

RESOLUTION NO. R 01- 16

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 2456 VIA SONOMA

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

Section 1. On October 10, 2000, applications for grading and neighborhood compatibility permits for additions to a single family residence (the "Application") were submitted for the property located at Lot 1 of Block 6 of Tract No. 7538 in the City of Palos Verdes Estates, County of Los Angeles, State of California, commonly known as 2456 Via Sonoma, Palos Verdes Estates, California (the "Property").

Section 2. On November 21, 2000, a hearing on the Application was held by the Planing Commission of the City of Palos Verdes Estates, which then approved the Application with conditions. An appeal of that approval was filed by Edwin Wallenhorst (the "Appellant"), and heard by the City Council on January 11, 2001. Based upon the fact that it was unclear what, if any, restrictions under the applicable conditions, covenants and restrictions ("CC&Rs") governed the number of stories permissible for a structure on the Property, the City Council remanded the application to the Planning Commission to reconsider after clarification of that issue was obtained by the City staff. The City Council also ordered the property to be silhouetted.

Section 3. On February 20, 2001, the Planning Commission held a public hearing to reconsider the Application in light of information as to the applicable CC&Rs. At the conclusion of said hearing, the Planning Commission determined that the Application was categorically exempt from the California Environmental Quality Act ("CEQA"), and approved the Application, subject to specified conditions attached hereto as Exhibit A.

Section 4. On March 7, 2001, another appeal of the Planning Commission's approval of the Application was filed by the Appellant. The Planning Commission's determination that the Application is categorically exempt from CEQA was not appealed.

Section 5. On March 27, 2001, 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, the Applicant 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 CEQA.

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. 7, Meeting Date March 27, 2001, from Allan Rigg to James B. Hendrickson, presented to the City Council on said date, is true and correct.
- c. The CC&Rs which apply to the Property permit only a one story structure on the Property. As interpreted by the Palos Verdes Homes Association (the "PVHA"), the enforcing entity for the CC&R's, neither the proposed underground garage nor the proposed attic is a "story," and a one-story structure may be up to twenty five (25) feet in height measured from natural grade. The proposed building height as conditioned by the Planning Commission is 14.5 feet as so measured (the "Approved Height"). This height is also within the height permitted by the Palos Verdes Estates Municipal Code.
- d. Lowering the height of the proposed structure any further would destroy the articulation in its architecture desired by both the Applicant and the PVHA Art Jury.
- e. At the Approved Height, a significant portion of the view from Appellant's property has been preserved. Any view from Appellant's property which exists below the Approved Height is already substantially obstructed by trees and shrubbery. Further, Appellant has no view easement and no property right in any particular view.

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:


- 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 since the project has been designed to eliminate, to the extent reasonably feasible, any impact on Appellant's view;
- 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, since other structures of a similar size are located in the immediate neighborhood;
- 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 since there has been no complaint of any interference with privacy;

- 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, since the Approved Height is substantially similar to the existing height of view-interfering landscaping and the project is limited to a single story with required architectural articulation;
- 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 through its proposed grading; 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 on February 20, 2001.

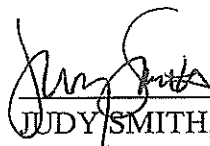
Section 9. The City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

PASSED, APPROVED AND ADOPTED this 10 day of April, 2001.



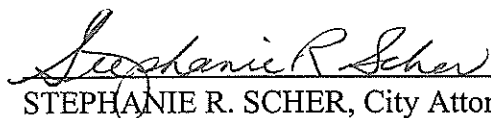
JOHN FLOOD, Mayor

ATTEST:



JUDY SMITH, City Clerk

APPROVED AS TO FORM:



STEPHANIE R. SCHER, City Attorney

EXHIBIT "A"

**NEIGHBORHOOD COMPATIBILITY AND
GRADING APPLICATIONS**

NC-926/GA-1237-01

Conditions of Approval
R-01-16

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 recommendation of the Public Works Director or authorized designee.
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. All pool/spa equipment and air conditioning units shall be contained in sound attenuating structures, subject to the approval of the City Engineer.
15. 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.
16. **The center section of the roof ridge, at its highest elevation, shall be reduced by two feet.**
17. **The construction of the roof ridge shall otherwise comply with the existing silhouette, which shall be surveyed by a licensed land surveyor, subject to the approval of the City Engineer.**

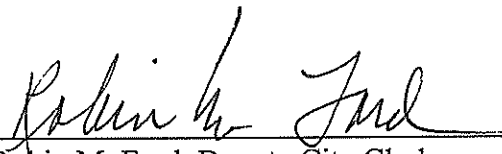
STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS:
CITY OF PALOS VERDES ESTATES)

I, Robin Ford, Deputy City Clerk for the City of Palos Verdes Estate, California, do hereby certify that the foregoing Resolution **R01-16** 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 10th day of April, 2001, by the following vote:

AYES: COUNCILMEMBERS: Turner, Humphrey, Flood, Mackenbach,
Sherwood

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:



Robin M. Ford, Deputy City Clerk