

CITY OF **LACANADA FLINTRIDGE**

**MEMORANDUM**

October 14, 2014 Meeting

**To:** Planning Commission  
**From:** Robert J. Stanley, Director of Community Development  
**By:** Roger Cantrell, Consulting Architect/Planner  
**Re:** Hillside Development Permit 14-28; 3745 Normandy Drive; Jane Lee  
Appeal of staff-level project approval  
Appellants: Steven and Michele Brown

**PROJECT:**

On August 26, 2014, property owner Jane Lee submitted plans for a horizontal extension of a retaining wall which was included in approved plans from a 2013 house addition project. As a retaining wall not exceeding 3 feet in exposed height, the Director found the wall, shifted to run parallel to the driveway, to be in substantial conformance with the approval. Associated with the shift is proximity to elevated slope (see photo on following page). The applicant is requesting an 18-inch increase in the retaining wall height to contain that soil at the highest point, in the corner. Since that would raise the exposed wall height above the 3-foot limit of Director's Review, a planter base is called for.

As built, the retaining wall is less than 36" tall and therefore exempt from a building permit. No building permit would be required for the planter base either. To raise the wall to the level of the exposed soil beyond, though, would require a building permit because the wall, from bottom of footing, would exceed that permit's 4-foot threshold.

The photograph on the following page shows the wall with the exposed slope behind and above it. It also shows an angled planter wall base laid out in concrete. For the increased-height wall to comply with the 3-foot limits of Director's Review, that angled planter wall base extension would need to extend horizontally to the point that the retained soil is exposed above the wall, as shown by the 2x4 board. (At any point, the planter width is required to be at least as great as the retaining portion of the wall behind, less three feet, per R-1 Code Section 11.11.050.E.10.c.iii.)

The wall would be inward-facing, so that it would be visible only on the subject property. The wall extension would step down as shown in Section B-B. No exposed section would exceed 3 feet in height.

The project was approved at staff level; the September 8, 2014 approval letter including the required finding is attached.

Staff also notes that the applicant has the option of extending a curb southward to the neighbor's pilaster per plan, and that the retaining wall may be as much as 3 feet taller within the limits of Director's Review because the aforementioned 3-foot review threshold applies to the retained height and not the freeboard.

*View facing south, showing subject property on the left and shared driveway on the right. The retaining wall extends beyond the dark trash can, where it turns a right angle. The property line is indicated by a white line on the asphalt; that line jogs in farther up. Neighbor's brick gate pilaster, discussed in following caption, is seen in the distance.*



*View from subject house driveway facing southwest, with shared driveway beyond mesh.*

*Existing wall with unretained soil above, with additional 6x16 blocks resting atop. The 2x4 indicates the course of the planter wall that would be required in order to keep the exposed retaining wall height to 3 feet.*

*The orange-flagged stake in the background is on the property line, adjacent to the neighbor's pilaster. The applicant's plans show a curb extending back to that point. That is another component not requiring a permit.*



## APPEAL:

An appeal of the staff approval was submitted on September 29, 2014 by neighbors Steven and Michele Brown of 3757 Normandy Drive. The request that the project be denied consisted of the following grounds listed under #3 in the appeal letter:

1. The appellants “feel that this approval is not specific in detail”;
2. The appellants state that “[t]he plan is inaccurate as all the footings and preparations have not been completed to allow this wall to be built”;
3. The appellants claim that “[t]he plans do not match the current state of the site”;
4. The appellants assert that “[t]he project does not promote a harmonious hillside development”; and
5. The appellants state that they were “under the understanding that the applicant who submitted a series of inaccurate plans would not be granted another Planning Permit Approval until the previous Hillside Permits HDP 11-22 (Dir.) and HDP 13-23 (Dir.) were completed”.

## ANALYSIS:

The above appeal grounds are analyzed by staff as follows:

1. *“We feel that this approval is not specific in detail.”*

The approval is for an engineering plan by Calcivic Engineers, labeled Sheet C-1, stamped received by the City on August 26, 2014. The plan shows the wall extension to scale in plan and section details. It also includes the previously approved project components, so the wall extension is seen in proper context. This plan is of sufficient detail for not just Planning approval, but also for Building & Safety (building permit) approval.

Staff’s approval has been modified as a result of the appeal, because the site visit connected with the appeal has revealed the new wall configuration. Therefore a condition is added to extend the planter base as discussed previously.

2. *“The plan is inaccurate as all the footings and preparations have not been completed to allow this wall to be built.”*

Plans precede physical work.

3. *"The plans do not match the current state of the site."*

The plans depict the project, i.e. the ultimate state of construction. They are not progress plans, and there is no need for such documents. The plans appear to be accurate as far as the limited area of the wall extension is concerned, except that the extent of the triangular planter along the wall is shown to scale at 6 feet, while it would need to be 7'-6" long. A condition is included to that effect.

Staff notes that a site visit on October 7 revealed that work on retaining wall and angled wall base has commenced. This is not a Building & Safety violation, because to date no work has been proposed that would require a building permit. However, the height of the existing retaining wall is at the limit for permit-exempt work, and a permit will be required for the vertical extension as previously discussed.

4. *"The project does not promote a harmonious hillside development."*

The project involves a 3-foot stepped wall that would be visible from offsite as only an extension of an already-approved curb along the driveway. It would enhance slope stability. Both aesthetically and functionally, the project completely supports the Hillside Development Ordinance objectives for harmonious hillside development.

5. *"We were under the understanding that the applicant who submitted a series of inaccurate plans would not be granted another Planning Permit Approval until the previous Hillside Permits HDP 11-22 (Dir.) and HDP 13-23 (Dir.) were completed".*

Staff made no such representation, since there is no nexus between completion of the previously approved project and granting of a new permit for the wall as shown. Therefore there is no legal basis for the City to withhold approval on those grounds even if there were a logical reason to link previous and current project components.

Staff believes that the appellants' primary motivation at this point is for the applicant to pave her private driveway. Staff notes that the driveway slopes into the applicant's property, and therefore its paving would not affect the shared driveway. Also, the applicant is apparently following common construction procedure in completing all other work (e.g. the currently reviewed project) prior to paving.

**FINDING:**

The following finding is required for Hillside Director's Review approvals. Staff made the finding in approving the project, as discussed below.

- 1. The project is found not to be in conflict with or potentially detrimental to the public health, safety or welfare or other community standards, and conforms to the city's general plan and all other ordinances and regulations of the city.**

*The proposed walls would comply with all code standards and are of modest visual scale and would not be prominently seen from offsite. The walls 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. Staff supports the finding.*

#### **RECOMMENDATION:**

Based on the above analysis and finding, staff recommends that the Planning Commission deny the appeal, thereby affirming staff's approval of the project.

*cc: Jane Lee / 3745 Normandy Drive / LCF  
Michele & Steven Brown / 3757 Normandy Drive / LCF*

*attachments: Draft Resolution denying appeal and conditionally approving project  
HDP 14-28 Approval Notice dated September 8, 2014  
Brown Appeal Letter, dated September 29, 2014  
Brown Letter requesting rescheduling, dated October 6, 2014  
Approved plan, HDP 14-28 (CalCivic Engineering)  
Reduced approved plan + Curb Wall Detail D*

## RESOLUTION NO. 14-

**A RESOLUTION OF THE PLANNING COMMISSION  
OF THE CITY OF LA CAÑADA FLINTRIDGE  
DENYING AN APPEAL OF AND  
APPROVING HILLSIDE DEVELOPMENT 14-28 (DIR.)  
FOR A RETAINING WALL EXTENSION  
AT 3745 NORMANDY DRIVE  
AS REQUESTED BY  
JANE LEE**

WHEREAS, a request by Jane Lee has been received for a Hillside Development Permit to allow an inward-facing extension of a retaining wall, said request attached hereto and incorporated herein by reference; and

WHEREAS, the Director of Community Development, on September 8, 2014, granted conditional approval of said request; and

WHEREAS, on September 29, 2014, an appeal of said decision was filed by neighbors Steven and Michelle Brown; and

WHEREAS, the Planning Commission, on October 14, 2014, after posting and publishing in the prescribed manner, held a public hearing and conducted a review of the request; and

WHEREAS, the Commission reviewed the project and determined that no significant environmental impacts would result from the project, which is Categorically Exempt from the California Environmental Quality Act, under Class 2.5(c)(5)(appurtenant structures) of the City of La Cañada Flintridge Guidelines for the implementation of CEQA; and

WHEREAS, the Planning Commission has reviewed the facts contained in the staff memorandum dated October 14, 2014 and background materials regarding the application for a Hillside Development Permit at 3745 Normandy Drive, and heard and considered the testimony of the applicant and the public; and

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

### Section 1

*Hillside Development Permit:*

1. The project is found not to be in conflict with or potentially detrimental to the public health, safety or welfare or other community standards, and conforms to the city's general plan and all other ordinances and regulations of the city, because the proposed wall would comply with all code standards and be of modest visual scale and not prominently seen from offsite. The wall 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.

Section 2

NOW, THEREFORE, be it resolved that the Planning Commission approves the Hillside Development Permit for a retaining wall extension at 3745 Normandy Drive, subject to the conditions listed in Exhibit "A", attached to this resolution.

**PASSED, APPROVED AND ADOPTED** this 14<sup>th</sup> day of October, 2014.

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Chair of the Planning Commission

ATTEST:

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Secretary to the Planning Commission

**EXHIBIT "A"**  
**CONDITIONS OF APPROVAL**  
**HILLSIDE DEVELOPMENT PERMIT 14-28 (Dir.)**  
3745 Normandy Drive

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 Hillside Development Permit 14-28 (Dir.).
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 project plans labeled Hillside Development Permit 14-28 (Dir.), except as otherwise stated in these conditions.
5. 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 "footing inspection" has 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.

6. All applicable requirements of any law, ordinance, or regulation of the City of La Cañada Flintridge shall be complied with.
7. 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.
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 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.
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 Hillside Development Permit (Dir.). 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 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.
11. 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.

12. Any subsequent substantive change to these approved plans by the Fire Department or any other agency having subsequent approval authority shall cause these plans to be returned to the Planning Dept. for additional review and approval prior to permit issuance.
13. The planter shall be of sufficient length (7'-6" along the retaining wall) that any exposed retaining wall height not exceed three feet.

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~NOTICE OF APPROVAL~  
and  
Acknowledgement of Conditions  
*Certified Mail – Return Receipt Requested*

**Date of Approval:** September 8, 2014 (revised)      **Site Location:** 3745 Normandy Drive

**To:** Jane Lee  
3745 Normandy Drive  
La Canada Flintridge, CA 91011

**Re:** Hillside Development Permit 14-28 at above address.

**Please note that this approval notice has been revised due to date and content errors in the original notice. An original approval date of August 8, 2014 was referenced and has been revised above. Any appeal of this decision must be filed within 15 days of the mailing date of this notice.**

Under the review criteria set forth in Chapter 11.35, Hillside Development, staff has reviewed your request to construct new retaining walls along the west side property line. According to the submitted plan, the walls would be tiered to accommodate a small triangular landscape planter and would not exceed an exposed height of 3 feet. The new wall would extend an approved retaining wall approximately 10-12 feet further to the south in order to better stabilize a slope adjacent to an ascending driveway that accesses the neighboring property at 3751 Normandy Drive. The walls would be inward-facing to the subject lot and of minimal visual scale. As such, no offsite impacts related to massing or view impacts would result.

Based on this review, staff has determined the following:

***Hillside Development Permit (Dir.):***

- 1. The project is found not to be in conflict with or potentially detrimental to the public health, safety or welfare or other community standards, and conforms to the city's general plan and all other ordinances and regulations of the city.**

*The proposed walls would comply with all code standards and are of modest visual scale and would not be prominently seen from offsite. The walls 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. Staff supports the finding.*

Based on the above finding, your request **HAS BEEN APPROVED**, subject to twelve (12) conditions of approval listed in Exhibit "A", attached to this notice.

Please note that Condition No. 5 stipulates that the approval expires one year from the date of this approval unless an extension request is received in writing prior to the expiration of the original approval. If the approval expires prior to start of construction, and no request for extension is received by that time, City procedures require a new application with full fees. Please also be aware that the City will not provide further notice of the expiration date.

If you have any questions about this notice and/or the conditions contained herein, feel free to contact the City of La Cañada Flintridge Planning Department (818) 790-8881.

Sincerely,

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Robert J. Stanley  
Director of Community Development

C:

APN: 5822-030-028  
RAJPAL S & AMANDEEP DHILLON  
3751 NORMANDY DR  
LA CANADA FLINTRIDGE CA 91011

APN: 5704-009-016  
RESIDENT  
1541 INVERNESS DR  
PASADENA CA 91103

APN: 5822-013-015  
WALTER L & DIANE LARSEN  
3756 NORMANDY DR  
LA CANADA FLINTRIDGE CA 91011

APN: 5822-013-016  
ANNE M MILANO  
3750 NORMANDY DR  
LA CANADA FLINTRIDGE CA 91011

APN: 5822-030-021  
STEVEN E & MICHELE BROWN  
3757 NORMANDY DR  
LA CANADA FLINTRIDGE CA 91011

APN: 5822-030-024  
RICHARD A COLLINS  
3731 NORMANDY DR  
LA CANADA FLINTRIDGE CA 91011



**EXHIBIT "A"**  
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**HILLSIDE DEVELOPMENT PERMIT 14-28 (Dir.)**  
3745 Normandy Drive

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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 project plans labeled Hillside Development Permit 14-28 (Dir.), except as otherwise stated in these conditions.
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  - 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 "footing inspection" has 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.

6. All applicable requirements of any law, ordinance, or regulation of the City of La Cañada Flintridge shall be complied with.
7. 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.
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 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.
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 Hillside Development Permit (Dir.). 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 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.
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carpool to the construction site. No construction, no deliveries and no movement of construction materials shall occur on Sundays or City recognized holidays.

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