



DEVELOPMENT PROJECT APPLICATION

PLEASE READ AND COMPLETE THIS APPLICATION FORM CAREFULLY

THIS APPLICATION IS FOR (CHECK THE APPROPRIATE BOX):

Appeal to Planning Commission

Appeal to City Council

1. **Applicant(s):** Alan Leon c/o JRG Attorneys at Law

Address: 318 Cayuga St.

City: Salinas State: CA Zip Code: 93901

Phone #: 831-269-7127 FAX: _____ E-Mail: jason@jrgattorneys.com

2. **Property Owner(s):** Alan Leon

Address: 1381 Carriage Road

City: Hollister State: CA Zip Code: 95023

Phone #: 831-320-3440 FAX: _____ E-Mail: alan.leon831@yahoo.com

3. **Property Location:** 1381 Carriage Road Hollister, CA 95023

4. **Assessor Parcel Number(s):** 052-390-020

5. **Size of Property** (acres or square feet): 4,074 s.f.

6. **Zoning District:** Present: R3 Proposed (if applicable): _____

7. **General Plan Designation:** Medium Density Residential


8. Describe the proposed project: Appeal of the Department of Public Works denial of an after the fact approval of a fence extension permit to allow the property owner to move and redesign the original fence installed by the home builder an additional approximately 4 feet into the 10 foot setback area. The original fence and the designed and relocated fence are both within the boundaries of a "public utility easement." However, no utilities have been within the pubic utility easement. All utilities serving the subdivision have been installed within the existing streets serving the subdivision.

9. Describe the basis for the appeal: Please see Exhibit A attached.

10. Certification: The application is correct and accurate to the best of my knowledge. If the request is granted, I (we) agree that the provisions of City and State Law will be complied with and the conditions, if any, upon which the permit is granted will be carefully observed.

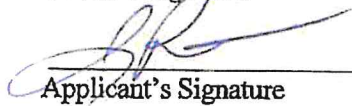
1/29/25

Date


Owner's Signature

1/29/25

Date


Applicant's Signature

Staff Use Only

Received by: _____ Date: _____

Application Number _____

The Development Services Department staff appreciates your effort to complete this application. If you have questions or comments, please contact our staff at (831) 636-4360.

ATTACHMENT A

LEON APPEAL OF DENIAL FENCE ENCROACHMENT PERMIT

A. Facts Relating to the Original Fence Line

Prior to the Leons purchasing the lot from the original home builders of Mirabella II in 2022, the home builder had installed a fence approximately 4.5 half into the 10-foot-wide public utility easement (“PUE”). Attached as **Exhibit A** is an aerial photograph depicting the home and the original fence line at the corner of N. Gonzales Drive and Cavalier Court, which is directly behind the Leon parcel. The fence that the home builder installed on the Leon property was aligned with the fence on the rear property. Both the Cavalier lot fence and the original Leon property fence were aligned and already approximately 5 ½ feet from the edge of the sidewalk and within the 10 ft. wide PUE. Had the home builder installed the fence back ten feet from the property line, which is the edge of the sidewalk, there would have been four inches of space between the rear corner of the house and the fence. Attached as **Exhibit B** are photos showing where the fence would be located relative to the Leon house if the Leons were required to set the fence back 10 feet from the edge of the curb. That distance would have made it impossible for anyone to physically access the backyard from the side yard along N. Gonzales Road. The Developer obviously installed the fence in a manner that would allow a pathway of a reasonable width to provide access to the rear yard of the property.

B. The Leon’s Proposed Fence Encroachment

In order to capture a modest amount or an additional approximately four feet of usable space within the side yard setback area, the Leon’s extended the fence closer to the edge of the sidewalk or the side property line. The Leons also replaced the fence with a nicer, sturdier and substantially more expensive fence. See **Exhibit C**. Mr. Leon did not realize that an approval was required from the City based on the other fences within the neighborhood that were installed at the edge of the sidewalk. Attached as **Exhibit D** are photographs of other fences within the neighborhood, including fences on corner lots like the Leons, that have been installed along the edge of the sidewalk and within the PUE.

C. The Denial is Based on Criteria and Standards that Are Not Set forth in the Zoning Code and Is Not Supported By Substantial Evidence

According to Section 17.16.1, a fence height up to six feet within the ten-foot setback is allowed on the street side of a corner lot with an administrative approval provided that the fence does not create a safety hazard and is consistent with easements and rights of ways. Accordingly, the Code establishes only two bases for denying a fence extension into the setback area; either the encroachment will create a safety hazard or it is not consistent with an easement or right of way.

Despite the clear criteria set forth in Section 17.16.1, the City states that it is unable to grant the exception because the PUE that will be affected by the fence encroachment is ten feet wide. The City further states that the Code only applies to corner lots where the PUE is less than 10 feet wide. However, there is no language in Section 17.16.1 or elsewhere in the City’s Code that states this exception only applies when the PUE is less than 10 ft. It is unclear how the City

arrived at this interpretation of its Code. Moreover, the City's interpretation is contradicted by the City's prior approval of a fence encroachment into a 10-foot-wide PUE for a corner lot in the same subdivision located at the corner of Waterwheel Lane and Steeplechase Lane. Attached as **Exhibit E** is a copy of the approved fence extension application for that lot.

In addition, there are several other corner lots within the Mirabella II subdivision that currently have fences or walls that have been installed to the edge of the sidewalk within the 10-foot setback areas. Included in **Exhibit D** are aerial photos of at least three other corner lots where fences have been installed right to the edge of the sidewalk within the PUE.

The City also appears to be denying the application based on the second criterion that fences must be consistent with any easements or rights or ways. However, the City acknowledges that there are no City owned utilities within the easement and indicates that it is unknown whether any other utilities might have systems located within the easement. However, and as noted above, the presence of potentially unknown utilities was not a factor in the City's approval of the other fence within the PUE. Moreover, there are many other parcels within Mirabella II subdivision with fences that are encroaching into the PUE. Simply stated, the Leons would like to be treated like the other homeowners within Mirabella II that have installed fences within the PUE and the 10-foot setback areas.

EXHIBIT A



N GONZALEZ DR

Original fence line

Distance between original fence line and Leon fence line

Current Leon fence line

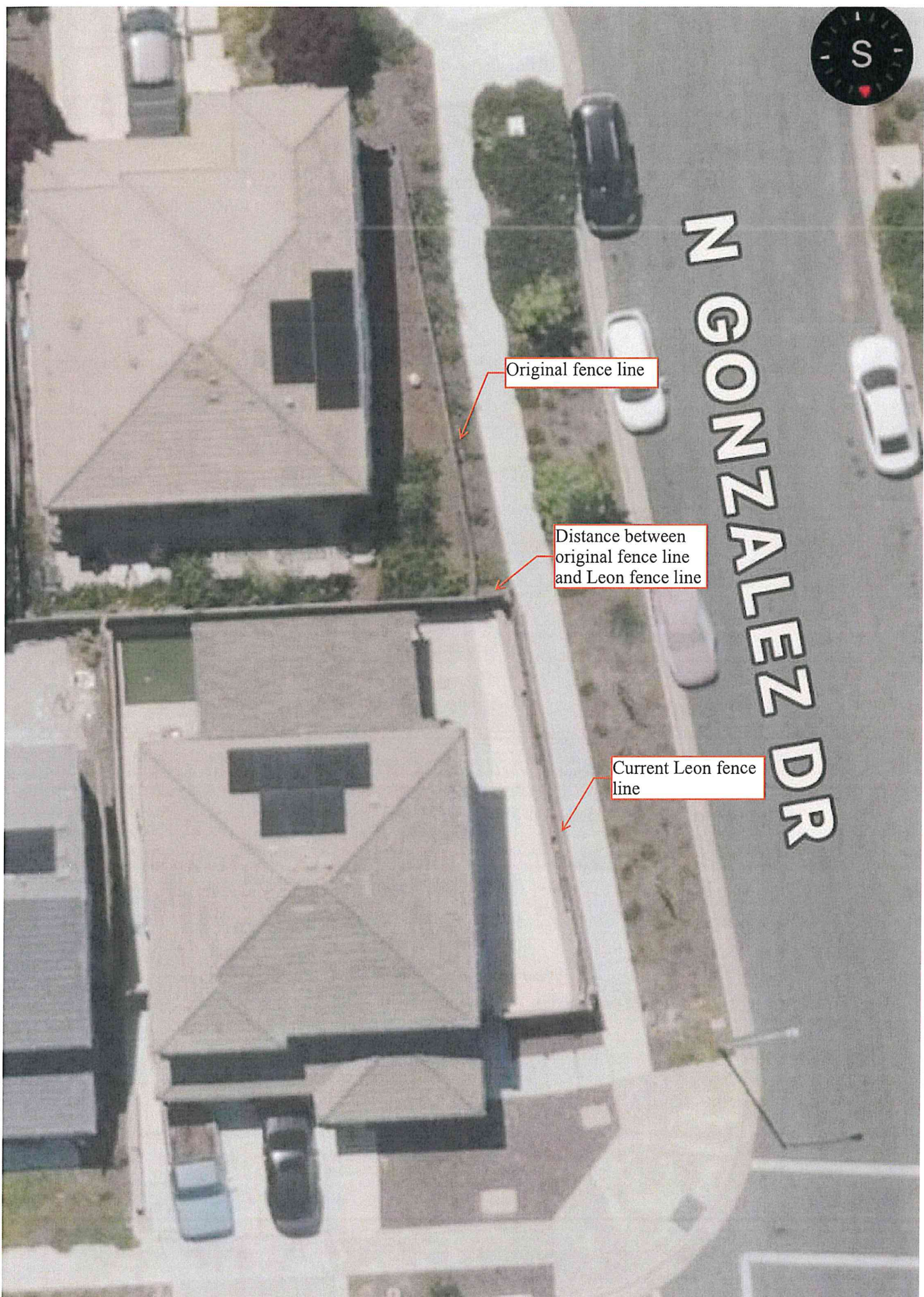


EXHIBIT B



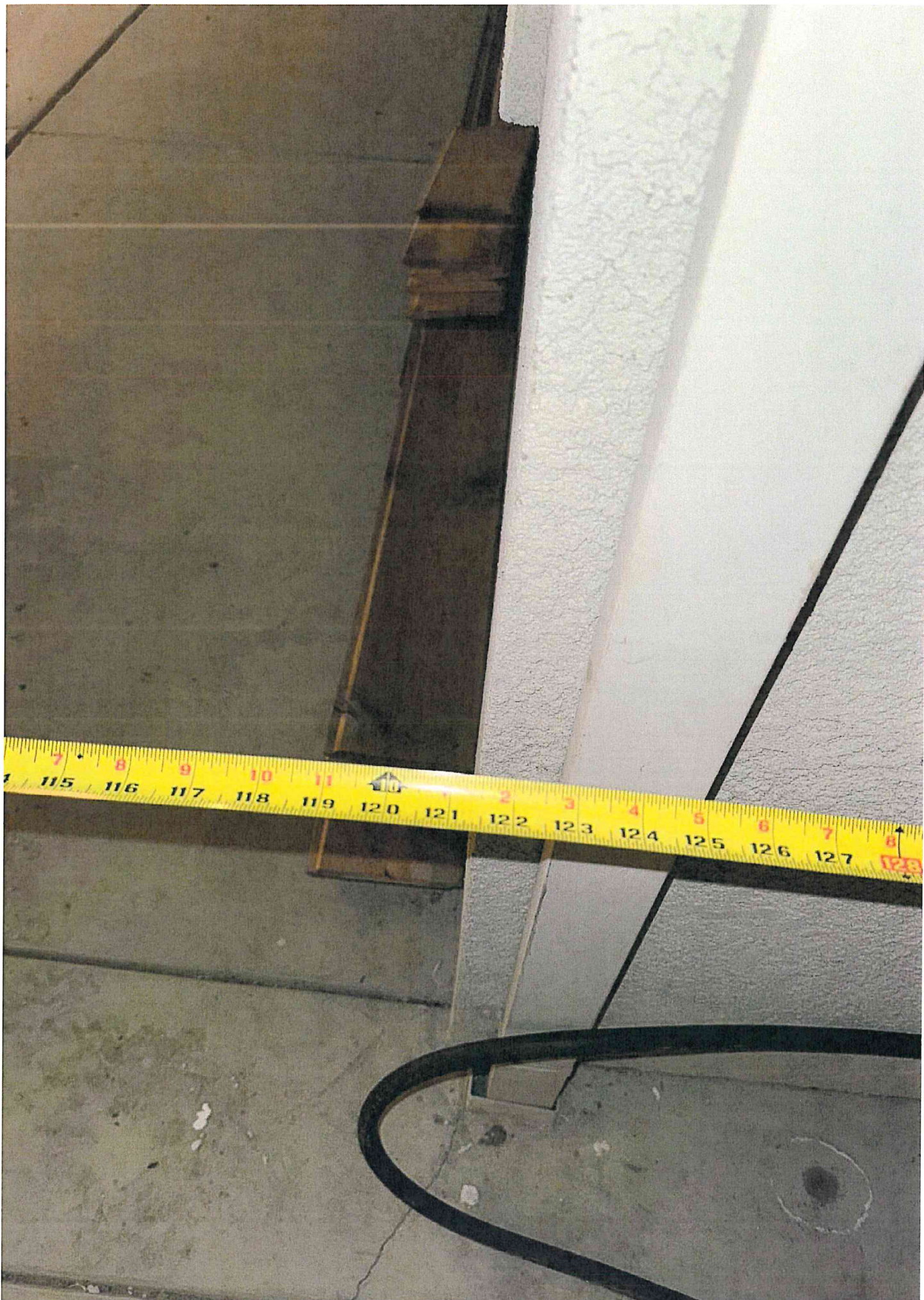
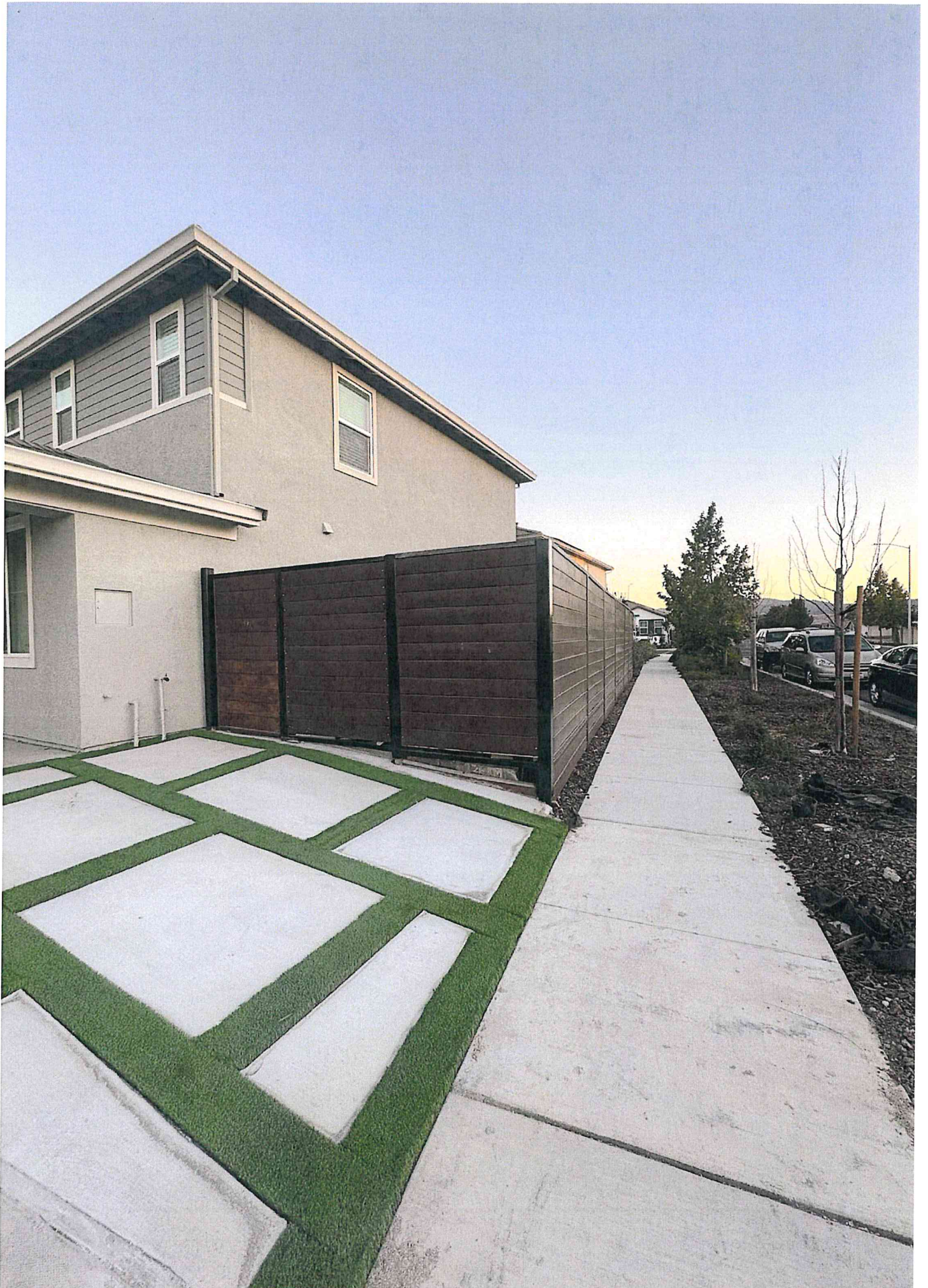


EXHIBIT C



Offset from the original fence line

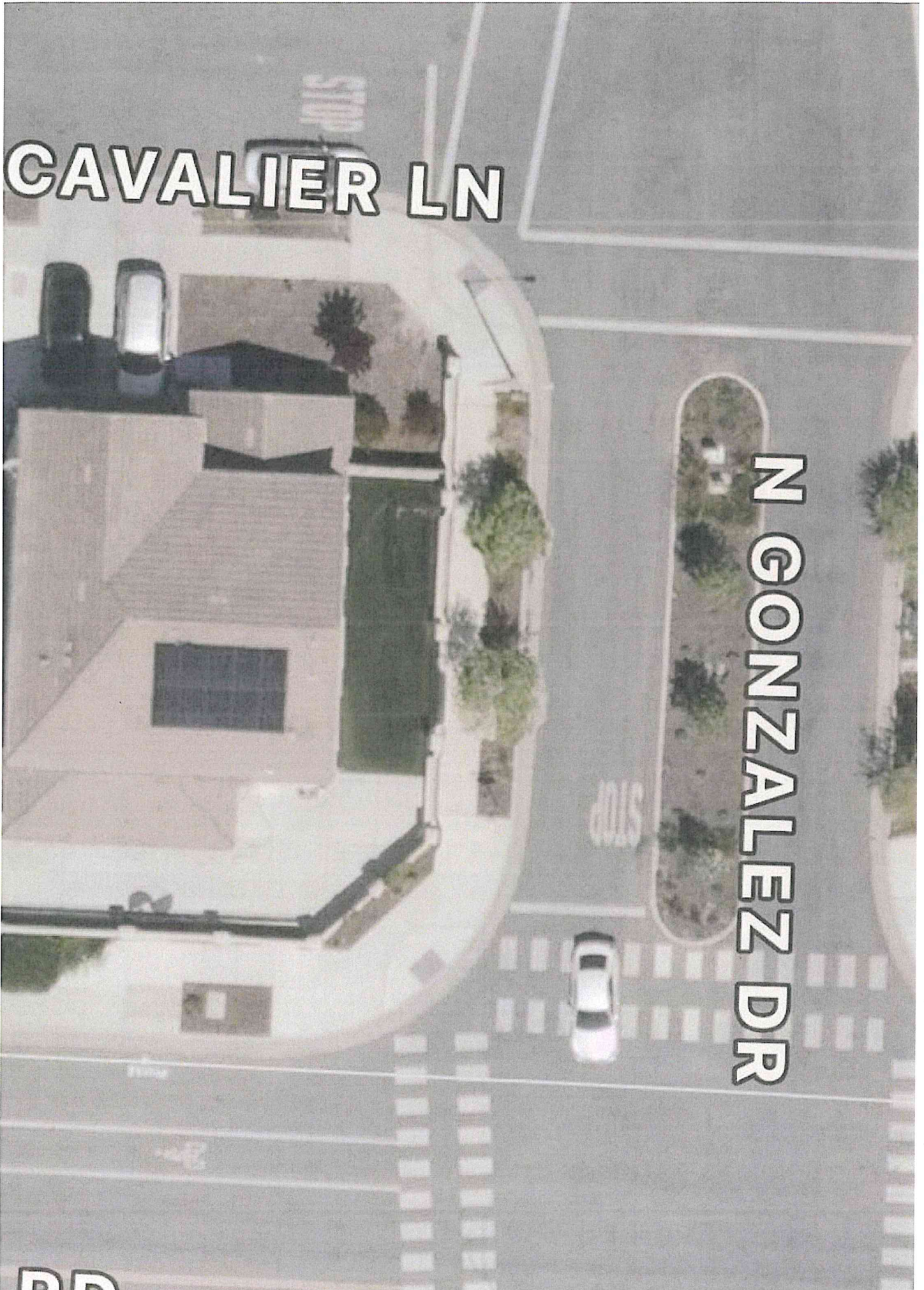


EXHIBIT D

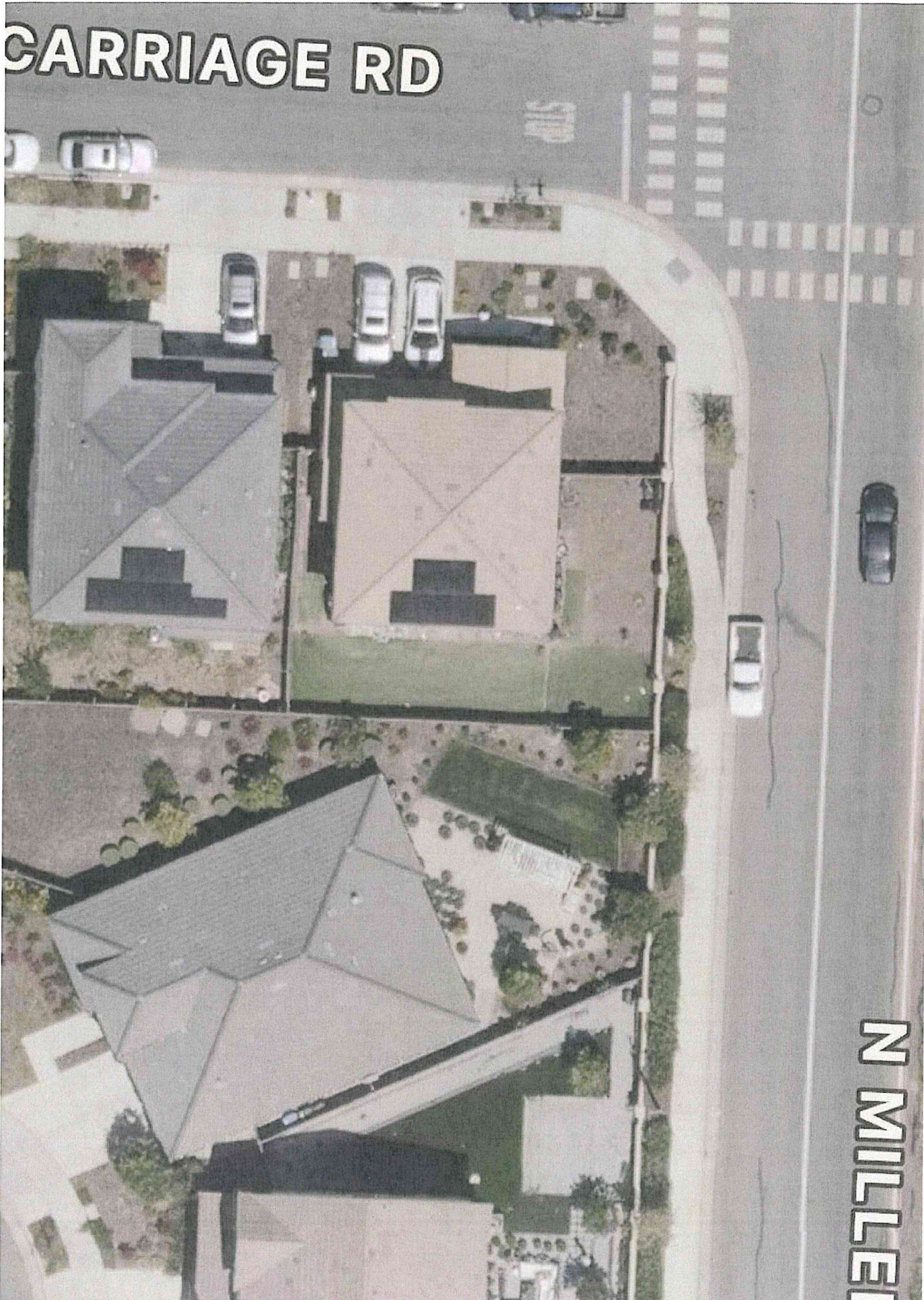
CAVALIER LN

N GONZALEZ DR

RD



CARRIAGE RD

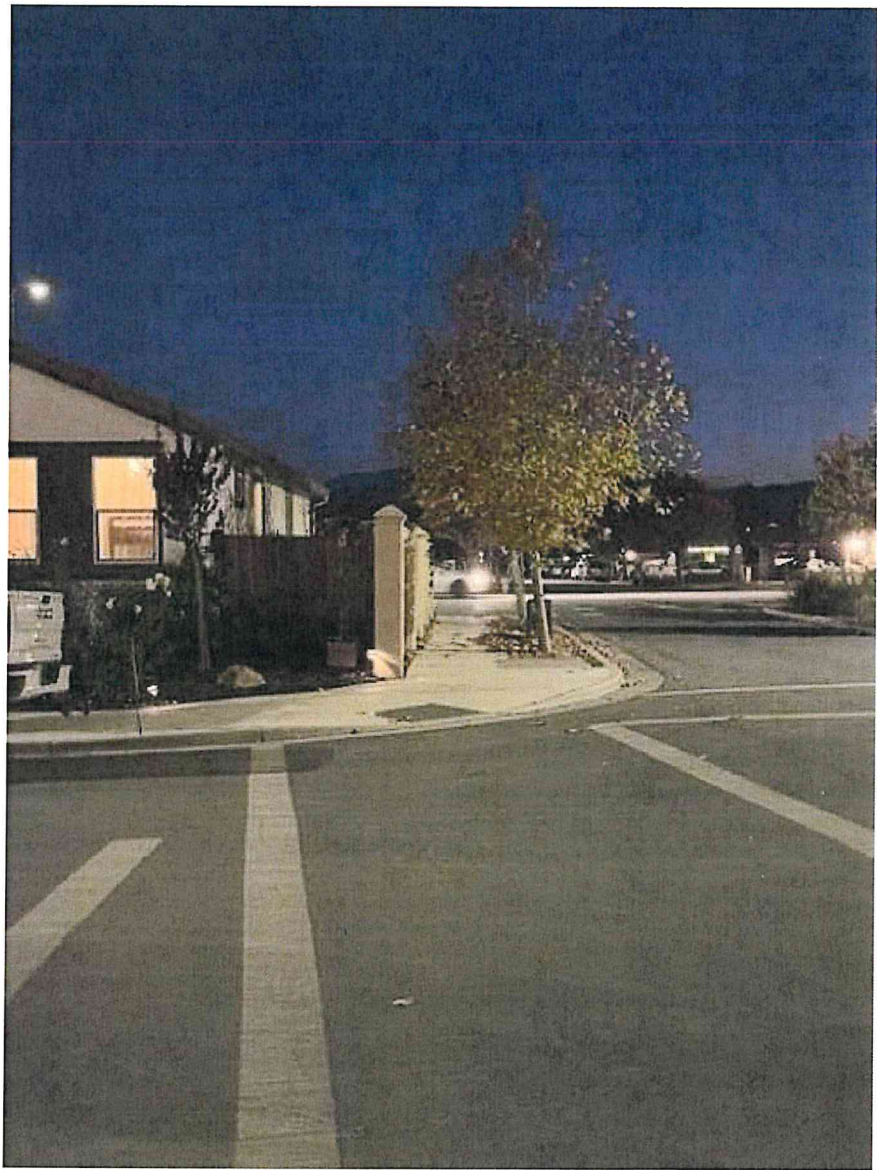


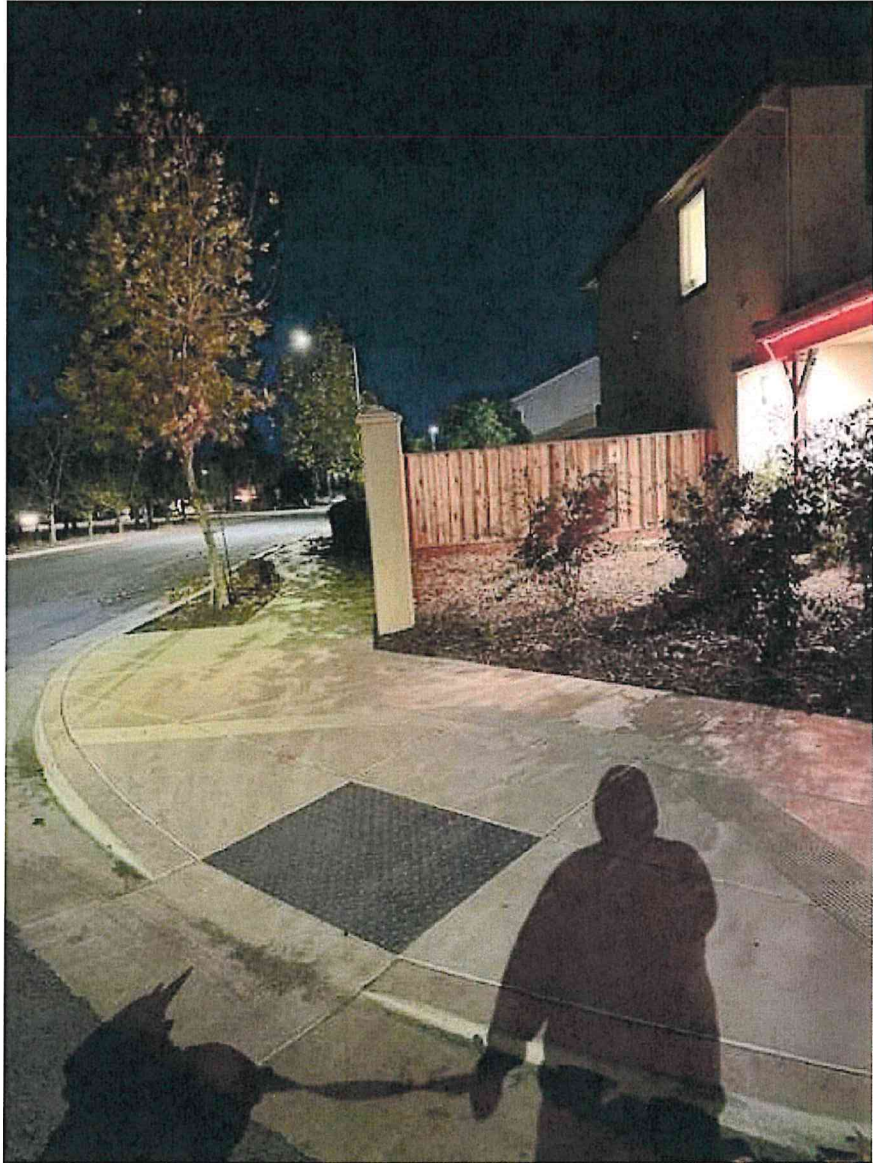
N MILLER

N GONZALEZ DR

BUENA VISTA



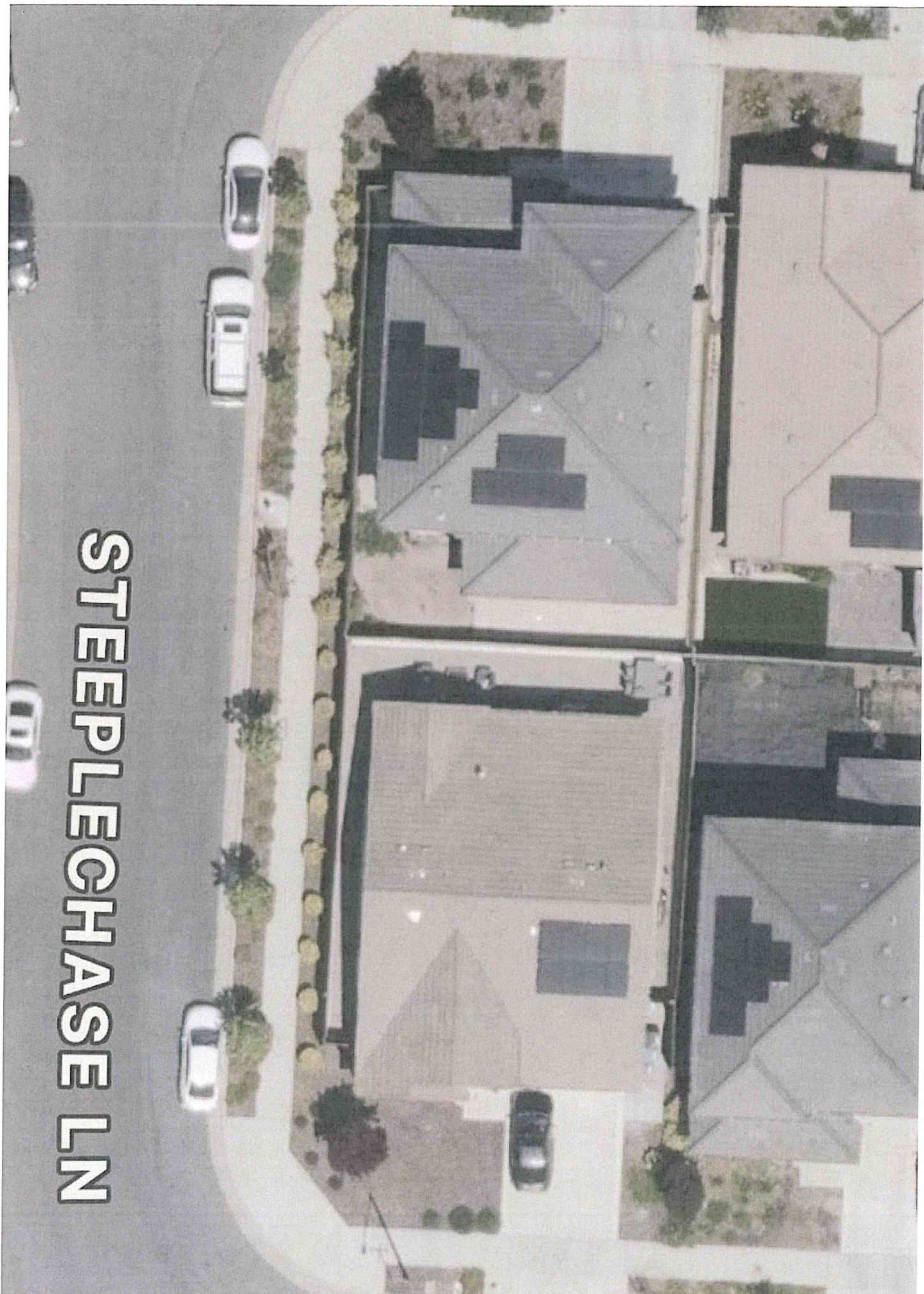




An aerial photograph of a residential street intersection. The image is oriented vertically. At the top, a road is labeled "N GONZALEZ DR" in large, white, bold, sans-serif capital letters. At the bottom, a road is labeled "CHARIOT RD" in the same style. The intersection is a T-junction where Chariot Rd meets Gonzalez Dr. To the left of the intersection, there are two large, light-colored houses with dark roofs. A dark-colored car is parked in a driveway in front of the house on the right. A landscaped median with several small trees runs along the road. In the upper right corner, a "STOP" sign is visible on the road surface.

N GONZALEZ DR

CHARIOT RD



STEEPLECHASE LN

EXHIBIT E

276.19

21-005

Filing Fee: \$47.50

GLACCT# 101-1000-440-039



Fence Extension Application

1. Property Owner (s) Richard Diaz; Rhea Tuazon
 Address: 1460 Waterwheel Lane
 City: Hollister State: CA Zip Code: 95023
 Telephone: (408) 427-1816 / (669) 377-9305 FAX: _____
 Email: richard.diaz10@hotmail.com; rheajadetuazon@gmail.com

1. Site plan: Attach a site plan illustrating the following:
- a. Dimensions of property & show North arrow
 - b. Location and height of proposed fence extension. Identify the proposed setback from the back of sidewalk
 - c. Location of existing fences, retaining walls or similar structures in the front yard and street side of the property.
 - d. Location of any off-site driveways or structures within twenty feet of the proposed extension request.
 - e. Location of any easements in the area of the fence extension request. Tree Planting & Maintenance Easement (TPME) and Public Utility Easement (PUE).
 - f. Location of any existing city street trees in the area of the fence extension request.

Attn: All persons, before performing any work within city rights-of-way, shall notify the city engineer of their desire to do so, designating particularly the locality where it is desired to do such work and the extent, nature and purpose of the same, and shall pay an encroachment permit fee, which shall be fixed by the city council from time to time, by resolution, and obtain an encroachment permit therefor. (Prior code § 17-25)

4. Property Assessor Parcel No. 052-400-066
 5. Zoning District: R3-M/PZ

Certification: The facts, maps and document submitted herewith are true, correct and accurate to the best of my knowledge. If the request is granted, I (we) agree that the provision of City and State Law will be complied with and the conditions, if any, upon which this permit is granted will be carefully observed.

R Diaz; R Tuazon R Diaz; R Tuazon
 Applicant's signature Date Owner's signature Date

APPLICATION WILL NOT BE ACCEPTED UNLESS SIGNED BY THE PROPERTY OWNER

RECEIVED

OCT 07 2021

City of Hollister Engineering Dept.

Filing Fee: \$47.50

GL ACCT# 101-1000-440-039

STAFF USE ONLY

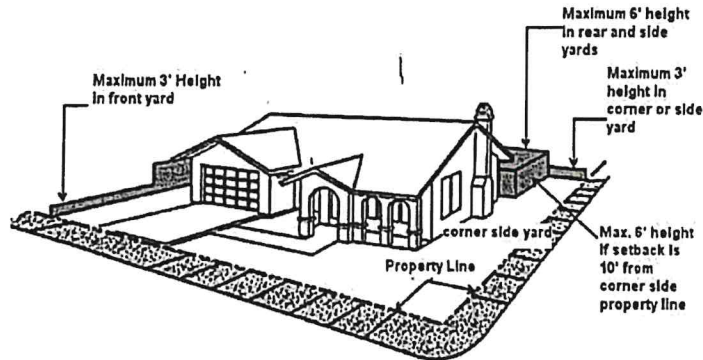
Fence Extension Approved by: [Signature] Date: 10/13/21

Application No: 21-005 \$47.50 fee Receipt No: _____

Note: If you plan to build a retaining wall, the height of the fence is measured from the side of the wall with the lowest grade – not the top of the wall.

WHAT FACTORS ARE REVIEWED WITH A FENCE EXTENSION?

1. Traffic safety (Typical requirements):
 - a. The fence height will be regulated to assure that the fence will not block the visibility of approaching pedestrians or vehicles at the corner intersection.
 - b. The fence height will be regulated to assure that your fence will not block visibility when your neighbor backs out of their driveway.
2. Easements
 - a. Many newer homes have a ten-foot public utility easement. The increase in height may be approved with a requirement for the fence to be at least ten feet from the back of the sidewalk.



LOCATION – WHERE MAY BE FENCE EXTENSION ALLOWED?

Residential zoning district:

- Front yard: Increase maximum fence height from three feet to four feet
- Street side/corner lot: Increase maximum fence height up to six feet

Commercial or Industrial zoning district:

- Fence height higher than six feet

Filing Fee: \$47.50

GLACCT#101-1000-440-039

CAN I BUILD MY FENCE WITH ANY MATERIAL I WANT? Depends. The following materials are prohibited: Sheet or corrugated iron, steel, aluminum, bamboo or asbestos, barbed wire, razor wire, electrified or similar type. However, an exception of ornamental fences may be allowed if approved by the Development Service Director.

HOW SHOULD YOU MEASURE THE FENCE HEIGHT?

- The fence height shall be measured as the vertical distance between the finished grade at the base of the fence and the top edge of the fence material.
- The height of the fence atop a wall shall be measured from the base of the wall.
- Where the ground elevation within six feet of the base of a fence differs from one side of the fence to the other (e.g. retaining wall or base of slope), the height shall be measured from the side with the lowest grade.

WHAT ARE THE REQUIREMENTS FOR A RETAINING WALL?

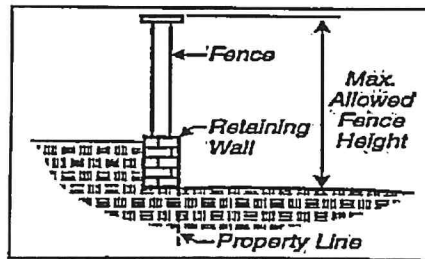
Location: Requires approval of Engineering Department

Materials: Wood prohibited

Height: No permit: two feet or less (<= 2 feet)

Administrative Engineering approval: over two feet (2+ feet)

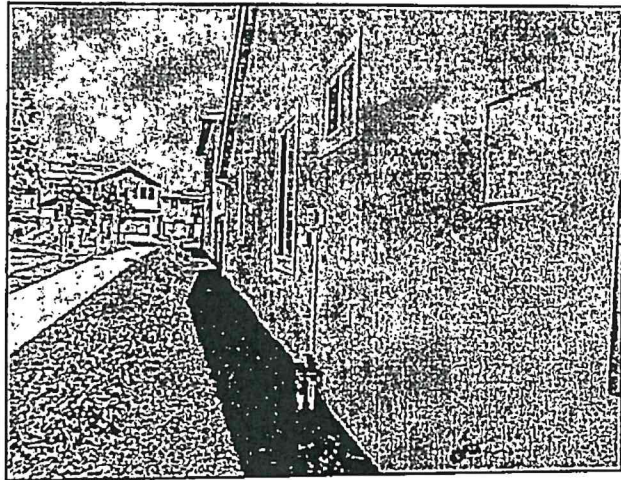
Embankments: Embankments to be retained that are 48 inches or more in height shall be benched so that no individual retaining wall exceeds a height of 36 inches and each bench is a minimum width of 36 inches.



198-1724920
File No. 212821680200313

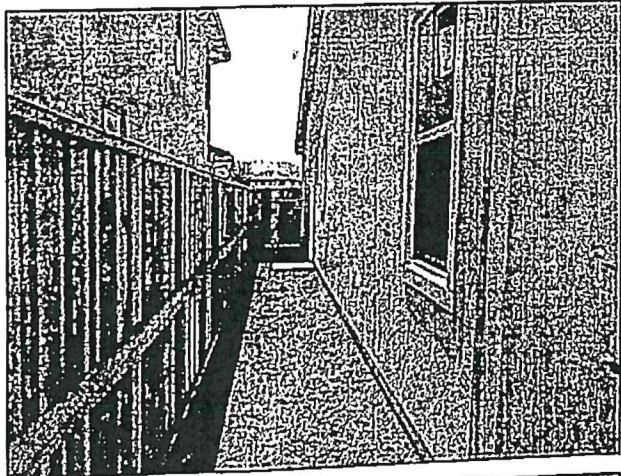
PHOTOGRAPH/ADDENDUM

Borrower or Owner RHEA JADE GINEZ TUAZON
Property Address 1480 WATERWHEEL LANE
City HOLLISTER County SAN BENITO State CA Zip Code 95023
Client MASON-McDUFFIE MORTGAGE CORP.

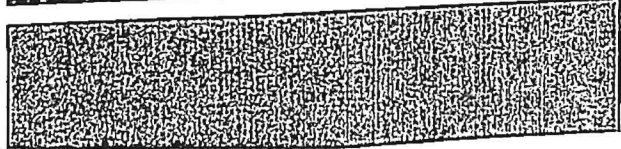


SUBJECT PROPERTY SIDE VIEW

*proposed
fence extension*



SUBJECT PROPERTY SIDE VIEW



SUBJECT PROPERTY STREET VIEW

**TRACT No. 341
MIRABELLA II
LOT 66 BUILDING PLAN M1B
HOLLISTER, CA
1460 WATERWHEEL LANE**

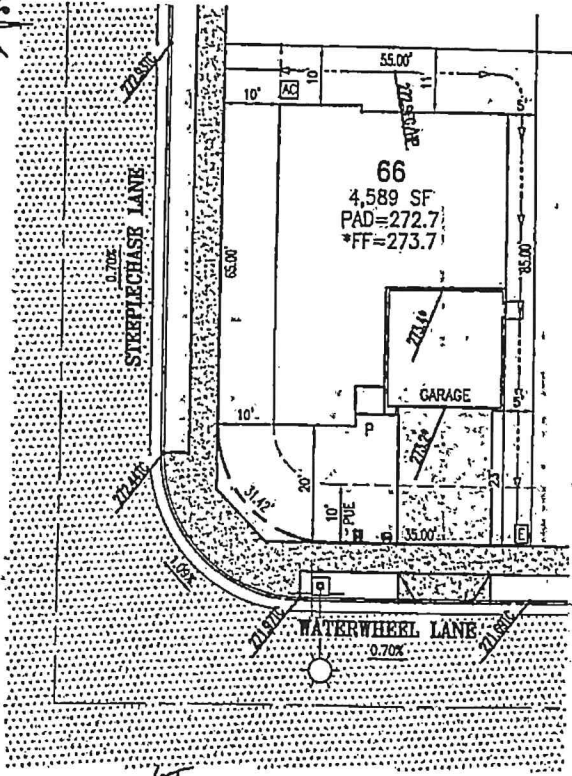
North Star
Engineering Group, Inc.
• CIVIL ENGINEERING • SURVEYING • PLANNING •
620 12th Street Modesto, CA 95354
(209) 524-3325 Phone (209) 524-3326 Fax

COPYRIGHT © 2021 NORTHSTAR ENGINEERING GROUP, INC.



NOTES

1. LOT NUMBER AND SQUARE FOOTAGE AS SHOWN ON MIRABELLA II TRACT No. 341 MAP.
2. ALL IMPROVEMENTS SHOWN ARE PER APPROVED IMPROVEMENT PLANS.
3. 15' FRONT SBL
15' PORCH SBL
18' GARAGE SBL
10' REAR SBL
10' STREET SIDE SBL
5' SIDE SBL
4. MAX HEIGHT = 30'
5. MAX LOT COVERAGE = 50%
6. PLAN M1B
FIRST FLOOR = 1,651 SF
SECOND FLOOR = N/A
GARAGE = 416 SF
COVERED ENTRY = 37 SF
CALIFORNIA ROOM = N/A
COVER AREA = 2,104 SF
LOT AREA = 4,589 SF
TOTAL COVERAGE = 45.8%



LEGEND

	RIGHT-OF-WAY (ROW)		0.8% (MIN) SWALE
	LOT LINE		WATER SERVICE
	10' PUE		SEWER SERVICE
	BUILDING ENVELOPE		CATCH BASIN
	WOOD FENCE		UTILITY BOX

*FINAL BUILDING STRUCTURAL SECTION, FINISH FLOOR ELEVATION AND GARAGE THRESHOLD ELEVATIONS ARE TO BE IN ACCORDANCE WITH THE ARCHITECT PLANS AND CONFIRMED BY THE CONTRACTOR.

PLOT DATE: 7/13/2021 2:00 PM
DRAWING: 1715-1000 1340 Board View 3d Submittal\CA\Plan\Lot 66 (Plan M1B).dwg

