

**MINUTES OF A MEETING OF THE PLANNING COMMISSION  
OF THE CITY OF LA CANADA FLINTRIDGE  
HELD ON OCTOBER 26, 2010**

- I. CALL TO ORDER:** 6:02 p.m.
- II. ROLL:** Chair Cahill, Vice Chair Curtis, Commissioners, Der Sarkissian and Jain, Director Stanley, City Attorney Guerra, Senior Planner Buss, Planner Clarke, Assistant Planner Lang and Assistant Planner Parinas.
- III. PLEDGE OF ALLEGIANCE** – Commissioner Der Sarkissian.
- IV. COMMENTS FROM THE PUBLIC:** At this time, members of the audience may address the Commission regarding matters that are not on the agenda or matters that are on the Consent Calendar.

Lisa Novick (1111 Unitah Street) spoke about the house located at 1113 Unitah Street and how it was a lengthy process with several meetings. She said that former Commissioner Gelhaar asked her to come to the Commission if she saw a second story being constructed. She said that a second story addition was being added to the one-story house and that no building permits were on file. The original roofline is for two story house and it has a flat section. It looks like a one-story house from the street with a high roof. There is noise etc from construction. She was concerned about the second story as it is a fire trap as there are no windows to it and only one stairwell. She requested an administrative inspection warrant to enter under the Administrative Code. She likes the neighbors but the permit process was hard two years ago. Mr. Oh repeatedly tried to push the envelope. He is doing an illegal thing and she and her neighbors can't stand it and that is why she is at the Commission meeting. She noted that overheight buildings invite abuse and that the Building Code should be revised. If houses are designed for two stories, it invites misuse of the space. One story houses should stay as one story houses.

Chair Cahill asked if it was built without a permit, if it had a second story and what limits the Building Code has or should have for two stories structures. It is an enforcement action first.

Director Stanley said that a building inspector has been to the house several times but he had been unable to get access into house. The inspector spoke to a woman who was there but it was not her house. He also spoke to either the past owner or the developer. The City can gain access through a legal process as part of a code enforcement case. There was no permit on file to stop work. An inspection card was left saying that no work was allowed.

Chair Cahill asked if it was a one or two- story house.

Director Stanley responded that it was a one-story house but houses they can be built up to legal height. Volume space is used as square footage unless an owner has a truss system which is integral to supporting the roof. The Commission could revisit the Zoning Code and restrict the height of single story houses in general. Enforcement in this case has started but it's a long process.

Chair Cahill asked how the size of floor area is determined. He appreciated the comments made and said that they can have a discussion at the end of the meeting about enforcement and code issues.

Director Stanley confirmed that the maximum height can be 28' or 32' depending on individual parcels. Zoning Code has development standards to comply with regarding second floors.

Chair Cahill said that maybe the Commission could revisit the zoning and enforcement issues.

Director Stanley asked Ms. Novick to take pictures of any construction and send them with letters to the City as evidence.

Ms. Novick noted that lumber was delivered at 7:30 am to the site and that that area of the site was not visible from the street. You can hear construction noise but can not see actual construction to take pictures unless you station yourself outside the house which would be confrontational

Ms. Novak said that Mr. Oh knows that the second story is illegal and has had other problem cases in the city before. She asked if there is a mechanism to censure him as he shows a lack of respect for the rules and is wasting the City's time.

Chair Cahill said that he didn't know if the City had the ability to censure a contractor. However, this is a small community with a limited number of people appearing before the Commission and it can be a credibility issue for individual architects and firms.

## **V. REORDERING OF THE AGENDA**

No changes were made.

## **VI. CONSENT CALENDAR**

- A. Minutes:** April 27, 2010 – can not be approved as not enough commissioners for quorum, so set for next meeting.
- B. Minutes:** July 13, 2010 – Der Sarkissian/Curtis Approve 4-0
- C. Minutes:** September 28, 2010 – Der Sarkissian/Curtis Approve 4-0

## VIII Public Hearings

- A. Telecommunications Permit 10-01; T-Mobile/La Canada Flintridge Country Club; 5500 Godbey Drive:** A request to allow cellular telephone antennas to be mounted on the ground on the side of a hill below the parking lot for the Clubhouse. The installation will include an equipment pad. The equipment will be walled, covered and stepped down and into the hillside. The entire facility, including antennas will be screened with landscaping. Staff is recommending that the Planning Commission approve an Exemption for this project.

Planner Buss gave an overview of the project.

Commissioner Curtis asked how secure the site was at the present.

Planner Buss said that it was secure and that the applicant would provide more information about the site during his presentation. The area is sealed off with fencing and people can not get into the equipment area. People can get down the steps but can not enter the site. If the gate is raised it can increase the height of required screening.

Commissioner Curtis asked if any special public notices were required for the proposal.

Senior Planner Buss said that notices would be put on the door and gate as required for antennas.

Charles Dunn representing T- Mobile thanked Planner Buss for the detailed report and agreed with the recommendation and conditions of approval. On the issue of aesthetics, he agreed with the Country Club to match the existing gun metal gray railings. It could be reconsidered in a follow-up meeting. Security is treated seriously and vandalism is considered from a safety and a cost perspective. There will be a security gate at the base of the building. Warnings will be provided in accordance with FCC regulations. There is a phone number available to report any problems with response available 24 hours per day.

Commissioner Curtis asked how often the facility is inspected.

Mr. Dunn said that once the facility is working it was inspected once every three months to check equipment and batteries. After Hurricane Katrina, there was a requirement made for back-up batteries with power lasting for 8 hours. There is no security camera equipment in the facility compound. Any on-site changes such as vandalism are checked during inspections.

End of public hearing.

Commissioner Curtis asked to add a condition to paint the fencing gun gray metal or as required by the Design Commission requirement.

M/S/C Curtis/Der Sarkissian to approve. Vote 4-0

- B. Variance 10-04; Pride/Kunimune; 4842 Oakwood Avenue:** A request to allow restoration of a pre-existing circular driveway on a lot with less than 100 feet of street frontage. Staff is recommending that the Planning Commission approve a Categorical Exemption for this project.

Director Stanley gave an overview of the case.

Commissioner Der Sarkissian said that he did not understand the need for the Variance and asked if it was part of the approval of the prior project.

Director Stanley said that it had an existing driveway but that it lost the nonconforming status when they changed the site.

Attorney Guerra said that the applicants had completely demolished the driveway and were starting from scratch. Routine maintenance is okay but not completion demolition

Commissioner Curtis asked about relief from the width requirement and if this was all the way to the garage?

Director Stanley said that driveways can have a maximum width of 12' except for the entrance, but a 14' width was proposed for part of the driveway. They would be a need to narrow the driveway but not the entryway which could be removed with a condition.

Public Hearing:

Jon Pride (landscape architect and applicant) said that the project was approved with the driveway. He noted that he expressed his ideas in a letter to the City Council to make changes for nonconforming situations. The out-of-town contractor who removed the driveway did not know the City requirements. He just wanted to bring the driveway back in the new design form, similar to other properties in the area. He also wanted to keep the 14' width in one section of driveway in order to make turning easier and to provide room to get in and out of house.

Ms. Kunimung (property owner) said that it was a mistake to remove the driveway. The driveway has existed for more than 50 years with her

living there for 25 years. There is a problem because the apron was taken. It was approved under the old plan.

Naomi Kunimung (daughter of the owner) thanked for support and for hearing her out. She wanted to try and maintain the 14' driveway. Her mother gave the City a 4' front setback and built the house further back on the site. She would like to have the site and the aesthetics of the property considered. If the driveway ruined the street view she would reconsider.

Frederick Swain (neighbor) has lived on the lane for 43 years. He said that the turnaround driveway is excellent for safety and has been there for 50 years. They hear of complaints from neighbors backing out on Oakwood as it's dangerous. The 14' width is not a safety issue as it allows for both doors to be opened at same time. It would be picky to reduce the width below 14'. He wanted to keep it as it is as it's not a problem and has been there for 50 years.

Laurie Rodley (neighbor) lives just south of subject house said that it was difficult to back out with the construction and that it could be dangerous if cars were parked in the driveway. They have almost been hit twice during this process.

John Valentine (neighbor) has a house with a circular driveway and dumpsters. He has kids and wants to see circular driveway to be 14' wide.

Director Stanley said that the original plan did not show the proposed driveway on it and showed existing driveway as remaining.

Chair Cahill spoke about nonconforming issues and requiring the project to conform.

Director Stanley said that it is fine to leave nonconforming situations but once you remove them, you lose your nonconforming status.

Commissioner Der Sarkissian asked what the original vote for the project was. He was concerned about the compatibility of the house with the neighborhood and had visited the site twice. Its height and closeness to the street are not compatible with the neighborhood. How can the impact of the house be softened on the street? Landscaping is not sufficient.

Commissioner Jain said that backing out to the street is dangerous. He said that the circular driveway would help the neighborhood. He noted that the 14' width in front of entryway is reasonable but that it is a Zoning Code issue. He recommended keeping the 14' width in front of the house

entrance but also to reduce the driveway width in the area away from the front of the house. Overall, he supported the proposal.

Commissioner Curtis noted that since curb cuts are to be maintained, he does not believe that the nonconforming status is lost, or it can be addressed in a Variance. He has a circular driveway at his house and understands 12' is tight. He supported the project as proposed.

Chair Cahill agreed with Commissioner Der Sarkissian about the house being imposing. He looked at the driveway as being resurfaced. He did not have problems with it and the issues raised by neighbors justify the driveway. He agreed with Commissioner Jain on the width issue and would include 14' width.

M/S/C Jain/Cahill to approve with Condition of Approval added that driveway would retain 14' width in front of entry to house but that the rest would be 12'. Vote 3-1 to approve.

- C. Second Floor Review 10-25/Modification 10-20; Panlaqui/Yu; 4517 Loma Vista Drive:** A request to allow a 1,318-square foot second-floor addition and 435-square foot first floor addition to an existing single-story house. Since the addition requires the removal of more than 30-percent of the existing roof, the project will be considered a new house. A Setback Modification is requested to allow the retention of an existing 2'-11" encroachment in to the required 8'-11" first-floor south side setback and to allow a new 4'-4" encroachment in to the required 17'-10" second-floor south side setback. Staff is recommending that the Planning Commission approve a Categorical Exemption for this project.

Assistant Planner Parinas gave an overview of the project.

Commissioner Der Sarkissian asked to see the photo of the corner of the garage and retaining wall. He visited the site twice but he did not walk the property. He noted that the distance between the corner of the garage and retaining wall does not look like 8'-0".

Assistant Planner Parinas said that she did not measure the distance between the corner of the garage and retaining wall, but the proposed setback is 6'-0".

Commissioner Jain measured 3'-7" to the face of the wall from the corner of garage.

Director Stanley noted that a 6'-0" setback is proposed. He requested a survey to show property line.

Chair Cahill asked if the setback was existing and if it will change.

Commissioner Jain asked if the Fire Department will require a 5'-0" minimum setback for fire safety purposes.

Director Stanley said that the City minimum is also 5'-0". The applicant will have to provide a 6'-0" setback as shown on the plans. They may have to reduce the size of the garage.

Commissioner Jain said that a survey was needed due to a significant change in slope. A retaining wall may be needed because the driveway has a 17% slope.

Commissioner Curtis asked what the required dimensions of a garage were and for a circular driveway.

Assistant Planner Parinas answered that the minimum interior dimensions for a garage are 20'-0" x 20'-0". She clarified that the existing circular driveway will be removed and replaced.

Director Stanley said staff looked at the proposal as a straight shot from street to the garage and asked if the amount of paving was a concern to the Commission.

Commissioner Jain was concerned about the size of the retaining walls. They could have smaller retaining walls 2-3' tall and be visible from the street.

Public hearing:

John Patrick Panlaqui (designer and applicant) said that the garage is to remain with only the door to change. Currently, there is no way to get into garage and it is not used. The proposal is to open it up which makes more sense. The existing bedrooms to remain are on a 30-degree angle. It was a struggle to come up with a plan. It broke his heart to hear that he had to get rid of the circular driveway and have a huge slab of asphalt. He referenced an earlier case in the meeting regarding a circular driveway. The site is 95' wide and they are being made to eliminate a circular driveway. He asked the Planning Commission to consider leaving the circular driveway. The required landscaping ratio is met under the proposal.

Director Stanley said that it is considered a new house as the roof will be removed and a Variance would be required.

Chair Cahill asked if the city can require that the driveway be brought up to current standards.

Mr. Panlaqui mentioned the other Commission case justifies retaining the driveway.

Mr. Panlaqui said he would prefer a circular driveway and would consider applying for a Variance. The closest point of the house from the street is 26'. The goal was to build a Mediterranean style house to blend with the commercial building next door. They did not want the elevation to look too large in size and he broke up the elevations to reduce the bulky look. The play on the front elevation is in harmony with the existing elements of the house. It will not block any neighbor's views. He supports wood windows and rafter tails on the roof but not for the arches. The proposed elevation blends better with the existing components of the house.

Commissioner Der Sarkissian asked if the designer had the ability to use the garage with existing driveway and have 25' of back-up space. It has to be a legal back-up space according to the Code.

Mr. Panlaqui said it will be short and less than 25'. The circular driveway will be tweaked to meet the Code.

Commissioner Der Sarkissian asked about wood trim around the windows and if the window was wood framed?

Mr. Panlaqui said that they were proposing aluminum windows but they could change their window schedule.

Commissioner Der Sarkissian said that the City was suggesting that they trim the windows with wood.

The designer said that they were proposing aluminum windows with wood trim.

Commissioner Curtis asked about changing the style of the house from Mediterranean to another design including roof tiles.

Mr. Panlaqui requested that the tile roof be approved for the house to match the commercial building next door. He had no problems with roof posts, rafter tails, sliding doors instead of French doors, intricate wrought iron work, or wood framed windows,

Commissioner Der Sarkissian said that wood windows can have aluminum interior but be clad in wood. There are real wood windows that you can buy. The commercial building next to subject house has similar windows.

Mr. Panlaqui said that he will go with whatever the Commission requires.

Commissioner Jain questioned the financial impacts from entire wooden windows and maintenance issues for client

Mr. Panlaqui said that costs impacted window selection.

Commissioner Jain said that windows can be elegant with wood trim.

Commissioner Curtis asked about a Variance for a circular driveway?

Mr. Panlaqui said that he was in support of a circular driveway.

Commissioner Curtis said that he would have to make separate application and come back to the Planning Commission with a new design.

Assistant Planner Parinas clarified that she was only recommending wood trim windows and that the initial proposal was for stucco with plaster trim around the windows.

Commissioner Curtis said that he would prefer a continuance to refine the design as the driveway is the key issue. He was not prepared at this time to vote and he recommended a continuance in order for the applicant to review input from the Commission as it was a big investment. He asked if the applicant could try and get rid of the additional cement on the south side of the garage.

Commissioner Der Sarkissian said that he visited the site twice. It was a very tall house and very open to the street because of the way that Salisbury comes into the street with a huge open area. Therefore, landscaping is paramount for the property. The house does not have a legal garage. He supports the driveway. The reduced size of the garage would be from 24' to 20' wide. It would reduce the perception of the building to the neighbor. The commercial building next door looks like a residential building. He spoke to the neighbors; the neighbors does not oppose the project but thought that it was too large. He would give leeway as next to a commercial building. Still the project is 38' above the neighboring property. There were no issues on the north side of building. Reduce garage size to 20' and put in some landscaping instead on that south side. He wanted more landscaping in the front yard. The rest of house is fine and he supports Commissioner Curtis's approach. He was supportive of the driveway.

Commissioner Jain said that the circular driveway will help but back-up space is a big issue. The landscaping for the site has to be studied and how

the walls will impact the house. The house is dominating. If the second floor is setback, the bulk of the house would be reduced. He needs details about the entryway to the house. The setbacks for the site need to be measured accurately. The setback should be at least 5' wide on south side rather than 3'-6". He supports the project with changes.

Assistant Planner Parinas commented on the width of the garage and Commissioner Der Sarkassian's proposal to reduce size of garage.

Chair Cahill said that he had no problem with design as modified by Assistant Planner Parinas except for the roof material as it matches the neighboring building to the south. The property is on a hill and higher than neighbors to the south but it does not look into yards. Encroachments are minimal and not an issue. The garage setback is an existing structure and he has no issues with it. He was concerned about tearing down the side of the house. He had no problem with the concept of a circular driveway. He shares his fellow Commissioners' concerns with the backup for the garage. He was prepared to approve the project subject to changes: a. reduce concrete in front, and b. reduce concrete on south side. He could approve it as is with Assistant Planner Parinas' changes with flexibility on roof material with redesign of the front and landscaping. There were not enough votes to approve tonight. He could seek a continuance to come back in another hearing with modifications made. Setbacks must be addressed. He asked if it could be continued to a specified date.

Director Stanley said that the next meeting was on November 9 but it may not be enough time to redesign the project.

Mr. Panlaqui said that he could be ready for the November 9 meeting.

Assistant Planner Parinas said that the materials were needed this Thursday.

Director Stanley said that they were having a meeting on Nov 23, Thanksgiving week.

Commissioner Jain asked about the need to renote due to the driveway Variance.

Assistant Planner Parinas asked about approving the project with conditions and including a condition of approval addressing the driveway and other issues.

Chair Cahill explained the choice to the applicant. The designer could come back with separate Variance application for the driveway.

Commissioner Der Sarkissian asked to reduce the size of the garage by removing the left side.

Commissioner Jain was fine with that if they could retain the 6'-0" setback.

Director Stanley asked the designer if the actual measurements were taken.

Mr. Panlaqui said that someone else measured it.

Chair Cahill asked if the case was moved if it could be okay.

Director Stanley asked for a survey of that site needed to be done to make sure the setbacks are correct.

Commissioner Jain said that the Fire Department minimum setback is 5' from the property line.

Mr. Panlaqui said that a 5' 7" setback can be provided.

Commissioner Curtis asked for the Conditions of Approval to be restated for the applicant.

Director Stanley asked about proposed roof tile.

Commissioner Jain said that the proposed architectural style dictates the roofing materials.

Commissioner Der Sarkassian said that barrel tile may not be suitable for the house and that he preferred flat tile instead.

Chair Cahill asked to replace the proposed roof tile with flat tile. He read Conditions of Approval. In addition, there should be landscaping to the south side of the house with a green belt going down to the street. The driveway will be for a future Variance application. A minimum 5' setback shall be required on the south side of the property based on a survey.

Director Stanley said that the Commission needed to deal with the driveway issue tonight as there was no Variance application on file or condition addressing that. The Commission needs to deal with what is before them tonight. The project could have a straight shot driveway to the garage which would reduce some of the paving and fit into the slope.

Assistant Planner Parinas said that it would be a diagonal driveway.

Director Stanley said it could be curved instead. Curb cuts are being removed now anyway.

Commissioner Der Sarkissian asked about the size of the driveway. Projects need legal back-up space of 24'. He would like to see as little paving as possible in the front yard in order to have more landscaping. Driveway can be made narrower and become wider away from the street.

Commissioner Curtis asked if the Director could craft a Condition of Approval reflecting this to be reviewed by him.

Chair Cahill said that a more direct line driveway could be required with the width of the garage addressed – more of a straight line with a bend.

Motion: Cahill/Curtis approved 4-0.

- D. Setback Modification 10-12/ Hillside Development Permit (Dir) 10-27; John Trautmann Architects/Lindemann; 2321 Conle Way:** A request to allow a 650 sq. ft. deck around an existing pool to encroach within the required front, side and rear setback. Only 110 sq. ft. of the new deck would count towards floor area. A Hillside Development Permit (Director's Review) is also required since the property has a slope of 27%. Staff is recommending that the Planning Commission approve a Categorical Exemption for this project. .

Assistant Planner Lang gave an overview of the project.

John Trautmann (architect) said that the staff summary was so succinct that he had little to add. He said that it was not special treatment as the proposal is compatible with the neighborhood. The property has no outside social gathering area. He went through the findings briefly.

Commissioner Jain asked if he considered having fire protection. He was concerned about the area under the deck as it was open but he could re-examine it

Mr. Trautmann considered skirting under the deck but felt ample existing landscaping provided screening. The deck will be constructed of heavy timber for fire safety.

Assistant Planner Lang said that it was her understanding that the new fire code required heavier wood to reduce potential fire impacts.

Commissioner Jain voiced concern about fire issues and an open deck. Somehow it should be enclosed or fire protection addressed. Too much vegetation can be a negative for fire protection purposes.

Director Stanley said that the city was in a high fire area and this issue will be considered at the building permit stage.

Mr. Troutman said it was not chaparral but well-watered plant material.

Mr. Randel Lindeman said that the area is very hilly and has little flat space. Property is shoe-horned in and is not really visible to neighbors. Alternative plantings are more extreme and this seemed to be the best way to meet key objectives.

Don Carp (4599 Leir) said he has a similar condition which is common in the neighborhood. This won't be visible from the street and that it is a reasonable proposal.

Commissioner Der Sarkissian was in full support and had no problem with the project and is ready to make a motion. .

Commissioner Jain said that it is reasonable as long as fire protection was provided.

Commissioner Curtis agreed with the other Commissioners and said findings needed to be made and that he was in support of the project.

Chair Cahill agreed.

M/S/C: Der Sarkissian/Jain approved 4-0.

**E. Setback Modification 10-18; Wawrychuk; 4315 Beulah Drive:** A request to allow a 7'-3" maximum height fence within the side-yard setback. Staff is recommending that the Planning Commission approve a Categorical Exemption for this project.

Assistant Planner Lang gave an overview of the project.

Commissioner Curtis asked if she verified that the wall is on property shown on the plans.

Planner Lang said that she believes that the wall is on the neighboring property but she would need to check with the owner. It's not set back enough from the fence so it is included in fence height.

Commissioner Curtis asked about considering a wall on another property.

Director Stanley said that the Code requires setback when wall is considered. The lowest grade is used no matter whose property the fence is located.

Commissioner Curtis disagreed with the Code interpretation. He asked if the outward facing retaining wall was on the neighbor's property.

Commissioner Jain asked if by default the retaining wall establishes the grade and if the legal requirement met.

Director Stanley said that it was taken from the lowest adjacent grade. It has no bearing whose property it is located.

Commissioner Curtis asked about the impacts on the wall height of neighbors. Does a neighbor have to get permission from the Planning Commission or the neighbor to construct a fence? How can the City allow an inward facing retaining wall be used against a neighbor for building a wall.

Director Stanley said the interpretation was that it was not the property line but lowest adjacent grade that was used to measure wall height.

Commissioner Curtis noted that the adjacent neighbor can grade 5' and then force the neighbor to get permission from him to construct a wall.

Assistant Planner Lang directed the Commissioners to page 3 of the staff report which has the applicable code section.

Director Stanley said that that it was an interpretation of the code and that there is no grounds to challenge it. The question is a challenge to his interpretation of the code. The code could be changed later to be clearer.

Chair Cahill said that the Commission needs to address the case before them tonight and other issues later.

Public hearing opened.

Bill Wawrychuk (property owner) said that the wall is on his property. It is at least 4" away from the retaining wall.

Chair Cahill said that they were using wall and fence heights.

Mr. Wawrychuk said that he had a valid building permit and that the materials are acceptable all over the city. Planner Lang did not ask if there was grade difference at the time of permit issuance. If she usually asks, she did not at this time.

Commissioner Curtis asked if the wall was on his property?

Mr. Wawrychuk said that it was part on his and his neighbor's property but that he can have it surveyed.

Attorney Guerra said that a survey was needed to make a decision.

Chair Cahill said that it did not matter where the wall is located according to the interpretation by Director Stanley.

Mr. Wawrychuk asked if the Commission members had read his letters and documentation.

Chair Cahill said that they had gotten them and that he had read them

Assistant Planner Lang clarified that she could not remember if she asked about a change in grade.

Mr. W. said that was not what she said at his house.

Ms. Josephine Uttke (4309 Beulah Drive) said that she had survey done many years ago And that the wall is on the west side. The wrought iron fence has been there for many years and looks very nice. She did not believe that partially plastic wall goes with a La Cañada Flintridge standard. Generally, shrubs or wrought iron or stone are used in city. She has lived in the house for 35 and has improved it over the years. Pool house uses slate from a library in Glendale and brass nails from ship yards. She tried to keep it look local. Fence is taller than it should be.

Commissioner Curtis asked who has being maintaining the wrought iron fence in the past.

Ms. Uttke said that she has being doing that. It has been painted several times. There is a space between the wrought iron and vinyl fence. She has replaced the driveway also. The plastic is okay in the back but it feels like being in a box and does not go with any other fence in La Cañada.

Mr. Wawrychuk said that the letter of 10/19/2010 referenced a number of vinyl fences in the city. He said that it was consistent with the city to have plastic white fences and that the fence was needed for protection. The 6' tall fence was needed to protect them from a retaliatory dog fight case. His wife has a restraining order against the neighbor's grandson restricting him. The order is for 15 yards. There was tension caused and there was a need for the fence. He said that other photos were taken out of the Commission packet by the City Attorney.

Ms. Uttke responded by saying that the neighbors watered late at night and that the weeds have grown high as a result.

Commissioner Jain said that it was a very difficult situation. The existing retaining wall had by default created a grade change. The type and material used is in the code and it was approved by Assistant Planner Lang. He did not see any problem in approving the fence as it is now.

Commissioner Curtis said that it was unfortunate when neighbors had a dispute. However, he had to make the required findings for the request. 1. If the code was interpreted if the wall was on the neighbor's property it was permitted by right. 2. If the wall is on the applicant's property the fence needs approval. They may be allowing two fences without mitigation. He could not make the required findings for an overheight wall as there is nothing special about the property.

Commissioner Der Sarkissian asked Commissioner Curtis if he could explain his reaction if the wall was or was not on the applicant's property and what would be his resolution. He asked if the wall was on the applicant's property what would he find?

Commissioner Curtis said that he would recommend denial of the case as findings can not be made. The driveways are close and the vinyl fence and iron fence are obtrusive to the downside property owners. If not on applicant's property, the Modification would not be needed as it would comply with the code.

Commissioner Der Sarkissian echoed Commissioner Jain's comments about neighbors not talking to each other. You would think that neighbors would talk if they were building a common wall. From the street the vinyl is not compatible with the house. The photos of other walls provided by the applicant show fences which are transparent and not solid like the one at issue. The neighbors need to talk and mutually resolve the issues. A 6' fence is normal around parcel. He would agree with Commissioner Curtis's legal approach. He would approve a 6' fence that is softer and more considerate to the neighbor.

Chair Cahill said that he looked at the rules as the City interpreted them. He looked at the height which exceeds 6' and that can not be approved without the neighbor's consent. He agreed with Commissioner Der Sarkissian and did not like solid vinyl fences and that this fence items was unattractive. He knows a permit was approved by the City but maybe it was given without full knowledge as the survey provided did not show the change in grade. Granting the permit would be a special privilege which was not available to other properties. To lower the fence by 1' would not be hard so

no practical reasons to approve. If it was a neighborly friendly fence it may be better. There was no hardship shown. He thought that it was a thumbs up or down situation but not for a redesign.

Director Stanley asked if it could be a redesign situation if the proposed material was changed.

Chair Cahill said that the material change would not change the decision. The fence is still too high.

Commissioner Jain said that a survey needed to be done to establish the grade and the property line.

Chair Cahill said that does not matter under Director Stanley's Interpretation but it does under Commissioner Curtis's interpretation, but for now he would follow the Director's opinion.

Commissioner Curtis said that the result is the same for both interpretations. The Modification can not be granted because there are not sufficient grounds. He can not make the findings for a Modification under the interpretation given the facts before him. He can not mediate the dispute as there are other things to consider other than the fencing which is more tasteful. The vinyl fence is very imposing, particularly with wrought iron fencing there also. He does not know as there is no survey. He has difficulty making the findings as his hands are tied.

M/S/C: Curtis/Der Sarkissian denied 3-1.

Chair Cahill said that the fence had to be lowered.

Attorney Guerra said that the applicant can appeal the decision within 15 days.

Mr. Wawrychuk asked if the fence can be moved.

Director Stanley said that he could work with staff on the issue and look at the options. He can contact the Planning Department to follow-up.

- F. **Setback Modification 10-17; Guluzian; 4720 Ocean View Boulevard:** A request to allow an 8'-3" maximum height fence within the front-yard setback. Staff is recommending that the Planning Commission approve a Categorical Exemption for this project.

Assistant Planner Lang gave an overview of the project.

Commissioner Curtis asked what would have to happen to make the fence legal.

Assistant Planner Lang responded that everything would have to be cut back to 42" tall from the lowest adjacent grade.

The son of the owner (Sako Guluzian) said that his father bought the house in 1989 and made the property look nicer with flowers and landscaping. The brickwork and walls were already there. He had letters from neighbors saying that everything was the same as when they moved into it.

Assistant Planner Lang spoke about the Public Works Condition of Approval (#11) regarding an encroachment permit. The case may need to go to the Public Works Commission.

Commissioner Curtis said that all the improvements were there for 15+ years. He noted it was a tough night for cases. It comes down to the unusual circumstances of time and how well maintained the property is. If it was a brand new built in the past year, he would not be able to make the findings. He was supportive as-is with the proposed Modification.

Commissioner Der Sarkissian said he spoke to the neighbor when he visited the site who spoke negatively about the property across the street owned by the Crescenta Valley Water District. The subject walls of this application were beautifully kept with good landscaping and he could support the project as proposed.

Commissioner Jain believed in the same sentiment as it has been there a long time and that it has been maintained and is beautifully landscaped.

Chair Cahill fully agrees with the other comments. The owner has done nothing wrong as he bought the property the way it is now.

Commissioner Curtis asked about the amount of light on the site and in general.

Mr. Guluzian mentioned that each lamppost holds three bulbs but actually has only one bulb in it. They leave it as low as possible.

Commissioner Curtis drives along street and has never seen it as an issue.

M/S/C: Jain/Der Sarkissian to approve 4-0.

## **X OTHER BUSIENSS**

None

## **XI. COMMENTS FROM COMMISSONERS**

Chair Cahill spoke about the abolition of vinyl fences as they are not attractive and degrade the city. The code should be changed to prohibit them unless for limited uses in back yards which have swimming pools. The Commission needs to take up the issue before it mushrooms into a bigger issue

Commissioner Der Sarkissian said photos provided during the meeting show picketed fence vinyl fences which are not too bad. They could work away from the street front if they were not solid or very visible.

Commissioner Curtis said that there is high quality vinyl available and sited an example of an \$8-9 million house which had it.

Director Stanley said the code does not mention vinyl fencing as it was removed by the City Council. He said that some vinyl fences can be okay.

Chair Cahill said that the City needs a process for design review and of need to get neighbors involved. The city needs a natural look and not just anything goes.

Director Stanley said neighbors are notified if a fence over 42" tall is constructed and is on the property line. The code has a general review by the City of fences.

Chair Cahill recommended that staff look at cases and maybe bring them to the Commission for review. It's better to know before fences are constructed because it's hard to cut down fences and people have to look at them for 20 years. The fences never come down.

Commissioner Curtis asked when the City has the authority to require a survey.

Director Stanley said they the City did require a survey but the survey did not show the change in elevation. The permit was granted with erroneous information provided by applicant. The drop of 12" to 18" in elevation is not shown on the survey. A neighbor complained and the error was revealed.

Commissioner Curtis noted that the retaining wall may be on applicant's property line as shown by survey markers on the curb.

Director Stanley said that the survey seems to indicate that the vinyl fence is inset from the property line – with inches between fence and wall.

Commissioner Der Sarkissian noted that if the neighbors talked there could be a creative solution including horizontal wooden slots with privacy given and not have a conflict

between two fences. Solutions exist when people discuss issues. The white gate is a disservice to the property.

Chair Cahill asked how the Commission could formalize its distaste for the vinyl fences.

Director Stanley said the fencing section could be amended but it was recently changed by the Council.

Chair Cahill asked if the Commission could adopt a resolution instead of going to the Council.

Commissioner Curtis said that the enforcement part of direction given by the Commission.

Director Stanley said that he could bring a policy to the Commission after review. He would need to see what the Council exactly said about vinyl.

Chair Cahill asked if staff could draw up guidelines and show the Council what the Commission had seen.

Commissioner Curtis said that they were reviewing a lot of Variances for circular driveway and asked what the fees were.

Director Stanley said that the Council was concerned about circular driveways showing up on small parcels with mini-mansions. They can encourage more cars to be parked in front of houses.

Chair Cahill said that five circular driveways were reviewed by the Commission in about the 8 years he has been a member.

Director Stanley said that the issue can be researched and that he can come back to the Commission with information at a later date.

Chair Cahill said that it would interest him to get a history of the issue. He noted the issue of one versus two story heights for houses raised by a speaker during public comment earlier in the meeting.

Commissioner Curtis asked about if a house is over a certain height can it be subject to second floor review.

Director Stanley gave the code standards as to the height of building and requirements for Second Floor Review and volume space. However, he noted that if attic spaces are designed with trusses, so that they can't be used, the area is not counted as space. Architects argued about style when the Council considered code changes. He noted that you can put AC units in attics.

Chair Cahill mentioned that his house has high portions but that clearly it was a one story house.

Director Stanley said that some homeowners may take out trusses over time. It is illegal and it is not clear how secure they are in case of earthquakes.

Commissioner Der Sarkissian said that the Tudor style calls for high roofs and that it was a very attractive style. The city can not catch all who break the law. Tudor houses have steep roofs with maybe a 30% slope. He proposed that the attic area be removed from the Zoning ordinance as it may work against the City later.

Attorney Guerra said that they will have to bring back the issue at a later date as it's not on the agenda.

Chair Cahill asked the director what the process was to get into the house discussed during public comment.

Director Stanley said there was a two-step approach starting with asking to enter voluntarily and if denied than using code enforcement. An inspection warrant needs probable cause. That is why he asked for evidence. They may have voluntarily entry tomorrow. First a voluntarily request, then letters and then a warrant. The City can only enter if the warrant is granted and this can take months to obtain.

Commissioner Curtis asked about reviewing inward and outward retaining wall provisions and grade changes. He asked about the Henry Farmer's Market consistency. It's a significant site and he would love to have an on-site study session.

Director Stanley said that timing is a major issue since the holidays are coming up. It would be best to set a day with 2 Commissioner at a time which would be most expedient. The case has been noticed and will be coming to the Commission in the near future. It has been approved by the Design Commission who loved the project.

Chair Cahill asked if Henry's was a grocery store or if it was unique.

Director Stanley said that it sort of a cross between a Trader Joes and a Wholefood's store. The store is focused on produce and locally grown with food in stores within 48 hours.

Chair Cahill asked if it was a chain store.

Director Stanley said that it started as a small store in San Diego but had grown over time and had been taken over by Smart and Final.

Commissioner Curtis asked if a Negative Declaration was prepared and what was the process and whether it was consistent with the EIR.

Director Stanley said that Planner Buss had prepared a Negative Declaration and that there was a CUP application for the project. There was a program EIR for the Downtown Plan and this was used. He confirmed there was an alcohol request. The CUP was due to proposed alcohol sales and over 10,000 sq. ft. in size and the Zone Change was to amend the Downtown Plan.

Director Stanley said that the Merritt case will not be coming back to the Commission with size reduced.

Commissioner Der Sarkissian said that tree trimming distance issue needs to be clarified in the code.

**XII. ADJOURNMENT:** The meeting ended at 9:50 PM.