MINUTES
SARATOGA PLANNING COMMISSION

DATE: Wednesday, October 25, 2006
PLACE: Council Chambers/Civic Theater, 13777 Fruitvale Avenue, Saratoga, CA
TYPE: Regular Meeting

Chair Rodgers called the meeting to order at 7:00 p.m. She announced that the Commission is reconvening following Study Sessions held on October 24, 2006, and October 25, 2006.

ROLL CALL

Present: Commissioners Cappello, Hlava, Hunter, Kundtz, Nagpal, Rodgers and Zhao
Absent: None
Staff: Director John Livingstone, Associate Planner Lata Vasudevan, Planner Shweta Bhatt, Assistant Planner Suzanne Thomas and Assistant City Attorney Jonathan Wittwer

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES – Regular Meeting of October 11, 2006.

Since Commissioner Nagpal did not have a set of minutes to review in advance of this hearing, the consideration of the minutes was postponed to the end of the agenda to allow her the opportunity to review the draft minutes.

ORAL COMMUNICATION

There were no Oral Communications.

REPORT OF POSTING AGENDA

Director John Livingstone announced that, pursuant to Government Code 54954.2, the agenda for this meeting was properly posted on October 19, 2006.

REPORT OF APPEAL RIGHTS

Chair Rodgers announced that appeals are possible for any decision made on this Agenda by filing an Appeal Application with the City Clerk within fifteen (15) calendar days of the date of the decision, pursuant to Municipal Code 15-90.050(b).

CONSENT CALENDAR

There were no Consent Calendar Items.

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PUBLIC HEARING - ITEM NO. 1

APPLICATION #07-073 (503-13-067) HO, Mount Eden Road south of Villa Oaks Lane: Request for Extension of Tentative Map and Use Permit approvals granted by the Planning Commission on October 27, 2004. The Tentative Map and Use Permit approvals expire 24 months from this date. The applicant was granted Tentative Map and Use Permit approvals to subdivide a 29.28-acre property into five clustered lots with an average lot size of 1.73 acres. The remaining 19.49-acre portion of the property is to remain in open space with a pedestrian, equestrian trail winding through the open space. Access to the property is to be via a cul-de-sac, which egresses onto Mount Eden Road. An emergency access road is proposed from Vista Regina Road to the cul- de-sac. The property has a General Plan designation of RHC - Hillside Conservation and is zoned HR - Hillside Residential District. (Lata Vasudevan)

Associate Planner Lata Vasudevan provided the staff report as follows:

- Explained that the applicant is seeking an Extension of a Tentative Map and Use Permit to allow a 29-acre property to be subdivided into five cluster lots with 19 acres of open space that will provide a pedestrian-equestrian trail.
- Advised that the new lots would take access from a cul de sac off Mount Eden Road. Additionally, an emergency access would be added onto Vista Regina.
- Informed that the Code allows cluster lots in the Hillside District with a Use Permit.
- Reminded that this application was approved with conditions two years ago on October 27, 2004.
- Said that staff received the application for an Extension of Approval from Mr. Ho on August 27, 2006.
- Stated that Code allows extensions not to exceed 36 months. The Extension is not a matter of right but rather the Planning Commission has the option to deny or add conditions of approval. The key question is whether there are any new circumstances that might require additional conditions of approval.
- Reminded that the applicant had offered the 19 acres as public open space. The recommendation is that this open space be private rather than public.
- Reported that circumstances have actually changed in that there has since been a landslide two properties to the north. A geologist's report indicates that the slide was 50 feet onto the Ho property. However, the proposed improvements are away from this geologic area. Mitigation measures have been proposed to reduce adverse impacts from landslides. The requirements from the new Geotechnical Report have been added to the conditions of approval.
- Said that neighbor comments have been included in the report regarding the use of an emergency road from Vista Regina and drainage issues. These too have been incorporated into the conditions of approval.

- Added that there have been minor modifications in the wording of some of the other conditions of approval.
- Recommended approval of a one-year extension to expire on October 27, 2007, with the original conditions of approval as modified.

Commissioner Hlava asked who would own the 19 acres of open space and pays the taxes for it.

City Attorney Jonathan Wittwer replied that it would be part of the Tentative Map that will include CC&Rs. The homeowners association (HOA) would own it.

Commissioner Nagpal asked if the landslide issue and potential for liability are the main reasons for not accepting this is public open space.

Director John Livingstone said that it is the result of a variety of reasons. He explained that the City typically doesn't want ownership of open space unless it can be developed into parks, etc. Typically the City would not accept ownership and staff recommends that it stay private.

Commissioner Nagpal sought clarification that the 19 acres could never be developed at a future time.

Director John Livingstone replied correct. It would be like the Parker Ranch development.

Commissioner Zhao asked if one year would be sufficient time for this applicant to complete all of the approval procedures.

Planner Lata Vasudevan said that plans have been submitted for review. They are almost ready with the Final Map to submit to Council.

Commissioner Zhao asked if they would have to apply again if they are not done by next October.

Planner Lata Vasudevan said they would have the right to apply.

Commissioner Zhao asked the difference between the old map and this one.

Planner Lata Vasudevan said that there is nothing different.

Chair Rodgers opened the Public Hearing for Agenda Item No. 1.

Mr. Octavio Hurtado, Project Civil Engineer:
- Said that they have been working on this project for two years now with a lot of time spent.
- Added that due to the nature of this project site, many agencies have to be involved and plans submitted for their review.
- Assured that they are happy to comply with the conditions of approval and willing to accept the changes proposed.
- Said that they are also willing to keep the open space private.

Mr. Peter Anderson, Project Geologist:
- Provided a slide show with images illustrating the site conditions.
- Explained that the property has right and left sides with the right side including the private open space area and the left side being the development area.
- Advised that two landslides depicted on an older geologic map on the left side do not exist while there are several landslide areas on the right side. There was a slide there in 1906. It is a hazardous area that is not desirable for development. This is a natural ongoing geologic process that is 200 feet away from any proposed development.
- Said that there is a smaller landslide area near the proposed emergency access that will be improved before construction of the road.
- Added that it would cost millions of dollars to fix the larger landslide area and that even if they were to increase stability there, liability would be attached.

Commissioner Nagpal asked if there is potential for future development on the portion of the site designated as private open space since there are potential slides there.

Mr. Peter Anderson said that the area would have to be stabilized and would cost multi-millions to do so. The answer is no.

City Attorney Jonathan Wittwer reminded that Condition #1 requires an Open Space Agreement with the City that would be in effect in perpetuity.

Mr. William Brooks:
- Advised that he is a member of the Pedestrian-Bicycle-Equestrian Trails Commission, which reviewed this request at their last meeting.
- Said that Mr. Ho and his engineers have been very cooperative.
- Stated that this would offer a wonderful trail addition.
- Encouraged the Planning Commission to grant this extension.

Mr. Octavio Hurtado reiterated that work has been taking place over a number of years to prepare this area for homes. They are trying to do the correct thing here.

Commissioner Cappello asked Mr. Octavio Hurtado if one year is enough time.

Mr. Octavio Hurtado:
- Said that they had actually hoped to not need an extension at all as recently as this past summer. However, they were waiting for a couple of other agency approvals including Santa Clara County Roads and Airports and environmental processing.
- Stated that they want to begin work on April 15, 2007.
- Added that they would be willing to accept a two-year extension if it were offered.

Chair Rodgers closed the Public Hearing for Agenda Item No. 1.

Commissioner Hlava said that she might be willing to approve a two-year extension now rather than having to re-hear this item again a year from now if it is not yet complete. She asked staff if the extensions can only be done a year at a time.

City Attorney Jonathan Wittwer said that the applicant could ask for up to a three-year extension in total. It can be done at one time.

Commissioner Hlava suggested granting a two-year extension to avoid the need to come back. She asked how that could be processed. Could the draft resolution be amended?

Planner Lata Vasudevan said that the Planning Commission could choose to do that since the notice did not specify the length of time for this renewal.

Commissioner Zhao asked how many times extensions can be granted.

City Attorney Jonathan Wittwer said that the total is 36 additional months.

Commissioner Hunter said that the applicant applied for one year and she suggests that the Commission go with what they applied for.

Chair Rodgers asked for clarification that private open space means no liability issues for the City.

City Attorney Jonathan Wittwer:

- Said private open space is part of the agreement.
- Added that there are a few provisions in the resolution to modify.
- Suggested adding language to read, "*subject to the satisfaction of the City*," to items 33 and 43. Item 43 should read, "*The owner/applicant shall enter into an agreement, subject to the satisfaction of the City, to defend, indemnify and hold the City of Saratoga harmless*."
- Suggested using the "Now, Therefore…" clause located at the end of the resolution to replace the "Now, Therefore…" clause currently at the first page of the resolution with the added text, "*subject to the conditions outlined in this resolution*."
- Advised that text within the conditions that read "*should*" or "*suggest*" need to be replaced with "*shall*" and/or "*must*" to reflect mandatory responsibility.
- Said that at the end of Condition 58 the text needs to be added to read, "*and hereby made conditions of approval for both the Subdivision and Use Permit."*

Commissioner Nagpal said that since the applicant has asked for one year and they are nearly ready to go, she is fine with approving the staff request with changes noted by the City Attorney.

Commissioner Zhao said she agrees with the staff recommendation.

Commissioner Cappello agreed.

Commissioner Hunter said yes.

Commissioner Kundtz extended compliments to the Ho organization for their work with the Trails Commission. He said he was happy to see the extension of the trail.

Commissioner Hlava said this application is fine with her and extended her thanks to the Trails Commission for their work on this trail extension.

Chair Rodgers agreed.

Motion: **Upon motion of Commissioner Nagpal, seconded by Commissioner Hunter, the Planning Commission approved a one-year Extension of Tentative Map and Use Permit approvals (Application #07-073) to subdivide a 29.28-acre parcel into five cluster lots on property located on Mount Eden Road south of Villa Oaks Lane, with conditions of approval as amended by the City Attorney, by the following roll call vote:**
AYES: Cappello, Hlava, Hunter, Kundtz, Nagpal, Rodgers and Zhao
NOES: None
ABSENT: None
ABSTAIN: None

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PUBLIC HEARING - ITEM NO. 2

APPLICATION #06-214 (503-24-034) GRAFF (CONOCO PHILLIPS/TOSCO MARKETING), 14395 BIG BASIN WAY; - The applicant requests approval and a variance to construct an illuminated freestanding gasoline price sign. The site is located in the Commercial Historic (CH-1) zoning district. Sign permit approval by the Planning Commission is required pursuant to Saratoga Municipal Code Section 15-30.060. (Suzanne Thomas)

Assistant Planner Suzanne Thomas presented the staff report as follows:

- Advised that the applicant is seeking approval of a gas price sign for the Union 76 station that is located at the entrance of the Village on Big Basin Way at Saratoga-Sunnyvale Road. The sign is two-sided and illuminated. It is 8 feet tall and 6 feet wide and exceeds the size allowed for gas sign by 39 square feet.
- Added that the proposed logo is 2 1/2 inches tall while Code limits it to 2-inches high.
- Explained that a Variance is required to allow additional sign area and height.
- Said that the applicant has stated that they have economic reasons for their request due to the cost to create a custom sign.
- Reported that staff cannot support this Variance.
- Added that the applicant also requests updates to their existing building signs to be consistent with their national signage program. This signage currently exceeds standards and there are issues with compatibility with the Village and neighborhood. Staff has concerns about the proposed fascia design changes but can support building sign changes if sign area is reduced to 40 square feet. Staff recommends the removal of the “Food Court” sign.
- Explained that there has been a change in corporate ownership.

- Reiterated that staff cannot support the price sign and is recommending the denial of the Variance but approval of the building sign update.

Commissioner Cappello asked what material the building signs would be made of.

Planner Suzanne Thomas said they are vinyl stick on letters and counts toward the total allowed square footage for signs.

Chair Rodgers opened the Public Hearing for Agenda Item No. 2.

Mr. Mark Graff, Applicant, RHL Design Group:
- Said he has worked with Planner Suzanne Thomas.
- Reported that he has a new proposal for a 3-foot by 3-foot sign using 2-inch letters and 6-inch numerals. This will bring all signs into compliance to not go over 40 square feet.
- Said he hopes this plan would be accepted in place of their other sign.
- Described the revised gas sign proposed as being a metal sign cabinet on the ground with steel supports. It would be illuminated.

Commissioner Hunter asked if the background would be red as depicted on the drawing he is showing tonight.

Mr. Mark Graff explained that this is their corporate standard color.

Chair Rodgers asked Mr. Mark Graff is he is withdrawing the Variance request for his original gas price sign.

Mr. Mark Graff replied yes. He said that he knows that a Variance is very hard to obtain. He changed his mind after driving around Saratoga and finding nothing like what he was proposing in Saratoga.

Commissioner Hunter told Mr. Mark Graff that he is placing a sign at the entrance to an historic downtown village and the use of metal and plastic does not compliment that village.

Mr. Mark Graff said that there is no other way for him to design this sign based on size limitations. He pointed out that they need to change out prices daily. He said he is trying to keep things standardized to avoid the financial burden of a custom sign. This new proposal is a smaller sign at just 10 square feet. He said he can't do it in wood or stone.

Commissioner Kundtz questioned why not wood since this station charges 20-cents more per gallon than other nearby stations.

Mr. Mark Graff said that wood gets damaged due to weather while plastic holds up better.

Commissioner Kundtz said that the plastic letters could be put into a wood frame.

Commissioner Cappello:
- Agreed that a wood structure using plastic numbers is a viable option.

- Added that a small roof structure on top could protect the sign from weather.
- Suggested that this is more a cost issue.
- Stated that design changes could accommodate this sign that is right at the entrance of the village, which is sacred ground to the citizens of Saratoga.
- Said that Mr. Graff might want to consider that.

Mr. Mark Graff said that the sign also needs to blend in with the rest of the architecture of the station.

Commissioner Hunter asked staff for an opinion on this newly proposed smaller price sign.

Director John Livingstone said he only saw it briefly.

Commissioner Nagpal asked if the Commission can discuss this alternative sign since it is a change from the original proposal.

City Attorney Jonathan Wittwer said that it is up to the Planning Commission to decide if it has enough information. He pointed out that the original price sign request has been withdrawn.

Commissioner Hlava said that since the alternative price sign was just presented tonight and there is no report from staff on this design, she suggests that the Commission give direction to staff and continue this item.

Mr. Mark Graff asked about the rest of the sign update request?

Commissioner Kundtz asked if this is a consideration of both project sites or just this one.

Chair Rodgers said just the station at Big Basin Road right now.

Commissioner Hlava said that she is not comfortable with the proposal for a bright red canopy although bright red might be the corporate color.

Mr. Mark Graff said they are doing a sign program and want to get as much as they can. He added that while working with staff they concentrated their focus more on size allowed rather than design.

Chair Rodgers closed the Public Hearing for Agenda Item No. 2.

Chair Rodgers suggested breaking the discussion into three categories: Variance, freestanding sign and modifications to building signs. She asked to start with the Variance.

City Attorney Jonathan Wittwer reminded that the Variance request is withdrawn.

Commissioner Cappello said that the main price sign is the most contentious. He suggested asking the applicant if his preference is an up or down vote tonight or a continuance. He pointed out that this is a brand new concept now being brought forward.

Chair Rodgers said that if the Variance request is withdrawn there is no sign presented. She asked if the Commission should take a vote on the Variance or just consider it withdrawn.

Commissioner Nagpal said that there is no Variance request so there is nothing to vote on.

Commissioner Hunter suggested giving direction to staff and the applicant for either a continuance or denial.

Chair Rodgers said there is no need for a Variance of any sort for this property. She asked how the Commission felt about materials and the modification of building signs.

Mr. Mark Graff asked if the remainder of the request is okay including the canopy and building signs.

Commissioner Hlava suggested continuing both of these. She said she is willing to go a little over the 10-square feet for the monument sign if it were attractive enough. She said a wood sign fits more in Saratoga. She said she has a problem with the way it looks on the canopy. She reiterated her recommendation to continue the whole thing and come back with some design.

Commissioner Kundtz agreed. He added that stucco is another alternative to wood. He said he did not want to limit design creativity but that this one won't work. He said he too would consider a larger sign.

Commissioner Hunter said that she does not agree with a red stripe on the canopy. Perhaps something in more of a subdued burgundy could be used. She said that this entrance to this historic village needs a good looking sign and suggested that the applicant work further with staff.

Commissioner Cappello agreed. He added that a wood sign would not have to be wood-colored but could rather be painted.

Commissioner Zhao agreed and added that the structure could be wood-like.

Commissioner Nagpal said she does not have much more to add. She said that a landscaping element might help give the sign the character wanted.

Commissioner Hunter cautioned that she would not approve a variance to make this sign bigger.

Chair Rodgers:

- Agreed that she would not support a larger sign but would like to see materials such as wood, glass, brick and/or tile.
- Added that she is not looking for a totally wooden sign but rather something that is consistent with the Village and the Village Design Guidelines.
- Said that she is not happy with the red stripe preferring something more muted that blends in with the tile.

Motion: **Upon motion of Commissioner Nagpal, seconded by Commissioner Hunter, the Planning Commission CONTINUED TO THE MEETING OF DECEMBER 13, 2006, consideration of a Sign Approval and Variance (Application #06-214) to construct an illuminated freestanding gasoline price sign on property located at 14395 Big Basin Way, by the following roll call vote:**
AYES: Cappello, Hlava, Hunter, Kundtz, Nagpal, Rodgers and Zhao
NOES: None
ABSENT: None
ABSTAIN: None

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PUBLIC HEARING - ITEM NO. 3

APPLICATION #06-215 (366-22-023) GRAFF (CONOCO PHILLIPS/TOSCO MARKETING), 12015 SARATOGA-SUNNYVALE ROAD; - The applicant requests approval and a variance to construct an illuminated freestanding gasoline price sign. The site is located in the Commercial-Neighborhood (CN) zoning district. Sign permit approval by the Planning Commission is required pursuant to Saratoga Municipal Code Section 15-30.060. (Suzanne Thomas)

Assistant Planner Suzanne Thomas presented the staff report as follows:

- Reported that this is the same applicant as the previous agenda item but there are differences in the request. The request is for a price sign that is double sided using red, white and blue colors as well as signage for the canopy. With this application, some existing signs would be removed.
- Described the freestanding sign as including a stone base that matches the gateway sign. A Variance is requested for the location of this freestanding sign within the right-of-way and setback. State law requires that the pricing sign be located so it is visible from the roadway.
- Stated that staff can support this Variance for the location in order to comply with State law.
- Added that the proposed sign at 4 feet, 9 inches is shorter than the existing sign.
- Said that a Variance is also need for proposed letter size for which staff is recommending denial.
- Reported that there are concerns about the fascia and staff wants additional information for approval by the Community Development Director.
- Reiterated that the price sign location can be supported if redesigned to comply with Code as far as lettering size. Size, height and letter size must be reduced.
- Recommended approval.

Commissioner Hunter said that this is an improvement over what is there.

Planner Suzanne Thomas said that it is smaller than what is existing. Staff is recommending that the height be brought down to 3 feet for a total of 10-square feet with a reduced logo and reduction of numerals to 2-inches.

Chair Rodgers asked about the signage on the station building.

Planner Suzanne Thomas said that the sign on the cashier booth would be removed as well as the sign on Prospect.

Chair Rodgers asked Planner Suzanne Thomas if she has spoken with the new owner.

Planner Suzanne Thomas replied no.

Commissioner Zhao asked about the red color.

Planner Suzanne Thomas said she is recommending no changes to the fascia be approved without further information being supplied subject to approval by the Community Development Director.

Commissioner Nagpal said that she appreciates the thorough staff report provided by Planner Suzanne Thomas on both of these sign applications this evening.

Chair Rodgers opened the Public Hearing for Agenda Item No. 3.

Mr. Mark Graff, Applicant, RHL Design Group:
- Said that he has no argument just a concern.
- Said that they have eliminated as much as they can.
- Said that the canopy could be discussed at a future date with staff.
- Asked if there was the same standard expected as at the Big Basin location or does he just need to lower the sign to a 3-foot height.

Chair Rodgers closed the Public Hearing for Agenda Item No. 3.

Commissioner Cappello:
- Explained that this is a different location and circumstance regarding the wood requirement.
- Advised that he likes the inclusion of stone on this freestanding price sign.
- Stated that it is important to keep within the height limitations.
- Said he has no issue with this sign location or any problem with the canopy.
- Added that he understands the corporate need for identity consistency as far as the look at every location.
- Said he is okay with the red color.

Commissioner Hlava:
- Said that she can make the Variance findings as advised by staff.
- Agreed with Commissioner Cappello and the staff recommendations.

- Said she is not thrilled with the red stripe at the bottom of the canopy but realizes the applicant will work further with staff on that issue.

Commissioner Hunter:
- Said that a great deal of money has been spent on the Gateway and it is an important part of our City.
- Informed that she has no problem with the location of the sign but does not want to see a bright red stripe.
- Stated that she hopes it is not an eyesore and that when illuminated from inside it will not be terribly attractive.

Commissioner Zhao said that she supports the Variance for location and would like to be consistent regarding the stripe on the canopy. She added that she would like to see this sign comply with Code requirements regarding size.

Commissioner Nagpal said she agrees with the consensus and is ready to vote on a motion.

Commissioner Cappello said he has nothing to add.

Chair Rodgers agreed. She said it is important to do the Variance for the location but not for the increase in size. She suggested that the canopy be consistent to the town's Gateway area.

Director John Livingstone said it appears there is a consensus around the color band. He asked if it were made smaller so it is no larger than the existing band but with just a change of color, could it be supported.

Commissioner Hunter said that things can be adjusted perhaps by using a more subdued color than the proposed corporate color.

Commissioner Kundtz pointed out that blue is also a corporate color.

Chair Rodgers also supported use of more subdued colors.

Motion: **Upon motion of Commissioner Hlava, seconded by Commissioner Hunter, the Planning Commission adopted a Resolution granting a Sign Approval and Variance (Application #06-215) to construct an illuminated freestanding gasoline price sign on property located at 12015 Saratoga-Sunnyvale Road, to allow the sign to be located within the setback and right-of-way and with issues for the sign canopy and fascia to be subject to the approval of the Community Development Director and consistent with the Gateway Design Guidelines, by the following roll call vote:**

AYES: **Cappello, Hlava, Hunter, Kundtz, Nagpal, Rodgers and Zhao**
NOES: **None**
ABSENT: **None**
ABSTAIN: **None**

Chair Rodgers asked the City Attorney if findings to deny the Variance for all issues but the location of the sign are needed.

City Attorney Jonathan Wittwer agreed that the requested sign area and height are not approved and that Chair Rodgers is correct that the findings need to be modified. He suggested bringing an updated resolution to the next meeting for adoption as a Consent Calendar item rather than drafting revised findings this evening. He said that some of the findings from the previous application could be amended for this application and he would provide them after the next item was completed.

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PUBLIC HEARING - ITEM NO. 4

APPLICATION #07-096 (517-22-003) COYOTE PROPERTIES/BORELLI, 20200 HILL AVENUE; - The applicant requests approval for modification to approved landscape plans. The site is located in the R-1-40 zoning district. Approval for modification of plans that have been previously approved by the Planning Commission is required pursuant to Saratoga Municipal Code Section 16-05-035. (Suzanne Thomas)

Assistant Planner Suzanne Thomas presented the staff report as follows:

- Advised that the applicant is requesting a modification to approved landscape plans. The modifications include three components. One is minor enhancement to the natural oak forest on the property. Another is the replacement of perimeter fence and landscaping. Another is replacement of numerous small trees in front of the property with fewer but larger trees.
- Reminded that when this application was approved in 2004 there was much discussion about the oak forest. Now the applicant is proposing the elimination of proposed paths and other improvements in order to leave this oak forest in its natural state.
- Added that a chain link fence is located around the side and back of the property. She advised that the adjacent neighbor installed a masonry wall and the applicant is now proposing to continue that wall in replacement of the existing chain link fencing.
- Said that smaller trees are proposed to be replaced with larger including 7 cedars and 5 olive trees that are 75 years old. They will achieve between 18 and 20 feet in height and create a nice level of screening.
- Informed that removed trees have been replaced.
- Stated that the required findings can be made to support this modification request. The site is enhanced, privacy is protected and the rural atmosphere is preserved.

Chair Rodgers opened the Public Hearing for Agenda Item No. 4.

Mr. John McCune, Applicant's Representative:

- Thanked all involved.
- Said that this modified landscape plan is a step further than the original approved. It will include larger trees that fit in better than the proposed smaller ones.
- Said that the project arborist is here and available for questions.

Commissioner Cappello asked about a path that leads to steps at the rear of the property that ends. It appears out of place. He asked if it is no longer necessary.

Mr. John McCune said that a beloved family cat was buried in the area and that the steps are convenient to visiting the memorial area. There are no plans to further expand that path. It will remain as is.

Commissioner Hunter said that this property is phenomenal. She asked about the wall and when a property is considered Hillside since that zoning limits the amount of area that can be enclosed with fencing.

Planner Suzanne Thomas replied that it is Hillside when there is a 10 percent slope.

Commissioner Hunter said she has questions for the arborist on what one does to keep olives from dropping all over the travertine.

Mr. Doug Anderson, Project Arborist:

- Provided his resume of credentials and affiliations.
- Said that he has been involved with this project since March 2003 including the protection of trees during construction.
- Said that Mr. Borelli has made every effort to preserve his trees, especially Tree #73.

Commissioner Hunter asked what was done to the oak tree, as it looks marvelous.

Mr. Doug Anderson said that they have placed wood chips beneath. Plywood was placed on that to prevent compaction. They also used jute netting.

Commissioner Hunter said that although it appears that activity has occurred closer to the trunk than normally allowed she wanted to know how they have been able to succeed with the successful protection of that tree.

Mr. Doug Anderson said jute netting as well as limited inoculations to protect the roots. Luckily, this is a very vigorous specimen that was tolerant of construction.

Commissioner Hunter asked about feeding.

Mr. Doug Anderson said a form of deep root food.

Commissioner Hunter asked if the olive trees would be sprayed to prevent olives.

Mr. Doug Anderson advised that they have been planted so that they won't reach out over the travertine. He reiterated that Mr. Borelli's passion for trees was demonstrated during construction.

Commissioner Hunter advised Mr. Doug Anderson that Saratoga has a Heritage Tree Commission that is very active and that she hopes Mr. Borelli becomes involved.

Chair Rodgers closed the Public Hearing for Agenda Item No. 4.

Motion: **Upon motion of Commissioner Nagpal, seconded by Commissioner Hunter, the Planning Commission adopted a Resolution granting a Modification (Application #07-096) to approved landscape plans on property located at 20200 Hill Avenue, by the following roll call vote:**
AYES: Cappello, Hlava, Hunter, Kundtz, Rodgers, Nagpal and Zhao
NOES: None
ABSENT: None
ABSTAIN: None

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City Attorney Jonathan Wittwer:

- Advised the Commission that he has completed the revised findings for denial of certain portions of the Variance request for Agenda Item No. 3.
- Said that the "Whereas" statements A and B from the other Conoco site's draft resolution could be used as is. Finding C can read, "the proposed sign would not be detrimental to the health, safety and welfare of the community." Finding D can read, "The amount of increased sign area would not introduce an inconsistent element."

Motion: **Upon motion of Commissioner Nagpal, seconded by Commissioner Hlava, the Planning Commission amended the motion for Agenda Item #3 that adopted a Resolution granting a Sign Approval and Variance (Application #06-215) to construct an illuminated freestanding gasoline price sign on property located at 12015 Saratoga-Sunnyvale Road, thereby amending the findings for the resolution, by the following roll call vote:**
AYES: Cappello, Hlava, Hunter, Kundtz, Rodgers, Nagpal and Zhao
NOES: None
ABSENT: None
ABSTAIN: None

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Chair Rodgers called for a break at approximately 9 p.m.

Chair Rodgers reconvened the meeting at approximately 9:05 p.m.

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PUBLIC HEARING - ITEM NO. 5

APPLICATION #06-243 (517-09-026) RATRA, 14505 OAK STREET; - The applicant requests Design Review approval to construct a new two-story single-family dwelling. The dwelling will consist of approximately 2,872 square feet, including a garage approximately 433

square feet in size. The height of the structure will not exceed the 30-foot height limitation. The site is located in the R-M-3,000 zoning district. Design Review approval by the Planning Commission is required pursuant to Saratoga Municipal Code Section 15-45.060. (Shweta Bhatt)

Planner Shweta Bhatt presented the staff report as follows:

- Described the proposed house as compatible to Craftsman style architecture using horizontal siding, river rock details, exposed corbels, a façade that is accented and articulated and with carriage style garage doors.
- Added that substantial efforts have been made to address mass and bulk.
- Said that the home has undergone significant redesign from the original plan. It is now a two-story 2,872 square foot structure.
- Said that an arborist's report has been prepared and conditions of approval incorporated relative to existing trees.
- Explained that the neighbor templates have been received with no concerns raised and no additional feedback has been received.
- Recommended approval.

Commissioner Hunter asked Planner Shweta Bhatt if a side-facing garage had been considered for this home.

Planner Shweta Bhatt said that this lot is significantly more narrow that others in the neighborhood at a 50-foot width. The zoning designation calls for lot widths at 100 feet.

Commissioner Hunter asked if story poles had been recommended.

Planner Shweta Bhatt replied that she had strongly recommended the installation of story poles on several occasions.

Chair Rodgers said that this proposed structure is a little over 26 feet in height where the maximum allowed in the multi-family zone is 30 feet.

Commissioner Hunter pointed out that the condos next door were built in the late 1980s, early 1990s and are much shorter than 30 feet. She said that demonstrates that there is the ability to not have it that high. She said that this comment is more of a statement on her part than a question.

Chair Rodgers opened the Public Hearing for Agenda Item No. 5.

Mr. Glen Cahoon, Project Designer:

- Assured that this design fits very well with this neighborhood with its traditional design with Craftsman style elements.
- Reminded that the previous design was more Mediterranean.
- Stated that Planner Shweta Bhatt has been very helpful. She is a great planner.
- Said that the garage is facing the street primarily because this is such a narrow lot. Having a side-facing garage would push the home further back resulting in more bulk.

- Pointed out that the maximum height allowed is 30 feet and this design is 4 feet less than the maximum.
- Said that the house next door is between 27 and 28 feet in height and includes a gable roof that is much more massing than their hip roof design.
- Reminded that a tri-plex was on this site before.
- Informed that since their building is a similar house to what is already next door, they felt story poles were not necessary.
- Stated his hope that this project would be approved.

Commissioner Nagpal asked if the neighbors directly in front had signed the neighbor form.

Mr. Glen Cahoon said that his client, Mr. Ratra, is the one who distributed the neighbor template forms.

Commissioner Hunter reported that those neighbors, the Espinosa's, signed a form. She added that she has never seen so many forms returned on a single project.

Commissioner Nagpal said that she is very disappointed that no story poles were installed and asked if there is not another way to demonstrate height other than story poles.

Mr. Glen Cahoon said that his client, Mr. Rick Ratra, wanted to comply with staff recommendations as much as possible but he felt that story poles were not necessary in this case.

Chair Rodgers asked for what reason he felt that there was no need for story poles.

Mr. Glen Cahoon said that since the structure was lower than the maximum allowed 30 feet in height and that it was similar in height to the house next door, the owner felt that it wasn't necessary to install story poles if it was not a requirement.

Chair Rodgers asked about the potential to convert this into a two-family house in the future.

Mr. Glen Cahoon said no, this is a single-family house. The owner's parents live with him but it is one house.

Chair Rodgers closed the Public Hearing for Agenda Item No. 5.

Commissioner Cappello:
- Said that the design is beautiful.
- Stated that he loves the articulation, materials and design.
- Said his only issue is with the lack of story poles.
- Advised that while he is inclined to continue this item to once again ask for story poles, he will not do that.

- Said that while this is not in a Hillside District zone, it is in a hillside area where it is important that story poles be put in place. They should have been installed on this particular property.

Commissioner Zhao said she echoes Commissioner Cappello's comments especially since staff made several requests for installation of story poles.

Commissioner Nagpal:
- Said that it is frustrating to her that this applicant fell short of doing one thing asked by not installing story poles.
- Advised that the bulk finding is very significant in this case.
- Stated that she is on the fence about whether to seek a continuance or not.
- Added that she wants to send a very specific message about the importance of story poles.
- Said that while she is very perturbed that the story poles were not installed she still leans toward supporting this application.

Commissioner Hunter:
- Agreed that it was a shame that story poles were not installed.
- Pointed out, however, that this applicant had personally approached 41 neighbors to discuss his proposal, which was absolutely unbelievable. This took hours to go out and get opinions of every person on the street.
- Added that she can forgive the lack of story poles in this case because of this outreach effort with all of the neighbors.
- Said that the design of this home is lovely and wished the applicant good luck.

Commissioner Kundtz;
- Said that he too is disappointed that no story poles were installed and the refusal by this applicant to accept the staff recommendation to do so.
- Explained that this lack of voluntary compliance with a request for story poles will end up with the City having to make such installations mandatory for everyone.
- Said that he will be supportive of this project design.

Commissioner Hlava:
- Said that she went to the site on Saturday and had no problem determining how big it would be.
- Stated that she likes the design and feels that it fits in this neighborhood.
- Added that she also had no problem visualizing what the house would look like here.

Chair Rodgers:
- Said that story poles are an important issue for her in visible areas.
- Stated her appreciation for the neighbor contact.
- Said this location is an important setting for the Village and that she would like more public input beyond the people in the area.
- Suggested that the City could require story poles if the Planning Commission required it.

- Pointed out that she does not feel that she is as good at visualizing how something would like on a site without benefit of these story poles.
- She asked for direction from staff if this is a reason to deny a request.

City Attorney Jonathan Wittwer pointed out that the mandatory requirement for story poles has not yet been adopted.

Motion: **Upon motion of Commissioner Nagpal, seconded by Commissioner Cappello, the Planning Commission adopted a Resolution granting Design Review Approval (Application #06-243) to construct a new two-story single-family dwelling on property located at 14505 Oak Street, by the following roll call vote:**
AYES: Cappello, Hlava, Hunter, Kundtz, Nagpal and Zhao
NOES: Rodgers
ABSENT: None
ABSTAIN: None

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PUBLIC HEARING - ITEM NO 6

APPLICATION #06-365 (503-69-028) GULDIMANN, 21891 VIA REGINA; - The applicant requests Design Review approval to construct a new second dwelling unit. The dwelling will consist of a basement and an above grade garage. The site is located in the Hillside Residential (HR) zoning district. Design Review approval by the Planning Commission is required pursuant to Saratoga Municipal Code Section 15-45.060. (Shweta Bhatt)

Planner Shweta Bhatt presented the staff report as follows:
- Advised that the applicant is seeking approval for a secondary dwelling unit. Since the square footage on this property with the addition of this unit will exceed 6,000 square feet, it requires Planning Commission review.
- Said that the secondary dwelling unit will include a 1,196 square foot basement and 481 square foot garage. It will have floor to ceiling widows. It will include wood siding, wood windows and wood garage door.
- Said that neighbor templates were received with one neighbor from across the street raising concerns about privacy impacts. As a result, the applicant is proposing to plant 10 trees along the front of the property to provide additional screening.
- Reported that there is a 290-foot distance between this structure and that neighbor's home.
- Said that the required front setback is 30 feet and a 130-foot setback is proposed. The site is densely populated with trees and staff believes that privacy is protected.
- Recommended approval.

Commissioner Hlava asked if this structure is a secondary dwelling unit or a location for a winemaking business.

Planner Shweta Bhatt said she would defer this question to the applicant.

Chair Rodgers opened the Public Hearing for Agenda Item No. 6.

Mr. Adam Rockwood, Project Designer:
- Said that this project was first submitted on May 1st of this year.
- Reported that this is a five-acre plus property in the Hillside Residential Zone.
- Said that this secondary dwelling unit with basement and attached garage incorporates an American-International architectural style.
- Said that one neighbor raised concerns about whether the drainage ditch is a drainage ditch or a creek.
- Assured that this is a local drainage runoff so that no further setbacks are required from this.
- Pointed out that while the minimum setback is 30 feet, they are proposing setting this structure back 130 feet from the property line. It is located 290 feet from the side elevation of the neighbor's house across the street. The neighbors' house is directed 90 degrees from this property. Again the new structure would be facing the side and not the front or rear of the neighbor's home.
- Said that privacy is assured due to the 290-foot distance and the existing evergreen screening. His client will further mitigate concerns with additional landscaping as incorporated into the conditions of approval. A row of five 24-inch box shrubs will be planted that grow up to 15 feet in height as well as five 24-inch box Toyons that grow to 25 foot heights.
- Said that they have worked with their project planner and followed the rules and regulations of the Hillside Residential Zoning District including mitigation of neighbor concerns.
- Thanked the Commission for its time and said he looked forward to their comments.

Commissioner Hunter asked for the name of the first proposed shrub.

Mr. Adam Rockwood said it is Loris Saratoga.

Mr. Til Guldimann, Applicant and Property Owner:
- Said that he is not running a little business with his winemaking.
- Assured that it is simply a hobby that will never make any money not even a tax deduction.
- Stated that winemaking is important and he would like to contribute to that effort.
- Pointed out that his vineyard improves the appearance of the area.

Commissioner Hlava asked about the potential for trucks coming in and out of the property moving vats of wine and the impact that might have on neighbors.

Mr. Til Guldimann said that he has no intention to make a business of winemaking. It will never be profitable. He said he just wants to learn how to get from the grape to the bottle. It will not be sold. They will use half to one-third of their crop and try to make wine.

Commissioner Nagpal asked if this secondary dwelling unit is primarily intended for living space or storage.

Mr. Til Guldimann replied living space with the garage to store his tractor. The underground cellar will store wine.

Chair Rodgers asked for confirmation that this is simply a secondary dwelling unit.

Mr. Adam Rockwood said that it is just a second dwelling unit and that no Conditional Use Permit is required.

Commissioner Nagpal said that it appears there will just be a small winemaking room. She said that the question becomes when does it cross the line from a hobby to a use requiring a Conditional Use Permit. She said that right now it simply sounds like a hobby.

Mr. Adam Rockwood assured that winemaking is purely an auxiliary function of this secondary dwelling unit.

Ms. Jill Fries, daughter of Papken and Claire Der Torossian:

- Said that her parents' main concern is privacy.
- Questioned whether workers would be housed in this secondary dwelling unit.
- Asked why the unit cannot be located elsewhere on this five plus acre property.
- Suggested that the windows be relocated or at least made smaller.
- Advised that her parents do not agree with the design as proposed.
- Said that they do not believe the proposed landscaping will sufficiently screen the privacy impacts.
- Claimed that the Guldimanns put debris into the creek-drainage ditch and her parents are very upset about this.

Commissioner Hunter said that she could not see Ms. Fries' parents house from the proposed location of this secondary dwelling unit. She could not even see the front lawn area at all.

Commissioner Nagpal said that there is very thick screening and the house itself was not that visible, just the top.

Ms. Jill Fries said that from her parent's home you can see the chain link fencing and beyond that it goes uphill.

Commissioner Hunter reiterated that nothing of the Der Torossian home was visible from this site.

Commissioner Cappello said that he too tried to determine the privacy issue and had a hard time. He said that there is a lot of distance as well as screening from foliage. He said while he could make out that a house was there the standard for privacy impacts is unreasonable.

Commissioner Hunter asked if the proposed plants are deciduous.

Mr. Adam Rockwood replied no, they are evergreen.

Commissioner Zhao asked for clarification that the proposed height of this secondary dwelling unit is 20.3 feet.

Planner Shweta Bhatt replied correct.

Ms. Jill Fries said that her parents are asking for a compromise over the floor to ceiling windows. She added that story poles would be helpful and that she was not sure if her parents had ever been given a tour of the site.

Commissioner Cappello said that the site visit was noticed, as is standard protocol.

Commissioner Hunter said that Ms. Fries' parents' concerns were discussed and that a great deal of effort was made to see in the direction of their home.

Ms. Jill Fries asked if it would be possible to see story poles installed.

Commissioner Cappello advised that story poles are already in place and suggested that she make a visit to the site.

Ms. Jill Fries said that she would like to do that.

Mr. Adam Rockwood:
- Assured that issues raised have been mitigated.
- Added that he does not see how to do anything further.
- Reminded that if this unit were to take away privacy from the neighbor it would also take privacy away from his client. It is a two-way street there.
- Said that he feels they have done a good job addressing concerns.

Chair Rodgers closed the Public Hearing for Agenda Item No. 6.

Commissioner Nagpal:
- Said that there are two issues. One is privacy. The other is the level of winemaking on site.
- Said that as far as privacy is concerned, the story poles are up. If they cannot be seen from the neighbors' property, it is likely they will not be able to see this structure once constructed.
- Reminded that the existing landscape screening is very dense.
- Said that the concern over the winemaking is whether it is a business or hobby.
- Opined that she believes that it is just a hobby and the main use for this new structure is as a secondary dwelling unit.
- Said that she is ready to support the staff recommendation.

Commissioner Zhao said that she can make the design review findings to support this project and the staff recommendation.

Commissioner Cappello said he can make all findings. It will be nice to have the tractor parked out of site in the garage. A nice job has been done with this property.

Commissioner Hunter:
- Said that she had vines on her property at one time and nothing is wrong with that.
- Said that she was originally concerned over potential privacy impacts but feels that this secondary dwelling unit will blend in.
- Added that with the additional installation of evergreen landscaping, privacy impacts shouldn't be an issue.
- Said that this is a good design.
- Added that if Code Enforcement issues crop up, the neighbors can contact the Code Enforcement staff.

Commissioner Kundtz said that he can make all findings and assured Ms. Fries that 15-foot trees will indeed provide good screening for her parents' house downhill.

Commissioner Hlava:
- Said that she was on the Planning Commission when Ms. Fries' parents' house was built.
- Agreed that there are no privacy issues here.
- Said that she can make the findings to approve this.
- Stressed the importance of making sure that the applicant understands that if the winemaking becomes a business, it will have to be conducted somewhere else.
- Stated her support for this application.

Chair Rodgers:
- Said that issues such as functions of a winery, Noise Ordinance requirements, requirements for a home-based business, business licensing, Use Permit, etc., are raised.
- Agreed that if complaints come up, they need to be brought to the attention of the City.
- Asked if a 10 percent bonus in square footage was approved for this site.

Planner Shweta Bhatt said that this secondary dwelling unit is not proposed to be deed restricted so the 10 percent bonus does not apply.

Chair Rodgers said that the color board provided is nice and asked if it is included in the conditions of approval.

Commissioner Hunter pointed out that this structure would match the main house so it is not an issue.

Planner Shweta Bhatt said that Condition #1 reads that the construction will be consistent with Exhibit A. The material board is included in the file as part of Exhibit A. However, the Commission could also expressly condition adherence to the color board.

Motion: **Upon motion of Commissioner Cappello, seconded by Commissioner Nagpal, the Planning Commission adopted a Resolution granting Design Review Approval (Application #06-365) to construct a new second dwelling unit on property located at 21891 Via Regina, by the following roll call vote:**
AYES: Cappello, Hlava, Hunter, Kundtz, Nagpal, Rodgers and Zhao
NOES: None
ABSENT: None
ABSTAIN: None

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APPROVAL OF MINUTES – Regular Meeting of October 11, 2006.

Motion: **Upon motion of Commissioner Nagpal, seconded by Commissioner Hlava, the Planning Commission minutes of the regular meeting of October 11, 2006, were adopted with edits to pages 2,6 and 16. (7-0)**

DIRECTOR'S ITEMS

There were no Director's Items.

COMMISSION ITEMS

Update of Council Actions:

Chair Rodgers:
- Advised that at the last Council meeting two items were discussed that had had input from the Planning Commission. One is the permanent recordation of conditions of approval and the other was a review of Administrative Design Review processes.
- Said that Council decided to record conditions of approval, which will become final on November 17, 2006.
- Said that the Administrative Design Review process had required signatures from neighbors. Council agreed that this is not a reasonable requirement but that best efforts must be made to obtain sign off by neighbors.

Director John Livingstone advised that the Administrative Design Review process was simply an advisement from Council. He added that the requirement for the recordation of conditions of approval will have a second reading.

Next Planning Commission Agenda

Chair Rodgers reminded that the next Planning Commission agenda would include the public hearing on the Land Use Element, the Open Space Element and the 11 parcels.

Director John Livingstone said that major noticing for that meeting is going out.

Commissioner Kundtz asked if site visits would occur as well.

Director John Livingstone replied yes.

Commissioner Zhao asked if there are other items on that evening's agenda.

Director John Livingstone replied yes, there are two additional items.

COMMUNICATIONS

There were no Communications Items.

ADJOURNMENT TO NEXT MEETING

Upon motion of Commissioner Nagpal, seconded by Commissioner Cappello, Chair Rodgers adjourned the meeting at 10:15 p.m. to the next Regular Planning Commission meeting of **November 8, 2006**, at 7:00 p.m.

MINUTES PREPARED AND SUBMITTED BY:
Corinne A. Shinn, Minutes Clerk