

# Agenda Report

**TO:** CITY COUNCIL

**DATE:** JULY 17, 2006

**FROM:** CITY MANAGER

**SUBJECT:** CALL FOR REVIEW OF MINOR VARIANCE #11536, 1149 WOTKYNS DRIVE

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## **RECOMMENDATION:**

It is recommended that the City Council:

1. Acknowledge that this action is categorically exempt from CEQA; and
2. Approve the Minor Variance application to allow a six-foot tall block wall in the front yard of a single-family residence with the Condition of Approval in Attachments B and C.

## **BACKGROUND:**

The applicant, and owner, is requesting a Minor Variance to allow the construction of a six-foot tall block wall, with pedestrian and vehicle gates, in the front yard of a single-family house; two feet taller than what is permitted by right. The wall was constructed in 2005 based on a building permit that was issued in error in the Spring of 2005. After the wall was completed in the Fall of 2005, City staff were contacted by a resident inquiring about the legality of wall. Staff investigated and determined that the permit had been issued in error. The owner was contacted and advised that in order to keep the wall a Minor Variance to exceed the four-foot maximum allowable height was necessary. The Minor Variance application was submitted in early 2006.

Staff determined that the findings to approve the wall could be made and recommended approval of the application to the Hearing Officer at the March 1, 2006 Public Hearing. The Hearing Officer concurred and approved the application. The Planning Commission, at its March 22 meeting elected to Call for Review the application and directed that it be heard by the Board of Zoning Appeals.

On May 17, the Board of Zoning Appeals over-turned the Hearing Officer's decision to approve the application, and voted 3-2 to disapprove the Minor Variance application.

The basis for the disapproval was: 1) the six-foot wall would be a negative impact on the neighborhood; 2) the existence of walls/fences in the vicinity that exceed the current maximum allowed height should not be used as grounds to approve the application; and 3) the issuance of a building permit in error should not be used as grounds to support the Minor Variance request. On May 15, the City Council voted to Call for Review the application.

### **ANALYSIS:**

The Zoning Code permits a maximum fence/wall height of four feet when located in front of the 'occupancy frontage'; the point of the residence that is closest to the front property line. At the subject property, there is a detached garage that is located in front of the residence, approximately ten feet from the front property line that was constructed in the 1920's. The building permit that was erroneously issued was approved on the basis of the wall being in line with the front of the garage.

Staff recommended that the Hearing Officer approve the Minor Variance request for the following reasons:

1. The property has an unusually small usable rear yard of 15 feet due to the rear of the property sloping down into the Arroyo Seco and the location of the house at the rear of the property;
2. Unlike the properties in the immediate area, the detached garage is located at the front of the property, approximately ten feet from the front property; and
3. The wall is in line with the front of the detached garage. If the garage had been constructed as a part of the residence, the front of the garage would be the occupancy frontage, and a six-foot tall wall or fence would be allowed by right.

In response to concerns voiced by residents at the March 1 Hearing Officer hearing, and prior to the May 17 Board of Zoning Appeals hearing, staff met with the applicant and explored several design alternatives to balance the applicant's privacy concerns and the residents' massing concerns. To that end staff recommended, and continues to recommend, that the pilasters and gates remain (limited to six-foot tall), and that the top two feet of the remainder of the wall be replaced with wrought-iron, painted to match the current color of the gates. Other conditions approved by the Hearing Officer, such as requiring a landscape plan, are in Attachment B to this report.

### **ENVIRONMENTAL DETERMINATION:**

This project has been determined to be exempt from environmental review pursuant to the guidelines of the California Environmental Quality Act (Public Resources Code §21080(b)(9); Administrative Code, Title 14, Chapter 3, Class 1 §15301, Existing Facilities). This class exemption specifically exempts accessory structures including fences and walls.


**FISCAL IMPACT:**

There will not be an immediate fiscal impact as a result of the approval of the Minor Variance as building permit fees have already been paid. Additional staff time will be required to work with the applicant to ensure compliance with the Conditions of Approval.

Respectfully submitted,

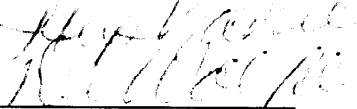
  
Cynthia J. Kurtz  
City Manager

Prepared by:



David Sinclair  
Associate Planner

Approved by:



Richard J. Bruckner, Director  
Planning and Development Department

Attachments:

- A. Zoning Administrator and Hearing Officer Specific Findings for Minor Variance #11536
- B. Zoning Administrator and Hearing Officer Conditions Of Approval for Minor Variance #11536
- C. Department of Public Works Conditions Of Approval for Minor Variance #11536
- D. Board of Zoning Appeals Specific Findings for Minor Variance #11536

**ATTACHMENT A  
ZONING ADMINISTRATOR AND HEARING OFFICER  
SPECIFIC FINDINGS FOR MINOR VARIANCE #11536**

Minor Variance – To Construct a Six-Foot Tall Wall in the Front Yard.

1. *There are exceptional or extraordinary circumstances or conditions applicable to the project site that do not apply generally to sites in the same zoning district.* The subject property is developed with a shallow (15 feet) usable rear yard, adjacent to the steeply sloping Arroyo Seco. Further, the existing garage is detached and in the front of the house. There are no other garages in the immediate area that are detached and in front of the house. These conditions are unique to the project site given the placement of the residence and garage. There are no other properties in the vicinity with the unique arrangement of buildings.
2. *Granting the application is necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship.* The location of the house near the rear property line and the steep slope at the immediate rear of the property result in a small rear yard. By constructing a six-foot wall in the front of the house the owner can create a usable private yard.
3. *Granting the application will not be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety, or general welfare.* The six-foot wall matches the front setback of the existing detached garage and will be compatible with the character of the existing residence and will not be detrimental or injurious to the surrounding neighborhood. Visibility and sight lines for motorists and pedestrians will not be impacted.
4. *Granting the application is in conformance with the goals, policies, and objectives of the General Plan and the purpose and intent of any applicable specific plan and the purposes of this Zoning Code, and would not constitute a grant of special privilege inconsistent with limitations on other properties in the vicinity and in the same zone district.* The General Plan encourages residential development that is compatible and harmonious with single-family residential neighborhoods. In this case, the six-foot wall will match the existing setback of the existing garage. The property will continue to be use for single-family purpose which is in compliance with the Low Density Residential General Plan designation and RS-6 zoning designation for the site. The residential character of the neighborhood will not be impacted.
5. *Cost to the applicant of strict compliance with the corner yard requirement is not the primary reason for the granting of the variance* in that cost to the applicant has not been considered a factor at any time throughout the review of this application.

**ATTACHMENT B  
ZONING ADMINISTRATOR AND HEARING OFFICER  
CONDITIONS OF APPROVAL FOR MINOR VARIANCE #11536**

The applicant or successor in interest shall meet the following conditions:

1. The site plan and elevations submitted for building permits shall substantially conform to the plans submitted with this application and dated "Received at Hearing March 1, 2006," except as modified herein.
2. The applicant shall comply with all applicable development standards of the Zoning Code including Chapter 17.22 (Single-Family Residential), except as modified herein.
3. This Variance allows the construction of a six-foot in height wall to be constructed to match the existing front setback of the existing detached garage, approximately ten feet from the front property line. The pilasters and gates may be as high as six feet tall, while the remainder of the wall may include up to four feet of solid block wall, with the remainder of the six feet height consisting of wrought-iron painted to match the existing gates. No portion of the wall or gates may exceed a height of six feet.
4. The applicant or successor in interest shall meet the applicable code requirements of all other City Departments.
5. The proposed project, Activity Number **PLN2006-00033**, is subject to a **Final Zoning inspection**. The Final Zoning Inspection will occur at the completion of the project. Required fees for inspections shall be paid on or after the effective date of this permit. Contact the Code Compliance Staff at (626) 744-4633 to verify the fee. All fees are to be paid to the cashier at the Permit Center located at 175 N. Garfield Avenue. The cashier will ask for the activity number provided above. Failure to pay the required monitoring fees prior to initiating your approved land use entitlement may result in revocation proceedings of this entitlement.
6. The applicant shall submit to the Zoning Administrator, for review and approval, a landscape and irrigation design plan by a landscape architect. The landscape plan shall include several 15 gallon tree and smaller shrubs. Creeping vines may also be included. The landscape and irrigation plan shall meet the requirements of 17.44.050 (Landscape Documentation Package) and 17.44.060 (Landscape Location Requirements) The landscaped areas shall be maintained in accordance with Chapter 14.50 and Section 17.44.080 (Maintenance of Landscaping) of the Zoning Code.

**ATTACHMENT C**

**MEMORANDUM - CITY OF PASADENA  
DEPARTMENT OF PUBLIC WORKS**

**DATE:** February 2, 2006

**TO:** Denver Miller, Zoning Administrator  
Planning and Development Department

**FROM:** City Engineer  
Department of Public Works

**RE:** Minor Variance No. 11536  
1149 Wotkyns Drive

The Department of Public Works has reviewed the application for Minor Variance No. 11536 at 1149 Wotkyns Drive. The minor variance is to allow the construction of a six-foot fence in the front yard of a single-family house where four feet is the maximum allowable height. The approval of the minor variance should be based upon satisfying all of the following conditions:

1. The applicant shall repair any existing or newly damaged sidewalk along the subject frontage prior to the issuance of a Certificate of Occupancy. Existing street trees shall be protected using the City's Tree Protection Standards available from the Parks and Natural Resources Division (744-4514).
2. All costs associated with these conditions shall be the applicant's responsibility. Unless otherwise noted in this memo, all costs are based on the General Fee Schedule that is in effect at the time these conditions are met. A processing fee will be charged against all deposits.

DANIEL A. RIX  
City Engineer  
DAR:jo

**ATTACHMENT D  
BOARD OF ZONING APPEALS  
SPECIFIC FINDINGS FOR MINOR VARIANCE #11536**

Minor Variance – Construct a Six-Foot Tall Wall in the Front Yard

1. *Granting the application will be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety, or general welfare in that while the six-foot wall matches the front setback of the existing detached garage and will be compatible with the character of the existing residence, it does not fit the existing development in the immediate area. There are some walls in the general vicinity that were built over four feet, and are therefore 'grandfathered.' This does not give weight to the argument that the six-foot wall will be in character with the neighborhood. Many of the lots in the area do not have six foot high walls in the front yard. The granting of this variance would be detrimental to the neighborhood because it would result in a loss of neighborhood character and reduce the pedestrian character of the area.*
  
2. *Granting the application is not in conformance with the goals, policies, and objectives of the General Plan, and the purpose and intent of any applicable specific plan and the purposes of this Zoning Code and would constitute a grant of special privilege inconsistent with limitations on other properties in the vicinity and in the same zone district in that the granting of this variance would be inconsistent with the goals and policies of the General Plan in particular the goals to create a pedestrian friendly character. A six-foot high wall is not pedestrian-friendly and results in a gated community character. Even with the openings in the wall, the wall constitutes a large mass set against the street. Granting this variance will constitute a grant of special privilege because a building permit was issued in error and that just because the City granted a permit does not necessarily warrant the granting of a variance. Many residential streets in the City are designated as mobility corridors and have heavy traffic and front yard fence variances have not been granted to residences on mobility corridors. This lot is not located on a mobility corridor and does not have the high traffic volume of such streets. Granting a variance to the fence height would be a grant of special privilege.*

**CORRESPONDENCE/HANDOUTS  
FROM  
JULY 31, 2006  
COUNCIL MEETING**



Pasadena City Council Presentation  
July 31, 2006

Summary Of Events

Pictures Of Fence

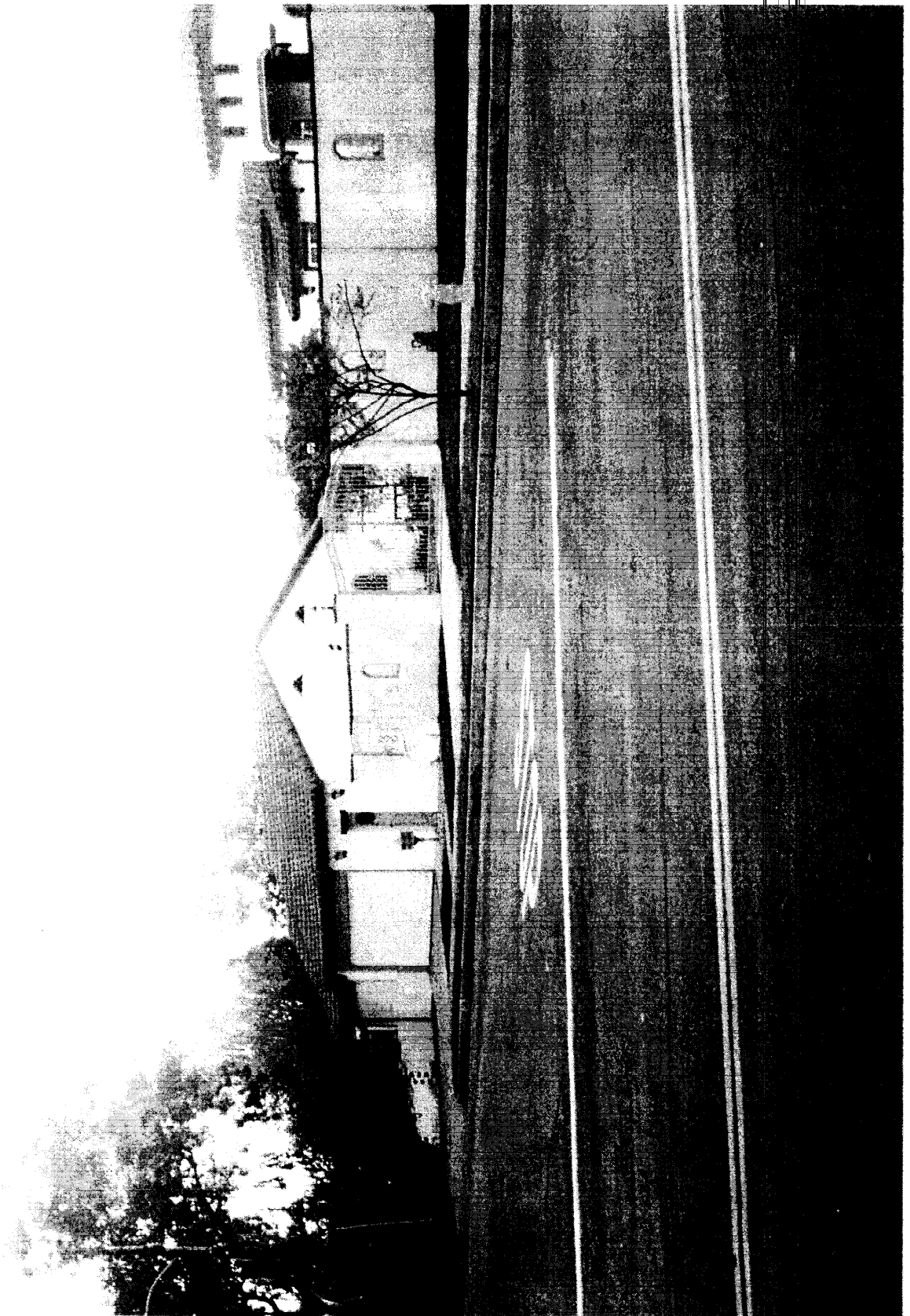
Neighbor Petition

07/31/2006  
6.A. 7:30 p.m.  
Handout by Walter Dennis

## 1149 Wotkyns Drive Front Fence/Gates

- Property Purchased In October 2003 And Complete Rehab Effort And Residence Addition Was Initiated With The City Of Pasadena
- Effort Included Verbal Discussions With The City Zoning Department, Project Design, Submittal Of Formal Building Plans, And Approval And Implementation Of Those Plans
- Fence 6-Ft Height And Location Were A Part Of That Plan
- The Fence Was Approved 4 Times Over Course Of Two Years
  - November 2003, November 2004, Mar 2005, May 2005
  - Fence, Gates, Electrical, Irrigation, And Gas Line Placement Cost Is \$20,300.00
- Fence Completed July 2005, And Final Approval Of Entire Project Occurred In October 2005.
- Complaint Surfaced In November/December 2005
  - From Someone Other Than The City
  - Fence Height Should Be No Greater Than 4 Ft High
- City Notified Owner That A Minor Variance For 6-Ft Height Would Be Required Even Though All Details Had Been Previously Discussed And Formally Approved
- 2 Hearings Occurred Over 8 Month Period
  - First Resulted In Variance Approval By Appeals Officer
  - Second Resulted In Variance Non-Approval By 3-2 Margin In BZA\*
- Fence, Gates Etc. Are Not Easily Modified, And Results Would Affect The Entire Project
- Owners Request Approval Of Minor Variance
  - Owners Met All City Requirements As Directed By The City
  - Variance Request Supported by Zoning Article 6, Planning and Permit Requirements
  - Many Neighbors Support Project Design As Implemented

\*First time that City requires something be removed/altered after it is built and was approved By City  
Owners had to pay for modifications





Wolkyns



Wolkyns

Wolkyns



Wolkyns



City of Pasadena

May 22, 2006

Dear Mayor Bogaard and Council Members,

We recently completed a new/remodel residence at 1149 Wotkyns Drive, which we bought in October 2003. We commenced the building process in November 2003, and after some legal delays, completed the project with final inspection occurring in October 2005.

We built a home that fits into and enhances the neighborhood, and have received many compliments on its design.

We are writing you this letter per information obtained from City Zoning to request a City Council hearing on a fence matter. We have an existing fence that was approved by the City and constructed as part of the building project that was started in November of 2003. A front fence was completed in July 2005.

We moved into the home in December 2005, and received a letter from the City that stated they issued the front fence permit in error, and a minor variance would be needed.

We were surprised to receive the notice, because we built a six foot high fence in line with a garage/hobby room per City instructions. Its design was an integral part of the house, with hardscape and softscape design as described in professional building plans. Costs for hardscape, softscape, fences and associated electrical and irrigation were about \$45,000.

Furthermore, this fence design was approved at least four times by at least 3 individuals over a 19-month period. The first permit was issued in November of 2003. The second was in November of 2004 via the building drawings submitted by our Designer in December 2003 (Legal Delay). The third was approved about March/April 2005 when an "as-built" set of plans was approved by the City. The fourth was approved about May 2005 because the original permit needed renewal (Due a 9-month legal delay).

Five months after wall completion, someone (not the City) complained about the height, and we went through the variance hearing process. The Hearing Officer agreed with the City recommendation of 6 ft as permitted, and the fence height stood. But the process continued. We attended a Planning Commission meeting, and then a Board of Zoning Appeals meeting where the Hearing Officer's ruling was overturned by a 3-2 vote. One of the Commission members indicated that, to his recollection, this was the first time that a revocation action was executed for a project that had prior City permit approval and was already completed.

Only about 5 people out of about 100 neighbors voiced opinions about the fence, and that was after their active recruiting failed to get more people to complain or attend the meetings. We are new to the area and did not consider imposing on anyone to come to the hearings because we do not really know anyone, and we thought that we conformed to the specified Minor Variance Laws (Special conditions and rights denial) and that the City agreed with us.

We did what the City asked and conformed to all their rules. We do not believe that the City can force removal of what they approved to be built. We believe that granting of a minor variance, if needed, is appropriate. We believe that the fence should stand "as is". We are open to some minor modification/landscaping, but disagree with the City's view that they made a mistake, but that we have to pay for correcting it.

We feel mistreated and need to talk with one of the council members for resolution, and request that this issue be placed on the Council agenda for discussion. We hope that our 5-month long stress can be resolved now and not proceed to any further course of action.

Respectfully,

Walt and Polly Dennis

CC: V. Gordo, S. Haderlein, C. Holden, P. Little, S. Madison, J. Streater, S. Taylor

Petition Signatures

37

1149 Wotkyns Drive Front Fence Petition

June, 2006

To the City of Pasadena,

We think that the development at 1149 Wotkyns Drive was an enhancement to the neighborhood. This includes the front fence that was permitted and approved by the city in the spring/summer of 2005. We think that the fence should stand as presently built.

Name

Address

Anda Siller

1166 N. Arroyo Pl.  
Pas. Ca 91103

Robert L. Holt  
John S. Walker  
Maryellen Holt

"  
7 Rickland Blvd 91103  
7 Rickland Place 91103



1149 Wotkyns Drive Front Fence Petition

June, 2006

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Name

Jeff Ryan

Address

717 EVERETS ST  
PASADENA, CA  
91103

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Name

Michael & Joan Maister

Address

1145 Wotkyns Dr.  
Pasadena, CA 91103

(2)

1149 Wotkyns Drive Front Fence Petition

June, 2006

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Name

Address

John J. Kennedy  
owner of 681 Westgate  
Pasadena, CA 91103

John J. Kennedy  
6/7/2006

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June, 2006

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Name	Address
Ira Alkaway	1157 Armada Dr
Jim Clasky	1151 Armada Drive
Amelle Karimi	1193 Solita Road
Amor Karwi	1193 Solita Road
Kobra Shabain	1193 Solita Road
Christal Johnson	1223 Solita Road
James E. Johnson	1223 Solita Road

1149 Wotkyns Drive Front Fence Petition

June, 2006

To the City of Pasadena,

We think that the development at 1149 Wotkyns Drive was an enhancement to the neighborhood. This includes the front fence that was permitted and approved by the city in the spring/summer of 2005. We think that the fence should stand as presently built.

Name

Address

*Angela Huber*  
*Jayne Bailey*

*1604 N. Arroyo Blvd. Pasadena 91103*  
*1604 71. Arroyo Blvd. Pasadena 91103*

1149 Wotkyns Drive Front Fence Erection

June, 2006

To the City of Pasadena,

We think that the development at 1149 Wotkyns Drive was an enhancement to the neighborhood. This includes the front fence that was permitted and approved by the city in the spring/summer of 2005. We think that the fence should stand as presently built.

Name

Address

Parlene Tave

1148 Wotkyns Dr. Pasadena 91103

CLAYTON TAVE

11 11

221

1149 Wotkyns Drive Front Fence Petition

June, 2006

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We think that the development at 1149 Wotkyns Drive was an enhancement to the neighborhood. This includes the front fence that was permitted and approved by the city in the spring/summer of 2005. We think that the fence should stand as presently built.

Name

Address

Carroll Lewis

1224 Solita Rd Pas.

Nathaniel C. Jones  
Wilbur Sinclair SD

1224 SOLITA RD 91103

Anthony Karimi

1240 N. Arroyo Blvd  
91103  
1193 SOLITA RD, Pasadena, CA 91103

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June, 2006

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We think that the development at 1149 Wotkyns Drive was an enhancement to the neighborhood. This includes the front fence that was permitted and approved by the city in the spring/summer of 2005. We think that the fence should stand as presently built.

Name *Asghis Tascian*

Address *594 W. Washington  
Blvd.  
Pasadena CA 91103*



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June, 2006

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We think that the development at 1149 Wotkyns Drive was an enhancement to the neighborhood. This includes the front fence that was permitted and approved by the city in the spring/summer of 2005. We think that the fence should stand as presently built.

Name

Jessie Hardy  
VANCE ALLEN

Address

1242 Solita  
1199 FOREST AVE