

**MINUTES OF A MEETING OF THE PLANNING COMMISSION
OF THE CITY OF LA CAÑADA FLINTRIDGE
HELD MAY 26, 2009**

- I. **CALL TO ORDER-** Chairman Gelhaar called the meeting to order at 6:02 pm
- II. **ROLL -** Present were Chairman Gelhaar, Commissioners Cahill, Curtis, and Davitt, Director Stanley, Senior Planner Buss, Planner Clarke, Planner Gjolme, Assistant Planner Parinas, and Assistant City Attorney Guerra. Commissioner Hill was absent.
- III. **PLEDGE OF ALLEGIANCE -** The Flag Salute was recited.
- IV. **COMMENTS FROM THE PUBLIC -** No comments were offered
- V. **REORDERING OF THE AGENDA -** IX.C and IX.A was reordered in front of VIII.A.
- VI. **CONSENT CALENDAR -** There were no items in the Consent Calendar.
- VII. **CONTINUED PUBLIC HEARINGS -** There were no Continued Public Hearing Items.
- VIII. **PUBLIC HEARINGS -**
 - A. Zone Change 09-05; Downtown Village Specific Plan: Consider adoption of an amendment to the City's Downtown Village Specific Plan (DVSP) to add a Professional Office Overlay Zone Designation. More specifically, the new Overlay Zone would be placed over the Mixed Use 1 and Mixed Use 2 zones to temporarily override the permitted use listing for professional office uses within these zones. The overlay zone would also eliminate the requirement for a Conditional Use Permit (CUP) for professional office use making this an outright allowed use. The overlay zone would sunset (self-terminate) after a fixed period (suggested one to two years) whereupon the base zoning permitted use listings would again apply.

Senior Planner Buss presented the project in accordance with the staff report.

Chairman Gelhaar asked what the cost is to apply for a Conditional Use Permit. Senior Planner Buss indicated that a Minor Conditional Use Permit cost approximately \$1,900. Chairman Gelhaar asked how long it usually takes to process a CUP. Senior Planner

Buss responded that a full CUP takes 3 to 5 months to process depending on the work load. Director Stanley added that a Minor CUP usually takes a much shorter amount of time to process. Commissioner Gelhaar asked if it is possible to eliminate the CUP process and replace it with a Director's review. Director Stanley verified that it would be possible to do so. Director Stanley added that factors to consider regarding staff's recommendation for the removal of a CUP are: 1) if a CUP is not required, then a variance would be required for any parking shortages; and 2) office uses in the CPD zone require a CUP and this would penalize other properties outside of the DVSP.

Chairman Gelhaar asks if it is possible to amend the zone to rezone the Mixed Use 1 containing offices to Mixed Use 2. Director Stanley responded that this may be spot zoning of a building that only has a portion of the building floor area in office use - a poor practice to start. He added that the only reason for the overlay is because of the current economic climate.

Commissioner Curtis asked why the CUP was required as it currently stands in the code. Senior Planner Buss stated that during the public hearing process for the DVSP, the City Council wanted to discourage non-retail uses in the Mixed Use zones. However, as the City has never denied a CUP request, but has occasionally placed conditions on them, the discouragement has not been effective. Director Stanley reminded the Commission of the issue of parking changes requiring a variance. He also noted that the CUP requirement was a carry-over from the CPD zone (the CPD zone requires a CUP for office use).

Commissioner Curtis asked if there is a concern from the City's stand-point regarding upgrading of older structures if there is only an office - are office uses less likely to expend money to upgrade the building and façade?

Director Stanley stated that the Business Support and Development Committee (a joint Chamber of Commerce and City committee) has noted concerns from retail store owners. Parking by office employees does not turn over, they tend to stay parked in a space for a longer period of time, whereas parking for retail stores turns over frequently. Director Stanley noted that the DVSP has been in place for almost ten years and it is time to be comprehensively updated.

Commissioner Curtis stated that medical offices have relatively high turn over rates and would be healthy for retail uses. He asked if staff has information on how many retail spaces and office spaces are vacant. Director Stanley replied that staff has not looked at it in that detail. Chair Gelhaar stated that he drove along Foothill Boulevard and noted very few vacancies. Director Stanley commented that he agrees that there are very few vacancies.

Commissioner Curtis asked where the request is coming from, if there are few vacancies. Director Stanley stated there are existing office buildings that would have to go through the CUP process when they have a new tenant and the City is dealing with this with the change of tenant issue. He added that another thing that staff is looking into is the possibility of establishing an overlay for the existing office buildings. He stated that staff has researched the amount of existing office buildings that already have a CUP and found that a number of office buildings already have CUPs, therefore he does not believe the problem is huge. He questioned whether the economy is bad enough to make these changes.

Commissioner Cahill asked for clarification regarding the table on the draft resolution. Senior Planner Buss clarified that superscript 4 will be added to Table 6.1 on the Professional Office line indicating a 3 year period to allow offices by right. He also noted that with the current non-conformity chapter in the Zoning Ordinance, the uses will be allowed to stay indefinitely once they are in. Commissioner Cahill stated that he would not mind doing it for a temporary period, but not for a temporary period without time limitations because it would be a step backward.

Chairman Gelhaar opened the public hearing portion of the meeting.

Noting no speakers, Chairman Gelhaar closed the public hearing.

Commissioner Davitt stated that continuing the matter for additional information would be beneficial. He noted that there are far reaching implications to this request. The 3-year window is a pass key to get in and then the office can be in there for a much longer period of time. He stated that the long term negative effects may out-weigh the short term benefits. A good mix of office can benefit retail uses. He stated that he is reluctant to go with the issue resolution as proposed, but would be willing to consider changes.

Chairman Gelhaar stated that the City is trying to find a solution for problems that do not exist. He stated that we are trying to change the zoning to entice people to come in, but he does not think there is a problem with vacancies. He also noted that he would not feel comfortable eliminating the CUP process, and would like to continue to utilize the CUP for parking issues rather than the variance process.

Commissioner Cahill agreed with Commissioners Davitt and Gelhaar that there is no problem that needs to be solved; there are only two vacancies in the Village Center (other than the new mall). He stated that very often things follow economics. He asked if the cost per square foot to rent an office space is higher than the cost per square foot to rent retail space. If so, we are going to see the economics drive and move to office when vacancies come up over the natural course of things. He stated that the Commission needs more information on what the economic drivers are.

Commissioner Curtis expressed that he does not see it as a large problem. He stated that adjustments can be made to enhance retail by allowing a mixture of offices but this would be a long term planning strategy as opposed to a short term planning strategy at this juncture. He pointed out that allowing offices may lead to unintended consequences: exteriors not getting upgraded and many office-type uses have a higher intensity for parking. He expressed his concerns with offices using up valuable parking (stagnancy). He stated that he would rather have the City leave the issue alone subject to further study. He suggested that the City waive or reduce CUP application fees, if money is the issue.

MOTION - Chairman Gelhaar moved and Commissioner Davitt seconded a motion to recommend to the City Council to not make short term changes that have potential long term detrimental ramifications. Motion carried, 4-0.

IX. OTHER BUSINESS

- A. Study Session on House Inspections:** Discussion regarding requiring home inspections prior to the sale of homes in the city.

Planner Clarke presented the case in accordance to the staff report.

Chairman Gelhaar asked Assistant City Attorney Guerra if there are any liability concerns regarding the City certifying whether a building meets codes. Deputy City Attorney Guerra stated that he does have some concerns regarding liability. He clarified that disclaimers can be written into ordinances but it would not mean that the City would not potentially be the subject of a lawsuit.

Planner Clarke stated that San Marino has a section regarding liability entitled "No Reliance" which is a "no fault" statement stating that the City can not be held liable. He added that he used the San Marino code as an example because San Marino has been conducting home inspections for over 20 years and if there are any problems with the program they would have encountered it.

Commissioner Cahill stated that codes change and a lot of things are not up to code requirements. He asked for clarification if requiring home inspections would mean that people would have to bring things to code. Planner Clarke stated that there are several issues and the common issues are: 1) Is the garage to code? 2) Was an extra kitchen added? 3) Are there any visible health, electrical, and safety violations? Director Stanley clarified that if a structure is legal non-conforming then it does not have to be brought up to code, but if the structure was added without permits then they would have to bring it up to code or remove it.

Commissioner Curtis asked for clarification on the accuracy of building permit records. Planner Clarke stated that the County records prior to the 1976 incorporation have gaps in the records and the City's records are not 100-percent; we are not sure where the gaps are. He added that the City would have to use the records that the City has that date back to when the house was constructed along with the more recent building permits.

Commissioner Curtis asked if there are any thoughts on doing research regarding the amount of benefits the City will get regarding having the program. Planner Clarke stated that the program would generally not result in a reduction of code enforcement cases because the majority of code enforcement issues usually deal with recent construction. Director Stanley added that the City has discovered illegal room additions that have been in place for 20-30 years. He stated that in this case, the Planning Commission would review the case through a setback modification and the property owner would have to apply for a building permit. Director Stanley pointed out that many long-standing unpermitted structures have become long-running code enforcement cases that have taken up a lot of staff time. He stated that real estate agents are required to disclose information to their clients but it does not mean that they have to require it to be legalized.

Commissioner Davitt asked if staff found any City that required a records check prior to the sale of homes. Planner Clarke stated that he is aware of other cities that require a records check but it is more of a disclosure issue. Assistant City Attorney Guerra stated that a records check would not be a problem because it would simply be a matter of providing the documents. Director Stanley added that another method of obtaining records is through the County Assessor's Office since the County Assessor's Office has an accurate record of permits that were issued for construction. Chairman Gelhaar expressed that he likes the idea of requiring a records check because it makes the person buying the house aware of what has not been permitted.

The Commission discussion was opened.

Chairman Gelhaar stated that since the City Attorney indicated that there might be some legal issues involved he is inclined not to support something to this extent, but agrees with Commissioner Davitt regarding requiring copies of permits prior to the transaction.

Commissioner Curtis concurred with Chairman Gelhaar. He added that he would either like to continue the item in order to allow staff to get more information from other cities regarding the benefits of requiring home inspections, or go with what Chairman Gelhaar mentioned.

Commissioner Cahill expressed that he believes the item would have a lot of ramifications. He stated that electrical, plumbing and building code checks would have significant impacts and he would like it to be studied further before he would feel comfortable in considering it. He added that real estate agents have disclosure laws. Therefore he is not sure that the City needs to require a records check prior to real estate transactions because it is already being done.

Commissioner Davitt stated that real estate brokers are not required to obtain copies of permits from the City but are required to disclose anything that they know about. He added that from his personal experience there are a lot of problems that can occur out of mandating inspections prior to the sales of homes; therefore he would be hesitant to support the item. Commissioner Davitt stated that a sophisticated buyer would likely go to the City to obtain copies of building permits, so a records check requirement could be of value but is not necessarily needed.

The consensus from the Commission is not to go forward with the item.

- B. R-1 Standards Review:** a presentation and discussion of the results and effectiveness of the changes to the R-1 zone development standards that went into effect on November 1, 2006.

This item was continued to the June 9, 2008 Planning Commission meeting due to technical difficulties.

- C. Amendment to Draft 2009-10 Capital Improvement Plan:** Review of one addition to the CIP for determination of conformance with the General Plan.

Senior Planner Buss stated that Public Works has added an item to the Capital Improvement Plan. He clarified that the item that was added is a wall located at the intersection of Angeles Crest Highway and Foothill Boulevard, along the front of Hill Street Café. He stated that the wall is a safety measure for pedestrians and meets the safety concerns specified in the General Plan.

Commissioner Curtis asked Assistant City Attorney Guerra to clarify if the finding of consistency would not be considered any type of admission that the responsibility of safety for Angeles Crest Highway lie within the jurisdiction of Cal Trans as opposed to the City of La Cañada Flintridge. Assistant City Attorney Guerra clarified that the finding of consistency would not be considered a type of admission.

Commissioner Cahill stated that he objects to the Olberz Park project, but would otherwise approve the Capital Improvement Plan.

Both Commissioner Davitt and Chairman Gelhaar had no comments.

MOTION – Commissioner Davitt moved and Commissioner Curtis seconded a motion to determine that the Capital Improvement Plan is in conformance to the General Plan. Motion carried 4-0.

X. COMMENTS FROM THE COMMISSIONERS

No Commissioner comments were offered.

XI. COMMENTS FROM THE DIRECTOR

Director Stanley informed the Commission that there is going to be a General Plan Advisory Committee meeting on May 28, 2009.

Director Stanley also informed the Commission that a Green Task Force meeting was held and included a presentation from Southern California Edison.

XII. ADJOURNMENT: 7:17 p.m.