

RESOLUTION NO. R 01- 24

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
PALOS VERDES ESTATES, CALIFORNIA, GRANTING
AN APPEAL OF A CONDITION IMPOSED IN CONNECTION
WITH PLANNING COMMISSION APPROVAL OF A PERMIT FOR
EXCESS HEIGHT FOR A FENCE AT 869 RINCON LANE

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

SECTION 1. On February 23, 2001, an application was submitted by Daniel and Karen Heitz (the "Applicant") for a permit to construct a fence exceeding 3.5 feet in height along Via Nogales (the "Application") for Lot 2 of Block 1 of Tract 10536 in the City of Palos Verdes Estates, County of Los Angeles, State of California, commonly known as 869 Rincon Lane (the "Property")

SECTION 2. At its March 26, 2001, meeting, the Planning Commission voted to approve the Application, subject to standard conditions and the additional condition that the fence be located no closer than 7.5 feet to the property line (the "Location Condition").

SECTION 3. April 9, 2001, an appeal of the Location Condition was filed by the Applicant.

SECTION 4. On April 24, 2001, the City Council conducted a 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, photographs, and minutes of the Planning Commission meeting, and received and considered oral testimony from the Applicant. 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. 8, Meeting Date 4/24/01, from Allan Rigg to James B. Hendrickson, presented to the City Council on said date, is true and correct.
- c. The Property is unusual in that it is a through lot with the "frontage" on Via Nogales being the rear property line of the lot, and with a significant slope downward from Via Nogales to the house on the Property. These factors make a fence exceeding 3.5 feet in height necessary along Via Nogales to secure the privacy of the occupants of the Property.

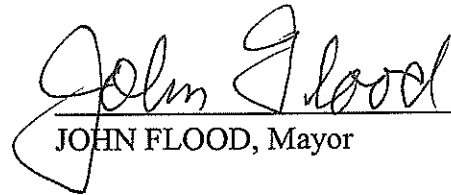
- d. Concerns regarding the aesthetic impact of the fence as seen from Via Nogales may be addressed by requiring landscaping as an alternative to locating the fence away from the property line.

SECTION 6. Based upon the findings set forth herein, the City Council finds that approval of a six (6) foot high fence along the property line of the Property adjacent to Via Nogales, as conditioned in the conditions of approval attached hereto as Exhibit A, which conditions are hereby incorporated by this reference, will not adversely affect any other property, and will effectuate the privacy concerns of the Applicant.

SECTION 7. 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 imposition of the Location Condition upon the miscellaneous permit should be granted, and such permit shall be approved subject to the conditions contained herein.

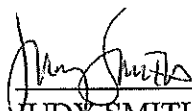
SECTION 8. The City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

PASSED, APPROVED AND ADOPTED this 8th day of May, 2001.



JOHN FLOOD, Mayor

ATTEST:



JUDY SMITH, City Clerk

APPROVED AS TO FORM:



STEPHANIE R. SCHER, City Attorney

EXHIBIT "A"

MISCELLANEOUS APPLICATION

M-461-01

Conditions of Approval

R-01-24

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 Miscellaneous 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. **That the six foot high fence may be located on the property line provided that the appearance of the fence from the street be softened with landscaping per a plan to be approved by the City Forester.**

