

## RESOLUTION R00-41

### 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 A CONDITIONAL USE PERMIT FOR GROCERY STORE USE AT 43 MALAGA COVE PLAZA SUBJECT TO SPECIFIED CONDITIONS

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

Section 1. On May 5, 2000, an application for a conditional use permit to operate a grocery store for the property located at Lot 12 of Block 1617 of Tract No. 6885 in the City of Palos Verdes Estates, County of Los Angeles, State of California, commonly known as 43 Malaga Cove Plaza, Palos Verdes Estates, California (the "Property") was approved by the Planning Commission of the City of Palos Verdes Estates subject to specific conditions including a condition restricting the delivery of items to the rear of the Property (the "Parking Condition").

Section 2. Within the time permitted by law, an appeal of the Parking Condition was filed by Nerses Tumanjan (the "Appellant").

Section 3. On July 25, 2000, the City Council conducted a public hearing on the matter, 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 Appellant. 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 4. Based upon the evidence presented, the City Council hereby finds and determines as follows:

- a. Each fact set forth in Section 1 through 3 above is true and correct.
- b. Each fact set forth in the memorandum for Agenda Item No. 13, Meeting Date 7/25/00, from Allan Rigg to James B. Hendrickson, presented to the City Council on said date, is true and correct.
- c. The structure on the Property is such that delivery of pallets from the rear would be impossible or impracticable.

Section 5. 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 Parking

Condition shall be granted by modifying said Condition to provide that deliveries to the Property may be made through the front door for perishable items and for pallets which will not fit through the rear, provided such delivery is limited to a maximum of fifteen (15) minutes, five (5) times per week. In addition, Appellant shall be refunded his appeal fee.


Section 6. Based upon the findings set forth herein, the City Council finds that, as conditioned in the conditions of approval attached hereto as Exhibit A, the proposed use of the Property to be established by the Application:

- a. Is properly authorized for one year by conditional use permit pursuant to the Palos Verdes Estates Municipal Code;
- b. Is consistent with the Palos Verdes Estates General Plan (and there is no applicable specific plan);
- c. Is proposed on a site which is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development standards prescribed in the Palos Verdes Estates Municipal Code, or as are otherwise required in order to integrate the use with the site, surrounding properties, and other permitted uses in the City;
- d. Is proposed on a site which is adequately served by highways or streets of sufficient width and improvement as are necessary to carry the kind and quality of traffic such use will generate and by other public or private services facilities as required.
- e. Will not create unusual noise, traffic, or other conditions that may be objectionable, detrimental, or incompatible with surrounding properties or other permitted uses in the City; and
- f. Will not adversely affect the integrity and character of the City, neighborhood, or site, the utility and value of surrounding properties, or the public health, safety and welfare.

Section 7. The Application shall be approved subject to the conditions contained herein.

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

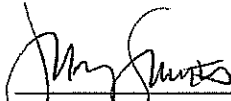
PASSED, APPROVED and ADOPTED this 8<sup>th</sup> day of August, 2000.



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CHAD TURNER, Mayor

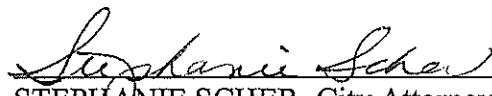
ATTEST:



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JUDY SMITH, City Clerk

APPROVED AS TO FORM:



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STEPHANIE SCHER, City Attorney

EXHIBIT "A"

CONDITIONAL USE PERMIT

CUP-33-00

Conditions of Approval

R-00-41

1. This approval is granted for the land or land use as described in the application and any attachments thereto.
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 Conditional Use Permit, 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. **That the floor area of the store devoted to sales (approximately 3,100 sq. ft.) be divided as follows and that these four categories as a minimum continue to be sold during the extent of the Conditional Use Permit: 10% Produce, 20% Meat, Fish and Poultry, 45% Grocery, 25% Liquor.**
13. **That the term of the Conditional Use Permit be granted for a period of time to run concurrently with the lease or any extension thereof not to exceed ten (10) years.**
14. **That no video or arcade games be permitted.**
15. **That the store not open before 7:00 a.m. or remain open after 10:00 p.m.**
16. **That between the hours of 9:00 a.m. and 5:00 p.m. trucks shall make deliveries in the alley to the rear of the market. The market may receive deliveries of perishable produce and pallets through the front entrance to the property not more than five times per week limited to 15 minutes per delivery.**
17. **That the approved use be subject to annual review by the City to verify compliance with the approved Conditional Use Permit.**

