

**A MEETING OF THE PLANNING COMMISSION
OF THE CITY OF LA CAÑADA FLINTRIDGE
HELD MAY 28, 2002**

- CALL TO ORDER:** Chairman Levine called the meeting to order at 6:00 p.m.
- ROLL:** Present were Commissioners Brown, Engler, Gelhaar and Mehranian. Also present were: Assistant City Attorney Steres, Director of Community Development Stanley, Planner Cantrell and Assistant Planner Gjolme.
- COMMENTS FROM THE PUBLIC:** Comments were not offered.
- CONSENT CALENDAR: Minutes** M/S/C Engler/Mehranian to adopt the Minutes of May 14. Unanimous.
- Resolution 02-28; denying Modification 02-03; Cahill; 1966 Lombardy Dr.:** Prior to the Commission taking action, property owner, Michael Cahill requested to be re-calendared. He advised that he had contacted his neighbors and while an agreement had not been reached, he had ideas that he would like to propose, including a screening plan.
- Chairman Levine disclosed that Mr. Cahill had contacted him to advise of a scheduled appointment with his neighbor's daughter. Mr. Cahill confirmed that his neighbors continue to prefer a 15-ft setback and he still preferred to save the eucalyptus tree. Though agreement was not reached, he had hired a landscape architect and had ideas regarding screening he would like to propose that would save the tree, continue the 10-ft setback and address his neighbors' concerns.
- Assistant City Attorney Steres advised that if the Commission wanted to grant the request for reconsideration, a motion would have to be made by a Commissioner who had voted for denial. Further, at the last meeting, Mr. Cahill stated that he would not agree to any more continuances; therefore, if the Commission were to grant reconsideration, the record should reflect his agreement for a continuance to a future date.

Chairman Levine suggested continuing the Resolution to the next meeting and if there is any progress between the applicant and his neighbors, allow the request for reconsideration at that time.

Commissioner Brown confirmed that the Resolution would be calendared at the next meeting at which time the Commission could decide to either grant reconsideration and if it were agendized, it could also be heard that evening.

Commissioner Engler made a motion to continue Consent Calendar Item A, Resolution 02-28 to June 11.

The motion died for lack of a second.

Mr. Cahill then advised that he would be out of town on June 11.

M/S/C Gelhaar/Engler to adopt Resolution 02-28, denying Modification 02-03. No: Brown/Mehranian. Prior to casting his vote, Chairman Levine confirmed with Attorney Steres that if the pending motion passed, the applicant had the option of appealing to the City Council or filing a new application. He then voted No.

The Motion failed 2-3.

M/S/C Brown/Mehranian to continue Resolution 02-28 to June 25. Dissenting: Engler and Gelhaar. The motion carried.

Assistant City Attorney Steres asked the Commission to direct Staff whether it also wanted the project on the agenda so that a final decision could be rendered. Otherwise, either the Resolution would be adopted or the request would be continued to a future date.

Commissioner Brown commented that rather than limit the options, he would like Staff to notice the hearing as well as having the resolution on the Consent Calendar.

Director Stanley advised that if the Commission's intent was simply to continue action on the Resolution to June 25, Staff would not issue another Notice of Public Hearing.

Attorney Steres clarified that 1) the Resolution of denial had been continued to June 25th. On that date, the Commission will either adopt the Resolution or reconsider the matter. A separate consideration is whether the Commission also wants the matter as a listed agenda item on June 25th. In that way, should the Commission vote for reconsideration, it could do so that evening.

Chairman Levine then invited the applicant to speak.

Katy Kane, daughter of the affected neighbor, Mrs. Rice, advised that she had twice met with Mr. Cahill, who approached her outside chambers with "a new plan" but with 10-ft setbacks. Ms. Kane reiterated that her family has been adamant from the beginning that a 15-ft setback is the best option for her mother's property.

Chairman Levine stated the item had been re-calendared to June 25th; hopefully that will give more opportunity for the neighbors to work things out.

CONTINUED PUBLIC HEARING:

**HILLSIDE DEVELOPMENT PERMIT 01-41;
PETROSSIAN;
657 FOXWOOD ROAD:**

Chairman Levine noted that the applicant had submitted a written request for a continuance to June 11th. He confirmed that Staff did not have further comments.

M/S/C Gelhaar/Engler to continue Hillside Development Permit 01-41 to June 11. Unanimous.

**OTHER BUSINESS:
MODIFICATION 02-18;
EMERSON;
4810 DALERIDGE RD.:**

Assistant Planner Gjolme recalled that in November '01, the Commission determined that a trellis, attached to a block wall, constituted a 'structure' and was therefore subject to the maximum 6-ft-height requirement. The structure measures 8' 3" in height, for a span of approximately 40 ft, and is located on a shared side property line.

The wall is retaining a one-foot grade change, since the subject site is at a slightly lower elevation. He noted that Code allows combinations of retaining walls with a trellis/fence atop, provided that the retaining wall is no more than 3-ft in height and the fence or trellis portion does not

exceed 6 ft in height. Assistant Planner Gjolme noted that while the project does not fall under the retaining wall/fence combination standards, it nonetheless is comparable in terms of overall visual effect. The trellis was added 12 years ago and the “new” neighbor fully supports the request. Given the long-standing use and lack of significant impacts, Staff recommended positive findings and project approval.

Applicant, Jim Emerson, stated that he fully concurred with Staff’s recommendation and conditions. He advised that the new neighbor was in the audience and supports the trellis as constructed. He advised that due to the minor elevation change, the trellis mitigates any loss of privacy which results from the alignment of windows on both properties.

Chairman Levine invited testimony.

Richard Grippe, local Realtor, resides approximately one block away from the project site. He confirmed that there are many similar situations throughout the City.

Commissioner Engler stated that he had difficulty supporting the request simply because it was formally brought before the Commission, despite its lack of impact.

Commissioner Mehranian agreed, stating that just because it’s there, doesn’t mean it’s acceptable to leave it there.

Commissioner Gelhaar stated that allowing the existing situation would be tantamount to allowing it to reoccur elsewhere. He could not make the findings of *Special Privilege* or *Practical Difficulty*.

Chairman Levine allowed the applicant to comment again.

Mr. Emerson stated that he chose not to discuss the basis for the complaint that resulted in the Commission’s review of the trellis. He stated that he did not challenge the issue of excess height, but he felt that the trellis provided privacy while keeping the area open.

Commissioner Gelhaar commented that there are ways other than fences that would provide privacy.

Commissioner Brown concurred that wall height typically addresses issues of privacy. He recognized that this situation might be unique in terms that the windows from both homes face each other.

Assistant Planner Gjolme observed that if the retaining portion of the wall were a few feet higher, Staff could have approved it under Ordinance 314, which allows 3-ft-high retaining walls with a 6-ft-high fence atop. He felt that the request was a matter of the wall's composition, rather than the overall height.

M/S/C Mehranian/Gelhaar to deny Modification 02-18. Unanimous.

Attorney Steres advised that a resolution of denial would be presented on June 11th; the 15-day appeal period would begin thereafter.

**OTHER BUSINESS:
Review of conditions re:
Modification 01-34;
615 Berkshire Avenue:**

Director Stanley reported that his item was brought before the Commission for a 90-day review, as stipulated in the conditions of approval. Staff understood the interval was set so that the Commission could review any impacts that resulted from its approval. Director Stanley noted that only minimal changes had occurred on the property since approval was granted. A copy of his letter to the property owner, outlining the continuing infractions and serving as a Notice of Violation, was included in the Commissioners' packets.

Commissioner Gelhaar confirmed that the applicant had not responded to the Director's letter of May 22.

Chairman Levine referred to the property owner's request for a continuance to June 11th, and asked if his colleagues wished to grant the request, or discuss the issue.

Commissioner Brown reported that a game was underway when he stopped by the site the previous Saturday; Mr. La Bruna advised him of problems with getting the fence installer out. Commissioner Brown strongly suggested that Mr. La Bruna attend the next Commission meeting, but was told that was not possible, as Mr. La Bruna's son was involved in tournament play --- Jay Johnson would be representing Mr. La Bruna at the Commission meeting.

Commissioner Gelhaar felt that setting a deadline was appropriate.

Commissioner Engler concurred, noting that City Prosecutor services are available. He added that simple items could have been taken care of that having nothing to do with the fence contractor.

Director Stanley stated that procedure dictates issuance of a Notice of Violation -- which has been done, before issuing a deadline. If the Commission preferred that the applicant to be given an opportunity to respond rather than for the process to proceed, Staff would hold the process in abeyance. Director Stanley further advised that Mr. La Bruna questioned him with regard to pole-mounted security lighting in excess of 6 ft in height. Mr. La Bruna was advised that the excess height would trigger an amendment to his approval; or, he could utilize the proposed fencing or his residence to hold the lights.

Commissioner Gelhaar commented that the Notice of Violation letter sets a deadline to respond rather than to comply; he asked what the next step would be in the enforcement process.

Director Stanley replied that if the Commission determined not to continue the matter, a 15-day Notice to comply with all the conditions would be issued.

Chairman Levine asked if the Commission had the authority to rescind its approval.

Attorney Steres advised that it did not, and that is why the procedures for revocation or modification were under discussion and for which there is established procedure. The Planning Commission could initiate and set a hearing for possible revocation or modification of the approval, or follow protocol as described by the Director.

Commissioner Engler questioned the Director's issuing letters without either City Attorney review or Council's advice.

Attorney Steres responded that while he did not review the letter under discussion, this is a code enforcement

problem and follows the historical parameters utilized by Staff.

Director Stanley advised of having discussed current procedure with the City Prosecutor and was assured that Staff's approach is correct.

Commissioner Brown asked if the City could file the equivalent of an Order to Show Cause; all violations must be remedied by 6/25 (if continued to that date) or, risk revocation of the approval.

Director Stanley responded that the 90-day review serves that purpose.

Attorney Steres suggested a continuation to 6/25 to allow the property owner sufficient time to rectify the violations and to allow a timely second notice needed to be sent, if needed, per Director Stanley's report of procedures.

M/S/ Brown/Mehranian to place Modification 01-34 on the June 25 agenda for potential revocation or modification of the approval and to continue the 90-day review.

Chairman Levine stated that he wanted total compliance per the conditions by June 25.

Commissioner Gelhaar suggested amending the motion to require that all illegally constructed structures be relocated or removed by June 25.

Commissioner Brown asked Chairman Levine if he intended that the fence along Berkshire be constructed or if he only wanted removal of all illegal structures. He noted that there was no obligation on the part of the property owner to construct the fence..

Director Stanley concurred and emphasized that his Notice of Violation letter specifically referred to removal of all illegal structures.

Commissioner Brown accepted the amended motion.

The motion passed unanimously.

**Determination of
substantial conformance
re: Conditional Use
Permit 308; Modification
00-35; King;
4618 Encinas Drive:**

Director Stanley recalled that the property owners had received approval to install a pool in their front yard and to construct for a 6-ft-high wall within the right-of-way. Because the wall was not constructed per approved plans, a Stop Work Order is in effect pending the Commission's determination regarding substantial conformance.

A copy of the Commission's approved alternate plan and what was constructed was included in the Commissioners' packets. Director Stanley stated he did not believe the wall, as built, reflected the approval, which was more of a Mission design. He advised of having met with the property owner who feels that it is compatible with their home.

(Jay Johnson, representing Mr. and Mrs. La Bruna on the former item that was just completed, arrived at 6:58 pm.)

Chairman Levine called for a short recess at 7:00 pm. The City Council was ahead of schedule with its interviews of candidates for the Planning Commission and requested Commissioner Engler to interview.

The Commission reconvened at 7:10 pm

Commissioner Brown confirmed that a separate landscape plan was not approved.

Director Stanley advised that Staff would revert to the landscaping shown on the approved plan. The conditions require hedging to grow to a mature height within a certain time period.

Commissioner Engler commented that there are no buttresses or a gate in the wall per the approval, and confirmed that the brick cap was approved by Staff as complying with the conditions.

Chairman Levine invited testimony.

Property owners, Tom and Nancy King, referred to a letter they submitted to the Commission before the meeting convened. They felt that what was constructed conformed to what the Commission approved. Their contractor has a landscape architect on staff, who suggested what were believed to be minor modifications. The inside of the wall was lowered and a step-down entry into the yard was created. After the site was graded, it became apparent that changes were required. The other change was the block they found that matches the house and is easier to maintain.

Mr. and Mrs. King acknowledged the modifications, but stated they were not done to intentionally disregard the Commission. They stated that they were looking forward to installing the landscaping.

Commissioner Mehranian asked if they had ever thought of running the contemplated changes by Staff or the Commission.

Mr. King responded that this was his first construction experience and that after discussing it with his contractor, he never gave it a second thought. He offered to add the elements and plaster the wall if the Commission so desired.

Responding to a question from Chairman Levine, Director Stanley advised that 6-ft-high walls do not require a permit.

Commissioner Engler asked if the contractor was given the approved plans, which reflect a wall between 5 and 6 ft in height. He felt it appeared overbearing and stated that it appeared to be 7 ft at the north side.

Mrs. King stated that she would discuss the issue of height with the contractor, since his directions were to keep it at a 6-ft maximum height.

Commissioner Mehranian stated that her concerns were with the process and wall height, rather than with the wall material.

Commissioner Engler stated he was looking for compliance with the approved plans, including the capped pilasters, which would soften the appearance of the wall.

Commissioner Gelhaar stated that the height is a concern and emphasized that the landscaping is critical. He agreed with the applicants that the block material is more compatible with the house than plaster.

Commissioner Brown commented that he would not have supported the long, straight wall as constructed. He felt that the wall height needs to be lowered, that an ample landscape plan is necessary and he preferred block on the wall rather than plaster.

Chairman Levine recalled that at the original hearing, comments were made regarding the need for architectural elements that would soften the wall's appearance. He concurred that the block matches the residence better than brick, but he felt that the wall appeared harsh, compared with the rounded, Mission design which was approved. He also requested that the wall height be modulated between 5 and 6 ft as approved.

Director Stanley asked if the Commissioners considered what was built to be in substantial conformance with the approved plans. If not they could require a redesign with subsequent review or add conditions.

M/S/C Engler/Brown determining that what exists is not in substantial conformance with the approved plans.
Unanimous.

M/S Engler/Mehranian that the approved plans must be followed with the exception of the block material, which is preferred. The architectural elements as approved: niches, a doorway, buttresses, must be added and the wall lowered as originally approved. 4 Ayes; No: Brown.

**COMMENTS FROM
THE COMMISSIONERS:**

Commissioner Gelhaar asked Staff to check 4816 Daleridge for a business license; during a site, he noticed an open garage, which housed desks, computers, etc. He also asked that copies of the counter checklist, recently initiated

by Staff. be included in the Commissioners' packets for all cases that it reviews.

Commissioner Engler advised that it appeared a large oak was cut down at 4427 Chevy Chase (near Berkshire & Woodleigh). He noticed that large sections of what appeared to be from an oak tree were being rolled out.

Commissioner Brown reported of having received a call from Steve Jennings who thought that he was scheduled for this evening's agenda. Mr. Jennings reported that the scheduling delay was jeopardizing his construction loans. Commissioner Brown told him that he would do what he could to get the application expedited if his presentation of the facts were correct.

Director Stanley advised that a 20-day Notice was necessary due to the size of the oak, which Mr. Jennings removed without a permit. Applicants are not "promised" specific hearing dates; Mr. Jennings was told that once his application was determined to be complete, it would be scheduled for the next available Planning Commission, which is June 25.

Commissioner Brown asked that someone contact Mr. Jennings.

**COMMENTS FROM
THE DIRECTOR:**

Director Stanley advised that the resolution upholding the appeal on the Bilaver hillside project is on the Council's Consent Calendar for June 3. The appeal of the City's proposal to use the existing athletic field owned by the LDS is also scheduled for that evening.

ADJOURNMENT:

M/S/C Brown/Mehranian to adjourn at 7:52 p.m.
Unanimous.

Secretary to the Planning Commission