

**MINUTES OF A MEETING OF THE PLANNING COMMISSION  
OF THE CITY OF LA CAÑADA FLINTRIDGE  
HELD September 22, 2009**

- I. CALL TO ORDER** – 6:01 pm
- II. ROLL** - Present were Chairman Davitt, Commissioners Cahill, Curtis, Gelhaar, and Hill, Director Stanley, Senior Planner Buss, Planner Clarke, Assistant Planners Lang and Parinas, Deputy City Attorney Guerra
- III. PLEDGE OF ALLEGIANCE** – Commissioner Curtis led the flag salute.
- IV. COMMENTS FROM THE PUBLIC** - No comments were offered
- V. REORDERING OF THE AGENDA** – No changes.
- VI. CONSENT CALENDAR** – No items were offered.
- VII. CONTINUED PUBLIC HEARINGS:**
  - A. Planned Development Permit 09-01, Variance 09-03 and Tentative parcel Map 71186; Kim/Lee; 2197 Rockridge Terrace:** Request for a Planned Development Permit to allow construction of a new three unit condominium building on a 14,500 sf parcel with a Variance for reduced parking.

Chairman Davitt stated that there was a request from staff to continue the item.

Director Stanley clarified that staff is requesting that the item be continued to the October 13, 2009 Planning Commission meeting.

Commissioner Gelhaar stated that this case is an example on why cases should not be continued to a date specific. He pointed out that there might be members of the public who are in attendance because the case was continued to a specific date. He stated that items should be continued to a date uncertain so that public notices would be sent.

Planner Clarke clarified that the item will be re-noticed whether the item is continued to a date uncertain or continued to October 13, 2009 because the previous application were for rental units and since then the applicant has changed the project to condominium units. The request for continuance is to allow staff to review the Tentative Parcel Map.

Commissioner Gelhaar stated that he prefers to continue the item to a date uncertain, but it would be up to the other Commissioners.

Chairman Davitt asked the rest of the Commission if they are okay with continuing the item to the October 13, 2009 Planning Commission meeting. Commissioners Cahill, Curtis, and Hill all stated

that they were okay with continuing the item as requested by staff as long as public hearing notices would be resent.

Commissioner Davitt informed the members of the public in attendance that the Commission has not received any new information on the case; therefore, the Commission was not going to hear the case. He reiterated that the next meeting will be held on October 13, 2009.

M/S/C Cahill/Curtis to continue Development Permit 09-01, Variance 09-03 and Tentative parcel Map 71186 to a date certain of October 13, 2009. Motion carried 5-0.

## **VIII. PUBLIC HEARINGS:**

- A. Conditional Use Permit 445; Crestview Preparatory School/La Canada Unified School District; 140 Foothill Boulevard:** A request involving the addition of a new modular classroom within an existing private school compound. This action triggers the requirement for a Conditional Use Permit since there has been no prior City approval for private school use on this public School District site. The 24' x 40' modular building will be used as an elementary classroom for up to twenty-two students.

Senior Planner Buss presented the item in accordance with the staff report.

Commissioner Curtis asked if there is a formal arrangement for the school to use the parking lot; specifically the 12 additional parking spaces on the corner lot at Foothill Boulevard and Oak Grove Drive.

Senior Planner Buss clarified that there are more than 12 parking spaces in the corner parking lot. He stated that the application indicates that the corner parking lot is available; therefore, staff is assuming that the spaces are allocated to Crestview Preparatory, but the applicant would be able to address the question directly.

Chairman Davitt opened the public hearing.

Ms. Marie Kidd, applicant, stated that the application was filed for an additional classroom because it is in the school's best interest to continue the small class size. Although classrooms were built to allow a larger class size, the school has adjusted classes to make it a maximum of 20 children per classroom. Ms. Kidd indicated that Crestview Preparatory does have a formalized parking agreement with the School District to use the parking lot. While parking is shared, there are enough parking spaces available for faculty and visitors during school hours. To address parking impacts on the neighborhood, the school has arranged all parent association meetings to be held off-site at the Thursday Club.

Commissioner Curtis asked if each classroom has volunteer aides.

Ms. Kidd responded that each classroom has hired full-time assistants.

Mr. Michael Leininger, La Canada Unified School District Assistant Superintendent, introduced himself.

Commissioner Curtis congratulated the School District for being number two in the State. He asked how the site fits into the overall Master Plan of the High School.

Mr. Leininger stated that if the School District was to take back the Oak Grove Elementary site, the Division of the State Architect would require the District to comply with the new building codes as if it was a new project and the process to convert this existing school would be very costly. Instead, the District is undergoing modernization in different phases and renovating buildings at the High School to meet the District's needs. Since both Crestview Preparatory and the Child Educational Center are both in 10 year leases, the District does not project that the property is going to be needed for its own students in the near future.

Chairman Davitt closed the public hearing.

Commissioner Hill stated that he agrees with the staff report and does not see any issues with the project.

Commissioner Cahill stated that he would move to approve.

Commissioner Curtis suggested that a condition of approval be added to the resolution stating that if the number of students and staff increases, the Director of Community Development would review the parking impacts to the neighborhood.

Commissioner Gelhaar concurs with the staff and Commissioner Curtis.

Chairman Davitt stated that he supports Commissioner Curtis' suggestion.

M/S/C Curtis/Cahill to approve Conditional Use Permit 445 with the added condition that if the number of students increases to 280 and staff are to increase by 5-percent, the Director of Community Development would review the parking impacts to the neighborhood. Motion carried 5-0.

**B. Floor Area Review 09-01; Kim/Choi; 4300 Oakwood Avenue:** Request for 504 sf recreation room addition to an existing garage. A Floor Area Review is required because with the proposed addition, the total floor area would exceed 4,500 sq. ft. on a lot with less than 80 feet of average lot width.

Planner Clarke presented the item in accordance to the staff report.

Mr. John Horrall, neighbor, stated that the house was required to be reduced by 600-square feet in order to get the project approved. The applicant has now come back to add 500-square feet to the site and he is concerned that a precedence will be set.

Mr. Larry Raymond, 4278 Oakwood Avenue, stated that he is concerned with the additional lack of privacy and the recreation room being a potential “in law” unit. He suggested that the recreation room be placed above the master bedroom or other bedrooms instead. He added that there are not any trees near the project area.

Mr. Steve Shin, applicant, clarified that the recreation room is separate to living area and will not add bulk to the existing primary structure. He stated that the property owner has 3 kids and the recreation room is for the use of kids and their friends. He pointed out that the vegetation on the side would address the privacy concerns.

Mrs. Cordella Raymond, 4278 Oakwood Avenue, stated that it was unfortunate that her and her husband were not able to attend the March 13, 2007 and April 24, 2007 Planning Commission meetings because they ended up with a large deck overlooking their yard. The proposed recreation room will be an additional invasion of privacy. She added that the existing vegetation extends only a little bit above the fence line and requires a lot of maintenance.

Chairman Davitt closed the public hearing.

Commissioner Gelhaar reported that he visited the site and stood on the location of the proposed single-story recreation room. He stated that the addition would not be visible from the street, would have no effect on massing, would only have one small window on south side, and would not be a privacy issues; privacy issues are usually created by second-story additions looking down into the neighbor’s yard. He stated that he agrees with staff and can make the findings.

Commissioner Curtis asked Planner Clarke if he had any comments regarding privacy issue.

Planner Clarke stated that there is significant separation between proposed structure and neighboring house and the proposed structure is screened by vegetation. He pointed out that if the recreation room was moved to the second floor, it would have a significant privacy impact on the neighbor to the north.

Commissioner Curtis stated that if there is a problem with landscaping the original approval should be revisited.

Planner Clarke clarified that the previous approval did not have a landscape plan because it was not conditioned and the project site is not a hillside lot.

Commissioner Curtis stated that given the location of the proposed recreation room, he would support the project as proposed.

Commissioner Cahill stated that he agrees with Commissioner Gelhaar.

Commissioner Hill stated that he does not believe that the case would be precedence setting because of the uniqueness of the property. He expressed that he has a problem with being instructed to remove 600 square feet to gain approval and later on adding another 500 square feet, but there are no rules prohibiting it. He stated that privacy for the recreation room does not seem to be a big

problem and the general concern is the lack of privacy due to the maintenance of landscape screening. He asked if the developers could talk to the neighbors about installing bushes and plantings. He can make the findings.

Chairman Davitt concurred with the other commissioners.

M/S/C Gelhaar/Cahill to approve Floor Area Review 09-01. Motion carried 5-0.

**C. Hillside Development Permit 08-31/Second-floor Review 08-14; Won Design Group/LWL Investment Group; 4168 Dover Road:** Request for a Hillside Development Permit and Second-floor Review to allow a 1, 607 sq. ft. first-floor addition and a 959 sq. ft. second-floor addition to an existing two-story residence on a hillside lot.

Assistant Planner Lang presented the item in accordance to the staff report.

Commissioner Curtis stated that he reviewed the environmental and geotechnical report and noticed that septic system is going to require a pump system and potentially require a nitrogen filtration system in the future if sewers are not installed in the area. He asked if the City has a procedure that would make future property owners aware of the potential requirement for septic system upgrades.

Assistant Lang explained that currently a majority of the parcels south of Foothill Boulevard have no sewers that serve the area and many of their septic systems need to be upgraded and modernized. The Health Department reviews project plans and identifies certain requirements. For this particular case, what is seen in the geotechnical report is the requirement for a special nitrogen filtration system. The City recognizes that septic system upgrades could be costly for property owners especially if the sewer votes pass and the property owners are required to upgrade and later on connect to the sewer system, so the City has a process in place called the Temporary Septic Policy where a covenant is prepared and gets recorded on the property at the County Recorder's Office. The covenant allows property owners to add square footage and/or fixtures without the expensive upgrade and if the sewer gets denied, the property owners would have to upgrade per Health Department requirements.

Augie Agustin, applicant, stated that they have submitted documents for a new septic tank and is currently waiting for approval. The septic tank will be upgraded for the project.

Lynn Gillins, 4163 Dorset Place, stated that she is appalled of the proposal's industrial office look and was hoping for something very nice. Although staff showed pictures of other modern style homes in the area, which is not the feeling that should be in that beautiful neighborhood.

Commissioner Curtis stated that he visited the site and felt that the proposal is compatible with the neighborhood and there are no excessive bulks or privacy impacts. He supports the project as is.

Commissioner Cahill agreed with Commissioner Curtis that the proposal is compatible with the neighborhood and would approve the project.

Commissioner Hill stated that he has no problem with balcony, likes style of house, and can make the findings.

Commissioner Gelhaar agreed that the balcony does not infringe on privacy. He stated that the project meets the City's design guidelines; therefore he can approve it and make the required findings.

Chairman Davitt concurred with the other commissioners.

M/S/C Curtis/Hill to approve Hillside Development Permit 08-31 and Second-floor Review 08-14. Motion carried 5-0.

**D. Zone Change 09-07:** Request to consider amendments to the City's Zoning Ordinance pertaining to the repair of damaged or partially destroyed nonconforming buildings or structures, and the termination of nonconforming uses and structures.

Senior Planner Buss presented the item in accordance with the staff report.

Commissioner Curtis, referring to the section dealing with maintenance of nonconforming building and structures (11.51.020.H.), asked if we can make changes in both places. He also asked who determines replacement value.

Senior Planner Buss indicated that staff was not suggesting changes to that section, but the Planning Commission could make such changes.

Commissioner Curtis asked if type 5 buildings would be in compliance within 35 years as called for in the Chapter (11.51) – referring to the amortization section of the ordinance.

Senior Planner Buss responded that the City has never put any structures into that situation. He suggested that the whole chapter be rewritten.

Director Stanley stated that staff would prefer rewriting the whole chapter. If the Planning Commission agrees with staff, then staff would go back and rewrite it. But if the Planning Commission prefers only a small section to be changed then we will do that.

Senior Planner Buss stated that the changes proposed are minor. The most important constraint the City may run into according to the City Attorney is requiring the start of re-construction to begin within one year of the cause.

On the second change to the Chapter (unrelated to rehabilitation of non-conforming structures), staff requested that the discontinuance time for non-conforming uses be reduced from two years to six months (Section 11.51.030.A.2.). Most cities only allow 6 months, and staff would request that the change be to 6 months.

Chairman Davitt opened the public hearing.

Mr. Wes Seastrom stated that the issue of rebuilding damaged buildings to non-conforming standards was originally brought up after the run-away truck incident. He further explained that if there was a city wide disaster and many buildings were destroyed, requiring the property owner to rebuild the building to today's standards would put a serious hardship on property owners. The mortgage is dependant on maximum rental (maximum floor space) of the building. If a building must be rebuilt to a smaller size due to current development standards, the rent will be less. For residential, if a house was destroyed in the recent fire and it was built more than 10 years ago, one would not be allowed to rebuild their home to the original footprint if it did not meet current development standards.

Director Stanley responded that there are instances where we try to get property owners to maintain their properties and upgrade them to current standards. Absentee property owners tend to look at their properties as money generators with little regard to other concerns. Residential property owners generally tend not to build their properties back to the way they were, but rather to upgrade them.

Commissioner Curtis stated that nothing prevents an owner from applying for a variance, or a setback modification.

Commissioner Hill clarified that such requests would not be guaranteed approval.

Commissioner Cahill looked at the survey for what other cities did and noted that each was very different. He was concerned with the insurance problem: that if the damage is \$300,000 would the insurance cover extra increased costs. He stated that he tended more towards leniency allowing the ability to repair to prior state. Assessed valuations are inaccurate. He would rather go with a real appraised value or fair market determination. He put forth the possibility to distinguish between residential and commercial. With regard to a reduction from two years to six months, he had no problem with the two years, give them time to re-lease.

Commissioner Hill generally agreed with Commissioner Cahill, but was in favor of Option A - full allowance without review and rebuild as was. He did not want to get involved with percentages and costs. He did not think that the city would see too many commercial properties being rebuilt as is. He did not want to go with the six months discontinuance, especially if there is a disaster in the city. He would like to keep it to two years to give the property owners enough time to get the financing, bids, etc.

Commissioner Gelhaar agreed with the two-year timeline. He noted that additional insurance coverage is always available to cover current construction costs. He suggested a percentage of square footage be used to determine the amount of destruction. *[Editor's Note: The six months versus two years question is totally unrelated to the discussion of rebuilding of non-conforming buildings. The Commissioners were confusing Section 11.51.030.A.2. (Termination by Discontinuance) with Section 11.51.020.G. (Repair of Damaged or Partially Destroyed Nonconforming Buildings or Structures).]*

Commissioner Gelhaar expanded on his prior comment, that insurance is available at a reasonable additional premium. If the City codes require that the undamaged portion of the

structure be demolished and the new structure be upgraded to meet the current codes this additional coverage will pay the cost for the demolition and the cost to rebuild the entire structure to the new codes. Commercial clients can also buy insurance that will pay for their lost income during that extended period to rebuild. In all his years in insurance, he would not allow a property policy for his clients to be issued without that additional coverage.

Commissioner Curtis agreed with Commissioner Gelhaar: a lot of people will invest money to bring things to code. He stated he doesn't feel strongly about percentage and that having a higher percentage is useful. A lot of damage might not wipe out the square footage. He would support heading more toward replacement value, and that the building official is very qualified to determine that. He states he is supportive of a longer time period for rebuild. Commissioner Curtis recognizes the different sections of code regarding the two years vs. six months [*Section 11.51.030.A.2. (Termination by Discontinuance) versus Section 11.51.020.G. (Repair of Damaged or Partially Destroyed Nonconforming Buildings or Structures)*] and points that out for discussion. He thinks that six months is too short and two years is too long. He states he is supportive of approximately nine months. He goes on to note that, for re-construction, there is a procedure in the Zoning Ordinance that addresses unique and hardship conditions and it is called a variance. He suggests increasing the cost of construction to 75-percent. He would add a condition/qualification to the allowance "if used for the same purpose which it was prior to the occurrence." He states that what has been suggested for non-conforming housing is fine for the interim but the housing issue is a much bigger issue that should be looked at further.

Chairman Davitt noted that there are some other issues that should be looked at in the Nonconforming section, but only minor changes are currently before the Commission. As to the timing issue, Chair Davitt does not want to move the 2 year time frame. He agreed with Commissioners Curtis and Gelhaar in regards to the insurance. Insured risks and can be brought up to code. He did not view it as a hardship because it can be covered with insurance. If there was an incident where there was massive destruction, he believes the city would make some allowance for rebuilding, without putting it in the code.

Commissioner Hill requested that the Commission review residential and business properties separately. He has some concerns with potential differences in insurance coverage between commercial and residential.

Chairman Davitt provided direction to staff and stated that he is open to reviewing residential and commercial properties addressed separately.

Director Stanley asked the Commission for specific direction in the form of consensus. He indicated that it looks like there is an agreement in separating residential from commercial, however direction is needed regarding replacement value (area vs. value), and amount of value.

The Commission discussed various aspects:

Commissioners Gelhaar and Hill support percentage of square feet (area).

Commissioners Cahill and Curtis support value based on the Building Official's determination with that determination able to be appealed.

Commissioner Curtis supports the threshold at 60-percent or 75-percent.

Commissioner Cahill supports 75-percent.

Commissioner Hill would like 99-percent or as high as possible, especially for residential.

Commissioner Gelhaar stated that the Zoning codes are important and would prefer keeping the threshold at 50-percent.

With regard to discontinuance of a non-conforming use, Senior Planner Buss and Director Stanley explained the Discontinuance of Use provision of the ordinance (Section 11.51.030.A.2.). The example of the Calvary Chapel in the Vons Center was given. Churches are no longer allowed (not listed in the use list) in the commercial zones (CPD or Mixed Use), they now have their own zones (Public/Semi-Public or Institutional). If the Calvary Chapel moved out of the building, the current code would allow the non-conforming church use to be available for another church to move into the building for up to two years. Staff would prefer that the non-conforming availability be reduced to six months. This would help the city get non-conforming uses out and conforming uses into the city. After this explanation, the Commission provided a consensus for one year or less.

Staff requested further clarification on the threshold for the Repair of Damaged or Partially Destroyed Nonconforming Buildings or Structures. The Planning Commission settled on 75-percent for Commercial Buildings, and 75-percent for Residential Buildings.

M/S/C Gelhaar/Curtis to continue the matter to a date certain of October 27, 2009. Motion carried 5-0.

## **IX. OTHER BUSINESS**

## **X. COMMENTS FROM THE COMMISSIONERS**

Commissioner Gelhaar stated that in regards to the case on 4300 Oakwood Avenue, the neighbors mentioned a substantial deck that looks down on their property; Commissioner Gelhaar found it hard to believe since the project was reviewed by the Commission. He looked at the site plan and the site plan does identify a deck.

Director Stanley stated that the deck is only a foot or two high from grade but will verify with Planner Clarke.

## **XI. COMMENTS FROM THE DIRECTOR:**

Director Stanley reported that at the September 21, 2009 City Council meeting the Council reviewed Zone Change 09-06, Text Amendment to Section 11.11.050.F Fences, Walls, Shrubbery and Landscaping Within Required Setbacks. The Council looked at the entire ordinance and provided direction to staff to modify and simplify it into plain language.

Director Stanley informed the Commission that at the October 5, 2009 City Council meeting, the City Council will review the parking ordinance (Zone Change 09-02). He will be recommending that the City Council consider classifying restaurants with 12 or less seats as retail. The

difference in parking requirements between restaurants and retail is 1 parking space per 100 square feet of floor area for restaurants and 1 parking space per 250 square feet of floor area for retail. This was not recommended to the Planning Commission initially because it was information the Director obtained attending the State American Planning Association Conference. The City has been having problems with fast-serve type uses such as sandwich shops, ice cream shops, and yogurt shops where they would like to have a few tables and chairs. Their customers generally do not stay and eat for a long amount of time; their customers usually just buy the product and go, so to limit the stores because they want to have a few seats is not proper.

Commissioner Curtis asked about the result of the Public Works Commission meeting discussion on parking restrictions and “red-flag” days. Senior Planner Buss stated that the Public Works Commission made a recommendation to prohibit parking on designated streets on “red-flag” days, but the recommendation has not yet been taken to the City Council.

Commissioner Gelhaar asked how the public would be informed on when it is a “red-flag” day. Senior Planner Buss stated that the information is in the Los Angeles County Fire Department’s website and the City could also use the Reverse 9-1-1 system to send out the information.

Commissioner Hill stated that he is unhappy that some cities have used parking restrictions not as a safety measure, but as a revenue generating measure. Director Stanley stated that the proposed parking restrictions are not to generate revenue, the City has very narrow streets and fire trucks have a difficult time getting through the narrow streets.

Commissioner Hill suggested the use of the highway advisory system. He explained that cities could get a license from the Federal Communications Commission to operate the radio station for purposes other than traffic such as emergencies. He stated that City Hall would be a great location for the radio station. The City would be able to broadcast real-time information.

Director Stanley stated that Commissioner Hill’s suggestion is a great idea. He informed the Commission that the City has a repeater station at Cherry Canyon that would make a great location for the radio station that Commissioner Hill was describing. He stated that Commissioner Hill should send his suggestion to Peter Castro, the City’s Emergency Preparedness Coordinator.

Commissioner Cahill asked if the billboards are covered under the “Termination by Operation of Law” on the five year limitation for outdoor advertising signs and structures (Section 11.51.030.B.4). Senior Planner Buss stated that there is new legislation regarding signs that would conflict with the Code, however the City did use the Code Section to prevent the Kentucky Fried Chicken Bucket from being reinstalled after it crashed into the ground following a windstorm. Director Stanley pointed out that the Kentucky Fried Chicken bucket is an example of a non-conforming structure/sign that was more than 50-percent destroyed that was not allowed to be rebuilt because the damage exceeded the 50-percent threshold required by the Code.

Commissioner Cahill suggested having a lower category for signs. Senior Planner Buss stated that the whole section would have to be rewritten. Billboards have a long amortization period

based on its value and it would take a long time to get billboards down. The City Attorney is concerned with the amortization periods because staff would actually have to physically go out to visit every lot and get the document recorded in order to start the amortization periods.

- A. Report of Director's Approvals since the last meeting:
1. Second Floor Review 09-21 at 4932 Commonwealth Avenue to allow a 204-square foot second floor addition.
  2. Tree Removal Permit 09-21 at 404 Canon de Paraiso Lane to allow the removal of an approximately 16" oak tree.
  3. Tree Removal Permit 09-19 at 4413 Shepherds Lane – to allow the removal of an approximately 15" oak tree.
  4. Director's Downtown Village Specific Plan 09-03 for Sport Chalet at 2 Sport Chalet Drive to allow outdoor sales in the parking lot.
  5. Director's Downtown Village Specific Plan 09-04 for Jasmine's Salon & Spa at 466 Foothill Boulevard Unit B to allow outdoor hair fashion show, silent auction, live music, food in the front parking lot.
  6. Director's Telecom Review 09-21 for Sprint Wireless at 4529 Angeles Crest Highway to allow attachment of three additional directional antennas on existing antenna mount.
  7. Tree Removal Permit 09-22 at 945 Monarch Drive to allow the removal of an approximately 22" oak tree.
  8. Substantial Conformance Determination for Second Floor Review 09-01 at 510 Meadow Grove to allow a 10.25-square foot addition to the first-floor office, and an exterior spiral staircase with a 25.36-square foot landing deck.
- B. Other comments – No other comments were offered.

**XII. ADJOURNMENT – 8:23 p.m.**