

RESOLUTION NO. R05-08

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 1640 ESPINOSA CIRCLE

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

Section 1. An application for neighborhood compatibility for additions to a single family residence was submitted for the property located at Lot 13 of Block 1482 of Tract No. 6889 in the City of Palos Verdes Estates, County of Los Angeles, State of California, known as 1640 Espinosa Circle, Palos Verdes Estates, California (the "Property").

Section 2. On February 15, 2005, a hearing on the Application was held by the Planning Commission of the City of Palos Verdes Estates. At the conclusion of the hearing, the Planning Commission approved the Application, subject to specified conditions.

Section 3. On March 2, 2005, an appeal of the Planning Commission's approval was filed by the Jose and Elizabeth Acosta (the "Appellant"). Appellant did not appeal the determination that the Application is categorically exempt from the California Environmental Quality Act.

Section 4. March 22, 2005, 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 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. 7, Meeting Date 3/22/05 from Allan Rigg to James B. Hendrickson, presented to the City Council on said date, is true and correct.
- c. The size and mass of the project are well within the parameters for approvable projects, being less than twenty percent (20%) greater than the average in the neighborhood.

- d. The massing of the house is within the maximum floor area, building coverage and building height requirements and is proposed to be constructed in a way which mitigates impacts on the neighborhood.
- e. Second stories are permitted in the neighborhood. The Appellant's views from their second story is not hindered and the view from the first floor is only minimally altered by the project. The majority of any view hindrance is the result of current landscaping. City approval for the removal of one of the existing trees within the City right-of-way adjacent to the Property has already been obtained.
- f. Existing houses in the neighborhood have garages and are not set into the hillside.
- g. There is no issue of privacy, as the project will be more than eighty (80) feet from the Appellant's house and is on a lot which is below that house. Also, to view into the Appellant's first floor or backyard would require a person to look upwards instead of downwards for there to be any impacts. There are no balconies proposed for the rear portion of the second story and the two windows proposed for that portion of the second story are for light, one being in a closet and the other in the master bedroom.
- h. Alternatives proposed by the Appellant's architect, while interesting and possibly feasible, are not within the Council or Planning Commission's purview to consider. The issue before the Council was to determine whether the Commission's action to approve the Applicant's proposal was based on error or insufficient facts.

Section 6. Based upon the findings set forth herein, the City Council finds that the Application, as conditioned in the conditions of approval as imposed by the Planning Commission, 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 there is no or only limited grading required for this project.
- 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 the massing is located at the back of the lot.
- 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 locations of the decks is relatively distant from the neighbors, and in a area where other decks are already located.

- 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 significantly with views, since the views of Appellant and others are affected only minimally.

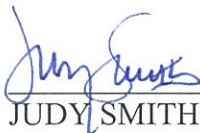
Section 7. Based upon the findings and determinations set forth herein, as supported by the evidence considered in connection therewith, the City Council finds and determines the appeal of the Planning Commission's approval of the Application should be denied and the neighborhood compatibility application shall be approved subject to the conditions contained in the Planning Commission's approval.

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 12th day of April, 2005.


A. DWIGHT ABBOTT, Mayor

ATTEST:



JUDY SMITH, City Clerk

APPROVED AS TO FORM:



STEPHANIE R. SCHER, City Attorney

EXHIBIT "A"

NEIGHBORHOOD COMPATIBILITY APPLICATION

NC-1158-04

Conditions of Approval

R-05-08

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. **City standard curb and gutter shall be installed per construction plans prepared by a registered Civil Engineer and approved by the City Engineer.**
17. **All non-standard encroachments shall be removed.**

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 **R05-08** 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 12th of April, 2005, by the following vote:

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

NOES: COUNCILMEMBERS: None

ABSENT: COUNCILMEMBERS: None


Vickie Kroneberger, Deputy City Clerk