

RESOLUTION NO. R16-15

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALOS VERDES ESTATES, CALIFORNIA, APPROVING ON APPEAL FROM THE PLANNING COMMISSION NC-1543/G-1560/M-1064/M-1065-15; NEIGHBORHOOD COMPATIBILITY, GRADING AND MISCELLANEOUS APPLICATIONS FOR A NEW SINGLE FAMILY RESIDENCE LOCATED AT 709 VIA SOMONTE, WITH ADDITIONAL MODIFICATIONS

The City Council of the City of Palos Verdes Estates does hereby find, order and resolve as follows:

Section 1. Recitals.

A. On September 15, 2015, GA Designs Inc. submitted applications for Neighborhood Compatibility, Grading and Miscellaneous for the property located at Lot 11 of Block 1538 of Tract 6884 in the City of Palos Verdes Estates, County of Los Angeles, State of California, commonly known as 709 Via Somonte, Palos Verdes Estates, California ("the Property"). The applications sought approval of a new 3,038 sq. ft. single family residence with 1,599 cu. yds. of grading, walls exceeding 3.5 ft. in height within the setback adjacent to the street, and non-standard encroachments within the City right-of-way such as steps and garden walls (the "Project").

B. On October 20, 2015, the Planning Commission conducted a hearing on the matter. At such hearing the Commission received and considered documentary evidence including, but not limited to, a staff report and site plans and received and considered oral testimony from the applicant and others. The Planning Commission raised concerns with the view impacts, massing, privacy, and the floor area ratio of the project. Following the conclusion of the public testimony and thorough deliberation of the subject matter, the Planning Commission continued the Project to the November 17, 2015 Planning Commission meeting. The applicant did not submit revised plans in time for the November 17, 2015 meeting and was continued to the December 15, 2015 Planning Commission meeting.

C. On December 15, 2015, the Planning Commission received and considered documentary evidence including, but not limited to, a staff report and site plans and received and considered oral testimony from the applicant and others. The Planning Commission raised concerns with the view impacts, massing, privacy, and floor area ratio of the project. Following the conclusion of the public testimony and thorough deliberation of the subject matter, the Planning Commission continued the Project to the January 19, 2016 Planning Commission meeting.

D. On January 19, 2016, the Planning Commission conducted a hearing on the matter. At such hearing the Commission received and considered documentary evidence including, but not limited to, a staff report and site plans and received and considered oral testimony from the applicant and others. The Planning Commission raised concerns with the view impacts of the project. Following the conclusion of the public testimony and thorough deliberation of the subject matter, the Planning Commission continued the Project to the February 16, 2016 Planning Commission meeting.

E. On February 16, 2016, the Planning Commission conducted a duly noticed public hearing on the matter. At the hearing the Commission received and considered documentary evidence, including, but not limited to, a staff report and site plans, and received and considered oral testimony from the applicant and others. Neighbors raised concerns regarding the view impacts of the proposed residence and requested the Planning Commission consider limiting the height of landscaping to preserve neighboring views. Following the conclusion of the public testimony and thorough deliberation of the subject matter, the Planning Commission approved NC-1543/G-1560/M-1064/M-1065-15; Neighborhood Compatibility, Grading, and Miscellaneous applications for a new single family residence located on the Property, subject to conditions.

F. On March 2, 2016, an appeal was timely filed by Jeffrey Parker, attorney for the property owners, Mahmoud Gharachedaghi and Fati Fatemi, ("Appellants"), who live at 709 Via Somonte ("Appeal"). The Appellants indicate they are appealing the conditions imposed by the Planning Commission requiring the overall ridge height be reduced by 1 ft. and requiring the landscaping not to exceed the height of the roof ridgeline. The Appeal also requested the City Council consider a building height of 20.8 ft. as opposed to the building height of 18.8 ft. as conditioned by the Planning Commission. The Appeal indicates the project, as conditioned, would destroy the view standing from the main level of the proposed residence, will require spending significantly more in grading and retaining wall construction costs, depresses the structure into a significantly deeper retaining wall hole, and creates drainage problems for the garage. The Appeal also indicates the project, as conditioned, would effectively prohibit backyard vegetation higher than 5 to 7 ft.

G. On March 22, 2016, the City Council held a duly noticed public hearing on the Appeal. 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 others; and documentary evidence, including, but not limited to, a staff report and 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.

Section 2. Based on the evidence presented and in light of the whole record, the City Council hereby finds and determines as follows:

A. 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). The project proposes to demolish the existing single-family residence and construct a new single-family residence on a lot zoned for that use and surrounded by properties developed with single-family homes.

B. As proposed, the evidence, including without limitation a number of photographs submitted for City Council review and observation of the silhouette erected to evaluate the impact, demonstrates that there are adverse view impacts caused by the Project; in particular, the addition of a second story unnecessarily intrudes on an existing view corridor and can be feasibly avoided.

C. Modifications to address the view impacts caused by the Project are feasible according to examination of the plans and the testimony of both City staff and the Project architect.

D. Appropriate conditions may be imposed to allow landscape vegetation higher than the roof ridgeline at the rear yard of the subject Property while protecting the views to the neighbors who live at 793 Via Somonte.

Section 3. The City Council makes the additional following statutory findings with respect to each of the applications for approval submitted for the Project:

A. NEIGHBORHOOD COMPATIBILITY:

1. That the proposed development 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. The proposed single family residence will be located in the general footprint of the existing single family residence and is generally designed to follow the existing topography at the subject site. In addition, there all major landscaping on the subject property is proposed to remain;

2. That the proposed development 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 relation to surrounding residences and other structures. The project, as conditioned, will have a two-story building height that is consistent with the one-story and two-story homes in the surrounding area. In addition, the proposed floor area of 2,638 sq. ft. is comparable to the average floor area of 2,810 of the surrounding residences;

3. That the proposed development 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. The project includes second story balconies which are located at the front and rear elevations. The front balconies face the street and do not impact privacy to the neighbors to the east and west. The rear balcony is relatively small and has a low finished floor elevation. In addition, except for small, high-placed restroom windows, the project has no second floor windows on the side elevations; and,

4. That the proposed development 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. The project conditions require that the roof ridge be lowered by 1 ft., thus preserving the views from surrounding neighbors.

GRADING PERMIT:

1. The proposed grading will not unreasonably change the natural contours of the land because this project replaces existing structures. The grading proposed will result in a structure that is in keeping with the size, height and placement on the lot as homes in the neighborhood;

2. The proposed grading will not create a hazard to the immediate or adjacent property; and

3. The proposed grading will not unreasonably interfere with the use and enjoyment of property by other persons in the City.

MISCELLANEOUS APPLICATIONS:

1. A Miscellaneous application was requested pursuant to PVEMC Section 12.04.090 to request approval of non-standard encroachments in the City right-of-way. The non-standard encroachment consists of steps and gardens walls. The appeal did not specifically relate to the Miscellaneous application of the non-standard encroachment.

2. A Miscellaneous application was also requested for walls exceeding 3.5 ft. in height within the setback adjacent to the street. The walls are located along the driveway and vary in height up to approximately 10.7 ft. The proposed walls do not unreasonably affect any other property as the walls are located on the interior of the subject property. The appeal did not specifically relate to the Miscellaneous application of the proposed walls within the setback.

Section 4. The City Council hereby approves Neighborhood Compatibility Application Number NC-1543-15, Grading Permit Application Number G-1560-15, and Miscellaneous Application Numbers M-1064-15 and M-1065-15, subject to the following additional 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 dated February 4, 2016.
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 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 property owners, and their successors in interest, 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 owners 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 owners, and their successors in interest, shall indemnify and defend the City of Palos Verdes Estates and its officers, employees and agents from and against all liability and costs relating to the City's actions concerning this project, including (without limitation) any award of litigation expenses in favor of any person or entity who seeks to challenge the validity of any of the City's actions or decisions in connection with this project. The City shall have the sole right to choose its counsel and property owners shall reimburse the City's expenses incurred in its defense of any lawsuit challenging the City's actions concerning this project.
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. 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 500 sq. ft. or more.
18. The non-standard encroachments shall not be located within the first 5-feet behind the curb.
19. 6-inch curb gutter shall be installed along the property frontage. A curb and gutter plan shall be prepared by a Registered Civil Engineer.

20. A license agreement shall be submitted 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.
21. A license agreement shall be submitted to reimburse the City for any costs incurred by the City to repair damage, restore premises, or satisfy claims incurred by reason of the encroachment.
22. The overall ridge height of the residence shall be reduced by 1 ft.
23. Landscaping shall be maintained to a height that does not reasonably exceed the view line as measured from the deck of the property located at 793 Via Somonte and the ridge line located at the rear of the proposed building which is estimated to be a height of 15.25 ft. as measured from the rear property line.

Section 5. The City Clerk shall certify to the passage and adoption of this Resolution.

PASSED, APPROVED AND ADOPTED this 12th day of April, 2016.



JENNIFER L. KING, Mayor

ATTEST:



VICKIE KRONEBERGER, City Clerk

APPROVED AS TO FORM:



CHRISTI HUGIN, City Attorney

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

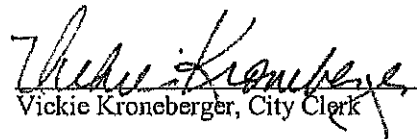
I, Vickie Kroneberger, City Clerk for the City of Palos Verdes Estates, California, do hereby certify that the foregoing Resolution R16-15 was duly and regularly approved and adopted by the City Council of the City of Palos Verdes Estates at its regular meeting of the City Council on the 12th day of April, 2016, by the following vote:

AYES: COUNCILMEMBERS: King, Vandever, Goodhart, Rea, Peterson

NOES: COUNCILMEMBERS: None

ABSENT: COUNCILMEMBERS: None

RECUSED: COUNCILMEMBER: None


Vickie Kroneberger, City Clerk