



**CITY OF SUNNYVALE  
REPORT  
Administrative Hearing**

**January 16, 2008**

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**SUBJECT:**           **2007-1083** – Application located at **1464 Yukon Drive** (near Crater Lake Ct.) in an R-2/PD (Low Medium-Density Residential/Planned Development) Zoning District. (APN: 323-30-055)

Motion               Special Development Permit to allow an accessory utility building (arbor) with a one-foot side-yard setback where 4 feet is required.

**REPORT IN BRIEF**

**Existing Site Conditions**           Single-Family Residential

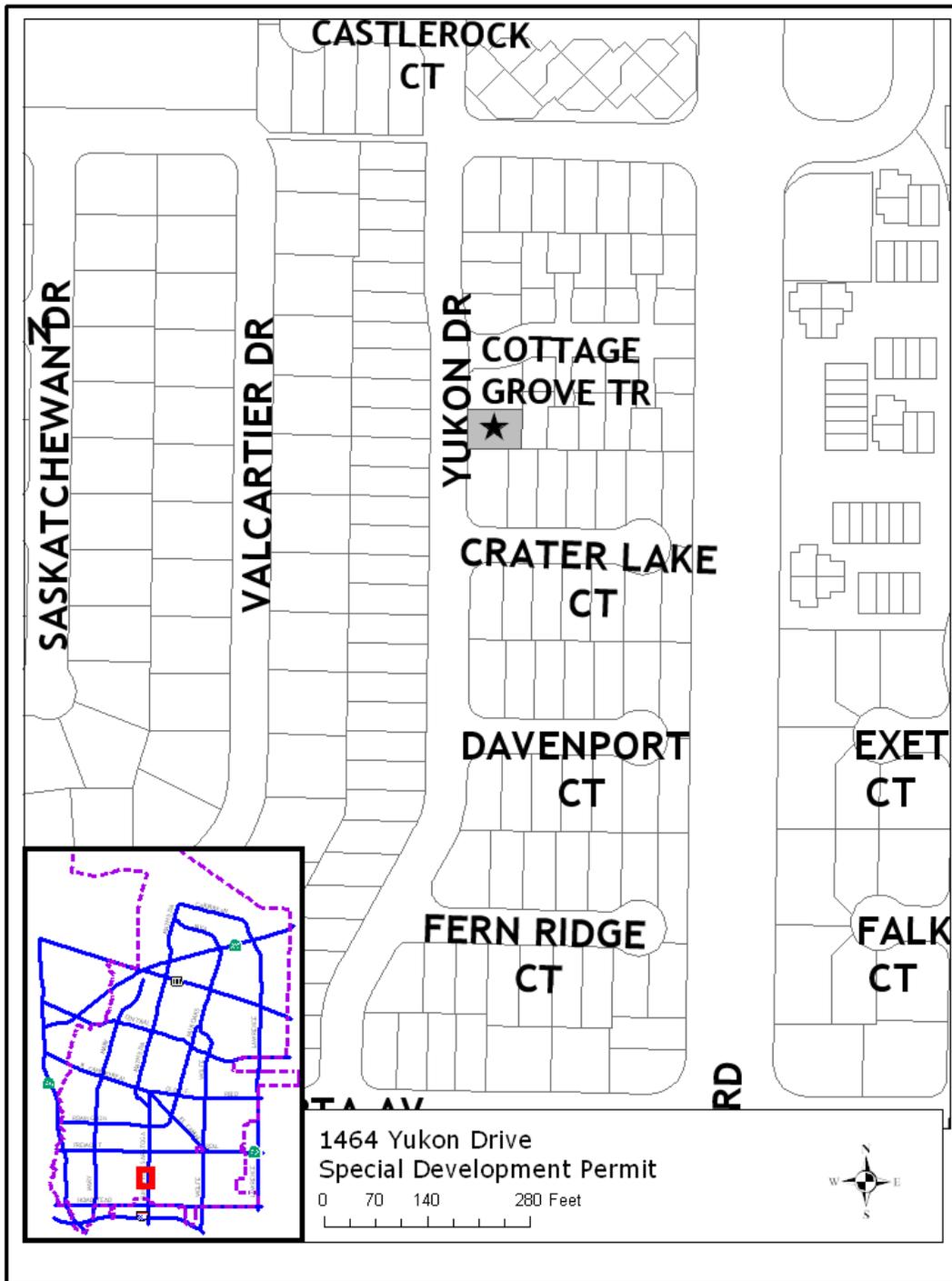
**Surrounding Land Uses**

North	Single-Family Residential
South	Single-Family Residential
East	Single-Family Residential
West	Single-Family Residential

**Issues**                               Setbacks and aesthetics

**Environmental Status**           A Class 1 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines.

**Staff Recommendation**           Deny



**PROJECT DATA TABLE**

	<b>EXISTING</b>	<b>PROPOSED</b>	<b>REQUIRED/ PERMITTED</b>
<b>General Plan</b>	Low-Medium Density Residential	Same	Low-Medium Density Residential
<b>Zoning District</b>	R-2/PD	Same	R-2/PD
<b>Lot Size (s.f.)</b>	3,823	Same	3,823 Per original SDP
<b>Gross Floor Area (s.f.)</b>	2,415	Same	2,415 Per original SDP
<b>Lot Coverage (%)</b>	31.5%	Same	40% max.
<b>Floor Area Ratio (%)</b>	63%	Same	63% Per original SDP
<b>Accessory Utility Building Height (ft.)</b>	9'-9"	8'-9"	8'-9" max. Per SDP
<b>Setbacks of Accessory Utility Building</b>			
<b>Left Side</b>	N/A	45'	8' min.
★ <b>Right Side</b>	N/A	1'	4' min.
★ <b>Rear</b>	N/A	1'-6"	9' min. With height of 9'-2"
<b>Distance to Residence</b>	N/A	5'	5' min.
<b>Parking</b>			
<b>Total Spaces</b>	4	Same	4 min.
<b>Covered Spaces</b>	2	Same	2 min.

★ Starred items indicate deviations from Sunnyvale Municipal Code requirements.

**ANALYSIS****Description of Proposed Project**

The project originated as a Neighborhood Preservation complaint, in which a new 81 square foot accessory utility building (gazebo) was under construction without appropriate permits. The gazebo is approximately 9'-9" in height and is located 1'-6" from the rear property line and 1' from the right side property line. The subject home is located within a PD (Planned Development) Combining District and was constructed with specific development standards, such as setbacks, lot coverage and Floor Area Ratio (FAR). Deviations from the

approved development standards require a Special Development Permit (SDP). The proposed project deviates from the approved right side yard setback.

This project was previously reviewed at the November 14, 2007 Administrative Hearing. At the hearing, the applicant requested a continuance to the December 12, 2007 hearing to allow time to explore alternative designs for the gazebo structure. Subsequently, the applicant requested a second continuance to January 16, 2008. After reviewing the City's regulations and the site constraints of his rear yard, the applicant has determined that there are no alternative locations in the rear yard that would be feasible. However, the applicant has revised the roof plan and height of the gazebo structure. The revised plan includes a flat roof in the form of a trellis, resulting in a total height of 8'-9" (a reduction of 1' from the original plan). This staff report reflects the revisions made to the original plan.

### **Background**

The subject property is located within a tract of 25 homes that were approved in 2004 (2004-0505). As part of the approved conditions of approval for the development, specific deviations were allowed from the R-2 Zoning district standards. These deviations included lot size, lot width, lot coverage, setbacks for individual lots and garage sizes. These homes were also approved with FARs greater than 45%.

The subject property was approved with 31.5% lot coverage and 63% FAR, while setbacks of the existing home are in keeping with R-2 standards. No significant permits or alterations have been approved since the original construction.

**Administrative Hearing:** This project was originally reviewed at the Administrative Hearing of November 14, 2007 (Attachment F - Administrative Hearing Draft Minutes). After public testimony was taken, the applicant requested a continuance to December 12, 2007 to explore alternative designs for the gazebo structure. The applicant requested a second continuance to the public hearing of January 16, 2008.

### **Environmental Review**

A Class 1 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines. Class 1 Categorical Exemptions include minor alterations to existing facilities.

### **Special Development Permit**

**Use:** The Sunnyvale Municipal Code uses the term “accessory utility building” to describe several types of structures other than the main house, such as garages, workshops, gazebos and storage sheds. These uses are incidental to the use of the main house, and are not “designed for, devoted to, or intended for human occupancy.” The applicant proposes to use the accessory utility building as a gazebo.

**Site Layout:** The project includes a recently constructed 9'-9" tall gazebo located in the rear yard of a single-family residence. The property abuts the rear yard of single-family residences along the rear and side yards and faces Yukon Drive at the front. Surrounding properties include additional two-story homes, including Bahl Patio Homes across the street on Yukon Drive.

The applicant proposes to revise the roof plan to include a flat roof in the form of a trellis, resulting in a total height of 8'-9" (Attachment H, Revised Site and Architectural Plans). The revised plan for the gazebo would result in a reduction of height of 1' from the original plan.

*Setbacks:* The existing rear yard includes concrete pavers and planting beds. The home was constructed less than 15' from the rear property line. These site constraints limit the area available to construct accessory utility buildings in the rear yard.

The existing home was approved with standard R-2 setbacks, with the required right side yard setback the minimum of 4'. The applicant requests a deviation from this requirement, with a right side yard setback of 1'. The right side of the gazebo is adjacent to a 9'-5" tall concrete wall, which was approved as part of this tract of homes. The proposed gazebo would be almost 1' shorter than the existing wall.

The gazebo is located 1'-6" from the rear property line and is adjacent to a 6' tall wood fence. At this location, the proposed gazebo would be approximately 2'-9" taller than the existing fence. The City's policy regarding rear yard setbacks for accessory utility buildings is that “for each foot in height over 6'-6" there should be an additional 3' setback from the rear property line.” With a 8'-9" tall gazebo structure, a minimum rear yard setback of approximately 9' would be required. At the proposed setback, the maximum height would be 6'-6". Therefore, the proposed structure is inconsistent with this policy.

*Lot Coverage and FAR:* The proposed gazebo would not increase the total floor area on site, as the roof is less than 50% solid. The approved lot coverage for the site is 31.5% and the approved FAR is 63%.

*Easements/Undergrounding:* The proposed gazebo is not located within an existing easement.

**Architecture:** The home was designed and built in 2005 to be architecturally complementary to the surrounding modern (Bahl Patio home) styles. The architecture is influenced by Eichler designs, with low roof pitches, exposed rafters, vertical wood siding and long narrow window shapes. The existing home is composed of grey and off-white color hues.

The proposed gazebo structure contains four posts that are made of concrete blocks, which are designed with natural stone tiles. While the stone tiles do not match the materials of the home, the tiles are complementary to the existing concrete pavers in the rear yard. The revised roof plan would include a flat roof in the form of a wood trellis that is less than 50% solid.

While the revised roof plan helps to soften the visual impact to the adjacent neighbor, staff believes that the most effective option to reduce the visual impact is to further decrease the height of the structure. If the project is approved, staff recommends that the total height be no more than 8' (Attachment B, Recommended Conditions of Approval).

If the project is approved, staff recommends that the roof be modified to include a trellis feature that is less than 50% solid. This type of feature would help soften the visual impact to the adjacent neighbors. Additionally, staff recommends that the gazebo structure be reduced to a height of no more than 8' to further reduce the possible visual impact on the neighbors (Attachment B, Recommended Conditions of Approval). This recommended height would be 9" shorter than the proposed gazebo height, and would provide sufficient "ceiling height".

*Visibility from Adjacent Properties:* The proposed gazebo is visible from the street frontage and adjacent properties. The most impacted neighbor is the adjacent property to the rear. Currently, the gazebo is approximately 3'-9" taller than the existing 6' wood fence between these properties. While the applicant attempted to design the gazebo to mimic characteristics of the property, staff believes that locating a structure of this size and height so close to the rear property line can affect the privacy for neighboring properties. The revised plan would result a gazebo that is 2'-9" taller than the existing fence, which may still be visually obtrusive to the adjacent neighbor. As conditioned by staff, the redesigned roof plan and reduced height would allow the visual impact to adjacent properties to be reduced.

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

<b>Single Family Home Design Techniques (Architecture)</b>	<b>Comments</b>
<i>3.10 Relate the design of accessory structures to those of the main residence.</i>	While the natural stone material is different from the materials found on the home, the colors are complimentary to the color hues of the home.

**Landscaping:** The site complies with landscaping requirements for structures located within the required rear yard. The gazebo covers approximately 10% of the required rear yard area, where 25% is the maximum permitted. As indicated by the applicant, no landscaping or trees were removed as part of the construction of the gazebo.

**Parking/Circulation:** The site meets parking standards for single family homes located in the R-2 Zoning District with covered parking for two vehicles and two uncovered spaces. No modifications are proposed to the existing driveway or parking of the site at this time.

**Compliance with Development Standards/Guidelines:** The proposed project deviates from the originally approved development standards for the PD Combining District, including the right side yard setback. The right side yard setback is adjacent to an existing 9'-5" tall wall, which would fully screen the height of the gazebo from the adjacent property to the right.

The most visually obtrusive view of the structure is from the neighbor to the rear. The proposed project is inconsistent with the City's policy regarding rear yard setbacks for accessory utility buildings, which requires that "for each foot in height over 6'-6" there should be an additional 3' setback from the rear property line." Staff believes that there are options available for the applicant to reduce the height of the gazebo.

**Expected Impact on the Surroundings:** The proposed gazebo is visible from the street frontage and adjacent properties. The adjacent property to the rear is the most impacted, with the gazebo proposed as 2'-9" taller than the existing fence. Staff is concerned that there are additional privacy impacts of locating a structure of this size so close to the rear property line. In addition, if the project is approved as proposed, a precedent may be set to allow structures to be located close to property lines.

## Fiscal Impact

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No fiscal impacts other than normal fees and taxes are expected.

## Public Contact

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Notice of Public Hearing	Staff Report	Agenda
<ul style="list-style-type: none"> <li>• Posted on the site</li> <li>• 10 notices mailed to property owners and residents adjacent to the project site</li> </ul>	<ul style="list-style-type: none"> <li>• Posted on the City of Sunnyvale's Website</li> <li>• Provided at the Reference Section of the City of Sunnyvale's Public Library</li> </ul>	<ul style="list-style-type: none"> <li>• Posted on the City's official notice bulletin board</li> <li>• City of Sunnyvale's Website</li> </ul>

**Administrative Hearing:** This project was originally reviewed at the Administrative Hearing of November 14, 2007 (Attachment F - Administrative Hearing Draft Minutes). An adjacent property owner attended the meeting and expressed opposition to the proposed project due to the visual impact to his property. He stated that his property is approximately 1 foot lower than the subject property, and submitted photos of the structure from his back yard (Attachment G – Photos from Adjacent Property Owner). The Administrative Hearing Officer also stated concerns regarding visual impact from neighboring properties and stated that the project does not meet the City's policy for accessory utility buildings. The Administrative Hearing Officer stated that the Homeowner's Association for the development may propose a different set of guidelines for this tract of homes.

After public testimony was taken, the applicant requested a continuance to December 12, 2007 to explore alternative designs for the gazebo structure. The property owner determined that the proposed location would be the most feasible; however, modifications are proposed to the roof plan and height. Subsequently, the applicant requested a second continuance to the January 16, 2008 hearing.

## Conclusion

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**Applicant's Justification:** The applicant's letter states the following (Attachment D, Letter from the Applicant):

1. The proposed location is the best suited area, as the existing 9'-5" tall wall screens the visibility along the right side and is located the farthest distance from the neighbor's home to the rear.

2. There are existing trees on the neighbor's property to the rear, which will eventually outgrow the height of the gazebo. The structure is minimally visible from the street frontage.
3. There are similar structures constructed in the surrounding neighborhood.

**Staff Discussion:** Staff agrees that there are site constraints on this lot, including existing landscaping features and the location of the home on the lot; however, the proposed project is inconsistent with the City's policy regarding appropriate rear yard setbacks for accessory utility buildings. The intent of the City's policy regarding rear yard setbacks for accessory utility buildings is to protect adjacent properties from potential visual and privacy impacts. The proposed structure is 2'-9" taller than the existing fence and is located 1'-6" from the rear property line. While the trees in the rear yard of the adjacent property may eventually help screen the visibility of the gazebo structure, staff cannot require the adjacent property owner to retain the existing trees. As the adjacent property to the rear is graded 1' lower than the subject property, the visual impacts to the neighbor are further increased. Furthermore, structures located close to property lines may impact the privacy of adjacent residents and may set a precedent for the neighborhood.

In addition, staff has reviewed the permit history of similar accessory utility buildings in this tract of homes and found that many of these structures did not receive appropriate permits. According to the Neighborhood Preservation Division, there are pending violations in this neighborhood for similar structures.

**Findings and General Plan Goals:** Staff is recommending denial for this project because the Findings (Attachment A) were not made. However, if the Administrative Hearing Officer is able to make the required findings, staff is recommending the Conditions of Approval (Attachment B).

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

### **Alternatives**

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1. Deny the Special Development Permit.
2. Approve the Special Development Permit with attached conditions.
3. Approve the Special Development Permit with modified conditions.

**Recommendation**

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Alternative 1.

Prepared by:

Noren Caliva  
Project Planner

Reviewed by:

Andrew Miner  
Principal Planner

Attachments:

- A. Recommended Findings
- B. Recommended Conditions of Approval
- C. Original Site and Architectural Plans
- D. Letter from the Applicant
- E. Site Photos
- F. Administrative Hearing Minutes – November 14, 2007
- G. Photos from Adjacent Property
- H. Revised Site and Architectural Plans

**Findings – Special Development Permit**

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Goals and Policies that relate to this project are:

**Land Use and Transportation Element**

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

1. The proposed use attains the objectives and purposes of the General Plan of the City of Sunnyvale (*Finding Not Met*).

The proposed project may result in visual impacts to the street frontage and adjacent properties. In addition, the proposed project is inconsistent with the City's policy regarding rear yard setbacks for accessory utility buildings, which requires that "for each foot in height over 6'-6" there should be an additional 3' setback from the rear property line."

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 Not Met*).

Locating a structure close to property lines may adversely impact adjacent neighbors with visual and privacy impacts. Moreover, an approval of the project may set a precedent to allow structures close to property lines.

**Recommended Conditions of Approval if the Special Development Permit is Granted:**

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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:

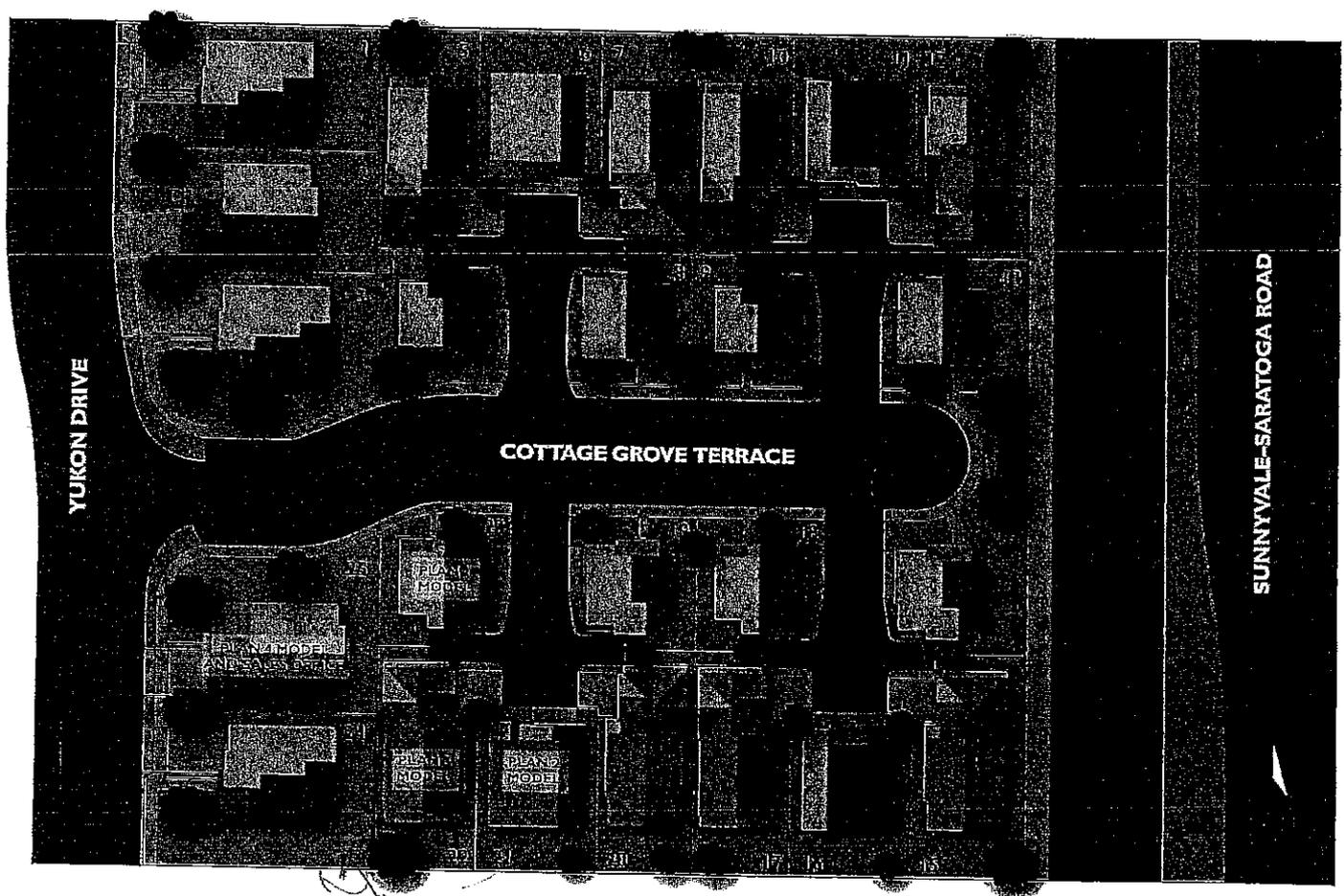
Unless otherwise noted, all conditions shall be subject to the review of approval of the Director of Community Development.

**1. GENERAL CONDITIONS**

- A. 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, major changes may be approved at a public hearing.
- B. Any major site and architectural plan modifications shall be treated as an amendment of the original approval and shall be subject to approval at a public hearing except that minor changes of the approved plans may be approved at staff level by the Director of Community Development.
- C. The height of the gazebo structure shall be no more than 8 feet.

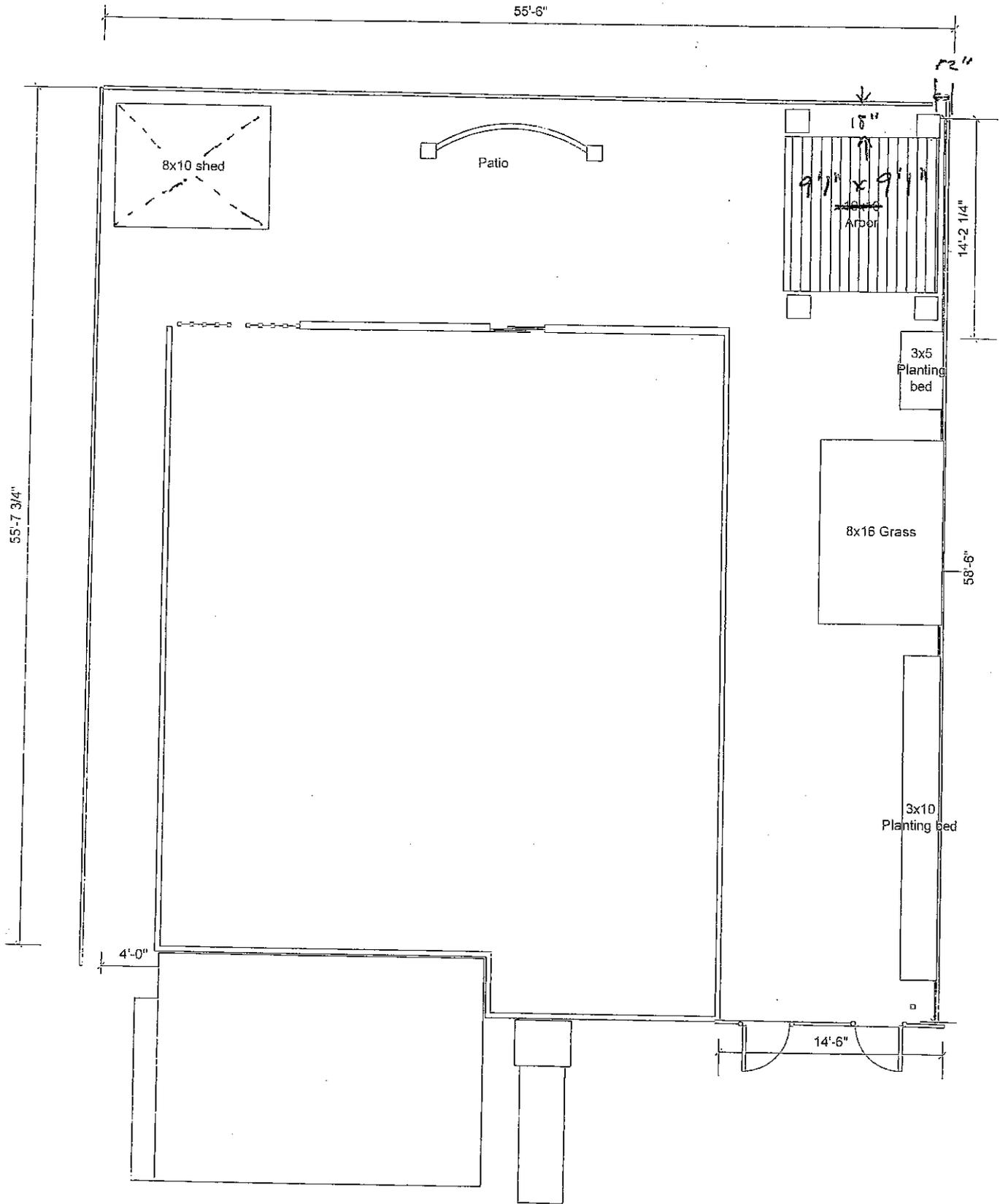


# PLOT MAP



*OS  
Grage 50*

Artist's conception.







# VARIANCE JUSTIFICATIONS

All three of the following findings must be made in order to approve a Variance application.

The Sunnyvale Municipal code states that all three of the following justifications must be met before granting the Variance. Please provide us information on how your project meets all of the following criteria.

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 of privileges enjoyed by other properties in the vicinity and within the same zoning district.

The location of the gazebo is the best suited area from the perspective of the owner and neighbors. The structure is next to a 9.5 FT tall stucco wall; it is located farthest from the neighbors and owner's house; therefore it does not obstruct the neighbors' view.

AND

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.

- From the neighbors' view, it is the farthest from their house; therefore, their view is not obstructed by this structure. Moreover, in a few years, the neighbors' tree will outgrow the structure which make the structure non-existent from their perspective.

- From the street, the structure is not visible except about a feet from the roof of the ~~AND~~ structure.

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.

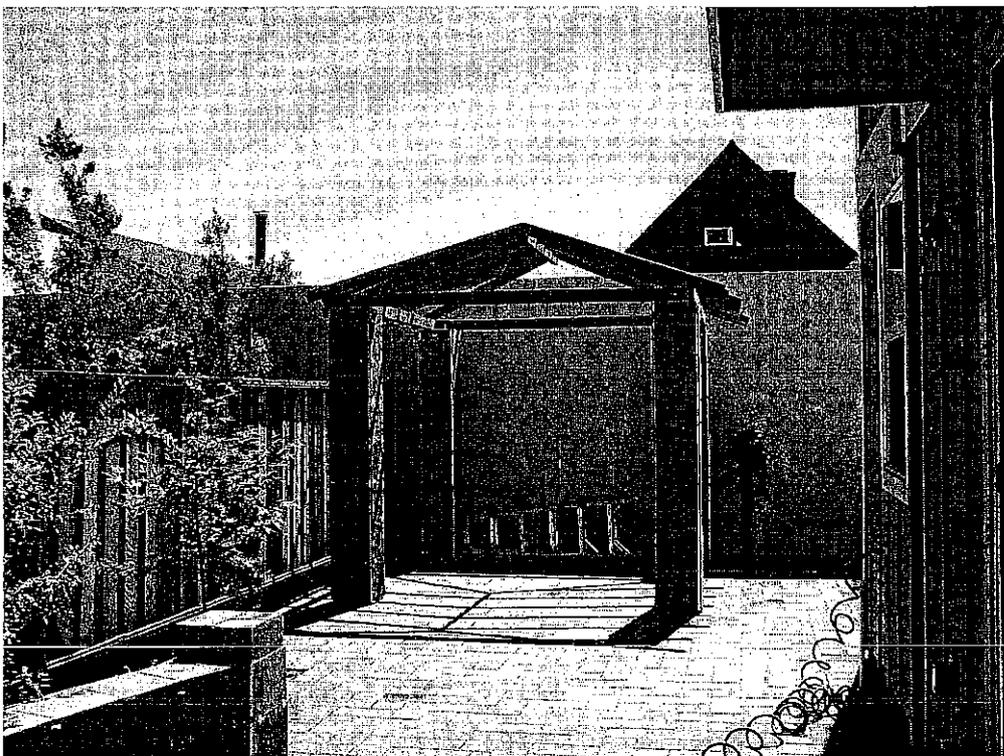
There are similar structure constructed in surrounding neighborhoods; therefore I am not seeking a permit out of the norm.

If you need assistance in answering any of these justifications, contact the Planning Division staff at the One-Stop Permit Center.

View from Street Frontage



View from the Left Side





**CITY OF SUNNYVALE  
ADMINISTRATIVE HEARING**

**MINUTES  
Wednesday, November 14, 2007**

**2007-1083** – Application for a Special Development Permit to allow an accessory utility building (arbor) with a one-foot side-yard setback where 4 feet is required. The property is located at **1464 Yukon Drive** (near Crater Lake Ct.) in an R-2/PD (Low Medium-Density Residential/Planned Development) Zoning District. (APN: 323-47-025) NC

In attendance: Kelvin Long, Applicant; Mark Tamura, Neighbor; Gerri Caruso, Administrative Hearing Officer; Luis Uribe, Staff Office Assistant.

**Ms. Gerri Caruso**, Administrative Hearing Officer, on behalf of the Director of Community Development, explained the format that would be observed during the public hearing.

Ms. Caruso announced the subject application.

**Noren Caliva**, Project Planner, stated that the project originated as a Neighborhood Preservation complaint, in which a new 81 square foot accessory utility building (gazebo) was under construction without appropriate permits. The gazebo is approximately 9'-9" in height and is located 1'-6" from the rear property line and 1' from the right side property line. The subject home is located within a PD (Planned Development) Combining District and was constructed with specific development standards, such as setbacks, lot coverage and Floor Area Ratio (FAR). Deviations from the approved development standards require a Special Development Permit (SDP). The proposed project deviates from the approved lot coverage, FAR and right side yard setback.

**Ms. Caruso opened the public hearing.**

**Kelvin Long**, Applicant, received and reviewed a copy of the staff report. The applicant stated that he feels the current location of the gazebo is believed to be the best location and that it would affect his neighbors the least. Mr. Long stated that he plans on having a covered roof which will match with the house.

**Mark Tamura**, Neighbor, stated that he lives adjacent to the applicant and submitted pictures of the gazebo taken from his backyard. Mr. Tamura stated that his property sits about a foot lower than Mr. Long's property. Mr. Tamura believes that the gazebo is in the worst possible location on the property and is opposing the project due to the visual impacts.

Mr. Long stated that he agrees with his neighbor that the structure looks a lot bigger from Mr. Tamura's property. Mr. Long stated that he can lower the height without affecting the slope. Ms. Caruso asked the applicant if he would consider using a flat roof, which he explained to Ms. Caruso that he originally wanted the gazebo to be built with a flat roof.

**Ms. Caruso closed the public hearing.**

2007-1083 1464 Yukon Drive

Administrative Hearing  
November 14, 2007  
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**Per the applicant's request, the Administrative Hearing Officer continued the application to the December 12, 2007 Administrative hearing to allow time for the applicant to explore alternative designs for the gazebo.**

The meeting was adjourned at 3:08 p.m.

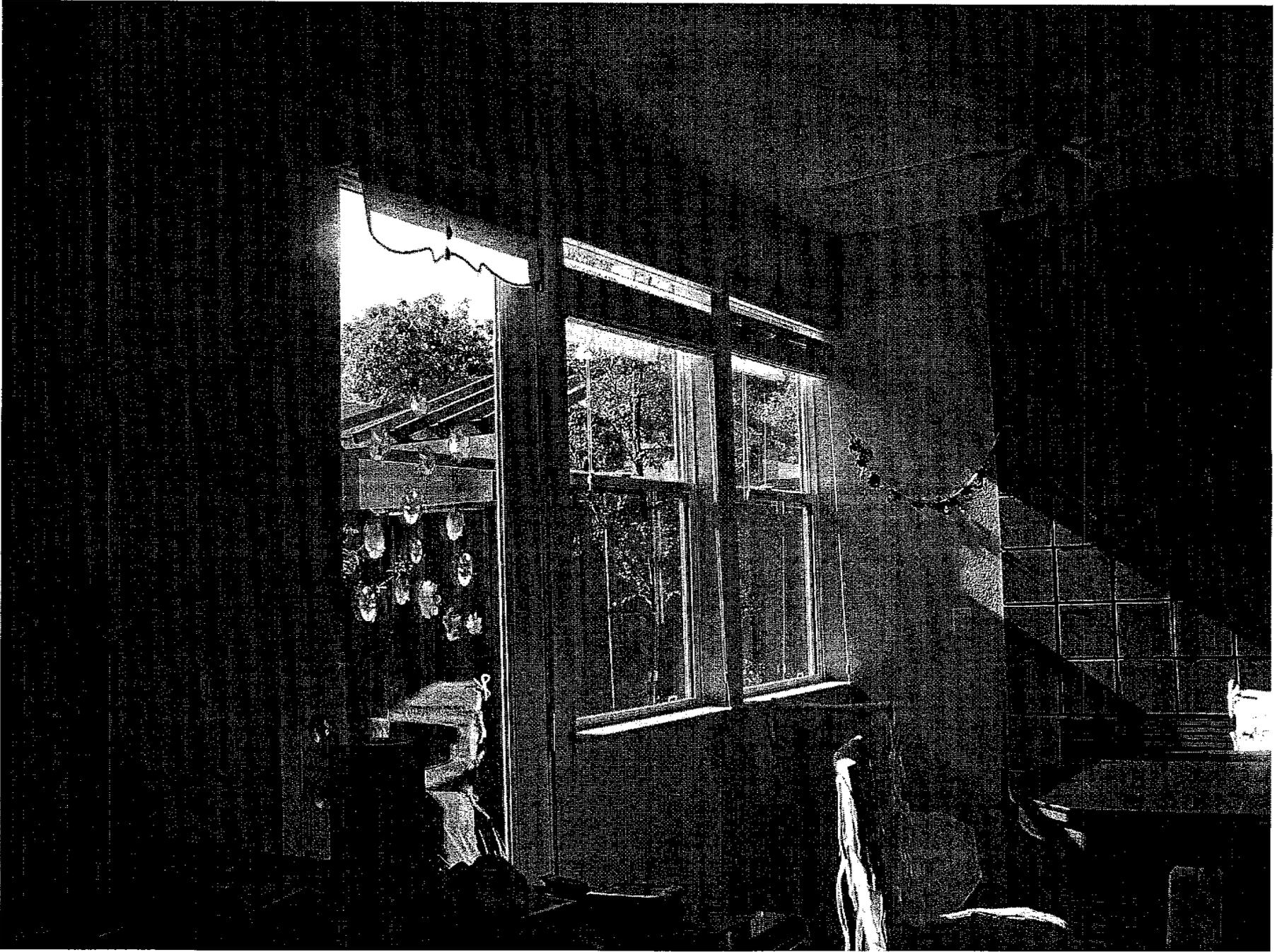
Minutes approved by:  
Gerri Caruso  
Principal Planner





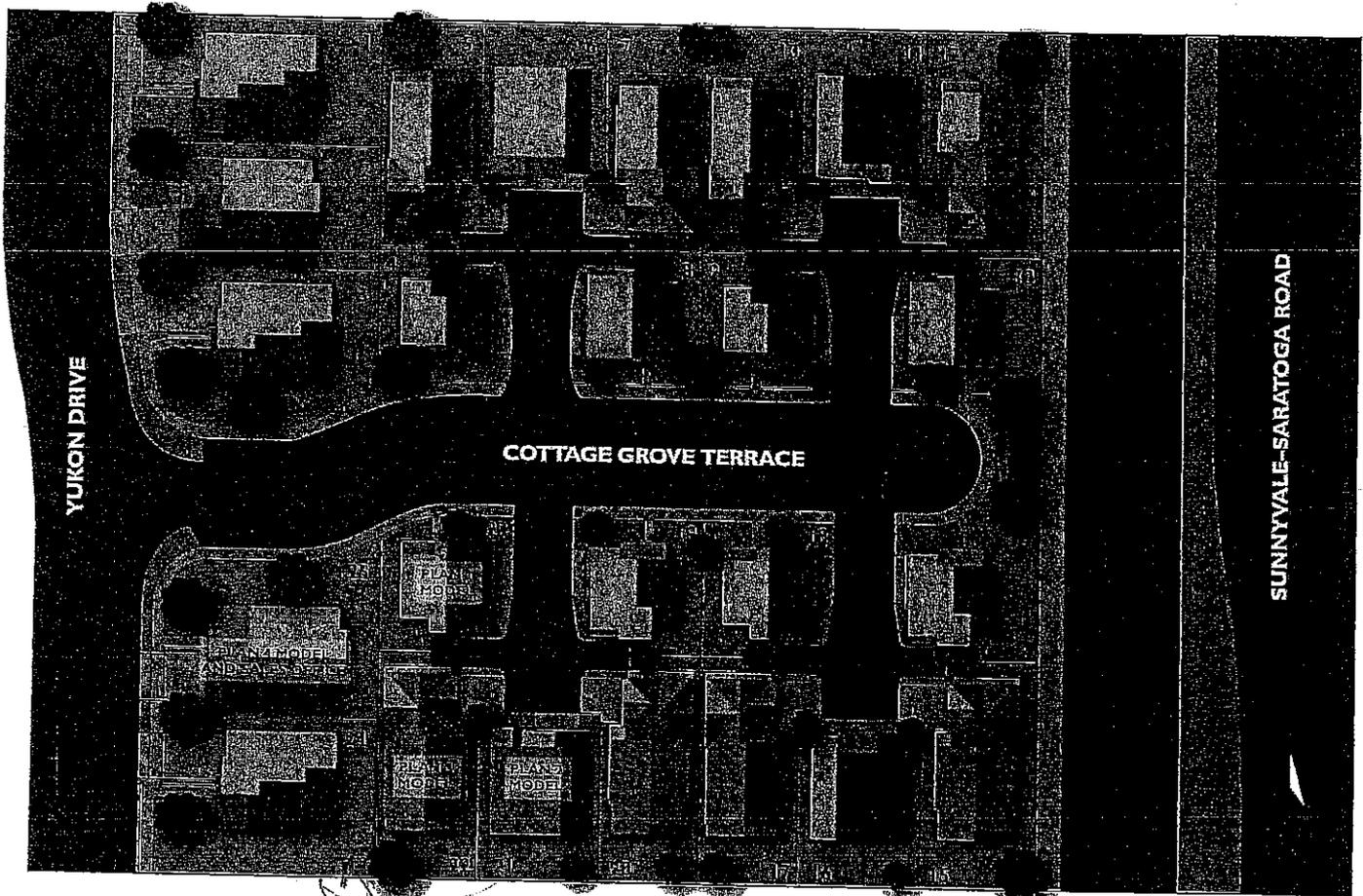






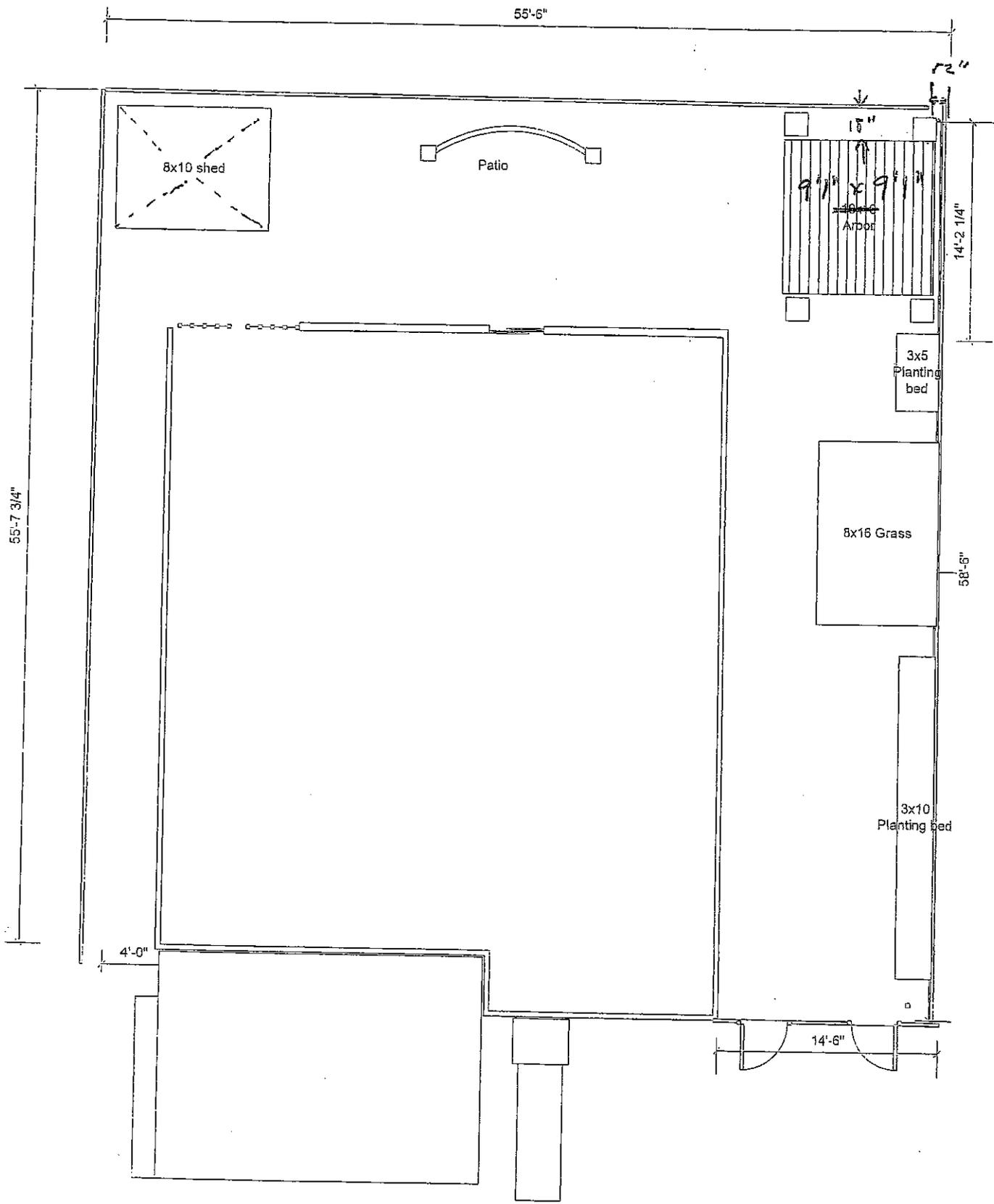


# PLOT MAP



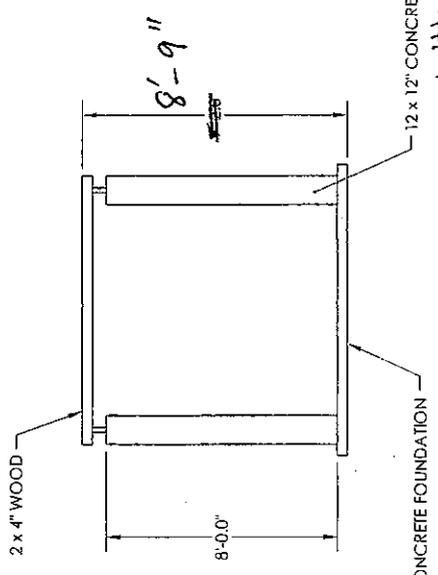
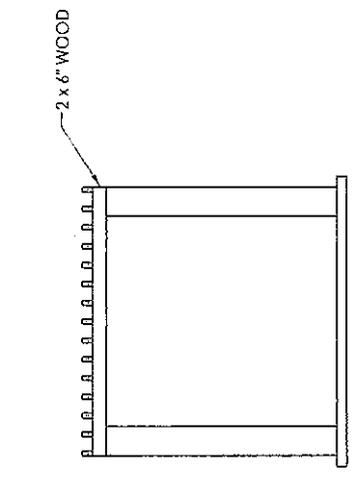
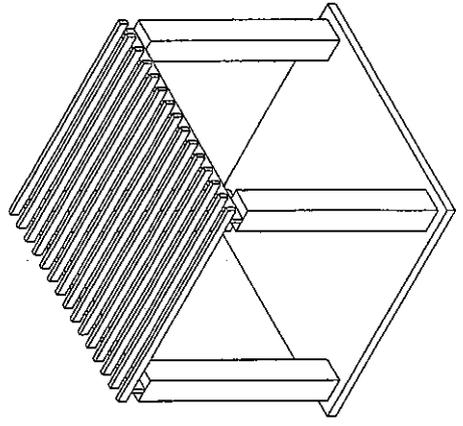
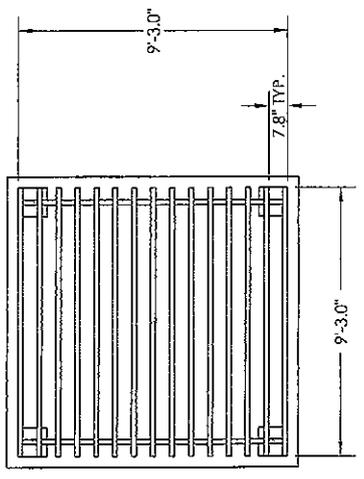
*Osaka*  
*Grave 50*

Artist's conception.



1464 Yukon Drive  
 Sunnyvale CA 94087

00	INITIAL RELEASE	K.L.
12/25/07		



CONCRETE FOUNDATION  
 12 x 12" CONCRETE POST  
 with slat &

GAZEBO DESIGN withis	
XXXXXX	