



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

TO: Parking and Public Improvements Commission

FROM: Richard Thompson, Director of Community Development
Nhung Madrid, Management Analyst 

BY: Jason Masters, Assistant Planner 

DATE: September 25, 2014

SUBJECT: Consideration of an Encroachment Permit Appeal to Allow a Water Fountain Feature in the Public Right-of-Way to Remain – 130 41st Street

RECOMMENDATION:

Staff recommends that the Commission **DENY** the request at 130 41st Street to permit a water fountain feature in the 41st Street public right of way (drive-street).

BACKGROUND:

A building permit was issued for an interior remodel on the subject property on August 9, 2012, without any proposed exterior or encroachment work. After construction the applicant altered the existing planter/retaining wall creating a water fountain feature in the private front yard and into the public right-of-way, which is not permitted. Subsequently, Code Enforcement contacted the applicant regarding filing an encroachment permit application to request approval for the improvements. Upon submitting the Encroachment Permit, Planning Department staff informed the applicant that such improvements cannot be permitted by staff. Thereafter the applicant submitted an Encroachment Permit appeal on October 2, 2013. In accordance with Section 7.36.080 of Manhattan Beach Municipal Code, the Parking and Public Improvements Commission (PPIC) must review the appeal request and forward its recommendation to the City Council. The first 2.5 feet of the water fountain feature is located in the public right-of-way, the remaining 4 feet is located on private property.

DISCUSSION:

The submitted appeal plan shows modifications to the existing planter wall, creating a water fountain feature extending into the site's existing sloped encroachment area. Section 7.36.150 (D) of the Municipal Code permits fences and walls in encroachment areas at a maximum height of 36 inches in this area, but does not permit water fountain features or other improvements in drive-street encroachment areas. The plan does provide the required 2-foot clearance from the street improvements, and since there are no sidewalks in this area, this distance is measured from the back edge of the curb to the existing wall. The house was originally built in 1986 and the planter was approved at that time.

The subject portion of 41st Street is characterized as a very narrow street in the north Manhattan Beach – El Porto area without sidewalks or high-volume traffic. Several old unpermitted

encroachment fences, walls (mostly retaining) and planters exist in this area at the roadway curb, some of which appear to be nonconforming to the 2-foot clearance requirement established in 2003. The El Porto area was developed as an unincorporated area of Los Angeles County and accordingly these encroachments may not have been constructed under the purview of the City.

The Municipal Code Section 7.36.150 (D) states that only fences and walls up to 36" and landscaping are permitted on vehicular streets. Staff's understanding of the purpose of this requirement is to allow minimal private use of the public right-of-way with minor improvements and limited alteration of the natural grade. Raising the natural grade with retaining walls or planters is not currently allowed per code. Since the planter previously existed, it may remain. However, the water fountain feature intensifies the non-conforming condition, and may create a potential liability for the City due to accidental run-off on the adjacent street and driveways, and the presence as potentially an attractive nuisance.

Public Input

A notice of the Parking and Public Improvement Commission meeting was mailed to all property owners within a 300 feet radius from the subject encroachment property. Staff has received one letter in support of the appeal as of the writing of this report which is attached for your review.

CONCLUSION:

Staff does not support the request for the water fountain feature because it is not consistent with the encroachment standards described above, and staff recommends that the PPIC recommend denial of the Encroachment Permit Appeal request to the City Council.

Attachments:

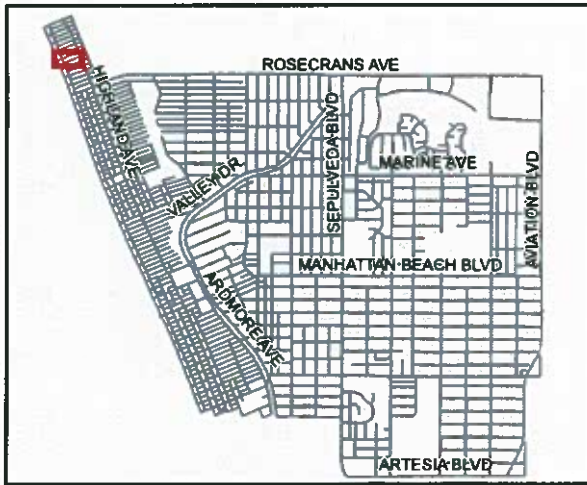
- A. Vicinity Map
- B. Encroachment Code excerpts
- C. Encroachment Permit Appeal Application
- D. Letter in support of appeal
- E. Encroachment Appeal plans (separate)

cc:

Lucas Goettsche, Applicant/Architect
Dr. Robert Rubin, Property Owner

Vicinity Map

130 41st Street



September 25, 2014



Chapter 7.36 - PRIVATE USE OF THE PUBLIC RIGHT OF WAY

- **7.36.010 - Scope and Intent.**

The provisions of this chapter shall govern use of the public right of way by private parties. The intent of these standards is to allow private use and development of the public right of way with improvements that are functional, attractive and non-obtrusive to the public, consistent with building safety and public works standards, and compatible with public facilities and surrounding developments.

- **7.36.150 - Encroachment standards.**

(D) Vehicular Street Standards:

1. Street improvements, including (but not necessarily limited to) sidewalks, curbs, gutters, parking pads and paving may be required by the Public Works Department for the purpose of maintaining or improving conditions related to drainage, visibility, access, maneuverability or public parking, and, if required, shall be constructed in compliance with City standards.
2. Fences and walls are permitted as follows:
 - a. Location. Compliance is required with Public Works Department standards established in MBMC 9.72.015. A minimum set back of two feet (2') is required behind existing or required street improvements.
 - b. Height. Fences and walls may not exceed a maximum height of forty-two inches (42"), measured from the existing public right of way grade at the fence or wall location. Open-design fences or guard rails required by the Building Official to exceed the forty-two inch (42") maximum height are allowed on top of retaining walls if necessary to retain a neighbor's grade at a side property line. Fences and walls located near the intersection of streets or driveways may be subject to lower height requirements to ensure traffic visibility.
3. Ground cover such as pavement (including brick or other decorative surfaces) and landscaping is permitted on the existing right of way grade. Decks or similar structures are prohibited.
4. Street Corner Visibility. To ensure visibility at street corners a thirty-six inch (36") maximum height is applicable to all fences, walls or landscape plantings within a distance of fifteen feet (15') from the street corner as per MBMC 3.40.010 (Traffic Sight Obstructions). A height less than thirty-six inches (36") may be applicable due to unusual slope conditions.
5. Significant alteration of the existing right of way grade is prohibited, unless determined to be necessary to accommodate a required public street improvement.
6. Loose gravel and similar material as determined by the Public Works Department is not permitted.
7. Drainage from a private collection system that discharges a concentrated flow shall be directed to a public vehicular street right of way location via a non-erosive device pursuant to Public Works Department standards subject to review and approval of the City Engineer.
8. Landscaping is permitted subject to approval of a landscape plan pursuant to Chapter 7.32.080 E and shall be submitted with an encroachment permit.



MASTER APPLICATION FORM

CITY OF MANHATTAN BEACH
COMMUNITY DEVELOPMENT DEPARTMENT

Office Use Only

Date Submitted: 10/2/13
Received By: [Signature]
F&G Check Submitted:

130 41ST
Project Address

TRACT NO 4103 NW 45 FT OF LOT 10
Legal Description

Bldg
PW

HDR
General Plan Designation

RH
Zoning Designation

4
Area/District

For projects requiring a Coastal Development Permit, select one of the following determinations¹:

Project located in Appeal Jurisdiction

Project not located in Appeal Jurisdiction

Major Development (Public Hearing required)

Public Hearing Required (due to UP, Var., etc.)

Minor Development (Public Hearing, if requested)

No Public Hearing Required

Submitted Application (check all that apply)

- | | | |
|-----------------------------------------------------------------|--------------------------------------------------------------|-------|
| <input checked="" type="checkbox"/> Appeal to PC/PIC/BBA/CC 500 | <input type="checkbox"/> Use Permit (Residential) | _____ |
| <input type="checkbox"/> Coastal Development Permit | <input type="checkbox"/> Use Permit (Commercial) | _____ |
| <input type="checkbox"/> Environmental Assessment | <input type="checkbox"/> Use Permit Amendment | _____ |
| <input type="checkbox"/> Minor Exception | <input type="checkbox"/> Variance | _____ |
| <input type="checkbox"/> Subdivision (Map Deposit) 4300 | <input type="checkbox"/> Public Notification Fee / \$85 | _____ |
| <input type="checkbox"/> Subdivision (Tentative Map) | <input type="checkbox"/> Park/Rec Quimby Fee 4425 | _____ |
| <input type="checkbox"/> Subdivision (Final) | <input type="checkbox"/> Lot Merger/Adjustment/\$15 rec. fee | _____ |
| <input type="checkbox"/> Subdivision (Lot Line Adjustment) | <input type="checkbox"/> Other | _____ |

Fee Summary: Account No. 4225 (calculate fees on reverse)

Pre-Application Conference: Yes No _____ Date: _____ Fee: _____

Amount Due: \$ 500.00 (less Pre-Application Fee if submitted within past 3 months)

Receipt Number: _____ Date Paid: _____ Cashier: _____

Applicant(s)/Appellant(s) Information

LUCAS GOETTSCHE
Name

130 41ST UNIT B
Mailing Address

ARCHITECT/TELEANT/BLDG. MGR
Applicant(s)/Appellant(s) Relationship to Property

Contact Person (include relation to applicant/appellant) Phone number / e-mail

Address: _____
Applicant(s)/Appellant(s) Signature: [Signature] Phone number: 310-920-0959

Complete Project Description- including any demolition (attach additional pages if necessary) water feature in ROW

FORTHCOMING... IF DEADLINE FOR THIS ITEM PLEASE EMAIL MYSELF + HOME OWNER AT: lucas@ladesignstudio.com + bob_rubin@hotmail.com

¹ An Application for a Coastal Development Permit shall be made prior to, or concurrent with, an application for any other permit or approvals required for the project by the City of Manhattan Beach Municipal Code. (Continued on reverse)

OWNER'S AFFIDAVIT

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

I/We Robert Alan RUBIN being duly sworn, depose and say that I am/we are the owner(s) of the property involved in this application and that the foregoing statements and answers herein contained and the information herewith submitted are in all respects true and correct to the best of my/our knowledge and belief(s).

Robert Alan Rubin
Signature of Property Owner(s) - (Not Owner in Escrow or Lessee)

Robert Alan RUBIN
Print Name

P.O. Box 288, Redondo Beach, CA. 90277-0288
Mailing Address

310-970-7288
Telephone

Subscribed and sworn to before me, this 1st day of OCTOBER, 2013

in and for the County of Los Angeles

State of California



Debbie Lang
Notary Public

Fee Schedule Summary

Below are the fees typically associated with the corresponding applications. Additional fees not shown on this sheet may apply - refer to current City Fee Resolution (contact the Planning Department for assistance.) Fees are subject to annual adjustment.

Submitted Application (circle applicable fees, apply total to Fee Summary on application)

Coastal Development Permit	
Filing Fee (public hearing - no other discretionary approval required):	\$ 4,615 <input checked="" type="checkbox"/>
Filing Fee (public hearing - other discretionary approvals required):	1,660 <input checked="" type="checkbox"/>
Filing Fee (no public hearing required - administrative):	920 <input checked="" type="checkbox"/>
Use Permit	
Use Permit Filing Fee:	\$ 5,200 <input checked="" type="checkbox"/>
Master Use Permit Filing Fee:	8,255 <input checked="" type="checkbox"/>
Master Use Permit Amendment Filing Fee:	4,740 <input checked="" type="checkbox"/>
Master Use Permit Conversion:	4,075 <input checked="" type="checkbox"/>
Variance	
Filing Fee:	\$ 5,160 <input checked="" type="checkbox"/>
Minor Exception	
Filing Fee (without notice):	\$ 1,775
Filing Fee (with notice):	2,020 <input checked="" type="checkbox"/>
Subdivision	
Certificate of Compliance:	\$ 1,560
Final Parcel Map + mapping deposit:	515
Final Tract Map + mapping deposit:	595
Mapping Deposit (paid with Final Map application):	500
Merger of Parcels or Lot Line Adjustment:	1,155
Quimby (Parks & Recreation) fee (per unit/lot):	1,817
Tentative Parcel Map (4 or less lots / units) No Public Hearing:	915
Tentative Parcel Map (4 or less lots / units) Public Hearing:	3,325 <input checked="" type="checkbox"/>
Tentative Tract Map (5 or more lots / units):	4,080 <input checked="" type="checkbox"/>
Environmental Review (contact Planning Division for applicable fee)	
Environmental Assessment (no Initial Study prepared):	\$ 215
Environmental Assessment (if Initial Study is prepared):	2,260
Fish and Game/CEQA Exemption County Clerk Posting Fee ² :	75
<input checked="" type="checkbox"/> Public Notification Fee applies to all projects with public hearings and covers the city's costs of envelopes, postage and handling the mailing of public notices. Add this to filing fees above, as applicable:	\$ 85

²Make a separate \$75 check payable to LA County Clerk. (DO NOT PUT DATE ON CHECK)

Jason Masters

From: Ted Randall <trandall001@gmail.com>
Sent: Tuesday, September 16, 2014 10:17 PM
To: Jason Masters
Subject: Encroachment Permit Appeal- 130 41st St

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> Hello. My name is Ted Randall and I'm the resident and property owner of 209 41st St. My wife Wazhma, three year old daughter Nyla and I think the fountain is a fantastic addition to the neighborhood. It sounds wonderful when walking by it and the kids in the neighborhood love it (sometimes more than we'd like). To be honest, planter = litter box in our neighborhood (we have to clean ours every day) and this looks great and avoids those issues. The fountain is a great way to beautify the exterior of the house and it is enjoyed by all. I'll let the other neighbors speak for themselves, but i have never heard a complaint from anyone on the street about the fountain.

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> Please reconsider Mr Goettsche's appeal!

>

> Sincerely,
> Ted, Wazhma, and Nyla
> 213-445-5627