

**MINUTES OF A MEETING OF THE PLANNING COMMISSION
OF THE CITY OF LA CANADA FLINTRIDGE
HELD ON FEBRUARY 8, 2011.**

- I. **CALL TO ORDER:** Vice chairman Curtis called the meeting to order at 6:00 p.m.
- II. **ROLL:** Present were Commissioners Davitt, Der Sarkissian, Jain, Director of Community Development Stanley, Asst. City Attorney Guerra, Planners Gjolme and Clarke and Planning intern Chaffee. Chairman Cahill was absent.
- III. **PLEDGE OF ALLEGIANCE:** The Flag Salute was recited.
- VI. **COMMENTS FROM THE PUBLIC:** There were no comments.
- V. **REORDERING OF THE AGENDA:** The agenda was not reordered.
- VI. **CONSENT CALENDAR**
 - A. **Minutes:** November 9, 2010 Approved with changes 4-0.
 - B. **Minutes:** December 14, 2010 Approved 4-0.
 - C. **Minutes:** January 25, 2011 Approved 4-0 with changes.
 - D. **Hillside Development Permit 10-07/Second-Floor Review 10-09/Setback Modification 10-09; Gustafson; 334 St. Katherine Drive:** A Resolution of Approval to allow construction of a new two-story 6,200 sq. ft. residence and related site work, inclusive of an extended driveway and partially subterranean garage. (Planner Gjolme) Approved 4-0.
- VII. **CONTINUED PUBLIC HEARINGS:** None
- VIII. **PUBLIC HEARINGS**
 - A. **Second-Floor Review 10-35 & Directors Miscellaneous 10-33 (Height); De Angelis/Evensen; 4910 Vineta Avenue:** A request to allow construction of a new 5,154 sf 2-story house with a 1,021 sf garage and 688 sf of patios on a 31,199 sf lot. Staff is recommending that the Planning Commission approve a Categorical Exemption for this project.

Planner Clarke gave a Power Point overview of the project in accord with the staff report, concluding that the project was largely code compliant and aesthetically of good design and suited to the site and neighborhood. Positive findings and project approval was recommended.

Vice Chairman Curtis confirmed that the Commissioners had no questions about the project.

Dave De Angeles - project architect - commented that the property owners have resided in the City for the last 20 years and in that time have raised 6 children. With regard to the project, the French Country architectural style works well in the area while the subject lot could accommodate a much larger home based on its size. The house provides generous setbacks and heavy vegetation along the sides of lot would be retained. A landscape architect has been retained to further develop a formal landscape plan. One ash tree would be removed since it is hampering the growth of a beautiful cork oak in the back yard. The building's details are refined and natural and will complement the area.

Commissioner Davitt inquired about a balcony proposed at the rear of the 2nd-floor master bedroom.

Mr. De Angelis explained that the adjacent roofline screens balcony exposure to the south. Combined with significant distance to the east (rear) and the elevated position of the lot to the north, he did not believe any view or privacy impacts would result.

Commissioner Curtis closed the public hearing.

Commissioner Jain visited the site and felt that this was a modest house that fits the scale and character of the area. The small, centralized balcony was not an issue. He could support the project as proposed.

Commissioner Der Sarkissian also visited the site. The side gate was locked and he could not gain access to the rear of the site. He viewed the rear of the subject lot from the neighboring property to the west. The neighbor commented that a basement proposed under the detached garage might be rented at some point, a contention that Mr. Sarkissian highly doubted. He noted that the detached garage was very far from the house and was hopeful that cars would not be stacked along the driveway. This was a minor issue and he fully supported the request.

Commissioner Davitt visited the site. He agreed with the other Commissioners and felt the project was very well designed supported it as proposed.

Commissioner Curtis noted he too visited the site and concurred with the prior comments from the Commission.

M/S/C Davitt/Jain to approve the project as submitted. Approved 4-0.

IX. OTHER BUSINESS

- A. Appeal of Tree Removal 10-33; Ebright; 4816 Daleridge Road:** A request to overturn the Community Development Director's denial of the removal of a 20" diameter Chinese elm tree.

Planning intern Chaffee gave an overview of the request and relevant background information in accord with the staff memo.

The Commission had no questions for staff.

Albert Ebright (appellant) - 4816 Daleridge Road - commented that the subject tree is 50 feet from the street and the tree's base is less than 4 feet from his house. The tree's base diameter is 34 inches. He noted that the arborist report has better photos that show the proximity of the tree's base to the house. He questioned if and when the Commissioners received his reply to staff's report. He felt the Commission needed to be realistic and look beyond the written material about the request; the focal issue remains that this is a huge tree less than 4 feet from the house. He noted that a permit is not required to remove portions of a tree within 10 feet of a roof and that the tree's proximity could lead to soil expansion and possible future damage to the house. He tried to have staff acknowledge that the tree has no public interest/value and that the Tree Ordinance should not apply to this tree since such an interest has not been demonstrated by the City.

Commissioner Curtis confirmed that the Commission had read Mr. Ebright's reply.

Commissioner Davitt inquired if another tree would be planted in the area if the Tree Removal Permit was granted.

Mr. Ebright replied that his intention was to plant a smaller tree in the same area.

Assistant City Attorney Guerra addressed several points raised by Mr. Ebright. The Tree Ordinance is valid in this case and represents a viable use of the City's police power. He stated the purpose of the Ordinance and confirmed that this was a clear application of said purpose. The tree's distance from the street does not negate the applicability of the Ordinance. He made the important distinction between a license to trim a tree and a permit to remove a tree, which are separately defined and addressed in different sections of the Tree Ordinance. He referenced the 3 potentially applicable provisions/findings of the Tree Ordinance that allowed for removal and explained that none could be substantiated in this instance.

Mr. Ebright questioned Mr. Guerra's interpretation of Section E with regard to trimming and questioned the extent of trimming allowed; did it apply to limbs, branches, trunks, etc. He felt the section was inadequately defined. He was also troubled by the notion that staff's interpretation seemed to imply that damage had to occur before justification for removal could be established. He again contended that no public value was associated with the tree despite legal Council's claim to the contrary.

Commissioner Curtis closed the public hearing.

Commissioner Jain felt that the case hinges on the arborist report, wherein numerous observations are made, including some that raise issues. The report uses the term "exceedingly" close, which implies a potential problem, and notes that the tree's crown is overgrown. He inquired if the arborist has explored the root system of the tree to better evaluate its potential impacts on the home's foundation. Mr. Jain also noted the tree branches over the home's roof and the potential for lightning strikes and associated damage therewith.

Director of Community Development Stanley replied that the observations in the report suggest that the tree has not caused any damage. There is no lifting or cracking evident around the tree. He clarified that branches could be removed, but trunk removal would constitute removal of the tree in its entirety. The Commission has to utilize the report to make its decision. Staff has to substantiate the findings in order to support the request, and none of the applicable findings could be made. Lightning damage is not a viable concern addressed in the Tree Ordinance considering its infrequency. Mr. Stanley had observed excavations in the past which revealed roots that turned away from the house and had caused no damage.

Commissioner Der Sarkissian stated that Assistant City Attorney Guerra has addressed the issues satisfactorily. The tree's public value is in the Ordinance, while its distance from the street is not a valid argument. He felt the tree has public value regardless of its location. He agreed that there is a substantive difference between a permit and a license and noted that the allowance of trimming branches was likely derived from the Fire Department's concerns with branches proximate to chimneys. This tree has no real bearing on the home's roof. There is no indication of any damage being caused by the tree, despite its proximity to the house. He could not make the findings and would support the Director's determination.

Commissioner Curtis confirmed that the issue of the tree's value is moot unless the approval request is granted and potential mitigation is then addressed.

Commissioner Der Sarkissian commented that he was unclear as to how the tree's monetary value was determined and did not believe that the tree's value should be included as part of the arborist's report and the City overview, because the inclusion of the price, in the report, implies that an applicant may be permitted to remove the tree by paying the stated value.

Mr. Guerra replied that the arborist includes the tree's value as a reference for the Commission in the event removal approval is granted.

Commissioner Curtis redirected the Commission to the focus of the matter - could the required findings be made.

Commissioner Davitt has reviewed several tree removal requests in the past. He explained that the Commission relies heavily on the arborist reports and expert opinion. He noted that 1 of 3 applicable findings had to be made, but was troubled by the burden of proof of visual damage considering that such damage could occur at some point in the future. Although the arborist report did not advocate removal of the tree, he believed it was an unreasonable hardship not to allow removal since future damage could occur and in all probability was likely.

Commissioner Jain stated that he visited the site twice. The only finding that could apply was the possibility of a future hardship. Based on hardship only, he could support the appeal and removal of the tree.

Commissioner Curtis stated that this was a tough call and a challenging case. He noted that the location of tree was exceedingly close to the house and that impacts could occur; thus, findings 1 and 2 could apply. Finding 1 did not apply since there was no interference currently evident. He felt the hardship finding (#2) did apply since something imminent could happen. As such, he supported the appellant and would vote to allow removal of the tree.

Commissioner Curtis confirmed that with three approval votes possible, mitigation needed to be discussed.

Commissioner Davitt confirmed that if the appeal is granted, the Commission has the authority to assess the tree's value and impose conditions of approval.

Mr. Stanley explained that if the Commission believes mitigation is necessary, conditions of approval are appropriate and would be imposed.

Mr. Ebright questioned paying the assessed value of the tree given it has been found to be a hardship. He was, however, amenable to a replacement tree.

Commissioner Curtis agreed and did not believe that full monetary restitution was applicable given the hardship determination, but some mitigation would be appropriate.

Mr. Stanley sought direction regarding the size and species of a possible replacement tree.

The Commission inquired about the approximate costs of different sized trees.

Commissioner Curtis felt that replacement with a 36"-box protected tree on site or a \$600 restitution into tree fund was appropriate.

Commissioner Jain commented that the 36"-box protected tree should be placed in the front yard but that a contribution to the tree fund should equal half of the tree's value, approximately \$5,200.

Commissioner Der Sarkissian inquired about the possibility of a split motion since he agreed with the mitigation measures that were discussed.

Mr. Guerra advised that a single motion would be appropriate and that Commissioner Der Sarkissian could not vote on mitigation measures unless he supported the tree removal request.

M/S/C Jain/Davitt to approve the appeal and overturn the Director's denial of the Tree Removal Permit subject to planting a 36"-box protected tree in the front yard or a \$5,200 contribution to the City's tree fund. Approved 3-1. No - Commissioner Der Sarkissian.

X. COMMENTS FROM THE COMMISSIONERS:

Commissioner Davitt clarified that the motion was for either planting a replacement tree or payment, not both, for the benefit of Mr. Ebright.

Commissioner Der Sarkissian stated he was interested in learning how arborists arrive at tree valuations. He referenced the Council meeting from the previous night and noted that the Commission had removed a screening condition that was recommended by staff during its review of the project in question. He did not recall the action and asked for clarification.

Director Stanley explained that during the initial review of the project in question, the Planning Commission replaced staff's landscaping condition with a less stringent condition that called for review of a landscape plan by the Director

of Community Development. The City Council, however, re-implemented staff's original condition and augmented it with a covenant requirement.

Commissioner Der Sarkissian inquired about the General Plan update process.

Director Stanley explained that responses to the draft General Plan will be collected and reviewed by staff and that a formal Planning Commission meeting will be the forum for discussion and action.

Commissioner Curtis noted that several meetings would be helpful to cover the amount of information associated with the General Plan update.

Director Stanley responded that 2-3 meetings were tentatively planned.

Commissioner Curtis inquired about the status of the Unocal project at the corner of Angeles Crest Hwy. and Foothill Blvd.

Director Stanley explained that concept Design Review approval has been granted and allowed for plan check and construction to commence.

XI. COMMENTS FROM THE DIRECTOR:

Director Stanley informed the Commission that Ordinances adopting new building codes and prohibiting medical marijuana dispensaries were before the City Council the previous night for first reading.

Commissioner Curtis questioned if all new homes would be required to have sprinklers.

Director Stanley believed that certain criteria, including the size of a project, were involved in the determination.

Commissioner Der Sarkissian added that this was a mandate of the Fire Code and there has been considerable frustration with its universal application.

Director Stanley informed the Commission that the next meeting would be on Wednesday, February 23rd, as opposed to the 22nd.

XII. ADJOURNMENT: the meeting was adjourned at 7:29 p.m.