

RESOLUTION NO. R 01- 45

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
PALOS VERDES ESTATES, CALIFORNIA, GRANTING
AN APPEAL OF A DECISION OF THE PLANNING COMMISSION
TO DENY A NEIGHBORHOOD COMPATIBILITY
APPLICATION AT 453 VIA MEDIA

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

Section 1. On January 19, 2001, an application for neighborhood compatibility approval to permit remodeling of and additions to a single family residence was submitted for the property located at Lots 20 and 21 of Block 1511 of Tract No. 6886 in the City of Palos Verdes Estates, County of Los Angeles, State of California, commonly known as 453 Via Media, Palos Verdes Estates, California (the "Property"). The Planning Commission considered the application on February 21, 2001, and the applicant agreed to hold it over. The application was subsequently revised by the applicant and resubmitted on April 27, 2001 (the resubmitted application is hereafter referred to as the "Application").

Section 2. At its May 15, 2001, and June 19, 2001 meetings, the Planning Commission considered the Application. On June 19, 2001, the Planning Commission denied the Application.

Section 3. On July 5, 2001, an appeal of the Planning Commission's denial was filed by the owners of the Property.

Section 4. On September 25, 2001, 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, a visual presentation with photographs of the Property as it currently exists and with photographs enhanced to show the effect of the Application, and minutes of the Planning Commission meeting, and received and considered oral testimony from the appellant 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 Section 1 through 4 above is true and correct.
- b. Each fact set forth in the memorandum for Agenda Item No. 10, Meeting Date September 25, 2001, from Allan Rigg to James B. Hendrickson, presented to the City Council on said date, is true and correct.

- c. Two story structures are permitted on the Property both under the zoning and the applicable CC&Rs. There are other two-story houses located on the same side of Via Media in the vicinity of the Property.
- d. The Property is a double lot on which two houses could be built, in which case the total square footage of structures on the Property would be more than 1000 square feet greater than the structure proposed in the Application. The proposed structure is 127% of the average size of structures located on similarly sized lots.
- e. The Application will not result in view blockage of any party, as the only views it will affect are those of existing trees and shrubbery. This information was not clearly available to the Planning Commission as “flagging” of the outline of the proposed structure did not occur until after the Planning Commission hearing occurred.
- f. The Art Jury has determined that decreasing the proposed second story in size would jeopardize the integrity of the proposed structure. This information was not available to the Planning Commission as this decision occurred after the Planning Commission hearing.
- g. The project is a remodel, not a demolition. Therefore, digging down in the back of the lot is not appropriate.
- h. The “terraced” effect created by lots in this area will not be adversely affected as the existing house begins seven (7) feet below grade and the proposed ridge height is the same as the house next door.

Section 6. 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, which conditions are hereby incorporated 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, as minimal grading is required for the 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 since neighborhood character is defined by size and architecture, both of which will be compatible, and there will be no effect on the over-all “terracing” seen in this 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 as no issues of privacy were raised by any person at the City Council hearing; 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 only impact of the project is to block views of trees, and not of the ocean or city lights.


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 denial of the Application should be granted, and the neighborhood compatibility permit 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 9th day of October, 2001.


JOHN FLOOD, Mayor

ATTEST:


JUDY SMITH, City Clerk

APPROVED AS TO FORM:


STEPHANIE R. SCHER, City Attorney

EXHIBIT "A"

NEIGHBORHOOD COMPATIBILITY APPLICATION

NC-930-01

Conditions of Approval

R-01-45

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, and the officers and employees of the firm, Charles Abbott Associates, 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.

