

RESOLUTION NO. R04-13

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 1509 VIA ASTURIAS

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

Section 1. On September 12, 2003, applications for grading and neighborhood compatibility permits for a new single family residence (the "Original Application") were submitted for the property located at Lot 51 of Tract No. 27438 in the City of Palos Verdes Estates, County of Los Angeles, State of California, commonly known as 1509 Via Asturias, Palos Verdes Estates, California (the "Property").

Section 2. The Original Application was considered by the Planning Commission on January 20, 2004, and held over. The project was subsequently revised and an amended application submitted which was considered by the Planning Commission on February 17, 2004. Again the project was held over. Plans with additional revisions (the "Application") were thereafter submitted and reviewed by the Planning Commission on April 20, 2004. 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.

Section 3. On May 4, 2004, an appeal of the Planning Commission's approval of the Application was filed by Ratan Lalchandani and joined in by others (collectively, the "Appellants"). The determination that the Application is categorically exempt from CEQA was not appealed.

Section 4. On May 25, 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 an oral staff report and documentary evidence, including, but not limited to, site plans, a photographic presentation, and minutes of the Planning Commission meeting, and received and considered oral testimony from the Appellants, the Property owner 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 CEQA.

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 5/25/04 from Allan Rigg to James B. Hendrickson, presented to the City Council on said date, is true and correct.

- c. Conditions of approval require additional height reduction so the entire ridge line of the project is well under the fourteen (14) foot maximum permitted by deed restrictions. Although the City does not enforce deed restrictions, they indicate the concept intended for lots within the City. The Property is at a high point of the hill on Via Asturias and thus will naturally appear to have a higher profile, even with the twelve (12) foot maximum ridge line.
- d. The project is generally designed with eight (8) foot floor plates which cannot be further lowered.
- e. The project has been positioned on the Property to minimize privacy concerns of neighbors. This positioning limits the potential to reduce the height further. In addition, decks have been removed to address privacy concerns.
- f. The views enjoyed by Appellants have been across a vacant lot and any construction on the Property will result in some impact. Significant ocean views remain to the Appellants, notwithstanding the impacts which cannot be further mitigated.
- g. The property is only nineteen percent (19%) greater than the average of properties in the neighborhood, and is well below the maximums permitted by the zoning code.

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 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 amount of grading is the minimum required to effect the project, yet preserve neighbors views and privacy;
- 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 relation to surrounding residences and other structures, since the size is approximately the same as others, the height and other development criteria are well below maximums, and the position of the Property on the hill is such that the same height will naturally seem larger than neighbors;
- 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 the structure on the Property has been positioned to minimize such impacts, and balconies have been removed to reduce further privacy issues;
- 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 any development on the Property, which is currently vacant, will affect existing views, but views of the ocean will be maintained to the extent reasonably practicable given the need to position the structure to preserve privacy.

- e. Will not unreasonably change the natural contours of the land since the changes are required to effectuate the project;
- f. Will not create a hazard to the immediate or adjacent property since no information regarding the potential for such a hazard has been presented to the City and the grading will be done in accordance with accepted standards;
- g. Will not unreasonably interfere with the use or enjoyment of property by other persons in the City through its proposed grading since no information of the potential for such interference was presented to the City; and
- h. Complies with all requirements of Palos Verdes Municipal Code Section 8.05.060, since conditions of approval require such compliance.

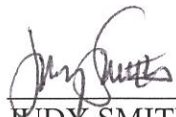
Section 7. Based upon the findings and determinations set forth herein, as supported by the evidence considered in connection therewith, the City Council finds and determines that the appeal of the Planning Commission's approval of the Application should be denied and the grading permit and neighborhood compatibility application shall be approved subject to the conditions of approval attached hereto as Exhibit A.

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 8th day of June, 2004.


JOSEPH C. SHERWOOD, Mayor

ATTEST:



JUDY SMITH, City Clerk

APPROVED AS TO FORM:


STEPHANIE R. SCHER, City Attorney

EXHIBIT "A"

NEIGHBORHOOD COMPATIBILITY AND GRADING APPLICATION

NC-1086/GA-1313-03

Conditions of Approval

R-04-13

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. **Maximum ridge elevation shall not exceed an elevation of 116.25’.**
17. **All structures in the front yard setback shall not exceed 3.5 feet in height.**
18. **Living room deck and stairs shall be moved to the north side of the sitting room.**
19. **Landscape screening shall be installed and maintained at 12 feet in height at the west property line.**
20. **A standard urban stormwater mitigation plan, approved by the City Engineer shall be prepared and implemented for the project.**
21. **Landscaping shall not exceed the elevation of roof eaves.**


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 **R04-13** 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 8th day of June, 2004, by the following vote:

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

NOES: COUNCILMEMBERS: None

ABSENT: COUNCILMEMBERS: None



Vickie Kroneberger, Deputy City Clerk