

RESOLUTION NO. R06-04

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 REVISED NEIGHBORHOOD COMPATIBILITY APPLICATION AT 4117 VIA SOLANO

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

Section 1. An application (the "Original Application") for neighborhood compatibility for a new single family residence (the "Project") was submitted for the property located at Lot 13 of Block 6317 of Tract No. 7143 in the City of Palos Verdes Estates, County of Los Angeles, State of California, known as 4117 Via Solano, Palos Verdes Estates, California (the "Property"). The Original Application was approved by the City Council on appeal from approval by the Planning commission on September 14, 2004, subject to certain conditions including the following: "1) Any roof ridge currently above 113.5 ft. shall be lowered so as not to exceed 113.5 ft.," hereinafter referred to as the "Height Condition," and "2) No net fill of dirt from grading shall be permitted on the property," hereinafter referred to as the "Fill Condition." The intent of the two Conditions was for the height of the finished Project not to exceed that of the structure located on 4121 Via Solano as shown on the Original Application materials submitted by the Property owners and their agents.

Section 2. In October of 2005, after the Project had been partially completed, it was confirmed that although the Project upon completion would not exceed 113.5 feet in height, the information in the Original Application regarding the height of the structures on the neighboring properties on each side of the Property was inaccurate, and that roof ridge elevation of the structure on 4121 Via Solano was actually 109.63 feet, rather than 113.5 feet, while the roof ridge elevation of the structure on 4115 Via Solano was actually 110 feet, rather than 107 feet. The intent of the two Conditions could therefore not be fulfilled without modification either to the Project or to the conditions of approval of the Original Application.

Section 3. On October 31, 2005, an application for a revised neighborhood compatibility approval was submitted to effect the necessary change to the conditions of approval (the "Revised Application"). The Revised Application was heard by the City Council on November 8, 2005, and remanded by the City Council to the Planning Commission for review.

Section 4. On December 20, 2005, a hearing on the Revised Application was held by the Planning Commission. At the conclusion of the hearing, the Planning Commission approved the Revised Application, subject to specified conditions.

Section 5. On January 4, 2006, an appeal of the Planning Commission's approval was filed by the Alexander E. Van ("Appellant"). Appellant did not appeal the determination that the Revised Application is categorically exempt from the California Environmental Quality Act.

Section 6. January 24, 2006, 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 Revised Application, and others.

Section 7. Based upon the evidence presented, the City Council hereby finds and determines as follows:

- a. Each fact set forth in Section 1 through 6 above is true and correct.
- b. Each fact set forth in the memorandum for Agenda Item No. 9, Meeting Date 1/24/06 from Allan Rigg to James B. Hendrickson, presented to the City Council on said date, is true and correct.
- c. Although dirt was imported to the Property in connection with construction of the Project, it was compacted and/or used to fill voids discovered upon demolition of the existing structure on the Property and the final ground level of the Property under the Project is that which was anticipated in the Original Application approved on September 14, 2004. There has therefore not been a violation of the Fill Condition.
- d. The Project is only 3.3 feet higher than the Appellant's house, and this height differential is diminished by the fact that the pad for the Project is located at a lower elevation than the Appellant's house.
- e. The maximum building height for the Project is 23.8 feet, which is substantially below the maximum height permitted and significantly low for a two story structure. The Appellant's house is also a two story structure at its rear.
- f. The massing of the Project blends well with others in the neighborhood, and the Project is not significantly different from other houses along Via Solano.
- g. The change in relative heights between the Project and the Appellant's house effected by the Revised Application (i.e., to permit the Project to exceed the height of the Appellant's house although at the same elevation as approved in the Original Application) has no impact on the privacy of Appellant, but concerns regarding privacy may be addressed by adding a condition to require translucent glass in the bathroom windows of the Project.
- h. The Appellant provided no evidence of any view blockage from the Project as shown in the Revised Application. The major obstacle to views from the Appellant's house is a tree on Appellant's own property.

Section 8. Based upon the findings set forth herein, the City Council finds that the Revised Application, as conditioned in the conditions of approval attached hereto as Exhibit A, 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 the Fill Condition was intended to control the height of the Project, not to prevent importation of dirt necessary to achieve the soil compaction, the ground level of the Property under the Project after the importation of dirt is as anticipated in the Original Application, the height of the Project will not be affected by such importation of dirt, and the Revised Application has no effect on that conclusion.
- 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 Project is two story, as is the Appellant's house, the finished height of the Project will be less than four feet higher than the roof ridges on either side, and the Project is at the minimum height necessary to effectuate a two story structure on the Property while still maintaining the required slope for access to the garage.
- 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 height is the minimum necessary to effectuate a two story structure, and the Project has been designed and conditioned to assure privacy to the greatest extent practicable.
- 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 view of Appellant is affected only minimally and is primarily blocked by Appellant's own tree.

Section 9. 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 Revised Application should be denied and the revised neighborhood compatibility application shall be approved subject to the conditions contained herein.

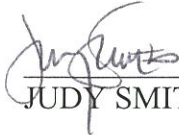
Section 10. The City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

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PASSED, APPROVED AND ADOPTED this 14th day of February, 2006.


A. DWIGHT ABBOTT, Mayor

ATTEST:



JUDY SMITH, City Clerk

APPROVED AS TO FORM:



JOSEPH W. PANNONE, City Attorney

EXHIBIT "A"

NEIGHBORHOOD COMPATIBILITY APPLICATION

NC-1131R-05

Conditions of Approval

R-06-04

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. **All non-standard encroachments within the public right-of-way shall be removed.**
17. **Prior to the beginning of construction, all debris, structures and vegetation within the adjacent City Parkland shall be removed at the direction of the City Engineer.**
18. **City standard curb and gutter shall be installed per construction plans prepared by a registered Civil Engineer and approved by the City Engineer.**
19. **There will be no structures allowed over 42 inches in height within the front yard setback.**
20. **Air conditioning units and pool equipment shall be relocated to rear yard.**
21. **Barbecue shall be removed from side yard setback.**
22. **Hipped roof shall be utilized at north side of second story above master bedroom suite.**
23. **Any roof ridge currently above 113.5 feet shall be lowered so as not to exceed 113.5 feet.**
24. **No net fill of dirt from grading shall be permitted on the property.**
25. **All bathroom windows on the north side of the house will be translucent glass.**

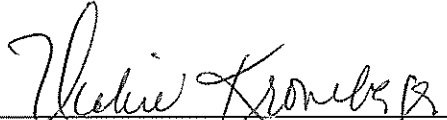
STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS:
CITY OF PALOS VERDES ESTATES)

I, Vickie Kroneberger, Deputy City Clerk for the City of Palos Verdes Estates, California, do hereby certify that the foregoing Resolution **R06-04** 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 14th of February, 2006, by the following vote:

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

NOES: COUNCILMEMBERS: None

ABSENT: COUNCILMEMBERS: None



Vickie Kroneberger, Deputy City Clerk