

**MINUTES OF A MEETING OF THE PLANNING COMMISSION
OF THE
CITY OF LA CAÑADA FLINTRIDGE
HELD APRIL 13, 2004**

I. CALL TO ORDER:

Chairman Engler called the meeting to order at 6:00p.m.

II. ROLL CALL:

Present were Commissioners Davitt, Gelhaar, Levine and Mehranian, City Attorney Steres, Director of Community Development Stanley, Senior Planner Buss, Planner Cantrell and Planning Aide Shimazu.

III. PLEDGE OF ALLEGIANCE

Chairman Engler led the salute to the flag.

IV. COMMENTS FROM THE PUBLIC:

Public Safety Commissioner Sunder Ramani announced a City sponsored three-day Disaster Drill. He encouraged the Commissioners to attend on April 27th, 28th, or 29th.

V. CONSENT CALENDAR:

M/S/C Levine/Mehranian to approve the minutes of March 23, 2004 as submitted.
Unanimous.

VI. CONTINUED PUBLIC HEARINGS:

A. Hillside Development Permit 00-08; Modification 00-62; Abnoosian; 2201 Canalda Drive:

Request to construct a 3,668-sf two-story home including an attached garage on a property with 55% slope. A Modification is required for a retaining wall that would exceed the 3'6" height limit within the required front yard setback.

The vacant lot is located in the R-1-10-acre zone, northeast of the terminus of Canalda Drive, which extends eastward from Ocean View Blvd.

No comments or concerns were submitted during the March 17-April 5 circulation of the updated Mitigated Negative Declaration.

The Planning Commission reviewed two previous designs of the project. On September 12, 2000, the original proposal was for 4,755-sf home, situated on a much higher elevation. The project was continued to December 10, 2002 for redesign, which reduced the size of the house

by over 1,100sf, but required an extensive amount of cut to lower the house into the hillside. The current plan reduces the cut, orients the house to the southeast and lowers the overall profile significantly.

The average slope of the lot exceeds 55%. The ravine, which is not designated as a Blue Line Stream, is and graced with a multitude of indigenous oaks, many having trunk diameters of 18" or more. A city drop drain, CMP pipe, and energy dissipater are located above the ravine to capture storm water from Fairhurst Drive and Rock Castle Drive. Substantial tree and shrub screening exist along the east side of the neighboring property at 2207 Canalda Drive. Other properties are distant and hidden from the planned area of construction on the southwest corner of the subject site. The residence to the north, at 2198 Fairhurst Drive, is elevated sufficiently higher to preclude any view interference.

Construction of the two-story house would be within the lower half of the western portion of the property. Access would be by means of a 15-foot-wide driveway that would use the eastern two-thirds of the easement, preserving the driveway, steps, wall, and tree on the west portion of the easement. Although the average slope of the driveway is 14.4%, it would have top and bottom transitions flanking a central section at 20% slope, the maximum allowable for hillsides. Two guest parking spaces are provided adjacent to the east deck. The retaining wall that abuts the upslope side of the driveway would reach a maximum height of eight feet for parts of its length, while the down slope side of the driveway would have a height of five to six feet at its maximum height.

The house would be lowered into the hillside and reach an overall a maximum height of 27.75 feet. The motor court and garage would be 30 feet above street elevation. A bedroom, bathroom, and laundry west of the garage would be sited 32 feet above the street. With a minor adjustment to the garage, the project would meet all current setback requirements. Step massing is evident through the design and the difference in pad elevations. The area behind the garage constitutes the only single story portion of the house.

Staff conducted a Floor Area Analysis using the Assessor's data to compare the neighborhood's average floor area. The proposed 3,668sf home is far below the code maximum of 12,204sf, but 1,228sf over the floor area due to the .20 Slope Factor Guideline. All other lots in the area are in the R-1-10,000, 15,000, or 20,000 zones. Overall, the project is 572-sf above the neighborhood average and 365-sf over the average for lots in the R-1-20,000 zone.

Recognizing previous direction from the Planning Commission, staff supported the requested floor area and overall design approach. Setback, angle plane, 2nd floor building depth, ridgeline protection, view preservation, parking, and architectural design standards are met.

All existing oaks would be retained, with the exception of a one 32" multi-trunk oak tree located southwest of the lot. Its root system would affect the placement of the driveway.

Senior Planner Buss informed the Commissioners they could require replacement trees, based on a finding of no alternatives to mitigate the interference. Additionally, the applicant suggested adding five 24" box size Coast live oaks at the southwestern border of the adjacent property. Lastly, the neighbor has requested that three, 15-gallon incense cedar trees be planted on the driveway easement and red bougainvillea to spillover the retaining walls.

Conditions of Approval require compliance with the Hillside Ordinance Section 11.35.047.E, including plant materials on the fire safe plant palette, their placement and submittal of 9revised landscape plans subject to the Director's approval. Staff also recommended that three 24" box size incense cedar trees be placed on the adjacent property of rather than three 15-gallon trees.

Staff e-mailed additional conditions to the Commissioners, regarding construction parking, silt fencing (per Fish & Game), and requiring Commission review of any substantial plan changes generated by the Fire Department's review.

Senior Planner Buss stated that the house consists of a 28 foot two-story, stepped mass, thirty feet above the elevation of the nearby cul-de-sac. Screening of the structure has been accomplished with additional oaks, cedars, and intermediate shrubs.

Addressing Commissioner Gelhaar's concern with the increased cut, he explained the project engineer neglected to include another portion of the site, which increased the total cut to 3,000 cubic yards. He added though the cut is extensive, when considering placement of the house on a 40% slope, grading is required to sink the house into the hillside.

Senior Planner Buss commented that the scope of work proposed is not new to the Planning Commission.

Commissioner Gelhaar was concerned with any effects the increased grading would have on the Negative Declaration analysis.

Senior Planner Buss advised that the Negataive Declaration would not be affected. He explained that a haul route through Canalda Drive directly to Ocean View, would allow continuous movement off the site. Due to the steepness and placement of the retaining walls, construction would be done in phases, including a temporary driveway to transport equipment. Construction would begin from top to bottom and in between to build a retaining wall, establish drainage swells, meet the requirements for Storm Water Mitigation program,

and NPDES. This causes the grading process to occur in phases over longer periods of time, which could have positive and negative effects.

Responding to questions from Commissioner Mehranian, Senior Planner Buss advised that since the ravine is not classified as a Blue Line Stream by the Army Corps of Engineers, it does not fall under California Regional Water Quality Control's jurisdiction. Fish and Game also determined that it is not a Blue Line Stream and does not need a Stream Alteration Permit. However, Fish and Game required installation of silt fencing along the eastern edge of the building pad to prevent any debris from entering the ravine.

He understood that the applicant preferred to incorporate some of the cut back onto the site; there might be a way of doing that and preclude review by the Army Corps of Engineers and Fish & Game.

Commissioner Mehranian confirmed that a 32" diameter multi-trunk oak is the only tree that would be removed.

Property Owner Aida Abnoosian, stated that the project has been modified to reduce the grading and retaining walls. The redesign addressed all concerns from the neighbor and complied with City's requirements.

Project architect Brad Barcus, submitted photos depicting the northwest portion of the lot looking up from the street on Canalda Drive. The previous proposal was originally a 3-story home, which raised concerns with the adjacent neighbors to the west, (the Lyons) and with the Commission. The redesign reduced the size and bulk of the home to a 2-story. Only one window would face the Lyons' property, and a 1-story effect on the same side to match the neighbor's home. At the previous meeting, the Commissioners expressed concerns with the tunnel effect of the driveway. To alleviate the effect, incense cedar trees would be placed on the driveway easement of the adjacent property; red bougainvillea would be planted to spill over the retaining wall; a block wall to match the neighboring property would be constructed on the property lines converting it to an angled crib wall with landscaping.

Mr. Barcus submitted comparison cross-section handouts comparing the placement of the house with previous designs. He emphasized the reduction of the house, grading, and retaining wall. He stated that the process to remove a total of 3,000 cubic yards would require 6 - 8 trucks to haul 36 - 48 loads of dirt per day. Phase one requires construction of a temporary driveway; retaining wall below the neighbor's deck to the west (Lyon's); and temporary paving for the Fire Department and emergency vehicles for accessibility. In phases 2, 3, and 4, construction would begin from top to bottom with duration of approximately one month per phase. This would be the cut and fill process, construction of swales and walls, etc. He added that in each phase depending on the amount of dirt, would require approximately 1 to 2 days. For example, it would take 1 day to haul 500 cubic yards of dirt, which is about 33-35 truckloads and 1 ½ to 2 days to remove 900-1000 cubic yards. A total of 6 to 7 days is

required to haul dirt and approximately 3 months for grading. He stated that the whole process is spread out and not over a continuous period-of-time. Mr. Barcus mentioned that he does not recommend placing 800 cubic yards of soil back into the property due to the aesthetics of the canyon. It would eliminate 1 - 2 days of truck hauling. Twenty-seven trees will remain on the property and construction work will not take place in the canyon or near the Lyon's property. Mr. Barcus stated that there are not many available options and believed that the redesign is a viable solution.

Commissioner Levine requested an assessment damage of any that might occur from the weight and number of trucks traveling up and down Canalda Drive and Ocean View Boulevard.

Mr. Barcus suggested securing a bond for street repairs. In regards to the actual size of the trucks, semi-trucks would be used because they can accommodate 50% more than a 10-wheeler.

Commissioner Gelhaar confirmed that movement of 600-800 cubic yards into the canyon was not part of the Initial Study Review or the proposal.

Commissioner Levine suggested blending the paving materials with stones, colored materials and/or landscaping would mitigate the tunnel effect of the driveway.

Mr. Barcus stated that the applicant and the Lyon have been working together to come up with a solution that would accommodate both desires. He stated that his clients is open to any suggestions.

Chairman Engler opened the public hearing.

John Kornarens, 2220 Canalda Drive, generally supported the project. He stated that there have been vast improvements compared to previous designs and commended the architect. He requested staff to re-examine the overall calculation of the average size of the homes on Canalda Drive and Ocean View Blvd and the slope factor. He stated that according to his calculations and Data Quick Information, the square footage was 2,520 rather than 2,440. He mentioned that due to the possible inaccurate calculations, there would be no need to excavate an extensive amount of dirt from the property. Mr. Kornarens requested that the Planning Commission look into appropriate excavation time periods for trucks to travel up Canalda Drive and Ocean View; which are the busiest streets on Mondays. He was concerned with trucks backing into Canalda Drive because the street is narrow and already difficult to exit. He mentioned that the neighbor across the street, David Yee, was concerned with erosion, and dirt falling into his property. Mr. Kornarens requested planting of larger trees on site due to the slow growing aspect of incense cedars and California Live oaks for screening purposes. He had concerns regarding relocation of the water lines, construction of the silt fence, completion

period, impact to the neighbors, and safety of children playing in the area. He requested that the project be closely monitored.

Community Director Stanley informed the Planning Commission that there is a 2- year time limit for construction indicated in the ordinance. However, the applicant may request an additional 1-year extension.

In response to John Kornaren's comments and concerns, Architect Brad Barcus suggested no construction on Saturdays, and upon the neighbor's request, may begin work at a later time. He emphasized that in any grading projects, silt fencing is required. He assured that the trees that could potentially be affected by the construction, would be protected. With respect to the water line, according to the Water District, it is considered a non-potable line. To ensure mistake-proof placement of the water lines next to the patio area, he stated that the applicant would use the Water District's contractors. In regards to completion period, he stated that it would take approximately 12-14 months total to complete the entire project. The grading and construction of the retaining would take 3 to 4 months, and approximately 9 months to build the house.

Chairman Engler had concerns regarding the cut slopes. He stated that the upper portion of the lot has no landscaping and the lower portion has minimal. He requested to see native plants that are drought tolerant placed in the area.

Mr. Barcus responded that the applicant is open to any suggestions and informed the Commissioners that placement of any large plants would possibly block the view of the neighbor to the north, Mrs. Redmond, and any large plant growth in the cut slope area is unfavorable.

Community Director Stanley confirmed with Chairman Engler that staff requires native plants.

A member from the public asked if a crib wall would be installed between Angeles National Forest and the driveway. He informed Mr. Barcus that removal of the Olive tree near the area would cause hillside instability.

Robert Brown 2180 Fairhurst Drive, was concerned with possible illegal removal of trees. He was in doubt that preservation of all the other protected trees but one oak tree would remain on the property.

Commissioner Levine informed Mr. Brown that if he witnesses any illegal tree removals or construction on site, to contact the Planning Department immediately.

Community Director Stanley added that the City requires all protected oaks to be fenced off 3½ times the size of the diameter of the tree.

Commissioner Gelhaar commented that the design has immensely improved. But, he understood that it would be a balanced project based on the previous application. Though an extensive amount of dirt would be excavated, it is better than placing the house into the canyon. He supported Staff's findings and recommendations and requested added condition requiring Performance Bond for any public improvement, and submit a trucking management plan with the indication that no hauling may be conducted on Mondays and must be approved by the Director.

Director Stanley confirmed that the plan would be submitted to Staff and the Director of Public Works and advised that Performance Bonds are required for any street repairs.

Commissioner Levine concurred with Commissioner Gelhaar on the overall improvement of the project. He would like added conditions that there be no hauling on Saturdays, Sundays and Mondays and that a \$50,000 Performance Bond be secured for street repairs. He asked that all the trees be increased in size for screening purposes per the neighbor's request.

Senior Planner Buss responded to Commissioner Levine that the beige light reflectance would be approximately 50%.

Commissioner Mehranian commended the applicant on the design however wished that the project size was reduced. She concurred with Commissioner Gelhaar regarding the excavation process. She recalled on a previous project on Corona Avenue that had massive cut to the hillside causing major damage to the natural setting of the area. She strongly urged the Commissioners and Staff to closely monitor the project to prevent the same mishap.

Commissioner Mehranian would support the project with assurance that the excavation process and construction are done according to plan and that only one oak tree would be removed.

Commissioner Davitt concurred with his colleagues however, would like to add time restrictions from 7:30 a.m.-2:30 p.m., as part of the trucking management plan due safety issues with Mountain Avenue Elementary School. He stated that the project has dramatically improved and can support the project with added conditions.

Chairman Engler commended the architect on the redesign and confirmed the construction parking requirements. He requested added condition for a City paid contractor to monitor the hauling process.

Commissioner Levine confirmed that the Fire Department's approval is required before issuance of building permits.

M/S/C Levine/Gelhaar to approve Hillside Development 00-08 and Modification 00-62 with the following added conditions: all trees be 36" in size along the driveway, a posted \$50,000

minimum performance bond; no construction on Saturdays or Sundays; hauling limited to Tuesdays through Fridays; submittal of a plan schedule that would not impact school hours; hire a City paid contractor to monitor the project; adherence to parking requirements; and Fire Department's approval. Unanimous.

B. Variance 03-13; Von Der Ahe; 1730 Fairmount Avenue:

Planner Cantrell recalled that at the March 9, 2003 meeting, the applicant requested a solid roof over a rear deck on a property already exceeding the allowable floor/roofed area. Prior to the hearing and applicant's testimony of a disability, Staff could not recommend positive Variance findings. The applicant has since identified the need based on their daughter's disability. A submitted memorandum dated March 16th from the City Attorney outlined the American Disability Act Provisions along with instructive case law.

City Attorney Steres advised that there are two separate actions to approving the project. If there are sufficient facts to support the Variance request, the Commission may make a motion to approve. If the ADA provision requirements under reasonability, necessity, and equal opportunity requirements are met, the Commission may approve the project as a reasonable accommodation to the zoning code and return to the next meeting with a Resolution. The project may also be denied under both requests.

Commissioner Levine asked what action the City could legally take if all the ADA requirements are met.

City Attorney Steres suggested that the Commission give the applicant the opportunity to present their case, and then make their findings. He clarified that from the last meeting, the requested solid roof was to accommodate the applicant's disabled child. Based on that fact, the project was brought back tonight for the Commissioners' determination.

Chairman Engler confirmed that no formal written ADA application was submitted.

Applicant Carolyn Vonderahe, apologized for her husband's absence and thanked the City Attorney for his research of the American Disability Act. She explained the reason for a 700-sf covered patio was due to her daughter's condition that affects her mobility and the ability to regulate her body temperature. She stated that her daughter cannot withstand long-term exposure to heat and change of temperature and that the patio roof would help mitigate the issue. A letter from the pediatrician that was submitted outlined specific conditions. She added that all the neighbors would express their support of the project if necessary. The applicant researched other alternatives; however, they were unsuitable for their child. She added that they would like to provide their child hope and a therapeutic environment. Mrs. Vonderahe questioned Chairman Engler's comments; her understanding was that only a presentation of her case was needed.

Commissioner Levine asked the City Attorney if a condition requiring removal of the covered-patio could be enforced upon change of ownership.

City Attorney Steres responded that the issue has not been litigated and there were no previous cases addressing whether the condition was reasonable. He was concerned that if the said condition were added, it would not be cost-effective to build, and then remove the structure. He added that it is a substantial improvement to the house and that the court may not view it as a reasonable accommodation. However, Staff recommends adding a condition to prevent enclosing the area.

Project designer, Dave De Angelis thanked the City Attorney for researching the ADA provision. In addition to the applicant's qualification under the American Disability Act, he stated that the structure in question improves the aesthetics, bulkiness and visibility of the house. He mentioned that installation of a trellis would raise concerns for maintenance and water leakage issues. He added that there is no burden, cost, or hardship to the City, service providers, and neighbors.

Responding to a question from Commissioners Gelhaar, Levine, and Mehranian, Mr. De Angelis stated that he does not believe he could design a latticework that would provide adequate shade..

Chairman Engler opened the public hearing.

Rafael Quezada suggested an operable latticework than can open and close.

Commissioner Gelhaar responded that a mechanical lattice/roof might not meet code requirements if it is not open 50% of the time.

Commissioner Davitt commented that the project clearly meets all ADA requirements and does not affect the City. He believed that it genuinely creates unneeded hardship to the applicant and it is logical, acceptable, and fair for the proposed request. He emphasized that the project should be approved without unnecessary time spent to find alternatives. He supported the project under the ADA provisions.

Commissioner Mehranian concurred with Commissioner Davitt and thanked the City Attorney for his research.

Commissioner Gelhaar was concerned with the roof exceeding floor area. He stated that latticework is better for what the applicant is trying to accomplish; it meets code requirements and is an acceptable alternative. However, since the ADA requirements are met, he could approve the project with an added condition that upon change of ownership, the covered patio must be removed. He believed this was a reasonable compromise.

Commissioner Levine concurred with Commissioner Gelhaar and commended the design of the house with the covered patio. He added that upon change of ownership, the project must either come back to the Commission for review or the structure must be removed.

Chairman Engler stated that he can support the Variance findings for the covered patio; however, believed that a fireplace is not necessary.

Commissioner Davitt confirmed with City Attorney Steres that if the said condition was added and later challenged in court, they might not view it as a reasonable accommodation.

City Attorney Steres responded that he is uncertain of the court's limitation regarding costs to remove the structure. However, if it is not substantial, then the court might find it a reasonable accommodation. He advised that the Commission approve the project under a reasonable accommodation to the zoning code with a covenant, that upon sale, it would have to convert to an open-roofed area.

M/S/C Gelhaar/Levine to approve the project as a reasonable accommodation to the zoning code, and with a covenant that upon sale of the property, the structure must be removed or code compliant. 4 Ayes.

Commissioner Mehranian abstained from voting and clarified that she is not against the project, but did not want the said conditions added.

Community Director Stanley advised the applicant that the project is not approved until the resolution is brought back to the next meeting for an approval.

C. Modification 04-07; Building Depth Review 04-01; Lizardi; 4932 Oakwood Avenue: Planner Gjolme recalled from the last meeting that the applicant originally requested a 1,600-sf addition to the existing 1st floor, and a small 2nd story addition to the home. He recalled the Commission was concerned with the proposed Oakwood Avenue front yard setback. The issue was addressed by increasing the setback from 25-ft to 30-ft, with exception of the northeast corner of the house, where a 27-foot setback would be provided. He added that the proposed 2nd-Floor was re-configured by moving the volume space component away from the south side property line, and positioning it to the front of the house. He stated that the overall floor area was reduced by approximately 100-sf, which is below code standards. Building Depth Review was required since the overall depth is 80-ft, above the 60-ft threshold. He reminded the Commission that the lot is a unique corner and a triangular hairpin lot with severe setback requirements that render almost all of the lot non-expandable.

Staff viewed the revised 30-ft setback entirely appropriate, despite the 40' requirement, considering the obvious site constraints. Thus, Staff continues to recommend positive findings and project approval.

Project architect, Rafeal Quezada stated that the redesign was to generate an additional 5-ft setback to the front. He added that the reason for the extended corner was to maintain the architectural integrity of the original design. He stated that it was not possible to shift the garage back to 35-ft. The applicant hoped for a compromise since the square footage is well below code requirements.

Commissioner Gelhaar commented that his opinions have not changed from the last meeting. He stated that the lot is 10,800-sf in an area that is zoned for 20,000-sf. He commented that the original 1,476-sf house was built for the size of the lot, and could not make positive findings for a 3,300-sf home and the Modification request.

Commissioner Levine commented that the project is well designed and appreciative of the reduction. However, he concurred with Commissioner Gelhaar and was uncertain of what direction to take.

Commissioner Mehranian stated that her support for the project has not changed from the last meeting, and complimented the architectural design of the structure.

Commissioner Davitt commented that the applicant made efforts to increase the setbacks and Concurred with Commissioner Mehranian on its design. He can make positive findings and project approval.

Chairman Engler commented that the 2nd floor is not intrusive and concurred with Commissioner Mehranian and Davitt for approval.

M/S/C Mehranian/Davitt to approve Modification 04-07 and Building Depth Review 04-01. 3 Ayes. Commissioners Levine and Gelhaar dissenting.

D. Floor Area Review 04-01; Baghdasarain; 1820 Faimount Avenue:

Project item above was not heard.

VII. PUBLIC HEARINGS:

A. Building Depth Review 04-02; Kumar; 5245 Vista Lejana Lane:

Senior Planner Buss described the applicant's request for a Building Depth Review of a 2-story addition that would exceed the 60-foot threshold.

The site is west of a private street on Vista Lejana Lane approximately 425 feet north of Angeles Crest Highway.

A new 2nd story will be added to the east of the existing 2nd floor and extend to the front of the house with an 18' by 20' "wing" extending northward. The "wing" will be located approximately twenty feet from the existing northern first floor wall and at least thirty feet from the northern property line. Due to the slope of the lot, the proposed overall height of the building is 29'-2", which is below its limit of 32 feet. With the proposed new first and second story additions, the floor area would be a total of 5,455-sf and all the setback requirements are met. He added that measuring from an existing 12-ft high front porch column and a 2nd story building to the rear, the distance between the two eaves is 87'-3". Due to the existence of these columns and walls, any addition to the building would require a Building Depth Review.

He informed that 3,100-sf was excluded from the lot area calculation due to the parcel containing a private street easement. The Flood Hazard Channel was included in the lot area calculation due to its meandering stream type characteristics.

Staff recommends project approval as conditioned.

Project designer, Arun Jani stated that Mr. and Mrs. Kumar's goals are to preserve the characteristics of the neighborhood, maintain a low profile design of the house, and preserve an existing sycamore tree located to the rear of the property. He stated that all the neighbors support the project and requested the Commissioners approval.

Chairman Engler opened the public hearing. Comments were not offered and the public hearing was closed.

Commissioner Levine conducted site visits on previously approved projects and was concerned with the large depths of the homes. He advised the Planning Commission to take extra precautions reviewing and approving any Building Depth Review requests, especially if the building is in close proximity to the neighbors. However, he could make positive findings for the project.

Commissioner Gelhaar concurred with Commissioner Levine's comments. He felt that the neighboring properties are far enough from the proposed project and can support staff's findings and recommendations.

Commissioner Mehranian expressed appreciation for the applicant's effort to preserving the sycamore tree.

Commissioner Davitt noted Commissioner Levine's remarks and supported staff's findings and conditions.

Chairman Engler asked that condition #5 be amended to include drawing sheets #4-Roof Plan and #7-Cross Sections. He concurred with his colleagues for approval.

M/S/C Gelhaar/Mehranian to approve Building Depth Review 04-02 amending condition 5 to include drawing sheets 4 and 7. Unanimous.

B. Modification 04-08; Gregg; 904 Wiladonda Drive:

Planner Cantrell described the applicant's request for a Modification to allow encroachment to the east side yard for a ground floor extension along its line of encroachment, and a new basement beneath the extension.

The area of the lot is 12,870-sf, and the location is on the south side of Wiladonda Drive, mid-block between Commonwealth Avenue and Angeles Crest Highway.

Both floors of the addition would comprise 1,217-sf, for total floor/roofed area of 3,717-sf. The neighborhood has consistent architectural character, in the range of mid-century traditional style. The pool, floor plan, and a large tree are the site constraints leading to the proposed design. East of the property, adjacent to the proposed addition, lies a house with a similar side yard setback, but with taller mass due to a low dormered second story. With descending grade on both sides, the addition would attain a height approaching 1-½ stories from the backyard. He explained that most of it would be roofed with an extension of the existing gable roof configuration, while the rear portion of the addition would have a slight stepped-down nested gable. A third gable would be lower, over the short roof of the transverse basement stairs. Both floor levels would share the same 5-foot setback, and being more than 540-sf below the code limit for the area, it continues to comply with all development standards. Overall, the setback encroachment would be visible from offsite as an extension of the existing roofline, and would step down with the descending slope to the rear. Essentially, this is equivalent in impact to a ground-floor setback encroachment that would be eligible for staff approval as an Administrative Setback Modification.

Compared to other options, this design route has the least impact. Staff can recommend positive findings.

Project designer, Dave De Angelis stated that due to the basement not being completely submerged below grade, the project converted from an Administrative to Planning Review.

Chairman Engler opened the public hearing. Comments were not offered and the public hearing was closed.

Commissioner Davitt expressed appreciation for the design remaining a 1-story home.

Commissioner Mehranian concurred with Commissioner Davitt.

M/S/C Gelhaar/Davitt to approve Setback Modification 04-08 as conditioned. Unanimous.

C. Floor Area Review 04-03; Schorman-Chung; 4843 Commonwealth Avenue:

Planner Cantrell described the applicant's request for a Floor Area Review to allow a 1st floor addition and a new 2nd floor to exceed the allowable threshold. The total proposed floor and roofed area is 3,120-sf on a lot that is 7,800-sf.

The site is on the west side of Commonwealth Avenue, between Parkman Street and Salisbury Road.

The lot is 60 feet wide and 130 feet deep, consistent with a regular subdivision pattern in the area, but in a nonconforming zone. Common practice at the time was to locate the garage in its own level below the house where slope permits. The garage was originally 14'-6" wide and 19 feet in depth, and was legally converted into a bedroom in 1957. The lower level also includes a storage room and a family room to the rear. This level is not completely below grade and cannot be exempt from the floor area calculations. A small portion of the project involves a small extension of the converted bedroom, which would be converted back to a garage. A new second floor, comprising 622-sf, would provide a master bedroom suite. Overall building height would be limited to 26'-6" from the low driveway elevation, 1'-6" below the height limit for the lot. Project design would follow the conservative treatment of the existing house, combining with its graduated massing to make the addition fit in well. The proposal's size is well-massed and reasonable in relation to its site and neighborhood.

Staff recommended project approval subject to the standard conditions including an upgrade of the proposed garage to accommodate two-car spaces.

Chairman Engler confirmed that the 2,808-sf of floor/roofed area includes the garage and that the Assessor's Records does not include non-habitable space calculations.

Project designer, James Meredith, stated that the applicant would like to make the garage code-compliant, but not to the extent that it would cause significant financial expenses for the entire project. In order to create a two-car garage, demolition of an existing master bedroom, (which was the garage), and a second story bedroom would have to commence and would be more costly for the property owner. He stated that construction to the south of the property is not possible due to the existing 3-ft side yard setback. He explained that the addition of a 2-car garage would yield a net loss of approximately 430-sf at 40% instead of adding habitable space to the home at its maximum 36% for the lot. He expressed that the proposed design would not involve massive remodeling of the house, and is favorable to the applicant and the appraisal value of the home.

Commissioner Levine confirmed that the proposed project would be losing two bedrooms and gaining one.

Property owner Jane Chung, stated that a certain amount is budgeted for the project and reiterated Mr. Meredith's comments regarding financial hardship for adding a 2-car garage. She emphasized the fact that the project was voluntary and could have asked for a full-scale remodel to the maximum 2,808-sf. She requested that a 1 ½-car garage be allowed for now and in the future, when finances are in order, create a code-compliant 2-car garage.

Chairman Engler closed the public hearing.

City Attorney Steres informed that the house is a legal non-conforming structure because it was legally constructed, but non-conforming to today's code requirements. Based on the Municipal Code, the property owner may add to the structure if "*...such additions neither increase the number of families that can be housed in such structure, nor occupy the only portion of an area which can be used for required garages, carports, parking space or access thereto.*"

He noted the applicant's statement regarding additions to the maximum 2,808-sf, and informed the property owner that she is correct; however it cannot be a bedroom addition. The current design would require a code-compliant 2-car garage due to the addition of a bedroom suite.

Commissioner Mehranian stated that although the applicant's request made sense, she found it questionable and difficult to approve a project with more bedrooms and less garage space.

Commissioner Davitt was concerned with the size of the home and proximity to the immediate neighbors. He concurred with Staff's recommendations.

Commissioner Levine was concerned with mansionization and confirmed with the City Attorney that the current design requires a code-compliant 2-car garage.

City Attorney Steres clarified the Zoning Code requirement for a non-conforming lot, and stated that the applicant would satisfy the first portion of the code; however, if the structure is in place of where a garage should be, then the project should be denied.

Commissioner Gelhaar concurred with Commissioners Davitt and Levine regarding the size of the home. He emphasized the importance of having a garage, especially when no parking is allowed on both sides of the street. He would grant additional square footage with a condition to install a 2-car garage. He can support staff's findings and conditions to allow an 18-ft wide garage instead of 20-ft.

Chairman Engler concurred with Commissioner Gelhaar and Staff.

In response to the applicant's comment regarding construction in phases, Commissioner Levine stated that he has concerns regarding piece meal approvals, and could not support the project.

M/S/C Gelhaar/Davitt to approve Floor Area Review 04-03 with revised condition #13 that the 2-car garage can have a width of 18-ft instead of 20-ft. 4 Ayes. Levine dissenting.

D. Hillside Development Permit 04-09; Dorman; 4033 Chevy Chase Drive:

Planner Gjolme described the applicant's request for a Hillside Development Permit to allow a series of exterior site improvements including a new pool and spa, retaining walls, outdoor fireplace, and wooden arbors.

The project site is a corner lot northwest of Chevy Chase Drive and Stratford Drive, in the R-1-40,000 zone.

The additions would be located to the rear of the existing residence, and would integrate well with the spacious wooded estate, which comprises almost 3 acres. Generous separation and screening would be provided along Stratford Drive, from which the additions would be visible, but not prominently viewed in Staff's estimation. The proposed 7-ft retaining walls are the lone component warranting Commission review. The remaining elements qualify for staff-level hillside approval, which was not processed in order to bring the entirety of the project before the Commission.

Code compliance is achieved and typical hillside issues related to views and massing are not apparent considering the topography of the site and immediate area.

In addition to the conditions of approval, Staff would like to include preservation of all City protected trees that are in proximity of the project elements, and a 24" oak located near the Blue-Line Stream. Current provisions only indicate protection of a 30" oak near the proposed fireplace.

Staff recommends project approval subject to the said conditions.

Planner Gjolme informed the Commission that the applicant had received verbal confirmation from Fish and Game regarding re-construction of the wooden bridge over the Blue Line Stream. However, no written letter was submitted prior to packet preparation and distribution.

Contractor, John Phglan apologized for the property owner's absence and that he is available for any questions. He stated that the previous 35-year-old bridge was decomposed and that a small wooden footbridge was installed in its place. Referring to the Staff Report, he clarified that the applicant also owned the parcel above the 119,846-sf lot and has no desire of selling it. According to the Landscape Plan, approximately 5,800 plants would be planted for screening purposes. He stated that the applicant is open to any recommendations.

Chairman Engler opened the public hearing. Comments were not offered and the public hearing was closed.

M/S/C Davitt/Mehranian to approve Hillside Development Permit 04-09 with an added condition that an approval from the Department of Fish and Game is required for all improvements in proximity to the Blue Line Stream. Unanimous.

E. Modification 03-06; Eguchi; 3990 Chevy Chase Drive:

Planner Gjolme described the applicant's Modification request to allow two existing 10-foot driveway pilasters located within the required front yard setback, well above the 42" height limit.

Both the Public Works Commission and City Council denied a PRAC permit for the pilasters to be partially in the right of way along Chevy Chase Drive. No action has been taken to remove the portions within the right-of-way and enforcement action against the property is proceeding accordingly.

The additional pilaster height is excessive, and does not achieve a legitimate privacy, use or aesthetic benefit, in staff's estimation.

Staff recommends denial of the Modification, with direction to submit a Decorative Fence request, which would allow pilasters up to 6-ft at the front property line.

Planner Gjolme also informed that the applicant is out of the country and his lawyer was unavailable to attend the meeting.

M/S/C Gelhaar/Davitt to deny Setback Modification 03-06. Unanimous.

VIII. OTHER BUSINESS:

A. Code violation; 1514 Descanso Drive; appeal of the Director's determination:

Planning Aide Shimazu reported that a 14"-diameter Chinese elm located within the front yard was removed without a permit. A site inspection revealed that the tree had been trimmed beyond the 25% threshold. No one was present at the time of inspection.

At a later date, Staff conducted another site inspection and discovered that the tree had been completely removed except for the stump. The City notified the owner of the violation and the applicant responded that they were not aware that the tree was protected. An arborist report stated an appraisal value of \$7,700. Staff determined that the owner must make restitution to the City for that amount or install replacement trees equivalent to the said value. The notice to that effect was sent to the owner on March 1, 2004.

Subsequently, the applicant filed an appeal indicating that "... the City should have informed [the owner] that the subject Chinese elm was protected by the City when the tree was being removed."

Staff does not concur with the appellant's claim because initially, when the tree canopy was trimmed beyond the 25% limit, it constitutes as tree removal.

Chairman Engler asked which unlicensed tree trimming company was responsible for the illegal tree removal.

Planning Aide Shimazu responded that he did not have that information.

Commissioner Davitt confirmed that on October 16, Planner Gjolme conducted the site inspection and that a stop-work order form was not posted. However, a business card was left on the property owner's front door.

Property owner Mr. Akhtar, stated that he and his wife purchased the home on August 30, 2003 and were unaware of the rules and regulations of the City. Due to the tree not allowing enough sunlight onto the property, mold became evident creating a safety issue for their small child. According to his gardener, a permit was not required for its removal. The owner stated that he had no idea that the tree was protected and was not notified by the escrow company. He stated that if the City initially posted a Stop-Work Order, no further action would take place on the tree. However, the property owner is willing to do anything to rectify the situation.

Chairman Engler informed the property owner that 25% of the tree was removed and that it would not survive if left alone.

Commissioner Levine confirmed that the gardener responsible for the illegal tree removal was Carlos Martinez, from Landscaping Garden Services. He also confirmed that the City has recourse against the property owner and the gardener. He commented that although the owner was unaware of the rules and regulations of the City, he is not released from liability. He informed that it is the property owner's responsibility to hire a licensed contractor.

Commissioner Davitt confirmed that the owner may install more than one replacement tree equal to the appraised value of \$7,700.

Based on the Arborist's Appraisal Worksheet, Community Director Stanley pointed out #7 and #8 that the replacement tree and installation costs would amount to the appraised value. He stated that the Commissioners have that option or, they may condition any number of trees.

Commissioner Levine expressed his irritation of residents illegally removing protected trees. He commented that the property owner should be required replace the same size and type of tree on the same location.

Commissioner Gelhaar commented that if the tree were removed where a structure could be added, then he would concur with Commissioner Levine to an extent. He stated that he would grant the alternative to plant a 48" box size City-protected tree somewhere on the property in lieu of payment.

M/S/C Gelhaar/Davitt to deny appeal of illegal tree removal with a condition that the property owner must pay the \$7,700 fine or plant a 48" box size City-protected tree somewhere on the property. 4 Ayes. Levine dissenting.

B. Internet Café- Use determination

Director Stanley reported an inquiry as to whether an internet café would be allowed within either the CPD Zone or DVSP Zone. According to the CPD Ordinance, the use is prohibited, however "...the Director of Community Development may determine that any use not listed is comparable to a listed use and to be treated in a similar manner." The DVSP Zone has similar provision with "Planning Commission" substituted for "Director of Community Development." The list of conditionally permitted uses are mainly recreational facilities involving physical activity. Internet browsing and game activities would be similar to card rooms and arcades, which are not listed in either commercial zone code.

Under the CPD Zone, Director Stanley determined that internet cafes are equivalent to other recreational facilities, and could be evaluated on a case-by-case basis through the Conditional Use Permit process.

Chairman Engler confirmed that parking requirements would be similar to the Recreational Zone.

Commissioner Levine encouraged Staff to research any problematic issues within the Los Angeles County area, and check whether Starbucks conducted similar activities. The Commissioners concurred.

Commissioner Mehranian requested a definition for the internet café and what rules and regulations are imposed for such activity.

City Attorney Steres clarified that in an internet café environment would have stationary computers, whereas at Starbucks, the public must bring their own laptops.

Commissioner Levine commented that through observation from other countries, internet cafes are mainly used for communication purposes.

Director Stanley stated that an internet link service will be posted on the web and that he will contact the Sheriff's Department for additional information.

C. Report re: HDP 03-71; 5161 Crown Avenue, administratively approved.

Commissioner Gelhaar reported that the project was approved with added conditions.

IX. COMMENTS FROM THE COMMISSIONERS:

Commissioner Davitt informed that he will be absent from the next Planning Commission meeting.

Chairman Engler expressed concerns regarding new residents not being informed of the City's rules and regulations.

Director Stanley responded that the Chamber of Commerce has all the City's ordinances and handouts available to the public, and that they work closely with real estate agents in the area.

Responding to a question from Chairman Engler, Planning Aide Shimazu informed that a Stop-Work Order was placed on 1100 Inverness Drive. He added that submittal of plans and a Hillside Planning Review Application are pending from the property owner.

X. COMMENTS FROM THE DIRECTOR:

Director Stanley informed the Commissioners to submit any budget requests and that the Gazmarian project appeal is set for May 3 for the City Council Meeting.

XI. ADJOURNMENT:

M/S/C Gelhaar/Davitt to adjourn at 9:50 p.m. Unanimous.

Secretary to the Planning Commission