

**MINUTES OF A MEETING OF THE PLANNING COMMISSION
OF THE
CITY OF LA CAÑADA FLINTRIDGE
HELD JUNE 12, 2007**

I. CALL TO ORDER:

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

II. ROLL CALL:

Present were Commissioners Hill, Gelhaar and Mehranian, Director of Community Development Stanley, Planners Clarke and Gjolme and City Attorney Steres. Commissioner Cahill was absent.

III. PLEDGE OF ALLEGIANCE

Commissioner Mehranian led the salute to the flag.

IV. Election of Chair and Vice-Chair for 2007-08

Chairman Davitt thanked staff for their assistance and service during his tenure as Chairman. He also thanked his colleagues and Vice-Chairman Cahill for his efforts throughout the past year.

Commissioner Mehranian commented that Chairman Davitt is a proven consensus builder and he has a very sensitive and fair approach with the public.

Chairman Davitt then nominated Vice-Chair Cahill as Chair and Commissioner Gelhaar as Vice-Chair. Commissioner Mehranian seconded the motion, which passed unanimously.

Since Chairman Cahill was absent, the gavel was passed to Vice-Chair Gelhaar.

Vice Chair Gelhaar thanked Commissioner Davitt for his leadership and noted that he had steered the Commission through some controversial hearings this past year.

V. COMMENTS FROM THE PUBLIC

Comments were not offered.

VI. REORDERING OF THE AGENDA

Vice Chairman Gelhaar announced that items IX B and C would not be heard due to Notice technicalities and would be re-noticed. He confirmed that no one in the audience wished to provide comments on 3975 Hampstead Road and 3737 Madison Road.

M/S/C Davitt/Mehranian to continue Hillside Development Permit 07-22, Floor Area Review 07-09 and Second-Floor Review 07-23 for 3975 Hampstead Road and Hillside Development Permit 05-73 for 3737 Madison Road.

Unanimous.

VII. CONSENT CALENDAR

M/S/C Davitt/Mehranian to approve the Consent Calendar:

- A. Adopt Resolution 07-50; Skaggs at 358 Corona Drive.
- B. Approve Lot Line Adjustment 07-01 at 1856 and 1930 Foothill
- C. Approve the Minutes of May 22, 2007

Unanimous.

VIII. CONTINUED PUBLIC HEARING:

A. Modification 07-22; Key; 1708 La Taza:

Planner Clarke recalled that the Commission approved the applicant's request for a continuance on this matter. A revised site plan accurately shows all structures on the site, including an existing 540-sf guesthouse.

The 12,990-sf subject site is an irregularly shaped parcel, located at the southwest corner of La Taza Drive and Tacaloma Lane. It accommodates a single-story home, a detached garage and a detached guesthouse. All structures exhibit non-conforming setbacks.

The applicant proposes to add 1,166-sf at the front and rear of his single-story home, and to replace the carport with a garage, while maintaining existing footprints.

The 1,901-sf, single-story home is set back 29'-10" from the front property line, compared with the required 48 ½ ft front setback for this property. (An adjacent home, which is set back 85-ft, skews the average.) Planner Clarke noted however, that the existing front setback meets the City's 25-ft default requirement. Additionally, the residence is set back 11-ft from the rear property line, compared to the 15-ft requirement. Similarly, a detached carport exhibits a non-conforming front setback at 20'-4" .

The plans now show a 540-sf guesthouse located west of the residence, for which there is no record of building permits. It is located 5 ft from the west property line, where a 13'-4" setback is required.

Lastly, there are two storage sheds --- one on the south property line behind the residence, which uses a retaining wall on the property line for support, and a storage shed, approximately 10' x 10', behind the residence and within the required rear setback. Neither shed has a building permit.

Elevations for the house expansion and the new garage were shown on Power Point. The house is slightly lower than street elevation; the abundant mature

vegetation on the east, south and north sides make it difficult to see the house from the street.

Staff determined that positive findings could be made for the house expansion and the carport conversion; however, there were concerns regarding the non-permitted sheds and the guesthouse. Staff recommended that the applicant be required to either demolish the illegally constructed guesthouse, which qualifies as an Accessory Living Quarters unit, as it contains a kitchen, living area, bathroom and bedroom, or apply to legalize it. Planner Clarke noted that Code allows a maximum ALQ for this lot of 640-sf, but it must be attached to the residence. Further, Staff recommended that the sheds be relocated out of the setbacks or have the applicant apply for a Modification.

Commissioner Mehranian inquired if the Commission could act on the illegal structures despite their not a part of the application.

City Attorney Steres advised that if the Commission was silent as to the ALQ, Staff would proceed on its illegality. Should the Commission find that the ALQ has any effect on the findings, it could be tied into the conditions. If not, the Commission could act on the application with direction to Staff regarding the ALQ.

The applicant was in the audience but chose not to address the Commission.

Vice-chair Gelhaar opened the public hearing. Since comments were not offered, the public hearing was closed.

Commissioner Mehranian remarked that good planning requires that the Commission look at the site in its entirety. Now that the site plan reflects all structures on site, the various encroachments are obvious. She did not have an issue with the carport conversion, but preferred that the ALQ and sheds be Code compliant.

Commissioner Davitt viewed the residential expansions and carport conversion as resolving visual problems and that the resulting sq. footage would be below the allowable for the lot. He agreed that the ALQ and the sheds need to be removed or made compliant.

Commissioner Hill stated that he could make the finding to allow the front yard encroachments since the required front setback is mathematically skewed due to the adjacent residence. His concern was with the requested rear yard encroachment as well as the encroachments of the sheds and the ALQ. He pointed out that eliminating the ALQ would relieve a crowded situation and he could probably make that findings, but not for the remaining encroachments.

Vice Chair Gelhaar concurred that the front setback requirement is distorted because of the adjacent property's setback. He could not make the Modification findings.

Director Stanley confirmed that the Commissioners were not willing to allow any encroachment by the ALQ. He suggested that a condition be drafted requiring all structures be Code-compliant prior to issuance of building permits.

M/S/C Mehranian/Davitt to approve Modification 07-22 with a condition that the ALQ and sheds be Code-compliant as suggested by Director Stanley. Unanimous.

IX. PUBLIC HEARINGS:

A. Modification 06-53; Rhody; 4270 Chula Senda Lane:

Planner Gjolme reported that this application was submitted under former R-1 standards.

The applicant is proposing to demolish his single-story home and replace it with a two-story home in generally the same location, but shifted to provide greater front setbacks.

The subject site is an irregularly configured hairpin lot at the corner of Chula Senda and Woodfield Road, in the R-1-20,000 Zone. Since the lot qualifies as a *hairpin lot*, the front setback requirement is applied to both street frontages -- which is 30- ft for this lot. Primary frontage is along Chula Senda Lane; Woodfield Road, a private street, borders the site to the south.

A portion of the Woodfield right-of-way (approximately 2,000-sf) extends on to the site along the south. Code requires deduction of any access easement when calculating lot area. Therefore, net lot size is 39,818-sf; otherwise, lot area is 41,818-sf. Additionally, a 50-ft-wide County Flood Control easement bisects the property at the rear in a north/south direction. It is totally under ground and does not affect qualifying lot area. A County trail borders the site to the south and does not extend on to the site at any point nor does the City's Master Trails Plan identify the subject lot as an "affected property".

A 6,600-sf home is proposed on nearly an acre of land with a total floor/roofed area of 7,548-sf, within the 9,714-sf allowed for the site. Primary building height would reach 31'-9" and a 39-ft front setback would be provided along Chula Senda - the most dominant exposure. Planner Gjolme pointed out that 360-sf of non-conforming structure would be removed along Woodfield Road, where a minimum setback of 5 ft would increase to 10 ft (the southeast corner of the garage) and further increase to 30 ft at the southwest corner of the garage. The result is an average setback of 20 ft from Woodfield, which would

meet Code if Woodfield was considered as a street side yard and a 34-ft average second floor setback would also be provided.

Staff considers the second floor as appropriate, given the configuration of the lot and the fact that it satisfies the required setbacks. Building height reaches 31'-9" at the front, where the house faces West --- the lone home in that direction is across the street and considerably upslope. An interesting component is an outdoor second-floor patio, cut into the east-facing hip at the rear facade and approximately 20 ft above adjacent grade. It relates only to the interior of the site and is completely buffered to the north and south. A letter was received from a neighbor who resides at the far end of Woodfield expressing concerns about the project and the proposed 4-car garage. While Staff determined that the garage would not preclude positive findings, the Commission could require a 3-car garage, given its proximity to Woodfield Road.

The site's topography was displayed on Power Point. The closest home is 20 ft above pad level. Combined with separation of approximately 170 and 180 ft, massing from Chula Senda is not problematic. Planner Gjolme pointed out the number of large, two-story homes on the street with FAR greater than this proposal.

Staff recommended positive findings and project approval, noting that the project would increase and improve setbacks along both frontages.

Responding to a question from Commissioner Davitt, Planner Gjolme advised that Woodfield Road is 20 ft wide in front, near Chula Senda, and decreases as it extends to the rear.

Vice Chair Gelhaar commented that in reality, there is a 40-ft setback from the property line.

Applicant Bob Rhody advised that his property currently accommodates 5 garages. His proposal would reduce that number to 4 and would assemble them all along Woodfield Road. They would include brick to match the house. Mr. Rhody advised that he would pave the area between the garage and the easement and, with his neighbors' permission, would pave Woodfield in stone. He reported that his initial plans were for a larger home; he reduced it several times at Staff's behest and included a guesthouse, which is currently under construction.

Responding to a question from Vice-Chair Gelhaar who inquired how he would dispose of the excavated dirt from creating a basement, Mr. Rhody reported that he is a builder and has the ability to move dirt to various sites as needed. As a contractor, he has recycling systems available. Vice-Chair Gelhaar opened the public hearing.

Richard DeGray, 401 Woodfield Road, built his home 55 years ago. His was concerned that because Woodfield is narrow, he would not be able to drive around construction vehicles to reach his home.

Sally Beebe, 4228 Chula Senda Lane thanked the applicant for sharing his plans; the house would be an asset. She stated that her main concern was the proposed size and siting of the structure 10 ft from Woodfield Road. She asked if it was possible to shift the house to the north so it wouldn't be so imposing form Woodfield. She concurred with Mr. DeGray's concern regarding construction vehicles and reported that Mr. Rhody had offered to use his front yard as a staging area.

Tom Hurlbutt, 4252 Chula Senda Lane, asked for clarification regarding the southern elevation and the second-story exposure. He echoed concerns with construction vehicles.

Further comments were not offered and the public hearing was closed.

Mr. Rhody responded to comments. He offered to maintain an egress for Mr. DeGray at all times; he deals with similar situations in his business. Since he will reside in the guesthouse while the main house is constructed, he can keep an eye on the situation.

Responding to Mr. Hurlbutt, the southern elevation accommodates a laundry room and a conservatory with glass building blocks. No windows face south.

Director Stanley felt that construction activity could be prohibited on Woodfield, given the size of the property.

Mr. Rhody agreed, stating "there is lots of room" and that it would not be useful to have construction vehicles park on Woodfield.

Vice-Chair Gelhaar solicited comments from the Commissioners.

Commissioner Hill stated that he would rather have a garage door than a car parked on Woodfield, so he supported allowing a 4-car garage. He stated that he typically finds it difficult to support a setback encroachment, but this situation is unique, given the easements and the flood control channel. He was prepared to support the request in its entirety and could make the findings with an added condition prohibiting construction vehicles on Woodfield Road.

Commissioner Davitt commented that the lot was obviously unique, including the fact that it is a hairpin lot and was being processed under former R-1 standards. He noted the setback and that the second-floor would be setback nearly 40 ft from Woodfield. Locating the garages off the primary street is a

big plus and the lot is large enough to accommodate construction vehicles. He felt the house was well designed and not intrusive.

Commissioner Mehranian referred to the lot's configuration and the fact that it is a wooded site. She concurred with her colleague's comments and stated she could support the request.

Vice-Chair Gelhaar suggested modifying condition 11 prohibiting construction parking on Woodfield and adding a new condition requiring submittal of a haul route to Public Works for review and approval.

Director Stanley clarified that the Commissioners intended to prohibit any type of construction activity along Woodfield Road.

M/S/C Davitt/Mehranian to approve Modification 06-53, amending condition 11 and adding a condition requiring a haul route as discussed. Unanimous.

B. Hillside Development Permit 07-22; Floor Area Review 07-09; Second Floor Review 07-23; Ree; 3975 Hampstead Road:

Continued to 6/26 under Reordering of the agenda.

C. Hillside Development Permit 05-73; Gilmour; 3737 Madison Road:

Continued to 6/26 under Reordering of the agenda.

D. Hillside Development Permit 06-87; Second-Floor Review 06-10; Modification 06-103; Dickenson; 945 Monarch Drive:

Planner Gjolme reported that the project architect had reconfigured the retaining wall along St. Katherine Drive so that is no longer encroached into the street side yard. Therefore, the request for a Modification was moot.

The applicant proposes to demolish an existing residence and construct a 5,480-sf, two-story home on hillside property with an average slope of 30%. The subject site is an irregularly shaped corner lot at the intersection of St. Katherine Drive and Monarch Drive, in the R-1-40,000 Zone.

An aerial view of the property showed that St. Katherine Drive rises as it extends east from Chevy Chase and qualifies as the side yard. The street curves sharply and transitions to Monarch Drive, which represents the formal front of the property and from where a gently descending driveway provides access to the wooded site. There are significant wooded and sloping banks to St. Katherine Drive, which rises to the east, and which results in the pad's elevation above St. Katherine. The property and pad then fall below street level along Monarch Drive. Visibility to the interior of the site is minimal considering overall frontage.

Planner Gjolme pointed out that a County-approved septic system includes primary and future seepage fields along the north and west ends of the property, which required shifting the project 36 ft to the south to accommodate the leach fields. Consequently, the project would be set back 45 ft from the north property line, in contrast to the existing 7-ft setback. Additionally, an inward adjustment on the east side shifts the house back to provide a code-compliant, 25-ft front setback from Monarch Drive in contrast to the existing 21-ft front setback.

The lone encroachment, a 7-ft-high, inward facing retaining wall along St. Katherine Drive has been reconfigured and no longer encroaches into the street side yard.

The project includes a basement of approximately 1,600-sft, which would require 600 cubic yards of cut and which would be mostly balanced on site to create a 2:1 slope west of the house. Consequently, truck trips and a haul route are not issues. Basement sections were shown on Power Point in relation to the building footprint.

The project was the subject of preliminary review by the City Engineer, whose recommendations include a new culvert at the toe of the slope to collect drainage at several points and to divert water to St. Katherine. There are a number of significant oaks on site and are identified on the site plan --- all have appropriate separation from the project; 4 would be proximate to the culvert, but their grades would be preserved. Planner Gjolme noted the numerous draft conditions addressing tree protection, including an arborist's report prior to issuance of building permits. All recommendations of that report would have to be met.

Addressing density, the 30% slope triggers a .9 Slope Factor, which reduces the allowed 7,244-sf to 6,520-sf. Total floor/roofed area would be 5,480-sf, (20% density), well within both standards. Further, non-conforming front and north side first-floor encroachments would be improved.

The elevations were shown on Power Point. The contemporary design includes a mixture of materials, including stone veneer on the first floor and sand-finish stucco on the second floor. Shallow pitched roofs would limit primary building height to 24 ft. A majority of the house that descends down the slope would be single-story with varying recesses between floors. Maximum down slope wall height would reach 18 ft and taper to 9 ft as the south face of the garage extends eastward and up the slope towards Monarch Drive. The south elevation – the most critical was displayed. A majority of existing trees would be retained and would be augmented according to the submitted landscape plan to buffer the perimeter of the site.

Lastly, the 2:1 slope allows creation of a patio area at the rear of the home. Two decks would extend from the patio; the north deck and the larger of the two, would accommodate a spa and extend to within 50 ft of the rear property line. The smaller deck on the south side, would provide a 23-ft street side yard setback. Both decks would extend beyond the fill slope and cantilever 5 ft above grade; neither constitute floor area, given their clearance from grade, which is below 7 ½-ft. The collective size of the decks - 1,300-sf -- raised concerns for Staff, given their heightened vantage points and potential view impacts. Staff felt the numbers were significant and suggested reduction in deck area and shifting them toward the east to provide separation from the down slope neighbor to the west and St. Katherine Drive.

A mix of single-story and two-story homes are found in the area and the proposal is compatible with the existing neighborhood development in design and scale. A three dimensional color rendering prepared by the applicant was displayed as was the Assessor's map highlighting the neighborhood's support for the project.

Commissioner Davitt confirmed that Staff's concern with the deck was the potential for view acoustical impacts; at 1,300-sf, it seemed excessively large.

Commissioner Gelhaar related of having spent a good deal of time on site, attempting to visualize the decks. He confirmed that Staff's concern was based more on the size and the number of people that it could accommodate; acoustic impacts could be mitigated by reducing the size.

Project designer, Dave De Angelis, briefly reviewed what he termed as a complicated site; the biggest dilemma was the septic system, which controlled the design. He reported that there is also a fairly low water table level in the area as well as the required setbacks and the oaks. He noted that the proposed lot coverage includes a covered patio and a three-car garage and is still within 200 sf of the existing footprint. Mr. De Angelis advised that there are a few houses on the street larger than the propose project; including one that he designed.

He distributed a color board with colors that emulate the surrounding hillside; the dark roof emulates the dark patches among the oaks. He designed the house to sit within the hillside, left what is non-useable as hillside, and combined what was useable to create the decks. The decks are stepped down the hillside to keep them approximately 5 ft off the slope.

Responding to a question from Commissioner Mehranian, Mr. De Angelis explained that the decks make use of the site. A pool is out of the question because of the septic system, so the smaller deck would accommodate a spa. He pointed out the lack of views to neighboring homes; all views are oriented over the Glendale hills.

Responding to a question from Vice-Chair Gelhaar, Mr. De Angelis advised that at the south corner, the larger deck is approximately 3-4 ft off the ground and increases to approximately 6 ft. The smaller deck to the south has clearance of approximately 6 ft over its entire course.

Vice Chair Gelhaar opened the public hearing. Since comments were not offered, the public hearing was closed.

Director Stanley commented that it would be appropriate for the Commission to include the color and material board as a conditions.

Commissioner Davitt reported of having made a site visit over the weekend. He concurred with Staff's analysis and felt the design was appropriate for the lot. He remarked that the FAR is nearly 1,000-sf below allowable and the house is of modest height on the critical elevations. He stated that he was somewhat indifferent regarding the deck and questioned any negative impacts they would cause to the down slope neighbor.

Commissioner Mehranian complimented Mr. De Angelis' design and approach; the house would not be highly visible and the trees would be protected. The project did not raise concerns and she was prepared to support the request.

Commissioner Hill stated that he did not have issues with the project and that he liked the idea of the decks. He pointed out that if for some reason the decks could not be built, the property owner could import fill and create a large, flat, useable area and accomplish the same thing. He stated that the designer had done a beautiful job.

Vice-Chair Gelhaar concurred and added that it was difficult for him to visualize the decks since grading was involved. He suggested that condition #18 be modified to read "story poles shall be erected for the deck area for review an approval by the Director of Community Development and may be reduced in area at his discretion". If the Director felt the decks were appropriately landscaped, he wouldn't have a problem.

M/S Davitt/Mehranian to approve Hillside Development Permit 06-87 and Second-Floor Review 06-10, modifying condition #18 requiring story poles for the deck subject to the approval of the Director when he believes that he is in a position to visualize them --- which could be post grading. An added condition shall require adherence to the colors shown on the submitted color and materials board.

Mr. DeAngelis advised that the decks would be constructed under a separate permit after the house is constructed. He did not have a problem with a condition stating prior to issuance of building permits for the deck

The motion passed unanimously.

X. OTHER BUSINESS

A. Fence Review 07-02; Burks; 890 Flintridge Avenue:

Director Stanley introduced Rhys Ballestar, Planning Intern, who would present the request.

Intern Ballestar reported that the fence contractor had filed an appeal on behalf of his client, contesting the Director's denial to allow installation of a 6-ft-high wrought iron fence and pilasters within the front yard setback and 3-ft behind an existing retaining wall. Director Stanley determined that a combination of the retaining wall and the proposed fence constitutes a height of 9-10-ft, thereby exceeding the 6-ft-height maximum allowed for fences within the front yard setback.

The subject site is located on the south side of Flintridge Avenue at its intersection with Commonwealth Avenue. The property accommodates a circular driveway with 2 brick pilasters at each entrance. There is an outward-facing retaining wall immediately behind the front property line between both driveway entries, which varies in height from 3 ft to 4 ft as it extends toward the pilasters.

The applicant proposes to install a 6-ft-high combination brick and wrought iron fence, 3-ft behind the retaining wall on the grade's high side. The fence and pilasters would match the existing retaining wall and pilasters. A Power Point presentation showed the subject site and other properties in the immediate area with fences similar to what is being requested. The remedy to allow an over-height fence would be to apply for a Height Modification, but it is highly likely that Staff would support such a request.

Commissioner Davitt confirmed that as proposed, the 6-ft-high fence would extend parallel to the existing 3-ft-high retaining wall.

Commissioner Hill inquired if the Commission could procedurally act on a Height Modification at this time.

Director Stanley responded that he would like to verify from where the new R-1 standards require measurements to be taken - from the existing wall or from the new fence.

The Commission recessed for 5 minutes so that Director Stanley could research the issue, and reconvened at 8:10 p.m.

Director Stanley advised that the requested fence meets Code, but because of its proposed location, the existing retaining wall is included when measuring overall height. The Zoning Code provides a 1:1 terracing allowance for rear and side yards ---- the City Council intentionally did not include front yards out of concern that the result would be a proliferation of over-height walls in front yard setbacks. An application for a Height Modification would need to be filed if the Commission determines to support the request.

Commissioner Gelhaar commented that the retaining wall appears as a natural slope. Absent the wall, there would not be an issue.

Director Stanley remarked that the applicant could install wrought iron and pilasters atop the retaining wall so long as the overall height does not exceed 6 ft. He pointed out that the applicant could also plant shrubs,(which are not subject to height restrictions), behind the wall.

Vice Chair Gelhaar invited public testimony.

Property owner Chris Burks reported of having resided in his home for 25 years. He described his neighborhood as one where everyone looks out for one another, and distributed his plan signed by all his neighbors, supporting his proposal. He related that the project is not purely cosmetic. Approximately 1 ½ years ago, an expensive car was stolen from his driveway and his property is trespassed weekly by strangers jumping over the retaining wall. He now keeps the automated gates closed. Mr. Burks distributed three Sheriff reports, including one recommending that he install a fence. His plan is similar to what his neighbor's fence, except his would provide security and views of the site's interior. It would provide a consistent street appearance and protect 4 other homes that take accessed through the private drive that also serves his residence.

Mr. Burks explained that he could not remove the retaining wall due to the proximity of 4 oak trees. He advised of having found brick manufactured in 1950 that matches his home, so that the pilaster will appear established.

Vice-Chair Gelhaar felt that continuing the extending the easterly fence towards the front of the property would provide the security that the applicant desires.

Mr. Burks responded that doing so would separate him from his neighbors who share the common driveway and he did not want that.

Commissioner Hill stated that his site visit led him to believe that a 6-ft-high fence atop the retaining wall might be more readily approved. He confirmed that the proposed fence does not include spears at the top.

Mr. Burks stated that the existing retaining wall would simply provide a step for trespassers to climb over the fence. Further, the appearance of such a design would not enhance the neighborhood.

Fence contractor David Gilmour added that the existing pool would preclude Commissioner Hill's suggestion. Code does not allow any "step-over" opportunity for safety purposes. There are sections of the retaining wall that are only 2 and 4-ft high, which would allow someone to fall over.

Vice-Chair Gelhaar confirmed that a fence in the front yard is not legally required for the pool.

Vice-Chair Gelhaar invited public testimony.

Chris Evenson, 360 Flintridge Avenue resides adjacent to the subject property. He related the history of how the applicant's lot and the 4 other properties who share a common driveway were subdivided from 8 acres in the 1970's. He stated that all those homes are now valued in excess of five million dollars and maintaining the appearance is important. Installing a fence atop the retaining wall would degrade the streetscape. He emphasized that security is essential; approximately \$10,000 worth of gardening equipment was stolen from his gardener's truck. Mr. Evenson reported that he never leaves his garage door open and even with an automated gate, strangers climb over the wall to solicit or check-out the homes. He stated that he strongly supports Mr. Burks' request as it addresses security issues and would enhance the area.

Further comments were not offered from the audience.

Director Stanley advised that if the Commission determines that the request is supportable, the direction to the applicant should be that he file for a Modification. He referenced Code during the recess and did not find anything that allows for terracing and installing a 6-ft high fence in the front setback with the requested proximity to a 3-ft-high wall. Code only addresses terracing in side and rear yards.

Commissioner Mehranian commented that she considers the Director's decisions seriously, but she recognized the applicant's point and felt that he needs to apply for a Modification.

Commissioner Davitt acknowledged the neighborhood support involved with this request and stated that he is familiar with the property. It did not seem practical to him to have a fence higher than the gate --- which is what the applicant is requesting. He felt it would be more uniform to add a fence atop the retaining wall and add pilasters. He stated that he was having a difficult time supporting the project as submitted.

Commissioner Hill reported of having made a site visit and speaking with Mr. Burks. He thought the fences on the neighboring properties and the applicant's plan, which would be open and would not detract from the neighborhood, were attractive. Requiring a fence atop the retaining wall did not make sense, as it would not provide the security that Mr. Burks seeks. He recognized Commissioner Davitt's point that the gate would be higher than the fence; however, if security is one of the goals, one would be standing on the ground, almost level with the street to get over the gate. In order to trespass over the proposed fence, you would be standing 2-3 ft higher. He stated that at this point, he could support the appellant and cautioned that supporting the appeal is no guarantee that a Modification would be granted.

Commissioner Gelhaar stated that he was puzzled why the entire property would not be fenced if security was the issue. He suggested that a Modification is available to the applicant and he supported the Director's determination.

M/S Hill/Mehranian to support the appeal. Davitt and Gelhaar dissented.

Another motion was made: M/S Davitt/Gelhaar to deny the appeal. Hill and Mehranian dissented.

City Attorney Steres clarified that the last motion does not preclude the applicant from applying for a Modification. Holding a hearing before a full commission could affect the vote. Based on the 2-2 tie, neither motion passed. He offered to reference Code to check if the Director's action holds when there is "no action" taken. Another option, if he finds out that the appeal is effectively denied due to lack of action, would be for Mr. Burks to appeal to the City council.

Vice-Chair Gelhaar asked if there was a process available for Mr. Burks to return to the next meeting, when a full Commission would be seated.

Attorney Steres advised that if the applicant prefers to hold the matter to the next meeting, Chairman Cahill could listen to the tape and vote on it at the next meeting.

Mr. Burks preferred that option.

Commissioner Davitt confirmed that should the Commission not take further action, Mr. Burks could file for a Modification.

Director Stanley felt that the quickest avenue would be for the applicant to contact Chairman Cahill, since he knows the position of the other Commissioners.

Director Stanley pointed out the numerous approved walls built within the front yards are 6 ft in height; many are a combination of brick and wrought iron and provide security.

Mr. Burks inquired if this would be an issue if his retaining wall were not exposed and covered with dirt and ivy, as are many nearby walls./

Director Stanley responded that many of the walls alluded to are "grandfathered". However, if Mr. Burks removed the wall and created a slope, he could build a fence as proposed.

M/S/C Davitt/Hill to continue Fence Review 07-02 to June 26th, when Chairman Cahill could participate in the deliberations. Unanimous.

B. Amendment - 2007-08 Capital Improvement Plan (CIP)

Director Stanley reported that Public Works staff added a project to the list previously approved by the Commission. The project consists of widening the driveway on the post office site to ease access and egress. An exhibit was attached to staff's memo detailing the proposed improvements to Foothill Boulevard and the post office site.

M/S/C Davitt/Mehranian finding that the proposed amendment to the CIP is consistent with the City's General Plan. Unanimous.

XI. COMMENTS FROM THE COMMISSIONERS

Director Stanley provided an update on the Hurlbutt and Beebe matters on Chula Senda. Mr. Hurlbutt has one more day to comply, otherwise, Code Enforcement will proceed. Ms. Beebe is working with her engineer; an easement release is still needed for the existing structure that is located within the County's easement.

Director Stanley inquired if the Commission wanted to study the issue of how this city defines "Single-family" in its code. At the last Council meeting, an applicant stated that her in-laws, and an uncle and his family, plus a caretaker would be residing in a proposed house.

Attorney Steres asked if the Commission wanted a study session on this matter. There are legal parameters and there are regulations that other cities have adopted in an attempt to control overcrowding. Some cities regulate through parking ordinances, on-street parking and the number of bedrooms or kitchens --- beach communities typically regulate bedrooms and kitchens.

Vice-Chair Gelhaar confirmed that nothing has changed legally since the Commission asked for a status on the current situation 5-6 years ago.

Commissioner Mehranian commented that this City allows 9,000-sf homes. She had no interest in discussion who lives in a house and would prefer to address the issue through parking regulations.

Commissioner Davitt felt that was practical and suggested reviewing how other communities tackle the issue.

Commissioner Hill reported of being approached by a resident who objected to houses he thought were being used by multiple families. He stated that he would "like to be brought up to speed" on this issue.

Attorney Steres offered to independently send information to all 5 Commissioners so they understand the basis of the law, after which they can schedule a study session to review the regulations of other cities.

Vice-Chair Gelhaar then received an explanation of recent cases that have had to be re-noticed.

XII. COMMENTS FROM THE DIRECTOR

Director Stanley provided the outcome of two appeals recently heard by the City Council.

He announced that newly-hired Assistant Planner Jo-Anne Parinas, began work the previous day and that the Commission will be meeting her shortly.

XIII. M/S/C Hill/Davitt to adjourn at 9:20 p.m. Unanimous.

Secretary to the Planning Commission