

**REPORT TO PLANNING COMMISSION****Hearing Date:** September 12, 2011**File Number:** 2011-7410

**SUBJECT:**           **2011-7410:** Appeal of a decision by the Director of Community Development approving a fence with conditions in the front yard. The property is located at **725 Gail Avenue** in an R-1 (Low Density Residential Development) Zoning District. (APNs: 211-09-064)

**REPORT IN BRIEF:**

**Existing Site Conditions**           Single Family Home

**Surrounding Land Uses**

North                   Single Family Home

South                   Single Family Home

East                    Single Family Home

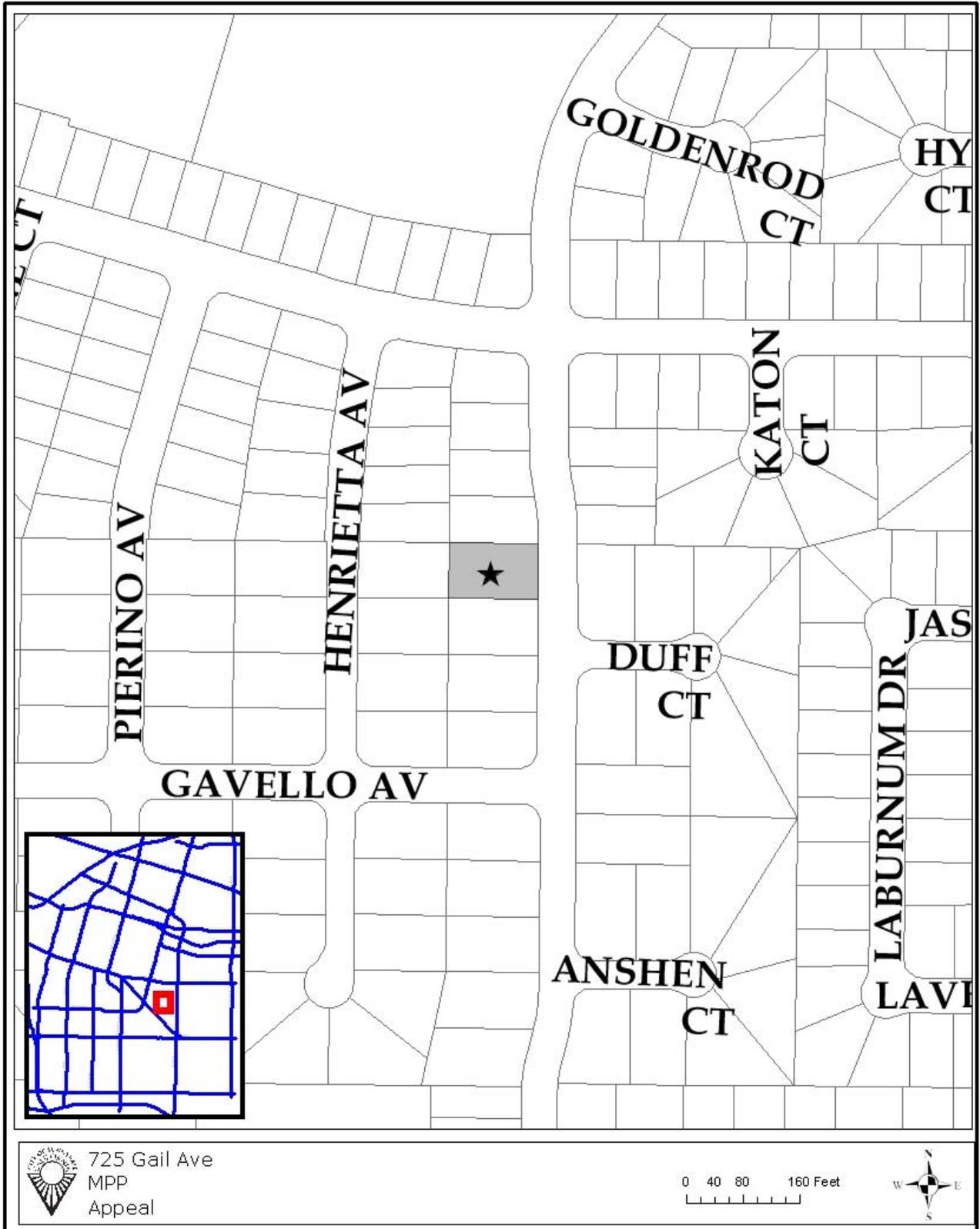
West                    Single Family Home

**Issues**                    Neighborhood compatibility

**Environmental Status**           A Class 1 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines.

**Staff Recommendation**           Deny the appeal and uphold the decision of the Director of Community Development to approve the Miscellaneous Plan Permit with conditions of approval.

**VICINITY MAP**



**PROJECT DATA TABLE**

	<b>EXISTING</b>	<b>PROPOSED</b>	<b>REQUIRED/ PERMITTED</b>
<b>General Plan</b>	Low Density Residential	Same	Low Density Residential
<b>Zoning District</b>	R-1	Same	R-1
<b>Lot Size (s.f.)</b>	10,019	Same	10,019

**BACKGROUND:**

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On July 15, 2011, the applicant received approval of a Miscellaneous Plan Permit (MPP) for a six-foot tall fence in the front yard of a single family home. The applicant requested the fence be placed at the front property line with no setback. Staff approved the MPP with a condition that the fence be setback a minimum of 15 feet from the front property line (Attachment C).

On July 18<sup>th</sup> the applicant appealed staff’s decision for the 15-foot setback.

**DISCUSSION:**

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**Applicant’s Appeal**

The applicant submitted a letter (Attachment D) stating they were appealing the 15-foot setback condition of approval. The appeal requests only a 10-foot setback from the front property line. The justification is based on a number of other fences in the neighborhood that have a setback of 10 feet or less from the property line. The applicant included photos and addresses summarizing the existing fences in the immediate neighborhood. Staff has annotated whether or not these fences were permitted.

<b>Address</b>	<b>Fence/setback</b>	<b>Permitted</b>
726 Gail Ave	6’ high / 20’ back	Not needed – Reducible front yard fence
731 Gail Ave	6’ high / 20’ back	Yes (2003)
737 Gail Ave	6’ high / 25’ back	No - Fence between face of home and street
743 Gail Ave	6’ high / 6’ back	No - Front yard fence
744 Gail Ave	6’ high / 9’ back	Not needed – Reducible front yard fence
802 Gail Ave	8’ high / 20’ back	No - Fence between face of home and street
786 Gavello	6’ high / 0’ setback	No - Reducible front yard fence
808 Gail Ave	6’ high / 5’ back	No - Fence between face of home and street
807 Gail Ave	6’ high / 5’ setback	No - Front yard fence
813 Gail Ave	5’ high / 0’ setback	No - Front yard fence
814 Gail Ave	8’ high / 0’ setback	Yes - Reducible front yard fence (2006)
826 Gail Ave	6’ high / 0’ setback	No - Reducible front yard fence

**Staff Discussion**

Through the MPP, staff approved the six-foot tall fence with a condition of approval that the fence be setback 15 feet from the property line. In making this decision, staff found a number of five to six-foot high fences in the 700-800 blocks of Gail Avenue, similar to the applicant's findings. A majority of these fences were located flush with the face of the garage or five feet out from the garage. Only a limited few were located less than 15 feet to the front property line. Of these few fences, none were permitted.

Staff does not believe the height and design of these fences comply with current development standards and guidelines. The fences create a strong visual barrier between the subject site and the street, contributing to a walled-in appearance. Staff believes the setback of the existing and subject fences are inappropriate for a front yard in this neighborhood.

In making this decision, staff found this property is located in the area with mid-century modern architecture, (commonly known as Gavello Glen), where front yard fences are common. Staff believes this City's *Eichler Design Guidelines* may be applied to this property rather than the Single Family Home Design Techniques. This was decided as a matter of compatibility with the surrounding mid-century modern homes. The *Eichler Design Guidelines* suggest that six-foot fences be located a minimum of 15 feet front the front property line.

**Environmental Review**

A Class 1 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines. Class 1 Categorical Exemptions includes minor alterations to facilities on private property.

**FISCAL IMPACT**

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

**PUBLIC CONTACT**

<b>Notice of Public Hearing</b>	<b>Staff Report</b>	<b>Agenda</b>
<ul style="list-style-type: none"><li>• Posted on the site</li><li>• 9 notices mailed to property owners and residents adjacent to the project site</li></ul>	<ul style="list-style-type: none"><li>• Posted on the City of Sunnyvale's Web site</li><li>• Provided at the Reference Section of the City of Sunnyvale's Public Library</li></ul>	<ul style="list-style-type: none"><li>• Posted on the City's official notice bulletin board</li><li>• Posted on the City of Sunnyvale's Web site</li></ul>

Staff has not received any contact from members of the public.

## **CONCLUSION**

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**Discussion:** Staff is recommending denial of the appeal and upholding the decision of the Community Development Director to approve the MPP with conditions.

**Findings and General Plan Goals:** Staff was able to make the required Findings based on the justifications for the Miscellaneous Plan Permit. Recommended Findings and General Plan Goals are located in Attachment A.

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

## **ALTERNATIVES**

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1. Deny the appeal and uphold the decision of the Director of Community Development to approve the Miscellaneous Plan Permit with conditions of approval.
2. Grant the appeal and approve the Miscellaneous Plan Permit, as proposed by the applicant.
3. Grant the appeal and approve the Miscellaneous Plan Permit with modified conditions

**RECOMMENDATION**

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Alternative 1. Deny the appeal and uphold the decision of the Director of Community Development to approve the Miscellaneous Plan Permit with conditions of approval.

Prepared By:

Steve Lynch  
Project Planner

Approved by:

Shaunn Mendrin  
Senior Planner

Attachments:

- A. Recommended Findings
- B. Recommended Conditions of Approval
- C. Letter Approving the MPP (July 5, 2011)
- D. Letter of Appeal from the Applicant

## RECOMMENDED FINDINGS

### **Miscellaneous Plan Permit**

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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.*

**Eichler Design Guidelines – Planning for Exterior Improvements** – *3.5.4 b). Fences that are 6 feet or more in height are required to be set back a minimum of 15 feet from the front property line.*

1. The permit will attain the objectives and purposes of the General Plan of the City of Sunnyvale. *[Finding made]*

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 action related to front yard fences as well as the Council adopted Eichler Design Guidelines.

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]*

As conditioned, the front yard fence is compatible to 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 and will be compatible with the Eichler Design Guidelines.

**RECOMMENDED  
CONDITIONS OF APPROVAL AND  
STANDARD DEVELOPMENT REQUIREMENTS  
SEPTEMBER 12, 2011**

Planning Application **2011-7410, 725 Gail Avenue**  
MPP to allow a six foot fence in the front yard area.

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.

**GC: THE FOLLOWING GENERAL CONDITIONS AND STANDARD DEVELOPMENT REQUIREMENTS SHALL APPLY TO THE APPROVED PROJECT.**

- GC-1. PERMIT EXPIRATION:  
The permit shall be null and void one 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-2. FENCE HEIGHT:  
The proposed six-foot fence must be located a minimum of 15 feet back from the front property line. [SDR] [PLANNING]
- GC-3. FENCE MEASUREMENT:  
The six-foot height maximum is measured from the top of the curb at the street, not the adjacent grade. [SDR] [PLANNING]



July 5, 2011

Yo Ju Kao  
725 Gail Avenue  
Sunnyvale, CA 94086

Subject: Miscellaneous Plan Permit – 725 Gail Ave., Sunnyvale, CA  
File No.: 2011-7410

Dear Ms. Kao:

The Department of Community Development has reviewed your application for a Miscellaneous Plan Permit (MPP) for a fence in the required front yard of the property located at 725 Gail Avenue. The Miscellaneous Plan Permit has been approved subject to the following condition of approval:

1. The proposed six-foot fence must be located a minimum of 15 feet back from the front property line.
2. The six-foot height maximum is measured from the top of the curb at the street, not the adjacent grade.

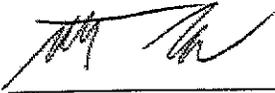
In making this decision, staff found a number of five to six-foot high fences in the 700-800 blocks of Gail Avenue. A majority of these fences were located flush with the face of the garage or five feet out from the garage. Only a limited few were located less than 15 feet to the front property line. In addition, this property is located in the area with mid-century modern architecture, (commonly known as Gavello Glen), where front yard fences are common. Staff believes this City's *Eichler Design Guidelines* may be applied to this property as a matter of compatibility with the surrounding mid-century modern homes. The *Eichler Design Guidelines* suggest that six-foot fences be located a minimum of 15 feet front the front property line. Staff's decision is based on the above information.

Staff's decision may be appealed within fifteen days (15) of the date of the decision. The deadline for appeal is 5:00 p.m. on July 20, 2011. The appeal

must be accompanied with a letter outlining the key issues and an appeal fee of \$142 and will be heard before the City's Planning Commission.

If you have any questions regarding this permit, please contact Steve Lynch at (408) 730-2723 or [slynch@ci.sunnyvale.ca.us](mailto:slynch@ci.sunnyvale.ca.us). Thank you for your cooperation.

Sincerely,



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Steve Lynch  
Senior Planner

PL  
New 6' fence

ATTACHMENT C  
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RECEIVED

JUN 13 2011

PLANNING DIVISION



APPROVED BY THE  
PLANNING DIVISION

DATE: 7/5/11

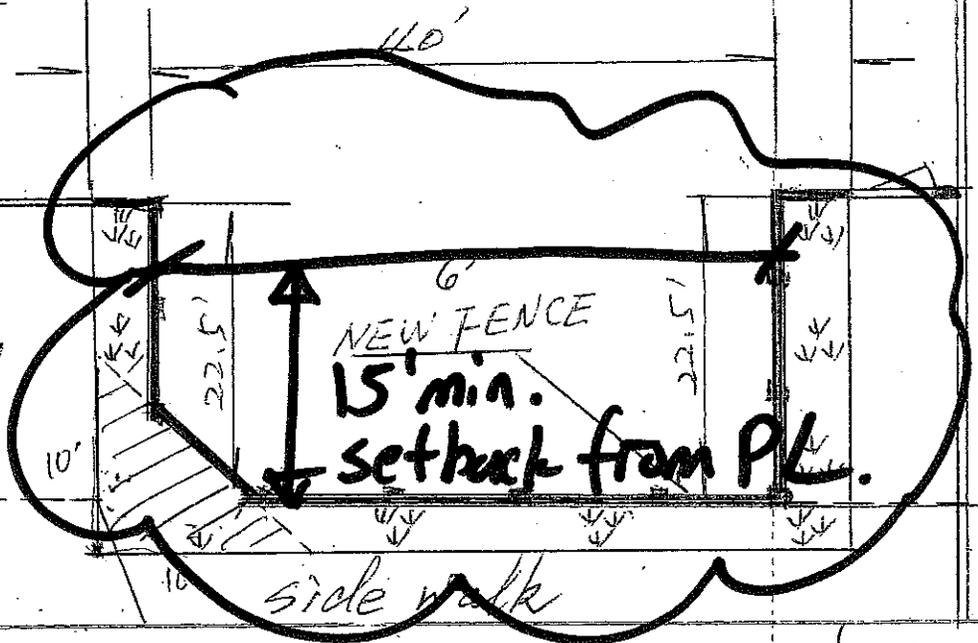
BY: [Signature]  
DIRECTOR OF COMMUNITY  
DEVELOPMENT

(E) FENCE 7'

725 GAIL AVE  
CA 94086

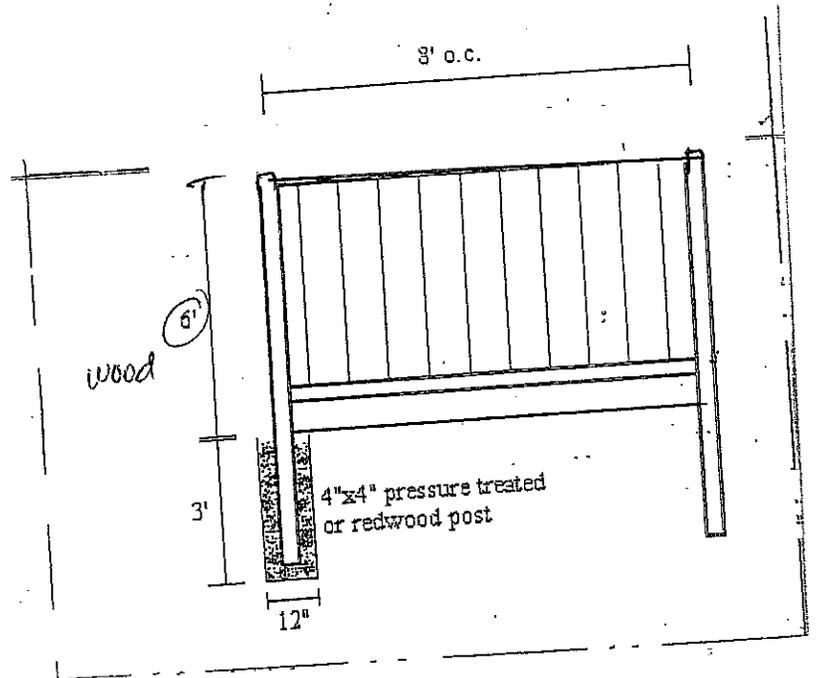
Garage

Drive way



street

FOC



Yoju Kao  
725 Gail Avenue  
Sunnyvale, CA 94086

July 18, 2011

Steve Lynch  
Senior Planner, City of Sunnyvale

Subject: Miscellaneous Plan Permit  
File No.: 2011-7410

Dear Mr. Lynch,

I received your letter regarding the permit to build a fence on my property. The permit is pending approval on condition of the location set back from the property line a minimum of 15 feet. This is in accordance with the City's *Eichler Design Guidelines*, however, I am the last house on the 700 block with a house that follows these guidelines. In addition, none of the houses of similar design to my own have fences set back 15 feet from the property line. Many of them, including the 800 block which also follows the *Eichler Design Guidelines*, have fences set back 10 or less feet from the property line. I would like to match my fence with my neighbor's fence which is set 21 feet from the curb, or 10 feet from the property line.

I tried to contact you by visiting your office last Monday, July 11, but you were out of the office. I will be appealing the decision outlined in your letter dated July 5, 2011 and will issue the \$142 appeal fee.

Sincerely,

Yoju Kao