

**MINUTES OF A MEETING OF THE PLANNING COMMISSION
OF THE CITY OF LA CANADA FLINTRIDGE
HELD ON JANUARY 25, 2011**

- I. CALL TO ORDER:** Chairman Cahill called the meeting to order at 6:00 p.m.
- II. ROLL:** Present were Chairman Cahill, Vice Chairman Curtis, Commissioners Davitt, Der Sarkissian, Director of Community Development Stanley, City Attorney Steres and Guerra, Senior Planner Buss, Planners Gjolme and Clarke. Commissioner Jain was absent.
- III. PLEDGE OF ALLEGIANCE:** The Pledge of Allegiance was recited.
- VI. COMMENTS FROM THE PUBLIC:** There were no comments offered.
- V. REORDERING OF THE AGENDA:** The agenda was not reordered.
- VI. CONSENT CALENDAR:**
- A.** Minutes: November 9, 2010 - continued; 4-0.
 - B.** Minutes: December 14, 2010 - continued; 4-0
- VII. CONTINUED PUBLIC HEARINGS:** There were no continued public hearings.
- VIII. PUBLIC HEARINGS**
- A. Conditional Use Permit 460/Variance 10-07; Valley Water Company; 1534 Sugar Loaf Drive:** A request to replace two existing water tanks and a Variance for encroachment of the tanks. Staff is recommending that the Planning Commission approve a Categorical Exemption for this project.
- Chairman Cahill inquired if there was any opposition to the request in attendance and after confirming there was none, asked the Commission if a full staff report was necessary. The consensus was that a report was not required.
- Commissioner Curtis inquired about the color of the new tanks.
- Planner Clarke informed the Commission that the same green color would be used.
- Commissioner Curtis confirmed that a condition of approval to paint and maintain the same green color could be added in conjunction with review of a landscape plan for the purpose of screening the new tanks.

Commissioner Curtis visited site and supports the request as proposed with the aforementioned color and landscaping condition.

Commissioner Davitt also visited the site and agrees with the conditions as proposed.

Commissioner Der Sarkissian had no comments other than to note the bad water pressure his home has had for 32 years and his hope that the project would improve his situation. He supported the project as well.

Chairman Cahill supported the project as conditioned.

M/S/C Sarkissian/Curtis to approve the project with added conditions as discussed. Unanimous 4-0.

B. Zone Change 11-01; City of La Cañada Flintridge; City-wide: A request to consider adoption of an amendment to the City's Zoning Ordinance which would add a new Chapter pertaining to prohibition of the establishment and/or operation of medical marijuana dispensaries in all zones of the City. Staff is recommending that the Planning Commission determine that this project is exempt from the provisions of CEQA. (Assistant City Attorney Guerra)

Assistant City Attorney Guerra gave an overview of the request, which involves an amendment to the City's Zoning Ordinance to prohibit medical marijuana dispensaries in all zones of the City.

Commissioner Curtis noted the exemptions allowed for certain clinics and questioned what prevented the unauthorized initiation of a medical marijuana dispensary as part of a clinic.

Mr. Guerra noted that the exemptions are governed by state regulations and the operation of any clinic must fall within the specific scope of said exemptions. Obviously a situation could result that needs monitoring and possible enforcement action.

Commissioner Curtis inquired if doctors can distribute medical marijuana.

Mr. Guerra explained that distribution of marijuana must be authorized as part of an official treatment program for a patient and again within the parameters of specific exemptions as defined by the state. Said exemptions are beyond the scope of city regulation and control. Without recognition of the exemptions, a city ordinance could be challenged for being in violation of state law.

Commissioner Davitt commended Mr. Guerra for a good report. He fully supported the resolution and ordinance as proposed.

Commissioner Der Sarkissian also supported the ordinance, noting that La Canada Flintridge was a small city with a limited commercial corridor and that such a use was not appropriate.

Commissioner Curtis noted that the general subject of medical marijuana dispensaries was not before the Commission for debate; the issue was simply a question of controlling it within the City in accord with the state exemptions. He did not believe these facilities would be an appropriate use within the City and supported the ordinance.

Chairman Cahill also supported the ordinance as proposed.

M/S/C Davitt/Der Sarkissian to support the amendment to the City's zoning ordinance as proposed. Unanimous 4-0.

IX. OTHER BUSINESS:

A. Consideration of the vacation of the public street, Windermere Place, and the public trail, Windermere Walk, and a Finding of Consistency with the General Plan.

Commissioner Der Sarkissian recused himself since the proposed project is directly across the street from his residence.

Senior Planner Buss described the request to vacate an unimproved public street and trail in order to provide private driveway access to the residential project at 3850 Windermere Place, which received approval from both the Planning Commission and City Council in 2010. Mr. Buss stated that the street and trail were never improved and their lack of inclusion as needed elements in either the General Plan's Circulation Element or Trails Master Plan validates removal, which is consistent with the City's General Plan.

City Attorney Steres outlined the process for vacating a public street and spoke briefly about the project's background, noting that the City Council did give direction to proceed with a summary procedure - a two-step process that involves a consistency finding by the Planning Commission and then the actual legislative decision made by the City Council. He added that the decision becomes effective upon recordation of the vacation resolution and that the

Council can impose conditions on the resolution, including that recordation may not occur until said conditions are satisfied.

Commissioner Curtis questioned how the improvements would be different with the proposed vacation.

Mr. Steres explained that the basic difference would be how the appearance of a public street contrasts with a smaller, less intrusive private driveway. Public right-of-way standards would not apply if the street vacation was approved. The overall effect of a driveway would be less intensive than that of a new public street.

Commissioner Davitt questioned the limited scope of the request and how it involves only a determination of consistency with the General Plan. He inquired when the redesign of the road/driveway would be captured in the review process if a finding of consistency was made by the Commission.

Mr. Steres stated that it would depend on what is presented to the City Council at the time the vacation request is heard. Conditions could be imposed prior to recordation, including review of the driveway's design, but all aspects of the decision would ultimately be within the Council's purview.

Commissioner Davitt questioned that if the Planning Commission thinks the proposed vacation is inconsistent with the General Plan, that finding is still reported to the City Council.

Mr. Steres confirmed that this is simply an advisory report to the City Council.

Chairman Cahill confirmed that this is a summary procedure and that the Council makes the ultimate decision on the vacation, but first must also make the finding of General Plan consistency.

Chairman Cahill inquired about the difference between a summary and non-summary procedure.

Mr. Steres explained the difference between the summary and non-summary procedures involved with a street vacation, with a non-summary procedure being more extensive in terms of the steps involved and required public notification. Although this is a summary procedure, additional notification measures have been included for benefit of the neighbors.

Chairman Cahill asked if the Trails Council was notified about the requested vacation.

Mr. Steres explained that the Trails Council was not notified about this meeting, but noted that the issue had already been discussed with the Trails Council during the processing of the Hillside application for Dr. Merritt's project, and there were no concerns raised at that time. Thus, staff was confident that the Trails Council would be amenable to the vacation. The Trails Council would, however, be notified prior to the City Council meeting.

Chairman Cahill expressed some concern that the overall scope of the General Plan exceeded the limited nature of the finding to be made.

Director of Community Development Stanley responded that the policies of the General Plan's Circulation Element are also limited and don't directly relate to the vacation of a street.

Chairman Cahill recalled that approval of the Hillside project was predicated on development of a public street in conjunction.

Mr. Stanley noted that a private driveway would be less impacting to trees and the overall aesthetic. He commented that the neighbor across the street from Windermere Place preferred the driveway configuration.

Mr. Steres added that the original project's conditions of approval would still be applicable regardless of the vacation. Protections would still be in place whether a public street or private driveway is ultimately developed.

Commissioner Curtis confirmed that this 'trail' was not included as part of the Trails Master Plan or General Plan. He asked if the General Plan references all City streets.

Senior Planner Buss did not believe the General Plan included streets beyond those designated as 'collector' streets.

Commissioner Curtis asked if there was an official definition of 'street' in the City codes.

Mr. Stanley responded that the term 'street' may only be used in reference to the definition of a property's 'frontage'.

Chairman Cahill questioned whether the General Plan addresses the private impacts of vacating a public street.

Senior Planner Buss explained that the General Plan does not directly address the issue, but noted that the General Plan is concerned with private uses and impacts

in general. The main issue before the Commission concerned the need for this particular public 'paper' street and the extent of impacts that would result from its vacation.

Arnold Graham, Attorney for Dr. Merritt, restated the singular nature of the request and issue before the Commission, which was not to reevaluate the project, but simply to determine if the vacation is consistent with the General Plan. Staff has evaluated the circulation element and determined that removing Windermere Place from the City's circulation system would have no effect. Similarly, removal of the trail would have no impact. Thus, the vacation is a legal act.

Phil Merritt, property owner, restated that the main problem with the project and neighbors has been the potential creation of a public street. A downsized driveway would be less disruptive and would allow for the preservation of existing easements. He stated he was trying to improve the overall situation for the City and his neighbors.

Edward Illig, 3848 Hampstead Road, thought the matter had been put to bed. While he wasn't familiar enough with City codes to address the issue of General Plan consistency, he noted that the major objection to the project was creation of a new public street that would face the McCarthy property to the south. His personal opinion was that a driveway would be an aesthetically superior solution. He urged the Commission to consider the vacation of Windermere Place so it could be converted to a private driveway.

Soren Madsen, 1218 Inverness Drive, was opposed to the vacation as proposed. He explained that although Windermere Place has never been used as a public street, prior City correspondence stated that the City had no incentive or interest in abandoning Windermere Place. He questioned why the City's position had now changed. He gave a Power Point presentation that demonstrated the grade differences between his back yard and the garage pad of Dr. Merritt's new residence. Creation of a public street would allow them to reconfigure their house and yards to mitigate privacy damage that would inevitably result from the project as approved. A public street would allow access to the rear of their lot. He cited prior approvals that call for Windermere Place to be developed as a public street and stressed that future maintenance and drainage issues would be adequately mitigated only if a street was created.

Commissioner Curtis asked where Mr. Madsen's garage would be relocated if Windermere Place was developed as a public street.

Mr. Madsen responded that a new garage could be built at the far southwest end of their property and would partially buffer Dr. Merritt's new house.

Cecilie Boysen, 1218 Inverness Drive, recapped the project and noted that numerous smaller streets including Roanoke Place, Keswick Road and Madison Road are also not referenced in the City's General Plan. She questioned whether their possible vacation would be similarly treated and possibly allowed. She stressed the need for development of a public street, noting that a street would allow for emergency access, proper drainage, etc. and that a private driveway would not.

Frank Gooch, attorney Mr. Madsen and Ms. Boysen, commented that a public street was previously approved and found to be consistent with the General Plan. He did not believe that the Planning Commission had adequate factual basis to make a consistency determination. Before the Commission can take a position, additional facts were necessary, including review of the new driveway design & layout.

Dr. Nagi Sous, 1200 Inverness Drive, stated that 12 years ago he lined his driveway with caissons to protect it from future failure. He wanted to preserve his right to possibly use Windermere Place as a public street in the future. A public street seemed to make the most sense for all neighbors directly involved.

Fred Engler, 1244 Inverness Drive, cited the California Civil Code and noted that since only the City Council can vacate a street, this meeting is somewhat unnecessary. He also questioned if a flag lot would be created if a private driveway, as opposed to a public street, was developed. The City no longer allows the creation of flag lots.

Senior Planner Buss explained that the subject property is an existing lot of record with secondary frontage along Hampstead Road and, as such, a new flag lot would not be created regardless of the final treatment of Windermere Place.

Mr. Steres stated that making a finding of General Plan consistency is required by law and within the purview of the Planning Commission, and typically held in open forum. Said finding is then reported to the City Council.

Chairman Cahill closed the public hearing.

Commissioner Curtis stated he had reviewed the materials and General Plan and visited the site many times. The trail is not shown and is not used. This remains a paper street that serves one lot and has never served the public. The street has no utilities or view benefit for the public. A driveway could reduce

impacts that the Planning Commission essentially inherited when the Hillside Development Permit was reviewed and approved. There would be greater design flexibility with a driveway as opposed to a street. Lastly, from a cost standpoint, a private driveway would be beneficial to the City. He could make the finding of consistency but strongly encouraged that the following conditions be reported to the City Council:

1. Thorough review of the eventual driveway design by the appropriate body.
2. Ensure that impacts from the new driveway are no greater than those anticipated from the public street and provide mitigation of all driveway-related impacts with measures comparable to those originally imposed for the public street.
3. Applicant to maintain driveway and drainage improvements via recordation of a covenant.
4. Applicant to pay fair market value for Windermere right-of-way and all associated fees, including processing the vacation and attorney fees.
5. Provide all access and maintenance easements to neighbors as needed.

Commissioner Davitt appreciated all the helpful comments from the audience and staff. He stressed that the Planning Commission's task is to make a finding of General Plan consistency, and that the ultimate decision will be with the City Council. He acknowledged that drainage and safety issues could become clouded with creation of a private drive, but felt that Commissioner Curtis' recommendations were adequate safeguards. In all, he did not believe that the requested vacation is in conflict with the General Plan. Conditions of vacation should be imposed by City Council in accord with Commissioner Curtis' recommendations.

Chairman Cahill stated that he had given the issue considerable thought. The Planning Commission has a limited role; the consistency finding is the only issue. He could not make the finding. The project was approved contingent on the public street, which would serve three properties if developed and could positively affect the circulation system as well as the Madsen/Boysen property.

M/S/C Curtis/Davitt to make a General Plan consistency finding for the proposed vacation of Windermere Place and Walk, and report said finding to the City Council. Approved 2-1. No - Cahill.

X. COMMENTS FROM THE COMMISSIONERS:

There were no comments.

XI. COMMENTS FROM THE DIRECTOR:

Director Stanley noted that there was a conflict with the March 8, 2011 Planning Commission meeting due to the election. He suggested changing the meeting to Wednesday, March 9th, assuming the meeting was necessary. The Commission concurred.

XII. ADJOURNMENT:

The meeting was adjourned 7:59 p.m.