

**MINUTES OF A MEETING OF THE PLANNING COMMISSION  
OF THE CITY OF LA CANADA FLINTRIDGE  
HELD ON JANUARY 10, 2012**

- I. CALL TO ORDER:** 6:00 p.m.
- II. ROLL:** Chairman Curtis, Commissioner Cahill, Commissioner Der Sarkissian, Commissioner Jain, Commissioner Gunter, Director Stanley, Planner Clarke, Planner Gjolme, Assistant Planner Lang, Assistant Planner Parinas, and Deputy City Attorney Guerra were present.
- III. PLEDGE OF ALLEGIANCE:** Commissioner Cahill led the flag salute.
- IV. COMMENTS FROM THE PUBLIC:** At this time, members of the audience may address the Commission regarding matters that are not on the agenda or matters that are on the Consent Calendar.
- V. REORDERING OF THE AGENDA:**

Item IXA. was moved after item V. and item IXC. was moved after item VIA.

**VI. CONSENT CALENDAR:**

- A. Minutes** – May 24, July 26, August 4, September 27, October 11, November 1, November 2, 2011 meetings. – Commissioner Cahill motioned to approve the consent calendar, Commissioner Der Sarkissian seconded. 5-0.

**VII. CONTINUED PUBLIC HEARINGS**

- A. Hillside Development Permit 11-24, Second Floor Review 11-14, Modification 11-09 (SB) and Variance 11-03; 5489 Ocean View Boulevard; Nefas:** (Continued from October 11, 2011) Request to allow a 1,563 sf expansion of an existing house including a new second floor and covered patios, and for encroachments into the side and front setbacks and for an encroachment into the south side angle pane. Staff is recommending that the Planning Commission approve a Categorical Exemption for this project. (Planner Clarke)

Planner Clarke presented the project in accordance to the staff report.

Commissioner Der Sarkissian asked if the floor area ratio would be okay if the deck is converted to living area.

Planner Clarke responded that the deck is roofed and is included in the floor area calculation.

Chairman Curtis opened the public hearing.

Mr. Nefas, property owner, explained that by placing the structure even with the neighboring structure a modulating effect is created. Overall the bulk is more aesthetically pleasing. A 2:1 pitch sloped roof will be created. There will be no flammable materials used and the house would be safer in a fire safety standpoint.

Chairman Curtis asked how the property owner will deal with potential flooding.

Mr. Nefas stated that the project will raise the garage to 2 feet above the street level so that water will remain in the street. The drainage will be changed so that flooding will not occur on the property.

Commissioner Der Sarkissian asked if the original deck is permitted.

Mr. Nefas clarified that the original deck is permitted.

Commissioner Cahill asked if the deck in the original proposal has been enclosed on all sides.

Mr. Nefas stated that he wanted a sundeck.

Chairman Curtis closed the public hearing.

Commissioner Der Sarkissian stated that the chief problem was the wall and property line. The wall was moved and the problem has been addressed. He would like to see deck roof at the lower height.

Commissioner Jain stated that it is okay for the garage to encroach into the angle plane but he is not okay with the deck encroaching into the angle plane.

Commissioner Cahill stated that the changes address the concerns he had. The project is designed to fix the flooding problem. The only reasonable thing is to allow the applicant to have what existing neighboring properties have now. He supports the project as submitted.

Commissioner Gunter stated that moving away from the property line is significant. He is not concerned with the angle plane variance. He can make all the findings and supports the project as submitted.

Commissioner Curtis supported leaving the second floor as it is designed. He stated that the project is an improvement for the neighborhood.

Commissioner Gunter motioned to approve Hillside Development Permit 11-24, Second Floor Review 11-14, Modification 11-09 (SB) and Variance 11-03, Commissioner Cahill seconded, 5-0 approved.

## **VIII. PUBLIC HEARINGS:**

- A. Setback Modification 11-22; 2100 Los Amigos Street; Chessum/Kristof:** Request to allow a new garage to encroach 27'-6" into required 52'-6" front setback as part of a residential remodel and expansion. Staff would note that the front setback for the garage would be increased from 22'-6" to 25 feet as part of the project. Also, since more than 30% of the existing roof would be removed to accommodate remodel/expansion, the Setback Modification would allow retention of 5-foot side setbacks to the east and west, below the 6'-6" requirement for the 65-foot wide lot. Staff is recommending that the Planning Commission approve a Categorical Exemption for this project. (Planner Gjolme)

Planner Gjolme presented the project in accordance to the staff report.

Mrs. Chessum, property owner, stated that Planner Gjolme explained the complexities of the project very well. She was available for questions.

Chairman Curtis closed the public hearing.

Commissioner Jain concurs with staff and stated that the project is a major improvement. He supports the project.

Commissioner Cahill stated that he approves the setback encroachments. The 25' front setback fits in.

Commissioner Gunter supports the project.

Commissioner Der Sarkissian supports the project. He asked if the west water heater is going to be relocated. He warned about water possibly entering the house with the garage door relocation.

Mrs. Chessum verified that the water heater located on the west side will be relocated.

Chairman Curtis stated that the design is an improvement to the neighborhood. He supports the project.

Commissioner Jain motioned to approve Setback Modification 11-22, Commissioner Der Sarkissian seconded; 5-0.

- B. Hillside Development Permit 11-31; 3887 Chevy Chase Drive; Katz:** Request to allow a retaining wall with a maximum height of 6' 8" fee, enclosing a 538 sf gazebo and a 53 sf addition to the existing house. Staff is recommending that the Planning Commission approve a Categorical Exemption for this project. (Planner Clarke)

Planner Clarke presented the project in accordance to the staff report.

Commissioner Jain asked if staff looked into how the wall was constructed in relation to the Oak trees.

Planner Clarke stated that an arborist report is conditioned.

Chairman Curtis clarified that plans would have to be reviewed by Building and Safety as part of the process.

Commissioner Gunter asked if the enclosures are within the Planning Commission's purview.

Planner Clarke stated that retaining walls over 6' require planning commission approval.

Director Stanley added that the enclosure requires a building permit and projects located on a hillside lot requires a hillside development permit.

Larry Dunn, applicant, explained that there were tree rings there before and the retaining walls were built around the tree rings. The retaining walls were built 6 years ago. As a condition of approval, an arborist report will be provided.

Chairman Curtis asked about the construction of the deck and retaining wall.

Mr. Dunn stated that the deck area is necessary for safety. The gazebo and garage were permitted in 1988. The work was completed May 2006.

Mr. Katz, property owner, explained the history of the property.

Chairman Curtis closed the public hearing.

Commissioner Cahill stated that the main issues are building permits and trees, which will be addressed through the conditions of approval. He supports the project.

Commissioner Gunter stated that the conditions of approval take care of the issues. He supported the project.

Commissioners Jain and Der Sarkissian and Chairman Curtis concurred with fellow Planning Commissioners. They supported the project.

Deputy Attorney Guerra suggested revisions to the numbering. He suggested adding "review and approval of any mitigations" to Condition of Approval #12.

Chairman Curtis motioned to approve Hillside Development Permit 11-31, Commissioner Cahill seconded, 5-0.

## **IX. OTHER BUSINESS**

- A. Tree Removal 11-40; 991 St. Katherine Drive; Morillo:** Request to remediate the removal of three Chinese Elm trees. Staff is recommending that the Planning Commission approve a Categorical Exemption for this project. (Assistant Planner Parinas)

The applicant sent a letter to the Planning Commission asking for a continuance. Continued to a date uncertain. 5-0.

- B. Tree Removal 11-37; 530 Berkshire Avenue; Wang:** Request to allow trimming of six Coast Live Oak trees on the subject property. Staff is recommending that the Planning Commission approve a Categorical Exemption for this project. (Planning Intern Rodriguez)

Planning Intern Rodriguez presented the project in accordance to the staff report.

Commissioner Cahill asked if everything recommended in the arborist report will be included.

Director Stanley clarified that everything in the arborist report will be included.

Chairman Curtis asked how the percentage of removal is determined.

William McKinley, City hired arborist, stated that from knowledge of the growth of the tree, the percentage of how dense the canopy should be could be estimated.

Commissioner Curtis asked Mr. McKinley to explain how excessive trimming affects the health of trees.

Mr. McKinley explained that excessive removal of foliage reduces the tree's ability to produce its sugar that helps it grow and fight off infection. When those sugars are not

being produced the trees are weakened and are susceptible to insect infestation, bacteria, and fungi. Having a full crown allows the tree to stay healthy and have a healthy defense mechanism.

Director Stanley pointed out the full canopy of the trees on the aerial photograph and the amount of foliage removed as shown on the code enforcement photographs.

Franklin Wang, property owner, stated that he hires a tree service to trim trees every other year. The tree service that he hired had a flier that said "licensed and bonded," he did not know that there were only a few trimmers approved by the City. He does not agree with the arborist report. He presented photographs of trees trimmed by the City. He stated that the trees trimmed by the City are comparable to his trees. The insurance company cancelled his insurance because the tree limbs were over the house. When he trimmed the trees the insurance company reinstated his home insurance.

Chairman Curtis closed the public hearing.

Commissioner Cahill stated that the trimming was carried out in a drastic way and was excessive. The arborist that was consulted is a respected arborist, and he recommended the yearly monitoring. He felt that \$500 per year for 5 years for the recommended monitoring is reasonable.

Commissioner Gunter felt that a person who hires a contractor is ultimately responsible for the work done on his property. He could not find a reason to disagree with staff's recommendations.

Commissioner Der Sarkissian stated that he wanted to see the dollar amounts for the amount of monitoring reduced. These trees were not removed. His question about potential future damage was answered previously by Mr. McKinley. He didn't think monitoring every year was necessary. He felt that some penalty was appropriate. He felt that residents should somehow be better educated about tree trimmers. He proposed a reduction of the penalty amount. He agreed with the requirement that the sprinklers and lawn around the trees should be removed.

Commissioner Jain asked for clarification that if the assessed damage is 2%-5% by his calculations how can we recommend monitoring for five years. He felt that the tree should be monitored but not as long as proposed. He also thought that the penalty could be reduced. He thought that two years of monitoring would be enough.

Chairman Curtis agreed with commissioner Jain. He felt that the monitoring could be done at the three year mark and, if necessary, the fifth year. He proposed reducing the deposit to what is reasonable for the amount of site visits. He felt that the damage was not intentional. It also was not the complete removal of the tree. Condition No. 6 should be revised to say that the replacement trees should be three 36" box-sized trees

if the trees die or decline or pay the equivalent amount in to the tree fund. He also wanted to eliminate Condition No. 7 regarding the damage amount of \$3,650.00. He felt it was important to recover the cost of code enforcement and staff time dealing with code enforcement. He felt that the City should be reimbursed for the investigation. He asked the Commissioners to comment further.

Commissioner Cahill does feel that the trees need to be monitored for a certain period and if they die they should be replaced. He supported two monitoring visits over possibly a five year period. He felt the deposit for damages was appropriate but was willing to reduce it if the other Commissioners wished to do so.

Commissioner Gunter also felt that the deposit could be lowered to cover three monitoring visits. He also felt that the applicant was acting in good faith but that they are still responsible. He suspected that the amount to recover costs would be close to the \$3,600.00 that was conditioned. He reiterated that he could support lowering the amount too.

Director Stanley clarified that we do notify the public regarding protected trees. He suggested that the arborist monitor the tree every other year and if on the third year the arborist feels that the tree needs more monitoring then an another deposit would have to be collected for another site visit in the fifth. He felt that five years overall was a good amount of time for monitoring.

Chairman Curtis suggested a \$1,500 deposit for monitoring of the trees on the first, third and fifth year, if necessary. He asked what would cover all staff time.

Director Stanley stated that the amount of time code enforcement spent on the issue could readily be calculated but other staff time, including his, might elevate the amount.

Chairman Curtis stated that he was willing to leave the amount at \$3,600.00. He also clarified that he was proposing three 36" boxed-sized trees per tree that was damaged or in combination with paying into the tree fund.

Director Stanley felt that a 36" box-sized tree is not big enough. He explained that the costs for replacement trees include the cost of the tree and its installation. The size would not be comparable to the tree it is replacing.

Commissioner Der Sarkissian stated that Condition No. 3 should say that the sprinklers should be adjusted to not water within 6' of the tree trunk. He also asked if the monitoring had to be done by an arborist or if staff could do it.

Director Stanley stated that the arborist will look at foliage growth, tree decline, fungus, etc.

Chairman Curtis summarized the concerns of the Commission: insert the word "water" in Condition No. 3; a \$1,500 deposit for monitoring in years one, three and five (if necessary); and keep Condition No. 7 regarding the \$3,600 fine amount for damages to recover costs.

Commissioner Der Sarkissian felt that the damages amount could be reduced to \$2,000.

Commissioner Jain felt that the monitoring program proposed was a good idea and he was okay with reducing the damages amount to \$2,000.

Chairman Curtis was also okay with reducing the damages amount to \$2,000.

Commissioner Der Sarkissian made a motion to determine the mitigation measures with revisions to add the word "water" to Condition No. 3; reduce the deposit amount for monitoring to \$1,500 for first and third year reviews and the fifth year if necessary; and change the amount in Condition No. 7 from \$3,650 to \$2,000; and replacement trees be three 36" boxed-sized trees per tree. All other recommendations in the arborist's report shall also be included, Commissioner Jain seconded; 5-0.

**C. Determination of General Plan Consistency Finding:** Vacation and Dedication of Portions of a Public Alley; and Dedication of a Portion of Beulah Drive. (Senior Planner Buss)

Senior Planner Buss presented the project in accordance to the staff report.

Chairman Curtis opened the item for public comment.

No comments were offered.

Chairman Curtis closed the public comment period.

All the Planning Commissioners were able to make the findings.

Commissioner Gunter motioned and Commissioner Der Sarkissian seconded; 5-0.

**D. Study Session:** Amendment to Chapter 4.26 of the Municipal Code regarding the **Preservation, Protection and Removal of Trees:** Potential revisions include the relocation of the ordinance from the Municipal Code to the Zoning Code and various text changes including, but not limited to revising and adding definitions, conformance to industry standards for measuring trees, enforcement and penalties for violating the Tree Ordinance, and possible revision of the protected tree species and size list. (Assistant Planner Lang)

Assistant Planner Lang provided an update and presented the draft code revisions.

Mr. McKinley stated that Assistant Planner Lang did a wonderful job with the draft code revisions.

Director Stanley stated that Commissioner concerns were addressed and staff just wanted to see if the Commissioners had other concerns.

Deputy Attorney Guerra suggested revising the Code Enforcement section to require that supporting documents be provided to the City to prove emergency tree removals.

Director Stanley stated that if there are no comments, the ordinance will be scheduled for the public hearing because the City needs to move forward and if there are any changes the changes can be made at the next meeting. The meeting will be scheduled and noticed for the February 14 Planning Commission meeting. The draft ordinance will be sent to the Planning Commission by January 20<sup>th</sup>.

Chairman Curtis asked if the draft ordinance could be sent to the companies on the City's list.

Assistant Planner Lang stated that the City notifies the companies in the tree list.

Commissioner Der Sarkissian asked if cuts for retaining walls are clear in the code revision.

Assistant Planner Lang stated that there was consensus that states "no work" shall be done within 5-times the trunk diameter.

Director Stanley stated that "work" can further be defined and explained in the guidelines and in the definition section.

Commissioner Jain proposed including an absolute number where nothing could be done, such as 3-times the trunk diameter.

Chairman Curtis clarified that the number is 5-times the trunk diameter without an arborist report.

Assistant Planner Lang stated that it is up to the Commission if the Commission would like to add an absolute number as Commissioner Jain suggested.

The Planning Commission stated that they do not want to add an absolute number in the Code.

Director Stanley stated that Commissioner comments would be added to the draft ordinance. Staff will incorporate the changes in the new draft ordinance, which will be presented in the noticed public hearing.

Commissioner Der Sarkissian asked if it is illegal to use the words "ISA certified."

Mr. McKinley clarified that the International Society of Arboriculture monitors that. It is not administered by the State of California.

Chairman Curtis thanked the arborists present for attending the meeting.

**E. Discussion with the City Attorney regarding the regulation of retail vendors.**

Deputy Attorney Guerra explained that the discussion is about policies and regulation. It is not an action item. He will not be discussing specific projects but will be giving examples. He explained that liquor stores require a conditional use permit, but there are some liquor stores that have been "grandfathered." The code does not define a liquor store, however the City has determined that 60% would have to be devoted to the liquor store. Monitoring would be done through code enforcement.

Commissioner Cahill asked if the hours of operation gets regulated by the City.

Deputy Attorney Guerra stated that there is no regulation of the hours if there is no conditional use permit.

Commissioner Cahill asked if liquor stores can open 24 hours. He asked if the former La Canada Liquor have a CUP? Can the City overlay hours of operation to something that has been grandfathered?

Deputy Attorney Guerra stated that the City can take a look at overlaying hours.

Commissioner Gunter asked how many liquor stores have CUPs

Director Stanley stated that all liquor stores that opened when the City has been incorporated have CUPs.

Deputy City Attorney Guerra explained that stand-alone convenience stores are not permitted, while convenience stores as an accessory use are permitted. Convenience stores as accessory use are seen in gasoline stations. Existing convenience stores may expand within existing walls subject to a CUP. The gas station on the corner of Angeles Crest Hwy. and Foothill Blvd. recently applied for a CUP to expand the accessory convenience store and it was approved by the Planning Commission.

Commissioner Cahill asked if accessory convenience stores could be operated by a separate business.

Deputy Attorney Guerra stated that the question can bring up legal issues but he can see the argument on both sides.

Director Stanley stated that an example can be a beauty salon with massage as an accessory; the masseuse is an independent operator and we allow that.

Commissioner Gunter stated that he is concerned with impacts to the community. For example, if one restaurant is divided into three different restaurants, it would increase impacts such as traffic.

Chairman Curtis stated that if an application for a CUP was submitted and approved for an accessory convenience store and it is changed to two different operators the project becomes two primary uses.

Director Stanley pointed out that the CUP did not mention the convenience store as an accessory use; there are two uses on-site - a convenience store and a service station.

Commissioner Cahill added that if two operators are advertising, the impacts increase.

Deputy Attorney Guerra clarified that the CUP was to expand the nonconforming convenience store and it was not for an accessory convenience store.

Commissioner Cahill asked what it means to expand within the existing walls

Director Stanley clarified that if there is an existing building with a service station, the convenience store can expand within the service bays: it means to expand within the existing walls of the building.

Commissioner Der Sarkissian suggested using parking requirements to regulate the issue.

Director Stanley clarified that the CUP runs with the land.

Commissioner Gunter stated that the Planning Commission need to pay particular attention to how CUPs are drafted.

**X. REPORT OF DIRECTOR'S REVIEWS** [Director's Setback Modifications; Director's Height Modifications and Director's Second Floor Reviews] –

None

## **XI. COMMENTS FROM THE COMMISSIONERS**

Chairman Curtis asked for a briefing on hillside slope factor guidelines. He also asked when General Plan will be scheduled.

Director Stanley stated that this month the General Plan will be reviewed by the Parks & Recreation Commission, the Public Works Commission and the Public Safety Commission. The General Plan tour will be scheduled for February.

Commissioner Der Sarkissian asked about the retaining walls on 991 St. Katherine Drive.

Director Stanley stated that there was an issue regarding construction within the Public Right-of-Way.

Commissioner Gunter stated that he would like input from other arborists regarding the Tree Ordinance.

Director Stanley stated that the all the arborists on the City's list were sent public hearing notices and were invited to the Planning Commission meeting.

## **XII. COMMENTS FROM THE DIRECTOR**

The next City Council meeting will be held on Tuesday, January 17, 2012 because of Martin Luther King day. The City Council will review the Mills Act and CDBG.

Commissioners Curtis and Gunter signed up for the Planners Institute that will be held March 20-23.

**XIII. ADJOURNMENT:** The meeting was adjourned at 9:26 p.m.