

RESOLUTION NO. R15-05

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALOS VERDES ESTATES, CALIFORNIA, DENYING IN PART THE APPEAL AND AFFIRMING THE PLANNING COMMISSION DECISION TO APPROVE A PORTION OF M-970-14 WITH MODIFICATIONS; MISCELLANEOUS APPLICATION FOR A NON-STANDARD DRIVEWAY WITHIN THE CITY RIGHT-OF-WAY AT 2357 VIA ANACAPA.

WHEREAS, on June 4, 2014, applications for Neighborhood Compatibility, Grading, and Miscellaneous were submitted for the property located at Lot 31 and portion of 32, Block 2211 of Tract 6888 in the City of Palos Verdes Estates, County of Los Angeles, State of California, commonly known as 2357 Via Anacapa, Palos Verdes Estates, California (“the Property”). The applications sought approval of a new single family residence and accessory structure.

WHEREAS, on August 19, 2014, the Planning Commission conducted a public hearing on the matter, which hearing was duly and properly noticed. At such hearing the Commission received and considered documentary evidence including, but not limited to, a staff report, site plans and received and considered oral testimony from the applicant and others. Concerns were raised regarding the massing and privacy impacts of the proposed residence and cabana. The matter was continued until the next available hearing date in order to allow the applicant to address the concerns expressed by the Planning Commission.

WHEREAS, on September 16, 2014, the Planning Commission conducted a continued public hearing on the matter, which hearing was duly and properly noticed. At such hearing the Commission received and considered documentary evidence including, but not limited to, a staff report, site plans and received and considered oral testimony from the applicant and others. Concerns were raised regarding the location of the cabana, the location of the mechanical equipment, and the overall massing of the accessory structure. The Planning Commission approved the Neighborhood Compatibility and Grading applications and continued the Miscellaneous application until the next available hearing date in order to allow the applicant to address the concerns expressed by the Planning Commission.

WHEREAS, on November 18, 2014, the Planning Commission conducted a continued public hearing on the matter, which hearing was duly and properly noticed. At such hearing the Commission received and considered documentary evidence including, but not limited to, a staff report, site plans and received and considered oral testimony from the applicant and others. The project was revised to also include the non-standard driveway within the City right-of-way as part of the Miscellaneous application along with the accessory structure. Following the conclusion of the public discussion and thorough deliberation of the subject matter, the Planning Commission determined by a vote of 5 to 0, that the Miscellaneous Application for the proposed accessory structure and non-standard driveway within the City right-of-way be conditionally approved as set forth in Resolution No. PCR-2014-0760-2.

WHEREAS, on December 2, 2014, an appeal was timely filed by Mr. Moise Innocent, Jr. (“Appellant”), a neighbor at 2365 Via Anacapa (“Appeal”). The Appeal questions whether the request for a circular driveway is in fact due to a safety issue. In addition, the Appeal indicates that the proposed driveway creates a safety issue for the appellant’s property and that there are major discrepancies with respect to the proposed cabana.

WHEREAS, on January 14, 2015, the City Council opened a public hearing on the Appeal, which was duly and properly noticed. At the public hearing, the City Council received and considered the written staff report which included the Appeal, plans, and visual presentations; written and oral testimony of the Appellant; and documentary evidence, including the minutes of the Planning Commission hearing. The City Council received and considered information regarding environmental review of the Project and the determination that the Project is categorically exempt from CEQA.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PALOS VERDES ESTATES, DOES HEREBY RESOLVE, AS FOLLOWS:

Section 1. Based on the evidence presented, the City Council hereby finds and determines as follows:

1. Each fact set forth in the recitals above is true and correct.
2. Each fact set forth in the memorandum for Agenda Item Number **8**, Meeting Date: January 14, 2015, from Planning staff, presented to the City Council on said date, is true and correct.
3. This Project is exempt from the California Environmental Quality Act (CEQA) pursuant to California Administrative Code Title 14, Chapter 3, Section 15303 (New construction or conversion of small structures).
4. That there are legitimate concerns caused by the Project as approved by the Planning Commission, in particular: the proposed driveway extending in the City right-of-way directly in front of the Appellant’s property.
5. The City Council desires to approve the Project but with certain modifications to address the concerns caused by the Project.

Section 2. Pursuant to the foregoing, the City Council makes the additional following finding:

MISCELLANEOUS APPLICATION:

1. That the proposed non-standard driveway within the City right-of-way does not unreasonably affect any other property, as modified.

Section 3. Pursuant to the foregoing, the City Council hereby confirms the Planning Commission's decision to approve Miscellaneous Application M-970-14 in part, subject to the following conditions:

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. Expiration of the Miscellaneous Application approval shall be governed by the provisions of the City of Palos Verdes Estates Municipal Code that are applicable to the expiration of the Neighborhood Compatibility approval.
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 property owner 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 property owner and his or her successors and assigns 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 property owner prevails in the enforcement proceeding.
9. The property owner and his or her successors and assigns 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

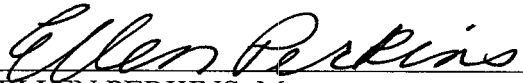
annul approval of this application. The City shall promptly notify the property owner of any such claim, action, or proceeding and shall cooperate fully in the defense.

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 property 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 property 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. 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".
17. A landscape plan and certification are required for all projects proposing new or altered landscaping that is 5,000 sq. ft. or more.
18. A license agreement shall be executed by the property owner in which the owner agrees to defend, indemnify, and hold harmless the city, its officers, agents and employees from and against any and all loss, damage, liability, claims, demands, costs, charges, and expenses, including attorney's fees, and causes of action of whatsoever character which the City may incur, sustain or be subjected to on account of loss or damage to property or loss of use thereof, or for bodily injury to or death of any person arising out of or in any way connected to the encroachment.
- 19. The non-standard driveway shall be revised so that no portion of the proposed driveway be located within that portion of the City right-of-way directly in front of the property located at 2365 Via Anacapa, as measured from the northwest corner of the property line between 2357 Via Anacapa and 2365 Via Anacapa in a continuous**

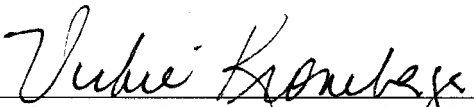
line to the street curb. The non-standard driveway design may be non-perpendicular to the street, subject to review and approval of the Traffic Engineer.

Section 4. The City Clerk shall certify as to the passage and adoption of this Resolution.

APPROVED AND ADOPTED this 27th day of January, 2015.


ELLEN PERKINS, Mayor

ATTEST:


VICKIE KRONEBERGER, City Clerk

APPROVED AS TO FORM:


CHRISTI HOGIN, City Attorney

Any action challenging the final decision of the City made as a result of the public hearing on this application must be filed within the applicable time limits set forth in the Palos Verdes Estates Municipal Code and Code of Civil Procedure.

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

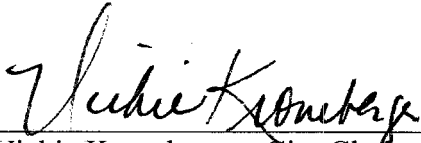
I, Vickie Kroneberger, City Clerk for the City of Palos Verdes Estates, California, do hereby certify that the foregoing Resolution **R15-05** was duly and regularly approved and adopted by the City Council of the City of Palos Verdes Estates at its regular meeting of the City Council on the 27th day of January, 2015, by the following vote:

AYES: COUNCILMEMBERS: Perkins, Humphrey, Goodhart, Bird, Rea

NOES: COUNCILMEMBERS: None

ABSENT: COUNCILMEMBERS: None

RECUSED: COUNCILMEMBER: None



Vickie Kroneberger, City Clerk