

**MINUTES OF A MEETING OF THE PLANNING  
COMMISSION OF THE CITY OF LA CANADA  
FLINTRIDGE, HELD NOVEMBER 13, 2001**

**CALL TO ORDER:**

Chairman Levine called the meeting to order at 6:00 p.m.

**ROLL:**

Present were: Commissioners Brown, Engler, Gelhaar and Mehranian, Assistant City Attorney Steres, Director of Community Development Stanley, Senior Planner Buss, Planning Assistant Gjolme and Planning Aide Shimazu.

Attorney Steres announced that the Planning Commission held a closed session during the 5:30 pm special meeting. No actions were taken, and there is nothing to report.

Noting the long agenda, Chairman Levine stated that the Commission and Staff would appreciate it if comments were limited to factual issues.

**COMMENTS FROM  
THE PUBLIC:**

Comments were not offered.

**CONSENT  
CALENDAR:**

M/S/C Gelhaar/Brown to adopt Resolution 01-62, denying Modification 01-63; Nicholson, 1331 Journey's End Drive. Unanimous.

M/S/C Gelhaar/Brown to adopt the Minutes of October 23 as amended by Commissioner Brown and Chairman Levine. 4 Ayes. Abstain: Mehranian.

**CONTINUED PUBLIC  
HEARINGS:**

**VARIANCE 01-04;  
CONDITIONAL USE  
PERMIT 322;  
MODIFICATION 01-22;  
PATTI;  
1634 ORANGE TREE  
LANE:**

Planner Cantrell recalled that this item was continued from September 25, when the request was heard to legitimize an existing ALQ unit, family room and carport as well as their encroachments. The component of the Variance request to legitimize the existing carport rather than requiring a garage was new to this meeting. Draft conditions include the Commission's recommendation that the CUP expire upon sale of the property. As noted previously, Staff believes that carport looks better than a garage in this particular location where there is no off site

view of the entry. Staff recommended positive findings for all the requests and project approval.

Commissioner Mehranian confirmed that the draft conditions require that the site be brought into compliance with existing building codes.

Commissioner Brown pointed out that the draft conditions do not specifically state that the CUP would be null and void upon sale of the property and when that occurs, the ALQ must either be demolished or go through a public hearing process. He asked that the condition be sufficiently clear so that a purchaser would understand the implications.

Marlene Roth recalled that the Commission's desire was to eliminate the ALQ upon sale of the property and noted the various ways to accomplish that goal including attaching it to the house, reconverting to a garage, etc.

Chairman Levine opened the public hearing. Testimony was not offered, and the public hearing was closed.

Responding to a question from Commissioner Mehranian, Ms. Roth explained that attaching the ALQ to the house at this time is cost prohibitive, as it would entail relocating the septic system.

Commissioner Mehranian stated that she could support the project because her two major concerns were resolved in the revised draft conditions -- i.e. Code compliance and obsolescence of the ALQ when the property changes ownership.

Attorney Steres provided amended language to modify draft condition #17 to resolve what happens upon conveyance of the property.

Commissioner Engler commented on the efforts made by the City to require garages rather than carports. He stated that he could not support Staff's recommendation, "that carport needs to become a garage".

Commissioner Brown stated that he could support the request with the revised conditions and additional

language as recommended by Attorney Steres. He felt that in this case, the carport has less impact than enclosing it would.

Commissioner Gelhaar concurred, adding that the revisions represented a good job in accomplishing what the Commission wanted. He felt that maintaining the carport allows more parking in the neighborhood and asked that the covenant state that upon conveyance of the property, the ALQ shall be removed or converted to a garage; if it is converted to a garage, the carport shall be removed.

Chairman Levine concurred.

M/S/C Gelhaar/Mehranian to approve Variance 01-04, Conditional Use Permit 322 and Modification 01-22 with condition No. 17 amended to read: *Upon conveyance of the property, this Conditional Use Permit approval shall become invalid and the existing, detached building shall be removed or converted to a garage. If the detached ALQ is converted into a garage, the carport shall be removed.* Condition No. 18 would require City Attorney review and approval of the covenant prior to recordation. 4 Ayes. No: Engler.

**ZONE CHNGE 00-06;  
REVISIONS TO THE  
HOME OCCUPATION  
ORDINANCE;  
CITY WIDE:**

Director Stanley commented that the Commission had last discussed five changes to the Ordinance on October 23. 1) *Privilege or Right* language was eliminated; 2) *Employment of Help* - at the City Council's direction, one person, not residing on the premises, could be employed at the site. One on site parking space, open or enclosed, must be provided for that employee; 3) *Traffic* - no increase of "discernible" traffic was changed, at the Council's direction to "no significant and sustained" increase in pedestrian and vehicular traffic; 4) *Hours of Operation* - the Commission agreed to extend hours to 10:00 pm.; 4) *Standardized Processing Procedures* - the Special permit section was deleted so that an HOP is a ministerial action, handled at Staff level. Appeal and Revocation Proceeding sections were also added.

Commissioner Mehranian commended Staff for the work product, which included the Commission's comments.

Chairman Levine opened the public hearing. Testimony was not offered and the public hearing was closed.

Commissioner Brown referred to criteria No. 9, which read *There shall be no emission of noise, smoke, fumes, dust, gas, odor or glare from the property as a result of the home occupation.* He was concerned that, as worded, there couldn't be any human activity and suggested replacing "no emission of noise" with "no significant emission of noise", similar to amended language addressing any increase of traffic. He stated that use of the word "no" for the remaining components was appropriate.

Discussion followed whether to eliminate "no" or to set an acceptable threshold. Commissioner Brown confirmed that the Noise Ordinance would still be applicable in any event. It was agreed to separate 'noise' from the other impacts, which will be prohibited.

Chairman Levine stated that extending the hours to conduct business troubled him. He felt it should be more in line with what Staff originally recommended - 8:00 a.m. to 8:00 p.m., or more in line with the allowed hours of construction.

Attorney Steres elucidated that home based businesses, which have no impact, are allowed at any hour. The "8:00 a.m. to 10:00 p.m." proposed language applies only to those businesses that require people coming to the home, i.e., tutors, counseling, etc.

M/S/C Brown/Mehranian, recommending that the City Council amend Section 11.11.030.E of Chapter 11.11, relating to Home Occupations as amended by the Planning Commission. 4 Ayes; No: Levine.

**MODIFICATION 01-67;  
BUILDING DEPTH  
REVIEW 01-10;  
CONDITIONAL USE  
PERMIT 336;  
NICHOLSON; 1331  
JOURNEY'S END DR.:**

Chairman Levine acknowledged the letters received in connection with this matter and advised they were all read and made part of the record. He asked that comments be confined to those issues over which the Commission has authority, i.e., those relating to land use.

Planner Cantrell noted that Building Depth Review, applying to the north and east sides of the house, was

continued from the October 23 meeting. Since then, a redesigned wall was proposed. The new Modification addresses the new wall as well as newly discovered encroachments of inches at the building corner and one of approximately 8 ft at the pool. The pool also requires a CUP since it is partially located within the front yard area. Additionally, Staff confirmed that the front setback is 28 ft, based on field measurements, rather than the 25-ft minimum requirement as submitted.

**Building Depth** – Planner Cantrell advised that the project considerably exceeds what regulation was intended to control; setbacks, wall modulation and screening are exceptional. Staff revisited the site and confirmed there is complete screening from the east, which would be further enhanced by proposed plantings on the east side. Evergreen plantings at ten-foot centers would be appropriate, since existing screening depends mostly on deciduous trees. The neighbor to the east requested fast-growing Leyland cypress or redwoods and that the east wall be painted a color with lower reflectance value. Staff does not believe a color change would be effective, given the landscape screening requirement. Further, since the site is not hillside property, there is no nexus between the building depth review and the overall reflectance value.

**Wall/Fence** – The applicant responded to neighbors' concerns regarding the wall along Journey's End. A revised design reflects a 6-ft-high combination retaining wall and open fence comprised of the existing 3' 6" base, with a 2' 6" wrought iron fence atop. The 3-ft-wide parkway is maintained, with vigorous plantings to grow over and provide screening. As a safety precaution, the southerly 20 ft of the wall/fence would be pulled back from the street, creating a more open sightline for motorists.

In the Commissioners' packets, Staff depicted how the existing 3-foot setback and a 4-ft terrace would allow a 5-ft-high fence to achieve a profile equivalent to a code-compliant fence. Staff recommended this as an aesthetic solution, as illustrated in the Staff report.

**Pool** - The Modification and Conditional Use Permit findings seek to ensure that no visual or other disruption of the setting would result. The technicality of the pool's encroachment into the front yard setback has no visual effect. Further, the entire area of the house north of the house functions as rear yard. Staff did not believe there would be any auditory difference between a code-compliant pool and the as-built location. The pool's separation from the northern property line exceeds the required 5-ft setback.

**Encroachment of the Residence** - The approximate 8" encroachment of the structure's corner into the 28-ft required front setback is considered as a technicality with no perceivable adverse effect. The average setback of the west face of the house is well over 30 feet, aside from the setback of the garage wing that exceeds 70 ft.

Staff recommended positive findings and approval with the noted revision of the wall to eliminate any driver's view blockage and to increase visual setback.

Responding to a question from Commissioner Mehranian, Planner Cantrell stated that reportedly, chain link fencing had once been in place at the property's perimeter.

For the record, Attorney Steres noted that Commissioner Mehranian was not present at the prior meeting. The only item continued from October 23 was Building Dept Review; all other items were new. Commissioner Mehranian advised that she had read the minutes and staff report of October 23 and would be participating in all aspects of this meeting.

Chairman Levine opened the public hearing.

Clare Bronowski, counsel representing the owners of the subject property, commented that she had mailed several letters to the City on behalf of her clients. She assured the Commission that she was "here to solve the problems"; all required applications had been submitted and she felt that the required findings could be made. Her client's

dilemma is that the house is partially completed and there is a family ready to move in. The owners met with some of the neighbors at the site and provided them with information. Ms. Bronowski stated, "clearly, this is a unique lot with a troubled history with sloping characteristics that doesn't meet a lot of the City's standard definitions". She reported that the house was originally designed and permitted as a remodel based on the existing flat pad and footprint "and only slightly expanded with a second story". It was later discovered that the structural integrity of the walls would not sufficiently support a second story and the house was re-permitted as a new home. At that point, the design was already established. She advised of having listened to the tapes of the initial hearing and would attempt to respond to issues that might not have had a full explanation.

Ms. Bronowski stated that given the unique characteristics of the site and the location of the home, "all items before the Commission are proper for the neighborhood and for good planning practices". She noted that the north portion of the property serves as a rear yard, and the side yard functions as a front yard. The way the site is planned, the front yard was opened by removing the wall and landscaping. She pointed out that only the north property line requires fencing and the neighbors' most evident concern was with the replacement wall, which, she acknowledged, appears imposing in its current location. Her clients have agreed to "cut" the wall and add open fencing atop. A rendering was distributed which she felt was similar to other walls, hedges and fencing along the street.

Ms. Bronowski suggested a 6-ft-high wall that would satisfy the County's requirement for pool safety, eliminate the sight problem at the corner and provide a gentle curve to the fence. She expressed concern that Staff's recommendation to set back the wall would endanger the extensive root system of a mature tree in that area. The redesign locates the wall on the street-side of the tree. Her client met with the most affected neighbor to the east and is committed to maintaining the dense landscaping and will add trees where there are any gaps in the landscaping.

Addressing the pool and house encroachments, Ms. Bronowski advised that the City initially determined that those setback requirements complied with Code. She agreed with Staff's determination that the encroachments are technical in nature and would not negatively impact any property.

Responding to a question from Commissioner Gelhaar, Ms. Bronowski advised that the pool equipment would be located against the wall and behind a tree.

Contractor, Chris Behr compared the prior situation of a 200-ft-long wall, topped with a wood fence, covered with ivy and inclining towards the street for a total height of 7' 6", with the present situation of a 100-ft-long, 6-ft-high wall, set back 3 ft from the street, that was denied at the prior meeting.

He suggested putting the 2-ft wall back where it was, then cutting the existing 6-ft-high wall to the 'proper' size, topped with wrought iron. Mr. Behr stated that had they not been given permission to build the existing wall, they would not have demolished the 7-ft-high wall and they would have had more area in the back yard.

He advised of having read the draft minutes from the initial meeting and that he took offense to comments made by Mr. Mellstrom regarding an alleged conversation between them which he stated "did not happen". He then addressed comments made by Commissioner Engler which he stated "were out of line" and advised that 13 inspections and 17 meetings took place to obtain the permits for the wall, house and pool, and that all City requirements were met.

Regarding the Building Depth Review, Mr. Behr cited Staff's recommendation of approval and noted that the house is 1,100-sq smaller than what is allowed for this lot; "No one tried to break a record or infringe on anyone's privacy". He asked the Commission to decide what is right for this house and the neighborhood, regardless whether a mistake was made.

Commissioner Engler asked if a permit was issued for a 6-ft-high wall.

Mr. Behr responded that the Building Inspector carried a set of approved plans when making site inspections; the Inspector stated he had no problem with the wall but suggested that he clear it with the Planning Department. Mr. Behr stated that Planning Staff advised that a permit was unnecessary because where the wall was constructed was not considered to be in the front yard

Commissioner Engler offered his apologies.

Chairman Levine asked Mr. Behr if, as a local builder, he was aware that he was given incorrect information.

Mr. Behr replied that he relies on the City and the architect "to tell us the rules" and he was not aware that the entire street side was considered to be the front yard.

Commissioner Brown asked if the neighbors were consulted regarding the redesigned wall.

Gary Nicholson, property owner, advised of having met with a few neighbors at the site to discuss the redesigned lower wall, pulled back at the corner with a gentle curve to provide visibility in that area. He advised that the majority of the neighbors were pleased with the proposal, though he did not present it on paper. Mr. Nicholson stated that he was flexible "because the neighbors have every right to see something attractive" and that he had a responsibility to comply. He then distributed a rendering of the redesigned wall, to the audience.

Mr. Nicholson pointed out the abundance of landscaping along the east side of the house, adjacent to the Russell's home, which would be maintained and the few gaps would be filled-in with more screening. At the rear, near the pool area, he proposes to install 36-inch-box trees to create height and density and was open as to what species would best fit. In conclusion, he expressed dismay that the project "got to this point" and believed that a compromise solution had been submitted.

At Commissioner Brown's request, he then described how a berm would be created with a planter area and grass behind, near the portion of the stone wall that still exists. Stone would not be used in the redesign. Further, a neighbor asked about adding a tree in that area and he was amenable to doing so.

Commissioner Gelhaar asked if Mr. Nicholson was willing to locate the pool equipment since plans don't show it in the front yard.

Mr. Nicholson responded that the equipment was carefully thought out during the planning process and installed exactly as shown on the approved plans. He noted that moving it to the rear would place it closer to the Mellstrom residence. Currently, it is flanked by a driveway and a street and that he intends to camouflage it.

Director Stanley questioned Mr. Nicholson's statement since the permit shows the equipment adjacent to the corner of the house.

Mr. Nicholson stated that was unaware of that and that he would check on it.

Commissioner Engler confirmed that a property survey was completed the prior week, establishing the curvature and center line of the street and the easement.

Commissioner Brown asked how closely the easement matched the paving. He confirmed that the new wall is setback 3 ft further inward from where the prior wall stood.

Larry Tyson, landscape architect, advised that in addition to the Brisbane box trees along the north property line, yew pines would be planted to provide a solid hedge within 3 years. Along the east property line, he preferred not to plant redwoods as they would grow into the canopies of the existing trees and the cypress as suggested by Staff are susceptible to an uncontrollable canker and would die within 2 yrs. He suggested a hedge of *Potacarpus macrophyllus* as a substitute planting.

Chairman Levine opened the public hearing.

Jeff Mellstrom, the neighbor to the north, stated that the offer for open dialogue was coming very late and reiterated prior comments he made regarding the project's history. He stated that he was disappointed with Planning Staff; the "neighbor's didn't have a chance and could have made different choices had they been aware earlier". He stated "there is a big difference between what can be done and what should be done". Mr. Mellstrom felt that Staff's proposal was a step in the right direction and that a wall, or preferably a fence, should be located behind the large magnolia tree, with the property sloping downward to the roadway. He preferred mature evergreen trees at the north and east sides of the house and a more muted color than what he believed to be "stark white". Regarding the building depth, he recalled a suggestion made at the last meeting that the game room above the garage be eliminated - he stated that doing so would provide a more stepped appearance.

Dom Campolo, 1338 Journey's End Drive, stated that he lived directly across from the wall and it did not concern him. He presented a photo of the wall before the majority of it was demolished and stated that the revised design presents safer driving visibility down the street.

Sherry Christenson, 1356 Journey's End Drive, compared the prior chain link fence that was covered with foliage with the existing "brick wall".

Bill Russell, who resides immediately east of the subject property, read a prepared statement: Not all the neighbors were invited to meet with Mr. Nicholson on site; he and his wife would like the opportunity to work with the landscape architect to select a tree species as he was unaware that Leyland cypress were problematic; as to the concern that redwoods planted along the east property line would interfere with the canopies of his Chinese elms, he invited trimming them back as they are deciduous and dirty tree and "will be going away in any event".

Mr. Russell stated that regardless of Staff's assessment, the stark white of the house color exacerbates its prominence. He preferred a tan or grey shade.

He asked that the record reflect there might be a future issue with construction vehicles blocking driveways.

Director Stanley announced that Chinese Elms are now protected under the City's Tree Ordinance, in the event anyone was thinking of removing them without a permit.

Betsy Craft, 1318 Journey's End, concurred with Mr. Mellstrom to locate the fence behind the large magnolia tree. She stated that the house was too big for the neighborhood --- double or triple the size of many in the neighborhood, and suggested that the Commission consider requiring that it be reduced in size.

William Bradford, 1332 Journey's End, has lived across the subject driveway for 30 years. He did not believe that setting back the block wall would not solve any of the aesthetic problems. He related of having constructed a block wall between his property and Mr. Campolo's, and that he hated it until he faced it with brick and capped it - - now he loves it. He suggested that Mr. Nicholson reduce the wall height to 42", face it with variegated gray stones similar to those placed on the house and top it with a black, wrought iron fence to match the black shutters of the house. He felt this would not only be functional, but also aesthetically pleasing.

Ruth Ann Bradford asked why a 7-ft-high wall was being considered when the County only requires 5-ft-high walls for pools. She also pointed out that the area over the garage is continually referred to as a 'guest house' but that was never the case and there are no kitchen facilities included.

Commissioner Brown noted that several proposals had been brought forth --- Staff's recommendation included a 5-ft-high wall.

Peter Robinson, 1330 Journey's End, who resides across the street, stated that the project is overbuilt for the neighborhood. He stated the property owners would be

able to look into his back yard and suggested that the applicant be required to remove the game room over the garage to provide openness.

Jim Short, 1224 Journey's End Drive, commented that Chinese Elms are only protected when they reach a diameter of 12" at 4 ft above grade. He stated that what surprised him most was builder's refusal to discuss or consider any changes to anything other than the wall. Mr. Short believed that the builder was aware "from the beginning" that the walls could not support a second story.

Chairman Levine offered the applicant the opportunity to respond to comments before closing the public hearing.

Ms. Bronowski commented on the varied opinions and good public participation; adding that everyone concedes that it would have been preferable to go through this process beforehand. With respect to the wall, her client was willing to make revisions and had submitted suggestions. The pool enclosure requires a 5-ft-high wall from the outside for safety purposes. The City's suggestion to step back the wall requires the full 5 feet. "We thought it was better to maintain the wall where it is at an overall height of 6 ft". She noted that the wall is retaining 2-3 ft on the back side and it needs to be high enough to present a guard rail for the rear yard. She stated that the neighborhood was in transition and that her client strongly felt that the home would blend once it is completed and full landscaped. Regarding the suggestion to change the house color, Mr. Nicholson strongly feels the color he chose was traditional for a Cape Cod design and did not believe a condition to change the color was appropriate. Ms. Bronowski stated that if the street changed names at the sharp curve, we would probably be dealing with a legitimate side yard on one of the street frontages. She stressed that she would like approval per the Staff recommendation and for the wall to maintain its height as it rises up the slope.

Chairman Levine closed the public hearing.

Director Stanley reported that Staff could not confirm Mr. Behr's statement that a planner went down to Building

and Safety and advised that the subject wall was permissible because it was not located within a front yard.

Commissioner Gelhaar felt that this situation resulted from honest errors on both sides and advised that he analyzed the project as any other that comes before the Commission. He noted that building depth review applies only to the second story and apparently, the applicant resolved this issue with the most affected neighbor. He was comfortable that landscaping would mitigate the second story depth. Regarding the Modification items, the structure's 8" encroachment was not a problem and he was willing to accept the location of the pool, provided the equipment be relocated further back and adjacent to the house. After reviewing Mr. Campolo's photos, he noted that the previous wall would not meet current standards and remarked, "two wrongs don't make a right". Commissioner Gelhaar advised of having visited the site and walked along Journey's End numerous times. Since safety is his chief concern, he believed the wall should be lowered to a height of 2 feet for its entire length to preclude sight interference around the corner. He supported a 5-ft-high wrought iron fence for the pool that meets the requirements of the Decorative Fence Ordinance.

Commissioner Engler concurred and commented that the Commission's discretion is limited for non-hillside lots and certain items alluded to, including the structure's color, are not under consideration. Addressing the depth review, he recognized the error and, while he didn't like it, he would not require its removal, given the time and effort put forth. He agreed with Commissioner Gelhaar to reduce the wall height and to relocate the pool equipment as noted on the permit.

Commissioner Mehranian commented on the complexities of this project. She felt the excess building depth could be mitigated through landscape screening and that the house and pool encroachments were tolerable. She felt there was still time for consensus building for the wall, stating that perhaps a combination of setback, wrought iron and a curvature would work, but she was not prepared to specifically design the wall

without input from those who reside in the neighborhood. She stated that she was ready to vote with an added condition that the ideas regarding height, materials, etc. be taken into consideration.

Commissioner Brown concurred with Commissioner Gelhaar's comments that mistakes were made "all around". He pointed out, however, that mistakes should not prejudice those whom the laws were created to protect - in this case, the neighbors. He reviewed the request "from scratch" and the applicable ordinances which require that the pool and wall be set back 28 ft, which would have impacted placement of the house. He observed that deliberations whether to have regulations for hairpin lots was exactly for this type of property; the side and back yards abut the front yard of the Mellstrom property. He felt the Commission needed to balance the Council's direction that all the street frontages are to be considered as 'front yards' on *hairpin* lots, with the fact that mistakes were made and the house is built. He felt strongly about the wall; it was unacceptable to him as built and lowering its height topped by 1-1/2 ft of wrought iron fence "is not good planning", given the paramount concern for safety. He stated there was no question in his mind that the wall needs to be pulled back to open the corner, regardless of its initial configuration.

He stated that relocating the wall back 3-1/2 ft inside the tree, to protect the root ball of the large tree in the front yard would work. He suggested continuing the landscaping down to the road on the other side of the driveway, to the base of the fence, essentially matching the house across the street.

Commissioner Brown stated this matter was more adversarial than need be; he didn't see a lot of effort to reach a consensus and it put the Planning Commission in a difficult position. Moving the pool back 8 ft to meet setback requirements would only serve to move it closer to the neighbor's house; there was no need to do that.

The building depth continued to trouble him; he stated that other than two pop-outs, the wall is flat, which is what the Commission tries to avoid. He noted that the

room over the garage is not screened at all from the house to the north and he would not have approved that arrangement initially. He explained that the color of non-hillside homes does not fall under the Commission's purview and felt that in the long run, appropriate landscaping would do a better job of mitigating than house color.

Regarding the wall, he supported the curved shape recommended by Staff, but set back another 7 ft from where it is now, and brought in closer to the house at the south edge and sloping to the street.

Chairman Levine stated that he liked the design of the home, but did not believe it was appropriate for its neighborhood. The building depth was "a tremendous problem" for him and was a good example of the need for building depth review. Addressing the wall, he stated he was not inclined to support either Staff's or the applicants recommendation until a "good rendering of what the streetscape would look like" is submitted. The minor structural encroachment was acceptable but the pool encroachment was problematic. He questioned if a pool should be on the property if it can't be installed in an appropriate way.

The Commissioners then agreed to vote separately on the items.

Chairman Levine confirmed with the City Attorney that the three items could be voted on separately.

M/S/C Gelhaar/Mehranian to approve Building Depth Review 01-10 and Conditional Use Permit to allow a pool within the front yard with an added condition that the pool equipment be relocated as shown on the approved plans. 3 Ayes. No: Brown and Levine.

M/S/C Gelhaar/Brown to approve Modification 01-67 as it applies to the approximate 8" encroachment at the northwest corner of the house. Unanimous.

M/S Gelhaar/Engler to approve Modification 01-67 as it applies to the wall at the roadbed, with a condition that it be reduced to 2 ft in height and that a 5-ft-hi wrought iron

fence be constructed 7-ft inward from the existing wall.

Commissioner Engler confirmed that the motion included the east/west wall that goes back to the house.

Commissioner Brown offered an amendment: Remove the existing wall and install a 5-ft-high wrought iron fence, 7-feet closer to the house than the existing wall, and require the ground to be sloped upward from the street to the base of the fence. The fence would therefore be in from the magnolia tree.

Commissioner Mehranian requested that community input be solicited on the design of the wall; she agreed to make that a separate motion.

Commissioner Gelhaar seconded the amendment to the motion.

Chairman Levine summarized the amended motion to install a 5-ft-high wrought iron fence, 7 ft in from the easement line (where the current block wall is), remove the block wall, grade it to street level and landscape that area.

Commissioner Brown added that if there is a need for any retaining walls - they could be constructed below grade and the fence can be built on top. He called for a vote to accept the amendment on the motion.

4 Ayes; No: Levine.

A vote was then taken on the amended motion. 4 Ayes. No: Levine

Director Stanley verified that the fence was stipulated to be wrought iron.

The Commission recessed and reconvened at 8:42 pm.

**PUBLIC HEARINGS:**

**HILLSIDE DEVELOPMENT PERMIT 01-20;  
MODIFICATION 01-49;  
BILAVER;  
4430 ROSEBANK DR.:**

Planner Cantrell reported the applicants' request to construct a new two-story house and related site work. The Modification request addresses encroachments into the west sideyard for both stores and a property line retaining wall.

The site is located at the end of Rosebank Drive, a narrow, private road extending south from Foothill Boulevard in the R-1-20,000 zone. Access rights consist of an easement over the full 20-ft width of the private street. The 5-acre property known as 'Rockridge Terrace', zoned as open space, abuts the site on the west and above that is La Cañada Crest Drive, which is lined with a solid line of multi-family residences. To the south is a long-established neighborhood of single-family homes located in Montrose.

The subject site is 44,500-sf in area with a width of 188 ft, an average lot depth that exceeds 400 ft. and an average slope of 40%. The only significant tree, a 30-inch diameter oak, is located within the less sloped portion of the site. Total floor and roofed areas would reach 8,676 sf, consisting of the house, garages, canopies and terraces.

The house would be approximately 180 ft from the terminus of Rosebank Drive and accessed via a winding driveway. Garage access is shown at the upper story level, 60 ft below grade at the end of Rosebank. There rear setback would also be approximately 180 ft.

The landscape plan retains the large oak on the east property line as well as the lower 100 ft of native plant growth. All plantings are suitable for slope and drought conditions.

The house design consists of a simplified classical style with arches, pilasters, hipped roofs and surrounds. The entry is depicted at a modest height. The front elevation features a stair tower at a height of 23 ft, accessing an upper wing over the garage. Overall height of the house would step down the slope reaching a maximum of 38 ft, well within 40-ft overall height allowed for stepped massing.

The downslope wall height standard is met with the exception of a projecting bay that is 3 ft wider than the 20 ft maximum allowed. Staff regard the projection as an appropriate use of the *extension* provision, since its base elevation would not affect viewed mass and would reduce the amount of grading required. Draft conditions allow the projection if narrowed to 20 ft in width; if that is

not achieved, additional fill could bring its height into compliance.

Planner Cantrell noted that the project is well within Code limits but at 19.5%, exceeds the Slope Factor Guideline of 16%. The City Engineer reviewed the project and concluded that it was complete for Planning Commission review from his perspective; his comments were included in the draft conditions.

The area is defined by apartment buildings fronting La Cañada Crest Drive, which are larger and higher than the proposed single-family residence. The house is large, reaching the 28-ft height limit as it steps up the slope. Its width of 87 ft is well below the 120-ft maximum guideline. He pointed out the substantial modulation at the second floor level as seen from the west, where screening is an important factor. The enclosed second floor façade is only 32-ft wide, facing the future park, with another 12 ft of open balcony and more than 60 ft of additional setback to the wing above the garage. There is adequate distance and height differential to the south that allows complete screening of the house mass without affecting long-range views from the house.

**Landscaping** -the specified tulip trees would attain adequate height; Staff recommended two additional tulip trees on the west side, just north of the other plantings. Staff recommended that the landscape architect provide specifications for tree wells and to require irrigation and maintenance of any plantings on City property (similar to City-owned parkways which are maintained by property owners).

**Color** - there is the potential of long-range views of the house at least until the landscaping matures. Therefore, Staff recommended conformance to the City's LRV guidelines.

**Construction vehicle parking** - once the driveway and pad are graded, it seemed there would be little room to accommodate construction vehicles. Staff recommended that Foothill be the only street upon which construction workers would be allowed to park.

**Slope Factor Guidelines** – Planner Cantrell advised that the Guideline is exceeded by 1,541 sf, or 3.5% of the lot area. He noted that the house would be sited well below the highest portion of the lot and would not be highly visible. Staff could not determine any other factor to justify allowing a limitation based on the steepness of the slope.

**Modification** –the requested encroachments on the west side involves both floor as well as a retaining wall along the west property line. The retaining wall is necessitated by grading and could be mitigated through landscape screening. The house encroachments also lack effect with regard to the horizontal placement. Nevertheless, Staff had difficulty in determining the necessity of the request since this is new construction and shifting or reducing the minor area that encroaches seems viable. Therefore, Staff’s analysis did not include a positive recommendation on the house encroachments.

Planner Cantrell then reviewed the required findings and advised of Staff’s recommendation of approval with the exception of the first and second floor residential encroachments.

Commissioner Mehranian asked Planner Cantrell to elaborate on the comment in the staff report regarding how the excess height would be viewed.

Planner Cantrell explained that with stepped massing projects, all transverse sections must be within the 28-ft envelope. The primary concern being the view from below. He noted however, that those home are sunken to the extent that they would only view a 28-ft-high structure. He believed that the proposed landscaping would block the base of the house.

Commissioner Engler commented that the wall height closest to the house is approximately 12 ft.

Project architect, Morris Brown, advised that the 30-inch-diameter oak dictated the house placement, resulting in the west-side encroachments. The lower floor’s 1-ft 6 inch encroachment extends a distance of 6 ft and would be hidden by a retaining wall. The upper floor’s 4-ft

encroachment extends a distance of 18 ft. There are no gable ends.

Commissioner Engler confirmed that La Crescenta Irrigation District serves Rosebank Drive and that sewage would have to be pumped upward.

Roy Leisure, landscape architect, reported his clients' direction to screen this project to the extent that it would not be viewed from off site - that's why landscaping extends beyond the property line. Wall heights were determined by the Fire Department's requirement for a 20-ft-wide driveway and hammerhead. He thought the wall referred to by Commissioner Engler was 6-7 ft high rather than 12 ft.

Applicant, Elizabeth Bilaver, pointed out that the wall's excess height would be confined to the upper portion of the driveway and that the proposed hammerhead would benefit the neighborhood as a whole.

Chairman Levine opened the public hearing.

Dwayne Waters, 2329 Crescent Avenue, spoke as president of Los Conservadores and on behalf of the neighbors who were not given notice of this project. He advised that the goal of Los Conservadores is to preserve the entire hillside from Rockland Drive to the YMCA and this site is located in the center. The Fire Department requires brush clearance within 200 ft of the structure, which would make Mark Hunter responsible for a portion of that clearance, since his property is within 200 ft of the project.

Mr. Waters stated that, environmentally, the project is detrimental to its surroundings and that a complete EIR is needed; he was certain that an objective study would find this project to be "totally inappropriate", since it would be the only structure on the hillside and introduce noise. He expressed a need to study the impact this house would have on wildlife and informed the Commission of a plan, not yet studied, to acquire easements across the elongated properties to provide access over the entire area. Mr. Waters stated this project would destroy that plan and what a number of people have worked on for

years. He advised that owners of properties downslope from the site have concerns of drainage runoff and that the impact to wildlife that inhabits the area needs to be considered. "The Conservadores are willing to work with the City to 'work' the hillside, but we can't do that with this house sitting there". He felt it was ironic that the Conservadores worked so hard to get open space and the architect uses the open space as a basis for encroachments. He stated it would be negligent to proceed without a complete report.

Commissioner Gelhaar asked what Mr. Waters thought the property owner should do with their property.

Mr. Waters responded that perhaps the owners were not aware of the efforts to preserve the entire hillside and that they might have an issue with whomever sold them the property.

Chairman Levine asked if Mr. Waters was aware of any endangered species that inhabits the area.

Mr. Waters advised he was not, but "always thought there should be an EIR to determine that".

Joel Markss, a resident of the condominiums located upslope from the property, 2152 La Cañada Crest Drive, advised that many residents who contributed monetarily to the preservation of Rockridge Terrance, were surprised to receive the notice of public hearing. He agreed that "it doesn't belong there", but stated that Mr. Leisure did a good job with the landscaping and applauded the architect for not designing a flat roof that would be in his downward view. Mr. Markss stated that it seemed logical to require brush clearance if a structure is in the middle of a brush area. He requested assurance that adequate landscape screening would be provided on the westerly side and that cost impacts would not be levied on others if sewers area available to the subject property. He stated that an EIR was vital to this property and that a Negative Declaration "makes no sense". If approval was granted, however, he asked that his comments be considered.

Chuck Sambar, 2134 La Cañada Crest Drive, a board member of Los Conservadores, stated that the Board had

every intention that the integrity of the hillside and quality of life is maintained. He felt it is imperative that a study be required on the impact to the environment and the residents of this community.

Fran Jesse, 2102 La Cañada Crest Drive, lives on the end condo unit, adjacent to the proposed driveway and was concerned with headlights and the noise of cars up and down the driveway. She stated that "it's a huge house and out of context for the neighborhood, though beautifully designed and landscaped". Ms. Jesse stated she felt the project was "only for financial gain" and agreed with prior comments.

Sandy Maher, 4422 Rockland Place, asked that an environmental impact report be required.

Property owner, Elizabeth Bilaver, stated that she and her husband became aware that the lot was for sale approximately 4 years ago, but the cost was prohibitive for them. They recently discovered the lot was still for sale and that no purchase offers were made. She advised that she was aware of Rockridge Terrace but was not concerned as she felt that if someone wanted it, they would have purchased it, including the 70 members of the Conservadores. Ms. Bilaver felt that it was a good idea to clear the brush, in light of the San Rafael fire that burned very close, 2 years ago. She advised that her family would be living in the home, and while she respected others' needs and wants, the property was reasonably priced for 4 years. She felt she should be allowed to make use of her property and expressed a willingness to give an easement on the lower portion of their property to the YMCA so the trail connection could be made.

Further comments were not offered and the public hearing was closed.

Commissioner Mehranian referred to the Negative Declaration and wanted assurance that parking vehicular access, circulation and noise could be mitigated. She stated that she had a general concern with the proposed size of the house for its location, but did not have a concern with the driveway.

Commissioner Engler disputed the Negative Declaration under *Biological Resources*, which states there would be no impact to the wildlife corridor and asked for the source of Staff's information responding to Air Quality. Under *Utilities and Service Systems*, it was unclear to him whether the property was served by sewers or a septic system. He stated it was difficult to make the findings, specifically finding #2 and concurred with some of the public comments regarding the need for an EIR for this site.

Commissioner Brown commented that a Negative Declaration might be appropriate, but he was not yet comfortable with what the impacts are. He suggested that an Initial Study or a focused EIR might be more suitable. He recognized there might not be anything of value, but at this point, he did not have sufficient information to form a decision. Commissioner Brown asked for more information regarding drainage and commented that the site and its boundaries were difficult to determine. He felt this was a perfect case to request staking or story poles.

Commissioner Gelhaar agreed with the majority of Staff's report with the exception of denying the requested setback encroachment. He had a concern with finding of Special Circumstances; a 7,000 sf house would meet the Slope Factor Guideline and he was more comfortable with that figure. He supported Commissioner Brown's suggestion for story poles.

Chairman Levine was also concerned with the need for a setback encroachment and the proposed size of the house, specifically in terms of the Slope Factor Guidelines. He asked how Staff made the determination that endangered species are not on the site.

Planner Cantrell responded that there was no evidence of endangered species brought forth throughout the proceedings on Rockridge Terrace.

Chairman Levine stated he doubted there was any environmental impact that could occur but perhaps some things need to be researched further such as a literature search of what's in the area, and at least a review of the Negative Dec.

Chairman Levine then informed the applicants of their options: Accepting a vote might be negative from their perspective. If a continuance was preferable, he suggested that they erect story poles and consider reducing the size of the house; he also noted that the Commission did not appear supportive of the setback encroachment and that some type of environmental review might be warranted. A continuance would also allow more time for them to discuss the matter with their prospective neighbors.

Planner Cantrell pointed out that without the garage and decks, that the house is comprised of 6,400 sf.

Commissioner Brown suggested that the Commissioners make a site visit with the applicant for a walk-through of the site.

Director Stanley advised that a Special Meeting could be scheduled or the site visits could be staggered.

M/S/C Brown/Mehranian to continue Hillside Development Permit 01-20 and Modification 01-49 to January 22, 2002. Unanimous.

**CONDITIONAL USE  
PERMIT 334; HILLSIDE  
DEVELOPMENT  
PERMIT 01-49;  
DECORATIVE FENCE  
01-09; YOUNG; 4953  
ALTA CANYADA:**

Planning Aide Shimazu reported the applicants' request to install a new swimming pool, 5 ft from the front property line facing Louise Drive.

The subject property is located at the southwest corner of Alta Canyada Road and Louise Drive in the R-1-20,000 Zone, and qualifies as a *hairpin* lot. The entire street frontage is considered as *front yard* for purposes of establishing setbacks.

Mr. Shimazu then reviewed the requests: CUP review is required for any pool or spa located in front of a residence or within the front yard and includes locating pool equipment 4 ft into the required front set back. The Decorative Fence component would allow an existing wooden fence atop an inward-facing retaining wall, to remain along Louise Drive. Since the Decorative Fence Ordinance applies in this Zone, front yard fences are allowed at a maximum height of 6 ft. with Director's approval. Further, the fence meets the County's

requirement to provide a 5-ft-high barrier at the pool's perimeter.

As proposed, the pool would not be visible from the street nor from adjacent properties due to the existing fence height and mature landscaping. Because of the property's slope at the rear, the front yard is the only available area that could accommodate a pool and spa.

Staff recommended positive findings and project approval.

Chairman Levine confirmed that the height of the fencing along Louise Drive is 5 ft and 7½ ft from the interior property.

Applicant, Kelly Mack Young, advised that the fence was part of the property's improvements when she purchased the house. She was unaware that Louise Drive would be considered as a front yard and offered to do whatever was necessary to make the fence more appealing.

Chairman Levine opened the public hearing.

Further comments were not offered, and the public hearing was closed.

Commissioner Brown noted that the Commission was dealing with a *hairpin* lot once again; however, he considered this situation as a traditional corner and side yard situation. The pool would be fully screened from Louise Drive, though not well-screened from Alta Canyon. Ultimately, he stated he could support the request.

Commissioner Gelhaar agreed, stating that he could support Staff's recommendations.

Commissioner Engler concurred, adding that the corner is nearly a 90 degree turn.

Commissioner Mehranian and Chairman Levine agreed.

M/S/C Mehranian/Engler to approve Conditional Use Permit 334, Hillside Development Permit 01-49 and Decorative Fence 01-09 as conditioned. Unanimous.

**HILLSIDE  
DEVELOPMENT  
PERMIT 01-42;  
JOHNSON; 5485 LA  
FOREST DRIVE:**

Senior Planner Buss advised that the applicant had requested a continuance to November 27.

Chairman Levine confirmed that no one in the audience wished to address this project.

M/S/C Brown/Mehranian to continue to November 27, as requested. Unanimous.

**PUBLIC MEETINGS:  
MODIFICATION 01-64;  
TRUBLOOD;  
5124 CAROLI LANE**

Planning Assistant Gjolme reported that a new, two-story home is under construction on the subject site. The applicants' request to construct a new retaining wall/fence combination along the side and rear property lines that would reach 12 ft in height and exceed the 9-ft-high maximum allowed for such configurations.

The retaining wall would extend along the south side property line and along the southern half of the rear property line, ranging in height from 3' 6" to 6'. The wall would be topped with a wooden fence ranging in height from 4' to 6' for an overall height between 8' 6" to 12'.

He reported that recent Code revisions limit outward-facing fence/wall combinations to a height of 9', provided the retaining portion does not exceed 3' in height. The proposal exceeds both standards.

The applicant proposes to grade the lot at the southeast corner to facilitate drainage to Caroli Lane, per the instructions of the City Engineer. A 3-ft-high retaining wall is not feasible because of the 5' to 6' elevation difference between existing and proposed grade. Assistant Planner Gjolme recognized that the 12-ft-high fence/wall is numerically significant, but noted that its function is site-appropriate and that it would only affect the most adjacent lots to the south and east and it would increase the privacy to those lots. He noted that the owners of those two properties support the project as proposed.

Commissioner Brown confirmed that the project would be inside the existing 6-ft-high wall and that it would not extend into the front yard.

Director Stanley stated that the City Engineer required drainage to flow to the street, thereby necessitating a higher wall.

Commissioner Gelhaar wondered if this resulted from the project as a whole and asked if the new house was at a higher elevation than the previous home.

Assistant Planner Gjolme advised that it is a product of the plan check process as reviewed by the City Engineer.

Project designer, Dave DeAngelis, reported that a miscommunication from the City Engineer to the Planning Department, left him with the understanding that a 6-ft-high wall would meet Code. He was unaware that a 6-ft-high, inward-facing wall requires a Modification. The neighbors to the rear are in agreement with the proposal as it would increase the privacy to their pool area. The neighbor to the south has delayed their landscaping until the applicant's construction is completed; they will then replace their side yard fence. He reported that all surrounding neighbors support the project and are all working together.

Applicant, Kathleen Trublood, reiterated the open discussion among neighbors.

Chairman Levine opened the public hearing. Comments were not offered, and the public hearing was closed.

Chairman Levine acknowledged the neighborhood support, but stated that he had "a problem with someone looking at a 12-ft-high wall".

Commissioner Brown stated he felt the same way initially, but the alternative is allowing a view to the neighbor's pool.

M/S/C Brown/Engler to approve Modification 01-65 as conditioned. 4 Ayes. No: Levine.

**MODIFICATION 01-54; MORROW/REILLY; 902 FLINTRIDGE AVE**

Assistant Planner Gjolme reported the request to construct gated entry structures consisting of arched wooden gates, and six stucco pilasters with light fixtures, to be installed at the northeast corner and along the west side of the subject property. All components exceed the 6-ft-high maximum established by the Decorative Fence Ordinance. The gates, spanning 18 and 24 ft, would reach a height of 8 ft. While the pilasters meet Code, the light fixtures on top yield a total height of 7 ft-6 inches.

The subject site is located on the south side of Flintridge Avenue, west of its intersection with Commonwealth in the R-1-40,000 Zone. Three, 10-ft-wide flag strips immediately abut the property on the west side.; the owner of the most adjacent westerly property Edward Reilly, is a co-applicant as one of the pilasters would be installed on his property at 912 Flintridge Avenue.

Assistant Planner Gjolme noted that over-height pilasters are common in the area and that the majority of the frontage would accommodate 6-ft-high fencing. The additional pilaster height, caused by the light fixtures was considered as a visual enhancement, emphasizing the driveways and adjacent flag strips. Conversely, Staff believed that the 8-ft-high driveway gates could be reduced in height to 6 ft and still afford privacy and a sense of entry as desired by the applicant. Staff's recommend approval with that condition.

Commissioner Gelhaar confirmed that a pilaster at the front of the property was for education purposes only.

Sue Stranger of Adobe Design, confirmed that the pilaster was simply a model for the neighbors. She advised that the Cliff May-designed home is at a higher elevation than the entrance, forcing the excess height to provide privacy. Ms. Stranger advised of her contacts with all the neighbors on the private road and displayed a photo board depicting over-height gates within the neighborhood. The subject gate is designed as a sliding single piece.

Larry Tison, Landscape Architect, designed the wall and wanted the pilasters to mimic Cliff May's "robust"

architecture. They would be comprised of slump stone with a slurry finish.

Commissioner Mehranian referred to the extensive arborist report and asked who would monitor those recommendations.

Mr. Tison responded that he worked on the home's landscape design with Cliff May and was aware of the need to protect the trees. He pointed out that the fence has a floating foundation around the oaks to avoid the roots and in a couple places, bridges the roots. He advised that an arborist would be on hand during construction.

Responding to a question from Commissioner Brown, Mr. Tison advised that it would take 3-4 weeks to manually clear the area of ivy. Once cleared, the project would take approximately one month to complete.

Chairman Levine opened the public hearing.

Dick Ratcliff, 908 Flintridge Avenue clarified that the pilasters marking the entrance to the roadway are approximately 36 x 36.

No further comments were offered and the public hearing was closed.

Commissioner Mehranian stated that she did not have an issue with the excess height, but wanted to add a condition requiring an arborist on site during construction.

Commissioner Gelhaar commented that the gates appeared attractive and appropriate at the 8-ft height submitted.

Assistant City Attorney Steres suggested striking draft condition No. 12 and amending draft condition No. 11 to requiring an arborist to be on site during construction.

M/S/C Mehranian/Gelhaar to approve Modification 01-54 as amended. Unanimous.

**MODIFICATION 01-  
59; MAHLI; 5206  
VISTA LEJANA LANE:**

Senior Planner Buss advised that the applicant had requested a continuance to November 27. Chairman Levine confirmed that a Staff report was unavailable due to the request. Confirming there were members in the audience who were unaware of the continuance request and who were present to address the project, he opened the public hearing.

Charles Weymann, 5240 Harter Lane, presented a letter from Mr. Maynard at 4120 Pizzo Ranch Road and advised that his neighbors, the Horowitz', were more impacted than he by the project. Mr. Weymann then read a prepared statement, recalling the history of the lot split which the neighbors supported and which resulted in one lot fronting Harter Lane. That lot is not maintained and used partly as a dumping ground for excess construction material used on the Vista Lejana property. Mr. Weymann reported that all the neighbors would support the wall without the plexiglass panels, provided the maintenance of 5209 Harter Lane is brought up to par with its neighborhood. He then distributed photos of the situation.

Janet Weymann addressed the plexiglass panels which are proposed as a sound barrier. She felt the panels were unattractive and questioned how they would appear after the winter rains. Ms. Weymann questioned the applicant's credibility "since he did not keep his promise to maintain the property during the lot split".

Senior Planner Buss advised that the Vista Lejana property is no longer owned by the applicant.

Commissioner Gelhaar confirmed that Staff had sufficient information to initiate a property maintenance complaint.

Chairman Levine commented that the over-height wall was constructed without a permit. He noted that the applicant had an opportunity to attend the public hearing, but opted to submit a written request for continuance which is granted at the Commission's discretion. He preferred to deny the continuance, deny the use of plexiglass and reduce the wall height to what is allowed.

Director Stanley advised that the new Code revisions define the Angeles Crest frontage as the *front yard* and therefore, the maximum fence height would be 3½ ft. He did not believe that a fence of that height would compliment the neighborhood and noted that the Commission lacked technical information at this point.

Commissioner Brown preferred the opportunity to review a Staff report and make a site visit.

M/S/C Brown/Gelhaar to continue Modification 01-59 to November 27<sup>th</sup>. 4 Ayes; No: Levine.

**OTHER BUSINESS:**

**APPEAL OF THE  
DIRECTOR'S  
INTERPRETATION OF  
CODE:**

Director Stanley reported that this item was the other side of the picture involving a dispute between neighbors. The Commission's determination on the abutting property regarding a play structure is on appeal to the City Council.

Planning Aide Shimazu reported that Staff received a complaint regarding wooden lattice panels, attached to a block wall. The height of the lattice work reaches 7½ ft when measured on the subject site, and 10½ ft as measured from the higher grade of the neighbor to the north. The Director of Community Development's interpretation was that the trellis impacts open space and constitutes a *fence* for purposes of establishing height. Therefore, the maximum allowed height would be 6 ft.

Staff recommended that the Commission deny the appeal and require a 6-ft-high, Code compliant *fence*.

Chairman Levine invited testimony.

Jim Emerson, 4810 Daleridge Road, stated that Staff encouraged the two neighbors to resolve their issues privately. He stated that he had attempted to do so and then advised the appellant had sold their home and that it was in escrow. He requested a continuance to provide him an opportunity to work things out with the new property owner. Mr. Emerson explained that the fence/trellis was installed to increase the privacy of both homes. He commented that the new property owner might perhaps accept the lattice; if so, he would file for a Modification for excess height.

Chairman Levine commented that a continuance might result in the problem being resolved.

Director Stanley commented that notwithstanding the appellants selling their property, the complaint remains valid and in any case, requires a Modification.

Assistant City Attorney Steres stated that what was before the Commission was an appeal of the Director's determination that the lattice is a part of the wall and therefore is attributable to the overall wall height. Mr. Emerson's argument leaned toward a Modification, which was not before them.

Mr. Emerson stated the if had the right to appeal the Director's decision, he felt there should be some leeway for interpretation.

Commissioner Gelhaar felt this issue could affect many properties and will surface again. He confirmed the applicant understood that he could appeal the Commission's decision if it were to be unfavorable for him.

Richard Grippe, local Realtor and community resident, advised of numerous similar situations throughout the community.

Director Stanley advised that despite the numbers, similar configurations would be considered as *structures* and subject to height requirements.

Commissioner Brown remarked "it is clearly a fence" He did not believe the City should allow indiscriminate additions to fences or walls and have someone argue they didn't have to comply with height requirements. He added that he might feel differently if he were reviewing a request for a Modification. He cited the need for consistency and noted that the Orange Tree Lane matter was initiated by a complaint and, even though the property was sold, the Commission chose to act appropriately and follow through on the enforcement. While an agreement between neighbors is always welcome, it shouldn't be the determiner for the Commission to proceed.

M/S/C Brown/Gelhaar, affirming the determination by the Director. Unanimous.

Ron Horowitz then arrived; Chairman Levine provided him with a summary of what occurred on the Vista Lejana matter and advised that the Commission was in receipt of his written concerns.

**COMMENTS FROM  
THE  
COMMISSIONERS:**

Commissioner Engler asked Staff to check a 16"-diameter oak tree at 4170 Commonwealth that "is buried in concrete".

Planning Assistant Gjolme recalled measuring the oak at 14" in diameter and when the plan was submitted, 18" was the criterion for a "protected" oak.

On the La Bruna matter at 615 Berkshire Avenue, Director Stanley advised Staff is awaiting for a sign-off of the Property Owner's affidavit by the County, who has issued a permit to Mr. La Bruna to use an easement owned by Flood Control.

**COMMENTS FROM  
THE DIRECTOR:**

Director Stanley advised that the City Council would hold a joint meeting on the Draft Housing Element on November 19<sup>th</sup> at 5:00 pm

**ADJOURNMENT:**

M/S/C Brown/Engler to adjourn at 11:20 pm  
Unanimous.

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Secretary to the Planning Commission