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**DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT**

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**DATE:** November 3, 2005

**APPLICANT:** Glen Benton  
30961 West Agoura Road  
Westlake Village, CA 91361

**TO:** Planning Commission

**CASE NOS.:** 03-CUP-001, 03-OTP-001 & 03-VAR-001

**LOCATION:** East of 28191 Laura La Plante Drive  
(A.P.N. 2061-016-054)

**REQUEST:** Request for approval of a Conditional Use Permit to construct a 3,300 square-foot residence and a 768 square-foot, attached, three-car garage; a request for a Variance from Zoning Ordinance Sections 9243.3.D, 9652.13.B and 9606.2.A. to provide for an 11-foot front yard instead of the minimum 25 feet; to provide for 60% of undisturbed open space area on the lot instead of 92.5%; and to construct retaining walls in excess of 3.5 feet in height in the front yard; and a request for an Oak Tree Permit to remove one Oak Tree and encroach within the protected zone of one Oak Tree for the proposed construction.

**ENVIRONMENTAL DETERMINATION:** Exempt from CEQA

**RECOMMENDATION:** Staff recommends the Planning Commission adopt a motion to approve Conditional Use Permit Case No. 03-CUP-001 and Oak Tree Permit Case No. 03-OTP-001 and Variance Request 03-VAR-001, subject to conditions, based on the findings of the attached Draft Resolution.

**ZONE DESIGNATION:** RS-(2)-20,000-IH (Residential Single-Family – Indian Hills Design Overlay District)

**GENERAL PLAN DESIGNATION:** RS – Residential Single-Family

**PROJECT BACKGROUND AND DESCRIPTION**

The applicant is requesting approval of a Conditional Use Permit to construct a 3,300 square-foot, two-story, single-family residence with a three-car garage. A Conditional Use Permit is required for proposed development on lots exceeding a 10% average slope. In this instance, the average slope of the property is 31.3%. The applicant is also requesting approval of an Oak Tree Permit to remove one on-site oak tree and encroach in the protected zone of one on-site oak tree for the proposed construction.

The subject parcel is located on the north side of Laura La Plante Drive, immediately east of the existing single-family residence located at 28191 Laura La Plante Drive in the Residential Single-Family (RS) and the Indian Hills Design Overlay zones. The vacant lot is 11,800 square feet in size. The proposed single-family residence is a permitted use in the RS zone and will meet the rear and side yard standards, and is within the maximum permitted building height for hillside lots. The applicant is applying for a Variance to first, deviate from the minimum 25-foot front yard setback to provide between 11 and 20 feet of setback between the front property line and the front elevation of the house, second to exceed the lot coverage on a hillside lot and third, provide retaining walls with a height in excess of 3.5 feet in the front yard area. An analysis of the Variance Request is provided below for the Planning Commission’s review. Listed below are the proposed development data pertaining to the project:

<b>Development Standards</b>	<b>Existing</b>	<b>Proposed</b>	<b>Allowed/ Required</b>
<b>1. Lot Size</b>	11,800 sq.ft.	Same	20,000 sq.ft.
<b>2. Lot Width</b>	94 ft.	Same	90 ft.
<b>3. Lot Depth</b>	105 ft.	Same	100 ft.
<b>4. Building Size</b>			
a. House:	None	3,300 sq.ft.	Per Lot Coverage
b. Garage:	None	768 sq.ft.	
<b>5. Building Height</b>	None	15 ft.	15 ft. along front property line
<b>6. Lot Coverage</b>	None	27%	35% max.
<b>7. Open Space %</b>	100%	60%	92.5%
<b>8. Building Setbacks</b>	None	Front: 11 to 20 ft. Rear: 32 ft Side: 10 and 22 ft.	25 ft. min. 25 ft. min. 10 and 12 ft. min.
<b>8. Oak Trees</b>	4 on-site	3 on-site	N/A

## **STAFF ANALYSIS**

### A. Site Plan

The proposed location of the house is intended to minimize impacts to the on-site oak trees in the rear yard, minimize the need for retaining walls and comply with the development standards of the RS-20,000 zone. The house is a two-story design that terraces from a single-story elevation at the front of the property to two-stories in the lower rear portion of the property without exceeding the maximum height of 15 feet at the front property line per the Hillside Ordinance. Such a design allows for a better integration of the new structure on a slope. The project exceeds the side yard setback requirements of the RS zone. The eastern side yard setback is proposed to be 10 feet and the western side yard setback is proposed to be 22 feet (side yard of 10 feet and 12 feet are required). The larger east side yard is adjacent to a developed parcel. The proposed setback to the rear property line would be 32 feet at the closest point to the rear property line. The 20-foot wide access easement in the rear of the lot was reverted to the individual property owners between Lewis Road and Palo Comado Canyon Road. Since the access was never developed the land was returned to property owners in equal parts. The center line of the easement is now the new rear property line.

The Variance is a request to reduce the front yard to an average of 11 feet from the required 25 feet. In plotting the structure on the parcel, the applicant discovered that the alignment of the public right-of-way easement and the actual paving or use of the road did not coincide. The edge of pavement is located 12 to 42 feet away from the property line which has created an area of land with no particular purpose other than for temporary parking. The possibility of adjusting the alignment of the easement to match the pavement was explored by the applicant but has not been resolved to date. The Engineering Department determined that the width of the pavement is sufficient at this time for a one-way street segment but the easement cannot be reduced further until a Lot Line Adjustment is filed by property owners of both the north and south sides of Laura La Plante Drive concurrently. The setback must be then measured from the proposed structure to the back of the existing access easement boundary and not the paving.

The second Variance request addresses the reduction in the open space requirement. This hillside lot has an average slope of 31% and as such, the development should be designed to maintain 92.5% of the lot total square footage as undisturbed open space. Although the lot is larger than nearby lots, 7.5% maximum coverage would reduce the development to about 885 square feet for the total size of the development including footprint and hardscape improvements. As proposed, the project provides about 60% of open space area which is typical of the already developed residential parcels found north and south of Laura La Plante Drive. The lot coverage, which refers to the structure erected above ground, remains however, lower than the 35% maximum allowable in the RS zone with 27% of the parcel. Since the lot subdivision predates the city zoning requirements, many in-fill lots in the Indian Hills area are subject to development standards that would hamper reasonable development. A square footage analysis of the residential properties surveyed with known square footage of the residence and the size of the parcels is provided to further evaluate compatibility. A survey of the 13 closest residences revealed

square footages varying from 1,136 to 3,008 square feet. Lot sizes varied from 5,571 to 30,351 square feet. The average square footage for the cluster of residences was 2,445 with an average lot size of 9,537 square feet. A most recent approval by the Planning Commission permitted a 2,968 square-foot home on a 6,824 square-foot parcel located on Canyon Way, approximately 1/5 of a mile away. In this case, the applicant is requesting a 3,300 square-foot house on an 11,800 square-foot lot. The ratio between the size of the living space and of the parcel is approximately 0.28 versus 0.27 based on the neighborhood average. Overall, the square footage requested by the applicant appears to be within the limits of the existing residences in the immediate vicinity.

Finally, the third Variance request applies to retaining walls that are proposed to be constructed in the front yard. The Zoning Ordinance restricts the height of walls in a front yard to 3.5 feet whether these walls are used as garden walls above ground or as retaining walls and below the average grade. Although the walls are below the standard 6-foot high retaining wall, they are located in the front yard and consequently must adhere to the height restriction of 3.5 feet as specified by Section 9606.2.A. The proposed walls are required to level a driveway, and to support an access stair case and as separation between the front yard and the side yard. The Zoning Ordinance also permits a guard rail above the retaining wall which height may vary depending on the total height of the retaining portion of the wall. Based on the Grading Plan, only 90 cubic yards of cut and fill are expected. The walls are required to transition from the street elevation to a sloping side and rear yard and to provide a safe access all around the residence.

In evaluating the compatibility of the design and the size of the structure with other Indian Hills properties, staff found that the proposed residence design is similar with all other two story structures in the area.

#### B. Architectural Design

The Architectural Review Panel (ARP) has recommended approval of the design. The applicant has chosen a smooth stucco coating in a sandstone color and a smooth finish in a beige color for the decorative trims. The aluminum clad windows will also be in a "Sandstone" color. The front door will be a wooden door stained in a light brown tone and the garage door will be a metal sectional painted a green "Minnesota Pines". The hip roofs will be clad with a mix of two (2) two-tone clay tiles. The applicant also proposes a concrete driveway and wrought iron railing above the retaining walls. Two-story homes are prevalent in the neighborhood as the typical width of a lot in Indian Hills precludes expansive single-story floor plans or accessibility to the house.

#### C. Oak Tree Review:

The applicant was required to submit an Oak Tree Report and Permit as several trees were identified on the lot and adjacent lots. There are two oak trees in the rear of the property and two overhanging the property. The encroachment into Oak Tree No. 1 is such that the City Oak Tree Consultant is recommending removal based on the scope of the project. The owner has expressed a desire to keep the tree for as long as possible. The mitigation for the loss of an oak tree is to replant trees with a combined caliper of 61 inches. Since the oak tree will be on site for an unknown amount of time, staff

recommends that the mitigation measure be implemented upon finalization of the project. The City Oak Tree Consultant, Kay Greeley, has also permitted encroachment in the protected zone of an oak tree located on the western property line for the duration of the construction. No encroachment is permitted to other nearby trees. Oak trees in the rear yard are protected and will provide screening of the house as viewed from the north.

With regard to the landscaping, hillside properties must be landscaped as a matter of safety. Once the soil is exposed and new slopes are created, landscaping should be reintroduced. The slopes will need to be planted with a plant material acceptable to the City Landscape Consultant and the irrigation system reviewed in order to eliminate possible on-site and off-site structures. The proposed landscaping will consist of

D. Engineering:

The applicant has estimated 90 cubic yards of cut and fill, resulting in a balanced grading. The quantity is slightly above the threshold of the requirement for a Grading Permit, which is 50 cubic yards. The finished floor elevation of the first floor is proposed at a true elevation of 997 feet for the interior space and 998 for the garage which is 2 feet below the street elevation. A second floor is proposed below at an elevation of 985 feet.

In order to connect to the existing pavement of Laura La Plante Drive, the applicant is proposing a 50-foot long driveway. Since approximately 40 feet will be in the right-of-way, an encroachment permit will be required. The applicant will also be required to pave the street if needed the length of the parcel frontage to maintain a 20-foot wide right-of-way in its current alignment. No other street improvements are required now that Laura La Plante Drive is a one-way street. The applicant will be connecting to a sewer line located under Agoura Road. The alignment of the connection must traverse a commercially zoned parcel in the rear which is encumbered by an easement permitting the installation and connection of the new sewer line. Most of Indian Hills properties are connected to the public sewer system.

Other than a five-foot wide pedestrian access all around the residence, the Fire Department has not requested additional improvements on the site.

The City's Geotechnical Consultant has reviewed the geotechnical report prepared by West Coast Geotechnical for this project and recommends that the project be approved and has conditioned the submittals accordingly. The letter of approval, dated May 14, 2004 is attached to this report

G. Environmental Review:

The City Environmental Consultant has reviewed the proposed project and finds that the single-family residence is Categorically Exempt from the California Environmental Quality Act, in accordance with Section 15303 and is not subject to a negative declaration or environmental impact report.

## **VARIANCE FINDINGS**

### E. Variance Request Summary

The applicant is requesting a Variance from the Zoning Ordinance Section 9607.1 to allow a reduced front yard setback for the proposed project, a greater lot coverage on a hillside lot per Section 9652.13.B and retaining wall exceeding the maximum height in a front yard area per Section 9606.A.

In order for the Planning Commission to grant approval of the Variance, each of the following five (5) findings must be made pursuant to Section 9676.2.E. of the Zoning Ordinance:

#### 1. Required Finding:

That because of special circumstances applicable to the subject property, including size, shape, topography, location or surroundings, the strict application of this article deprives the property of privileges enjoyed by other property owners in the vicinity and under identical zoning classification.

#### Staff Analysis

The RS zone requires a 25-foot front yard setback from the structure to the back of the easement boundary. The requested front yard setback parallels the front property line. In a typical situation, the easement line coincides with the pavement edge. In this case, the street was developed between 11 feet from the south west corner of the parcel and 42 feet from the southeast corner of the parcel away from the right-of-way outlined on recorded tract maps. The alignment of the traveled road and the legal easement alignment do not coincide and thus resulting in an area that remains unusable by the private property owner and the City. The request to place the structure closer to the right-of-way does not impede traffic safety as there is ample space between the roadway and the front yard for egress and ingress. The line-of-sight to the eastbound traffic is preserved. In addition, the distance between the property and the easement provide sufficient parking storage in driveway and parallel to the street and minimize the need to park in the street. The provided length of the driveway will remain greater than most non-conforming driveways found in Indian Hills.

In addition, since the subdivision predates the City's Zoning Map and the lots along the northern side of Laura La Plante Drive are held under separate ownership, the development can be severely impacted by standards that would otherwise be appropriate on larger combined hillside lots. Most of Indian Hills' neighborhood in-fill projects are challenged by the minimum required open space requirement. The Zoning Ordinance does allow the discretionary review and approval of a residence as long as the four criteria, stated in Section 9652.13.B, are met. The encroachment in the open space zone includes the footprint as well as the disturbed area necessary to provide access to the house and miscellaneous

hardscape improvements. The disturbed area along the front of the parcel could be minimized had the easement been aligned with the roadway. The lot coverage, however, is below the prescribed lot coverage for the RS zone.

The topography requires use of relatively short walls in the front yard which are required for pedestrian safety. Although these walls exceed the height prescribed for a front yard (3.5 feet), they are merely used to provide access all around the structure. These walls will not be visible from the front yard as they are below grade and concealed by mature landscaping if viewed from distance vantage point in the rear of the lot. The highest wall proposed (6 feet high) does not exceed the maximum allowable retaining wall height that can be built outside of the front yard setback area.

2. Required Finding:

That the granting of the Variance will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone.

Staff Analysis

The neighboring structures on similar sized lots have non-conforming setbacks all around. The additional setback would extend the driveway beyond the 57 foot already proposed. Such a separation between the pavement and the front property line increases the amount of land that cannot be improved upon and is in excess of the minimum space required to maintain roadway safety. The road is a one-way street and is intended to remain as such. Although the development encroaches into the minimum open space area required by the Hillside Ordinance, the footprint is in proportion with the lot size. The areas of the lot where most of the disturbance is proposed will occur in the front of the parcel as most residential properties in Indian Hills. The walls are proposed to provide adequate pedestrian safety and circulation around the house. Retaining walls used to retain soil for a driveway or a walking path is common in Indian Hills.

3. Required Finding:

That the strict interpretation and enforcement of the provisions of the Zoning Ordinance would result in practical difficulty or unnecessary hardship inconsistent with the objectives of the Zoning Ordinance.

Staff Analysis

In this particular situation, the southwest corner of the house, where no vehicular access is occurring, would be located 20 feet from the front property line and 22 feet from the side property line. An additional 10 feet of easement exist to the edge of the pavement providing essentially 30 feet of setback to the right-of-way. Furthermore, the proposed residence will be setback an additional 14 feet from the existing residence to the west. The southeast corner of the house where the garage and driveway are proposed, the structure is located about 11 feet from the

property line with an additional 40 feet to the edge of the pavement on flat land providing ample storage for vehicles. A 25-foot setback for the entire width of the garage would cause unnecessary hardship to the applicant when visibly the safety impacts and visual impacts have been reduced.

The lots on the north side of the street are not connected to a hillside and yet the development has to comply with hillside standards. The lots are impacted by the necessary infrastructure requirements i.e. driveway, walkway, retaining walls which cause the calculations of the impacts to the parcel to exceed the 7.5% maximum allowable for a lot with a 31% slope.

Given the location of the residence, the walls are located in the front yard which dictates a maximum height of 3.5 feet. Had the access been located on the flatter area of the parcel, walls would not be required in the front yard area. Six feet high walls could be permitted beyond the 25-foot setback line.

4. Required Finding:

That the granting of the Variance will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements of the aesthetic value in the vicinity.

Staff Analysis

The applicant is still able to store vehicles in the driveway and maneuver in and out of the property safely without impacting the one-way traffic. Furthermore, the location of the residence will require less grading and less retaining walls and the preservation of more open space in the rear of the lot. The retaining walls are proposed to preserve the safety of pedestrians both owners and visitors.

5. Required Finding:

That the granting of the Variance will be consistent with the character of the surrounding area.

Staff Analysis

If placed closer to the rear property line, the structure would become more prominent to the residence in the rear. The applicant wants to maintain the oak tree in an attempt to maintain privacy on and off-site. The corner of the proposed residence remains between 27 feet and 30 feet from the residence to the west which is untypical for a setback in the Indian Hills neighborhood. The proposed design does speak to the effort to preserve the neighbors' privacy despite a reduced open space area. The walls will not be visible to the neighboring structures and merely provide additional safety.



## **RECOMMENDATIONS**

Based on the foregoing analysis, staff recommends that the Planning Commission adopt a motion to approve Conditional Use Permit Case No. 03-CUP-001 and Oak Tree Permit Case No. 03-OTP-001 and Variance Request Case No. 03-VAR-001, subject to Conditions, based on the findings of the attached Draft Resolution.

## **ATTACHMENTS**

- Draft Resolution for Conditional Use Permit and Oak Tree Permit
- Conditions of Approval for Conditional Use Permit and Oak Tree Permit
- Draft Resolution for Variance Request
- Conditions of Approval for Variance Request
- Exhibit A: Vicinity Map
- Exhibit B: Square Footage Analysis Map
- Exhibit C: City Oak Tree Consultant Letter of Recommendation
- Exhibit D: Bin Yen Letter of Recommendation
- Exhibit E: Environmental Determination
- Exhibit F: Architectural and Grading Plans
- Exhibit G: Photographs of surroundings

**CASE PLANNER:** Valerie Darbouze, Associate Planner