

RESOLUTION NO. R06-01

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 3605 VIA LA SELVA

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

Section 1. On September 21, 2005, applications for grading and neighborhood compatibility permits for a new single family residence were considered by the Planning Commission for the property located at Lot 10 of Block 6103 of Tract No. 6887 in the City of Palos Verdes Estates, County of Los Angeles, State of California, commonly known as 3605 Via La Selva, Palos Verdes Estates, California (the "Property"). Consideration of that application was continued, and revised plans were thereafter submitted by the applicant for the project (the "Application").

Section 2. The Application was considered by the Planning Commission on November 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 November 30, 2005, an appeal of the Planning Commission's approval of the Application was filed by William T. Um, joined by Christine Kim (collectively with William T. Um, the "Appellant") in the explanation part of the appeal. The determination that the Application is categorically exempt from CEQA was not appealed.

Section 4. On December 13, 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, 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. 13, Meeting Date 12/13/05 from Allan Rigg to James B. Hendrickson (the "Memorandum"), presented to the City Council on said date, is true and correct.
- c. The hearing before the Planning Commission on the Application was held concurrently with the hearing on an application for a project located at 3601 Via La

Selva, as the two projects are adjacent and will be built in place of a single structure presently located on both lots. That hearing procedure has been utilized for all similar types of projects (*i.e.*, replacement of one structure on two lots with two new structures) and therefore created no confusion on the part of the Planning Commissioners nor did it cause the Planning Commission to lack focus on the instant Application. Thereafter, Appellant appealed only the Application; the hearing before the City Council, which was held *de novo*, was therefore limited to the Application.

- d. To increase the Appellant's privacy, the Property will be stepped down through grading. This causes the loss of trees in the backyard, but the project was reversed in orientation to permit the large sycamore in the front yard, which has the most impact on the public welfare, to be saved. The placement and height of the new house are of greater importance than the preservation of the existing trees on the Property since the house will have a life of many decades while the trees which will be removed have a limited life span and a condition of approval has been added which requires those trees which are removed to be replaced with specimen trees which will grow to replace them.
- e. The Property is presently developed with only a portion of a house, and the development of a full structure located solely on it can not be accomplished without some impacts on the neighbors. The project has been designed to preserve the Appellant's privacy as there is no balcony or deck on the second floor, the structure is approximately forty (40) feet from the Appellant's house, and the upper level has been moved away from Appellant's property and toward the street.
- f. The proposed structure is well below 150% of the average floor area in the area as determined by the analysis within the Memorandum, and thus does not trigger a heightened level of scrutiny under the City's guidelines. The floor area ratio is almost identical to the existing structure on the property at 3617 Via La Selva. The proposed structure is only ten (10) inches higher than the house now existing on the Property, being twenty four (24) feet high where thirty (30) feet is permitted by law.

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 (1) the amount of grading is the amount necessary to effect the project in a manner to balance the other requirements of (i) consistency with neighborhood character in the height and scale of the project, and (ii) preservation of privacy of the neighbors; and (2) the project has been sited to preserve the front yard tree which has the most significant impact on the public welfare; and (3) it is a condition of approval that if a large tree must be removed to effectuate the grading, it will be replaced with a specimen sized tree which will rapidly replace the lost 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 relation to surrounding residences and other structures, since the size is within amounts anticipated by the City's guidelines, the height is less than a foot higher than the presently existing structure, the building coverage and lot coverage are below the maximums permitted by the City's codes, and the floor area ratio is substantially similar to existing structures in the neighborhood;
- 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 and designed to minimize such impacts, including, but not limited to, the orientation of the upper story towards the street and the absence of balconies or decks facing Appellant, and the development of a full sized house on a lot presently occupied by only part of a house 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 the Property is not in a view area and no neighbor complained of any interference with views.
- e. Will not unreasonably change the natural contours of the land since the changes are those reasonably required to effectuate the project, especially to control the height of the structure;
- 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 the sole impact of the grading, loss of certain trees, will be addressed by the replacement of those trees; and
- h. Complies with all requirements of Palos Verdes Municipal Code Section 8.05.060, since conditions of approval require such compliance and no issue was raised regarding lack of such compliance.

Section 7. Based upon the findings set forth herein, the City Council further finds that the processing of the Application was in conformance with both statutory requirements and the requirements of due process, as there is neither a statutory nor constitutional prohibition against the Planning Commission considering the Application together with another application for a project immediately adjacent to the Property. In addition, Appellant appealed only the Application; therefore, the Application was the sole matter heard and determined by the City Council.

Section 8. 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 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 11th day of January, 2006.


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-1207/GA-1376-05

Conditions of Approval
R-06-01

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 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. Trash yard shall be moved adjacent to garage.**
- 17. Four trees, 24 - inch box size, shall be planted with approval of City Forester.**
- 18. The sycamore tree in the front yard shall be retained and the eucalyptus tree in the farthest northeast corner of the property shall be retained.**

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 **R06-01** 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 11th of January, 2006, by the following vote:

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

NOES: COUNCILMEMBERS: None

ABSENT: COUNCILMEMBERS: None


Vickie Kroneberger, Deputy City Clerk