

RESOLUTION NO. R 01- 36

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 A NEIGHBORHOOD
COMPATIBILITY APPLICATION AT 949 VIA DEL MONTE

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

Section 1. In May 2001, application for neighborhood compatibility for construction of additions to a single family residence was submitted for the property located at Lot 6 of Block 1638 of Tract No. 7330 in the City of Palos Verdes Estates, County of Los Angeles, State of California, known as 949 Via Del Monte, Palos Verdes Estates, California (the "Application").

Section 2. On June 19, 2001, a hearing on the Application was held by the Planning Commission of the City of Palos Verdes Estates, at the conclusion of which the Planning Commission approved the Application, subject to specified conditions.

Section 3. On June 26, 2001, an appeal of the Planning Commission's approval was filed by Anthony Paliobagis (the "Appellant"), specifically requesting clarification of one condition of approval of the Application.

Section 4. On July 10, 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 and the tape of the Planning Commission meeting, and received and considered oral testimony from the Appellant and others. Although the appeal had been limited to one condition, the City Council received and considered all comments relating to the Application. 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. 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. 9, Meeting Date July 10, 2001, from Allan Rigg to James B. Hendrickson, presented to the City Council on said date, is true and correct.
- c. The project which is the subject of the Application is only nine inches higher than the Appellant's house, and is similar in size to other neighboring houses

- d. In the absence of compelling circumstances, windows should be openable, so air may circulate.
- e. The Application made substantial modifications from their original proposal, which they ultimately withdrew, to address neighbor's concerns.

Section 6. 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 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, in that no grading will be required for this project;
- 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, in that the project is less than 150% above the average of properties in the 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, in that windows have been required to be opaque, but may still function for air circulation purposes; 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, in that the project is similar in height to neighboring properties.

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 approval of the Application should be denied and the neighborhood compatibility application 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 24th day of July, 2001.



JOHN FLOOD, Mayor

APPROVED AS TO FORM:



STEPHANIE R. SCHER, City Attorney

ATTEST:



JUDY SMITH, City Clerk

EXHIBIT "A"

NEIGHBORHOOD COMPATIBILITY APPLICATION

NC-949-01

Conditions of Approval

R-01-36

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. The applicant shall have a maximum of two years, 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 two-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.
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 existing wall north of the existing pool shall remain, and the wall/railing proposed over 3.5 feet within the front yard setback is not approved.**
17. **Windows at the east side of the addition shall be obscure glass.**
18. **Deck at the northwest side of the house shall be removed.**

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 **R01-36** 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 24th day of July, 2001, by the following vote:

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

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:



Robin M. Ford, Deputy City Clerk