



**CITY OF SUNNYVALE
REPORT
Administrative Hearing**

February 13, 2008

SUBJECT: **2007-1306:** Application located at **594 E Fremont Avenue** (near Floyd Ave.) in an R-0 (Low Density Residential) Zoning District.

Motion Use Permit to allow a 7'-5" tall fence in the side yard.

REPORT IN BRIEF

Existing Site Conditions Single-Family Home

Surrounding Land Uses

North Multi-Family Homes

South Single-Family Homes

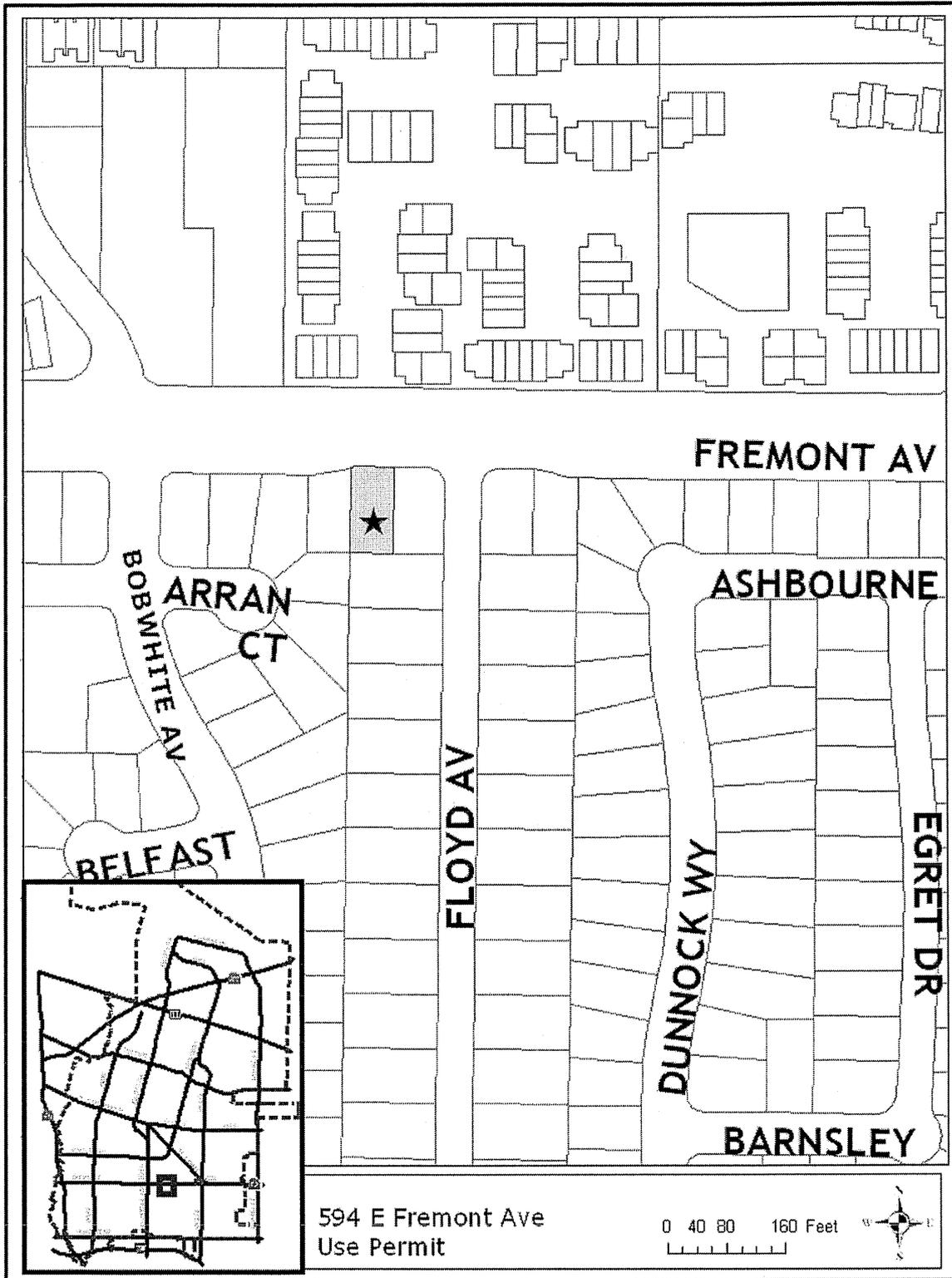
East Single-Family Homes

West Single-Family Homes

Issues Aesthetics

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

Staff Recommendation Approval



PROJECT DATA TABLE

	EXISTING	PROPOSED	REQUIRED/ PERMITTED
General Plan	Residential Low Density	Same	Residential Low Density
Zoning District	R-0	Same	R-0
Lot Size (s.f.)	6,490	Same	6,000 min.
Gross Floor Area (s.f.)	1,639	Same	2,920 max.
Lot Coverage (%)	25.3%	Same	45% max. for a one-story home
Fence Height (ft.)	N/A	7'-5"	7' max. without a Use Permit

ANALYSIS**Description of Proposed Project**

The proposed project originated as a Neighborhood Preservation complaint regarding front and side yard fences constructed without appropriate permits. The existing 6'-tall front yard fence was approved through a staff-level Miscellaneous Plan Permit (MPP). However, staff found that the side yard fence is 7'-5" in height, and cannot be approved through the MPP. The Sunnyvale Municipal Code section 19.48.020 requires that fences greater than 7' in height are required to obtain a Use Permit. Therefore, the applicant requests a Use Permit to allow the existing 7'-5" tall fence along the side yard.

Background

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

File Number	Brief Description	Hearing/Decision	Date
2007-1153	To allow an existing 6'-tall front yard fence.	Staff/Approved	11/16/2007
1992-0214	Construction of 6'-foot tall side yard fence.	Staff/Approved	9/01/1992

Environmental Review

A Class 1 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines. Class 1 Categorical Exemptions include minor structures such as fences.

Use Permit

Site Layout: The proposed project is for a recently built 7'-5" tall wood fence located along the side property line between the subject property and the adjacent property at 598 E. Fremont Avenue. These two properties face Fremont Avenue and are similar in grade. The proposed fence would provide privacy for the rear yards of the two properties. The applicant submitted a signed fence agreement from the adjacent property owner (Attachment E).

The fence starts approximately 27' from the front property line, and connects to the existing 6' tall rear yard fence, for a total length of approximately 51'. The fence is directly adjacent to the driveway on the subject property, but is not located within a driveway vision triangle. The applicant does not propose any modifications to the other property line fences, as the existing fences have been reviewed and approved by staff with previous permits.

Fence Design: The proposed fence design consists of a 6'-1" solid wood board, 1' of lattice, and 4" wooden decorative caps, for a total height of 7'-5". The proposed design is compatible with the front yard fences that were recently approved as part of a separate staff-level MPP.

Landscaping: No landscaping and trees were removed as part of the installation of the fence.

Compliance with Development Standards/Guidelines: Fences greater than 7' tall along the side property lines require a Use Permit. All other applicable development and Zoning standards are met, such as vision triangle requirements. A building permit is also required for any fences exceeding 6' in height.

Sunnyvale's Single Family Home Design Techniques state the following:

Side fencing may be solid wood boards, but open lattice work segments at the top of the wall are softer in appearance and encouraged. For side property lines abutting a public street, low fencing is encouraged. However, when privacy is at issue, fences should be constructed of wood up to a maximum height of six feet with at least the top twelve inches constructed of wood lattice to soften the visual appearance of the fence top. (item 3.11.G).

The solid wood portion of the proposed fence is 6'-1" in height, which is only 1" taller than what the design technique recommends. In addition, the fence includes a wood lattice feature that helps prevent a walled-in appearance, while providing added privacy for the use of yard areas. Therefore, staff finds that the existing fence design meets the Single Family Home Design Techniques.

Expected Impact on the Surroundings: The proposed fence is located along a shared property line, and is not readily visible from the street frontage, as it is located 27' from the front property line. Therefore, staff finds that the visual impact of the fence is minimal to the streetscape and neighborhood.

Fiscal Impact

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

Public Contact

Staff did not receive any comments from the neighbors at the time of the staff report. As previously discussed, the adjacent property owner has signed a fence agreement, approving the location and design of the proposed fence (Attachment E).

Notice of Public Hearing	Staff Report	Agenda
<ul style="list-style-type: none"> • Published in the <i>Sun</i> newspaper • Posted on the site • 12 notices mailed to property owners and residents adjacent to the project site 	<ul style="list-style-type: none"> • Posted on the City of Sunnyvale's Website • Provided at the Reference Section of the City of Sunnyvale's Public Library 	<ul style="list-style-type: none"> • Posted on the City's official notice bulletin board • City of Sunnyvale's Website

Conclusion

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

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

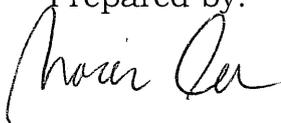
Alternatives

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

Recommendation

Alternative 1.

Prepared by:



Noren Caliva
Project Planner

Reviewed by:



Andrew Miner
Principal Planner

Attachments:

- A. Recommended Findings
- B. Recommended Conditions of Approval
- C. Site and Architectural Plans
- D. Letter from the Applicant
- E. Fence Agreement

Recommended Findings - Use Permit

Goals and Policies that relate to this project are:

Single Family Home Design Techniques - 3.11.G - *Side fencing may be solid wood boards, but open lattice work segments at the top of the wall are softer in appearance and encouraged.*

Land Use and Transportation Action Statement - N1.1.1 - *Limit the intrusion of incompatible uses and inappropriate development into city neighborhoods.*

1. The proposed use attains the objectives and purposes of the General Plan of the City of Sunnyvale as the project provides the property owners sufficient privacy without compromising the aesthetics of the neighborhood.
2. The proposed use ensures that the general appearance of proposed structures, or the uses to be made of the property to which the application refers, will not impair either the orderly development of, or the existing uses being made of, adjacent properties as the fence is not visible from most of the neighboring area. The impacts of the fence would be limited to the adjacent properties that share the fence.

Recommended Conditions of Approval - Use Permit

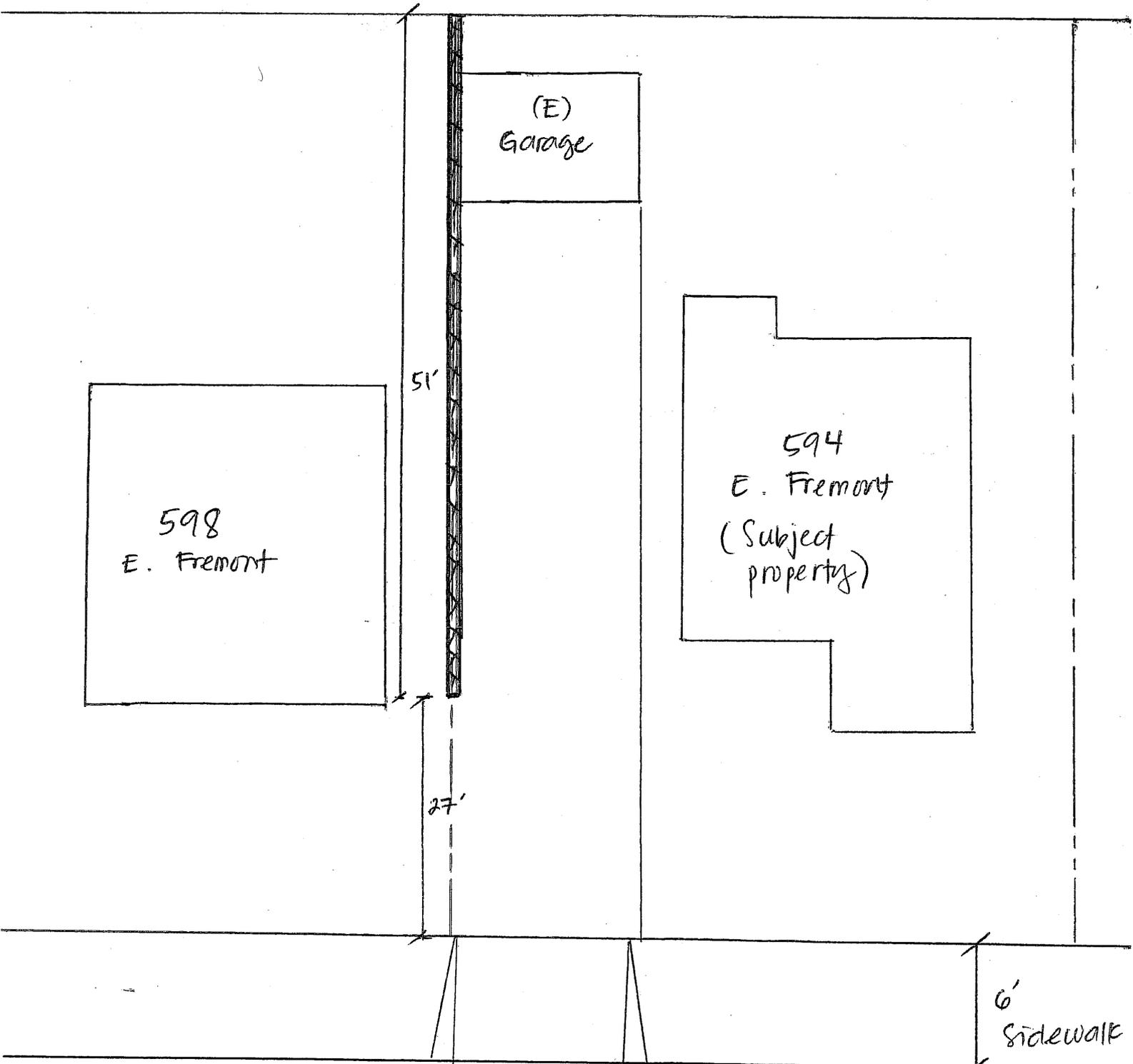
In addition to complying with all applicable City, County, State and Federal Statutes, Codes, Ordinances, Resolutions and Regulations, Permittee expressly accepts and agrees to comply with the following conditions of approval of this Permit:

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

1. GENERAL CONDITIONS

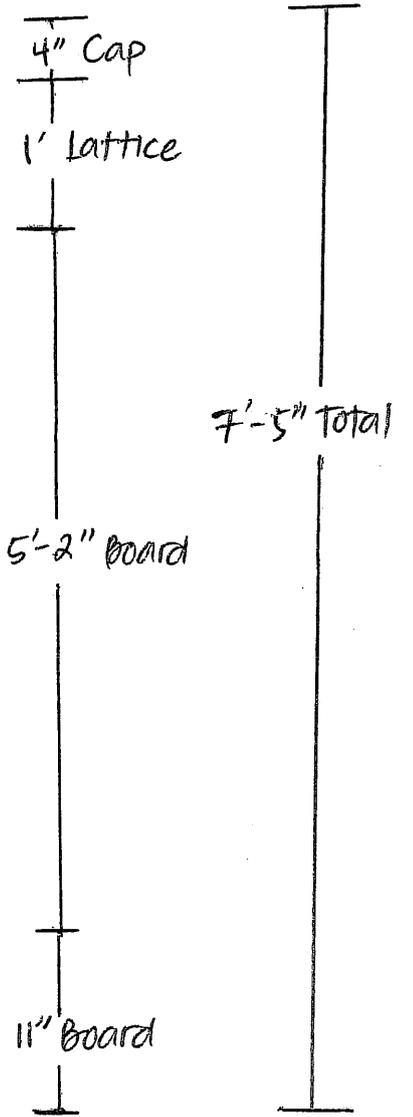
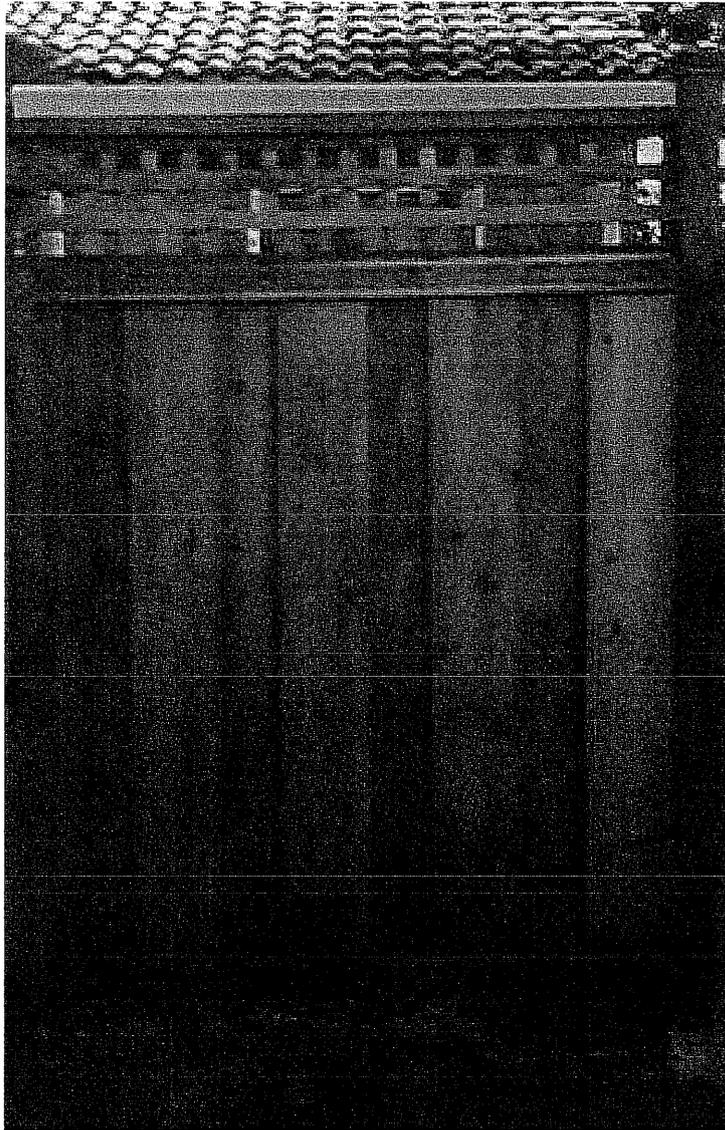
- A. Project shall be in conformance with the plans approved at the public hearing. Minor changes may be approved by the Director of Community Development, major changes may be approved at an Administrative Hearing.
- B. Any major site and architectural plan modifications shall be treated as an amendment of the original approval and shall be subject to approval at a public hearing except that minor changes of the approved plans may be approved by staff level by the Director of Community Development.
- C. Submit an application for a building permit within 30 days of the Use Permit decision.

SITE PLAN:



E. FREMONT AVE.

ELEVATIONS:





USE PERMIT, SPECIAL DEVELOPMENT PERMIT JUSTIFICATIONS

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

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

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

OR

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

Both neighbors, Bernadette Glumac at
594 E. Fremont Ave. Sival & 94087
 Jose & Rosamaria Ocegueda at 598 E. Fremont Ave,
 both want & love the fence & it is well-built
 & looks great.

Bernadette Glumac

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



City of Sunnyvale
Community Development Department
(408)730-7440

FENCE AGREEMENT

Date 02/20/08

I am the adjoining property owner of 100 N. 1st St. Sunnyvale, CA 94086
Applicants Name

whose property is located at 491 E. Alameda Ave Sunnyvale, CA 94086
Address

I have reviewed the proposal for a 7 foot-high fencing facing my property, and

I am in agreement with the attached plans as per Sunnyvale Municipal Code section
19.48.020.

Please print & sign below:

Name:	<u>Richard Garcia</u>
Address:	<u>491 E. Alameda Ave Sunnyvale, CA 94086</u>
Daytime number:	<u>408-252-1100</u>
Signature:	<u>Richard Garcia</u>

THIS SECTION IS FOR STAFF USE ONLY:

File Number: _____

Approved: _____ Not Approved: _____

Project Planner: _____