

RESOLUTION NO. R 06-09

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
PALOS VERDES ESTATES, CALIFORNIA, DENYING AN  
APPEAL OF THE ACTION OF THE PLANNING COMMISSION  
DENYING APPROVAL OF A REVISED NEIGHBORHOOD  
COMPATIBILITY APPLICATION AS SUBMITTED AND  
APPROVING A REVISED PROJECT AT 1606 ESPINOSA CIRCLE

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

Section 1. On October 19, 1999, a neighborhood compatibility application was approved to permit construction of a single family residence on the property located at Lot 5 of Block 1374 of Tract No. 6889 in the City of Palos Verdes Estates, County of Los Angeles, State of California, commonly known as 1606 Espinosa Circle, Palos Verdes Estates, California (the "Property"). The project was finalized by the City's Building and Safety Department on April 5, 2001. On May 16, 2005, a Minor Modification was approved to make various changes to the hardscape. The neighborhood compatibility application as so approved and modified is hereafter referred to as the "Approved Application."

Section 2. Thereafter, an application to revise the Approved Application to develop an additional structure on the Property, a covered patio approximately 32 feet long and 12.7 feet in height, was submitted.

Section 3. The Planning Commission of the City of Palos Verdes Estates held a hearing on that application on November 15, 2005, which hearing was continued to permit a response to concerns regarding the height and size of the project. Revised plans were submitted reducing the height, but not the length of the structure (the "Revised Application"). The Revised Application was considered by the Planning Commission on December 20, 2005, and concerns were again raised regarding the length of the structure. The applicant, however, determined not to submit further revisions, and on February 21, 2006, the Planning Commission considered the Revised Application as submitted and denied it.

Section 4. On March 8, 2006, an appeal of the Planning Commission's denial of the Revised Application was filed by the Property owners, Grant and Cindy Ahearn ("Appellants").

Section 5. On March 28, 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 oral staff reports and documentary evidence, including, but not limited to, site plans, visual presentations, and minutes of the Planning Commission meeting, and received and considered oral testimony from the Appellants, their representative, and others.

Section 6. Based upon the evidence presented, the City Council hereby finds and determines as follows:

- a. Each fact set forth in Section 1 through 5 above is true and correct.
- b. Each fact set forth in the memorandum for Agenda Item No. 9, Meeting Date 3/28/06 from Allan Rigg to James B. Hendrickson, presented to the City Council on said date, is true and correct.
- c. A neighborhood compatibility application is a type of land use permit which runs with the land and remains in full force and effect unless and until modified in the manner permitted by law. The structure sought in the Revised Application is not permitted under the Approved Application.
- d. The visual evidence demonstrates that most of the proposed structure in the proposed location on the Property would not block views of canyons or open space, but, instead, view of an existing hedge, the height of which is subject to control by the Palos Verdes Homes Association.
- e. The project as set forth in the Revised Application, however, intrudes into a fifteen (15) foot rear yard setback area which is applicable to structures on the Property (the "Setback Area"). No similar intrusion of structures exists on other property in the neighborhood.
- f. Location of the project within the Setback Area adversely affects the neighbor's views of open space.

Section 7. Based upon the findings set forth in Section 6 above, however, the City Council finds and determines as follows:

- a. The project in the Revised Application is subject to the Neighborhood Compatibility Ordinance, in that it is not within the structures permitted by the Approved Application.
- b. The Revised Application should be denied, as
  - 1. it has not been designed and can not 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 no other structures within the neighborhood intrude into the Setback Area; and
  - 2. it not designed nor will be developed in a manner reasonably practicable so that it does not unreasonably interfere with neighbors' views, in that the intrusion into the Setback Area interferes with views of open space.
- c. A covered patio project on the Property, substantially in conformance with that set forth in the Revised Application but subject to the conditions set forth in Exhibit A, attached hereto and incorporated herein by this reference (the "Revised Project"):

1. 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 as it will have no impact on topography and does not affect approved landscaping;
2. 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, like other structures in the neighborhood, it is not in the Setback Area;
3. 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 privacy between lots can be regulated by landscaping, subject to approval from the appropriate regulating entities; and
4. 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 removal of the rear footage located in the Setback Area will preserve views of open space.

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 denial of the Revised Application should be denied, but that a project substantially in the form set forth in the Revised Application, but subject to all conditions set forth in Exhibit A, shall be approved.

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 APRIL, 2006.

  
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JOHN FLOOD Mayor

ATTEST:

  
\_\_\_\_\_  
JUDY SMITH, City Clerk

APPROVED AS TO FORM:

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

EXHIBIT "A"

**NEIGHBORHOOD COMPATIBILITY APPLICATION**

NC-804R-05

Conditions of Approval

R-06-09

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. **That the patio cover shall be removed from the 15 ft. rear yard setback.**
17. **That the non-standard 6 ft. walkway shall conform to City standards.**

