

RESOLUTION NO. R 05- 01

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 841 VIA SOMONTE

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

Section 1. On July 13, 2004, applications for grading and neighborhood compatibility permits for a new single family residence (the "Original Application") were submitted for the property located at Lot 7 and a portion of Lot 8 of Block 1537 of Tract No. 6884 in the City of Palos Verdes Estates, County of Los Angeles, State of California, commonly known as 841 Via Somonte, Palos Verdes Estates, California (the "Property").

Section 2. The Original Application was considered by the Planning Commission on August 18, 2004, and held over. The project was subsequently revised and an amended application (the "Application") submitted which was considered by the Planning Commission on October 19, 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 November 3, 2004, an appeal of the Planning Commission's approval of the Application was filed by Dave and City Oberman and joined in by others (collectively, the "Appellants"). The determination that the Application is categorically exempt from CEQA was not appealed.

Section 4. On December 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 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. 14, Meeting Date 12/14/04 from Allan Rigg to James B. Hendrickson (the "Memorandum"), presented to the City Council on said date, is true and correct.

- c. The structure proposed by the project is approximately 150% of the average in the area as determined by the analysis within the Memorandum. If lots of equivalent size to the Property are analyzed, the structure remains within that 150% range.
- d. The height of the structure as seen from the street side is six to eleven feet (the variance being due to the sloping condition of the street). The ridge height is at 514', which is between the ridge heights of structures on properties on either side of the Property, being 522' and 506'.
- e. Grading has been increased for the project not to change the contours of the land, but to reduce the height of the house to the extent feasible to make it conform to neighboring properties.
- f. The project has been positioned on the Property to minimize privacy concerns of neighbors, and decks have been minimized to address privacy concerns. Existing structures surrounding the Property have numerous balconies and windows which already significantly impact privacy. Because the Property is a vacant lot, any construction on the Property will result in some impact on privacy, but such impacts cannot be further mitigated with reasonable conditions.
- g. No information was presented that the Property will have any effect on views.

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 amount necessary to effect the project in a manner consistent with the neighborhood;
- 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 within amounts anticipated by the City's guidelines, the height at street level is approximately the same as the adjacent neighbors, and the building coverage and lot coverages are well below the maximums permitted by the City's codes;
- 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, balconies have been removed to reduce further privacy issues, and the developed of a vacant lot will always effect privacy to some extent;
- 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 only a view of shrubbery on a hillside and no information has been provided that it will have any effect on any other existing view;

- 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 a safety net device has been required 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 a safety net device is required, and the construction must be coordinated to avoid traffic impacts to the extent practicable; and
- h. Complies with all requirements of Palos Verdes Municipal Code Section 8.05.060, since conditions of approval require such compliance.

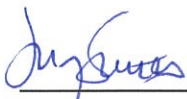
Section 7. Based upon the findings and determinations set forth herein, as supported by the evidence considered in connection therewith, the City Council finds and determines that the appeal of the Planning Commission's approval of the Application should be denied and the grading permit and neighborhood 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 12<sup>th</sup> day of JANUARY, 2005.

  
JOSEPH C. SHERWOOD, Mayor

ATTEST:

  
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JUDY SMITH, City Clerk

APPROVED AS TO FORM:

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

EXHIBIT "A"

**NEIGHBORHOOD COMPATIBILITY AND GRADING APPLICATION**

NC-1132/GA-1336-04

Conditions of Approval

R05-01

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. **Planting shall be provided at the rear and side property lines at a height of 15 feet.**
17. **Air conditioning units shall be moved to the center of the lot.**
18. **Balconies at the upper level shall be reduced to a depth of 6.5 feet.**
19. **The roof pitch of the tower shall be reduced to match the rest of the roof.**
20. **Nine foot plate heights shall be reduced by 6 inches.**
21. **Walkway shall conform to City standards.**
22. **City standard curb and gutter shall be installed per construction plans prepared by a registered Civil Engineer and approved by the City Engineer.**
23. **A standard urban stormwater mitigation plan, approved by the City Engineer shall be prepared and implemented for the project.**

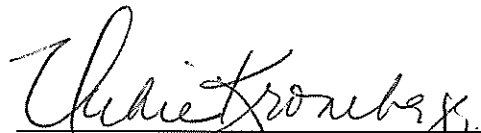
STATE OF CALIFORNIA )  
COUNTY OF LOS ANGELES ) SS:  
CITY OF PALOS VERDES ESTATES )

I, Vickie Kroneberger, Deputy City Clerk for the City of Palos Verdes Estates, California, do hereby certify that the foregoing Resolution **R05-01** 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 12<sup>th</sup> of January, 2005, by the following vote:

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

NOES: COUNCILMEMBERS: None

ABSENT: COUNCILMEMBERS: None

  
Vickie Kroneberger, Deputy City Clerk