

RESOLUTION NO. R 04- 26

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 4117 VIA SOLANO

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

Section 1. An application for neighborhood compatibility for construction of a new single family residence was submitted for the property located at Lot 13 of Block 6317 of Tract No. 7143 in the City of Palos Verdes Estates, County of Los Angeles, State of California, known as 4117 Via Solano, Palos Verdes Estates, California (the "Property").

Section 2. On August 17, 2004, a hearing on the Application was held by the Planning Commission of the City of Palos Verdes Estates. At that time, additional revisions were made to the plans. (The application as revised is herein the "Application.") At the conclusion of the hearing, the Planning Commission approved the Application, subject to specified conditions.

Section 3. On September 1, 2004, an appeal of the Planning Commission's approval was filed by the Alexander E. Van and Peter Nilsen (collectively, "Appellant"). Appellant did not appeal the determination that the Application is categorically exempt from the California Environmental Quality Act.

Section 4. On September 14, 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 of the Property, the applicant for the Application, 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. 9, Meeting Date 9/14/04 from Allan Rigg to James B. Hendrickson, presented to the City Council on said date, is true and correct.
- c. The project is substantially the same height as one next door to it, and can be made exactly the same height by reducing the highest ridge line by six inches (6"). A condition of approval so requiring is part of this Resolution.

- d. The “tower” is actually a turret which is essentially the same height at the remainder of the proposed structure.
- e. The project has been designed to preserve neighbor’s views. Appellant’s complaints about “views” are actually related to concerns regarding ambient light and the perception of space between the buildings, since view of the sky is not considered a “view” within the meaning of the Neighborhood Compatibility Ordinance.
- f. The project adequately addresses the issues of ambient light and space between structures since it has been set back on the sides farther than is otherwise required by 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 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 the grading required for this project is that necessary to limit the height of the property to be equal to the height of structures on the adjacent property. Further, the project has been conditioned to require that no net fill be placed on the Property.
- 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 within the permissible extension of the average floor area in the neighborhood and is not an overly large house, has lower building coverage, lot coverage, and height than are permitted on the Property under the City’s codes, and, as conditioned, will be the same height as neighboring 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 there has been no complaint of loss of privacy by any person.
- 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 not interfere with any view and has been set back farther from the side setback lines than is otherwise required by law.

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.

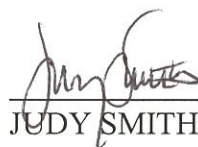
Section 8. The City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

PASSED, APPROVED AND ADOPTED this 28th day of SEPTEMBER, 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-1131-04

Conditions of Approval

R-04-26

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. **All non-standard encroachments within the public right-of-way shall be removed.**
17. **Prior to the beginning of construction, all debris, structures and vegetation within the adjacent City Parkland shall be removed at the direction of the City Engineer.**
18. **City standard curb and gutter shall be installed per construction plans prepared by a registered Civil Engineer and approved by the City Engineer.**
19. **There will be no structures allowed over 42 inches in height within the front yard setback.**
20. **Air conditioning units and pool equipment shall be relocated to rear yard.**
21. **Barbecue shall be removed from side yard setback.**
22. **Hipped roof shall be utilized at north side of second story above master bedroom suite.**
23. **Any roof ridge currently above 113.5 feet shall be lowered so as not to exceed 113.5 feet.**
24. **No net fill of dirt from grading shall be permitted on the property.**

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 **R04-26** 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 28th of September, 2004, by the following vote:

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

NOES: COUNCILMEMBERS: None

ABSENT: COUNCILMEMBERS: None


Vickie Kroneberger, Deputy City Clerk