



CENTRAL LOS ANGELES AREA PLANNING COMMISSION

200 N. Spring Street, Room 272, Los Angeles, California, 90012-4801, (213) 978-1300
www.lacity.org/PLN/index.htm

Determination Mailing Date: MAR 12 2010

CASE NO.: ZA 2008-4545-ZAA-1A
CEQA: ENV 2008-4546-MND

Council District: 4
Plan Area: Hollywood
Location: 2507, 2521, 2529, 2541 Nottingham Avenue
Zone: RE11-1
District Map: 153B193
Legal Description: Lot A, PM 1657

Applicant: J.D. Kelleher
Representative: Judith Hodge & Ivan Ivanov

Appellant: Same

At its meeting on January 26, 2010, the following action was taken by the Central Los Angeles Area Planning Commission:

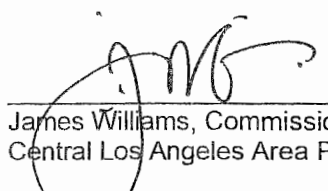
1. Denied the appeal.
2. **Sustained** the Zoning Administrator's determination dated November 5, 2009, **denying** a **Zoning Administrator's Determination** to allow the construction, use and maintenance of nine retaining walls varying in height from 6 inches to 10 feet in lieu of the maximum two retaining walls as required, in conjunction with the construction of a single-family dwelling and an attached garage on a lot in the RE11-1 zone.
3. **Adopted** the attached Findings.
4. **Adopted** Mitigated Negative Declaration ENV-2008-4546-MND.

This action was taken by the following vote:

Moved: Y. Kim
Seconded: Martorell
Ayes: Acevedo
Absent: J. Kim, White

Vote: 3 - 0

Fiscal Impact Statement: There is no General Fund impact as administrative costs are recovered through fees.


James Williams, Commission Executive Assistant I
Central Los Angeles Area Planning Commission

If you seek judicial review of any decision of the City pursuant to California Code of Civil Procedure Section 1094.5, the petition for writ of mandate pursuant to that section must be filed no later than the 90th day following the date on which the City's decision became final pursuant to California Code of Civil Procedure Section 1094.6. There may be other time limits which also affect your ability to seek judicial review.

Attachment: Zoning Administrator's Letter dated November 5, 2009

Zoning Administrator: Sue Chang

MICHAEL LOGRANDE
CHIEF ZONING ADMINISTRATOR

ASSOCIATE ZONING ADMINISTRATORS

PATRICIA BROWN
R. NICOLAS BROWN
SUE CHANG
LARRY FRIEDMAN
LOURDES GREEN
ERIC RITTER
LINN K. WYATT
MICHAEL S.Y. YOUNG
MAYA E. ZAITZEVSKY

CITY OF LOS ANGELES
CALIFORNIA



ANTONIO R. VILLARAIGOSA
MAYOR

DEPARTMENT OF
CITY PLANNING

S. GAIL GOLDBERG, AICP
DIRECTOR

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November 5, 2009

J.D. Kelleher (A)(O)
2020 Hillhurst Avenue
Los Angeles, CA 90027

Judith Hodge (R)
1218-1/2 Flores Street
West Hollywood, CA 90069

CASE NO. ZA 2008-4545(ZAD)
ZONING ADMINISTRATOR'S
DETERMINATION
2507, 2521, 2529, and 2541 North
Nottingham Avenue
Hollywood Planning Area
Zone : RE11-1
D. M. : 153B193
C. D. : 4
CEQA : ENV 2008-4546-MND
Legal Description : Lot A, PM 1657

Pursuant to Los Angeles Municipal Code Section 12.24-X,26, I hereby DENY:

a Zoning Administrator's Determination to allow the construction, use and maintenance of nine retaining walls varying in height from 6 inches to 10 feet in lieu of the maximum of two retaining walls as required in Section 12.21-C,8(a), in conjunction with construction of a single-family dwelling and an attached garage on a lot in the RE11-1 Zone.

FINDINGS OF FACT

After thorough consideration of the statements contained in the application, the plans submitted therewith, the report of the Zoning Analyst thereon, the statements made at the public hearing on June 14, 2009, all of which are by reference made a part hereof, as well as knowledge of the property and surrounding district, I find as follows:

BACKGROUND

The property is an upslope, irregular-shaped, interior parcel of land, having a frontage of 504 feet on the west side of Nottingham Avenue and a depth varying from approximately 149 feet on the southerly side to 304 feet on the northerly side. The site contains approximately 114,000 square feet of lot area in an RE11 Zone.

The property is vacant and has multiple addresses of 2541, 2529, 2521 and 2507 North Nottingham Avenue. A 2,653 square-foot, two-story, single-family dwelling is proposed on the site.

The applicant is requesting a Zoning Administrator's Determination to permit nine retaining walls varying in height from 6 inches to 10 feet in conjunction with the construction, use



and maintenance of a new, two-story approximately 2,660 square-foot single-family dwelling and an attached garage.

On September 8, 2008, the Department of Building and Safety issued an Order to Comply on the property to 1) install the temporary erosion control devices acceptable to the department before October 1, 2008. 2) call for inspection when work on the erosion control is complete.

The adjoining properties to the south, east and west are zoned RE11-1 and are developed with one- and two-story single-family dwellings. The adjoining property to the north and northeast is zoned PF and is undeveloped vacant land.

Nottingham Avenue, adjoining the property to the east, is a Local Hillside Street dedicated a width of 20 feet and is improved with asphalt and curb.

A petition, which contains 46 e-mail addresses of the residents in the area, was submitted in opposition to the project. The photographs showing the project site and over-in-height walls, which were built in the area prior to the Hillside regulation, were included.

Seventeen letters were received to the file, all in opposition to the project including letters from the Los Feliz Improvement Association, the Greater Griffith Park Neighborhood Council and a representative of the residents in the area.

PUBLIC HEARING

A public hearing was held on June 25, 2009 in Downtown City Hall and was attended by the applicant's representatives (Alex Meyerhoff, Ivan Ivanov and Judi Hodge), residents in the area, representatives of Council District 4 (Doug Mensman), the Greater Griffith Park Neighborhood Council and the Los Feliz Improvement Homeowners Association.

The applicant's representatives stated the following:

- The proposed project is compatible with the surrounding properties and is consistent with the general plan and the Planning and Zoning Code.
- The proposed single-family dwelling is smaller in size than the neighboring properties.
- The proposed retaining walls will be a maximum of 10 feet and will be landscaped.
- The driveway was illegally graded and approximately 224 cubic yards of soil was excavated.
- The applicant originally proposed 6 retaining walls for a 20-foot wide driveway; however, the driveway width was reduced to 15 feet in order to lower the height of the retaining walls.
- The driveway will not be visible from the street except for at the driveway entrance.
- A maximum of 40% lot coverage is allowed, but the project will result in a total of 7% lot coverage.
- The project will not block views of the neighboring properties.
- The soil on the site is stable for construction of the project.
- A total of 118 mitigation measures are required for the project, with which the project will comply.

Fifteen residents including a representative for 20 residents in the area spoke, all in opposition to the project.

- The applicant has owned the property since 1975.
- In June, 2006, there was a sign on the property advertising "4 view lots for sale".
- The property was illegally graded without any soil report and without any regard to the topography on the site resulting in an excavation of more than 400 cubic yards of earth before a Notice to Comply was issued by the Department of Building and Safety.
- The construction of 638 feet long driveway will cost two or three times of cost to build the proposed 1,400 square-foot dwelling unit and 1,200 square-foot garage.
- The applicant is a real estate broker and a lawyer, and should have known that a permit is needed for such extensive grading.
- The geo-technical reports, which were prepared for 6 retaining walls as originally proposed, is no longer applicable for the current project, which will require 9 retaining walls.
- The site is located in close proximity to a cultural landmark/archaeological site and a wild life corridor. The MND is not appropriate because it did not analyze potential impacts to address cultural/archaeological impacts as well as impacts on natural habitats and aesthetics. Given that it's not uncommon to see deer in the area, a biological survey must have been included in the MND.
- The Griffith Park Neighborhood Council opposes any deviation from the code.
- Granting the request will set a precedent and will encourage illegal grading and construction. The request is to remedy illegal grading and the applicant should not be allowed to benefit from such an illegal grading.
- There are other options to avoid detrimental impacts.
- The project will result in a loss of 4 coastal live oaks.
- The streets in the area including Nottingham Avenue are substandard hillside streets and are extremely narrow. No turnaround area for emergency vehicles is proposed. The project will result in adverse impacts on public safety for fire hazard.
- The soil condition of the site is unstable and there is underground stream on the site.

The representative of Council District 4 states the following:

- The council office does not support the driveway, which was illegally graded.
- The hardship for the applicant is self imposed.
- The illegal grading took place on the site in 2006. The hillside should be restored to its original state.

In response to the public comments, the applicant's representatives stated the following:

- There is no underground stream on the site.
- Approximately 400 feet of the proposed 600 feet of the proposed driveway was graded.
- Sand bags are placed along the southerly and easterly property lines as well as along the alignment of the proposed driveway as an erosion control plan.
- Approximately 2,500 cubic yards of soil will be exported.

After testimony was taken, the Zoning Administrator took the case under advisement for four weeks to allow the applicant to submit additional information requested by the Zoning Administrator within the first two weeks of the advisement period, and to allow any interested parties to review the file after the first two weeks during which the applicant was requested to submit additional information such as a comment letter from the Fire

Department, grading and tree reports/survey and a hillside referral form from the Bureau of Engineering.

On June 26, 2009, the applicant's representative submitted the following to the file:

- Hillside Referral Form from the Public Works Department
- Current and previous building permit summary worksheets
- Fire Dept comment
- Soils approval letter
- Grading report
- Geotechnical report
- Sample erosion control photos
- Haul route application letter
- E-mail correspondence with CD 4 and Greater Griffith Park NC
- Letters between the CD4 and the applicant
- Survey indicating tree locations

After the public hearing on June 25, 2009, the following was received from residents in the area in opposition to the applicant's request.

- Five letters from the residents in the area in opposition to the project. It is noted that some of the residents sent comment letters multiple times.
- An e-mail from the applicant's representative that included a letter from a Geotechnical Engineer addressing the concerns that were communicated by neighbors regarding the site, a letter from the applicant dated July 7, 2009 to the Zoning Administrator, a letter responding to comments communicated at the public hearing on June 25, 2009, a diagram indicating various slope percentages throughout the site and an activity log summarizing phone and e-mail communication with neighbors and Neighborhood Council.

On July 9, 2009, the following was received, via e-mail, from the applicant's representative:

- A letter from Geotechnical engineer addressing the concerns that were communicated by neighbors regarding the site
- A letter from the property owner
- A letter responding to comments communicate at the hearing on June 25, 2009.
- A diagram indicating various slope percentages throughout the site
- Activity lot summarizing phone and e-mail communication with neighbors and Neighborhood Council.

The comment letters and the information submitted to the file are kept in the case file.

MANDATED FINDINGS

In order for an adjustment from the zoning regulations to be granted, all of the following legally mandated findings delineated in Section 12.24,X.26 of the Los Angeles Municipal Code must be made in the affirmative. Following (highlighted) is a delineation of the findings and the application of the relevant facts of the case to same:

1. **The granting of an adjustment will result in development that is not compatible and consistent with the surrounding uses.**

The subject property contains approximately 114,744 square feet of lot area in an RE11 Zone. The site is currently vacant and is fenced with a chain link fence. The sand bags are placed along the southerly/easterly property lines as well as along the alignment of the proposed driveway, which was illegally graded in 2006.

The applicant proposes to build a two-story single-family dwelling with an attached garage. The single-family dwelling will contain approximately 2,653 square feet of floor area, 1,431 square feet of which is proposed for the dwelling and the remaining 1,222 square feet for a four-car garage. The single family dwelling will be 28 feet in height measured to the top of the structure and 31 feet 6 inches measured to the top of the railing of the proposed roof deck. The site upslopes in a northeasterly direction with a grade difference of approximately 270 feet.

The applicant is requesting a determination to allow nine retaining walls ranging in height from 6 inches to 10 feet in lieu of the maximum of two retaining walls as required under Section 12.21-C,8(a) of the Los Angeles Municipal Code, established by Ordinance No. 176,445, effective March 9, 2005, for retaining walls in the hillside area, which states:

"Section 12.21 C.8 Retaining Walls in Hillside Areas

(a) *A maximum of one free standing vertical or approximately vertical retaining wall may be built on any lot with a maximum height of 12 feet as measured from the top of the wall to the lower side of the adjacent ground elevation a maximum of two vertical or approximately vertical walls or portions of a wall can be built if they comply with the following:*

(i) The minimum horizontal distance between the two walls is three feet; (ii) Neither of the two walls exceed a height of 10 feet measured from the top of each wall to the lower side of the adjacent ground elevation at each wall; and (iii) In no case shall the height of a wall located in a required yard exceed the height allowed by Section 12.22C.20(f) of the Code . . . "

The surrounding properties to the east, south and west are zoned RE11 and are improved with single-family dwelling units. The adjoining property to the north/northeast is improved with Griffith Park. Due to the sloping topography in the area, many of the neighboring properties in the area were developed with parking garages located in the front portion of the property and in close proximity to the adjoining street such that a minimal distance from the curb to the parking garage can be provided.

The proposed single-family dwelling is located approximately 600 feet north from the southerly portion of the property where a future driveway entrance will be located. In order to provide access to the dwelling unit, a 15-foot wide and 638-foot long private driveway is proposed with nine retaining walls ranging in height from 6 inches to 10 feet. While the proposed single-family dwelling is compatible and consistent with the surrounding properties in terms of the density and the use, the construction of a driveway of hundreds of feet in length resulting in nine retaining walls is not found in any of the surrounding properties in the area. Therefore, granting the request will result in development that is not compatible and consistent with the surrounding uses.

2. **The granting of an adjustment will be in conformance with the intent and purpose of the General Plan.**

The Hollywood Plan Map designates the property for Vary Low II Residential land uses with corresponding zones of RE, RS, R1, RU, RZ, and RW1, and Height District No. 1. The property is not currently within the area of any specific plans or interim control ordinances.

The Community Plan text does not specifically address the proposed retaining walls. The Los Angeles Municipal Code authorizes the Zoning Administrator to grant the request when the required findings can be made. Since the project cannot meet the retaining wall regulations, which is an implementing tool of the general plan and there are no special circumstances that are unique to the project site to support the required findings for approval, it cannot be found that granting the request will be in conformance with the intent and purpose of the general plan, which promotes public safety, compatibility between the surrounding properties, uniform development, and preservation of residential neighborhoods.

3. **The granting of an adjustment is in conformance with the spirit and intent of the Planning and Zoning Code of the City.**

The hillside area of the City of Los Angeles have been the subjects of numerous ordinances and Specific Plans that seek to regulate appropriate development for these sensitive areas. However, as land becomes scarce, and as building techniques become more sophisticated, many lots that would have been considered undevelopable a few years ago are being developed. Many of these lots are extremely steep and require extensive retaining walls to create a building pad. As a result, the hillside areas have seen a proliferation of ugly concrete eyesores that can reach as high as 30 feet in height and that intrude upon the beauty of the natural environment. In order to mitigate such proliferation and visual impacts of retaining walls, the retaining wall ordinance was adopted to limit the height and the number of retaining walls.

The subject site was illegally graded without a permit in June, 2006. According to an e-mail from the applicant's representative to the Zoning Administrator on July 9, 2009, sixteen loads of earth totaling 224 cubic yards of soil were removed and transported from the site on June 5, 2006. On June 6, 2006, an Order to Comply was issued by the Department of Building and Safety and no further grading or earth removal activities have taken place on the site since then. Even though the applicant's representative states that the owner has complied with the Order, the Department of Building and Safety issued an Order to Comply on September 8, 2008 requiring installation of temporary erosion control devices to the satisfaction of the Building and Safety. The applicant's representative clarifies that the applicant installed sand bags and plastic tarps, but following the installation of these storm water mitigation measures, the sand bags were destroyed.

The project requires the construction of nine retaining walls and a 638 feet long driveway in order to provide access to the proposed single family dwelling resulting in an export of approximately 2,510 cubic yards of dirt from the site.

[It is noted that a letter dated January 20, 2009 from the Bureau of Street Services to the Board of Building and Safety Commissioners, attached as "Exhibit F" in the

applicant's letter to the Zoning Administrator, indicates that the project will result in a removal of a total of 3,490 cubic yards of material.]

There are alternatives available for the proposed 2,653 square-foot single-family dwelling. The single family dwelling is proposed to be located approximately 600 feet north/northeast from the driveway entrance. If the proposed single-family dwelling is built in the southerly portion of the site, close to the driveway entrance, construction of the proposed nine retaining walls will not be necessary. The applicant's representative states that the retaining walls will be completely covered with vegetation, and therefore, will not result in any aesthetic impacts. Since the site is located approximately 20 to 25 feet lower in elevation than the northerly, westerly and easterly adjoining properties, the project will not block views of the neighboring properties. However, granting the request will allow construction of a long driveway that will be paved and visible from the surrounding properties resulting in aesthetic impacts. Further, construction of such a long driveway and nine retaining walls will require extensive grading and a removal of approximately 3,500 cubic yards of material to be removed from the site resulting in noise and traffic impacts in the substandard hillside streets in the area.

Therefore, the granting of an adjustment is not in conformance with the spirit and intent of the Planning and Zoning Code of the City, which intends to mitigate such proliferation and visual impacts of retaining walls and to protect single-family neighborhoods.

4. **There are no adverse impacts from the proposed adjustment or any adverse impacts have been mitigated.**

On April 1, 2009, a Mitigated Negative Declaration (ENV 2008-4546-MND) (Article V - City CEQA Guidelines) was prepared for the proposed project. The MND states that "The property does not contain any riparian habitat, nor is located within identified sensitive habitat or community plans." The northerly portion of the site adjoins Griffith Park and the proposed single family dwelling is located in close proximity to the park. Further, the site is identified as a Significant Ecological Area in the Los Angeles County Department of Regional Planning and is shown as an environmentally sensitive area in the Los Angeles City Department of Building and Safety's Parcel Profile Report. Further, as discussed in Finding No. 6, the proposed 638 feet long driveway will result in adverse impacts on public safety. The MND fails to analyze biological surveys on the subject property, appropriate mitigation measures for potential impacts on natural habitats, and public safety and construction impacts involved with extensive grading; therefore, it cannot be determined that the project will not have a significant effect on the environment. Further, no mitigation measures are proposed or available to mitigate safety impacts as well as aesthetic impacts of the 638 feet long driveway.

It should be noted that mitigations are included in the MND for aesthetics (Hillside Site Design). The mitigation measures state that "Grading shall be kept to a minimum" and "Natural features, such as prominent knolls or ridge lines, shall be preserved). (Mitigation No. 1b1 on Page 2 of the MND). The project as proposed is not in compliance with the mitigation measures included in the MND.

5. **The site and/or existing improvements make strict adherence to the zoning regulations impractical or infeasible.**

There are alternatives to build the proposed 2,653 square-foot single-family dwelling. The proposed dwelling unit is proposed approximately 600 feet northerly from the driveway entrance resulting in a need to provide access through a 638 feet long driveway and to construct nine retaining walls. If the dwelling unit and garage is built in the southerly portion of the site where a driveway entrance is proposed, construction of nine retaining walls will not be necessary or there may be no need to construct retaining walls. Therefore, the site will not make strict adherence to the zoning regulations impractical or infeasible.

6. **The request is in conformance with the public necessity, convenience, general welfare and good zoning practice and will be in substantial conformance with the various elements and objectives of the General Plan.**

The proposed single-family dwelling is located approximately 600 feet northerly from the driveway entrance, which is located in the southeasterly end of the subject site. The proposed driveway is 15 feet wide and 638 feet long. An emergency access stair is proposed on Nottingham Avenue near the dwelling unit is proposed. Nottingham Avenue, north of 2423 Nottingham Avenue, is improved with a roadway ranging from 18 to 20 feet. Since parking is permitted on the easterly side of the street, only one-way traffic is possible for ordinary cars and it will be difficult to maneuver emergency vehicles on Nottingham Avenue to reach the proposed emergency access stair, which is located approximately 600 to 650 feet north from the driveway entrance. Further, there is no turnaround area for emergency vehicles near the proposed emergency stair.

While the project as proposed may allow the applicant to take advantage of topography of the site by placing the dwelling units at a higher elevation for views, the project will result in adverse impacts on aesthetics, public safety, and natural habitats, and impacts during construction. Therefore, the proposed nine retaining walls are not in conformance with the public necessity, convenience, general welfare and good zoning practice and will not be in substantial conformance with the various elements and objectives of the General Plan, which promotes development that is compatible with the surrounding properties and preservation of residential neighborhood.

The site was illegally graded in 2006 to create the proposed driveway. The site is currently fenced with a chain link fence and sand bags. The residents in the area expressed concerns about land sliding into the adjoining street and the neighboring properties in the down-sloped area. The subject application is to remedy the illegal grading on the subject property. Granting the request will set a precedent and encourage illegal grading, which often occurs in hillside area.

ADDITIONAL MANDATORY FINDINGS

7. The National Flood Insurance Program rate maps, which are a part of the Flood Hazard Management Specific Plan adopted by the City Council by Ordinance No. 172,081, have been reviewed and it has been determined that this project is located in Zone C, areas of minimal flooding.
8. On April 1, 2009, the City Planning Department Environmental Staff Advisory Committee (ESAC) issued Mitigated Negative Declaration No. ENV 2008-4546 MND

(Article V - City CEQA Guidelines) and determined that by imposing conditions the impacts could be reduced to a level of insignificance.

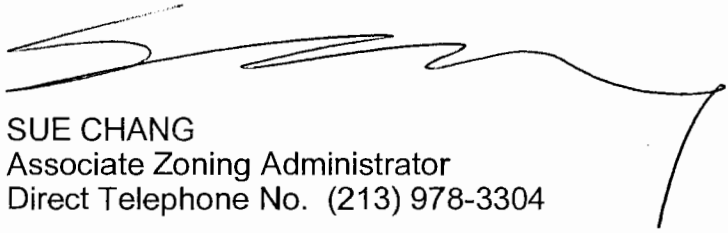
APPEAL PERIOD - EFFECTIVE DATE

The Zoning Administrator's determination in this matter will become effective after NOVEMBER 20, 2009, unless an appeal therefrom is filed with the City Planning Department. It is strongly advised that appeals be filed early during the appeal period and in person so that imperfections/incompleteness may be corrected before the appeal period expires. Any appeal must be filed on the prescribed forms, accompanied by the required fee, a copy of the Zoning Administrator's action, and received and receipted at a public office of the Department of City Planning on or before the above date or the appeal will not be accepted. **Forms are available on-line at <http://cityplanning.lacity.org>**. Public offices are located at:

Figueroa Plaza
201 North Figueroa Street,
4th Floor
Los Angeles, CA 90012
(213) 482-7077

Marvin Braude San Fernando
Valley Constituent Service Center
6262 Van Nuys Boulevard, Room 251
Van Nuys, CA 91401
(818) 374-5050

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SUE CHANG
Associate Zoning Administrator
Direct Telephone No. (213) 978-3304

SC:Imc

cc: Councilmember Tom LaBonge
Fourth District
Adjoining Property Owners

