

## RESOLUTION NO. R18-43

### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALOS VERDES ESTATES RESOLVING CROSS-APPEALS FROM PLANNING COMMISSION CDP-113-18; A COASTAL DEVELOPMENT PERMIT APPLICATION FOR A NEW WROUGHT IRON FENCE AT THE SINGLE-FAMILY RESIDENCE LOCATED AT 2801 VIA SEGOVIA**

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

#### Section 1. Recitals.

A. On June 4, 2018, Jeff and Roberta Coppersmith (the "Applicants") submitted an application for a Coastal Development Permit for the property located at Lot 1 of Tract Number 23062 in the City of Palos Verdes Estates, County of Los Angeles, State of California, commonly known as 2801 Via Segovia, Palos Verdes Estates, California ("the Property"). The application sought approval of wrought iron fencing at heights of 3 feet 6 inches along the bluff and 4 feet 11 inches along the 20' setback line parallel to Paseo Del Mar and along the rear angled property line abutting City Parklands on the subject property (the "Project").

B. On July 17, 2018, the Planning Commission conducted a public hearing on the Project. At such hearing the Commission received and considered documentary evidence including, but not limited to, a staff report, site plans and oral and written testimony from the applicant and neighboring residents. Following the conclusion of the public hearing, the Planning Commission approved Coastal Development Permit No. 113-18 as memorialized in Planning Commission Resolution No. PCR-2018-1038.

C. On July 31, 2018, the Applicants appealed the issuance of Coastal Development Permit No. 113-18 to the City Council contesting the Planning Commission's imposition of a condition requiring the maximum fence height be no greater than 4 feet 6 inches. On August 1, 2018, neighboring residents Scott and Sue Kidman also appealed the issuance of Coastal Development Permit No. 113-18 to the City Council on the grounds that the Project as approved by the Planning Commission will obstruct ocean views from public view points and the Project is not on the least visible part of the property, among other reasons.

D. On September 25, 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, 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. Findings. Based on the evidence presented and in light of the whole record, the City Council hereby finds and determines as follows:

A. This Project is exempt from the California Environmental Quality Act (CEQA) pursuant to California Administrative Code Title 14, Chapter 3, Section 15303 (New construction or conversion

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of small structures). The project proposes new wrought iron fencing and landscaping at the rear of the property to enclose the backyard area on a lot zoned for single family residences. The project is minimally intrusive to neighboring views.

Section 3. The City Council makes the additional following statutory findings with respect to each of the applications for approval submitted for the Project:

A. COASTAL DEVELOPMENT PERMIT:

1. The plans for the proposed development and the Coastal Development Permit comply with all of the requirements of Title 19 of the Municipal Code and other relevant City ordinances and development standards.

Municipal Code Section 18.32.010 states:

*A. Maximum Height. No fence, wall or accessory structure in the R-1 or R-M zone shall exceed the following heights:*

- 1. Any fence, wall or accessory structure in the minimum required setback adjacent to a public street shall not exceed three feet, six inches in height. However, if a fence, wall, or accessory structure is located on a downhill slope from the street it shall not exceed three feet, six inches in height on the side facing the street and not exceed six feet, six inches in height on the downhill side of a slope. Setbacks from an alley adjacent to the rear or side of a lot are not included in this requirement.*
- 2. All other fences, walls or accessory structures shall not exceed six feet, six inches in height.*

The required setback adjacent to the public street is 20 feet parallel to Paseo Del Mar. The location of the proposed fencing is 13 feet inward from the required 20-foot setback line. Although the Municipal Code authorizes a fence height of 6 feet 6 inches in such circumstances, the fence as proposed will not exceed 4 feet 11 inches. Fencing is also proposed along the rear property line adjacent to City Parklands at 4 feet 11 inches and along the bluff edge at 3 feet 6 inches. Therefore, the project complies with the height requirements for fencing pursuant to PVEMC Section 18.32.010(A)(2) outlined above.

Municipal Code Section 19.02.010, states:

*The following shall be the procedures for notice and hearing for, and appeal of any final decision on, an application for any proposed development in the coastal zone which requires a coastal development permit and which is consistent with the city's certified LCP, the city's general plan and zoning ordinances and state law. The purpose of this chapter is to protect the public health, safety and general welfare by:*

- A. Protecting the coastal bluffs and the marine environment as delicate natural resources;*

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- B. *Protecting undeveloped natural land in open space available for visual and physical enjoyment by the public;*
- C. *Assuring that the coastal bluffs can support proposed private development; and*
- D. *Preserving parklands within the coastal zone for public park use.*

The proposed project is entirely on private property and does not encroach into City Parklands. The applicants have indicated that the purpose of the fence is to provide security for their home. Geology reports have been submitted to the City concluding that the coastal bluffs can support the proposed wrought iron fencing.

2. The proposed use is consistent with the certified local coastal plan, the General Plan, any applicable specific plan, and the applicable zoning ordinance(s). The project is consistent with the following local coastal plan and General Plan policies and applicable zoning ordinances:

Land Use Plan – Land Use Element:

*To quote from a summary of the Protective Restrictions: 'The restrictions have been most carefully worked out for every part of Palos Verdes Estates, to accomplish the following results:*

*First: To preserve the fine views of ocean, mountains and park...'*

*The above quote more than anything else, sums up the objectives and development goals of the community to the present and into the future.*

As conditioned, the location of the fence is at a lower elevation from Paseo Del Mar and City Parklands. Therefore, only a portion of the fence is visible from public views. The fence also consists of an open wrought iron design and no dense landscaping is proposed that would create a solid barrier. As such, the proposed fencing preserves views of the ocean and City Parklands.

Land Use Plan – Scenic Highways Element, Highway Beautification:

*Palos Verdes Estates has committed itself to maintaining the existing scenic corridors on all of its streets.*

Along Paseo Del Mar, an approximate 3.5-mile long, 50-foot wide public street, there are existing scenic corridors to the ocean, coastline, bluffs, and a City Parklands. The proposed fencing is within an approximate 50-foot view corridor to the ocean from Paseo Del Mar. Previously, there was unpermitted landscaping encroachments within the City Parklands and within the view corridor that obstructed views. The City required the prior property owners to remove the private vegetation in the City Parklands, which opened up the view corridor. Although the proposed fence is proposed within the corridor, only a portion is visible due to the distance from the street and City Parklands and is of an open wrought iron design maintaining the scenic corridor from Paseo Del Mar.

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Implementation Plan – Section 18.36.010, Purpose and intent:

*... It is not the intent to unreasonably restrict or regulate the right of an individual property owner to determine the type of structure or addition he may wish to place or modify on his property...*

The location of the fence is located 13 feet inward from the required 20-foot setback adjacent to Paseo Del Mar. Therefore, the portion between the location of the proposed fence and the property line is open and unenclosed. The location of the proposed fencing allows the property owners to enclose their rear yard space while providing security around the property. The intent of the local coastal plan is not to unreasonably restrict private property rights.

3. The proposed use will not be visually intrusive from public view points. Municipal Code Section 19.02.020, states:

*... Permitted development shall not be considered visually intrusive if it incorporates the following to the maximum extent feasible:*

- 1. The development is sited on the least visible portion of the site as seen from public view points;*
- 2. The development conforms to the scale of existing surrounding development;*
- 3. The development incorporates landscaping to soften and screen structures;*
- 4. The development incorporates materials, colors, and/or designs which are more compatible with natural surroundings.*

The undeveloped bluff top and City Parklands are located north and northeast of the subject property. The ocean is located west and northwest of the subject property. Paseo Del Mar, a 50-foot wide public street, abuts the subject property to the east. The City parkway, which is between the property line and Paseo Del Mar is approximately 62 feet. The proposed fencing is situated 13 feet inward from the required 20-foot setback parallel to Paseo Del Mar. Given the downward slope of the property from the street and the location of the fence situated far back from the street where the property flattens out to nearly its lowest elevation, only a portion of the fence is visible from Paseo Del Mar. In addition, the property slopes downward from City Parklands and only a portion of the fence is visible from City Parklands and the bluff. As conditioned, the fence is located further down the slope of the yard to reduce the visual impacts from public viewpoints. Fencing height is at or within the maximum height per City zoning requirements; hence, not out of scale with existing surrounding development. All landscaping surrounding the proposed fencing **must not** exceed 2.5 ft. This landscaping will soften and screen a portion of the structure, but not obstruct views. The fence consists of wrought iron, which is open in nature, and would not be a solid barrier, and are compatible with natural surroundings. With the open design of the fence and no landscaping proposed as part of the project, public views to the ocean and bluff top are preserved.

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4. The required reports and plans demonstrate to the satisfaction of the City, in its sole discretion, that the proposed use can be supported by the bluff and that the proponent has demonstrated that proposed use will not increase any existing geologic hazards. The applicants provided a geotechnical report prepared by an engineering geologist and civil engineer, which concluded that the proposed fencing will place no significant additional loading to the bluff, will have no adverse effect on the stability of the bluff or surrounding area, and will not increase the likelihood of onsite or offsite geologic hazards. The City Geologist reviewed the report and conducted a site inspection of the property. The City Geologist approved the proposed project, subject to conditions that will be made part of the building permit conditions.

5. The proposed development, when located between the sea and the first public road inland from the sea, is in conformance with the public access and recreation policies of the California Coastal Act as contained in Chapter 3, Sections 30200 through 30224 of the California Public Resources Code, the applicable sections of the California Administrative Code and the local coastal plan. The proposed fencing will be located entirely on private property and does not restrict public access to the bluff top and City Parklands.

Section 4. The City Council hereby approves Coastal Development Permit Application Number CDP-113-18, subject to the following conditions:

1. This approval is granted for the land or land use as described in the application and any attachments thereto, and as shown on the plot plan submitted, attached hereto as Exhibit A.
2. All buildings, fences, signs, roadways, parking areas, and other facilities or features shall be located and maintained as shown on the approved plans.
3. All structures shall be of the design as shown on the approved plans.
4. Compliance with and execution of all conditions listed herein shall be necessary prior to obtaining final inspection clearance. Deviation from this requirement shall be only by written consent of the Director of Planning.
5. The Miscellaneous Application is deemed withdrawn.
6. 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.
7. This approval is subject to the applicant paying all fees and assessments to the City of Palos Verdes Estates, as required by Ordinance.
8. 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 property owners, and their successors in interest, 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

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not prosecuted to a final judgment or is amiably resolved, unless the City should otherwise agree with the owners to waive said fees or any part thereof. The foregoing shall not apply if the permittee prevails in the enforcement proceeding.

9. The property owners, and their successors in interest, shall indemnify and defend the City of Palos Verdes Estates and its officers, employees and agents from and against all liability and costs relating to the City's actions concerning this project, including (without limitation) any award of litigation expenses in favor of any person or entity who seeks to challenge the validity of any of the City's actions or decisions in connection with this project. The City shall have the sole right to choose its counsel and property owners shall reimburse the City's expenses incurred in its defense of any lawsuit challenging the City's actions concerning this project.
10. An approval granted by the Planning Commission or City Council 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.
11. The owner shall provide for the improvement of drainage courses adjacent to the site of the building in conformance with standards and specifications of the City and plans approved by the City Engineer.
12. Non-standard encroachments shall be prohibited from any Parkland adjacent to the subject property, unless specifically approved otherwise by the Planning Commission.
13. Irrigation and the use of fertilizers and other landscaping chemicals shall be minimized through the use of low-maintenance landscaping and efficient irrigation technology or systems
14. A landscape plan and certification are required for all projects proposing new or altered landscaping that is 500 sq. ft. or more.
15. Any landscaping surrounding the proposed fencing shall not exceed 2.5 ft.
16. A 4 ft. 11- inch high fence shall be allowed 13 feet inward from the required 20-foot setback line parallel to Paseo Del Mar and along the rear angled property line abutting City Parklands.

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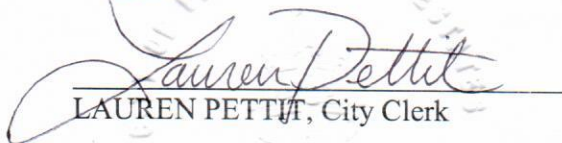
Section 5. The City Council hereby denies the appeal filed by Sue and Scott Kidman.

Section 6. The City Clerk shall certify to the passage and adoption of this Resolution.

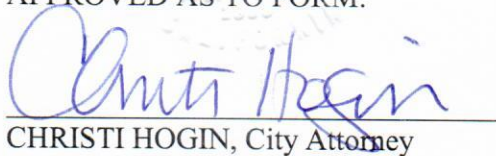
PASSED, APPROVED AND ADOPTED this 9<sup>th</sup> day of October 2018.

  
BETTY LIN PETERSON, Mayor

ATTEST:

  
LAUREN PETTIT, City Clerk

APPROVED AS TO FORM:

  
CHRISTI HOGIN, City Attorney

*An aggrieved person may appeal the City Council's approval to the Coastal Commission within 10 working days of the issuance of the City's Notice of Final Action. Appeal forms may be found online at [www.coastal.ca.gov](http://www.coastal.ca.gov) or in person at the Coastal Commission South Coast District office located at 200 Oceangate, 10<sup>th</sup> Floor, Long Beach, CA 90802, or by calling (532) 590-5071. Such an appeal must be filed with the Coastal Commission, not the City.*

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

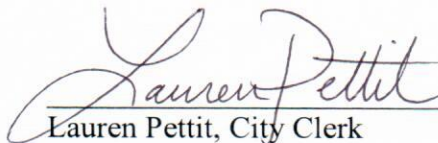
I, Lauren Pettit, City Clerk for the City of Palos Verdes Estates, California, do hereby certify that the foregoing Resolution **R18-43** was duly and regularly approved and adopted by the City Council of the City of Palos Verdes Estates at its regular meeting of the City Council on the 9th day of October, 2018, by the following vote:

AYES: COUNCILMEMBERS: Peterson, Kao, King, Vandever

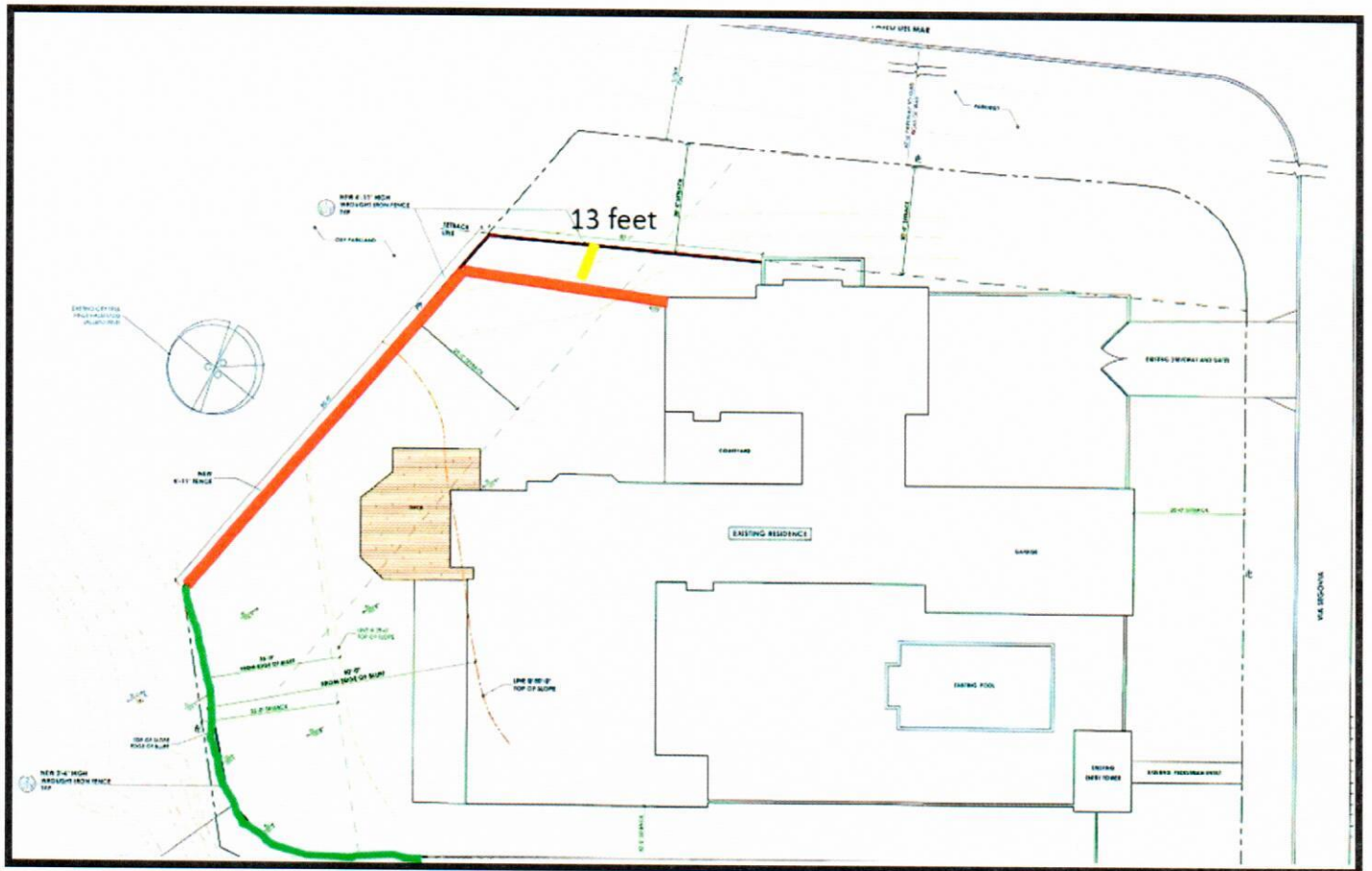
NOES: COUNCILMEMBERS: None

ABSENT: COUNCILMEMBERS: Davidson

RECUSED: COUNCILMEMBER: None

  
\_\_\_\_\_  
Lauren Pettit, City Clerk

## EXHIBIT A



- Red line represents conditioned location of the proposed 4 foot, 11 inch tall fence.
- Green line represents the location of the proposed 3 foot, 6 inch fence
- Yellow line represents conditioned 13 foot indent of the fence toward the residence from the required 20-foot setback line parallel to Paseo Del Mar.