



# CITY OF SUNNYVALE REPORT ADMINISTRATIVE HEARING

July 15, 2009

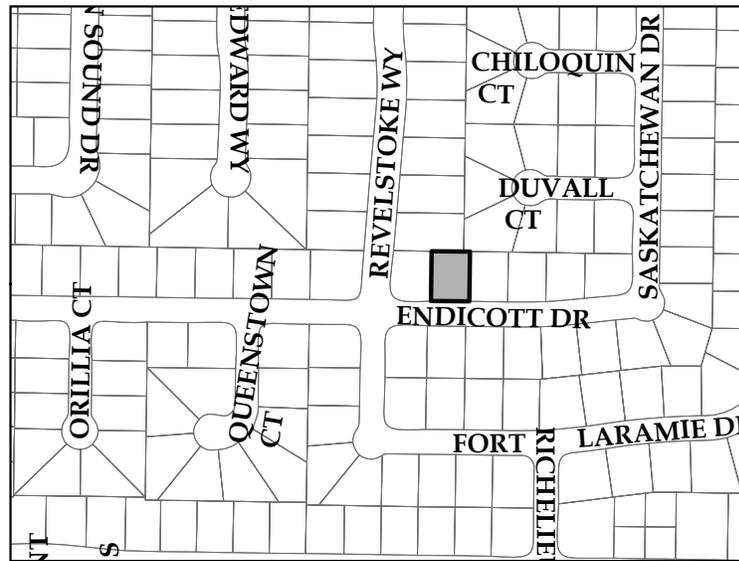
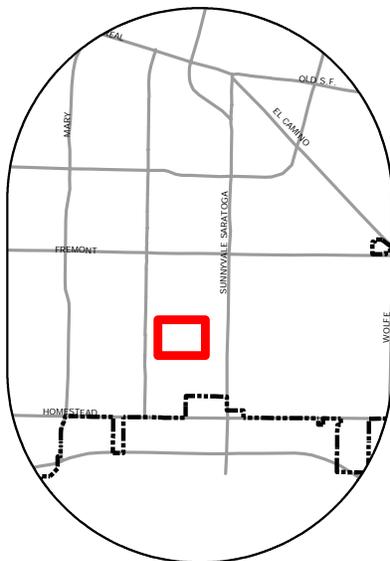
**File Number:** 2009-0443      **Permit Type:** Use Permit  
**Location:** 589 Endicott Drive (near Rivelstoke Wy.) (APN: 323-29-027)  
**Applicant/Owner:** Delfino Alvarez/David Lee  
**Staff Contact:** Noren Caliva, Assistant Planner, (408) 730-7637

**Project Description:** Application for a Use Permit to allow an 8'-3" 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'	Varies, 8'-3" max.

<b>Previous Planning Projects related to Subject Application</b>	<b>No</b>
<b>Neighborhood Preservation Complaints</b>	<b>No</b>
<b>Deviations from Standard Zoning Requirements</b>	<b>No</b>

**Existing Fence Design:** There is an existing 6'-tall wooden fence located along the side property line adjacent to 595 Endicott Avenue, which begins almost 35' from the front property line. The home located at 595 Endicott Avenue was recently damaged by fire in which a significant portion of the side yard fence was destroyed. The damaged portions of the fence have been replaced with chain link and vinyl mesh to provide temporary privacy between neighbors.

**Proposed Fence Design:** The applicant proposes to replace the entire side yard fence with a new fence that steps up from 7'-5" to 8'-3", consisting of solid wood boards and 1' lattice. There is a slight grade difference of approximately 2" between the two properties, with the fence height being 8'-3" maximum at the highest grade on the subject lot.

**Visual Impacts:** The proposed fence will be minimally visible from the street frontage and will be partially screened by existing mature landscaping. 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 help provide additional privacy between both neighbors for an existing 1'-6" tall deck in the rear yard of the adjacent lot. The deck is located approximately 2' from the property line and the proposed fence will be 6'-9" in height from the highest point on the deck.

**Public Contact:** 8 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 guidelines 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 existing deck on the adjacent lot. 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
- F. Site Photos

## **Standard Requirements**

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The following is a list of standard requirements. This list is intended to assist the applicant and 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 3 inches (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.

Fence

Back Elevation

Back Elevation

HOUSE

HOUSE

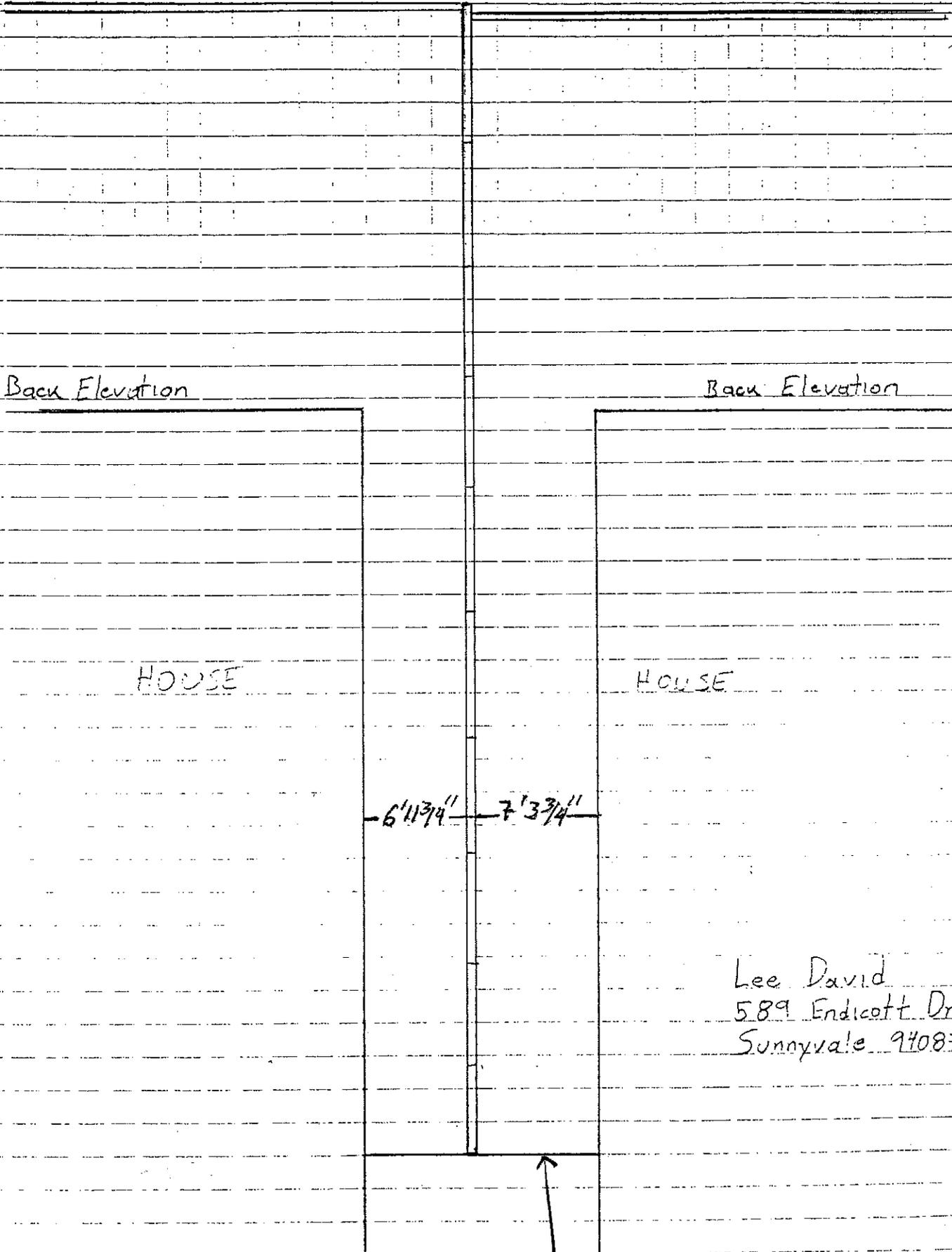
6' 11 3/4" 7' 3 3/4"

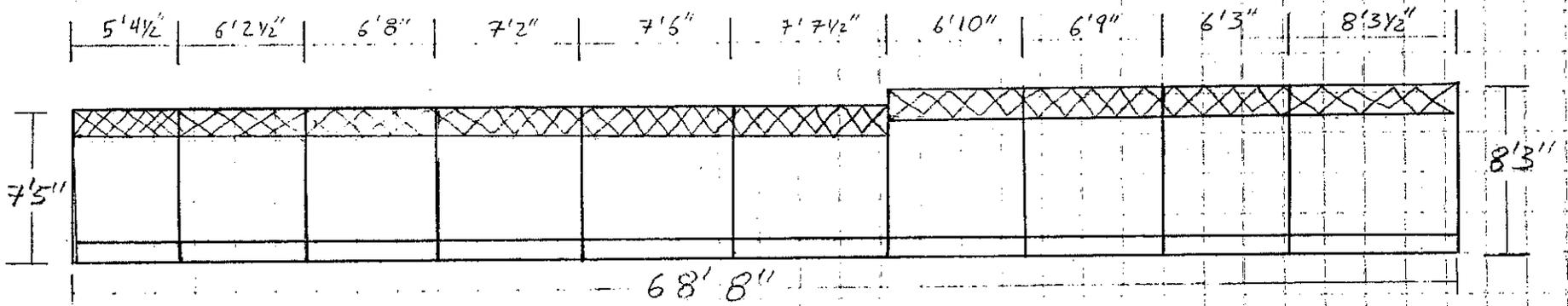
Lee David  
589 Endicott Dr  
Sunnyvale 94087

Front Elevation

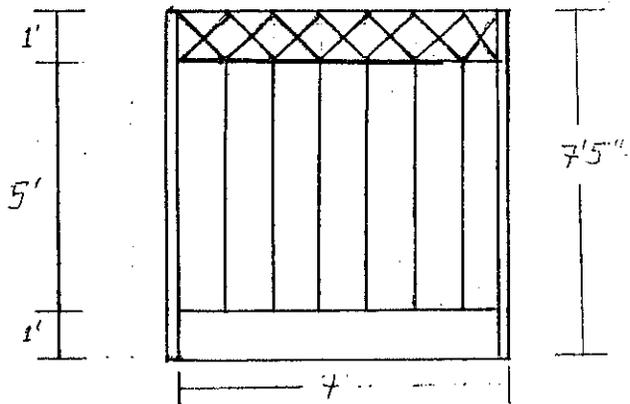
34'-8" from front property line

Front Elevation

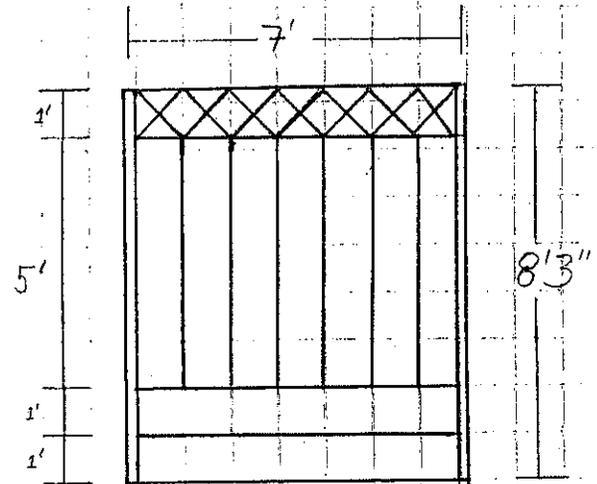




Remove & Replace Side Fence



Lee David  
589 Endicot #1  
Sunnyvale 9408



Fence

ATTACHMENT B  
Page 2 of 2



Midlands Restoration

dba

**JM CONSTRUCTION**

General Contractor

B-1 736056

562 Division Street • Campbell, CA 95008

(408) 379-9852 • Fax (408) 379-9857

Website: www.jm-const.com

May 15, 2009

Pursuant to mutual shared fence meeting held on 5/14/09 with David Lee/Owner and William Law/Owner; Delfino Alvarez: JM Construction/Project Mgr., and Jose Ayala of Ayala's Fence.

We both mutually agreed of the fence drawings presented for approval to the City of Sunnyvale and thereby and without reservation mutually agreed to proceed with the building of shared fence.

JM Construction to proceed as authorized:

David Lee  
589 Endicott Drive  
Sunnyvale, CA 94087  
(408) 245-2318

Mr. William Law  
595 Endicott Drive  
Sunnyvale, CA 94087  
(408) 306-5506

David Lee      5/21/09  
David Lee/Home Owner      Date

William Law      6/11/09  
William Law/Home Owner      Date

Midlands Restoration

dba

**JM CONSTRUCTION**

General Contractor

B-1 736056

562 Division Street • Campbell, CA 95008

(408) 379-9852 • Fax (408) 379-9857

Website: [www.jm-const.com](http://www.jm-const.com)

June 23, 2009

City of Sunnyvale  
P. O. Box 3707  
Sunnyvale, CA 94088-3707

Attn: Noren Caliva/Project Planner

RE: Use Permit – 589 Endicott Dr. (2009-0443)

Per your request: Item 4 line c:

**PROJECT DESCRIPTION LETTER:**

The fence by the 589 Endicott Drive is the highest grade 8' 3" and 7' 5" and the neighbor's have 8' 1" and 7' 3". The fence have steps up towards in the back because the neighbor's have 2 feet in height deck.



# 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 ...

**PERMIT JUSTIFICATION:**

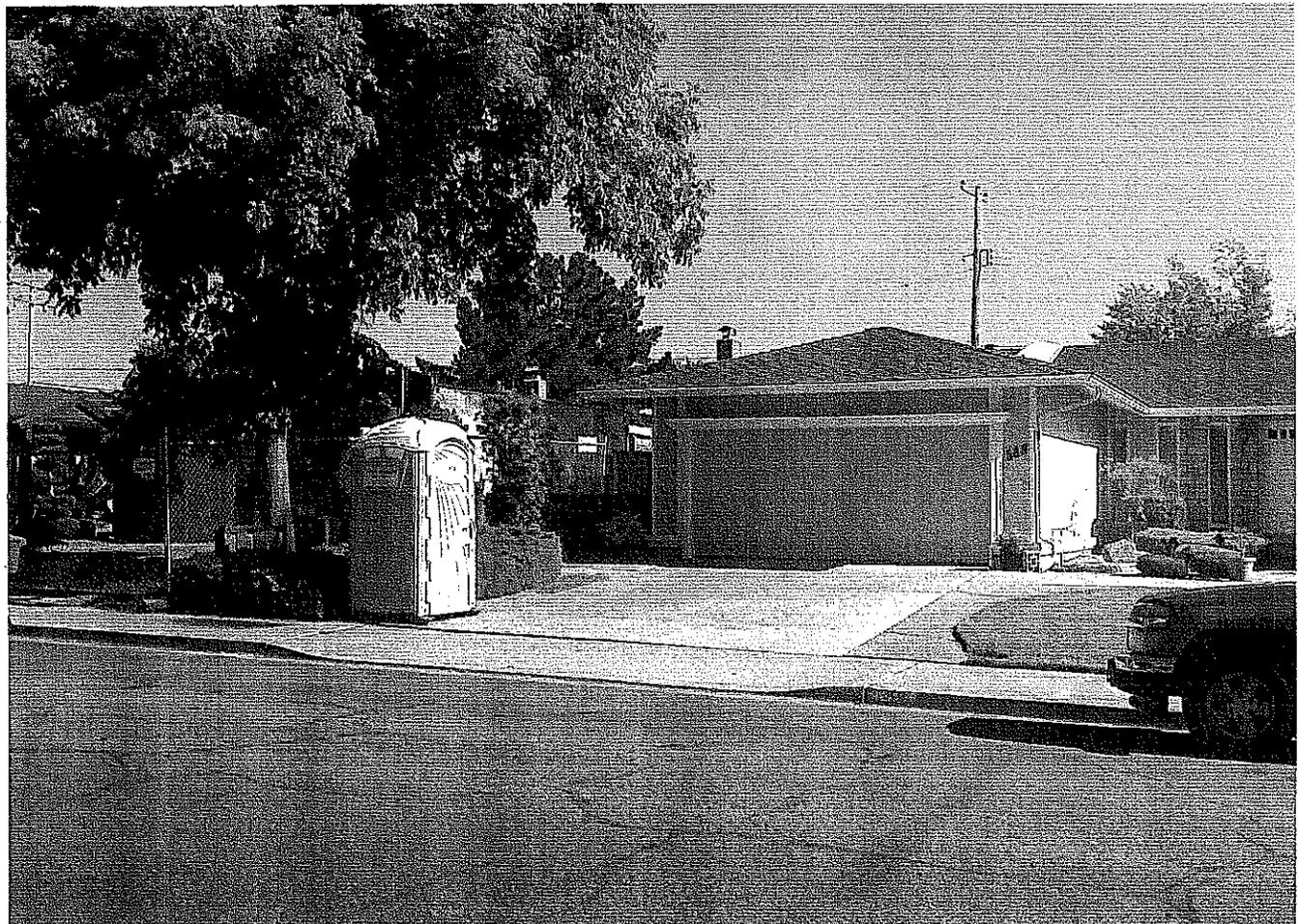
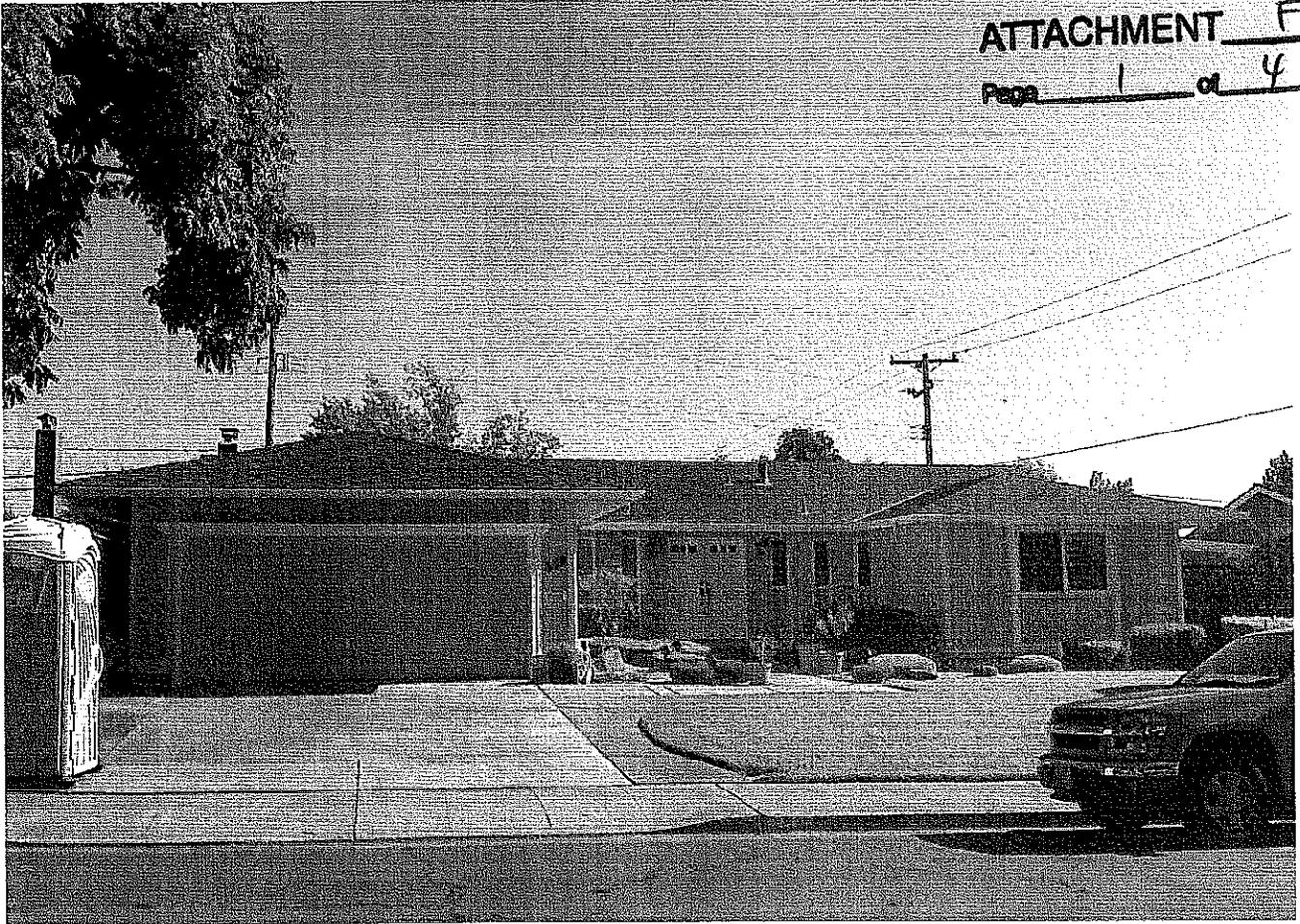
The neighbor s house next to Mr. David Lee has a 2 ft., in height deck in their backyard and Mr. David Lee residing at 589 Endicott Dr., Sunnyvale, CA., feels that the 6 ft., fence does not give him privacy, and he would like to have a 8 ft., in height fence built.

OR

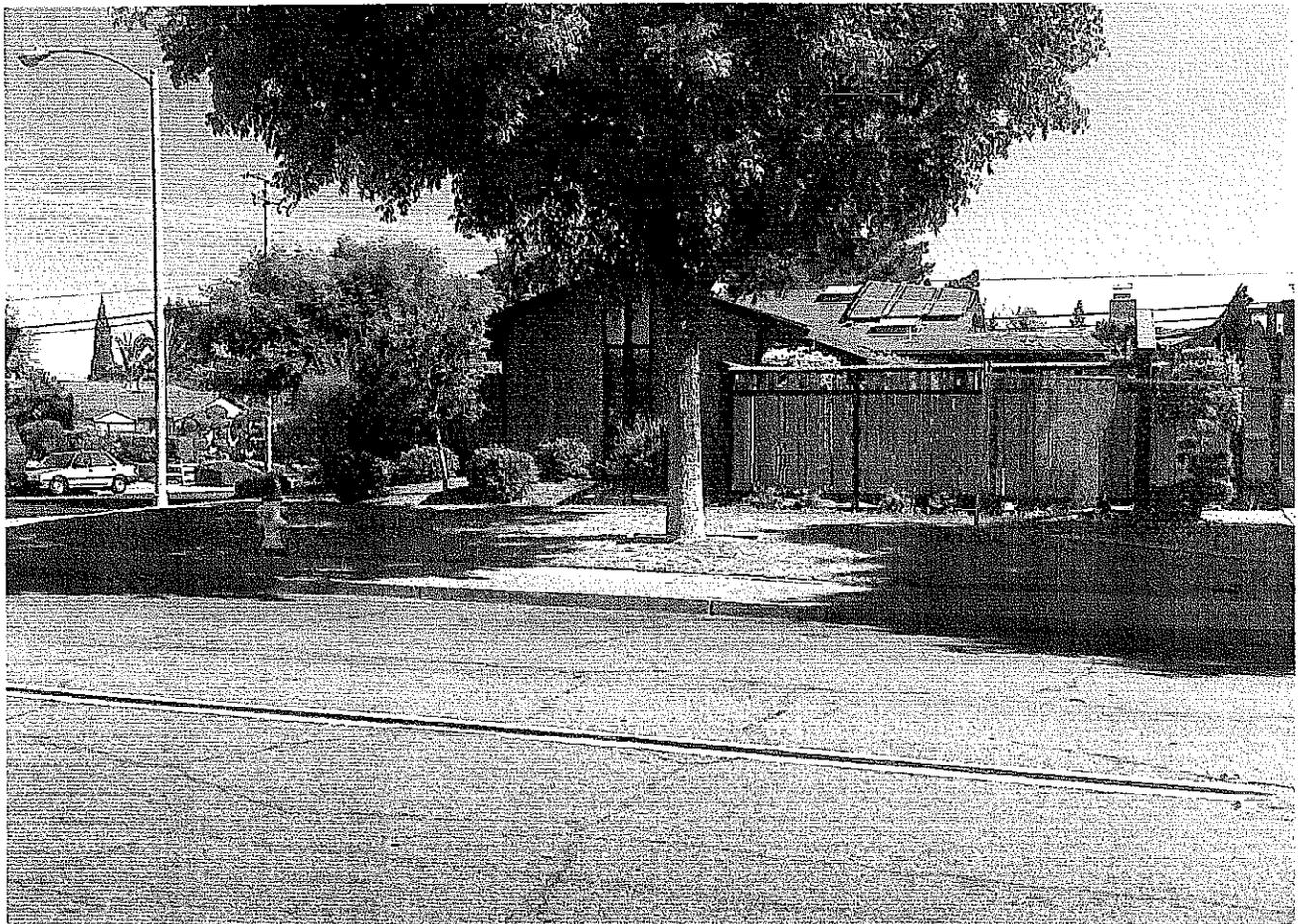
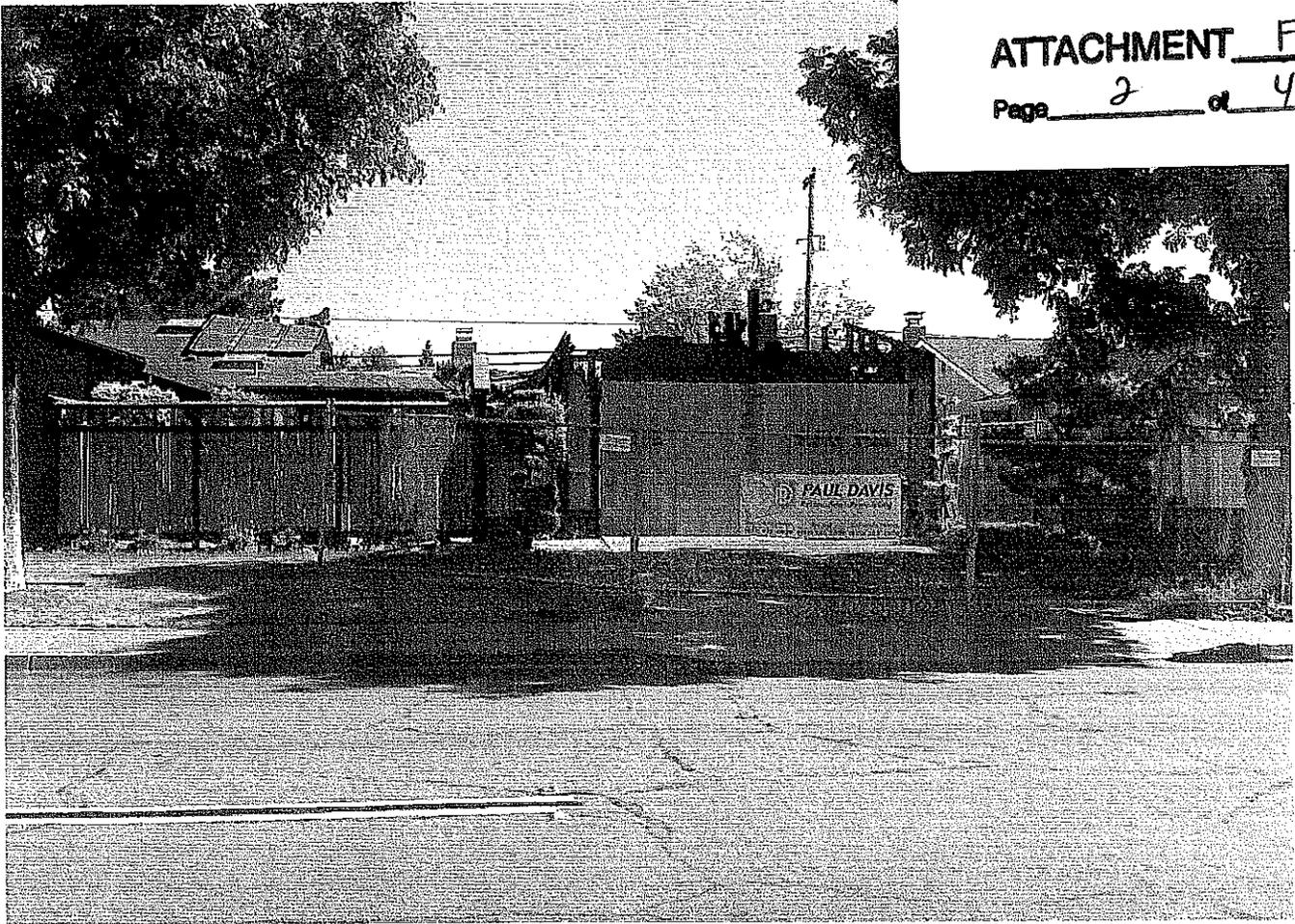
2. The proposed use ensures that the general appearance of proposed structures, or the uses to be made of the property to which the application refers, will not impair either the orderly development of, or the existing uses being made of, adjacent properties as ...

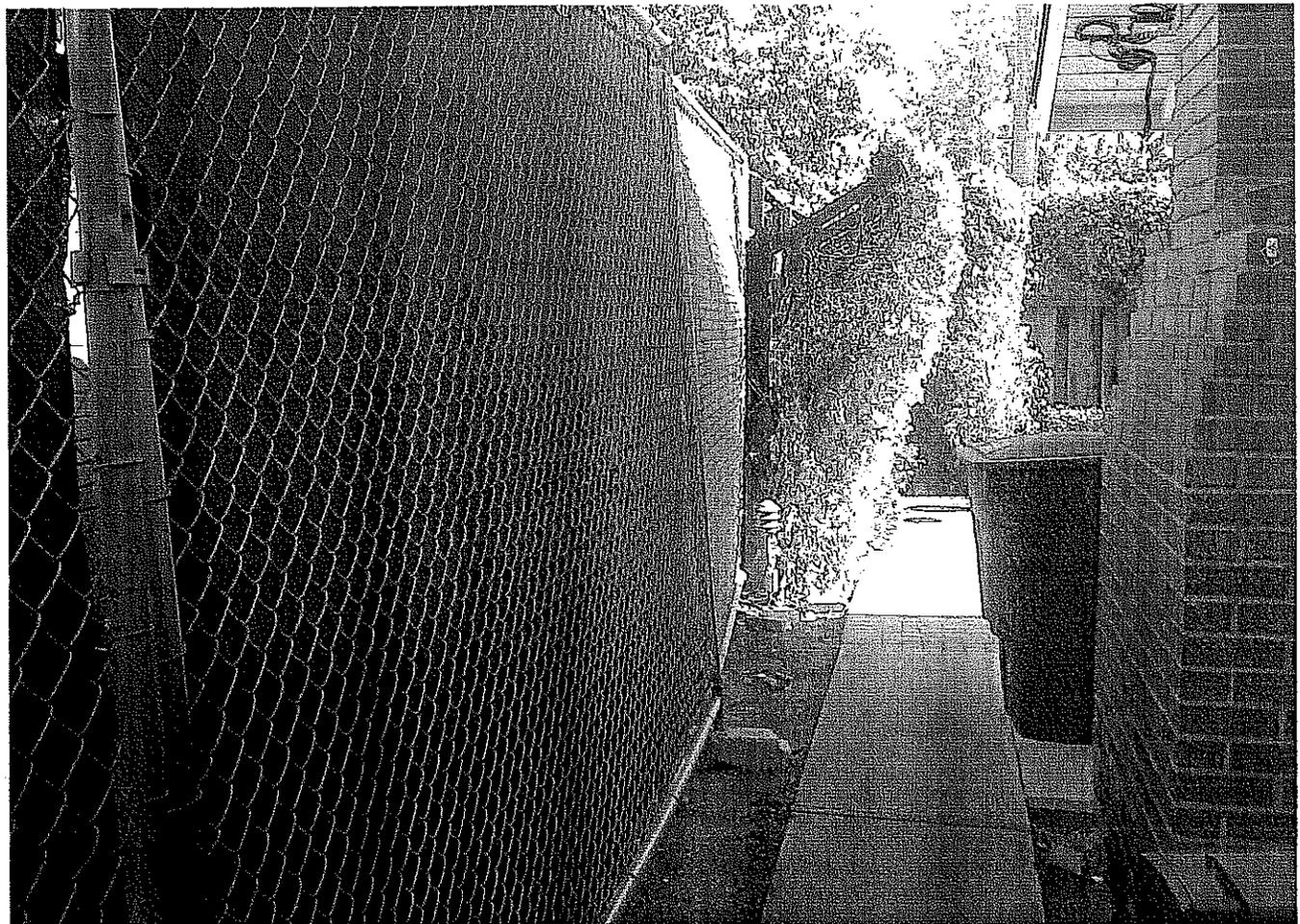
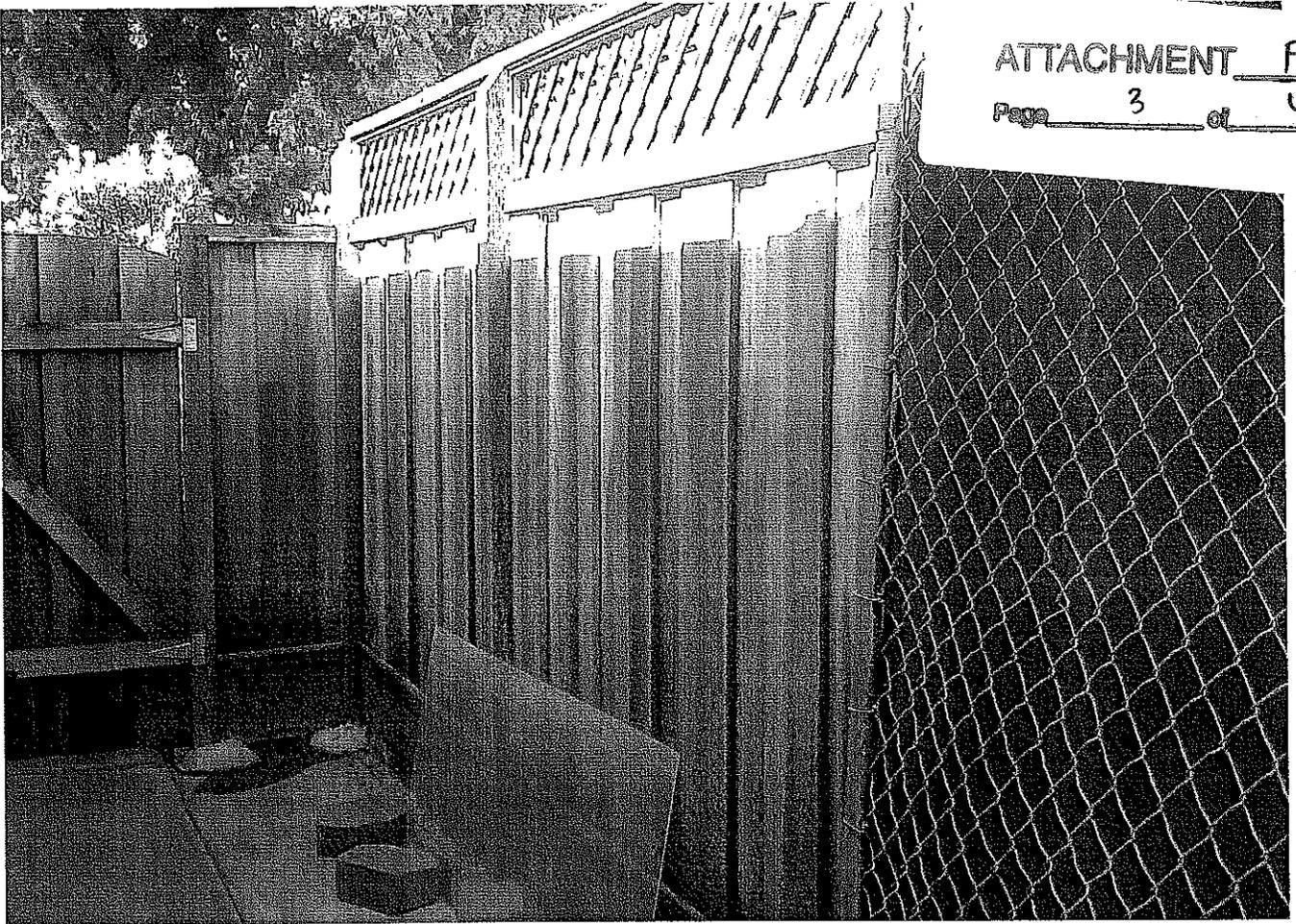
If you need assistance in answering either of these justifications, contact the Planning Division staff at the One-Stop Permit Center.

One-Stop Permit Center - City Hall - 456 W. Olive Avenue - (408) 730-7444  
Planners and Building Division staff are available 8:00 a.m. to noon and 1:00 to 5:00 p.m.  
[www.SunnyvalePlanning.com](http://www.SunnyvalePlanning.com) / [www.SunnyvaleBuilding.com](http://www.SunnyvaleBuilding.com)

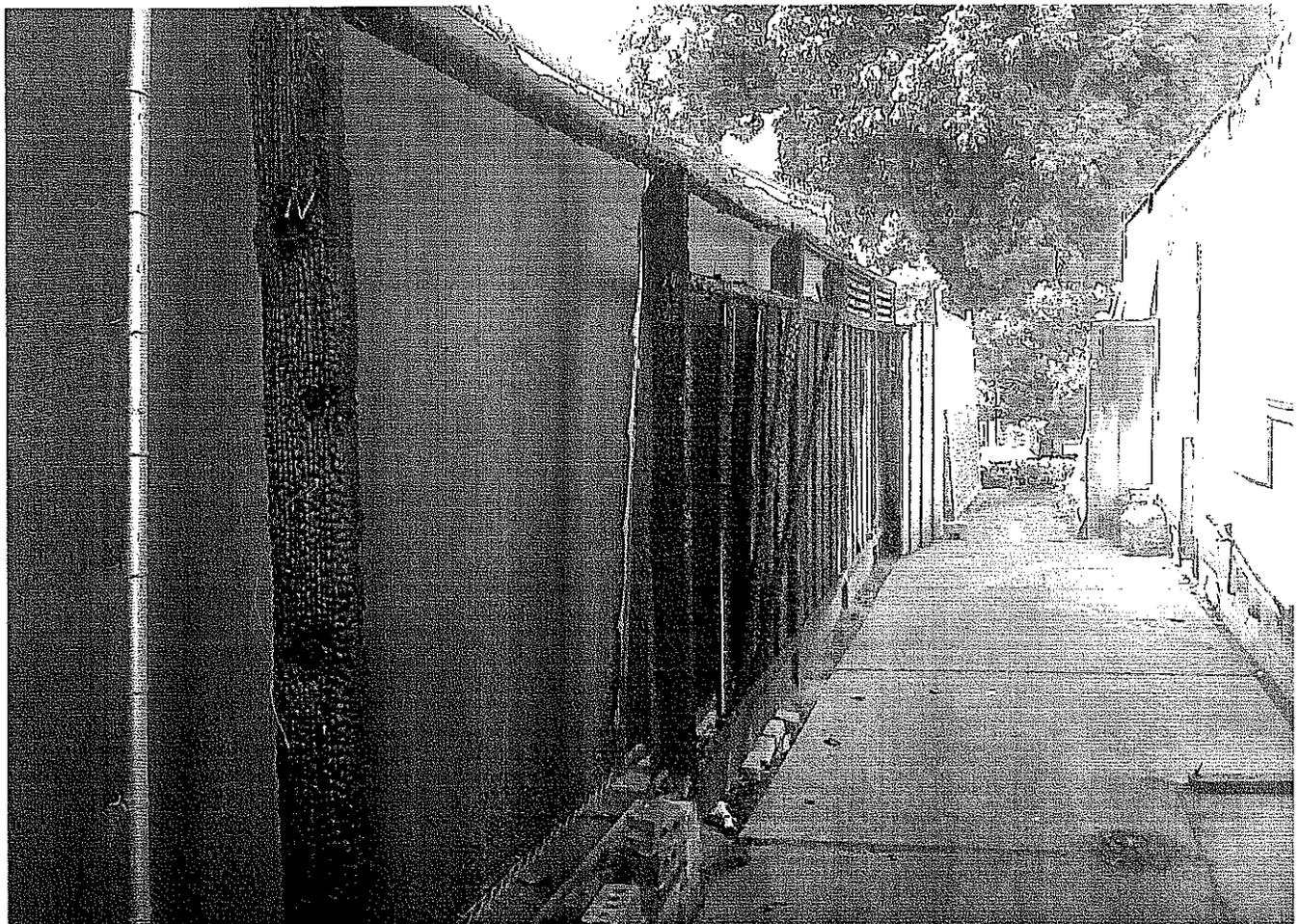
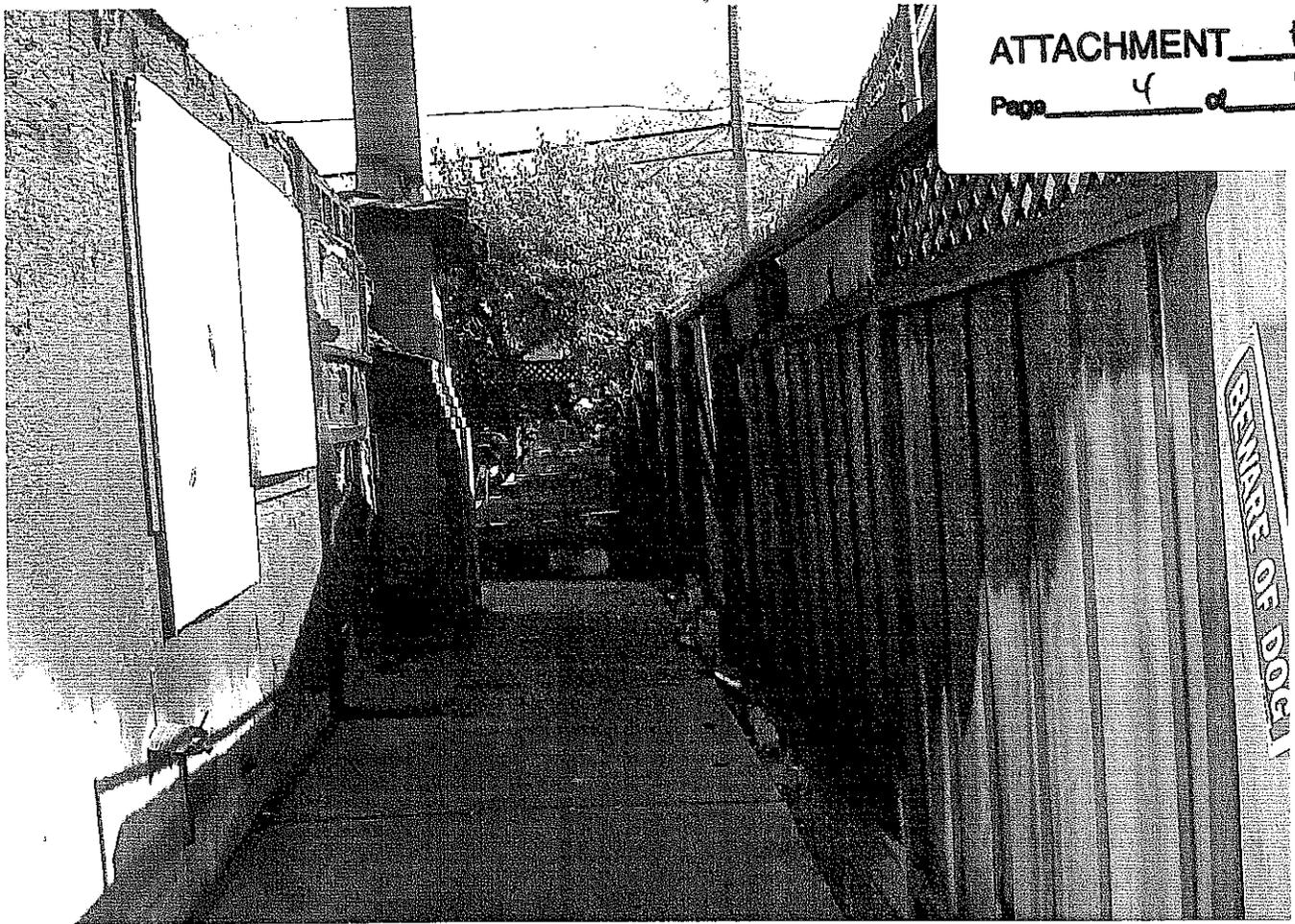


View from Endicott Dr.





View from 589 Endicott Dr. (subject lot)



View from 595 Endicott Dr. (adjacent lot)