

**MINUTES
SARATOGA PLANNING COMMISSION**

DATE: Wednesday, August 13, 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, Contract Planner Heather Bradley, Associate Planner Shweta Bhatt and Assistant City Attorney Jonathan Wittwer

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES – Regular Meeting of July 23, 2008.

Motion: Upon motion and second, the Planning Commission minutes of the regular meeting of July 23, 2008, were adopted. (6-0-0-1; Commissioner Rodgers abstained)

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 August 7, 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 #FER-08-0001, Balakrishnan, 21789 Villa Oaks Lane, 503-78-036: The applicant requests Fence Exception approval to permit a previously constructed vineyard and property fence located at 21789 Villa Oaks Lane. The average slope of the lot is 12.3%. The total enclosed area will be approximately 1.5 acres. The maximum height of the proposed fence will not exceed the allowable 15,600 square feet. The lot size is approximately 144,184 square feet and the site is located in the HR zoning district. Fence Exception approval is required pursuant to Saratoga Municipal Code Section 15-29.020. (Heather Bradley)

Ms. Heather Bradley, Contract Planner, presented the staff report as follows:

- Said that the applicant requests Fence Exception approval to permit a previously constructed vineyard fence.
- Explained that this Fence Exception does not include the rear neighbor and only applies for fences on the applicant's property.
- Reported that the vineyard was planted approximately eight years ago and it is assumed that the fence was installed at the same time although a Fence Exception was not applied for at that time.
- Reminded that the Planning Commission was made aware of this at the last meeting at which the applicant obtained approval for an addition.
- Advised that Finding 1 of Section 15-29.020(c) can be made in the affirmative. Visibility of this fencing is reduced by topography and landscaping on site.
- Said that this application is not subject to CEQA review.
- Recommended approval.

City Attorney Jonathan Wittwer:

- Explained that a letter from the Balakrishnan's attorney asks that this Fence Exception be granted without prejudice so that they can come back in the future if they are able to reach agreement with Mr. Holden or the Ms. Ming regarding the portion of the fence on the Garrod Road property.
- Advised that as a matter of law the Planning Commission action taken tonight would not prejudice any such right.
- Assured that the applicant can apply for a revision.

Commissioner Nagpal asked if this would require a new application.

City Attorney Jonathan Wittwer replied yes. He added that it would be for a different parcel.

Commissioner Hlava said that she thought that there was no existing Fence Exception process but rather that is why one is being proposed in the updated Fence Ordinance this Commission would be reviewing later in this meeting.

Planner Heather Bradley explained that there is an exception process now. She added that where the current ordinance allows 4,000 square foot enclosed area, the proposed ordinance would raise that to up to 6,000 square feet.

Director John Livingstone clarified that the existing provisions for exceptions are just for enclosures in Hillside zoning. He added that what is proposed in the amended Fence Ordinance under consideration later this evening is an exception for almost any circumstance.

Commissioner Hlava clarified that the ability to support this exception is basically based upon the topography here.

Chair Cappello said that one of the three available findings is required.

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

Ms. Dor Yob, Attorney for the Balakrishnans:

- Thanked the City Attorney for his comments on her letter.
- Advised that the Balakrishnans read the report and are ready to comply with its conditions.
- Expressed appreciation for the clarification this action can be done without prejudice.
- Said they appreciate staff's recommendation.

Mr. David Lietzke, Resident on Villa Oaks Lane:

- Stated that he and his wife, Nancy, are the immediate neighbors.
- Added that they see this fence more than anyone else would be able to.
- Stressed that they have no objection.

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

Commissioner Nagpal said that she saw the fence during the site visit and can make the exception findings without prejudice.

Motion: Upon motion of Commissioner Nagpal, seconded by Commissioner Hlava, the Planning Commission granted Fence Exception Approval to permit a previously constructed vineyard fence on property located at 21789 Villa Oaks Lane, 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. 2

APPLICATION #PDR08-0026, Zarkesh, 14575 Horseshoe Drive, 397-20-049: The applicant requests Design Review Approval to add a single story addition to the existing single-story residence. The addition includes approximately 1,428 square feet to the existing 3,061 square foot single-story structure. The total proposed floor area would be approximately 4,489 square feet. The maximum height of the proposed building will not exceed the 26-foot height limit. The maximum impervious coverage will not exceed the allowable 45% of the net site area. The lot size is approximately 22,500 square feet and the site is located in the R-1-20,000 zoning district. Design Review Approval is required pursuant to Saratoga Municipal Code Section 15-45.060. (Heather Bradley)

Ms. Heather Bradley, Contract Planner, presented the staff report as follows:

- Reported that a revised resolution with corrections by the City Attorney has been distributed as a table item this evening.
- Said that the following added language should be included to Condition 3, *“unless relocated outside the required setback areas.”*
- Described the request as Design Review approval to allow a 1,428 square foot single-story addition.
- Explained that the maximum building height that can be approved at staff level is 18 feet. This residence has a maximum height of 20 feet, which requires Planning Commission approval.
- Said that the parcel is 22,500 square feet.
- Stated that the addition includes two new bedrooms, a new family room and an expanded garage.
- Added that the addition would match the architectural style of the existing residence and will consist of light beige stucco.
- Distributed a color board.
- Reported that no ordinance-protected trees would be removed.
- Said that notices of approval from all surrounding property owners have been received. No concerns have been raised.
- Advised that all required Design Review findings can be made.
- Said that the project is Exempt under CEQA.
- Recommended approval.

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

Mr. Rick Hartman, Project Architect, Hometec Architecture:

- Reported that the existing residence is a three-bedroom, which is unusual on a lot of this size in Saratoga.
- Advised that they are adding two bedrooms, a family room and more FAR for the existing garage.
- Said that they designed the addition to avoid any trees.
- Said that his only question of the staff report is the issue of fireplaces.
- Explained that there is one in the master bedroom that is wood burning and they would be adding one in the new family room.

Commissioner Hlava asked how many total fireplaces there would be.

Mr. Rick Hartman said two

Commissioner Hlava asked how many are wood burning.

Mr. Rick Hartman said the existing fireplace in the master is wood burning and the new one in the family room would be gas. The living room fireplace would be removed.

Chair Cappello pointed out that the report states the carriage style garage doors would be wood while the materials board states steel.

Planner Heather Bradley said that this is her error. They are "wood-like" but steel garage doors.

Mr. Kapour, Neighbor:

- Said he is the rear neighbor.
- Advised that he has no objection to this addition.
- Explained that originally there was a proposal for a concrete fence and that is something he would object to, as it would change their view.

Commissioner Nagpal said that this is not included on the current plans.

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

Commissioner Kundtz:

- Said that this is a great design.
- Advised that he can make all findings to support it.
- Stated that there is no excessive appearance of bulk.
- Pointed out that the neighbors support this request.

Commissioner Nagpal expressed appreciation for the single-story profile.

Commissioner Zhao said she can make the findings as well.

Motion: Upon motion of Commissioner Zhao, seconded by Commissioner Hlava, the Planning Commission granted Design Review Approval to add a 1,428 square foot addition to an existing single-story residence on property located at 14575 Horseshoe Drive, 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 #ZOA07-0001, Regulations Related to Fences, Walls and Hedges & Negative Declaration: The Planning Commission will consider a draft ordinance that will update existing regulations regarding fences, walls and hedges. The draft ordinance proposes to 1) establish an exception process that would allow property owners to exceed the maximum permitted fence height; 2) change permitted fencing height and enclosure limitations in the hillside district; and 3) clarify ambiguous language and areas of the code that are currently difficult to enforce. Other related topics, including but not limited to, regulations regarding chain link fencing. An Initial Study and Negative Declaration for the project will also be reviewed and discussed. (Shweta Bhatt)

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

- Advised that the draft ordinance amends the regulations for fences, walls and hedges.
- Reminded that at the last study session, the Planning Commission recommended increasing the maximum allowed fenced enclosure area in Hillside Residential zoning from 4,000 to 6,000 square feet.
- Said that materials and heights are the same as non-Hillside Residential zoning proposed including chain link fencing. Outside of the allowed 6,000 square foot fenced enclosure, only three-foot tall split rail fences or walls composed of stone or stucco would be permitted on Hillside zoned properties.
- Listed other changes proposed as including permitting a six-foot solid fence to have an additional two-feet of lattice; permitting open fences, such as wrought iron, chain link or wire material, to a maximum height of eight feet; adding height requirements to driveway sections; adding requirements for swimming pool fencing; and changing fencing requirements for flag lots.
- Informed that the proposed changes are summarized in the staff report and the proposed text of the ordinance can be found as Attachment 1.
- Added that input from community members are included as Attachment 3 and an email received late this afternoon was provided in hard copy tonight.

Commissioner Rodgers pointed out that one point raised in the email received late this afternoon was a suggestion to prohibit slats in chain link fences. She reminded that this had been addressed at one time and asked if it is dealt with in the draft ordinance.

Planner Shweta Bhatt said that it is not explicitly included but could be added. As it reads now, open fencing has to have four-inch openings with the exception of chain link fencing. The Commission could add language to explicitly prohibit the use of slats.

Commissioner Rodgers said that for now this email can simply be taken as public comment and go from there.

City Attorney Jonathan Wittwer:

- Reported that there are a few minor revisions to the draft ordinance as follows:
 - Page 1, Section 15-06.341 – at the end of the provision, “except for street and driveway intersections as ~~discussed in~~ which shall comply with subsections 15-29,010 e, g & h ...”

- Page 2, top of page, same change in text as above.
- Page 1, Section 15-06.xxx – recommend that it read as follows, “Height of retaining wall means a vertical line from the highest point of the retaining wall to a point directly below at the lowest natural grade.” Everything else gets deleted until the last phrase that reads, “except for street and driveway intersections, which shall comply with Subsection 15-29.010 e, g & h.”
- Page 2, Item D – “The above height limitations do not apply.”

Commissioner Hlava:

- Raised the issue of Section 15-29.030 – Fencing adjacent to commercial districts.
- Read the existing text, “The Community Development Director may impose restrictions deemed necessary to mitigate any visual or other...”
- Suggested that it be amended to read, “The Community Development Director may impose restrictions deemed necessary to mitigate any visual, noise, or other...”
- Pointed out that noise concerns are the reason why walls are necessary between commercial and residential uses and said that noise mitigation goals should be included somewhere.

Commissioner Nagpal asked about the noticing done for this item particularly for residents in the Hillside zoning. She asked if the notice in the Saratoga News is the primary form of noticing.

Director John Livingstone said that it is typically the Saratoga News that is used for noticing citywide impact items. He said that whenever possible, they also do a news release. He pointed out that in this particular case, there have been several articles in the Saratoga News. It is also included on the city’s web page.

Commissioner Nagpal asked if there is a list of HOA’s (homeowner associations) that include Hillside districts. Were any HOA’s specifically noticed.

Director John Livingstone replied no.

Commissioner Kundtz said he wanted to compliment Planner Shweta Bhatt on her efforts, which he called tantamount to “herding cats” in order to get all the information together from numerous sessions. He thanked her for her work.

Chair Cappello agreed.

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

Mr. Bruce LaFountain, Resident on Pierce Road:

- Asked for verification that the ordinance, as written, limits height and materials of perimeter fencing in Hillside districts to a maximum of three feet except for split rail and stucco fence with openings.
- Stated that, with due respect to the work of the Commission, this is a flawed process to arrive to these proposed amendments.

- Said that, as proposed, this is a patchwork quilt of totally unfounded, inequitably ridiculous rule making that merely exacerbates beyond all reason a complex and complicated issue that has plagued the city for more than a decade.
- Continued that there have been on-going issues of fencing inequities that do not in any manner serve this community since 1998.
- Advised that his personal journey with this begin almost one year ago. In that time period, this Commission has vacillated between one extreme to another on this issue with no cohesive format or objective in mind other than to possibly get this off of your collective plates.
- Listed issues this Commission has alternately considered including height, materials, locations, colors, areas of enclosure, triangles of visibility, setbacks, perimeter placements, the rights of passage for wild animals, locations of swimming pools, tennis courts and almost anything one might consider appropriated for a major study on the issue except for one thing, the rights, needs and considerations of your affected fellow citizens who have forked over big bucks to pay for their private property. They continue to pay thousands of dollars annually in tax base to sustain this city.
- Asked if these taxpaying property owners have any rights. Is anyone on this Commission listening to anything aside from their own subjective opinions about how this grand waste of time impacts the peaceable and lawful rights of our citizenry?
- Declared that he cannot imagine how the Commission got this bogged down in their own rhetorical considerations.
- Stated that another bureaucratically created solution has been generated and named an exception process.
- Questioned why a citizen should have to come to explain themselves to the Commission or to the rest of the city.
- Opined that Saratoga is not a self-appointed park. Rather, it is a city, which includes private property and the rights and needs of the property owner taxpayers.
- Challenged that a large majority of citizens do not agree with these proposed actions.

Chair Cappello advised Mr. Bruce LaFountain that his time has expired and he should wrap up his commentary.

Mr. Bruce LaFountain said that given the small audience present he should be able to conclude his last page of comments.

Commissioner Nagpal asked Mr. Bruce LaFountain if he could be more specific as to what he is objecting to. Is it the limitation of allowable enclosed fenced area in Hillside zoning?

Mr. Bruce LaFountain said no, it is the issue of perimeter fencing and the restrictions imposed on Hillside zones. He said that these restrictions do not serve the interest of people who need a fence.

Commissioner Nagpal asked Planner Shweta Bhatt to reiterate the proposed perimeter fencing requirements for Hillside zoning.

Planner Shweta Bhatt said that currently gaps are required in solid fencing material. What is proposed is to take that requirement for gaps out and in its place impose a three-foot height restriction.

Commissioner Nagpal sought clarification that nothing greater than three feet is allowed.

Planner Shweta Bhatt replied not outside of the area of enclosure.

Commissioner Nagpal clarified that there is no gap restriction any longer.

Planner Shweta Bhatt replied correct.

Commissioner Nagpal asked about materials allowed.

Planner Shweta Bhatt said that it is limited to split rail fencing, stone or stucco.

Commissioner Kumar asked if all existing fencing is grandfathered. If so, when would an exception be necessary?

Chair Cappello suggested holding off on this issue until the public comment period has concluded.

Commissioner Rodgers thanked Mr. Bruce LaFountain for his participation in numerous meetings. She asked him if he would rather the ordinance be left as it is.

Mr. Bruce LaFountain said he wants a fair assessment.

Commissioner Hlava:

- Pointed out that the current regulations for Hillside fencing are not being followed.
- Stated that there are lots of properties with enclosures more than 4,000 square feet in size.
- Added that the existing ordinance did not accomplish the original goal.
- Questioned whether more laws should be passed that no one follows.

Mr. Bruce LaFountain said he wanted to prevent other owners in Saratoga from being surprised some day if someone were to complain about their existing fencing.

Commissioner Hlava asked Mr. Bruce LaFountain what he thinks is the best thing to do about this issue.

Mr. Bruce LaFountain said to create a guideline that is adhered to and followed. If not, leave it alone.

Commissioner Hlava agreed that no one follows it anyway.

Mr. Bruce LaFountain reminded that the city employs selective enforcement based upon complaint.

Mr. Balu Balakrishnan, Resident on Villa Oaks:

- Said that he was unaware of previous meetings on this issue. He is only here because he had an exception request earlier on this evening's agenda.
- Stated that 6,000 square feet of enclosure area in the Hillside zoning is not enough.
- Added that an exception process should be required for only a few, such as 10 percent, and not for 90 percent of all property owners.
- Asked that specific consideration of the needs for enclosing vineyards be incorporated into the ordinance.
- Pointed out that a three-foot maximum height is not sufficient to protect vineyards from wild life. They will get over it.
- Suggested a specific arrangement based on lot area or agricultural situations.

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

Commissioner Kumar suggested a change to the section on noise mitigation, "...fencing to mitigate noise from arterial streets and/or commercial districts."

Commissioner Rodgers asked the City Attorney for a suggestion on where to place this in the language.

Commissioner Hlava agreed with Commissioner Kumar's recommendation, saying that where she had suggested placing this didn't make as much sense as this does.

Commissioner Rodgers said that they might want to add Commercial District to the title of this section.

Commissioner Hlava said that the intent is to mitigate noise so cement block is better than a wood fence to achieve that goal.

Commissioner Rodgers reminded that one church recently requested fencing for noise mitigation.

Commissioner Nagpal:

- Said it may be necessary to allow noise mitigation fencing in Public Facilities zoning.
- Said that she wished that they didn't have to deal with Hillside fencing.
- Added that she struggles with the 6,000 square foot enclosure since much of the existing fencing currently does not meet that standard.
- Said that this ordinance may go from bad to worse.

Chair Cappello:

- Reminded that there are objectives for Hillside Residential zoning.
- Added that there is the desire for safety around the home itself, including a confined area for children to play as well as to keep wildlife out of certain areas.
- Agreed that the current 4,000 square foot enclosure allowance is too small.

Commissioner Nagpal:

- Said that if they were designing a community with nothing there yet, the ordinance would be easier to enact and enforce.
- Said that at the present time the city uses selective enforcement. If a neighbor calls a complaint in against you, the city enforces.
- Stated that the ordinance needs to be applicable to the Hillside zoning as it stands today. However, if 90 percent of the existing conditions do not comply, that is difficult.
- Expressed concern that so few Hillside zoned properties are represented in this process.
- Added that it is currently a no-win situation.
- Added that since there is non-compliance with current regulations, would it not be the same with these revised regulations?

Chair Cappello stressed that a key objective is the ability for wildlife to roam throughout the hillsides. The three-foot fence height limitation for perimeter fencing allows wildlife passage.

Commissioner Nagpal said that perhaps instead of limiting the type and amount of fencing, an objective could be developed such as letting wildlife to pass unimpeded.

Chair Cappello stated that no ordinance that reflects current situations could be written today, as conditions are currently a hodgepodge. He stressed the need to get where we want to be not where we are at now.

Commissioner Nagpal reiterated that the area is already developed.

Chair Cappello pointed out that as wood fencing deteriorates and needs to be replaced the current standards could be imposed. He agreed that it was a good point to have exceptions for situations such as vineyards.

Commissioner Rodgers said that exceptions could also be considered for agricultural uses. She said that she had no problem with fencing around a vineyard.

Commissioner Kumar said that standard allowances for vineyards, orchards and agricultural uses, including keeping horses, could be added to the ordinance.

Commissioner Hlava said she agreed. She said that those three uses should not require an exception process but rather be called out in the ordinance itself.

Commissioner Nagpal agreed.

Commissioner Hlava:

- Said that she had always thought that the 4,000 square foot enclosure was too small and supported raising it to 6,000 square feet.
- Reminded that some had wanted to extend it to 8,000 square feet.
- Added that recreation courts are no longer exempt under the modified ordinance but she feels that they should remain exempt from enclosure restrictions.

Commissioner Rodgers asked if the definition of Hillside zoning might not need to be changed.

Commissioner Nagpal said that Hillside zoned properties are not always sloped. She said she is in favor of allowing sport courts to be fenced.

Commissioner Zhao stated that the three-foot height limitation for perimeter fencing in the Hillside zoning district is too specific.

Chair Cappello said that guidelines are not specific enough to be enforceable.

Commissioner Zhao asked what if complaints are brought to the Planning Commission.

Commissioner Nagpal suggested Design Review type of guidelines for fences.

Commissioner Zhao said yes. They could be used to achieve objectives versus an ordinance.

Commissioner Nagpal asked if this would be difficult to enforce.

City Attorney Jonathan Wittwer said that use of guidelines over regulations is more difficult to enforce. They are generally too broad. When they are less specific, it is more difficult to enforce.

Commissioner Zhao asked about Design Review style guidelines.

Commissioner Nagpal cautioned that the Commission does not want to have to consider every fence request.

Commissioner Kundtz agreed that the agenda would be filled with these types of applications.

Commissioner Zhao said she does not mean for a normal fence request.

Commissioner Nagpal said some sort of enforcement mechanism is needed and not the Planning Commission. This occurs upon complaint.

Commissioner Zhao supported more freedom for property owners. She said that the requirements are too specific, particularly the three-foot maximum height on perimeter fencing in the Hillside districts.

Commissioner Nagpal:

- Reminded that the current ordinance did not effectively control fencing in the Hillside district.
- Added that the question is, how to make this ordinance reflect the values of the city including having a wildlife corridor; safety; protect vineyards; and still be a credible ordinance.

Commissioner Zhao asked how many complaints are there. If there are not too many, why worry now?

Commissioner Kundtz:

- Said that he lives in the Hillside district.
- Advised that the eclectic mix of fencing now is unattractive.
- Said that even with just complaint-driven enforcement, the Code Enforcement staff is kept very busy.
- Also questioned, why have an ordinance if it is not going to be fully enforced?

Chair Cappello:

- Said that he supports the rights of property owners but the rights of adjacent property owners must also be taken into consideration as well as the good of the community.
- Agreed that some fencing conditions can be considered an eyesore.
- Pointed out that the hillside is the gem of the city.

Commissioner Rodgers:

- Said that the Hillside Specific Plan calls for the conservation of the rural character and its scenic resources.
- Added that the green hillsides are a community view.
- Stated that she does not want to see a community that is all walled in.
- Said that it appears that there are no complaints about existing hillside fencing conditions,
- Questioned why take the time to fix something if it is not broken?

Director John Livingstone clarified that the city does receive fencing complaints both on Hillside and non-Hillside zoned properties. Some get to the City Attorney level of enforcement.

Commissioner Nagpal asked what kinds of enforcement issues are raised.

Chair Cappello:

- Recounted that he had someone contact him who was furious with their neighbor's fence that blocked their view.
- Added that in that particular situation, Code Enforcement could not do anything about it.

Commissioner Nagpal asked if the issues raised are height issues or the limitation to 4,000 square foot enclosures.

Director John Livingstone replied that the complaints received are quite the "potpourri." They include enclosure issues; chain link fencing; heights; lattice in excess of maximum height, etc. He said that there have been a fair number of fence complaints.

Chair Cappello said that a lot of time has been spent refining this ordinance update. He pointed out that often lattice is used on fences but that the current Code does not currently allow use of lattice.

Commissioner Rodgers said that there is not much objection to lattice.

Chair Cappello said that use of guidelines is subjective while code enforcement must be very black and white using specific code.

Commissioner Zhao suggested using very generic and not so specific standards.

Commissioner Kumar said that this draft is a good starting point. He agreed that a lot of time has been spent on it and there have been many iterations of it. It would prevent the occurrence where many different types of fencing meet up in one yard that creates an eyesore.

Commissioner Nagpal said it appears the discussion is down to Hillside fencing issues.

Commissioner Rodgers asked about the request via email that slats not be allowed in chain link fencing.

Commissioner Nagpal said she agreed with that limitation.

Chair Cappello suggested a straw poll on the outstanding issues to see where there is consensus.

Commissioner Nagpal asked about the area of enclosure in Hillside zoning. She suggested that vineyards and agricultural uses be exempt from enclosure limitations. She asked if the majority also agrees about not counting sport courts.

Chair Cappello asked for the straw vote on this issue.

Commissioner Kundtz said he supports three of four, but not sports courts.

Commissioner Hlava disagreed, saying that she does think sports courts should be enclosed without limitation.

Director John Livingstone pointed out that site coverage limits in Hillside zoning is 15,000 square feet in coverage total. A typical tennis court requires approximately 7,200 square feet. On a Hillside zoned lot with a home, driveway and patio, in most cases a sport court could not also be accommodated in the lot coverage.

Chair Cappello said that it appears that there is support for allowing additional fencing area for vineyards, orchards and other agricultural uses, including keeping horses.

Director John Livingstone said that one must consider "what is a vineyard?" He suggested that data must be generated on what agricultural uses there currently are in the Hillside zoned areas. This will serve as a basis of where this provision is going.

Chair Cappello asked how many vineyards are out there. He suggested that if it is just a few, those could be satisfied through the exception process.

Commissioner Nagpal suggested having vineyard approvals done over the counter.

Commissioner Hlava pointed out that the Hillside zoned areas used to be all agricultural uses.

Chair Cappello agreed. He added that if it were a true vineyard, orchard or corral, this would not be a problem to approve.

Commissioner Hlava said she wants to see these allowed without need for an exception.

City Attorney Jonathan Wittwer said that the current ordinance for Agricultural district zoning requires compliance with the City's Fence Ordinance.

Commissioner Nagpal asked how many such zoned properties the City has.

City Attorney Jonathan Wittwer said he was not sure but believes that there is not that many.

Chair Cappello said that this appears to be unanimous but that further information is necessary.

Commissioner Nagpal asked for feedback on enclosed area allowances in Hillside zones. Is there support for 4,000 square feet, 6,000 square feet or more?

Commissioner Hlava said the minimum lot size in the Hillside zoning is two acres. Allowing just 6,000 square feet in enclosed fence area represents just 1/13th of the parcel. She said she would rather support at least 8,000 square feet. She added that 10 percent of the specific lot size would not be excessive.

Commissioner Nagpal supported establishing a percentage of lot standard taking topography into consideration.

Commissioner Rodgers suggested considering only buildable area.

Commissioner Kundtz said he is stuck on zero fenced areas on Hillside zoned properties.

Commissioner Hlava supported a percentage of the total lot size.

Commissioner Nagpal reminded that there are lots of estate homes on the Hillsides.

Commissioner Kumar asked Commissioner Kundtz why he is so against any fencing on a Hillside zoned property. He said the perspective of a Hillside resident has value.

Commissioner Kundtz replied that he finds it inconsistent to have fenced in yards with the notion of open space and rural nature and character. This is inconsistent with the Hillside zoning.

Commissioner Hlava said that in Commissioner Kundtz' neighborhood there are no fences. However, if she lived on a busy road such as Pierce Road, she said she would want fencing like Mr. LaFountain does.

Commissioner Rodgers said that the reasons people move to Saratoga are for the beautiful hillsides and wonderful trees. There is a need to preserve these natural resources.

Commissioner Kundtz said that he does not understand someone who would move onto a Hillside property and be surprised that there is wildlife there. He reiterated that he struggles with allowing any fencing there.

Commissioner Kumar said that new owners pay \$3 to 4 million for a lot in the Hillside. Additionally, the demographics are changing in Saratoga. He pointed out that he would want a fenced backyard for his kids.

Commissioner Rodgers cautioned that fenced in areas intended to protect pets at night does not guarantee their safety.

Chair Cappello said that she makes a good point. He said that despite so many previous sessions, there is still no consensus on this one.

Commissioner Hlava asked what is the process from here? Is there to be another study session? If so, she reiterated her suggestion for a 10 percent allowance over a set enclosure size.

Commissioner Nagpal suggested that if there is to be another study session some additional and different noticing should be incorporated since not all residents get the Saratoga News.

Chair Cappello asked for some suggestions.

Commissioner Nagpal suggested notifying homeowner associations, particularly those serving Hillside zoned neighborhoods. She also suggested posting notices in the Hillside district.

Commissioner Hlava suggested installing three signs, one at each side of Pierce Road and another on Mt. Eden Road.

Commissioner Kundtz reminded how Public Works posted signs for one project. He said that this is not a bad idea.

Commissioner Rodgers reminded of the noise mitigation issue raised by Commissioner Hlava.

Chair Cappello said that per the straw poll there doesn't seem to be any objection to this suggestion.

Commissioner Hlava said that the Fence Ordinance works fine in the flatlands. The concerns are more for Hillside zoning.

Chair Cappello said that it looks like there are taller fences on larger lots.

Commissioner Hlava said that those rules are not being changed here. She added that she thinks some of them look nice although not compliant, specifically along Sobey Road.

Commissioner Nagpal said that Sobey Road, like Pierce Road, needs privacy from heavier traffic.

Commissioner Hlava said that still there are existing fencing rules not being complied with.

Chair Cappello said that that the consensus appears to be that the three-foot maximum height for front yards may not be appropriate for some areas. He suggested bringing that specific issue to the study session.

Commissioner Nagpal agreed that this issue should be explored further.

Commissioner Rodgers said that she does not know where to draw the line.

Commissioner Nagpal said that if 90 percent of parcels don't meet the requirements imposed, the exception process would not deal with it.

Commissioner Hlava suggested that each Commissioner drive around the community to see what is out there as far as existing fencing stock.

Commissioner Rodgers said, "the only reason we got a man on the moon is because we froze the technology at some point."

Commissioner Zhao said that although Commissioner Kundtz prefers to allow zero enclosed fencing in the Hillside zoning, she agrees with Commissioner Kumar's point that the demographics of the area are changing.

Chair Cappello said that a study session is appropriate to allow further input. He suggested that a specific date be determined this evening.

Commissioner Nagpal suggested it be pushed into Fall as some have complained that these hearings are happening during the summer when so many residents are traveling.

Director John Livingstone suggested either September or October.

Commissioner Kundtz suggested October 7th. He reiterated his compliment to Planner Shweta Bhatt for her work on this ordinance, saying that she did a great job!

Motion: Upon motion of Commissioner Nagpal, seconded by Commissioner Hlava, the Planning Commission continued consideration of a zoning code amendment for regulations regarding fences walls and hedges to a study session to be held on October 7, 2008, at 5:30 p.m. at a location to be determined. (7-0)

Commissioner Nagpal asked what about some of the extra noticing suggestions.

Director John Livingstone said that they could work on the signs and notifying homeowner's associations.

DIRECTOR'S ITEMS

There were no Director's Items.

COMMISSION ITEMS

Commissioner Hlava advised that she is serving on a committee with Kathleen King in looking at the CH-2 Zoning District (in the Village). A meeting will take place on Monday, September 8, 2008, at a location to be determined.

Commissioner Nagpal announced that one Village Economic Development Committee meeting has been held and a second one is pending (date to be determined).

COMMUNICATIONS

There were no Communications Items.

ADJOURNMENT TO NEXT MEETING

Upon motion of Commissioner Nagpal, seconded by Commissioner Hlava, Chair Cappello adjourned the meeting at approximately 8:51 p.m.

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