Planning Commission, modifications were made to the subject project. As a result the current project will require five deviations as opposed to eight deviations for the previous project. A comparison of the deviations approved for the Toyama I project and the requested deviations for the Toyama II project is contained in Attachment F. The following items are the requested deviations from the proposed project. Note that two of the requested deviations are for minor one-foot reductions.

Required Front Yard Setbacks

The applicant is proposing to reduce the front yard setback for the two street-facing balconies for Units 11 and 14 from 15 feet to 14 feet. The setback to exterior walls of the buildings facing Toyama Drive is proposed to be 20 feet. The project complies with the average setback requirement. The requested deviation is for a one foot reduction in the front setback for the edge of the balconies.

Required Side Yard Setbacks

The applicant is proposing to reduce the side yard setbacks on both sides of the project from 12 feet to 8 feet 2 inches. This deviation is proposed for Units 8 through 10 and 15 through 17. The four foot reduction in the side yard setback would occur over about one third of the width of each unit (about 8 linear feet of the 25 linear feet width of the units). The remaining portions of the building maintain the 12-foot minimum required yard.

Required Rear Yard Setback

The applicant is proposing to reduce the rear yard setback from 20 feet to 16 feet 2 inches. This Deviation is proposed for Units 1 through 7. The four foot reduction in the rear yard setback would occur over about one third of the width of each unit (about 8 linear feet of the 25 linear feet width of the units). The remaining portions of the building maintain the 20-foot minimum required yard.

Distance between Buildings

The Code requires a minimum separation distance of 26 feet between buildings. This request for a deviation is for a one-foot reduction between the sides of Units 8 and 17 and the edge of the small second floor balcony for units 7 and 1. The deviation is for a one foot reduction from the stairway side of the facing building to the edge of a small second floor balcony.

Solar Access Shading

The adjacent project consists of 7 three-story apartment buildings, a two-story leasing/recreation building located in the center of site, and sixteen one-story carport covers. The adjacent site was developed with a deviation that allowed the carports to be about 4 feet from the property line. The Solar Access Analysis for the proposed project indicates that the roofs of two of the one-story carport structures located on the adjacent apartment project will be shaded by shadows from the building located along the north side of the project. Portions of these carport roofs are already affected by adjacent landscaping. The roof top shading constitutes less than 10% of the total carport roof top area and about 2% of the total roof area for the entire adjacent residential project. The proposed project would not affect the existing solar access to the remaining structures. There are currently no roof mounted solar energy or solar water heating systems on the affected carport roofs. Consequently the proposed project will not eliminate or substantially reduce the ability of the adjacent property to have access solar energy.

The proposed deviations are appropriate for this type of development, allow the project to comply with the General Plan minimum density provision and provide home ownership housing. Staff finds that the deviations create a better or more livable project. Two of the deviations are for reductions of only one-foot below the standard. The deviation for solar access is difficult for small site adjacent to one-story carports near the property line.

- **Circulation/Parking**

Project access from Toyama Drive will be provided via two 26-foot wide private drives that connect to an east-west drive aisle in the interior of the project. The “U-shaped” drive provides the access to the private garages, the guest parking spaces, as well as provide access for emergency vehicles. Two enclosed parking spaces are provided for each unit along with 9 uncovered unassigned parking spaces that are located in the interior of the project.

- **Landscaping and Tree Preservation**

A tree inventory was prepared by a consulting arborist. The survey identified 20 trees onsite. One of the trees meets the definition of a protected tree having circumferences of 38 inches or greater (as measured 4.5 feet above the ground surface). The tree eligible for protection under the Zoning Code is a Hollywood Juniper located along the western property line. The Study also indicated that there are 8 small redwood trees (originally planted to screen an outside storage area), two sweetgum trees (in front of the building) in area of the proposed curb, gutter and sidewalk improvements, and a variety of junipers and other trees around the existing building. The project plans to protect only the Chinese Pistache (#10) tree located in the right-of-way. This tree will be incorporated into the parkway landscaping. This requirement is included in the conditions of approval.

The proposed Landscape Plan is incorporates a variety of trees, shrubs and groundcover over about 23% of the site. The Landscape Plan includes the 2 36-inch box trees (in the right-of-way), 24 24-inch box trees, and 11 15-gallon trees to replace the 19 trees removed from the site and right-of-way. All of the proposed plant materials are identified as being either Moderate or Low Water Use species. No turf areas are proposed within the common landscaped areas of the project.

The proposed parkway landscaping does not match the parkway landscaping for the recently completed Toyama I project. For continuity in the neighborhood, staff has conditioned the project to modify the landscape plans to conform to the parkway landscaping design previously constructed along Toyama Drive west of the site (e.g. Toyama I). If the Planning Commission agrees with staff's recommendation, the modified parkway landscaping will require the planting of between four to six additional 36-inch box trees as street trees.

ENVIRONMENTAL REVIEW

The proposed project meets the definition for a Class 32 Categorical Exemption under the California Environmental Quality Act (CEQA). Class 32 Categorical Exemptions are for infill development projects that will not result in any significant effects relating to traffic, noise, air quality or water quality. The site must also be less than 5 acres in size and consistent with the adopted General Plan and zoning requirements. The proposed project is also below the thresholds to require a traffic study or air quality analysis. Water quality will be treated through a required stormwater management plan. As a result staff is recommending that the Commission find that the project is consistent with the California Environmental Quality Act pursuant to the provisions of Section 15332 of the CEQA Guidelines.

FISCAL IMPACT

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

PUBLIC CONTACT

Staff has not received any comments of concern regarding the proposed project.

Notice of Negative Declaration and Public Hearing	Staff Report	Agenda
<ul style="list-style-type: none"> • Published in the <i>Sun</i> newspaper • Posted on the site • 83 notices mailed to the property owners and tenants within 300 ft. of the project site 	<ul style="list-style-type: none"> • Posted on the City of Sunnyvale's Website • Provided at the Reference Section of the City of Sunnyvale's Public Library 	<ul style="list-style-type: none"> • Posted on the City's official notice bulletin board • City of Sunnyvale's Website

CONCLUSION

The proposed project is consistent with the General Plan and is compatible with the surrounding area. The project will build 17 attached ownership townhomes with two-car garages. The proposed deviations are appropriate for this type of development, allow the project to comply with the General Plan, and create a better and more livable project. Two of the deviations are for reductions of only one-foot below the code standard. These deviations include:

- Front Yard Setback;
- Side Yard Setbacks;
- Rear Yard Setback;
- Distance between Buildings; and
- Solar Access.

Staff was able to make the required Findings based on the justifications for the Permit. Recommended Findings of consistency with the General Plan Goals and Policies and with the requirements for a tentative map are located in Attachment C. The Conditions of Approval are located in Attachment D.

ALTERNATIVES

1. Approve the Special Development Permit and Vesting Tentative Map subject to the attached conditions.
2. Approve the Special Development Permit and Vesting Tentative Map with modified conditions.
3. Deny the Special Development Permit and Vesting Tentative Map.

RECOMMENDATION

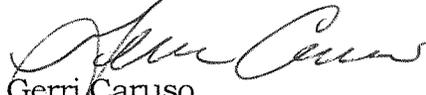
Alternative 1: Approve the Special Development Permit and Vesting Tentative Map subject to the attached conditions.

Prepared by:



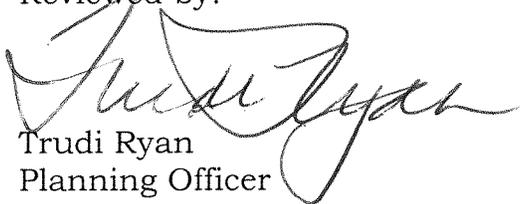
David Hogan
Senior Planner

Reviewed by:



Gerri Caruso
Principal Planner

Reviewed by:

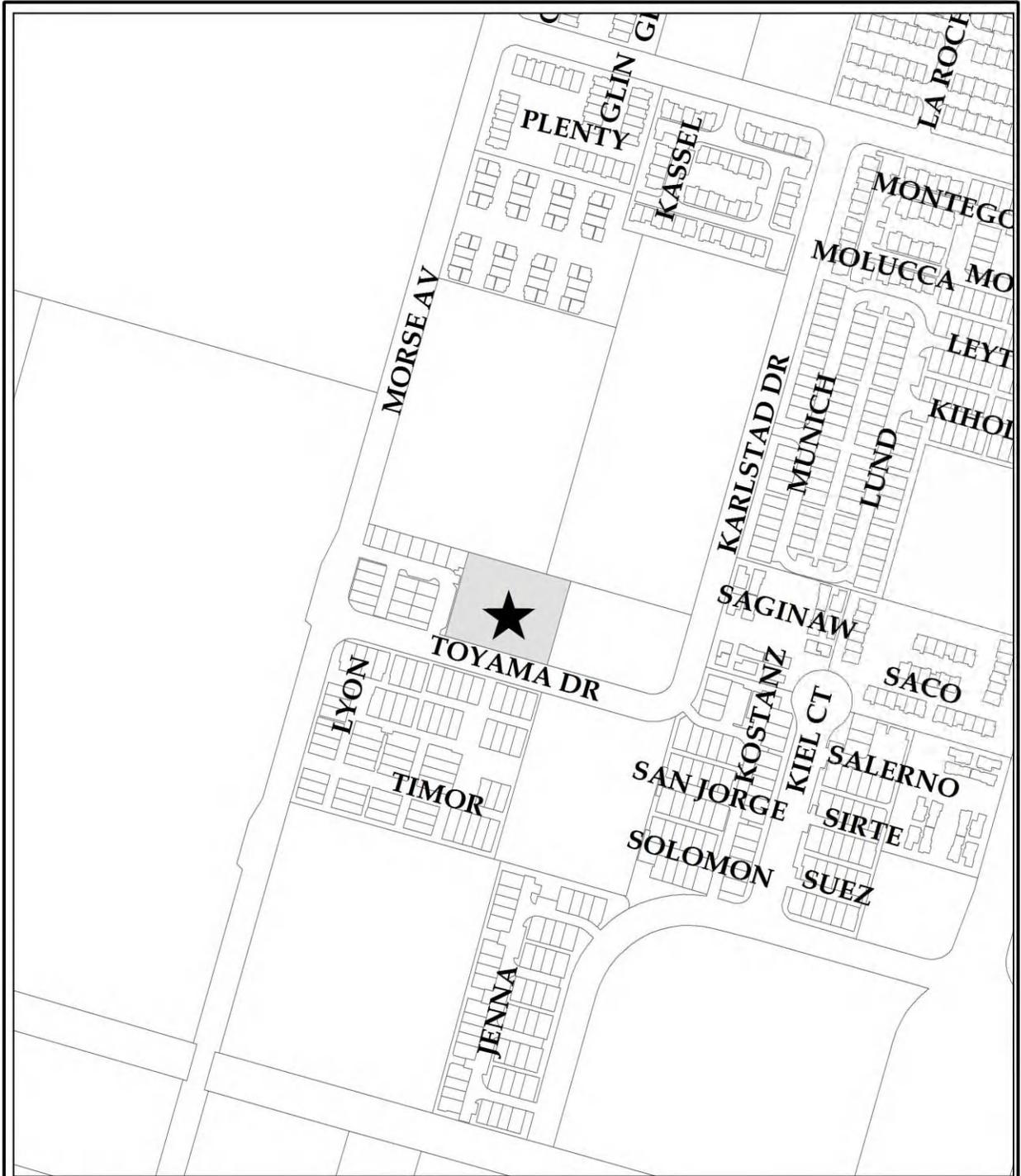


Trudi Ryan
Planning Officer

Attachments

- A. Vicinity Map
- B. Data Table
- C. Recommended Findings
- D. Recommended Conditions of Approval
- E. Site, Architectural, and Landscape Plans
- F. Comparison of Deviations with the Toyama I Project

VICINITY MAP



2013-7522
435 Toyama Dr.,
Special Development Permit | Vesting Tentative Map

0 3060 120 Feet
[Scale bar]



PROJECT DATA TABLE

	EXISTING	PROPOSED	REQUIRED/ PERMITTED
SITE CHARACTERISTICS			
General Plan Land Use Designation	Industrial-to-Residential (Medium Density)	Same	Same
Zoning District	MS/ITR/R-3/PD	Same	Same
Lot Area	One parcel of 37,800 sq. ft. (0.87 acres)	17 residential lots ranging from 1,075 to 2,232 sq. ft. and 6 common area parcels	Special Development Permits allow lot sizes smaller than the 1,800 sq. ft. in the R-3 Zone
Gross Floor Area	8,000 sq. ft.	35,144 sq. ft.	No requirement
Floor Area Ratio (FAR)	0.22	0.93	No requirement
Lot Coverage	20.2%	29.6%	40% maximum
RESIDENTIAL DENSITY			
Number of Units	None	17 Townhomes	21 units maximum
Residential Density	N/A	19.5 d.u./ac	24 d.u./ac maximum
Meets 75% min?	N/A	Yes	At least 18 d.u./ac
BUILDING CHARACTERISTICS			
Number of Buildings On-Site	N/A	4	No requirement
Separation Distances Between Buildings	N/A	25 ft.	26 ft. minimum
Building Height	N/A	35 ft. 1.5 in.	40 ft. maximum with a GPR* > 110
No. of Stories	N/A	3	3 maximum (for Townhomes)
Bedrooms/Unit	N/A	14 Three-bedroom 3 Four-bedroom	No requirement
Unit Sizes (including the garages)	N/A	5 Floor plans, from 1,924 sq. ft. to 2,408 sq. ft.	No requirement
Lockable Storage	N/A	In 2-car garages	300 cu. ft. minimum
Maximum Distance to Trash Enclosure	N/A	140 ft. +/-	150 ft. maximum

GPR* = GreenPoint Rating



	EXISTING	PROPOSED	REQUIRED/ PERMITTED
BUILDING SETBACKS			
★ Street Front (South)	N/A	14 ft.	15 feet minimum
Front Average	N/A	51 ft.	20 feet average
★ Left Side (West)	N/A	8 ft. 2 in.	12 feet minimum
★ Right Side (East)	N/A	8 ft. 2 in.	12 feet minimum
★ Rear (North)	N/A	16 ft. 2 in.	20 feet minimum
LANDSCAPE REQUIREMENTS			
Landscaping per Unit	N/A	605 sq. ft./unit (10,301 sq. ft.)	425 sq. ft. min/unit (7,225 sq. ft.)
Usable Open Space per Unit	N/A	458 sq. ft./unit (7,790 sq. ft.)	400 sq. ft. min/unit (6,800 sq. ft.)
Width of Street Frontage Landscape	N/A	15 ft.	15 ft. minimum
Parking Lot Area Shading	N/A	79%	50% minimum (after 15 years)
Water Conserving Plants	N/A	86.6%	80% + limit turf, or provide water budget
Areas Planted with Turf	N/A	0% (0 sq. ft.)	No more than 25% total landscaping
PARKING REQUIREMENTS			
Total Spaces	N/A	43	43
Resident Spaces	N/A	34	34
Guest Spaces	N/A	9	9
Covered Spaces	N/A	34 (Enclosed)	34 minimum
Accessible Spaces	N/A	1	Per ADA requirements
Bicycle Parking	N/A	31 (Located in the private garages)	5 (1 secured space for every four units)
STORMWATER			
Impervious Surface Area	22,400 sq. ft.	24,081 sq. ft.	No requirement
Impervious Surface (%)	59%	65.1%	No requirement

★ Starred items indicate Deviations from Sunnyvale Municipal Code requirements.

RECOMMENDED FINDINGS

Special Development Permit

In order to approve a Special Development Permit, the proposed project must meet the following findings.

- 1. The proposed project attains the objectives and purposes of the General Plan, or other specialized plan for the City of Sunnyvale (SMC 19.90.050(a)). [Finding Met]**

Staff can make the finding that the project meets General Plan Policies, as listed below. The project is located in an area designated for the transition from industrial to residential land uses. The project has been designed to meet most of the required development standards, provides for additional homeownership, and provides two below market units.

Land Use and Transportation Element

Policy LT-2.1: Recognize that the City is composed of residential, industrial and commercial neighborhoods, each with its own individual character; and allow change consistent with reinforcing positive neighborhood values.

Policy LT-3.2 Encourage the development of ownership housing to maintain a majority of housing in the city for ownership choice.

Policy LT-3.4 Determine appropriate density for housing based on site planning opportunities and proximity to services.

Policy LT-4.2 Require new development to be compatible with the neighborhood, adjacent land uses, and the transportation system.

Community Character Element

Policy CC-2.1 Maintain and provide attractive landscaping in the public right-of way to identify the different types of roadways and districts, make motorists more comfortable and improve the enjoyment of residential neighborhoods.

Policy CC-3.1 Place a priority on quality architecture and site design, which will enhance the image of Sunnyvale and create a vital and attractive environment for businesses, residents and visitors, and be reasonably balanced with the need for economic development to assure Sunnyvale's economic prosperity.

Policy CC-3.2 Ensure site design is compatible with the natural and surrounding built environment.

- 2. The proposed project 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 (SMC 19.90.050(a). [Finding Met]**

The design and appearance of the proposed project will contribute toward the general improvement of the surrounding Industrial-to-Residential area. The quality of the architecture and the design is a positive contribution to the character of the surrounding area. The design is consistent and/or compatible with the design of other recently constructed projects. The proposed project will not impair the development of any adjacent sites that may eventually transition from industrial to residential use.

Vesting 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 Vesting Tentative Map.

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

**RECOMMENDED
CONDITIONS OF APPROVAL AND
STANDARD DEVELOPMENT REQUIREMENTS**

SEPTEMBER 23, 2013

Planning Application 2013-7522
435 Toyama Drive

**Special Development Permit for the development of 17 townhouse units
and a Vesting Tentative Map.**

The following Conditions of Approval [COA] and Standard Development Requirements [SDR] apply to the project referenced above. The COAs are specific conditions applicable to the proposed project. The SDRs are items which are codified or adopted by resolution and have been included for ease of reference, they may not be appealed or changed. The COAs and SDRs are grouped under specific headings that relate to the timing of required compliance. Additional language within a condition may further define the timing of required compliance.

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 and Standard Development Requirements of this Permit:

GC: THE FOLLOWING GENERAL CONDITIONS AND STANDARD DEVELOPMENT REQUIREMENTS SHALL APPLY TO THE APPROVED PROJECT.

GC-1. CONFORMANCE WITH APPROVED PLANNING APPLICATION:

All building permit drawings and subsequent construction and operation shall substantially conform with the approved planning application, including: drawings/plans, materials samples, building colors, and other items submitted as part of the approved application. Any proposed amendments to the approved plans or Conditions of Approval are subject to review and approval by the City. The Director of Community Development shall determine whether revisions are considered major or minor. Minor changes are subject to review and approval by the Director of Community Development. Major changes are subject to review at a public hearing. [COA] [PLANNING]

GC-2. PERMIT EXPIRATION:

The 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. [SDR] [PLANNING]

GC-3. INDEMNITY:

The applicant/developer shall defend, indemnify, and hold harmless the City, or any of its boards, commissions, agents, officers, and employees (collectively, "City") from any claim, action, or proceeding against the City to attack, set aside, void, or annul, the approval of the project when such claim, action, or proceeding is brought within the time period provided for in applicable state and/or local statutes. The City shall promptly notify the developer of any such claim, action or proceeding. The City shall have the option of coordinating the defense. Nothing contained in this condition shall prohibit the City from participating in a defense of any claim, action, or proceeding if the City bears its own attorney's fees and costs, and the City defends the action in good faith. [COA] [OFFICE OF THE CITY ATTORNEY]

GC-4. ON-SITE AMENITIES:

Swimming pools, pool equipment structures, play equipment and other accessory utility buildings, except as otherwise subject to Planning Commission review, may be allowed by the Director of Community Development subject to approval of design, location and colors. [COA] [PLANNING]

GC-5. BMR UNITS (OWNERSHIP):

The approved project is subject to the City's Below Market Rate (BMR) requirements as set forth in Sunnyvale Municipal Code Chapter 19.66, pursuant to the procedures established in the Administrative Procedures, as may be amended. The project will provide at least 2.125 three-bedroom Below Market Rate dwelling units, or pay the in-lieu fee, in compliance with the BMR requirements set forth in the SMC and the Administrative Procedures (SMC 19.66.020(c)). [SDR] [HOUSING]

GC-6. TEMPORARY TRAILERS:

Temporary sales trailer(s) on the site shall be subject to separate review and approval by the Director of Community Development. Plans for temporary trailers shall include the following:

- a) Trailers shall be placed on the premises not sooner than 15 days following the date of final project approval by the City and shall be removed no later than 30 days after the final unit is sold;
- b) Trailer entrances shall be oriented toward the nearest building;
- c) Area lighting shall be provided in the vicinity of temporary trailers. [COA] [PLANNING]

GC-7. PUBLIC IMPROVEMENTS:

The developer is required to install all public improvements as required by Sunnyvale Municipal Code (SMC) section 18.08, including but not limited to: curb & gutter, sidewalks, driveway approaches, curb ramps, street pavements, utility extensions and connections, meters/vaults, trees and landscaping, traffic signal/signs, striping, street lights, etc.) prior to occupancy as required by the Director of Public Works. All public improvement plans shall be submitted to and be approved by the Department of Public Works per Sunnyvale Municipal Code (SMC) section 13.08.60. All public improvements shall be installed per City's design standards pursuant to SMC section 18.12 unless otherwise approved by the Director of Public Works. [SDR] [PUBLIC WORKS]

GC-8. ENCROACHMENT PERMIT:

Prior to any work in the public right-of-way, obtain an encroachment permit with insurance requirements for all public improvements including a traffic control plan per the latest California Manual on Uniform Traffic Control Devices (MUTCD) standards to be reviewed and approved by the Department of Public Works. Storage of all construction related materials, parking and equipment must take place on-site and the public streets must be kept free of debris. [SDR] [PUBLIC WORKS]

GC-9. FINAL MAP RECORDATION:

This project is subject to, and contingent upon, the approval of a tentative map and recordation of a Final Map prior to any grading or building permit issuance. The submittal, approval and recordation of the Final Map shall be in accordance with the provisions of the California Subdivision Map Act and Sunnyvale Municipal Code Title 18 Subdivision requirements. [SDR] [PUBLIC WORKS]

PS: THE FOLLOWING CONDITIONS SHALL BE MET PRIOR TO SUBMITTAL OF BUILDING PERMIT AND/OR GRADING PERMIT.

PS-1. REQUIRED REVISIONS TO PLANS:

The plans shall be revised as follows and shall be subject to review and approval by the Director of Community Development prior to submittal of a building permit:

- a) Modify the Landscape Plans to continue the parkway planting from the adjacent (western) project across the frontage of this project. [COA] [PLANNING]

PS-2. BMR SPECIAL PERMIT CONDITION FORM:

The developer shall submit a “BMR Special Permit Condition Form” and a site plan as Exhibit A to the Affordable Housing Manager for review prior to submitting building permit plans. The plan will include a description of the number, type, size and location of each unit on the site. The Affordable Housing Manager will then determine the specific units to be obligated as Below Market Rate (BMR) unit(s). [SDR] [HOUSING/BMR Administrative Guidelines]

PS-3. STORMWATER MANAGEMENT PLAN:

Project is subject to Provision C3, of the Municipal Regional Stormwater Permit Order No. R2-2009-0074, as determined by a completed “Stormwater Management Plan Data Form”, and therefore must submit a Stormwater Management Plan as per SMC 12.60.140 prior to issuance of the building permit. [SDR] [PLANNING]

BP: THE FOLLOWING CONDITIONS SHALL BE ADDRESSED ON THE CONSTRUCTION PLANS SUBMITTED FOR ANY DEMOLITION PERMIT, BUILDING PERMIT, GRADING PERMIT, AND/OR ENCROACHMENT PERMIT AND SHALL BE MET PRIOR TO THE ISSUANCE OF SAID PERMIT(S).

BP-1 FEE AND CODE APPLICABILITY:

Building permit fees and applicable building codes will be based on the fee resolution and building codes effective at the time of building permit submittal. [BUILDING]

BP-2. CONDITIONS OF APPROVAL:

The plans submitted for building permits shall include all Conditions of Approval included as part of the approved application starting on sheet 2 of the plans. [COA] [PLANNING]

BP-3. RESPONSE TO CONDITIONS OF APPROVAL:

A detailed written response indicating how each condition has or will be addressed shall accompany the building permit set of plans. [COA] [PLANNING]

BP-4. NOTICE OF CONDITIONS OF APPROVAL:

A Notice of Conditions of Approval shall be filed in the official records of the County of Santa Clara and provide proof of such recordation to the City prior to issuance of any City permit, allowed use of the property, or Final Map, as applicable. The Notice of Conditions of Approval shall prepared by the Planning Division and shall include a description of the subject property, the Planning Application number, attached conditions of approval and any accompanying subdivision or parcel map, including book and page and recorded document

number, if any, and be signed and notarized by each property owner of record.

For purposes of determining the record owner of the property, the applicant shall provide the City with evidence in the form of a report from a title insurance company indicating that the record owner(s) are the person(s) who have signed the Notice of Conditions of Approval. [COA] [PLANNING]

BP-5. BLUEPRINT FOR A CLEAN BAY:

The building permit plans shall include a “Blueprint for a Clean Bay” on one full sized sheet of the plans. [SDR] [PLANNING]

BP-6. GREEN BUILDING:

The building permit plans shall demonstrate the project is designed to achieve a minimum of 70 points on BuildItGreen’s GreenPoint Rated Checklist. The GreenPoint Rated Checklist shall be included on plans. [SDR] [PLANNING/BUILDING]

BP-7. FINAL MAP:

This project is subject to, and contingent upon, the approval of a tentative map and recordation of a final map prior to any permit issuance. The submittal, approval and recordation of the final map shall be in accordance with the provisions of the California Subdivision Map Act and Sunnyvale Municipal Code Title 18 Subdivision requirements. [COA] [PUBLIC WORKS]

BP-8. SOLID WASTE DISPOSAL AND RECYCLING DESIGN PLAN:

A detailed recycling and solid waste design plan shall be submitted for review and approval by the Director of Community Development prior to issuance of a building permit. The solid waste disposal plan and building permit plans shall demonstrate compliance with current City requirements and guidelines for multi-family projects. [COA] [PUBLIC WORKS/PLANNING]

BP-9. SOLID WASTE AND RECYCLING ENCLOSURES:

The building permit plans shall include details for the installation of recycling and solid waste enclosures that are consistent with SMC 19.38.030. The required solid waste and recycling enclosures shall:

- a) Match the design, materials and color of the main building;
- b) Be of masonry construction;
- c) Be screened from view;
- d) All gates, lids and doors shall be closed at all times;
- e) Provide fire sprinklers for trash enclosures within five feet of buildings. [COA][PUBLIC WORKS/PLANNING]

BP-10. ROOF EQUIPMENT:

Roof vents, pipes and flues shall be combined and/or collected together on slopes of roofs or behind parapets out of public view as per Title 19 of the Sunnyvale Municipal Code and shall be painted to match the roof (note shall be added on the elevations). [COA] [PLANNING]

BP-11. FEES AND BONDS:

The following fees and bonds shall be paid in full prior to issuance of a building permit. The final fee amounts shall be based upon the fees in effect when the building permit is issued or when the final map is recorded (as applicable). The estimated fees (as of August 26, 2013) are as follows:

- a) PARK IN-LIEU FEE - Pay Park In-lieu fees estimated at \$321,904.04, prior to approval of the Final Map or Parcel Map. The project was deemed complete for Park In-lieu purposes on June 28, 2013. [SDR] [PLANNING]
- b) TIF – A Transportation Impact Fee estimated at \$5,471.00 shall be paid prior to issuance of a building permit. The final fee amount shall be based on fee schedules in place at the time of payment and the exact square footage of the building being demolished. [SDR] [PLANNING]
- c) SENSE OF PLACE FEE – Pay Sense of Place fees for neighborhood pedestrian and streetscape improvements associated with industrial-to-residential transition. Sense of Place fees are estimated at \$18,643.90 and shall be paid prior to issuance of a building permit. The final fee amount shall be calculated based on fee schedules in place at the time of payment. [COA] [PLANNING]

BP-12. MECHANICAL EQUIPMENT (EXTERIOR):

Detailed plans showing the locations of individual exterior mechanical equipment/air conditioning units shall be submitted for review and approval by the Director of Community Development prior to issuance of building permits. Proposed locations shall have minimal visual and minimal noise impacts to neighbors and ensure adequate usable open space. Individual exterior mechanical equipment/air conditioning units shall be screened with screening wall with material similar to the base material of the buildings, and shall not be roof-mounted or window-mounted. [COA] [PLANNING]

BP-13. BMR DEVELOPMENT AGREEMENT:

Before issuance of building permits for the project, the developer shall enter into a Development Agreement with the City to establish the method by which the development will comply with the applicable BMR requirements. The form of the Developer Agreement will be provided by the City, with tables regarding unit characteristics and

timing of completion to be completed by the Developer, and is subject to the approval of the Community Development Director or his/her designee, consistent with the SMC. The completed Developer Agreement must be executed by both parties and recorded against the property, and will run with the land.

In the event that any Below Market Rate dwelling unit(s) or any portion thereof in the development is destroyed by fire or other cause, all insurance proceeds therefrom shall be used to rebuild such units, which will remain subject to the terms of the Developer Agreement and the BMR requirements. Grantee hereby covenants to cause the City of Sunnyvale to be named an additional insured party to all fire and casualty insurance policies pertaining to said assisted units. [SDR] [HOUSING/BMR Administrative Guidelines]

BP-14. LANDSCAPE PLAN:

Landscape and irrigation plans shall be prepared by a certified professional, and shall comply with Sunnyvale Municipal Code Chapter 19.37 requirements. Landscape and irrigation plans are subject to review and approval by the Director of Community Development through the submittal of a Miscellaneous Plan Permit application. The landscape plan shall include the following elements:

- a) All areas not required for parking, driveways, or structures shall be landscaped.
- b) Provide trees at minimum 30-foot intervals along all property lines, except where mature trees are located immediately adjoining on neighboring property.
- c) Any “protected trees”, (as defined in SMC 19.94) approved for removal, shall be replaced with a specimen tree of at least 36-inch box size.
- d) Provide a 15-foot wide landscaped buffer along the property’s street frontages, except that the width may be reduced in limited locations as per the deviations granted and indicated on the approved project plans.
- e) Ground cover included in the landscape plans shall be planted so as to ensure full coverage eighteen months after installation.
- f) Design of all proposed fencing and walls shall be included in the landscape plans and shall comply with 19.37.080.
- g) Comply with provisions of the water efficient landscape requirements (as contained in SMC 19.37) [COA] [PLANNING]

BP-15. LANDSCAPE MAINTENANCE PLAN:

Prepare a landscape maintenance plan subject to review and approval by the Director of Community Development prior to issuance of building permits. [COA] [PLANNING]

BP-16. LANDSCAPE BUFFER:

Install and maintain a solid decorative masonry wall along the east property line compliant with 19.37.080. Wall height shall be measured from the highest adjoining grade. Wall design shall be subject to review and approval by the Director of Community Development prior to issuance of building permits. Wherever the grade differential is one foot or higher, a concrete or masonry retaining wall shall be installed. The wall shall not impact the health of existing trees to be retained on the subject site or adjacent property. [SDR] [PLANNING]

BP-17. TREE PROTECTION PLAN:

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 review. The tree protection plan shall include measures noted in Title 19 of the Sunnyvale Municipal Code, the recommendations of Barrie D. Coate and Associates (letter dated April 26, 2011) and at a minimum:

- a) An updated 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). The inventory shall include trees proposed for removal as well as trees to remain.
- b) All existing trees on the plans, showing size and varieties, and clearly specify which are to be retained.
- c) The Director of Community Development shall have discretion over the final list of trees to be removed.
- d) 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) Provide a plan showing overlay of Civil plans including utility lines with existing trees and provide measures to protect tree root systems as needed during utility installation.
- f) The measures specified in the tree protection plan shall be installed prior to issuance of any building or grading permits, subject to the on-site inspection and approval by the City Arborist and shall be maintained in place during the duration of construction and shall be added to any subsequent building permit plans. [COA] [PLANNING/CITY ARBORIST]

BP-18. CITY STREET TREES (SUBDIVISION):

At the expense of the subdivider, City staff shall install required street trees of a species determined by the Public Works Department. Obtain approval of a detailed landscape and irrigation plan from the Director of Community Development (SMC 19.37) prior to issuance of a Building Permit. [SDR] [PLANNING/PUBLIC WORKS]

BP-19. STORMWATER MANAGEMENT CALCULATIONS:

Submit two copies of the City of Sunnyvale Impervious Surface Calculation worksheet prior to issuance of a Building Permit. [COA] [PLANNING]

BP-20. STORMWATER MANAGEMENT PLAN:

Submit two copies of a Stormwater Management Plan subject to review and approval by Director of Community Development, pursuant to SMC 12.60, prior to issuance of a building permit. The Stormwater Management Plan shall include an updated Stormwater Management Data Form. [COA] [PLANNING/PUBLIC WORKS]

BP-21. STORMWATER MANAGEMENT PLAN THIRD-PARTY CERTIFICATION:

Third-party certification of the Stormwater Management Plan is required per the following guidance: City of Sunnyvale – Stormwater Quality BMP Applicant Guidance Manual for New and Redevelopment Projects - Addendum: Section 3.1.2 Certification of Design Criteria Third-Party Certification of Stormwater Management Plan Requirements. The third-party certification shall be provided prior to building permit issuance. [SDR] [PLANNING/PUBLIC WORKS]

BP-22. BEST MANAGEMENT PRACTICES:

The project shall comply with the following source control measures as outlined in the BMP Guidance Manual and SMC 12.60.220. Best management practices shall be identified on the building permit set of plans and shall be subject to review and approval by the Director of Public Works:

- a) Storm drain stenciling. The stencil is available from the City's Environmental Division Public Outreach Program, which may be reached by calling (408) 730-7738.
- b) Landscaping that minimizes irrigation and runoff, promotes surface infiltration where possible, minimizes the use of pesticides and fertilizers, and incorporates appropriate sustainable landscaping practices and programs such as Bay-Friendly Landscaping.
- c) Appropriate covers, drains, and storage precautions for outdoor material storage areas, loading docks, repair/maintenance bays, and fueling areas.
- d) Covered trash, food waste, and compactor enclosures.

- e) Plumbing of the following discharges to the sanitary sewer, subject to the local sanitary sewer agency's authority and standards:
 - i) Discharges from indoor floor mat/equipment/hood filter wash racks or covered outdoor wash racks for restaurants.
 - ii) Dumpster drips from covered trash and food compactor enclosures.
 - iii) Discharges from outdoor covered wash areas for vehicles, equipment, and accessories.
 - iv) Swimming pool water, spa/hot tub, water feature and fountain discharges if discharge to onsite vegetated areas is not a feasible option.
 - v) Fire sprinkler test water, if discharge to onsite vegetated areas is not a feasible option. [SDR] [PLANNING]

BP-23. EXTERIOR LIGHTING PLAN:

Prior to issuance of a building permit submit an exterior lighting plan, including fixture and pole designs, for review and approval by the Director of Community Development. Driveway and parking area lights shall include the following:

- a) Sodium vapor or illumination with an equivalent energy savings. Lighting which provides true color representation is preferred.
- b) Pole heights to be uniform and compatible with the area, including adjacent single-family residential areas. Light standards shall be of pedestrian scale and shall not exceed 8 feet in height on the periphery of the project.
- c) Provide photocells for on/off control of all security and area lights.
- d) All exterior security lights shall be equipped with vandal resistant covers.
- e) Lights shall have shields to prevent glare onto adjacent residential properties.
- f) Lighting plans shall be developed to provide coverage of all parking areas, driveways, and building entrances for safety and security purposes. [COA] [PLANNING]

BP-24. PHOTOMETRIC PLAN:

Prior to issuance of a building permit submit a contour photometric plan for approval by the Director of Community Development. The plan shall meet the specifications noted in the Standard Development Requirements. [COA] [PLANNING]

BP-25. BICYCLE SPACES:

Provide a minimum of 5 secured bicycle parking spaces or as approved by the Director of Community Development. Bicycle

parking shall be dispersed in several common areas throughout the site and shown on the plans submitted for building permits. [COA] [PLANNING] [PUBLIC WORKS]

BP-26. WATER METERS:

Separate metering shall be provided for domestic and irrigation water systems. [SDR] [PLANNING]

BP-27. UNDERGROUND UTILITIES:

All proposed utilities shall be undergrounded. [SDR] [PLANNING/PUBLIC WORKS]

BP-28. AIR CONDITIONING SYSTEMS:

All units shall install air conditioning units as indicated in the approved plans and shall be screened from view of public streets and common areas. [COA] [PLANNING]

EP: THE FOLLOWING CONDITIONS SHALL BE ADDRESSED AS PART OF AN ENCROACHMENT PERMIT APPLICATION.

EP-1 SANITARY SEWER ANALYSIS:

Submit a focused sanitary sewer analysis identifying the overall project impact to the City's existing sanitary sewer main(s). This includes, but is not limited to, the following:

- a) A detailed estimate of water consumption in gallons per day or estimate of sanitary sewer discharge in gallons per day;
- b) Any incremental impact that will result from the new project in comparison to the existing sewer capacity of the immediate downstream mainline and/or subsequent downstream mainline as needed. Any deficiencies in the existing system in the immediate vicinity of the project will need to be addressed and resolved at the expense of the developer as part of the off-site improvement plans. Sewer flow data may be required as needed.
- c) Place a note on all future construction plans that the existing sanitary sewer connection will be abandoned per the City of Sunnyvale requirements. [COA] [PUBLIC WORKS]

EP-2. STORM DRAIN TRIBUTARY PATTERN:

The project is required to follow the existing storm drain tributary pattern. Any changes or deviations would require additional analysis and be subject to approval by the Director of Public Works during the off-site improvement plan check process. [SDR] [PUBLIC WORKS]

EP-3. PUBLIC SIDEWALK SECTION:

Install a new 10' wide sidewalk with 4'X5' treewells (spaced approximately 35 feet apart). as required by the Tasman-Fair Oaks Area Pedestrian and Bicycle Circulation Plan and to match the development to the west. A continuous root barrier shall be installed along the new sidewalk when adjacent to City trees per City standard details and specifications. [COA] [PUBLIC WORKS]

EP-4. CITY STREET TREES:

Applicant shall install required street trees of Pistacia Chinensis (common name Chinese Pistachio) species along Toyama Drive. Remove existing street trees within the project frontage. Street trees and frontage landscaping shall be included in the detailed landscape and irrigation plan subject to review and approval by the Director of Public Works. New street trees shall be 24-inch box size or 15 gallon size or larger [SDR] [PLANNING/PUBLIC WORKS]

EP-5. ON-SITE WET UTILITIES:

All wet utilities (water, sanitary sewer, storm drain) within the private streets and private drives shall be privately owned and maintained in accordance to the approved CC&R's. The fire and domestic water systems can be combined but shall be privately owned and maintained beyond the property line. For the sanitary sewer and storm systems, install a cleanout at the right-of-way line. [COA] [PUBLIC WORKS]

EP-6. UTILITY PROVIDERS:

Contact the utility companies (PG&E, Comcast, AT&T) for their review/approval requirements and/or procedures for site development. [COA] [PUBLIC WORKS]

EP-7. COMPLIANCE WITH STANDARD REQUIREMENTS:

This project shall comply with all required improvements, design standards and standard details and specifications. [SDR] [PUBLIC WORKS]

EP-8. UTILITY MODIFICATIONS and RELOCATION:

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. [COA] [PUBLIC WORKS]

EP-9. UPGRADE OF PUBLIC IMPROVEMENTS:

Remove and replace all existing rolled curb and gutter to current City standards as required by the Director of Public Works. [COA] [PUBLIC WORKS]

EP-10. UTILITY CONFLICTS:

The developer/owner is responsible for research on private utility lines (PG & E, telephone, cable, irrigation, etc.) to ensure there are no conflicts with the project. [COA] [PUBLIC WORKS]

EP-11. UTILITY PLANS FOR PUBLIC WORKS REVIEW:

All utility plans (PG&E, telephone, cable TV, fiber optic, etc.) shall be submitted to the Public Works Department for review and approval prior to the issuance of any permits for utility work within public right-of-way or public utility easements. [COA] [PUBLIC WORKS]

EP-12. RE-USE OF EXISTING CITY UTILITY SERVICE LINES:

The re-use of any existing City utility service lines and appurtenances is subject to City's review and approval. Developer's contractor shall expose the existing facilities during construction for City's evaluation or provide video footage of the existing pipe condition. Developer's contractor shall replace any deficient facilities as deemed necessary and as required by Public Works Department. [COA] [PUBLIC WORKS]

EP-13. ABANDONMENT OF UTILITIES:

All existing utility lines and/or their appurtenances not serving the project and/or have conflicts with the project, shall be capped, abandoned, removed, relocated and/or disposed to the satisfaction of the City. [COA] [PUBLIC WORKS]

EP-14. DRAINAGE AND EROSION CONTROL:

Adequate drainage/erosion control shall be provided at all times during each phase of the development per the Stormwater Management Plan (SWMP), Stormwater Pollution Prevention Plan (SWPPP), and BMP's. [COA] [PUBLIC WORKS]

EP-15. STREETLIGHT PLAN AND REQUIREMENTS:

Provide a photometric analysis across the project street frontage to ensure that the proposed streetlights are in compliance with the City's current roadway lighting design criteria. Provide a luminaire schedule and calculation summary.

Submit a separate streetlight plan for review and approval by Public Works Department, showing the removal and replacement of all conduits, conductors, pull boxes and other streetlight equipment for the streetlights. Install new decorative streetlights with LED fixtures in accordance to the Tasman-Fair Oaks Area Pedestrian and Bicycle Circulation Plan and the latest downtown streetscape standards. Identify the power source for the proposed new streetlights. [COA] [PUBLIC WORKS]

EP-16. CLEARANCE FOR STREET TREES FROM SS LATERALS:

No trees are to be planted within 10' of laterals when the City maintains sanitary sewer mains and laterals up to the property line. [COA] [PUBLIC WORKS]

EP-17. WATER SERVICE REQUIRMENTS:

Within the public right-of-way, provide a combined domestic/fire water service connection for the entire site including, but not limited to, two master water meters and two double check detector assemblies. Water meter sizing calculations shall be submitted for review and approval by Public Works Department during public improvement plan review. [COA] [PUBLIC WORKS]

EP-18. LANDSCAPE AND IRRIGATION SYSTEM IN PUBLIC RIGHT-OF-WAY:

All landscape and irrigation systems within the proposed treewells shall be connected to the water system and metered to the property owner. [COA] [PUBLIC WORKS]

EP-19. PUBLIC FIRE HYDRANTS:

Replace public fire hydrant on Toyama Drive with Clow-Rich 75. The fire hydrant shall be maintained free and clear of all vines, shrubs, bushes, ivy, etc. for a minimum of 4 feet. [COA] [PUBLIC WORKS]

EP-20. DRIVEWAY IMPROVMENTS:

Unused driveway approaches shall be replaced with standard curb, gutter and sidewalk. No curb-return style driveway approaches allowed, use City standard driveway apron. [COA] [PUBLIC WORKS]

EP-21. SLURRY SEAL ALONG TOYAMA DRIVE:

Due to the number of new trenches resulting from the project and current condition of the asphalt pavement, developer shall slurry seal from curb to curb along the entire project frontage. [COA] [PUBLIC WORKS]

EP-22. RECORD DRAWINGS:

Record drawings (including street, sewer, water, storm drain and off-site landscaping plans) shall be submitted to the City prior to encroachment permit sign-off. [COA] [PUBLIC WORKS]

EP-23. IMPROVEMENT PLAN MYLARS:

Final approved public improvement plans shall be prepared on 24"x36", 4 mil mylars. [COA] [PUBLIC WORKS]

TM: THE FOLLOWING CONDITIONS SHALL BE MET PRIOR TO THE APPROVAL OF THE FINAL MAP OR PARCEL MAP.

TM-1. FINAL MAP COMPLIANCE WITH VESTING TENTATIVE MAP:

The final map shall be substantially the same as the vesting tentative map. Any alteration of the vesting tentative map after the vesting tentative map is approved is subject to additional approval by the City and may require a public hearing. [COA][PLANNING/PUBLIC WORKS]

TM-2. PUBLIC AND PRIVATE EASEMENTS:

Dedicate public utility easements on-site as required by utility providers. Reservation of new and/or abandonment of existing public/private utility easement(s), ingress/egress easement(s) necessary for the project site shall be recorded with the final map prior to occupancy. Quitclaim Deed is required for abandonment of private easements. All easements shall be kept open and free from buildings and structures of any kind except those appurtenances associated with the defined easements. [COA] [PUBLIC WORKS]

TM-3. SUBDIVISION AGREEMENT:

Execute a Subdivision Agreement and provide improvement securities and/or cash deposits as outlined in the Subdivision Agreement prior to final map recordation. [COA] [PUBLIC WORKS]

TM-4. DEVELOPMENT FEES:

Development fees associated with the project, including but not limited to utility frontage and/or connection fees, off-site improvement plan check and inspection fees, shall be paid prior to recordation of the final map. Applicant shall pay an incremental sewer connection fee of \$56,402.31 and an incremental water connection fee of \$7,230.64 prior to final map recordation. [COA] [PUBLIC WORKS]

TM-5. PRIVATE STREETS:

All private streets shall be shown on the final map. Street names shall be approved by the Director of Community Development. Private streets shall be designated as "Terrace". [COA] [PUBLIC WORKS/PLANNING]

TM-6. EMERGENCY VEHICLE ACCESS EASEMENT:

This project requires reservation of minimum 26'-wide an emergency vehicle ingress-egress easement on the common lot. [COA] [PUBLIC WORKS/PUBLIC SAFETY]

TM-7. PUBLIC IMPROVEMENTS:

All public improvements shall be completed prior to first building occupancy, unless otherwise approved by the City. [COA] [PUBLIC WORKS]

TM-8. COMPLIANCE WITH SUBDIVISION REQUIREMENTS:

Comply with all applicable Sunnyvale Municipal Code requirements as outlined in Title 18: Subdivisions. [SDR] [PUBLIC WORKS]

TM-9. COVENANTS, CONDITIONS AND RESTRICTIONS:

This project requires conditions, covenants, and restrictions (CC&R's) to be recorded with provisions including, but not limited to, the following items:

- a) 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.
- b) The Homeowners Association shall maintain parkstrip landscaping in perpetuity along the public street fronting the project site. (SMC 13.08.370 and 13.08.380)
- c) The developer shall maintain all private 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. (Subdivision Agreement)
- d) Homeowners are prohibited from modifying drainage facilities and/or flow patterns of their lots without first obtaining permission from the City.
- e) There shall be provisions of post construction Best Management Practices in the CC&R's in regards to the storm water management. [COA] [PUBLIC WORKS] (SMC 12.60.200)

TM-10. CONDITIONS, COVENANTS AND RESTRICTIONS DRAFT REVIEW:

Any proposed deeds, covenants, restrictions and by-laws (CC&R's) relating to the subdivision are subject to review and approval by the Director of Community Development and the City Attorney. Four (4) sets of the CC&Rs including all information required below shall be submitted to the Engineering Division of the Public Works Department for routing. In addition to requirements as may be specified elsewhere, the CC&R's shall include the following provisions:

- a) Membership in and support of an association controlling and maintaining all common facilities shall be mandatory for all property owners within the development.
- b) The owners 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.

- c) The developer shall maintain all private utilities and landscaping for a period of three (3) years following installation of such improvements or until the improvements are transferred to a owners association, following sale of at least 75% of the units, whichever comes first.
- d) The Standard Development Requirements and Conditions of Approval included as part of the approved Planning Application, Permit #2013-7468, and associated map shall be incorporated into the CC&Rs as an exhibit or attachment. The included map shall clearly indicate all public/private easements as disclosure for property owners. The CC&Rs shall include a list of all attachments and/or exhibits.
- e) The CC&Rs shall contain language for Best Management Practices “Agreement to Maintain” pursuant to Sunnyvale Municipal Code 12.60.200.
- f) The CC&Rs shall contain the following provisions:
 - i) The owners association shall maintain parking strip landscaping in perpetuity along the public street fronting the project site.
 - ii) Property owners are prohibited from modifying drainage facilities and/or flow patterns unless reviewed and approval granted from the Public Works Department.
- g. The CC&Rs shall contain the following language:
 - i) “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.
 - ii) 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.

- iii) 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.
- iv) 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.
- v) 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.
- vi) 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." [COA] [PUBLIC WORKS/PLANNING/CITY ATTORNEY]

TM-10. HOA CREATION:

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. [COA] [PLANNING]

TM-11. HOA TRANSFER:

At the time the homeowners association is transferred from the developer to the individual property owners (typically at election of board members or officers), the developer shall schedule a meeting between the board members or officers, the City of Sunnyvale and the developer to review the Conditions of Approval of the development and other applicable City requirements. [COA] [PLANNING]

TM-12. COMMON LOT:

The common lots shall be assigned a private street name in accordance with the official Street Name System, as selected by the Community Development Department. [COA] [PLANNING]

PF: THE FOLLOWING CONDITIONS SHALL BE ADDRESSED ON THE CONSTRUCTION PLANS AND/OR SHALL BE MET PRIOR TO RELEASE OF UTILITIES OR ISSUANCE OF A CERTIFICATE OF OCCUPANCY.

PF-1. LANDSCAPING AND IRRIGATION:

All landscaping and irrigation as contained in the approved building permit plan shall be installed prior to occupancy. [COA] [PLANNING]

PF-2. PARKING LOT STRIPING:

All parking lot striping, guest spaces, and compact spaces shall be striped as per the approved building permit plans and Public Works standards prior to occupancy. [COA] [PLANNING/ENGINEERING]

PF-3. PUBLIC STREET REPAIR:

Any changes to or deficiencies in the public streets fronting to project site as a result of project construction are to be rectified at the expense of the developer. [COA] [PUBLIC WORKS]

PF-4. COMPLETION OF PUBLIC IMPROVEMENTS:

Complete all required public improvements including but not limited to sidewalks, roadway improvements, streetlights, and utilities prior to occupancy. [COA] [PUBLIC WORKS]

PF-5. CONDITIONS, COVENANTS AND RESTRICTIONS (CC&RS) RECORDATION:

The Developer/Owner shall submit a copy of the recorded CC&Rs and a letter from the Developer/Owner either indicating that the recorded CC&Rs are in conformance with the approved draft CC&Rs or summary of changes shall be provided to the Director of Community Development prior to release of utilities or certificate of occupancy. [COA] [PUBLIC WORKS/PLANNING/CITY ATTORNEY]

PF-6. HOA ESTABLISHMENT:

The developer shall submit to the Planning Division the names, addresses and telephone numbers of the officers of the homeowners association, architectural review committee or similar committee, at the time the organization is granted autonomy. Until such information is supplied, the developer shall remain a Responsible Person for purposes of maintaining all common property. The chairperson, secretary or principal officer of any committee or association shall notify the City of any change in officers and provide the names, addresses and telephone numbers of the new officers within thirty (30) days after the change becomes effective. [COA] [PLANNING]

PF-7. NOISE REDUCTION VERIFICATION:

Acoustical tests shall demonstrate that an interior Ldn scale (day and night average noise level) of 45 dBA is met on the finished units. Such test results shall be furnished to the Director of Community Development prior to occupancy of the units. [COA] [PLANNING]

PF-8. BMR COMPLETION 60 ADVANCE DAY NOTICE:

The Developer/Owner must provide a written "Notice of Intent to Sell" to the Affordable Housing Manager for each BMR unit(s) to be provided in the development sixty days (60) prior to the request for a certificate of occupancy or receipt of a DRE report for the unit, whichever is later. Upon receipt of this Notice, the Housing Division will inform the developer of the current maximum BMR sales price applicable to the unit, based on number of bedrooms, as published in the Administrative Procedures and updated annually. The developer must also request and pass a site inspection by the Affordable Housing Manager to verify that the BMR units have been completed in compliance with the BMR Development Agreement. [COA] [HOUSING]

PF-9. COMPLETION OF PUBLIC IMPROVEMENTS:

Developer shall complete all required public improvements as required and in accordance with City approved plans, prior to any building occupancy. [COA][PUBLIC WORKS]

DC: THE FOLLOWING CONDITIONS SHALL BE COMPLIED WITH AT ALL TIMES DURING THE CONSTRUCTION PHASE OF THE PROJECT.

DC-1. FIRE ACCESS:

Prior to any combustible construction or materials on-site, provide fire access drives and operational on-site fire protection systems if applicable (Chapter 14 CFC). [SDR] [PUBLIC SAFETY-FIRE PREVENTION]

DC-2. BLUEPRINT FOR A CLEAN BAY:

The project shall be in compliance with stormwater best management practices for general construction activity until the project is completed and either final occupancy has been granted. [SDR] [PLANNING]

DC-3. TREE PROTECTION:

All tree protection measures shall be maintained, as indicated in the tree protection plan, including irrigation, until construction has been completed and the installation of landscaping has begun. [COA] [PLANNING]

AT: THE FOLLOWING CONDITIONS SHALL BE COMPLIED WITH AT ALL TIMES THAT THE USE PERMITTED BY THIS PLANNING APPLICATION OCCUPIES THE PREMISES.

AT-1. RECYCLING AND SOLID WASTE:

All exterior recycling and solid waste shall be confined to approved receptacles and enclosures. [COA] [PLANNING]

AT-2. SOLID WASTE RECYCLING MANAGEMENT:

Waste and recycling services for residential uses shall be maintained under a master account held by the applicant, owner or landlord. The account holder will be responsible for ensuring adequate services and that all locations, private sidewalks and streets are kept free of litter and stains. Requirements shall be specified in the approved documents and be submitted for approval by the City. [COA] [PUBLIC WORKS]

AT-3. EXTERIOR EQUIPMENT:

Exterior equipment shall be maintained within approved enclosure areas. Individual air conditioning units shall be screened with architecture or landscaping features. [COA] [PLANNING]

AT-4. LANDSCAPE MAINTENANCE:

All landscaping shall be installed in accordance with the approved landscape plan and shall thereafter be maintained in a neat, clean, and healthful condition. 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. [COA] [PLANNING]

AT-5. LOUDSPEAKERS PROHIBITED:

Out-of-door loudspeakers shall be prohibited at all times. [COA] [PLANNING]

AT-6. PARKING LOT MAINTENANCE:

The parking lot shall be maintained in accordance with the approved plans and as follows:

- a) Garage spaces shall be maintained at all times so as to allow for parking of vehicles.
- b) Clearly mark all assigned, guest, and compact spaces. This shall be specified on the building permit plans and completed prior to occupancy.
- c) Maintain all parking lot striping and marking.
- d) Maintain parking lot lighting and exterior lighting to ensure that the parking lot is maintained in a safe and desirable manner for residents and guests. [COA] [PLANNING]

AT-7. OFF-STREET PARKING:

Off-street parking for both residents and guests shall be maintained at all times in accordance with approved plans. [COA] [PLANNING]

AT-8. RECREATIONAL VEHICLE STORAGE PROHIBITED:

Unenclosed storage of any vehicle intended for recreation purposes, including land conveyances, vessels, and aircraft, but excluding attached camper bodies and motor homes not exceeding 18 feet in length, shall be prohibited on the premises. [COA] [PLANNING]

AT-9. HOA REVIEW AND APPROVAL:

In common interest developments, any future applications to the City for physical modifications on commonly owned property shall require consent of the board of directors of the homeowners association, architectural review committee or similar committee; applications for physical modifications on privately owned property shall require the individual property owner's signature. Individual property owners submitting an application for physical modifications on private property shall comply with any approval processes outlined as such in the conditions, covenants & restrictions (CC&Rs) of their respective development. [COA] [PLANNING]

AT-10. HOA RESPONSIBILITIES:

The chairperson, secretary or principal officer of any committee or association shall notify the Planning Division and the Community Resources Division of any change in officers and provide the names, addresses and telephone numbers of the new officers within thirty (30) days after the change becomes effective. [COA] [PLANNING DIVISION/COMMUNITY RESOURCES DIVISION]

AT-11. STREET AND UTILITY MAINTENANCE:

The project applicant, owner, landlord, or homeowners association must properly maintain all internal private streets and drives and all wet utilities (water, sanitary sewer, storm drain) on the site. [SDR] [PUBLIC WORKS]

AT-12. BMP MAINTENANCE:

The project applicant, owner, landlord, or homeowners association must properly maintain any structural or treatment control best management practices to be implemented in the project, as described in the approved Stormwater Management Plan and indicated on the approved building permit plans. [SDR] [PLANNING]

AT-13. BMP RIGHT OF ENTRY:

The project applicant, owner, landlord, or homeowners association shall provide access to the extent allowable by law for representatives of City, the local vector control district, and the Regional Water Quality Control Board, strictly for the purposes of verification of proper operation and maintenance for the stormwater treatment best management practices contained in the approved Stormwater Management Plan. [SDR] [PLANNING]

END OF CONDITIONS

Please see
Planning Commission
web page for
Attachment E

COMPARISON OF DEVIATIONS

TOYAMA I APPROVED DEVIATIONS	TOYAMA II REQUESTED DEVIATIONS
Front Yard Setback (Morse Avenue)	Front Yard Setback
Side Yard Setback	Side Yard Setback
Rear Yard Setback	Rear Yard Setback
Useable Open Space	
Frontage Landscaping Width	
Distance between Buildings	Distance between Buildings
Guest Parking Spaces	
Vision Triangle Encroachment	
Solar Access	Solar Access