

RESOLUTION NO. R 99- 05

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
PALOS VERDES ESTATES, CALIFORNIA, DENYING AN
APPEAL OF THE ACTION OF THE PLANNING COMMISSION
GRANTING APPROVAL OF GRADING AND NEIGHBORHOOD
COMPATIBILITY APPLICATIONS AT 1112 VIA MIRABEL

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

Section 1. On September 17, 1998, applications for grading and neighborhood compatibility for construction of a new single family residence (hereafter, collectively the "Application") were submitted for the property located at Lot 5 of Block 1551 of Tract No. 7333 in the City of Palos Verdes Estates, County of Los Angeles, State of California, commonly known as 1112 Via Mirabel, Palos Verdes Estates, California (the "Property").

Section 2. On October 20, 1998, and November 17, 1998, hearings on the Application were held by the Planing Commission of the City of Palos Verdes Estates, at the conclusion of which the Planning Commission approved the Application, subject to specified conditions attached hereto as Exhibit A.

Section 3. On November 30, 1998, an appeal of the Planning Commission's approval was filed by Kimie Kanazawa (the "Appellant").

Section 4. On January 13, 1999, 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, photographs, and minutes of the Planning Commission meeting, and received and considered oral testimony from the Appellant and others. The City Council further received and considered information regarding environmental review of the Application and the determination that the Application is categorically exempt from the California Environmental Quality Act.

Section 5. The evidence presented to the City Council included information from the Appellant and the Property owner that they had agreed upon a compromise to their dispute regarding the Application. Such compromise is evidenced in an agreement to be signed by those parties and includes an adjustment to the ridge height of the structure and the grade at which it is to be constructed, as set forth in Section 8, below.

Section 6. Based upon the evidence presented, the City Council hereby finds and determines as follows:

- a. Each fact set forth in Section 1 through 5 above is true and correct.

- b. Each fact set forth in the memorandum for Agenda Item No. 6, Meeting Date 1/13/99, from Tim D'Zmura to James B. Hendrickson, presented to the City Council on said date, is true and correct.

Section 7. Based upon the findings set forth herein, the City Council finds that the Application, as conditioned in the conditions of approval attached hereto as Exhibit A, which conditions are incorporated herein by this reference, as modified and supplemented by Section 8 hereof:

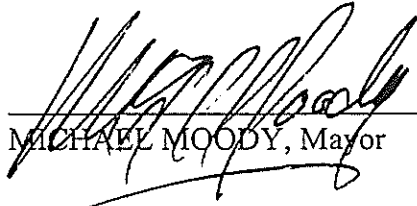
- a. Is designed and will be developed to preserve to the greatest extent practicable the natural features of the land, including the existing topography and landscaping;
- b. Is designed and will be developed in a manner which will be reasonably compatible with the existing neighborhood character in 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;
- 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;
- e. Will not unreasonably change the natural contours of the land;
- f. Will not create a hazard to the immediate or adjacent property;
- g. Will not unreasonably interfere with the use or enjoyment of property by other persons in the City; and
- h. Complies with all requirements of Palos Verdes Municipal Code Section 8.05.060.

Section 8. 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 approval of the Application should be denied and the grading permit and neighborhood compatibility application shall be approved subject to the conditions of approval imposed by the Planning Commission, except as modified and supplemented as follows:

- a. The ridge height shall be lowered an additional six inches (6") from the lowering required by the Planning Commission to a reduction of at least twenty four inches (24"), and this additional six inch (6") reduction shall be accomplished by additional grading so that no more than eighteen inches (18") of the required height reduction shall be due to additional grading.
- b. The Property owner shall sign the agreement between himself and the Appellant.

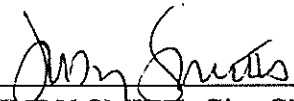
Section 9. The City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

PASSED, APPROVED AND ADOPTED this 26 day of January, 1999.



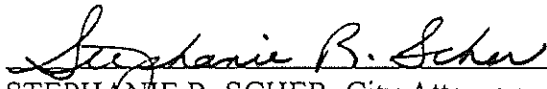
MICHAEL MOODY, Mayor

ATTEST:



JUDY SMITH, City Clerk

APPROVED AS TO FORM:



STEPHANIE R. SCHER, City Attorney

EXHIBIT "A"

NEIGHBORHOOD COMPATIBILITY AND GRADING APPLICATION

NC-744-98 and GA-1164-98

Conditions of Approval

R-99-05

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 and Grading 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. Grading shall be imported/exported in quantity and type of vehicle as approved by the City Engineer and Chief of Police.
15. **That all non-standard encroachments be removed.**
16. **That existing curb be removed and replaced with City standard curb and gutter per construction prepared by a registered civil engineer and approved by the City Engineer.**
17. **That pilasters do not exceed 3'-6" in the front yard setback.**
18. **That the pergola, spa and equipment be relocated out of the rear setback area.**
19. **That the ridge height be lowered by 18" and that no more than 12" of this height reduction be due to additional grading.**
20. **That with respect to the agreement presented to the City Council, the signatures of the parties be obtained.**
21. **That in concurrence with the signed agreement with respect to ridge height only, that the ridge height be reduced an additional 6" and that this reduction be achieved through additional grading.**

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

I, Robin Ford, Deputy City Clerk for the City of Palos Verdes Estate, California, do hereby certify that the foregoing Resolution **R99-05** 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 26th day of January, 1999, by the following vote:

AYES: COUNCILMEMBERS: Moody, Thompson, Finer, Mattingly

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

ABSTAIN: COUNCILMEMBERS: Humphrey



Robin M. Ford, Deputy City Clerk