

RESOLUTION NO. R 04-09

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 429 VIA ALMAR

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

Section 1. An application for neighborhood compatibility for construction of additions to a single family residence was submitted for the property located at Lot 5 and a portion of Lot 4 of Block 1513 of Tract No. 6886 in the City of Palos Verdes Estates, County of Los Angeles, State of California, known as 429 Via Almar, Palos Verdes Estates, California (the "Property").

Section 2. On January 20, 2004, a hearing on the initial application was held by the Planning Commission of the City of Palos Verdes Estates. The hearing was continued to February 17, 2003, at which time a hearing was held on the initial application as modified (the "Application"). The February hearing was continued to March 16, 2004, at which time the Planning Commission conducted a continued hearing on the Application. At the conclusion of the March 16, 2004, hearing, the Planning Commission approved the Application, subject to specified conditions.

Section 3. On March 31, 2004, an appeal of the Planning Commission's approval was filed by Ming and Sandra Chen (the "Appellants"). The Appellants did not appeal the determination that the Application is categorically exempt from the California Environmental Quality Act.

Section 4. On April 27, 2004, 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 the written appeal of Appellants, oral and written staff reports, and documentary evidence, including, but not limited to, site plans, minutes of the Planning Commission meeting, and a photographic presentation, and received and considered oral testimony from the Appellants' representative and others.

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. 8, Meeting Date 4/27/04 from Allan Rigg to James B. Hendrickson and the "Neighborhood Comparison for 429 Via Almar" attached thereto, presented to the City Council on said date, is true and correct.

- c. The Property has previously been developed using fill. The fill which is not under the existing structures was not engineered to structural standards and would have to be removed and replaced if any structure were to be built on it.
- d. The properties on either side of the Property are developed with structures which show two (2) stories to the street. The proposed project is substantially the same height as the structures on those properties. Further, the design of the project is almost identical to that on 421 Via Almar, one of the immediately adjacent properties.
- e. The addition has been designed to be above only a portion of the first story of the existing structure, and has been oriented so that the ridge line is perpendicular rather than parallel to the street to the extent possible, which reduces both the impression of bulk and impacts on views. The addition has also been designed so that ceiling heights and roof pitch are at the minimum acceptable.
- f. Landscaping already obscures some views from Appellants' property over the Property in the location of the proposed addition.

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 is required for this project. Any alternative design for the project which would add to the structure on ground level, instead of above the existing structure, would require extensive grading including the removal and replacement of existing fill. Such grading would add significantly to the expense of the project. Such grading would, in addition, result in substantial impacts to the neighborhood in terms of noise, dirt, and traffic control.
- 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 well under 150% of the average floor area in the neighborhood, and has lower building coverage, lot coverage, and height than are permitted on the Property. In addition, the project is substantially similar to projects in the immediate vicinity of the Property.
- 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 the project was redesigned to remove a window and is oriented so that openings do not face directly into other 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, in that Appellants will retain significant views notwithstanding the project, including views of the ocean and city lights. The project will not interfere at all with Appellants' views from the top level of their house, and will interfere to only a small extent with the water view from portions of the middle level, and the City Council has added a condition of approval to address the impacts of the existing landscaping on the Appellants' view which will further mitigate that small interference. In addition, design and development of the Property with grade-level structures in lieu of this limited impact is not reasonably practicable, as it would require extensive grading to remove and replace fill, which, as set forth above, would create both significant expense and neighborhood impact.

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 11th day of May, 2004.


JOSEPH C. SHERWOOD, JR. Mayor

ATTEST:



JUDY SMITH, City Clerk

APPROVED AS TO FORM:



STEPHANIE R. SCHER, City Attorney

EXHIBIT "A"

NEIGHBORHOOD COMPATIBILITY APPLICATION

NC-1097-03

Conditions of Approval

R-04-09

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. 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.
7. This approval is subject to the applicant paying all fees and assessments to the City of Palos Verdes Estates, as required by Ordinance.
8. 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.
9. 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.
10. 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.

11. 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.
12. 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.
13. All pool/spa equipment and air conditioning units shall be contained in sound attenuating structures, subject to the approval of the City Engineer.
14. 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.
15. All non-standard encroachments shall be removed from any Parkland adjacent to the subject property, unless specifically approved otherwise, by the Planning Commission.
16. **That the tree in front of 429 Via Almar shall be removed and property line trees within the property of 429 between the homes of 429 and 433 shall be removed.**
17. **A landscape plan shall be approved by the City Forester to ensure that mature height of trees shall not cause view obstruction.**

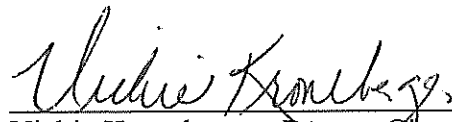
STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS:
CITY OF PALOS VERDES ESTATES)

I, Vickie Kroneberger, Deputy City Clerk for the City of Palos Verdes Estates, California, do hereby certify that the foregoing Resolution **R04-09** 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 11th day of May, 2004, by the following vote:

AYES: COUNCILMEMBERS: Sherwood, Abbott, Mackenbach,
Humphrey, and Flood

NOES: COUNCILMEMBERS: None

ABSENT: COUNCILMEMBERS: None


Vickie Kroneberger, Deputy City Clerk