

**MINUTES OF A MEETING OF THE PLANNING COMMISSION  
OF THE  
CITY OF LA CAÑADA FLINTRIDGE  
HELD DECEMBER 9, 2003**

**I. CALL TO ORDER:**

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

**II. ROLL CALL:**

Present were Commissioners Davitt, Gelhaar and Levine, Deputy City Attorney Campbell, Director of Community Development Stanley, Planner Cantrell, Assistant Planner Gjolme and Planning Aide Shimazu. Commissioner Mehranian was expected to arrive shortly.

**III. PLEDGE OF ALLEGIANCE**

Commissioner Davitt led the salute to the flag.

**IV. COMMENTS FROM THE PUBLIC:**

Comments were not offered.

**V. CONSENT CALENDAR:**

M/S/C Davitt/Gelhaar to adopt the minutes of November 25<sup>th</sup> as submitted.  
3 Ayes. Abstain: Levine

**VI. CONTINUED PUBLIC HEARING:**

**A. Hillside Development Permit 03-28; Conditional Use Permit 371; Floor Area Review 03-18; Variance 03-10; Modification 03-43; Khan; 501 Haverstock Road:**

Planner Cantrell reviewed the Commission's concerns, expressed during the initial hearing on October 14<sup>th</sup>:

**Front Setback** - The front setback was increased to 20 feet at the entry column and to 25 ft on the east side. There was a concern as to how far back the house could be pushed, out of concern with the house being too close to the top of the slope as related to the neighbor's view.

**Entry Height and Angle Plane** - The front entry was lowered and now conforms to the angle plane requirement.

**Building Width** - A significant reduction from 134 ft to 106 ft-6 inches is now presented at the ground floor, and 92-ft-6-inches on the second floor, including the roof over the east terrace. This amounts to a 31% reduction of the most

visible portion of the second floor. Further, narrowing the building led to elimination of the retaining wall at the west side.

**Floor Area Review** – the house has been reduced in size by approximately 1,425-sf, eliminating the need for Floor Area Review.

Commissioner Mehranian arrived at this point, at 6:05 p.m.

The house continues to exceed the Slope Factor Guideline, due to the portion constructed below grade. Planner Cantrell noted that the Council established the Slope Factor as a Guideline rather than as a Standard, as it oftentimes become superfluous in the context of site conditions and project characteristics.

While the slopes around the pre-graded site result in the high slope factor, they serve to isolate and separate the project from surrounding views. The house presents a modest mass from its primary viewpoints, specifically from the north, where the building width was reduced far below the Guideline. The portion of the house above grade is within the Guideline and the garage area has little or no impact. Staff believed that the sod covered deck over the motor court serves to improve the property's appearance, despite its inclusion as "floor area".

**Height Over the Garage** – The former two-story mass over the garage has been reduced to single-story.

**Grading** - Information has been refined; the project calls for 1,792 cubic yards of cut including a swimming pool, and 570 cubic yards of fill, amounting to approximately 60-120 truck trips, depending on what type of equipment is used.

**Story Poles** – were modified to reflect the revisions and driveway markings added.

**Percolation and Seepage** - These items are covered in the Soils and Geology reports. L.A. County Health Department confirms that the project must meet current standards.

Staff believes that the applicant has responded to all the concerns expressed by the Commission and that the house is reasonably designed in relation to its site. Staff recommended project approval as conditioned.

Commissioner Mehranian inquired if there had been any discussion on the import/export issue, given the narrow road.

Planner Cantrell responded that a haul route was not addressed; however, the Commission has required haul a route on other projects, subject to the approval of Public Works.

Chairman Engler suggested that Staff check the conditions imposed on the Flintridge Sacred Heart Academy project, where the Commission restricted the days and timeframe that hauling was allowed.

Commissioner Davitt confirmed that the Variance request addressed the subterranean parking.

Responding to a question from Commissioner Gelhaar, property owner Rafi Khan advised that the fill would be used to flatten the north/south grade, and would not be placed where the slopes are. He questioned the requirement for oak tree plantings and questioned if the Commission wanted oaks to dominate the area in 20-30 years.

Commissioner Levine suggested eliminating the second floor terrace at the end of the house.

Chairman Engler opened the public hearing.

Joseph Avila, representing Richard Jacinto, the neighbor to the north, reported that his client's issue was loss of view when the protected trees reach maturity . He agreed with Mr. Khan that in twenty-five years, a plethora of oaks might be overbearing. He suggested allowing his client and Mr. Khan reach an agreement.

Responding to a question from Commissioner Davitt, Planner Cantrell advised that the plan shows 6 palms for the north side. Staff recommended replacing them with oaks or California peppers, as used on the south side, but considered a reduction of the landscape screening as acceptable. He noted that Mr. Jacinto's view of the project would be limited the upper few feet and that a small shrub at the top of the slope would sufficiently screen the project and soften the view.

Commissioner Gelhaar commented that the landscape plan calls for 9 new oaks to be installed.

Chairman Engler advised Commissioner Mehranian that he spoke with Mr. Kahn regarding the drainage and that he found the plan acceptable.

Commissioner Davitt reported of having met with Mr. Khan during his site visit and believed that positive efforts were made in meeting the Commission's

direction. He was pleased with the increased front setback and recognized that a greater front setback would site the house closer to the top of the slope. He asked for discussion regarding elimination of the balcony that overlooks the rear of the property.

Commissioner Mehranian expressed appreciation for the revisions, but stated that she was wrestling with the size of the project. Since moving the house either towards the front or to the rear would make it more visible, she questioned if was too big for the lot. Additionally, hauling dirt on narrow roads was a safety concern of hers.

Commissioner Levine commented that while he was appreciative of the reductions, the project continued to exceed the Slope Factor Guidelines. He had a problem when new setbacks, especially for new homes are less than required.

Commissioner Gelhaar appreciated the applicant having done everything he asked of him. The revisions raised three concerns: the need for a condition establishing when and how fill can be hauled, the need to allow non-protected trees on hillside properties so they could be trimmed if view blockage became an issue. He recommended eliminating condition #14 and allowing the property owner to install palms. Lastly, expanding on Commissioner Davitt's comments, he preferred eliminating the two bedroom balconies which he felt impose on the neighbor's privacy. Doing so would not affect views from those areas. He shared Commissioner Levine's concern regarding the east terrace and asked that a condition require that it be non-habitable.

Chairman Engler advised of having met several times with Mr. Khan. He agreed with Commissioner Mehranian regarding the need for a haul route and agreed that allowing non-protected trees would respond to concerns of future view blockage. He questioned if palms were a good replacement choice and stated he would leave that matter to the Director's discretion.

M/S/C Gelhaar/Mehranian to approve Hillside Development Permit 03-28, Variance 03-10 and Modification 03-43, noting that the revisions negated the need for Floor Area Review, with added conditions: 1) that a haul route and schedule be submitted to the Director for approval regarding the fill 2) the balconies off the two bedrooms on the north side shall be eliminated and the flat roof area on the east side be non-habitable, 3) a landscape plan shall be submitted to the Director for his approval, installation of non-protected trees shall be allowed.

4 Ayes. Levine dissenting.

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

Director Stanley advised that a condition of an approval that was granted to a former property owner cited specific setbacks for any "future pool". Given this new information, Staff recommended a continuance.

M/S/C Levine/Gelhaar to continue Conditional Use Permit 376 to a date uncertain. Unanimous.

**C. Conditional use Permit 375; Floor Area Review 03-15; Building Depth Review 03-13; Modification 03-61; Lee; 4331 Commonwealth Avenue:**

Assistant Planner Gjolme recalled that the original request involved a new, two-story home approximating 7,900-sf on a 35,000-sf lot. The project was subject to Building Depth and Floor Area review, since the project area exceeds 4,500-sf on a lot with less than 80 ft of frontage and the depth of the second floor exceeded the 60-ft threshold. The CUP addressed a new lighted tennis court and a Modification required since the north/south setbacks were proposed at 10 ft, rather than the required 15 ft. While FAR & MOD were favorably reviewed by Staff and the Commission, it was difficult to support the CUP for the lighting and Building Depth Review. The Commission's direction was to reduce the scale of the project, specifically the second floor.

Assistant Planner Gjolme advised that the revisions include elimination of the court lighting, thereby negating the need for a CUP. North/South setbacks of 10 ft are still proposed for the court, which the Commission seemed to have favorably received. Setbacks for the first and second floors were increased from 7½-ft and 15 ft to 8 ft and 16 ft as required for an 80-ft-wide lot. The sole exception is a master bath projection on the south side, which qualifies as a dormer and is allowed with the support of the most effected neighbor. Two minor first-floor projections -- the kitchen and chimneys are required to be pushed in per the draft conditions. Despite the overall depth of enclosed habitable space at the second-floor being reduced from 96 ft to 84 ft., a large balcony was added to the rear of the master bedroom with exterior walls exceeding 10-ft in height. Those walls are "counted" towards the building depth and result in a net change of approximately 1 ft from the last review. Staff was not comfortable with the potential use impacts that could result to the neighboring southerly property.

Staff found itself in the position remained essentially unchanged and supported the Floor Area Review and Modification for the court but could not support the requested building depth at this point.

Commissioner Gelhaar confirmed that Staff could support the building depth if the balcony was eliminated.

Commissioner Levine confirmed that the court fencing is proposed at 10-ft in height.

Project architect Rob Tyler, displayed the south elevation with chimneys projecting into the setback. His recall was that he argued favorably at the last hearing for the articulation on the south side, based on the chimney projections. He explained that his client was not interested in using the balcony from a functional point, but it serves as cover for the first floor outdoor area off the family room. While he felt that his clients would be amenable to changing that area to a roof form, he believed that its function and design was a desirable feature. He noted that the setbacks now meet the requirements for a lot with 80-ft of frontage and that 12 ft of building depth was eliminated, per Staff's recommendations.

Chairman Engler opened the public hearing.

Jay Kern, 4325 Commonwealth, the neighbor to the south, reported that he has met with Mr. Tyler on several occasions. He acknowledged Staff's comments regarding the net change of 'zero' on the building depth and stated that the project "is back to square one". While he appreciated the increased setbacks and eliminating the tennis court lights, he stated that every foot removed from the top of the house would follow through on the south side and assure him that he would not be subjected to a tunnel effect.

Commissioner Gelhaar confirmed that Mr. Kern would be satisfied with a compromise of 78 ft. of second-floor depth.

Arnold Graham, 768 Forest Green Drive, resides north of the project. He stated that narrow and deep lots allow a maximum sq footage but not necessarily good aesthetics. In such cases, he felt that a conforming rear setback was equally important as a conforming front setback to protect sight lines. He reported of having adapted to an 8,000-sf home north of his, due placement of the garage at the front and staggering the mass along the west side.

He stated that Mr. Kearns built his home seven years ago and unless surrounding development appeared similar, Mr. Kearns would be surrounded by a "tunnel". Mr. Graham advised that the project would be less of a burden for him than for Mr. Kearns, due to an adjacent driveway. He stated that rather than present a reduction of sq. footage, the revisions "simply moved sq footage around", resulting in the need for stacked parking. He was concerned that the stacked parking area could be converted to habitable use.

Mr. Tyler responded to comments. He advised that a prime design consideration was keep the garage away from the front of the house which, to some extent, drove footprint of the house. The shorter the house, the wider it becomes and not much good would come of that. He stated that the reduction in the second floor's mass is somewhat mitigated by its length. He disagreed that 105-ft of length with setbacks exceeding Code, would produce a tunnel effect for the Kearns' property. Addressing concerns of parking, he advised that the design will accommodate seven cars on site.

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

Commissioner Gelhaar stated that from his perspective and with added conditions to make the bedroom balcony non-habitable and to preclude lights from ever being added to the tennis court due to the reduced setbacks, he could support the project. He also agreed that the chimney encroachment adds articulation and noted that the conditions include landscape screening of the second floor.

Commissioner Mehranian concurred with the Staff report regarding the lack of reduction to the second floor and she continued to have an issue with a "tunnel" effect on the Kearn property.

Commissioner Davitt supported the design with the exception of the balcony, which he felt should be eliminated, as it goes to the second-floor massing and depth. He expressed appreciation for removing the lights from the court and agreed with Commissioner Gelhaar regarding the need for a covenant to preclude any future installation of lights on the tennis court.

Commissioner Levine commented that though the house is beautifully designed, he could not support any of the requested encroachments, including those for the tennis court. He pointed out that the 10-ft-high court fencing also encroaches into the setbacks. He expanded Commissioner Gelhaar's request for the non-habitability of the balcony; he did not want it to accommodate any chairs, tables, etc.

Chairman Engler supported staff's position regarding the balcony and was still concerned with the home's massive appearance, though the design was very acceptable to him. He could not support the court encroachments, but concurred with the chimney encroachments.

Mr. Tyler offered to replace the balcony with a tiled hip roof, that would cover the area below.

Commissioner Mehranian agreed with Commissioner Levine's comments "if the court did not fit, it didn't belong there"; her main issues were the size of the home and the 'tunnel' effect.

Deputy City Attorney Scott Campbell addressed Commissioner Gelhaar's desire to impose a condition that would preclude future installation of lights on the tennis court. He advised there is no such thing as a "forever" condition; the applicant could wait one year to file a modification request.

M/S/C Gelhaar/Davitt to approve Floor Area Review 03-15, Modification 03-61 and Building Depth Review 03-13, noting that the Conditional Use Permit was withdrawn, with added conditions that a hip roof be installed to replace the balcony. 3 Ayes. Dissenting: Mehranian and Levine.

Commissioner Gelhaar observed that his motion allowed the chimney encroachment.

**PUBLIC HEARING:**

**A. Conditional Use Permit 378; Family Fitness Express; 707 Foothill Boulevard:**

Planner Cantrell described the applicant's request to allow an exercise studio on the ground floor of a commercial building located in the Mixed Use 1 Zone. The building is located at the northwest corner of Foothill and Oakwood - the ground-floor tenant space under consideration is on the west side of the building, facing the south portion of the parking lot. It is the last available space within the center.

The applicant seeks to establish an exercise studio within the former and long vacant bank building. Three of the existing approved uses were evaluated with peak usage of other tenants in the center. The exercise studio would concentrate on families with children, with operating hours Monday - Friday from 6 am to 8 pm and 6 am to 3 pm on Saturdays. Peak hours are indicated from 6 am to 10 am, with a maximum of 8 students at a time would receive fitness instruction. No more than 3 employees would be present at any given time.

Ichiban, Coldwell Banker and Sweatz Fitness Studio previously had their shared parking analyzed and approved based on their staggered peak hour use. Planner Cantrell reported on the success of this concept; Staff has not received any complaints regarding parking nor observed any queuing. Peak parking demand hours are associated on Ichiban restaurant's lunch business, from 11:30 am to 2:00 pm and closes until 5:00 pm. Family Fitness would peak in the morning hours, long before Ichiban opens. The applicant assures Staff

that exercise studios do little business in the later morning and early afternoon and the draft conditions accordingly prohibit appointments between 11:30 am to 1:30 pm.

Planner Cantrell advised that the commitment to keep the use limited to off peak hours for the center gives it a distinct advantage over a by-right retail use with no limitation of hours.

Staff recommended positive findings and project approval.

Commissioner Davitt asked if the business would be closed between 11:30 am and 1:30 pm.

Planner Cantrell responded that routine office work would be addressed during those hours; if appointments are not scheduled during that period, the business is almost self-regulated.

Commissioner Mehranian advised of having experienced parking difficulties in the center. She asked if staff could quantify that 11 parking spaces would be available, knowing the other use demands and assuming that everyone drives to the fitness studio.

Planner Cantrell confirmed that 11 spaces would be available outside peak hours. In fairness, the requested use should be compared with the ratio required for retail.

Responding to a question from Chairman Engler, Planner Cantrell advised that Staff has confirming data that by 1:30 pm, the parking peak is over and after 2:00 pm, there is surplus parking.

Property owner and manager Rafi Khachatourian, advised that the peak hours for the existing business are very complimentary; he has never received a complaint regarding parking from his tenants. He informed the Commission that all his leases require tenants and their employee to park off site and recalled that this tenant space was approved for a coffee shop, which would require more parking for longer periods of time. He inspects the parking lot a minimum of once a week and has not observed any problems.

Responding to a question from Commissioner Engler, Mr. Khachatourian advised that he signed a lease for a coffee shop several months ago but unfortunately, the business filed for bankruptcy.

Business owner, Kathryn Kidd, advised that approximately 60% of her business will be “drop offs”. Only eleven clients can be accommodated at any given time.

Commissioner Levine commented that few exercise facilities in the City have extended their classes to the park, etc. He confirmed that Ms. Kidd’s business would be confined to the interior of her facility.

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

Given Staff’s clarification that the request would produce far less traffic than a retail use, Commissioner Mehranian expressed support for the project.

Commissioner Davitt felt the request was a good use for the site and suggested adding a condition prohibiting weekday appointments from 11:30 am to 2:00 pm, the stated time that the applicant complete office work and the recognized peak hours for Ichiban.

Commissioner Levine remarked that there might be more people occupying the space than anticipated, if 8 students bring two parents. He asked that conditions include a 6-month review to assure that the business does not extend outside the facility.

Chairman Engler and Commissioner Gelhaar supported the draft conditions.

M/S/C Levine/Mehranian to approve Conditional Use Permit 378, modifying condition #12 to prohibit the applicant from accepting clients between 11:30 am to 2:00 pm and modifying #13 as requested by Commissioner Levine.  
Unanimous.

**PUBLIC MEETINGS:**

**A. Modification 03-88; Stein; 501 Highland Drive:**

Planning Aide Shimazu described the applicants’ request to allow refurbishing and modifying columns, which are located within the required 25-ft front setback. The columns were constructed without permits and exceed allowed height.

The project site is located near the T intersection of Highland and Corona Drives in the R-1-40,000 Zone. It is a through lot, extending downward from Highland to Cambridge Road, with street frontage of 300 ft and a depth of 460 ft. The applicants’ objective is to improve the property’s appearance from the street by modifying existing gates and columns.

Photos taken during construction, when Staff received a complaint, were displayed as were photos of the former gate, which was wider than what is proposed, with light fixtures atop. Planning Aide Shimazu noted that gates and columns exceeding 6 ft in height are common for the area. The project consists of: widening columns at the driveway gate from 24' to 34'; rebuilding the northerly column at the pedestrian gate; replacing a column on the west side of the driveway entry and replacing light fixtures – at lower heights – at both gates.

Finally, a new ditch has been dug for electrical circuits in proximity to a 24-inch-diameter oak on the west side of the driveway entrance. Since the ditch does not meet the City's Tree Protection Guidelines, a draft condition requires the applicant to deposit funds for the City Arborists review and to take preservation measures prior to issuance of permits.

Planning Aide Shimazu noted that both gates would be angled and recessed over 18 ft from the street, maintaining the openness of the front yard.

Cathy Campbell representing the landscape architect, addressed the Commission.

**Columns** - following issuance of the initial building permit, the Fire Department requested that the driveway be widened. This necessitated relocation of the driveway columns (6'-3" high with a 20"-high lamp atop) for a total height of 7'-11".

The remaining columns extending along Highland Drive and at 6'-3" in height are not being modified; however, since there are no permits on file, they are included in this request.

**Driveway gates** - were 24"-wide stucco, capped columns with 30-inch-high light fixtures atop. She removed the cap, enclosed the columns in a brick facade, increasing their width from 24" to 34". While the column height would not change, Ms. Campbell requested a 30-inch-high light fixture atop the columns – opposed to the 13"-high fixtures erroneously cited in the Staff report. She pointed out that the visual height of the gates are mitigated due to their being lower than the street elevation.

**Pedestrian gate** – pre-existed and is 6'-3" in height with a 20"-high light fixture atop. It would swing off a column that would be rebuilt with rebar to support the gate.

Addressing the request for an arborist to investigate and report any damage to the oak, she misunderstood that it had to be the City's arborist. He client

retained an arborist who states that the irrigation trenches will not impact the oak and offered protection recommendations. His report is dated December 4.

Commissioner Gelhaar confirmed that only the pedestrian and driveway gates would have light fixtures.

General Contractor, Bill Abel, reported that contrary to Staff's report, the new driveway gates are more narrow than the former gates. They measure wider if scaled from outside the brick columns, but the gate itself is less wide. He advised that the Fire Department's requirement necessitated removal and reconstruction of one column - the remaining columns are pre-existing.

Ms. Campbell responded to a question from Chairman Engler; landscape contractor, R.D. Perry, pulled a permit for all 110 volt lighting, which was meant to include the posts. When questioned, they proceeded to pull permits solely for the posts.

Commissioner Davitt confirmed that the gates and columns pre-existed her client's purchasing the property.

Director Stanley commented that those components could have been constructed prior to adoption of the Decorative Fence Ordinance; there is no indication of prior approvals on file with the City.

Further testimony was not offered.

Commissioner Gelhaar remarked that it was unfortunate when the Commission is asked to act and it doesn't have plans that show what is being requested. He concurred with Staff and could approve the requested over-height columns and gates.

Commissioner Davitt agreed that it would have been helpful to review the plans. He was willing to set aside the lack of permit issue, since the instant request would address that.

Commissioner Levine stated that he did not have a problem with the driveway gates as they would be unseen from the street; however he could not support the requested over-height columns and light fixtures at street elevation.

Commissioner Mehranian stated that she would prefer smaller light fixtures and asked that the City Arborist report and recommend buffering for the oak near the irrigation trench.

Chairman Engler expressed his continuing concern with non-permitted projects, which seem to be presented at each meeting. He believed that the requested column height was appropriate for the site and house but he was unsure about the 20-inch-high light on the pedestrian gate.

M/S/C Gelhaar/Davitt to approve Modification 03-88, amending condition 12 to allow the height of the columns at the driveway gates to reach 6 ft-5 inches, and a light fixture atop, not to exceed 30-inches in height.

The two columns at the pedestrian gate shall not exceed 6 ft-3-inches in height with a light fixture atop not to exceed 20 inches in height. The remaining columns shall not exceed 6-ft-3-inches in height as measured at adjacent grade. Detailed plans are to be submitted.

Commissioner Mehranian raised the issue of oak tree protection.

Attorney Campbell noted that a majority of votes were cast. He suggested completing the motion and having a Commission who voted affirmatively, move for reconsideration

4 Ayes; Levine dissenting.

Commissioner Mehranian made a motion for reconsideration to add definitive language regarding oak protection.

Commissioner Gelhaar pointed out that the conditions require compliance with the Tree Protection Guidelines.

Commissioner Levine commented that Staff would see that the applicant complies with the Tree Ordinance.

Director Stanley advised that he would have the City Arborist inspect and report to the City prior to any further construction around the oak.

Commissioner Levine asked that a Stop Work Order be placed on the specific area around the oak until the City Arborist makes a site visit and submits his recommendations.

Commissioner Mehranian accepted that condition and withdrew her motion.

**B. Building depth Review 03-10; Tree Removal 03-40; Loui/Chan; 5088 Alta Canyada Road:**

Planning Aide Shimazu recalled that on October 14, the Commission approved a Building Depth Review with conditions that included installation of a 14-inch-diameter deodar cedar in the same location where another cedar had been removed, prior to the City acting on a Tree Removal request.

The applicants now advise that they will no longer pursue the Building Depth Review, opting instead for a second-floor addition, which is subject to review and approval by the Director. A landscape plan was submitted as an alternative to the requirement to install the 14-inch-diameter deodar. The plan includes one, 36-inch-box and two, 24-inch-box sequoias and shrubs along the north property line. Additionally, the applicant proposes to shift the 3-ft-high retaining wall to provide a pathway between the house and the wall. Mr. Shimazu recalled that the deodar that was removed without a permit, was located 5 ft from the northeast corner of the house. Ms. Chan advised that it is impossible to install another 14-inch-diameter cedar in the same location due to lack of access and space. Staff pointed out the 15 deodars remaining in the back yard as well as other mature trees; removal of the 14-inch-diameter cedar did not significantly impact the aesthetic conditions on the site. He noted that the Commission had the option of requiring the owner to pay the replacement value to the City's Tree fund.

Staff requested direction from the Commission on the adequacy of the landscape plan in lieu of a 14-inch-diameter deodar.

Ms. Chan summarized her previously stated position --- her arborist filed an application to remove the deodar and believed that he had permission to do so. She advised that she always intended to follow proper procedure and pointed out that 3 arborists, on separate occasions, recommended removal of the deodar. One of the arborists opined that a 13-inch-diameter deodar would have to be brought in via crane through the Edison easement at the rear of her property. She also contacted a local landscape architect whose recommendation was to plan evergreens that grow to 18-ft in height, to provide maximum screening and preclude the root problems she experienced with the deodar.

Chairman Engler opened the public hearing however comments were not offered from the audience. The public hearing was closed.

Commissioner Gelhaar confirmed with Ms. Chan that she was convinced approval was given before the deodar was removed. He conceded that installing a 14-inch-diameter tree would be almost impossible to accomplish,

but he felt it would have served as a message if the tree was intentionally removed with the knowledge there was no city approval.

Chairman Engler observed that the walls had been revised and asked if the former approval should be revisited.

Planning Aide Shimazu advised that it did not, since the request for Building Depth Review was withdrawn.

Director Stanley stated that the applicant was requesting reconsideration of a specific condition.

Commissioner Mehranian concurred with Staff's determination.

Commissioner Davitt advised of having met with Ms. Chan. He noted that she had not wavered from what she felt was an approval to remove the deodar. He supported the redesign as submitted.

Commissioner Levine commented that it did not appear new construction would replace the deodar. He inquired if the Commission should require a payment to the City's Tree Fund.

Commissioner Gelhaar stated that the applicant had made an honest effort to do what was appropriate. He agreed with Staff's recommendation.

Chairman Engler stated that the applicant had made a good effort to correct the problem and that appropriate replacement trees are proposed. He doubted there was any confusion on the arborist's part, who should have known that written approval is required to remove a protected tree.

Director Stanley reported that the City is actively pursuing the tree contractor.

M/S/C Gelhaar/Davitt to approve the requested reconsideration, eliminating the condition requiring a 14-inch-diameter replacement tree and accepting the revised landscaping as replacement, including two, 24-inch-box sequoias and one, 36-inch-box sequoia. Unanimous.

**C. Modification 03-49; Chung; 1126 Green Lane:**

Assistant Planner Gjolme reported the applicants' request to allow a new tennis court to be located at the rear of their property. The site is located along the south side of Green Lane, between La Cañada Boulevard and Hill Street, in the R-1-15,000 zone.

While the nearly 20,000-sf, lot can comfortably accommodate a regulation size tennis court, code-compliant 15-ft perimeter setbacks require 90-ft-of width; the subject lot is 75-ft wide. The applicants have proposed a 55-ft court width and substandard 10-ft setbacks. Ten-ft-high fencing would border the court. The court would be sited to the rear of five neighboring homes and adjacent to open space. All 5 adjacent property owners support the request as proposed. Staff did not anticipate adverse impacts associated with the proposed use and with the proposed landscape screening, determined that saw little merit in requiring the additional 5-ft perimeter setbacks. The court would not be lighted and the applicant is willing to reduce the fence height to 6 ft, as allowed for fences within side and rear setbacks.

Commissioner Gelhaar confirmed that a retaining wall with a maximum of 6' to 7'-in height is proposed along the north side of the court.

Mrs. Chung advised that it would be a 7-ft- high, structurally engineered wall.

Assistant Planner Gjolme advised that the wall is out of the setback and is allowed. Since it faces inward, proposed additional landscaping would provide adequate screening along the rear property line.

Mrs. Chung stated that a 3-ft-high fence, atop the 6-ft-high wall, separating the tennis court from the pool would be acceptable.

Brent Livonian, 1139 Olive Lane, resides to the rear of the subject property. He reported that he is the only neighbor whose home is somewhat proximate to the proposed court. He has a remodeling project in plan check and supported lowering the fence height and the reduced setbacks, but was concerned with the court's playing hours and if future owners of the subject property wanted to light the court.

Director Stanley advised Mr. Livonian that a public hearing before the Commission for a Conditional Use Permit is required to light a tennis court.

Commissioner Gelhaar commented that he could not support the reduced setbacks having discovered that a condition prohibiting lighting the court would be valid for only a year.

Commissioner Levine asked if anything would change if the applicant agreed not to install lights.

Attorney Campbell advised that a covenant could be recorded between the City and the applicant. The owners of the property have the option of requesting a modification, though it would be a complicated process.

Commissioners Levine and Mehranian were troubled with the reduced setbacks.

Commissioner Davitt stated that he could make the findings to approve the Modification and would support a 6-ft-high fence with additional landscape screening and lowering the wall.

Attorney Campbell clarified the idea of imposing a covenant – assuming that the Commission has authority to bind the City to a covenant (it might have to be approved by the Council or City Manager), the covenant becomes a contract between the City and the property owners. He reiterated that a property owner could request for a modification to the ‘contract’ after a year. Future property owners would be made aware of the covenant during the title process.

Commissioner Gelhaar confirmed that modifying a covenant is not a simple process. He stated that he could support the requested setbacks with the fence lowered to 6 ft.

Chairman Engler remarked that the 15-ft perimeter setbacks was imposed for the purpose of restricting courts on properties that can accommodate them.

M/S/C Davitt/Mehranian to approve Modification 03-49 with a condition that the court fencing be limited to 6-ft in height and that the fence atop the retaining wall be limited to 3 ft in height. The City Attorney was directed to research the matter of a recorded covenant on the property, to prohibit any future illumination on the court.

Attorney Campbell remarked that the motion was conditional and that his office would determine the appropriate mechanism for accomplishing the Commission’s objective.

3 Ayes; Dissenting: Engle and Levine.

Director Stanley advised that staff would prepare a resolution for the Consent Calendar at the next meeting in January. Meanwhile, the City Attorney would investigate the appropriate process regarding the prohibition of court lighting.

**IX. OTHER BUSINESS:**

- A. Report on Administratively approved Hillside Development 03-58; 921 Regent Park Drive – received and filed.

**B. Determination of Consistency re: Floor Ara Review 03-04 and Building Depth Review 03-03; 4250 Oakwood Avenue:**

Director Stanley reported the applicant's request to remove a stone pine tree with a trunk diameter of approximately 40-inches, which was called-out on the approved landscape plan "to remain". The notation on the approved plan protects the tree from removal without City permission. Subsequent to the approval, the County Fire Department required a revised driveway configuration (the concern was the that fire trucks would have to back out around curves), which necessitates removal of the pine tree.

Director Stanley questioned whether the request fell under his approval authority of "substantial conformance" to approved plans. He recalled that the Commission required a hearing for an amendment for a similar request on Palm Terrance Court. While Staff prefers allowing the pine to be removed and save the oaks, the Commission's determination was being sought. He pointed out the numerous site constraints such as drainage, topography and protected trees.

Tom Parker, project coordinator, reported of having offered to add sprinklers to the entire house, but it was not an acceptable solution to the Fire Department. Another alternative would be to remove the two large oaks located on either side of the driveway, to provide the Fire Department with "clearance to the sky". The Department advised it would accept direct straight access, however, the entry at Oakwood is blocked by a 14-ft-wide master flood control and catch basin owned by the County Flood Control District. The City Engineer made a site visit and doubts that the County would be amenable to relocating the catch basin at a cost of anywhere from \$40,000 to \$60,000. Mr. Parker felt that the request to remove the pine was the most logical solution and pointed out the numerous trees that would remain on site.

Further testimony was not offered.

Commissioner Gelhaar stated that the pine did not enhance the street view and that its removal was in substantial conformance with the original approval.

Commissioner Davitt made another site visit and concurred that the tree is an anomaly; he supported its removal.

Commissioner Mehranian agreed.

Chairman Engler stated that if allowing removal of the pine tree allows the reconfigured driveway, he had a concern. He stated that moving the house 30-ft forward would eliminate any problems with the Fire Department.

M/S Gelhaar/Davitt finding that removal of the pine tree depicted on the landscape plan as "to remain" would be in substantial conformance with the original approval.

Commissioner Levine supported removing the pine, but he did not believe that the redesigned driveway is consistent with the original design.

Director Stanley commented that the original request was for Building Depth Review and he reminded the Commissioners that their responsibilities do not include designing driveways. He advised that if the Commission allows removal of the pine, he intended to approve the reconfigured driveway.

The motion carried; 3 Ayes. Dissenting: Engler and Levine.

Chairman Engler observed that the Commission needs a means of knowing the needs of the Fire Department.

Director Stanley advised that a standard condition could be added that requires Commission review of any changes by the Fire Department to approved plans.

**X. COMMENTS FROM THE COMMISSIONERS:**

Commissioner Levine reported that Trader Joe's continued to display excess outdoor merchandise and that PETCO is maintaining palettes at the front of the store. Also, the "Happy House" banner at Dish restaurant had most likely exceeded its 45-day allotted time.

Commissioner Gelhaar referenced the outcome of Sugar Loaf project on the agenda, where a condition on an earlier approval applied to future pool development. He asked if Staff's checklist could include referencing earlier resolutions/conditions. He also inquired if a future study session could address notations on landscape plans denoting existing trees "to remain". He asked if such a notation causes those trees to become "protected" If so, there is an issue of enforcement

Director Stanley responded that it would, unless the Commission determined otherwise. Many times existing trees are considered when determining landscape screening.

Planning Aide Shimazu responded to Chairman Engler that the decorative fence at 303 Corona received Staff approval.

Chairman Engler asked for a status on 1514 Descanso Drive

The Director reiterated previous Staff requests that the Commissioners contact Staff beforehand with any project or address they would like investigated, so that Staff can report at the next meeting.

**XI. COMMENTS FROM THE DIRECTOR:**

Director Stanley advised that the City Council would hear the Schuberth appeal on December 15<sup>th</sup>. He reminded the Commission that the next meeting would be held on January 13<sup>th</sup>.

**XII. ADJOURNMENT:**

M/S/C Davitt/Mehranian to adjourn at 9:12 p.m. Unanimous.

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Secretary to the Planning Commission