

**MINUTES OF A MEETING OF THE PLANNING COMMISSION
OF THE
CITY OF LA CAÑADA FLINTRIDGE
HELD NOVEMBER 25, 2003**

I. CALL TO ORDER:

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

II. ROLL CALL:

Present were Commissioners Davitt and Gelhaar, City Attorney Steres, Director of Community Development Stanley, Senior Planner Buss, Planner Cantrell, Assistant Planner Gjolme and Planning Aide Shimazu. Commissioners Levine and Mehranian were absent.

III. SALUTE TO THE FLAG: Led by Commissioner Gelhaar.

IV. COMMENTS FROM THE PUBLIC:

Roger Dobkowitz, 4629 Hillard, spoke as a member of the Palm/Hillard Group, which had two requests: 1) he requested that the minutes of July 22nd to be "redone" with regard to HDP 01-36, 1874 Palm Terrace Court. He reported that Commissioner's Levine's comment that "a sizeable number of large trees were illegally removed" was omitted from the adopted minutes and he would like to have it included. 2) He counted 20 trees that were cut down from that site, affecting 9 properties. He asked what the City has planned for restitution and requested that they be replaced as soon as possible.

Director Stanley advised that Staff would not comment at this point, since the matter is pending.

Chairman Engler asked staff to review the minutes and confirm that the statements alluded to by Mr. Dobkowitz were perhaps omitted.

City Attorney Steres advised that Mr. Dobkowitz brought this matter to the City's attention in writing. The City responded, advising that the adopted minutes would not be re-opened, but that he was welcome to address the Commission; those statements would be reflected in the minutes of this meeting.

Chairman Engler inquired if the minutes could be reconsidered by the Commission if they are reflected on the tape.

Attorney Steres advised that procedurally, the City does not re-open adopted minutes.

Chairman Engler asked if it would be legal to do so.

Attorney Steres provided a brief background as to why it is not a straightforward answer. He did not recommend that the Commission go down the path of reconsidering adopted minutes that are 6 months, one or two years old, perhaps recreating history.

Chairman Engler stated that the tree removal might be an important issue and asked that the City Attorney report on the legality of revisiting the minutes.

Mike Layman, 4610 Palm Drive, representing the Palm/Hillard Group on the same matter, reported that significant excavation had taken place near the large oak on the north side of the house and affecting its roots. Planning Staff advised him that such work was legitimate; however, he pointed out that condition 18 specifies that hand trenching beneath the canopy of the oaks shall be done under the supervision of a city-approved arborist.

Director Stanley reported that upon investigating the matter, he discovered the condition and issued a Stop Work Order, which remains in effect, and also required a deposit for an arborist to review the site. Staff has the report, which recommends "clean cutting" the roots. The report does not cite any significant damage to the oak.

Planner Cantrell encouraged Mr. Layman to review the report and advised that he was the staff member who initially spoke with Mr. Layman.

Ralph Martin, 4633 Hillard Ave., read from the arborist's report, which he believed contradicted Director Stanley's statement. He reported considerable root damage to the oak.

Planner Cantrell pointed out that the report includes remedial action and acknowledged that this particular arborist's recommendations contradict the effectiveness of the Tree Protection Guidelines. He felt that if this arborist had reviewed the site plan, he would have recommended against the house location based on proximity of foundation to the canopy of the oak

Chairman Engler advised of having met with Mr. Martin on site the previous week. He noted the differing opinions with regard to distance from canopies. He believed that Staff was conducting due diligence and perhaps some of the requirements may be modified.

Director Stanley noted that current guidelines require that a distance of 3½ times the diameter of the tree be maintained – which was done in this case. Some arborists opine that all construction should be outside the tree’s drip line.

Property owner, Bob Gazmarian, clarified that the oak’s canopy is 30 ft out from its base; there is a 15-ft drop off where the roots are exposed. He has also secured another arborist’s opinion. Mr. Gazmarian stated that the canopy needs to be trimmed when house is built – to 20-25 ft.

Chairman Engler asked the applicant why the conditions of approval were not observed.

Mr. Gazmarian responded that his contractor was given a copy of the CC & Rs, but he was distracted by the drainage issues. He doubted that the grader or contractor were aware of the conditions and he felt confident from the arborist report that the tree will survive. He explained that he purchased the property because of the oaks and it is important that their stability be ensured.

Chairman Engler remarked that an important issue was forgotten and that Mr. Gazmarian should give some thought towards mitigation.

Commissioner Gelhaar requested confirmation that the matter is scheduled for future Commission review.

Planner Cantrell responded that the request was initially reviewed in July and that staff anticipated that it would be back before the Commission by now. The matter has been delayed pending the City Engineer’s review and clearance of the drainage culvert; Staff cannot proceed with the environmental review until that happens. He clarified that the applicant has a building permit for the house, but the revised grading and completing the landscaping are on hold. Even if fill and culvert are abandoned and Mr. Gazmarian proceeded to build the house, final clearance would not be granted until the landscape issues are resolved.

V. CONSENT CALENDAR:

A. M/S/C Gelhaar/Davitt to adopt the minutes of November 10, 2003.
Unanimous.

VI. CONTINUED PUBLIC HEARINGS:

**A. Hillside Development Permit 03-52; Modification 03-67; Yang; 3769
Berwick Drive:**

Planner Cantrell recalled that the Commission reviewed this project on October 14th and continued the hearing, mostly out of concern that the project exceeded the Slope Factor Guideline. Also, staff was directed to provide a floor area

comparison chart for the neighborhood. Since then, the project size has been reduced by 450-sf, so that the project is now below the Slope Factor Guideline.

Staff recommended positive Hillside and Modification findings and project approval.

The Commissioners did not have questions for Staff.

Project architect, Eric Sautter summarized the proposal to construct a master bath addition and a two-car garage with a parents' suite and media room above. The reduced floor area was reached by removing a storage area, an office and 275-sf from the media room. He pointed out that the two-story portion of the addition would project into the front setback, but would extend the existing building line.

Responding to a question from Commissioner Gelhaar, Mr. Sautter believed that all construction vehicles and contractor parking could be accommodated on site.

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

Commissioner Gelhaar supported the revisions and he stated that he could make the findings.

Commissioner Davitt agreed, stating that the redesign was consistent with the Slope Factor Guidelines and with the Commission's direction.

Chairman Engler was pleased that the project met the Slope Factor Guidelines, which was a chief concern for him.

M/S/C Davitt/Gelhaar to approve Hillside Development 03-52 and Modification 03-67 as revised and conditioned. Unanimous.

B. Hillside Development Permit 01-36 (amendment); Gazmarian; 1874 Palm Terrace Court:

Planner Cantrell recalled that on November 12, 2002, an application for a new house was approved. The landscape plan included a notch in the house on the east side to accommodate an existing eucalyptus tree. With the onset of rough grading, the applicant expressed misgivings about the proximity of that to the eucalyptus tree, which led to the current request to remove the tree. The applicant hired an arborist, the City hired another arborist, whose opinion, was quoted in Staff's report, recommending removal of the tree. Partial concern was based on the amount of excavation; however, even after

replacement and re-compaction, removal was recommended in large part because of the species characteristics of falling branches and combustibility.

Staff recommended that the removal of the eucalyptus proceed with a condition that it be replaced by two, 48-inch-box California sycamores, or other trees as determined by the Director of Community Development. The request is supported by the most affected neighbor directly to the east, whose letter was included with Staff's report.

Applicant, Bob Gazmarian, pointed out that this tree was discussed last November when the architect spoke with Messrs. Dobkowitz, Martin and Evangelista regarding removal of the subject eucalyptus. When he submitted a revised landscape it was approved. When he asked to remove the eucalyptus and four others and add 50+ more trees, including sycamores and oaks, he was told by some Commissioners, "we're not discussing it any more". He stated "the only reason why the tree is again being discussed is because he retained counsel - issue of illegal removal of trees is unfounded - they were not protected, were not called out on the landscape plan nor in the conditions or his escrow papers". Mr. Gazmarian stated this turn of events is unfortunate because Planning Staff has been approachable and helpful, and time was being spent on a tree that no one wants. He further advised that Mr. Dobkowitz informed him of having cut down a eucalyptus tree on the Gazmarian property because he "didn't like those trees", prior to Mr. Gazmarian's purchase being effective.

Commissioner Gelhaar reinforced the City's position on protected trees, given the significant amount of ongoing construction.

Commissioner Davitt clarified that a building permit has been issued, which is separate from the overall landscape plan that will be reviewed by the Commission in the future. The project is proceeding on two tracks and the Commission is focusing on a particular eucalyptus at this point.

Director Stanley noted that Commissioner Davitt was not on the Commission when the initial approval was granted. He explained that a landscape plan was approved, and as long as Mr. Gazmarian follows that plan, he can build his home. The issue is a specific area designated on the landscape plan --- whatever happened within that area and any remedial measures will be discussed in the future.

Chairman Engler noted the importance of the Commission being provided with a copy of the approved landscape plan.

There were no further questions of Staff.

Commissioner Davitt remarked that this project involved many issues, as evidenced by the neighbors who were present, but he felt that at this time, the Commission needed to focus on the specific request to remove a tree that is not protected and, in his opinion, does not fit well with the design of the house. He questioned a statement in the arborist report regarding the instability of eucalyptus trees, noting that they are used as windbreaks in orchards. Nonetheless, he questioned if it was premature to authorize removal, since the Commission would not be reviewing the landscaping in its entirety until next year.

Commissioner Gelhaar commented that he looked forward to reviewing the entire landscape plan. He stated that the tree in question is big, messy, dangerous, and the neighbor would like to see it removed. He supported Staff's recommendation.

Director Stanley added that there are engineering issues involved in order to create a culvert. He reiterated that the original plan showed this tree as remaining - the applicant has filed an amendment to the plan to remove it. The tree is not of a protected species and it was not identified by Staff as a significant tree worth saving; the architect wanted to integrate it in the house design. Director Stanley did not believe that allowing removal would affect the ultimate landscape plan and noted that the conditions require a replacement tree of significant size and assure that the project will not continue unless there is full compliance with the arborist recommendations.

Chairman Engler stated he did not believe that 48-inch-box replacement trees were necessary, but he would like the eucalyptus replaced with a suitable tree in same location so that the house design would remain as approved.

Director Stanley stated that it may be a significantly smaller tree with a smaller root structure and canopy. His recommendation was to refrain from planting any tree near the structure.

M/S/C Gelhaar/Davitt to approve the requested amendment to Hillside Development Permit 01-36, allowing removal of the eucalyptus tree, with the conditions revised to require that one replacement tree of a size and species determined by the Director of Community Development shall be planted in the same location. Unanimous.

VI. PUBLIC HEARINGS:

A. Lot Line Adjustment 03-01; Variance 03-11; Reed/Lee; 3751 and 3745 Normandy Drive:

Senior Planner Buss reported that an identical request was originally approved 1996, but the lack of follow through to ensure that the approved Lot Line was recorded, resulted in the approval expiring.

The properties are located on the south side of Normandy Drive, between Normandy Court and Normandy Lane, adjacent to the City's eastern boundary. The Zoning is R-1-40,000, even though lots in the area are half that size. Since realignment would not result in either of the lots meeting the minimum lot size, a Variance is required.

An approximate 400 sf of differential in land area occurred when a retaining wall was built between the 2 properties, which was "off" by approximately one ft. The request is for a minor realignment and no visible physical change would result.

David Boss, counsel for the Reeds at 3751 Normandy Drive, reported that this is the culmination of a long dispute and that it was never understood what was required to record the previous approval. The problem was discovered during the course of selling one of the properties. Allowing the request will assure that the retaining wall is entirely within the boundary of his client's property.

Chairman Engler opened the public hearing; comments were not offered and the public hearing was closed.

Commissioner Davitt stated that he did not have a concern with the request. The end result would be consistent with existing lots in the area and it would clarify liability.

M/S/C Gelhaar/Davitt to approve Lot Line Adjustment 03-01 and Variance 03-11. Unanimous.

B. Conditional Use Permit 376; McDonnell; 1336 Sugar Loaf Drive:

Assistant Planner Gjolme reported the request to install a new swimming pool and spa along the north side of the subject lot. The area in question is to the side and rear of the home and at a considerable distance from Sugar Loaf Drive; it qualifies as the "front" due to the application of the "shortest of frontages" rule, which was applied when the house was constructed in 1999. While the pool would not be located between the front of the house and the street, it would be within the 25-ft front setback, requiring a CUP.

The project site is located along the southwest side of Sugar Loaf Drive between Hampstead Road and Domal Lane, in the R-1-20,000 Zone. The site does not have street frontage and takes access via a driveway easement over the adjacent property to the north.

The pool and spa would comprise less than 300-sf since available area in the northwest corner is limited and visibility of the project would be impossible from the street or from neighboring properties due to distance and difference in elevation. Proposed setbacks are more than twice the required 5-ft minimum, thereby achieving the goals of CUP review in Staff's estimation. The request does not present any encroachments, as was the case in 1999, when a similar configuration for a pool was denied. There is one house in the immediate area; however any potential impacts are more than mitigated by the setbacks, existing landscaping and a 15-ft elevation difference between the pool and that neighboring home. Staff believes that the unusual small size of the pool would diminish the normal intensity of use and any related acoustic impacts.

The key to the request in Staff's estimation is the absence of Modification review and any impacts on the street setting. Staff recommended positive findings and project approval.

Commissioner Davitt confirmed that in 1999, there were concurrent requests for a Hillside Review to construct a house and a Modification to allow a pool to encroach 12 ft into the front yard setback. The Hillside Permit was approved and the Modification was denied.

Attorney Steres further explained the change in the way pools are reviewed – previous Code treated pools as structures and they were therefore subject to the same setbacks. This was rethought and it was agreed to consider pools differently. New setbacks for pools were established and CUPs required for pools located within a front setback or between a house and the street.

Since the applicant did not have further comments to add, Chairman Engler opened the public hearing.

Steven Kavich, a six-year resident at 1340 Sugar Loaf, lives directly north of the project. He believed that the request was identical to what was denied in '99, when the house and pool were reviewed concurrently. He stated that the only way house moved forward was for the pool to be eliminated from consideration. Mr. Kavich stated he understood the rules have changed since then, but felt the basis for denial hadn't. He reported that his family's privacy and comfort would be affected due to the pool's proposed location 15-20-ft

from his bedroom window. He assumed that when the pool was eliminated from the plans, that issue was closed.

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

Commissioner Gelhaar stated that under other circumstances, he would not have a problem with the request. He preferred a continuance for the opportunity to review the minutes of the former project before he made a determination.

Chairman Engler stated that "however it's determined, the "front yard is the front yard", and he did not support the request. He offered the applicant the option of a vote or a continuance.

Applicant, Mary McDonnell, stated that she soon realized after purchasing her home that there were major contentious feelings towards the developer of her property. She related that the pool would not be used for anything other than family's recreation and that in reality, it would be located in what functions as the back yard. She requested a continuance so that her pool contractor could present the request from their perspective.

Chairman Engler - suggested that she consider alternate locations as well.

M/S/C Gelhaar/Davitt to continue Conditional Us Permit 376 to December 9th. Unanimous.

Commissioner Davitt confirmed that the Commissioners would received all conditions, minutes, previous plans or at least one view of different elevations.

VII. PUBLIC MEETING:

A. Modification 03-46; Greenberg; 245 Berkshire Avenue:

Assistant Planner Gjolme reported the applicants' request to allow existing over-height wall, pilasters and large entry gate to remain within the front yard setback and an over-height wall that was added to in the north side yard setback, adjacent to the Flint Canyon Tennis Club.

The project site is located along the east side of Berkshire Avenue, just south of the Tennis Club, in the R-1-40,000 Zone.

Solid walls, ranging in height from 6 to 9 ft, extend to the north and south from two 11-ft-high pilasters and driveway gages that are 10'-6" in height.

Driveway entry gates 10'-6" high, are flanked by two 11-ft-high pilasters. Solid block walls extend from each pilaster to the north and south, decreasing in

height to from 9 ft to 6 ft. The structures exceed the 6-ft maximum height allowed with Decorative Fence approval and while a majority of the walls meet the 6-ft-height maximum, their solid composition and the height of the other components require Modification review. A block wall adjacent to the Tennis Club was raised from a height of 18" to approximately 7½-ft, exceeding the 6-ft maximum. Lastly, a small portion of the front wall, which was bumped-out to accommodate a multi-trunk oak, extends into the Berkshire right-of-way. The proximity of the wall to the oak violates Tree Protection buffer guidelines, however a favorable arborist report was submitted, citing the vitality of the tree and the lack of impacts from the wall. While there are other fences in the area that exceed 6-ft in height, Staff believes that the overall visual scale is excessive with the rural setting. A compelling justification for the excess height is not apparent, since a code compliant structure would easily achieve goals of privacy and security.

Staff could not support the requested Modification and recommended denial, while encouraging the applicant to resubmit a Decorative Fence request that complies with Code, at which time the bump-out and associated issues would be addressed through conditions of approval.

Responding to a question from Commissioner Davitt, Assistant Planner Gjolme advised that wall construction began in mid-year. Two Stop Work Orders were issued and were unheeded, so that the work continued to completion, without permits.

Christopher Cox, landscape architect, related that the property owners were out of town on a pre-arranged trip and he assured the Commissioners that he did not design the wall or gates. However, before any construction began, he met with Mr. Greenberg and sketched his ideas. The sketch, not scaled, was submitted to the Commission. He reported that his client purchased the 185,000-sf property 5-6 months ago. Mr. Greenberg believes that part of his right to property ownership involves building structures which are consistent with others in the neighborhood. Both Mr. Cox and his client believe that the sale of the property justifies a wall similar to what was built. Mr. Cox noted that the home is set back almost 200 ft from the front property line. There is quick and easy access from the freeway and the Tennis Club 's parking lot is immediately adjacent to the North.

Mr. Cox noted that due to elevation change, if the pilasters were limited to 6-ft and one was standing in the street, they would reach sock height. He presented a power point presentation of homes in Montecito with gates on estate size properties that would be appropriate in the city. He advised of having submitted a list of approximately 30 nearby properties with over-height fences to Staff. Mr. Cox advised that his client was willing to reduce the height

of the wall between the columns by 2 ft, and install wrought iron fencing, thereby providing an "open" fence and complying with the Decorative Fence Ordinance. He then presented computer enhanced "before and after" elevations of the project with irrigation and plantings. Mr. Cox stated that he was retained after issuance of the Stop Work orders. He believed that his client would concede to lowering the columns by 2 ft, thereby also lowering the solid wing walls leading to the street and install wrought iron fencing with dense landscape screening on both sides; though this alternative has not been mutually discussed. He will also recommend reversing the bump-out, surrounding it with wrought iron fencing, so that it extends on to the property, rather than the right-of-way.

Mr. Cox informed the Commission that while his client was expecting a denial, he would like to arrive at a compromise consensus and preclude this from being appealed to the City Council. He reported of discussing this with Mr. Greenberg to the point of terminating his services unless Mr. Greenberg is willing to agree to some kind of concession.

Addressing the over-height wall along the tennis club's parking lot, Mr. Cox stated that his client was again looking out for the security and privacy of his family, adjacent to a non-residential use. The area to the south is full of debris. He again felt that the Greenbergs would be willing to compromise if the Commission would provide direction. This is a downslope property and the gate is 38' back from the rolled curb.

Commissioner Gelhaar pointed out that construction workers have piled dirt against oak trees, further inside the property. He asked Staff for information regarding the front yard setback.

Assistant Planner Gjolme advised that he had not calculated it, but most likely, it was 50 to 70 ft.

Chairman Engler reported that the former property owner had an entrance gate and pilasters 25-ft further back than what Mr. Greenberg has constructed. He confirmed that the Greenbergs could maintain the pilasters, walls and gates if they were relocated out of the setback.

Mr. Cox doubted that his clients would be amenable to doing so.

Chairman Engler invited testimony from the audience, however comments were not offered.

Commissioner Gelhaar suggested that the property owner investigate what the front yard setback is. He noted that the Commission has allowed pilasters

and gates to exceed 6 ft in height; the point raised by Mr. Cox regarding the gate being at a lower elevation than the street warrants consideration for excess height . He preferred to review a Decorative Fence application for the remaining wall issues. Regarding the over-height wall on the side yard, he recognized that this property is unique and he stated that excess height might be appropriate, given the proximity to the tennis club's parking lot.

Commissioner Davitt concurred with Commissioner Gelhaar's comments regarding the side wall and believed an over height area in that location on this property was justified. He felt the design sketch submitted by Mr. Cox is attractive and practical and he, also, encouraged submittal of a Decorative Fence application with lower walls and gates, etc. Commissioner Davitt acknowledged that the 4-acre property, adjacent to a public use needed to be secured and there could be consideration there as well.

Chairman Engler remarked that the estate gates in Montecito shown on the power point display were not crowding the roadway as this project is. He stated that he had no problem with something this large, as long as it's out of the front setback and doubted that a common meeting ground would be reached with the property owner. He supported Staff's recommendation of denial.

Commissioner Gelhaar confirmed that there would be no point in a continuance.

Mr. Cox felt it would best if he applied for Decorative Fence approval. He would recommend a reduction in the size of the main gate, reduce the height of the columns, which would have lights on the face of the wall, reduce the height of the wing walls, remove the solid wall fence panels to a height of 2 ft in the front, reverse the bump out around the oak, and ask for a continuance. He asked if the owner did not agree to those conditions, could it automatically revert to a denial.

Attorney Steres advised there wasn't; if a continuance was granted to a date certain and there was no new application or revisions made, the Commission would make a decision at that time based on the information provided and on the findings.

Mr. Cox requested a continuance.

Director Stanley asked Mr. Cox if his client would comply with all the provisions of the Decorative Fence Ordinance.

Mr. Cox stated that it would exceed the 6-ft height, but maintain the scale of the property – the columns would be reduced in height by 30 inches or more, with wrought iron fencing between the columns in the front area only.

Director Stanley informed him that the solid wing walls would need a Modification.

Commissioner Gelhaar stated that he would not support any solid fencing or wall in the front yard setback.

Mr. Cox asked if he could return with columns in excess of 6 ft.

Chairman Engler stated he could support a gate heights of 8 ft at the centerline and pilasters not to exceed 6 ft.

Mr. Cox asked the City Attorney if it were possible to accept a denial and if his client was willing to comply with the Commission's recommendations, could he appeal the denial and return with a Decorative Fence Ordinance.

Attorney Steres advised that the Commission could reconsider its action and re-hear the request.

Commissioner Gelhaar confirmed with Mr. Cox that he preferred a denial.

M/S/C Gelhaar/Davitt to deny Modification 03-46. Unanimous.

VIII. OTHER BUSINESS

There were no reports

IX. COMMENTS FROM THE COMMISSIONERS

Commissioner Gelhaar commented on the tractor that is piling dirt around the oaks at the Greenberg residence.

Director Stanley advised that a Cease and Desist Order had been issued and includes grading, trees, construction of walls. The matter is in the hands of the City Prosecutor.

X. ADJOURNMENT

M/S/C Davitt/Gelhaar to adjourn at 8:00 p.m. Unanimous.

Secretary to the Planning Commission