



**CITY OF SUNNYVALE
REPORT
Administrative Hearing**

August 27, 2008

SUBJECT: **2008-0623:** Application located at **1258 and 1259 Albion Lane** in an R-0 (Low Density Residential) Zoning District.

Motion Use Permit to allow a concrete sound wall with a height of up to 11' from exterior grade and up to 15' 7" from the top of curb along the rear property lines of two existing residences adjacent to Fremont Avenue.

REPORT IN BRIEF

Existing Site Conditions Single-family residences

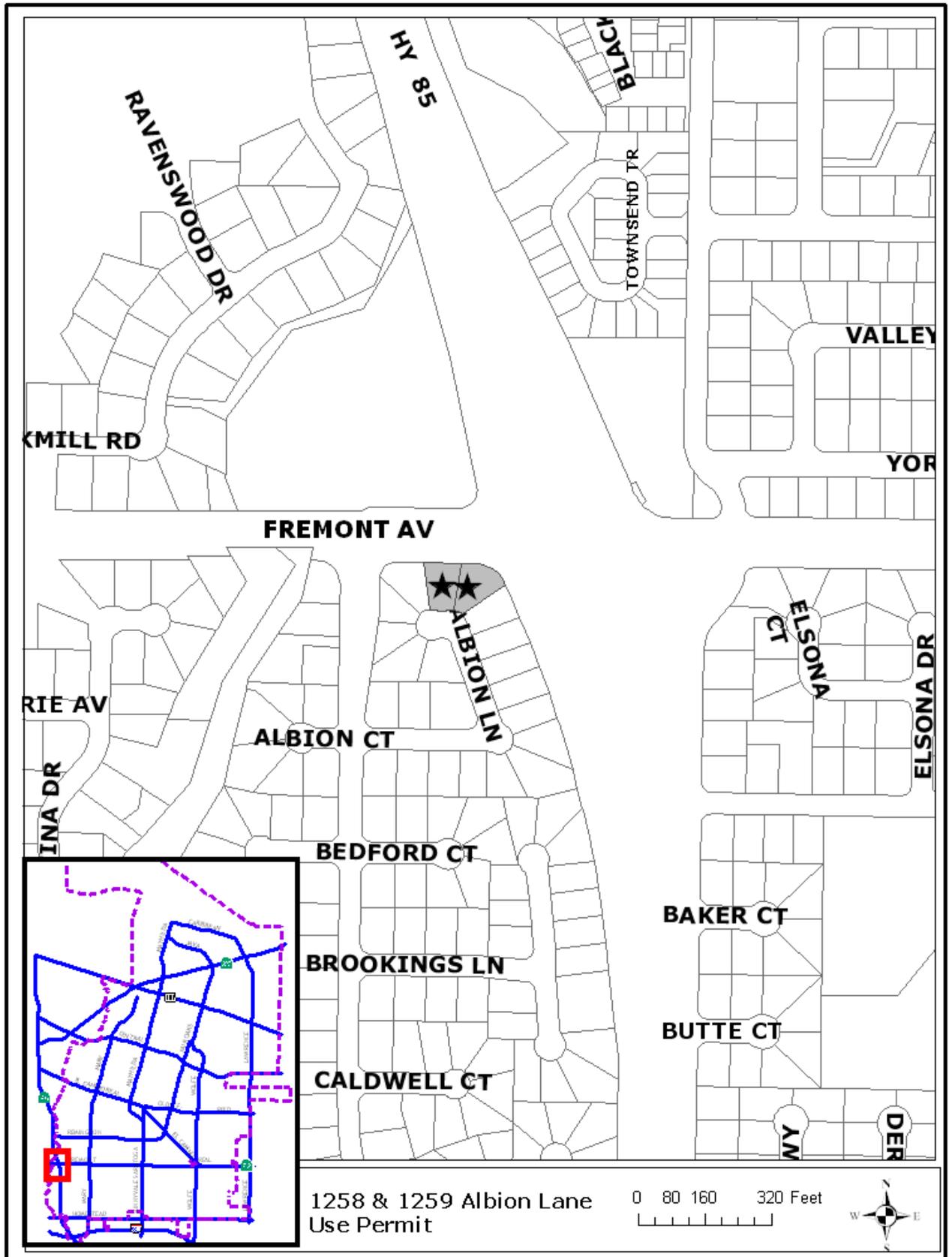
Surrounding Land Uses

North	Office (across Fremont Avenue)
South	Single-family residence (across Albion Lane)
East	Single-family residence/Highway 85
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 – 1258 Albion Lane (APN: 320-28-038)

	EXISTING	PROPOSED	REQUIRED/ PERMITTED
General Plan	Residential Low-Density	Same	Residential Low-Density
Zoning District	R-0	Same	R-0
Lot Size (s.f.)	9,318	Same	6,000 min.
Gross Floor Area (s.f.)	2,492	Same	4,193 max.
Lot Coverage (%)	26.7%	Same	45% max.
Floor Area Ratio (%)	26.7%	Same	45% max. without PC review

PROJECT DATA TABLE – 1259 Albion Lane (APN: 320-28-039)

	EXISTING	PROPOSED	REQUIRED/ PERMITTED
General Plan	Residential Low-Density	Same	Residential Low-Density
Zoning District	R-0	Same	R-0
Lot Size (s.f.)	8,012	Same	6,000 min.
Gross Floor Area (s.f.)	2,314	Same	3,605 max.
Lot Coverage (%)	28.9%	Same	45% max.
Floor Area Ratio (%)	28.9%	Same	45% max. without PC review

ANALYSIS**Description of Proposed Project**

The applicants propose to construct a concrete sound wall along their rear property lines adjacent to Fremont Avenue. The wall would replace a previously-existing 8' sound wall in the same location, which was recently demolished due to structural issues. The current proposal is to construct a wall which would achieve an interior height varying from 7' 11" to 8' 11" as measured from the finished grade of the rear yards. The height of the wall

measured from the exterior grade would vary from 9' 9" to 11'. Due to significant grade differentials along the rear of these properties, the height of the wall as measured from the top of the adjacent public curb would vary from 10' to 15' 7". The applicants propose a pre-cast concrete wall with a smooth finish to be painted in a light tan color, as shown in Attachment E.

Background

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

File Number	Brief Description	Hearing/Decision	Date
2008-0623 <i>(subject application)</i>	Use Permit to allow a 10' sound wall along the rear of two existing residences <i>(previous description)</i>	Administrative Hearing / Continued Indefinitely <i>(to revise description and re-notice)</i>	07/16/2008
2008-0517 and 2008-0519	Miscellaneous Plan Permits to allow temporary chain link fencing after wall demolition	Staff Review / Approved	05/09/2008
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 for this housing development 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 to create both of the subject lots, 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 property at 1261 Albion Lane (adjacent to the subject sites) then received approval to re-construct their section of the sound wall at a height of 10' with a concrete masonry design (Use Permit #2008-0498). In June, the applicants submitted a Use Permit application to re-construct their

sections of the sound wall using the same design and height approved for their neighbor (Attachment D). However, during the Administrative Hearing on July 16, 2008, the applicants stated that they desired a different design with increased height. The Administrative Hearing Officer determined that no action could be taken on their revised proposal, therefore the hearing was continued indefinitely to allow revised public notification and staff analysis of the new proposal.

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 sites front on Albion Lane, but their rear property lines are 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 site located at 1258 Albion Lane is also adjacent to the entrance ramp for Highway 85, and the subject sound wall would be located directly adjacent to the Caltrans freeway sound wall.

The grades of the subject properties are higher than the top of the adjacent street curb, and this difference increases moving from west to east as Fremont Avenue slopes downward. The rear yard of the property located at 1259 Albion Lane has a finished grade varying from approximately 1' 6" to 2' 6" above the top of the adjacent curb. The rear yard of the property located at 1258 Albion Lane has a much greater difference in grade, with the finished grade of the rear yard varying from approximately 2' 6" to 6' 8" above the top of the adjacent curb. Attachment F includes photographs showing these differences in grade. Attachment G provides illustrations showing the approximate grade differences and proposed wall height at various locations across these properties.

Proposed Design and Justifications: The previously-existing sound wall at the rear of the subject properties 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 to increase its height. Along the rear of the subject sites, the height of the previously-existing wall was approximately 8' as measured from the top of the adjacent curb. The wall's height was greater on the east side as it approached the Caltrans sound

wall, but the exact height is unknown as the previous wall has been demolished.

The applicants are proposing to reconstruct the sound wall behind their properties with a different design and an increased height. The proposed wall would vary from 10' above the top of the adjacent curb (approximately 8' feet from the interior grade of the rear yard) to a height of up to 15' 7" above the top of curb (approximately 8' 11" from the interior grade of the rear yard). The proposed design is a pre-cast concrete wall with a smooth finish, to be painted in a light tan color as shown in Attachment E. This design is a significant departure from the existing Caltrans wall to the east as well as the design of the recently-constructed sound wall section at 1261 Albion Lane. The applicants had previously proposed to match the design of their neighbor at 1261 Albion Lane, but discovered the cost of that design would be significantly higher than expected due to soil conditions on their properties. As a result, the applicants are now proposing a less costly pre-cast wall.

The applicants' justifications for the height of the proposed wall are noise mitigation and visual screening of traffic on the elevated freeway to the east. According to the applicants, there is significant traffic noise along Fremont Avenue which was not sufficiently mitigated by the previous 8' wall (Attachment D). During site visits, staff noted significant noise in the rear yards of the homes along Albion lane, which appeared to be the result of traffic along Fremont Avenue. Based on a similar justification, the Administrative Hearing Officer previously approved a sound wall with a height of 10' above the top of curb (approximately 8' from the interior grade of the rear yard) for the adjacent property at 1261 Albion Lane. Although this is consistent with the proposal for 1259 Albion Lane, the interior height of the proposed wall for 1258 Albion Lane would be greater (up to 8' 11"). The applicant at 1258 Albion Lane informed staff that he requires this additional height to provide visual screening of vehicles traveling on the elevated freeway adjacent to his home. In order to screen passing trucks as viewed from the windows inside the home, he estimates an interior height of 8' 11" is needed for the panel of the wall located closest to the Caltrans freeway wall. This panel is proposed to be 76' long. The next panel to the west would step down to an interior height of 8' 5" and a total height of 14' 8" from top of curb. The remaining panels to the west of the property would have an interior height of approximately 7' 11" and a total height of 13' 1" from the top of curb.

Staff does not believe the findings can be made to approve a wall with the height proposed for 1258 Albion Lane. A height of 15' 7" relative to the top of curb has the potential for significant visual impacts on the surrounding neighborhood, and staff does not believe this height is necessary for adequate noise mitigation. For the previously-approved Use Permit at 1261 Albion Lane (#2008-0498), the Administrative Hearing Officer found that a wall with an

interior height of 8' (resulting in 10' from the top of curb) would provide reasonable noise mitigation while keeping impacts on the surrounding streetscape to a minimum. Consistent with this action, staff recommends Condition of Approval #3.B requiring the height of the wall at 1258 Albion Lane to be reduced to no more than 14' 8" from the top of curb (resulting in a height of 8' from the interior grade of the rear yard). Staff also recommends requiring the height to be gradually reduced for each panel from east to west to provide a visual transition to the height of the adjacent walls. For the wall sections located behind 1259 Albion Lane, staff recommends keeping the top of the wall level with the adjacent wall at 1261 Albion Lane (Attachment B).

The smooth-face appearance and tan color proposed for the pre-cast wall are likely to appear incompatible with the wall sections to the west and east. Although staff does not believe the applicants should be required to use a design identical to their neighbor's, staff does believe the designs should be reasonably compatible. As a result, staff is recommending Condition of Approval #3.C requiring a design modification to provide a "split-face" type texture on the exterior of the pre-cast wall facing Fremont Avenue, as well as to paint the wall in a grey tone or other color compatible with the wall sections on either side (Attachment B).

Currently, the applicants propose to place structural piers approximately every 15 feet, but additional piers with closer spacing may be needed for structural reasons. Staff notes that the current plans do not necessarily include a structural pier on the property line separating the two subject sites. Demolition of the previously-existing sound wall was difficult because structural piers were not located on property lines and cooperation between neighbors became an issue. Staff is recommending Condition of Approval #3.E requiring that a structural pier be placed on the property line between the two subject properties (Attachment B).

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, a masonry sound wall is the most effective design for noise mitigation for these sites. 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. As conditioned, the wall would have a height varying from 10' to 14' 8" as measured from the top of curb. The wall would be located along a busy street and would not face any residential uses, as the use across the street is a multi-story office building. Adjacent residences on either side also

have concrete sound walls and should not be negatively affected by the proposed wall (as conditioned). Where the wall would be tallest (at 14' 8"), it would be located directly adjacent to a Caltrans freeway sound wall of even greater height. The design of the wall, as conditioned, would be compatible with the walls on adjacent properties. Given the site conditions and the noise mitigation requirement, staff finds the height and design of the sound wall (as conditioned) to be consistent with current development standards and guidelines.

Expected Impact on the Surroundings: The proposed sound wall would not be visible from Albion Lane. The wall would be visible from the adjacent residences on either side of the subject properties, all of which have similar sound walls. Although the wall would be significantly visible from Fremont Avenue, it would be similar to the previous sound wall and would have a high-quality design. The proposed project, as conditioned, is not expected to result in a negative visual 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 • 6 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: Based on the justifications for the Use Permit, staff was able to make the required Findings for the project as modified by the recommended Conditions of Approval (with reduced height and revised design). 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 Submitted by Applicants Prior to Administrative Hearing on 7/16/08
- D. Project Justifications Submitted by Applicants Prior to Administrative Hearing on 7/16/08
- E. Revised Plans and Documents Submitted by Applicants
- F. Site Photographs
- G. Grade Differential and Wall Height Estimates Prepared by Staff

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, as modified by the Conditions of Approval in Attachment B, would provide 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 these sites. The design of the wall as modified by the Conditions of Approval would contribute positively to the streetscape and surrounding neighborhood. The height of the proposed wall is taller than the maximum height recommended in the Design Techniques. However, the proposed wall (as conditioned) would be located along a busy street and would not face any residential uses, as the use across the street is a multi-story office building. The adjacent residences on either side have similar sound walls.
2. The proposed use is desirable, and would 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 would not be visible from Albion Lane. The wall would be visible from the adjacent residences on either side of the subject property, all of which have similar sound walls. Although the wall would be significantly visible from Fremont Avenue, it is similar to the previous sound wall, has a high-quality design, and (as conditioned) is not expected to have a 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 Building permits prior to construction. A separate permit is required for each property.
- B. Obtain any necessary encroachment permits from the City's Department of Public Works and from Caltrans. A separate permit is required for each property.

3. DESIGN AND LOCATION

- A. The top of the subject wall along the rear of 1259 Albion Lane shall be level with the top of the existing wall at 1261 Albion Lane, resulting in a height of approximately 10' as measured from the top of the nearest public curb.
- B. The subject wall along the rear of 1258 Albion Lane shall be permitted the following height:

1. The first panel of the wall on the east side of the property (adjacent to the Caltrans freeway sound wall) shall have a maximum height of 14' 8" as measured from the top of the nearest public curb which is intended to result in a maximum interior height of 8';
 2. Each subsequent panel of the wall shall step down in height moving towards the west property line to provide a gradual visual transition to the height of the adjacent wall to the west;
 3. Final plans for height transition across panels shall be reviewed and approved by the Director of Community Development prior to issuance of building permits.
- C. The design of the wall shall be modified as follows:
1. A pre-cast design is permitted, but the exterior surface facing Fremont Avenue shall be stamped or molded to create a "split-face" texture;
 2. The wall shall be painted in a grey tone or other compatible color to blend with the adjacent walls to the east and west;
 3. Final texture and color shall be reviewed and approved by the Director of Community Development prior to issuance of building permits.
- D. 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.
- E. A structural pier shall be located along the property line separating 1258 Albion Lane and 1259 Albion Lane.