

**MINUTES OF A MEETING OF THE PLANNING COMMISSION
OF THE CITY OF LA CAÑADA FLINTRIDGE
HELD OCTOBER 28, 2008**

I. CALL TO ORDER:

Chair Gelhaar called the meeting to order at 6:02 p.m.

II. ROLL CALL:

Present: Commissioners Hill, Curtis, Cahill, Davitt and Chair Gelhaar
Staff: Director Stanley, Assistant City Attorney Vargas, Senior Planner Buss,
Planner Clarke, Assistant Planners Lang and Parinas

III. PLEDGE OF ALLEGIANCE

Commissioner Davitt led the salute to the flag.

IV. COMMENTS FROM THE PUBLIC

Comments were not offered.

V. REORDERING OF THE AGENDA

The agenda was not reordered.

VI. CONSENT CALENDAR

None.

VII. CONTINUED PUBLIC HEARINGS:

A. Second-Floor Review 07-56, Setback Modification 07-54, Tree Removal 08-26; Kim; 5266 Alta Canyada Road: Request to construct a new 6,173 sq. ft. two-story residence on a 22,270 sq. ft. lot. A Setback Modification is also requested to allow the front of the residence to encroach 7'-6" into the required 50-foot front-yard setback. The applicant is also proposing to remove a 24" protected Deodar Cedar tree.

Assistant Planner Lang presented the staff report. She indicated the application was before the Commission one month prior at which the Commission indicated it could not support the front yard encroachment. She explained the changes to the application since it was last before the Commission. She presented the previous and revised site plans. She explained the new proposed setbacks and indicated the Deodar tree would be preserved and the front yard encroachment was compliant. She explained the proposed changes to the first floor. She stated shifting the house back would necessitate the removal of the 32-inch Redwood tree. She stated the arborist would review the driveway to ensure the Tree Protection Standards were met. She discussed reconfiguration of the east wing in order to increase the side yard setback. She

presented site photographs showing the new story poles. She provided photographs of the neighborhood depicting the other Tudor style homes in the area. She stated staff would recommend approval.

Commissioner Hill asked which setback modification was being requested. Assistant Planner Lang explained that the setback request and tree removal request had been eliminated.

Chair Gelhaar discussed the potential of elevating the house by moving it back. He stated it would be necessary to cut a pad due to the sloped property. Assistant Planner Lang stated the applicant had not indicated any retaining walls. She stated they were building the house at grade. Chair Gelhaar asked how the roofline would be affected by moving the house back seven feet. Assistant Planner Lang stated the house may be raised a couple feet. Chair Gelhaar discussed the front yard setback and asked the average setbacks of the street and neighbors. Assistant Planner Lang explained the process used to determine the setback. Chair Gelhaar asked the rear elevation on the house.

Elizabeth Green stated she lived in the house behind the proposed project. She expressed concern about the encroachment of the height since it was being moved back. She stated the tree removal would expose the house from her home. She stated she did not want her privacy encroached upon by the height of the house. She requested the project be moved back forward.

Carin Green stated they did not attend the previous meeting because there was a balance between the size of the house and her house. She stated moving the house back would encroach on her property. She stated the prior placement was acceptable. She stated the original house was 42 feet from street. She stated the new placement would affect the view of their house.

Bob Craven stated he attended the previous meeting about the property and had not had an issue with the house encroaching into the front yard. He stated he did not know what grading would occur and the house could be much higher than 31 feet. He expressed concern about the balcony off the rear of the house looking directly into the neighbors' property. He stated the Redwood tree would provide some screening. He suggested the architect provide the actual heights of the house.

Chair Gelhaar closed the public hearing.

Commissioner Davitt stated he revisited the property and read the report. He stated he wanted to look at the second floor review. He stated the architect had designed the project based on some of the concerns expressed at the previous Commission meeting. He stated the setback difference would not make that much of a difference. He

discussed the potential issue regarding grading. He stated the house was well designed and the lot and neighborhood could support the project. He stated, with additional information on the height of the house and removal of the balcony, he could support the project.

Commissioner Hill stated he lived outside the 500 foot radius and had no personal interest in the property. He expressed concern regarding the height of the house and balcony. He stated pushing the house back might have exacerbated the situation.

Commissioner Cahill asked if the story poles reflected the accurate height. Samuel Oh stated the story poles showed the accurate height.

In response to Chair Gelhaar, Mr. Oh stated the roof was elevated three feet by being moved back.

Director Stanley explained the means for determining height as measured from grade. He stated the pad height would be three feet higher. He explained the purpose of the ordinance.

Commissioner Hill asked if modifications to the floor plan could be made to reduce the depth. Mr. Oh stated the applicant preferred the current design. Commissioner Hill asked if the house could be designed slightly differently to be moved away from the neighbors. Mr. Oh stated he would have to discuss the matter with the property owner.

Chair Gelhaar asked if the pad could be lowered three feet to maintain the appearance from the street. Mr. Oh stated the retaining wall height would need to increase if the pad were lowered.

Commissioner Cahill asked which plan was preferred. Mr. Oh stated he would prefer to encroach into the front setback.

Commissioner Cahill stated the current design fit the second story review therefore he could support it. He stated he could also reconsider the first plan with the encroachment.

Commissioner Curtis indicated support for the side yard setbacks being increased. He indicated support for reconsidering the encroachment, with the balcony removed.

Chair Gelhaar stated he visited the Green's backyard and could see the impact. He indicated support for moving the house forward and approving the setback modifications. He requested adding a condition that the balcony be removed and landscaping planted along the north wall at the Director's approval to mitigate the view from the northern neighbor.

Commissioner Cahill stated it was necessary to approve removal of the eastern tree if the setback encroachment was approved.

Commissioner Davitt stated the house design remained the same, with front yard encroachment and tree removal. Mr. Oh indicated approval of the proposal.

Commissioner Hill indicated opposition.

MOTION Commissioner Cahill moved and Commissioner Davitt seconded a motion to approve the current plans with the house moved forward, balcony removed, and additional landscaping on the north side. The motion carried 4-1, Commissioner Hill dissenting.

VIII. PUBLIC HEARINGS:

A. Modification 08-13; Hershman/Lefevre; 5036 Princess Anne Road: Request to allow an existing 4'-2" high outward-facing retaining wall with a 6'-0" high wrought iron fence on top to remain 3'-4" behind and parallel to an existing 3'-10" high outward facing retaining wall located within the rear yard setback of the property. The wrought iron fence and the terracing retaining walls would have a collective height of 10 to 14 feet.

Assistant Planner Parinas presented the staff report. She explained the prior approval of the retaining wall. She displayed photographs depicting the proposed retaining wall and other existing unpermitted walls. She stated the height difference between the proposed wall and a compliant wall would be visibly negligible. She discussed the Zoning Code provisions regarding retaining walls. She showed photographs taken from the neighbors' property of the proposed wall. She explained the condition requiring the removal of non-native trees and planting of adequate screening. She stated the City's arborist assessed the condition of the protected trees and recommended installation of a new 36" tree due to the illegal construction of the walls harming the existing tree.

Commissioner Hill asked the distance from the bottom of the crib wall to the top of the wrought iron fence. Assistant Planner Parinas stated the tallest point would be 14 feet.

Commissioner Davitt stated, if approved, the Commission would be validating what was already built. He asked how it was verified that the walls were constructed in a manner that would meet Code. Assistant Planner Parinas explained that the Building Department would review the construction.

Commissioner Cahill asked why the non-native plants were being removed. Assistant Planner Parinas stated native plants would retain the look of the gully and be more compatible. Director Stanley explained that the non-native trees would damage the

existing trees. He discussed Condition 12 requiring the applicant obtain building permits for all unpermitted walls.

In response to Chair Gelhaar, Director Stanley explained that all unpermitted walls would require permits.

Chair Gelhaar discussed the crib walls being used as retaining walls. Director Stanley stated the County had issues with crib walls and therefore might not accept them. He stated it was unclear until Building Safety plan checked the walls.

Chair Gelhaar stated the Commission was being asked to approve a wall with no engineering drawings. He discussed the required finding regarding public safety. He asked why they were not required to obtain permits before coming to the Planning Commission. Director Stanley explained that staff did not know if the Planning Commission would approve the walls.

Chair Gelhaar discussed the existing trees that had been damaged during construction of the walls. Assistant Planner Parinas discussed the condition requiring monitoring of the health of the trees.

In response to Commissioner Cahill, Director Stanley explained that the Commission could require a 36" inch box tree to replace the damaged tree. He stated the other trees could be required to be replaced if they died in the future.

Commissioner Curtis stated he visited site. He discussed the procedures for building a wall and tree protection guidelines. He stated the procedures were not followed by the applicant.

Commissioner Hill asked if there was a time frame for monitoring the trees to ensure the survival of the trees. Director Stanley stated Assistant Planner Parinas would review the arborist report. He stated replacement could be required if the trees died.

Commissioner Curtis discussed the pending Code Enforcement case and asked if the City had incurred costs. Director Stanley stated the City had incurred costs for enforcement.

In response to Chair Gelhaar, Director Stanley stated the cost had not been passed on to the applicant.

Assistant Planner Parinas stated the arborist report had suggested the trees be monitored for five years.

Ola Faulkenh, 5044 Princess Anne, discussed the collapse of another retaining wall due to rain. He stated he requested Code Enforcement review the wall and expressed concern that the current wall might not be any better. He discussed the need for the wall to be permitted and built by an appropriate contractor. He stated the City should have the ability to get reimbursed for the Code Enforcement costs. He discussed the deep entry to the canyon.

Director Stanley clarified that staff had required the applicant to pay for the arborist. He stated that Code Enforcement fees were not recovered.

Brad Lefevre, Environmental Landscape, explained that they were building a pool on the property and then constructed the wall after it had failed. He stated the Cypress would screen the entire wall, grew quickly and would not impact the Oak trees.

Chair Gelhaar closed the public hearing at 7:11 p.m.

Commissioner Curtis explained that there were two code violations. He stated he had trouble making the required findings. He suggested requiring all City costs be paid, monitoring trees for five years, and including mitigation in the event of failure.

Commissioner Cahill stated the permit would address the safety issue. He suggested two 36 inch trees be replaced and the others monitored for five years. He agreed that Code Enforcement costs should be recouped by the City. He stated he could support the plants proposed by the applicant.

Commissioner Hill agreed with Commissioners Curtis and Cahill. He suggested Condition 16 be retained. He discussed his efforts to view the property. He stated he evaluated the application as if it had not yet been constructed. He stated the requested wall was only slightly higher than a compliant wall. He indicated he could support the application with an additional condition of five year monitoring of trees with replacement of any tree during that period.

Commissioner Davitt concurred and indicated he could approve the application with the added conditions.

Chair Gelhaar agreed with the other comments. He discussed the stopwork order and violations. He stated it was necessary to ensure that the walls were properly constructed and safe. He stated he could approve the wall subject to obtaining permits. He discussed the value of the trees and suggested the possibility of a \$6,000 deposit into a fund to be used to replace damaged trees.

Commissioner Davitt discussed the proposal of depositing \$6000.

MOTION

Commissioner Davitt moved and Commissioner Curtis seconded a motion to approve Setback Modification 08-13, adding the following conditions: 1) that a City hired arborist monitor the existing trees at the owner's expense and that if any of the four remaining Oak trees have to be removed during the five years, they be replaced with 36 inch box trees; 2) all costs incurred by the City for Code Enforcement be paid by the applicant; 3) building permits be obtained; and 4) Condition 16 be removed with an arborist determining appropriate screening with Director's approval. The motion carried unanimously.

B. Second Floor Review 07-19, Hillside Development Permit 06-26, Variance 07-12 and Modification 07-57; Naccarati; 4344 Purtell Drive: Request to allow construction of a new 1,769 sq. ft. house (including a 430 sq. ft. garage) and 1,050 sq. ft. of cellar areas on a 6,300 sq. ft. hillside parcel. A Modification is required for retaining walls in the front and side setback and a Variance is required for tandem parking. A Hillside Development Permit is required as the property is a hillside parcel and a Second Floor Review is required as the proposed house has two stories.

Planner Clarke explained the four applications and necessity for four entitlements. He discussed the Planning Commission's prior concerns regarding the overall size of the house and height; tandem parking; slope factor guidelines; stairway on the west side of the house; use of the basement; width of street and parking on the street; balconies on the front of house; Mediterranean architectural style; and accessing the property to the east due to the easement. He explained the reduction in square footage of the revised house. He discussed the major change of pushing the house back from the street. He stated the height remained the same. He displayed a diagram showing the setbacks and photographs of the story poles. He showed photographs of surrounding homes. He showed the changes to front elevation, including elimination of the balcony on the front of the house. He stated the house was still Mediterranean in style. He reviewed the proposed landscaping and floor plans. He stated staff recommended approval of the project subject to the resolution and conditions of approval.

Director Stanley discussed the driveway and ingress/egress easement for a roadway. He explained that there was a settlement agreement listing stipulations that had expired. He stated it was a civil matter but he was concerned that the easement might still remain. He explained that easement areas had to be excluded when reviewing projects. He stated the easement took up about half the lot which would reduce the lot size to about 3,700 square feet. He disclosed the information for the Commission's consideration. He stated Mr. Torres and Ms. Brenner were alleging they had not received notice of the hearing but staff had confirmed that proper notice was provided. He stated the Commission could act on the matter, continue it until the civil matter was solved, or condition the project to take in to account the easement issue.

Commissioner Davitt stated the easement was a civil issue and he was not interested in hearing about it.

Commissioners Cahill, Hill and Curtis indicated they would like to hear about the easement.

Commissioner Curtis asked where the right of way was located in relation to the sandbags. Planner Clarke displayed the site plan and explained the easement and property access. He stated he could not determine the location of the sandbags without a survey. Director Stanley stated the sandbags might start at the driveway and continue back on to the applicant's property.

In response to Chair Gelhaar, Director Stanley indicated that staff knew about the easements from the onset but had been provided documents indicating a settlement had been reached regarding the easements and later informed that the agreement had expired. Chair Gelhaar questioned whether the easement would affect the Commission's evaluation. Director Stanley stated the Commission could place a condition requiring the easement be cleared prior to any construction.

Paul Naccarati, applicant, discussed the settlement agreement regarding the easement and status in the Court of Appeals. He requested approval with a condition to resolve the easement issue.

Craig Stoddard, architect, provided a revised rendering of the proposed project. He mentioned that the 30 foot setback would allow two cars to park in the front.

Don Johnson, 2000 Olive Drive, expressed concern regarding the proposed three story structure which did not conform to the existing neighborhood. He stated the size of the existing homes ranged from 750 square feet to 1100 square feet and they were woodsy and rustic in nature. He suggested residential design standards be enforced. He stated the drainage swale had not been maintained resulting in erosion on the lot below. He discussed the use of sandbags. He questioned where the contractor would park and where equipment would be stored. He stated something could be built but it would have to be of smaller nature and conform to the existing homes.

Mark Romano, 4340 Purtell, expressed concern regarding his driveway being blocked and wanted assurance that it was demarcated. He discussed his patio and fence that went onto the subject lot. He stated the new design would allow the patio area to remain. Chair Gelhaar asked for his recommendation for protecting the driveway. Mr. Romano discussed parking constraints and blocking of his driveway.

Mr. Stoddard suggested striping to prevent parking on the driveway. He stated a portion of the patio would have to be reworked.

Commissioner Cahill asked what could be used to ensure the neighbor's driveway was not blocked. Mr. Stoddard stated the proposed driveway would provide adequate onsite parking.

Mr. Naccarati stated the balconies had been removed. He discussed efforts to work with the neighbors.

Leonard Torres, 1944 Foothill Boulevard, addressed the Commission regarding the road and ingress/egress easement which had been used for brush clearance. He discussed the recorded survey showing the easement.

Anita Brenner, 1944 Foothill Boulevard, stated they had not received mailed notice of the hearing. She discussed the recorded easement and judgment. She discussed use of the easement for brush clearance. She requested the hearing be continued. She provided an overview of the litigation related to the easement. She expressed concern regarding the geology and stability. She requested the Commission either deny the project or continue the hearing.

Chair Gelhaar closed the public hearing at 8:20 p.m.

Deputy City Attorney Vargas suggested the hearing be continued to a date uncertain.

Commissioners Cahill indicated support for continuing the hearing.

Commissioner Hill stated the neighbors were not prepared to go forward and should be allowed the opportunity to prepare. He stated he was also not prepared due to the question of the easement and determination regarding the size of the lot.

Commissioner Davitt stated everyone had been legally noticed, the project had been before the Commission twice before and he was prepared to rule on its merits. He stated he was not sure it was appropriate to approve the project subject to resolution of the easement issue.

Commissioner Curtis stated he would support continuing the hearing to determine lot size and whether there was a potential new easement.

Chair Gelhaar stated he was prepared to vote but would prefer legal counsel provide guidance on how to handle the easement issue.

Senior Planner Buss explained that the Commission had the authority to determine the appropriate size house for the lot.

Deputy City Attorney Vargas suggested the hearing be continued to a date certain, perhaps the next meeting.

Commission Hill indicated support for continuing the hearing to allow the neighbors to prepare.

MOTION

Commissioner Cahill moved and Commissioner Davitt seconded a motion to continue the hearing to November 10, 2008. The motion carried unanimously.

C. Conditional Use Permit 424 and Modification 07-53; Agakanian; 700 Forest Green Drive: Request to allow a Conditional Use Permit for lighting of a sports court and a Modification for over-height fences for a sports court located in the side and rear setbacks.

Planner Clarke presented the staff report. He explained that the light on the sports court had initiated a code enforcement case. He explained that the house was approved 10 years ago, with the pool permitted in 2005. He discussed the need for a conditional use permit for a sports court. He presented photographs of the house, site and retaining walls. He explained that some fencing and grading occurred off the property on City of Pasadena property. He showed pictures of the house from Starlight Crest Drive during the day and at night. He recommended setback modifications be approved for height of fence and sports court but the conditional use permit for lighting denied. He stated the City of Pasadena was requiring the improvements on its land be removed and returned to its natural state.

Chair Gelhaar requested the elevation be displayed. He questioned whether landscaping had been required. Director Stanley stated the Commission had not approved the structure itself rather the height of the structure. He stated approval had not been obtained for enclosing the deck. He explained the prior approvals and what was actually built.

Chair Gelhaar asked if the Commission could require the deck be returned to its original approved condition. Director Stanley indicated the Commission could take that action.

Director Stanley stated the deck height was approved at a maximum of five feet in height. He explained the existing deck and new patio structure. He stated the approved plan did not resemble what was built.

Nick Agakanian, property owner, discussed the modifications required during County plan check approval, which were approved by City Building and Safety. He discussed the issues with the City of Pasadena and indicated they would remedy the problems.

He discussed surveys done on the property and confusion about the property line. He requested lights be allowed.

Varn de Georgian explained the deck levels due to County requirements. He discussed wall heights and the opportunity for landscaping.

Farid Niknam, City of Pasadena Water and Power, discussed encroachment into City of Pasadena property. He stated they wanted all unauthorized grading, construction and any and all structures to be restored to the original conditions. He requested the Conditional Use Permit be denied. He stated they felt the CEQA review was not adequate due to cross jurisdictional issues. He stated the property would affect City of Pasadena water quality and supply. He stated the entire project should be reviewed as a whole.

In response to Commissioner Cahill, Mr. Niknam stated there was no possibility that the modifications would be allowed.

Director Stanley stated there was a valid point regarding CEQA. He stated further CEQA evaluation should be done allowing the City of Pasadena to respond and review additional grading.

In response to Chair Gelhaar, Director Stanley explained that, if the Commission denied the project, it would be required to be put back in to its original state.

In response to Commissioner Curtis, Director Stanley stated the City of Pasadena's property should be considered in the CEQA review. Commissioner Curtis discussed the need to relocate the stairs.

In response to Chair Gelhaar, Assistant City Attorney Vargas stated he could not determine what would happen to the environmental analysis.

MOTION Commissioner Davitt moved and Commissioner Curtis seconded a motion to continue the hearing to a date uncertain. The motion carried unanimously.

IX. OTHER BUSINESS

A. Results and review of October 20, 2008 City Council meeting.

Director Stanley discussed the recent items before the City Council on October 20, 2008. He stated the City Council upheld the Planning Commission's denial of the fence and wall at 5021 Castle Road. He stated the Comprehensive Parking Strategy was presented to the City Council and the Council directed staff to return at a study session on

November 17, 2008. He discussed the Council's review of the Town Center related to Chipotle and landscaping. He stated the Council set up a subcommittee on the Design Commission to work with the developer to improve the landscaping.

Chair Gelhaar stated the Planning Department should not recommend that the City Council overrule the Planning Commission's decision. Director Stanley explained the appeal process. Chair Gelhaar stated other cities took neutral positions on appeals. He asked who decided the staff recommendation on appeals. Director Stanley stated he left it up to the case planner to make their recommendation. Chair Gelhaar expressed concern regarding staff overruling Planning Commission determinations.

Commissioner Cahill disagreed with Chair Gelhaar. He discussed Commission decisions and Council actions. He stated staff should be allowed to provide its opinion to the City Council. He stated the Planning Commission should not advocate positions before the Council.

Commissioner Curtis suggested staff's original recommendation and the Planning Commission's determination be presented to the Council. Director Stanley explained that an overview was provided to the Council.

Chair Gelhaar expressed concern that staff's opposing recommendations made the Commission look bad.

B. Discussion of dates for second Planning Commission meeting in November.

The Commission determined to meet on November 10 and December 9, 2008 and cancel the November 25 and December 23 meetings.

IX. COMMENTS FROM COMMISSIONERS

Commissioner Curtis requested illuminated lights at 700 Forrest Green be available for Commission review.

Commissioner Hill asked if the City took action on contractors working without permits. Commissioner Curtis suggested local codes outline ramifications for working without permits. The Commission would still like to address this issue in the "boiler plate" conditions of approval.

Commissioner Curtis asked about impacts to traffic on Foothill Boulevard created by the additional tenants at Town Center. Director Stanley indicated the traffic was continually monitored by the Public Works Department.

Commissioner Hill asked if additional tenants had moved in to the Town Center. Director Stanley stated Sakora Japanese Restaurant had recently moved in.

X. COMMENTS FROM THE DIRECTOR

There were no comments from the Director.

XI. ADJOURNMENT

The Commission adjourned at 9:34 p.m.

Secretary to the Planning Commission