



**CITY OF SUNNYVALE  
REPORT  
Administrative Hearing**

**April 30, 2008**

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**SUBJECT:**           **2008-0332:** Application for a Use Permit. The property is located at **721 Haverhill Drive** (near Quetta Ave) in an R-0 (Low Density Residential) Zoning District. (APN: 201-09-019)

Motion               Use Permit to allow an approximately 8' 6" tall fence in the reducible front yard.

**REPORT IN BRIEF**

**Existing Site Conditions**           Single-family residential

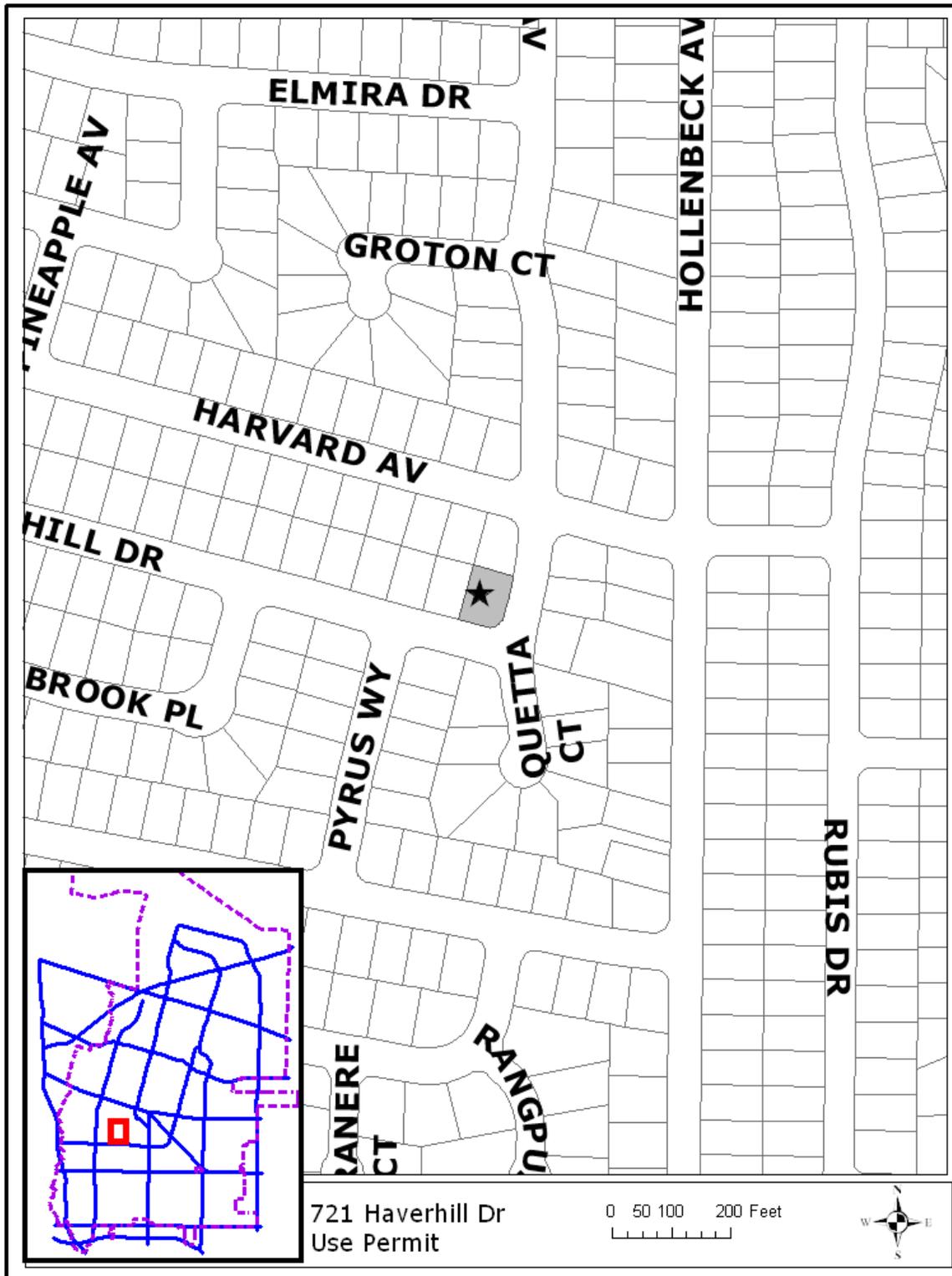
**Surrounding Land Uses**

North	Single-family residential
South	Single-family residential
East	Single-family residential
West	Single-family residential

**Issues**                               Fence height and visual impact

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

**Staff Recommendation**           Approve with conditions



**PROJECT DATA TABLE**

	<b>EXISTING</b>	<b>PROPOSED</b>	<b>REQUIRED/ PERMITTED</b>
<b>General Plan</b>	Residential Low Density	Same	Residential Low Density
<b>Zoning District</b>	R-0	Same	R-0
<b>Lot Size (s.f.)</b>	6,580	Same	6,000 min.
<b>Gross Floor Area (s.f.)</b>	1,787	Same	2,961 max.
<b>Lot Coverage (%)</b>	27%	Same	45% max.
<b>Floor Area Ratio (FAR)</b>	27%	Same	45% max. without PC review
<b>Fence Height (ft.)</b>	N/A	8'-6" measured from curb	> 7' requires a Use Permit
<b>Fence Setback</b>	N/A	1'-6"	N/A

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

The applicant proposes to construct an 8'-6" tall fence, as measured from the top of the nearest public curb, in the reducible front yard along Quetta Avenue, 1'-6" from the east property line. The existing fence is not within the required reducible front yard setback area. The applicant proposes to extend the fence closer to the back edge of the public sidewalk for privacy, security and to gain additional usable open space (see Attachment D). The proposed fence would be comprised of 6' of wood on top of a 2'-6" tall retaining wall. The total length of new fencing that would be constructed is about 85'.

A Use Permit is required for fences in the reducible front yard that exceed seven feet in height. The height of fences in the reducible front yard is measured from the nearest public curb.

The original fence design appeared to have extended into the 40' corner vision triangle, but the applicant has redesigned the project so the entire fence is located outside the vision triangle area.

## **Background**

**Previous Actions on the Site:** The home was built in 1963. There are no previous planning applications related to this site.

## **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 modifications to existing facilities.

## **Use Permit**

**Site Layout:** The subject site is located at the northwest corner of Haverhill Drive and Quetta Avenue. The existing single-family home faces Haverhill Drive. There is about a 2'-6" difference in grade from the public sidewalk along Quetta Avenue to the level of the yard and home. Grade differences between the public curb and finished grade of the homes in the neighborhood vary from 6" to 2'-6".

**Fence Location and Design:** The applicant is proposing to construct an 8'-6" tall fence that would be comprised of 5' solid wood with 1' of lattice on top of a 2'-6" tall concrete block retaining wall. The proposed fence would be approximately 1'-6" from the east property line for a total of 2' from the back edge of the sidewalk and immediately adjacent to the rear property line (see Attachment C). The east property line is approximately 6" from the back edge of the sidewalk. There is about a 2'-6" difference in grade from the public sidewalk to the level of the yard and home, so the fence would have an interior height (measured from the level of the enclosed yard) of 6'.

The specific type of material to be used for the retaining wall was not specified by the applicant. Staff recommends the use of split face concrete blocks, which are more decorative and more residential in character.

**Compliance with Development Standards/Guidelines:** Fences greater than 7' tall in the reducible front yard require a Use Permit. A building permit is also required for any fence exceeding 6' in height.

Staff finds the height of the proposed fence is not consistent with current development standards and guidelines. Sunnyvale's Single Family Home Design Techniques state the following:

*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. 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.*

Although the proposed fence includes lattice at the top (which is consistent with the Design Techniques), the 8'-6" height is not consistent with the Design Techniques' 6' total height recommendation.

The Design Techniques encourage low, open fencing consistent with a residential neighborhood atmosphere. The impact of a taller fence can be mitigated by setting it back an appropriate distance from the public sidewalk and planting landscaping in front of the fence to soften its appearance to avoid an imposing, "walled-in" feeling. As proposed, the project does not include installation of landscaping to soften the visual impact of the fence. Staff also finds that the proposed 8'-6" tall fence is not set back enough from the sidewalk to avoid such a "walled-in" feeling. If the project is approved, staff recommends a condition to require the applicant to set back the proposed wooden fence an additional 2' and to require landscaping to be installed in the area between the retaining wall and the wooden fence.

The properties located at 876 Quetta Avenue and 875 Hollenbeck Avenue were issued Use Permits for an 8'-6" tall fence within the reducible front yard, similar in design to what the applicant is proposing. The Use Permits were issued in 1998. Although these fences were permitted, they are not consistent with the current Single Family Home Design Techniques, which was created in 2003.

**Expected Impact on the Surroundings:** The proposed height and location of the fence would have a negative visual impact on the streetscape and neighborhood as it would create an imposing, "walled-in" feeling to passersby. Although other corner lots within the neighborhood have tall fences immediately adjacent to the sidewalk, many are not permitted and/or are inconsistent with the current Single Family Home Design Techniques.

### **Fiscal Impact**

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

### **Public Contact**

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Staff was contacted by Mr. Andrew Gonzales, neighbor, who expressed strong concerns regarding the visual and safety impacts the project may have on the neighborhood. Staff has sought to address these concerns by recommending conditions of approval to either reduce the height of the fence at the proposed location or set the proposed fence back an additional two feet and to install landscaping to soften the appearance of the fence. The applicant has also

redesigned the project so that the fence is outside the 40' corner vision triangle. For pedestrian, bicycle and vehicle safety, fences, landscaping or any other objects within a vision triangle may not exceed 3' in height.

Notice of Public Hearing	Staff Report	Agenda
<ul style="list-style-type: none"> <li>• Published in the <i>Sun</i> newspaper</li> <li>• Posted on the site</li> <li>• 13 notices mailed to property owners and residents adjacent to the project site</li> </ul>	<ul style="list-style-type: none"> <li>• Posted on the City of Sunnyvale's Website</li> <li>• Provided at the Reference Section of the City of Sunnyvale's Public Library</li> </ul>	<ul style="list-style-type: none"> <li>• Posted on the City's official notice bulletin board</li> <li>• City of Sunnyvale's Website</li> </ul>

## Conclusion

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**Discussion:** Although the design of the proposed fence is consistent with the Single Family Home Design Techniques, it is significantly taller than the recommended height of 6'. The proposed height, along with its location, would create a fortress-like appearance to the property, which is inconsistent with the residential character of the neighborhood. Recent permit approvals have allowed taller fences immediately adjacent to the public sidewalk that are 7' tall measured from the top of the nearest curb, and 6' tall or less measured from the interior grade. Fences 7' tall or more have been required to have greater setbacks with landscaping installed between the fence and the sidewalk to soften visual impacts.

In this case, the subject site is about 2'-6" higher in grade than the public sidewalk. If the Administrative Hearing Officer is able to make the required findings to approve the project, staff recommends conditions of approval requiring a modified design. Condition of Approval #3A require the applicant to set back the wooden portion of the fence an additional 2' from the proposed location of the retaining wall (2' from the sidewalk) and install landscaping in the space between.

**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**

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1. Approve the Use Permit with the attached conditions.
2. Approve the Use Permit with modified conditions of approval.
3. Deny the request for a Use Permit.

## **Recommendation**

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Alternative 1

Prepared by:

**Rosemarie Zulueta**

Project Planner

Reviewed by:

**Andrew Miner**

Principal Planner

Attachments:

- A. Recommended Findings
- B. Recommended Conditions of Approval
- C. Site and Architectural Plans and Drawings
- D. Use Permit Justifications from the Applicant
- E. Letters from Other Interested Parties

## **Recommended Findings - Use Permit**

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Goals and Policies that relate to this project are:

### **Land Use and Transportation Statement**

*Action Statement N1.1.1 – Limit the intrusion of incompatible uses and inappropriate development into city neighborhoods.*

*Goal C1 – Preserve and enhance an attractive community, with a positive image and a sense of place that consists of distinctive neighborhoods, pockets of interest, and human scaled development.*

### **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. 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.*

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

The proposed fence is not consistent with the Single Family Home Design Techniques, which encourage the use of open fencing with a height of no more than six feet in the reducible front yard. With the recommended conditions to install landscaping and set the proposed fence back, the fence will maintain the scale and appearance of the residential neighborhood.

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

The proposed height and location of the fence and the lack of landscaping would result in an imposing, “walled-in” feeling, which would have a negative impact on the streetscape and the surrounding properties. Staff has recommended conditions of approval to mitigate this potential impact and at the same time provide the security and privacy that the applicant desires.

**Recommended Conditions of Approval - Use Permit**

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

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

**1. GENERAL CONDITIONS**

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

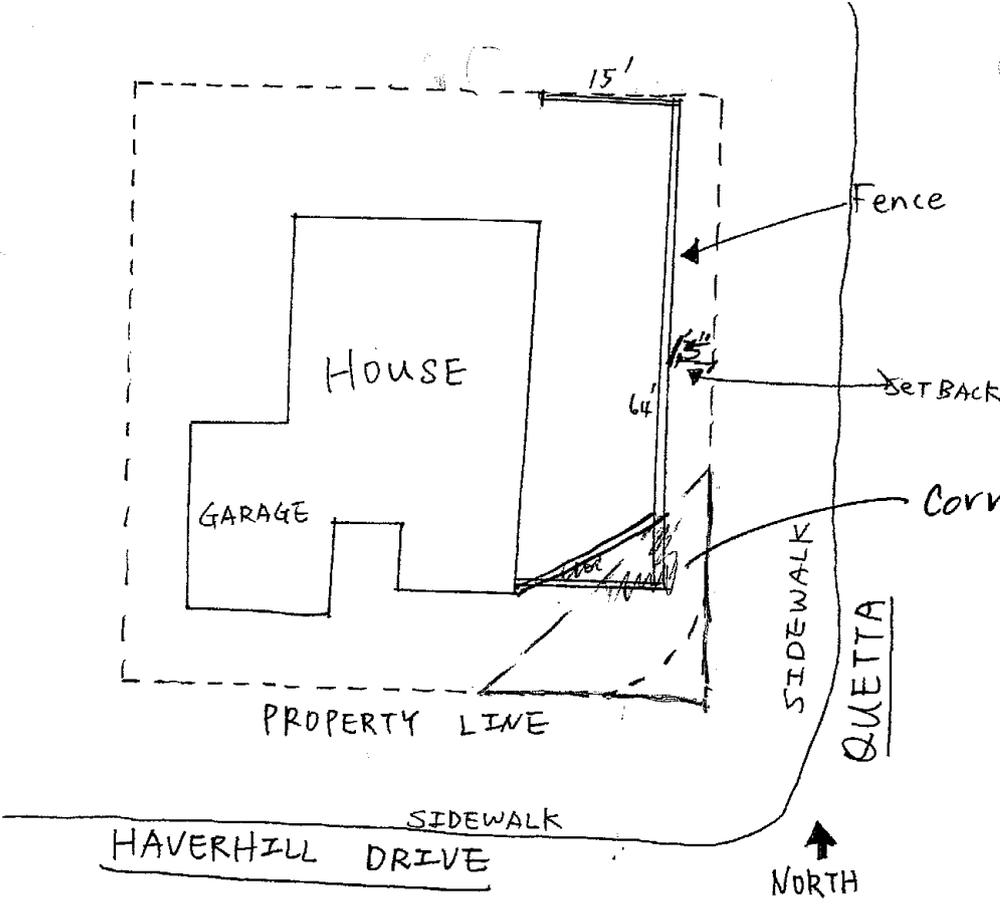
**2. OBTAIN OTHER PERMITS**

- A. Obtain Building Permits as required.

**3. FENCES**

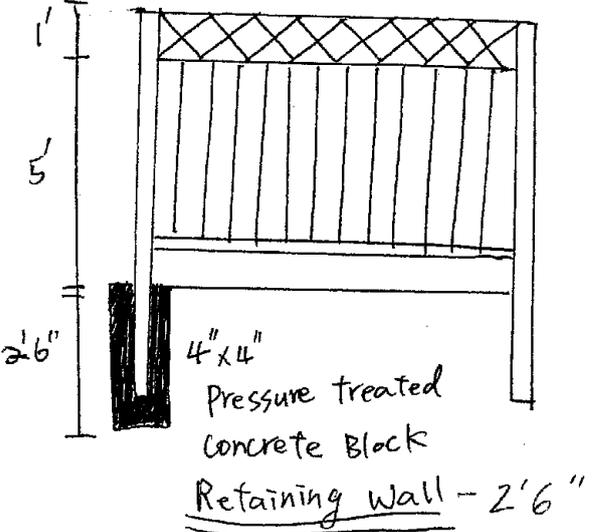
- The proposed 2'-6" foot tall retaining wall shall be set back 2' from the back edge of the sidewalk. The 5' tall solid wood fence with 1' lattice shall be set back an additional 2' from the edge of the retaining wall to create an area for landscaping. The wooden portion of the fence would be set back a total of 4' from the back edge of the sidewalk. Trees, bushes, flowers, vines, or other landscaping shall be planted and maintained in the planting area between the wooden fence and the edge of the retaining wall.
- A. The proposed fence shall not be located within the 40' corner vision triangle. No fences, shrubs, bushes, hedges or other objects within the vision triangle shall exceed 3' in height.
  - B. The 2'-6" tall retaining wall shall be made of split face concrete blocks, or other material that is residential in character.

- C. Landscaping and final fence design shall be reviewed and approved by the Director of Community Development.



Corner Vision Triangle

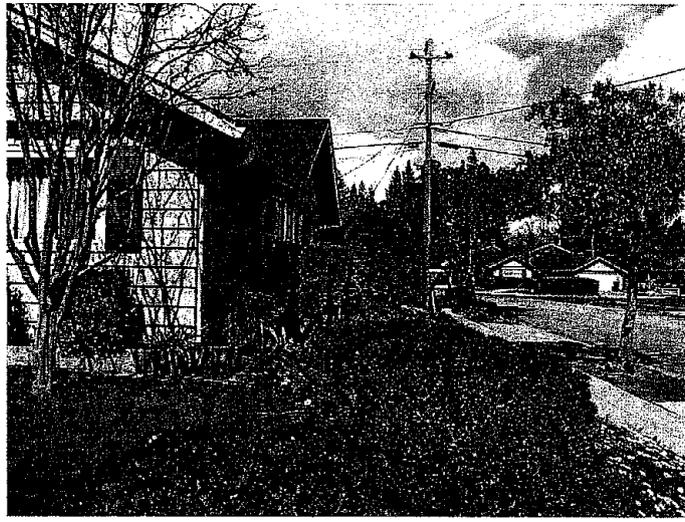
(Not to scale)



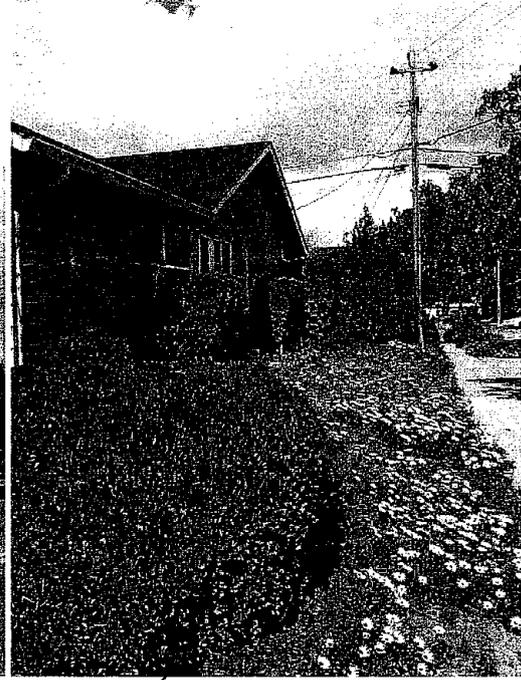
# 721 HAVERHILL DRIVE - CORNER VISION TRIANGLE



Side view

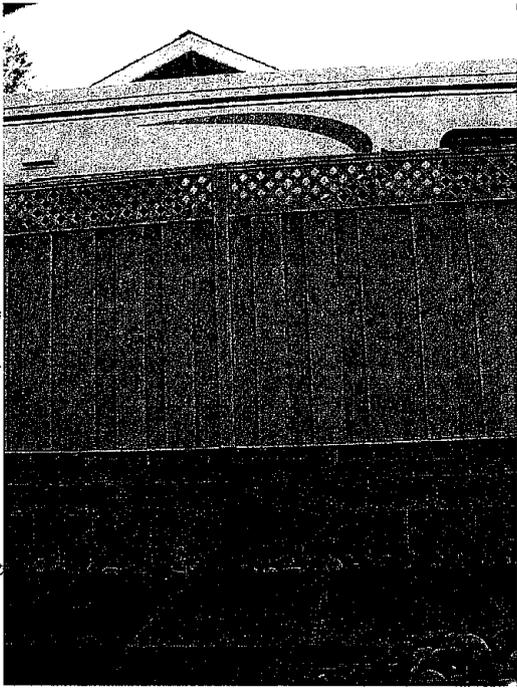


↓  
My backdoor



↓  
place where I want to have fence.

Neighbor's fence



↑  
We want to do exactly the same as our neighbors.



# 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 ...

- ① People can access my backdoor directly from the street, and I don't feel secure about this. "Safety" is the most important thing for my family.
- ② I need more privacy
- ③ Once the fence is built, my neighborhood will look more decent than it is now.
- ④ I cannot think of if there's any negative impact to the neighborhood.

\* Also house is at a higher grade than the street, so a 6' fence would not provide enough privacy.  
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 ...

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

Ms. Zuleta:

4/12/2008

721 Haverhill Fence File 2008-0332 Objection:

Excess height fence along reducible from yard of 721 Haverhill Drive, Sunnyvale APN 201-09-019. Table and Figures referenced are attached in PowerPoint package – 2008-0332 Gonzales objection letter figures. Applicable standards are given in Tab. 1; however these standards must be applied consistent with existing special conditions.

My property at 882 Quetta Ave in Sunnyvale is directly across Quetta Ave from the applicant property. An 8'-6" fence will be directly in view of key areas within the front of our residence and will be most unattractive. Fences along sidewalk lines tend to wall-in the neighborhood. The excessive height, per the standard, is most definitely opposed.

The property at 721 Haverhill has been arranged in the current configuration for the 26 years that we have been here, and it is our understanding for many more years prior to 1982, and the basic landscaping provides a pleasant view that enhances the quality and value of the neighbor. Figs. 1 and 2 demonstrate the visual impact of this fence. The image of the fenced condition was electronically prepared assuming a fence similar in construction to existing fences on the property. It is recognized that other types of construction may be possible.

There is a safety consideration here as well, as illustrated in fig. 3. The radius of the turn between Haverhill, and Quetta is unusually broad and invites higher-than normal traffic speeds in both directions. Traffic moving from Haverhill Avenue, EB, to Quetta Avenue, SB, often "cut the turn short" and drift down into their left-hand lane at the apex of the corner. Compounding this is the extension of Quetta Avenue into Quetta Court.

Even in its present arrangement, a stop sign to for EB traffic on Haverhill Drive at Quetta Avenue / Court to protect traffic moving between Quetta Avenue and Quetta Court should be installed. Adding an intrusive fence will impact sightlines, as illustrated in figs. 4 & 5, and reduce the traffic safety at the Quetta Avenue / Quetta Court / Haverhill intersection. For this reason, ANY FENCE, even if it meets the standard, is opposed due to the specific configuration of the property and streets. Decorative items, such as open lattice, do not mitigate the negative features of this proposal – it is still a wall with visual and safety impacts.

I am also concerned that the public hearing for this variance is being held at a time that is not convenient for the fullest public participation. I believe that Planning Commission Meetings are held on Mondays at 7:00 PM. Can you clarify the purpose of the April 30, hearing at 2:00 PM?

Andrew A. Gonzales

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Cc:

Planning Commission

Neighbor Preservation

Council

# Applicable Community Standards: Required Reducible Front Yard

Up to 6 feet	MPP
Over 6 feet – 7 feet	MPP with Posting of Property
Over 7 feet	Use Permit

**Table 1** - Request that Planning process consider visual impact, value to neighborhood and traffic safety in MPP process

4/12/2008

721 Haverhill Fence File 2008-  
0332 Objection

ATTACHMENT  
Page 2 of 5  
1



**Figure 1** – Existing pleasant view of landscaping along east elevation from 882 Quetta Ave. and other locations west of 721 Haverhill Dr site.

4/12/2008

721 Haverhill Fence File 2008-0332 Objection

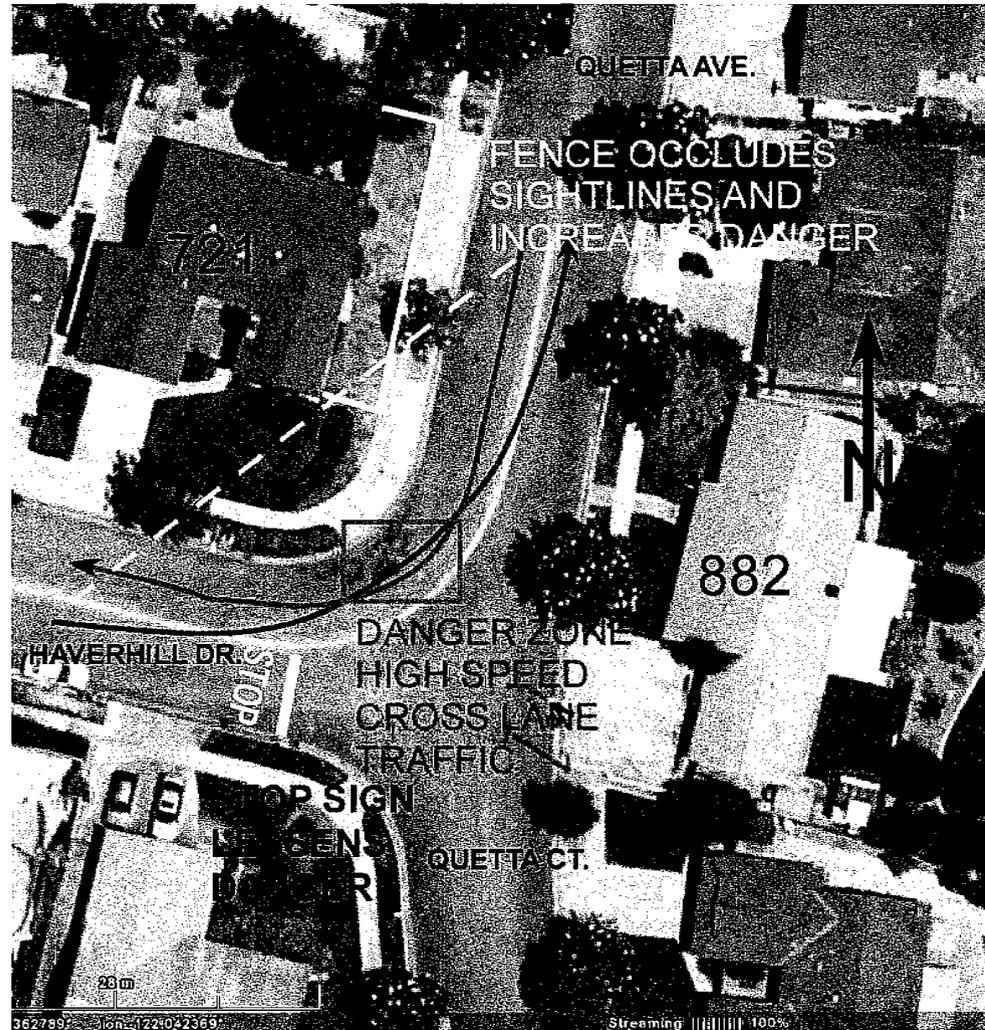
2



**Figure 2** – Projected view of wall along east elevation from 882 Quetta Ave. and other locations west of 721 Haverhill Dr. site

4/12/2008

721 Haverhill Fence File 2008-0332 Objection



**Figure 3 – Quetta / Haverhill corner requires traffic improvements rather than degradation**

4/12/2008

721 Haverhill Fence File 2008-0332 Objection



**Figure 3** – Current view traveling S on Quetta without wall – sight lines already marginal given higher speed traffic encouraged by broad radius curve.

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721 Haverhill Fence File 2008-  
0332 Objection

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**Figure 4** – Projected view with wall in place – sight lines severely impacted

4/12/2008

721 Haverhill Fence File 2008-  
0332 Objection