

RESOLUTION NO. R18-12

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-1153-16; A MISCELLANEOUS APPLICATION FOR ENCROACHMENTS IN THE CITY RIGHT-OF-WAY.

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

Section 1. Recitals.

A. On October 4, 2016, James Duncan, representative of the property owner, Lucretia Duncan of 702 Via Horcada, submitted an application to allow nonstandard encroachments in the City right-of-way adjacent to Lot 14 and Portion of Lot 12, Block 1426 of Tract 8523 in the City of Palos Verdes Estates, County of Los Angeles, State of California, (the "Property"). The application sought approval of Miscellaneous application M-1153-16 (the "Project"); and,

B. On May 11, 2017, the Parklands Committee considered a proposal to retain the private plantings and stepping stones located in the City right-of-way. The Parklands Committee recommended to the City Council the removal of the irrigation and all private plantings and the path be restored to a natural grade with a minimum 10 feet wide access. A restoration plan was also required subject to future review by the Parklands Committee. The nonstandard encroachments, specifically the wall and pilasters, were acknowledged to be within the authority of the Planning Commission. On May 23, 2017, the City Council approved the recommendation of the Parklands Committee.

C. On May 16, 2017, the Planning Commission considered the proposed encroachments consisting of block walls, pilasters with lights, gate, stepping stones, and a non-standard driveway in the City right-of-way 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. Safety concerns were raised regarding the encroachments, such as the walls, stepping stones, and bricks, in the right-of-way along the Horcada Path. In addition, the Planning Commission raised concerns regarding the block wall blocking access to the 20-ft. wide pathway. The Planning Commission directed the applicant to conduct a survey of the property and to submit a plan showing what improvements would be done to the property once the encroachments were removed. The Planning Commission continued the Project to the September 19, 2017 meeting; and,

D. On September 19, 2017, the Planning Commission publicly considered the proposed encroachments in the City right-of-way at a properly noticed public hearing. At such hearing the Commission received and considered documentary evidence including, but not limited to, a staff report and site plans and received and considered oral testimony from the applicant and others. The Commission further received information and considered information regarding environmental review of the application and the determination that the project is categorically exempt from the California Environmental Quality Act. 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, that Miscellaneous Application Number M-1153-16 for non-standard encroachments within the City right-of-way should be denied as set forth herein below and adopted Resolution No. PCR-2017-0970.

RESOLUTION NO. R18-12

E. On October 4, 2017, an appeal was timely filed by James Duncan on behalf of Lucretia Duncan (“Appellants”), the property owner of 702 Via Horcada (“Appeal”). The Appellants requested to be allowed to keep the encroachments and emphasized that removing the block wall within the Horcada Path would cause erosion and surficial instability, unless site improvements and drainage controls are established.

F. On January 10, 2018, 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 resolution of the Planning Commission. 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 11 for the May 16, 2017 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 3 for the September 19, 2017 hearing date, which were presented to the Planning Commission on said dates, is true and correct.

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

E. The property owner constructed the wall, pilasters, gate, and driveway within the Horcada Path and within the City right-of-way approximately 35 years ago without the benefit of permits.

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

A. The non-standard encroachments consist of block walls, pilasters with lights, gate, stepping stones, and a curved approximate 23 ft. wide driveway. These encroachments do not conform to the general standards for Public Works permits.

B. The original plans approved by the City consists of a standard driveway and block wall proposed to be constructed along the property line. The existing site conditions are inconsistent with the original approved plans and the non-standard encroachments are not shown on any plans approved by the City or the Palos Verdes Homes Association. There is no evidence in the record of permits being obtained for the non-standard encroachments.

C. Public pathways are intended to remain open and as undeveloped as possible. The location of the block wall is built across Horcada Path, significantly restricting access to pedestrians to utilize the

RESOLUTION NO. R18-12

public pathway. In addition, the encroachments are excessive and the public right-of-way area is utilized only for the benefit of the property owner.

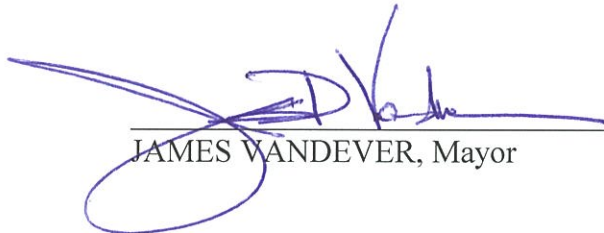
D. The walls, pilasters with lights and gate are excessive in height and located too close to Via Horcada. The design and location of the walls and gate within the public right-of-way are inconsistent with the character of the surrounding properties.

E. Geotechnical opinions from Hamilton & Associates and RMA GeoScience submitted by the applicant identify the need to address potential surface runoff and impacts to surficial instability of the slope due to the removal of vegetation and the retaining wall.. The removal of the unauthorized encroachments will require the property owner to provide restoration of the public right-of-way. Measures will be required to address slope stability and erosion control.

Section 4. Pursuant to the foregoing recitations and findings, the City Council hereby denies Miscellaneous Application Number M-1153-16.

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

PASSED, APPROVED AND ADOPTED this 23rd day of January 2018.




JAMES WANDEVER, Mayor

ATTEST:



LAUREN PETIT, Deputy City Clerk

APPROVED AS TO FORM:



CHRISTI HOGIN, 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 time limits set forth in Section 17.36.010 of the PVEMC and the California Code of Civil Procedure. Any person wishing to challenge the above action in Superior Court may be limited to raising only those issues raised at the public hearing, or in written correspondence delivered to the City at or prior to the public hearing.

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

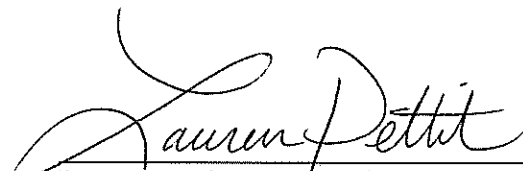
I, Lauren Pettit, Deputy City Clerk for the City of Palos Verdes Estates, California, do hereby certify that the foregoing Resolution **R18-12** was duly and regularly approved and adopted by the City Council of the City of Palos Verdes Estates at its regular meeting of the City Council on the 23rd day of January, 2018, by the following vote:

AYES: COUNCILMEMBERS: Vandever, Peterson, King, Davidson, Kao

NOES: COUNCILMEMBERS: None

ABSENT: COUNCILMEMBERS: None

RECUSED: COUNCILMEMBER: None



Lauren Pettit, Deputy City Clerk