

**MINUTES
SARATOGA PLANNING COMMISSION**

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

Chair Hlava called the meeting to order at 7:02 p.m.

ROLL CALL

Present: Commissioners Cappello, Hlava, Kumar, Nagpal, Rodgers and Zhao
Absent: Commissioner Kundtz
Staff: Director John Livingstone, Senior Planner Chris Riordan and Contract Planner Heather Bradley

PLEDGE OF ALLEGIANCE

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

Motion: Upon motion of Commissioner Nagpal, seconded by Commissioner Kumar, the Planning Commission minutes of the regular meeting of November 14, 2007, were adopted as submitted. (5-0-1-1; Commissioner Kundtz was absent and Chair Hlava 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 December 6, 2007.

REPORT OF APPEAL RIGHTS

Chair Hlava announced that appeals are possible for any decision made on this Agenda by filing an Appeal Application with the City Clerk within fifteen (15) calendar days of the date of the decision, pursuant to Municipal Code 15-90.050(b). With the holiday schedule, the appeal deadline will be extended to January 2, 2008.

CONSENT CALENDAR

APPLICATION #EXT07-0001 (503-13-067) Brunetti/Ho, Mt. Eden Road, south of Villa Oaks Lane: The applicant requests a 24-month extension of Tentative Map and Use Permit approvals granted by the Planning Commission on October 27, 2004. The Tentative Map and Use Permit approvals expired 24-months from this date. The applicant was granted a one-year extension of the Tentative Map and Use Permit approvals on October 25, 2006. The one-year extension has expired. The 24-month extension will expire on October 27, 2009. The applicant was granted Tentative Map and Use Permit approvals to subdivide a 29.28-acre property into five clustered lots with an average lot size of 1.73 acres. The remaining 19.49-acre portion of the property is to remain an open space with a pedestrian/equestrian trail winding through the open space. Access to the property is to be via a cul-de-sac, which egresses onto Mt. Eden Road. An emergency access road is proposed from Vista Regina Road to the cul-de-sac. The property has a General Plan designation of RHC (Hillside Conservation) and is zoned HR (Hillside Residential District). (Chris Riordan)

Chair Hlava opened the Public Hearing for the Consent Calendar item.

Commissioner Zhao asked staff to explain any differences between the original and new resolutions.

Senior Planner Chris Riordan explained that there were no new items/conditions added. They remain the same as originally approved with some minor edits to clarify some conditions.

Chair Hlava closed the Public Hearing for the Consent Calendar item.

Motion: Upon motion of Commissioner Cappello, seconded by Commissioner Nagpal, the Planning Commission approved a 24-month extension of approval for a Tentative Map and Use Permit for property located at Mt. Eden Road, south of Villa Oaks Lane, by the following roll call vote:

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

NOES: None

ABSENT: Kundtz

ABSTAIN: None

Chair Hlava explained that since Public Hearing Items 5 and 6 would be continued this evening, she would take those two items out of order to the beginning of the agenda as a courtesy in case people are present this evening waiting for those two items to be heard.

PUBLIC HEARING - ITEM NO. 5

APPLICATION PDR07-001 (386-43-006) Yongjian Wang, 19278 Bellwood Drive (Continued to the January 9, 2008, meeting): The applicant requests Design Review approval to remove an existing 859 square foot second story of an existing two-story single-family residence and replace it with a new 859 square foot second story addition in approximately the same location. The residence will not exceed 26 feet in height. The net lot size is 14,712 square feet. The site is zoned R-1-12,500. (Chris Riordan)

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

There were no parties present wishing to speak on this item.

Motion: Upon motion of Commissioner Nagpal, seconded by Commissioner Cappello, the Planning Commission CONTINUED CONSIDERATION TO ITS MEETING OF JANUARY 9, 2008, a Design Review application to allow a second-story addition on property located at 19278 Bellwood Drive, by the following roll call vote:

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

PUBLIC HEARING - ITEM NO. 6

APPLICATION ZOA-07-0003 (City Wide) Neglected Properties Ordinance (Continued to the January 9, 2008, meeting): The Planning Commission will consider a draft ordinance to set standards for the minimum level of maintenance of private property in Saratoga. The ordinance would establish standards for 1) general property maintenance (e.g., overgrown vegetation, unsecured structures or conditions of deterioration or disrepair that creates a substantial adverse impact on neighboring properties), 2) single family residential use landscaping, 3) multi-family residential use landscaping, and 4) parkstrips between sidewalks and City streets. The ordinance would also specify enforcement and appeals procedures. (John Livingstone)

Chair Hlava opened the Public Hearing for Agenda Item No. 6.

There were no parties present wishing to speak on this item.

Motion: Upon motion of Commissioner Rodgers, seconded by Commissioner Nagpal, the Planning Commission CONTINUED CONSIDERATION TO ITS MEETING OF JANUARY 9, 2008, the draft Neglected Properties Ordinance, by the following roll call vote:

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

ABSENT: Kundtz
ABSTAIN: None

PUBLIC HEARING - ITEM NO. 1

APPLICATION #06-118 (503-28-008) Hashemich/Sarnevesh, 20951 Canyon View (continued from the October 24, 2007, Planning Commission meeting): Applications for Design Review and Variance to construct an approximately 3,635 square foot two-story house with a daylight basement on a vacant lot at 20951 Canyon View Drive. The average slope of the lot is 39.7 percent sloping downward toward Canyon View Drive. Pursuant to City Code Section 15-12.061, the average slope beneath a structure shall not exceed 30 percent slope. Therefore, in addition to Design Review approval, the applicant is requesting approval of a Variance as specified in City Code Section 15-12.061(a). (Heather Bradley)

Contract Planner Heather Bradley presented the staff report as follows:

- Advised that the applicant is seeking a Variance approval to allow a 500 square foot pool to be constructed adjacent to a recently approved house on a property with an approximate 37 percent slope.
- Reminded that at its meeting of October 24, 2007, the Planning Commission directed staff to conduct a review of any previously granted Variances for pools.
- Reported that such a search was conducted and no such Variances were issued.
- Stated that the applicant has provided photographs of pools in the area but no permits were found.
- Said that as staff is unable to make the necessary findings to approve this Variance request, its recommendation is for denial.

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

Chair Hlava expressed surprise and concern that no one representing the applicant is present this evening given the amount of material they have provided to make their case.

Planner Heather Bradley said that she had not heard from her applicant that they would not be here this evening.

Chair Hlava suggested waiting to complete action on this item to see if they arrive shortly.

Director John Livingstone suggested a continuance. He added that the applicant might have opted not to come after reading the recommendation on the staff report.

Commissioner Cappello agreed.

Chair Hlava asked if there is anyone in the audience for this item.

There was no response.

Chair Hlava suggested moving this item to the end of the agenda and asked Planner Heather Bradley to attempt to contact the applicant.

Commissioner Kumar said that this applicant could appeal any decision made.

Chair Hlava reiterated that since they have submitted a lot of material they likely want to be heard.

Motion: Upon motion of Commissioner Nagpal, seconded by Commissioner Kumar, the Planning Commission continued to the end of this evening's agenda the consideration of a request for a Variance to allow a pool to be constructed on a slope in excess of 30 percent on property located at 20951 Canyon View Drive. (6-0-1; Commissioner Kundtz was absent)

PUBLIC HEARING - ITEM NO. 2

APPLICATION #CUP07-003 (397-05-086) Boger, 18681 Vessing Court (Continued from the November 14, 2007, Planning Commission meeting): The applicant is requesting approval of a Conditional Use Permit to install an emergency generator for his residence. The generator would be located in a detached enclosed accessory structure. (Chris Riordan)

Senior Planner Chris Riordan presented the staff report as follows:

- Stated that the applicant is seeking approval of a Conditional Use Permit to allow the installation of an emergency back up generator for a single-family residence. It would be located to the south of the residence, which is currently under construction.
- Explained that the generator would be installed on a concrete foundation within a wooden enclosure that hides it from view.
- Described the property as being a 54,000 square foot lot located within an R-1-40,000 zoning district.
- Recommended approval.

Commissioner Rodgers asked for clarification that the maximum sound impact would not exceed 60 decibels. She asked from where this standard is measured.

Planner Chris Riordan said it is measured from the property line, which is the place from where any person who would suffer noise impacts would be located.

Commissioner Zhao asked how long this generator could operate.

Planner Chris Riordan deferred this question to the applicant.

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

Mr. Curt Kline, Applicant's Representative:

- Explained that the house's smart systems would suffer with energy cut off of any duration.

- Advised that they have worked with an acoustician, who has designed a specialized most restrictive encasement to house this generator to limit any impacts.
- Reminded that this generator would only be used in emergencies although there will be monthly test runs.

Commissioner Zhao asked Mr. Curt Kline how long this generator could continuously operate.

Planner Chris Riordan pointed out that as it runs on natural gas, it could probably operate for days.

Commissioner Nagpal asked if there is a condition in place limiting the testing hours. She asked how noisy the testing might be.

Mr. Curt Kline said that the monthly testing would occur only for 15 minutes during daytime hours.

Planner Chris Riordan advised that the testing is on a timer and would occur within the hours of 7 a.m. to 7 p.m.

Chair Hlava asked about the retaining wall in the area behind this generator.

Mr. Curt Kline said that it would remain and an additional concrete wall would be placed to the east of it as well.

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

Commissioner Cappello said he could make all findings and has no issue with this request.

Commissioner Rodgers said that it was well located on a large lot.

Motion: Upon motion of Commissioner Cappello, seconded by Commissioner Kumar, the Planning Commission granted a Conditional Use Permit approval to allow the installation of an emergency generator on property located at 18681 Vessing Court, by the following roll call vote:

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

NOES: None

ABSENT: Kundtz

ABSTAIN: None

Director John Livingstone advised that the conditions would be permanent and recorded to ensure that any future owners are made aware of them.

PUBLIC HEARING - ITEM NO. 3

APPLICATION #07-253 (393-41-032) Metro PCS, 20455 Herriman Avenue: The applicant is requesting Conditional Use Permit approval to locate a wireless facility at the Presbyterian Church on Herriman at Saratoga Avenue. The project consists of a new cross structure with concealed antennas and a new equipment cabinet screened by existing landscaping. The lot size is 4.22 acres and the site is zoned R-1-12,500. (Heather Bradley)

Contract Planner Heather Bradley presented the staff report as follows:

- Informed that the applicant is seeking approval of a Conditional Use Permit to allow a wireless telecommunications facility to be located at the Presbyterian Church at Herriman and Saratoga-Sunnyvale Road.
- Explained that the antennas would be obscured within a new cross structure and the equipment cabinet would have a screened wall and hedge to obscure it from view.
- Assured that no landscaping would be removed with this installation.
- Reported that the application is Categorically Exempt under CEQA.
- Added that the necessary findings can be made in the affirmative to support this project.

Commissioner Zhao pointed out that the license information depicted on Attachment 4 shows an expiration date of June 2007. She asked if this license has been renewed and is current.

Planner Heather Bradley said that this application was filed early in the year and she is sure the licensing is current.

Commissioner Zhao pointed out that there appears to be four projects in progress with three already approved.

Planner Heather Bradley said that there is another application pending in January for the Village and she would defer to the applicant on the others.

Commissioner Nagpal asked how much larger this cross would be as compared to the one it will replace.

Planner Heather Bradley said that while it will be bulkier it would only be a couple of inches taller.

Commissioner Nagpal asked if there has been any comment from the high school.

Planner Heather Bradley replied no.

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

Ms. Kelly Pepper, Representative for Metro PCS:

- Clarified the locations pending in Saratoga. Site 1816 is the proposed site under discussion this evening. Site 1817 is approved but not yet built. Site 1920 will be coming before this Commission in January for placement in the Village.

Commissioner Zhao asked how many total sites are in Saratoga.

Ms. Kelly Pepper said that there are four proposed but she is not sure how many exist.

Planner Heather Bradley said that there are two existing in Saratoga (#131 and #710).

Commissioner Cappello asked Ms. Kelly Pepper if there are any other planned projects not yet proposed.

Ms. Kelly Pepper said no, only those shown on the exhibit.

Commissioner Kumar asked about batteries and if a noise study was conducted.

Ms. Kelly Pepper said that the battery is generally a small one that is rarely used. There would be no resultant increase in noise as it is not a generator.

Commissioner Rodgers reminded that this Commission couldn't consider health effects from cell sites in its deliberations.

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

Chair Hlava said that this is an innovative and interesting installation as compared to previous attempts including flagpoles and funny trees.

Commissioner Cappello said he agrees. He said that this would still look like a cross without looking strange. This is a good implementation.

Motion: Upon motion of Commissioner Nagpal, seconded by Commissioner Cappello, the Planning Commission granted Conditional Use Permit approval to locate a wireless facility within a cross at the Presbyterian Church located at 20455 Herriman Avenue, by the following roll call vote:
AYES: Cappello, Hlava, Kumar, Nagpal, Rodgers and Zhao
NOES: None
ABSENT: Kundtz
ABSTAIN: None

PUBLIC HEARING - ITEM NO. 4

APPLICATION #PDR07-003 (397-05-042) Pitzen, 14416 Oldwood Road: The applicant requests Design Review approval to add a second floor to the existing single-story residence. The addition includes approximately 298 square feet to the existing first floor and a new approximately 1,157 square foot second story to the existing 4,633 square foot single-story residence. The total proposed floor area would be approximately 6,088 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 35 percent of the net site area. The lot size is approximately 45,564 square feet and the site is located in the R-1-40,000

zoning district. Design Review approval is required pursuant to Saratoga Municipal Code Section 15-45.060. (Heather Bradley)

Contract Planner Heather Bradley presented the staff report as follows:

- Informed that the applicant is seeking Design Review approval to allow a second story, 1,105 square foot addition to an existing single-story residence. Additionally, 500 square feet will be added to the first floor.
- Described the parcel as being approximately one acre at the corner of Oldwood Road. It is a Tudor architectural style that is compatible with this neighborhood.
- Explained that one Ordinance-protected tree would be removed and replaced at full value.
- Added that the front walk would be reconfigured to accommodate existing Magnolias.
- Recommended approval.

Commissioner Nagpal asked about the roof railing and whether there is a terrace at that location.

Planner Heather Bradley explained that this is just a decorative railing.

Commissioner Nagpal asked if there is access to this area.

Planner Heather Bradley replied no there is no access to this area. This house represents a blend of Chateaux and Tudor styles.

Commissioner Kumar asked for clarification about the left side setbacks.

Planner Heather Bradley explained that the first floor setback is 20 feet and the second floor 83 feet from that side

Commissioner Rodgers asked if the neighbor notification was limited only to adjacent neighbors.

Planner Heather Bradley said that the 500-foot notification process was utilized.

Commissioner Rodgers asked if it was advertised as a new house or an addition.

Planner Heather Bradley replied as an addition.

Commissioner Rodgers asked if it is typical to have 13-foot high interior garage walls.

Planner Heather Bradley said that it is not common but is also not uncommon for a house of this size.

Commissioner Nagpal asked if the decorative rail would be above the allowed 26-foot height.

Planner Heather Bradley deferred this question to the architect.

Commissioner Rodgers asked what is more common paving for a house such as this, stamped concrete or pavers.

Planner Heather Bradley replied pavers.

Commissioner Rodgers questioned the inclusion of four interior fireplaces and one exterior fireplace in this home.

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

Mr. Irving Haas, Project Architect:

- Said that he has nothing to add to Planner Heather Bradley's report but is available for any questions from the Commission.
- Explained that the decorative iron railing is an ornamental device.
- Assured that there is no access, pedestrian or otherwise, to the roof.

Commissioner Nagpal asked the height of that railing.

Mr. Irving Haas replied 16 inches.

Commissioner Nagpal asked if this railing feature is critical to the architectural style.

Mr. Irving Haas said that while it does protrude just a bit into the overall maximum height allowance it is an important feature of the architectural design.

Commissioner Nagpal asked staff to clarify if decorative features such as this one are allowed to exceed maximum height limitations.

Director John Livingstone said that there are provisions to allow features such as flagpoles, spirals, etc., which can be looked at as decorative items. This is at the discretion of the Planning Commission.

Commissioner Rodgers asked for the garage door materials.

Planner Heather Bradley replied wood, as noted on the elevation drawing.

Commissioner Rodgers asked if requiring pavers would be possible.

Mr. Irving Haas reported that his client has indicated a willingness to use pavers instead of stamped concrete.

Commissioner Rodgers:

- Expressed concern over the number of fireplaces and asked why so many wood burning fireplaces are necessary.
- Pointed out that as part of green building concepts, it is important to reduce the number of wood burning fireplaces in a residence.

Mr. Irving Haas said that his client just likes fireplaces.

Commissioner Rodgers pointed out that a fireplace could look as if it were wood burning but operate as gas.

Mr. Dave Pitzen, Applicant and Property Owner:

- Said that he wants to retain the existing wood-burning fireplace located in his library and have one wood-burning fireplace outside.
- Added that while he would also prefer the fireplace in the master bedroom to also be wood burning, he would be fine with gas there as well as for all others in the house.

Chair Hlava asked for clarification that there are currently two interior wood burning fireplaces in the house.

Mr. Dave Pitzen replied yes.

Chair Hlava asked staff if these are allowed to remain if they are existing.

Planner Heather Bradley said that she is not sure the City can require them to convert existing wood burning to gas.

Commissioner Rodgers said that it appears there will be three new gas fireplaces.

Mr. Dave Pitzen said the existing wood-burning fireplace would remain in the library. While the fireplace in the family room is currently wood burning, he does not plan to keep that one and is willing to switch it out with a gas fireplace. However, he wants the outdoor fireplace to be wood burning.

Commissioner Kumar asked staff to clarify what regulations allow.

Director John Livingstone:

- Said that the ordinance only allow one wood burning per structure.
- Added that it does not discuss outdoor fire pits.
- Advised that this owner should be able to maintain his existing wood burning fireplace.
- Reported that if an existing fireplace is removed, it must be replaced with gas.
- Said that a condition of approval can be added that mandates that if over 50 percent of the existing structure is to be demolished, that house would no longer be considered a remodel but rather a new structure. That new structure would have to be brought back before this Commission for Design Review approval following new noticing.

Chair Hlava asked if an outdoor fireplace is considered attached to the house. Is it a fire pit or a fireplace?

Director John Livingstone said this is at the discretion of the Planning Commission.

Commissioner Nagpal asked how critical this rail element is to the architectural design. She said that she is struggling with that feature and has never seen it utilized in this way.

Mr. Irving Haas said it is important that it remain.

Mr. Dave Pitzen reminded that his property is four feet below grade on Sobey Road. This rail feature would be perceived as lower from the street.

Commissioner Nagpal asked if it would be possible to keep it within the 26-foot maximum allowed height level.

Mr. Irving Haas said that he prefers not to reduce the roof height.

Commissioner Nagpal asked Mr. Irving Haas if he would prefer to lose the element versus reducing the roof height?

Mr. Irving Haas said that this railing brings attention to the entrance and main mass of this home.

Chair Hlava asked if it is just a line of wrought iron.

Planner Heather Bradley said that it also wraps around that wing.

Commissioner Kumar asked if this rail element is used elsewhere in Saratoga.

Mr. Irving Haas said he has seen it used in Saratoga and has used it himself in Los Gatos.

Commissioner Rodgers pointed out that there is a lot of empty space in the attic so it might be possible to lower the two wings on the outside.

Mr. Irving Haas said he would rather not bother the roof.

Commissioner Nagpal asked if the rail could be elsewhere than at the very top.

Mr. Irving Haas said that would defeat the purpose of the detail.

Commissioner Rodgers:

- Said it appears Mr. Haas does not want to alter his design.
- Pointed out that these days green issues are being carefully considered.
- Added that this home utilizes a number of fireplaces and incorporates 13.5-foot tall ceilings in the garage, master bedroom, shower/bath and closet. This requires a lot of energy to heat and cool the house.

Mr. Dave Pinzen:

- Explained that he likes this style of home, for which the use of a lot of steep pitch roof features is an important element.
- Said that they have undergone many design attempts to make this work.
- Advised that he likes to retain out of season clothing in the same year-round closet and a second level of storage space is possible in this higher closet.

- Reminded that they need to keep the space in the attic at less than five feet in height, which resulted in the need to have the closet space interior ceiling height itself be 13.5 feet tall.

Commissioner Rodgers asked Mr. Dave Pinzen if he had considered using zero-scape that would require less irrigation in the summer months.

Mr. Dave Pinzen said that they would not use a tremendous amount of irrigation but rather a drip system for a majority of plantings.

Commissioner Rodgers asked if there is any way to isolate the central portion of the house into a third heat zone to be able to control heating and cooling.

Mr. Dave Pinzen replied yes.

Commissioner Rodgers asked Mr. Dave Pinzen while he chose a remodel over a new build.

Mr. Dave Pinzen replied cost. He added that what is there is good and so they are using as much of it as they can use.

Commissioner Rodgers asked Mr. Dave Pinzen if they had notified their neighbors of the extent of this remodel.

Mr. Dave Pinzen said that they think of this as a new house. He added that he gave neighbors a packet with all details. He assured that the neighbors know what he is doing here.

Commissioner Rodgers thanked Mr. Dave Pinzen for installing story poles.

Mr. Dave Pinzen said that neighbor outreach included going door to door as well as mail notification. He added that his neighbors want this upgrade done soon.

Commissioner Cappello asked about two access points for the carport.

Planner Heather Bradley said that the carport is open on two sides.

Commissioner Nagpal asked for clarification that as such it does not count against total square footage.

Planner Heather Bradley replied correct.

Commissioner Zhao asked Mr. Dave Pinzen why he insists in a wood-burning fireplace outside in addition to retaining the existing one in the library.

Mr. Dave Pinzen replied aesthetics. He pointed out that fire pits are allowed.

Commissioner Zhao asked if he could live with gas outside.

Mr. Dave Pinzen said he would rather have nothing if he can't have wood burning there.

Commissioner Rodgers pointed out that there is movement toward banning wood burning for environmental reasons.

Planner Heather Bradley:

- Stated that one more wall of the carport would have to be left opened so as not to have that carport area be counted as floor area.
- Clarified that upon further reflection, she has just misspoken. The design of this carport is already acceptable and would not need to be counted against FAR. The standard to not be counted is that there are no more than three walls and a roof. This has two walls and a roof so it meets that standard.

Chair Hlava clarified that the key issues are the realignment of the front walk to preserve the magnolias and the condition that if it turns out that more than 50 percent of the original structure must be demolished, this house would revert from a remodel to a new structure and must be brought back to the Planning Commission for Design Review approval.

Mr. Dave Pinzen asked how one determines if 50 percent is removed. Does it include removal of interior walls?

Director John Livingstone replied that it counts removal of exterior stud walls.

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

Commissioner Nagpal:

- Expressed appreciation for the applicant's efforts and unique design.
- Agreed that the conditions regarding the front walk and limit of demolition to less than 50 percent are important ones. More than 50 percent demolition brings this house back to the Planning Commission to be considered as an entirely new structure.
- Stated that she is okay with fireplaces as long as they meet Code limitations.
- Advised that her biggest concern was the cresting detail.
- Opined that the architectural design would be fine without that detail.
- Added that her biggest concern is having that feature rise above the maximum height of 26 feet.

Chair Hlava said that she agrees with staff that this feature does help minimize the perception of bulk. She added that she likes this detail and that it should not count against maximum height, as it is not a solid piece.

Commissioner Nagpal said that it is included on such a significant portion of the roofline.

Commissioner Rodgers said that she does not want to see this detail go above the 26-foot maximum height. She added that without this detail, this house has a significant appearance of bulk so she cannot approve it based on bulk findings.

Chair Hlava said that compared to the previous turret that was denied, this railing is just 16 inches and is not solid. It is easy for her to say that this decorative feature is incidental.

Commissioner Cappello:

- Stated that he likes the railing detail.
- Said that it does a good job of adding articulation to minimize bulk and helps soften the look of the roofline.
- Agreed that this is a lot that is lower than the roadway. It can stand to have this added 16-inch wrought iron detail.
- Said that he has no issue with that railing as it adds a nice touch.
- Expressed support for pavers over stamped concrete.
- Said he can support fireplaces that meet Code limitations.
- Agreed that outdoor fire pits are allowed.
- Stated he is able to make the findings to support this application.

Commissioner Kumar:

- Said that he too can make all findings.
- Stated that he likes the design element on the roof. It is a beautiful addition that looks great.
- Said that the outside fireplace is detached from the house.
- Pointed out that some people in Saratoga use portable fire pit units that burn wood.
- Said that burning wood outside is fine by him.
- Expressed agreement with the added conditions.

Commissioner Zhao said that she likes the design and is okay with the decorative railing if Code allows it but she wants to make sure that is the case here. She added that it would be her preference to have the applicant change the fireplaces to gas.

Commissioner Rodgers reiterated the conditions to reconfigure the front walk, the use of pavers over stamped concrete and the provision to bring the house back to the Commission in the event that more than 50 percent of the original structure must be demolished. If he does come back, he may have to remove some of the fireplaces.

Commissioner Kumar asked staff if there are a maximum number of allowed fireplaces.

Director John Livingstone replied no.

Commissioner Rodgers expressed regret for the 13.5-foot high ceilings, inclusion of five fireplaces and use of irrigation over zeroscape, as being less than green features.

Chair Hlava cautioned that nothing in the Code prevents these features.

Motion: Upon motion of Commissioner Cappello, seconded by Commissioner Kumar, the Planning Commission granted Design Review approval for the second story addition to a resident located at 14416 Oldwood Court, with the following additions:

- **If more than 50 percent of the exterior walls must be demolished, this residence must be brought back to the Planning Commission as a new structure and therefore meet all requirements for new construction;**
- **Pavers will replace the proposed stamped concrete,**
by the following roll call vote:
AYES: Cappello, Hlava, Kumar and Zhao
NOES: Nagpal and Rodgers
ABSENT: Kundtz
ABSTAIN: None

Chair Hlava returned to Agenda Item No. 1.

PUBLIC HEARING - ITEM NO. 1

APPLICATION #06-118 (503-28-008) Hashemich/Sarnevesh, 20951 Canyon View (continued from the October 24, 2007, Planning Commission meeting): Applications for Design Review and Variance to construct an approximately 3,635 square foot two-story house with a daylight basement on a vacant lot at 20951 Canyon View Drive. The average slope of the lot is 39.7 percent sloping downward toward Canyon View Drive. Pursuant to City Code Section 15-12.061, the average slope beneath a structure shall not exceed 30 percent slope. Therefore, in addition to Design Review approval, the applicant is requesting approval of a Variance as specified in City Code Section 15-12.061(a). (Heather Bradley)

Contract Planner Heather Bradley repeated her staff report from earlier in the evening as follows:

- Advised that the applicant is seeking a Variance approval to allow a 500 square foot pool to be constructed adjacent to a recently approved house on a property with an approximate 37 percent slope.
- Reminded that at its meeting of October 24, 2007, the Planning Commission directed staff to conduct a review of any previously granted Variances for pools.
- Reported that such a search was conducted and no such Variances were issued.
- Stated that the applicant has provided photographs of pools in the area but no permits were found.
- Said that as staff is unable to make the necessary findings to approve this Variance request, its recommendation is for denial.

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

Ms. Julie Hashemich, Applicant and Property Owner:

- Said that she has done research.
- Pointed out that there is another newer house with a pool that is on a slope that is over 30 percent.
- Assured that she would not be making an unsafe condition with this proposed pool.

Mr. Al Exivan, Engineer:

- Said that it would require a surveyor to get to an absolute slope of these properties with existing pools as well as access to each property.

Commissioner Kumar asked if any slope calculations and/or measurements were done.

Mr. Al Exivan said no. The review was done without measuring equipment and relied on trained eye and expertise.

Planner Heather Bradley said that one example given has a pool located in the front yard at street level. That house is 47 years old. The property was leveled from the street to the edge of the foundation in order to accommodate the house.

Commissioner Nagpal asked how many needed a Variance.

Planner Heather Bradley replied none.

Commissioner Nagpal said that these pools probably predated the requirement for a Variance.

Chair Hlava said that most of these homes are 30 to 50 or more years old. Clearly people have pools that pre-date today's rules.

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

Commissioner Kumar said he agrees with the staff recommendation to deny this pool Variance especially upon research that no previous such Variances have been issued.

Commissioner Cappello said that he too agrees with the staff findings for denial.

Commissioner Nagpal said she agrees. She added that the critical issue is when those pools went in and what regulations were in place at the time. She said she would support the staff's findings.

Commissioner Cappello said he could actually make Finding C as he does not believe that the pool would be unsafe if built per the engineer's opinion.

Commissioner Zhao reminded that she originally had wanted to support this pool Variance at the last hearing and had hoped for more concrete data at this meeting. She said that she must agree with the staff recommendation based upon Findings A and B.

Commissioner Rodgers said that she couldn't support Finding C either. This Variance would represent a special privilege to allow a pool on a slope that is almost 40 percent. She added that she did not agree that such a pool would be safe here. Therefore she is voting to deny this Variance.

Motion: Upon motion of Commissioner Nagpal, seconded by Commissioner Rodgers, the Planning Commission denied a Variance request to allow a

pool to be constructed on a slope in excess of 30 percent on property located at 20951 Canyon View Drive, by the following roll call vote:

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

Chair Hlava reminded that in light of the holiday closure of City Hall, appeals of any action this evening can be filed by January 2, 2008.

DIRECTOR'S ITEMS

There were no Director's Items.

COMMISSION ITEMS

Chair Hlava advised that upon looking at the 2008 PC meeting schedule she is proposing the cancellation of two meetings, the second November meeting (day before Thanksgiving) and the second December meeting (falls on Christmas Eve).

COMMUNICATIONS

Chair Hlava announced that the RFP for the Housing Element Update has been approved for distribution.

ADJOURNMENT TO NEXT MEETING

Upon motion of Commissioner Nagpal, seconded by Commissioner Cappello, Chair Hlava adjourned the meeting at approximately 9:10 p.m.

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