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CITY OF LA HABRA HEIGHTS
MINUTES OF A REGULAR MEETING
OF THE PLANNING COMMISSION

FEBRUARY 24, 2009

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OPENING CEREMONIES

1. CALL MEETING TO ORDER

Chairman Larry Black called to order the regularly scheduled Planning Commission Meeting for February 24, 2009 at 7:07 p.m.

ROLL CALL

Present: Chairman Larry Black, Commissioners Brent Grebbien, Tony Liu and Carl Westerhoff. Alternate Don Tilley acting for Commissioner McCoy.

Absent: With Excuse: Margarita McCoy

Also present: City Planner Kenneth Phung and Planning Commission Attorney Daniel Ballin

2. FLAG SALUTE

Commissioner Westerhoff led the flag salute.

3. ITEMS FROM THE PUBLIC NOT ON THE AGENDA

Norm Zezula spoke regarding his opinion that "dirty politics" is name calling and other personal attacks. Reporting facts that happen is not "dirty politics" but "good citizenship".

Stephen Blagden stated that he opposes a lot of the projects that come to the Planning Commission when they are asking to exceed City Standards. The whole system seems stacked toward the speculator and new people that try to bring outside ways to the City. Too many residents have lost something that they value from such projects. I try to speak for these residents to protect them.

Howard Viperman, Chota Road, noted that at the last City Council Meeting, Mr. Zezula gave an opinion that there was a war going on between the Council and volunteers in the City. Mr. Viperman stated that this idea was only in Mr. Zezula's mind. The Council is grateful for the many volunteers who help them. He also stated that if you talk about a personal website you should identify it as a personal site, not the City's.

John Pierce thanked those running for City Council and for running a clean campaign. Mr. Pierce stated that he didn't need Mr. Blagden to be his advocate as he will speak for himself on problems with any Planning Commission project that affects him and believes other members of the public feel the same.

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CONSENT CALENDAR

4. APPROVAL OF MINUTES FOR February 3, 2009 (Special Planning Commission Meeting)

RECOMMENDATION: That by Minute Action the Planning Commission approves Planning Commission Minutes for February 3, 2009.

Commissioner Liu moved to approve the Special Planning Commission Meeting Minutes for February 3, 2009. Seconded by Commissioner Westerhoff and approved as follows:

- AYES: Black, Grebbien, Liu, Westerhoff and Tilley**
- NOES: None**
- ABSENT: McCoy**

PUBLIC HEARINGS

5. VARIANCE (PRJ 2008-15) FOR A KEYSTONE RETAINING WALL UP TO EIGHT FEET IN HEIGHT AT 1620 FULLERTON ROAD

City Planner Phung noted that the applicant, Mike Kowalski, representing the Na Sung Church, is requesting a Variance per La Habra Heights Municipal Code Chapter 7.19 to allow a Keystone retaining wall up to 8-feet in height within the required setback and in the right-of-way to support a slope. The retaining wall is on the southern end of the property. To the South is vacant land and is twelve to fourteen feet from the property line. City Planner Phung noted that the wall is a Keystone design that allows landscape planning on the wall. He recommended that the Planning Commission Adopt Resolution No. 2009-05 approving Variance 2008-15 to permit a retaining wall up to 8-feet in height, subject to the findings contained in the staff report, and make findings in support thereof.

Chairman Black opened the Public Hearing for Public Comments.

Stephen Blagden, Citron Road, noted that possibly the engineers would want to have some conditions as to earthquake faults that might run near the wall.

City Planner Phung explained that the wall is in an earthquake fault but there are no special requirements for walls that have to be followed per the Alquist Priolo Act for non-habitable structure.

Chairman Black brought the meeting back to the Commission for discussion.

City Planner Phung noted that there is a condition in the Resolution that a landscape plan will be submitted.

Alternate Tilley moved to Adopt Resolution No. 2009-05 approving Variance 2008-15 at 1620 Fullerton Road. Seconded by Commissioner Westerhoff and approved as follows:

- AYES: Black, Grebbien, Liu, Westerhoff and Tilley**
- NOES: None**

101 **ABSENT: McCoy**
102

103
104 **6. STANDARDS MODIFICATION FOR ADDITIONAL GRADABLE AREA AND**
105 **VARIANCE FOR ADDITIONAL HARDSCAPE AREA FOR A POOL AT 1502**
106 **ANGOLA ROAD**
107

108 City Planner Phung stated that the applicant, Mark Ficinski, is requesting a Modification in
109 regards to Section 7.17 of the Municipal Code for additional gradable area of 1,950 square feet
110 and a Variance for additional hardscape of 1,650 square feet for a pool and additional paved
111 walking area. Mr. Phung explained that this is a single-family home in a neighborhood of
112 single-family homes, some with pools. He made a correction in his report and noted that the
113 home had been approved in 2002 for a gradable area of 31,760 square feet and the approval for
114 the hardscape was 12,556 square feet. The applicant actually graded less than that was
115 approved in 2002. He only graded 19,850 square feet, so he actually does not need a
116 Modification for his gradable area. A Variance is still needed for the hardscape area. The
117 hardscape he actually completed exceeded the 2002 approval. He is proposing 16,358 square
118 feet of hardscape.
119

120 Staff recommends moving forward with the Variance, and the Planning Commission **Adopt**
121 **Resolution No. 2009-04** for a Variance for additional hardscape area, subject to the findings
122 contained in the staff report, and make findings in support thereof.
123

124 Commissioner Westerhoff asked if the surface area of the pool is included in the hardscape.
125

126 City Planner Phung answer that this was included, as he provided a mark-up exhibit to the
127 applicant to calculate hardscape and gradable areas which included the pool. Mr. Phung also
128 explained that he had included a Condition and talked to the Engineer that all drainage from the
129 hardscape must go towards the pool. None of the drainage from the hardscape will affect the
130 neighborhood. He noted that the walkway area being added is not a concern as it is not a
131 concentrated flat area such as a patio area.
132

133 Chairman Black opened the Public Hearing for Comments.
134

135 **Larry Miller** stated that he is not sure this is a good time to build a pool when California
136 Legislators are talking about cutting water going to farmland. Water conservation need to start
137 here. La Habra Heights may have water rationing in the immediate future.
138

139 **Alternate Tilley had to recuse himself from consideration as he is a neighbor of the**
140 **project.**
141

142 **John Barakanski, Architect**, representing the owner of the project, Mark Ficinski, stated that
143 the owner is a Civil Engineer and is very aware of drainage issues.
144

145 **Mark Ficinski, owner**, noted that none of the drainage goes into the creek. The property has
146 two dry wells for drainage.
147

148 Commissioner Westerhoff asked Mr. Ficinski if it would be a hardship for him if he held off on
149 the pool until after the City Council decides on the Code about how pools will be counted as for
150 hardscape.

151
152 City Planner Phung stated that they would have to at least finish the landscaping requirements
153 around the house to get the Certificate of Occupancy, and we might be able to work out
154 something without finishing the pool at the same time.
155

156 **Chauncey Hubbard**, property owner adjacent to 1502 Angola Road spoke in favor of the
157 efforts taken by Mr. Ficinski to control drainage and the whole project.
158

159 Chairman Black closed the Public Hearing and brought the discussion back to the Commission.
160

161 Commissioner Westerhoff stated that in his opinion, requiring the landscaping to be completed
162 before the Certificate of Occupancy can be issued is a burden on the owner.
163

164 It was noted that findings for a variance require extraordinary circumstances.
165

166 **The consensus of the Commission was to have the owner reduce the square footage of**
167 **hardscape so a Variance is not needed and to use a Standards Modification instead.**
168

169 Planning Commission Attorney Ballin suggested that they take approximately a fifteen (15)
170 minute break while he writes the findings needed for a Standards Modification for the project
171 and see if the applicant is agreeable to this.
172

173 Chairman Black asked for an intermission at 8:11 p.m. and reconvened at 8:27 p.m.
174

175 City Planner Phung stated that the Standards Modification for grading would be changed to
176 Standards Modification for hardscape. The applicant has agreed to take out 600 square feet
177 from the hardscape to make it fit within the Standards Modification limits.
178

179 **Chairman Black moved to recommend approval of Standards Modification 2008-25 for**
180 **additional hardscape for a pool at 1502 Angola Road with the condition that 600 square**
181 **feet of hardscape be taken out at the applicant's discretion and approved as follows:**
182

183 **AYES: Black, Grebbien, Liu, and Westerhoff**

184 **NOES: None**

185 **RECUSED: Tilley**

186 **ABSENT: McCoy**
187

188 **7. APPEAL OF ADMINISTRATIVE STANDARDS MODIFICATION APPROVAL BY**
189 **PLANNING STAFF FOR A NEW SINGLE-FAMILY HOME AT 1454 KASHLAN**
190 **ROAD.**
191

192 City Planner Phung stated that this is an Appeal of Standards Modification for a Retaining Wall
193 Height and Building Design for a proposed 3,819 sq. ft. single-family residence with an
194 attached 600 sq. ft. garage, and 1,000 sq. ft. of patio and deck area within the RA zone at 1454
195 Kashlan Road. This is an appeal of an Administrative Approval decision made by Staff in
196 December. The Modification request consists of an additional two-foot in height for the
197 retaining wall within the required setback. The retaining wall height requested is 5-feet. The
198 second request is to permit a cumulative footprint of 2,743 square feet and for the house to be
199 thirty (30) feet in height. This would require a Standards Modification. The size of this house
200 is comparable with the surrounding neighborhood, although it is about 1,000 square feet larger

101 ABSENT: McCoy
102

103
104 6. **STANDARDS MODIFICATION FOR ADDITIONAL GRADABLE AREA AND**
105 **VARIANCE FOR ADDITIONAL HARDSCAPE AREA FOR A POOL AT 1502**
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146 two dry wells for drainage.
147

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149 the pool until after the City Council decides on the Code about how pools will be counted as for
150 hardscape.

201 than the neighboring property. Alternate locations were considered and for various reasons
202 were rejected. City Planner Phung stated that there has been concern shown about view and the
203 size of the house. On October 24, 2008 a notice of Administrative Review was sent out and
204 during the comment period for residents there were several letters sent to the Planning Staff
205 expressing concern about the loss of their primary view and at least one concern about the size
206 of the structure. After considering these concerns, Staff on December 1, 2008, made the
207 decision for approval of the project. Staff made the findings needed for this approval. On
208 December 18, 2008 Mr. Thomas Yeh filed an appeal. Staff disagrees with Mr. Yeh's appeal
209 assertion. **City Planner Phung** recommended that the Planning Commission deny the appeal
210 and **ADOPT Resolution No. 2009-03** approving Standards Modification 2007-04 to facilitate
211 the construction of a single-family home on the grounds that the modifications are consistent
212 with the allowance of the Municipal Code, subject to the findings contained in the staff report,
213 and the Commission should make findings in support thereof.
214

215 Commissioner Westerhoff asked for a reconciliation of the different square footage numbers
216 presented on different documents.
217

218 City Planner Phung noted that the Staff report took information from the spreadsheet provided
219 from the applicant. Mr. Phung answered to a further question that any area adjacent to a
220 roadway is considered to be the front setback, which is 35 feet, but if you exceed a certain
221 square footage, there is a formula that requires a setback greater than 35 feet. This is also true
222 for the side setback. These setbacks are complied with by this project.
223

224 Chairman Black opened the Public Hearing for comment from the public.
225

226 **Mr. Villasenor** stated that over the years he has lost much of his view and the new proposal is
227 taking a big part of the view that he has left. Please take into consideration the views that are
228 being taken away from others because of this project.
229

230 **Yotah Correlli**, 1500 Coban Road, noted that in her opinion the view objections of over ten
231 people were disregarded. The disregard was counter-productive to neighborhood relations.
232 There should be compromises considered. She appealed to the Commission to initiate dialog
233 with the neighborhood as to their objections.
234

235 **Spiros Correlli**, Coban Road, objected to the approval of the project at 1454 Kashlan Road. It
236 is impacting his view. He provided pictures of how much the story poles show his view would
237 be affected by this project. He stated that they received no contact with the City Planner, only a
238 letter noting the decision of approval by the City Planner. He requested that a dialog be
239 initiated between the neighborhood residents and the Planning Commission that will include
240 the neighborhood concerns.
241

242 **Stephen Blagden** stated that in the past if there was neighborhood disapproval the project
243 would go to the Planning Commission. There was much opposition to the design and loss of
244 views from the neighborhood. Mr. Blagden noted many ways the design failed to follow
245 objectives of the General Plan. The new code has many subjective plans and many are not
246 followed in this project. It dominates the neighborhood and this could be corrected by being
247 imbedded into the property or the design could step down the easterly slope.
248

249 **Norm Zezula** noted his objection to this Project due to the concerns already stated of view
250 preservation, privacy and neighborhood character. The neighborhood residents need to have
251 the dialog with staff and the applicant about their concerns.
252

253 **J C Yeh**, 1500 Kashlan Road, stated that in his opinion staff has violated four (4) City Goals in
254 granting Administrative Approval for this project, twelve (12) Element Policies and eight (8)
255 Municipal Codes. Goals 1, 2, 3, and 7; Land Use Policies, 2, 3, 4, 6, 7, 10, 15, 16, 17, 18, 25,
256 and 51; and Municipal Codes 7.1.10, 7.2.20, 7.11.30, 7.14.30, 7.14.40, 7.17.30, 7.17.40 and
257 7.18.30. As a Standard Modification, the application is subject to Land Use Element 25. This
258 project will strongly affect our view and our privacy. Mr. Yeh provided pictures of the
259 situation from his view. The project will also lower the value of several other homes. He
260 proposed that the structure be relocated on the lot so it will not affect the neighborhood. Mr.
261 Yeh asked the Commission to approve his appeal and deny the approval of the Standards
262 Modification.
263

264 **Bill Parker** stated that he spent a lot of time considering the views and trying to find the best
265 location for this project and he would like to have the Commission approve the Standards
266 Modification.
267

268 Chairman Black closed the Public Hearing and returned the discussion to the Commission. He
269 stated that their decision was whether to go by staff's recommendation to approve the
270 Standards Modification or the appeal.
271

272 Alternate Tilley stated that in his opinion it does not fit the neighborhood character, and that the
273 neighborhood resident's concerns were not addressed.
274

275 Commissioner Grebbien stated that this is a flag lot and narrow, not providing as much choice
276 on where the house could be located. He stated that he had no trouble making the findings to
277 approve the Standards Modification.
278

279 Commissioner Westerhoff stated that he basically agreed with what Commissioner Grebbien
280 had said, but if the neighbors legitimately had not had their concerns properly listened to, he
281 would not be against a 30-day continuance for this purpose, but would want specific
282 suggestions as what it would take to address their concerns.
283

284 Commissioner Liu stated that he would like to have tangible proof that there were several other
285 locations and designs which were considered. Are there any records and were they shared with
286 the neighbors?
287

288 City Planner Phung stated that three other locations were looked at earlier and deemed not
289 useable, but there are no actual plans for such. Staff did look into the areas. Staff did not
290 discuss this with the neighbors in person, but it is discussed in the staff report provided to them.
291

292 Chairman Black stated that when Mr. Yeh purchased his home there were two lots that would
293 be built on later. He stated that he was very concerned with view and privacy, but if the house
294 was moved closer to Popenoe, then it affects the privacy of another neighbor and possibly have
295 greater safety concerns being built on the steepest portion of the lot. The owner does have a
296 right to build on the lot.
297

298 Commissioner Grebbien moved to deny the appeal and adopt Resolution No. 2009-03
299 approving Standards Modification and PRJ 2007-04 for a single-family home at 1454
300 Kashlan Road. Seconded by Chairman Black.
301

302 Planning Commission Attorney clarified for Commissioner Liu that nobody has a right to a
303 Primary View of 360 degrees.
304

305 **The motion was approved as follows:**
306

307 **AYES: Black, Grebbien, Liu, and Westerhoff**

308 **NOES: Tilley**

309 **ABSENT: McCoy**
310

311 **ITEMS FROM THE PLANNING COMMISSION**
312

313 8. There were no comments from the Commission
314

315 **ITEMS FROM STAFF**
316

317 9. **MONTHLY COMMUNITY DEVELOPMENT DEPARTMENT REPORT**
318

319 **RECOMMENDATION: Receive and File Report**
320

321 The Commission Received and Filed the Report
322

323 **ADJOURNMENT**
324

325 10. Chairman Black encouraged residents to consider volunteering their services to the City.
326 Chairman Black adjourned the February 24, 2009 Regular Planning Commission Meeting at
327 9:53 p.m.
328

329 **ATTEST:**
330

331
332 _____
LARRY BLACK, CHAIRMAN
333

334
335
336 _____
KENNETH PHUNG, CITY PLANNER
337