

RESOLUTION NO. R 07-34

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 AND A GRADING PERMIT APPLICATION AT 1725 PABLO PLACE

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

Section 1. Applications (the "Applications") for neighborhood compatibility and a grading permit for the construction of additions to a single family residence (the "Project") were submitted for the property located at Lot 3 of Block 1531 of Tract No. 8045 in the City of Palos Verdes Estates, County of Los Angeles, State of California, known as 1725 Pablo Place, Palos Verdes Estates, California (the "Property"). The Applications were approved by the Planning Commission on October 16, 2007, subject to certain conditions.

Section 2. On October 31, 2007, an appeal of the Planning Commission's approval was filed by Maryann and Ralph DiLibero (collectively, "Appellant"). Appellant did not appeal the determination that the Applications are categorically exempt from the California Environmental Quality Act.

Section 3. On November 27, 2007, 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 and a power point presentation from the Appellant, and testimony from the applicant for the Applications (the "Applicant"), and others.

Section 4. Based upon the evidence presented, the City Council hereby finds and determines as follows:

- a. Each fact set forth in Sections 1 through 3, above, is true and correct.
- b. Each fact set forth in the memorandum for Agenda Item No. 3, Meeting Date 11/27/07 from Allan Rigg to Joseph M. Hoefgen, presented to the City Council on said date, is true and correct.
- c. With the proposed Project included, the total allowable floor area, building coverage, lot coverage and building height of the structures on the Property will still be less than permitted under the zoning ordinance. The gross floor area will increase, but the Palos Verdes Estates Municipal Code ("PVEMC") does not establish a limitation on

gross floor area, but, instead, uses the concept as trigger for neighborhood compatibility and to aid in discussion of the issue of apparent mass.

- d. The appeal does not discuss any issue relating to the grading permit application, nor has the Appellant submitted any evidence to show that the grading permit application does not meet all requirements of the PVEMC.
- e. The Project will have no impact on the main view from the Appellant's property, which is of the coast and "Queen's necklace." The City has not in the past considered a "sunset view" as within the scope of the Neighborhood Compatibility Ordinance.
- f. The Applicant revised the Project so as to move the expansion of the balcony away from Appellant's house in response to expressed concerns at the Planning Commission meeting of September 18, 2007. The expanded balcony is in the location of an existing balcony which already has an impact on Appellant's privacy as the Appellant's house is located in close proximity to the Applicant's house.
- g. Appellant has control over landscaping (trees/hedge) which may be grown to a greater height to address Appellant's privacy concern.

Section 5. Based upon the findings set forth herein, the City Council finds the Project, as conditioned in the conditions of approval attached hereto as Exhibit A:

- a. is designed and will be developed to preserve to the greatest extent practicable the natural features of the land, including the existing topography since the expansion of the balcony does not affect the topography at all and all changes to the topography are within the already graded areas on the Property;
- 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 consistent with all zoning code requirements and the massing caused by the expanded balcony has little visibility from any public view area;
- 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 proposed expansion of the balcony has been pulled back from the Appellant's house, the existing conditions of development of the Property and the neighboring properties create privacy issues which cannot be alleviated, and the Appellant has control over landscaping which may be grown out to reduce further their privacy concerns;
- d. is designed and will be developed in a manner to the extent reasonably practicable so it does not unreasonably interfere with neighbors' existing views, in that the Project has been situated so as to mitigate impacts on views from the Schroff property and will not interfere with the primary views from Appellant's property;

- e. will not unreasonably change the natural contours of the land since the changes are those reasonably required to effectuate the project, especially to create the desired courtyard;
- 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 will be on the Property itself; 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 6. 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 Application is hereby approved subject to the conditions contained herein.

Section 7. 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 December, 2007.



JAMES F. GOODHART, Mayor

ATTEST:



JUDY SMITH, City Clerk

APPROVED AS TO FORM:



STEPHANIE R. SCHER, City Attorney

EXHIBIT "A"

NEIGHBORHOOD COMPATIBILITY AND GRADING APPLICATION
NC-1291/GA-1415-07

Conditions of Approval
R07-34

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, attached hereto as Exhibit A.
2. All buildings, fences, signs, roadways, parking areas, and other facilities or features shall be located and maintained as shown on the approved plans.
3. All buildings and structures shall be of the design as shown on the approved plans.
4. 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.
5. 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.
6. This approval is subject to the applicant paying all fees and assessments to the City of Palos Verdes Estates, as required by Ordinance.
7. 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.
8. 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.
9. 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.

10. 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.
11. 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.
12. All pool/spa equipment and air conditioning units shall be contained in sound attenuating structures, subject to the approval of the City Engineer.
13. 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.
14. All non-standard encroachments shall be removed from any Parkland adjacent to the subject property, unless specifically approved otherwise by the Planning Commission.
15. The height of all new fireplace chimneys shall be the minimum allowable per the Building Code and the height of the chimney cap shall not exceed 30".
16. **The wall at the front of the property is to be of open construction.**
17. **A survey of the ridge height is to be prepared by a licensed surveyor to verify the ridge height of the new roof.**

