

# CITY OF LA CAÑADA FLINTRIDGE

## MINUTES OF A MEETING OF THE PLANNING COMMISSION OF THE CITY OF LA CANADA FLINTRIDGE HELD ON OCTOBER 28, 2014

- I. **CALL TO ORDER:** 6:05 pm
- II. **ROLL:** Chairman Walker; Commissioners Gunter, McConnell and Smith  
Vice Chairman Jain was absent.
- III. **PLEDGE OF ALLEGIANCE**
- IV. **COMMENTS FROM THE PUBLIC:**

Michele Brown, 3757 Normandy Drive, thanked the Commission and staff for continual help. She offered an update of her dispute with Jane Lee, 3745 Normandy Drive. She reported that the day after the Planning Commission hearing, driveway construction began. She also reported that, although the applicant had indicated she would leave on October 25, she was still there. She stated that since the first story addition was approved last Friday by Building & Safety, the construction fence should be down. She reported that on July 31, 2014, Ms. Lee applied for a Building & Safety permit for a 15-foot wall so she could keep the fence up. She complained that she was advised to deliver her PowerPoint presentation before 4pm, but Ms. Lee was allowed to bring hers to the meeting. She concluded that the City should start believing in neighbors and not in an applicant who submitted false information. She stated that it was time for the City's typos, incorrect notices, and Brown Act violations to end, and it was time to remove Ms. Lee's construction fence, and that if Ms. Lee needs a fence it should be per City standards.

- V. **REORDERING OF THE AGENDA:** none
- VI. **CONSENT CALENDAR**

- A. **Minutes:** August 5, 2014

Tabled due to lack of attendees quorum

- VII. **CONTINUED PUBLIC HEARINGS**

- A. **1004 Foothill Boulevard:**  
Conditional Use Permit 494  
Um/Lim / Hill Street Cafe

[Continued from September 9, 2014] Request to allow continued alcohol sales in conjunction with restaurant remodel and expansion. A new bar area and covered patio comprising approximately 1,600 sq. ft. would be added to the restaurant.

The restaurant does not have a current CUP for the sale of alcohol as required in the Mixed-Use 2 zone of the Downtown Village Specific Plan (DVSP). Thus, expansion as proposed necessitates CUP review and approval. Existing onsite parking would be reduced from 57 spaces to 52 spaces in order to accommodate the expansion and parking lot stall and landscape improvements. Staff is recommending approval of a Categorical Exemption for this project. (Planner Gjolme)

Planner Gjolme recalled that the project was last reviewed on September 9. It includes a new dining area and bar. Among the issues leading to continuance were site plan inaccuracies and concerns over the parking reduction proposed. There is now a survey and a revised plan. Along the south border the 5-foot strip of existing landscaping is now identified, and it will be largely retained. Construction of five new landscape planters at the ends of the south parking lot aisles is proposed, as encouraged by the Downtown Village Specific Plan. Those cause a loss of parking, but the restriping and landscaping are a benefit.

He discussed the building program, which previously had the new patio south of the new bar. Concern about patio noise affecting the neighbor to the south had been raised, so the Commission had recommended reversing those two new areas. Another suggestion explored and dismissed by the applicants was expanding the project toward Foothill Boulevard. The current proposal features a reconfigured and flipped bar and patio. This would create a new outdoor dining synergy at the front, somewhat adjacent to the bookstore patio. Through the survey and site plan, two spaces were added, bringing the count to 54, which represents a 6 space deficit.

Planner Gjolme noted the parking lot lighting consisting of vacated Edison lights along the south property line. A service order had been made for baffles to prevent the view of glare from the neighbor to the south. That had been a City requirement years ago, and the order was filled by Edison but an error was made in its execution. Recently the owner learned that the City's Public Works Department, not the owner, has to contact Edison, so the resolution was closer.

He stated that, in the resolution, Condition 19 was added to require potential reevaluation of the CUP after 6 months – to potentially revisit noise, circulation, lighting, or parking issues. With regard to the concerns about parking, he announced the presence of the City Traffic Engineer.

Planner Gjolme showed slides of possible shared parking areas: the office building north of the Community Center, and the Totta building, noting the opportunity to explore should the need arise.

He concluded by noting the overall benefit from the project: the parking lot enhancements, outdoor dining, and restaurant upgrades, and recommending approval.

Chair Walker opened the discussion to questions from Commissioners.

Commissioner Smith asked if the table on page 2 had corrected areas; Planner Gjolme responded that the table was correct and the plans wrong. Mr. Smith then asked if the use of floor area for each portion of a restaurant to determine parking count was standard practice. Mr. Gjolme answered that it was not standard, but parking review for Conditional Use Permits is

flexible. He noted that it is appropriate in light of anomalies such as a 400-square-foot entry area requiring 4 spaces.

Director Stanley reminded the Commission that as part of their analysis, they can go farther than just standard requirements to allow less parking than the standards.

Commissioner Smith asked about the parking count if all spaces were brought to code compliance – would it be back to 52? Planner Gjolme stated that more spaces would be lost, including an entire eight-space aisle that is out of conformance, along with 5 other spaces.

Commissioner Gunter endorsed the discussion of enhancing the front landscaping, but hadn't seen plans or conditions. Mr. Gjolme stated that they had not yet been developed but the owner has assured the intention. Mr. Gunter noted that the requirement should run with the land, so that a subsequent owner would also receive the condition. Mr. Gjolme noted that design review would include front yard landscaping.

Commissioner Gunter asked about vents required to meet SCQAMD requirements – whether the requirement is to current standards or when the equipment was installed. Mr. Gjolme stated that it was a carryover condition from the last approval and possibly not satisfied. Director Stanley stated that the City can obtain Health Department enforcement if the restaurant is not meeting current standards, as has been done on other complaints, with the resulting order to upgrade or clean. Mr. Gunter asked what the condition requires. Mr. Stanley replied that it can require retrofit on existing vents.

Commissioner Gunter could not recall parsing out parking requirements in the past, asking if the City went away from measuring individual areas, why do it now? Planner Gjolme stated the the applicant had given the area breakdown showing a lot of non-dining square footage, and that code was onerous in this case.

Commissioner Gunter inquired about specific components of a parking breakdown – how many seats, patrons, and restaurant staff – in order to figure out what the Commission is doing. Director Stanley responded that the City has had this approach before, as allowed by the Downtown Village Specific Plan, and that the Director can make parking determinations at the CUP level.

Commissioner McConnell inquired about the components of the previous parking regulation. Planner Gjolme responded that it was complicated, including separate numbers for waiting areas, fixed seats, movable seats, and so forth.

City Traffic Engineer Erik Zandvliet solicited questions from the Commission.

Commissioner McConnell noted that the traffic study cited 19 additional peak hour trips resulting from the project. Mr. Zandvliet stated that it was not a significant number, and that no mitigation would be required. Typically that threshold would be 50 in peak hour. He also noted that parking is not related to trips.

Commissioner McConnell addressed the east side of the building, where he questioned the walls and bollards as possibly wasting access space. Mr. Zandvliet responded that the east aisle is

inbound only, with minimum dimensions for 30-degree parking, and that wider would be better. Mr. McConnell asked if the parking is sufficient, and Mr. Zandvliet answered no.

Chair Walker noted that Mr. Gjolme had indicated that removing planters would add parking, but that to her they looked like awkward spots. Mr. Zandvliet said that two could be picked up at the end of the middle aisle, but that the others aren't large enough. Ms. Walker asked about reconfiguring the whole lot for more parking, and Mr. Zandvliet stated that it's at about the maximum. Ms. Walker asked about the quality of the access, and Mr. Zandvliet stated that the circulation is adequate, with Chevy Chase a good access street due to lower volume, and the inbound Foothill driveway is helpful. He noted that the four spots on the east side, only accessible from Foothill are awkward. Ms. Walker asked if it counts as a trip if she can't find a space and then have to circle and reenter on Foothill; Mr. Zandvliet answered no. Commissioner Smith confirmed that Mr. Zandvliet had indicated that the parking is inadequate. Mr. Zandvliet said that before the project, the property is in the Institute of Traffic Engineers (ITE) range for restaurants without bars, and that the industry doesn't break it up by internal spaces, which every restaurant has. Commissioner Smith asked if the concerns were more than deficient parking. Mr. Zandvliet said that he was worried about spillover parking, and that without the bar it is still sufficient, with the 6-space deficit not a huge amount. Mr. Smith asked if substandard stall size was a concern; Mr. Zandvliet answered no. Mr. Smith asked if the code allows for compact stalls; Mr. Zandvliet answered no.

Chair Walker asked Planner Gjolme about Condition 19, which would require reevaluation of the CUP after 6 months. She wondered "if we come back and it's not working – what then?" Mr. Gjolme replied that the City could mandate shared parking and/or reduce hours of operation. Responding to Chair Walker's question of a scenario with no shared parking available, Director Stanley offered the example of Los Gringos Locos in their previous location, where the City prohibited use of a portion of the restaurant during certain hours, and stated that the City has had 6-month reviews in many places.

Commissioner McConnell asked if the applicant had considered the valet parking that he had suggested at the previous meeting. Planner Gjolme indicated that to his knowledge they had not.

Chair Walker opened the public hearing.

Binny Um, Applicant, stated that after the revision the area is 5,956 square feet, with a parking requirement of 59.5, an increase of two provided spaces compared to last time, for a 5 or 6 space deficit. He identified Saturday and Sunday night as peak times. He stated that he can provide 2 more spaces, and that the other issues have been dealt with. He voiced concern about safety issues on Foothill.

Commissioner McConnell asked about the covering over the patio: whether it would be a roof similar to that of the building, or a canopy. Mr. Um responded that it would be a roof, with open sides. Commissioner Gunter asked about seating count, but that information was not at hand. Mr. Um stated that the flipped plan would reduce noise to the south. Commissioner Smith asked if the grease trap would be pumped from the north, which Mr. Um affirmed. Chair Walker asked if the pumping truck would need to be parked on Foothill, which Mr. Um also affirmed.

Commissioner Smith recalled that at the last hearing Mr. Um said he would look at an east side location. Chair Walker confirmed from Mr. Um that valet parking is not being considered.

Chair Walker closed the public hearing.

Commissioner Gunter voiced concern about expanding a use which is already tight on parking. He also expressed concern about the aesthetics along with belief that the design review process can handle it. He was concerned about adding on, with the restaurant being full on weekends, and with peak hours corresponding to those at the Community Center. He noted that a Minor CUP had just been approved at 964 Foothill with conditions concerning peak hour use (realty staff meetings). He stated that the situation isn't worked out, and that relying on a 6-month review doesn't make sense when you start out with uncertainty. He lauded the flipped design, and the other measures. He cautioned that not every building can be expanded. Although the Commission supports business, there was no evidence that it would work. Relying on a breakdown of floor areas to calculate parking demand is inconsistent with industry practice. As it stood, a proposed CUP with substandard parking numbers, stalls, and aisles, and a suggestion of shared parking where it won't work, was something for which he could not make the required findings.

Commissioner McConnell expressed disappointment with the project, given unfulfilled previous strong direction from the Commission to move the addition forward to Foothill. He stated that it would have been beneficial to parking as well as to the street. He recalled suggesting valet parking, using tandem spaces and the like, with entry on the east side, as a good way to maximize parking. He stated that the project's problems are not yet resolved. He stated that he could consider two more spaces created in the middle aisle, along with reduction of bar seats, but that he was not prepared to make positive findings.

Commissioner Smith stated that the project is a difficult one, and that the applicant did not go far enough with the Commission's prior suggestions such as shared and valet parking. He voiced belief that there is a solution to make the project work, and willingness to take another look.

Chair Walker concurred with the other Commissioners' views, citing also the parking issue and support of the flipped plan. She stated that perhaps a compromise involving a smaller addition with more parking would prove to be supportable. She stated belief that there is a solution, but that they are not there yet.

Ms. Walker asked if the applicant would be amenable to a continuance to a date certain. Director Stanley stated that the soonest available meeting would be December 9. The applicant agreed to that date.

M/S/C Gunter/Smith to continue the project to December 9. Approved 4-0

Director Stanley cautioned the audience that the announcement of the date certain constituted the only notice that would be made of the continued hearing date.

## **VIII. PUBLIC HEARINGS**

- A. **965 Foothill Boulevard:**  
Minor Conditional Use Permit 505  
La Canada Retail LLC

Request to allow a new real estate office use within an existing tenant space. The project is located in the Mixed Use 1 zone of the Downtown Village Specific Plan (DVSP). Staff is recommending approval of a Categorical Exemption for this project. (Consultant Planner Cantrell)

Chair Walker stated that the applicant had withdrawn the project, and that it therefore would not be heard. She inquired as to whether anyone present wished to speak on the item. Nobody responded.

- B. **1919 Verdugo Boulevard:**  
Conditional Use Permit 500  
Regal Cinemas, Inc./Zentmyer Properties

Request to allow the addition of on-sale of beer and wine in conjunction with a bona fide eating place within an existing movie theater. The project is located in the Mixed Use zone. (Assistant Planner Harris)

Assistant Planner Harris identified the beer and wine application as a Type 41 alcohol license as categorized and issued by the California Alcoholic Beverages Commission (ABC). That type of license is restricted to "bona fide eating places" as defined by ABC. It would allow beer and wine within the theater in conjunction with the service of meals as approved by ABC. She stated that there is no set menu yet, but it would be similar to other locations -- less like snacks and more like meals. She noted that the theater had recently been renovated with a reduction in seating, associated with reduced parking demand. She stated that the alcohol service would be a completely accessory use not expected to add trips. Planner Harris displayed the theater plan and described the proposed identification system involving the use of wristbands with staff trained and monitoring service. She corrected a statement in the staff report that had falsely indicated that the application also involved tastings, noting that the resolution is correct. She concluded by recommending positive findings and project approval.

Commissioner McConnell stated that he had been having trouble understanding where beverages would be served and who would be serving them. Assistant Planner Harris deferred that question to the applicant, noting that ABC requires a bona fide eating place. Commissioner McConnell asked if that requires a seating area; Ms. Harris replied that it would not necessarily be required.

Commissioner Smith confirmed with Ms. Harris that there are no parking issues.

Commissioner Gunter had no questions.

Chair Walker asked how the wristbands work. Assistant Planner Harris responded that there is no limit, but that the markings indicate the number of drinks purchased.

Chair Walker opened the public hearing.

Bruce Evans, representative of applicant Regal Group, stated that under the original Conditional Use Permit, 708 spaces were provided for the entire center, of which 612 were dedicated for the theater. In the 2012 theater remodel, 2/3 of the seats were removed, so that ample parking is available. The proposal is a new concept to La Canada Flintridge, but not very much changed from other operations by Regal, which is the largest family movie theater chain.

Mr. Evans stated that Regal keeps beer and wine incidental and controlled. Under the ABC template, there are distinct cups for the alcoholic beverages, which he displayed. He noted that everyone gets carded, and stated that Regal has introduced similar services in five states. He said in practice that customers have no more than two drinks per movie, since, unlike a sporting event, they do not want to get up during a movie to get more. He noted the state requirement of bona fide meals, and noted the importance of the entire concept to allow the theater to survive in the era of Netflix.

He continued to note that some food preparation on site is required as a bona fide eating place, and Health Department requirements will to some extent determine where to put the kitchen. It would not just be appetizers, and would at least be burgers, pizza, sandwiches, and the like. He did not yet know what type of ovens would be used.

Mr. Evans made the point that luxury seating lends itself to monitoring per ABC, and that less than 10% of customers order alcohol, so Regal can't let those customers upset the other 90%.

Commissioner Smith asked if waiters would be within the theater screening room. Mr. Evans replied that ABC does not allow hawkers, but does allow waiters, but that Regal has no plans for that.

Commissioner Gunter had no questions.

Commissioner McConnell asked about hours. Mr. Evans replied that the application requests alcoholic beverage service until 11:30pm. While some movies play past that time, Regal does not serve past midnight. Mr. McConnell asked about the early hours. Mr. Evans responded that beer and wine would be available during the early business hours, but that there is not much demand during matinees.

Chair Walker expressed concern that having the alcohol and food would drive ticket price up, noting that the theater is one of the few places for teens to gather. Mr. Evans replied that ticket prices are determined at their central office in Tennessee, but that sale of beer and wine has no impact on that. Ms. Walker asked about the prices at the Newport Beach theater. Mr. Evans did not have that information, but stated that it is a luxurious theater so that the prices would be high for that reason.

Mr. Walker confirmed with Mr. Evans that if a person buys a drink for herself and another person, each person with a drink will get a wristband mark. She also confirmed that there is a two drink limit, to which Mr. Evans added that Regal has that policy but hasn't had to enforce it because nobody orders more than that. Responding to Ms. Walker's final question, Mr. Evans stated that the independent mystery shop program (internal monitoring by Regal) typically occurs at least once a month.

Pat Anderson, representing the La Canada Flintridge Chamber of Commerce, referred to an article in the business section of the Sunday Los Angeles Times describing the new trend of beer and wine service in movie theaters. She noted that the trend was a way of offsetting declining attendance, and that the Chamber saw it as an opportunity for new life, and thus was asking the Commission to support the proposal.

Chair Walker closed the public hearing.

Commissioner McConnell stated that he generally has no problem with alcohol in theaters, although it raises concerns near small children. He was concerned about teenagers going there and the ensuing interaction, and with people driving with their kids after alcoholic beverage consumption. He suggested review again after a year, and complemented the theater remodel.

Commissioner Smith expressed appreciation for Ms. Anderson's testimony, although cautioning that alcohol is not a panacea. He stated that he was impressed with Regal's program and presentation, and that he could make the required findings.

Commissioner Gunter identified himself as a theatergoer every weekend, and praised Regal as very thoughtful in their program. He stated that beer and wine were not uncommon at a ballgame, but that theater is different because people don't want to leave their seats. He noted that it was good to keep people in town for their movies, and expressed confidence in the operation and with the ABC requirements. He stated that he could make the findings.

Chair Walker stated that she also could make the findings, noting that Regal has gone above and beyond ABC safeguards. She polled the Commission as to whether to include a condition to revisit the CUP per Commissioner McConnell's suggestion.

Commissioner Gunter asked if it should go back to the Commission or to staff for confirmation. Commissioner McConnell stated that it would be another chance for additional conditions. Commissioner Smith asked if the operator loses the ABC license, would they also lose the CUP, and Deputy City Attorney Guerra responded in the affirmative.

Mr. Evans noted that a condition to revisit should be timed from the ABC license issuance rather than from the CUP approval because it takes several months to obtain the ABC license.

M/S/C Gunter / McConnell to approve the CUP with an added condition for staff to report to the Commission on the operation one year after the ABC license issuance. Approved 4-0

Deputy City Attorney Guerra announced that a 15-day appeal period applies.

C. **635 Foothill Boulevard:**  
Conditional Use Permit 501  
Gelson's Market

Request to allow the addition of on-sale of beer and wine in conjunction with a bona fide eating place within an existing grocery store. The CUP request also includes the

addition of instructional tastings within the existing grocery store. The project is located in the Mixed Use 1 zone. (Assistant Planner Harris)

Assistant Planner Harris identified the beer and wine application as a Type 41 alcohol license as categorized and issued by the California Alcoholic Beverages Commission (ABC). That type of license is restricted to "bona fide eating places" as defined by ABC. It would allow beer and wine within the existing grocery store in an expanded menu deli area. She stated that the application also includes a Type 86 instructional tasting license for special events in the liquor aisle, similar to an approval the City and ABC issued for Remedy Liquor.

She noted that there are other on-sale uses in the shopping center.

Ms. Harris noted that the liquor aisle is on the far left side of the store, and the service areas are in front. Barriers would be used per ABC requirements, which also specify that there be no open container in the store. Other ABC requirements would apply to the outside dining area in front of store, comprising 715 square feet, and to the inside area, comprising 315 square feet. She noted that the applicant desires the Type 86 (tasting) license immediately, and the Type 41 license at a later time. Ms. Harris recommended positive findings and project approval.

Commissioner McConnell asked if there would be any barrier along the outside eating area. Assistant Planner Harris responded that there is not any currently, and that the applicant can answer as to future plans, including whether it would be required by ABC.

Commissioner Smith stated that, unlike the theater where alcohol is ancillary, Gelson's is becoming almost a restaurant. Ms. Harris replied that the alcoholic beverage service would retain a small footprint, with grocery remaining the primary use, but that it is the same type of ABC license.

Chair Walker asked if one would buy within the store wine or beer for consumption. Ms. Harris responded that an employee would sell it to you outside.

Chair Walker opened the public hearing.

Margaret Taylor, representing Gelson's, noted that a Type 86 ABC license is unique, allowing suppliers to introduce products to the public to test their market without huge expenditures. She stated that it would be limited to customers age 21 and older, in a controlled area, with limited portions, and where alcohol is already sold. She stated that it is not a wine-tasting event, since no more than one supplier would be featured per day.

With regard to the Type 41 restaurant use, Ms. Taylor stated that interior and exterior barriers are required by ABC, with service by staff.

Ms. Taylor then noted that Condition 5b needed to be modified, since no pulling of building permits would be involved in a Type 86 license.

Commissioner Smith asked if cordoning off an area is required for Type 86, and whether it would be only inside the store. Ms. Taylor responded affirmatively to both inquiries.

Commissioner Smith asked if corkage is allowed in Type 41. Ms. Taylor replied that it does exist with older licenses, but that ABC is not encouraging it now.

Commissioner McConnell asked if there is or will be a security guard? Ms. Taylor responded that there is not one now. Mr. McConnell asked about business hours for the Type 41 operation. MS. Taylor responded that they are 7am to 10pm for market, and the same hours would be requested for the Type 41 service.

Chair Walker noted that the sample menu refers to daily hours from noon to 8pm, different from those of the store. Ms. Taylor replied that the request is for entitlements potentially running longer than the existing practice. Ms. Walker asked if the waiter would be outside as well as inside. Ms. Taylor responded affirmatively, but also noted that ABC requires monitoring with beer and wine service, so that staff would be required to either be outside or if inside have a clear view of the outside and no distractions such as a cashier would have.

Commissioner McConnell asked why the approval wasn't sought when Gelson's started. Ms. Taylor replied that the Type 86 license is relatively new, while the Type 41 took time for markets to commit to a new program.

Assistant Planner Harris noted that Condition 5 states the duration of the CUP approval, and that if Gelson's intends to delay the Type 41 license, the City should be careful about allowing an appropriate time period for expiration, whether it be 12 or 24 months or another period.

Pat Anderson, representing the La Canada Flintridge Chamber of Commerce, stated that Gelson's has been extremely generous in the community, and that the City couldn't ask for a better business in La Canada Flintridge. She voiced support for the plans before the Commission, and cited hope for an increase in retail sales to benefit the local economy.

Chair Walker closed the public hearing.

Commissioner McConnell asked if the blocking off of the areas was allowable per egress code requirements and Fire Department regulations. Director Stanley stated that handicapped and emergency access need to be retained. Mr. McConnell recalled that there was a parking deficit in the original approval for property, and inquired as to whether more trips would be created. Ms. Harris responded that the City Traffic Engineer had indicated that there would not be. Mr. McConnell asked if additional restaurants or bars were planned for the shopping center, to which Ms. Harris responded that there were not as far as the City's information indicated.

Commissioner McConnell announced that he could make the findings for the Type 86 request but not for the Type 41.

Commissioner Smith confirmed with Director Stanley that the area in front would have to remain open to passersby. Mr. Smith stated that the project was a good addition to an existing use already featuring an exceptional deli. He stated that pathway concerns were legitimate and manageable, and that findings could be made.

Commissioner Gunter stated that he was generally in favor of the CUP request – that tasting would be a good amenity for a local business, and that the Type 41 request makes sense –

although he was concerned with the sidewalk path issue, and favored adding a condition to further ensure accessibility.

Chair Walker agreed that it is a wonderful project, serving village and community center purposes. She stated that she did not share concerns regarding sidewalk accessibility because permitting handles that. She suggested that the CUP could be extended to 24 months. Deputy City Attorney Guerra read a draft condition to accommodate that timeframe. Commissioner Gunter confirmed that the language would provide that, if one of the requests isn't licensed within 24 months, the CUP approval would expire for only that request.

M/S/C Smith/Gunter to approve the project with an added accessibility condition and an amended expiration condition. 3-1 (no: McConnell)

**D. Vacant parcel @ Wendover Road & Waldorf Road:**

Hillside Development Permit 13-58 / Second Floor Review 13-28 / Setback Modification 14-07 / Director's Misc. Review 14-36 (flat roof)  
Imasdounian

Request to allow construction of a new 5,508 sq. ft. two-story residence and related site improvements on a 19,649 sq. ft. hillside lot. A Setback Modification is also requested and would allow over-height retaining walls within the required rear yard setback as necessary to lower and expand the building pad and provide driveway access from Karen Sue Lane. Director's Misc. Review (Flat roof) would allow the new home's roof to have a slope of less than 2:12. Staff is recommending approval of a Negative Declaration. (Planner Gjolme)

Planner Gjolme reviewed the parameters of the project: a new 5,500-square-foot residence with a lower level garage, with no code issues raised. He noted that staff had not included the flag strip as lot area for the purpose of determining allowable floor area. He noted the low massing and low roof pitch, which serve to minimize view blockage, and that the 25-foot front yard setback requirement was applied to the entire frontage of both streets and exceeded at all points.

He described the strongly modern house style, noting the diverse material palette of plaster, stone, wood, and cultured stone, and the many windows. He clarified the overall height as 23'-6", not the originally indicated 25'-6". Mr. Gjolme displayed a section showing 21 feet of the house height as below the rail of the upslope neighbor (Perez) as indicated by the story poles, followed by a view of the story poles from downslope on Waldorf. He noted that despite the height reductions, it's still an elevated property, but that landscaping will soften the view from the street.

Planner Gjolme displayed slides of the view of the story poles from the Simone property, noting that it does loom to some degree; he then showed how the Simone property looks down on its downslope neighbor's pool. He commented that in hillsides it is often inevitable that houses will have views down into neighboring properties or be seen prominently from below, and that in those cases minimizing those effects is called for.

He continued, stating that on the subject property landscape screening from downslope is more critical than on most properties. He displayed a preliminary landscape plan showing trees in clusters and rows, adding that upon initial review the plan appears forced and rigid, with a need to blend better and more naturally with the hillside.

Planner Gjolme conclude by recommending positive findings for the Hillside, Second-Floor Review, and Flat Roof review requests, with conditions including further refinement of the landscaping.

Commissioner Gunter inquired about the timing of conditions 23 and 24, dealing with hydrology and geology – required prior to plan check submittal? Mr. Gjolme answered yes.

Commissioner McConnell had no questions.

Commissioner Smith inquired about whether a flag line along the ground indicates the south edge of the living room as below existing grade; Mr. Gjolme answered yes. Commissioner Smith asked if a 42-inch retaining wall was out of the public right-of-way, which Mr. Gjolme confirmed. Mr. Smith also confirmed with Mr. Gjolme that the wall would not encroach into the oak.

Commissioner Smith noted that neighbor Ed Perez had questioned the accuracy of the story poles. Mr. Gjolme replied that the City has a stamped survey of the story poles.

Chair Walker opened the public hearing.

Jean-Pierre Boladian, consulting architect, praised the good job that Planner Gjolme had done, with a challenging site and many meetings over the past year and half. The house elevation had been lowered house, and house area had twice been reduced. Mr. Boladian distributed a color board.

Commissioner Smith asked how the story poles were verified, and Mr. Boladian replied that he had a surveyor measure them.

Clyde Hemphill, 727 Waldorf Road, stated that nobody had consulted him though the subject property looks right down into his kitchen and living room. He said that the proposed house looks like a big box set on a parcel of land. He cited the long driveway on a steep slope as another concern, particularly with regard to runoff.

Ed Perez, 3627 Karen Sue Lane, described his property as the primary home directly impacted by the project. He acknowledged that technical reviews will be required, and noted the tall retaining walls. He stated that he would welcome expedient development. He inquired about survey certification, which Planner Gjolme responded had been found in the City files. Mr. Perez noted that the homeowners' architectural committee had lowered the project 14 inches, and that they rely on story poles. He referred to Condition 36 as limiting the planting and growth of trees into his central view. He advocated privacy windows in the backyard. He questioned the amount of earth removed and its effect on the stability of his property. Mr. Perez concluded by asking that the project not exceed current story pole height or compromise the hillside, with hopes of an expedient construction process.

Kunyu Chou, engineer for the Perez family, stated that after one year of negotiation, there was only one foot height reduction. He claimed a discrepancy in the elevation of the project above Mr. Perez' fence, which he calculated at 9 feet as compared with the applicant's figure of 4 feet. He noted a building width of 66 feet, saying that the project cut his client's view in half from 180 degrees. He suggested that the whole house be lowered. Mr. Chous also questioned the application of the more lenient stepped massing height limit to this project. He recommended that a Variance be required instead. He stated that the staff report minimized view loss, and that the project results in a loss of property value for Mr. Perez.

Vahe Imasdounian, owner, recalled purchasing the property 18 months ago and going to most of his neighbors. He recalled several meetings, especially with Mr. Perez. He recalled flipping the house plan upon request. Mr. Imasdounian mentioned homeowners' association meetings resulting in the house being lowered and shortened, with 14 inches of height given up.

Mr. Imasdounian stated that the neighbor cannot talk about lost property value when his house was above a vacant property. He concluded that he had worked with the City and homeowners' association, and asked how he could make the City happy.

Frederick Chol, 3651 Karen Sue Lane, introduced himself as having been the attorney for the subdivision over 50 years ago and currently active in the homeowners' association. He related that there were private deed restrictions, and that 3 homeowners remained on the architectural review committee. Mr. Chol noted that the committee is stricter on views than the City is. The 14-inch lowering was a compromise. Commissioner McConnell stated that it is hard to understand the 14 inches – from what number? Mr. Chol replied that the original plan had been denied, and that the second plans were approved subject to a 14-inch lowering with which the current plans apparently comply. Planner Gjolme explained that the 163.5 elevation reflects the 14-inch drop.

Mr. Perez stated that the house will be viewed from many of his rooms. Mr. Chou added that the Perez' had hired an architect for alternate designs.

Mr. Imasdounian referred to Mr. Chou's earlier statement about the loss of property value, noting that his cost of construction with retaining walls had gone up, and that the house was blocking no more than 30 degrees out of the Perez' 180-degree view. He also apologized to Mr. Hemphill for not visiting.

Chair Walker closed the public hearing.

Commissioner McConnell asked if the 14-inch reduction was from the current story poles. Planner Gjolme answered no, that the story poles represent the reduced height, with the green sheet shown in the slide as representing the extent of that reduction.

Chair Walker confirmed with Mr.Gjolme that the story poles had been certified.

Commissioner Gunter noted the concurrence of the story poles on site with the drawings.

Responding to a question from Commissioner McConnell, Planner Gjolme cited the stepped massing provision allowing an overall height of 35 feet provided that no profile of the building exceed 28 feet.

Commissioner Gunter noted the clearly very modern design as consistent, using rich materials effectively. He stated that the house is within the code envelope and sited to be least obtrusive. He went on to state that in many hillside settings, it is inevitable that uphill houses see downhill houses. The required Hillside Ordinance finding is that the design is "not an avoidable or unreasonable impairment" of views. He noted much work and effort for a thoughtful design with a lot of detail, although it might not be what some of the neighbors would like. He stated that the project is unique for the area and consistent with the required findings.

Commissioner Smith agreed with Commissioner Gunter, stating that it appeared to be a good project from the drawings, after which a site visit gave him new appreciation of the challenging site. Mr. Smith said that he appreciated the neighbors' concerns, and that retaining walls and plantings will soften views from below. He stated that he could make positive findings.

Commissioner McConnell stated that he had no concern about the height relative to the Perez property, but that his concern was a lack of any north elevation drawing of the retaining walls. He said he had no idea what those would look like from Waldorf. He also questioned whether a 42-inch retaining wall along the property line would be sufficient to hold the slope. Further he recommended that repaving of Waldorf in the vicinity of the property be required.

Chair Walker stated that this was a most challenging site that must be decided upon based on the information at hand. She did not share Commissioner McConnell's concern about the walls. She concurred with Commissioners Gunter and Smith about the difficulties of the site and the need for tree growth and softening. She noted that Mr. Perez chose not to buy the vacant parcel in front of him. She noted the sensitive design, which appears stark presently but would be lovely with landscaping. She further noted that the design does not push the code envelope, and that positive findings are appropriate.

Commissioner Gunter inquired of Director Stanley as to the appropriateness of a condition addressing Commissioner McConnell's concern about the retaining walls, a condition that the retaining walls be consistent with the approval. Director Stanley replied that such a condition would be appropriate.

Commissioner Gunter asked about a condition to tie repaving to haul route damage. Director Stanley noted that Condition 29 dealt with damaging public improvements, with Public Works establishing a baseline by inspecting the condition of the pavement prior to construction.

Chair Walker noted revisions to Conditions 23, 24, 25, and 31.

M/S/C Gunter/Smith to approve with conditions as amended. Approved 4-0

Chair Walker announced to the crowd the 15-day appeal period.

E. **857 Valley Crest Street:**

Conditional Use Permit 503 / Variance 14-03 / Setback Modification 14-17  
Penniall

Request to legalize an existing batting cage. A Conditional Use Permit is required because the batting cage has lighting. A Variance is required because the batting cage was not constructed on the lowest elevation of the natural terrain, the width of the batting cage exceeds the 12'-0" maximum width allowed by the Zoning Code and the height of the batting cage exceeds the 12'-0" maximum height allowed by the Zoning Code. In addition, a Variance is also required because the maximum allowed floor area on the lot is exceeded. A Setback Modification is required because the batting cage encroaches 8'-3" into the required 15'-0" rear setback. Staff is recommending approval of a Categorical Exemption for this project. (Assistant Planner Parinas)

Chair Walker confirmed with the Commission that the staff report could be waived.

Director Stanley noted the modification to Condition 10 to change the last sentence to refer to legalizing the existing structure.

Chair Walker opened the public hearing.

Dave Penniall, owner, recalled that he had bought the property in 1992, after which he and his family remodeled and landscaped the property. He recalled obtaining his neighbors' approval for the subject batting cage, which is used by the neighborhood. He noted that it is shut down by 9pm, and that there had been no complaints in its 17 years of use.

Bill Harvey, 851 Valley Crest, recalled having reviewed the project and consented to it, and stated that there has been no nuisance resulting from it.

Ginny Wong, 5181 Princess Anne, identified herself as a nonadjacent neighbor. She noted that it was built in the 1990s, prior to the 2008 code revisions. She stated that it satisfied the rules at the time, and that the City doesn't conduct retroactive review of 2-story houses. She said that she was puzzled by current review, and that it should be approved.

Chair Walker closed the public hearing.

Commissioner Smith stated that it is a good facility with neighbor support and approvable.

Commissioners Gunter and McConnell, and Chair Walker agreed.

M/S/C Smith/McConnell to approve the project as conditioned. Approved 4-0

Commissioner Smith was excused at 9:58pm.

**IX. OTHER BUSINESS:**

A. **Story poles:** Discussion regarding standards, performance and responsibility.

- B. **Construction Parking:** Discussion regarding current and potential requirements, and prosecution of the code.

Chair Walker noted the presence of only three Commissioners and stated that the Other Business items would be postponed until they could be discussed by the full Commission.

**X. REPORT OF DIRECTOR'S REVIEWS:** None

**XI. COMMENTS FROM THE COMMISSIONERS**

Commissioner Gunter reported having changed his employment, so that he no longer has a conflict of interest preventing his participation in review of YMCA cases.

**XII. COMMENTS FROM THE DIRECTOR**

Director Stanley called upon Planner Gjolme to relate that the City Council had voted against instituting any new regulations on "reader boards" (electronic message centers).

Director Stanley informed the Commission that the City Council:

- o Voted to formulate a new noise ordinance;
- o Approved the Greenberg appeal, allowing him to keep the wall, tree, height, and accessory structure; and
- o Voted to formulate a new historic preservation ordinance.

Director Stanley announced that Assistant Planner Jo-Anne Parinas will be on maternity leave until the end of the year.

**XIII. ADJOURNMENT:** 10:04pm