

RESOLUTION NO. 11-06

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF LA CAÑADA FLINTRIDGE
APPROVING HILLSIDE DEVELOPMENT PERMIT (DIR) 10-10
AND DIRECTOR'S MISCELLANEOUS 10-09
FOR A 3'-0" TALL RETAINING WALL AND TWO DECKS
AT 4128 PEMBURY PLACE AS REQUESTED BY RICHARD COHEN**

WHEREAS, a request by Richard Cohen has been received for a Hillside Development Permit (Dir) and Director's Miscellaneous to allow a 3'-0" tall retaining wall, 120-square foot deck, and 261-square foot deck, said request attached hereto and incorporated by reference; and

WHEREAS, the Director of Community Development, on July 2, 2010, approved the Hillside Development Permit application and denied the Director's Miscellaneous (Setback) application; and

WHEREAS, the Director of Community Development determined that no significant environmental impacts would result from the project, which is Categorically Exempt from the California Environmental Quality Act (CEQA) under Class 2.5(a)(4)(i) and 2.5(e)(1) of the City of La Cañada Flintridge Guidelines for the implementation of CEQA; and

WHEREAS, on July 15, 2010 and July 19, 2010, appeals of the Director of Community Development's determination were filed with the City; and

WHEREAS, after publication and posting of the request in the prescribed manner, the Planning Commission, on November 9, 2010, held a public hearing on the project; and

WHEREAS, the Planning Commission has reviewed the facts contained in the staff report dated November 9, 2010 regarding the application for a Hillside Development Permit (Dir) and Director's Miscellaneous, and heard and considered the testimony of the applicant and the public; and

WHEREAS, on December 8, 2010, an appeal of the Planning Commission's determination was filed with the City; and

WHEREAS, the City Council, on February 7, 2011, after publication and posting of the request in the prescribed manner, held a public hearing on the Hillside Development Permit and Director's Miscellaneous request and voted to deny the appeal thereby upholding the Planning Commission's determination with modified conditions of approval and overturning the Director's denial of the setback modification for the decks; and

WHEREAS, based on the evidence presented by the application materials, staff report, and public testimony, the City Council finds the following:

Section 1.

Hillside Development Permit (Dir):

1. As conditioned, the decks would not cause any view blockage on adjacent neighbors and would not impede privacy: the decks are distant from the easterly neighbor's backyard pool patio area, are screened from views to and from the easterly neighbor by a

structure, are screened by trees from the westerly neighbor, and are distant and screened by existing mature landscaping and trees from the southerly neighbors. An arborist report has been prepared addressing the impacts of the retaining wall construction on the surrounding Oak trees. A condition of approval has been included in the resolution requiring the property owner to comply with the Arborist's recommendations. As conditioned, the decks and retaining wall will be compatible with the immediate area. The project will conform to building code standards and will not result in a change of use or intensification of development beyond those allowed in the General Plan and zoning codes, therefore, the project will not be detrimental to the public health, safety, welfare, or other community standards.

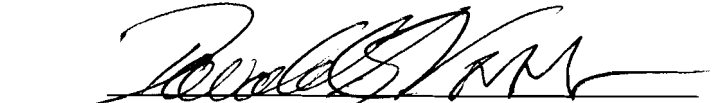
Director's Miscellaneous:

1. The southeasterly and southwesterly side decks replaced existing decks (with minor expansions). It would not have been possible to replace the previously removed southeasterly deck without side setback encroachments because of the railing height, while the 3-square foot new encroachment resulting from the deck extension is negligible. The southwest deck does not encroach further than the existing building line on the west side of the property and would have negligible privacy impacts.

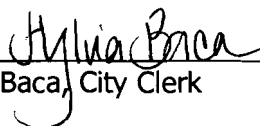
Section 2.

Based on the above findings, the City Council of the City of La Cañada Flintridge hereby approves the Hillside Development Permit (Dir) and Director's Miscellaneous for a 72' long, 3'-0" tall retaining wall, two decks, and related site work over turning the Director's denial of the Director's Miscellaneous for setback encroachments for the two decks at 4129 Pembury Place, subject to the conditions listed in Exhibit "A", attached to this resolution.

PASSED, APPROVED AND ADOPTED this 22nd day of February 2011.


Donald R. Voss, Mayor

ATTEST:

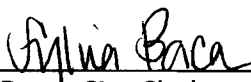

Sylvia Baca, City Clerk

State of California)
County of Los Angeles) ss.
City of La Cañada Flintridge)

I, Sylvia Baca, City Clerk of the City of La Cañada Flintridge, California, do hereby certify that the foregoing Resolution No. 11-06 was duly adopted by the City Council of the City of La Cañada Flintridge at a Regular Meeting held on the 22nd day of February 2011, by the following vote:

AYES: COUNCILMEMBERS: Del Guercio, Olhasso, Spence, Brown, Voss
NOES: COUNCILMEMBERS: None
ABSENT: COUNCILMEMBERS: None
ABSTAIN: COUNCILMEMBERS: None

Dated: February 23, 2011



Sylvia Baca, City Clerk

EXHIBIT "A"
CONDITIONS OF APPROVAL
HILLSIDE DEVELOPMENT PERMIT (DIR) 10-10
DIRECTOR'S MISCELLANEOUS 10-09
4128 Pembury Place

1. 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 Community Development.
2. This approval is granted for the land or land use as described in the application and any attachments thereto, and as shown on the site plan submitted, labeled HDP (Dir) 10-10, DM 10-09.
3. Prior to obtaining a building permit or when applicable initiation of use, the applicant and property owner shall file with the Secretary of the Planning Commission written acknowledgment of the conditions stated herein on forms provided by the Planning Department.
4. All structures, site work and other features including but not limited to, buildings, roadways, parking areas, landscaping and other facilities shall be located and maintained substantially as shown on the site plan labeled HDP (Dir) 10-10, DM 10-09., except as otherwise stated in these conditions.
5. All buildings and structures shall be substantially of the design as indicated on the elevation plans labeled HDP (Dir) 10-10, DM 10-09 except as otherwise stated in these conditions.
6. This approval will expire unless "start of construction" is commenced within 12 months after approval is granted and diligently pursued thereafter. The Director of Community Development may extend the original expiration date by as much as 12 months upon receipt of a written request from the applicant prior to expiration of the original approval if the approved project and applicable zoning standards are unchanged. Start of construction is defined as:
 - a. All zoning and related approvals are effective; and
 - b. All required building and grading permits for the project have been issued; and
 - c. The "foundation inspection" and "concrete slab or underfloor inspection" have been made and received approval from the Division of Building and Safety; i.e., all trenches must be excavated, forms erected, and all materials for the foundation delivered on the job and all in-slab or underfloor building service equipment, conduit, piping accessories and other ancillary equipment items must be in place. Nothing in this definition shall be construed to alter the applicable legal standards for determining when vested property rights to complete the project have arisen.
7. All applicable requirements of any law, ordinance, or regulation of the City of La Cañada Flintridge shall be complied with.

8. This approval is subject to the applicant paying all fees and assessments to the City of La Cañada Flintridge, as established by ordinance, resolution or policy of the City Council.
9. 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 agrees 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 amicably 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.
10. 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 Hillside Development Permit. The City shall promptly notify the applicant of any such claim, action, or proceeding and shall cooperate fully in the defense.
11. An approval granted by the Director of Community Development does not constitute a building permit or authorization to begin any construction. An appropriate permit issued by the Division of Building and Safety must be obtained prior to construction, enlargement, relocation, conversion, or demolition of any building or structure within the City.
12. All construction/contractor parking shall be on-site only. If it is deemed by the Community Development Director that sufficient on-site parking may not be available, then on-street parking in front of the site will be permitted if it can be demonstrated that such parking will not interfere with the immediate neighbors, and will not interfere with the public's use of the surrounding streets. If this cannot be found, then any additional construction vehicle or equipment parking must occur off-site at a location approved by the Director of Community Development. Approval of the off-site location shall be based on the submittal of a Parking Management Plan by the applicant that demonstrates that the site shall not interfere with the neighbors in the area or hinder the public's use of the surrounding streets. Contractors and construction workers will be required to carpool to the construction site. No construction, no deliveries and no movement of construction materials shall occur on Sundays or City recognized holidays.
13. The retaining wall shall be made of slump stone or similar decorative block in order to blend in with the hillside. A color and material sample shall be submitted to the Planning Division and approved by the Director of Community Development prior to building permit issuance.
14. The Arborist recommendations in the Arborist Report dated May 23, 2010 shall be strictly adhered to during all phases of construction:
 - a) Further continuous digging and trenching within the tree protection zones of the Coast Live Oak trees shall be avoided. Roots 2 inches in diameter or larger shall be preserved.
 - b) Roots which are cut or damaged and are exposed to air shall be pruned with a clean, sharp pruning tool back to the side of the trench or excavation and shall be covered with a moist cloth or burlap until the trench can be backfilled in order to prevent the root ends from desiccating.

- c) Pruning of roots or branches shall be supervised by an ISA Arborist. Pruning shall conform to ISA and ANSI A-300 Standards and Guidelines. Pruning shall be done in the summer.
 - d) Dumping of excess soil, concrete, mortar, cement, stucco, paint, and other foreign materials and debris within the tree protection zone shall be prohibited. A washout area outside of the tree protection zone and away from the trees in order to prevent contamination of the tree's root zone shall be designated.
 - e) If future irrigation trenching must be performed, it shall be done outside of the tree protection zone of the Oak trees. Mulch such as wood chips and landscape bark are recommended within the last 5 feet of the Oak tree trunks.
 - f) Ground covers which will compete for air, water and nutrients shall not be planted within the tree root zone. It is best to apply a 2 to 4 inch layer of mulch over the roots out of the tree's drip line whenever possible. The newly planted native California plants under the canopy or drip line are acceptable however the plantings shall not encroach closer than 5 feet from the edge of the Oak tree trunks in order to allow sufficient air circulation.
 - g) The contractor shall be required to protect roots, bark, trunk, limbs, branches and leaves of protected Oak trees from damage during construction.
 - h) The spray irrigation shall be modified or adjusted so that it does not water the Oak tree trunks or the area within the last 5 feet of the Oak tree trunks. It is important that the trunk and buttress roots not be watered or wetted in order to prevent the Oaks from becoming infected with Oak Root Fungus.
 - i) Irrigation watering within the drip line of the Oak trees shall be minimized especially in the summer time when Oak Root Fungus is most active. Abandon and turn off the irrigation to these native plant areas once the plants have established no later than five years after plant installation.
 - j) The utility wires which run through the crown of Tree #3 shall be fitted with a foam insulation type collar where it rubs against the tree trunk to prevent the wire insulation from being removed. A licensed pesticide applicator shall be hired to spray the trunks of the Oaks for Western Sycamore Borer, especially Tree #3.
 - k) The buttress roots and root crown of Tree#1 shall be exposed and the ivy growing up the trunk shall be removed. Tree#1 shall also be pruned this summer and the dead wood and excessive end weight shall be reduced to compensate for its lean and to reduce the risk of it falling.
15. An I.S.A. Certified Arborist shall monitor the Oak trees on an annual basis for the next five years. The arborist shall report to the City on the health and condition of the trees as it relates to the impact to the Oak tree roots as a result of this recent excavation and construction activity. The property owner shall submit a \$1,000 arborist deposit to the Planning Division prior to building permit issuance. The check shall be made payable to the City of La Cañada Flintridge. The property owner shall comply with all the arborist recommendations listed in the arborist monitoring report. If any of the impacted Oak trees do not survive within the five-year monitoring period, the property owner shall submit a tree removal permit and plant replacement trees or make a donation to the City's tree fund (in lieu of planting replacement trees) equal to the value of the tree being replaced as listed in the Arborist Report dated May 23, 2010.
16. Applicable tree protection guidelines for all protected trees proximate to the residence shall be strictly adhered to during all phases of construction, including installation of

chain link protection barriers prior to the issuance of building permits. The property owner shall contact the Planning Division to schedule an inspection once the chain link protection barriers are installed around the Oak trees.

17. A landscape plan shall be submitted to the Planning Department and approved by the Director of Community Development prior to the issuance of building permits. The landscape plan shall take into account screening, including landscape screening for the trellis, and the installation of ground cover to protect the hillside from erosion. The plantings indicated on the landscape plan shall be retained, maintained, and replaced if necessary. The property owner shall sign a covenant running with the land to secure such maintenance of landscaping prior to the issuance of any building permits and the covenant shall be recorded in Los Angeles County Recorder's office prior to building permit final. The building permit shall not be finalized until the Director of Community Development or his designee confirms that the landscaping installation is complete and consistent with the approved plan.
18. The property owner shall submit a building permit application, plans, and the required fees (plancheck) to Building and Safety within 15 days after the expiration of the 15-day appeal period.
19. To preserve the privacy of the neighbors to the south, the existing landscaping and trees on the south side of the property shall be retained, maintained, and replaced if necessary. The property owner shall sign a covenant running with the land to secure such maintenance of landscaping prior to the issuance of any building permits and the covenant shall be recorded in Los Angeles County Recorder's office prior to building permit final.

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