

RESOLUTION NO. R 04-37

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
PALOS VERDES ESTATES, CALIFORNIA, GRANTING  
AN APPEAL OF THE PLANNING COMMISSION DENIAL OF  
A WALL EXCEEDING THE PERMISSIBLE MAXIMUM HEIGHT  
IN THE FRONT YARD SETBACK AT 1609 VIA ARRIBA

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

SECTION 1. On September 21, 2004, the Planning Commission denied an application submitted by Michael Potter and Margaret McCarthy (the "Applicant") for a miscellaneous permit to retain a wall exceeding 3.5 feet in height in the front setback along Via Arriba (the "Application") for Lots 3 and 4 of Block 1435 of Tract 6884 in the City of Palos Verdes Estates, County of Los Angeles, State of California, commonly known as 1609 Via Arriba (the "Property")

SECTION 2. October 5, 2004, an appeal of the denial of the Application was filed by the Applicant.

SECTION 3. On October 26, 2004, the City Council conducted a 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, photographs, and minutes of the Planning Commission meeting, and received and considered oral testimony from the Applicant and others.

SECTION 4. Based upon the evidence presented, the City Council hereby finds and determines as follows:

- a. Each fact set forth in Section 1 through 3 above is true and correct.
- b. Each fact set forth in the memorandum for Agenda Item No. 11, Meeting Date 10/26/04, from Allan Rigg to James B. Hendrickson, presented to the City Council on said date, is true and correct.
- c. The subject wall has existed since the 1960's and was not altered in any manner by the remodeling which occurred on the Property pursuant to the neighborhood compatibility approval received in 2002.
- d. The subject wall is consistent with and integral to the architectural style of the house on the Property in that the house is a Spanish Revival style with a front courtyard, and the wall provides privacy in the use of that courtyard, which is the area on the Property most sheltered from the wind.

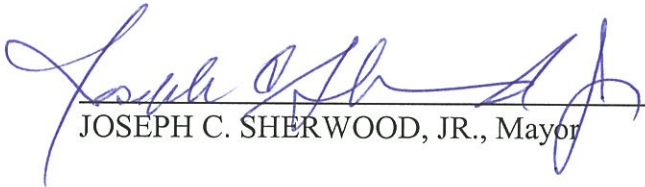
- e. The subject wall attaches to a wall on a neighboring property at the current height, rendering a change in height difficult.
- f. A preponderance of properties within the vicinity of the Property have walls exceeding the height requirement since almost all properties on the down-hill side of Via Arriba, as is the Property, have such walls.

SECTION 5. Based upon the findings set forth herein, the City Council finds that retention of the existing wall in the front setback along Via Arriba will not adversely affect any other property and will effectuate the purposes of the Municipal Code relating to height of wall and fences.

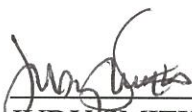
SECTION 6. Based upon the findings and determinations set forth herein, as supported by the evidence considered in connection therewith, the City Council finds and determines that the appeal of the Planning Commission's denial of the miscellaneous permit should be granted, and such permit shall be approved.

SECTION 7. 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 9<sup>th</sup> day of NOVEMBER, 2004.

  
JOSEPH C. SHERWOOD, JR., Mayor

ATTEST:

  
\_\_\_\_\_  
JUDY SMITH, City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
STEPHANIE R. SCHER, City Attorney

EXHIBIT "A"

**MISCELLANEOUS APPLICATION**

M-569-04

Conditions of Approval

R-04-37

1. This approval is granted for the land or land use as described in the application and any attachments thereto.
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 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.

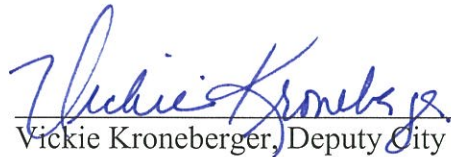
STATE OF CALIFORNIA )  
COUNTY OF LOS ANGELES ) SS:  
CITY OF PALOS VERDES ESTATES )

I, Vickie Kroneberger, Deputy City Clerk for the City of Palos Verdes Estates, California, do hereby certify that the foregoing Resolution **R04-37** 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 9<sup>th</sup> of November, 2004, by the following vote:

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

NOES: COUNCILMEMBERS: None

ABSENT: COUNCILMEMBERS: None

  
Vickie Kroneberger, Deputy City Clerk