

## RESOLUTION NO. R11-02

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALOS VERDES ESTATES, CALIFORNIA, AFFIRMING THE PLANNING COMMISSION PARTIAL APPROVAL OF M-787-10; AND DENYING MISCELLANEOUS APPLICATION FOR NONSTANDARD WALKWAY AND NONSTANDARD LANDING WITH MAILBOX STRUCTURES WITHIN THE CITY RIGHT-OF-WAY AND CONDITIONALLY APPROVING MISCELLANEOUS APPLICATION FOR A FENCE STRUCTURE UP TO SIX FEET EXCEEDING THE 42 INCH MAXIMUM ALLOWABLE HEIGHT AT THE SINGLE FAMILY RESIDENCE LOCATED AT 400 VIA ALMAR

The City Council of the City of Palos Verdes Estates does hereby find, order and resolve as follows:

Section 1. On August 31, 2010, an application (the "Application") for nonstandard structures within the City right-of-way and a structure exceeding the maximum allowable height (the "Project") was submitted for the property located at Lot 8 of Block, 1514 of Tract No. 6886 in the City of Palos Verdes Estates, County of Los Angeles, State of California, known as 400 Via Almar, Palos Verdes Estates, California (the "Property"). The Application requested a nonstandard curved walkway within the City right-of-way, a nonstandard landing within the City right-of-way, and a 6 ft. high fence exceeding the maximum allowable height located within the 30 ft. setback adjacent to Palos Verdes Drive West. The Application was approved with conditions by the Planning Commission on November 16, 2010.

Section 2. On November 23, 2010, the approval of the Application was forwarded to the City Council for review and the Council consensus was to set this application for public hearing.

Section 3. On January 12, 2011, the City Council conducted the public hearing on the Application, which hearing was duly and properly noticed. At the public hearing, the Council received and considered the written and oral testimony provided by the applicant, oral and written staff reports, and documentary evidence, including, but not limited to, site plans, minutes of the Planning Commission meeting, and a photographic presentation.

Section 4. Based upon the evidence presented, the City Council hereby finds and determines as follows:

- a. The Project consists of minor accessory structures including a curved walkway and a small concrete landing with a 24 inch retaining wall and a 6 foot fence and therefore is exempt from the California Environmental Quality Act pursuant to California Administrative Code Title 14, Chapter 3, Section 15303.

- b. The Property is unusually positioned with frontage on two streets and a public pathway along the full length of the eastern property line. It is flanked by homes with similar fences. Therefore, the fence would not adversely affect another property and would conform to the neighborhood standard along this unusually situated street.
- c. Approval of the 6-foot high fence would not create a precedent due to the unusual position of the lot.
- d. The nonstandard walkway is not appropriate within the City right-of-way and must be constructed in accordance with the Public Works Department standards.
- e. The nonstandard landing is not appropriate within the City right-of-way and must be removed.

Section 5. The City Council hereby denies the application for the nonstandard walkway and the nonstandard landing with the mailbox and approves the application for the 6-foot fence subject to the following conditions:

- 1. All work or material shall be performed or furnished in conformance with the applicable construction or material requirements of the latest edition of the Standard Specification for Public Works Construction; and
- 2. Walkways shall be located perpendicular to the street, shall have a minimum separation of one (1) foot from any portion of the driveway, and shall be a maximum of six (6) feet in width.
- 3. This approval is granted for the land or land use as described in the application and any attachments thereto.
- 4. All buildings, fences, signs, roadways, parking areas, and other facilities or features shall be located and maintained as shown on the approved plans.
- 5. All buildings and structures shall be of the design as shown on the approved plans.
- 6. Compliance with and execution of all conditions listed herein shall be necessary prior to obtaining final building inspection clearance and/or prior to obtaining any occupancy clearance. Deviation from this requirement shall be only by written consent of the Director of Planning.
- 7. Expiration of the Miscellaneous Application approval shall be governed by the provisions of the City of Palos Verdes Estates Municipal Code that are applicable to the expiration of the Neighborhood Compatibility approval.
- 8. All requirements of any law, ordinance, or regulation of the State of California, City of Palos Verdes Estates, and any other governmental entity shall be complied with.

9. This approval is subject to the applicant paying all fees and assessments to the City of Palos Verdes Estates, as required by Ordinance.
10. In the event the City determines that it is necessary to take legal action to enforce any of the provisions of these conditions, and such legal action is taken, the applicant shall be required to pay any and all cost of such legal action, including reasonable attorney's fees, incurred by the City, even if the matter is not prosecuted to a final judgment or is amiably resolved, unless the City should otherwise agree with the applicant to waive said fees or any part thereof. The foregoing shall not apply if the permittee prevails in the enforcement proceeding.
11. The applicant shall defend, indemnify, and hold harmless the City and its officers, agents, and employees from any claim, action or proceeding against the City or its officers, agents or employees to attach, set aside, void, or annul approval of this application. The City shall promptly notify the applicant of any such claim, action, or proceeding and shall cooperate fully in the defense.
12. An approval granted by the Planning Commission does not constitute a building permit or authorization to begin any construction. An appropriate permit issued by the Department of Building and Safety must be obtained prior to construction, enlargement, relocation, conversion, or demolition of any building or structure within the City.

Section 6. The City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

PASSED, APPROVED AND ADOPTED this 25<sup>th</sup> day of January, 2011.

  
ROSEMARY HUMPHREY, Mayor

ATTEST:

  
\_\_\_\_\_  
JUDY SMITH, City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
CHRISTI HUGIN, City Attorney

Any action challenging the final decision of the City made as a result of the public hearing on this application must be filed within the applicable time limits set forth in the Palos Verdes Estates Municipal Code and Code of Civil Procedure.

STATE OF CALIFORNIA                    )  
COUNTY OF LOS ANGELES            ) SS:  
CITY OF PALOS VERDES ESTATES     )

I, Vickie Kroneberger, Deputy City Clerk for the City of Palos Verdes Estates, California, do hereby certify that the foregoing Resolution **R11-02** was duly and regularly approved and adopted by the City Council of the City of Palos Verdes Estates at its regular meeting of the City Council on the 25th day of January, 2011, by the following vote:

AYES:            COUNCILMEMBERS:       Humphrey, Rea, Perkins, and Bird

NOES:           COUNCILMEMBERS:       None

ABSENT:         COUNCILMEMBERS:       Goodhart

  
\_\_\_\_\_  
Vickie Kroneberger, Deputy City Clerk