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July 22, 2010

Atsushi and Kiyo Tashima (A)(O)
2315 North Vermont Avenue
Los Angeles, CA 90027

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CASE NO. ZA 2009-2972(F)
ZONING ADMINISTRATOR'S
DETERMINATION - FENCE HEIGHT
2315 North Vermont Avenue
Hollywood Planning Area
Zone : RE11-1
D. M. : 153B197
C. D. : 4
CEQA : ENV 2009-2973-CE
Legal Description: Lot 2, Tract 3056

Pursuant to Los Angeles Municipal Code Section 12.24-X,7, I hereby APPROVE:

a Zoning Administrator's determination to permit the construction, use and maintenance of two over height rolling gates with pilasters and use and maintenance of an existing over-in- height hedge within the front yard setback area of an existing single-family dwelling,

upon the following additional terms and conditions:

1. All other use, height and area regulations of the Municipal Code and all other applicable government/regulatory agencies shall be strictly complied with in the development and use of the property, except as such regulations are herein specifically varied or required.
2. The use and development of the property shall be in substantial conformance with the plot plan submitted with the application and marked Exhibit "A", except as may be revised as a result of this action.
3. The authorized use shall be conducted at all times with due regard for the character of the surrounding district, and the right is reserved to the Zoning Administrator to impose additional corrective Conditions, if, in the Administrator's opinion, such Conditions are proven necessary for the protection of persons in the neighborhood or occupants of adjacent property.
4. All graffiti on the site shall be removed or painted over to match the color of the surface to which it is applied within 24 hours of its occurrence.



5. A copy of the first page of this grant and all Conditions and/or any subsequent appeal of this grant and its resultant Conditions and/or letters of clarification shall be printed on the building plans submitted to the Zoning Administrator and the Department of Building and Safety for purposes of having a building permit issued.
6. The applicant shall defend, indemnify and hold harmless the City, its agents, officers, or employees from any claim, action, or proceeding against the City or its agents, officers, or employees to attack, set aside, void or annul this approval which action is brought within the applicable limitation period. The City shall promptly notify the applicant of any claim, action, or proceeding and the City shall cooperate fully in the defense. If the City fails to promptly notify the applicant of any claim action or proceeding, or if the City fails to cooperate fully in the defense, the applicant shall not thereafter be responsible to defend, indemnify, or hold harmless the City.
7. The maximum height of the hedge and the automatic rolling gates shall be 6 feet, with pilasters allowed up to a height of 7 feet.
8. The northerly driveway gate shall be set back 15 feet from the front property line as shown on the alternate design submitted by the applicant's representative (revised Exhibit "A").
9. Where the front property line meets the southerly driveway, a 5-foot by 5-foot visibility triangle shall be provided. The visibility triangle may be planted, but such plantings shall not exceed 42 inches in height. Because the requirement for the visibility triangles makes the installation of a sliding gate more difficult the applicant may consider a single or double panel gate that swings open onto the property and against the side property line. In any case, the driveway gate shall be electronically operated. A manual override mechanism shall be provided in the event of power failure.
9. Sidewalk access to a door buzzer and a mail box shall be maintained.
10. A revised Exhibit "A" shall be prepared to the satisfaction of the Zoning Administrator illustrating the location of the rolling gates and all dimensions, materials and colors.

OBSERVANCE OF CONDITIONS - TIME LIMIT - LAPSE OF PRIVILEGES - TIME EXTENSION

All terms and Conditions of the approval shall be fulfilled before the use may be established. The instant authorization is further conditional upon the privileges being utilized within two years after the effective date of approval and, if such privileges are not utilized or substantial physical construction work is not begun within said time and carried on diligently to completion, the authorization shall terminate and become void. A Zoning Administrator may extend the termination date for one additional period not to exceed one year, if a written request on appropriate forms, accompanied by the applicable fee is filed therefore with a public Office of the Department of City Planning setting forth the reasons

for said request and a Zoning Administrator determines that good and reasonable cause exists therefore.

TRANSFERABILITY

This authorization runs with the land. In the event the property is to be sold, leased, rented or occupied by any person or corporation other than yourself, it is incumbent upon you to advise them regarding the conditions of this grant.

VIOLATIONS OF THESE CONDITIONS, A MISDEMEANOR

Section 12.29 of the Los Angeles Municipal Code provides:

“A variance, conditional use, adjustment, public benefit or other quasi-judicial approval, or any conditional approval granted by the Director, pursuant to the authority of this chapter shall become effective upon utilization of any portion of the privilege, and the owner and applicant shall immediately comply with its Conditions. The violation of any valid Condition imposed by the Director, Zoning Administrator, Area Planning Commission, City Planning Commission or City Council in connection with the granting of any action taken pursuant to the authority of this chapter, shall constitute a violation of this chapter and shall be subject to the same penalties as any other violation of this Code.”

Every violation of this determination is punishable as a misdemeanor and shall be punishable by a fine of not more than \$1,000 or by imprisonment in the county jail for a period of not more than six months, or by both such fine and imprisonment.

APPEAL PERIOD - EFFECTIVE DATE

The applicant's attention is called to the fact that this grant is not a permit or license and that any permits and licenses required by law must be obtained from the proper public agency. Furthermore, if any Condition of this grant is violated or if the same be not complied with, then the applicant or his successor in interest may be prosecuted for violating these Conditions the same as for any violation of the requirements contained in the Municipal Code. The Zoning Administrator's determination in this matter will become effective after AUGUST 6, 2010, unless an appeal therefrom is filed with the City Planning Department. It is strongly advised that appeals be filed early during the appeal period and in person so that imperfections/incompleteness may be corrected before the appeal period expires. Any appeal must be filed on the prescribed forms, accompanied by the required fee, a copy of the Zoning Administrator's action, and received and receipted at a public office of the Department of City Planning on or before the above date or the appeal will not be accepted. **Forms are available on-line at <http://planning.lacity.org>**. Public offices are located at:

Figueroa Plaza
201 North Figueroa Street,
4th Floor

Marvin Braude San Fernando
Valley Constituent Service Center
6262 Van Nuys Boulevard, Room 251

Los Angeles, CA 90012
(213) 482-7077

Van Nuys, CA 91401
(818) 374-5050

If you seek judicial review of any decision of the City pursuant to California Code of Civil Procedure Section 1094.5, the petition for writ of mandate pursuant to that section must be filed no later than the 90th day following the date on which the City's decision became final pursuant to California Code of Civil Procedure Section 1094.6. There may be other time limits which also affect your ability to seek judicial review.

NOTICE

The applicant is further advised that all subsequent contact with this office regarding this determination must be with the Zoning Administrator who acted on the case. This would include clarification, verification of condition compliance and plans or building permit applications, etc., and shall be accomplished **BY APPOINTMENT ONLY**, in order to assure that you receive service with a minimum amount of waiting. You should advise any consultant representing you of this requirement as well.

FINDINGS OF FACT

After thorough consideration of the statements contained in the application, the plans submitted therewith, the report of the Zoning Analyst thereon, the statements made at the public hearing on February 2, 2010, all of which are by reference made a part hereof, as well as knowledge of the property and surrounding district, I find as follows:

BACKGROUND

The property is an interior rectangular-shaped lot consisting of 20,000 square feet having a frontage of 100 feet on the west side of Vermont Avenue, a rear property line of 100 feet, as well as an even depth of 200 feet. The property is developed with a 5,876 square-foot, two-story, single-family dwelling built in 1924 with a detached multi-car garage located at the southwest corner of the lot along the rear and southerly property lines. A tennis court is located in the northwest corner of the lot along the rear and northerly property lines. The property is located within the Hollywood Planning Area in the RE11-1 Zone.

The applicant is requesting a determination to permit the construction, use and maintenance of two automatic 6-foot high rolling gates with 8-foot high pilasters at the entrance and exit to the existing front driveway and use and maintenance of an existing 8-foot high hedge within the front yard setback area of the property.

The applicant's property is located on the west side of Vermont Avenue, north of Los Feliz Boulevard, on a major entrance route to Griffith Park. As a busy entrance to the park, which includes in the near vicinity the Greek Theatre, the Griffith Observatory, a golf course, tennis courts, hiking trails and general recreation areas, there is considerable automobile traffic and pedestrian traffic, and especially so during special occasions/events such as performances at the theatre and the annual Holiday Festival of Lights. Vermont Avenue travels one way to the south in front of the subject property with north bound traffic across a wide grass parkway that divides the street.

Currently there exists an 8-foot high hedge along the front property line. The applicants are requesting the continued use of this hedge and, additionally would like to put up two steel rolling gates (with one 8-foot pilaster on the ends of each gate). The two gates would be placed on both ends of the existing hedges effectively enclosing the property at the front. The gates themselves would be just short of the 8-foot high pilasters. A semi-circular driveway currently exists in front of the house. The driveway at the southerly opening to the street continues along the southerly property line in a straight line to the detached garage at the rear. Vehicles can exit facing traffic and have no need to back into traffic.

The applicant desires the security that the hedges and associated gates will provide to the property. According to the applicant, there have been a number of light fixtures and potted plant thefts from their front porch within the past few years. Additionally, about six months ago a homeless man was found sleeping on their back patio. The applicants have expressed that this could present danger to themselves and their children.

Surrounding properties are within the RE11-1 Zone and are characterized by rolling topography and improved streets. The surrounding properties are developed with large multi-story single-family dwellings. The neighborhood does have many walls, fences and hedges within the front yards and many of those are over-in-height. The Zoning Investigator took note of several addresses that had over-in-height hedges/fences: 2310, 2324, 2325 and 2340 North Vermont Avenue and 2405 Glendower. The applicant submitted photographic evidence into the case file of such examples including those of the abutting neighbor to the north, properties directly across Vermont Avenue and several other examples within several lots the applicant's property.

Vermont Avenue, adjoining the property to the east is designated a Secondary Street, dedicated to a width of 120 feet and improved with curb, gutter and sidewalk on both sides of the street. Large center mediums divide traffic direction. The mediums are landscaped with grass and large trees and run from Los Feliz Boulevard to the south up to the entrance to Griffith Park to the north.

Previous zoning related actions in the area include:

Case No. ZA 2008-4213(ZAD) – On December 4, 2008, the Zoning Administrator made a Determination authorizing the construction, use, and maintenance of an approximately 7-foot fence and driveway gate located in the front yard. (4771 Cromwell Avenue)

Case No. ZA 2002-6332(ZAD) – On February 25, 2003, the Zoning Administrator denied a fence 5 feet 6 inches in height within the front yard. (2200 North Vermont Avenue)

Case No. ZA 2002-3534(YV) – On December 13, 2002, the Zoning Administrator approved a Variance authorizing the construction, use and maintenance of a swimming pool deck projecting more than 6 feet into the required rear yard setback resulting in a 0-foot rear yard setback in lieu of the required 5 feet and to permit the

proposed deck to adjoin an existing 4-foot in-height retaining wall to be surmounted by a proposed 6-foot in height wall resulting in the combined wall height of 10 feet above the natural ground level adjacent thereto and approved a Variance authorizing the construction, use and maintenance of a stucco faced masonry wall 6 feet in-height for a lineal distance of 100 feet. (2340 North Vermont Avenue)

Case No. ZA 99-2029(F) – On June 21, 2000, the Zoning Administrator denied use and maintenance of a maximum 8-foot in-height brick and wrought iron fence and wrought iron pedestrian and vehicular gates within the required front yard setback area in conjunction with an existing one- and two-story single-family dwelling. (4615 Gainsborough Avenue)

Case No. ZA 99-0635(F) – On December 16, 1999, the Zoning Administrator authorized the construction, use and maintenance of a 6-foot high stucco covered masonry block wall fence within the front yard area. (4770 West Cromwell Avenue)

Case No. ZA 99-0442(YV) – On August 18, 1999, the Zoning Administrator denied a Variance authorizing the continued maintenance of a wrought iron fence constructed on top of an existing retaining wall measuring a maximum 9 feet 2 inches, with driveway and pedestrian gates, and a 0-foot setback from the front property line. (4615 Gainsborough Avenue)

Case No. ZA 98-0929(F) – On February 18, 1999, the Zoning Administrator approved the construction, use and maintenance of a 5-foot (not to exceed a maximum of 5 feet 6 inches) in height stucco-finished (acoustic plaster along Los Feliz Boulevard) wall set back 6 feet 10 inches to 9 feet from the westerly front yard property line and set back 5 feet to 14 feet 4 inches from the southerly side yard property line of a reverse corner lot. (4731 Los Feliz Boulevard)

Case No. ZA 98-0109(F) – On May 12, 1998, the Zoning Administrator authorized a fence 8 feet in height within the required front yard. (2324 North Vermont Avenue)

Case No. ZA 97-0173(F) – On June 9, 1997, the Zoning Administrator authorized a 6-foot in height hedge, with 7-foot gate posts topped by 1-foot coach light fixtures, for a maximum height of 8 feet, and with 7-foot high wrought iron pedestrian and vehicle gates, observing setbacks from the front lot line varying from 1-foot to 22 feet, for a linear distance of 65 feet. (2220 North Berendo Street)

Case No. ZA 90-0037(F) – On May 3, 1990, the Zoning Administrator authorized the continued use and maintenance of an existing 4- to 6-foot over-in-height masonry block wall with 7 feet 6 inch pilasters as stepping up the hill along Cromwell Avenue for a distance of 150 feet and 70 feet along Berendo Street with two wrought iron gates along the 15-foot street frontage and 5-foot side yard. (2250 North Berendo Street)

Case No. ZA 84-0072(F) – On October 16, 1984, the Zoning Administrator approved the construction of an over-in-height, combination brick, stucco and

wrought iron wall and fence ranging from approximately 6 to 7.25 feet in height located along the front property line. (2310 North Vermont Avenue)

PUBLIC HEARING

A public hearing was held on February 2, 2010 in Los Angeles City Hall. In attendance were Wallace Tashima, Mrs. Tashima, contractor David Minniss, neighbors Pauline Louie and Reba Thomas, Dana Krimnin, and a citizen in support of the project.

A letter from the Los Feliz Square Neighborhood Association in support of the permit was received at the hearing from a representative who testified. The Association supported the request for the following reasons:

- They are aware of security breaches at the subject property and find no other visible solution.
- They are concerned about the Police response time to a trespasser and the potential legal liability that could arise from a trespasser.
- A 42-inch high gate would not solve the safety or liability issues and would not fit aesthetically into the surroundings.
- Their support is based on a concern for safety and about liability.

A faxed letter in support of the application was received February 2, 2010 from an adjacent neighbor, who also testified at the hearing, stating:

- Over several years, she has personally witnessed several strangers who walked into the courtyard, looked into the windows of the dwelling and then wandered into the back yard.
- The owners of the subject property have related several stories about encounters with strangers in their yard.
- Furniture and fixtures have been stolen from the property.
- The applicant has a job that might make his home a target.
- Some of the residents who oppose the project have applied for over-in-height fences themselves.
- She supports the installation of 6-foot high gates.

The applicant testified and submitted a letter at the hearing explaining the primary reasons for the application, which are:

- His job takes him away from home and some of his family members are at home by themselves for an average of a week each month. Security is an issue.
- In recent years there have been unwelcomed intrusions onto the property. A list of eight trespass incidents is attached in the case file.
- Griffith Park is one mile south and hundreds of people can stream by the house after a concert.
- Their home would be one of many in the neighborhood with fences and gates.
- He submitted signatures of 14 residents of neighborhood who support gates.

Bruce Carrol of the Greater Griffith Park Neighborhood Council Planning and Zoning Committee testified and submitted a letter opposing the gates. He testified that:

- He has been a resident of the area for 40 years and has experienced thefts, he also said that the Los Angeles Police Department advocates visibility to help maintain safety and that the long driveway on the subject property offers the possibility of having a gate not in the front yard.
- He also pointed out that there is often no record that other existing fences are legal.
- The Greater Griffith Park Neighborhood Council is opposed to the grant because: the grant of the adjustment would lead to other over-in-height fences inconsistent with the historic and current development of Vermont Avenue, and it is improper to grant special rights unrelated to the nature of the property.

MANDATED FINDINGS

In order for an over-in-height fence/wall request to be approved, all of the legally mandated findings in Section 12.24-X,7 of the Municipal Code must be made in the affirmative. The following section states such findings in bold type with the applicable justification set forth immediately thereafter.

1. **The proposed wall/fence will be in conformity with the public necessity, convenience, general welfare and good zoning practice.**

The subject property is on entry path to the Greek Theater that has late night foot traffic that sometimes impacts the property with trespassing, drinking and urination. The applicant seeks permission for the over-in-height hedge and rolling gates within the front yard setback area of their single-family dwelling in order to provide security and privacy. The portion of the property on North Vermont Avenue is exposed to motorists and neighbors and a wall 42 inches in height does not provide the privacy necessary for the yard to function as private open space. Without an appropriate fence, open space and privacy cannot be assured as it is typically enjoyed by other neighboring residents. In this instance, the applicant's property is impacted by a nuisance which cannot be resolved by the 42 inch high fence. The requested over-in-height fence with rolling gates can be characterized as a necessity for the convenience and welfare of the residents. With the northerly gates set back as conditioned and a 5-foot visibility triangle maintained where the driveway meets the southerly front property line, visibility for cars entering and exiting the property should not endanger motorized vehicles or pedestrians.

Use and maintenance of the hedge and installation of the gates will be compatible with what already exists in the residential neighborhood and will be in conformity with the public necessity, convenience, general welfare and good zoning practice.

2. **The proposed wall/fence will be in substantial conformance with the various elements and objectives of the General Plan.**

The Hollywood Community Plan designates the property for Very Low II Residential uses with corresponding zones of RE15 and RE11 and Height District 1. The primary residential use is consistent with the intent of the General Plan. The General Plan supports the maintenance and upgrading of stable residential neighborhoods, public safety, and good zoning practices and this request is consistent with those goals. No regulations or limitations have been placed on property as result of Scenic Highway designation.

The Planning and Zoning Code limits the heights of fences to ensure public safety and protect the surrounding properties. The subject fence and gates as approved and conditioned will ensure public safety, light and air to the surrounding properties consistent with the intent of the code.

The Community Plan encourages the preservation and enhancement of positive characteristics of existing residential uses, which provide the foundation for community identity with the existing scale and character of the neighborhood. The proposed hedge and gates are in scale and appearance and are consistent with the neighborhood.

3. The proposed wall/fence will not be materially detrimental to the property or improvements in the same zone or vicinity in which the property is located.

A Determination permits a departure from the literal interpretation of the zoning ordinance and allows the property owner to use the property in a manner otherwise not permitted. According to attendees at the hearing, gates increase value of property in the subject neighborhood.

The hedge is similar to the character of landscaping found on other properties in the vicinity. The rolling gates will allow light and air to circulate and also afford substantial views of the dwelling. The design and appearance of the hedge and gates are complimentary to the style of the property and do not adversely impact the character of the neighborhood.

In making the above finding, I have considered the environmental effects and appropriateness of materials, design and location of any proposed fence, including any effects on the view which may be enjoyed by the occupants of adjoining properties, and the security to the subject property which the wall/fence will provide.

The above referenced walls and gates, did not appear to be an objectionable addition to the street scene or the house, and provide the applicant with added security and privacy without obstructing any views or creating an adverse impact on the traffic flow in the either of the streets.

ADDITIONAL MANDATORY FINDINGS

4. The National Flood Insurance Program rate maps, which are a part of the Flood Hazard Management Specific Plan adopted by the City Council by Ordinance No.

172,081, have been reviewed and it has been determined that this project is located in Zone C, areas of minimal flooding.

5. On September 11, 2009, the project was issued a Notice of Exemption, log reference ENV 2009-2973-CE, for a Categorical Exemption, Class 3, Category 6, City CEQA Guidelines, Article III, Section 1, State EIR Guidelines, Section 15300 *et seq.* I hereby adopt that action.

I concur with the report prepared by Susan Whisnant, Planning Staff for the Office of Zoning Administration, on this application and approve same.

SUSAN WHISNANT
City Planner
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MICHAEL LOGRANDE
Chief Zoning Administrator
Telephone No. (213) 978-1318

ML:SW:lmc

cc: Councilmember Tom LaBonge
Fourth District
Adjoining Property Owners