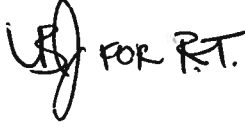




**CITY OF MANHATTAN BEACH  
DEPARTMENT OF COMMUNITY DEVELOPMENT**

**TO:** Parking and Public Improvements Commission (PPIC)

**FROM:** Richard Thompson, Director of Community Development   
Clay Curtin, Management Analyst 

**BY:** Angelica Ochoa, Assistant Planner 

**DATE:** October 27, 2011

**SUBJECT:** Consideration of an Encroachment Permit Appeal to Allow Existing Yucca Trees Over 42" in Height on the Public Walkstreet to Remain- 228 7<sup>th</sup> Street

**RECOMMENDATION:**

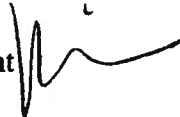
Staff recommends that the Commission **DENY** the request at 228 7<sup>th</sup> Street to maintain and keep Yucca trees in the public right of way, on 7<sup>th</sup> Street (walkstreet), over the 42 inch maximum allowed height limit.


**BACKGROUND:**

This item was continued from the September 22, 2011 PPIC meeting at the request of the property owner (Exhibit C) and was re-noticed for this meeting (Exhibit B). Attached is the staff report and attachments from September 22, 2011 as Exhibit A. Staff also received email comments (Exhibit D).

**CITY OF MANHATTAN BEACH  
DEPARTMENT OF COMMUNITY DEVELOPMENT**

**TO:** Parking and Public Improvements Commission

**FROM:** Richard Thompson, Director of Community Development  
Clay Curtin, Management Analyst 

**BY:** Angelica Ochoa, Assistant Planner 

**DATE:** September 22, 2011

**SUBJECT:** Consideration of an Encroachment Permit Appeal to Allow Existing Yucca Trees Over 42" in Height on the Public Walkstreet to Remain- 228 7<sup>th</sup> Street

**RECOMMENDATION:**

Staff recommends that the Commission **DENY** the request at 228 7<sup>th</sup> Street to maintain and keep Yucca trees in the public right of way, on 7<sup>th</sup> Street (walkstreet), over the 42 inch maximum allowed height limit.

**BACKGROUND:**

A complaint about over height Yucca trees was received on February 18, 2011 by the property owner, Donna Howell across Highland Avenue, to the east, at 300 7<sup>th</sup> Street. Specifically, the complaint focused on the existing Yucca trees being over the maximum height limit of 42" in the walkstreet at 228 7<sup>th</sup> Street and the impact on ocean and scenic views (Exhibit A). The complaining party stated that the Yucca trees directly impact their views. Per Section 7.36.150 B.3 of the encroachment standards, if a resident view is impaired, the property owner shall be directed to trim down their landscaping to the required maximum height of 42". Mr. Frank Wattles, property owner of 228 7<sup>th</sup> Street has no encroachment permit for the Yucca trees, or any improvements in the walkstreet as required by Section 7.36.030 of the Manhattan Beach Municipal Code.

A letter was sent to Mr. Wattles on April 5, 2011 (Attachment F) by the code enforcement officer regarding the complaint and he was directed to contact mediation services by May 20, 2011 to address the neighbor's concerns. Mr. Wattles did not contact mediation services by the deadline. On March 30, 2011, Mr. Wattles filed a lawsuit against the City to keep his Yucca trees and on July 25, 2011 the court ruled in favor of the City. On August 8, 2011 (Exhibit B), Mr. Wattles submitted an appeal to the City of Manhattan Beach to keep his Yucca trees in the encroachment area on 7<sup>th</sup> Street.

Section 7.36.030 of the Manhattan Beach Municipal Code requires that encroachment permit appeals be heard by the Parking and Public Works Commission (PPIC) with a recommendation to the City Council.

## **DISCUSSION:**

Staff originally met with the subject property owner of 228 7<sup>th</sup> Street when an encroachment appeal was filed in June 2010, by the property owners to the east at 619 Highland Avenue (Birkenfeld) and to the north at 233 7<sup>th</sup> Street (Ziskin) to keep their existing landscaping over the maximum height limit of 42". Mr. Frank Wattles was the property owners' representative for 619 Highland Avenue and 233 7<sup>th</sup> Street.

Staff explained to Mr. Wattles at that time that his Yucca trees may become a problem since they were over the required maximum height of 42", but that a determination would not be made until after resolution of his neighbor's appeals. The PPIC heard the appeal and made a recommendation (October 28, 2010) to City Council (November 16, 2010) to uphold the denial to request to keep the landscaping over the maximum height of 42" at the properties at 619 Highland Avenue and 233 7<sup>th</sup> Street. The City Council then took final action on the appeal. The property at 233 7<sup>th</sup> Street was allowed to keep the existing landscaping over 42" high since it did not impair any scenic or ocean views. The property owners at 619 Highland Avenue were allowed to keep the Eucalyptus tree as long as it was trimmed and the openness was maintained, and cut down their over height landscaping to 42". The property owners did not comply with the City Council's decision, and the City cut down the landscaping to conform to the maximum height of 42".

The code enforcement officer then received a complaint on February 18, 2011 from the property owners across Highland Avenue (Howell), to the east at 300 7<sup>th</sup> Street. The code enforcement officer spoke to Mr. Wattles and recommended he meet with the complaining party and attend mediation services to try and resolve the concerned issues. Mr. Wattles did not pursue mediation services and filed a lawsuit against the City on March 30, 2011. The subject property owner felt they he should not be subject to the walkstreet regulations since the Yuccas were planted before the current (2003) regulations were in place and he had a acquired a vested right in the encroachment area where the Yucca trees were located. The judge stated Mr. Wattles had no such right, at the hearing on July 25, 2011, and confirmed that the regulatory jurisdiction was the City of Manhattan Beach as the Yuccas are on public property, owned by the City. Also, the judge stated that the governing ordinance for walkstreets is Section 7.36 of the Municipal Code, which is regulated by the City of Manhattan Beach.

## **Encroachment Regulations**

Encroachment standards have historically been enforced largely on a complaint basis. In this case, a complaint was filed due to obstruction of views. Specifically, the over grown and over height Yucca trees at 228 7<sup>th</sup> Street directly impact the ocean, and beach views of the property owner to the east (across Highland Avenue) at 300 7<sup>th</sup> Street.

Encroachment Permit regulations are contained in Chapter 7.36 of the Manhattan Beach Municipal Code. Specifically, walkstreet standards, as stated in MBMC Section 7.36.150 B.3 (Exhibit C), "Landscaping is permitted subject to approval of a landscape plan submitted with an encroachment permit. Landscaping shall cover a minimum of one-third of the encroachment area and shall not project over or onto the public walkway. To promote visual openness and

conserve scenic vistas, the height of landscape plantings shall not exceed forty-two inches (42") as measured from the adjacent walkway".

The encroachment code states that if a view is impaired (Section 7.36.150 A6 and 7.36.030, Exhibit C), the Director of Community Development shall direct the owner to cut the landscaping in the encroachment area to a maximum of 42" high. The existing Yucca trees, which are about 6 to 12 feet tall, are not currently permitted, and are directly impairing the resident views of the ocean, waves, and beach from the complaining parties.

Therefore, the property owner at 228 7<sup>th</sup> Street Highland Avenue must cut or remove the Yucca trees to be in conformance of the encroachment standards for landscaping of maximum 42" high.

### **Public Input**

A notice of the Parking and Public Improvement Commission meeting was mailed to all owners of record within a 300 foot radius from the subject encroachment property (Attachment D), in accordance with Section 7.36.080 of the MBMC. Staff received one email comment in support of keeping the Yucca trees (Attachment E).

### **CONCLUSION:**

The walkstreet standards allow only landscaping limited to a maximum height of 42 inches. The landscaping is not consistent with the walkstreet standards and a complaint was filed due to view blockage. There is no approved encroachment permit for the improvements. Since the landscaping of the subject property impairs neighbors' views and the intent of the 42" high landscaping in the encroachment area is to keep a low and open view, the landscaping at 228 7<sup>th</sup> Street must be cut down to 42" to comply with the public walkstreet regulations.

#### Attachments:

- A. Photos from Property Owner at 300 7<sup>th</sup> Street dated August 29, 2011
- B. Encroachment Appeal dated July 27, 2011 – 228 7<sup>th</sup> Street
- C. Chapter 7.36 MBMC-excerpts (walkstreet standards 7.36.150 B.3, 7.36.150 A6, 7.36.030)
- D. Public Notice dated September 7, 2011
- E. Email comment dated September 8, 2011
- F. Code Enforcement letter sent to Mr. Wattles dated April 4, 2011
- G. Vicinity Map and Photos from Walkstreet of Subject Property

cc: Frank Wattles, property owner of 233 7<sup>th</sup> Street  
Donna Howell, property owner of 300 7<sup>th</sup> Street

## Angelica Ochoa

---

**Subject:** FW: pictures 300 7th sy vs 619 Highland  
**Attachments:** DSC\_0701.JPG; DSC\_0702.JPG

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**From:** Jacqueline Harris  
**Sent:** Monday, August 29, 2011 10:38 AM  
**To:** Angelica Ochoa  
**Cc:** Laurie B. Jester  
**Subject:** FW: pictures 300 7th sy vs 619 Highland

See attached pictures from Donna Howell.

Thanks  
Jackie

**Jacqueline Harris**  
**Code Enforcement Officer**

P: (310) 802-5538  
E: [jharris@citymb.info](mailto:jharris@citymb.info)



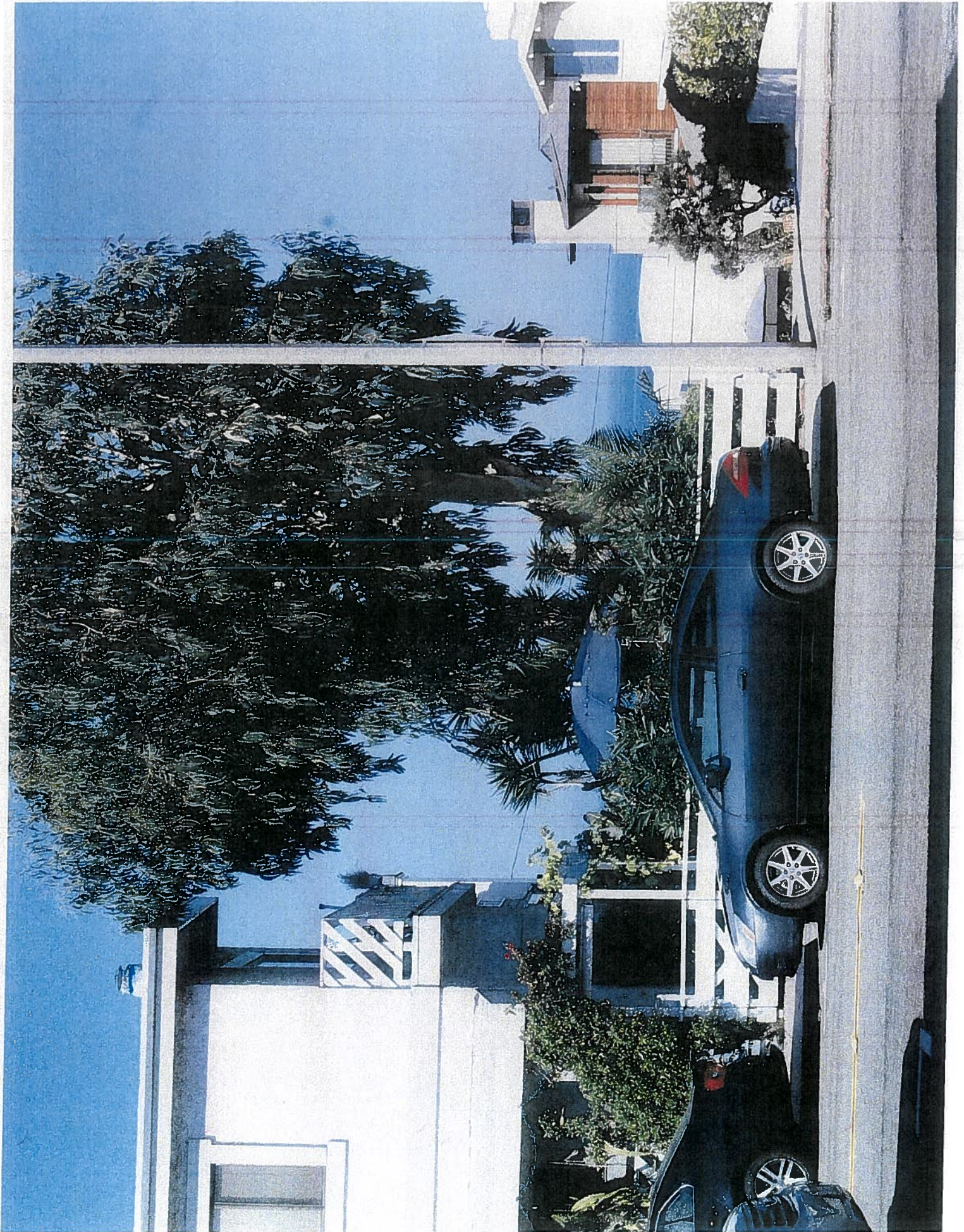
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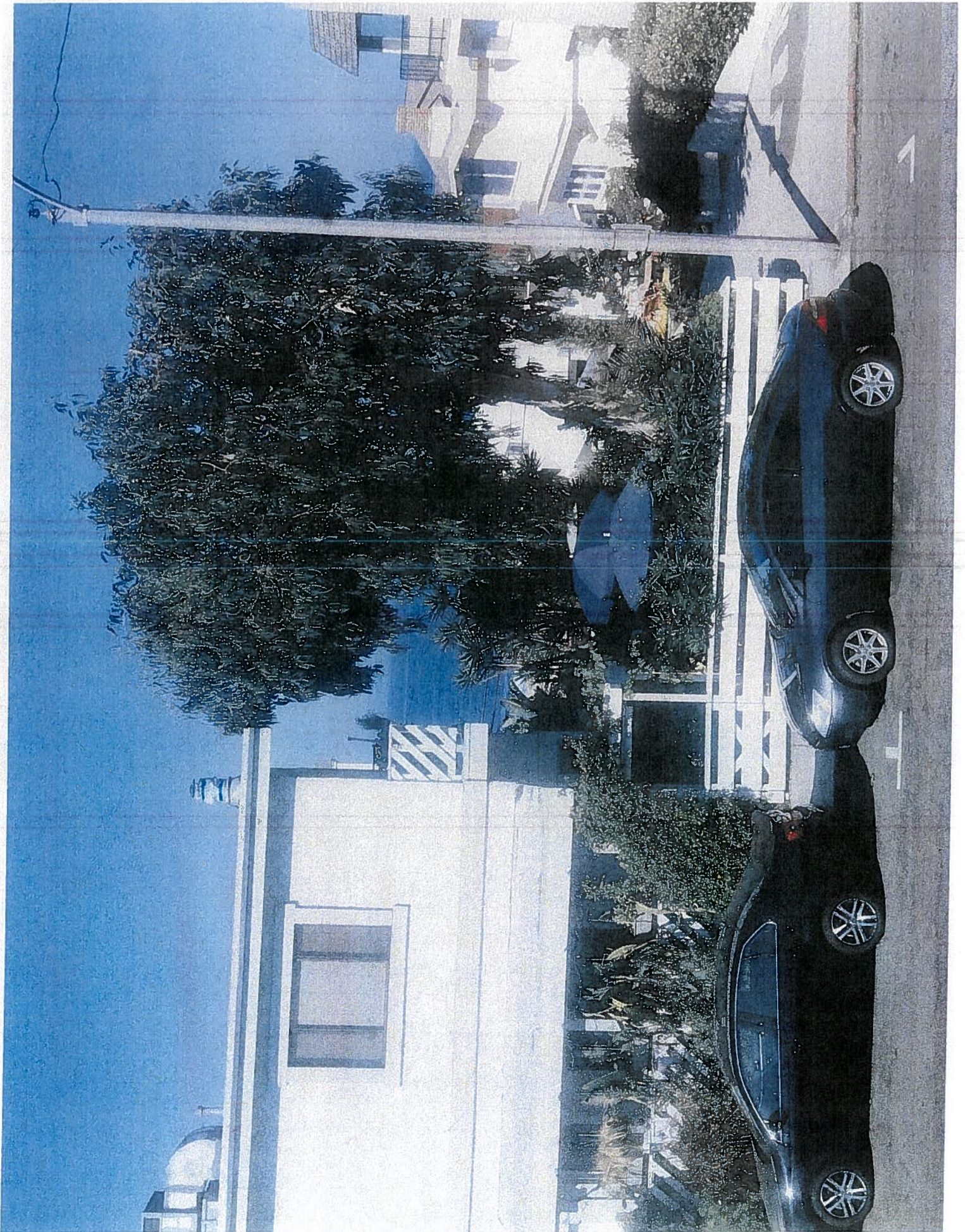
**Date:** Mon, 29 Aug 2011 12:15:34 -0500  
**From:** [katcrawford@verizon.net](mailto:katcrawford@verizon.net)  
**To:** [donnasells@hotmail.com](mailto:donnasells@hotmail.com)  
**Subject:** pictures

Hi Donna-

Attached are the pictures you requested. One is from the very north edge of the north window on the second floor. The other is from the driveway on the street level. Hopefully this is what is needed.

Kathy







# PARKING AND PUBLIC IMPROVEMENTS APPEAL APPLICATION

City Hall

1400 Highland Avenue

Manhattan Beach, CA 90266-4795

Telephone (310) 802-5000

FAX (310) 802-5501

TDD (310) 546-3501

## ENTIRE "BLOCKED" AREA MUST BE FILLED OUT

Resident/Applicant: FRANK WATLES - OWNER  
MICHAEL RUIZ - tenant Date: 7-27-11

MAILING Address: 228 7TH ST Phone No. (310) 461-8563

City: MANHATTAN BEACH State: CA ZIP Code: 90266

Appeal Request:  Red Curb  Parking  Traffic Signs/Marks  Right of Way  
 Other: SEE ATTACHED LETTER

Address/Intersection: 228 7TH ST MB CA 90266

Description: SEE ATTACHED LETTER

Petition: SEE ATTACHED LETTER

Signature: [Signature]

Cashier \$ \_\_\_\_\_ Date \_\_\_\_\_ Initials \_\_\_\_\_  
 TRAN Code #4502 Amount Rec'd \_\_\_\_\_ Receipt # \_\_\_\_\_  
 Fee Schedule Permit Appeal ~~\$465.00~~ \$500.00

Legal Description \_\_\_\_\_  
 Map Book \_\_\_\_\_ Page \_\_\_\_\_ APN \_\_\_\_\_  
 Comments/Notes \_\_\_\_\_

Approved/Denied \_\_\_\_\_ Date \_\_\_\_\_  
 Community Development Department

EXHIBIT B  
 PPIC MTG 9-22-11

PAID  
 01/01/08  
 07-27-2011  
 87924  
 01/01/08



Michael Ruiz  
228 Seventh Street  
Manhattan Beach, CA 90266

July 27, 2011

Community Development Department  
City Hall  
1400 Highland Avenue  
Manhattan Beach, CA 90266

Re: Your Letter regarding trees in my front yard

To: Department Director:


This letter responds to the referenced letter whereby you order the trees cut down in the property beside the public walkstreet and next to my property. I am a long term resident at the letterhead address and enjoy the trees which have been there for many years. Your Department determined that the trees must be cut down. You cite an ordinance that requires the cutting, but based upon what happened to a neighbor, I want to appeal as they did. I disagree that the ordinance and its standards apply to this tree and I understand that the City Council can make a decision saving the trees. ~~\$500.00~~

I will deliver this letter to the Department on its date and pay the \$465 appeal fee which the neighbors paid for their appeal. I understand this appeal timely responds to the referenced letter, and consequently the action by the Department to cut down the respective trees will be abated during the appeal. Please confirm that direct action to cut down or remove the trees will be deferred during the appeal.

Yours truly,



Michael Ruiz

  
F. WATTLES  
FRANK →  
Prop. Owner →  
8-8-2011

OK

"Engineer" means the Manhattan Beach City Engineer or his or her designee.

"Excavation" means any opening in the surface of a public place, right of way, sidewalk or street made in any manner whatsoever. The term shall also include any excavation on private property which removes or imperils the lateral support of a public place, right of way, sidewalk or street.

"Landscaping" means an area devoted to or developed and maintained with lawn, gardens, trees, shrubs and other plant materials and excluding decorative outdoor landscape elements such as water features, paved surfaces, potted plants and sculptural elements.

"Natural grade" means a straight line from the edge of the improved public walkway/roadway grade to the existing front property line grade.

"Nonconforming" means a previously permitted and constructed improvement which is not consistent with the standards of this chapter.

"Occupy" means owning or operating any facilities that are located in rights of way.

"Open design fence" means a fence where the primary fence material is transparent and colorless, or the open spaces between the solid segments are equal to or exceed the size of the solid segments.

"Overhead structures" means any improvement extending over a public place, right of way or street.

"Person" means any living individual, any corporation, joint venture, partnership, or other business entity.

"Public walkway" means the portion of the public right of way improved and designated by the City for pedestrian travel.

"Right of way" means the surface and space in, on, above, through and below any real property in which the City of Manhattan Beach has a legal or equitable interest whether held in fee or any other estate or interest, or as a trustee for the public, including, but not limited to any public street, boulevard, road, highway, freeway, lane, alley, court, sidewalk, curb, parkway, river, tunnel, viaduct, bridge, public easement, or dedicated easement.

"Usable surface" means a relatively level surface intended for active recreation, passive occupation, or pedestrian access including but not limited to lawns, patios and decks, but excluding a walkway not exceeding forty-four inches (44") in width that provides access from the public walkway to private property.

"Walk street" means a dedicated public street improved with a public walkway that is closed to vehicular traffic.

(§ 1, Ord. 2039, eff. February 18, 2003)

### **7.36.030 - Permit required.**

It shall be a violation of this chapter for any person to construct, create, occupy or use an encroachment in the public right of way without an encroachment permit. To the extent permitted by law the issuance of such a permit shall be discretionary and may be denied or revoked without cause. Application of this chapter shall include, but not be limited to, private improvements, long-term commercial use and commercial sidewalk dining, temporary access for installation of private street improvements and all other intrusions into the public right of way whether temporary or permanent. The City Council may, from time to time, by resolution set fees for issuance of encroachment permits authorized by this chapter.

(§ 1, Ord. 2039, eff. February 18, 2003)

### **7.36.040 - Initiation.**

The Director of Community Development shall have the authority to issue an encroachment permit consistent with the standard set forth in this chapter provided that where fixtures or structures located within public walkways or roadways, other than temporary moveable structures, are to be placed in the public right of way, or street alterations are to be performed, detailed plans for any such work shall be submitted to the Director of Public Works whose approval shall be required.

Applications shall be submitted to the Community Development Department with the required forms, fees, plans, and related material. Applications shall be reviewed for compliance with the requirements of this chapter, and the public's priority for use of City right of way as determined to be appropriate by the Director of Public Works.

### **7.36.105 - Restoration of public right of way.**

Upon completion of the encroachment work authorized by a permit, the permittee shall restore the right of way or street by replacing, repairing or rebuilding it in accordance with the specifications or any special requirement included in the permit, but not less than to its original condition before the encroachment work was commenced and in all cases in good usable quality. The permittee shall remove all obstructions, materials and debris upon the right of way and street, and shall do any other work necessary to restore the right of way and street to a safe and usable condition, as directed by the Director of Public Works. Where excavation occurs within areas already paved, the Director of Public Works may require temporary paving to be installed within four hours after the excavation area is backfilled. In the event that the permittee fails to act promptly to restore the right of way and/or street as provided in this section, or should the nature of any damage to the right of way or street require restoration before the permittee can be notified or can respond to notification, the Director of Public Works may, at his or her option, make the necessary restoration and the permittee shall reimburse the City for the full cost of such work, and such cost shall be a lien upon the permittee's adjacent real property.

*(§ 1, Ord. 2039, eff. February 18, 2003)*

### **7.36.110 - Revocation.**

The Director of Community Development or the City Council may revoke any encroachment permit for noncompliance with the conditions set forth in granting such encroachment, including but not limited to provision of liability insurance coverage to the City or if it is determined that such permit is not in the public interest. A written notice shall be mailed to the permittee of such revocation. Within ten (10) working days of mailing of such notice of revocation to the permittee, a written appeal of such action may be filed. Any such appeal shall be made to the Parking and Public Improvements Commission whose recommendation will be reviewed by the City Council and the Council's determination of the matter shall be final.

*(§ 1, Ord. 2039, eff. February 18, 2003)*

### **7.36.120 - Enforcement.**

Violation of this chapter shall be punishable as a misdemeanor as set forth in Section 1.04.010(A) of this Code. Causing, permitting, aiding, abetting, or concealing a violation of any provision of this chapter shall constitute a separate violation of such provision. In addition to any other remedies provided in this section, any violation of this chapter may be enforced by civil action brought by the City. In any such action, the City may seek, as appropriate, any or all of the following remedies: a temporary and/or permanent injunction; assessment of the violator for the costs of any investigation, inspection, or monitoring survey which led to the establishment of the violation, and for the reasonable costs of preparing and bringing legal action under this subsection; costs incurred in removing, correcting, or terminating the adverse effects resulting from violation; compensatory damages; and attorney fees.

*(§ 1, Ord. 2039, eff. February 18, 2003)*

### **7.36.140 - Other permits.**

Nothing in this chapter shall preclude a requirement for a Coastal Development Permit, Business License, Conditional Use Permit, or other City, State or County permit if otherwise required for the encroaching activity. See Chapter A.96 of the Manhattan Beach Local Coastal Program Implementation Program for applicable Coastal Development Permit requirements.

*(§ 1, Ord. 2039, eff. February 18, 2003)*

### **7.36.150 - Encroachment standards.**

#### **A. General Standards:**

1. Structures as defined by the City's Building Code or other encroachments are prohibited from encroaching within the public right of way unless in compliance with these standards or approved by the City Council.
2. Landscaping is permitted without an encroachment permit in accordance with an approved landscape plan pursuant to Chapter 7.32 of the Municipal Code. Artificial landscape materials are prohibited.

3. Utility obstructions shall be avoided so as to maintain access to underground utilities. A minimum of thirty inches (30") of clearance is required on each side of all water and sewer mains, unless otherwise approved by the Director of Public Works.
  4. Drainage from a private collection system that discharges a concentrated flow shall be directed to a vehicular street or alley pursuant to Public Works Department construction standards and shall be prohibited from flowing onto a public pedestrian walkway or sidewalk. A drainage plan shall be provided with an application for an Encroachment Permit.
  5. All encroachments shall be in conformance with Title 5, Chapter 5.84 of the Municipal Code pertaining to storm water pollution control.
  6. Obstructions to neighboring resident's scenic views shall be avoided.
  7. Steps and Stairs, other than risers between four and seven inches (4" to 7") in height and spaced a minimum of three feet (3') apart, are not permitted in the public right of way.  
Exception. One set of steps comprised of three (3) consecutive risers is permitted provided a condition does not result that requires installation of a guardrail or handrail.
  8. Existing improvements which do not conform to current standards must be removed or brought into conformance if the related structure on the adjoining property is significantly remodeled or reconstructed or if any new significant construction is proposed in the public right of way. Existing permitted improvements that have been made non-conforming by changes to these standards may otherwise remain provided any nonconforming element is not increased or expanded. The intent is to cause nonconforming encroachments to be brought into conformity concurrent with major alterations or entirely new structures constructed on adjoining private property.
  9. Routine maintenance and repair may be performed on a nonconforming encroachment structure or improvement and replacement with a comparable improvement is permitted upon demonstration that the encroachment is deteriorated and creating an unsafe condition.
- B. Walk Street Standards:**
1. Fences and railings, including required safety handrails and guardrails, are permitted provided an open design is utilized. The maximum allowable height is forty-two inches (42") above the adjacent public walkway. To ensure pedestrian to vehicle visibility at corners, a thirty-six inch (36") maximum height (measured from adjacent curb level) is required within a distance of five feet (5') from the street corner.
  2. Retaining walls (not including walkway risers), free-standing walls and closed design fences are permitted provided the maximum allowable height is thirty-two inches (32") above the adjacent public walkway. Conditions requiring guardrails that exceed the height permitted in subsection (1) above shall not be permitted.  
Exception. Retaining walls and related required safety railing that exceed the thirty-two inch (32") limit may be constructed at the side boundaries of an encroachment area if necessary to retain a neighbor's existing grade, provided all other encroachment improvements comply with applicable encroachment standards. If subsequently such over-height walls and/or safety rails are no longer necessary due to modification of the adjoining encroachment area, the property owner shall lower the over-height wall/safety rail to conform with applicable standards. This requirement shall be included as a permit condition in the Encroachment Permit Agreement.
  3. Landscaping is permitted subject to approval of a landscape plan submitted with an Encroachment Permit. Landscaping shall cover a minimum of one-third of the encroachment area and shall not project over or onto the public walkway. To promote visual openness and conserve scenic vistas, the height of landscape plantings shall not exceed forty-two inches (42") as measured from the adjacent public walkway. Landscape plantings shall be maintained in substantial conformance with the approved plan. If it is determined that a resident view is impaired, the Director of Community Development shall direct the owner of the property adjacent to the encroachment landscaping to trim the over-height landscaping to forty-two inches (42") maximum. Should the property owner fail to act, the Director of Community Development may cause the landscaping to be trimmed, with the expense borne by the property owner. The owner of the property who receives such notice to trim may appeal the decision of the Director of Community Development pursuant to Section 7.36.070 of this chapter.
  4. Usable surfaces (as defined herein). The intent of this standard is to ensure that the elevation of encroaching outdoor living areas located nearest the public walkway be consistent with the public walkway. Usable surfaces are permitted as follows:
    - a. Within the front half of the encroachment area (adjacent to the public walkway), limited to a maximum height of twelve inches (12") as measured above or below the adjacent public walkway.
    - b. Within the rear half of the encroachment area (adjacent to private property), limited to a maximum height of either: thirty-six inches (36") as measured above or below the adjacent public walkway, or twelve inches (12") as measured above or below the natural grade, as defined herein.
  5. The total combined height of fences, railings, retaining walls (including walkway risers) shall not exceed a height of forty-two inches (42") as measured from lowest adjacent finished grade.
  6. Drainage from a private collection system that discharges a concentrated flow shall be directed to a public vehicular alley or street via a non-erosive device pursuant to Public Works Department construction standards except as permitted by the Director of Public Works.



# City of Manhattan Beach

## Community Development

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Phone: (310) 802-5500

FAX: (310) 802-5501

TDD: (310) 546-3501

September 7, 2011

### **PUBLIC MEETING NOTICE**

Encroachment Permit Appeal- 228 7<sup>th</sup> Street

Dear Resident/Property Owner:

The Department of Community Development has received an application for an Encroachment Appeal submitted by property owner, Frank Wattles at 228 7<sup>th</sup> Street. Mr. Wattles is requesting to keep his Yucca trees in the public right of way (walkstreet) on 7<sup>th</sup> Street over the required maximum 42" height limit.

The request has been administratively denied because the existing Yucca trees exceed the 42" maximum height limit for landscaping in the public right of way per Manhattan Beach Municipal Code 7.36.150, and a residential view is impaired by the over height yuccas. Additionally, the property owner has no current encroachment permit. An encroachment permit is required per Manhattan Beach Municipal Code Section 7.36.030 for private improvements in the public right of way. Mr. Wattles appealed this decision and therefore this matter has been referred to the PPIC (Parking and Public Improvement Commission) for review and a recommendation for action by the City Council. Your comments and input are invited. The review will be held on:

Thursday, September 22, 2011

6:30 pm

City Council Chambers  
1400 Highland Avenue

Input regarding the subject Encroachment Permit Appeal may be submitted in advance through the Community Development Department or at the Hearing. Comments made in advance should be mailed or emailed to:

Angelica Ochoa, Assistant Planner  
Community Development Department  
1400 Highland Avenue  
Manhattan Beach, CA 90266 email: [aochoa@citymb.info](mailto:aochoa@citymb.info)

If you have any questions or would like additional information, please contact Angelica Ochoa at (310) 802-5517 or email at the email noted above.

Sincerely,

  
Richard Thompson  
Director of Community Development

## Angelica Ochoa

---

**From:** mbmitzi@verizon.net  
**Sent:** Thursday, September 08, 2011 6:35 PM  
**To:** Angelica Ochoa  
**Subject:** Over 50 year old Yucca Trees

Here we go again!! Don't you understand that people who have lived here longer than the encroachment rules were established have older growth? What are you trying to do? My God, are there not other matters far more important for you and Laurie to work on?

You bet I'll be there just like I was for the Eucalyptus tree. The realtor/owner across the street was stopped once by we the people and I guarantee you it will happen again. She just won't stop. I see she has not submitted her plans to build yet. What a neighbor!!

Have you seen the mess around her property? She needs to clean up her own yards before attacking her neighbors.

Mary Boyd, see you there.



# City of Manhattan Beach

## Community Development

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Phone: (310) 802-5500  
FAX: (310) 802-5501  
TDD: (310) 546-3501

April 4, 2011

Frank Wattles  
228 7<sup>th</sup> St.  
Manhattan Beach, CA 90266

RE: Over height vegetation in the encroachment area at 228 7<sup>th</sup> St., Manhattan Beach, CA 90266

Dear Mr. Wattles:

Recently, the City of Manhattan Beach received a complaint notifying us that your property has over height Yucca trees in violation of the Manhattan Beach Municipal Code.

7.36.150 Encroachment standards B (3) Walk street standards, states in part:

“To promote visual openness and conserve scenic vistas, the height of landscape plantings shall not exceed forty-two inches (42”) as measured from the adjacent public walkway.”

Please reduce the Yucca trees in the encroachment area to 42” no later than May 20, 2011. Should you wish to mediate this please contact Lance Widman of South Bay Dispute Resolution at (310) 376-7007.

If you have any questions please contact me at (310) 802-5538.

Sincerely,

Jacqueline Harris  
Code Enforcement Officer  
City of Manhattan Beach

Cc Lance Widman, South Bay Dispute Resolution



# Vicinity Map

228-7th Street



0 15 30 60 Feet



**EXHIBIT G**  
**PPIC MTG 9-22-11**



City of Manhattan Beach  
Community Development









# City of Manhattan Beach

## Community Development

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Phone: (310) 802-5500  
FAX: (310) 802-5501  
TDD: (310) 546-3501

October 12, 2011

**SECOND NOTICE OF CONTINUED MEETING**  
**PUBLIC MEETING NOTICE**  
Encroachment Permit Appeal- 228 7<sup>th</sup> Street

Dear Resident:

The Department of Community Development has received an application for an Encroachment Appeal submitted by property owner, Frank Wattles at 228 7<sup>th</sup> Street. Mr. Wattles is requesting to keep his Yucca trees in the public right of way (walkstreet) on 7<sup>th</sup> Street over the required maximum 42" height limit. The meeting was continued from September 22, 2011 at the request of the property owner.

The request has been administratively denied because the existing Yucca trees exceed the 42" maximum height limit for landscaping in the public right way per Manhattan Beach Municipal Code 7.36.150, and a residential view is impaired by the over height yuccas. Additionally, the property owner has no current encroachment permit. An encroachment permit is required per Manhattan Beach Municipal Code Section 7.36.030 for private improvements in the public right of way. Mr. Wattles appealed this decision and therefore this matter has been referred to the PPIC (Parking and Public Improvement Commission) for review and a recommendation for action by the City Council. Your comments and input are invited. The review will be held on:

Thursday, October 27, 2011  
6:30 pm  
City Council Chambers  
1400 Highland Avenue

Input regarding the subject Encroachment Permit Appeal may be submitted in advance through the Community Development Department or at the Hearing. Comments made in advance should be mailed or emailed to:

Angelica Ochoa, Assistant Planner  
Community Development Department  
1400 Highland Avenue  
Manhattan Beach, CA 90266 email: [aochoa@citymb.info](mailto:aochoa@citymb.info)

If you have any questions or would like additional information, please contact Angelica Ochoa at (310) 802-5517 or email at the email noted above.

Sincerely,

Richard Thompson  
Director of Community Development

**FRANK WATTLES**  
**P. O. Box 3514**  
**MANHATTAN BEACH, CALIFORNIA 90266**  
**TELEPHONE (310) 372-0454**

PAID  
E/001-01291634  
09-22-2011

September 22, 2011

Laurie B. Jester, Planning Manager  
City of Manhattan Beach  
Community Development Department  
City Hall  
1400 Highland Avenue  
Manhattan Beach, CA 90266  
HAND DELIVERED

Re: Appeal of Owner of 228 Seventh Street  
Request for Continuance

Dear Ms. Jester:

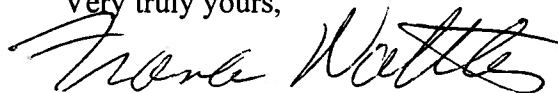
This letter is in further reply to your e-mail earlier today. I had requested a continuance based upon certain points raised in my letter to Mr. Curtin delivered yesterday. You clarified in requiring a payment of \$380 for a continuance fee. You stated that as an appellant I was entitled to notice of the date of the hearing only, and that I was not entitled to the Staff Report. That Report you said was given only as a courtesy. For this reason, I am enclosing the fee, because the appeal cannot possibly be presented this evening as scheduled.

You stated that there is nothing new in this case and that there is nothing new in the Staff Report. Your inference seems to be that I cannot be prejudiced by inadequate time to respond to the Report. I respectfully disagree.

This appeal claims that there is no merit to any of the claims made by your department in requiring an encroachment permit. That requirement is disputed and is a subject of this appeal. As a property owner who planted the Yuccas long before your ordinance which you allege orders you to destroy those trees, I have an entitlement to the limited but continued presence of the trees. The steps in the right-of way forming the front yard were permitted by the City as were all of the items serving my adjoining property. The trees were permitted by MBMC 7.32.090 and additionally to the extent that the trees are an encroachment (with which I disagree) are grandfathered by Subpart 150.A.8 of Chapter 7.36. For these entitlements/rights the action you are recommending is illegal. Your claims are in excess of jurisdiction, and for that reason it is important that you state the reasons and give me an opportunity to respond. By late delivery of the Staff Report, including its recommendation and reasons, I am disabled from meaningful response and appeal.

I contend that by your procedure, I have been forced to ask for this continuance and should not have to pay an added fee. Notwithstanding this objection and subject thereto, the fee is enclosed.

Very truly yours,



Frank Wattles

cc: Wayne Hunkins, Esq.

**FRANK WATTLES**  
**P. O. Box 3514**  
**MANHATTAN BEACH, CALIFORNIA 90266**  
**TELEPHONE (310) 372-0454**

September 21, 2011

Mr. Clay Curtin, Management Analyst  
City of Manhattan Beach  
Community Development Department  
City Hall  
1400 Highland Avenue  
Manhattan Beach, CA 90266  
HAND DELIVERED

Re: Appeal of Owner of 228 Seventh Street  
Request for Continuance of the Hearing

Dear Mr. Clay:

I am the owner and one of the appellants in the Encroachment Appeal regarding the referenced property. It is necessary to request a continuance of the hearing scheduled for tomorrow for reasons stated below. I have been informed that you are the person to whom I should make this request.

The information concerning the hearing and the Staff Report setting forth the position of the City and the Complainant have come to me late with no adequate time to prepare. I am represented by an attorney in legal matters concerning the property and he will not be able to prepare for the hearing. His contact information is:

Wayne Hunkins Esq.  
Matison, Margolese & Korn, ALC  
714 W. Olympic Blvd. Suite 450  
Los Angeles, California 90015  
Phone: (213)765-0632

The Public Notice dated September 7, 2011, was not sent to me. Eventually, by rumor I learned of the Notice. The Staff Report which is undated was received early this morning. The document sets forth the

Mr. Clay Curtin  
City of Manhattan Beach

2

September 21, 2011

recommendation of Community Development Department ("CDD") for the hearing and the reasons therefor. The document is necessary to respond in a writing in advance of the hearing. The document was sent to me on Monday in the late afternoon by e-mail; however, I did not receive it until very early this morning. The reason for late delivery is that there was a electronic problem with the delivery system which prevented my learning of the mail until this morning.

The Report notes that a carbon copy was sent to me and the complainant; however, I never received that copy.

Immediately, I forwarded the e-mailed document to my attorney. He is not able to respond in time for the hearing, nor am I.

General plans were made for the hearing which were hurried; however, with the very late delivery of the Staff Report, no response can be made timely. Even if a response could be made, there would be much detail contained therein. Past experience has taught that the Commissioners are ill-prepared to address a late-received document.

I submit to you that the only fair procedure is to continue the hearing to a following date which will afford an opportunity for the appellants to respond. This letter makes that request.

Please advise.

Very truly yours,



Frank Wattles

cc: Wayne Hunkins, Esq.

## Angelica Ochoa

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**From:** Ray Joseph <rayj310@gmail.com>  
**Sent:** Thursday, September 15, 2011 5:13 PM  
**To:** Angelica Ochoa  
**Subject:** 7th st YES CUT DOWN Plants

I strongly support the 42" height restriction for walkstreets. People buy walkstreets for the views and social aspects. The city should enforce the 42" requirement when neighbors complain.

--

Thanks,

Ray Joseph  
Shorewood Realtors  
3300 Highland Ave  
Manhattan Beach CA 90266  
310-545-RayJ (7295)  
Fax 310-376-1031  
[RayJ310@gmail.com](mailto:RayJ310@gmail.com)  
Search live MLS listing at [www.RayJoseph.com](http://www.RayJoseph.com)

The highest compliment my clients can give me is a referral of their friends, family and business associates.

## Angelica Ochoa

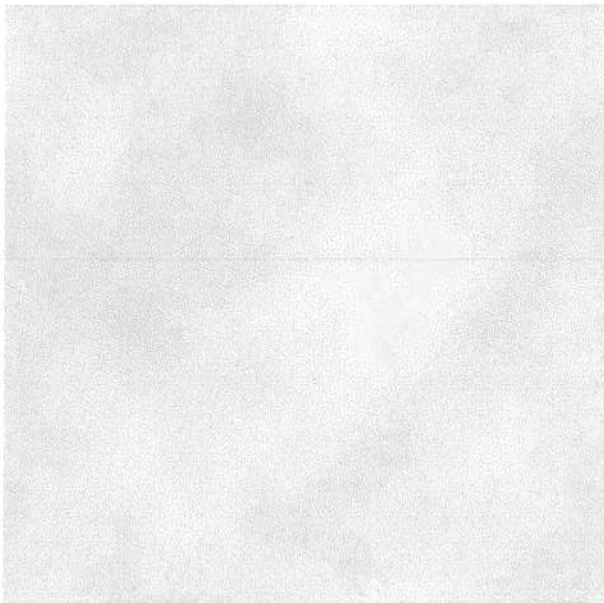
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**From:** Donna Howell <donnasells@hotmail.com>  
**Sent:** Tuesday, September 20, 2011 9:05 AM  
**To:** Angelica Ochoa  
**Subject:** RE: Staff Report for 228 7th Street Appeal to PPIC

I will be on a cruise at the time of the meeting. I know that they have already sent out flyers to try to get people to e-mail and show up at the meeting. Most of the people that attended the city council meeting and sent e-mails weren't from Manhattan Beach. I would love to attend but know they can't postpone it for me. I get back 9/28. I really don't understand ..she got to keep her tree. It looks like she has planted several more since January. Please tell the planning commission that 99% of those e-mails aren't from MB. residents.

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**Subject:** Staff Report for 228 7th Street Appeal to PPIC  
**Date:** Mon, 19 Sep 2011 14:20:04 -0700  
**From:** [aocchoa@citymb.info](mailto:aocchoa@citymb.info)  
**To:** [donnasells@hotmail.com](mailto:donnasells@hotmail.com)



Hi Donna,  
Here is the staff report for the appeal at 228 7<sup>th</sup> Street that will be going forward to the PPIC this Thursday, Sept. 22, 2011 at 6:30pm.  
Let me know if you have any questions.  
Angelica

**Angelica Ochoa**  
**Assistant Planner**

P: (310) 802-5517  
E: [aocchoa@citymb.info](mailto:aocchoa@citymb.info)





## Angelica Ochoa

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**From:** Marjorie Bowen <marjorie.bowen@verizon.net>  
**Sent:** Friday, September 23, 2011 12:42 PM  
**To:** Angelica Ochoa  
**Subject:** Comments regarding 228 7th Street

Dear Ms. Ochoa -

Though I missed the meeting last night during which the encroachment for the above property was reviewed, I would like to know if a decision was made. If a decision wasn't made I'd like to add to the comments that perhaps you have received.

My comment is very simple: if you are a resident anywhere in the city, you live within an area that has zoning restrictions and you must be willing to live within those restrictions if your property is not within code and a neighbor complains. Selective enforcement and selective waivers are not effective tools for government which must fairly and consistently uphold our rules of zoning as well as other rules. I am a neighbor in the 200 block of 6th Street, and the code has caused me to cut down trees, and I've asked my neighbors to do the same. We all must accept and abide by the same set of rules. It is frustrating that the city doesn't uniformly enforce the code, and that "squeaky wheels get the grease." Again, no encroachments are appropriate, we all must live within a set of rules that are enforced fairly and consistently, and I hope that if a conclusion was reached it is within this spirit of government.

Please advise as to the status of the request.

Thank you,  
Marjorie Bowen  
225 6th Street

## Angelica Ochoa

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**From:** mary boyd <mbmitzi@gmail.com>  
**Sent:** Monday, October 17, 2011 3:27 PM  
**To:** Angelica Ochoa  
**Subject:** Beautiful Yucca Trees

Hello Ms. Ochoa: Once again this woman is after a neighbor's Yucca Trees. She was not satisfied with losing the battle to remove the Eucalyptus Tree so she is after the next door neighbor's Yucca Trees. This is a scorned person reverting to revenge. What a terrible neighbor she will be.

I have lived here for going on 51 years and as far back as I remember the Yucca trees have been here also. They are beautiful and they are spaced far enough apart that the neighbor, mentioned above, could still see the ocean; but for the Eucalyptus tree. What a loser loser.

I do not want these beautiful Yccas cut. Period. See you at the Council meeting. Thank you Mis Ochoa, you seem like a nice person. What a job you've got.

Mary Boyd, 320 7th st. MB

## Angelica Ochoa

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**From:** Donna Howell <donnasells@hotmail.com>  
**Sent:** Wednesday, October 19, 2011 5:24 PM  
**To:** Angelica Ochoa  
**Subject:** RE: Encroachment Appeal Notice of 228 7th Street

planning commission

I am sorry to miss tonite's meeting. I am attending a ROTC reunion in Kansas that was planned a a year ago. I am the only property that is affected by Mr. Waddle's yucca trees. You have in your possession photos showing my view blocked by Mr Waddle's Yucca trees. The people that have been attending the past meeting concerning the tree next door to Mr Waddle's house and are probably the same ones at tonite's meeting are not MB residents. They are from Hollywood, Lomita, Redondo Beach, etc...One man who spoke at two of these meetings and was even quoted in the newspaper stated he lived at 266 7th street. There is no such address as the street stops at 233 and then skips to 300. This can be verify in the videos taken.The e-mails that are being sent to you to protect Mr. Waddle's trees are also a joke and are not from residents of MB. If you decide to waive and not enforce the ordinance that you created to protect the sand section ocean views then you should get rid of the ordinance all together. Recently I removed a 30 year old Cypress tree from a property when a neighbor complained of her view being blocked. I built an enclosure for trash cans that had sat in the same spot for 40 years because a neighbor complained. I follow the rules MB have. Rules and ordinances are not to be governed by a popularity contest. Everyone deserves to be treated equally. Thank you, Donna Howell

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You can write a letter and I can include it in my staff report. The staff report goes out this Friday, October 21. I will need the letter at the latest by tomorrow, Wednesday, October 19, 2011. You can still submit your letter after this date and it will be handed out to the PPIC commissioners at the meeting on October 27, 2011.

Angelica

**Angelica Ochoa**  
**Assistant Planner**

P: (310) 802-5517

E: [aochoa@citymb.info](mailto:aochoa@citymb.info)



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**From:** Donna Howell [<mailto:donnasells@hotmail.com>]  
**Sent:** Tuesday, October 18, 2011 10:51 AM  
**To:** Angelica Ochoa  
**Subject:** RE: Encroachment Appeal Notice of 228 7th Street

We are going to be at a ROTC reunion in Kansas that has been planned for over a year. I have discovered that 99% of the people that show up and send e-mails do not live in Manhattan Beach. Should I write a letter and can someone read it to the planning commission? I am really the only one that is effected by his trees. I tore out a 30 yr old cypress this year because it blocked somone's view. If the commossion and city council make their decision on how many people show up instead of their own rules then their should be no ordinance. Please let me know the best course of action. Thank you, Donna Howell

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Subject: Encroachment Appeal Notice of 228 7th Street  
Date: Thu, 13 Oct 2011 16:00:49 -0700  
From: [aochoa@citymb.info](mailto:aochoa@citymb.info)  
To: [donnasells@hotmail.com](mailto:donnasells@hotmail.com)

Donna,