

RESOLUTION NO. R 99- 06

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 NEIGHBORHOOD  
COMPATIBILITY PERMIT AT 1520 ESPINOSA CIRCLE

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

Section 1. On October 15, 1998, an application for a neighborhood compatibility permit to permit construction of additions to an existing single family home (the "Application") was submitted for the property located at Lot 15 of Block 1375 of Tract No. 6889 in the City of Palos Verdes Estates, County of Los Angeles, State of California, commonly known as 1520 Espinosa Circle, Palos Verdes Estates, California (the "Property").

Section 2. At its November 17, 1998, meeting, the Planning Commission approved the Application, subject to various conditions including the following conditions:

- a. That City standard curb and gutter be installed per construction plans prepared by a registered civil engineer and approved by the City Engineer (the "Curb Condition");
- b. That a City standard driveway apron be installed (the "Driveway Condition"); and
- c. That the existing, encroaching landscaping in the Parkland be removed to the satisfaction of the Parkland Committee (the "Landscaping Condition").

Section 3. On December 1, 1998, an appeal of the Curb, Driveway and Landscaping Conditions was filed by the applicants, Vincent and Karen Chan (the "Appellant").

Section 4. On January 13, 1999, 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's representative 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. 7, 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.
- c. Pursuant to a recent decision of the City Council, other properties on Espinosa Circle will be required to install City standard curb and gutter at such time as a discretionary permit is issued for such other properties. Installation of such curb and gutter at the Property may therefore be deferred until such time as the City determines that sufficient other properties have installed or are required to install such curb and gutter, so as to provide a smooth transition of the area, provided sufficient security for the installation of the curb and gutter is provided by the Appellants.
- d. A City standard driveway apron is required for the public health, safety, and welfare.
- e. Appeal of the Landscaping Condition is, in part, premature in that the Parkland Committee has not reviewed any proposed landscaping plan for the area in question.

Section 6. Based upon the findings set forth herein, the City Council finds that the Curb Condition, the Driveway Condition, and the Landscaping Condition are necessary for the public health, safety and welfare, except as modified in Section 7 below, and that any alternative arrangement would adversely affect the health, safety and welfare of the public. In the absence of the Curb, Driveway and Landscaping Conditions, as so modified, the neighborhood compatibility permit for the proposed development would have to be denied in that the proposed development would not be designed and 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.

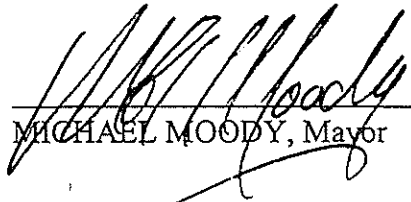
Section 7. Based upon the findings and determinations set forth herein, as supported by the evidence considered in connection therewith, the City Council finds and determines that the appeal of the Curb, Driveway and Landscaping Conditions shall be denied and the neighborhood compatibility permit shall be approved only subject to each and every one of the conditions set forth in Exhibit A, attached hereto and incorporated herein by this reference, except as follows:

- a. The Curb Condition shall be modified to read as follows: "That at such time as the City directs, City standard curb and gutter shall be installed by whomever owns the Property at that time (the "Owner") per construction plans prepared by a registered civil engineer and approved by the City Engineer. To secure this condition, the applicant shall post a cash bond in an amount determined by the City Engineer, which amount may be utilized by the City at its sole discretion to install such curb and gutter should the Owner fail to comply with this condition. Posting of such amount shall not be deemed to relieve the Owner of the obligation to install such curb and gutter or to reimburse the City for any costs incurred by the City in excess of the posted amount. Any amount remaining with the City after completion of such work shall be returned to the Owner."
- b. The Landscaping Condition shall be clarified to read as follows: "That the existing, encroaching landscaping in the Parkland be removed and any replacement

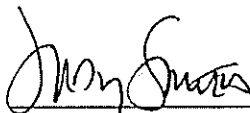
landscaping be to the satisfaction of the Parkland Committee. This condition shall be satisfied prior to final inspection of the Property.” As so modified, denial of the appeal of the Landscaping Condition is expressly stated to be without prejudice to the Appellant to seek City Council review of any plan approved by the Parkland Committee pursuant to the normal appellate procedures.

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 26 day of January, 1999.

  
\_\_\_\_\_  
MICHAEL MOODY, Mayor

ATTEST:

  
\_\_\_\_\_  
JUDY SMITH, City Clerk

APPROVED AS TO FORM:

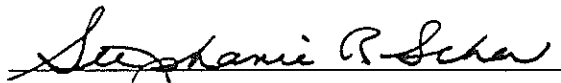
  
\_\_\_\_\_  
STEPHANIE R. SCHER, City Attorney

EXHIBIT "A"

**NEIGHBORHOOD COMPATIBILITY APPLICATION**

NC-749-98

Conditions of Approval

R-99-06

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 an in-lieu fee, in an amount determined by the City Engineer, be paid to the City for future installation of curb and gutter.**
15. **That a standard driveway apron be installed.**
16. **That all non-standard encroachments be removed from City right of way.**
17. **That the barbecue be moved out of the sideyard setback.**
18. **That existing encroaching landscaping in the Parkland be removed and any replacement landscape be approved by the Parkland Committee.**
19. **That the above conditions be met prior to the final of building permits.**

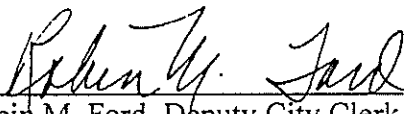
STATE OF CALIFORNIA )  
COUNTY OF LOS ANGELES ) SS:  
CITY OF PALOS VERDES ESTATES )

I, Robin Ford, Deputy City Clerk for the City of Palos Verdes Estate, California, do hereby certify that the foregoing Resolution R99-06 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, Humphrey,  
Mattingly

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

  
\_\_\_\_\_  
Robin M. Ford, Deputy City Clerk