

**MINUTES OF A MEETING OF THE PLANNING COMMISSION
OF THE CITY OF LA CANADA FLINTRIDGE
HELD ON JANUARY 24, 2012**

- I. CALL TO ORDER:** 6:05 p.m.
- II. ROLL:** Chairman Curtis, Vice Chair Cahill, Commissioners Der Sarkissian, Jain, Gunter, Community Development Director Stanley, Attorney Guerra, Assistant Planner Parinas and Planner Clarke.
- III. PLEDGE OF ALLEGIANCE:** Chairman Curtis
- 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:** None.
- VI. CONSENT CALENDAR:**
- A. Minutes** – September 27, 2011 Jain/Der Sarkissian 5-0 to approve.
- VII. CONTINUED PUBLIC HEARINGS**
- A. Modification 10-23; 2153 Lyans Drive; 4202 Castle Road; Roberts/G&S:** (Continued from December 13, 2011) Request to legalize an existing 5'-4" tall outward facing retaining wall with a 5'-0" tall wood fence on top (total height 10'-4") that encroaches 6'-7" into the required 6'-7" north and south side setbacks. The total length of the wall/fence is 70'-0". The applicant is the property owner of 2153 Lyans Drive. The wall/fence is located on an easement on 4702 Castle Road. Staff is recommending that the Planning Commission approve a Categorical Exemption for this project. (Assistant Planner Parinas)
- Assistant Planner Parinas gave an historic overview of the project.
- Commissioner Der Sarkissian asked for clarification of words "easement line" on the plans – is that an easement line or a property line.
- Assistant Planner Parinas clarified that it was a property line and the end of the easement also.

Director Stanley verified that it was both an easement line and property line. The wall continues on beyond the property line and easement, but that issue is not before the PC tonight.

Commissioner Cahill said that they were being asked to look at the issue in a vacuum. According to the attorney for the applicant, granting or not granting an access makes no difference. The court orders say that the neighbor can have access to the property. Doesn't the wall affect the access? How can you disregard the issue of the wall?

Attorney Guerra said that the court already knew about the wall and the access issue. The court said that the neighbors shall have access to the area. They did not say where the access would occur. It's an issue between the parties and not the City.

Commissioner Cahill restated that you cannot disregard the access issue.

Attorney Guerra said that was not an issue for the City to be involved in.

Assistant Planner Parinas said that the mid-portion of the wall is not subject to Planning Commission review and could be done with "by right" with a building permit.

Director Stanley stated that the City Attorney said that the access point is a civil matter - between the two property owners.

Commissioner Cahill spoke about the finding regarding "detrimental" to use. He could see both sides of the issue.

Commissioner Gunter asked about finding E on page 4 of the staff report, regarding a gate and Condition of Approval 16 regarding the existing basketball court.

Assistant Planner Parinas clarified that per the advice of the City Attorney the Condition of Approval requiring a gate was stricken out. She stated that the basketball court requires a Variance approval to be legal. The Condition of Approval requires that it be removed. The applicant has spoken to Director Stanley about keeping the basketball court.

Commissioner Gunter asked if the applicants will ask for a modification to the Condition of Approval.

Director Stanley said that he spoke to the applicants at the public counter and explained the process.

Charles Cummings (attorney for applicants) wanted to address Condition of Approval 16 and be given a reasonable time to apply for Variance for a basketball court in the easement area. He spoke about the application and building permits. The contractor built the entire wall at one time and had permits for it. He can provide certified copies of the contractor's testimony for the case. They don't want to build anything new but keep something that was constructed 20 years ago.

Chair Curtis spoke about the need for a building permit to legalize the wall and the need to work with Building and Safety to show that it was built correctly.

Christina Tusan (owner at 4702 Castle Road) was disappointed at the direction of the staff report. The case has economic impacts on the value of the property. It's a wall in the middle of a property that prevents an owner from accessing his property. She spoke about the court case and how access would be provided by a gate. The gate is not on the property line. The City was supposed to take a position about the wall. The wall was the granting of special privilege. The City Attorney is trying to divorce the court and what the City should do. They would be willing to go back to the court and bring the City into the process. They have contractors willing to build a bridge. The findings ignore the impact of the wall on her and her husband. It's not compatible with other development in the city. They need access to the property. There should not be special treatment for the applicant. The City Attorney was not at the trial or the hearing.

Nick Armen (owner at 4702 Castle Road) said that the applicant is trying to cut him off. The applicant is trying to keep the basketball court. This is a land grab. He would need a 27' long bridge and need ground level access to do the work. The wall has closed off the area. The applicant should supply ground level access. He asked that Commissioners Der Sarkissian and Jain not to recuse themselves like in the October and December meetings.

Commissioner Der Sarkissian said he did not make the "land grab" comment and did not remember recusing himself.

Nick Armen (owner at 4702 Castle Road) disagreed. They did not vote on the issue.

Attorney Guerra clarified that there was no vote on the issue as the case was continued.

Mr. Cummings spoke about the access issues and that they could go back to the court. The judge was aware of the gate issue. There is no ground level access. His client bought the property from the Gans after the easement was established. The easement dates back to 1983 for purposes of ingress and egress for fences and walls and structures. The land can be used for any purpose according to grant deed. The neighbor is an attorney and knows her legal rights and can read the title report. He quoted at length from the court ruling. The neighbor was trying to blackmail his clients for \$200,000.00 to get approval. He was only requesting that the wall and fence be legalized. No access was required by the court. The neighbors never built a bridge due to cost.

Commissioner Jain asked to read the easement.

Chair Curtis said that they had a copy of the easement before and asked the City Attorney for a copy to review.

Both sets of attorneys for the applicants and neighbors agreed that it was the proper easement document to review.

Commissioner Der Sarkissian asked if adding 2,000 square feet would increase the value of the property.

Mr. Cummings said that it would. He said that his client paid for it when he got the property.

Commissioner Der Sarkissian asked if taking away 2,000 sf would reduce the value of the property.

Mr. Cummings said that it would reduce the value of the property.

Commissioner Der Sarkissian said it was not the right solution. He will review it from a legal perspective. The findings are problematic - (A) compatibility and consistent with vicinity and (D) enjoyment of property. He cannot make these two findings.

Commissioner Jain said that the owners on Lyans have some rights. They can support findings as it grants privilege to them. He cannot make Findings 1, 2, 3 and 4.

Commissioner Cahill said the he did not attend the last meeting. He said that the applicants are asking to get permission to build a wall over someone else's property in a way that would make the area unavailable to the property owner. He suggested before that access be provided in some fashion. The fact is that the

owner has a right of access. The Lyan property owners have an easement. The wall would deny access other owners. It is difficult to grant without mitigation. He cannot make Finding # 4. He would vote to deny.

Commissioner Gunter said it was a difficult situation. The easement is irrelevant to the case before them tonight. The issue tonight has to do with the two small sections of the wall but the middle could stay. He is called to review by the zoning ordinance only these two small wall areas. The City has a policy to get compliance when possible. The Commission reviewed one such case recently where the applicant had to pay for permits. It's not his purview to get into the court's decision. It's a civil matter between two property owners. He did not think that allowing the wall is a granting of special privilege. He can approve as proposed.

Chair Curtis said that he has to look as if the wall was not built. He could not make the findings when the actual property owner is objecting and presenting evidence that approval would be a hardship on them. No mention of modification in the easement. No hardship exists. He sided with colleagues and would to deny.

M/S/C Der Sarkissian/Cahill to deny Vote 4-1.

Director Stanley said that he will have to bring back a denial resolution and that an appeal cannot be made until the Commission adopts a resolution of denial.

- B. Modification 11-17/Hillside Development Permit 09-44 (Dir); Anderson; 424 Starlight Crest Drive:** (Continued from November 22, 2011) Request to allow a 62 sq. ft. addition on a hillside lot that encroaches 3'-5" into the required side-yard setback. Staff is recommending that the Planning Commission approve a Categorical Exemption for this project. (Assistant Planner Lang)

Cahill/Jain to continue 5-0 Approved.

VIII. PUBLIC HEARINGS:

- A. Conditional Use Permit 473; 2135 Foothill Boulevard; Lotte Market/Lorel Property LLC:** Request to allow the sale of beer and wine for off-site consumption (off-sale) within an existing market. The project is located in the Community Planned Development (CPD) zone. Staff is recommending that the Planning Commission approve a Categorical Exemption for this project. (Assistant Planner Parinas)

Assistant Planner Parinas gave an overview of the application to allow the offsite sale of beer and wine.

Chair Curtis asked about policy issues regarding other places that allowed alcohol sales.

Planner Parinas said that the Sprouts case was different as that building was over 10,000 sf in size and not in an over-concentrated census tract, according to the State ABC. If Sprouts was located on the north side of Foothill Boulevard, it would be in different census tract. Ralphs, Vons Trader Joes, and Remedy Liquor are in the same census tract located north of Foothill Boulevard.

Chair Curtis asked about a liquor store that was open and has since closed. The City Council would have to make findings if there was a concentration that was adjacent to the site. He spoke about clients of market.

Assistant Planner Parinas said other stores in the area sold alcoholic beverages.

Chair Curtis asked if they proposed to have new signage.

Commissioner Der Sarkissian asked about police records of incidents.

Assistant Planner Parinas said it was not in a high crime area.

Irene Jin (daughter of owner) said that they have been at this location for 9 years. The neighboring business sold beer and wine but is closed now. Now customers are shopping in other areas such as Glendale. 1,058 customers signed a petition saying that they wanted beer and wine to be sold. Other outlets did not have large selection of Asian beer and cooking wine. They are okay not having a new sign outside the store advertising alcohol sales.

Chair Curtis asked how much area will be devoted for beer and wine sales.

Ms. Jin said that they will have a small area for Asian beer and wine. She handed out a petition that had been signed by customers.

Hee Y. Jin (owner) said they opened the store nine and a half years ago. The customers like having beer and wine for sale.

Commissioner Gunter said that the applicant made a good point. Lotte Market provides particular services which were different from what was sold in other stores. He can support the project.

Commissioner Jain spoke about the sustainability of businesses. He said that the Commission should support local businesses and recommended that it be approved.

Commissioner Cahill said it served a community and that they should have beer and wine in a one-stop shop. He completely supported it.

Commissioner Der Sarkissian said he had no problem and supported his colleagues. It's not a case where people come off the freeway and cause problems.

Chair Curtis also supported the application subject to conditions. It reduces travel trips. As to conditions, he stated that no outside signage would be permitted to advertise the sale of alcohol and there would need to be limits on square footage. The business was not turning from market to liquor store.

Assistant Planner Parinas suggested 10% of the floor area to be devoted to alcohol sales.

Director Stanley suggested using a percentage rather than square footage. The resolution will come back to the Planning Commission and then go to the City Council.

Chair Curtis asked to use a percentage. He wanted market to be in compliance with ADA. Not sure if that is the current condition.

Commissioner Der Sarkissian asked if the store changed ownership and increased in size, if this 10% condition would apply.

Director Stanley said that it would require amending the CUP. The 10% figure would apply to the existing store.

Attorney Guerra recommended a continuance to discuss conditions of approval.

Mr. Jin asked if 24' of shelf space would be okay.

M/S/C to approve with resolution to return on consent calendar.
Gunter/Cahill 5-0.

IX. OTHER BUSINESS

None.

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

- HDP 11-43/DM 11-30 (2116 Via Venado Street): Approved allowance of a 156 sf garage addition and a 154 sf addition to a living area on a hillside lot. The additions enclose existing covered floor area. The garage addition would encroach two feet into the require 14' - 6" side yard matching the building's existing encroachment. (January 11, 2012)

Direct Stanley had no comments.

XI. COMMENTS FROM THE COMMISSIONERS

Chair Curtis asked about the item that was continued item on Starlight Crest as the applicant had contacted him on a few occasions.

Director Stanley said that the case would be re-noticed.

Commissioner Jain said that the applicant calls him every second day. They need some limitations on access.

Director Stanley said that it's up to individual commissioners about how they handle people calling them. If they are not comfortable then they need to tell applicants.

Chair Curtis mentioned receiving draft of the tree ordinance.

Commissioner Gunter said that the City Attorney presentation was very helpful and asked to repeat this type of session.

Commissioner Cahill spoke about who makes the application and how the Commission needs to know who the owners of the property are.

Director Stanley said that owners are required to sign applications and that approval goes with the property for a certain length of time. CUP goes away if the use changes. The Commission will get a report about water issues. A La Cañada Irrigation water district official will be at the second meeting In February regarding this issue.

XII. COMMENTS FROM THE DIRECTOR

Chair Curtis and Commissioner Gunter will attend the Planners Institute meeting. He explained the City policy on conferences. They can sign up for mobile tours.

Planner Parinas spoke about cut-off time for alcohol sales. The ABC said that it would be 2:00 am if not stated in CUP.

XIII. ADJOURNMENT at 7:36