MINUTES
SARATOGA PLANNING COMMISSION

DATE: Wednesday, June 28, 2006
PLACE: Council Chambers/Civic Theater, 13777 Fruitvale Avenue, Saratoga, CA
TYPE: Regular Meeting

Chair Rodgers called the meeting to order at 7:03 p.m.

ROLL CALL

Present: Commissioners Cappello, Hlava, Hunter, Nagpal, Rodgers and Zhao
Absent: Commissioner Kundtz
Staff: Associate Planner Lata Vasudevan, Associate Planner Therese Schmidt, Contract Planner Deborah Ungo-McCormick, Assistant Planner Suzanne Thomas and Assistant City Attorney Jonathan Wittwer

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES – Regular Meeting of June 14, 2006.

Motion: Upon motion of Commissioner Hlava, seconded by Commissioner Nagpal, the Planning Commission minutes of the regular meeting of June 14, 2006, were adopted as submitted. (6-0-1; Commissioner Kundtz was absent)

ORAL COMMUNICATION

Ms. Kathleen Casey Coakley:

- Encouraged having the downtown designated historic and said that the Commission should encourage Council to do so.
- Said that a Heritage Lane Initiative would be submitted to the Heritage Preservation Commission.
- Stressed the need to educate the public on the issue of historic designation and the benefits to owners of historic properties.
- Urged the Commission not to allow the Village to become a Santana Row, stating that she would fight that trend.
- Mentioned plans for dedicating Oak Street to honor actress Olivia D'Haviland.
- Stated the importance in not having monster houses in the Saratoga Village.
- Asked if a contractor has been hired for the General Plan Update.
- Stated that the website has zero information on heritage lane designation.

Planner Lata Vasudevan advised that a contractor has been hired for the General Plan Update.

REPORT OF POSTING AGENDA

Planner Lata Vasudevan announced that, pursuant to Government Code 54954.2, the agenda for this meeting was properly posted on June 22, 2006.

REPORT OF APPEAL RIGHTS

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

CONSENT CALENDAR

There were no Consent Calendar Items.

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PUBLIC HEARING - ITEM NO. 1

APPLICATION #06-388 (389-46-013) – SUB-ACUTE, 13425 Sousa Lane: The applicant is requesting a Modification to Approved Plans. The applicant has made changes to the project site's landscaping, which are not in compliance with an approved site plan, and are requesting to modify the site plan to add a children's play area to the rear yard. In addition, the applicant is requesting an extension of time required for completion of conditions of approval under Community Development Condition No. 21 of Resolution No. 05-048. The site is zoned R-1 10,000. (Therese Schmidt)

Associate Planner Therese Schmidt presented the staff report as follows:

- Reminded that the Planning Commission granted a Conditional Use Permit on October 26, 2005, to allow the addition of two modular structures and a trash enclosure. This also required the removal of accessory structures.
- Explained that the site is occupied by Sub-Acute, which services patients between one and 19 years of age. It has been in operation since 1961 and has received various Use Permit approvals over the years.
- Stated that this evening the applicant is seeking to modify the plans approved with the October Use Permit and to extend the time of completion outlined in the Resolution that granted this Use Permit.
- Reported that this site was issued a "Stop Work" order on April 28, 2006. At that time the Building Official discovered that a trailer had been relocated on the site without permit, three protected palm trees were removed, native vegetation was removed and occupancy of one of the modular structures had occurred without issuance of an occupancy permit.
- Stated that the applicant is asking to modify their plans and to extend the deadline established in Condition 21, which was April 26, 2006.
- Said that Building D was red tagged and the applicant was told to vacate Building D until occupancy permits are obtained.
- Advised that the applicant is asking that they not be required to vacate Building D but rather be allowed to use the building for storage.

- Explained that an additional structure, a tent-like movable structure, was added to the site. While this may not require a Building Permit, it will require zoning clearance and would have to be counted against lot coverage.
- Said that the Commission could ask for the removal of this tent-like structure or elect to include it in what is being considered.
- Stated that during the site visit, it was discovered that one of the three bedroom units that are supposed to be available for parents visiting their children at Sub-Acute, one of those three bedrooms is currently being used for storage. This third bedroom is also serving as a mechanical shop, which needs a firewall.
- Outlined several options for the Commission this evening, including:
  - Approving the modifications,
  - Modifying the request to include the added structure (cautioned that no FAR ratios are available with this addition),
  - Allow an extension of time to January 26, 2007, along with the continued use of Building D for storage, to allow the applicant to fulfill all of the conditions of approval from the October 26th Use Permit resolution.
  - Continue consideration of this Modification to allow an update to the proposed landscape plan to depict what is actually on site or proposed to be added on site.
- Reported that this project is Categorically Exempt under CEQA.

City Attorney Jonathan Wittwer clarified that this Commission is considering what is noticed, which is the modifications to the approved site plan.

Commissioner Cappello asked about the impervious surface ratios.

Planner Therese Schmidt said that with the additions and changes to the proposal this cannot be verified tonight by staff.

Commissioner Cappello asked if they are at 61 percent impervious coverage is that a variation to the standard.

Planner Therese Schmidt replied yes.

Commissioner Nagpal asked for clarification that the Commission couldn't consider any new issues this evening.

City Attorney Jonathan Wittwer replied that the Commission is limited to what has been noticed.

Planner Therese Schmidt said that any other issues would have to be continued.

Commissioner Nagpal asked if the Commission could give direction and comments.

City Attorney Jonathan Wittwer replied that the commission could offer direction but could not make decisions on new items.

Commissioner Cappello asked about the proposed changes and the request for an extension of time.

Planner Therese Schmidt pointed out that the plan provided to support tonight's request for a modification to the landscape plan does not contain the new tent-like structure discovered during the site visit and is therefore not accurate.

Commissioner Nagpal asked staff to verify that Exhibit A is not accurate.

Planner Therese Schmidt replied that it does not include what was on site yesterday.

City Attorney Jonathan Wittwer said that the applicant is also requesting a modification of the site plan to add a children's play area.

Planner Therese Schmidt said that this play area is on Exhibit A.

Commissioner Nagpal sought clarification that the applicant, through Exhibit A, is asking for the approval of occupancy for Building D and an extension of time.

Planner Therese Schmidt replied yes.

Commissioner Hunter expressed surprise that a temporary structure such as this would require any special sort of approval.

Planner Therese Schmidt explained that while it does not require a Building permit, clearance is required against total FAR (floor area ratio).

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

Mr. Mike Zarcone, Applicant and Director, Sub-Acute:

- Thanked the Commission for its time.
- Stated that he has been working to subtract hardscape to bring total impervious coverage to below 50 percent and has submitted plans.
- Said that they have been struggling to make all of this work.
- Said that they received an approval by the Planning Commission on October 26, 2006, that including the new buildings they needed.
- Said that they did convert a former guest sleeping room into a storage facility. They also converted the use of this room into a workshop when the family that had been using it long-term left. They were unaware that there were specific building requirements for tools.
- Explained that they had to remove two metal containers from the site that used to house wheelchairs and tools.
- Agreed that he screwed up and apologized.
- Admitted that they are working so hard to advocate for kids.
- Added that weather was their biggest adversary in completing this project.
- Said that when the received the red tag, they had to take a storage building out and left them with no place for wheelchairs to go. Right now they are trying to protect wheelchairs

with the temporary awning, as there is no room inside the hospital for wheelchair storage that meets Fire exiting requirements.
- Suggested that they could relocate the temporary awning by three feet to meet setbacks for temporary use to protect wheelchairs.
- Stated that he knows they are considered a nuisance by his neighbors but said that this hospital does a lot of good.
- Stressed that the bigger issue is the kids, who are important to them.
- Stated that it is important to get these kids out of ICU units.
- Pointed out that most are not able to enjoy adventures away from the hospital, which is the reason for the on-site play area.
- Added that surfaces have to be ADA approved in this play area such as grass, sand or tanbark.
- Assured that they are not trying to create a hardship for the City, they are just trying to get by.
- Asked for the extension in time to allow them to complete the plan approved in October.

Chair Rodgers said that the good work of Sub-Acute is appreciated. The City wants to help them not harass them.

Commissioner Nagpal:
- Echoed her appreciation for what Sub-Acute is doing for children.
- Said that it was humbling to go through their facility last October.
- Said that their compliance history is a big issue and the Mr. Zarcone had assured the Commission that it would not be. New things have been identified on the site visit that changes the application.
- Asked Mr. Zarcone how much time is needed to complete their plan.

Mr. Mike Zarcone advised that he brought in a contractor to work with the city. Unfortunately, that contractor was diagnosed with melanoma and was unavailable for a while during treatment.

Commissioner Nagpal pointed out that an additional structure on site is not consistent with the Use Permit. She asked how it might be possible to avoid such a piecemeal application. She asked if there is a facilities manager.

Mr. Mike Zarcone said that they have a maintenance man. Milton Wheeler is their primary on the facilities. He added that they didn't think it was an issue to use one of the guest rooms for storage and a workshop. They also didn't think the use of the temporary awning would have been a big deal.

Commissioner Nagpal said that at some point the use of this site would be maximized and that oversight reassurance is necessary by Sub-Acute.

Mr. Mike Zarcone said that they have to make due with what space they have.

Chair Rodgers asked staff if it might be possible to obtain a temporary permit for storage.

Planner Therese Schmidt replied yes but that there is a process required for a temporary locker.

Chair Rodgers asked if there is a maximum time allowed for temporary storage.

Planner Therese Schmidt replied yes but that she would need to look at the Code to advise the Commission on what that time limit might be.

Commissioner Hlava asked if the building that has been red-tagged by the City is what was intended for permanent wheelchair storage and a workshop.

Mr. Mike Zarcone said that the container previously used to store wheelchairs is what was red-tagged and removed from the property.

Commissioner Hlava asked what the use would be for Building E.

Mr. Mike Zarcone replied that it would house medical records, office space for the therapists, a conference room and back up storage. Medical supplies are stored in Building D.

Commissioner Hlava pointed out that it appears that no permanent plans are in place yet for storage of wheelchairs or the maintenance guy.

Mr. Mike Zarcone suggested that this could be solved with the return of the container that had to be removed.

Chair Rodgers asked Mr. Mike Zarcone if they have considered off-site storage.

Mr. Mike Zarcone said that they are currently spending $400 a month for off-site storage but that they need most of their equipment to be available on site.

Commissioner Cappello asked staff if Exhibit A reflects what was approved in October.

Planner Therese Schmidt replied no. The wheelchair shed was marked on the approved plan for removal and replacement with three parking spaces. Tonight's Exhibit A was submitted on June 1st and represents the proposed modified landscape plan.

Commissioner Cappello pointed out that storage for wheelchairs is not depicted on the approved plan.

Planner Therese Schmidt agreed that nothing on the plan approved included wheelchair storage.

Mr. Mike Zarcone replied that they had always wanted to keep the shed already removed for the storage of wheelchairs.

Commissioner Cappello reminded Mr. Mike Zarcone that the need for wheelchair storage has never been outlined on plans.

Mr. Mike Zarcone said that the previous container for wheelchairs is gone now.

Commissioner Zhao asked staff for the reason for the removal of the storage building.

Planner Therese Schmidt said that they could keep it on another part of the property but the applicant didn't request a location on their plan for that shed.

Commissioner Zhao asked if it could be considered.

Planner Therese Schmidt replied yes but that floor area ratios, coverage and setbacks are not included on the plan submitted for this addition.

Commissioner Nagpal said that she is struggling here. There does not appear to be an application with all of the things needed by Sub-Acute here to review that is accurate.

Planner Therese Schmidt said somewhat.

Commissioner Hunter asked if all the required items would be done if another six months time were given.

Mr. Mike Zarcone replied very much so.

Commissioner Hunter thanked Mr. Mike Zarcone and his staff for what they do.

Chair Rodgers said she echoed that same sentiment. She reiterated that Sub-Acute is asking for six more months and questioned whether during that time some resolution would be reached.

Mr. Mike Zarcone said that it would be his responsibility to work closely with staff and to check before making any changes to the plan. He pointed out that they deal with tons of regulations when running a hospital.

Chair Rodgers suggested that the order of things to be done must be established.

Mr. Mike Zarcone assured that he would work with the Building Department to make sure that happens.

Ms. Rose Silver, Director of Nursing, Sub-Acute:

- Said that this is a plea for more time.
- Asked that they not be required to vacate Building D that serves as central supply as it would be a hardship to operate without it. With it, staff can get what it needs, when it is needed. Without Building D's storage, it would be dangerous.
- Pointed out that Mike Zarcone has the biggest heart.

Ms. Theresa Mills, rear neighbor:
- Advised that since the October meeting, the relationship with Sub-Acute has dramatically improved.
- Said that she looked at the landscaping plan today and noticed that three Chinese Pistache trees are proposed near her property.
- Reported that this tree gets real large with an extensive canopy that will shade her property more than is compatible with her existing landscaping.
- Said that instead one tree is more appropriate for this area and suggested use of a Crape Myrtle.
- Informed that she called Mr. Mike Zarcone on more than five occasions when children where playing unsupervised in the parking lot, which is not a safe place for children to play.
- Said that she believes these children are likely siblings of patients.

Commissioner Cappello asked if the proposed trees are listed on Exhibit A.

Planner Therese Schmidt said that Exhibit A does not include the landscaping or play area.

Commissioner Cappello reiterated that there are no plans.

Planner Therese Schmidt said no.

Commissioner Nagpal asked if the Commission could approve an exhibit it does not have in its packet.

City Attorney said that there is a set available in the Planning office and one is posted here tonight.

Ms. Carol Walker, rear neighbor:
- Said that she lives directly behind Sub-Acute.
- Stated that she has an issue with landscaping and with unsupervised children who are screaming, riding bicycles and throwing things over her fence.
- Added that these may be visitors of staff's kids.

Ms. Jackie Lee, neighbor:
- Identified her home as being located to the left of the hospital.
- Said that she has two concerns with the proposed plan. One is the proposed arbor. She asked that it be meets Code standards. Said that the October plan showed low-growing hedges along her fence. The new plan shows a shrub, which she understands after consulting with a nearby nursery, gets more than 25 feet tall.
- Stated that Mr. Mike Zarcone has agreed to change to another shrub that stays between eight and ten feet tall.
- Said that the wisteria can stay but any new arbor structure constructed should meet setback standards.

Ms. Lynn Hennessee-Cordia:

- Advised that she is a resident of Gilroy with a five-year-old grandson who lives at Sub-Acute.
- Stated that she loves Mike Zarcone and what he does there.
- Added that Sub-Acute needs a backyard for kids.
- Explained that her grandson fell into a pool, died and was revived. Today he's five and living at Sub-Acute.

Ms. Kimberly Cordia, Sub-Acute patient's mother:
- Said that her son is at Sub-Acute. He is a quadriplegic who is in a wheelchair.
- Said that Sub-Acute is a place for kids to feel at home. It is where they live and have fun.
- Stated that Mike Zarcone has done wonderful things for our kids.
- Added that she hopes this time extension is granted.

Mr. Mike Zarcone:
- Stated his willingness to make landscape material changes to resolve the concerns raised by his neighbors.
- Assured that the hedge growing along Ms. Lee's fence will be kept at fence height.
- Agreed to remove some swings and lock up toys after 4 p.m. to limit noise of siblings playing.

Commissioner Hunter said that trees need to be located near the play area to offer shade.

Mr. Mike Zarcone agreed.

Commissioner Cappello said that he is afraid that even if the posted plan is approved there may still not be enough storage to meet the needs of Sub-Acute. He asked Mr. Mike Zarcone if he is okay with his proposed plan.

Mr. Mike Zarcone said that if he can bring it back in the future, he would like to add a shed or container for the storage of wheelchairs.

Commissioner Cappello asked Mr. Mike Zarcone if he would prefer to receive approval for that wheelchair storage on this plan.

Mr. Mike Zarcone replied yes.

Commissioner Zhao asked where this wheelchair container would be added on site later.

Mr. Mike Zarcone replied where it is occurring right now with the temporary structure.

Commissioner Zhao asked staff if this would require a permit.

Planner Therese Schmidt replied yes.

Commissioner Hunter asked if staff could be directed to do so.

City Attorney Jonathan Wittwer said that this represents another modification to the Use Permit.

Commissioner Nagpal asked if this means a return to the Planning Commission.

City Attorney Jonathan Wittwer replied yes.

Commissioner Hlava expressed concern that having the maintenance area next to the bedroom area and school is not safe.

Mr. Mike Zarcone said that a one-hour firewall is required as a safety feature and has been installed.

Commissioner Zhao pointed out that the plan under discussion tonight is not final and asked if it might not be better to wait until the entire plan is ready.

Mr. Mike Zarcone said he would like to be able to proceed with the installation of the landscaping.

Chair Rodgers questioned if the deed restriction for the parking agreement has been finalized and suggested that it might be possible to add extra storage to that deed restriction.

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

Commissioner Hlava:
- Told Mr. Mike Zarcone that she hopes he understands that if this application were for a commercial use, the Commission would not be making the extra effort it is making here tonight.
- Said that she does not want to ask them to vacate Building D.
- Said that a Master Plan or a plan that reflects in reality what is there today is needed, one that reflects the commitments made to the neighbors regarding landscaping.
- Suggested that the time be extended and this item continued to allow the plan to be expanded to include storage for wheelchairs and a maintenance facility.

Planner Therese Schmidt said that no complete set of construction plans has yet been submitted to Building for review. She added that Building E could not be occupied without a Building permit.

Commissioner Hlava:
- Agreed that a complete plan for the site is necessary.
- Cautioned that all conditions imposed need to be met.
- Stated that it is important for the Commission to know exactly what it is approving.
- Said that she would be willing to continue this item for a short period of time such as one month.
- Stated that she is not feeling comfortable with this and with understanding what is going to be on this site.

Commissioner Hunter:
- Stated that she served on the School Board for 10 years.
- Said that she could cry when she thinks about what this school does.
- Added that she feels like we are harassing this school and need to work with them, thank them and treat them with great kindness.
- Agreed that this may be too small a property for what they are trying to accomplish.
- Suggesting giving them an extension and to accept their landscape plan.
- Reiterated the need to get trees out there for these children.

Commissioner Cappello:
- Said that Sub-Acute is a gem in our community.
- Said that there have been violations in the way that things have been carried out.
- Commended staff on their vigilance in upholding standards.
- Said that he believes the applicant recognizes that mistakes have been made and that lessons have been learned.
- Added that he does not believe Building D should have to be vacated.
- Pointed out that the plan before the Commission allows Sub-Acute to move forward on the landscaping and play area but does not reflect all the changes necessary.
- Suggested approving as it stands today and ask the applicant to work with the Planning Department to deal with storage and maintenance needs.
- Reiterated his support for an extension of time.

Commissioner Zhao:
- Said that she too appreciates what Sub-Acute is doing.
- Agreed that Building D is needed for daily operation and supported allowing temporary occupancy for Building D.
- Supported approving a time extension to January 26, 2007, for Condition 21.

Commissioner Nagpal:
- Said that this is a Commission with heart.
- Stated that the Commission was touched with what is done at Sub-Acute during the site visit last October.
- Expressed support for the time extension but agreed that Sub-Acute will need to come back for a second modification in the future for issues such as an additional structure, impervious coverage, wheelchair storage and a maintenance structure.
- Stated that kids make a lot of noise when at play and that is nice. It is not noise but rather music.
- Added that the facility supports not just its patients but also their families.
- Said that she would not require the vacation of Building D.
- Asked that the applicant be as aggressive as possible so as not to have to come back with future requests.

Chair Rodgers:
- Expressed appreciation for the job done and understands that Sub-Acute is trying to create a more home-like setting for its residents.

- Cautioned that there may not be enough space on this specific parcel of land and that creative solutions must be reached that meet ADA requirements for children.
- Pointed out that this applicant appears to need more help from staff than most do.
- Supported the extension of time for Condition 21 to January 26, 2007.

Planner Therese Schmidt said that a correction of one typographical error on the Resolution must be made that corrects the date to October 17, 2005, rather than the 2006 listed.

Commissioner Hlava asked if the plans being approved are the ones posted here tonight.

Planner Therese Schmidt replied yes, adding that the applicant will be asked to provide a reduced set for the record.

Commissioner Hunter suggested having the applicant work with the Community Development Director on issues such as wheelchair storage and a maintenance facility.

City Attorney Jonathan Wittwer suggested that this requirement be added to the conditions when the motion is made.

Motion: **Upon motion of Commissioner Hunter, seconded by Commissioner Cappello, the Planning Commission adopted a Resolution (with correction of a typographical error on a listed date) approving a Modification to Approved Plans (Application #04-189) to modify the site plan to add a children's play yard, grant an extension of time required for completion of Condition of Approval No. 21 of Resolution No. 05-048 to January 26, 2007, and with an added Condition that allows the Community Development Director to approve modifications to plans to accommodate facilities for wheelchair storage and maintenance as long as said facilities are consistent with regulations, on property located at 13425 Sousa Lane, by the following roll call vote:**

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

Commissioner Cappello thanked Planner Therese Schmidt for her work on a very difficult project.

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PUBLIC HEARING - ITEM NO. 2

APPLICATION #06-276 (517-22-100) AMINI – 15397 Peach Hill Road: The applicant requests Design Review Approval to remodel a two-story, single-family residence, which may result in the demolition of over 50% of existing walls, and to construct an addition to the first and second story of the existing home. The total floor are of the proposed residence will be 5,595 square feet. The maximum height of the proposed residence will be no higher than 26

feet. The net lot size is 53,162.5 square feet and the site is zoned R-1-40,000. (Deborah Ungo McCormick)

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

- Advised that the applicant is seeking approval for an addition to an existing two-story single-family residence with a net increase of 122 square feet.
- Reported that such a small addition is not typically referred to the Planning Commission but this addition is part of an extensive remodeling of the exterior of this home and staff decided to bring this request to the Planning Commission as a Design Review application.
- Explained that the total FAR is 5,595 square feet and the maximum height will be 26 feet. The remodeled home would stay within the existing footprint.
- Said that the home is located on a private drive accessed via Peach Hill Road.
- Stated that the home is currently a Craftsman style built in the 1920s.
- Reported that staff had required that a historic evaluation be prepared and reviewed by the Heritage Preservation Commission. That review occurred in May. The HPC concluded that this property is not historic because it is not associated with any person of significance to the past. Additionally, it is no longer reflective of the architectural style due to remodeling that has occurred over the years.
- Stated that the proposal is for a Greek and Classic Revival style home. They are proposing columns, balconies and windows. It will be very different from what is currently there.
- Advised that the architectural styles reflected in this neighborhood are varied. The lots are larger one-acre lots with significant numbers of large trees. This is a heavily wooded lot.
- Added that a large deck on the property will be rebuilt.
- Reported that the proposal meets setbacks and impervious coverage limits.
- Said that there is staff concern with making the finding that there are no massing and/or view impacts with this proposal.
- Said that the neighbors were contacted and no issues were raised. The notification list for 500 feet included homes on the other side of the creek.
- Recommended denial due to massing and view impacts.
- Advised that a color board was submitted with four options offered. The applicant is willing to work with the Commission to alter the color combination as necessary.

Commissioner Hunter expressed surprise with the findings of the historic evaluation. She asked if the consideration whether someone of note lived on a property is a new criterion.

Planner Deborah Ungo-McCormick said that the evaluation looks at the building itself, the site and/or the context, which is who may have lived there.

Commissioner Hunter:

- Asked for clarification that the footprint would remain the way it was except for the porch.
- Pointed out that when one drives up to this home, it is clear that this is a 70-year-old house.
- Reiterated her surprise at the evaluation of this home and the way that it has been dismissed as not being a historic house.
- Reminded that she has attended a number of HPC meetings.

Planner Deborah Ungo-McCormick reminded that numerous modifications have been made. The only original portion of this structure is the center room, which is to be retained with the remodel. The rest of the interior has pretty much been remodeled.

Commissioner Hunter said that when a home is 70 years old it is a shame to dismiss it as not being historical. It could be brought back.

Commissioner Nagpal pointed out that the Commission does not often see a project where staff is recommending denial. She asked staff if they had proposed changes in the proposal to this applicant.

Planner Deborah Ungo-McCormick:

- Replied that this is the style this property owner wanted. They are not interested in another design and wanted to move forward with this design.
- Agreed that this architectural style would not fit in most areas of Saratoga because it is so different.
- Added that this is a large isolated property. The walls are not solid but rather have articulation.
- Reported that when this project originally came to the Planning Department for review, it represented a small increase that is usually a staff-level review.
- Advised that the Community Development Director had concerns with this design including bulk. When the construction begins on this remodel, it may result in more than 50 percent of the walls being removed, which would kick it up to Planning Commission review. Instead of waiting until later, the Director elected to bring it forward to the Commission now.

City Attorney Jonathan Wittwer cautioned that Design Review findings do not include historic review. Historic review should not be used as criteria for denial, should that be the final action of the Commission on this request.

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

Mr. Mike Amini, Project Designer:

- Explained that he is representing his brother, who is his client.
- Stated that he designed this house as well as his own house that was constructed in Saratoga.
- Added that he is very familiar with Saratoga's regulations.
- Informed that another brother also plans to relocate to Saratoga.
- Stated that his brother always wanted a Greek Villa and it took his brother three years to find this property on which to build.
- Said that the plans were shown to the neighbors. Five have expressed support, two of which are present this evening.
- Announced that after having sat through the hearing for Item 1 on tonight's agenda, he is willing to offer design assistance to Sub-Acute at no charge.

- Explained that the great room that is original to this home is being completely preserved.
- Described the architectural style as a combination of Italian and Greek Mediterranean style. The proposal meets FAR, height and lot coverage limitations. It will be located on top of the old foundation. No trees are being touched and all of the natural landscaping will be retained.
- Stated he is available for any questions.

Chair Rodgers told Mr. Mike Amini that she is glad to see that they have been talking to the neighbors.

Commissioner Cappello asked Mr. Mike Amini what changes had been considered to address the issue of bulk.

Mr. Mike Amini said that although the exterior walls of the new home would be tilted up higher, they are using a flat roof. It will not look that massive. He added that this is a very private lot and that only three neighbors can see this home. They are happy with the home's design.

Commissioner Hunter asked Mr. Mike Amini how tall is the original home on this property.

Mr. Mike Amini replied 27 feet. The proposed home is 26 feet.

Commissioner Hunter asked about the posting of story poles.

Planner Deborah Ungo-McCormick advised that story poles are already in place.

Commissioner Nagpal asked Mr. Mike Amini if there is architectural significance in the elements of this design.

Mr. Mike Amini said that he has been in the Bay Area for 25 years. The home design is meeting his brother's preference and he made sure that the design met all of the City's standards.

Commissioner Zhao commended Mr. Mike Amini's offer of free design assistance for Sub-Acute.

Mr. Mike Amini said that he was very serious about that offer.

Commissioner Zhao asked how well the old and new portions of the home would blend particularly the rooflines.

Mr. Mike Amini said that he is keeping the original roof over the great room portion of the house and tying the new portions into that original roof.

Commissioner Hunter asked about roof material.

Mr. Mike Amini said that the existing roof materials used would be matched. He reiterated how hard they have worked to meet the requirements of the City.

Mr. Amini, Property Owner and Designer's Brother, explained that this home represents his family's dream house and that it took them three years to find this specific private property on which to build this house. He asked that they be allowed to have their dream house. He reported that his two immediate neighbors are here this evening. A third supportive neighbor had intended to attend tonight but was unable to do so.

Mr. Charles Brooks:
- Informed that his is an adjacent property.
- Reported that Mr. Amini came to his home and showed the plans for this new house.
- Advised that he has looked at these plans and is familiar with this property for over 40 years.
- Assured that this home is not visible from his home, neither as the existing or proposed home.
- Stated that this would be an asset to the neighborhood.
- Said that he discussed this project with other neighbors and there have been no unfavorable comments.
- Said that this home would have a lovely appearance and represents an upgrade to the current home that is not in good condition as it is loaded with termites.
- Asked that the Commission look at this proposal favorably. The owners are good people.
- Said that he is looking forward to a new building there.

Commissioner Hunter pointed out to Mr. Charles Brooks that staff is recommending denial based upon issues of bulk. She asked if he feels that bulk is not a problem with the new design.

Mr. Charles Brooks replied not for us. He said that he is not aware that anyone can see it in order to be affected by it.

Chair Rodgers asked Mr. Charles Brooks which side his home is located on in relation to the subject property.

Mr. Charles Brooks replied the front.

Commissioner Nagpal reported staff's opinion that the finding stating that the design avoids unreasonable interference with views and privacy cannot be made. She asked Mr. Charles Brooks if he agrees with that opinion.

Mr. Charles Brooks replied no. This design is not offensive to him, his family or his neighbors.

Mr. John Giannanerea:
- Explained that he is the neighbor below this house.

- Reported that he was involved with the design of this house early on.
- Said that he has lived in this neighborhood for seven years.
- Stated that this is a very innovative design and that he looks forward to seeing it built.
- Expressed his support.

Commissioner Nagpal explained that staff has compatibility, bulk and height issues. She asked the height of Mr. John Giannanerea's home.

Mr. John Giannanerea said that his house is lower than this house.

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

Commissioner Cappello:
- Said that while staff has issues with bulk and height, the neighbors don't have the same issues.
- Stated that staff is usually right on target with recommendations.
- Pointed out that the neighbors like this design and it represents the owner's dream home.
- Said that within a different context, he would agree with the issues of bulk and height raised by staff. However, he can make the findings in context with this secluded lot.

Commissioner Zhao:
- Said that the house has a nice design.
- Reported that she was initially concerned about how it might fit within a hillside neighborhood.
- Pointed out that the neighbors have been heard and they are fine with the design. While she might find that it looks massive, the neighbors are not complaining so she does not see a problem with it and can support it in this case.

Commissioner Nagpal:
- Said that the question must be raised. Does neighborhood support drive the findings required under Design Review approval?
- Stated that the decision making process by the Planning Commission must be at its purest and that she struggles with this from that perspective.
- Advised that she asked the designer about the significance of the design features proposed and if they are essential to meet the architectural style but did not get any assurances.
- Added that she is concerned with the proposed colors and with the bulk.
- Said that she could make the findings supporting a lack of views and privacy impacts but that the compatibility issues of the bulk and height are a coin toss from her perspective even though these are large lots in the neighborhood.
- Added that the compelling factor is that the site itself is completely enclosed.

Commissioner Hunter said that she support staff's recommendation for denial due to excessive bulk. Its walls are 26 feet in height with a flat roof, which gives an appearance of mass and bulk.

Commissioner Hlava:
- Said that she has the same issues as Commissioner Nagpal.
- Stated that it is difficult to make the finding that the design does not create excessive bulk.
- Added that she does not agree with staff's excessive impacts on views and privacy.
- Said that the object of the Design Review process is to reflect the whole community's sensibility and not just nearby neighbors.
- Stated her support for the staff recommendation for denial.

Chair Rodgers:
- Said she sides with Commissioners Nagpal and Hlava.
- Agreed that she can back off from concerns of view and privacy impacts that were raised by staff but that she agrees with staff on the issue of bulk.
- Said that the question must be considered as to whether this particular architectural style fits in this area.
- Reminded that landscape screening does not make up for architectural incompatibility.

Commissioner Nagpal:
- Said that one way to approve is if the Commission can be convinced that the design features are needed as proposed in order to achieve architectural purity. Does it truly reflect the purity of that style?
- Asked if anything has been done to prove that point.

Planner Lata Vasudevan reported that period architectural style is not a finding. Issues that can be considered are more articulation, less articulation, different scale. One example of when the issue of purity of architectural style applies is with a Use Permit to go above height limits in order to retain architectural design purity.

Commissioner Cappello:
- Cautioned that the Commission has to be careful how it looks at a two-dimensional drawing.
- Stated that a three-dimensional exhibit gives more of an impression of what it will look like.
- Said that this house does have articulation but it is not obvious in the two-dimensional drawing.
- Reminded that the applicant has expressed flexibility in the colors.

Commissioner Hunter said that the color shown is unfortunate as it stands out in the hillside.

Commissioner Nagpal said that she agreed that another color would be better if this design goes forward.

Commissioner Hunter said that she has problems with the ten columns that go all around and are 26 feet tall.

Planner Deborah Ungo-McCormick said that the photo simulation shows more columns than is actually proposed.

Commissioner Zhao asked if columns are an important element of this architectural style.

Planner Deborah Ungo-McCormick said that she would have to do more research to answer that. This design is actually a blend of different styles. She reminded that the applicant has expressed flexibility on the colors to be used and that staff could work with them on the color choice.

Commissioner Hunter reported that in her six years on this Commission she does not remember the use of a flat roof.

Planner Deborah Ungo-McCormick advised that there have been a couple including one more modern design that incorporated a metal roof that was fairly flat.

Commissioner Cappello:
- Stated that there would be more issues if this design included a pitch roof rather than the proposed flat roof.
- Said that while this is not his preferred architectural style, it is a beautiful style.
- Reported that his parents have a home with a similar style.
- Said that he does have a problem with this style on a hillside and would have less of a problem if it were on a lower elevation parcel.
- Advised that he can make the findings to support this application.

Commissioner Rodgers said that she is struggling with the point made by Commissioner Cappello about evaluating a design with a two-dimensional drawing as opposed to a three-dimensional one. She suggested a straw poll of the Commission to see where this is going.

Commissioner Nagpal:
- Suggested that the applicant go back and deal with the bulk issue, specifically the color, columns, use of two materials and roofline.
- Said that she has problems making Findings D and G.

Commissioner Zhao:
- Said that she still is asking if the columns are a part of this architectural style's characteristics.
- Said that since this is a private road and offers no impacts to its neighbors, this homeowner should have the right to build his dream house in the style they prefer.
- Expressed her support.

Commissioner Cappello said he supports this project.

Commissioner Hunter said that she does not support it because she cannot make Finding D and specifically due to the inclusion of 10 large columns.

Commissioner Nagpal said that she would like to be able to reach an approval for this applicant but has a problem making Finding D.

Commissioner Hlava said she has problems with making Findings B, D and G. She suggested continuing this public hearing, as it appears the majority vote is for denial or at most a tie.

Chair Rodgers said the options are to make a motion, which is likely to be for denial due to concerns over bulk, or allow the applicant to work further with staff. Alternately, the applicant can ask for a denial outright and appeal that action to Council.

City Attorney Jonathan Wittwer clarified that a three to three vote is a failure of a motion but would automatically place the item on the next agenda for a meeting where the entire seven member Commission is in attendance in order to break that tie.

Mr. Mike Amini, Project Designer:
- Said that they are flexible on the issue of color.
- Reminded that the only people near this site is his brother and his three neighbors, none of which have objected to this design.
- Added that they are meeting all standards.
- Said that this architectural style is hard or almost impossible to change.
- Said that he would rather work with staff than to be denied and that he is willing to consider recommendations for modifications to the project.
- Recounted that his brother searched for three years to find this property for his dream house and made sure that none of his neighbors objected.
- Reiterated that no one else can even see this house on this very private lot.

Chair Rodgers said it appears that the applicant prefers a denial and appeal to Council.

Mr. Amini, Applicant and Property Owner:
- Reminded that this new home design is lower than the existing structure.
- Corrected that the columns are only 18 feet tall and not 26 feet as mentioned.

Commissioner Hunter asked whether the Aminis considered staff's negative recommendation.

Mr. Amini said that it was not a negative recommendation. Since it may become necessary to pass the 50 percent point in demolition once construction begins depending on what they find during demolition, they brought this project to the Planning Commission so as not to have to stop in mid-construction to go through this step.

Commissioner Nagpal asked to see the three-dimensional drawing Mr. Amini has in hand.

Mr. Amini said that the Commission should be flexible on creativity.

City Attorney Jonathan Wittwer suggested that this project might best be continued to a date uncertain to allow some redesign.

Planner Lata Vasudevan offered another alternative. Have the applicant work with staff to reduce the thickness of the fascia and reduce the thickness of columns by approving this design with reductions that are to the satisfaction of the Community Development Director.

Planner Deborah Ungo-McCormick said that the cornice is rather large and can be reduced.

Commissioner Cappello cautioned to be careful what you ask for, as it might not look good.

Commissioner Hunter said that it usually works out well when applicants are asked to work issues out with staff.

Motion: **Upon motion of Commissioner Nagpal, seconded by Commissioner Hlava, the Planning Commission CONTINUED TO A DATE UNCERTAIN Design Review for the remodel of a two-story single-family residence on property located at 15397 Peach Hill Road to allow redesign, by the following roll call vote:**

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

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PUBLIC HEARING - ITEM NO. 3

APPLICATION #06-137 (366-43-011) PARKER RANCH HOMEOWNERS ASSOCIATION, 12132 Parker Ranch Road: The applicant requests Design Review Approval to construct a monument sign identifying a subdivision. The total area of the sign is approximately 23 square feet and the height is 4 ft, 4 inches. (Suzanne Thomas)

Assistant Planner Suzanne Thomas presented the staff report as follows:

- Advised that the applicant is seeking approval of a freestanding sign. This is the fourth and final subdivision sign for the Parker Ranch Subdivision.
- Stated that the sign is not illuminated. It is located within a landscaping easement that will be maintained by the HOA.
- Reported that all neighbor have been notified and no negative responses were received.
- Informed that this sign complies with Code requirements. It is situated away from the corner so it does not block visibility.
- Said that findings to support this request can be made in the affirmative.
- Recommended approval.

Chair Rodgers advised for the record that Commissioner Cappello has stepped away from the meeting.

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

Mr. John Heindel, Applicant:
- Stated that he is the representative for the HOA.
- Added that he is available for questions.

Chair Rodgers recognized that Commissioner Cappello has return to the meeting.

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

Motion: **Upon motion of Commissioner Hunter, seconded by Commissioner Hlava, the Planning Commission adopted a Resolution granting Design Review Approval (Application #06-137) to allow the construction of a monument sign identifying a subdivision on property located at 12132 Parker Ranch Road, by the following roll call vote:**
AYES: Cappello, Hlava, Hunter, Nagpal, Rodgers and Zhao
NOES: None
ABSENT: Kundtz
ABSTAIN: None

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PUBLIC HEARING - ITEM NO. 4

APPLICATION #06-410 – Amendment to the Early Warning Alarm System (EWAS): The Saratoga Fire District is proposing an update of the EWAS Ordinance that has been in effect and not updated significantly since 1984. (Lata Vasudevan)

Associate Planner Lata Vasudevan presented the staff report as follows:
- Advised that the Saratoga Fire District has been working with County Fire to update the City's Early Warning Alarm System regulations that have not been updated since 1984.

Commissioner Nagpal sought clarification that these regulations are already in place for structures over 5,000 square feet.

City Attorney Jonathan Wittwer said that this process is updating the Code.

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

Mr. Hal Toppel:
- Explained that this is a 22-year update.
- Said that the standard condition in place for Hillside properties and for residential structures above 5,000 square feet are being expanded into commercial areas.
- Added that the requirement kicks in when there is a change of occupancy or when chemicals are being stored.

- Said that this is a major change to the EWAS regulations and includes technical details.
- Stated that they are proposing a new set of standards for the installation, maintenance and operation of the EWAS.
- Added that the Building regulations would be changed to refer to current standards.
- Advised that a better job will be done of getting notice out to people that these systems exist. Sometimes they are unaware when properties change ownership.
- Stated that for new accounts, a notice (Notice of Alarm System) would be recorded that this system exists and will be a part of the title report for that property advising future owners of the responsibility for the maintenance fee.
- Informed that the system also includes a medical alert button on the panel.
- Stated he was available for questions.

Commissioner Hlava announced that Mr. Hal Toppel was the City Attorney at the time she was a member of Council.

Commissioner Hunter added that she and Mr. Hal Toppel also served together on the School Board.

Commissioner Cappello asked the average installation cost.

Mr. Hal Toppel advised that it depends upon the size of house and number of rooms.

Mr. Hal Metter, County Fire:
- Said he was not aware of the actual installation cost.
- Agreed that cost would depend on size of building and could run from a couple thousand dollars to tens of thousands of dollars for a very large facility.

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

Motion: **Upon motion of Commissioner Nagpal, seconded by Commissioner Cappello, the Planning Commission adopted a Resolution to update the Early Warning Alarm System (EWAS) Ordinance adding text to give specific examples of care facilities, by the following roll call vote:**
AYES: Cappello, Hlava, Hunter, Nagpal, Rodgers and Zhao
NOES: None
ABSENT: Kundtz
ABSTAIN: None

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PUBLIC HEARING - ITEM NO. 5

APPLICATION #06-410 – 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. (Lata Vasudevan)

City Attorney Jonathan Wittwer presented the staff report as follows:

- Advised that the City occasionally receives complaints regarding the residential storage of personal property, primarily boats and recreational vehicles.
- Said that Code currently allows the parking of personal property for five days.
- Stated that all categories are included in this update including motor vehicles, parts of vehicles, trash, refuse, boats and recreational vehicles.
- Said with this update, the express statement is included that the item cannot simply be moved and returned repeatedly without getting a temporary storage permit issued from the Community Development Director.
- Pointed out that there are a number of people in the audience to speak to this issue.
- Stated that another Ordinance affects recreational vehicles, including people living or sleeping in recreational vehicles, trailers, etc. What is proposed is to allow a total of two weeks per year of having someone sleeping in an RV in the front yard.

Commissioner Hunter asked if notification would be made to neighbors if a temporary storage permit were approved.

City Attorney Jonathan Wittwer said that this is simply an Administrative Permit.

Commissioner Cappello said that it appears there would be no way for neighbors to know that temporary storage had been applied for.

Commissioner Hunter asked if neighbors could appeal a temporary storage permit.

City Attorney Jonathan Wittwer replied yes.

Chair Rodgers asked what starts the appeal period.

City Attorney Jonathan Wittwer replied the process starts with a complaint to Code Enforcement. The Code Enforcement staff investigates and talks to the person. In some cases a citation is issued and the nuisance abatement process started. The party can come apply for a Temporary Storage Permit extension and there is a 15-day appeal period.

Commissioner Hunter asked how temporary is temporary.

City Attorney Jonathan Wittwer replied that it is not defined.

Commissioner Hunter asked how the Community Development Director could decide.

City Attorney Jonathan Wittwer replied that there is no limitation on that. The Director may grant more than one extension of the Temporary Storage Permit.

Commissioner Hunter asked about cost for such a permit.

City Attorney Jonathan Wittwer said that there would be both an application fee and an appeal fee.

Commissioner Cappello asked if the five days allow for having personal property (boat, RV etc.) is per trip, year or lifetime. He asked if such property could be screened from public view. Is the idea of the Ordinance that such storage is outright not an allowed use?

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

Mr. John Kolstad:
- Reported that he was on the Planning Commission when this Ordinance passed initially.
- Explained that its purpose was to prevent storage of junk in the front setback.
- Added that there is no problem if screened from view from the street.
- Said that this Ordinance worked fine for a number of years.
- Informed that he owned a boat at the time this Ordinance was passed and still does.
- Advised that he has looked over the revised Ordinance and that five days seems severe.
- Explained that boat owners need time to prep their boats for use, charging batteries, etc.
- Suggested that 10 days per year might be better.
- Reported that Code Enforcement did not go out to look for trouble but rather responded to complaints.
- Suggested that the Commission give direction to staff to keep enforcement without a complaint to a low priority.
- Added that the purpose for temporary use is not long-term storage. Owners should have a normal storage area out of sight.
- Said that allowing an RV on a property during construction should be considered.
- Stated that it is a shame that a few people have ruined it for the majority.
- Agreed that this Ordinance needs more tweaking but it is a good Ordinance that should be kept.

Mr. Shibtai Evan:
- Thanked the Planning Department for their time and courtesy.
- Identified himself as a boat owner living in Saratoga for 20 plus years.
- Added that he has seen Codes passed over that time, both good and bad.
- Said that this Code here is a good idea but needs changes.
- Said that if he were ever advised that a complaint had been filed against his boat, he would ask staff if all other like owners have also been notified. Their workload would increase.
- Stated that selective enforcement is a lawsuit waiting to happen.
- Reported that his boat is currently parked on his driveway in preparation for weekend use.
- Said that he does not want Saratoga to appear to be a bunch of Communists.

Mr. Harry Carlson:
- Said he is a 44-year resident of Saratoga and an RV owner of many years.
- Stated that for this Ordinance to really work, it needs to be tailored to what really happens.

- Explained that in the summer, he brings his RV out of storage, brings it home and takes several days to prepare it for a trip. He then leaves for that trip, comes back, unloads, cleans up and preps it for the next trip.
- Added that the proposed five-day time span doesn't work and is not realistic.
- Suggested that the City be practical about it and allow the legitimate use of our RV's, which are a part of our culture here.
- Said he takes issue with the proposed wording of the amendment and suggested that words be picked that create an Ordinance that can be applied to all of us.

Commissioner Nagpal asked Mr. Harry Carlson to suggest a more reasonable number of days.

Mr. Harry Carlson suggested 20 days within a one-year time frame. The Ordinance could further specify the maximum number of consecutive days.

Mr. Chris Wiles:
- Expressed his support for the staff-recommended changes.
- Said that currently there are no specific time restrictions in the Ordinance. It is very open ended and unenforceable as written.
- Said that this is an important issue in many neighborhoods.
- Said he hoped the Commission would take the input and put a reasonable proposal together that is specific and enforceable.

Chair Rodgers asked Mr. Chris Wiles to suggest an amount of time.

Mr. Chris Wiles said it depends. The five days proposed by the City seems too restrictive. The 20 days per year proposed by a resident tonight may too many. Perhaps 10 days a year might be more realistic.

Ms. Angie Fredrick:
- Stated that she is in favor of amending this Ordinance.
- Said that she has lived at her present address for 40 years.
- Added that neighbors keep their properties in pretty good condition.
- Said that her specific concern is boats and the consistency of enforcement.
- Reported that a new neighbor moved in with a boat.
- Added that she warned that new neighbor that storage on site was not allowed.
- Advised that she has served on the Public Safety Commission.
- Said that having a boat on the street all the time is a concern.
- Stated that people should work together.
- Added that she would like to see Saratoga continue to be a good city. Its rules should be enforced. They need to be consistent. All residents need to be treated the same.
- Said that the Ordinance needs to be looked at and fixed so that it can be enforced.

Mr. John Cantien:
- Said that he is a 42-year resident.

- Stated that he supports the original Ordinance, as it is good not to have clutter in driveways and he also supports language that tightens enforcement.
- Said that five days overall is troubling and should be cleaned up to specify five days per year.
- Urged that there not be selective enforcement. Enforcement should be clear and uniformly done.
- Suggested that this evening's hearing notice should have gone to everyone.

Commissioner Zhao asked staff who received notice.

Planner Lata Vasudevan replied that the Code Enforcement staff has a list of interested parties. This meeting was also advertised in the Saratoga News. As it is a citywide Ordinance, a full-page ad is published.

Mr. Joseph Balogh:
- Said that he is affected by this situation as he is looking at a boat both from his front and back yards.
- Opined that a boat owner does not need three to five days to prepare to go fishing.
- Expressed support for a clear-cut enforcement policy.

Mr. Victor Polouska:
- Advised that he moved to Saratoga 10 months ago and lived in Santa Clara for seven years prior to that with his boat in the driveway with no problem.
- Said that he was happy to move to Saratoga and found a beautiful house here. He spent $7,000 arranging his driveway to hold his $35,000 boat.
- Pointed out that he saw lots of boats in his area and it never occurred to him that there might be a problem until he started getting letters from the Code Enforcement Officer.
- Added that he was told that this Code is only enforced when neighbors complain.
- Recounted that one neighbor keeps a car stored on his driveway at all times and that a lot of people use their driveway instead of their garage to park their cars.
- Described himself as an avid boater who takes his boat out a few times a week.
- Assured that if he had known of this problem, he would never have come to Saratoga.

Commissioner Hunter asked Mr. Victor Polouska if it had not occurred to him to study the standards.

Mr. Victor Polouska said that he lived in Santa Clara for seven years with no problem. Additionally, he saw lots of boats and trailers on his street.

Chair Rodgers asked Mr. Victor Polouska if he had investigated off-site storage for his boat.

Mr. Victor Polouska said that such storage is very difficult to find and pretty expensive. So far he has not found anything suitable.

Chair Rodgers asked Mr. Victor Polouska if he could possibly screen his boat from view.

Mr. Victor Polouska replied absolutely. He distributed two photographs, on of his boat and the other of his neighbor's car permanently parked within public view on the driveway.

Mr. Ed Vincent:
- Stated that he agrees with some of the prior speakers' comments supporting this Code with revisions.
- Expressed that the problem is a lack of enforcement.
- Stated that the changes in language are better than the current Code and suggested sending it on to Council for final approval.
- Pointed out that enforcement is not adequately addressed and that the language that states that the Community Development Director "may" enforce should be changed to "shall" enforce.

Ms. Jane Beal:
- Stated that she is not a Saratoga resident but is speaking on behalf of a client.
- Explained that she is a real estate agent from Willow Glen and San Jose.
- Added that she has sold a couple of homes in Saratoga.
- Recounted that she received a call from her client, Victor Polouska, who told her he wanted to sell his recently purchased Saratoga home.
- Agreed that if this Ordinance is enforced, it must be enforced equally and fairly. It cannot be selectively enforced, like a Communist government might do.
- Advised that she will have to disclose to her buyers in Saratoga about this issue, which might make Saratoga a less desired city in which to live.

Mr. Paul Batista:
- Said that he has a recreational vehicle that he parks at his residence from time to time.
- Asked that this be kept a free country with the right to park vehicles wherever you want to.
- Said that this is a freedom that has been fought for and that this proposal represents a "Communist" type of action.
- Asked "who wants to buy a house in Saratoga when you can't have a boat or RV?"
- Explained that there are a lot of people who enjoy recreational things. With the cost of a mortgage, it is a hardship to have to rent a place to store your boat or RV.
- Suggested that the City needs to think about this a bit more.

Ms. Cheryl Owiesny:
- Said that she is a two-year owner in Saratoga having grown up in Los Altos.
- Recounted her memories as a child where she would prep the family boat for trips with her father.
- Explained that her husband also loves boating and it takes several days to prep before a trip and clean up after.
- Stated that they do not have the money to store off site.
- Advised that they moved here for the good schools for their children.
- Reported that her neighbors had never approached her to discuss concerns over her boat.

- Recounted that five days after moving into her Saratoga home, she had a baby. Two days after that a complaint was lodged about her boat.
- Questioned what ever happened to talking to people directly when there is a problem between neighbors.
- Reported that when relatives recently came to visit and parked for 24 hours, a neighbor called to complain about their vehicle.
- Called that action rude and not American.
- Questioned what screened means.
- Explained that when the trees have their leaves, her boat is not visible. However, when the tree leaves have fallen, the boat is visible.
- Added that allowing a boat on the premises for five days out of 365 per year seems very unreasonable.
- Suggested that perhaps two days per month for a total of 24 days per year is more realistic.
- Reported that a neighbor has a car in the front yard that never moves.
- Reiterated that something more reasonable needs to be developed.

Commissioner Hlava asked Ms. Cheryl Owiesny if her boat is in her back yard.

Ms. Cheryl Owiesny:
- Said that she has two boats, one for freshwater and another for skiing. One is in the rear yard and the other in the side yard.
- Explained that she moved one mile from her previous home when relocating to this home. On the MLS listing is an information field verifying available RV/boat parking on a property, which was an important feature to her family and a draw to this property.

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

City Attorney Jonathan Wittwer said that screening is achieved by fencing of a sufficient height to obscure visibility of the personal property from the public view. It can occur in a side or rear yard but not within the front yard setback.

Chair Rodgers asked staff about the issue of selective enforcement raised this evening by a resident as a potential legal problem. She asked for verification that enforcement is complaint driven.

City Attorney Jonathan Wittwer:
- Replied that almost every city and county operates on a complaint basis.
- Explained that there is no funding or staffing in place for total enforcement.
- Informed that the city does not go out searching for every violation.
- Assured that complaint driven enforcement is not selective enforcement and is legal.

Commissioner Cappello asked if action could only be pursued once a complaint is made if Code Enforcement staff themselves comes across a violation.

City Attorney Jonathan Wittwer replied no. He advised that the City has a Resolution that prioritizes enforcement by category. He added that the best thing is for neighbors to talk together to resolve conflicts and suggested that mediation between parties is often successful at resolving differences.

Commissioner Nagpal asked if enforcement is uniformly handled once a complaint has been made. She asked for clarification on the definition of personal property.

City Attorney Jonathan Witter said he would have to look at the Code to provide the complete definition.

Commissioner Nagpal asked about motor vehicles that are not used every day. What does the term fully operational mean?

City Attorney Jonathan Wittwer replied that fully operational means the vehicle could be driven.

Commissioner Nagpal asked about parts (boats and vehicles) and if there is a size limitation.

City Attorney Jonathan Wittwer replied no. He said that the inclusion of parts in the list of restricted storage is designed to take care of cars and/or boats that have been disassembled.

Commissioner Nagpal asked if Item 5 addresses construction activities storage.

Planner Lata Vasudevan replied yes, correct.

Commissioner Nagpal sought clarification that personal property can be screened with a fence thereby offering property owners the opportunity to store items on their property as long as such fencing is in conformance with fencing regulations.

Planner Lata Vasudevan replied yes.

City Attorney Jonathan Wittwer replied yes, if there is room on the side or rear yard.

Commissioner Hunter reminded that the Saratoga has but one Code Enforcement Officer when it used to have two. She asked if there are plans to hire more? Is the City prepared for this Ordinance?

Planner Lata Vasudevan reminded that enforcement is complaint driven. If a lot of complaints are lodged, the City will have to act upon those complaints.

Commissioner Hlava:

- Said that she is struggling with this amendment because it isn't totally practical.
- Stated that there are issues about number of consecutive days per occurrence and total number of days per year.

- Questioned if it is different between boats and RV's and in situations where RV's are allowed while construction is going on.
- Said that the bottom line is that she does not feel comfortable passing this Ordinance as it is right now. It doesn't really work.
- Added that she is not sure how well this Commission is thinking now at this late hour.
- Asked for suggestions on process here, as this is not the way to go.

Commissioner Nagpal said that she feels that same way. She is not close to saying yes to this. She suggested that input provided would have to be redrafted.

Chair Rodgers said that if there were not enough votes to pass this as drafted, amendments would be required.

Commissioner Hunter agreed that this has been a long and difficult meeting tonight and she is drained.

Commissioner Nagpal reminded that the role of this Commission is simply to make a recommendation to Council.

Commissioner Zhao said that she takes issue with the proposed language and is not ready to support this amendment.

Commissioner Cappello:
- Agreed that it is much too restrictive as written right now.
- Asked how the 10-day limitation would be enforced.
- Questioned what would constitute a day since sometimes people might have their boat on site for just half a day.
- Said that with the issuance of a Temporary Storage Permit there will need to be a plan in place for permanent storage of that item.
- Said that he is not prepared to pass this as written, as he would like to see changes made.

Chair Rodgers:
- Stated that this is a difficult issue.
- Expressed appreciation for the public comments.
- Stated that this seems unworkable particularly how to enforce the number of days per year such personal property storage would be allowed under this Ordinance.
- Agreed that setting a number of consecutive days may be more workable.

Commissioner Nagpal suggested a Study Session or future meeting. She said that there are some ideas that can be worked with to take this to the next level.

Commissioner Cappello asked if Study Sessions are publicly noticed.

Commissioner Hunter said that the public hearing process is more valuable and that she has found that Study Sessions are not often that successful due to limited time available for them and limited participation by the public.

Chair Rodgers said that the Study Session format is good to reach compromise but not for this purpose.

City Attorney Jonathan Wittwer advised that this item is scheduled for Council on July 17th and suggested that it be brought back to the Commission at its next meeting on July 12th.

Commissioner Hunter cautioned that there would be a small group of Commissioners at the meeting on July 12th.

Commissioner Nagpal said that there would be enough to proceed.

City Attorney Jonathan Wittwer suggested that the Commissioners feel free to send him emails with their input.

Commissioner Hunter said that as written this Ordinance is a little inflexible.

City Attorney Jonathan Wittwer supported the concept of establishing a total number of days per year as well as a total consecutive number of days per occurrence.

Commissioner Hlava suggested consulting with the Code Enforcement staff about what might make this more enforceable.

Chair Rodgers questioned the continued inclusion of boat/RV storage on the list of fields for MLS real estate listings.

Commissioner Cappello advised that he has a boat in a screened location on his property and he does not like to see these types of items in a visible location from the street. He said he considers that to be blight.

Chair Rodgers said that there is also the question of the impact of these requirements as they might apply to construction materials used by a property owner for projects not requiring a Building permit.

Motion: **Upon motion of Commissioner Nagpal, seconded by Commissioner Hlava, the Planning Commission CONTINUED CONSIDERATION TO ITS MEETING OF JULY 12, 2006, the amendment to Ordinance Section 15-12.160 of the Saratoga Code, by the following roll call vote:**

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

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DIRECTOR'S ITEMS

There were no Director's Items.

COMMISSION ITEMS

There were no Commission Items.

COMMUNICATIONS

There were no Communications Items.

ADJOURNMENT TO NEXT MEETING

Upon motion of Commissioner Cappello, seconded by Commissioner Hunter, Chair Rodgers adjourned the meeting at 11:55 p.m. to the next Regular Planning Commission meeting of **July 12, 2006**, at 7:00 p.m.

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