

## RESOLUTION NO. R17-21

### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALOS VERDES ESTATES, CALIFORNIA, DENYING THE APPEAL AND AFFIRMING THE PLANNING COMMISSION DENIAL OF M-1131-16; A MISCELLANEOUS APPLICATION FOR ENCROACHMENTS IN THE CITY PARKLANDS.**

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

#### Section 1. Recitals.

A. On August 15, 2016, Cyrus and Jessica Irani, property owners of 1445 Via Coronel, submitted an application to allow nonstandard encroachments in the City Parklands on Lot 96 of Tract 30905 in the City of Palos Verdes Estates, County of Los Angeles, State of California, (the "Property"). The application sought approval of Miscellaneous application M-1131-16 (the "Project").

B. On December 20, 2016, the Planning Commission publicly considered the proposed encroachments consisting of a block wall, concrete patio, and drainage swale (on interior side of wall) in City Parklands at a properly noticed public hearing. At such hearing, the Commission received and considered documentary evidence including, but not limited to, staff reports and site plans and received and considered oral testimony from the applicant, and oral and written testimony from City residents, among others. Following the conclusion of the public discussion and thorough deliberation of the subject matter, the Planning Commission determined by a vote of 4 to 0, the application with respect to a portion of the wall that runs east-west adjacent to the drainage swale should be approved and that the application with respect to the south west portion of the wall that turns away from the drainage swale should be denied with a 5 year abatement period beginning on the date of notification in November 2015. The Planning Commission directed staff to prepare a resolution memorializing the Commission's findings.

C. On January 17, 2017, the Planning Commission reviewed the resolution that confirmed their decision and raised additional concerns regarding the encroachments in the City's Parklands. The Planning Commission continued the review and adoption of the resolution to the January 25, 2017 Planning Commission meeting.

D. On January 25, 2017, the Planning Commission requested the applicant/property owners obtain a survey of the encroachments to accurately show the depth and length of the encroachments in the City Parklands prior to final action being taken on the resolution. The Planning Commission continued the review and adoption of the resolution to the March 21, 2017 Planning Commission meeting.

E. On March 21, 2017, the applicant/property owners informed the Planning Commission that the survey was not yet completed and the Planning Commission continued the review and adoption of the resolution to the April 18, 2017 Planning Commission meeting.

F. On April 18, 2017, the Planning Commission publicly considered the proposed encroachments and reviewed the findings of the survey submitted by the property owners which showed the east west wall encroaching into the City Parklands a minimum of 2.7 ft. and a maximum of 3.8 ft. and the south west portion of the wall that turns away from the drainage swale encroaching a maximum of 23.5 ft. into the City Parklands. The Planning Commission also considered additional information provided by the property owners that identified other properties within the City where the City authorized encroachments into the City

Parklands. The Commission received and considered documentary evidence including, but not limited to, staff reports and site plans and received and considered oral and written testimony from the applicant, and oral and written testimony from City residents, among others. Following the conclusion of the public discussion and thorough deliberation of the subject matter, the Planning Commission determined by a vote of 3 to 1, the application for both the east-west wall and the wall that turns away from the drainage swale, and the concrete patio should be denied. The Planning Commission directed staff to prepare a resolution memorializing the Commission's findings.

G. On May 16, 2017, the Planning Commission adopted Planning Commission Resolution No. PCR-2016-0980 denying M-1131-16; a Miscellaneous application for encroachments into the City Parklands.

H. On May 30, 2017, an appeal was timely filed by Cyrus and Jessica Irani ("Appellants"), the property owners of 1445 Via Coronel ("Appeal"). The Appellants emphasized that the block wall replaced an existing fence that was there when they purchased the property and that the removal of the block wall is a financial burden on them. The Appellants also elaborated on the examples provided to the Planning Commission showing past precedent where the City granted encroachment permits for similar walls encroaching into the Parklands and indicated these walls were allowed to remain and several of them due to financial burdens. The appellants requested the City Council allow the encroachments because their situation is unique, involves drainage issues, costly, and unusual warranting an exception like the other applications that were granted approval for encroachments.

I. On June 21, 2017, the City Council held a duly noticed public hearing on the Appeal. At the public hearing, the City Council received and considered the written staff report which included the Appeal, plans, and visual presentations; written and oral testimony of the Appellant and others; and documentary evidence, including, but not limited to, a staff report and the minutes of the Planning Commission hearing. The City Council received and considered information regarding environmental review of the Project and the determination that the Project is categorically exempt from CEQA.

Section 2. Based on the evidence presented and in light of the whole record, the City Council hereby finds and determines as follows:

A. Each fact set forth in the recitals above is true and correct.

B. Each fact set forth in the memorandum from City Staff for Agenda Item Number 9 for the December 20, 2016 hearing date, which were presented to the Planning Commission on said dates, is true and correct.

C. Each fact set forth in the memorandum from City Staff for Agenda Item Number 1 for the January 17, 2017 hearing date, which were presented to the Planning Commission on said dates, is true and correct.

D. Each fact set forth in the memorandum from City Staff for Agenda Item Number 2 for the January 25, 2017 hearing date, which were presented to the Planning Commission on said dates, is true and correct.

E. Each fact set forth in the memorandum from City Staff for Agenda Item Number 2\_for the March 21, 2017 hearing date, which were presented to the Planning Commission on said dates, is true and correct.

F. Each fact set forth in the memorandum from City Staff for Agenda Item Number 8 for the April 18, 2017 hearing date, which were presented to the Planning Commission on said dates, is true and correct.

G. The City of Palos Verdes Estates was established as a planned community and was developed with open space as a core element that significantly defines the character of the community.

H. The City of Palos Verdes Estates owns 849 acres of parklands that comprise much of the open space and are deed-restricted to remain open for the public's use.

I. The City adopted a Policy for the Removal of Unauthorized Encroachments in the City's Parklands in November of 2005 to address unauthorized encroachments and to restore public access and use of parklands.

J. On July 20, 2010, the Planning Commission approved a Revised Neighborhood Compatibility application for a 704 sq. ft. first floor addition and a 305 sq. ft. second floor addition to the residence located at the subject property. At that time, nonstandard unauthorized encroachments in the form of a wood fence and concrete patio were located in the City Parklands adjacent to the subject property. The Planning Commission conditioned approval of the Revised Neighborhood Compatibility to remove the unauthorized encroachments.

K. On October 3, 2013, a Minor Modification application was approved for new walls, exterior door and window modifications, balcony increases and exterior stair modifications. The proposed plan clearly depicted a continuous wall along the southerly east-west property line, including a section along the lower west property line.

L. On January 21, 2014, the Planning Commission approved a Revised Neighborhood Compatibility application for a 76 sq. ft. balcony extension and an 85 sq. ft. balcony extension. The proposed plan reflected the proposed wall located along the southerly east-west property line, including a section along the lower west property line.

M. The applicant replaced the unauthorized wood fence with a cinder block with smooth stucco approximately 6 ft. 1 in. high and retained the unauthorized concrete patio. These encroachments within the City Parklands are contrary to the Planning Commission approved plans and all subsequent plans approved for the construction of improvements on the subject property.

Section 3. The City Council makes the additional following statutory findings with respect to the Miscellaneous application submitted for the Project:

A. The Project does not comply with the City's objectives to address unauthorized existing encroachments in City Parklands and to restore and maintain public access and use. The Project consists of nonstandard encroachments into the City Parklands consisting of a concrete patio constructed in 2003 and a recently built block wall and drainage swale. These nonstandard encroachments were not shown on any plans approved by the City or the Palos Verdes Homes Association.

B. The Deed restrictions for the City's parklands restrict buildings, structures or concessions from being erected, maintained or permitted upon the parklands, except such as are properly incidental to the convenient and/or proper use of said realty for park and or recreation purposes. The deed restrictions allow, under certain circumstances, the opportunity for residents to construct and/or maintain paths, steps and/or landscape improvements, as a means of egress from and ingress to private property or for the

improvement of views, in such a manner and for such length of time and under such rules and regulations as will not impair or interfere with the use and maintenance of the parklands for park and/or recreation purposes.

C. The Project includes two sections of a cinder block with smooth stucco approximately 6 ft. 1 in. high. The first section encroaches a maximum of 3.8 feet into the City Parklands, is approximately 79 lineal feet in length, and is parallel with the property line. The second section at the south west portion of the property turns away from the drainage swale, is approximately 61 linear feet in length, and encroaches a maximum of 23.5 ft. into the City Parklands. Both sections cause approximately 865 sq. ft. of City Parklands to be used exclusively for private use, which is not consistent with the deed restrictions applicable to the subject property.

D. The record does not demonstrate that the encroachments are “properly incidental to the convenient and/or proper use of said realty for park and/or recreation purposes,” as provided in the applicable deed restrictions related to the use of the City Parklands.

E. The Project would result in approximately 865 sq. ft. of City Parklands to be used exclusively for private use, which is not consistent with the intent and purpose of the Open Space Element of the General Plan of the Open Space zone, which is to preserve, promote, and enhance valuable natural and open space resources in the City.

Section 4. Pursuant to the foregoing recitations and findings, the City Council hereby denies Miscellaneous Application Number M-1131-16.

Section 5. The City Clerk shall certify to the passage and adoption of this Resolution.

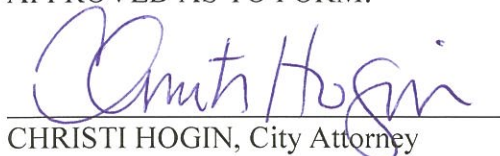
PASSED, APPROVED AND ADOPTED this 11<sup>th</sup> day of July 2017.

  
JAMES VANDEVER, Mayor

ATTEST:

  
LAUREN PETIT, Interim Deputy City Clerk

APPROVED AS TO FORM:

  
CHRISTI HOGIN, City Attorney

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

I, Lauren Pettit, Interim Deputy City Clerk for the City of Palos Verdes Estates, California, do hereby certify that the foregoing Resolution **R17-21** 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 11th day of July, 2017, by the following vote:

AYES: COUNCILMEMBERS: Vandever, King, Davidson

NOES: COUNCILMEMBERS: None

ABSENT: COUNCILMEMBERS: Peterson

RECUSED: COUNCILMEMBER: Kao

  
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Lauren Pettit, Interim Deputy City Clerk