



**CITY OF SUNNYVALE REPORT
PLANNING COMMISSION HEARING**

March 12, 2012

File Number: 2012-7008 **Permit Type:** Appeal of a Miscellaneous Plan Permit

Location: 879 S. Wolfe Road (near Iris Ave.) (211-13-056)

Applicant/Owner:

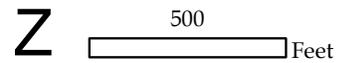
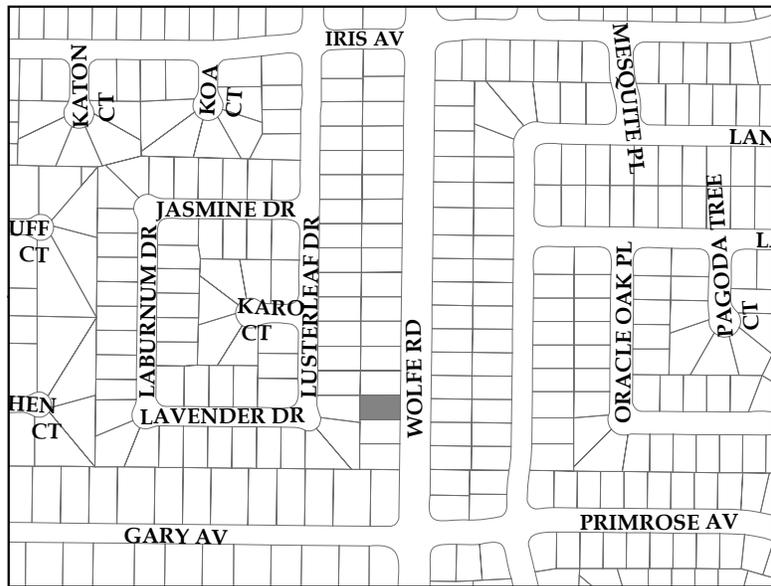
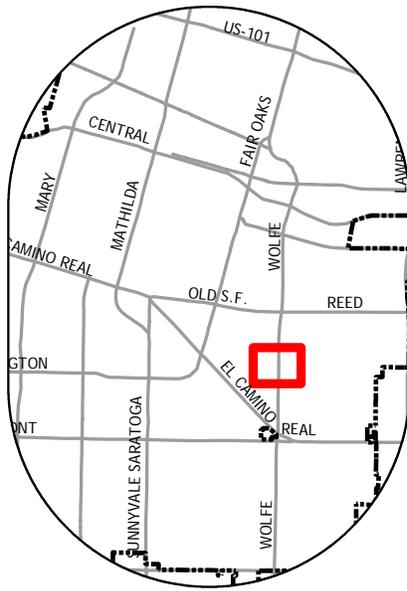
Staff Contact: Diana O'Dell, Senior Planner, (408) 730-7257

Project Description: Appeal of a decision by the Director of Community Development to deny a Miscellaneous Plan Permit for a fence taller than 4 ft. in the front yard.

Reason for Permit: A Miscellaneous Plan Permit is required for any fence taller than 4 ft. in the front yard but not exceeding 6 ft.

Issues: Neighborhood compatibility

Recommendation: Grant the Appeal and allow the fence subject to conditions: including that major repairs and reconstruction is subject to planning approval.



PROJECT DESCRIPTION

Existing Conditions:	Fence is existing
Zoning District:	R-0
Existing Fence Height:	5 ft. 9 inch.
Fence Setback:	8 ft. from sidewalk

Previous Planning Projects related to Subject Application: A Miscellaneous Plan Permit (MPP) was filed to obtain approval of a fence over 4 ft. high in the front yard. On January 25, 2012, staff (on behalf of the Director of Community Development) denied the MPP because of compatibility concerns with the fence guidelines in the Single Family Design Techniques (see Attachment D, Denial Letter)	Yes
Neighborhood Preservation Complaints: In late November 2011, a complaint was filed about the fence in the front yard. In response to that complaint, the applicant submitted a Miscellaneous Plan Permit application.	Yes
Deviations from Standard Zoning Requirements	No

Fence Design: The fence is stucco over steel framing with an arched open garden feature over the walkway. There are square cut-outs in the stucco fence (see Attachment C, Photos). The stucco matches the material of the house.

Per the applicant's letter, this fence, or a version of it, has been in place since the late 1960s (see Attachment B, Applicant Letter). Staff spoke with the applicant about lowering the height of the fence to comply with fence guidelines, however, the steel construction makes modifying the fence difficult.

The applicant is requesting the taller fence as it complements the style of the home, provides privacy, and acts as a safety restraint (see Attachment C, Letter, Photos and Declarations).

Landscaping: The applicant has placed decorative rock and terra cotta urns in front of the fence to further complement the general Southwest architectural style of the home and fence. There is no vegetative landscaping between the fence and the sidewalk. Landscaping is often used to soften the effect of solid and/or tall fences.

Typical Fence Heights in the Neighborhood: There is a variety of fence heights in the neighborhood, ranging from 3 ft. to 6 ft. Most homes along Wolfe Road do not have fencing in the front yard.

Neighborhood Compatibility: The home directly to the south of the project site has a wrought iron fence with brick base and columns; it is a similar height to this proposal and is located closer to the sidewalk. A Use Permit was granted in 1984 for that front yard fence.

There is a variety of fence materials used in the neighborhood, from wooden, masonry, or a combination of masonry and wrought iron fencing.

Public Contact: Notices were sent to property owners and residents within 300 feet of the subject site in addition to standard noticing practice. No letters were received. The applicant submitted two declarations from adjacent neighbors stating that the fence does not impair the orderly development of their properties.

Environmental Determination: A Categorical Exemption Class 3 (accessory structures) relieves this project from CEQA provisions.

FINDINGS

In order to approve the appeal, the following findings must be made:

1. The proposed use attains the objectives and purposes of the General Plan of the City of Sunnyvale.

There is one related policy in the **Single Family Home Design Techniques**.

- 3.11.G Fencing along front property lines and alongside property lines within front yard setback areas should not exceed three feet in height. *(Staff note: this guideline was established prior to zoning code amendments allowing fences 4 ft. in height).* Open wood fencing is the preferred solution along front property lines.

These fencing guidelines were put in place to discourage a “walled-off” look of residential homes from the street. With the exception of Bahl Patio homes and certain Eichler models, single-family neighborhoods in the City are characterized by an open appearance from the street. The City has historically discouraged tall front yard fences as negatively impacting the appearance of the neighborhood.

Although the fence does not does not have an open design there are extenuating circumstances as the property is located along an arterial, Wolfe Road and has existed for 18 years without complaints from the neighbors. With the condition that the area in front of the fence be landscaped and that the fence be allowed to remain only until reconstruction or major repairs are needed. **[Finding Met]**

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 the orderly development of, or the existing uses being made of, adjacent properties.

A taller fence closer to the street is not appropriate in all situations. This fence is architecturally compatible with the house and is setback about 10 feet from the sidewalk. As conditioned, future fencing (or major repairs) in the front yard are subject to new planning approvals. ***[Finding Met]***

ALTERNATIVES

1. Deny the Appeal of a Miscellaneous Plan Permit and uphold the decision of the Director of Community Development to deny the fence.
2. Grant the Appeal of a Miscellaneous Plan Permit as requested by the applicant with recommended Conditions GC-1 through GC-4 in Attachment A.
3. Grant the Appeal of a Miscellaneous Plan Permit with recommended Conditions GC-1 through GC-6 in Attachment A.
4. Grant the Appeal of a Miscellaneous Plan Permit with modified Conditions of Approval.

RECOMMENDATION

Alternative 3. Grant the Appeal of a Miscellaneous Plan Permit with recommended Conditions GC-1 through GC-6 in Attachment A.

Reviewed by:

Trudi Ryan
Planning Officer

Prepared By: Diana O'Dell, Senior Planner

Attachments:

- A. Conditions of Approval and Standard Requirements
- B. Site and Architectural Plans
- C. Letter and Photos from the Applicant with Declaration from Neighbors
- D. Staff Denial Letter of January 25, 2012

**RECOMMENDED
CONDITIONS OF APPROVAL AND
STANDARD DEVELOPMENT REQUIREMENTS
MARCH 12, 2012**

Planning Application **2012-7008**
879 S. Wolfe Road
Fence in the Front Yard

The following Conditions of Approval [COA] and Standard Development Requirements [SDR] apply to the project referenced above. The COAs are specific conditions applicable to the proposed project. The SDRs are items which are codified or adopted by resolution and have been included for ease of reference, they may not be appealed or changed. The COAs and SDRs are grouped under specific headings that relate to the timing of required compliance. Additional language within a condition may further define the timing of required compliance. Applicable mitigation measures are noted with "Mitigation Measure" and placed in the applicable phase of the project.

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 and Standard Development Requirements of this Permit:

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

- GC-1. CONFORMANCE WITH APPROVED PLANNING APPLICATION
All building permit drawings and subsequent construction and operation shall substantially conform with the approved planning application, including: drawings/plans, materials samples, building colors, and other items submitted as part of the approved application. Any proposed amendments to the approved plans or Conditions of Approval are subject to review and approval by the City. The Director of Community Development shall determine whether revisions are considered major or minor. Minor changes are subject to review and approval by the Director of Community Development. Major changes are subject to review at a public hearing. [COA] [PLANNING]

GC-2. USE EXPIRATION:

The approved use Permit for the use shall expire if the use is discontinued for a period of one year or more. [SDR] (PLANNING)

GC-3. PERMIT EXPIRATION:

The permit shall be null and void two 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-4. COMPLIANCE WITH APPROVAL:

Changes required as part of this planning application shall be completed within 60 days of the approval of this application. [COA] [PLANNING]

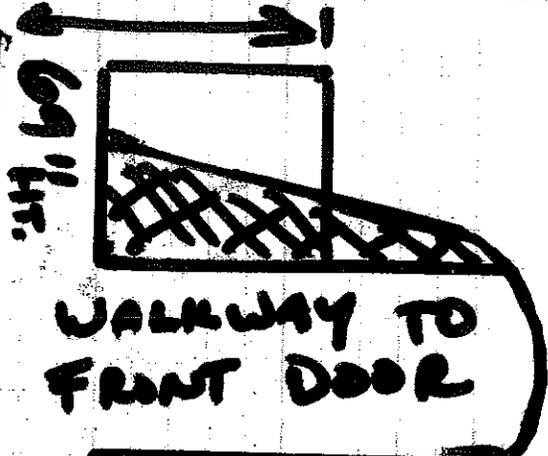
GC-5. IRRIGATION AND LANDSCAPING:

Irrigation and landscaping shall be added to the front yard between the sidewalk and the fence within 60 days of the approval of this application. [COA] [PLANNING]

GC-6. NEW PERMIT REQUIRED FOR FUTURE CONSTRUCTION:

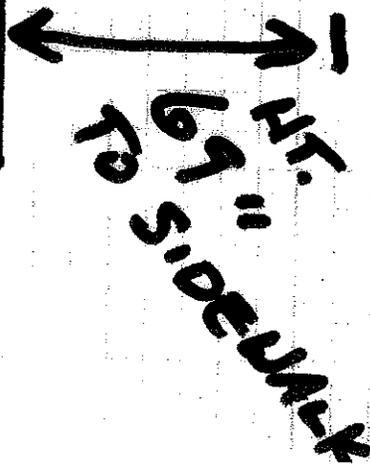
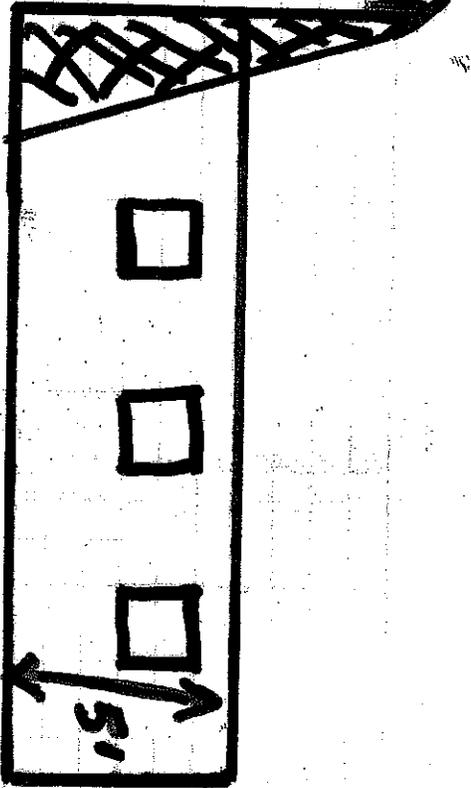
The front yard fence existing at the time of approval of this Miscellaneous Plan Permit may be retained on site. General maintenance of the fence is allowed, however any future reconstruction or major repairs to the front yard fence are subject to approval of a new planning permit. [COA] [PLANNING]

DRIVEWAY



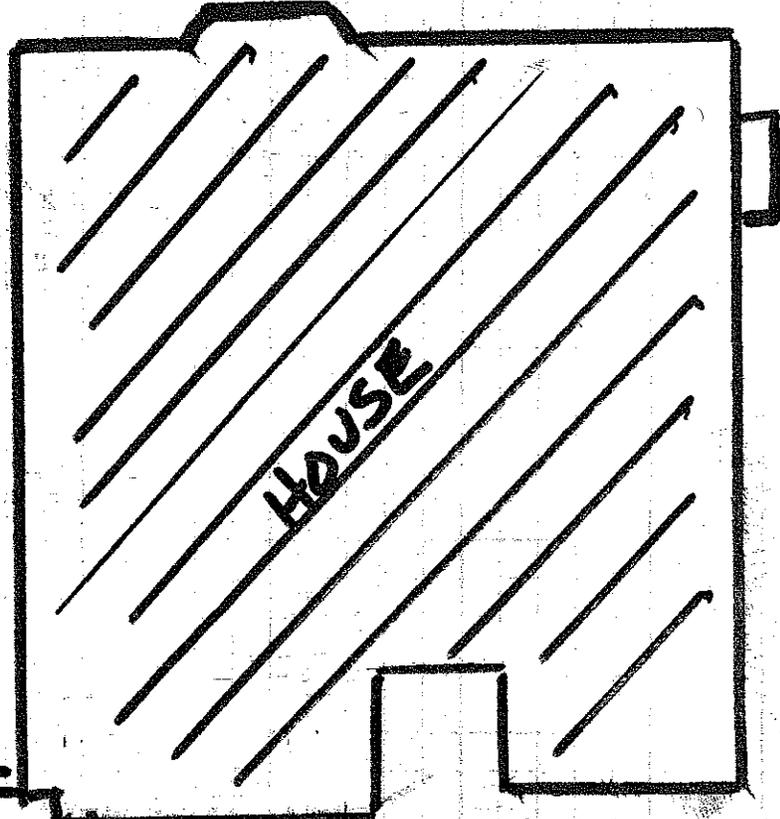
WALKWAY TO FRONT DOOR

SIDEWALK



879 WOLFE ROAD
SUNNYVALE 94086

FENCE



DRIVEWAY

HT 6'9" 8' HT 6'9"

SIDEWALK

STREET

Dear Ms. O'dell,

This is a letter of appeal for the denial of the MPP filed January 3, 2012 concerning the fence in our front yard at 879 Wolfe Road.

We are appealing because we feel that our fence falls within the guidelines set forth by the City of Sunnyvale. Moreover, the fence has been an integral part of the property for 45 years!

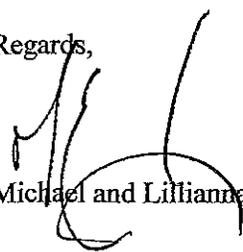
First, I'll start with a little background information. The fence was first constructed by my father-in-law in 1967. Whether there was a permit or not, we do not know. The fence was constructed with posts, wood framing, plywood shear, and stucco. It was 6 ½' high and a little over 7' high from the sidewalk. And, it featured an archway over the sidewalk.

After the death of my father-in-law, we took over the property and in 1994/95 we began and finished a major remodel of the house. During, the remodel construction, two sections of the fence had to be removed to allow construction equipment to allow reinforced concrete footings under the right corner of the garage. This, unfortunately, exposed the framing showing it to be quite extensively damaged by termites and rot. When the remodel construction was complete in 1995, we removed the remaining damaged fence and rebuilt it. This time the fence was constructed with one-piece concrete footing, steel framing, ½" plywood shear on the inside and outside, and stucco. It is not as tall as the original: at the front, it is 5' high and 5'9" high from the sidewalk. Closest to the house it is just over 4' high. And, it still features an archway over the sidewalk.

The following salient points address the reasons we feel a permit should be granted:

- 1) Obtain the objectives and purposes of the general plan of the City of Sunnyvale.
 - a) First and foremost, the fence nicely complements the architectural style of the house. The general appearance is aesthetically pleasing.
 - b) It is open. It does not obscure the front door which is clearly visible and accessible from the street/sidewalk. At the front, the fence has three 1' square openings, easy to see through from the street/sidewalk, adding to an open feeling.
 - c) In addition to having an open feeling, it provides a modicum of privacy. It allows the use of yard space as a place to relax, eat, soak up the morning sunshine, or on summer evenings enjoy the coolness of the front yard.
 - d) A few other pertinent points: the fence acts as a safety restraint for our dog (a larger breed) and mother-in-law (alzheimer's); it provides a sound barrier from the high volume of traffic on Wolfe Road; and, it keeps garbage out the yard (from pedestrian and vehicle traffic).
 - e) And, finally, current city code does allow for fences 4' – 6' with an MPP. We feel this fence falls within that provision.
- 2) Ensure that the general appearance of proposed structures, or the uses to be made of the property to which the application refers, will not impair the orderly development of, or the existing uses made of the adjacent properties.
 - a) We have spoken with the owners of the adjacent properties. They agree that our fence does not impair or hinder uses of their property. (See attached declaration.)

Regards,


Michael and Lillian Earley

Declaration of Adjacent Property Owners

I, G H S of 883 Wolfe Road, attest that the general appearance and features of the front fence on 879 Wolfe Road does not impair the orderly development or the existing uses being made of my property

Signed: [Signature]

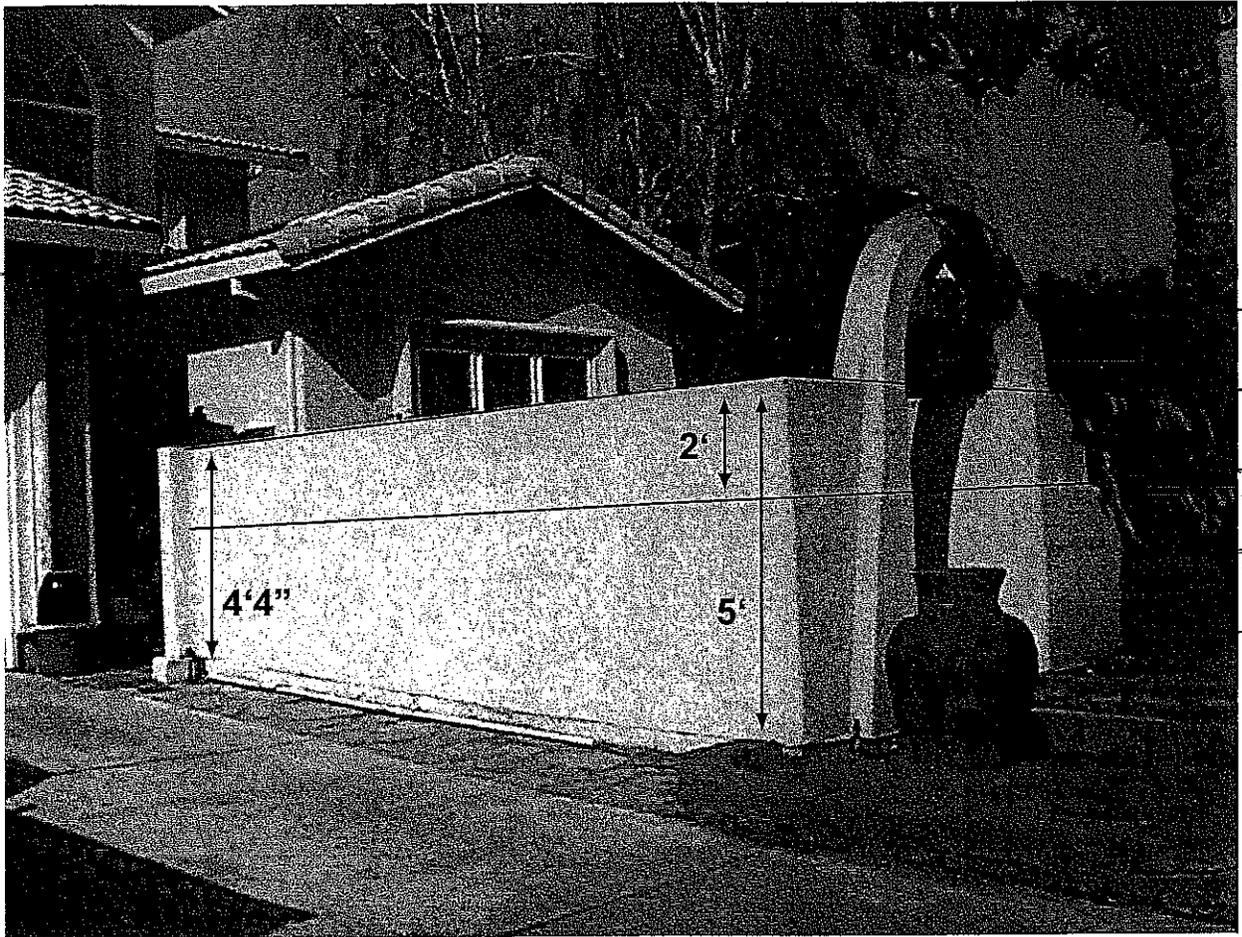
Date: 2-6-12

I, Feder Gad of 875 Wolfe Road, attest that the general appearance and features of the front fence on 879 Wolfe Road does not impair the orderly development or the existing uses being made of my property

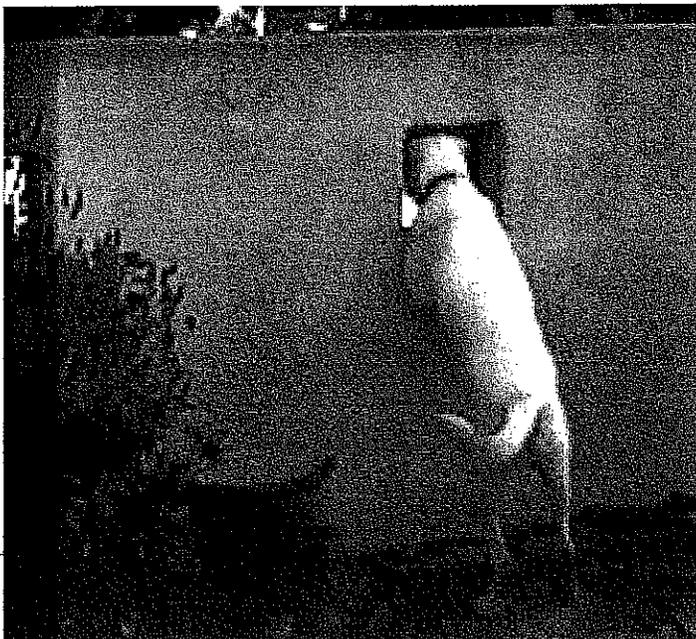
Signed: [Signature]

Date: 2/8/2012

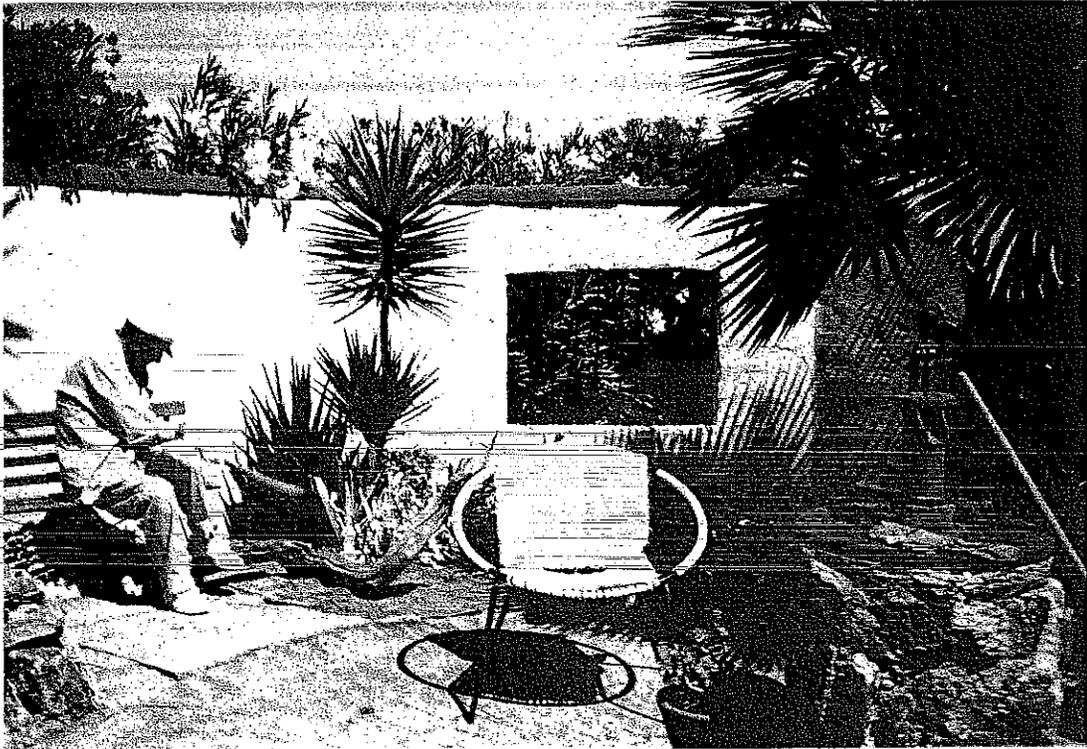
879 S. Wolfe Road - Fence Lowered to 4' Ht. From Sidewalk



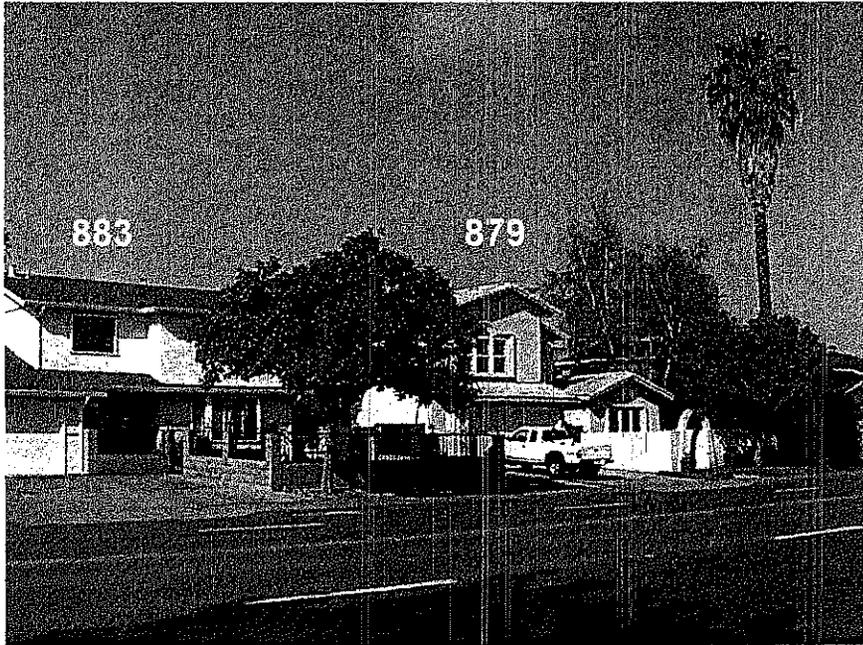
879 S. Wolfe Road - Fence Provides Safety Restraint



879 S. Wolfe Road - Fence 1967 - 1965



879 S. Wolfe Road - Front Views w/ Adjacent Homes



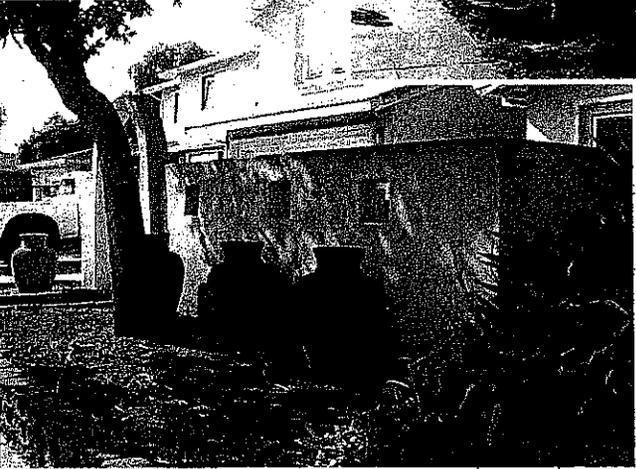
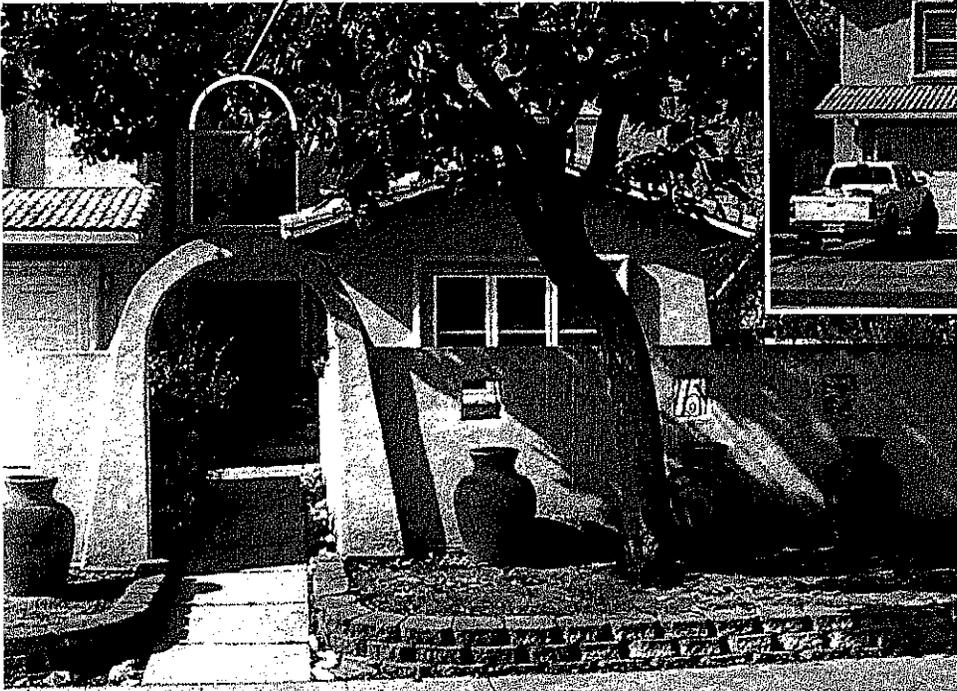
8 for 4

879 S. Wolfe Road - Homes Across the Street



879 S. Wolfe Road - Front Views

Window w/ arch
Complementary w/ wall arch



8 of 8



January 25, 2012

Michael and Lillianna Earley
879 Wolfe Road
Sunnyvale, CA 94087

Dear Mr. and Mrs. Earley:

The Department of Community Development has reviewed the application for a Miscellaneous Plan Permit (MPP) for an existing 5 ft. 9 in. tall fence in the front yard of the property located at 879 S. Wolfe Road. The MPP has been denied since the following MPP Findings could not be made:

- (1) Attain the objectives and purposes of the general plan of the city of Sunnyvale;
or
- (2) Ensure that the general appearance of proposed structures, or the uses to be made of the property to which the application refers, will not impair the orderly development of, or the existing uses being made of, adjacent properties.

The current City Code allows 4 ft. tall fences as a matter of right in front yards. Design guidelines for single-family homes discourage solid fences taller than this minimum allowed height in the front yard (Design Techniques 3.11.G). Staff has only been approving fences over 4 ft. that are located in the reducible front yard on a corner lot or are located on a property with an unusual circumstance or constraint.

On a site visit, I saw that your next-door neighbor has a fence with a similar height and location constructed of masonry and wrought iron. This fence was approved in the late 1980s with a Use Permit. The design guidelines are stricter now than they were in the 1980's. There is also a neighbor down the street with an unpermitted fence above 4 ft. in the front yard. This neighbor is undergoing a similar process with Neighborhood Preservation at this time.

I understand that this fence has been there for some time. However, we have to consider your project as a "new" fence. There are no records of any building or planning permits for the fence.

I regret the inconvenience this will cause; however, staff cannot approve the fence as it stands. Please remember that the City's Municipal Code allows a 4-ft. high fence in the front yard without a permit. If you can lower your existing fence to a 4 ft. height within the front yard, no further permits are required. The arched entry may remain, as it is considered an "open garden feature" as per the code and is allowed up to 8 feet in height.

Thursday

If you do not wish to lower the fence height, you may appeal this decision to the Planning Commission within 15 days of the date of this letter. The deadline for appeal is ~~Friday~~, February 9, 2012 at 5:00 p.m. The appeal must include a letter outlining the key issues and an appeal fee of \$131.00.

If you have any questions regarding this decision, please contact me at (408) 730-7257 or dodell@ci.sunnyvale.ca.us.

Sincerely,

Diana O'Dell

Diana O'Dell
Senior Planner

CC: Chris Koebel, Neighborhood Preservation

Spoke with applicant

Mon, Feb 6

he will appeal

on Th Feb 9