

RESOLUTION NO. PCR -2013-0656

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF PALOS VERDES ESTATES, CALIFORNIA, RECOMMENDING APPROVAL OF AN AMENDMENT TO THE ZONING MAP TO CHANGE A ZONING DESIGNATION FROM OPEN SPACE TO SINGLE-FAMILY RESIDENTIAL (R-1) AND THE ADOPTION OF THE NEGATIVE DECLARATION, AND APPROVING A MISCELLANEOUS APPLICATION FOR A PORTION OF PARCEL A ADJACENT TO 900 VIA PANORAMA.

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

Section 1. Recitals.

A. On May 8, 2012, the City Council adopted Resolution No. R12-11, approving a Memorandum of Understanding ("MOU") between the City, the Palos Verdes Peninsula Unified School District ("PVPUSD"), the Palos Verdes Homes Association, and the property owners of 900 Via Panorama.

B. The MOU settled outstanding litigation between PVPUSD and the Homes Association, and generally reaffirmed the enforceability of the deed restrictions on the property owned by PVPUSD in the City; resolved the dispute regarding certain existing encroachments adjacent to 900 Via Panorama; provided for the preservation of certain open space properties subject to the litigation (Lots C and D); and prohibited the installation of nighttime lighting at Palos Verdes High School. The MOU contemplated that the owners of 900 Via Panorama would file an application seeking approval of the proposed accessory structures and existing retaining walls on the Property (Parcel A).

C. Pursuant to the MOU, on August 14, 2012, the Homes Association transferred the Property to the current owners pursuant to a grant deed. Among other things, the grant deed provides that the owners may not construct any structure on the Property other than certain defined accessory structures, to be located in an area designated as "Area 3", which was previously disturbed by the prior property owners with grading and retaining walls. Other than the accessory structures and existing retaining walls, the deed requires the remainder of Parcel A to be preserved as open space in perpetuity.

D. On January 3, 2013, a Zone Change Application was submitted for the property located on a portion of Lot A identified as "Area 3" on submitted plans, of Tract Number 7540 in the City of Palos Verdes Estates, County of Los Angeles, State of California, adjacent to the property commonly known as 900 Via Panorama, Palos Verdes Estates, California ("the Property"). The application sought approval of a Zoning Map Amendment and Miscellaneous Application to amend the zoning designation for the Property from Open Space to Single-Family Residential and to approve existing retaining walls located in "Area 3".

E. The Property is currently owned by the Lugliani Trust and is currently zoned as Open Space.

F. The Property is located at the end of a cul-du-sac and is adjacent to City-owned parkland on three sides. The parkland adjacent to the Property is relatively inaccessible and steep. Given the steep grade of the slopes, the primary benefit of the parkland is to preserve views and to contribute to the open feel of the neighborhood.

G. On January 31, 2013, the City circulated an Initial Study for the project for public comment and review.

H. On February 19, 2013, the Planning Commission conducted a hearing on the application at which time 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 the public.

I. The Planning Commission reviewed and considered the Initial Study and Negative Declaration prepared pursuant to the California Environmental Quality Act and accepted public comment thereon.

Section 2. Environmental Review Findings.

The Planning Department undertook an initial study of the proposed project. The Initial Study revealed that the project does not have the potential to result in a significant impact on the environment. Consequently, a negative declaration was prepared. The Negative Declaration prepared for this project reflects the City's independent judgment and analysis. The Planning Commission hereby recommends that the City Council adopt the Initial Study and the Negative Declaration.

Section 3. Zoning Map Amendment Findings. Based upon the evidence presented, the Planning Commission hereby finds and determines as follows:

1. Each fact set forth in the recitals above is true and correct.
2. That the land uses adjacent to the Property are compatible with the proposed R-1 zoning designation. The lots across from the Property are developed with single family residences. Further, the accessory structures permitted in "Area 3" are permitted in R-1 zones.
3. That the subject Zoning Map Amendment is consistent with the objectives, policies, general land uses and programs specified in the General Plan and with all applicable specific plans.
 - A. The application is part of a larger MOU which results in the preservation of vital open space on Lots C and D in the City.
 - B. While the project would result in the construction of small accessory structures on a portion of the Property, the structures would be installed on property previously disturbed by prior development, and the majority of the Property is restricted to remain open space.
 - C. The minimal development permitted pursuant to the Zoning Map Amendment is a minor deviation from the City's open space restrictions in return for certainty that other PVPUSD parcels will remain subject to Homes Association deed restrictions, in addition to other public benefits obtained for City residents pursuant to the MOU.
 - D. The accessory structures would be built on a portion of the Property that was previously disturbed by the prior owners of the Property. Given the significant height of the existing retaining wall, it is highly unlikely that any permitted accessory structures would be visible from most viewpoints from the street above, thereby preserving the Property's open space character and preserving existing viewpoints.

Section 4. Zoning Map Amendment Recommendation.

Based on the evidence in the record and the findings set forth in this resolution and in compliance with Government Code section 65852.9, the Planning Commission hereby recommends that the City

Council approve the requested Zoning Map Amendment changing the zoning designation on the subject Property from Open Space to Single-Family Residential (R-1).

Section 5. Miscellaneous Application Findings.

1. Each fact set forth in the recitals above is true and correct.
2. The existing retaining walls were built by the prior owners of 900 Via Panorama.
3. That the existing retaining walls do not adversely affect adjacent properties and are integral to the stability of the existing slope. Removal of the retaining walls may cause geologic instability or increased risk of landslides.

Section 6. Miscellaneous Application Approval.

Based on the evidence in the record and the findings set forth in this resolution the Planning Commission hereby approves Miscellaneous Application Number M-902-13, 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 with the Application.
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. Deviation from this requirement shall be only by written consent of the Planning Director.
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 a 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 applicant shall be required to pay any and all costs 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 from any claim, action or proceeding against the City or its officers, agents, or employees to attack, 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.

Section 7. Certification.

The Planning Commission shall certify the adoption of this Resolution.

APPROVED AND ADOPTED this 19th day of February, 2013.

ATTEST:

CHAIRMAN

SECRETARY

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

I, Julie Cremeans, Planning Commission Minutes Secretary of the City of Palos Verdes Estates, California, do hereby certify that the foregoing Resolution No. PCR-2013-0656 was regularly approved and adopted at the regular meeting of the Planning Commission on the 19th day of February, 2013 by the following vote, to wit:

AYES: COMMISSIONERS: _____
 NOES: COMMISSIONERS: _____
 ABSENT: COMMISSIONERS: _____

Julie Cremeans
Planning Commission Minutes Secretary