

PLANNING COMMISSION MINUTES OF APRIL 28, 2008

2007-0463 - Michael Kirkish [Applicant/Owner]: Application for related proposals on three parcels totaling 46, 212 square feet located at **408 Flora Vista Avenue, 421 South Bayview Avenue and 420 Flora Vista Avenue** (near E. Iowa Ave.) in R-2 (Low Medium Density Residential) and R-0 (Low Density Residential) Zoning Districts. (Mitigated Negative Declaration) (APN: 209-24-016) SB;

- **Tentative Map** to subdivide three lots to nine lots,
- **Rezone** from R-0 (Low Density Residential) and R-2 (Low Medium Density Residential) to R-1.5/PD (Low Medium Density Residential/Planned Development) and R-2/PD (Low Medium Density Residential/Planned Development) Zoning Districts, and
- **Special Development Permit** to allow six new single family homes.

Gerri Caruso, Principal Planner, presented the staff report. She said staff is recommending approval of the plan subject to the findings and conditions in the staff report.

Comm. Babcock asked staff about the lot width for lots 7 and 8 with staff referring to page 11 of the report which indicates that lots 7 and 8 are 54.5 feet wide each. Comm. Babcock asked about R-1.5 zoning with staff stating that only single-family homes could be built in R-1.5 zoning. Comm. Babcock asked if lots 7 and 8 could be changed to three lots at a later date with staff advising, no. Comm. Babcock discussed with staff lots 7 and 8 with staff explaining that there are two phases to the project and individual Special Development Permits (SDPs) for two single-family homes would be submitted for lots 7 and 8. Staff said the SDPs would be handled similar to Design Reviews. Comm. Babcock discussed with staff about conditioning lots 7 and 8 to allow only two single-family homes with staff advising that the current SDP, as proposed for these lots, would create those conditions. Comm. Babcock discussed the rezoning of the lots with staff advising that a rezone cannot be conditioned as it is a legislative action. Comm. Babcock referred to page 17 of the report regarding the revising of the lot line to add two more parking spaces asking why the lot line is not being revised to accommodate the required number of parking spaces. Ms. Caruso said that staff felt the layout of the existing duplex was a good effort to accommodate the provision of two additional spaces confirming that the Commission could condition the project to require the full parking requirement, yet that condition would affect the other lots. Comm. Babcock confirmed with staff that if the units for the project were reduced from 10 to nine units that the

minimum number of units for the R-1.5 zoning would still be met, which would be 7.5 units for these lots.

Comm. Klein discussed lot lines for lots 7, 8, and 9 with staff as he felt that lots 7 and 8 could be reduced and still meet the size and width requirements for R-1.5 zoning, which could allow the lot width for lot 9 to be increased addressing the deviation request for lot 9. **Trudi Ryan**, Planning Officer, said various lot configurations were considered and staff advised the applicant that staff would want to see a minimum of 7,200 square feet for lot 9 to meet the minimum lot size for R-2 zoning. Ms. Ryan said that staff felt that looking at the whole project regarding lot sizes, that staff felt the lot sizes met the intent in terms of density. Comm. Klein asked about pervious surfaces and lost pervious space. Ms. Caruso said that staff does not have the final draft stormwater plan from the applicant and there are certain goals that have to be met regarding pervious surfaces, Ms. Caruso said the proposal for the courtyards would meet a portion of the pervious surface requirements. She said when staff receives the final stormwater plan that there may be better options realized to meeting the requirements. Comm. Klein said he feels the pervious surfaces in the courtyards are only one way to decrease impervious surfaces and driveways would be another. Comm. Klein said it is difficult to make some of the decisions regarding this project as the Commission does not have some of the plans for lots 7 and 8 in front of them now.

Vice Chair Rowe asked staff what the tradeoffs are regarding the existing zoning versus rezoning of these properties since both zonings would allow up to 10 units. Ms. Caruso said the applicant is trying to achieve a single-family home look and feel to the portion of the development that faces Bayview. Ms. Caruso said the current zoning allows 10 units which could be in duplex form versus the rezoning and relotting that would allow for the single-family homes to be on smaller lots. Vice Chair Rowe asked staff for clarification referring to page 16 of the report regarding “the side property line fences are proposed to be located outside the 20 foot front setback area.” Ms. Caruso clarified that means that fences will not be seen along the property line in the front setback area. Vice Chair Rowe referred to page 18 of the report regarding solar shading and asked staff to comment about new related legislation. Ms. Ryan said there is proposed legislation in the works very specific to shading of solar panels by vegetation. Ms. Ryan said that Sunnyvale’s Municipal Code says that the proposed project cannot cause more than 10% shading of an adjoining roof. She said the proposed project would cause 11% shading on the neighbor’s property. Ms. Ryan referred to condition 13.A, which requires that the applicant either apply for

a variance from the shading requirements or submit revised plans meeting the shading requirements for the neighbor's property.

Comm. Simons asked staff if there is a final recommended width for the driveways. Ms. Ryan said that staff did not include a condition regarding the width and referred to condition 10.A, which requires that the common driveways not be used to park vehicles at any time. Comm. Simons asked if the Commission could condition the width of the driveway and state what is desired regarding pervious materials in relation to the stormwater runoff. Ms. Ryan said that yes, the Commission could condition the plans and that the rendered plans are for a single lane driveway about 12 feet wide, which would not be wide enough for two vehicles to pass at the same time. Comm. Simons confirmed with staff that lots 7 and 8 could be conditioned requiring these lots be single-family homes only. Comm. Simons referred to condition 9.A and commented that this on-site amenity section does not address accessory living units. Ms. Ryan said accessory living units are not permitted in an R-1.5 zoning district.

Comm. Hungerford confirmed with staff that the Commission is being asked to approve the SDP for lots 1 through 6 as shown in Attachment D, including the size, the location the architecture. Comm. Hungerford confirmed that staff is comfortable with the proposed designs.

Comm. Chang commented that lot 9 does not meet the R-2 requirements and asked what would happen if the Commission approves this development. Ms. Caruso said lot 9 does not meet the minimum lot size or the parking and the applicant is requesting deviation for these two areas. She said the proposal includes keeping the existing duplex and providing improvements to the duplex, and adding two additional uncovered parking spaces by adjusting the lot line. Comm. Chang confirmed with staff that the applicant could return at a later date for additional changes.

Chair Sulser opened the public hearing.

Terry Szewczyk, with TS Civil Engineering, said he would be representing the applicant, Michael Kirkish and family. Mr. Szewczyk offered clarification regarding some of the questions and issues discussed tonight. He said lots 7 and 8, totaling 11,600 square feet, could not be divided into three lots as 12,600 square feet would be required for the division. He said the lots on the Flora Vista side were set up as single-family lots with 50% Floor Area Ratio (FAR) and that the homes would be future 2,700 square foot homes including the garages. He said they did submit a preliminary stormwater plan and displayed a picture explaining the plans that include a stormwater device that would be provided at

the center of the driveways that would act as a sub drain. He said if additional stormwater standards are needed that they can be added. He said they voluntarily submitted that the courtyard areas would be pervious surfaces. Mr. Szewczyk commented about why they would like to rezone these properties when both zonings would allow up to 10 units. He said the present zoning runs down the middle of the property with R-0 on one side and R-2 on the other. He said if they were to build out as zoned, the R-0 lots would become 4 single family lots and the R-2 side would keep the existing duplex and then a four-plex on the Bayview side. He said they feel the proposed blending of the zoning districts proposing single-family homes seemed to be more in character with the neighborhood. He said regarding the 10% shading of the neighboring carport that they could change the roofline. He said regarding the concerns about lot 9 that they have made a good faith effort to enhance the lot, and add parking to the duplex where the current parking seems to work. He said the biggest issue that they are correcting with the duplex is to create some yard area of up to 13 feet of new rear yard for the two units. He said the proposed property is unique in that it is virtually a vacant one acre lot after the existing house is removed. Mr. Szewczyk said they attempted in the rezoning application is to take the zone district line that runs through the property and come up with a hybrid that fits better with the community. He said the Bayview side of the community has a number of detached rear garages and they wanted to model this. He said they saw an opportunity with the 42 foot lot widths in the R-1.5 zoning to create six units in a row on the Bayview side. He said the shared driveways allow rear yard areas, less impervious coverage, and usable openspace. Mr. Szewczyk shared another document and discussed the exceptions that the duplex lot size is 7,200 square feet versus 8,000. He said another requested exception is for the porches on the front of the houses, which encroach into the front setback. He said the porches stagger the front elevations making the homes more aesthetically pleasing. He said they are proposing an exception for the second-story stairwell that is four feet into the side setback. He said another exception is the zero setbacks of the garages. He said these backup to other property owned by the applicant and will not impact any other neighbors. He said another exception is for the two covered spaces with the duplex where four are required.

Comm. Babcock confirmed with Mr. Szewczyk that he said without the rezone that he would be able to put in four single-family homes and a four-plex. Comm. Babcock said that the current duplex has two covered parking spaces and asked if it has any uncovered parking. Mr. Szewczyk said that the residents currently park beyond the units in the driveway. He said they can formalize the space, which would provide two spaces in front of the garage doors and then on the side provide two additional spaces where the lot is being widened to the south.

Comm. Babcock commented that on her site visit she saw that Flora Vista was blocked, which only allowed enough width for one car to pass when cars are parked on both sides of the street.

Vice Chair Rowe referred to a petition that was provided on the dais this evening by some of the neighbors. She confirmed with Mr. Szewczyk that the proposed homes were going to be sold as single-family homes and not rented. She confirmed with the applicant there would be no additional duplexes only the existing duplex would remain. She confirmed with the applicant that 408 and 410 Flora Vista have different owners than 402 and 404 Flora Vista and are not part of this development.

Chair Hungerford commented that most of the exterior designs for the homes are good. He referred to Attachment D, page 9, design A.5 and commented that this particular design has many angles, which seems busy and too much for the front of the house. Mr. Szewczyk said if the Commission feels this particular design needs more work that they would be happy to comply.

Trish Spagnuolo, a neighbor, said she would be speaking on behalf of some of the neighbors. Ms. Spagnuolo said they respect the rights of the property owners and the importance of new development in the city. She said they would like to achieve a win-win situation with Mr. Kirkish. She listed some the concerns of the neighborhood reviewing the variances being requested by the applicant which are of big concern to the neighbors. She commented that an outreach meeting was held in the fall of 2007 and many of the concerns mentioned by the neighbors at that time do not appear to have been addressed, listing some of those issues, including architecture. She said the neighbors would prefer to see five homes rather than six built on the Bayview side allowing 50 foot wide lots instead of 42 foot wide lots. She said the existing duplex has not been taken care of very well in the past or present so they are concerned about whether that would actually occur. She said they are against spot zoning, in this case the R-1.5, and changing the streetscape to have six larger homes and shared driveways. She said, if five homes are built instead of six, it may eliminate the majority of issues and possibly eliminate the need for the variances. She asked that the Commission not recommend approval of the current application for rezoning and subdivision.

Comm. Simons said Ms. Spagnuolo commented about architectural details not being changed and asked staff if there had been any changes to the architectural details since the study session. Ms. Caruso said everything is noted in the staff report and that she does not think any changes were made. Comm. Simons said during the Commission study session there were a mix of comments about

architectural changes to the front details on the homes. Comm. Simons asked staff what style of direction could the Commission provide to staff, instead of generically asking the architectural details be changed. Ms. Ryan clarified that there were two study sessions on this project and after the first study session, a number of changes were made to the architecture and after the second study session, there were no changes. Ms. Ryan said if the Commission has particular concerns that need to be addressed, then the Commission's suggestions would need to be specific about what the Commission is trying to accomplish.

Vice Chair Rowe said she tried to make a point earlier that if the applicant rezones they could build 10 units, which would mostly be single-family homes except the existing duplex. She said if the applicant's rezone request is not approved, the applicant could build duplexes or four-plexes. Vice Chair Rowe asked Ms. Spagnuolo if she thought that single-family homes or duplexes would be more desirable with staff clarifying that a 7,200 square foot lot would be required to allow a duplex at this site. Staff further clarified site requirements acknowledging it can be confusing. Ms. Spagnuolo said they would prefer for the applicant to build five homes instead six on Bayview, which would solve variances and other issues, and they would like to have individual driveways for the homes. She said they are concerned about the density of six homes in this small space. She said they would love to have single-family homes here, however not six homes. Vice Chair Rowe discussed the lot widths with Ms. Spagnuolo, who provided a document on the dais indicating her calculations for lot widths.

Comm. Hungerford commented that there are two lots with single-family homes on Bayview that seem be about 40 feet in width, and said they did not look that cramped. Ms. Spagnuolo commented the lot was split which the neighbors were not happy with. Comm. Hungerford confirmed with Ms. Spagnuolo that she is proposing that the lots be 50 foot lots for five homes, with garages in the back of the lots, and separate driveways to the garages to keep the character of the streetscape.

John Wozniak, a neighbor to the south of the proposed property, referred to a stack of petitions provided on the dais, which show neighbors opposition to the project as proposed. He said the petitions are from some of the neighbors that are older residents in the neighborhood. He said most of his concerns have been addressed and his biggest concern is the shared driveways, which staff does not seem to care about. He said he prefers only five homes be built instead of six. He said there would be a large two-story home next to his with the windows looking into his pool area. He said most of the neighbors do not want to

see these homes built. He commented he has not seen a traffic study done for this project.

Vice Chair Rowe asked Mr. Wozniak if he would rather have single-family homes or duplexes or four-plexes built on this site. Mr. Wozniak said he would prefer single-family homes.

Elizabeth Steward, a neighbor across the street from the proposed units said that she and her husband are okay with the plans. She discussed what she likes about the plans and does not like about the plans including the preference for five units and that the homes be single-family. She said she would like two cars to be able to pass in the driveways and would like the conditions to address the shade and window issues already mentioned by other speakers.

Ms. Spagnuolo said that several years ago there was an application for duplexes that were denied and she thought it was denied because of the size of the lot being less than 8,000 square feet. She wanted to know what is different now from then. Chair Sulser said that the Commission cannot comment on a past project that is not before them.

Mr. Szewczyk said Mr. Kirkish indicated there were apartments applied for in 1965. He discussed what they are presently proposing and discussed what they had changed since they first started this process. He said they are not asking for variances, and that they are exceptions. He said if they do go to 50 foot lots, he described the changes that he would expect. He said presently the proposal is for three driveways of 12 feet each. He said they are trying to soften the front elevations with additional landscaping, narrow the driveways and present houses instead of garage doors. He said they could reduce roof heights and eaves to address the solar issue. He said Sunnyvale still has a job/housing imbalance and he thinks the R-1.5 zoning is appropriate for this location.

Chair Sulser closed the public hearing.

Vice Chair Rowe confirmed with staff that the placement of the garages and shared driveways are only for the new proposed properties and new owners would be aware of the design when they purchased the home. Vice Chair Rowe discussed the existing R-2 zoning with staff stating that this area has been R-2 for a long time and staff would be only guessing as to why it was zoned R-2. Vice Chair Rowe confirmed with staff that houses have a 30 foot height limit in the R-0 and R-2 zoning districts and that a typical home in this area is probably 15 to 30 feet in height depending on whether the home is one or two story. Vice Chair Rowe asked if it is too late to address the window issue, with staff stating this

could be looked into, however if the windows are needed for egress, they may need to remain as proposed.

Chair Klein discussed the upgrades for lot 9, confirming with staff that lot 9 is 420 Flora Vista Avenue and that conditions 4.C and 14.A, 14.B and 14.C are referring to lot 9.

Comm. Simons moved to adopt the Negative Declaration and introduce an Ordinance to Rezone 421 S. Bayview Avenue, 408 and 420 Flora Vista Avenue from R-2 and R-0 to R-2/PD and R-1.5/PD and approve the Vesting Tentative Map for lots 1-9 with the modification to remove lot 6 and approve the Special Development Permit for five new single family homes on lots 1-5 with modified conditions. The modifications are: to add language that single-family lots are intended for lots 7 and 8; to add language that the driveway widths will be 11 feet and made of pervious materials for stormwater runoff and if other stormwater runoff requirements are needed in the future then additional requirements can be added; that five units be developed on S. Bayview; to modify condition 8 to include that new trees added shall be native species trees and as large as appropriate for placement on the lot; to follow through on the planned details that add differentiation to the homes including window and door styles, rafter details, garage door styles, molding used on the buildings, garage building styles which contribute to increasing the architectural detail; and that all units will not exceed a 50% FAR. **Comm. Babcock** seconded the motion. **Comm. Babcock** discussed with **Comm. Simons** the driveways on Bayview. **Comm. Simons** said his intent is that there be two shared driveways and one unshared driveways and added that the motion would include a modification that there would be a maximum of three driveways on the proposed sites on Bayview. **Comm. Babcock** agreed to the modification and asked for a Friendly Amendment that the applicant would continue to work with staff to address the privacy issues for the second story windows on both the northern most and southern most houses on Bayview, and also in the future the northern and southern houses on Flora Vista when those plans come through.

Comm. Klein asked for clarification about **Comm. Simons'** modification regarding the driveways being 11 feet and made of pervious materials and asked if he also meant that the courtyards would be pervious. **Comm. Simons** clarified that all of the paved areas would be pervious driveway, and with staff's input determined that would be the areas in front of the garage. **Comm. Klein** asked for a Friendly Amendment regarding lot 9 to increase the lot size by some larger number to have more front yard. **Comm. Simons** and **Comm. Klein** discussed lot sizes and determined that the motion would include that the lot sizes would be consistent with the Bayview Avenue lot widths and

give the extra space to lot 9. This Friendly Amendment was acceptable to the maker and seconder of the motion.

Vice Chair Rowe asked Comm. Simons why lot 6 is being removed. Comm. Simons said by removing lot 6, the remaining lots' widths would then be more consistent with the lot widths in the neighborhood.

Comm. Hungerford asked if the motion addresses the location of the garages. Comm. Simons said that the conditions would stay the same as stated in the report except for the items that have been changed, stating that would mean the garages would remain in the rear of the lots.

Comm. Simons said he appreciates the comments from the applicant and the neighbors as these comments bring additional ideas and often good changes to a project. He said he thinks the project with the modified conditions will bring a project that is more consistent with the neighborhood. He said the homes will be a bit larger and will be a great addition to the City. Comm. Simons said the shared versus individual driveways has been a conflict for him as he likes to see less land covered as a throughway for automobiles. He said the only way to minimize this with driveways is by putting the garages on the front of the property and he prefers the garages in the back. He said in this project with the garages in the back that he prefers the shared driveway as it puts less land dedicated toward driveways. He said he likes the condition with no parking allowed on the driveway as it mitigates his concern about access to the garages.

Comm. Babcock commented that there are many features of this project that are outstanding including the architecture, the garages located in the rear yard, the architecture blending with the neighborhood, and the homes are good sizes even before the basements are considered in. She said the entire development would be much better with five homes on Bayview with FAR not exceeding 50%. She said likes the shared driveway. She commented the street is narrow and keeping the parking off the street is good.

Vice Chair Rowe said she would be supporting the motion as she believes it is the best compromise. She said that it is better to see three driveways rather than six.

Chair Sulser said he would be supporting the motion. He said compared to other similar projects that the Commission has seen in recent months that the architecture and design on this project is fabulous. He commended the applicant for bringing this project forward.

ACTION: Comm. Simons made a motion on 2007-0463 to adopt the Negative Declaration and introduce an Ordinance to Rezone 421 S. Bayview Avenue, 408 and 420 Flora Vista Avenue from R-2 and R-0 to R-2/PD and R-1.5/PD and approve the Vesting Tentative Map for lots 1-9 with the modification to remove lot 6 and approve the Special Development Permit for five new single family homes on lots 1-5 with modified conditions: to add language that single family lots are intended for lots 7 and 8; to add language that the driveway widths will be 11 feet and the paved areas in front of the garages would be made of pervious materials for stormwater runoff and if other stormwater runoff requirements are needed in the future then additional requirements can be added; that five units be developed on S. Bayview with a maximum of three driveways on the proposed sites; to modify condition 8 to include that new trees added shall be native species and as large as appropriate for placement on the lot; to follow through on the planned details that add differentiation to the homes including window and door styles, rafter details, garage door styles, molding used on the buildings, garage building styles which contribute to increasing the architectural detail; that all units will not exceed a 50% FAR (Floor Area Ratio); that the applicant continues to work with staff to address the privacy issues for the second story windows on both the northern most and southern most houses on Bayview, and also in the future the northern and southern houses on Flora Vista when those plans come through; that the lot sizes would be consistent with the Bayview Avenue lot widths and give any extra space to lot 9. Comm. Babcock seconded. Motion carried unanimously, 7-0.

APPEAL OPTIONS: This recommendation will be forwarded to City Council and is scheduled to be heard at the June 10, 2008 City Council meeting. (Item was advertised for June 3, 2008 and is to be continued to the June 10, 2008 meeting.)