

## RECOMMENDED FINDINGS

### Use Permit

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To approve the Use Permit, the Zoning Administrator must make one of the following two findings:

Goals and Policies that relate to this project are:

**Community Character Chapter Goal CC-2 – *Attractive Street Environment: Create an attractive street environment that will compliment private and public properties and be comfortable for residents and visitors.***

**Land Use and Transportation Chapter Goal IT-4 – *An Attractive Community for Residents and Business: In combination with the City’s community design sub-element, ensure that all areas of the city are attractive, and that the city’s image is enhanced by following policies and principles of good urban design while valued elements of the community fabric are preserved.***

**Land Use and Transportation Chapter Goal IT-6 – *Protected, Maintained, and Enhanced Residential Neighborhoods: Ensure that all residential areas of the city are maintained and that neighborhoods are protected and enhanced through urban design which strengthens and retains residential character.***

1. The proposed use attains the objectives and purposes of the General Plan of the City of Sunnyvale. (Finding Met).

Staff finds the use of the subject fence is consistent with the above finding. The Community Character and Land Use and Transportation Chapters of the General Plan contain goals and policies regarding creating an attractive street, neighborhood, and community as well as maintaining residential character. The lattice pattern and color of the subject fence matches with the door and window frames of the existing house by enhancing aesthetic appearance, providing design continuity, and strengthening the residential character.

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. (Finding Met).

The design of the subject fence is generally like other fences found in Sunnyvale. The construction style of the fence with alternate lattice and open vertical panels maintains open feel of the front yard. Existing mature Birch trees in the front yard and Magnolia tree within the public right-of-way mostly blocks the fence from the street frontage, ensuring that it is not intrusive from the street and from nearby residential properties.

**Variance**

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To approve the Variance, the following findings must be made:

1. Because of exceptional or extraordinary circumstances or conditions applicable to the property, or use, including size, shape, topography, location or surroundings, the strict application of the ordinance is found to deprive the property owner or privileges enjoyed by other properties in the vicinity and within the same zoning district. **[Finding met]**

The site has multiple matured trees that limits the development of additional floor area. The arbor structure (arbor) is also constructed within the dripline of the existing Birch trees in the front yard. Moving the arbor outside the front setback is neither feasible nor compliant with the tree preservation requirements stated in SMC Section 19.94. Also, per SMC Section 19.40, there is no setback requirements for accessory structures up to 8-foot-tall. The arbor is comparable to accessory structures in the neighborhood that are complaint with the zoning standards. However, the arbor is considered as home addition because, it does not meet the definition for accessory structures, and it is only six inches taller than the allowed accessory structures in the neighborhood. Staff is supportive of the variance because, strict application of the ordinance will impact the existing trees and deprive the property owner of privileges enjoyed by other properties in the vicinity and within the same zoning district.

2. The granting of the Variance will not be materially detrimental to the public welfare or injurious to the property, improvements or uses within the immediate vicinity and within the same zoning district. **[Finding met]**

The arbor was constructed in the front yard before 11 years. The trees in the front yard and in the public right-of-way mostly screens the arbor and prevents any visual impacts to the neighborhood. The arbor has not been detrimental to the neighbors and there are no records of neighborhood complaints. Therefore, the proposal would not result in an impact to the neighbors within the immediate vicinity and within the same zoning district.

3. Upon granting of the Variance, the intent and purpose of the ordinance will still be served, and the recipient of the Variance will not be granted special privileges not enjoyed by other surrounding property owners within the same zoning district. **[Finding met]**

Granting of the Variance would not constitute a special privilege considering existing trees within the site limiting space for development, matured trees located close to the arbor preventing relocation, and screening trees mostly blocking visibility from the street. Staff find that the intent and the purpose of the ordinance will still be served upon granting of the Variance because the arbor complies with the other zoning requirements. Staff is supportive of the Variance because the proposal will legally permit the resident to continue to enjoy the same benefit enjoyed by other neighbors within the neighborhood and within the same zoning district.