

**MINUTES
SARATOGA PLANNING COMMISSION**

DATE: Wednesday, May 28, 2008
PLACE: Council Chambers/Civic Theater, 13777 Fruitvale Avenue, Saratoga, CA
TYPE: Regular Meeting

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

ROLL CALL

Present: Commissioners Cappello, Hlava, Kumar, Kundtz, Nagpal, Rodgers and Zhao
Absent: None
Staff: Director John Livingstone, Planner Shweta Bhatt, Planner Michael Fossati and
Assistant City Attorney Bill Parkin

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES – Regular Meeting of May 14, 2008.

Motion: Upon motion of Commissioner Nagpal, seconded by Commissioner Kumar, the Planning Commission minutes of the regular meeting of May 14, 2008, were adopted with changes to pages 1, 12, 13, 18, 19, 23 and 27. (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 May 22, 2008.

REPORT OF APPEAL RIGHTS

Chair Cappello 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 #CUP08-0002 (397-10-033) CONRADO/HARINARAYAN, 15126 Via Colina (Continued to a date uncertain): The applicant requests Conditional Use Permit approval to install an emergency generator. The generator will be enclosed in a pit and will be located outside of setback areas. The site is zoned R-1-40,000. Conditional Use Permit approval is required pursuant to City Code Section 15-80.030. (Shweta Bhatt)

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

Motion: Upon motion of Commissioner Nagpal, seconded by Commissioner Hlava, the Planning Commission CONTINUED TO A DATE UNCERTAIN consideration of a Conditional Use Permit to allow the installation of an emergency generator on property located at 15126 Via Colina. (7-0)

PUBLIC HEARING - ITEM NO. 2

APPLICATION #SUB08-0001 (389-06-0001 (389-06-005) BOYD, 19000 Cox Avenue: The applicant requests Tentative Parcel Map approval to subdivide an existing office building into three office condominiums on parcel of land totaling 18,514 square feet located at 19000 Cox Avenue. No physical changes are proposed to the existing structures, landscape or parking on site. The property is surrounded by: single-family residential properties to the north (across Cox Avenue); vacant land to the south and office uses to the east and west. The access driveway to the offices is located off of Village Drive. The property is located in a P-A (Professional and Administrative Office) zoning district. (Heather Bradley)

Mr. John Livingstone, Community Development Director, presented the staff report as follows:

- Reported that the applicant is seeking approval of a Tentative Parcel Map to subdivide an existing office building into three airspace office condominiums.
- Explained that this is similar to a residential condominium with one piece of land and the owners owning air space inside. There would simply be different owners for existing internal office spaces.
- Added that there are no physical changes. The proposal conforms as far as provision of parking with 19 required and provided. The proposal meets setbacks and height limitations. The existing landscaping is in good condition.
- Advised that a notification to neighbors was distributed resulting in six responses. One had a question about three spaces currently used by the adjacent parcel. That arrangement will not change.
- Informed that there is currently a lot line adjustment application on file. The City Attorney has reviewed this application and says that the lot line adjustment is a separate application that has no impact on this parcel map application.
- Said that the application is consistent with the General Plan and required map findings.

- Recommended that the Planning Commission approve this Tentative Parcel Map application by adopting the draft resolution.

Commissioner Kundtz asked if there would be CC&R's.

Commissioner Nagpal pointed out Condition #2, which requires CC&R's.

Director John Livingstone advised that both he and the City Attorney would review the CC&R's for adequacy.

Commissioner Kumar pointed out that the PG&E Section of the draft resolution is blank.

Director John Livingstone explained that there are already separate utilities and addresses for these three office spaces. There is little change except administratively with the conversion to office condominiums.

Commissioner Rodgers asked if there are any proposed permanent conditions of approval.

Director John Livingstone replied no.

Commissioner Nagpal asked if the CC&R's would be a permanent condition.

Director John Livingstone said he believes that permanent conditions of approval apply only on Design Review projects but he can get back to the Commission on this issue following further review.

Commissioner Zhao asked if the lot line adjustment has been resolved.

Director John Livingstone explained that both property owners must be in agreement for a lot line adjustment. The lot line adjustment is a separate application that has no bearing on this application.

Commissioner Zhao sought assurances that the lot line adjustment won't impact parking or other issues.

Director John Livingstone replied no. He added that the lot line adjustment is on hold until this application is complete.

Commissioner Nagpal said that she would like to consider a deed restriction for some of the conditions of approval. She added that the General Plan is silent on commercial condominium conversions. Is that correct?

Director John Livingstone replied yes.

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

Mr. Tim Boyd, Applicant and Property Owner:

- Said he is here this evening with the other owners of this building.
- Stated that he received the report and they are in agreement with it.
- Questioned Condition #6 which requires six-inch sanitary sewer laterals for each unit.
- Explained that he wrote to the West Valley Sanitation District and explained that there would be no physical changes to the building with this condominium conversion.
- Reported that he received an email from Jonathan Lee, West Valley Sanitation District, that stated that the six-inch lateral would not be required but rather only sewer connection permits for each unit.
- Stated his availability for any questions.

Mr. Isaac Abrams, Resident on Taos Drive:

- Distributed photographs and explained that he originally subdivided this medical complex and owns three lots in the adjacent area.
- Reported that he did not think this applicant disclosed that the trash enclosure is located on his property that serves this property. There has been no permission to do that.
- Said that Lot 4, an adjacent lot to this property, uses this lot's driveway as its primary access to its parking in the rear.
- Expressed concern with the City approval of this Tentative Parcel Map without CC&R's in place.
- Reported that he called several nearby cities and questioned requirements for CC&R's and they all said that the CC&R's are required as part of an approval.
- Said that outstanding issues such as building and site maintenance, location of trash enclosures and parking spots are very serious concerns in this matter.

Mr. Tim Boyd:

- Explained that the trash enclosure has historically been placed on Mr. Abram's property, where several parcels are sharing a full-sized commercial dumpster.
- Assured that if this is a problem going forward, they can place a trash enclosure elsewhere on their site where it would not impact parking.
- Advised that they are responsible for the upkeep of their driveway.

Commissioner Nagpal asked Mr. Tim Boyd if he is sure there is an alternative location for a trash enclosure that would not impact provision of parking.

Mr. Tim Boyd replied yes, there are several possible locations or alternatives including the use of a smaller container to serve only their parcel.

Commissioner Nagpal asked about the draft CC&R's.

Mr. Tim Boyd said that they have been drafted and are still being fine-tuned. He advised that providing the final draft CC&R's was not required as a submittal requirement with the original application.

Commissioner Rodgers asked if there is tentative agreement on the CC&R's.

Mr. Tim Boyd said that they have reviewed the first draft and will make changes via a conference call in the near future. He explained that they had wanted Planning Commission feedback before scheduling that conference call.

Commissioner Nagpal asked if they had submitted a draft to staff.

Mr. Tim Boyd replied no, they were waiting for the imposed conditions of approval.

Commissioner Rodgers asked what kinds of changes are pending.

Mr. Tim Boyd explained that there were some typographical errors and that they needed to formalize an owners' meeting schedule and other details.

Commissioner Hlava asked if it is normal for CC&R's to be submitted with an application.

City Attorney Bill Parkin said that the CC&R's are submitted to staff for review prior to recordation. The CC&R's are in effect in perpetuity and are recorded on the property.

Commissioner Hlava sought verification from the City Attorney that permanent conditions don't apply here.

City Attorney Bill Parkin said that the recording of permanent conditions is for Design Review conditions. However, the CC&R's are recorded and any change to CC&R's would have to come back to this Commission.

Commissioner Hlava said that it appears that several lots are sharing larger trash containers.

Mr. Tim Boyd agreed.

Commissioner Hlava asked if they could go with smaller bins on their lot.

Ms. Laura Crow, Co-Owner and Applicant:

- Reported that she has operated her practice in this building for 10 years.
- Explained that there are two dumpsters, one for recycling and the other for trash. These trash containers are shared with the building next door, which also has three dental practices.
- Added that if the trash containers were separated, they would need ones only half the size to serve their lot.

Commissioner Hlava asked if the medical waste is picked up separately.

Ms. Laura Crow replied, of course. She added that there is land available on their property to house smaller bins, including immediately to the west, at the southwest corner of their building. She assured that there are absolutely other alternatives for locating trash containers.

Commissioner Hlava asked staff how best to deal with this issue.

Chair Cappello said giving staff direction is the best way.

Mr. Tim Boyd explained that there are actually 24 spaces possible on site where 19 are required. Three of them are deeded to the neighboring property, which leaves 21 available to them right now.

Chair Cappello asked what options are available to work this issue out.

Commissioner Kundtz asked about a maintenance schedule within the CC&R's. Who decides when it is time to paint? Who engages the painting contractor?

Mr. Tim Boyd:

- Advised that they have hired an attorney who is experienced in commercial condominium CC&R's.
- Added that the scheduled maintenance is not yet firmed up.
- Informed that the decisions will be based upon a pro-rata share of the site.
- Said that he and his wife will own two units reflecting a 55 percent share. Their two partners will own the third unit resulting in a 45 percent share.

Ms. Laura Crow:

- Pointed out that she has been practicing in Saratoga for quite a while.
- Added that they are not landlords but rather they are owner/occupants.
- Stated that they are very motivated to make sure their building is in beautiful condition as befits Saratoga.

Commissioner Zhao asked the applicants if they could take back the three parking spaces used by the neighboring property at any time.

Mr. Tim Boyd explained that those spaces are deeded to them in perpetuity. He reminded that as there are 24 spaces available, even with three deeded out, they have 21 spaces available on site.

Commissioner Zhao asked how the spaces would be divided.

Mr. Tim Boyd said that the parking would be owned on a pro-rata basis based on square footage. However, they are not reserved. There is some give and take. He added that there has never historically been a parking problem and this site has been successfully used over 40 years.

Commissioner Zhao asked if the use of parking would be left as it is.

Mr. Tim Boyd reiterated that the ownership is on a pro-rata share but not assigned.

Commissioner Hlava asked why the map shows 22 spaces when they say there are 24.

Mr. Tim Boyd said that the lot is striped for 22 now but can be striped for 24. He explained that an architect has come up with a parking plan to do so.

Commissioner Rodgers asked if that includes provision of handicapped parking.

Mr. Ray Hashimoto, Project Engineer:

- Reported that the current size of the parking spaces is 10 x 18. The standard is 9 x 18.
- Said that currently there are 22 full sized, extra wide spaces.

Commissioner Rodgers said that space 7 would have to be the handicapped space.

Mr. Ray Hashimoto assured that there is space available for an ADA compliant parking space.

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

Commissioner Hlava said that while the lot is currently configured for 22 parking spaces there is probably enough land available to strip for more. She asked if the map should indicate that.

Director John Livingstone:

- Said that he could work with the applicants on the parking spaces on site.
- Asked that he also be given the option to work with the neighbors on the issue of joint versus smaller trash containers, etc.

Commissioner Hlava suggested conditioning that an appropriate place is found on this property for trash containers.

Commissioner Nagpal added that the appropriate space should not impact parking. She said that if this cannot be done, any changes to the parking configuration should come back to this Commission.

Director John Livingstone explained that parking is not a part of the map.

Commissioner Hlava said that there is no condition for parking right now.

Director John Livingstone said that a new condition needs to be crafted.

Commissioner Hlava asked about the Sanitation District's requirement for six-inch laterals while the applicant says this is not needed.

Director John Livingstone said he was provided an email today. The City Attorney has prepared a minor edit to that condition.

Commissioner Zhao asked verification of a standard parking stall size.

Director John Livingstone agreed that 9 x 18 is the standard.

Commissioner Nagpal asked about the claim that access to the neighbor's lot is from this parcel. Is there a provision to allow for that?

City Attorney Bill Parkin said that he believes there is an easement and that this subdivision would not impact the easement.

Commissioner Nagpal said she wants to be sure there is an easement.

City Attorney Bill Parkin explained that if there were a legal easement, nothing the Commission does would change that.

Commissioner Nagpal insisted that she wants to know if there is an easement or if this access has simply been a practice.

Chair Cappello invited Mr. Isaac Abrams to return to the podium to address this issue.

Mr. Isaac Abrams said that there is a recorded easement that was recently modified and re-recorded. He suggested that it would be more prudent for this application to be continued for a while.

Commissioner Hlava:

- Said that this is not that confusing. There are not that many issues up in the air.
- Stated that the processing of CC&R's is being done the same way as usual.
- Pointed out that the City Attorney has language to modify the condition for six-inch sanitary laterals.
- Said that the City Attorney has been pretty clear that the creation of commercial condominiums has no impact on any existing easements so this is not an issue.
- Said that a condition can be added to give staff latitude to discuss the garbage enclosure.
- Agreed that office condominiums are unusual in Saratoga and this application is being based strictly upon the regulations of the Subdivision Map Act.
- Advised that she has no problem approving this request.

Commissioner Rodgers:

- Pointed out that the Community Development Director will have final say on the CC&R's.
- Said that the outstanding issues are the language on the Sanitation District requirement and the location of garbage containers.
- Suggested that the project should be conditioned carefully as down the road there may be different owners and things could get difficult.

Commissioner Kundtz:

- Compared CC&R's to a pre-nuptial agreement.
- Said that he can make the findings and trusts staff to ensure that adequate CC&R's are recorded.
- Supported modifying the condition from the Sanitation District.

Commissioner Nagpal:

- Agreed with what has been said.
- Pointed out that only two of the nine potential findings are required for approval.

Commissioner Kumar:

- Said he too can make the findings for approval.
- Expressed confidence that the Director will help finalize the CC&R's and that the Sanitation District issue has been covered.

Commissioner Zhao said she could make the findings for approval.

Chair Cappello said he could too.

City Attorney Bill Parkin offered several changes to the conditions of approval:

- Condition #2, "said CC&R's shall be reviewed and ~~approved~~ subject to approval by the Community Development Director."
- Add Condition #6 to the CDD Section: "Applicant shall submit for review, and subject to approval by the Community Development Director, a plan for locating recycling and trash containers."

Director John Livingstone advised that if an appropriate placement for the trash containers cannot be located, it would come back to the Commission.

City Attorney Bill Parkin:

- Add to the beginning of the WVSD Condition: "if required,..."
- At the end of the WVSD Condition add, "and obtain sewer connection permits."

Commissioner Nagpal asked if it is possible that sewer connections can be required without sewer laterals.

City Attorney Bill Parkin:

- Replied, apparently they can but the text if required deals with the possibility.
- Added the text to Condition 11 (Public Works), "if required, an encroachment permit..."

Commissioner Rodgers asked if the CC&R's are recorded.

City Attorney Bill Parkin replied yes.

Motion: Upon motion of Commissioner Hlava, seconded by Commissioner Kundtz, the Planning Commission granted a Tentative Parcel Map approval (Application #SUB08-0001) to subdivide an existing office building into three office condominiums on a parcel of land totaling 18,514 square feet located at 19000 Cox Avenue, with conditions as amended, by the following roll call vote:

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

PUBLIC HEARING - ITEM NO. 3

APPLICATION #PDR07-0016 (517-08-025) ESTAHBANATY, 20731 St. Charles Street (Continued from the March 26, 2008 meeting): The application requests Design Review approval to demolish the existing home and construct a new two-story home. The proposed structure will be approximately 2,542 square feet and approximately 22 feet, 8.5 inches tall. The gross lot size is 6,012 square feet and the site is zoned R-1-10,000. Design Review is required pursuant to City Code Section 15-45.060. (Shweta Bhatt)

Ms. Shweta Bhatt, Planner, presented the staff report as follows:

- Reported that the applicant is seeking Design Review approval to construct a new two-story home on an approximately 6,012 square foot lot that slopes up from the street.
- Reminded that on March 26, 2008, the Planning Commission held a public hearing at which time neighbors made several suggestions on the design and proposed mitigations for privacy impacts.
- Advised that the applicant has removed columns adjacent to windows on the second floor and replaced them with shutters; incorporated a river rock accent in place of the original flagstone; incorporated true divided light on wood windows.
- Distributed a materials board.
- Additional changes include the reduction of the plate height in the living room, use of opaque glass in the master window and imposition of a permanent condition for said windows.
- Stated that three new letters have been received and distributed.
- Advised that elevation drawings have been revised and the height is now 20 feet, 5.5 inches.
- Said that no trees were to be removed.
- Informed that the applicant as well as neighbors are present this evening.

Commissioner Zhao asked for the average slope of the property.

Planner Shweta Bhatt said that the average slope is 9.5 percent

Commissioner Nagpal asked if the slope is 13 percent in front.

Planner Shweta Bhatt said that the 9.5 percent slope is the average for the existing whole lot.

Chair Cappello asked about the potential removal of the shutters.

Planner Shweta Bhatt said that in the previous submittal there were faux columns at the second floor windows. The shutters were proposed in lieu of those columns.

Commissioner Nagpal asked about proposed screening for the west side of the property.

Planner Shweta Bhatt said that the applicant agreed at yesterday's site visit to provide said screening.

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

Mr. Mohammad Estahbanaty, Applicant:

- Thanked staff for their work.
- Said that he made the changes requested including use of river rock, shutters (although he has no problem removing them if that is the preference), the back bay window is now a flat window, the window in the master bedroom on the right site uses obscured fixed glass and exposed eaves have been added.
- Said that several meetings have been held with neighbors.
- Reported that the house has been lowered by two feet and the living room ceiling height has also been lowered by 1.5 feet for a total reduction of 3.5 feet.
- Said that it would be difficult to lower the house more as requested.
- Explained that there is no basement because of the water situation on site, which is located at the bottom of a hill.
- Said that the new letters request an additional lowering of the finished floor by another two feet. One request was for an accurate elevation drawing. Another was for screening.
- Stated that all retaining walls would be engineered and reviewed by the Building Department.
- Said that he has no problem with putting in some additional screening and reported that the neighbor has already put in three new trees.
- Suggested placing one or two willow trees, which are fast growing, for temporary screening until such time as the neighbor's new trees have matured to provide sufficient screening.
- Assured that he has tried to meet neighbor concerns.
- Pointed out that the slope of the driveway is down to 13 percent when it had been 18 percent.
- Said that it was lowered so as to provide no view into Paul's property. There are story poles put in to demonstrate that.
- Reiterated that he brought the height down.

Commissioner Nagpal thanked Mr. Mohammad Estahbanaty for his efforts and changes. She asked him if he plans to incorporate Craftsman treatments all around this house.

Mr. Mohammad Estahbanaty replied yes.

Commissioner Nagpal asked Mr. Mohammad Estahbanaty if he added a garbage pad as proposed.

Mr. Mohammad Estahbanaty replied yes.

Commissioner Nagpal asked about additional screening while expressing appreciation for all changes made to this point.

Mr. Mohammad Estahbanaty assured that he is willing to work with his neighbors.

Mr. Paul Ginouves, Resident on St. Charles Street:

- Informed the Commission that his home is directly to the west of this property.

- Said that he was told by Mr. Mohammad Estahbanaty that the City would not allow him to do certain things such as including a basement, lowering heights, etc.
- Stated that Mr. Mohammad Estahbanaty has been consistently vague and that there has been inconsistency with measurements.
- Suggested that the Planning Commission has the duty to only approve plans that are clear and consistent. There needs to be one clear set of plans without ambiguities and he is asking the Planning Commission to have Mr. Mohammad Estahbanaty do this.
- Said that it is important to reduce privacy impacts.
- Asked staff to address whether Mr. Mohammad Estahbanaty has been told he cannot do certain things as he has told the neighbors.
- Reported that a meeting was held on Friday with Mr. Mohammad Estahbanaty at the City.
- Agreed that this is a difficult area to build in as there are technical issues but he felt that not enough consideration has been given to creative solutions to deal with drainage.
- Opined that Mr. Mohammad Estahbanaty would build and sell while he will live out the rest of his life in his home.
- Asked the Commissioners to put themselves in his position and deny this application until the ambiguities are resolved.

Commissioner Nagpal asked Mr. Paul Ginouves what type of screening landscaping he might prefer.

Mr. Paul Ginouves said something that screens. He added that he is a biologist and not a horticulturalist. He added that screening is necessary but he is also hoping that perhaps the house could still be lowered in height.

Mr. John Hollingsworth, Resident on Oak Street:

- Said that his home is immediately behind this site.
- Said that he was at the last public hearing where proposed changes were offered.
- Added that he had thought that screening on all three sides had been promised.
- Stated that siding had also been proposed all around the house that is currently absent from the current plan.
- Advised that he is still concerned about the impact of this home on neighbors and wants to see it lowered as much as possible.
- Reminded that other homes in the neighborhood have basements and a basement is a viable alternative.
- Agreed that it would be ideal if plans could be consistent.

Commissioner Hlava:

- Pointed out that there are lots of trees, including two big trees, located at the back property line.
- Stated that there doesn't seem to be much room for much more screening back there.
- Asked what Mr. John Hollingsworth is recommending.

Mr. John Hollingsworth said that two existing large oak trees screen perhaps half the back area. He added that he is happy to put something on his side of the property.

Commissioner Hlava asked Mr. John Hollingsworth if he likes oleanders or hedges.

Mr. John Hollingsworth said that he dislikes oleanders and thinks hedges would be a better approach than would additional trees.

Ms. Jeanne Alexander, Resident on Oak Street:

- Said that she wants tall bushes to help screen her side.
- Asked that a solid fence be installed so workers can't see into her yard.
- Added her desire to see the house lowered further.

Ms. Jenni Taylor, Resident on Oak Street:

- Recognized the drop of two feet in height from the original proposal.
- Said that she "stands on her guns" that two more feet in height should be eliminated for a total of four feet in reduction.
- Disagreed that there is a water problem and said she does not believe this house cannot go down another foot or two.
- Agreed that there are always changes to the plans. They are never the same.
- Said that screening is missing and mullions are only depicted for half of the windows. Having shutters on only two windows does not seem right.
- Recommended that the plan be finalized.
- Reiterated that she wants the house to go down in height by another couple of feet.
- Opined that shutters are not a Craftsman feature and are not okay.
- Suggested a continuance.
- Said that there is a loss of privacy as the building is still too high.
- Reported that the neighbors are concerned and appalled.
- Said that the garage could be put under the house.
- Said that a main point is that the historic report has not yet arrived. She added that it is improper not to see it before a decision is made. The public has the right to see the report prior to a decision being made.
- Reiterated that there is a mullion problem on the windows.
- Supporting use of shingling to help alleviate the lack of property shutters.

Mr. Mohammad Estahbanaty:

- Agreed that in the last six months there have been seven different sets of plans. Every time the plans have changed, copies have been provided to the neighbors and to the City.
- Explained that he has tried to keep the plans current.
- Mentioned that there is a Code Ordinance that seeks to limit excavation.
- Said it was his understanding to find a creative way to bring down the height but bringing it down any further will result in 20-foot high walls in his backyard.
- Advised that there will be chain-link fencing during construction with a green tarp on it to screen the view.
- Said that while neighbors may have chosen to incorporate basements, the water situation in the area is very fast. Sump pumps are used throughout the year and not just during the rainy season.
- Reiterated that he is willing to work with any neighbor on the appropriate screening.

- Pointed out that there is a different request every day and this project has been ongoing for six to seven months.
- Assured that he has tried his best and the current height is the optimum size that can be done.

Commissioner Hlava asked about rafter tails on the front above the garage that is not on the elevation but is on the plan.

Mr. Mohammad Estahbanaty said that the elevation is older than the plan.

Commissioner Nagpal asked Mr. Mohammad Estahbanaty if he could support conditions calling for the exposed rafters and requirement for true divided-light windows on all facades.

Mr. Mohammad Estahbanaty replied yes.

Commissioner Nagpal asked Mr. Mohammad Estahbanaty if he would also support use of siding on all four sides.

Mr. Mohammad Estahbanaty said that he proposes stucco like all other homes nearby.

Commissioner Hlava cautioned that siding would stick out like a sore thumb, especially since all homes nearby are stucco. She added that she had indicated at the last public hearing that she thought using siding all around would look awful.

Commissioner Nagpal asked Mr. Mohammad Estahbanaty to confirm that he supports the use of divided-light windows.

Mr. Mohammad Estahbanaty replied yes. He pointed out that the conditions currently state that all windows are to be Millgard windows but they may not be able to provide all sizes needed. He said that the manufacturer might have to be changed.

Commissioner Hlava said that this is included in the staff report and not in the conditions.

Commissioner Rodgers asked if the garage door is wood.

Mr. Mohammad Estahbanaty said yes, it is shown as wood on the materials board.

Planner Shweta Bhatt said that the elevation drawings show true divided light windows on the front elevation and the applicant proposes it for all windows. Therefore, the conditions would need to be amended.

Commissioner Nagpal asked about the construction fencing along the western property line. Is the six-foot solid wood good neighbor fence conditioned after completion of construction.

Mr. Mohammad Estahbanaty said that the landscape plan depicts the six-foot redwood fence.

Commissioner Nagpal asked if this fencing is proposed for all three sides.

Planner Shweta Bhatt said that it is shown for the western property line.

Commissioner Nagpal asked if it is five-feet tall.

Mr. Mohammad Estahbanaty replied that it is a six-foot redwood fence all around although some of the fencing is existing rather than new.

Commissioner Nagpal asked Mr. Mohammad Estahbanaty if he is willing to install dense fast-growing shrubs as screening along the fencing.

Mr. Mohammad Estahbanaty pointed out that the six-foot fencing is atop a four-foot retaining wall that provides adequate screening.

Commissioner Nagpal asked Mr. Mohammad Estahbanaty if he is willing to provide screening as recommended by the City's Arborist.

Mr. Mohammad Estahbanaty replied okay.

Commissioner Nagpal asked if a full set of current plans were available at City Hall as of Friday to look at.

Planner Shweta Bhatt replied yes. She added that some additional changes were discussed on Friday.

Commissioner Nagpal pointed out that there is no City Ordinance that prevents going down further.

Mr. Mohammad Estahbanaty clarified that there is City Ordinance that minimizes the amount of excavation desired.

Director John Livingstone said that the only hurdle to digging down further is that allowable retaining wall heights are exceeded. The project engineer says this site is proposed using best engineering practices.

Commissioner Nagpal sought clarification that the Heritage Preservation Commission approved the demolition of this old home.

Director John Livingstone advised that HPC met and reviewed the project and conducted a site visit. They did approve the demolition but asked that a historic report be prepared for historic purposes and filed with the City.

Commissioner Nagpal asked if the report is expected to come in before demolition.

Planner Shweta Bhatt said that the applicant is required to pull demolition permits and staff will not sign off on the demolition permit until the historic report is provided. The report is scheduled for review by the HPC at its June meeting.

Commissioner Rodgers asked if the roof height was dropped when the house height was reduced.

Mr. Mohammad Estahbanaty replied that it has gone down by two feet.

Commissioner Rodgers stated that it appears that the interior has gone down but the exterior remains the same.

Chair Cappello explained that the entire house was reduced by two feet in height since the last Commission hearing. The current plan just reflects the additional 1.5-foot reduction of the living room ceiling height.

Commissioner Nagpal said that the height is down by 3.5 feet since the last meeting and the plans tonight become Exhibit A.

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

Commissioner Nagpal asked about the bay window in the master bedroom and the requirement for obscured glass. Is this shown in the drawings or reflected as a condition.

Planner Shweta Bhatt said that this would become a permanent condition of approval.

Commissioner Hlava pointed out that the windows using obscured glass as well as clearstory windows would look funny if they are divided light windows.

Commissioner Nagpal clarified that the condition should read that any time that divided light windows are used they should be real divided light windows.

Commissioner Hlava said that it appears the condition would require use of divided light windows all around and that would look funny on some of the windows.

Commissioner Nagpal reiterated that the requirement is that any divided light windows used be true divided light windows.

Commissioner Hlava said she was okay with that condition.

Planner Shweta Bhatt said that only the front elevation has proposed divided light windows.

Commissioner Nagpal said in that case it is irrelevant to add that. She expressed a preference that the patio doors should also be divided light or French doors.

Commissioner Rodgers asked about the bay window in the master with four panes facing out.

Planner Shweta Bhatt said the two on the other side have been removed. The four panes seen are the widest wall of the bay window.

Commissioner Hlava asked for verification that there are no windows on the sides of the bay.

Planner Shweta Bhatt pointed to page 2 of the floor plan. On the two sides there are no windows on either the first or second floors.

Commissioner Nagpal:

- Reported that she found her notes from the original public hearing on this item.
- Stated that the applicant has addressed a significant part of the design comments.
- Said that she is surprised the siding has not been incorporated as she believed the Commission wanted it and that the applicant was willing to use it.
- Agreed that having so many different sets of plans is confusing.
- Pointed out that the height is down two feet and the west side is down another 1.5-feet. That results in a 3.5-foot drop on the west side, which is the sensitive side.
- Stated that the applicant has made a reasonable effort.
- Supported the siding treatment all around and the use of divided light windows all around.
- Said that the divided lights give more character at the back.
- Supported adding conditions regarding fencing and having the arborist recommend some fast-growing shrubbery.
- Stated the need to have the historic report on file prior to demolition.
- Said she is open to discussion on the issue of whether to incorporate the shutters or eliminate them.
- Advised that she can make the required Design Review findings but will have some suggestions for changes to the CDD conditions.

Commissioner Kundtz:

- Said that the seven required criteria/findings must be met, including perception of bulk; compatibility with the community; and avoidance of unreasonable interference with views and/or privacy.
- Said that the lowering of the building by two feet with the added reduction on one side by an additional 1.5 feet helps but does not solve the problem.
- Pointed out that the community is saying that a reduction by four feet is better.
- Added that the applicant is saying he cannot reduce by four feet due to water table and expense problems.
- Stated that the building is excessive in bulk; has view and privacy impacts and is not compatible with neighbors.
- Advised that he cannot make the findings to support this application.

Commissioner Zhao:

- Said that the applicant has made reasonable efforts to address the Planning Commission and neighbor comments.
- Said that she has looked at the seven required findings.
- Added that a property owner has the right to develop his property and this applicant has made reasonable efforts to address concerns.
- Reported that she can make the findings as to view and privacy impacts as well as compatible bulk and height.

- Stated that this project is compatible with the surrounding area and that reasonable efforts to address all issues have been made.
- Added that use of stucco fits better than use of wood siding and is a better choice.
- Advised that she can support this project.

Commissioner Rodgers:

- Expressed agreement with Commissioner Zhao more so than with Commissioner Kundtz.
- Said that this is an unusually constrained lot that this applicant has a right to build on.
- Added that the house proposed is small.
- Said that the alternative is unreasonable, cutting a level lot into a hillside.
- Said that the applicant has done his best to protect the neighbors' views and privacy, including use of opaque windows and reducing the total height of the house by two feet.
- Said that other houses in the neighborhood are larger than this one and are stucco homes.
- Suggested that this house has been designed to match the historic houses up the hill.
- Supported the neighbors' willingness to discuss what kind of vegetation might best screen.

Commissioner Hlava:

- Said that when she mentioned to one resident that there had been a house here before, that resident replied that the owner was never there.
- Pointed out that this is an urban area and homes will be visible from house to house.
- Stated that Mr. Mohammad Estahbanaty has done a lot to fit his home into the area, including lowering its height.
- Said that more grading would result in more retaining walls and he has done all that he could.
- Suggested adding a condition of approval that the landscaping plan would include the appropriate selection of screening materials to satisfy adjacent neighbors.
- Expressed agreement with Commissioners Zhao and Rodgers.
- Agreed with staff that this will not look like a huge house and is compatible with what is already there.
- Advised that she can make the findings for support.

Commissioner Kumar:

- Agreed that Mr. Mohammad Estahbanaty has been very accommodating and made lots of changes as asked, including lowering the height by two feet (1.5 feet more on the west side). The slope of the driveway was reduced to 13 percent from 18 percent.
- Said that Mr. Mohammad Estahbanaty listened to the input provided by the Planning Commission and the neighbors and incorporated the suggestions into his design.
- Said that the reasons the drawings have been inconsistent is that there have been many iterations of designs that can cause confusion.
- Said that the plans today are the updated design.
- Expressed appreciation to Mr. Mohammad Estahbanaty for his efforts to accommodate everyone.
- Said that he too supports use of stucco over siding.
- Said he is open to use of divided lights all around the house.
- Said that screening hedges will help ensure privacy per Commissioner Hlava's proposed condition.

- Stated he can make findings to support this application.

Chair Cappello:

- Said he too can make the findings.
- Agreed that stucco is appropriate for this area.
- Said that he would like to see the shutters on the front elevation remain, as it would be too plain without them. While they may not be true Craftsman, he likes the way they look.
- Stated that divided light windows should be on the rear of the property too but may not be as important on the sides.
- Said he would defer issues of landscaping to the Arborist as to whether shrubs or trees would best serve the screening function.

Commissioner Hlava said that the small windows would look funny if they were divided light. She suggested that Condition 4 require divided light windows on the front and rear elevations.

Chair Cappello suggested that the applicant be allowed to use divided light on the side elevations if he wants to but that this not be conditioned as a requirement.

Commissioner Nagpal asked Director John Livingstone for some direction.

Commissioner Zhao said it appears the applicant wants to use divided light all around.

Commissioner Nagpal said he is willing.

Commissioner Rodgers suggested that with the problem with different drawings that they be updated and returned on Consent.

Chair Cappello suggested that the Director review the updated plans rather than the Commission doing so as a Consent item.

Director John Livingstone said that some Commissioners appear to want divided light all around and the applicant appears willing to use them all around. He added that his concern is that some of the smaller windows would have to be custom built.

Commissioner Nagpal reiterated that she does not think that all windows need to be divided light.

Commissioner Hlava reiterated that the small windows would look funny as divided light windows.

Commissioner Nagpal again suggested that this come back on Consent.

Commissioner Zhao supported this issue being to the discretion of the Director to work out with the applicant.

Chair Cappello reminded that all appear to agree to divided light for the front and rear elevations. Just the side elevations are in question and that could best be left to the discretion of the Director.

Director John Livingstone said that he prefers a consensus of this Commission.

Commissioner Hlava suggested the front and rear windows.

Commissioner Zhao agreed.

Chair Cappello agreed.

Commissioner Rodgers wanted all around.

Commissioner Kundtz said he was no on the entire project.

City Attorney Bill Parkin said that Condition #4 could be amended to read at the end, "...shall have true divided lights in the front and rear elevations and the garage door."

Commissioner Nagpal suggested leaving the six-foot redwood fence and vegetative screening to the discretion of the Director.

Commissioner Hlava reminded that the landscape plan should include screening on the rear, east and west property lines, as appropriate.

Director John Livingstone suggested that screening vegetation all around be at the recommendation of the City Arborist.

City Attorney Bill Parkin gave draft language, "Landscape plan shall include landscaping to screen adjacent parcels where feasible and said plan will be subject to approval by the City Arborist/Community Development Director for adequacy."

Motion: Upon motion of Commissioner Hlava, seconded by Commissioner Zhao, the Planning Commission granted Design Review approval to demolish the existing home and construct a new two-story home on property located at 20731 St. Charles Street, with conditions as amended, by the following roll call vote:

AYES: Cappello, Hlava, Kumar, Nagpal, Rodgers and Zhao

NOES: Kundtz

ABSENT: None

ABSTAIN: None

Chair Cappello called a break at 9:46 p.m.

Chair Cappello reconvened the meeting at 9:53 p.m.

Commissioner Zhao advised that she must recuse from the next item. She left the dais and chambers.

PUBLIC HEARING - ITEM NO. 4

APPLICATION #PDR08-0001 (397-18-071) HONG/THAKUR, 14900 Baranga Lane: The applicant requests Design Review approval to construct a new single-family residence. The proposed structure will be approximately 6,133 square feet and approximately 23-feet tall. The gross lot size is 55,757 square feet and the site is zoned R-1-40,000. Exterior colors and materials consist of beige stucco and stone accent and tile roof material. Design Review is required pursuant to City Code Section 15-45.060. (Shweta Bhatt)

Ms. Shweta Bhatt, Planner, presented the staff report as follows:

- Distributed a materials board.
- Explained that the applicant is seeking Design Review approval for a new home.
- Reported that a previous owner received Design Review approval in 2001 for a new home. The former home on site was demolished but the construction permits were never pulled and the site is currently vacant.
- Said that the proposal is for a 6,133 square foot new home with a maximum height of 23 feet. The colors proposed are earth tone.
- Added that six Ordinance protected trees will be removed, one of which is dead. The estimated value of the trees is \$16,000 and \$20,000 in equivalent tree placement value will be installed.
- Said that a neighborhood meeting was held and no opposition comments have been received.
- Advised that with a new development of this lot, any existing non-conforming conditions must be brought into compliance. At this time there is existing fencing that is non-compliant and a condition is included in the resolution for said fencing to be brought into compliance once the Fencing Ordinance update is completed. However, the applicant and the neighbors are requesting that the existing fence and pilasters be retained.
- Recommended that this application be found to be Categorical Exempt under CEQA and that the Commission adopt a resolution approving this application.

Commissioner Nagpal asked staff if the focus of the neighborhood is the retention of the shrubs or the fencing.

Planner Shweta Bhatt said that it is not clear but the fence is helping hold up the shrubbery.

Commissioner Kundtz asked if an architectural feature depicted is a chimney or a cupola. He asked how many fireplaces are proposed and which is wood burning.

Chair Cappello deferred this question to the project architect.

Chair Cappello opened the public hearing for Agenda Item No. 4.

Mr. Steve Douglas, Bob Taylor Homes:

- Said that the staff report was very thorough.
- Said that this proposed one-story residence is within the coverage. FAR, height and setback requirements and is also consistent with the City's Design Guidelines.
- Advised that the City's arborist has approved the tree removal and the replacement with five 48-inch box oak trees.
- Reported that the neighbors were contacted and signed off on the notification forms.
- Said that under the Ordinance a fence at the front can be three-feet high maximum and the pilaster a maximum of five-feet in height. The existing fence is five-feet high with six-foot high pilasters.
- Informed that the pilasters can be modified to meet the five-foot height limitation but the neighbors want the fence and shrubs to be retained as privacy screening.
- Explained that it would take a year to build this house, which won't begin construction for several months.
- Added that it is their hope that with the updated Fencing Ordinance soon to be adopted by the City, there will be some sort of Exception process available without having to apply for a Variance for the existing fencing.
- Reported that there is one chimney for a wood-burning fireplace in the great room. The other fireplaces in the home are direct vent gas fireplaces.

Director John Livingstone cautioned that the plans currently read that the fireplace in the great room is gas.

Mr. Steve Douglas said that the owner wants wood burning in the great room.

Commissioner Hlava stated that the proposed roof tile appears very busy.

Mr. Hong, Property Owner, explained that in reality the tile would not appear to be busy.

Commissioner Hlava said that this might just be the way it is drawn.

Commissioner Rodgers thanked Mr. Hong for the green list of energy saving measures but said the rooms are very tall and possibly energy inefficient. She asked if any consideration had been given to lowering those ceiling heights.

Mr. Hong said that they bring natural light into the room. He added that they have incorporated a higher-grade insulation and roof plywood as well as thicker sheetrock in order to better insulate the house.

Commissioner Rodgers asked if the proposed heating method is also more efficient. Is there a way to close off rooms so they don't need to be heated or cooled when not in use?

Mr. Hong advised that there are two furnaces serving different portions of the residence.

Chair Cappello closed the public hearing for Agenda Item No. 4.

Commissioner Kundtz said that this home offers a great design reflecting a great project. He said that Mr. Hong is lucky to have found a lot like this one. He said he would defer to his colleagues on the possible retention of the existing fence but said he can make the necessary findings to support this application.

Commissioner Nagpal said she also can make the findings for approval and supported leaving the fencing as it is until the Ordinance update is done. She said the great room fireplace needs to be noted on the plan as wood burning rather than gas and extended compliments on the design of this home.

Commissioner Rodgers agreed that the home looks fabulous from all four directions. Each side looks fantastic and well articulated. It is neither busy nor plain.

Commissioner Hlava said that she can make the findings to support this request and agreed that this is a great lot. The home will fit in well and it is a pretty house. The landscaping looks good.

Motion: Upon motion of Commissioner Nagpal, seconded by Commissioner Kundtz, the Planning Commission granted Design Review Approval to construct a new single-family residence on property located at 14900 Baranga Lane, with the fireplace in the great room to be indicated as wood burning on the plans, by the following roll call vote:

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

Commissioner Zhao returned to the meeting for the next item.

PUBLIC HEARING - ITEM NO. 5

APPLICATION #PDR08-0003 (393-39-015) HO/LE, 20220 Thelma Avenue: The applicant requests Design Review approval to construct a new single-family residence. The proposed structure will be approximately 4,203 square feet and approximately 23-feet tall. The gross lot size is 16,353 square feet and the site is zoned R-1-10,000. Exterior colors and materials consist of valley white base stucco, stone accents, tile roof material, wood stain garage doors and a decorative iron rod accessory. Design Review is required pursuant to City Code Section 15-45.060(a)(3). (Michael Fossati)

Mr. Michael Fossati, Planner, presented the staff report as follows:

- Made minor corrections to the draft resolution.
- Said that the applicant is seeking approval to demolish an existing ranch-style home and construct a new Mediterranean-style residence consisting of 4,200 square feet and a maximum height of 23 feet.

- Described the zoning as R-1-10,000 and the subject lot as consisting of 16,300 square feet.
- Said that the project can be considered Categorically Exempt under CEQA and advised that geotechnical clearance is not required for this site.
- Explained that one Ordinance-protected tree must be removed. There are currently four on the property and there is tree overcrowding. A condition to protect the remaining three of four trees is incorporated into the conditions of approval.
- Said that the Public Works Department has reviewed this application and has imposed a condition requiring the replacement of broken sections of curb and gutter.
- Reported that high-quality materials are proposed including limestone veneer and quality doors.
- Distributed a materials board.
- Said that the walls are stucco and a decorative wrought iron feature is included. The colors are browns, beiges and tans on a Valley White base.
- Advised that no negative comments have been received and the required 500-foot noticing was done.
- Recommended approval.

Commissioner Zhao had questions about the front elevation where a porch area appears to be a deep indentation. She asked how far that porch comes out into the front.

Planner Michael Fossati said that the porch has a 25-foot depth. He added that porches are typical to Mediterranean-style homes.

Commissioner Nagpal said that this porch feature appears to go inward.

Planner Michael Fossati agreed that it goes inward from the front towards the back of the house.

Commissioner Zhao asked if this feature is intended to serve as a porch or a carport.

Commissioner Nagpal pointed out that it is open on the right side. Could it be used as a carport?

Planner Michael Fossati said no, it is intended to serve as a front patio but he would defer to the architect to substantiate the reason this porch has been incorporated into the design.

Commissioner Rodgers asked why the area inside this feature is not double counted. Is it because of the lattice versus solid roof area? She explained that normally three walls and a roof requires said space to be double counted against lot coverage.

Director John Livingstone said that a structure area with a roof and three or more walls with a solid material roof covering over 75 percent of the area would be counted.

Commissioner Nagpal asked if this is 75 percent covered.

Commissioner Rodgers asked if the lattice breaks the solid coverage.

Planner Michael Fossati said that as the roof is less than 75 percent, it is not counted as floor area.

Director John Livingstone said he has seen this done before to allow natural light.

Commissioner Nagpal questioned if this would be used as a carport or simply as a gathering area.

Chair Cappello said it would be best to ask the applicant that question.

Commissioner Hlava pointed out that there is no door leading directly out to this area and that omission seems a little strange.

Commissioner Rodgers said that the area is at grade level with pavers leading to it.

Commissioner Kumar said that it appears to be a play area for kids.

Chair Cappello opened the public hearing for Agenda Item No. 5.

Mr. Frank Ho, Project Architect:

- Explained that his client likes a nice quality house. She has kids and grandkids and will put a lot of money into this new house.
- Stated that it would utilize a nice wood garage door and nice building materials including windows and doors.
- Added that the home is also energy efficient. He said that the covered patio would help reduce the need for air conditioning. The break in the roof allows for natural light into the nook and kitchen.
- Advised that his client has a large family within the Bay Area that gathers often. The porch in the front will serve as a kid's play area.

Chair Cappello asked if the possibility exists that this area would be used as a carport.

Mr. Ho said that it might be possible to install a curb or half wall railing to prevent that use.

Commissioner Nagpal asked how the area would be accessed.

Mr. Ho said that the family would come out the front door to access this porch area.

Commissioner Nagpal questioned why there is no direct access from the living or family room onto this porch area.

Mr. Ho said he could add a door but the owner wanted to use the front door for access. She wants to control security by not having a second door leading outside from the front of the house. He reiterated that he could incorporate some means of closing off the porch so cars could not get through.

Commissioner Kundtz asked Mr. Ho if there are any chimneys on the plan. Are there any fireplaces in the house?

Mr. Ho said that the fireplaces are all gas. One is in the living room and another in the master bedroom/bathroom at the hot tub.

Commissioner Zhao stressed her concern at the practicality of the front porch area.

Mr. Ho said that usually there would be some sort of French door leading out to a porch area such as this but his owner is concerned about security and does not want too many doors at the front.

Commissioner Rodgers assured Mr. Ho that Saratoga is a very safe community.

Mr. Ho said his client is afraid that the kids could get out without supervision.

Commissioner Rodgers said that she thought the intention of the area was to serve as a play area.

Mr. Ho said that it is when the children are supervised.

Commissioner Rodgers said that the rooms seem tall. Are there any green features?

Mr. Ho said that there is radiant floor heating that keeps heat down low rather than at the ceiling. He added that in the summer tall ceilings help keep a home cool. He stated that there is a skylight to vent air going up.

Commissioner Rodgers asked if there is a way to close off formal areas of the house.

Mr. Ho said that there is zoning furnace and air conditioning. Two machines serve activity areas versus bedrooms.

Commissioner Zhao reiterated again that she is having a hard time with the porch design.

Mr. Ho said that it helps balance the house, as on the other side there is a three-car garage. At the center there is the front entry. This porch is at the right hand side.

Commissioner Zhao said that it seems imbalanced.

Commissioner Hlava said that with nice patio furniture, large potted plants and perhaps a wall fountain, this area could be gorgeous.

Chair Cappello said that the porch along the front almost wraps around the house.

Mr. Ho said right.

Chair Cappello reminded Commissioner Zhao that a two-dimensional drawing does not always show depth well.

Chair Cappello closed the public hearing for Agenda Item No. 5.

Commissioner Nagpal said that she does not like the railing idea, which could look like a jail.

Commissioner Hlava said that Mr. Ho's client wants this feature. She agreed that it helps balance the house and appears it is a feature that will work for this homeowner. She said that this house is pretty and sits well on its lot and is in balance with other homes in the area.

Commissioner Kundtz said he can make the findings as well. It looks unusual but not bad or wrong.

Director John Livingstone said that a permanent condition could be recorded that the patio area is not to be used as a carport. It would become part of the deed.

Commissioner Rodgers asked if a carport is allowed.

Director John Livingstone replied yes.

Chair Cappello said that he prefers that there not be carports in Saratoga and supported making it a permanent condition that the front patio area not be used as a carport.

Director John Livingstone clarified that the Planning Commission allows carports under discretionary review.

Commissioner Nagpal said that the applicant says this is not a carport. She asked if neighbors could complain in the event that it is used as a carport in the future.

Commissioner Rodgers reminded that there is nothing prohibiting carports.

Motion: Upon motion of Commissioner Nagpal, seconded by Commissioner Kundtz, the Planning Commission granted Design Review Approval to construct a new single-family residence on property located at 20220 Thelma Avenue, as modified and with the Public Works added requirement for curb and gutter repairs, by the following roll call vote:

AYES: Cappello, Hlava, Kumar, Kundtz, Nagpal, Rodgers and Zhao

NOES: None

ABSENT: None

ABSTAIN: None

PUBLIC HEARING - ITEM NO. 6

APPLICATION #PDR08-0005 & CUP08-0003 (393-01-024, 393-01-025, 393-01-026, 393-01-028, 393-01-041, 393-01042) PSM ARCHITECTS/SAFEWAY, 12876 Saratoga-Sunnyvale

Road: The applicant requests Design Review approval to a new painting exterior and new stone at entry columns for the existing 95,306 square foot building and 6,000 square foot ancillary building at Argonaut Shopping Center. Design Review permit approval is required pursuant to City Code Section 15-46.020(3). Also the applicant requests a Conditional Use Permit to allow exterior seating, exterior floral displays and exterior produce displays in front of Safeway. Conditional Use Permit approval is required pursuant to City Code Section 15-19-020 (2). Both sites are zoned C-N. (Michael Fossati)

Mr. Michael Fossati, Planner, presented the staff report as follows:

- Provided corrections to the draft resolution.
- Explained that the application is to allow changes to the existing Argonaut Shopping Center to allow for repainting, the addition of slate tile, the addition of exterior seating and the addition of exterior floral/produce display stands.
- Reported that a new Conditional Use Permit is required if changes are proposed for an existing Use Permit. Changes to the exterior seating and fixtures makes a new CUP required in this case.
- Stated that this application is Categorically Exempt under CEQA and that a geotechnical report is not required.
- Advised that the last Design Review application for this center was in 1996. At that time, a condition was imposed that the site utilizes medium earth tone colors and materials.
- Added that the colors proposed at this time include brown, beiges and taupe finishes. The slate tile is consistent with the natural environment of Saratoga and will be used near the front door. The display stands will be used for floral and produce displays offering seasonal items.
- Reported that staff conducted numerous site visits to ensure that parking is adequate to accommodate the proposed uses.
- Informed that similar materials have been installed at other Safeway stores in nearby cities.
- Stated that the 500-foot notice was mailed.
- Recommended that the Planning Commission approve this request, as it is consistent with the General Plan's goals and policies.
- Advised that he has contacted the Post Office per the comments made at the site visit about the unfortunate location of the mailbox on this site at the present time.

Commissioner Kundtz thanked staff for looking into the possible relocation of the mailbox as it is in an awkward location. He said that the proposed colors look good. He asked if the proposed repainting would go all the way to the Starbucks.

Planner Michael Fossati said that the paint colors are intended for the entire center, including the accessory structures such as where Alain Pinel Realtors are located but he would defer to the applicant for response.

Commissioner Rodgers asked if the fruit/vegetable stands and floral display stand are considered structures.

Planner Michael Fossati said that the new exterior seating is what is considered to be an intensification of the existing use.

Commissioner Zhao asked Planner Michael Fossati how many tables and seats were proposed.

Planner Michael Fossati said that it is three tables per the applicant but yesterday was told there were six so he would again defer to the applicant to clarify this detail.

Chair Cappello opened the public hearing for Agenda Item No. 6.

Mr. Jason Gomes, Project Applicant:

- Thanked the Commissioners for staying so late this evening to consider their request.
- Said that it is their intent that the whole center be painted with the new color scheme.
- Said that the Safeway store would be embellished with stone and they would also like a couple of light sconces to be added to provide additional illumination.
- Advised that they are proposing three tables for Safeway and to replace the tables at Togo's to match theirs.
- Clarified that the proposed umbrellas are tan rather than black.

Commissioner Kundtz asked Mr. Jason Gomes if it is their intention to have the entire center painted the same color or could they control only what happens up to the Long's.

Mr. Jason Gomes said that the landlord says the entire center will be repainted with this Planning Commission's approval.

Commissioner Kundtz said this is good news and he wanted to be sure.

Planner Michael Fossati said that per a letter from the landlord the entire complex is to be painted.

Commissioner Kundtz asked when the painting would occur.

Planner Michael Fossati said that it would be some time after the 15-day appeal period has passed following approval.

Commissioner Rodgers asked Mr. Jason Gomes whether he is here representing the entire center or just Safeway.

Mr. Jason Gomes replied the entire center.

Commissioner Rodgers:

- Asked if it might be possible to provide more attractive permanent displays outside for the fruit stands, flower stands and produce carts.
- Opined that what is proposed is not representative of this area. It is not classy. It is not even Farmer's Market standard.

- Stated that she hopes for something more upscale for Saratoga that is as beautiful as the rest of the center.

Mr. Jason Gomes:

- Said that part of the thought is that these are not permanent displays. There are times of year where there would be nothing seasonable available for display.
- Added that there have been several different designs over the years since 2004.
- Assured that they are fine-tuning their fixtures. They have been well received at their other locations.
- Stated that this is what they hope to get approved for use right now.

Commissioner Rodgers said that there is already a lot there including the mailbox, soda machines, etc.

Commissioner Hlava said that these carts are just like ones used inside the store.

Commissioner Nagpal said that it would be worth pursuing more aesthetically pleasing displays.

Mr. Jason Gomes said that the carts are painted and the flower stands are galvanized metal.

Commissioner Hlava asked for verification that the chairs and tables would be located to the right of the second set of doors by the Deli Department.

Mr. Jason Gomes said this is correct. This seating is for deli customers.

Commissioner Hlava asked for verification that the floral and produce displays would be near the other doors at the produce side of the store. She asked what comes after the cart wall.

Mr. Jason Gomes said the handicapped access.

Commissioner Hlava agreed that it would be better if that mailbox were not sitting where it is currently. It should be placed somewhere that is easier to get to.

Commissioner Kundtz said even in the parking lot would be better.

Chair Cappello closed the public hearing for Agenda Item No. 6.

Director John Livingstone offered to work with the applicant to get upgrades to the portable stands, if possible.

Chair Cappello asked for a straw vote on who wanted to pursue upgrades.

Commissioner Nagpal said yes.

Commissioner Rodgers said yes.

Commissioner Zhao said she is okay with what is proposed.

Commissioner Hlava said she too is okay with what is proposed.

Commissioner Kumar said he would like upgraded displays.

Motion: Upon motion of Commissioner Hlava, seconded by Commissioner Kumar, the Planning Commission granted Design Review approval to allow exterior changers to the existing 95,306 square foot building and 6,000 square foot ancillary building at Argonaut Shopping Center and a Conditional Use Permit to allow exterior seating, floral and produce displays in front of Safeway, on property located at 12876 Saratoga-Sunnyvale Road, as amended to replace black umbrellas with tan; to add light sconces and to update Exhibit A to reflect upgraded display stands, by the following roll call vote:

AYES: Cappello, Hlava, Kumar, Kundtz, Nagpal, Rodgers and Zhao

NOES: None

ABSENT: None

ABSTAIN: None

PUBLIC HEARING - ITEM NO. 7

APPLICATION ZOA08-0001 (City-Wide): An ordinance to amend and clarify existing provisions of the City Code regarding the procedure for setting and continuing dates for public hearings on appeals to the Planning Commission and City Council.

Mr. John Livingstone, Director, presented the staff report as follows:

- Promised a very brief presentation.
- Said that the current policy for appeals is not specific on the ability to ask for continuances.
- Added that the changes proposed specifies and brings in a time envelope.

Commissioner Hlava expressed concern about the use of the word "immediately." She suggested text to read "...shall quickly as applicable..."

Commissioner Nagpal agreed.

Commissioner Kundtz suggested within three business days.

Commissioner Hlava said that business day means any day not on a weekend, holiday or day that City Hall is closed. Since City Hall is closed on alternate Fridays, she is concerned about the impact.

Commissioner Nagpal said that a lot of other cities follow that schedule.

Director John Livingstone pointed out that City Hall is open at 7:30 a.m. and that allows people the opportunity to stop by on their way out to work.

Chair Cappello read Step 4, "If notice is published/mailed prior to a request for a continuance, that matter remains on the agenda and is continued to the next regular meeting."

Commissioner Nagpal said that this represents the current practice so that an item does not require re-noticing.

Chair Cappello asked about delays after a notice has gone out.

Director John Livingstone said that the procedure sets parameters for it to occur.

Commissioner Nagpal said that the changes mean that if an item has already been noticed, the applicant cannot come the day before to ask for a continuance.

Director John Livingstone explained that the 14-day standard concentrates on staff report preparation rather than noticing.

Commissioner Rodgers said that business days versus calendar days must be clarified.

Director John Livingstone said the intent is business days.

City Attorney Bill Parkin said it should be calendar days.

Commissioner Rodgers asked that paragraph 2 also makes provision for notification by U.S. mail.

Commissioner Hlava agreed that specifying between business and calendar days is important.

Director John Livingstone clarified that U.S. mail is also used for notifications.

City Attorney Bill Parkin said that the text is appropriate to "immediately send notice when set."

Commissioner Hlava asked if this is okay.

City Attorney Bill Parkin said yes.

Motion: Upon motion of Commissioner Rodgers, seconded by Commissioner Nagpal, the Planning Commission recommended approval of an Ordinance to amend and clarify existing provisions of the City Code regarding the procedure for setting and continuing dates for public hearings on appeals to the Planning Commission and City Council, clarifying the use of business and/or calendar days and with a provision for notifications by U.S. mail, by the following roll call vote:

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

DIRECTOR'S ITEMS

There were no Director's Items.

COMMISSION ITEMS

There were no Commission Items.

COMMUNICATIONS

There were no Communications Items.

ADJOURNMENT TO NEXT MEETING

Upon motion of Commissioner Kundtz, seconded by Commissioner Nagpal, Chair Cappello adjourned the meeting at approximately 11:19 p.m.

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