



Staff Report

Date: October 13, 2016
To: Mayor Kathleen Hoertkorn and Council Members
From: Heidi Scoble, Planning Manager
Subject: Cohen Minor Exception at 10 Ames Avenue, File No. 2016-029

Recommendation

Town Council approval of Resolution No. 1971 approving a Minor Exception for the construction of a seven foot tall wood fence to be installed ¼ inch from her rear property line where a maximum of a six foot tall fence would be typically permitted in the R-1:B-20 Zoning District at 10 Ames Avenue, APN 073-181-08.

Project Summary

Owner:	Nina Cohen
Design Professional:	N/A
Location:	10 Ames Avenue
A.P. Number:	073-1810-08
Zoning:	R-1: B-20 (Single Family Residence, 20,000 sq. ft. min. lot size)
General Plan:	Low Density (1-3 units per acre)
Flood Zone:	Zone X (outside of high risk flood area)

Project Description

The applicant is requesting a Minor Exception for the construction of a seven foot tall wood fence to be installed ¼ inch from her rear property line where a maximum of a six foot tall fence would be typically permitted. The fence would be a picture frame board on board style fence made primarily of Con Heart Redwood with no stain. The bottom rails/baseboards of the fence would be a brown tone pressure treated fir. The fence would run approximately 100 feet in length and would be set in ¼ of an inch from the rear property line.

The project would not include any other improvements to the site and no new lot coverage, floor area, or impervious surfaces would be created as a result of the project.

The project would require a **Minor Exception pursuant to Ross Municipal Code (RMC) Section 18.45.020** to provide limited relief from the strict application of the development standards specified in this title to allow fences up to seven feet tall.

Background

The project site is located at the end of the Ames Avenue Cul-de-sac and abuts the properties known as 7 and 9 Southwood Avenue. The project site is relatively flat with an average slope of approximately 3 percent. A single family residence with a detached accessory structure was constructed at the project site in circa 1920. An existing fence is located along the rear property line between the project site and 7 and 9 Southwood Avenue.

Discussion

In 2013, the Town Council approved Ordinance 641 establishing Minor Exception regulations. The purpose of the regulations was to provide an administrative process for the Planning Manager to grant limited relief from the strict application of the development standards specified in this title to allow fences up to seven feet tall, small accessory structures, and mechanical equipment, where the improvements will not be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood. Specifically, the regulations were written to allow the Planning Manger the authority to grant the above exceptions provided the adjacent property owners would consent to the project. The regulations were also written to provide the Town Council the ability to intervene in the decision making process, subject to specific findings (Section 18.45.050 of the Ross Municipal Code) when adjacent property owners would not agree to consent to the project.

Prior to issuance of the Minor Exception application, the applicant was not able to receive written consent from the adjacent property owners at 7 and 9 Southwood Avenue and therefore submitted a Minor Exception application seeking Town Council action on the project. As stated in the applicant's letter describing the project, the applicant is seeking the construction of the seven foot tall privacy fence to replace an overgrown hedge that was removed by the applicant due to fire hazard concerns.

The adjacent property owners at 7 and 9 Southwood Avenue have stated concern regarding the removal of the previous hedge and the new construction of the seven foot tall fence. Both neighbors have indicated that they would like the applicant to plant landscape screening to soften the aesthetics of the fence.

Upon review of the project of the project, which included site visits at the project site and 7 and 9 Southwood Avenue, staff suggests the requisite Minor Exception findings can be supported as demonstrated in Exhibit A of the attached Resolution. Additionally, as the existing rear yard fences between the project site and the properties at 7 and 9 Southwood Avenue would remain, the new fence would have a nominal aesthetic impact to the respective properties. Specifically, the project fence would only be slightly taller than the existing fence at 9 Southwood Avenue and would create a nominal aesthetic change. The fence at 7 Southwood Avenue consists of a vintage metal fence. Staff suggest the project fence would enhance privacy screening for the applicant and the contiguous property owner at 7 Southwood Avenue.

Although staff is empathetic regarding the concerns of the applicants requesting landscaping to soften the appearance of the project fence, based on the built conditions of the existing rear property line fences associated with 7 and 9 Southwood Avenue relative to the project fence, it would be impractical to plant landscaping between the existing and proposed fences. Therefore, staff is recommending the project be approved as proposed.

Public Comment

Public Notices were mailed to property owners within 300 feet of the project site. The Town has received a public comment letter from Margaret Partlow, property owner at 7 Southwood Avenue and a letter from Linda Bergeron, property owner at 9 Southwood Avenue (see attachments).

Fiscal, resource and timeline impacts

If approved, the project would be subject to one-time fees for a building permit, which are based the reasonable expected cost of providing the associated services and facilities related to the development.

Alternative actions

- 1. Continue the project for modifications; or
- 2. Make findings to deny the application.

Environmental review (if applicable)

The project is determined to be categorically exempt from further environmental review pursuant to the California Environmental Quality Act (CEQA) Guideline Section 15303, *New Construction and Conversion of Small Structures*, because the project involves the new construction of a seven foot tall fence. No exception set forth in Section 15301.2 of the CEQA Guidelines applies to the project including, but not limited to, Subsection (a), which relates to impacts on environmental resources; (b), which relates to cumulative impacts; Subsection (c), which relates to unusual circumstances; or Subsection (f), which relates to historical resources.

Attachments

- 1. Resolution No. 1971
- 2. Project Description and Information
- 3. Project Photographs
- 4. Letter from Linda Bergeron, 9 Southwood Avenue
- 5. Letter from Margaret Partlow, 7 Southwood Avenue

ATTACHMENT 1

TOWN OF ROSS

RESOLUTION NO. 1971

A RESOLUTION OF THE TOWN OF ROSS APPROVING A MINOR EXCEPTION TO ALLOW FOR A SEVEN FOOT TALL FENCE AT 10 AMES AVENUE, 073-181-08

WHEREAS, Nina Cohen has submitted an application for a Minor Exception for the construction of a seven foot tall wood fence to be installed $\frac{1}{4}$ inch from her rear property line where a maximum of a six foot tall fence would be typically permitted in the R-1:B-20 Zoning District at 10 Ames Avenue, APN 073-181-08 (the "project"); and

WHEREAS, the project was determined to be categorically exempt from further environmental review pursuant to the California Environmental Quality Act (CEQA) Guideline Section 15303, *New Construction and Conversion of Small Structures*, because the project involves the new construction of a seven foot tall fence. No exception set forth in Section 15301.2 of the CEQA Guidelines applies to the project including, but not limited to, Subsection (a), which relates to impacts on environmental resources; (b), which relates to cumulative impacts; Subsection (c), which relates to unusual circumstances; or Subsection (f), which relates to historical resources; and

WHEREAS, on October 13, 2016, the Town Council held a duly noticed public hearing to consider the proposed project; and

WHEREAS, the Town Council has carefully reviewed and considered the staff reports, correspondence, and other information contained in the project file, and has received public comment; and

NOW, THEREFORE, BE IT RESOLVED the Town Council of the Town of Ross hereby incorporates the recitals above; makes the findings set forth in Exhibit "A", and approves a Minor Exception to allow the project, subject to the Conditions of Approval attached as Exhibit "B".

The foregoing resolution was duly and regularly adopted by the Ross Town Council at its regular meeting held on the 13th day of October 2016, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Elizabeth Robbins, Mayor Pro Tempore

ATTEST:

Linda Lopez, Town Clerk

EXHIBIT "A"
FINDINGS
10 AMES AVENUE
APN 073-181-08

A. Findings

I. Minor Exception (RMC § 18.45) - Approval of a Minor Exception to allow the new construction of a seven foot tall fence ¼ inch from the rear property line is approved based on the findings outlined in Ross Municipal Code Section 18.45.050 as described below:

- (a) If the site is in a Special Flood Hazard Area identified on the town Flood Insurance Rate Map, that the Town Floodplain Administrator has indicated that the project will comply with the requirements for a development permit under Chapter 15.36, Flood Damage Prevention Ordinance.**

The project is not located within a Special Flood Hazard Area, therefore this finding does not apply to the project.

- (b) The building official has indicated the project complies with building code requirements for separation, even if a building permit is not required.**

The California Building Code allows for the construction of fences along property lines up to seven feet tall in height before a building permit is required, therefore the project would comply with this finding.

- (c) If the structure is proposed in a required yard setback, that each property owner adjacent to the yard area where the structure or equipment will be located has consented in writing to the installation of the structure.**

The project would consist of the new construction of a seven foot tall fence to be located ¼ inch from the rear property line where a six foot tall would be allowed pursuant to the R-1:B20 zoning regulations. Although the owner of the property has received consent from the adjacent property owners, the Town Council finds the construction of the fence is appropriate to provide screening between the adjacent property owners, therefore the project would comply with this finding.

- (d) No more than two exceptions shall be allowed on any lot.**

The project would consist of the only Minor Exception permitted at the project site, therefore the project is consistent with this finding.

- (e) If the project involves mechanical equipment that generates noise, such as an air conditioner or generator, that operation of the equipment will comply with any decibel**

(db) recommendations, regulations, guidelines and policies in the Town of Ross General Plan and zoning code.

The project would not involve mechanical equipment, therefore this finding is not applicable.

(f) No practical alternative exists to the proposed exception. For this section, the town may consider factors such as site topography, existing landscaping, aesthetics and noise impacts.

The Town Council finds that based on the site surroundings, a seven foot tall fence would be appropriate for the site in order to provide screening between neighbors, therefore the project is consistent with this finding.

(g) There will be no detrimental impact (aesthetically or otherwise) to the site, adjacent properties or neighborhood.

The project would not be aesthetically or environmentally detrimental to the project site or the surrounding neighbors as the project would only consist of the construction of a seven foot tall fence to provide screening between adjacent properties.

EXHIBIT "B"
CONDITIONS OF APPROVAL
10 AMES AVENUE
APN 073-181-08

1. This approval authorizes a for a Minor Exception for the construction of a seven foot tall wood fence to be installed ¼ inch from her rear property line where a maximum of a six foot tall fence would be typically permitted in the R-1:B:20 Zoning District at 10 Ames Avenue.

2. No changes from the approved plans, before or after project final, including changes to the materials and material colors, shall be permitted without prior Town approval. Red-lined plans showing any proposed changes shall be submitted to the Town for review and approval prior to any change. The applicant is advised that changes made to the design during construction may delay the completion of the project and will not extend the permitted construction period.

3. The applicants and/or owners shall defend, indemnify, and hold the Town harmless along with the Town Council and Town boards, commissions, agents, officers, employees, and consultants from any claim, action, or proceeding ("action") against the Town, its boards, commissions, agents, officers, employees, and consultants attacking or seeking to set aside, declare void, or annul the approval(s) of the project or alleging any other liability or damages based upon, caused by, or related to the approval of the project. The Town shall promptly notify the applicants and/or owners of any action. The Town, in its sole discretion, may tender the defense of the action to the applicants and/or owners or the Town may defend the action with its attorneys with all attorney's fees and litigation costs incurred by the Town in either case paid for by the applicant and/or owners.

ATTACHMENT 2

This proposed project is for building a 7 foot fence on the boundary of the properties 9 Southwood Ave, 7 Southwood Ave and 10 Ames Ave, or if necessary on the 10 Ames Ave side of the boundary. The proposed fence would provide a necessary privacy screen for the three neighbors. Previously there was pittosporum as high as 14 ft. growing on the 10 Ames Ave side. We feel the minor modification of the height of this fence is necessary given the proximity and height of the buildings and pool on the 7 Southwood and 9 Southwood Ave sides to the 10 Ames Ave boundary (more details below). These structures are not within the current legal rear boundary setbacks (20 ft.) for the town of Ross. A property survey is currently being conducted to determine the precise location of the boundary line. This proposed fence would run alongside two older fences detailed below.

The current wooden fence on the boundary of 9 Southwood Ave measures approximately 50' wide and has irregular height, 5' tall on the left side and up to 6' 7" tall on the right side. Approximately three inches from the fence on the Southwood side of the fence is concrete hardscape, and approximately 3 feet from the fence is a pool. The Southwood land sits higher than the Ames property as a result of the neighbor building up the pool area. At the current fence height, windows and lights from all structures are visible to the 10 Ames Ave side, as well as people using the backyard area. The fence is approximately 45 years old and has significant rot and is tilting to one side by approximately 6 inches, and moves and flaps open with the wind. Two reputable Marin fence construction companies, companies, Above The Rest Fences & Decks and Clough Construction have evaluated the fence and have indicated that privacy fences of this type have a lifespan of 20-30 years maximum and this particular fence is "not worth saving". This fence is currently a side by side style fence, which means the boards are lined up side by side. Due to the customary shrinkage of wood over time, there are cracks between the boards which make both properties visible from either side. The noise from the pool area is extremely loud and clear (we can hear exact conversations). We were told that a well constructed fence that covers all gaps and is as tall as possible might help to reduce the noise between properties. There are four electrical boxes and electrical tubing attached to the fence and running the full length on the 10 Ames Ave side. We have met with the current owner twice to see if we could jointly build a solid new 7' fence to replace her current fence, but she has told us she wants to keep the fence for sentimental reasons.

The current wire and metal fence on the boundary of 7 Southwood Ave and 10 Ames Ave, is at least 35 years old, but probably much older (do not have records dating back further). It attaches to the wooden fence mentioned above and measures approximately 50' wide and up to 7' 4" tall. There are two Buildings close to the wire fence on the 7 Southwood Ave side; a greenhouse measuring approximately 12 ft. tall and 11 ½ ft. wide is 8 ft. from the fence, and another building approximately 12 ft. tall and 14 ft. wide is 7 ft. from the fence. (Please see attached pictures). Except for a piece of wood the 7 Southwood Ave owner has placed in the center of the wire fence, there is no privacy between the properties. We have spoken with the property owner and she has indicated that she would like to keep the metal fence.

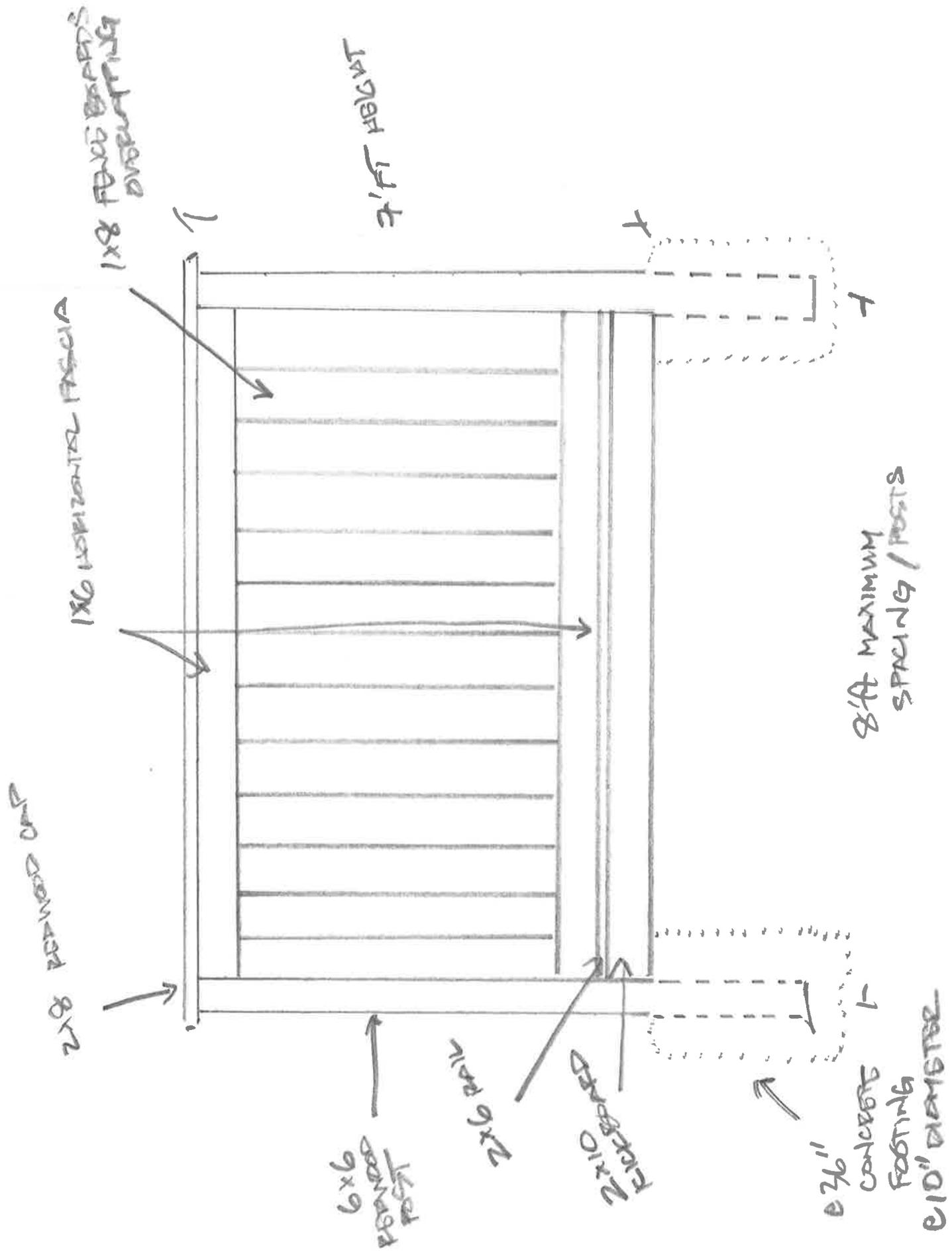
The proposed fence would be a picture frame board on board style fence made primarily of Con Heart Redwood (no stain) and it would run level to the existing grade. According to both companies that have bid this project the board on board style is necessary to prevent cracks or gaps in the coverage of the fence, and is one of the strongest construction types available. The fence would measure approximately 100 ft. in width and 7' in height. Quoting the detailed estimates provided, there would be eight 6 x 6 posts set into concrete, 2 x 6 top rails and 2 x 6 bottom rails/baseboards held vertically between the posts. There would be 1 x 8 fence boards lapped 1" onto each other screwed to the rails, 1 x 6 top and bottom trim attached to the opposite side of the rails and a 2 x 8 cap across the top of the fence. All materials are to be FSC Redwood Construction Heart Rough except the bottom rails/baseboards are to be Brown Tone Pressure Treated Fir.

The proposed installation would occur in August. Attached is a photo of a current fence running along Sir Francis Drake Blvd with a similar style.

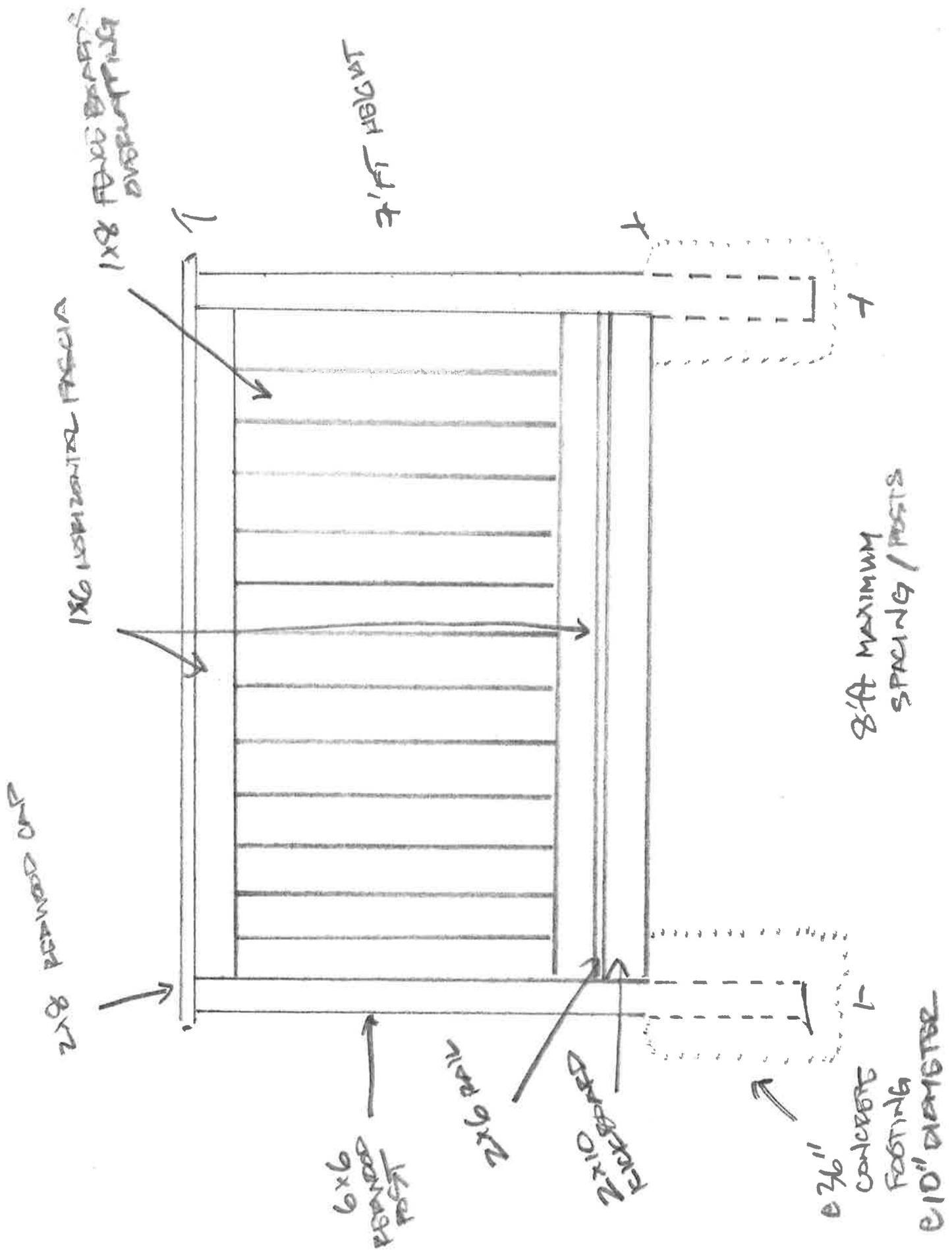
RECEIVED
Planning Department

JUN - 2 2016

Town of Ross



NINA CORREY 10 AMES, BOSS CA.



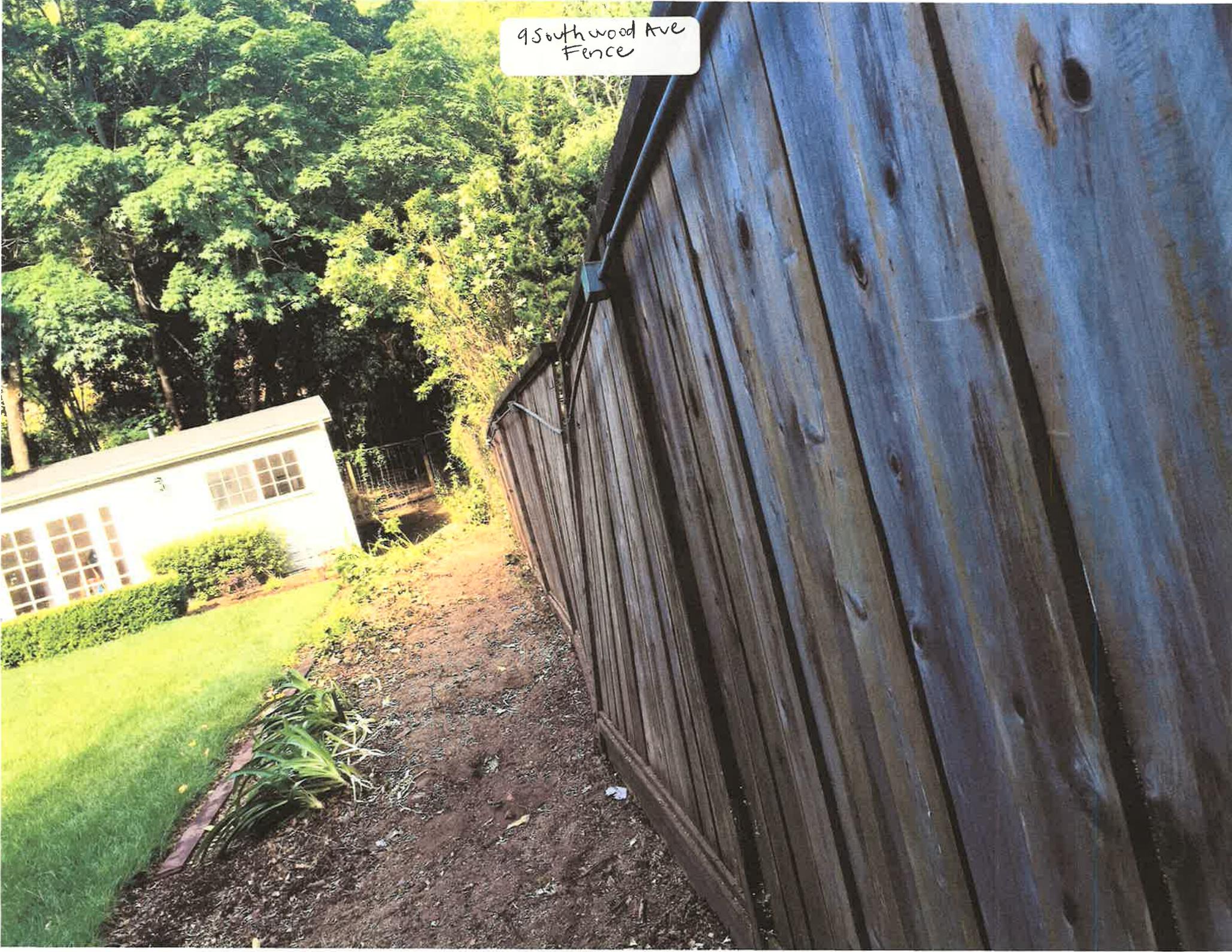
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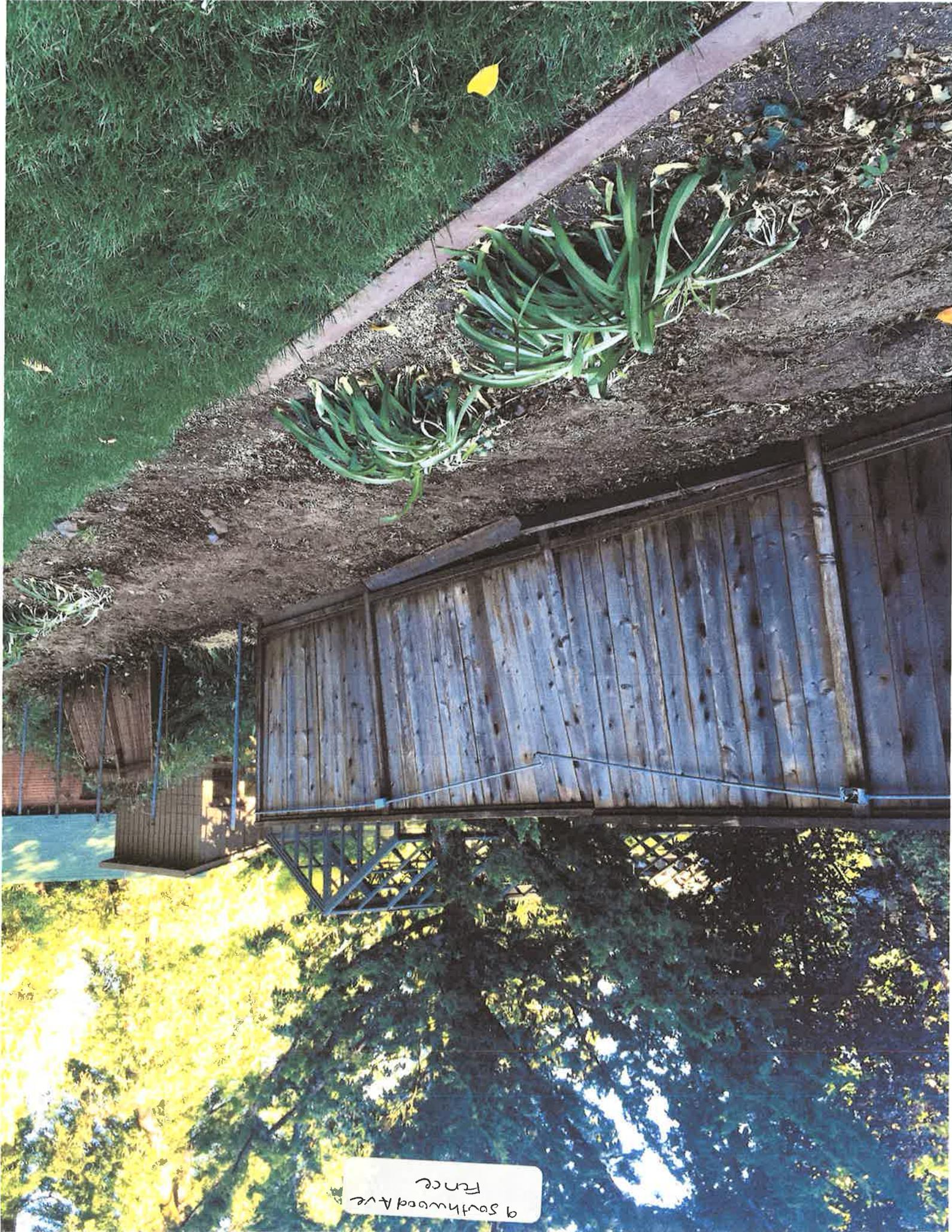
ATTACHMENT 3





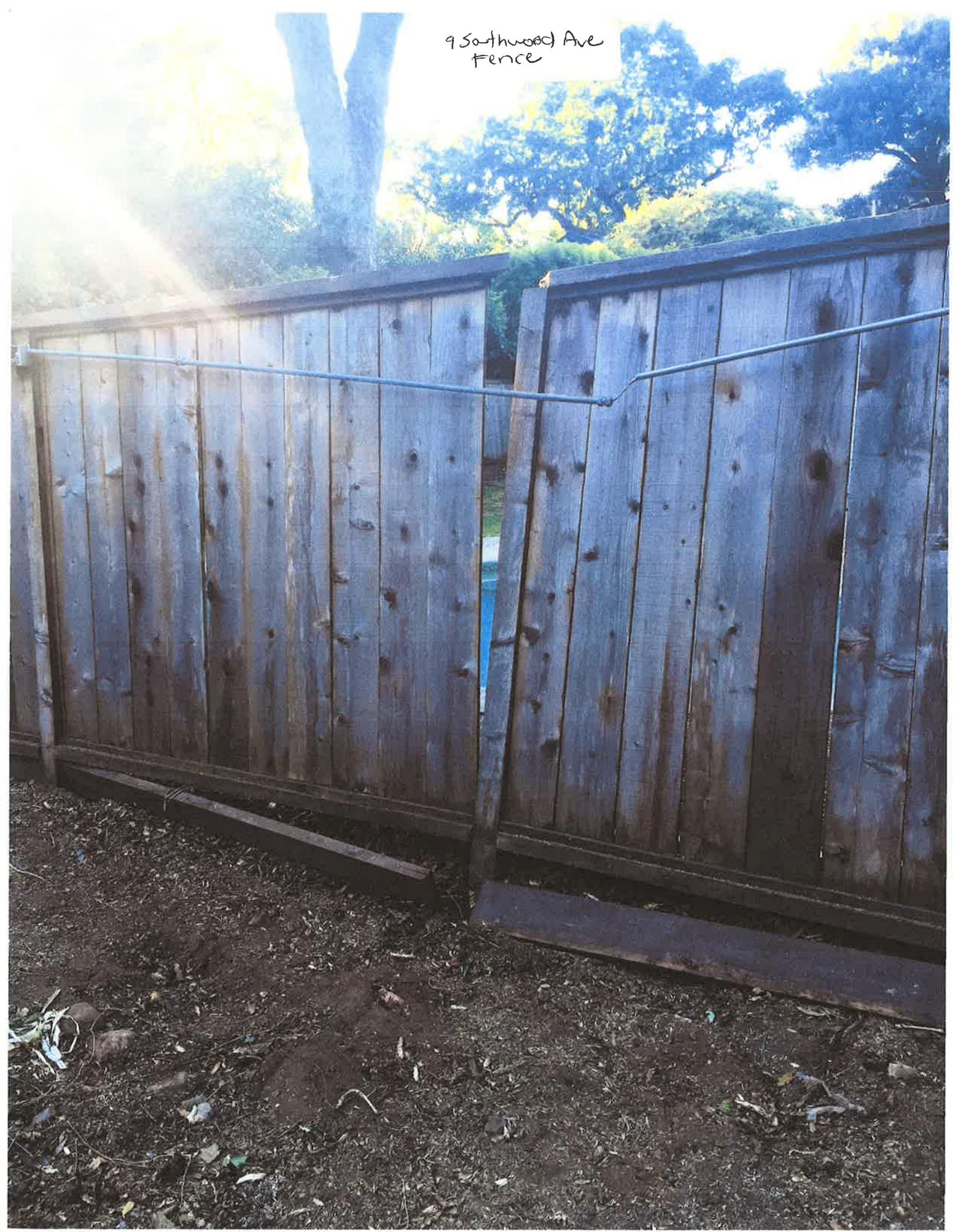
9 Southwood Ave
Fence





9 Southwood Ave
Fence

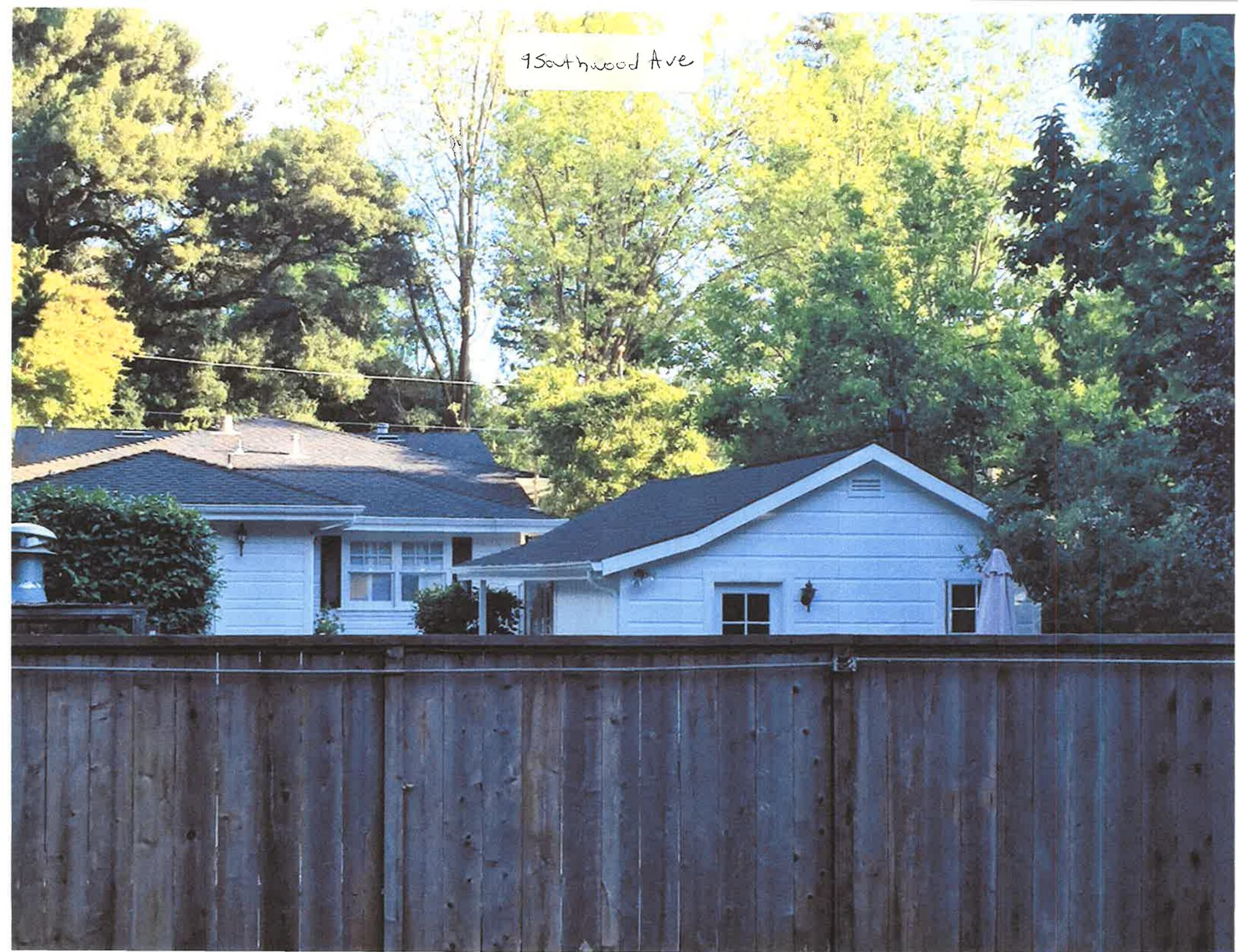
9 Southwood Ave
Fence

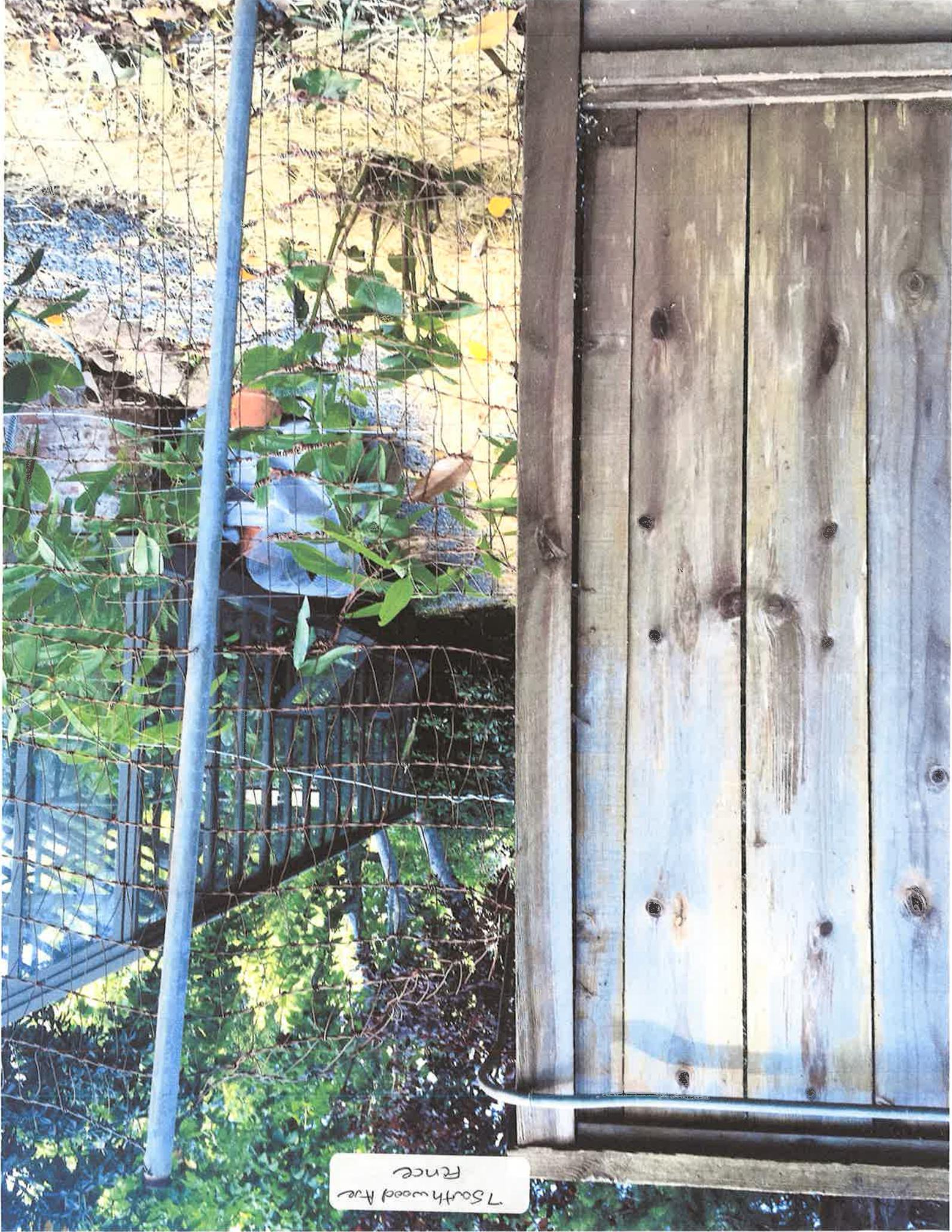


9 Southwood Ave
Fence



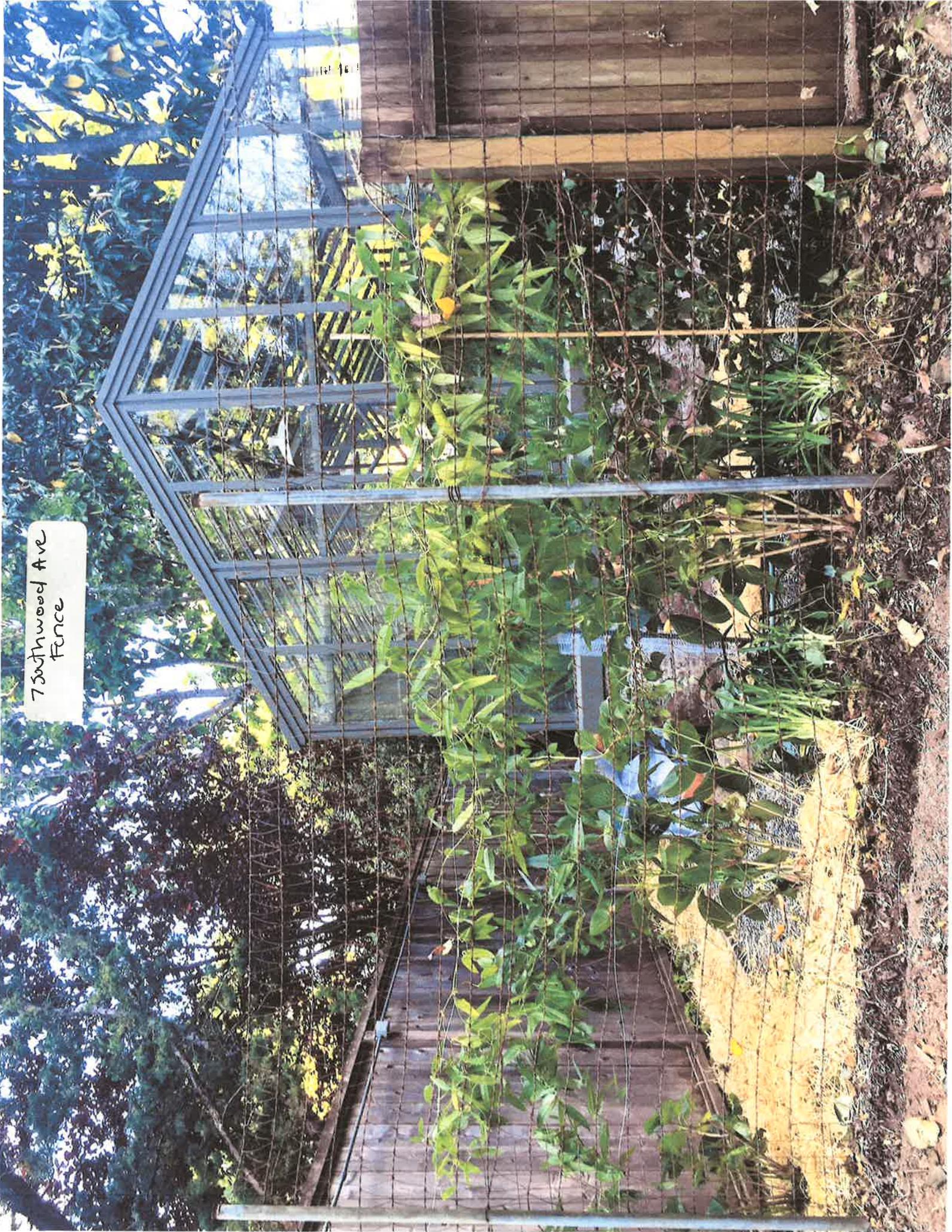
9 Southwood Ave



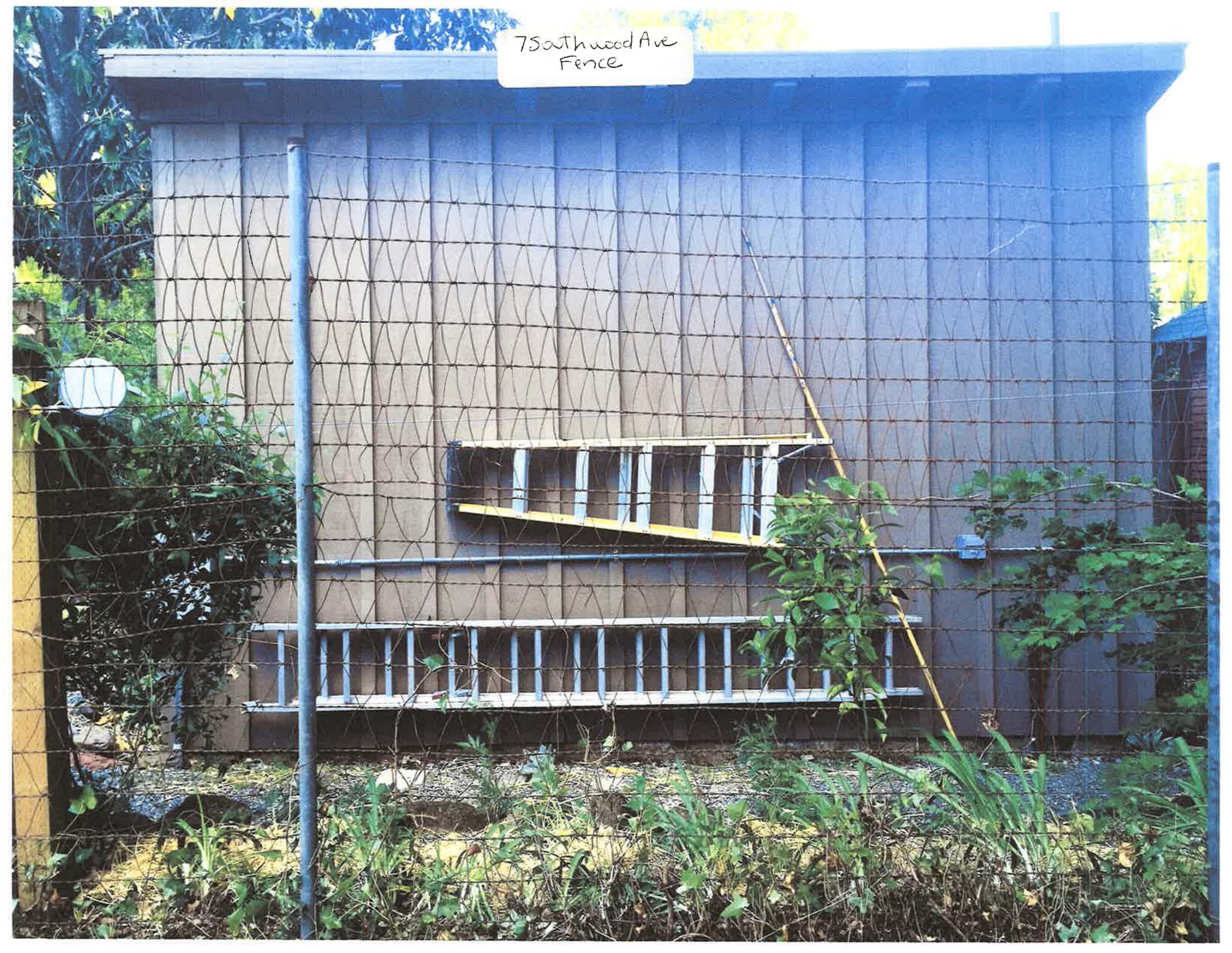


7 Southwood Ave
Fence

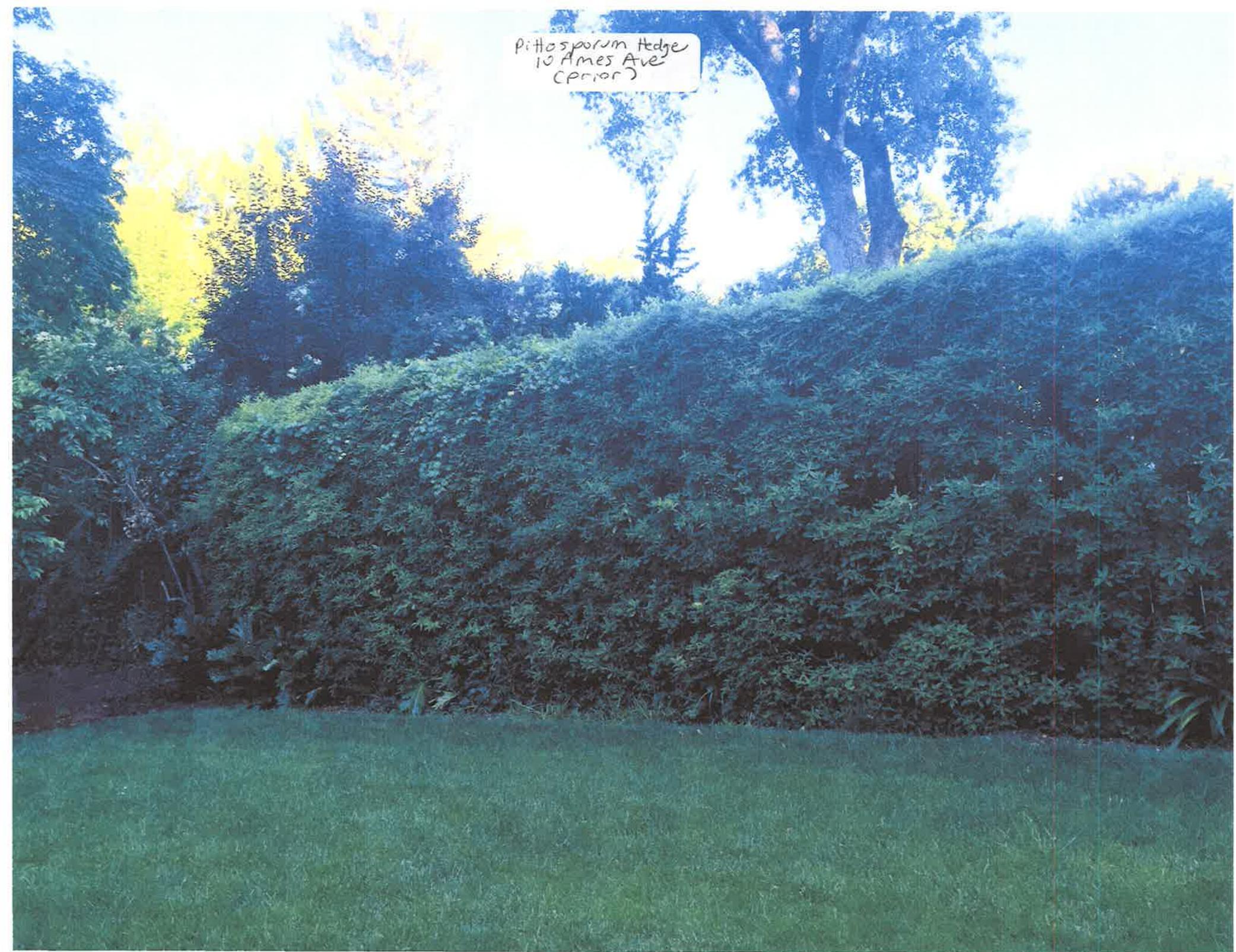
7 Southwood Ave
Fence



75 Southwood Ave
Fence



Pittosporum Hedge
10 Ames Ave
(prior)



Proposed Fence
Style



ATTACHMENT 4

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Planning Department

JUN - 7 2016

Town of Ross

May 24, 2016

Planning Department

City of Ross

Ross California

Reference: 10 Ames Application for a Seven Foot Fence

I am the owner of 9 Southwood Street, Ross, Ca, and my rear property line abuts 10 Ames. I have been advised by the owner of the referenced property that they have applied for a permit to build a 7 foot high fence where the current fence is located which I believe is on my property. I will not give 10 Ames permission to remove my fence, and I oppose this improvement. I am asking the Planning Department deny their request.

Sincerely,

LINDA BERGERON

Linda Bergeron

ATTACHMENT 5

DELIVERED BY HAND

September 28, 2016

Margaret Partlow
7 Southwood Avenue
Ross, CA 94957

Ms. Heidi Scoble
Planning Manager
Town of Ross
P O Box 320
Ross, CA 94957

RECEIVED
Planning Department

SEP 28 2016

Town of Ross

Dear Heidi,

I learned last week that the neighbors at 10 Ames (Cohen) will apply to the Town Council for approval of a 7-foot fence between our properties.

I object to a 7-foot fence: I have not seen a property plan for the fence, nor have I been given access to a property survey that may be used in this discussion. I have not been shown why a 7-foot fence is necessary.

However, what was necessary was the 50+ year-old screening hedge that was on the property line, or on my property, between our properties (7 Southwood and 10 Ames). The hedge was taller than the roof of the cottage at the back of my property, as shown in the attached photograph, effectively providing screening as well for 10 Ames.

This hedge was the essential screening element between our properties. The hedge had been in place for as long as my next-door neighbor, Bergeron, has lived at 9 Southwood - over 46 years. The hedge also provided essential screening and sound buffering for Bergeron's property.

Cohen removed this hedge May 18, with 2-days notice, over my very strong objections. These objections were made in person to you on May 17 with Cohen present.

The objections to the hedge removal were as follows:

- My neighbor (Bergeron at 9 Southwood) and I questioned whether the hedge was actually on the Cohen property.
- We remembered that the Town of Ross Conditions of Approval for the prior owners of 10 Ames stipulated that the hedge between 10 Ames and 9 Southwood should remain a certain height (see attached Town of Ross document) Although we have now learned that the Condition of Approval was not “in perpetuity,” it did show that the Town Council understood the importance of the hedge.
- We objected to the hedge removal because Cohen had no plans for replacing the privacy screening the hedge provided.
- We objected to the hedge removal in early summer because it was the wrong time for us to plant screening plants (too warm).
- Finally, Cohen left for the summer soon after the hedge was removed. Therefore, there seemed no practical reason that the removal had to take place at that time, rather than at a time more suitable for planting replacement screening, i.e., cooler weather.

If it would help, I invite anyone considering this issue to visit 7 Southwood.

I have included four photos showing the “before” and “after” hedge removal view of 10 Ames from my property.

Sincerely,



Margaret

Margaret Partlow
PO Box 125
7 Southwood Avenue
Ross 94957

Attachments:

Town of Ross document dated October 8, 2010
Before and after hedge removal photos (4)

To: Mayor and Ross Town Council
From: Elise Semonian, Senior Planner
Re: Matsik, 10 Ames Avenue, Demolition Permit, Variance and Design Review, File No 1794
Date: October 8, 2010

I. Project Summary

Owner: Bradley and Kristen Matsik
Location: 10 Ames Avenue
A.P. Number: 73-181-08
Zoning: R-1:B-20 (Single Family Residential, 20,000 sq. ft. min. lot size)
General Plan: Low Density (1-3 Units/Acre)
Flood Zone: Zone X (outside 1-percent annual chance floodplain)

II. Project description

Variance and design review for a significant remodel of the existing garage/shed structure at the northeast corner of the site. The structure would have a new roof with a maximum ridge height of 14.3 feet. The existing garage/shed structure is located within the required rear yard setback (5 feet existing, 10 feet required) and side yard setback (1 foot existing, 10 feet required).

Lot area	19,800 square feet
Effective lot area (less roadway easement)	17,980 square feet
Existing Floor Area Ratio	22.4%
Proposed Floor Area Ratio	19.2% (15% permitted)
Existing Lot Coverage	27.4%
Proposed Lot Coverage	25.9% (15% permitted)

The existing residence, carport and garage are nonconforming in setbacks.

III. Discussion

This project was considered by the Town Council at the September 2010 meeting. The modifications proposed to the residence were approved. The improvements to the garage were continued for proper noticing, as the changes proposed were more extensive than what was described in the last public notice. Story poles have been installed to reflect the modifications proposed to the garage, which will increase the height of the roof.

The applicants are proposing to rebuild the roof over the garage, which will result in a taller roof over the structure, which is located within the required yard setbacks. Staff believes the proposed garage plans will improve the appearance of the structure and will make the garage more attractive for vehicle parking.

IV. Recommendation, Findings, & Conditions

Staff recommends approval of the project based on the following findings and conditions:

Findings:

1. This project is categorically exempt from the requirement for the preparation of environmental documents under the California Environmental Quality Act (CEQA) under CEQA Guideline Sections 15303(e), new garage, and 15301, existing facilities.
2. There are special circumstances or conditions applicable to the land, building or use referred to in the application. The existing residence was sited in the center of the lot, limiting the developable area at the site. The proposed garage design maintains the historic garage location.
3. Granting of the application is necessary for the preservation and enjoyment of substantial property rights to allow the structure to be upgraded to modern building code requirements.
4. Granting of the application will not materially affect adversely the health or safety of persons residing or working in the neighborhood of the property of the applicant and will not be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood. The project maintains existing setbacks. The roof ridge of the garage is at a minimal height to accomplish the intended purpose.
5. The project is consistent with the purpose of the Design Review Chapter as outlined in RMC Section 18.41.010 and the design criteria of Section 18.41.100. The project preserves the mass and character of the structures. The project will improve the covered off street parking for residents.

Conditions of Approval for 10 Ames

These conditions shall be reproduced on the plans submitted for a building permit:

1. The project shall substantially comply with the plans approved by the Town Council, dated September 3, 2010, except as otherwise provided below.
2. The garage shall comply with building code requirements for fire safety.
3. Unless otherwise agreed to by the neighbors, the applicants shall maintain the hedge at the rear property line between 10 Ames and 9 Southwood at a height of approximately 15-18 feet tall, sufficient to provide screening between the two sites.
4. The applicant shall submit a construction management plan for the review and approval of the building and public works department prior to issuance of the building permit. The construction management plan shall specifically detail parking areas for construction vehicles, with the goal of maintaining neighbor access and protection of neighbor landscaping. The planning department shall provide the Ames Avenue neighbors with at least two weeks to review and comment on the plan before it is approved.
5. The intent of the demolition permit is to allow demolition of most interior walls of the structure, demolition of the roof and demolition of exterior walls as necessary for the installation of new windows and doors and to modify the roofline as proposed.
6. NO CHANGES FROM THE APPROVED PLANS SHALL BE PERMITTED WITHOUT PRIOR TOWN PLANNER APPROVAL. Red-lined plans showing any proposed changes shall be submitted

- to the Town Planner for review and approval prior to the issuance of any building permits or prior to any modification.
7. The new fireplaces shall be gas or EPA certified woodstoves that are Phase II certified or equivalent.
 8. A Revocable Encroachment Permit is required from the Public Works Department for all work within the right-of-way.
 9. The landscaping shown on the approved plans shall be installed prior to project final.
 10. This project shall comply with the following requirements of the Department of Public Safety: 1.) A street number must be posted {minimum four inches on contrasting background}; 2.) A 24 hour monitored alarm system is required; 3.) Sprinklers are required; and 4.) Remove and clear all dead or dying flammable materials per RMC Chapter 12.12.
 11. Any portable toilets shall be placed off of the street and out of public view. Project development shall comply with the requirements of the Ross Valley Sanitary District.
 12. This project is subject to the conditions of the Town of Ross Construction Completion Ordinance. If construction is not completed by the construction completion date provided for in that ordinance, the owner will be subject to automatic penalties with no further notice. As provided in Municipal Code Section 15.50.040 construction shall be complete upon the final performance of all construction work, including: exterior repairs and remodeling; total compliance with all conditions of application approval, including required landscaping; and the clearing and cleaning of all construction-related materials and debris from the site. Final inspection and written approval of the applicable work by Town Building, Planning and Fire Department staff shall mark the date of construction completion.
 13. **FAILURE TO SECURE REQUIRED BUILDING PERMITS AND/OR BEGIN CONSTRUCTION BY SEPTEMBER 3, 2011, WILL CAUSE THE APPROVAL TO LAPSE WITHOUT FURTHER NOTICE.**
 14. The project owners and contractors shall be responsible for maintaining all roadways and right-of-ways free of their construction-related debris. All construction debris, including dirt and mud, shall be cleaned and cleared immediately.
 15. The Town Council reserves the right to require additional landscape screening for up to three (3) years from project final.
 16. Any person engaging in business within the Town of Ross must first obtain a business license from the Town and pay the business license fee. Prior to the issuance of a building permit, the owner or general contractor shall submit a complete list of contractors, subcontractors, architects, engineers and any other people providing project services within the Town, including names, addresses and phone numbers. All such people shall file for a business license. A final list shall be submitted to the Town prior to project final.
 17. The applicants and/or owners shall defend, indemnify, and hold the Town harmless along with its boards, commissions, agents, officers, employees, and consultants from any claim, action, or proceeding against the Town, its boards, commissions, agents, officers, employees, and consultants attacking or seeking to set aside, declare void, or annul the approval(s) of the project or because of any claimed liability based upon or caused by the approval of the project. The Town shall promptly notify the applicants and/or owners of any such claim, action, or proceeding, tendering the defense to the applicants and/or owners. The Town shall assist in the defense; however, nothing contained in this condition shall prohibit the Town from participating in the defense of

any such claim, action, or proceeding so long as the Town agrees to bear its own attorney's fees and costs and participates in the defense in good faith.

October 6, 2016

Planning Department
City of Ross
Ross, CA 94957

Reference: 10 Ames Ave. - Application for a Seven Foot Fence

I am the Owner of 9 Southwood Street in Ross, and my rear property line abuts 10 Ames Ave. I have been advised the Owners of 10 Ames Ave. have applied for a permit to build a seven foot high fence at the rear of my property.

I oppose the installation of the fence as it not only creates an unsightly visual barrier at the back of the property above my pool, but provides no sound dampening or privacy screening.

Further, on October 8, 2010 regarding File No. 1794, approval was granted to 10 Ames Ave. permitting the Owners to build into the side and rear setbacks. A specific condition of this approval (item #3) was that there is the obligation to "maintain a hedge at the rear property line between 10 Ames Ave and 9 Southwood Ave. between 15 to 18 feet tall, sufficient to provide screening between the two sites." The hedge was installed and maintained until the current Owner of 10 Ames Ave. removed the hedge over my objections on May 17 – 19th, 2016, and in spite of the fact that a substantial portion of the hedge was on my property.

I request the City require the Owner of 10 Ames Ave. restore the hedge and not be granted a permit to install a seven foot high wall adjacent to my property.

Sincerely,

Linda Bergeron
9 Southwood Street
Ross, CA 94957









