

Council Meeting of  
January 8, 2008

Honorable Mayor and Members  
of the City Council  
City Hall  
Torrance California

**PUBLIC HEARING**

Members of the Council:

**SUBJECT: Community Development - City Council consideration of an appeal of a Planning Commission approval of a Waiver to allow a six-foot fence within 10 feet from the front property line on property located within the Hillside Overlay District of the R-1 Zone.**

**WAV07-00016: Victor Otten, Trutanich-Michel, LLP**

**Expenditure: None**

**RECOMMENDATION**

Recommendation of the Planning Commission and the Community Development Director that the City Council deny the appeal and take the following action on property located within the Hillside Overlay District of the R-1 Zone:

1. Adopt a resolution approving WAV07-00016 to allow a six-foot fence within 10 feet from the front property line on property located within the Hillside Overlay District of the R-1 Zone.

**Funding:** Not applicable

**BACKGROUND**

The property is located on the north side of Via Linda Vista near the intersection of Via Linda Vista and Via El Chico. The property is 6,800 square feet in area and has a depth of 120 feet and a width of 60 feet in the front and 52 feet in the rear. The property is currently developed with a one-story residence and attached garage. There is currently a gate and a fence that have been built on City property which will be removed. On October 17<sup>th</sup>, 2007, the Planning Commission approved WAV07-00016 by a vote of 3-0 with absent Commissioners Faulk, Gibson, Uchima and Commissioner Horwich abstaining. On October 29<sup>th</sup>, 2007, a neighbor appealed the decision for reasons listed on the appeal form.

**Prior Hearings and Publications**

A Planning Commission Public Hearing was scheduled for October 17, 2007. On October 5, 2007, 42 notices were mailed to adjacent property owners and to the active homeowner associations in the City. On December 28, 2007, 42 notices of the City Council Public Hearing were mailed to adjacent property owners and to the active

homeowner associations in the City. A notice of public hearing was posted at the site and a legal advertisement was published in the newspaper on December 28, 2007.

### **Environmental Findings**

Setback Waivers are Categorically Exempted by the 2007 California Environmental Quality Act Guidelines, Article 19, Class 5, Section 15303 (e).

### **ANALYSIS**

The applicant is requesting a Waiver to allow a wrought iron fence and extensions to an existing block wall along portions of the southerly (front), easterly, and westerly property lines. The total fence height including the new extensions will be 6'-0". The purpose of the fence is to provide privacy, protect the outdoor recreation areas, and to protect a public official. The extensions will begin on the west property line 42'-0" from the south property line, continue as a 6'-0" high fence on the south property line along Via Linda Vista for 59'-0" and then as a 2'-0" high extension for 20'-0" from the south property line along the east property line.

The Torrance Municipal Code requires a six foot fence to be located no closer than 10 feet from the front property line. A Waiver is required because the resulting 6-foot fence would be located on the front and side property lines within 10 feet of the front property line. The resulting fence would be setback 13 feet from the curb. The applicant was required to provide facts to substantiate criteria by which the Planning Commission may grant this Waiver.

This Waiver request of the 6-foot fence, in the judgment of staff, does meet the hardship criteria for approving a Waiver. Unreasonable difficulty will result from the strict enforcement of this Division because setting the fence 10 feet from the front property line would not allow the property owner to park within the driveway; and the fence will provide protection for the public official. The fence and gate will be entirely on the subject property, therefore, staff recommends approval of the request as conditioned.

### **PLANNING COMMISSION RECOMMENDATION**

The Planning Commission reviewed the Waiver request on October 17, 2007. The legal counsel of the applicant voiced his agreement with the conditions of approval. A Commissioner noted for the record that the existing fence and gate built on City property will be removed. A resident representing the Hillside Residents Association voiced his opposition to the fence. He related his belief that this property owner, as a public official, was seeking preferential treatment and that law enforcement officers were backing his claims in an attempt to ingratiate themselves with someone they work with on a daily basis. He maintained that the overly high fence was isolating and detracts from the neighborhood and that approving the Waiver would set a bad precedent. A Commissioner inquired whether the applicant has received occupation related threats and the applicant's counsel confirmed. A Commissioner reported that

he observed other residences in the area with similar fences and related his belief that there is an obligation to protect public officials by whatever means possible. A motion to approve the project as conditioned was made and seconded and passed by a unanimous vote with one Commissioner abstaining and three Commissioners absent.

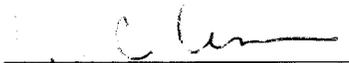
Respectfully submitted,

Jeffery W. Gibson  
Community Development Director

CONCUR:



Jeffery W. Gibson  
Community Development Director

By 

Gregg D. Lodan, AICP  
Planning Manager

NOTED:



LeRoy J. Jackson  
City Manager

- Attachments:
- A. Resolution
  - B. (Attachment B Removed)
  - C. Letter of Appeal
  - D. Planning Commission hearing Minutes Excerpt 10/17/07
  - E. Previous Planning Commission Staff Report and Supplemental
  - F. Proofs of Publication and Notification
  - G. Plot Plan and Elevations (Limited Distribution)
  - H. Mayor's Script (Limited Distribution)



**RESOLUTION NO. 2007**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TORRANCE, CALIFORNIA, APPROVING A WAIVER AS PROVIDED FOR IN DIVISION 9, CHAPTER 4, ARTICLE 2 OF THE TORRANCE MUNICIPAL CODE TO ALLOW A SIX FOOT FENCE WITHIN 10 FEET OF THE FRONT PROPERTY LINE, ON PROPERTY LOCATED IN THE HILLSIDE OVERLAY DISTRICT IN THE R-1 ZONE ON VIA LINDA VISTA (APN: 7514-014-030).

**WAV07-00016: VICTOR OTTEN, TRUTANICH-MICHEL, LLP**

**WHEREAS**, the Planning Commission of the City of Torrance conducted a public hearing on October 17, 2007, to consider an application for a Waiver filed by Victor Otten, Trutanich-Michel, LLP to allow a six foot fence within 10 feet of the front property line on property located within the Hillside Overlay District in the R-1 zone on Via Linda Vista; and

**WHEREAS**, the Planning Commission approved the Waiver request; and

**WHEREAS**, the City Council of the City of Torrance conducted a public hearing on January 8, 2007, to consider an appeal of a Planning Commission approval of a Waiver filed by Victor Otten, Trutanich-Michel, LLP to allow a six foot fence within 10 feet of the front property line on property located within the Hillside Overlay District in the R-1 zone on Via Linda Vista; and

**WHEREAS**, due and legal publication of notice was given to owners of property in the vicinity thereof and due and legal hearings have been held, all in accordance with the provisions of Division 9, Chapter 6, Article 2 of the Torrance Municipal Code; and

**WHEREAS**, Waivers are categorically exempted by the 2007 California Environmental Quality Act Guidelines, Article 19, Class 5, Section 15303 (e); and

**WHEREAS**, the City Council of the City of Torrance does hereby find and determine as follows:

- a) That the property's Assessor Parcel Number is 7514-014-030;
- b) That the property is located in Lot 31, Block G, Tract #10302;
- c) The project is in compliance with both the R-1 Zoning and Low-Density General Plan Designation for this site;
- d) Unreasonable difficulty will result from the strict enforcement of this Division because placing the fence 10 feet from the front property line would prevent a car parking in the driveway without encroaching into the public right of way and would also provide for the security of a public official;
- e) That the six-foot fence within 10 feet of the front yard setback will not be materially detrimental to the public welfare or to the property of other persons located in the

vicinity thereof because the fence will be located entirely on the subject property and will not be in the public right-of-way;

- f) That the six-foot high fence within 10 feet of the front property line will not substantially interfere with the orderly development of the City because the proposed improvements will maintain the land use as a single family residence complying with the Zone and General Plan designation;

**NOW, THEREFORE, BE IT RESOLVED** that WAV07-00016 filed by Victor Otten, Trutanich-Michel, LLP to allow a six foot high fence within 10 feet of the front property line on property located in the Hillside Overlay District in the R-1 Zone on Via Linda Vista (APN: 7514-014-030), is APPROVED subject to the following conditions:

1. That the use of the subject property for single family residential shall be subject to all conditions imposed in Waiver 07-00016 and any amendments thereto or modifications thereof as may be approved from time to time pursuant to Section 92.28.1 et seq. of the Torrance Municipal Code on file in the office of the Community Development Director of the City of Torrance; and further, that the said use shall be established for constructed and shall be maintained in conformance with such maps, plans, specifications, drawings, applications or other documents presented by the applicant to the Community Development Department and upon which the Planning Commission relied in granting approval;
2. That if this Waiver 07-00016 is not used within one year after granting of the permit, it shall expire and become null and void unless extended by the Community Development Director for an additional period as provided for in Section 92.27.1;

Introduced, approved and adopted this 8<sup>th</sup> day of January, 2008.

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MAYOR, of the City of Torrance

ATTEST:

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City Clerk of the City of Torrance

APPROVED AS TO FORM:

JOHN FELLOWS III, City Attorney

By \_\_\_\_\_

**CITY OF TORRANCE****INTEROFFICE COMMUNICATION****DATE: October 29, 2007**

**TO: Jeffrey Gibson, Community Development**

**FROM: City Clerk's Office**

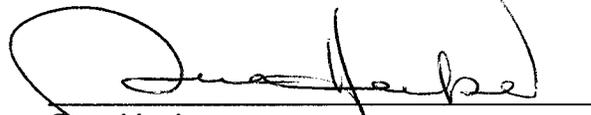
**SUBJECT: Appeal 2007-21**

Attached is Appeal 2007-21 received in this office on October 29, 2007 from Jim Harrigan, 436 Calle Mayor, Torrance, CA 90277. This appeal is of the Planning Commission's approval made on October 17, 2007 regarding WAV07-00016: VICTOR OTTEN, TRUTANICH-MICHEL, LLP located in the R-1 Zone on Via Linda Vista, Hollywood Riviera, CA citing the decision/waiver was preferential treatment to an ex-City Attorney. The Planning Commission did not afford the appellant the right to state his arguments and the commissioners used false information to reach their conclusions.

The appeal fee of \$160.00, paid by check, was accepted by the City Clerk.

**SECTION 11.5.3. PROCEDURE AFTER FILING.**

- a) Upon receipt of the notice of appeal, and the appeal fee, the City Clerk shall notify the concerned City officials, bodies or departments that an appeal has been filed and shall transmit a copy of the appeal documents to such officials, bodies or departments.
- b) The concerned City officials, bodies or departments shall prepare the necessary reports for the City Council, provide public notices, posting, mailing or advertising in the same manner as provided for the original hearing or decision making process, request the appeal be placed on the agenda for hearing before the City Council within thirty (30) days of receipt of the said notice of appeal, and notify the applicant in writing of the time, date and place of the hearing not less than five (5) days before the Council hearing.



Sue Herbers  
City Clerk

cc: City Council  
Building and Safety



CITY OF TORRANCE

RECEIVED

APPEAL FORM

2007 OCT 29 AM 9:20

AN APPEAL TO:

- City Council
- Planning Commission
- \_\_\_\_\_

RETURN TO:

CITY OF TORRANCE  
 CITY CLERK'S OFFICE  
 Office of the City Clerk  
 3031 Torrance Boulevard  
 Torrance CA 90509-2970  
 310/618-2870

RE: WAV07-00016: VICTOR OTTEN, \_\_\_\_\_  
 (Case Number and Name)

Address/Location of Subject Property VIA LINDA VISTA, HOLLYWOOD RIVERA  
 (If applicable)

Decision of:

- |   |   |
|---|---|
| <input type="checkbox"/> Administrative Hearing Board                           | <input type="checkbox"/> License Review Board           |
| <input type="checkbox"/> Airport Commission                                     | <input checked="" type="checkbox"/> Planning Commission |
| <input type="checkbox"/> Civil Service Commission                               | <input type="checkbox"/> Community Development Director |
| <input type="checkbox"/> Environmental Quality & Energy Conservation Commission | <input type="checkbox"/> Special Development Permit     |
|   | <input type="checkbox"/> Other _____                    |

Date of decision: OCTOBER 17, 2007    Appealing:  APPROVAL     DENIAL

Reason for Appeal: *Be as detailed as necessary. Additional information can be presented at the hearing. Attach pages as required with additional information and/or signatures.*

THE DECISION/WAIVER WAS PREFERENTIAL TREATMENT TO AN EX-CITY ATTORNEY. THE PLANNING COMMISSION DID NOT AFFORD THE APPELLANT THE RIGHT TO STATE HIS ARGUMENTS AND THE COMMISSIONERS USED FALSE INFORMATION TO REACH THEIR CONCLUSIONS.

Name of Appellant JIM HARRIGAN

Address of Appellant 432 CALE WAYOR, TORRANCE (90277 RB)

Telephone Number (310) 375-9678

Signature [Signature]

Appeal Fee paid \$ <u>160.00</u>	For office use only: Date <u>10/29/07</u>	Received by <u>[Signature]</u>
Notice to: Community Development Department: <input checked="" type="checkbox"/> Planning <input checked="" type="checkbox"/> Building & Safety <input checked="" type="checkbox"/> City Council <input type="checkbox"/> City Manager <input type="checkbox"/> City Attorney <input type="checkbox"/> Other Department(s) _____		

**EXCERPT OF MINUTES**

√ Minutes Approved  
 ~~Minutes Subject to Approval~~

**October 17, 2007**

**MINUTES OF A REGULAR MEETING OF  
 THE TORRANCE PLANNING COMMISSION**

**1. CALL TO ORDER**

The Torrance Planning Commission convened in a regular session at 6:02 p.m. on Wednesday, October 17, 2007, in the Council Chambers at Torrance City Hall.

**3. ROLL CALL**

Present: Commissioners Browning, Faulk\*, Gibson\*\*, Horwich, Weideman and Chairperson Busch.  
 \*arrived at 6:50 p.m.  
 \*\*arrived at 6:52 p.m.

Absent: Commissioner Uchima (excused).

Also Present: Planning Manager Lodan, Planning Associate Hurd-Ravich, Planning Assistant Yumul, Plans Examiner Noh, Associate Civil Engineer Symons, Fire Marshal Kazandjian and Deputy City Attorney Whitham.

**10. WAIVERS**

**10A. WAV07-00016: VICTOR OTTEN, TURTANICH-MICHEL, LLP**

Planning Commission consideration for approval of a Waiver to allow a fence six feet high along the front (south), east and west side property lines on property located within the Hillside Overlay District in the R-1 Zone on Via Linda Vista.

**Recommendation**

Approval.

Planning Associate Hurd-Ravich introduced the request. She noted that staff would not be using the name of the property owner or the address of the property because the owner is a public official who does not want this information to be made part of the public record and requested that anyone speaking on this matter follow the same protocol.

Victor Otten, Turtanich-Michel LLP, legal counsel for the property owner, voiced his agreement with the recommended conditions of approval.

In response to Commissioner Horwich's inquiry, Mr. Otten reported that the existing fence has a swinging gate, which will be replaced by a sliding gate when the new fence is constructed.

Responding to Commissioner Browning's inquiry, Planning Manager Lodan confirmed that there would be adequate space to park a vehicle in the driveway when the new fence is installed.

Commissioner Browning recommended that the railing in the wrought iron fence be spaced no more than 4 inches apart for safety purposes; Mr. Otten indicated that he had no objections to making this a requirement.

Commissioner Weideman noted for the record that the existing gate and fence built on City property will be removed.

Jim Harrigan, 436 Calle Miramar, stated that he has been waiting almost five years for this matter to be resolved and requested nine and a half minutes to read a prepared statement.

Chairperson Busch asked that Mr. Harrigan confine his remarks to the Waiver being considered and avoid recounting past events that are not relevant to the case. He set a time limit of five minutes.

Mr. Harrigan stated that he was representing the Hillside Residents Association, which has 300 members, and they object to the unnecessarily high wrought iron fence/brick wall. He reported that the property owner built the existing illegally high fence that encroaches on City property thinking that no one would make him tear it down; that he claimed that he was unaware of the law when the illegal fence was discovered; and that he subsequently attempted to justify the illegality by claiming the fence was necessary for security purposes after that tactic didn't work.

Chairperson Busch cautioned that personal comments about the people involved were not helpful to the decision-making process.

Mr. Harrigan explained that he was trying to make the point that statements in the application were disingenuous. He stated that the property owner has claimed that his home was recently vandalized but no documentation has been submitted in support of this claim and questioned why the existing illegally high fence was not effective in stopping the intruders. He reported that he spoke with the law enforcement officer who said he recommended the high fence for security purposes, however, this officer was unable to say when he made the recommendation and could produce no documentation regarding when he visited the site. He related his belief that this property owner, as a public official, was seeking preferential treatment and that law enforcement officers were backing his claims in an attempt to ingratiate themselves with someone they work with on a daily basis. He maintained that the overly high fence was isolating and detracts from the neighborhood and that approving the Waiver it would set a bad precedent.

Mr. Otten stated that he disagreed with Mr. Harrigan's remarks, but understood that this was not an appropriate forum to debate him.

In response to Commissioner Weideman's inquiry, Mr. Otten confirmed that the property owner has received occupation-related threats as stated in the application to explain why denial of the application would result in unnecessary hardship.

Commissioner Browning wanted to make clear that he has never been asked to give anybody preferential treatment nor has any other commissioner ever tried to influence his vote. He reported that he observed other residences in the area with similar fences and related his belief that there is an obligation to protect public officials by whatever means possible.

Referring to Mr. Harrigan's opposition, Chairperson Busch questioned the statement in the application that neighbors in the immediate vicinity do not object to the fence. Mr. Otten explained that Mr. Harrigan does not live in the immediate vicinity.

**MOTION:** Commissioner Browning moved for the approval of WAV07-00016, as conditioned, including all findings of fact set forth by staff. The motion was seconded by Commissioner Weideman and discussion briefly continued.

Commissioner Horwich stated that he did not feel qualified to decide this case due to conflicting bits of information in the agenda packet, therefore, he would abstain from voting on the motion. He explained that he did not believe the fence would be detrimental, but was concerned about the property owner's failure to obtain building permits and thought the homeowners' representative had presented compelling arguments regarding the claim of preferential treatment.

Chairperson Busch called for a vote on the motion, and the motion passed by unanimous roll call vote, with Commissioner Horwich abstaining (absent Commissioners Faulk, Gibson and Uchima).

Commissioner Weideman noted that he voted for the Waiver predicated on the hardship aspect of the application and nothing else.

Planning Associate Hurd-Ravich read aloud the number and title of Planning Commission Resolution No. 07-116.

**MOTION:** Commissioner Browning moved for the adoption of Planning Commission Resolution No. 07-116. The motion was seconded by Commissioner Weideman and passed by unanimous roll call vote, with Commissioner Horwich abstaining (absent Commissioners Faulk, Gibson and Uchima).

###

**AGENDA ITEM NO. 10A****CASE TYPE & NUMBER:** Waiver – WAV07-00016**NAME:** Victor Otten**PURPOSE OF APPLICATION:**

Request for approval of a Waiver to allow a six-foot fence within 10 feet from the front property line on property located within the Hillside Overlay District of the R-1 Zone.

**LOCATION:** Via Linda Vista**ZONING:** R-1, Single Family Residential District / Hillside Overlay District**ADJACENT ZONING AND LAND USE:**

NORTH:	R-1	Hillside Overlay District, One and Two Story Single Family Residences
SOUTH:	R-1	Hillside Overlay District, One and Two Story Single Family Residences
EAST:	R-1	Hillside Overlay District, One and Two Story Single Family Residences
WEST:	R-1	Hillside Overlay District, One and Two Story Single Family Residences

**GENERAL PLAN DESIGNATION:** Low Density Residential**COMPLIANCE WITH GENERAL PLAN:**

Yes, a single family residence is consistent with the Low Density Residential land use of the General Plan.

**EXISTING IMPROVEMENTS AND /OR NATURAL FEATURES:**

The property is currently developed with a one-story single-family residence with an attached garage which was built in 1951 and added onto in 1980.

**ENVIRONMENTAL FINDINGS:**

Setback Waivers are Categorically Exempted by the 2007 California Environmental Quality Act Guidelines, Article 19, Class 5, Section 15303 (e).

**BACKGROUND AND ANALYSIS:**

The applicant is requesting approval of a Waiver to allow a six foot fence within 10 feet of the front property line on property located in the Hillside Overlay District in the R-1 Zone. A Waiver is required because the maximum height a fence can be in the front yard setback area is four feet.

The property is located on the north side of Via Linda Vista near the intersection of Via Linda Vista and Via El Chico. The property is 6,800 square feet in area and has a depth of 120 feet and a width of 60 feet in the front and 52 feet in the rear. The property is currently developed with a one-story residence and attached garage. An existing gate and fence that have been built on City property will be removed.

The applicant is requesting a Waiver to allow a wrought iron fence and extensions to an existing block wall along portions of the southerly (front), easterly, and westerly property lines. The total fence height including the new extensions will be 6'-0". The purpose of the fence is to provide privacy, protect the outdoor recreation areas, and to protect a public official. The extensions will begin on the west property line 42'-0" from the south property line, continue as a 6'-0" high fence on the south property line along Via Linda Vista for 59'-0"

and then as a 2'-0" high extension for 20'-0" from the south property line along the east property line.

The Torrance Municipal Code requires a six foot fence to be located no closer than 10 feet from the front property line. A Waiver is required because the resulting 6-foot fence would be located on the front and side property lines within 10 feet of the front property line. The resulting fence would be setback 13 feet from the curb. The applicant was required to provide facts to substantiate criteria by which the Planning Commission may grant this Waiver (Attachment #4).

This Waiver request of the 6-foot fence, in the judgment of staff, does meet the hardship criteria for approving a Waiver. Unreasonable difficulty will result from the strict enforcement of this Division because setting the fence 10 feet from the front property line would not allow the property owner to park within the driveway and the fence will provide protection for a public official. The fence and gate will be entirely on the subject property, therefore, staff recommends approval of the request as conditioned.

**PROJECT RECOMMENDATION:** Approval

**FINDINGS OF FACT IN SUPPORT OF APPROVAL OF THE WAIVER:**

Findings of fact in support of approval of the waiver are set forth in the attached resolution.

**RECOMMENDED CONDITIONS, IF PROJECT IS APPROVED:**

Recommended conditions of the proposed project are set forth in the attached Resolution.

Prepared by,



Oscar Martinez  
Planning Associate

Respectfully submitted,



Gregg D. Lodan, AICP  
Planning Manager

**ATTACHMENTS**

1. Planning Commission Resolution
2. Code Requirements
3. Waiver criteria substantiation sheet
4. Plot plan and Elevations

**PLANNING COMMISSION RESOLUTION NO. 07-116**

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF TORRANCE, CALIFORNIA APPROVING A WAIVER AS PROVIDED FOR IN DIVISION 9, CHAPTER 4, ARTICLE 2 OF THE TORRANCE MUNICIPAL CODE TO ALLOW A SIX FOOT FENCE WITHIN 10 FEET OF THE FRONT PROPERTY LINE, ON PROPERTY LOCATED IN THE HILLSIDE OVERLAY DISTRICT IN THE R-1 ZONE ON VIA LINDA VISTA (APN: 7514-014-030).

**WAV07-00016: VICTOR OTTEN**

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**WHEREAS**, on October 17, 2007 the Planning Commission of the City of Torrance considered an application for a Waiver filed by Victor Otten to allow a six foot fence within 10 feet of the front property line on property located within the Hillside Overlay District in the R-1 zone on Via Linda Vista; and;

**WHEREAS**, due and legal publication of notice was given to owners of property in the vicinity thereof, all in accordance with the provisions of Division 9, Chapter 4, Article 2 of the Torrance Municipal Code; and

**WHEREAS**, Waivers are categorically exempted by the 2007 California Environmental Quality Act Guidelines, Article 19, Class 5, Section 15303 (e); and

**WHEREAS**, The Planning Commission of the City of Torrance does hereby find and determine as follows:

- A) That the property's Assessor Parcel Number is 7514-014-030;
- B) That the project is in compliance with the R-1 Zoning and Low-Density General Plan Designation for this site;
- C) The project is in compliance with both the R-1 Zoning and Low-Density General Plan Designation for this site;
- D) Unreasonable difficulty will result from the strict enforcement of this Division because placing the fence 10 feet from the front property line would prevent a car parking in the driveway without encroaching into the public right of way and would also provide for the security of a public official;
- E) That the six-foot fence within 10 feet of the front yard setback will not be materially detrimental to the public welfare or to the property of other persons located in the vicinity thereof because the fence will be located entirely on the subject property and will not be in the public right-of-way;
- F) That the six-foot high fence within 10 feet of the front property line will not substantially interfere with the orderly development of the City because the proposed

improvements will maintain the land use as a single family residence complying with the Zone and General Plan designation;

**WHEREAS**, The Planning Commission by the following roll call vote APPROVED WAV07-00015, subject to conditions:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSENT: COMMISSIONERS:

ABSTAIN: COMMISSIONERS:

**NOW, THEREFORE, BE IT RESOLVED** that WAV07-00016 filed by Victor Otten to allow a six foot high fence within 10 feet of the front property line on property located in the Hillside Overlay District in the R-1 Zone on Via Linda Vista (APN: 7514-014-030), is APPROVED subject to the following conditions:

1. That the use of the subject property for single family residential shall be subject to all conditions imposed in Waiver 07-00016 and any amendments thereto or modifications thereof as may be approved from time to time pursuant to Section 92.28.1 et seq. of the Torrance Municipal Code on file in the office of the Community Development Director of the City of Torrance; and further, that the said use shall be established for constructed and shall be maintained in conformance with such maps, plans, specifications, drawings, applications or other documents presented by the applicant to the Community Development Department and upon which the Planning Commission relied in granting approval;
2. That if this Waiver 07-00016 is not used within one year after granting of the permit, it shall expire and become null and void unless extended by the Community Development Director for an additional period as provided for in Section 92.27.1;

Introduced, approved and adopted this 17th day of October 2007.

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Chairman, Torrance Planning Commission

ATTEST:

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Secretary, Torrance Planning Commission

STATE OF CALIFORNIA            )  
COUNTY OF LOS ANGELES       ) ss  
CITY OF TORRANCE               )

I, Gregg Lodan, Secretary to the Planning Commission of the City of Torrance, California do hereby certify that the foregoing resolution was duly introduced, approved, and adopted by the Planning Commission of the City of Torrance at a regular meeting of said Commission held on the 17th day of October 2007 by the following roll call vote:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSENT: COMMISSIONERS:

ABSTAIN: COMMISSIONERS:

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Secretary, Torrance Planning Commission

**CODE REQUIREMENTS**

The following is a partial list of code requirements applicable to the proposed project. All possible code requirements are not provided here and the applicant is strongly advised to contact each individual department for further clarification. The Planning Commission may not waive or alter the code requirements. They are provided for information purposes only.

**Building and Safety:**

- Obtain building permits.

CITY OF TORRANCE - PLANNING DEPARTMENT

WAV 07 - 00016

To be submitted with Waiver application.

GIVE FACTS TO SUBSTANTIATE THE FOLLOWING CRITERIA BY WHICH THE PLANNING COMMISSION MAY GRANT THIS WAIVER:

1. There are practical difficulties or unnecessary hardships resulting from the strict enforcement of this Division:

The property owners need additional perimeter security because of threats received related to the occupation of a resident and past criminal vandalism to the home.

2. It will not be materially detrimental to the public welfare or to the property of other persons located in the vicinity thereof:

The fence height will not obstruct any view or have any impact on public safety. Neighbors located in the vicinity have no objection.

3. It will not substantially interfere with the orderly development of the City as provided for in this Division:

The property is located in a long established, built-out residential area where the fence will not interfere with any future City development.

ADJACENT PROPERTY OWNERS: (To be completed by the Planning Department)

	<u>Name</u>	<u>Address</u>
1.	_____	_____
2.	_____	_____
3.	_____	_____
4.	_____	_____
5.	_____	_____

**SUPPLEMENTAL #1 TO AGENDA ITEM 10A (LIMITED DISTRIBUTION)**

**TO:** Members of the Planning Commission

**FROM:** Development Review Division

**SUBJECT:** WAV07-00016 (Victor Otten, Trutanich-Michel, LLP)

**LOCATION:** Assessor's Parcel #7514-014-030

The project is located at

Prepared by,



Oscar Martinez  
Planning Associate

Respectfully submitted,



Gregg D. Lodan, AICP  
Planning Manager

**ATTACHMENTS**

1. Location and Zoning Map
2. Correspondence



County of Los Angeles  
 Sheriff's Department Headquarters  
 4700 Ramona Boulevard  
 Monterey Park, California 91754-2169



LEROY D. BACA, S-SPFF  
 October 7, 2004

OCT 2 2004

Mr. Jeffery W. Gibson  
 Director, Community Development Department  
 3031 Torrance Boulevard  
 Torrance, California 90503-2970

Dear Director Gibson:

The purpose of this letter is to recommend the security precautions taken by the [redacted] at his residence in the city of Torrance be allowed to remain as installed. As a [redacted], he has daily contact with litigants who are not always satisfied with decisions made in his courtroom. In the past, [redacted] has received threats to his person and property. Over the years, [redacted] has followed our security recommendations by varying his driving and parking patterns, and has installed an alarm system, motion detectors, perimeter fencing and locks.

Last year, after receiving threats from disgruntled civil litigants, [redacted] installed a metal gate across his driveway as an extra layer of security. Court Services Division of the Los Angeles County Sheriff's Department is responsible for the safety of all judicial officers. We have inspected the security fencing at [redacted] residence and highly recommend that it be allowed to remain as installed. The side wall fencing and gate discourage intruders from gaining access to the front entrance and or lying in wait. The gate is particularly helpful in that it is high enough to prevent line of sight observations of [redacted] and his family when they are in the front yard, thus decreasing the possibility of a drive-by shooting.

In conclusion, Court Services Division is very satisfied with the security measures [redacted] has taken, and we strongly recommend that no change be made. If you have any questions or concerns, please do not hesitate to contact me at (626) 300-3100.

Sincerely,

LEROY D. BACA, SHERIFF

RICHARD J. MARTINEZ, CHIEF  
 COURT SERVICES DIVISION

*A Tradition of Service*

AR 0082

Attachment 2

**Martinez, Oscar**

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**From:** Lodan, Gregg  
**Sent:** Tuesday, October 09, 2007 5:00 PM  
**To:** Martinez, Oscar  
**Subject:** FW:  
**Attachments:** MetroNewsmisc2007-l.webarchive

Fyi

---

**From:** Jim Harrigan [mailto:jh@econdevsys.com]  
**Sent:** Tuesday, October 09, 2007 10:49 AM  
**To:** Lodan, Gregg  
**Subject:** FW:

**From:** Jim Harrigan <jh@econdevsys.com>  
**Date:** Tue, 09 Oct 2007 09:17:45 -0700  
**To:** <glodan@torr.com>  
**Conversation:**  
**Subject:** \

Per your instructions to have any inclusions to you by 10-11-07, Mr. Lodan...attached and below, please find my inclusion into the Planning Commission "package" for the meeting on October 17, 2007. If you or the commission has any "problem" with this submittal...please advise. Thank you.

Jim Harrigan  
310-375-9678  
E: jh@econdevsys.com

*Metropolitan News-Enterprise Legal Review*

Wednesday, July 18, 2007

PERSPECTIVES

**Did City of Torrance Accord                      Preferential Treatment?**

By ROGER M. GRACE

The answer to the question posed in the headline is *yes*.

As previously noted...in 1980, newly appointed :

(                      ) and his wife,                      , had a 4-foot high fence built in front of their property in the City of Torrance. It was constructed 8 feet into a city right-of-way, but nobody noticed, and the                      got by with it. In 2003, they added a 16-foot wide gate that came to nearly 7 feet at the top of its arch. The gate, aside from being on city property, did not

10/10/2007

conform to the Municipal Code's height limits. Too, in both 1980 and 2003, the [redacted] had neglected to obtain a building permit.

The construction in 2003 was spotted by one Jim Harrigan, who lives nearby. He made a complaint to the city. On Dec. 15 of that year, the city advised the [redacted] that their structures were encroaching on the city right-of-way and could not be maintained there without an encroachment permit.

Week after week passed, no permit was applied for, and the structures remained. One might have supposed that [redacted] formerly [redacted] and member of the City Attorney's Office, would be more responsive to legal demands by the city...but he was by then, after all, a [redacted] (by virtue of unification).

The city had the power to declare the structures to be nuisances and order their immediate removal. Instead, a second letter was sent to the [redacted] on March 15, 2004, again telling them that they could not keep the fence and gate where they were without a permit. Eight days later, an application for a permit was filed by [redacted].

**A year and two days after** the city sent that second notification, a public hearing was held on the [redacted] application by the city's Encroachment Review Committee. Why was the process so drawn-out?

The [redacted]—whose home had twice been visited by vandals who pelted it with some sort of objects—were resisting any modifications to what they had in place. Given the experience with the hooligans, and in light of [redacted] occupation, it is understandable that they would be keenly mindful of the need for security.

Nonetheless, it does seem brazen for them to have quibbled with city staff members over mere modifications that the city wanted, such as lowering the gate and hedges to 4 feet, when the city was willing to let them continue to utilize the city's space. A truism that the [redacted] have never surmounted is that a fence and gate *on their own property* would be as effective protection as a fence and gate eight feet closer to the curb, on a public strip.

William H. Ihrke of Rutan & Tucker, LLP, who is representing the city in connection with a writ proceeding brought by the [redacted], tells me the city "did bend over backwards" to accommodate the [redacted]' concerns "before the administrative review procedures."

It was because the [redacted] could not come to an agreement with staff over the conditions of a permit that the matter formally came before the Encroachment Review Committee. A hearing took place on March 17, 2005... again on April 28 of that year...yet again on June 30.

After the first meeting, if the [redacted] had signed an encroachment agreement accepting the conditions, the city would have recorded the document, and, given that neither Harrigan nor anyone else appealed within the 15-day period provided, that would have been that. The [redacted], would have been able to continue using the city property on which they had impermissibly constructed a wall and a gate. Instead, they continued to whine; the conditions remained unacceptable. In light of that, two more hearings were held (the second hearing being continued in order to secure input from the city attorney after [redacted] warned of city liability if harm befell his house or family based on city-compelled diminution of the security).

Multiple hearings on the simple matter of an encroachment permit are surely not the norm. To say that the [redacted] were *indulged* is an understatement. Had a carpenter, a cook at a

Pizza Hut, or a car salesman illegally placed structures on city property would there have been prolonged consideration of the trespasser's objections? I doubt it.

Yes, a judge does have security needs that a carpenter, a cook, or a salesman doesn't. (I'm certainly not insensitive to judges' security needs; my daughter is married to a judge.) An electronic hook-up from the home of any judge to a security company would seem wise, along with other measures. But the notion that a judge's security is reliant on the presence of a wall or other type of fencing in front of his or her residence and an electronically controlled security gate in the center of that wall is absurd. My wife and I have gone to homes of many a judge over the past several years, and I can't think of any house we've been to with a fence and gate.

Is it that the matter of security is an obsession for [redacted] ..or is it that he views as effrontery the city's imposition of any conditions on *him*?

One of the conditions was the gate, operated by remote control, only open inward. The reasonableness of that is manifest. The city is liable for dangerous conditions on its property—and has been potentially liable since 2003 to any passerby, on foot, bike, or motorized vehicle, who might be bashed by a gate swinging out. While Torrance City Attorney John Fellows III declines to comment on that potential liability, he does acknowledge that so far as he knows, the gate “has not been modified from an outward swing.”

Even if [redacted] would not lower the height of the wall or gate to conform to city code requirements, it might be thought that, if he were a decent human being, he would jam the gate — as he acknowledged during a committee hearing he could easily do — allow it to swing inward, only obviating the present danger. But [redacted] is not prone to give an inch while engaged in litigation, and the city, timidly, is not prone to press this point, despite its exposure to liability.

Fellows discloses that “[redacted] new gate plans call for a sliding gate, so there would be no issue about inward or outward swing.” If the pending settlement proposal goes into effect, and [redacted] does install a non-dangerous sliding gate, it will remain that the city will have tolerated a dangerous condition for about four years simply because the party creating the danger was a judge, whom it feared to reign in.

**In a writ petition his lawyer was** to file Dec. 21, 2005, which [redacted] and his wife verified, it is recited:

“On June 30, 2005, the Encroachment Review Committee made its decision to approve Petitioners' application with certain restrictions.”

On the very day of that decision, Harrigan appealed to the City Council.

In an e-mail of Aug. 19, 2005, [redacted] said to then-Torrance Mayor Dan Walker, in part:

“My security can be maintained if I am allowed to keep the gate and hedge in their present configuration. Therefore, I am asking that the City Council pass a motion as follows:

“‘THE JUNE 30, 2005 DECISION OF THE ENCROACHMENT REVIEW COMMITTEE IS AFFIRMED WITH THE EXCEPTION THAT THE HEDGE WILL NOT EXCEED SIX FEET HIGH AND THE GATE MAY REMAIN IN ITS PRESENT CONFIGURATION ONLY AS LONG AS THE CURRENT RESIDENTS OWN THE PROPERTY.’”

This cheeky scoundrel was seeking to retain the benefit of the committee decision—being allowed to keep the structures on city property—while eluding the detriment of having to

lower the gate and hedges to four feet.

On Sept. 27, 2005, in a 5-0 vote, the council granted the appeal and denied the permit. It was apparently persuaded by Harrigan that no real security needs were implicated and the Willetts merely wanted to add to the dimensions of their front yard.

The following week, the [redacted] were ordered to "remove all structures from the public right-of-way" within 30 days.

Thirty days later, the structures had not been removed.

It cannot be questioned that the city had a right to order removal of trespassing structures on city turf, and that the [redacted] had no lawful basis for resisting. But resist they did.

Willetts was a judge; perhaps he thought that gave him immunity.

His writ petition was filed Dec. 21, 2005. That filing did not stay the city's order. The judge remains in disobedience of the law...and of Canon 2A of the Code of Judicial Ethics which provides that "[a] judge shall respect and comply with the law...."

**The city had the option of** prosecuting [redacted] and his wife criminally. That would, Ihrke acknowledges, have been the normal course. But the fact that [redacted] is a judge, he says, caused the litigation to take on an "added dimension."

In an interview with the Torrance Daily Breeze, published May 29, Fellows is quoted as saying:

"The City of Torrance is both a plaintiff and a defendant in the Torrance Superior Court and on a regular basis and doesn't want to do anything to antagonize any judge. We need to have good relations with all sitting judges."

The term for such a posture on the part of a governmental entity is "favoritism."

Fellows's statement to the Breeze implies that [redacted] is still hearing matters to which the City of Torrance is a party, notwithstanding that he is embroiled in litigation with the city. In response to my inquiry as to whether this is so, Fellows responds:

"So far as I am aware, [redacted] has recused himself from handling any Torrance civil or criminal matters since the filing of his action."

**Due respect must be accorded** a judge within the confines of a courtroom. That's necessary for sake of orderliness of proceedings, for sake of recognition of the majesty of the law...of which the judge is the symbol and the guardian.

A local rule prohibits addressing that judicial officer as "Judge." That's too informal; he or she is to be regarded while on the bench not as a person, but as the "the court," an institution. Outside the courtroom, judges are often accorded deference. There are, of course, sycophantic lawyers who will disingenuously fawn over them in hopes of winning their favor...but aside from that, many citizens, including lawyers whose esteem is genuine, will evince, by their conduct, reverence for a judge's position. Members of the Los Angeles Superior Court do enjoy a lofty station.

But government, at any level, may not extend to a judge, in his or her private capacity, special favors. There's a principle that's venerated in this nation precluding such favored treatment: equality under the law.

The City of Torrance has, to its discredit, run afoul of that precept. It has, unabashedly, preferentially dealt with [redacted], a resident who broke the law, and who continues to defy it by maintaining structures he knows to be trespassing on city property.

A judge should know better than to accept special treatment from government, let alone to covet it.

**SIDENOTE:** Willett's lawyers contended in their written motion for a writ, heard last Feb. 5 in Orange Superior Court, that the Encroachment Review Committee did not *actually* make its decision on June 30, 2005. Rather, it had made a decision on March 17; there was no appeal within the 15 days allotted; the decision therefore became final April 1, and the committee therefore had no further jurisdiction in the matter, rendering the appeal to the City Council unauthorized and the council's decision a nullity.

The argument, put forth by successor counsel to the lawyer who drafted the petition, was clever, but inconsonant with the facts.

Following the initial hearing on St. Patrick's Day (March 17), 2005, continued negotiating, and *wanted* further attention to his objection to the conditions. He and his wife did not execute an encroachment agreement; no permit was issued. The matter remained in flux. No statute or ordinance barred continued consideration after 15 days.

bellyaching and clamoring are what led to the April 28 hearing.

In a declaration under penalty of perjury he presented at that hearing, + said: "By this declaration I am requesting that the [committee] reconsider its prior action and grant a temporary encroachment permit that will allow me to maintain my present security measures."

At the hearing, he expressed his thanks that he was given the opportunity to provide further input.

By virtue of keeping the matter alive, a second hearing was held April 28, and a third hearing took place June 30, 2005. Harrigan appeared at that third hearing to testify, and then appealed from the outcome...that is, from a decision granting the permit on virtually the same conditions as before.

If Harrigan had appealed June 30 from the March 17 decision, the appeal would have been tardy. Instead, he appealed on June 30 from a June 30 decision, a hearing having been held that day by virtue of own doing.

As noted above, the writ petition, filed Dec. 21, 2005, was sworn to by under the penalty of perjury. It declared that the committee "made its decision" on June 30.

At the hearing in Orange County last Feb. 1, a highly befuddled Superior Court judge there, Geoffrey T. Glass, considered arguments on the supposed jurisdictional issue, notwithstanding that the petition had never been amended to set forth that the true decision was made March 17.

The fumbling Glass took the matter under submission. Weeks passed...more weeks. The parties finally asked the dallying jurist to hold off, they renewed negotiations, and reached a tentative settlement, which entails the moving the wall and gate onto their own property and observing restrictions.

The moral is: you can't fight City Hall even if you're a judge...*especially when you're in the wrong.*

----- End of Forwarded Message

For Item

---

**From:** Jim Harrigan [mailto:jh@econdevsys.com]  
**Sent:** Tuesday, October 09, 2007 8:02 PM  
**To:** Lodan, Gregg  
**Subject:** Re: E-Mail addresses

Mr. Loden...please forward this excerpt to the Commissioners. I do not need to converse with them...but, I want to make sure they receive the following. Thank you:

**From:** Jim Harrigan <jh@econdevsys.com>  
**Date:** Mon, 08 Oct 2007 17:10:24 -0700  
**To:** John Fellows <jfellows@torrnet.com>  
**Conversation:** Willett  
**Subject:** Willett

Mr. Fellows...Per our recent discussion...

From the **Metropolitan News Enterprise Legal Review**, July 18, 2007:

*"The city had the option of prosecuting [redacted] and his wife criminally. That would, Ihrke acknowledges, have been the normal course. But the fact that [redacted], he says, caused the litigation to take on an "added dimension."  
 In an interview with the Torrance Daily Breeze, published May 29, Fellows is quoted as saying:  
 "The City of Torrance is both a plaintiff and a defendant in the Torrance Superior Court and on a regular basis and doesn't want to do anything to antagonize any judge. We need to have good relations with all sitting judges."  
 The term for such a posture on the part of a governmental entity is "favoritism."  
 Fellows's statement to the Breeze implies that [redacted] is still hearing matters to which the City of Torrance is a party, notwithstanding that he is embroiled in litigation with the city. In response to my inquiry as to whether this is so, Fellows responds:  
 "So far as I am aware, [redacted] has recused himself from handling any Torrance civil or criminal matters since the filing of his action."*

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Jim Harrigan

E: jh@econdevsys.com

# Daily Breeze

5215 TORRANCE BLVD \* TORRANCE CALIFORNIA 90503-4077  
(310) 543-6635 \* (310) 540-5511 Ext. 396

## PROOF OF PUBLICATION (201 5.5 C.C.P.)

STATE OF CALIFORNIA

County of Los Angeles,

I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above-entitled matter. I am the principal clerk of the printer of the THE DAILY BREEZE

a newspaper of general circulation, printed and published

in the City of Torrance  
County of Los Angeles, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of County of Los Angeles, State of California, under the date of

June 10, 1974

Case Number SWC7146

that the notice, of which the annexed is a printed copy (set in type not smaller than nonpareil), has been published in each regular and entire issue of said newspaper and not in any supplement there of on the following dates, to-wit

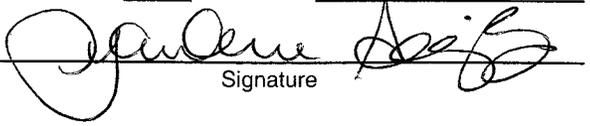
December 28,

all in the year 2007

the foregoing is true and correct.

Dated at Torrance

California, this 28 Day of December 2007

  
Signature

This space is for the County Clerk's Filing Stamp

RECEIVED

2008 JAN -2 PM 4:28

CITY OF TORRANCE  
CITY CLERK'S OFFICE

Proof of Publication of

DB

### PUBLIC NOTICE

DB 12-115

#### NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a Public Hearing will be held before the Torrance, City Council at 7:00 p.m., January 8, 2008, in the City Council Chambers of City Hall, 3031 Torrance Boulevard, Torrance, California, on the following matter:

**WAV07-00016, Victor Otten, Trutanich-Michel, LLP:** City Council consideration of an appeal of a Planning Commission approval of a Waiver to allow a six-foot fence within 10 feet from the front property line on property located within the Hillside Overlay District of the R-1 Zone at Via Linda Vista.

Material can be reviewed in the Community Development Department. All persons interested in the above matter are requested to be present at the hearing or to submit their comments to the City Clerk, City Hall, 3031 Torrance Boulevard, Torrance, CA 90503, prior to the public hearing.

If you challenge the above matter in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Community Development Department or the office of the City Clerk prior to the public hearing, and further, by the terms of Resolution No. 88-19, you may be limited to ninety (90) days in which to commence such legal action pursuant to Section 1094.6 of the Code of Civil Procedure.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Community Development Department at (310) 618-5990. If you need a special hearing device to participate in this meeting, please contact the City Clerk's Office at (310) 618-2870. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting [28 CFR 35.102-35.104 ADA Title II].

For further information, contact the **DEVELOPMENT REVIEW DIVISION** of the Community Development Department at (310) 618-5990.

**SUE HERBERS  
CITY CLERK**

Pub.: December 28, 2007.

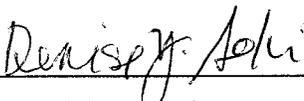
**PROOF OF SERVICE BY MAIL**

I, the undersigned, am a resident of the County of Los Angeles, State of California, over the age of eighteen years, and not a party to the within action. I am employed by the City of Torrance, 3031 Torrance Boulevard, Torrance California 90503.

On **December 28, 2007**, I caused to be mailed **42** copies of the within notification for City Council **WAV0700016: VICTOR OTTEN, TRUTANICH-MICHEL, LLP** to the interested parties in said action by causing true copies thereof to be placed in the United States mail at Torrance California.

I declare under penalty of perjury that the foregoing is true and correct.

Executed **December 28, 2007**, at Torrance California.

  
\_\_\_\_\_  
(signature)

**CITY OF TORRANCE**  
**Community Development Department**  
**3031 Torrance Boulevard**  
**Torrance, CA 90503**

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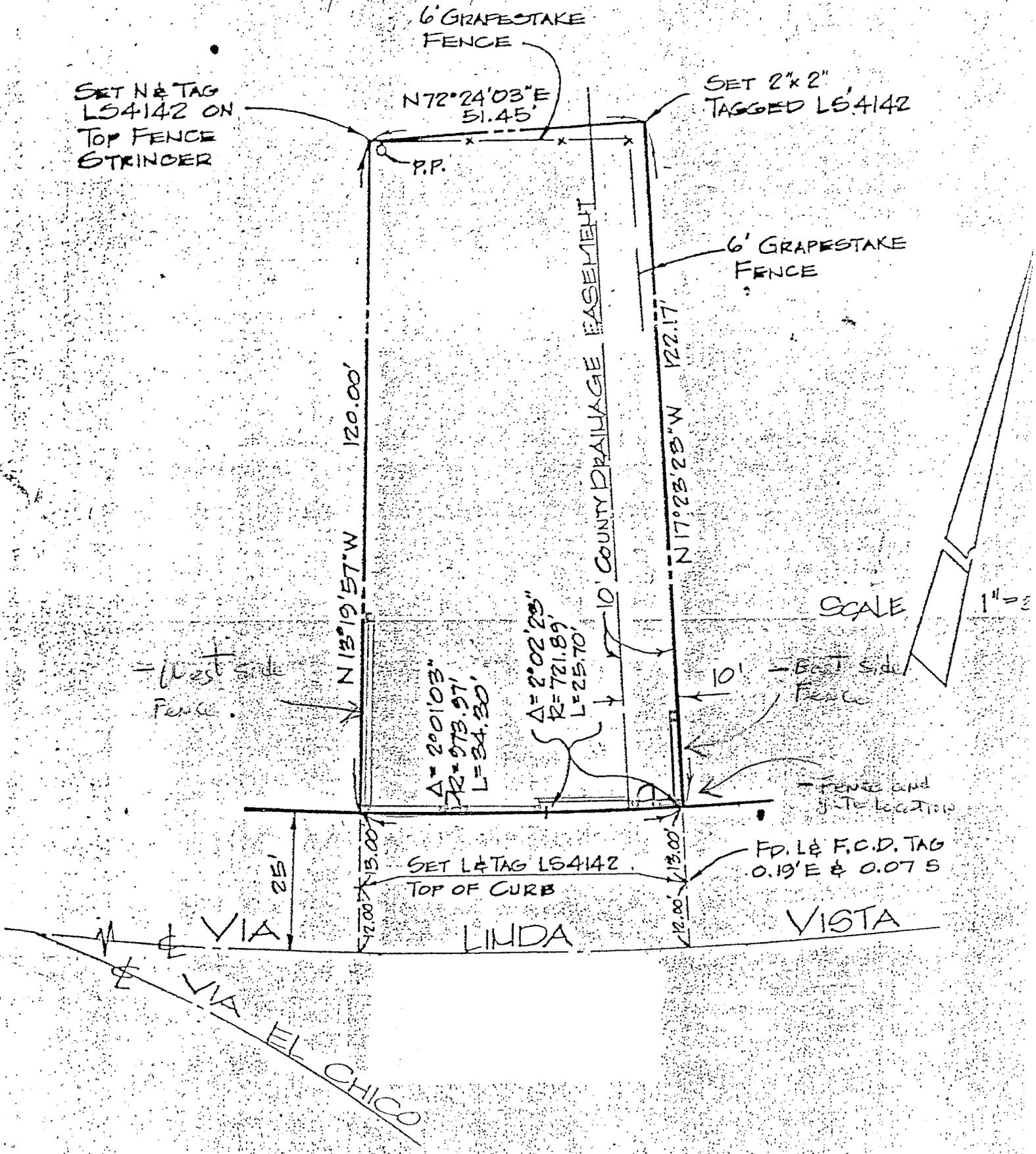
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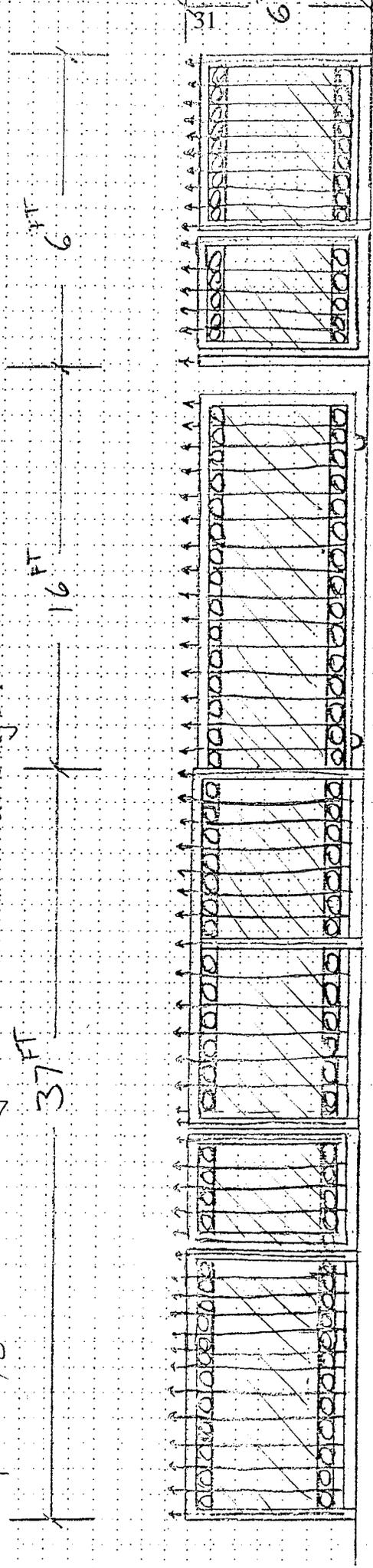
Publish: **December 28, 2007**

**SUE HERBERS**  
**CITY CLERK**

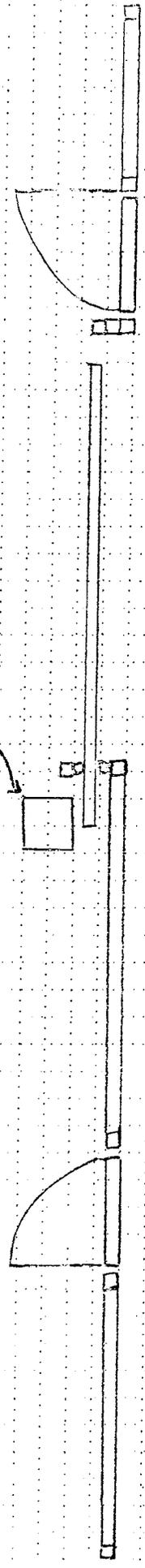
**Forty two (42) notices mailed 12/28/07. da**



- Front South elevation
- Fence to be installed at Property Line
- Solid backings
- Wrought Iron slinging gate to roll on an iron guide track secured to the concrete deck and a concrete channel for rolling action.
- Gate to be powered with Deer King Model 9100 1/2 HP ETL-325 approved slide Gate Operator with a safety reverse device. Also install Allen Bradley Photo Eye.
- All fences/gates are wrought Iron Metal backings.



Gate Motor



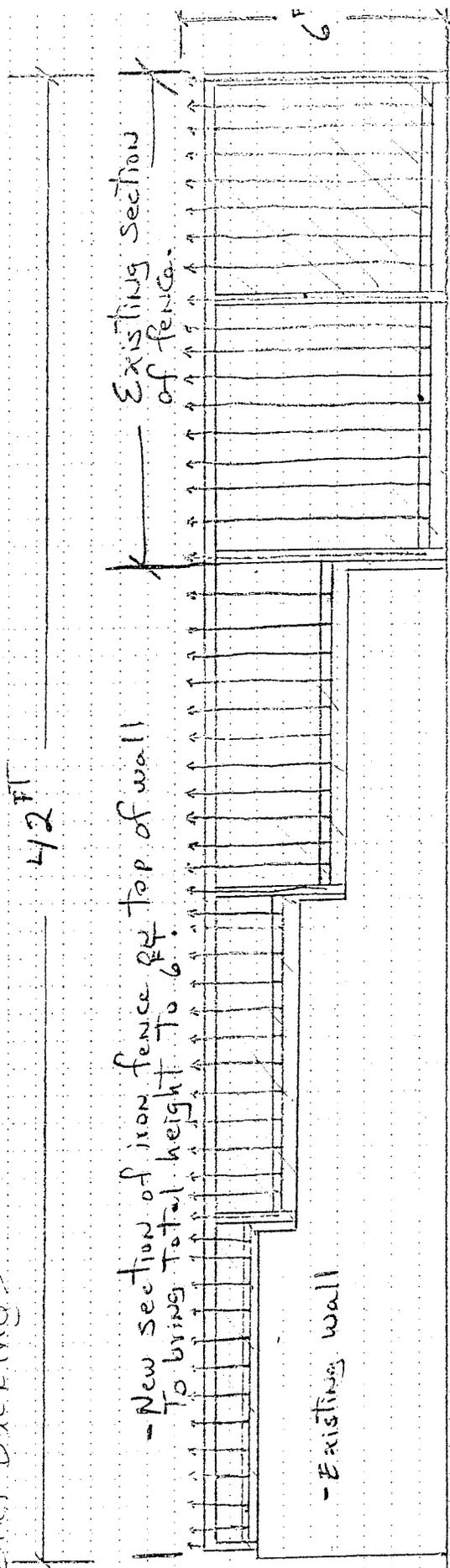
- West side elevation
- Solid backings

42 FT

- New section of iron fence 64' top of wall  
 To bring total height to 6'

Existing section  
 of fence.

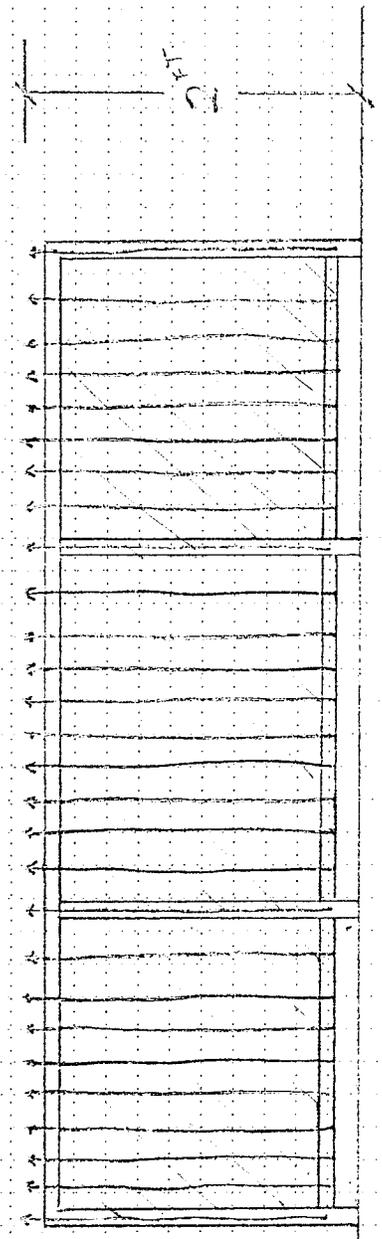
- Existing wall



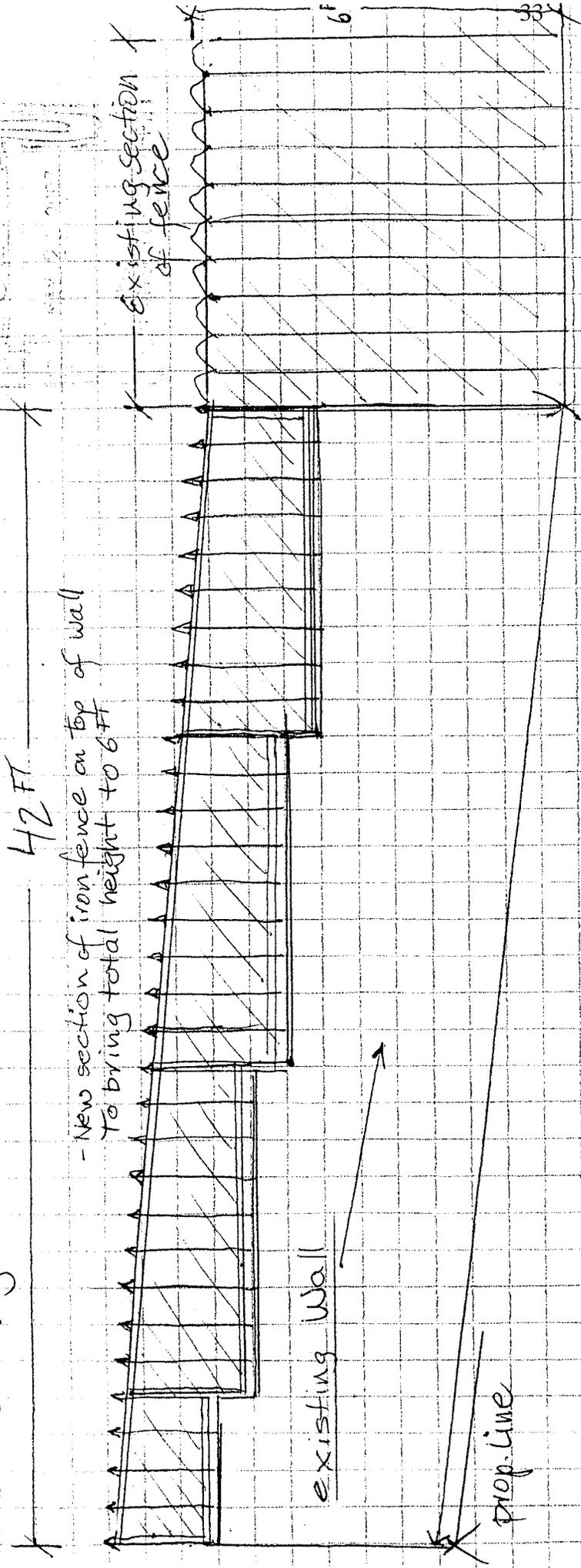
- East side elevation.

- To be installed on top of existing wall
- Solid backings

20 FT



- west side elevation
- solid backings



- east side elevation
- fence
- To be installed on top of existing 4" wall
- solid backings

