

**MINUTES
SARATOGA PLANNING COMMISSION**

DATE: Wednesday, July 12, 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 Hlava, Kundtz, Nagpal and Rodgers
Absent: Commissioners Cappello, Hunter and Zhao
Staff: Director John Livingstone, Associate Planner Lata Vasudevan, Planner Sweta Bhatt and Assistant City Attorney Jonathan Wittwer

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES – Regular Meeting of June 28, 2006.

Consideration of the minutes of the Regular Meeting of June 28, 2006, was continued to the next meeting at which a quorum of the Commission is in attendance eligible to vote on these minutes. Commissioner Kundtz needed to abstain from participation, as he was absent from the June 28th meeting leaving just three Commissioners and no quorum.

ORAL COMMUNICATION

There were no Oral Communications.

REPORT OF POSTING AGENDA

Director John Livingstone announced that, pursuant to Government Code 54954.2, the agenda for this meeting was properly posted on July 6, 2006.

REPORT OF APPEAL RIGHTS

Director John Livingstone 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 #06-411 – Ordinance Amending Section 15-12.160 of the Saratoga Code relating to Storage of Personal Property and Materials: The City is proposing an update of this section including but not limited to clarifying the length of time personal property and materials may be stored. (John Livingstone) *(This item was continued to this agenda from the June 28, 2006, public hearing.)*

City Attorney Jonathan Wittwer presented the staff report as follows:

- Reminded that following a public hearing at the last meeting on June 28, 2006, this item was continued to this meeting.
- Explained that a revised Ordinance has been prepared that included additions and clean up.
- Added that a supplemental staff report has been provided and that copies of said report are available in the lobby for members of the public.
- Stated that based upon public testimony from the last meeting, the Ordinance has been further revised to establish two types of limits in prohibited areas, front yards and other areas visible to the public including side yards on corner lots.
- Said that for many years the existing Code had a five consecutive day limitation. As originally written, after those five days are up, that item cannot be returned to the property period.
- Said that realistically people bring their boat and/or recreational vehicle to their property to prepare for use and to clean up following use. This typically occurs for each trip and/or use.
- Said that a storage day limitation total per calendar year is proposed at two weeks.
- Added that the Ordinance includes two examples on how this would be applied. In one example, if both a boat and recreational vehicle were stored on the property concurrently, the calendar days used up would be counted concurrently. However, if a boat or recreational vehicle are brought to the property on separate occasions and are not on the premises concurrently, the days are counted separately.
- Said that the intention of this Ordinance is to manage visible areas in which certain types of personal property are not to be stored.
- Explained that personal property can be screened from public view and/or a Temporary Storage Permit could be obtained through the Community Development Director. A Temporary Storage Permit would allow up to an additional two-weeks without any public notification. Beyond that amount of time, a notification to property owners within 150 feet would be sent. In those cases, there would be a 10-day delay before any permit is issued.
- Said that the existing Ordinance is being clarified. Inconcise language had been interpreted in the past. This update helps to quantify what represents a “reasonable time” for storage of personal property in public view.
- Added that the other changes proposed are technical matters and to ensure that there is no confusion with other Codes. Mention of storage of trash, garbage and refuse has been eliminated since that is covered in another part of the Code. Under that Code, garbage

containers can be placed in public view no more than one day before collection and must be removed within one day of collection.

- Said that enforcement remedies are outlined in this updated Code.
- Explained that enforcement includes infractions and public nuisance actions. Penalties include \$100 for a first offense, \$200 for a second offense within the same year and \$500 for the third offense. Each violation is a separate offense.
- Added that the City normally enforces by use of infraction penalties. The next level of enforcement is through the Public Nuisance process at which time a Notice of Intent to Abate is issued that allows the City itself to abate a nuisance if the property owner does not reach compliance. When notice is received, a property owner has the right to appeal and have a hearing.
- Said that the limit of time for a Temporary Storage Permit would be set at two weeks absent of public notice. There is a prohibition of such storage on a vacant parcel or in the public right-of-way. A limitation is also being established for temporary storage of construction materials for a project not requiring a permit. That limit is proposed at 30 days.
- Said that a draft resolution has been prepared to forward a recommendation to Council. On that draft there are two typographical errors that need to be corrected. The fourth WHEREAS statement needs the word "of" added. The NOW, THEREFORE statement needs to have the word "is" replaced with the word "be" amended.

Commissioner Hlava asked about impacts on activities such as leaving things out for the Goodwill to pick up or with a note offering that item for free to any interested passer by.

Commissioner Kundtz asked how the fining system has been used to date, particularly in the last two years.

City Attorney Jonathan Wittwer said between 20 and 30 times.

Commissioner Kundtz said that this is revenue for the City. However, he asked if it is within the authority of the Planning Commission to recommend that fines not be imposed but rather to move immediately to the Notice of Removal process.

City Attorney Jonathan Wittwer replied yes.

Commissioner Nagpal asked if this is for storage in all open areas.

City Attorney Jonathan Wittwer said it refers to prohibited areas.

Commissioner Nagpal asked about screening.

City Attorney Jonathan Wittwer said that screening couldn't be installed within the front yard setback. Screening can be used in side yard setbacks.

Commissioner Nagpal asked about Temporary Storage Permits.

City Attorney Jonathan Wittwer said that one could be issued for a two-week time frame.

Commissioner Nagpal asked how often such a permit could be re-issued.

City Attorney Jonathan Wittwer said that has not yet been established.

Chair Rodgers questioned how days would be counted when only a portion of a day of storage might occur.

City Attorney Jonathan Wittwer said that any partial day when the item is on site is counted against the total allowed per year no matter what time of day the item arrives on site.

Chair Rodgers suggested that a week be spelled out as seven days.

City Attorney Jonathan Wittwer agreed.

Chair Rodgers added that instead of saying two weeks, it would be clearer to use 14 days.

City Attorney Jonathan Wittwer said he was fine with that change to 14 days.

Chair Rodgers asked if screening allowed includes tarps and/or tents.

City Attorney Jonathan Wittwer replied no, just fencing as is currently in the Code.

Commissioner Nagpal asked for clarification that storage in the front setback would not be allowed even if the item has a screening fence.

City Attorney Jonathan Wittwer said correct.

Director John Livingstone reminded that there is a three-and-a-half-foot fence height limitation within the front setback area, which would be inadequate to properly screen these stored items. The height for allowable fencing beyond that setback is six feet.

City Attorney Jonathan Wittwer added that items could be stored beyond the required setback area without any screening required.

Commissioner Nagpal made the point that this update to the Code is not the result of any complaint but rather is intending to clarify an existing Ordinance.

City Attorney Jonathan Wittwer said yes.

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

Mr. Earl Johns:

- Explained that he has been a Saratoga resident since 1972.
- Added that he has enjoyed having a recreational vehicle since 1980, which is parked beside his house in his side yard.
- Provided a photograph of his RV.

- Reported that this RV is for his traveling pleasure and also can serve as an emergency escape vehicle in case of a catastrophic event such as an earthquake.
- Stated that his RV could sustain both he and his wife for three or more days in the event of a substantial earthquake. There are emergency cooking facilities in the RV.
- Added that if this RV were stored across town, he would lose that benefit.
- Stated that the Ordinance as written says that only homes on corner lots can utilize side yards for storage.
- Pointed out that his interior lot is 87 feet wide.
- Recommended that the Ordinance be amended to allow storage in the side yard for a non-corner lot.

Commissioner Nagpal asked staff if the photograph provided by Mr. Earl Johns depicts an RV that is considered to be properly screened or is it improperly stored.

City Attorney Jonathan Wittwer explained that an interior parcel's side yard is not covered by this Ordinance. If Mr. Johns' storage were on an exterior corner side yard, this existing storage would not meet the Code due to its visibility.

Commissioner Nagpal said it appears that a taller fence would be needed to screen.

Commissioner Hlava pointed out that it would take between an eight and 10-foot tall fence to sufficiently screen recreational vehicles.

Mr. Earl Johns cautioned that the usual height of an RV is about 10.5 feet.

Commissioner Hlava asked staff to verify that Mr. Johns' RV storage is considered legal because it is not on a corner lot but rather is an interior lot.

Chair Rodgers said that it appears to be the understanding that this would be considered legal under the Code.

City Attorney Jonathan Wittwer said that Mr. Johns' storage of his RV is not prohibited as depicted in his photograph.

Mr. Dave Ball:

- Expressed concern that he has seen different wording on several copies of the Ordinance, three in total, and has a problem with some wording.
- Asked for clarification about a collector vehicle, such as a 57 Chevy, and if it has to be driven daily.

City Attorney Jonathan Wittwer explained that the Code used to require that a vehicle be driven regularly but now that vehicle must simply be capable of being driven.

Mr. Dave Ball questioned the ability to park a 12-foot high RV on an interior lot side yard especially if that RV were visible from the neighbor's kitchen. He reiterated his question about collector cars.

Chair Rodgers clarified that cars must be registered and able to be driven.

Mr. Dave Ball asked about trailers and what is counted. He said that the City is trying to fix a failed Ordinance.

Commissioner Kundtz clarified that the Commission is looking at a third generation draft tonight. The Commission will address any questions raised by the public during its deliberations. The Commission will not leave loose ends on this.

Mr. Chris Ducote:

- Said that he does not own an RV or boat but believes that any legally licensed vehicle can be parked on the street as long as it is moved every 72 hours.
- Suggested that these recreational vehicles should instead be allowed to be parked on private property.
- Said that he has less of an opinion when it comes to boats but feels that there should be no time limitation set for parking cars or recreational vehicles at a home.

Commissioner Nagpal asked Mr. Chris Ducote if he does not feel that there is more of a visual impact from an RV as opposed to a car in front of a house.

Mr. Chris Ducote said that he drove around the community and saw over 800 recreational vehicles parked in front of homes. He felt there was no visual impact.

Chair Rodgers asked Mr. Chris Ducote where in Saratoga he drove.

Mr. Chris Ducote replied around West Valley, in the El Rancho area and other areas.

Chair Rodgers asked Mr. Chris Ducote if the recreational vehicles he saw on his tour were screened.

Mr. Chris Ducote replied no.

Ms. Carol Walker:

- Described a neighboring property that has three boats, four trailers, two cars, and two trucks.
- Added that that particular property only had two adults living there.
- Said that another neighbor has a similar number of items including three trucks and a car.

Commissioner Hlava sought clarification from Ms. Carol Walker as to whether she is objecting to these items stored on these properties or is okay with it.

Ms. Carol Walker said she objects.

Mr. Ron Pasqualini:

- Said that he has submitted a letter to the Commission this evening.
- Suggested that if the City adopts this more restrictive Code, it should be applied to all property owners and not just to those properties for which a compliant is issued.

- Stressed the importance of allocating sufficient manpower to enforce this Code,
- Added that it is important to adopt Codes that reflect the will of the majority of residents.
- Suggested that people who constantly complain about a variety of issues should be ignored. The community should not allow itself to be intimidated by a small number of residents.

Mr. Harry Carlson:

- Described himself as a 44-year resident of Saratoga.
- Said that a clarified definition of a recreational vehicle is needed.
- Questioned if an SUV with a ski rack is counted as a recreational vehicle.
- Stated that these recreational vehicles allow elderly retirees to travel in a leisurely manner.
- Explained that now that he is retired, he is not in a hurry.
- Said that when he brings his RV out of storage it takes him about two weeks to put that RV back into business for his travels. After the trip is done, it takes time to unload.
- Reported that his long-term storage site for his RV is located in Gilroy. It takes all day to go there to pick it up or take it back.
- Stated that the provisions of this Code puts a serious restriction on the use of his RV and represents an unfair penalty on “retired elderly slow people.”
- Said that this restriction is the result of a few people who object to the sight of an RV versus the hundreds of residents who own and use recreational vehicles.

Mr. John Cantlen:

- Said he is a 42-year resident.
- Said that he supports the spirit of the basic Ordinance because junk in front yards causes a devaluation of property.
- Stated that he is not sure that 14 days per year is enough time but agrees that full-time storage in front of a residence devalues properties.
- Said that there needs to be a difference between tough limits and no limits since the cost of off-site storage can be high.
- Pointed out that recreational vehicles can be parked on the street for up to 72 hours at a time, which is troubling.
- Reiterated his belief that permanent storage on a residential property is a no-no but that occasional parking is okay.

Mr. Simon Eual:

- Asked the Commission to look into the audience at the “sea of blue shirts.”
- Explained that people who are pro RV and boats were asked to wear blue as a show of support.
- Said that the proposed amended Code is unworkable and out of touch.
- Suggested that more time is needed to make an informed decision.
- Pointed out that the City of Sunnyvale Planning Department provided a detailed analysis to its Planning Commission on this issue and suggested that Saratoga staff should do the same.
- Stated that the City appears to be responding to the complaints of a few and that he wants to know the number and types of complaints received on this issue.

- Expressed the need for a thorough analysis of existing recreational vehicles and boats and suggested that there are not enough off-site storage spaces available to store all of them.
- Said that he wants to know what other cities allow.
- Questioned whether a covered car is allowed under this Code and really what is the difference between a covered car and a covered boat.

Mr. Ed Vincent:

- Said that he spoke at the last meeting.
- Thanked the City Attorney for his efforts.
- Urged the Commission to go forward with this Code as amended to Council.

Mr. Matt Doyle:

- Advised that he supports the revised Ordinance's wording.
- Stated that if someone owns an RV or boat, that owner has the responsibility to properly store it.
- Described an informal survey he did of 94 homes. From that number of homes, he found four had boats and four had recreational vehicles. Three out of four of the boats and three out of four of the recreational vehicles are already in compliance with this Code for a total of six of eight in compliance.
- Added that he was surprised by the unique methods used to screen these from view. Only two were not in compliance.
- Suggested that a boat on a trailer in front of a house represents a child safety hazard.
- Reported that he had placed his house on the market on two occasions. A trailer and boat are stored in front of an adjacent property. While friends were able to sell their homes quickly because they did not have such on-site storage nearby, he said that he believes that the storage of that boat by his neighbor was the reason he was unsuccessful in selling his home at a market-rate price. He only received low offers.

Mr. Brad Anderson:

- Said that he has concerns.
- Cited a case that went to the Supreme Court that resulted in saying that cities cannot compel people to get rid of personal property. He left his documentation on this case with the City Attorney.
- Said that it is important that people be given a warning before being imposed with a fine, as they may not know about storage requirements.
- Stated that Saratoga has a unique character.

Ms. Anna Polonsky:

- Advised that she is a musician who will leave for Vienna tomorrow to teach at an international piano camp, among teachers from eight countries.
- Said that she has been in the United States for 16 years, first in Dayton, Ohio.
- Stated that she is proud of this country and would like to continue to be proud. It is a country where there is a sense of democracy and ability for people to be themselves.
- Explained that she moved to Saratoga a year ago.
- Reported that from day one, there have been constant complaints issued from her neighbor over her piano students. She added that she only has nine students per week.

- Added that her husband of 33 years is a passionate fisherman who owns a boat. It was his dream to have a boat and to be able to go fishing often.
- Informed that she does many recitals in senior homes.
- Added that although her neighbor has lived in this neighborhood for 40 years, as a one-year neighbor she too has the same rights as that neighbor. In the US everything is just.
- Asked that the Code not be enforced only according to complaints by neighbors.

Commissioner Kundtz asked Ms. Anna Polonsky where her boat is kept.

Ms. Anna Polonsky replied in her front yard.

Mr. Viktor Polonsky:

- Described himself as the husband of that “passionate woman” who just spoke.
- Asked the Commission to consider the well-being of Saratoga residents and carefully weigh the pros and cons of this Ordinance.
- Suggested it would be beneficial to obtain data on how many residents are happy versus unhappy with this decision.
- Stated that the majority of residents own boats and/or recreational vehicles or if not they don't mind that their neighbor do. He added that most are tolerant neighbors. Saratoga is not a good place because of its buildings but because of the good quality of its residents.
- Recounted how his wife's family was sent to Siberia in the 1930s. They didn't know why at the time. Years later, they learned that it had happened based on something that had been written about them by someone else.
- Supported allowing on-site storage as long as the items are clean, licensed and not abusive to the eye.
- Suggested making a simple rule, such as the size of driveway. If it can support the storage and be kept clean, it should be allowed.
- Urged that the rules adopted be applied equally to all and not just against people against whom a complaint is made. It must apply to everyone or don't create the rule at all.

Mr. John Correia:

- Said that he is a 20-year boat and RV owner and a nine-year resident of Saratoga.
- Said that he stores on the side of his driveway.
- Stated that he is not sure what the front yard setback is and how far back onto the property one must go so that screening is not required.
- Asked about the impacts of homeowner association rules as opposed to the provisions of this Ordinance.
- Reminded that there is not a large availability of storage in Saratoga and said that two weeks per year is not realistic.
- Recounted that regular maintenance of boats and recreational vehicles is required.
- Pointed out that boat owners are more responsible and courteous and take care of their property.
- Said that properly stored, the visual impact of a boat on a property is a beautiful sight.
- Urged the Commission not to react to a few complaints but rather to be logical and do a proper report and study.

Chair Rogers advised the City does not enforce homeowner's association rules. This Ordinance is for all of Saratoga while HOA's are independent. She asked Mr. John Correia what time limitation might be more realistic instead of two weeks.

Mr. John Correia:

- Described the many aspects of boat maintenance from charging batteries, cleaning the boat out and regular maintenance.
- Joked that the two happiest times in a man's life is when they buy and sell a boat.
- Stated that boat ownership is a lifestyle, a hobby, and he uses his boat every weekend.

Chair Rodgers asked Mr. John Correia what he considers to be proper storage.

Mr. John Correia said that he has a large circular driveway lined with Cypress trees. He parks his boat alongside these Cypress trees. His boat is 25-feet back from the cul de sac and is covered.

Commissioner Kundtz asked Mr. John Correia what remedy there might be for an improperly stored boat or RV.

Mr. John Correia said that being on the road is improperly stored. He said proper storage is if it is on private property, kept as best as it can be kept, not obstructing the public sidewalk and/or street and kept covered.

Ms. Cheryl Owiesny:

- Said that she has been married for 11 years to a man from Ohio. She was born in Los Altos.
- Said that she and her husband were given a canoe as a wedding gift.
- Identified her property as the one mentioned by another speaker this evening with the four trucks, etc.
- Said that the important times for using their boats include Memorial weekend, Labor Day weekend, July 4th holiday, the beginning of crab season, the beginning of salmon season, Fleet Week, to name a few.
- Discounted the impacts of boat and RV storage on real estate values.
- Reported that she has bought and sold two homes in the last couple of years.
- Reminded that MLS listings include features such as available boat and RV storage and was an important factor in selecting her home here in Saratoga.
- Said that boating is her family's hobby.
- Said that with gas at \$3 per gallon and storage typically a distance away, there are time and money impacts with off-site storage.
- Said that there is no real difference between a covered car and a covered boat. She has no problem with it.
- Advised that her boat is shorter than her neighbor's car.
- Reminded that there is not enough open space available and it should not be wasted for the storage of boats and trailers.

Mr. Glen Crow:

- Said that he is a 22-year resident and is wearing blue tonight simply as a coincidence rather than to make any sort of statement.
- Said that he has two neighbors with motor homes for the last four years or so. These families also have small children and he and other neighbors are concerned about visibility as it relates to child safety when driving in the immediate area of these motor homes when parked on the street although now they are on the driveway.
- Reiterated that he worries about visibility.
- Said that renters living down the street have someone living in a motor home on the property and that is not what motor homes are for.
- Agreed that recreation is great.

Mr. Paul Batista:

- Stated that Hitler showed us a lesson. We don't want to be like him.
- Added that since 9/11 lots of rights have been taken away.
- Asked that they be allowed to have their recreational vehicles and fun with their own kids and grandchildren.

Ms. Charlotte Wong:

- Said that she does not have an RV or boat but has some thoughts on the subject.
- Explained that the definition of nuisance is that you are unable to enjoy your property.
- Said that many people have been heard.
- Stated that parking an RV or boat on a property is okay and she has no objection.
- Said that the purpose of government and law is to support the greatest happiness for the greatest number of people and should not be too restrictive.
- Described the book *On Liberty* as stating that liberty should not be restricted unless it causes harm or injury to other people. If not, leave them alone and let people govern themselves.
- Opined that sometimes the harder you work on something like this Ordinance, the less you achieve.

Chair Rodgers asked Ms. Charlotte Wong what her background is as she appears to be very knowledgeable on sociological issues.

Ms. Charlotte Wong explained that she has her PhD in Sociology and her law degree. She is licensed in two states and with the federal courts.

Ms. Chris Correia:

- Said that two of Saratoga's largest groups, retired and young families are being impacted here. They are the ones that use these vehicles the most.
- Said that working families need down time. Her husband works hard for long hours each week.
- Added that her family camps and fishes.
- Pointed out that retirees saved for their recreational vehicles and they are not inexpensive.
- Said that these regulations make enjoying an RV or boat more difficult and stressful.
- Pointed out that it is expensive to live in Saratoga.

- Disagreed with the nuisance factor saying that a brand new boat or RV is less of a nuisance than any old beat up cars that leak oil or cats running around all over the place.
- Said that this is delving into personal preference here.
- Said that if it is an eyesore, that's one thing. If it is clean and not blocking the street, that's another thing.
- Said that too much attention is being paid to a few complainers who will always find something to complain about.

Mr. Jim Todd:

- Advised that he has an RV.
- Recounted that several years ago San Jose was writing a law about getting rid of recreational vehicles on the street and in yards. However, there are 6,000 RV's in San Jose and only 120 places that were rentable to place them.
- Reiterated that there are not enough places available to store all the RV's and boats.
- Added that going as far out as Los Banos is not very rational.
- Asked if the City can answer the question of how many RV's there are in the City versus places to store them.
- Said that he is retired and a \$100 per month storage fee is important to him.
- Stated that there must be available parking for RV's before they can be thrown out of front yards.

Chair Rodgers asked Mr. Jim Todd if he is questioning whether there are enough spaces off-site in Saratoga or in the general area.

Mr. Jim Todd replied in the general area. He added that some of these storage facilities are not particularly attractive places.

Chair Rodgers asked Mr. Jim Todd if he has space on his property that is beyond the front setback.

Mr. Jim Todd said that his side yard is eight-feet wide and his RV is eight-feet, six-inches wide. That is not an option for parking his RV.

Commissioner Kundtz asked if a complaint has been lodged against Mr. Jim Todd about where his RV exists.

Mr. Jim Todd informed that prior to buying his RV he sampled his neighbors who all said it was no problem. He moves it around on the street. One neighbor does not want it parked in front of his house. He said he likes to keep it at home so he can attend to maintenance.

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

Chair Rodgers explained to the audience that the Commission is trying to work out details of the Ordinance that will then go to Council for adoption. The Commission will discuss the questions raised tonight.

City Attorney Jonathan Wittwer:

- Clarified several points raised by the public as follows:
 - While a vehicle can have an inoperable permit issued by DMV, any vehicles stored in the front setback must be operational and capable of being driven.
 - The types of trailers included in this Ordinance are all types with no exceptions.
 - Agreed that a definition of recreational vehicle needs to be developed. Both recreational vehicle and motor home is used in the current Code and he is not sure what the difference might be.
 - Said that staff can elaborate on what constitutes a front yard setback.
 - Said that screening must consist of solid fencing that blocks the item being screened from public view.
 - The issue of HOA rules versus City Code is that HOA's are completely independent and private. The Codes govern what the City enforces.

Director John Livingstone said that Council would look at this Ordinance at its July 19th meeting. They will also discuss the issue of people living in recreational vehicles on residential properties.

City Attorney Jonathan Wittwer said that the issue of living in an RV is not part of the Zoning Code but rather is handled in another part of the Municipal Code.

Commissioner Hlava:

- Reported that a friend told her that Sunnyvale recently sent out a huge survey to its residents. One issue that came back as important to residents was the large number of RV's and boats.
- Reminded that the Ordinance under discussion tonight is the same that has been in effect for over 30 years at least. The City is simply trying to make it easier to enforce.
- Said that allowing 72 hours of parking on the street for an RV doesn't seem right.

City Attorney Jonathan Wittwer explained that there is a complete restriction on the parking of commercial vehicles of a certain size on the public street, over 20-feet in length and over 8-feet in height. Whether an RV is considered to be a commercial vehicle would need to be determined.

Commissioner Hlava pointed out that several canopies or tents are being used and asked if this is counted as screening and legal.

City Attorney Jonathan Wittwer replied that under the current Ordinance the screening has to be by means of a fence. However, the Commission could change that if it so wishes.

Commissioner Hlava:

- Said that it doesn't seem as if 14 days per year is adequate or quite enough.
- Stated that allowing an RV on a property for a few days to load and/or unload has not been a problem. Neither has parking in either a side or rear yard.
- Asked staff to define permanent storage.
- Said she is not sure how hard this Ordinance might be to enforce but pointed out that it is also complaint driven.

- Supported the issuance of a warning before imposing a fine.

City Attorney Jonathan Wittwer explained that with the Code Enforcement process, the property owner is always contacted first, provided with regulations and given an opportunity to cure the problem.

Commissioner Nagpal:

- Said that she has listened to the comments.
- Pointed out that the sides were more evenly split at the first hearing than tonight.
- Reminded that Council would look at this issue on July 19th.
- Said that enforcement will be uniform and this amendment is about clarifying what is already there.
- Pointed out that the Commission spends a lot of time doing Design Review of homes. It is important that the visible impacts of boat and RV storage are minimized.
- Said that there needs to be flexibility to implement this so that it is reasonable.
- Reminded that beyond the front setback, storage is okay. If stored on a side yard, screening is required. She said that she would like to see this screening include trees and/or shrubs.
- Outlined several options for storage from permanent placement on site as outlined or temporary placement to allow preparation of a boat and/or RV for use by an owner.
- Listed issues to be discussed further including screening, a definition of recreational vehicles, describing the allowed time as 14 days versus two weeks, enforcement and placement of recycling and Goodwill type donations.

City Attorney Jonathan Wittwer said that recycling is outlined in the Garbage Ordinance.

Commissioner Nagpal suggested defining an allowable vehicle size and enforcement and fine standards.

Commissioner Kundtz:

- Said that this is a remarkable process. Twenty speakers have been heard tonight.
- Advised that while he was not in attendance at the last meeting he did watch it.
- Pointed out that not one person who spoke tonight has yet been fined.
- Said that this update expands the number of allowable days from the current five and actually liberalizes the existing Code.
- Stated that for some it might be cheaper to pay a fine than to go to Gilroy or Fremont to store a boat or RV.
- Stated that at the end of the day only true behavior problems will be subject to enforcement.

City Attorney Jonathan Wittwer clarified his earlier response to indicate that only between 20 and 30 Code cases have gone to Court.

Commissioner Kundtz asked how many fines have been imposed.

City Attorney Jonathan Wittwer replied that either zero or one for personal property storage.

Commissioner Hlava suggested that City Attorney Jonathan Wittwer explain to Council that a definition of what an RV is needs to be included.

Commissioner Nagpal asked if this Commission has the opportunity to amend the draft Ordinance here tonight.

City Attorney Jonathan Wittwer said that the Commission could recommend changes to Council.

Commissioner Hlava said that as far as the screening issue, any fence needs to meet the City's Fence Ordinance. However, she is also okay with using shrubs to screen. She suggested a maximum of 21 days per calendar year.

Chair Rodgers asked if the issue is screening or completely hiding the item.

City Attorney Jonathan Wittwer suggested that the Commission instruct him to revise the language so that the item does not have to be completely screened or hidden from view.

Chair Rodgers:

- Stated her agreement with the comments made by the other Commissioners.
- Said that people look to Saratoga for a gracious place to live without a lot of vehicles in the front yard that are visible from the street or in a side yard that is not screened from public view.
- Stressed the importance to accommodate seniors.
- Said that there are enough protections for both sides of this issue including both long-term and short-term storage. Owners need to look into off-premise storage for RV's and boats if they cannot be accommodated on their properties full time as required.
- Reported that she did not see 800 homes with RV's and boats when she drove around Saratoga.
- Said that a recommendation can be forwarded to Council that offers flexibility in implementation, setback requirements adequately addressed, allowance for evergreen screening as an alternative to fencing, provisions for a temporary permit and a definition of recreational vehicle as well as motor vehicle.
- Expressed concern about the number of days allowed on the street.
- Said that the enforcement recommendations seem reasonable and said that a complaint-driven system is the only way it can be. If neighbors are fine, there is no reason to enforce.

Commissioner Hlava said that she does not want to see 10-foot fences. However, with a six-foot fence about four-feet of an RV would still be visible. Using evergreens for screening is a good idea, as they can grow tall enough to completely obscure the parked RV or boat.

Commissioner Kundtz said that he is okay with a six-foot fence and has difficulty envisioning where greenery would come in.

Commissioner Hlava said that if the storage occurs on the side yard landscaping could assist with screening.

Commissioner Nagpal agrees that this gives another option and that she too is okay with a six-foot high fence.

Chair Rodgers said that this represents four votes for screening. She said further discussion is needed on the definition of an RV and the total number of days allowed.

Commissioner Kundtz suggested allowing on-site storage for a total of five percent of the year, which equals 18 days. He said he could support six consecutive days.

Chair Rodgers said she supports a maximum of five consecutive days with a total of 18 days per year.

Commissioner Nagpal asked how long a non-temporary permit is good for.

City Attorney Jonathan Wittwer said that it is a Use Permit that is ongoing.

Commissioner Hlava asked if that would come to the Planning Commission.

Director John Livingstone replied that it would indeed come to the Planning Commission for consideration of a Conditional Use Permit.

Chair Rodgers clarified that the Community Development Director has the authority to grant a temporary storage permit for 14 days.

Commissioner Nagpal reminded of the issue of vehicle size.

Chair Rodgers said that defining a recreational vehicle might well include size but feels that details could be left up to the drafter.

Commissioner Kundtz agreed that this could be a part of the definition.

City Attorney Jonathan Wittwer:

- Clarified that Section D will read that the Community Development Director is authorized to grant an extension up to 14 days unless there is a noticed process for more permanent storage.
- Framed the motion for the Commission in which it is recommending that Council adopt a Resolution approving the third amended draft of the Storage of Personal Property and Materials Ordinance with the following modifications:
 - Section B will allow five consecutive days and 18 days per calendar year;
 - Section C will allow a screening fence or evergreen screening at least six-feet in height;
 - Section D authorizes the Community Development Director to grant a Temporary Storage Permit in excess of 18 days per year.
 - Language reading an additional two weeks becomes 14 days.
 - Include a definition of recreational vehicle.

Motion: Upon motion of Commissioner Nagpal, seconded by Commissioner Hlava, the Planning Commission adopted a Resolution recommending that Council approve an update to Ordinance Section 15-12.160 of the Saratoga Code (Application #06-411) relating to Storage of Personal Property and Materials with modifications as outlined by the City Attorney above, by the following roll call vote:

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

PUBLIC HEARING - ITEM NO. 2

APPLICATION #06-311 (517-13-034) KANSKY, 16150 Cuvilly Way: The applicant requests Design Review Approval to construct a new single-family dwelling on a currently vacant lot. The dwelling will consist of approximately 6,077 square feet, including a garage approximately 762 square feet in size. The height of the structure will not exceed the 26-foot height limitation. The site is located in the R-1-40,000 zoning district. Design Review by the Planning Commission is required pursuant to Saratoga Municipal Code Section 15-45.060. (Sweta Bhatt)

Planner Sweta Bhatt presented the staff report as follows:

- Advised that the applicant is seeking Design Review Approval to construct a new single family dwelling on a vacant lot.
- Explained that this project is Categorically Exempt under CEQA.
- Described the home as consisting of 6,077 square feet with a tower entrance and terraces at the front and rear. It is a single-story home that is five-and-a-half feet below the maximum allowed height.
- Reported that no neighbor comments in opposition have been received although some neighbors requested tree screening specifically on the northwest and southeast property lines. The applicant has agreed to that request.
- Said that 18 trees are proposed for removal. Two Oaks are in good condition and the Arborist is recommending replacement trees.
- Said that the findings can be made.
- Distributed the color board.
- Said that this home is rustic and well articulated. It was thorough and well executed.
- Recommended approval.

Commissioner Hlava asked if the addition of trees needs to become a part of the motion or are they already in the plan.

Planner Sweta Bhatt said that they are already in the plan.

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

Mr. Gary Kohlsat, Project Architect:

- Provided an updated color rendering.
- Said that the design is fairly rustic looking. It is low key and has a country feel. No white trim is used but rather darker, more muted and blended colors are proposed that go well with the natural environment.
- Said that they have met with the neighbors. Two neighbors requested extra tree screening. They have complied with that request and have shown their amended plans to those neighbors.
- Explained that they are trying to plant these trees early in the process so they can begin to become established. The neighbors have agreed to water the young trees until the site is fully developed.
- Said that this home consists of a single-story. It is lower and not too visible from the street or from the neighbors' homes.
- Assured that neighbor privacy was respected while this house still holds its own in this neighborhood of large homes.
- Explained that a 3,000 square foot house would not look right in this neighborhood.
- Reported that passive solar features would be incorporated and high quality materials used. They are exceeding State Code as it relates to energy efficiency. They have gone above and beyond design standards.
- Stated that he is proud to present this proposal to the Planning Commission tonight.

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

Commissioner Nagpal said that this is a wonderful street and it is nice to see a house being built on this lot.

Commissioner Kundtz said that this is a great project and neighborhood.

Chair Rodgers stressed the importance of following the Arborist's recommendations.

Motion: Upon motion of Commissioner Nagpal, seconded by Commissioner Kundtz, the Planning Commission adopted a Resolution granting Design Review Approval (Application #06-311) to allow the construction of a new single-family dwelling on property located at 16150 Cuvilly Way, by the following roll call vote:

AYES: Hlava, Kundtz, Nagpal, Rodgers

NOES: None

ABSENT: Cappello, Hunter and Zhao

ABSTAIN: None

PUBLIC HEARING - ITEM NO. 3

APPLICATION #04-359 (510-26-001) BYRD, 19930 Sunset Drive: The applicant requests Design Review Approval to construct a new single-family dwelling on a currently vacant lot.

The dwelling will consist of approximately 5,574 square feet, in addition to an approximately 5,181 square foot basement and a 728 square foot detached second dwelling unit. The maximum height of the home will be 26 feet. The site is currently located in Santa Clara County within the City of Saratoga sphere of influence and in the Hillside Residential (HR) prezone. A request to initiate annexation of this approximately 86,153 gross square foot parcel to the City was approved by the Saratoga City Council on June 7, 2006. (Lata Vasudevan)

Associate Planner Lata Vasudevan presented the staff report as follows:

- Advised that the applicant is seeking Design Review Approval to allow a new residence.
- Explained that this property is currently in County jurisdiction but is proposed for annexation into Saratoga. This Design Review Approval would be contingent on final annexation.
- Said that the property is pre-zoned HR (Hillside Residential). On June 7th, Council adopted a Resolution initiating annexation of this property. The final hearing on annexation will occur in the future.
- Described the architectural style as Santa Barbara. The basement is day lighted to the west. Code allows a basement to be a daylight basement to one side.
- Reported that this applicant is seeking a 10 percent coverage bonus and will record a deed restriction for the detached second unit as a BMR (below market rate) unit.
- Said that neighbor input has been received including several comment letters from the owners to the south. Those letters were attached to the report.
- Added that the Byrd's attorney has prepared an itemized response.
- Said that copies of all letters have been provided as well as additional 11 x 17 drawings.
- Said that to exceed grading beyond the 1,000 cubic yards allowed in the Hillside Residential zoning district, the Planning Commission would have to make findings to support it. Staff has drafted a condition requiring that 1,000 cubic yards or less be cut, excluding the basement excavation.
- Said that an Arborist would monitor the trees on site during construction. One tree is proposed for removal and another for relocation.
- Said that allowed fencing is limited in the Hillside district and that the existing chain link and barbed wire fencing on this property will be removed.
- Said that the findings can be made that this home conforms to policies and is compatible with the neighborhood. Privacy impacts are minimized.
- Said that the project is Categorical Exempt under CEQA.
- Stated that this home is replacing a previous residence that existed on the site but has since been demolished.
- Reported that a Biologist's review has occurred and the determination was made that there would be no impacts to Wildcat Creek.
- Recommended approval with the addition of a condition for a Storm Water Management Plan.

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

Mr. Bill Mastin, Project Architect:

- Distributed a color rendering to the Commission.

- Thanked the Commission for its site visit.
- Said that they have worked with Planning staff, the site and the neighbors.
- Outlined neighbor concerns as conforming to construction hours and limiting construction parking on the roadway.
- Said that substantial grading has been proposed around the garage to minimize the impacts of this garage on the Gibersons.
- Said that the closest point between this new house and the Giberson house is 87 feet.
- Said that the overall design took into consideration the trees and neighbor concerns.
- Endorsed the staff recommendations as written including the requirement for a Storm Water Management Plan.

Chair Rodgers said that while it may be 87 feet to the Giberson house what is the distance to their yard.

Mr. Bill Mastin replied 35 feet.

Chair Rodgers asked about wood burning fireplaces.

Mr. Bill Mastin said that they are both gas and wood burning.

Chair Rodgers explained that City Ordinance would limit them to just one wood-burning fireplace.

Mr. Bill Mastin said they would comply with that restriction.

Mr. Alan Giberson:

- Said that they have several concerns.
- Said that there are 85 feet between the proposed house and his home.
- Advised that he would be glad to be annexed into Saratoga.

Ms. Meg Giberson:

- Explained that they are the closest neighbors to the project while other neighbors are about 330 feet away.
- Advised that they welcome the Byrds as neighbors.
- Said that there is a 35-foot setback on her property, which is a side, yard and that meets Saratoga requirements.
- Reported that there have been conflicting grading allowance numbers and that proposed export amounts are considerable, which will result in a lot of truck traffic.
- Said that there is also an air impact.
- Added that there are problems with runoff that have not yet been addressed.
- Suggested that project approval be withheld until the approval of a Storm Water Runoff Plan.
- Said that the project results in privacy, solar and screening impacts.
- Advised that she did not find anywhere in the Saratoga Code where there is an exemption for basement grading against the total grading allowed.
- Said that approval should be withheld until the confusion over grading is resolved.

- Listed concerns as grading, setbacks, runoff drainage and overflow that runs onto their property and will impact Wildcat Creek.
- Asked for an added condition that would prohibit any night lighting of any sports court on this property.
- Asked that trucks be forced to shut off their engines when on site.

Commissioner Nagpal asked staff to clarify the basement excavation issue.

City Attorney Jonathan Wittwer explained that the UBC (Uniform Building Code) includes grading provisions that exclude counting basement excavation.

Commissioner Nagpal clarified that a residence is exempt under CEQA.

City Attorney Jonathan Wittwer said unless something has been determined to be an impact. A Biologist's Report was prepared and determined that there is no substantial impact on Wildcat Creek with this project.

Commissioner Nagpal asked if the Storm Water Management Plan would result in water being managed on site.

Planner Lata Vasudevan replied correct. That is a standard requirement.

Chair Rodgers asked if the Gibersons might be concerned about water crossing over an easement area.

Ms. Meg Giberson asked the City Attorney to provide the cite from the UBC that refers to an exemption of basement excavation.

City Attorney Jonathan Wittwer said that it is in the California Building Code, Chapter 33, Section 3306.2. The City has adopted that provision by reference.

Ms. Meg Giberson said that this provision is after construction but this is only in the Design Review stage right now.

Commissioner Kundtz asked Ms. Meg Giberson to elaborate on the privacy issues.

Ms. Meg Giberson said it relates to setback.

Commissioner Kundtz asked if Ms. Giberson is objecting to proximity as opposed to visual impacts.

Ms. Meg Giberson said she would have less of a concern if the 60-foot setback standard were met.

Commissioner Nagpal reported that the setback is 50 feet.

Ms. Meg Giberson disagreed saying that this is a vacant lot so the required setback is 60 feet.

Mr. Alan Giberson said that the 60-foot setback should be met as this is a 240-foot deep vacant lot. Rotating the garage would satisfy that.

Ms. Jolie Houston, Attorney for the Byrds:

- Reiterated that the Biologist Report on the stream impacts verifies that there are no impacts.
- Added that there is no other evidence to support anything that prevents this project from being treated as Categorical Exempt under CEQA.
- Explained that runoff would be addressed.
- Said that the existing road and driveway would be used to access the site.
- Assured that this project would retain water on site.
- Said that the issue of noise from trucks is not one that is covered under CEQA review but rather by a Noise Ordinance.
- Corrected that this is not a vacant lot. Therefore, it comes under the guidelines that allow a 50-foot setback.
- Said that the basement definition allows an exemption from grading.
- Advised that the garage cannot be rotated due to the need to preserve a grove of Redwood trees.

Ms. Jitka Cymbal, Civil Engineer for Project:

- Clarified that there is just one set of grading and drainage numbers for this project.
- Stated that raising the house a few inches and reducing the grading of the back yard could reduce the project grading required.
- Said that drainage is handled three ways. Roof runoff will be directed into a dissipater and discharged into the landscaping. There will be a bio swale. Additionally, a 200-foot long dissipater will lead into the bio swale and allow for percolation.
- Pointed out that the previous residence on this property had no provision for storm water retention at all. This project will be much better than what existed previously.
- Assured that they would be looking at the geotechnical report to address any concerns.
- Reiterated that they are trying not to concentrate water but rather percolate on site.

Mr. Lester Sachs:

- Said that he owns a property across the street on Sunset.
- Said that he has reviewed the plans and his primary concern was the possibility of a second access to this lot from Sunset.
- Added that other concerns are primarily construction impacts such as the location of the temporary construction trailer, the location of the portable toilet and that trade parking be on site rather than on the street. Additionally, there is the question of street repairs after construction.
- Stated that he would like to see the deed restriction on the second dwelling unit before it is recorded.
- Said that he has lived in Saratoga for 40 years.

- Advised that the Project Architect has offered to have the centerline of Sunset marked.
- Explained that he has seen the plans and thinks this looks like a beautiful home.
- Welcomed Mr. and Mrs. Byrd to the neighborhood.

Mr. Doug Ralston:

- Said he lives next door to Mr. Sachs.
- Said that this proposed home is not visible from his property.
- Advised that the Byrds have accommodated neighbor requests.
- Stated that he is okay with this project.

Mr. Bill Mastin, Project Architect:

- Explained that they have given their best effort in cooperating with the neighbors.
- Said that letters of endorsement from five other neighbors have been provided.
- Stressed that they have gone to great lengths to meet the Gibersons' concerns and met with them three times.
- Said that they will mitigate any privacy concerns.
- Stated that they look forward to approval and that he is available for any questions from the Commission.
- Reported that Mr. Giberson verbally endorsed the suggested raising of the garage level by six inches a few minutes ago.

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

Commissioner Nagpal asked staff to clarify for the Commission the issue between a 50 and 60-foot setback.

City Attorney Jonathan Wittwer:

- Said that a 60-foot setback requirement is for vacant lots and lots created after May 15, 1992.
- Stated that staff has made the determination that this is not a vacant lot but rather a developed lot with a demolished structure. The conclusion was that the 50-foot setback standard was appropriate here.

Commissioner Kundtz said that this site shows respect for the Gibersons' sensibilities. The applicant has made a great effort to accommodate them. It is not reasonable to ask the Byrds to do more. He recommended approval.

Chair Rodgers asked Commissioner Kundtz if he is okay with the 50-foot setback.

Commissioner Kundtz replied that he was.

Commissioner Nagpal concurred. She added that this is a sensitive and beautiful design. With the Storm Water Management Plan and the meeting of the maximum grading allowance, she can support this project.

Commissioner Hlava said she has no problem making the required findings. She is okay with the grading and finds this proposed house to be beautiful.

Chair Rodgers agreed with staff on the findings but cautioned that the grading limit of a maximum 1,000 cubic yards of cut must be met.

Director John Livingstone suggested that since we don't have the grading plan tonight the motion should include a statement that the grading must be reduced by raising the garage area by an additional six inches and leave the rest of the grading plan to be worked out between the applicant and staff

Planner Lata Vasudevan clarified that not just the garage area but also the whole house would need to be raised by six inches.

City Attorney Jonathan Wittwer said that it is preferable to use the Resolution on Condition No. 2 to have the applicant work with the Director on the grading.

Chair Rodgers asked about amending Finding F.

City Attorney Jonathan Wittwer suggested adding the words "as conditioned" to the end of that finding.

Chair Rodgers said that Condition 10 would be the required Storm Water Management Plan and reminded that the chain link fencing removal is also important.

Commissioner Nagpal asked about the issue of tree screening.

Planner Lata Vasudevan said that three trees proposed are not evergreen and the neighbors prefer that evergreen trees be used.

Chair Rodgers asked if the secondary access originally considered to Sunset has been removed from the plan.

Mr. Bill Mastin, Project Architect, said that the parking spaces of concern to Mr. Sachs were on a previous submittal and has been removed.

Chair Rodgers said that the setback appears to be sufficient. She said that this is a beautiful design that steps down the hill and is consistent with the Hillside District.

Mr. Lester Sachs said that the parking on Sunset is still depicted but that Architect Bill Mastin has assured him that this parking along Sunset would be removed.

Chair Rodgers suggested that Condition 11 be added to read that no perpendicular parking for this project would be included on Sunset.

Motion: Upon motion of Commissioner Hlava, seconded by Commissioner Nagpal, the Planning Commission adopted a Resolution granting Design Review

Approval (Application #04-359) to construct a new single-family dwelling on property located at 19930 Sunset Drive (currently in County jurisdiction but pending annexation into City of Saratoga), with the following changes:

- **Adding the text, “as conditioned,” to the end of Finding F as well as to one of the Whereas clauses on the Resolution;**
- **Adding Condition No. 11 to require the preparation of a Storm Water Management Plan;**
- **Adding Condition No. 12 that removes any perpendicular parking along Sunset;**
- **Increasing the height by six inches to reduce the site grading required;**
- **Conditioning that the landscaping screening for the Gibersons be evergreen;**

by the following roll call vote:

AYES: Hlava, Kundtz, Nagpal, Rodgers

NOES: None

ABSENT: Cappello, Hunter and Zhao

ABSTAIN: None

PUBLIC HEARING - ITEM NO. 4

APPLICATION #06-404 (517-09-043, 517-09-018, 517-09-044) Comerica Bank (tenant)/Hiekali (property owner) – 14410 Big Basin Way: The applicant requests a Conditional Use Permit to establish a financial institution (bank) with an ATM in an existing approximately 5,249 square foot vacant tenant space in the newly remodeled Corinthian Corners commercial complex. The bank will face Big Basin Way, abutting Starbucks Coffee Shop, with entrances from Big Basin Way as well as the side parking lot facing Saratoga-Los Gatos Road. The net lot size is 16,180 square feet and the site is zoned CH-1. (Therese Schmidt)

Chair Rodgers advised that the applicant has withdrawn this item.

PUBLIC HEARING - ITEM NO. 5

APPLICATION #06-218 (503-81-005) GREEN, 13000 Paramount Court: The applicant requests Design Review Approval to demolish a two-story single-family residence and accessory structure and construct a two-story residence with an attached two-car garage and carport. The total floor area of the proposed residence will be approximately 5,715 square feet including the attached garage and carport. The maximum height of the proposed residence will not be higher than 26 feet. The net lot size is 36,873 square feet and the site is zoned R-1-40,000. (Therese Schmidt)

Director John Livingstone presented the staff report as follows:

- Advised that the applicant is seeking Design Review Approval to allow the demolition of an existing two-story single-family residence and the construction of a new two-story single-family residence with two-car garage and carport. The new home would consist of 5,715 square feet and the maximum height would not exceed 26 feet.
- Provided a color rendering to the Commission.
- Recommended approval.

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

Mr. Rich Hartman, Project Architect, ARTECH:

- Said that his client has lived on this property for four years now.
- Said that the neighbor most impacted is located to the south. Therefore, this new home would be only one-story on the southern portion.
- Said that the setback from this house to the home to the south is 32 feet to the carport and 78 feet to the second-story wall. They stayed as far away from the southern property line as possible to protect that neighbor's privacy. Additionally there is an existing 20-foot wide landscape area in place to which additional landscaping would be added.
- Reported that this is not a fenced in property. However, a good neighbor fence could be added in the future, if necessary, if additional privacy is desired by the neighbors to the south.

Commissioner Nagpal pointed out that one letter received mentions the addition of Redwood trees.

Ms. Brandy Green, Applicant and Property Owner, said that when presenting their plans to neighbors they also went over screening and added some trees. They are not opposed to additional trees.

Director John Livingstone suggested being clear by conditioning two 24-inch box Redwood trees.

Mr. Ray Azzi:

- Assured that he is the owner of neither an RV nor boat.
- Said that he appreciates the efforts made by the Greens to preserve his privacy.
- Said he appreciates the design of this house and is supportive of not installing fencing between the properties. He prefers to maintain privacy purely through the use of landscaping.
- Added that he prefers Redwoods and worked with the Greens on a final landscape plan.
- Suggested that the installation of these trees be executed early, either prior to or early in the construction process.
- Requested that construction vehicles not use his driveway for turnarounds as it causes damage.
- Asked that if any dog run is proposed that it be located toward the other end of the property.

- Said he has nothing else to say.
- Reiterated that the Greens have been very accommodating and he thanks them for that.

Mr. Rich Hartman, Project Architect, pointed to the last page of the landscape plan and suggested an area where one or two Redwood trees could be added to fill in an existing gap.

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

Chair Rodgers asked how preventing the use of the neighbor's driveway to turn around could be enforced.

Director John Livingstone suggested that the applicant would have to work with his contractor and subcontractors to avoid that action.

Commissioner Kundtz asked about the timing to plant the new trees.

Director John Livingstone suggested that this planting be required prior to issuance of building permits. There should be two 24-inch box Redwood trees installed at the southern property line.

Motion: Upon motion of Commissioner Nagpal, seconded by Commissioner Hlava, the Planning Commission adopted a Resolution granting Design Review Approval (Application #06-218) to allow the demolition of an existing residence and construction of a new single-family residence on property located at 13000 Paramount Court, by the following roll call vote:

AYES: Hlava, Kundtz, Nagpal, Rodgers

NOES: None

ABSENT: Cappello, Hunter and Zhao

ABSTAIN: None

DIRECTOR'S ITEMS

City Attorney Jonathan Wittwer:

- Distributed material on the issue of ex parte communications.
- Explained that the Commissioners have the discretion to decide whether or not to meet individually with applicants or members of the public.
- Stated that possible steps for the Commission could be to develop a specific policy to prohibit and/or to allow ex parte communications.
- Advised that if a Commissioner does have ex parte communications on a matter under consideration by the Commission, that Commissioner should disclose the fact of that communication to the other Commissioners at the public hearing if it is part of the basis for the Commissioner's vote.
- Stated that it is better to try to limit such ex parte communication.

- Suggested that the Commissioners look at this material, think about it and let him know what their individual thoughts are on the subject.

COMMISSION ITEMS

There were no Commission Items.

COMMUNICATIONS

There were no Communications Items.

ADJOURNMENT TO NEXT MEETING

Upon motion of Commissioner Nagpal, seconded by Commissioner Kundtz, Chair Rodgers adjourned the meeting at 11:40 p.m. to the next Regular Planning Commission meeting of **July 26, 2006**, at 7:00 p.m.

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