

MINUTES OF ZONING AND PLANNING COMMISSION
PUBLIC HEARINGS AND REGULAR MEETING
CITY OF WEST LAKE HILLS, TEXAS
April 17, 2019
6:30 P.M.

PRESENT: ZAPCO Chairman Robert Meisel, Vice-Chairman Les Gage, Commissioners Bill Harwell, Rhett Hoestenbach, Bill Vandersteel, Sarah Swanson and Laurie Maccini

ABSENT: None

1. Call to Order. Chairman Robert Meisel.

Chairman Meisel calls the meeting to Order at 6:30 p.m.

2. Consent Agenda: The following items are considered to be self-explanatory by the Commission and will be enacted with one motion. There will be no separate discussion of these item/s unless a Commission Member or citizen so requests.
 - a. Approval of the March 20, 2019 Meeting Minutes.
 - b. Request to postpone by applicant: Land Use: 102 Westlake Drive – Proposed site plan amendment with a parking setback variance, impervious cover variance, and tree variances to increase parking and provide emergency access at 102 Westlake Drive. Applicant Dr. Bill Ramsdell (Power of Attorney Travis Wilson)

**COMMISSIONER HOESTENBACH MOVES TO APPROVE.
COMMISSIONER VANDERSTEEL SECONDS. UNANIMOUS (6-0)
APPROVAL.**

3. Executive Session: Consultation with Legal Counsel on legal issues related to variance procedures for Planning and Zoning Commission recommendations. (Consultation with Legal Counsel, Texas Government Code Section 551.071).

**Commission goes into Executive Session at 6:32 p.m.
Returns from Executive Session at 6:36 p.m.**

4. Land Use: 1405 Wildcat Hollow – After-the-fact variance requests for a fence to exceed height allowance and to encroach in the setback and a retaining wall to exceed height allowance and encroach in the setback. Applicant Douglas Jaffe, III; Power of Attorney Jan Sotelo.
 - Variance for fence height and setback encroachment (Section 22.03.173 of the West Lake Hills Code)
 - Variance for retaining wall height and setback encroachment (Sections 22.03.170 and 22.03.281 of the West Lake Hills Code)
 - a. Staff Briefing.

City Planner Anjali Naini: My report is on file. The property is zoned R-1. The property is single family and is 1.8 acres. A summary of the application: After-the-fact for excess of heights and setbacks. The first is a Variance for a rear yard retaining wall that encroaches into the rear setback. It is 8', but 6' allowed. Photos show encroachment of the rear setback. The second Variance request is for a side yard fence to encroach in the side setback and exceed maximum allowed height. The applicant describes the structure as a privacy fence, but it is a retaining wall. The structure was built as a retaining wall. There appears to be site grading and fill along the wall, which supports staff's conclusion that it should be treated as a retaining wall rather than a fence. The applicant states the retaining wall height will vary from 12" to 4' above finished grade. In the exhibits LM1.1 the site plan labels the retaining wall as an 8' concrete wall. The discrepancy between the applicant's description of the wall's height as 4' and the site plan's description as 8' appears to be a difference of measuring the height from finished grade versus natural grade. Under the provisions of the Code, retaining walls can be a type of fence, but their construction and use must comply with drainage provisions. The Code states that no excavation, grading or filling shall be permitted in setbacks except as allowed in subsection (d). Subsection (d) states that no filling shall be permitted within 20' from the street except to conform to approximately street grade for an approved driveway. The application makes clear that significant unpermitted grading and filling in the side setback necessitated this retaining wall. The application does not request a variance for the grading and filling. In reviewing the variance criteria, no variance shall be granted under this chapter unless the following criteria are fulfilled: the applicant has established evidence of the following: A) the strict or literal enforcement of the terms of this chapter, because of special conditions, will result in unnecessary hardship to the applicant. We are starting with the 8' side yard retaining wall, referred to as a privacy fence. In the site plan it is described as a retaining wall. This wall is located within 4' of the side property line. The application does not state, demonstrate, or explain what are the special conditions and what is the unnecessary hardship resulting from the strict or literal enforcement of the Code that necessitates a deviation from the 6' maximum height allowed by the Code of its location in the setback. . Next is the 8' retaining wall in the rear, the applicant does not state an unnecessary hardship need for the excess height or location of the retaining wall built in the rear setback of the property. The rear wall encroaches into the 30' rear setback but does not provide any documentation from an engineer. Applicant states that the rear retaining wall is necessary to support the house foundation, but does not provide supporting documentation such as a letter from an engineer to explain. Additionally, the applicant states that the retaining wall in the rear is needed to provide a space for the children to play.

Item B: There will not be unreasonable disruption of the natural terrain or unreasonable destruction of existing flora. Starting with the 8' in the side yard, photos of the retaining wall shows grading on the property and results in unreasonable disruption of the natural terrain and destruction of existing flora, and was performed without a permit. Next is the 8' retaining wall in the rear yard, the applicant says the plans for the back yard were designed with the trees in mind and with the express purpose of creating as little disruption to the natural terrain. A photo shows a mound of dirt in the

backyard and site clearing and grading being done and shows disruption of the natural flora, and was done without a permit.

Item C: There is no reasonable alternative to the requisite variance that will alleviate the difficulty or hardship complained of. Starting with the staff analysis of the 8' tall retaining wall/privacy fence, the application does not state an unreasonable hardship necessitating a variance for the excess height and location in the setback for the retaining wall as built. Likewise the application does not address if there were no reasonable alternatives to the excess height and location in the side setback of the retaining wall to alleviate the hardship or difficulty complained of. For the retaining wall in the rear yard, the application does not address if there were no reasonable alternatives to the excess height and location of the retaining wall in the 30' rear setback. The applicant states that the backyard retaining wall was lowered by 50% of the original height of the original design, but does not provide an explanation as to why the height as built was necessary to alleviate that unreasonable hardship. Additionally the applicant states any other location would require both more cutting and filling or be outside of the 25' building setback line. The applicant does not explain why an unreasonable hardship is created if the retaining wall were not located in the rear setback, nor why no alternative would eliminate the hardship.

Item D: The variance will not be greater than the minimum required to alleviate the difficulty or hardship complained of. Staff analysis. The application states that the variance is the minimum due to the design. The application does not explain what this statement means, and why the variances are necessary to alleviate an unnecessary hardship or difficulty. As a result, the application does not demonstrate that the variance request is not greater than the minimum required to alleviate the difficulty or hardship complained of. Moving into the rest of the analysis, no new outdoor lighting is proposed at this time. For comprehensive plan analysis, the applicant has significantly altered the natural landscape through site clearance and excavation and installation of retaining walls without permits. Per the Comprehensive Plan, areas located in Area 1-Residential shall have careful site planning to avoid unnecessary clearing or disturbing of the land and to protect native trees and the thin soil mantle. The applicant has significantly changed the natural terrain. Applicable code sections are included in the staff report.

Staff recommendation: Staff recommends denial based on the analysis just provided and ZAPCO may alternatively consider postponement.

b. Presentation by applicant.

Jan Sotelo is speaking on behalf of the applicant. He is also here to answer questions. From my understanding, the two items that are up for variance the wall in the setback. The wall that is being talked doesn't appear to be in the rear setback. We are trying to figure out where that's coming from. This is the 30' rear setback and the wall in question is next to the house. How would these variances apply to that? That is my question?

Chairman Meisel: It is your testimony is not in the setback?

City Planner Anjali Naini: Yes. As far as the entry wall and the height, we have uses for the wall. One is retaining and other is screening. Both uses

were shown. One was there was retaining being done. The variance would be for putting that in the side setback.

Chairman Meisel: If I understand you, the actual height of the wall doesn't trigger a variance?

City Planner Anjali Naini: The retaining side is less than what is allowed. The screening is what is above what is allowable. No further at this time.

c. Public Hearing: All persons wishing to speak for or against shall be heard.

Chairman Meisel: Tonight we are here on these particular variances. Let's focus on those two items.

Chairman Meisel closes the Public Hearing and reconvenes the meeting.

d. Deliberation and action.

Commissioner Vandersteel: It is a wall that is an extension. It doesn't meet with what our definition is of a fence or concrete wall. Unless we have a different definition it is acting as a privacy fence.

City Planner Naini: If a retaining wall it must meet the retaining wall criteria.

Commissioner Vandersteel: The height of the retaining wall is that was within the allowable height, however, there is a portion that is inside the setback. It's a little odd situation here. If we call it a fence it is also not compliant. There are a bunch of retaining walls on this property. The one we are discussion is the lowest 8" thick concrete retaining wall. According to the drawings it is over the 30' rear setback. I heard some comment made that there was no encroachment by the lower retaining walls. The upper ones have a problem.

Chairman Meisel: As a walking path, adjacent to it a heavy black line, there is what is identified as an 8' wall.

City Planner Anjali Naini: I have a smaller version of it. The only one that would be is this portion on the side but that is not in the setback. As far as we understand.

Commissioner Swanson: Who provided these drawings? Did you not provide these drawings?

Jan: Yes. This is not what we're talking about. Some of these are existing.

Commissioner Maccini: Can the city point out on the map what they are talking about?

Jan: The portion we are talking about isn't on here.

Chairman Meisel: I'm not sure how those made it to the plan. There is a portion of a steel wall that has been there. This application is incomplete that we are having to speculate. As such, I do not see that we can legally forward anything but denial.

Commissioner Swanson: If you want to postpone and come back with more information. The drawings we were provided were confusing and misleading. Would you rather postpone?

Commissioner Maccini: I don't know what has been built and what we were given in the packet, it's not complete and that's not showing us what has happened. I'm seeing on the north side of the property and I drove by today. I would like to see where we are now.

Commissioner Vandersteel: I was able to see from the street a privacy wall and fence. In reading the application the retaining wall is in the rear setback.

Jan: Only the built portion is what the variance is for. We would need to come back and verify.

Commissioner Maccini: You're asking for something on the west side, is that correct?

Chairman Meisel: I don't think it is on the variance request.

Commissioner Maccini: The one in front of me is.

Commissioner Vandersteel: For future clarity, we are talking about the retaining wall. The site plan the location is well within the setback. We don't have enough data here to determine.

Chairman Meisel: It would be to determine the wall encroachment and some of this was existing when our client purchased the house.

Commissioner Swanson: You initiated two variances?

Jaffe: You came by the house for Anjali and one of the commissioners to walk the property because we're not clear. When we purchased the house we submitted plans to the city and they were approved. We do not want to be out of compliance. We've hired two engineers, I've talked to the neighbors and there are no drainage issues. It would help us to be told by the city and the commissioners where the issues are.

Commissioner Swanson: Is there any problem with Anjali and Bill walking and looking at it?

Chairman Meisel: It's not our jobs to tell staff how to do their jobs.

Asst. City Attorney Laura Mueller: It's done through documentation and papers. Even if a staff member would go look, it would need to be on paper.

Commissioner Vandersteel: We have a reality of what's built and what hasn't. The documents that need to be submitted need to show the height and show where they do and do not violate the code, so we can get clarity. We need to reconcile the facts.

Commissioner Swanson: They are going to need to come back. I would be willing to go also. When I agreed to be on this commission I asked the Mayor what I should do in order to do the job well. She said, "When you can, try to go out and look at the properties." Is that something we could schedule?

Commissioner Maccini: When I drove by today one of the things there should be no disruption of the flora and there is massive disruption. I would like to see the true picture of what is on the property right now. I want to know where we are now.

Chairman Meisel: You need an as-built survey. Identify all improvements.

Douglas Jaffe: We provided that twice.

Chairman Meisel: I would urge you to bring this back with the additional documentation. We can't recommend on this.

Commissioner Vandersteel: The public notice aspect needs to be considered.

Jan: If a decision can't be made, we'll postpone. Having a stop work order that doesn't allow anyone to come in.

Chairman Meisel: That is not for us to do here tonight.

COMMISSIONER VANDERSTEEL MOVES TO ACCEPT POSTPONEMENT. COMMISSIONER HOESTENBACH SECONDS. UNANIMOUS (6-0).

5. Land Use: 4201 Bee Cave Road: Application for a proposed monument sign at The Schoolyard located at 4201 Bee Cave Road. (Section 32.03.007 of the West Lake Hills Code) Applicant (Power of Attorney Damon Landry, Signs Express).

- a. Staff Briefing.

City Planner Naini: They are requesting approval for a monument sign. It is west of Camp Craft. Pursuant to an agreement, they are allowed two monument signs. Per the agreement amendment. The height increase from 7 to 10 is for visibility due to roadway elevation. No lighting is proposed. This will not impact the subdivision. My recommendation is approval.

- b. Presentation by applicant.

Commissioner Vandersteel: I'm confused about. Are we looking at 7 or 10 foot sign?

City Planner Naini: This first is the original exhibit. They are asking 10'. I asked them to include the original exhibit.

Commissioner Swanson: 10' vs. 7' is needed?

City Planner Naini: Mayor is supportive with the increase. They do have temporary signs that are 10'.

Commissioner Vandersteel: As you know the slope goes down to Bee Cave Road that if you go from the grade to the sign, it is so far below the road.

Commissioner Maccini: The placement of the sign, is it where the temp sign location?

City Planner Naini: The same location.

Chairman Meisel: There is a photo, the BDC meeting showed it was an accurate sign. Any other questions?

- c. Public Hearing: All persons wishing to speak for or against shall be heard.

Mr. Landry is with the sign company. Any additional questions you might have for me?

Commissioner Vandersteel: The distance away from the roadway people pulling out will be able to see?

Mr. Landry: Yes.

Chairman Meisel closes the Public Hearing and reconvenes the meeting.

- d. Deliberation and action.

COMMISSIONER HOESTENBACH MOVES TO RECOMMEND APPROVAL. THE HEIGHT IS NECESSARY DUE TO THE SLOPE. COMMISSIONER SWANSON SECONDS. UNANIMOUS (6-0) APPROVAL.

6. Land Use: 3342 Bee Cave Road: Proposed Development Agreement Amendment at 3423 Bee Cave Road. (Development Agreement between the City of West Lake Hills and 3342 Bee Caves, LLC) Applicant Mac Ragsdale, Triangle Building Company (Power of Attorney Benjamin Green, Kimley-Horn).

- c. Staff Briefing.

City Planner Naini: There are two items for this address. The second rides on the actions of the first one. The development agreement amendment is between Blue Ridge and Bulian and is subject to a development agreement. The property is .87 acres. It allows the use of a bank. The BOA allowed the continued use as a bank. They are wanting to increase impervious cover to add more parking spaces. The applicant is requesting 60%. The new owner is there now. For the development agreement staff recommends the change in impervious cover for denial. The owner has provided a change in ownership. The development agreement should not be amended to show this

change. The second report for this item, we are looking at the site plan amendment which includes an additional 5 spaces and retaining wall. The lighting specs will be provided and reviewed by staff. During the 2019 BOA meeting approved the special use permit of the bank use. A building permit is under review and a sign permit is under review and will be back for consideration. The staff recommendation for the site plan is contingent on the amendments over what is allowed and recommends denial or allow postpone for redesign. Exterior is recommended approval. A building permit will not be issued until it complies with city code.

Commissioner Hoestenbach: What is the current impervious cover?

City Planner Naini: They are at the max already.

d. Presentation by applicant.

Ben Green is present. That sums it up. The first phase will be the development agreement. There is another component. TxDOT will be creating a sidewalk. It is our client's intention to make an ADA accessible sidewalk, the 60% impervious cover requested did include all the improvements that we would need. It would be best to discussion the impervious cover. We're open to using the City's allowed incentives in order to gain approval for the additional impervious cover. We will go back and look at that. One of the adverse effects in the design is runoff. Within our design we talk all the runoff area back into the site to ponds. That issue should be resolved. The other component was the driveway. We show the dimensions. We are open being flexible in what you agree on. The increase would be for 5 additional parking spaces.

e. Public Hearing: All persons wishing to speak for or against shall be heard.

Chairman Meisel closes the Public Hearing and reconvenes the meeting.

f. Deliberation and action.

Commissioner Hoestenbach: This is a request to go up to 60% and so the question I have is what authority do we have to recommend approval and what are we basing that on?

City Planner Naini: I look at it similarly to a variance. We already have a development agreement.

Commissioner Hoestenbach: If we are going to consider this, I didn't hear anything why should we grant this.

Commissioner Swanson: What hardship?

Chairman Meisel: What problem exists that requires 5 additional spaces?

Mac: ADA compliance. If we aren't allowed the additional impervious cover. That's a pretty clear hardship. Amegy Bank has their own standards

for employee parking. This would help with customer and employee parking.

Commissioner Swanson: What would you have to change in the existing parking lot to make it ADA complaint?

Mac. There are no ramps currently.

Commissioner Vandersteel: I see two spaces that are handicapped.

Mac. From the sidewalk they would not have access.

Commissioner Vandersteel: I have a comment about the spaces. The location is such that you have a through road that goes through the bank. The existing stalls are safe. Trying to back out with traffic coming off BCR. If there aren't enough, you're limited. It's a problem for safety.

Mac. Our client is open to designating these as employee parking. They would be there prior to public access. This is the only portion on the site where additional parking can be placed.

Commissioner Swanson: I don't see a hardship that would justify that much more impervious cover. If you could show that would be the only way you could comply with ADA. I don't see the hardship for the parking spaces.

Commissioner Vandersteel: I don't see outside limits.

Mac. It does meet code currently. One aspect we didn't assume that a hardship had to be met. I'd like to postpone this portion.

Commissioner Hoestenbach: Provide us some evidence of that.

Chairman Meisel: We're going to table the imp cover.

Commissioner Hoestenbach: I thought the second hinged on the first.

City Planner Naini: It does on the impervious cover.

Vice-Chairman Gage: If you were looking for it you probably wouldn't see it.

Chairman Meisel: I told them at BDC if they hadn't pointed it out they weren't disturbed about it. They asked for it so we're just fine.

City Planner Naini: Lighting is being reviewed by staff. Any non-residential building has to go through the process.

Chairman Meisel: We can't break it into pieces.

Mac. With the design component, the 5 spaces could be pavers, does it meet your criteria?

City Planner Naini: We need to see the pavers engineered.

Commissioner Vandersteel: In the next weeks show how you're going to handle ADA compliance. As for the parking, we mitigate what has a less impact and real sq. footage.

Vice-Chairman Gage: They don't want to put the facade up if they don't get the parking.

Mac: They are still moving forward with the lease.

Chairman Meisel: As to increase for impervious cover.

VICE-CHAIRMAN GAGE MOVES TO ACCEPT POSTPONEMENT. COMMISSIONER VANDERSTEEL SECONDS. UNANIMOUS (6-0). AS TO THE REQUEST TO EXTERIOR, COMMISSIONER VANDERSTEEL MOVES TO RECOMMEND APPROVAL. VICE-CHAIRMAN GAGE SECONDS. UNANIMOUS (6-0) APPROVAL.

7. **Land Use: 3342 Bee Cave Road:** Proposed commercial building permit for exterior improvements and site plan amendment at 3423 Bee Cave Road. (Sections 22.02.005 and 22.03.302 of the West Lake Hills Code.) Applicant Mac Ragsdale, Triangle Building Company (Power of Attorney Benjamin Green, Kimley-Horn).
 - a. Staff Briefing.
 - b. Presentation by applicant.
 - c. Public Hearing: All persons wishing to speak for or against shall be heard.
 - d. Deliberation and action.

ADDRESSED WITH PREVIOUS ITEM.

8. **Land Use: 187 Skyline Drive:** Variance request to encroach in the ½ Critical Root Zone of a tree 14" or greater (Tree # 548 – 20" Live Oak) to construct a new driveway (Section 22.03.304 of the West Lake Hills Code and Section 3 – Tree and Natural Area Preservation, Sec. 3.5.2 of the City of Austin Environmental Criteria Manual). Applicants Maile Roberts-Loring and Brian Loring (Power of Attorney Sam Burch, Architect).
 - a. Staff Briefing.

City Planner Naini: The property has an existing home that will be demoed. The variance is being requested to widen the driveway and lower by 5'. It will be shifted and the new car port will need to be lowered to comply. The applicant provided a letter from an arborist. The proposed new construction will remove asphalt from the base of the tree. Staff recommends approval.

- b. Presentation by applicant.

Sam is the architect. Anjali summed it up very well. The existing driveway came up the base of the tree. The asphalt has impacted the roots in a way that they haven't grown. When the driveway was built it was 20" from the base of the tree. Our cut is an additional 40" from that 20". A total of 5' cut in the driveway. The impact is about 5.5' from the tree. The driveway is

currently at the base of the tree and our proposal will improve the condition of the tree.

- c. Public Hearing: All persons wishing to speak for or against shall be heard.

Chairman Meisel closes the Public Hearing and reconvenes the meeting.

- d. Deliberation and action.

Commissioner Vandersteel: For staff, looking at the application, this project should be used as a poster child and was quite impressed with that. I'm all in favor.

Commissioner Hoestenbach: The only evidence if anything the proposed is going to be better for the tree. That would be in keeping with our master plan. I haven't seen anything. There wasn't anybody speaking against this. It is in compliance.

Commissioner Harwell: In the letter, I don't see that in the photo?

Sam: That's a different tree. It's a separate issue. It has no bearing on the variance.

Vice-Chairman Gage: When I look at this, what is that tree?

Sam: It's on the site plan.

COMMISSIONER VANDERSTEEL MOVES TO RECOMMEND APPROVAL. COMMISSIONER HOESTENBACH SECONDS. (5-1) VICE-CHAIRMAN GAGE OPPOSES.

9. Land Use: 1005 Madrone: Variance request to remove two trees 14" or greater for new residential construction (Section 22.03.304 of the West Lake Hills Code). Applicant Kip Amstutz (Power of Attorney Kai Geschke, Architect).

- Tree # T47 – 16" Hackberry (Section 22.03.304 of the West Lake Hills Code)
- Tree # T87 – 22" Split Oak (Section 22.03.304 of the West Lake Hills Code)

- e. Staff Briefing.

City Planner Naini: The property is .944 acre in size. The applicant is planning to demo the existing home. The new home will have a pool, deck and sport court. The applicant states the T47 is a safety hazard. The existing building is already encroaching into the CRZ. The applicant states that relocation of the proposed building would result in removing additional trees. T87 is located in the site of the pool area. The applicant states that the project is designed to be in a compact footprint. Staff recommendation: T47 – denial, no alternatives presented to preserve the tree. It stabilizes the slope. T87 – staff recommends denial. No alternative sites were shown for the proposed pool. We don't see a hardship here. Staff alternatively recommends postponement so the applicant can consider different design options.

- f. Presentation by applicant.

Kai: This house was built in 1966. It had a couple of aspects to take advantage of. We wanted to reuse the driveway. The existing house encroaches the 30' building line. We need to make it compliant. We had to take away driveway in that area. The hackberry on the left side is about 2' off the existing house. When we redesigned the house we pulled away from that tree. We can design outside of it; we thought for a safety aspect we were asking for removal. The overall location is driven by where the house was, we stepped back which falls downhill. The only option we have to get the sq. ft., under 4,000 sq. ft., there is a plateau. The reason we didn't move it toward the street is because of the trees. We tried to be less invasive and stepping the house down. We want to stay within the height restrictions. If we take that tree down, we would replant at 150%. That's how we got here. We have over 100 trees. There isn't another location for this house. It makes sense to put it where we have it now.

- g. Public Hearing: All persons wishing to speak for or against shall be heard.

Doug Danforth and his wife are here and live at 1003 Madrone. I'm going to read my statement. We have serious concerns for the trees but also the construction. Both my wife and I are both native Austinites. We bought the property in 1978, built our home 1981 and continue to live there. We are not newcomers. We don't have a problem in removing the hackberry. We do have a problem in removing the red oak. That oak which was added to the variance request is being removed to accommodate a pool. I understand that a setback was a no build area. That wooded area has been there the last 38 years. Finally in doing research that red oak is 88 years old. If it is removed will another one be planted on the lot? Sometime last June or July, an area was clear cut some 15' into our property. Now that space is obvious. A 4,000 sq. ft. house, pool and sport court on the .944 lot. Thank you for your consideration.

Jim Pledger lives at 1007 Madrone, across the street from the applicant. I concur with Mr. Danforth about the red oak. We know when they get taken it takes a long time to come back. We are concerned about the oak. I have a question. My biggest concern is the proposed decimation of the setback. In order to fit a pool and sport court. Do we expect that issue will be coming before ZAPCO?

Chairman Meisel: That is reviewed by city engineers and staff. If compliant it wouldn't be flagged for variances. The only thing reviewed here is the variance requests for removal of trees.

Jim Pledger: I support Mr. Danforth's comments. Unless you have any questions, that's all I have.

Chairman Meisel closes the Public Hearing and reconvenes the meeting.

- h. Deliberation and action.

Commissioner Vandersteel: I spent an hour and the first thing the oaks, the one that is where the pool is going. Being out by the pool the oak produces wonderful shade. I think there is a fairly simple way to reconfigure. There is a Cedar tree that is not shown on the plan. It's right next to T100 and T97, fairly large and it wasn't indicated on the plan. On the tree list are non-variance trees that you are planning to remove?

Kai: That's correct.

Commissioner Vandersteel: Parts of them have come down in storms? You did a good job on the house going down the hill. The oak tree should remain.

Commissioner Swanson: Staff made comment about the hackberry helping with the erosion.

Vice-Chairman Gage: The pool and sport court, particularly lighting. We are a dark sky city.

Commissioner Maccini: I don't see any hardship to remove either tree. It is design driven.

COMMISSIONER MACCINI MOVES TO RECOMMEND DENIAL FOR BOTH TREES DUE TO LACK OF HARDSHIP. COMMISSIONER SWANSON SECONDS. UNANIMOUS (6-0) DENIAL.

APPLICANT REQUESTS TO POSTPONE. WE'RE GOING TO WORK ON THIS.

10. Adjournment. Chairman Robert Meisel.

Meeting is adjourned at 8:20 p.m.