



**CITY OF SUNNYVALE
REPORT
Planning Commission**

May 10, 2010

SUBJECT: **2008-0294:** Application for a project located at **1190 Silverlake Drive** in an R-1 (Low Density Residential) Zoning District. (APN: 110-23-088)

Motion Appeal by the applicant of the conditions imposed by the Director of Community Development in approving a Miscellaneous Plan Permit for a fence in the front yard at 1190 Silverlake Drive.

REPORT IN BRIEF

Existing Site Conditions Single-family home

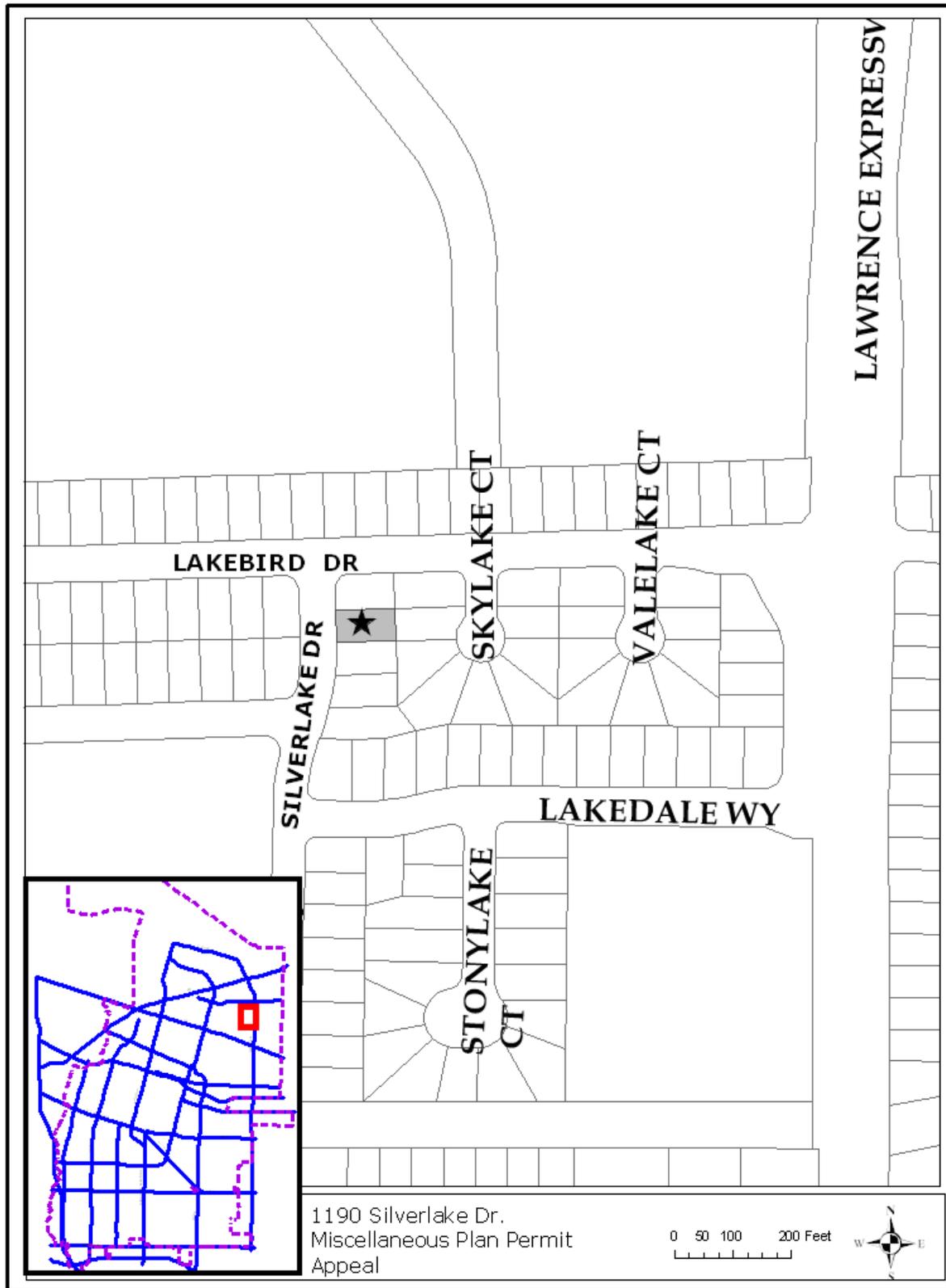
Surrounding Land Uses

- North Single family home (across Silverlake Drive)
- South Single family home
- East Single family home
- West Single family home

Issues Neighborhood Compatibility

Environmental Status A Class 3 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines.

Staff Recommendation Deny the appeal and uphold the amended decision of the Director of Community Development to approve the Miscellaneous Plan Permit including the Condition of Approval to modify the fence height and/or location.



PROJECT DATA TABLE

| | | | |
|------------------------------|-----------------------|-------------------------------|---------------------|
| Existing conditions | Single-family | Existing fence setback | 2' (unpermitted) |
| Zoning district | R-0 | Proposed fence height | 6'6" |
| Existing fence height | 6'6" (unpermitted) | Proposed fence setback | Same as existing |

ANALYSIS**Background**

In March 2008, Neighborhood Preservation staff received a complaint regarding an existing fence in the front yard of the property at 1190 Silverlake Drive. In March 2008, the property owner/applicant submitted a Miscellaneous Plan Permit application to legalize the existing 6-foot 6-inch tall fence in the front yard (#2008-0294).

A portion of the existing front yard fence was situated within the 10-foot driveway vision triangle area. During MPP application review, the applicant removed the portion of the fence that was within the driveway vision triangle and requested approval for the remaining portion of the existing fence. The application was placed on hold pending a broader discussion of front yard fences citywide.

In February 2009, staff approved the MPP with conditions requiring modification to the height or location of the fence (see Attachment F for copy of MPP decision letter). Two options were provided:

- within the 20 foot front setback area - reduce the height to 3 feet , if the fence is constructed of solid material and 4-feet, if the fence does not consist of a solid material;
- or relocate the fence to be outside the 20-foot front setback area

The applicant appealed this decision with a request for Planning Commission to consider allowing the existing fence (6-foot 6-inches) to remain at its current location. Since the receipt of the applicant's appeal, the fence code requirements have been changed. Currently, the fence code allows:

For fences within front yard setbacks

- fences up to 4 feet in height are permitted without permits (may not exceed 3 feet in any vision triangles)
- fences between 4 and 6 feet in height require approval of an MPP
- fences taller than 6-feet require approval of a Use Permit and building permit

The applicant owns and occupies two adjacent properties – the subject property and the adjoining lot at the corner of Silverlake and Lakebird Drive (i.e. 1190 and 1198 Silverlake Drive).

Description of the proposed project

Site layout and Fence design: The existing front yard fence at 1190 Silverlake Drive is setback approximately 2-feet from the front property line and a portion is set at an angle to be outside the 10-foot driveway vision triangle. The fence stands at 6-feet 6-inches in height on average, as measured from top of curb. The existing fence complies with vision triangle provisions of the Zoning code. The applicant is proposing to maintain the existing fence at its current location. A site plan is included in Attachment C. The applicant states that since their home occupies two adjoining lots, the subject fence facing Silverlake Drive serves to enclose the rear portion of their combined property and provides much needed privacy to the lots. The applicant/s also states that the subject fence faces the side yards of two houses located across the street; hence no neighbors have to face the subject fence from the front of their respective homes (see Attachment D – Applicant’s appeal letter).

Landscaping: The landscaping on the subject fence and the property is well-maintained with vines and rose bushes lining the fence. Silverlake Drive has a 5-foot 6-inch landscaped park strip between the sidewalk and the street. A street tree is located in this park strip in front of the subject property. Front property lines along Silverlake Drive are located approximately 6 inches behind the back of the sidewalk. The existing fence is located approximately 2 feet from the front property line and is chamfered to be outside the 10-foot driveway vision triangle. These setback areas are landscaped with a combination of gravel, planter boxes and small shrubs (see Attachment E – Site Photographs). The applicant does not propose any modification to the existing landscaping.

Typical fence heights in the neighborhood: The surrounding neighborhood is characterized by a mix of different fence types. Staff conducted a windshield survey of fences within a two block radius of the subject property and noted a variety of fences built over the years – solid and wrought iron fences in the front yard of varying heights, combination fences, taller wood fences along the reducible front yards of corner lots and some taller wood fences along the front yards of interior lots.

Neighborhood Compatibility/expected impact: The subject fence is an attractive and well-maintained fence that has been in existence for a long time. Although the subject fence serves the purpose of enclosing the ‘rear portion’ of the combined lots owned by the applicant, it is technically a fence located along the front property line. Staff finds that the location of fence close to the front

property line combined with its height creates a walled-in appearance for the property. However, since the fence has been in existence for a long time, it does not create any additional visual impacts that are incompatible with the character of the surrounding neighborhood.

Compliance with Development standards/Guidelines: City Council has recently approved a new, front yard fence over 6 feet tall at a setback distance of approximately 11 feet from the front property line in a residential neighborhood in a different part of the city – the 11-foot setback was determined appropriate based on approval of a similar fence across the street (refer to UP 2009-0753 at 805 Devonshire Way). The subject fence is unique in that it has been in existence at the current location for a long time. For comparison, it should be noted that staff recently approved an MPP for an existing 7 ft. tall fence in the front yard of a property located across the street that is setback approximately 15 feet from the front property line (MPP 2009-0179 at 898 Lakebird Drive).

The City adopted revised fence regulations in December 2009; these regulations were not in place at the time of the original MPP application (#2008-0294) and its subsequent appeal. Under the current regulations, the subject fence would require a Use Permit. Under the previous fence regulations, fences up to 7 feet tall could be reviewed at staff level through the MPP process. Based on the new regulations, staff has modified the previous approval to allow a fence height of 4' at the current location or a relocation of the fence to be at least 15' from the front property line, similar to what was approved for the property across the street at 898 Lakebird Drive.

However, since the subject fence has been in existence for a long time, impacts to the surrounding neighborhood are not as significant as they would be for a similar newly constructed fence. The recommended conditions of approval (see Attachment B) include conditions that have been amended in accordance with the revised fence code.

Environmental Review

A Class 3 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines. Class 3 Categorical Exemptions include accessory structures such as fences and sheds.

Fiscal Impact

No fiscal impacts other than normal fees and taxes are expected.

Public Contact

Planning staff has received no letters or comments from neighbors regarding the subject application or the appeal. However, Neighborhood Preservation staff has received calls regarding the subject fence from the individual that complained about the fence.

| Notice of Public Hearing | Staff Report | Agenda |
|--|---|---|
| <ul style="list-style-type: none"> • Published in the <i>Sun</i> newspaper • Posted on the site • 17 notices mailed to property owners and residents adjacent to the project site | <ul style="list-style-type: none"> • Posted on the City of Sunnyvale's Web site • Provided at the Reference Section of the City of Sunnyvale's Public Library | <ul style="list-style-type: none"> • Posted on the City's official notice bulletin board • Posted on the City of Sunnyvale's Web site |

Applicant's Appeal: In February 2009, the applicant filed an appeal of the decision of the Director of Community Development (see Attachment D – Applicant's Letter of Appeal). The appellant/applicant requests that the existing fence be allowed to remain due to privacy concerns, the quality and attractiveness of the fence and due to the fact that no neighbors look at the subject fence from the front of their home. He states that moving the fence back to meet the setback requirements would result in a substantial loss of privacy on his property.

Staff Comment Regarding Appeal: The appellant has many project goals including maintaining a large landscaped area and maintaining the size of the front yard of the property. Although staff recognizes that it is an attractive and well-maintained fence that has been in place for a long time, it does not comply with the City's fence guidelines. Therefore, staff is not in a position to support the appeal request and recommends that the MPP be approved subject to conditions requiring the reduction of fence height to 4', if maintained at its current location or a relocation of the fence to be setback 15' from the front property line at its current height.

Conclusion

Findings and General Plan Goals: Staff was able to make the required findings for modified project subject to the conditions of approval listed in Attachment B. Recommended Findings and General Plan Goals are located in Attachment A.

Conditions of Approval: Recommended Conditions of Approval are located in Attachment B.

Alternatives

1. Deny the appeal and uphold the amended decision of the Director of Community Development on the MPP with attached conditions (refer to Attachment B)
2. Grant the appeal and approve the MPP with modified conditions
3. Deny the MPP

Recommendation

Staff recommends Alternative 1.

Prepared by:

Surachita Bose
Project Planner

Reviewed by:

Trudi Ryan
Planning Officer

Attachments:

- A. Recommended Findings
- B. Recommended Conditions of Approval
- C. Site and Architectural Plans
- D. Letter of Appeal from the Applicant
- E. Site Photographs
- F. Copy of original MPP decision letter approved IN February 2009

Recommended Findings – Miscellaneous Plan Permit (MPP)

Goals and Policies that relate to this project are:

Land Use and Transportation Element – *Policy N.1.4. Preserve and enhance the high quality character of residential neighborhoods.*

City Wide Design Guidelines Landscaping – Fences and Walls – *E4. For front yard fences in residential area, open decorative type fences, such as picket, post and rail are preferred.*

Single Family Home Design Techniques – *3.11 Landscaping. Fencing along front property lines and along side property lines within front yard setback areas should not exceed three feet. Open wood fencing is a preferred solution along front property lines.*

1. The permit will attain the objectives and purposes of the General Plan of the City of Sunnyvale (*Finding made with conditions*).

The proposed fence, as conditioned, meets the objectives and purposes of the General Plan of the City of Sunnyvale. The recommended modifications are consistent with previous City Council and Planning Commission action related to front yard fences. The 15-foot setback has been determined to be appropriate for consistency with the decision made for a 7' tall fence at a nearby property at 898 Lakebird Drive.

2. The permit 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. [*Finding made with conditions*]

As conditioned, the use of a front yard fence is compatible with properties in the neighborhood and would not cause a negative impact to surrounding properties. The modifications to the fence help minimize the walled-in appearance of the property. Existing landscaping should also help soften the view of the fence from the street.

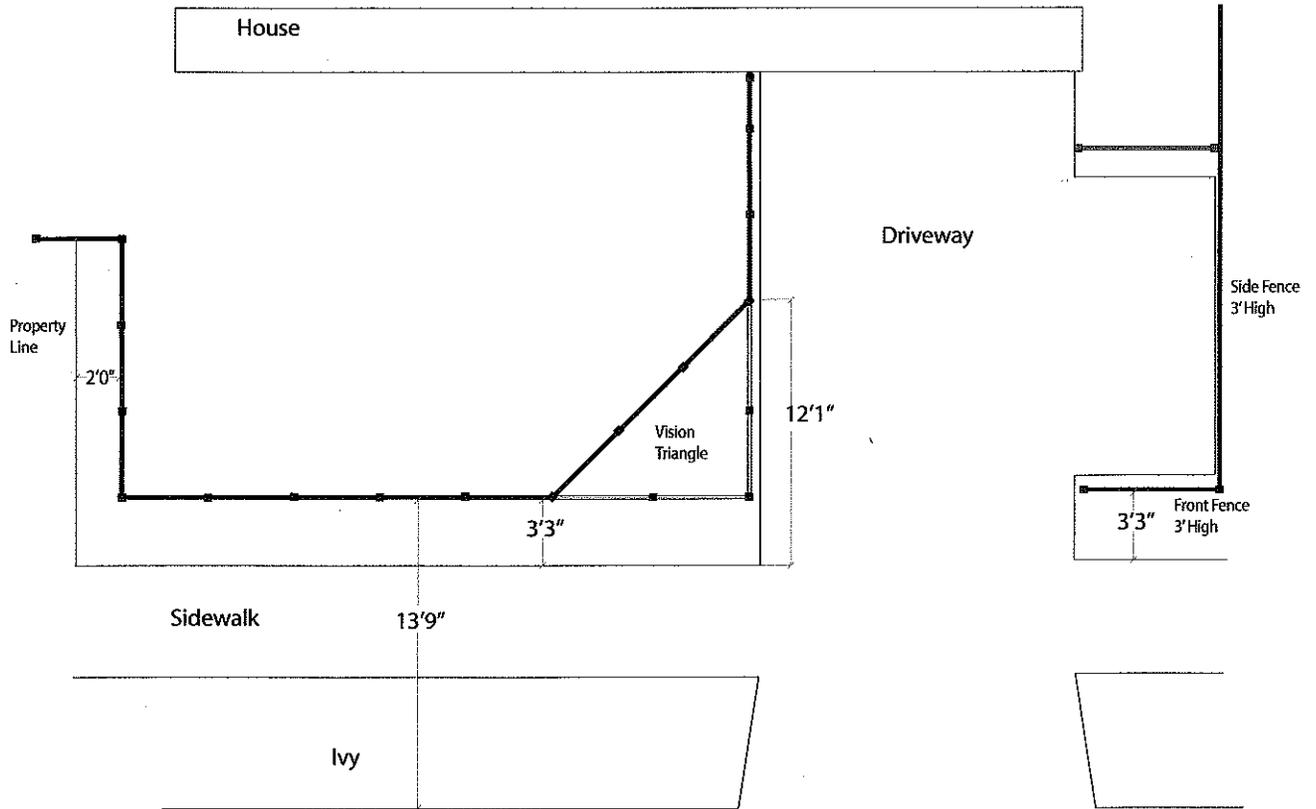
Recommended Conditions of Approval – Miscellaneous Plan Permit (MPP)

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:

Unless otherwise noted, all conditions shall be subject to the review of approval of the Director of Community Development.

1. GENERAL CONDITIONS

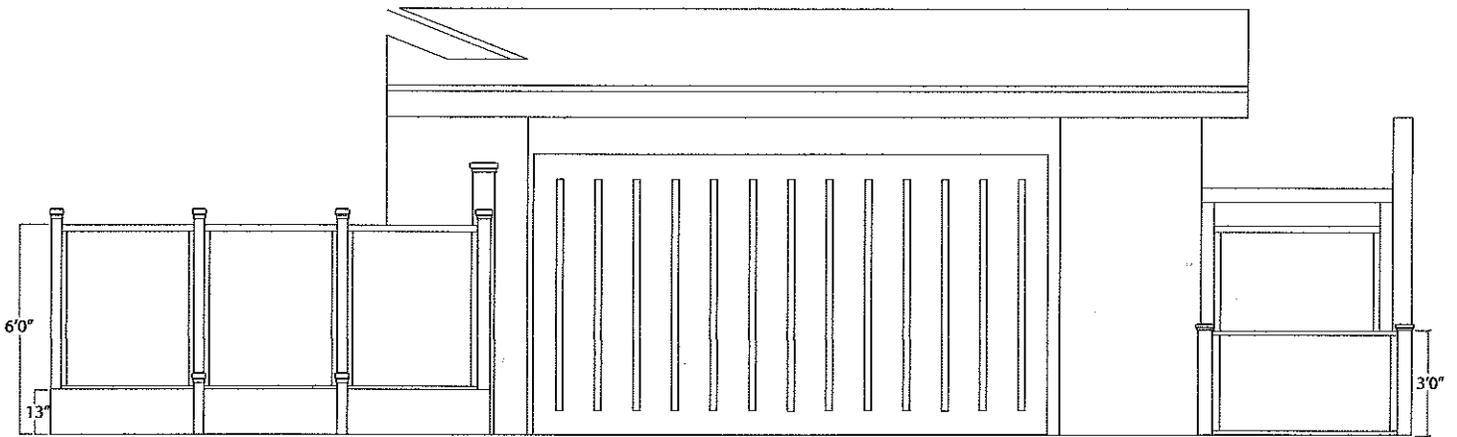
- A. Two options are available regarding the setback and height of the fence:
 - 1. The fence shall be set back a distance of at least 15-feet from the front property line; and the fence shall not exceed 6-feet 6-inches (current height) in height as measured from the top of nearest curb.
 - 2. The fence may remain at its current location provided the fence does not exceed 4-feet in height as measured from the top of nearest curb.



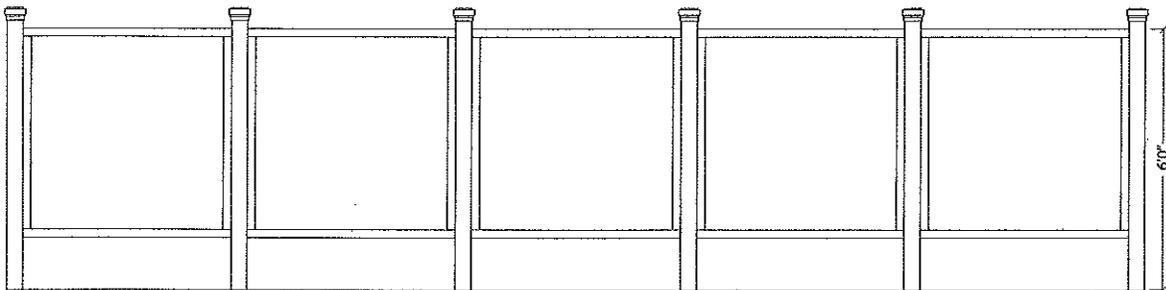
1190 Plan

Fence Height 6' 

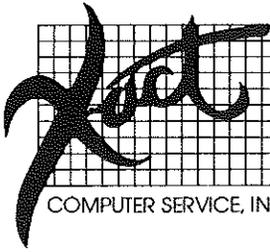
Vision Triangle Height 13" 



1190 Elevation: including garage, and vision triangle



1190 Elevation: of the fence
Fence 6'0" and post 6'5"



COMPUTER SERVICE, INC.

~~118 South Sunnyvale Avenue~~
~~Sunnyvale, California 94086~~
~~(408) 243-4707~~

February 20, 2009

Dear Surachita:

In response to your letter dated February 13, 2009, Laural and I are asking for permission to keep our fence located at 1190 Silverlake Drive. We moved to 1198 Silverlake June 1989, we chose the Lakewood neighborhood because it was the only place we could afford at the time to stay in Sunnyvale. Our business, X-Act Computer Service, Inc. is located at 118 South Sunnyvale Ave., downtown Sunnyvale, we have been at the same location for 30 years. Six years ago we were at a point that we were thinking about moving but to buy a house with more property we would probably have to leave Sunnyvale, which we did not want to do. Then Bill and Harriett at the time owners of 1190 Silverlake told us they were moving out of state, we saw this as a way we could have more room and stay in Sunnyvale. The fence at 1190's front yard makes the front accessible as part of our back yard, giving us the property we wanted.

The fence is across the street from two houses, both are side views, we have no neighbor looking at our fence from the front of their house. The view from our house at 1190 is a driveway, two wooden fences and a chain link fence. The view from across the street looking at 1190 is a painted, paneled fence, set back approximately three feet from sidewalk with ferns, flowers, ornamental grasses, and the fence covered with red climbing roses in the spring and summer. We are asking that you could please take another look at pictures provided early last year and please allow us to keep our fence.

Thank You,

A handwritten signature in black ink, appearing to read "John and Laural", written over a horizontal line.

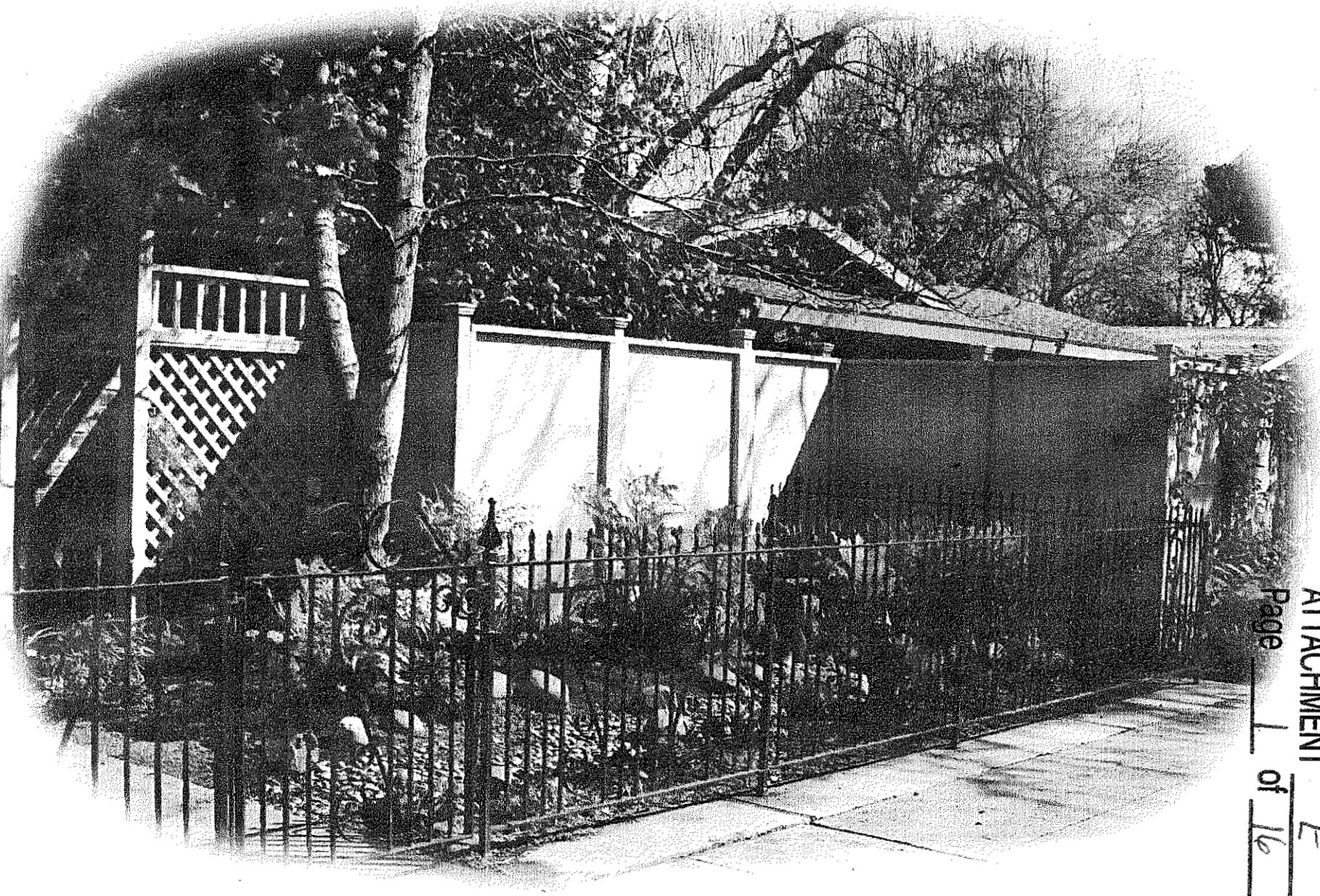
John and Laural

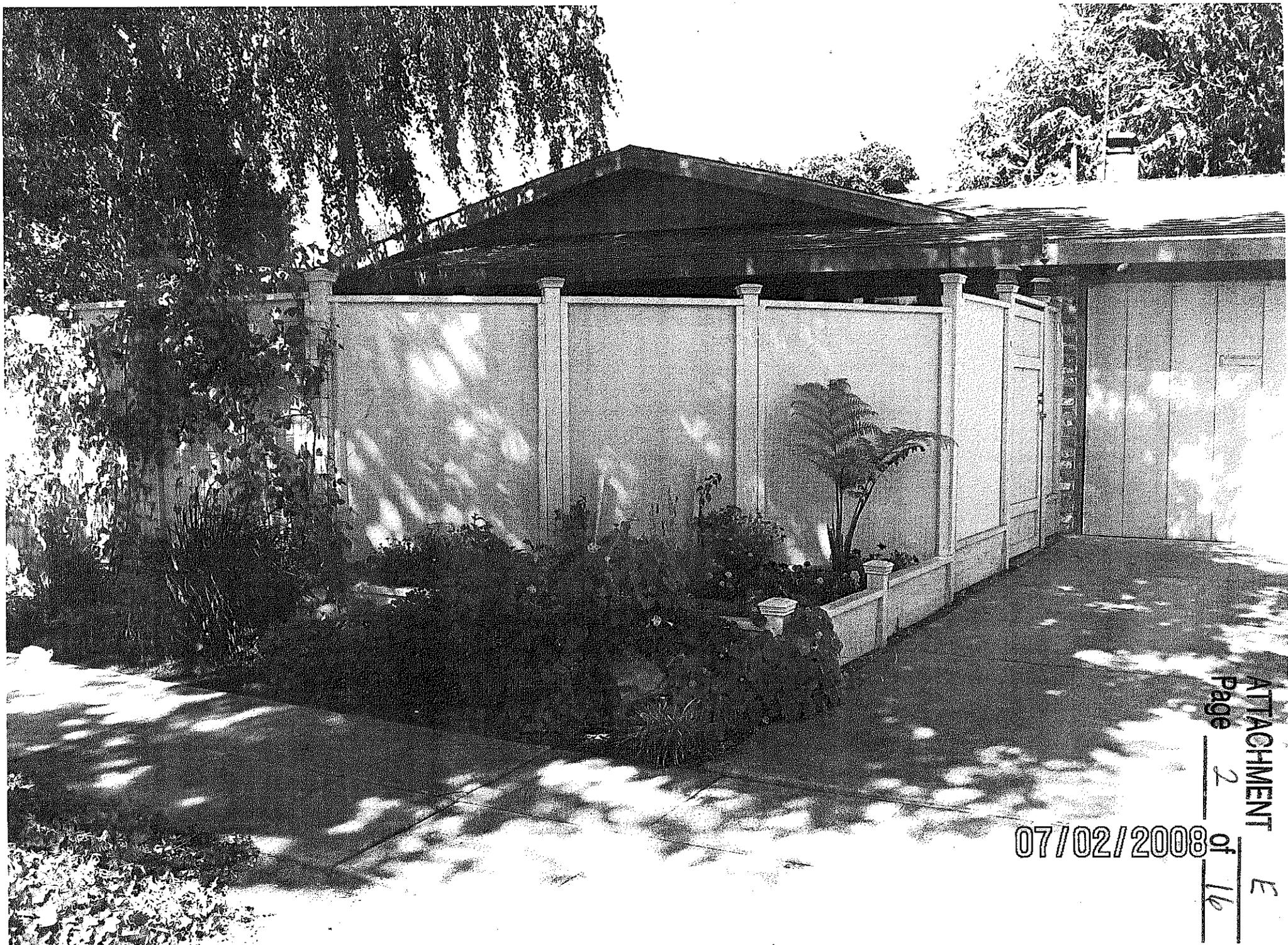
RECEIVED

FEB 24 2009

PLANNING DIVISION

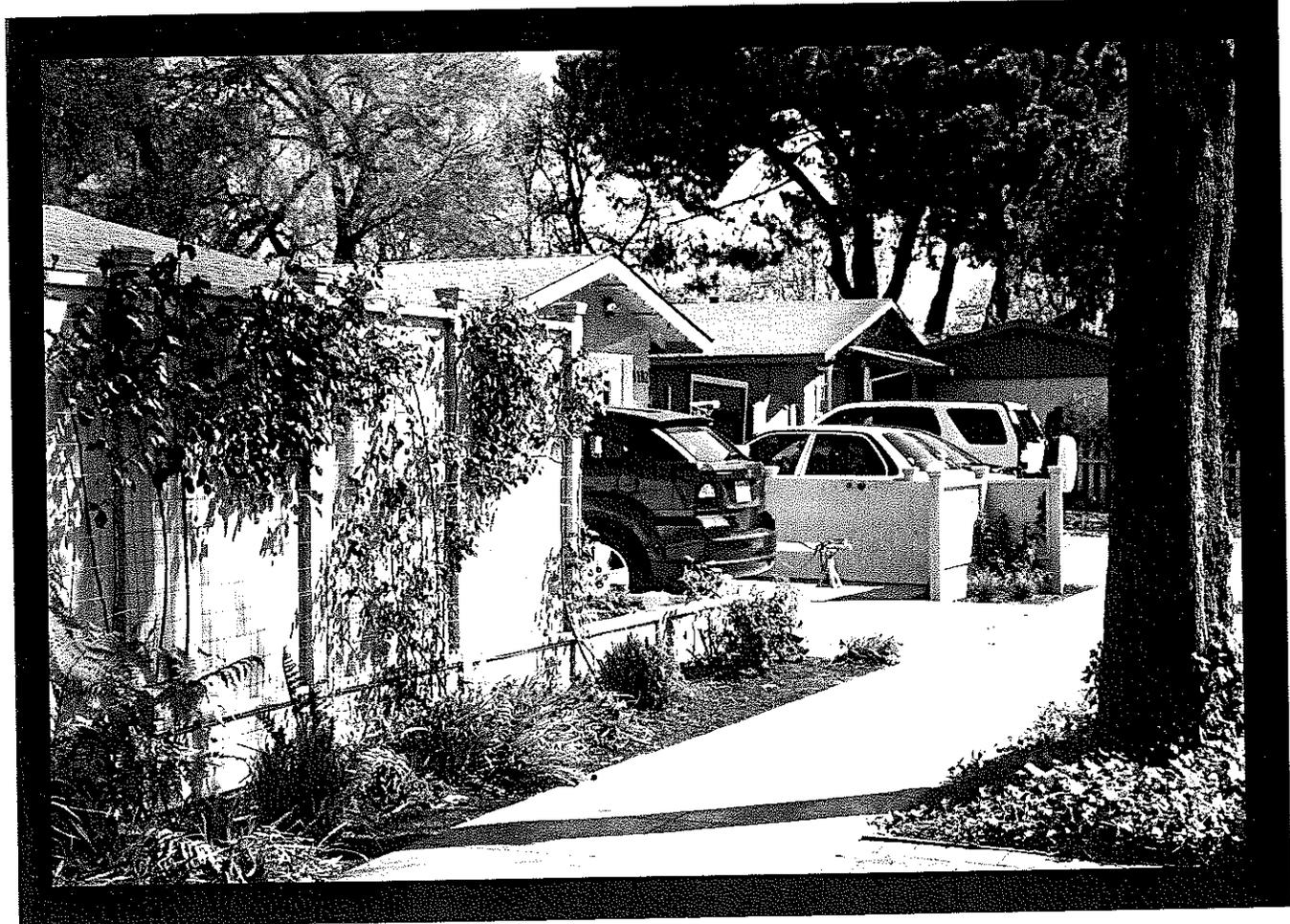
1190 & 1198 Silverlake Drive



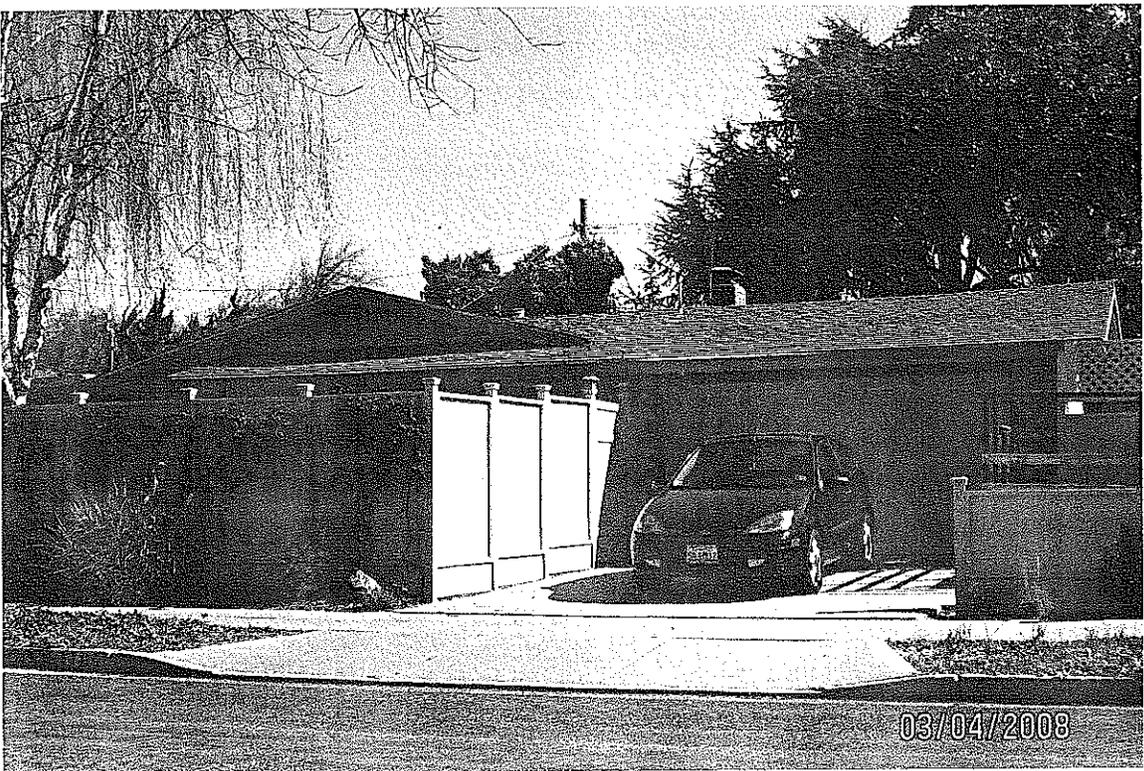
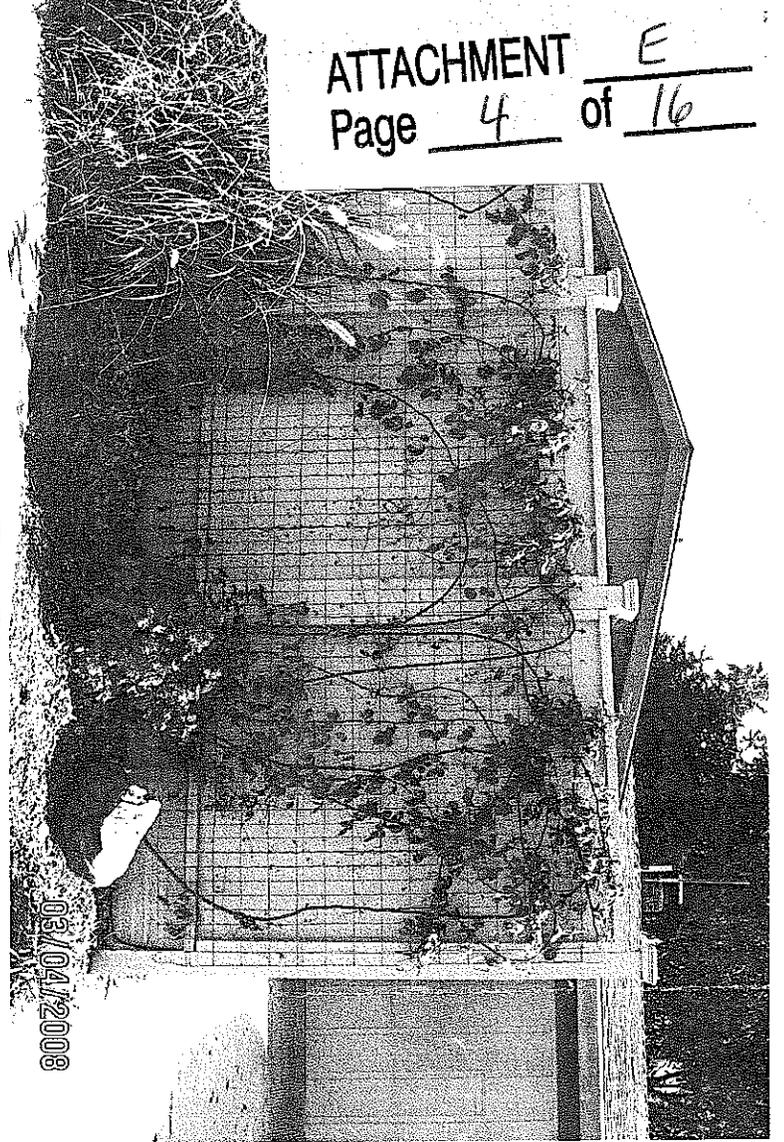
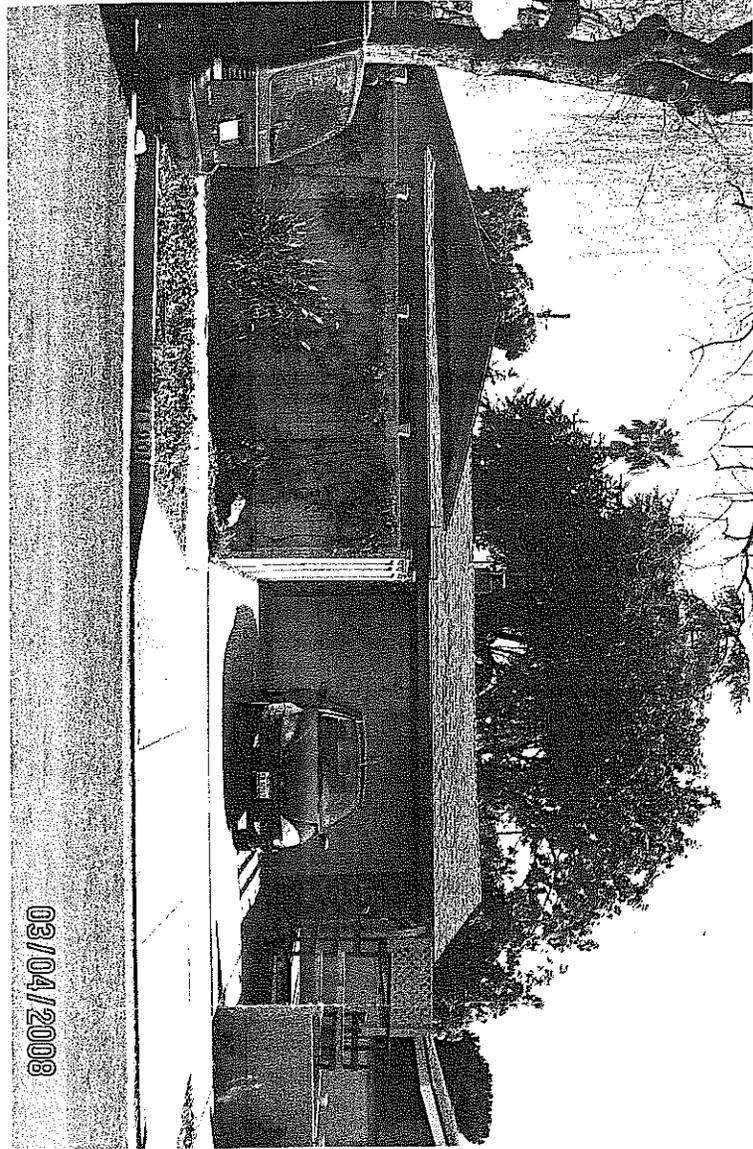


07/02/2008

SUBJECT FENCE REBUILT TO BE OUTSIDE 10' DRIVEWAY VISION TRIANGLE

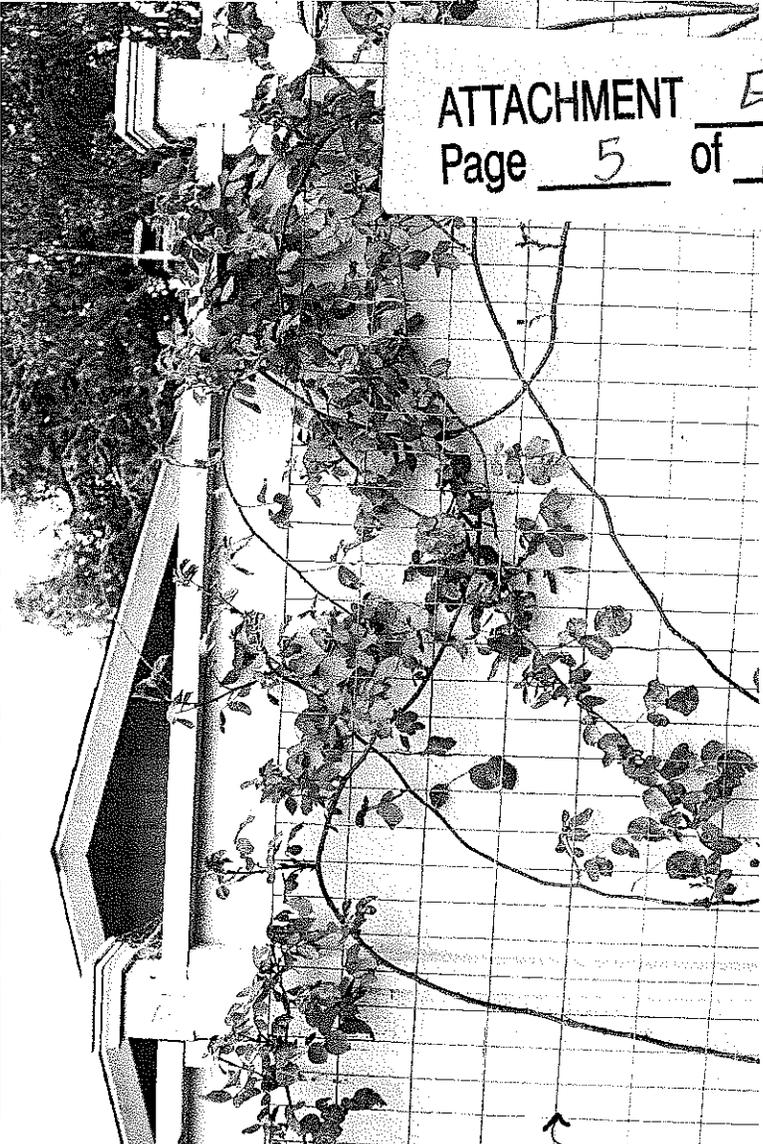
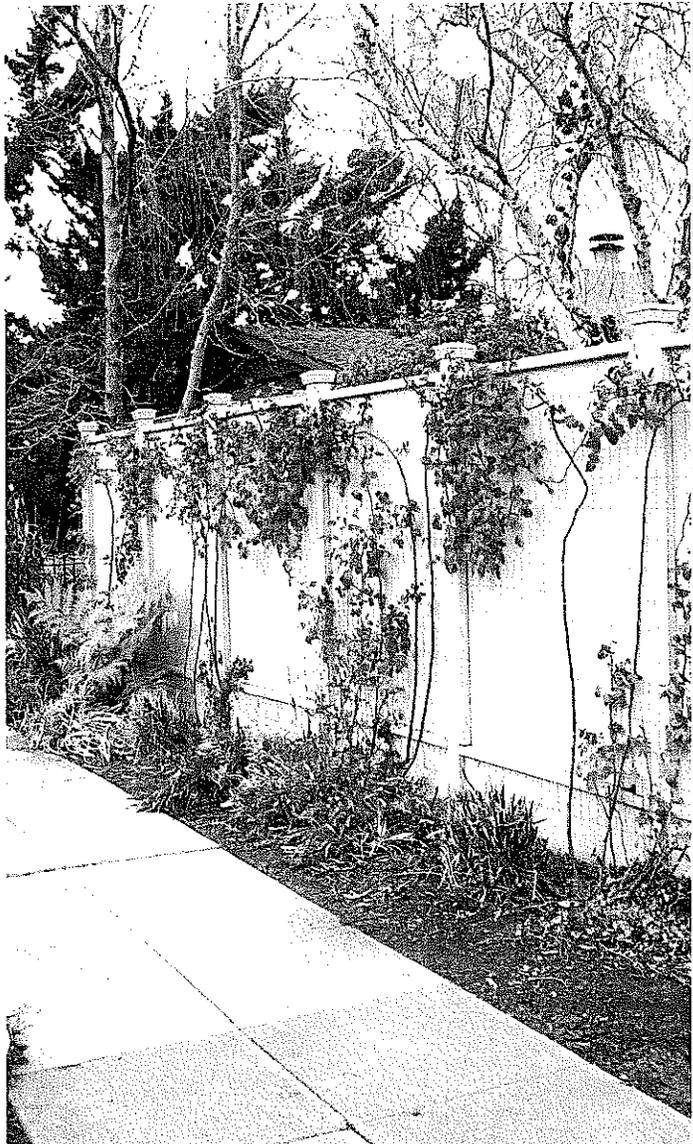


LANDSCAPING OUTSIDE PROPERTY @ 1190 SILVERLAKE

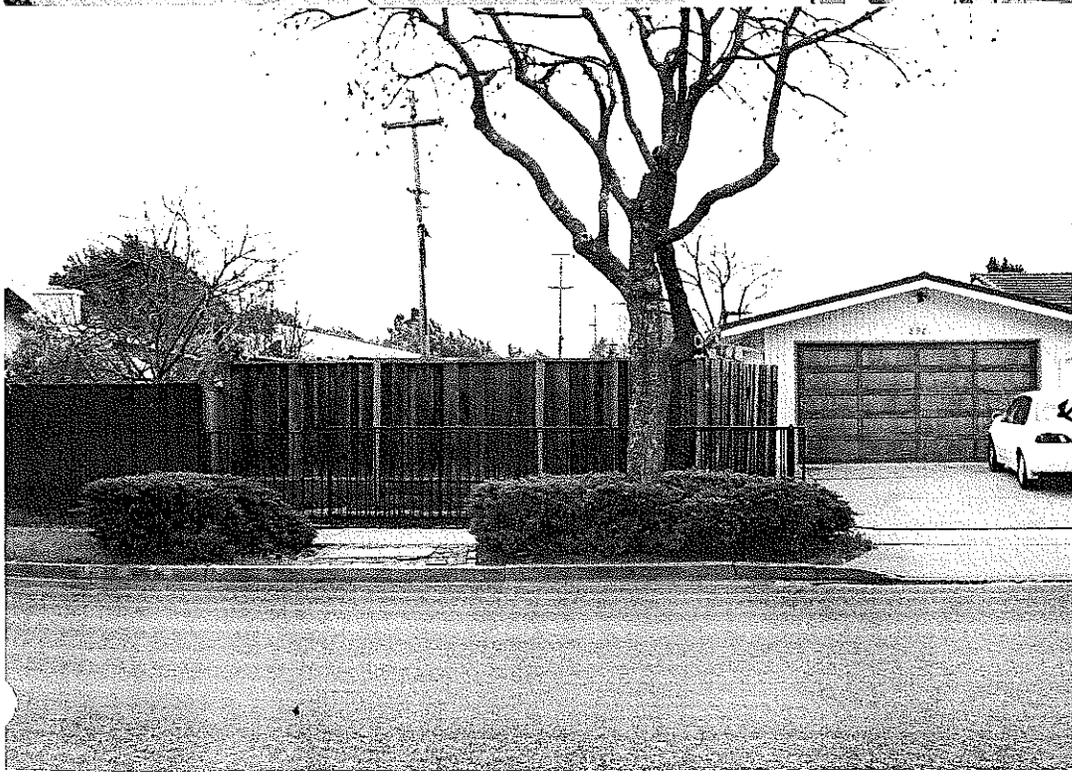


PHOTOGRAPHS SHOWING SUBJECT FENCE
PRIOR TO VISION TRIANGLE ISSUE
RESOLUTION

FOR: 1190 Silverlake Dr



1190 SILVERLAKE
DRIVE - LANDSCAPING
AND FENCE
TWEIGHT



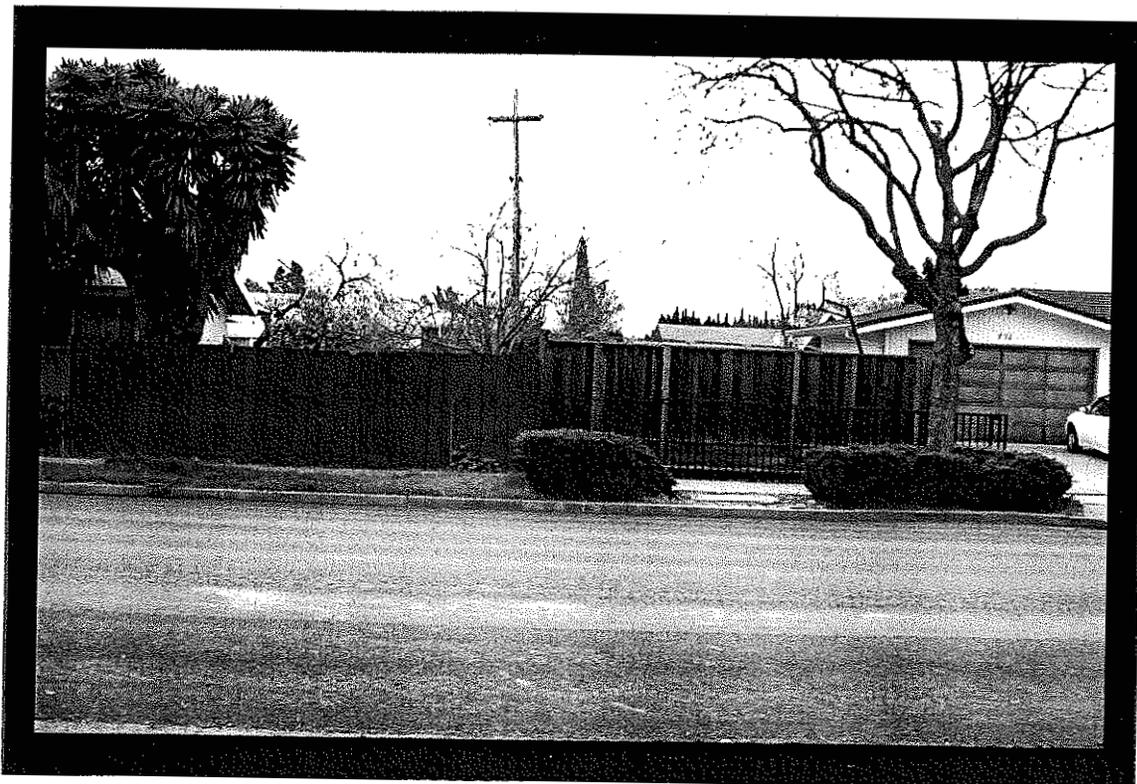
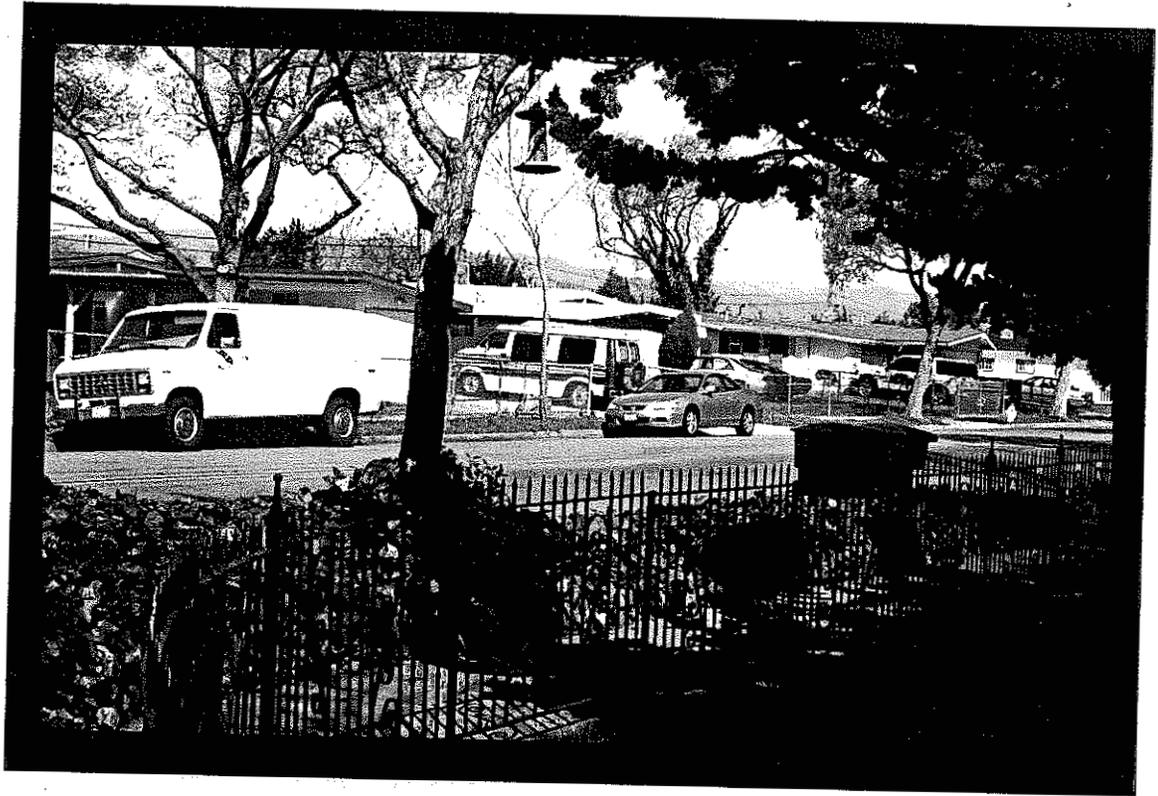
PROPERTY LOCATED
ACROSS THE
STREET AT
898 LAKEBIRD
DRIVE

***NEXT DOOR
AND
ACROSS STREET***



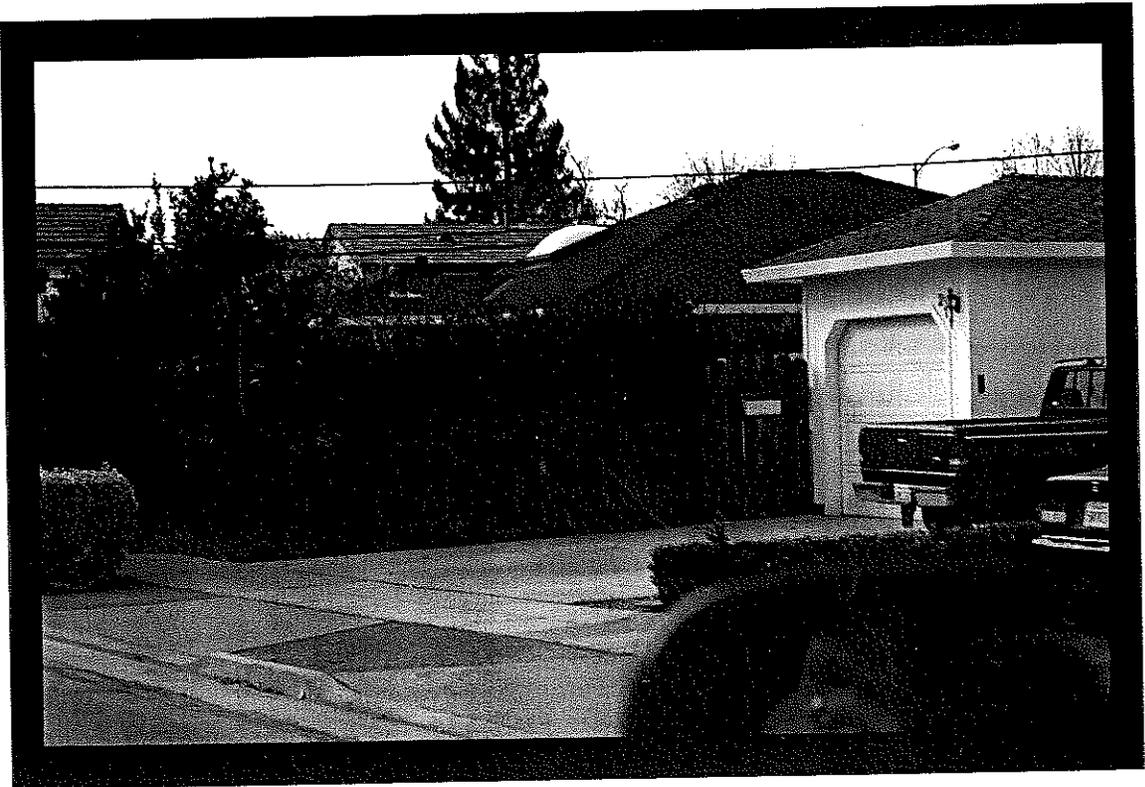


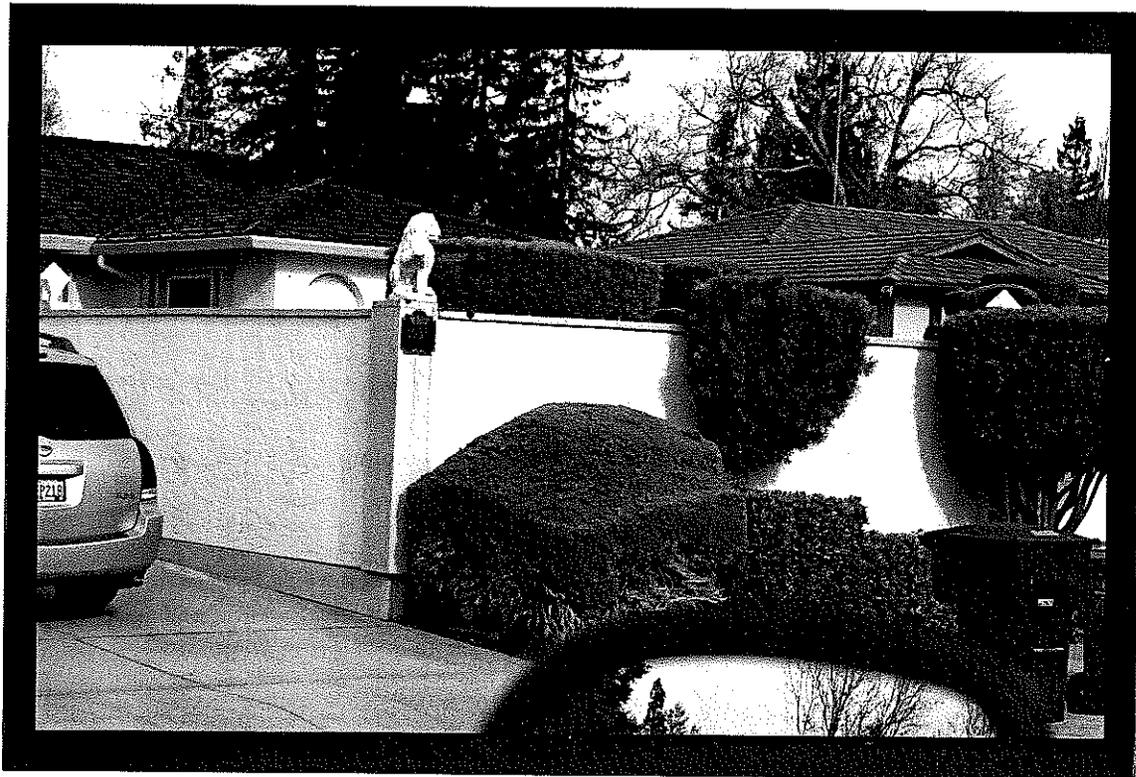


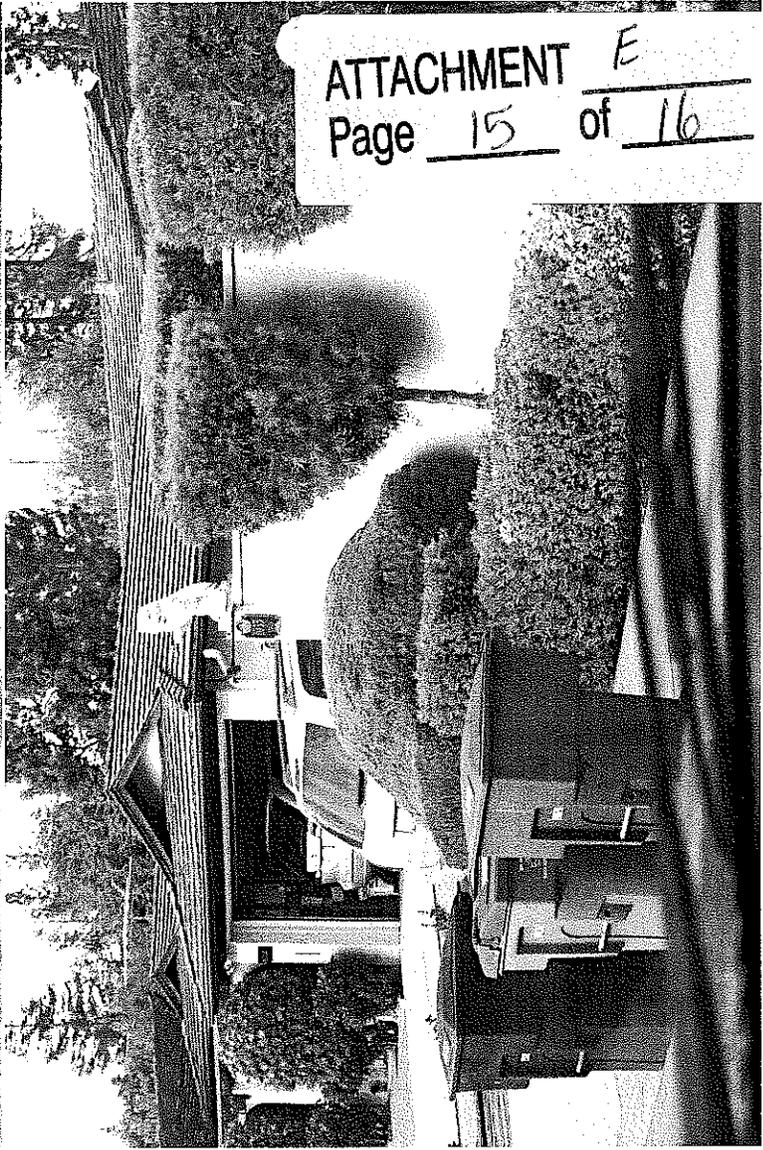
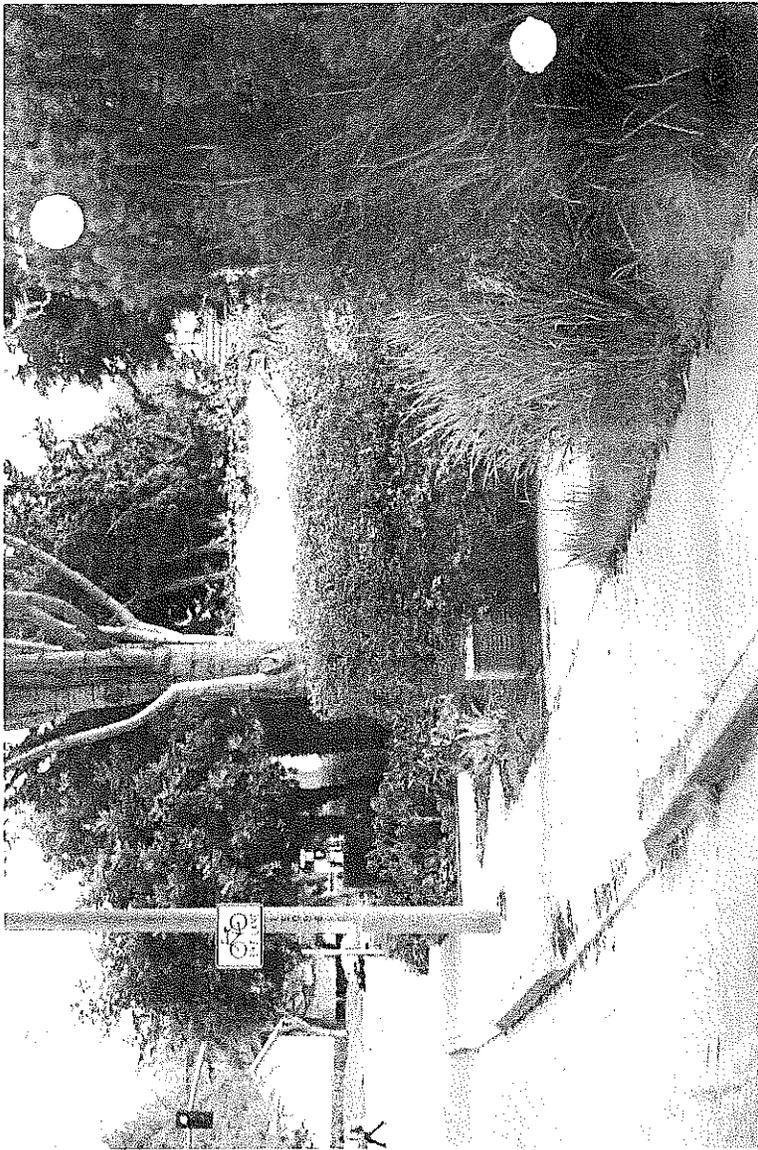


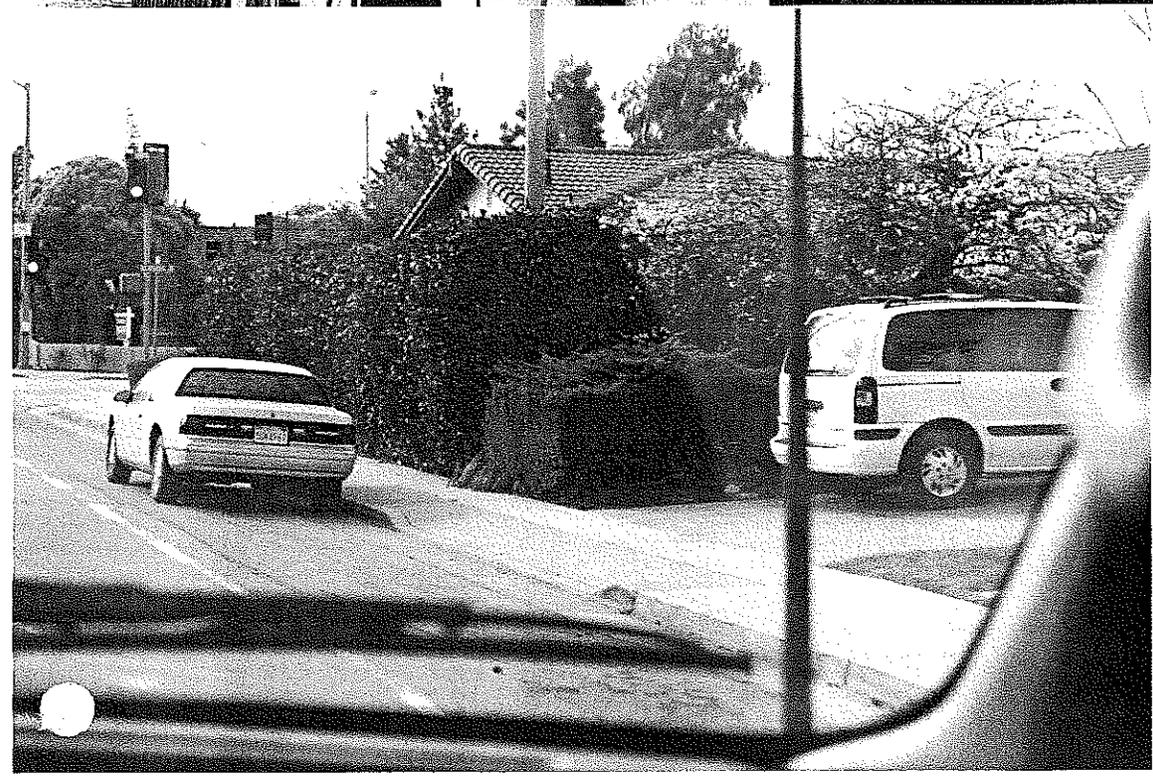
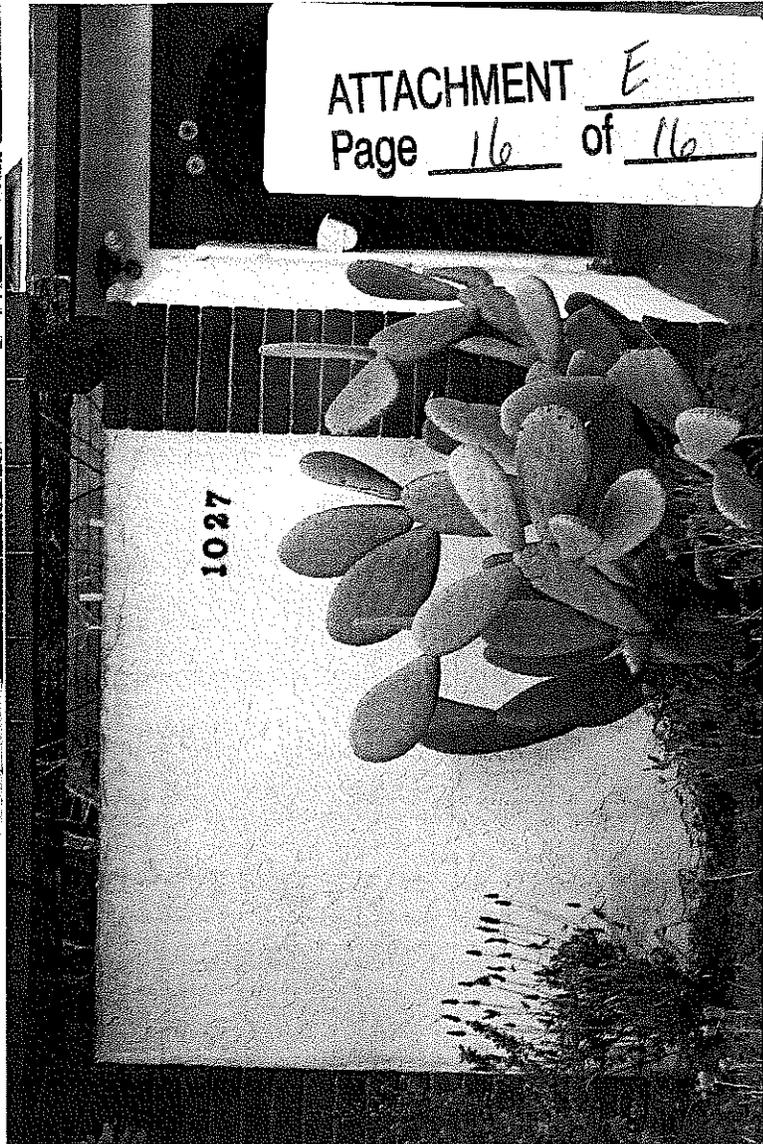
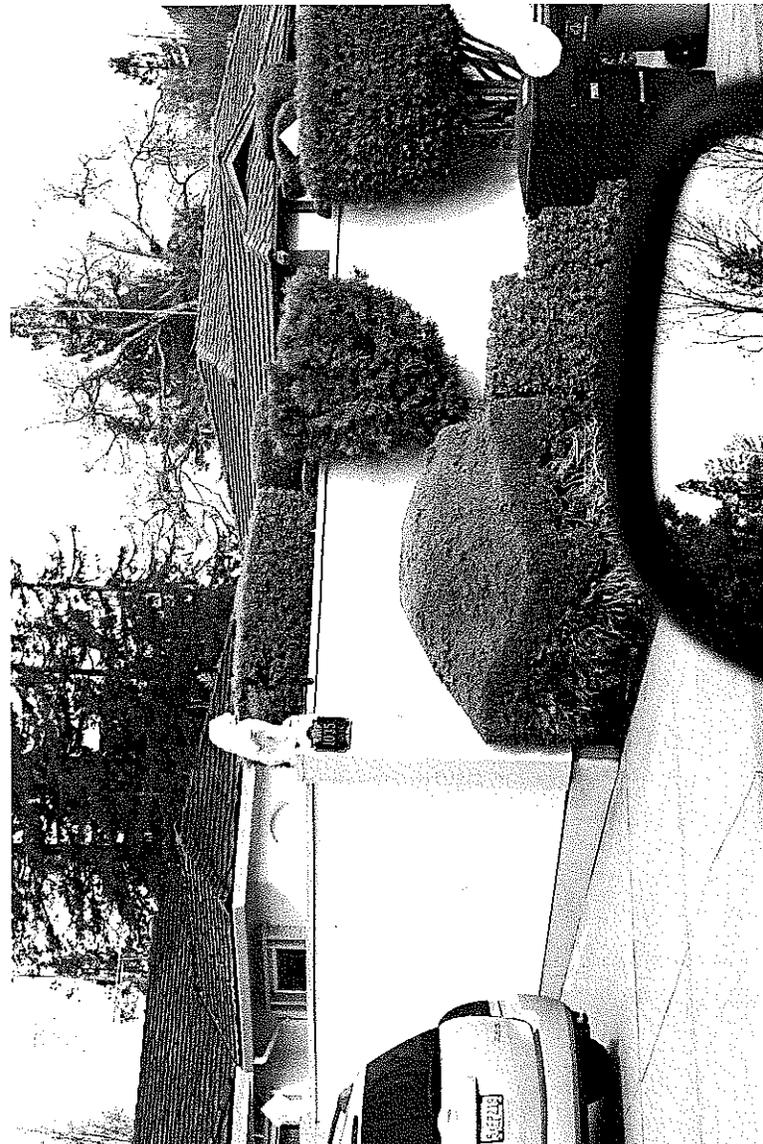
ENCLOSED
SUNNYVALE
YARDS













February 13, 2009

Mr. and Mrs. John Wanninger
1190 Silverlake Drive
Sunnyvale, CA 94089

Subject: Miscellaneous Plan Permit -1190 Silverlake Drive
File No.: 2008-0294

Dear Mr. and Mrs. Wanninger:

The Department of Community Development has reviewed your application for a Miscellaneous Plan Permit to allow an existing front yard fence at 1190 Silverlake Drive. Thank you for your patience as your application has been under review. The application was placed on hold pending a broader discussion of front yard fences citywide.

The City discourages front yard fences over 3 feet in height. In order to preserve neighborhood character, fences up to 4 feet high consisting of attractive, residential materials that do not consist of a solid material have been considered consistent with the Single-Family Design Techniques.

The Miscellaneous Plan Permit has been **approved subject to the following conditions:**

1. The height of the fence, measured from the top of curb within the 20 foot required front setback, shall not exceed 3 feet in height if it is constructed of solid material and shall not exceed 4 feet in height if constructed of attractive residential materials that do not consist of a solid material e.g. wrought iron, vinyl/wooden picket fence.
2. The fence shall be constructed of residential materials (e.g. stucco, brick, wood, wrought iron).
3. The height of the fence shall not exceed 3 feet within the corner or driveway vision triangle. Height shall be measured from the top of curb.
4. The lattice must be removed from the top of the fence on the right side of the property line (Exhibit A in Attachment).
5. The solid fence enclosing your front yard (Exhibit B in Attachment) must be torn down and replaced or lowered as a result of its existence

**ADDRESS ALL MAIL TO: P.O. BOX 3707 SUNNYVALE, CALIFORNIA 94088-3707
TDD (408) 730-7501**

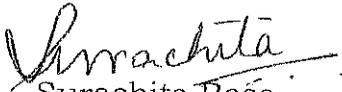
within the 20 foot required front setback. Please refer to condition #1 for guidance on an alternative for the removed/altered fence.

The Conditions of Approval set forth in this letter must be met within 45 days of approval, or as arranged with a Neighborhood Preservation Specialist. Please feel free to confer with Jhoanne Navarro, Neighborhood Preservation Specialist, on techniques to bring your current fence in to compliance with the conditions. She can be reached via phone at 408-730-7447.

If you are in disagreement with this decision, you may appeal the decision to the Planning Commission within 15 calendar days of the date of the date of this notice. Appeals must be submitted in writing along with a \$117 appeal fee.

If you have any questions or comments regarding this permit, please contact me at (408) 730-7443 or via e-mail at sbose@ci.sunnyvale.ca.us. Thank you for your cooperation.

Sincerely,


Surachita Bose
Project Planner

Cc: Jhoanne Navarro, Neighborhood Preservation Specialist