

**MINUTES OF A MEETING OF THE PLANNING COMMISSION  
OF THE CITY OF LA CANADA FLINTRIDGE  
HELD ON DECEMBER 8, 2009**

- I. **CALL TO ORDER:** Chairman Davitt called the meeting to order at 6:00 p.m.
- II. **ROLL:** Present were Commissioners Cahill, Curtis, Gelhaar, Hill, City Attorney Guerra, Senior Planner Buss, Planners Gjolme and Clarke and Assistant Planner Lang.
- III. **PLEDGE OF ALLEGIANCE -** The Flag Salute was recited.
- IV. **COMMENTS FROM THE PUBLIC:** There were no comments on non-agendized items.
- V. **REORDERING OF THE AGENDA:** The agenda was reordered to hear item VIII.B before VIII.A.
- VI. **CONSENT CALENDAR:**
  - A. **Resolution:** Setback Modification 09-09/Second Floor Review 09-19/Variance 09-02; Rhody/Reinoso; 4634 Lasheart Drive.

Philip Tate - lawyer representing Donna Saraceno who owns the neighboring property to the east - spoke about the project. He requested that the resolution before the Planning Commission not be adopted and that the Variance for the project be denied. He argued that the property is identical in shape, size, etc. to others in the neighborhood and thus a special privilege should not be granted since a compelling and legitimate hardship for the request is clearly not apparent. He cited code sections for Variance findings and stated that the courts have very rigid and high standards if variances are to be granted. There was no evidence to support the variance findings per the staff report. Similarly, justification for the Second-floor Review and Setback Modification was absent.

Kyndra Joy Casper - also representing the neighbors to the east - stated that staff erred in exempting the project from CEQA. She noted that based on the scope of the project, it did not qualify under section 2.5(a)(4)(i)(additions) or 2.5(e)(1)(minor variances). She cited the uniform one-story character of the neighborhood and stated that the project was in gross disproportion to proximate homes. She also stated that the courts have established a 'low bar' or minimum threshold for the environmental review of projects.

Planner Gjolme acknowledged the error in the exemption and noted that it had been corrected.

Commissioner Gelhaar asked City Attorney Guerra to respond to the attorneys allegations.

City Attorney Guerra explained the process and noted that the item was not agendized for discussion beyond the resolution before the Commission. He explained that the item could be re-agendized if a vote for reconsideration was taken. He noted that the findings in the resolution were appropriate as written.

Commissioner Curtis confirmed that the resolution had been changed in accord with the appropriate exemption.

M/S/C Gelhaar/Cahill to approve and adopt said resolution. Approved 3-2. Commissioners Hill and Curtis opposed.

Senior Planner Buss explained that the neighbor(s) had 15 days to appeal the decision to the City Council.

## VII. CONTINUED PUBLIC HEARINGS

**A. Hillside Development Permit 08-41/Modification 08-12/Variance 09-05; Leisure/Mkrtchyan; 3700 Via Serrano Avenue:** A continued request to consider an application for a Hillside Development Permit for a new 1,035 sq. ft. pool house, together with a Modification request due to portions of the walls encroaching within the required side setback and a Variance for an over height retaining wall for the proposed building. Staff is recommending that the Planning Commission approve a Categorical Exemption for this project.

Planner Clarke briefly outlined the project and recommended a continuance to a date uncertain. M/S/C Curtis/Gelhaar to continue the project to a date uncertain. Unanimous.

## VIII. PUBLIC HEARINGS

**A. Second Floor Review 09-22 & Hillside Development Permit 09-33; Vargas/Peters; 2048 Lyans Drive:** A request to consider a Second Floor Review and Hillside Development Permit to allow construction of a new two-story 4,217 sq. ft. house (including a 495 sq. ft. garage and 108 sq. ft. of covered patio) on a 18,768 sq. ft. hillside parcel.

Commissioners Hill and Cahill recused themselves citing a personal relationship and proximity to the site, respectively.

Planner Clarke gave a detailed Powerpoint presentation in accord with the project staff report.

Chairman Davitt questioned whether the easement is a relevant issue in the context of the Commission's review of the project.

Senior Planner Buss confirmed that the City has a responsibility to review easements and access as part of the overall review of a project.

Commissioner Gelhaar remarked that it was unfortunate that the easement issue was not addressed earlier in the process.

Commissioner Curtis agreed that resolving the easement issue was critical to the overall project. He was struggling with the issue of what qualifies as the front yard and if the easements actually constituted a roadway. He noted that the Director of Community Development had ultimate authority to determine the front yard and that he should strongly consider the easement issue in conjunction with the determination. He realized that Fire Department review of the project at this stage was somewhat atypical, but felt said review was necessary given the easements, length of the driveway, etc. He also inquired if any information on the neighboring project had been submitted to the City at this time.

Planner Clarke explained that preliminary review of the neighboring project was underway.

Norm Peters - applicant and builder - stated he was a resident of the City for 25 years. He intends to comply with all City codes and wants the support of his neighbors. The project seems to be compliant with all applicable code standards. He was willing to lower the structure to address view issues that have yet to be resolved. However, dropping the house down 10 feet is not a reasonable solution. Mr. Lyans sold the property and as such sold rights to the view over the property. He stressed that the project is already well under the 28-foot height limit as seen from the neighbor's vantage points.

Commissioner Curtis inquired about the feasibility of pushing the house further out and away from the street as opposed to dropping it down.

Mr. Peters noted that the house has already been shifted outward an additional 5 feet.

Architect Jay Johnson - representing the immediate neighbors - stressed that the setback from the street/private drive is clearly the main issue. He noted a dichotomy with the project; the front of the house will be oriented toward the side yard, not the front yard, under the current interpretation of the lot. He believed that the garage could be shifted further down and to the south in an effort to lower the overall floor level of the home. Hillside finding #9 addresses view impacts and, in his estimation, is not supportable at this time since other feasible alternatives exist. He believed at least 7'-8' of vertical relief was needed.

Richard Lyans - son of the 2054 Lyans Drive property owners - commented that lowering the house 3 feet won't accomplish anything. Current view of downtown Los Angeles will be severely impacted if the house is built as proposed. Additionally, moving the palm trees will impact views that are not impacted by the proposed house. It would be a shame if the house isn't lowered considering the views that would be lost. He requested that the project be significantly modified.

John Kagawa - 2060 Lyans Drive- stated he was a 10 year resident of the City. He recalled an original proposal that was 12 feet lower and set back further from the street. He preferred 12-14 feet of vertical relief to address his concerns. The two driveways are very narrow and could be impacted by the proposal. He noted the ambiguity of the driveway easements, but nonetheless recognized the need to resolve any access issue. He understood that a home will be built on the site at some point, but stressed that modifications to the current design are needed.

Commissioner Curtis confirmed that Mr. Kagawa's residence was further down the street and to the east.

Mrs. Lyans - 2054 Lyans Drive - stated she was in total shock after seeing the project story poles. Her front porch views currently sweep from Redondo to Long Beach, and downtown Los Angeles and would be ruined by the project. She mentioned a document that required preservation of views from her property. She believed the value of her property would be ruined by the project as proposed.

Judy Trumbo - 2056 Lyans Drive - stated she didn't intend to get involved with case; however, the story poles were very compelling. She questioned the interpretation of the lot's configuration with regard to the front and street side. Frontage, topography, house orientation, neighborhood compatibility are all factors that determine the front of the lot. Based on this, she felt the east side of the lot should be considered the front of the property. She requested denial of the project since Hillside findings 8 and 9 cannot be made.

John Lyans - Mr. and Mrs. Lyans' son - explained that he lived in his parents' house 30 years ago. He recognized that the quality of their lot is all about the

existing views. He noted that the Kagawa house was designed and sited to be very sensitive to views from other homes in immediate area. He felt the developer could still make a profit after significant revisions to the design.

Mark DiTomassi - 2101 Tondolea Lane - owned the house immediately to the west. He had a number of concerns with the project as proposed. He mentioned that Jay Johnson designed his house in the mid 1980s and no view from a neighboring property was impacted. He was concerned with drainage from the site during rains since the site drains through his property. He felt the house can and should be relocated to alleviate impacts. His main concern was with the down-slope building profile since he is exposed to the two-story portion and privacy impacts could not be adequately mitigated.

Samuel Kwon - explained that Mrs. Lyans informed him about the story poles. He remarked that the project is a disaster as currently designed since massive view impacts would result. He felt the home needed to be dropped down as low as possible.

Jennifer Bidwell - 2052 Lyans Drive - stated she and her fiancé choose La Canada Flintridge because of its rural quality and mountain views. The project will destroy some of the mountain views and quality of life. She implored Commission to deny the project as submitted.

John Lyans - 2054 Lyans Drive - appreciated the support of neighbors. In 1992, he recorded a declaration of restrictions on the driveway for lots 1-5. He too was very surprised when the story poles went up. There would be major impacts if the house was built as currently proposed. He believed the house was too close to the driveway and felt the requested changes were reasonable and appreciated the Commission's efforts.

Norm Peters responded and stated that Mr. Lyans sold the subject property and relinquished view rights as part of the sale. The lot is private property and was sold as a buildable lot. As the new owner, he has a right to views as well since he bought and now owns a 'view' lot. He understood why Mr. Lyans wants to continue to enjoy views over his property and was willing to sell the lot back to Mr. Lyans in an effort to be a good neighbor and resolve all issues.

Commissioner Curtis stated that he had visited the site. He endorsed a continuance stating he wanted to re-explore the front setback determination. He noted that this lot, given its uniqueness, could be subject to a dual front setback along the north and east sides. Clarification on the easements and the question of the how the site's access is constituted - by flag strips or a private road - was also needed. He believed that preliminary input from the Fire Department was needed

as was an analysis of moving the house further from roadway and lowering it down the slope. He believed that information on the neighboring development was relevant since Hillside findings could collectively relate to both projects. He noted that there are several large oaks on other property which could require shifting the other house toward subject lot. The Commission may have to look at the proposal in a wider scope given the uniqueness of the area. He noted that private view agreements are outside the purview of the Commission and are enforced privately. He appreciated the tone and manner of the applicant and neighbors and was hopeful that all participants would be willing to work together to resolve the issues.

Commissioner Gelhaar also supported a continuance. He stated that the new owner has a right to build on his property provided the project is in accord with Hillside findings pertaining to view preservation. He visited site and talked to Mr. and Mrs. Lyans and had an opportunity to view the project story poles from their living room, which was the key to the project in his estimation. He acknowledged that views of the Ross shopping center would be blocked if the pad was lowered about 9 feet. However, he did not consider this a significant impact since longer-range views to the sides would be retained. He agreed with Mr. Johnson that protected trees are not viable for hillside projects. Lowering the pad 9 feet can afford the Lyans' their main views and Mr. Peters the view his property and proposal deserve. He did not think there was a nexus to tie this project with the adjacent proposal and would discourage such action.

Chairman Davitt also agreed with a continuance. A number of design and compatibility issues need to be explored further. However, the neighbors cannot expect an owner to build a 'stealth' home. Preventing the project from being a detriment to the area was the primary duty of the Commission. He mentioned the Rosebank project as an example of how the process works and ultimately yields a project acceptable to all concerned parties.

M/S/C Gelhaar/Curtis to continue to a date uncertain. Approved 3-0.

Senior Planner Buss mentioned that project progress would have to be demonstrated within 60 days in order to keep the process moving along in accord with CEQA requirements.

A. **Setback Modification 09-11; Pollock; 5452 Rock Castle Drive:** A request to consider a request for a Setback Modification to allow a 265 sq. ft. trellis with solar panels on the south side of the existing residence on a hillside lot to encroach 4'-0" into the 9'-0" required side-yard setback. The project complies with all floor area and height standards.

Assistant Planner Lang gave a Powerpoint presentation in accord with the project staff report.

Commissioner Curtis inquired about a previous Hillside Development Permit which authorized solar panels on the south side and its relationship with the item before the Commission at this time.

Assistant Planner Lang explained that the new trellis would replace an existing awning of solar panels that was approved previously in 2006. The new trellis would extend 10" further than the existing awning. The new trellis is custom built to accommodate the solar panels and presents a new encroachment into the south side yard setback that qualifies for Planning Commission review. The support posts are the key and they would establish a new point from which the setback is measured.

Commissioner Gelhaar questioned if the item would be before the Commission if support posts weren't proposed.

Assistant Planner Lang explained that the overhang of the trellis exceeds the 4-foot exemption and that independent of supports the structure would qualify for Commission review.

Commissioner Gelhaar inquired if there were Federal and/or State mandates that preclude City review of solar panels.

Senior Planner Buss explained that the project was before the Commission because of the trellis encroachment, not the panels - which would be attached to the trellis.

Commissioner Curtis confirmed that the solar panels would be mounted flush on trellis structure.

Senior Planner Buss noted that the trellis and panels are at a slight angle to maximize sun capture.

Commissioner Hill noted that he generally doesn't approve Setback Modifications but given the unique layout of the house and lot, he doesn't view the project as a major change and could make positive findings and support the proposal.

Commissioner Cahill agreed with Commissioner Hill and could support the request.

Commissioner Curtis fully supported the request and noted that the applicant has done a great job with the design of the trellis and panels.

Commissioner Gelhaar preferred the structure to be on the roof, not within the setbacks, but could support the request since other panels were already on the roof.

Chairman Davitt supported the request as well since it fits the house and site with minimum impact to the immediate neighborhood.

M/S/C Gelhaar/Cahill to approve the project as conditioned. Unanimous.

**IX. OTHER BUSINESS:** There was no other business.

**X. COMMENTS FROM THE COMMISSIONERS:**

Commissioner Gelhaar requested a study session to discuss construction timelines for projects.

Senior Planner Buss informed the Commission that such regulation is already in effect. Permits are valid for two years and may be extended for 1 year with extenuating circumstances. He further stated that the regulations are governed by an Ordinance and that 'deconstruction' penalties could result for severe cases.

**XI. COMMENTS FROM THE DIRECTOR**

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

1. **Director's Miscellaneous 09-27; Sherman; 4730 Alta Canyada Road** - approved 42 sf addition to encroach 15' into required 36'-6" front setback.
2. **Tree Removal 09-32; Noh; 1244 Flanders Road** - allowed removal of a 20" Chinese Elm.
3. **Tree Removal 09-25; Leininger; 4965 Crown Avenue** - allowed removal of a 32" oak.

B. Other comments:

Senior Planner Buss reported on appeals that were denied by the City Council at the December 7, 2009 meeting.

Commissioner Gelhaar explained his rationale for voting to eliminate a condition of approval that called for precise architectural changes to a new house proposed at 5180 Princess Anne Road. He did not believe that detailed design review was part of the Commission's purview and believed that the condition as written was

too meticulous and exceeded the Commission's authority because the homeowner liked the design.

Commissioner Gelhaar also inquired about how the City is preparing to handle possible mudflows.

Senior Planner Buss commented that the City would be doing further research on the timing and associated responsibility between events, home-owners actions, and City/County cleanup.

**XII. ADJOURNMENT:** The meeting was adjourned at 7:53 pm.