

Maria Hamilton  
578 Ironwood Terrace  
Sunnyvale, CA 94086

August 24, 2018

Sunnyvale City Clerk  
603 All America Way  
Sunnyvale, CA 94086

Re: Appeal of Planning Commission Decision at  
Planning Commission Meeting of Monday, August 13th, 7:00 pm  
**File # 2018-7048** 669 - 673 Old San Francisco Road (APNs: 209-17-050 & 051)  
Application for Special Development Permit and Vesting Tentative Map to construct a six-unit residential development on the site

Dear Sunnyvale City Clerk,

I am writing to appeal the decision of the Planning Commission of Monday August 13, 2018, approving the development located at 669-673 Old San Francisco Road, Sunnyvale, CA 94086 (File No. 2018-7048).

### **Facts and Basis for Appeal**

The General Plan, Citywide Design Guidelines (updated 2013, as amended), and City Design Techniques (specifically, Section 2.2 Basic Design Principles that apply to "all residential projects") direct that a development is to be constructed in a manner that respects its immediate neighbors, and is compatible with the streetscape and neighborhood. Partly due to the direction of the City Council on April 25, 2017 with regard to the original proposed development, wherein the Special Development Permit and Vesting Tentative Map were denied (File No. 2015-8059), the newly proposed development 's (File No. 2018-7048) design was modified and massing decreased (by approximately 8%). The quality of the architecture and materials were greatly improved.

However, as proposed, the massing and scale remain inappropriate for the neighborhood, incompatible with the streetscape, and need to be further reduced according to Sunnyvale's General Plan, Citywide Design Guidelines and City Design Techniques. The massing decreased by 8%, however, the FAR (floor to area ratio) of this development increased by a net 7.75% (from 75% to 81%) from the previous design (File No. 2015-8059 rejected by City Council on April 25, 2017), offsetting any decrease in the massing.

At the Monday August 13, 2018 Planning Commission hearing, the standards of applicable Citywide Design Guidelines with respect to this development as mandated by the General Plan (Policy 55, Action 1 and LT 5.3 of the Executive Summary) and enumerated in detail in my two comment letters (Report to Planning Commission, Attachment 8, Page 37 of 44 and Attachment 8, Page 10 of 44), as well as the comment letters of others (particularly Report to Planning Commission, Attachment 8 Page 2 of 44, which clearly shows the area in question designated as "Preserve" in the LUTE section of the General Plan (Chapter 3, page 10, Figure 1) were not applied. At least one planning commissioner essentially stated, and I am paraphrasing, "A building in an area zoned R3/PD can be 30' tall. This building is less than 30' tall, therefore, it meets the standard." The only modification to the plan was by Commissioner Simons, who directed that the garage doors be painted a darker color.

The hearing of August 13, 2018 was delayed for over a month (from July 9, 2018) partly because there were inconsistencies in the materials (site plan corrections) circulated to the Planning Commission: Specifically, outdated studies and renderings that were based on the old design. Another reason for the delay that was given was that the owner of the two parcels needed additional time to respond to letters from interested parties.

Inconsistencies remained in the attachments for the proposed development, which I brought to the Senior Planner's (Ryan Kuchenig) attention in an email dated August 7, 2018, specifically regarding the shading analysis. I inquired if the shading analysis/solar study had been updated to show an updated shading impact with respect to the revised architectural renderings. I was told it was current: Mr. Kuchenig replied via email "Those drawings should reflect the revisions to the design." They may have reflected

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revisions to the design but there is no proof that a current solar study was included in the Report to Planning Commission of August 13, 2018, as Attachment 5, pages 18 and 19. The fact that the date of the solar study was blurred on both pages 18 and 19 could suggest that the shading analysis and solar study were not only outdated, but possibly intentionally misleading, altered documents. The same is true of a previous report, particularly the Report to Planning Commission of July 9, 2018, Attachment 5, page 13, with respect to the southwestern-most building's entry area, which is within the setback. The distance to that building from the property line is blurred.

Furthermore, in the previous development proposal for the same site (File No. 2015-8059) which was subsequently denied by City Council on April 25, 2017, the date on the solar study was not blurred or unreadable. The materials circulated to the commissioners and public and posted online for the hearing of August 13, 2018 were altered (blurred and unreadable). Specifically, the date of the solar study on pages 18 and 19 of Attachment 5, in addition to the distance to the lot line of the westernmost building that is within the front setback on page 5 of Attachment 5. That building encroaches on the front setback. This illustration is perhaps deliberately obscured (the distance from the building entrance to the lot line is basically indiscernible, but it is less than the 20' setback) in Attachment 5, Page 5 of the materials circulated at the August 13, 2018 Planning Commission hearing.

As currently designed, the proposed development continues to maximize unit size and amenities at the sacrifice of thoughtful design that meets Sunnyvale standards as enumerated in the Municipal Code, General Plan, Citywide Design Guidelines and City Design Principles. The inclusion of so many bedrooms and parking spots (16, instead of the required 10) in each unit results in little room remaining on the .34 acre-site for setbacks, yards, open space, or the four guest parking spaces required under the municipal code. In an effort to cram all of these elements onto the two lots, one building is moved to within the required front setback, and four guest parking spaces are squeezed within the rear setback along the property line shared with my neighbors (Attachment A hereto).

Parking. Uncovered guest parking remains too close to the living room and bedroom areas of four condominiums (578 Ironwood Terrace units 5, 6, 11 and 12) on the north side of the proposed development. At that location, the landscape buffer is less than 4', contrary to the architectural rendering in Attachment A. Some guest parking would be less than 20' from those units. Additionally, ten of 12 units at 578 Ironwood Terrace would be subjected to the negative impact of exponentially increased daily exposure to carbon emissions, particulate matter and noise from a total of 16 vehicles coming and going from the site due to the proposed location of the driveway and uncovered guest parking. This will impair the existing uses being made by current and future occupants of those residences, affecting their quality of life and quiet enjoyment of the premises.

The Pebble Creek condominium complex adjacent to the proposed development was built in 1983. That development utilized high quality design which ensured no bedroom or living room areas were adjacent to parking, and avoided placing any uncovered parking area adjacent to any neighboring properties, including 669 and 673 Old San Francisco Road. All uncovered parking was situated in areas which would neither affect, nor be adjacent to, any adjacent R-0 homes.

Design improvements must be made to mitigate the negative impact of four uncovered parking spaces at the end of the driveway of the proposed development. The quality of life impact is a legal impact, affecting air quality, privacy and quiet enjoyment currently accessible to adjacent neighbors. The quality of life of adjacent neighbors and the existing uses of their respective residences should not be compromised nor sacrificed due to the current crammed design of the proposed development.

Massing. In accordance with the goals of the General Plan, particularly, (bold and italics added) **LUTE** (Land Use and Transportation Element of the General Plan) **Policy 55 (Executive Summary LT-5.3)** and **LUTE Policy 57 (Executive Summary LT-6.2)**, decreased massing is needed, especially on the third floor, to be in compliance with **Citywide Design Guideline 2.B5** below to allow for compatibility within the established neighborhood on the north side of Old San Francisco Road. A design that follows these policies and guidelines will minimize the shading, privacy, bulk, and general nuisance impacts on the adjacent property at 578 Ironwood Terrace, in particular:

**Policy 55**

Require new development, renovation, and development to be compatible and well integrated with existing residential neighborhoods.

**Action 1:** Utilize adopted *City* [sic] *design guidelines* to achieve compatible and complementary architecture and scale for new development, renovation, and redevelopment.

**Policy 57**

Limit the intrusion of incompatible uses and inappropriate development in and near residential neighborhoods, but allow transition areas at the edges of neighborhoods.

**Action 1:** Where appropriate, use higher-density residential and higher-intensity uses as buffers between neighborhood commercial centers and transportation and rail corridors.

As detailed in this letter, the proposed development does not follow the policies above. Further, with regard to **Citywide Design Guidelines 1.A3** and **2.B5**:

- The 18 du/acre proposed development is adjacent to a 14.22 du/acre condominium complex to the north and west, and a 6 du/acre single family home R-0 parcel to the east.
- The 14.22 du/acre condominium complex is built to Low-Medium Density, not built to Medium Density as incorrectly stated on the Report to the Planning Commission Summary of August 13, 2018: "North: Medium Density Residential - Condominiums (Pebble Creek Condos)." It is only .22 du/acres above the range for R-2 Low-Medium Density Residential zoning (7-14 du/ac), and .78 du/acres below the range for R-3 Medium Density Residential zoning (15-24 du/ac) (Sunnyvale General Plan, Land Use and Transportation, pages 81-82).
- The proposed infill (sensitive use) R-3/PD development, at 18 du/ac, must incorporate decreased massing and bulk in its design in order to comply with **Citywide Design Guidelines 1.A3** and **2.B5**:
  - 1.A3.** Develop transition between projects with different uses and intensities to provide a cohesive visual and functional shift. Create transition by using appropriate setbacks, gradual building height, bulk and landscaping.
  - 2.B5.** Step back upper stories of building [sic] three stories or taller from public roads and adjacent low scale development to reduce the bulk impact.

The north and east sides of the third floors of the planned development do not step back sufficiently as required by **Citywide Design Guideline 2.B5**, and mandated to be adhered to by General Plan Policy 55, Action 1, above. This guideline is necessary to minimize the bulk impact on adjacent low-scale development. At 14.22 du/acre, 578 Ironwood Terrace is a low-medium scale (R-2) development. Four of 12 units there will no longer have sunlight on their decks or patios on and around winter solstice according to the undated shading/shadow analysis. It is recognized that solar access is not a protected amenity or right, but it will have a quality of life impact on the residents of adjacent lower scale developments.

The size, FAR (floor to area ratio), and massing of the entire project at **18 du/acre** must be further reduced by way of design to allow for transition between uses and to be in compliance with **Citywide Design Guideline 1.A3** above, or it will visually be spot zoning between an R-2 scale condominium development (578 and 598 Ironwood Terrace at **14.22 du/acre**) and an R-0 zoned single family home development (717 Old San Francisco Road at approximately **6 du/acre**).

If the proposed development moves forward without any corresponding decrease in mass, scale and scope as required by the General Plan, it will be in direct violation of the General Plan of Sunnyvale LUTE (Land Use and Transportation Element of the General Plan) Policy 55, and LT-5.3 of the Executive Summary. The location of the proposed development is in an area designated "preserve" in the General Plan of Sunnyvale. This means minimal change to, and preservation of, the area, not upheaval.

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As designed, the proposed development's mass, scale and scope disregard Sunnyvale's General Plan to "preserve" the area in question. The .34 acre proposed development site is located on the General Plan map in an area designated as "PRESERVE" in the LUTE (p. 11, Figure 1). The definition of "PRESERVE" is as follows:

Area is expected to experience minimal infill and upgrades. Fundamental purpose, form and character stay the same.

Sensitive uses include infill developments. The proposed infill development site is adjacent to condominiums built in 1983 and a single story home built in 1970. As designed, the proposed development has the greatest massing of any residence on the north side of Old San Francisco Road between Ironwood Terrace and Gail Avenue, rendering it incompatible in size, scale and scope with adjacent properties.

A sensitive use design that would make better planning sense and align with the General Plan without interfering with the existing uses being made of adjacent properties would further decrease the massing, size, scale and scope of the planned development, particularly on the third floor, and/or reduce the current massing to create eight units with one or two bedrooms and a one car garage each. Our community and neighborhood would welcome eight units; allowing for one unit to be an affordable housing unit. Sunnyvale needs more affordable housing. This development avoided that requirement by reducing the originally planned number of units from eight to six.

#### Special Development Permit and Tentative Map

The applicant needs to (1) commit to design changes that more respectfully consider the negative impacts on, and the existing uses being made, of (a) all adjacent residences (including, but not limited to, substantially increased exposure to noise and particulate matter, and decreased privacy), and (b) the neighborhood (increased pollution, traffic and car trips, resulting in pedestrian safety concerns along Old San Francisco Road), or (2) directly provide community benefits in order to obtain a special development permit. Special development permits are provided to projects that improve neighborhoods through creative development, not to projects that prioritize profits over safe and thoughtful parking conditions, setbacks and neighborhood impacts.

With regard to the Vesting Tentative Map requirements, the negative impacts described above make it clear that (1) the design of the proposed subdivision is not consistent with the General Plan, (2) the site is not physically suitable for the proposed density of the development, and (3) the map fails to meet requirements imposed by Municipal Code (specifically, Sunnyvale Municipal Code Section 19.26.020).

**Sunnyvale Municipal Code Section 19.26.020** states that the purpose of a planned development district is to "achieve superior community design, environmental preservation and public benefit." The proposed development will not achieve these goals. To the contrary, the overly crammed design will increase the likelihood of general conflict in the community, for example, as guests and residents attempt to park their vehicles in the four guest parking spaces at the end of the driveway. The noise and fumes from these conflicts will be located right outside the living areas of residents of 578 Ironwood Terrace, replacing what used to be the backyards of two single-family homes.

#### Summary of Facts

- FAR increased from previous project plans from 75% to 81% (net increase of 7.75%).
- Massing decreased 8% (this will be offset by the increased FAR).
- Pages on the Report to Planning Commission for the hearing of August 13, 2018, Attachment 5, Project Plans and Tentative Map, pages 5, 18 and 19 were altered – dates and numbers were blurred regarding setbacks and the date of the solar analysis.
- The southwesternmost setback in the front of the proposed development is not adhered to—the building is partly inside of the setback, even though not starred on the project data table.

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- The planning commission hearing scheduled for July 9, 2018 had to be postponed to August 13, 2018 because of inconsistencies in the architectural renderings (I had pointed these out to Mr. Kuchenig, Senior Planner – the old design was used in some attachments).
- Shortly before the August 13, 2018 hearing, I was looking at the shading analysis. I thought, if they decreased the massing on the third floor by 8%, why is the shading analysis/solar study the same? I asked Mr. Kuchenig if it had been updated and his reply on August 7, 2018 was: "Those drawings should reflect the revisions to the design." I could not tell the date of the solar study/shading analysis because it was blurred out/erased.

### Conclusion

It is important to balance property rights and development opportunities with quality of life impact concerns of existing residents. As a community, we care about our neighborhood as well as the Sunnyvale design techniques and development guidelines that are in place to protect the public interest. One of our goals as a community representing the public interest is to be sure that developers are held to the standards of Sunnyvale's Municipal Code regarding planned development districts (cited above), its General Plan, Citywide Design Guidelines, and City Design Techniques (Section 2.2 Basic Design Principles, Attachment B hereto). The carefully articulated directives of those codes, goals, policies, guidelines, and principles, if followed, will allow for a development that the community can support.

### Action Sought

Deny the special development permit and tentative map for the reasons outlined in this letter. If the special development permit and tentative map approvals are retained, it is requested that good faith measures be taken to protect adjacent residents and the neighborhood from the negative impacts enumerated in this letter. Utilizing Citywide Design Guidelines and Design Techniques (which apply to all residential neighborhoods) will more appropriately align the proposed development with the goals and policies of the General Plan, and allow for more compatibility among the proposed development, the neighborhood and streetscape, and the intent of planned development districts. This can be accomplished by:

- Decreasing the size and massing of all units to more appropriately accommodate guest parking, open space and setback requirements;
- Decreasing the size and massing of the units at the back (north) end of the lot, especially the third floors, to reduce shading, privacy, bulk and general nuisance impacts to neighboring residences; and
- Relocating the guest parking outside of the rear setback.

Sincerely,



Maria Hamilton  
Sunnyvale, CA

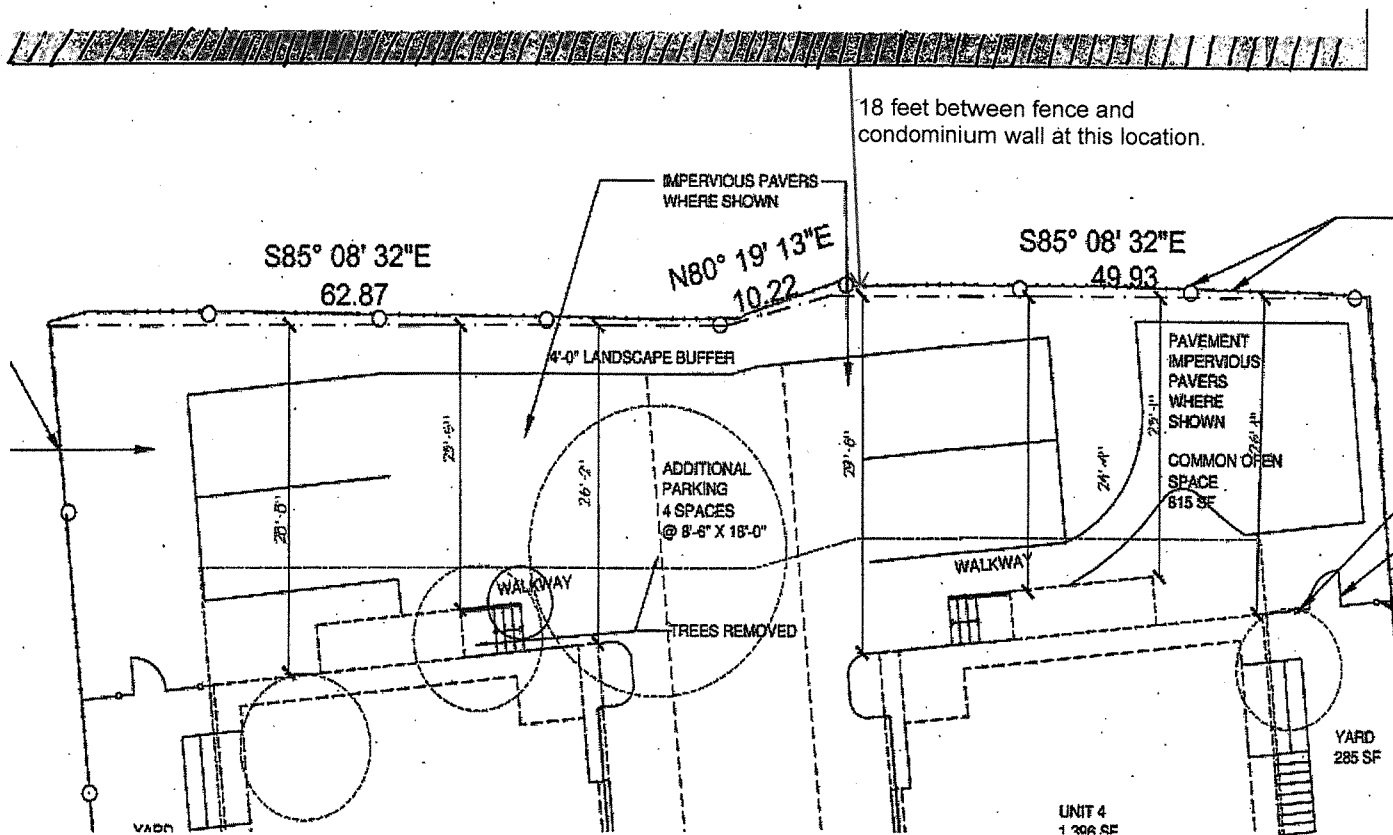
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**Supporters of the "Action Sought" on Page 5:  
Sunnyvale, CA**

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Attachment A

Condominiums



Living areas indicated by ///////////////.

**Attachment B**



SUNNYVALE SINGLE FAMILY HOME DESIGN TECHNIQUES  
COMMUNITY EXPECTATIONS

## 2.2 BASIC DESIGN PRINCIPLES

These design principles should be respected in all residential projects. They are the touchstones upon which all of the following design techniques are based, and, since design guidelines cannot anticipate every condition that might occur, they will be used in addressing conditions not specifically covered in the more detailed sections that follow.

### 1. REINFORCE PREVAILING NEIGHBORHOOD HOME ORIENTATION AND ENTRY PATTERNS

*Maintain a sense of neighborhood by facing residences and home entries to primary public or private streets, providing convenient pedestrian access from the street, and including front windows, where common, to provide "eyes on the street" in order to enhance neighborhood safety.*

### 2. RESPECT THE SCALE, BULK AND CHARACTER OF HOMES IN THE ADJACENT NEIGHBORHOOD

*Buildings should be sympathetic to the predominant building forms and scale of their neighborhoods, including but not limited to, height, bulk, character, building form, roof form and orientation, window treatments, materials, and colors. Architectural styles, elements, and shapes need not necessarily be the same as those on adjacent and nearby homes, but improvements should avoid unnecessary visual conflicts.*

### 3. DESIGN HOMES TO RESPECT THEIR IMMEDIATE NEIGHBORS

*Every project should be respectful of adjacent homes and neighbors. New development should avoid privacy, noise, light and visual conflicts with adjacent uses to the maximum degree possible. Special care should be given to avoid tall blank walls and building volumes immediately adjacent to one story forms on adjacent parcels, and to the placement and treatment of windows and site landscaping to minimize views into neighboring homes' windows and private outdoor spaces.*

### 4. MINIMIZE THE VISUAL IMPACTS OF PARKING

*Wherever possible, garages and their paved access drives should be subordinate to, rather than dominating, the entry and architecture of the house. In cases where garages are a major part of the street front in a neighborhood, existing patterns may be followed, but steps should be taken to soften the visual impact of the garage fronts. Visual elements might include landscape divider strips in the paving between garage entries, dividing double garage faces into individual doors, adding landscape trellises and lattices to soften garage fronts with landscaping and taking steps to provide special emphasis on the front entry.*

### 5. RESPECT THE PREDOMINANT MATERIALS AND CHARACTER OF FRONT YARD LANDSCAPING

*In neighborhoods where there is a discernible landscape character along street fronts, new home landscaping should take that into consideration. Where front landscape areas are primarily composed of living plant materials, that pattern should be repeated.*

### 6. USE HIGH QUALITY MATERIALS and CRAFTSMANSHIP

*Quality materials require less maintenance to remain attractive over time, and they convey a sense of pride in one's home.*

### 7. PRESERVE MATURE LANDSCAPING.

*Wherever possible, mature trees should be protected during construction and integrated into new landscape plans.*

## EXCEPTIONS

*Design guidelines cannot address every possible condition for every type of neighborhood or architectural style in the City. Although the principles set forth on this page and the guidelines contained in the following sections will be applicable for most cases, there may be unique characteristics of individual neighborhoods or specific sites. Where conflicts between the principles and guidelines in this document are in conflict with the specific characteristics of a neighborhood, reviews and approvals will be based on the most appropriate methods of fitting new construction into the context of existing neighborhoods.*