

RESOLUTION NO. R 00- 36

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALOS VERDES ESTATES, CALIFORNIA, GRANTING AN APPEAL OF A DECISION OF THE PLANNING COMMISSION TO GRANT ONE MODIFICATION TO A NEIGHBORHOOD COMPATIBILITY APPLICATION AT 2038 VIA CERRITOS AND DENYING AN APPEAL OF A DENIAL OF ANOTHER MODIFICATION AT THE SAME SITE

The City Council of the City of Palos Verdes Estates does resolve as follows:

Section 1. On June 16, 1998, an application for a neighborhood compatibility permit to permit construction of a new single family residence for the property located at Lot 6 of Block 5, of Tract No. 8043 in the City of Palos Verdes Estates, County of Los Angeles, State of California, commonly known as 2038 Via Cerritos, Palos Verdes Estates, California (the "Property"), was granted by the Planning Commission. On June 18, 1999, and May 10, 2000, Minor Revisions were approved for such project.

Section 2. On May 16, 2000, an application for further revisions to the neighborhood compatibility permit (the "Application") was considered by the Planning Commission. The Planning Commission granted the Application, subject to conditions affecting the location for the pool equipment (the "Pool Equipment Condition") and the partially constructed fence, pilasters and wall (the "Wall Conditions").

Section 3. Within the time permitted by law, an appeal of the Pool Condition was filed by Robert and Mimi Liu, and an appeal of the Wall Conditions was filed by Elite Homes.

Section 4. On June 27, 2000, the City Council conducted a public hearing on the appeals, which hearing was duly and properly noticed. At such hearing, the Council received and considered an oral staff report and documentary evidence, including, but not limited to, site plans and minutes of the Planning Commission meeting, and received and considered oral testimony from the appellants and others. The City Council further received and considered information regarding environmental review of the application and the determination that the project is categorically exempt from the California Environmental Quality Act.

Section 5. Based upon the evidence presented, the City Council hereby finds and determines as follows:

- a. Each fact set forth in Section 1 through 4 above is true and correct.
- b. Each fact set forth in the memorandum for Agenda Item No. 9, Meeting Date June 27, 2000, from Allan Rigg to James B. Hendrickson, presented to the City Council on said date, is true and correct.

- c. Information provided to the City staff and/or to the Lius by the Property developer in connection with the pool equipment location was misleading and led to the need of the Lius to file their appeal.
- d. The location of the pool equipment as set forth in the Pool Condition would adversely affect property adjacent to the Property owned by the Lius.
- e. The Wall Conditions have been part of the approved Neighborhood Compatibility permit since June 16, 1998, and construction undertaken by the Property developer since that time has been in violation of those conditions. No cause exists to modify such Conditions.

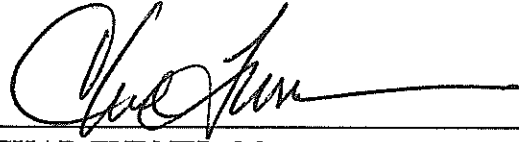
Section 6. Based upon the findings and determinations set forth herein, as supported by the evidence considered in connection therewith, the City Council finds and determines that the appeal of the Planning Commission's grant of the Application subject to the Pool Condition shall be granted by eliminating said Condition, that the appeal of the Planning Commission's grant of the Application subject to the Wall Conditions shall be denied and such Conditions shall remain extant.

Section 7. Based upon the findings set forth herein, the City Council finds that with the appeal of the Pool Condition granted and the appeal of the Wall Conditions denied, the conditions of approval shall be modified as attached hereto as Exhibit A, which conditions are hereby incorporated by this reference. As so conditioned, the proposed development on the Property:

- a. Is designed and will be developed to preserve to the greatest extent practicable the natural features of the land, including the existing topography and landscaping;
- b. Is designed and will be developed in a manner which will be reasonably compatible with the existing neighborhood character in terms of scale of development and relating to surrounding residences and other structures;
- c. Is designed and will be developed in a manner which will preserve to the greatest extent practicable the privacy of persons residing on adjacent properties; and
- d. Is designed and will be developed in a manner to the extent reasonably practicable so that it does not unreasonably interfere with neighbors' existing views.

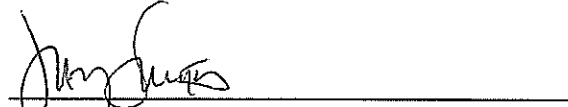
Section 8. The City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

PASSED, APPROVED AND ADOPTED this 11 day of July, 2000.



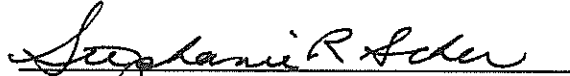
CHAD TURNER, Mayor

ATTEST:



JUDY SMITH, City Clerk

APPROVED AS TO FORM:



STEPHANIE R. SCHER, City Attorney

EXHIBIT "A"

NEIGHBORHOOD COMPATIBILITY APPLICATION

NC-720R-00

Conditions of Approval

R-00-36

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, Exhibit B.
2. Prior to obtaining a building permit and within 30 day hereof, the applicant and property owner shall file with the Secretary of the Planning Department written acknowledgment of the conditions stated herein on forms provided by the Planning Department.
3. All buildings, fences, signs, roadways, parking areas, and other facilities or features shall be located and maintained as shown on the approved plans.
4. All buildings and structures shall be of the design as shown on the approved plans.
5. 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.
6.
 - a. The applicant shall have a maximum of one year, after approval of a Neighborhood Compatibility Application, within which to apply for and be issued a grading or building permit. The approval shall expire in the event such grading or building permit has not been issued within the prescribed one-year time period, or in the event such grading or building permit terminates or expires under any other provision of this Code or of the law of this State.
 - b. The Planning Director may approve a six month extension to the approval if an application for extension is filed prior to the expiration of the initial one year time period. Such an extension cannot be transferred to a new owner. Any subsequent extension applications must be made with the City Council.
7. 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.
8. This approval is subject to the applicant paying all fees and assessments to the City of Palos Verdes Estates, as required by Ordinance.

9. 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.
10. 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.
11. 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.
12. The owner shall provide for the planting of trees in the parkway adjacent to the site of the building in accordance with the regulations of Chapter 12.16 of the City Code and subject to the review of the Parklands Committee.
13. The owner shall provide for the improvement of streets, alleys, walks, and 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.
14. **That the pool equipment shall remain in the original location and that Elite Homes shall pay the appeal fee on behalf of the Liu's.**
15. **That the fence and pilasters along front property line be eliminated in the eastern area bound by the points where the extension of the east face of the building plane intersects the property lines.**
16. **That the remainder of the proposed wall be brought back to the midpoint of the respective setbacks at a height not to exceed 5 feet.**
17. **That all construction debris be removed from the City right-of-way.**

