


TOWN OF LOS ALTOS HILLS

MEMORANDUM

DATE: August 7, 2014

TO: Honorable Chair and Members of the Commission

FROM: Steve Padovan, Consultant Planner 

RE: Lands of Toprani, 26630 Ascension Drive – Fence Permit
File #118-14-ZP

At the June 5, 2014 public hearing, the Planning Commission reviewed a proposal to legalize and retain a newly constructed six-foot high solid wood fence on the rear and side property lines of a property located at 26630 Ascension Drive. The Town had previously approved the existing six foot high solid redwood fence in error. The fence in question is located along the Fremont Road frontage and the owner requested an exception to replace the existing non-conforming five foot high chain link fence with a six foot high solid wood fence.

The Planning Commission discussed the issue and each Commissioner stated that they could not support a six foot solid fence on the rear property line. The Commission voted 5-0 to allow the applicant to look at other options and return to the Planning Commission (**Attachment 1**). Additional questions were also raised about the location of the fences in existing public utility easements.

Following the hearing, staff met with the owner and reviewed the options available to him to legalize the fence. It was determined that the 6 foot solid fence on the north property line was a replacement of an existing 6-foot nonconforming solid fence and that an exception could be granted for that 30 foot section located in the rear yard setback. However, based on the Commission's statements at the hearing, the rear fence would have to be cut down to three feet or the owner could replace the rear fence with a new chain-link fence of a similar height. As for the 6-foot portion of fencing on the south property line, staff requested a photo from the owner to confirm what materials the previous fence was constructed of in order to determine if a fence exception could be granted.

The owner submitted a new fence plan on June 27, 2014 showing a three foot solid fence on the rear property line and a six foot solid fence on the side property lines up to the rear property line (**Attachment 2**). He also submitted a photo of the previous fence on the south property line which was a 5-foot chain link fence with barbed wire on top (**Attachment 3**).

Based on the information provided, staff informed the owner that he would be able to replace the 30 foot portion of the southerly side yard fence closest to Fremont Road with a replacement open wire fence per the nonconforming fence section and staff could approve all the fencing

administratively. Unfortunately, for any solid wood fence that exceeds the maximum height requirements, a variance would be required (and subsequent approval from the Planning Commission) as staff does not have the ability to offer a compromise other than the variance process. Furthermore, staff stated that a variance likely cannot be supported because the property does not appear to have any site conditions which would support variance findings. In any event, the owner stated that he wanted to submit his proposed fence plan to the Planning Commission showing a six foot solid side yard fence on the south property line up to Fremont Road.

As for the encroachment of the fence in the public utility easements on the north and south side of the property, all four public utilities in Town have submitted letters stating that they have no objections to the location of the fence in the easements (Attachments 4 and 5). In addition, Engineering staff has stated that the property is currently connected to a public sewer and the existing sewer easements are not needed. It should also be noted that should any one of the utilities need to do work in the easement, the owner will be notified and he will be responsible for removal of the fence. Furthermore, the utility is not required to pay for any replacement fencing.

In conclusion, staff is requesting that the Planning Commission provide direction to staff and the owner as to whether or not the Commission would support a variance for the 30 foot section of solid wood fence on the south property line (only for the portion in the rear yard setback) and if not, then to direct staff to bring the fence into compliance with the fence ordinance.

ATTACHMENTS

1. Excerpt of Minutes from June 5, 2014 Planning Commission
2. Fence Plan dated June 27, 2014
3. Photo of Previous 6 foot Chain Link Fence on Southerly Property Line
4. Portion of Recorded Subdivision Map with Subject Property
5. Easement Encroachment Letters from Public Utilities

Commissioner Tankha stated her support of the project.

Commissioner Partridge stated his support of the project.

Commissioner Mandle did not see a reason for the project to not be approved.

Commissioner Couperus agreed with the other Commissioners.

Chair Abraham stated that he too did not see a reason to not approve this project.

MOTION MADE AND SECONDED: Commissioner Tankha moved to approve a request for a Conditional Development Permit for a 140 square foot addition to an existing 4,004 square foot two story residence. The motion was seconded by Commissioner Partridge.

AYES: Commissioner Tankha, Commissioner Couperus, Commissioner Mandle, Chair Abraham, Commissioner Partridge

NOES: None

ABSENT: None

ABSTAIN: None

MOTION CARRIED 5-0.

3.3 LANDS OF TOPRANI, 26630 Ascension Drive; FILE #118-14-ZP; A request for a Fence Permit and an exception to allow for a six (6) foot tall solid redwood fence with a reduced setback of 30 feet from the Fremont Road right-of-way centerline where a 60 foot setback is required. CEQA Review: Categorical Exemption per Section 15303(e) - new construction of an accessory structure; (Staff-Steve Padovan).

Ex Parte Communications: Commissioner Tankha stated that she had spoken with the architect for this project. Commissioner Partridge stated that he had spoken with someone affiliated with the project, but could not recollect with whom. Commissioner Mandle stated she had met with the applicant. Commissioner Couperus and Chair Abraham stated that they had not spoken with anyone pertaining to this project.

Consultant Planner Steve Padovan presented the staff report.

Chair Abraham asked questions pertaining to the Public Utility Easement (PUE) where the fence was currently located.

Commissioner Mandle inquired into the other options the Town had reviewed before bringing this issue to the Commission.

Chair Abraham opened the PUBLIC HEARING.

Applicant Subodh Toprani and his contractor, **Mike Smith**, spoke to the Commission's inquiries and on behalf of their project.

Harry Price, Mr. Toprani's attorney, spoke to the applicant's vested rights.

Bill Vancleemput, Los Altos Hills, stated his opposition to the fence as it would set a precedent for everyone else who wishes to install taller fences.

Chair Abraham closed the PUBLIC HEARING.

Commissioner Partridge stated that this fence should not have been proposed, approved or built. He did not know how to rectify this, as both the applicant and the Town are at fault.

Commissioner Mandle agreed with **Commissioner Partridge**, and was willing to accept the non-compliant, grandfathered fence, but this fence needs to be compliant. She also stated that the Town should help with costs

Commissioner Tankha did not support the fence in this location but expressed concerns about the resources the applicant has already put into the project. She did not have a solution for the problem.

Commissioner Couperus agreed with the statements of the other Commissioners, and noted that this type of fence will not help with sound mitigation as the applicant stated. He suggested planting a hedge. He did not have a solution to the problem, but stated the fence needed to be removed or brought into conformance.

Chair Abraham did not support the fence or the current location. He did not see any grounds for a special exception, but stated the Town should bear some of the financial responsibility for a solution. He requested that staff investigate the subdivision map in reference to the fence along the easement. **Director Pedro** stated that the easement was not on the agenda for this meeting, but that staff could be directed to investigate this as a separate issue. **Chair Abraham** agreed.

Commissioner Couperus suggested continuing the item to another meeting to allow the applicant to look at other options to bring back to the Commission.

MOTION MADE AND SECONDED: Commissioner **Partridge** moved to continue the request for a Fence Permit and an exception to allow for a six (6) foot tall solid redwood fence with a reduced setback of 30 feet from the Fremont Road right-of-way centerline where a 60 foot setback is required to the July 10, 2014 Special Planning Commission meeting. The motion was seconded by Commissioner **Mandle**.

AYES: Commissioner Tankha, Commissioner Couperus, Commissioner Mandle, Chair Abraham, Commissioner Partridge

NOES: None

ABSENT: None

ABSTAIN: None

MOTION CARRIED 5-0.

3.4 DISCUSSION OF PROPOSED CONSTRUCTION TIME LIMIT ORDINANCE (Staff- Steve Padovan) (CONTINUED FROM MAY 8, 2014 PLANNING COMMISSION MEETING).

Consultant Planner Steve Padovan presented the staff report.

The Commission asked questions of staff.

Chair Abraham inquired as to whether or not there would be a fee to file for an extension with this new ordinance. **Mr. Padovan** stated that this had not been determined yet. **Director Pedro** mentioned the likelihood of a processing fee.

Commissioner Couperus confirmed the chain of command in approving the extensions with this policy and made mention of the possible fees.

Commissioner Partridge stated his preference for a flat monetary penalty rather than a percentage, as he did not feel the percentage would create enough of an incentive.

Commissioner Mandle asked for clarification for the stipulations around the penalties and how/when they are due to the Town.

Chair Abraham opened the PUBLIC HEARING.

George Tyson, Los Altos Hills, asked how this would affect current projects that are causing issues in Town.

LEGEND:

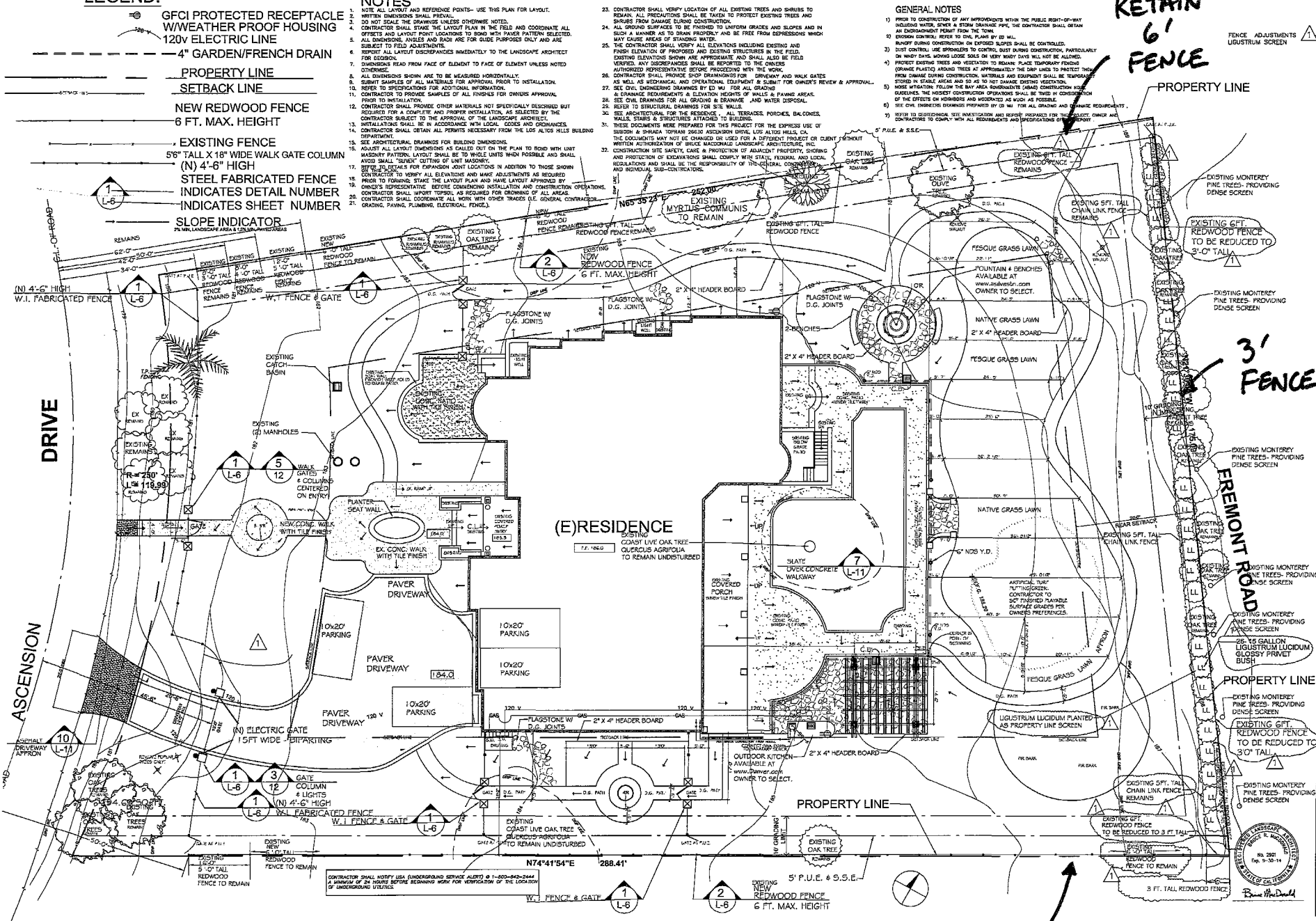
- GFCI PROTECTED RECEPTACLE
- WEATHER PROOF HOUSING
- 120V ELECTRIC LINE
- 4" GARDEN/FRENCH DRAIN
- PROPERTY LINE
- SETBACK LINE
- NEW REDWOOD FENCE
6 FT. MAX. HEIGHT
- EXISTING FENCE
56" TALL X 18" WIDE WALK GATE COLUMN
(N) 4'-6" HIGH
- STEEL FABRICATED FENCE
INDICATES DETAIL NUMBER
- SLOPE INDICATOR

NOTES

1. SEE LAYOUT AND REFERENCE POINTS- USE THIS PLAN FOR LAYOUT.
2. WRITTEN DIMENSIONS SHALL PREVAIL.
3. DO NOT SCALE THE DRAWING UNLESS OTHERWISE NOTED.
4. CONTRACTOR SHALL STAKE THE LAYOUT IN THE FIELD AND COORDINATE ALL OFFSETS AND LAYOUT POINT LOCATIONS TO BOUND WITH PAVEMENT PATTERNS. ALL DIMENSIONS, ANGLES AND BOUNDS ARE FOR GUIDE PURPOSES ONLY AND ARE SUBJECT TO FIELD ADJUSTMENTS.
5. REPORT ALL LAYOUT DISCREPANCIES IMMEDIATELY TO THE LANDSCAPE ARCHITECT FOR RESOLUTION.
6. DIMENSIONS READ FROM FACE OF ELEMENT TO FACE OF ELEMENT UNLESS NOTED OTHERWISE.
7. ALL DIMENSIONS SHOWN ARE TO BE MEASURED HORIZONTALLY.
8. SUBMIT SAMPLES OF ALL MATERIALS FOR APPROVAL PRIOR TO INSTALLATION.
9. REFER TO SPECIFICATIONS FOR ADDITIONAL INFORMATION.
10. CONTRACTOR TO PROVIDE SAMPLES OF ALL FINISHES FOR OWNER'S APPROVAL PRIOR TO INSTALLATION.
11. CONTRACTOR SHALL VERIFY OTHER MATERIALS NOT SPECIFICALLY DESIGNED BUT REQUIRED FOR A COMPLETE AND PROPER INSTALLATION, AS SELECTED BY THE CONTRACTOR SUBJECT TO THE APPROVAL OF THE LANDSCAPE ARCHITECT.
12. INSTALLATIONS SHALL BE IN ACCORDANCE WITH LOCAL CODES AND ORDINANCES.
13. CONTRACTOR SHALL OBTAIN ALL PERMITS NECESSARY FROM THE LOS ALTOS HILLS BUILDING DEPARTMENT.
14. SEE ARCHITECTURAL DRAWINGS FOR BUILDING DIMENSIONS.
15. ADJUST ALL LAYOUT DIMENSIONS AS CALLED OUT ON THE PLAN TO BOUND WITH UNIT MASONRY PATTERNS. LAYOUT SHALL BE TO WHOLE UNITS WHEN POSSIBLE AND SHALL AVOID SMALL "SLIVER" CUTTING OF UNIT MASONRY.
16. SEE SPECIFICATIONS FOR EXPANSION JOINT LOCATIONS IN ADDITION TO THOSE SHOWN ON THIS PLAN. CONTRACTOR TO VERIFY ALL ELEVATIONS AND MAKE ADJUSTMENTS AS REQUIRED.
17. PRIOR TO FORMING STAKE THE LAYOUT PLAN AND HAVE LAYOUT APPROVED BY OWNER'S REPRESENTATIVE. BEFORE COMMENCING INSTALLATION AND CONSTRUCTION OPERATIONS CONTRACTOR SHALL REPORT TOPSOIL AS REQUIRED FOR GRADING OF ALL AREAS.
18. CONTRACTOR SHALL COORDINATE ALL WORK WITH OTHER TRADES (E.G. GENERAL CONTRACTOR, GRADING, PAVING, PLUMBING, ELECTRICAL, FENCE).
19. CONTRACTOR SHALL VERIFY LOCATION OF ALL EXISTING TREES AND SHOWING TO REMAIN. ALL PRECAUTIONS SHALL BE TAKEN TO PROTECT EXISTING TREES AND SHRUBS FROM DAMAGE DURING CONSTRUCTION.
20. ALL GROUND SURFACES TO BE FINISHED TO UNIFORM GRADES AND SLOPES AND IN SUCH A MANNER AS TO DRAIN PROPERLY AND BE FREE FROM DEPRESSIONS WHICH MAY CAUSE AREAS OF STANDING WATER.
21. THE CONTRACTOR SHALL VERIFY ALL ELEVATIONS INCLUDING EXISTING AND FINISH ELEVATIONS OF PROPOSED AND EXISTING STRUCTURES IN THE FIELD. EXISTING ELEVATIONS SHOWN ARE APPROXIMATE AND SHALL ALSO BE FIELD VERIFIED. ANY DISCREPANCIES SHALL BE REPORTED TO THE OWNER. AUTHORIZED REPRESENTATIVE BEFORE PROCEEDING WITH THE WORK.
22. CONTRACTOR SHALL PROVIDE SHOP DRAWINGS FOR "DRIVEWAY AND WALK GATES AS WELL AS MECHANICAL AND OPERATIONAL EQUIPMENT" FOR OWNER'S REVIEW & APPROVAL.
23. SEE CIVIL DIMENSIONS DRAWINGS BY E.D.W. FOR ALL GRADING.
24. SEE CIVIL DRAWINGS FOR ALL GRADING & DRAINAGE, AND WATER DISPOSAL.
25. REFER TO STRUCTURAL DRAWINGS FOR SITS WALLS.
26. SEE ARCHITECTURAL FOR THE RESIDENCE - ALL TERRACES, PORCHES, BALCONIES, WALLS, STAIRS & STRUCTURES ATTACHED TO BUILDING.
27. THESE DOCUMENTS WERE PREPARED FOR THE EXPRESS USE OF SUBSENER & SHANKS "UPWARD 66666 ADDITION DRIVING LOS ALTOS HILLS, CA." THE DOCUMENTS MAY NOT BE CHANGED OR USED FOR A DIFFERENT PROJECT OR CLIENT WITHOUT WRITTEN AUTHORIZATION OF BRUCE MACDONALD LANDSCAPE ARCHITECTURE, INC.
28. CONSTRUCTION SITE SAFETY, CARE & PROTECTION OF ADJACENT PROPERTY, SHEDDING AND PROTECTION OF ELEVATIONS SHALL COMPLY WITH STATE, FEDERAL, AND LOCAL REGULATIONS AND SHALL BE THE RESPONSIBILITY OF THE GENERAL CONTRACTOR AND INDIVIDUAL SUB-CONTRACTORS.

GENERAL NOTES

- 1) PRIOR TO CONSTRUCTION OF ANY IMPROVEMENTS WITHIN THE PUBLIC RIGHT-OF-WAY INCLUDING WATER, SEWER & STORM DRAINAGE PIPE, THE CONTRACTOR SHALL OBTAIN AN ENCUMBRANCE REPORT FROM THE TOWN.
- 2) EROSION CONTROL: REFER TO CIVIL PLANS BY E.D.W.
- 3) RUNOFF DURING CONSTRUCTION ON EXPOSED SLOPES SHALL BE CONTROLLED.
- 4) DUST CONTROL: USE SPRINKLERS TO CONTROL DUST DURING CONSTRUCTION, PARTICULARLY ON VERY DRY DAYS. MOUND LOOSE SOILS ON VERY WET DAYS WILL NOT BE ALLOWED.
- 5) PROTECT EXISTING TREES AND VEGETATION TO REMAIN: PLACE TEMPORARY FENCING (ORANGE PLASTIC) AROUND TREES AT APPROXIMATELY THE DAP LINES TO PROTECT THEM FROM CHANGING DURING CONSTRUCTION. MATERIALS AND EQUIPMENT SHALL BE KEPT AWAY FROM STABLE AREAS AND SO AS TO NOT DAMAGE EXISTING VEGETATION.
- 6) NOISE MITIGATION: FOLLOW THE NOISE AREA GOVERNOR'S (SAND) CONSTRUCTION NOISE GUIDELINES. THE NOISE CONTROL OPERATIONS SHALL BE TRACED IN CONFORMANCE OF THE SPECIFIC NOISE MITIGATION AND MONITORED AS MUCH AS POSSIBLE.
- 7) SEE CIVIL ENGINEER DRAWINGS PREPARED BY E.D.W. FOR ALL GRADING AND DRAINAGE REQUIREMENTS.
- 8) REFER TO GEOLOGICAL SITE INVESTIGATION AND REPORT PREPARED FOR THE PROPERTY OWNER AND CONTRACTOR TO COMPLY WITH ALL REQUIREMENTS AND REGULATIONS OF THE TOWN.



RETAIN 6' FENCE

3' FENCE

RETAIN 6' FENCE

BRUCE MACDONALD LANDSCAPE ARCHITECTURE, INC.
394 MERRILL PLACE
DANVILLE, CA 94526
925-855-0352 LIC # 2901

FENCE & SCREENING PLAN

TOPRAN RESIDENCE
26630 ASCENSION DRIVE
LOS ALTOS HILLS, CALIFORNIA

REVISIONS:

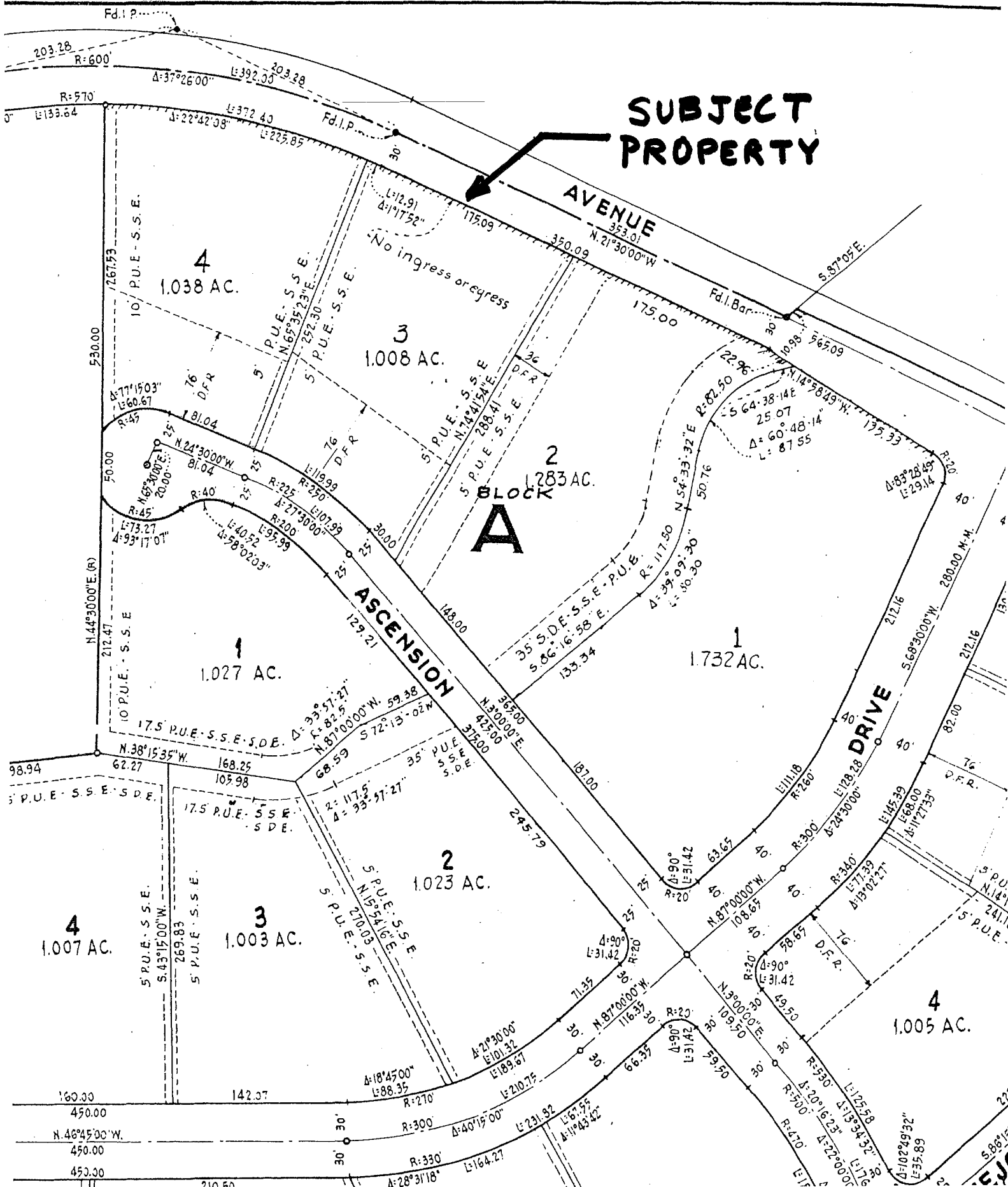
1	6-27-14
---	---------

DRAWN B.R.M.
DATE 10-5-13
SCALE 1"=10'-0"

SHEET NO. F-1
OF 1 SHEETS

ATTACHMENT





ATTACHMENT 4



Land Surveying & Engineering Support

111 Almaden Boulevard, Room 814
San Jose, CA 95113

September 3, 2013

OCT 29 2013

Subodh Toprani
41 Dowd Drive
Los Altos, CA 94022

RE: Encroachment with proposed 6' wood fence within the 5' wide Public Utility Easements (P.U.E.) as dedicated within Lot 3 of Block A of Tract No. 1848 "Fremont Hills", filed for record January 16, 1957 in Book 76 of Maps at page 12, Santa Clara County Records.
Location: 26630 Ascension Drive, Los Altos Hills, California
PG&E File No.: Y13-EN-18, APN: 175-33-011

Dear Mr. Toprani:

PG&E has completed its review and has no objection to your encroachment within the aforementioned P.U.E.'s with your perimeter fence. Said P.U.E.'s are contiguous to the northerly and southerly property lines.

If you have any questions concerning this matter, please contact me at the return mailing address, (408) 282-7347, or DAN9@pge.com.

Sincerely,

A handwritten signature in cursive script that reads 'David Neal'.

David Neal
Lead Land Technician



June 26, 2014

Subject: Fence PUE Encroachment Request
Subodh Toprani
26630 Ascension Drive
Los Altos Hills, CA 94022
APN 175-33-011

Dear Mr. Toprani,

All that certain real property described as Lot 3, in block A, as shown on that certain Tract Map No. 1848 Fremont Hills Unit No. 1, which map was filed for record in the office of the County Recorder of the County Of Santa Clara, State of California on recorded January 16, 1957 in Book 76 of Maps at pages 12, 13 and 14.

Subodh Toprani, as the property owner, requests AT&T's concurrence for an approximate 200± foot linear encroachment into both existing ten foot wide Public Utility Easements along the Westerly and Easterly property lines. This request was made to accommodate a "new" wooden fence addition made to the property's existing property line.

Be advised should said Encroachment impede AT&T's access to the above Public Utility Easement at any time, the property owner shall remove the obstruction that is impeding AT&T's access within thirty days of the date AT&T sends written notice of its inability to access the easement. The property owner shall bear the entire cost of the removal and replacement of the obstruction.

AT&T asks to please verify all locations of existing underground facilities through U.S.A. (Underground Service Alert) prior to construction.

Engineering has reviewed this request and determined the encroachment will not interfere with existing AT&T facilities. AT&T approves the encroachment as requested above.

If you have any further questions or concerns, please contact me at (408) 635-8879.

Sincerely,

A handwritten signature in black ink, appearing to read "Marlana Telfer".

Marlana Telfer
AT&T Right of Way Manager
870 N McCarthy Blvd
Milpitas, CA 95035
408.635.8879
fax: 408.945.1247

AT&T File# LSAT 14-01



June 27, 2014

Subodh Toprani
26630 Ascension Drive
Los Altos, CA 94022

RE: Public Utility Easement Encroachment Approval

SENT VIA E-MAIL:

Dear Subodh:

Please accept this correspondence in response to your request for Comcast Cable Inc. agreement to an encroachment into the Public Utility Easement, for a replacement of the existing perimeter fence, at the 26630 Ascension Drive located in the city of Los Altos Hills, California.

Comcast Construction and Engineering department has reviewed all documentation and has determined that the encroachment will not violate or compromise the existing Comcast facilities and therefore grants the encroachment request.

If you should have any additional questions please feel free to contact me at 415 503-4505.

Regards,

Derek Nippe
Regional Construction Division

cc: Nicole Horvitz – City of LAH
nhorvitz@losaltoshills.ca.gov

Steve Padovan

From: Nicole Horvitz
Sent: Monday, June 23, 2014 1:03 PM
To: Steve Padovan
Subject: FW: Waiver 26630 Ascension

FYI

Nicole Horvitz
Assistant Planner
Town of Los Altos Hills
26379 Fremont Road
Los Altos Hills, CA 94022
650-947-2504

www.losaltoshills.ca.gov
Planning Department Counter Hours
Monday-Friday
10 am-12 pm and 1 pm-3 pm

From: Patrick Walter [mailto:patrick.walter@townoflosaltos.org]
Sent: Monday, June 23, 2014 1:02 PM
To: Subodh Toprani; [redacted]
Cc: Nicole Horvitz
Subject: RE: Waiver 26630 Ascension

Purissima Hills Water District has no objection to the resident installing a fence in the PUE on their property. Please call Underground Service Alert before digging.

Thanks,
Patrick Walter

From: Subodh Toprani [redacted]
Sent: Thursday, June 19, 2014 2:31 PM
To: [redacted]; Patrick Walter
Subject: Waiver

Dear Patrick,

I received your name from the Los Altos Hills town office. This is in regards to a waiver the town needs in order for me to complete my fence around my property perimeter. We are building a house on 26630 Ascension Drive in Los Altos Hills. The lot has a 5 foot PUE along the perimeter. We would like to build a 6' wood fence along the perimeter. The town have told us that if Purissima Water has no objection and can provide a waiver, we can go ahead with our fence permit. Please let me know what you need from me in order to process this waiver. Thank you very much for your assistance.

Best regards,