MINUTES
SARATOGA PLANNING COMMISSION

DATE: Wednesday, September 27, 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.

ROLL CALL

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

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES – Regular Meeting of September 13, 2006.

Motion: Upon motion of Commissioner Nagpal, seconded by Commissioner Hunter, the Planning Commission minutes of the regular meeting of September 13, 2006, were adopted. (7-0)

ORAL COMMUNICATION

Mr. Jeffrey Schwartz, San Marcos Road, Saratoga:

- Said he wanted to discuss the Open Space and Land Use Elements of the General Plan that were the subject of a Study Session by the Commission tonight.
- Reported that the State had asked the City of Saratoga when it planned to update its General Plan in 2000. The City started its efforts in 2004.
- Suggested that there is no pressure from the State and no reason to stampede the City into doing something.
- Asked that a one to two-year process be initiated and that the State be asked to support that time frame.
- Said it is hard to comment on the update materials as there are hundreds of pages and many extensive changes, some may be technical while many others are substantive.
- Opined that there is no technical update and that if policies are replaced with strategies they become ambiguous as to whether they are rules or guidelines.
- Suggested that no two-step process be undertaken. When it is time to submit the updated General Plan to the State it should be one plan.
- Stated that 20 years ago a wonderful job was done on the General Plan. Stated support for going back to the original update process proposal that included neighborhood meetings.

- Restated that this update should be done all at once in a comprehensive basis.

Ms. Wanda Kownacki, Bainter Avenue, Saratoga:
- Identified herself as the Co-Chair of the Land Use Update Committee together with Cynthia Barry.
- Explained that this Update Committee understood that its charge was broad and would include a one-and-a-half to two-year process that included complete rewriting.
- Added that through a variety of events, the City made the decision to produce a technical update instead.
- Explained that the Update Committee felt that it was not fulfilling its role and the members removed themselves from the process. They didn't want to be affiliated with a document that didn't fulfill what it was supposed to do.
- Said that it is very difficult to determine what is technical versus a substantive update.
- Asked if the City could really produce a document that is truly a technical update sufficient to satisfy the State and allow the process to go on to meet the needs of the community through additional public input.
- Reiterated that this is not just a technical document.

Ms. Kathleen Casey:
- Read a statement on behalf of Mr. and Mrs. Willys Peck expressing opposition to a Santana Row-like concept for the Village.
- Proposed that any action on updates to the General Plan be postponed until after the November election.
- Pointed out that only seven minutes was spent in the Study Session and that the group appointed to work on the General Plan Update resigned.
- Said what is proposed is very objectionable.
- Stated that it is important that any consultant involved in the General Plan Update know Saratoga.
- Said that the process should start after January 15, 2007, after the conclusion of the holiday season and should include a local representative group, local consultant and City staff.
- Advised that Measure G states that this update does not have to be complete until 2025.
- Said, "don't do it."

Ms. Denise Goldberg, Scully Avenue, Saratoga:
- Advised that she served on the Interview Committee that selected the General Plan consultant.
- Said she had never heard the term technical update before tonight in relation to the General Plan update.
- Said that a General Plan is a critical document for any city and should be done properly.
- Added that public input is critical.
- Stressed that there is no such thing as a technical update to a General Plan.

Ms. Cynthia Barry, San Marcos Road, Saratoga:
- Said she is the other Co-Chair of the Land Use Update Committee but she wants to speak this evening as a citizen of Saratoga as well as a former Planning Commission member.

- Said that this Planning Commission needs to take the high road on this important issue.
- Encouraged that the right follow through be done.
- Said that when their Update Committee received its direction, it had never heard about zone changes before tonight.
- Said that the Abrams property should be removed from consideration as part of the General Plan Update.
- Reminded that this Abrams property is the largest left in Saratoga. It is not right to handle decisions about it in this way and she urged the Commission not to go along.
- Suggested that the Commission go ahead with a round table discussion that it wants to have and the public should be able to hear that discussion.
- Stressed that transparency in the process is important.
- Asked that the Commission take the time to be educated and particularly to take the Abrams property off the table.
- Said perhaps items in the Update can be determined to have no philosophical impact but rather are just purely technical in nature.
- Reported that Dave Anderson has agendized this for the first meeting after the November election.
- Suggested that 12 area neighborhood meetings be scheduled.
- Asked that the General Plan Update be complete and not just a technical update.

Mr. Walter Kool:
- Stated that he is a 40-year resident.
- Said he enjoyed the recent parade.
- Suggested that the City wait for correct analysis.
- Expressed appreciation for the Planning Commission's efforts.

Ms. Maureen Hill, Aspeci Drive, Saratoga:
- Identified herself as a Principle in a Land Use Planning firm with 25 years of experience including working as a Planning Director.
- Said she wishes to voice her concern over an inadequate and flawed process.
- Stated that a technical update is inconsistent.
- Said that both updates and amendments to the General Plan require public participation.
- Pointed out that a General Plan can be amended up to four times each year. Many cities elect to do amendments just once per year.
- Asked the purpose for revision in the process.
- Explained that most cities form Advisory Task Forces with 20 to 30 citizen participants working with an outside consultant. They put the draft update together. The consulting team makes recommendations and the Committee makes the choices. It is valuable to have input provided by the public.
- Said that this process currently being proposed is the result of a City Council and City Manager that are in resistance of public process.

Mr. Jim Sorden, Shadow Oaks Way, Saratoga:
- Stated that he is stunned that anyone would vote for a "tune up" of the General Plan that includes the rezoning of the biggest chunk of land left in Saratoga.

- Cautioned that the decisions made by this Commission will live with them for the rest of their public lives.

Mr. David Mighdoll:
- Said he wants to speak of a different subject from the previous speakers.
- Stated that Mountain Winery is an important venue for the City of Saratoga and it is important to support it.
- Announced that immediately following his comments he will be meeting with Peter Frampton at the Mountain Winery.
- Said he wanted to talk about the City Council and the fact that Item 3 has been two years in the works and is looming as a deadline. Council is requesting approval from the Planning Commission on Item 3.
- Said that staff has done a wonderful job. The Ordinance is consistent with common practices. The policies are consistent with most other cities. There is no cost issue as it is a staff job. Compliance is not an issue. In summary, to give meaning to the actions of the Planning Commission, conditions of approval should survive time and occupancy.

ORAL COMMUNICATIONS – PLANNING COMMISSION DIRECTION TO STAFF

Commissioner Hunter said that good advice has been given by the public and is appreciated. She suggested that this matter be discussed at the end of the meeting.

City Attorney Jonathan Wittwer said that the Commission cannot make any decisions on the subject of the General Plan Update and must limit its discussion too. The Commission should direct staff to set the item as an agenda item to properly discuss further.

Chair Rodgers asked if this direction should occur now or at the end of the meeting.

City Attorney Jonathan Wittwer replied either.

Chair Rodgers said that there has been lots of discussion and additional study is required.

Commissioner Hlava suggested that the Commission continue its discussion on the General Plan Update now while there are people here who are clearly interested.

Commissioner Cappello explained that the Study Session was to gather information.

Commissioner Nagpal reminded that time ran out.

Commissioner Hlava:
- Said that she has no problem discussing the process, as the Commission needs to give some direction to staff on how to proceed.
- Said she would like to set up a Planning Commission Study Session after the next site visit. This can be a round table Study Session that is not limited to just one hour.
- State that this Study Session can allow the Commission to go over the issues and process with staff as well as with members of the Land Use Update Committee.
- Asked if the Commission is in a position to make a decision on how to proceed.

- Said she is undecided at this time on how best to deal with the General Plan Update and feels that more discussion is required.

Commissioner Hunter explained that the School Board frequently held round table discussions at which only Board Members spoke and the rest just listened.

Commissioner Nagpal:
- Said that there are several elements under consideration and suggested that the Study Session be limited to just two, Land Use and Open Space.
- Suggested that it would be helpful to have staff designate what are philosophical versus technical impacts and take all philosophical items off the table.
- Added that all meetings must be noticed where the public is welcome.

Chair Rodgers said that there are several types of meeting with different types of input but this would be a working meeting of the Planning Commission.

City Attorney Jonathan Wittwer said that per the Brown Act, the public has the right to speak at any meeting. Public comment cannot be precluded.

Chair Rodgers asked if set times for comment could be established.

City Attorney Jonathan Wittwer replied yes. The Brown Act allows reasonable limitations for public input.

Commissioner Nagpal said that a key thing would be to put up on a board what exactly that meeting is expected to accomplish. What is the question that we hope to answer?

Commissioner Hunter said that this is not known at this point.

Commissioner Kundtz said that there is an existing General Plan for which changes must be crafted. The objective is to highlight what are the proposed changes and the rationale for them.

Chair Rodgers said that either smaller meetings or a daylong meeting on a Saturday could be considered.

Commissioner Kundtz said that it would be nice to consider one section at the time.

Commissioner Nagpal said that the General Plan is about public input and technical modifications.

Chair Rodgers suggested that the first meeting could be short to discuss process and scope as well as to schedule additional meetings.

Commissioner Nagpal said that it should establish the flow of what the Commission wants to accomplish.

Commissioner Hunter stated that a longer meeting would be better.

Commissioner Kundtz said that he is simply talking about major logical break points, perhaps sections.

Commissioner Nagpal said that ultimately, they would make a recommendation to Council.

Chair Rodgers reminded that Council has already appointed an Advisory Committee.

City Attorney Jonathan Wittwer agreed that this was the action of the Council.

Commissioner Hlava:
- Suggested a three-hour format allowing a presentation of material by staff, discussion by the Commission and then public input.
- Added that the Commission may have to go to Council if it is not comfortable doing what has been asked.
- Stated that one good serious Study Session is needed first on this update.

Commissioner Nagpal agreed.

Commissioner Cappello:
- Said that direction given to staff this evening is quite good.
- Added that the Commission needs to break into additional meetings and break the subject down into pieces.
- Stated that a General Plan is a very large document with a lot of different things to consider and breaking the subject into smaller pieces make sense.

Commissioner Zhao:
- Said that she is new at this.
- Stated that she would like for staff to identify those that are technical changes versus things with impact on the community, going item by item.
- Asked how many sessions would be needed to accomplish that?

Chair Rodgers:
- Advised that there are some properties with inconsistencies between their General Plan and Zoning designations. Additionally, there is the Abrams property.
- Suggested that those matters be pulled out from the General Plan Update and be handled as General Plan Amendments.

Commissioner Hunter pointed out that some of these are fairly simple such as the Montalvo area. She added that she had a hard time matching the pages with those mentioned in Cynthia Barry's email.

Chair Rodgers said it is important to be on the same page literally.

Director John Livingstone clarified that the Commission has a third draft while the others are looking at first and second drafts. That is the reason that the page numbering does not coincide. He added that the table at the end shows the issues breakdown.

Chair Rodgers said that the Land Use Element is a very wieldy document.

Commissioner Nagpal asked if it is on the website.

Director John Livingstone replied yes, it is located under Community Development Department Draft General Plan Update.

Chair Rodgers asked if she is the only one supporting the idea of pulling the 11 properties and the Abrams property from the General Plan Update process.

Commissioner Hlava said that she would have to look at it first.

City Attorney Jonathan Wittwer stressed that it is important that no specific discussion occurs right now.

Chair Rodgers asked if staff needs further direction.

Director John Livingstone said it is not yet clear.

Chair Rodgers said that the Commission is asking for a publicly noticed hearing to be held after the next site visit for a three-hour session discussing the General Plan in a format that allows public input.

Director John Livingstone said that a three to four-hour Study Session would be scheduled for October 10th following the site visits. He added that there would be a newspaper notice published for this meeting. For Planning Commission meetings a large noticing for each parcel touched, changed or within 500 feet are noticed. He asked if the Commission wants the notice or ad.

Commissioner Hunter suggested that since the reporter from Saratoga News is present perhaps the newspaper could publish meeting information so that noticing may not be necessary.

Director John Livingstone said that staff is willing.

Commissioner Nagpal asked if a mailing list could be started for this process.

Director John Livingstone replied certainly.

Commissioner Zhao asked if a workshop with just staff and the Commission could be done first.

Chair Rodgers explained that any meeting of the Commission is a public meeting.

City Attorney Jonathan Wittwer clarified that the Brown Act requires notice and allowing the public to be there.

Director John Livingstone said that more of a workshop type atmosphere could be accommodated.

City Attorney Jonathan Wittwer said it is fine to go ahead and start a mailing list but cautioned that this list is not the legal noticing process. It is not binding on the City in the event that someone inadvertently gets left off.

Director John Livingstone said that the City goes above and beyond the noticing required. The minimum requirement is a newspaper notice. Staff will do extra noticing.

Commissioner Hunter said that many don't follow ads or even know the significance of a General Plan and Zoning until a change is done that impacts them directly.

Director John Livingstone said it is always a problem that mail from the City is often looked at as recyclable mail.

Chair Rodgers thanked those in the audience for attending.

REPORT OF POSTING AGENDA

Director John Livingstone announced that, pursuant to Government Code 54954.2, the agenda for this meeting was properly posted on September 21, 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 #05-220 (503-25-028) STANLEY/FLANAGAN, 14567 Big Basin Way: The applicant requests approval for a Sign Permit to construct a freestanding multi-tenant identification sign at Plaza Del Roble. The proposed sign will consist of beige brick with rustic dark nameplates inscribed in beige and the center name and address applied in terra cotta. The bricks, dark wood framing, and earth-toned accents and tile will complement the

architectural style and color of the center. The sign is approximately 22 square feet in area and 4 feet in height at the peak and will be situated in the brick planter at the entrance to Plaza Del Roble at 14567 Big Basin Way in the CH-1 zone. (Suzanne Thomas)

Assistant Planner Suzanne Thomas provided the staff report as follows:

- Explained that the applicant is seeking approval for a monument tenant sign for Plaza Del Roble.
- Said that the site has access from Big Basin Way and from the parking area and consists of different levels.
- Stated that there is a problem with visibility for the tenants.
- Reported that there are several tenants in the center and often their customers cannot find their businesses.
- Passed around photographs of the center showing the current planter and portable signs being used on site.

Chair Rodgers advised that Commissioner Hlava has left the dais briefly.

Assistant Planner Suzanne Thomas continued her report:

- Described the proposed monument sign as being four feet high and five-and-a-half feet wide. It will consist of brick pillars and brick veneer. Tiles matching those used on the structure will be incorporated into the sign. Metal appearing nameplates will be used to identify each business.
- Provided a photo simulation of the new sign.
- Reminded that at the site visit questions were raised about the proposed height.
- Explained that the top of the sign would be at a four-foot level.
- Reported that the existing planter would be rebuilt and the landscaping replaced with low creeping vines. The planter is wired for lighting. If lighting is used, it will only be between dusk and 10 p.m.
- Advised that neighbors within 500 feet were noticed and no negative responses were received.
- Informed that the applicant has been cooperative making their sign smaller and reducing the bulk and number of colors.
- Said this proposal is consistent with the guidelines. It will enhance the shopping environment for the area.
- Stated that findings can be made to support this request.
- Recommended that the Commission approve this request for Application #05-220.

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

Mr. James Stanley:

- Said he has been a business owner since 1994.
- Stated that this is a 34-year-old plaza and that 10 years ago the original monument sign went down.
- Said his location is hard for customers to find.
- Advised that the proposed materials for their sign would match the materials of the building. The lighting, landscaping and planter are to be taken care of.

- Showed a brick sample
- Stated his availability to answer questions.

Commissioner Hunter asked about the color of tile.

Mr. James Stanley showed the sample.

Commissioner Hunter asked if it were a red-red. She said she hoped it would not be too red. She said that she thought this building is in desperate need for a sign.

Commissioner Cappello asked about the 13 nameplates. With nine tenants in the plaza currently, he asked if there are vacant tenant spaces.

Mr. James Stanley replied that there are currently two vacant tenant spaces.

Mr. Jim Sorden, Shadow Oaks, Saratoga:
- Questioned the sign area being allowed.
- Said he loved attachment #5.
- Expressed skepticism that 10 yes forms were brought in to the City on the same day by the developer while 200 others did not send one in.
- Suggested that it might be “neat” if only the person signing the form could be the one to bring it in to the City.
- Said the process needs to be fine-tuned a little.

Mr. James Stanley said that this proposal is in keeping with signs in the neighborhood. He advised that he dropped off the approval notices one week and offered to come back the following week to collect them.

Chair Rodgers asked Mr. James Stanley if he left off turning in any negative responses.

Mr. James Stanley assured that he turned every response he received.

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

Commissioner Hunter asked if the process allows a proportionate sign to the site.

Planner Suzanne Thomas said that a multi-tenant sign requires a minimum of five tenants. The maximum allowed sign area is 40 square feet.

Chair Rodgers asked Planner Suzanne Thomas if the noticing was done correctly,

Planner Suzanne Thomas replied that the 500-foot notice was properly done. It included contact information to reach staff and resulted in no calls or comments.

Commissioner Cappello:
- Stated that this is a beautiful sign that is an appropriate size for its location.
- Added that he loves the flexibility for growth in the number of businesses in the center.

- Said it is ludicrous to say the sign is not in proportion for its square footage.
- Said the findings can be made to support this request.

Commissioner Hlava:
- Said she hopes this new sign will be the end for the deli's use of impromptu signs although she can appreciate why they have needed them. This becomes a compliance issue for Code Enforcement.
- Stated that this is an attractive monument sign and she is looking forward to seeing it in place.

Commissioner Hunter said that this sign is great and she is pleased to have it. It looks good.

Commissioner Nagpal said that the sign is completely appropriate. She added that there are businesses there that she did not even know existed. This is good for the Village.

Motion: **Upon motion of Commissioner Hlava, seconded by Commissioner Nagpal, the Planning Commission adopted a Resolution approving a Sign Permit (Application #05-220) to construct a freestanding multi-tenant identification sign at Plaza Del Roble, on property located at 14567 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. 2

APPLICATION 07-049 (386-26-070 & 386-26-071) NORTH CAMPUS, 19848 Prospect Road: The proposed project consists of a General Plan Amendment and Negative Declaration to revert to the previous General Plan designation of Public Facilities from the current General Plan designation of Residential. Development, or change of use, is not proposed at this time. (John Livingstone)

Director John Livingstone presented the staff report as follows:
- Reminded that in 2005, the City proposed to sell the site known as the North Campus and approved a Tentative Subdivision Map to allow nine residential lots. This project required a General Plan Amendment to change the General Plan designation to Residential.
- Reported that a group of concerned citizens started a petition against this proposal that became Measure J. Measure J passed and the City elected to keep the North Campus as City property for public use.
- Explained that tonight the Commission is being asked to reverse the process and return the General Plan designation to Public Facilities.
- Said that the project meets the required findings.
- Recommended that a Resolution be adopted approving the Negative Declaration and recommending the General Plan Amendment.

Commissioner Hlava said that returning the General Plan to Public Facilities is something she has no problem with supporting. She asked staff if the future General Plan changes in the technical update would still include the Public Facilities zoning designation.

Director John Livingstone explained that there would be a hybrid zone. He added that since Measure J was a citywide vote it is important to keep this process for the North Campus on a separate track and move this forward on to Council.

Commissioner Hlava said it does not make sense to her and asked if Measure J requires that the General Plan designation be changed back.

Director John Livingstone said that if the property is not to become a residential subdivision but rather stay City-owned property, the zoning should reflect its actual use.

Commissioner Hlava said it seemed that the three current public facility designations should be merged into one such category. The City should use just one of its allowed General Plan Amendments rather than having to rezone it again later.

Director John Livingstone said that the City typically sees only one General Plan Amendment a year. It is rare.

Commissioner Hunter asked why not rezone to C-F (Community Facilities) instead of P-F (Public Facilities).

Commissioner Nagpal cautioned that at this time it is not yet known what changes there ultimately might be to the zoning classifications.

Commissioner Hunter expressed support for returning the General Plan designation to what it was prior to the change to Residential.

Director John Livingstone reminded that the General Plan Update process could end up taking anywhere between six months and two years time.

Commissioner Nagpal asked if this is the first use of a General Plan Amendment for this calendar year.

Director John Livingstone replied yes.

Commissioner Nagpal pointed out that the year is already into late September.

Director John Livingstone reminded that there were a couple of clean ups initiated by homeowners in November 2005.

Chair Rodgers added that if the three Public Facilities designations end up consolidated through the General Plan Update that action would automatically include this property.

Commissioner Kundtz said that this action could be delayed.

Commissioner Hlava said no. There are people who are concerned about this so it is okay with her to revert to the P-F designation.

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

Ms. Kathleen Casey:

- Stated that the rezoning of the North Campus was done ahead of its time and was a waste of time.
- Reminded that Council had been begged by citizens to not turn this property into residential use as there was overwhelming public support to keep it for public use.
- Said that she would like to see a calendar of all City events that includes all meetings such as Planning Commission, City Council and Recreation.
- Said that when she looks at the City's website she believes it needs change.
- Suggested that the Commission wait to act until the next Council comes along. Don't rush to judgment but rather wait until after the November election. This decision can be delayed.
- Asked that the community be allowed to decide what it wants on the North Campus and wait for the new General Plan.

Commissioner Nagpal asked if Ms. Kathleen Casey does not support returning the site to public facilities use.

Ms. Kathleen Casey said she does support the P-F designation but no changes otherwise.

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

Commissioner Nagpal said she is normally concerned about General Plan Amendments but as this case is simply putting something back to where it started she will support this action.

Motion: **Upon motion of Commissioner Nagpal, seconded by Commissioner Kundtz, the Planning Commission adopted a Resolution recommending Council approve a General Plan Amendment and Negative Declaration to revert to the previous General Plan designation of Public Facilities from the current General Plan designation of Residential for the North Campus, on property located at 19848 Prospect Road, 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 07-087 Citywide: The City of Saratoga is proposing an ordinance that would make project conditions of approval permanent. This would prohibit future uses or modifications to a project design that are inconsistent with prior conditions of approval and require any changes of conditions of approval to be reviewed by the original approving authority. (John Livingstone)

Director John Livingstone presented the staff report as follows:

- Provided background by reporting that in 2004 an Administrative Design Review project was considered. Noticing occurred and neighbors were involved in the process. One issue was raised and a neighbor asked that a barbecue feature be removed from the project. The applicant agreed and it was removed. However, later the applicant pursued that item in an over-the-counter process.
- Stated that as a result, this neighbor complained to Council that the conditions imposed are not seen as permanent and that over time things can be changed to an original approval.
- Reported that Council at that time approved an Urgency Ordinance stating that conditions of approval are permanent.
- Added that in September 2006, staff brought a report back to Council. The Urgency Ordinance had been extended once but can only be in effect a total of two years. At this time, a decision needs to be made as to whether conditions should be considered permanent or not. Three options were presented to Council. One is to mandate that all conditions of approval are permanent. The second is to allow the Planning Commission to impose permanence for conditions on a case-by-case basis. The third option is to allow the Urgency Ordinance to expire.
- Advised that Council directed staff to bring this issue to the Planning Commission. It is being proposed that conditions of approval be recorded with the County so it comes up in the Title Report when property changes hands.
- Said that staff is recommending that the Planning Commission discuss and support one of the two options and forward its recommendation back to Council.

Chair Rodgers asked whether Council is not recommending letting the Urgency Ordinance expire.

Director John Livingstone said that Council gave Options 1 and 2 for consideration.

Commissioner Cappello asked whether, for conditions that have been recorded with the County, the only avenue to get them removed is to go back to the original approving body. If corrected, the amended conditions would then have to be re-recorded.

Director John Livingstone:

- Clarified that this process does not say that conditions cannot be changed. If they must be changed, the applicant goes back to the approving body to get them changed.
- Added that once that body has approved a change, the applicant re-records the new conditions overriding the original ones.

Commissioner Hunter asked if this action is complaint driven. She said it is very strange.

Director John Livingstone:

- Said that when a modest addition is sought, staff checks for any permanent conditions of approval previously imposed on the property and looks at the previous plans.
- Said that long-term enforcement of permanent conditions will be complaint driven. Staff will not go out to ensure compliance of permanent conditions over the years without the generation of a complaint that one permanent condition has not been met.

Commissioner Hunter said if a property is sold there is no way for a new owner to know. If the concerned neighbor moves away who was in place when the condition was imposed, the concern usually goes away too.

Commissioner Nagpal said that she is concerned about far-reaching changes without understanding the basis for those changes. She asked staff if this is a frequent problem or is it the result of just one problem.

Director John Livingstone said he does not hear many complaints and one does not typically see drastic changes to approved projects for the first number of years. Perhaps five to 10 years down the road changes might begin to occur and staff does not generally get feedback that far down the road.

Commissioner Nagpal said that a deed restriction is not required to enforce conditions. Those conditions just have to be looked up. She again asked why this is coming up.

Commissioner Kundtz said that he has heard input from people that support this proposal. He said that it is a movement to add clarification and definition to the existing Ordinance and clears things up for the future.

Chair Rodgers thanked Commissioner Kundtz for reporting the contact he had on this matter for the record. She said that when a Commissioner is contacted about an item, it is important to let the others know what that contact involved.

Commissioner Zhao asked if there are any impacts to homeowners or staff. She added that it seems that recording conditions of approval makes them harder to reverse. She asked the impact of Option 1 and the difference with Option 2.

Chair Rodgers advised that Commissioner Cappello has briefly left the dais.

Director John Livingstone said that the recordation process is required for both Options 1 and 2. Option 1 is that all conditions are permanent. Option 2 allows the Planning Commission to determine on a case-by-case basis, which, if any, conditions need to be called out for permanent status.

Commissioner Nagpal said that some conditions are only important prior to building permit issuance. She asked how hard it would be for staff to identify those conditions that should become permanent.

Director John Livingstone said that there are some typical boilerplate conditions. All arborist or geotechnical requirements should be made permanent.

Chair Rodgers added public health, safety and welfare conditions.

Commissioner Hunter recounted one property owner who was instructed to have just wood chips below an oak tree. Today there are plants there. She said she couldn't see the City becoming involved in small things like that.

Commissioner Hlava said that City of San Jose approach is disturbing to her. They have no single-family design review. However, she said that she is concerned with the idea of doing this recording of permanent conditions and pointed out that many times issues that concerned neighbors before construction are no problem following construction. A lot of times people like it after it is built. The reverse is also true where a neighbor who was supportive of a plan does not like what is actually built.

Chair Rodgers acknowledged Commissioner Cappello's return.

Commissioner Hlava said she is concerned with permanent conditions for single-family without a time limit and cannot envision recording these conditions on the deed.

Chair Rodgers asked staff if setting time limits could be considered.

Director John Livingstone reported that Council briefly brought up time limits. However, the direction to staff was to consider Option 1 or Option 2. Time limits of five to 10 years were brought up.

Commissioner Kundtz said that there is language requiring the return of permanent conditions to the governing body for any changes.

Director John Livingstone replied correct.

Commissioner Nagpal asked if this would be an administrative burden to staff.

Director John Livingstone said that since the Urgency Ordinance has been in place over the last two years, so far new projects constructed are not coming in for changes. He added that staff is looking at a software program to red flag things. This information could be fairly readily available.

Commissioner Hunter asked if it were legal.

City Attorney Jonathan Wittwer replied yes. However, the situation mentioned earlier did not have the prohibition of a barbecue incorporated into the conditions of approval. The neighbors came to an agreement privately and the applicant took his barbecue off the plans. He stressed the importance of conditioning anything that needs to be permanent.

Director John Livingstone agreed saying that the house in question was built according to the approved plans.

City Attorney Jonathan Wittwer said the question could be asked, if the barbecue was not on the site plan was the project actually constructed according to approved plans.

Commissioner Nagpal agreed saying the plans approved did not have the barbecue.

City Attorney Jonathan Wittwer:
- Said that the question becomes what can you add later.
- Explained that there was no clear regulation at that time to say someone could not come back in later to add to the site.
- Added that this recordation of permanent conditions makes it clear.
- Said that any Design Review approvals can only be amended or modified with a new approval by the same body.
- Stated that Council indicated they want to go in that direction.

Commissioner Hunter asked if a house originally painted beige could not later be painted grey without Planning Commission review and approval.

Director John Livingstone replied yes. He said it would depend on which of the two Options is adopted. If all conditions were made permanent, any modification to approved paint color would go back to the original approving body for approval. If the Option to allow case-by-case adoption of permanent conditions is selected, paint color could be designated either as permanent or not.

Commissioner Kundtz said that if staff is the approving body through Administrative Design Review or over-the-counter review, staff would review and allow changes to its imposed conditions.

Commissioner Zhao asked if staff gets to decide which conditions are permanent.

Director John Livingstone said there would be a little bit of trial and error. He said he expects that staff will attempt to recommend which conditions should be made permanent. Staff will get a feeling over time of the Planning Commission's preferences.

Commissioner Hlava asked if a specimen tree on a site plan becomes diseased and has to be removed would the owner have to come in for approval to cut it down.

City Attorney Jonathan Wittwer said an equivalent would have to be replanted.

Commissioner Nagpal asked what if the Commission does not pick one of the Options.

City Attorney Jonathan Wittwer reminded that Commission is simply making a recommendation of its preference to Council.

Chair Rodgers asked if Option 3 could be recommended to Council to let this expire.

City Attorney Jonathan Wittwer replied yes.

Commissioner Hlava said she can understand having some time limit but did not know what would be reasonable, five or 10 years. That way staff could simply go back and check the approval date. If it is less than the time limit, no change is allowed. Having conditions last indefinitely does not make sense to her.

Chair Rodgers agreed that case-by-case time limits might be possible.

Director John Livingstone said that the City Attorney has said that any recommendation can be made to Council.

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

Ms. Kathleen Casey:
- Reminded the Commission of the recent application on Baylor where a two-story was proposed for a single-story neighborhood.
- Said that Option 3 is dangerous.
- Said that this would have to be a complaint driven system.
- Added that changes should be done through the Planning Commission.
- Said that a two-story home in a single-story neighborhood endangers that neighborhood.
- Said that it is a bad system when neighbors have to complain.
- Said that people change things all the time in their homes.
- Expressed the need to honor the neighborhood.
- Said that trees and landscaping cannot be controlled.

Chair Rodgers asked Ms. Kathleen Casey if she is in favor of permanent conditions.

Ms. Kathleen Casey replied that the issue is not thought through and is not enforceable.

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

Commissioner Hunter asked if this has to be tied to the Title Report.

Commissioner Nagpal said that a solution would be come up with but that it sounds like Council would like conditions to be recorded. However, the Commission can recommend the Option it prefers.

Chair Rodgers pointed out that this Commission would make a recommendation based upon a Planning basis and not on a political basis.

Commissioner Cappello:
- Pointed out the number of times the Commission has felt that a condition was important.

- Said that the current Ordinance states that conditions of approval stay in effect indefinitely.
- Added that if the Ordinance is not sufficiently clear and there is some wiggle room left, an applicant comes back after final sign off to change something.
- Said that he sees this Option as putting language in place that he thought was being done all along. If the applicant wants to change an imposed condition of approval, that applicant must come back to the Commission to consider that proposed change.
- Agreed that there are times when conditions don't require permanent status and could have a time limit.
- Said he is open to modification but likes the direction that this is going in since the Ordinance is not clear enough.

Commissioner Nagpal:
- Said that the Commission works hard on Design Review approvals and the corresponding conditions. She said that she was sure that in 95 percent of the cases, those conditions are met.
- Stated that this is an enforcement issue in her mind.
- Added that a deed restriction won't change anything. Most homeowners will not come to the City in order to change the paint color of their home.
- Said she thought this would be an administrative burden.
- Stated that she was not sure what the basis was for the Urgency Ordinance but that she is afraid it may have been based on one case.
- Suggested strengthening what is done over the counter and controlling things on that end.
- Declared that she is completely against deed restrictions.

Chair Rodgers suggested addressing the issue of deed restrictions later when the decision is made on whether to recommend Option 1 or Option 2.

Commissioner Nagpal said that she couldn't imagine anyone coming to the Planning Commission for a change of paint color. She said this has to be reasonable.

Commissioner Cappello countered that if there is a condition of approval for the color of a home it is usually for a good reason. If so, changes to that need to come back to the Commission.

Commissioner Nagpal said that she has seen very few modifications to Design Review that have come before the Commission in the last three years. This could become a time-consuming process that is likely to be costly to the applicant. She said enforcement takes over.

Chair Rodgers asked how to put an enforcement mechanism into this.

Commissioner Hunter said that she likes having paint color restrictions especially on hillside properties.

Commissioner Kundtz:

- Said that he agrees with Commissioner Cappello that this brings clarity and proper language to what the Commission is approving.
- Added that this will also increase the Commission's responsibility for its conditions of approval.
- Questioned why even look at color boards if not to make them a condition of project approval.
- Said he is comfortable with Option 1 but feels that recording the conditions is going too far.
- Recommended Option 1.
- Said that he does not like Option 2 as it leaves the door open for inconsistencies.

Chair Rodgers asked if it might not be a more appropriate thing to do Design Review guideline changes as a better approach?

Commissioner Kundtz said that it is better to identify permanent conditions of approval on a case-by-case basis.

Commissioner Hlava:

- Questioned what if future neighbors agree to a change in conditions.
- Said that this issue sounds like a parent who is trying to control their kids from the grave through their will.
- Said she does not see this as a good idea.
- Suggested that the City has enforcement people to deal with complaints.
- Said she cannot go with either Option 1 or Option 2 but she could go with having all Design Review conditions as permanent for five years outright.
- Said this proposal just doesn't make sense and is impossible, expensive and difficult to enforce. It would have to be made easy to enforce.

Commissioner Hunter pointed out that in the last two years under the Urgency Ordinance there haven't been repercussions.

Director John Livingstone replied that there have been no enforcement issues of which he is aware.

Commissioner Cappello said that the Ordinance as written does not state that conditions of approval are to stay in place. The Urgency Ordinance gave it more teeth.

City Attorney Jonathan Wittwer said that is a fair statement. Design Review is what will be in effect unless an applicant comes back for a modification.

Commissioner Nagpal said that right now conditions of approval that are not followed have enforcement capabilities.

City Attorney Jonathan Wittwer agreed.

Commissioner Nagpal said that it is important to make sure that conditions are enforced well and that they get into the file.

Chair Rodgers agreed that diligence is an issue and everything relevant must get into the file.

Commissioner Nagpal said she could not support either Option 1 or 2 but perhaps a hybrid. She said that approvals already have teeth. The Commission just has to make sure that everything it wants is included in the conditions of approval.

Commissioner Zhao agreed that there is a venue to change and/or remove conditions. She supported a case-by-case basis of defining those conditions that should be made permanent. Said her support is for Option 2.

Chair Rodgers:

- Expressed concern for people who may buy without knowing of existing permanent conditions.
- Recounted her own experience in buying an historic home back east and painting it brown without understanding that it was not a colonial color that matched the era of the home. She admitted that she should have known better but didn't realize her mistake until it was done and she could not afford to repaint it to something more appropriate.
- Said it is important to look at what is reasonable for a new buyer.
- Said that Option 2 is her personal favorite allowing a case-by-case basis, with restraint, based upon health, safety and welfare considerations for those conditions more appropriate to be made permanent.
- Sought a straw poll of the Commissioners based on Option 1 (all conditions permanent), Option 2 (conditions deemed permanent on a case-by-case basis as determined by the approving body), Option 3 (let the Urgency Ordinance expire) and Option 4 being a hybrid that establishes a specific number of years that permanent conditions would stay in effect before expiring.

Commissioner Hlava said she does not like Options 1 or 2. She said the Commission should consider either letting the Urgency Ordinance expire (Option 3) or creating a hybrid that establishes a limited time frame by which conditions are permanent. She stressed that recording conditions should not be a part of that process.

Commissioner Kundtz expressed support for Option 1 without the requirement to record the conditions.

Commissioner Hunter said that she supports Option 2 being judicious about it and with no recording required at all. She reported that she purchased a house in Tahoe that was constructed in the 1920s. The deed read that no Chinese could buy that house and said that she is not comfortable with too many impositions on the deed.

Commissioner Cappello said he could support Option 1 or 2.

Commissioner Zhao said she prefers Option 2 with the condition that this not require recording on the deed.

Commissioner Hlava agreed to no recordation.

Commissioner Nagpal said she couldn't support any of the options especially recording conditions.

Chair Rodgers said that Option 3 is also a consideration, as the straw poll appears to be a three to three tie.

Commissioner Nagpal said she could support Option 2 allowing the Commission to determine permanent conditions on a case-by-case basis. She said she worries about the future and about enforcement.

Commissioner Hlava said if the Options are just 1 and 2 she is not voting for either.

Chair Rodger said it appears to be three for Option 2 and two for Option 1.

Director John Livingstone said it appears that Commissioner Cappello's choice has not been counted.

Commissioner Cappello:

- Said that by his count of the votes expressed, four are in favor of Option 2. He said he prefers Option 1 but is willing to support Option 2 if that is the majority choice.
- Said that he thought the permanence of conditions was already in Code.
- Said he is in favor of recording conditions as a protection to incoming buyers. Recordings appear in the Title Report so there would be no basis for a future buyer not knowing of conditions in place for their property.

Commissioner Zhao said she does not support recording.

City Attorney Jonathan Wittwer said that either Options 1 or 2 could require recordation of the permanent conditions.

Commissioner Hlava reminded that she does not support a requirement for recordation.

Commissioner Kundtz said no to recordation.

Commissioner Nagpal said no to recordation.

Commissioner Zhao said no.

Chair Rodgers also said no recordation. She asked for a motion for Option 2 that allows the Planning Commission to consider conditions for permanent status on a case-by-case basis.

City Attorney Jonathan Wittwer said that some changes to the draft Ordinance would be necessary for Option 2. He ran through three sections (2-A, 2-B and 2-C) that required modification and provided the updated language.

Motion: **Upon motion of Commissioner Cappello, seconded by Commissioner Zhao, the Planning Commission adopted a Resolution recommending that Council adopt an Ordinance that would allow the approving authority (Administrative staff level or Planning Commission) to review conditions of approval on a case-by-case basis for consideration of any that should be made permanent conditions and require any modifications to these permanent conditions of approval to be reviewed by the original approving authority for approval of any change, by the following roll call vote:**
AYES: Cappello, Hunter, Rodgers and Zhao
NOES: Hlava, Kundtz and Nagpal
ABSENT: None
ABSTAIN: None

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PUBLIC HEARING - ITEM NO. 4

APPLICATION 07-088 Citywide: The City of Saratoga is proposing a review of the current Administrative Design Review process. This review will include suggested improvements to the existing administrative procedures and possible improvements to Article 15-45 of the City Code. Some of the ordinance improvements may include but are not limited to requiring all applicants to have story poles, increasing noticing requirements, enhancing neighborhood meeting requirements, requiring new on-site noticing requirements, and revising the design review findings. (John Livingstone)

Director John Livingstone presented the staff report as follows:

- Advised that Council directed staff to prepare a staff report on Administrative Design Review. This report was presented to Council on July 19, 2006.
- Said that at that time, Council appointed an Ad Hoc Committee to review the current Administrative Design Review process and report back. The Ad Hoc did its review and reported back to Council. Council has now referred this matter to the Planning Commission for review and recommendation.
- Said that there are two groups of recommendations. The first are things that can be implemented right away such as changes to the neighbor notification process. A new version has been drafted based upon comments from the Ad Hoc Committee. The second group is changes that will require Code amendments.
- Explained that typically in December or January Council conducts a retreat at which time they look at what Codes need to be updated and creates a work plan.
- Said that any Code that needs amendment would be prioritized and the top priorities would be put into the work plan first.

Chair Rodgers suggested reviewing the proposal section by section.

Commissioner Hlava asked what would happen if a neighbor refuses to sign the notification form. She said she is concerned about the possibility that a neighbor gets a "veto" right by refusing to sign off. She reminded that people have property rights and this possibility makes her nervous.

Director John Livingstone said that Item 1 requires an applicant to submit a plan to be signed by neighbors that shows that they have reviewed the preliminary plan. The initial plan would have to be taken to neighbors within 250 feet. This would go from a more casual process in place now to a more formal process. Item 2 is changing the notification form to indicate that preliminary plans can be changed prior to final approval.

Commissioner Hlava asked what if a signature is refused. Then what?

Director John Livingstone said that this happens fairly commonly. Staff makes sure that the applicant can document that they tried. If a neighbor refuses to cooperate the applicant gives staff a letter explaining the efforts taken and that letter goes to the Planning Commission in the packet.

Commissioner Hunter reminded that sometimes the applicant does not go to their immediate neighbors, as they should.

City Attorney Jonathan Wittwer said that in addition to Director John Livingstone's response, there has to be a process, as one neighbor cannot have veto rights over another. There simply must be some proof provided that an effort was made to obtain this sign off. It is up to the Planning Commission to determine if that effort was satisfactorily proven.

Commissioner Hlava asked if the Code currently requires that an applicant has to go around and talk to their neighbors.

Director John Livingstone explained that it is a policy and not in the Code.

Commissioner Hunter said that during her tenure on the Planning Commission there has been a lot of discussion on this issue. Sometimes the neighbors directly adjacent to an applicant never hear about a pending project next door. She added that most cities encourage neighbor notification.

Commissioner Nagpal asked if this requirement means the applicant must provide an individual set of plans for each neighbor.

Chair Rodgers asked for clarification if the requirement is to provide a set of plans or simply to show the plans.

Commissioner Nagpal said as written the requirement is to provide a set of plans.

Director John Livingstone said that the plan size to be provided to neighbors is not yet specified. Whether plans are to be left for a period of time is to be determined.

Commissioner Hunter asked if one set would suffice.

City Attorney Jonathan Wittwer said that recently when a project denied by the Planning Commission was appealed to Council; someone requested a full size set of plans. The architect refused that request based upon copyright laws. Instead, the Architect provided a reduced 11 x 17 set to review.

Commissioner Hlava said she has a problem with the idea to require providing a set of plans to all nearby neighbors. She reminded that they get lots of notice. However, she added that the notice descriptions don't give a very clear idea of what is happening. She suggested that the applicant be asked to write a one to two-paragraph description and attached it to the neighbor notifications. The current notices seem to be written in legalese.

Commissioner Hunter said that projects should be posted in front of the property.

City Attorney Jonathan Wittwer said that neighbors also have the right to come to City Hall to inspect full size plans.

Chair Rodgers reiterated that full-size plans couldn't be taken because they are copyrighted.

Commissioner Hlava expressed surprised that a standard check off form is not already common practice for the file as is recommended in Item 3.

Director John Livingstone said that staff does go to the site but doesn't currently record that visit in the file. What is proposed is an official note to file. For over-the-counter approvals no site visit is conducted. For all Administrative Design Reviews and Planning Commission Design Reviews site visits are done.

Commissioner Hlava sought clarification that these recommendations are for processing Administrative Design Review.

Director John Livingstone replied yes.

Commissioner Hlava said she is less interested in documenting site visits as she assumes those happen routinely but she does support having a checklist of all that happens in the processing of that application in the file.

Director John Livingstone said that the Administrative Design Review is done almost identically to the Planning Commission process but there is a 250-foot notification compared to 500 foot. The staff report and findings are the same.

Commissioner Hunter said that people have brought up to her that some homes have been approved through an Administrative Design Review that were not compatible.

Chair Rogers turned the meeting over to Commissioner Cappello and left the dais.

Commissioner Hlava said she is not in favor of Administrative Design Review. A Planning Commission member used to be involved years ago, either the Chair or a designee.

Commissioner Cappello suggested sticking to focused questions.

Commissioner Nagpal asked if story poles would be required for just two-stories or for any addition.

Director John Livingstone said the recommendation is for story poles for all Administrative and Planning Commission Design Review applications. Right now, staff asks an applicant to install story poles when they think that story poles are warranted. Generally applicants will if asked.

Commissioner Nagpal asked if improving Design Review findings on compatibility is intending to address beyond what we already have.

Chair Rodgers returned to the dais.

Director John Livingstone said that the improved findings are intended to be more specific.

Commissioner Hunter said she did not understand Item 5 and asked for an example.

Director John Livingstone said it is intended to prevent a home being approved under Administrative Design Review that is not consistent with the Planning Commission. The findings need to be more consistent and specific. They need to be tightened. Right now Item 5 is a very broad statement to see if there is need to revise findings and design review handouts.

Commissioner Cappello asked if the findings could include specific neighborhoods where carports could be prohibited because they are aesthetically not compatible?

Director John Livingstone replied not as specific as neighborhood by neighborhood but to develop more findings to guide applicants and staff. If a crazy design element is proposed that is not consistent, staff has the option to deny Design Review approval and that applicant can appeal to the Planning Commission.

City Attorney Jonathan Wittwer reiterated that Item 5 is stated fairly broadly. When reviewed it could be tightened with language that is in enforceable terms that address things that we've come across.

Chair Rodgers asked if language or pictures would be utilized.

City Attorney Jonathan Wittwer said that that would be left to whoever is doing it. This is a more general discussion tonight.

Commissioner Hunter said she wants to see what comes out of it. She added that requiring a neighborhood meeting in every case would be very difficult.

Director John Livingstone said that staff would run the Administrative Design Review hearings.

Commissioner Hunter said that the City has to have a Planning Commission.

Chair Rodgers reminded that what is being discussed this evening is staff-level Administrative Design Review only.

Director John Livingstone explained that there are currently no public hearings for these Administrative Design Reviews.

Commissioner Hunter asked if it would be hard to do.

Chair Rodgers asked if a subcommittee from the Planning Commission could do these but agreed that this would then no longer be an Administrative Design Review process.

Director John Livingstone said that while a hearing process would allow more of a public hearing, it would be informal and less than a Planning Commission meeting. He explained that staff approves over-the-counter projects. They include additions less than 50 percent, less than 18-foot height and include no site visit by staff. As long as the project meets setbacks there is no real discretion. With a project more than 50 percent and up to 18-feet in height, staff does the review through an Administrative Design Review process as long as it meets all requirements. Everything over 18 feet in height, two-story or more than 6,000 square feet comes to the Planning Commission.

Commissioner Hunter said it might be a good idea to go out and see each site with a Planning Commission member.

Director John Livingstone said that Item 5 suggests having findings that address architectural style compatibility.

Chair Rodgers suggested having Administrative Design Review items on consent for the Planning Commission.

Director John Livingstone said there could be a process by which plans could be available for review by interested Commissioners.

Commissioner Zhao asked what is to be achieved with Item 3. Is it to help the neighbors to learn and understand what the applicant is trying to do or is it to help staff.

Director John Livingstone said that it would replicate the Planning Commission process on a lower level with the Community Development Director or a designee.

Commissioner Zhao said she thought there was a notification form.

Director John Livingstone said that there is no opportunity to meet in a hearing format right now for Administrative Design Review.

Commissioner Cappello said that it is not all or nothing. This is a menu. Tonight the Commission has the opportunity to pick and choose its priorities among the suggested areas of improvement to the Administrative Design Review process. Some of the suggestions are redundant or duplications.

Director John Livingstone agreed saying that these are just rough ideas and concepts. It is a menu that is general and not specific.

Commissioner Hunter suggested prioritizing the options.

Chair Rodgers said after the public hearing.

Commissioner Nagpal asked if this issue is here before the Commission simply based upon one complaint or many over the existing processes.

Director John Livingstone reported that in 2004 there were three Administrative Design Review appeals. In 2005 and 2006 there were one each year.

Commissioner Nagpal asked how many total hearings.

Director John Livingstone replied 46 in 2004.

Commissioner Nagpal said that 1 in 46 is not a bad problem.

Chair Rodgers said that in a way it appears to be using a sledgehammer to kill a mosquito.

Director John Livingstone gave the total number of hearings by year as 59 in 2002; 33 in 2003; 46 in 2004; 35 in 2005 and 23 as of June 2006.

Chair Rodgers asked how long Administrative Design Review hearings would take.

Director John Livingstone said that at this point the Commission needs to select the items that they want to prioritize for the next Work Program. Later each specific Code amendment would come back to the Commission for in-depth comment and recommendation. Feedback on overall topics or ideas is requested. Later noticing and public hearings will be held where actual recommendations are developed.

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

Ms. Maureen Hill:

- Said she is a resident of a predominantly ranch-style neighborhood where pink Mediterranean-style homes have appeared in recent years.
- Added that they were probably approved over the counter.

- Said she is concerned about how neighbors are being informed when major remodels or reconstruction are proposed.
- Suggested the use of posted signs on the subject property that outlines the review process and showing the plans and/or rendering. At least a week should be allowed for neighbors to see what is proposed for their neighborhood.
- Said that noticing by only 250 feet does not help much with larger lot neighborhoods. The whole street can be impacted by an inappropriate design of a house.
- Stated that she is glad that public noticing is being addressed and said she hopes that over-the-counter permits also include public noticing.

Ms. Kathleen Casey:
- Said that lead times are important to discuss and should include between 60 and 90 days.
- Asked that a calendar be prepared that shows all public meetings for the month.
- Stated that two-week noticing is not enough and that use of registered mail would help take care of noticing.
- Questioned the practice of allowing up to 50 percent increase in a house as only an over-the-counter permit.
- Said that check off boxes should be incorporated on the form.
- Said that compatibility and privacy issues must be evaluated.
- Suggested that a proposed front elevation be incorporated on the notice form with a map included.
- Said that materials such as this should also be available on the City's website, including plans.
- Said that all versions of a plan should be rerouted.
- Stressed the importance of setbacks.
- Pointed out that there are different opinions every five to 10 years.
- Reminded that there is a new Council coming and suggested that action be postponed until about January 2007 when more people would be around to make comments.
- Pointed out that only two members of the public are here today looking over the Commission's shoulder.

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

Chair Rodgers asked if one by one review and discussion is okay?

Director John Livingstone:
- Gave a rundown of how other nearby communities handles over-the-counter permits. There is a big spectrum of processes.
- Advised that In Atherton, staff approves all new homes if they comply with Code. Homes only go to the Planning Commission if a Variance is required.
- Said that in Belmont all home additionss larger than 400 square feet are sent to the Planning Commission.
- Stated that in Monte Sereno the Director approves all new structures larger than 120 square feet.

Chair Rodgers clarified that policy recommendations can be immediately implemented by staff following Council and City Manager direction, including having preliminary plans signed by neighbors.

Commissioner Hunter said that she wants to make sure that the most impacted neighbors are directly contacted including the houses on either side and behind.

Commissioner Kundtz agreed.

Commissioner Hlava:

- Said she is not in favor of that requirement as it is an unnecessary burden on the applicant and not a part of noticing requirements.
- Said that she supports the use of a board out front with posted plans and with the use of story poles.
- Said that there are lots of ways to let people know of a pending project.
- Added that she would like to see better project descriptions in the notifications.

Commissioner Cappello agreed with Commissioner Hlava about not requiring an applicant to go around with their plans. He supported Item 4 that requires the posting of a 4 x 8 board. He said distributing the plans personally is too much of a burden. It is easy if there is a good relationship between neighbors, no so easy if there is not.

Commissioner Zhao agreed, saying that problems sometimes can occur with a difficult neighbor.

Commissioner Nagpal said that she is concerned with the fact that hours have been spent evaluating how to improve Administrative Design Review when statistics clearly show that there has been few appeals. The system is not broken. She said that she would vote for things that will improve the system. She said that Item 1 is difficult to implement but she will vote in favor of Item 4.

Commissioner Kundtz agreed with Commissioners Nagpal and Cappello.

Commissioner Hunter said that it is critical to post plans on the property. It is more important than going to the neighbors personally.

Director John Livingstone said there is no resolution on this item just feedback to Council. He said it appears that Item 1 is not supported.

Chair Rodgers said that there are five no votes, hers included, but two Commissioners do support Item 1. She said she is not sure that she likes people having to go door to door.

Commissioner Nagpal said that this is a majority.

Chair Rodgers said that Item 2 requires improvements to the existing neighbor notification form regarding plans being preliminary and subject to change.

All Commissioners said they support Item 2.

Commissioner Hlava said she wants to see a better legal description.

Chair Rodgers suggested modifying Item 2 to improve the project description. The vote was three against (Rodgers/Cappello/Nagpal) and four in support (Zhao/Hunter/Hlava/Kundtz) of the amendment.

Commissioner Nagpal asked how difficult these descriptions would be to change.

Director John Livingston said that a general description is prepared but does not include color or materials.

Chair Rodgers asked the Commission to vote on Item 3 requiring a check-off form that includes a site visit and other required actions. The vote was 5-2 with Cappello and Kundtz voting against.

Chair Rodgers asked about the requirement for story poles being in place for two weeks for all Administrative and Planning Commission Design Review applications.

Commissioner Cappello said he does not support this concept for all projects. There are times when story poles are not required. He is in favor of story poles in the right situations such as hillside properties and two-story homes.

Commissioner Zhao said she agrees they are not necessary in every case.

Commissioner Nagpal said she would like to explore the idea so yes for now.

City Attorney Jonathan Wittwer said it is not productive for Council to have just raw votes. Everyone wants to explore story poles but not for every situation. These are stated very generally. It is important to tell Council what you want.

Commissioner Kundtz said that when the specific items come back the Commission could articulate specifics.

Commissioner Cappello said that giving the Community Development Director the authority to require use of story poles is something he supports exploring. If they become required in every case, he does not support that idea.

Commissioner Hunter said that guidelines are needed on when appropriate to use story poles.

Commissioner Cappello said that there have been times when the Commission wished that story poles had been installed. He reminded that the planning staff recommends them when they feel they are needed but cannot compel an applicant to install story poles. There needs to be something in place that allows staff to require story poles as needed.

Commissioner Zhao said she agrees with that position.

Commissioner Hlava said she is fine with story poles being required for two weeks when required but does not feel they are required with every application. She said she would like to have an Ordinance that requires story poles in certain situations.

Commissioner Kundtz said he agrees and is in favor of forwarding a recommendation to Council that this item come back to the Commission. He said it is most important to use story poles on hillside properties so impacts can be seen. He would like to have the opportunity to get more specific on how this requirement is applied with further study.

Commissioner Hunter said that she does not see the need for story poles every time but does for hillside and small lot development. For large lots, there is no need. She agreed that there have been times when she has wished that story poles had been there but were not. However, she also likes for the story poles to come down. Sometimes they are left in place for months.

Chair Rodgers agreed. She said that she is a proponent of story poles in key areas such as Big Basin Way as well as in the Hillside District, where there are small lots and for second stories. She said she is fine with a two-week period of time but that they are not required in every case. Some flexibility is necessary and language would need to be drafted to get us where we need to be.

Chair Rodgers asked about Item 2 to increase notification distance for Administrative Design Review from 250 to 500 feet.

Commissioner Hunter asked about cost. She said that she would like to see it go to a 500-foot notice. If the board is used in front or story poles are installed, it becomes a non-issue.

Director John Livingstone agreed that story poles also have a noticing impact and everyone knows that something is pending on that site.

Commissioner Hunter said that staying with a 250-foot noticing is okay if the story poles and boards are placed on site.

Commissioner Kundtz said he is good with 250 feet noticing.

Commissioner Hlava said that she supports 500 foot noticing because it will make all noticing consistent.

Commissioner Hunter said she was changing her vote to 500 feet.

Commissioner Cappello said he votes for 500 foot noticing.

Commissioner Zhao said she is okay with 250 feet because 500 foot adds cost. The 250 foot notice will include immediate neighbors who are the most impacted and is therefore sufficient noticing.

Commissioner Hunter said that the City pays for this mailing.

Director John Livingstone said that the cost is passed directly to the applicant. They pay fees on a deposit system. Time and costs for work on their application is transferred to the applicant.

Commissioner Nagpal said she supports 500-foot notices. It is a small thing to do and get the benefit. It is something for the community.

Chair Rodgers agreed with the 500-foot notice that is equivalent to the Planning Commission notices. She agreed that the most effective notice would come from story poles.

Chair Rodgers asked about Item 3 that creates an Administrative DR hearing/neighborhood meeting held by the Community Development Director or his designee.

Commissioner Nagpal said no. This is an administrative process with lots of notification. There is also an appeal process to the Planning Commission for public hearing.

Commissioner Zhao voted no, saying not too much would be gained from it. She trusts staff to do this job and this process would be hard to implement.

Commissioner Cappello voted no.

Commissioner Kundtz voted no.

Commissioner Hlava voted no. It is too hard, too expensive and wasteful of staff time.

Chair Rodgers said that not a lot needs to be done. If a hearing is required, the project can be brought to the Planning Commission.

Chair Rodgers asked for feedback on Item 4 that requires the posting of a 4x8 board in front of a project site describing the project.

All Commissioners expressed support for Item 4.

Chair Rodgers asked for votes on Item 5 that will improve Administrative Design Review findings so that they are more specific to neighborhood compatibility and architectural design.

Commissioner Hunter voted yes.

Commissioner Nagpal voted against, asking, “what are we fixing?” She said that with the improved noticing, issues would come up with the process.

Commissioner Zhao said if the current findings do not include neighborhood compatibility she supports developing such findings.

Commissioner Hlava said she agrees with Commissioner Nagpal and votes against this although it might be worth discussion further and exploring.

Commissioner Kundtz said it might be more helpful with more specifics.

Director John Livingstone agreed that more black and white is always easier.

Commissioner Hlava asked if these findings would apply to the Planning Commission too.

Commissioner Kundtz said he would like to look at that later perhaps in the spring.

Commissioner Cappello voted no but said that it would be worth exploring later.

Chair Rodgers said that the consensus on Item 4 is no, not now but later.

Commissioner Hunter said that this is a big issue that ought to be looked at. She suggests that happens.

Chair Rodgers said that the recommendation to change language to make findings more specific with a lot of neighborhood participation is not an easy one to do.

Director John Livingstone said not more specific but rather looking at the big picture when time permits.

Chair Rodgers:

- Said that the Ad Hoc Committee reviewed the concept that an applicant should disclose if they are a developer or future neighbors.
- Said that the City Attorney has an opinion on this idea.
- Stated that in her opinion it is an important piece of civil rights legislation and it is very important to preserve that.
- Pointed out that circumstances change, people die and/or properties are transferred. If an applicant for some reason has to abandon a property, there is no reason they should have to tell why they are not ending up living in a home that they built.

City Attorney Jonathan Wittwer said that Design Review standards apply no matter who will live in it. Land use issues cannot be decided on the basis of who will live in a house once constructed. He pointed to Item 2 on the policy recommendations that states let people know that designs and/or people can change.

Commissioner Hunter said that there is no way you could know from people whether they plan to live in a house they have had constructed. Once built, it could go on the market. There is no way to know and/or to enforce this.

Commissioner Kundtz said that he would like to be able to enforce that but is also supportive of fair and open housing rights. He said he is sensitive to speculative houses but the City has to live within its design guidelines. He said he is just anti-spec house.

Chair Rodgers agreed that there is lots of antagonism against speculative development. However, the City must simply look at all houses according to its design review standards.

Commissioner Hlava said it doesn't make a difference. Each house must be evaluated by the rules. You don't get an approval just because you are nice and have four kids but rather because you meet the requirements. Property owners have rights to develop. The issue is compliance. There is no reason to even ask, as the issue is irrelevant.

Commissioner Hunter pointed out that speculative building maxes everything out. It does have an effect on what is built that can cause resentment in a neighborhood.

Commissioner Cappello agreed but said that it is up to the Commission to keep to good design regardless of who is building.

Commissioner Zhao said that owners have the right to decide what they want to do with their property and a right to privacy.

Commissioner Nagpal said she agrees that it is not relevant if the owners or a developer are building. Good design review findings are necessary.

Commissioner Hlava said it might be helpful for staff to be able to kick a project up to the Planning Commission if there are compatibility issues. She suggested adding this as Item 7.

Chair Rodgers advised that all agreed.

Director John Livingstone said he could provide a prioritized list to Council based on this evening's discussion.

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DIRECTOR'S ITEMS

There were no Director's Items.

COMMISSION ITEMS

PC Meeting on Night Before Thanksgiving: Commissioner Hunter asked staff if the meeting scheduled for the evening before Thanksgiving will be cancelled.

Following a discussion it was determined that there would not be a quorum of the Commission available to meet the evening before Thanksgiving so Director John Livingstone advised that that meeting would be cancelled.

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 12:05 a.m. to the next Regular Planning Commission meeting of **October 11, 2006**, at 7:00 p.m.

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