CITY OF SUNNYVALE REPORT
ZONING ADMINISTRATOR HEARING

February 13, 2013

File Number: 2012-7752 **Permit Type:** Use Permit/Variance/Design Review

Location: 379 Orchard Ave. (near Chestnut Ave.) (APN: 204-31-005)

Applicant/Owner: Ronald K & Hong Cheung

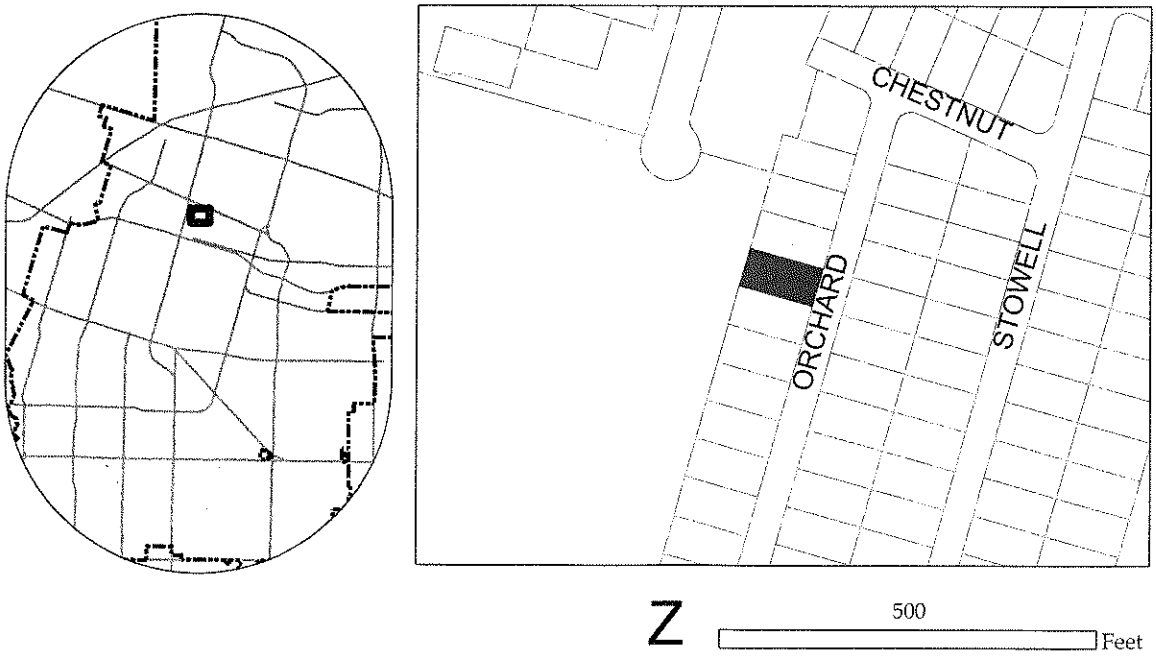
Staff Contact: Mariya Hodge, Associate Planner, (408) 730-7659

Project Description: Use Permit to allow an existing unpermitted accessory structure (detached habitable space) exceeding 450 square feet in area; Variance to allow an existing unpermitted 500 square foot accessory structure within the required side and rear setbacks and exceeding 25% encroachment into the required rear yard; and Design Review for an existing unpermitted 136 square foot rear addition (sunroom).

Reason for Permits: As listed above; see table on page 2 for details.

Issues: Setbacks, rear yard coverage, neighborhood compatibility

Recommendation: Approve with Conditions



PROJECT DESCRIPTION

	Existing	Proposed
General Plan:	Residential Low Density	Same
Zoning District:	R-0	Same
Floor Area (sq. ft.):	1,135 (750 living, 385 garage)	1,635 (750 living, 385 garage, 500 detached habitable)
Parking:	1 covered space + 2 uncovered spaces	Same

Previous Planning Projects related to Subject Application – There are no previous planning projects related to this application; however, a building permit was issued in 1958 to allow construction of a workshop. The building permit was never finaled and is expired; therefore, the structure is not considered to be permitted. The applicant believes this is the same structure in the rear yard which is currently used as an accessory living unit.	**No**
Neighborhood Preservation Complaints – In August of 2012, the Neighborhood Preservation Division received a complaint regarding construction without permits and an unpermitted accessory living unit on the subject site. Neighborhood Preservation staff visited the site and found an unpermitted 500 square foot accessory living unit in the rear yard, along with an unpermitted 136 square foot sunroom addition. The property owner was advised of the need to obtain permits or remove these structures.	**Yes**
Deviations from Standard Zoning Requirements – SMC Table 19.40.040 requires that accessory structures greater than 120 square feet in floor area or greater than eight feet in height must meet the minimum side setbacks for the applicable zoning district (for R-0, a four-foot side setback and a 10-foot rear setback). A Variance is requested to allow the accessory structure to maintain a three-foot side setback and a two-foot rear setback. In addition, SMC section 19.48.050 limits encroachments into the 20-foot required rear yard to no more than 25% of the rear yard area. The subject site has a 1,040 square foot required rear yard, and the existing accessory structure encroaches into that yard by approximately 486 square feet (47%). A Variance is requested to allow the structure to exceed the rear yard encroachment limitation.	**Yes**

Site Layout and Floor Plans: The subject site is developed with a single-story residence located toward the center of the lot; it was constructed in 1942. The home has two bedrooms and one bathroom. A 136 square foot pre-fabricated sunroom has been added to the rear of the home without permits. A 66 square foot, seven-foot tall utility building (shed) is located along the north side of the rear yard. This utility building alone would not require permits or setbacks due to its limited height and size. In addition, a 500 square foot detached accessory structure is located in the northwest corner of the site. This structure has two bedrooms, one bathroom, a living area, and a kitchen area. It was likely constructed as a workshop in 1958, but is not considered to be permitted because the building permit was never finaled. Upon purchasing the property in 2001, the applicant converted the non-habitable workshop to habitable space, re-sided and re-roofed the structure, and added a 167 square foot porch/awning to the front of the structure. A wall-mounted air conditioning unit was also added. (See Attachment B – Plans.) The total floor area of all accessory structures on the site, including the porch/awning and smaller utility building, is 733 square feet. A Use Permit is required for any accessory structure greater than 450 square feet in area, or where the combined areas of all accessory structures on a property are greater than 450 square feet. The combined areas of all accessory structures may not exceed 800 square feet.

Accessory Living Unit: The 500 square foot accessory structure is currently used as an accessory living unit (ALU). An ALU cannot be permitted on the subject site. ALUs are permitted in an R-0 zoning district only on properties having a net lot area of 9,000 square feet or more. The subject lot has an area of 5,200 square feet. Although the structure cannot be used as an ALU, the applicant requests he be permitted to remove the kitchen and use it as a detached habitable space.

Parking: The home has an existing one-car garage with a driveway taking access from Orchard Avenue. While the garage's floor area is nearly that of a two-car garage, its narrow dimensions allow for the parking of only one vehicle. The home (not including the unpermitted ALU) has two bedrooms and a gross floor area of approximately 1,135 square feet. SMC section 19.46.050(d) allows for additions to homes with legal non-conforming covered parking provided the addition does not result in four or more bedrooms, or in a floor area exceeding 1,800 square feet. The addition of a 500 square foot, two-bedroom detached habitable space would result in four bedrooms and 1,635 square feet of floor area. As a result of the number of bedrooms, the applicant would be required to provide two covered parking spaces or obtain a Variance from the covered parking requirement. To avoid this requirement, the applicant proposes to demolish the interior partition walls in the accessory structure and convert it to a one-bedroom detached habitable space.

Architecture/Design: The existing home consists of stucco wall materials painted in a light beige color and wood shingle roofing. The proposed sunroom

uses pre-fabricated panels consisting primarily of windows with the remaining panel area having a stucco appearance in a white color (Attachment C – Photographs). The sunroom has a flat metal roof. The area where the sunroom meets the main structure has been patched with stucco which is not painted. Pre-fabricated sunrooms have typically been permitted as rear additions for single-family homes, provided they present a high-quality finished appearance.

The proposed 500 square foot accessory structure consists of plywood siding material painted in an orange-brown color with rolled roofing material. Windows are located along both sides and the rear of the structure, with the entry door located along the front of the structure facing the main residence. The structure has a gabled roof with an entry porch/awning incorporated into the roof structure. Accessory structures with floor areas greater than 120 square feet must be compatible in appearance with the principal structure on the site [SMC 19.40.020(c)]. New structures would typically be required to use higher-quality siding and roofing.

Building/Fire Codes: In order to meet Building and Fire Codes, structures located less than five feet from a property line must have one-hour fire-rated walls (minimum 5/8-inch or greater gypsum wall boards with a stucco exterior). Structure walls which are at least three feet from a property line may have window and door openings which do not exceed 25% of the wall area; structure walls which are fewer than three feet from a property line are not permitted to have any openings. The 500 square foot accessory structure is located approximately three feet from the side property line and two feet from the rear property line. In order to meet Building and Fire Codes, the windows along the rear property line would need to be removed, windows along the side property line would be limited, and the structure walls would need to be modified to use thicker gypsum board with a stucco exterior.

Expected Impacts on Surroundings: The sunroom addition is located at the rear of the home and meets all setback requirements. It is generally visually compatible with the home. With modifications to paint and finish the area where the sunroom meets the main structure, it is not expected to have a negative visual impact on the site or surrounding properties. The 500 square foot accessory structure is located within the side and rear setbacks. The applicant notes that the accessory structure has been on the property since 1958 and its appearance and location are generally accepted by the neighborhood. However, the applicant's conversion of the previous workshop to habitable space is an intensification of the structure's use. A habitable space is likely to be used more frequently than a non-habitable space and, if located near property lines, is more likely to result in noise and light impacts on neighboring properties. If the structure were converted to non-habitable space and modified to meet design requirements and Building and Fire Codes, it would not be expected to have a negative impact on surrounding properties. Finally, use of the rear yard area is relatively intense for a single family

property, with a total of 733 square feet of accessory structures. The 500 square foot accessory structure should be large enough to accommodate any reasonable storage needs. Removal of the 66 square foot utility building would reduce the intensity of use in the rear yard area, and would necessitate use of the larger accessory structure for storage which could reduce the potential for its re-conversion to living area.

Public Contact: Fifty-two notices were sent to surrounding property owners and residents adjacent to subject site in addition to standard noticing practice. The applicant submitted a letter of support from an adjacent neighbor along with his project application (see Attachment D). Staff has not received any other letters or other communications regarding this project.

Environmental Determination: A Categorical Exemption Class 1 (minor changes in use) relieves this project from CEQA provisions.

FINDINGS

A. In order to approve the Use Permit, the following findings must be made:

1. *The proposed use attains the objectives and purposes of the General Plan of the City of Sunnyvale.*

   General Plan Policy LT-4.1 – Protect the integrity of the City's neighborhoods, whether residential, industrial, or commercial.

   General Plan Policy LT-4.4 – Preserve and enhance the high quality character of residential neighborhoods.

   Staff is not able to make this finding for a detached habitable space or for the proposed design. As noted in Finding A.2 below, a detached habitable space greater than 450 square feet in area and with reduced side and rear setbacks has the potential for negative impacts on adjacent properties. In addition, the proposed structure does not use high-quality materials and is incompatible with the appearance of the main structure. Staff also finds the total area of all accessory structures on the site to be excessive. Approval of a detached habitable structure with the proposed design and approval of all proposed accessory structures would not be consistent with the General Plan policies noted above.

   Staff is able to make this finding for a non-habitable utility building with the design modifications required by the recommended Conditions of Approval, and with the condition to remove the smaller utility building. A non-habitable utility structure would be used less intensively and would not be likely to negatively impact surrounding properties despite its proposed size and reduced setbacks. With the recommended design modifications, the structure would have a higher-quality appearance

consistent with the main structure. Removal of the smaller utility building would also reduce the intensity of use and visual clutter of the rear yard area.

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 the orderly development of, or the existing uses being made of, adjacent properties.*

Staff is not able to make this finding for a detached habitable space. Although the accessory structure has been in the same location on the property since 1958, it was initially constructed as a non-habitable workshop (utility building). Conversion to habitable space is an intensification of the structure's use. A habitable space is likely to be used more frequently than a utility building. A larger habitable space is also more likely to be used in an intensive manner (e.g. as a living unit, for large gatherings, etc.). A detached habitable space exceeding 450 square feet in area, particularly one with reduced side and rear setbacks, has the potential to result in negative impacts on neighboring properties including excessive noise and light impacts.

Staff is able to make this finding for a non-habitable utility building. A utility building would be consistent with the structure and use originally permitted in 1958 and would be less likely to result in noise, light, and other impacts related to habitation. Staff recommends Conditions of Approval requiring design modifications and conversion of the structure to non-habitable use, including a deed restriction preventing use for habitation. As conditioned, the structure would not be expected to have a negative impact on the site or surrounding properties.

B. In order to approve the Variances, the following findings must be made for each requested 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.*

Side and rear yard setbacks: Staff is able to make this finding. The subject site has a lot area of 5,200 square feet, where 6,000 square feet is the minimum for lots in an R-0 zoning district. The subject lot is 52 feet wide at the front setback, where 57 feet is the minimum for interior lots in an R-0 zoning district. The main home is located near the center of the lot. The reduced size and width of the lot and the location of the main structure present a physical constraint for location of a large

detached structure. If the structure were located in a manner meeting setbacks, it would not meet minimum separation requirements from the main structure and would significantly limit usable yard space. In addition, the structure has been in its current location for over 50 years. While it is not considered to be a legal non-conforming structure, building permits for the structure were issued in 1958 (though they were not finaled). While the accessory structure is large, the total floor area on the site including the home, garage, and accessory structure are still modest (1,635 square feet with approximately 31% lot coverage). This is consistent with typical lot coverage for homes in the same zoning district.

Rear yard encroachment: Staff is able to make this finding. As noted above, the site has substandard width and lot area and the main home is located toward the center of the lot. These conditions present a physical constraint for locating a larger accessory structure in a manner meeting rear yard coverage. The structure has been in its current location for over 50 years. As noted by the applicant in his project justifications, similar structures constructed in the 1950s and 1960s are existing on other sites on the neighborhood but are considered legal non-conforming structures. Granting the Variance would allow the applicant to enjoy the same benefits as other similarly situated neighbors.

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.*

Side and rear yard setbacks: Staff is not able to make this finding for a detached habitable space. As noted above in Finding A.2, habitation is a more intensive use of the structure than non-habitable utility use. Impacts such as noise and night lighting may result, particularly due to the size of the structure and its reduced side and rear setbacks.

Staff is able to make this finding for a non-habitable utility structure. A non-habitable utility building in the proposed location would be consistent with the use originally permitted in 1958. Even with the proposed reduced setbacks, a utility building would be unlikely to result in excessive noise, lighting, and other impacts related to habitation. Staff recommends Conditions of Approval PS-1.a requiring conversion of the structure to non-habitable use, Condition of Approval AT-1 limiting its use for habitation, and Condition of Approval PS-3 requiring a deed restriction preventing reconversion to habitable space. As conditioned, the structure would not be expected to have a detrimental effect on the site or surrounding properties.

Rear yard encroachment: Staff is able to make this finding. Although the accessory structure occupies more than 25% of the required rear yard,

significant usable open space is provided on the right side of the rear yard totaling approximately 860 square feet (or 83% of the required rear yard area of 1,040 square feet). This area provides visual relief from the bulk of structures in the rear yard, particularly from the perspective of the adjacent neighbor to the south. As conditioned, the project will include removal of the smaller 66 square foot utility building located along the north property line; this will provide further visual relief and additional usable open space. As noted by the applicant, the adjacent use to the rear of the site is an apartment complex parking lot; apartment buildings are located approximately 200 feet away. These neighbors are not expected to be impacted by increased intensity of use in the required rear yard.

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.*

Side and rear yard setbacks: Staff is not able to make this finding for a detached habitable space. Location of habitable spaces adjacent to side and rear property lines is not a privilege commonly enjoyed by other property owners in the same zoning district. In addition, this location for a habitable space has the potential for negative impacts on surrounding sites including noise and night lighting.

Staff is able to make this finding for a non-habitable utility building. As noted above, several other sites in the neighborhood and the same zoning district have similar structures which were permitted in the 1950s and 1960s and are considered legal non-conforming. The subject structure was permitted in 1958, but because the building permit was never finaled it is not considered legal. Allowing the structure to remain in its current location as a non-habitable utility building is not likely to have negative impacts on surrounding sites and will allow the applicant to maintain a similar structure to those permitted on surrounding sites. As a result, the intent and purpose of the ordinance will be served and granting the Variance will not constitute a special privilege.

Rear yard encroachment: Staff is able to make this finding. The proposed use of the left side of the rear yard is relatively intense with a sunroom addition, smaller utility building, and larger accessory structure; however, the project as conditioned will include removal of the smaller utility building. In addition, significant usable open space is provided on the right side of the rear yard. The proposed site layout maintains an open yard space of approximately 860 square feet, which approximately 83% of the required rear yard area of 1,040 square feet. While this area is not located wholly within the required rear yard, it

meets the intent of the ordinance requiring open rear yard area. As noted by the applicant, the intensity of use in the rear yard would be similar for a property with several small sheds less than eight feet tall and less than 120 square feet which would be exempt from permitting requirements. As a result, the intent and purpose of the ordinance will be served and granting the Variance will not constitute a special privilege.

C. In order to approve the Design Review, the following finding must be made:

1. The project's design and architecture will comply with the policies and principles of the Single Family Home Design Techniques.

Basic Design Principle	**Comments**
2.2.1 Reinforce prevailing neighborhood home orientation and entry patterns	The proposed addition is located at the rear of the home, is not visible from the street, and does not affect the home's orientation or entry pattern.
2.2.2 Respect the scale, bulk and character of homes in the adjacent neighborhood.	The proposed addition does not increase the height of the existing home and meets all required setbacks and lot coverage limits. The addition is not visible from the street and does not significantly impact the scale or bulk of the home.
2.2.3 Design homes to respect their immediate neighbors	The proposed addition is visually consistent with the character of the existing home. As conditioned, the addition will present a quality finished appearance. The addition does not increase the height of the home and meets all required setbacks. It is not expected to have a visual or privacy impact on adjacent neighbors.
2.2.4 Minimize the visual impacts of parking.	The existing structure provides a one-car garage and two uncovered parking spaces on the driveway. No changes to the parking layout are proposed.
2.2.5 Respect the predominant materials and character of front yard landscaping.	The project does not include any proposed landscaping changes.

2.2.6 Use high quality materials and craftsmanship	The proposed addition is visually consistent with the character of the existing home, using wall materials and colors compatible with those of the main structure.
2.2.7 Preserve mature landscaping	The project does not include any proposed landscaping changes.

ALTERNATIVES:

1. Approve the Use Permit, Variances, and Design Review with the recommended Conditions in Attachment A.
2. Approve the Use Permit, Variances, and Design Review with modifications.
3. Deny the Use Permit and Variances, and Design Review.

RECOMMENDATION

Alternative 1. Approve the Use Permit, Variances, and Design Review with the recommended Conditions in Attachment A.

Reviewed by:

Shaunn Mendrin
Senior Planner

Prepared By: Mariya Hodge, Associate Planner

Attachments:
A. Standard Requirements and Recommended Conditions of Approval
B. Site and Architectural Plans
C. Photographs of Site and Surroundings
D. Applicant's Justifications and Letters

Attachment A

Standard Requirements and Recommended Conditions of Approval

RECOMMENDED
CONDITIONS OF APPROVAL AND
STANDARD DEVELOPMENT REQUIREMENTS
February 13, 2013

Planning Application 2012-7752
379 Orchard Avenue
Use Permit to allow a detached accessory structure exceeding 450 square feet in area; Variance to allow a 500 square foot accessory structure within the required side and rear setbacks and exceeding 25% encroachment into the required rear yard; and Design Review for a 136 square foot rear addition.

The following Conditions of Approval [COA] and Standard Development Requirements [SDR] apply to the project referenced above. The COAs are specific conditions applicable to the proposed project. The SDRs are items which are codified or adopted by resolution and have been included for ease of reference, they may not be appealed or changed. The COAs and SDRs are grouped under specific headings that relate to the timing of required compliance. Additional language within a condition may further define the timing of required compliance. Applicable mitigation measures are noted with "Mitigation Measure" and placed in the applicable phase of the project.

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 and Standard Development Requirements of this Permit:

GC: THE FOLLOWING GENERAL CONDITIONS OF APPROVAL AND STANDARD DEVELOPMENT REQUIREMENTS SHALL APPLY TO THE APPROVED PROJECT.

GC-1. BUILDING PERMITS:
Within 60 days of the date of the final decision on this permit, obtain building permits for the detached accessory structure and sunroom addition. If permits cannot be obtained for one or more of these structures, the unpermitted structure(s) shall be demolished within 90 days of the date of the final decision on this permit. [COA] [PLANNING/BUILDING]

GC-2. CONFORMANCE WITH APPROVED PLANNING APPLICATION:
All building permit drawings and subsequent construction and operation shall substantially conform with the approved planning application, including: drawings/plans, materials, building colors,

and other items submitted as part of the approved application. Any proposed amendments to the approved plans or Conditions of Approval are subject to review and approval by the City. The Director of Community Development shall determine whether revisions are considered major or minor. Minor changes are subject to review and approval by the Director of Community Development. Major changes are subject to review at a public hearing. [COA] [PLANNING]

GC-3. PERMIT EXPIRATION:
The permit 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 and is approved by the Director of Community Development. [SDR] [PLANNING]

GC-4. USE EXPIRATION:
The approved Use Permit shall expire if the use is discontinued for a period of one year or more. [SDR] (PLANNING)

PS: THE FOLLOWING SHALL BE MET PRIOR TO SUBMITTAL OF BUILDING PERMIT, AND/OR GRADING PERMIT.

PS-1. REQUIRED REVISIONS TO PROJECT PLANS:
The plans shall be revised to address comments from the Zoning Administrator including the following [COA] [PLANNING]:

a) The detached accessory structure located in the northwest corner of the site shall be modified to meet the definition of non-habitable space including but not limited to the following:
   i) Remove all kitchen appliances (i.e. stove, dishwasher, refrigerator, microwave);
   ii) Remove all kitchen cabinets and sink;
   iii) Remove all kitchen utilities by cutting off utility connections at the slab/foundation level, capping, and covering with concrete to prevent reconnection;
   iv) Remove all heating and cooling systems;
   v) Remove bathing facilities (i.e. shower, tub) from the bathroom.

b) The detached accessory structure shall be modified as necessary to meet Building and Fire Codes, including but not limited providing appropriate fire-rated wall materials and limiting window areas;

c) The detached accessory structure shall be painted to match the main residence;

d) The detached accessory structure shall be re-roofed using a material compatible with the main structure's roofing, such as composition shingle;

e) The interior partition walls within the detached accessory structure creating multiple bedrooms and living areas shall be demolished resulting in only two areas: an open area and one bathroom;

f) The 66 square foot utility building (storage shed) located at the rear of the home along the north property line shall be removed;

g) The area where the sunroom addition meets the main structure shall present an attractive and finished appearance. The patched stucco areas between the sunroom addition and the main structure shall be painted to match the sunroom or main structure. Any flashings, trims, window frames, or other details shall be integrated into the design and present a finished appearance.

PS-2. EXTERIOR MATERIALS REVIEW:
Final exterior building materials and color scheme are subject to review and approval by the Planning Commission/Director of Community Development prior to submittal of a building permit. A consistent design appearance shall be used for all building facades. [COA] [PLANNING]

PS-3. ZONING RESTRICTION:
A Zoning Restriction shall be filed in the official records of the County of Santa Clara prior to issuance of any City permit or allowed use of the property, as applicable, stating that the detached accessory structure located in the northwest corner of the site is not approved for use as a habitable space or living unit. The Zoning Restriction shall be prepared by the Planning Division and shall include a description of the subject property, the Planning Application number, and attached conditions of approval, and be signed and notarized by each property owner of record.

For purposes of determining the record owner(s) of the property, the applicant shall provide the City with evidence in the form of a report from a tile insurance company indicating that the record owner(s) are the person(s) who have signed the Zoning Restriction. [COA] [PLANNING]

BP: THE FOLLOWING SHALL BE ADDRESSED ON THE CONSTRUCTION PLANS SUBMITTED FOR ANY DEMOLITION PERMIT, BUILDING PERMIT, GRADING PERMIT, AND/OR ENCROACHMENT PERMIT AND SHALL BE MET PRIOR TO THE ISSUANCE OF SAID PERMIT(S).

BP-1. CONDITIONS OF APPROVAL:
Final plans shall include all Conditions of Approval included as part of the approved application starting on sheet 2 of the plans. [COA] [PLANNING]

BP-2. RESPONSE TO CONDITIONS OF APPROVAL:
A written response indicating how each condition has or will be addressed shall accompany the building permit set of plans. [COA] [PLANNING]

BP-3. PUBLIC UTILITY EASEMENT VERIFICATION:
The detached accessory structure is located within a five-foot wide Public Utilities Easement (PUE) along the rear property line. While the City has no facilities within this PUE, other utility companies may be using or intend to use the PUE. The applicant shall provide written verification that affected utility companies (e.g. PG&E, Comcast, AT&T) do not object to the location of the structure in the PUE. [COA] [PUBLIC WORKS]

BP-4. BLUEPRINT FOR A CLEAN BAY:
The building permit plans shall include a "Blueprint for a Clean Bay" on one full sized sheet of the plans. [SDR] [PLANNING]

DC: THE FOLLOWING SHALL BE COMPLIED WITH AT ALL TIMES DURING THE CONSTRUCTION PHASE OF THE PROJECT.

DC-1. BLUEPRINT FOR A CLEAN BAY:
The project shall be in compliance with stormwater best management practices for general construction activity until the project is completed and either final occupancy has been granted. [SDR] [PLANNING]

AT: THE FOLLOWING SHALL BE COMPLIED WITH AT ALL TIMES THAT THE USE PERMITTED BY THIS PLANNING APPLICATION OCCUPIES THE PREMISES.

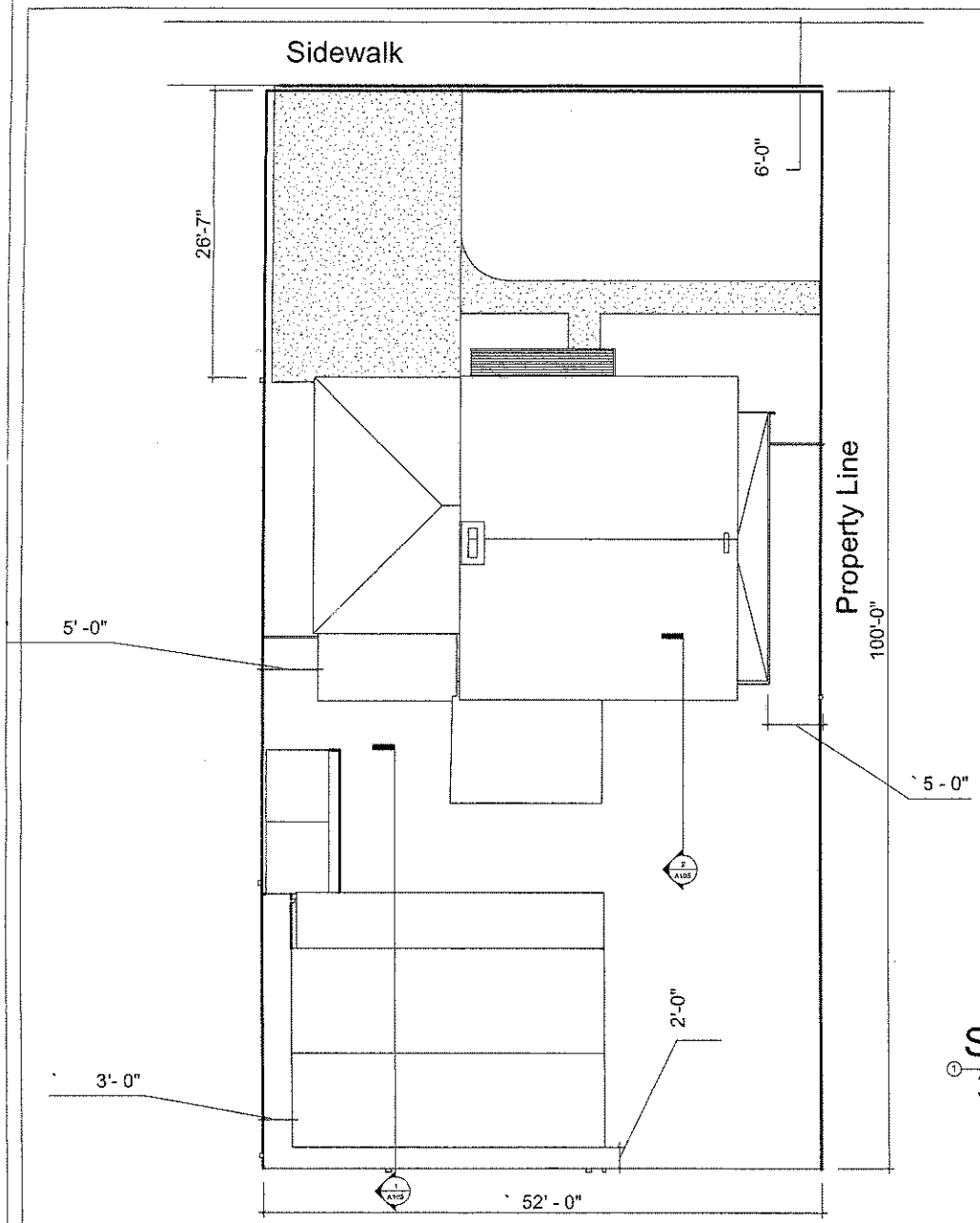
AT-1. HABITABLE USE OF DETACHED ACCESSORY STRUCTURE:
The detached accessory structure located in the northwest corner of the property is approved as a non-habitable utility building only. It shall not be converted to an accessory living unit or a detached habitable space, nor used for habitation at any time. [COA] [PLANNING]

AT-2. DRAINAGE:
Accessory structures may not drain onto adjacent properties. [SDR] [BUILDING]

AT-3. ADDITIONAL ACCESSORY STRUCTURES:
No additional accessory structures (including but not limited to utility buildings, sheds, detached garages or carports, patio covers, arbors, or detached habitable areas) may be constructed or installed on the property unless separately permitted by the Director of Community Development. [SDR] [PLANNING]

Attachment B

Site and Architectural Plans



Site
3/16" = 1'-0"

Property Data:

	SF	FAR (%)
Site:	5200	
House(e)	750	14.42
Garage (e)	385	7.40
Porposed		
Sun Room	136	2.62
Accessory strudture	500	9.62
Total	1702 sf	34.06 %

Lot Coverage (LC)

Storage Shed	66
Acc structure	167
Awning	
Total	233

Total LC 1935 sf 37.2 %

Accessory Structure Material

Exterior 1/2" redwood 4'x9' siding
60 min building paper
R13 fibergalss insulation

Interior 1/2" gypboard

Roof 1/2" construction grade plywood
#30 felt roof deck protection
R19 fibergalss insulation
Mineral surfaced low-slope roll roofing

Ron Cheung Residence
379 Orcharad, Sunnyvale, Ca. 94085
Parcel #204-31-005

Date
Oct 1 2012
Drawn by
KS

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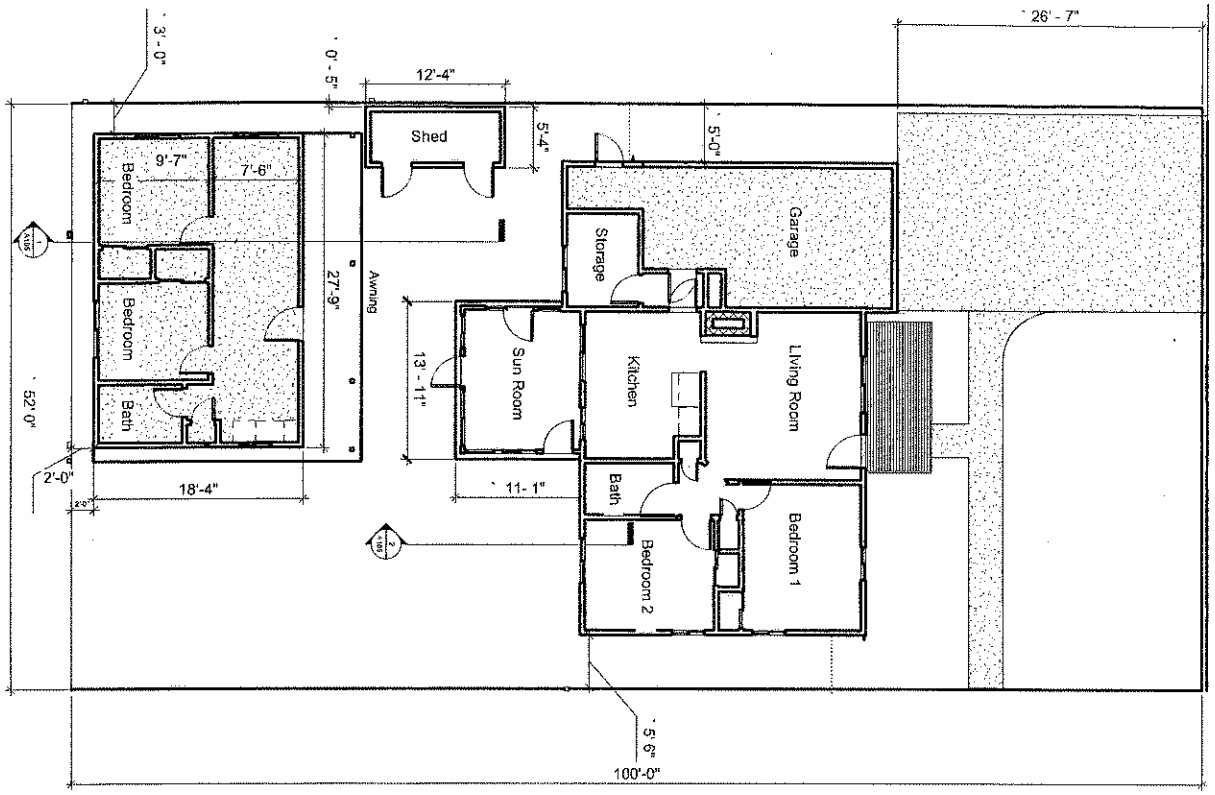
ATTACHMENT B



Floor Plan (EXISTING)

3/16" = 1'-0"

Sheet 2 of 5	Date Oct 1 2012 Drawn by KS	*Ron Cheung Residence* *379 Orcharad, Sunnyvale, Ca. 94085* *Parcel #204-31-005*

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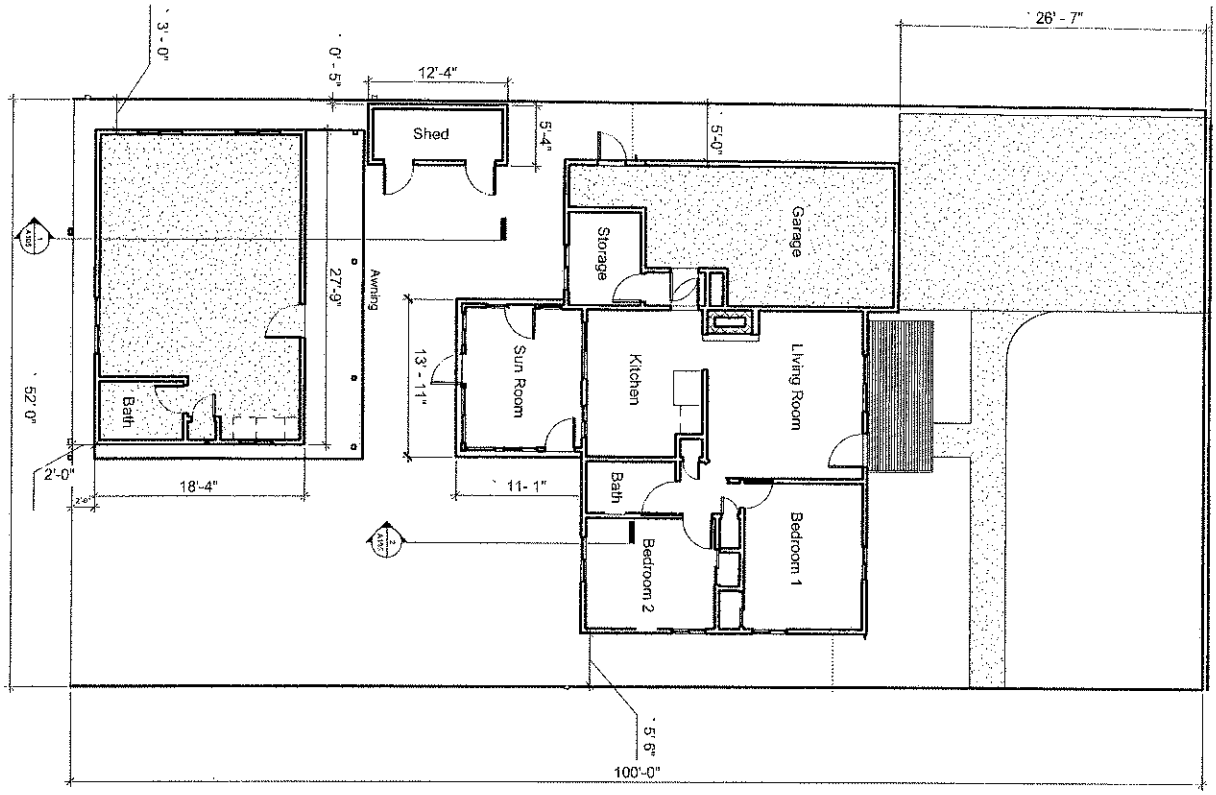

Floor Plan (PROPOSED)
3/16" = 1'-0"

Sheet 2 of 5	Date Oct 1 2012 Drawn by KS	*Ron Cheung Residence* *379 Orcharad, Sunnyvale, Ca. 94085* *Parcel #204-31-005*

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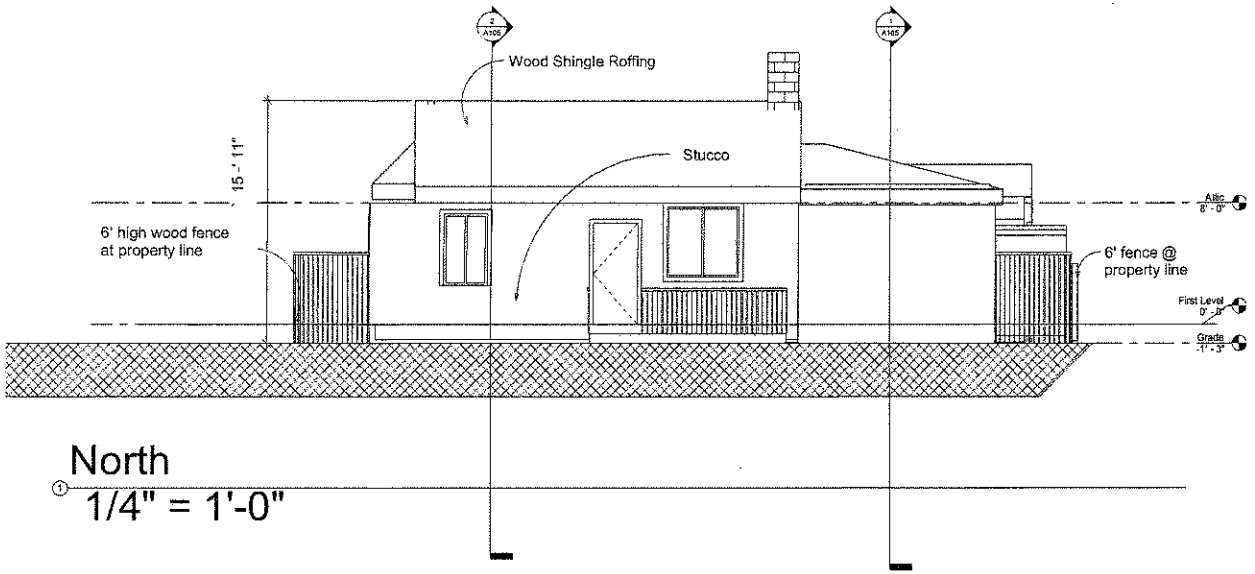
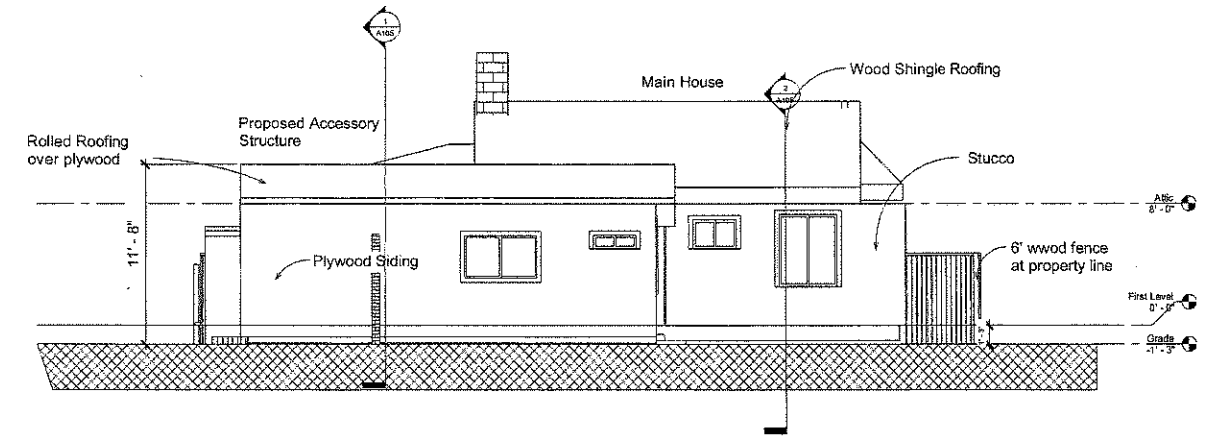


North

1/4" = 1'-0"



South

1/4" = 1'-0"

Ron Cheung Residence
379 Orcharad, Sunnyvale, Ca. 94085
Parcel #204-31-005

Date
Oct 1 2012

Drawn by
KS

Sheet 3 of 5

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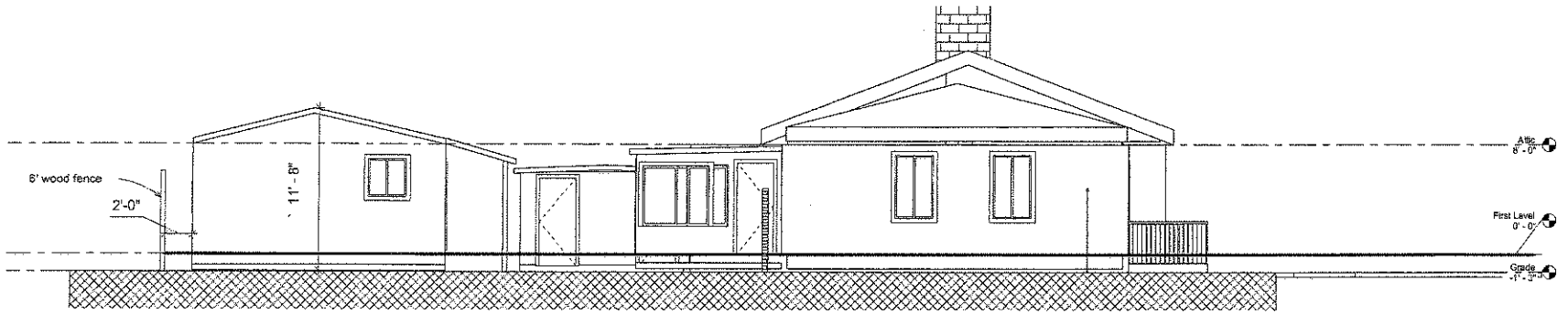
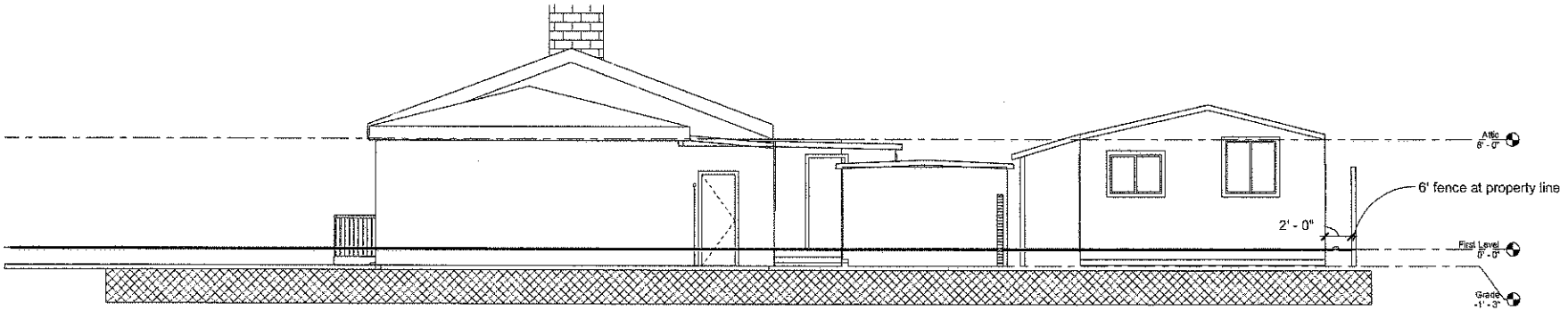


East
1/4" = 1'-0"



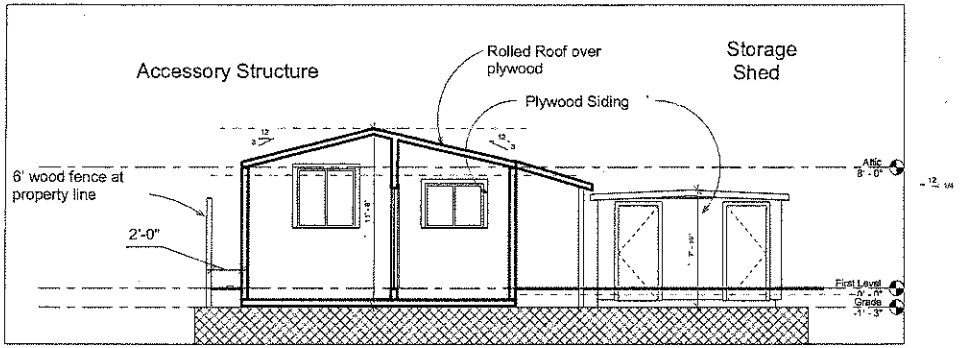
West
1/4" = 1'-0"

Ron Cheung Residence
379 Orcharad, Sunnyvale, Ca. 94085
Parcel #204-31-005

Date
Oct 1 2012

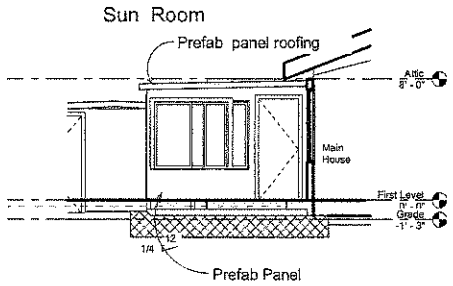
Drawn by
KS

ATTACHMENT 5
Page 5 of 7



Section 1 - Accessory Structure

1/4" = 1'-0"



Section 2 - Sun Room

1/4" = 1'-0"

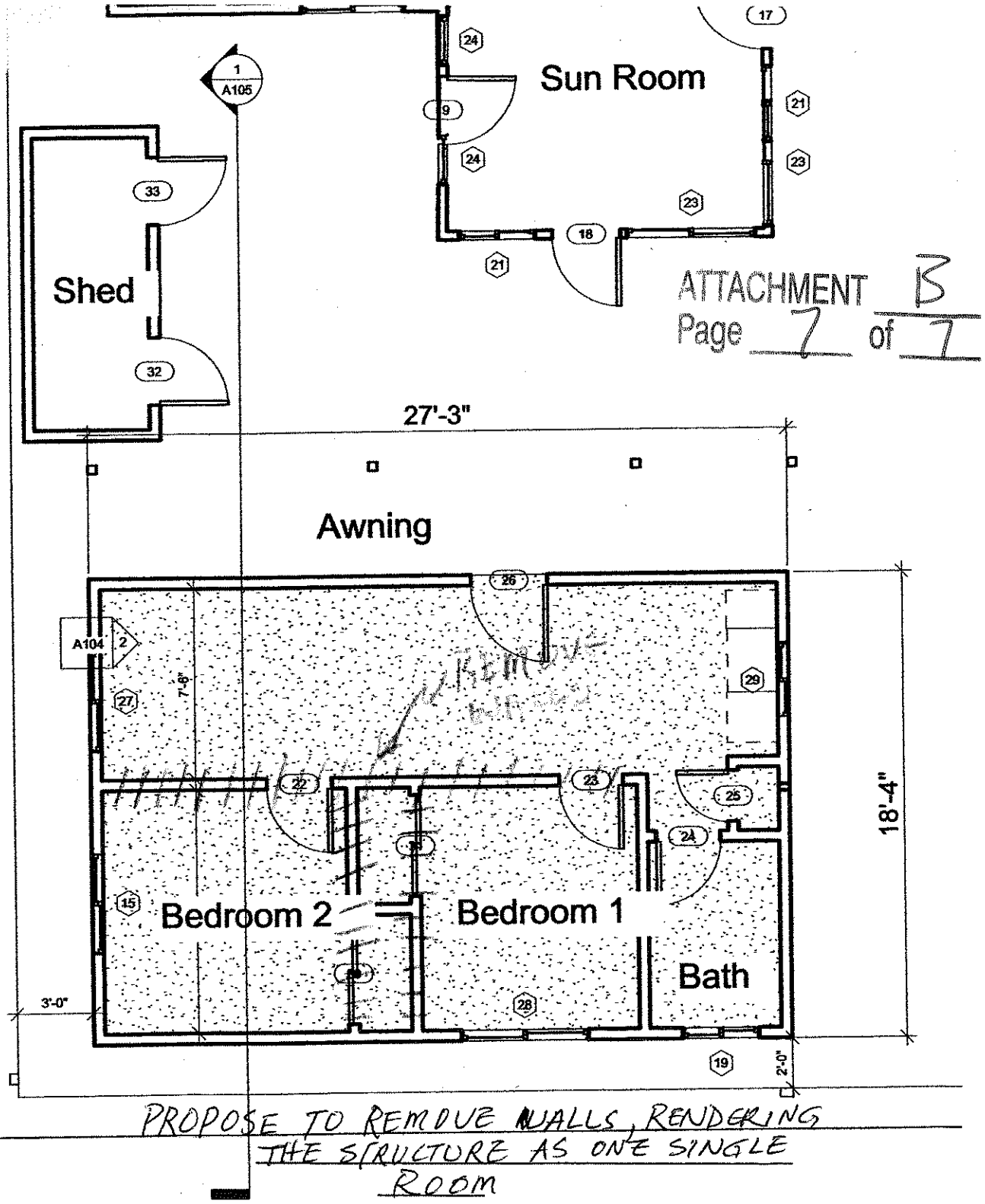
Ron Cheung Residence
379 Orcharad, Sunnyvale, Ca. 94085
Parcel #204-31-005

Date
Oct 1 2012

Drawn by
KS

Sheet 5 of 5

ATTACHMENT B
Page 6 of 7



ATTACHMENT B
Page 7 of 7

PROPOSE TO REMOVE WALLS, RENDERING THE STRUCTURE AS ONE SINGLE ROOM

379 ORCHARD AVE

SKETCH NOT TO SCALE

DEMO PLAN

Attachment C

Photographs of Site and Surroundings

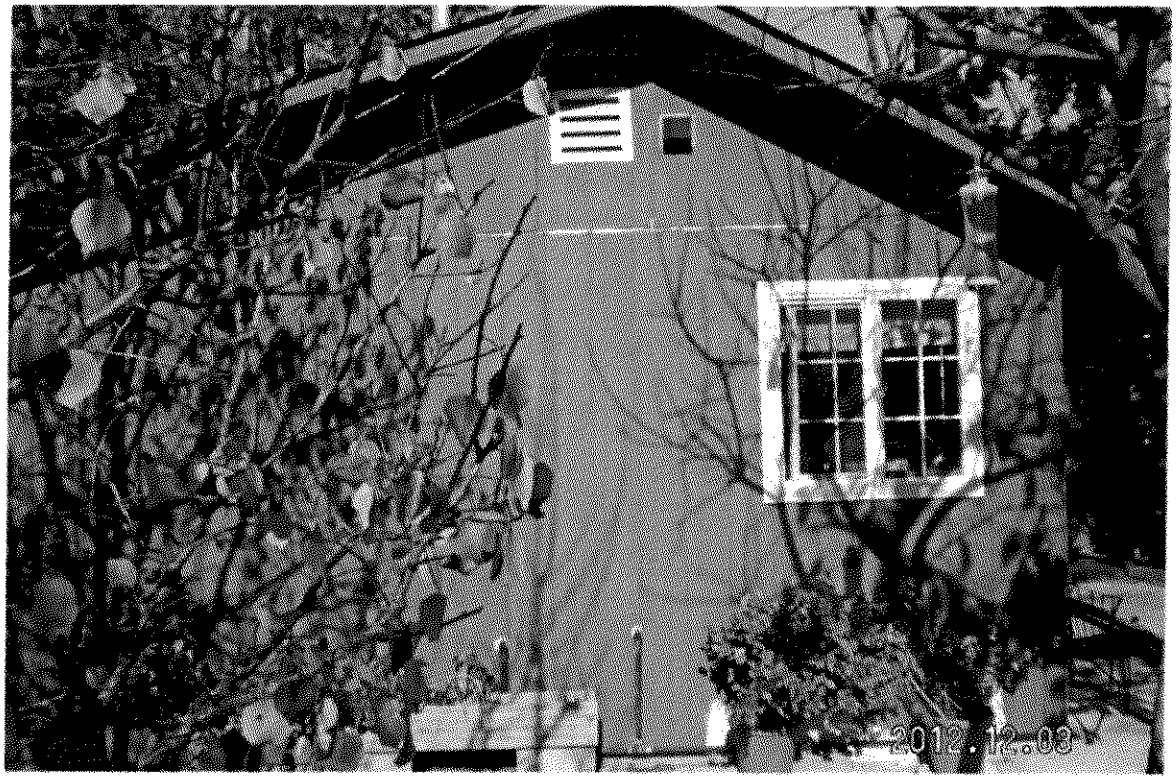
ATTACHMENT C
Page 1 of 5

379 ORCHARD AVE
SHOWING ACC BLDG MAT'L AND AWNING

379 ORCHARD AVE

ATTACHMENT C
Page 2 of 5

CLOSER LOOK @ MATL USED



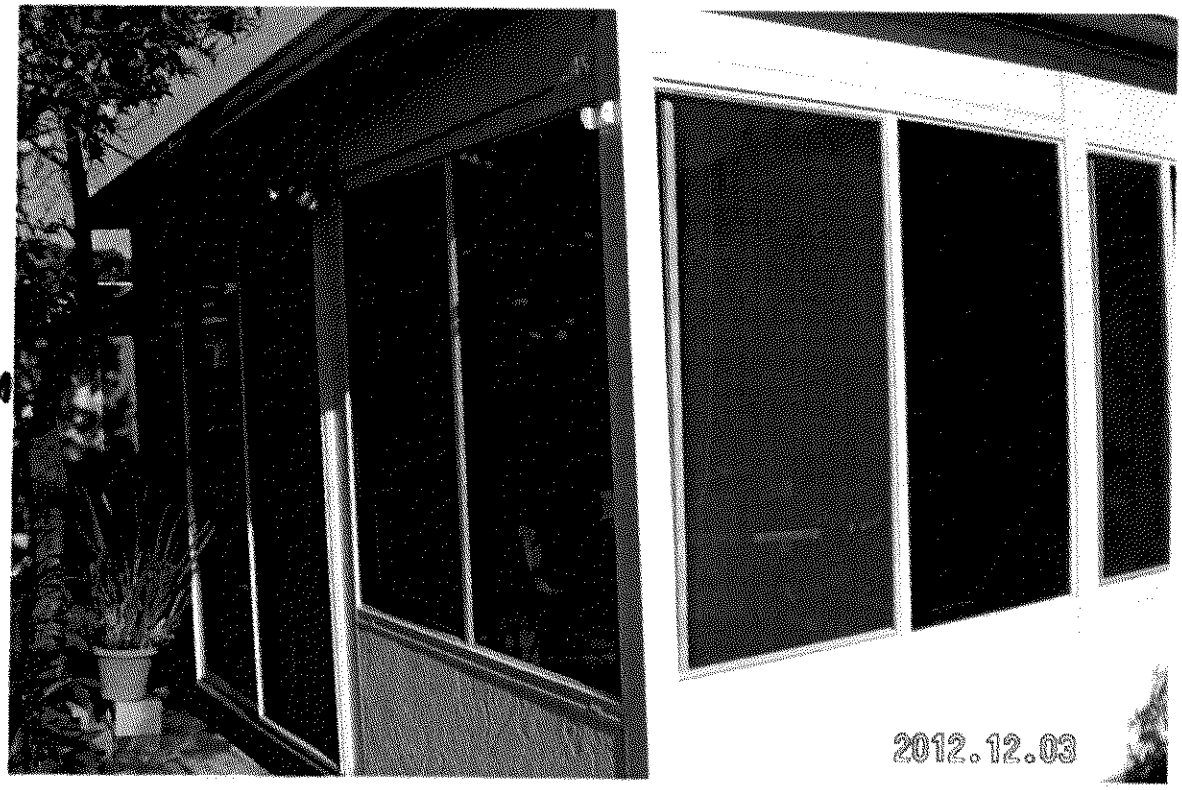
SUNROOM SHOWING FACTORY PROVIDED WINDOWS AND PANELS

379 ORCHARDAVE

ATTACHMENT C
Page 3 of 5

FROM BACK PARKING LOT, SHOWING ACC. BLDG ROOFLINE

RIGHT SIDE OF SUNROOM



HOUSE SHOWING 2-CARS DRIVEWAY

JOE's HOUSE ACROSS THE STREET

ATTACHMENT C
Page 4 of 5

FRANK'S HOUSE TO THE LEFT

JAMES' HOUSE TO THE RIGHT

ATTACHMENT C
Page 2 of 5

Attachment D

Applicant's Justifications and Letters

USE PERMIT/SPECIAL DEVELOPMENT PERMIT JUSTIFICATIONS

One of the two following findings must be made in order to approve a Use Permit or Special Development Permit application.

The Sunnyvale Municipal code states that at least one of the following two justifications must be met before granting the Use Permit or Special Development Permit. Please provide us information on how your project meets **at least one** of the following criteria.

1. The proposed use attains the objectives and purposes of the General Plan of the City of Sunnyvale as the project ...

OR

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 as ...

The appearance of the accessory structure allows the protection of the character and stability of this residential neighborhood. It is way in the back, away from the street and is a foot lower than the house. The structure does not intrude into the privacy of neighbors (see attached letter from Mr. Stokes) and is compatible in scale and character with existing housing. FAR is well within the 45% limit. Parking is provided by the single car garage and a 2 cars driveway.

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

VARIANCE JUSTIFICATIONS

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

379 ORCHARD AVE, SUNNYVALE 94085

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.

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.

AND

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.

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

Variance Justifications (For 379 Orchard Avenue)

ATTACHMENT D
Page 3 of 5

Question #1

The size of my lot is 52ft x100ft, and it is smaller than the minimum for a standard R-0 lot. The width is narrower than the minimum, creating hardship for me to comply with the setback requirements. Besides, the structure is backing to the big parking lot of apartment building. The buildings are about 200 feet away.

The structure was permitted in 1958 although there was no final inspection, but has been in place since then. The structure is not considered legal due to no final inspection. But it probably matched plans based on other similar legal, but non-conforming structure in the neighborhood; such as the similar sized accessory structure at 374 Orchard. I am requesting City Planning to treat my accessory structure to a similar, legal non-conforming structure mentioned above.

Question #2

As mentioned in answer to question 1 above, the closest apartment building is about 200 feet away. The apartment parking lot grade is higher than my lot, making the accessory building lower and less visible. The appearance of the accessory structure will not negatively impact the character and stability of this residential neighborhood.

The existing accessory building has been there for over 50+ years and has been part of the neighborhood expectation. My neighbor at 383 Orchard, Mr. Stokes, has informed me that he was aware of the structure being there when he moved in. He has no objection to it being there. Please see attached letter from Mr. Stokes.

As to the intensity of rear yard usage, or the 25% rear yard coverage issue, I submit that in the case of a house with minimum setback and with addition to the house 25% into the back yard. Further that this house has two sheds which are less than 8ft high and 120sqft in area, making the sheds legal. In this case the backyard usage will be of similar intensity and still legal. The granting of this variance will not be materially detrimental to the public welfare or injury to the property.

Question #3

Other legal but no-conforming structures in the area are similar and allowed to remain. Many in the area have additions to the houses within FAR threshold. My permit/variances request does not exceed overall lot coverage or FAR threshold. I am not asking for special privileges but just same rights and enjoyment of my property as other owners.

James Stokes
383 Orchard Avenue
Sunnyvale CA 94087

To whom it may concern,

I have been notified that one of the buildings on the property adjoining mine and owned by Ron Cheung may violate one of Sunnyvale's building codes. Specifically that the building is 3 feet from our shared property line while Sunnyvale's code calls for a minimum of 4 feet.

Please accept this letter as a formal notification that this condition has a minimal impact on the enjoyment of my property and I do not consider it to be a detriment significant enough to warrant moving, modifying or destroying the building.

Regards,

James Stokes

12/27/12

Ms. M. Hodge,

City of Sunnyvale, Planning Department

Concerning Planning comment item 4, I have removed the stove, shut off and capped the gas line back in late August. So there is no cooking facility in the structure.

Additionally, I am proposing to remove the wall dividing the structure so as to turn the structure into one big room. Please see attached sketch. With this modification to the structure, the additional covered parking requirement is not applicable.

Sincerely,

Ronald Cheung

Homeowner, 379 Orchard Avenue, Sunnyvale