

RESOLUTION NO. R 03-33

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALOS VERDES ESTATES, CALIFORNIA, GRANTING AN APPEAL OF A DECISION OF THE PLANNING COMMISSION TO GRANT A REVISED NEIGHBORHOOD COMPATIBILITY APPLICATION AT 2817 VIA ANACAPA, SUBJECT TO A SPECIFIED CONDITION

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

Section 1. On July 20, 1999, an application for a neighborhood compatibility permit was granted to a new single family residence on the property located at Lot 21 of Block 2233 of Tract No. 7144 in the City of Palos Verdes Estates, County of Los Angeles, State of California, then known as 2800 Via Sola, and now commonly known as 2817 Via Anacapa, Palos Verdes Estates, California (the "Property"). On February 20, 2001, revisions to that application were approved.

Section 2. On August 8, 2003, an application was submitted for revisions to permit additions to the single family residence for the Property. On September 16, 2003, the application was approved by the Planning Commission of the City of Palos Verdes Estates subject to specific conditions of approval, including an "additional condition" that no more than one 42" high structure be allowed in any minimum required setback (the "Condition").

Section 3. On September 30, 2003, an appeal of the Condition was filed by the Property owners.

Section 4. On October 14, 2003, the City Council conducted a public 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, photographs, site plans and minutes of the Planning Commission meeting, and received and considered oral testimony from the Appellant and others. The City Council further received and considered information regarding environmental review of the Application and the determination that the project is categorically exempt from the California Environmental Quality Act.

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. 6, Meeting Date 10/14/03, from Allan Rigg to James B. Hendrickson, presented to the City Council on said date, is true and correct.
- c. The following facts are found as true: (i) the Property is an irregularly shaped lot with extensive street frontage on the side which effectively forms the rear yard; (ii) pursuant to applicable law, a fence a minimum of forty eight inches (48") in height

must be constructed around a swimming pool; and (iii) the existing configuration of the Property and its approved structures cause the Property owners to suffer a lack of privacy and an inability to provide security in the back yard.

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 grant of the Application subject to the Condition shall be granted by eliminating said Condition, provided the conditions set forth in Exhibit A hereto are met.

Section 7. Based upon the findings set forth herein, the City Council finds that the proposed development on the Property as conditioned in the conditions of approval attached hereto as Exhibit A:

- 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;
- 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;
- 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; and
- 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.

Section 8. The Application shall be approved subject to the conditions contained herein.

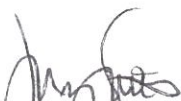
Section 9. The City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

PASSED, APPROVED AND ADOPTED this 28th day of OCTOBER, 2003.


FRED MACKENBACH, Mayor

ATTEST:

APPROVED AS TO FORM:



JUDY SMITH, City Clerk



STEPHANIE R. SCHER, City Attorney

EXHIBIT "A"

REVISED NEIGHBORHOOD COMPATIBILITY APPLICATION

NC-797RII-03

Conditions of Approval

R-03-33

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. **Applicant shall be allowed to construct a 48-inch fence in the setback adjacent to Via Sola, and shall be required to plant screening vegetation to be maintained at 60 inches. The fence shall be built 4 feet back from the existing 42-inch wall. Applicant shall present final plans to staff for review and approval before construction.**

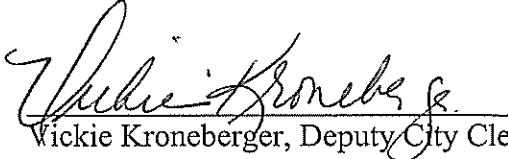
STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS:
CITY OF PALOS VERDES ESTATES)

I, Vickie Kroneberger, Deputy City Clerk for the City of Palos Verdes Estates, California, do hereby certify that the foregoing Resolution **R03-33** 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 day of October, 2003, by the following vote:

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

NOES: COUNCILMEMBERS: None

ABSENT: COUNCILMEMBERS: None


Vickie Kroneberger, Deputy City Clerk