



**CITY OF SUNNYVALE
REPORT
Administrative Hearing**

January 16, 2008

SUBJECT: **2007-0768 – Avi Meyers** [Applicant/Owner]: Application for related proposals located at **Ontario Drive (no address)** on a vacant 9,375 square foot lot (near W. Homestead Rd.) in an R-3 (Medium-Density Residential) Zoning District.

Motion **Parcel Map** to subdivide one lot into four condominium lots and one common lot,

Motion **Use Permit** to allow four condominium units,

Motion **Variance** from Sunnyvale Municipal Code section 19.38.030 to allow individual trash service where a centralized trash enclosure is required.

REPORT IN BRIEF

Existing Site Conditions Vacant parcel

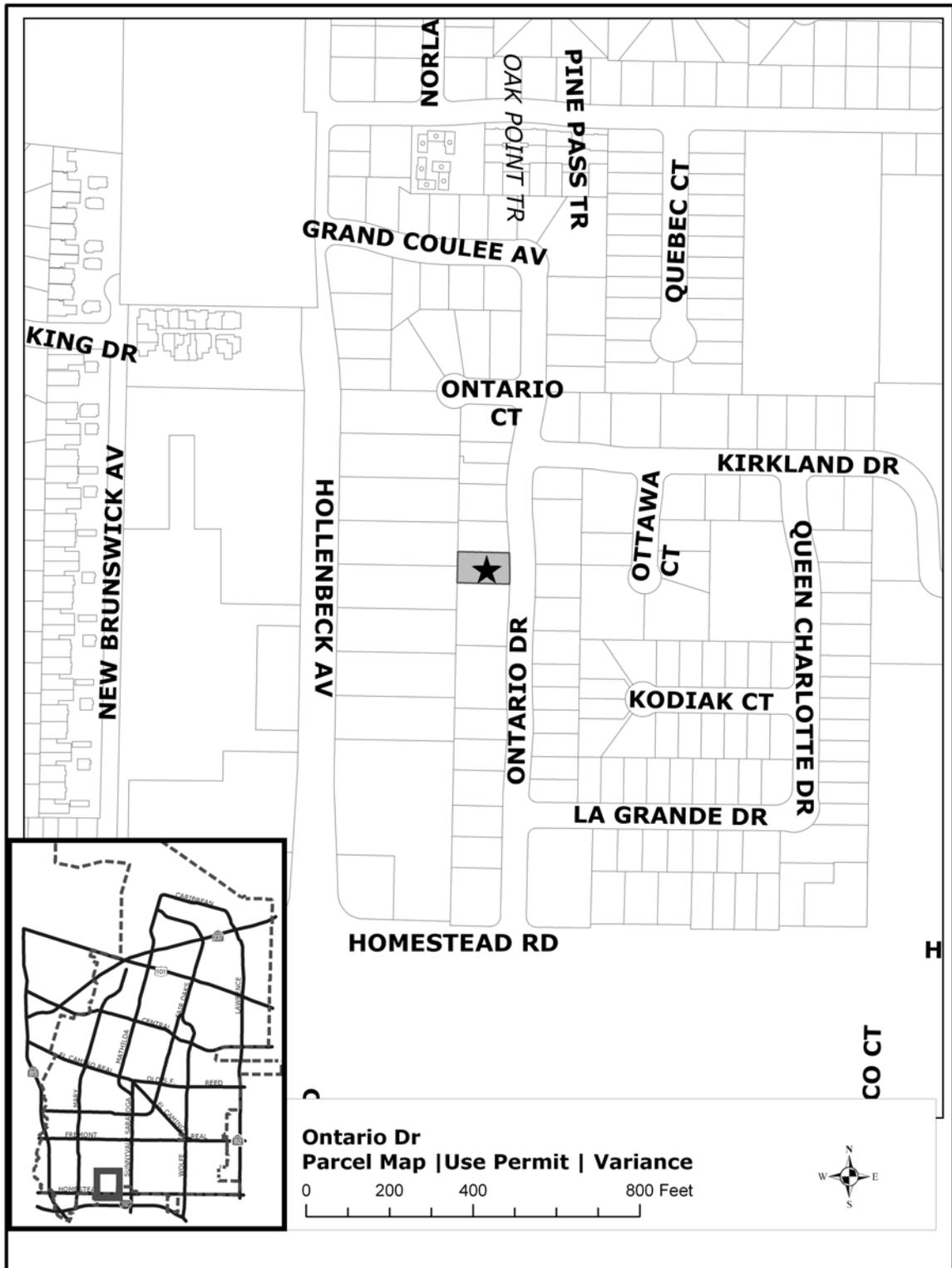
Surrounding Land Uses

North	Multi-family apartment building
South	Multi-family apartment building
East	Multi-family apartment buildings (across Ontario Dr.)
West	Multi-family apartment buildings

Issues Architectural design, parking, solid waste

Environmental Status A Class 3 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines.

Staff Recommendation Approve with Conditions



PROJECT DATA TABLE

	EXISTING	PROPOSED	REQUIRED/ PERMITTED
General Plan	Residential Medium-Density	Same	Residential Medium-Density
Zoning District	R-3	Same	R-3
Lot Size (sq. ft.)	9,375	Same	8,000 min.
Gross Floor Area (s.f.)	0	8,450	No max.
Lot Coverage (%)	0	31.6%	40% max.
Floor Area Ratio (FAR)	0	90.1%	No max.
No. of Units	0	4	5 max.
Density (units/acre)	0	18.6	24 max.
Meets 75% min?	N/A	Yes (77.5%)	4 units min.
Bedrooms/Unit	N/A	3	No max.
Unit Sizes (sq. ft.)	N/A	2 units @ 2,094 2 units @ 2,131	No max.
No. of Buildings On- Site	0	1	No max.
Building Height (ft.)	N/A	35' 0"	35' max. (for town home style developments)
No. of Stories	N/A	3	3 max. (for town home style developments)
Setbacks (Facing Property)			
Front	N/A	20' 1"	20' min.
Left Side	N/A	25' 8"	6' min. per side, 15' total
Right Side	N/A	15' 13.5"	
Rear	N/A	20'	20' min.
Landscaping (sq. ft.)			
Total Landscaping	9,375	3,024	1,875 min.
Total Usable Open Space	9,375	1,938	1,600 min.

	EXISTING	PROPOSED	REQUIRED/ PERMITTED
Landscaping/Unit	N/A	756	425 min.
Usable Open Space/Unit	N/A	484.5	400 min.
Frontage Width (ft.)	N/A	20'	15' min.
% of Lot Area	N/A	32.3%	20% min.
Parking Lot Shading (%)	N/A	0%	50% min. in 15 years
Water Conserving Plants (%)	100%	70%	70% min.
Parking			
Total Spaces	0	10	10 min.
Standard Spaces	0	9	9 min.
Compact Spaces/ % of Total	0	0	0 max.
Accessible Spaces	0	1	1 min.
Covered Spaces	0	8	8 min.
Aisle Width (ft.)	N/A	24'	24' min.
Bicycle Parking	0	0	Min. 1 Class II rack
Stormwater			
Impervious Surface Area (sq. ft.)	0	6,351	Max. 9,999 sq. ft. without Stormwater Management Plan

ANALYSIS

Description of Proposed Project

The applicant proposes to construct four townhome-style condominium units on an undeveloped parcel. The resulting three-story building will have 8,450 square feet of floor area and will include four attached units, each with a two-car garage and a private front patio area. The project includes a Parcel Map to

allow four condominium lots and one common lot, as well as a Variance to allow individual trash service where a centralized trash enclosure is required.

Background

Previous Actions on the Site: The following table summarizes previous planning applications related to the subject site.

File Number	Brief Description	Hearing/Decision	Date
2007-0458	Preliminary Review for the development of 4 town homes (site plan review only)	Staff Review / Completed	05/07/2007

Environmental Review

A Class 3 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines. Class 3 Categorical Exemptions include new construction of small structures allowing up to 6 multi-family units and up to 10,000 square feet.

Use Permit

Site Layout: The subject site is an undeveloped parcel located on the west side of Ontario Drive which currently has no address. Surrounding uses are two-story multi-family apartment buildings constructed in the 1960s and 1970s. There are no single-family residences in the vicinity of the project.

The project will consist of a single building containing 4 residential units. The proposed driveway will be located along the south side of the property providing access to private garages and guest parking spaces. Each unit will have a private open space area (patio) located adjacent to the front entries on the north side of the property. A common open space area will be located in the rear of the building along the west property line.

The building will front onto Ontario Drive, from which vehicle access will be taken. The main pedestrian entries to the units will be located along the north side of the property, on the opposite side of the garages. An additional pedestrian entry for Unit 1 (closest to Ontario Drive) will face the street, enhancing the project's design and pedestrian orientation.

The following Guidelines were considered in the analysis of the project's site design:

Design Policy or Guideline (Site Layout)	Comments
<p><u>City-wide Design Guidelines</u> <i>B1. Locate site components such as structures, parking, driveways, walkways, landscaping and open spaces to maximize visual appeal and functional efficiency.</i></p>	<p>The Unit 1 entry along Ontario Drive enhances the streetscape. Common open space in the rear of the property provides an area not visible from the street. Patios on the north side provide private open space. Internal circulation is simple and efficient.</p>

Architecture: The applicant proposes a three-story townhome-style development consisting of a single building with four units. The height of the proposed structure increases from east to west following the grade of the property, reaching a maximum height of 35 feet at the rear. The proposed roof material is composition shingle. The exterior materials are a combination of horizontal and vertical siding and shingles painted in different colors for each unit. The color scheme and roofline have been designed to provide differentiation between the four units while still presenting a cohesive design.

The applicant has worked extensively with staff to achieve a significant amount of detail and visual interest for all building façades. Design features include numerous plane changes, the use of different materials and colors, a varied roofline, high-quality windows and doors, and decorative elements such as window shutters. Wood fences will be installed along property lines, and low fences will separate private open space areas from walkways and entrances.

The following Guidelines were considered in the analysis of the project architecture:

Design Policy or Guideline (Architecture)	Comments
<p><u>City-wide Design Guidelines</u> <i>II. Building Design</i> <i>Buildings shall enhance the neighborhood and be harmonious in character, style, scale, color and material with existing buildings in the neighborhood.</i></p>	<p>The proposed structure incorporates architectural details and exterior colors that will enhance the appearance of the surrounding neighborhood. The three-story scale of the building is taller than other buildings in the area, but is consistent with the permitted height for townhome-style developments in the R-3 Zoning District.</p>

Landscaping: The subject site is currently undeveloped. Existing landscaping consists of one Black Walnut tree surrounded by wild groundcover. This tree is a “protected tree” as defined by Sunnyvale Municipal Code section 19.94 (see Arborist Report, Attachment G). The applicant proposes removal of the tree. Staff explored options for preserving the tree, but was not able to find a feasible alternative. Due to the tree’s location in the center of the parcel, requiring the tree to remain will prevent development of the site at the required density.

The proposed project also includes the addition of a new driveway in the location of an existing parkstrip containing a City street tree. Relocation of the proposed driveway is not an option due to site constraints. Staff notes that a Street Tree Work Permit must be approved by the Trees & Landscape Division prior to removal of any City street tree. Staff recommends the applicant working with the Trees & Landscape Division to explore options for replacing the street tree along the project frontage (Conditions of Approval 2.F and 16.B).

The proposed landscaping for the project includes 10 new trees: four on the north side of the property, four along the south property line, and two in the front setback. Other proposed landscaping includes turf in the rear open space area, ground cover in the front setback, and shrubs throughout the property. Plant species and sizes have not been provided, therefore staff recommends requiring a new detailed landscape plan prior to issuance of a Building permit (Condition of Approval 10.A). The project provides a total of 3,024 square feet of landscaping, or 32.3% of the lot, where a minimum of 20% is required. The proposed landscaping meets all requirements with the exception of parking lot shading. Sunnyvale Municipal Code section 19.38.070 requires tree shading of at least 50% of a parking lot within 15 years. There is currently no proposed shading for the parking lot area to the rear of the site. Staff recommends Condition of Approval 10.A.6 requiring the addition of at least two trees around the guest parking spaces to provide the required shading.

The following Guidelines were considered in analysis of the project landscaping:

Design Policy or Guideline (Landscaping)	Comments
<p><i>City-wide Design Guidelines</i> A4. Properly landscape all areas not covered by structures, driveways and parking.</p>	<p>All areas not dedicated to structures, driveways, or access requirements will be landscaped.</p>

Usable Open Space: The project provides 484.5 square feet of usable open space per unit, where a minimum of 400 square feet per unit is required. The

usable open space consists of a common lawn area measuring 980 square feet at the rear of the property, as well as a 958 square foot area on the north side of the property consisting of private patios, landscaped areas, and pedestrian walkways. Taken as a whole, the north side area meets the 12-foot minimum dimension for usable open space. However, this open space area is divided into two sections. Along the north property line is a 503 square foot area with walkways and landscaping which is approximately 83' long and varies from 3' 6" wide to 8' 6" wide. Adjacent to the structure are private patios measuring approximately 10' wide by 11' 6" long. These are separated from the walkways and landscaping by low fences. Staff considered requiring removal of the dividing fences to create a more unified open space area. However, the addition of fences contributes positively to the usability of the space by creating private patios for each unit, and the resulting area still meets the definition of usable open space set forth in SMC 19.12.160 and 19.38.070. As a result, staff recommends approving the open space as proposed. If the Administrative Hearing Officer believes the proposed usable open space does not meet the definition, removing the dividing fences is an option. Relocating the guest parking spaces to the front setback and expanding the rear landscaped area may also be an option.

Parking/Circulation: The project will provide two enclosed parking spaces per unit in private garages, as well as two unenclosed spaces at the rear of the site, to meet the overall parking requirement of 10 spaces. One of the two unenclosed spaces has been designed to meet the requirements for accessible parking.

Analysis by the Transportation and Traffic Division indicated that the proposed location of the unenclosed spaces at the rear of the site may make it difficult for vehicles to turn while exiting spaces, and may force drivers to back down the long driveway to exit the site. The applicant provided alternative analysis to demonstrate that standard-sized vehicles would be able to exit the spaces using several turns, and only very large vehicles would have to back down the driveway. Staff explored the option of relocating the unenclosed parking spaces to the front setback parallel to the street, where backing and turning would be easier. However, staff determined that relocating the spaces would have a detrimental impact on the project design by reducing front landscaping, locating vehicles in front of the building, and reducing the apparent pedestrian orientation of the project. As a result, staff recommends the location shown on the proposed plans. If the Administrative Hearing Officer finds the proposed location of the unenclosed parking spaces to be unacceptable, staff notes that it is possible to locate at least one of the spaces in the front setback area.

The site plan does not show any proposed bicycle storage. Staff recommends requiring one Class II bicycle facility such as a bicycle rack per VTA standards (Condition of Approval 15.A).

The following Guidelines were considered in analysis of the project parking and circulation:

Design Policy or Guideline (Parking and Circulation)	Comments
<p><i>City-wide Design Guidelines</i> A6. Avoid parking in required setback areas to maintain landscape strips along project boundaries.</p>	<p>Unenclosed guest parking spaces have been located to the rear of the site to avoid locating parking in the front setback.</p>
<p><i>City-wide Design Guidelines</i> A7. Separate pedestrian and automobile traffic paths, and minimize conflict areas for safety.</p>	<p>Walkways and entries have been provided on the north side of the building to separate pedestrian and automobile traffic.</p>

Undergrounding Utilities: As required by Sunnyvale Municipal Code section 19.38.090, this project requires undergrounding of electrical, telephone, and cable TV utilities, including all service drops and transformers. The boundary line pole located on the site should be removed and the overhead boundary lines should be run directly between the poles on adjacent properties (Condition of Approval 19.C). The existing pole on the subject property is in the area designated as the rear usable open space, and will reduce the usability of that open space if it remains.

Solid Waste: Multi-family developments with four or more units require centralized solid waste enclosures per Sunnyvale Municipal Code section 19.38.030. The applicant is requesting a Variance from this requirement and is proposing individual solid waste service (see below for discussion of Variance). Solid waste disposal for this project will consist of individual recycling and refuse carts to be stored in each unit’s private garage and moved to the street frontage weekly for pickup. The applicant proposes a curbside staging area paved with turf-crete where carts will be stored while awaiting pickup. No curbside parking will be permitted along the street frontage in front of the staging area to ensure there are no impediments to pickup service.

Compliance with Development Standards/Guidelines: This project complies with all applicable development standards and guidelines, with the exception of the solid waste enclosure requirement as noted above.

Variance

As noted previously, multi-family developments consisting of 4 or more units require centralized solid waste enclosures per Sunnyvale Municipal Code section 19.38.030. The applicant is requesting a Variance to allow individual

solid waste service. The applicant's justifications for the Variance are discussed below (see Attachment F for written justifications).

There are exceptional or extraordinary circumstances or conditions applicable to the property or use:

The applicant states the subject site is smaller than others in the area, therefore it is not possible to meet the required density while providing a centralized enclosure with space for ingress and egress of collection vehicles. The Department of Public Works Solid Waste Division notes that individual trash service is preferred at this site, as there is no suitable location for a solid waste enclosure and collection would be made difficult by the narrow driveway. The subject property meets the standard lot size for the R-3 Zoning District. However, the subject property is only 75 feet wide, which is significantly narrower than the 120-foot standard width for an interior lot in the R-3 Zoning District. Although some lots on Ontario Drive are as narrow as the subject lot, most of the properties in the immediate neighborhood are significantly wider. To provide a centralized solid waste enclosure, the applicant would be required to significantly reduce the size of the units or to remove one of the units. This could prevent the applicant from achieving 75% of the maximum allowed density as required by Council Policy. As a result, staff has determined that the required finding can be made.

Granting the Variance will not be materially detrimental to the public welfare or injurious to the property, improvements, or uses within the immediate vicinity:

The applicant states that the condominium owners will use individual trash carts stored in their own garages, which will be brought to the street only for collection. This arrangement will provide sufficient solid waste service and will not have any detrimental impacts on the surrounding area. Staff recommends Condition of Approval 16.C, which limits the time individual carts may be left in the curbside staging area to prevent visual impacts resulting from the carts. As conditioned, staff finds the project meets the required finding.

The recipient of the Variance will not be granted special privileges not enjoyed by other surrounding property owners within the same zoning district:

The applicant states the intent of the ordinance is met as proper solid waste collection will be provided, and the proposed plan was recommended by the Solid Waste Division. The Variance will not grant a special privilege, as the property is constrained by being significantly narrower than the standard for the R-3 Zoning District. The Variance will allow the applicant to achieve the same density and interior circulation as other property owners in the same Zoning District while still providing for adequate solid waste collection. As a result, staff has determined the required finding can be made.

Tentative Map

General: The project proposes the subdivision of the existing parcel into 4 condominium lots on one common lot. The common lot will be in held in common ownership and maintained by all four condominium owners.

Access: Vehicles will be provided access to the project site from Ontario Drive. Adequate circulation is provided for access to facilities within the project site.

Right of Way: All required dedications for public right-of-way will be provided by the project.

Expected Impact on the Surroundings: The proposed project will result in a medium-density residential project with four residential units on a vacant lot. The project will provide four new ownership housing units in the City. The proposed project’s density is consistent with the requirements of the zoning district and with development patterns within the immediate neighborhood. The project’s design is attractive and will enhance the appearance of the neighborhood. No significant detrimental impacts on surrounding properties are expected.

Fiscal Impact

Transportation Impact Fee: The proposed project is subject to a Transportation Impact Fee estimated at \$4,746.84. The actual fee amount shall be calculated based on current fee schedules at the time of applying for Building permits.

Park Dedication Fee: The proposed project is subject to a Park Dedication Fee of \$37,635.84. This fee amount was calculated based on current fee schedules at the time of project completeness.

Public Contact

Notice of Public Hearing	Staff Report	Agenda
<ul style="list-style-type: none"> • Published in the <i>Sun</i> newspaper • Posted on the site • 91 notices mailed to property owners and residents adjacent to the project site 	<ul style="list-style-type: none"> • Posted on the City of Sunnyvale's Web site • Provided at the Reference Section of the City of Sunnyvale's Public Library 	<ul style="list-style-type: none"> • Posted on the City's official notice bulletin board • Posted on the City of Sunnyvale's Web site

Staff has not received any public comments related to this application.

Conclusion

Findings and General Plan Goals: Staff was able to make the required Findings based on the justifications for the Parcel Map, Use Permit, and Variance. Findings and General Plan Goals are located in Attachment A.

Conditions of Approval: Recommended Conditions of Approval are located in Attachment B.

Alternatives

1. Approve the application for a Parcel Map, Use Permit, and Variance with the Conditions of Approval listed in Attachment B.
2. Approve the application for a Parcel Map, Use Permit, and Variance with modified Conditions of Approval.
3. Deny the application.

Recommendation

Alternative 1

Prepared by:

Mariya Hodge

Project Planner

Reviewed by:

Andrew Miner

Principal Planner

Attachments:

- A. Recommended Findings
- B. Recommended Conditions of Approval
- C. Site and Architectural Plans
- D. Tentative Parcel Map
- E. Applicant's Use Permit Justifications
- F. Applicant's Variance Justifications
- G. Applicant's Arborist Report

Recommended Findings - Use Permit

Goals and Policies that relate to this project are:

Land Use and Transportation Element Policy C2.2 - *Encourage the development of ownership housing to maintain a majority of housing in the City for ownership choice.*

Land Use and Transportation Element Policy N1.4 – *Preserve and enhance the high quality character of residential neighborhoods.*

Land Use and Transportation Element Action Statement N1.4.1 – *Require infill development to complement the character of the residential neighborhood.*

Housing and Community Revitalization Sub-Element Policy C.1 - *Continue efforts to balance the need for additional housing with other community values, such as preserving the character of established neighborhoods, high quality design, and promoting a sense of identity in each neighborhood.*

Housing and Community Revitalization Sub-Element Goal D - *Maintain diversity in tenure, type, size and location of housing to permit a range of individual choices for all current residents and those expected to become city residents.*

Housing and Community Revitalization Sub-Element Policy D.3.a – *Evaluate residential development proposals in view of the needs of families requiring three or more bedrooms and will ask for three or more bedrooms when the site is suitable.*

1. The proposed use attains the objectives and purposes of the General Plan of the City of Sunnyvale as the project. *(Finding made)*

The proposed project provides four new residential units in an existing residential neighborhood. These units will provide additional ownership housing opportunities for Sunnyvale residents. The proposed units have three bedrooms, which will provide housing opportunities for larger families. In addition, the project's high-quality design will enhance the appearance of the surrounding neighborhood.

2. The proposed use ensures that the general appearance of proposed structures, or the uses to be made of the property to which the application refers, will not impair either the orderly development of, or the existing uses being made of, adjacent properties. *(Finding made)*

The proposed project will not have any detrimental impacts on adjacent properties or the surrounding area. The project will complement the existing medium-density residential development in the area. The project's high-quality design elements will also enhance the streetscape and may encourage rehabilitation and redevelopment of older properties in the neighborhood.

Recommended Findings - Variance

1. Because of exceptional or extraordinary circumstances or conditions applicable to the property, or use, including size, shape, topography, location or surroundings, the strict application of the ordinance is found to deprive the property owner or privileges enjoyed by other properties in the vicinity and within the same zoning district. (*Finding made*)

Although the subject property meets the standard lot size for the R-3 Zoning District, it is only 75 feet wide, which is significantly narrower than the 120-foot standard width for an R-3 interior lot. Although some lots on Ontario Drive are as narrow as the subject lot, the majority of the properties in the immediate neighborhood are significantly wider. Requiring the applicant to provide a centralized solid waste enclosure on this narrow lot would require the applicant significantly reduce the size of the units or to remove one of the units, which could prevent the applicant from achieving 75% of the maximum allowed density as required by Council Policy. The Department of Public Works Solid Waste Division also notes that individual trash service is preferred at this site, as there is no suitable location for a solid waste enclosure and collection would be made difficult by the narrow driveway.

2. The granting of the Variance will not be materially detrimental to the public welfare or injurious to the property, improvements or uses within the immediate vicinity and within the same zoning district. (*Finding made*)

Condominium owners will use individual trash carts stored in their own garages, which will be brought to the street only for collection. This arrangement will provide sufficient solid waste service and will not have any detrimental impacts on the surrounding area. Condition of Approval 16.C also limits the time individual carts may be left in the curbside staging area, which will prevent any visual impacts associated with the individual carts.

3. Upon granting of the Variance, the intent and purpose of the ordinance will still be served and the recipient of the Variance will not be granted special privileges not enjoyed by other surrounding property owners within the same zoning district. (*Finding made*)

The proposed project provides appropriate solid waste collection facilities without significant impacts on adjacent properties, therefore the intent of the ordinance is met. The Variance will not grant a special privilege, as the property is constrained by being significantly narrower than the standard for the R-3 Zoning District. The Variance will allow the applicant to achieve the same density and interior circulation as other property owners in the same Zoning District while still providing for adequate solid waste collection.

Recommended Findings - Tentative Map

In order to approve the Tentative Map, the proposed subdivision must be consistent with the general plan. Staff finds that the Tentative Map is in conformance with the General Plan. However, if any of the following findings can be made, the Tentative Map shall be denied. Staff was not able to make any of the following findings and recommends approval of the Tentative Map.

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

Staff was not able to make any of the findings (1-8), and recommends approval of the Tentative Map.

The subdivision, together with the provisions for its design and improvements, is consistent with the objectives, policies, land uses and programs of the General Plan. The project, in conjunction with an approved Use Permit, meets the overall density allowed in the Zoning District and supports a land use that is compatible with the surrounding neighborhood. The project also meets the goals and polices of the General Plan, as enumerated above.

Recommended Conditions of Approval - Use Permit/Variance/Parcel Map

In addition to complying with all applicable City, County, State and Federal Statutes, Codes, Ordinances, Resolutions and Regulations, Permittee expressly accepts and agrees to comply with the following conditions of approval of this Permit:

Unless otherwise noted, all conditions shall be subject to the review of approval of the Director of Community Development.

1. GENERAL CONDITIONS

- A. Execute a Use Permit document prior to issuance of a Building permit.
- B. The project shall be in conformance with the plans approved at the public hearing(s). Minor changes may be approved by the Director of Community Development. Any major site or architectural changes shall be treated as an amendment of the original approval and shall be subject to approval at a public hearing.
- C. The Conditions of Approval shall be reproduced on a page of the plans submitted for a Building permit for this project.
- D. The Use Permit and Variance shall be null and void two years from the date of approval by the final review authority at a public hearing if the approval is not exercised, unless a written request for an extension is received prior to expiration date.
- E. The Use Permit shall expire if the use is discontinued for a period of one year or more.

2. OBTAIN OTHER PERMITS

- A. Obtain Building permits for all proposed construction.
- B. Obtain a development permit from the Department of Public Works for all proposed off-site improvements including all improvements in the public right-of-way.
- C. Utility plans (including but not limited to electrical, telephone, cable TV, and fiber optic) shall be submitted to the Public Works Department for review and approval prior to the issuance of any permits for utility work within the public right-of-way or public utility easements.
- D. Submit a traffic control plan for review and approval by the Traffic Division for all improvements that may affect the public right-of-way.

- E. Obtain encroachment permits from the Department of Public Works for all utility work and other improvements in the public right-of-way. No storage or staging of construction materials shall be allowed in the public right-of-way.
- F. Obtain a Street Tree Work Permit from the Trees & Landscape Division for any work to be performed on City street trees located in the parkstrip in the public right-of-way.

3. BUILDING HEIGHT

- A. The total height of the structure shall not exceed 35 feet as measured from the top of the public curb fronting the property. Submit an elevation certificate at the time of applying for Building permits and show elevation data markers on plans to clearly establish the grade level of the property and height of the proposed structure.

4. CC&R's (CONDITIONS, COVENANTS AND RESTRICTIONS)

- A. A Homeowner's Association is not required for subdivisions of less than 5 units; however, CC&Rs are required to manage use and maintenance of common areas.
- B. All proposed deeds, covenants, restrictions and by-laws relating to the subdivision are subject to review and approval by the Director of Community Development and the City Attorney prior to approval of the Final Map. In addition to requirements as may be specified elsewhere, the CC&Rs shall include the following provisions:
- C. The developer and/or homeowners shall obtain approval from the Director of Community Development prior to any modification of the CC&Rs pertaining to or specifying the City.
- D. The developer shall maintain all utilities and landscaping for a period of three years following installation of such improvements or until the improvements are transferred to the homeowners following sale of at least 75% of the units, whichever comes first.
- E. The homeowners of the units within the subdivision shall be jointly responsible for the maintenance and repair of the property's common areas, which include but are not limited to driveways, landscaping, fences, walkways, and guest parking.
- F. All public/private easements pertaining to the project shall be identified and/or defined for the homeowners in the CC&R's.
- G. The CC&Rs shall identify the homeowners as responsible for maintaining the parkstrip landscaping in perpetuity along the public street fronting the project site. Parkstrip landscaping includes

shrubs, grass, and other plants and groundcover, but does not include the City street trees planted in the parkstrip. City street trees may be maintained and/or removed by City crews only, except by approval of a Street Tree Work Permit.

- H. Homeowners are prohibited from modifying drainage facilities and/or flow patterns of their lots without first obtaining approval from the City.
- I. The CC&Rs shall include provisions for post-construction Best Management Practices in regards to the stormwater management.
- J. The CC&Rs shall include a list of the Conditions of Approval of this Use Permit, Parcel Map, and Variance.
- K. The CC&Rs shall also contain the following language:
- L. “Right to Remedy Failure to Maintain Common Area. In the event that there is a failure to maintain the Common Area so that owners, lessees, and their guests suffer, or will suffer, substantial diminution in the enjoyment, use, or property value of their Project, thereby impairing the health, safety and welfare of the residents in the Project, the City, by and through its duly authorized officers and employees, will have the right to enter upon the subject Property, and to commence and complete such work as is necessary to maintain said Common Area. The City will enter and repair only if, after giving the Owners written notice of the failure to maintain the Common Area, they do not commence correction of such conditions in no more than thirty (30) days from the giving of the notice and proceed diligently to completion. All expenses incurred by the City shall be paid within thirty (30) days of written demand. Upon a failure to pay within said thirty (30) days, the City will have the right to impose a lien for the proportionate share of such costs against each Lot in the Project.
- M. It is understood that by the provisions hereof, the City is not required to take any affirmative action, and any action undertaken by the City will be that which, in its sole discretion, it deems reasonable to protect the public health, safety and general welfare, and to enforce it and the regulations and ordinances and other laws.
- N. It is understood that action or inaction by the City, under the provisions hereof, will not constitute a waiver or relinquishment of any of its rights to seek redress for the violation of any of the provisions of these restrictions or any of the rules, regulations and ordinances of the City, or of other laws by way of a suit in law or equity in a court of competent jurisdiction or by other action.

- O. It is further understood that the remedies available to the City by the provision of this section or by reason of any other provisions of law will be cumulative and not exclusive of the maintenance of any other remedy. In this connection, it is understood and agreed that the failure to maintain the Common Area will be deemed to be a public nuisance and the City will have the right to abate said condition, assess the costs thereof, and cause the collection of said assessments to be made on the tax roll in the manner provided by appropriate provisions of the Sunnyvale Municipal Code or any other applicable law.
- P. No Waiver. No failure of the City of Sunnyvale to enforce any of the covenants or restrictions contained herein will in any event render them ineffective.
- Q. Third-Party Beneficiary. The rights of the City of Sunnyvale pursuant to this Article will be the rights of an intended third party beneficiary of a contract, as provided in Section 1559 of the California Civil Code, except that there will be no right of Declarant or any Owner(s) to rescind the contract involved so as to defeat such rights of the City of Sunnyvale.
- R. Hold Harmless. Declarant, Owners, and each successor in interest of Declarant and said Owners, hereby agree to save, defend and hold the City of Sunnyvale harmless from any and all liability for inverse condemnation which may result from, or be based upon, City's approval of the Development of the subject Property."

5. DESIGN/EXTERIOR COLORS AND MATERIALS

- A. Final exterior building materials and color scheme are subject to review and approval of the Director of Community Development prior to issuance of a building permit.
- B. Roof material shall be 50-year dimensional composition shingle, or as approved by the Director of Community Development.

6. EXTERIOR EQUIPMENT

- A. Individual air conditioning units shall be screened with architectural features as shown on the approved plans. Any changes to the proposed air conditioning units or screening, including design or location changes, shall require review and approval by the Director of Community Development.
- B. The addition of any other exterior equipment or unenclosed uses shall require review and approval by the Director of Community Development.

7. FEES

- A. Pay Transportation Impact fees estimated at \$4,746.84 prior to issuance of a Building permit. (SMC 3.50)
- B. Pay Park In-lieu fees estimated at \$37,635.84 prior to approval of the Final Map. (SMC 18.10)
- C. Pay Public Works development fees prior to issuance of a Building permit, which include but are not limited to utility frontage fees, connection fees, and off-site improvement and inspection fees.

8. FENCES

- A. Design and location of any proposed fencing and/or walls are subject to review and approval by the Director of Community Development.
- B. Install and maintain a 6-foot solid wood fence, measured from the highest adjoining grade, along the side and rear property lines with a design approved by the Director of Community Development. Wherever the grade differential is one foot or higher, a concrete or masonry retaining wall shall be installed. Note that fences extending into the required front yard and/or any Vision Triangles may not exceed 3 feet in height.
- C. Install and maintain fences around the private front patio areas of each unit on the north side of the property. Fences shall be at least 3 feet tall and no more than 6 feet tall as measured from the finished patio floor. Height, design, and location of patio fences shall be approved by the Director of Community Development prior to issuance of a Building permit.

9. FIRE PROTECTION

- A. Provide a written Fire Protection Plan for review and approval by the Department of Public Safety.
- B. Provide a fully automatic fire sprinkler system in accordance with NFPA 13/13D including with a fire sprinkler system inside the garages.
- C. Install smoke detectors and fire extinguishers as required by the Department of Public Safety.
- D. Prior to any combustible construction or materials on site, provide fire access drives and operational on-site fire protection systems as required by the Department of Public Safety.

10. LANDSCAPING

- A. Landscape and irrigation plans shall be submitted to the Director of Community Development for review and approval prior to issuance of a Building permit. Landscaping and irrigation shall be installed prior to occupancy. The landscape plan shall include the following elements:
1. All areas not required for parking, driveways or structures shall be landscaped;
 2. Provide trees at minimum 30 feet intervals along side and rear property lines, except where mature trees are located immediately adjoining on neighboring property;
 3. Deciduous trees shall be provided along southern and western exposures for passive solar heating purposes;
 4. Of new trees installed, 10% shall be 24-inch box size or larger and no tree shall be less than 15-gallon size;
 5. The “protected tree” (as defined in SMC 19.94) to be removed from the center of the parcel shall be replaced with a specimen tree of at least 36-inch box size;
 6. At least two trees shall be planted in the vicinity of the unenclosed parking spaces to achieve at least 50% shading of the spaces within 15 years;
 7. Street trees and other parkstrip landscaping shall be installed as approved by the Trees & Landscape Division;
 8. Turf or ground cover shall be planted in all landscaped areas so as to ensure full coverage 18 months after installation;
 9. Provide a 15-foot deep band of decorative paving for the width of the private driveway immediately behind the public sidewalk;
 10. Water-conserving plant materials shall be installed in at least 70% of all landscaped area.
- B. A landscape maintenance plan shall also be submitted to the Director of Community Development for review and approval to establish procedures for appropriate maintenance of landscaping by homeowners.
- C. All landscaping shall be installed in accordance with the approved landscape plan and shall thereafter be maintained in a neat, clean, and healthful condition.
- D. Trees shall be allowed to grow to the full genetic height and habit (trees shall not be topped). Trees shall be maintained using standard arboriculture practices.

E. Provide separate meters for domestic and irrigation water systems.

11. LIGHTING

- A. Prior to issuance of a Building permit, submit an exterior lighting plan, including fixture and pole designs and contour photometrics, for review and approval by the Director of Community Development.
- B. Driveway and parking area lights shall include the following:
 - 1. Sodium vapor illumination, or other illumination with an equivalent energy savings.
 - 2. Pole heights to be uniform and compatible with the adjacent residential area. Light standards shall not exceed 8 feet in height on the periphery of the project.
 - 3. Provide photocells for on/off control of all security and area lights.
 - 4. All exterior security lights shall be equipped with vandal resistant covers.
 - 5. All exterior lights shall have shields to prevent glare onto adjacent residential properties.

12. MISCELLANEOUS

- A. All fireplaces are to be gas-fueled and shall not be used for burning wood.
- B. Unenclosed storage of any kind shall be prohibited on the premises.
- C. Out-of door loudspeakers shall be prohibited.
- D. This project shall not cause a negative impact on the drainage pattern for adjacent properties. Provide adequate drainage modification on adjacent properties as needed with consent from adjacent property owners.

13. ON-SITE AMENITIES

- A. All facilities in the common area are to be fully accessible and meet ADA requirements.
- B. Swimming pools, pool equipment structures, play equipment and other accessory structures, except as otherwise subject to Planning Commission review, may be allowed if reviewed and approved by the Director of Community Development.

14. PARKING

- A. All uncovered parking spaces on the site shall be reserved and designated for the exclusive use of guests and shall be so marked

prior to occupancy. No vehicle owned or operated by a resident shall be parked in a guest space.

- B. Common area parking shall include one parking space that meets the dimensional standards for an accessible parking space, but this space is not required to be marked or reserved for the disabled.
- C. All garage spaces shall be assigned spaces and shall be provided with functioning garage doors.
- D. Garage spaces shall be maintained at all times so as to allow for parking of two automobiles.
- E. No parking space shall be offered for rent by the property owners or homeowners association.
- F. Unenclosed storage of any vehicle intended for recreation purposes, including land conveyances, vessels and aircraft, but excluding attached camper bodies and motor homes not exceeding 18 feet in length, shall be prohibited on the premises.
- G. Paint a red curb and post "No Parking" signs along the 10-foot Driveway Vision Triangle area to prohibit street parking in the Vision Triangle.
- H. Paint a red curb and post "No Parking" signs along the curbside solid waste staging area to ensure parked cars do not become an impediment to waste collection activities.

15. BICYCLE PARKING

- A. Provide 1 Class II bicycle parking rack per VTA Guidelines. Bicycle parking design and location shall be reviewed and approved by the Director of Community Development.

16. RECYCLING AND SOLID WASTE

- A. Submit a detailed recycling and solid waste disposal plan to the Director of Community Development for review and approval.
- B. All exterior recycling and solid waste shall be confined to approved individual receptacles.
- C. Individual refuse/recycling carts shall not be left in the curbside staging area for more than 24 consecutive hours. Homeowners shall store their individual refuse and recycling carts within their garages whenever the carts are not in the curbside staging area.
- D. The curbside solid waste staging area shall consist of 'turf-crete' with a pattern that minimizes carts tipping over.
- E. Remove all debris, structures, area light poles, and paving from the site prior to commencement of new construction.

17. RIGHT-OF-WAY IMPROVEMENTS

- A. The unused driveway approaches shall be replaced with standard curb, gutters, sidewalk, and parkstrip.
- B. Obtain approval from the Trees & Landscape Division for parkstrip and tree removal related to the proposed new driveway. Submit a plan for review and approval by the Director of Community Development and the Trees & Landscaping Division to install additional parkstrip trees and landscaping where appropriate.
- C. Replace all cracked, lifted, and damaged sidewalk along the project frontage.
- D. Install other public improvements prior to occupancy as required by the Director of Public Works, including but not limited to curb, gutter, sidewalks, driveway approaches, curb ramps, street pavements, utility extensions and connections, meters/vaults, trees and landscaping, traffic signals/signs, striping, and street lights.
- E. All required public improvements shall be installed per the City's design standards pursuant to Sunnyvale Municipal Code section 18.12 unless otherwise approved by the Director of Public Works.
- F. The developer shall be responsible for the cost of all required changes or modifications to existing city utilities, streets and other public utilities within or adjacent to the project site caused by the development. Required changes may include but are not limited to utility facilities/conduits/vaults relocation due to grade change in the parkstrip area.

18. SOLAR ENERGY

- A. Unless determined by the Director of Community Development to be cost-prohibitive, a solar water heating system shall be installed as the primary means of heating domestic potable water (Sunnyvale Municipal Code section 16.46.030).
- B. The solar water heating system shall be designed and installed in accordance with an overall plan as approved by the Director of Community Development.
- C. Separate active solar energy-collection systems shall be provided for each adjoining residential dwelling unit.
- D. Such systems shall carry a warranty as prescribed by the California Energy Commission in order to qualify for State Income tax credit.

19. UTILITIES

- A. All units/lots shall be served by utilities allowing each unit/lot to function separately. Individual water service and meters shall be

provided to each unit/lot. Installation of radio-read meters will be required.

- B. All service drops for utilities (electrical, telephone, and cable TV) shall be undergrounded prior to occupancy.
- C. Boundary lines are not required to be undergrounded; however, the pole located in the rear of the subject property shall be removed and overhead boundary lines shall be extended directly from the pole located at 1623 Ontario Drive to the pole located at 1635 Ontario Drive.
- D. The applicant shall provide a copy of an agreement with affected utility companies for undergrounding of existing overhead utilities which are on-site or within adjoining rights-of-way prior to issuance of a Building permit.
- E. A conduit plan shall be submitted for review and approval by the Director of Public Works prior to issuance of a Building permit.
- F. All existing utility lines and/or their appurtenances which are not serving the project or which have conflicts with the project shall be capped, abandoned, removed, relocated and/or disposed of to the satisfaction of the City.
- G. All on-site drainage and sanitary sewer systems shall be privately owned and maintained unless otherwise approved by the City as public systems. The fire and domestic water systems shall be privately owned and maintained beyond the meter.
- H. Install sewer cleanout(s) at the property line as required by the Director of Public Works.

20. VEHICLES

- A. No vehicles or trailers shall be advertised for sale or rent on the site, nor shall any vehicle sales, leasing or rentals be conducted on the site.

21. PARCEL MAP CONDITIONS

- A. The Parcel Map shall expire 2 years after the date of approval unless a Final Map is approved and recorded or a written request for extension is approved, as provided in the Subdivision Map Act and SMC 1820.
- B. A Final Map shall be submitted to the Department of Public Works for approval and recordation after meeting the conditions of approval noted herein, and prior to issuance of a Building permit.
- C. The submittal, approval and recordation of the Parcel/Final map shall be in accordance with the provision of the California

Subdivision Map Act and Sunnyvale Municipal Code Title 18 Subdivision requirements.

- D. The developer shall execute a Development/Subdivision Agreement and post surety bond(s) and/or cash deposit(s) for all proposed public and/or private improvements prior to any permit issuance.
- E. Full development fees shall be paid for each project parcel or lot shown on the Parcel Map and the fees shall be calculated in accordance with City Resolutions current at the time of payment.
- F. Reservation of new and/or abandonment of existing public/private utility easement(s), ingress/egress easement(s) necessary for the project shall be recorded with the map or prior to occupancy. No permanent structures are allowed within any of the easement limits.
- G. All utility companies shall be contacted to establish appropriate easements to provide services to each lot/parcel.

Attachment C

Site and Architectural Plans

PROJECT OWNER & ADDRESS/LEGAL DESCRIPTION:

OWNER:
 ART VETTER
 400 S.D. AVENUE RD.
 PALM SPRING, CA 92262
 951-254-4444

PROJECT ADDRESS:
 3200-FORMOSA RD.
 FONTANA, CA 92424

LEGAL DESCRIPTION:
 APN 323-04-004

PROJECT ENGINEERING CONSULTANTS:

GENERAL CONTRACTOR:
 JERRY HENDERSON ARCHITECTS
 200 E. 7TH ST., SUITE 200
 CORONA, CA 92626
 JERRY HENDERSON
 (714) 440-4422

MECHANICAL/ELECTRICAL/PLUMBING CONSULTANT:
 JAMES W. HARRIS
 10000 UNIVERSITY AVENUE
 SUITE 100
 IRVINE, CA 92618
 JAMES W. HARRIS
 (714) 754-7121

CIVIL ENGINEER:
 ADRIAN CHAN ENGINEERING
 3400 ARLING ROAD
 FULLERTON, CA 92841
 ADRIAN CHAN
 (714) 971-8989

SOILS ENGINEER:
 GEO-FOUNDATION INC.
 2600 PLUMBER WAY, SUITE 20
 FONTANA, CA 92424
 GUY STROVER
 (951) 240-8848

PROJECT DATA:

TOTAL VARIABLE OPEN SPACE ----- 1281 SQ. FT.
 887 SQ. FT. PER UNIT

TOTAL SHARED PARKING SPACES ----- 3

TOTAL FULLY ENCLOSED GARAGE SPACES ----- 8

LANDSCAPED AREA ----- 3424 SQ. FT.
 25% OF TOTAL LOT AREA, 120 SQ. FT. PER UNIT

TOTAL BUILDING NET LIVING AREA ----- 6,888 SQ. FT.
 3 BED R/O, 5 1/2 BATH PER UNIT - 120 AVG. SQ. FT. PER UNIT

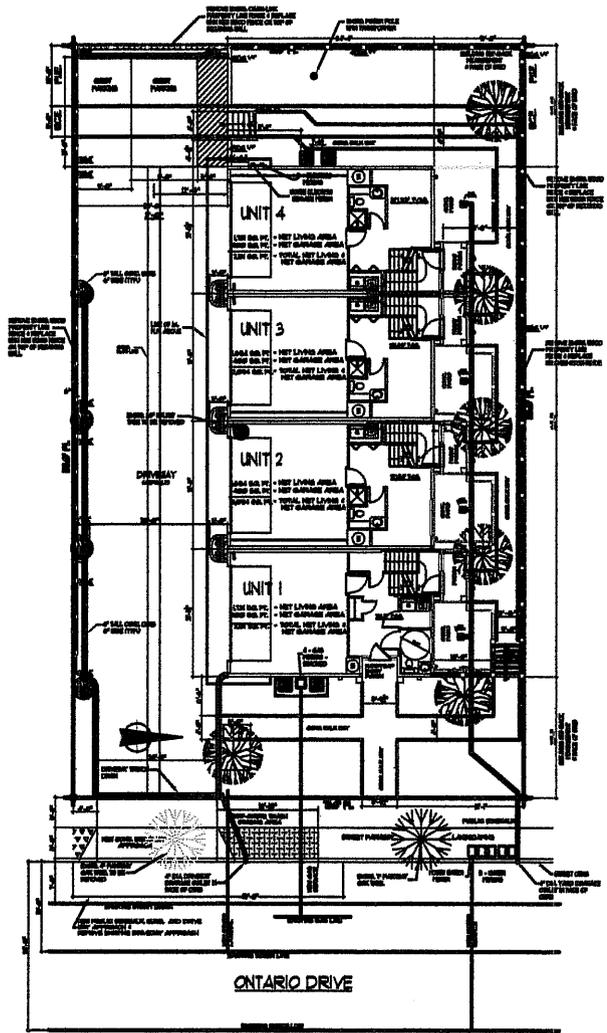
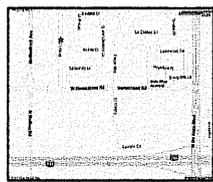
TOTAL NET GARAGE AREA ----- 1480 SQ. FT.
 182 CAR GARAGE PER UNIT - 480 SQ. FT. PER UNIT

LOT SIZE - 5370 SQ. FT., ZONING DISTRICT - R-3

LOT COVERAGE - 120% SQ. FT. OF BUILDING FOOTPRINT
 TOTAL LOT AREA 6375 SQ. FT. = 120% LOT COVERAGE

PROPERTY APN - 323-04-004

PROJECT LOCATION MAP



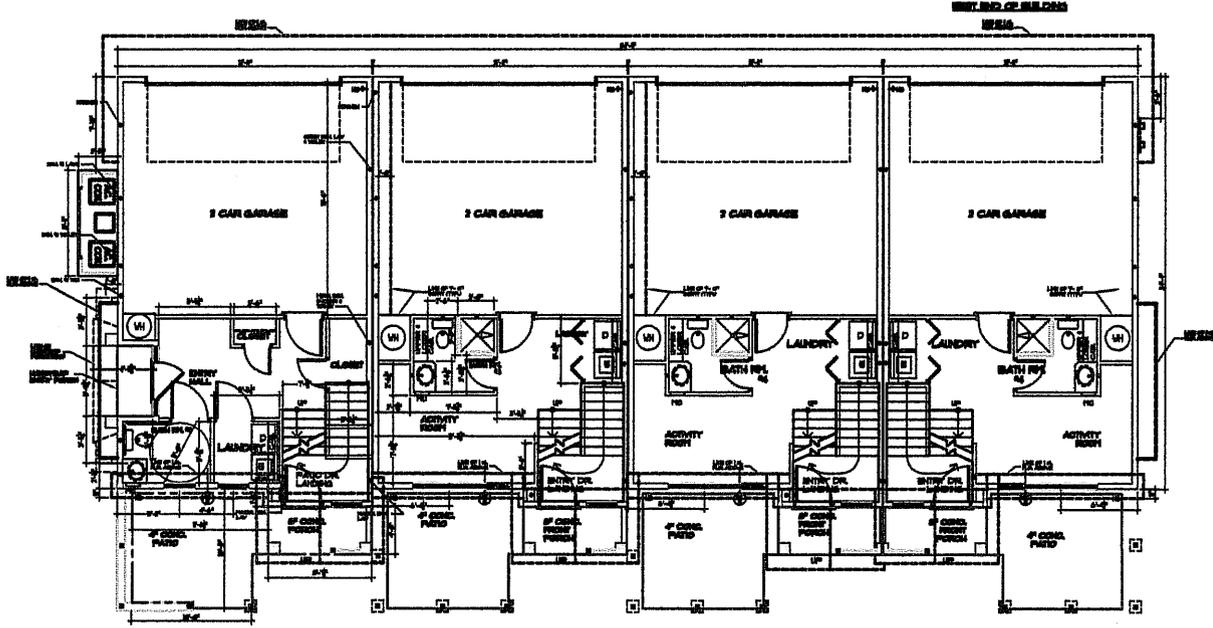
REVISIONS	BY

ROBERT D. DUTTON CO.
 BUILDING DESIGN & AUTO CAD
 1540 E. CARRO ROAD, 2ND FLOOR
 PALMDALE, CA 93550
 PHONE (909) 735-0800, FAX (909) 325-7169

SITE PLAN

**ONTARIO DR
 TOWNHOMES**

Date:	1/30/07
Scale:	1/32" = 1' - 0"
Drawn:	R.D.D.
Job:	
Sheet:	A1
of	6 Sheets



REVISIONS	by

ROBERT D. DUTTON CO.
 BUILDING DESIGN & AUTO CAD
 1730 DEL CAMINO REAL, 204
 REDWOOD CITY, CA 94065
 PHONE (415) 352-6666, FAX (415) 352-7165

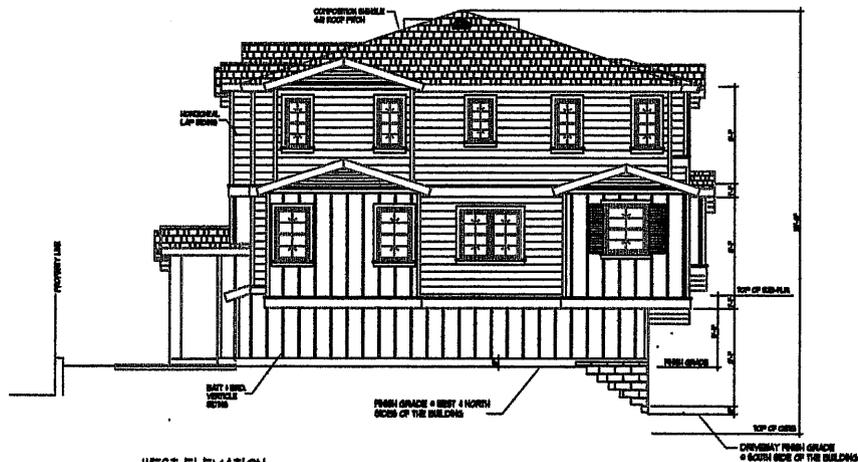
BASEMENT FLOOR PLAN &
 DR / WINDOW SCHEDULES

ONTARIO DR.
 TOWNHOMES

Date:	11/26/87
Scale:	1/8" = 1' - 0"
Drawn:	R.D.D.
Job:	
Sheet:	A2
Of	6 Sheets



EAST ELEVATION



WEST ELEVATION

REVISIONS	BY

ROBERT D. DUTTON CO.
 BUILDING DESIGN & AUTO CAD
 1519 EL CAMINO REAL SW
 FERRIS PARK, CA 94025
 PHONE (916) 735-0886 FAX (916) 735-1714

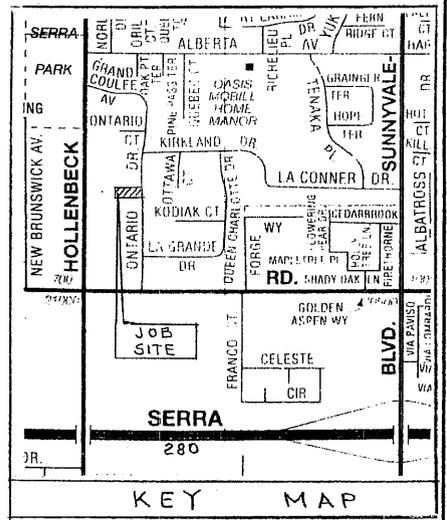
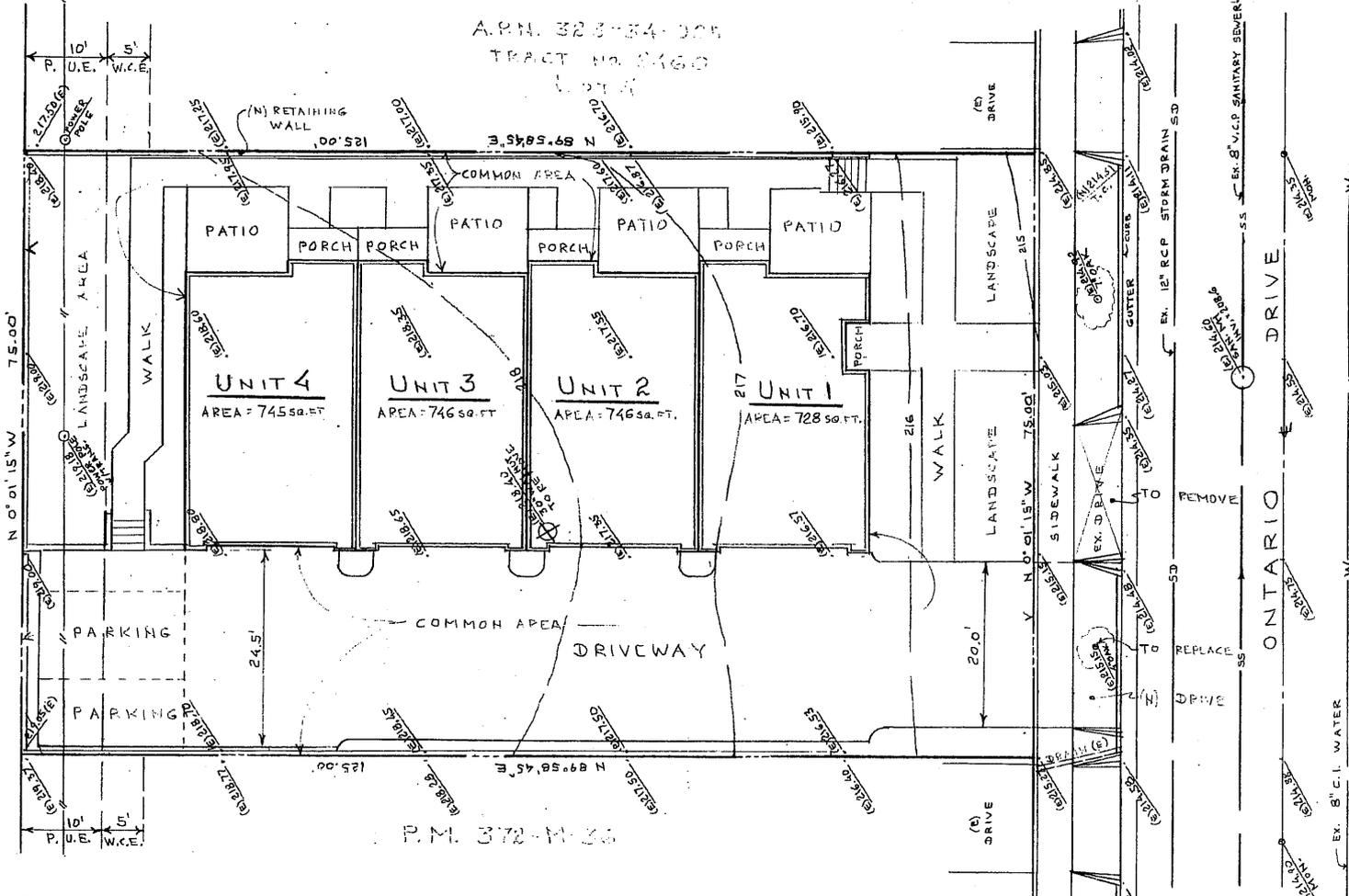
EAST & WEST ELEVATIONS

ONTARIO DR
TOWNHOMES

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Job:	
Sheet:	A6
of 6	Sheets

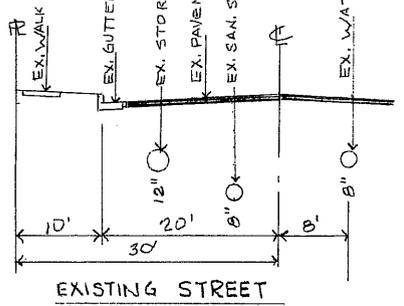
Attachment D

Tentative Parcel Map



LOT AREA = 9375 sq. FT. (0.215 AC)
UNIT 1 = 728 sq. FT. (0.017 AC)
UNIT 2+3 = 746 sq. FT. (0.017 AC)
UNIT 4 = 745 sq. FT. (0.017 AC)

4 UNITS = 2965 sq. FT. (0.068 AC)
COMMON AREA = 6410 sq. FT. (0.147 AC)
(DRIVEWAY, PARKING, WALKS, LANDSCAPE AREAS, PATIOS, PORCHES)



OWNER & SUBDIVIDER:

MEYERS FAMILY TRUST
4159 OLD ADOBE ROAD
PALO ALTO, CA 94306
PH. (650) 917-9477

CIVIL ENGINEER & LAND SURVEYOR:

A.C. & H. CIVIL ENGINEERS
2443 ASH ST.
PALO ALTO, CA 94306
PH. (650) 327-3900

ASSESSOR'S PARCEL NUMBER:

323-34-006
0.215 Acres Total

EXISTING USE:

VACANT

PROPOSE USE:

4 CONDOMINIUM (1 BUILDING)
SEE ARCHITECTS PLAN FOR SIZES

ZONE:

EXISTING - R-3
PROPOSE - R-3 PD.

UTILITIES:

ALL UTILITIES ARE EXISTING

ADDRESS:

1625-1627-1629-1631 ONTARIO DR.
SUNNYVALE, CA 94087

DEED:

1
PORTION OF THE WESTERLY
1/3 OF THE EASTERLY 3/4 OF THE
SOUTHWEST 1/4 OF THE
NORTHWEST 1/4 OF SECTION 12,
TOWNSHIP 7 SOUTH, RANGE 2
WEST, M.D.B. & M.
(75' x 125')



TENTATIVE MAP

A.C. & H. CIVIL ENGINEERS
PALO ALTO (650) 327-3900 SAN JOSE (408) 294-4000

DRAWN: EK	FOR: MEYERS	DRAWING NO.
SCALE: 1" = 10'	1625 TO 1631 ONTARIO DR, SUNNYVALE	7-122
DATE: 11-2007		

Attachment E

Applicant's Use Permit Justifications

Special Development Permit Justifications

The Municipal Code (SMC 19.90.050) states that at least one of the following justifications must be met before granting the Special Development Permit. Illustrating how your project meets at least one of the below criteria will assist the City in reviewing your proposal. Use this sheet or a separate sheet of paper to show how the proposed use/development:

- 1) Attains the objectives and purposes of the General Plan of the City of Sunnyvale

OR

- 2) Ensure that the general appearance of proposed structures, or the uses to be made of the property to which the application refers, will not impair the orderly development of, or the existing uses being made of, adjacent properties

The proposed project is a two story Town Home Project over Basement Parking and is a Multi-Family project and is consistent with the neighborhood and the adjacent Multi-Family Apartment Properties. This is the last vacant lot on the block and all the other surrounding properties on the block are Multi-Family Apartment Properties.

This Proposed Multi-Family Town Home Project's appearance of it's proposed structures and the uses made of the property by this proposed Multi-Family Town Home Project will not impair the orderly development of, or the existing uses being made of, adjacent properties.

Attachment F

Applicant's Variance Justifications

VARIANCE JUSTIFICATION

Date - 8/23/07

Project Name - Ontario Dr. Townhomes.

Project # : 2007-07688

Trash Variance Justifications:

1. In order to meet the minimum density requirements and because of the small size of the property proper trash truck ingress and egress is not possible. Also at the recommendation of the City Solid Waste Management Dept. to use individual trash cans for each of the four Townhomes we are requesting this variance.

2. This variance requesting that the eventual four owners of the Townhomes in this project to be allowed to use conventional trash cans placed in each of their own garages to store their trash between pick-up days will have no detrimental effect on the public well-fare or injurious to the property, improvements, or uses with-in the immediate vicinity and with-in the same zoning district.

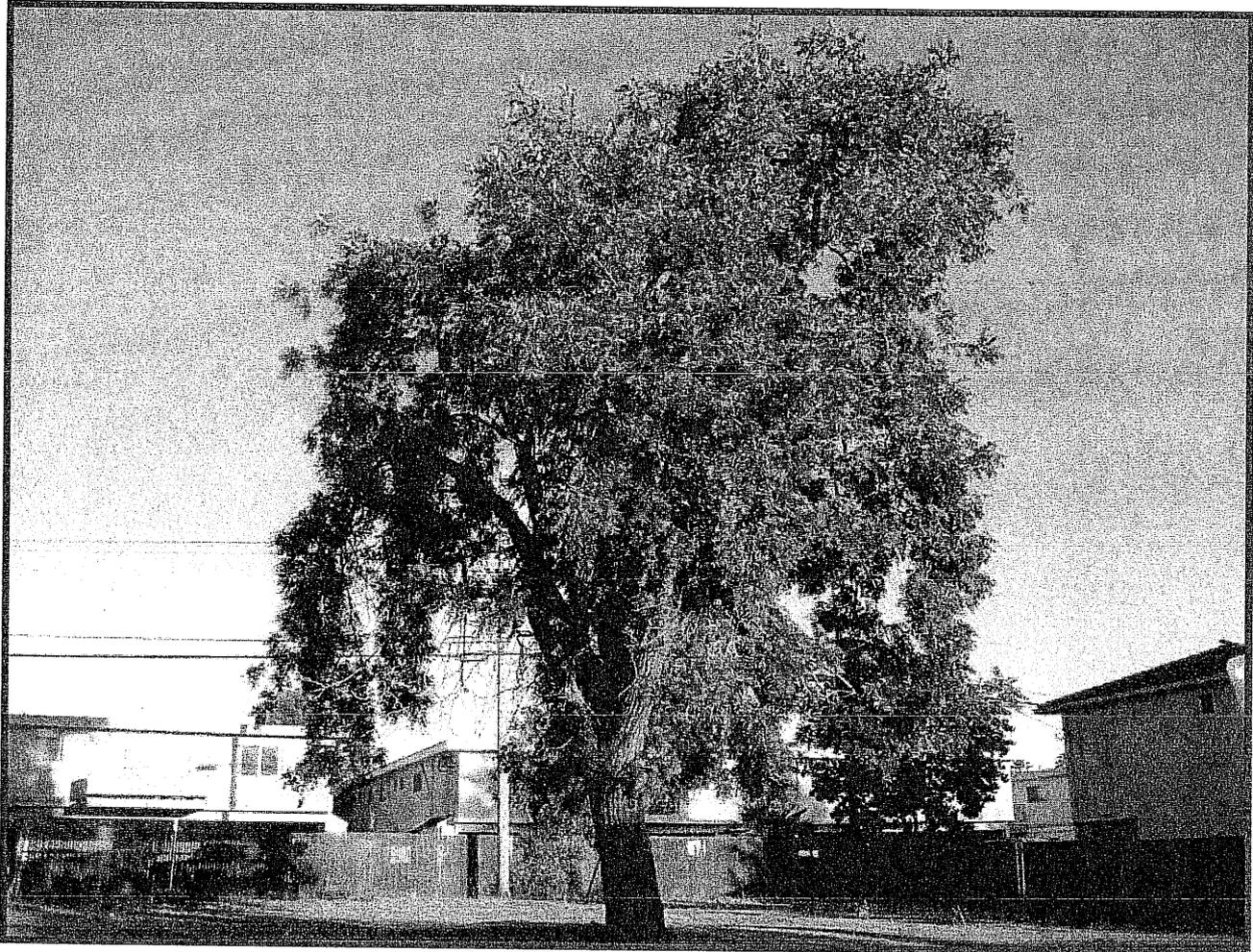
3. The intent and purpose of the ordinance will still be served and the recipient of the variance will not be granted special privileges not enjoyed by other surrounding property owners with-in the same zoning district because of the small size of the property and having to meet the minimum density requirements which does not allow proper trash truck ingress or egress. The City's Solid Waste Management Dept. recommendation of providing a Trash Can staging area at the street curb also has been included in the development plan for this project to meet the City's requirements for trash can use for waste storage between weekly trash pick-up's.

Attachment G

Applicant's Arborist Report



AN EVALUATION OF ONE CALIFORNIA BLACK WALNUT WITHIN A VACANT LOT ALONG ONTARIO DRIVE SUNNYVALE, CALIFORNIA



Prepared for:

Mr. Avi Meyers
4159 Old Adobe Road
Palo Alto, CA 94306

Prepared by:

David L. Babby, RCA
Registered Consulting Arborist #399
Certified Arborist #WE-4001A

July 14, 2007

INTRODUCTION

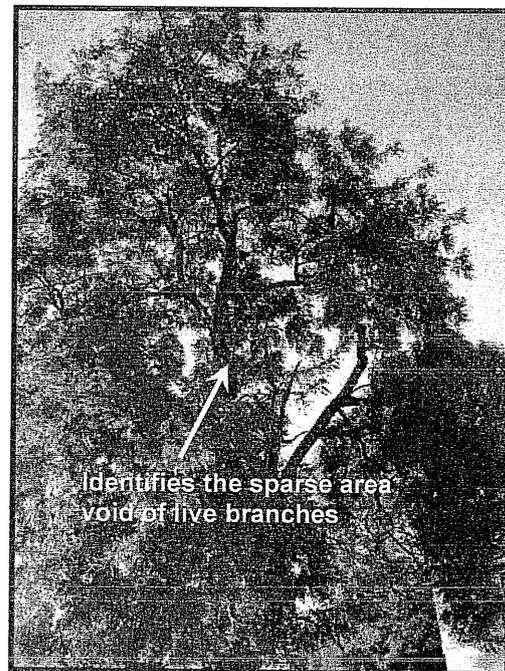
I have been retained by Mr. Avi Meyers to evaluate and report on the condition of one tree situated near the center of a vacant lot along the west side of Ontario Drive in Sunnyvale, California. I visited the site on 7/13/07 and this report presents my observations.

OBSERVATIONS

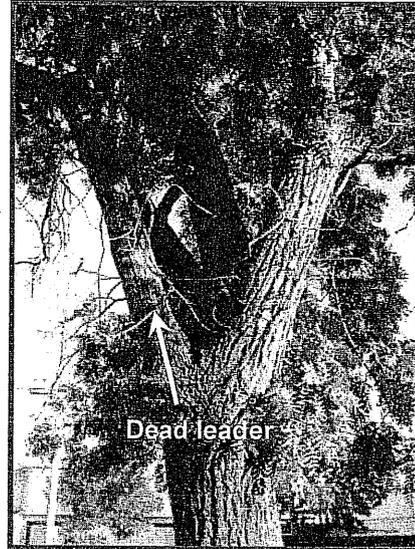
The subject tree is a California black walnut (*Juglans hindsii*) to be removed for development of the subject site. A photograph of this tree is presented on the title page, and its location can be viewed on the attached map (a copy of the Site Plan).

The tree is approximately 40 feet tall and has a trunk diameter of 28.1 inches measured at fifty-four inches above the ground. Its canopy spreads 35 feet to the north and south, and 45 feet to the east and west.

It appears moderately healthy as its leaf color and shoot growth are normal. The canopy density, however, is abnormal due to a relatively large amount of dead branches along the south and west sides, a situation I attribute to the tree having partially declined, or was shaded by a previously existing tree.

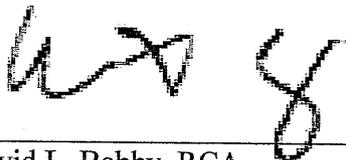


The tree's structure is comprised of four leaders originating from the main trunk at approximately nine feet high. The southernmost leader is dead (see photo to right). The other three grow with a somewhat unfavorable, close angle of attachment that predisposes one or more leaders to failure.



ASSUMPTIONS AND LIMITING CONDITIONS

- The assignment pertains solely to the subject tree. All information presented herein covers only those items that were examined and reflects the condition of those items at the time of observation.
- My observations were performed visually of accessible items without probing, coring, dissecting or excavating.
- I cannot provide a guarantee or warranty, expressed or implied, that deficiencies or problems of any tree or property in question may not arise in the future.
- I assume no responsibility for the means and methods used by any person or company implementing the recommendations provided in this report.
- The information provided herein represents my opinion. Accordingly, my fee is in no way contingent upon reporting a specified finding, conclusion, or value.
- This report is proprietary to David L. Babby and may not be copied or reproduced in whole or part without prior written consent. It has been prepared for the sole and exclusive use of the party to whom submitted for the purpose of contracting services provided by David L. Babby.

Prepared By: 
David L. Babby, RCA

Date: July 14, 2007

Attachment: Site Plan



