



CITY OF SUNNYVALE REPORT ZONING ADMINISTRATOR HEARING

September 29, 2010 (continued from September 15, 2010)

File Number: 2010-7515

Permit Type: Use Permit

Location: 940 W. Evelyn Ave. (near S. Mary Ave.) (165-20-018)

Applicant/Owner: United Rentals, Inc. / Lisa J. Sims

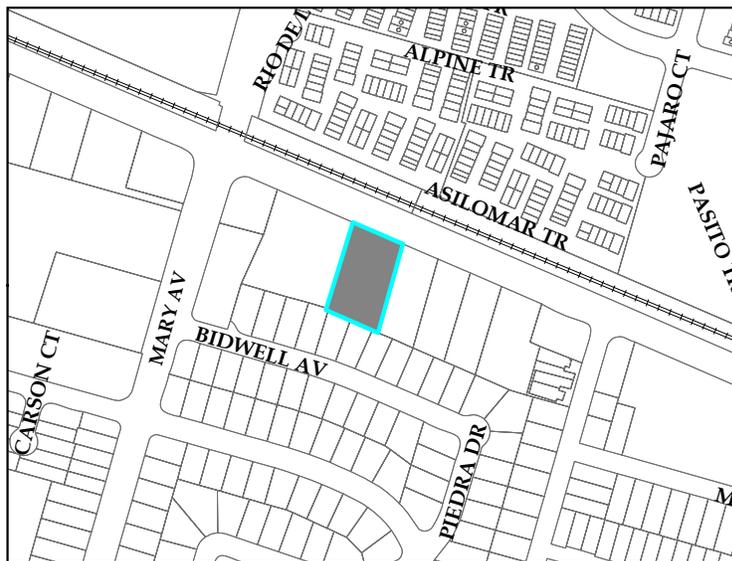
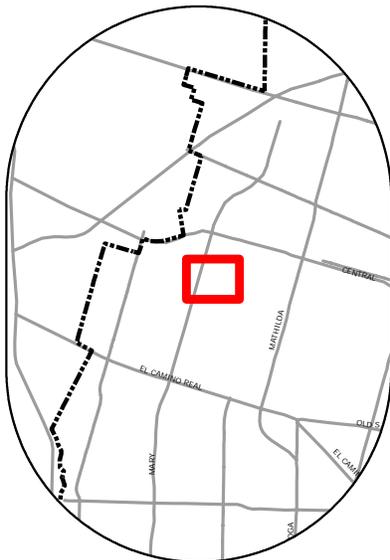
Staff Contact: Mariya Hodge, Associate Planner, (408) 730-7659

Project Description: To allow an existing unpermitted 10-foot tall electrified security fence along the front and side property lines.

Reason for Permit: A Use Permit is required for fences exceeding 6 feet in height in the front yard and for fences exceeding 8 feet in height in the side or rear yards.

Issues: Aesthetics, neighborhood compatibility, public safety

Recommendation: Approve with Conditions



500

Feet

PROJECT DESCRIPTION

Zoning District:	C-4	Fence Setback:	None
Existing (Permitted) Fence Height:	6' – 8'	Proposed Fence Height:	10'

Previous Planning Projects related to Subject Application A Use Permit was approved in June of 1993 (#7924) for a 10-foot masonry sound wall along the rear property line to provide noise attenuation for adjacent residences.	Yes
Neighborhood Preservation Complaints The 10-foot electrified fence is existing on the site and there are no records of Planning or Building permits for this fence. The subject application was filed in response to a Neighborhood Preservation action. The fence was reported by the City's Fire Prevention Unit after a fire inspection.	Yes
Deviations from Standard Zoning Requirements	No

Fence Height and Design: The subject fence extends along the front and side property lines, and consists of 10-foot tall vertical metal poles with horizontal electrified wires (see Attachment B – Site Plan and Elevations, and Attachment C – Photographs). The electrified fence is located within the site's previously installed non-electrified perimeter fences. The perimeter fence along the front property line is an approximately 6-foot tall black wrought iron fence. Along the side property lines are 6-foot tall chain link fences topped with razor wire for a total height of approximately 8 feet. The electrified fence does not extend along the rear property line; Sunnyvale Municipal Code (SMC) section 19.48.020 prohibits electrified fences adjacent to residential uses.

Security and Public Safety: United Rentals offers construction equipment and vehicles for rent. There is a small enclosed building on the subject site used as an office, but rental equipment and vehicles are stored in an open equipment yard. The applicant states that the electrified fence was installed in 2007 in response to several burglaries on the site. Staff worked with the applicant to explore alternative security measures such as non-electrified fencing, security cameras, and/or construction of locked structures to hold smaller equipment which could be passed over a fence. The applicant stated that these alternatives are not feasible. Installation of sheds or other locked structures is not sufficient because theft of large construction vehicles, not smaller items, is their chief concern. These vehicles use standard master keys (rather than unique keys like a personal automobile) and are therefore an easy target for theft by anyone who has access to a standard key. The applicant stated that once someone enters the site it is difficult to stop them from removing items, therefore it is critical to prevent potential burglars from entering. The applicant

does not believe non-electrified fencing can accomplish this purpose. The applicant also stated that the site already has security cameras and these cameras recorded previous burglaries and the perpetrators. However, this did not result in any arrests or recovery of their equipment. As a result, they concluded electrified fencing was the only feasible option to secure their site.

The City's Department of Public Safety (DPS) raised several potential safety issues which could be created by the electrified fence. DPS expressed concern about the presence of the non-electrified perimeter fences, noting that if a potential burglar received a shock from the electrified fence, the individual might fall between the fences and become trapped where DPS would have difficulty reaching them to provide aid. In response to these concerns, the applicant noted that the perimeter fences cannot be removed, as State law requires all electrified fences to be surrounded by non-electrified fences to prevent accidental contact. The two fences are required to be located in close proximity to prevent anyone from becoming trapped between them. The applicant stated the fences on the subject site are separated by only three to six inches in compliance with State requirements, and this distance is not sufficient for someone to fall between the fences. DPS also expressed concern that the fence could endanger Patrol or Fire officers who may not see the electrified wires behind the perimeter fences when responding to a call. DPS noted that adequate signage is needed to warn officers, and a Knox switch is needed to allow DPS to disable the fence for quick access to the site (see Attachment A, conditions of approval #5 and #6).

Neighborhood Compatibility: The site is located in a Service Commercial Zoning District along East Evelyn Avenue. Staff visited other sites in the same Zoning District, as well as industrial sites with open equipment storage in other Zoning Districts. Along East Evelyn Avenue, very few properties have front fences. Existing fences typically consist of chain link with vinyl slats, sometimes topped with barbed wire or razor wire, with total heights of approximately 6 to 8 feet. Staff found that industrial properties with open equipment storage yards are more likely to have front fences. These fences also typically consist of chain link, sometimes topped with barbed wire, with total heights of ranging from 6 to 8.5 feet. Staff did not identify other electrified fences, nor other 10-foot fences, for similar sites or uses in the City.

Although the site is in a Service Commercial Zoning District, it is also located directly adjacent to single-family residential uses on Bidwell Avenue. Staff finds that the variety of fence materials and designs found on the subject site creates a cluttered and unattractive appearance which has the potential to negatively impact the streetscape and surrounding sites and uses. As noted above, the applicant is not able to remove the perimeter fences per State requirements. However, the applicant could modify the perimeter fences to reduce the number of materials present on the site. Staff recommends condition of

approval #4.b requiring the existing chain link and razor wire fences along the side property lines to be replaced with 6-foot tall wrought iron fencing matching the front gate (Attachment A).

The height of the subject fence exceeds fence heights which have been permitted for other industrial and commercial uses in the City, and staff finds that the proposed height has the potential for a negative visual impact on the streetscape and surrounding uses. The applicant states the proposed height is required to achieve reasonable security for the site. However, based on available information provided by the applicant and the Department of Public Safety, staff concluded that an 8-foot tall electrified fence would be likely to provide a similar level of security. A fence with reduced height would have a reduced visual impact on the streetscape and surrounding sites. As a result, staff recommends condition of approval #4.a requiring the height of the electrified fence to be reduced to no more than 8 feet (Attachment A).

Public Contact: 12 notices were sent to surrounding property owners and residents adjacent to the subject site in addition to standard noticing practice. Staff did not receive any written comments. While making a site visit, staff was approached by an individual who stated that he worked at the adjacent site to the east. He inquired about the project and said that the various fences on the site make it look like a fortress. Staff informed him of the hearing date and his ability to provide written comment and/or attend the hearing.

Environmental Determination: A Categorical Exemption Class 3 (accessory structures) relieves this project from CEQA provisions.

FINDINGS

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.*

The following policies in the **Land Use and Transportation Element** relate to the proposed project:

- N1.1. Protect the integrity of the City's neighborhoods; whether residential, industrial or commercial.
- N1.13. Promote an attractive and functional commercial environment.

The following policy in the **City-Wide Design Guidelines** relates to the proposed project:

- E9. Security fences and gates shall be of an open type to allow maximum visibility of the secured area. Wrought iron and cast iron fences are recommended for security fences and gates for all uses.

The height and design of the proposed fence have the potential for a negative aesthetic impact on the neighborhood and commercial environment. In addition, the number and variety of fencing materials used on the site creates a cluttered and fortress-like appearance. Condition of approval #4 requires the height of the electrified fence to be reduced to a maximum of 8 feet, and requires the existing non-electrified side fences to be replaced with wrought iron matching the front gate. These modifications would bring the proposed project into conformance with the City-Wide Design Guidelines and General Plan policies. **Staff was able to make this finding for a revised project with the attached conditions.**

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 height and design of the proposed fence have the potential for a negative aesthetic impact on the streetscape and surrounding properties and uses. The variety of fencing materials used on the site also creates a cluttered and fortress-like appearance which detracts from neighborhood character. With the attached conditions, the height of the fence and the number of fencing materials on the site would be reduced, thereby reducing visual impacts. As conditioned, the project would not have a negative visual impact on surrounding properties or uses. **Staff was able to make this finding for a revised project with the attached conditions.**

ALTERNATIVES

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

RECOMMENDATION

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

Reviewed by:

Shaunn Mendrin
Senior Planner

Prepared By: Mariya Hodge, Associate Planner

Attachments:

- A. Conditions of Approval and Standard Requirements
- B. Site Plans and Elevations
- C. Site Photographs
- D. Applicant's Letters and Project Justifications

**RECOMMENDED
CONDITIONS OF APPROVAL AND
STANDARD DEVELOPMENT REQUIREMENTS**

Planning Application 2010-7515

Use Permit to allow an existing unpermitted 10-foot tall electrified security fence along the front and side property lines.

The following Conditions of Approval [COA] and Standard Development Requirements [SDR] apply to the project referenced above. The COAs are specific conditions applicable to the proposed project. The SDRs are items which are codified or adopted by resolution and have been included for ease of reference, they may not be appealed or changed. The COAs and SDRs are grouped under specific headings that relate to the timing of required compliance. Additional language within a condition may further define the timing of required compliance. Applicable mitigation measures are noted with “Mitigation Measure” and placed in the applicable phase of the project.

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 and Standard Development Requirements of this Permit:

THE FOLLOWING GENERAL CONDITIONS OF APPROVAL AND STANDARD DEVELOPMENT REQUIREMENTS SHALL APPLY TO THE APPROVED PROJECT.

1. CONFORMANCE WITH APPROVED PLANNING APPLICATION – All building permit drawings and subsequent construction and operation shall substantially conform with the approved planning application, including: drawings/plans, materials samples, building colors, and other items submitted as part of the approved application. Any proposed amendments to the approved plans or Conditions of Approval are subject to review and approval by the City. The Director of Community Development shall determine whether revisions are considered major or minor. Minor changes are subject to review and approval by the Director of Community Development. Major changes are subject to review at a public hearing. [COA] [PLANNING]

2. USE EXPIRATION – The approved Use Permit shall expire if the use is discontinued for a period of one year or more. [SDR] (PLANNING)

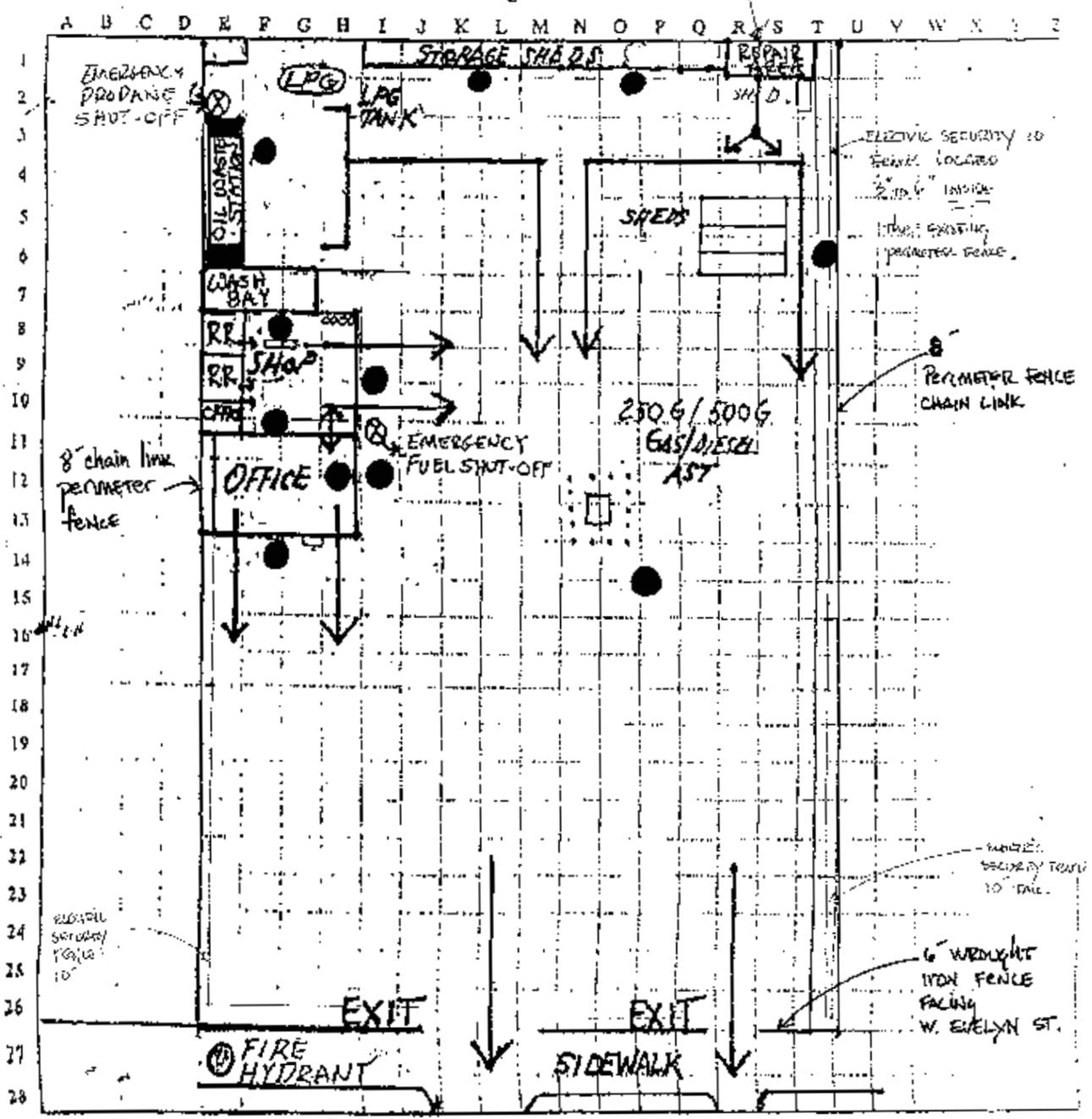
3. PERMIT EXPIRATION IF NOT EXERCISED (Ordinance 2895-09) – The Use Permit shall be valid for three (3) years from the date of approval by the final review authority (as adopted by City Council on April 21, 2009, RTC 09-094). Extensions of time may be considered, for a maximum of two one year extensions, 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. [SDR] (PLANNING)
4. REQUIRED DESIGN MODIFICATIONS – The plans shall be revised to incorporate the following design modifications [COA] [PLANNING]:
 - a) The height of the electrified fence shall be reduced to a maximum of 8 feet.
 - b) The existing chain link and razor wire perimeter fences located along the side property lines shall be removed and replaced with 6-foot tall wrought iron fencing matching the existing front gate.
5. EMERGENCY SHUT-OFF – A Knox switch or similar emergency shut-off device shall be provided for use by the City’s Department of Public Safety. Coordinate with Fire Prevention Services regarding approval and installation of the emergency shut-off device. [COA] [PUBLIC SAFETY]
6. SIGNAGE – Coordinate with Fire Prevention Services and Patrol to determine appropriate additional warning signage on the fence to ensure the safety of emergency personnel. Additional signs should be at eye level on the outside perimeter fence. Any additional signage shall comply with Zoning Code sign requirements. [COA] [PUBLIC SAFETY] (PLANNING)
7. BUILDING PERMIT AND COMPLIANCE DEADLINE – A building permit is required for all fences greater than 6 feet in height. Obtain a building permit within 30 days of the final approval action on the Use Permit. All modifications required as part of this approved planning application shall be completed within 60 days of the final approval action. [COA] [PLANNING]

Attachment B

Site Plans and Elevations

Site Address: 940 W EVELYN AVE. SUNNYVALE, CA 94086
 Date Map Drawn: 09/19/08 Map Scale: 1" APPROX 34' Page: 1 of 2

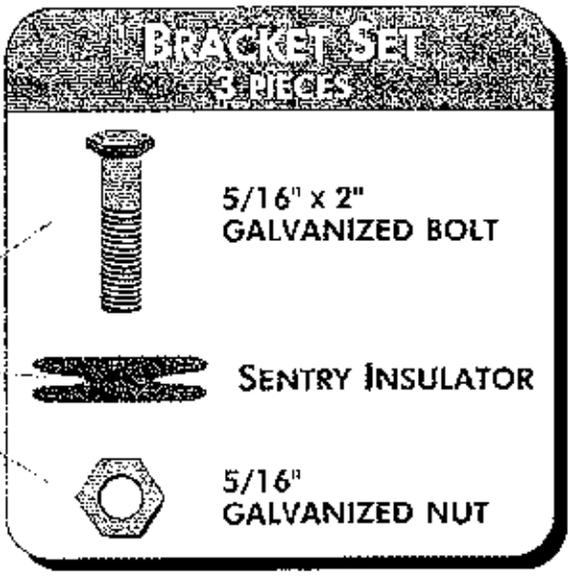
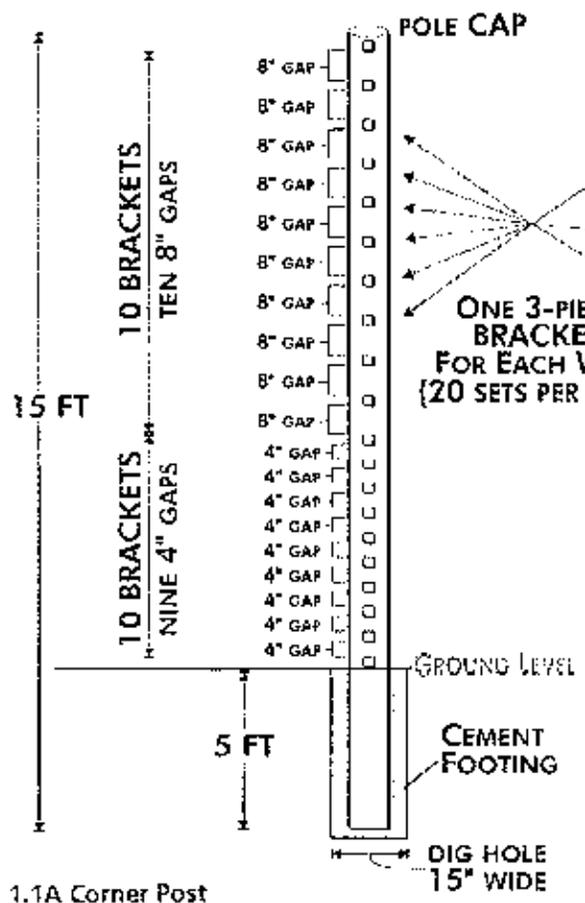
No security fence on back of property!



RECEIVED
 JUL 21 2010
 PLANNING DIVISION

Corner Post

INSTALLING A STEEL POLE



ONE 3-PIECE BRACKET FOR EACH WIRE (20 SETS PER POLE)

- Install brackets FACING the direction of pull, except when used as an End Pole.
- Install END POLE brackets FACING the direction of chain link Gate Pole (6" maximum from Gate Pole).
- Install ROLL GATE brackets FACING the direction of pull.
- Install CORNER POLE EYES 0-8" from Chain Linke Pole at 90° diagonally.

INSTALLATION 1.1

1.1A Corner Post

If the metal poles are scratched, paint them; especially in the front or by gates.

1.1B Corner Post

Bolts on bottom of insulators should be tight and insulators must be able to spin, freely acting as a pulley.

1.1C Corner Post

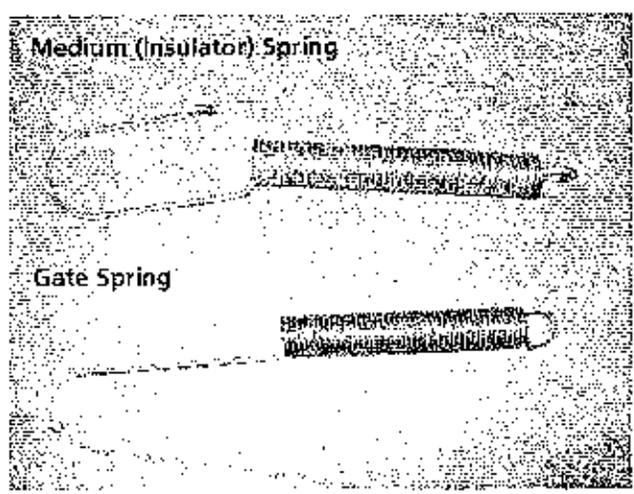
Install metal poles in MIDDLE of hole vs front or back of hole with concrete. Fill in hole with concrete to ground level.

1.1D Corner Post

The #2 wire must be hot in every section. The #1 wire must be flat on the ground.

1.1E Corner Post

Medium springs are required on both ends of every section over 250 feet.

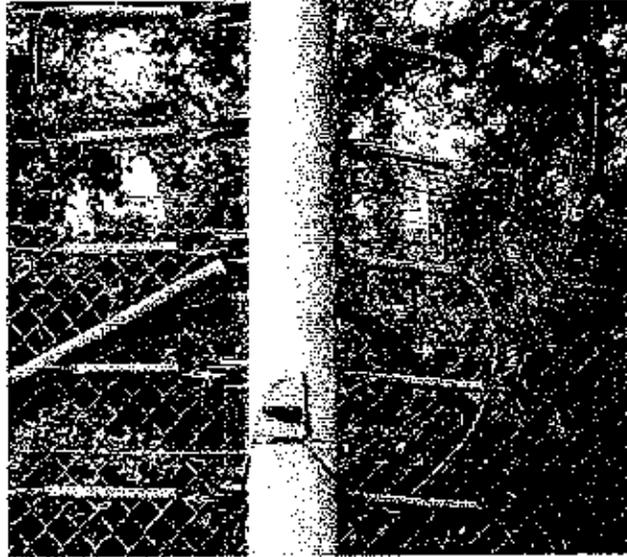


1.2B Steel poles

The steel pole has to be set in the correct place. There should be no more than 6 inches from the insulators on a steel pole beside the gate, and the fiberglass pole that is mounted on the gate. If the steel pole cannot be set close enough to the gate pole or against a building, due to concrete footers, etc., causing a potential breach of security, attach a fiberglass pole to the building or gate post to close any gaps.

1.2C Steel poles

Steel posts should be installed with a slight back lean, depending on the soil condition, so that after the fence settles and the concrete dries, the poles will not lean into the yard. Poles should be set 5 ft deep with a 15" hole minimum. Unstable soil conditions will require a better foundation.



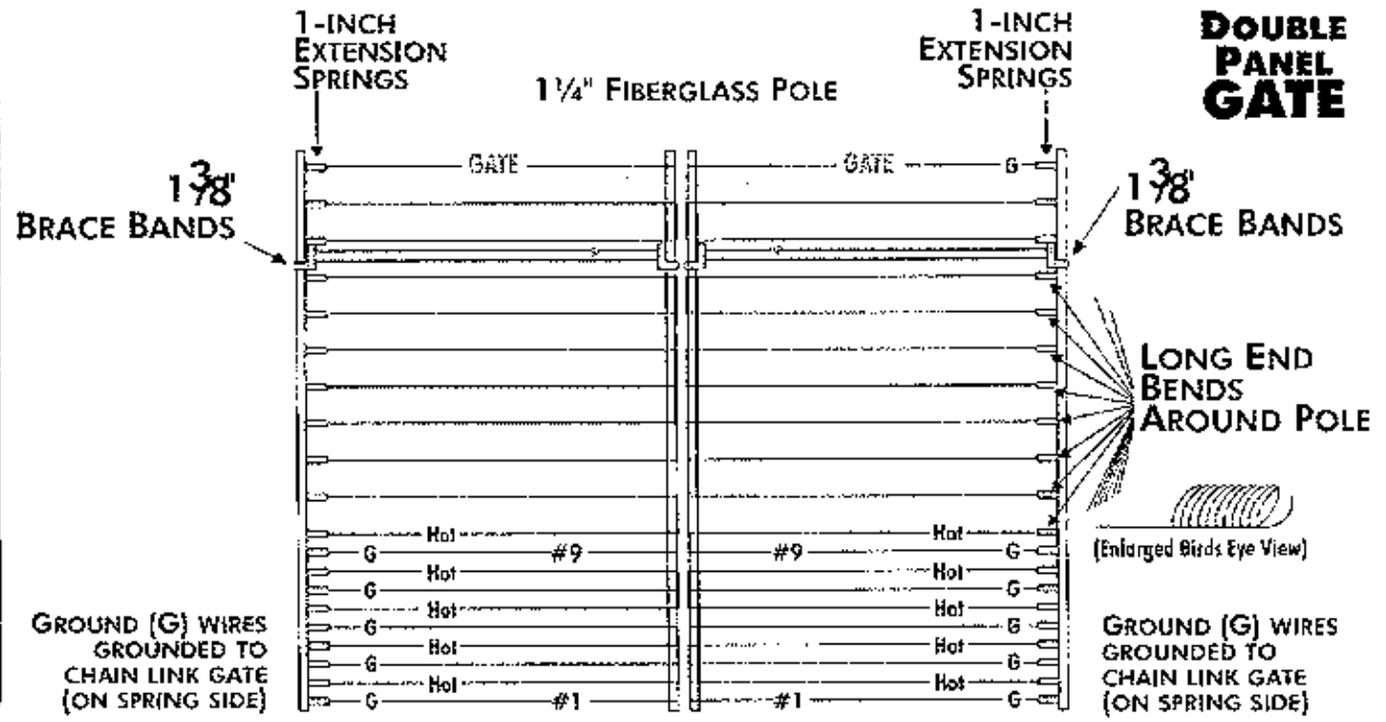
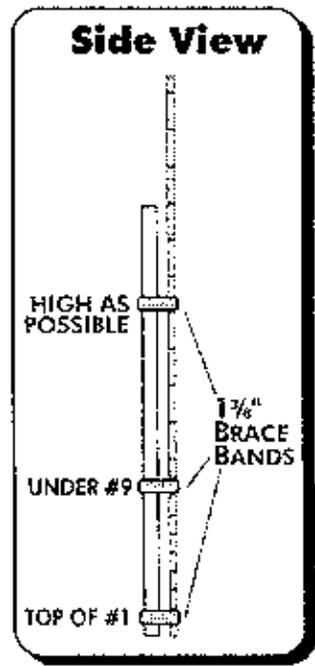
1.2D Double Poles

Every site regardless of size must have break down points for troubleshooting. No section can be longer than 1,000 feet without a double bracket pole for a break down spot.

1.2E Double Poles Cut off switches- are installed on the double bracketed pole and to bypass or isolate a section of fence.

1.2F Short Sections

A section of fence line that start and stops with footage of less than 25'. This section will have jumpers on each side, such as a section between two gates or a gate and a building or a roof section under 250ft. Short sections require springs on one end unless there is a 90 degree turn, in that case add a set of gate springs to the other end.



1. Brace Bands are located on top of #1, under #9, and as high on the chain linke as possible.
2. Springs are located on opposite side of lock.
3. All contacts must include spring.
4. All contacts must have bolt through fiberglass (no set screws).
5. All Brace Bands hooked to chain link must have set screw.
6. Every gate panel must have a sign.
7. All gate contacts must be secured in a manner that ensures contact when closed by a blind person.

INSTALLATION 2.0

2.A Gates

Use splices on jumpers on gates, all other jumpers use joint clamps not splices.

2.B Gates

Back side of roll gate must use steel pole not fiberglass pole. Gate must slide between electric and perimeter fence.

2.C Gates

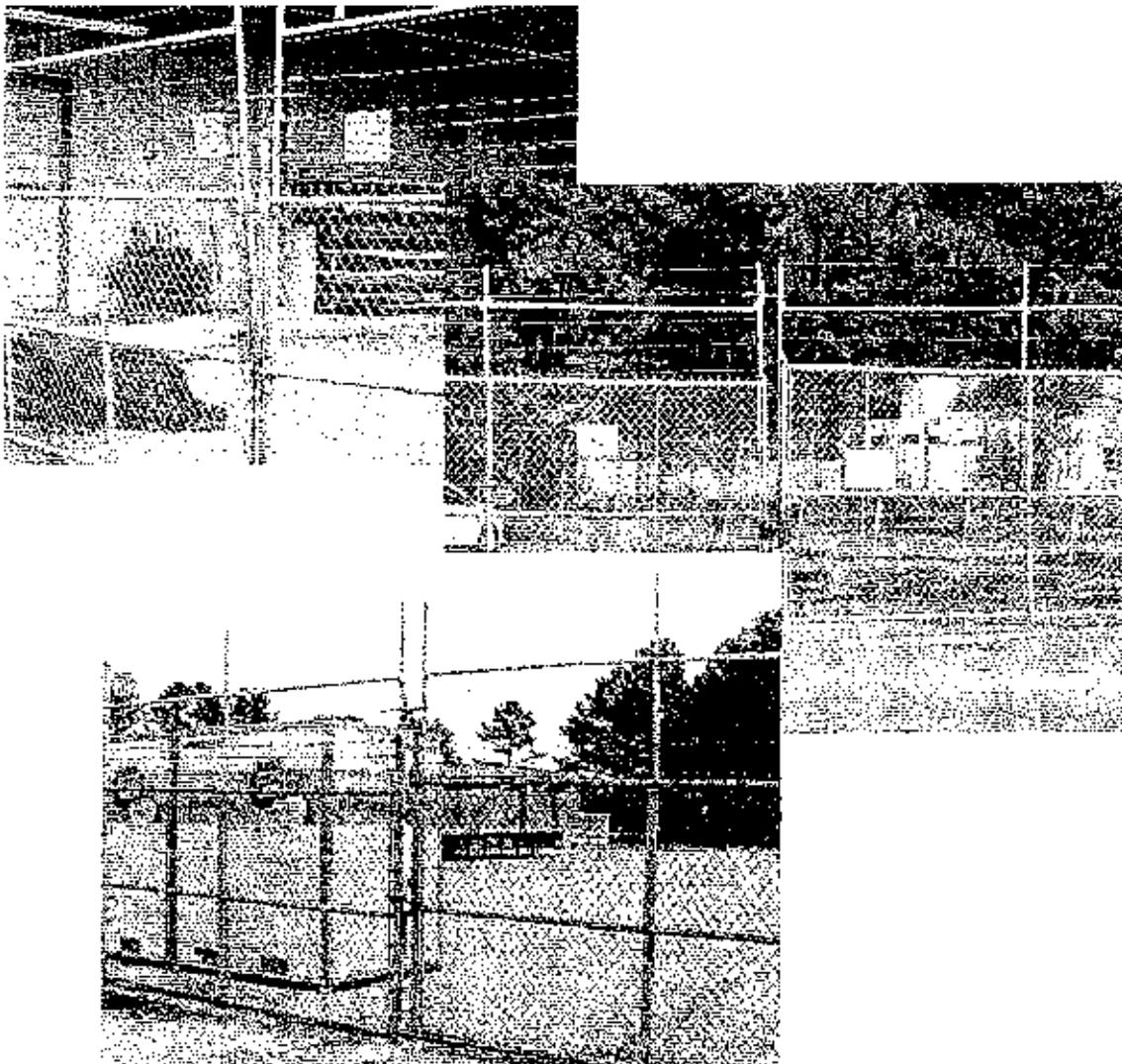
Gates should close tightly without play. If customer closes his gate with a chain, ask to cut off any excess length, so chain only meets using last two links. This will avoid chain tail shorting out gate and close tight enough to avoid wind pushing it open and losing contact.

POOR GATE CONNECTIONS ARE A COMMON CAUSE OF FENCE ALARMS.

2.D Gates

Current travels only one way through the gate. If it returns, then trench under gate wire #19 to 19 with weather heads on each side.

2.2 Double Panel



GATE BRACKETS

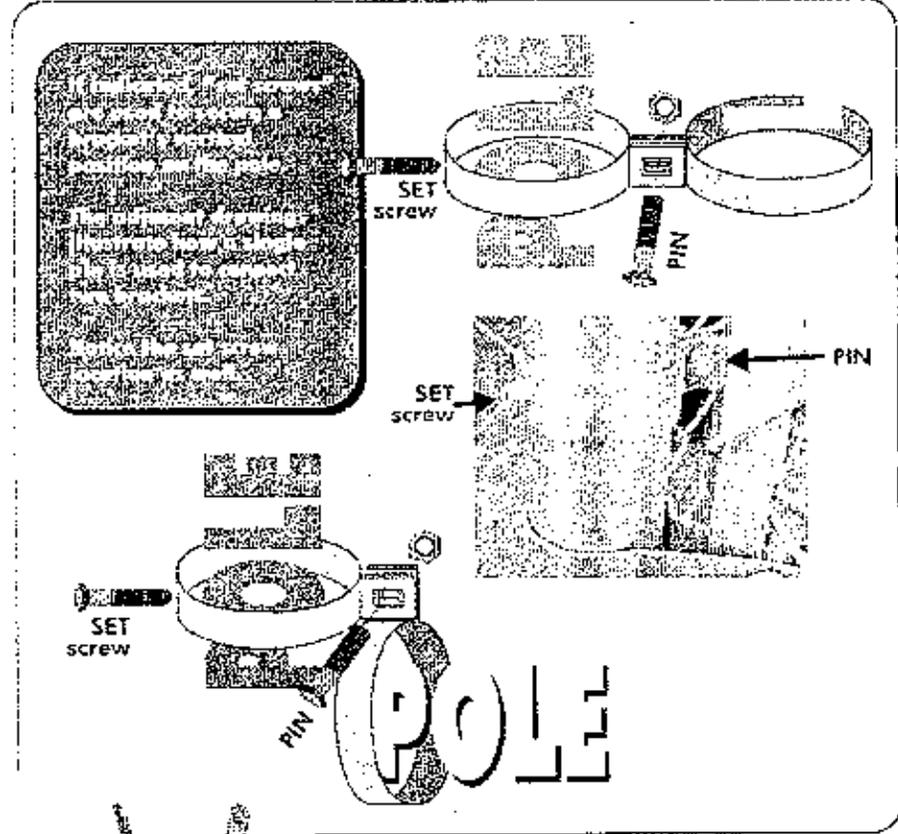
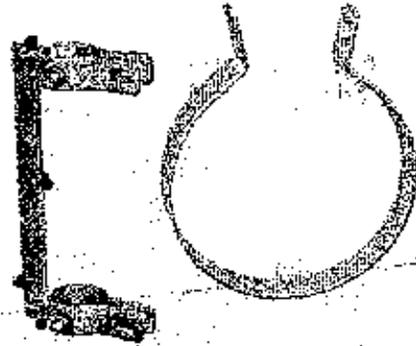
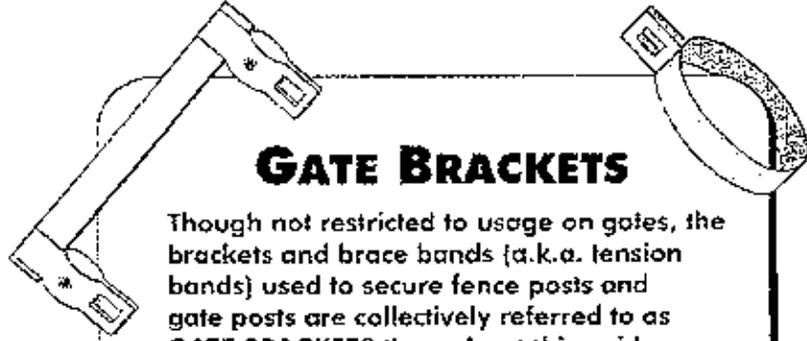
Though not restricted to usage on gates, the brackets and brace bands (a.k.a. tension bands) used to secure fence posts and gate posts are collectively referred to as GATE BRACKETS throughout this guide.

Specifically, two types of brackets (in many sizes) are used with our fence (see adjacent photo).

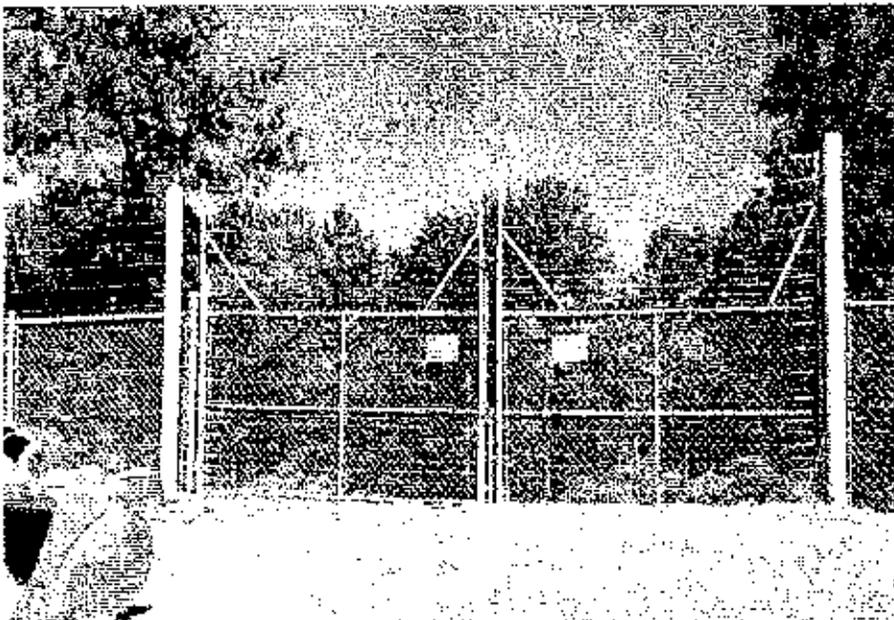
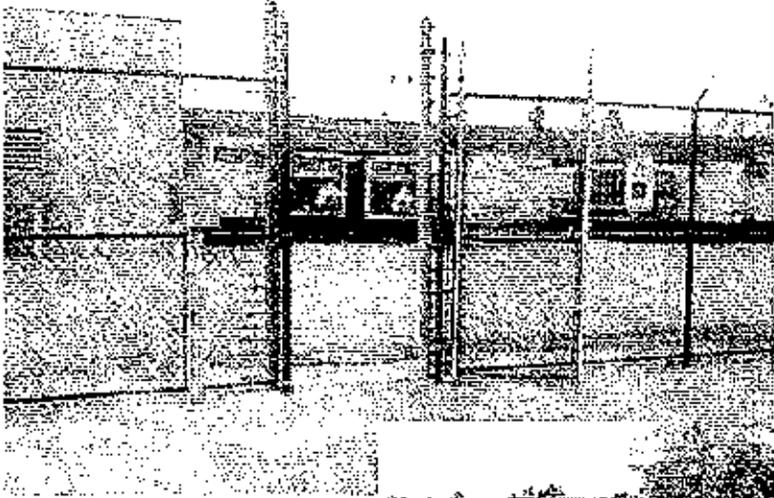
Both types of brackets should always be installed in a manner that ensures the pins (bolts) used in connecting these brackets are parallel to the ground, with the open end facing the fence interior.

INSTALLATION 2.0 A

2.0a Brackets



2.3 Bypass Gates

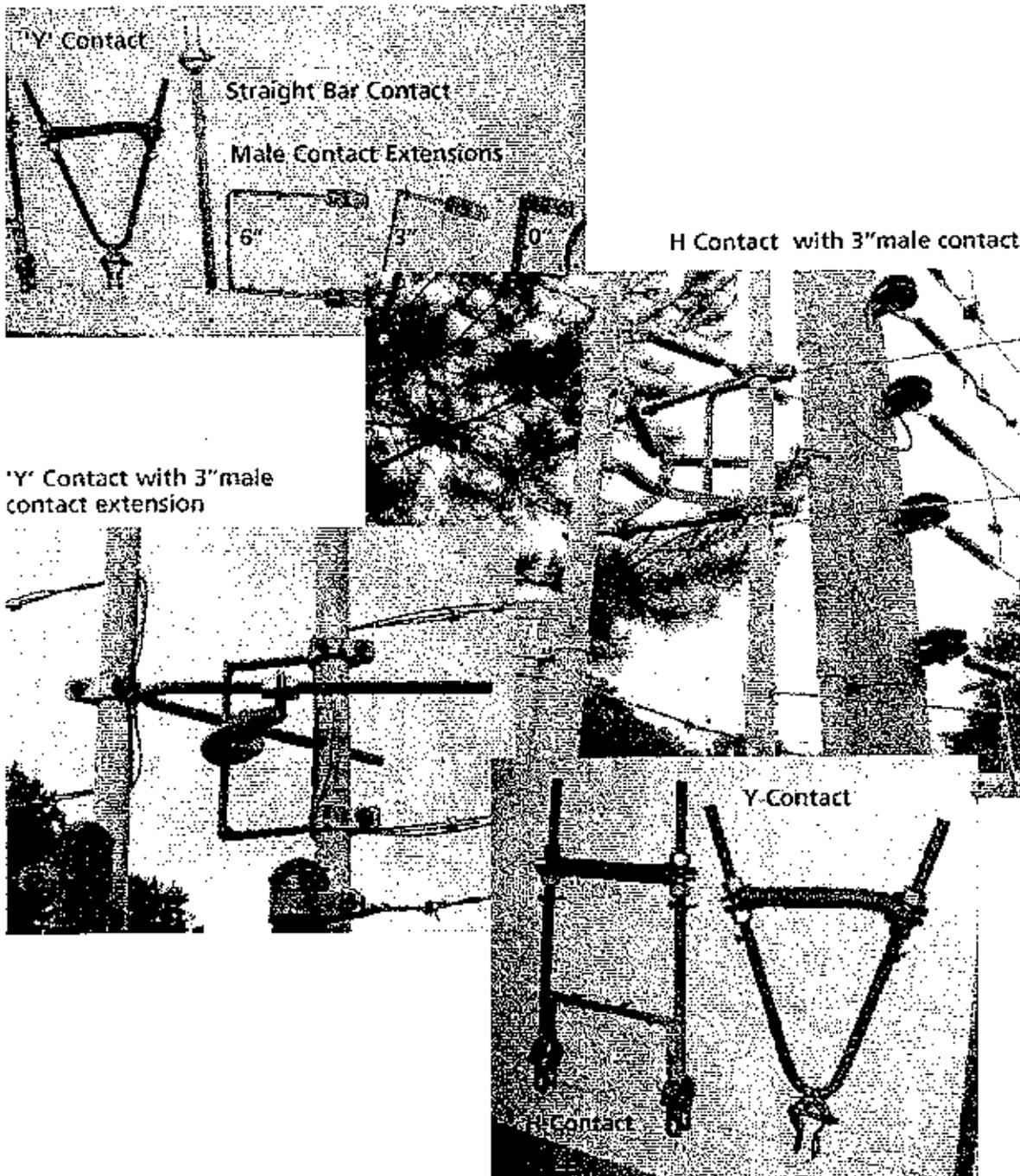


2.4A Contacts

All contacts must have a bolt through the contact and fiberglass pole. All contacts must have a spring on one side.

2.4B Contacts

Use a Y or straight bar contact at every gate connection. All contacts must involve a spring, no solid contacts. Spring should be extended no more than half distance of Y. Use a contact extension on every contact. Use the appropriate size extensions to close gaps at the gates.

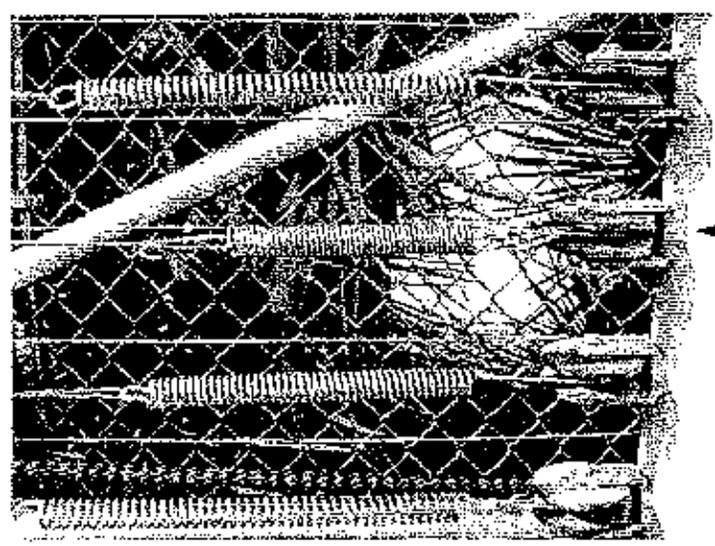


2.5A Gate Springs

Gate springs are used on every gate and all sections under 250 feet. Gate springs are required on both ends if there is a bend in the section.

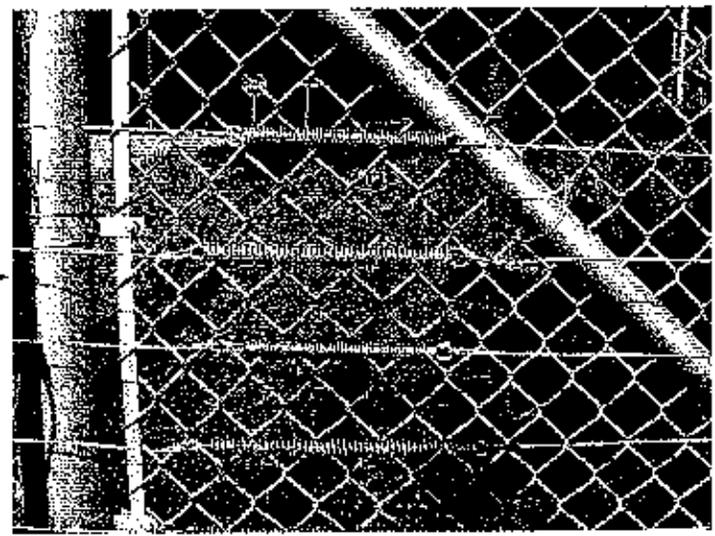
2.5B Gate Springs

"Air" gate springs. If gate loses tension, cut wire and re-pull.



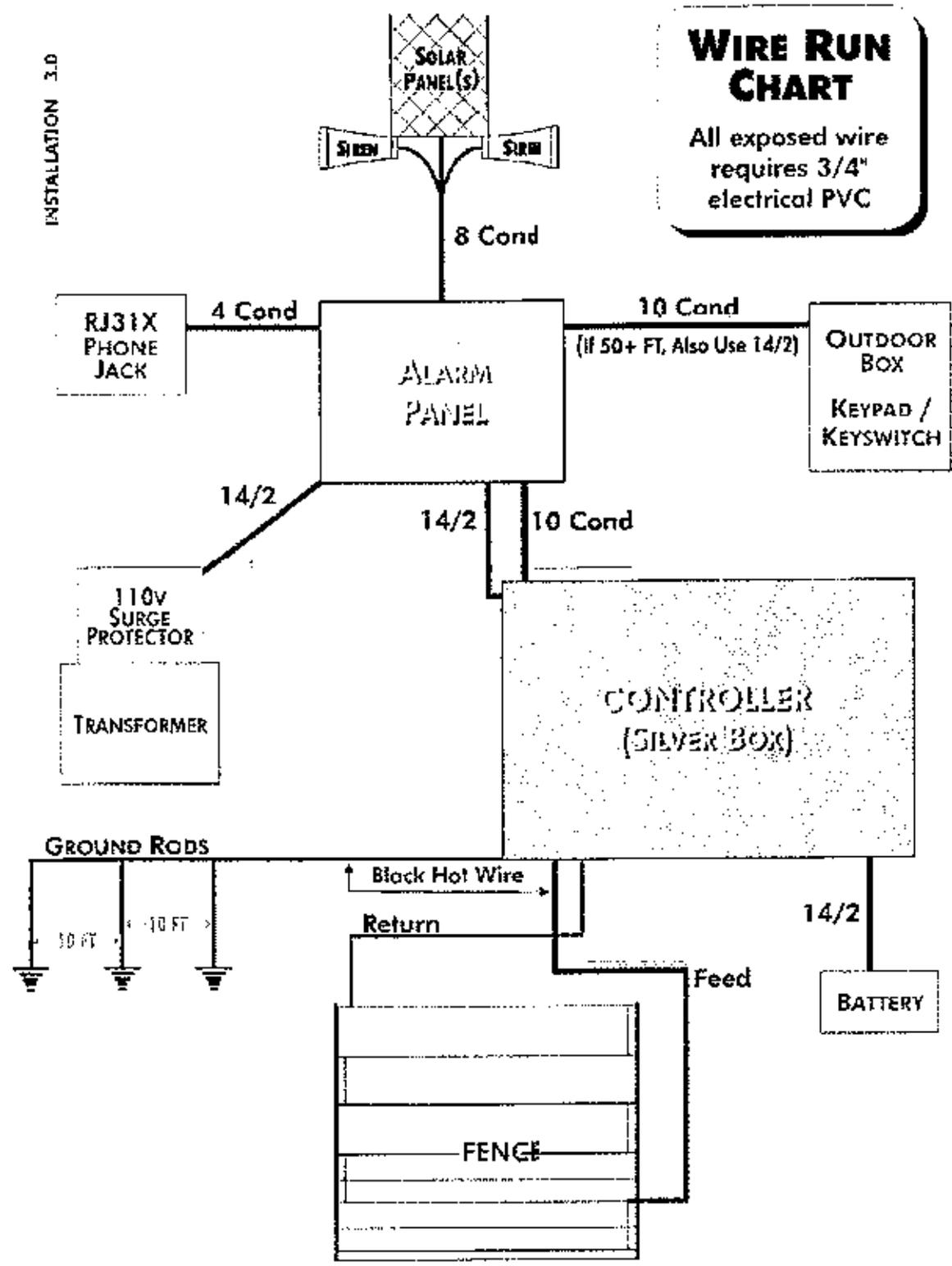
medium (insulator) spring
not aired

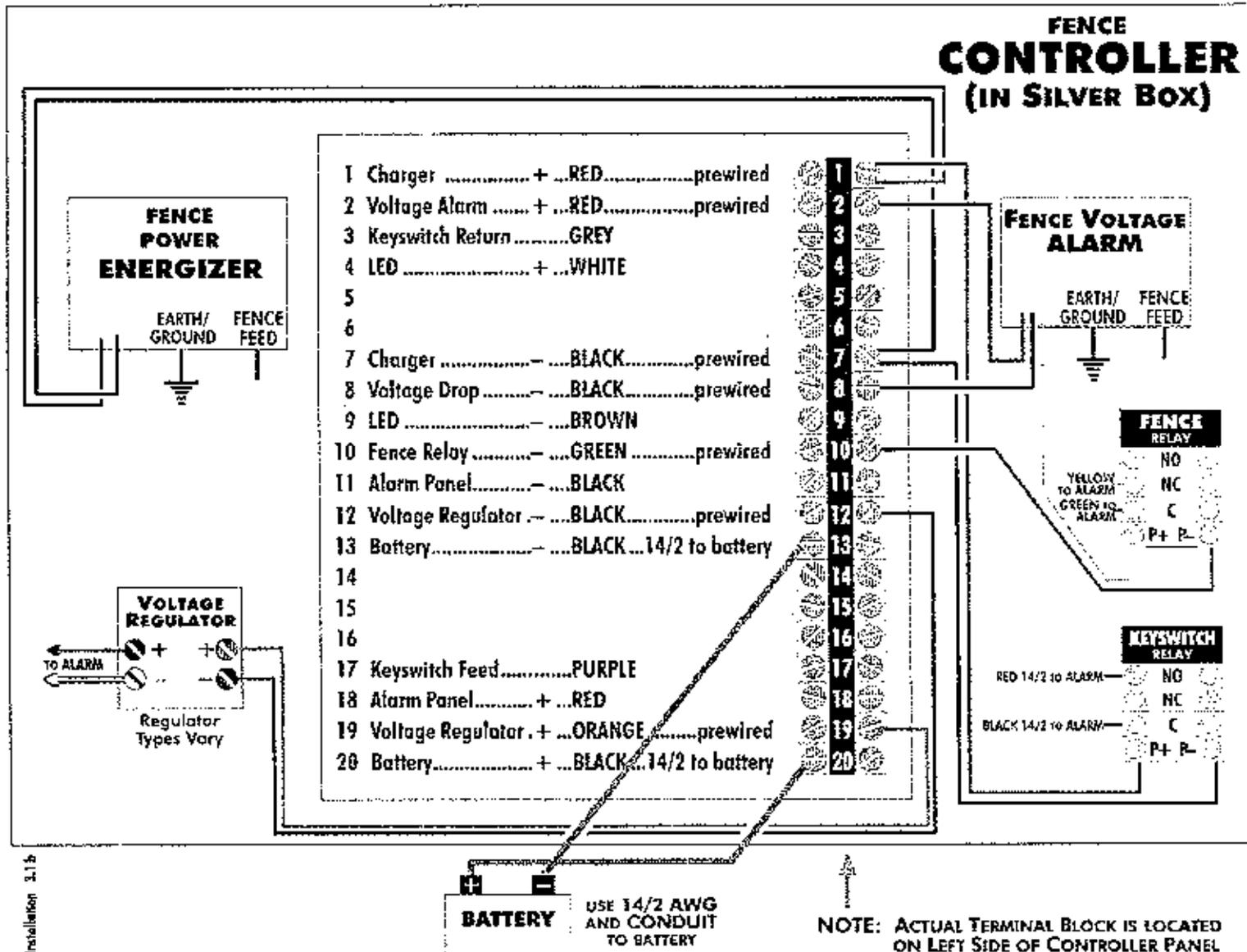
not aired →



INSTALLATION 3.0

WIRE RUN CHART
 All exposed wire requires 3/4" electrical PVC





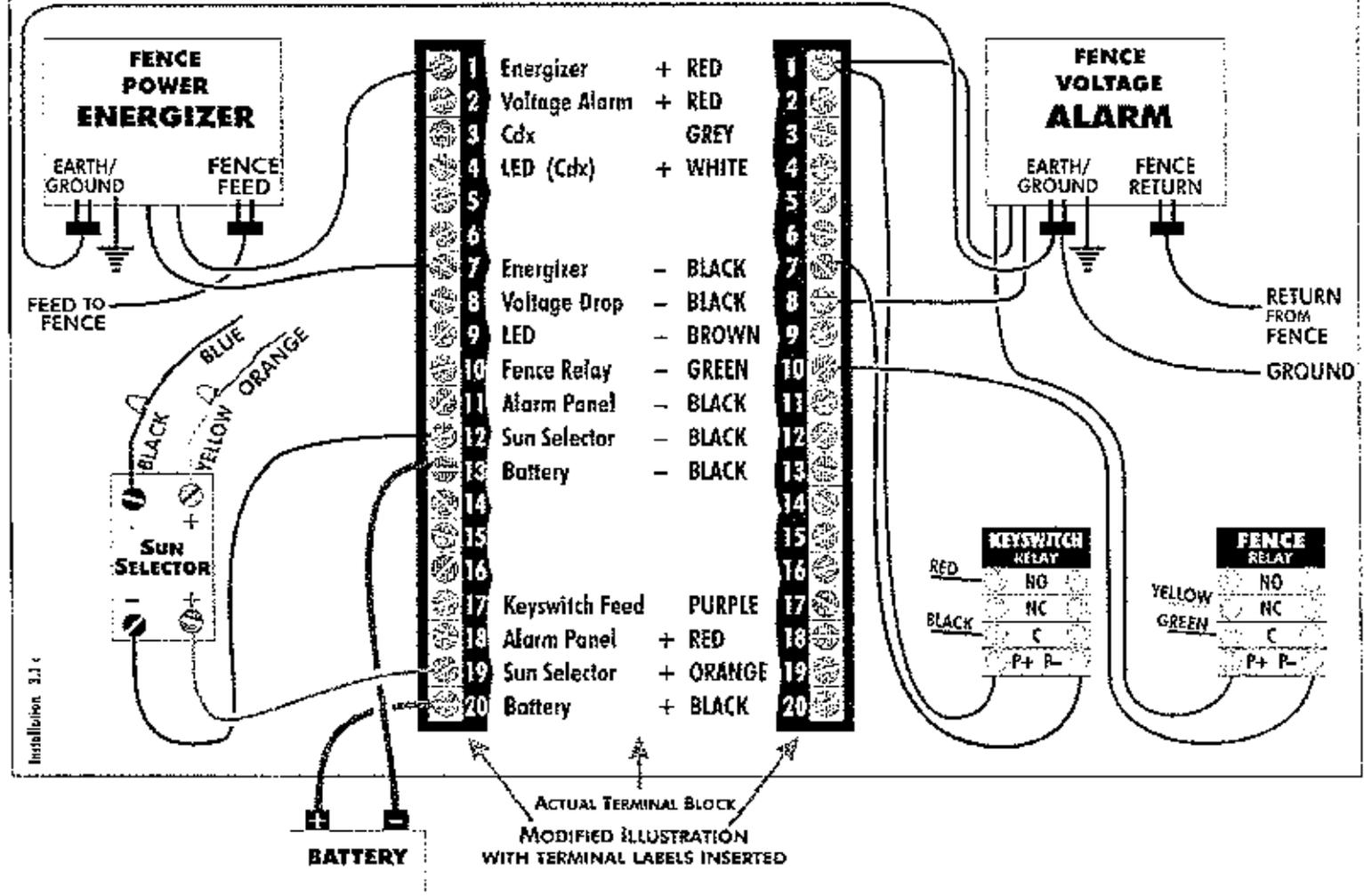
Installation 3.17

ATTACHMENT B
Page 12 of 13

FENCE CONTROLLER (IN SILVER BOX)

- CONNECTION SEQUENCE**

 1. 110V (POWER)
 2. BATTERY
 3. SOLAR PANEL



Attachment C

Site Photographs

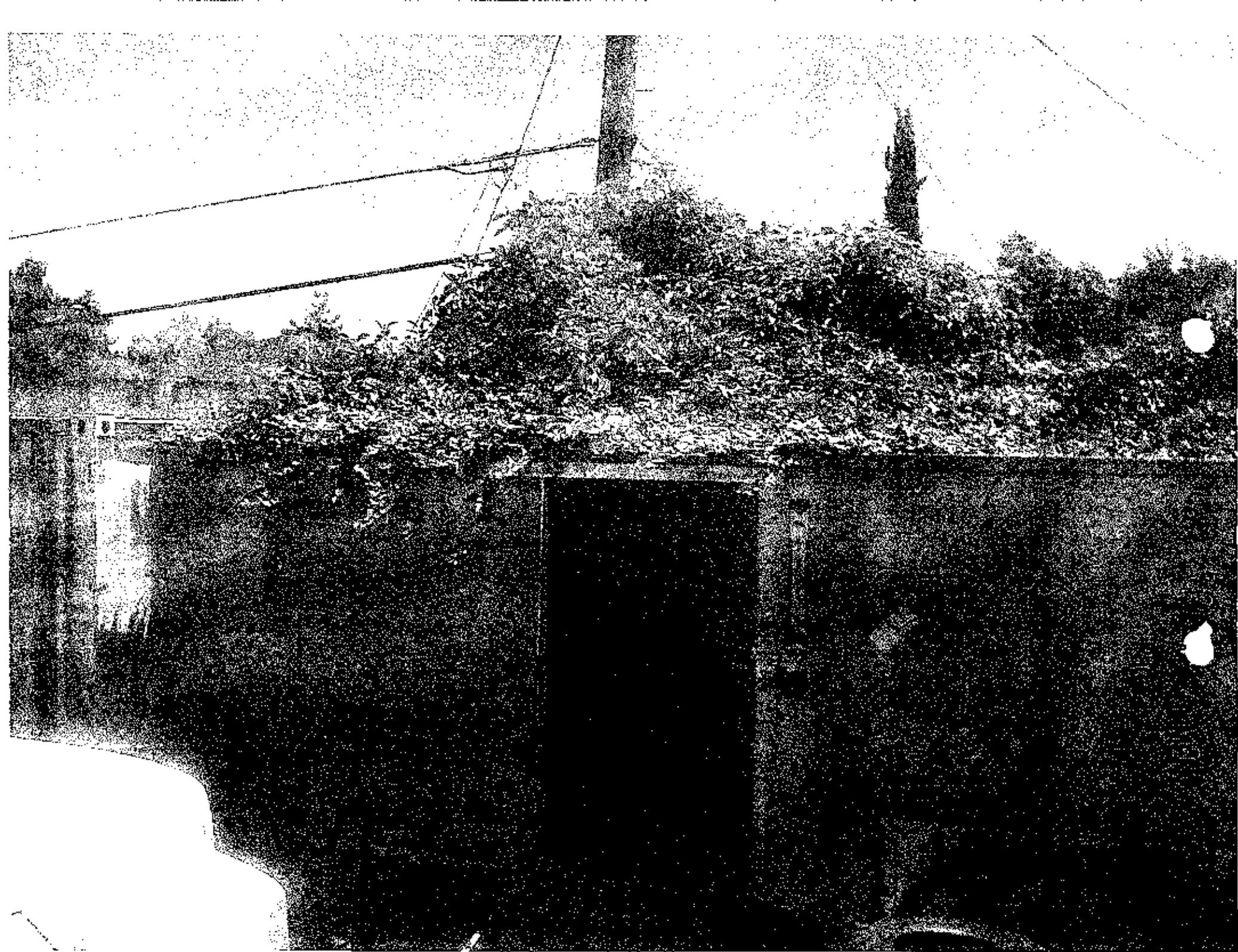


**United
Rentals**
Rentals · Sales · Service





ATTACHMENT C
Page 2 of 6





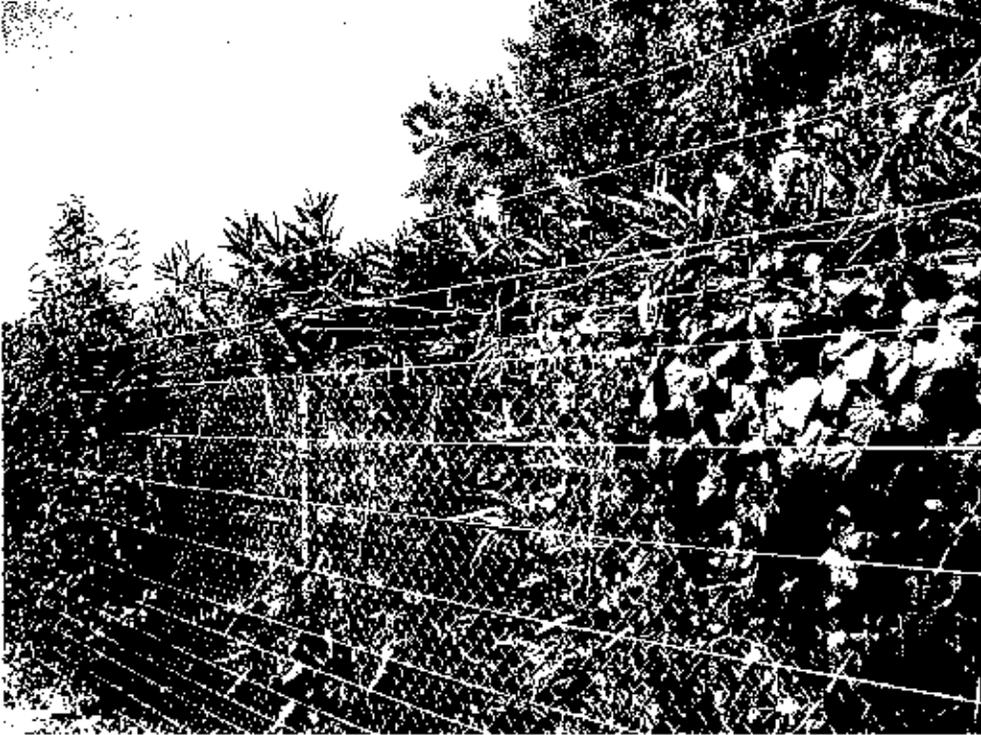
9/2



Front gate area facing toward Evelyn Avenue



East side property line fence



West side property line fence



Existing signage on electrified fence

Attachment D

Applicant's Letters and Project Justifications



940 W. Evelyn Ave.
Sunnyvale, CA 94086
Tel: 408 736-7560
Fax: 408 736-9174
www.unitedrentals.com

July 21, 2010

United Rentals is the current tenant @ 940 W. Evelyn Ave Sunnyvale, Ca.

The purposed use of this electronic fence is to protect the mentioned property from break in or vandalism.

Hours of operation are Monday - Friday 7AM to 5PM

We currently have 11 employees at our Sunnyvale facility.

A handwritten signature in black ink, appearing to read 'Jeff Sanders'.

Jeff Sanders
Branch Manager 547



USE PERMIT/SPECIAL DEVELOPMENT PERMIT

ATTACHMENT D

JUSTIFICATIONS

Page 2 of 3

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 ... COMPLIES WITH THE GENERAL PROVISIONS OF 19.48.020. FENCE IS NOT ADJACENT TO RESIDENTIAL PROPERTY & CAN NOT CAUSE INJURY & IS NOT DESIGNED TO DO SO. WE SIMPLY REQUEST A VARIABLE FOR HEIGHT TO ENSURE THE EFFECTIVENESS OF THE SECURITY SYSTEM.

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 ... THE PROPOSED USE ONLY ENHANCES THE SECURITY OF THE PROPERTY & THOSE ADJACENT TO THE PROPERTY. THE APPEARANCE OF THE SECURITY FENCE DOES NOT IMPAIR THE ORDERLY DEVELOPEMENT OR THE EXISTING USE; MORE SO, IT ENHANCES & SECURES THE USE OF THE PROPERTY

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

**United Rentals, Inc.**940 W. Evelyn Ave.
Sunnyvale, CA 94086
Tel: 408 736-7660
Fax: 408 736-9174
www.unitedrentals.com

City of Sunnyvale Planning Division

Attn: Mariya Hodge

To specifically address the concerns in the reply e-mail that was sent on August 24, 2010 please accept the following explanations and support.

1. The height of the apparatus needs to be higher than the perimeter fence to prevent a "hurdle or jump" over the top of the theft deterrent device. The height also forces the potential thieves to attack the perimeter fence from a less advantageous angle, ensuring the full effectiveness of the device. In short, lowering the height compromises the capability of the system and makes it less effective. The height is consistent with the CA code.
2. Wrought Iron is a "decorative fence" and its security elements are limited. Extending the fence actually makes the site less safe and the surrounding sites less safe. The electric theft deterrent device actually increases the security of the surrounding properties.
3. The second and third items mentioned in the correspondence are actually linked. The nature of the United Rentals business requires that highly valued equipment be stored in the yard, visible to passersby. Some of the inventory is large and cumbersome and space is needed on the yard too maneuver large trailers, trucks, and equipment, not only for the business but for the customers as they pick up and drop off inventory. Building "sheds and outbuildings" on this small lot would make it inherently more dangerous to the employees and customers coming in and out of the yard not to mention the expense and lack of actual security provided.

In the end the most cost effective and beneficial system to protect the United Rentals site is the Electric Guard Dog theft deterrent device. The EGD allows the PD to husband's critical resources as crime is actually prevented on this site and reduced on the area.

Jeff Sanders
Branch Manager
United Rentals/Sunnyvale