

NOTE TO FILE:

RESOLUTION R05-11

VACATED

REPLACED BY R08-23;

ADOPTED BY CITY

COUNCIL 7/22/08

(court ordered re-hearing of appeal)

RESOLUTION NO. R 05- 11

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 2317 VIA ACALONES .

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

Section 1. On January 31, 2005, applications for grading and neighborhood compatibility permits for a new single family residence (the "Application") were submitted for the property located at Lot 19 of Block 1638 of Tract No. 7330 in the City of Palos Verdes Estates, County of Los Angeles, State of California, commonly known as 2317 Via Acalones, Palos Verdes Estates, California (the "Property").

Section 2. The Application was considered by the Planning Commission on February 15, 2005. 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 March 2, 2005, an appeal of the Planning Commission's approval of the Application was filed by Diana Gdowski (the "Appellant"). The determination that the Application is categorically exempt from CEQA was not appealed.

Section 4. On April 12, 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 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 Appellant's representative, the representative of 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. 5, Meeting Date 4/12/05 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 140% of the average in the area as determined by the analysis within the Memorandum, but is located on a lot which is approximately 10% larger than the average in the area.
- d. At the hearing the Owner's representative agreed to lower the height of all structures to be built by one foot. The height of the structure as seen from the street side was only approximately seven feet and will thus be approximately six feet. The ridge height of the proposed structure was the same as the structure on the property immediately to the west of the Property and now will be lower than that structure.
- e. If the proposed structures were moved to the rear lot line, the height and width of the structures would appear to increase significantly for those properties adjacent to the Property which front on Via Del Monte. If the first floor was moved to the rear lot line and the second floor decreased, the second floor would continue to impose the same impact on the Via Del Monte properties, while the first floor would appear to increase significantly in width.
- f. The present position of the project the Property minimizes privacy concerns of the Via Del Monte neighbors by creating the greatest distance possible from them while addressing the need for minimal impacts on views of the Appellant.
- g. The present position of the project the Property also helps minimize the grading required for the project and the risk of surcharge on the properties fronting on Via Del Monte.
- h. Moving the project back on the lot would increase the angle of the driveway, and adversely affect view angles to the street for persons using it.
- i. The Property is a vacant lot and any structure whatsoever will have impacts on views. The project has, however, been designed with a view corridor by having the living room remain single story, and the Appellant will retain a significant portion of her existing views of the city lights and ocean. A portion of Appellant's view shed which will be obstructed by the structures was substantially blocked by tree foliage until the day before the hearing and had been so for some time, based upon the size of the tree.
- j. The Palos Verdes Homes Association Art Jury has required that the roof be angled at a 3:10 pitch, and a gable roof will provide some architectural interest from the street.

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, and the project has been sited on the Property so as to balance the conflicting view and privacy impacts of the neighbors;

- 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 lower than the adjacent neighbor, 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, 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 views, the project has been designed with a view corridor and a significant portion of the Appellant's view will remain, a portion of the Appellant's view which will be obscured was obscured by tree foliage, the project has been positioned to assure the privacy of persons residing on adjacent properties to the extent practicable and to preserve to the greatest extent practicable, consistent with the development of a vacant lot, the natural features of the land, and the roof is consistent with aesthetic requirements within the purview of the Art Jury.
- e. Will not unreasonably change the natural contours of the land since the changes are those reasonably required to effectuate the project;
- f. Will not create a hazard to the immediate or adjacent property since the grading will be done in accordance with accepted standards and no issues were raised regarding the potential for any hazard being created by the grading;
- g. Will not unreasonably interfere with the use or enjoyment of property by other persons in the City through its proposed grading since no issues were raised regarding the potential for the proposed grading affecting others; 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 26 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 AND GRADING APPLICATION

NC-1151/GA-1346-05

Conditions of Approval

R-05-11

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. **The entire cellar floor level shall be eliminated, including laundry room, wine cellar and crawl space.**
18. **The ridge height of the house and the garage shall be reduced by one foot without additional grading.**
19. **The swimming pool is not approved.**
20. **A drainage plan shall be prepared for review and approval by the City Engineer.**
21. **Chimney heights shall be limited to the minimum permitted by code.**
22. **Landscape screening shall be planted at the rear property line and maintained at approximately 15 feet in height.**

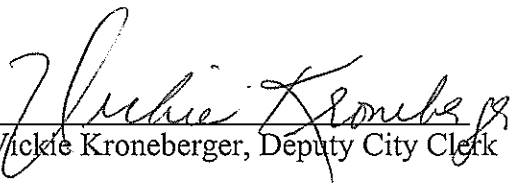
STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS:
CITY OF PALOS VERDES ESTATES)

I, Vickie Kroneberger, Deputy City Clerk for the City of Palos Verdes Estates, California, do hereby certify that the foregoing Resolution **R05-11** 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 26th 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