MINUTES
SARATOGA PLANNING COMMISSION

DATE: Wednesday, September 12, 2007
PLACE: Council Chambers/Civic Theater, 13777 Fruitvale Avenue, Saratoga, CA
TYPE: Regular Meeting

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

ROLL CALL

Present: Commissioners Hlava, Kundtz, Nagpal, Rodgers and Zhao
Absent: Commissioners Cappello and Kumar
Staff: Director John Livingstone, Senior Planner Chris Riordan, City Arborist Kate Bear and Assistant City Attorney Jonathan Wittwer

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES – Regular Meeting of August 22, 2007.

Motion: Upon motion of Commissioner Nagpal, seconded by Commissioner Kundtz, the Planning Commission minutes of the regular meeting of August 22, 2007, were adopted with a correction to page 12. (5-0-2; Commissioners Cappello and Kumar were absent)

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 September 6, 2007.

CONSENT CALENDAR

There were no consent items.

REPORT OF APPEAL RIGHTS

Chair Hlava 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).

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PUBLIC HEARING - ITEM NO. 1

Application #07-259 (397-28-041) Castro, 14078 Alta Vista Avenue: The applicant requests Design Review Approval to construct an approximately 2,432 square foot, single-family residence with a basement and an attached garage. The maximum height of the proposed residence will not be higher than 26 feet. The net lot size of the parcel is approximately 6,027 square feet and the site is zoned R-1-10,000. (Chris Riordan)

Senior Planner Chris Riordan presented the staff report as follows:

- Reported that the applicant is seeking Design Review Approval to allow the demolition of a single-story residence and construction of a new 2,400 square foot residence with a 1,900 square foot walk-in basement.
- Described the site as including mature trees and surrounded by two-story homes on both sides as well as others on the street.
- Said that the site is level in front and has a steep grade in the rear.
- Stated that the architectural style is Craftsman and includes shingles at the front and stucco for the side and rear elevations.
- Advised that the City Arborist reviewed the trees on site and recommends the removal of a 30-inch diameter oak tree to be replaced by four 36-inch box trees. All other trees on site will be protected including trees on adjacent properties.
- Explained that the basement must be setback a minimum of 10 feet from the neighbor's oak trees and property line but that neighbor does not feel that distance is sufficient to protect his trees.
- Recommended approval of this application.

Commissioner Nagpal asked if City Arborist Kate Bear is available for questions.

Planner Chris Riordan replied yes.

Commissioner Kundtz said that Kate Bear did an admirable job at the site visit explaining the situation.

Commissioner Rodgers asked for a quick overview from Kate Bear this evening.

Ms. Kate Bear, City Arborist:

- Reported that she did a review of the trees. However, her initial review excluded one redwood located on the adjacent property.
- Stated that she went back and included that tree in a subsequent report.
- Recommended that all excavation occur at least 10 feet away from the redwood and a minimum of 12 feet from the oak trees on the property.
- Said that additionally the property owner and contractor are required to stay outside of the tree protection fencing.

- Explained that while her first recommendation had been a distance of 15-feet from the redwood and 20-feet from the oaks, that recommendation was changed because the new house will be located further back from the trees than the current house's location.

Commissioner Kundtz asked City Arborist Kate Bear if she would be inspecting this site during construction.

City Arborist Kate Bear said that a certified arborist would be hired at the owner's expense to monitor activity on site during excavation and grading activities. She added that roots larger than two inches couldn't be cut and she would have to be notified if they are found during excavation and/or grading. Those roots smaller than two inches are okay to cut.

Commissioner Nagpal asked for verification that if roots in the excavation area were found to be two inches or larger in size the basement size would have to be reduced.

City Arborist Kate Bear said yes.

Commissioner Nagpal asked for further information about the one tree that is proposed for removal.

City Arborist Kate Bear said that this tree is located right adjacent to the existing house. She added that she did not believe that it would be possible to demolish the existing house without damaging that tree. Even if possible, construction of the new house on top of roots of that tree would lead to damage to the foundation of the new house. There just isn't room. She said she is not recommending removal but is making the finding that removal is acceptable to her in order to construct the new house.

Commissioner Rodgers asked if there are conditions in place regarding the timing of when the consulting arborist must be on site.

City Arborist Kate Bear said it would be a good idea to add such a condition. She said that the owner's consulting arborist should be on site any time there is excavation for the basement or when any grading occurs around trees.

Commissioner Rodgers clarified that this arborist is charged with preventing damage.

City Arborist Kate Bear said yes.

Commissioner Nagpal asked City Arborist Kate Bear if she is expecting the arborist to issue a report or only if problems occur.

City Arborist Kate Bear said that she expects a phone call and to be called out on site in the event that something of concern is detected. She said additionally a follow-up report would be appropriate.

Commissioner Rodgers asked if excavation must be stopped immediately until City Arborist Kate Bear can be summoned to the site.

City Arborist Kate Bear replied absolutely yes.

Commissioner Nagpal asked for verification that this provision applies to the neighboring properties as well and not just the trees on this property.

City Arborist Kate Bear replied yes. She added that the intent is to protect all of the trees not approved by her for removal.

Commissioner Nagpal said that if there is tree damage there is a bond for the trees. She asked how the neighbor's could get any recourse.

City Arborist Kate Bear said that if one neighbor is responsible for damage to another neighbor's tree, they are responsible to repair that damage.

Commissioner Zhao asked if that provision is contained in the resolution.

City Arborist Kate Bear said that she is not sure. She added that when she monitors a construction project the intent of the tree bond is insurance. She said that following construction she assesses the condition of trees on property. If there is any damage that bond is not released until the problems are solved.

Commissioner Rodgers said that substantial replacement trees are being required. She asked City Arborist Kate Bear if she has any preference for the location of the replacement trees or does she want to be consulted.

City Arborist Kate Bear said that she usually lets the property owner determine where trees best suit their landscaping. She said that she is open to requiring at least two of the replacement trees to be planted in the front yard assuming that there is adequate room on the front yard.

Commissioner Nagpal pointed out the note from a neighbor questioning the square footage of this home and asked about the general square footage of homes in this neighborhood.

Senior Planner Chris Riordan said that the new home is consistent in size with other homes in the neighborhood. He said that 80 percent of the basement is below-grade and not counted in the square footage.

Chair Hlava said that she does not see the conditions in the resolution that pertain to the arborist's recommendations.

Senior Planner Chris Riordan said that the Arborist's Report is conditioned by reference and would be copied onto the project plans.

Commissioner Nagpal suggested adding that the owner's arborist must be on site during any grading.

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

Mr. Steve Kropik, Project Architect:
- Said that if one were to be able to use the most exciting architecture on this site, this house would be built at the back of this site.
- Stated that they are sorry to lose the one tree and grieved over the need to do so.
- Pointed out that this house has been neglected from the beginning and does not meet current Code standards. He said that the tallest ceiling in the house is at 7.5 feet. The house has no foundation.
- Said that they have done an excellent job with the constraints of this parcel.
- Added that they did a lot of research in order to work around trees on site.
- Stated that this new home would not change the character of this neighborhood.
- Advised that this house is actually 250 square feet less than the maximum allowed as far as the main floor area.
- Assured that they have tried to be respectful of the existing neighbors' views.

Commissioner Rodgers told Mr. Steve Kropik that the Commission is not criticizing the applicant on the issue of trees but protection of trees is part of its charge. She agreed that this is an unusual lot for which they have created a good design. Congratulated the architect and owner on that accomplishment. She asked Mr. Steve Kropik if he has any problems with having an arborist on site during excavation and grading.

Mr. Steve Kropik said no. He added that having a consulting arborist on site during excavation and grading is appropriate and it is their goal to be respectful of the trees.

Commissioner Rodgers asked about the location of replacement trees.

Mr. Steve Kropik:
- Said that they have no objection.
- Mentioned that there is an oak tree in the front that belongs to the next-door neighbor. That tree's canopy is intrusive on this property and that tree is valuable to that street.
- Said that planting two new trees in the front yard would have to be respectful of that oak tree, which may be a bit of a challenge.
- Added that they trust the advice of City Arborist Kate Bear on this issue.

Commissioner Rodgers asked Mr. Steve Kropik if they had thought of putting in a dumbwaiter to help get groceries from the garage to the kitchen. She added that this is just a recommendation on her part.

Mr. Steve Kropik said yes they had thought of it and it would probably be desirable.

Commissioner Kundtz said that he is glad this owner is voluntarily taking this old house down before it falls down the hill. He added that he appreciates the "green" features being incorporated into the new home. He asked if they applicant is aware of the magnitude of the bond.

Mr. Steve Kropik said yes. He added that the hillside goes under the house. It is in such neglect and there is no foundation. He said that in the rainy season water goes down that hill. He pointed out that even without a basement feature for this home, they would have to dig down between 30 and 40 feet for piers for a new house. He said that the basement helps stabilize this property.

Chair Hlava pointed out that this Commission has been requiring carriage style garage doors and questioned what was planned for this home.

Mr. Steve Kropik said that in the materials board the garage doors are depicted as carriage style.

Commissioner Zhao asked which side setback is six feet.

Mr. Steve Kropik said both side setbacks are six feet. The front setback is 25 feet while the house is 80 feet from the back property line.

Commissioner Nagpal asked if the neighbors' setbacks are also six feet.

Mr. Steve Kropik said no, their lots are larger and wider. He explained that the side yard setback requirement for smaller lots is 10 percent of the lot width.

Commissioner Zhao asked if there are any privacy concerns on this house.

Mr. Steve Kropik said no. They have been as careful as they could be.

Commissioner Kundtz pointed out that the house to the immediate right has a screened in sun porch on the second level. He asked Mr. Steve Kropik if his client has issues with that.

Mr. Steve Kropik said that the windows are only as big as they need to be in terms of egress in case of fire. They have to be able to get out. He said that clearstory windows are used for additional light while maintaining privacy in this home. Additionally skylights are used for bedrooms.

Dr. David Wetterholt, Resident on Alta Vista Avenue:

- Said that his home is immediately north of this applicant's property.
- Said that he is most concerned with the preservation of trees, two of which are his.
- Stated that he welcomes a sound, creative and solid house being constructed here.
- Advised that his main concern is trees in grave danger and his belief that digging at a ten-foot distance from trees is still within a tree's canopy with a potential of resulting root damage.
- Added that he thinks everything should be done to make the scope of this house smaller. It will easily be the largest house in the Williams subdivision.
- Stated that this is a very admirable design but just so big that it threatens trees.
- Questioned the size of the basement.

Chair Hlava said that the ground floor of this home would be 2,432 square feet and the basement area 1,992 square feet.

Commissioner Nagpal:
- Reminded that there is mitigation for tree protection including the requirement for a certified arborist to be on site during all excavation and grading activities.
- Added that if any roots were discovered that are larger than two inches, the location of the basement would be pulled back. That action would be a field decision by the City's Arborist.
- Asked Dr. David Wetterholt if there is anything in addition that might give him more comfort.

Dr. David Wetterholt said that to him the trees are worth hundreds of thousands of dollars.

Commissioner Kundtz advised that the tree bond is for $88,000.

Dr. David Wetterholt said that he is hoping that the City can require the footprint of the house to be smaller and moved forward to be further from the oak tree. He said he thinks this project is too big.

Commissioner Rodgers suggested that Dr. David Wetterholt get Kate Bear's number and give her a call if he has concerns during construction.

Dr. John Nora, Resident on Alta Vista Avenue:
- Informed that his house is to the south of this property where he has lived for 40 years.
- Pointed out that the house on the project site has been vacant for approximately 10 years.
- Advised that he was included in discussions of the initial site plan with the architect and property owner.
- Said that the architect was extremely sensitive to his privacy as well as the privacy for this new home.
- Added that he is impressed with the ingenuity of the design of this new house.
- Stated that the old home on this site could have slid down the hill years ago.
- Said that the Craftsman style blends into this neighborhood and is wonderful to see. The elevation of this house blends in quite well.
- Added that utilizing a basement kept this home from being a two-story. This house won't jump out at you but rather it fits in.
- Said that as a neighbor to the south, he was very concerned about trees and he sees the City Arborist and his neighbor working to preserve all trees.

Mr. Steve Kropik:
- Reiterated that even without a basement they would have to dig deep into the ground to install piers to support a new house on this site. Therefore, even if eliminating the basement there would still be impacts on the soil.

Commissioner Nagpal asked if there would be any light wells for this basement.

Mr. Steve Kropik said no.

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

Commissioner Kundtz said that the design is consistent with the neighborhood and guidelines so he can make all findings. He suggested that the City Arborist's report be amended to include very specific details that the discovery of two-inch roots equals the cessation of construction/grading.

Commissioner Nagpal agreed. She said that this is a very unique site and she appreciates this architect's efforts in working with a small lot that is difficult to design around. She added that she also appreciates the neighbors' concerns but monitoring during construction can halt construction and perhaps result in a reduction in the size of the basement. She said she could make Design Review findings.

Commissioner Zhao agreed and said she too can make the Design Review findings. She wished the applicant good luck with this project.

Commissioner Rodgers:

- Agreed that this lot is challenging.
- Said that the proposed architecture is unique and the owner can be proud of this house.
- Stated that she can make the findings.
- Added that she also wants to be more specific on the issue of trees and suggested adding language to Condition 13: *"There shall be an arborist on site, acceptable to the City Arborist, at all times during grading and excavation. If any roots in excess of two inches are found, construction shall be halted immediately and the City Arborist shall be called to the site."*

Commissioner Nagpal suggested that language should be added that states that the arborist is tasked with maintaining the health of the trees so if there is anything else that they see they need to coordinate with the City Arborist. The consulting arborist is charged with prevention of damage.

City Attorney Jonathan Witter suggested adding, "*advise the Community Development Director of the facts. The Community Development Director shall then rescind approval of the basement approval."*

Commissioner Kundtz said that based on conversations with the City's Arborist it is highly unlikely to find two-inch roots.

City Attorney Kate Bear said that she is not expecting to find roots there.

Chair Hlava asked if the applicant would have to do a whole new plan? She said she understood that they would have to move one wall.

City Attorney agreed that the approval could be "suspended" rather than "rescinded."

Commissioner Rodgers suggest language, "*Replacement trees shall be placed on the property in consultation with the City Arborist*."

City Attorney Jonathan Wittwer said that he is concerned with the clarity of the language "*in consultation with…*" He suggested that the text read instead, "*Subject to the approval of the City Arborist*."

City Arborist Kate Bear said that when excavation begins for the basement adjacent to Tree #5 (redwood) and Tree #4 (oak), it should be done by hand or with an air spade. No backhoes shall be used.

City Attorney Jonathan Wittwer added to the end of the first sentence for condition 13, "*and made a condition of this approval." "A tree bond shall be provided by the applicant to secure the preservation and maintenance of the trees to be retained and the replacement trees consistent with the Arborist's reports and addendums in the amount of $88,000."*

Motion: **Upon motion of Commissioner Rodgers, seconded by Commissioner Nagpal, the Planning Commission granted Design Review Approval (Application #07-259) to allow the construction of a 2,432 square foot residence with basement and attached garage on property located at 14078 Alta Vista Avenue, with the followings amendments to Condition 13 of the resolution:**

- **Add "…*and made a condition of this approval*."**
- **Add "…*There shall be a certified arborist on site, acceptable to the City Arborist, at all times during grading and excavation. If any roots in excess of two inches are found, construction shall be halted immediately and the City Arborist shall be called to the site."***
- **Add, *"When excavation begins for the basement adjacent to Tree #5 (redwood) and Tree #4 (oak), it should be done by hand or with an air spade. No backhoes shall be used,"***
- **Add, "A tree bond shall be provided by the applicant to secure the preservation and maintenance of the trees to be retained and the replacement trees consistent with the Arborist's reports and addendums in the amount of $88,000."**
- **Add that tree replacement shall be "subject to the approval of the City Arborist."**

by the following roll call vote:

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

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PUBLIC HEARING - ITEM NO. 2

APPLICATION #07-262 (392-25-027/028) Saint Andrews Parish and School, 13601 Saratoga Avenue: The applicant requests Design Review and Conditional Use Permit approvals to construct three new buildings on the site totaling approximately 49,920 square feet. The three buildings will include a three-story administration/classroom wing, two-story north classroom wing and three-story clergy offices. The project includes a request for Variation from Standards to exceed the maximum allowable floor area and lot coverage allowed in the R-1-20,000 zone district. These three buildings were originally approved in May 2003. Planning entitlements have a three-year expiration date. Building permits were not secured for these buildings in that time period and the entitlements have expired. The net lot size is approximately 5 acres and the site is located in the R-1-20,000 zoning district. Design Review approval by the Planning Commission is required pursuant to Saratoga Municipal Code Section 15-46.020. (Chris Riordan)

Senior Planner Chris Riordan presented the staff report as follows:

- Stated that this item includes a Mitigated Negative Declaration, Design Review and Conditional Use Permit approvals to allow for the construction of three new buildings at Saint Andrews Church and School.
- Described the buildings as a 24,000 square foot, three-story administrative/classroom building; a 16,300 square foot, two-story classroom building and an 8,060 square foot clergy building.
- Explained that the Planning Commission originally approved this project in March 2003 when five new buildings were approved for the site. Thus far, two of the five buildings have been constructed but the approvals for the remaining three buildings have expired.
- Said that there are no changes to the buildings originally approved. The classroom and clergy buildings were considered too tall as viewed from Saratoga Avenue and the administrative building was reduced to 32.5 feet and the clergy building was reduced to 30 feet.
- Reported that the originally approved shade structure for students to use during lunch breaks has been modified from a wood construction roof to a cloth covering.
- Said that the project includes three variations from standards including additional lot coverage, additional building height and additional floor area.
- Explained that this project is not Categorically Exempt under CEQA and mitigations are recommended to reduce environmental impacts.
- Recommended approval.

Commissioner Zhao asked how large are the two newly constructed buildings and if the new buildings would be where the classrooms are currently.

Chair Hlava replied that per the plans the gym/performing arts building is 15,168 square feet and the parish center is 4,007 square feet.

Planner Chris Riordan said that the existing classroom buildings would be torn down.

Commissioner Rodgers asked if the new buildings would match the newly constructed gym.

Planner Chris Riordan replied yes they would match in materials and colors.

Commissioner Zhao asked if the current student enrollment would be increased.

Planner Chris Riordan replied no the enrollment would not increase.

Commissioner Rodgers pointed to the condition included under Community Development Department on page 5 of attachment 2 that reads, "*All activities on site shall be incidental to use of the site as a church*." She asked if any language needs to be added to this condition.

City Attorney Jonathan Wittwer said that there is no legal requirement but it is up to the Commission.

Commissioner Rodgers pointed out for the record that there is a full commercial-size kitchen on this property.

City Attorney Jonathan Wittwer suggested that the work "church" be replaced with "religious institution" to match the Code definition.

Chair Hlava said it should also include "and school."

City Attorney Jonathan Wittwer said that the school is a related use.

Chair Hlava said that the school is not for religious instruction but is simply a school.

Chair Hlava opened the public hearing for Agenda Item No. 2.

Mr. Scott Sheldon, Project Manager for Saint Andrews, Premiere Commercial:

- Reported that this project started in 1999. In 2003, a design plan was approved by the City of Saratoga and lots of conditions were imposed. They had agreed to all of those conditions that dealt with design, enrollment and functionality.
- Said that they had worked with staff over the last seven months for an extension.
- Said that the last phase of the project will match what has been built to date and what was approved originally.
- Stated that the old school and office buildings are not adequate over time to achieve their mission and they want to be able to complete the balance of their project.
- Advised that he is available for any questions.

Commissioner Nagpal asked for clarification that the primary activities on site are religious activities and a school.

Mr. Scott Sheldon replied correct.

Commissioner Nagpal asked if the gym would be available for community use.

Mr. Scott Sheldon said he must defer to Harry McKay on that but the gym was constructed to serve the school.

Mr. Harry McKay, Saint Andrews School, advised that students from other schools compete in this gym when playing against the school's teams in competition.

Commissioner Nagpal asked if it might be possible for this gym to be open for outside use for community-sponsored events.

Mr. Harry McKay said that their budy schedule generally precludes that during the school year although they would consider the possibility.

Commissioner Nagpal said that while the stated primary uses are as a school and religious institution not all activities on site are incidental. She asked if all activities are associated with the church.

Mr. Harry McKay said that this is an Episcopal school but their goal is to educate children. He said that the students attend chapel in the morning and have some religious classes but they are primarily a school.

Commissioner Nagpal said that the condition might need to be amended to properly list the school along with the religious institution.

Commissioner Rodgers asked if the gym is leased to other users.

Mr. Harry McKay said that the Boy Scouts has a troop here and the Saratoga Symphony practices here.

Commissioner Rodgers asked about service of meals.

Mr. Harry McKay said that they offer hot lunch to the students four days a week. The church also uses the kitchen for its activities. If it is used for non-church activities he cannot say.

Director John Livingstone said that the condition was added to be more consistent with churches who used their facilities for commercial purposes and to make sure it is not rented out for uses that are not school or church-related.

Mr. Bruce Friezen, Church Administrator, explained that they are a 501C(3) religious non-profit organization that is tax exempt. They are not allowed to rent their facilities for commercial uses.

Commissioner Nagpal asked if it is correct to describe this as a religious and educational institution.

Mr. Bruce Friezen replied yes.

Commissioner Nagpal said the language needs to read, "*religious and/or educational institution*."

Ms. Eva Miranda, Resident on Rancho Bella Vista:
- Said that she is a Saratoga Resident and her children attend Saint Andrews School.
- Advised that upgrades are strongly needed to this facility including heating, ventilation and size.
- Added that this will represent a big improvement to the school.

Ms. Marian Abbott, Resident on Canyon View Drive:
- Expressed her support for this application and with the previous speaker's comments.
- Said that she has been a member of Saint Andrews Church since 1965.
- Stated that this facility is behind the times and needs to be updated.

Mr. Don Carr, Resident on Merribrook Court, said that he has been a member of Saint Andrews since 1985 and is in favor of this request.

Mr. Ed Clendaniel, Resident on Venice Way, San Jose:
- Said that he has been a member since 1996 and is the president of the school board.
- Echoed the comments of the previous speakers regarding the need for upgrades.
- Said that they consider themselves (Saint Andrews) to be a great asset to the community and encouraged approval.

Ms. Chung Kim, Spokesperson for nearby neighbor on Tweed Court:
- Said that her client moved into the neighborhood in mid-May.
- Stated that her client's main concern is privacy.
- Said that her client took a picture of the story pole and a lot of it is visible from his yard.
- Asked how her client can be assured that there would be no views onto his property.
- Questioned whether the existing oak tree that offers lots of screening would be retained.
- Assured that her client is not trying to protest the school project but wants his privacy ensured.
- Reported that the previous owner did not disclose that this project was pending.

Chair Hlava directed Ms. Chung Kim to the view included in the packet of the building elevation that she is asking about.

Commissioner Nagpal assured that everyone appreciates the value of the large oak.

Mr. Scott Sheldon:
- Advised that the pole in question is actually 20 feet to the west of where the new building would be located. There was no ability to actually install the pole in the correct location, as it is concrete.
- Added that they had worked extensively with the Luoh's regarding privacy and addressed every issue that came up.
- Assured that the oak tree would outlive all of us. There is no desire or plan to do anything but support and nurture that tree.

Commissioner Rodgers said that having the story pole with orange mesh in the correct location would have been helpful.

Chair Hlava pointed out that the pole would have needed to go in the middle of a concrete area where kids go.

Commissioner Nagpal asked about visibility from the Tweed Court property.

Mr. Scott Sheldon:
- Explained that the fence between the two properties has been increased in height by four feet.
- Said that there would be no view of the parish office as an existing building will block it.
- Added that the Luoh's property is three feet lower in grade than the school.
- Stated that an agreement was reached with the Luoh's and they did a lot to address their issues.

Ms. Chung Kim asked how much will be visible from the house.

Chair Hlava asked if Ms. Chung Kim's objection is based on the existing story pole.

Mr. Scott Sheldon reiterated that there is nothing of that building that would be visible from this residence. It is over and forward and would be at least 20 feet away. He said he did not believe there would be any view of that building from this residence.

Mr. Chung Young Lee, Resident on Tweed Court:
- Stated that he is a new owner of this property and cautioned that his English is not good.
- Stated his belief that the three-story parish building will indeed be visible from his yard even at a 20-foot distance.

Mr. Scott Sheldon said that the existing parish center would prevent views of the new building. He listed the things they did to appease the Luoh's including use of a flat roof, raising the windows, moving the structure back and raising the fence height by four feet. He said that perhaps a foot or two of the 45-foot structure's roof might be visible but with no window views onto the residential property from their building.

Mr. Chung Young Lee said there are many viewpoints. He said that offering a photo simulation should be easy to accomplish. He said that there is a possibility that he could lose his privacy from his yard. He said he hopes everyone is sure that he won't lose that privacy.

Ms. Chung Kim said that they just want to be sure that there will be privacy with no windows overlooking his backyard. That's all he wants to hear.

Mr. Scott Sheldon said that if there is any view of the new building from the residence it is only the roof eave and that the windows are located 10 feet below that. There will be no windows seen from this resident's yard. He stressed he is very sure of that.

Chair Hlava reiterated that the new building is behind an existing building and it will not be seen from this residence.

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

Commissioner Nagpal:
- Advised that she was not on the Planning Commission when this project originally was approved but she recalls that it went under intense review.
- Stated that this school facility needs to be upgraded. It is a part of this community.
- Said that she is ready to make appropriate findings but wants to clarify condition #2 to say, "*incidental to religious <u>and educational</u> activities.*"

City Attorney Jonathan Wittwer agreed that would be a good addition.

Commissioner Rodgers:
- Said that she has no problem making findings to support this project especially since a previous Planning Commission considered this project before us.
- Said that this project is simply before the Commission to make sure that there have been no Code changes since the original approval that require modifications to the approval.

Commissioner Zhao said that she wanted to make sure that the plan being approved tonight is the same plan originally approved with the exception of height reduction for the two buildings.

Planner Chris Riordan said that is correct. It is the same exact plan set and the only modification is the play yard using fabric instead of a wood cover.

Commissioner Zhao said she could make all findings.

Motion: **Upon motion of Commissioner Nagpal, seconded by Commissioner Zhao, the Planning Commission approved a Mitigated Negative Declaration in relation to a request to construct three new buildings at Saint Andrews Parish and School on property located at 13601 Saratoga Avenue, by the following roll call vote:**
AYES: Hlava, Nagpal, Rodgers and Zhao
NOES: None
ABSENT: Cappello and Kumar
ABSTAIN: Kundtz

Motion: **Upon motion of Commissioner Nagpal, seconded by Commissioner Zhao, the Planning Commission granted Design Review and Conditional Use Permit Approvals to construct three new buildings at Saint Andrews Parish and School on property located at 13601 Saratoga Avenue, with the modification to Condition 2 to read "*religious <u>and educational</u> activities*," by the following roll call vote:**
AYES: Hlava, Nagpal, Rodgers and Zhao
NOES: None
ABSENT: Cappello and Kumar
ABSTAIN: Kundtz

Chair Hlava congratulated Saint Andrews and assured the nearby neighbor that he will suffer no impact from the new building, as it will be located behind an existing building so he will enjoy the same view as he currently enjoys.

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DIRECTOR'S ITEMS

There were no Director's Items.

COMMISSION ITEMS

Chair Hlava advised that she has appointed herself to participate on the Saratoga Village Group email list.

Commissioner Nagpal asked if there is any question as to how many members of the Planning Commission can be on this list as there are already two, herself and Commissioner Rodgers.

City Attorney Jonathan Wittwer said that there is no reason why they can't but the members of this Commission simply have to be cautious when communicating about City business.

Chair Hlava announced that there was a Study Session held prior to the regular meeting this evening, which was continued to 5 p.m. on September 26th. If the discussion is not completed before the start of the regular Planning Commission meeting on September 26th, the Study Session will reconvene immediately following the regular meeting that same night.

Commissioner Rodgers asked if there is not already another Study Session.

Chair Hlava said there is one on the Fence Ordinance on September 25th.

Commissioner Zhao advised that the City's email is not working and she is not able to retrieve her messages.

COMMUNICATIONS

There were no Communications Items.

ADJOURNMENT TO NEXT MEETING

Upon motion of Commissioner Nagpal, seconded by Commissioner Zhao, Chair Hlava adjourned the meeting at approximately 9:05 p.m. to the next Regular Planning Commission meeting of **September 26, 2007**, at 7:00 p.m.

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