

PLANNING COMMISSION STAFF REPORT
October 13, 2015 Hearing

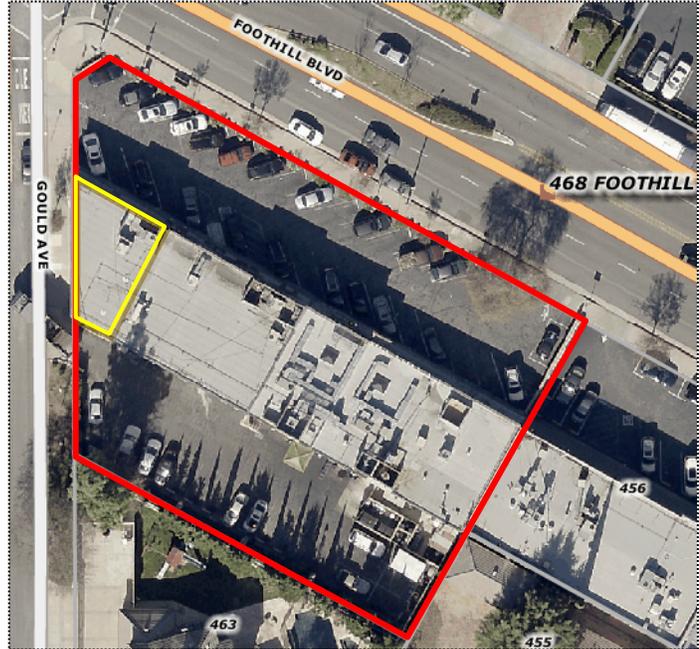
Applicant:

Scott Mueller / UCode Inc.
972 Artesia Boulevard
Hermosa Beach, CA 90068

Case Type/No: MCUP 518

Property Owner:

Masoud H. Eshaghzadeh
Eshaghzadeh Family Limited Partnership
631 S. Olive St. #555
Los Angeles, CA 90014



Project Address:

468-A Foothill Boulevard

Project Planner:

Gary Yesayan
Planning Aide

1. Request

The applicant is requesting a Minor Conditional Use Permit (MCUP) to establish a tutoring center within a tenant space at 468 Foothill Boulevard, unit A, previously utilized as retail space.

2. Location

The property is a commercial lot at the southeast corner of Foothill Boulevard and Gould Avenue. The property is within the Mixed Use 2 zone of the Downtown Village Specific Plan.

3. Staff Recommendation

It is recommended that the request **BE APPROVED**, subject to the attached conditions.

4. Project Area

Project Site:	28,345 sq. ft.
Parking Lot:	10,000 sq. ft. <u>front</u> and 7,000 sq. ft. <u>rear</u> .
Parking Spaces:	31-front and 14-rear.
Existing Building:	11,345 sq. ft.
Commercial / Restaurant:	9,095 sq. ft. (general commercial) / 2,250 sq. ft. (restaurant)
Subject Space (UCode):	1,210 sq. ft.

5. General Plan/Zoning/Existing Land Use

The General Plan Land Use Map designates the site as Mixed Use 2 zone, within the (DVSP) Downtown Village Specific Plan. The property is developed with a commercial building with a variety of commercial businesses. This commercial establishment has designated parking areas at the front and at the rear. The previous tenant was a retail gift shop that has moved to a new location.

6. Environmental Impact Review

Based on the review of the application and the submitted plans, staff has determined that the site is Categorically Exempt from the provisions of the California Environmental Quality Act under Class 2.5(a) (1) of the City Guidelines for the Implementation of CEQA.

7. Previous Actions:

- On July 6, 2015, the applicant submitted a Directors Review application to maintain the existing retail use of the subject location within a Mixed Use 2 zone, per the Downtown Village Specific Plan (DVSP). Upon review of the request, it was determined that the proposed business model of UCode did not qualify as retail, and Director's Review was not applicable. The applicant was required to submit a Minor Conditional Use Permit (MCUP) to allow change of use from retail to commercial school.
- On October 9, 2007, Variance 07-05 was approved, allowing reduction in the amount of parking space required for the commercial center at 458 - 468 Foothill Boulevard. (See attached Resolution No. 07-101).

8. Pending and Potential Actions:

Applicant shall submit Design Review application for signage, upon MCUP 518 approval.

9. Staff Analysis

A. Context:

The project site is located at the southeast corner of Foothill Boulevard and Gould Avenue. The 28,345 sq. ft. lot contains a single-story commercial building approximately 11,345 sq. ft. with a designated customer parking area at the front and employee parking at the rear. The property has a 10,000 sq. ft. parking lot with 31 parking spaces at the front, and 7,000 sq. ft. parking lot located at the rear, with 31 spaces. The commercial complex currently has seven distinct businesses, including the proposed UCode. Access to the tenant space and to the commercial center itself is provided from Gould Avenue. The surrounding land uses include commercial, Mixed Use 2 to the north, east and west, and residential at the south.

B. Project Description:

The proposal is for a tutoring center to be located within the westernmost tenant space. The subject property is in the Mixed Use 2 zone with a "retail" use designation. Since the proposed business will require a change of use from "retail" to "commercial school" a Minor Conditional Use Permit (MCUP) is required. UCode, primarily provides tutoring and instructional classes of

software coding for children. UCode anticipates approximately 20 students to attend programming/coding tutoring sessions after school. The establishment will have 4-5 employees. The hours of operation for UCode would be Monday through Friday, 2:00 p.m. to 6:30 p.m., Saturday 9:00 a.m. to 2:00 p.m., and Sundays 12:00 pm to 2:00 p.m.

Parking Requirement:

According to Ordinance No. 380, adopted on November 2, 2009, (see attached), the minimum parking requirement for general commercial uses is 4 parking space per 1000 square feet of gross floor-area, and 10 parking space per 1000 square feet of gross floor-area for restaurants. Per this ordinance, the entire commercial center is required to have total of 59 parking spaces. This is based on existing 9,095 sq. ft. of general commercial and 2,250 sq. ft. of restaurant area. The commercial complex currently has 45 total parking spaces; 31 at the front and 14 at the rear. This presents a shortage of 14 parking spaces. However, Variance 07-05 (Resolution No. 07-101), attached, approved on October 9, 2007, allowed for a 49 parking space reduction from the required 92, at the time, for the commercial center at 458-468 Foothill Boulevard, and permitted for 43 spaces. As confirmed by the Deputy City Attorney, this Variance applies to the entire shopping center. As mentioned, due to the nature of the business, UCode customers being children will primarily be dropped-off and picked-up during afterschool hours. For this reason increased parking demand from the previous retail use is not anticipated. The floor-area of the subject property is 1,210 sq. ft. As such, the minimum parking requirement for this establishment is 5 spaces. UCode will have a maximum of 4-6 employees at any given time and the commercial center has 14 shared "employee only" parking spaces available at the rear lot. All parking spaces located at the front are shared among all business patrons as well.

The chart below shows the peak hours of existing businesses at the commercial center as estimated by tenants, and the operating hours of the newly proposed tutoring center. Hours shown in red identify the overlap between existing businesses' peak hours and UCode's operating hours.

	Establishment	Estimated <u>Peak</u> Hours		
		Monday-Friday	Saturday	Sunday
1	Bow Tie Cleaners	12:00 pm - 2:00 pm	No specific peak times	No specific peak times
2	Flintridge Proper - Restaurant	12:00 pm - 2:00 pm <i>5:00 pm - 8:00 pm</i>	<i>10 am - 2:00 pm</i>	5:00 pm - 8:00 pm
3	The UPS Store	No peak times provided	No peak times provided	No peak times provided
4	Color Me Green - Nail Lounge	10:00 am - 12:00 pm <i>4:00 pm - 6:00 pm</i>	No specific peak times	No specific peak times
5	Stephanie's Gallery	<i>10:00 am - 5:00 pm</i>	No specific peak times	No specific peak times
6	Best Rita's Frozen Custard	<i>2:30 pm - 4:30 pm</i> 6:30 pm - 8:30 pm	<i>1:00 pm - 4:00 pm</i>	6:30 pm - 8:30 pm
		Proposed <u>Operating</u> Hours		
		Monday-Friday	Saturday	Sunday
7	UCode	2:00 pm - 6:30 pm	9:00 am - 2:00 pm	12:00 pm - 2:00 pm

C. Minor Conditional Use Permit:

Issues

Per Table 6.1 of The Downtown Village Specific Plan, tutoring is classified under “commercial schools” which requires a Conditional Use Permit. UCode as proposed, will offer coding and programming instructions to children who will be dropped-off and picked-up at the location. As discussed with the City Traffic Engineer, in an attempt to prevent any potential traffic impact, drop-off and pick-up times will be required to be staggered at least ten (10) minutes apart as a condition of approval for this request. Additionally, as a condition of approval, an evaluation period will be imposed to monitor and identify any potential and unforeseen traffic impacts. Evaluation will be every six (6) months after the approval date of this request, for a period of two (2) years. As proposed, tutoring will be done on a continuous basis without set times for sessions. This will distribute the traffic flow throughout UCode’s operating hours and prevent potential congestion.

Findings

1. The proposed use will not be in substantial conflict with the adopted general plan for the area.

The tutoring center is consistent with the General Plan policy of encouraging a balanced commercial base. The tutoring center would contribute to the diversity of business types within the commercial center and will not change the existing level of use to an unreasonable extent. The center has variety of businesses which may benefit as a result of parents and children visiting these establishments while awaiting for pick-up and drop-off. Staff supports the finding.

2. The requested use of the location proposed will not:

- a. **Adversely affect the health, peace, comfort or welfare of persons residing or working in the surrounding area, or**
- b. **Be materially detrimental to the use, enjoyment or valuation of property of other persons located in the vicinity of the site, or**
- c. **Jeopardize, endanger or otherwise constitute a menace to public health, safety or general welfare.**

There is no evidence that any detrimental effects could be anticipated in terms of noise, litter, or other nuisances. As a condition of approval, pick-up and drop-off times will be required to be staggered at a minimum of (10) minute intervals. Additionally a site traffic impact evaluation will be conducted every six (6) months for two (2) years and if any negative circulation impact is identified, mitigation measures will be required by the City. The proposed tutoring center is for children who will primarily be dropped-off and picked-up during afterschool hours. This should not result in increased parking demand in relation to the previous retail use of the site. Staff supports the finding.

3. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features to integrate said use with the uses in the surrounding area.

No change in square footage is proposed for the tenant space and building. The new "tutoring" use is not anticipated to increase the parking demand from the previous "retail" use. Students will generally be dropped-off and picked-up throughout the hours of operation of the establishment. There are six existing businesses within the center. Flintridge Proper, being a restaurant, has the most potential for parking demand. However, operating hours of UCode and Flintridge Proper will not interfere substantially since restaurant's peak hours start only after UCode is closed. Staff supports the finding.

4. The proposed site is adequately served:

- a. by highways or streets of sufficient width and improved as necessary to carry the kind and quantity of traffic such use would generate, and**
- b. other public and private service facilities as are required.**

No effect on required infrastructure would result from the requested tutoring center use. The proposed tutoring center use is not anticipated to increase parking demand which has access to and from two main streets to an unreasonable level. Staff supports the finding.

5. The proposed project preserves the existing scale and character of the surrounding neighborhood and protects public views, and aesthetic and other property values in the neighborhood:

The proposed tutoring center would utilize the space within the existing building. There will be no square footage added as part of the proposal. In addition, no exterior improvements are proposed, while the use is consistent with the character of the immediate area. Staff supports the finding.

D. Summary/Recommendation:

Based on the above analysis, staff recommends that the MCUP 518 **BE APPROVED**, subject to the conditions listed in Exhibit "A", attached to the draft resolution.

E. Attachments:

1. Staff Report for Variance 07-05 (September 25, 2007, Planning Commission Hearing).
2. Resolution 07-101 & Conditions of Approval for Variance 07-05 (Approved October 9, 2007).
3. Ordinance No. 380 - Approving parking requirement reduction for retail & restaurant use.
4. Site and Floor Plans for UCode.

RESOLUTION NO. 15 - Draft
A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF LA CAÑADA FLINTRIDGE
APPROVING MINOR CONDITIONAL USE PERMIT 518
FOR COMMERCIAL SCHOOL / TUTORING USE
AT 468-A FOOTHILL BOULEVARD IN
THE MIXED USE II ZONE
AS REQUESTED BY SCOTT MUELLER
DOING BUSINESS AS UCODE

WHEREAS, a request by Scott Mueller has been received for a Minor Conditional Use Permit (MCUP) to allow tutoring as commercial school use in an existing building, said request attached hereto and incorporated herein by reference; and

WHEREAS, the Planning Commission, on October 13, 2015 after publication and posting of notice in the prescribed manner, held a public hearing on the MCUP request; and

WHEREAS, in compliance with the California Environmental Quality Act, the Planning Commission reviewed the Initial Study Questionnaire and related materials and hereby determines that the project will have no significant impact on the environment, which is Categorical Exempt from the provisions of the California Environmental Quality Act, under Section 2.5(a)(1) of the City of La Cañada Flintridge Guidelines for the Implementation of CEQA.

WHEREAS, the Planning Commission finds that all the facts contained in the staff report dated October 13, 2015, regarding the application for a MCUP 518 at 468-A Foothill Boulevard are true and correct, and the Planning Commission hereby adopts said staff report as its own findings of facts; and

NOW, THEREFORE, the Planning Commission hereby finds and determines as follows:

Section 1.

Conditional Use Permit:

1. The proposed use will not be in substantial conflict with the adopted general plan for the area. The tutoring center is consistent with the General Plan policy of encouraging a balanced commercial base. The tutoring center would contribute to the diversity of business types within the commercial center and will not change the existing level of use to an unreasonable extent. The center has variety of businesses which may benefit as a result of parents and children visiting these establishments while awaiting for pick-up and drop-off.
2. The requested use of the location proposed will not:
 - a. Adversely affect the health, peace, comfort or welfare of persons residing or working in the surrounding area, or
 - b. Be materially detrimental to the use, enjoyment or valuation of property of other persons located in the vicinity of the site, or

- c. Jeopardize, endanger or otherwise constitute a menace to public health, safety or general welfare.

There is no evidence that any detrimental effects could be anticipated in terms of noise, litter, or other nuisances. As a condition of approval, pick-up and drop-off times will be required to be staggered at a minimum of (10) minute intervals. Additionally a site traffic impact evaluation will be conducted every six (6) months for two (2) years and if any negative circulation impact is identified, mitigation measures will be required by the City. The proposed tutoring center is for children who will primarily be dropped-off and picked-up during afterschool hours. This should not result in increased parking demand in relation to the previous retail use of the site.

- 3. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features to integrate said use with the uses in the surrounding area. No change in square footage is proposed for the tenant space and building. The new "tutoring" use is not anticipated to increase the parking demand from the previous "retail" use. Students will generally be dropped-off and picked-up throughout the hours of operation of the establishment. There are six existing businesses within the center. Flintridge Proper, being a restaurant, has the most potential for parking demand. However, operating hours of UCode and Flintridge Proper will not interfere substantially since restaurant's peak hours start only after UCode is closed.
- 4. The proposed site is adequately served by highways or streets of sufficient width and improved as necessary to carry the kind and quantity of traffic such use would generate, and other public and private service facilities as are required. No effect on required infrastructure would result from the requested tutoring center use. The proposed tutoring center use is not anticipated to increase parking demand which has access to and from two main streets to an unreasonable level.
- 5. The proposed project preserves the existing scale and character of the surrounding neighborhood and protects public views, and aesthetic and other property values in the neighborhood. The proposed tutoring center would utilize the space within the existing building. There will be no square footage added as part of the proposal. In addition, no exterior improvements are proposed, while the use is consistent with the character of the immediate area.

Section 2.

Based on the above findings, the Planning Commission of the City of La Cañada Flintridge hereby APPROVES the Minor Conditional Use Permit to allow tutoring use at 468-A Foothill Boulevard, subject to the conditions attached to this resolution.

PASSED, APPROVED AND ADOPTED this 13th day of October, 2015.

Chair of the Planning Commission

ATTEST:

Secretary to the Planning Commission

EXHIBIT - A

CONDITIONS OF APPROVAL
MINOR CONDITIONAL USE PERMIT 518
468-A FOOTHILL BOULEVARD

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 Minor Conditional Use Permit 518.
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 as shown on the project plans labeled Minor Conditional Use Permit 518, 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 "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.
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, deposits and assessments to the City of La Cañada Flintridge, as established by policy, ordinance or resolution of the City Council prior to occupancy or initiation of use. This includes payment for contracted staff services as invoiced to the city.

- 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 request. 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 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. Signage shall be subject to Design Commission review and approval as part of a separate application and building permit.
- 12. Pick-up and drop-off shall be staggered throughout the hours of operation. Scheduled appointments shall be staggered by 10 minutes to reduce circulation impacts. Schedule records shall be available to City staff upon request.
- 13. The City will monitor the traffic circulation for potential impacts at the subject site every six (6) months from the date of the approval of this MCUP 518 for 2-years. Should any negative traffic impacts be identified due to this use, as determined by the Director of Community Development, Director of Public Works, and or City Traffic Engineer, this approval shall be subject to reevaluation and amendment. Amendment shall include traffic circulation mitigation measures, or any other improvements to the satisfaction of the City, subject to applicable review process and fees.
- 14. Any deviation from the proposed use, hours of operation, number of employees or any other substantial change as determined by the Director of Community Development may require an amendment of this MCUP 518 subject to applicable review process and fees.
- 15. Failure to conform to the conditions listed above, or if the proposed use is found to be detrimental to the public health or safety, or determined to be a nuisance, pursuant to Chapter 11.50.010 (D) and (E) of the City of La Cañada Flintridge Municipal Code, the Planning Commission reserves the right to revoke or modify the approval of this Minor Conditional Use Permit (MCUP 518).

#

ORDINANCE NO. 380

**AN ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF LA CAÑADA FLINTRIDGE
APPROVING ZONE CHANGE AMENDMENT 09-02
TO THE DOWNTOWN VILLAGE SPECIFIC PLAN
SECTION 7.4.1 PARKING
REDUCING THE PARKING REQUIREMENTS FOR
RETAIL AND RESTAURANT USES AND
CREATING A SHARED PARKING PROCESS**

WHEREAS, On September 8, 2009 the Planning Commission held a public hearing in the manner prescribed by law, adopted a Negative Declaration indicating that the project would have no significant impacts on the environment, and recommended that the City Council approve the amendments to Section 7.4.1 Parking to reduce parking requirements for retail and restaurant uses and to create a shared parking process.

WHEREAS, On October 19, 2009, the City Council held a public hearing in the manner prescribed by law, introduced the ordinance and upheld the adoption of the Negative Declaration indicating that the project would have no significant impacts on the environment, on November 2, 2009, conducted the second reading of the ordinance to reduce the parking requirement for retail and restaurant uses and to create a shared parking process.

NOW, THEREFORE, the City Council of the City of La Cañada Flintridge hereby ordains as follows:

Section 1. Section 7.4.1 Parking, of the City of La Cañada Flintridge Downtown Village Specific Plan, is hereby amended to read as follows:

CHAPTER 7 DEVELOPMENT STANDARDS AND DESIGN GUIDELINES

7.4.1 Parking

7.4.1.1 Parking Standards (Without Parking District)

If the Village Center Parking District is not established the following parking standards shall apply (uses not covered in this section shall be covered by the parking provisions of the CPD (Community Planned Development) Zone, Section 11.14.030.D Parking of the Zoning Code):

7.4.1.1.1 Parking for conditional uses and uses not specified: For any conditionally permitted use, or where parking requirements for any use are not specified, parking shall be provided in an amount which the Director of Community Development finds adequate to prevent traffic congestion and excessive on-street parking. Wherever practical, such determination shall be based upon the requirements of the most comparable use specified in this section.

7.4.1.1.2 Parking Spaces: Parking spaces shall not be less than 9 feet in width and 20 feet in depth, except that parking spaces with sides abutting a wall, curb, fence or similar obstruction, shall be a minimum of 11 feet in width.

7.4.1.1.3 Parking Lot Site Plans: Ninety-degree parking is encouraged throughout the Downtown Village Specific Plan area.

7.4.1.1.4 Drive-through Service Lanes: Drive-through service lanes are not permitted in the Downtown Village Specific Plan area.

7.4.1.1.5 Restaurants: Ten spaces per 1,000 square feet of gross floor area for restaurants within the downtown specific plan area.

7.4.1.1.6 Commercial and Office: Four spaces per 1,000 square feet of gross floor area for professional or Business office, general commercial, retail, sales and service uses.

7.4.1.1.7 Shared Parking: Shared parking shall be permitted by approval of a Conditional Use Permit. The Planning Commission shall find that the shared parking will provide sufficient parking during the peak parking demand period, that the parking is appropriate and in line with the goals of the Downtown Village Specific Plan, and that the shared parking complies with the following conditions:

- A signed agreement between the applicant and the property owner to share their parking. The agreement shall be approved by the City.
- Shared on-site parking between land uses with different periods of peak parking demand shall be allowed for all uses in the Downtown Village Specific Plan area so long as documentation can be provided showing that the existing or anticipated land use(s) will have different periods of peak parking demand and the shared parking can accommodate the parking demand for both uses.
- Off-site parking within five-minute walking distance (900 to 1,200 feet at 3–4 feet per second walking speed) may be allowed for all uses in the Downtown Village Specific Plan Area. Off-site parking located further than the designated five-minute walking distance may be allowed at the discretion of the Planning Commission so long as there is documentation that a shuttle bus service or valet parking service will be provided. Off-site parking shall be allowed to satisfy 100% of the minimum parking requirement for each use, so long as documentation can be provided showing that the off-site parking can accommodate the parking demand for the proposed land use.
- Signage to direct vehicles to the shared parking facility, and pedestrians from the parking facility to each use shall be installed.
- Pedestrian access ways shall be provided from the parking facility to each use, which may include the removal of physical barriers such as walls and vegetation.
- A parking assignment and/or management plan shall be created in conjunction with the shared parking agreement. This plan will specify which spaces are available to users of which establishments, or whether spaces are unassigned. It will also detail any permit, time limit or other restrictions to ensure that spaces are available for the intended users.
- Shared driveway access for all users of the parking facility shall be provided where appropriate.
- Participation by the property owner in any future Transportation Management Association or similar organization may be required.

7.4.1.1.8 Valet Parking: Valet parking shall be allowed in the Mixed Use 1 and 2 zones subject to a Director's Review. As part of the Director's Review, the Director of Community Development shall determine whether the proposed valet parking will create traffic congestion, excessive on-street parking, or have a significant impact on neighboring businesses. As a condition of approval, the Director shall provide for periodic review of the valet parking. The Director may approve, deny or condition the valet parking at the initial review or the periodic review. The applicant shall provide a site plan identifying the location of the valet drop-off and the temporary valet parking area, acknowledgement and approval of the property owner, and the days and time for the valet parking.

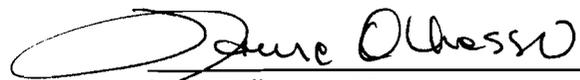
7.4.1.2 Parking Standards (With Parking District)

When a Parking District is established in the Village Center at a future time by the City, applicants may subsequently purchase "in lieu" parking spaces outside of their properties as a substitute or supplement to the provision of onsite spaces.

The pedestrian environment being created through the Specific Plan will create more multiple-purpose trips and walking, as opposed to driving, between some of the destinations resulting in reduced parking requirements for Commercial, Office and Restaurant Uses. Prior to or at the time the Village Center Parking District is established, parking ratios shall be established by ordinance for the Parking District.

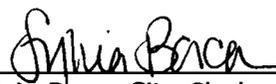
Section 2. This ordinance shall take effect 30 days after its final passage and within 15 days after its passage, the City Clerk shall cause it to be published in the La Cañada Valley Sun, a newspaper of general circulation in the City of La Cañada Flintridge, and hereby designated for that purpose.

PASSED, APPROVED AND ADOPTED THIS 2ND DAY OF NOVEMBER, 2009.



Laura Olhasso, Mayor

ATTEST:



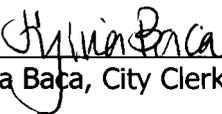
Sylvia Baca, City Clerk

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 Ordinance No. 380 was introduced for first reading on October 19, 2009. Thereafter, said Ordinance was duly approved and adopted at a regular meeting of the City Council on November 2, 2009 by the following vote:

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

Dated: November 3, 2009



Sylvia Baca, City Clerk

RESOLUTION NO. 07-101

**A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF LA CAÑADA FLINTRIDGE
APPROVING VARIANCE 07-05
FOR A REDUCTION IN THE AMOUNT OF PARKING
REQUIRED FOR A COMMERCIAL CENTER (LOS GRINGOS LOCO)
AT 458-468 FOOTHILL BOULEVARD
AS REQUESTED BY BENT HANSEN**

WHEREAS, a request by Bent Hansen, agent for property owner Saied Isaacson, has been received for a Variance to allow a reduction in the number of parking spaces required for expansion of a restaurant use on a commercial site. The site requires 92 parking spaces, but only has room for 43, said request attached hereto and incorporated herein by reference; and,

WHEREAS, the Planning Commission, on September 25, 2007, after publication and posting of notice in the prescribed manner, held a public hearing on the Variance; and

WHEREAS, the Planning Commission has reviewed the facts contained in the staff report dated September 25, 2007 regarding the application for a Variance at 458-468 Foothill Boulevard, and heard and considered the testimony of the applicant and the public; and

WHEREAS, in compliance with the California Environmental Quality Act, the Planning Commission reviewed the Initial Study Questionnaire and related materials and hereby determines that the project will have no impact on the environment, which is Categorical Exempt from the provisions of the California Environmental Quality Act, under Section 2.5(c) of the City of La Cañada Flintridge Guidelines for the Implementation of CEQA.

NOW, THEREFORE, the Planning Commission hereby finds and determines as follows:

- A. That because of special circumstances or exceptional characteristics applicable to the property, the strict application of this code deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification. The city has non-conforming parking situations existing at almost every commercial location within the city. This is a result of the city's age. The commercial areas were laid out and largely developed in the 1920s-1950s with little regard to the need or demand for automobile parking. Later imposed parking standards have not accounted for these early limitations, and the lack of redevelopment of the sites over time. The Downtown Village Specific Plan contains reduced parking standards for commercial uses, but those standards do not apply until a parking district has been formed for the downtown area. No parking district has yet been formed. Because the reduced standards do not yet apply, similar variances for parking have been granted in the past for Taylor's Steak House, the former Rubio's Restaurant, Sweatz gym, La Canada Presbyterian Church, St. Bedes Church and others. These sites were also not able to meet their parking requirements due to the exceptional characteristics of the site. For these reasons, this site should be treated no differently, and a reduction in parking should be permitted.

- B. That the adjustment authorized will not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the property is situated. The reductions granted to Taylor's Steak House, Rubio's Restaurant, the La Canada Presbyterian Church, and St. Bedes Church were all in the range of around twenty spaces making the reduction in parking approximately the equivalent of the reductions granted to other properties in the area under similar zoning. The parking was also generally commensurate with the actual need. In this case, there is a need to provide at least seven additional spaces (as conditioned) to capture the incremental difference between the current parking and future parking. The adjustment takes into consideration the restriction of use of the expansion area so that parking becomes available for this area after other uses in the center are closed. This adjustment would therefore be consistent with the adjustments allowed on other sites in the commercial areas (time displacement).

- C. That strict application of zoning regulations as they apply to such property will result in practical difficulties or unnecessary hardships inconsistent with the general purpose of such regulations and standards. The only way that the current parking standards could be met would be to close off the mezzanine and close one of the retail stores. This would result in a practical legal difficulty and an unnecessary hardship to the property owner, and to the city which promotes commercial activities in the downtown. This is a hardship that the city is not willing to impose on private property. This variance restricts the use of the expansion area until such time as other uses in the center have closed. This decreases the demand for parking during the day, and as more parking becomes available from other closed businesses on the site, the parking situation is not exacerbated.

- D. That such adjustment will not be materially detrimental to the public health, safety or general welfare, or to the use, enjoyment or valuation of property of other persons located in the vicinity. The design of the parking lot will be in accordance with all the city standards for access, size of spaces, landscaping, etc. The existing number of spaces will not change, however, the demand for space will decrease slightly with the barber shop area closed during the typical 9 a.m. to 5 p.m. time period. As the other retail establishments close, more parking will be available for the restaurant. Nothing about the design would have a detrimental effect upon public health, safety or general welfare, or to the use, enjoyment or valuation of property of other persons located in the vicinity as conditioned.

- E. That the proposed project preserves the existing scale and character of the surrounding neighborhood and protects public views, and aesthetic values in the neighborhood as conditioned. The parking lot will be subject to review and approval by the Design Commission. This will include the addition of required landscaping, correct striping, trash enclosure, fencing, signage and access to buildings. The lot will remain a parking lot, thereby not upsetting the existing character of the area. The current and future design does not block or interfere with any public views or aesthetic values in the area, when completed.

BASED ON THE ABOVE FIVE FINDINGS, the Planning Commission of the City of La Cañada Flintridge hereby approves the Variance for parking, subject to the conditions attached herein as Exhibit A.

PASSED, APPROVED AND ADOPTED this 9th day of October, 2007.

ORIGINAL SIGNED

Chair of the Planning Commission

ATTEST:

ORIGINAL SIGNED

Secretary to the Planning Commission

CONDITIONS OF APPROVAL

Variance 07-05

458-468 Foothill Boulevard

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 Variance 07-05, or as modified by conditions herein or by the Design Commission.
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 as shown on the site plan labeled Variance 07-05, Site Plan, 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 as they pertain to this project 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 Department 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, deposits and assessments to the City of La Cañada Flintridge, as established by policy, ordinance or resolution 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 Conditional Use Permit and/or Modification. 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.

11. The expanded seating area requested for the restaurant shall be closed to patrons until 5:00 p.m. everyday except Sunday. The kitchen portion of the expansion area shall be available at all times.

12. The rear parking lot area shall be cleared of all lean-to structures, all interior fencing and illicit storage areas. A trash enclosure shall be constructed in accordance with Downtown Village Specific Plan standards. A walled, fire-proof cooking oil/grease storage area shall also be constructed in the rear parking lot. The grease storage shall be within an approved enclosure with appropriate floor design. No grease or liquids shall be permitted to flow out of the trash enclosure or the cooking oil/grease enclosure, or otherwise leave the site. A six-foot concrete block wall shall be constructed along the southern boundary of the southern (rear) parking lot. The wall shall be a muted color that blends with the building. Landscaping shall be included between the wall and the asphalt parking surface. The parking lot striping design shall maximize the number of spaces on-site. The space striping shall be refreshed (repainted) to stand out clearly. The parking lot design and improvements shall be subject to approval by the Traffic Engineer, the Design Commission and the Community Development Director. All these improvements shall be completed prior to occupancy of the expanded area.

13. Signage within the rear parking lot shall meet the requirements of the previous lot line adjustment approval (1986).

14. The rear of the building shall be painted to minimize the appearance of conduits, unify the color scheme, and reduce reflected glare onto adjacent residential properties.

15. The rear parking lot shall be limited to motor vehicles exclusively, but shall exclude vehicles over two-ton rated capacity. [Zoning Ordinance Section 11.11.030.C.7.]

16. The applicant shall provide a shared parking agreement for restaurant employee parking on adjacent non-impacted parking lots, subject to approval of the Community Development Director. If a parking agreement cannot be obtained, the applicant shall devise and execute an on-site parking program for employees that may include tandem parking in the rear lot, or other suitable arrangement. In no case shall employees park on streets within the neighboring residential areas.

17. The City may process the formation and creation of a parking district pursuant to and as permitted by state or local law for the purpose of reducing the need for on-site parking that would serve this property and proposed project. As a condition of the parking variance approval, upon issuance of a building permit and construction started on this project, applicant/property owner agrees to and waives any protest to the formation of such parking district. Further, the parking variance approved herein is granted until such time as a parking district covering this property is formed, upon which the in-lieu fee established by the parking district shall be paid by applicant/property owner for each parking space required under the district and not provided on-site or on a City approved off-site location.

PLANNING COMMISSION STAFF REPORT

September 25, 2007 Hearing

Applicant:

Bent Hansen
464 Foothill Boulevard
La Cañada Flintridge, CA 91011

Case Type / Number:

Variance 07-05

Owner:

Saied Isaacson
631 S. Olive Street
Los Angeles, CA 90014

Site Address: 458-468 Foothill
Boulevard

Project Planner:

Fred Buss



1. Request: The request is for a Variance to allow a reduction in the number of parking spaces required for expansion of a restaurant on a site that contains the restaurant and other retail uses. The shopping center site currently requires eighty-five parking spaces. Trading retail space for additional restaurant space increases the parking requirement to ninety-two spaces, an increase of seven spaces. The shopping center currently has forty-three spaces. This request would increase the parking shortage from forty-two spaces to forty-nine spaces.

2. Location: The property is located at the southeast corner of Foothill Boulevard and Gould Avenue.

3. Project Area:

Site:	29,735. sf
Existing Building:	11,450. sf

4. General Plan/Zoning/Existing Land Use: The General Plan Land Use Map designates the site Downtown Village Specific Plan and Very Low Density Residential. The site is zoned R-1-20,000 and Mixed Use 2. The property is currently developed with a retail center including one restaurant.

6. Environmental Impact Review: Based on a review of the Initial Study Questionnaire and related materials, staff has determined that no significant environmental impacts would result from the project, which is Categorically Exempt from the requirements of the California

Environmental Quality Act under Section 2.5(a)(1) of the City of La Cañada Flintridge Guidelines for the Implementation of CEQA.

7. Previous Actions: Original construction activity.

8. Pending and Potential Actions: Plan check and issuance of building permits.

9. Project Characteristics and Analysis: The proposal consists of a single parcel (lot line adjustment occurred in the past) with a single multi-tenant building in the Downtown Village Specific Plan area. Parking on the site currently equals forty-three (43) marked spaces and landscaping. The current parking arrangement is split into front and rear lots. The current and proposed parking requirement breakdown is shown in the spreadsheet below.



Retail parking is based strictly on gross floor area. Restaurant parking is based on amount of seating, waiting area and employee count.

Changing from retail to restaurant will always increase the parking requirement.

The existing parking lot has a total of forty-three (43) spaces including handicapped. This is split in two lots with 32 spaces in front and 11 spaces in the rear. The site's retail and restaurant uses currently require 85 spaces as shown in the above chart. This is 42 spaces more than available. The change from barber shop to restaurant results in the requirement for seven more spaces, raising the total required to 92 (a shortage of 49 spaces).

The site cannot be expanded to accommodate more than the existing forty-three spaces. Current landscaping requirements would eliminate some of the existing spaces. Even if a parking district is formed within the DVSP, the parking requirement would be 57 spaces. However, if the current restaurant were returned to all retail space, the center's parking requirement would be 43 spaces.

9.A. PARKING DEMAND STUDY

Staff had the City's Traffic Engineer analyze the site. Based on the shared parking requirements of the adjacent retail building, a parking demand analysis was conducted to determine if the

proposed parking supply would satisfy the required and expected parking demand. Calculated parking rates are identified below:

Existing Land Use	Size	City Parking Code		ITE Parking Generation	
		Parking Rate	Demand (Spaces)	Parking Rate (Veh/1,000 SF)	Demand (Spaces)
Retail (ITE Code 820)	9,095 SF	5/1,000 SF	45.48	4.74/1,000 SF	43.11
Sit Down Restaurant (ITE Code 932)	2,250 SF	1 sp/30sf wait+ 0.5 sp/employee+ .33 sp/booth seat+ 0.2 sp/table area	38.80	16.3/1,000 SF	36.68
Total Parking Demand	11,345 SF		84.28 (85)		79.79 (80)
Proposed Supply			43		43
Surplus/Deficiency(-)			-42		-37
Proposed Land Use					
Retail (ITE Code 820)	8,345 SF	5/1,000 SF	41.73	4.74/1,000 SF	39.56
Sit Down Restaurant (ITE Code 932)	3,000 SF	1 sp/30sf wait+ 0.5 sp/employee+ .33 sp/booth seat+ 0.2 sp/table area	49.32	16.3/1,000 SF	48.90
Total Parking Demand	11,345 SF		91.05 (92)		88.46 (89)
Proposed Supply			43		43
Surplus/Deficiency(-)			-49		-46

As indicated above, the project's code required parking would exceed supply by 49 spaces, or 214% over capacity, and the project's ITE Parking Generation estimates would exceed supply by 46 spaces.

9.B. SHARED PARKING ANALYSIS

Straight City Code and ITE parking calculations do not consider fluctuations in parking demand during different times of the day for various uses sharing the same parking lot. Therefore, the City Traffic Engineer conducted a shared parking analysis for the proposed project. As shown on

the attached analysis, there are common peak hours for both retail and restaurant uses which resulted in no advantage gained by shared uses within the shopping center at 458-468 Foothill Boulevard.

9.C. CITY TRAFFIC ENGINEER'S CONCLUSIONS

Since the project does not provide the minimum code required parking nor does it meet generally accepted nationwide parking rates, a significant impact to the surrounding streets and neighborhood would be expected. Even though curb parking may not be used in the calculation of required spaces, there are very few public spaces adjacent to commercial properties to accept overflow parking. This condition will exacerbate the existing overflow parking condition adjacent to residential properties on Gould Avenue south of the project site. The City has received numerous complaints about overflow parking from this shopping center, and has been previously directed by the Public Works and Traffic Commission to work with the owners to relieve the parking demand and increase the number of on-site parking spaces.



9.D. CITY TRAFFIC ENGINEER'S RECOMMENDATION

Based on the above analysis, it is the recommendation of the City Traffic Engineer to deny the proposed expansion of the existing restaurant at 464 Foothill Boulevard. Alternately, at least 7 additional parking spaces should be obtained, either on-site or off-site, before any change in tenant space is considered in order to offset any further degradation of the overflow parking demand in the residential area.

10. Findings: The Planning Commission may only approve an application for a Variance where the information submitted by the applicant, analyzed by staff and/or presented at public hearing substantiates all five of the following findings. Staff was not able to recommend support for all five Findings.

- A. *That because of special circumstances or exceptional characteristics applicable to the property, the strict application of this code deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification.*

This is a case where the applicant wishes to expand a use that has large negative parking implications and has no possibility of being able to provide additional parking. The parking required is twice that currently provided on the site. The applicant has not offered any special circumstances or exceptional characteristics that indicate how this property should be treated any differently than the neighboring properties. The characteristics of the site are similar to all the surrounding uses on Foothill Boulevard. Staff cannot recommend support of this Finding.

B. That the adjustment authorized will not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the property is situated.

Allowing this site to forgo the requirements for additional parking would be tantamount to repealing the parking regulations for this applicant. Allowing the use to expand without providing any additional parking would amount to a grant of special privilege for this applicant since all other properties in the vicinity are required to adhere to the parking standards. Staff cannot recommend support of this Finding.

C. That strict application of zoning regulations as they apply to such property will result in practical difficulties or unnecessary hardships inconsistent with the general purpose of such regulations and standards.

D. That such adjustment will not be materially detrimental to the public health, safety or general welfare, or to the use, enjoyment or valuation of property of other persons located in the vicinity.

The parking regulations are in place to ensure that each use of property can accommodate a reasonable number of places to park automobiles that will not jeopardize the public's safety or impinge upon their general welfare. The regulations in the Zoning Ordinance are designed to address the various intensities of uses, and ensure that the parking for one use is not overriding the parking for another use, to that use's detriment. In this case, the applicant is, in essence, requesting that he be allowed to subvert all the parking spaces on the site to his use. The rights of the other businesses in the center to provide reasonable parking places to support their businesses would be put under undue pressure if this variance is approved. Moreover, with diminished parking, the valuation of the other tenants' businesses would be greatly devalued if there is not enough parking on the site due to the expansion of the restaurant. Staff cannot recommend support of this Finding.

E. That the proposed project preserves the existing scale and character of the surrounding neighborhood and protects public views, and aesthetic values in the neighborhood.

11. Recommendation:

Based on the above discussions, staff has concluded that the findings cannot be made for approval of the Variance, and recommends that the request **BE DENIED**.