



**CITY OF SUNNYVALE
REPORT
Administrative Hearing**

June 11, 2008

SUBJECT: **2008-0498:** Application located at **1261 Albion Lane** in an R-0 (Low Density Residential) Zoning District.

Motion Use Permit to allow a 10' high sound wall along the rear property line adjacent to Fremont Avenue.

REPORT IN BRIEF

Existing Site Conditions Single-family residence

Surrounding Land Uses

North Office (across Fremont Avenue)

South Single-family residence (across Albion Lane)

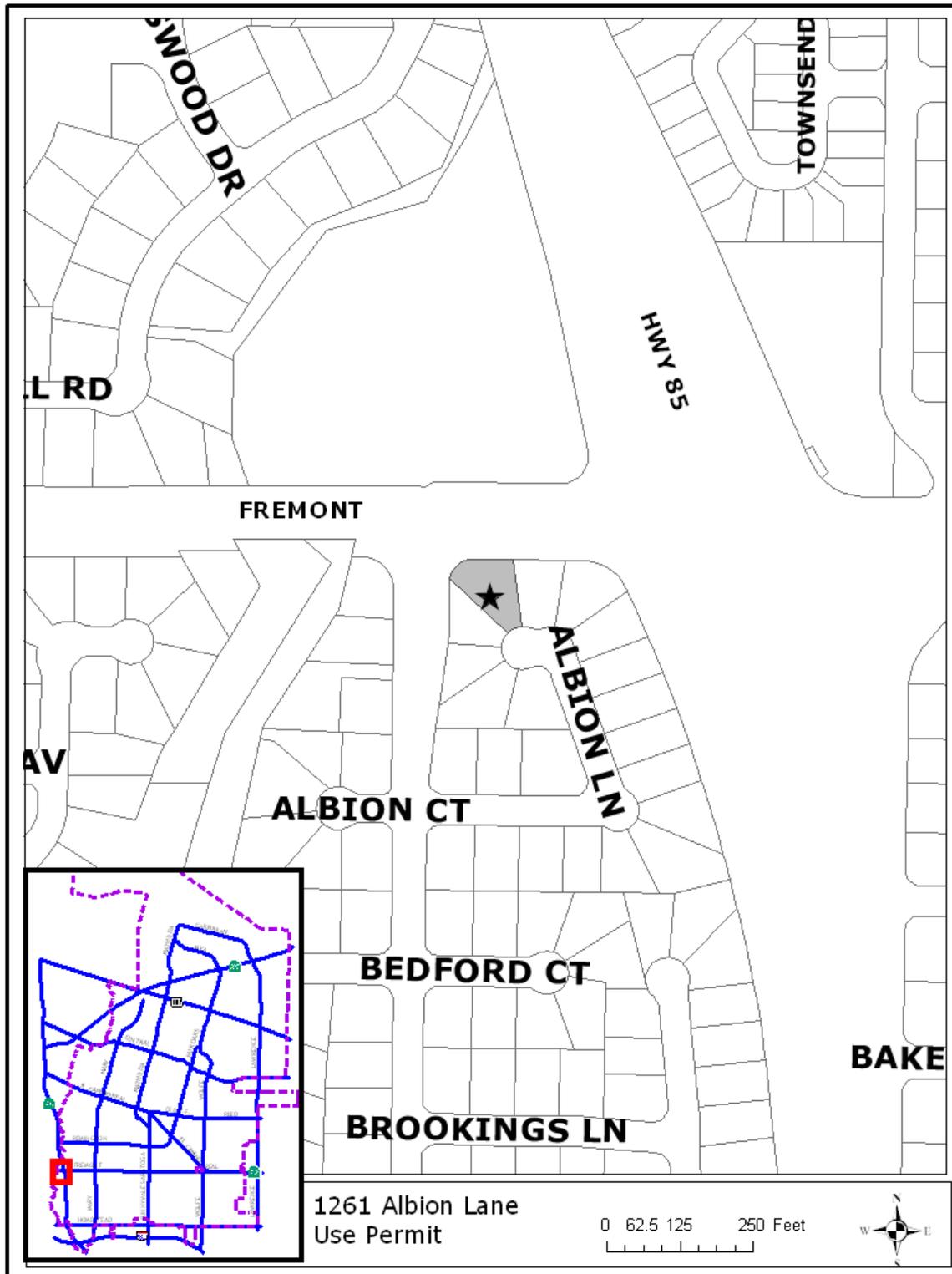
East Single-family residence

West Single-family residence

Issues Wall height

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

	EXISTING	PROPOSED	REQUIRED/ PERMITTED
General Plan	Residential Low-Density	Same	Residential Low-Density
Zoning District	R-0	Same	R-0
Lot Size (s.f.)	8,400	Same	6,000 min.
Gross Floor Area (s.f.)	2,446	Same	3,780 max.
Lot Coverage (%)	29.1%	Same	45% max.
Floor Area Ratio (%)	29.1%	Same	45% max. without PC review

ANALYSIS**Description of Proposed Project**

The applicant proposes to construct a concrete sound wall with a height of 10' along the rear property line adjacent to Fremont Avenue. The wall will replace a previously-existing 8' sound wall in the same location, which was recently demolished due to structural issues.

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
1976-0692	Tract Map to allow subdivision into 40 lots	Planning Commission / Approved	04/12/1976
1972-0444	Special Development Permit to allow development of 166 single-family homes	Planning Commission / Approved	04/10/1972

When the original Special Development Permit was reviewed in 1972, a noise analysis was conducted as part of the environmental review. This analysis resulted in a requirement to construct a masonry sound wall behind the homes (along Fremont Avenue) as a noise attenuation measure. When the property

was subdivided in 1976, a 2'-wide fence easement was established along the rear property lines to provide space for this required sound wall.

In May of 2008, the previously-existing sound wall behind the properties on Albion Lane was demolished, as it had become structurally unsound and was posing a hazard. The applicant is now proposing to reconstruct the wall with a different design and increase its height by 2'.

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 and additions to existing facilities.

Use Permit

Site Layout: The subject site fronts on Albion Lane, but its rear property line is adjacent to Fremont Avenue. Surrounding uses are single-family residential to the west, east, and south. A multi-story office building is located across Fremont Avenue to the north. The grade of the subject property is higher than the top of the adjacent street curb. In the rear yard, the grade varies from approximately 1'6" to 2'4" above the top of the adjacent curb.

Proposed Design and Justifications: The previously-existing sound wall on the property was a pre-cast concrete wall. It was stamped to give the appearance of small split-face masonry units, and was painted (see Attachment F – Site Photographs). The previous wall, which extended the length of the subdivision along Fremont Avenue, had a height varying from 6' to approximately 8' as measured from the top of the adjacent curb. It is not clear whether the original wall varied in height, or whether additional materials were added to the top of the wall by residents over the years. Along the rear of the subject site, the height of the previously-existing wall was approximately 8' as measured from the top of the adjacent curb.

The applicant is proposing to reconstruct the sound wall with a different design and an increased height. The proposed wall will vary from 10' from the top of the adjacent curb (approximately 8' feet from the grade on the interior of the site). It will consist of individual concrete masonry units (CMU) with a split-face appearance on the exterior and a smooth face appearance on the interior facing the residence. Structural piers will have a combed appearance and will be topped with smooth column caps (see Attachment C – Site and Architectural Plans). Currently, the piers are proposed approximately every 15 feet, but the applicant has stated that additional piers with closer spacing may be needed for structural reasons. The applicant is not proposing to paint the new wall, as

painted walls require additional maintenance to keep up a high-quality appearance.

Due to structural issues and pier-spacing requirements, the applicant will need to construct a portion of the new sound wall on the adjacent property to the west located at 1263 Albion Lane. The portion located on the adjacent property will have a height of 8' to match the existing wall. A wall section with a height of 9'4" will be constructed adjacent to the 8' section to provide a transition, and the remainder of the wall will have a height of 10'. The applicant has provided an authorization letter confirming the adjacent property owner is in agreement with the replacement plan (see Attachment E). The applicant states that the adjacent property owner to the east (at 1259 Albion Lane) also desires a 10' wall and will be submitting a subsequent application, therefore no transitional height is needed on that side.

The applicant's justifications for the additional wall height are noise and privacy. According to the applicant, there is significant traffic noise along Fremont Avenue which was not sufficiently mitigated by the previous 8-foot wall. In addition, the applicant is concerned with privacy in the rear yard. The previous 8' wall had an interior height of only 5'8" to 6'6" as measured from grade, and the applicant believes additional privacy is needed given the fact that a multi-story office building is located directly across the street.

Staff visited the subject site and noted significant noise in the rear yard area, which appeared to be the result of traffic along Fremont Avenue. Staff also visited the office building across the street to analyze viewing potential into the yard and concluded that a 10' wall would be necessary to provide full coverage of the home's windows as viewed from the second story of the office building.

Compliance with Development Standards/Guidelines: Fences and walls greater than 7 feet tall along side and rear property lines require a Use Permit. A Building permit is also required for any fence or wall exceeding 6 feet in height.

The Single-Family Home Design Techniques encourage wood fencing with an open appearance and a maximum height of 6 feet where possible. However, as noted previously, a masonry sound wall is a required noise mitigation for this site. As a result, open wood fencing is not an option. The height of the proposed wall is taller than the maximum height recommended in the Design Techniques. However, the proposed wall will be located along a busy street and will not face any residential uses, as the use across the street is a multi-story office building. The adjacent residences on either side also have concrete sound walls and should not be negatively affected by the proposed wall. Given the site conditions and the noise mitigation requirement, staff finds the design of the

proposed sound wall to be attractive and consistent with current development standards and guidelines.

Staff notes that although the existing sound wall located to the west of the property remains, the sound wall located on the next two properties to the east has been demolished. The adjacent property owners to the east have not yet submitted an application to replace the wall, but are likely to do so in the near future. Currently there is no design standard for the sound wall along Fremont Avenue as a whole. However, staff is concerned with the possibility of dramatically different designs along a stretch which currently has a single design. The Administrative Hearing Officer may wish to establish a general design standard to guide neighboring residents in their wall reconstruction efforts. For example, use of a common material, color, and finish (such as unpainted split-face concrete) may be desirable.

Expected Impact on the Surroundings: The proposed sound wall will not be visible from Albion Lane. The wall will be visible from the adjacent residences on either side of the subject property, both of which have similar sound walls. Although the wall will be significantly visible from Fremont Avenue, it is similar to the previous sound wall, has a high-quality design, and is not expected to have any negative impact on the streetscape or surrounding neighborhood.

FISCAL IMPACT

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

PUBLIC CONTACT

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 Web site • 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 • Posted on the City of Sunnyvale's Web site

Staff has not received any public comments related to this project.

CONCLUSION

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

Conditions of Approval: Recommended 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:

Mariya Hodge

Project Planner

Reviewed by:

Andrew Miner

Principal Planner

Attachments:

- A. Recommended Findings
- B. Recommended Conditions of Approval
- C. Site and Architectural Plans
- D. Project Justifications
- E. Applicant's Letter Regarding Consent of Adjacent Neighbor
- F. Site Photographs

Recommended Findings - Use Permit

Goals and Policies that relate to this project are:

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

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. Chain link fencing is strongly discouraged.*

1. The proposed use attains the objectives and purposes of the General Plan of the City of Sunnyvale. The subject sound wall provides the property owner with noise attenuation and privacy without compromising the aesthetics of the neighborhood. Although the Single-Family Home Design Techniques generally call for open wood fences, a masonry sound wall is required to adequately mitigate noise at this site. The design of the wall is attractive and will contribute positively to the streetscape and surrounding neighborhood. The proposed wall will provide the property owner with noise attenuation and visual screening to enhance the character of the surrounding neighborhood. The height of the proposed wall is taller than the maximum height recommended in the Design Techniques. However, the proposed wall will be located along a busy street and will not face any residential uses, as the use across the street is a multi-story office building. The adjacent residences on either side will also be required to similar sound walls.
2. The proposed use is desirable, and will not be materially detrimental to the public welfare or injurious to the property, improvements or uses within the immediate vicinity and within the Zoning District. The proposed sound wall will not be visible from Albion Lane. The wall will be visible from the adjacent residences on either side of the subject property, both of which have similar sound walls. Although the wall will be significantly visible from Fremont Avenue, it is similar to the previous sound wall, has a high-quality design, and is not expected to have any negative impact on the streetscape or surrounding neighborhood.

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

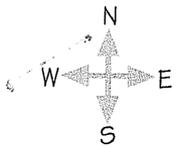
- A. Execute a Use Permit document prior to issuance of the Building permit.
- B. The project shall be in conformance with the plans approved at the public hearing(s). Minor changes may be approved by the Director of Community Development. Major changes require approval at a public hearing.
- C. The Conditions of Approval shall be reproduced on a page of the plans submitted for a Building permit for this project.
- D. The Use Permit for the use shall expire if the use is discontinued for a period of one year or more.
- E. 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.

2. OBTAIN OTHER PERMITS

- A. Obtain a Building permit prior to construction.
- B. Obtain any necessary encroachment permits from the City's Department of Public Works and from Caltrans.

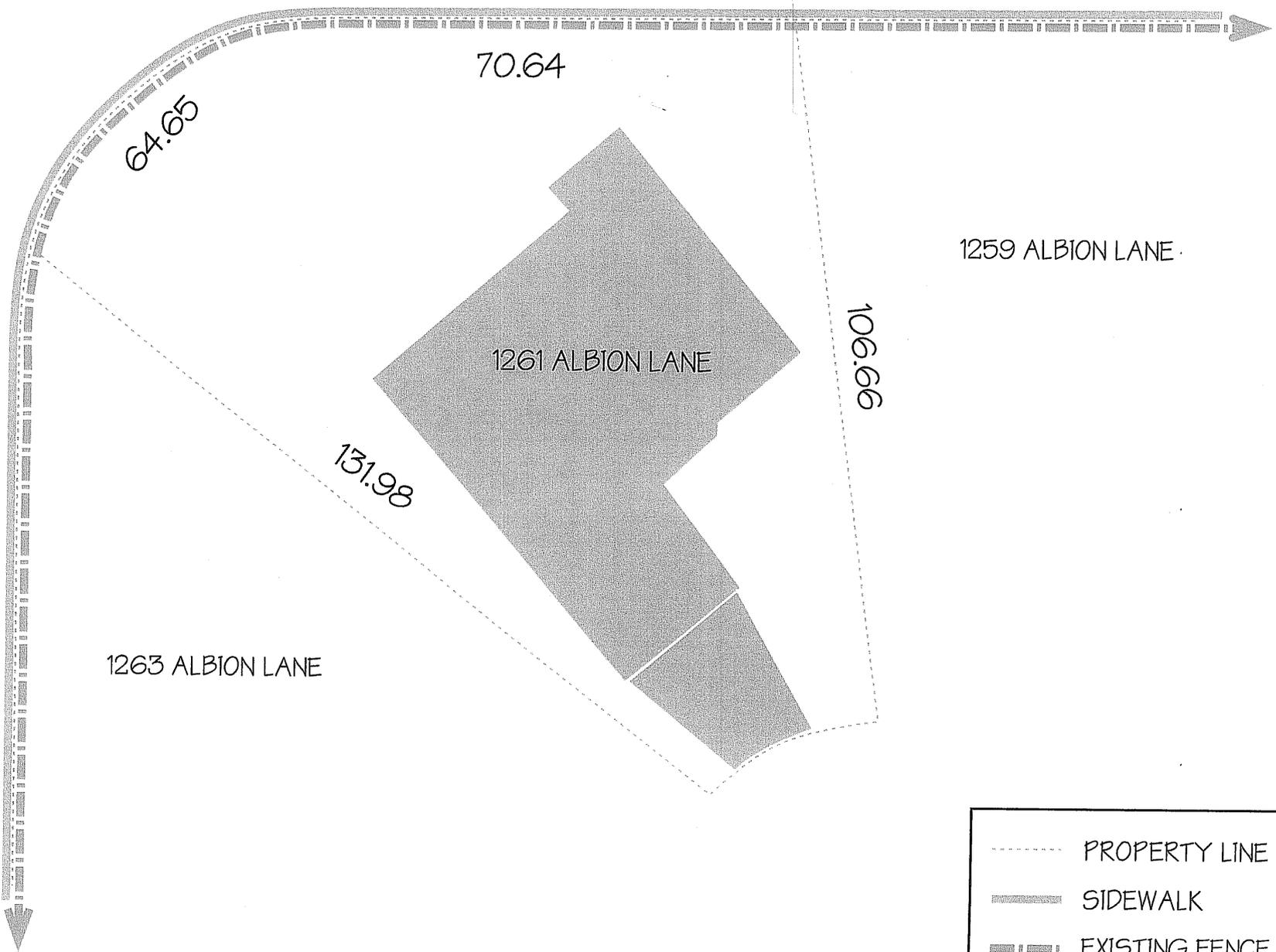
3. DESIGN AND LOCATION

- A. The subject wall shall have a maximum height of 10 feet as measured from the top of the nearest public curb.
- B. The subject wall shall be constructed in the 2-foot fence easement adjacent to the rear property line as shown on the Tract Map for the subdivision.



FREMONT AVE

BELLEVILLE WAY

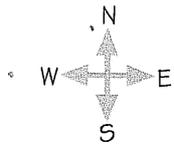


1259 ALBION LANE

1261 ALBION LANE

1263 ALBION LANE

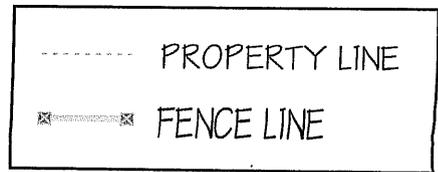
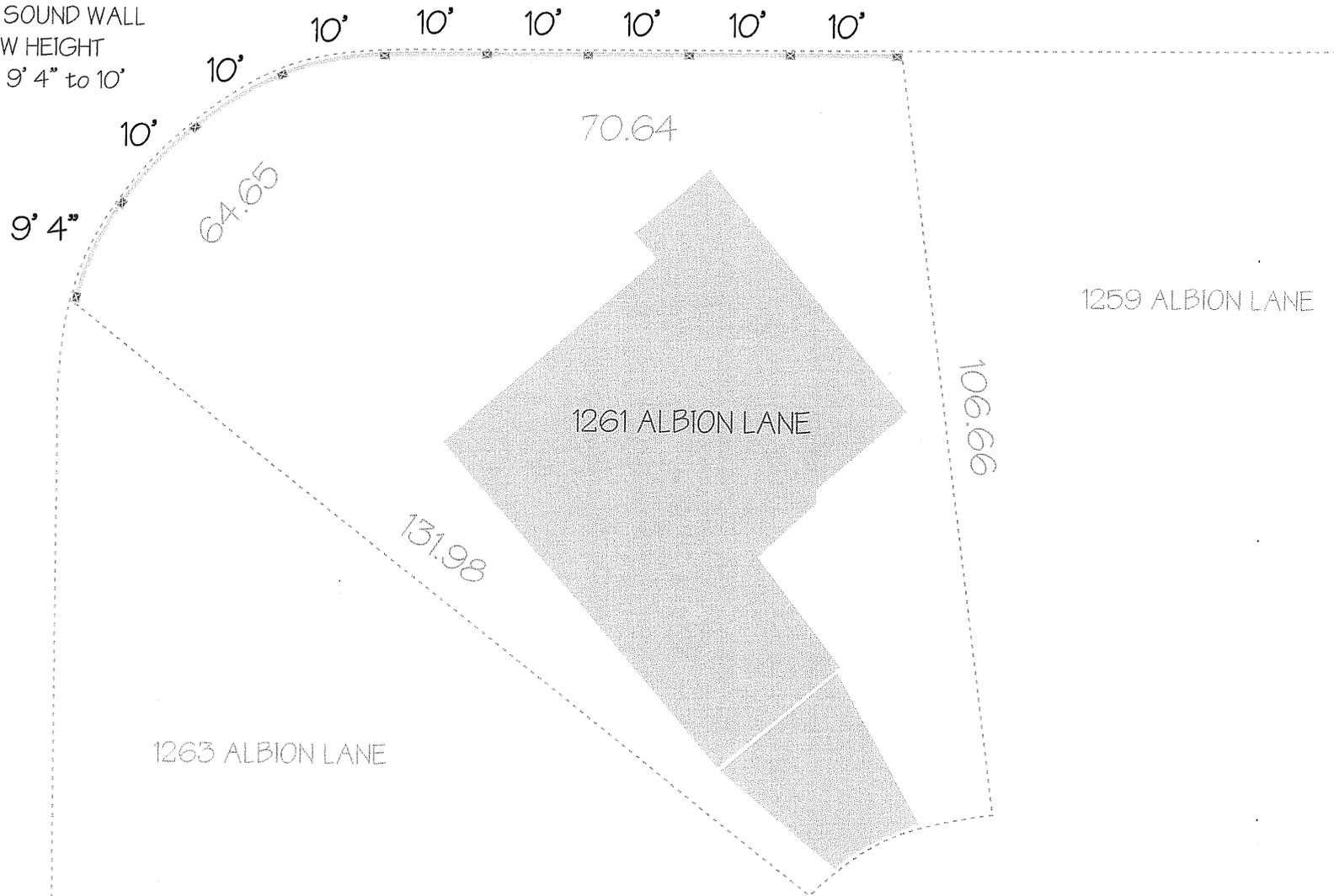
- PROPERTY LINE
- ===== SIDEWALK
- ====+==== EXISTING FENCE LINE
- FENCE EASEMENT

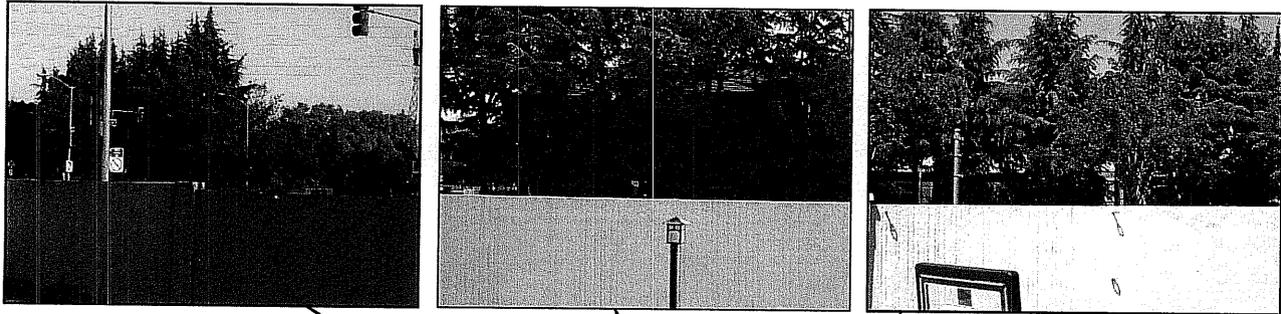
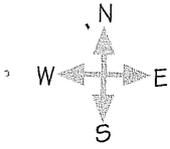


NEW SOUND WALL WILL BE IN THE SAME AREA AS OLD SOUND WALL BUT REQUESTING NEW HEIGHT FROM CURRENT 8' to 9' 4" to 10'

BELLEVILLE WAY

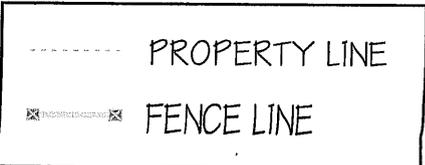
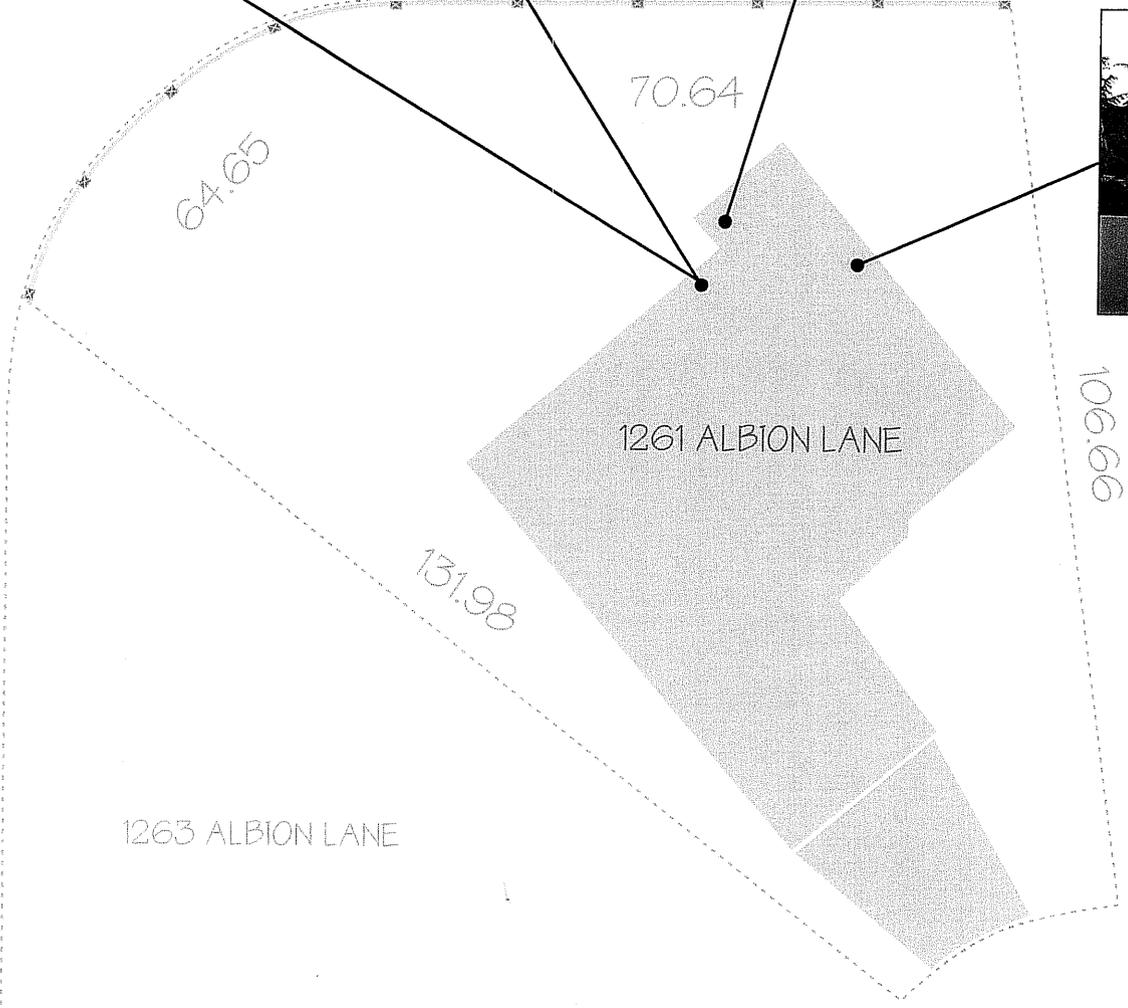
FREMONT AVE

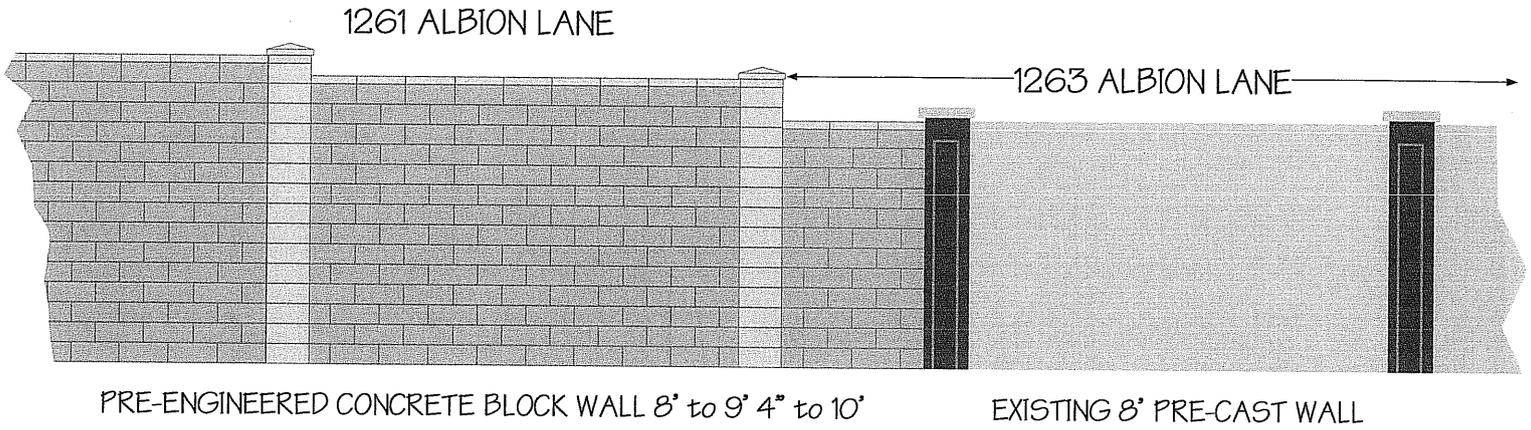
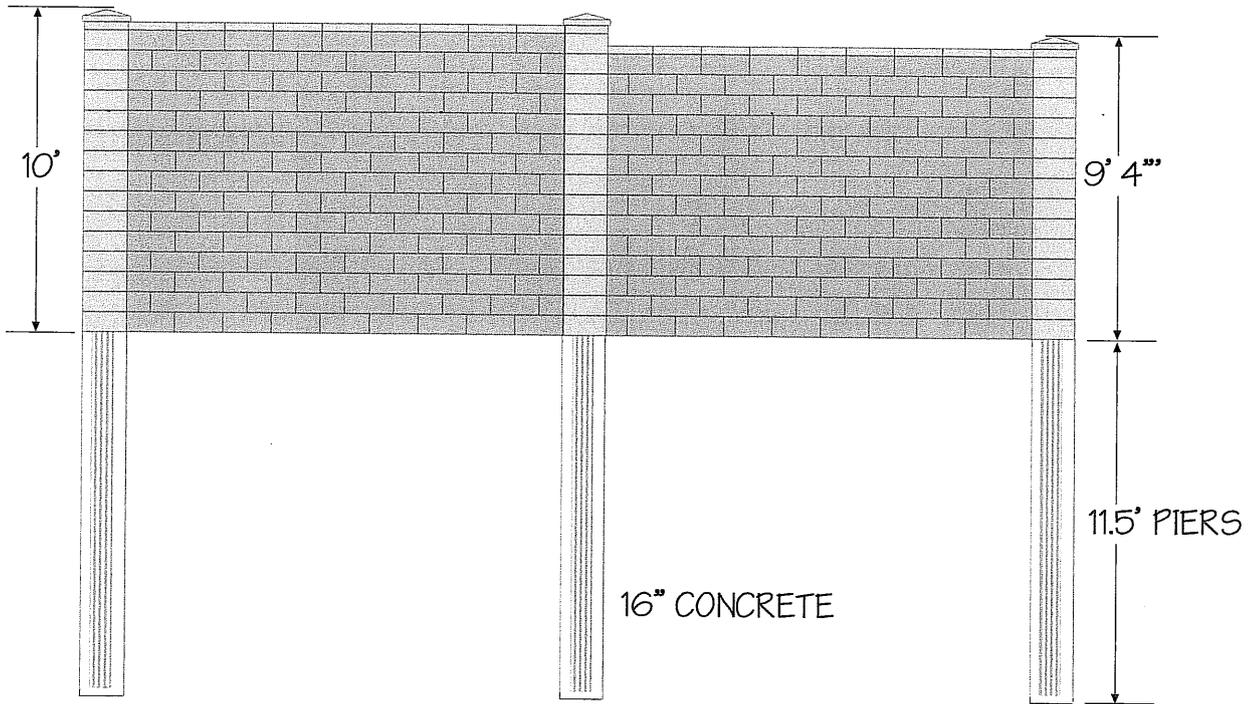




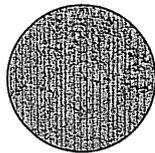
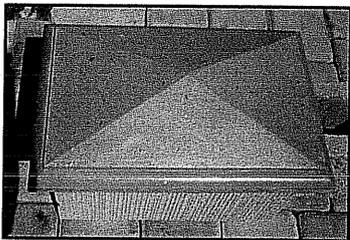
REQUESTING 10' WALL DUE TO LOSS OF PRIVACY FROM OFFICE BUILDING ACROSS FREMONT AND NOISE FROM FREMONT & 85

BELLEVILLE WAY

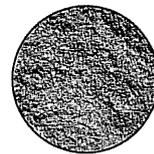




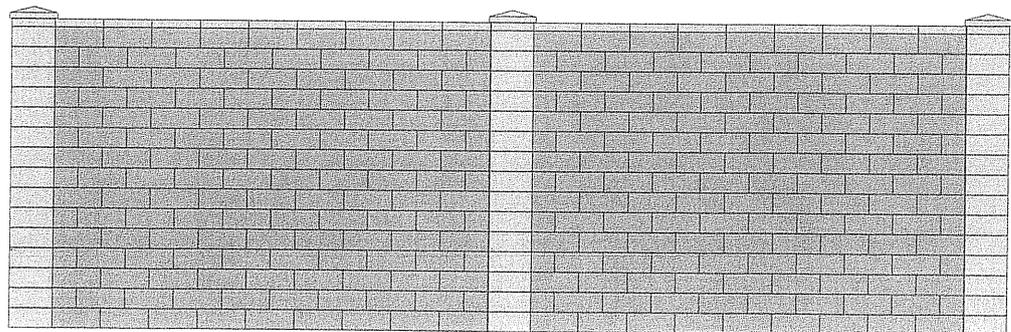
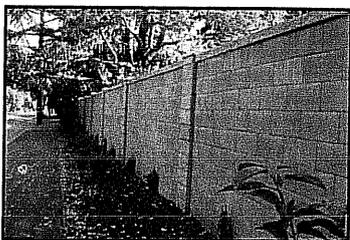
GRAY BERTELSON COLUMN CAP



COMB FACE FOR COLUMNS



SPLIT FACE FOR WALLS



Use Permit/Special Development Permit Justifications: 1261 Albion Lane, Sunnyvale 94087

We need to remove and replace the sound wall that is located at the back of our property because it is leaning towards the public sidewalk and is a hazard to people walking on the sidewalk, cyclist using the bike lane, and people driving by in their cars. The wall is 30 years old and was built before Fremont Avenue was a busy street, before Highway 85 opened and prior to the 2-story commercial office building being built across the street on Fremont Avenue.

The existing wall is a pre-cast column + panel wall. We are proposing to replace it with a pre-engineered block wall. This wall should be more stable with piers driven down 11 ½' versus the 4' used for the pre-cast walls.

We will be required to remove a 3' portion of our neighbor's wall at 1263 Albion Lane. We have obtained their permission to do so.

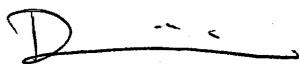
There are no residential neighbors across from where the new sound wall will be built. We will be building the new sound wall at the location of the existing sound wall.

We are requesting to change the height from 8 feet to 10 feet for the following reasons:

- Aesthetics
 1. Improvement to neighborhood
 2. Improvement to gateway into Sunnyvale from Los Altos
- Noise
 1. Reduce noise from Fremont Avenue
 2. Reduce noise from Highway 85
- Privacy
 1. More privacy from two story office building across Fremont Avenue
 2. Reduce the glare of car lights and ambulance and fire truck flashing lights from Fremont Avenue traffic
- Safety
 1. Increase safety for our family. Fremont/Belleville is a very busy intersection – our neighbors at 1263 have had a car come through their wall and last year a car crashed into the median divide just across from the sound wall.

Please let me know if you have any questions.

Thank you.



Danielle Fujii 650-906-4388

April 28, 2008

Jovy and Pinky DeVilla
1263 Albion Lane
Sunnyvale, CA 94087

Dear Jovy and Pinky:

As you know our portion of the sound wall was condemned on April 18, 2008. In a letter from the City dated April 22, 2008, it states that the wall must be removed by the 16th of May unless we appeal or hire a structural engineer to determine that the wall is sound. We don't plan on appealing and hope that our neighbors at 1258 and 1259 Albion are ready to move forward with demolishing the wall. Unless we all agree, we can't move forward because we have been told by 5 different contractors that their portions of the wall could fall if we remove just the sections on our property. On Monday, I plan to deliver a letter to the City Attorney, Kathryn Berry, which requests an agreement from the City that removing and rebuilding the wall does not mean that we are accepting ownership of the wall. You can read the more about the City's position in the attached copy of the letter.

In a previous email I mentioned that during demolition we would need to remove the panel which spans both our properties. We will also need to remove a portion of the wood fence because we would like to place a new column at the center of the property line. We will be responsible for permits, demolition, temporary 8' chain link fence with privacy screen, the replacement wall on your property (approximately 4' x 7') and repairing the wood fence. The interior of the replacement wall on your property will look similar to what you currently have.

Once the demolition of the wall is complete, we will move forward with selecting a contractor, wall type and design. When we do this, we can meet together with the contractor so that you have a clear understanding of what to expect. We will be required to submit the replacement wall design and specifications at a public hearing because we are requesting that the new wall be taller than 7 feet. This process may take up to 8 weeks.

We hope to have the new wall installed within 90 days of demolition.

Please let us know if you have any questions or concerns.

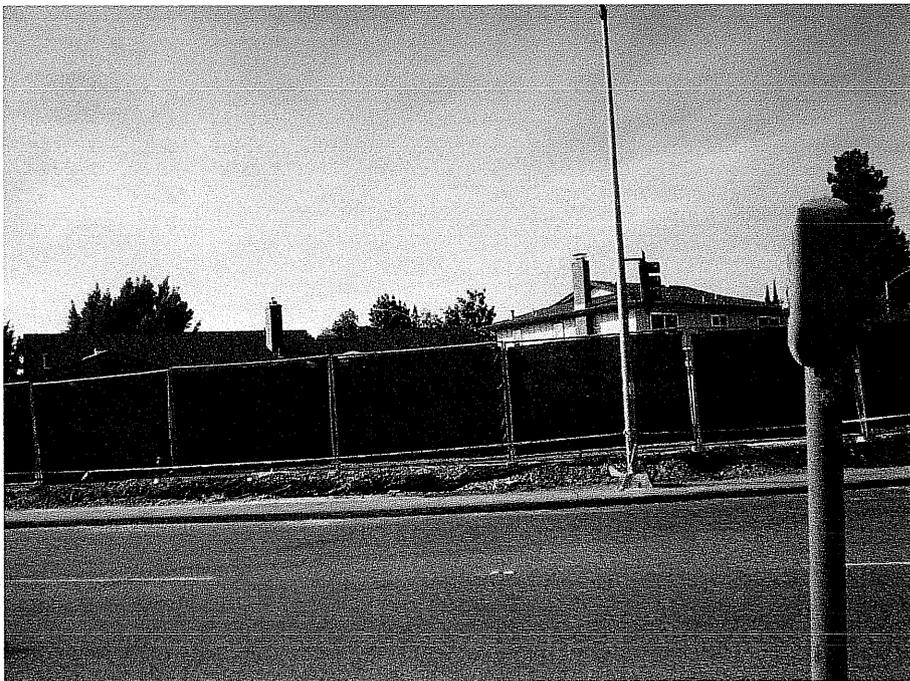
Sincerely,

Danielle and Craig Fujii
1261 Albion Lane, Sunnyvale, CA 94087
danielle@fullmoonfire.com

*Okay with this
Jovy DeVilla
5/4/08*



Photograph of previous sound wall taken from Fremont Avenue approaching from the west.



Photograph of current condition (temporary construction fencing taken from across Fremont Avenue.



Photograph of current condition (temporary construction fencing) taken from the rear yard of the subject property. The multi-story office building is visible across the street.