

RESOLUTION NO. R07-31

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
PALOS VERDES ESTATES, CALIFORNIA, DENYING AN APPEAL OF
CONDITIONS OF APPROVAL IMPOSED BY THE PLANNING
COMMISSION IN CONNECTION WITH AN APPLICATION FOR
A REVISED NEIGHBORHOOD COMPATIBILITY
PERMIT AT 1909 PASEO DEL SOL

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

Section 1. An application for a neighborhood compatibility approval to permit construction of a new a single family home on the property located at Lot 2 of Block 1542 of Tract No. 6884 in the City of Palos Verdes Estates, County of Los Angeles, State of California, commonly known as 1909 Paseo Del Sol, Palos Verdes Estates, California (the "Property"), was approved by the Planning Commission on September 16, 2003, subject to specified conditions including those pertaining to wall heights.

Section 2. On August 21, 2007, the Planning Commission considered a request for a revised neighborhood compatibility application (the "Application"), requesting that fences within the setbacks adjacent to the rights-of-way exceed forty two (42) inches in height. The Application was approved by the Planning Commission, subject to the condition that all structures within the setback along Paseo Del Sol be limited to forty two (42) inches in height, therefore granting the Application request as to a fence within the setback adjacent to Via Del Monte, but denying it as to the fence adjacent to Paseo Del Sol (the "Appealed Condition").

Section 3. On September 5, 2007, an appeal of the Planning Commission action was filed by an agent for the owner, seeking reversal of the decision regarding the Appealed Condition.

Section 4. On September 25, 2007, the City Council conducted a public hearing on the appeal, 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, minutes of the Planning Commission meeting, and photographic presentations, and received and considered oral testimony from the owner and others. The City Council further received information 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 Sections 1 through 4 above is true and correct.

- b. Each fact set forth in the memorandum for Agenda Item No. 8 Meeting Date September 25, 2007, from Allan Rigg to Joseph M. Hoefgen, presented to the City Council on said date, is true and correct.
- c. There is not a preponderance of properties within the neighborhood of the Property which have fences, walls or hedges exceeding forty two (42) inches in height. Testimony from the owner and owner's agent to the contrary is not upheld upon observation of the area. Furthermore, two other requests for fences higher than forty two (42) inches in height on properties within the immediate vicinity of the Property have been rejected by the Planning Commission and/or City Council on the basis that a preponderance of properties within the neighborhood do not have fences of such height, and those decisions are final.
- d. Increased fence height is not required for safety purposes. The Paseo Del Sol fence is not located immediately adjacent to the fourteen (14) foot drop which the Application seeks to protect against, but within a City right-of-way with a relatively flat area immediately adjacent to it. In addition, the Building Code establishes thirty six (36) inches as the minimum height for safety railings in residential construction, so the forty two (42) inch height permitted is in excess of established safety standards.

Section 6. Based upon the findings set forth herein, the City Council finds that the Appealed Condition is necessary for the public health, safety and welfare, that the appeal of the Appealed Condition shall be denied, and that the revised neighborhood compatibility permit shall be approved subject to each and every one of the conditions set forth in Exhibit A, attached hereto and incorporated herein by this reference.

Section 7. Based upon the findings set forth herein, the City Council finds that the proposed development on the Property as conditioned in the conditions of approval attached hereto as Exhibit A:

- 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, in that the conditions amended in the Application do not affect the natural features of the land;
- 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, as the fencing as conditioned is in conformity with fences on neighboring properties;
- 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, as no issue regarding privacy has been raised relating to the revised conditions; 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, as the fence is not located in an area which would have view impacts.

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

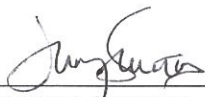
PASSED, APPROVED AND ADOPTED this 9th day of October, 2007.

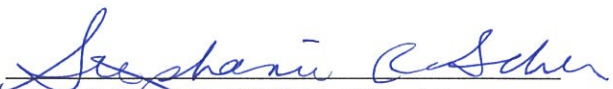


JAMES F. GOODHART, Mayor

ATTEST:

APPROVED AS TO FORM:



JUDY SMITH, City Clerk

STEPHANIE R. SCHER, City Attorney

EXHIBIT "A"

NEIGHBORHOOD COMPATIBILITY AND GRADING APPLICATION
NC-1071R-07

Conditions of Approval
R07-31

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 buildings and 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 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.
5. 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.
6. This approval is subject to the applicant paying all fees and assessments to the City of Palos Verdes Estates, as required by Ordinance.
7. 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.
8. 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.
9. 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.

10. The owner shall provide for the planting of trees in the parkway adjacent to the site of the building in accordance with the recommendation of the Public Works Director or authorized designee.
11. 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.
12. All pool/spa equipment and air conditioning units shall be contained in sound attenuating structures, subject to the approval of the City Engineer.
13. The owner shall provide a "Knox box" universal gate lock, if applicable, accessible to the police and fire departments. Applicants are advised to contact 1-800-552-5669 with any questions.
14. All non-standard encroachments shall be removed from any Parkland adjacent to the subject property, unless specifically approved otherwise by the Planning Commission.
15. The height of all new fireplace chimneys shall be the minimum allowable per the Building Code and the height of the chimney cap shall not exceed 30".
16. **All structures within the setback along Paseo Del Sol are to be limited to 42" in height.**
17. **All previous conditions still apply.**

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

I, Vickie Kroneberger, Deputy City Clerk for the City of Palos Verdes Estates, California, do hereby certify that the foregoing Resolution **R07-31** 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, 2007, by the following vote:

AYES: COUNCILMEMBERS: Goodhart, Sherwood, Humphrey, Rea and Perkins

NOES: COUNCILMEMBERS: None

ABSENT: COUNCILMEMBERS: None



Vickie Kroneberger, Deputy City Clerk