

**SUNSHINE ORDINANCE TASK FORCE**  
AGENDA PACKET CONTENTS LIST

Sunshine Ordinance Task Force Date: August 2, 2017

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**OTHER**

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Completed by: V. Young Date 07/28/17

\*An asterisked item represents the cover sheet to a document that exceeds 25 pages.  
The complete document is in the file.

**Young, Victor**

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**From:** Google Forms <sfbdsupvrs@gmail.com>  
**Sent:** Monday, June 26, 2017 4:24 PM  
**To:** SOTF, (BOS)  
**Subject:** New Response Complaint Form

Your form has a new entry.

Here are the results.

**Complaint against  
which Department  
or Commission**

Historic Preservation Commission

**Name of  
individual  
contacted at  
Department or  
Commission**

Tim Frye, Christine Silva

**Alleged Violation**

Public Records  
Public Meeting

**Date of public  
meeting (if  
checked)**

June 7, 2017

**Sunshine  
Ordinance  
Section:**

67.16

**Please describe  
alleged violation**

Staff did not respond to my request for a copy of the draft minutes 10 days after meeting of June 7 per 67.16.

**Date** June 26, 2017

**Name** Marvin Lambert

**Address** 2117-B. Bush St.

**City** San Francisco

**Zip** 94115

**Telephone** 415 377-3498 and 415 563-1814

**Email** [Lambertm1@aol.com](mailto:Lambertm1@aol.com)

Download Gmail messages to Google Drive with the [Save Emails](#) add-on.

This email was sent via the [Google Forms Add-on](#).



DENNIS J. HERRERA  
City Attorney

NICHOLAS COLLA  
Deputy City Attorney

Direct Dial: (415) 554-3819  
Email: nicholas.colla@sfgov.org

## MEMORANDUM

TO: Sunshine Ordinance Task Force  
FROM: Nicholas Colla  
Deputy City Attorney  
DATE: July 6, 2017  
RE: Complaint No. 17072 -- Lambert v. Historic Preservation Commission

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### COMPLAINT

Complainant Marvin Lambert ("Complainant") alleges that the San Francisco Historic Preservation Commission ("the Commission") violated provisions of the Sunshine Ordinance by failing to make meeting minutes available for the June 7, 2017 Commission meeting.

### COMPLAINANT FILES THIS COMPLAINT

On June 27, 2017, Complainant filed this complaint with the Task Force alleging that the Commission violated provisions of the Sunshine Ordinance by failing to provide meeting minutes to Complainant upon request.

### JURISDICTION

The San Francisco Historic Preservation Commission is a policy body under the Ordinance. The Task Force therefore generally has jurisdiction to hear a complaint of a violation of the Ordinance against the Commission. The Commission has not contested jurisdiction.

### APPLICABLE STATUTORY SECTION(S)

#### Section 67 of the San Francisco Administrative Code:

- Section 67.16 governs the process for recording meeting minutes and posting minutes for public view.

### APPLICABLE CASE LAW

- none

### BACKGROUND

On June 22, 2017, Complainant sent an email to Tim Frye ("Mr. Frye") of the Planning Department ("Planning"), in which he requested the following:

Please send me a copy of the draft minutes for the June 7 meeting of the Historic Preservation Committee. If you cannot send them, please advise me as to when and where I can review them and when the approved minutes will be posted online.

On the same date, Mr. Frye replied to Complainant's email as follows:

**MEMORANDUM**

TO: Sunshine Ordinance Task Force  
DATE: July 6, 2017  
PAGE: 2  
RE: Complaint No. 17072 – Lambert v. Historic Preservation Commission

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I've included Christine Silva ("Ms. Silva") from the office of Commission Affairs on this email. Once the minutes are ready she can forward you a copy.

On the same date, in response to Mr Frye's email, Complainant sent the following reply to Mr. Frye and Ms. Silva:

I believe what I am requesting is available now. From Section 67.16 Admin Code (aka Sunshine ordinance):  
The draft minutes of each meeting shall be available for inspection and copying upon request no later than ten working days after the meeting.

From the records submitted in this complaint packet, it is unclear if the Commission ever responded to Complainant's final email.

On June 27, 2017, Complainant filed this complaint with the Task Force. To date, the Commission has yet to submit a response to the Task Force.

**QUESTIONS THAT MIGHT ASSIST IN DETERMINING FACTS**

- Did Complainant eventually receive a copy of the meeting minutes at issue?

**LEGAL ISSUES/LEGAL DETERMINATIONS**

- Did the Commission fail to comply with Administrative Code Section 67.16 by failing make meeting minutes available to the public within 10 days of the meeting's adjournment?

**CONCLUSION**

THE TASK FORCE FINDS THE FOLLOWING FACTS TO BE TRUE:

THE TASK FORCE FINDS THE ALLEGED VIOLATIONS TO BE **TRUE OR NOT TRUE.**

\* \* \*

**MEMORANDUM**

TO: Sunshine Ordinance Task Force  
DATE: July 6, 2017  
PAGE: 3  
RE: Complaint No. 17072 – Lambert v. Historic Preservation Commission

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**MEMORANDUM**

TO: Sunshine Ordinance Task Force  
DATE: July 6, 2017  
PAGE: 4  
RE: Complaint No. 17072 – Lambert v. Historic Preservation Commission

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**CHAPTER 67, SAN FRANCISCO ADMINISTRATIVE CODE (SUNSHINE ORDINANCE)****SEC. 67.16. MINUTES.**

The clerk or secretary of each board and commission enumerated in the Charter shall record the minutes for each regular and special meeting of the board or commission. The minutes shall state the time the meeting was called to order, the names of the members attending the meeting, the roll call vote on each matter considered at the meeting, the time the board or commission began and ended any closed session, the names of the members and the names, and titles where applicable, of any other persons attending any closed session, a list of those members of the public who spoke on each matter if the speakers identified themselves, whether such speakers supported or opposed the matter, a brief summary of each person's statement during the public comment period for each agenda item, and the time the meeting was adjourned. Any person speaking during a public comment period may supply a brief written summary of their comments which shall, if no more than 150 words, be included in the minutes.

*The draft minutes of each meeting shall be available for inspection and copying upon request no later than ten working days after the meeting. The officially adopted minutes shall be available for inspection and copying upon request no later than ten working days after the meeting at which the minutes are adopted. Upon request, minutes required to be produced by this Section shall be made available in Braille or increased type size.*

**Sunshine Ordinance Task Force  
Complaint Summary**

File No. 17072

Marvin Lambert V. Historic Preservation Commission

Date filed with SOTF: 6/27/17

Contact information:

Lambertm1@aol.com (Complainant)

Tim Frye, Christine Silva, Jonas Ionin, Planning Department (Respondent)

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File No. 17072: Complaint filed by Marvin Lambert against the Historic Preservation Commission for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.16, by failing to make draft minutes of each meeting available for inspection and copying upon request no later than ten working day after the meeting (June 7, 2017, meeting).

**Administrative Summary if applicable:**

**Complaint Attached.**



**Young, Victor**

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**From:** lambertm1@aol.com  
**Sent:** Monday, July 03, 2017 9:40 AM  
**To:** Young, Victor; SOTF, (BOS)  
**Subject:** Addendum: Documentation for File 17072

Dear Victor,

Please add this addendum to my file:

Applicable Code for Claimed Violations

The withholding of minutes is clearly a violation of section 67.16 of the Sunshine Ordinance. The other claimed violations, while perhaps not specifically anticipated in the words of the legal text, are clearly violations of the intent and purpose ("spirit") of the law as indicated in Section 67.1 of the Sunshine Ordinance and Section 54950 of the Brown Act.

Thank you,  
Marvin

## Young, Victor

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**From:** lambertm1@aol.com  
**Sent:** Sunday, July 02, 2017 10:19 AM  
**To:** Young, Victor; SOTF, (BOS)  
**Subject:** Documentation for File No. 17072, for July 10, 2017 SOTF Hearing  
**Attachments:** Re\_Draft Minutes Request, June 7 HPC Meeting.pdf; 2017-004228COA.pdf; Please Clarify That New COA Application Required for Zen Rock Garden.pdf; ReasonsRejectCOA.doc

Dear Victor,

The following material and attachments represent the documentary evidence I am presenting as complainant to the SOTF for the July 10, 2017 Hearing for File No. 17072 at 4 PM in Rm. 408 of City Hall:

### A. Brief Project Background

The subject matter involves a project proposal by an outside organization to place a Zen rock garden in the mini park contained within the Bush St. - Cottage Row Historic District. The project would require approval by both the Historic Preservation Commission (HPC) and the Park Commission. The HPC is supported by Planning Department Staff. This complaint deals just with the HPC portion of the process.

The issue of requesting minutes for the June 7, 2017 HPC meeting represents just the tip of the iceberg with regard to HPC and Staff actions which have resulted in this process operating under the radar of public view. The starting point was when Staff exceeded their authority and approved an ACOA on May 10 (in contrast to a standard COA which can be approved only by the HPC) by misapplication of HPC Motion 0289. An ACOA does not require public notice whereas a standard COA does and also requires a more extensive application. I only found out about the ACOA by happenstance on May 18 which gave me just a few days to figure out what was going on and submit a timely challenge to it.

### B. Receipt of Improperly Withheld Draft Minutes

I received a copy of the draft minutes (Historic Preservation Commission meeting of June 7, 2017) from Christine Silva on June 27 at 3:57 PM. This was just 16 minutes after she and I received email confirmation that my SOTF complaint had been filed. The first attachment (Re\_Draft Minutes Request) documents my original request for the minutes which I submitted the previous week to her and other staff.

My interest is just with Item 6 of the minutes which is copied below from the draft minutes (containing typos and incorrect project address):

#### 6. 2017-004228COA (T. FRYE: (415) 575-6822)

FRONTAGE OF COTTAGE ROW MINI PARK – facing Sutter and Steiner Streets (between Fillmore and Webster Streets), Assessor's Block 0677 Lot 012. **Request for hearing on AOCA.17.0290** by member of the public per Section 1006.2(b) of the Planning Code. The Administrative Certificate of Appropriateness was issued by Planning Department staff in accordance with HPC Motion No. 0289 on May 10, 2017. Request for hearing was received by the Department on May 29, 2017.

*Action: The HPC may decide to uphold the Department's review and approval of the proposed project pursuant to HPC Motion No. 0289; or the HPC may decide the proposed project shall be noticed and scheduled for future HPC hearing to approve, deny, or modify the proposed project pursuant the Standards of Review under Article 10 of the Planning Code.*

**SPEAKERS:** - Marvin Lambert – Appeal of COA

- Speaker – Lapse of procedure, by passing community process
- Mary King – Inaccuracies, previous uses

**ACTION:** After accepting public comment, scheduled a hearing for July 19, 2017

The above referenced ACOA and my challenge to it are contained in the second attachment. The third attachment expands on the basis for my challenge and requests clarifying information from Staff. I have heard nothing back from Staff.

### **C. Problems with the conduct of the meeting and the Minutes**

The above minutes do not even reflect the correct sequence of events when the item was called. More important, they provide no meaningful description of how the item was disposed during the meeting. I was at the meeting and the following is the sequence of events I observed:

1. The item was called and before the acting Commission chairman could speak, the Commission Secretary turned to him (with back to the audience) and mumbled something to the chairman to the effect that "legal" had determined that there needed to be public notice for the item. The chairman then stated something to the effect that the item would be heard at the July 19 meeting.

2. Two other individuals and I had filled out cards requesting to speak on the item. The chairman seemed somewhat taken aback that we still wanted to speak on the withdrawn item, but we were allowed to speak.

An obvious question is: How was due and open process served by the way this item was handled. Is it allowable in a Commission meeting that an item that is pending a decision can just be swept aside based on a side conversation between the chair and the secretary with no explanation whatsoever as to what happened?

### **D. Other Critical Information Withheld from HPC and Public**

Staff's effort to railroad through the application without HPC review means that critical information was hidden from the public as well as the HPC. The fourth attachment (ReasonsRejectCOA) details this information and provides a basis for rejecting the application outright. This includes the following: 1) Failure to explain how the placement of a Zen rock garden in the Bush St. - Cottage Row Historic District is compatible with the historical character of the district since the district was established on the basis of its Victorian architecture; 2) Multiple errors in the description of the physical setting, selective representation of its cultural history, and lack of project specificity; 3) Failure to explain the rationale for abandoning a lengthy community engagement process with residents of the District in favor of an organization that is not based on local residency; 4) The project is not consistent with the City's objective to promote inclusive project involvement across all genders, races and cultures and include the LGBTQ and disabled communities. By favoring just one group, the project will also have a divisive impact on the District and surrounding neighborhood.

### **E. Aftermath**

If this item was supposedly going to be noticed (20 days) and heard at the July 19 meeting, the park would have had to be posted and those of us living next to it would have received a mailed notice by now. Instead, we have seen nothing as of this date and are left totally in the dark. Our experience suggests that there will be another attempt by Staff to railroad this project through just like they attempted with their May 10 invalid approval of the ACOA.

### **F. Requested Resolution**

All Staff work on this Certificate of Appropriateness or substitute COA should be halted until all appropriate redress is made and this whole project is brought to the light of day. I am also requesting a copy of all correspondence between Park and Planning Depts. staff and the Zen garden project sponsor (JCCCNC, Paul Osaki, et al.) since May 10, 2017.

Sincerely,  
Marvin L. Lambert  
2117-B. Bush St.



**From:** lambertm1 <lambertm1@aol.com>  
**To:** tim.frye <tim.frye@sfgov.org>  
**Cc:** christine.l.silva <christine.l.silva@sfgov.org>; elizabeth.gordon-jonckheer <elizabeth.gordon-jonckheer@sfgov.org>  
**Subject:** Re: Draft Minutes Request, June 7 HPC Meeting  
**Date:** Thu, Jun 22, 2017 2:49 pm

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I believe what I am requesting is available now. From Section 67.16 Admin Code (aka Sunshine ordinance):

The draft minutes of each meeting shall be available for inspection and copying upon request no later than ten working days after the meeting.

—Original Message—

**From:** Frye, Tim (CPC) (CPC) <tim.frye@sfgov.org>  
**To:** Marvin Lambert <lambertm1@aol.com>  
**Cc:** Silva, Christine (CPC) (CPC) <christine.l.silva@sfgov.org>; Gordon-Jonckheer, Elizabeth (CPC) (CPC) <elizabeth.gordon-jonckheer@sfgov.org>  
**Sent:** Thu, Jun 22, 2017 1:21 pm  
**Subject:** RE: Draft Minutes Request, June 7 HPC Meeting

Hi Marvin.

I've included Christine Silva from the office of Commission Affairs on this email. Once the minutes are ready she can forward you a copy.

- Tim

Timothy Frye  
Historic Preservation Officer  
Direct: 415-575-6822 | Fax: 415-558-6409

SF Planning Department

1650 Mission Street, Suite 400  
San Francisco, CA 94103  
Hours of Operation | Property Information Map

—Original Message—

**From:** Marvin Lambert [<mailto:lambertm1@aol.com>]  
**Sent:** Thursday, June 22, 2017 6:48 AM  
**To:** Frye, Tim (CPC)  
**Subject:** Draft Minutes Request, June 7 HPC Meeting

Tim,

Please send me a copy of the draft minutes for the June 7 meeting of the Historic Preservation Committee. If you cannot send them, please advise me as to when and where I can review them and when the approved minutes will be posted online.

Thank you,  
Marvin Lambert

6/30/2017

Re: Draft Minutes Request, June 7 HPC Meeting

Sent from my iPad



# SAN FRANCISCO PLANNING DEPARTMENT

**MEMO**

**DATE:** May 31, 2017  
**TO:** Members, Historic Preservation Commission  
**FROM:** Tim Frye, Historic Preservation Officer 415-575-6822  
**RE:** Administrative Certificate of Appropriateness Request for  
Hearing within Bush Street Cottage Row Landmark District

1650 Mission St.  
Suite 400  
San Francisco,  
CA 94103-2479

Reception:  
**415.558.6378**

Fax:  
**415.558.6409**

Planning  
Information:  
**415.558.6377**

The attached information include written request by member of the public for the Historic Preservation Commission (HPC) to schedule a hearing on the proposed project. Supplemental information attached to this memo includes a copy of the delegation by the HPC to the Planning Department, Motion 0289, a copy of the staff-prepared Administrative Certificate of Appropriateness, 2017-004228COA, dated May 10, 2017, and the Project Sponsor's Administrative Certificate of Appropriateness application.

The HPC may decide to uphold the Department's review and approval of the proposed project pursuant to HPC Motion No. 0289; or the HPC may decide the proposed project shall be noticed and scheduled for future HPC hearing to approve, deny, or modify the proposed project pursuant the Standards of review under Article 10 of the Planning Code.

**Frye, Tim (CPC)**

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**From:** lambertm1@aol.com  
**Sent:** Monday, May 29, 2017 8:55 PM  
**To:** andrew@tefarch.com; Gordon-Jonckheer, Elizabeth (CPC); Frye, Tim (CPC); Tam, Tina (CPC); Secretary, Commissions (CPC); aaron.hyland.hpc@gmail.com  
**Cc:** Maher, Abigail (REC); McCoy, Gary (REC)  
**Subject:** ACOA17.0290 Request for Hearing Application

This material brings together all of the information I am submitting in support of my request for a Hearing with regard to this ACOA.

I would appreciate it if the appropriate person will confirm back to me by the end of day May 30, 2017 that I have fulfilled the requirements for submitting a Request for Hearing with the Historic Preservation Commission.

Thank you,  
Marvin Lambert

Re:

ACOA17.0290  
Case No. 2017-004228COA  
Project Address: Frontage of the Cottage Row Mini Park  
facing Sutter St. between Fillmore and Webster Sts.

Following is a summary of the reasons I believe this ACOA was issued in error and/or there was an abuse of discretion on the part of the Planning Department and is why I am requesting a Hearing with the Historic Preservation Commission:

(The following is keyed to the sections of the COA)

Project Description

My initial concern was that there was just a calculation error with regard to the size of the project and I sent the following in an email to planning staff:

*There is an apparent calculation error reflected in this document on page 2, by the following statement:*

*"The garden will occupy 15 percent or less of the total park space".*

*The SF online property information system indicates the sq. footage of the park to be 4,120. Since the proposed garden is a 750 sq. ft. area (25x30), this means that the garden would actually occupy 18.2% of the total park space.*

*Please advise if this error has any impact on your conclusions and recommendations for this project.*

However, when I took a look at the drawings attached to the COA it became apparent that the documents sent to Planning by Rec and Parks do not accurately describe the project. I confirmed this in a phone conversation with Ben Caldwell who answered the phone at Planning. The drawings



that were input to this process represent an area that is probably less than 100 sq ft when in reality the project will cover 750 sq ft. The proposed garden site representation should have extended 30 ft into the park. This is a gross error and needs to be rectified by redoing the whole COA process.

This project should never have been allowed to fly under the radar by being granted an ACOA. This is certainly not a minor issue to the nearby residents who were entitled to notice. Also, the project is valued at \$56K which does not seem to be a minor amount.

## Item 1 Compliance

### Standard 1

The project will alter the use of the Cottage Row Mini Park as discussed below:

For much of the period from before 1920 thru the 1940's the property which is now the mini park, was owned by Chan & Chan Herbal Medicine Co. which had its offices in the adjacent building at 1942 Sutter St.

All mention of "Japan Street" is based on hearsay which applies to any additional Standards in the COA. This captioning certainly follows from the comments that architectural historian Anne Bloomfield added to the Historic District Nomination Form. There are a couple of unusual things about these comments. They are provided without any reference source and are also not contributive to having historic district status granted. Most important is that the Japan Street reference is tied together with another claim that is patently absurd which is related to whether the residents grew and sold vegetables grown from their rear yards and sold them on Cottage Row. Since there is only about about three foot in the rear of the cottages and their was no area in front, this just wouldn't be possible. In addition, the lower three units faced onto the Chinese herbal property. A brief visit to any of the cottages will confirm that it is just not possible that any sort of commercial vegetable business could have flourished in their rear area.

There may be a more plausible explanation for "Japan Street" and "selling vegetables". During the referenced period, there actually was a Japan Street in San Francisco which was located in the South of Market area. Since it is known that early Japanese immigrants settled in this area and since the climate is more favorable, it is very possible that Japanese lived on this street and were able to grow and sell vegetables.

The project involves much more than just "slightly altering the front landscaping of the park". The actual proposal is for a 750 sq ft area that encroaches 30 ft into the park from the Sutter St. side. The proposal also includes a viewing stump within this area consistent with the way in which the original Zen gardens were experienced. Therefore, the area will no longer be passive, and may be of difficulty to impossible for individuals with disabilities to access as it can only be reached by steps from either the Sutter or Bush Sts. sides.

### Standard 2

Replacing the existing area with elements of a Japanese Zen garden will not be more in character with the history of the District. The fact that the park was owned by a Chinese herbal medicine co. has already been noted.

Bloomfield committed what was probably an unintentional error in the Nomination Form, when she stated that the entire District and not just Cottage Row was exclusively occupied by Japanese. There

are 21 occupied units in the Historic District and it is demonstrably untrue that they were ever all occupied by Japanese. What may be true is that all of the six cottages on Cottage Row were occupied by Japanese in addition to one unit on Bush St. The other 14 were occupied by people of other than Japanese heritage.

What is remarkable about the District and the rest of the block is how diverse it was even before the start of WW II. Data from the 1940 census indicates the following racial distribution of the 220 residents of the block:

Euro American 70%  
African American 15%  
Japanese American 12%  
Other 4%

#### Standard 9

The park and its surrounding neighborhood have an extraordinary rich and diverse cultural history and Japanese Americans are a significant part of the story. However, there are tremendously compelling stories involving African Americans, other Asian Americans, Gay Americans, as well as the founding generation of Euro Americans. They should all be honored! It is not appropriate for the City to make an exclusive dedication of the park to just one group.

#### Item 3 Prop M findings

##### sub-section b

It is not true that the project will strengthen neighborhood character by respecting the character-defining features of the landmark district.

This project as proposed is actually very divisive to the neighborhood because it was developed without any democratic process for neighborhood input with regard to theme and design.



**SAN FRANCISCO  
PLANNING DEPARTMENT**

**Certificate of Appropriateness  
ADMINISTRATIVE  
ACOA17.0290**

1850 Mission St.  
Suite 400  
San Francisco,  
CA 94103-2479

Reception:  
415.558.6378

Fax:  
415.558.6409

Planning  
Information:  
415.558.6377

*Date:* May 10, 2017  
*Case No.* 2017-004228COA  
*Project Address:* Frontage of the Cottage Row Mini Park  
 facing Sutter Street (between Fillmore and Webster Streets)  
*Landmark/District:* Bush Street-Cottage Row Landmark District  
*Zoning:* RM-3 (Residential- Mixed, Medium Density) District  
 40-X Height and Bulk Districts  
*Block/Lot:* Block 0677 and Lot 012  
*Applicant:* Janice Perez, Planner, Capital and Planning Division  
 San Francisco Recreation and Park Department  
 30 Van Ness Avenue, Suite 3000  
 San Francisco, CA 94102  
*Staff Contact:* Elizabeth Gordon Jonckheer - (415) 575-8728  
[elizabeth.gordon-jonckheer@sfgov.org](mailto:elizabeth.gordon-jonckheer@sfgov.org)  
*Reviewed By:* Tim Frye -- (415) 575-6822  
[tim.frye@sfgov.org](mailto:tim.frye@sfgov.org)

This is to notify you that pursuant to the process and procedures adopted by the Historic Preservation Commission ("HPC") in Motion No. 0289 and authorized by Section 1006.2 of the Planning Code, the scope of work identified in this Administrative Certificate of Appropriateness for the Zen Garden at the frontage of the Cottage Row Mini Park facing Sutter Street (between Fillmore and Webster Streets) has been delegated to the Department. The Department grants **APPROVAL** in conformance with the landscape architectural planting plan and specifications dated April 4, 2017, and labeled Exhibit A on file in the docket for Case No. 2017-004228COA.

**ENVIRONMENTAL REVIEW STATUS**

The Planning Department has determined that the proposed project is exempt/excluded from environmental review pursuant to CEQA Guideline Section 15301c (Class 4 - Minor Alterations to Land) because the project is replacing existing conventional landscaping with new landscaping, and meets the Secretary of the Interior's Standards for the Treatment of Historic Properties.

**PROJECT DESCRIPTION**

The San Francisco Recreation and Park Department (SFRPD) owns and operates the Cottage Row Mini Park, located on Sutter Street between Webster and Fillmore Street, and proposes to replace existing plants and bushes on the front south side of the park with rocks, plants, trees that make up the features and landscaping of a Japanese Zen rock garden.

Installation of the proposed garden will also commemorate the 75th anniversary of the signing of the Presidential Executive Order 9066, which sent persons of Japanese ancestry to internment camps.

Passive use of the park will remain the same. As noted above, the Issei garden will be located the edge of the park facing Sutter Street. The garden will occupy 15 percent or less of the total park space. The proposed scope of work includes:

- Replacement of existing plants and bushes with rocks, plants and trees appropriate to convey the elements of a Japanese Zen garden, including:
  - Mondo grass
  - Japanese Pine trees (Matsu)
  - Japanese Cherry Blossom trees (Sakura)
  - Fern
  - Star Jasmine
  - Star Juniper
  - Dwarf Nandina bush
  - Manzanita or decomposed granite ground cover
  - Wood stumps (viewing stumps)
- Addition of rock garden and dry waterfall at the far left portion of the Zen garden.
- Improvement of two existing retaining walls (one wood and one loose stone) along Sutter Street with integrated stone walls. The stone wall closest to Sutter Street will present the Issei (first generation of Japanese Americans) and the second wall represent the Nisei (second generation of Japanese Americans).
- No change to structure or grade of the planted area, pathways or any other usable or accessible park space.

#### ARTICLE 10 – Appendix K – Bush Street Cottage Row Landmark District

In reviewing this application for a Certificate of Appropriateness, the Historic Preservation Commission through its delegation to Planning Department Preservation staff must consider whether the proposed work would be compatible with the character of the Cottage Row Mini Park as described in Sections 5 and 7 of Appendix K of Article 10 of the Planning Code and the character-defining features specifically outlined in the designating ordinance.

The proposed work conforms to the scopes of work delegated to Department Staff for Administrative Certificate of Appropriateness review in HPC Motion No. 0289. The proposed modifications to existing landscape features will not impact the character-defining features of the district and are consistent with the intent of Scope No. 13, *Construction and/or modification of landscape features outside of the C-3 zoning district*. All of the planting, groundcover and retaining wall modifications described above are consistent with the architectural character of the district and the *Secretary Standards*.

#### FINDINGS

This work complies with the following requirements:

1. **Compliance with the Secretary of the Interior's Standards for Rehabilitation and consistent with the architectural character of the Bush Street-Cottage Row Landmark District as set forth in Article 10 of the Planning Code, Appendix K:**

Standard 1: A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.

*The Project would not alter the use of the Cottage Row Mini Park or the Bush Street-Cottage Row Landmark District. The project would slightly alter the front landscaping of the park, but would not change or intensify the use. The project would retain the property's character as a passive park, and retain the pathway referred to as "Japan Street" in the 1930s. Additionally, the Sutter Street corridor would be enhanced by the themed landscaping work along this portion of the street.*

Standard 2: The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.

*The historic character of the Bush Street-Cottage Row Landmark District would be retained and preserved. No distinctive materials, architectural elements, or spaces that characterize District resources would be removed. The project will replace non-historic existing plants and bushes with rocks, plants and trees appropriate to convey the elements of a Japanese Zen garden that are more in character with history of the District.*

Standard 5: Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.

*The proposal will not damage any distinctive features of the landmark district or the cultural landscape. No distinctive materials, features, finishes, construction techniques or examples of craftsmanship would be affected by the proposed landscaping design revisions. Alterations to landscaping and retaining walls would not harm the integrity of the property or the district.*

Standard 9: New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work will be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.

*The Project would maintain the overall plan of the Cottage Row Mini Park and "Japan Street". The proposed Zen garden will remodel the existing landscaping and enhance the significance of the park by highlighting Japanese Americans' contributions to the district. As discussed above, no historic features would be destroyed by the work.*

Standard 10: New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

*The essential form and integrity of the landmark district would be unimpaired if the proposed work was removed at a future date.*

2. **General Plan Compliance.** The proposed Administrative Certificate of Appropriateness, on balance, is consistent with the following Objectives and Policies of the General Plan:

I. URBAN DESIGN ELEMENT

THE URBAN DESIGN ELEMENT CONCERNS THE PHYSICAL CHARACTER AND ORDER OF THE CITY, AND THE RELATIONSHIP BETWEEN PEOPLE AND THEIR ENVIRONMENT.

GOALS

*The Urban Design Element is concerned both with development and with preservation. It is a concerted effort to recognize the positive attributes of the city, to enhance and conserve those attributes, and to improve the living environment where it is less than satisfactory. The Plan is a definition of quality, a definition based upon human needs.*

OBJECTIVE 1

EMPHASIS OF THE CHARACTERISTIC PATTERN WHICH GIVES TO THE CITY AND ITS NEIGHBORHOODS AN IMAGE, A SENSE OF PURPOSE, AND A MEANS OF ORIENTATION.

POLICY 1.3

*Recognize that buildings, when seen together, produce a total effect that characterizes the city and its districts.*

OBJECTIVE 2

CONSERVATION OF RESOURCES WHICH PROVIDE A SENSE OF NATURE, CONTINUITY WITH THE PAST, AND FREEDOM FROM OVERCROWDING.

POLICY 2.4

*Preserve notable landmarks and areas of historic, architectural or aesthetic value, and promote the preservation of other buildings and features that provide continuity with past development.*

POLICY 2.5

*Use care in remodeling of older buildings, in order to enhance rather than weaken the original character of such buildings.*

POLICY 2.7

*Recognize and protect outstanding and unique areas that contribute in an extraordinary degree to San Francisco's visual form and character.*

The goal of a Certificate of Appropriateness is to provide additional oversight for buildings and districts that are architecturally or culturally significant to the City in order to protect the qualities that are associated with that significance.

The proposed project qualifies for an Administrative Certificate of Appropriateness and therefore furthers these policies and objectives by maintaining and preserving the character-defining features of the surrounding historic district for the future enjoyment and education of San Francisco residents and visitors.

3. **Prop M Findings.** The proposed project is generally consistent with the eight General Plan priority policies set forth in Section 101.1 in that:

- a. The existing neighborhood-serving retail uses will be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses will be enhanced:

*The proposed project does not affect neighborhood-serving retail uses.*

- b. The existing housing and neighborhood character will be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods:

*The proposed project will strengthen neighborhood character by respecting the character-defining features of the landmark district in conformance with the requirements set forth in HPC Motion No. 0289 and the Secretary of the Interior's Standards.*

- c. The City's supply of affordable housing will be preserved and enhanced:

*The proposed project will have no effect on the City's supply of affordable housing.*

- d. The commuter traffic will not impede MUNI transit service or overburden our streets or neighborhood parking:

*The proposed project will not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.*

- e. A diverse economic base will be maintained by protecting our industrial and service sectors from displacement due to commercial office development. And future opportunities for resident employment and ownership in these sectors will be enhanced:

*The proposed project will not affect the City's diverse economic base and will not displace any business sectors due to commercial office development.*

- f. The City will achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.

*Preparedness against injury and loss of life in an earthquake is unaffected by the proposed alterations. Any construction or alteration would be executed in compliance with all applicable construction and safety measures.*

- g. That landmark and historic buildings will be preserved.

*The proposed project respects the character-defining features of the subject building and the surrounding historic district, and is in conformance with the requirements set forth in HPC Motion No. 0289 and the Secretary of the Interior's Standards.*

- h. Parks and open space and their access to sunlight and vistas will be protected from development:

*The proposed Administrative Certificate of Appropriateness will not impact the City's parks and open space.*

For these reasons, the above-cited work is consistent with the intent and requirements outlined in HPC Motion No. 0289 and will not be detrimental to the subject building and/or the historic district.

**Duration of this Administrative Certificate of Appropriateness:** This Administrative Certificate of Appropriateness is issued pursuant to Article 10 of the Planning Code and is valid for a period of three (3) years from the effective date of approval by the Planning Department, as delegated by the Historic Preservation Commission. The authorization and right vested by virtue of this action shall be deemed void and canceled if, within 3 years of the date of this Motion, a site permit or building permit for the Project has not been secured by Project Sponsor.

**REQUEST FOR HEARING:** If you have substantial reason to believe that there was an error in the issuance of this Administrative Certificate of Appropriateness, or abuse of discretion on the part of the Planning Department, you may file for a Request for Hearing with the Historic Preservation Commission within 20 days of the date of this letter. Should you have any questions about the contents of this letter, please contact the Planning Department at 1650 Mission Street, 4<sup>th</sup> Floor or call 415-575-9121.

cc: Historic Preservation Commission, 1650 Mission Street, San Francisco, CA 94103  
San Francisco Architectural Heritage, 2007 Franklin Street, San Francisco, CA 94109  
Nancy Shanahan, Planning & Zoning Committee, Telegraph Hill Dwellers, 224 Filbert Street, San Francisco, CA 94133  
Finance Division, Planning Department, 1650 Mission Street, San Francisco, CA 94103



# Aerial Photo



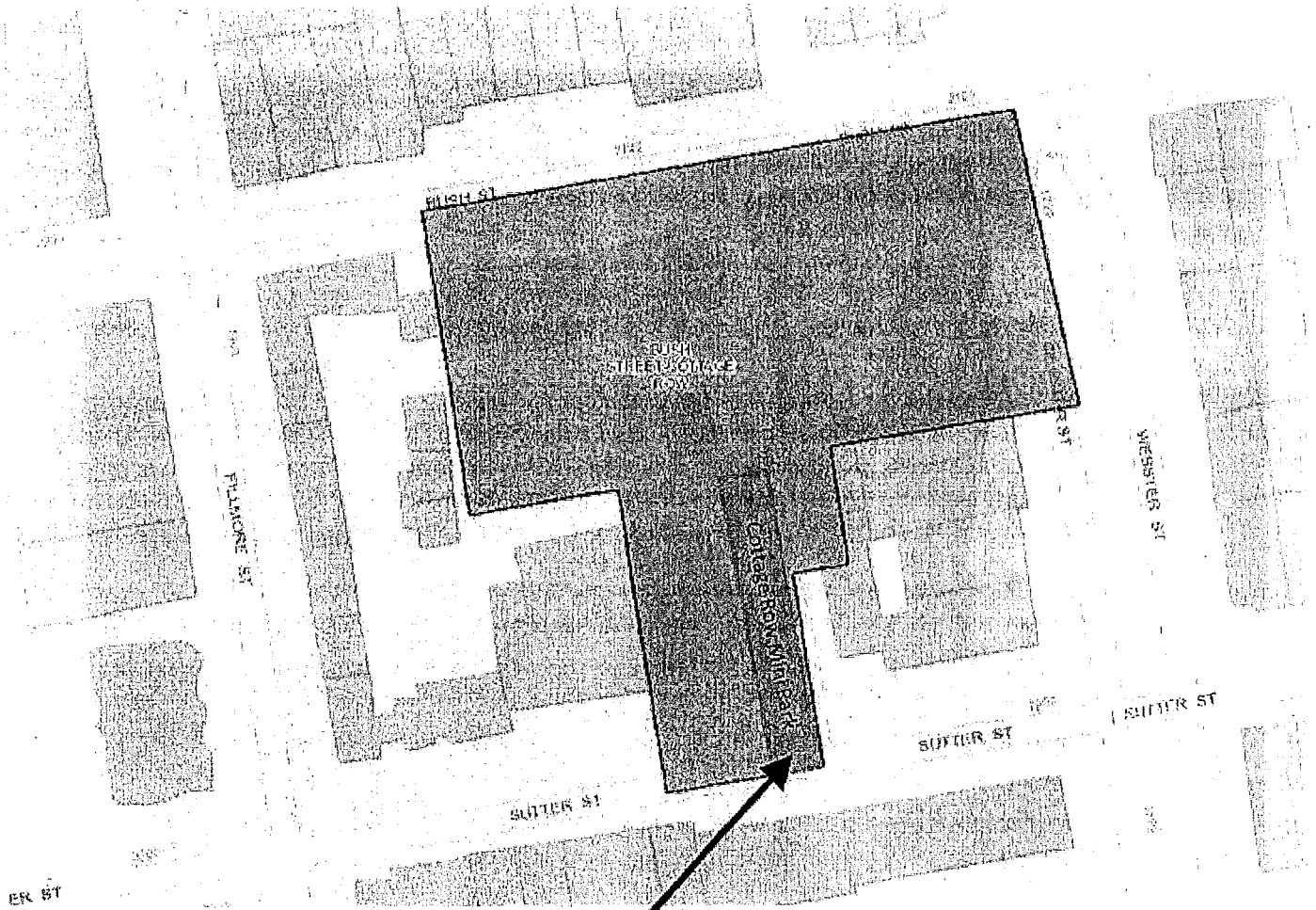
**SUBJECT PROPERTY**

SAN FRANCISCO  
PLANNING DEPARTMENT



Certificate of Appropriateness  
May 10, 2017  
Case Number 2017-004228COA  
Issei Garden / Cottage Row Mini Park  
Block 0677 Lot 012

# Landmark District Map



**SUBJECT PROPERTY**



**SAN FRANCISCO  
PLANNING DEPARTMENT**

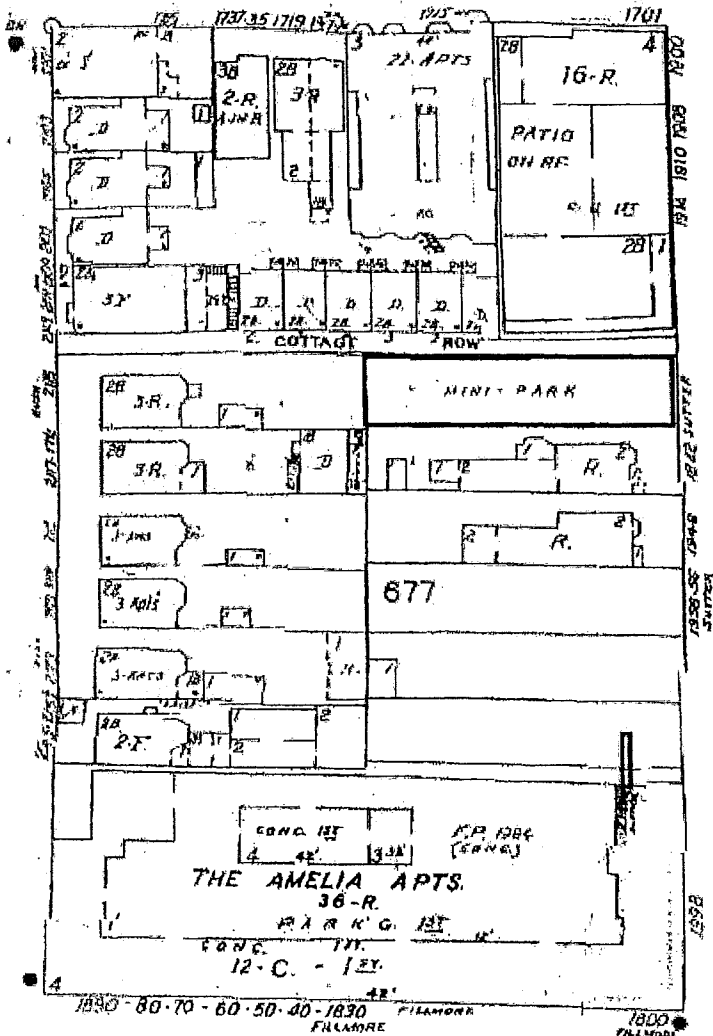
Certificate of Appropriateness  
May 10, 2017  
Case Number 2017-004228COA  
Issei Garden / Cottage Row Mini Park  
Block 0677 Lot 012

THESE SANBORN MAPS ARE DATED TO THE MID 1930'S  
FOR USE BY THE ARCHIVAL CONTEXT

265

253

WEBSTER



68' wide




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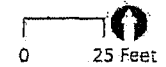
21

Issei Commemorative Garden at Cottage Row Mini Park

Attachment A: Project Location



-  Cottage Row Mini Park
-  Project Location
-  Article 10 District Boundary





# SAN FRANCISCO PLANNING DEPARTMENT

## Historic Preservation Commission Motion No. 0289

HEARING DATE: OCTOBER 5, 2016

1650 Mission St.  
Suite 400  
San Francisco,  
CA 94103-2479

Reception:  
415.558.6378

Fax:  
415.558.6409

Planning  
Information:  
415.558.6377

IDENTIFICATION AND DELEGATION OF SCOPES OF WORK DETERMINED TO BE MINOR BY THE HISTORIC PRESERVATION COMMISSION PURSUANT TO SECTIONS 1006.2 AND 1111.1 OF THE PLANNING CODE FOR APPROVAL, MODIFICATION, OR DISAPPROVAL TO THE PLANNING DEPARTMENT.

WHEREAS, Planning Code Section 1006.2(a) provides that the Historic Preservation Commission ("HPC") may, for properties designation individually or within a landmark district under Article 10 of the Planning Code, (1) define certain categories of work as minor alteration; and (2) delegate the review and approval of such work to the Planning Department ("Department") (hereinafter "Administrative Certificate of Appropriateness"), whose decision is appealable to the HPC pursuant to Section 1006.2(b); and

WHEREAS, Planning Code Section 1111.1(a) gives the HPC the authority to (1) determine if a proposed alteration ("Permit to Alter") should be considered a Major or a Minor Alteration; (2) approve, modify, or disapprove applications for permits to alter or demolish Significant or Contributory buildings or any building within a Conservation District; and, (3) delegate this function to the Planning Department ("Department") for work determined to be Minor (hereinafter "Minor Permit to Alter"), whose decision is appealable to the HPC pursuant to Section 1111.1(b); and

WHEREAS, Sections 1005 and 1110 of the Planning Code specify that a Certificate of Appropriateness or Permit to Alter is not required when the application is for a permit to do ordinary maintenance and repairs only, meaning any work for the sole purpose and effect to correct deterioration, decay or damage of existing materials.

WHEREAS, the HPC, at its regular hearing of October 5, 2016, reviewed the Planning Department's processes and applications under the authority previously granted to it by the HPC under Motions Nos. 0181, 0212 and 0241; and

WHEREAS, in appraising a proposal for an Administrative Certificate of Appropriateness or a Minor Permit to Alter, the Department, on behalf of the HPC, shall determine that all proposed alterations to character-defining features on properties subject to Articles 10 and/or 11 of the Planning Code shall be consistent with the character of the property and/or district, the *Secretary of the Interior's Standards for the Treatment of Historic Properties*, as well as any guidelines, local interpretations, bulletins, or other policies, where applicable.

SO MOVED, that the Commission hereby delegates to the Department for approval, modification, or disapproval for two years, which may be revoked at any time at the Commission's discretion, from the date of this Motion and ADOPTS the following list of scopes of work determined to be Minor and the procedures outlined in Exhibit A of this Motion:

1. **Exploratory and investigative work:** To assess for underlying historic materials: The removal of a limited amount of non- historic material to conduct investigation to determine the existence of underlying historic material. This work shall be limited to no more than 5% of the total surface area on a façade and the area must be stabilized and protected after the investigation is complete. Adjacent historic surfaces must be protected during exploratory and investigative work. To assess the structure where historic fabric is extant: The removal of a limited amount of historic fabric to conduct investigation to determine the existing conditions of the building including ascertaining the location and condition of structural elements. This scope of work qualifies for staff level approval provided that:
  - a. It is demonstrated that a non-destructive evaluation (NDE) approach has been determined insufficient, exploratory demolition is required, and that there is no alternative location where such investigation can be undertaken.
  - b. Provision of an investigation plan that includes the reason for the investigative work, what NDE techniques have been considered, and why its use is not appropriate.
  - c. Provision of scaled drawings showing the area to be removed including plans, elevations, and details including the wall assembly where the exploratory work will be undertaken.
  - d. Provision that any removal will be in whole rather than in partial to prevent damage to historic fabric.
  - e. For example, for a brick wall removal should follow the mortar joints around brick units instead of saw-cutting brick units in half.
  - f. Provision of a protection plan for surrounding historic fabric during exploratory and investigative work including protection and stabilization assemblies with materials called out clearly.
  - g. Provision of an appropriate salvage and storage plan for any historic fabric or material proposed to be removed during exploratory and investigative work.
  - h. Provision of a post-investigation treatment plan including patching, repairing, finishing historic fabric and materials to match existing where exploratory and investigative work has been conducted.
2. **Window replacement:** The replacement of windows in existing openings. This does not apply to the replacement of stained, leaded, curved glass, or art glass windows, or the replacement of glass curtain wall systems.
  - a. *Window replacement on primary and visible secondary facades:* Window replacement on primary elevations that closely match the historic (extant or not) windows in terms of configuration, material, and all exterior profiles and dimensions. Planning Department Preservation staff may require a site visit and review a mock-up of

proposals for large-scale window replacement. This scope of work qualifies for staff level approval provided that:

- i. Where historic windows are proposed to be replaced, provision of a Window Condition Assessment report that documents the deteriorated beyond repair condition of windows. This report shall be prepared by a qualified consultant.
  - ii. Where historic wood windows with true divided-lite muntins are demonstrated to be deteriorated beyond repair, replacement shall be with new wood windows of the same type and operation with true divided-lite muntins that closely match the historic in all exterior profiles and dimensions. Detailed and dimensioned architectural plans will be provided to document existing and proposed window sash.
  - iii. Replacing non-historic windows with new windows based on documentation that illustrates the new windows closely match the configuration, material, and all exterior profiles and dimensions of the windows historically present.
- b. *Window replacement on non-visible secondary façades:* Window replacement is limited to the size of the existing openings. Installation of louvers for mechanical vents may also be undertaken. A modest change in window area of up to 100 square feet may be approved administratively for any building except for individually designated Article 10 Landmarks. For example, this scope of work qualifies for staff level approval by:
- i. Replacing a non-visible historic or contemporary window with a new window of any configuration, material, or profile within the existing opening. While the scope of work qualifies for staff level approval, the applicant may be required to demonstrate compatibility with the unique features of the landmark building.
  - ii. Adding, expanding, or removing a modest amount of window area in these discrete locations, provided the subject building is not an individual Article 10 Landmark. The applicant would be required to demonstrate compatibility with the unique features and composition of the building.
  - iii. Louvers for mechanical venting that do not change the existing opening and is finished with the same finish as the surrounding window frame.
3. **Front stairways and railings:** The replacement of stairs and railings with new stairways and/or railings beyond repair and based on physical or documented evidence and determined to be compatible in terms of location, configuration, materials, and details with the character-defining features of the property and/or district. All historic features, such as newel posts and railings, shall be retained where extant. New railings, if needed, shall match the historic rail system in design. This does not apply to the replacement of porticos, porches, or other

architectural components of the entry. For example, this scope of work qualifies for staff level approval by:

- a. Replacement of a historic wood straight run stair with closed riser and a bullnose tread with a new wood straight run stair with a closed riser and a bullnose tread. The new stair is in the same location as the historic stair and the historic railing was retained, reused, and adapted to meet current safety code requirements.
  - b. Replacement of a non-historic stair and railing with a new stair and railing based on physical and documented evidence, including other similar historic properties within the landmark district that retain historic stair and railings.
4. **Rooftop equipment, elevator overrides and stair penthouses:** The installation or replacement of stair penthouses, elevator overrides, and rooftop equipment, such as mechanical systems or wireless telecommunications equipment, provided that:
- a. The stair penthouse or elevator override is determined to be not visible from the surrounding public-rights-of-way and is no more than the minimum dimensions necessary as permitted by the Building Code.
  - b. The cumulative coverage of all existing and proposed rooftop equipment does not cover more than 75% of the total roof area; is setback from the exterior walls; and, is not visible or is minimally visible from the surrounding public rights-of-way;
  - c. Rooftop equipment that can be easily removed in the future without disturbing historic fabric and is installed in a manner that avoids harming any historic fabric of the building; and,
  - d. All proposed ducts, pipes, and cables are located within the building and are not installed or anchored to an exterior elevation visible from a public right-of-way.
  - e. Wireless equipment that is not visible or is minimally visible from the surrounding public rights-of-way and that does not attach directly to any historic material.
5. **Rooftop equipment outside of the C-3 zoning districts:** The installation or replacement of rooftop equipment that is not visible from the adjacent public right-of-way; that does not result in additional height of 8-feet; that does not cover more than 20% of the total roof area; that is setback from the exterior walls of the building; that can be easily removed in the future without disturbing historic fabric; that is of a color compatible with the roof and other equipment on the roof, and is installed in a manner that avoids harming any historic fabric of the building. For example, this scope of work qualifies for staff level approval by:
- a. The installation of rooftop HVAC equipment on a flat roof that meets the above requirements and is obscured by the existing historic parapet.



6. **Construction of a non-visible roof deck on a flat roof:** The construction of pergolas or other structures, such as a stair or elevator penthouse for roof access, does not qualify under this scope of work. The construction of roof decks, including associated railings, windscreens, and planters, provided that:
  - a. The deck and associated features cannot be viewed over street-facing elevations;
  - b. Existing access to the roof in compliance with the Building Code must be demonstrated.
  
7. **Signs and awnings:** New tenant signs and awnings or a change of copy on existing signs and awnings that meet the Department's Design Standards for Storefronts in Article 11 Conservation Districts, any applicable Special Sign Districts identified within the Planning Code, and/or is found compatible with the character-defining features as outlined in the Article 10 designating Ordinance in terms of material, location, number, size, method of attachment, and method of illumination with the property and/or district, provided that:
  - a. Applications for new signs and awning shall include the removal of any abandoned conduit, outlets, attachment structures, and associated equipment;
  - b. Signs and awnings shall not obscure or spread out over adjacent wall surfaces; and shall not include new attachments to terra cotta, cast iron, or other fragile historic architectural elements and is installed in a location that avoids damaging or obscuring character-defining features.
  - c. Awnings and canopies shall use traditional shapes, forms, and materials, be no wider than the width of the window openings, and will have open sides and a free-hanging valance.
  - d. The awning or canopy structure is covered with canvas (Sunbrella or equivalent).
  - e. Signs or lettering shall be kept to a minimum size.
  - f. The installation of new signage that relates to the pedestrian scale of the street; is constructed of high-quality materials; is installed in a location that avoids damaging or obscuring character-defining details; is positioned to relate to the width of the ground-floor bays; and is illuminated through indirect means of illumination, such as reverse halo-lit.
  
8. **Replacement and/or modification of non-historic storefronts:** The replacement and/or modification of non-historic (or that have not gained significance in their own right) storefront materials, including framing, glazing, doors, bulkheads, cladding, entryways, and ornament. Work shall be confined within the piers and lintels of the ground floor of the property and determined to meet the Department's Design Standards for Storefronts for Article 11 Conservation Districts and/or is found compatible with the character-defining features as outlined in the Article 10 designating Ordinance in terms of proportion, scale, configuration,

materials, and details with the character-defining features of the property and/or district. This scope of work qualifies for staff level approval provided that:

- a. The design of the new storefront system is based on physical or documented evidence of the property and matches the historic proportion, scale, profile, and finish of a storefront system from the period of significance of the property.
  - b. Contemporary cladding materials that obscure the ground floor piers, lintel, and transom area of the building will be removed. All underlying historic material will be cleaned, repaired, and left exposed. The transom area will be re-glazed and integrated into the storefront system with a design based on the historic proportion, scale, configuration, materials, and details of the property.
  - c. ADA-compliant entry systems meeting all Building Code requirements will be integrated into the storefront system and will be compatible in terms of proportion, scale, configuration, materials, and details with the character-defining features of the property and/or district.
9. **Solar panels:** The installation of structures that support solar panels, regardless of visibility, provided that the installation would not require alterations to the building greater than normally required to install a solar energy system, such as an installation with minimum spacing from the roof surface and mounted parallel with the slope of the roof (if roof is slope greater than 1/12), not visible from adjacent street sightlines if on a flat roof; set in from the perimeter walls of the building, including the building's primary façade. Support structures should have a powder-coated or painted finish that matches the color of the roof material. For example, this scope of work qualifies for staff level approval by:
- a. The installation of a solar panel system on a gable roof that is set in from the street-facing facades and is mounted flush to the slope of the roof.
  - b. The installation of a solar panel system on a flat roof that is set in from the street-facing facades and is mounted on an angled structure that is within the height limit and is not visible from adjacent streets as it's appropriately setback and/or obscured by an existing historic parapet.
10. **Skylights:** The installation or replacement of skylights that are deteriorated beyond repair so long as new skylights are minimized from view. New skylights must be limited in number and size; mounted low to the roof with a curb as low as possible; and have a frame with a powder-coated or painted finish that matches the color of the roof material.
11. **Rear yard decks and stairways outside of the C-3 zoning districts:** The repair or replacement of decks and stairways and associated structural elements that are located in the rear yard; are not visible from the public right-of-way; do not require the construction of a firewall; and are determined to be compatible in terms of location, configuration, materials, and details with the character-defining features of the property and/or district. All historic features, such as newel posts and railings, must be retained where extant. New railings, if needed, shall match the

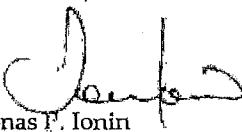
historic rail system in design. This does not apply to the replacement of porticos, porches, or other architectural components at the rear of the property. For example, this scope of work qualifies for staff level approval by:

- a. The replacement or construction of a contemporary rear deck or stair on a building located mid-block where the rear of the property is not visible from the public right-of-way and the deck and/or stair is set in from the side property lines so as not to require the construction of a firewall.
  - b. The replacement of railings and decking on a historic verandah that is beyond repair and is not visible from the public right-of-way. The replacement decking and railings are based on physical or documented evidence and are replaced in-kind with like materials and match the historic in all profiles and dimensions. All other historic veranda elements are retained, stabilized, supported, and protected during construction.
12. **Selective in-kind replacement of cladding outside of the C-3 zoning districts:** The selective replacement of cladding materials at any façade may be approved administratively for any building, when it has been demonstrated that the existing cladding is damaged beyond repair and when the new cladding will match the historic cladding (extant or not) in terms of material, composition, dimensions, profile, details, texture, and finish. Planning Department Preservation staff may require a site visit to review a mock-up of the proposed work. For example, this scope of work qualifies for staff level approval by:
- a. The selective replacement of historic clapboard siding where it has been demonstrated that the specific area to be replaced is beyond repair and the new clapboard siding matches the historic in material, profile, and finish.
  - b. The selective patch of historic stucco where it has been demonstrated that the specific area to be replaced is beyond repair and the new stucco patch matches the historic in material, composition, texture, and finish.
13. **Construction and/or modification of landscape features outside of the C-3 zoning districts:** The construction of new landscape features or modification of existing landscape features associated with residential properties when the work will not impact character-defining features of the property as listed in the designating ordinance or identified by Planning Department preservation staff. For example, this scope of work qualifies for staff level approval by:
- a. The removal and replacement of a non-character-defining walkway and retaining wall within the side yard of a property where it has been demonstrated that the replacement materials are compatible with the property in terms of location, size, scale, materials, composition, and texture.
14. **Removal of non-historic features:** The removal of any features that are not historic features of the building and that have not gained significance in their own right for the purpose of returning the property closer to its historic appearance examples include but are not limited to

fire escapes or signage and associated conduit. The replacement of such features does not qualify under this scope of work. This scope of work qualifies for staff level approval provided that:

- a. All anchor points and penetrations where non-historic features are removed will be patched and repaired based on the Secretary of the Interior's Standards.
15. **Security Measures:** Installation or replacement of metal security doors, window grilles, security gates, exterior lighting, or security cameras provided that the installation of these measures meet all other requirements of the Planning Code and are compatible in terms of proportion, scale, configuration, materials, details, and finish with the character-defining features of the property and/or district; and are installed in a reversible manner that avoids obscuring or damaging exterior character-defining features of the building. Planning Department Preservation staff may require a site visit to review a mock-up of the proposed work. This scope of work qualifies for staff level approval provided that:
- a. Retractable security gates or grilles and related housing shall be installed in a location obscured from the public right-of-way when in the open position.
  - b. Security measures are located in a discreet location so to minimize visibility during daylight and/or business operating hours.
16. **Work described in an approved Mills Act maintenance plan.** Any work described in an approved Mills Act Rehabilitation/Restoration/Maintenance Plan that has been reviewed and endorsed by the Historic Preservation Commission, approved by the Board of Supervisors, and determined to meet the Secretary of the Interior's Standards.

I hereby certify that the foregoing Motion was adopted by the Commission at its meeting on October 5, 2016.

  
Jonas P. Ionin  
Commission Secretary

AYES: Hyland, Hasz, Johnck, Johns, Matsuda, Pearlman, Wolfram

NAYS: None

ABSENT: None

ADOPTED: October 5, 2016



Edwin M. Lee, Mayor  
Philip A. Ginsburg, General Manager

**From:** Janice Lau Perez, Planner  
**To:** Tim Frye  
San Francisco Planning Department  
1650 Mission Street, Suite 400  
San Francisco, CA 94103  
**Re:** Administrative Certificate of Appropriateness Submittal for Japanese Garden at  
Cottage Row Mini Park  
**Date:** April 4, 2017

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Dear San Francisco Planning Department:

The Japanese Cultural and Community Center of Northern California (JCCCNC), in partnership with San Francisco Recreation and Park Department (SF RPD), requests review of the proposed update of the Cottage Row Mini Park. The purpose of this memo is to provide Historic Preservation with an overview of the proposed Project.

### **Background**

The SF RPD owns and operates the Cottage Row Mini Park, located on Sutter Street between Webster and Fillmore Street. The Bush Street-Cottage Row Historic District, which includes the mini-park, became part of the National Register of Historic Places in 1982. The park runs adjacent to a line of Victorian houses that have stood since the 1800s, many of which were built by William Hollis during the late 1860s and 1870s. The park is primarily a brick walkway with 2 small green areas for recreation. A few scattered benches and some pleasant landscaping fill out the park. The pathway along the back of the cottages was commonly referred to as "Japan Street" in the 1930s, in reflection of the Japanese-Americans who resided in the neighborhood before they were displaced to internment camps in World War II.

In 2014, after a lengthy community engagement process, SF RPD staff removed failing trees at the proposed project location and planted temporary landscaping to beautify the space until a more thoughtful design was proposed.

### **Project Description**

In partnership with SF RPD, Japanese Cultural and Community Center of Northern California (JCCCNC) is celebrating the 110<sup>th</sup> anniversary of Japantown by proposing to update the existing Cottage Row Mini Park frontage with a Japanese Zen rock garden to commemorate the Issei, the first generation of Japanese in America. The proposed garden will also commemorate the 75<sup>th</sup> anniversary of the signing of the Presidential Executive Order 9066, which sent 120,000 persons of Japanese ancestry to America's internment camps. 5,000 Japanese American man, women and children in San Francisco's Japantown were forcibly removed and incarcerated.

The proposed Issei garden will be located at the edge of the park facing Sutter Street (approximately 30' x 25'), occupying less than 15 percent of the total park space. The proposed project will replace existing plants and bushes on the front south side of the park with rocks, plants, and trees that make up the elements and landscaping of a Japanese Zen rock garden. A dry waterfall is proposed on the far left of the garden. The two retaining walls along Sutter St will be improved with stone; the closest to Sutter St will represent Issei, or first generation of Japanese Americans, and the second to represent Nisei, or second generation of Japanese Americans. The plan will not change the structure or grade of the planted area, nor will it change any pathways or encroach upon the lawn area or any other usable or accessible space in the park. The passive use of the park will remain the same.

Since no new structures are being proposed, no building permit will be required for the proposed project.

### **Project Outreach**

A total of five community meetings have been held to receive community input on the project design and implementation. These meetings were held in 2016 on July 7, August 11, September 13, October 3, and October 18. A total of 27 supporters spoke in favor of the project at the community meetings. JCCNC has reached out directly to the adjacent landowners on Cottage Row. They have received 7 letters of support from the residents on Cottage Row. The Project Sponsor has also received 101 letters of support from neighborhood residents within 300ft to 3 blocks of the park, and 17 letters of support from community organizations. A petition supporting the project has received 447 signatures.

### **Secretary of the Interior's Standards for the Treatment of Historic Properties**

The proposed project meets the Secretary of the Interior's *Standards for the Treatment of Historic Properties* because it will retain the existing property's character-defining feature as a passive park for a quiet, urban retreat surrounded by natural landscaping. As noted in Article 10 Appendix K in the Bush Street – Cottage Row Historic District's Statement of Significance, the walkway of the mini park was popularly called "Japan Street" in the 1930s because the entire district was inhabited by Japanese-Americans until their internment during World War II. Japanese-Americans grew vegetables in their rear yards and offered them for public sale at an informal weekly open market held every Saturday along the Cottage Row. The proposed Japanese garden project will beautify the existing landscaping and enhance the historic significance of the mini park by highlighting Japanese Americans' contributions to the district.

### **CEQA Determination**

RPD anticipates that the proposed garden would be categorically exempt under 15304c—Class 4: Minor Alterations to Land. The proposed garden is replacing existing conventional landscape with new landscaping. Excavation for the proposed project will not exceed 4 to 5 feet in depth.

Enclosed:

- **Attachment A:** Project Location Maps
- **Attachment B:** Project Plan
- **Attachment C:** Existing Photos and Proposed Drawings
- **Attachment D:** Plant Palette
- **Attachment E:** Historical Aerial Imagery

<b>Administrative Certificate of Appropriateness</b>	
<b>CASE NUMBER:</b>	
<i>For Staff Use Only</i>	

## Administrative Certificate of Appropriateness Application Submittal Checklist

The intent of this application is to provide the Historic Preservation Commission and Preservation Staff with sufficient information to understand and review the proposal. Receipt of the application and the accompanying materials by the Planning Department shall only serve the purpose of establishing a Planning Department file for the proposed project. After the file is established, Preservation Staff will review the application to determine whether the application is complete or whether additional information is required. Applications listed below submitted to the Planning Department must be accompanied by this checklist and all required materials. The checklist is to be completed and signed by the applicant or authorized agent.

REQUIRED MATERIALS (please check correct column)	ADMINISTRATIVE CERTIFICATE OF APPROPRIATENESS
Administrative Certificate of Appropriateness Application, with all blanks completed	<input checked="" type="checkbox"/>
Building Permit Application and related plans <b>n/a</b>	<input type="checkbox"/>
Historic photographs (if possible), and current photographs	<input checked="" type="checkbox"/>
Letter of authorization for agent	<input checked="" type="checkbox"/>
Other: Section Plan, Detail drawings (i.e. windows, door entries, trim), Specifications (for cleaning, repair, etc.) and/or Product cut sheets for new elements (i.e. windows, doors) <b>Plans/plant palette</b>	<input checked="" type="checkbox"/>

**NOTES:**

- Required Material. Write "N/A" if you believe the item is not applicable, (e.g. letter of authorization is not required if application is signed by property owner).
- Not applicable for all projects. Department staff may require additional materials.

*For Department Use Only*

Application received by Planning Department:

By: \_\_\_\_\_

Date: \_\_\_\_\_



**FOR MORE INFORMATION:**  
Call or visit the San Francisco Planning Department

**Central Reception**  
1650 Mission Street, Suite 400  
San Francisco CA 94103-2479

TEL: **415.558.6378**  
FAX: **415.558-6409**  
WEB: <http://www.sfplanning.org>

**Planning Information Center (PIC)**  
1660 Mission Street, First Floor  
San Francisco CA 94103-2479

TEL: **415.558.8377**  
*Planning staff are available by phone and at the PIC counter.  
No appointment is necessary.*

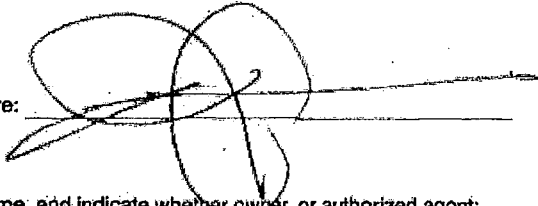
## Estimated Construction Costs

TYPE OF APPLICATION:	
OCCURANCY CLASSIFICATION:	
BUILDING TYPE: n/a	
TOTAL GROSS SQUARE FEET OF CONSTRUCTION:	BY PROPOSED USES:
ESTIMATED CONSTRUCTION COST: \$32,580 - \$56,880 depending on availability of donations and volunteers	
ESTIMATE PREPARED BY: Project Applicant	
FEE ESTABLISHED:	

## Applicant's Affidavit

Under penalty of perjury the following declarations are made:

- a: The undersigned is the owner or authorized agent of the owner of this property.
- b: The information presented is true and correct to the best of my knowledge.
- c: Other information or applications may be required.

Signature: 

Date: 3/28/17

Print name, and indicate whether owner, or authorized agent:

Paul Osaki of JCCNC, Authorized Agent

Owner / Authorized Agent (circle one)



## Findings of Compliance with Preservation Standards

FINDINGS OF COMPLIANCE WITH PRESERVATION STANDARDS		YES	NO	N/A
1	Is the property being used as it was historically?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2	Does the new use have minimal impact on distinctive materials, features, spaces, and spatial relationship?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3	Is the historic character of the property being maintained due to minimal changes of the above listed characteristics?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4	Are the design changes creating a false sense of history of historical development, possible from features or elements taken from other historical properties?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5	Are there elements of the property that were not initially significant but have acquired their own historical significance?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6	Have the elements referenced in Finding 5 been retained and preserved?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
7	Have distinctive materials, features, finishes, and construction techniques or examples of fine craftsmanship that characterize the property been preserved?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
8	Are all deteriorating historic features being repaired per the Secretary of the Interior Standards?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
9	Are there historic features that have deteriorated and need to be replaced?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
10	Do the replacement features match in design, color, texture, and, where possible, materials?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11	Are any specified chemical or physical treatments being undertaken on historic materials using the gentlest means possible?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
12	Are all archeological resources being protected and preserved in place?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
13	Do exterior alterations or related new construction preserve historic materials, features, and spatial relationships that are characteristic to the property?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
14	Are exterior alterations differentiated from the old, but still compatible with the historic materials, features, size, scale, and proportion, and massing to protect the integrity of the property and its environment?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
15	If any alterations are removed one day in the future, will the forms and integrity of the historic property and environment be preserved?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Please summarize how your project meets the Secretary of the Interior's *Standards for the Treatment of Historic Properties*, in particular the *Guidelines for Rehabilitation* and will retain character-defining features of the building and/or district:

The proposed project will retain the existing property's character-defining feature as a passive park for a quiet, urban retreat surrounded by natural landscaping.

# APPLICATION FOR Administrative Certificate of Appropriateness

## 1. Owner/Applicant Information

PROPERTY OWNER'S NAME: <b>San Francisco Recreation and Park</b>	
PROPERTY OWNER'S ADDRESS: <b>30 Van Ness Suite 3000 San Francisco, CA 94102</b>	TELEPHONE: <b>(415 ) 575-5603</b>
	EMAIL: <b>janice.perez@sfgov.org</b>

APPLICANT'S NAME: <b>Japanese Cultural and Community Center of Northern California (JCCNC)</b> <span style="float: right;">Same as Above <input type="checkbox"/></span>	
APPLICANT'S ADDRESS: <b>1840 Sutter Street San Francisco, CA 94115</b>	TELEPHONE: <b>(415 ) 567-5505</b>
	EMAIL: <b>POsaki@jccnc.org</b>

CONTACT FOR PROJECT INFORMATION: <b>Janice Perez</b> <span style="float: right;">Same as Above <input checked="" type="checkbox"/></span>	
CONTACT PERSON'S ADDRESS:	TELEPHONE: <b>(415 ) 575-5603</b>
	EMAIL: <b>janice.perez@sfgov.org</b>

## 2. Location and Classification

STREET ADDRESS OF PROJECT: <b>Sutter and Fillmore</b>	ZIP CODE: <b>94115</b>
CROSS STREETS: <b>On Sutter between Fillmore and Webster</b>	

ASSESSOR'S BLOCK/LOT: <b>0677 / 012</b>	LOT DIMENSIONS: <b>~25' x 120'</b>	LOT AREA (SQ FT): <b>4120</b>	ZONING DISTRICT: <b>RM-3</b>	HEIGHT/BULK DISTRICT: <b>40-x</b>
ARTICLE 10 LANDMARK NUMBER:			HISTORIC DISTRICT: <b>Bush Street- Cottage Row Historic District</b>	

## 3. Project Description

The proposed Issei garden will be located at the front of the park facing Sutter Street (~30'x25'). The proposed project will replace existing plants and bushes on the front south side of the park with rocks, plants, trees that make up the elements and landscaping of a Japanese Zen rock garden. Passive use of park will remain the same.

Building Permit Application No. n/a Date Filed: \_\_\_\_\_

5. Once the Administrative Certificate of Appropriateness is issued, there is a mandatory 'Request for Hearing' period. The Administrative Certificate of Appropriateness will be sent to each Historic Preservation Commission Commissioner and all interested parties on file with the Department. For the majority of projects, there is a 20-day notice period, and for signs and awnings it is a 10-day period. If no 'Request for Hearing' is made within the designated time period, the building permit application associated with the Administrative Certificate of Appropriateness will be approved by the Planning Department.
6. The final issuance of the Administrative Certificate of Appropriateness and the building permit application may be appealed to the Board of Appeals.

#### WHO MAY APPLY FOR AN ADMINISTRATIVE CERTIFICATE OF APPROPRIATENESS?

An Administrative Certificate of Appropriateness is an entitlement that runs with the property; therefore, the property owner or a party designated as the owner's agent may apply for a Large Project Authorization. [A letter of agent authorization from the owner must be attached.]

#### INSTRUCTIONS:

The attached application for a Administrative Certificate of Appropriateness includes a project description and necessary contact information. Please type or print ink and attach pages if necessary.

Please provide the following materials with this application:

- **Authorization:** If the applicant in this case is the authorized agent of the property owner, rather than the owner, a letter signed by the owner and creating or acknowledging that agency must be attached and is included in the application for a Administrative Certificate of Appropriateness .
- **Building Permit Application:** The application must be accompanied by plans sufficient for proper determination of the case. Plans must meet submittal requirements for the Department of building inspection. Planning staff may require additional information in order to process the Administrative Certificate of Appropriateness.
- **Photographs:** The application must be accompanied by unmounted photographs, large enough to show the nature of the property but not over 11 X 17 inches.

All plans and other exhibits submitted with this application will be retained as part of the permanent public record in this case.

After your case is assigned to a planner, you will be contacted and asked to provide an electronic version of this application including associated photos and drawings.

- **Fees:** There is no set fee required. Time and materials charges will be calculated based upon hours spent processing the application.
- **CEQA Review:** The California Environmental Quality Act (CEQA) and Chapter 31 of the San Francisco Administrative Code implementing that act may require an Environmental Evaluation before the application may be considered. Please consult the Planning Department staff to determine if an Environmental Evaluation application must be submitted with this application. A separate fee is required for environmental review.

**To file your Administrative Certificate of Appropriateness Application, please attach to a building permit application and submit at Central Permit Bureau for routing to Planning Department Preservation staff.**



SAN FRANCISCO  
PLANNING  
DEPARTMENT

Planning Department  
1650 Mission Street  
Suite 400  
San Francisco, CA  
94103-0425

T: 415.558.6378  
F: 415.558.6409

## APPLICATION PACKET FOR Administrative Certificate of Appropriateness

Section 1006(a) states that the Historic Preservation Commission ("HPC") may define categories of work as Minor Alterations and delegate approval of an Administrative Certificate of Appropriateness for such Minor Alterations to Planning Department Staff.

The first pages of this packet consist of instructions which should be read carefully before the application form is completed. Planning Department staff are available to advise you in the preparation of this application. Call (415) 558-6377 for further information.

### WHAT IS AN ADMINISTRATIVE CERTIFICATE OF APPROPRIATENESS AND WHEN IS IT NECESSARY?

Incorporated into the Planning Code in 1968, Article 10 outlines the process for the review and entitlement of alterations to properties locally designated as City Landmarks. An individual landmark is a stand-alone building, site, or object that is important for its contributions to San Francisco. A landmark district is a group of properties or a portion of a neighborhood that is architecturally, historically, or culturally important. Designated properties that are recognized for their architectural, historic, and cultural value to the City, are subject to the review and entitlement processes outlined in Article 10 of the Planning Code. The Historic Preservation Commission oversees and regulates these properties.

A Certificate of Appropriateness is the entitlement required to alter an individual landmark and any property within a landmark district. A Certificate of Appropriateness is required for any construction, addition, major alteration, relocation, removal, or demolition of a structure, object or feature, on a designated landmark property, in a landmark district, or a designated landmark interior. The Historic Preservation Commission has identified certain categories of work as Minor Alterations. These Minor Alterations qualify for an Administrative Certificate of Appropriateness. An Administrative Certificate of Appropriateness does not require a public hearing and is approved by Planning Department Preservation staff. To determine if your project qualifies for an Administrative Certificate of Appropriateness, please speak with a Preservation Planner at the Planning Information Center at (415) 558-6377 or [info@sfpplanning.org](mailto:info@sfpplanning.org).

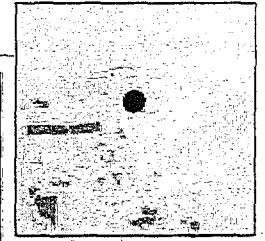
### HOW DOES THE ADMINISTRATIVE CERTIFICATE OF APPROPRIATENESS PROCESS WORK?




1. Gather the information needed and fill out the attached application. If you need assistance, contact the Planning Information Center, 1660 Mission Street, 1st Floor; Telephone No. 558-6377; open Monday through Friday.
2. File a Building Permit Application and attach the Administrative Certificate of Appropriateness Application. Submit both applications to Central Permit Bureau, which will then be routed a Preservation Planner.
3. Department staff reviews the proposed project to determine if it meets the Historic Preservation Commission's definition of a major or minor project. If determined to be a major project, a Certificate of Appropriateness Application will be required. Please see that application for additional information regarding process.
4. When the application is determined to be complete, the Department issues the Administrative Certificate of Appropriateness document. Please note that the Department reserves the right to bring any proposed alteration, even if it meets the criteria for a Administrative Certificate of Appropriateness, to the Historic Preservation Commission for review and approval.

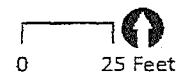
SAN FRANCISCO PLANNING DEPARTMENT 10.08.2018



P229



-  Cottage Row Mini Park
-  Project Location
-  Article 10 District Boundary



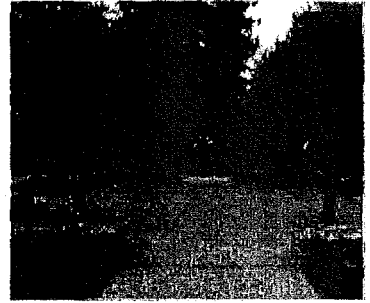
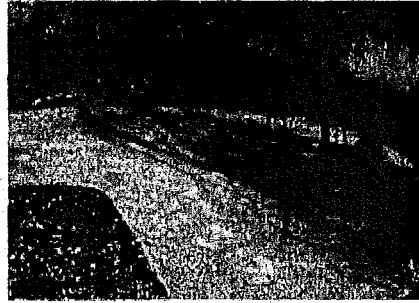
- **Attachment F: Administrative Certificate of Appropriateness Application**





JAPANESE  
CHERRY BLOSSOM  
TREE

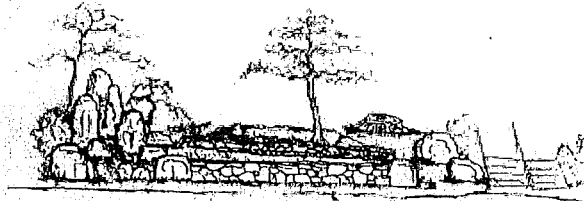
DECOMPOSE  
GRANITE  
GROUND COVER







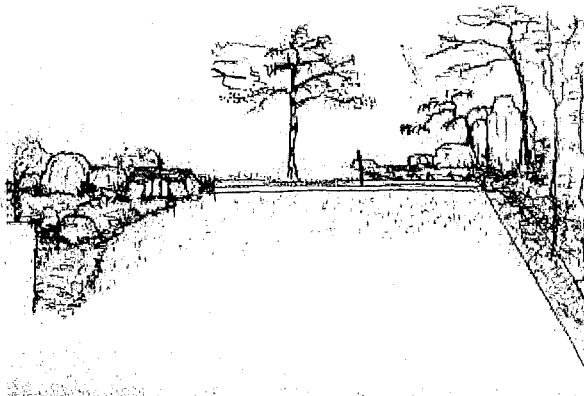
Front



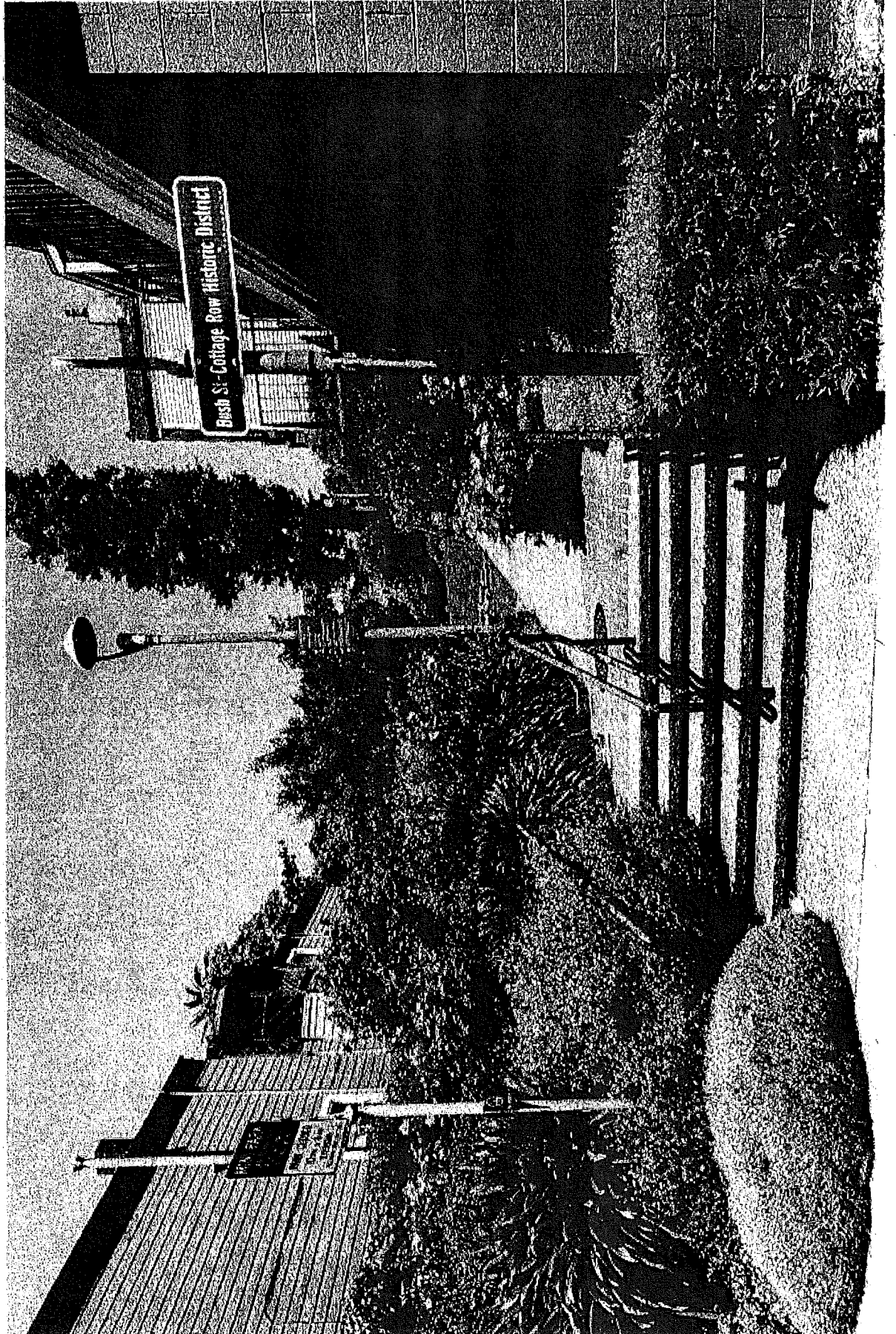
Side



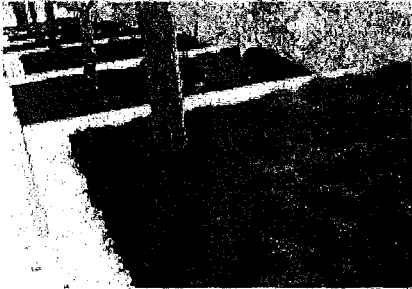
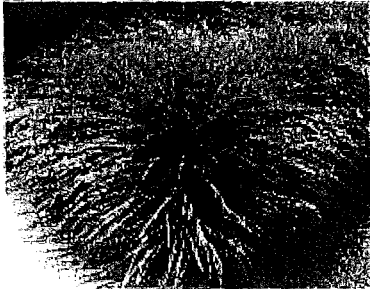
Back



# Cottage Row Mini-Park

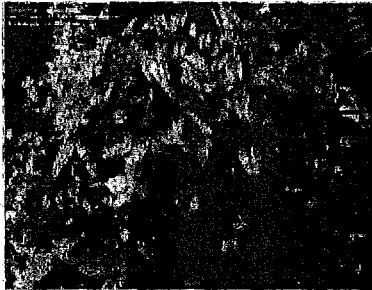
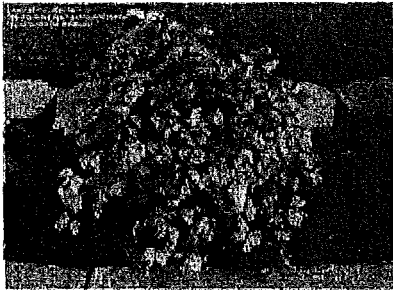
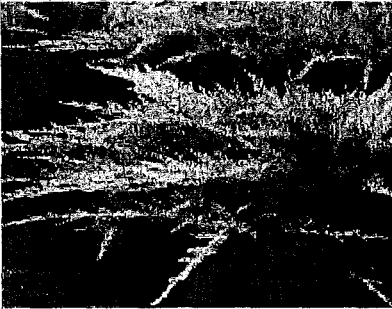


Attachment D



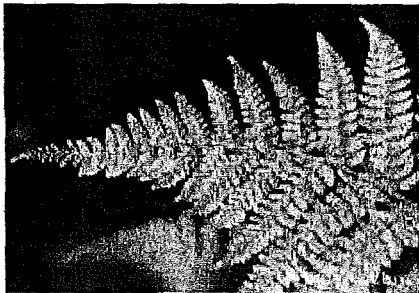
MONDO GRASS

STAR JUNIPER

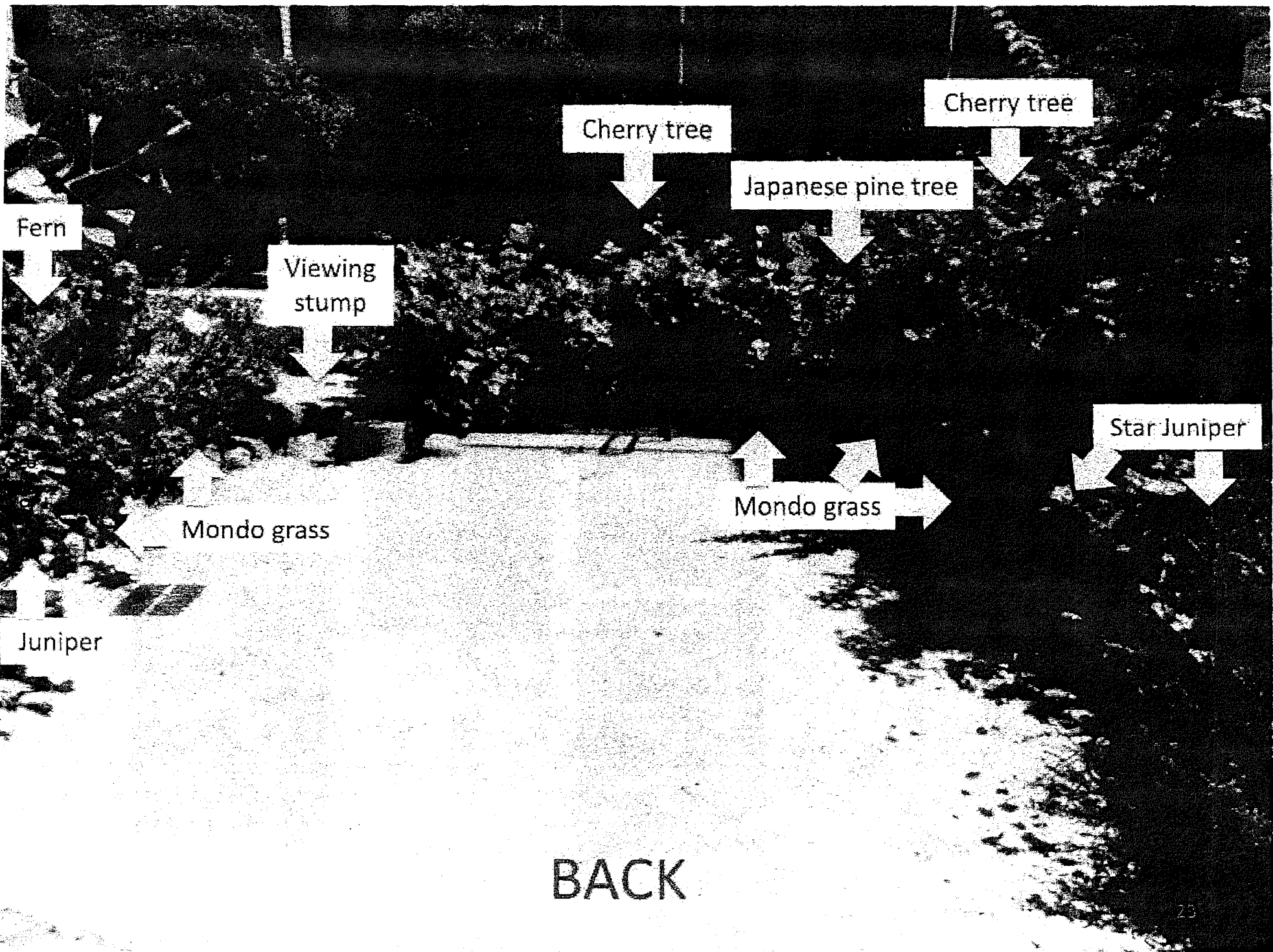


DWARF NANDINA

FERN



JAPANESE  
PINE TREE



Fern

Viewing  
stump

Cherry tree

Cherry tree

Japanese pine tree

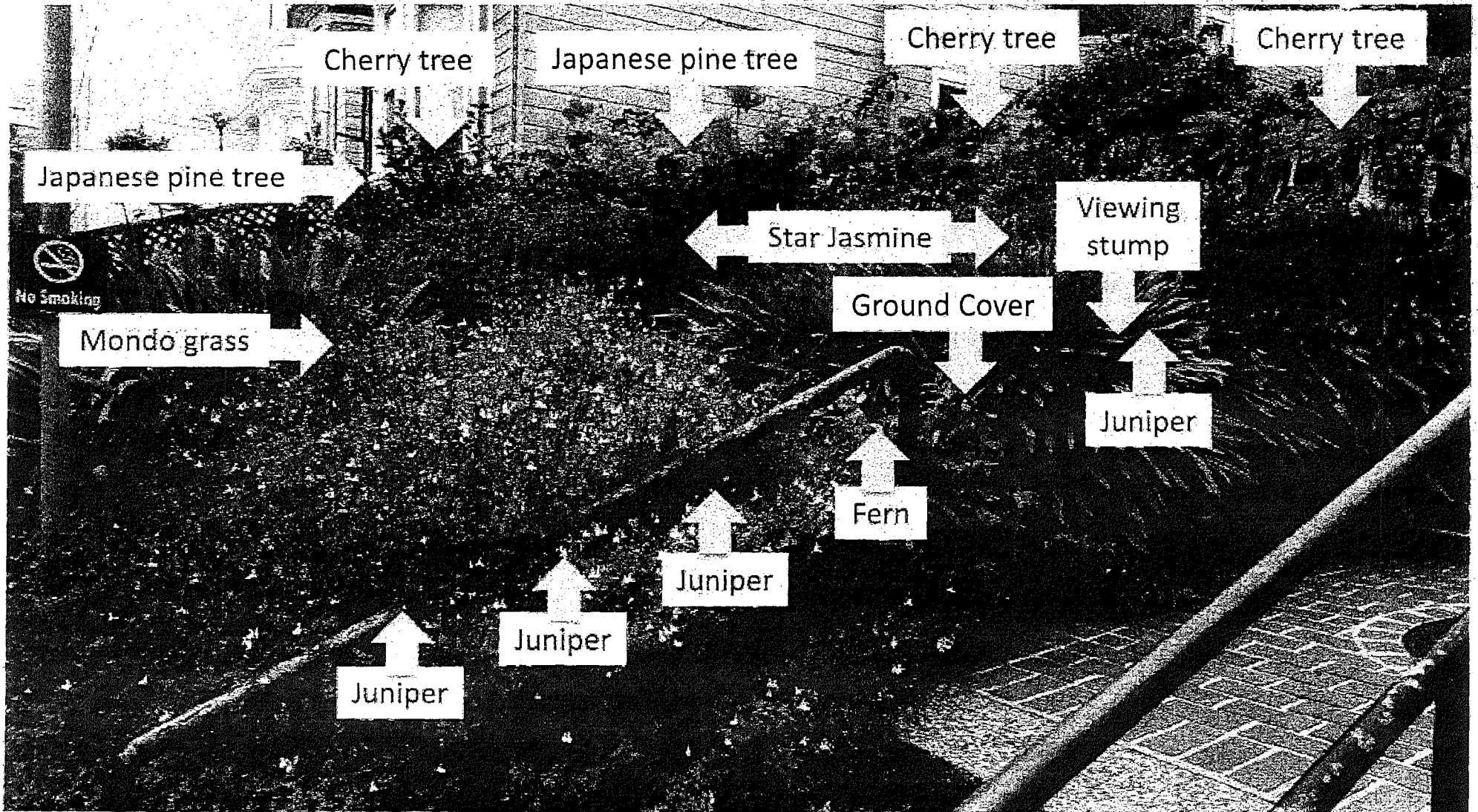
Star Juniper

Mondo grass

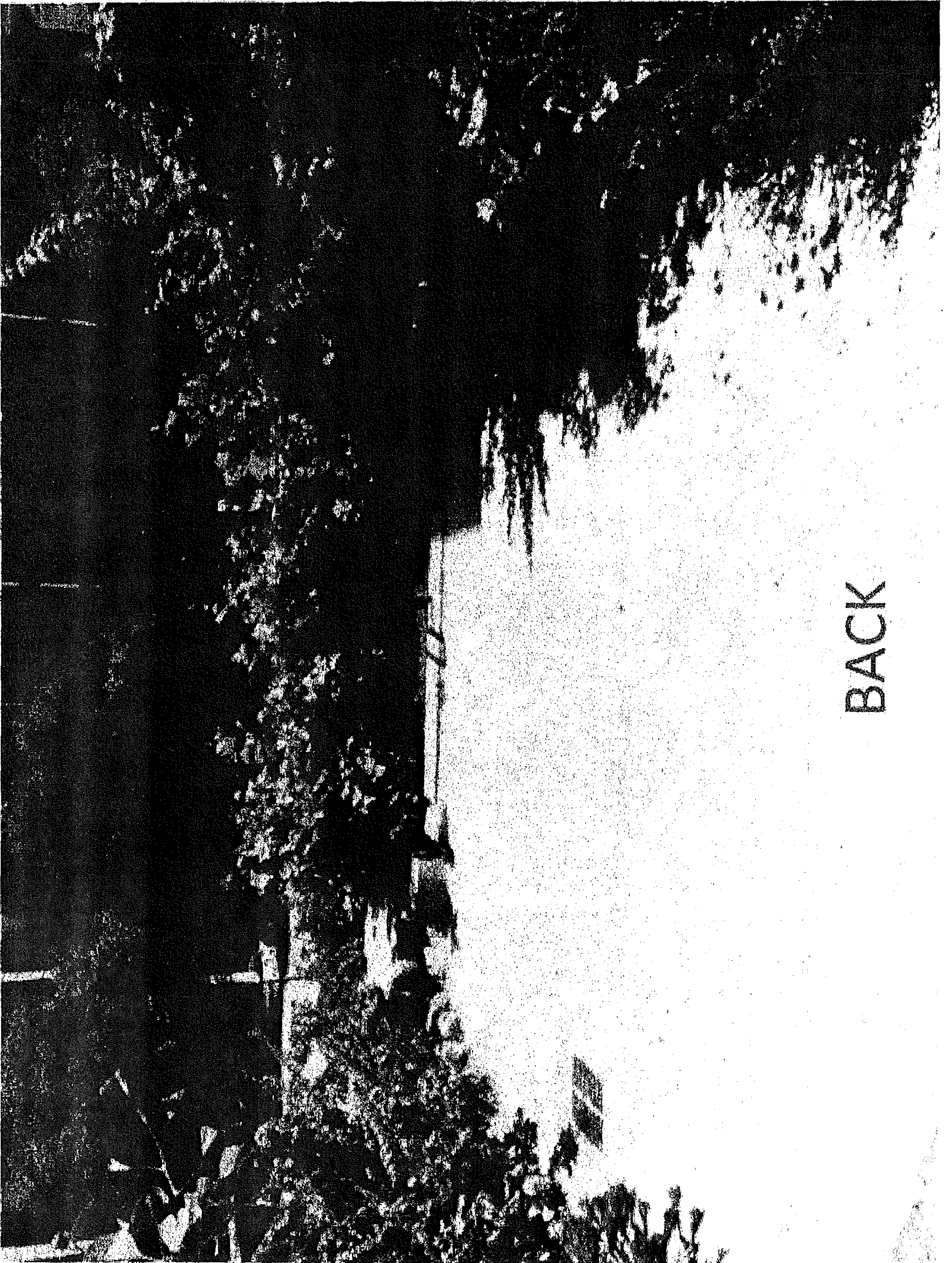
Mondo grass

Juniper

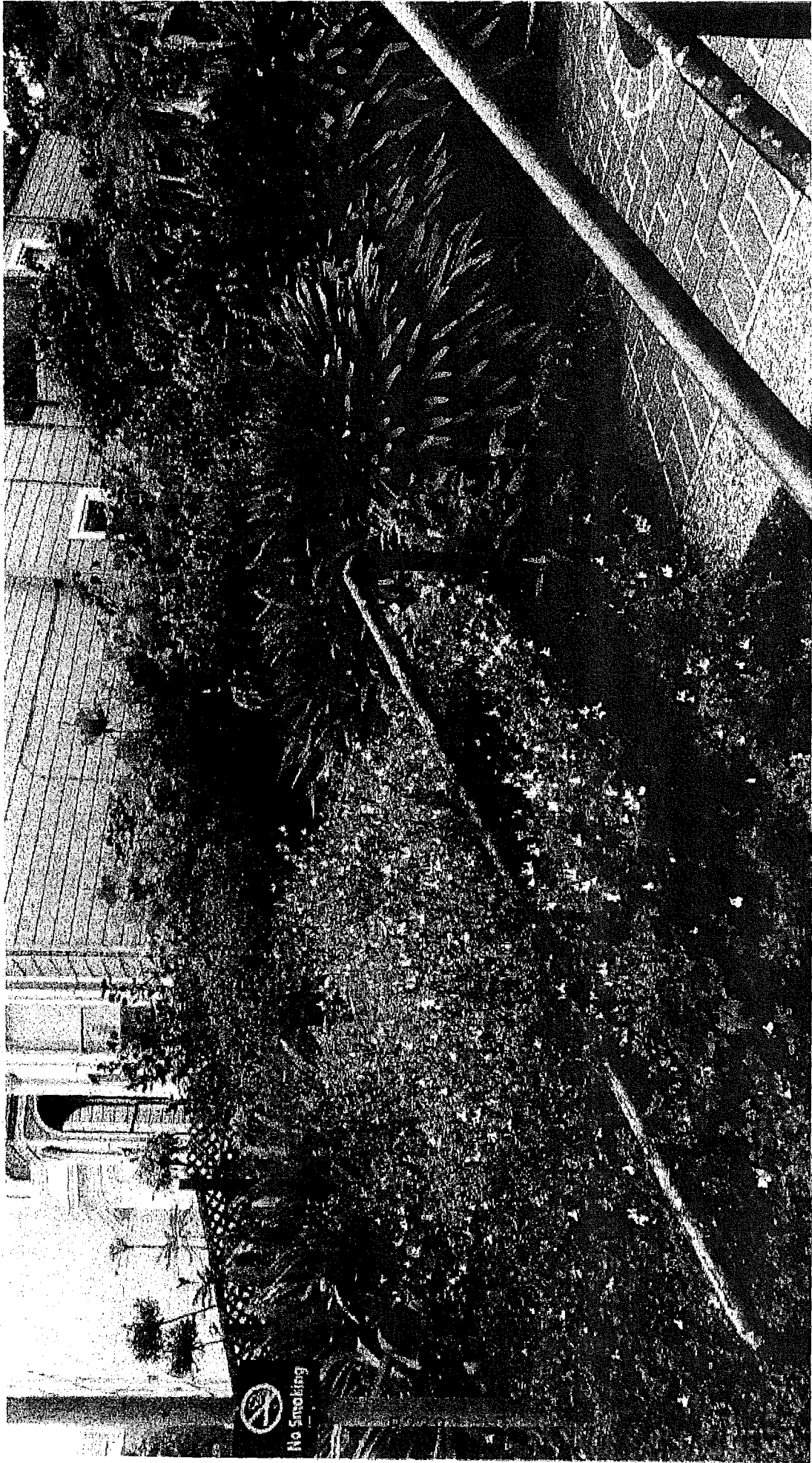
BACK



SIDE



BACK



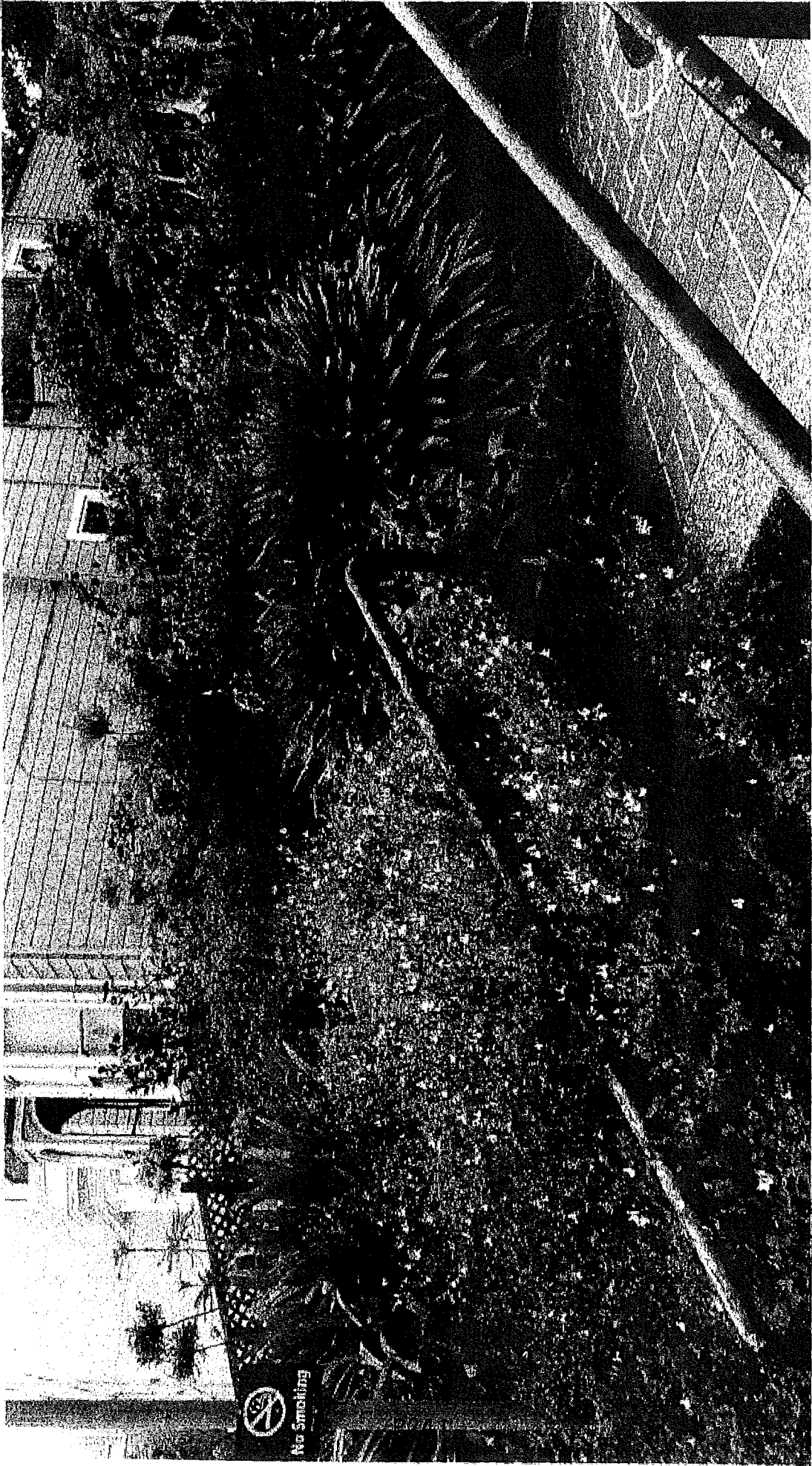
No Smoking

SIDE



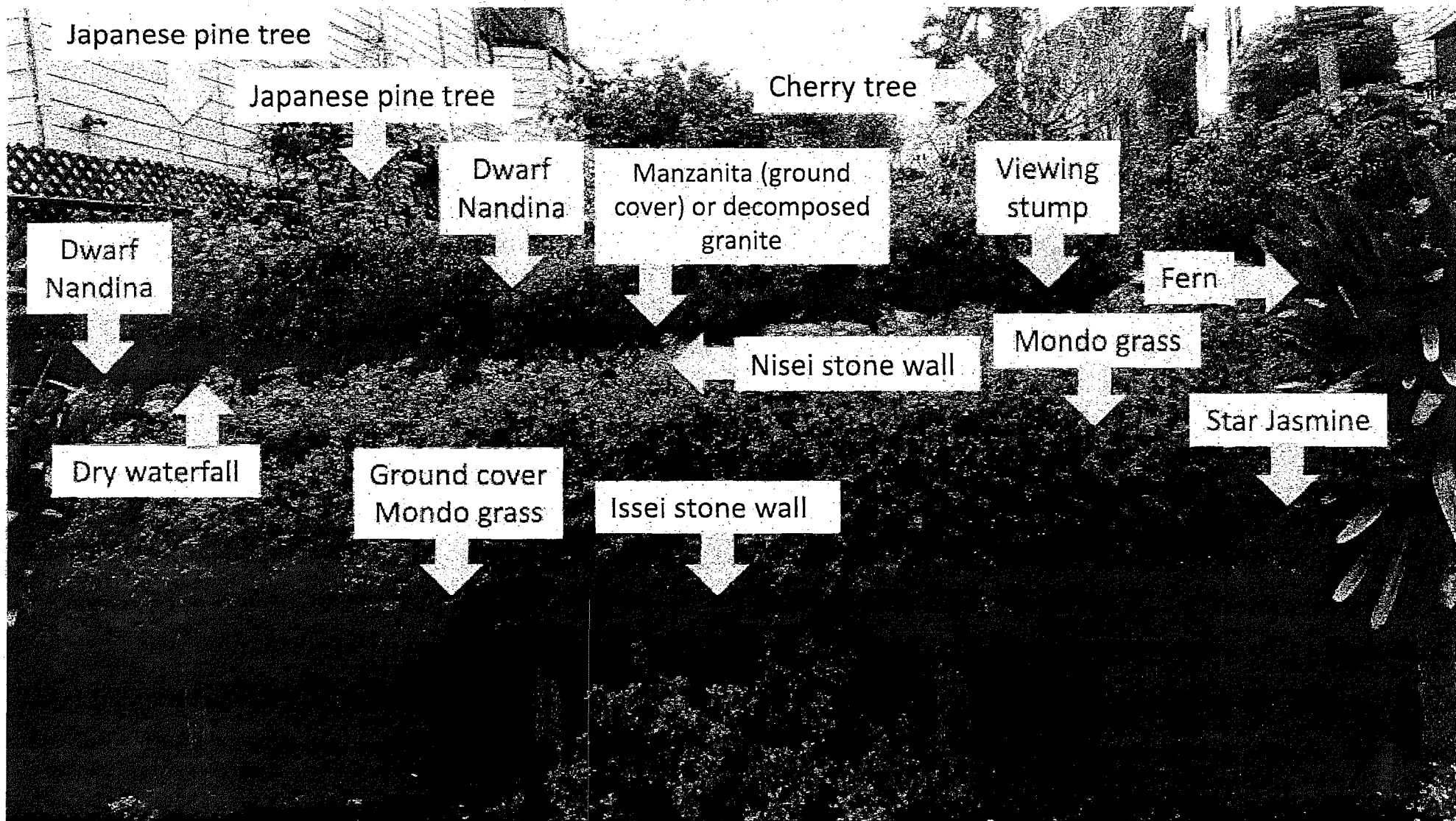
FRONT



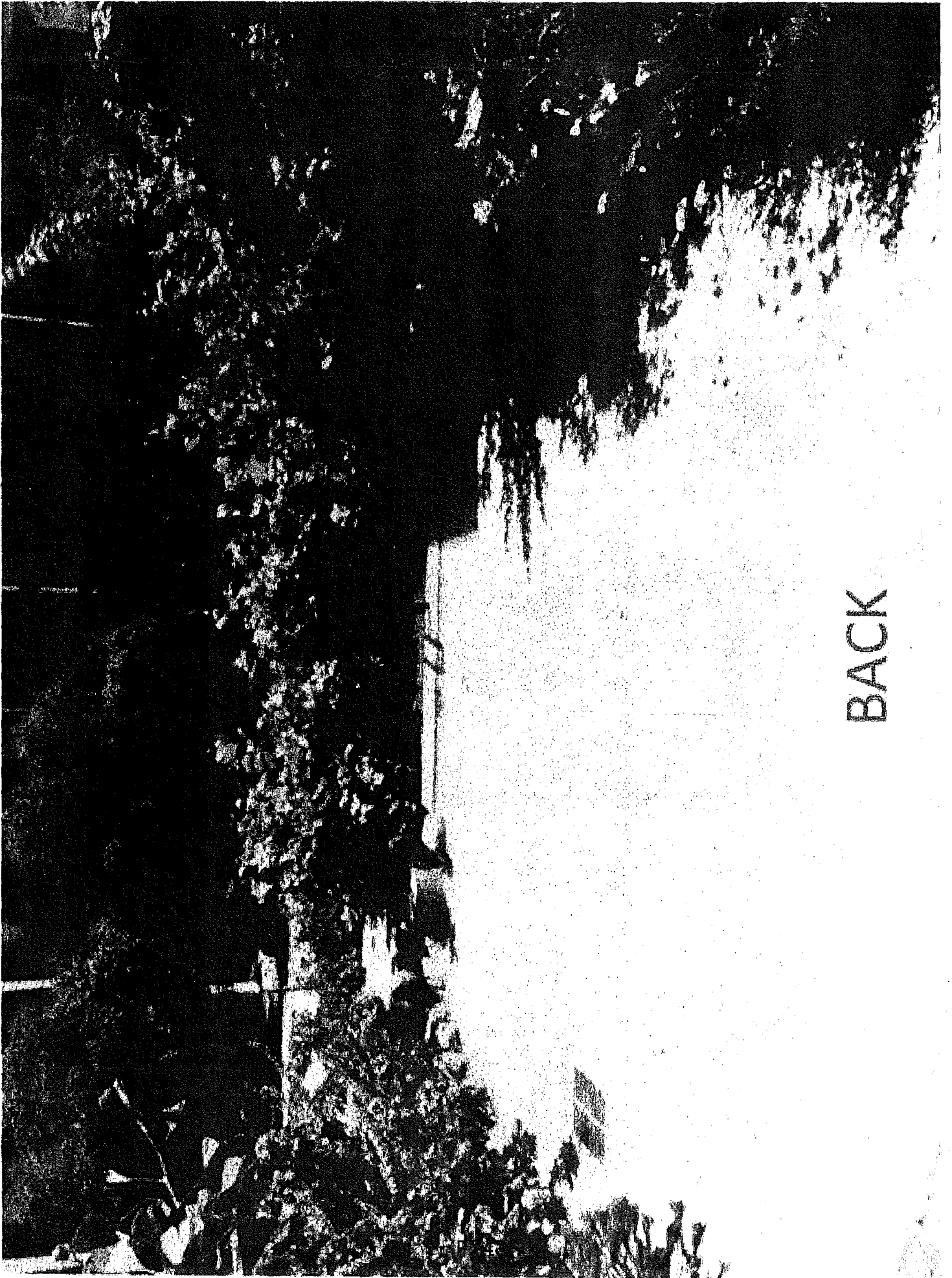


No Smoking

SIDE



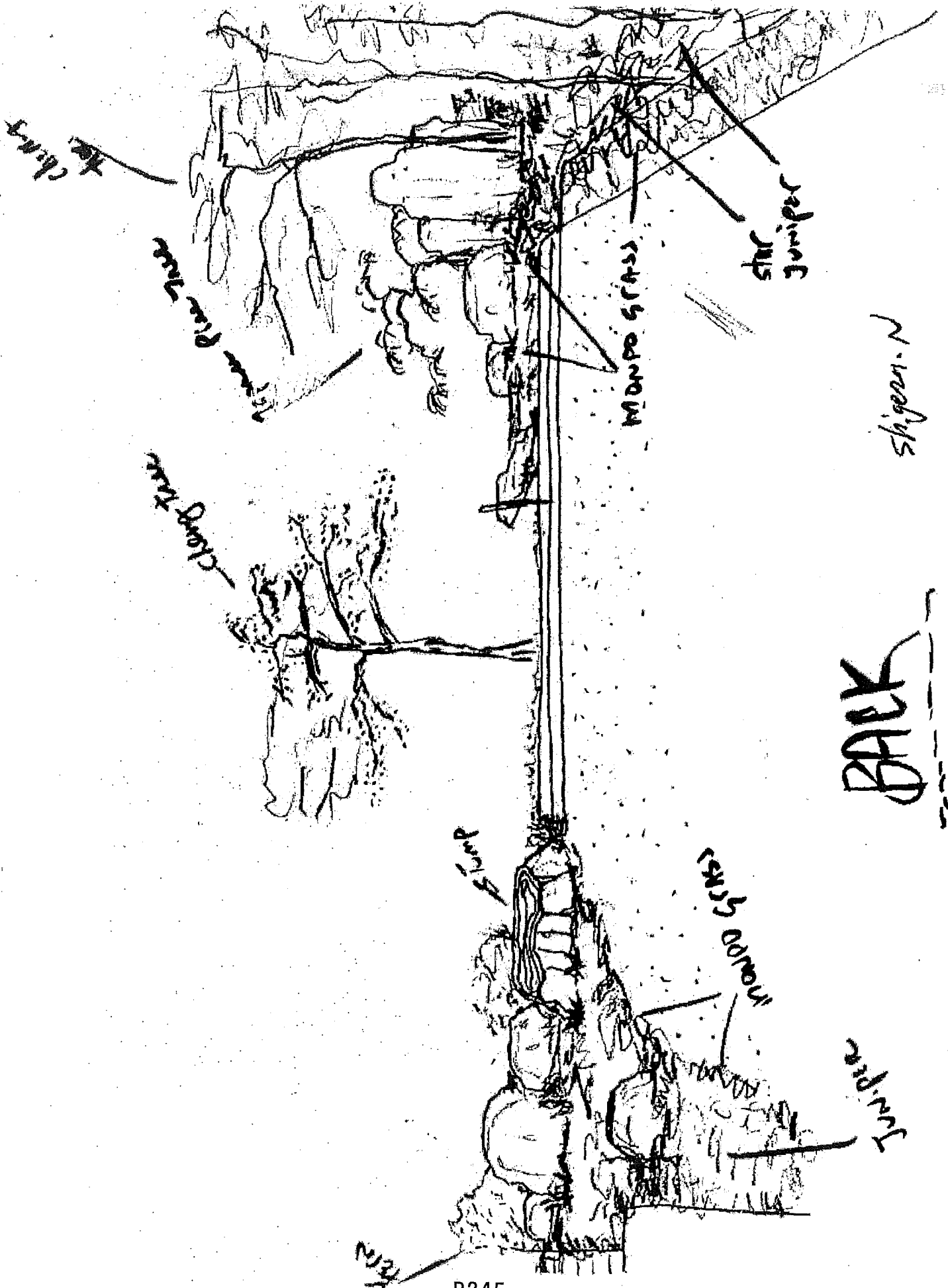
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BACK

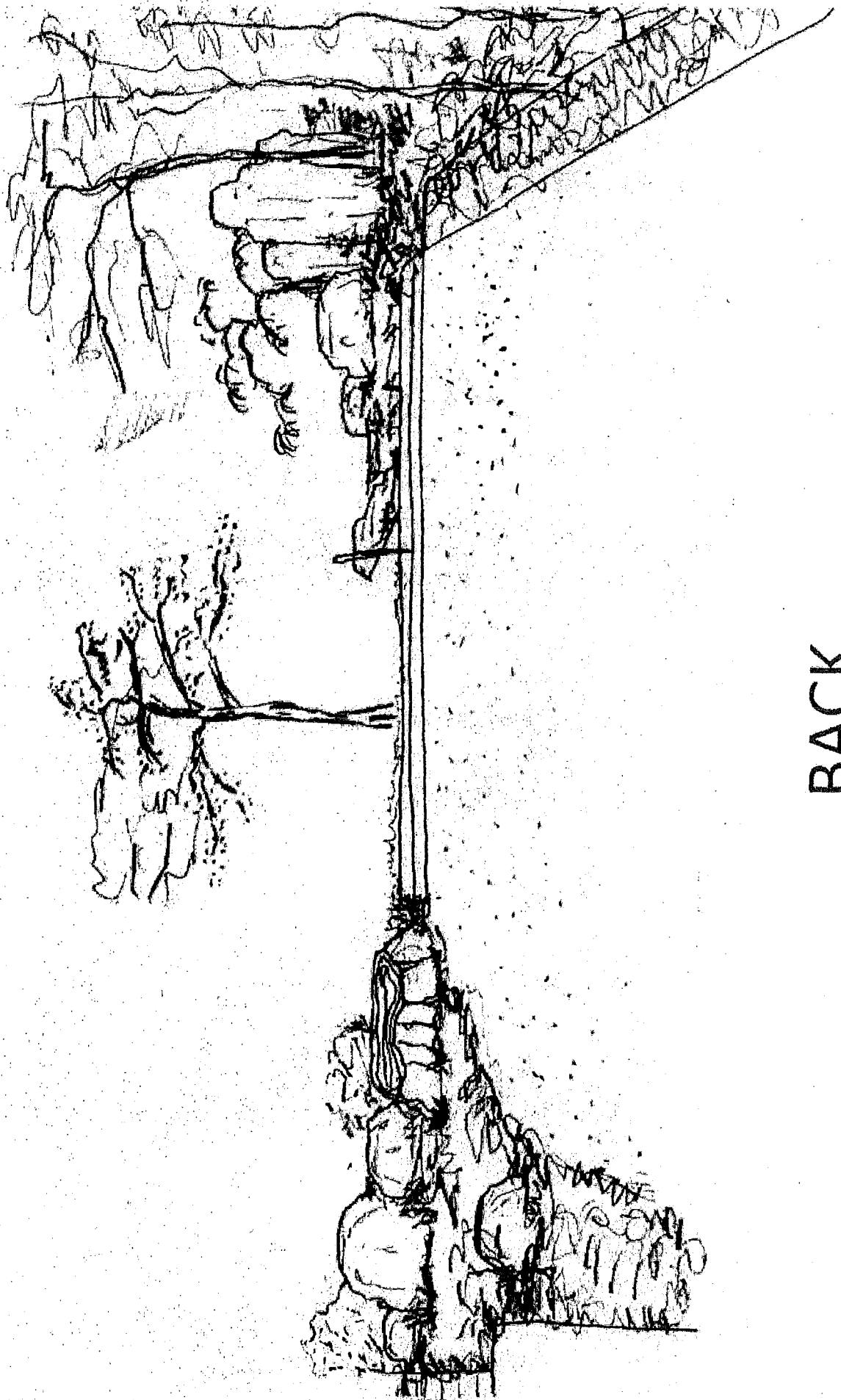


FRONT



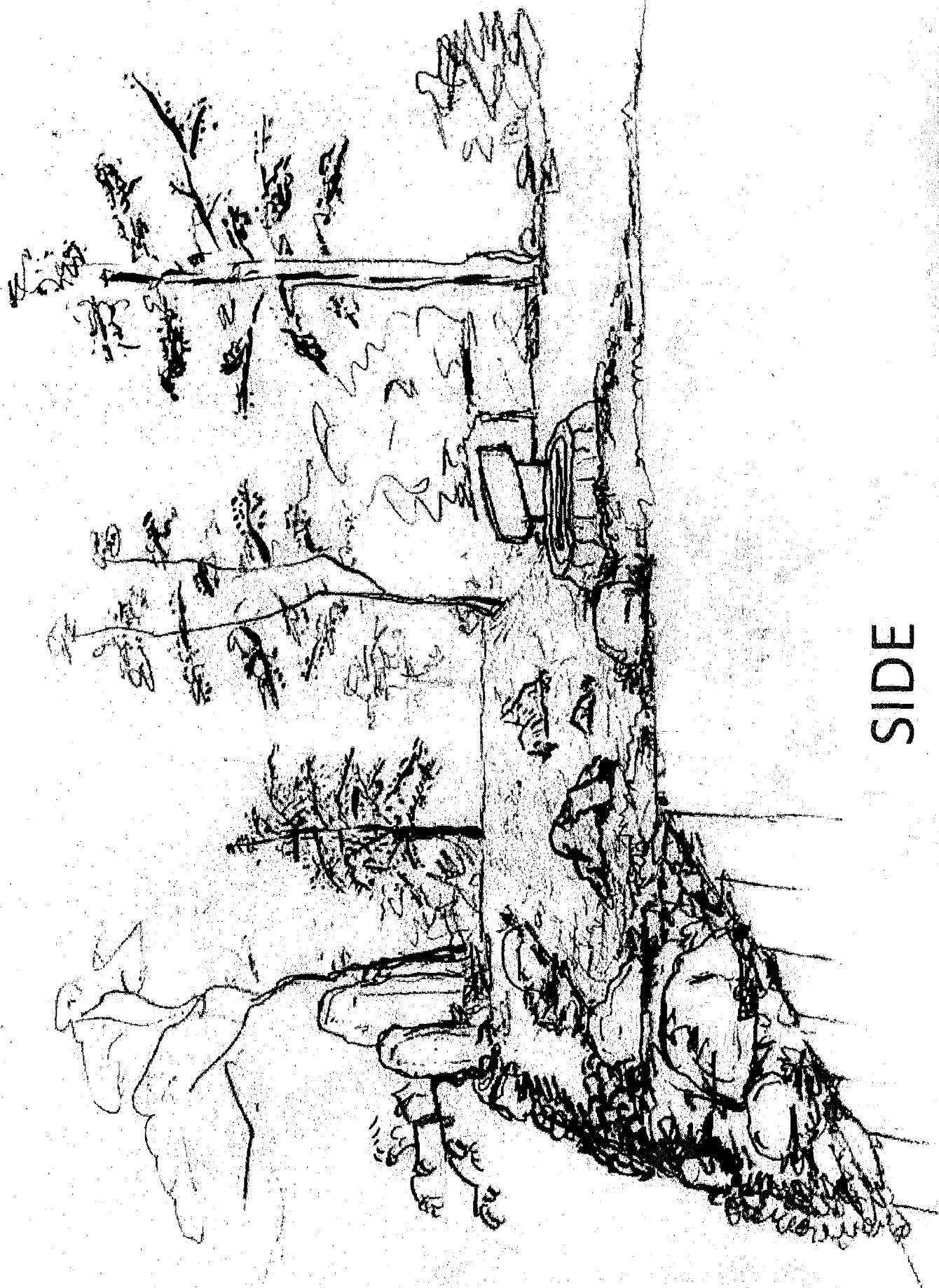
Spigeei. N

BACK



BACK

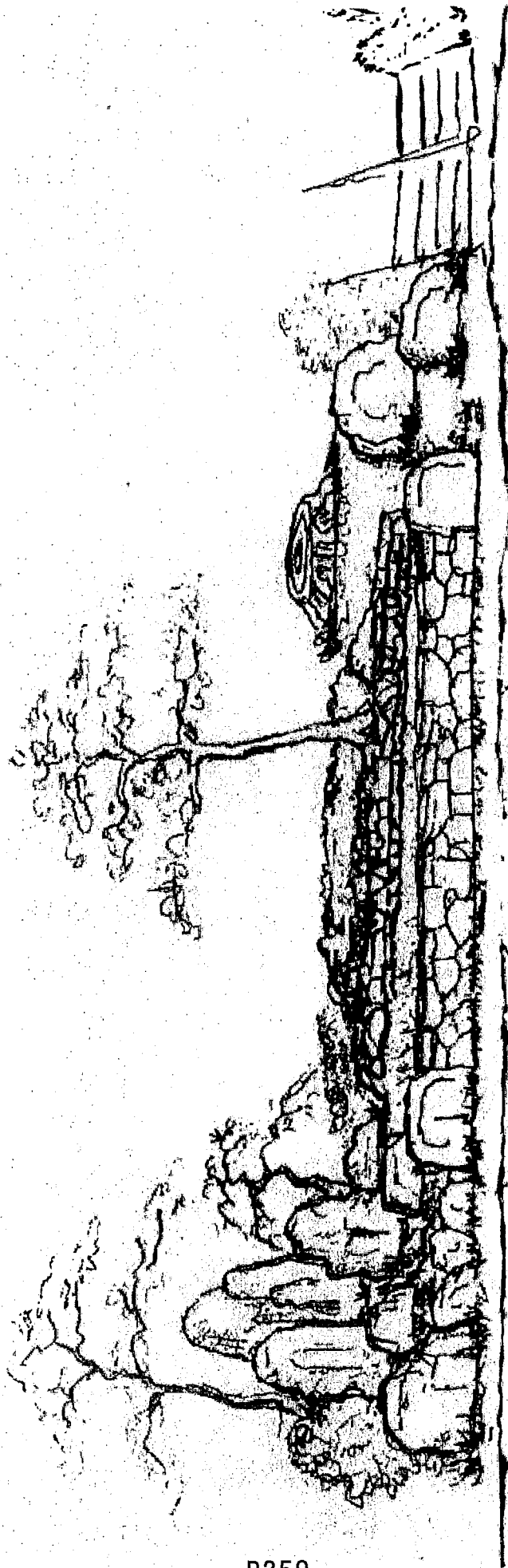




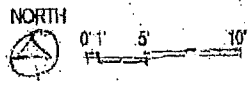
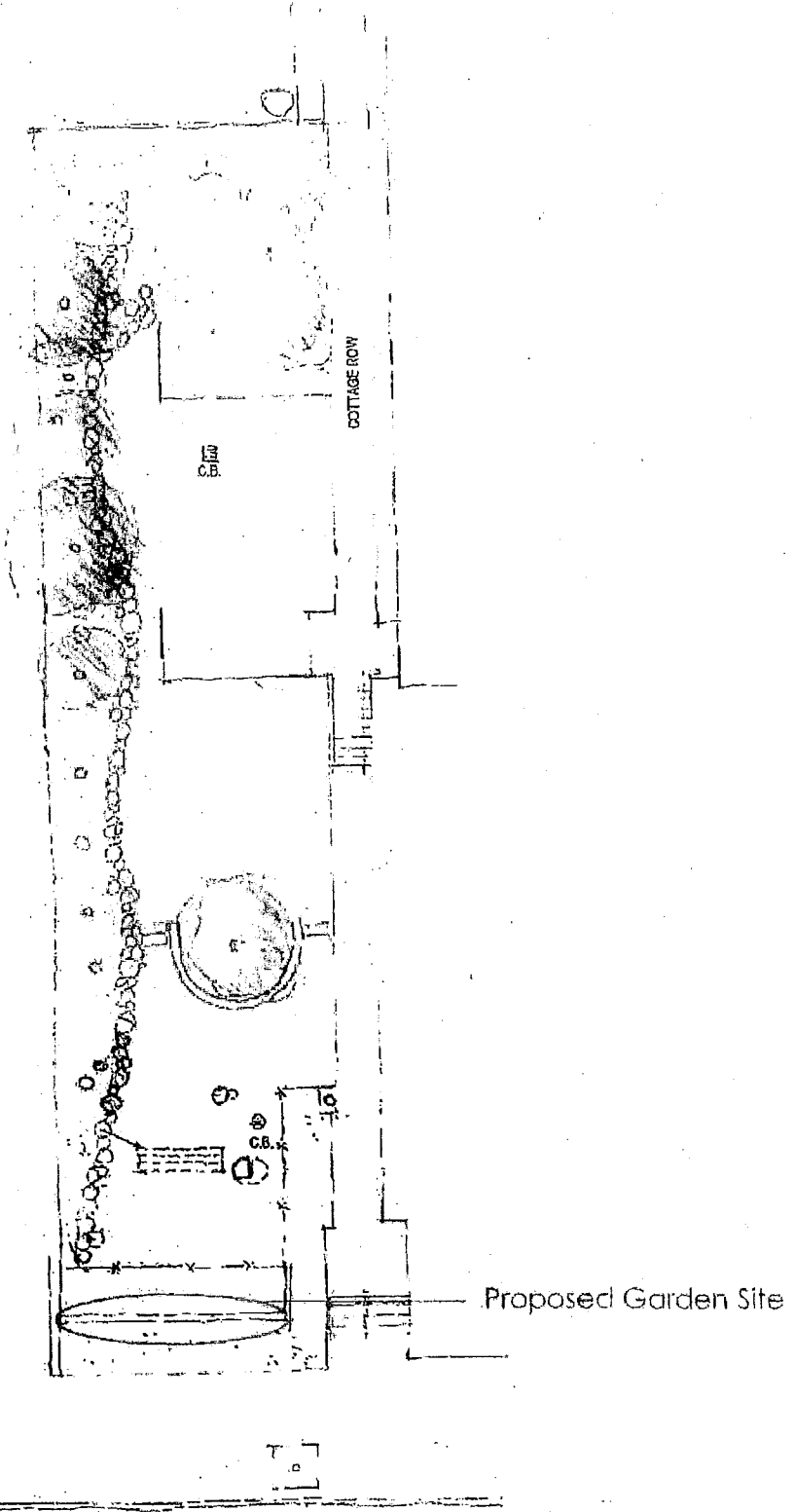
SIDE







FRONT



SUTTER STREET  
 VERSION 1

# ISSEI GARDEN PROJECT

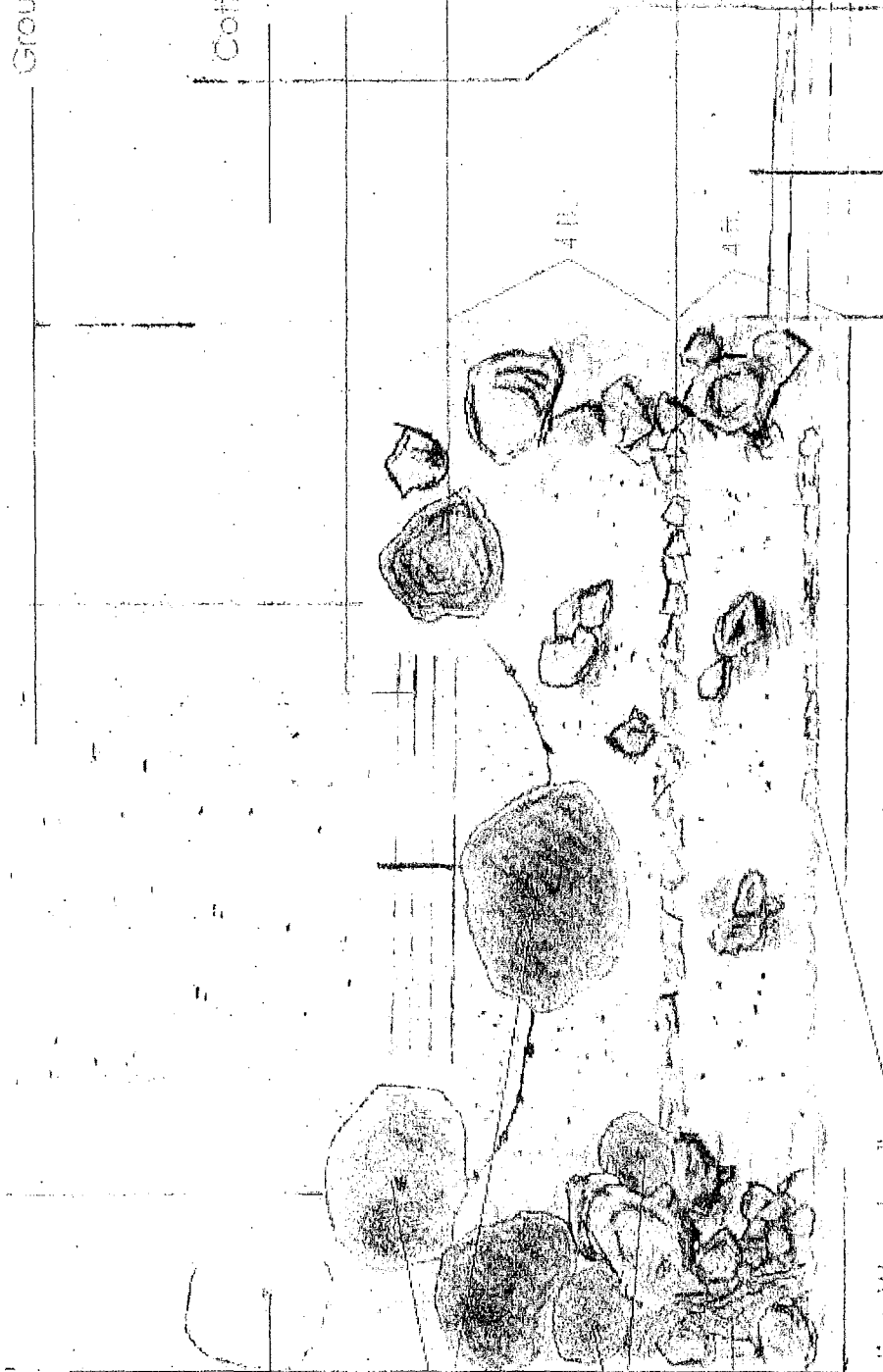
at Cottage Row Mini-Park

Lawn Area  
Existing Ginkgo Tree  
Existing Stone Planter

Ground Cover

Cottage Row Walkway  
Stairs to Nowhere  
Existing Stump

Existing Stonewall



Fence Line

Existing Maple Tree  
Front of House Set-Back

Sakura Trees  
Matsu Trees

Stone "Dry" Waterfall

Stonewall Over Existing Woodwall

Sutter Street

NOT TO SCALE

From: lambertm1 <lambertm1@aol.com>

To: Andrea.Ruiz-Esquide <Andrea.Ruiz-Esquide@sfgov.org>

Cc: janice.perez <janice.perez@sfgov.org>; elizabeth.gordon-jonckheer <elizabeth.gordon-jonckheer@sfgov.org>; tim.frye <tim.frye@sfgov.org>; gary.mccoy <gary.mccoy@sfgov.org>

Subject: Please Clarify That New COA Application Required for Zen Rock Garden

Date: Sun, Jun 18, 2017 8:51 pm

---

Dear Andrea,

It is possible that we are waiting for you to return from vacation in order to get a clarifying statement from you as regards the requirement for a new COA application in order for the HPC to reconsider the project proposal for the Japanese Zen rock garden for the the Cottage Row mini park within the Bush St. - Cottage Row Historic District.

Following is a summary of my view as to why it is necessary to have a new application made by the project sponsor:

*Staff previously exceeded its authority in granting an ACOA on May 10, 2017 as a result of misinterpreting Motion 0289 and in particular Scope 13 of the motion. The entire motion including Scope 13 specifically relates to residential properties. There is nothing in the motion that authorizes Staff to issue the ACOA for a public park or any other non-residential property and therefore the ACOA should be marked as void.*

*If further grounds are required to invalidate the ACOA, I have previously noted that there were also significant falsifications in the application document, many of which were reflected in the ACOA.*

*As a result of my filing for a hearing with the HPC on the ACOA, it has been rescinded by the HPC with direction to Staff to restart the process and include public notice as part of the new process. It is not clear to me if HPC is requiring a new application. The COA application is significantly more comprehensive than one for an ACOA. I can find no justification for leaving the current ACOA in force and then arbitrarily adding a public notice requirement to it.*

I plan to make General Public Comment on this topic at the next HPC meeting which is June 21, so it is very important to me to have your opinion prior to this meeting.

Sincerely,  
Marvin Lambert

Dear Commissioners and Staff,

I am writing you to give reasons why the application for a certificate of appropriateness (COA) for the proposed Japanese Zen rock garden in the Cottage Row Mini Park should be rejected.

### **Summary of Reasons to Reject Application**

1. Failure to explain how the placement of a Japanese Zen rock garden in the Bush St. - Cottage Row Historic District is compatible with the historical character of the district since the district was established on the basis of its Victorian architecture.
2. Multiple errors in the description of the physical setting, selective representation of its cultural history, and lack of project specificity.
3. Failure to explain the rationale for abandoning a lengthy community engagement process with residents of the district in favor of an organization that is not based on local residency.
4. The project is not consistent with the City's objective to promote inclusive project involvement across all races and cultures and include the LGBTQ and disabled communities. By favoring just one group, the project will also have a divisive impact on the district and surrounding neighborhood.

#### **A. Background: Previous Failed Attempt to Move a COA Application Forward**

Both Park and Planning Departments staff have demonstrated an unexplained bias to move this project towards approval and the Park Dept. has provided no explanation of the basis for forming a partnership with the JCCNC to advance the project. This has occurred despite a significant amount of false information and other misrepresentations presented by the project sponsor. In addition, there is little apparent indication that Staff has done much in the way of verification or independent analysis of the major issues involved with the project.

Staff previously exceeded its authority in granting an ACOA on May 10, 2017 as a result of misinterpreting Motion 0289 and in particular Scope 13 of the motion. The entire motion including Scope 13 specifically relates to residential properties. There is nothing in the motion that authorizes Staff to issue an ACOA for a public park or any other non-residential property.

**As a result of my filing for a hearing with the HPC on the ACOA, it has been rescinded by the HPC with direction to Staff to restart the process and include public notice as part of the new process. I have still not received confirmation from you or anyone else that a new COA application, which is significantly more comprehensive than one for an ACOA, will have to be submitted by the project sponsors. I find no legal basis for leaving the current ACOA in force and then arbitrarily adding a public notice requirement to it.**

#### **B. Failure to Satisfy Primary Criteria for Acceptance**

Planning code states that projects in historic districts primarily need to be compatible with the character of the district as described in the designating ordinance for that district. The statement of significance for the district contained in Article 10, Appendix K of the planning code, provides the following description:

The Bush Street – Cottage Row Historic District is a remarkably intact group of architecturally consistent Italianate and Stick residential buildings constructed between 1870 and about 1885.

Staff has provided no explanation as to how a Japanese Zen rock garden can be compatible with the Victorian character of the district as defined in the sentence above. However, the COA application form requires such a statement.

### **C. Errors in ACOA (17.0290) Application and the Resulting Certificate**

One of my overall concerns now is that Staff will primarily rubber stamp what work they did supporting the issuance of the ACOA and we will end up with the same result just delayed by an additional 20 days for the public notice period. Following is a detailed list of the errors contained in the ACOA application form and resulting certificate which need to be corrected in a new COA application:

(The following is keyed to the sections of the ACOA)

#### Project Description

The physical description given for the Park in the ACOA application is erroneous in multiple ways which suggests it was based only on a cursory visit to it, or perhaps without ever having been on site. This is detailed below in the following statements:

1. The ACOA states:

"The park is primarily a brick walkway with two small green areas for recreation. A few scattered benches and some pleasant landscaping fill out the park. The pathway along the back of the cottages was commonly referred to as "Japan Street in the 1930s."

The facts are: 1) The park does not consist primarily of a brick walk way. Instead the brick walkway is Cottage Row which runs along the east side of the park; 2) There is only one green recreation area in the the park, not two as indicated; 3) There are no benches in the park, contrary to what is indicated; 4) Given the park's small size there is actually a significant amount of landscaping within it, contrary to the diminutive term used; and 5) There is no pathway along the back of the cottages, so the reference to "Japan Street" is palpably absurd.

2. The cost of the project is estimated to be between \$32 – 56,000 depending on the "availability of donations and volunteers." This suggests that the project is not fully specified and it may not be achieved according to professional standards.

3. There is a significant calculation error which makes this project appear to be smaller than it actually is relative to the park. The ACOA states that the project will take up less than 15% of the park when it will actually be closer to 20%.

4. It is also noted in the application that: " In 2014, after a lengthy community engagement process, SF RPD staff removed failing trees at the proposed project location and planted temporary landscaping to beautify the space until a more thoughtful design was proposed." This statement begs the question as why the Park Dept. is now recommending abandonment of this lengthy community engagement process with residents of the district in favor of an organization that is not based on local residency.

### ACOA Item 1: Compliance

#### Standard 1

The project will alter the use of the Cottage Row Mini Park as discussed below:

For much of the period from before 1920 thru the 1940's the property, which is now the mini park, was owned by Chan & Chan Herbal Medicine Co. with its offices in the adjacent building at 1942 Sutter St. After the Chan's, the property was owned by Wesley Johnson, an African American entrepreneur, who rented the property out for outdoor display advertising until he sold it to Redevelopment.

All mention of "Japan Street" is based on hearsay which applies to any additional Standards in the COA. This captioning certainly follows from the comments that architectural historian Anne Bloomfield added to the Historic District Nomination Form. There are a couple of unusual things about these comments. They are provided without any reference source and are also not contributive to having historic district status granted. Most important is that the Japan Street reference is tied together with another claim that is patently absurd which is related to whether the residents sold vegetables grown from their rear yards and sold them on Cottage Row. Since there is only a three a foot strip of land in the rear of the cottages and there was no area in front, this just wouldn't have been possible. In addition, the lower three units faced onto the Chinese herbal property. A brief visit to any of the cottages will confirm that it is just not possible that any sort of commercial vegetable business could have flourished in their rear area. As pointed out previously, it is also impossible than any street could have run behind the cottages as claimed in the ACOA application.



There may be a more plausible explanation for "Japan Street" and "selling vegetables". During the referenced period, there actually was a Japan Street in San Francisco which was located in the South of Market area. Since it is known that early Japanese immigrants settled in that area and since the climate is more favorable, it is very possible that Japanese lived on this street and were able to grow and sell vegetables.

The project involves much more than just "slightly altering the front landscaping of the park". The actual proposal is for a 750 sq ft area that encroaches 30 ft into the park from the Sutter St. side. The proposal also includes a viewing stump within this area consistent with the way in which the original Zen gardens were experienced. Therefore, the area will no longer be passive, and may be difficult to impossible for individuals with disabilities to access as it can only be reached by steps from either the Sutter or Bush Sts. sides.

## Standard 2

Replacing the existing area with elements of a Japanese Zen garden will not be more in character with the history of the District. The fact that the park was owned by a Chinese herbal medicine co. has already been noted.

Bloomfield committed what was probably an unintentional error in the Nomination Form, when she stated that the entire District and not just Cottage Row was occupied exclusively by Japanese. There have been 20-23 occupied units in the Historic District and it is demonstrably untrue that they were ever all occupied by Japanese. What may be true is that most of the six cottages on Cottage Row were occupied by Japanese in addition to one unit on Bush St. The other 14 were occupied by people of other than Japanese heritage.

What is remarkable about the District and the rest of the block is how diverse it was even before the start of WW II. Data from the 1940 census indicates the following racial distribution of the 220 residents of the surrounding block:

Euro American 70%

African American 15%

Japanese American 12%

Other 4%

None of the above facts supports a claim of cultural exclusivity for any one group.

### Standard 9

The park and its surrounding neighborhood have an extraordinary rich and diverse cultural history and Japanese Americans are a significant part of the story. However, there are tremendously compelling stories involving African Americans, other Asian Americans, Gay Americans, as well as the founding generation of Euro Americans. They should all be honored! It is not appropriate for the City to make an exclusive dedication of the park to just one group.

### Item 3 Prop M findings

#### sub-section b

It is not true that the project will strengthen neighborhood character by respecting the character-defining features of the landmark district.

There is no statement which explains how the Zen garden respects the character-defining features of the landmark district and this project as proposed is actually very divisive to the neighborhood because it was developed without any democratic process for neighborhood input with regard to theme and design.

## Young, Victor

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**From:** SOTF, (BOS)  
**Sent:** Thursday, June 29, 2017 11:01 AM  
**To:** 'Ray'; Lambert, Michael (LIB); 'Blackman, Sue (LIB)'; Herrera, Luis (LIB); 'lamberm1@aol.com'; Frye, Tim (CPC); Silva, Christine (CPC)  
**Cc:** Calvillo, Angela (BOS)  
**Subject:** SOTF - Notice of Hearing - Compliance and Amendments Committee: July 10, 2017, 4:00 p.m. - Revised

Good Morning:

Notice is hereby given that the Compliance and Amendments Committee of the Sunshine Ordinance Task Force shall hold hearings on complaints listed below to: 1) determine if the Task Force has jurisdiction; 2) review the merits of the complaints; and/or 3) issue a report and/or recommendation to the Task Force.

**Date:** July 10, 2017

**Location:** City Hall, Room 408

**Time:** 4:00 p.m.

**Complainants:** Your attendance is required for this meeting/hearing.

**Respondents/Departments:** Pursuant to Section 67.21 (e) of the Ordinance, the custodian of records or a representative of your department, who can speak to the matter, is required at the meeting/hearing.

**Complaints:**

**File No. 16117: Hearing on the Status of the Order of Determination** - Complaint filed by Ray Hartz against City Librarian Luis Herrera and the Public Library for violating Administrative Code (Sunshine Ordinance), Section 67.29-6, by failing to maintain a written agreement to abide by the Sunshine Ordinance with entities collecting/maintain funds for the purpose of carry out or assisting any City function.

**File No. 17072:** Complaint filed by Marvin Lambert against the Historic Preservation Commission for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.16, by failing to make draft minutes of each meeting available for inspection and copying upon request no later than ten working day after the meeting (June 7, 2017, meeting).


### **Documentation (evidence supporting/disputing complaint)**

For a document to be considered, it must be received at least five (5) working days before the hearing. For inclusion into the agenda packet, supplemental/supporting documents must be received by 5:00 pm, **July 3, 2017**.

**Victor Young**  
**Administrator**

Sunshine Ordinance Task Force  
1 Dr. Carlton B. Goodlett Place, City Hall., Room 244

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 Click [here](#) to complete a Board of Supervisors Customer Service Satisfaction form.

The [Legislative Research Center](#) provides 24-hour access to Board of Supervisors legislation, and archived matters since August 1998.

*Disclosures: Personal information that is provided in communications to the Board of Supervisors is subject to disclosure under the California Public Records Act and the San Francisco Sunshine Ordinance. Personal information provided will not be redacted. Members of the public are not required to provide personal identifying information when they communicate with the Board of Supervisors and its committees. All written or oral communications that members of the public submit to the Clerk's Office regarding pending legislation or hearings will be made available to all members of the public for inspection and copying. The Clerk's Office does not redact any information from these submissions. This means that personal information—including names, phone numbers, addresses and similar information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors website or in other public documents that members of the public may inspect or copy.*

## Young, Victor

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**From:** SOTF, (BOS)  
**Sent:** Monday, July 17, 2017 3:54 PM  
**To:** Waaland, Kathryn (POL); Walton, Briseida (POL); 'Michael Gray'; 'Bill and Bob Clark'; Patterson, Kate (ART); DeCaigny, Tom (ART); 'lambertm1@aol.com'; Silva, Christine (CPC); Ionin, Jonas (CPC); 'James Russel'; Brask, Anne (CPC); Rahaim, John (CPC); 'rwilson@chp-sf.org'; 'Angela Greben'; Garcia, Barbara (DPH); Katzenberger, Philip (DPH); Price, Basil (DPH); Acosta, Linda (DPH); Sarieh, Nancy (MYR)  
**Cc:** Ng, Wilson (BOS); Calvillo, Angela (BOS)  
**Subject:** SOTF - Notice of Hearing- Sunshine Ordinance Task Force - August 2, 2017, 4:00 PM  
**Attachments:** SOTF - Complaint Procedure 2014-11-05.pdf

Good Afternoon,

You are receiving this notice because you are named as a Complainant or Respondent in one of the following complaints scheduled before the Sunshine Ordinance Task Force to: 1) hear the merits of the complaint; 2) issue a determination; and/or 3) consider referrals from a Task Force Committee.

Date: August 2, 2017

Location: City Hall, Room 408

Time: 4:00 p.m.

Complainants: Your attendance is required for this meeting/hearing.

Respondents/Departments: Pursuant to Section 67.21 (e) of the Ordinance, the custodian of records or a representative of your department, who can speak to the matter, is required at the meeting/hearing.

### **Complaints -**

**File No. 17060:** Complaint filed by Michael Gray against the Police Department for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21, by failing to respond to a request for public records in a timely and/or complete manner.

**Request for Reconsideration of Complaint File No. 17009:** Complaint filed by William Clark against Tom DeCaigny and the Arts Commission, for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.5 and 67.7, by failing to comply with regulations for policy bodies and post agendas for the Community Working Group of the Arts Commission.

*(On June 8, 2017, Mr. Clark (Petitioner) requested reconsideration of the Order of Determination due to alleged new evidence that the Community Working Group is a policy body and not a passive meeting body. If the Task Force determines that the complaint should be reconsidered a hearing on the merits of the new information will be scheduled on a future date.)*

**File No. 17027:** Complaint filed by Anonymous against Anne Brask, Christine Silva, John Rahaim and the Planning Department for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21 and 67.25, by failure to respond to an Immediate Disclosure Request in a timely and/or complete manner.

**File No. 17072:** Complaint filed by Marvin Lambert against the Historic Preservation Commission for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.16, by failing to make draft minutes of each meeting available for inspection and copying upon request no later than ten working day after the meeting (June 7, 2017, meeting).

*(The appearance of the parties at the hearing was waived as the parties agreed that a violation occurred.)*

### SPECIAL ORDER

**The hearings on File Nos. 17048 and 17049 will not begin earlier than 5:30 p.m.**

**File No. 17048:** Complaint filed by Ray Hartz against Angela Calvillo, Clerk of the Board of Supervisors, for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.16 and 67.34, by willfully failing to place a written summary of the public comment, if no more than 150 words, into the body of the minutes (March 14, 2017, and March 21, 2017, meetings).

**File No. 17049:** Complaint filed by Jason Grant Garza against Director Barbara Garcia, Philip Katzenberger and Basic Price, Department of Public Health, for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.25 and 67.34, by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner.


### Documentation (evidence supporting/disputing complaint)

For a document to be considered, it must be received at least five (5) working days before the hearing (see attached Public Complaint Procedure).

For inclusion in the agenda packet, supplemental/supporting documents must be received by **5:00 pm, July 26, 2017.**

**Victor Young  
Administrator**

Sunshine Ordinance Task Force  
1 Dr. Carlton B. Goodlett Place, City Hall., Room 244  
San Francisco CA 94102  
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