

**A MEETING OF THE PLANNING COMMISSION
OF THE CITY OF LA CAÑADA FLINTRIDGE,
HELD DECEMBER 11, 2001**

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

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

COMMENTS FROM THE PUBLIC: Comments were not offered.

CONSENT CALENDAR: Director Stanley advised that a request was received to pull item A from the Consent Calendar.

Chairman Levine elected to consider the Consent items out of order.

M/S/C Gelhaar/Brown to adopt the Minutes of November 13 as amended by Commissioner Gelhaar. 4 Ayes.

M/S/C Brown/Engler to approve the Minutes of the regular meeting as amended by Commissioner Brown and of the special meeting, held November 27. 4 Ayes.

Item 'B'; Resolution 01-70, denying a request to allow a 10-ft-high, freestanding wall at 5206 Vista Lejana Dr.:

Chairman Levine recognized the applicants' request to address the Commission, but he felt any issues regarding the Commission's decision might be better served via an appeal to the City Council.

Assistant City Attorney Steres advised of the public's right to comment on any agenda item, including the Consent Calendar and noted that the Chair specifically asks the public for comments on items *not* on the agenda. He further advised that the Chair can limit such comments to 3 minutes if desired. He also noted that Staff had provided the Commission with additional information on this item.

He advised the Commissioners of their options: take action on the Resolution or to reconsider what occurred at the last meeting based on additional information provided by Staff or through public comments.

Chairman Levine expressed concern that members of the public who expressed opposition to this request were not in the audience

Attorney Steres did not recommend taking action if the Resolution was not adopted. If a motion for reconsideration passed, the matter would be set for a future date and the neighbors would be re-notified.

Commissioner Mehranian arrived at 6:12 pm.

Commissioner Gelhaar opted to hear what the applicant had to say.

Commissioner Brown concurred, adding that he would like assurance that the record was as complete as possible.

Chairman Levine announced that he would allow each speaker 5 minutes.

Bryce Call, MDI Development, distributed photos of the existing wall. He proposed removing a portion from the top, creating a maximum height of 6 ft from both sides. The lower crib wall portion would be planted.

Responding to a question from Commissioner Brown, Senior Planner Buss explained that the wall was not engineered as a retaining wall, nor was it constructed with footings as would be required of a retaining wall. He cautioned that removing the bank from the exterior would create a *retaining* situation, without the benefit of a bona fide retaining wall.

Commissioner Engler confirmed that the wall would have to be 'engineered' to hold the dirt.

Commissioner Brown commented that the north/south portion of the wall was not included in the original Parcel Map site plan.

Senior Planner Buss reminded the Commission that only the wall along Angeles Crest was under analysis. Conditions of the approved Parcel Map required removal of the walls along Harter and Vista Lejana or reducing their height to comply with Code in effect at that time.

He explained that removing the exterior bank would place the foot of the existing wall at the original contour line.

Further comments were not offered. Chairman Levine solicited comments from the Commissioners.

Commissioners Brown and Gelhaar preferred to reconsider the matter and have the Commission discuss the new information on a future agenda.

Commissioner, Engler, Mehranian and Chairman Levine were satisfied with the conditions of the Resolution of Denial.

M/S/C Engler/Mehranian to sustain the Resolution denying the applicant's request. 3 Ayes. No: Brown and Gelhaar.

PUBLIC HEARINGS:

**CONDITIONAL USE
PERMIT 331; MODIFI-
CATION 01-53; HILL-
SIDE DEVELOPMENT
PERMIT 01-57;
MEYERHOFER;
5228 ESCALANTE DR.**

Planner Cantrell reported the applicants' request to expand both levels of their home by 1,900 sf and to install a swimming pool in the front yard. The Modification addresses first and second-story side yard setback encroachments and a 6' 3"-high fence that would enclose the pool.

The 25,433-sf property is located on the east side of Escalante Drive, just below its northern terminus, in the R-1-15,000 Zone. It has an average slope of 22% and is depressed more than one story from the adjacent property to the North. Its average width of 127 ft requires a 12'- 8" ground floor setback and a 20-ft minimum setback at the second floor. The proposal

encroaches at both levels, with the closest corner 9'-7" from the north property line. Overall height of the addition would reach 19 ft and extend the flat roof configuration and the windows would be above standing eye level. The lack of impact makes requiring Code compliance "inconsistent with the general purpose of such regulations and standards".

Concerns of view blockage, bulk, or technical issues associated with hillside projects, are not raised by this request.

Planner Cantrell pointed out that the property across the street accommodates a pool near the front property line, not unlike what is proposed. It is blocked from motorists' view by the solid bottom portion of its fence, but is visible by pedestrians.

The proposal includes a 6'-3"-high fence with wide, horizontal boards that create a louver effect. Staff has a concern with its visual effect, particularly in its rambling course of various angles and recommended holding it to the 3'-6" allowed maximum height. If the Commission did not approve the pool, its need is questionable.

Addressing the pool location, Staff had a concern with its visibility upon reaching the higher portions of Escalante Drive, though it would not be visible from the lower portion of Escalante. Staff believed that it would introduce a crowding effect to the neighborhood, contrary to the neighborhood character. Planner Cantrell pointed out that the rear yard has areas that could accommodate the pool.

Staff recommended positive findings with the exception of the proposed location for the pool and the fence height.

Commissioner Engler confirmed that the pool across the street was installed prior to the R-1 revisions which require a CUP for pools located in the front yard area.

Commissioner Mehranian confirmed that there had been no discussion with the applicant about relocating the

pool She referred to the Staff report's comment regarding location of rooftop equipment and confirmed that precluding such equipment was added as a preventative measure.

Michael Pinto, project architect, noted that the addition would work with the hillside and therefore appear as a single floor above grade. The house is sited at a diagonal, and therefore there is no "pure" sideyard. South of the project site is a private driveway that serves four homes and a city water tank. Consideration was given to insulating neighbors from use of the pool; it was therefore embedded into the hillside on three sides with the existing home on the remaining side. He stated that his client was willing to discuss fence height.

Commissioner Brown confirmed that the a/c equipment, now on the roof, would be relocated.

Project applicant, Mark Meyerhofer, advised that the former property owner had expended a significant amount of money to landscape the rear yard, including large pine trees with roots that extend into the rear yard area. He noted that the area proposed for the pool is basically unusable for other purposes.

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

Commissioner Brown remarked that the Commission is generally sensitive when new encroachments are proposed; however, this lot goes into the hillside and given those circumstances, he was not concerned. He stated that he understood that the proposed location for the pool works for the applicant, but was leaning towards agreeing with Staff's recommendation. He stated that the idea of requiring a CUP for such projects is to preclude pools taking up large areas of the front yard.

Commissioners Mehranian commented that she did not have a concern with the requested setback encroachment and concurred with Staff's recommendation regarding the pool.

Commissioners Engler and Gelhaar agreed.

Chairman Levine commented that it appeared the request to locate the pool in the front yard was headed for denial. He inquired if the Commission wished to vote separately on the two elements of the request.

Commissioner Brown stated that from his conversations with the applicant during his site visit, having to relocate the pool would require a total redesign.

Chairman Levine offered the applicants the option of a vote or a continuance. Director Stanley advised there was available time for second meeting in January, which will be held on Wednesday, the 23rd.

Mr. Pinto asked the Commissioners if they would look more favorably if the pool remained in the same general location and met setback requirements. He noted the difficulty in establishing the front from the side yards on this property.

A straw vote established that the majority preferred that the pool be relocated.

M/S/C Mehranian/Engler to continue Conditional Use Permit 331, Modification 01-53 and Hillside Development Permit 01-57 to Wednesday, January 23, 2002. Unanimous.

**VARIANCE 01-13;
MODIFICATION 01-61;
FLOOR AREA REVIEW
01-08; BARKER;
1366 SALISBURY ROAD:**

Planner Cantrell described the applicant's request to construct a 405-sf, second floor addition above the garage, which is located at the rear of the house. An angle plane encroachment is requested along the east side property line, as is a Modification to allow a side yard setback. The proposed floor area would reach the 40% maximum triggering Floor Area Review. The lot is classified as *hairpin*, with the front setback requirement applying to Loma Vista, the side street, as well as to the Salisbury frontage.

The 4,610-sf property is located at the southeast corner of Salisbury Road and Loma Vista Drive, in the R-1-7,500 Zone. Current development is comprised of a single-story house and attached garage. South of this property,

an alley separates residences from the commercial area of Foothill. Across Loma Vista, the REMAX office building faces the extreme south end of the subject lot.

Construction would be in the most narrow and lowest portion of the lot and result in encroachment and angle-plane issues. The addition would be constructed over the garage, which is one-half level below house elevation. A 5-ft "front" setback encroachment at the closest corner to Loma Vista would result but would present the least impact from the residential street. It would face commercial uses across Loma Vista and across the alley to the south. Planner Cantrell noted that the second-story encroachment would continue an existing building line and the neighborhood's development pattern of 5-ft setbacks.

Staff recommended positive findings and project approval.

Applicant, Brad Barker, stated that a great deal of analysis was involved in where to construct the addition. He advised that all his neighbors support the plans.

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

Commissioner Mehranian noted that the addition would be located in the lowest portion of the property and that it is of modest size.

Commissioner Engler stated that the project falls into the "good idea" concept and that it fits the lot.

Commissioner Gelhaar did not believe that the addition was compatible with other construction in the neighborhood, particularly the ones across the street.

Chairman Levine confirmed that the addition next door is considered a 'full' story, rather than a 'half' story. He concurred with Commissioner Mehranian's comments and with Commissioner Gelhaar's concern and noted that even modest additions, when located on smaller properties, can appear large.

M/S/C Mehranian/Engler to approve Variance 01-13, Modification 01-61 and Floor Area Review 01-08 as submitted. 4 Ayes. No: Gelhaar.

HILLSIDE DEVELOPMENT PERMIT 01-41; PETROSSIAN; 657 FOXWOOD ROAD

Assistant Planner Gjolme reported the applicant's proposal to expand the first and second-floor of an existing 3,318-sf home on a lot with an average slope of 26%. The Modification addresses first and second-floor encroachments into the required front setback.

The 38,340-sf- property is located on the north side of Foxwood Road, between Woodleigh Lane and Pomander Place, in the R-1-40,000 Zone. It is currently developed with a house and garage totaling 3,318 sf, setback from the front property line 10 to 19 ft and is highly visibility.

The project would increase total floor area to 6,483 sf, comprised of a 1,086-sf, first-floor expansion and a new, 2,079-sf, second-floor.

Expanding the first floor to the east side and recessing it along the west, provides a favorable outcome of increasing the front setback (though still below the 20-ft requirement), and reducing the extent of encroaching floor area. The expanded second floor extends 102 ft measured east to west, has a 32-ft depth and a height of 27 ft and, in Staff's estimation, would dominate the street setting. The height is attained for a limited section that constitutes only 20% of the overall span. Further, three pine trees were removed from the front area of the property; Staff is investigating whether they were located in the right-of-way.

Planning Assistant Gjolme displayed a graphic showing neighborhood support and opposition of the project. Staff considered the project as a departure from the neighborhood development and recommended a continuance with direction to reduce the mass.

Armik Shahnazarians, project architect, pointed out the descending grade difference of approximately 5 ft, measured from east to west. The second floor setback on the east side is approximately 28 ft and at the west ranges from 19 to 23 ft. Massing on the west is

approximately 5 ft underground so that overall visible height of that section would be 22-23 ft. He reiterated Staff's comments that while the existing non-conforming front setback would continue, it would nonetheless increase due to demolition work in that area. He believed that Staff supported the first-floor encroachment and stated his clients were willing to work on the second floor encroachment.

Responding to a question from Commissioner Gelhaar, Mr. Shahnazarians advised that the height difference between the existing roofline and the project is 10 ft.

Chairman Levine opened the public hearing.

Jack and Vonnie Schlomer, 650 Foxwood Road, reside directly across the street and "heartily objected" to the project. Mrs. Schlomer stated that if is out of character for the area, would devalue the neighborhood and the second-story would be level with their front yard, resulting in loss of their privacy.

Georgia Dillon, 647 Foxwood stated that the project is "way too massive and too close to the street". She noted that other large two-story homes are setback further from the property line and are screened by landscaping. Mrs. Dillon stated that she purchased her home because of the privacy it affords; she felt the proposal would create a "fishbowl" effect for her as well as for the Schlomers. Ms. Dillon expressed concern that some neighbors might have been misled; when Mr. Petrossian spoke with her, he represented the project as "adding a couple hundred square feet".

Applicant, Pete Petrossian, advised of his efforts to meet with all his neighbors and stated that he had no intentions of misleading anyone. He felt that the proposal represented a reasonable 5-6 bedroom home.

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

Commissioner Engler stated that he was in complete agreement with Staff's concerns regarding massing and that he needed a landscape plan to review.

Commissioner Gelhaar supported Staff's recommendation to continue for redesign. He recommended that the applicant erect story poles based on the redesign.

Commissioner Brown recognized the difficulty with defining 'mansionization', but felt that this project met the standard. It seemed that it was intentionally designed to appear imposing, given its proximity to the street. He pointed out the narrowness of the street and stated that the siting and height of the house could be much more compatible with the neighborhood.

Commissioner Mehranian concurred, adding that the size and massing were imposing and the project is not compatible with neighborhood development. She stated that creativity was missing from the design and encouraged the applicant to solicit input from his neighbors.

Chairman Levine did not believe the project was significantly out of proportion "with what's in the area", but he was concerned with view blockage. He advised the applicant of his options, including an appeal to the City Council, an open continuance or a continued hearing to a date certain.

Mr. Petrossian opted for a continuance to the second meeting in January. Director Stanley reminded the audience that January 23 was a Wednesday, rather than the usual Tuesday meeting.

Chairman Levine added that story poles would be helpful, as would a rendering from the neighbors' vantage point.

M/S/C Brown/Mehranian to continue Hillside Development Permit 01-41 and Modification 01-55 to January 23, 2002. Unanimous. Chairman Levine cautioned the audience that no further notice of that meeting would be mailed to them.

CONTINUED PUBLIC MEETING:

FLOOR AREA REVIEW 01-01; BUILDING DEPTH REVIEW 01-02; SHIER; 1936 LYANS DRIVE:

Chairman Levine requested that speakers confine their comments to factual issues on which the Commission makes its findings.

Planner Cantrell recalled that when the project was reviewed on July 24th, there was consensus on the design and direction given regarding landscape screening. The applicant has complied and also reduced the depth of the second-floor ---- a 60-ft west building wall was replaced with one of 53' 2" in length. Despite this reduction, the project continues to exceed the review threshold for floor area due to complexities of the Ordinance. Planner Cantrell commented that it was now even clearer that building depth is not a concern, but rather a product of well-articulated form by using overhangs and balconies. Floor area was marginally reduced to 5,047 sf and is under the Code maximum; however, review is still required because of the 4500 sf threshold for properties with less than 80 ft of frontage.

The site plan shows a row of Podocarpus on the neighboring property. A new row of identical plantings would be added on the subject property in 15-gallon specimens. Podocarpus is commonly used in confined spaces; a drawback is their slow rate of growth. Under advice from a landscape architect. Staff recommended replacing them with 15-gallon redwoods, a common choice for hedges and which have a quicker growth rate. Following receipt of the Staff report, the applicant requested to be allowed to plant *Prunus caroliniana*, which is acceptable with Staff; it is a rapid grower and reaches 20 ft in height at maturity.

As before, Staff believed that the findings could be made, the only question is the choice of screening material. The draft conditions, which require side yard screening, prohibit cutting the screening material below a height of 20 ft and recordation of a covenant to ensure that future property owners are aware of the protected status of the landscape screening.

Anders Troedsson, project designer, explained that the depth exceeds 60 ft only on the east side and is solely attributable to the overhangs, which he believed contribute to articulation and the overall softening of the design.

Applicant, Richard Shier, advised that he instructed his architect from the inception that the project should not require any variances, encroachments, etc., and that the neighborhood character was to be considered. He reviewed the minutes of the prior meeting and concurred that the commission requested a landscape plan with landscape screening on the west side and showing the three trees slated for removal.

Annie St. Clair, landscape architect, concurred that *Prunus caroliniana* was an excellent choice. A concern expressed by Mrs. Ferri, the westerly neighbor, that her child might be allergic to the flowers, led Ms. St. Clair to add another option, the green gem *ficus nitida*, which grows similarly to the *caroliniana*.

Responding to a question from Commissioner Brown, Ms. St. Clair advised that redwood trees have a large base structure. Given the narrowness of this lot, a hedge that would grow "tall and thick" would be more appropriate.

Bill George, 1935 Lyans Drive, resides directly across from the project site and supports the project.

Alan Arathammer, 1930 Lyans Drive, resides immediately east of the project. He supported the project and believed it fit the community.

Martin Spear, counsel for the Ferris, the most adjacent neighbors, advised that a productive conversation just took place outside the chambers between Mrs. Ferris and Mrs. Shier. The topic was what type of foliage would be most appropriate. They consulted Ms. St. Clair's *Sunset Book* and seemed to agree on the green gem *ficus* plant. On behalf of his clients, he requested that a covenant require installation and maintenance of the green gem *ficus*.

Nancy Ferri, 2940 Lyans Drive, the adjacent neighbor to the west, stated she did not oppose the development; the important issue for her was appropriate landscaping and its maintenance to preserve privacy in her back yard and pool area. A recorded covenant and appropriate screening would satisfy her. Mrs. Ferri asked the Commission to table the matter so she could consult with her landscape architect, provided everyone could agree on the type of landscape screening.

Chairman Levine advised Mrs. Ferri that her attorney led the Commission to believe that a green gem ficus was acceptable to her. He asked if her attorney misrepresented her position.

Mrs. Ferri stated that her attorney was discussing the matter with her husband and she was unaware of what plants they discussed.

The applicants declined the Chairman's offer to respond to comments and the public hearing was closed.

Commissioner Brown recalled that he supported the project at the first hearing with a condition that appropriate landscape screening be worked out with Staff. It appeared there was now expert advice from a landscape architect and concurrence from Staff that *Prunus caroliniana* would work. The design would be a significant improvement to the neighborhood and he supported the project.

Commissioner Mehranian stated that the applicant had made a good faith effort to respond to the Commission's suggestions. She stated she was in favor of the project and was ready to support it.

Commissioner Engler stated that the applicant met all the conditions requested of them. Noting the two reputable landscape architects ready to make suggestions, he deferred to them regarding the landscape screening.

Commissioner Gelhaar was not in attendance for the first meeting, but advised that he read the minutes of that

meeting and made a site visit. He stated that it is a good project and represents a significant improvement to the neighborhood, though he would be more comfortable without the balcony in the back yard.

Chairman Levine noted that the Ferris expressed concern that the project would afford views into their pool area.

Planner Cantrell advised that there is no pool on the Ferri property; it might be in their future plans. He noted that nothing prevents the Ferri's from installing a second row of landscape screening on their property.

Commissioner Brown confirmed that draft condition #12, which called-out planting intervals for redwoods as shown on the landscape plan, would also apply to *Prunus caroliniana*.

Assistant City Attorney Steres advised striking language in draft condition #12 referring to a misdemeanor, etc . The City does not prosecute violations of conditions of approval as misdemeanors.

M/S/C Brown/Engler to approve Floor Area Review 01-01; Building and Depth Review 1-02, substituting redwood trees with *Prunus Caroliniana* and deleting language per the City Attorney's advice. Unanimous.

PUBLIC MEETINGS:

**MODIFICATION 01-60;
BOETTGER; 5346
STARDUST ROAD:**

Assistant Planner Gjolme described the applicant's proposal to enclose and roof a 230-sf balcony, located above the attached garage. A new reading room, accessed from the house would be created at the southeast corner of the house. The project site is located on the west side of Stardust Road, just north of its terminus at the cul-de-sac, in the R-1-10,000 Zone.

The expansion would correspond with the home's existing building line and maintain a 21-ft, front setback and a 12-ft, south side yard setback, compared with the required 25 ft and 20 ft setbacks. On the north side, the existing hip roof would be extended and cover the porch. This new roofed area accounts for 105 sf of additional project area.

Staff considered both components as appropriate since the home's overall profile would be preserved, and impacts related to use or appearance are not anticipated.

Assistant Planner Gjolme noted the two most immediate neighbors and the homeowners' association reviewed the plans and signed off.

Chairman Levine invited testimony, however comments were not offered.

The Commissioners concurred that the project would be minimally viewed from the street and neighboring properties and would be consistent with the scale of the property and the neighborhood.

M/S/C Mehranian/Gelhaar to approve Modification 01-60 as submitted. Unanimous.

**MODIFICATION 01-66;
DOTY; 1925
LOMBARDY DRIVE:**

Planning Aide Shimazu reported the applicants' request to construct a new 582-sf, detached, two-car garage and three, 10-ft-high trellises. The garage would encroach into required front and side yard setbacks, while the trellises would encroach into the required front yard setback. The site is located on the north side of Lombardy Drive, just west of Palm Drive, in the R-1-10,000 Zone.

The proposal would provide a required two-car garage for the first time on this property. It would be located 25 ft from the front property line and 6 ft from the east side yard at its closest point and would align with the curvature of Lombardy Drive. It's proposed width is 28' x 20'-7".

Planning Aide Shimazu noted that a code-compliant garage at the rear of the property is not possible because a swimming pool blocks access to the rear of the property. One of the trellises would be attached to the rear of the garage, another would serve as a breezeway connecting the home and garage and the third is proposed on the west side of the residence. All three meet required side and rear setbacks, but at the closest point, one would be 30 ft from the front property line.

A gate and fence shown on the site plan were not addressed in the application are therefore subject to future review.

Mr. Shimazu noted that the front yard setback encroachment results from the significant setbacks on the immediate adjacent properties.

Staff concluded that the proposal is consistent with other properties in the neighborhood with narrow front setbacks and that it would enhance the use and appearance of the subject property.

Kurt Bednar, project designer, pointed out that 2/3 of the home is located within the required front yard setback. He explained the challenge he faced and stated that the submitted design best suits the character of the neighborhood.

Chairman Levine commented that a code-compliant, 20' x 20' garage would allow locating it further back on the property.

Mr. Bednar responded that doing so would necessitate removing the window. Since the garage is detached and faces the street, he felt the window added character and made it appear less "garage-like"

There was not testimony offered from the audience.

Commissioner Gelhaar advised that the applicant related during his site visit that he wanted to create a work area. He stated that he could support the front yard setback, but preferred that the side yard setback be maintained.

Commissioner Brown stated that the side yard did not raise a concern as it did not encroach into the 'flag' area and he felt the project would improve the property.

Commissioner Engler concurred, noting that its orientation would not create an impact.

Chairman Levine and Commissioner Mehranian concurred with Commissioner Gelhaar's comments.

M/S Brown/Engler to approve Modification 01-66 as submitted.

Chairman Levine remarked that while the project is well designed, it appeared the majority of the Commission could not support it. He offered the applicants the option of a continuance for a redesign or appealing it to the City Council.

M/S Mehranian/Gelhaar to approve Modification 01-66 with an added condition that it comply with the required side yard setback, either in the proposed or in another location.

Mr. Bednar noted that a 20' x 20' garage would not allow for a work area.

Director Stanley suggested adding the desired work area to the rear of the garage. The front yard setback encroachment would persist, but the side yard requirement would be met.

Commissioner Gelhaar remarked that he was not restricting the garage size to 20 x 20, only that it meet the side yard setback requirement.

M/S Brown/Gelhaar, approving Modification 01-66, allowing the front yard setback encroachment and denying the requested side yard setback encroachment.

Mr. Bednar confirmed that if he opted for a redesign, it could be reviewed on January 8. Noting that the fence and the eastern portion of a gate needed to be reviewed, he advised he would redesign the project.

Commissioner Mehranian withdrew her motion.

Following further discussion, Mr. Bednar agreed to a condition that the garage comply with the required 11½-ft sideyard setback.

A vote on Commissioner Brown's pending motion was taken: 3 Ayes: No: Engler and Levine.

OTHER BUSINESS:

Tree Removal 01-23; St. Francis High School; 200 Foothill Boulevard:

Planning Aide Shimazu recalled the Commission's approval to allow the new Performing Arts Center to encroach into the front setback along Foothill. The main thrust for the encroachment was to protect three oaks located immediately south of the new structure. The school has now submitted a request to remove the 28-inch-diameter oak immediately adjacent to the Center --- the edge of its trunk is 7 ft from a footing and 3 ft from an eave. Mr. Shimazu noted that protective barriers are in place for the other two oaks but not for the oak in question. An arborist report finds that the structure's footprint and necessary utility trenching would detrimentally affect the tree and notes efforts made to preserve the tree by raising its canopy by an arborist.

Staff determined that the required findings could be made and that approving the request would not affect the ambience of the main courtyard. The remaining two oak trees are considerably larger and the numerous trees on the campus would mitigate the removal. Staff recommended approval with a condition that three, 36-inch-box oak trees or one 72-inch-box oak be planted on the campus grounds.

Commissioner Engler asked for an accounting of how this occurred and confirmed that the Performing Arts Center was constructed in accordance with plan check.

Director Stanley explained that the building was not under construction when the landscape plan was designed and the required trenching for the footings and utilities could not meet the City requirement for a protection barrier of 2 times the trunk diameter. He pointed out that the tree in question is growing at an angle towards the structure and that it shows evidence of decay and termite infestation. Barring objection from the Commission, he would approve the request as being in substantial conformance with the approval.

Chairman Levine invited testimony.

Greg Egan, representing St. Francis High School, related the efforts to comply with the Planning and Design Commissions' conditions. The tree in question is wedged between a cluster of oak trees and the slope of Foothill Boulevard. The cluster is not visible from either Foothill or the Performing Arts Center. He suggested that the surface parking lot west of the parking structure might accommodate a new, large oak that would be visible from both directions of Foothill. Because of the numerous trees on campus, planting three smaller trees would be problematic.

Commissioner Gelhaar stated that he could support the request. Noting the plethora of oaks on site, he did not object to having replacement trees installed elsewhere in the City.

For the record, Commissioner Mehranian noted her consistent concern with removing oak trees. She confirmed that the request to cut down the oak is not only because its proximity to the structure, but also because of the infestation.

Commissioner Brown observed that the oak in question would not do well and he preferred that a large, visible oak be planted as Mr. Egan suggested.

Chairman Levine stated that he strongly disagreed with the request and noted that the location of the structures and trees was a known factor when approval was granted. He stated that something could have been done to preserve that tree, including moving the structure. He did not consider the request to be in substantial conformance with the approval.

Assistant City Attorney Steres responded to a question from Chairman Levine and confirmed that requiring a specific size replacement tree was the equivalent of a finding of substantial conformance. The alternative would be to have the applicant process an amendment to the previous approval or move the building.

M/S/C Brown/Gelhaar that removal of the subject tree was in substantial conformance with the prior approval and that a 72-inch-box replacement tree be installed within the triangular-shaped piece of the property located near the freeway. No: Levine and Mehranian.

Commissioner Engler asked that Staff place on a future agenda and report "what happened at the Building & Safety level" that could have led to any discrepancy between the approved plans and plan check.

On another matter, Commissioner Brown reported that the City Council reversed the Planning Commission's determination that play equipment was to be considered as a *structure* for purposes of establishing setbacks. The Council found that our Ordinance is not applicable to moveable equipment and was perhaps skeptical of attempting to regulate what some consider to be "toys". Commissioner Brown was more concerned with large containers, moveable gazebos, etc., which the City Council might not have realized are unregulated by Code.

ADJOURNMENT:

Commissioner Engler asked Staff to inquire whether Proposition K funds were available to the city, which could be used for a trail in the Rockridge Terrace area.

M/S/C Mehranian/Gelhaar to adjourn at 8:55 p.m.
Unanimous.

Secretary to the Planning Commission