

**MINUTES OF A REGULAR MEETING OF
THE TORRANCE PLANNING COMMISSION**

1. CALL TO ORDER

The Torrance Planning Commission convened in a regular session at 7:02 p.m. on Wednesday, February 18, 2009 in the Council Chambers at Torrance City Hall.

2. SALUTE TO THE FLAG

The Pledge of Allegiance was led by Commissioner Uchima.

3. ROLL CALL

Present: Commissioners Busch, Gibson, Horwich, Skoll, Uchima, Weideman and Chairperson Browning.

Absent: None.

Also Present: Planning Manager Lodan, Planning Assistant Graham, Plans Examiner Noh, Associate Civil Engineer Symons, Deputy City Attorney Sullivan and Fire Marshal Kazandjian.

4. POSTING OF THE AGENDA

Planning Manager Lodan reported that the agenda was posted on the Public Notice Board at 3031 Torrance Boulevard on Wednesday, February 11, 2009.

5. APPROVAL OF MINUTES

MOTION: Commissioner Weideman moved for the approval of the January 21, 2009 Planning Commission minutes as submitted. The motion was seconded by Commissioner Horwich and passed by unanimous roll call vote.

6. REQUESTS FOR POSTPONEMENTS – None.

7. ORAL COMMUNICATIONS #1 – None.

8. TIME EXTENSIONS – None.

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Agenda Item 11A was considered out of order at this time.

11A. CUP08-00031, TTM070975: ANASTASI DEVELOPMENT

Planning Commission consideration for approval of a Conditional Use Permit to allow the conversion of two existing industrial buildings into industrial condominiums in conjunction with a Tentative Tract Map for condominium purposes on property located in the M-2 Zone at 19701 Mariner Avenue.

Recommendation

Approval.

Planning Assistant Graham introduced the request.

Chuck Springfield, representing Anastasi Development, voiced his agreement with the recommended conditions of approval. He reported that the applicant was proposing to convert two industrial buildings into industrial condominiums because there is no demand for rental units at this time, however, there is a market for the sale of units of this type.

Chairperson Browning questioned whether there would have been any difference in the requirements if the buildings were originally built as condominiums.

Planning Manager Lodan advised that the only difference is that separate water meters would be required for each unit.

MOTION: Commissioner Horwich moved to close the public hearing. The motion was seconded by Commissioner Busch and passed by unanimous roll call vote.

MOTION: Commissioner Busch moved for the approval of CUP08-00031, as conditioned, including all findings of fact set forth by staff. The motion was seconded by Commissioner Uchima and passed by unanimous roll call vote.

MOTION: Commissioner Busch moved for the approval of TTM070975, as conditioned, including all findings of fact set forth by staff. The motion was seconded by Commissioner Weideman and passed by unanimous roll call vote.

Planning Assistant Graham read aloud the number and title of Planning Commission Resolution Nos. 09-010 and 09-011.

MOTION: Commissioner Horwich moved for the adoption of Planning Commission Resolution Nos. 09-010 and 09-011. The motion was seconded by Commissioner Gibson and passed by unanimous roll call vote.

9. CONTINUED HEARINGS

9A. PRE08-00025, WAV08-00011: MARK F. STEPHENSON

Planning Commission consideration for approval of a Precise Plan of Development to allow the construction of a new two-story, single-family residence in conjunction with a Waiver to exceed the maximum height on property located within the Hillside Overlay District in the R-1 Zone at 25636 Amber Leaf Road.

Recommendation

Approval.

Planning Assistant Graham introduced the request.

Mark Stephenson, [REDACTED] Woodbury Drive, applicant, disputed claims by the Country Hills Homeowners Association (CHHA) that the project was not consistent with the area due to its size and height. He reported that 14 of 66 homes within a four-block area surrounding the subject property are over 3000 square feet, including 8 homes within 500 feet and 3 within 250 feet. With regard to height, he noted that two-story and even three-story homes are common in this area. He explained that he was willing to scale down the project, which as proposed has an FAR of 0.57, however, he is not sure what would be acceptable as some HOA members have indicated that even a FAR of 0.47 would not be acceptable and he would like to avoid the expense of going through several design iterations.

Orlye Stephenson, [REDACTED] Woodbury Drive, applicant, reported that the approval process has been very lengthy and hard on her family and they are eager to resolve these issues so they can start building their home.

Commissioner Busch asked about legal ramifications should the Planning Commission approve a project that conflicts with CC&Rs (Covenants, Conditions and Restrictions). Deputy City Attorney Sullivan advised that the Planning Commission's review is limited to City requirements/standards and Commissioners should not consider CC&Rs, which are a private matter between the property owner and the homeowners association.

In response to Commissioner Busch's inquiry, Planning Manager Lodan reported that the original homes in the Country Hills development range from approximately 1700 to 2500 square feet, however there are currently several houses over 3000 square feet as a result of modifications approved via the Hillside Overlay process.

Commissioner Busch questioned whether the Stephensons have discussed the project with their immediate neighbors. Ms. Stephenson reported that letters were sent to neighbors on either side and across the street inviting them to review the plans at a specific date and time and no one showed up, but she did speak with one neighbor who indicated he had no concerns about the project.

Commissioner Busch noted that he had a short conversation with the neighbor to the east (25634 Amber Leaf Road), who indicated that he was in favor of the project.

Commissioner Weideman expressed concerns about the size of the project, which at over 6100 square feet, would be the largest house in the area.

Mr. Stephenson stated that the subject lot is also the largest lot in the four block area; related his belief that the FAR was consistent with the area because there are 12 homes with FARs over 0.50 and 1 with an FAR of 0.68; and reiterated his willingness to downsize the project.

Commissioner Weideman questioned why the Stephensons chose to go forward with this hearing when they are still negotiating with Country Hills Homeowners Association.

Mr. Stephenson reported that he and his architect were looking at different options and he wanted it to be publicly stated as to what would be acceptable.

Ms. Stephenson explained that the slope of the lot makes it very difficult to build a two-story home without a Waiver of height requirements, noting that there used to be a two-story home on the now vacant lot. Mr. Stephenson added that in order to comply with the 27-foot height limitation, the lower level living area would have to be semi-subterranean.

Commissioner Horwich noted that the front page of the staff report mentions that the project remains unchanged from the original proposal presented in December 2008, which has an FAR of 0.57, however, within the report there's a memo from the Stephensons proposing to reduce the FAR to 0.50 by moving the exterior walls 1-1.5 feet inward.

Mr. Stephenson reported that they decided not to go forward with the alternate proposal after they were informed by staff that they would have to redo the plans and the silhouette to reflect these changes if they wanted to present this option to the Commission.

Commissioner Busch expressed concerns that there appeared to be a lack of preparation on the part of the applicants. He noted that Planning Commission hearings are not meant to be a negotiation process; than an applicant should try to resolve neighbors' concerns prior to a hearing; and that the plans submitted should represent the applicant's best efforts to comply with the requirements of the Hillside Ordinance.

Mrs. Stephenson wanted to clarify that they didn't know about the Country Hills Homeowners Association until the initial hearing in December. She explained that they sent a letter to the post office box listed on a document they received when the property closed escrow, but never heard anything back so they assumed that either the HOA no longer existed or they didn't care about the proposed project.

Commissioner Busch questioned whether the Stephensons have met with CHHOA in the two months since the December hearing.

Mr. Stephenson reported that they have had contact with CHHOA but have been unable to coordinate a meeting so they decided to go forward with this hearing in an effort to try to understand what would be acceptable.

In response to questions from the Commission, Planning Manager Lodan provided clarification regarding how the maximum height of a project is determined and advised that it would be possible to stay within the 27-foot height limitation if the garage was detached.

Chairperson Browning noted that the Country Hills development consists of approximately 480 homes and questioned how the Stephensons selected 66 homes for purposes of comparison.

Mr. Stephenson explained that he used the four blocks that comprise the notification area to compile his statistics; that he didn't know the boundaries of Country Hills because he has only lived in this area for two years; and that he compiled the information from the LA. County Tax Assessor's office and researching 480 properties would take too much time.

Commissioner Gibson expressed concerns that the Commission was getting sidetracked and requested that staff provide direction.

Planning Manager Lodan recommended that the Commission receive input from the audience and then decide whether to continue the hearing or take action to approve or deny the project as proposed.

The Commission briefly recessed from 8:00 p.m. to 8:07 p.m.

Chairperson Browning invited public comment and recommended that speakers focus on the Hillside Ordinance and not the CC&Rs of the homeowners association.

David Cornwell, [REDACTED] Windmill Road, legal counsel for CHHOA, wanted to clarify that CC&Rs trump City requirements, explaining that if a project does not comply with the CC&Rs, the HOA can obtain a restraining order to prevent its construction regardless of whether or not the City has approved it. He noted that there have been instances where structures have been required to be torn even with a valid permit from a public entity. He reported that the majority of homes in Country Hills are under 3000 square feet and CHHOA has strived to maintain the appearance of the original community and avoid "mansionization." He pointed out that the proposed project is twice the size of any other structure in the community, with a few exceptions, and would take up almost the entire flat portion of the lot, which is stair-stepped with retaining walls. He contended that the project was massive and would detract from the neighborhood even though the FAR may be within City guidelines. He disputed the claim that the applicants were unaware of the CC&Rs, noting that the title insurance policy indicates when CC&Rs are recorded on a property and the broker must provide a copy to buyers. He noted that the Stephensons have yet to submit their plans to CHHOA or pay the small administrative fee. He stated that he thought Chairperson Browning had an obligation to recuse himself from voting in this matter because he lives in Country Hills and was at one point, president of the homeowners association.

Chairperson Browning noted that he disclosed the fact that he lives in Country Hills at the December 2008 hearing, as evidenced by the minutes from that meeting (page 98 of staff report), and explained at that time that his home is more than 500 feet away from the project; that he cannot see the project from his home; and that he is not a member of the homeowners association. He reported that City provides a conflict of interest map and this project is not within the area identified as a potential conflict of interest, therefore, he intended to continue serving as chair of this hearing and will vote according to what he believes to be in the best interests of the City.

Commissioner Busch recalled the Chairperson Browning made his disclosure at the very beginning of the previous hearing and encouraged him to continue chairing the hearing and to vote his conscience. He asked about Mr. Cornwell's claim that CC&Rs trump City requirements.

Mr. Cornwell clarified that that should the City approve the project, the permit would still be valid, however, the HOA could get injunctive relief against the homeowner to prevent it from being built if it has not been approved by the HOA.

Commissioner Horwich stated that he has the utmost respect for the integrity of Chairperson Browning and thought Mr. Cornwell's suggestion that he not participate in this hearing was insulting.

Mr. Cornwell explained that he has an obligation to his clients to build a public record should there be future legal action, which limits the issues that can be considered to those that have been raised at this hearing.

Glen Majors, [REDACTED] Carolwood Lane, member of CHHOA Environmental Committee, expressed concerns about the size and height of the proposed project. He reported that the average size of homes in Country Hills is 2600 square feet and the proposed residence has over twice this square footage; that the average FAR is currently 0.39 and the original tract had an FAR of 0.23; and that this would be the tallest structure in the neighborhood and could be seen from as far south as Rolling Hills Road and Crenshaw. He also expressed concerns that the semi-subterranean garage will require digging into the hillside and there has been a history of problems with water seepage underneath the Ralphs shopping center, which is adjacent to the subject property. He contended that the project's Mediterranean-style architecture did not conform to the standard Country Hills home, which features a gabled roof.

In response to Commissioner Busch's inquiry, Mr. Majors reported that the largest house in Country Hills is located on Misty Morning Road and has approximately 5100 square feet with an FAR of 0.67. He noted that this house was approved at a time when the HOA was less diligent.

Commissioner Skoll questioned whether staff was aware of the history of water seepage under the Ralphs shopping center, and Plans Examiner Noh stated that he was not personally aware of this, however, the applicant will be required to submit a complete soils report before any permits are issued.

David Henseler, [REDACTED] Singingwood Drive, president of Country Hills Homeowner Association, submitted emails from HOA members who were opposed to the project but unable to attend this hearing. He pointed out that the project includes an 18 x12 ½ foot deck on the second floor, which he believes will impact the privacy of immediate neighbors, and suggested that the neighbor Commissioner Busch spoke with might not have been aware of this deck. He called attention to the letter from the adjacent neighbors to the west at 2830 Sunnyglen Road (staff report – page 87) expressing concerns about the project's impact on their privacy and the loss of sunlight. He urged the Commission to protect the rights of those who wish to maintain the look of their community.

Chairperson Browning questioned whether Mr. Henseler could confirm that he has not been a member of CHHOA since he was appointed to the Airport Commission approximately 13 years ago, and Mr. Henseler indicated that he could only confirm that Chairperson Browning was not a dues-paying member at this time.

Commissioner Busch asked if staff had considered the privacy impact of the second floor deck.

Planning Manager Lodan advised that staff did not feel that the deck would create privacy impacts because it is set back 10-15 feet from the property line at its

nearest point and reported that the case planner discussed the deck with the neighbor to the east and he had no concerns about privacy impact.

Jenifer Frial, [REDACTED] Amber Leaf Road, voiced objections to the project due to its size and height and submitted a petition signed by 27 neighbors. She noted that she and her husband specifically chose to purchase a home in Country Hills because they liked the conformity.

Responding to audience member comments, Mr. Stephenson reported that he responded to the email from the neighbors at 2830 Sunnyglen Road and proposed to change the location/ size of windows to mitigate the impact on their privacy. He noted that the impact will be further mitigated if the footprint of the house is moved forward to reduce the FAR as they have proposed. He disputed the claim that the home would be visible from Rolling Hills Road and Crenshaw, explaining that the berm to the rear of the Ralph's shopping center is approximately 7 feet higher than the silhouette. He explained that the hardship that necessitates the Waiver is the lot's 13 percent slope, which makes the semi-subterranean garage the most feasible option in order to avoid massive retaining walls. He expressed his willingness to negotiate regarding the second-floor deck, which is not an essential part of the project. He reviewed his efforts to contact his neighbors to gain their input.

Commissioner Weideman asked about claims that the project's architectural style was not in harmony with the neighborhood.

Mr. Stephenson related his belief that the architecture is compatible with the neighborhood as evidenced by photographs he previously submitted that were included in the staff report.

Commissioner Weideman stated that it was unfortunate that this matter was continued in December since no changes were made to the project and two months have passed with no progress and suggested that the Stephensons could have gotten input on the project simply by knocking on neighbors' doors.

Commissioner Busch questioned whether the Stephensons would be amenable to downsizing the project to an FAR of 0.40, which would be approximately 4300 square feet.

Mr. Stephenson expressed concerns that the FAR includes the garage and double-counted stairways, so the actual living area would be much smaller.

Commissioner Uchima indicated that he was concerned about the size of the project and its compatibility with the neighborhood. He related his belief that it would be more efficient for the Stephensons to work out design issues with the HOA and gain their cooperation rather than butting heads with them and potentially ending up in a legal battle.

Ms. Stephenson stated that she thought it was unfair for the CHHOA to object to the project after they failed to respond to a written request for information sent before she and her husband hired an architect. She explained that they never would have bought the property if they knew they would be limited to an FAR of 0.40 and 1970s-style architecture.

Commissioner Horwich questioned whether the Stepensions would prefer that the Commission vote on the project this evening or if they would like to consider modifying the plans.

Mr. Stephenson stated that if he could come to an agreement with the HOA regarding an acceptable FAR, he would like to be able to revise the plans without having to redo the silhouette and certification.

Planning Manager Lodan advised that staff would not recommend waiving the silhouette requirement because it is a necessary tool to help determine the potential impact of a project on the view, light, air and privacy of neighbors.

Commissioner Horwich asked again if the applicants would like a continuance, and Ms. Stephenson indicated that she did not understand why the City was objecting to the project.

MOTION: Chairperson Browning moved to close the public hearing. The motion was seconded by Commissioner Busch and passed by unanimous roll call vote.

A brief discussion ensued, and it was the consensus of the Commission to deny the project without prejudice so the applicants could decide whether they would like to submit a revised project or appeal the decision to the City Council.

Chairperson Browning noted that the procedure for filing an appeal is outlined on the first page of the agenda.

MOTION: Commissioner Busch moved to deny PRE08-00025 and WAV08-00011 without prejudice. The motion was seconded by Commissioner Uchima and passed by unanimous roll call vote.

Planning Manager Lodan noted that Resolutions reflecting the Commission's action would be brought back for adoption at the next meeting.

10. **WAIVERS** – None.
11. **FORMAL HEARINGS**
- 11A **CUP08-00032, TTM070975: ANASTASI DEVELOPMENT** – Considered out of order see page 1-2.
12. **RESOLUTIONS** – None.
13. **PUBLIC WORKSHOP ITEMS** – None.
14. **MISCELLANEOUS ITEMS** – None.
15. **REVIEW OF CITY COUNCIL ACTION ON PLANNING MATTERS** – None.

16. LIST OF TENTATIVE PLANNING COMMISSION CASES

Planning Manager Lodan reviewed the agenda for the March 4, 2009 Planning Commission meeting.

17. ORAL COMMUNICATIONS #2

17A. Commissioner Weideman congratulated Commissioner Skoll on receiving the "sour apple patch" for bowling (5/7/10 split).

17B. Commissioner Horwich stated that while he has the utmost respect for Chairperson Browning's integrity, he would not have commented on Mr. Cornwell's suggestion that Chairperson Browning recuse himself from the hearing on Agenda Item 9A if he had mentioned that he was doing it to preserve the record and had not been so belligerent.

17C. Commissioner Uchima commended Chairperson Browning for controlling the meeting.

17D. Commissioner Gibson requested an excused absence from the March 4, 2009 Commission meeting.

18. ADJOURNMENT

At 9:07 p.m., the meeting was adjourned to Wednesday, March 4, 2009 at 7:00 p.m.

Approved as Submitted April 1, 2009 s/ Sue Herbers, City Clerk
