

RESOLUTION NO. R 04- 20

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 1708 VIA ARRIBA

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 (the "Application") was submitted for the property located at Lot 5 of Block 1531 of Tract No. 8045 in the City of Palos Verdes Estates, County of Los Angeles, State of California, known as 1708 Via Arriba, Palos Verdes Estates, California (the "Property").

Section 2. On April 20, 2004, a hearing on the Application was held by the Planning Commission of the City of Palos Verdes Estates. The hearing was continued to May 18, 2004, at which time the Planning Commission conducted a continued hearing on the Application. At the conclusion of the hearing, the Planning Commission approved the Application, subject to specified conditions.

Section 3. On June 1, 2004, a meeting was held at which City staff, the Property owner (the "Owner") and Ried Schott (the "Appellant"), among others, were present. At the conclusion of that meeting, certain additional conditions were agreed to, which were approved by City staff through a minor modification.

Section 4. On June 2, 2004, an appeal of the Planning Commission's approval was filed by the Appellant. The Appellant did not appeal the determination that the Application is categorically exempt from the California Environmental Quality Act.

Section 5. On June 22, 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 Appellant, 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 Appellant, the Owner and others.

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. 8, Meeting Date 6/22/04 from Allan Rigg to James B. Hendrickson, presented to the City Council on said date, is true and correct.

- c. The Property has previously been developed with a structure which required certain footings. Restructuring of such footing would be extremely costly.
- d. The massing of the proposed structure is visible only from Via Arriba, and the owners of properties along that street have stated their approval of the project.
- e. The Property is adjacent to four other properties and touches a fifth at one corner. Location of any structures on the Property must take into account the privacy concerns of all such properties.
- f. There is not less than one hundred feet (100') of distance between the Property and the Appellant's property. There is no evidence that light from inside the proposed project would have any impact on any other property, including but not limited to Appellant's. The Property owner has agreed to a condition that there be no directional lighting towards the skylights. The use of non-clear glass in windows in the project could create safety problems on the Property since its view of its own backyard would be obscure.
- f. The project has been designed so ceiling plates are at the minimum height permitted by law, and the Owner has agreed to reduce the chimney height to code minimum. As designed, the project has only minimal view impacts on the neighboring properties.
- g. Landscaping on the Property can be regulated to assure that it does not interfere with views from neighboring properties.

Section 7. The City Council further finds and determines that the processes followed by the Planning Commission in reviewing the Application complied with law in all respects. Art Jury review is not required prior to review of an Application. All notices and information were given as required by law. The timing of the hearings on the Application before the Planning Commission was governed by the position of the matter on the Planning Commission's agenda, as is legally permitted. The Planning Commission considered the Application on its own merits, as it is required to do, rather than applying criteria appropriate to other decisions, as urged by Appellant.

Section 8. 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 under the existing structure would require grading and reconfiguration of the existing footings which would add significantly to the expense of the project and 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 consistent with the average floor area in the neighborhood, and has lower building coverage, lot coverage, and height than are permitted on 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 designed to account for the greatest good for the greatest number of neighboring properties, and windows are located a significant distance from such neighboring properties, which eliminates both privacy and light pollution concerns.
- 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 will interfere to only a small extent with any view from Appellant's house, and the City Council has modified a condition of approval relating to landscaping height to further address any impacts on views. In addition, design and development of the Property with structures below the existing structure is not reasonably practicable, as it would generate extensive additional expense and neighborhood impact.

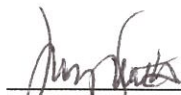
Section 9. Based upon the findings and determinations set forth herein, as supported by the evidence considered in connection therewith, the City Council finds and determines that the appeal of the Planning Commission's approval of the Application should be denied and the neighborhood compatibility application shall be approved subject to the conditions contained herein.

Section 10. 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 13th day of JULY, 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-1108-04

Conditions of Approval

R-04-20

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. **A licensed survey of the floor area shall be completed and submitted to the City to verify compliance with the approved floor area for the subject lot.**
17. **All non-standard encroachments shall be removed.**
18. **Ridge elevation shall be reduced by 15 inches.**
19. **Landscape screening on the east side shall be planted and maintained at 15 feet in height.**
20. **No vegetation shall exceed an elevation 4 feet above the maximum roof ridge, except for the pepper tree.**

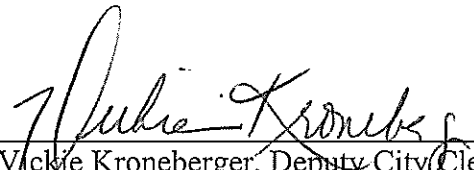
STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS:
CITY OF PALOS VERDES ESTATES)

I, Vickie Kroneberger, Deputy City Clerk for the City of Palos Verdes Estates, California, do hereby certify that the foregoing Resolution **R04-20** 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 13th day of July, 2004, by the following vote:

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

NOES: COUNCILMEMBERS: None

ABSENT: COUNCILMEMBERS: None


Vickie Kroneberger, Deputy City Clerk