



# CITY OF SUNNYVALE REPORT ADMINISTRATIVE HEARING

July 15, 2009

**File Number:** 2009-0441

**Permit Type:** Use Permit

**Location:** 810 Parnell Place (near Kinglet Ct.) (APN: 316-04-069)

**Applicant/Owner:** David Doudna

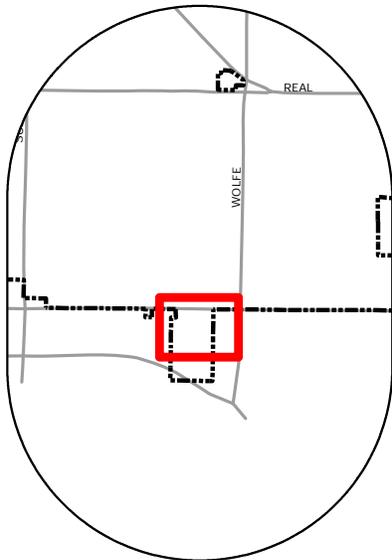
**Staff Contact:** Noren Caliva, Assistant Planner, (408) 730-7637

**Project Description:** Application for a Use Permit to allow an 8' tall side yard fence.

**Reason for Permit:** A Use Permit is required for fences that exceed 7' in height in the side yard.

**Issues:** Visual impact.

**Recommendation:** Approve with Conditions.



500

Feet

**PROJECT DESCRIPTION**

	<b>Existing</b>	<b>Proposed</b>
General Plan:	Residential Low Density	Same
Zoning District:	R-0	Same
Fence Height:	6'	8'

<b>Previous Planning Projects related to Subject Application:</b> Design Review Permit File Number 2008-0393 was approved by staff to allow an addition to the first and second floors of the home. As part of this project, new windows (garden, bay and full-sized) were added to the side elevation adjacent to the subject fence.	<b>Yes</b>
<b>Neighborhood Preservation Complaints</b>	<b>No</b>
<b>Deviations from Standard Zoning Requirements</b>	<b>No</b>

**Existing Fence Design:** The existing 6'-tall fence is located along the entire side property line adjacent to 1726 Kinglet Court and extends along the front property line. The existing fence encloses the yard area facing Kinglet Court. Although the City currently defines this yard area as the "front yard", the fence was permitted as part of the original subdivision of these lots in 1978. The fence is currently made of solid wood boards.

**Proposed Fence Design:** The applicant proposes to modify only the back portion of the fence along the side property line. There is a grade difference between the two properties which varies along the property line. The subject property is graded a few inches higher along the front of the lot, and is graded 1'-6" lower along the rear. In order to level the grade along the rear, the applicant proposes to construct a 1'-6" tall retaining wall. The fence will be installed on top of the retaining wall. The fence will maintain a height of 8' from the highest grade along the entire property line. The proposed fence design includes 7' solid wood boards and 1' lattice (Attachment B, Site and Architectural Plans).

**Visual Impacts:** Staff does not anticipate visual impacts to the street frontage, as the fence will be located more than 40' from the front property line and will be minimally visible from the street. Visual impacts will be limited to the two properties that the fence will be installed on, who are in agreement with the proposed fence height and design (Attachment C, Fence Agreement Letter). The proposed fence will provide additional privacy screening for the new home addition built at a 4' setback and newly installed windows.

**Public Contact:** 6 notices were sent to surrounding property owners and residents adjacent to subject site in addition to standard noticing practice. No comments were received from the neighbors.

**Environmental Determination:** 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.

## **FINDINGS**

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In order to approve the Use Permit the following findings must be made:

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

### **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.*

Although the fence exceeds 7' in height, the fence design includes a 1' lattice, which will help soften the visual appearance of the fence. **Therefore, staff was able to make the finding as the design meets the intent of the guideline described above.**

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 the orderly development of, or the existing uses being made of, adjacent properties.

The additional fence height will effectively reduce the privacy impacts of the newly constructed home addition and new windows. The fence will be minimally visible from the street frontage will not have a detrimental impact on the streetscape or surrounding neighborhood. Additionally, the proposed project is consistent with side yard fences located at 782 Ramona Avenue and 814 Gail Avenue, which were recently approved to address privacy impacts between neighbors. **Therefore, staff was able to make the finding.**

## **ALTERNATIVES**

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1. Approve the Use Permit with recommended Conditions in Attachment A.
2. Approve the Use Permit with modifications.
3. Deny the Use Permit.

## **RECOMMENDATION**

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Alternative 1. Approve the Use Permit with recommended Conditions in Attachment A.

Reviewed by:

**Shaunn Mendrin**

Senior Planner

Prepared By: **Noren Caliva**, Assistant Planner

Attachments:

- A. Standard Requirements and Recommended Conditions of Approval
- B. Site and Architectural Plans
- C. Fence Agreement
- D. Use Permit Justification Form
- E. Project Description and Site Photos

### **Standard Requirements**

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The following is a list of standard requirements. This list is intended to assist the public in understanding basic related requirements, and is not intended as an exhaustive list. These requirements cannot be waived or modified.

1. **Permit Expiration:** The Use Permit for the use shall expire if the use is discontinued for a period of one year or more.
2. **Permit Lapse if not Exercised (Ordinance 2895-09):** The Use Permit shall be valid for three (3) years from the date of approval by the final review authority (as adopted by City Council on April 21, 2009, RTC 09-094). Extensions of time may be considered, for a maximum of two one year extensions, if applied for and approved prior to the expiration of the permit approval. If the approval is not exercised within this time frame, the permit is null and void.
3. **Building Permits:** Obtain Building Permits.

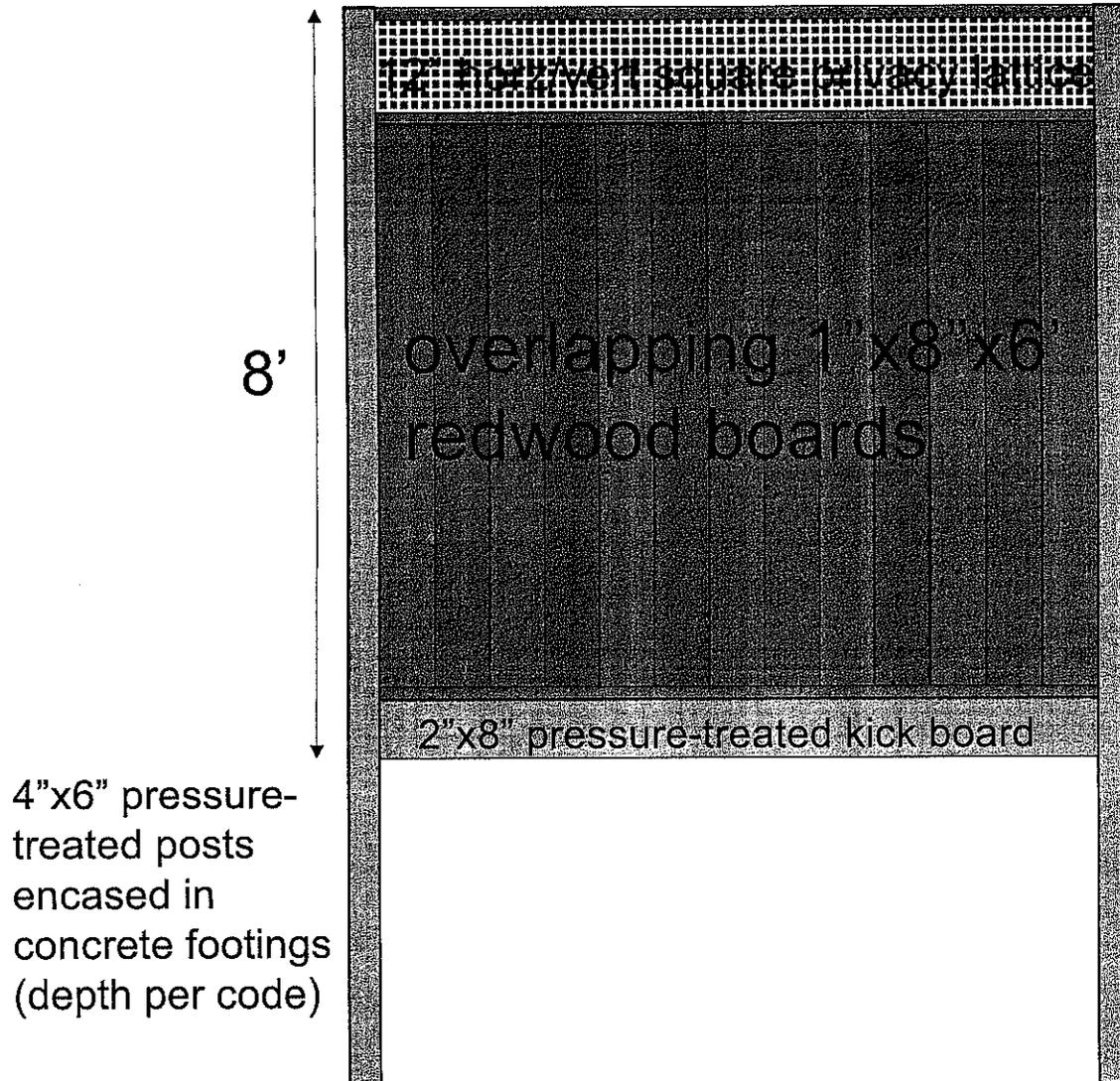
### **Recommended Conditions of Approval**

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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:

1. **Project Conformance:** 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.
  - a. The fence shall not exceed a height of 8 feet (7 feet solid wood with 1 foot lattice) at any point, as measured from the highest finished grade.
2. **Conditions of Approval on Plans:** The Conditions of Approval shall be reproduced on a page of the plans submitted for a Building permit for this project.
3. **Unpermitted structure.** The existing temporary plywood boards affixed to the existing fence shall be removed within 30 days of the date of the final decision on the Use Permit.





To: City of Sunnyvale

Attn: Permits Officer

Re: Permission to Grant 8' high fence

Dear Sir/Madam

We (Robert and Mary Anne Struk) agree to the requested proposed 8' high fence as Per Mr. Doudna's Application.

The proximity of our two houses is quite close, and with the additional windows in place in the Doudna's newly completed reconstruction, there is a need for the additional privacy as provided by an 8' Fence.

We request therefore that the permit for the 8' fence be issued in order to provide for the privacy needed.

Thank You for your help.

Robert and Mary Anne Struk

*June 21<sup>st</sup> 2009*  
*1726 Kinglet Court*  
*Sunnyvale CA. 94087*

*Robert Struk*  
*MAStruk*



# USE PERMIT/SPECIAL DEVELOPMENT PERMIT JUSTIFICATIONS

ATTACHMENT D

Page 1 of 1

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

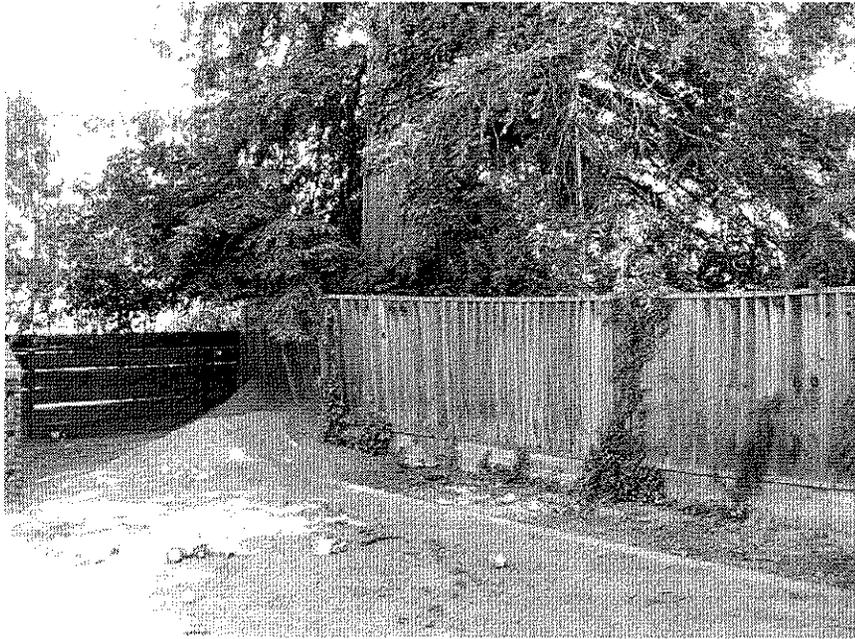
2. The proposed use ensures that the general appearance of proposed structures, or the uses to be made of the property to which the application refers, will not impair either the orderly development of, or the existing uses being made of, adjacent properties as ...

THIS SECTION OF 8' FENCE IS DESIRED BY THE RESIDENTS OF EACH SIDE, AND IS VIRTUALLY UNVIEWABLE FROM THE STREET

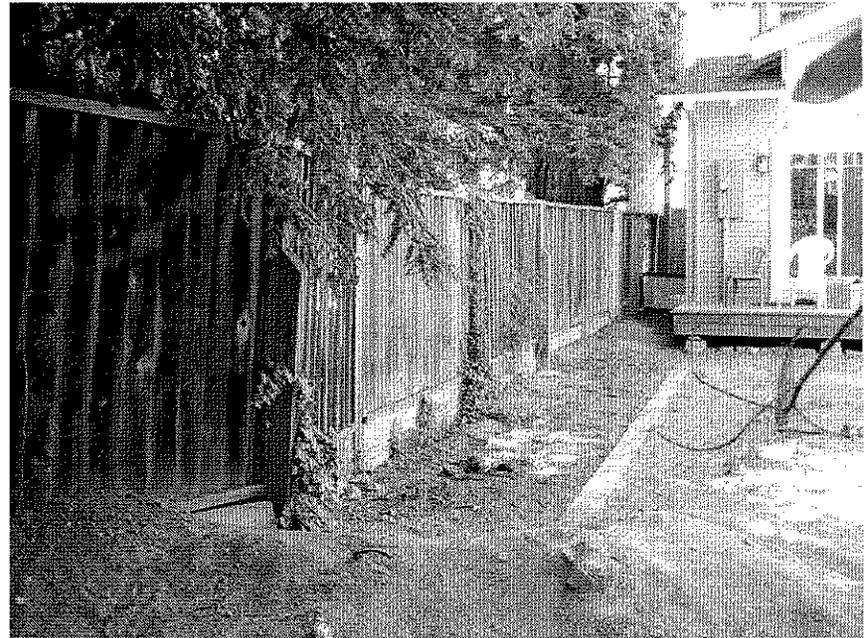
If you need assistance in answering either of these justifications, contact the Planning Division staff at the One-Stop Permit Center.

# Proposed 8' fence at Doudna/Struk property line (Use Permit 2009-0441)

- Grade is slightly higher in Struk's lot, so fence height from their yard would be if anything a few inches shorter than the full 8 foot.
- Where grade difference is significant (up to 18" at east end), a separate retaining wall on the Doudna lot will create a planting box with grade level to the Struk lot.
- Where the grade bulges up around the old redwood tree, the fence top will remain level. Indeed the eastern most section around the tree will be nominally 7-foot high.
- As shown in the photos by the blue tape which indicates proposed fence height, this will screen most but not all of our 1st-floor window glass. The point of these windows is to let sunlight into our house, not to provide a view into the neighbor's house!



looking SW

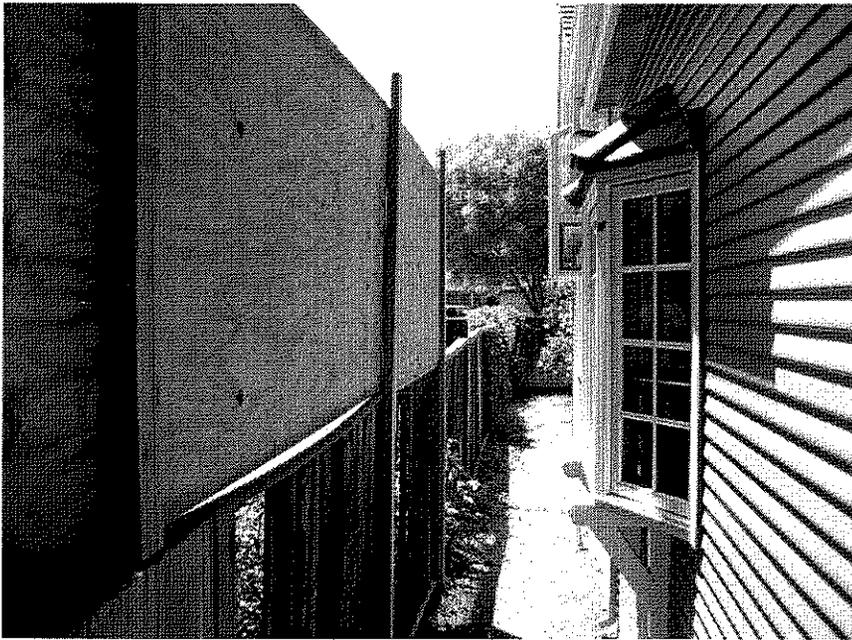


looking SE

looking west along fence line



Temporary plywood shield was erected during remodeling to protect neighbors from construction noise and debris.



looking W

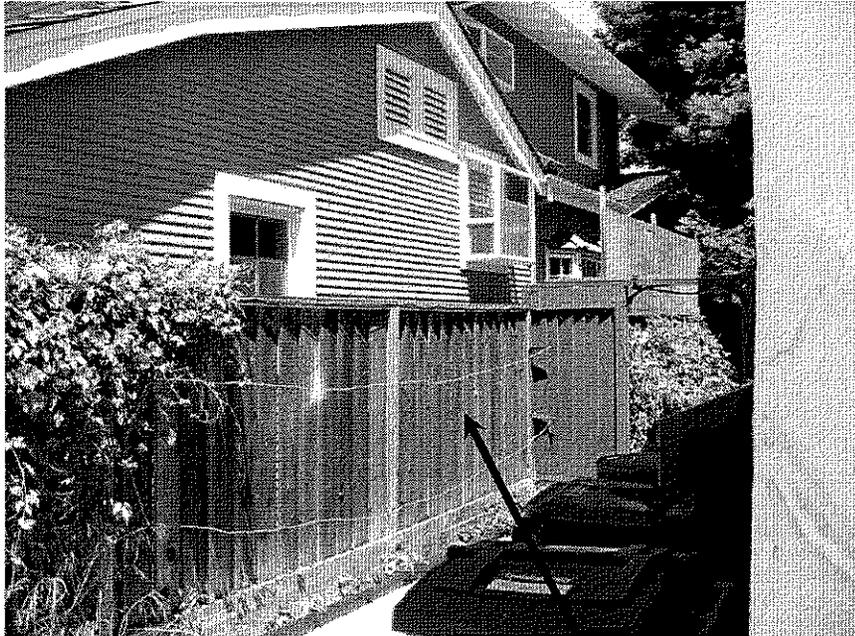


looking E

At post with Struk's gate, new 8-foot fence would stop, dropping to the section of existing 6-foot fence which is still intact.



As illustrated by the temporary plywood, very little of the proposed 8' fence would be visible from the street.



looking NE from Struk driveway

this section of fence wouldn't change

looking NE from Kinglet Ct.



views from Struks' back yard

