



CITY OF SUNNYVALE REPORT ZONING ADMINISTRATOR HEARING

October 16, 2013

File Number: 2013-7697

Permit Type: Use Permit

Location: 1432 Kingfisher Way (near Dartshire Way) (309-11-030)

Applicant/Owner: ShiJie Wen, Li-Li Cui

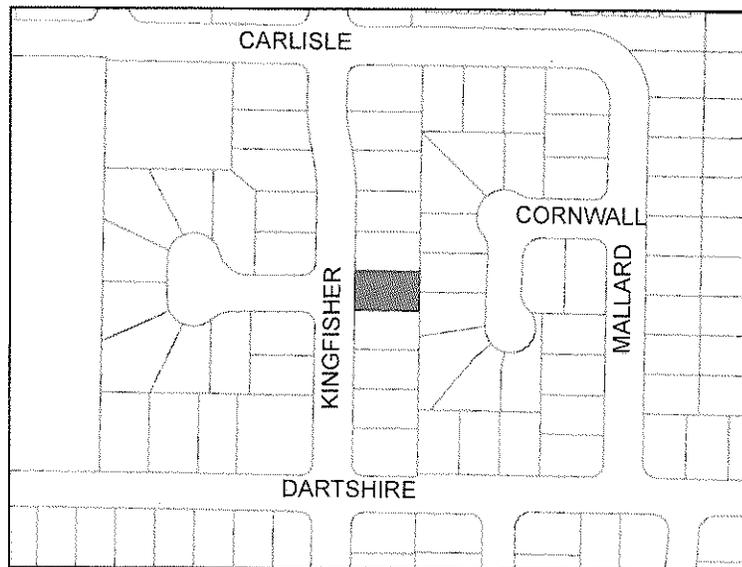
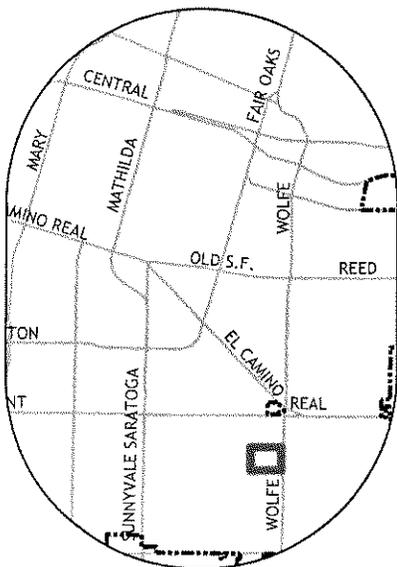
Staff Contact: Timothy Maier, Assistant Planner, (408) 730-7257

Project Description: Use Permit to allow an approximately 8' fence in the front yard of an existing single-family home.

Reason for Permit: A Use Permit is required for any fence that exceeds 6' in height in the front yard.

Issues: Neighborhood/architectural compatibility, aesthetics, height

Recommendation: Approve with Conditions



500

Feet

PROJECT DESCRIPTION

Existing Conditions:	Approx. 9'-6"	Proposed Fence Height:	8'-6"
Zoning District:	R-0	Fence Setback:	15'

<p>Previous Planning Projects related to Subject Application</p> <p>On June 28, 2013, the applicant submitted an application for a Miscellaneous Plan Permit (MPP) regarding a front-yard fence to be located at 1432 Kingfisher Way in front of the existing Eichler home. According to the applicant, the condition of the existing wooden fence was poor. The applicant stated that he wished to replace the existing fence with a new wooden fence of the same height and location as the existing fence. The plans submitted contained a reference to fence materials of "concrete/brick." The site plans indicated an existing fence height of 6 feet, and a proposed fence height of 5.5 feet.</p> <p>Staff approved a Miscellaneous Plan Permit for the proposed fence over the counter, subject to the following conditions: 1) The height of the fence would be no greater than 6 feet as measured from top of curb; 2) The fence would be located at least 15 feet from the front property line; and 3) The fence would be of a design architecturally compatible with the existing Eichler home. The applicant agreed to the listed conditions, and the MPP was issued.</p>	<p>Yes</p>
<p>Neighborhood Preservation Complaints</p> <p>On July 16, 2013, a Neighborhood Preservation complaint was filed concerning the constructed fence's lack of compliance to submitted plans. The new fence was built of roughened stone blocks with trellis added atop. As built, the solid stone portion measures 5'-4" from ground level, and the trellis portion extends above, for a total fence height of 6'-10" from grade. The front yard features an upward-sloping grade, creating an elevation difference of approximately 1'-8" between the top of curb and the bottom of the fence nearest the street. As measured from the curb, the top of the stone fence portion measures approximately 7' tall, and the top of the trellis measures approximately 8'-6" in height.</p> <p>In response to Neighborhood Preservation action, the property owner filed a Use Permit application, requesting to retain the design of the fence as built.</p>	<p>Yes</p>
<p>Deviations from Standard Zoning Requirements</p>	<p>No</p>

Fence Design:

The fence is composed of textured stone brick, with a wooden trellis atop. The lower portion of the fence, composed of stone, extends 5'-4" above grade, with the trellis element rising 1'-6" above, for a total structure approximately 6'-10" in height as measured from ground level. Because the property features an upward-sloping grade of approximately 1'-8," the total fence height is approximately 8'-6" from top of curb (see Attachment D, pages 1 and 4).

The textured stone wall portion is of a pale gray hue. The wooden horizontal trellis element is painted to match the existing house and runs the length of the fence, supported by vertically-positioned wooden boards, painted white and positioned approximately 6' apart. Above the horizontal element of the trellis are beveled projections, positioned perpendicular to the horizontal element, spaced at roughly 6" intervals (see Attachment D, pages 2 and 3). These beveled projections protrude approximately 1' from the horizontal element of the trellis, both toward the street and toward the home.

The new fence is composed of two discrete sections. Facing the home, the longer section runs approximately 36 feet in length parallel to the street, with a perpendicular turn on both its left and right terminus (See Attachment B, page 2, and Attachment D, page 7). The perpendicular turn at the left-hand terminus is approximately three feet in length and serves as an extension of the existing wooden fence which separates the subject property from the adjacent home to the north. This longer section of the fence is located to the left of the garage as visible from the street, enclosing much of the front yard and the side yard, as well as an interior tiled courtyard (See Attachment D, pages 5 and 8). This section of the fence establishes a visual barrier to the entrance and the majority of the home's living area.

A second, much smaller, section of new fence stands to the right of the garage, surrounding a small portion of the front yard and the side yard, as seen in Attachment D, page 7. This section of fence also contains a perpendicular turn on both its left and right terminal ends. The right-hand turn forms an extension of the existing wooden fence which separates the subject property from the adjacent home to the south. Both the left and right portions of the fence project several feet toward the street from the garage, the most prominent element of the home's façade. Essentially, this layout produces two separate courtyards: a large enclosed area to the left of the driveway, and a much smaller one to the right.

It is noteworthy that neither the site plans originally submitted as part of the MPP application, nor the site plan submitted in conjunction with the Use Permit application, contain reference to any portion of a fence to be located to the right-hand side of the garage.

In addition to the work previously cited, the homeowners added two separate doors as elements of the fence, one to the portion of the fence on either side of the driveway. The doors are of two different styles; the door which provides access through the fence to the courtyard on the left of the garage is a rectangular, painted white interior-style door with a door handle and padlock, while the door providing access to the side yard to the right of the garage is a brown, wooden door with an arched top.

In the sections of the fence on both the left and right-hand sides of the garage, the entry doors extend above the maximum height of the trellis in the portions of the fence parallel to the street. To accommodate the height of the doors, in both sections of fence, the trellis above the door was placed at an elevation approximately 1 foot above the rest of the fence, creating an offset, staggered appearance. This arrangement elevates the height of the fence trellis above the doors to over 9' above the top of curb (see Attachment D, pages 2, 4, 7, and 8). In each of the two sections of the fence, the slim portion of the stone wall abutting the home's façade was also increased in height, again adding to an offset, uneven look (as seen in Attachment D, pages 3, 8, and 11).

Landscaping:

The original driveway at 1432 Kingfisher Way appears to have been widened, such that the driveway spans the width of the front yard from the edge of the home's garage door to the edge of the newly-built fence (see Attachment D, pages 6 and 11). Construction of the section of fence to the left of the garage has provided enclosure to a large interior courtyard paved with tile. A planter box made of brick and featuring irrigated grass stands in front of the fence to the left of the driveway (see Attachment D, pages 1 and 8). In the front yard between the sidewalk and the edge of the planter box to the left of the home's driveway lies a strip of large, smooth stones (see Attachment D, page 5). The entirety of the parkway strip along the home frontage also contains such stones.

In total, the home's front yard is composed primarily of hardscape, largely devoid of vegetation. Per City of Sunnyvale Municipal Code Section 19.32.060, "Not more than fifty percent of the required front yard of any lot within an R-0 or R-1 zoning district shall be paved with asphalt, concrete cement, or any other impervious surface..." The subject property is located within an R-0 zoning district. In its present state, an excess of area in the front yard is composed of hardscape or nonliving material.

Typical Fence Designs in the Neighborhood: Most properties in the area surrounding 1432 Kingfisher Way are of Eichler design, with front-yard fences set back roughly 15 feet. Most such fences are composed of wood, with boards arranged vertically, perpendicular to finished grade. However, a few

neighborhood properties have front yard fences composed of stone. In such cases, these fences appear to be those originally built with the associated homes (as seen in Attachment D, page 12). Thus, stone fences in the vicinity of the subject property generally preserve the Eichler character which typifies architecture in the neighborhood.

Public Contact: A total of seven notices were sent to residents concerning the Use Permit application, in addition to standard noticing practice. These seven notices include those sent to both the subject property and adjacent properties. No letters or calls were received from the public by staff.

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. **Finding met.**

The following provisions relate to the permit application:

City of Sunnyvale General Plan:

- CC-2: Attractive Street Environment: Create an attractive street environment which will complement private and public properties and be comfortable for residents and visitors.

Single Family Home Design Techniques:

- 3.11.G ...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.

Eichler Design Techniques:

- 3.1.1 Utilize traditional Eichler building forms consistent with Eichler homes in the surrounding neighborhood.
- 3.1.2 Utilize traditional Eichler materials and details.
- 3.1.2.C Do not use stone facing with a rough or irregular texture, and clapboard siding with overlapping edges that create a sawtooth profile.
- 3.5.4.C The design of fences should be simple and modern in appearance...In some models, fences are part of the original architecture, and necessary to protect front yard privacy. These fences should be maintained or replaced, as necessary. In most cases, simple wood

fencing, without lattice, is the appropriate design. Concrete block fencing is allowed where it is found in the subdivision.

Staff was able to make findings to generally support the policies above.

The existing single-family home located at 1432 Kingfisher Way is an Eichler home. The City of Sunnyvale takes pride in the maintenance of its stock of this unique architectural style and applies design techniques specific to Eichler homes within the City.

Several homes in the neighborhood maintain fences of simple, rectangular concrete block composition, arranged to complement the horizontal emphasis of their respective homes; fences of this style were included in the original Eichler home design (See Attachment D, page 12). Many other neighborhood properties have wooden fences, with boards arranged vertically, similar to the design of the original fence at the subject property. Although the new fence at 1432 Kingfisher Way is composed mostly of roughened stone, the constructed fence largely satisfies the Eichler Design Guidelines. The newly built fence features stone blocks placed in a horizontal, linear orientation, similar to fences seen at surrounding Eichler homes, which have stone fences of equivalent height (see Attachment D, page 12).

The newly constructed fence creates a visual barrier to the entire façade of the home (aside from the garage), producing a walled-off appearance. Also, the total height of the newly built fence (trellis portion included) is greater than that of the previous fence. However, the new fence stands in the same location as the pre-existing fence and is set back significantly from the street, reducing its visual impact. Further, the layout of the original Eichler home intended that a significant portion of the front yard be shielded from view to protect residents' privacy. Although the height of the fence exceeds that which is typically allowed, the location of the fence, its color, and the quality of construction provide privacy and security to the home's residents, and combine to create an attractive street environment.

Though the structure largely satisfies applicable requirements, staff recommends several alterations to the fence to promote greater compliance with adopted policies and guidelines including the City's Single Family Home Design Techniques and Eichler Design Techniques. Staff recommends approval with modifications, as listed in Attachment A.

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. **Finding met.**

The applicant reports that the new fence was built primarily as a visual barrier to the surrounding street as a means of protecting the privacy of its residents. Although the fence is taller than most in the home's vicinity, the location of the newly built fence largely conforms to the neighborhood pattern of front-yard fences set back considerably from the street. The trellis placed atop the stone portion of the fence serves to soften the upper portion of the structure, and the fence adds to the visual interest of the neighborhood. Staff was able to make the finding based on conditions of approval that require alterations to fence design which aim to reduce potential visual impacts associated with its height.

ALTERNATIVES

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

Reviewed by:



Shaunn Mendrin
Senior Planner

Prepared By: Timothy Maier, Assistant Planner

Attachments:

- A. Conditions of Approval and Standard Requirements
- B. Site and Architectural Plans
- C. Project Description Letter
- D. Site Photographs

**RECOMMENDED
CONDITIONS OF APPROVAL AND
STANDARD DEVELOPMENT REQUIREMENTS
10/16/13**

Planning Application **2013-7697**

1432 Kingfisher Way

Use Permit to allow a fence over 6' in height in the front yard

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:

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

GC-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]

GC-2. USE EXPIRATION:

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

GC-3. PERMIT EXPIRATION:

The 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 and is approved by the Director of Community Development. [SDR] (PLANNING)

GC-4. REQUIRED REVISIONS TO PROJECT PLANS

The plans shall be revised to address comments from the Administrative Hearing Officer including the following [COA] [PLANNING]:

Modifications to Design:

Though the fence largely satisfies applicable requirements, staff recommends several alterations be made to the fence to promote greater compliance with the General Plan, Single Family Home Design Techniques, and Eichler Design Techniques. The recommended modifications follow:

- 1) The pre-existing wooden fence surrounding 1432 Kingfisher Way shall be painted to match the color of the stone in the lower portion of the newly constructed fence to create a more unified appearance, and to avoid strong visual contrast between the old and the new;
- 2) The slim portion of the stone fence abutting the home facade on both the left and right-hand sides of the garage shall be reduced in height to match the height of the lower portion of the fence as visible from the street (see Attachment D, pages 10 and 11);
- 3) Both the door providing access into the courtyard to the left side of the garage, and the door providing entry into the side yard on the right-hand side of the garage, shall be reduced in height to match the height of the stone portion of the fence. The doors should be of a type compatible with outdoor use, and shall be altered or replaced to complement the fence design. The design of both doors shall be made to match one another in color and style;
- 4) In its current state, the portion of the trellis positioned above the door on both the left and right-hand sides of the garage does not match the height of the trellis throughout the majority of the fence, creating an offset, staggered appearance. These two sections of the trellis shall be eliminated, or, if adequate vertical clearance can be achieved, each

replaced with a single thin horizontal beam, painted to match the horizontal element of the trellis.

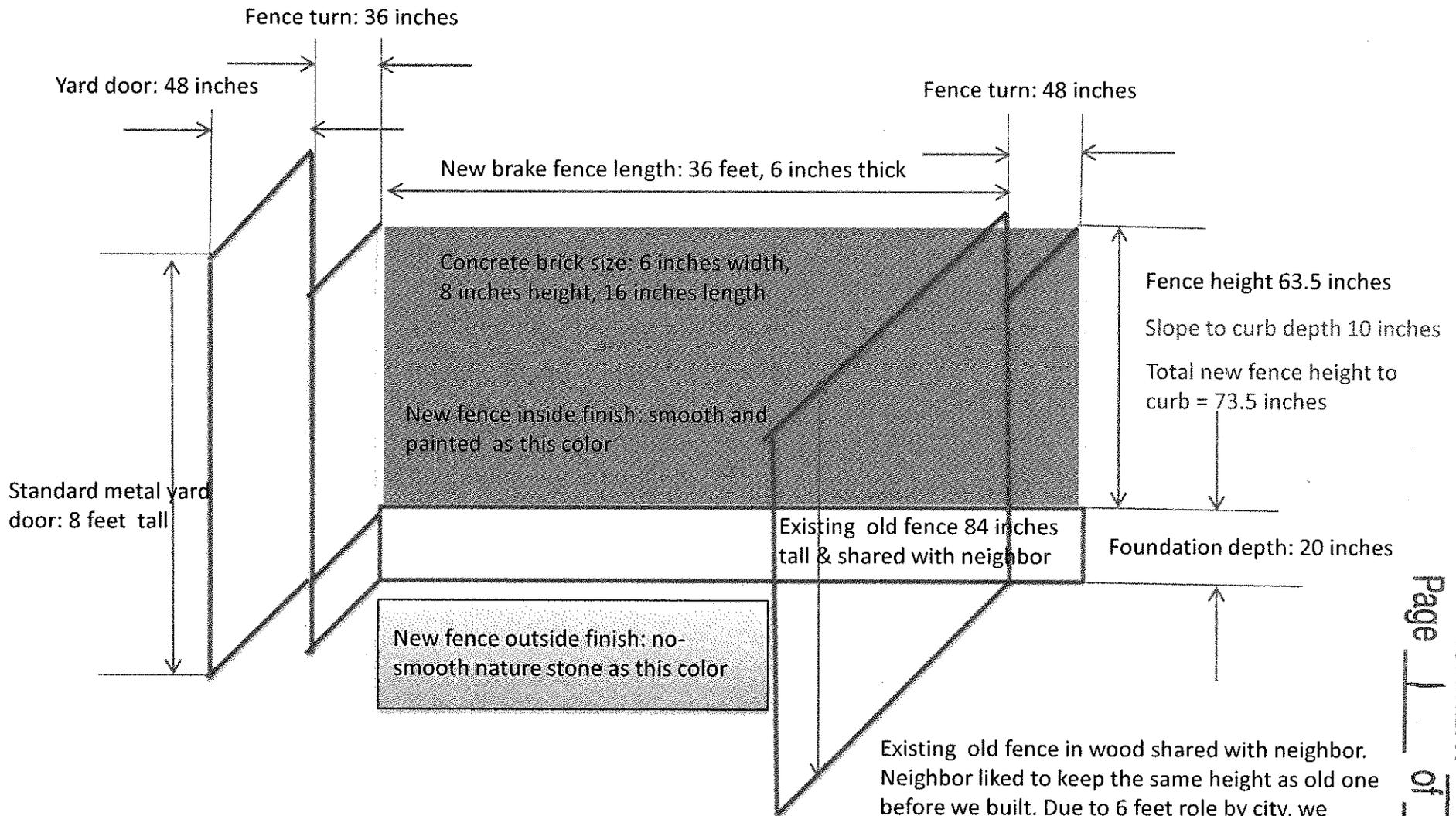
Additional Landscaping and Irrigation:

- (1) The existing planter box brick should be replaced with a stone material, similar in color and style to that of the lower portion of the newly constructed fence;
- (2) All smooth stones located in the parkway strip and front yard should be replaced with landscaping.

GC-5. COMPLIANCE WITH APPROVAL:

Changes required as part of this planning application shall be completed within **30** days of the approval of this application. The applicant shall request a compliance visit from the Planning Division.
[COA] [PLANNING]

New Fence Front Side Drawing

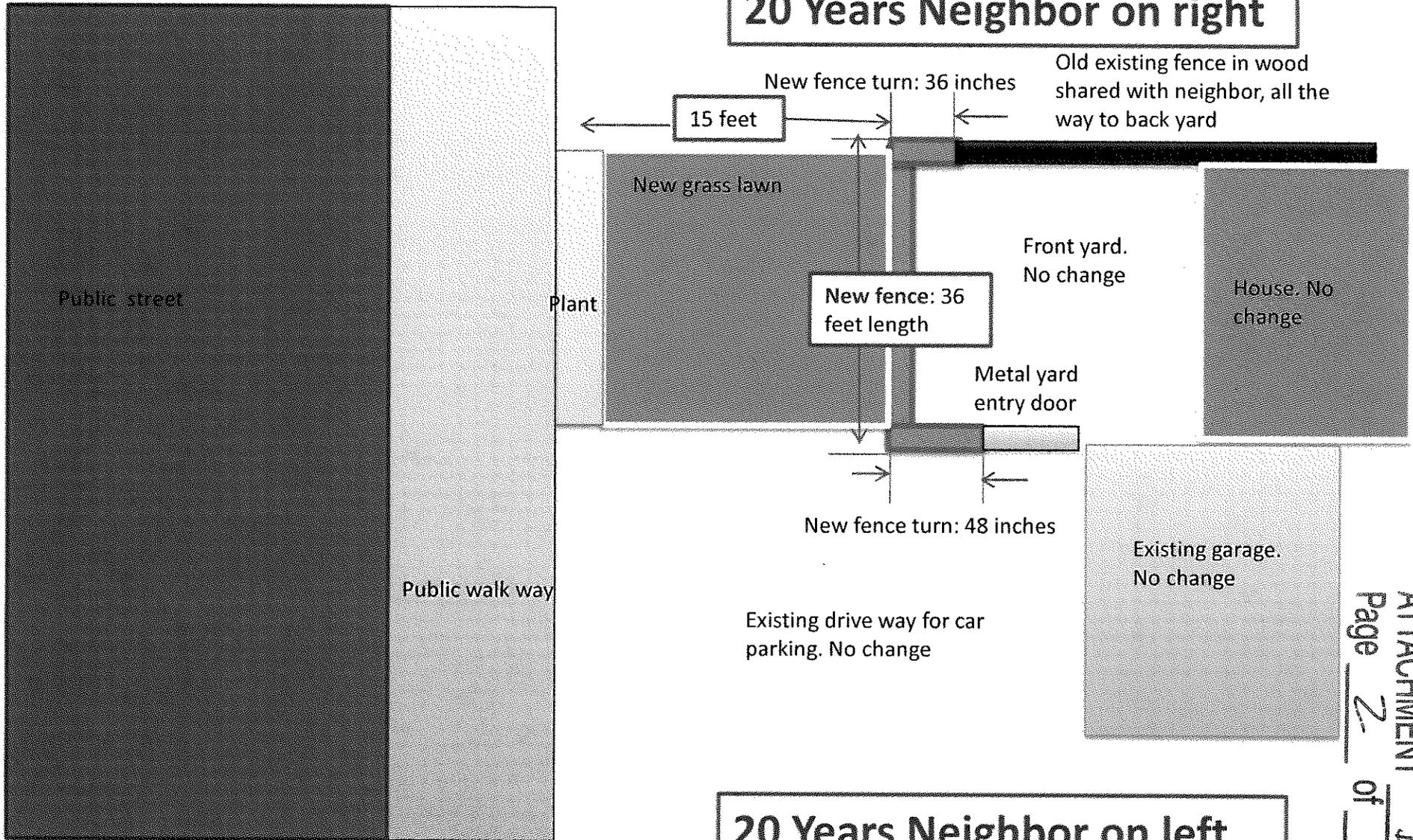


Existing old fence in wood shared with neighbor. Neighbor liked to keep the same height as old one before we built. Due to 6 feet rule by city, we negotiated with neighbor and got agreement for the new fence height, finish and material

Property address: 1432 kingfisher way, Sunnyvale, CA 94087

New Fence Side View Drawing

20 Years Neighbor on right



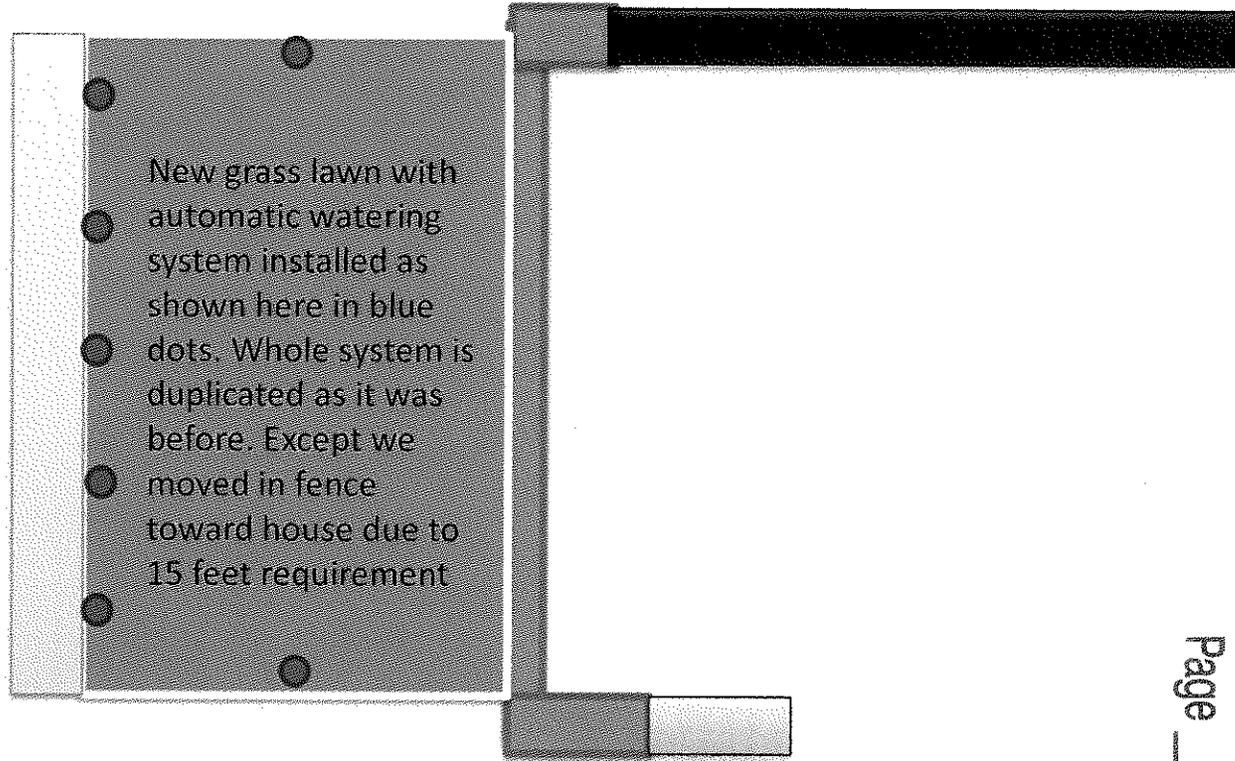
20 Years Neighbor on left

Property address: 1432 kingfisher way, Sunnyvale, CA 94087

ATTACHMENT B
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New Landscape and Irrigation Drawing

20 Years Neighbor on right



Exiting garage.
No change

Use Permit/Special Development Permit Justification

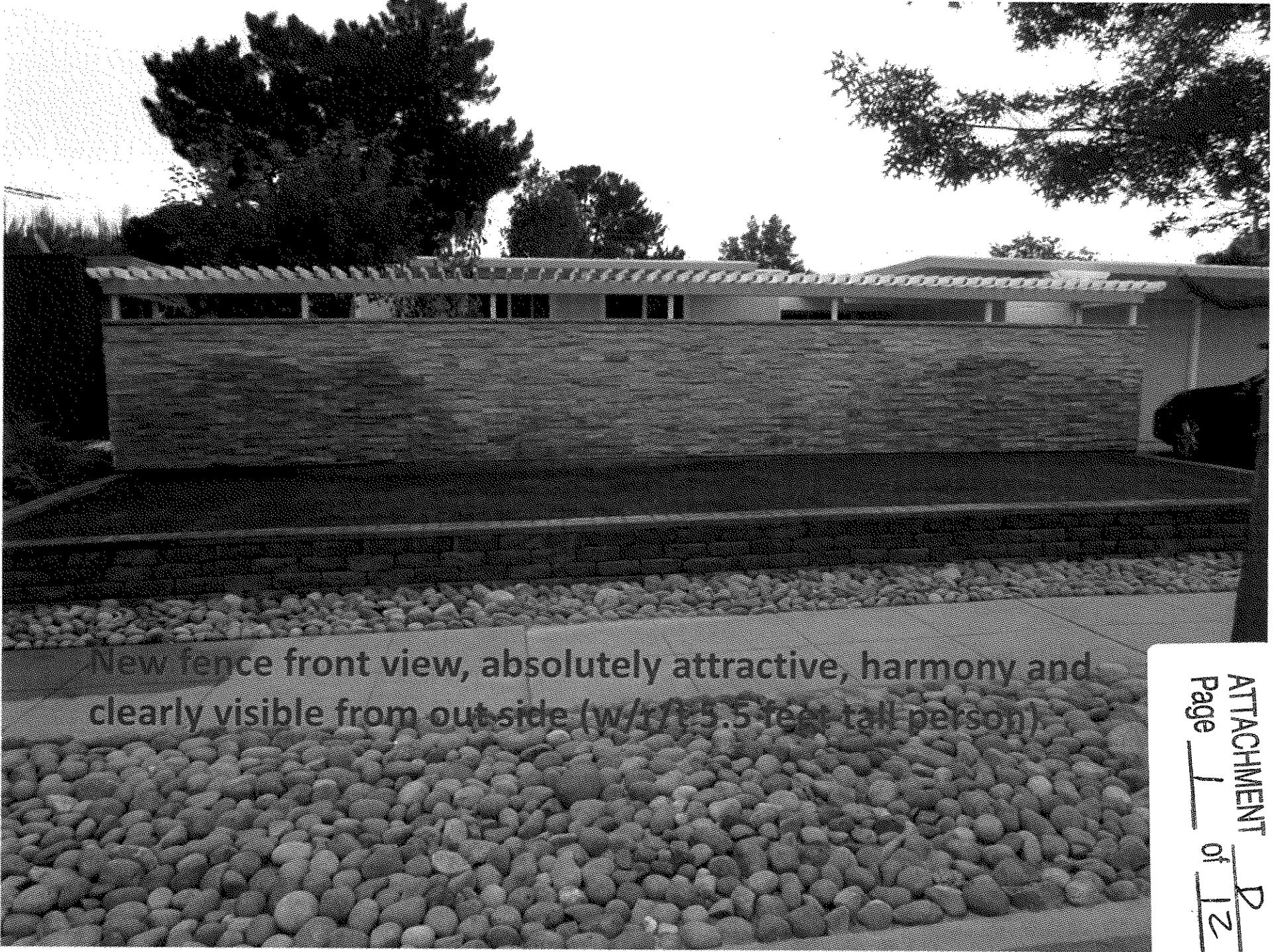
Our old fence in wood was there when we purchased this house in 1997. It is one of the factors that the house value was settled. It was pre-approval by city of Sunnyvale.

The fence was degraded over ~ 20 years and was fallen down few months ago by strong wind. Due to the safety concern, we decided to rebuild the new fence.

The new fence is in concrete, we built it in the mind of rules imposed by city of Sunnyvale, once for life, best in attraction, community shared communication, value and house safety .

The newly proposed and built fence has the general appearance of proposed structures, material, color, geometry, position are in full agreement with adjacent neighborhoods. It is not impair either the orderly development of, or the existing uses being of, adjacent properties as our neighborhood as well as street, community. *See neighborhood approval signature sheets*

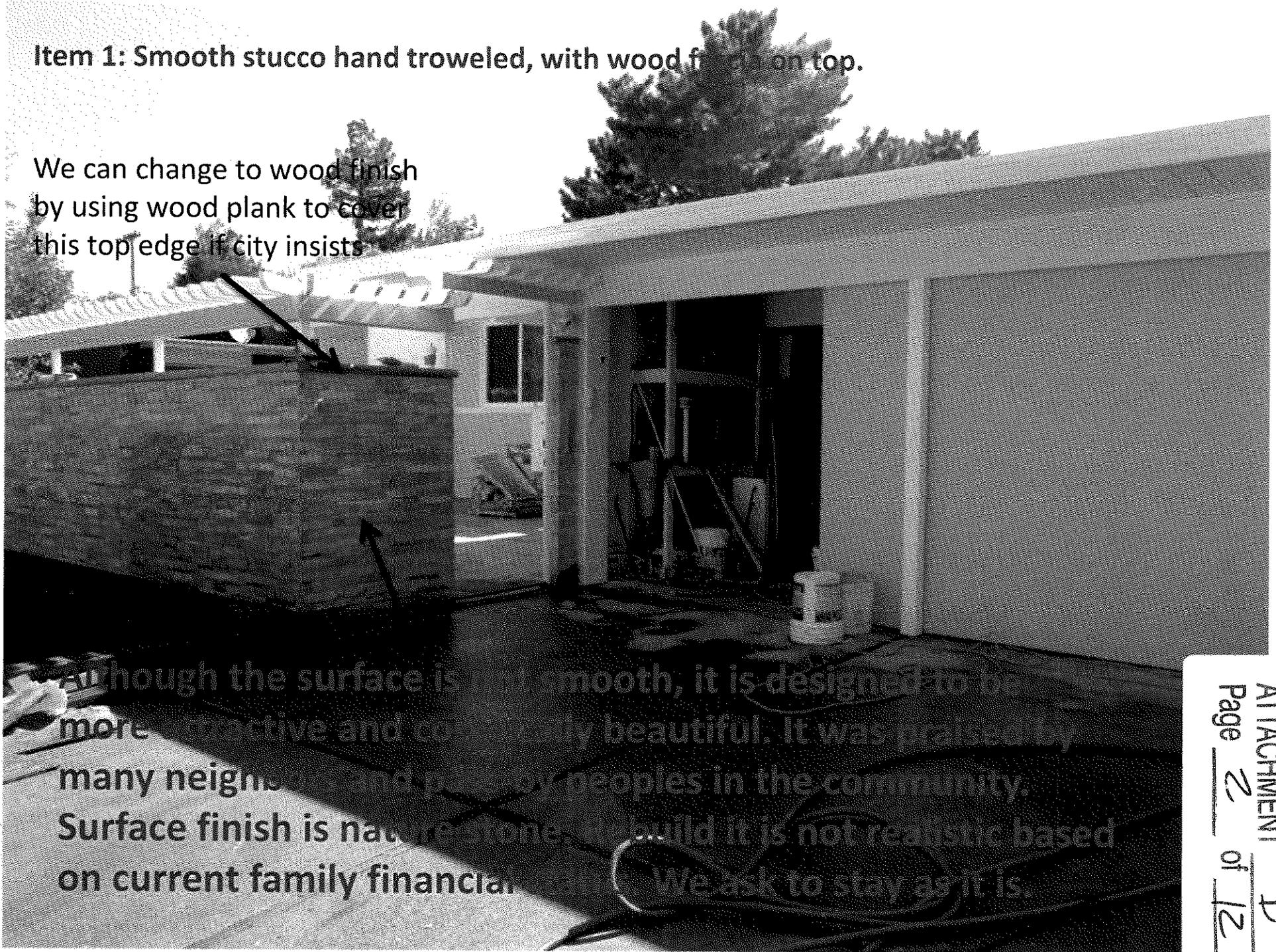
Your kind consideration is much appreciated. We have been in Sunnyvale as residence for about 20 years and we are part of community family in term of volunteer, tax, and activities



New fence front view, absolutely attractive, harmony and clearly visible from outside (w/r/t 5.5 feet tall person)

Item 1: Smooth stucco hand troweled, with wood finish on top.

We can change to wood finish by using wood plank to cover this top edge if city insists



Although the surface is smooth, it is designed to be more attractive and colorful beautiful. It was painted by many neighbors and people in the community. Surface finish is nature stone. To build it is not realistic based on current family financial. We ask to stay as it is.

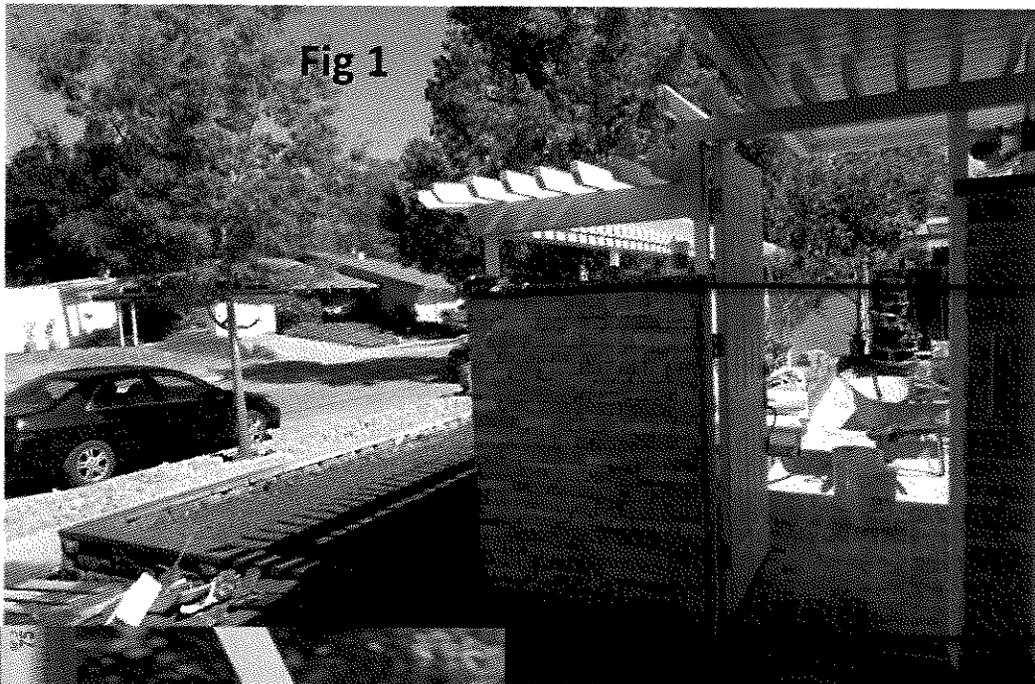
Item 2: Fence should be painted to match existing house

We repainted the house and garage door to best match all



We painted our house with a new color to match this fence's natural stone color and they are in perfect harmony. Normally, in this community, the fence color is the same as house color. Most fence colors in nature. We like to keep current natural color, but if city imposes a color change, we can do it based on the color decided by city to the house, not fence

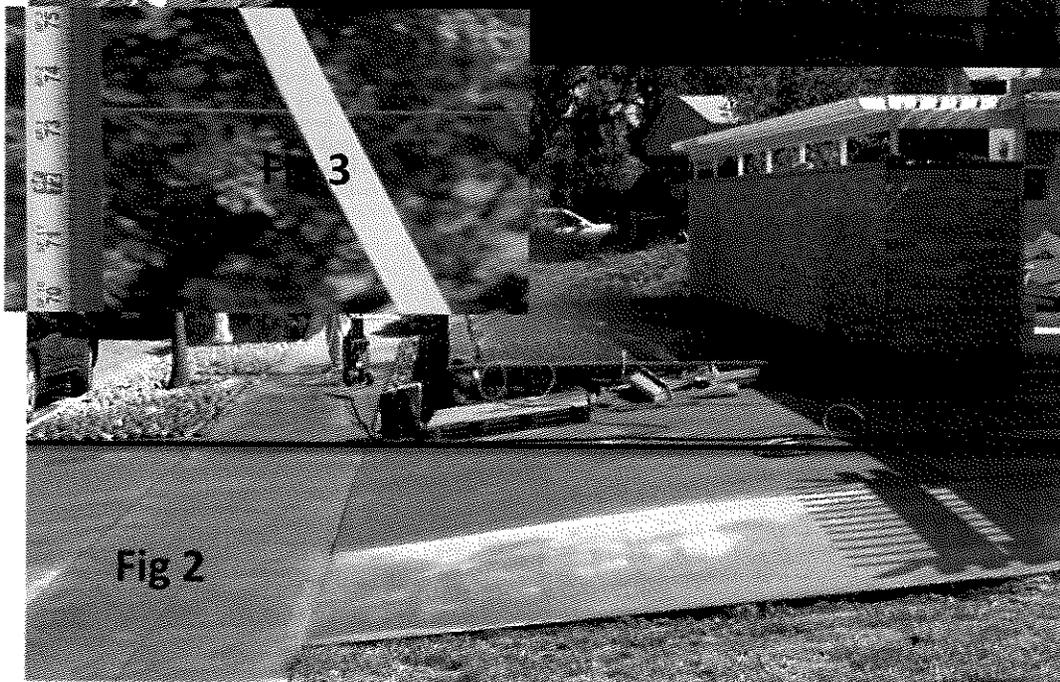
Item 3: On revised plans, fence must be shown as 6ft tall from the height (top) of curb



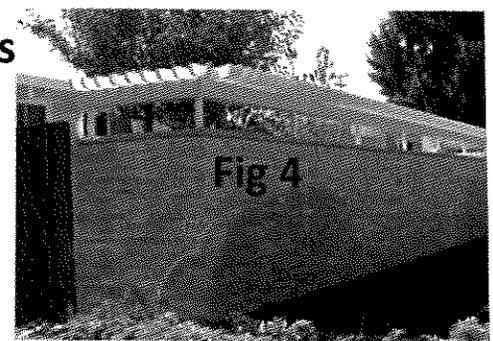
63.5
inches

Currently fence is measured 73.5 inches tall, ~2 inches taller than 6 feet (fig 1-3). We ask to keep as it is for the following reasons:

- (1) Remove ~2 inches (~3% taller than 6 ft) will requires intensive budget and labor. We have financial difficulty at this time
- (2) Our fence is much shorter than old ones (fig 4) shared with both of our neighbor (fig 4). We did best effort
- (3) Our current new fence is the shortest one in our street as well as community due to this 6 ft role. We felt our house is most vulnerable in term of safety on this street as a 5.5 feet tall person can easily see inside the house (see more explanation in appendix)
- (4) City should open community variance survey

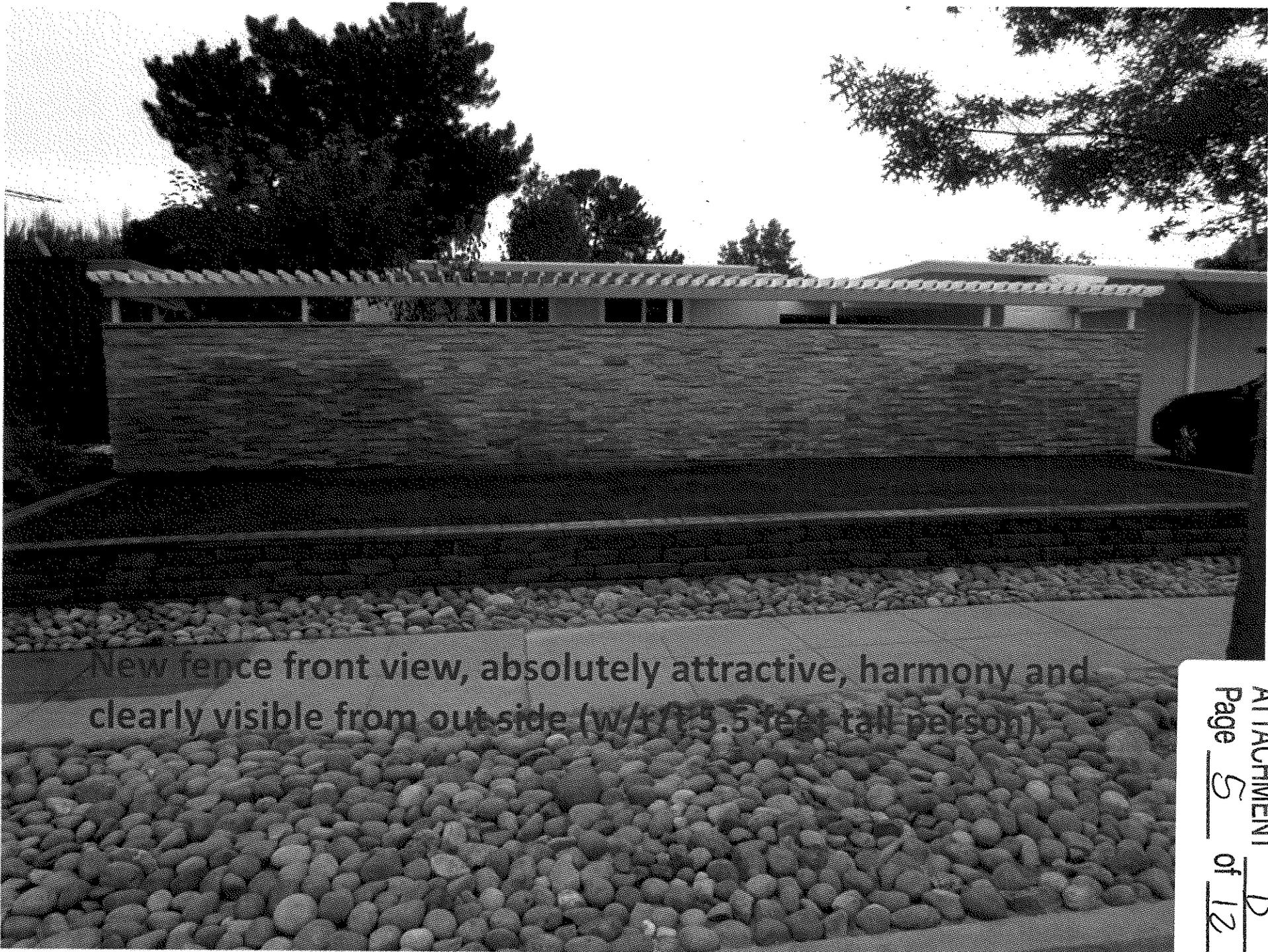


10 inches

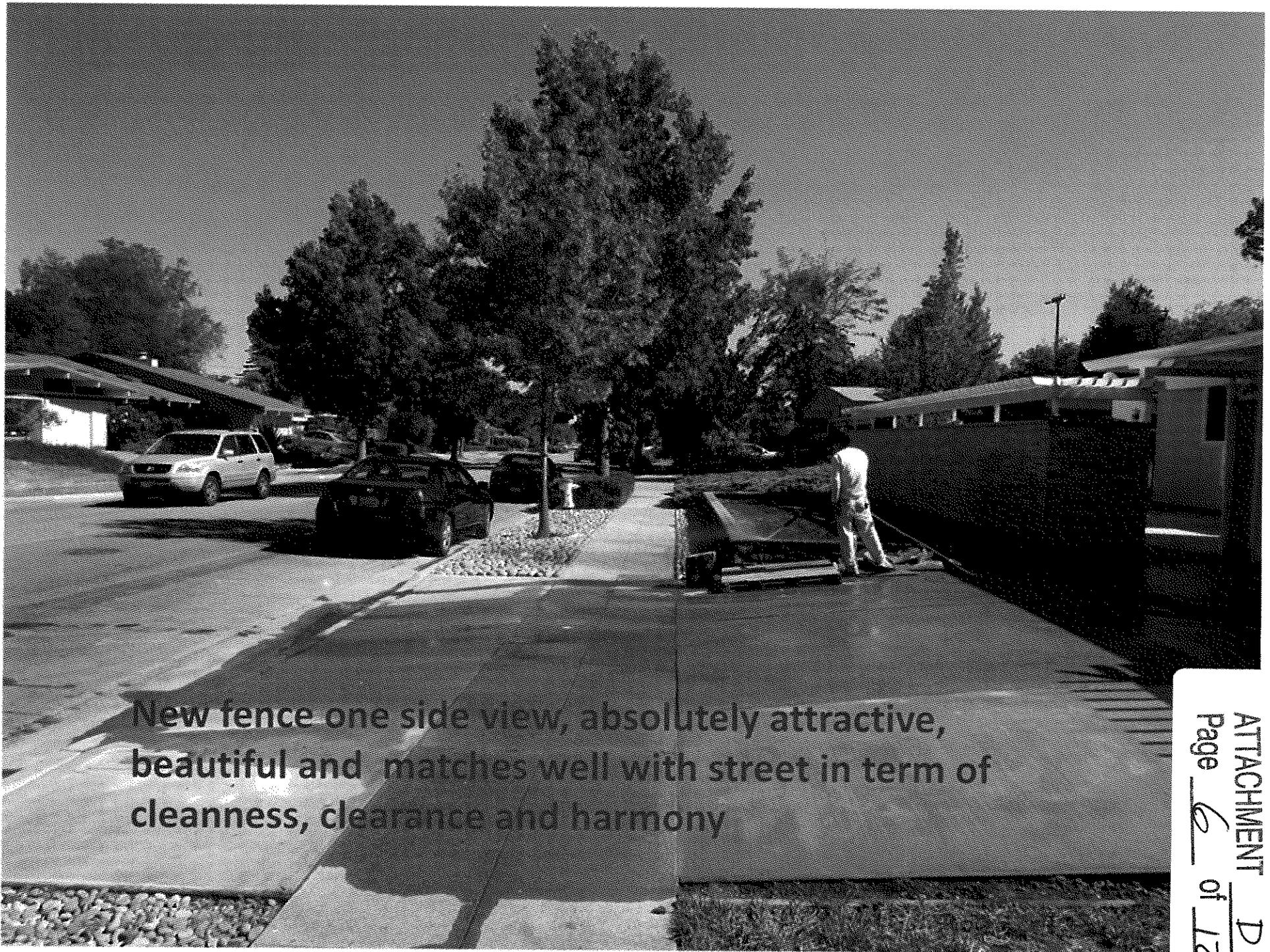


ATTACHMENT D
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We would like city to come measure again to contest 82" measurement



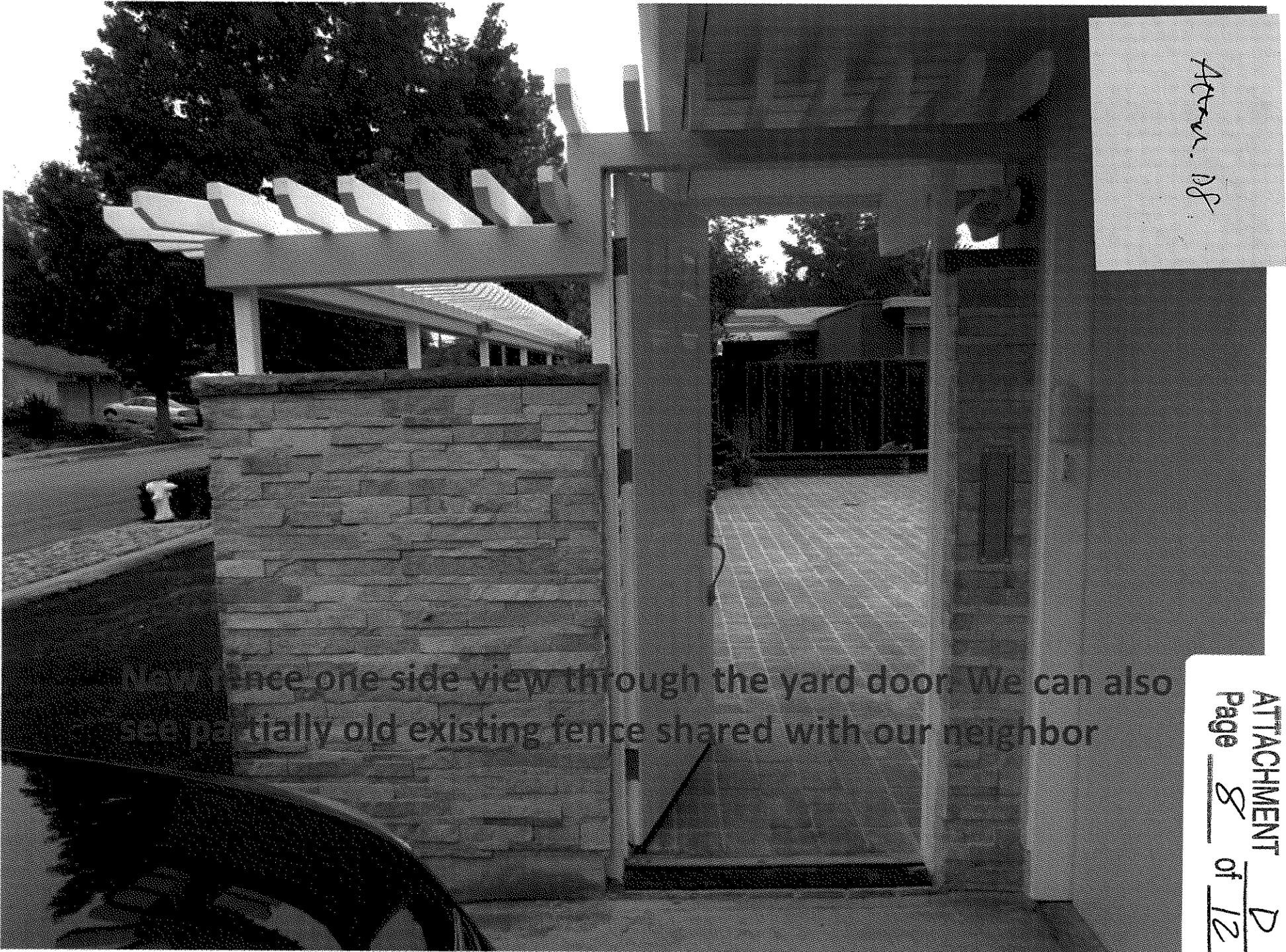
New fence front view, absolutely attractive, harmony and clearly visible from outside (w/1/ft 5.5 feet tall person).



New fence one side view, absolutely attractive,
beautiful and matches well with street in term of
cleanness, clearance and harmony

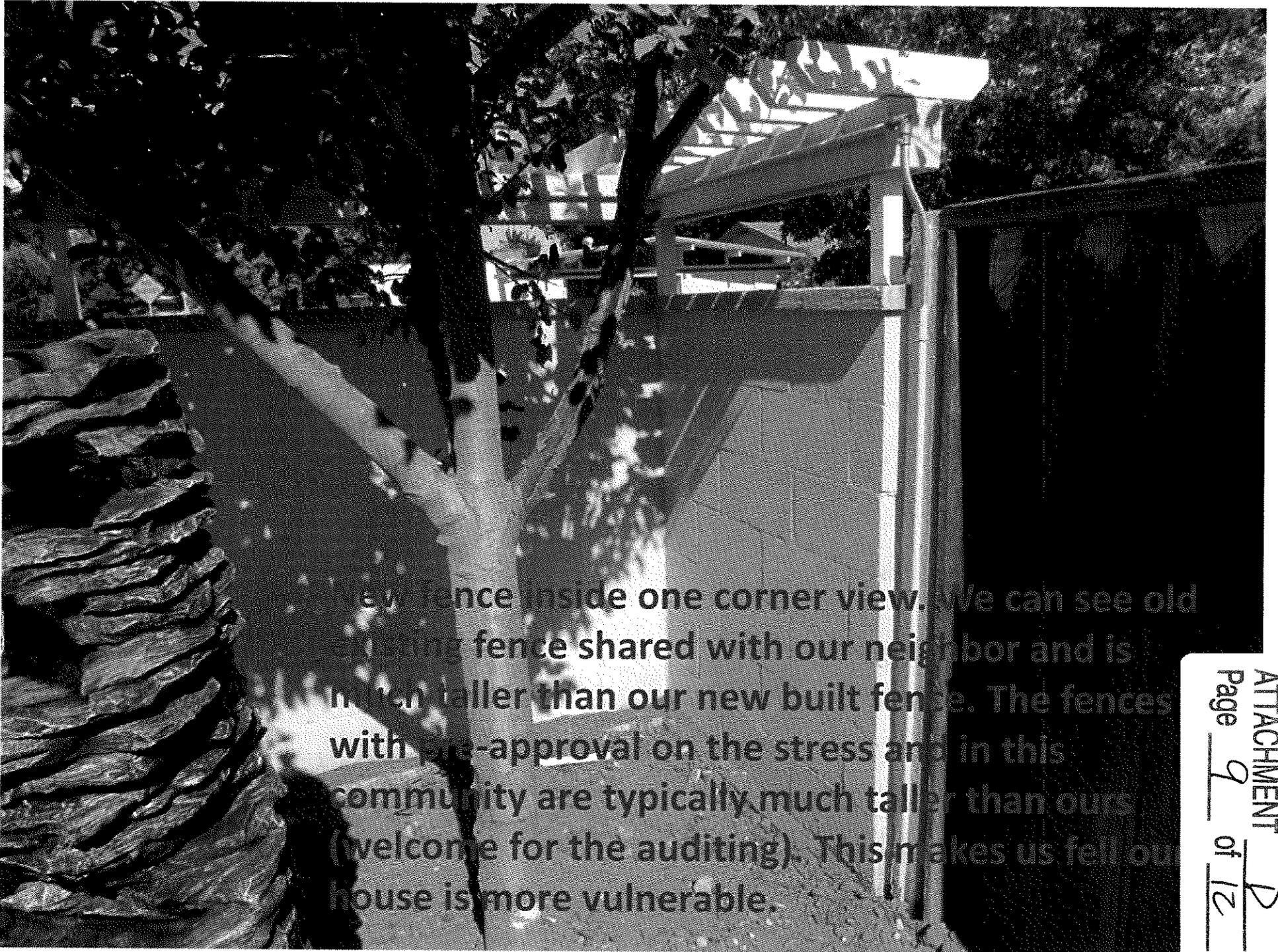


New fence another side view. Noticed our new fence is much shorter than existing connected fence.



Attch. D8

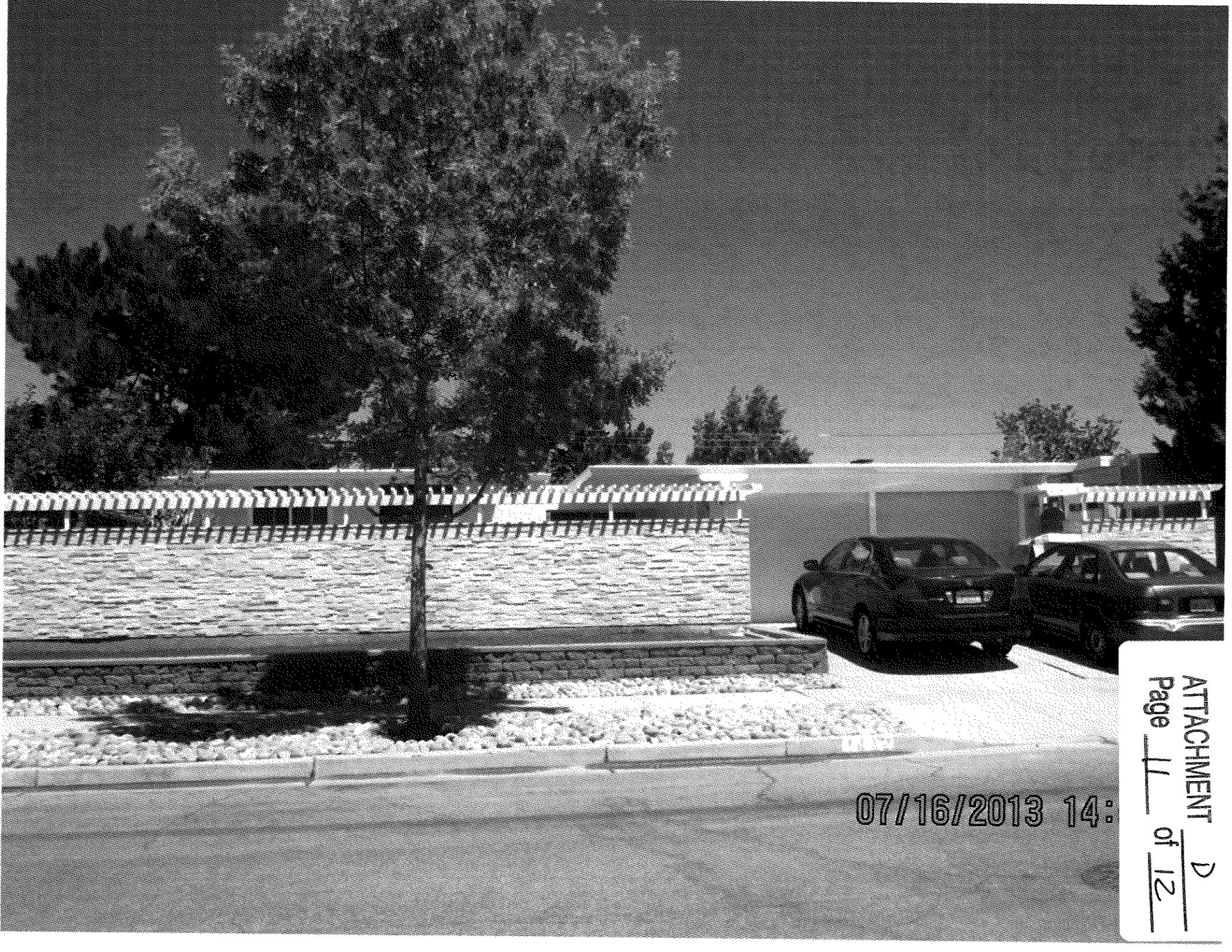
New fence one side view through the yard door. We can also see partially old existing fence shared with our neighbor.



New fence inside one corner view. We can see old existing fence shared with our neighbor and is much taller than our new built fence. The fences with pre-approval on the street and in this community are typically much taller than ours (welcome for the auditing). This makes us feel our house is more vulnerable.



07/09/2013 11:



07/16/2013 14:

ATTACHMENT D
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