PLANNING COMMISSION MINUTES OF FEBRUARY 27, 2006

2005-1009 - Greg Mussallem [Applicant] **Virginia J Mardesich, Trustee** [Owner]: Application for related proposals on a 16,213 square-foot site located at **563 Alberta Avenue** (near Sunnyvale-Saratoga Rd) in an R-2 (Low-Medium Density Residential) Zoning District. (Negative Declaration) (APN: 323-30-025) RK;

- **Special Development Permit** to allow the construction of four new single-family homes, and
- **Rezone** from R-2 (Low-Medium Density Residential) to R-2/PD (Low-Medium Density Residential/Planned Development) Zoning District.

Ryan Kuchenig, Associate Planner, presented the staff report. Staff had not received any written comments from adjacent residents prior to the completion of the report. Two e-mails and a letter have since been received by staff from neighbors citing concerns with loss of privacy and concern about removal of significant trees. These correspondences have been provided to the Commission. Mr. Kuchenig provided one clarification on the site plan, Attachment D, stating that there are two Monterey Pine trees on the southeast corner of the site that will be preserved (not removed as the site plan indicates). He said this application is scheduled to be heard before City Council on March 21, 2006 and staff is recommending approval with the attached conditions.

Comm. Klein asked staff if there were any issues with the window placements and rear setbacks regarding the property to the north. Mr. Kuchenig said that the plans meet the minimum setback requirements and that Condition of Approval I.1. (COA) requires large species trees along the rear property line to mitigate privacy impacts.

Chair Hungerford opened the public hearing.

Rick Hartman, with Hometec Architecture, Inc., architect for the project, said that since the previous application for this project that the garage has been put behind the front units, the front doors of two units brought towards the street and the depth compressed which has increased the front setback. Mr. Hartman discussed the setbacks and open space in the rear yard offering some flexibility in the proposal if the Commission directed. He commented further about the color design, the window placements and the willingness to obscure or modify windows as required. He offered to answer any questions the Commission might have.

Comm. Babcock said that Mr. Hartman mentioned possibly moving a house a little closer to the street and asked how many feet closer to the street could the

house be moved. Mr. Kuchenig clarified that the project as a whole meets the useable open space requirement, but for the front two units, there is lack of the useable open space. Mr. Kuchenig said if the front units were moved toward the street then a deviation would need to be allowed for front yard setbacks. Mr. Hartman confirmed that there is not a lot of room to move the units.

Beverly Beatty, a Sunnyvale resident and neighbor, expressed her concern about having three neighbors versus the current one neighbor. She said coordinating replacing fences with one neighbor has been unsuccessful and is concerned about now having more neighbors to coordinate with on future shared neighbor issues. She expressed her concern about her loss of privacy as she has a lot of windows on the backside of her house and the proposed homes' windows will allow a lot of exposure to her living space. She understands that trees are proposed to help mitigate the loss of privacy. She asked who would be responsible to maintain the future trees being planted. She asked several questions about the report regarding who the responsible party is for the maintenance of the trees being put in for privacy, questioned the compatibility of this development with her home and the effect it could have on the value of her property, and said that the report refers to retaining walls which she wanted clarification on.

Marilyn Schwartz, a Sunnyvale resident and neighbor, asked about the row of Cypress trees on the west side of the site and whether they would be retained. She also asked about the retaining wall around the property, if there would be some kind of Homeowner's Association that would maintain the property and what windows would be on the west side of the property. She said that there was a statement that there would be no impact on traffic. She expressed her concern about the heavy traffic that already exists on Alberta Avenue citing multiple reasons for the traffic. She commented that someone needs to work on improving the current traffic situation and use common sense when approving more homes. She said she would like some response regarding the fate of the Cypress trees, the windows and the traffic situation.

Mike Cully, a Sunnyvale resident and neighbor, said he submitted an e-mail to the Commission today. He explained that the homes on Fort Laramie, the street behind Alberta, are four feet below the homes on Alberta. He said that the proposed two-story homes will give the appearance of three-story monster homes looking down into the Fort Laramie back yards. He asked the Commission to consider recommending two one-story homes on this lot instead of four two-story homes. He asked the Commission if the purpose of putting four homes on this lot was to increase tax revenues and asked if staff had considered that the lots on Fort Laramie had lower property lines than the lots on Alberta.

Christopher Tang, a Sunnyvale resident and neighbor, submitted a letter and pictures today. He said he agrees with Ms. Schwartz' comments about the previous mentioned concerns about the traffic on Alberta. He said he is

concerned about the development of the property and the effects on the natural settings that currently exist. Mr. Tang said there is a high-density of pine trees and other landscaping on this site that are unique to Alberta. He feels any change to the natural setting will have an impact on the appearance and character of neighborhood. He said there are possible ways to develop this site without having to have this much concentration, from one unit to four and also making the units two-stories. He said he is concerned that the new properties will obscure his sunlight and ability to see the sky as the proposed development will only be six-feet away from his house and will be two-stories. He said he knows it meets the City requirements, but said that he believes this development will affect the quality of life of the neighbors.

Mr. Hartman said a new fence for the entire property is in the budget for the development. He addressed the concerns about the windows and said there is some flexibility regarding the windows if the Commission requires modifications. He said that the Cypress trees will remain on the property. He commented that these homes are only 1450 square feet.

Chair Hungerford closed the public hearing.

Comm. Sulser asked staff how rare it is that an applicant does not submit the Tentative Map with the application. **Gerri Caruso**, Principal Planner said that usually the maps are submitted with the application, but it is not required to be submitted at that time.

Comm. Klein referred to COA 6.D. and asked staff what the grade differences were for this site and the neighboring sites. Mr. Kuchenig said he does not have that information. Comm. Klein asked if staff had any problems with some of the concerns the neighbors have brought up in regards to grade. Staff said when the architecture of the homes and the neighboring sites were being considered that staff felt 23 ½ feet in height was well under the requirement.

Comm. Simons confirmed with staff that Home Owners Associations (HOAs) are not required for four or fewer units. Ms. Caruso said in this case the COAs will be recorded against the property with the Tentative Map and the driveway will have an easement and this information will be available to the new owners and the public. Comm. Simons confirmed with staff that the numbers for the setbacks for the Planned Development (PD) are fixed. Comm. Simons confirmed with staff that except for the backyard, this development meets the requirements. Comm. Simons asked for clarification of which site plan is being proposed. Staff confirmed that Attachment D is the current proposed development. Comm. Simons asked about the fence height in relationship to the differences in the neighboring lot heights. Ms. Caruso said that a six-foot fence, measured from the higher lot, is allowed.

Comm. Babcock said that this site currently zoned R-2 which means the owner has the right to build to these setbacks and to this height without consideration of any PD overlay. The PD overlay allows for the smaller lot size. Comm. Babcock asked staff what the current setbacks for the adjacent homes are. Mr. Kuchenig said he does not know the setbacks to the north, but the site plan shows the approximate setbacks from the property lines for the adjoining properties.

Chair Hungerford said one of the speaker's concerns was about the maintenance of vegetation after it is put in. Mr. Kuchenig said if the vegetation were not being maintained, a neighbor could contact the Neighborhood Preservation division with the City for assistance. Chair Hungerford confirmed with staff that the two houses on the street will now have their entrances face the street. Chair Hungerford asked staff to discuss the traffic situation for this development. Staff said that the size of this development did not warrant a study, but that the development will be subject to traffic impact fees for the extra three units. Ms. Caruso said the fees go towards City-wide improvements. Ms. Caruso said if the neighbors have a traffic issue that they should contact the Traffic division to have the area looked at for possible traffic calming methods.

Comm. Sulser moved for Alternative 1 to adopt the Negative Declaration and introduce an Ordinance to Rezone 563 Alberta Avenue from R-2 to R-2/PD and approve the Special Development Permit with attached conditions. Comm. Simons seconded and offered a Friendly Amendment to modify COAs 7.I.1. and 7.J. that language include that the replaced trees be "large species, native trees as appropriate for the site." Comm. Sulser accepted the Friendly Amendment.

Comm. Sulser said that some of his colleagues have noted the height and density of this proposed development are already allowed under the R-2 zoning district and the PD overly only allows a change in the minimum lot size. He said he is happy that the developer has worked with the Planning Commission input from the Study Session and that this proposal is an improved version over the Study Session version. He said he thinks this is the best possible use of the site and he looks forward to the project being built.

Comm. Simons said he concurs with Comm. Sulser and commented that alternative development without the rezoning to PD could have had the same setbacks and scale and would not have required a public hearing. He said any neighbor can redevelop their home to the allowable zoning. He mentioned that neighborhoods can apply for single-story overlays if desired. He said he sees concern that there will be four homes instead of two when the greater concern could be the type of housing, i.e. single-family homes versus another type of housing that might be less desirable for this neighborhood. He said the proposed development with two of the single-family homes facing the street and with one entry driveway for the four homes is preferable over what could have been

developed. He said he appreciates the neighbors for attending and for raising their concerns about the property.

Comm. Babcock said she agrees with her fellow commissioners that even if the development was reduced down to two homes with the same setbacks that, in this R-2 zoning district, accessory units could still be built and the neighborhood could still end up with four buildings on the property. She said she completely agrees with the comments from the neighbors regarding the traffic on Alberta. She encouraged the neighbors to contact the City to try and get a traffic calming study done on the street.

Final Action:

Comm. Sulser made a motion on 2005-1009 to adopt the Negative Declaration and introduce an Ordinance to Rezone 563 Alberta Avenue from R-2 to R-2/PD and approve the Special Development Permit with modified conditions; to modify Conditions of Approval 7.I.1. and 7.J. that language include that the replaced trees be "large species, native trees as appropriate for the site." Comm. Simons seconded.

Motion carried unanimously, 5-0, Vice Chair Fussell absent.

This item is scheduled to be heard by the City Council on March 21, 2006.