

**MINUTES OF A MEETING OF THE PLANNING COMMISSION
OF THE CITY OF LA CAÑADA FLINTRIDGE
HELD June 9, 2009**

- I. CALL TO ORDER:** Chairman Gelhaar called the meeting to order at 6:00 p.m.
- II. ROLL:** Present were Chairman Gelhaar, Commissioners Cahill, Curtis, Davitt, and Hill, Director Stanley, Senior Planner Buss, Planners Gjolme and Clarke, Assistant Planners Lang and Parinas, Assistant City Attorney Guerra (who arrived at 6:03 p.m.).
- III. PLEDGE OF ALLEGIANCE:** The flag salute was lead by Commissioner Hill
- IV. COMMENTS FROM THE PUBLIC:** No comments were offered.
- V. ELECTION OF CHAIR AND VICE CHAIR**
Commissioner Cahill thanked Chairman Gelhaar for his service as chairman and made a motion that Commissioner Davitt serve as chair in his last year on the Planning Commission and that Commissioner Hill serve as vice chair. Commissioner Curtis seconded the motion. Motion is approved unanimously (5-0).
- VI. REORDERING OF THE AGENDA:** The items on the agenda were not reordered.
- VII. CONSENT CALENDAR**
- A.** Minutes: May 12, 2009 Commissioner Gelhaar submitted some changes
 - B.** Minutes: May 26, 2009 These minutes were not ready for action.
 - C.** Resolution of Denial, Zone Change 09-05, DVSP Professional Offices
- Commissioner Curtis recommended some language changes to the resolution and Commissioner Gelhaar agreed. Commissioner Gelhaar made a motion to approve the Consent Calendar. Commissioner Davitt seconded. Commissioner Hill abstained from item C.
- VIII. CONTINUED PUBLIC HEARINGS:**
- A. Conditional Use Permit 418 and Variance 09-01; Winnaman; 4914 Alta Canyada Road:** Request for lighting for a tennis court (CUP) and a Variance for raising the grade of part of the parcel for the tennis court. Staff is recommending that the Planning Commission approve a Categorical Exemption for this project. (Planner Clarke)

Planner Clarke gave a PowerPoint presentation in accordance with the staff report. As part of the presentation photos showing the tennis court, putting green, and retaining walls.

He indicated that some of the court is on fill. Also shown was a section of the court showing where the fill is located. Planner Clarke outlined options for commission consideration and recommended that the Commission approve the Conditional Use Permit for the lights and deny the Variance for the grading.

Commissioner Gelhaar asked about the three alternatives and asked for clarification of alternative #1 and to strike the word "the". He asked if alternative #2 would also require a Variance. He stated that it is difficult for him to make the findings for the Conditional Use Permit if the Variance is denied since then they won't know where the lights would be if the tennis court must be lowered.

Planner Clarke stated that if the project is approved as recommended it is conditioned so that the Director of Community Development could review the lights for the relocated tennis court. Gelhaar indicated that the section is lower than the actual field measurement.

Planner Clarke responded that alternative #2 would require a Variance.

The applicant's engineer, Peter Martin spoke regarding the project. He addressed the section of the sport court that is at the 1447' level and indicated that there is about 3' of fill in the southeast corner of the court which amounts to less than 50 cubic yards of fill which would not require a permit. He felt that the ordinance is vague on the definition of where the boundaries of the sport court are.

Director Stanley clarified the definition of the court and what is included. He stated that a court includes the actual court boundary lines and the areas around the court that would be part of the playing surface and normal usage.

Stephan Chuck, the attorney representing the applicant spoke next and summarized why the Conditional Use Permit and Variance should be granted. He felt that the applicants met the requirements of the grading in good faith.

He indicated that staff was present during some of the construction and observed what was occurring. He felt that the applicants have a vested interest and have met the letter and spirit of the code.

Director Stanley clarified that one retaining wall was approved and a stop work order was issued for the other work.

Mr. Chuck also stated that there are other tennis courts that are above grade and that some of those other elevated courts occurred prior to the code change and predate the requirement. Mr. Chuck indicated that he believed the same requirement was present in the 1982 code and that these other courts that were being referred to are also out of compliance. He indicated he would like to know what courts staff was referring to. If

there are other properties that are out of compliance with the current and/or old code and if the city does not enforce those violations his clients are being deprived of the reasonable rights enjoyed by others. He felt that the granting of the Variance would not be granting a special privilege to his clients because of the other courts that are out of compliance that are also in violation.

Commissioner Curtis asked what special circumstances dictate the court being at the current elevation level.

Stephan Chuck stated that the southeast corner of the court is very close to the same level as an adjacent swale and could not be made lower than that swale and is at the lowest level possible.

Peter Martin addressed the swale. He said he made his best attempt to establish what the previous grades were. He felt that the tennis court was at the lowest level possible and that the tennis court could be flooded when it rains if it was lowered to the level of the adjacent swale.

Commissioner Gelhaar asked what he considered the low part of the swale and if he had historical information for the previous grades. It appears that 1543' is the lowest point of the swale.

Mr. Martin reiterated that he looked at the grades that had not been changed and made his best effort to estimate what the previous grades were.

Commissioner Cahill referred to page 8 of the report. Asked if the picture on page 8 was what was being talked about. It appears that it was built up. Planner Clarke showed the pictures from the PowerPoint presentation of the retaining walls.

Stephan Chuck passed out letters of support from some neighbors. He also passed out photos showing the existing landscape screening on the site.

Commissioner Curtis asked about the Conditional Use Permit for the lights. He asked if the Variance is denied and the court lowered how would that affect the request for the lights and would they withdraw the Conditional Use Permit for the lights.

Marilyn Pepper feels that even if the city didn't catch it while under construction doesn't make it right. She thanked staff for recommending no on the Variance and requested that the Conditional Use Permit be denied.

She showed pictures of the grading before the project and indicated that the new grade is 8-10 feet higher than the previous grade. She felt that the court and lights would be

looming and obtrusive. She asked who would monitor the curfew on the lights? She felt that the lights would disturb their peace. Their lot is lower than the subject property. Commissioner Cahill clarified the photo that shows their view and from what level was the photo taken.

Tim Gosney, 4902 Alta Canyon Road. He submitted a letter and wanted clarification about Condition 5 and to what plans are referred to if the Variance for the height of the court would be denied.

Director Stanley indicated that the condition refers to the plans that would be ultimately approved. If the Variance were denied new plans would be submitted.

Mr. Gosney clarified that if the height of the court is denied then there are no plans to relate to the Conditional Use Permit request.

Director Stanley indicated that if the Variance is denied then the court would have to be redesigned and new drawings submitted.

Mr. Gosney felt that Condition 12 should be clarified regarding contractor parking. He felt that provisions should be made for those residents who have a right to pass on the upper drive. He took issue with the engineer's comments about getting the elevations "close" to where the old elevations were. He felt that the applicant built more than was originally permitted and had to have a stop work order issued. He felt that the photo that was submitted by Mrs. Pepper indicated that there was a significant amount of dirt that was moved.

Mr. Gosney did not think that it is reasonable to approved lights if the Variance is denied if the court has to be lowered. He did not want the light issue to be dealt with administratively by the Director of Community Development.

Commissioner Cahill asked Mr. Gosney if he would still object to the lights if the height Variance were denied. Mr. Gosney said he is the least affected property owner but thinks his neighbors have valid points about his lights.

Evon Cadogan, a neighbor at 4904 Alta Canyon Road, wanted to support his neighbors in their objection to the lights. He felt that the lights would be too high if they were installed at the current height of the court. He said that he would not know what their effect would be if the court was lowered.

Chairman Davitt closed the public hearing and allowed applicant to make a closing comments.

Peter Martin spoke and objected to the challenges of his professional qualifications. He indicated that he attempted to make the best estimate of what the previous conditions of the lot were. He did not have a chance to review the photographs that were submitted by the neighbor. It would be very labor intensive to remove the court, retaining walls, and regrade the area.

Commissioner Gelhaar indicated that the retaining wall that separates the subject property and the Pepper's property looks like the dirt against the fence on top of the wall was regraded.

Stephan Chuck spoke regarding the old retaining wall. He reiterated that the engineer was making his best estimate of the grade before the project. He pointed out that the Director of Community Development could be flexible for minor deviations to the standards for courts. He felt that there was a discretionary element to the code for sport courts. He responded that the letters submitted by the neighbors bring up on old matters that don't relate to the current project.

Director Stanley clarified that he looked at the originally approved plans for a fireplace and gazebo that also shows the original approval for the tennis court and it only shows one retaining wall. The plan is dated March 13, 2007 and was approved May 22, 2007. He also read from the correction notices issued by Building and Safety in June 2007 indicating that plans did not match what was approved. In September 2007 a list of correction items was left for the applicant.

Director Stanley showed the previously approved plan to the Commission.

Commissioner Gelhaar asked what was constructed when the Stop Work Orders were issued.

Director Stanley indicated that there are more than one retaining wall and fence.

Commissioner Curtis asked the City Attorney about the estoppel issue.

Deputy City Attorney Guerra explained that that means the city cannot enforce something because of the City's actions but he also indicated that he wanted to research the issue more.

Commissioner Comments

Commissioner Gelhaar wanted to continue for City Attorney to provide more info on the estoppel issue.

Commissioner Hill commented on the estoppel issue. He also expressed that no one really knows what the original grade was. He indicated he is prepared to vote tonight. He explained that he always looks at after-the-fact projects as if it was not built and can make the findings.

For the Variance Commissioner Hill said he cannot make findings 1, 2, 4, and 5 and would vote no on the Variance. He felt it was not proper to vote on Conditional Use Permit if the Variance is denied. If the Variance is not denied he stated that he cannot make Conditional Use Permit findings 2 and 5. He would have to vote no on the Variance and the Conditional Use Permit.

Commissioner Cahill felt that the pictures indicate that the ground level was built up from the previous grade. For the Variance he stated that he cannot make finding 2 and felt that there are not special circumstances applicable to the property to allow the project.

He felt that the Conditional Use Permit for lights depends on final plan for the court at the lower level. He cannot evaluate the project if the tennis court is changed. He felt that the higher the court, the more the light impacts would be accentuated.

He indicated that the estoppel issue is a legal argument and should not delay voting on the project. He said he would deny the Variance and continue the lights issue.

Commissioner Curtis said he visited the site and adjacent properties. He also looks at a project as if it hasn't been built yet. He agrees that finding 2 is difficult to make but he also has an issue with finding 1 and whether or not is a grant of special privilege or if there are special circumstances applicable to the property. He would like to continue the case to have more information about the drainage and estoppel issues. He indicated that if the project was to be voted on tonight he would like to make modifications to some of the findings. He also agreed with Cahill about continuing the Conditional Use Permit for the lights if the Variance is denied.

Commissioner Gelhaar said that he would like the Conditional Use Permit continued if the Variance is denied. He cannot make 1, 2, 4, and 5 for Variance. He would not support the Variance and could not support the Conditional Use Permit for lack of plans. He is also willing to continue the Conditional Use Permit.

Chairman Davitt asked the City Attorney if they needed more information on the estoppel issue before they vote.

Deputy City Attorney Guerra said that he would like to research the estoppel issue more before they vote.

Commissioner Curtis asked if public could submit more info on that issue at the continued hearing and the Deputy City Attorney felt that that would be possible.

MOTION - Commissioner Gelhaar moved and Commissioner Curtis seconded to continue Conditional Use Permit 418 and Variance 09-01 to the June 23, 2009 meeting.
Unanimous

XI. PUBLIC HEARINGS:

- A. Modification 06-53 (Amendment); Rhody; 4270 Chula Senda Lane:** Request for an amendment to extend project approval for an additional twelve months. Staff is recommending that the Planning Commission approve a Categorical Exemption for this project. (Planner Gjolme)

Planner Gjolme gave the staff report on the history of the project's previous approval. He indicated that the Director of Community Development cannot extend the project approval because of the code change requiring Second Floor Review. Therefore, the project can only be extended through an amendment. The project has not changed and staff recommends that the amendment be approved.

The Commissioners did not have any questions and there were no comments from the public.

Commissioner Comments

Commissioner Hill indicated that he had no problem with the extension request.

Commissioner Cahill indicated he would approve it.

Commissioner Curtis concurred.

Motion - Commissioner Gelhaar moved and Commissioner Hill seconded to approve the extension for Modification 06-53.

Unanimous

- B. Conditional Use Permit 440; Ralph's Grocery Company/Karl Frankel & Irving Chorub; 521 Foothill Boulevard:** Request to consider an application for a Conditional Use Permit to allow a 9,856 sq. ft. addition to the Ralph's market, consisting primarily of warehouse/storage area to the rear of the existing building. A Conditional Use Permit (CUP) is required since the expanded market would be over 10,000 sq. ft. in size. Staff is recommending that the Planning Commission approve a Categorical Exemption for this project. (Planner Gjolme)

Planner Gjolme gave a presentation in accordance with the staff report. He indicated that the Design Commission reviewed the project on June 4, 2009 and reported that the project was very well received by the Design Commission. He reported that the Commission did, however, make specific recommendations to eliminate the parapet and extend the mansard to the west and add articulation on the west side of the addition. The Design Commission also did not like the proposed Canary Island Pine trees proposed because they are not consistent with other plantings on the site.

Staff also added that the Commissioners were forwarded an email that addresses the screening at the back of the store and truck deliveries.

Commissioner Gelhaar asked staff if there was an existing condition regarding truck traffic and trips and its restrictions.

Planner Gjolme responded that there is not an existing Conditional Use Permit for the store and therefore no restrictions to the truck deliveries.

Commissioner Curtis asked about the big tree that the email is referring to.

Planner Gjolme identified what tree he thought the email was referring to on the site plan.

Chairman Davitt opened the public hearing.

Yoshko Prebanda, a representative of Ralph's stated that truck deliveries to the expanded market would allow for larger trucks and less deliveries. He also indicated that the tree that is proposed for the Gould Avenue entry to the parking lot may not fit there and may cause problems with visibility he would need to look into the issue more.

Commissioner Gelhaar asked a question about the east side structure that obstructs views when exiting the driveway.

Mr. Prebanda indicated that structure was going to stay.

Commissioner Curtis asked about the screening of the proposed trash enclosures and if the applicant took issue with the requirement.

Mr. Prebanda replied that the trash enclosures should be screened.

Commissioner Curtis also asked if Ralph's had any intent to have outdoor storage.

Mr. Prebanda indicated that the outdoor storage would be eliminated and the cardboard boxes would be recycled within the building.

Commissioner Curtis also asked if the energy efficient measures were incorporated into the store.

Mr. Prebanda responded that the architect could better answer that question. He did add, however, that the freezers and cases in the store would be replaced with more energy efficient models as part of the expansion and remodel.

Michael Stremfell, owner of Flintridge Pharmacy. He indicated that he feels blessed to have Ralph's as a neighbor. He has been a lifelong resident of La Canada Flintridge and that the Ralph's Company has been very cooperative.

Lauren Oaks, 4708 Gould Avenue, indicated that she could see Ralph's from her home. She felt that Gould Avenue is the ugliest entry portal in La Cannada because the back end of the store can be seen from the off ramp and is poorly screened. She disagreed with staff and feels the current project is also poorly screened. She showed photographs of the materials stored in back. She also disapproved of the existing concertina wire on top of the chain link fence along Gould Avenue that were put in place to prevent vandals from climbing the chain link fence to gain access to the roof of the store. She indicated that a deal was struck with Ralph's and the homeowner's association that it would be a temporary solution and the home owner's association would pay for four large Bougainvilleas to planted there instead to discourage the vandals. She indicated that Ralph's agreed to irrigate the area to allow the landscaping to take root. She is not opposed to the addition but feels a condition requiring a landscape and irrigation plan with a binding agreement that requires Ralph's to maintain the area so that the landscape screening can grow. She also feels a condition requiring them to repair the iron fence at the front of the lot along Foothill Boulevard. She added that she felt the trucks that use Indianola Avenue to access the loading docks should be coordinated with the schools in the area regarding the drop off and pick up times.

Larry Rivera, Sales Manager at Flintridge Pharmacy, spoke and approves of the proposed expansion and improvements.

Pat Anderson, CEO of the Chamber of Commerce, supports the project and feels that the enhancements and expansion of the store could generate additional sales to the City of La Cañada Flintridge.

Commissioner Gelhaar asked the representative from Ralph's to respond the neighbors' comments.

Mr. Prebanda said that the store was willing to coordinate the deliveries but would defer to the logistics department with regards to changing delivery schedules. He felt that the landscaping could be upgraded in the back but the concertina wire was left in place because the area was later used for storage. He indicated that it would be removed once

the expansion was complete and would work with the property owners to upgrade the landscaping to the rear including the installation of irrigation and the maintenance of the landscaping. He did indicate that that issue would also need to be discussed with the other tenants in the center since it is considered a common area and would be a shared cost.

Commissioner Cahill asked the applicant if they are willing to hide rooftop equipment.

Mr. Prebanda indicated that they would consider it.

Planner Gjolme added the code requires that the rooftop equipment be screened. He suggested that a condition be added that would require the removal of the razor wire and to expand the scope of the landscape plan to include addressing the back corner which can be reviewed by the Design Commission

Chairman Davitt closed the public hearing.

Commissioner comments

Commissioner Cahill thinks the project is an improvement. He likes the façade improvements and the planting of the trees. He could support the project with the added conditions of removing the barbed wire and the expanded landscape plan for the back area that will be reviewed by the Design Commission

Commissioner Curtis stated he is looking forward to project and expansion. He agreed with Commissioner Cahill on the landscape plan and removal of the razor wire. He like the idea of removing the one tree at the entrance. He would lie to add a condition for no outdoor storage. He would also to explore the potential to add condition that property be maintained as "first class" condition.

Commissioner Gelhaar asked the City Attorney about adding such a condition.

Deputy City Attorney Guerra felt that such a condition is subjective and difficult to enforce.

Commissioner Gelhaar continued that he felt that Ralph's has been a great tenant. The pharmacy has also been a great tenant in our community. He agrees with the landscape condition, requiring the removal of the razor wire. He had a problem with the subjective condition. He was not in favor placing a condition on the project restricting truck trips but wanted some assurance that the applicant will work with staff to control truck traffic so as to not conflict with the school. He can approve of the project.

Commissioner Hill agrees with the staff report completely and prepared to vote yes on it as is.

Chairman Davitt could support the project with the added conditions of the removal of the razor wire and that the applicant goes back to the Design Commission with an enhanced landscape plan. He agreed with Commissioner Gelhaar and would like the applicant to make their best efforts to coordinate delivery times.

MOTION – Commissioner Cahill moved and Commissioner Gelhaar seconded to approve Conditional Use Permit 440 with the added conditions to remove the barbed wire upon project completion and expand the landscape plan to show upgraded landscaping in the back of the property and along Gould Avenue. A condition restricting outdoor permanent storage in the rear was also added. Unanimous

C. Minor Conditional Use Permit 441; Urban Army/Safeway, Inc.; 645 Foothill Boulevard: Request to allow a Pilates studio use in an existing building in the Mixed Use 1 zone of the Downtown Village Specific Plan. Staff is recommending that the Planning Commission approve a Categorical Exemption for this project. (Assistant Planner Parinas)

Assistant Planner Parinas presented the project in accordance with the staff report.

Commissioner Gelhaar asked for clarification that the Von's store would not expand.

Planner Gjolme clarified that the Von's store will not expand but will do façade improvements and a reconfiguration of the parking lot and tree removals.

Director Stanley added they are removing the old outbuilding.

No comments were offered from the applicant.

Commissioner comments

Commissioner Curtis thinks these types of uses are complimentary to retail uses.

Commissioner Gelhaar concurred.

Commissioner Hill concurred.

Commissioner Cahill concurred

Chairman Davitt agreed.

MOTION – Commissioner Hill made a motion and Commissioner Gelhaar seconded to approve Minor Conditional Use Permit 441. Unanimous.

X. OTHER BUSINESS

- A. 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. (Planner Gjolme)

Planner Gjolme gave a PowerPoint presentation showing various projects that were approved and completed since the code changes requiring Second Floor Review.

Commissioner Gelhaar asked about the maximum front setback requirement and Planner Gjolme explained that that development standard was phased out in 2006.

- B. Amendment to Conditional Use Permit 436, Second Floor Review 08-25; Johnston Family Trust/Stoddard; 748 Flintridge Avenue:** Clarification of condition of approval – the rear stairs.

Senior Planner Buss asked the Commission for clarification regarding a condition associated with additions to the floor area over the garage. He read the condition requiring the removal of the wet bar or removal the second set of stairs and the kitchen stub-outs. In reviewing the recording of the meeting where that issue was discussed, Senior Planner Buss reported that the discussion centered on keeping the wet bar and staff assumed that the rest of the condition would remain as written and the second set of stairs should be removed. The final condition included the removal of the stairs. He asked the Commission if they intended to require that the stairs be removed or could the applicant keep the stairs.

Commissioner Hill recalled that he thought the stairs should be removed.

Commissioner Cahill recalled that the Commission said the stairs and the wet bar could stay and the stub-outs had to be removed.

Commissioner Curtis concurred with Commissioner Cahill.

Commissioner Gelhaar also concurred.

XI. COMMENTS FROM THE COMMISSIONERS

XII. COMMENTS FROM THE DIRECTOR

A. Report of Director's Approvals since the last meeting

Director Stanley reported on five Director's Reviews that were approved since the last meeting.

DM (SB) 09-12 / 1628 Alta Park Lane

SFR 09-04 / DM (SB) 09-11 / 4841 Fairlawn Drive

DM (SB) 09-10 4228 Chula Senda Lane

SFR 09-14 / 4923 Castle Road

HDP (Dir) 09-18 / 340 Noren Street

B. Other comments

Director Stanley discussed the 4:00 P.M. R-1 tour before the City Council meeting. He also indicated that there are three other planning items on that City Council agenda. He also reported that a General Plan scoping meeting for community input on potential impacts of the revised General Plan is scheduled for June 18, 2009.

Commissioner Curtis asked if notice was sent to them and Director Stanley indicated that staff would email the notice to all the Commissioners.

XIII. ADJOURNMENT 9:49pm