

RESOLUTION NO. R08-27

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 NEIGHBORHOOD COMPATIBILITY AND GRADING PERMIT APPLICATIONS AT 2116 VIA RIVERA

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

Section 1. Applications (the "Application") for a Neighborhood Compatibility and Grading Permit for the construction of a new single family residence (the "Project") were submitted for the property located at Lot 5 of Block 2204 of Tract No. 7141 in the City of Palos Verdes Estates, County of Los Angeles, State of California, known as 2116 Via Rivera, Palos Verdes Estates, California (the "Property"). The Application was denied by the Planning Commission on August 19, 2008.

Section 2. A timely appeal of the Planning Commission's denial was filed by Mr. and Ms. Barbara Holdsworth (collectively, "Appellant"), the owners of the Property.

Section 3. On September 9, 2008, 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.

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. 6, Meeting Date 09/09/08, from Allan Rigg to Joseph M. Hoefgen, presented to the City Council on said date, is true and correct.
- c. No facts were presented which showed the Planning Commission had erred in its decision; and ample evidence is in the record of proceedings before the Planning Commission to support its decision.
- d. While the total allowable floor area, building coverage, lot coverage and building height of the proposed structure on the Property will be less than the maximums permitted under the zoning code, its overall size, height and massing of the Project

exceeds the averages of those within the neighborhood and is actually twice the size of projects on several of largest properties in the area. That size, height and massing is not transitional in comparison to the entire neighborhood; and while the Project may be compatible with some of the properties in the neighborhood, the Neighborhood Compatibility regulations require compatibility with the applicable neighborhood as a whole. The Project would result in the building of a larger house on a smaller lot than even that approved by the Planning Commission for the property located at 2120 Via Rivera and also owned by the Appellant.

- e. While neighbor acceptance of the Project is an important factor for the Council and Planning Commission to consider when reviewing Neighborhood Compatibility Permit applications, that support is not dispositive. All the findings set forth in section 18.36.045 of the Palos Verdes Estates Municipal Code (“PVEMC”) must be made based on substantial evidence in the record before the Application may be approved. The Appellant’s reputation, esteem and standing in the neighborhood are not relevant factors to be considered when determining whether those findings can be made, nor is the Art Jury’s approval of architectural and design matters.
- f. Although the Appellant revised the height of the Project to some degree after the first time the Project was reviewed by the Planning Commission, no changes were made to the overall size and massing of the Project.

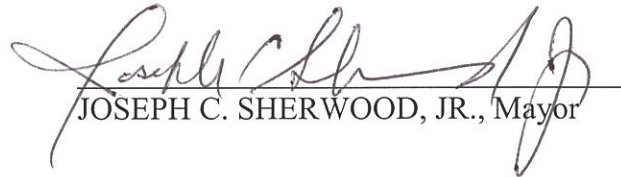
Section 5. Based upon the findings set forth herein, the City Council finds the Project, as proposed:

- 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 Project does not require any excess or removal of major vegetation;
- b. is not designed and will not be developed in a manner which will be reasonably compatible with the existing neighborhood character in terms of scale of development in relation to surrounding residences and other structures, in that the Project exceeds the average sizes, heights and massing of the homes within 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; and
- 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 will not interfere with the primary views from any property in the neighborhood.

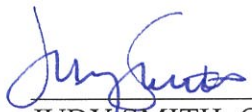
Section 6. Based upon the finding and determination set forth in Section 5.b., as supported by the evidence considered in connection therewith, the City Council finds and determines the appeal of the Planning Commission’s denial of the Application should be denied and the denial of the Application is hereby upheld.

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 23rd day of September, 2008.


JOSEPH C. SHERWOOD, JR., Mayor

ATTEST:



JUDY SMITH, City Clerk

APPROVED AS TO FORM:



JOSEPH W. PANNONE, City Attorney

NOTICE IS HEREBY GIVEN: IF YOU DESIRE TO CHALLENGE THE COUNCIL'S DENIAL OF YOUR APPEAL YOU MUST FILE A COURT ACTION WITHIN NINETY (90) DAYS FOLLOWING THE DATE THIS RESOLUTION IS MAILED TO YOU.

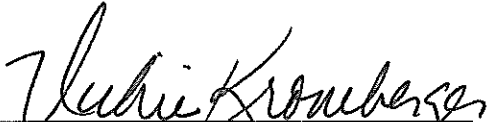
STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS:
CITY OF PALOS VERDES ESTATES)

I, Vickie Kroneberger, Deputy City Clerk for the City of Palos Verdes Estates, California, do hereby certify that the foregoing Resolution **R08-27** 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 23rd day of September, 2008, by the following vote:

AYES: COUNCILMEMBERS: Sherwood, Goodhart, Humphrey, Rea

NOES: COUNCILMEMBERS: None

ABSENT: COUNCILMEMBERS: Perkins


Vickie Kroneberger, Deputy City Clerk

CERTIFICATE OF MAILING

I, Vickie Kroneberger, am employed by the City of Palos Verdes Estates as Deputy City Clerk. On September 24, 2008, in the course of my duties as Deputy City Clerk, I placed a true copy or copies of Resolution No. R08-27 in a sealed envelope or envelopes addressed as follows:

Mr. and Mrs. Ray Holdsworth, 2116 Via Rivera, Palos Verdes Estates, CA 90274

Mr. Jeffrey A. Dahl, 18681 Amalia Lane, Huntington Beach, CA 92648-6835

I placed each such envelope for collection and mailing following ordinary business practices. I am readily familiar with the City's practice for collection and processing of correspondence for mailing. Under that practice, the correspondence would be deposited with the United States Postal Service on that same day, with adequate postage thereon fully prepaid at Palos Verdes Estates, California, in the ordinary course of business.

Executed on **September 24, 2008**, at Palos Verdes Estates, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Vickie Kroneberger, Deputy City Clerk
(Type or print name)


(Signature)