

**MINUTES
SARATOGA PLANNING COMMISSION**

DATE: Wednesday, September 13, 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, Associate Planner Lata Vasudevan, Associate Planner Therese Schmidt, Contract Planner Deborah Ungo-McCormick and Assistant City Attorney Jonathan Wittwer

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES – Regular Meeting of August 23, 2006.

Motion: Upon motion of Commissioner Nagpal, seconded by Commissioner Cappello, the Planning Commission minutes of the regular meeting of August 23, 2006, were adopted with corrections to pages 5, 9 and 34. (6-0-1; Commissioner Hlava abstained)

ORAL COMMUNICATION

Mr. David Mighdoll, Ronnie Way:

- Said he was saddened to see an item missing from tonight's agenda.
- Reported that at their last meeting Council requested that the Commission at its next meeting further consider the matter of recording permit requirements.
- Explained that Council gave the Commission direction to report back on one of two available approaches. Council is leaning to all-inclusive.
- Said that there is mandated timing for consideration of this item in order to meet Council's November 20th deadline.

Director John Livingstone clarified that at the last Council meeting, Council directed staff to expedite the return of this item to the Planning Commission. However, there is legally required noticing that must occur prior to an item being placed on the agenda. Therefore, this item has been scheduled for the Planning Commission meeting of September 27th and will still meet all of Council's dates for the October 4th and 18th meetings.

Commissioner Nagpal asked if there was insufficient time to have noticed this item for today's meeting.

Director John Livingstone replied it was impossible.

Commissioner Nagpal said that she watched that Council meeting on television and would be interested in learning how other cities handle permit conditions if possible.

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 7, 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.

PUBLIC HEARING - ITEM NO. 1

APPLICATION #06-367 (503-24-064) – LEE, 14493 Big Basin Way (Saratoga Cleaners):
This item was continued from the August 23, 2006 PC meeting. Request for Design Review Approval to construct the addition of an 879 square foot commercial tenant space at the first floor level, a 620 square foot 3-car garage, and a 1,377 square foot apartment at the second floor level of an existing 2 story structure located in the CH-1 zone. The existing 3,224 square foot structure consists of a service establishment at the street level and two apartment units at the second floor. The 4,277 square foot site is located in Parking District No. 3. (LATA VASUDEVAN)

Associate Planner Lata Vasudevan provided the staff report as follows:

- Reminded that this application was continued from the August 23rd Planning Commission meeting.
- Said that one issue was the proposed number of dwelling units that would have required approval of a Variation of Standards by the Commission. If this Variation of Standards was to be approved, staff had recommended that the two existing dwelling units be deed restricted as low-income units.
- Reported that the applicant has since revised his plan to include just two rental dwelling units so a Variation of Standards is a non-issue at this time.

- Said that the issue was raised about the materials, specifically the doors facing Turkey Trot, the garage and the rear façade.
- Reported that the plans have since been modified to now include wood doors for both the existing and new storefronts.
- Advised that a letter from the project architect was received explaining that the applicant wishes to keep the fire doors as they proposed, metal and painted to match the façade.
- Said that staff also recommended wood carriage-style garage doors. While the applicant has not yet shown this detail on the plans, the letter states that the applicant is willing to comply with this requirement and included an example from a brochure that is made of fiberglass but wood-like in appearance.
- Reported that at the August 23rd hearing, staff recommended that the Planning Commission approve the project with the condition that all doors and garage doors, including the side roll up door, be wooden per approval by the Community Development Director prior to building permit issuance. This requirement was included in the attached resolution.
- Said that staff added a condition of approval requiring that the doors to the trash enclosure be replaced with self-closing or gravity doors.
- Assured that good wood-like materials are available.
- Stated that the resolution can be modified to require that all doors be wood or wood-like material with design specifications to be approved by the Community Development Director.
- Distributed a color material board and a photograph of the proposed paving along the storefronts and eastern façade.
- Reminded that considerable discussion regarding the awnings took place at the last hearing. The applicant is proposing brown canvas awnings.
- Said that the applicant proposes to re-stripe the parking spaces to accommodate access to the proposed three-car garage. Public Works staff has reviewed and approved this proposal and provided conditions. There will be no reduction in the number of spaces provided.
- Stated that in conclusion, the project is in compliance with design criteria and standards and required findings.
- Recommended that the Planning Commission approve the Design Review and Conditional Use Permits with conditions of approval.
- Said that a modified resolution has been provided with technical corrections.
- Said that Condition 9 has been added that requires any new signage to obtain a permit as per Code.
- Stated that a sentence was added to Finding F to read, "*As conditioned, wood or wood-like material used for storefront doors and the rear and garage doors will compliment the historic character of the Village.*"
- Said that one correction should read Article 15.55 and not Section 15.55.030 as originally drafted.
- Said that Condition 18 is modified to add the word "or" between State or Federal Court.
- Stated she was available for questions and that the applicant and architect are in the audience.

Commissioner Cappello asked on which side, in addition to the storefronts, would the pavers be used.

Planner Lata Vasudevan replied between the Chamber of Commerce and the new building.

Commissioner Zhao asked what kind of retail use is proposed for this new retail space.

Planner Lata Vasudevan said that per the applicant it is not yet been decided.

Commissioner Hlava asked where the landscaping plan is located.

Commissioner Cappello said it was the last page of the plans.

Commissioner Hlava said that the plan shows pavers but the walkway reads exposed aggregate.

Planner Lata Vasudevan said that it is correct as shown on the landscape plan.

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

Mr. Warren Heid, Project Architect, 14630 Big Basin Way, Saratoga:

- Pointed out that he had submitted a letter to Planner Lata Vasudevan this afternoon to help to shorten the meeting by answering a few questions.
- Said that the pavers will be used as shown, with exposed aggregate slab from the gate back.
- Said that he searched all over to find a local company that carries carriage house doors.
- Distributed a brochure that shows doors that are made of fiberglass but look like carriage house doors.
- Explained that they don't make them out of wood because they are too heavy.
- Said that fiberglass would be painted in tie in with the building in appearance and have all the bells and whistles to look just like a carriage house door in design. It is satisfactory to meet the City's requirements.
- Admitted that he finds this to be a better appearing door than the panel garage door that had originally been proposed.
- Said he would like to re-address the issue of gates for the trash enclosure.
- Reminded that the trash enclosure was built when the parking districts came in. They all look the same, with wooden slats in chain link fencing. None of the others are self-closing.
- Explained that two other trash enclosures on private property installed by the owners of the property are wood.
- Said that since this enclosure was installed as part of a parking district, he'd like the Planning Commission to re-consider whether or not these really should be changed.
- Said he was available for questions and thanked the Commissioners for their consideration.

Commissioner Hlava asked about the fire door facing Third Street. She said that she thought that the original requirement was that all doors be wood. Will the fire door be wood?

Mr. Warren Heid replied no, it would be metal that is painted to match. He pointed out that this is a boiler room and there has to be a protective door as a fire door. He said that he does not know of any wood doors that are fire doors.

Commissioner Hlava said that is what she thought too.

Mr. Warren Heid said that the building would be very neutral with the colors matching with the limestone.

Commissioner Hlava said it seems reasonable that this needs to be a metal door. She asked if the resolution would need to be changed to reflect that fact.

Planner Lata Vasudevan said that the resolution says that all doors should be wood so the Commission will need to modify it to allow the fire door to be metal.

Commissioner Nagpal asked it was possible to have a wood-like door that still meets fire requirements.

Director John Livingstone said that this detail could be left subject to the approval of the Community Development Director. He offered to research for something of a higher quality than a standard metal fire door.

Ms. Kathleen Casey, Springer Road:

- Stated that the Cleaners have been in Saratoga for quite a while.
- Reported that this building was sent before the Heritage Preservation Commission to review it as historic.
- Pointed out that there is a valuable garden area that is to become an apartment.
- Stated that the backside of the building is just as important as the front side.
- Opined that this property has been important to Saratoga for a long time.
- Stated that apartments are not needed in the downtown area and this proposal results in a loss of open space and will result in there being no green area left.
- Said that she has not reviewed Mr. Warren Heid's design very closely.
- Suggested that the back be reviewed and that it be made as beautiful as the front of the building.
- Reiterated her belief that apartments are not as important as commercial space and that it is important to not building apartments downtown.

Mr. William Heid reminded that the only part of the building that is historic is the limestone walls to the east and west. He advised that he was on the Heritage Commission when this building was considered and it was only considered because of the limestone. He said that the shape of the building is not historic. The County approved the building before the City was incorporated and they were able to provide this very boxy building. This project was originally approved about five years ago but because of delays the project approval expired.

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

Chair Rodgers pointed out that there are two aspects to this application tonight the Design Review and the Conditional Use Permit. She said that she would like the Commission to deal with the Design Review first, followed by the Use Permit.

Commissioner Cappello:

- Stated that he likes the design and changes made to it since the last meeting.
- Said that exposing the limestone walls will add to the aesthetics of the Village and make it an even more charming place than it is today.
- Agreed with Mr. William Heid that the real historic aspect of this building is its limestone walls that are covered up with paint right now. That is really a crime. Sandblasting to expose the limestone walls is great.
- Said that he also likes the rear garage door selected that will help with the aesthetics in the parking lot area. The rear of the building is a very important aspect as is the front.
- Stated that he would like to see the side fire door that faces Turkey Trot Lane be changed to something that is more aesthetic and more appealing to the design. If something could be identified that is fire safe and still add to the appeal that would be great.
- Said that he would leave it up to staff, working with the applicant, to select that door.
- Reiterated that he does like this design and is in favor of the project as proposed.

Commissioner Kundtz:

- Admitted that he likes the fact that a Variation of Standards is no longer required with the elimination of the third dwelling unit.
- Said that he likes the design and the solution for the back.
- Stated that he is less inclined to think that a wood-like door is necessary for the fire door. A metal door can be painted to blend in more with the exposed limestone rather than trying to find a wood-like door that may stick out and not blend as well. From an aesthetic standpoint, the painting of a metal fire door is acceptable.
- Said that the front door should be wood if possible, wood-like if not.
- Added that the use of a wood-like door for the trash enclosure might be an enhancement to the project.

Commissioner Hunter:

- Said that she feels this is an historic building as it is from 1884 or thereabouts.
- Stated that this is a marvelous building that somebody ruined in the 1950's or 1960's.
- Added that she is delighted to have it go back to the way it should be. It will look so much better.
- Said that she is a little concerned with the concept of a wooden door for the shops.
- Explained that when a customer leaves the Cleaners with their arms full, it might be too heavy pulling a wood door open, especially for some seniors.
- Said she trusts staff to pick something that is very tasteful and good-looking but not necessarily heavy.
- Said that a metal door on the side can blend in with the wall. There is no need to draw the eye to that door. However, the back door should be good looking. There are wonderful products that can be selected. She said that she does not mind if they are wood-like.
- Reminded that two apartments above are there now.

- Said that the Village gardeners had a dream about what they could do with that open space. Unfortunately, those dreams don't always come true.
- Said it would have been lovely as a park but it's not going to happen and she understands that the owner wants to develop his property.
- Stated that the Village gardeners will remove their birdhouse and move on.
- Expressed her disappointment that no one from the Village saw the proposed plans even though an email was sent out asking people to go over to the cleaners to look at them. Three people let her know that they had gone but there were no plans evident.
- Stated her hope that in the future we all work together in the Village. When somebody is changing and doing some work we all need to come together and reach agreement instead of shock.
- Said that she thinks that people are generally happier if they are included in the process. Citizens should get the chance to see what is happening.

Commissioner Hlava:

- Expressed her regret at missing the last meeting.
- Said that she is disappointed to see the three dwelling units reduced back to two and that she would have liked to have seen at least one low-income unit.
- Reminded that affordable housing is a major issue for Saratoga as there are so few places available for firemen, teachers, etc., who cannot afford the kinds of prices we all have experienced. She added that she is both sad and sorry about that.
- Said there is some consolation that one of the two dwelling units will be 1,300 square feet and might be at a reasonable rent.
- Stated that as far as design issues, she is okay with fiberglass wood-like doors and the painted metal fire door.
- Added that she shares Commissioner Hunter's concern about the use of heavy wood doors in the front retail spaces.
- Pointed out that the doors there now are not really attractive. The metal and glass look is pretty old-fashioned.
- Suggested leaving it up to staff to come up with something that looks good but maybe not a solid wood door.
- Said that she is nervous about a self-closing trash enclosure gate. While it might be lovely for the residents, it may become a real issue for the driver collecting trash. On one hand, it might look better with something other than slats in chain link but on the other hand the other enclosures will look bad.
- Said that a nice job was done with the pavers and landscaping that will provide some greenery.

Commissioner Zhao:

- Said that she likes the fiberglass wood-like door.
- Reminded that at the last meeting she was not in favor of a wood door in front of the Cleaners and thinks that a fiberglass door will be a good choice but she will leave that to the owner and staff to decide.
- Said that she would like to see wood-like doors for the trash enclosure as well.
- Stated that in general she is okay with this design and this project will be nice for Downtown Saratoga.

Chair Rodgers asked Commissioner Zhao for her impressions on the door facing Turkey Trot Drive.

Commissioner Zhao said she would leave that to the applicant to work out with staff. Wood-like would be best.

Commissioner Nagpal:

- Said that there are lots of composite materials available.
- Stated that at the end of the day she would like to see wood or wood-like doors and leave the decision to the satisfaction of the Community Development Director.
- Said she does not want to see a metal fire door but rather wood or wood-like door and leave the rest to the discretion of the Community Development Director.
- Said that the front and carriage doors look great.
- Said that she would also leave the decision on the trash enclosure materials to the discretion of staff.
- Suggested adding the options of wood or wood-like doors to the Resolution.

Chair Rodgers:

- Said this is now a much nicer application.
- Thanked the applicant for taking the time to come back to the Commission.
- Said that she likes the carriage house door concept and would add wood or wood-like to the Resolution.
- Stated that she had not thought about the weight of the wood door for seniors but presumes that working with staff that issue can be researched so we don't have the problem with doors being too heavy.
- Said that as far as the trash enclosure, it is as important that the back of the building look as good as it can. She said that she would like the trash enclosure to be solid rather than slats with chain link and with a self-closing mechanism. If that becomes a problem, staff can take that into consideration.

Director John Livingstone said that staff is recommending a self-closing door. This is a gravity door so that if it is left open, they will gradually close on their own.

Commissioner Nagpal asked if these doors are not spring loaded.

Director John Livingstone assured that they slowly close.

Commissioner Nagpal said that this is similar to the door used between a house and garage that closes slowly.

Director John Livingstone said the operation is a matter of simple gravity.

Chair Rodgers said she could support this for the trash enclosure, saying that it would be nice to have something that is not left hanging open. She asked the Commissioners for their comments on the Use Permit aspect of this proposal.

Commissioner Hunter said that it is a shame there are no affordable units gained here but the Commission has to defer to the owner. She said that this project is fine as far as she is concerned.

Commissioner Cappello:

- Said he is glad not to have to deal with a Variance of Standards tonight.
- Expressed appreciation for the changes that have been made to the project.
- Agreed that it would have been nice to have a deed-restricted low-income unit in there but that's not the project before the Commission.
- Said he loves this project and would like to see it go forward. It is an asset to the Village and this Conditional Use Permit is acceptable to him.

Commissioner Hlava sought clarification that in the CH Zone, the applicant will be able to put in any type of retail use. However, if an office use were proposed, a Use Permit would be required. Tonight, the Use Permit approves retail uses in this new commercial space.

Director John Livingstone said that's correct. General retail uses are permitted uses. It is just a straight business license and no discretionary review is required.

Chair Rodgers:

- Said she also wished there could have been low-income housing here in the Village as it would have been a good addition.
- Stated that she is also happy that the Commission does not have to do a Variation of Standards because she thinks that might well have set a precedent.
- Said that having two dwelling units without a Variation of Standards is important and perhaps more important than having the low-income housing although such housing units are needed in the area.
- Stated that this is going to be a good addition to the community and she can't wait to see those limestone walls exposed.

Motion: Upon motion of Commissioner Hlava, seconded by Commissioner Nagpal, the Planning Commission adopted a Resolution approving Design Review and granting a Conditional Use Permit for Application #06-367 to construct a 879 square foot first floor tenant space, a 620 square foot three-car garage and a 1,377 square foot apartment on the second floor of an on property located at 14493 Big Basin Way, with the added requirement for wood or wood-like doors and garage doors with the design specifics to be approved by the Community Development Director, and allowing a metal door for Door #2 (boiler room) to be painted to match the limestone and modifying Finding F, by the following roll call vote:

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

PUBLIC HEARING - ITEM NO. 2

APPLICATION #06-206 (403-28-069) NGLIEM, 18344 Baylor Avenue: *This item was continued from the August 23, 2006 PC meeting* - The applicant requests Design Review Approval to remodel the first floor with an approximately 321 square-foot addition and construct a second-story addition consisting of approximately 753 square-feet. The total floor area of the proposed residence will be approximately 2,974 square- feet. The maximum height of the proposed residence will not be higher than 26-feet. The net lot size is 7,840 square-feet and the site is zoned R-1-10,000. (THERESE SCHMIDT)

Associate Planner Therese Schmidt presented the staff report as follows:

- Advised that this item was continued from the August 23rd Planning Commission meeting to allow the applicant to re-design the project to meet Municipal Code requirements.
- Explained that the applicant met with staff and the architect, has re-designed the proposal and submitted the proposal to the neighbors to receive additional comments.
- Reported that staff has just received two additional comments that were not included in the packet. Both are in support of this application.
- Informed that one neighbor is requesting denial of the application based on it being a two-story home.
- Said that design changes have been made.
- Clarified that the proposed driveway is not a wraparound. What was assumed to be a wraparound driveway area is actually walkway area.
- Stated that the project meets Code requirements.
- Explained that the re-design includes adding windows to soften the right elevation so you don't see a massive stucco side when driving down Devon.
- Added that the material has been changed from stucco to wood siding and the paint colors have been changed to match the predominate colors in this neighborhood.
- Distributed a color board depicting a mossy green paint color.
- Said that staff is recommending that a second color be used, perhaps an almond shade, for the garage and trim.
- Explained that originally, the house was only stucco and would have been the only stucco house on Baylor and would have stuck out. Now it blends.
- Said that a false hip roof to the front has been added to give the illusion of the second story being set back. The 753 square foot second story has architectural details to soften the mass and bulk. The addition of hip roofs over some windows of the second floor helps give the appearance of dormers and softens the façade.
- Reported that staff looked at this design carefully because this is a predominately single-story neighborhood. However, there is no single-story overlay and the Municipal Code allows for two-story homes to a maximum height of 26 feet.
- Said that the applicant has designed his home at 21 feet and most single-story homes are 18 feet tall. Staff did not find it unreasonably large for a two-story home.
- Explained that staff took lot widths into consideration. They range between 67 and 70 feet. This parcel is 70 feet wide. In many other neighborhoods, widths are just 50 feet.

- Said that this proposal is not unreasonable and does not interfere with views and/or privacy.
- Said that the applicant meets setbacks, is setting the second story in and is using architectural features to soften the appearance of bulk and mass.
- Recommended approval and reported that this project is Categorically Exempt under CEQA. No geotechnical clearance is required and no trees are proposed for removal.
- Suggested one addition to the conditions of approval under Community Development Department, adding Section D to Condition 3 (Trees) to read, *“To protect the ordinance-sized Elm tree, located near the front property line, from damage during construction, a five-foot high chain link fence mounted on blocks shall be installed prior to issuance of building permits. Said fence shall be removed prior to issuance of occupancy permits.”*
- Recommended approval.

Commissioner Nagpal asked if the additional paint color for trim is included in the draft resolution.

Planner Therese Schmidt replied yes, it is included in Condition #2.

Commissioner Nagpal asked if this lot is larger in size than others in the immediate area.

Planner Therese Schmidt replied that it is the same size as other lots in the neighborhood that are 70 feet in width. It is an approximately 7,900 square foot lot.

Commissioner Nagpal clarified that this lot is not larger than any other lot.

Planner Therese Schmidt replied no it is not but it is one of the larger lots on the street. There are several lots at the 67-foot width.

Commissioner Nagpal said that perhaps if the lot were larger, it could be a mitigating factor. She pointed to Plan Sheet A3.2 that still shows stucco in the arch located in front.

Planner Therese Schmidt said that only the arch in front of the pillars is stucco in order to give definition to the home for the entry. The pillars are wood. This offers additional architectural relief.

Commissioner Nagpal asked if stone had been considered for this arch feature.

Planner Therese Schmidt replied that there wasn't any discussion of stone to this point.

Commissioner Nagpal mentioned the vinyl roll up garage door and asked if there was any discussion regarding providing more character to this feature because this is a front facing garage?

Planner Therese Schmidt replied yes, there was. She explained that since the last Planning Commission and through interaction with staff, the aluminum roll up garage door with windows was seen as rather busy and staff asked the applicant to tone it down. What is now proposed

is more of a carriage door appearance without actually being a carriage door because of the architectural integrity of this neighborhood. Staff wants to see the garage door blend in.

Commissioner Nagpal asked if any community meeting was held since the last Planning Commission meeting since so many people had shown up at the last Planning Commission meeting with issues regarding the proposed design.

Planner Therese Schmidt replied that she did not believe there was an actual community meeting. She reminded that from the point of the last meeting there was the three-day holiday so there was difficulty for the applicant to get a hold of all of his neighbors. She added that at least one neighbor did come in and review the plans and one called.

Commissioner Hunter:

- Said she is concerned about this lack of a community meeting since this was a continuance due in part to the number of neighbors who showed up at the last meeting and spoke about this house and most said that they had never been approached by the applicant.
- Stated her concern when people are not going to their next door neighbors but are going to neighbors down the street and on the next street. People who are directly being impacted should be included in the process.
- Said that it appears that not a lot of consideration is being given to that fact.

Planner Therese Schmidt explained that the neighbor behind was notified and did respond negatively about this proposal.

Commissioner Hunter asked if only one letter was received.

Planner Therese Schmidt clarified that only one new letter since the last meeting.

Commissioner Hunter said that she did not get the rest in her packet.

Planner Therese Schmidt reminded that this was part of the original packet and generally items from one packet are not repeated in the continuance packet.

Commissioner Cappello pointed out that since the design has changed the concerns previously raised might not even be the same.

Commissioner Hunter said that's true.

Chair Rodgers advised that she has three speaker slips for people wishing to speak to this item, including some from Baylor.

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

Ms. Sue Tu, Applicant, Baylor Avenue:

- Said that when they moved into this neighborhood they were not aware that they could not build a two-story home.

- Said that plans to do so are one reason why they paid what they did for their home. It offers a big lot for which they paid a lot. Their child plays in the backyard.
- Stated that they need a two-story to accommodate their growing family.
- Assured that their home has been designed to meet Code. They have followed the rules and exhausted their savings. They also have worked on this proposal for 14 months.

Commissioner Nagpal explained that at the last meeting the issue of community involvement was a big concern. She asked what outreach was made to discuss this project with the neighbors.

Mr. Hien Ngliem, Applicant, Baylor Avenue:

- Said that after the last meeting they tried to approach neighbors but most were out of town for the holiday.
- Advised that they did meet with a few and most were supportive.

Commissioner Nagpal asked how many neighbors were approached.

Mr. Hien Ngliem said that they left information with five neighbors and three responded. They also told their architect to reduce the project and it is now only four feet higher than the rear neighbor's house at 21 feet versus 17 for a one-story. It looks more like a one-and-a-half story house.

Commissioner Nagpal asked the difference between the front elevation heights of the existing versus proposed home.

Mr. Hien Ngliem said the existing home is 17 feet.

Commissioner Nagpal said that the difference in height is only four feet.

Mr. Richard Schultz, Baylor Avenue:

- Said that he lives across the street and next door to the oldest two-story home in the neighborhood. There are no privacy issues from it as they can't oversee his yard.
- Described the difference between a 21 foot high two-story and a 17 foot high single story home. A one-story home has no windows overlooking neighbors. A two-story home does.
- Reported that he was never contacted for either the first or revised set of plans. He has never seen the neighborhood notification templates.
- Said he would like to see this applicant get the additional living space they need.

Commissioner Nagpal asked Mr. Richard Schultz if his main concern is privacy.

Mr. Richard Schultz said that privacy doesn't affect him directly but he is concerned for his neighbors' privacy as well as setting a precedent for two-story homes in the neighborhood.

Commissioner Nagpal asked Mr. Richard Schultz if he has any questions or comments about the design.

Mr. Richard Schultz said his concern is the windows looking into neighboring houses.

Ms. Patti Ploshay, Baylor Avenue:

- Reminded that the neighbors expressed concerns at the last meeting.
- Explained that she is the next-door neighbor and was never contacted or shown the plans. No attempt was made.
- Said this proposal is personal to her, her husband and their three kids. Their privacy, views and sunshine are impacted.
- Said that what she loves most about this neighborhood are the neighbors.
- Reported that one neighbor put in a basement to gain extra living space.
- Stated that she would not have bought her house 18 years ago if she had known that a two-story home would be built next door to her.
- Said that it is not fair to build a two-story at the disadvantage of others.

Commissioner Hlava asked if Ms. Ploshay is the garage side neighbor.

Ms. Patty Ploshay replied yes.

Commissioner Nagpal asked if it is the side with three windows that will overlook her property.

Ms. Patti Ploshay replied correct.

Mr. Joe Ploshay, Baylor Avenue:

- Reported that he was at the last meeting as well.
- Reminded that the Planning Commission was pretty adamant about the applicant reaching out to the neighbors.
- Explained that his wife is home and accessible.
- Stated that there are privacy issues but he is willing to work with the applicant.
- Said that he did a straw poll of the neighborhood, which consists of 200 homes. Of the 46 that remodeled, all were single-story.
- Stated that this neighborhood was designed as a single-story neighborhood that offers privacy.
- Said losing this privacy would be a detriment to the value of his home.

Commissioner Nagpal asked if the impact of windows overlooking his property is a privacy concern.

Mr. Joe Ploshay said that the back window also overlooks his backyard. He explained that the original plans had no windows on his side. The plans shown to a neighbor did have windows on his side.

Commissioner Nagpal said that the standard is unreasonable views into living spaces such as bedrooms.

Mr. Joe Ploshay said that from his backyard he has views of trees and birds. Sunlight falls on his citrus trees and garden. The morning sun would be blocked with this addition of a second story.

Ms. Doris Chen, Purdue Drive:

- Said that she lives behind this property.
- Reported that the applicant did not leave a notification form or attempt to contact her directly.
- Added that her family was home during the holiday weekend.
- Advised that the rear of her home is all windows.
- Said that she is new in the neighborhood having moved in just two months ago.
- Said that one bedroom is also at the back of the house with French windows. With a two-story overlooking, she would have to keep her curtains closed.
- Added that her kitchen is also at the back.
- Stated that intrusion on her privacy is her concern.

Commissioner Cappello asked where Ms. Chen's home is located.

Ms. Doris Chen replied directly behind this site.

Commissioner Nagpal asked if one of the proposed windows would face her bedroom directly.

Ms. Doris Chen replied yes.

Commissioner Nagpal asked Ms. Chen if her home is two-story.

Ms. Doris Chen replied it is a one-story.

Chair Rodgers asked Ms. Chen how far the back of her house is from the property line.

Ms. Doris Chen replied she did not know.

Commissioner Nagpal asked if planted trees would address her privacy concerns.

Ms. Doris Chen said she did not know if trees would be high enough to screen views from a second floor into her house. She reported that she used to live in a two-story home and she could see into the yard and windows of her neighbors.

Mr. John Cuickshank, Baylor Avenue:

- Said that his house is located three houses to the right from the subject property.
- Advised that he has just remodeled and spoke to all surrounding neighbors about his plans and kept them informed.

- Added that he was working outside during the Labor Day holiday weekend laying sod.
- Said that this applicant never contacted him.
- Reported that he moved in 9 years ago and his deed stated that no two-story homes were allowed.
- Said that he bought into this area. He wants to live in Saratoga and not in Cupertino where people are building monster homes.

Commissioner Nagpal asked Mr. Cuickshank if he has any suggestions to improve the design.

Mr. John Cuickshank, Baylor Avenue:

- Said he just saw the drawings tonight when he came to this meeting.
- Stated that it is possible to build a 2,800 square foot single-story home on these large lots.
- Advised that he has a pool in his backyard and if his rear neighbor were to put a second story on his home, the privacy when using the pool would be lost.
- Reported that this applicant took out a large tree and replaced it with a small one.
- Said these neighbors are not being neighborly and they should talk with their neighbors.

Ms. Gail Poffenberger, Baylor Avenue:

- Said her home is located two doors to the right of the subject property.
- Advised that she was at the last meeting and has the same position today that she did then. She still opposes this project.
- Recounted that this development was constructed with 200 homes using four different floor plans. Most have a large expanse of back wall with windows overlooking the rear yards.
- Explained that she has 19 feet of windows out of the 50-foot width of her home.
- Said that a two-story is not just looking into a yard but also infringes on the privacy of the home.
- Added that this remodel, with windows on all four sides, will be looking into all neighbors' homes and would set a precedent.
- Said that planting trees at the back fence is a fine suggestion but that is where the power lines are located. Palms recently had to be removed. Therefore the power lines are an issue for any trees planted along the back.

Mr. Hien Ngliem, Applicant, Baylor Avenue:

- Said that the house next door to the right would have no windows exposing his house. There will be windows eight feet off the floor that will only offer sky view.
- Said he is willing to put in obscured window or stained glass.
- Stated that his son plays in the rear yard and he wants to preserve that space.
- Pointed out that there is a 35-foot distance from the window to the fence and probably another 50 from the fence to his rear neighbor's house.
- Said he had to the city planner and was given a booklet on designing a two-story home.

Commissioner Hunter pointed out that of 46 remodels in this neighborhood only four were two-story additions. She asked Mr. Hien Ngliem why is he not considering a single-story addition.

Mr. Hien Ngliem said he wants additional space for his growing family.

Commissioner Hunter said that with an 8,000 square foot lot there is room for a single-story home to accommodate his growing family.

Mr. Hien Ngliem said that to go with a single-story and have a design that is workable, he would have to demolish the existing home and rebuild. That is not within his budget.

Commissioner Hunter asked if there is no possibility for a one-story versus two-story addition with his budget.

Mr. Hien Ngliem said that he would like an office to work at home in the evening. They also want a master bedroom suite downstairs to accommodate visits from their parents.

Commissioner Nagpal asked Mr. Hien Ngliem if he is proposing no clear glass for the windows along the right elevation.

Mr. Hien Ngliem replied yes. He said he actually prefers this as this side of the house is facing west and obscuring the windows will help make the room less hot.

Commissioner Hunter pointed out that Mr. Hien Ngliem did not attend the last meeting.

Commissioner Nagpal asked if it had been communicated to Mr. Hien Ngliem how important community involvement was to this Commission.

Mr. Hien Ngliem replied yes. He reminded that even before he had gone around and chatted with his neighbors. Some had their minds made up against him. Others said the project was fine and would add character to the neighborhood.

Commissioner Nagpal asked about the most impacted next-door neighbor.

Mr. Hien Ngliem said he had spoken to that neighbor. He needed a window to break up that wall but assured that he is not interested in looking into his neighbor's backyard.

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

Commissioner Hunter:

- Pointed out that this is the second project this evening with neighbors being inadequately notified by an applicant.
- Said that she is not asking neighbors street to street being personally contacted but it is most important to talk to all adjacent neighbors.
- Said that the applicant is new to a neighborhood with neighbors who have been here for 15 to 20 years.

- Reminded that this is predominately a one-story neighborhood and the applicant needs to work with the neighbors.
- Stated that there are other options available. This is a large lot and an addition can go back in a single-story format. She is not aware of a big price difference with that option.
- Reiterated that the applicant needs to make the effort to communicate and negotiate with the neighbors who have been here a much longer time.
- Stressed that part of being a neighbor is working together to reach agreement.
- Stated that she will not support this application as a two-story can be done in a better degree.
- Suggested that the applicant go back and work with the neighbors.

Commissioner Kundtz:

- Likened this situation to the saying, "surgery was a success but the patient died."
- Said that the elements of the findings have been met.
- Stated that Saratoga is all about community.
- Cautioned that he does not subscribe to the belief that neighbors get to decide the type of home another neighbor gets to have.
- Said that his concerns would be met if it were clear that the applicant had adequately attempted to involve his neighbors but there is no evidence of such meetings.
- Suggested that the large number of neighbors protesting his plan should have sent a much stronger message to this applicant.
- Said he has no objection to a story-and-a-half option.
- Said that he cannot support this request due to a sense of community.

Commissioner Cappello:

- Said that he is of a different opinion.
- Said that it is good practice and the neighborly thing to do to work with neighbors. The applicant has to live among his neighbors.
- Stated that from a findings standpoint this project can be supported. The building height is only going to be four feet higher than a single-story home.
- Said that the applicant has done a reasonable job making windows smaller. He is willing to use obscured glass windows to avoid views into his neighbors' yards.
- Pointed out that this Commission has approved many projects more unreasonable than this one and he sees no reason to deny this one.
- Stated his support for staff's recommendation.

Chair Rodgers asked Commissioner Cappello to address community compatibility.

Commissioner Cappello:

- Said that this is a neighborhood in transition. While there are only four two-story homes right now, more and more homes are going to remodel.
- Said it would be outstanding if this were a single-story addition but nothing in the Code prevents a two-story home.
- Said he has no issue.

Commissioner Hunter said she does not remember a project where less effort was made to talk with neighbors. That lack of talk is a problem.

Commissioner Cappello:

- Said that talking to neighbors is a nice practice and the Planning Commission can promote that concept but the lack of doing so is not a basis for denial of an application from his standpoint.
- Reminded that the Commission can't deny based on that fact. The neighbors were notified per the Community Development Department notification and were welcome to come to the City to review plans in advance of the meeting. Additionally, this is their forum for commenting on those plans.
- Reiterated that there is nothing in the findings that indicates the requirement to have those discussions with the neighbors although it is a good practice and something the Commission should promote but he cannot deny this project based just on that.

Commissioner Zhao:

- Said she has sympathy for the applicant's situation. She understands that they have worked hard to try to achieve the American dream to build their dream house.
- Stated that at the last meeting the Planning Commission had strongly suggested that the applicant work with their neighbors and the community, since this is predominately a single-story neighborhood.
- Said that she respects a homeowner's rights and would like to see this applicant building a house to accommodate their needs but she also has a concern with the findings including interference with views and privacy, especially for the neighbor to the right.
- Said that she cannot make the necessary findings for compatibility with bulk and height and therefore cannot support this application.
- Stated that she cannot make Findings A and E.

Commissioner Hlava:

- Said that this project is very difficult for all of us.
- Recounted that she was on Council when this area was annexed into Saratoga.
- Stated that it was anticipated that there would be issues in the future with the fact that the area was originally developed with standards that were not typical with the rest of Saratoga. This kind of application is exactly what that is.
- Said that she missed the last meeting but read the minutes and report from that meeting.
- Suggested that it is hard to be the first to do something. In the future, there are going to be a lot of these types of issues in this area.
- Stated that she is a little concern about the gentleman's mention of CC&R's. She said that she did not know that document's impacts. Is it possible that a deed restriction is there that impacts this? Does it overrule what the City does? What's the rule on that?

City Attorney Jonathan Wittwer said that CC&R's are purely private civil matters and members of the community can decide if they want to enforce their CC&R's through the courts. The City does not enforce CC&R's nor does it apply them.

Commissioner Nagpal asked if staff knows whether there is a deed restriction on this property.

Planner Therese Schmidt said that she read the title report and did not see a deed restriction prohibiting a second story. So it may be in the CC&R's, which is a separate and private civil issue.

Commissioner Nagpal said that she believed that one speaker this evening said this restriction is included in the deed.

Commissioner Cappello cautioned that the man was talking about his own home and deed and not this subject home. He said that it surprised him to hear that restriction was included in a deed as he had never known a deed to include such a detail.

Chair Rodgers pointed out that quite often the CC&R's are part of the package when people sign off at closing to purchase their home but it may not be a part of the deed but rather a separate document.

Commissioner Hlava:

- Said that she can make the findings.
- Said that a 21-foot height is not unreasonable and does not interfere with views or privacy nor does she think it is incompatible in bulk or height.
- Said that since she can make the findings she feels that she needs to vote in favor.
- Stated that she frankly wished that was not the case but it seems to her that it is the reason the City makes these kinds of rules.
- Reminded that there are other second-story homes including one across the street from this one. It is reasonable that this owner would believe that a second story was allowed when he bought this home and that he would also be able to have one.
- Said that they have gone a long way in terms of this design to try and minimize the impacts that a two-story would have in the neighborhood.
- Reiterated that she can make the findings and would support the staff recommendation.

Commissioner Nagpal:

- Stated that she kept wishing, as each Commissioner spoke, that the applicant would rush to the microphone and ask for a continuance so that he would have the opportunity to work with his neighbors.
- Said that it is the community involvement issue that really, really, really has her depressed.
- Said that the applicant still has that opportunity because the best project would be the project that comes from some kind of compromise since the applicant will be living there.
- Stated that this is what she is struggling with and that is why she is focused so much on asking questions that relate to privacy and unreasonable interference with views and privacy.

- Said that based on the information the Commission has been provided by public testimony this evening, there were a lot of people who talked about not wanting a second-story. However, there is no requirement in the City right now and Code allows second-story homes. This is just one of the first new second-story additions in this neighborhood.
- Reminded that this proposed home is just 21 feet high, more like a one-and-a-half story and that the applicant has worked a lot on his design. Unfortunately, the applicant was selective on his approach with neighbors.
- Stated that bottom line, she can make Finding A. She can find for compatibility but would want changes in design with the stucco in front and with the garage door being more of a carriage style.
- Said she would still like for the applicant to ask for a continuance as it appears to be a rushed application. It would be a lot better to reach a compromise that all can live with.
- Said she offers a reluctant and by-the-book type of support.

Chair Rodgers:

- Admitted that she understands the concerns raised by Commissioners Hunger, Kundtz and Nagpal regarding the involvement of neighbors but Code does not currently require that.
- Added that there is a pendulum swing that goes back and forth between requiring neighbor consultation versus property rights and allowing people to build what they want. The Commission is trying to strike a balance and will take a look at this issue in two weeks when it takes a look at noticing requirements.
- Said that for now, she is looking at Design Review findings and it seems that it is a very close issue. It is a stretch to say it meets requirements but if it goes just a little bit over the line, she thinks that she is going to say that she requires that there be a little bit more room here. Instead of just saying that the views and privacy, bulk and height issues are just met, especially when this is the first two-story in a neighborhood, then the applicant has to go just a little bit further to make sure it is excellent design and perhaps look at a transitional house as being a story-and-a-half off the back of the house where there is a greater distance between the windows of one house to the one behind when separated by two yards.
- Stated that although there is technically no requirement that houses in this neighborhood continue to be single-story, when you are the first one to go to a second story there is a requirement to really solidly meet all of the requirements of the Design Review findings.
- Said she cannot make the findings at this point in time.
- Advised that it appears to be a 4 to 3 vote for denial at this point.

City Attorney Jonathan Wittwer asked for clarification as to which findings are not considered met. He reminded of the possibility for a continuance.

Commissioner Hunter said that she has problems with excessive bulk. The house is not compatible with bulk and height. There are views and privacy impacts. She cannot make Findings A, D and E.

City Attorney Jonathan Wittwer suggested referring this back to staff to allow them to draft new findings for the next meeting for adoption. The applicant can appeal in the meantime if he so chooses.

Commissioner Nagpal suggested that the applicant be consulted on his preference between a continuance or a vote for denial this evening.

Mr. Hien Ngliem said that since the last meeting with the planner, he did not have a lot of time to go around the neighborhood. He wants to go back now to see exactly what changes are needed to make everyone happy.

Director John Livingstone said the option is a continuance to a date uncertain to allow as much time as necessary. When the project is ready, the neighbors would be re-noticed for the next available hearing.

Mr. Hien Ngliem said he prefers that option as he needs time to brainstorm as to what modifications can be made to make everyone happy. He cautioned that it is very hard to get everyone happy at the same time and he is not sure how he can make all of his neighbors happy. It is hard enough to make everyone within a family happy.

Chair Rodgers:

- Said that the Commission does not ask him to make all his neighbors happy.
- Added that what he is hearing from the Commission is that when you are the first house to be going up with a second story, it is perhaps more important that you talk with your neighbors because they are the people who you are going to have to live with when this home is completed.
- Stated that the Commission is going to be looking for a good design that is perhaps transitional rather than a stark two-story.
- Pointed out that the applicant is hearing this from a fair number of the Commissioners this evening. This should be consistent with what the neighborhood expects for the future.
- Suggested that Mr. Hien Ngliem work further with the project planner.

City Attorney Jonathan Wittwer advised that the appropriate motion would be to continue this item to a date uncertain to allow redesign.

Motion: Upon motion of Commissioner Nagpal, seconded by Commissioner Hlava, the Planning Commission CONTINUED to a date uncertain consideration of Application #06-206 for a two-story addition to an existing residence at 18344 Baylor Avenue to allow for redesign and neighbor input, by the following roll call vote:

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

PUBLIC HEARING - ITEM NO. 3

APPLICATION #07-061 (393-43-042) RODRIGUEZ, 13664 Camino Rico: - The applicant requests a Modification to Design Review Approval granted March 8, 2006. The initial approval granted demolition of 32% of the residential structure's exterior walls; however, during demolition extensive termite and weather damage was found resulting in full demolition of the structure. The approved design as well as the approved floor area of 2,785 square-feet, including the garage, will not be modified. The maximum height of the proposed residence will be not higher than 22-feet. The net lot size is 10,003 square-feet and the site is zoned R-1-10,000. (THERESE SCHMIDT)

Associate Planner Therese Schmidt presented the staff report as follows:

- Advised that the applicant is seeking approval of a Modification to Design Review Approval.
- Explained that the applicant received approval to demolish approximately 32 percent of the existing structure's exterior walls and add a small addition of approximately 200 square feet. However, during the demolition process, the contractor discovered termite damage and extensive wood rot that resulted in the entire demolition of the home.
- Said that this is back before the Commission in a public forum to give the neighbors the opportunity to understand that it is going to be essentially a brand new house and not just a small addition.
- Reported that the project floor plans and exterior façade will be exactly the same. The applicant is not requesting any modification or changes to the actual floor plan or to the exterior building materials and/or height.
- Added that this is more an opportunity to bring this back to the Commission to let the Commissioners know what happened in the field and to give the Commission the opportunity to look at it as a new structure. The Commission could require additional modifications to the approval at this time but that is not what the applicant is requesting. In fact, the applicant has signed an indemnification agreement with the understanding that the Commission could make changes but they have gone ahead and are continuing construction out of fear of the rainy season that is going to be upon us shortly.
- Recommended approval of this modification.
- Stated that the applicant is available to answer any questions.

Commissioner Kundtz asked if the arch above the garage is an actual window or just an ornament.

Planner Therese Schmidt said that it is just an ornament and no window is proposed. It is an architectural feature.

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

Mr. Lupe Rodriguez, Applicant, Camino Rico:

- Said he is the property owner.
- Added that staff has reported everything that needs to be said.

- Said that damage was found and it was felt that it would be an inferior house to retain that damaged wood. For the safety of his family, it was decided to take the wood out and replace it with new wood.

Commissioner Cappello asked Mr. Lupe Rodriguez if he has discussed his situation with his neighbors.

Mr. Lupe Rodriguez replied yes, each and every one of them and none had a negative reaction.

City Attorney Jonathan Wittwer advised the Chair to invite any members of the public to make comments.

There were no parties present wishing to speak.

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

Commissioner Hunter said that she is pleased that the problem has been worked out and since exactly the same house will be reconstructed as was there before, which the Commission approved, this is fine with her. All findings can be made.

Motion: Upon motion of Commissioner Nagpal, seconded by Commissioner Hunter, the Planning Commission adopted a Resolution granting a Modification (Application #07-061) to a Design Review Approval allowing for full instead of partial demolition (due to termite damage and wood rot) and reconstruction of a residence on a property located at 13665 Camino Rico, by the following roll call vote:

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

Chair Rodgers called for a brief break at approximately 9:43 p.m.

Chair Rodgers reconvened the meeting.

PUBLIC HEARING - ITEM NO. 4

APPLICATION #06-017 (397-27-030) MORRISON, 14234 Saratoga-Sunnyvale Road: The applicant requests Design Review/Tentative Map approval for the construction of twenty two-story town home units. All town home units are three-bedroom units with attached two-car garages. Some of the units include basements. The maximum height of the buildings will be 30 ft. The net lot size is approximately 2.08 acres (90,515 square feet) and the maximum building coverage is 39.3% of the site. The site is zoned RM-3000. A Mitigated Negative Declaration is being considered for this project (DEBORAH UNGO McCORMICK)

Contract Planner Deborah Ungo-McCormick presented the staff report as follows:

- Advised that the applicant is seeking Design Review and Tentative Map approval for a 20-unit town home development. Each town home would have three bedrooms and two-car garage and some would have basements. The maximum coverage is 39.3 percent of net site. Maximum building height is 30 feet. The zoning is RM-3000.
- Explained that an Initial Study was prepared for this project. On the basis of the Initial Study, a Mitigated Negative Declaration was prepared and a public review period began on July 7th through August 7, 2006. Comments were received and responses to comments are included in the packets together with copies of the Initial Study and Mitigated Negative Declaration. Two agencies responded, the Santa Clara Valley Water District and West Valley Sanitation.
- Reported that today at 4 p.m., comments on the Mitigated Negative Declaration were received from tenants at Brookside Apartments. Staff has not yet had the time to review these comments. They are requesting a 30-day continuance to respond to these concerns.
- Advised that a Mitigation Monitoring Plan has also been prepared, which is also included in the packets.
- Informed that the environmental determination is part of the project and before the project itself can be approved the Mitigated Negative Declaration needs to be approved. That's why it is mentioned first.
- Gave specifics in terms of the project. The site is a 6.08 net acre parcel that is currently developed with a 20-unit apartment complex that was constructed in about 1962. It includes three one-story buildings and one two-story building, a swimming pool and carports. The two-story building is located adjacent to Saratoga Creek.
- Explained that access to the site is from Saratoga-Sunnyvale Road and provided through the Neale's Hollow Center driveway that also serves as primary access for multi-family residential developments to the east of the site, a town home and apartment development.
- Provided a history of the site. It consists of approximately 44-year-old buildings. It is not listed in the Historic Resources Inventory. Prior to development with the apartments, the property was used for agricultural purposes (orchards). The apartments were developed in the typical style of the 1960's using wood frame construction and stucco exterior with asphalt roofs. The buildings themselves present no evidence of historic significance. The applicant reports that the landscaping on site was installed in the late 1960's, early 1970's, including the clustering of redwood trees in the middle of the site and most of the oak trees on the site.
- Reported that the Community Development Director made the determination that the site did not warrant further historical evaluation.
- Advised that a letter was submitted to the Heritage Preservation Commission last month requesting that it be reconsidered for historic value. The Heritage Preservation Commission placed in on their oral communications agenda yesterday. The considered it and decided not to place it on the agenda for further consideration thereby concurring with the conclusion of the Community Development Director.
- Advised that the original proposal was for 25 town home units at a density of approximately 12.1 dwelling units per gross acre. The RM District allows up to 14 units per gross acre.

- Reminded that a Study Session on this project took place on December 14, 2005. This application was originally submitted in July 2005 and has been in process for a little over a year. The purpose of the Study Session was to provide input to the applicant on the proposed project. Notices were mailed to property owners within 500 feet of the project site. Study Sessions do not require neighbor notification but the City does as a common practice.
- Stated that at the time of the Study Session, the town homes were proposed as three-bedroom units with six different layouts ranging in floor area from 2,400 to 3,100 square feet. Basements were proposed on some of the units. The parking ratio for the original proposal was 2.5 spaces per unit, which included two spaces in a garage per unit and the remaining 8 spaces as guest parking. This met the minimum standard.
- Said that two neighbors attended the Study Session and their concerns generally related to the parking and circulation issues.
- Advised that the Planning Commission provided input and their concern was primarily density of the project, removal of trees and inadequate amount of guest parking. There was also some direction to evaluate the potential for direct vehicular connection to Saratoga-Sunnyvale Road as opposed to continuing access through Neale's Hollow.
- Reported that the applicant has revised the project and came down to 20 three-bedroom town home units with basements. The density is now closer to 10 units per gross acre and they are now in blocks of two, three or four units per building. Before they were larger and more modular building blocks. The height remains at 30 feet, which is allowed in the RM District. The proposed architectural style is Craftsman. The existing drive is retained and they have added a loop system to provide access to all units, which was also part of the original proposal. Changes have been made. They include the fact that all units have two-car garages and one has a three-car garage. They now all have a driveway where before they were directly on the curb with no driveway apron. That provides two additional parking spaces per unit. In addition to that, the guest parking is now 14 spaces where before it was eight.
- Explained that 95 trees were identified in the original report. They are proposing to remove 45 trees, seven of which are oak trees. Forty-five (45) are to be retained or relocated on site. The cluster of redwood trees will be retained. Most trees along the periphery of the site are going to be retained. Three or four trees are being removed on the northeastern side of the property. Other trees being removed are non-oaks but some are large.
- Stated that the project conforms to the RM District requirements. That district does not have a maximum impervious coverage restriction but it does have a maximum building coverage and this project conforms. The reason for this is that in an RM District you will have driveways as a way to provide access. If you start reducing that ability you won't be able to get very much access to the site.
- Reported that common open space is not really required in the RM District. This project is providing 18,142 square feet of common open space or 907 square feet per unit and this is exclusive of setbacks. Of that, 13,753 square feet is located in the central common area and 4,569 square feet is in pathways and other areas throughout the project.
- Said that there is about 150 square feet in average of private open space per unit. This provision of private patio areas is another change from the original proposal. The units in the center of the site have their private space facing the common area and they are provided with low 42-inch high walls that provide privacy while also opening the area up.

Those units fronting Saratoga-Sunnyvale Road will have patios that will be located far below grade.

- Announced that the project will also provide a direct pedestrian connection to Saratoga-Sunnyvale Road that will be ADA compliant. A wall is proposed with landscaping to replace an existing wire fence located along Saratoga-Sunnyvale Road. Some illustrations of this proposed wall were provided to the Commission and demonstrates how much of the buildings will be visible from Saratoga-Sunnyvale Road.
- Stated that the architectural style is Craftsman.
- Explained that traffic circulation will come from a new two-way road to a private loop. Access to all units will be from the private loop and a small traffic circle will be located at the entrance.
- Stated that in response to the concerns raised at the Study Session, staff referred this project to its peer review consultants, Fehr & Peers, to look at the potential for having a second point of access direct to Saratoga-Sunnyvale Road. They just basically looked at what the potential is for a secondary access along Saratoga-Sunnyvale Road. The conclusion they reached was that the existing driveway adequately serves the proposed volume of traffic.
- Agreed that there will be more cars because these will be larger units but it still falls within the threshold of acceptable levels. A new driveway would introduce another point of conflict along Saratoga-Sunnyvale Road, which is an arterial road that is already designed to serve high traffic. Part of the concern is the point where this project would potentially have a direct connection, the southwestern most point. It was determined that drivers would have to make u-turns at the office complex to enter and exit the site. In general, Fehr & Peers would not recommend a second point of access. They did have some site-specific requirements or recommendations for fire access. Fehr & Peers recommended that a direct pedestrian connection be constructed from the site to Saratoga-Sunnyvale Road and that is now included in the project.
- Said that the Fehr & Peers report, from January 2006, included a recommendation that the guest parking spaces all be standard in size rather than compact. Since that time, the applicant has increased parking per unit to include two more spaces per unit and 14 guest spaces with no more than 25 percent of those being compact.
- Discussed the removal of trees. Reminded that 45 are to be removed. The 37 trees located within the public right-of-way and along the adjacent property will be protected. The City arborist recommends that any oak trees that are removed be replaced with a combination of 36 and 48-inch box oak trees and that other replacement trees should be 24-inch box containers. The central tree will be a 72-inch box. Bonding for the trees is required.
- Reminded that this project is located adjacent to Saratoga Creek. A study was done and a structural setback was identified that needs to be complied with and mitigations are required for anything that encroaches on this setback. Currently the project does not encroach. One area will need to be worked on in the creek to upgrade a current outlet to the creek. This is all being reviewed by SCVWD and is being designed in accordance with their requirements including plant materials.
- Said that the wall proposed along Saratoga-Sunnyvale Road frontage is four-feet high when viewed from the road. It will require final approval from the Public Works Department including landscaping in front to help soften the look of the wall. The applicant

is also required to replace an existing walk from the bridge all the way out to Walnut Avenue.

- Said that this project is compatible with the adjacent properties. One letter was received from a resident at Victor Place where the concern was raised regarding privacy as it relates to his backyard that will be nearest to the most northwestern unit of this development. The distance is 27 feet and the minimum required is 25 feet. That lot is actually at a higher grade.
- Stated that staff feels this project has been designed to minimize privacy impacts. The landscaping along that corner will be retained.
- Said that neighbor notification was sent to owners within 500 feet. Two letters in response were received. One was from the Homeowners Association for the Executive Town Homes Association of Saratoga (east of the site) raising concern regarding parking and traffic.
- Reported that geotechnical clearance was required and obtained.
- Advised that visibility from Saratoga-Sunnyvale Road has been addressed through design. What will be seen from Saratoga-Sunnyvale Road is approximately 13 to 15 feet of the upper story because of the grade and a depressed site.
- Stated that staff has made the Design Review and Tentative Map findings and prepared draft resolutions for both the Design Review and Tentative Map applications. One minor modification is recommended by staff for the Tentative Map resolution requiring that CC&R's be recorded with the final map since the homeowners' association will maintain the wall along Saratoga-Sunnyvale Road.
- Recommended approval of the Design Review, Tentative Map and Mitigated Negative Declaration. The Mitigated Negative Declaration should be approved first, followed by the Tentative Map and the Design Review Approval.

Commissioner Kundtz asked where the pillars for mailboxes would be placed.

Planner Deborah Ungo-McCormick replied at the entrance next to guest parking. However, the applicant is working with the Post Office for an alternative location.

Commissioner Nagpal asked to whom questions about the Mitigated Negative Declaration should be directed. Is it the applicant?

Planner Deborah Ungo-McCormick advised that staff and consultants prepared this Mitigated Negative Declaration.

Commissioner Nagpal asked if the biological study was limited to the riparian corridor or did they also look for any other species of concern in that area.

Planner Deborah Ungo-McCormick said the study was of the area and existing conditions. This is not a riparian corridor of the highest quality.

Commissioner Nagpal repeated her question as to whether the biological study was specifically directed to the riparian corridor. She said that her question is whether the consultant did a biotic study to establish that there are no endangered species that we ought to be concerned about. She said that she did not believe that they did.

Planner Deborah Ungo-McCormick said that she did not think they did. Typically, they will identify that in their study if there is something.

Commissioner Nagpal said that she has a few more questions like this but maybe it will be best to direct them to the applicant. She asked if a copy of Phase I of the Site Assessment was part of the packet.

Planner Deborah Ungo-McCormick said she has a copy available but it was so thick it was not made a part of the Commission packets.

Commissioner Nagpal asked if the finding made was that there were no recognized environmental conditions that they were concerned about. Were there no concerns about the previous agricultural use of the site or any pesticide background?

Planner Deborah Ungo-McCormick replied no. She reminded that the use of the site has been residential for more than 40 years. She said that there might be a required Phase II report.

Commissioner Nagpal asked if there are any recommendations for asbestos and lead based paint surveys during demolition of the existing buildings.

Planner Deborah Ungo-McCormick replied yes and that mitigation is included in the Resolution.

Commissioner Nagpal said that she did not see that in the Mitigation Monitoring Plan.

Planner Deborah Ungo-McCormick said that she would have to pull the actual report, as what the Commission has is just a summary.

Commissioner Nagpal asked if there was any kind of initial archeological review.

Planner Deborah Ungo-McCormick replied no. She said that there is a condition of approval for any project along a creek that states that should something happen during construction where some sort of artifact is uncovered, construction has to stop and an archeological study done.

Commissioner Nagpal asked if the traffic consultant is here tonight.

Planner Deborah Ungo-McCormick said that Fehr & Peers was the City's consultant. She said that she could answer questions about that study.

Commissioner Nagpal sought clarification that the report was prepared for the City and not for the applicant.

Planner Deborah Ungo-McCormick replied correct. The applicant had submitted a traffic assessment. The City asked Fehr & Peers to do its own independent assessment of the traffic for the site. The conclusions provided are from Fehr & Peers.

Commissioner Nagpal said that due to the fact that there are 20 apartment units and 20 town home units, Fehr & Peers is finding that the same number of trips will be generated despite the fact that the square footage of the new units will be significantly larger.

Planner Deborah Ungo-McCormick said that traffic engineers use model calculations. This is the standard way of doing transportation studies.

Commissioner Nagpal said she has difficulty believing that there will be no difference in daily vehicle trips and that she would like to review the raw data prepared by the traffic consultant. She questioned the amount of common open space at 18,000 square feet.

Planner Deborah Ungo-McCormick said that this is a total excluding setbacks but including walkways.

Commissioner Nagpal asked if the writers of the September 13th dated memorandum responding to the environmental report had provided any input prior to September 13th.

Planner Deborah Ungo-McCormick said that they are tenants of Brookline Glen Apartments. Another tenant at Brookside also was the one who sent the letter to the HPC requesting further historical evaluation.

Commissioner Nagpal asked about hydrology and water quality and if there are operating wells on this property.

Planner Deborah Ungo-McCormick replied that there has been nothing indicating that from the Water District. She added that because of the proximity to Saratoga Creek, this project would undergo extensive review and scrutiny by the Water District. Anything that goes on in this creek will also go through Fish & Wildlife and the Army Corps of Engineers.

Commissioner Nagpal pointed out that this project would include digging down into a basement level with a creek so close by. She said that groundwater levels are bound to be about 10 feet and so a pumping system might be needed to manage water in these basements.

Commissioner Hlava asked if the concerns raised in the communication received today regarding the displacement of a substantial number of people with the replacement of apartments by town homes means that the Commission cannot pass the Mitigated Negative Declaration.

Planner Deborah Ungo-McCormick said that if this were an affordable project, a relocation plan would be required. In this case, this is a market-rate apartment complex. There will be some displacement but it is not necessarily an impact that would necessitate the denial of the

Mitigated Negative Declaration. The Mitigated Negative Declaration is usually based on impacts to the environment. It is a disclosure document about that.

Commissioner Zhao asked about the existing living area for the apartments on site right now.

Planner Deborah Ungo-McCormick replied that she believes they range in size between 900 and 1,500 square feet but would defer a more definitive answer to the applicant.

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

Mr. Eugene Zambetti, Applicant/Property Owner's Representative:

- Explained that he is here as the representative of property owner, Dave Morrison, who is unable to be present this evening.
- Described Mr. Dave Morrison as a 40-year resident of Saratoga who has owned Brookline Apartments for the last 44 years.
- Explained that Mr. Dave Morrison purchased this site in 1960 when it was an old prune orchard that was no longer productive. In 1961, Mr. Morrison completed the private driveways. In 1974 he planted the clump of redwoods, which were just one-inch in diameter, five-feet tall and from a five-gallon can.
- Assured that this project would preserve those trees and several trees will also be relocated.
- Said that the real issue here is the need to relocate some of the best residents we've had here in Saratoga for many years.
- Explained that of the 30 units, five or six of the tenants happen to both live and work in Saratoga.
- Assured that they are willing to do everything possible to assist with relocation.
- Explained that over the last two years, while the average rent in the area has been about \$1,320 for a one-bedroom unit, Mr. Morrison has been charging just \$948 a month. He did this as a concession to tenants due to long-term uncertainty since they were aware of his future plans to redevelop the site.
- Added that if redevelopment were not proposed, the rents would be between \$1,600 and \$1,700 per month. Since the roofs are 25 years old and need replacement, the current rent after that replacement would need to be about \$2,000 per month.
- Pointed out that the story poles are on site and that 20 for-sale homes are proposed for this property.
- Agreed that relocation takes time but they will assist.
- Stated that Mr. Morrison was concerned about public noticing, which goes to the owner only.

Mr. Jim Morley, President of JMS Enterprises:

- Stated that he has lived in Saratoga since 1971 and is pleased to be here.
- Said that this is a wonderful project that will be positive for the City and its residents.
- Pointed out that many people, once children are raised, are looking to come down in size of home. They are known as Empty Nesters.
- Advised that each of these units will have an elevator.

- Said that the project design has evolved over the last 18 months including a Study Session with this Commission.
- Added that consultants, experts in their fields, were hired to participate in the planning of this development.

Mr. Colin Gray, Vice President of JMS Enterprises:

- Said that he is very excited to bring this remarkable project to Saratoga.
- Stated that a great number of concerns have been addressed.
- Showed a virtual tour presentation of the proposed development.

Commissioner Cappello asked about the width of the road, as it appears really tight.

Mr. Colin Gray replied it was approximately 20 feet wide.

Commissioner Cappello asked if you could get two cars through there.

Mr. Colin Gray replied yes, it is a two-way street.

Commissioner Nagpal asked if there would be parking allowed along this street.

Mr. Colin Gray replied no, there would be no parking on the street itself.

Commissioner Nagpal asked how this is enforced.

Mr. Colin Gray replied through the homeowners association. He reminded that there are large basements for storage leaving the garages available for parking cars. That too will be enforced by the HOA.

Commissioner Hlava said that although it has been stated that each unit has an elevator the plans for Units 3 and 6 do not and she finds that curious.

Mr. Colin Gray said that that must be an older floor plan as all units will have elevators located just off the staircase.

Commissioner Hlava asked if all units will be ADA conforming and if that was the intention.

Mr. Colin Gray replied no, that's not the intention. Providing an elevator in each home is more just to ease the lifestyle in a three-level home. Elevators are more affordable and thus feasible now for residential use.

Commissioner Hlava asked if there would be any ADA compliant bathrooms.

Mr. Colin Gray replied yes, there would be two units with ADA compliant bathrooms.

Commissioner Kundtz asked about alternative placement for the mailboxes.

Mr. Colin Gray said that the Post Office likes the concept of a single box gang. He showed on the site plan where this is proposed to be placed. He advised that they prefer to incorporate boxes at the end of driveways for each unit.

Commissioner Kundtz agreed that at this price point, people might be reluctant to walk over to a central collection area.

Mr. Colin Gray said absolutely and that they are hoping to pursue something different from that. He said he believes they are making strides toward that with the Post Office.

Commissioner Nagpal asked for the ratio of existing open space versus what is proposed.

Mr. Colin Gray said that they don't have existing open space outside of the pool.

Commissioner Nagpal said that the lack of common area open space is of concern.

Mr. Colin Gray said that the majority of people they are selling to don't want vast amounts of open space but rather something that is easily maintained at lower cost. He said that there is a half-mile walk around all the units.

Commissioner Nagpal said that the biotic survey seemed to concentrate solely on the riparian setback rather than looking at whether any endangered species are on site.

Mr. Colin Gray asked if Commissioner Nagpal is speaking of the frogs that were brought up. He said that they did not give specific direction for the study. They simply asked that a biotic survey be prepared on the property in its entirety to conform to the City of Saratoga standards.

Commissioner Nagpal said that it looks like it was focused on the riparian corridor.

Mr. Colin Gray said that this is due to the fact that it was found to be the only area of concern.

Commissioner Nagpal asked if any archeological database review was done. She added that it is not expensive to do so.

Mr. Colin Gray admitted that he did not know if this was done.

Commissioner Nagpal said she has questions about groundwater quality.

Mr. Colin Gray asked if she is speaking to depths. He said that an original study was done in the winter during heavy rains. The water depth was down 18 feet in some area.

Commissioner Nagpal said that she would like to see that data. She asked what study this was part of.

Mr. Colin Gray replied that it was part of the geotechnical study. He said that basements would have drainage systems with pumps that will only turn on if water is present.

Mr. Peter Ko, Project Architect:

- Clarified that State Code requires that a pump be installed in the elevator pits.
- Added that the basement itself will be waterproof.

Commissioner Nagpal asked if they are assuming that there won't be water.

Mr. Peter Ko said that the basement would be waterproof and the pump would be placed in the elevator pit in case heavy rains cause water buildup.

Mr. Colin Gray said that they are not expecting water.

Commissioner Hunter pointed out that a number of people are present this evening to speak to this project. As it is already 11 p.m. she suggested that they be allowed to address the Commission.

Chair Rodgers thanked Commissioner Hunter for this wonderful suggestion.

Mr. Landis Mahaffey, Stoneridge Drive:

- Introduced the Commission to his mom, Kitty, who stands beside him this evening.
- Said that his mom is 91 years old and is facing the prospect of being evicted from the home in which she has lived for the last 30 years.
- Asked how she will find another affordable apartment in Saratoga. She will be displaced.
- Pointed out that Brookside Glen Apartments is one of the last dedicated rental projects and is a precious commodity.
- Questioned whether this is sound public policy to prevent people on fixed incomes from living in the City.
- Said he has heard discussion of trees and of town character. People are vital to community planning. Renters are citizens of Saratoga also.
- Stated that public awareness of this has been lacking and violates the spirit and intent to inform all involved of what is going on.
- Showed a photograph of the creek at the high water mark.

Mr. Doug Neale, Saratoga-Sunnyvale Road:

- Identified himself as the 43-year owner of Neale's Hollow.
- Advised that his family has had a business in Saratoga for 59 years.
- Stated that a major concern is parking and increased traffic. He said that traffic would overload.
- Compared the existing 17 single-bedroom and three two-bedroom apartment units with an associated 30 vehicles to this proposal for 20 three-bedroom town home units with the potential for approximately 78 vehicles. This is quite an increase and he is surprised that Fehr & Peer found no problems with this. He said he strongly disagrees with their assessment.

- Said that he is concerned with the finding of no impact in the Mitigated Negative Declaration.
- Explained that one of his tenants operates a school for children at Neale's Hollow. Increased traffic can be a recipe for disaster and jeopardize the safety of children and other tenants at Neale's Hollow as well as foot traffic.
- Said he would like for the Planning Commission to reconsider having a second access to Saratoga-Sunnyvale Road from this development, which would eliminate problems at Neale's Hollow. If not, please do not grant approval of this project.

Commissioner Hunter asked how many children attend the school at Neale's Hollow.

Mr. Doug Neale replied that there are between 10 and 40 students per day.

Commissioner Zhao asked what the school's hours were.

Mr. Doug Neale replied between 8 a.m. and 5:30 p.m., Monday through Friday. He added a concern about construction impacts with parking on his lot.

Ms. Dianna Neale Espinosa, Oak Street:

- Reminded that Brookside Glen consists of one and two bedroom apartments. This project will greatly increase the number of bedrooms and could double, triple or even quadruple the number of people and automobiles accessing this development.
- Said that autos are a big problem and 2.5 spaces per unit are not enough.
- Stated that Neale's Hollow needs its parking to be left available for its tenants and that this project will highly impact the area, which is a quiet area.
- Said that with the number of people and cars increasing, noise will also increase. It would be more negative with a larger number of people living so close.
- Stated her concerns as traffic and safety.
- Added that she is not in favor of the size and number of units. There are just too many.

Commissioner Hlava asked Ms. Dianna Neale Espinosa if her family still owns the town homes behind Neale's Hollow.

Ms. Dianna Neale Espinosa replied that her brother developed the condominiums there but does not own them any more. The family owns the seven units at Lauraville Apartments.

Commissioner Zhao asked if these seven apartments take access from Neale's Hollow.

Ms. Dianna Neale Espinosa replied yes, they do. She reminded that her family also maintains that road.

Commissioner Nagpal asked if the road is the City's or belongs to the Neales.

Planner Deborah Ungo-McCormick said that a portion of it is the City's and the rest belongs to the Neales.

Ms. Dianna Neale Espinosa added that a piece of the parking area belongs to the City.

Commissioner Nagpal sought clarification that private property will serve as access to this project.

Ms. Dianna Neale Espinosa replied correct, there is an easement.

Chair Rodgers asked if this is because the Neale family owned all this land originally.

Ms. Dianna Neale Espinosa said that her father obtained the property when the State took his land on which he had operated his business. He was given the opportunity to purchase this land.

Chair Rodgers said she wanted to clarify that while Ms. Espinoza said the parking provided would be 2.5 spaces per unit, the actual proposal includes 4.6 spaces.

Planner Deborah Ungo-McCormick said it is actually 4.75 spaces per unit.

Ms. Carol Mauldin, Arbeleche Lane:

- Thanked the Commission for doing a good job.
- Said that she is a member of the Rotary and has been in town for 41 years raising seven children who went to Saratoga schools.
- Added that she belongs to the Historic Society.
- Said that she is for this project as she is a realtor but she is against its size and number of units, which she feels is too big.
- Predicted that the project would generate 200 cars and that a traffic light and u-turns would be needed.
- Stated that this is too much, too many, too congested, too crowded.
- Added that the developer needs to cut three units and add parking.
- Suggested that the residents who live there be kept informed about what is happening.
- Said she is against congestion and that good access to Highway 9 is required and that people already living here are going to be victims of this project.

Commissioner Nagpal asked Ms. Carol Mauldin where she parks when having a party at the back. Do they use Neale's Hollow.

Ms. Carol Mauldin said that there is no parking available for parties.

Ms. Susannah Ahmad, Arbeleche Lane:

- Said that she is the President of the Executive Town Homes Homeowners' Association.
- Said that this proposed development is similar to hers.
- Explained that with the six town homes in her development there are four stay at home moms.

- Reported that when she bought into this development she believed the access was public but later learned it belonged to Neale's Hollow.
- Added that she is very disappointed to hear that there is not another access proposed with this project.
- Advised that they hold no parties at their house because there is no place to park. Instead they go to restaurants.
- Said that the applicant came to them with their plans and later added parking to the proposal.
- Said that this is a lot of units.
- Added that the owners should not be going through a parking lot to access their property.

Mr. Jason Hunter, Arbeleche Lane:

- Said he has the same concerns.
- Said that the 20-foot road width is of concern as he thought it would be 30-feet wide.
- Explained that there is a tight turn that is a potential danger for front-end collisions.
- Said he is pleased with the improved parking provision and hopes to be able to use the guest parking on occasion.
- Expressed concern over construction noise at 7:30 a.m. and wished that noisy construction operations could be limited to after 8:30 a.m.

Commissioner Zhao asked what parking is provided in his development.

Mr. Jason Hunter said that there are two-car garages and three visitor parking spaces for a total of 15.

Commissioner Zhao asked how many vehicles the residents have in total.

Mr. Jason Hunter said that there are approximately 10 with one empty unit.

Ms. Carol Mauldin said that her tenant wants to know the length of construction as her mom is asthmatic and will need to be away during construction. She also questioned if access would ever be blocked as a result of construction.

Mr. Colin Gray said that the construction staging would occur without blocking the road.

Mr. Daniel Kaypughian, Victor Place:

- Said that he lives on the northwestern corner of the property.
- Said that he sent the letter mentioned by Planner Deborah Ungo-McCormick.
- Said that his concerns are more than indicated. It is a privacy issue.
- Explained that his children play in the yard and he wants a fence to protect them.
- Reported that he bought 10 years ago.
- Advised that he is not against the development as everyone has the right to develop their land but that the tree removals proposed are excessive. Three oaks are to be removed near his property and he would like that to be reconsidered.
- Added that there is only 27 feet between the new building and his property.

- Asked that lighting be appropriate as right now there are no lighting impacts.
- Said that the property owner has rights but needs to make sure that setbacks are correct.

Commissioner Hunter told Mr. K that the Commission saw his house during yesterday's site visit.

Ms. Kathleen Casey, Springer Road:

- Said she is a resident since 1956 and attended Saratoga High School.
- Added that she has lived in six places in the Village and that available rental units are diminishing.
- Said that this project looks just like the medical center in Palo Alto and would diminish the character of Saratoga.
- Said that this is a bird preservation area.
- Asked for two copies of the EIR to study.
- Advised that she has studied rents.
- Informed that she has 28 things that she will send to the Commission.
- Stated that this is an inappropriate project.
- Said that Saratoga Oaks should have been a park.

Mr. Jamie Tougas, Saratoga-Sunnyvale Road:

- Said he is not anti-growth at all.
- Added that if this were his property he would develop it too.
- Said that communication about this project has been appalling and no feedback has been solicited from the existing tenants.
- Said he lives here with his 14-year-old son and got a phone call last Thursday that a neighbor meeting had been set for Monday. However, it was cancelled at the last minute. He saw people standing around Brookside on Monday including a member of Council.
- Pointed out that property owners get notifications but tenants do not.
- Said that he has a lot of questions about this project and is speaking only for himself.
- Said that the way this has been gone about is not right.

Mr. Sunil "Neil" Gupta, Saratoga-Sunnyvale Road:

- Said that he is a resident of Brookside Glen Apartments.
- Apologized for the lateness in response to the Mitigated Negative Declaration but they only got it about 48 hours ago. There was not enough time to deal with the complex issues.
- Said that the Mitigated Negative Declaration is an interesting story but it is a fairy tale and not reality.
- Said that removing 45 trees, displacing over 30 people (some of whom have lived here over 30 years), tripling the number of people, tripling the number of bedrooms, tripling the number of vehicles, moving a storm drain, installing basements near water tables in an earthquake zone has impacts.
- Asked why a full Environmental Impact Report (EIR) was not prepared.
- Said that the City's recommendation is shocking.

- Said that the garages don't look like two-car garages but smaller.
- Questioned when an empty nester would want a three-bedroom house.
- Reminded that it is a goal of the City of Saratoga to maintain its rural character.

Ms. Jennie King, Saratoga-Sunnyvale Road:

- Said that she is a resident of Brookline Glen Apartments.
- Said that she appears to be too late to speak to the environmental issues.
- Read an Indian fable into the record.

Mr. Kevin Bruce, Saratoga Avenue, was called but had already left the meeting.

Mr. Kevin Cole, Harleigh Drive:

- Said that the back town home development, Executive Town Homes, would not be passed by today's standards.
- Said that some appear to be supportive with modifications and respect the owner's property rights for best use of property.
- Stated his support for this well-designed project that is a valid project for the community.
- Said he is a 27-year resident with in-laws who have been in Saratoga for 40 years.
- Stated that this project is very consistent with other projects and he supports it.

Mr. Michael Green:

- Delivered a petition from the residents of Brookside Glen Apartments.
- Said that an intersection is needed at Neale's Hollow and Saratoga-Sunnyvale Road.
- Suggested a quick solution to the tenants' concern is to guarantee residency.
- Said that if forced to move, he would have to change schools in the middle of his senior year.
- Advised that he studied Craig's List and rents in Saratoga range between \$2,000 and \$2,600.
- Asked "are we not good enough?"
- Said that if he is kicked out of his home the City of Saratoga is pretty much changing his whole life including opportunities for college.

Mr. Paul Clarke, Victor Place, was called but had left the meeting.

Mr. Colin Gray:

- Said that the resident testimony was heart wrenching.
- Reminded that the buildings at Brookline Glen are past their useful life.
- Advised with rents going up to \$2,000 it doesn't make sense to make this into apartments again.
- Assured that all efforts will be made to help relocate the tenants.
- Explained that they manage 25 affordable developments in San Jose.
- Reported that the issue of storm water has been studied. All water will be drained from the site through a Storm Water Pollution Program that involves swales and percolation. By the time the water gets to the stream it will basically be clean.

- Reminded that Fish & Game and the Department of Wildlife would review the project and provide conditions.
- Assured that the light on site would be focused down.
- Agreed that the rural character of Saratoga is loved but that lighting on the ground for security is important.
- Said that with the setbacks, views from the town homes above will not be impacted.
- Said that it is unfortunate that the Executive Homes development did not provide adequate parking. This project will not have that problem with 4.75 spaces per unit being very substantial in addition to the provision of basement space for storage leaving garages available for the parking of vehicles.
- Said that 45 trees will be removed and 45 new installed. Seven oaks will be replaced with 16 new oaks in 24-inch box size. The remaining removals include junipers, pines, privets, olives and two birches that, while not insignificant, are replaceable.

Commissioner Cappello asked what it would take to accommodate a second entrance directly from Saratoga-Sunnyvale Road to this site.

Mr. Colin Gray said that the two best available consultants in the Bay Area have reviewed this issue and say it is not good. This area needs to stay with a single-access point.

Commissioner Cappello asked what if the access was built up so it is at the same level as Saratoga-Sunnyvale Road.

Mr. Colin Gray said that would cause the worry of hills and view corridor impacts. The engineer says the access should stay where it is.

Commissioner Cappello asked what if the access from Neale's Hollow was cut off with the creation of a dedicated access just for this development.

Mr. Colin Gray said that this was investigated.

Ms. Jane Lind:

- Stated her concerns over the proposed demolition of Brookside Glen Apartments where she has been a tenant for three years and construction of a new town home development in its place.
- Said that tenants are treated as less a part of the community with less of a voice.
- Stated she has issues with the Mitigated Negative Declaration and urged a more thorough review.
- Explained that it is already hard to turn left from Neale's Hollow onto Saratoga-Sunnyvale Road in the mornings. It is impossible due to traffic, specifically school traffic at the high school.
- Reported that deer commonly stroll through their complex's common area and eat their flowers.
- Said that this project results in displaced tenants.
- Stated that if the natural environment is ignored, it will go away.

Commissioner Nagpal asked Mr. Colin Gray for a larger site plan that also shows Neale's Hollow.

Mr. Colin Gray said it might be feasible to make a separate entrance from Neale's Hollow, with a drive aisle and parking area.

Commissioner Zhao asked about establishing one entrance and one exit.

Mr. Colin Gray said that this results in the same issue of having two access points.

Commissioner Nagpal said that there is no entrance but for Neale's Hollow and reiterated her question as to whether that frontage along Neale's Hollow is City-owned.

Mr. Colin Gray replied yes.

Commissioner Nagpal asked Mr. Colin Gray if they are opposed to having a separate lane lead out to their development.

Mr. Colin Gray said that the access point is there. It is where everyone enters the parking lot. It is the City-proposed access point to this development. It would be the same entrance but perhaps with some redesign.

Commissioner Deborah Ungo-McCormick reminded that some of the parking area is City-owned and used by Neale's Crossing tenants.

Mr. Jim Morley said that alterations could end up taking spaces but could be done in some fashion but would take further study.

Chair Rodgers asked about creating a wider entrance.

Mr. Colin Gray said that would be no problem. He said that they could work with the Planning Division to come up with a better entrance design. He assured that they want this to be a special place in Saratoga and Jim plans to live here himself.

Commissioner Hunter said that it seems that a continuance is needed so the applicant can go back and work things out. She asked Mr. Colin Gray if he has an idea of the specific concerns.

Mr. Colin Gray said that it appears to be traffic. He asked that the other issues be worked out this evening so that the next hearing can focus on solutions to traffic concerns.

Commissioner Hunter said there may be a shortage of parking and that the project may need to eliminate some units.

Chair Rodgers asked Director John Livingstone on the feasibility of a continuance in light of the late hour.

Director John Livingstone said he would defer that decision to the Commission regarding the late hour.

Commissioner Hunter said that the comments made by the residents meant a great deal to her. Said that this is a nice looking development and the real issues are traffic, the closeness of the units and the street being too narrow. These are real concerns that should go back to the drawing board.

Chair Rodgers suggested offering real specific feedback.

Mr. Colin Gray pointed out that a narrow road slows traffic down.

Commissioner Hunter said she is concerned about the potential for an addition 200 cars on this roadway.

Mr. Colin Gray assured that there would not be 200 cars. He said that traffic flow is great and only six homes would access Arbor Leche Lane.

Commissioner Hunter reported that her street is 20 feet wide and no head on accidents occur there as a result.

Mr. Colin Gray reported that there is currently no fire access to the back and two consultants have said this project's circulation works.

Chair Rodgers said that this is a big project consisting of Design Review, Tentative Map and Mitigated Negative Declaration.

Commissioner Hlava:

- Said she would have a hard time approving this project tonight since the neighbors have brought additional comments on the Negative Declaration. However, some of the comments made are not appropriate since there is already a residential development on the site with 20 units.
- Pointed out that there would be some environmental upgrades with this development but it is important to make the whole environmental process mean something.
- Said that while there may be traffic issues, the project will not result in 200 cars. The main issue is access.
- Reminded that the City made a deal with Neale's Hollow for use of City-owned parking spaces in return for maintenance. That deal will need to be looked at closely.
- Suggested that the project does not have to be changed that much.
- Said that she does not see any other place to make an access.
- Stated that she feels bad that the City approved a six-unit town home complex with inadequate parking but this project cannot be asked to fix that problem.
- Suggested a continuance to allow the development of answers to traffic and access questions but the applicant should not have to wait too long.

Commissioner Kundtz:

- Supported the idea of a continuance.
- Agreed with Commissioner Hlava on the environmental issue.
- Said that the traffic and safety are the key issues.
- Stated his belief that traffic studies are a bunch on noise.
- Encouraged a community meeting on this project to determine specific details of needs for the tenants from the senior in high school to the senior long-time resident.
- Said that more environmental, traffic, parking, communications and outplacement considerations are necessary.

Commissioner Hunter:

- Said she appreciates the rural nature of Saratoga.
- Suggested that this applicant is trying to pack too many three-bedroom units where smaller units used to be and she can't go for that.
- Proposed removing some of the units to provide more parking.
- Pointed out that people come and go all day.
- Said that more work is needed. This is a big deal. The developer wants to be real proud of his project when it is done.

Commissioner Nagpal:

- Said that she is uncomfortable with the access point. It doesn't fit although she understands the constraint but a compromise may be necessary.
- Said that traffic, circulation and the entrance point needs further study.
- Advised that she is an environmental consultant and the letter from the Brookline Glen tenants needs to be responded to.
- Stated that she would like to see more open space, which may mean a reduction in density.
- Informed that she is in favor of a continuance.

Commissioner Zhao said she too supports the continuance due to three concerns that include traffic, the entrance and the safety of the residents at the town home development as well as for children at the school located at Neale's Hollow.

Commissioner Cappello:

- Said that he has no issue with traffic or safety. The flow through the property has been addressed.
- Said that the parking provided is more than asked for by the Commission.
- Said that he does not know enough about environmental studies and depends on those with more expertise to advise.
- Said his biggest concern is the access point. He said the grand project needs a grand enough scale entrance to support it.
- Stated that he is comfortable with a vote tonight but a continuance seems to be in order.
- Said that the applicant will need to be prepared to explain why a different access is not justified for this site and/or what it would take to modify the proposed access.

Chair Rodgers:

- Said that she had wanted to be able to approve tonight but there are still a number of questions.
- Pointed to the wood-burning fireplaces in each unit and concerns due to close proximity of these units to each other. It is a simple matter but is the kind of thing that deserves attention.
- Stated that this project has the potential to be a real gem.
- Agreed that it is difficult to make this location work.
- Thanked the applicant for the changes made since the Study Session.
- Said that there appears to be a question on scope of the biotic study that also came up with another project near a riparian corridor.

Commissioner Hunter pointed out that the former project was also a subdivision.

Chair Rodgers:

- Said that this is a nice creek and the biotic issues need to be answered.
- Agreed that access is a big questions and exiting onto Saratoga-Sunnyvale Road is a big problem. Traffic control devices may help resolve that issue perhaps by allowing only right turns.
- Said that the parking agreement with Neale's Hollow needs work as there may be legalities involved.
- Said that relocation of people needs to be considered and that the Commission appreciates the efforts and willingness of the applicant to provide some assistance even though it is not legally required.
- Reminded that there are fewer low-income rental units and they need to be conserved as they can.
- Said that market survey results would be helpful.
- Pointed out that most of the Commissioners want a continuance.

Mr. Colin Gray:

- Advised that this is the densest zoning district in the City and there are only a few properties with that zoning.
- Said that while 30 units are allowed under the RM zoning, they have developed a project with 10 less units than allowed.
- Reminded that the project asks for no variances, no exceptions and meets every rule. They have also made great strides in terms of parking.
- Asked how quickly the work can be done to reach solutions. He explained that time is painful.
- Assured that they are not opposed to working further with the Commission and City.

Chair Rodgers thanked Mr. Colin Gray for his comments. She reminded that this is a difficult property.

Commissioner Hunter advised that this project is also painful for the residents as well especially for the 91 year old who has been a resident for 30 years.

Chair Rodgers asked if it might be appropriate to appoint an Ad Hoc Committee.

Director John Livingstone said he recommends that staff continue to work with the applicant.

Mr. Colin Gray said he hopes it is not December before a Study Session can be held.

Mr. Gene Zambetti agreed that it is a big deal to look at a subdivision. He assured that they could work with tenants on relocation. He asked if the story poles could now be removed so as not to cause continued distress to the tenants.

Chair Rodgers suggested a straw poll of the Commission.

Commissioner Hunter suggested instead that the residents of Brookline Glen be asked to raise their hands if they want the story poles to stay or to go.

Chair Rodgers said that upon a show of hands in the audience it appears that a majority wants the story poles to stay in place.

Commissioner Nagpal said it might be good to also post a site plan.

Commissioner Cappello said that the applicant can work with staff and suggested a more informal Study Session that would allow more free-flowing discussion.

Director John Livingstone said that this would be a little unusual after a Study Session has already been held.

Chair Rodgers suggested that the applicant have such a discussion with the neighbors instead.

Mr. Jim Morley said he would like to see this project come back before the Commission in two weeks time for a vote.

Chair Rodgers said that it should likely be continued to a date uncertain.

Director John Livingstone said that the notice for the September 27th meeting went out on September 5th. The notice for the October 11th meeting will go out on September 19th. He said he did not think the September 27th meeting was possible with what needs to be accomplished prior but that the October 11th meeting might be possible.

Mr. Jim Morley said he would have to consult his calendar as he has a European trip scheduled that cannot be changed.

Director John Livingstone said in that case this continuance needs to be to a date uncertain.

Motion: Upon motion of Commissioner Nagpal, seconded by Commissioner Hlava, the Planning Commission CONTINUED consideration of Application #06-

017 to a date uncertain to allow revisions to the proposal and additional community input for a proposed 20-unit town home development on property located at 14324 Saratoga-Sunnyvale Road, by the following roll call vote:

AYES: Cappello, Hlava, Hunter, Kundtz, Nagpal, Rodgers and Zhao

NOES: None

ABSENT: None

ABSTAIN: None

DIRECTOR'S ITEMS

Carriage Style Garage Doors: Director John Livingstone said that since it appears that wood carriage-style garage doors are what the Commission prefers, staff could pass that recommendation along to applicants.

Chair Rodgers said that it depends upon the architectural style of the house. She agreed that the Commission is seeking quality garage doors.

Next Hearing on Town Home Development: Commissioner Hunter said that she does not want the material from tonight's item to have to be reprinted by staff and asked if the Commissioners should simply hold on to the documents for the follow up hearing.

Planner Deborah Ungo-McCormick said that it would be good for the Commissioners to hold on to this material and staff will just provide new information in the next report.

COMMISSION ITEMS

Discussion on Taking Breaks During Planning Commission Meetings: Chair Rodgers asked what the feelings are about having breaks during longer meetings.

Commissioner Hunter said that she feels sorry when people are waiting to testify.

Commissioner Nagpal suggested playing it by ear.

Permit Issue: Chair Rodgers reminded that the permit issue would come back before the Commission at its next meeting. She advised that Administrative Design Review would be brought to a future meeting.

Director John Livingstone clarified that both would be on the September 27th agenda. It is a pretty full agenda.

Commissioner Hunter asked when the public would get a chance to address the General Plan.

Director John Livingstone advised that the environmental noticing has been done already. News ads are used and impacted property owners are directly notified.

Saratoga's 50th Year: Chair Rodgers asked staff for the dates for special events to commemorate the City's 50th Year.

Director John Livingstone advised that the Street Dance would occur on Saturday, September 16th.

Commissioner Hunter said the event at Hakone is on Thursday, September 14th.

COMMUNICATIONS

There were no Communications Items.

ADJOURNMENT TO NEXT MEETING

Upon motion of Commissioner Nagpal, seconded by Commissioner Hlava, Chair Rodgers adjourned the meeting at 1:20 a.m. to the next Regular Planning Commission meeting of **September 27, 2006**, at 7:00 p.m.

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