

**MINUTES
SARATOGA PLANNING COMMISSION**

DATE: Wednesday, March 22, 2006
PLACE: Council Chambers/Civic Theater, 13777 Fruitvale Avenue, Saratoga, CA
TYPE: Regular Meeting

Chair Nagpal called the meeting to order at 7:00 p.m.

ROLL CALL

Present: Commissioners Cappello, Hunter, Kundtz, Nagpal, Rodgers and Schallop
Absent: Commissioner Uhl
Staff: Director John Livingstone, Associate Planner Lata Vasudevan, Associate Planner Therese Schmidt, Assistant Planner Suzanne Thomas and Assistant City Attorney Jonathan Wittwer

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES – Regular Meeting of February 22, 2006.

Motion: Upon motion of Commissioner Cappello, seconded by Commissioner Kundtz, the Planning Commission minutes of the regular meeting of February 22, 2006, were adopted with a correction to pages 4,5,6,8,14,15, and 16. (6-0-1; Commissioner Uhl was absent)

ORAL COMMUNICATION

Mr. Paul Fortenot, Saratoga Resident:

- Thanked the Commission for the opportunity to speak.
- Explained that he spoke to Council about the need for a master plan for wireless facilities.
- Said that while this issue will move forward, it will take time.
- Assured that he is willing to help out with this.
- Said that Saratoga needs to be informed of current and future sites for each service provider.
- Added that this does not mean confidential or proprietary information.
- Suggested that Nextel, with a pending application for the Church of the Ascension, be asked to provide this long-term plan for Saratoga.
- Advised that there are third party companies out there compiling such information.
- Said that Council could be encouraged to insist that this sort of information be part of the application process.

Commissioner Kundtz said that he has probed applicants on two occasions about their long-range strategic plan but was told both times that this information does not exist. He asked Mr. Paul Fortenot if he knows factually that they do indeed have such information.

Mr. Paul Fortenot said that while he cannot state factually that they do have such information, he does believe they can provide such information if asked.

Commissioner Kundtz agreed it would likely be available.

Mr. Paul Fortenot agreed.

Chair Nagpal pointed out that the Church of the Ascension is scheduled for a Study Session.

Mr. Ray Muzzy, Saratoga Resident:

- Reminded that the people who come to the public meetings for the service providers don't actually work for those providers but rather represent third party companies.
- Assured that corporations do have such long-term plans but that this information would have to be extracted from the providers themselves rather than their third-party representatives.
- Stated that if this information is required, they would cough it up but they would not do so unless required to do so.

ORAL COMMUNICATION – PLANNING COMMISSION DIRECTION TO STAFF

Chair Nagpal asked Director John Livingstone if Council has changed its priorities as far as Ordinance updates.

Director John Livingstone reported that staff is preparing a report to Council for its meeting of April 5th that will update them on priorities.

Commissioner Cappello asked whether the list of questions developed for cell site applications could be a part of the package for the pending application from Nextel.

Director John Livingstone replied that this is not a requirement but the applicant is encouraged to provide the most information possible.

REPORT OF POSTING AGENDA

Director John Livingstone announced that, pursuant to Government Code 54954.2, the agenda for this meeting was properly posted on March 15, 2006.

REPORT OF APPEAL RIGHTS

Chair Nagpal 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 #06-210 (397-06-092) NARAIN, 18596 Arbolado Way: The applicant requests Design Review Approval to demolish approximately 38% of the existing exterior walls of a single-story single-family detached residence and construct a major architectural renovation with the addition of a second story and construct a small detached accessory pool structure. The total floor area of the proposed residence will be 5,897 square feet including an attached garage. The proposal includes removal of one Ordinance-sized tree, a 12-inch diameter European White Birch. The maximum height of the proposed residence will not be higher than 24 feet. The net lot size is 40,205 square feet and the site is zoned R-1-40,000. (Therese Schmidt)

Associate Planner Therese Schmidt presented the staff report as follows:

- Stated that the applicant is seeking Design Review Approval to demolish approximately 38 percent of the exterior walls of an existing single-story single-family residence and construct a new second story and small pool structure.
- Described the architecture being modified from ranch to traditional contemporary.
- Reported that this conversion of a single-story into a two-story is exempt under CEQA and no geotechnical clearance is required.
- Explained that there are 15 protected trees on the property and the Arborist's report recommends the removal of one Birch tree.
- Advised that five neighbors submitted comments. One had concerns over the architectural design's compatibility with the neighborhood.
- Said that this project is consistent with the General Pal and that Design Review findings can be made in the affirmative.
- Recommended approval.

Commissioner Rodgers pointed out that instead of story poles there was simply a single two by four at the top of the roof to indicate the maximum proposed height. She asked whether orange netting had been required.

Planner Therese Schmidt replied that the use of orange netting was not required but strongly suggested. Staff simply asked for the single pole.

Commissioner Hunter asked why orange netting was not required.

Planner Therese Schmidt said that it was simply an oversight on her part as the applicant would have been willing to install this orange netting if asked.

Commissioner Hunter said that use of orange netting shows up better and is important on a hillside.

Commissioner Kundtz said he agreed that one pole was not enough. He added that more comprehensive poles with netting would be well received by the Planning Commission.

Planner Therese Schmidt said that staff would take care in the future.

Commissioner Rodgers pointed out that other residences beyond the noticing distance of 500 feet could be impacted with hillside construction.

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

Mr. Adam Rockwood, Project Architect:

- Advised that this project was submitted on December 21, 2005.
- Said that they are thrilled to bring this project before the Commission.
- Advised that this is a 40,205 square foot level lot that will undergo a major remodel with the addition of a second story and cabana for a total square footage of 5,897.
- Described the architectural style as being international.
- Said that two neighbors had expressed concern over the proposed architectural style.
- Pointed out that there are varied architectural styles in this area including neoclassic, modern, Spanish, colonial revival and others.
- Said that one Ordinance protected tree, with a 12-inch diameter, would be removed and replaced with two Oaks.
- Reminded that they have been working with staff for three months.
- Said that this project is pure to its architectural style and the requirements of the Planning Department.

Commissioner Hunter pointed out that there is no way that homes along Sobey Road can be aware of the potential impacts of this second story addition. She asked Mr. Adam Rockwood if it had occurred to him to install the orange netting to demonstrate the impacts of this addition.

Mr. Adam Rockwood replied no, they simply followed staff direction.

Commissioner Rodgers said that she takes a consistent approach on hillside projects and asked Mr. Adam Rockwood if he is opposed to installing netting for a while.

Mr. Adam Rockwood:

- Replied yes, they would object at this point in time.
- Reminded that the use of orange netting was never required or requested.
- Stated that imposing that requirement that now would mean this application would have to come back to a future meeting.
- Reminded that the neighbors were notified as required.
- Clarified that this is not a hillside lot.

Commissioner Hunter said that this addition would be visible but she can understand the concerns by the applicant about requesting orange netting to be installed at this point since this was not a requirement.

Chair Nagpal asked the slope of this lot.

Mr. Adam Rockwood replied seven percent slope. He said that if one looks at the larger homes located across the way, many are painted very obvious colors such as peach while he is proposing natural colors that match the area better. He assured that this home would be less visible than the large white houses located below them.

Chair Nagpal asked to see the color boards.

Commissioner Rogers asked how the flat roof style is designed to handle rain runoff.

Mr. Adam Rockwood replied that the Building Department standards are met and include a minimum slope and gutter system to handle rainwater.

Commissioner Cappello asked about the roofing material proposed.

Mr. Adam Rockwood said that the roofing material is not yet determined but he assured that it would be non-reflective and not metal. He said that it might be asphalt. He concluded by stating his hope that the Commission would approve this application tonight.

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

Commissioner Hunter:

- Agreed that since the use of orange netting was not requested of this applicant, it would be unfair to penalize them for not having it installed.
- Suggested that in the future, it would be a good idea to require installation of orange netting on hillside properties.
- Said that this home design is fine and unusual.
- Stated her support.

Commissioner Rodgers:

- Said that whenever a hillside property is involved, she would like to see story poles installed.
- Added that she does not have the imagination to see the potential impacts without a demonstration using the orange netting.
- Said that some neighbors have objected to this home's international modern architecture but she does not.
- Said that it is somewhat hard to see how it will look in three dimensions especially the older portion about the plain exterior walls.

Commissioner Kundtz said that there is a home similarly designed located near him and that this is a great and unique design.

Commissioner Cappello:

- Agreed that story poles are very beneficial to help give perspective but that the City does not currently have that as a requirement but rather just as a request of applicants.
- Reminded that the applicant met the request made to install the single pole and cannot be penalized for not going beyond that.
- Said that until the use of story poles becomes an Ordinance requirement, the Commission is in a tough position.
- Stated that he likes this home's design.
- Agreed that there is a mixture of architectural design in this and other areas of Saratoga.

Commissioner Hunter cautioned that if staff suggests to an applicant that story poles are a good idea, the applicant should do it. She added that the Commission could ask for story poles.

Commissioner Rodgers agreed that the Commission could ask if it believes it to be necessary. She asked that the Community Development Director implement the wishes of the Commission on this issue.

Commissioner Cappello said that he could understand why the single pole was requested by staff to define the maximum height on this flat design.

Commissioner Rodgers said that one two-by-four would not tell the extent of the height of the roof to her.

Commissioner Cappello said that he has no problem imagining the impact to views with one pole.

Chair Nagpal:

- Said that this is a mixed neighborhood and this home has a beautiful modern, international design.
- Pointed out a nearby contemporary home that is located next to a Spanish style home.
- Said that this home would be an asset.
- Expressed her support.
- Added that the proposed colors made a difference for her as they are very much in keeping with the general surroundings.
- Stated that she is able to make the required findings in the affirmative.

Motion: Upon motion of Commissioner Hunter, seconded by Commissioner Cappello, the Planning Commission adopted a Resolution granting Design Review Approval (Application #06-210) to allow a renovation and second story addition and a new accessory pool structure at an existing residence located at 18596 Arbolado Way, by the following roll call vote:

AYES: Cappello, Hunter, Kundtz, Nagpal, Rodgers and Schallop
NOES: None

ABSENT: Uhl
ABSTAIN: None

PUBLIC HEARING - ITEM NO. 2

APPLICATION #06-270 (503-27-650) GUO/MA, 14360 Paul Avenue: The applicant requests a modification to a Design Review Approval granted by the Planning Commission at their January 11, 2006, hearing, which consisted of demolition of an existing one-story single-family residence and construction of a two-story single-family residence with a total floor area of 2,400 square feet. A 966 square foot basement was also approved. The maximum height of the approved residence is 25 feet, 6 inches. The proposed modification would increase the total floor area to 5,558 square feet and decrease the maximum height of the residence to 24 feet, 8 inches. The gross lot size is 5,162 square feet and the site is zoned R-1-10,000. (Therese Schmidt)

Planner Therese Schmidt presented the staff report as follows:

- Advised that the applicant is seeking approval of a Modification to a Design Review Approval that was granted by the Planning Commission at its meeting of January 11, 2006.
- Reminded that the original approval was to demolish a single-story single-family residence and construct a two-story single-family residence with an attached two-car garage, a 966 square foot basement and with a maximum height of 25 feet, 6 inches.
- Explained that the Modification includes a decrease in maximum height to 24 feet, 8 inches, changing of windows and a 158 square foot addition to the second story at the north elevation of the house.
- Reported that any changes to an approval made by the Planning Commission are brought back to the Commission for consideration.
- Said that this project is Categorically Exempt under CEQA and no geotechnical or arborist reports are required.
- Stated that four neighbors submitted comments. One has concern about the change in window location. Another neighbor called this evening and said he plans to attend tonight.
- Said that the project is consistent with the General Plan and meets Design Review findings.
- Recommended approval with two changes to the draft Resolution. One is to correct the date on Condition No. 1 from December 22, 2005, to March 3, 2006. Another is the addition of Condition No. 14 that requires the redesign of the chimney to extend beyond the roofline to the approval of the Community Development Director.

Commissioner Hunter asked for clarification that the proposed window changes are for two windows and include what was once a simple window as now a bow window in the master bedroom.

Planner Therese Schmidt replied yes. She added that what was once a single window is now proposed to be changed into two windows.

Commissioner Hunter asked if the bow window is bigger than the regular window.

Planner Therese Schmidt replied yes.

Chair Nagpal asked how high this window would be placed.

Planner Therese Schmidt answered five feet, five inches above the floor.

Commissioner Cappello asked if the decrease in maximum height is a design change.

Planner Therese Schmidt replied yes.

Commissioner Rodgers asked if raising the chimney above the roofline would have an impact on the neighbor.

Planner Therese Schmidt said that it would have no view impact and would look better.

Commissioner Rodgers added that it would also work better for a wood-burning fireplace.

Planner Therese Schmidt advised that she believed this fireplace is gas.

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

Ms. Rachel Frame, Project Designer:

- Said that she is representing Mr. and Mrs. Ma.
- Said that windows appear to be the primary concern especially the proposed bow window. The neighbor with concerns is here tonight.
- Reported that the Mas have reached an agreement with Mr. Schneider and the original placement of the bow window would be kept where it was at the back of the house but wider. It will be centered more and extended in width and Mr. Schneider has agreed.
- Added that a window has been added to the right elevation, at the right side of the back of the house serving bedroom #2.

Commissioner Rodgers asked if the bay window to the back of the house is still in the new proposed location.

Ms. Rachel Frame reported that they had met with Mr. Schneider just before tonight's meeting and reached a compromise. The Mas have agreed to reduce the height and bow and move it back to the original location with slightly larger width.

Commissioner Cappello asked if the bow window on the right side would be removed and replaced with an equivalent window as is used on the left side.

Ms. Rachel Frame replied correct. She added that Dr. Weinmann had an issue with the height and location of that window. He does not like the added width proposed. She reported that they had a line-of-site study prepared.

Commissioner Cappello clarified that the previous placement at five feet, five inches has been replaced with a bow window at a five-foot height that is wider.

Ms. Rachel Frame:

- Replied correct.
- Reported that the bow window is back in its original location.
- Explained that she had an error in FAR (floor area ratio) calculations that allowed them to add approximately 150 square feet to the second level that allows an additional bath and a wider master bedroom that was originally 11 feet and is now 14 feet wide. Additionally, the fourth bedroom didn't have a closet and one has been added with the addition of two feet to the north left side of the house.
- Said that the house is still set back five feet further than required due to an easement.
- Stated that the roof was brought down to help mitigate the appearance of bulk.
- Assured that the new elevations are much more attractive and in proportion.

Dr. Bob Weinmann, Saratoga Resident:

- Said that he is concerned about line-of-site impacts with a larger window and its potential for invasion of privacy in his yard.
- Said that the larger window offers more viewing space.
- Stated that as long as the line-of-site is not changed from previously approved, his concern is mitigated. If not, he stands to sacrifice privacy for the use of his pool and yard area, which causes a concern of the quality of use of his yard and pool.
- Added that this is not an unreasonable concern.
- Pointed out that another window in the other direction will already offer light to this room.
- Said in the issue of privacy versus need for light, he would be the largest loser.

Commissioner Rodgers asked how Dr. Weinmann would feel about adding a Condition requiring the planting of trees.

Dr. Weinmann asked what side of the property.

Commissioner Rodgers asked Dr. Weinmann his preference.

Dr. Weinmann said his preference would be on his side.

Commissioner Hunter asked Dr. Weinmann if he is willing to allow the planting of trees on his property.

Dr. Weinmann said he would be willing but that he is not sure if this would be an adequate solution. He added that he has to defer to the expertise of the project designer.

Mr. Scott Schneider, Saratoga Resident:

- Explained that he is the neighbor who called earlier this evening.
- Said that he and the Mas have reached a good compromise and that he was glad to have been able to work something out with the Mas that is good for both sides.

Commissioner Hunter asked Mr. Schneider where his home is located.

Mr. Scott Schneider replied next to Dr. Weinmann's.

Ms. Rachel Frame:

- Said that the only issue left is the window and Dr. Weinmann's concerns about it.
- Said that it is up to the Planning Commission to determine if widening this window represents an added invasion of his privacy.
- Stated that there is no change in line-of-sight. They are only widening the window not changing the height.
- Deferred this decision to the Planning Commission.

Commissioner Hunter asked if this would be a child's room.

Ms. Rachel Frame replied that it is for a second child that is not yet on the way.

Commissioner Cappello said that this room shares windows on the front of the home.

Ms. Rachel Frame replied correct. She said that there is a lot of window in that room but that it is a small room and windows open small spaces up.

Commissioner Cappello asked if there is also a window on the other side of the house serving this particular bedroom.

Ms. Rachel Frame replied no.

Commissioner Hunter asked Ms. Rachel Frame for her comments on the installation of trees.

Ms. Rachel Frame said this risks compromising the view of the hills by the Mas. She said that they would prefer a compromise in the size of window if necessary.

Commissioner Hunter pointed out that Dr. Weinmann could plant trees on his property any way.

Ms. Rachel Frame agreed.

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

Commissioner Kundtz:

- Said that the Mas did a nice job with the redesign.
- Stated that it is nice for them to find an extra 150 square feet.
- Said that there is a lot of emphasis on unreasonable invasions of privacy.
- Said that there is not an unreasonable compromise of privacy on Dr. Weinmann as privacy impacts are not expanded with a horizontal expansion of this window.
- Advised that he supports the project as proposed.
- Reminded that, if necessary, Dr. Weinmann can plant trees on his property.

Commissioner Rodgers:

- Suggested that the applicants be asked to provide a tree to Dr. Weinmann that only grows to a certain height.
- Said that she does not object to the window as proposed.
- Proposed that Dr. Weinmann be allowed to see the window view once installed to determine if a screening tree is even necessary to preserve his privacy in the yard.

Chair Nagpal asked if Commissioner Rodgers is suggested that as a Condition of Approval.

Commissioner Rodgers replied yes.

Commissioner Cappello:

- Agreed that the impact is not unreasonable.
- Said he has no problem supporting this project as is.
- Expressed appreciation for the applicant's mitigation of impacts as much as possible by relocating the bow window.
- Stated his support.

Commissioner Hunter:

- Pointed out that Dr. Weinmann's home is a single-story.
- Said that getting a new two-story next to an existing single-story is a shock but that accommodations have been made.
- Said that she will support this request and that she hopes the neighbors work together.
- Suggested that Dr. Weinmann has a triangle of land available where he can put in trees if necessary for privacy.

Chair Nagpal:

- Explained that the line of sight drawings show that there are no unreasonable impacts with this window.
- Expressed agreement with the comments of the other Commissioners.
- Said that she does not agree with the suggested added Condition of Approval requiring Dr. Weinmann to see the window in place to decide if a tree is necessary.

Commissioner Rodgers said that she is willing to support this project even without that condition.

Motion: Upon motion of Commissioner Cappello, seconded by Commissioner Rodgers, the Planning Commission adopted a Resolution granting a Modification (Application #06-270) to a previously approved Design Review Approval (Application No. 06-075) changing out windows, increasing the total square footage and decreasing the maximum height, on property located at 14360 Paul Avenue, as modified, by the following roll call vote:

AYES: Cappello, Hunter, Kundtz, Nagpal, Rodgers and Schallop

NOES: None

ABSENT: Uhl

ABSTAIN: None

PUBLIC HEARING - ITEM NO. 3

APPLICATION #06-173 (410-39-016) LLOYD, 15310 Quito Road: The applicant requests Design Review Approval to construct a 920 square foot one-story addition to an existing two-story single-family residence. The total floor area of the residence, including the proposed addition, is 6,537 square feet. The maximum height of the addition is 18 feet. The net lot size is 42,207 square feet and the site is zoned R-1-40,000. (Suzanne Thomas)

Assistant Planner Suzanne Thomas presented the staff report as follows:

- Advised that the applicant is seeking Design Review Approval to add a single-story addition to an existing two-story residence of approximately 900 square feet for a total square footage over 6,000 square feet.
- Explained that Planning Commission approval is required whenever the total square footage of a residence exceeds 6,000 square feet.
- Added that the maximum height proposed is 18 feet and the lot size is 42,000 square in an R-1-40,000 zoning district.
- Reported that building materials would match existing including natural stone, plaster and a tile room.
- Distributed a photograph of the home and the color rendering.
- Stated that three trees are potentially impacted. One, a Walnut, has received support for removal by the Arborist due to its poor condition.
- Reminded that there is a riparian zone by the creek on this property. Therefore there are two zones between the creek and the house. The riparian zone and the setback measured from that zone.
- Said that the modification of the Conditions of Approval that was approved on November 23, 2005, allowed encroachment into the setback if a biologist says that it can be allowed. This would consist of approximately four square feet in area with ample mitigations proposed and conditioned.
- Explained that since this project is 150 feet away from the creek, there is no requirement for a permit from the Santa Clara Valley Water District, which requires permits for work performed within 50 feet of a creek.

Commissioner Rodgers asked about the fence in place nearby.

Planner Suzanne Thomas:

- Said that the applicant could respond about the fence.
- Reported that the plans were provided to the neighbors and notification occurred to property owners within 500 feet. No negative comments were received.
- Said that the site is set back and located below Quito Road. There are no views or privacy impacts.
- Said that one tree will be removed.
- Reported that the Biologist has reviewed impacts and finds this project will enhance the area.

- Recommended approval, saying that the required findings can be made in the affirmative.

Commissioner Kundtz extended his compliments to Planner Suzanne Thomas on her report. He pointed out that the check off boxes on the neighbor notification forms are not included. He pointed out that he had mentioned this oversight before and asked staff to look at this more carefully in the future.

Planner Suzanne Thomas said this is an excellent point and staff will watch for it in the future.

Commissioner Rodgers sought clarification on the area to be encroached.

Planner Suzanne Thomas explained that it is not the riparian corridor that is to be encroached but the buffer zone.

Commissioner Rodgers pointed out a drain grate that appears to be on the footprint of the home.

Planner Suzanne Thomas deferred this issue to the applicant.

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

Mr. Derek Van Alstine, Project Architect:

- Explained that with the original subdivision the Water District required the fence mentioned by Commissioner Rodgers.

Commissioner Rodgers said that although there was no footprint indicated on the ground she had a question about the existing grate that appears to be in the proposed footprint.

Mr. Derek Van Alstine said it was in the footprint area and would be moved eight to ten feet toward the creek.

Chair Nagpal asked if this is a storm drain.

Mr. Derek Van Alstine replied that it is an area drain for the yard.

Commissioner Rodgers asked if it handles runoff.

Mr. Derek Van Alstine said that if there is heavy rain perhaps but not a significant amount.

Commissioner Rodgers asked about the use of wood burning fireplaces particularly with the close proximity of only 30 feet to the house on Lot C.

Mr. Derek Van Alstine replied that the two proposed fireplaces are gas.

Commissioner Rodgers pointed out that Code allows one wood burning and the Conditions list one wood burning and one gas. She asked Mr. Derek Van Alstine if he has any problem changing the Condition to reflect two gas-burning fireplaces.

Mr. Derek Van Alstine replied no.

Commissioner Rodgers asked about plans for a pool.

Mr. Derek Van Alstine replied that this would be dealt with later as a separate application.

Commissioner Rodgers asked staff if a pool was not already approved.

Planner Suzanne Thomas replied no. The request for a pool has not yet been submitted.

Commissioner Rodgers asked if a pool application comes to the Commission.

Mr. Derek Van Alstine:

- Replied that the concept of a pool was brought to the Commission as part of the mitigation factor as part of the landscape plan.
- Stated that it is anticipated that a pool will be built but it is an over-the-counter application to be handled later and not as part of this application.
- Thanked the Commission for its time.
- Asked for approval of this application this evening.

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

Commissioner Hunter said she thought this project is fine.

Commissioner Cappello agreed.

Assistant City Attorney Jonathan Wittwer pointed out a typographical correction on the resolution where the word "if" should be replaced with "is."

Motion: Upon motion of Commissioner Hunter, seconded by Commissioner Kundtz, the Planning Commission adopted a Resolution granting Design Review Approval (Application No. 06-173) to construct a single story addition to an existing two-story single-family residence on property located at 15310 Quito Road, with the modification to Condition #3A allowing only gas fireplaces, by the following roll call vote:

AYES: Cappello, Hunter, Kundtz, Nagpal, Rodgers and Schallop

NOES: None

ABSENT: Uhl

ABSTAIN: None

PUBLIC HEARING - ITEM NO. 4

APPLICATION #06-156 (397-10-033) HARINARAYAN, 15126 Via Colina: The applicant requests Design Review Approval to construct a new two-story single-family home with a

basement on a vacant 44,478 (net) square foot lot. The total floor area of the proposed residence will be 6,029 square feet including an attached garage, with a 2,410 square foot basement. The proposal includes removal of one Ordinance-sized tree, a 25-inch diameter Deodar Cedar. The maximum height of the proposed residence will be 26 feet. The site is zoned R-1-40,000. (Lata Vasdevan)

Associate Planner Lata Vasudevan presented the staff report as follows:

- Advised that the applicant is seeking Design Review Approval to allow a new multi-story 6,029 square foot residence with a 2,410 square foot basement and a maximum height of 26 feet.
- Described the architectural style as Spanish Mediterranean that is compatible with the neighborhood. The home uses varying rooflines and articulation reduces and minimizes the appearance of mass. The home will compliment the neighborhood.
- Stated that materials include brown barrel clay tile roof, beige stucco and iron railings.
- Explained that there are five trees on or near the property with potential for impacts. One, a Cedar, has been determined by the Arborist to be suitable for removal because of poor condition.
- Stated that the conditions proposed by the October 2005 Arborist Report have been added.
- Reported that no negative comments were received by the neighbors who reviewed the project.
- Explained that the applicant made efforts to contact neighbors and will report on those efforts.
- Said that Design Review findings can be made in the affirmative.
- Recommended approval.
- Pointed out a correct to Attachment #3 of the staff report where the mailing notice labels were included from the wrong project in the staff report. A correct distribution list was provided to the Commissioners.

Commissioner Rodgers said that the proposed stucco color appears yellow rather than earth tone.

Planner Lata Vasudevan said that there is no specific definition of earth tones but includes beige, yellow and sandstone.

Commissioner Hunter said that in her experience she has never seen an application for which no neighbor acknowledgement forms were received. She said that the applicant should explain the notification attempts.

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

Mr. Noel Cross, Project Architect:

- Said that his clients attempted several times to reach neighbors. No one was home when contact was attempted. His clients dropped off notes. Since that time, his clients have spoken with four neighbors. No negative comments were received. One made comment

on the size but was satisfied to learn of the retention of the Cedar tree. The neighbors across the street had promised to send the form in to the City.

Commissioner Hunter reiterated that she is amazed not to see any returned forms.

Mr. Noel Cross assured that the attempt was made to secure these forms.

Commissioner Hunter said that the Commission likes to see these signed forms especially since this is such an enormous home.

Mr. Noel Cross reiterated that attempts were made.

Commissioner Rodgers asked about the paint color proposed.

Mr. Noel Cross said that the use of a color copier brightened the appearance of the proposed color on the sample board. He added that he would consider earthening the paint color down to a more brown and muted color.

Commissioner Hunter asked what happens to the bags on the tree roots after the concrete is poured.

Mr. Paul Conrado, Project Builder, advised that the bags are removed and the area back filled with dirt.

Ms. Sudha Neelakantan, Property Owner & Applicant:

- Reported on her attempts to secure neighbor input on her proposal.
- Said that one couple said they would show the plans to their architect and contact her if there are any problems with the proposal.
- Added that another neighbor thought the house was large but had no impact on him so he promised to send in the form.
- Stated that she spoke with the neighbor across the street, offered the plans and expected comments.
- Concluded by saying she is not sure why none of the forms were returned.

Commissioner Hunter said she has never seen a case with no returned forms.

Ms. Sudha Neelakantan said that she tried. She said that the neighbor across the street was supportive and promised to submit the form. She added that the O'Connells were not interested as they only live in the neighborhood for part of the year.

Commissioner Hunter said that the paint color seems bright.

Ms. Sudha Neelakantan said she would defer to her architect on that issue.

Mr. Noel Cross:

- Said that the color appears brighter because it is a color copy.
- Assured that the original samples are more muted.

- Added that they are willing to change color.
- Stated that he had impressed on his clients the importance of neighbor contact and they did their best. The neighbors were not interested.

Commissioner Hunter said that the applicant usually takes the form and has the neighbor sign it and takes it back right away.

Ms. Sudha Neelakantan said that this request for signature was refused.

Mr. Noel Cross reiterated that every attempt was made to get the forms signed.

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

Commissioner Cappello:

- Stated that if neighbors had issues, the Commission would hear about them. If not, they don't seem to care.
- Advised that he likes the design. It is a beautiful home that fits nicely.
- Suggested that the findings to support can be reached easily.
- Said that the color is bright and can be muted down working with staff.

Commissioner Schallop agreed.

Commissioner Rodgers asked staff if they need any more instruction on color.

Director John Livingstone replied no, staff could work with the applicant on color.

Commissioner Hunter:

- Explained that the Commission has to study a project before a hearing. Each reads the packet thoroughly including reading neighbor comments.
- Said that she hopes in future it does not happen again that no neighbor input is provided.
- Reiterated that in her five years as a Commissioner she has never seen a project where no neighbor forms were provided.
- Stressed that the Commission is here to represent the community and it needs to do a good job.

Chair Nagpal asked Commissioner Hunter if she supports this project.

Commissioner Hunter replied yes, with reservations.

Motion: Upon motion of Commissioner Cappello, seconded by Chair Nagpal, the Planning Commission adopted a Resolution granting Design Review Approval (Application #06-156) to allow the construction of a new two-story single-family residence on a vacant lot on property located at 15126 Via Colina, by the following roll call vote:

AYES: Cappello, Hunter, Kundtz, Nagpal, Rodgers and Schallop
NOES: None
ABSENT: Uhl

ABSTAIN: None

DIRECTOR'S ITEMS

There were no Director's Items.

COMMISSION ITEMS

Commissioner Kundtz asked for additional staff input on the issue of story poles, orange netting and public notification.

Director John Livingstone said that there are noticing limits and currently no requirement for story poles. The feedback from the Commission is that it wants more story poles to provide a visual reference to help determine impacts particularly for hillside properties where impacts might be generated across a valley. He said that staff can request story poles but the applicant can also refuse. Story poles can be costly to install.

Chair Nagpal pointed out that if members of the public notice story poles, they can contact the City for information about what is proposed.

Assistant City Attorney Jonathan Wittwer asked if there is a difference between story pole and orange webbing.

Commissioner Rodgers said that she is speaking of orange webbing.

Director John Livingstone said that typically story poles include orange webbing to show the ridgeline.

Chair Nagpal cautioned that the Commission is not asking for story poles for all projects.

Commissioner Rodgers said that hillside lots are a major concern.

Commissioner Hunter agreed that small lots and hillside properties are very important for use of story poles to determine impacts.

Commissioner Cappello agreed and suggested further guidance for staff since the significant cost is of concern. He added that the cost of story poles does not help the design and building. While story poles are not to be required in every case, they are appropriate in some.

Chair Nagpal agreed that they are not necessary in all cases but it is important for staff to let an applicant know if they believe story poles are necessary.

Commissioner Rodgers said that large homes on a hill and small substandard lots where houses are so close could benefit from story poles to allow a visual depiction of impacts.

Commissioner Hunter asked staff if there have been appeals of recent Commission actions to Council.

Director John Livingstone reported that the Subway denial has been appealed and will be heard by Council at its April 5th meeting.

Chair Nagpal announced that she would be present at the April 5th Council meeting to represent the Planning Commission's majority vote.

Commissioner Rodgers asked how opposing views from the Planning Commission could be presented to Council.

Commissioner Hunter replied that the Chair presents the chief Planning Commission votes but any Commissioner can speak as an individual.

Director John Livingstone reminded that Council could redirect appeals back to the Commission. If any Commissioner speaks as a citizen at the Council hearing that could taint their involvement if Council returns the project to the Commission for further consideration.

Assistant City Attorney Jonathan Wittwer said that if a Commissioner speaks at a Council meeting as a private individual, there might be a bias claim by the applicant stating that this particular Commissioner should not consider the project again.

Commissioner Rodgers asked if she simply reports the comments of the Commission is there still the potential for a bias issue.

Assistant City Attorney Jonathan Wittwer replied yes.

Chair Nagpal pointed out that the Council would have the minutes from the Planning Commission meeting.

Assistant City Attorney Jonathan Wittwer stated that this is why the review of the minutes from that meeting was so important.

COMMUNICATIONS

There were no Communications Items.

ADJOURNMENT TO NEXT MEETING

Upon motion of Commissioner Hunter, seconded by Commissioner Kundtz, Chair Nagpal adjourned the meeting at 9:08 p.m. to the next Regular Planning Commission meeting of **April 12, 2006**, at 7:00 p.m.

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