

**MINUTES OF A MEETING OF THE PLANNING COMMISSION
OF THE
CITY OF LA CAÑADA FLINTRIDGE
HELD JUNE 28, 2005**

I. CALL TO ORDER:

Chairwoman Mehranian called the meeting to order at 6:00 p.m.

II. ROLL CALL:

Present were Commissioners Cahill, Gelhaar and Engler, City Attorney Steres, Planner Gjolme, Assistant Planner Lang, Planning Aide Shimazu. Commissioner Davitt advised that he would be arriving late.

III. PLEDGE OF ALLEGIANCE

Commissioner Cahill led the salute to the flag.

IV. COMMENTS FROM THE PUBLIC:

Comments were not offered.

V. ELECTION OF CHAIR AND VICE-CHAIR:

M/S Mehranian nominating Vice-Chair Gelhaar for the position of Commission Chair and Commissioner Davitt as Vice-Chair.

There were no further nominations and the motion passed with 4 ayes. The gavel was passed to Chairman Gelhaar.

Staff presented former Chair Mehranian with flowers and thanked her for efforts in leading the Commission this past year. Chairman Gelhaar noted there were taxing issues before the Commission the past year and thanked her for setting a fair standard for everyone.

VI. REORDERING OF THE AGENDA:

The agenda order was acceptable as presented.

VII. CONSENT CALENDAR:

A. The minutes of May 24 were not submitted and continued to the following meeting.

B. Resolution 05-43; Conditional Use Permit 388; Modification 04-76; Building Depth Review 04-10; Brisbois; 718 Hillcrest Avenue; Commissioner Engler made a motion to adopt the resolution.

Discussion followed the motion. Commissioner Mehranian inquired if the oaks located within the trail area would be removed.

Assistant Planner Lang responded they would not.

Chairman Gelhaar asked that the standard parking condition be added and an added condition that the final landscape plan is subject to review and approval by the Director.

Second: Cahill; the motion passed with 3 Ayes; Mehranian dissenting.

VIII. CONTINUED PUBLIC HEARING:

A. Modification 05-19; Wannier; 5131 and 5127 Gould Avenue:

Planner Gjolme recalled that this matter was initially scheduled for May 24th, but not heard and continued at the applicant's request.

The subject sites are located along the west side of Gould Avenue, south of Paulette Place, in the R-1-20,000 zone. The focus of the request is a long flag strip that serves 5127 Gould (a flag lot to the rear of 5131). The two properties are commonly owned by the applicants.

The requested Modification would allow two, 15-ft-high light poles with security cameras within the northern end of the flag strip that accesses 5127 Gould. Since the entire flag strip constitutes required setback area, structure height is limited to 6 ft. Further, the north 4 ft of the flag strip is a recorded easement for landscaping purposes.

The intent is to illuminate the mid portion of the 200-ft-long flag strip.

Aside from the height issue, staff could not support the location as proposed, given the recorded landscape easement. Staff suggested what it viewed as a reasonable compromise: relocate the westerly pole to the north, outside the landscape easement, and prohibit any part of the pole or its overhang to project into the landscape easement. This would provide a 6-ft setback from the south property line of 5131 Gould and a 10-ft functional setback, including the 4-ft easement, and allow adequate lighting. Further, staff could not justify the proposed location for the easterly pole. Staff noted that lights installed in the ground or on the façade of the residence would meet the applicants' goal of lighting the flag strip.

As recommended by Staff, the project would provide adequate lighting along the flag strip without impacting the neighbors or the immediate area.

Planner Gjolme advised that Staff had requested comments from the City Attorney regarding the legalities of surveillance cameras.

Attorney Steres commented that prior to initially granting a continuance, a general question was raised regarding privacy issues and whether cities had any authority to regulate surveillance cameras -- there was a concern that the proposed height of the light standards could allow the camera surveillance to spill over to adjacent residential properties. He advised that the City of Sunnyvale in northern California adopted regulations that limit the height of such cameras when located adjacent to residential property. The purpose was to preclude monitoring or recording adjacent properties.

Attorney Steres advised that the issue of invasion of privacy is a civil matter and cautioned with creating an ordinance that might violate civil law. Certain elements define invasion of privacy: 1) a reasonable expectation of seclusion and 2) it would be highly offensive to a reasonable person; 3) the intruder's motives and intentions. He advised that there could be differences in monitoring front yards vs. back yards; there is probably a higher expectation of seclusion in back yards. Given the advanced and changing technology, he believed we may soon see cases that answer those questions and suggested that the issue be addressed on a future agenda. He noted that what is currently in front of the Commission is a zoning matter whether to allow the requested lighting and cameras to be located within the setback.

Commissioner Mehranian asked how the Commission could be sure that the camera's range is limited and who would supervise that?

Attorney Steres responded that Sunnyvale's ordinance recognizes that the capability for spillover is difficult to enforce; therefore, their ordinance focuses on height, so that a camera cannot "see" over a fence. The second question should be directed to the applicant.

Responding to question from Commissioner Cahill, Planner Gjolme explained that the planting easement is north of the driveway and is somewhat delineated by a wooden fence. The south portion of the flag strip belongs to the Robertsons, at 5123 Gould.

Commissioner Engler remarked that the Tennis Court Ordinance requires light standards to be 15 ft from property lines --- that would be the only comparison we have to this request.

Chairman Gelhaar commented that the Commission had received numerous copies of legal documents filed between the Wanniers and the Robertsons.

Since those actions have nothing to do with the zoning matter under review, he asked that all comments be limited to the request.

Applicant Peter Wannier, illustrated the sites on an expanded Assessor's map and advised that 2 properties were sold and divided into 3 lots in the 1960's. He has resided at 5131 Gould over twenty-one years; six years ago, he purchased 5127 Gould, with a house, garage and pool, which he rents out. He pointed out where the properties are inter-connected by several easements, including a 4-ft-wide landscape easement created to serve the pool on his rental property. He displayed a scaled drawing of the 3 properties and the landscape easement, stating that the basis for his request is safety and security. The proposed light standards would be practical and unobtrusive and would light the long dark flag strip with overhanging, dense foliage. He stated that the posts would be located within one foot of his two properties and the lights activated by sensors. The posts and side arms would be invisible except from his home and from 5117 Gould, which is at a lower elevation. Mr. Wannier stated that a large stand of trees and a 12-ft-high hedge behind the posts would make it impossible for the camera's view to extend into anyone's yard.

Mr. Wannier felt that Staff's alternative to erect a single post on his property is less practical, more obtrusive, and not appropriate towards the goal to light the driveway. He believed Staff's alternative would light the pool, but not the driveway and that the light would have to be canted to the side to provide light, thereby impacting the neighbor to the south. He reiterated that the goal is to protect his rental property against vandalism and provide safety to his tenant and visitors. He then distributed a simulation of Staff's alternative, demonstrating that the driveway would remain dark.

Commissioner Mehranian confirmed that the photos he submitted is from the camera's eye. She asked who would guarantee that the camera would not be moved or be modified and asked who would operate it.

Mr. Wannier responded that moving or modifying the camera would be obvious to anyone since it would require use of a ladder. The camera would be continuously under his supervision.

Following confirmation that the cameras were solely for security reasons, Commissioner Mehranian asked Mr. Wannier if he had considered alternative measures.

Mr. Wannier responded that he had not, and he felt a gate would be impractical, as it would be shared by too many owners. Commissioner Engler asked if a photometric illumination study had been made.

Mr. Wannier responded that the purpose is to get a view down the 250-ft-long, 10-ft-wide drive; the camera would be looking down at a narrow angle and a narrow field of view.

Commissioner Engler questioned that the result would be a narrow view, given the requested height of the poles.

Mr. Wannier advised that the diameter of the field of view is 10-15 ft and would be restricted on the sides by the dense foliage.

Commissioner Engler felt that lower-level lights would better serve the situation. He saw no need for cameras and questioned the functionality of cameras without ambient light.

Commissioner Cahill confirmed that Mr. Wannier filed the request as owner of 5127 Gould. Since the road meanders, he felt there must be easements that benefit other properties.

Mr. Wannier confirmed that 5127 owns the easement over 5123 Gould (the Robertson property).

Chairman Gelhaar opened the public hearing and allowed 3 minutes for speakers in support of the request.

Andy Beckwar, 5127 Gould Avenue, compared walking the flag driveway at night with walking into a tunnel. He advised that someone installed ground lights at the end of the driveway, which are blinding. He did not believe Staff's option responded to the safety purposes and advised that he has seen signs of vandalism.

Chairman Gelhaar confirmed that the existing surveillance camera at 5127 Gould does not belong to, nor was it installed by, Mr. Beckwar.

Commissioner Mehranian recognized the need to create an environment where there is less possibility of an incident and asked how cameras would help with security.

Stan Carter, 5584 Terrace Drive, Los Angeles, reported that he often finds it difficult walking up the driveway when visiting 5127 Gould to use the tennis court. He believed that cameras would deter vandals.

Steve Young, counsel for the Wanniers, advised that his clients have the right to expand the landscape easement since they own 5127 and 5131 Gould. He

noted that there are a number of surveillance cameras in the neighborhood, some mounted high.

Commissioner Engler asked if his client had the right to expand security lighting on the Robertson property at 5123 Gould.

Mr. Young assured Commissioner Engler that the light would only shine on the driveway, which in some areas, is not wide enough for a vehicle to pass.

Commissioner Cahill confirmed that an overlying easement for the Robertson property at 5123 Gould would have to remain as is.

Mr. Young acknowledged that no property could do anything that would affect other properties.

Responding to a question from Commissioner Engler, Mr. Young advised that a cooperative arrangement might be possible under other circumstances.

Anthony Robertson, 5123 Gould Avenue, related that problems began in November '04 when a camera was installed on the 5127 property with 24/7 surveillance. He requested Mr. Wannier to redirect the camera so that it did not extend within his property. He stated that the fundamental question is surveillance vs. security; the idea of rolling gates and cameras would be solely to record his property. Mr. Robertson then made a Power point presentation.

Chairman Gelhaar recognized Vice Chair Davitt, who arrived at this point.

Mr. Robertson disputed the applicants' concern with security; his display showed an unsecured gate at the back with no camera, which allows anyone to enter at will, and a neighboring home at 5171 Gould with an open fence adjacent to a public trail. Responding to a prior comment from Chairman Gelhaar, Mr. Robertson pointed out that the existing surveillance camera was installed using an extension cord; it is not permanent. Addressing lighting, he expressed a willingness to work with the applicants on a lower lighting program as soon as the sewer is installed. He asked that the Commission deny the request.

No further comments were offered, and the public hearing was closed.

Commissioner Cahill remarked that in reviewing the various land use requirements as they apply to the various property owners, it appeared that a 20-ft-wide access strip was intended for all the properties. At some point, the planting easement for the 5131 property came into being. He believed that lights to accommodate the tenant in the back was a reasonable request, but at

the same time, the combination of lights and a camera creates a prison-like situation for the owners of 5123 Gould. He saw no basis to authorize cameras along the strip and, while he was inclined to approve lights, he did not want them positioned high where they would intrude into the driving area; lower level lights within the planting strip would illuminate the driveway appropriately. Commissioner Cahill preferred delaying approval of lights pending discussion between the Wanniers and the Robertsons. Failing that, motion lights would be acceptable.

Commissioner Mehranian recognized the need for security, but it was clear to her that a camera would not afford that. She concurred with Commissioner Cahill's comments and stated she had a fundamental objection with surveillance cameras.

Commissioner Davitt advised of having made a site visit when the matter was initially on the agenda, and read his packet. He felt it was arguable whether cameras provide adequate security; if that were the case he would understand the request in principal, but as proposed, the camera would invade the privacy of another party.

Commissioner Engler commented that everyone should be allowed surveillance cameras so long as the range remains within the confines of their own property. He stated that the lights should not be motion activated, but rather on from dusk to dawn and that lights 2-3 ft off the ground would adequately light the driveway.

Chairman Gelhaar concurred with his colleagues and advised that he could not make findings 1,3 and 4. He drove by the property the night before and light extended from the street to the end of the driveway, which led him to conclude that simple ground lights, directed downward on both sides of the driveway would accomplish the applicants' goal. He was very concerned that the proposal would be an intrusion and impact the use and enjoyment of the Robertson's property. He offered to mediate a meeting between the applicants and the Robertsons.

Attorney Steres commented that the proposed height of the light poles is what triggered Commission review and would be allowed if under 6 ft high.

M/S/C Mehranian/Engler to deny Modification 05-19. Unanimous.

Attorney Steres advised that Staff would prepare a resolution for adoption on July 12; from that point an appeal can be filed by any person within 15 days.

IX. PUBLIC HEARINGS:

A. Modification 04-65 (amendment); Olivieri; 2005 Orchard Lane:

Planner Gjolme recalled the Commission's approval on December 14, 2004, which allowed a new garage to encroach into the required front yard setback. It was understood that in order to construct the garage, imported fill and a 3-ft-high retaining wall along the south property line would be required. It is now apparent that a 4-ft-high, outward facing wall is necessary. The one-foot excess requires an amendment, as does the wrought iron fencing atop the wall that would reach a maximum height of 7 ft. Also requested is a 6-ft-high driveway gate that was originally proposed at 42" in height. The property's R-1-15,000 zoning does not allow Decorative Fence approval and is therefore included in the Modification review.

Staff viewed both components as reasonable for the site; the gate would integrate well, considering nearby walls and fences of similar height. Planner Gjolme noted that a 42-inch-high gate would appear awkward and that the requested amendment is the best aesthetic option. The adjacent neighbor supports the request with a condition that rock veneer be applied to the outer wall.

Commissioner Engler noted that the grade difference is more severe where the wall would be 4 ft high. He asked if a code compliant wall was possible with additional grading.

Commissioner Mehranian had the same question, since there is only a one-ft difference.

Joseph Olivieri advised that he had topographic work done and did not believe the wall could be reduced further. The proposal would raise the grade 1 ft to lower the wall 1 ft. As proposed, drainage is directed towards the street rather than into his neighbor's yard.

Commissioner Davitt commented that the minutes from the December hearing did not disclose any significant comments. The request is for a minor modification and there is an aesthetic necessity for the gate; given the minimal impact and the neighbor's approval, he could support the request.

Commissioner Engler did not have concerns with the request, so long as river rock veneer is applied to the wall and the gate is no more than 6 ft in height at its highest point.

Commissioner Mehranian preferred that the applicant explore the possibility of stepping down the wall for the section that is over height.

Planner Gjolme pointed out that Code allows a 3-ft-high wall with a 6-ft-high fence stop, and noted that as proposed, the fence lowers in height as it extends towards the street.

Commissioner Mehranian then suggested that if the wrought iron was stepped down throughout, the result would be a 6-ft-high fence/wall combination.

Planner Gjolme understood, but believed it would appear awkward.

Commissioner Cahill stated that he did not have a problem with the excess one ft of height; a practical difficulty has been demonstrated and the applicant has made a concession for the neighbor by providing river rock on the wall. The over height gage and wall would be consistent with neighborhood development.

M/S/C Davitt/Cahill to approve the requested amendment to Modification 04-65. 4 Ayes; Mehranian dissenting.

B. Floor Area Review 05-04; Chen; 5155 La Cañada Boulevard:

Assistant Planner Lang reported the applicants' request to expand the first floor of their two-story home. The site is located on the west side of La Cañada Boulevard, south of its intersection with Journey's End Drive, in the R-1-15,000 zone.

The 555-sf project would bring the total floor and roof area to 6,245-sf, which equates to 4% over the 5,496-sf standard for the lot. The addition is proposed at the northwest corner of the home and would not be visible from the street or from the south, thereby minimizing massing and bulk. Setbacks to the north, south and rear are generous and the project's height of 14'-4" is well within the maximum allowed. Staff recommended approval as conditioned.

Commissioner Davitt made a site and confirmed that the ongoing work at the back is for a pool.

Project designer, John Chan reiterated that the addition would be non-intrusive, given its location at the rear of the property.

Chairman Gelhaar opened the public hearing; comments were not offered and the public hearing was closed.

Commissioner Engler stated that he could not justify the request, and noted that the house currently exceeds the standard.

Commissioner Mehranian commented that though the site is not the largest in the immediate area, she could support the request because it is a single-story addition and located at the rear.

Commissioner Cahill observed that the only finding is that the project is compatible with its neighborhood setting. He noted that the home's profile would not change and would not be seen from any point other than from the property to the North, which is at a higher elevation. The addition is oriented towards the pool and no one would be impacted.

Commissioner Davitt stated that he was having difficulty with the visual impact to the northerly neighbor. Coupled with that, the house is at least 13% larger than any other house in the comparison chart provided by Staff.

Chairman Gelhaar noted that as configured, the house is large and if the request were approved, it would be 3 times larger than those in the neighborhood. He did not believe there were many options available to the applicant. He inquired when the house was built and how it was allowed to exceed the Floor Area ratio.

Assistant Planner Lang responded that it was built in 1955. Planner Gjolme believed that floor area was allowed at 40% at that time.

Chairman Gelhaar stated that he saw no basis for a continuance or redesign.

M/S/C Engler/Davitt to deny Floor Area Review 05-04. 3 Ayes; Cahill and Mehranian dissenting.

X. OTHER BUSINESS

A. Appeal of condition re: Tree Removal 05-04; Sport Chalet; 1 Sport Chalet Drive:

Planning Aide Shimazu reported that the applicant was contesting a condition imposed on an approval that allowed removal of 18-inch-diameter oak. The tree was one of two oaks that were transplanted to flank the driveway, when the site was graded for the office building. An arborist reported that the tree was in the final stages of decline, with no possibility of recovery. The arborist opined that the tree was originally stressed from over watering and observed three irrigation emitters at the base of the tree.

The Director of Community Development approved removal of the tree with three conditions, including replacement of the dead oak with three, 60-inch box oaks planted elsewhere on the property. The applicant subsequently appealed that condition, stating that the City approved the landscape plan when the

office building was reviewed and contends that requiring 60-inch replacement trees for an 18-inch diameter oak is unreasonable. The applicant is willing to plant 3 oaks of 24-inch or 36-inch box size.

Mr. Shimazu advised that a 3:1 replacement ratio is City policy and that the value of three, 60-inch box size oaks is \$5,400, or, \$1,800 per tree. If the Commission determined to reduce the number of replacement trees, Staff suggested that a larger specimen be installed where the original oak died – it could be either a sycamore or deodar, depending on the arborist's recommendation.

Commissioner Mehranian left the meeting at 8:00 p.m.

Eric Olberz, representing the applicant was present to respond to questions.

Chairman Gelhaar prefaced his remarks by thanking Sport Chalet for supporting the community and for what Mr. Olberz' father has done in hiring and training local youth. He asked if the sprinklers had been modified and noted that a submitted photo showed rocks placed around the tree trunk.

Mr. Olberz stated that to the best of his knowledge, the sprinklers remain as installed.

Commissioner Davitt confirmed that La Cañada Properties was willing to install a tree in the same location.

Responding to a question from Chairman Gelhaar, Senior Planner Buss advised that the 3:1 replacement policy applied to private and commercial properties with a condition that the tree survive for 2 years.

Commissioner Engler noted the disparity between what the City requires and what it installs; tree replacements in the rights-of-way are very modest.

Senior Planner Buss commented that on commercial sites, all trees are protected, regardless of size. Rather than requiring same-size replacement, the City replacement value is sought through use of multiple, smaller trees, which have a better chance to root properly and survive. He added that the Director is authorized by Ordinance to accept an existing tree as replacement.

Commissioner Cahill observed that the City does not have a value of the tree that died.

Chairman Gelhaar agreed and pointed out the numerous trees on site - mostly pines. He asked at what point does the City accept existing trees as replacement?

Senior Planner Buss stated two trees flanking the driveway entrance is what the Design Commission initially required. That won't be the case if the Commission designates an existing tree as replacement.

Commissioner Cahill supported the Director's decision and pointed out that since it is not a heavily wooded lot, 3 trees would provide additional screening.

Commissioner Engler concurred and added that the applicant needs to review their watering patterns. The arborist opined that over watering caused the oak's demise.

Chairman Gelhaar stated that he could support a 60-inch-box replacement tree in the same location with an added condition that an arborist be retained to advise Sport Chalet on what watering changes need to be made to assure survivability of the trees.

M/S/C Davitt/Engler modifying the Director's decision and requiring one, 60-inch-box replacement in the same location and two, 24-inch-box trees elsewhere on site. 4 Ayes.

B. Tree Removal 05-15; appeal of condition imposed; Son; 309 Baptiste Way:

Planning Aide Shimazu reported that the Director approved removal of a 10-inch-diameter Chinese elm located in the side yard of the appellant's property. The tree was located in the narrow west side yard and was damaging the roof and adjacent walkway. The approval included a condition, which required a 36-inch replacement oak somewhere on the property or a cash contribution to the City's Tree Fund in the equal to the value of the tree, which is \$850.00

The appellant advises that the size of her property precludes planting a 36-inch box oak, and that it would be a financial hardship to pay the \$850 replacement value. She requested reconsideration of that amount.

Ms. Son advised the Commission that she did not remove a healthy tree and that she hired a contractor from the City's approved list, who broke apart the tree's rotted center with his hands. She advised that payment of \$850 would be a financial burden to her family and noted that her small back yard currently accommodates a large oak; she asked for an accommodation on the replacement amount.

Commissioner Engler noted that the Ordinance does not differentiate between a healthy or diseased tree and stated that the Commission is not in the business of awarding discounts.

Commissioner Cahill agreed, but noted that the Commission just made a concession for Sport Chalet, who is probably in a better financial position to install replacement trees. He observed that the staff report and packet information shows that the tree was uprooting. He asked if the City wouldn't allow removal in those situations without a penalty.

Senior Planner Buss could not recall a situation where either an on site replacement tree or a contribution to the City's Tree Fund wasn't required.

Chairman Gelhaar was concerned with the Commission getting into a situation where it begins bargaining and stated he could support a 24-inch box tree.

Senior Planner Buss advised that the replacement value would be \$250.

M/S/C Cahill/Engler modifying the Director's determination and accepting that a 24-inch-box oak as replacement, or its value of \$250 be paid into the City's Tree Fund. 4 Ayes.

XI. COMMENTS FROM THE COMMISSIONERS

Commissioner Cahill thanked and encouraged Staff to continue providing maps of site locations.

Commissioner Engler addressed the recently reviewed Bilaver hillside project on Rosebank Drive. He reviewed the recommendations of the various engineers, but he was looking for the recommendations from the City Engineer and Director of Public Works, which he thought were alluded to in the staff report.

Senior Planner Buss advised that the County analyzes the project; the City Engineer uses data provided by the project's technical professionals to determine whether the project is feasible.

Chairman Gelhaar asked Staff to put surveillance cameras on a future agenda so the Commission could study a draft ordinance and refer it to the City Council.

Commissioner Cahill agreed with the concept to prevent surveillance cameras from being invasive --- residences adjacent to commercial areas need them, but he did not view it as a burning issue at this point.

Commissioner Engler did not have an issue with fixed cameras, but would object when they pan and tilt to other properties.

Commissioner Cahill referred to a recent US Supreme Court decision, which allows municipalities to redevelop areas that do not meet the definition of blight. Given that the Commission has discussed the fact that parts of Foothill seem to be degenerating and do not benefit the community, he asked the City Attorney to advise if the decision provides an opening to allow responsible, community based development that could improve our main corridor.

Attorney Steres provided a brief overview of the decision. The US Supreme Court reviewed Connecticut law, which allows use of eminent domain to redevelop an area based purely on economic reasons. Connecticut does not require a finding of blight. The town of New London was looking to bring in a commercial center "for the greater good of the community"; it did not allege that adjacent homes were blighted. The issue before the Court was whether that was a public reason to use eminent domain (redevelopment projects more typically are for sewers, roads, parks, etc.). The 5-4 decision upheld the ability of New London to apply that law to use eminent domain and pay just compensation to redevelop an area.

A distinction between California and Connecticut law is that California requires a finding of blight to use eminent domain. The decision did not change California law, which requires specific criteria and facts as to what constitutes blight. He offered to furnish that information to the Commissioners.

Commissioner Davitt thanked Attorney Steres for the clarification and asked if it broadened the ability of other entities to take property?

Attorney Steres responded that the Court did not rule where or when you can use eminent domain, but rather agreed with the state's definition of "public purpose". The only reason the town of New London had the right to do what it did is because state law said it was a public purpose.

XII. COMMENTS FROM THE DIRECTOR

In Director Stanley's absence, Senior Planner Buss advised that the City Council rejected the idea of a Parking Model for the Downtown Village Specific Plan proposed by Director Stanley. The Council did, however, approve an update to the General Plan -- \$80,000 has been budgeted for this fiscal year to start the process.

XIII. ADJOURNMENT

M/S/C Davitt/Engler to adjourn at 8:45 p.m. 4 Ayes.

Secretary to the Planning Commission