



# CITY OF SUNNYVALE REPORT ZONING ADMINISTRATOR HEARING

**November 27, 2013**

**File Number:** 2013-7828

**Permit Type:** Use Permit

**Location:** 825 Henrietta Ave. (near Gavello Ave.) (211-10-016)

**Applicant/Owner:** Gerard Yagmourian

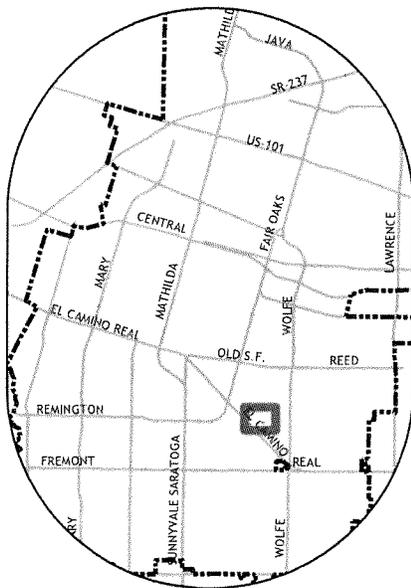
**Staff Contact:** Timothy Maier, Assistant Planner, (408) 730-7257

**Project Description:** Use Permit to allow an accessory utility building of approximately 393 square feet, for a total of 756 square feet of accessory structures.

**Reason for Permit:** A Use Permit is required to allow the area of all accessory structures to exceed 450 square feet in size.

**Issues:** Accessory structure size, height, setbacks

**Recommendation:** Approve with Conditions



500

Feet

**PROJECT DESCRIPTION**

	<b>Existing</b>	<b>Proposed</b>
General Plan:	Residential Low Density	Same
Zoning District:	R1	Same
Lot Size (sq. ft.)	10,800	Same
Gross Floor Area (sq. ft.)	2,353 sq. ft. (1,990 sq. ft. home + 363 sq. ft. accessory structure)	2,746 sq. ft. (1,990 sq. ft. home + 756 sq. ft. accessory structures)
Utility Building Right Side Setback	2'-1"	6'
Rear Setback	3'-8"	10'
Distance between Buildings	27'-10"	12'
Lot Coverage	21.8%	25.4%
Floor Area Ratio	21.8%	Same
Parking:	2 covered, 2 uncovered	Same

Previous Planning Projects related to Subject Application	<b>No</b>
Neighborhood Preservation Complaints A neighborhood preservation complaint was filed on July 25, 2013, concerning the construction of a detached accessory structure within the rear yard of the home without permit. The detached structure is visible from the street, impacting the surrounding streetscape and potentially creating privacy and visibility concerns to surrounding properties.	<b>Yes</b>
Deviations from Standard Zoning Requirements	<b>No</b>

**Background:** The home is located within an older neighborhood of single-family homes primarily constructed during the 1950s. The existing one-story home is 2,330 square feet in size, which includes a 363 square-foot detached garage without direct interior connection to the home. Current City standards necessitate that a home of 1,800 square feet and/or four or more bedrooms require a garage minimally 400 square feet in size; the residence thus features a garage of substandard size, which can nevertheless accommodate two vehicles. The home is an Eichler home, although alterations have been made to modify its original appearance. Alterations include a 123 square-foot side addition and minor architectural changes (see Attachment B, page 2). The residence is located on a five-sided lot on a cul-de-sac and features a large rear yard.

The existing home is located approximately 30' behind the front property line. As visible from the street, the home's right-side setback is approximately 9'-9," the left-side setback is approximately 18,' and the rear setback measures approximately 35' (see Attachment B, page 1).

The applicant proposes to legalize a 393 square-foot detached utility building situated between the back of the home and the rear property line. The utility building has a width of 19'-6," a depth of 20'-2," and a maximum height of 8'-2" (see Attachment B, page 2). Combined with the 2,220 square-foot home, the utility building results in lot coverage of 25.4%. Its walls do not directly contact the underlying grade, but instead sit atop six cylindrical concrete footings, providing a clearance of several inches between the bottom of the walls and underlying ground surface (See Attachment B, page 11).

The accessory structure is currently located in the right-hand corner of the large rear yard, such that it does not comply with required right side or rear setbacks. However, the applicant has agreed to reposition the accessory structure such that its location meets mandatory minimum setbacks.

An application for construction of accessory structures less than 450 square feet in size is usually considered through a staff-level permit. Utility buildings of 120 square feet or less in size and with maximum heights of 8' or lower require no permit. However, the maximum height of the constructed accessory structure stands at approximately 8'-2." Further, due to the presence of the pre-existing detached garage, the total area of all accessory structures exceeds 450 square feet, and a Use Permit is required.

**Architecture:** Residences within the immediate vicinity of 825 Henrietta Ave. are primarily single-story homes, although the three-story St. Francis Arms apartment complex is located adjacent and to the rear of 825 Henrietta Ave. The rear property line of the subject property lies parallel to a row of apartments whose entries and front windows face the rear yard of the home. Due to the 8'-2" height of the constructed utility building, the structure is visible from the street. The utility building can also be seen from homes on either side of the subject property and from second-and third-floor units of the adjacent apartment complex.

Because the subject property is located within a neighborhood composed primarily of Eichler homes, changes to the streetscape are reviewed in accordance with the City of Sunnyvale Eichler Design Guidelines. Section 3.1.3 of the Guidelines state that modifications should

"Integrate exterior improvements and new construction with the original house forms and materials..."

- a) Improvements and additions should appear to have been constructed with the original house.
- b) Minimize external visual impacts of utility elements ...as much as possible.”

Currently, the proposed accessory structure is only partially complete and is composed primarily of wooden beams and plywood. The applicant proposes to install tan HardiePlank lap siding and a roof of black asphalt-fiberglass composite shingles. This color scheme is compatible with the existing exterior of the home.

**Neighborhood Impacts:** The applicant and individuals associated with 825 Henrietta Ave. have held business licenses for operation of home-based businesses at various times from 2003 through 2011. However, no Business License related to the subject property has been in place since 2011. Per City records, an individual associated with the property has declared that no operation of home-based business has occurred following this time. Therefore, generation of excessive noise, vibration, light, or any such similar nuisance incompatible with the character of a residential neighborhood should not occur as a result of the accessory structure’s presence. It is noteworthy that the City’s home occupation requirements prohibit the use of garages and accessory utility buildings for home business purposes.

The applicant’s stated intent for the structure is to provide space for storage of equipment and tools. Movement and operation of such equipment may create noise audible at surrounding properties, though such noise-related impacts likely do not exceed levels experienced normally within a single-family neighborhood within close proximity to a three-story apartment complex. The site is subject to the City’s Noise Ordinance.

**Public Contact:** 38 notices were sent to surrounding property owners and residents adjacent to the subject site, in addition to standard noticing practice. Staff received a response from one neighbor who expressed concern about intensification of commercial activity in the neighborhood, stating that he felt construction of the utility building had taken place to provide additional space for operation of a home-based business at the subject property. This resident has submitted a comment letter (see Attachment E).

**Public Hearing Continuation:** The initial public hearing associated with this permit application was scheduled for November 13, 2013. Due to a noticing error, the public hearing was continued to November 27, 2013.

**Environmental Determination:** A Categorical Exemption Class 3 (minor changes in use) 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.**

Staff finds that the project allows the applicant to make use of a large rear yard while simultaneously affording extra space for storage of tools and equipment which cannot be accommodated within the home's substandard garage.

**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.**

Presence of the utility building within the home's rear yard will likely have minimal visual impacts to the neighborhood. Only the upper portion of the accessory structure is visible from the street, thus resulting in little adverse consequence to the streetscape. Likewise, its impact to surrounding homes can be considered minor. The structure is constructed of high-quality materials, and features a design reasonably sensitive to the architecture of the residence and those of surrounding homes within the neighborhood.

However, the utility building is currently located 2'-1" from the right-side property line, and approximately 3'-8" from the rear property line. Due to noncompliance with established setbacks, the location of the constructed accessory structure violates provisions of the City of Sunnyvale Municipal Code. Relocation of the accessory structure is necessary to bring the structure into compliance with established City standards.

## **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.

Prepared By:



Timothy Maier, Assistant Planner

Approved by:



Gerri Caruso  
Principal Planner

Attachments:

- A. Standard Requirements and Recommended Conditions of Approval
- B. Site and Architectural Plans
- C. Letter from the Applicant
- D. Site Photographs
- E. Neighbor's Comment Letter

**RECOMMENDED  
CONDITIONS OF APPROVAL AND  
STANDARD DEVELOPMENT REQUIREMENTS  
November 13, 2013**

**Planning Application 2013-7828**

825 Henrietta Ave.

Use Permit to allow total accessory structures to exceed 450 square feet.

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. BUILDING PERMITS:**

Within 60 days of the date of a final decision, obtain Building permits for the detached accessory structure. [COA] [PLANNING]

**GC-2. CONFORMANCE WITH APPROVED PLANNING APPLICATION:**

All building permit drawings and subsequent construction and operation shall substantially conform to 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-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. PROHIBITION OF COMMERCIAL ACTIVITY:**

No Business License is currently active to permit commercial activity at the subject property. The accessory structure may not be utilized for operation of a home-based business. Consideration of potential future use of the accessory structure for any home-based business use must be reviewed by the City of Sunnyvale Planning Division. [COA] (PLANNING)

**GC-5. REQUIRED RELOCATION OF UTILITY BUILDING:**

The current location of the utility building violates City setback requirements. The utility building must be relocated to comply with a required minimum right-side setback of 6'. The required rear setback of 10' and minimum distance of 5' between the home and the utility building must also be observed. The proposed site plan includes a repositioning of the utility building, such that a right-side setback of 6', a rear setback of 10', and a distance of roughly 12' between the home and building, is achieved. The utility building must be relocated to comply with the proposed site plan and City standards. [COA] (PLANNING)

**GC-6. ADHERENCE TO EASEMENT REQUIREMENTS:**

Multiple public utility easements are located on 825 Henrietta Ave., including a 2'x20' Anchor Easement, located at the northern-most property line; and a PG&E Pole Line Easement, located at the eastern-most property line, per Tract Map 1270. Such easements must be observed. No permanent physical structure may be located within any easement. [COA] (PLANNING)

**PS: THE FOLLOWING SHALL BE MET PRIOR TO SUBMITTAL OF BUILDING PERMIT, AND/OR GRADING PERMIT.**

PS-1. EXTERIOR MATERIALS REVIEW:

Final exterior building materials and color scheme are subject to review and approval by the Planning Commission/Director of Community Development prior to submittal of a Building permit. Exterior materials and colors of the accessory structure shall match the appearance of the single-family home on the property. [COA] [PLANNING]

**BP: THE FOLLOWING SHALL BE ADDRESSED ON THE CONSTRUCTION PLANS SUBMITTED FOR ANY DEMOLITION PERMIT, BUILDING PERMIT, GRADING PERMIT, AND/OR ENCROACHMENT PERMIT AND SHALL BE MET PRIOR TO THE ISSUANCE OF SAID PERMIT(S).**

BP-1. CONDITIONS OF APPROVAL:

Final plans shall include all Conditions of Approval included as part of the approved application starting on sheet 2 of the plans. [COA] [PLANNING]

BP-2. RESPONSE TO CONDITIONS OF APPROVAL:

A written response indicating how each condition has or will be addressed shall accompany the building permit set of plans. [COA] [PLANNING]

BP-3. BLUEPRINT FOR A CLEAN BAY:

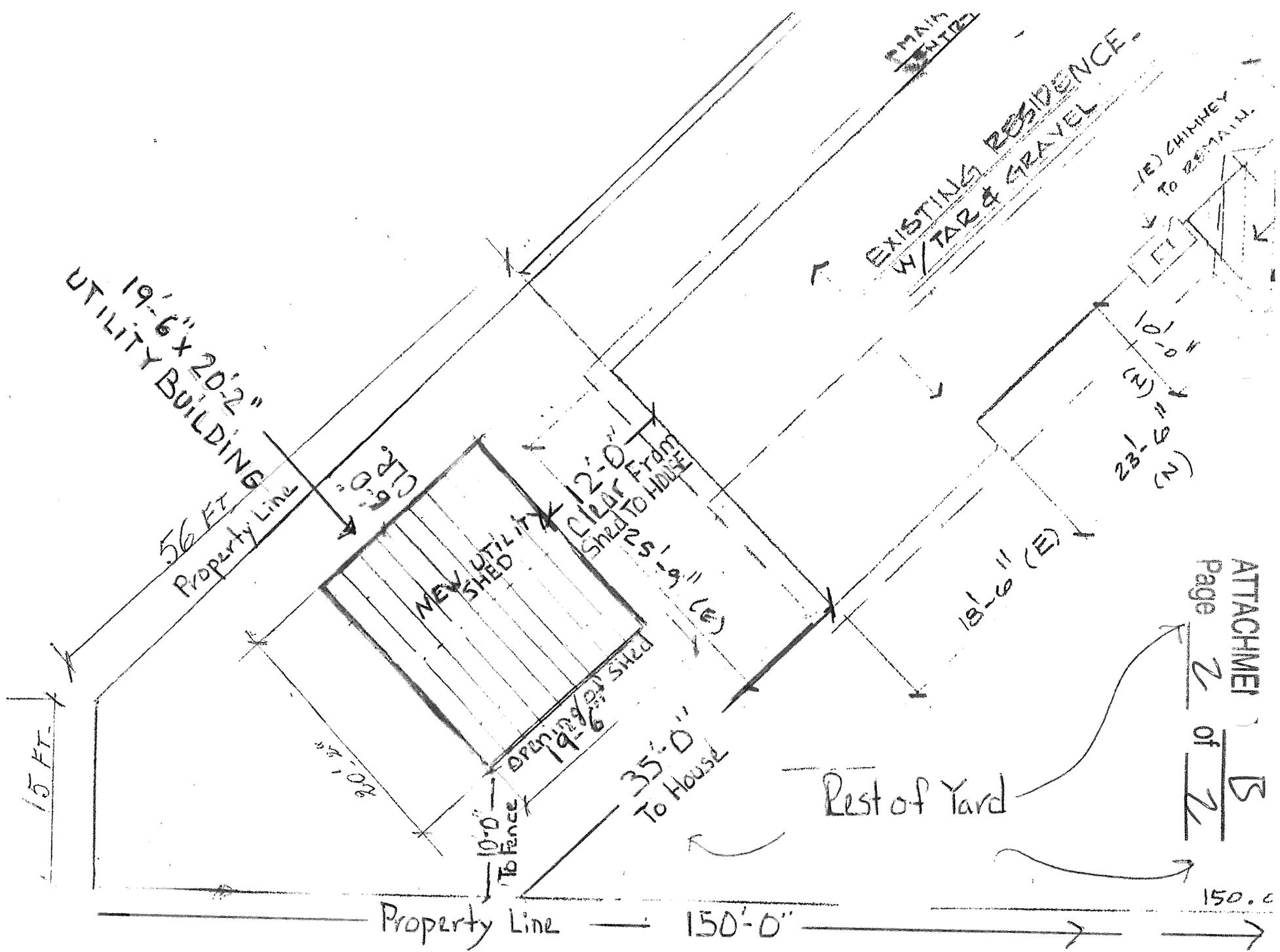
The building permit plans shall include a "Blueprint for a Clean Bay" on one full sized sheet of the plans. [SDR] [PLANNING]

**DC: THE FOLLOWING SHALL BE COMPLIED WITH AT ALL TIMES DURING THE CONSTRUCTION PHASE OF THE PROJECT.**

DC-1. BLUEPRINT FOR A CLEAN BAY:

The project shall be in compliance with stormwater best management practices for general construction activity until the project is completed and either final occupancy has been granted. [SDR] [PLANNING]





ATTACHMENT  
 Page 2 of 2



# USE PERMIT/SPECIAL DEVELOPMENT PERMIT 1

## 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 ...

My Plan for this utility structure is to be able to remove equipment, tool, and etc. from my garage. I have 4 vehicles that I would like to place in the garage and I think building this utility structure would be a benefit to me and my neighbors.

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.



ATTACHMENT D  
Page 1 of 2

My House

ATTACHMENT D  
Page 2 of 7





My neighbor to the Right

ATTACHMENT D  
Page 5 of 7



ATTACHMENT D  
Page 4 of 7

Neighbor to the Left







11/7/13

To whom it may concern,

My name is Ben S. Chi, who has lived with his wife and family at 826 Henrietta Ave. for almost 40 years since 1974. My children have grown up here, enjoyed a quiet and safe neighborhood and went to Braly Elementary school. Likewise, I would like to see for new families to enjoy the same amenities that are offered when they move into our neighborhood.

**In this spirit, I hereby petition to disallow the Permit to build an accessory structure in the property at 825 Henrietta ave. (APN: 211-10-016) for the following reasons:**

Current Status and Situation - Neighborhood History:

- a. The property is located at the Henrietta avenue cul-de-sac, which is shared by three other homes, including my house, located at the same cul-de-sac.
- b. Mr. Gerard Yagmourian bought the property and moved in less than 10 years ago.
- c. Then, he started his business out of his garage. His business is to build, assemble and installation of cabinets used in laboratories for universities and schools, and bio-tech companies. He operates three trucks for his business and owns a car.
- d. As his business grew, he brought in light to heavy machines to his garage, which were then used and operated to perform the work, sometimes late into the night.
- e. As his business gets busy, his garage and his driveway are filled with machines and trucks, more often than not, spilling over to the cul-de-sac, creating danger to other neighbors when they want to drive out of their driveways.
- f. When his entire crews are working, the garage, driveway, and cul-de-sac are like outdoor factory, machines are making noise, filled with cars all over the

cul-de-sac and workers, not like a residential neighborhood. How do I know? I am retired and able to observe the activities in his property daily.

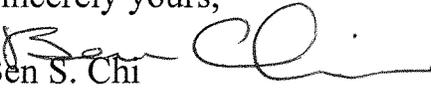
- g. I believe that Henrietta Avenue neighborhood is zoned for residential not zoned for the business Mr. Yagmourian is operating now. I have lived here and tolerated unacceptable events for seven long years patiently while he is conducting his business out of his garage.
- h. In addition, Mr. Yagmourian is only living in this property less than 20% of the time.

If the Permit is allowed, I expect to see the following negative consequences to this quiet and peaceful neighborhood:

- a. If the permit is approved, the growing business will hire more workers followed by more trucks in our cul-de-sac, making it two or more times worse than the current situation.
- b. Undoubtedly his business will expand, using his added additional space, bringing more workers, more trucks in the cul-de-sac, and more noise.
- c. This will not only create an unsafe neighborhood in terms of potential families raising children, but also create a bad image, resulting in undesirable neighborhood.
- d. The expansion of his business will turn this cul-de-sac into a business oriented commercial neighborhood, which I oppose vigorously.
- e. His business grew two or more times since he started 7 years ago. It outgrew his garage operation and I believe it is time to move onto industrial area for commercial operation.
- f. Contrary to the proposed permit application cited "To move stuff out of the garage to the accessory structure, so that the garage could be used for parking his car"; I feel his intension is to use both the garage and added accessory structure in order meet a required extra space for his growing business.

In conclusion, I wish to petition for disapproval of the Permit Application by Mr. Yagmaourian. This permit will bring to this quiet and peaceful neighborhood a host of negative elements, such as illegal parking, danger to children, more truck traffic, more noise, danger to car traffic backing out from neighbor's driveways, etc.

Sincerely yours,

  
Ben S. Chi

 Sunnyvale.

