

**MINUTES
SARATOGA PLANNING COMMISSION**

DATE: Wednesday, March 28, 2007
PLACE: Council Chambers/Civic Theater, 13777 Fruitvale Avenue, Saratoga, CA
TYPE: Regular Meeting

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

INTRODUCTION OF NEWLY APPOINTED COMMISSIONER

Newly appointed Commissioner Rishi Kumer was introduced.

ROLL CALL

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

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES – Regular Meeting of March 14, 2007.

Motion: Upon motion of Commissioner Nagpal, seconded by Commissioner Hlava, the Planning Commission minutes of the regular meeting of March 14, 2007, were adopted with changes to pages 3,10,11,13 and 14. (7-0)

ORAL COMMUNICATION

There were no Oral Communications.

REPORT OF POSTING AGENDA

Director John Livingstone announced that, pursuant to Government Code 54954.2, the agenda for this meeting was properly posted on March 22, 2007.

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.

ORDER OF AGENDA

Director John Livingstone informed the Commission that the applicant for Agenda Item #2 has requested a continuance. He advised that the Commission has the option to change the order of the agenda to deal with that request first or can keep the agenda in its current order.

Chair Rodgers:

- Advised those in the audience that this application for Item #2 has been withdrawn by the applicant and will be resubmitted at another time.
- Added that prior to that resubmittal, this item will first need to go before the Heritage Preservation Commission.
- Said that people are encouraged to come back when the item is eventually heard.
- Stated that since it appears there are several speakers present this evening that want to speak they should be given that opportunity.
- Suggested keeping the agenda in its original order since the applicants for Agenda Item #1 came to this meeting with the assumption that their item would be heard first.

Commissioner Kundtz said that the Commission would be happy to hear the comments on Agenda Item #2.

Commissioner Cappello said that it should be made clear that the postponement is at the request of the applicant and not at the request of staff or the Commission.

Director John Livingstone replied correct. This postponement is the result of the applicant's request. The Planning Commission must act on that request. The item will be re-noticed to the neighborhood again since the continuance this evening would be to a date uncertain.

Commissioner Nagpal pointed out that no packet or plans have been provided this evening on this Item #2 because of the request for a continuance.

PUBLIC HEARING - ITEM NO. 1

APPLICATION #07-250 (503-24-008) RISTORANTE DA MARIO (tenant)/CANCELLIERI (property owner); 14441 Big Basin Way; The applicant requests a Conditional Use Permit to establish a restaurant in an existing approximately 1,900-square foot vacant tenant space, which was formerly occupied by Tapioca Express. Alcoholic beverages will be served. The site is zoned CH-1. (Suzanne Thomas)

Assistant Planner Suzanne Thomas presented the staff report as follows:

- Advised that the applicant is seeking approval of a Conditional Use Permit to allow the establishment of a new restaurant in the Village.
- Described the site as formerly being occupied by Tapioca Express and a bakery before that.
- Said that the site consists of 1,900 square feet.
- Stated that the new restaurant will serve lunch and dinner and will include outdoor dining, alcohol and live entertainment.
- Explained that a Use Permit is required if a new use intensifies what the previous use was on site. Additional uses such as live entertainment, alcohol sales and patio seating also require a Use Permit.
- Said that there are changes to the front patio proposed. The patio, currently painted blue, will be painted in warm muted tones including cream that are compatible with the Village. A sign will be painted over the front door. The patio will be upgraded for outdoor dining with a concrete floor that appears like slate. The planters will be replaced and planted with new flowers. This will reflect a Mediterranean café atmosphere.
- Distributed a schematic of the front patio area.
- Said that the hours would be from 10 a.m. to 11 p.m. but are not restricted within the conditions of approval.
- Stated that a 500-foot notification went out. No negative comments have been received. The applicant received positive comments.
- Said that all findings can be made. This use will enhance the character of the Village and give another reason to visit the Village.
- Recommended the adoption of a Resolution, as revised, approving this Use Permit.

Chair Rodgers asked Planner Suzanne Thomas if the revisions are significant.

Planner Suzanne Thomas said that there is a modification to the first finding. Condition 2 is modified to allow the sale of alcoholic beverages upon obtaining the necessary ABC (Alcohol Beverage Control) license. Additionally, Condition 8 will require that an encroachment permit be obtained prior to occupancy, if required, for the outdoor seating.

Commissioner Nagpal asked about the need to record permanent conditions of approval for this application. She said that the conditions of approval already run with the Use Permit.

Chair Rodgers said that she had the same question.

Director John Livingstone agreed that conditions generally run with the permit.

Commissioner Nagpal asked if the Resolution needs to be amended.

City Attorney Jonathan Wittwer said he would discuss this issue with Director John Livingstone.

Commissioner Kundtz asked if the painted sign would be illuminated.

Planner Suzanne Thomas replied no. There is existing exterior lighting in place that will provide any necessary visibility for this painted sign without the need to add additional lighting.

Chair Rodgers opened the public hearing for Agenda Item No. 1.

Mr. Sandro Costanza, Applicant:

- Said that he is very pleased with Planner Suzanne Thomas' presentation.
- Explained that other changes include interior décor, painting, improving the bar, lamps and new equipment in the kitchen.
- Added that they are investing over \$60,000 in the improvements.
- Said that they would operate seven days a week for lunch and dinner. Perhaps there will be some service between lunch and dinner in the future. Lunch service will run between noon and 3 p.m. and dinner service between 5 and 10 p.m.
- Stated that there would be between eight and 10 employees in addition to himself and his partner, who is the chef.
- Said that he has great experience with operating an Italian restaurant. He had one in Santa Cruz for approximately 10 years that was ranked as the "best Italian Restaurant in Santa Cruz" approximately four times.
- Advised that he hopes to draw patrons from a large area.

Commissioner Cappello asked for details about the proposed live entertainment.

Mr. Sandro Costanza said that it would be occasional and represent background music.

Commissioner Cappello asked if the live entertainment would predominately be inside the restaurant.

Mr. Sandro Costanza replied most probably since there is no room outside. It will be located inside in the front area of the restaurant.

Chair Rodgers asked if the live music would be amplified.

Mr. Sandro Costanza replied yes.

Commissioner Kumer asked how Mr. Sandro Costanza would prevent spillover from his outdoor seating area from making its way onto the public sidewalk.

Mr. Sandro Costanza replied that he was thinking about fencing in his patio area. The patio area would contain just two tables with three chairs per table for a total of six guests.

Commissioner Kumer suggested that some action, such as chaining the furniture, might prevent spillover onto the sidewalk.

Mr. Sandro Costanza said he would do something to prevent that from happening.

Director John Livingstone said that the existing walls of this building together with the proposed tile flooring would create a visual buffer that will allow for the safety of pedestrians. A low fence could help define this space.

Commissioner Zhao asked if a fence requires a special permit.

Director John Livingstone replied yes. It would require a building permit that is subject to Community Development Director review.

Chair Rodgers pointed out that the economic impact on the Village is an element that is evaluated by this Commission when considering a Use Permit. She asked Mr. Sandro Costanza if he believes he will be successful.

Mr. Sandro Costanza replied yes. He said that he thinks his restaurant will expand the people who will come to Saratoga specifically drawn to his restaurant.

Commissioner Zhao asked Mr. Sandro Costanza how his restaurant differs from other Italian restaurants in the Village and area. Does it offer a specialty?

Mr. Sandro Costanza:

- Replied taste is the difference.
- Explained that he was born and raised in Italy, spending his first 25 years there.
- Added that when you are Italian you can tell when a place is really authentic Italian.
- Stated that his chef has been with him for 10 years.

Chair Rodgers pointed out that there are four other Italian restaurants, one is a deli and another is a family-style restaurant. Is there some differentiation?

Mr. Sandro Costanza said that he would advertise outside of Saratoga and has a large customer base of more than 5,000 in Santa Cruz.

Chair Rodgers asked if he would be closing his Santa Cruz location.

Mr. Sandro Costanza explained that he sold that location a year ago.

Commissioner Kumer said that this business will likely lead to more traffic in Saratoga's Village. He asked if traffic impacts are considered with this Use Permit.

Director John Livingstone explained that code defines the types of use. Parking ratios are set based on types of use rather than on the level of success of that use.

Commissioner Kumer asked if parking is considered okay for this use.

Director John Livingstone replied yes.

Mr. Bob Cancellieri, Property Owner/Landlord:

- Stated that he is proud and happy to be here for Mr. Sandro Costanza.

- Said that he has looked at the menu and sees there is lots of variation. It will be different from other restaurants in town.
- Reminded that Mr. Sandro Costanza has been in business before.
- Pointed out the importance of good business people with a good batting average.

Chair Rodgers asked Mr. Bob Cancellieri if there had been outdoor seating before at this location.

Commissioner Kundtz said he thought there had been a bench.

Mr. Bob Cancellieri:

- Said that he is impressed with Mr. Sandro Costanza.
- Added that people will like to come to a No. 1 Italian restaurant.
- Stated that he wants Mr. Sandro Costanza to succeed because "we want the rent."

Chair Rodgers asked Mr. Bob Cancellieri who owns the alley.

Mr. Bob Cancellieri said that he and another adjacent property owner bought it to be able to control what happens on it.

Chair Rodgers said that it is available to both pedestrians and cars.

Mr. Bob Cancellieri said that while he does not think that the alley is widely used it is accessible. The Persian market uses it.

Chair Rodgers asked if there have been any problems with pedestrian and vehicular use of the alley.

Mr. Bob Cancellieri replied no.

Chair Rodgers closed the public hearing for Agenda Item No. 1.

Commissioner Hlava:

- Pointed out that this is a location that has been occupied by restaurants before.
- Added that this menu looks fabulous.
- Said that she has no issue about the future use of a fence to enclose the patio area.
- Suggested that the issue of recording permanent conditions should only apply to Design Review approvals.

Director John Livingstone said that staff agrees and is recommending that be stricken. It is fine to take it out. He added that if a fence is requested in the future, it could be brought to the Planning Commission if so desired by the Commission.

Commissioner Hlava:

- Said that the hours of operation are not included in the conditions of approval.

- Said that she would not mind seeing this restaurant open for breakfast too, as there are few options for breakfast now in the Village.
- Stated that the Commission should discuss a closing hour since a closing time was established recently for a wine-tasting business in the Village.

Commissioner Kundtz reminded that the closing time was established for the wine tasting business because of the nearby residential units. He asked if the kitchen is to close at 10 p.m.

Commissioner Nagpal said that currently there is no such restriction.

Commissioner Kundtz said that it would be fair to put in a closing time.

Commissioner Kumber agreed that it would be a good idea to have a closing hour.

Commissioner Cappello:

- Said that he prefers not to set a closing time.
- Added that he would like to see this restaurant busy at midnight.
- Stated that being Italian himself, he can eat Italian food seven days a week.
- Reminded that this location does not have a residential aspect nearby.
- Stated that he has no issue with hours and prefers to leave that up to the applicant.
- Agreed with the staff suggestion to strike any mention of recording permanent conditions of approval.
- Said that on the issue of the fence, he would rather not see it come to the Commission. If there is a need for such a fence, the Community Development Director can handle it.
- Stated that he loves this project (and its proposed menu) and thinks it is a fabulous addition to the Village.
- Explained that both of his parents' families originate from Sicily.

Commissioner Zhao:

- Agreed that limiting hours should not be put into the Resolution but rather be left to the owner.
- Said that the Community Development Director can deal with the fence.
- Said that she is fine with this application and can't wait to taste authentic Italian food.

Commissioner Nagpal:

- Said that the Conditional Use Permit runs with the land.
- Said that she is comfortable with the findings and it is great that outdoor seating will be provided.
- Agreed that the Commission does not need to see the fence request.
- Reminded that if problems arise regarding the hours of operation there are ways to enforce.
- Added that she is not inclined to limit the hours.
- Stated that she too would like to see a vibrant Village.
- Expressed support and questioned when this restaurant might open.

Chair Rodgers:

- Said that it appears that half of the Commissioners, those seated to her right, want a limitation on hours while those seated to her left do not.
- Pointed out that the Village gets quiet after 10 p.m.
- Stated that it would be nice to allow this applicant to experiment with hours of operation.
- Reminded that there is plenty of parking at this end of the street that is available in the evenings.
- Said that there is a niche for this food and that this restaurant offers a mix for the Village.
- Stated that this location has been a restaurant for a long time.

Commissioner Hlava said that she thinks the hours are fine and the applicant can be brought back if there are issues as a result of hours.

Commissioner Kundtz said that he is happy to go with this as well.

Commissioner Nagpal asked for a clarification on the alcohol permit. What is ABC?

City Attorney Jonathan Wittwer:

- Explained that ABC stands for Alcohol Beverage Control.
- Suggested adding the word “fences” to Condition #9 to read, “...such as fences, umbrellas and awnings.”

Motion: Upon motion of Commissioner Hlava, seconded by Commissioner Nagpal, the Planning Commission approved a Conditional Use Permit to allow the establishment of a new restaurant with alcohol sales on property located at 14441 Big Basin Way, as modified by the edit to Condition #9 and striking Condition #13, by the following roll call vote:

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

PUBLIC HEARING - ITEM NO. 2

APPLICATION #07-218 (389-26-022) SRIPADANNA, 18524 Montepere Way: The applicant requests Design Review Approval to remodel the first floor, including removing exterior walls, and construct a second-story addition to an existing single-story, single-family residence. The total floor area of the proposed residence will be approximately 2,942 square feet. The maximum height of the proposed residence will not be higher than 26 feet. The net lot size is 8,520 square feet and the site is zoned R-1-10,000. (Therese Schmidt)

Associate Planner Therese Schmidt presented the staff report as follows:

- Advised that the applicant is seeking Design Review Approval for a second story addition to an existing home.

- Reported that an email was received from a concerned neighbor on Monday raising the question as to whether this home might be historically significant.
- Stated that since the home is over 50 years old, staff advised the applicant that they would have to get an historic assessment done and offered a continuance to get that prepared.
- Said that the historic consultant is currently working on the assessment. It will likely be forwarded to the Heritage Preservation Commission in May and to the Planning Commission after that.
- Recommended accepting the applicant's request for a continuance.

Commissioner Zhao asked if just one neighbor was concerned.

Planner Therese Schmidt replied that just one expressed concern based on potential historic significance of the structure. Two others had originally supported this application but changed their minds and no longer do. She added that neighbors are organizing against a second story.

Chair Rodgers asked if the applicant wants to speak this evening.

City Attorney Jonathan Wittwer said that the action requested is a continuance and that it is important to state that the continuance could be for the purpose of redesign.

Chair Rodgers opened the public hearing for Agenda Item No. 2. and asked the applicant to come forward to state his request.

Mr. Hari Sripadanna, Applicant and Property Owner:

- Explained that he has asked a consultant to review the house for historic relevance.
- Added that until the findings from that assessment are reached, he does not know what they will have to do.

City Attorney Jonathan Wittwer asked Mr. Hari Sripadanna if it is his intention to withdraw or to continue his application this evening.

Mr. Hari Sripadanna replied yes.

City Attorney Jonathan Wittwer asked if it might be for the purpose of a redesign.

Mr. Hari Sripadanna said that this depends on the results of the historic review.

City Attorney Jonathan Wittwer explained that there are laws that require cities to process applications in a specific time period. He advised that he needs to hear Mr. Hari Sripadanna say for the record that this continuance is for potential redesign. That stops the clock.

Mr. Hari Sripadanna said that he is willing to go through the process and understands that redesign may be required.

Chair Rodgers advised that she spoke with Mr. Hari Sripadanna this afternoon and encouraged him to attend this evening.

Mr. Robert Merritt, Neighbor on Montepere Way:

- Thanked the Commission for allowing him to speak tonight.
- Explained that he travels quite a bit and so he cannot be sure if he will be around when this comes back to the Commission for public hearing.
- Said that he is concerned about keeping his neighborhood intact.
- Reported that he has lived on Montepere for 28 years.
- Stated that it is easy for people to come in and place additional stories that change the character of a neighborhood.
- Asked that the Commission be sensitive to long-established neighbors.
- Cautioned that the valley is becoming one with high-rise homes that are situated property line to property line.
- Assured that he would try to come back if this request comes back still as a two-story.

Commissioner Nagpal asked Mr. Robert Merritt if he is an adjacent neighbor.

Mr. Robert Merritt replied no, he lives down the street.

Chair Rodgers asked Mr. Robert Merritt if he objects to the second story aspect. She asked him if these are Eichler Homes.

Mr. Robert Merritt said that they are not Eichlers. He added that he is interested to learn if these are historic homes or not. He agreed that his concern is mainly a second story.

Ms. Dana Merritt, Neighbor on Montpere:

- Said that she is Robert's wife.
- Explained that she has talked with a lot of her neighbors.
- Said that this two story would be very large and look down on adjacent properties.
- Reminded that there are floor to ceiling windows at the back of these homes and that neighbors would lose their privacy with a second story neighbor.
- Said that she is not against new neighbors coming in if they go with a single-story addition.

Ms. Linda Ho, Neighbor on Montpere:

- Identified herself as the neighbor next door to the applicant.
- Said that award-winning designers who were students of Eichler designed these homes.
- Said that there is uniqueness to these houses with a floor to ceiling window design.
- Advised that the lots are not rectangular but rather are different shapes. Therefore a second story would overlook everyone's backyard.
- Added that there is a topography issue with each lot having differing elevations. The applicant's home is at the highest point of this cul de sac.
- Stated that she is against the applicant's design for a second-story based on Findings A, B, D and E. The home would intrude on privacy, would not preserve the natural landscape, is excessive in bulk and is not compatible with the community.
- Suggested that the applicant chose to add either through a basement or expansion of the first floor.

Commissioner Zhao asked Ms. Linda Ho where her home is located in relation to the applicant's home.

Ms. Linda Ho:

- Replied that her house is located on the left side of the applicant's home if facing the applicant's house.
- Added that with a second story, her family would lose all of its privacy.
- Pointed out that there is a big lot to allow expansion with a single-story addition.

Commissioner Nagpal asked Ms. Linda Ho for the lot size in the area.

Ms. Linda Ho said that they are generally 8,520 square feet and that most lots are approximately the same size although some neighbors have a double lot.

Planner Therese Schmidt advised the Commission that Mr. and Mrs. Ho were originally not in support. When the applicant agreed to plant trees, they later signed a letter of support. She asked for verification from Ms. Ho that she is withdrawing her support.

Ms. Linda Ho said that she is not sure they ever signed a letter of support for this project.

Ms. Margo Nitis, Neighbor on Montepere:

- Said that she has resided here since January 1970.
- Reported that she was once denied a two-foot height increase for an entry expansion.
- Added that she did additions on a single-story format.
- Stated that she is against second-story additions in her neighborhood.
- Advised that people across are building right on the creekside.
- Said that these homes are all windows and most don't have drapes.
- Explained that this is a nice neighborhood and she wants to keep it that way. A nice, quiet, one-story neighborhood.
- Added that she has wonderful neighbors and everyone knows one another. They have a block party once a year.
- Suggested that this neighborhood be kept as a one-story neighborhood.
- Clarified that the lots differ in size and she has a double lot.

Mr. David Ho, Neighbor on Montepere:

- Said that he is an immediate neighbor.
- Stated that he is against second story additions that would have a huge impact on this neighborhood.
- Suggested that this is a good chance for the applicant to redesign after hearing the comments from the neighbors this evening.
- Offered two suggestions for alternate designs, a basement or single-story expansion. He said that a basement is energy efficient. The lot is also large enough to accommodate a single-story addition.
- Reported that there is somewhere between 10 and 20 neighbors who oppose a proposed second-story addition with three of the five houses on the cul de sac included.

Commissioner Nagpal asked Mr. David Ho if he had initially provided an acceptance letter for this project.

Mr. David Ho said that he has never been in favor of a second story addition.

Chair Rodgers asked Mr. David Ho if his objection is the second story not being in context with the architecture of the neighborhood that includes homes with floor to ceiling glass.

Mr. David Ho said that this is a unique neighborhood and that a second story addition is not appropriate as it would intrude in the privacy of the neighborhood.

Ms. Sasi Murthy:

- Identified herself as the wife of a very sensitive architect who is the applicant for this project.
- Said that she shares the passion for this style of architecture.
- Explained that they have lived in a two-story Eichler for 10 years now in Santa Clara.
- Reported that they are a working couple with two young children.
- Assured that they have made a best-faith effort to work with neighbors.
- Stated that the reason for a continuance is to consider concerns and issues raised.
- Added that they don't want a jumbo house.
- Advised that they have also received some enthusiastic support.

Ms. Kathryn Nomof, neighbor on Montepere:

- Said that she lives next door to the Ho Family.
- Explained that she has a bad hearing problem and has not heard everything said tonight.
- Reported that there are 12 signatures on a petition against allowing a second-story addition. Those signatures represent 10 households.

Chair Rodgers thanked Ms. Kathryn Nomof for coming and asked her if the story poles were helpful.

Ms. Kathryn Nomof:

- Said that she made up her mind when she saw the poles.
- Explained that she originally signed in support but has since rescinded her support.
- Reported that this matter is divisive of this neighborhood, where she has resided since 1964.
- Added that this is the first time something like this has come up and started problems.

Chair Rodgers closed the public hearing for Agenda Item No. 2.

Chair Rodgers asked staff to verify that there is no single-story overlay in this area.

Planner Therese Schmidt replied no.

Chair Rodgers asked Planner Therese Schmidt to explain to everyone what a single-story overlay is.

Planner Therese Schmidt reported that there is one such overlay in Saratoga. It is located at Saratoga and Prospect. There are only two to three two-story homes in that area. With the single-story overlay, the rest of this neighborhood is restricted to single-story.

Chair Rodgers said that this overlay requires a change to zoning.

Planner Therese Schmidt said yes. While it has the same zoning designation there is also a single-story overlay applied to the zoning designation.

Motion: Upon motion of Commissioner Hlava, seconded by Commissioner Cappello, the Planning Commission CONTINUED TO A DATE UNCERTAIN consideration of a Design Review Approval (Application #07-218) to allow a first floor remodel and second-story addition to an existing residence at 18524 Montepere Way, until after a recommendation on any potential historic significance for this structure is forwarded to the Planning Commission by the Heritage Preservation Commission, by the following roll call vote:

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

Chair Rodgers explained that the Heritage Preservation Commission meets on the second Tuesday of each month.

PUBLIC HEARING - ITEM NO. 3

APPLICATION #07-101 (397-08-027) KRIENS, 18940 Monte Vista: The applicant requests Design Review Approval to demolish a single-family residence with attached garage and construct a single-family, single-story residence and multiple detached accessory structures. The total floor area of the proposed residence and all accessory structures will be approximately 6,331 square feet. The maximum height of the proposed residence will not be higher than 26 feet. The net lot size is 56,018 square feet and the site is zoned R-1-40,000. (Therese Schmidt)

Associate Planner Therese Schmidt presented the staff report as follows:

- Advised that the applicant is seeking Design Review Approval for a rather large and intricate project.
- Explained that the project consists of 6,331 square feet that includes a primary structure and several accessory structures.
- Informed that the owner of the adjacent property also owns this subject property.
- Described the accessory structures as including:
 - A second dwelling unit with basement. This basement required geotechnical clearance and received it.

- A detached home office.
- A detached study with garage underneath that is not considered a basement but rather represents floor area and includes a wine storage area.
- A detached workout room with basement.
- Stated that this project is Categorically Exempt under CEQA.
- Said that there is one protected tree that the arborist has recommended be retained through redesign of one detached garage facility.
- Stated that the site is adequately parked.
- Advised that staff supports relocating the garage to preserve that tree and is working with the applicant to relocate, redesign or eliminate that structure.
- Said that building materials will be sympathetic to the materials of the abutting property. It will include the same colors, stonework and architectural design. The design is Tuscan in nature.
- Reported that one cannot tell that these are two separate parcels as seen from Monte Vista. The project has been designed to be integrated into one large area for a single family.
- Recommended approval.

Chair Rodgers clarified that this is not a merged lot.

Planner Therese Schmidt said yes. She added that if it were to be merged the applicant would be limited to 7,200 square feet of floor area. The applicant is choosing not to merge parcels. To keep them separate, the applicant must have one single-family residence on this parcel. The applicant is constructing one with a basement.

Chair Rodgers asked for verification that a height exception is required for the accessory structure height to above 15 feet.

Planner Therese Schmidt:

- Replied yes.
- Reported that this added height is possible if the Planning Commission can find that the added height is necessary to honor the architectural integrity.
- Stated that staff can make those findings to support the added height.
- Pointed out that this a parcel with a seven percent (7%) slope and that there would be no obvious appearance of a second story.

Commissioner Nagpal pointed out that if the project were less than 6,000 square feet it would not have come to the Commission.

Planner Therese Schmidt replied yes. She added that the trigger was that the square footage exceeded 6,000 square feet on a parcel. However, the height above 15 feet would require Planning Commission approval.

Chair Rodgers opened the public hearing for Agenda Item No. 3.

Mr. Scott Kriens, Applicant and Property Owner:

- Thanked the Commission for its site visit.
- Said that he has nothing to add to Planner Therese Schmidt's report.
- Said that he would be available for any questions.
- Explained that there are 34 trees on the property identified by the arborist. Three of those trees are dead; 29 are protected and they propose the removal of two trees.
- Described the trees he requests for removal as being one 12-inch oak, which the arborist supports its removal, and one 16-inch black oak, which the arborist wants to see retained.
- Reported that the value of the two trees is \$24,000.
- Reminded that this project matches the house next door.

Commissioner Hlava asked if there is any way the garage can be pushed down a bit.

Mr. Scott Kriens explained that there is a setback line and it can't be located any closer to the street. With relocation there is potential that other protected trees could be impacted.

Commissioner Hlava asked if the carport could be eliminated.

Mr. Scott Kriens pointed out that the entire canopy area of the tree needs to be protected and not just the trunk itself.

Commissioner Hlava asked Mr. Scott Kriens to verify that he wants to see approval of the plan as he proposes.

Mr. Scott Kriens replied yes. He said that a proposed 48-inch replacement tree in addition to 13 other new trees would equal the value of those two trees he proposes to take out. He added that he is willing to plant larger trees.

Commissioner Hlava said that sometimes it doesn't work well to bring in trees that are too large.

Commissioner Nagpal asked staff if the arborist's recommendation had been discussed with the applicant.

Planner Therese Schmidt replied yes. She said that staff had suggested redesign but the applicant chose not to do so.

Commissioner Nagpal asked Mr. Scott Kriens if he felt that redesign would not work or was the saving of the black oak not seen as worthy.

Mr. Brian Peters, Project Architect, said that they did do redesign work on the residence of this project to protect another grove of oaks. He assured that they took tree preservation very seriously.

Commissioner Nagpal cautioned that this Commission takes the arborist's recommendations pretty seriously.

Mr. Brian Peters advised that it is hard to save every single tree and that they had made considerable changes in the interest of tree preservation.

Commissioner Nagpal thanked Mr. Scott Kriens for his time on the site visit.

Chair Rodgers asked if additional garage space could be installed under the study or would it have to be counted as square footage.

Planner Nagpal reminded that the maximum allowed is 6,340 square feet.

Planner Therese Schmidt said that it could be relocated but cannot be built as basement space without a structure above it.

Mr. Scott Kriens said that the garage is related to that residence. He added that it is tough to move both the garage and related residence and still save all trees.

Chair Rodgers asked about eliminating the carport and the one garage bay located beneath the tree or relocating it somewhere else on hardscape already existing.

Mr. Scott Kriens said that if moved it would be difficult not to compromise another tree.

Chair Rodgers reminded that the arborist's recommendation is to eliminate the carport and one bay of the garage that is closest to the oak tree. She asked if he is resisting that even though there is covered space for five cars.

Mr. Scott Kriens reiterated that he is happy to do extra tree planting and plans to spend a lot on landscaping. He said that the project is down to one last tree.

Chair Rodgers asked again if it is possible not to build the carport and last bay to the garage or are they important to the overall design of the project.

Mr. Scott Kriens said that it is important for the design objective of this project. He reiterated that 32 of 34 existing trees would be retained plus additional plantings installed. He added that he would be happy to work with the arborist to set the appropriate placement of the replacement tree.

Mr. Hal Lipton, Neighbor on Monte Vista Drive:

- Said that he is a 35-year resident on Monte Vista Drive.
- Stated that he is not concerned about the proposed structures or the project appearance.
- Said that his only concern is that the roadway not be blocked.
- Asked that construction trucks stay on the north side of the barricade where the steps are located since the street is not large enough to collect garbage if the road is partially blocked.

Mr. Scott Kriens said that this is a reasonable point. He suggested that the construction vehicles could park on the private road and not on the public road that Mr. Hal Lipton is

concerned about having blocked. He agreed that it is up to him to make sure that any blocking of the roadway by construction vehicles does not happen.

Chair Rodgers closed the public hearing for Agenda Item No. 3.

Commissioner Zhao sought clarification that the application before the Commission includes the removal of the black oak.

Planner Therese Schmidt said that the recommendation is for redesign or removal of the carport and retention of the black oak tree.

Commissioner Nagpal asked whether an arborist report would have been required if this application had been handled administratively.

Planner Therese Schmidt replied yes. She said that since there was a request to exceed allowed height for one accessory structure this item would still have come to the Commission. She added that there is a requirement for an arborist report if there are any protected trees on site.

Chair Rodgers:

- Pointed out that this project is creating an effective merger of two parcels without any of the restrictions that would come with such a merger.
- Added that the applicant is receiving extra square footage and additional height for one accessory structure.
- Said that it is clear that one oak proposed for removal is important to the City. It is an old and rare variety of oak.
- Stated that she had hoped for some flexibility on the applicant's part regarding that oak.
- Agreed that there is an incredible amount of greenery on this parcel.

Commissioner Nagpal:

- Said that if this were simply a request to remove one tree, it would be denied because it is a healthy tree. However, this removal is part of a development of a complex project with multiple structures.
- Said that a site with 34 trees, being down to discussing just one tree removal is pretty good.
- Questioned the idea of 24-inch box replacements but advised that she recently saw some 24-inch box trees and was impressed with the growth they had achieved in a relatively short period of time.
- Stated that she hates to go against the arborist's recommendation and she also hates to redesign here during the meeting.
- Admitted that she would like to hear from others on these issues.

Chair Rodgers pointed out that the concern of the arborist is that this is a rare tree. She added that there is plenty of parking on this parcel and places available to park elsewhere on the property.

Commissioner Nagpal asked Mr. Scott Kriens if there is any way he can accommodate saving this tree or does it require changing too many things. She said that she hates to see a tree go. However, healthy trees have been allowed to be removed if they were located in a footprint for a new house.

Commissioner Cappello:

- Said that he appreciates the trees saved on site. The project is down to one tree.
- Said that the issue is priorities between the tree and a carport/garage bay.
- Advised that the tree is more important to him and is a high priority.
- Informed that he supports the project with revised drawings to save Tree #16.

Commissioner Hlava:

- Stated that this issue is really hard.
- Pointed out that there is no great big huge house here but rather a beautiful designed single-story.
- Added that requiring a redesign because of one tree when they are saving 28 or 29 other trees seems tough to her, albeit this is a nice tree.

Commissioner Nagpal said she wonders if Arborist Kate Bear would rather give up another tree for this one.

Commissioner Hlava:

- Cautioned that this option would require major redesign.
- Reminded that there have been lots of design changes made between staff and the architect before the project even gets to the Commission.
- Said that she does not see why this applicant needs such a humongous garage but he does and it is not our call to say otherwise since it meets the rules.
- Reiterated that the only issue left is one tree.

Commissioner Kundtz suggested deferring to the applicant to consider whether it is worth taking another look to accommodate this black oak or is his design frozen at this point.

Mr. Scott Kriens:

- Said that he might offer one other option that could be considered.
- Offered the possibility of root pruning the tree and moving it not too far away.
- Added that there is documentation stating that there is about 95 percent confidence that the tree would survive the move but not an absolute guarantee.
- Advised that the process is not cheap and would cost him about \$20,000.
- Reiterated that he does not know for sure if the tree would survive the move.

Commissioner Kundtz said that the question appears to be whether all alternatives have been exhausted to save the tree.

Mr. Scott Kriens:

- Assured that they have tried.

- Advised that the project has been in the works for approximately a year, first with Planner Lata Vasudevan and later with Planner Therese Schmidt.
- Stated that changes now would compromise the design objectives of this project.
- Said that the only alternative now is to work with the arborist to move the tree.

Commissioner Kundtz agreed that it might be worth taking a chance. He asked Mr. Scott Kriens if he has any location suggestions.

Mr. Scott Kriens said he did suggest the right side. He added that even if this tree is relocated he would still plant the 13 proposed new trees. This tree relocation would be in addition to, and not instead of, additional trees being planted.

Commissioner Zhao asked if any of the new trees would be black oak.

Mr. Scott Kriens said that he is not yet certain what species of oak but he would be happy to specify black oak.

Commissioner Nagpal suggested editing Condition #16 to retain the requirement to consider relocation, redesign or elimination of the carport/garage bay and leave the option open for the relocation of the tree.

Commissioner Kundtz said that when he reads Condition #16 he reads a requirement to actually revise drawings to relocate, redesign or eliminate the carport.

Commissioner Nagpal said that the options for the re-location, redesign or proposal to relocate the black oak could be evaluated and approved by the arborist.

Commissioner Zhao said that the applicant has tried options to save this tree and could not. She said that she does respect Kate's opinion and would be willing to leave it to Kate to determine the feasibility of relocating that black oak tree.

Commissioner Kumer said that the applicant has done his due diligence. He said he likes the idea of moving the tree as it solves a lot of problems.

Commissioner Nagpal asked Director John Livingstone for his feedback.

Director John Livingstone said that he is not aware of such a high percentage of success in relocating a tree. He said that he does agree that this applicant has given his word to try his best to save this tree through relocation.

Chair Rodgers suggested adding language, "if the arborist approves trying to move the tree."

Director John Livingstone pointed out that if the arborist disagrees on the tree relocation this matter would have to return to the Commission.

Motion: Upon motion of Commissioner Nagpal, seconded by Commissioner Cappello, the Planning Commission granted Design Review Approval

(Application #07-101) to demolish an existing residence and construct a new single-family, single-story residence and multiple detached accessory structures totally 6,331 square feet on property located at 18940 Monte Vista, with the following amendment to Condition #16:

- **Condition #16 – Prior to issuance of final zoning clearance, the applicant shall either submit revised drawings for review and approval by the city arborist illustrating either relocation, redesign or removal of the detached garage and carport to ensure survival of the black oak tree (Tree #22) or relocate Tree #22 to a location approved by the Community Development Director.**

by the following roll call vote:

AYES: Cappello, Hlava, Kumer, Kundtz, Nagpal and Zhao

NOES: Rodgers

ABSENT: None

ABSTAIN: None

DIRECTOR'S ITEMS

There were no Director's Items.

COMMISSION ITEMS

Responding to List Serve

Chair Rodgers advised that an opinion drafted by City Attorney Richard Taylor has been distributed regarding Council participation on List Serve. Council has made the decision not to respond to List Serve to avoid the potential that people obtain feedback from a quorum of the Council on a serial basis. One person will be designated to respond.

Commissioner Nagpal sought verification that it would be okay to read the information just not to respond.

Chair Rodgers replied yes.

Extension of Two Commissioners Terms for Month of May 2007

Chair Rodgers advised that Council has extended both her term and that of Commissioner Nagpal for one month (May 2007) to allow the agendas in April to proceed with a quorum of the Commission available.

Commissioner Nagpal asked if the new Chair would be selected after May.

Director John Livingstone replied yes.

Commissioner Hlava said that she would be here for the April 11th Planning Commission meeting but would not make the April 10th site visits.

Commissioner Kundtz said that he would not be at the April 11th meeting.

Director John Livingstone said that he would be on vacation that week.

COMMUNICATIONS

There were no Communications Items.

ADJOURNMENT TO NEXT MEETING

Upon motion of Commissioner Cappello, seconded by Commissioner Nagpal, Chair Rodgers adjourned the meeting at 10 p.m. to the next Regular Planning Commission meeting of **April 11, 2007**, at 7:00 p.m.

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