

**MINUTES OF A MEETING OF THE PLANNING COMMISSION  
OF THE CITY OF LA CAÑADA FLINTRIDGE  
Held Tuesday, July 28, 2009**

- I. CALL TO ORDER:** Vice Chairman Hill called the meeting to order at 6:00 p.m.
- II. ROLL:** Present were Commissioners Gelhaar, Curtis and Hill. Chairman Davitt and Commissioner Cahill were absent. Also present were Community Development Director Stanley, Deputy City Attorney Guerra, Planner Gjolme, Planner Clarke, Assistant Planner Lang, and Assistant Planner Parinas.
- III. PLEDGE OF ALLEGIANCE:** The flag salute was lead by Commissioner Curtis
- IV. COMMENTS FROM THE PUBLIC:** No comments from the public were offered.
- V. REORDERING OF THE AGENDA:** The items on the agenda were not reordered.
- VI. CONSENT CALENDAR**
  - A. Minutes:** June 9, 2009
  - B. Minutes:** June 23, 2009

Commissioner Curtis wanted to strike a comment. Commissioner Gelhaar made a correction. Commissioner Gelhaar made a motion to approve the Minutes as amended. Commissioner Curtis seconded. The motion carried 3-0.

- VII. 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.  
  
Staff request to continue item to September 8, 2009 to allow the city engineer more time to review the submitted plans. Commissioner Gelhaar made a motion and Commissioner Curtis seconded. Unanimous.
  - B. Zone Change 09-06; La Cañada Flintridge; City-wide:** Consider an amendment to the City's Zoning Ordinance pertaining to development standards for fences, walls, and landscaping. More specifically, the amendment would clarify that fences and walls are accessory structures, require notification when fences and walls are installed, and require fences and walls to be installed with the finished side facing the neighboring properties or public right-of-way. The amendment will also include the possible prohibition of chain-link fencing and other similar fence materials.

Assistant Planner Parinas gave a presentation in accordance with the staff report. She reported on the difference between watts and lumens as it refers to light bulbs.

Vice Chairman Hill asked for a clarification on when the 100 watt low-level lighting exception was decided and why. He felt that 100 watts is too bright.

Director Stanley stated that the last time this item was taken to the City Council was approximately 3 years ago. He explained that at the time no one understood what lumens were, so watts were used as a level of measurement. Director Stanley clarified that if the Commission wanted to lower the level of lighting then it is something that they could do and their recommendation will go to the City Council.

Commissioner Gelhaar stated that it wasn't an issue with him because we have not received any complaints.

Vice Chairman Hill opened the public hearing.

Rafi Iahdjian, 4429 Rocklin Place, indicated that he is an electrical contractor and he installs lighting on pilasters all the time. He stated that there is a gray area on the wattage, lumens, and the degree of light coming out of the fixture because the amount of spill-over needs clarification; if the light points towards the neighbor's property the neighbor would be adversely affected. He stated that 1,600 lumens is not a lot if the lighting is pointed 45 degrees down to the ground.

Vice Chairman Hill closed the public hearing.

Director Stanley pointed out that the zoning code limits lighting to 1-foot candle at the property line.

Commissioner Gelhaar asked about the history of complaints in regards to fence lighting.

Director Stanley stated that the City has not recently received any complaints about the intensity of light bulbs; however, in the past prior to the code change, a project that involved several lights on top of pilasters was appealed to the Commission. Director Stanley reiterated that the City has not received any complaints since the change.

Commissioner Gelhaar stated that he had required a condition relating to lighting for a Hillside Administrative Hearing case that he recently heard. He suggested incorporating that condition into the code section.

Planner Gjolme explained that there is a standard in the Hillside Ordinance that states that ambient light in terms of the spill-over generated by the project can not exceed the pre-existing condition onsite prior to the project.

Chairman Gelhaar clarified that the code section addresses all proposed lighting and is not limited to just fences.

Commissioner Curtis stated that he is not concerned about adding the Hillside Ordinance language.

Vice Chairman Hill pointed out that the code already limits lighting to 1-foot candle.

Vice Chairman Hill opened the meeting for Commissioner comments.

Commissioner Gelhaar stated that he likes the draft ordinance the way it is.

Commissioner Curtis stated that he would like to add “except as approved by the Director of Community Development upon a determination that the proposed fence or wall is similar in appearance on both the side facing the subject property and the side facing the neighboring property or otherwise not adversely affecting neighboring properties” to the second line of Section 11.11.050.F.4 in the draft ordinance.

Vice Chairman Hill acknowledged that Commissioner Curtis’ request is a good idea.

Director Stanley stated that there should be no problem with the suggested change.

Commissioner Gelhaar asked if the City Attorney could confirm that the change is acceptable.

City Attorney Steres stated that the change would not be a problem.

MOTION - Commissioner Curtis moved and Commissioner Gelhaar seconded a motion recommending that the City Council modify Chapter 11.11.050.F of the Zoning Code as it pertains to fences, walls, and landscaping with the changes as recommended by Commissioner Curtis. The motion carried 3-0.

## **VIII. PUBLIC HEARINGS:**

- A. Planned Development Permit 09-01; Kim/Lee; 2197 Rockridge Terrace:**  
Request to consider a Planned Development Permit to allow construction of a new three unit apartment building on a 14,500 sq. ft. parcel. Staff is recommending that the Planning Commission approve a Categorical Exemption for this project.

Planner Clarke gave a presentation in accordance with the staff report.

Commissioner Curtis asked how tall the wall in the back is and if an additional fence or wall would have to be placed on top of it.

Planner Clarke responded that the retaining wall would be 6’ with additional fencing on top. He also indicated that that could change if the Commission voted to lower the pad as recommended.

Commissioner Curtis also asked for clarification of the landscape screening of the AC units as recommended by the Design Commission.

Planner Clarke explained that the Design Commission would review a final landscaping plan after the project was approved by the Planning Commission. Said landscape plan will include screening of the AC units in the back.

Commissioner Curtis asked about the guest parking and the code requirement that it not be located in the side or front setback.

Planner Clarke explained that staff was recommending that the parking be shifted slightly to comply with the code requirement that parking not be in side-yard setback so that a variance would not be required.

Director Stanley stated that Staff's recommendation was to lower the pad and shift the guest parking out of the required setback.

Commissioner Gelhaar asked if there was a condition in the resolution that would accomplish what staff was recommending.

Director Stanley indicated that Condition No. 20 would address the issue.

Commissioner Curtis asked at what point the handicapped parking requirement kicks in.

Planner Clarke was unsure of when the handicapped parking is required.

Commissioner Curtis asked about the code requirement 11 D which relates to the opacity requirement for the balconies.

Planner Clarke explained that two of the balconies encroach into the south side setback and would need to be removed and that the balcony for Unit C could remain.

Director Stanley interpreted that the balcony floor should be solid rather than decking material and that the balcony should be visually enclosed.

Commissioner Curtis also asked about the code requirement that at least one tree be of a certain height and canopy.

Planner Clarke explained that there were pine and oak trees on the site.

Commissioner Curtis asked about the requirement that the equipment and utilities be placed underground.

Planner Clarke indicated that all utilities will be underground.

Commissioner Gelhaar asked that Condition No. 19 be reworded to clarify that the trash enclosure shall be relocated rather than removed.

Director Stanley also recommended that the language on Condition No. 17 be reworded to say that either the roof and/or the pad shall be lowered.

Commissioner Gelhaar asked if the applicant was made aware of the 4' height reduction and how they felt about it.

Planner Clarke indicated that the applicants were made aware of the recommendation and they did not voice opposition to it.

Commissioner Gelhaar asked if the parking issue came up since packets were delivered.

Planner Clarke indicated that this was the case and it was discussed with the designer.

Commissioner Gelhaar asked for clarification about the removal of the closet from the two smaller units and the conversion of one of the bedrooms to a tandem parking space. He also asked if the applicants were made aware of this recommendation.

Planner Clarke indicated that this was the case and it was discussed with the designer.

The applicant's representative, Augie Agustin, indicated the site has a steep slope and that by lowering the building pad, the retaining wall height would be increased. He said that he would need to consult with upper management before they agreed to eliminate bedrooms to comply with the parking requirements.

Steve Shin, the project manager is trying as much as possible to minimize impacts to neighbor behind the subject parcel.

Vice Chair Hill asked if the applicant wanted a vote tonight.

The applicant responded that they would like a vote on the project tonight. They are concerned about the 40" oak and its effect on circulation.

Planner Clarke said there is a condition of approval that an arborist review the tree and prepare an arborist report related to the construction of the project.

Commissioner Curtis asked if the applicant could reduce the height of the building by 4'

Mr. Agustin explained that they had already lowered the building and that it can be reduced another 18". The remainder of the requested reduction would come from lowering the building pad but they are concerned that by doing so the retaining wall would have to get taller and the grade change would impact the oak tree. He explained that the 40" multi-trunk oak tree in the back affects the parking circulation for Unit C.

Mr. Shin indicated that they were considering replacing the multi-trunk oak with new trees in a better location.

Commissioner Gelhaar informed that applicant that they would have to go through a tree removal process.

The applicant stated that they were aware of this.

Director Stanley asked the applicant if they felt they could provide the guest parking without reducing the building pad in the locations shown on the plans since the pad was higher in that area and would require a steeper driveway.

Mr. Agustin indicated they would look into relocating the guest parking in the back and away from the street side. They also said they wanted to move forward with this project tonight.

Director Stanley asked if they would need to consult with management to reduce the number of bedrooms. He asked for clarification that they have the authority to reduce the number of bedrooms.

Mr. Agustin stated that that would be up to upper management.

Mr. Shin indicated that if it gets approved as is they would make the change.

Rafi Iahdjian, neighbor at 4429 Rockland Place, indicated that he has a few concerns. First, when the pad is lowered it would impact the oaks. His other concern relates to street parking on upper Rocklin Place. He felt that the street is narrow and street parking is already crowded. He felt that more off-street parking is needed. He felt that by eliminating closets, the residents would store more stuff in the garages and as a result park on the street. Guests of the residents would further impact the parking situation on the street. Trash also becomes an issue. He stated that driveway is very narrow which could cause people to park on the street rather than negotiate the narrow driveway. He liked the proposal to lower the roof to minimize the impacts on the south side. Wanted clarification how the south façade would be lighted.

Chris Carter, neighbor at 4446 Rocklin Place. He is an architect and has reviewed the plans. He felt that most of the issues were addressed by Planner Clarke but invited staff to view the proposed project from more of the units in the adjacent complex. He is also concerned about the parking issue. He asked that the commission not vote tonight because of the numerous unknowns.

Mr. Lee responded that they will make the changes to make the parking conform. He also stated that the units are high quality homes. They will also meet with the arborist and will comply with his recommendations.

Director Stanley recommended that with the amount of changes staff was asking for that project be continued to prepare an arborist report. He also wanted to see what the applicant would propose with respect to lowering the pad and/or the roof height. This would impact the location of the guest parking which would also need to be reviewed. The rooms also need to be modified as requested.

The Vice Chair agreed with Director Stanley

Commissioner Curtis also agreed and wanted to see what was going to happen with the retaining wall and how it would be screened. He feels that the parking is critical and should comply with the code.

Commissioner Gelhaar also wanted to continue the item for redesign. He felt that it is important to lower the roof line and pad as much as possible. He wanted to see the tree issue addressed. He also wanted the applicant to mitigate the retaining walls. He felt that the issue of view blockage of the neighbors is a bigger issue than the retaining wall issue. He wants the project redesigned so that the rooms are not just renamed. He wants the units to be redesigned so that it is difficult to convert non-bedrooms into bedrooms. He suggested that the neighbors who are concerned about street parking appeal to the appropriate commission to address those issues.

Vice Chair Hill indicated that he would also recommend a continuance. He felt that parking is a concern and that rooms shouldn't just be renamed.

Mr. Shin, the applicant's representative was concerned about financial impact of delaying the project.

Director Stanley recommended that the project be continued to 9/22/09.

Commissioner Gelhaar moved to continue the project to 9/22/09. Commissioner Curtis seconded. The motion carried 3-0.

- B. Second-Floor Review 08-15/Director's Miscellaneous Review 09-01 (flat roof); Oh; 5180 Princess Anne Road:** Request for Second-floor Review to allow construction of an 8,032 sq. ft. 2-story residence on a 31,420 sq. ft. lot. Staff-level flat-roof review is also required since more than 25% of the new roof would be flat (less than a 2:12 slope). The project was originally approved by the Planning Commission on February 10, 2009. The project's approval was appealed and the case was reviewed by the City Council on April 20, 2009, at which time the project was referred back to the Planning Commission for further review. The project has been redesigned to provide increased setbacks to the south and an enhanced landscape plan has been developed. Staff is recommending that the Planning Commission approve a Categorical Exemption for this project.

Planner Gjolme gave the history of the project including the history of the City Council appeal and updated the commission on the revisions that were made by the applicants. He explained that the council was concerned with the size of project and its compatibility and relationship to the neighboring properties. There was also a concern about the inadequacy of the landscape plan.

The project was redirected to staff for redesign to address the Council's concerns and ultimately back to the Planning Commission for review.

Planner Gjolme showed the site plan of the original building. He highlighted the changes as per the Council's recommendations. He indicated that the proposed house was shifted approximately 12' northeast parallel to the north side property line. The floor area remains the same but the footprint of the proposed building is slightly more compacted. As a result, the side setbacks were increased significantly. Staff feels these revisions are in line with what the City Council directed. Because the rear yard setback was reduced the proposed pool was abandoned. The applicant is proposing to plant 3 new 36" box Deodar Cedar trees to the front. A total of 9 Deodar Cedars would aid in

screening the project from off-site views. Also proposed are the addition of pines and liquid ambers on south side to also aid in screening. A 6' wall will be installed along the south side property line to minimize headlight spillover. A letter was received by a neighbor who is concerned about the privacy of his pool. The wall will also and screen the neighbor's pool and staff recommended that a condition be added that requires the wall. Planner Gjolme indicated that the deck above the garage was put back in the proposal but has been modified from its original configuration. He indicated that the deck would be sunken 6' from the top of the garage roof to mitigate and on-site and off-site views. Despite the modification to the deck, staff is still recommending that it be removed from the project. He noted a condition that required the materials to be changed to be more uniform with the rest of the front façade and eliminate the use of concrete and timber.

Staff's recommendation is still recommending approval of the project with the added condition for the inclusion of a fence to aid in screening and privacy on the south side.

Vice Chair Hill asked when the story poles were changed. He wanted to know if the height was accurate and if the location of the building was accurate.

Planner Gjolme indicated that Vice Chair Hill was looking at the correct story pole array relative to the location of the building. He felt that the height of the building may not be completely accurate.

Commissioner Gelhaar questioned why we are recommending pines and Deodar Cedar trees be planted as screening trees when the City's Tree Ordinance specifically states that we should discourage the planting of those species because of potential fire hazards.

Planner Gjolme said that is the species indicated on the submitted landscape plan but that can be adjusted to address commission concerns. He made the point that 15 new trees are proposed to be planted to buffer the proposed house from the south and 3 new, significant trees to buffer it from the northwest.

Commissioner Curtis asked how far the new Deodar Cedar trees would be from the house.

Planner Gjolme responded that the trees would be site approximately 50' from the front of the house. He also noted that there are 6 existing Deodar Cedar trees on the site but that the landscape plan could be adjusted.

Chenny Wong, the neighbor at 5181 Princess Anne Road, indicated that she feels that Sam Oh has done what he can given his constraints. She appreciates the changes that they have already done including moving the house back on the lot. She appreciates that the deodars are being kept but thinks the proposed liquid amber trees are high maintenance. In consultation with a tree expert, she offered suggestions for native trees that might be more appropriate for the area. These are California Cherry, Canyon Live Oak, Engelmann Oak, and Santa Cruz Ironwood.

Ms. Wong indicated she is still concerned with the overall size of the home. She stated that the City Council indicated that they wanted a smaller home. She read from the minutes of the City Council meeting where they indicated that the house size should be reduced. She felt that the size issue has

been ignored. She also felt that the story poles should have been more accurate and that they were misleading.

Bonnie Evans, the neighbor at 901 Valley Crest Street, is concerned that the project looks higher now that the story poles have been adjusted. She stated that she can see the second floor from her kitchen window. The second floor would also look down on her patio and reduces her privacy. She liked the inclusion of the 6' wall because the subject lot is slightly higher than her lot. Her overall concern is the height of the proposed structure.

Jane Penniall, neighbor at 857 Valley Crest Street, appreciated that Mr. Oh came and talked to her about the proposed project. She indicated that moving the project east would impact her more. She felt that the home is still too large, is a case of mansionization, and would change the character of the neighborhood. She felt that the original problems still exist. She stated that the huge utility pole is in her yard and the power lines would be impacted by the trees. The winds that blow in the area are a concern. She felt that the neighbors to the south are being negatively impacted.

Sunny Asch, neighbor at 915 Valley Crest Street, she read a letter from Raymond Yee at 907 Valley Crest Street who could not attend the meeting. In his letter Mr. Yee expressed that they still have concerns about the project. He asked for a permanent wall along the south side of the property line and not a wooden fence. He emphasized plant selection to enhance privacy. He felt that the project plans did not adhere to the advice given by the City Council to reduce the size of the house.

Ms. Asch added her own comments stating that the city Council felt this house was too big, should include a landscape plan and an exterior lighting plan. She stated that visual impacts and the use of landscaping to surround the home were also a concern expressed by the City Council. She indicated that the choice of liquid amber trees is a mess and fire concern. She also stated that liquid ambers are a poor choice because they lose their leaves and won't screen the project for much of the year. She said she was concerned about the deck on the south side. Her main concern was the overall size of the house and its impacts on the neighbors. She finished by stating that Mr. Oh never came by to speak to her regarding the project.

Sam Oh, The applicant's representative, stated that he felt that size was only an issue on the south side and that they have increased the setbacks on that side. He recalled that the City Council was not concerned about the size. He felt that privacy on the south side was the Council's main concern. He stated that the owners are losing money due to time delays. He felt that they are well within the code limits especially on the south side with the increased setbacks. He stated that privacy is preserved by the proposed 6' wall, new plantings, high windows and the sunken balcony. He stated that the CC&Rs are no longer valid. He felt that the project is well within code limits and he has done all he can with the setbacks. He stated that they were willing to work with the neighbors on tree recommendations.

Vice Chair Hill asked if the story poles were changed yesterday.

Mr. Oh responded that the height was increased yesterday to add 2' to the overall height of the proposed structure.

Vice Chair Hill closed the public hearing.

Planner Gjolme corrected that the City Council was concerned about the size of the building, the inadequacy of the landscaping along the south property line, and the setbacks on the south side. He added that the adjusted location of the building and the increased landscaping addresses those concerns.

Commissioner Gelhaar felt the project should not be back before the Planning Commission. He felt that the City Council has made subjective suggestions about the project and now they expect him to interpret what the City Council was saying. He felt that that was not appropriate. He did not have the minutes from the City Council meeting which show their comments. He indicated that he would vote no just to send it back to the City Council because he feels that the decision should be made by them.

Commissioner Curtis agreed with Commissioner Gelhaar that the project should be sent back to City Council. He stated he had no strong feelings one way or the other about the Deodar Cedars in the front. He stated he is in favor of the wall on the south side. Would like to see the liquid amber trees changed and the sunken deck eliminated. He was unsure about the size and compatibility of the structure and indicated that he would vote no and send it back to City Council.

Vice Chair Hill indicated that he looked at the neighborhood and expressed that all the houses on Princess Anne Road are eclectic except the house at the top. The house at the top doesn't fit in at all. He liked the house but not on this lot and in this neighborhood. He felt that the house size shouldn't be mitigated by landscaping. He would like to see the house reduced. He indicated that he could not vote yes.

Commissioner Curtis added that while he initially voted in favor of the project before the appeal because the south side originally had a narrower profile. He felt that the Council did send a clear message that the size of the house needed to be reduced.

Director Stanley clarified that the no cost appeal only applied to the neighbors not to the owners if the project was denied by the Planning Commission. He also added that the minutes of the City Council meeting were not finished in time for distribution to the Planning Commission.

Commissioner Gelhaar felt that on such an important issue, the minutes of the City Council should have been completed for their review so that they would have them before them in order to make a decision.

Director Stanley said that another option would be to continue the project for redesign.

A discussion about the reconsideration of the project took place and Deputy City Attorney Guerra clarified that if there is a no vote there is no reconsideration of the vote of the project.

Vice Chair Hill asked the applicant if they wanted a continuance or a vote.

A discussion ensued about if the project was continued and redesigned what would an acceptable size be for the house.

Vice Chair Hill clarified that if it was smaller and fit better with the neighborhood he might be able to support the project.

Planner Gjolme reiterated that both the City Council and Planning Commission made it clear that size was an issue and, therefore, the findings could not be made.

Commissioner Gelhaar suggested to the applicant that they talk to all of the neighbors and the Commissioners individually to see what an acceptable design would be.

Commissioner Curtis suggested that they also speak with some of the City Council for more clear direction.

The Commission took a 5 minute recess to allow the applicant to make a decision.

The applicants asked for a continuance to redesign the project.

Commissioner Gelhaar moved to continue the project for redesign to 9/8/09 Commissioner Curtis seconded. The motion carried 3-0

- C. Conditional Use Permit 443; Abghary (Garden Grill) / Arlak, Inc.; 2309 Foothill Boulevard:** Request for a Conditional Use Permit (CUP) to allow outdoor dining and the on-sale of beer and wine within an existing restaurant. The project is located in the Community Planned Development (CPD) zone. Staff is recommending that the Planning Commission approve a Categorical Exemption for this project.

Assistant Planner Parinas gave a presentation in accordance with the staff report.

Vice Chair Hill asked if there was existing outdoor dining.

Assistant Planner Parinas replied that the existing outdoor dining is unpermitted.

Mo Abghary, owner of the Garden Grill, had nothing to add but was available for questions.

Commissioner Curtis stated that he thought it is a very fine restaurant and good addition to the community. He is supportive of the restaurant. He did not see a reason to remove the seating in the back. He confirmed with the owner that the employees do park in the back but would like to add a condition requiring that they do. He felt that a lot tie could be less expensive than a lot merger.

Commissioner Gelhaar asked staff and the City Attorney if they concurred with Commissioner Curtis' statement.

Commissioner Curtis offered specific language as a condition for the lot tie or reciprocal agreement.

Deputy City Attorney Guerra concurred with the proposed language.

Director Stanley indicated he wanted to confirm that a lot merger was not required as part of the General Plan.

Vice Chair Hill offered no additional comments.

Commissioner Gelhaar made a motion to approve the project as modified. Commissioner Curtis Seconded. The motion carried 3-0.

- D. Conditional Use Permit 442; Ankor Realty, LLC; 737 Foothill Boulevard:** Request for a Conditional Use Permit (CUP) to allow a new real estate office use in an existing building. Additional parking would be provided to the rear and exterior façade changes are also proposed as part of the project. Staff is recommending that the Planning Commission approve a Categorical Exemption for this project.

Planner Gjolme gave a presentation in accordance with the staff report. He added that the City's Traffic Engineer said that the project would not exacerbate the existing parking/circulation situation.

Planner Gjolme clarified that his understanding was that there would be one full-time employee and that there would be two parking spaces and that the Traffic Engineer has reviewed it and he has no concerns about the project.

Arun Jain, the project applicant, clarified that he is part owner of the building. He indicated there are two people who would be working there full time and possibly two more in the future.

Commissioner Curtis asked if applicant is willing to limit the number of employees to four in the absence of an off-site parking agreement.

Mr. Jain replied that he felt that would be a big burden on the property. He told the Commission that one of the neighboring property owners has plans to present a project that would completely redesign the parking and ingress and egress situation. He did not know how far into the future that project would take place.

Commissioner Curtis clarified if the applicant would consider limiting the number of employees and not the number of guests.

Director Stanley suggested adding a temporary condition to limit the proposed office to four employees until an overall parking solution can be implemented for that area.

Planner Gjolme noted Condition No. 11 which requires a 12 month review of the parking. He added that he didn't feel a condition limiting the number of employees at this time was necessary.

Vice Chair Hill closed the public hearing.

Commissioner Gelhaar agrees with staff and he is not interested in adding any conditions. He stated that he doesn't want to limit the number of employees. He indicated he could support the project as condition by staff.

Commissioner Curtis expressed that he felt that the project is a thoughtful design and appreciates the efforts of the applicant. He said he could support the project. He would like to modify Condition No. 11 to say that the parking for the project may be reviewed by Director of Community Development in the future.

Vice Chair Hill indicated his support of the project. He noted that parking in that area has always been a problem but he recognizes that it is an existing situation. He stated that he could support the project as conditioned.

Commissioner Gelhaar liked the condition that required the 12 month review. He wanted to set a date for to review the parking situation. He could not support changing Condition No. 11.

Commissioner Curtis stated he wanted to review it in the distant future for potential future owners. He did not have a concern with respect to the current owners.

Director Stanley did not want to place an open ended condition on the project.

Deputy City Attorney Guerra suggested a 2-3 year time limit on the parking review.

Vice Chair Hill felt that such a condition would decrease the property values. The parking situation is existing. He stated he agreed with staff's analysis and conclusion.

Commissioner Gelhaar moved to approve the project as conditioned. Commissioner Curtis seconded. The motion carried 3-0

## **IX. OTHER BUSINESS**

- A. Study Session:** Amendment to Chapter 4.26 of the Municipal Code regarding the **Preservation, Protection and Removal of Trees:** Potential revisions include the relocation of the ordinance from the Municipal Code to the Zoning Code and various text changes including, but not limited to revising and adding definitions, conformance to industry standards for measuring trees, enforcement and penalties for violating the Tree Ordinance, and possible revision of the protected tree species and size list.

Assistant Planner Lang gave overview of the project (ZC) and proposed changes to the City's Tree Ordinance based on review of other Ordinances and consultation with various tree experts. She stated that the goal of revising the Tree Ordinance is to make the new ordinance user-friendly, streamlined and more consistent with industry standards and other cities. Commissioner Gelhaar asked who determines what can be planted within the dripline of a protected tree. He also asked why we make that determination.

Assistant Planner Lang responded that generally an arborist is consulted to review landscape plans or plantings within the dripline that could impact the protected trees.

Director Stanley stated that we have heard from the arborists that you should not water within a certain distance to the tree trunk of certain trees. He further stated that we would allow planting of native plants that are more suited for planting underneath oak trees.

Commissioner Curtis asked why Chinese Elm and Deodar Cedar trees were included in the protected tree list.

Director Stanley reported that Deodars were added to the original ordinance because they are prominent in certain areas of the City. Chinese Elms were added to a later revision of the Tree Ordinance at the suggestion of a Design Commissioner because they are prevalent in another area of the City.

Commissioner Curtis asked if Deodar Cedar trees are mainly street trees or private trees in the northern areas of the City.

Director Stanley replied that it is a mixture of private and street trees.

Commissioner Gelhaar felt that we need to address the fire hazard that deodars pose and that there is a potential liability that could result.

Director Stanley responded that he consulted with the City Attorney who believes that City is not liable in any way regardless of the City protecting deodars. He reported that the City Attorney pointed out that homes are still insured/insurable for fire damage regardless of the tree character of the neighborhood.

Commissioner Gelhaar stated that the thought process is flawed. He also asked why the Pepper trees were added to the list.

Director Stanley responded that the Pepper trees were added in the last revision of the Ordinance and that there are some very large specimens in the City. He added that in the last revision of the Tree Ordinance the thought was to only include native species on the protected list such as oaks and Sycamores of any size. At the time, staff was also recommending that all trees, regardless of species, above 30" in size also be protected.

Commissioner Gelhaar stated that rather than listing species as a criterion for protection, size should be the determining factor for tree protection. He added that defining the protection zone as the canopy + 5 feet was far too strict and could increase the potential for illegal removals.

Director Stanley indicated that staff was not advocating the elimination of construction within the dripline but instead creating criteria for construction under the dripline of protected trees. He added that staff does not promote the planting of Deodar Cedar trees as replacement trees.

Commissioner Curtis asked for clarification regarding the D49 Contractor's License and the International Society of Arboriculture (ISA) Certified Tree Worker designation. He wanted to know how many of the D49 contractors were also ISA certified tree workers. He asked staff if they thought it would create an elite list of trimmers who would charge the residents a premium or if our concern was more that the D49 contractors were not doing a good job of trimming protected trees.

Assistant Planner Lang responded that only one of the D49 contractors on our list of authorized arborists and trimmers is also an ASI Certified Tree Worker. She added that by changing the requirement for inclusion on the list could create a burden to the current tree trimmers on the list. In response to the earlier concern about the flammability of the Deodar Cedar trees, Assistant Planner Lang stated that she had consulted with the Fire Department and they had explained that when there is a fire or increased heat associated with a fire Deodar Cedar trees tend to fold like an umbrella and turn inward.

Commissioner Gelhaar asked if this meant that the Fire Department likes or dislikes the Deodar Cedar trees.

Assistant Planner Lang responded that since Deodar Cedar trees tend to shrivel or turn inward the Fire Department did not consider them any more a fire hazard than other species of trees. She added that more research and confirmation from the Fire Department would be needed for further analysis.

Commissioner Gelhaar stated that there were a lot of good points made in the initial analysis of the Tree Ordinance revision. He felt that regulating grading around protected trees was very important, as well as, specifying how to protect the trunks of trees. He added that he does not want to bring more trees into the protected category by reducing the qualifying trunk size for protected trees. He does not want the City to overly regulate trees on private property. He added that public trees are different and should be protected.

Commissioner Curtis would like to consult with the Fire Department as to the density of trees in certain areas. He was concerned about canopy fires. He felt that a criterion for removal could possibly include trees that are too densely planted.

Vice Chair Hill asked about the enforcement of the tree ordinance as to the illegal removal and over-trimming of protected trees by authorized and unauthorized trimmers.

Assistant Planner Lang responded that code enforcement does get involved in issuing citations and fines to homeowners and tree trimmers who do not abide by the rules. She added that this practice is not codified in the current code and that was one of the items that staff would like to add to the new Tree Ordinance.

Director Stanley stated that these citations and fines generally are the responsibility of the homeowner. As part of the code enforcement process when a tree is illegally cut down or trimmed, we assess the value of the tree before it was trimmed to the property owner.

Assistant Planner Lang added that other cities have a list of items that must be included in an Arborist Report. The goal is to get more consistency in the reports and better quality reports.

William McKinley, Consulting Arborist, stated he supports the removal of the Chinese Elm from the protected tree list. They are high maintenance and more like a weed and can quickly become a nuisance. He encourages the City to add the European Olive due to its historical significance to the region and Southern California. He commented that a 24" trunk diameter tree is a significant tree and takes a considerable amount of time to grow. He encouraged lowering the size of a heritage tree to 24". He also encouraged the changing of where we measure a tree to the industry standard of 54" above grade. He also commented about specifying a limb diameter for trimming. ISA recommends that Arborists minimize cuts that are greater than 2" in diameter because smaller wounds heal better than large ones. Open wounds are a way for decay and pests to infest trees and thereby compromising the structural integrity of the tree. He also advocates specifying a maximum size for cutting roots. He suggested that cutting roots 2" or 3" in diameter or more could significantly weaken the root structure. He continued by discussing the minimum distance to grading before a tree is impacted. He stated that grading is the most significant cause of trees dying. Grading within the root zone of a tree can be very detrimental to a tree's health due to possible damage to the absorption roots. Once you get even closer to the trunk of a tree you risk damaging the structure of the tree, or buttress roots. He stated that once you encroach within the protected zone of the tree you need to apply mitigation measures to offset potential damage.

Commissioner Gelhaar asked Mr. McKinley about landscaping and irrigation under the canopy. He asked about issues with watering lawns under the canopies of trees.

Mr. McKinley responded that native trees only require water three months of the year and they go dormant the rest of the year and will begin to conserve water. Older more mature native trees become less tolerant of additional moisture. The buttress roots which support the tree and are located within the last 6'-10' do not need water. He added that the bark on the tree should stay dry but the absorption root area should be somewhat moist. He advised that ground cover should be minimized around Oak and Deodar Cedar trees and there should be some separation from the trunk. He recommended the use of bridge or "floating" footings for foundations. He stated that traditional continuous or "L" shaped footings do the most damage to the trees. Pier footings are recommended because they span the root of the trees. The goal is to preserve as much of the structural and absorption roots as possible. Footing distance from a trunk can vary with the type of footing that is being used. He finished by emphasizing that watering should be minimized within the last 5' to the trunk especially for Oaks and Deodar Cedar trees. Also, fencing and protection around the trees during construction should be semi-permanent chain link fencing wrapped with bright fabric or plastic for visibility. The bark should also be protected with carpet or a mattress because the bark is the protective layer of the tree and it needs to be kept intact as much as possible. He encouraged the Commission to include a monitoring provision for larger construction sites and an appeal process in the ordinance. His final comments stressed the importance of educating the residents rather than enforcement.

Commissioner Curtis asked Mr. McKinley if he was willing to work with staff regarding educating the public, architects, and designers, etc. He asked him to comment on his thoughts about the D49 requirement versus the Certified Tree Worker requirement.

Mr. McKinley indicated his willingness to work with staff in that capacity. He added that some of his colleagues felt that requiring trimmers to be certified by the ISA would raise the bar of competency and professionalism. He explained that the Contractor's license exam does not test on horticulture like the Certified Tree Worker exam does. Pruning, climbing and cabling are also addressed by the ISA exam.

Lisa Novick, a resident at 1111 Uintah Street, concurred with Mr. McKinley on his comments. She felt that the California Bay tree should be added to the protected tree list. She wanted to emphasize that it is just Oak trees that shouldn't be watered during the summer months. Other trees such as the Sycamore and Bay tree are riparian trees and like water. She stated that she fully supports requiring the ISA Certified Tree Worker certification in conjunction with the D49 Contractor's license requirement. She felt that outreach on the website could include the times of the year that it is appropriate to trim trees. She added that it is very important to the health of the trees and the ecosystem that relies on the trees. She advocates an educational outreach to residents. Classes could be available to residents and could cover how to care for their protected trees. Education could include topics such as irrigation and what are appropriate plantings under certain trees. She offered her services to teach classes for the residents. Also, there are lists of dry, shade plants that are available and should be added to the website for residents to access.

Director Stanley recommended that the Study Session be continued for further discussion to include the missing Commissioners.

Commissioner Gelhaar wanted to emphasize to the arborists that said review won't be required all the time on every project.

The Commissioners and Director Stanley thanked the commenting and attending tree professionals for their valuable input on the topic.

Assistant Planner Lang added that a goal of the Tree Ordinance revision was to make more materials available to the public and post more information both on the website and the cable channel.

Director Stanley added that the green task force will also play a role since they will be dealing with drought tolerant landscaping, etc.

## **X. COMMENTS FROM THE DIRECTOR**

Director Stanley gave a list of his recent approvals for projects.

HDP 08-31 / 4140 Chevy Chase / Allow construction of a series of 3' retaining walls in the rear yard.

HDP 09-27 / 2039 Tondolea / Allow the construction of a series of retaining walls, trellis, outdoor fireplace, and cooking facilities.

Director's Miscellaneous Review Telecommunication Permit / 4815 Oak Grove Drive / The addition of equipment to an existing cell site.

Director Stanley also reported that at the last City Council meeting (July 20, 2009) the overlay zone for the Downtown Village Specific Plan Village Center was approved. Five properties were identified to be included in the overlay zone which will allow office uses on the ground floor. He and Assistant Planner Parinas walked Foothill Boulevard to provide the in depth information the requested by the City Council. As part of the process, building permits were also reviewed to identify which buildings were originally built as office uses. He reported that the City Council agreed with staff's recommendations.

Director Stanley also reported that as a result of the overlay zone research additional analysis was conducted on Section 6.5 Non-Conforming Uses – Conditional use Permits, iii change of tenant. As a result, they did not delete the change of tenant as originally recommended by staff and approved by the Planning Commission from the Downtown Village Specific Plan instead office and real estate uses were exempted as expected.

In response to a question from Commissioner Curtis, Director Stanley reported that the chicken coop appeal has not returned to City Council for review but would be heard at the September 21, 2009 meeting.

## **XI. COMMENTS FROM THE COMMISSIONERS**

Commissioner Gelhaar commented on code issues brought to his attention by members of the public or violations he happens to see. He asked about the proper procedures for reporting violations. He stated that the City Manager has taken the position that a commissioner complaint doesn't have the "weight" of a regular complaint. He felt that there should not be a difference in how the issues are addressed. He is very concerned about it and wanted this issue reflected in the meeting minutes.

Commissioner Curtis confirmed with Deputy City Attorney Guerra that code enforcement complaints are kept confidential.

Director Stanley added that even for a Public Records Request complainants information would be redacted.

Vice Chair Hill indicated he was disturbed to hear about this, since he too has been contacted by members of the public regarding violations which he has forwarded to the Director. He commented that he has had good results in these instances.

**XII. ADJOURNMENT** The meeting was adjourned at 10:52 P.M.