

**MINUTES OF A MEETING OF THE PLANNING COMMISSION
OF THE CITY OF LA CANADA FLINTRIDGE
HELD ON OCTOBER 27, 2009**

- I. CALL TO ORDER:** 6:03 p.m.
- II. ROLL:** Chair Davitt, Commissioners Gelhaar, Cahill, Curtis. Vice Chair Hill is absent.
- III. PLEDGE OF ALLEGIANCE:** Commissioner Gelhaar
- IV. COMMENTS FROM THE PUBLIC:** No comments were offered
- V. REORDERING OF THE AGENDA:** No changes
- VI. CONSENT CALENDAR:** No items

VII. CONTINUED PUBLIC HEARINGS:

- A. 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. Staff is recommending that the Planning Commission approve a Categorical Exemption for this project. (Senior Planner Buss)

Chair Davitt noted that there was a request from the Chamber of Commerce to continue this item to a January meeting.

Senior Planner Buss briefly re-presented the project in accordance with the staff report.

Chair Davitt opened the continued public hearing, but no comments were offered from the public.

Chair Davitt moved to continue the item to a date uncertain in 2010. The motion was seconded by Commissioner Cahill and approved on a 4-0 vote.

VIII. PUBLIC HEARINGS:

- A. Setback Modification 08-29; Fang; 4813 Viro Road:** A request for a Setback Modification to allow a 457 sq. ft. addition that encroaches 6" into the required 6'-0" side-yard setback on the north side and encroaches 1'-3" on the south side. The proposed project would also encroach 3'-0" into the required 30'-0" front-yard setback. The project complies with all floor area and height standards. Staff is recommending that the Planning Commission approve a Categorical Exemption for this project. (Assistant Planner Lang)

Assistant Planner Lang presented the case in accordance with the staff report.

Commissioner Curtis asked if the side of the lot facing Viro Road is a side yard.

Assistant Planner Lang clarified that the property to the south is addressed on Baptiste Way.

Modest addition, conformance with neighborhood, support project

Commissioner Gelhaar reminded the applicant to maintain the garage for vehicle storage.

Assistant Planner Lang indicated that the goal is to provide a compliant garage.

Motion by Commissioner Curtis, seconded by Commissioner Cahill to approve the project as recommended by staff. The motion carried 4-0.

B. Modification 09-02 (Amendment); Jamison/Hartford; 1411 El Vago Street: A request for an amendment to an approved Setback Modification to add 180 sq. ft. to the previously approved encroachment. Additionally, the applicant proposes to add to the previously approved 3-car garage and make it a 4-car garage. The house addition would encroach 10'-6" into the required 17'-0" required street side-yard setback. The additional garage extension would encroach 12'-0" into the required setback. The project complies with all floor area and height standards. Staff is recommending that the Planning Commission approve a Categorical Exemption for this project. (Assistant Planner Lang)

Assistant Planner Lang presented the project in accordance with the staff report. She noted that this is an amendment to the previous approval granted April 28, 2009. She indicated that the applicant would like to move the building closer to the private drive and add more floor area than previously approved. The reason for the request is the applicant has now provided a survey that indicates that the property line is farther into the street than initially indicated providing greater setback than originally thought. Staff recommended approval of the revised project with conditions.

Commissioner Cahill asked for clarification on the location of the existing garage as it relates to the property line.

Assistant Planner Lang stated that the existing garage has a setback of 7'-6" and the new portion of the garage would be 5'-0" from the edge of pavement and 7'-6" from the newly discovered property line located within the private drive.

Commissioner Cahill asked if the new portion of the garage would be closer to the edge of the pavement than the existing two-car garage.

Assistant Planner Lang clarified that the garage extension is indeed shifted closer to the private drive than the existing garage and a 5'-0" side-yard setback is proposed from the edge of pavement.

Kent Jamison, the applicant's representative, addressed the commission and explained that the actual setback of the garage would be 7'-6" from the property line located within the private drive but the setback would be 5'-0" from the edge of pavement. He further explained that the reason for

extending the garage forward was to get the building away from the pool in the backyard. Also the building would have more modulation and would look better.

Given that there were no other people in the audience wishing to speak on the matter, Chairman Davitt closed the public hearing and asked for Commissioner comments.

Commissioner Gelhaar stated that a requirement that the owner have the property surveyed worked to his advantage. He felt that it was a unique piece of property, was adequately separated from the neighbors, and could support the project. He liked the idea of four vehicles parking off the street.

Commissioner Cahill indicated that he had trouble making the findings because of how it looks close to the street. He felt that the existing setback of 7'-6" looked pretty close and didn't see the hardship for the encroachment request. He was not aware of the issue regarding the proximity to the pool but would be willing to look at that issue again. He stated that he could not support the shifting of the new portion of the garage and would like to see the new portion line up with the old portion.

Commissioner Curtis indicated that he had the same issue but for different reasons. He felt the greatest impact would be to the other residents who use the private drive to access their properties located behind the subject property. There would be four car spaces with a lot of concrete without any visual relief. He indicated that he could support the three-car garage but could not support the four-car garage. He further clarified that he could support the encroachment request for the addition to home.

Chairman Davitt indicated that he was not at the April 28, 2009 meeting when the original project was approved but read the old staff report and visited the site. He stated that he could make the findings due to special circumstances and the uniqueness of the lot. He felt that the garage expansion is not a problem and it would be a betterment of the situation.

Chairman Davitt addressed the applicant and indicated that it appeared to be a tie vote and as a result the project would be denied. He asked the applicant how they would like to proceed.

Commissioner Cahill clarified that he would be prepared to vote for approval of the four-car garage if it were located 7'-6" from the edge of pavement and shifted back in line with the existing garage.

Mr. Jamison asked if the house expansion could be approved and the review of the garage be continued.

Deputy City Attorney Guerra indicated that that is a possibility but in either case a new resolution would need to be drafted and brought back to the next Planning Commission meeting for final approval.

Chairman Davitt added that the project would not be approved until the final resolution is acted on which in either case would be at the next meeting.

Director Stanley also offered the suggestion that the garage issue could be reconsidered at the next meeting.

Dr. Hartford, the property owner, addressed the Commission and indicated that the shifting of the garage is necessary due to the garage's proximity to the pool. He felt it would be safer and more aesthetically pleasing.

Commissioner Gelhaar asked if the proposed addition is a standard garage dimension.

Mr. Jamison replied that it is a standard garage dimension.

Commissioner Cahill asked staff to clarify that if there is an easement where are the setbacks measured from.

Director Stanley stated that it would be measured from the edge of the easement or roadway and not the actual property line.

Chairman Davitt offered three alternatives to the applicant. He stated that the applicant could seek a continuance, a vote on what was presented, or a vote on the suggestion to shift the garage in line with the existing garage. If the applicant decides on the third option, they could also seek reconsideration on the garage issue at the next meeting when the full Planning Commission is expected to be present.

Director Stanley clarified that if a reconsideration was granted at the next meeting it would still be carried over to a future meeting and would need to be renoticed.

The applicant indicated that they would like a continuation to the November 10th meeting.

Commissioner Cahill made a motion to continue the item to the next meeting on November 10, 2009. Commissioner Curtis seconded. The motion carried 4-0.

C. Second Floor Review 09-18, Modification 09-06 (Setback); Shirbacheh; 5114 Ocean View Boulevard: A request for a Second Floor Review (SFR) to construct a 1,517-square foot second-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 required to allow a 1'-8" south side setback encroachment and 2'-4" north side setback encroachment into the required 7'-0" first-floor side setback. The project also includes a 100-square foot first floor addition. The new house (including a 420-square foot attached garage) will have a total floor area of 4,485-square feet. Staff is recommending that the Planning Commission approve a Categorical Exemption for this project. (Assistant Planner Parinas)

Chair Davitt recuses himself due to his proximity to the project site (less than 500 feet). Commissioner Gelhaar takes over the meeting and asks for the staff's report.

Assistant Planner Parinas presents the case to the Commission. She highlights the proposed new second floor. The project has a deck proposed. She notes the setbacks of the adjacent properties and how this project relates to those houses. The front entrance exceeds the 12' threshold height. A

condition could be added that lowers the height of the entry roof. Ms. Parinas shows photos of the area and the existing landscaping. She notes that there are other 2-story homes in the area and the architecture is compatible.

Commissioner Gelhaar opens the public hearing.

Applicant Shirbacheh speaks to the Commission. He notes that staff reduced his expectation of what he could do on the site. He talked to his neighbors and they did not have issues. He was able to address their concerns with some redesign before approaching the Commission – including the balcony. He has letters of support.

Commissioner Cahill asks the applicant if any of the walls are coming down as a result of the second floor construction. The applicant responds that the outer walls will not come down but he has not done the structural engineering yet.

Commissioner Curtis asks the applicant about neighbor privacy. The neighbors have talked and can see each other in their respective yards. He advocates the use of landscaping for screening. Commissioner Curtis states that staff has recommended the use of clerestory windows and frosted glass on the second floor. The applicant states that he does not care for that as there will be a sliding glass door on the balcony side.

Commissioner Gelhaar – asks applicant about normal size windows rather than the limited windows.

Ms. Parinas makes a correcting comment regarding the frosted glass noting that the condition only applied to the windows, not the door.

Seeing no other speakers, Commissioner Gelhaar closed the Public Hearing and restricted comments to the Commission.

Commissioner Cahill asks if this is really just an addition. He finds that it is and he is comfortable with approving an addition. There is a lot of setback and other houses already have the same restrictive setbacks. He would agree to bring the front porch down as recommended by staff. He does not like the frosted glass and the since the windows are small, he would not impose the condition on the north/south windows. Make the back windows normal size. He would recommend approval of the project.

Commissioner Curtis agrees with the comments of Commissioner Cahill. Regarding the porch height, he is equivocal. He is not in favor of frosted glass (condition 13). The windows at the rear are more of a concern for privacy. The balcony could still be an issue as there is an inference of someone looking in to the back yard that can have an impact on the neighbor. In this particular case, given the adjacent southern house, there are no windows that face this direction that would be affected and can therefore support the balcony and the project.

Commissioner Gelhaar agrees with the others, including the balcony issue. He agrees that the City should not be looking at frosted glass and condition no. 13 should be eliminated or replaced with

wording that retains the existing landscaping instead. Standard windows should be installed. Can live with the porch roof the way it is. Change condition 13 stating that existing landscaping in the north and south sides be retained and the windows on the east side are of normal size.

Commissioner Curtis moves and Commissioner Cahill seconds a motion to approve the project with the two changes including Director approved windows. The motion carries 3-0 to approve.

Commissioner Hill re-enters the Chambers.

D. Second Floor Review 09-06; Oh/Yu; 307 San Juan Way: A request for Second Floor Review to allow construction of a new 3,040 sq. ft. residence on an 8,450 sq. ft. lot. The proposed home would provide a compliant front setback and a previously requested Setback Modification is no longer required. Staff is recommending that the Planning Commission approve a Categorical Exemption for this project. (Planner Gjolme)

Planner Gjolme indicates that this is the third time for this project to be in front of the Commission. There was a request to remove a tree that also went to the Director and appealed to the Commission where the denial was upheld. Therefore the tree remains. He explains that there have been further changes to the design. He details the Arborist's report down to the branch level for the tree and what will be trimmed and what will stay. The story pole photos are color-coded to detail how the branches are affected by the second floor addition. Conditions 13 and 14 are added to the project to address the tree issues.

Commissioner Curtis asks about the front yard setback. He is informed that the setback modification has been removed from the project. Staff notes that the front of the garage is compliant with code.

Commissioner Gelhaar, addressing condition no. 12, voices concern that the City appears to be extending the tree protection zone beyond the code requirements. He believes that Condition nos. 13 and 14 seem to be giving the arborist too much control. Staff responds that the arborist is making a recommendation, not mandating. He does not want these conditions to creep into the approvals. He would rather have conditions 13 and 14 combined. He continues his comments with regard to the limb of the tree stating that he hopes the neighbor will agree to remove the limb in accordance with the arborist's recommendation.

Chairman Davitt opens the public hearing, notes that no one wishes to speak and closed the public hearing. He directed the Commission to comment.

Commissioner Curtis states he has been to the site and that he can support the project with conditions 13 and 14 combined.

Commissioner Gelhaar agrees with Commissioner Curtis.

Commissioner Cahill states that this tree is really a problem for this lot but did not want to see it go. The branches go all over the lot so if some trimming can occur that will allow the development, he can support it.

Chair Davitt agrees with the prior comments and can support the project including combining condition nos.13 and 14.

Commissioner Curtis moves and Commissioner Gelhaar seconds a motion to approve the project as recommended by staff with the modification that condition nos. 13 and 14 are combined. The motion carries 4-0.

E. Hillside Development Permit 08-41, Modification 08-12 and Variance 09-05; Leisure/Mkrtchyan; 3700 Via Serrano Avenue: A request for a Hillside Development Permit for a new 1,035 sq. ft. pool house, with a Modification request for walls encroaching within the required side setback and a Variance for an overheight wall. Staff is recommending that the Planning Commission approve a Categorical Exemption for this project. (Planner Clarke)

Planner Clarke presents the project to the Commission detailing each of the application requests. The house was originally approved in 2001 and built and an amendment approved in 2004. The applicant is now asking for additional floor area on the site. He explains how the design has changed through the staff review process. He notes that the applicant has changed the plan again, after the staff report was prepared and circulated. Even with the newest changes, there are further plan changes that staff would recommend to the Planning Commission. Planner Clarke shows numerous pictures of the existing site. He recommends that the project be continued, but that the public hearing be opened and new testimony be taken.

Roy Leisure, landscape architect representing the applicant, speaks to the Commission explaining why the revised design is proposed. He says the pool and the residence already exist and that he wants to have a pool house that meets the needs of his client. The design was modified to move the pool house into the hillside and reduce the size of the walls. Every foot moved back into the hillside means an additional 500 cubic feet of dirt to be removed. To meet the requirement would mean moving dirt for a week and the associated damage to the streets. It would also require a new retaining wall. Want a compromise. The new proposal puts a one-story structure on the existing grade without new walls.

Commissioner Gelhaar asks questions of the speaker. Mr. Leisure notes that there is a difference in the elevation of the properties. Much discussion ensues regarding the walls, the location of the pool house, and the separation between the structure and the neighbor's residence.

Wayne Sagard, speaking on behalf of the northerly neighbor, states that the plan does a good job of preserving a very capacious lawn of the subject lot, but does so at the expense of privacy to the neighbor. It is set ten feet into the side yard and they have immense windows and doors looking down into the private entertaining area of the neighbor's house. There is no objection to the additional height if they want to build on a steep area, but they have 70-80 feet of flat land that they can build on. The neighbor's concern is building into the setback and having the immense windows looking down into their entertainment area at the expense of their setback. Building a higher wall into or onto a slope is not the neighbor's issue. He goes on to say that the statutory notice that was given was deficient in that it did not deal with the side setback, nor the encroachment into the

setback of the pool equipment which does a good job of directing all the noise toward the neighbor's house. There is a 20 foot setback requirement and the applicant is trying to put it two feet from the property line. There is no necessity for any encroachment into the setback (building or equipment) since there is adequate flat space for all the structures to be built. The proposal requires that the neighbor give up a 20' strip of open space just so the applicant can keep their lawn.

Noting that there are no other speakers, Chair Davitt provides Roy Leisure with the opportunity to rebut the comments of the speaker. Mr. Leisure notes that the view angle is screened by a great deal of vegetation, and as to the elevation change, when sitting in the room, you look out at the view, not down into the neighbor's house. The pool equipment has been enclosed with masonry walls and has been built into the hillside mitigating the noise impacts.

Chair Davitt closes the public hearing. He notes that staff is recommending a continuance. Director Stanley adds that staff did not include a resolution for Commission action, and did recommend continuance for re-design. But for clarification, staff was able to make the Variance finding for height, but the issue is one of setback. Staff felt that the building could be scaled down and moved closer to the pool to conform to the setbacks thereby not impacting the neighbors.

Commissioner Cahill noted that he visited the site. From the applicant's point of view, it looks like a great design. However, he noted that asking for a special modification requires that there be a reason for it like a special hardship or a practical difficulty. This must be balanced against the neighbor's concerns. The project does have a tendency to peer down on the neighbor, and the deck has the same orientation. He states that a pool house could go there but the location of the pool house and the orientation of the decks affect the privacy of the neighbor. He notes that maybe the issues can be handled by orientation change, or landscaping, etc. There is raw land between the houses but he has a hard time making the findings and some kind of redesign would be a good idea.

Commissioner Curtis states that he agrees with Commissioner Cahill. He understands staff's position on the Variance and is okay with making those findings, but the Modification is the issue and the findings cannot be made. His concerns are about the lower patio orientation impacting the adjacent neighbors. If nothing else, the feeling of someone peering over and looking into the house. The pool house structure should eliminate some windows on the north side or add screening and move the building somewhat to the south. These things would go a long way to mitigate potential impacts. He stated that he would concur with other Commissioners and ask the applicant to continue to work with staff for redesign.

Commissioner Gelhaar states that he agrees with the others. He states that this is an awfully large structure even in this neighborhood and adding another structure gives problems with the basic hillside development findings. He states that he believes there are privacy issues as expressed by the speaker representing the neighbor. If pool equipment is in any setback, that is a problem. Looking at the hillside development findings, finding no. 2 addresses best use of space and preservation of open space: this finding cannot be made. He notes that the project is just adding more mass on the hillside that is easily seen from the street. He notes that Finding no. 7 states that there special conditions or unique characteristics of the subject property regarding the reduction of bulk that he can't make. Addressing Finding #10, which has sub-findings a, b, c, and d, he cannot support a or c due to the presentation of bulk. The privacy of other property will not be

unreasonably compromised: this finding cannot be supported by any. He states that he cannot support findings 1, 2, 3, or 5 of the setback Modification, or findings a, b, c or e of the Variance. He states that if the pool house is to be built on this lot it should be built on the existing pad outside of any setbacks.

Chair Davitt notes that he agrees with what the other Commissioners have said and states that he does not have a problem with the height. But where the challenge is, is the setback encroachment. He states that he might support an encroachment if it was less and it had less of an impact on the neighbor. He states that if the project can be made somewhat smaller, encroached less, and included appropriate screening, it would a lot closer than it is now. He said that he could make some findings in the future but he would have something moved. He asked for any other comments from the Commission.

Commissioner Curtis asks that if this will be coming back to the Commission, story poles would be greatly helpful. Also, if a deck is proposed that it would help to see some sort of depiction.

Chair Davitt agrees with comments for story poles and other depictions of the site. He states that the Commission is not ready to vote on this tonight, and that staff wants continue the matter to a date uncertain.

Chair Davitt moves and Commissioner Cahill seconds a motion to continue the matter to a date uncertain. The motion carries 4-0.

IX. OTHER BUSINESS

X. COMMENTS FROM THE COMMISSIONERS

Commissioner Cahill notes that he has general problems with the findings for Modifications. He reads the findings involved and notes that a Modification is a grant of special privilege. Staff also notes that we have had a problem with the language and that we should change the finding eliminating the Variance language. Staff notes that this will be the subject of a future Zone Change to the Zoning Ordinance. The Commissioners agree and urge staff to move forward on this.

XI. COMMENTS FROM THE DIRECTOR:

A. Report of Director's Approvals since the last meeting:

1. **Tree Removal 09-09; Choi; 4140 Dover Road** – denied removal of a 26” oak.
2. **Tree Removal 09-18; Brown; 4134 Hampstead Road** – allowed removal of a 17” oak.
3. **Tree Removal 09-28; Ghazarian & Baghramian; 4224 Beresford Way** – allowed removal of a 24” oak.
4. **Tree Removal 09-29; King; 4942 Hillard Avenue** – allowed removal of a 40” deodar cedar.

Commissioner Curtis has a question regarding the health of the trees that were permitted to be removed by the Director. The Director responds by saying that the trees were dead and therefore were permitted/encouraged to be removed. If any of the larger trees were viable, they would have come back to the Planning Commission.

B. Other comments

Director Stanley notes that at the next City Council meeting, the parking ordinance will be returning for Second Reading. The Council had delayed the readings because they had added in the valet parking changes. The Council also directed staff to bring the quickserve definition and standards back to the Parking Subcommittee and then to the Planning Commission and City Council. Also, in terms of applying these changes to the CPD zone, the City Council wanted the Planning Commission to also fully hear these changes.

Director Stanley noted two appeals to go to the City Council: Princess Anne and Rockridge Terrace. They are not scheduled yet.

Director Stanley asks if the Commission wants a November 24th PC meeting. There will be at least three commissioners available, so staff will not eliminate the meeting at this time.

Director Stanley also notes that at the last City Council meeting, the Winnaman issue was addressed by one of the neighbors under public comments. As a result, the City Council has asked staff to prepare a special report on it for their November 16th meeting.

Commissioner Curtis asks the status of the Merritt project. Director Stanley explains that the Public Works Department has provided the applicant with detailed specifications regarding the road. Their engineer is now designing the road and will present this design to the Public Works Department for review when finished. At this time there has been no contact from the applicant.

Commissioner Curtis asks if the road will be going to the Public Works Commission after it is submitted. Staff responds that it is likely to be sent to the Public Works Commission by the Director of Public Works. This means that the project will not be seen this year.

XII. ADJOURNMENT: 8:02 p.m.