

MINUTES OF A MEETING OF THE
CITY OF LA CAÑADA FLINTRIDGE

PLANNING COMMISSION
HELD ON
MAY 12, 2015

- I. CALL TO ORDER:** Vice-Chair Jain calls the meeting to order at 6:07 p.m.
- II. ROLL:** Also present are Commissioners Gunter and McConnell. Commissioner Smith is absent.
- III. PLEDGE OF ALLEGIANCE**
- IV. SEAT NEW COMMISSIONER:** Director Stanley swears in new Commissioner Mike Hazen.
- V. SELECT CHAIR AND VICE-CHAIR:** Vice-Chair Jain obtains consensus to postpone selections to the next meeting in order to have a full Commission vote.
- VI. COMMENTS FROM THE PUBLIC:** None
- VII. REORDERING OF THE AGENDA** Item X.A moved to the first hearing.
- VIII. CONSENT CALENDAR** (Hazen recused)
- A. **Minutes:** March 24, 2015: Approved 3-0
 - B. **Minutes:** April 14, 2015: Approved 3-0
 - C. **Resolution** approving Director's Miscellaneous Permit 14-47 for recreational vehicle parking and storage at 1348 Descanso Drive (Stewart): Approved 3-0
- IX. CONTINUED PUBLIC HEARINGS**
- A. **Second Floor Review 14-35/Modification 14-19**
4376 Beulah Drive
Mu

Request approval of an addition with a second floor comprising 552 square feet, and legalization and expansion of an existing accessory structure with a variable encroachment from 10 inches to 5 feet into the required 5-foot south sideyard setback.

Consulting Architect/Planner Cantrell states that the Commission continued the project solely because of uncertainty over the legal situation involving an existing garage wall extending partially over the south property line. Since that time, the owner of the neighboring property has continued to resist any change to that wall segment. Mr. Cantrell reports that the City Attorney has determined that the project can proceed with development with conditions he will discuss, and that the findings

can be made as the Commission previously determined.

Commissioner McConnell asks about how to build the structure on the property line. Deputy City Attorney Guerra responds that neighbor will not relinquish permission so the determination is to proceed and not have the applicant hostage to the neighbor. He states that ultimately it is a civil law matter between the two properties.

Commissioner McConnell asks about the design. Mr. Cantrell responds that a new garage will be built with a 4-inch setback and the setback Modification is still needed.

Commissioner Gunter asks about instructions regarding conditions of approval. Deputy City Attorney Guerra reads the draft condition that addresses the responsibilities of the applicant and the neighbor.

Commissioner McConnell asks how the new structure will not go over the property line. Mr. Cantrell replies that it will not touch the existing wall.

Vice-Chair Jain opens the public hearing.

Project Architect Franco Noravian states his belief that there is a legal way to connect to the existing wall, noting that if they have to build with no connection, a 6-inch block wall would have to be built, but in any event connection would be required to stabilize the remaining portion of the existing wall.

Commissioner McConnell inquires, since it is the applicant's wall that is partly on the other property, why not move the wall away and build anew? Owner Brian Mu states that he is trying to appease the neighbor, and does not want to remove the wall and create dust and debris.

Director Stanley explains that he did talk to the neighbor and address reasons why the wall should come down and also some alternative ways to develop the structure. He had also explained that the garage wall built over the property line clouds her title.

Mr. Noravian notes that if there is space between the walls there will be too many issues related to stability, water damage, debris catchment, etc.

Director Stanley states that the architect would have to prove to Building & Safety that it is built safely and within Code.

Commissioner Gunter notes that the vast majority of control is with the applicant, not the neighbor, and that the applicant's wall is structurally sound whether the wall is removed or not.

Vice-Chair Jain closes the public hearing.

Commissioner McConnell states that, after all the discussion and listening to the City Attorney, he can support the findings and the project.

Commissioner Gunter agrees with Commissioner McConnell, and recommends that the condition be worded so that the new wall of the garage is independent of the existing wall but the old wall will be retained, so that this would be technically a new structure.

Vice-Chair Jain states that the work is well done and he can support the project and the record should reflect it is a new garage.

M/S/C Jain/Gunter to approve with amended condition: 4-0

**B. Zone Change 12-02
Downtown Village Specific Plan and CPD Zone Citywide**

Consideration of amendments to the City's Downtown Village Specific Plan (DVSP - Ordinance No. 312) and the Community Planned Development (CPD) Zone (Chapter 11.14 of the Zoning Ordinance) pertaining to the allowance and development standards for drive-through facilities.

Senior Planner Buss notes that the item is continued from the last meeting, where there was no time for its continued review. From the previous review, staff has noted the additional changes recommended by the Commission. A redline/strikethrough version of the draft ordinance is provided.

He summarizes the points of revision. With regard to setback distances, he had gotten the sense that one zone could have 100' and the other zone 50', noting that the Downtown Village Specific Plan is not near residential uses, unlike the CPD Zone. He states that drive-throughs are not indicated for the Mixed Use 1 Zone, with its pedestrian orientation, but are for Mixed Use 2, which has more auto-oriented development.

Commissioner Gunter confirms that some of the existing drive-through uses are in areas not zoned for it.

Vice-Chair Jain opens the public hearing.

Bill Koury identifies himself as a city resident with business interests. He favors a positive reaction to the drive-through ordinance. Mr. Koury states his belief that any business in the city with a good track record, good location, and good product with no negative traffic or noise impacts on neighboring businesses should at least be allowed to apply. He notes two examples, one from 10 years ago, when the Commission recommended a permit for a drive-through carwash. He notes that such uses didn't proliferate, and the city benefitted from having a four-minute car wash in town. His second example is an opportunity to provide public service at the 210 Freeway at Angeles Crest, as a base for the long drive over crest, as an opportunity to get coffee from one's car. He expresses confidence in the Commission to devise appropriate wording.

Vice-Chair Jain closes the public hearing.

Commissioner Gunter recalls working on this for a long time, and having continued concerns about changing rules for a significant part of the city for something that has been successfully limited since before 2000. He states that certain sites may be well-suited, but there is no push from residents or the business community. Mr. Gunter states that Mr. Buss has crafted something technically accurate to a point, and asks how to move forward an ordinance without a need for it. He proposes tabling the ordinance while continuing discussion about how to address individual sites with unique situations not reflected in zoning. One of the requirements should be a desire in the community, and also a change in underlying conditions. He states that the City has done a spectacular job in 20 years

along Foothill for pedestrian-friendly development, and he would like to see the possibility of drive-throughs via some other method.

Commissioner Hazen, noting that he is a new Commissioner, confirms with Mr. Buss that individual Conditional Use Permits would be required. Mr. Hazen states that he would generally not be in favor of such requests but the Shell location is worthy of consideration. He confirms with Director Stanley that the Conditional Use Permit standards would be restrictive to the point that few properties would qualify for development. Mr. Buss adds that Mr. Koury is requesting that the ordinance be proposed so that at least an application may be filed. Commissioner Hazen states that the City should try to accommodate new business and that Craig Avenue could be better used. Deputy City Attorney Guerra adds that the ordinance would not target a particular property.

Commissioner McConnell states the same conclusion as Commissioner Gunter, but from a different direction. He regards the thresholds so extravagant as to effectively ban the use, constituting a waste of time and energy. He favors a small working group to look at other methods and process, with strict findings.

Vice-Chair Jain agrees with most of the comments, noting that he was part of the subcommittee on the topic. He states a belief that the process should not alter an entire zone, but an individual parcel mechanism. He endorses the idea of a study group, and seeks direction from the City Attorney.

Deputy City Attorney Guerra notes that the Commission could establish a subcommittee, direct staff to look at different options, perhaps recommend an overlay zone, and ultimately recommend action one way or another to the City Council.

Vice-Chair Jain states that the City Council may independently establish a subcommittee or order drafting of an ordinance.

Deputy City Attorney Guerra notes that the City Council expressed the desire for some form of an ordinance.

Commissioner McConnell suggests continuing work as a subcommittee, and Commissioner Gunter concurs, noting the consensus at this point that the approach in the ordinance won't work but that another form might. Director Stanley recommends forming a committee at the current meeting, noting that the item is time sensitive, having been in process for so long. Commissioners McConnell and Hazen volunteer for the assignment, and Vice-Chair Jain volunteers as an alternate.

Director Stanley notes that the City can do a list serve search for further ideas.

M/S/C Jain/McConnell to continue the item to a date uncertain, with the subcommittee of Commissioners McConnell and Hazen to work directly with staff: 4-0.

X. PUBLIC HEARINGS

A. Hillside Development Permit 10-44 (amendment) / Second Floor Review 10-31 (amendment) / Setback Modification 10-28 (amendment) 5545 Rock Castle Drive

Gross

Request for an amendment to modify a condition of approval establishing a new project expiration date. The requested time extension amendment was submitted prior to the original expiration date. The extension would allow construction of a 732-square foot pool house, 382-square foot second-floor addition, 457-square foot second-floor volume space, and 447-square foot first floor addition to an existing single-story house on a 38,420 sq. ft. hillside lot. The Setback Modification would allow a 13 ft. first-floor north side setback encroachment, a 4 ft.-3 in. second-floor north side setback encroachment, and a 6 ft. front setback encroachment.

Assistant Planner Parinas confirms that the Commission does not need a staff presentation.

Vice-Chair Jain opens the public hearing.

Harriet Hammons, 5404 Rock Castle Drive, addresses the Commission.

Vice-Chair Jain closes the public hearing.

Commissioner Gunter agrees with staff's approval recommendation.

Commissioner McConnell states that he can vote for approval.

Commissioner Hazen concurs.

Vice-Chair Jain notes that the project and code have stayed the same and thus he can also vote for approval.

M/S/C McConnell/Gunter to approve the project as submitted: 4-0

B. Floor Area Review 14-01 (amendment) 5000 Hook Tree Drive

Samwon Design, Inc. / Rhee and Park

Request to consider an Amendment to a previously approved Floor Area Review to allow a 60 sq. ft. one-story addition to an existing one-story house. The previous approval also required a Second Floor Review because some of the previously approved additions had wall heights over 12'-0" and qualified as new second floor. The new addition would not impact the Second Floor Review component of the previously approved project. The new project requires Floor Area Review because the lot qualifies as a narrow lot and the applicant is proposing to exceed the 4,500 sq. ft.

limitation for narrow lots. Total floor area would increase to 5,190 sq. ft. which is under the 6,119 sq. ft. maximum allowed for the lot size.

Assistant Planner Harris states that the property owner and applicant returned to the City with the amendment a month ago. The project is under construction, and the revision doesn't affect the Second-Floor Review. She notes the narrow, irregular lot configuration, and the addition of 60 square feet to the floor area, to 5,199 sf. Ms. Harris states that the project would be code-compliant. She displays the new area, near the front porch and outside of required setbacks, noting further that it is down a private street and out of view in the middle of the parcel. Ms. Harris recommends positive findings and approval.

Vice-Chair Jain opens the public hearing.

Steve Shin, project designer, notes that as the project progressed it became evident that the revision would make the front façade cleaner and open up interior space.

Commissioner Gunter confirms that the applicant was proposing the change, rather than a field change discovered by a building inspector, and expressed appreciation for that.

Vice-Chair Jain closes the public hearing.

Commissioner McConnell confirms with Director Stanley that there was no other option of Director's approval due to the floor area threshold on a narrow lot.

Mr. McConnell states that he revisited the site, having remembered the project well, with its long driveway forcing it into the narrow lot. He states that it is a good design, especially kept at a single story, retaining ample modulation. He supports positive findings.

Commissioners Hazen and Gunter, and Vice-Chair Jain concur.

M/S/C Gunter/Jain to approve the project as submitted: 4-0.

XI. OTHER BUSINESS:

A. Tree Ordinance Finding B.5. - Discussion

Assistant Planner Harris recalls that in February 2015 the City Council requested an update on the Tree Ordinance. Staff was concerned with removal of dead trees, as well as Finding B-5 which had been added by the City Council as a catchall. It was a way of allowing removal if it made sense, in the way of development, but staff felt that it could be abused. The City Council referred the item back to the Planning Commission. Ms. Harris states that staff had been looking at it wrong, considering only the first portion of the text. After closer review and considering that the remainder of the text ensured no impact on the neighborhood or neighboring properties, staff's recommendation is now to keep the wording as it exists.

Ms. Harris provided reference to the number of trees removed before and after the ordinance revision, noting the option to either replace removed trees or pay into the tree fund, with flexible criteria. Director Stanley notes that previous findings didn't have the fund option.

Commissioner Gunter notes that the requirement be “reasonable”, not just the applicant’s desire. He recommends indicating the number of protected trees removed, and confirms with Ms. Harris that dead trees were not included in total. Mr. Gunter recommends that total live and dead tree removals should be listed separately, and then added for a total figure. He voices comfort with how the removal permits are proceeding, with new plantings as a result.

Director Stanley states that the trend is to pay into the fund, noting that Public Works uses it for public right of way plantings. He notes that the tree fund numbers of removed trees can be compared with the numbers planted. Commissioner Gunter comments that the tree fund option can be advantageous to owners, and questions whether the ordinance is still performing as intended.

Commissioner McConnell confirms that the City Council asked the Commission to look at only B5 and nothing else, and notes that it is working. He recommends keeping the language as exists, and that the City Council can direct whether to look at the replacement ratio. Assistant Planner Harris notes that the City Council did explore a 2:1 relationship, but decided to keep what is on the chart.

Vice-Chair Jain states that some trees should go back on the same property.

Responding to an inquiry by Director Stanley, the Commission voices consensus that b5 is working and recommending no revisions.

B. Hedge Issues – Continued Discussion

Director Stanley recalls the item’s previous discussion at the Commission, where regulation proponent John Spencer made a presentation. Mr. Stanley notes that Mr. Spencer is again before the Commission. Staff had looked at plant growth regulation in Laguna Beach, which involves a claim process and is more tied to view preservation. That issue was previously investigated by the Commission and rejected.

Assistant Planner Parinas notes that Laguna Beach has difficulty enforcing its regulations, and once filed, staff does not investigate. Rather than numerical limits, the regulation is based on view blockage, which involves constant enforcement because of hedge and tree growth.

Commissioner McConnell states that this is not like front setback limits on hedge height, which are related to traffic safety. Director Stanley concurs, adding that that is enforced by Public Works.

Deputy City Attorney Guerra notes case law in Rancho Palos Verdes, Tiburon, and Rolling Hills Estates. In Rancho Palos Verdes, an ordinance prohibited foliage from blocking views, and the court upheld it as a legitimate purpose and police power, not a taking. In Tiburon, a similar view preservation goal existed, along with also sunlight concerns. It was based upon time of property purchase, and upheld by courts. In Rolling Hills Estates, a broader regulation was challenged as vague but upheld in court. Mr. Guerra concludes that if the purpose is clearly identified, the regulation should be upheld.

Vice-Chair Jain asks if an ordinance would base enforcement on complaints. Deputy City Attorney Guerra notes that some cities have mediation, and that Rancho Palos Verdes has a view preservation commission or hearing officer.

Commissioner Gunter states his appreciation for Mr. Spencer's difficulties, and asks if other residents have come forward with such concerns. Ms. Parinas notes that only one has, and that regarded view preservation. Director Stanley notes that the Commission has already heard from them.

Vice-Chair Jain asks if any complaints have been filed by third party to preserve the neighborhood. Ms. Parinas states that there have not been, and that Laguna Beach deals only with adjacent neighbors. Mr. Guerra adds that he has only seen cases involving two parties.

Vice-Chair Jain opens the public comment.

John Spencer states that he hadn't done his homework when coming up with the idea. He states that he had no intent of using Laguna Beach as an example, and that enforcement is a sidetrack. He thanks the Commission for considering his concerns.

Mr. Spencer asks for consensus on what hedge height limit would be reasonable. He states that, as fence heights are regulated, so should the height of massive foliage privacy screens. He asks if one property owner has the right to affect adversely adjacent properties? Sunlight, and air are issues. He notes that mansionization is unfortunate. With regard to privacy screens, he suggests a limit 2 to 4 feet above the existing fence line, or 8 to 10 feet.

Commissioner Hazen asks Mr. Spencer about the vegetation next to his house. Mr. Spencer replies that in 1995, new neighbors planted with the intent to block view of Mr. Spencer's house, and that Ficus nitida is now a dense mass, 22 feet in height.

Vice-Chair Jain closes the public comment.

Commissioner McConnell notes the significant effort Laguna Beach puts into its process, encouraging neighbors to work together, and trying to create last resort for neighbor feeling invasion. He notes the involvement of a small number of people, site-specific, with no other option. He notes the need for the review to be case by case, documented by complainants.

Commissioner Gunter notes that a civil process is available. He acknowledges that Mr. Spencer is having a particular issue, but not something that the Commission hears complaints about. He notes many old properties with tall hedges and adjacent owners accustomed to them. Mr. Gunter notes that two-story houses can block views as well. He states that he cannot agree with regulation like that of Laguna Beach, and that ultimately staff would be asked to make determinations with financial consequences. Mr. Gunter concludes that it would not be practical, and that the City shouldn't be involved.

Commissioner Hazen and Vice-Chair Jain agree.

Director Stanley notes a 3-1 consensus to not move forward on hedge regulation. Vice-Chair Jain confirms the vote, with Commissioner McConnell in favor of some level of regulation, and the others opposed.

Deputy City Attorney Guerra states that staff will report the results to the City Council.

C. **Basement Light Wells** – Continued Discussion

Planner Gjolme notes that it is not a formal presentation, but staff asking for Commission input with regard to current basement and lightwell regulations. He reports that, over last 2 years, several sizable basement projects, e.g., 835 Berkshire and 458 Noren, generated a lot of discussion on basements as exempted floor area not to be scrutinized. He recalls that on February 10, a Second-Floor Review case at 4812 Crown included the first basement proposed to be larger than the ground floor footprint. Mr. Gjolme states that it was of some concern to staff and the Commission, and asks if there is a need to adjust the Zoning Code.

Mr. Gjolme notes general ideas outlined for discussion, such as the possibility of limiting basement size to the footprint above it, or a percentage of that footprint, or of counting it as floor area based on use. He states that it is not a call for action, just discussion.

Planner Gjolme also mentions lightwells as open for discussion, noting that the Commission is aware of informal policy governing their size as limited to the minimum required by Building & Safety – 3-foot maximum width, 6 inches from ends to lightwell wall, no limit on length.

Commissioner McConnell confirms with Mr. Gjolme that there is no requirement to break up the lightwell at the intermediate wall.

Mr. Gjolme notes the lack of an overall length limit, and the allowance of retaining walls, including lightwells, up to a height of 5'-6" within setbacks. He notes that some applicants have purposely limited heights of lightwells to allow them within the setbacks. For example, the new house at 4917 Indianola has two or three such height-limit lightwells in the setbacks, with nothing in the code to preclude them. He concludes that if the Commission is concerned, lightwell definition and regulation should be considered.

Commissioner McConnell confirms with Mr. Gjolme that natural grade is the same as original. Director Stanley notes that building height is determined by finish or natural grade, whichever is lower.

Commissioner Gunter appreciates an effort to refine the definition and regulation of basements. He likes the suggestion to limit the basement footprint to the ground floor footprint, noting that the basement shouldn't project forward of house. Mr. Gunter advises against getting involved in questions of use.

With regard to lightwell depth, Mr. Gunter states that using inward-facing retaining wall regulations is logical. He suggests a threshold of some percentage of façade length (e.g. 30%) not as lightwells (low datum point) for calculating building height. He states the need to prevent a moat effect.

Mr. Gunter continues to note the need to address partially submerged basements. Mr. Gjolme states that usually an internal wall differentiates behind daylight and basement areas. Commissioner Gunter replies that it would be helpful to write that determination. Commissioner McConnell recalls discussion of such a basement on a recent Chevy Chase Drive project. Mr. Gjolme recalls that 85% of that floor level was exempt as basement, with only a sliver that daylighted. He notes that the reliance on an internal wall, which could be removed, was of concern.

Commissioner McConnell asks about bonus height allowed by Director review. Director Stanley states that it is for architectural purposes, such as turrets, and that anything that goes over the regulatory threshold is not substantial conformance. Assistant Planner Harris notes that additional wall height could be subject to 2nd floor setbacks.

Commissioner McConnell states support for removing lightwells from setbacks. Commissioner Gunter states ambivalence, noting the allowance of 5'-6" retaining walls. Mr. McConnell states that the lightwells allow abuse of the idea of bonus area, and that an inset would be needed if not allowed in setback. Mr. Gunter expresses openness to the idea. He notes that some cities work on averages, but it is cleaner to just disallow.

Commissioner McConnell states that lightwell encroachment is more of a problem with 5-foot sideyards. Mr. Gjolme agrees, and states that requiring their location outside of the 5-foot sideyard would make sense. Director Stanley suggests an option of counting the low datum point if within the setback. Mr. Gunter endorses a simple 5-foot requirement. He adds that 30% of façade length seems like a good number for lightwell limitation. Mr. McConnell adds that none should be allowed in front of the house, and Mr. Gunter agrees.

Director Stanley summarizes the comments: height to use retaining wall limit in required setback only; lightwell length limit 30% of façade length, with anything in excess establishing a low datum point; no lightwells in front; and a minimum 5-foot sideyard setback free of lightwells.

Vice-Chair Jain questions whether to dimension from inside face or outside face; Director Stanley and Commissioner Gunter recommend outside face for consistency.

Commissioner Hazen questions the concerns of having lightwells in front of a house. Vice-Chair Jain states that, aside from removing landscape area, it should be allowed. Commissioner Gunter cautions against loopholes, noting that seemingly innocuous items like lightwells can become visual problems. He notes that basements into front yards are rare, and regulation is thus not onerous. Director Stanley states the need to differentiate between the front of the house and the front setback. Mr. Jain states that if it is within the code envelope, it should be allowed in front.

Commissioner McConnell suggests that basement area outside of the footprint above should count as floor area.

Commissioner Gunter states that lightwells should not be allowed in front of the house, even outside of front setbacks, citing concern with unintended consequences.

Director Stanley states that staff will simply return with a draft ordinance for discussion by all five Commissioners.

XII. REPORT OF DIRECTOR'S REVIEWS: None

XIII. COMMENTS FROM THE COMMISSIONERS: None

XIV. COMMENTS FROM THE DIRECTOR: Director Stanley states that three items are tentatively scheduled for the May 26 Commission agenda: an ordinance establishing procedures for approval of development agreements; General Plan consistency determination

of the Fiscal Year 2015-16 Capital Improvements Program, and Planning Commission budget requests.

XV. ADJOURNMENT: M/S/C Gunter/Jain to adjourn at 9:15pm: 4-0.