



# REPORT TO COUNCIL

## City of Sacramento

43

915 I Street, Sacramento, CA 95814-2671  
www.CityofSacramento.org

Public Hearing  
June 12, 2007

Honorable Mayor and  
Members of the City Council

**Title:** Call-up: 5<sup>th</sup> Avenue Duplexes (P05-046)

**Location/Council District:** 3018-B 5<sup>th</sup> Avenue; APNs: 013-0137-016 and 017 (District 5)

**Recommendation:** Conduct a public hearing and upon conclusion adopt 1) a **Resolution** determining project exempt under the California Environmental Quality Act; and 2) a **Resolution** approving a Variance to allow the construction of one single-family dwelling on each of two contiguous parcels lacking public right-of-way frontage in the Multi-family (R-4) zone.

**Contact:** Kimberly Kaufmann-Brisby, Associate Planner, 808-5590; Tom Buford, Senior Planner, 808-7931

**Presenter:** Kimberly Kaufmann-Brisby

**Department:** Development Services

**Division:** Current Planning

**Organization No:** 4881

**Description/Analysis:**

**Issue:** The applicant is requesting the required entitlement approval to construct two (2) single-family houses on two contiguous parcels lacking the required public street right-of-way in the Multi-family (R-4) zone. On August 24, 2006 the Planning Commission reviewed and approved the original project proposal which consisted of one duplex on each of the two parcels (two duplexes). That project was opposed by several neighbors living on a nearby street. Subsequent to the Planning Commission approval the project was called-up by Council member Hammond, the council member for District 5. Since the project approval and Call-up the applicant has worked with City staff and the Councilmember to develop a project which the neighbors might better accept and that would have less of an impact on the neighborhood. Those discussions resulted in the current



proposal now before the City Council. See Project Background discussion (Attachment 3) for additional project information.

**Policy Considerations:** The proposed project, with a density of 12 dwelling units per net acre (du/na), is consistent with the zoning designation of Multi-family (R-4) which allows up to 58 du/na. While the project density is not consistent with the General Plan designation of Low Density Residential (4-8 du/na), the General Plan provides in the case of projects smaller than five acres the more specific land use designations, in this case the zoning, will apply. (GP 9-15). The project is consistent with the zoning designation and no plan amendment is needed.

The proposed project is consistent with the General Plan Guiding Principle of providing affordable and safe places to live. By developing the existing lots with the proposed single-family homes the applicant is providing safe and affordable dwellings for all residents and providing a balance of housing choices for the neighborhood.

Smart Growth Principles: The City Council adopted a set of Smart Growth Principles in December of 2001 in order to encourage development patterns that are sustainable and balanced in terms of economic objectives, social goals, and use of environmental/natural resources. The project promotes the concentration of new development and targets infrastructure investments within the urban core of the City of Sacramento.

Strategic Plan Implementation: The recommended action conforms to the City of Sacramento's Strategic Plan by increasing opportunities for all Sacramento residents to live in safe and affordable housing.

**Committee/Commission Action:** On August 24, 2006 the Planning Commission approved, with a vote of six ayes and two noes, three proposed variances to: 1) allow the construction of one duplex on each of two contiguous parcels lacking public street frontage in the Multi-family (R-4) zone; 2) reduce the required rear setback in the Multi-family (R-4) zone; and 3) reduce the required vehicular maneuvering area. Following approval, the project was called up to City Council by Councilmember Hammond, the Councilmember for the district in which the project is located.

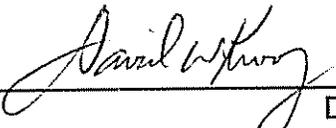
**Environmental Considerations:** The project has been deemed exempt under California Environmental Quality Act (CEQA) Guidelines Section 15332, Infill Development. The project is consistent with the General Plan designation and all applicable General Plan policies as well as with the zoning designation and applicable regulations. The proposed development is within city limits on a site with less than five acres that is substantially surrounded by urban uses. The site has no value as habitat for endangered, rare or threatened species. Approval of the project would not result in any significant effects relating to traffic, noise, air

quality, or water quality, and the site is adequately served by all required utilities and public services.

**Rationale for Recommendation:** Approval of the proposed project would result in the addition of a single-family residence on each of two existing infill lots lacking public street right-of-way frontage. The project is consistent with sound principles of land use and environmental quality. There is neighborhood opposition to the proposed project. See Attachment 4 for neighbor comments and concerns regarding the duplex project and Attachment 8 for the Planning Commission staff report.

**Financial Considerations:** None

**Emerging Small Business Development (ESBD):** No goods or services are being purchased under this report.

Respectfully Submitted by:   
David Kwong  
Planning Manager

Approved by:   
William Thomas  
Development Services Director

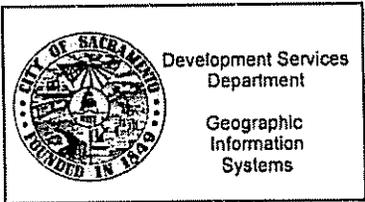
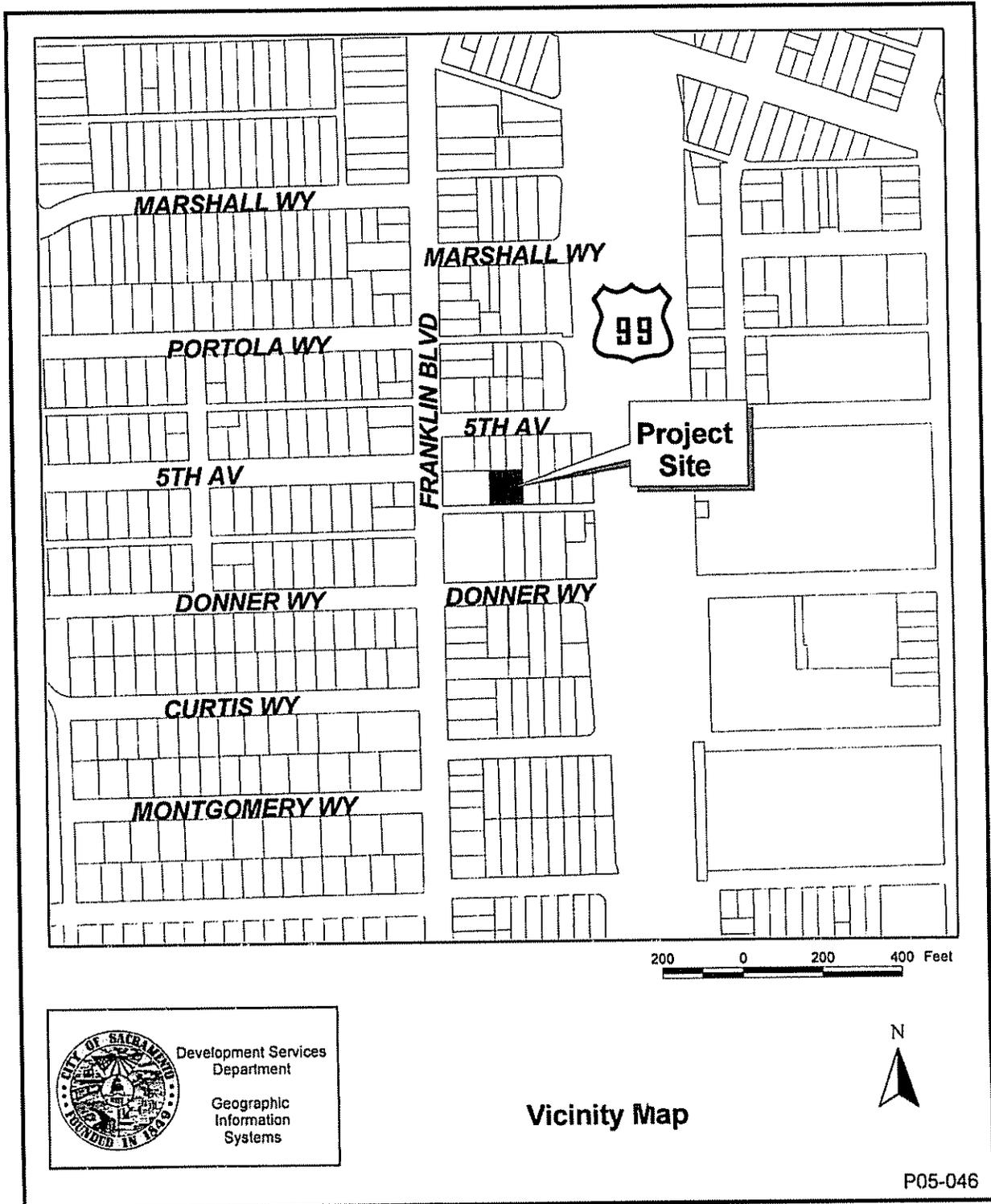
Recommendation Approved:

*for*   
RAY KERRIDGE  
City Manager

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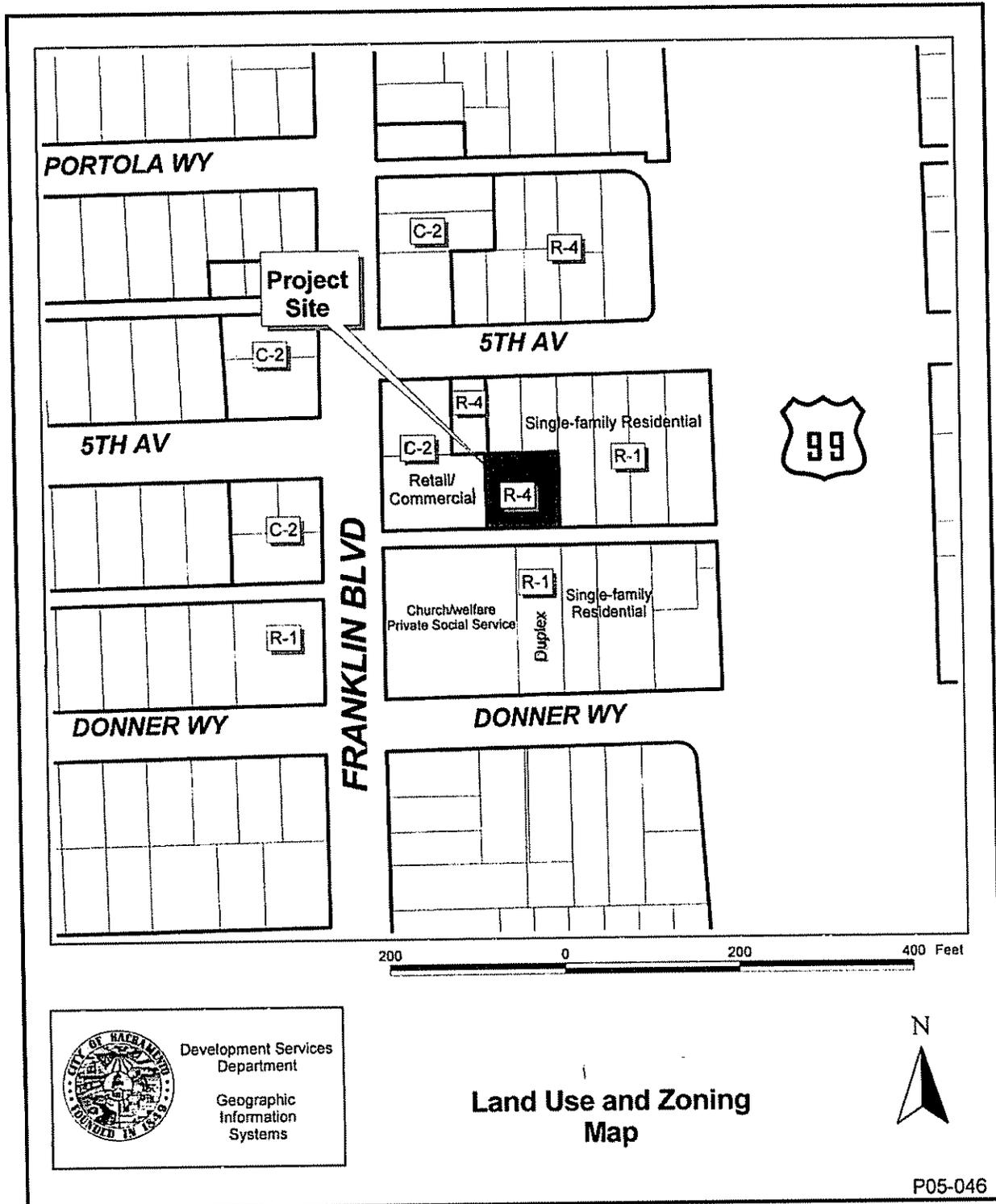
**Attachment 1 - Vicinity Map**



**Vicinity Map**

P05-046

### Attachment 2 – Land Use and Zoning Map



Development Services  
Department  
Geographic  
Information  
Systems

### Land Use and Zoning Map



P05-046

## Attachment 3 – Project Background

### Summary:

The applicant is requesting the required entitlement approvals to construct one single-family residence on each of two contiguous parcels (two residences). The parcels are located south of 5<sup>th</sup> Avenue, and east of Franklin Boulevard, on the north side of a 20-foot wide alley. Because each of the parcels lacks 20 feet of frontage on a public street or approved private street frontage, a variance is required for development. (City Code Section 17.68.030(C)).

The project generated opposition at the Planning Commission hearing, and remains controversial. See Attachment 4, Neighborhood Concerns.

### Project Design:

Each of the two existing alley-fronting lots is  $\pm 87'$  deep, limiting the available developable area after complying with the applicable development standards. Each lot would be developed with a nearly identical layout; the distinction between the parcels is lot 17 has a width of 40' and lot 16 has a width of 44'. The applicant has designed each parcel to provide useable outdoor space for landscaping and passive recreation. Adequate parking is proposed with a single-car garage and single-width driveway on each lot, which satisfied the parking requirement of one space per dwelling unit. The overall design of the  $\pm 1,401$  square foot, two-story, three bedroom homes is consistent with the Single-family Residential Design Principles.

The entirety of the alleyway, on which the lots front, is fenced on both sides except where a residence fronts on the alley as is the case at the eastern terminus. The lack of fencing at that residence serves to open the alley area and make it more visually appealing. Staff anticipates the proposed project will serve to open the northwestern portion of the alley, near Franklin Boulevard, and will enhance as well as provide activity and eyes on the alleyway.

### Land Use:

The lots are existing, developable parcels that lack frontage on a public street or approved private street frontage. Staff has confirmed that the parcels were validly created prior to the effective date of the Subdivision Map Act, and are legal parcels. The Zoning Code requires a variance to develop parcels without the required frontage. Adequate area is available for the house, parking, private outdoor yard and courtyard areas. The granting of the variance would be appropriate for any property owner facing similar circumstances.

The project site is zoned Multi-family (R-4) which allows up to 58 dwelling units per net acre (du/na) and requires a minimum lot area of 750 square feet per dwelling unit. The proposed project density is 12 du/na. Lot 16 has an area of ±3,828 square feet and lot 17 has an area of ±3,480. The proposed density is appropriate for the neighborhood, in which most of the residences are single-family dwellings.

In response to concerns raised during the staff review, at the Planning Commission hearing and in conversations with neighborhood residents, staff has developed conditions that ensure that the project plans and construction standards proposed by the applicant are implemented. Conditions 1a through 1y to the variance, as set forth in the City Council resolution, address numerous aspects of the proposed project, including shutters for windows, painting and siding specifications, screening of mechanical units and landscaping. The development of the properties would eliminate the potential for nuisance activities such as illegal dumping on the vacant lots.

The proposed development is otherwise consistent with the purpose and intent of the zoning regulations in that the safety and proper functioning of the alley and adjacent properties is not impaired. The proposal does not violate any applicable General Plan policies.

A variance cannot be approved if it would constitute a special privilege extended to one property owner. The circumstances must demonstrate that the same variance would be appropriate for another property owner facing similar circumstances. In this case, the parcels were created in compliance with California law, but lack frontage on a public street as required by the City's Zoning Code. Under these circumstances, and as conditioned, a variance would be appropriate under similar circumstances for any other property owner. Conditions applied to the project would ensure that the project could be developed without endangering the public health and safety.

#### **Entitlement History:**

A review of the site history revealed no recent project applications. The initial project history review revealed one previous entitlement purportedly for this site, which was a variance to reduce parking (P7984). Upon further investigation it was revealed the entitlement, which was denied, did not apply to the project site but rather to the property located at 3018 5<sup>th</sup> Avenue. No additional records of planning approvals were found.

In accordance with Section 17.200.040(B) of the City Code, notice of the hearing has been provided in the manner provided for in Section 17.200.030(g).

## **Attachment 4**

### **Neighborhood Concerns**

The Sierra Curtis Neighborhood Association and Mike Nelson, an interested neighbor, were sent early project notification packets to review and comment on during staff's project review period for the duplex project prior to the Planning Commission hearing. Mike Nelson contacted staff by telephone regarding his concerns about the proposed project on several occasions. His concerns related to the proposed project density and existing alley parking issues. The following 11 pages outline the neighborhood concerns regarding the veracity of portions of the Planning Commission staff report and concerns regarding the development itself, including whether, as a matter of general policy, development of alley parcels should be allowed at all. The following documents were provided to staff during the Planning Commission hearing. The Planning Commission staff report, to which reference is made, is included as Attachment 8.

Since the project's evolution from two duplex units into two single-family residences, staff sent project packets to all the neighbors who spoke in opposition to the project during the Planning Commission hearing in August of 2006. Included in the packet was an invitation to meet with staff and the applicant to discuss the project prior to the June 12 Council hearing. The meeting is scheduled for the evening of May 21<sup>st</sup>.

Staff has also received objections to an asserted lack of opportunity provided for neighborhood comment. As noted, the project was routed to the neighborhood association and to one neighbor who was known to be interested in the project. The Planning Commission hearing was duly noticed, and staff has, since that date, spoken on numerous occasions with neighborhood residents who expressed an interest in the project. Once the revised project plans were received, they were routed to a mailing list that included the interested neighbors, and, as noted, a meeting was scheduled to discuss the project. Staff believes adequate opportunity for comment has been provided, and staff has indicated to neighborhood residents that the project, if approved, will remain subject to oversight via the project conditions.

**To:** Honorable Members of the Planning Commission  
**From:** Concerned neighbors of the proposed 5<sup>th</sup> Ave. Duplexes project  
**Subject:** 5<sup>th</sup> Avenue Duplexes (P05-046)  
**Date:** August 24, 2006

**FACT CHECK AND COMMENTARY ON *STAFF REPORT***

We realize that the Commission must assume that the recommendations they receive and the staff reports upon which they are based are factually accurate, objective and solidly researched. We also recognize that staff cannot practically include all background and research data in the report. However, in this case we believe the report and its recommendations are flawed in two ways—inaccuracies in several instances and unsubstantiated assumptions made without any real investigation.

Following are examples of these inaccuracies and unsubstantiated assumptions.

**Page 3: Background Information**

The report states:

**There is one previous entitlement for this site, a variance to reduce parking space depth from 14' to 10' (P7984**

Our findings:

There are two substantive factual errors in this sentence. See attachment P7984 for confirmation:

- 1) No previous entitlement was granted. The application for a variance was denied.
- 2) The requested variance was for a reduction in number of spaces), not the depth of the spaces as erroneously stated in the Staff Report.

**Page 3—Public /Neighborhood Outreach and Comments:  
Paragraph one**

The report states:

**... Mike Nelson contacted staff regarding his concerns about the proposed project on several occasions. His concerns**

**related to the proposed project density and existing alley parking issues.**

Our findings:

Acknowledges that there are “existing alley parking issues,” but then doesn’t address parking issues at all in the next paragraph when reporting on a Staff visit “to ascertain current site and alley conditions.” This Staff Report generally dismisses and avoids mention of parking issues.

**Paragraph two**

The report states:

**Staff visited the project site to ascertain current site and alley conditions.**

Our findings:

This appears to have been a single, daylight visit. No report of what conditions were at other times of the day, especially the evening hours when conditions can be quite different. Even the photos in the official Project File all appear to have been taken at the same time and contain no signs of life or human activity. There is no evidence in the Staff Report, or from any neighborhood residents, that staff attempted to talk to them about “current site and alley conditions.

The report states:

**The proposed density is appropriate for the area.**

Our findings:

It may be “appropriate” for “the area” in some vague, undefined sense of the word, but in the opinion of the residents who signed the protest letter, clearly it is not appropriate for that specific “site” and its immediate surroundings.

The opinions of neighborhood residents are based upon daily experience with the “current site and alley conditions.” Staff’s opinions appear to be based upon a brief, one-time, mid-day visit.

The report states:

**The entirety of the alleyway is fenced on both sides except where a residence fronts on the alley as is the case at eastern alley dead end. The lack of fencing at the existing residence serves to open the alley area and make it more visually appealing.**

Our findings:

Ignores the existence of another residence fronting on the alley (at the south western end) presumably because it makes the alley less visually appealing and weakens the sales pitch for the Duplexes project.

The report states:

**Staff anticipates the proposed project will serve to open the northwestern portion of the alley, near Franklin Boulevard, and will enhance as well as provide activity and eyes on the alleyway.**

Our findings:

This “anticipation” is an unsubstantiated assumption. Staff is saying the presence of additional tenants will make the alley more secure. How can this be if the residences already existing on the alley have not made it more secure? To the contrary, the residents and their property will be exposed to the higher risk of an alley as opposed to a more open street. This has been the direct experience of those of us who have lived with the alley and its problems.

**Page 4—Policy Considerations**

The report states:

**The proposed project follows the General Plan Guiding principle of providing affordable and safe places to live. By developing the existing lots with the proposed duplexes the applicant is providing safe and affordable dwellings for all residents and providing a balanced (sic) of housing choices for the neighborhood.**

Our findings:

These proposed dwellings would be a lot safer if they were not forced to rely upon alley access. Providing them with street access by means of an easement is a safer solution, because it would not expose tenants and their property to the risks and dangers of the alley which could then be effectively and protectively fenced off.

As for “affordable dwellings for all residents” no data is provided to substantiate this assertion. These newly constructed and modern dwellings could easily be less affordable than current rents in the neighborhood.

As for “balance of housing choices for the neighborhood” what evidence is there of a current imbalance. It is also worth noting that increasing the density of dwellings and bedrooms without a corresponding increase in parking will exacerbate the current shortage of parking, thereby creating an imbalance that affects and harms all residents.

**Page 5—Land Use**

The report states:

**The lots are existing, developable parcels for which a variance is required because they lack public-right-of-way frontage.**

Our findings:

This assertion is erroneous and misleading. It is not the parcels which require a variance. It is only this particular project design which requires a variance.

Given that the applicant lives on lot 4, he could easily provide an easement along the eastern edge for a public right-of-way access from 5<sup>th</sup> Ave. to lots 16 and 17. All that is necessary is a better design, not a variance for the current flawed design.

The report states:

**The granting of the variances would be appropriate for any property owner facing similar circumstances.**

Our findings:

Untrue! Any property owner facing truly “similar circumstances” would have the same non-variance remedy available. They could establish public right-of-way access to the street by means of a pedestrian/auto easement.

The report states:

**The proposed development is otherwise consistent with the purpose and intent of the zoning regulations in that the safety and proper functioning of the alley and adjacent properties is not impaired.**

Our findings:

There is no basis to make such a claim. These alley only access units with their 12 bedrooms for potentially 16 occupants and their inadequate parking are sure to generate congestion and illegal alley

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parking, especially when there are guests and visitors. This in turn will obviously impair the "safety and proper functioning of the alley and adjacent properties." Most notably, emergency vehicles will be impeded, including ambulances, fire trucks and the heavy trucks which need to access the Cal Trans pumping station at the Eastern end of the alley in times of heavy storms.

People hanging out in the alley are also much more likely to be noisy and to engage in other undesirable and anti-social activities than they would in more public areas such as the street in full view of all the neighbors. This type of behavior already exists at each end of the alley. More of the same is not needed or wanted by the vast majority of the neighbors.

The report states:

**Because of the existing lots and current design and development requirements, a unique hardship does exist and because there is a lack of harm to public safety, staff supports the variance requests.**

Our findings:

This alleged "unique hardship" is self-imposed by the applicant's choice of design. A different and better design solution would eliminate the appearance of "unique hardship." See item E above for an explanation of why it is false to say that "there is a lack of harm to public safety."

The report states:

**... and the vehicular maneuvering will occur outside the public right-of-way.**

Our findings:

Misleading. Most of the vehicular maneuvering will obviously occur in the very narrow public alley.

The report states:

**The development of the properties would eliminate the potential for nuisance activities such as illegal dumping on the vacant lots.**

Our findings:

Sounds good, but without a good high fence, not necessarily. Development unprotected by a fence would provide tempting targets for alley passersby and loiterers. Development and a good high fence would be even better.

**Page 5—Land Use**

The report states:

**. . . will provide adequate parking on-site for which over-size parking spaces are proposed to mitigate for the shortened maneuvering area and the vehicular maneuvering will occur outside the public right-of-way.**

Our findings:

Misleading and patently erroneous. Most of the vehicular maneuvering will obviously occur in the very narrow public alley. (See Mike Nelson’s graphic illustrating the tightness of the space for maneuvering.)

The report states:

**The development of the properties would eliminate the potential for nuisance activities such as illegal dumping on the vacant lots.**

Our findings:

**Page 8—Findings of Fact**

**A. Environmental Determination:**

The report states:

**4. The site can be adequately served by all required utilities and public services; and,**

Our findings:

Not true if fire, ambulance and trash removal are considered to be “public services.” Typically they all have trouble finding dwellings with street addresses and alley only access. And once they find the alley, they frequently are impeded and blocked by illegally parked vehicles. Residents will have to walk around the block for their USPS and trash bin services.

The report states:

**5. Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.**

Our findings:

Perhaps not, but the parking, personal safety, crime, property values and child safety often associated with alley life and activities can and do significantly impact negatively upon the “social environment.”

**Page 9—Findings of Fact (continued)**

**B. 3**

The report states:

**... and the vehicular maneuvering will occur outside the public right of way.**

Our findings:

This is misleading as noted above (Page 5—Land Use—C)

**B. 4**

The report states:

**... that the safety and proper functioning of the alley and adjacent properties is not impaired.**

Our findings:

There is no basis to make such a claim. (See Page 5—Land Use—D)

**C. 3**

The report states:

**... and the vehicular maneuvering will occur outside the public right of way.**

Our findings:

This is misleading as noted above (Page 5—Land Use—C)

The report states:

**The development of the properties would eliminate the potential for nuisance activities such as illegal dumping on the vacant lots.**

Our findings:

Lots which have been properly fenced from the beginning do not have the problem of dumping by outsiders—as opposed to by their owners.

Alley facing and parking dwellings have a great potential to create an environment conducive to much worse forms of public nuisance and crimes than “illegal dumping.”

**C. 4**

The report states:

**... that the safety and proper functioning of the alley and adjacent properties is not impaired.**

Our findings:

There is no basis to make such a claim. (See **Page 5—Land Use—D**)

**Page 11—Conditions of Approval**

**B6. SMUD**

**Page 17—a and b**

The report states:

**Dedicate a 5 foot public utility easement for overhead and underground facilities...**

Our findings:

We have consulted SMUD’s Property Right of Way Dept. and been informed that a driveway and these easements can be in exactly the same place, as long as SMUD can access their utility lines. In other words, a driveway may be placed on the easement.

For optimum and least expensive options, SMUD recommended consulting their designers by making a service request before construction starts, although retrofit options are also available.

Attachment P7984

SACRAMENTO CITY PLANNING COMMISSION

APPLICATION INFORMATION

Rezoning (RZ) From \_\_\_\_\_ to \_\_\_\_\_

Special Permit (SP)  Variance (V)  ARB  Tentative Map (TM)  Other

Assessor's Parcel No. 083 137 00 15-37 Address 3018 - 5th Ave.

Request: 1) Variance (P-7984) to reduce the required parking from 18 to 15 spaces per 1,000 sq ft of gross floor area (Sec. 6-1-2); and 2) Variance to reduce a portion of the front yard setback.

Owner: William A. Lantz, et al, 2329 - K St., Sacramento, Ca.

Applicant: Robert Lantz, et al - Decoll Way, Sacramento, Ca.

Signature: [Signature] Filing Fee: 150.00 Receipt: 2/23/07

C.P.C. Meeting Date: 11-28-07

ACTION ON ENTITLEMENT TO USE

Planning Commission (Appeal period is ten (10) consecutive days from date of action)

Approved \_\_\_\_\_ Denied XX Approved w/conditions \_\_\_\_\_

Recommend Approval \_\_\_\_\_ Recommend Denial \_\_\_\_\_

Applicant: \_\_\_\_\_ Date: refused to sign 12/23/07

Council Action: (Appeal period is thirty (30) consecutive days from date of action)

Home: Rezoning \_\_\_\_\_ Tentative Map \_\_\_\_\_ Appeal \_\_\_\_\_

Approved \_\_\_\_\_ Denied \_\_\_\_\_ Returned to Planning Commission \_\_\_\_\_

ENTITLEMENT(S) TO USE: \_\_\_\_\_

Approved \_\_\_\_\_ Denied \_\_\_\_\_ Approved w/conditions \_\_\_\_\_

By [Signature]  
Sec. Planning Commission  
(Acting)

NOTE: Action authorized by this document shall not be conducted in such a manner as to constitute a public nuisance. Violation of any of the foregoing conditions will constitute ground for revocation of this permit. Building permits are required in the event any building construction is planned. The County Assessor is notified of actions taken on rezonings, special permits and variances

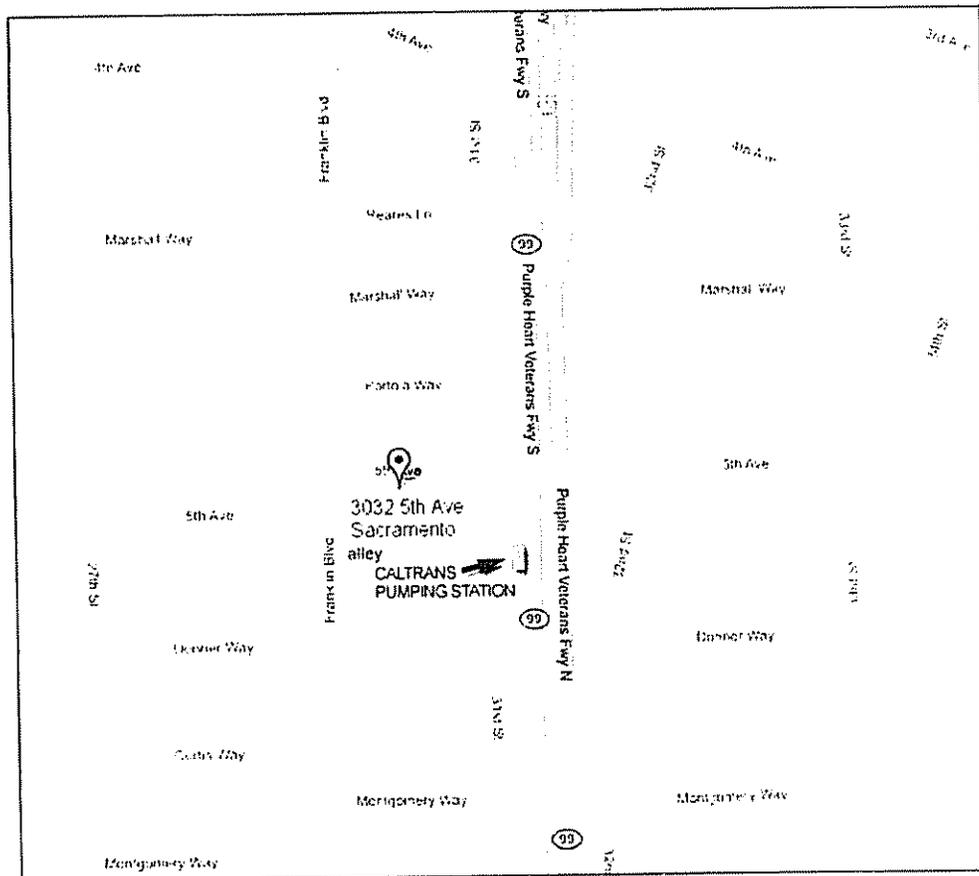
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P 7984

**Opposition to 5<sup>th</sup> Avenue Alley Duplex Project (P05-046)**

Aug 10, 2006

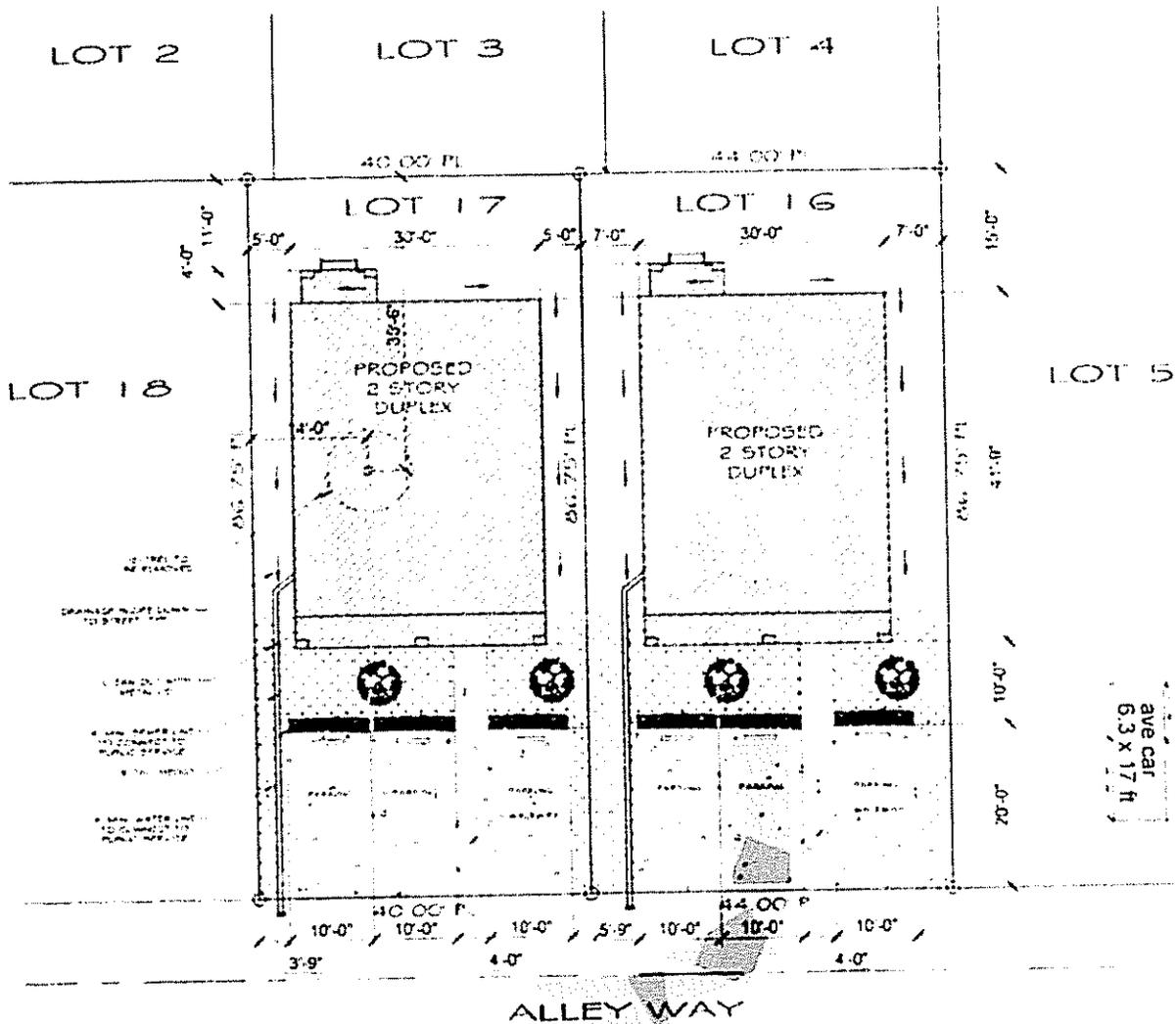
-We, as a group of concerned neighbors, are very opposed to adding more *condensed housing* to our neighborhood, especially properties accessed solely from the alley  
-We have a similar situation in the alley on the North side of our block of 5th Ave . . . it's Portola Way, which is a "real street" West of Franklin Blvd, but obviously an alley East of Franklin Blvd There are 4 single family dwellings on this one block of Portola, and usually there's not enough room for an emergency vehicle to pass through ( . . . but, Portola has access from both ends)  
-The alleyway for P05-046 is a dead-end and has no alternative access for emergency vehicles Also CALTRANS has a pumphouse at the end of the alley and in the past they have had to wait hours during emergency situations for cars to be towed from the alley so their equipment could pass through Hwy 99 gets shut down if they can't pump water from the 5th ave underpass  
-We have many other reasons for our resolute feelings regarding our neighborhood planning, and thank you for the opportunity to be involved.  
-We've attached a small jpg file showing the pumping station and Portola Way, etc . . . the pumping station can't be accessed from the freeway



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## 5th Avenue

This is the site plan for Ira Ross' proposed high density duplexes to be built on the two "half lots" in the alley behind the new place at 3032 5th Avenue. The buildings are each to have an upper level with 3 bedrooms and a lower level with 3 bedrooms. It's actually against the law to put things like this in alleys, but they're attempting to get a "variance" (waiver). The city doesn't care if 50 more people move into our neighborhood because it brings them more revenue. The only way to stop this kind of stuff is to approach the city as a group of concerned neighbors & homeowners.



this indicates how difficult it is to park in these spaces ...they'll just end up in the alley or street

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**Attachment 5**

**RESOLUTION NO. 2007-XXX**

Adopted by the Sacramento City Council

**DETERMINING PROJECT EXEMPT FROM REVIEW UNDER THE  
CALIFORNIA ENVIRONMENTAL QUALITY ACT  
(5<sup>th</sup> AVENUE PROJECT P05-046)**

**BACKGROUND**

A. The City of Sacramento's Environmental Planning Services has reviewed 5<sup>th</sup> Avenue Duplexes (P05-046) ("Project") and has determined the Project is exempt from review under the California Environmental Quality Act as follows:

1. The Project is exempt under the following provisions of the California Environmental Quality Act and/or Guidelines: Section 15332-Infill Development Projects.
2. The factual basis for the finding of exemption is as follows:
  - (a) The project is consistent with the applicable General Plan designation and all applicable General Plan Policies as well as with applicable zoning designation and regulations.
  - (b) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.
  - (c) The project site has no value as habitat for endangered, rare, or threatened species.
  - (d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.
  - (e) The site can be adequately served by all required utilities and public services.

**BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL  
RESOLVES AS FOLLOWS:**

Section 1. The City Council has reviewed and considered the Environmental Planning Services determination of exemption and the comments received at the hearing on the Project and determines the Project is exempt from review under the California Environmental Quality Act for the reasons stated above.

**Attachment 6**

**RESOLUTION NO. 2007-XXX**

Adopted by the Sacramento City Council

**APPROVING THE 5<sup>TH</sup> AVENUE PROJECT LOCATED AT 3018-B 5<sup>TH</sup> AVENUE IN SACRAMENTO, CALIFORNIA (P05-046) ASSESSOR'S PARCEL NUMBERS (APNS): 013-0137-016 AND 017.**

**BACKGROUND**

- A. On August 24, 2006, the City Planning Commission approved the three Variances for the 5<sup>th</sup> Avenue Duplexes project (P05-046); and,
- B. On August 31, 2006, the project was called-up to be heard by the City Council by Councilmember Hammond, Councilmember for District 6; and,
- C. On June 12, 2007, the City Council heard and considered evidence in the above-mentioned matter; and,
- D. The City Council has determined that the project is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines (Section 15332-Infill Development projects).

**BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:**

- Section 1.** Based on verbal and documentary evidence at said hearing, the City Council approves the 5<sup>th</sup> Avenue Project to construct one single-family home on each of two contiguous parcels lacking public street frontage in the Multi-family (R-4) zone.
- Section 2.** This approval of the 5<sup>th</sup> Avenue Project Variance is made based upon the following findings of fact and subject to the following conditions of approval:

**A. FINDINGS OF FACT**

The **Variance** to allow the construction of one single-family home on each of two contiguous parcels lacking public right-of-way frontage in the Multi-family (R-4) zone is approved subject to the following Findings of Fact and Conditions of Approval:

1. The variance is not a special privilege extended to one individual property owner. The circumstances are such that the same variance would be appropriate for any property owner facing similar circumstances. Because the lots are existing and were created in compliance with California law, any proposed development would require the approval of a variance in order to comply with Zoning Ordinance requirements. Therefore no special privilege would be extended in this case.
2. No use variance is requested; the proposed use is permitted subject to the granting of a variance to develop on existing lots which lack the required public street frontage.
3. The variance would not be injurious to the public welfare or property in the vicinity of the project. The applicant proposes to employ high-quality construction materials and will provide for adequate parking on-site. The property will be landscaped to provide adequate shade and create private outdoor spaces for each lot. The development of the properties would eliminate the potential for nuisance activities such as illegal dumping on the vacant lots.
4. The proposed development is otherwise consistent with the purpose and intent of the zoning regulations in that the safety and proper functioning of the alley and adjacent properties is not impaired. The proposal does not violate any applicable General Plan policies.

**CONDITIONS OF APPROVAL**

The **Variance** to allow the construction of one single-family residence on each of two contiguous parcels lacking public street frontage in the Multi-family (R-4) zone is approved subject to the following Conditions of Approval:

**1. Current Planning**

- a. Unless specified by any condition below, this project shall be developed and constructed in full compliance with the Zoning Code.
- b. The project shall substantially conform to the approved plans as shown on the project exhibits approved by the City Council including window and

door treatments Modifications/plan substitution will require additional planning review (and may require additional entitlements) and approval prior to the issuance of building permits.

- c. The applicant shall revise the elevations of plans for each single-family residence to include shutters for all windows, as feasible. The revised drawings shall be submitted to the Planning Director for review and approval prior to the issuance of building permits.
- d. The stucco exterior shall be painted with an elastomeric masonry, stucco, and brick paint. The applicant/developer shall paint all stucco surfaces with an elastomeric paint within 30 days of the stucco application.
- E. The siding shall consist of fiber cement lap siding of a same or similar quality to HardiPlank.
- f. Seamless gutters shall be provided along all appropriate rooflines, including the porch, with downspouts where applicable.
- g. A minimum of 30-year laminated dimensional composition shingle shall be used and all rooflines, including the porch and garage, and shall have a heavy ridge cap.
- h. All mechanical equipment shall be enclosed in cabinet(s) or screened by landscaping and/or screens/fencing, where landscaped areas are of insufficient width to accommodate adequate landscaping. Roof-mounted HVAC units are not permitted. Final designs, including all outdoor mechanical equipment, of landscaping and/or screening shall be shown on the final landscaping plan.
- i. The applicant shall paint electrical meters/cabinets, telephone connection boxes, and other utility appurtenances to match the dwelling to which they are attached.
- j. Prior to the issuance of building permits, the developer shall submit plans for a 6' tall enhanced and capped wooden fence with wood clad metal posts to the Planning Director for review and approval. Said fence shall then be installed along the north, east, and west boundaries of the development prior to the issuance of final building permit(s). The enhanced fence shall be a two-sided fence where shared between the two parcels (16 and 17). The fence shall step-down to a height of no more than 4' within the 20' front setback area and between the residences up to and including the courtyard and covered porch areas for each house. The stepped down portion of the fence shall be a decorative wrought iron fence. All portions of the fence shall be maintained by the owner(s) in good working and aesthetic order. Any portion(s) of the fence in poor

- repair shall be replaced, with an identical fencing type, within 30 days of discovery.
- k. No final sign off on building permit(s) shall be issued for either single-family residence until the site is fully landscaped including, but not limited to, automatic irrigation installation in front, side and rear yard areas, sidewalk/walkways and paths from the homes to the alleyway, as shown on the Site Plans, constructed, front, side, and rear yard landscaping, shrubbery, and house identification signage installed.
  - l. Development lighting shall be coordinated with the landscaping plan so there is minimal interference between any light standards and the required illumination, the trees, and the required shading. All light fixtures shall be vandal-resistant, ornamental and shall be no taller than 16' in height.
  - m. Landscaping plans shall be submitted to the Building Division - Site Conditions Unit for review and approval by the Site Conditions Unit and the Landscape Architecture Section. The scope of the review shall include plant species selection, landscape materials, irrigation system, and calculation to ensure that the 50% shading requirement is met.
  - n. Automatic front yard sprinklers and landscaping with a minimum of one 15 gallon shade tree, from the City's approved tree list, shall be installed in the front yard of each duplex. The approved trees are as follows: Chinese Pistache-Pistacia chinensis; Ginko-Ginko Biloba; Little Leaf Linden-Tilia cordata; Hedge Maple-Acer Campestre; Trident Maple-Acer buergeranum; Mayten Tree-Maytenus boaria; Texas Redf Oak-Quercus buckleyi, . All trees shall have medium to deep roots and be medium to slow growing. No final sign off on building permit(s) for the dwellings may be issued prior to the installation of the approved landscaping and irrigation. The landscaping shall be maintained in healthy condition by the owner(s) in perpetuity.
  - o. Landscaping shall be provided to screen ground-mounted mechanical equipment, backflow preventors, transformers, and other similar appurtenances to the satisfaction of the Planning Director.
  - p. The entire landscape area shall have automatic irrigation installed and operational.
  - q. Adequate spacing shall be provided between the trees to allow the trees to obtain full maturity growth potential. The trees shall have a minimum mature diameter of 20-30 feet and shall be planted no closer than 20'-30' on center. If groundcover is contraindicated beneath the trees a covering 6" deep with mulch shall be applied and maintained in perpetuity beneath and around the trees to a diameter of six feet around the base of each

tree.

**Lighting:**

- r. Lighting fixtures shall be of a high quality decorative design, having a color and style, which is compatible with the building architecture, as determined by the Planning Director.
- s. Lighting shall be designed so as not to produce glare to motorists and building occupants, adjacent residents, or the general public.
- t. Each building address number shall be illuminated and be readily visible from the alleyway.
- u. Lighting levels shall be as follows: 1.5 foot-candles of minimum maintained illumination per square foot of parking space between the hours of dusk and one hour after sunrise. A minimum of 0.25 foot-candles of illumination shall be provided at the surface of any walkway, alcove, passageway, or driveway related to the development during the same hours. Security and parking area lights shall be controlled by photocell and shall remain on during hours of diminished light.
- v. Each entry, patio, and pedestrian walk shall be equipped with its own light source.
- w. All exterior doors shall be adequately illuminated with their own light source.
- x. Exterior door, perimeter, canopy, and parking area lights shall be controlled by photocell and shall remain on during the hours of darkness or diminished light.
- y. All required lighting shall be high-pressure sodium with vandal-resistant covers/lenses.

**2. Utilities Division**

- a. This project is located in the combined sanitary sewer service area and the developer will be required to pay a fee of \$105 per unit.

**3. Fire Department**

- a. Roads used for Fire Department access shall have an unobstructed width of not less than 20' and unobstructed vertical clearance of 13'6" or more. Fire apparatus access roads shall be designed and maintained to support the imposed loads of fire apparatus and shall, at a minimum, be provided

with a finished road surface consisting of 2 inches of asphalt concrete (AC) over 6 inches of aggregate base (AB) or the equivalent in concrete or other approved surface.

- b. Provide a fire hydrant in accordance with CFC 903.4.2 and Appendix III-B, Section 5.  
OR  
All structures proposed for this project shall be equipped with an approved automatic fire sprinkler system. The automatic fire sprinkler system shall be designed to NFPA 13D standards for residential applications.
- c. Alley shall be marked "No Parking Fire Lane" on both sides.

#### 4. Police Department

##### **Territorial Reinforcement:**

- a. The applicant shall install a 3'-4' high wrought iron fence that extends from the southwest point where lot 17 connects to the alley, along the property line with the alley, to the southeast point where lot 16 connects to the alley. This fencing shall have pedestrian and automobile gates.

##### **Address Signage:**

- b. If the alley remains unnamed and the residences shall be addressed to a main street, such as 5<sup>th</sup> Avenue the entire address for each residence shall be spelled out in 4 inch letters and numbers that are affixed to each residence at a point clearly visible from the alley, and the letters shall be illuminated. For example, the residential address sign shall say "1234 5<sup>th</sup> Avenue" as opposed to the more traditional format of just posting numbers.
- c. Additionally, if the alley remains unnamed, the applicant shall install approved signage at the entrance to the alley that clearly says, for example, "1234 and 1236 5<sup>th</sup> Avenue are accessed from this alleyway".

##### **Lighting:**

- d. The parking areas shall be illuminated at a minimum level of 1.5 foot-candles during hours of darkness. One motion-sensing residential flood light shall be installed above the garage door of each residence in addition to the decorative lamps shown in the applicants plan. The flood lights should be installed high enough that the bulbs cannot be unscrewed by a person standing on the ground.

- e. The applicant shall install a light on the utility pole that sits on the alley's southern curb line across from lots 16 and 17. (Contact the Sacramento Municipal Utility District at 1-888-742-7683.)
- f. Security and parking area lights shall be controlled by photocell and shall remain on during hours of diminished light.
- g. Each entry, patio, and pedestrian walk shall be equipped with its own light source.
- h. All exterior doors shall be adequately illuminated with their own light source.

**Doors:**

- i. The main entrance door(s) shall be secured with single-cylinder deadbolt locks with a minimum throw of one inch, in addition to door latches with a one-half inch minimum throw. The locks should be constructed so both deadbolt and dead latch can be retracted by a single action of the inside doorknob.
- j. Outside hinges on all exterior doors shall be provided with non-removable pins when pin-type hinges are used or shall be provided with hinge studs, to prevent removal of the door.
- k. Any glass door(s) shall be secured with a deadbolt lock with a minimum throw of one-inch. The outside ring shall be free-moving and case hardened.
- l. Doors with glass panels, and doors with glass panels adjacent to the door frame, shall be secured with burglary-resistant glazing or the equivalent, if double-cylinder deadbolt locks are not installed.
- m. Vision panels in exterior doors (if used) or within reach of the inside activating device shall be made of burglary-resistant glazing or equivalent.
- n. A viewing device or peephole shall be installed in every entrance door and shall allow for 180 degree vision.

**Windows:**

- o. Windows shall be constructed so when the window is locked it cannot be lifted from the frame (sliding). The sliding portion of a sliding glass window shall be on the inside track.

- p. Secondary locking devices are required on ground floor windows. Window locking devices shall be capable of withstanding a force of 300 pounds in any direction.

**Landscaping:**

- q. Landscaped areas should be planned for maximum growth while also providing unobstructed observation of parking areas, buildings, and pathways day and night.

**Construction Phase:**

- r. During construction, the applicant shall enclose the entire project perimeter with a chain-link fence with the necessary construction gates that shall be locked after normal construction hours.

**5. Parks**

- a. **Maintenance District:** The applicant shall initiate and complete the formation of a parks maintenance district (assessment or Mello-Roos special tax district), or annex the project into an existing parks maintenance district. The applicant shall pay all city fees for formation of or annexation to a parks maintenance district. (Contact Development Services Department, Special Districts, Project Manager. In assessment districts, the cost of neighborhood park maintenance is equitably spread on the basis of special benefit. In special tax districts, the cost of neighborhood park maintenance is spread based upon the hearing report, which specifies the tax rate and method of apportionment.)

**ADVISORY NOTES**

- b.. As per City Code, the applicant will be responsible to meet his/her obligations regarding:

Title 18, 18.44 Park Development Impact Fee, due at the time of issuance of building permit. The Park Development Impact Fee due for this project is estimated at \$8,986. This is based on two single-family residential units at the rate of \$4,493 per unit . Any change in these factors will change the amount of the PIF due. The fee is calculated using factors at the time that the project is submitted for building permit.

**6. SMUD**

- a. Dedicate a 5-foot public utility easement for overhead and underground facilities and appurtenances adjacent to the east property line of APN: 013-0137-017.
- b. Dedicate a 5-foot public utility easement for overhead and underground facilities and appurtenances adjacent to the west property line of APN: 013-0137-016.

There is an existing electrical secondary line that cuts diagonally from the southeast corner to the northwest corner which provides service to the properties to the north.

## **7. Development Engineering Division**

- a. Alley improvements are required from the property boundary to the nearest public street (Franklin Boulevard). Repair/reconstruct any deteriorated portions of the existing alley. Alley improvements shall be to City standards and shall be constructed to the satisfaction of the Development Engineering Division.
- b. The developer shall provide adequate lighting to the existing alley to the satisfaction of the Development Engineering Division.
- c. The design of walls, fences, and signage near intersections and driveways shall allow stopping sight distance per Caltrans standards and comply with City Code Section 12.28.010 (25' sight triangle). Walls shall be set back three (3") feet behind the sight line needed for stopping sight distance to allow sufficient room for pilasters. Landscaping in the area required for adequate stopping sight distance shall be limited to 42" in height at maturity. The area of exclusion shall be determined by the Development Engineering division.

Table of Contents:  
Exhibits A through C – site and floor plans



**Exhibit A – Site Plan for Lot 17**

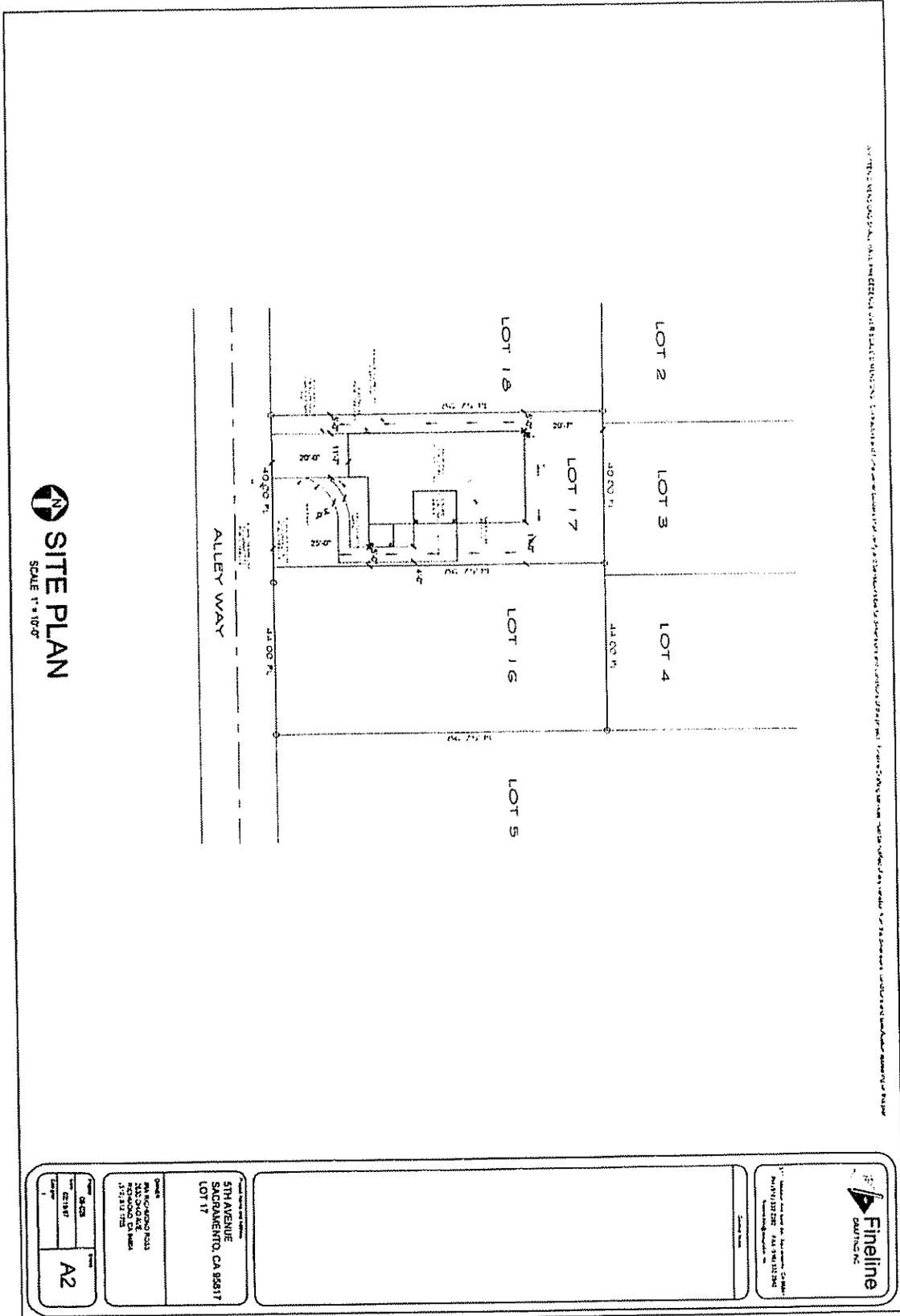
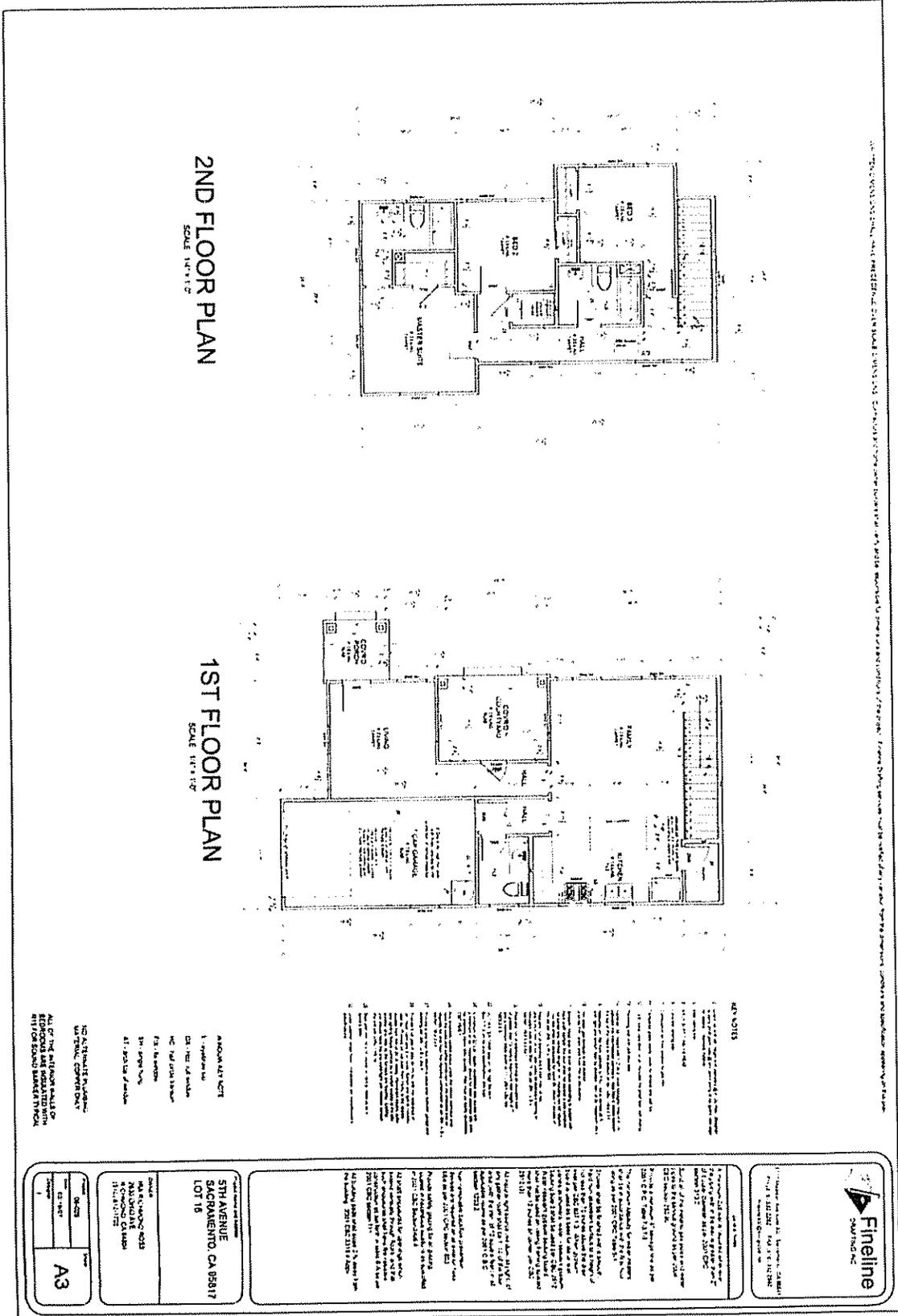


Exhibit B – Floor Plan for Lot 16







**Exhibit C – Building Elevations for Lot 17**

**LEFT ELEVATION**  
SCALE 1/8" = 1'-0"

**FRONT ELEVATION**  
SCALE 1/8" = 1'-0"

**REAR ELEVATION**  
SCALE 1/8" = 1'-0"

**RIGHT ELEVATION**  
SCALE 1/8" = 1'-0"

**ATTIC ROOF VENTILATOR CALCULATIONS**

1. Net Free Area of Ventilator (NFVA) = 1.07 sq ft

2. Net Free Area of Ventilator (NFVA) = 1.07 sq ft

3. Net Free Area of Ventilator (NFVA) = 1.07 sq ft

4. Net Free Area of Ventilator (NFVA) = 1.07 sq ft

5. Net Free Area of Ventilator (NFVA) = 1.07 sq ft

6. Net Free Area of Ventilator (NFVA) = 1.07 sq ft

7. Net Free Area of Ventilator (NFVA) = 1.07 sq ft

8. Net Free Area of Ventilator (NFVA) = 1.07 sq ft

9. Net Free Area of Ventilator (NFVA) = 1.07 sq ft

10. Net Free Area of Ventilator (NFVA) = 1.07 sq ft

11. Net Free Area of Ventilator (NFVA) = 1.07 sq ft

12. Net Free Area of Ventilator (NFVA) = 1.07 sq ft

13. Net Free Area of Ventilator (NFVA) = 1.07 sq ft

14. Net Free Area of Ventilator (NFVA) = 1.07 sq ft

15. Net Free Area of Ventilator (NFVA) = 1.07 sq ft

16. Net Free Area of Ventilator (NFVA) = 1.07 sq ft

17. Net Free Area of Ventilator (NFVA) = 1.07 sq ft

18. Net Free Area of Ventilator (NFVA) = 1.07 sq ft

19. Net Free Area of Ventilator (NFVA) = 1.07 sq ft

20. Net Free Area of Ventilator (NFVA) = 1.07 sq ft

**Fineline**  
DRAWING INC.

10000 Highway 100, Sacramento, CA 95826  
916.486.1234  
www.fineline-drawing.com

**CLIENT**

5TH AVENUE  
SACRAMENTO, CA 95817  
LOT 17

**PROJECT**

5TH AVENUE  
SACRAMENTO, CA 95817  
LOT 17

**DATE**

06/12/07

**SCALE**

AS SHOWN

**PROJECT**

AS SHOWN

**Attachment 8 – Planning Commission Staff Report**



**REPORT TO  
PLANNING COMMISSION  
City of Sacramento**

915 I Street, Sacramento, CA 95814-2671

**STAFF REPORT  
August 24, 2006**

Honorable Members of the Planning Commission

**Subject:** 5<sup>th</sup> Avenue Duplexes. A request to construct two duplexes on two contiguous parcels lacking public right-of-way in the Multi-family (R-4) zone.

- A. Environmental Determination:** Categorically Exempt;
- B. Variance** to allow the construction of one duplex on each of two contiguous parcels lacking public right-of-way frontage in the Multi-family (R-4) zone;
- C. Variance** to reduce the required rear setback in the Multi-family (R-4) zone;
- D. Variance** to reduce the required vehicular maneuvering area.

**Location/Council District:**

3018-B 5<sup>th</sup> Avenue, Sacramento, California 95817

Assessor's Parcel Numbers: 013-0137-016 and 017;

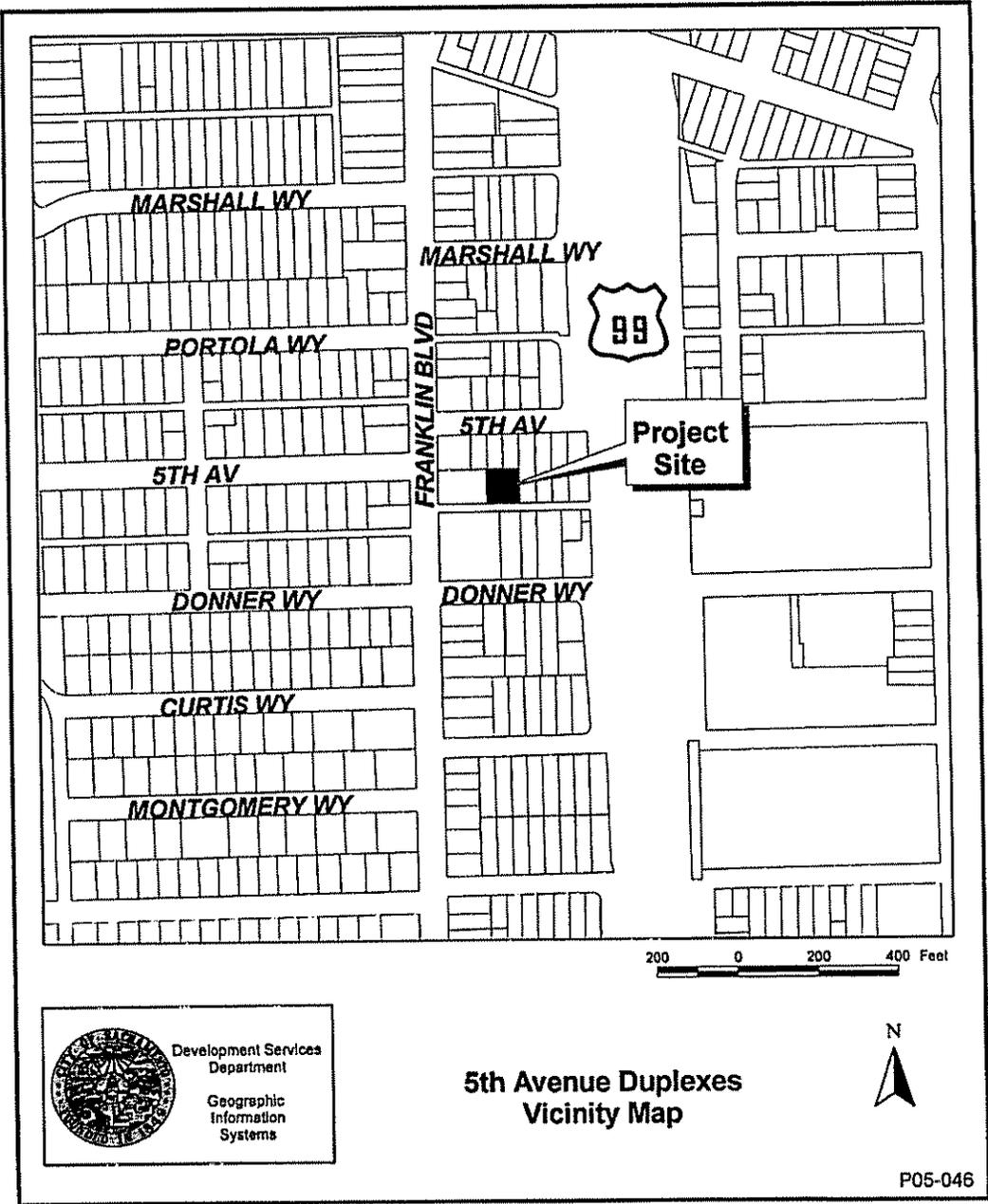
Council District 5

**Recommendation:** Staff recommends the Commission approve the request based on the findings and subject to the conditions listed in Attachment 1. At the time of writing this report **the outstanding issues are:** neighbor concerns regarding the project density and existing parking issues in the alleyway. The Commission has final approval authority over items A-D above, and its decision is appealable to City Council. The Commission's action on items A-D may be appealed to the City Council.

**Contact:** Kimberly Kaufmann-Brisby, Associate Planner, 916-808-5590

**Applicant:** Ira Ross, 3032 5<sup>th</sup> Avenue, Sacramento, CA 95817, 510-812-1820,

**Owner:** Ira Ross, 3032 5<sup>th</sup> Avenue, Sacramento, CA 95817



Subject: 5<sup>th</sup> Avenue Duplexes (P05-046)

August 24, 2006

**Summary:** The applicant is requesting the required entitlement approvals to construct two duplexes on two contiguous parcels lacking public right-of-way in the Multi-family (R-4) zone. Initial project issues related to the proposed architectural design. The applicant has addressed staff concerns with the current project proposal. A neighbor has voiced concerns regarding the development of the two alley lots and the project is considered to be somewhat controversial.

<b>Table 1: Project Information</b>
<b>General Plan designation:</b> Low Density Residential (4-15 dwelling units per net acre)
<b>Existing zoning of site:</b> R-4 (Multi-family)
<b>Existing use of site:</b> vacant
<b>Property area:</b> ±0.168 acres
<b>Project Density:</b> 24 dwelling units per net acre (du/na)

**Background Information:** There is one previous entitlement for this site, a variance to reduce parking space depth from 14' to 10' (P7984). No additional records of prior planning approvals including when the two existing alley-fronting lots were created were found.

**Public/Neighborhood Outreach and Comments:** The Sierra Curtis Neighborhood Association and Mike Nelson, an interested neighbor, were sent early project notification packets. Mike Nelson contacted staff regarding his concerns about the proposed project on several occasions. His concerns related to the proposed project density and existing alley parking issues.

Staff visited the project site to ascertain current site and alley conditions. The project site is zoned Multi-family (R-4) which allows up to 58 du/na and requires a minimum lot area of 750 square feet per dwelling unit. The proposed project density is 24 du/na and provides an area of ±1,822 square feet per dwelling unit. The proposed density is appropriate for the area. The entirety of the alleyway is fenced on both sides except where a residence fronts on the alley as is the case at the eastern alley dead end. The lack of fencing at the existing residence serves to open the alley area and make it more visually appealing. Staff anticipates the proposed project will serve to open the northwestern portion of the alley, near Franklin Boulevard, and will enhance as well as provide activity and eyes on the alleyway.

**Environmental Considerations:** The proposed project is exempt from environmental review pursuant to CEQA Guidelines Section 15332. Section 15332 exempts projects such as the current application, as "in-fill development", because the proposed project "is consistent with the General Plan designation and all applicable General Plan policies as well as with applicable zoning designation and regulations."

The proposed development is within city limits on a site of less than five acres that is substantially surrounded by urban uses. The site has no value as habitat for

Subject: 5<sup>th</sup> Avenue Duplexes (P05-046)

August 24, 2006

endangered, rare or threatened species. Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality and the site is adequately served by all required utilities and public services.

**Policy Considerations:** The proposed project is consistent with the zoning designation of Multi-family (R-4) which allows up to 58 dwelling units per net acre (du/na) with a proposed project density of 24 du/na. However, the project density is not consistent with the General Plan designation of Low Density Residential (4-8 du/na). As stated in the General Plan, "The General Plan land use designation is not intended to provide an exact correspondence with the site specific zoning rather the intent of the designation is to show the general relationship of the various land uses." (GP 9-3) Also, "the General Plan land use categories have been developed in a manner to allow the broadest range of a particular type of use within the designation. Specific uses and density ranges are identified by the community plan and zoning." (GP 9-3) With the site consisting of less than five acres, the General Plan does not need to be amended because "the land use designations on the more specific map are applicable" (GP 9-15) which in this instance is the zoning designation with which the project is consistent and no plan amendments are needed.

The proposed project follows the General Plan Guiding Principle of providing affordable and safe places to live. By developing the existing lots with the proposed duplexes the applicant is providing safe and affordable dwellings for all residents and providing a balanced of housing choices for the neighborhood.

**Project Design:**

The two existing alley-fronting lots are ±87' deep, limiting the available developable area after complying with the required development standards. Each lot would be developed with nearly identical layouts; the distinction between them is lot 17 has a width of 40' and lot 16 has a width of 44'. The applicant has designed the front yard area to provide adequate room for two medium to large size shade trees. Adequate parking is proposed with three parking spaces per lot, the required parking is one space per dwelling unit or two spaces per duplex. The overall design is consistent with the Single-family Residential Design Principles.

**Land Use**

The applicant proposes to develop duplexes on each of two existing lots which deviate from right-of-way (Section 17.68.030(C), setback (Section 17.60.30[2]) and minimum maneuvering area (Section 17.64.030[F]) requirements. As a result, a variance is required to deviate from each of the three aforementioned requirements (Chapter 17.216). The following findings must be made in order to grant a variance:

- A. A variance cannot be a special privilege extended to one individual property owner. The circumstances must be such that the same variance would be appropriate for any property owner facing similar circumstances.

Subject: 5<sup>th</sup> Avenue Duplexes (P05-046)

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The lots are existing, developable parcels for which a variance is required because they lack public-right-of-way frontage. In order to provide private outdoor space, the rear yard setback is reduced to 10', for a small section of the rear yard area, to allow the encroachment of the patio and balcony areas for each duplex flat. In order to provide adequate living area and yard/tree area a variance is needed to reduce the maneuvering area behind the parking spaces by 2' to 24'. Given the relatively shallow depth of each lot and the development requirements that have evolved since the lots were created, the approval of the variance requests is not granting a special privilege to one individual property owner who would be subject to the same development requirements. The granting of the variances would be appropriate for any property owner facing similar circumstances.

- B. The consideration of "use variances" is specifically prohibited. These are variances which request approval to locate a use in a zone from which it is prohibited by ordinance.

No use variance is requested; the proposed use is permitted subject to the granting of a variance to develop on existing lots which lack public street right-of-way.

- C. A variance must not be injurious to public welfare, nor to property in the vicinity of the applicant.

The applicant proposes to employ high-quality construction materials, will provide adequate parking on-site for which over-size parking spaces are proposed to mitigate for the shortened maneuvering area and the vehicular maneuvering will occur outside the public right-of-way. The property will be landscaped to provide adequate shade and create private outdoor spaces for each unit. The development of the properties would eliminate the potential for nuisance activities such as illegal dumping on the vacant lots.

- D. A variance must be in harmony with the general purpose and intent of this title. It must not adversely affect the general plan of the specific plans of the city, or the open space zoning regulations.

The proposed development is otherwise consistent with the purpose and intent of the zoning regulations in that the safety and proper functioning of the alley and adjacent properties is not impaired. The proposal does not violate any applicable general plan policies.

Because of the existing lots and current design and development requirements, a unique hardship does exist and because there is a lack of harm to public safety, staff supports the variance requests.

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**Setbacks, height and bulk**

<b>Table 3: Height and area standards</b>			
<b>Standard</b>	<b>Allowed</b>	<b>Proposed</b>	<b>Deviation?</b>
Height	35'	±25'	no
Front setback	20'	29'	no
Side setback	5'	5'-7'	no
Street side setback	12.5'	na	na
Rear setback	15'	10'	Yes
Courtyard	n/a	n/a	n/a
Lot coverage	60% max.	30-33%	no
Density	58 du/na max.	24 du/na	no

As indicated above, the project requires approval of a variance to reduce the required rear yard setback.

**Building design, signage and landscaping**

The architectural design of the duplex units is consistent with the Single-family Residential Design Guidelines. The use of quality materials and design details, lending visual interest to the dwellings' distinctive character and identity would add aesthetically to the surrounding neighborhood. All sides of the structures present consistent level of architectural detailing and window treatments, breaking the long side wall expanses.

The units provide clearly defined entries, facing the "street/alleyway" with large, usable covered porches provided, affording the occupants the opportunity to interact with their neighbors along the alleyway and providing "eyes on the street", contributing to pedestrian safety and activity.

No garages or carports are proposed, rather three parking spaces per lot are provided with two medium to large shade trees proposed for the front yard areas of each lot. The parking areas will be separated from the yard with a wall of shrubbery and the rear yard areas will be enclosed with privacy fencing. Neither lot has a large area available for landscaping but adequate private outdoor space, in the form of patios, porches and balconies is provided. Additionally, there is adequate landscaped yard area for passive recreation. Curtis Park is just two blocks away, across Franklin Boulevard, where typical outdoor activities and entertainment may occur. Staff finds the architectural design to be satisfactory and a good addition that will blend well with the neighborhood.

Subject: 5<sup>th</sup> Avenue Duplexes (P05-046)

August 24, 2006

Respectfully submitted by: \_\_\_\_\_  
KIMBERLY KAUFMANN-BRISBY  
Associate Planner

Recommendation Approved:

\_\_\_\_\_  
TOM BUFORD  
Senior Planner

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Pg. 18	Land Use and Zoning Map
Pg. 19	Cover sheets
Pg. 21	Site Plans
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Pg. 25	Building Elevations
Pg. 27	Roof Plans

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**Attachment 1**  
**Recommended Findings and Conditions**

**Findings Of Fact**

- A. Environmental Determination:** Categorical Exemption: the City Planning Commission finds and determines the proposed project is exempt from environmental review pursuant to Section 15332 of the 2006 California Quality Act and Guidelines based on the following Findings of Fact:
1. The project is consistent with the General Plan designation of Low Density residential (4-15 du/na) and the zoning designation of Multi-family (R-4);
  2. The project consists of less than five acres, is within the city limits and is surrounded by urban uses;
  3. The project site has no value as habitat for endangered, rare, or threatened species;
  4. The site can be adequately served by all required utilities and public services; and,
  5. Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.
- B. The Variance** to allow the construction of one duplex on each of two contiguous parcels lacking public right-of-way frontage in the Multi-family (R-4) zone is approved subject to the following Findings of Fact and Conditions of Approval:
1. A variance cannot be a special privilege extended to one individual property owner. The circumstances must be such that the same variance would be appropriate for any property owner facing similar circumstances. Because the lots are existing, any proposed development would require the approval of a variance in order to comply with Zoning Ordinance requirements. Therefore no special privilege would be extended in this case.
  2. The consideration of "use variances" is specifically prohibited. These are variances which request approval to locate a use in a zone from which it is prohibited by ordinance. No use variance is requested; the proposed use is permitted subject to the granting of a variance to develop on existing lots which lack public street right-of-way.
  3. A variance must not be injurious to public welfare, nor to property in the vicinity of the applicant. The applicant proposes to employ high-quality construction materials, will provide adequate parking on-site for which over-size parking spaces are proposed to mitigate for the shortened maneuvering

Subject: 5<sup>th</sup> Avenue Duplexes (P05-046)

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area and the vehicular maneuvering will occur outside the public right-of-way. The property will be landscaped to provide adequate shade and create private outdoor spaces for each unit. The development of the properties would eliminate the potential for nuisance activities such as illegal dumping on the vacant lots.

4. A variance must be in harmony with the general purpose and intent of this title. It must not adversely affect the general plan of the specific plans of the city, or the open space zoning regulations. The proposed development is otherwise consistent with the purpose and intent of the zoning regulations in that the safety and proper functioning of the alley and adjacent properties is not impaired. The proposal does not violate any applicable general plan policies.

**C. The Variance to reduce the required rear setback in the Multi-family (R-4) zone is approved subject to the following Findings of Fact and Conditions of Approval:**

1. A variance cannot be a special privilege extended to one individual property owner. The circumstances must be such that the same variance would be appropriate for any property owner facing similar circumstances.

In order to provide private outdoor space, the rear yard setback is reduced to 10', for a small section of the rear yard area, to allow the encroachment of the patio and balcony areas for each duplex flat. Given the relatively shallow depth of each lot and the development requirements that have evolved since the lots were created, the approval of the variance request is not granting a special privilege to one individual property owner who would be subject to the same development requirements. The granting of the variance would be appropriate for any property owner facing similar circumstances.

2. The consideration of "use variances" is specifically prohibited. These are variances which request approval to locate a use in a zone from which it is prohibited by ordinance. No use variance is requested; the proposed use is permitted subject to the granting of a variance to develop on existing lots which lack public street right-of-way.
3. A variance must not be injurious to public welfare, nor to property in the vicinity of the applicant. The applicant proposes to employ high-quality construction materials, will provide adequate parking on-site for which over-size parking spaces are proposed to mitigate for the shortened maneuvering area and the vehicular maneuvering will occur outside the public right-of-way. The property will be landscaped to provide adequate shade and create private outdoor spaces for each unit. The development of the properties would eliminate the potential for nuisance activities such as illegal dumping on the vacant lots.
4. A variance must be in harmony with the general purpose and intent of this title. It must not adversely affect the general plan of the specific plans of the

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city, or the open space zoning regulations. The proposed development is otherwise consistent with the purpose and intent of the zoning regulations in that the safety and proper functioning of the alley and adjacent properties is not impaired. The proposal does not violate any applicable general plan policies.

**D.** The **Variance** to reduce the required vehicular maneuvering area is approved subject to the following Findings of Fact and Conditions of Approval:

1. A variance cannot be a special privilege extended to one individual property owner. The circumstances must be such that the same variance would be appropriate for any property owner facing similar circumstances. In order to provide adequate living area and yard/tree area a variance is needed to reduce the maneuvering area behind the parking spaces by 2' to 24'. Given the relatively shallow depth of each lot and the development requirements that have evolved since the lots were created, the approval of the variance request is not granting a special privilege to one individual property owner who would be subject to the same development requirements. The granting of the variance would be appropriate for any property owner facing similar circumstances.
2. The consideration of "use variances" is specifically prohibited. These are variances which request approval to locate a use in a zone from which it is prohibited by ordinance. No use variance is requested; the proposed use is permitted subject to the granting of a variance to develop on existing lots which lack public street right-of-way.
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4. A variance must be in harmony with the general purpose and intent of this title. It must not adversely affect the general plan of the specific plans of the city, or the open space zoning regulations. The proposed development is otherwise consistent with the purpose and intent of the zoning regulations in that the safety and proper functioning of the alley and adjacent properties is not impaired. The proposal does not violate any applicable general plan policies.

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**Conditions Of Approval**

The **Variance** to allow the construction of one duplex on each of two contiguous parcels lacking public right-of-way frontage in the Multi-family (R-4) zone is approved subject to the following Conditions of Approval:

**B1. Current Planning**

- a. Unless specified by any condition below, this project shall be developed and constructed in full compliance with the Zoning Ordinance.
- b. The project shall substantially conform to the approved plans as shown on the attached exhibits including window and door treatments and as conditioned to revise. Modifications/plan substitution will require additional planning review (and may require additional entitlements) and approval prior to the issuance of building permits.
- c. A minimum of three parking spaces shall be provided for each duplex parcel.
- d. The rear patio and balcony may encroach into the rear yard setback area by 5 feet.
- e. The required maneuvering area is reduced to 24 feet for each parcel.
- f. The siding shall consist of fiber cement lap siding of a same or similar quality to HardiPlank.
- g. Provide seamless gutters along all appropriate rooflines, including the porch, with downspouts where applicable.
- h. A minimum of 30-year laminated dimensional composition shingle shall be used and all rooflines, including the porch, shall have a heavy ridge cap.
- i. All mechanical equipment shall be enclosed in cabinet(s) or screened by landscaping and/or screens/fencing, where landscaped areas are of insufficient width to accommodate adequate landscaping. Roof-mounted HVAC units are not permitted. Final designs, including all outdoor mechanical equipment, of landscaping and/or screening shall be shown on the final landscaping plan.
- j. The applicant shall paint electrical meters/cabinets, telephone connection boxes, and other utility appurtenances to match the dwelling to which they are attached.

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- k. Prior to the issuance of building permits, the developer shall submit plans for a, 6' tall enhanced and capped wooden fence with wood clad metal posts to the planning director for review and approval. Said fence shall then be installed along the north, east, and west boundaries of the development prior to the issuance of final building permit(s). The enhanced fence shall be a two-sided "good-neighbor" fence where shared between the two parcels (16 and 17). The fence shall step-down to a height of no more than 4' within the 20' front setback area. The rear yard area shall be gated outside the 20' front yard setback area w/a 6'-tall gate for privacy and security. All portions of the fence shall be maintained by the owner(s) in good working and aesthetic order. Any portion(s) of the fence in poor repair shall be replaced, with an identical fencing type, within 30 days of discovery.
- l. All driveway/parking spaces shall be paved with concrete.
- m. No Final Building permit(s) shall be issued for the duplexes until the site is fully landscaped including, but not limited to, automatic irrigation installation in front, side and rear yard areas, sidewalk/walkways and paths from the duplexes to the alleyway constructed, front, side, and rear yard landscaping, shrubbery, and duplex identification signage installed.
- n. Comply with the fifty percent shading requirement for all parking areas (Sec. 17.64.030(h) of the Zoning Ordinance.
- o. Development lighting shall be coordinated with the landscaping plan so there is minimal interference between the light standards and the required illumination, the trees, and the required shading. All light fixtures shall be vandal-resistant, ornamental and shall be no taller than 16' in height.
- p. Landscaping plans shall be submitted to the Building Division - Site Conditions Unit for review and approval by the Site Conditions Unit and the Landscape Architecture Section. The scope of the review shall include plant species selection, landscape materials, irrigation system, and calculation to ensure that the 50% shading requirement is met.
- q. Automatic front yard sprinklers and landscaping with a minimum of one 24" box shade tree and one 15 gal. shade tree, from the City's approved tree list, shall be installed in the front yard of each duplex. The approved trees are as follows: Chinese Pistache-Pistacia chinensis; Ginko-Ginko Biloba; Little Leaf Linden-Tilia cordata; Hedge Maple- Acer Campestre; Trident Maple-Acer buergeranum; Mayten Tree-Maytenus boaria; Evergreen Pear-Pyrus kawakamii, Texas Redf Oak-Quercus buckleyi, . All trees shall have medium to deep roots and be medium to slow growing. No Final Building Permit for the dwellings may be issued prior to the installation of the approved landscaping and irrigation. The landscaping shall be maintained in healthy condition by the owner(s) in perpetuity.

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- r. Continuous 6" high, 6" wide reinforced concrete curbing shall be provided around all planter areas within or adjacent to parking areas and alleyways. A reinforced 6" vertical curb shall extend along the entirety of the concrete parking area and maneuvering area except where the sidewalk that leads to the duplex bisects the parking area. The use/installation of parking stops is prohibited.
- s. Landscaping shall be provided to screen ground-mounted mechanical equipment, backflow preventors, transformers, and other similar appurtenances to the satisfaction of the Planning Director.
- t. The entire landscape area shall have automatic irrigation installed and operational.
- u. Adequate spacing will be provided between the trees to allow the trees to obtain full maturity growth potential. The trees shall have a minimum mature diameter of 20-30 feet and shall be planted no closer than 20'-30' on center. All landscaped area soil surfaces shall be covered with living groundcover within two years of installation. If groundcover is contraindicated beneath the trees a covering 6" deep with mulch shall be applied and maintained in perpetuity beneath and around the trees to a diameter of six feet around the base of each tree.

**Lighting:**

- v. Lighting fixtures shall be of a high quality decorative design, having a color and style, which is compatible with the building architecture, as determined by the Planning Director.
- w. Lighting shall be designed so as not to produce hazardous and annoying glare to motorists and building occupants, adjacent residents, or the general public.
- x. Each building address number shall be illuminated and be readily visible from the alleyway.
- y. Lighting levels shall be as follows: 1.5 foot-candles of minimum maintained illumination per square foot of parking space between the hours of dusk and one hour after sunrise. A minimum of 0.25 foot-candles of illumination shall be provided at the surface of any walkway, alcove, passageway, or parking area related to the development during the same hours.

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**B2. Utilities**

- a. This project is located in the combined sanitary sewer service area and the developer will be required to pay a fee of \$105 per unit.

**B3. Fire Department**

- a. Roads used for Fire Department access shall have an unobstructed width of not less than 20' and unobstructed vertical clearance of 13'6" or more. Fire apparatus access roads shall be designed and maintained to support the imposed loads of fire apparatus and shall, at a minimum, be provided with a finished road surface consisting of 2 inches of asphalt concrete (AC) over 6 inches of aggregate base (AB) or the equivalent in concrete or other approved surface.
- b. Provide a fire hydrant in accordance with CFC 903.4.2 and Appendix III-B, Section 5.  
OR  
All structures proposed for this project shall be equipped with an approved automatic fire sprinkler system. The automatic fire sprinkler system shall be designed to NFPA 13D standards for residential applications.
- c. Alley shall be marked "No Parking Fire Lane" on both sides.

**B4. Police Department**

- a. The parking areas shall be illuminated at a minimum level of 1.5 foot-candles during hours of darkness.
- b. Security and parking area lights shall be controlled by photocell and shall remain on during hours of diminished light.
- c. Each entry, patio, balcony, and pedestrian walk shall be equipped with its own light source.
- d. Parking areas, aisles, passageways, recesses, and grounds contiguous to any structure shall be provided with high intensity discharge lighting with sufficient wattage to provide adequate illumination for the safety and security of vehicles and pedestrians using the site during the hours of darkness or diminished light. Such lighting shall be equipped with vandal-resistant covers/lenses.
- e. All exterior doors shall be adequately illuminated with their own light source.

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- f. Exterior door, perimeter, canopy, and parking area lights shall be controlled by photocell and shall remain on during the hours of darkness or diminished light.
- g. All required lighting shall be high-pressure sodium with vandal-resistant covers/lenses.
- h. Ground-level pation fences should be low profile to allow observation while still providing a sense of privacy.
- i. During construction, the developer shall enclose the entire project perimeter with a chain-link fence with the necessary construction gates that shall be locked after normal construction hours.
- j. Single sliding glass doors shall have the moveable section of the door adjusted so the up and down play is taken up to prevent lifting with a pry tool to defeat the locking mechanism.
- k. Secondary deadlocks shall be installed on all single sliding glass doors accessible from ground level or adjacent balconies. Lock bolts shall be of hardened material or shall have hardened steel inserts.
- l. Secondary locking devices are required on ground floor windows and any windows accessible from outside connecting balconies.
- m. Outside hinges on all exterior doors shall be provided with non-removable pins when pin-type hinges are used or shall be provided with hinge studs, to prevent removal of the door.
- n. The residences main entrance door(s) shall be secured with single-cylinder deadbolt locks with a minimum throw of one inch, in addition to door latches with a one-half inch minimum throw. The locks should be constructed so both deadbolt and dead latch can be retracted by a single action of the inside doorknob.
- o. Any glass door(s) shall be secured with a deadbolt lock with a minimum throw of one-inch. The outside ring shall be free-moving and case hardened.
- p. Doors with glass panels and doors with glass panels adjacent to the door frame shall be secured with burglary-resistant glazing or the equivalent, if double-cylinder deadbolt locks are not installed.
- q. Windows shall be constructed so when the window is locked it cannot be lifted from the frame (sliding).
- r. The sliding portion of a sliding glass window shall be on the inside track.

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- s. Window locking devices shall be capable of withstanding a force of 300 pounds in any direction.
- t. If the barrier is on the outside, it shall be secured with galvanized rounded-head flush bolts of at least 3/8" diameter on the outside.
- u. A viewing device or peephole shall be installed in each individual entrance door and shall allow for 180 degree vision.
- v. Vision panels in exterior doors (if used) or within reach of the inside activating device shall be made of burglary-resistant glazing or equivalent.
- w. Windows shall be constructed so when the window is locked it cannot be lifted from the frame. The vertical play shall be taken up to prevent lifting of the movable section to defeat the locking mechanism.
- x. Landscaped areas should be planned for maximum growth while also providing unobstructed observation of parking areas, buildings, and pathways day and night.

**B5. Parks**

- a. The applicant shall initiate and complete the formation of a parks maintenance district (assessment or Mello-Roos special tax district), or annex the project to an existing parks maintenance district. The applicant shall pay all city fees for formation of or annexation to a parks maintenance district. (Contact Development Services Department, Special Districts, Project Manager. In assessment districts, the cost of neighborhood park maintenance is equitably spread on the basis of special benefit. In special tax districts, the cost of neighborhood park maintenance is spread based upon the hearing report, which specifies the tax rate and method of apportionment.)
- b. As per City Code, the applicant will be responsible to meet his/her obligations regarding:
  - 1) Title 18, 18.44 Park Development Impact Fee (PIF), due at the time of issuance of building permit. The Park Development Impact Fee due for this project is estimated at \$13,188. This fee is based on four duplex units at \$3,297 each. Any change in these factors will change the amount of PIF due. The fee is calculated using factors at the time the project is submitted for building permit.

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**B6. SMUD**

- a. Dedicate a 5-foot public utility easement for overhead and underground facilities and appurtenances adjacent to the east property line of APN: 013-0137-017.
- b. Dedicate a 5-foot public utility easement for overhead and underground facilities and appurtenances adjacent to the west property line of APN: 013-0137-016.

There is an existing electrical secondary line that cuts diagonally from the southeast corner to the northwest corner which provides service to the properties to the north.

**B7. Development Engineering**

- a. Alley improvements are required from the property boundary to the nearest public street (Franklin Boulevard). Repair/reconstruct any deteriorated portions of the existing alley. Alley improvements shall be to City standards and shall be constructed to the satisfaction of the Development Engineering Division.
- b. The developer shall provide adequate lighting to the existing alley to the satisfaction of the Development Engineering Division.
- c. The design of walls, fences, and signage near intersections and driveways shall allow stopping sight distance per Caltrans standards and comply with City Code Section 12.28.010 (25' sight triangle). Walls shall be set back three (3") feet behind the sight line needed for stopping sight distance to allow sufficient room for pilasters. Landscaping in the area required for adequate stopping sight distance shall be limited to 42" in height at maturity. The area of exclusion shall be determined by the Development Engineering division.

